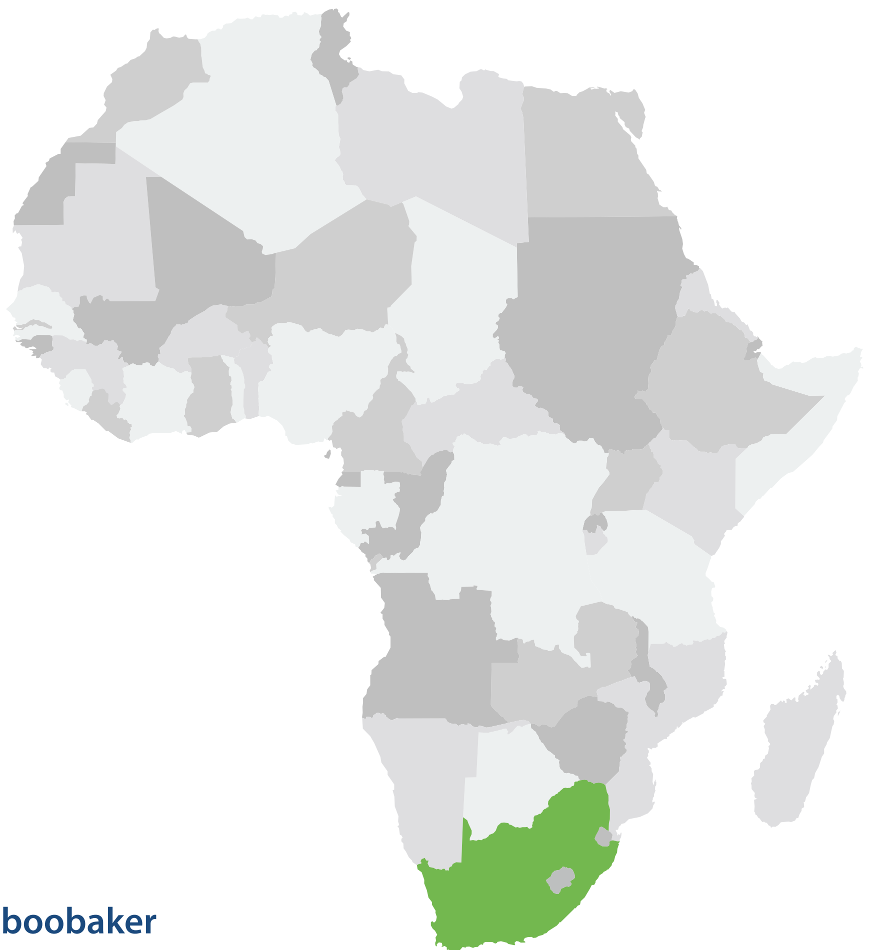
POLITICAL ECONOMY RESEARCH INSTITUTE

PERI

University of Massachusetts Amherst

CAPITAL FLIGHT FROM SOUTH AFRICA: A CASE STUDY

JUNE 2020



By Léonce Ndikumana, Karmen Naido, and Adam Aboobaker

Political Economy Research Institute (PERI)

University of Massachusetts-Amherst

PERI WORKING PAPER SERIES: **CAPITAL FLIGHT FROM AFRICA** / WP 516

Capital Flight from South Africa: A Case Study

By Léonce Ndikumana
Karmen Naidoo
Adam Aboobaker

Political Economy Research Institute (PERI)
University of Massachusetts Amherst

25 June 2020

Abstract

This paper examines the mechanisms, actors, enablers, and the institutional environment that facilitate capital flight from South Africa and the resulting accumulation of private wealth in offshore financial centers. We estimate that from 1970 to 2017, South Africa lost over $300 billion through capital flight, including through overinvoicing of imports and underinvoicing of exports. Net trade misinvoicing amounted to $146 billion over the 1998-2017 period alone. Export underinvoicing appears to be especially rampant in the case of mineral resources such as gold, silver, platinum and diamonds. While capital flight is not a new phenomenon in South Africa, it has accelerated substantially over the past decades, a period marked by aggressive liberalization of the national economy and rapid integration into the global economy. Capital flight is a concern in a country such as South Africa that faces deep financing gaps, high multidimensional poverty, inequality and unemployment. An important challenge faced by South Africa in its quest to tackle capital flight and the associated problems such as tax evasion, base profit shifting, and money laundering is the threat of erosion of the public confidence in state institutions in light of the emerging phenomenon of state capture orchestrated by an intricate network of private 'enablers' with deep connections within the state and in the global economy. The adverse effects of capital flight on economic development, state institutions and governance call for urgent attention to prevent even more devastating consequences for the country's political and social instability.

This paper is a product of a research project funded by a grant from the Open Society Foundation. Additional support from Friedrich Ebert Stiftung is acknowledged. The project undertakes a detailed historical and institutional investigation of the magnitudes, drivers, and enablers of capital flight from Angola, Côte d'Ivoire and South Africa, as well as an analysis of the capital flight-governance nexus. The findings will be published in an edited volume as well as country case study reports.

Preface to the Working Paper Series on Capital Flight from Africa

Capital flight constitutes a major constraint to Africa's efforts to fill the large and growing financing gaps that hold back its progress towards achieving sustainable development goals. The mounting evidence on the unrecorded outflows of capital from Africa has spurred calls for strategies to curb the financial hemorrhage that is afflicting the continent.

The existing evidence is still inadequate, however, on four fronts. First, the quantitative evidence is predominantly aggregate and does not furnish adequate country-specific information on the mechanisms of capital flight, its institutional contexts, and the role of domestic and foreign players in facilitating it. Second, the literature has not paid adequate attention to the destinations of wealth accumulated through capital flight and the roles of the banking sector and public institutions in destination jurisdictions. Third, much of the literature conflates the capital flight with the broader concept of illicit financial flows. While all capital flight is illicit owing to its unrecorded transfer – and often, as well, by virtue of the illegal origins of the wealth, and the failure to declare the assets and pay tax on the associated income – not all illicit financial flows are capital flight; for example, payments for smuggled imports are an illicit flow but distinct from capital flight. Fourth, the existing literature has not sufficiently explored the two-way relationship between capital flight and governance in national and international institutions.

To help fill these gaps in the literature, the African Development Policy Program at the Political Economy Research Institute has initiated detailed analyses in a project generously supported by the Open Society Foundations and the Friedrich Ebert Foundation. This Working Paper series presents the project's outputs. Our goal in issuing these reports is to engender informed public participation in decision making on financial regulation. Key findings will be distilled and published in the coming year in an edited volume that is forthcoming from Oxford University Press.

Léonce Ndikumana
Director, African Development Policy Program
University of Massachusetts Amherst

Table of Contents

Acronyms v

1. *Introduction* *1*

2. *Capital flight and hidden offshore wealth* *3*

Capital flight on the rise 3

Trade misinvoicing 5

External debt and capital flight 8

Accumulation of offshore wealth from capital flight 10

3. *Exchange controls and capital flight* *14*

The 1960s-1970s: The consolidation of exchange controls 14

The 1980s: The crisis – things fall apart 16

1960s-1980s: Lessons learnt 17

4. *Liberalization and capital flight in the post-apartheid era* *22*

Gradual liberalization 22

Did liberalization help to attract capital inflows? 25

Has liberalization helped to curb capital flight? 28

5. *The mining industry and the energy sectors* *33*

The mining industry 33

Tax evasion and capital flight from the mining sector 37

The energy sector and the dominant role of state-owned enterprises 39

6. *State capture and enablers: The Gupta case* *43*

Opaque deals 46

The money merry-go-round 50

The network of enablers 54

7. *Tax amnesties and capital flight* *62*

Tax Amnesty of 1995 63

Tax Amnesty of 2003 63

Small Business Tax Amnesty of 2006 67

Voluntary Disclosure Program of 2010 67

Special Voluntary Disclosure Program of 2016 68

Did South Africa's tax amnesties pay off? 68

8. Capital flight as anti-development *75*
The world's most unequal country 75
The implications of capital flight for poverty and inequality in South Africa 77
9. Conclusion *82*
Figures and Tables .... Error! Bookmark not defined.
References *84*

Acronyms

AMCU: Association of Mineworkers and Construction Union
ANC: African National Congress
ASGISA: Accelerated and Shared Growth Initiative for South Africa
BEE: Black Economic Empowerment
BHPB: Broken Hill Proprietary Billiton Ltd.
BoP: Balance of Payments
BWI: Bretton Woods Institutions
Comtrade: Commodity Trade Statistics Database (United Nations)
CSA: Coal supply agreement
DTA: Double-taxation agreements
DTI: Department of Trade and Industry (South Africa)
ESCOM/ESKOM: Electricity Supply Commission
EVKOM: Elektrisiteitsvoorsieningskommissie
FATF: Financial Action Task Force
FDI: Foreign direct investment
FIC: Financial Intelligence Center
GEAR: Growth, Employment and Redistribution program
GDF: Global Development Finance
GDP: Gross Domestic Product
HIV/AIDS: Human immunodeficiency virus/Acquired immunodeficiency syndrome
HNWI: High net worth individuals
IDC: Industrial Development Corporation
IDS: International Debt Statistics
IIP: International Investment Position
ILO: International Labor Organization
IMF: International Monetary Fund
JSE: Johannesburg Stock Exchange
JSCFMP: Joint Standing Committee on Financial Management of the Parliament
LSE: London Stock Exchange
KPMG: Klynveld Peat Marwick Goerdeler
MAA: Multilateral mutual administrative assistance
MDG: Millennium Development Goal
NDP: National Development Plan
NGP: New Growth Plan
NPA: National Prosecuting Authority
OCM: Optimum Coal Mine
OECD: Organization for Economic Cooperation and Development
PERI: Political Economy Research Institute
PFMA: Public Finance Management Act
SACU: Southern African Customs Union
SADC: Southern African Development Community
SAR: Suspicious Activity Report
SARB: South African Reserve Bank
SARS: South African Revenue Service

SOE: State-owned enterprise
SVDP: Special Voluntary Disclosure Program
UAE: United Arab Emirates
UK: United Kingdom
UNCTAD: United Nations Conference on Trade and Development
UNDP: United Nations Development Program
UNICEF: United Nations International Children's Emergency Fund
US / USA: United States / United States of America
USD: United States Dollar
VAT: Value-Added Tax
VDP: Voluntary Disclosure Program
WDT: World Debt Tables
ZPMC: Shanghai Zhenhua Heavy Industries Co., Ltd.

1. Introduction

The second largest and most industrialized economy on the continent, South Africa is a middle-income country with vast natural resources, a developed financial system, a modern infrastructure network, and a vibrant service sector, all of which are a cause of envy for other countries in the continent. It has managed a peaceful transition from the oppressive apartheid regime, establishing a modern pluralistic democracy, which is still elusive in many other African countries. At the same time, however, the country is confronted by daunting economic, social and institutional challenges that compromise not only the wellbeing of the majority of the population but also the country's political stability. South Africa has the unfortunate reputation of being 'the most unequal country in the world' (Pomerantz, 2019).

Wealth and income are concentrated in the hands of a few, the middle class is thin and financially insecure, and the majority of the population lives close to the poverty line. This is partly an enduring legacy of the institutionalized racial inequalities of the apartheid regime which have shown strong resilience to economic reforms undertaken in the post-1994 period under the ANC governments. Poverty remains high, with nearly half of the population considered chronically poor. Quality education continues to be inaccessible for a large fraction of the population, especially in rural areas and low-income urban communities. Higher education remains elitist and costly, out of reach for the youth from under-privileged communities. A major reason for the poor welfare outcomes in the economy is ineffective utilization of natural resources as well as unequal distribution of the gains from exploitation of those resources and of the benefits from economic growth.

Alongside the unequal distribution of resources and incomes, the country faces steady hemorrhage of wealth in the form of capital flight and other forms of illicit financial flows. While capital flight is not a new phenomenon in South Africa, it has accelerated substantially over the past three decades, a period marked by aggressive liberalization of the national economy and rapid integration into the global economy. The threat of capital flight has always been on the minds of South African policy makers. This was especially true during the apartheid regime, in light of both the shortage of foreign capital inflows due to the international economic embargo and also the high degree of country-specific investment risk that disincentivized holding domestic assets. Hence, strict capital controls were seen as a means of keeping private capital in the country. In the post-apartheid era, the policy stance turned toward liberalization in the name of both attracting capital

inflows and incentivizing domestic investment. The evidence presented in this paper suggests, however, that this new policy stance has been ineffective. Rather than abating, capital flight has in fact accelerated in the liberalization era. Meanwhile, special measures such as tax amnesties have not yielded the expected results.

Capital flight is a major concern for several reasons. South Africa faces deep and structural financing gaps and urgent development needs. By depleting the domestic savings and the tax base, capital flight deprives the country of resources to undertake investments and public expenditures that are required to meet development needs. From a policy perspective, evidence of capital flight serves as an indictment against the policy and regulatory framework, in that it demonstrates the failure both to incentivize domestic investment and to reign in illicit capital outflows. Capital flight is also symptomatic of endemic institutional corrosion that facilitates illicit acquisition of wealth, illicit cross-border transfers of foreign exchange, and the concealment of private assets in offshore havens out of sight of the national authorities. In this respect, capital flight is closely connected to the phenomenon of state capture, emerging from collusion between the political elite and domestic and foreign private-sector interests driven by accumulation of private wealth.

The objective of this paper is to examine the mechanisms, actors, enablers, and institutional environment that facilitate capital flight from South Africa and the resulting accumulation of offshore wealth. The paper views capital flight as an institutional and development problem which, if not tackled appropriately, carries risks to South Africa's growth prospects but also its political stability in the near future.

The paper is organized as follows. The next section presents the magnitude, trends, and channels of capital flight since the 1970s, as measured using the methodology described in detail in (Ndikumana and Boyce, 2019). Sections 3 and 4 discuss the policy regimes regarding capital flows under the apartheid regime and the post-apartheid liberalization reforms, respectively, and their implications for capital flight. Section 5 focuses on the mining and energy sectors. This sets the stage for the discussion of state capture in the section 6. Section 7 examines the motivation, implementation and outcomes of tax amnesties and related measures that have been adopted by the South African government in efforts to curb capital flight and entice repatriation of offshore wealth as well as incentivize tax compliance. Section 8 reviews the consequences of capital flight for development, stressing the urgency of the problem. Section 9 concludes with a summary and policy recommendations.

2. Capital flight and hidden offshore wealth

Capital flight on the rise

Capital flight is a subject of both interest and controversy in South Africa. Interest in this issue rests on the fact that it constitutes a drain on national resources in a country that, while considered as the most advanced economy on the continent, remains stuck in a low-growth equilibrium[1] and faces daunting social and economic problems including high unemployment, multidimensional poverty and deep inequality. Capital flight is seen as one of the causes of these problems and as a serious handicap to strategies to address them.

The literature on capital flight exhibits substantial controversy, meanwhile, for two main reasons. One is that because it is difficult to measure with precision, estimates are subject to contestation by government officials, independent analysts, and, of course, those who have something to hide such as politically exposed persons. The second reason is the tendency in the literature and the media to conflate capital flight with other closely related but distinct phenomena, such as other types of illicit financial flows, money laundering, grand corruption, and transfer pricing. The confusion is especially pronounced in discussions of illicit financial flows. While capital flight consists of cross-border capital flows that escape recording in official government statistics, the scope of illicit financial flows is much wider. For example, payments for smuggling imports are illicit financial flows, but they are distinct from capital flight because goods and services (unrecorded in the official balance of payments) are received in return. Moreover, the universe of illicit financial flows includes recorded as well as unrecorded capital flows. An example is money laundering associated with criminal activities. Once illegally earned funds are integrated into the formal financial system, they may be transferred in and out of the country through legal channels. Because they are recorded in the official balance of payments, these transfers would not be captured in measures of capital flight. Because of the range of activities covered by illicit financial flows in this broader sense, and due to the inherent illicit and secretive nature of the transactions involved, it is difficult to obtain an accurate measure of their overall magnitude.

The statistics presented in this section refer specifically to capital flight, measured as unrecorded cross-border flows. A detailed description of the methodology of the estimation of capital flight,

[1] From 1994 to 2018, per capita GDP grew by an average of 1.09% per annum. During the seven years leading to global financial crisis (from 2000 to 2007), it grew at 2.5% annually. However, during 2011-2018, per capita grew by a meager average of 0.16% per annum. These rates are calculated compound annual changes in GDP per capita at constant 2010 prices from the SARB.

the data, and the channels is presented in (Ndikumana and Boyce, 2019). Other estimates of capital flight from South Africa can be found in earlier studies, including Ashman et al. (2011), Fedderke and Liu (2002), Mohamed and Finnoff (2005), Ndikumana et al. (2015), Nicolaou-Manias and Wu (2016), Rustomjee (1991), Smit and Mocke (1991), and Wood and Moll (1994).

The data show that capital fight has become a major problem in South Arica, accelerating from the end of the apartheid era, even as the government embarked on a process of liberalization of its policy regime and integration into the global economy. The next section discusses in detail the history of exchange regulations since the 1960s and the movement towards liberalization since the 1990s as they relate to capital fight.

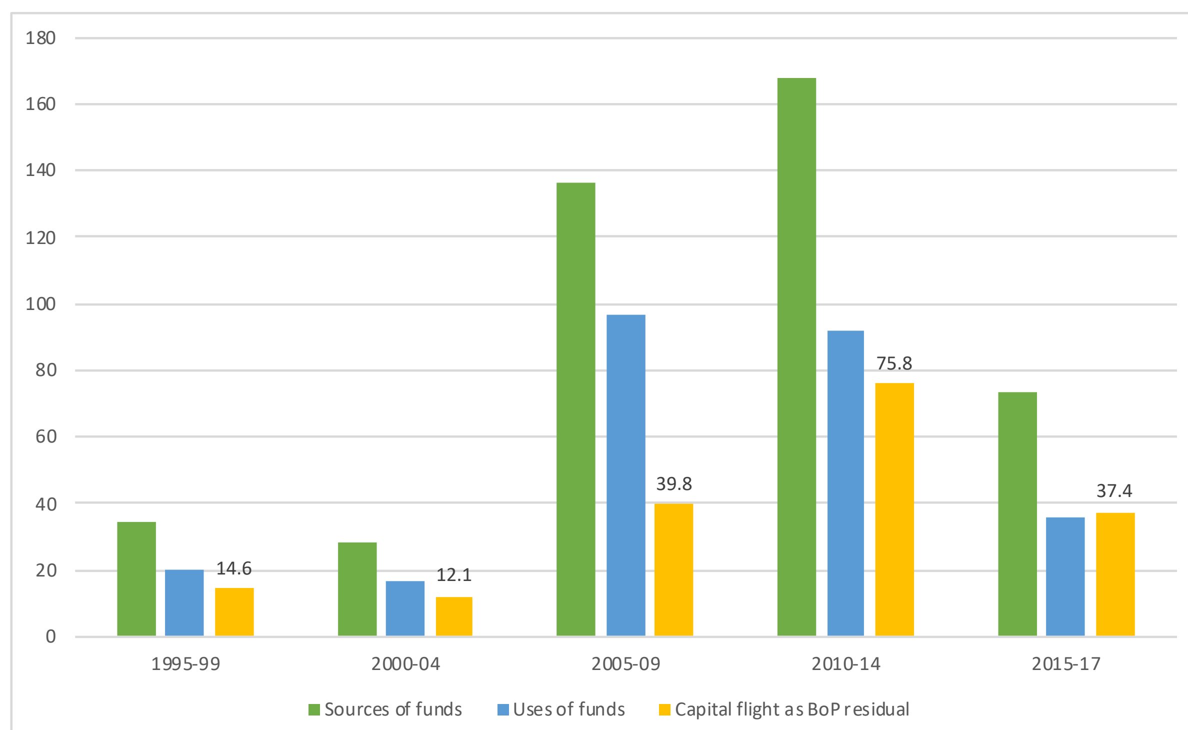
The baseline measure of capital flight is the Balance of Payments (BoP) residual, which is calculated as the discrepancy between recorded foreign exchange inflows and recorded uses of foreign exchange. The sources include export earnings (recorded in the current account) and external borrowing and private capital inflows (recorded in the capital account). The uses include payments for imports (in the current account) and recorded capital outflows, including debt amortization (in the capital account). In principle, changes in the stock of official reserves should correspond to the difference between inflows and outflows, yielding the 'balance' in the BoP. In practice, there is often a residual, particularly when the BoP statistics on external borrowing are replaced with more complete data from other official sources.[2] In South Africa, as in most developing countries, the residual often indicates that recorded inflows exceeded recorded outflows. The 'missing money' – systematic discrepancies between sources and uses of foreign exchange – is taken as a measure of capital flight.

In the case of South Africa, capital flight thus measured has increased dramatically since 1995, as illustrated in Figure 1. This period witnessed rapid increase in foreign exchange inflows, mostly through external borrowing and portfolio inflows. The case of external debt is discussed in detail below. Total resource inflows increased from $34.8 billion over the 1995-99 period to $167 billion over 2010-14. Between these two periods, total uses of resources increased from $22.7 billion to $96.5 billion. The result was an increase in capital flight from $14.6 billion in 1995-99 to $75.8

[2] The debt flow data recorded in the Balance of Payments often understate the extent of foreign borrowing. Hence, these are replaced with the more accurate data provided by the World Banks' International Debt Statistics (IDS), a successor of Global Development Finance (GDF), itself successor of the World Debt Tables (WDT).

billion in 2010-14. The corresponding cumulative amounts over 1995-2017 are: $441.1 billion for sources, $261.5 billion for uses, and $179.6 for capital flight.

Figure 1: Capital flight from South Africa: 5-year total (billion, constant 2017 $)



Source: Authors' computations.

Trade misinvoicing

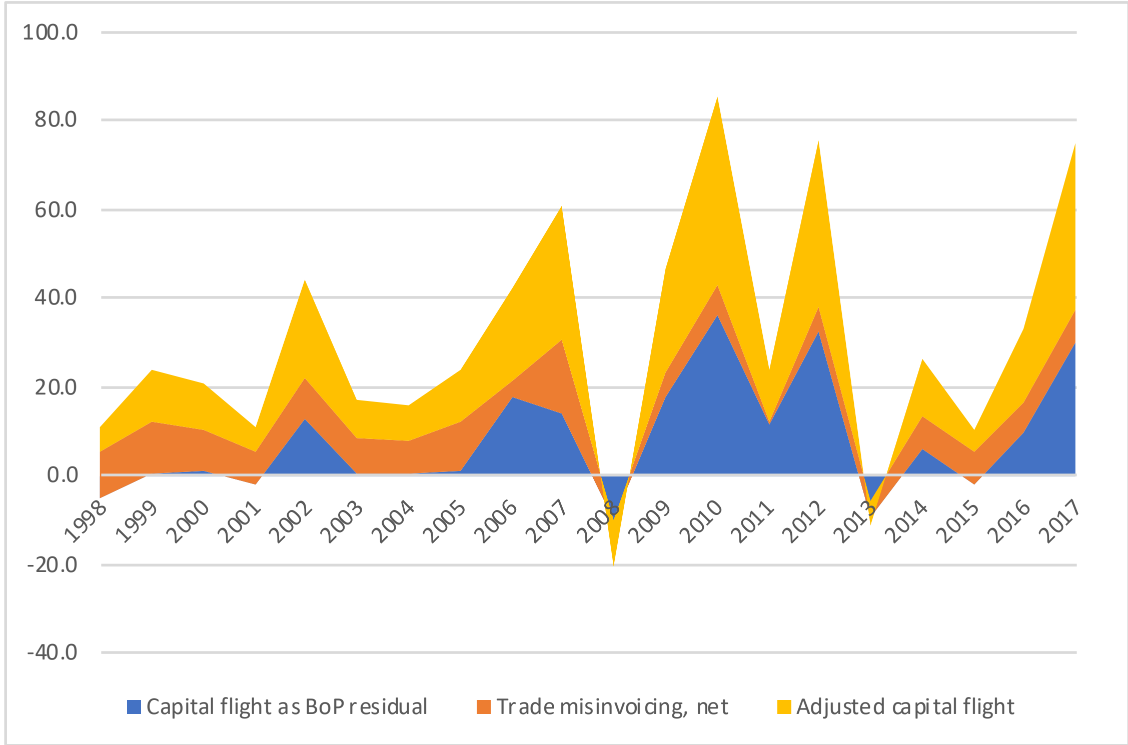
The methodology for estimating trade misinvoicing is described in detail in (Ndikumana and Boyce, 2019).[3] Import and export misinvoicing constitute a channel through which foreign exchange inflows and outflows escape official recording in the BoP. Due to lack of suitable data for calculating the extent of trade misinvoicing, the estimates presented here cover only the period starting from 1998, when South African imports and exports are recorded in IMF's electronic Direction of Trade Statistics database. The latter source allows us to estimate the extent of misinvoicing by comparing South Africa's recorded imports and exports with the exports to South Africa and imports from South Africa recorded by its trading partners (with adjustments for the costs of freight and insurance). Adjustment of the residual measure of capital flight to include net trade misinvoicing adds substantially to the amount to capital flight in almost every year, as

[3] Also see Ndikumana and Boyce (2010) and Ndikumana et al. (2015).

illustrated in Figure 2. Over the 1998-2017 period, total net trade misinvoicing amounted to $146 billion. This is the net result of $79 billion in import underinvoicing (reflecting the use of foreign exchange to pay for unrecorded imports) and $225 billion in export underinvoicing (reflecting unrecorded sources of foreign exchange). Adding this to the unadjusted BoP residual yields total capital flight of $306 billion during the 1998-2017 period.

These figures refer to aggregate trade summed across trading partners and products. Underlying them, however, are misinvoicing in specific products and bilateral trade routes. The analysis of top export products presented in Ndikumana and Boyce (2019) generally shows substantial underinvoicing in exports of primary commodities.[4]

Figure 2: Capital flight adjusted for trade misinvoicing, 1998-2017 (billion, constant 2017 $)



Source: Authors' computations.

In South Africa as in other African countries, precious metals appear to be especially prone to export misinvoicing. Ndikumana and Boyce (2019) present the cases of silver, platinum, gold over the period 2000-2017. In the case of silver, the results show especially high discrepancies in trade

[4] An exception is trade with countries that serve as *trading hubs,* such as the Netherlands and Switzerland, where the results generally show apparent export overinvoicing, albeit to a lesser extent, so that the overall pattern remains underinvoicing.

with India, with export underinvoicing amounting to $78.7 billion. For platinum, exports to China were underinvoiced by as much as $14.2 billion out of a total of $16.4 billion of imports from South Africa.

For gold, the analysis is focused on non-monetary gold category, which is reported in Comtrade. Non-monetary gold is gold that is not held as reserve assets (are referred to as monetary gold) by the national authorities (the central bank). The results show particularly large differences between the values of gold exports declared by South Africa and the value of gold imports reported by its trading partners. Over the 2000-2017 period, while India recorded $47 billion in gold imports from South Africa, the latter's data show only $200 million of gold exports to the former. The United Kingdom (UK) reported a total of $28 billion of gold imports from South Africa, while the latter recorded only $300 million of gold exports to the UK. In the case of China, its records show $31 billion of gold imports from South Africa while the latter's data show virtually no gold exports to China.

It is not clear what is behind the large differences in gold trade statistics given that both trading partners should, in principle, use the same classification codes to report gold imports and exports. One possibility is transit trade, whereby gold that is recorded as imported from South Africa on the partner's side has transited through another country, which in South Africa's books is recorded as the importer. Another possibility is that gold purchased in South Africa is actually not South African but rather was produced in another country and sold to South Africa. So, when the South African trader sells the gold, they would not record it as South African exports while the trading partners do record them as imports from South Africa.

These explanations would be inconsistent with the international conventions on the compilation and reporting of trade statistics. First, if South Africa's gold is sold to, say, an Indian buyer but it transits in another country, India should be marked as the destination in South Africa's records. Second, gold that transits in South Africa should not be recorded as South African by the importers and it would be recorded in South Africa's data as 'goods in transit'. Therefore, if both the importers on one side, and South African exporters and government statistical services on the other, follow the UN reporting conventions, their figures should be mutually consistent.

South Africa's trade statistics exhibit another mystery: the majority of gold exports is recorded as going to unspecified destinations – 'other areas not elsewhere specified'. An equally problematic feature is that starting in 2011, the Department of Trade and Industry (DTI) has merged non-

monetary gold and monetary gold. However, this practice would not explain the fact that South Africa's numbers are lower. If anything, the conflation of the two categories should produce the opposite results: if South Africa combines the two categories of gold while its trading partners separate them out, then South Africa's figures should be larger, not smaller, than the non-monetary gold imports recorded by its trading partners.

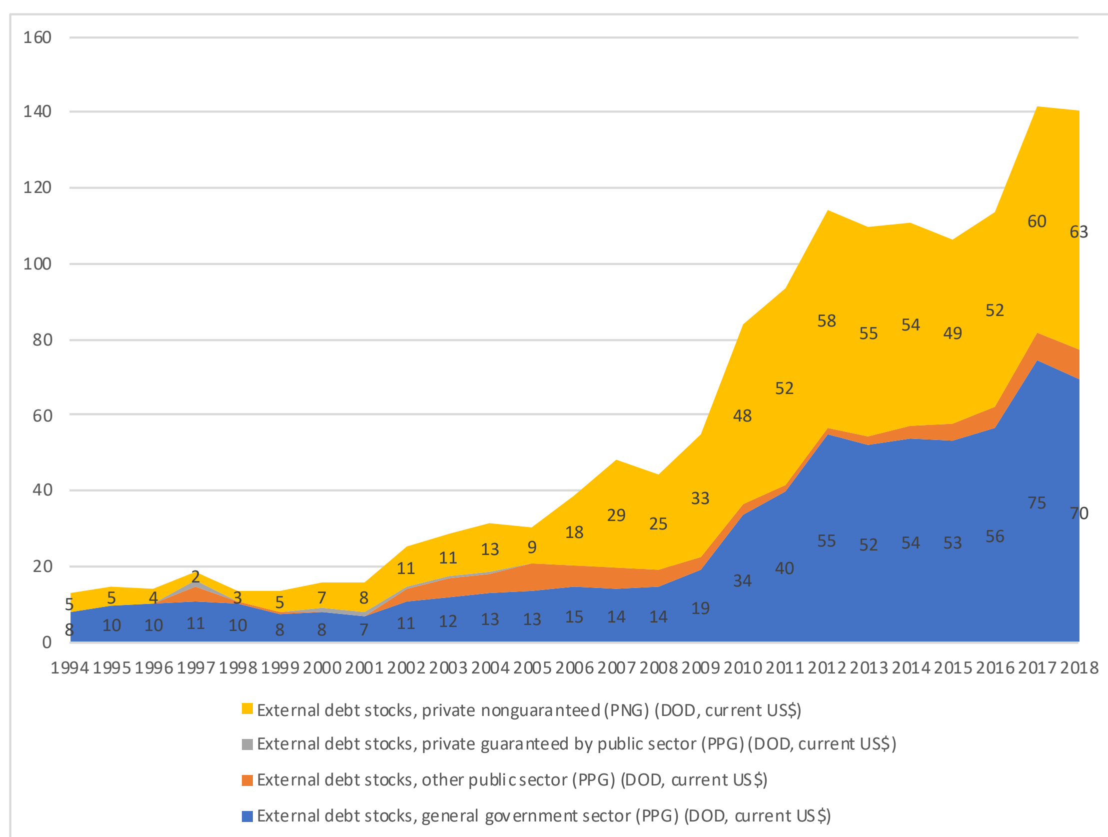
The authors of this paper have submitted requests to South African government agencies for clarification of the reasons for these differences. At the time of writing, we have not received any replies to these queries.

External debt and capital flight

The post-apartheid era witnessed both an explosion of capital flight and rapid acceleration of external debt. Because of international sanctions, the apartheid regime could borrow relatively little from abroad. External debt rose dramatically after the transition to democracy in 1994. The statistics presented here are from the World Bank's *International Debt Statistics* database. In 1994, the external debt stock stood at $21.7 billion, corresponding to 15.5 percent of GDP. It rose to $72.5 billion in 2007 (22.2 percent of GDP) and fell in 2008 during the global financial crisis. By 2018, the stock of debt had more than doubled, reaching $179 billion (48.8 percent of GDP). The increase in debt was driven by both public debt and private non-guaranteed debt (Figure 3).

The increase in debt has led to a higher debt burden in the form of debt service payments, which rose rapidly since 2008. In addition to the increase in the volume of new borrowing, the rapid increase in debt service is also due to the rise in private credit at high interest rates. Cumulative debt service over 1994-2018 amounted to $83 billion for general government plus $90 billion for private non-guaranteed debt. The ratio of debt to exports rose steeply from 2008, following a steady decline from 1996. A noteworthy fact is that the accumulation of external debt has been translated into little gains in terms of net transfer of resources. For the general government, external borrowing has resulted in a net transfer of resources to the lenders totaling $2.5 billion since the end of the apartheid regime (Table 1). On a net basis, therefore, the South African government financed the rest of the world rather than the other way around. For the private sector, external borrowing brought in net resource inflows of $12.2 billion out of the $67.3 billion in new borrowing (cumulative change in debt stock).

Figure 3: External debt stock: Government and private sector (billion, current $)



Source: World Bank, International Debt Statistics.

Table 1: External debt, 1994-2018 (billion, constant 2018 $)

	Debt stock	Change in debt stock	Net transfers	Debt service
General government sector	69.5	69.7	-2.5	82.9
Other public sector	7.5	9.2	4.3	18.0
Private guaranteed by public sector	0.0	0.1	2.3	2.3
Private nonguaranteed	63.2	67.3	12.2	89.9
Public and publicly guaranteed	77.0	79.1	4.1	103.2
Public sector	77.0	79.0	1.8	100.9
Short-term	36.6	33.8		
Total	179.3	181.9	42.8	212.5

Source: World Bank, International Debt Statistics.

These statistics raise serious concerns about the sustainability of external borrowing as a means of financing growth in South Africa. On the one hand, it is clear that the strategy is not bringing in much by way of net resource inflows to finance development programs; more money is flowing out of the country than is coming in, at least in the public sector. These are resources that are much needed to finance social services and public infrastructure. Rather than increasing its reliance on external borrowing, a better strategy for the South African government would be to expand its domestic resource mobilization capacity, which would also help in preserving policy space and government accountability. Doing so, however, would require coming to grips with the issue of capital flight.

Accumulation of offshore wealth from capital flight

While capital flight is a loss to South Africa's domestic economy, it is a benefit for the owners of the associated assets and for the economies where those assets are held, many of which operate in secrecy jurisdictions. Some of the funds that are illicitly transferred out of the country finance consumption expenditures by their owners. But given that much capital flight is orchestrated by economic and political elites, a substantial portion of the funds are saved and invested in various financial instruments and offshore real estate. This money accumulates in value over time through investment income and capital gains. The resulting wealth accumulation is difficult to estimate, given that the composition of the portfolio is unknown and various assets have different rates of return.

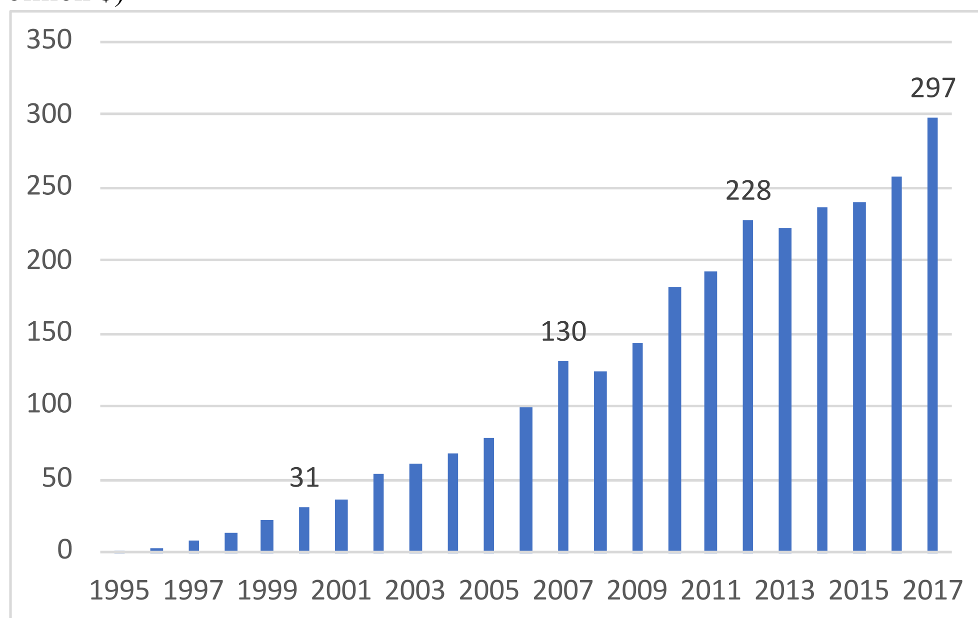
Several efforts have been made to estimate wealth held offshore as a result of capital flight. James Henry has developed an estimate that is based on reasonable assumptions about the fraction of the flight capital that is saved and the market rate of returns on assets held offshore (Henry, 2012, 2016). Under this approach, the most recent estimate of the stock of capital flight for South Africa stands at $146 billion.[5] Gabriel Zucman has estimated 'hidden' offshore wealth as the discrepancy between a country's recorded claims on wealth held offshore and its liabilities as recorded by

[5] See the *Global Haven Industry* website: http://globalhavenindustry.com/africa-countries.

offshore financial institutions, using data in the IMF's International Investment Position (IIP) (Zucman, 2013b).[6]

In our approach, we estimate the opportunity cost of cumulative capital flight by calculating its stock, assuming that the all the money was saved and earned a modest rate of return equal to the US 3-month Treasury bill. In a given year, the stock of capital flight or offshore wealth is calculated as the capital flight in that year plus the stock of wealth in the previous year capitalized at the Treasury bill rate. Under this approach, the stock of capital flight from South Africa amounted to $297 billion as of end of 2017 (Figure 4). To put this figure in perspective, in that year, South Africa's stock of external debt was $180 billion. In this sense, South Africa could be described as a 'net creditor' to the rest of the world.

Figure 4: Accumulated stock of capital flight (capitalized at the 3-month US T-Bill rate, billion $)



Source: Authors' computations.

As an additional way to get a sense of the magnitude of capital flight, the cumulative stock of capital flight thus measured is equivalent to 34% of the stock of private wealth held by South African residents, which was estimated at $875 billion for 2017 by Credit Suisse's Research Institute (Credit Suisse, 2019). Incidentally, the 34% is quite close to the various estimates of private wealth held abroad by Africans in general: Zucman (2013a, p. 53) estimates this at 30%,

[6] See Ndikumana and Boyce (2019) for a discussion of Zucman's methodology and its limitations for estimating hidden offshore wealth for African countries.

while Collier et al. (2001) earlier estimated it at 40%. In both estimates, the ratios for Africa are much higher than for other regions. In other words, African private wealth holders exhibit a *negative home bias* relative to High Net Worth Individuals (HNWI) in other regions, being more inclined to prefer foreign assets over domestic assets.

The estimates of offshore wealth accumulated from capital flight are consistent with both the stock of private wealth in South Africa and its skewed distribution in favor of the rich and ultra-rich. Estimates of South Africa's total private wealth vary, depending on the methodologies used, but they tell a similar story in terms of trend of private wealth accumulation over time as well as the country's rank vis-à-vis other African countries. Private wealth and offshore wealth appear to have grown in tandem, with the offshore proportion of the total private wealth in line with the 30-40% share estimated for Africa by Zucman (2013b) and Collier et al. (2001).

According to AfrAsia Bank, in 2018, South Africa had the highest amount of private wealth among African countries at $649 billion, accounting for 29.5 percent of the entire African continent's total private wealth ($2.2 trillion) (AfrAsia Bank, 2019). Egypt, ranked second, had less than half of that amount ($303 billion) (Table 2).

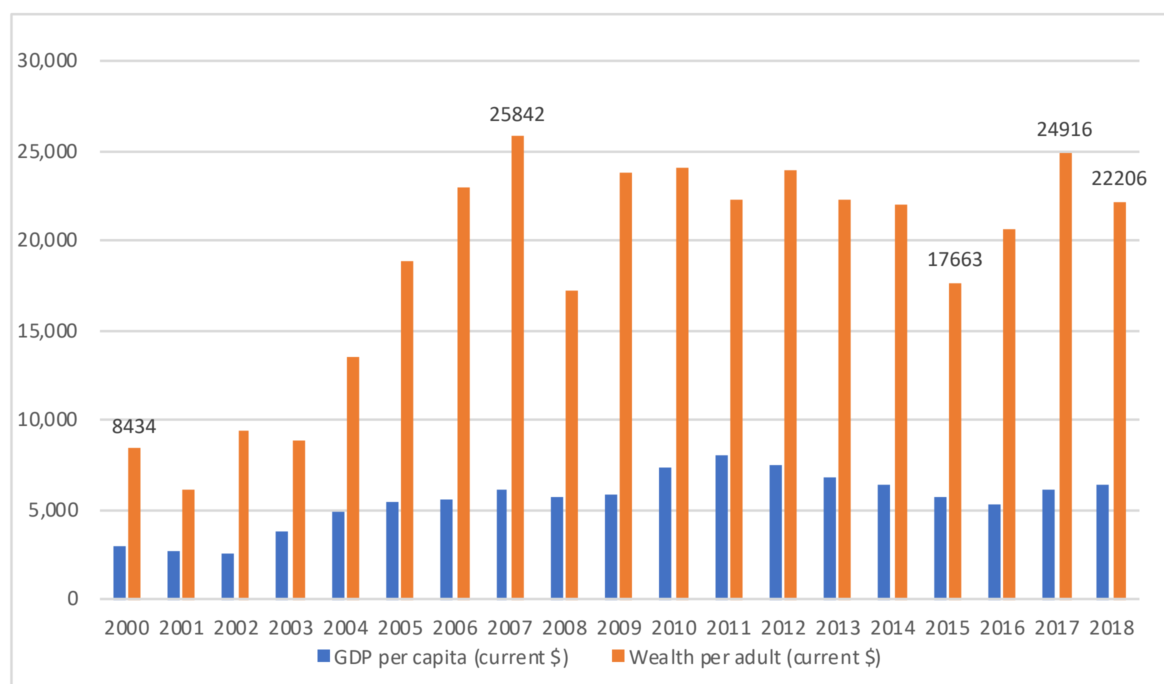
The Credit Suisse Research Institute puts the stock of private wealth in South Africa a bit higher at $787 billion in 2018, equivalent to 20% of its estimate of the continent's total private wealth ($3.9 trillion) (Credit Suisse, 2019). The data show that private wealth has been rising faster than national income: over the 2000-2019 period, private wealth per capita increased by 169% (from $8,434 to $22,206) compared to 109% for GDP per capita (from $3,039 to $6,354) (Figure 5). The faster increase in private wealth relative to national income is both a cause and effect of the country's widening economic inequality.

Table 2: Private wealth and High Net Worth Individuals, 2018

Country	Stock of wealth in 2018		Growth over 2008-2018	Number of HNWIs*	Number of billionaires
	Amount ($bn)	Per capita ($)			
South Africa	649	11,450	13%	39,200	5
Egypt	303	3,100	-10%	16,700	6
Nigeria	225	1,170	-4%	9,900	4
Morocco	114	3,170	5%	4,600	3
Kenya	93	1,870	64%	8,600	--
Angola	69	2310	25%	3,100	1
Côte d'Ivoire	43	1780	37%	2,500	0
Total Africa	2,200**	6571		140,000	23
South Africa's share	29.5%			28.0%	21.7%

Source: AfrAsia Bank, *Africa Wealth Report* 2019.
Available online: https://www.afrasiabank.com/en/about/newsroom/africa-wealth-report-2019
*Note: HNWIs = High Net Worth Individuals (possessing $1 million or more in liquid assets)
**Note: of the $2,2 trillion of private wealth, $920 billion are held by HNWIs.

Figure 5: Wealth vs. GDP, 2000-2019 (current $)



Source: IMF, World Economic Outlook database (GDP); Credit Suisse (wealth).

3. Exchange controls and capital flight

The 1960s-1970s: The consolidation of exchange controls

The threat of capital flight has been a matter of concern for policymakers in South Africa for a long time. This was especially a major preoccupation during the apartheid era in the context of political instability that fueled fears of wealth moving overseas for safekeeping. The international sanctions imposed on the apartheid regime created legal blockage as well as financial disincentives for foreign capital inflows. This meant that the government had to utilize policies at its disposal to try to 'trap' residents' capital in the domestic economy. This made exchange controls and regulation of capital flows important tools for government macroeconomic and financial policy.

Exchange controls limit the purchase and sale of foreign currencies in order to manage capital flows, with the emphasis typically being on restricting capital outflows as well as short-term speculative inflows. In South Africa, starting from the 1990s, they were also used to encourage capital inflows, as we discuss below.[7]

The use of exchange controls in South Africa dates at least from 1939,[8] when the country was a member of the British Sterling Area. At that time, the United Kingdom asked member countries to impose restrictions on capital flows outside of the Sterling Area, while facilitating free movement of capital from the UK within the area.[9] In South Africa, exchange controls were tightened in 1961 in response to large outflows of capital following political unrest in the aftermath of the Sharpeville massacre of 21 March 1960[10] and the country's withdrawal from the British Commonwealth.

The 1961 Exchange Control Regulations stated:

> Except with permission granted by the Treasury, and in accordance with such conditions as the Treasury may impose, no person other than an authorised dealer shall buy or borrow any foreign

[7] See Stals (1998).
[8] It can be argued that it began even earlier; see Scott and Pettersson (2019).
[9] Stals (1998).
[10] On 21 March 1960, under the leadership of the Pan-Africanist Congress (a splinter group of the African National Congress, ANC) thousands of black South Africans gathered near a police station at Sharpeville (south of Johannesburg) to demand the abolition of pass laws. The Police opened fire on the crowd, killing several dozen, including women and children, and wounding hundreds more. A state of emergency was declared, thousands of people were arrested, and the ANC and the PAC were outlawed. This incident heightened political instability in the country and reinforced international pressure on the apartheid regime. In remembrance of the historical significance of the massacre, President Nelson Mandela chose Sharpeville as the site for the formal signing the new constitution on 10 December 1996 after the fall of the apartheid regime.

> currency or any gold from, or sell or lend any foreign currency or any gold, to any person not being an authorised dealer.[11]

The Act also required explicit authorization by the Treasury to 'take or send out of the Republic any bank notes gold, securities or foreign currency, or transfer any securities from the Republic elsewhere.' It prohibited repatriation of the proceeds of sale of South African securities and profits from investment in the country by non-residents. It further required that any sale of foreign currency or any foreign asset by residents must be declared to the Treasury within thirty days.

Thereafter, exchange controls were extended over time in response to worsening domestic political conditions and external political and economic pressure, including trade and investment sanctions against the apartheid regime. In particular, the Soweto youth uprising of June 1976, when the state police shot and killed innocent school children, including the now well-known Hector Pieterson (twelve years old at the time), precipitated a profound change in the political landscape in the country and energized both domestic and international opposition to the apartheid regime.

Exchange rate management was implemented through a parallel exchange rate system, known as the 'blocked rand', which evolved via the 'securities rand' into the 'financial rand'. Blocked rand accounts were held by non-residents at commercial banks and could be used to deposit the proceeds of sales of South African government securities, to purchase shares on the Johannesburg Stock Exchange (JSE), and to purchase government, municipal and public utilities bonds. The proceeds of these transactions could be repatriated after they had been held for five years (Farrell and Todani, 2004).

In 1976, the 'securities rand' was introduced as part of efforts to attract foreign investment and increase incentives for transactions on the JSE. This instrument allowed transfers among non-residents as well as currency trading through brokers on the JSE. Three years later, the 'financial rand' replaced the securities rand, upon the recommendation of the De Kock Commission's Interim Report published in June 1979. According to Gerhard de Kock, the Chair of the Commission, who would later become the Governor of the Reserve Bank (1981-89), 'exchange controls were 'fair weather' arrangements which worked when required least' (Farrell and Todani, 2004, p. 8).[12] The Commission's view was that the country should embark on a gradual process of relaxing exchange controls and moving towards a market-determined exchange rate regime. This

[11] South African National Treasury (1961, p. 2).
[12] Also see Bhana (1985).

was expected to alleviate market distortions, increase net returns to investments, and ultimately attract higher short-term as well as long-term foreign investments into the country while curbing capital flight.

The 1980s: The crisis – things fall apart

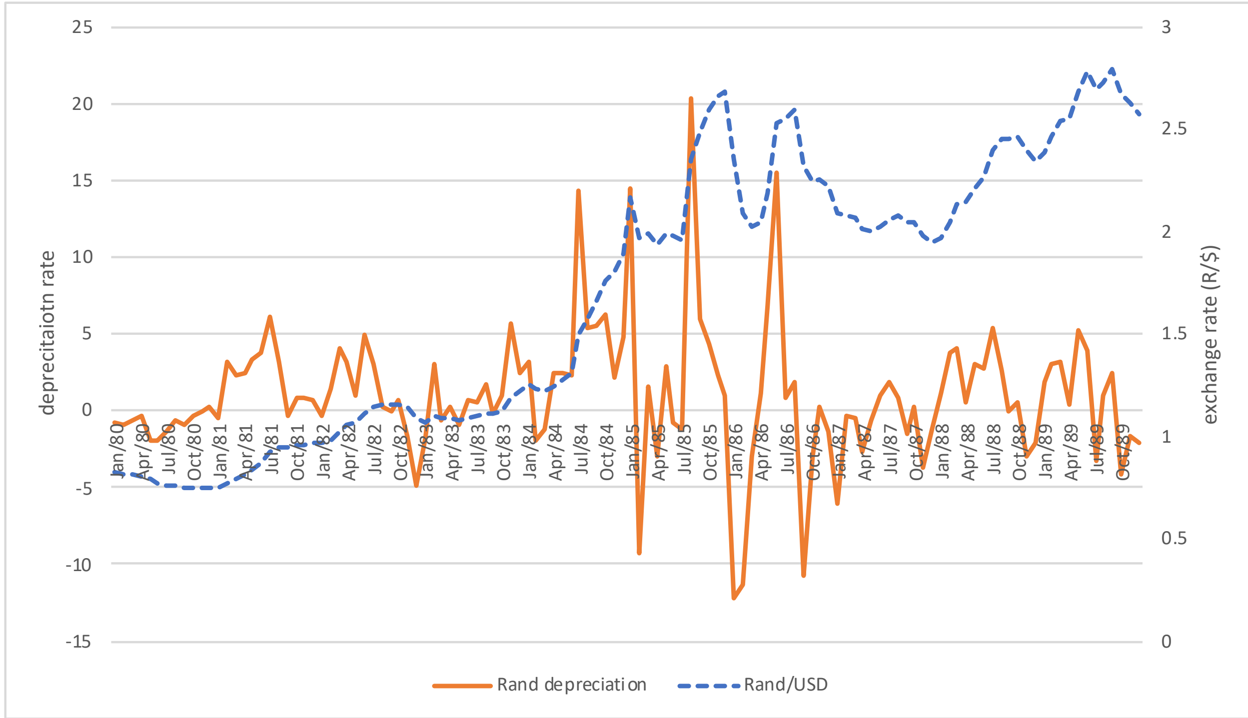
Early moves towards liberalization were pursued throughout the 1980s, but policy reforms during that decade were overshadowed by political and economic problems that plunged the economy into a deeper crisis. In 1983, the government abolished the dual exchange rate and moved towards phasing out all exchange controls on non-residents. This process culminated in the establishment of a unitary exchange rate in 1983. However, the efficacy of these reforms was compromised by the effects of political unrest, including the imposition draconian emergency measures by the apartheid regime (e.g., the partial State of Emergency of 15 July 1985), and disappointed expectations of change (e.g., the disastrous 15 August 1985 'Rubicon speech' by President P. W. Botha). Uncertainty and instability rocked foreign exchange markets and led to massive volatility in capital flows. The situation was aggravated by debt distress, precipitated by the refusal of American banks to roll over the country's short-term debt. The South African government found no other option but to impose repayment restrictions on foreign debt as it was running out of hard currency. This exacerbated pressure on the rand, which depreciated at an average rate of 2% per month from September 1983 to September 1986 (see Figure 6).

In 1989 the liberalization momentum picked up in with the appointment of Chris Stals as Governor of the South African Reserve Bank (SARB), who was known for his strong commitment to market-oriented policy and the importance of protecting the value of the rand. The exchange rate became the anchor of monetary policy, and the latter would become the central instrument of the liberalization reforms from the 1990s until today.

Overall, the 1980s were a 'lost decade'. The economy disintegrated due to domestic political and economic instability. The phrase 'things fall apart'[13] would be an apt characterization of the state of the country's economic, social and political environment.

[13] *Things Fall Apart* is the title of a well-known novel written by the legendary Nigerian author Chinua Achebe.

Figure 6: Depreciation of the rand vis-a-vis the US$ in the 1980s



Source: SARB database.

1960s-1980s: Lessons learnt

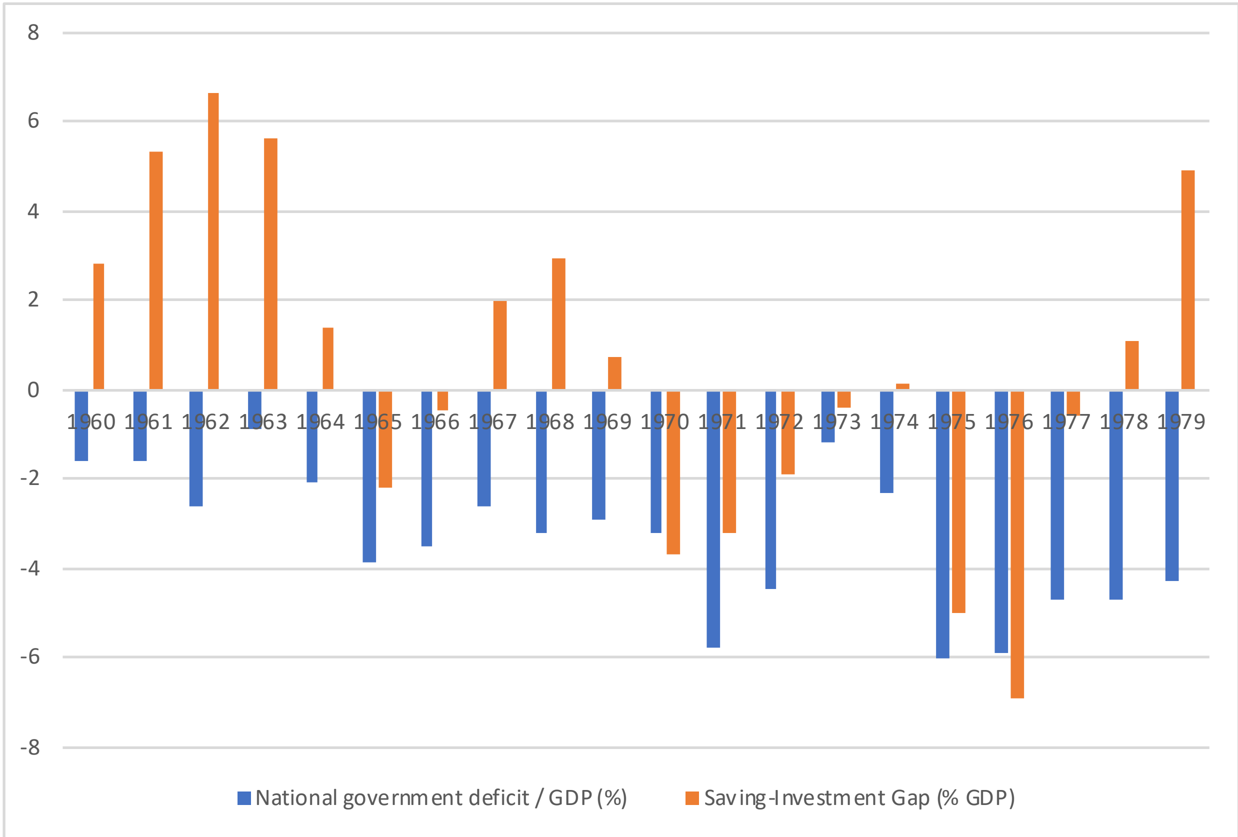
Did the exchange controls of the 1960s-1980s work? Did they help to prevent capital outflows, and to encourage foreign capital inflows and domestic investment? And most importantly, in the context of this study, did they halt or reduce capital flight? In this case, the key constraints to effectiveness of exchange controls were the structural economic and political problems that made the controls necessary in the first place. The exchange controls proved incapable of alleviating the effects of the deep political instability that engulfed the country and the devastating effects of international economic embargo against the apartheid regime. These factors depressed domestic investment, while at the same time they spurred capital outflows and discouraged capital inflows.

It is also possible that capital controls may not only fail to curb capital flight but instead exacerbate it. In particular, poorly enforced capital controls may induce capital flight through trade misinvoicing. When trade-exposed firms find it difficult or costly to access foreign exchange, they may attempt to circumvent the controls by underinvoicing exports (to retain foreign exchange abroad and avoid having to surrender it to the Central Bank at the official rate), and by overinvoicing imports (to obtain foreign exchange from the Central Bank at the official rate). Some studies have linked exchange controls to capital flight through trade misinvoicing in South Africa

in the 1970s and 1980s. Estimates of the amounts range from $12.4 billion by Smit and Mocke (1991) to $20 billion by Kahn (1991) and $55 billion by Rustomjee (1991).[14] Due to lack of appropriate mirror trade data, we were not able to produce our own estimates of trade misinvoicing during this period.

The failures of the exchange controls are further revealed by an examination of the financial gaps that held back the country's growth potential. The country confronted structural saving-investment gaps and fiscal deficits that compromised capital accumulation and long-term growth. As can be seen in Figure 7, these gaps had deepened in the 1970s in the context of global shocks (oil prices) and political upheaval, especially following the Soweto youth massacre.

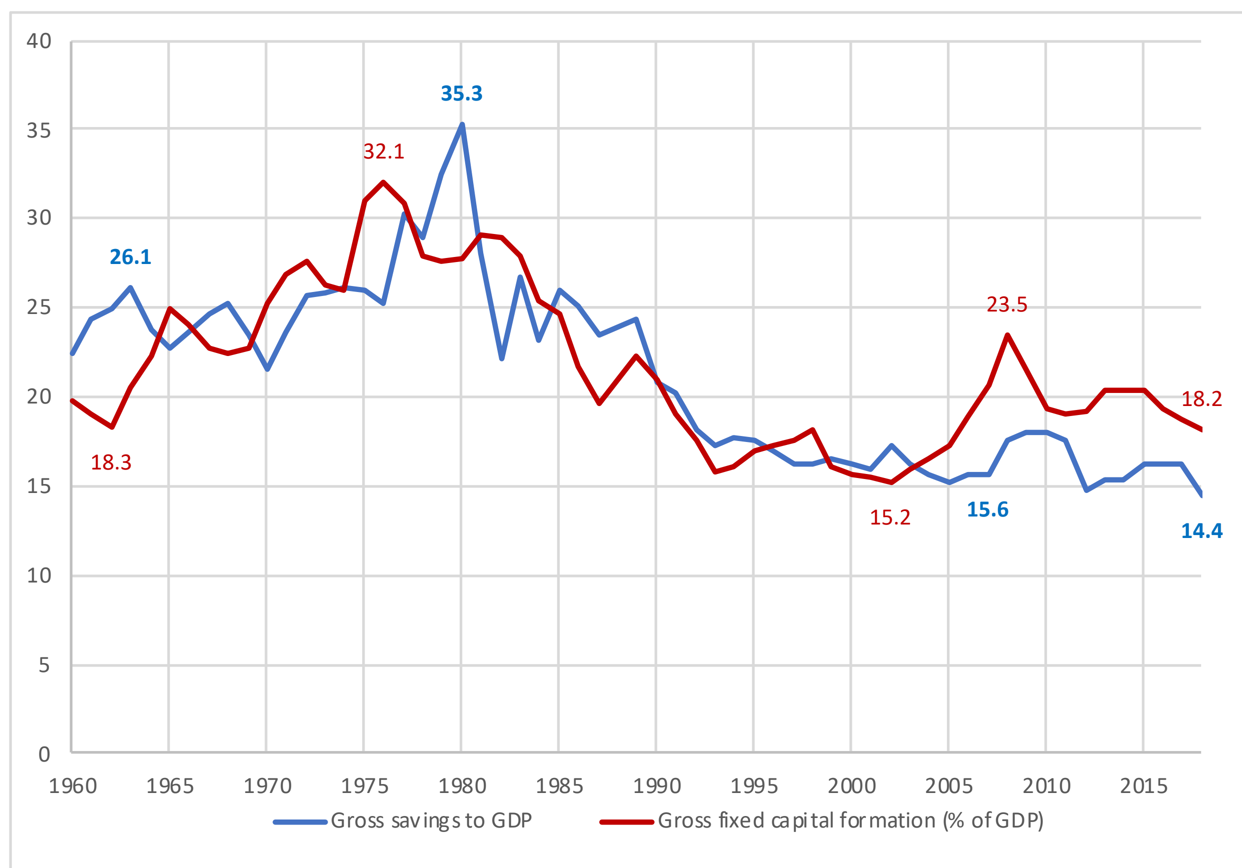
Figure 7: Resource gaps: Saving-investment gap and fiscal balance, 1960-1979



Source: SARB database.

[14] Wood and Moll (1994) discuss limitations of these estimates of trade misinvoicing including statistical and methodological issues.

Figure 8: Secular decline in domestic saving and investment, 1960-2018 (% of GDP)



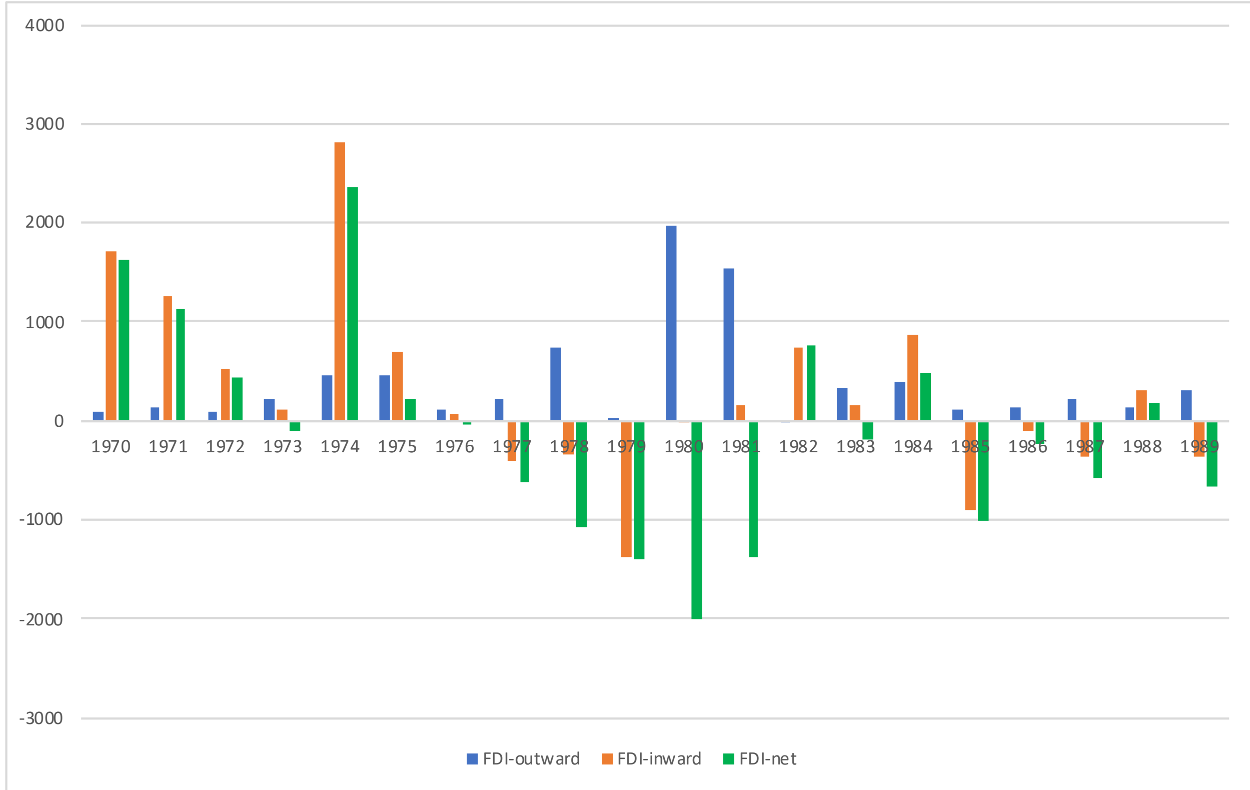
Source: SARB database.

But the adverse effects of political and macroeconomic instability on investment and saving in the 1980s ushered in a secular downward trend in domestic saving and capital accumulation that continues to the present. As can be seen in Figure 8, the ratio of domestic investment and domestic saving to GDP reached their peak around 1980 and then began to decline. Indeed, this trend has been a major reason for the country's inability to sustain high growth rates in the post-apartheid era. While a pick-up of investment and saving sustained the growth acceleration from 2000 to 2007, the subsequent downturn in saving and investment coincides with growth deceleration. Anemic growth has turned into a contraction of per capita income in recent years.[15] Boosting domestic capital accumulation and saving must be a central part of the strategy to boost growth and combating capital flight must be part of this strategy.

[15] Real per capita GDP declined from R56,549 in 2014 to $55,595 in 2018, shrinking every year except in 2017 where it virtually stagnated (growing at 0.028%). These figures are from the SARB database.

It is clear that the control regime failed to boost domestic investment and saving. Did capital controls help to attract foreign capital flows? During the 1970s, South Africa managed to attract modest foreign capital, mainly in the form of foreign direct investment (FDI). But throughout the 1980s, the country experienced net outflows in most years (Figure 9). In cumulative terms, during the decade of the 1970s, the country attracted a total FDI of $5.1 billion (in 2018 prices) but saw an exit of $2.6 billion, resulting in net FDI inflows of $2.5 billion. In contrast, during the 1980s, the country experienced cumulative net outflows of $4.7 billion, as only half a billion came into the country compared to $5.1 billion that exited the country.

Figure 9: Foreign direct investment: inward, outward, and net flows, 1970-1989 (million, constant 2018 $)



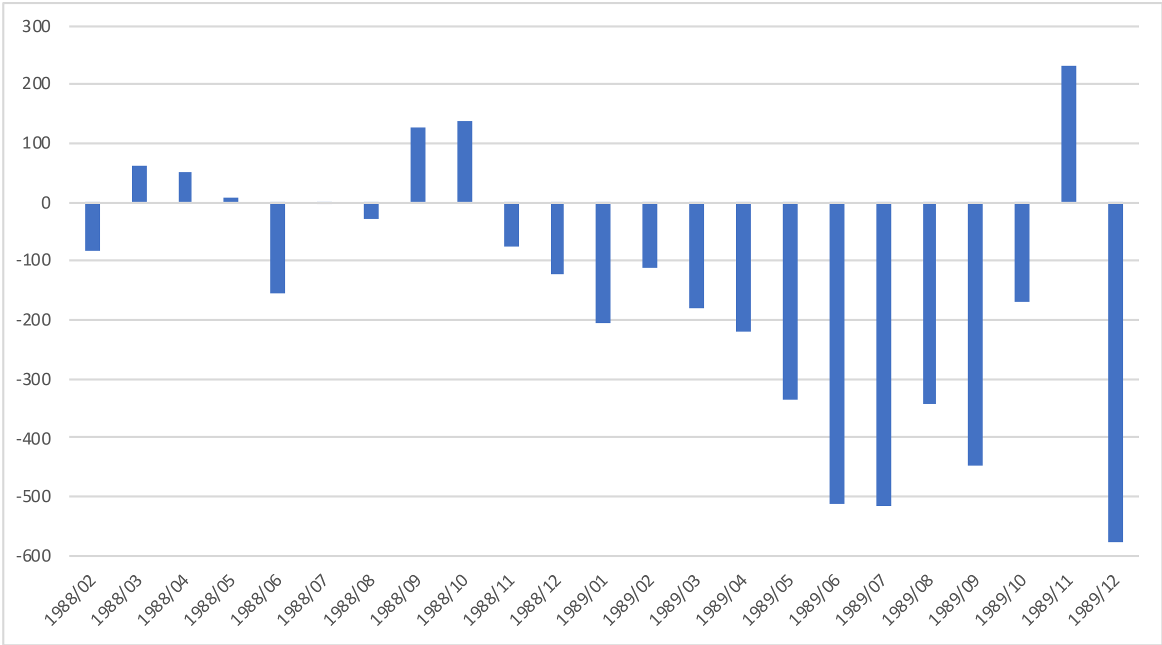
Source: UNCTAD database.

The goal of attracting foreign capital in the form of portfolio investment, particularly through the JSE, also never materialized. The government hoped that allowing non-residents to purchase South African private equity and government bonds and to settle transactions via the 'blocked rand accounts' would boost the JSE relative to foreign markets. This did not happen. Data on stock transactions on the JSE, which are available on the SARB website starting from February 1988,

show net sales by non-residents in the final two years of the decade (Figure 10). Rather than serving as a vehicle for bringing capital into the country, the stock market appears to have helped to channel capital out of the country.

The restrictions on foreign exchange markets and accompanying capital controls pursued by successive governments in the apartheid era were aimed at stemming capital outflows and fostering domestic investment. As the foregoing analysis makes clear, these measures proved to be unsuccessful in meeting both of these goals. The efficacy of these policies in other contexts remains an open question. In the case of South Africa, however, they were implemented at a time where the country was confronted by deep structural and political problems, at home and internationally, that these policies could did not and could not address. The political instability arising from domestic resistance against the apartheid regime and the international embargo produced high levels of uncertainty that discouraged investment and created market instability. In this sense, the policies failed because they merely addressed symptoms while ignoring the underlying disease.

Figure 10: Net purchases of shares on JSE by non-residents in 1988-89 (Rand million)



Source: SARB database.

4. Liberalization and capital flight in the post-apartheid era

Gradual liberalization

The post-apartheid era was characterized by further liberalization efforts, not only regarding international transactions, but as a policy stance in multiple dimensions. The liberalization moves were driven by three main factors pertaining to both the domestic economy and the global context. First, the dominant school of economic thought in the 1990s held the view that exchange controls, just like any other government interventions in the economy, were counter-productive in that they created distortions and impeded the proper functioning of price mechanisms. One manifestation of these distortions, in this view, is trade misinvoicing, an important mechanism of capital flight (Kahn, 1991; Rustomjee, 1991; Smit and Mocke, 1991). More generally, it was believed that distortions in the prices of goods and services, interest rates, asset prices, and production costs resulted in misallocation of resources, preventing the economy from reaching its optimal level of production; that is, output remains below capacity. There was substantial sympathy for this view among South African policymakers, including at the Reserve Bank. This ideological view helped to sustain the liberalization movement throughout the decade of the 1990s and continues to support it even today.

Second, the decade was characterized by a concerted push by the Bretton Woods Institutions (BWIs) for full market liberalization. Given its initially relatively low external debt at the beginning of the 1990s, South Africa was less exposed than many other developing countries to this pressure from the BWIs. But for the purpose of building relationships with international institutions, there was high appetite for liberalization in policy circles.

The third factor was the removal of economic and political sanctions against the country with the downfall of the apartheid regime. This meant that the county could abandon the old isolationist regime and fully integrate into the global economy. It was expected that once wealth holders overcame initial fears about possible instability and the risk of their capital being 'trapped in the country' or even nationalized in a regime run by the previously disenfranchised black majority, the domestic environment would become increasingly attractive to domestic as well as foreign investors. Liberalization would help to assuage these fears and unleash a 'democratic dividend' in the form of pent-up demand for private investment in the country.

This reasoning was questionable, however, in the context of considerable interest in *internationalization* among major South African firms. Insofar as liberalizing exchange controls

was going to unleash private investment, it could turn out to be in investments abroad, with much of these investments being of a financial rather than real nature. Ashman et al. (2011, p. 13) have argued that '[s]ince 1994, major South African corporations have primarily pursued a strategy of corporate globalization in the form of the increasing internationalization and financialization of their operations.' More specifically, conglomerates with intertwined activities in the mining, industrial and financial sectors unbundled into entities with a core focus. An example was Gencor's spin-off of its non-precious metals mining assets and the creation of Billiton (Chabane et al, 2003, p. 12). Billiton then would go on to internationalize by merging with the Australian mining firm BHP. The mining giant Anglo-American focused its gold interests in AngloGold, sold South African Breweries, pared its financial services interests to First Rand, and together with Billiton bought out the minority shareholders in its chrome company, Samancor.[16] For internationalization to proceed, the regime of capital controls had to be relaxed. The allowance of dual listing of major South African firms on the JSE *and* the London Stock Exchange (LSE), for instance, made possible significant volumes of legal capital outflows that had been restricted under the previous regime. It is not surprising that the liberalization of exchange controls enjoyed support from firms interested in pursuing internationalized business strategies.

Arguments were also made against the liberalization of exchange controls. The main one was that exchange controls would help to protect the economy against financial instability, including instability originating from external factors.[17] The 1998 Asian financial crisis bolstered support for a more cautionary stance on liberalization. There was also apprehension regarding a possible pent-up demand for capital outflows, following a long period of strict exchange controls.

The main debate, however, was not whether to liberalize or not, but about the appropriate speed of liberalization. At one extreme were the supporters of a 'big bang' approach, who advocated immediate lifting of all exchange controls. This view had prominent adherents in the private financial sector. Others called for a gradualist approach, with a phased-out dismantling of the controls. This position prevailed, as it was supported by the SARB, which guided the process of reforms from the 1990s to the present (see reports on exchange arrangements by the IMF (various years)).

[16] Samancor recently has been alleged in court proceedings to have extracted as much as $500 million from 2005 to 2010 via practices such as transfer pricing and the pocketing of secret management and 'facilitation' fees. See van Rensburg (2019).

[17] See, among others, McKenzie and Pons-Vignon (2012) and Stals (1998). For a review of the evolution of views on capital controls, see Klein et al. (2012).

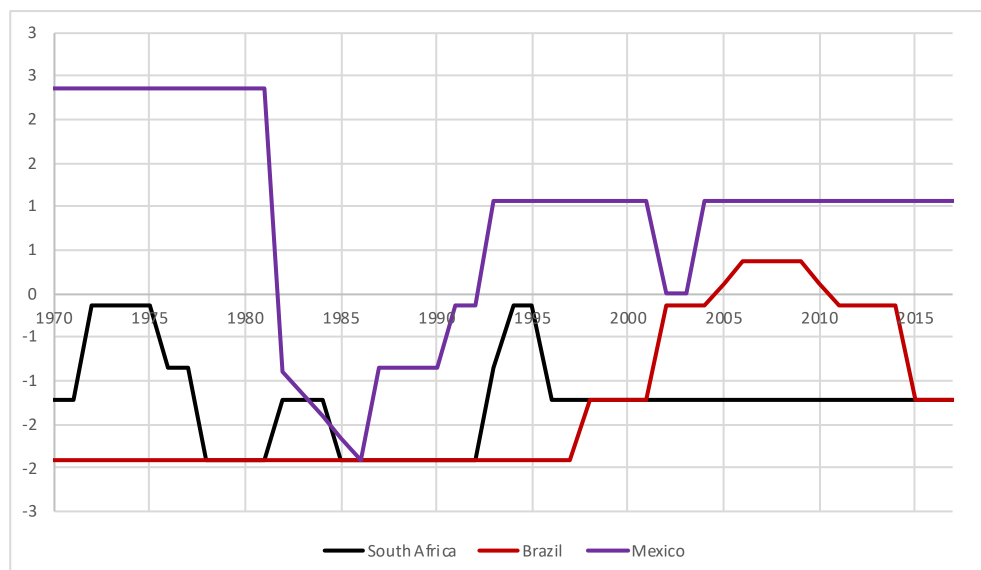
In 1993, several relaxations of the control regime were introduced, including the removal of exchange controls on capital account transactions. In March 1995, the two-tier exchange rate ('financial rand') system was terminated. This meant that non-residents were allowed to bring capital to South Africa for any purpose and repatriate the principal and capital gains without any restrictions. Resident corporations also were allowed – up to specified limits – to invest abroad and raise capital abroad.

In June 1995, further reforms were introduced to allow resident institutional investors to diversify some of their assets into foreign currency-denominated investments. In June 1997, the exchange control regime enabled private individuals to make investments abroad up to specified limits. By mid-1998, the Reserve Bank Governor confidently declared that 'South Africa has reached a stage where there are no effective exchange controls anymore on current account transactions and on the movement of funds of non-residents… On balance, South Africa has now removed more than seventy percent of all exchange controls of the past' (Stals, 1998, p. 3).

Today the policy regime in South Africa is considered fairly open and liberalized, not only from a historical perspective but also relative to many other countries.[18] Standard measures of capital account liberalization illustrate the relative openness in the post-apartheid era relative to the 1980s. Relative to other large, middle-income economies, however, South Africa's capital account regime is regarded as being slightly more restrictive, as shown in Figure 11.

[18] For current details on the currency and exchange control regime, see SARB (2019).

Figure 11: Capital account openness index for selected middle-income countries, 1970-2018



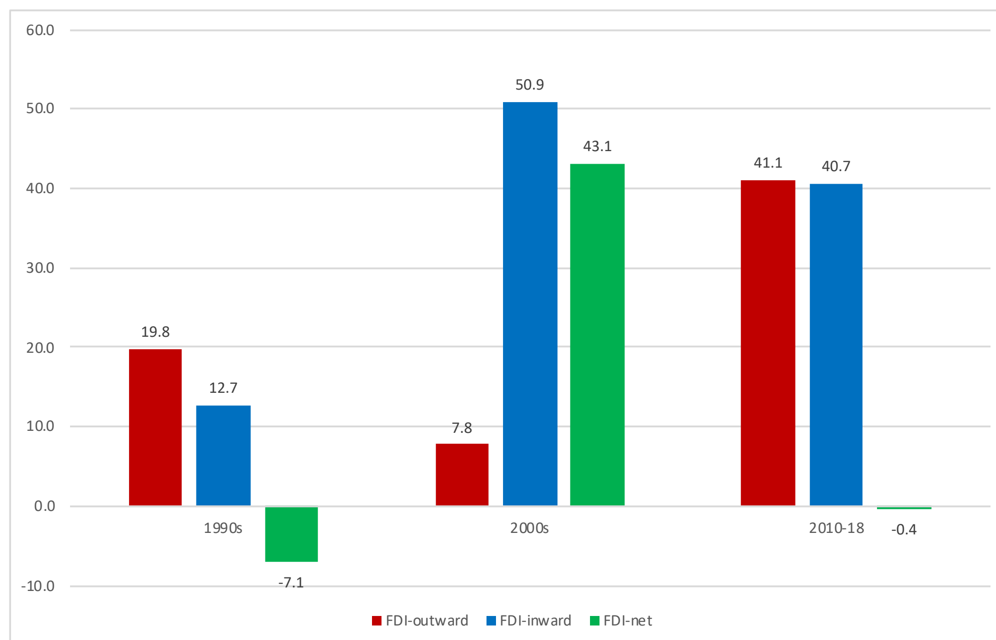
Note: Higher score indicates greater openness.
Source: The Chinn-Ito Financial Openness Index (KOPEN), http://web.pdx.edu/~ito/Chinn-Ito_website.htm.

Did liberalization help to attract capital inflows?

Among liberalization proponents, it was expected that removing controls on foreign exchange will result in a net inflow of capital into the country. This would help to fill the savings-investment gaps as well as alleviate foreign exchange shortages. By facilitating outward investment, liberalization was also expected to facilitate portfolio diversification by residents. On the flip side, relaxing exchange controls could also facilitate capital outflows, both recorded and illicit. The key empirical question is which effect dominated in post-apartheid South Africa.

As discussed earlier, the 1980s witnessed net capital outflows despite the government's attempts to use exchange controls to prevent them. Data on FDI suggest that the country did not perform better in the 1990s. On a net basis, the decade saw an outflow of $7 billion, with about $20 billion of outward investment compared to $13 billion of inward investment (in constant 2018 US dollars). As shown in Figure 12, things changed in the 2000s. In the first decade of the new century, South Africa received massive inward investment to the tune of $51 billion, coupled with only modest outward investment ($8 billion), resulting in a net inflow of $43 billion. These gains have not been sustained, however, through the most recent decade, when inward and outward flows virtually neutralized each other at about $41 billion in each direction.

Figure 12: Foreign direct investment: cumulative inward, outward, and net inflows by decade (billion, constant 2018 $)



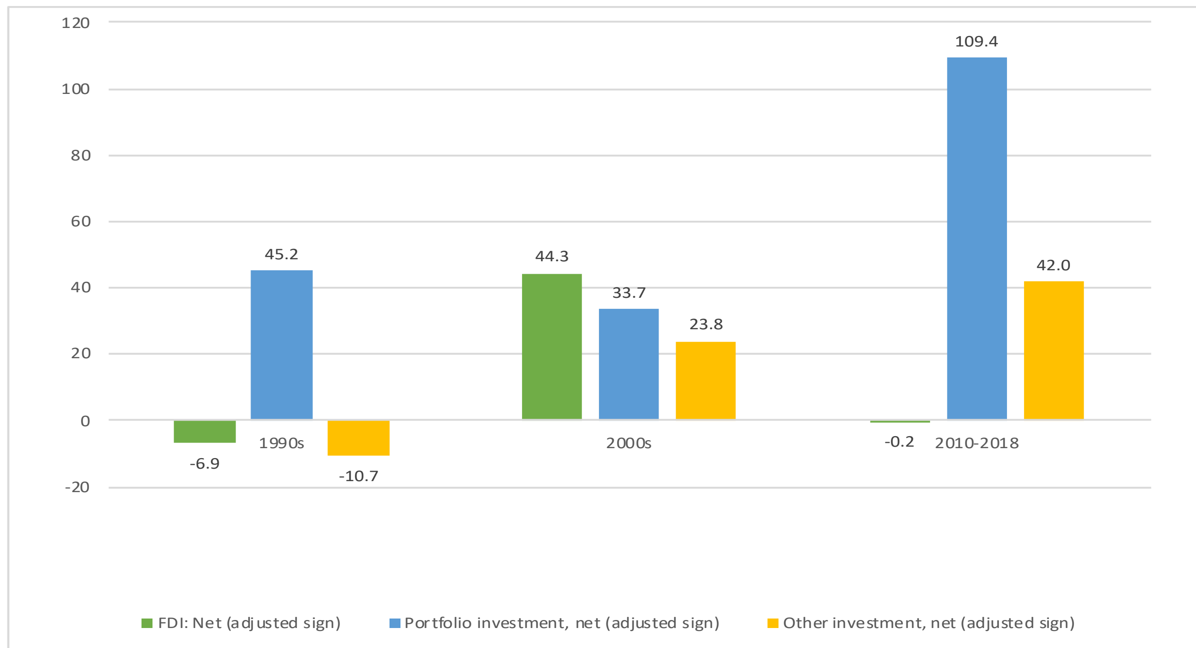
Source: UNCTAD database.

South Africa has had greater success in attracting other types of foreign capital apart from direct investment in the post-apartheid liberalization period, portfolio flows in particular (Figure 13). Net portfolio investment inflows reached $45 billion in the 1990s, eased to $34 billion in the 2000s, and then skyrocketed to $109 billion from 2010 to 2018. The country also attracted other types of private investments to the tune of $24 billion over 2000-09 and $42 billion during 2010-18.[19]

To what extent did liberalization help to alleviate foreign exchange shortages? The crisis-plagued decade of the 1980s was marked by a depletion of foreign exchange reserves serious enough to jeopardize the country's ability to import. This occurred despite efforts by the government to control access to foreign exchange and capital account transactions. The stock of reserves declined to barely one month of import cover at the end of the decade (Figure 14). The country's reserves remained low around the transition period, but they began a steady increase from mid-1996. They reached a peak in 2016, but they have resumed a downward trend thereafter, in the context of the economic contraction that has characterized recent years. In this respect, then, liberalization can claim some success.

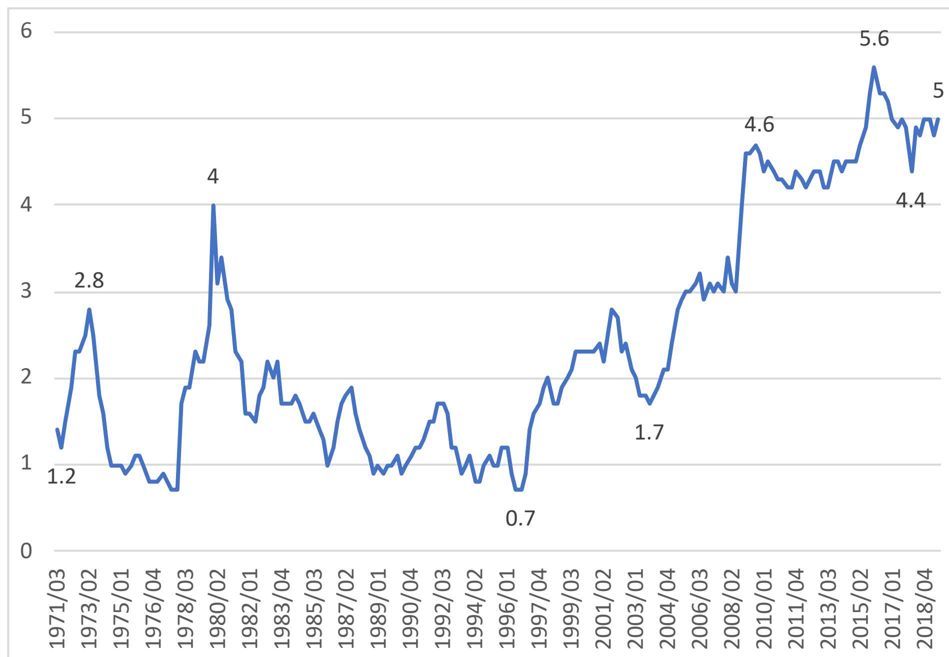
[19] 'Other investments' reported in the balance of payments refer to equity and debt flows (assets and liabilities) that are not recorded under foreign direct investment, portfolio investment, or financial derivatives and employee stock options in the Financial Account of the Balance of Payments. See IMF (2009).

Figure 13: Capital flows to South Africa (billion, constant 2018 $)



Note: ‘adjusted sign’ so that a positive number means net inflows and a negative number means net outflows.
Source: IMF, Balance of Payments Statistics.

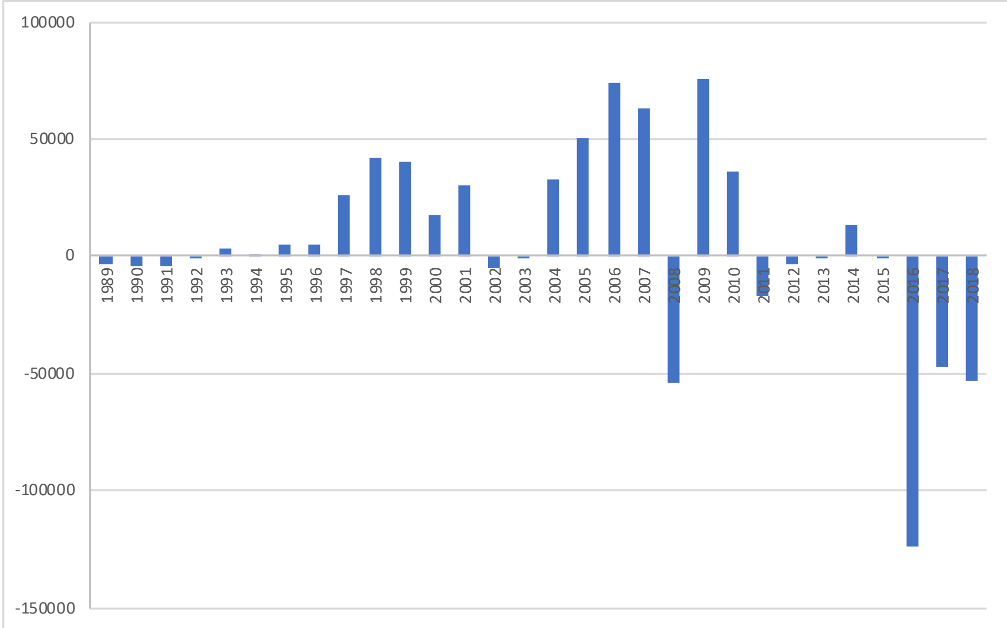
Figure 14: Import-reserve cover, 1970-2018 (number of months)



Source: SARB database.

Did the liberalization of exchange controls incentivize equity investment into the national stock market? It was expected that easing restrictions would encourage non-residents to bring funds into the country, purchase domestic assets and repatriate the gains from their investments. The reforms therefore were expected to give an edge to the JSE relative to foreign markets, including the LSE. Looking at net purchases of shares on the JSE by non-residents, the market did attract net resources during the seven years following the establishment of democracy, as well as in the four years before the global crisis, with a short-lived rebound in 2009-10. In other years, however, the gains were either minimal or there were net outflows (Figure 15). Since 2015, the stock market has seen a substantial drain of resources from the country, posting negative net purchases each year. In this respect, the benefits of liberalization appear to have been mixed, at best.

Figure 15: Net purchases of shares on JSE by non-residents, 1989-2018 (Rand million)



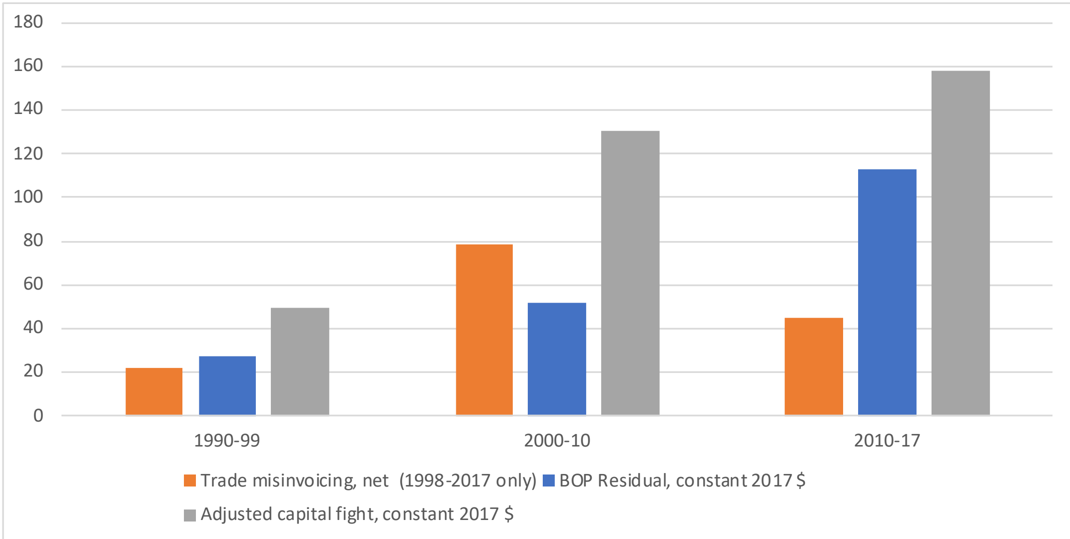
Source: SARB database.

Has liberalization helped to curb capital flight?

The anticipated benefits from the liberalization of exchange controls and the removal of capital account restrictions included prevention of capital flight. One motive for capital flight is to secure access to foreign exchange on favorable terms in a context where such access is restricted by law or a shortage of hard currency. In such an environment, operators may seek to circumvent the regulations to acquire foreign exchange and move it out of the country, without accurately reporting the transactions to the regulatory authority.

In the case of South Africa, the period of dismantlement of exchange controls instead witnessed a remarkable increase in capital flight, evident in both the leakages recorded in Balance of Payments data and trade misinvoicing. Between 1990 and 1999, recorded foreign exchange inflows exceeded the recorded uses of these resources to the tune of $22.2 billion. This corresponds to the simple BoP residual measure of capital flight. In addition, $27.2 billion left the country through trade misinvoicing, leading to a cumulative total capital flight of $49.4 billion during the decade. Matters only got worse in the subsequent decades, with cumulative capital flight totaling $130 billion over 2000-09 and $158 billion over 2010-17 (Figure 16). The evidence that trade misinvoicing persisted and even increased despite exchange rate liberalization suggests that the motives behind it have not been simply to avoid surrendering foreign exchange earnings at a below-market official rate.

Figure 16: Capital flight in the post-apartheid era: total by decade (billion, constant 2017 $)



Source: Authors' computations.

Why did liberalization fail to discourage capital outflows? The South African government initiated a series of market-oriented economic frameworks intended to stimulate investment and capital inflows, and to reduce macroeconomic instability by stabilizing inflation. These reforms were implemented with a view to boost growth while facilitating integration into the world economy. This series of policy frameworks started with the 1996 Growth, Employment, and Redistribution (GEAR) program, which among other things liberalized financial controls, slashed tariffs, and

privatized 'non-essential' state enterprises.[20] This was followed by the Accelerated and Shared Growth Initiative for South Africa (ASGISA) under President Thabo Mbeki in 2005, the New Growth Path (NGP) under President Jacob Zuma in 2010, and the National Development Plan (NDP) in 2013.[21] Alongside these development plans, the government initiated specific measures to entice the repatriation of private wealth held offshore, in the form of tax and capital flight amnesty, to which we return below. The expectation was that these national development programs would boost confidence in the economy and put the country on a path to rising economic prosperity. The increasing capital outflows suggest that these plans have not been effective. In fact, some have argued that aspects of the policies enacted under these plans encouraged rather than discouraged capital flight. For example, (Marais, 2011, p. 114) maintains that the removal of capital controls envisaged in GEAR amounted to 'government-sanctioned capital flight.'

The positive gloss on capital outflows, or at least officially recorded outflows, is that South African wealth owners have been able to take advantage of openness to diversify their portfolios. But these gains arguably pale in relation the secular decline of domestic capital accumulation and its impact on economic growth.

A plausible motive for the sustained capital outflows is tax evasion by private wealth holders and traders, as well as profit shifting by South African and multinational corporations operating in the country. South Africa is the top source of intra-African foreign direct investment, with its firms dominating major sectors such as services (telecom and banking) and retail trade (grocery stores). These investments elsewhere in Africa help companies to diversify their portfolios, taking advantage of their comparative advantages in capital and technological endowments relative to their counterparts in other countries, and tapping rising domestic demand in these countries. At the continental level, these investments are an important driver of regional integration, a goal that has gained prominence in the context of the African development agenda (e.g., African Continental Free Trade Area, https://au.int/en/cfta). To the extent that these foreign investments are duly recorded at both the source and destination, and that the appropriate taxes are paid on the profits they generate, they can be considered normal and desirable correlates of economic prosperity, regional integration and globalization. Problems arise, however, when these outflows are not duly

[20] For accounts of GEAR and related policies, see Weeks (1999), Taylor (2001), Streak (2004), and Marais (2011).
[21] See "South Africa's Key economic policies changes (1994 - 2013)", retrieved from: South African Story Online https://www.sahistory.org.za/article/south-africas-key-economic-policies-changes-1994-2013.

recorded upon exit, and when they are channeled to offshore jurisdictions with opaque financial and tax regimes, where the proceeds of the investments are hidden to evade taxation.

A further problem is trade misinvoicing, a major channel of capital flight that is poorly addressed by reforms of exchange controls and openness of the capital account regime. While rigid restrictions on access to foreign exchange and outward investment create incentives for export and import misinvoicing, it does not necessarily follow that liberalizing exchange controls will get rid of these practices. There are additional motives for trade misinvoicing other than access to foreign exchange. One important motive is tax evasion. By understating the proceeds of their exports or overstating value of imports, firms are able to understate their profits and reduce tax liabilities. Such tax minimization strategies are especially pronounced among multinational corporations, where trade takes place between units of the same global entity.

This problem is exacerbated by the opacity in global trade perpetuated by 'trading hubs' such as Switzerland, the Netherlands, Hong Kong and Dubai. 'Free ports play an important role in anonymizing international trade analogous to that of anonymizers in the world of virtual currencies,' observes Ayogu (2019, p. 11). 'They make the task of trade data reconciliation more difficult, while increasing opportunities for trade-related capital flight.' For example, the United Arab Emirates (UAE) has emerged as the primary destination, or transit point, for precious metals from Africa such as gold and diamonds. The analysis of mirror trade data on these precious metals reveals very large discrepancies between the (lower) values declared by the exporting countries and the (much higher) values reported in the UAE's own trade statistics, suggesting systematic export underinvoicing of mineral exports by African countries. A study by Reuters showed that, based on importers' statistics, the UAE was the top importer of gold from Africa in 2016 with $15.1 billion worth, surpassing China ($8.5 billion) which earlier had been the leader, and followed by Switzerland ($7.5 billion) (McNeill and Shabalala, 2019). Interestingly, Reuters' investigators were told by industrial mining firms in Africa, including AngloGold Ashanti, that they did not send gold to the UAE. This would suggest that the gold is traded through informal channels. It also suggests that gold exits without incurring any export duties, implying substantial revenue losses for African governments.

Better (and better enforced) regulations could help to reduce trade misinvoicing. Perhaps the biggest effects would come from improvements in the capacity to track, monitor and record trade flows along the entire transaction chain from the source (exporter) to the ultimate destination (final importer). The South African customs services have made efforts to modernize their electronic

platform to improve the tracking of international trade. But in reality, the South African Revenue Service (SARS) can effectively verify only a small fraction of total imports and exports. A government official interviewed by the authors reported that SARS is able to inspect only about three percent of all the containers moving through the country's ports.[22] This leaves ample opportunity for manipulation of export and import quantities and values for the sake of minimizing fiscal liabilities.

Finally, it is sometimes argued that persistent capital outflows are due to the shortage of skilled labor in the country, forcing investors to set up shop abroad.[23] This assertion was made by two senior government officials who were interviewed by the authors.[24] There is limited empirical evidence to support this argument; at least none that the authors have come across that would demonstrate the role that skills endowment plays in driving capital outflows. In any case, even if a shortage of skills were an issue, this would matter for legitimate capital outflows that leave the country for the sake of portfolio diversification and rate of return maximization. In the case of the unrecorded outflows that comprise capital flight, the owners of the funds are likely to be more interested in safe keeping and concealment of their wealth rather than chasing higher profit rates abroad. The liberalization of international financial and trade transactions can do little to discourage such outflows, and indeed may make them easier. Nor do policies aimed simply at increasing the quality of labor skills or raising domestic rates of returns to investment.

It is clear, then, that the economic liberalization efforts undertaken over the years in South Africa have not resolved the problem of capital flight. Stemming capital flight will instead require deeper structural economic and institutional reforms aimed at encouraging and enforcing transparency in cross-border trade and financial transactions. Before elaborating on strategies for combatting capital flight in the concluding sections of this paper, we turn to a more in-depth examination of two key sectors that are implicated in the phenomenon in South Africa: mining and energy.

[22] Interview on November 25, 2019 (anonymity requested).
[23] See, among others, (Lewis, 2001, 2002). Gelb and Black (2004) find no robust empirical evidence for the view that the shortage of skilled labor is a binding constraint to foreign investment.
[24] Interviews on November 25 and 26, 2019 (anonymity requested).

5. The mining industry and the energy sectors

The mining industry

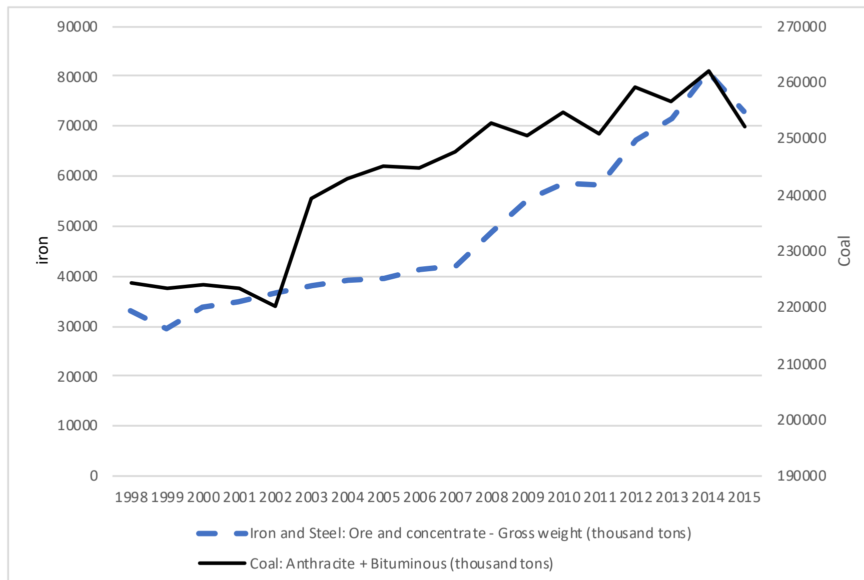
The mining sector plays a major role in the South African economy. It has also been a scene of financial scandals, struggles between capitalists and workers that have turned deadly (a prominent example being the Marikana massacre of 16 August 2012), mismanagement of state-owned enterprises, capital flight through export misinvoicing, and regulatory capture by industry.

South Africa's rich underground resources and industrial capacity make it a leading producer of key mineral products. Data from the US Department of Interior (2019) help to illustrate this point. In 2015, the country's share in global production stood at 74% for mined platinum, 59% for refined platinum, and 46% for chromite. It produced 9% of the world's refined gold, and 5% of mined gold and diamonds. The mining industry contributes significantly to national income and foreign exchange earnings, and somewhat less to employment. In 2015, it contributed 7.7% of GDP, the largest contributions coming from coal (23% of the industry's share in GDP) and platinum (22%). Due to the sector's high capital intensity, mining accounts for only 3% of total employment, with about 480,000 workers in 2015. The mining industry is a major generator of foreign exchange, accounting for 40% of the country's total export value in 2015. The top export products are gold and platinum with $4 billion in exports each in 2015, followed by coal with $3.6 billion and iron ore with $2.6 billion. The performance of the mining industry is thus an important driver of overall performance of the economy.

In 1968, the Director of the Economic Geology Research Unit at the University of Witwatersrand observed: 'It is held, by non-geologists essentially, that the acme of the mining industry [in Southern Africa] will be experienced in the period between 1967 and 1972, and that, from the latter years onwards, only a decline can be anticipated in mining's contribution to the economy in the [Southern African] sub-continent' (Pretorius, 1968, pp. 0, Abstract). This prediction has been only partially borne out. Overall, mining production and processing have maintained either upward or steady trends for most products. Production of some mineral products, including chromite, coal, iron and steel, increased over the past decade (Figure 17). Consistent with Pretorius' forecast, however, production of precious metals has been declining steadily over the past two decades (Figure 18). From 2000 to 2015, gold production fell from 430 to 144 metric tons, a 66% decline. In the same period, silver production declined by 64% from 144 to 52 metric tons. As non-geologists, we will not venture into predicting future the trend of mining production. Nonetheless,

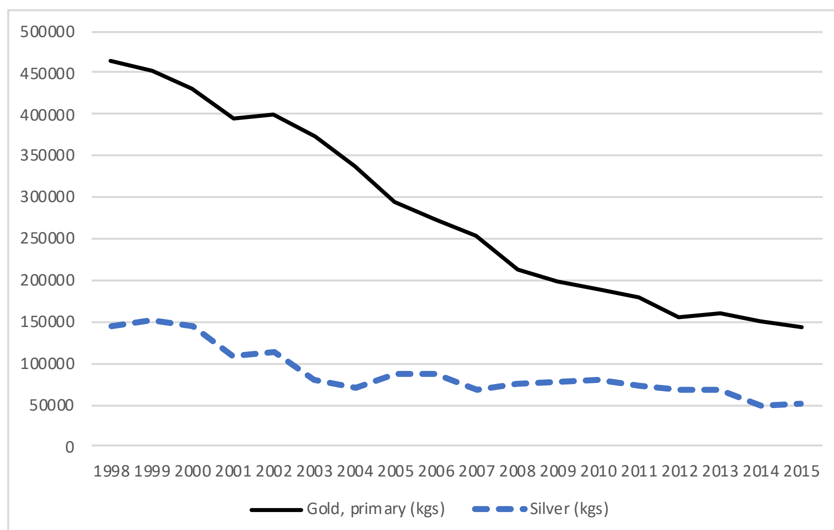
it is fair to say that the country needs to prepare for the unavoidable exhaustion of the reserves of its key minerals in the coming decades. Replacing the resulting lost foreign exchange, tax revenue and employment will be a serious challenge for South Africa, as it is for other natural resource-endowed countries.[25]

Figure 17: Production of coal, iron and steel, 1998-2015 (by weight)



Source: US Geological Survey, *2015 Mineral Yearbook – South Africa (Advance Release)*, September 2019.

Figure 18: Production of gold and silver, 1998-2015 (by weight)



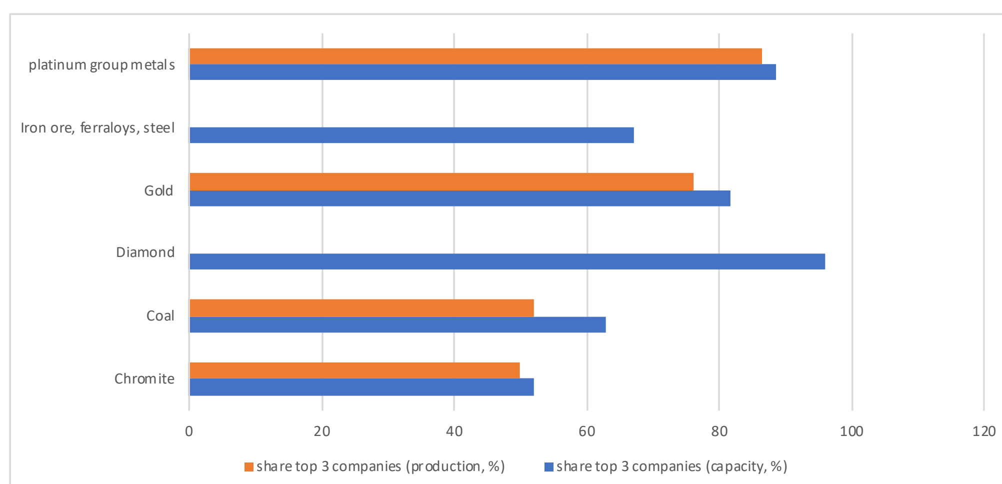
Source: US Geological Survey, *2015 Mineral Yearbook – South Africa (Advance Release)*, September 2019.

---

[25] See, among others, Nishiuchi (2013) and Bornhorst et al. (2009) for a discussion on natural resource depletion and domestic revenue and public investment.

The industry is dominated by large private corporations, both domestic and international, including global powerhouses such as Glencore (leader in chromite), Anglo American Platinum, and De Beers (diamonds). The industry is highly concentrated with a few companies accounting for the lion's share in terms of capacity and production (see Table 3 and Figure 19). In diamonds, the top three companies account for 96% of total capacity, with De Beers alone commanding about 70%. The top three platinum mining companies account for 89% of capacity and 86% of production, with Anglo American Platinum Ltd accounting for of 42% in capacity and 55% in production. A similar picture emerges for gold, dominated by Sibanye Gold Ltd, Harmony Gold, and AngloGold Ashanti Ltd[26]; iron ore and steel, dominated by Kumba Iron Ore Ltd; coal, dominated by Exxaro Resources Ltd (25%) and Anglo Coal Ltd (23%); and chromite, dominated by Glencore.

Figure 19: Share of top three mining companies (capacity and production, % of total), 2015



Source: US Geological Survey, *2015 Mineral Yearbook – South Africa (Advance Release)*, September 2019.

[26] In February 2020, AngloGold Ashanti sold its last South African mine, Mponeng, to Harmony Gold, "in a move that could pave the way for the company to shift its primary listing from Johannesburg to London" (Hume, 2020, p. 1).

Table 3: Share of top three companies in mining capacity and production, 2015 (% of total)

Product and Companies	Capacity (%)	Production (%)
Chromite		
Glencore plc, 79.5%, and Merafe Resources Ltd., 20.5%	23.6	17.6
Samancor Chrome (Pty) Ltd. (International Mineral Resources BV, 70%)	18.3	22.3
Tharisa Minerals (Pty) Ltd.	10.0	10
Top 3 companies	**52.0**	**49.9**
Coal		
Exxaro Resources Ltd.	25.3	16.6
Anglo Coal Ltd.	23.2	19.9
Sasol Ltd.	14.4	15.5
Top 3 companies	**63.0**	**52.1**
Diamonds		
De Beers Consolidated Mines Ltd. (Anglo American plc, 85%)	69.8	56.7
Petra Diamonds Ltd.	22.6	26.1
DiamondCorp Ltd.	3.6	
Top 3 companies	**95.9**	
Gold		
Sibanye Gold Ltd.	30.1	33.1
AngloGold Ashanti Ltd. (Anglo American plc, 41.8%)	26.7	21.6
Harmony Gold Mining Co. Ltd.	25.0	21.4
Top 3 companies	**81.7**	**76.1**
Iron ore, ferroalloys and steel		
Kumba Iron Ore Ltd.	40.8	61.7
Assmang (Pty) Ltd.	16.5	22.9
Vanchem Vanadium Products Ltd. (subsidiary of Duferco Group)	9.9	
Top 3 companies	**67.1**	
Platinum		
Anglo American Platinum Ltd. (Amplats)	42.1	55.0
Impala Platinum Holdings Ltd.	36.3	14.5
Lonmin plc	10.3	16.9
Top 3 companies	**88.7**	**86.4**

Source: US Department of Interior (2019).

Tax evasion and capital flight from the mining sector

As in other resource-rich countries, the mining sector in South Africa is vulnerable to capital flight through various mechanisms, including misinvoicing of mineral exports, as well as profit shifting for tax evasion through aggressive transfer pricing (Antin, 2013; Ashman et al., 2011). As discussed in section 2, there is evidence of substantial trade misinvoicing in South Africa's mineral sector, with large and systematic discrepancies between the (smaller) value of exports declared by South Africa and the (larger) value of imports reported by its trading partners.[27] Similarly, in the case of diamonds we find that between 2010 and 2018, South Africa declared $17 billion worth of exports, while its trading partners reported $51 billion worth of imports. The discrepancy is particularly notable in the case of China, the top importer: China reported $22.8 billion of diamond imports, whereas South Africa reported only $13.5 million over this period.[28]

A glimpse of the mechanisms by which capital flight from the mining sector may occur was provided in a October 2019 complaint filed by the Association of Mineworkers and Construction Union (AMCU) in the Johannesburg High Court against Samancor Chrome, the world's second biggest chrome producer. The complaint alleged that the company had illicitly transferred funds offshore through transfer pricing, secret management and facilitation fees, and secret asset sell-offs (Hosken, 2019). Citing an affidavit from a former Samancor director who had turned whistleblower, the AMCU alleged that the company had siphoned funds at the expense of minority shareholders to benefit the directors of a company called Kermas Limited, registered in the British Virgin Islands (Faku, 2019).[29] AMCU president Joseph Mathunjwa explained that the diversions came to the union's attention when it noticed "suspiciously low returns" on the workers' employee share ownership plan (Malope, 2019). When a Samancor's subsidiary was sold in 2007 to the Chinese state-owned conglomerate Sinosteel for $225 million, in one instance cited in the complaint, "Kermas received $125 million from Sinosteel directly" via a transfer into London bank account according to the affidavit submitted by former Samancor director Miodrag Kon.[30] In another alleged instance, Samancor entered into a contract for chrome and platinum reprocessing with an Australian company on what the AMCU affidavit characterized as "generous" terms, with

[27] See also Ndikumana and Boyce (2019).
[28] Computed using data from Comtrade, the Commodity Trade Statistics database of the United Nations.
[29] A Samancor spokesperson responded that the allegations were "malicious and opportunistic" (Faku 2019).
[30] Miodrag Kon, Supporting Affidavit submitted to the High Court of South Africa (Gauteng Division, Johannesburg) in the Matter Between Association of Mineworkers and Construction Union, Applicant, and Samancor Chrome Limited, First Respondent, p. 27, available at https://cdn.24.co.za/files/Cms/General/d/9427/ef3cd3230b9a40c9962b3ca1286e1467.pdf (accessed June 8, 2020). See also van Rensburg (2019).

a commission in the form corporate shares being transferred to another British Virgin Islands entity that served as "a front for some of Samancor's directors and shareholders at the time."[31]

Lonmin Plc, the London-based platinum producer, is similarly alleged to have engaged in profit shifting to the detriment of mineworkers and minority shareholders.[32] The Marikana Commission of Inquiry, an official body appointed by South African President Jacob Zuma to investigate the massacre of 44 striking workers at a Lonmin mine on August 16, 2012,[33] reported that over the 2007-2011 period, during which Lonmin claimed that its platinum mining operations in South Africa could not afford to meet housing obligations to workers that were budgeted at R665 million (about $85 million), the firm "paid more than R1.3 billion in 'marketing commission' payments" to its management services branch "and/or its Bermudan registered subsidiary."[34] In an analysis of the firm's accounts, economist Dick Forslund concluded that "terminating the Bermuda profit shifting arrangement" and cutting back on management fees to "a reasonable amount" would have enabled Lonmin to meet the wage demands that were one of the main issues in the August 2012 strike (Forslund, 2015a, p. 9).

Forslund argues that aggressive transfer pricing by multinational mining firms enables not only tax avoidance, but also "wage avoidance" and "dividend avoidance in relation to investors holding shares in subsidiaries," as profits are "effectively moved from the stakeholder table" in South Africa.[35] Such practices help to explain why the benefits of mineral resource extraction in South Africa often have accrued disproportionately to their majority and foreign shareholders at the expense of mineworkers, minority and domestic shareholders, and the domestic economy as a whole.

---

[31] Jeffrey Khehla Mphahlele, General Secretary of the Association of Mineworkers and Construction Union, Founding Affidavit submitted to the High Court of South Africa (Gauteng Division, Johannesburg) in the Matter Between Association of Mineworkers and Construction Union, Applicant, and Samancor Chrome Limited, First Respondent, and others, p. 7, available at https://cdn.24.co.za/files/Cms/General/d/9427/edab4be2f0c74afaa96afd12ee3f62c5.pdf (accessed June 8, 2020). See also Supporting Affidavit submitted by Miodrag Kon (supra note 30), pp. 15-24, and Malope (2019).

[32] Lonmin Plc is a British holding company (at 80%) with two South African operating subsidiaries, Western Platinum Limited and Eastern Platinum Limited (Forslund, 2015a).

[33] According to the Commission, the mineworker uprising at the Lonmin Mine in Marikana, in the North West Province in August 2012 "led to the deaths of approximately 44 people, more than 70 persons being injured, approximately 250 people being arrested"(https://www.justice.gov.za/comm-mrk/). Appointed by President Jacob Zuma on 23 August 2012, the Commission was chaired by Honourable Judge Ian Gordon Farlam, a retired judge of the Supreme Court of Appeal, and included Advocate Bantubonke Regent Tokota and Advocate Pingla Devi Hemraj as members. The Commission's report was issued on July 10, 2015 (Government Gazette No. 38978) (Marikana Commission of Inquiry, 2015).

[34] Marikana Commission of Inquiry (2015), p. 538. See also(Bond, 2019; Forslund, 2015a, 2015b) and Bond (2019).

[35] (Forslund, 2015a, 2015b). pp. 10, 35. See also (Forslund, 2015a, 2015b).

The energy sector and the dominant role of state-owned enterprises

In the energy sector, South Africa's influential state-owned companies are involved at various stages of the production and distribution chain. A dominant player is Eskom, which generates 95% of the country's electricity. It is a public utility established in 1923 as the Electricity Supply Commission (ESCOM) by consolidating several electricity generation companies into a single entity.[36] The company was created with a clear mission, articulated in its first annual report, dated 9 August 1924: 'The Commission regards cheap power as an important factor in promoting industrial development and has, therefore, devoted, and will continue to devote, the closest attention to this aspect of its duties and responsibilities under the Electricity Act.'[37]

This mission was reaffirmed in the post-apartheid era, when the company embarked on a massive plan to connect hitherto excluded townships and rural communities to the grid. In 1995 alone, the company connected more than 300,000 households. The company was widely regarded as a source of national pride, and in the words of former chairman John Maree, it was 'admired internationally' and was 'a pillar' for the country's economic growth.[38] Today, as discussed below, the giant company is marred by financial distress, high operating costs, and mismanagement scandals.

Eskom remains the nation's primary supplier of electricity. It manages generation, transmission, and distribution to industry, commercial, and residential customers in South Africa as well as in the wider Southern African Development Community (SADC) region. It is a wholly state-owned enterprise, with the Department of Public Enterprise as the shareholder representative. Recently, Eskom has faced financial troubles due to declining sales arising from deteriorating technical performance at its coal-fueled power plants, declining cross-border sales, high operating costs attributable, among other things, to an inflated wage bill, and unpaid bills owed by delinquent clients, especially local municipalities. Many of these problems are symptomatic of poor governance, planning and management. The Office of the Public Protector, an autonomous state institution established by the South African Constitution whose responsibilities include enforcement of good governance in the public sector, concluded in a 2016 report that "it appears that the Board at Eskom was not properly appointed" and noted instances in which it appears that "the Eskom Board did not exercise a duty of care," possibly in violation of South Africa's Public

---

[36] ESCOM was also known by its Afrikaans name Elektrisiteitsvoorsieningskommissie (EVKOM) under the terms of the Electricity Act of 1922. The name was officially changed to Eskom in 1987.

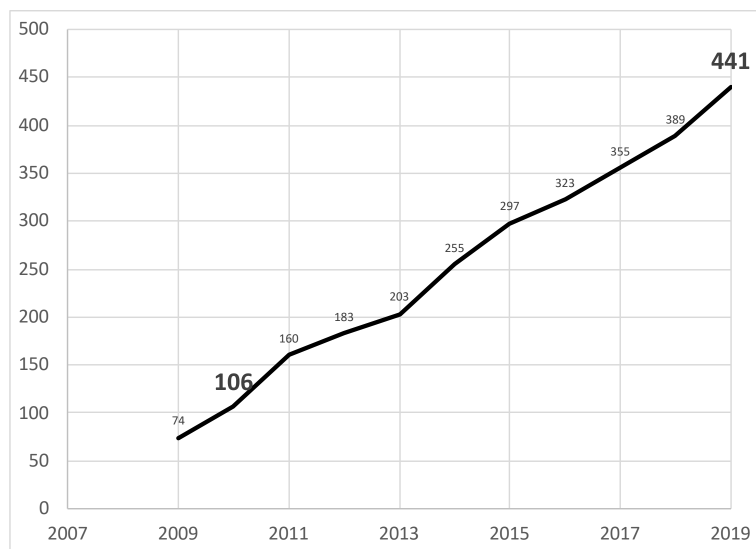
[37] Pieter du Toit, "1922 - 2019: The rise and fall of Eskom", *Fin24*, 13 February 2019. https://m.fin24.com/Economy/1922-2019-the-rise-and-fall-of-eskom-20190213.

[38] du Toit (2019)

Finance Management Act.[39] In the public mind, the name Eskom is now associated with 'load-shedding' – scheduled periods of rolling blackouts – which has become a major hindrance to economic activity and a disruption to the quality of life for households, and a cause of embarrassment for the government.

Eskom's poor financial performance has forced it to resort to borrowing to cover its costs. Raising electricity tariffs alone proved to be insufficient to cover costs, while at the same time being politically costly for both the company and the government. As a result, the company's debt has skyrocketed from R106 billion in 2010 to R389 billion in 2018, and was forecast to exceed R440 billion in 2019 (Figure 20). Most of the borrowing is domestic in the form of company bonds, and loans from development finance institutions. But the company is also exposed significantly to foreign debt (Figure 21).

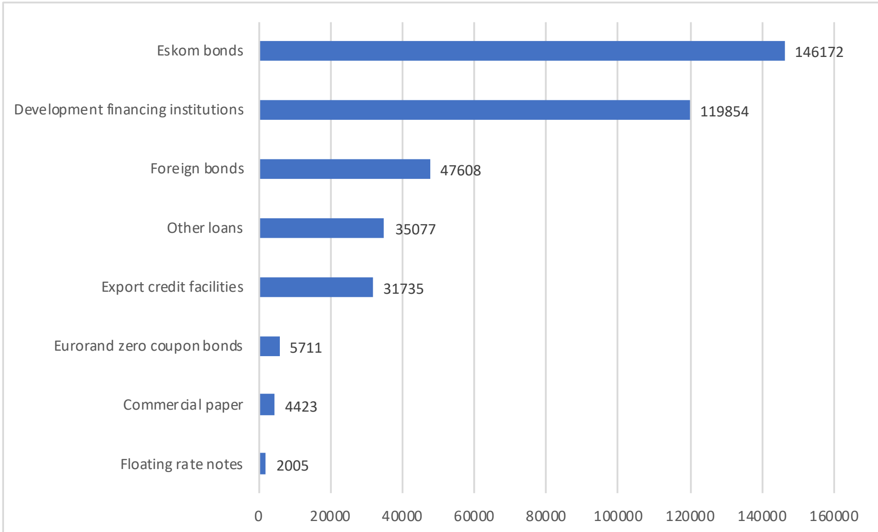
Figure 20: Eskom's gross debt (Rand billion)



Source: Eskom, Annual Financial Statement (31 March 2019); Winning (2019).

[39] Office of the Public Protector (2016, pp. 347-349).

Figure 21: Eskom debt securities and borrowings, 2018 (Rand million)



Source: Eskom, Annual Financial Statement (31 March 2019).

The financial difficulties faced by Eskom are a matter of concern for the South African government for several reasons. First, Eskom is not alone; its financial problems are symptomatic of systemic challenges faced by the parastatal sector more generally. Other enterprises, such as the rail, port, and pipeline company Transnet (whose majority stockholder is the South African government's Department of Public enterprises) and South African Airways (wholly owned by the government) are now in similar financial quagmires. Second, the financial difficulties have serious political costs for the government. Just as Eskom was a cause of pride in the days where it worked to 'light up' the townships and the rural areas, it is now seen as a dark spot on the government's capacity to deliver essential public services and an indictment of poor governance. Third, Eskom's financial problems exacerbate the financial burden on a government that is itself facing rapidly rising debt. Over the past decade, according to SARB data, foreign debt rose from $111.2 billion in 2010 to $172.4 billion in 2018, a 55% increase, while domestic debt increased from R863.9 billion ($117.9 billion) to R2.4 trillion ($186.9 billion), a 186% increase.[40]

Today, Eskom is at the point where it cannot even cover its interest on debt, as the firm finds itself unable to raise revenues or cut costs significantly. In the past, it has benefited from steep increases in tariffs. But this strategy has reached its limits as it risks undermining the company's statutory mission by throwing customers off the grid, in addition to ramping up the amount of unpaid bills,

[40] The equivalent increase in the debt stock in dollar terms is 58.5%. During this period the rand depreciated from R7.23/$ to R13.23/$.

especially from local municipalities, and threatening the country's already weak industrial sector performance.

Eskom's financial challenges have been exacerbated by its poor management record. Governance and regulatory compliance, especially with regard to procurement, are the major focus of the current government's efforts to rescue the company. These efforts include financial support, cost curtailment measures, increases in electricity tariffs, and partition of Eskom into separate entities for generation, transmission and distribution.[41] But the most critical issue that must be tackled is mismanagement. The Director's Report contained in Eskom's March 2019 *Annual Financial Statement* recognizes the problem clearly: "The initial focus of the board appointed in January 2018 was to root out financial mismanagement, malfeasance and maladministration, the elimination of which is critical to restore transparent and effective governance. The ongoing internal and external enquiries and investigations into state capture also negatively impacted Eskom's reputation."[42]

Eskom has featured prominently in allegations of illicit actions by government officials and private operators. The most prominent among these are members of the Gupta family along with international consulting and auditing firms, as discussed in the next section.

---

[41] Plans to split up the company have been proposed since the 1990s, but they have always faced determined opposition from labor unions concerned about job losses and the risk that partition may be a path to privatization.
[42] Eskom, *Annual Financial Statement*, March 31, 2019, p. 3. Available at http://www.eskom.co.za/IR2019/Pages/default.aspx (accessed June 10, 2020).

6. State capture and enablers: The Gupta case

Capital flight from South Africa is a symptom of deeper structural and governance problems that enable private appropriation of public resources and undermine the efficacy of government regulations and mechanisms to enforce transparency in trade and financial transactions. This situation often involves collusion between agents inside the government and actors in the private sector.

Photograph 1

Jacob Zuma, president of South Africa, and Atul Gupta, one of the Gupta brothers, at an event in 2012. © Flickr.
Source: *Financial Times*, March 8, 2016. https://www.ft.com/content/abd6e034-e519-11e5-a09b-1f8b0d268c39

This section illustrates how these elements come together in the mining and the energy sectors. In recent years, the nation has been rocked by a story of corruption and capital flight that has embroiled a former South African president, other prominent members of the political elite, the private sector, and international financial networks. The scandal has been the focus of a special investigation by the South African government's Office of the Public Protector and extensive reporting by teams of investigative journalists.[43]

[43] This section relies heavily on the Office of the Public Protector's report titled *State of Capture*, released in October 2016. The Office of the Public Protector undertook extensive investigation into the allegations of improper conduct by President Zuma and other state functionaries and the involvement of the Gupta family. The investigators corresponded with and interviewed persons of interest – including whistle-blowers within the state and Gupta network – and gained access to emails and other relevant company documents referenced in the *State of Capture* report. We also draw on reporting from the #GuptaLeaks, a collaborate investigation into state capture by the amaBhungane Centre for Investigative Journalism, *Daily Maverick*, *News24,* and the Organised Crime and Corruption Reporting Project (OCCRP). In early 2017, two whistleblowers leaked thousands of emails and

The story centers on the Gupta family, in particular the three brothers, Ajay, Atul and Rajesh (a.k.a. Tony), and their business associate Salim Essa. From humble beginnings in India, the Gupta brothers migrated to South Africa just as apartheid was coming to an end, and rose to eventually become one of the richest and most politically well-connected families in South Africa. They would eventually leave the country, going into "self-imposed exile" with the fall of the Zuma government in 2018 (Onishi and Gebrekidan, 2018). The Gupta brothers built their fortune by forging connections with key figures in the government, the ruling African National Congress (ANC), and major parastatal companies. They developed strong bonds with the government led by Thabo Mbeki, where Mbeki's successor, Jacob Zuma, has stated that Ajay Gupta served on the president's economic advisory council.[44] The *New York Times* reported that on Mbeki's resignation, the brothers skillfully navigated the political transition, forging even closer ties with the Zuma regime (Onishi and Gebrekidan, 2018).

The family's business interests in South Africa began in the computer equipment and IT sector, and eventually expanded into other parts of the economy from mining and energy to mass media. The initial ventures that launched them in the business world were Sahara Computers and Sahara Systems. Their brand was made visible in 2004 when they acquired the naming rights for three of South Africa' best-known cricket stadiums for a five-year period: Newlands in Cape Town became Sahara Park Newlands; Kingsmead in Durban became Sahara Stadium Kingsmead; and St George's Park in Port Elizabeth became Sahara Oval St Georges. Their ventures in media included *The New Age* newspaper and ANN7 TV. Oakbay Investments became their core parent company. Oakbay's holdings included Tegeta Exploration & Resources, a mining company in which Oakbay was the leading shareholder with a 29.05% ownership stake (Office of the Public Protector South Africa, 2016, p. 112). The second shareholder of Tegeta was Mabengela Investment (28.53%), which in turn was owned by President Zuma's son Mr. Duduzane Zuma (45%), Rajesh Gupta (25%) and others *(Office of the Public Protector South Africa, 2016, p. 112)*. Tegeta's third biggest

documents relating to the Gupta scandals to amaBhungane and *Daily Maverick*, on which the #GuptaLeaks reports are based (Davis, 2018). See '#GuptaLeaks: A collaborative investigation into state capture," https://www.gupta-leaks.com/, accessed 30 April 2020. The Guptas have denied that the emails released by #GuptaLeaks are authentic (Montiero, 2017).

[44] See Myburgh (2017, ch. 3). The Thabo Mbeki Foundation has denied that Gupta served as an economic adviser to the president; see "Statement of the Thabo Mbeki Foundation regarding allegations of a link between President Mbeki and the Gupta Family," April 11, 2016. Available at https://www.mbeki.org/2019/09/10/statement-of-the-thabo-mbeki-foundation-regarding-allegations-of-a-link-between-president-mbeki-and-the-gupta-family/ (accessed 11 June 2020). Thabo M. Mbeki served as Deputy President under Nelson R. Mandela from 1994 until 1999, when he became President. He was recalled from his position by the ANC's executive committee in 2008, and was succeeded by Jacob G. Zuma, who in 2018 ceded power to the current president, Cyril M. Ramaphosa.

shareholder (21.5%) was a firm called Elgasolve, whose sole director was Salim Essa, a close associate of the Guptas *(ibid.*).

As reported in *The New York Times*, the Guptas made deep connections in South Africa's ruling party, the ANC, which were solidified in the early 2000s through government contracts, including one to set up computer laboratories in schools in Gauteng province, which includes Johannesburg and Pretoria (Onishi and Gebrekidan, 2018). Over time, the family became especially closely associated with former President Jacob Zuma. One of Zuma's sons, Duduzane Zuma, worked closely with the Gupta companies and had holdings in several of their ventures, including ANN7, according to the *Financial Times,* as well as Tegeta Exploration & Resources (England, 2016).[45]

In October 2016, the South Africa government's Office of the Public Protector released a comprehensive report, *State of Capture*, examining the alleged linkages between former President Zuma, state-owned enterprises, and Gupta family businesses (Office of the Public Protector South Africa, 2016). The investigation pursued what the report called "complaints of alleged improper and unethical conduct by the president and other state functionaries relating to alleged improper relationships and involvement of the Gupta family in the removal and appointment of ministers and directors of State Owned Entities (SOEs) resulting in improper and possibly corrupt award of state contracts and benefits to the Gupta family's businesses" (Office of the Public Protector South Africa 2016, p. 4).

Ongoing investigations and legal processes are led by the Judicial Commission of Inquiry into Allegations of State Capture (also known as the Zondo Commission after its chairman, Deputy Chief Justice Raymond Mnyamezeli Mlungisi 'Ray' Zondo).[46] The Commission was established in 2018 by President Cyril Ramaphosa to investigate allegations of state capture, corruption and fraud in the public sector and organs of the state. In July 2018, Duduzane Zuma was charged by the National Prosecuting Authority (NPA) with corruption over his alleged involvement with an attempt by one the Gupta brothers to bribe Mcebisi Jonas in 2015 while the latter served as Deputy Minister of Finance, and he has since testified before the State Capture Commission (Cotterill, 2018a; Office of the Public Protector South Africa, 2016). In a setback for the prosecution,

[45] A detailed account of the Guptas' political connections and business ventures in South Africa can be found in, among others, Myburgh (2017).

[46] Hearings and other activities of the Commission are available on its website, https://sastatecapture.org.za/.

however, the charges were "provisionally" withdrawn in January 2019 pending further evidence (Reuters, 2019).

The Gupta family's influence in South Africa's economy and the political system was a result of what Professor Njabulo Ndebele, Chancellor of the University of Johannesburg and Chairman of the Nelson Mandela Foundation, has characterized as a "systemic approach" involving three main prongs: first, assisting Jacob Zuma to consolidate power, involvement in nominations and dismissals of officials in government positions and in state-owned enterprises, and building ties with provincial-level politicians; second, securing business contracts in key sectors from major state-owned enterprises, such as Eskom and Transnet; and third, "lining up" the justice system (policy, intelligence, NPA) in support of the Gupta-Zuma partnership (Ndebele, 2016). Here we focus on the family's activities in the mining and the energy sectors.

Opaque deals

The Guptas invested heavily in the mining sector, including coal mining, and had extensive dealings with the public energy companies, especially Eskom. In addition to Tegeta Exploration and Resources (which owns Optimum Coal Mine), the subsidiaries of Oakbay Investments include Oakbay Resources and Energy, involved in uranium and gold mining and processing, the Shiva Uranium mine, and five other firms. In August 2019, all were under 'business rescue,' a legal process intended to rehabilitate a financially distressed company by placing it under temporary supervision of a court-appointed business rescue practitioner while suspending payments to creditors during restructuring (South AFrican Gauteng Division High Court, 2019).[47]

The Optimum Coal Mine and Eskom

The role of the Gupta family's political connections in facilitating the growth of their business interests was illustrated by their purchase Optimum Coal Mine (OCM) from the international mining giant Glencore. This mine is of strategic interest, since it supplies Eskom's ten-unit Hendrina power station. In July 2015, OCM's parent entity, Optimum Coal Holdings (OCH), then owned by Glencore, filed to be placed in business rescue (Office of the Public Protector South Africa, 2016, p. 268) (Office of the Public Protector, 2016, p. 268.[48] The move came after Eskom's Chief Executive at the time, Brian Molefe, and the Eskom Chair refused to renegotiate the price

[47] For a description of the business rescue process, see Motshwane (2017).
[48] See also Sole and Comrie (2017).

of a long-term supply contract with Glencore, putting financial pressure on the firm (Office of the Public Protector South Africa, 2016, p. 145).[49] Also in July, Eskom demanded that Optimum pay a R2.17 billion penalty for allegedly having supplied substandard coal (*ibid,* p. 251).

That same month, Glencore "received a letter from KPMG Services (Pty) Ltd," conveying an offer from a client who wished to "remain anonymous," offering to purchase OCM or its parent entity for R2 billion (Office of the Public Protector, 2016*,* p. 147). The prospective suitors, the Office of Public Protector concluded, were "the only entities/individuals which stood to benefit from OCM/OCH not being awarded a revised contract by Eskom… who could now purchase an entity in business rescue" *(Office of the Public Protector South Africa, 2016, p. 251)*. The anonymous client turned out to be the Gupta company, Oakbay, lead shareholder of the mining company Tegeta whose second shareholder was the President's son Duduzane Zuma *(Office of the Public Protector South Africa, 2016, p. 251)*.

Eskom CEO Brian Molefe had close ties to the Guptas, with Ajay Gupta calling him "a very good friend" (Office of the Public Protector, 2016, p. 86). Records show numerous phone calls between the two at the time when the disputes between Eskom and Glencore were ongoing (Office of the Public Protector South Africa, 2016, pp. 122-123).[50] The Eskom executives reportedly pressed Mining Minister Ngoako Ramatlhodi to suspend Glencore's mining license (Sole and Comrie, 2017). The firm's license was temporarily suspended, but Ramatlhodi pushed back and quickly managed to reinstate it (Sole and Comrie, 2017). In September 2015, President Zuma fired Ramatlhodi, replacing him with Mosebenzi Zwane, a politician reportedly connected with the Guptas through the Estina dairy project scandal, described below (Sole and Comrie, 2017).[51]

In December 2015, President Zuma fired the Finance Minister, Nhlanhla Nene, and replaced him with little-known Des van Rooyen (Office of the Public Protector, 2016, p. 87(Sole and Comrie, 2017).[52] Historically, the Treasury has been one of the strongest pillars of South Africa's state institutions, with an important oversight role. The unexpected appointment of a new Finance Minister with little experience met strong pushback from financial markets, local business leaders,

[49] See also Bezuidenhout (2019b).
[50] See also Sole and Comrie (2017).
[51] In 2013, when Zwane was in charge of the agriculture portfolio for the Free State province, about R220 million of government funds allocated to a project to promote dairy farming for poor local farmers allegedly was siphoned off by the Guptas through a government contract. In the end, only R2.4 million was actually invested in the project (Sharife and Joseph, 2018a). See details below.
[52] At the beginning of his second term in office in May 2014, Zuma had already unexpectedly dismissed the country's well-respected Minister of Finance, Pravin Gordhan, replacing him with Nhlanhla Nene who was deputy Finance Minister at the time.

and some within the ruling party. A few days later, the well-respected Pravin Gordhan, former Minister of Finance, was reinstated to restore economic stability (*ibid.)*. Gordhan arrived too late, however, to intervene in the OCM case: shortly before he took office, it was announced that Tegeta had purchased the firm. [53]

The events surrounding the purchase of OCM have raised questions as to the motives of Eskom executives. OCM had a long-term 'fixed-price' contract with Eskom for coal that by 2013 started to become unaffordable for the mine to meet. Was Eskom's refusal to sign a new price agreement with Glencore to supply coal to 'at cost' intended to force OCM into financial distress and reduce its potential sale price? "Glencore appears to have been severely prejudiced by Eskom's actions in refusing to sign a new agreement with them for the supply of coal," the Office of the Public Protector (2016, p. 352) concluded. "It appears," the report continued, "that the conduct of Eskom was solely to the benefit of Tegeta" (*ibid.).*

"Further evidence of the apparent prejudice caused by Eskom," the Office of the Public Protector (2016, p. 341) observed, "is that once the sale agreement was signed in December 2015, Tegeta appears to have easily managed to secure lucrative contracts to supply coal to the Arnot power station with coal from OCM." In January 2016, Eskom awarded Tegeta the first of several coal supply agreement (CSAs) (Office of the Public Protector South Africa, 2016, p. 20).

After an extensive financial analysis, the Office of the Public Protector concluded that a CSA prepayment to Tegeta in the amount of R659 million, ostensibly to service the Arnot contract, "appears to have been used by Tegeta solely to fund the purchase of OCH [Optimum Coal Holdings]" (Office of the Public Protector South Africa, 2016, p. 20). The prepayment "possibly amounts to fruitless and wasteful expenditure," in the view of the Office of the Public Protector, "as it appears that the prepayment was not used to meet production requirements at OCM" (Office of the Public Protector South Africa, 2016, p. 20). Moreover, "it appears highly improbably that some, if not all, of the Eskom Board who approved the payment had no knowledge of the true nature of the payment" (Office of the Public Protector South Africa, 2016, p. 20). The decision "appears to have been in contravention" of the Public Finance Management Act (PFMA), which

[53] The timeline of events leading up to the purchase is recounted in November 2017 testimony by one of the two business rescue practitioners appointed for OCM and OCH before the Parliamentary Committee on Public Enterprises: "Corporate governance in Eskom – How Optimum coal mine was purchased," Parliamentary Monitoring Group, 1 November 2017, available at https://pmg.org.za/committee-meeting/25367/ (accessed June 12, 2020). See also Sole and Comrie (2017).

states that the Board of a state-owned enterprise has the obligation to "prevent fruitless and wasteful expenditure" (Office of the Public Protector South Africa, 2016, p. 20).[54]

The purchase arrangements were facilitated by Bank of Baroda (BoB), a state-owned bank in India with multinational operations (Office of the Public Protector, 2016, pp. 272-3). The Bank of Baroda is now India's the second-largest public sector undertaking and third-largest bank (*Business Today*, 2019). "For more than a decade," the *New York Times* reports, "the Guptas had fostered relations with the South African branch of the Bank of Baroda" (Onishi and Gebrekidan, 2018). The bank offered a letter of support for the Guptas' attempt to buy OCM after other banks in South Africa had cut ties with the Guptas *(ibid.)*.[55]

"The Guptas gradually came to account for a disproportionate share of BoB's South Africa business," report journalists investigating what came to be known as the GuptaLeaks scandal, "to the point that it posed a risk to the bank" (Sethi and Gopakumar, 2018). A Bank of Baroda executive suggested, speaking off the record, that the Guptas accounted for 40% of the Bank's loans in the country (*ibid.).* The Office of the Public Protector (2016, pp. 273-4) described the Bank of Baroda's conduct as "highly suspicious," and maintained that the frequency and amounts deposited "should have attracted attention and an investigation… due to money laundering risks based on the Financial Intelligence Centre's (FIC's) guidance note concerning the reporting of suspicious and unusual financial transactions." In 2016 the bank was fined by Prudential Authority of the SARB for "non-compliance with the FIC Act and for deficiencies in respect of money laundering controls" (Omarjee, 2019).[56]

Oakbay and the Industrial Development Corporation

In another controversial affair, in 2014 the Gupta family sought to list Oakbay Resources and Energy on the Johannesburg Stock Exchange at a price of R10 per share. Government regulations require that a sponsor support the listing of a new company on the stock exchange. In this case, Sasfin Capital, a South African asset management firm, acted as the sponsor, having performed a reasonableness assessment of the estimated valuation based on KPMG-audited financial statements (*Mail & Guardian* Staff Reporter, 2017).

[54] An Oakbay spokesperson stated that "speculation that ESKOM's prepayment for the Arnot contract had facilitated the funding of the purchase of Optimum was unfounded" (Office of the Public Protector, 2016, p. 272).
[55] See also Hindustan Times and amaBhungane (2018).
[56] See also Sharife and Joseph (2018b).

The *Mail & Guardian,* a prominent Johannesburg weekly, reports that when the Guptas sought to list the firm, an Oakbay director sent emails to an associate company in Singapore, Unlimited Electronic and Computers, arranging for a R185 million loan to Unlimited through a third party in Dubai, and that this money was then used to purchase Oakbay shares in order to boost their price (de Wet, 2017). The Industrial Development Corporation (IDC), a state-owned development bank, had extended a R256 million loan to Oakbay, and in 2014 this was converted into equity at R9 per share, giving the IDC a 3.6% stake in the company (*Mail & Guardian* Staff Reporter, 2017). After Sasfin withdrew its sponsorship, Oakbay was forced to delist in 2017, at which point its last traded share price was R5.80 (*Mail & Guardian* Staff Reporter, 2017). The share price decline meant that a substantial fraction of the IDC loan was, in effect, written off (de Wet, 2017).

The money merry-go-round

"Like generations of foreigners before them," reports the *New York Times,* the Guptas "took their windfall out of Africa, moving it to Dubai and India through a maze of dubious, and at times illegal, transactions" (Gebrekidan and Onishi, 2018).

The Guptas made use of a complex network of letterbox companies and front companies to move money through back-to-back loans and other transfers with no clear business purpose, with Bank of Baroda facilitating many of these financial transactions, according to investigative journalists working with the Organized Crime and Corruption Reporting Project (Sharife and Joseph, 2018b).[57] Some of these transactions, the journalists report, allowed the Guptas "to move hundreds of millions of dollars in alleged dirty deals into offshore accounts" (*ibid*.).

Data collected from the bank show that in the ten years between 2007 and 2017, about 4.5 billion rand (approximately US $532 million) was transferred among Gupta-related companies, with many of the transactions labelled as inter-company loans (see Table 4). On some days, it is reported, Bank of Baroda employees filed up to half a dozen suspicious activity reports (SARs) related to Gupta transactions, but bank management intervened to void the reports, so that most of them were not reported to the South African Financial Intelligence Centre (Sharife and Joseph, 2018b). The *New York Times* reports that an investigation by the South African Reserve Bank found that "Baroda's internal systems had flagged about 4,000 suspicious transactions in the Guptas' accounts," but that employees "dismissed nearly all of the alerts 'without adequate reasons

[57] The Organized Crime and Corruption Reporting Project (OCCRP) is a worldwide non-governmental network founded in 2006.

being provided,' according to a confidential report by PwC, the international auditing firm, that was reviewed by the Times" (Onishi and Gebrekidan, 2018).

Table 4: Sample list of transactions labelled as 'inter-company loans,' 2007-2017

Entity transferring funds	Number of transfers	Total value of transfers (ZAR)	Entity receiving funds
Koornfontein Mines	9	159,000,000	Tegeta Exploration and Resources
Oakbay Investments	35	708,100,000	Tegeta Exploration and Resources
Oakbay Investments	2	30,200,000	ldwala Coal
Oakbay Investments	3	13,500,0000	Infinity Media
Oakbay Investments	25	576,321,190	Islandsite Investments180
Oakbay Investments		5,500,000	Shiva Uranium
Oakbay Investments	2	14,200,000	TNA Media
Oakbay Investments	26	380,200,000	Westdawn Investments
Confident Concepts	5	174,400,000	Islandsite Investments180
Infinity Media	4	26,500,000	Oakbay Investments
Islandsite Investments 180	30	655,788,000	Oakbay Investments
Islandsite Investments 180	10	88,819,190	Confident Concepts
Islandsite Investments 180	8	105,300,000	Sahara Computers
Tegeta Exploration and Resources	26	303,900,000	Koornfontein Mines
Tegeta Exploration and Resources	26	579,150,000	Oakbay Investments
Tegeta Exploration and Resources	11	260,000,000	Optimum Coal Mine
Tegeta Exploration and Resources	1	24,000,000	Westdawn Investments
Trillian Management Consulting	1	160,246,000	Centaur Mining
Westdawn Investments	4	142,000,000	Oakbay Investments
Optimum Coal Mine	1	13,500,000	Koornfontein Mines
Optimum Coal Mine	1	25,000,000	Tegeta Resources

Source: Sharife and Joseph (2018b).

Bank of Baroda also transacted with other companies associated with the Guptas but not known to be owned outright by them. An example was reported by journalists in the *Hindustan Times,* one of India's leading daily newspapers: In 2011-12, for example, after Bank of Baroda provided a R16 million loan overdraft facility to Everest Global Metals, a company controlled by an Indian businessman named Piyoosh Goyal, a Gupta company called JIC Mining Services reportedly made the monthly interest payments on this loan on behalf of Everest (Sethi and Gopakumar, 2018).[58] A risk officer at a European bank explained a possible rationale for such an arrangement: "You want to give someone a loan, but you can't because you're already overexposed to them. So, you give the loan to a front company instead" (*ibid.).* In this case, the *Hindustan Times* journalists

[58] Goyal was later charged by India's Central Bureau of Investigation with bribing a State Bank of India executive to enhance another loan facility (Sethi and Gopakumar, 2018). See also (amaBhungane and Scorpio, 2018).

report, the fronting was "so transparent" that when Everest missed a payment, the bank wrote directly to a director of several Gupta companies to request it (*ibid.)*.

GuptaLeaks investigators have reported that another Goyal company, called Worlds Window, assisted the Guptas in moving millions of Rands between South Africa, India, China and the UAE through hundreds of transactions (amaBhungane and Scorpio, 2018). Worlds Window began as a scrap metal company in India, and diversified into other activities, including two registered subsidiaries in South Africa. The Guptas and Worlds Window companies have often transferred to each other money through Bank of Baroda for opaque purposes (*ibid.*). In 2010, for example, Worlds Window transferred $4.4 million to Oakbay Investments, ostensibly in exchange for minority shares in two companies that owned what the investigators describe as "questionable coal prospecting rights in South Africa," but the shares were never transferred to Worlds Window, and it subsequently appeared that there was no coal (*ibid.*).

Round-tripping refers to two-way transactions among entities that inflate apparent revenues while producing no net economic substance. Such transactions also can provide a mechanism for money laundering, giving the impression that the funds originate from a clean source. Examples of round-tripping transactions between Worlds Window subsidiary Arctos Trading and Gupta firms over a six-day period in December 2011 are depicted in Figure 22.

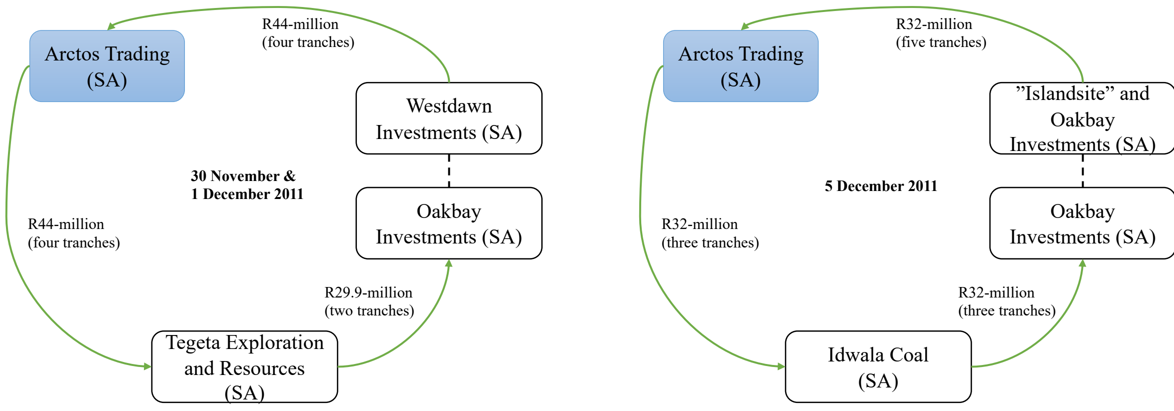
In another Gupta-related deal in 2011 Transnet, South Africa's state-owned rail, port and pipeline company, purchased cranes for South Africa's Durban port from the Chinese state-owned manufacturer Shanghai Zhenhua Heavy (known as ZPMC) (amaBhungane and Scorpio, 2018). At the time, Brian Molefe was the CEO of Transnet (he then became CEO of Eskom in 2015).[59] In this deal, according to reports published by investigative journalists, ZPMC inflated the price from R570 million ($81 million) to R659 million ($92 million) to cover so-called "commissions and fees" for the Guptas, which were channeled through a UAE-registered firm called JJ Trading reportedly linked to Worlds Window (amaBhungane and Scorpio, 2017a, 2018).[60] The money flow is summarized in Figure 23.

---

[59] As noted above, Molefe reportedly has close ties to the Gupta family (Office of the Public Protector, 2016, p. 86). As CEO of Transnet, he reportedly signed off on R24.8 million in payments to the Guptas' now defunct newspaper, *The New Age,* for advertising "that had nothing to do with Transnet," according to Deputy Chief Justice Raymond Zondo, who added "Transnet was just being robbed" (Mvumvu, 2020).

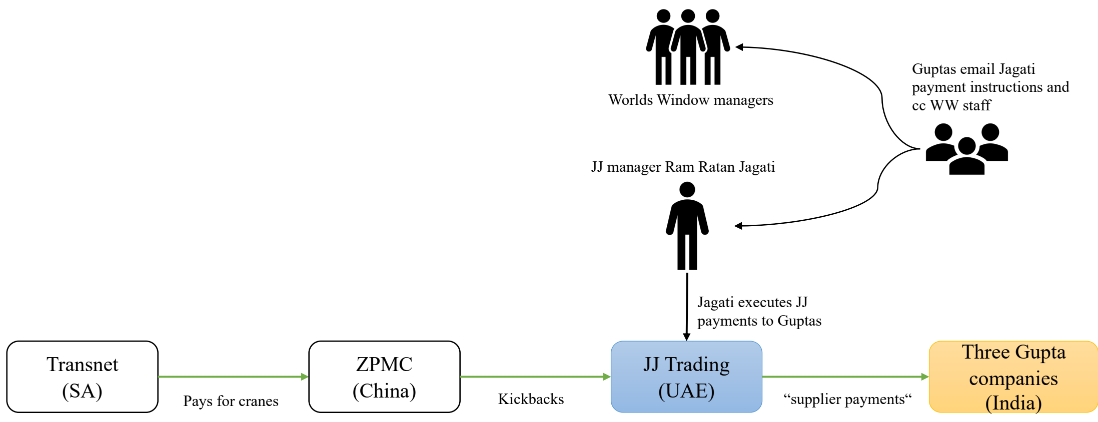
[60] JJ Trading's website (http://www.jjtrading.co.in/index.html) lists its address as the Hamriyah Free Zone, Sharjah, in the United Arab Emirates, and describes its activities as trade in products including scrap metal, rice, grains, and edible oil.

Figure 22: Roundtripping by Guptas



Source: amaBhungane and Scorpio (2018).

Figure 23: Kickbacks on Transnet crane purchase reportedly channeled to Guptas



Source: amaBhungane and Scorpio (2018).

In July 2015, the Guptas purchased one of the most expensive properties in Dubai, overlooking the Montgomerie golf course, for R331 million ($26 million) (amaBhungane and Scorpio, 2017b). AmaBhungane reports that executives of several "captured" state-owned enterprises, including Eskom and Transnet, visited the Guptas there (amaBhungane and Scorpio, 2017b). Duduzane Zuma reportedly purchased a R17.9 million ($1.2 million) apartment in Dubai, too (*ibid.*). If the outflows that financed these purchases were not reported to the SARB and recorded in South Africa's balance of payments accounts, they would contribute to measured capital flight from the country.

The network of enablers

The corruption that has facilitated state capture, capital flight, and money laundering in South Africa is intermediated by a transnational network of enablers with deep connections in the public and private sectors in South Africa and complex linkages across the world. As well as banks, the enablers include accounting firms, clearing houses, law firms, and management consulting firms.

In February 2020, the non-governmental investigative consortium Open Secrets and Shadow World Investigations submitted a detailed joint report to the South African government's Commission of Inquiry into Allegations of State Capture (the Zondo Commission). "Unpicking the Gupta racketeering enterprise requires scrutiny of private sector facilitators," the report concluded. "Specifically, the enterprise required banks, law firms, accounting firms and other professionals both to facilitate transactions; and to fail to perform their lawful due diligence requirements" (Marchant et al., 2020, p. 8).

The accountants

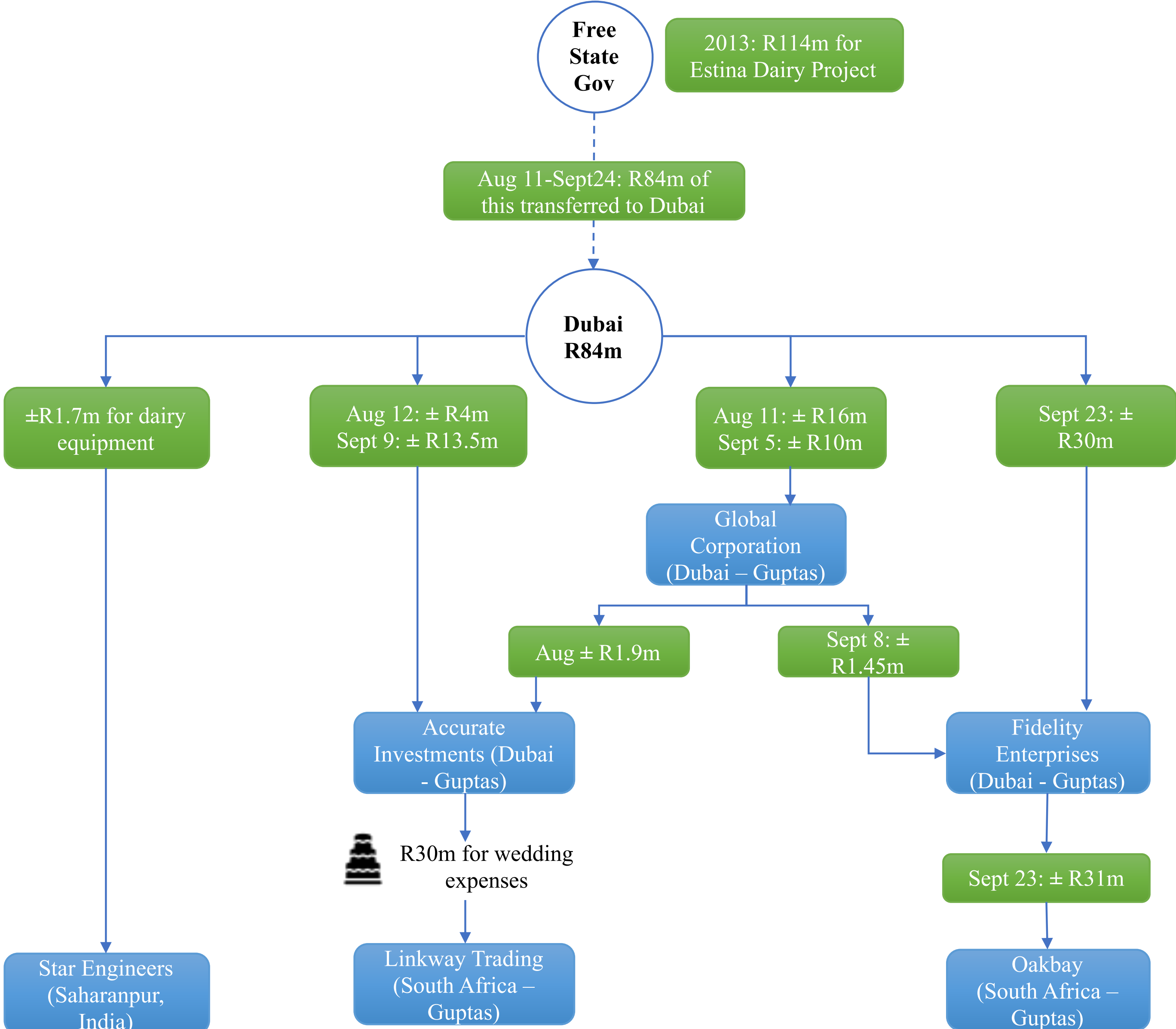
An arrangement involving the Free State provincial government illustrates the enabling role of international accounting firms.

Between 2013 and 2016, journalists reported a web of alleged linkages between Gupta enterprises and the Free State government, depicted in Figure 24 (amaBhungane and Scorpio, 2017c).[61] The province's Premier, Ace Magashule (now Secretary General of the African National Congress) had characterized the Estina dairy project near the town of Vrede as a "state-of-the-art certified facility" that would process 100,000 liters of milk per day (amaBhungane, 2013b). The Free State

[61] Also see amaBhungane (2013a) and amaBhungane and Scorpio (2017b).

department of agriculture, then under the leadership of the Mosebenzi Zwane (who, as mentioned earlier, would go on to become the nation's Mineral Resources minister) "promised Estina R114-million a year for three years to set up a farming operation and dairy, whose supposed purpose was to empower locals and boost provincial agriculture" (amaBhungane and Scorpio, 2017c). Between 2013 and 2016, a total of R220 million was transferred from the department of agriculture to Estina, but journalists report that most of this money was captured by the Gupta network (African News Agency, 2019; Pather, 2018b).

Figure 24: Estina dairy project cash flows



Source: GuptaLeaks documents as reported by (amaBhungane and Scorpio, 2017c).

In 2018, the *Mail & Guardian* reported that there is “little evidence to suggest Estina ever processed a drop of milk” (Pather, 2018b). The paper reported that R30 million (roughly $3 million) from the farm was used to pay for the lavish 2013 wedding of a Gupta family member. According to the newspaper, this money was channeled through a company called Linkway, where the wedding was designated as a “business expense” (Pather, 2018b). The investigative journalism unit amaBhungane concluded that a total of R144 million in state funds for the Estina project was transferred to a Dubai-based company linked to the Guptas (Pather, 2018b).

In 2018, the Bloemfontein High Court ruled that Atul Gupta had “unlawfully received” R10 million from the Estina dairy and ordered a freeze on his bank account, after the National Prosecuting Authority’s (NPA) said in court papers that Gupta had been the beneficiary of “proceeds of a crime” (Pather, 2018a). Atul Gupta appealed in an attempt to recover the funds (Pather, 2018a). “It remains a mystery,” the head of the Asset Forfeiture Unit replied in an affidavit submitted to the court, how Gupta “can have an interest in a property that he clearly denies ever receiving in the first place” (Gous, 2018b). The NPA provisionally dropped its case in November 2018, citing a lack of response to mutual legal assistance requests made to India and the United Arab Emirates (TimesLive, 2018).

The global accounting firm KPMG had audited Linkway, the firm through which the wedding expenses were routed. In early 2019, KPMG partner Jacques Wessels was removed from South Africa’s register of auditors for having engaged in what the Independent Regulatory Board for Auditors termed an “egregious form of dishonesty” in his work for the Gupta family in auditing Linkway in 2014 (Marriage, 2019). The regulatory board concluded that Wessels had shifted R6.9 million of Linkway’s wedding-related hotel and accommodation expenses from the firm’s operating expenses to its cost of sales, and had treated this as an “unspecified tax deductible” amount even after being advised by a KPMG colleague that the tax deduction was impermissible (Marriage, 2019). “This kind of sanction is rare,” the *Financial Times* of London reported. “No auditor was struck off the regulator’s register in 2018 or 2017, and only two in 2016” (Marriage, 2019).

In another case with even more far-reaching implications, KPMG was hired by the South African Revenue Service (SARS) to prepare what became known as the “rogue unit report.” [62] This report, dated 26 January 2016, lent credence to a narrative cultivated by the Zuma-appointed SARS

[62] A draft copy of the SARS/KPMG report was leaked to the *Sunday Times* in October 2015 (Cameron, 2018).

Commissioner Tom Moyane that his predecessor, Pravin Gordhan, who according to the *New York Times* was "widely credited with building up the tax agency as its commissioner from 1999 to 2009," had illegally set up a rogue investigative unit to combat tax evasion, particularly in the illicit tobacco trade (Gebrekidan and Onishi, 2018).[63] The KPMG report became a tool in a broader campaign waged by the Zuma government against opponents of the looting then taking place within South African state institutions. In 2017, after leaked emails revealed "chummy ties between close Zuma allies and top KPMG officials," KPMG withdrew the report's main conclusions and recommendations, in what *New York Times* reporters described as "a staggering mea culpa" (*ibid.*).[64] In a hearing before Parliament, the firm admitted that the report's conclusions and recommendations had, in fact, not been its own product, but instead were copied "by and large verbatim" from a memo drafted by the tax agency (*ibid.*). KPMG announced that it would pay back the R23 million it had been paid for the work (Hosken, 2017).

The consulting firms

As reported by the *New York Times* and the South African media, in late 2015 McKinsey & Company, the global management consulting firm, entered into a contract with Eskom to draw up a reorganization plan that would address the numerous problems the utility had faced in recent years (Bogdanich and Forsythe, 2018).[65] Under the terms of the contract, which was awarded without competitive bidding and would become McKinsey's "biggest contract ever in Africa, with a potential value of $700 million," the firm would be paid for its work only if its advice generated results, but with no cap on what the final bill would be – a departure from the standard fee-for-service arrangement mandated by the South African government, from which Eskom failed to receive a waiver despite telling McKinsey that it had done so (*ibid.)*. "It did not take a Harvard Business School graduate," the *New York Times* commented, " to explain why South Africans might get angry seeing a wealthy American firm cart away so much public money in a country with the worst income inequality in the world" (*ibid.*).

In its work for Eskom, McKinsey sub-contracted a minority consulting partner called Trillian Management Consulting in order to comply with the Black Economic Empowerment (BEE) requirements for public procurement, despite the fact that Trillian refused to divulge its ownership

[63] See also (Lechela and Cronje, 2018).
[64] Reuters reported that, in response, Zuma's SARS Commissioner Moyane accused KPMG of "abhorrent, unethical, and unprofessional conduct" – not for its original release of the report but for withdrawing it (Toyana, 2017).
[65] See also (Marchant et al., 2020).

(Bogdanich and Forsythe, 2018).[66] Trillian's majority owner later turned out to be Salim Essa, whose associations with the Guptas included part ownership of Tegeta, which purchased OCM in the same year (*ibid.*).

As the South African news media uncovered ever more evidence of the Gupta family's influence, "Eskom – not McKinsey – prematurely terminated the contract," the *New York Times* reported in 2018. "The abbreviated tab for barely eight months of work: nearly $100 million, with close to 40 percent going to Trillian" (Bogdanich and Forsythe, 2018).[67] The *New York Times* reporters noted a "bitter irony: While McKinsey's pay was supposed to be based entirely on its results, it is far from clear that the flailing power company is much better off than it was before" (*ibid.*).

A forensic investigation commissioned by the National Treasury concluded that Eskom officials contravened sections 57 and 79 of the Public Finance Management Act by: (i) failing to curb "irregular and wasteful expenditure of R1.6 billion"; (ii) registering Trillian as an Eskom vendor, even though Trillian itself did not have a contract with Eskom; and (iii) failing to seek permission from National Treasury for the risk-based contract (South African National Treasury, 2018a, p. 241). The National Prosecuting Authority (NPA) alleged that McKinsey had been instrumental in "creating a veil of legitimacy to what was otherwise a nonexistent, unlawful arrangement" (Bogdanich and Forsythe, 2018). In December 2017, the Pretoria High Court decided to freeze the fees received by McKinsey and Trillian for advising Eskom (*ibid.*; Winning 2018).[68]

A 2018 report by the South African Parliament's Portfolio Committee on Public Enterprises concluded that "McKinsey's potential use of Trillian, a Gupta-linked company, to extract rents from Eskom may constitute criminal conduct" (Portfolio Committee on Public Enterprises, 2018, p. 49).[69] A spokesperson for McKinsey "thanked the committee for its work," the *Financial Times* reported, "and said it was studying its recommendations" (Cotterill, 2018c). McKinsey elected to repay over one billion rand to Eskom, including interest on the amount received by the firm, while indicating that "the fee repayment was a consequence of Eskom's non-compliance with the

[66] See also (Marchant et al., 2020).
[67] The Portfolio Committee on Public Enterprises of the South African Parliament states that Eskom paid McKinsey and Trillian together around R1.6 billion (equivalent to about $110 million) for "work that substantially deviated from standard procurement processes and was never approved by the National Treasury" (Portfolio Committee on Public Enterprises, 2018, p. 35). Other published reports have stated that McKinsey earned about R1 billion from its work for Eskom (Marriage and Coterrill, 2018).
[68] In a statement, McKinsey said "We are returning this money not because we have done anything wrong but because Eskom has told us they did not follow the appropriate process" (Cotterill, 2018b).
[69] See also (Cameron, 2017; Marchant et al., 2020).

relevant procurement laws and was not an admission of liability by McKinsey" (South African National Treasury, 2018a, p. 232).

In June 2019, in a Gauteng High Court case between Eskom and respondents McKinsey and Trillian, the court ordered Trillian to repay a further R595 million, plus interest, to Eskom (South African Gauteng Division High Court, 2016, p. 51). In August 2019, Trillian CEO Eric Wood filed an appeal against the court's decision, claiming that Trillian does not have the money and alleging that Salim Essa, now living comfortably in Dubai, had paid out the money to himself in "shareholder loans" that cannot be recovered (Bezuidenhout, 2019a). In October 2019, the U.S. Treasury Department's Office of Foreign Assets Control sanctioned the three Gupta brothers and Salim Essa, describing them as "members of a significant corruption network in South Africa that leveraged overpayments on government contracts, bribery, and other corrupt acts to fund political contributions and influence government actions" (U.S. Treasury, 2019). "We will continue to exclude from the U.S. financial system those who profit from corruption."

McKinsey and KPMG are not the only international consulting and auditing firms to have been caught up in South Africa's "state capture" scandals. In October 2019, the new management of Eskom filed court papers claiming that the global firm Deloitte had engaged in "pure corruption" through "unfair, inequitable, non-transparent and uncompetitive" consulting contracts with Eskom awarded in 2016, and demanded that the consulting firm pay back more than $13 million it had received (Wells, 2019). The acting CEO Eskom stated that the fees charged in two contracts were "five times" higher than those of their competitors (*ibid.*). Deloitte initially disputed the charges (Wells, 2019).[70] In March 2020, the two parties reached an agreement in which Deloitte agreed to repay R150 million (approximately $8.5 million), representing a portion of the fees invoiced, "in full and final settlement of the matter."[71]

The bankers

Foremost among the banking institutions that have been implicated in state capture in South Africa is Bank of Baroda, whose involvement with the Gupta family has been discussed above. In

[70] Deloite stated: "Deloitte Consulting disagrees with and disputes the allegations made by Eskom in the media statement. While Deloitte Consulting is disappointed by this recent development, we welcome the opportunity to put our version and the facts of the matter before a court" (Wells, 2019).
[71] "Joint statement between Eskom and Deloitte Consulting," Press release, 20 March 2020, available at https://www2.deloitte.com/content/dam/Deloitte/za/Documents/about-deloitte/za-Joint-statement-between-Eskom-and-Deloitte-Consulting%20.pdf (accessed 22 June 2020).

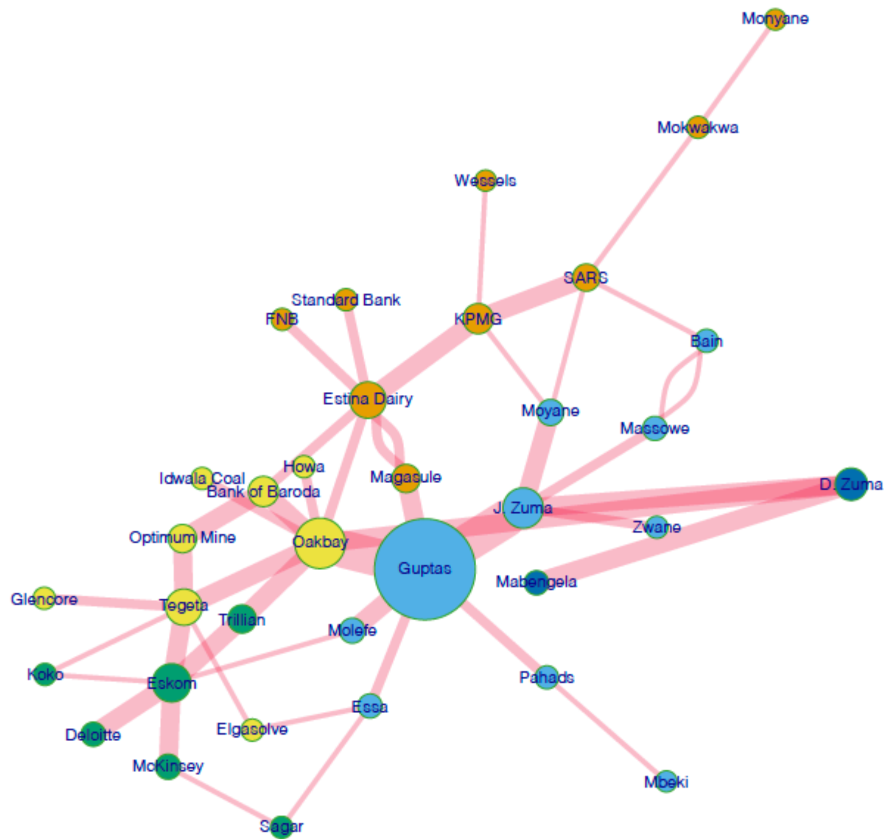
February 2018, after 21 years of operating in the country, the bank notified the South African Reserve Bank (SARB) that it would to close down its operations (Mehta, 2018). The announcement came in the midst of a SARB probe into alleged breaches of banking regulations, most of which involved transactions related the Gupta family and its companies. Bank of Baroda asserted that its decision to exit South Africa was part of its "strategic plan for rationalization of overseas branches" (Bhardwaj, 2018). In 2019, after its withdrawal, Bank of Baroda was fined a modest R400,000 (about $25,000) for what the South African Reserve Bank termed "deficiencies relating to compliance with the FIC [Financial Intelligence Center] Act" and "weaknesses in controls to prevent potential money laundering and terrorist financing" (Omarjee, 2019).[72]

Again, Bank of Baroda was not the only major bank touched by the scandals. *Business Day* reported that Nedbank, one of South Africa's 'Big Four' domestic banks, had a "correspondent banking relationship" with Bank of Baroda, clearing transactions for the latter through control accounts at SARB (Gous, 2018a).[73] *The Enablers,* a joint report submitted to the Zondo Commission on state capture in February 2020 by investigators from Open Secrets and Shadow World Investigations, states that Standard Bank, another of the Big Four, was used by the Guptas to launder funds looted from the Free State government in the Estina dairy scandal, reporting that "in a large number of cases, deposits made into Standard Bank accounts were immediately transferred onto external beneficiaries" (Marchant et al., 2020, pp. 102-103). The transactions reportedly included the transfer of $8.3 million offshore into a Standard Chartered account of a Dubai-registered company (Marchant et al., 2020, pp. 102-103). When asked whether it had filed any suspicious activity reports in connection with these transactions, Standard Bank replied that it could not disclose confidential information relating to its clients and assured the investigators that it had "complied with its regulatory responsibilities" (Marchant et al., 2020, pp. 102-103).

A full anatomy of the complex network that has facilitated capital flight, money laundering, tax evasion, and state capture in South Africa would require a book-length narrative. Some of the links among the actors are formal, others informal; some are open, others remain hidden. A schematic depiction of the Gupta-related network sketched above is presented in Figure 25. Further untangling this and other webs and is a critical task to devise effective strategies to combat capital flight and its adverse consequences in South Africa.

[72] The decision came after the bank successfully appealed a R11 million fine (Omarjee, 2019).
[73] As a non-clearing bank, Bank of Baroda had to operate process its transactions in South Africa via a clearing bank.

Figure 25: The network of enablers



Source: Designed using information from the sources cited in the text.[74]

[74] The authors thank Professor Kevin Young of the University of Massachusetts Amherst who designed this chart.

7. Tax amnesties and capital flight

The transition to democracy in 1994 carried high expectations of 'liberation dividends' in terms of employment, access to education and other social services, and the elevation of living standards in general for the historically alienated population – people of color. The primary challenge faced by the ANC government was to mobilize sufficient resources to respond to these expectations by financing its ambitious growth and redistribution agenda. Two important handicaps to resource mobilization were the inefficiencies of the tax system and the threat of capital flight. The post-apartheid government inherited a culture of deep public distrust of the state that disincentivized tax compliance. At the same time, the uncertainty of the post-liberation environment was a potential motive for smuggling capital out of the country.

To address these challenges, the government embarked on a series of tax reforms and exchange regulations aimed at increasing revenue, curbing capital outflows, and inducing the repatriation of private wealth held offshore. It is in this context that the government set up the Commission of Inquiry into Certain Aspects of the Tax Structure of South Africa, known as the Katz Commission after its chairman, Professor Michael Katz. In presenting the third interim report on taxation of the Katz Commission, the Joint Standing Committee on Financial Management of the Parliament (JSCFMP) stated the following:

> Trying to achieve the goals of strong and sustainable economic growth, development and meaningful alleviation of poverty in a time of increasing international economic competitiveness is a daunting challenge for any country. Amongst any government's policy options are various fiscal instruments, of which taxation is one of the most influential. Reform of tax systems, and of tax structures within those systems, has therefore become a necessary pursuit for countries with such goals in mind (JSCFMP, 1994, p. 2)

One recommendation of the Katz Commission was the use of tax amnesty to boost revenue and enhance compliance.[75] The idea of a tax amnesty had also been advanced in 1986 by the Margo Commission, chaired by Supreme Court Justice Cecil Stanley Margo (South African National Treasury, 1987).

[75] See Steenkamp (1996) for a discussion of key recommendations of the Katz Commission regarding corporate taxation.

Tax Amnesty of 1995

The first tax amnesty was issued in 1995, with the aim of providing taxpayers in default with a once-off time-bound window of opportunity to voluntarily declare and pay previously evaded taxes in exchange for exoneration of financial penalties and criminal prosecution. In principle, the 1995 tax amnesty was expected to boost tax revenue in two ways: by encouraging payment of back taxes by taxpayers who did not report or had under-reported their liabilities but would not come forward for fear of prosecution; and by incentivizing taxpayers, including small businesses, to come into the tax pool once they were assured of no penalties of past non-filling of tax returns. It was hoped that the amnesty would also reduce the incentives for capital flight, insofar as it is driven, in part, by fear of penalties for tax evasion. This effect could be enhanced when the scope of amnesty is expanded to include exoneration of violations of exchange control regulations, as was done in the subsequent amnesties as described below.

Tax Amnesty of 2003

On 15 May 2003, Finance Minister Trevor Manuel introduced the Exchange Control Amnesty and Amendment of Tax Laws Bill, which was passed that year (South African National Treasury, 2003a). The major innovation in the 2003 Tax Amnesty was that it covered wealth held offshore. It included amnesty for contraventions to the Exchange Controls Regulations Act of 1961,[76] as well as relief from penalties on past tax defaults. The 2003 amnesty was not applicable to the evasion of taxes on domestic income and earnings.

Prior to this initiative, in 2001 South Africa had changed its tax rules on the treatment of international income to ensure that all income and assets are brought into the tax basket, regardless of where they are earned and held and reported. The rationale for the 2003 amnesty was expressed as follows:

> Many South African individuals have a long history of shifting assets offshore in contravention of Exchange Control. These illegal shifts commenced well before the 1980s, having occurred in a variety of ways. The revenue from these illegal foreign assets typically goes unreported for income tax purposes. These foreign assets may even stem from unreported domestically derived amounts (South African National Treasury, 2003b, p. 5).

Chapter 1 of the Bill was specifically dedicated to amnesty for transgressions of exchange control regulations. The exchange control relief exonerated owners of offshore assets from legal penalties

[76] South African National Treasury (1961).

for contraventions of the exchange control regulations committed when they had transferred funds abroad without proper declarations. Once approved, the applicant was to pay an 'amnesty levy' of 5% of the fair market value (as of February 2003) of foreign assets disclosed and repatriated to South Africa, and 10% of the market value of assets disclosed but kept offshore. Foreign asset disclosure also carried a relief of tax penalty on foreign income and interest earnings that had not been disclosed up to 28 February 2003. It further provided exoneration for associated criminal offenses, so long as the funds that generated the foreign assets were not themselves obtained from illegal activities.

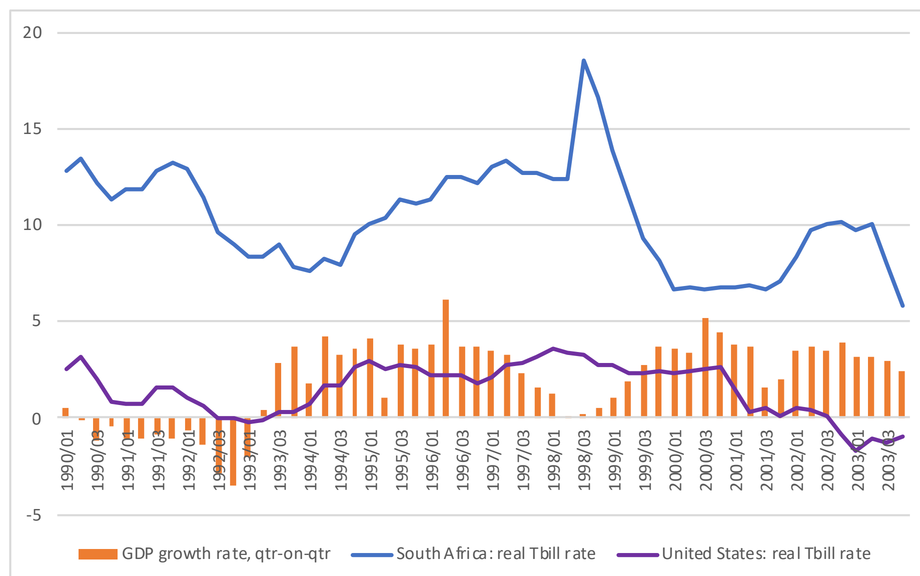
The 2003 tax amnesty also addressed an important institutional issue, regarding the exchange of information between the SARS and the SARB. Past laws had precluded such exchanges of information between the two entities, and it was argued that these restrictions had undermined the efficiency and capacity of these institutions to detect, track and prosecute transgressions of tax laws (the purview of SARS) and exchange control regulations (the purview of SARB). These restrictions were amended or removed (South African National Treasury, 2003a, pp. clauses 34, 39, 46, and 48).[77]

Four key arguments were advanced in support of the policy innovations in the 2003 amnesty. First, in the government's assessment, South Africa offered unique opportunities for higher returns to investment than abroad. Treasury bill rates in South Africa and GDP growth, a proxy for overall returns to domestic investment, compared favorably, for example, with Treasury bill rates in the United States (see Figure 26). Higher expected returns in South Africa could also arise from pent-up growth acceleration with the end of apartheid, as the country benefited from integration in the global economy.

Second, enhanced international cooperation in tax compliance, by virtue of bilateral tax treaties entered into by the government, were increasing the probability of detection of tax fraud, and this would not only discourage future tax evasion but also encourage past evaders to take advantage of the amnesty (see Box 1).

[77] South African National Treasury (2003a, pp. clauses 34, 39, 46, 48)

Figure 26: GDP growth in South Africa and T-Bill rates in South Africa vs. USA, 1990-2003 (quarterly series)



Note: Real rates, adjusted for inflation.
Source: GDP growth from SARB database; T-bill rates from IMF (IFS).

Third, enhanced international cooperation in surveillance of capital flows, alongside the tax treaties, was expected to help curb illicit capital outflows and thereby further encourage demand for domestic assets. According to the introductory note that accompanied the 2003 Amnesty, the international environment offered a unique opportunity for regulatory reform in South Africa:

> The international legislative environment is also a riskier place for illegal foreign assets. Government has greatly expanded its tax treaty network since 1994, thereby facilitating greater international co-operation for South African enforcement. The world community has simultaneously grown increasingly impatient with tax haven countries with bank secrecy and other laws designed to serve as a tax refuge for illegal foreign assets. This impatience with bank secrecy has recently accelerated with the increased understanding that bank secrecy can encourage terrorism and other illegal activities (such as money laundering). (South African National Treasury, 2003b)

The global war against terrorism in the wake of the 9/11 attacks in the United States had mobilized international efforts to combat illicit financing for terrorism and other illicit financial flows.

Finally, the government's vigorous moves towards economic reforms also included new, complementary laws and institutions to combat tax evasion and illicit financial flows, such as the Financial Intelligence Act.

Box 1: South Africa's Bilateral Tax Treaties Since 1994

South Africa has signed several types of bilateral and multilateral tax treaties since 1994 with countries in Africa, Asia, Europe and Central and North America (SARS website): double taxation agreements (DTA) and protocols; air and sea agreements; estate duty agreements; exchange of information agreements; multilateral mutual administrative assistance (MAAs) on customs; trade agreements; one-stop-border posts agreements; MAAs on value added tax; and other international agreements.

South Africa has a large number of bilateral double taxation agreements (DTAs), 23 within Africa and 57 with the rest of the world. Most of these were signed after 1994, although a number were in effect earlier. For example, Zimbabwe had a DTA with South Africa since 1956, Switzerland since 1967, Malawi since 1971, and Israel since 1979. Some older agreements have also been updated over time.

South Africa has signed DTAs and protocols with several countries that are known to be tax havens, such as Ireland, Luxembourg, Netherlands, Singapore, Switzerland and the UAE. To date, no such agreements exist with other known offshore wealth centers such as the Bahamas, Bermuda, Cayman Island, Jersey or Mauritius.

In December 2016, the South African Revenue Service (SARS) put in place an agreement with the government of the United Arab Emirates for the avoidance of double taxation and the prevention of fiscal evasion relating to taxes on income. Under this agreement, both states agree to exchange relevant information to enforce domestic laws concerning taxes of every kind. The information will be treated as secret, but it can be used to disclose information in court proceedings or judicial decisions (SARS, 2016a). A similar agreement has been in place with India since 1997 and China since 2001. However, each of these agreements covers fewer income categories than most prior agreements,and contains more caveats on the exchange of information.

South Africa's bilateral tax information exchange agreements are more recent. These relate primarily to countries with which there are no existing DTAs, which typically would include an exchange of information agreement. Notably, several of these countries are often described as offshore tax havens, including the Bahamas, Barbados, Bermuda, Cayman Islands, and Jersey. In addition, in 2017 South Africa entered into stronger agreements with the US and OECD countries known as 'automatic exchange of information.' These provide for the transfer of bulk taxpayer information on various income categories in order to fight against international tax evasion.

In 2007, a special agreement on customs and tax administration cooperation was established among South Africa, Brazil and India – three of the five BRICS nations. The agreement has four main objectives: to facilitate legitimate trade and investment; to combat commercial fraud, drug trafficking, money laundering and other illicit trade activities; to curb abusive tax avoidance transactions; and to modernize customs and tax administration through capacity building and cooperation (SARS, 2007).

The remaining three categories of agreements relate to international trade. These include multilateral customs agreements, notably the long-established Southern African Customs Union (SACU). There are four major trade agreements, the Southern African Development Community (SADC) trade agreement, the African Growth and Opportunity Act agreement with the USA, a memorandum of understanding with China on promoting bilateral trade and economic cooperation, and the free trade agreement between European states and SACU states. There is a specific border post agreement with Mozambique that aims to reduce border crossing times and associated logistics, and to improve cooperation and information management. Finally, there is an MAA with Lesotho and Swaziland for improving the exchange of information and assisting with surveillance and investigations related to value added tax.

Source: SARS website: https://www.sars.gov.za/Legal/International-Treaties-Agreements/Pages/default.aspx.

For these reasons it was hoped that, going forward, the new policy environment would make it harder to evade taxes and less attractive to smuggle capital from the country and conceal it abroad.

Small Business Tax Amnesty of 2006

The 2006 Small Business Tax Amnesty (South African National Treasury, 2006) was introduced initially to address problems in the taxi industry, along with reforms of the sector including a recapitalization program. It was broadened to all small businesses with annual revenue not exceeding R10 million. The main objective was to facilitate the formalization of small enterprises, so as to bring them into the tax net (SARS, 2006). The amnesty sought to alleviate the fears of small businesses related to past non-compliance and any resulting tax liabilities, penalties and interests.

Voluntary Disclosure Program of 2010

In 2010, the government enacted the Voluntary Disclosure Program and Tax Laws Second Amendment Act No. 8 (VDP) (SARS, 2010b), whose objective was 'to enhance voluntary compliance in the interest of enhanced tax compliance, good management of the tax system and the best use of SARS resources… [and] to encourage taxpayers to come forward on a voluntary basis to regularize their tax affairs with SARS and avoid the imposition of understatement penalties and administrative penalties' (SARS, 2010a, p. 2). Approved applicants for amnesty would not be criminally prosecuted for a tax offence arising from prior default and they would receive relief or reduction of understatement penalties.

In enacting the VDP, South Africa joined a long list of countries that have experimented with the instrument as a means of enhancing compliance and boosting tax revenue. A review by the OECD identified a number of features that are important for the success of VDPs, including 'a tangible, credible and time-limited incentive' for the eligible population to participate, and 'substantially increased risk' of detection for those who do not do so. The review emphasized that the program should not end up compromising long-term compliance for the sake of short-term boost to revenue: 'Tax evaders need to be brought into compliance for good – not reinforced in the belief that they need only comply when special terms are on offer. If the programme is presented as a once-off opportunity, that presentation must be credible' (OECD, 2010, p. 13).

Special Voluntary Disclosure Program of 2016

In 2016, the opportunities offered under the VDP 2010 were expanded with the enactment of the Special Voluntary Disclosure Programme (SVDP). Under the SVDP, the Financial Surveillance Department of the SARB gave South African residents another opportunity to regularize the status of their foreign assets vis-à-vis the Exchange Control Regulations of 1961 (as amended). The program offered a one-time window of opportunity, initially fixed to run from October 1, 2016 to 31 August 2017.[78] While the target audience of the 2010 VDP was taxpayers in default vis-à-vis the Tax Administration Act, including defaults on foreign taxable income, the 2016 SVDP explicitly targeted South African taxpayers with offshore assets and income.[79]

The SVDP excluded residents with current or pending investigations of contraventions of regulations, as well as assets that were obtained from illegal activities. To that effect, under the SVDP, disclosures had to include 'confirmation of the sources of all unauthorized foreign assets, details of the manner in which such assets were transferred and retained abroad as well as proof of the market value of the unauthorized assets as of February 28, 2016' (SARB, 2016, p. 10 (C.ii)). Application for SVDP carried a fee, a price in exchange of the pecuniary and legal benefits that would accrue from a successful application. Table 5 outlines the benefits from the tax dimension (enforced by SARS) and the exchange control dimension (enforced by SARB) of the program.

Did South Africa's tax amnesties pay off?

A number of questions may be raised about the results of the various amnesties adopted over the past years. Answers to those questions may help to assess the merit of such initiatives as well as to explore remedial strategies going forward. Four questions are considered here:

1. *Did the taxpayers take up the opportunities offered by the government to regularize tax defaults and contraventions of exchange controls?*

---

[78] The SVDP closing date was first extended from 31 March 2017 to 30 June 2017, then finally to 31 August 2017 despite requests to extend it to September 30th, which was denied because the start of the international automatic exchange of information was set to begin in September 2017. SARS, "Voluntary Disclosure Programme (VDP)," https://www.sars.gov.za/Legal/VDP/Pages/default.aspx.

[79] Moreover, the VDP remains an ongoing program while the SVDP was a one-off program. For more on the SVDP, see SARS, "Special Voluntary Disclosure Programme (SVDP)," https://www.sars.gov.za/Legal/VDP/Pages/Special-Voluntary-Disclosure.aspx.

Table 5: Relief provided by the SVDP, 2016

	SARS	SARB
Capital that funded the asset ('seed money', capitalized returns and subsequent deposits	The undeclared income that originally gave rise to the foreign asset will be exempt from income tax, donations tax and estate duty liabilities arising in the past. 40% of highest value of aggregate of all assets situated outside South Africa between (or deemed to be between) 1 March 2010 and 20 February 2015 that were derived from undeclared income will be included in taxable income and subject to tax in South Africa in the 2015 tax period. The value referred to above is the highest market value as at the end of the tax period, in the relevant foreign currency translated to South African Rand at the spot rate at the end of the tax period in which the highest value fell.	A levy of 5 per cent on the value of the unauthorized foreign assets or the sale proceeds thereof as at 29 February 2016, if such assets are repatriated to the Republic of South Africa. The 5 per cent levy must be paid from foreign sourced funds. A levy of 10 per cent the value of the unauthorized foreign asset as at 29 February 2016, if such assets are retained abroad. The 10 per cent levy must be paid from foreign sourced funds. A levy of 12 per cent the value of the unauthorized foreign asset as at 29 February 2016 in circumstances where the 10 per cent levy is not paid from foreign sourced funds.
Investment returns & other taxable events	Investment earnings & other taxable events prior to 1 Maren 2015 will be exempt from tax	Not applicable
Interest on SARS debt	Interest on tax debt arising from the disclosure only commence from the 2015 year of assessment	Not applicable
Understatement penalties	No understatement penalties will be levied	Not applicable

Source: SARS (2016b).

Tax amnesties could be judged successful only if a meaningful number of taxpayers voluntarily disclose their tax liabilities and their unauthorized foreign assets.[80] Unfortunately, we were not able to find adequate data to provide a definitive answer to this question. One might imagine that the SARS and SARB would find it beneficial to encourage public support for these programs by systematically tracking, compiling, and publicizing data on their outcomes. Curiously little has been done in this respect.

The available data indicate only modest revenue returns from the amnesties. In a 2018 speech at SARS, the Minister of Finance reported that the ongoing VDP had yielded R10.8 billion since

[80] For reviews of the results of tax amnesties in other countries, see (OECD, 2015). and (Johannesen et al., 2018).

2012 (South African National Treasury, 2018b). SARS reports that the VDP collected an additional R3.2 billion in tax revenue for the 2018-2019 financial year (SARS, 2019). This would bring the cumulative additional revenue collected under the program over seven years to R14 billion (US $1 billion), equivalent to roughly 0.5% of total personal income tax collections over the period.[81]

On October 10, 2017, less than two months after the close of the window for SVDP applications, it was announced that approximately 2,000 taxpayers had taken advantage of the program.[82] In March 2018, SARS reported R2.7 billion in revenue receipts out of a total of R3.3 billion in settlements from approved applications.[83] The R3.3 billion in approved settlements represented 0.7% of total personal income tax collected in 2017/18.[84] The pool of applicants included 759 high net worth individuals (individuals with liquid assets over $1 million). According to SARS, some of the agreements were prompted by revelations contained in the 'Panama Papers.'[85]

In 2019, SARS updated the amount collected under the SVDP to R3.6 billion in in the 2017-2018 financial year and a further R817 million in the 2018-2019 financial year, resulting in a total of R4.4 billion in additional tax revenue from the program (SARS, 2019). SARS media releases suggest that the value of foreign assets disclosed under the SVDP amounted to about R35 billion (equivalent to $2.4 billion at the 2019 R/$ exchange rate) (SARS, 2019, p. 65).

Little is publicly known about the returns to South Africa's earlier tax amnesty programs. A media report states, however, that the 2003 program revealed that assets worth R48 billion ($3.3 billion) were held abroad illegally by about 43,000 South African citizens (van Zyl, 2017).

The aggregate impact of the tax amnesties on tax revenue is difficult to measure, not only due to lack of detailed information on the yields for each initiative, but also because tax revenue is influenced by a multitude of factors, some of which work in the same direction and others in opposite direction as the effects of tax amnesty. Since the first amnesty, total revenue has grown

[81] Cumulative personal income tax from 2011/2012 to 2018/2019 amounted to R2957.58 billion. Amounts in rand are converted in US dollars using the average R/$ exchange rate for 2018 and 2019.

[82] SARS, media release, "Over R1 billion from SVDP and still counting," Pretoria, Tuesday 10 October 2017. https://www.sars.gov.za/Media/MediaReleases/Pages/10-October-2017---SARS-collected-over-R1-billion-from-2018-SVDP-applications.aspx

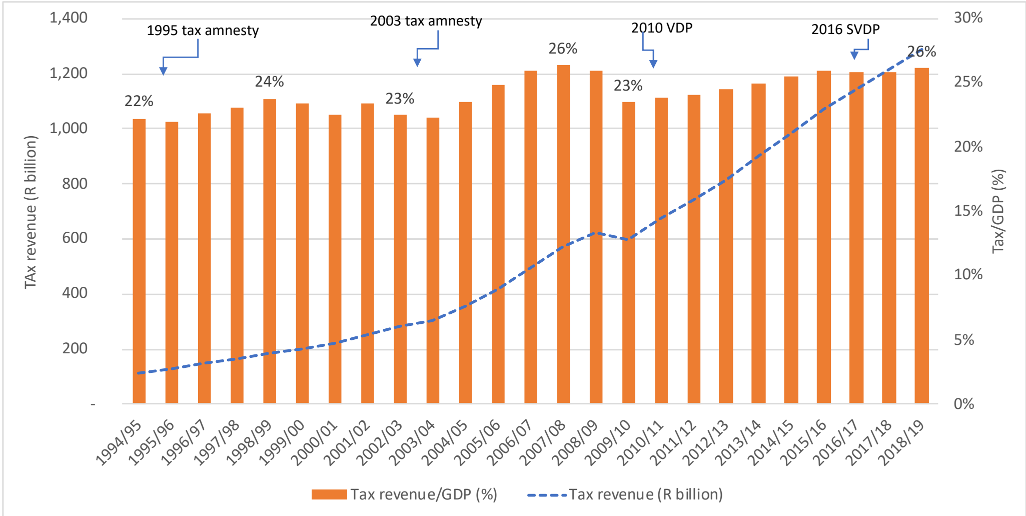
[83] SARS, media release, "SARS reaches R3.3-billion mark in SVDP," Pretoria, 08 March 2018. https://www.sars.gov.za/Media/MediaReleases/Pages/8-March-2018---SARS-reaches-over-R3-billion-mark-in-SVDP.aspx.

[84] SARS online data, https://www.sars.gov.za/About/SATaxSystem/Pages/Tax-Statistics.aspx.

[85] SARS, media release, "SARS reaches R3.3-billion mark in SVDP," Pretoria, 08 March 2018.

steadily, punctuated by a dip during the global recession in 2008-2010, but as a ratio of GDP it increased only modestly, from 22% in 1995 to 26% today (Figure 27).

Figure 27: Tax Revenue: volume and % of GDP, 1994/95-2018/19



Source: SARS database.

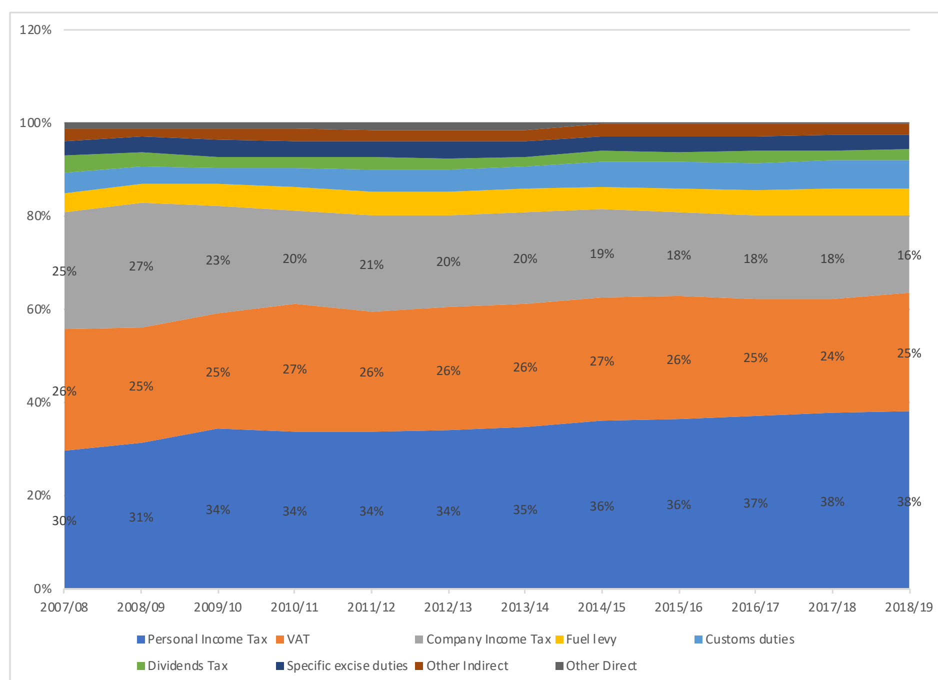
It could be expected that the amnesty would have more direct impact on certain types of tax than others. For example, company tax and personal income tax revenues are expected to be affected more than consumption-related taxes such as VAT. As can be seen in Figure 28, personal income tax and company tax have moved in opposite directions from 2007 to 2018. While personal income tax has represented an increasing share of total taxes (from 30% to 38%), the share of company tax has declined by 9 percentage points (from 25% to 16%). The share of VAT, the other major component of total tax revenue has held steady, despite the 2018 increase in the VAT rate from 14% to 15%. These shares imply that the burden of taxation is increasingly falling on labor rather than capital, which tends to worsen inequality.

2. *Did the amnesties help curb capital flight?*

It is even more difficult to assess the impact of tax amnesties on capital flight and total wealth held offshore. The post-1994 era was marked by an acceleration of capital flight, as discussed above, as well as normal capital outflows in the form of outward FDI and portfolio investment. Amnesties for transgression of exchange control regulations do not appear to have reduced the appetite for unauthorized foreign assets. South Africans still hold substantial wealth offshore, some of which

undoubtedly was not only transferred abroad illegally, but also acquired illegally and concealed abroad in contravention of tax laws as well as exchange control regulations.

Figure 28: Tax revenue by source: percentage of total tax revenue, 2007/08-2018/19



Source: SARS database.

High Net Worth Individuals (HNWIs) are notorious for low tax compliance. The SARS rather softly points out this issue in its 2017/18 Annual Performance Report as follows: ‘A significant number of HNWIs do not timeously pay the correct amount of taxes due to non-declaration of income sources, overstating expenses and splitting of income through trusts’ (SARS, 2018, p. 12). The extent to which amnesties will help repatriate private wealth held abroad by HNWIs remains an open question.

3. *Did the amnesties enhance tax compliance more generally?*

The impact of past amnesties on tax compliance is also difficult to decipher. The fact that the government has implemented repeated amnesties poses a challenge in its own. One argument against amnesties is that they can create perverse incentives, inducing some taxpayers to default on their taxes or send their wealth abroad in anticipation of future amnesties. Moreover, as the amnesty levy often is small in comparison with the expected returns to investment of savings on

tax liabilities, it would make financial sense to cheat any government that is perceived as being likely to grant amnesties repeatedly. In the end, these may decrease compliance over time.

Several structural and institutional factors have undermined the effectiveness of tax amnesties in South Africa. The first is limited capacity of the SARS and the SARB to detect and investigate transgressions of tax laws and exchange control regulations. This capacity deficit has been exacerbated by politically induced instability in leadership, especially at SARS and the Treasury. The resulting public perception of poor governance also discourages tax compliance. The 2017/2018 *Annual Performance Plan* of the SARS identified 'unfavorable public perception of poor state delivery and corruption' as one of the major constraints to improved tax performance. The report notes that taxpayers' willingness to comply is influenced by how they perceive taxes to be utilized, and that public concerns about corruption and poor service delivery remain an issue (SARS, 2018, p. 12).

In keeping with the adage that 'fish rots from the head,' this problem is particularly acute when the public believes that top leaders do not pay taxes, or worse, steal from the government. Writing in the *New York Times,* Selam Gebrekidan and Norimitsu Onishi illustrate this with the case of former President Jacob Zuma and his family, who have been accused of tax evasion: "South Africa's young democracy had depended on the faith — and taxes — of its people since the end of apartheid, so the risks were evident. If the leader of the African National Congress, his relatives and his influential associates could dodge their tax duties, the rest of the country might shirk them, too, hollowing out the government's ability to function at the most basic level" (Gebrekidan and Onishi, 2018). The effectiveness of instruments such as tax amnesties hinges of the quality of governance throughout the state system, and especially on a leadership committed to setting and enforcing high standards of honesty and transparency and demonstrating this commitment by example.

Another obstacle to tax compliance, one that is unlikely to be substantially affected by tax amnesties, is the large size of the nation's illicit economy. The SARS 2017/18 *Annual Performance Plan* cites the example of the illicit trade in cigarettes and tobacco (p. 11). Similarly, tax performance is undermined by smuggling and fraud in international trade, a major channel of for transgressions of exchange control regulations and illicit outflows to secrecy jurisdictions (SARS, 2018, p. 13).

In addition, South Africa hosts a substantial number of multinational corporations, operating in key sectors such as mining and services. As SARS has observed, these firms are often adept at avoiding taxes and skirting exchange control: 'SARS has detected an evolution from businesses, especially multinational enterprises, whereby they utilize domestic and international loopholes to evade tax and impermissibly avoid, take advantage of cross-border structuring and transfer pricing manipulations' (SARS, 2018, p. 12).

The fundamental question of whether and if so, how much, the government and the economy at large have benefited from the tax and exchange control amnesties declared over the past 25 years remains open. But an important concern is the public's unease with measures that are seen as inevitably benefiting large corporations and high net worth individuals who amassed wealth abroad, often illegally. Amnesty for tax evasion and transgressions of exchange controls is ultimately amnesty for capital flight, too. Commenting on the 2010 VDP, economists Sam Ashman, Ben Fine and Susan Newman put it as follows:

> SARB's proposal for an amnesty for capital flight at 10 per cent as a move towards total freedom of legal capital export can be seen as comparable to a policy to grant an illegal firearm ownership amnesty as a move towards allowing legal ownership without a license at all. South African conglomerates took the 'post-apartheid dividend' abroad illegally and now they look set to be granted a voluntary amnesty for doing so again at very little cost to themselves, with no incentive to declare, and with the promise of total freedom in the future (Ashman et al., 2011, p. 22).

In a country facing serious challenges of systemic and grand corruption, there is a real risk that tax and exchange control amnesties are seen as just another way of exonerating the sins of the economically and politically influential corporations and individuals while robbing the government of valuable resources that could be used to improve the living standards of the majority of the people. In sum, while the economic case for amnesties as a means to enhance tax revenues and prevent the unauthorized holding of foreign assets remains open to debate, the political case for the policy may be even more tenuous.

8. Capital flight as anti-development

The world's most unequal country

The 13 May 2019 issue of *Time* magazine featured an eye-catching cover of an aerial photograph from Johannesburg that captured the stark inequality in South Africa. On one side of the photo is the upscale neighborhood of Primrose, and on the other, separated by a high wall, is the informal settlement of Makause (Photograph 2). The contrast is remarkable, but by no means unique in South Africa. A similar image could juxtapose the wealthy Bloubosrand and the township of Kya Sands in Johannesburg, or the Cape Town communities of Strand and Somerset West and the Nomzamo/Lwandle townships.

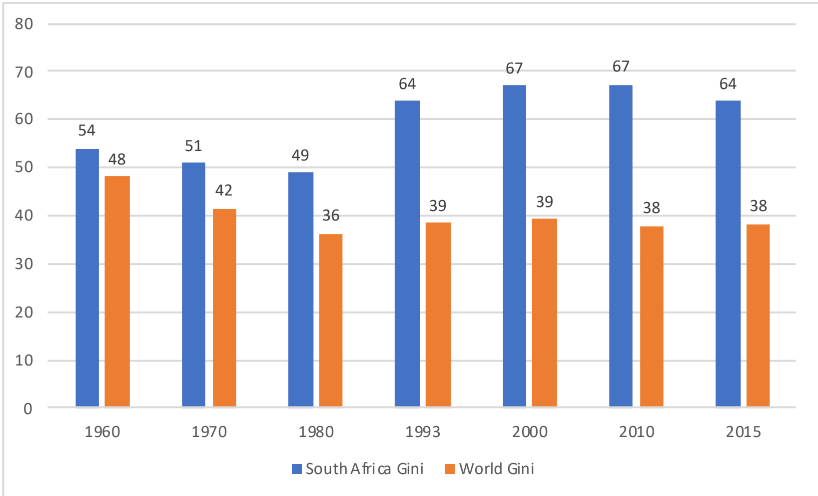
The physical separation between rich and poor in South Africa a legacy of apartheid. There are many other African cities where poverty and wealth coexist side-by-side. In Addis Ababa, the of Ethiopia, for example, the mansions of the rich and the shanty homes of the poor co-mingle in the same neighborhoods. Every morning, some residents open their eyes to see wealth they cannot even dream of, while others see abject poverty that they wish could be moved away for it depressed the value of their real estate. Today, poor households are being displaced into undeveloped settlements miles away from the city. It seems that one response to poverty and inequality is to hide the poor far from the gaze of others, saving the elite from the shame of witnessing poverty every day.

Photograph 2

Source: *Time*, May 13, 2019 (Pomerantz, 2019).

The 2018 report, *Overcoming Poverty and Inequality in South Africa*, by the World Bank, the UNDP, Statistics South Africa, and the government's Department of Planning, Monitoring and Evaluation, portrays South Africa as one of the most unequal country in the world, based on conventional measures of inequality (World Bank et al., 2018). Income inequality as measured by the Gini coefficient is far higher in South Africa than the world average (see Figure 29). Moreover, inequality today is even higher than it was under apartheid.

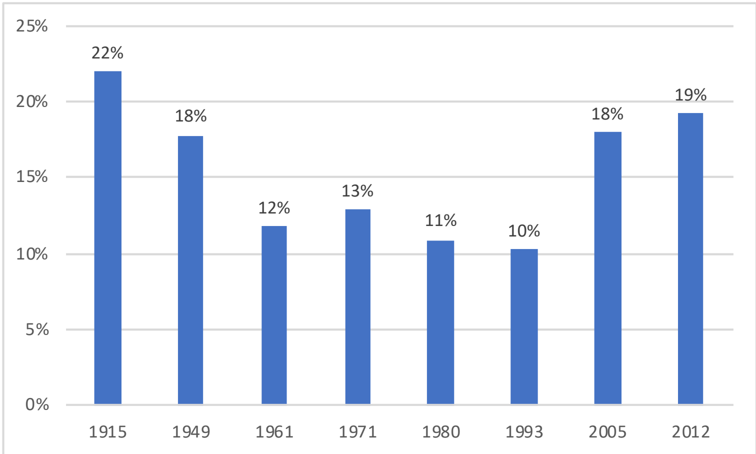
Figure 29: Inequality in South Africa compared to the world average (Gini coefficient)



South Africa: UNU-WIDER, World Income Inequality Database, https://www.wider.unu.edu/database/wiid.

It is estimated that in 2015, the richest one percent of South Africans received 19% of national income, almost double their share at the end of the apartheid era (Figure 30). Alongside income inequality, South Africa also exhibits high levels of asset inequality, which not only contributes to income inequality but also acts as a serious constraint on social mobility. Key elements of the country's asset inequality include unequal access to fertile agricultural land and unequal ownership of physical and financial capital, which remain concentrated in the hands of the white minority, a legacy of apartheid. The strategies adopted by the post-apartheid democratic governments to alleviate these inequalities to date have yielded limited results. These include the Black Economic Empowerment (BEE) program, which has been criticized as worsening intra-racial inequality by merely helping to grow the black economic elite.

Figure 30: Fiscal income in South Africa: share of the top 1%



Source: World Inequality Database (wid.world).

The implications of capital flight for poverty and inequality in South Africa

South Africa has among the highest levels of inequality among middle-income countries. The country is characterized by a wide rural-urban divide. About 65 percent of the rural population lives below the poverty line, compared to 25% for the urban population. Poverty is much higher among non-whites and among female-headed households.

In 2015, 65 percent of the South African rural population lived below the national poverty line. This was an improvement, for in 2006 the poverty rate was at 75% (World Bank et al., 2018, p. xix). The overall poverty headcount declined from 51% to 40% during the same period. The reduction in poverty in recent years is partly due to an expansion in government redistribution and family support programs, including social grants, which have helped recipients to better afford basic needs such as food, shelter, and health services. However, the beneficiaries of these programs remain highly vulnerable to falling back into poverty, since they are one grant check away from deprivation.

A key factor in poverty and inequality in South Africa, as in other countries, is access to decent employment and a living wage. Lack of access to educational opportunities compromises social mobility and contributes to perpetuating intergenerational poverty and inequality. The 2018 report on inequality and poverty put it as follows: 'The inequality of opportunity in education is particularly influential in the transition to tertiary education, where despite a high return, access to higher education remains limited. The influence of education on inequality raises concerns

regarding low-income families that lack easy access to credit markets and incur relatively high costs of sending a child to college. This serves as a major barrier to getting sufficient levels of education to participate actively in the semi-skilled and skilled labor market' (World Bank et al., 2018, p. xviii). Combatting multidimensional poverty and structural inequality will require policies that improve access to education and employment opportunities for the historically disadvantaged populations.

South Africa already has highly unequal health and education systems, where a small proportion of the population is able to access well-funded private systems, while the large majority rely on the public provision of these basic services. The inability of the state to maintain and improve public health and education systems will only serve to exacerbate existing inequalities. The Budget Justice Coalition (2019) points out that the reduction in the number of state employees over the recent years has been motivated solely by the desire to reduce costs, without addressing issues of operational efficiency and state capacity. By encouraging senior civil servants to take up generous early retirement packages, much institutional knowledge and capacity is being lost. This has particularly impacted provincial governments, where critical departments such as health and education are understaffed.

Critical health care posts today remain unfulfilled. The deteriorating healthcare system has a detrimental impact on people's lives, and the country has seen a large increase in medico-legal claims against the state, rising from R28.6 billion in March 2015 to R80.4 billion in March 2018. For some provinces, the costs of addressing these claims now makes up a substantial part of their annual healthcare budget (Budget Justice Coalition, 2019).

In basic education, spending per learner has remained at 2011/2012 levels after adjustment for inflation, with major quality shortfalls (Budget Justice Coalition, 2019). Learning outcomes of pupils in basic education do not meet basic standards, with South African students performing very poorly on international benchmarking tests. In addition, many schools do not meet basic standards for infrastructure: 2,400 schools still have unsafe pit latrines; 18,019 have no library; 16,897 have no internet connectivity; 9,956 have no sports facilities; 1,027 have no perimeter fencing; and 269 have no electricity (Budget Justice Coalition, 2019). A budget review by UNICEF (2019) echoes these concerns and indicates that the rates of growth in expenditures on basic education infrastructure, HIV/AIDS life skills, and Math, Science and Technology are expected to decline over the medium term.

Policy makers should be concerned about capital flight in any country, but the problem deserves even more serious attention in a country with high poverty and deep inequality. Capital flight contributes to worsening inequality in multiple ways. The smuggling of capital out of the country and the concealment of wealth offshore enable the wealth holders to evade taxation, further widening their income and asset advantages relative to the rest of the population. Capital flight also exacerbates inequality because the wealth accumulated abroad is shielded from the negative effects of exchange rate shocks.

Because the wealth that is hidden offshore and income generated by it are not counted in official statistics, the existing measures of inequality substantially underestimate the true levels of disparities. More accurate measures would further entrench South Africa's unenviable position as one of the most unequal countries in the world.

At the same time, capital flight reduces the government's capacity to implement redistributive fiscal policy by draining the tax base. Empirical analysis tends to show that fiscal policy in South Africa in general has been highly redistributive, combining a relatively progressive taxation system and targeted government spending on social services (see, among others, Inchauste et al. (2015), Leibbrandt et al. (2010), and van der Berg (2009)). Inchauste et al. (2015, p. 29) find that targeted fiscal policy leads to reduction in the Gini coefficient for income (after taxes and social expenditures) from 0.77 to 0.60 and reduces extreme poverty (defined as an income of $1.25 PPP per day) from 34.% to 16.5%. Indeed, the available evidence indicates that redistributive efforts of fiscal policy are relatively higher in South Africa than in comparable middle income countries (Inchauste et al., 2015; Lustig, 2016). Inchauste et al. (2015, p. 2) suggest that without these progressive strategies, two-fifths of the population would have witnessed declining incomes during the first 10 years of the democratic era.

The fact that despite these achievements South Africa's poverty rate remains high, and that the country remains one of the most unequal countries in the world, suggests a need for scaling up social spending programs and fine-tuning targeting. The government's capacity to undertake a more effective anti-poverty agenda is compromised, however, by capital flight which erodes its resource base and hence undermines its spending capacity.

By draining domestic savings, capital flight erodes investable capital and slows capital accumulation in the source country (Fofack and Ndikumana, 2010; Ndikumana and Boyce, 2013). As noted earlier, South Africa has endured a secular decline in domestic investment that started at

the beginning of the 1980s. The acceleration of capital flight in the post-apartheid era makes it harder for the country to reverse this trend, perpetuating a lower steady state level of domestic investment.

The slowdown in capital accumulation retards growth, and all else equal, slower growth translates into slower poverty reduction over time. If all the capital that fled the country had been invested domestically and had generated the same rates of return as the historical rates earned by domestic capital, South Africa would have been able to reach and even exceed the MDG1 target of halving poverty by 2015 (Nkurunziza, 2015). The negative effects of slow growth on poverty reduction are exacerbated, of course, by the negative effects of high inequality. More inequality is associated with a lower growth-poverty elasticity, meaning that higher growth rates are required to generate meaningful poverty reduction.

Insofar as capital flight is funded by the embezzlement of funds borrowed by the public sector (or guaranteed by the public sector) and the theft of state assets, it constitutes a direct drain on government resources, reducing the state's capacity to finance public investment and services such as education and health. Given that the poor segments of the population are more dependent on public social services than the rich, the reduction in the supply and quality of public services increases deprivation and further widens inequality.[86]

Capital flight from a country with high poverty and inequality may pose a serious challenge for political stability as well as economic development. For South Africa's non-white majority, the end of the apartheid regime was expected to bring dividends in the form of both political emancipation and improved economic well-being. Persistent inequality alienates the majority who remain bypassed by prosperity in a land that boasts of being the richest country on the continent. Inequality together with oppression galvanized the struggle against the apartheid regime. Going forward, inequality may stimulate new demands for social change that the government may not be able to contain. The signs of resistance to inequality are clearly emerging in South Africa, as illustrated, for example, by the resistance against financial barriers to higher education as well as the rising trend in the number of strikes by South Africa's working class. From 2009 to 2018, the

[86] This can be seen in the 2019 National Budget, where there was a R50.5 billion reduction in baseline spending Review (National Treasury, 2019). This is offset by an allocation of R75.3 billion over the next three years, almost entirely for the reconfiguration of Eskom – one of the core institutions involved in the State Capture saga. In this regard, in a five-year budget review submitted to the Parliament by a range of civil society organizations that form the Budget Justice Coalition (Budget Justice Coalition, 2019), important concerns about the cuts to social spending are raised.

number of strikes and lockouts in all sectors rose from 51 to 165 per annum (ILO Statistical database, 2020). Inequality needs to be taken seriously through policies and programs that address the concerns of the ordinary citizen, instead of focusing on redistributing wealth among those who are already in higher strata of society, such as has often occurred under BEE initiatives. To finance these programs, the government must mobilize adequate resources, and one of the ways to do so is to curb the financial hemorrhage that is capital fight.

9. Conclusion

South Africa faces a range of daunting development challenges, with stubborn multidimensional poverty and high unemployment. Its government is confronted with chronic financing deficits that make it difficult to undertake the necessary investments to meet the needs of the population for public infrastructure and social services such as education, health, and decent housing. These challenges are exacerbated by capital flight that depletes investable capital and erodes the tax base.

From 1970 to 2017, we estimate that South Africa lost over $300 billion from capital flight.

A key channel for this was the overinvoicing of imports and the underinvoicing of exports. Net trade misinvoicing contributed to $146 billion in capital flight over the 1998-2017 period alone. Export underinvoicing appears to be especially rampant in the case of mineral resources, such as gold, silver, platinum and diamonds. An important step in combating capital flight is to tackle trade-based outflows by implementing rigorous, symmetrical, and transparent reporting of trade statistics, starting with big-ticket items such as mineral exports. At the very least, it would be a significant improvement to establish reliability and consistency across data published by various government agencies, and between South African government agencies and the international institutions to which it supplies trade data. Even better would be international cooperation to ensure symmetrical reporting between South Africa's own data and that of its trading partners. A key to achieving this is to systematically apply international conventions on reporting of trade statistics to which South Africa already is a signatory.

Capital flight has resulted in the accumulation of massive private wealth hidden abroad. This constitutes a loss to the country in terms of drainage of investable capital and shrinking of the tax base. The accumulation of private offshore wealth exacerbates poverty and income and asset inequality, making this a serious development problem.

Since the apartheid era, successive South African governments have tried to implement policies to tackle the problem of capital flight and encourage domestic investment. The analysis presented in this paper suggests that these policies have not had much effect in reigning in capital flight or enticing repatriation of offshore wealth. The rigid capital controls under the apartheid era proved ineffective, mainly because they were implemented at a time where the country was facing deep political instability and an international economic embargo. Since the government turned to market liberalization starting in the 1990s, the results have not been significantly better. Indeed, capital

flight accelerated during the very same period when the government ramped up market-based reforms. The government adopted direct measures to entice offshore wealth repatriation and increase tax compliance through various amnesties. The gains from these programs remain largely unknown because of the lack of adequate data.

In designing policies to reduce capital flight and induce offshore wealth repatriation, it is important to distinguish between legal capital outflows and honestly acquired offshore wealth on the one hand, and illicit transfers and illegally acquired wealth on the other hand. Reforms that raise the domestic rates of returns to investment and reduce market uncertainty are not likely to affect decisions regarding wealth that was illicitly acquired, transferred and held abroad. For this form of wealth, the asset holders are less interested in high rates of returns to investment than they are in the protection that secrecy jurisdictions provide against legal prosecution. What is needed instead are effective strategies to strengthen domestic legal systems and international cooperation, to increase financial transparency and enhance the exchange of information on illicit cross-border financial flows and trade misinvoicing.

A key challenge faced by South Africa in its quest to combat capital flight and the associated problems of tax evasion, profit shifting, and money laundering is the erosion of public confidence in state institutions associated with the phenomenon of state capture. Recent reports have unveiled a deeply troubling pattern of corrosive collusion between state actors and a network of enablers who orchestrated the plunder of state resources to accumulate private wealth. These networks include powerful and politically well-connected individuals and families, domestic and foreign banks, law and auditing firms, consulting firms and others with deep connections with the government and the private sector in South Africa and around the world. In this paper, we used the case of the Gupta family to illustrate the role of these networks in state capture and money laundering. Lamentably, and as astounding as this may seem, it is likely that the case of the Gupta family is only the tip of the iceberg, exposing much deeper problems faced by state institutions in South Africa today. Such an environment is fertile ground for capital flight and other forms of illicit financial flows.

The severe adverse effects of capital flight and offshore wealth accumulation on economic development, institutional quality and governance call for decisive action to prevent potentially more devastating consequences in terms of political and social instability. In sum, capital flight is an issue that needs to be tackled urgently.

References

AfrAsia Bank. 2019. *Africa Wealth Report 2019*. Port Louis, Mauritius: AfrAsia Bank.

African News Agency. 2019. State capture commission turns to Estina dairy farm project. *Polity*, 22 July, Available at https://www.polity.org.za/print-version/state-capture-commission-turns-to-estina-dairy-farm-project-2019-07-22. Accessed on 22 June 2020.

amaBhungane. 2013a. Gupta dairy project milks Free State coffers. *Mail & Guardian*, 7 June, Available at https://mg.co.za/article/2013-06-07-gupta-dairy-project-milks-free-state-coffers/. Accessed on 27 April 2020.

amaBhungane. 2013b. Guptas' farm cash cows in Free State Center for Investigative Journalism, Available at https://amabhungane.org/stories/guptas-farm-cash-cows-in-free-state/#. Accessed on 27 April 2020.

amaBhungane and Scorpio. 2017a. #GuptaLeaks: A third Gupta-Transnet 'kickback' contract unearthed. *Daily Maverik*, 18 September, Available at https://amabhungane.org/stories/guptaleaks-a-third-gupta-transnet-kickback-contract-unearthed/#. Accessed on 17 April 2020.

amaBhungane and Scorpio. 2017b. #GuptaLeaks: The Dubai Laundromat – How KPMG saw no evil at the Sun City wedding. *Daily Maverik*, 30 June, Available at https://amabhungane.org/stories/guptaleaks-the-dubai-laundromat-how-kpmg-saw-no-evil-at-the-sun-city-wedding/. Accessed on 18 October 2019.

amaBhungane and Scorpio. 2017c. #GuptaLeaks: The Dubai Laundromat – How millions milked from Free State government paid for Sun City wedding, 30 June, Available at https://amabhungane.org/stories/guptaleaks-the-dubai-laundromat-how-millions-milked-from-free-state-government-paid-for-sun-city-wedding/#. Accessed on 27 April 2020.

amaBhungane and Scorpio. 2018. #GuptaLeaks: Meet the Money Launderers. Cape Town: Center for Investigative Journalism, Available at https://amabhungane.org/stories/guptaleaks-meet-the-money-launderers/. Accessed on 15 October 2019.

Antin, D. 2013. The South African Mining Sector: An Industry at a Crossroads. Johannesburg: Hans Siedel Foundation - Economy Report South Africa (December), Available at https://southafrica.hss.de/fileadmin/user_upload/Projects_HSS/South_Africa/170911_Migration/Mining_Report_Final_Dec_2013.pdf. Accessed on 15 October 2019.

Ashman, S., Fine, B., and Newman, S. 2011. Amnesty International? The nature, scale and impact of capital flight from South Africa. *Journal of Southern African Studies,* 37(01), 7-25.

Ayogu, M. 2019. International Trade and Capital Flight from Africa: Challenges for Governance Amherst, MA: Political Economy Research Institute, PERI Working Paper 501, Accessed.

Bezuidenhout, J. 2019a. Embattled Trillian blames its cash woes on Salim Essa. *Daily Maverik*, 21 August, Available at https://www.dailymaverick.co.za/article/2019-08-21-embattled-trillian-blames-its-cash-woes-on-salim-essa/. Accessed on 1 January 2020.

Bezuidenhout, J. 2019b. How State Capture business was conducted - former Optimun Coal CEO tells all. *BizNews*, 28 February, Available at https://www.biznews.com/leadership/2019/02/28/business-time-state-capture-glencore-optimum-coa. Accessed on June 12, 2020.

Bhana, N. 1985. The recommendations of the De Kock Commission of Inquiry and its implications for foreign security investments by South African residents. *South African Journal of Management,* 16(4), 204-208.
Bhardwaj, T. 2018. Bank of Baroda to Shut Down its Operations in South Africa by March-end. *News 18*, 12 February, Available at https://www.news18.com/news/business/bank-of-baroda-to-shut-down-its-operations-in-south-africa-by-march-end-1658781.html. Accessed on 29 March 2020.
Bogdanich, W., and Forsythe, M. 2018. How McKinsey Lost Its Way in South Africa. *New York Times*, 26 June, Available at https://www.nytimes.com/2018/06/26/world/africa/mckinsey-south-africa-eskom.html. Accessed on 10 March 2020.
Bond, P. 2019. Lonmin's murder, by money. *Pambazuka News*, 31 May, Available at https://www.pambazuka.org/economics/lonmin%E2%80%99s-murder-money. Accessed on 28 March 2020.
Bornhorst, F., Gupta, S., and Thornton, J. 2009. Natural resource endowments and the domestic revenue effort. *European Journal of Political Economy,* 25(4), 439-446.
Budget Justice Coalition. 2019. Budgeting in an Era of Austerity and State Capture: A Five-Year Review of Budget Policies and Outcomes. Submission by the Budget Justice Coalition to the Select and Standing Committees on Finance. Grahamstown, South Africa: Public Service Accountability Monitor (PSAM) Available at http://psam.org.za/wp-content/uploads/2019/07/Budget-Justice-Coalition-5-year-Review-Submission-to-Finance-Committees.pdf. Accessed on 21 February 2020.
Business Today. 2019. Bank of Baroda becomes second-largest PSU, third-largest bank in India. *Business Today*, 1 April, Available at https://www.businesstoday.in/top-story/bank-of-baroda-becomes-second-largest-psu-third-largest-bank-in-india/story/332888.html. Accessed on 21 February 2020.
Cameron, J. 2017. #JoiningTheDots: Meet McKinsey Gupta mole Vikas Sagar. *BizNews*, 14 July, Available at https://www.biznews.com/sa-investing/2017/07/14/vikas-sagar-mckinsey. Accessed on 9 April 2020.
Cameron, J. 2018. New blow for Zupta justice: KPMG won't share incriminating SARS rogue report. *BizNews*, 22 February, Available at https://www.biznews.com/sa-investing/2018/02/22/kpmg-sars-rogue-report. Accessed on 9 April 2020.
Collier, P., Hoeffler, A., and Pattillo, C. 2001. Flight capital as a portfolio choice. *World Bank Economic Review,* 15, 55-80.
Cotterill, J. 2018a. Jacob Zuma's son charged with corruption in Gupta family probe. *Financial Times*, 9 July, Available at https://www.ft.com/content/83b5c11e-8365-11e8-a29d-73e3d454535d. Accessed on 13 November 2019.
Cotterill, J. 2018b. McKinsey ordered to forfeit South African contract fees. Financial Times, 15 January. *Financial Times*, 15 January, Available at https://www.ft.com/content/a0af77d8-fa17-11e7-a492-2c9be7f3120a. Accessed on 20 June 2020.
Cotterill, J. 2018c. South African lawmakers accuse McKinsey of possible crimes. *Financial Times (November 28)*.
Credit Suisse. 2019. *Global Wealth Report 2019*. Switzerland (online): Credit Suisse Research Institute.
Davis, R. 2018. #GuptaLeaks whistle-blowers speak out for the first time. *Daily Maverick*, 15 August, Available at https://www.dailymaverick.co.za/article/2018-08-15-guptaleaks-whistle-blowers-speak-out-for-the-first-time/. Accessed on 18 April 2020.

de Wet, P. 2017. Will Oakbay find a JSE sponsor? *Mail & Guardian*, 9 June, Available at https://mg.co.za/article/2017-06-09-00-will-oakbay-find-a-jse-sponsor. Accessed on 25 October 2019.

du Toit, P. 2019. 1922 - 2019: The rise and fall of Eskom. *Fin24*, 13 February, Available at https://www.news24.com/fin24/Economy/1922-2019-the-rise-and-fall-of-eskom-20190213#:~:text=Pravin%20Gordhan%2C%20minister%20of%20public,years%20of%20mismanagement%20and%20corruption. Accessed on 24 November 2019.

England, A. 2016. South Africa: The power of the family business. *Financial Times*, 8 March, Available at https://www.ft.com/content/abd6e034-e519-11e5-a09b-1f8b0d268c39 Accessed on 24 November 2019.

Faku, D. 2019. Amcu ropes in human rights lawyer Richard Spoor in Samancor battle Accessed. *Independent Online*, 10 October, Available at https://www.iol.co.za/business-report/companies/amcu-ropes-in-human-rights-lawyer-richard-spoor-in-samancor-battle-34489727. Accessed on 22 May 2020.

Farrell, G. N., and Todani, K. R. 2004. Capital flows, exchange control regulations and exchange rate policy: The South African experience Pretoria: Bond Exchange of South Africa, Background paper prepared for OECD seminar "How to reduce debt costs in Southern Africa?", 25 and 26 March 2004, Available at https://pdfs.semanticscholar.org/5d5d/df579b881a3e53584dc27933b9796fbb68cb.pdf. Accessed on 28 November 2019.

Fedderke, J., and Liu, W. 2002. Modelling the determinants of capital flows and capital flight: with an application to South African data from 1960 to 1995. *Economic Modelling,* 19(3), 419-444.

Fofack, H., and Ndikumana, L. 2010. Capital flight repatriation: Investigation of its potential gains for Sub-Saharan African countries. *African Development Review,* 22(1), 4-22.

Forslund, D. 2015a. The Bermuda Connection: Profit shifting, inequality and unaffordability at Lonmin 1999-2012 Alternative Information & Development Center, Available at https://www.researchgate.net/publication/282947475_The_Bermuda_Connection_Profit_shifting_inequality_and_unaffordability_at_Lonmin_1999-2012. Accessed on 30 March 2020.

Forslund, D. 2015b. Briefing on the report The Bermuda connection: profit shifting, inequality and unaffordability at Lonmin 1999–2012. *Review of African Political Economy,* 42(146), 657-665.

Gebrekidan, S., and Onishi, N. 2018. Corruption Gutted South Africa's Tax Agency. Now the Nation Is Paying the Price. *The New York Times*, 10 June, Available at https://www.nytimes.com/2018/06/10/world/africa/south-africa-corruption-taxes.html. Accessed on 3 October 2019.

Gelb, S., and Black, A. 2004. Foreign Direct Investment in South Africa. In S. Estrin and M. E. Klaus (Eds.), *Investment Strategies in Emerging Markets* (pp. 117-212). New York: Edward Elgar Publishing.

Gous, N. 2018a. Nedbank says no more to Bank of Baroda. *Business Day*, 28 February, Available at https://www.businesslive.co.za/bd/companies/financial-services/2018-02-28-nedbank-says-no-more-to-bank-of-baroda/. Accessed on 25 February 2020.

Gous, N. 2018b. NPA baffled by Atul Gupta's application to recover R10 million. *Sunday Times*, 22 February, Available at https://www.timeslive.co.za/news/south-africa/2018-02-22-npa-baffled-by-atul-guptas-application-to-recover-r10-million/#. Accessed on 27 April 2020.

Henry, J. S. 2012. The price of offshore revisited. London: Tax Justice Network, Available at https://www.taxjustice.net/wp-content/uploads/2014/04/Price_of_Offshore_Revisited_120722.pdf. Accessed on 14 October 2019.

Henry, J. S. 2016. The Price of Offshore - Data by Region. The Global Haven Industry: http://globalhavenindustry.com/price-of-offshore-menu, Available at http://globalhavenindustry.com/price-of-offshore-menu. Accessed.

Hosken, G. 2017. KPMG cans SARS 'rogue unit' report, apologises to Gordhan. *Sunday Times*, 15 September, Available at https://www.timeslive.co.za/politics/2017-09-15-kpmg-cans-sars-rogue-unit-report-apologises-to-gordhan/. Accessed on 17 June 2020.

Hosken, G. 2019. Amcu mounts R7.5bn claim after accusing SA's chrome mining giant of corruption. *Sowetan Live*, 2 October, Available at https://www.sowetanlive.co.za/news/south-africa/2019-10-02-amcu-guns-for-sa-chrome-mining-giant-in-r75bn-claim/. Accessed on 24 February 2020.

Hume, N. 2020. AngloGold sells world's deepest gold mine in South Africa exit. *Financial Times*, 12 February, Available at https://www.ft.com/content/348193d2-4d82-11ea-95a0-43d18ec715f5. Accessed on 9 April 2020.

IMF. 2009. *Balance of payments and international investment position manual - Sixth Edition (BPM6)*. Washington, DC: IMF.

IMF. various years. *Annual Report on Exchange Arrangements and Exchange Restrictions*. Washington DC: IMF.

Inchauste, G., Lustig†, N., Maboshe, M., Purfield, C., and Woolard, I. 2015. The distributional impact of fiscal policy in South Africa Washington, DC: World Bank Policy Research Working Paper 7194, February, Available at http://documents.worldbank.org/curated/en/502441468299632287/pdf/WPS7194.pdf. Accessed on 3 October 2019.

Johannesen, N., Langetieg, P., Reck, D., Risch, M., and Slemrod, J. 2018. Taxing Hidden Wealth: The Consequences of U.S. Enforcement Initiatives on Evasive Foreign Accounts. Cambridge, MA: NBER Working Paper 24366, Available at http://www.nber.org/papers/w24366. Accessed on 16 February 2020.

JSCFMP. 1994. Final Draft Report of the Joint Standing Committee on Finance on the Third Interim Report of the Katz Zommission of Inquiry into Taxation. Pretoria: South African Treasury, Joint Standing Committee on Financial Management of Parliament, Available at http://www.treasury.gov.za/publications/other/katz/3.pdf. Accessed on 29 March 2020.

Kahn, B. 1991. Capital Flight and Exchange Controls in South Africa. Research Paper No. 4. Centre for the Study of the South African Economy and International Finance, London School of Economics.

Klein, M. W., Forbes, K. J., and Werning, I. 2012. Capital Controls: Gates versus Walls [with Comments and Discussion]. *Brookings Papers on Economic Activity,* Fall, 317-367.

Lechela, N., and Cronje, J. 2018. Ntsebeza Inquiry gets final SARS 'rogue unit' report from KPMG. *Fin24*, 7 March, Available at https://www.fin24.com/Economy/ntsebeza-inquiry-gets-final-sars-rogue-unit-report-from-kpmg-20180307. Accessed on 20 February 2020.

Leibbrandt, M., Woolard, I., Finn, A., and Argent, J. 2010. Trends in South African Income Distribution and Poverty Since the Fall of Apartheid. *OECD Social, Employment and Migration Working Papers,* 11.

Lewis, J. D. 2001. Reform and Opportunity: The Changing Role and Patterns of Trade in South Africa and SADC. *Africa Region Working Paper Series,* 14(March).

Lewis, J. D. 2002. Promoting Growth and Employment in South Africa. *South African Journal of Economics,* 70(4), 727-776.

Lustig, N. 2016. Inequality and Fiscal Redistribution in Middle Income Countries: Brazil, Chile, Colombia, Indonesia, Mexico, Peru and South Africa. *Journal of Globalization and Development,* 7(1), 17-60.

Mail & Guardian Staff Reporter. 2017. Heads in the sand over Gupta listing. *Mail & Guardian*, 4 August, Available at https://mg.co.za/article/2017-08-04-00-heads-in-the-sand-over-gupta-listing. Accessed on 16 April 2020.

Malope, L. 2019. Amcu targets Samancor's 'missing billions'. *City Press*, 14 October, Available at https://city-press.news24.com/Business/amcu-targets-samancorsmissing-billions-20191014. Accessed on 16 April 2020.

Marais, H. 2011. *South Africa Pushed to the Limit: The Political Economy of Change*. London, UK: Zed Books.

Marchant, M., Mosiana, M., Holden, P., and van Vuuren, H. 2020. The Enablers: The bankers, accountants and lawyers that cashed in on state capture. Cape Town: Open Secrets and Shadow World Investigations, Available at https://www.opensecrets.org.za/site/wp-content/uploads/TheEnablers_web.pdf. Accessed on 29 March 2020.

Marikana Commission of Inquiry. 2015. *Report on Matter of National and International Concern Arising Out of the Tragic Incidents at the Lonmin Mine in Marikana, in the North-West Province*. Pretoria: Office of the PResident, GG 38978, GeN 699 (10 July).

Marriage, M. 2019. Former KPMG partner struck off South Africa register over Gupta audits. *Financial Times*, 28 March, Available at https://www.ft.com/content/2591c996-5157-11e9-9c76-bf4a0ce37d49. Accessed on 20 February 2020.

Marriage, M., and Coterrill, J. 2018. McKinsey unclear how to repay South Africa scandal fees. *Financial Times*, 4 March, Available at https://www.ft.com/content/8e310198-1c91-11e8-aaca-4574d7dabfb6. Accessed on 20 February 2020.

McKenzie, R., and Pons-Vignon, N. 2012. Volatile Capital Flows and a Route to Financial Crisis in South Africa, PRA Paper No. 40119. https://mpra.ub.uni-muenchen.de/40119/: MPRA, Accessed.

McNeill, R., and Shabalala, Z. 2019. New Gold Rush: Gold worth billions smuggled out of Africa. A Reuters Exclusive. *Reuters*, 24 April, Available at https://www.reuters.com/investigates/special-report/gold-africa-smuggling/. Accessed on 21 March 2020.

Mehta, S. 2018. Bank of Baroda to shut down South Africa operation. *Economic Times*, 13 February, Available at https://economictimes.indiatimes.com/markets/stocks/news/bank-of-baroda-to-shut-down-s-africa-operation/articleshow/62896851.cms?from=mdr. Accessed on 29 March 2020.

Mohamed, S., and Finnoff, K. 2005. Capital Flight from South Africa, 1980–2000. In G. Epstein (Ed.), *Capital flight and capital controls in developing countries* (pp. 85-115). New York: Edward Elgar.

Montiero, A. 2017. Gupta Family Deny South African Emails are Real in BBC Interview. *Bloomberg.com*, 2 August, Available at https://www.bloombergquint.com/politics/gupta-family-deny-south-african-emails-are-real-in-bbc-interview. Accessed on 17 June 2020.

Motshwane, K. 2017. Overview of the South African Business Rescue Process. *Emerging Markets Restructuring Journal,* 3(Spring).

Mvumvu, Z. 2020. Transnet was being robbed under Brian Molefe: judge Raymond Zondo. *Times Live*, 24 January, Available at https://www.timeslive.co.za/politics/2020-01-24-transnet-was-being-robbed-under-brian-molefe-judge-raymond-zondo/. Accessed.

Myburgh, P. L. 2017. *The Republic of Gupta: A Story of State Capture*. South Africa: Penguin Random House.

Ndebele, N. 2016. Anatomy of the Gupta-Zuma Syndrome. *City Press*, 20 March, Available at https://city-press.news24.com/News/anatomy-of-the-gupta-zuma-syndrome-20160320. Accessed on 29 March 2020.

Ndikumana, L., and Boyce, J. K. 2010. Measurement of capital flight: Methodology and results for sub-Saharan African countries. *African Development Review,* 22(4), 471-481.

Ndikumana, L., and Boyce, J. K. 2013. *La Dette Odieuse d'Afrique : Comment l'Endettement et la Fuite des Capitaux ont Saigné un Continent*. Dakar, Senegal: Amalion Publishing.

Ndikumana, L., and Boyce, J. K. 2019. Magnitudes and Mechanisms of Capital Flight from Angola, Côte d'Ivoire and South Africa. Political Economy Research Institute, Working Paper 500. Amherst, MA.

Ndikumana, L., Boyce, J. K., and Ndiaye, A. S. 2015. Capital flight from Africa: Measurement and drivers. In S. I. Ajayi and L. Ndikumana (Eds.), *Capital Flight from Africa: Causes, Effects and Policy Issues* (pp. 15-54). Oxford: Oxford University Press.

Nicolaou-Manias, K., and Wu, Y. 2016. Illicit financial flows: Estimating trade mispricing and trade-based money laundering for five African countries. *Global Economic Governance Africa (GEGAfrica) Discussion Paper,* 2016-17.

Nishiuchi, T. 2013. Oil Depletion and Adjusted Net Savings in Sudan and South Sudan Washington, DC: World Bank, Available at https://www.wavespartnership.org/sites/waves/files/documents/Sudans%20Oil%20Depletion%20%26%20ANS%20(Final%20Feb%202013).pdf. Accessed on 29 March 2020.

Nkurunziza, J. D. 2015. Capital flight and poverty reduction in Africa. In I. Ajayi and L. Ndikumana (Eds.), *Capital Flight from Africa: Causes, Effects and Policy Issues* (pp. 81-110). Oxford, UK: Oxford University Press.

OECD. 2010. Offshore Voluntary Disclosure Comparative analysis, guidance and policy advice. Paris: OECD, Available at http://www.oecd.org/tax/exchange-of-tax-information/46244704.pdf. Accessed on 14 December 2020.

OECD. 2015. Update on Voluntary Disclosure Programmes: A Pathway to Tax Compliance. OECD Report. Paris: OECD, August, Available at https://www.oecd.org/ctp/exchange-of-tax-information/Voluntary-Disclosure-Programmes-2015.pdf. Accessed on 10 February 2020.

Office of the Public Protector South Africa. 2016. State Capture. Report No. 6 of 2016/2017, Available at https://www.sahistory.org.za/sites/default/files/2019-05/329756252-state-of-capture-14-october-2016.pdf. Accessed on 14 November 2019.

Omarjee, L. 2019. Bank of Baroda SA fined R400 000 by Reserve Bank regulator. *Fin24*, 6 August, Available at https://www.fin24.com/Companies/Financial-Services/bank-of-baroda-sa-fined-r400-000-by-reserve-bank-regulator-20190806. Accessed on 28 March 2020.

Onishi, N., and Gebrekidan, S. 2018. In Gupta Brothers' Rise and Fall, the Tale of a Sullied A.N.C. *The New York Times*, 22 December, Available at https://www.nytimes.com/2018/12/22/world/africa/gupta-zuma-south-africa-corruption.html. Accessed on 28 March 2020.

Pather, R. 2018a. Atul Gupta challenges court order to freeze R10-million. *Mail & Guardian*, 19 February, Available at https://mg.co.za/article/2018-02-19-atul-gupta-challenges-court-order-to-freeze-r10-million/. Accessed on 28 March 2020.

Pather, R. 2018b. The state's case against the Guptas and co. *Mail & Gardian,* 16 February.

Pomerantz, K. 2019. The Story Behind TIME's Cover on Inequality in South Africa. *Time*, 2 May, Available at https://time.com/5581483/time-cover-south-africa/. Accessed on 29 March 2020.

Portfolio Committee on Public Enterprises. 2018. *Report of Public Enterprises Committee into Eskom Inquiry*. Pretoria: Portfolio Committee on Public Enterprises.

Pretorius, D. A. 1968. Mineral exploration in Southern Africa: Problems and prognosis for the next twenty years. Johannesburg: Economic Geology Research Unit, university of Witwatersrand, Accessed on 9 November 2019.

Reuters. 2019. South Africa winddraws corruption charges against Zuma's son, 24 January, Available at https://www.reuters.com/article/us-safrica-zuma/south-africa-withdraws-corruption-charges-against-zumas-son-idUSKCN1PI0VG. Accessed on 11 June 2020.

Rustomjee, Z. 1991. Capital flight under apartheid. *Transformation,* 15, 89-103.

SARB. 2016. Proposed joint tax and exchange control Special Voluntary Disclosure Program. Exchange Control Circular No. 6/2016, Available at https://www.resbank.co.za. Accessed on 13 January 2020.

SARB. 2019. Currency and Exchanges Guidelines for Business Entities, 2019-10-31 Pretoria: SARB (online), Available at https://www.resbank.co.za/fastsearch/Pages/Results.aspx?k=%22Currency%20and%20Exchanges%20Guidelines%20for%20Business%20Entities%22. Accessed on 11 December 2019.

SARS. 2006. SARS background briefing on tax amnesty for small business, Available at https://www.gov.za/sars-background-briefing-tax-amnesty-small-business. Accessed on 14 January 2020.

SARS. 2007. Agreement on Customs and Tax Administration Cooperation between the Government of the Republic of South Africa, the Government of the Republic of India and the Government of the Federative Republic of Brazil. Pretoria: SARS (online), Available at https://www.sars.gov.za/AllDocs/LegalDoclib/Agreements/LAPD-IntA-OA-2012-01%20%20IBSA%20Tax%20Cooperation%20India%20Brazil%20South%20Africa.pdf. Accessed on 13 January 2020.

SARS. 2010a. External Guide: Voluntary Disclosure Program (Revision 4). Pretoria: SARS (online), Available at https://www.sars.gov.za/AllDocs/OpsDocs/Guides/GEN-VDP-02-G01%20-%20Voluntary%20Disclosure%20Programme%20-%20External%20Guide.pdf. Accessed on 14 January 2020.

SARS. 2010b. Voluntary Disclosure Program and Tax Laws Second Amendment Act no. 8. Pretoria: SARS (online), Available at http://www.sars.gov.za/AllDocs/LegalDoclib/AmendActs/LAPD-LPrim-AA-2010-02%20-%20VDP%20Taxation%20Laws%20Second%20Amendment%20Act%202010.pdf. Accessed on 14 January 2020.

SARS. 2016a. Government Notice No. 618. Pretoria: SARS (online), Available at https://www.sars.gov.za/AllDocs/LegalDoclib/Agreements/LAPD-IntA-DTA-2016-04%20-%20DTA%20United%20Arab%20Emirates%20GG%2040496.pdf. Accessed on 13 January 2019.

SARS. 2016b. Guide: Special Voluntary Disclusure Program. Pretoria: SARS (online), Available at https://www.sars.gov.za/AllDocs/LegalDoclib/Drafts/LAPD-LPrep-Draft-2016-90%20-%20SVDP%20Guide%20v1-2.pdf. Accessed on 14 January 2020.

SARS. 2018. *South African Revenue Service - Annual Performance Plan 2017/18*. Pretoria: SARS (online).

SARS. 2019. *South African Revenue Service - Annual Report 2018/2019*. Pretoria: SARS (online).

Scott, K., and Pettersson, H. 2019. South Africa is the world's most unequal country. 25 years of freedom have failed to bridge the divide. *CNN*, 10 May, Available at https://www.cnn.com/2019/05/07/africa/south-africa-elections-inequality-intl/index.html. Accessed on 29 May 2020.

Sethi, A., and Gopakumar, G. 2018. How Bank of Baroda's misadventures dragged it into South Africa's political crisis. . *Hidustan Times*, 6 February, Available at https://www.hindustantimes.com/business-news/how-a-series-of-mistakes-by-bank-of-baroda-dragged-it-into-south-africa-s-political-crisis-ht-investigation/story-KZ8JRozaG0ToWrxbO0tbKN.html. Accessed on 17 June 2020.

Sharife, K., and Joseph, J. 2018a. How the Guptas Milked South Africa for Diamonds. Online: Organized Crime and Corruption Reporting Project, Available at https://www.occrp.org/en/investigations/8500-how-the-guptas-milked-south-africa-for-diamonds. Accessed on 18 October 2019.

Sharife, K., and Joseph, J. 2018b. India’s Bank of Baroda Played a Key Role in South Africa’s Gupta Scandal Organized Crime and Corruption Project (OCCRP), Available at https://www.occrp.org/en/investigations/7696-india-s-bank-of-baroda-played-a-key-role-in-south-africa-s-gupta-scandal. Accessed on 10 December 2019.

Smit, B. W., and Mocke, B. A. 1991. Capital flight from South Africa: magnitude and causes. *South African Journal of Economics,* 59(2), 101-117.

Sole, S., and Comrie, S. 2017. How Brian Molefe ‘helped’ Gupta Optimum Heist. amaBhungane Centre for Investigative Journalism, Available at https://amabhungane.org/stories/exclusive-how-brian-molefe-helped-gupta-optimum-heist/. Accessed on 31 March 2020.

South African Gauteng Division High Court. 2016. Case No: 22877/2018: Eskom hOldings Soc LTD vs. Mckinsey & Company Africa, Trillian Management Consulting, Trillian Capital Partners, National Director of Public Prosecutions and MMS Nxumalo N.O. , Available at http://www.saflii.org/za/cases/ZAGPPHC/2019/185.pdf Accessed on 20 June 2020.

South AFrican Gauteng Division High Court. 2019. Case Number 83344/18: Oakbay Investments (PTY) LTD vs. Tegeta Exploration and Resources (PTY) LTD. Pretoria, 30 August, Available at http://www1.saflii.org/za/cases/ZAGPPHC/2019/411.pdf. Accessed on 17 March 2020.

South African National Treasury. 1961. Exchange Control Regulations 1961 (as promulgated by Government Notice R.1111 of 1 December 1961 and amended up to Government Notice No. R.445 in Government Gazette No. 35430 of 8 June 2012) Pretoria: National Treasury, Available at https://www.resbank.co.za/RegulationAndSupervision/FinancialSurveillanceAndExchangeControl/Legislation/Documents/Exchange%20Control%20Regulations,%201961.pdf. Accessed on 21 November 2019.

South African National Treasury. 1987. *Report of the Commission of Inquiry into the Tax Structure of the Republic of South Africa (The Margo Commission Report), RP34/1987*. Pretoria: National Treasury.

South African National Treasury. 2003a. Exchange Control Amnesty and Amendment of Taxation Laws Act, 2003. Pretoria: National Treasury, Available at https://www.sars.gov.za/AllDocs/LegalDoclib/AmendActs/LAPD-LPrim-AA-2003-01%20-%20Exchange%20Control%20Amnesty%20Amendment%20Taxation%20Laws%20Act%202003.pdf. Accessed on 22 November 2019.

South African National Treasury. 2003b. Explanatory Memorandum on the Exchange Control Amnesty and Amendment of Taxation Laws Bill, 2003. Pretoria: National Treasury, Available at http://www.sars.gov.za/AllDocs/LegalDoclib/ExplMemo/LAPD-LPrep-EM-2003-02%20-%20%20Explanatory%20Memorandum%20Exchange%20Control%20Amnesty%20Amendment%20Taxation%20Laws%20Bill%202003.pdf. Accessed on 21 November 2019.

South African National Treasury. 2006. Small Business Tax Amnesty and Amendment of Taxation Laws Act, 2006. Pretoria: National Treasury, Available at https://www.sars.gov.za/AllDocs/LegalDoclib/AABC/LAPD-LPrim-Act-2012-02%20-%20Small%20Business%20Tax%20Amnesty%20Amendment%20Taxation%20Laws%20Act%202006.pdf. Accessed on 21 November 2019.

South African National Treasury. 2018a. *Final Report: Forensic Investigation into Various Allegations at Transnet And Eskom: Tender Number NT 022-2016 RFQ 026-2017*. Pretoria: National Treasury.

South African National Treasury. 2018b. Minister's Speech at the SARS 2017/2018 preliminary revenue outcome announcement. Pretoria: National Treasury, Available at https://www.sars.gov.za/AllDocs/Documents/Revenue%202018/Minister%20of%20Finance's%20speech%20at%20SARS%202018%20Prelim%20Revenue%20Outcome%20Announcement.pdf Accessed on 21 November 2019.

Stals, C. 1998. The changing face of exchange control and its impact on cross-borderinvestment opportunities in South Africa. Address by the Governor of the South African ReserveBank, Dr. Chris Stals, at the Annual Australia/Southern Africa Business Council Meeting held in Sydney on 23/7/1998., Available at https://www.bis.org/review/r980830c.pdf. Accessed on 21 November 2019.

Steenkamp, T. 1996. Some Aspects of Corporate Taxation in South Africa: The Katz Commission. *Economic Society of South Africa, vol. 64(1), pages 1-11,* 64(1), 1-11.

Streak, J. C. 2004. The Gear legacy: Did Gear fail or move South Africa forward in development? *Development Southern Africa,* 21, 271-288.

Taylor, I. 2001. *Stuck in Middle GEAR: South Africa's Post-Apartheid Foreign Relations*. Westport, CT: Praeger.

TimesLive. 2018. NPA provisionally drops dairy case against Gupta and associates. *TimesLive*, 28 November, Available at https://www.timeslive.co.za/news/south-africa/2018-11-28-npa-provisionally-drops-estina-dairy-case-against-guptas-and-associates/. Accessed on 20 June 2020.

Toyana, M. 2017. KPMG South Africa under fire for withdrawing tax agency report. *Reuters*, 18 Septermber, Available at https://www.reuters.com/article/us-kpmg-safrica/kpmg-south-africa-under-fire-for-withdrawing-tax-agency-report-idUSKCN1BT0W7#:~:text=PRETORIA%20(Reuters)%20%2D%20South%20Africa's,to%20spy%20on%20political%20leaders. Accessed on 11 June 2020.

UNICEF. 2019. 2018/2019 National Budget Brief: South Africa. UNICEF: Eastern and Southern Africa Regional Office, Available at https://www.unicef.org/esa/sites/unicef.org.esa/files/2018-12/UNICEF-South-Africa-2018-National-Budget-Brief.pdf Accessed on 30 March 2020.

US Department of Interior. 2019. US Geological Survey. 2015 Mineral Yearbook – South Africa (Advance Release). Washington, DC: USGS, September, Available at https://www.usgs.gov/science-explorer-results?es=US+Geological+Survey.+2015+Mineral+Yearbook. Accessed on 10 November 2019.

van der Berg, S. 2009. Fiscal incidence of social spending in South Africa, 2006. Stellenbosch University: Department of Economics, Working Paper 10/2009, Available at https://ideas.repec.org/p/sza/wpaper/wpapers82.html. Accessed on 22 November 2019.

van Rensburg, D. 2019. The great Samancor 'heist'. *Fin24*, 2 October, Available at https://www.fin24.com/Companies/Mining/the-great-samancor-heist-20191002. Accessed on 31 March 2020.

van Zyl, G. 2017. Voluntary offshore disclosures: Final SARS deadline fast approaches. *BizNews*, 22 August, Available at https://www.biznews.com/wealth-building/2017/08/22/voluntary-offshore-disclosures-sars. Accessed on 22 November 2019.

Weeks, J. 1999. Stuck in low GEAR? Macroeconomic policy in South Africa, 1996—98. *Cambridge Journal of Economics,* 23(6), 795-811.

Wells, N. 2019. Deloitte Accused of 'Pure Corruption' by South African Firm. Journalism Development Network: Organized Crime and Reporting Project, 22 October, Available at https://www.occrp.org/en/daily/10949-deloitte-accused-of-pure-corruption-by-south-african-firm. Accessed on 13 January 2020.

Winning, A. 2019. South Africa plans sweeping power sector reform as Eskom struggles. *Reuters Business News,* 29 October.

Wood, E., and Moll, T. 1994. Capital flight from South Africa: is underinvoicing exaggerated? *South African Journal of Economics,* 62(1), 17-28.

World Bank, UNDP, Statistics South Africa, and Department of Planning Monitoring and Evaluation. 2018. *Overcoming Poverty and Inequality in South Africa An Assessment of Drivers, Constraints and Opportunities*. Washington, DC: World Bank.

Zucman, G. 2013a. *The Hidden Wealth of Nations. The Scourge of Tax Havens*. Chicago: Chicago University Press.

Zucman, G. 2013b. The missing wealth of nations: Are Europe and the US net debtors or net creditors? *The Quarterly Journal of Economics,* 128(3), 1321-1361.