

Rent-seeking dynamics in South Africa's Minerals Energy
Complex: the political economy of procurement at Eskom

Ruth Isabelle Bookbinder

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Abstract

This thesis examines the rent-seeking and rent allocation processes in South Africa's minerals energy complex (MEC) using Eskom, the country's national electricity company, as a case study. Recurrent periods of power cuts demonstrate Eskom's inability to supply reliable electricity to consumers. Meanwhile, the company is heavily indebted and involved in protracted negotiations over how to restructure the energy sector. This thesis argues that these challenges can be understood in the context of established rent-seeking practices. To make this argument, the thesis sets out a conceptual framework to studying the situation-specific factors that shape the allocation of state resources (as rents). This framework adapts research into productive rents and practical norms, to consider the types of rents that Eskom offers as well as the social and institutional obligations that shape rent-seeking processes and rent allocation in practice.

Using documentary analysis and interview data, the thesis outlines Eskom's central role in the country's MEC. In historicising rent-seeking at Eskom, it investigates the drivers of rent allocation, illustrating the limitations of assessing rents' productivity against economic growth. The thesis identifies such drivers by examining the operationalisation of discourses around transformation and the 'practical norms' that shape rent-seeking dynamics at Eskom. These discourses are flexible, with nationalistic and developmental dimensions. Rent seekers can manipulate discourses around transformation to influence resource allocation. Meanwhile, shifts in working practices in Eskom's Primary Energy Division have increased employees' exposure to norms in the governing African National Congress around obedience and loyalty to the executive. These practical norms link job security to political fidelity, reducing institutional resilience against unproductive or extractive rent-seeking. Through these findings, the thesis contributes to scholarship on the political economy of the country's MEC, offering a level of granularity beyond policy analysis.

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1 Introduction

Eskom is just too big to fail. It holds the fortunes, at an economic level, and the social life of our country, in its hands. (President Cyril Ramaphosa, in May 2019)

Eskom is an organisation whose survival is so systemic in the socio-economic fabric of our society. (Jabu Mabuza, former Eskom board Chairperson testifying at the Zondo Commission in February 2019)

Eskom, South Africa's monolithic state-owned electricity company, dominates the electricity sector, generating an estimated 90% of the country's electricity (Statistics South Africa, 2021a, 6). Distribution is slightly decentralised through municipal providers; however, Eskom also sells electricity directly to industry users and a small number of residential areas. The company's dominance over electricity generation, transmission, and distribution ensures the country is almost entirely dependent on the company to meet its electricity demands. As a result of this dependence, problems at Eskom are evident to the public through recurrent periods of load shedding (planned blackouts). Eskom recorded 46 days of load shedding in the 2019/2020 financial year, including 'Stage 6' load shedding for the first time in December 2019, which involved consumers losing power for up to 12 hours a day (Eskom, 2020b, 88-9; Eskom, Undated-b).¹ Despite ostensibly implementing power cuts on a schedule, this is not always the case and details can be hard to find from official sources. The privately-run load shedding notification app, 'EskomSePush' was reportedly one of the most downloaded apps in the country in 2019, pointing to the extent that load shedding is disruptive for consumers (TimesLive, 2019). André de Ruyter, Eskom CEO, reportedly stated that load shedding would continue intermittently for at least another five years in March 2021, indicating prolonged disruption and unreliable electricity supplies.

Eskom's inability to manage load shedding is compounded by its substantial debt burden, which amounted to approximately ZAR401 billion in 2021 (Gordhan, 2021), constraining the

¹ Eskom grades load shedding severity according to the volume of megawatts that it needs to 'off load' to stabilise the grid. According to Eskom, during 'Stage 6' load shedding consumers can expect to lose power 12 times over a four day period; six times for two hours, and six times for four hours (Undated-b).

company's financial resources and demanding support from public finances. Meanwhile, the company is at the centre of ongoing debates around 'state capture' in South Africa. State capture entered public discourse to critique the apparent influence that private actors (particularly the Gupta family) had over government affairs during Jacob Zuma's presidency. The most prominent members of the Gupta family are three brothers, Atul, Ajay and Rajesh (also referred to as Tony)², who gained notoriety in South Africa for the benefits they apparently received through their close relationship with Zuma. Allegations against Zuma and his network range from privileged access to contracts at state-owned enterprises (SOEs), to influencing the appointment and dismissal of ministers. In 2018 the Parliament of South Africa established the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector Including Organs of State (hereafter the Zondo Commission) under Deputy Chief Justice Raymond Zondo as Chairperson, to investigate allegations. Commission proceedings are open to the public and livestreamed, with revelations and further allegations constituting a major part of the national news cycle since proceedings began. Originally due to run for 180 days (Government of South Africa, 2018), the commission has held over 400 hearings (Zondo Commission Undated). The fact that parliament has granted it several extensions (Ferreira, 2021) reflects the scale of its undertaking. The sheer breadth of the commission's investigations speaks to wider dynamics that transcends practices under one administration.

This thesis uses the concept of rent-seeking to examine these dynamics driving procurement practices at Eskom. I use Mushtaq Khan and Jomo K.S.'s definition of rents as an 'income above what an individual or firm would receive in a competitive market' (2000, 5). Rents include a wide range of resources; investment in a particular sector or industry; targeted redistribution of resources towards a demographic; regulatory changes to advance specific

² The brothers reportedly immigrated to South Africa from India in the early 1990s and have since established business interests across several sectors, including mining, media, and information technology (Gupta Leaks, Undated-a; Cobbett, 2016). They first attracted public attention when they were granted permission to use an air force base to welcome guests to one of their daughter's weddings in 2013 (February, 2019, 4). However, evidence from public inquiries (that is explored in this thesis) also indicates that they received preferential access to government contracts and were able to influence government affairs, including the appointment (and dismissal of ministers and officials).

clients' interests (Khan, 2000b, 65). Rent-seeking meanwhile encompasses the 'activities which seek to create, maintain or change the rights and institutions on which particular rents are based' (Khan and Jomo K.S, 2000, 5). Critically, these practices are not necessarily illegal, however, rent-seeking can include practices such as bribery (Khan and Jomo K.S, 2000, 5). Jomo K.S and Khan note the 'overlap' between rent-seeking and 'patron-client' exchanges (2000, 6). Yet, this thesis understands rent-seeking to be one activity within patronage networks.

By analysing rent-seeking dynamics as a practice within patron-client relationships, this thesis is situated within debates regarding the nature of the transition from apartheid and the role that patronage networks play in allocating state resources. Some writers have argued that an 'elite transition' took place with the redistribution of wealth largely limited to politically connected elites (Southall, 2013; Bond, 2000). Others have discussed the ways in which the African National Congress (ANC) in government has used political patronage networks to blur distinctions between the state and ruling party, using state resources to shore up political support (Beresford, 2015; Ferguson, 2015; Dawson, 2014; Lodge, 2014; Booysen, 2012). Researchers have also discussed the changing nature and prevalence of corruption, considering its potential impact on the country's economy (Southall, 2016; Lodge, 2014; Plaut, 2012; Hyslop, 2005; Southall, 2004; Lodge, 1998). More recently researchers have discussed the extent to which networks have used patronage to 'capture' the state (Chipkin et al., 2018; Godinho and Hermanus, 2018; Swilling et al., 2017; Chipkin, 2016; Martin and Solomon, 2016). This thesis contributes to the above debates by analysing rent-seeking in the context of the country's minerals energy complex (MEC), and the apparent failure to manage rent-seeking 'productively'.

1.1 The minerals energy complex and studying the political economy of the South African energy sector

The MEC describes the importance of mineral resources in the South African economy, highlighting the linkages between the mining and the manufacturing sectors (Fine and Rustomjee, 1996, 78). Mining has played a prominent role in the country's economy since the late nineteenth century, contributing to export earnings and driving labour migration from

across Southern Africa. Gold exports accounted for more than two-thirds of exports and almost half of national income by the end of the First World War (Clark, 1994, 39). The sector's contribution to the economy peaked at 21% of GDP in 1980 on the back of high gold prices (Statistics South Africa, 2017). The sector has also been a major employer, with 763,319 employees at its peak in 1987 (Statistics South Africa, 2017). Employment in the industry relied heavily on black migrant labour from across Southern Africa, regulated through pass laws to restrict movement and policies to curb workers' bargaining power, including a centralised recruitment system to assign workers jobs in the mines (Feinstein, 2005, 62-7). Moreover, SOEs that depended on mining products – like Eskom – played an important role in promoting white employment and advancing the National Party's economic interests from 1948, inextricably linking the sector to the state (Clark, 1994, 68-9). Nancy Clark argues that by 1960 parastatals were 'firmly implanted in a socioeconomic system that protected the interests of the white electorate and dominant mining industry at the expense of the African majority' (1994, 163). The sector has thus played a critical role in South Africa's political economy, providing resources to further specific parties' aims.

The mining sector's direct contribution to the economy has declined significantly since the end of apartheid, accounting for around 8% of GDP in 2020 (Minerals Council South Africa, 2021). Employment has also declined by approximately 36% from its peak in 1987 to 490,416 people in 2015 (Statistics South Africa, 2017). Yet according to national statistics, mineral products; base metals and articles of base metal; and precious stones and metals, accounted for roughly 59% of exports earnings in 2019, underlining the sector's ongoing importance (Department of Trade, 2021). In addition, coal represents roughly 70% of the country's energy mix (Eskom, 2020a), indicating that the mining is not only important for the state's finances, but plays an essential role in meeting the country's basic energy needs.

Ben Fine and Zavareh Rustomjee proposed the MEC to conceptualise the ongoing importance of mineral resources in the South African economy. Fine and Rustomjee argue that the MEC emphasises linkages between the mining and manufacturing sectors, suggesting that the distinction between the two is less distinct than statistics infer (1996, 78). This is partially due to a semantic point; the *Standard Industrial Classification of All Economic Activities* defines the mining sector as the extraction of resources, while the processing of raw materials falls

under manufacturing (Statistics South Africa, 2012, 56-7). The integration of mining activities into manufacturing has created overlap between the two sectors (Fine and Rustomjee, 1996, 78-9). There are also clear linkages between the mining and electricity sectors, including:

- 1) Dependence on coal generated electricity
- 2) Consumption of electricity in the mining sector (as of 2016, the mining sector accounted for 14% of Eskom sales (Eskom, 2020b, 7))
- 3) Electricity is used in the smelting and refining processes of mineral products (Fine and Rustomjee, 1996, 80)

Meanwhile, reliable access to electricity is vital for the wider manufacturing sector, which accounted for around 11.5% of GDP in 2020 (Fine and Rustomjee, 1996; World Bank, 2021b). Beyond simply describing the structure of the economy, Fine *et al.* have used the MEC to describe the system of capital accumulation, stating in one article that

[a]ccumulation has been and remains dominated and dependent upon a cluster of industries, heavily promoted by the state, around the mining and energy sectors... This is not simply a matter of the weight of the mining and energy sectors but also their determining role in the economy. (Fine, Ashman and Newman, 2011, p.12)

Some authors have contested the extent that the MEC continues to define the structure of the economy (Seekings and Natrass, 2015, 98-100; Bell and Farrell, 1997, 600-11). Jeremy Seekings and Nicoli Natrass argue that ‘other sectors have grown in importance, generating forward and backward linkages and growth dynamics beyond the MEC’ (Seekings and Natrass, 2015, 100). Moreover, they dispute the extent that capital accumulation was and is centred in the MEC. They argue, ‘capital intensity rose in post-apartheid South Africa not because of the growth of the MEC cluster but because there was a general shift towards capital intensity across all sectors’. Despite these points of contention, I argue that the MEC remains relevant as a site of class formation, offering opportunities for advancement of aspirant black elites. The relevance of sectors within the MEC, especially the nexus between coal mining and Eskom, underscores the ongoing political importance of the MEC.

Work on energy transitions in South Africa highlights the value of the MEC as a framework for analysing the political economy of the energy sector. According to Lucy Baker, Peter Newell and Jon Phillips using the MEC as an analytical framework ‘allows for the analysis of historical power relations, structural change and the underlying interests of dominant actors and beneficiaries of governance mechanisms whilst avoiding reducing a complex debate to a technocratic perspective on governance and policy or how to generate a ‘policy fix’ (Baker et al., 2014, 798). Baker has argued elsewhere that the MEC ‘is still a driving force in policy decisions around energy’ (2015b, 256). The collection of vested interests in the MEC and the impact of this political economy consequently has important implications for reforming the energy sector. This thesis contributes to studies on the political economy of the South African energy sector, arguing that rent-seeking around coal supply agreements with Eskom reinforces the relevance of the MEC as a site of wealth accumulation and class formation. Understanding the political economy of the energy sector identifies the dynamics that create barriers to reform. These debates are consequently relevant in the context of the climate crisis and pledges to shift away from coal-generated electricity. This thesis makes these contributions by addressing the following research questions:

- How have rent-seeking dynamics and rent allocation processes shaped the political economy of South Africa’s minerals energy complex?
 - How have rent-seeking processes and the allocation of rents at Eskom evolved within the minerals energy complex?
 - How do discourses around transformation reflect contemporary priorities, and influence rent-seeking processes and rent allocation at Eskom?
 - What are the practical norms that shape rent-seeking dynamics at Eskom?

1.2 Grounding literature

This thesis draws on three broad bodies of literature to address these research questions; rent-seeking and its impact on economic development; scholarship on corruption within political patronage networks in Africa; and corruption, rent-seeking and political patronage in South Africa. Political patronage refers to the relationships between state actors (as the patron) and

their clients (including specific individuals or collective groups). Specifically, the ways that patrons control access to public resources for their clients, and how clients access these resources. Critically, these relationships are not always top-down interactions, with patrons dictating terms to clients. Clients can make demands of their patrons, who in turn depend on clients' support to maintain and regenerate political support (Dawson, 2014; Schatzberg, 2001). Political patronage therefore encompasses a wide range of interactions, from those at a local level between citizens and their representatives, to the government making targeted investments in specific sectors, industries or companies. For instance, James Ferguson has noted how the ANC uses the distribution of welfare grants to forge closer bonds between the party and its constituents (2015, 162). Meanwhile, studies on 'productive rent-seeking' in Asia and 'developmental patrimonialism' in Africa, have outlined how the government used its access to the state's resources to drive economic growth (Kelsall, 2013; Khan and Jomo, 2000).

1.2.1 Clientelism and rent-seeking in patronage networks

Clientelism and rent-seeking are two activities within political patronage networks that are relevant for this project. Some of the scholarship on these activities counters neoliberal analysis of the negative economic impacts of rent-seeking, demonstrating that the various ways that actors access and use patronage networks can have different outcomes, productive and unproductive. For instance, several authors have argued that political patronage can foster clientelist networks that provide channels for democratic engagement, countering assumptions that patron-client networks are antithetical to democracy (Anciano, 2017; Bénit-Gbaffou, 2011; Auyero, 1999; Gay, 1998).

According to Javier Auyero political clientelism represents the 'distribution of resources (or promised distribution) by political office holders or political candidates in exchange for political support, primarily – but not exclusively – in the form of the vote' (1999, 291). Political clientelism can therefore be understood as a product of patron-client relationships, facilitating exchanges between patron and client, potentially providing the latter with a way to exercise their agency due to patrons' dependence on clients' political support.

Although rent-seeking is not always synonymous with clientelism (see Chapter 2.1), clients can also act as rent-seekers, trying to gain access to rents. Rent-seekers try to use their

bargaining power and relationships with patrons to gain, or maintain, preferential access to the state's resources or rents. Critically, rent-seeking can have productive economic outcomes, achieving high levels of economic growth through the targeted distribution of rents, although there is less evidence available to demonstrate the impact of this growth on reducing inequality. Khan and Jomo K.S use this framework to study high levels of growth in South and South-East Asian countries alongside high levels of rent-seeking in the second half of the twentieth century. But their theory has also been adapted to countries in sub-Saharan Africa in work on 'developmental patrimonialism' to consider the conditions within which governments can use their access to patronage networks to achieve developmental goals.

Tim Kelsall argues that developmental patrimonialism occurs in cases where the state prioritises 'long-horizon rent creation', using rents to develop specific sectors in the economy (2013, 79). In these situations, the government derives its legitimacy from its ability to meet economic targets, regenerating political support for the ruling coalition (Booth and Golooba-Mutebi, 2012, 5; Kelsall, 2013, 99). The objectives of the ruling faction are thus an important determinant of its ability to use rents productively. Another quality of governments that use rent-seeking 'productively' or 'developmentally' is their ability to centralise the distribution of rents (Kelsall, 2011, 118; Vaughan and Gebremichael, 2011, 8; Booth and Golooba-Mutebi, 2012, 3). The effective centralisation of rents theoretically makes it easier for the ruling faction to distribute rents according to the goals of the state, as opposed to benefitting individual patronage networks. Some authors have also indicated that a centralised system of rent-seeking will reduce the prevalence and impact of corruption (Shleifer and Vishny, 1993, 609; Booth and Golooba-Mutebi, 2012, 9).

1.2.2 Political patronage in sub-Saharan Africa

In sub-Saharan Africa, the establishment of the colonial state involved the institutionalisation of pre-existing customary relations and social structures, facilitating rule from the metropolises. European powers looked to African allies, to whom they could offer 'real but diminished power' for their assistance in consolidating the colonial state (Young, 1994, 107-8). The recognition of several African chiefs, and codification of so-called 'traditions' – including tribal structures that were previously non-existent – helped establish a hierarchical chain of

command, enabling European powers to govern through a system of indirect rule (Young, 1994, 107-8; Berman, 1998, 316; Ranger, 2012, 247-54). Colonial powers incorporated this new group of African elites into bureaucratic systems, providing access to state resources, which they could distribute across patronage networks.

The concept of 'neopatrimonialism' gained prominence in the post-colonial period to describe the incorporation of dominant African political factions' patronage networks into colonial era institutions. It refers to the personalisation of power, which patrons exercise through formal but weak institutions. Christopher Clapham defined it as

[a] form of organization in which relationships of a broadly patrimonial type pervade a political and administrative system which is formally constructed on rational-legal lines. Officials hold positions in bureaucratic organizations with powers which are formally defined, but exercise those powers. . . as a form of private property. (1975 in Mkandawire, 2015, 565)

Clapham's definition alludes to the role of specific groups in exercising control over state resources, demonstrating how neopatrimonialism can occur in the context of the 'gatekeeper state'. In these cases, the leader or ruling faction has almost hegemonic control over the state's resources and is preoccupied with maintaining control of 'the gate' (Cooper, 2002, 6). Maintaining control over state resources means retaining access to resources for political patronage, which help ruling factions regenerate political support. According to Christopher Allen, 'to have power is to have the means to reproduce it; to lose power, however, is to risk never having the means to regain it' (Allen, 1995, 304). The strong incentives for maintaining control of 'the gate' is one reason why neopatrimonialism is frequently associated with 'weak' and unstable states in sub-Saharan Africa.

Some studies cite instances where the ruling factions effectively loot state resources to distribute goods across their own patronage networks (Chabal and Daloz, 1999, 104; Van de Walle, 2001, 52; Bayart, 2009, 87). These factions' legitimacy to lead depends on their ability to supply patronage to their clients, thereby reducing incentives for reforms that may strengthen bureaucratic institutions and restrict access to state resources (Chabal and Daloz, 1999, 162; Van de Walle, 2001, 177; Cooper, 2002, 183). In addition, authors have attributed the

extraction of state resources for patronage with illegal activities, like bribery or money laundering, while linking competition to retain access to these resources to heightened instability and political violence in African countries (Bayart et al., 1999b, 26; Chabal and Daloz, 1999, xviii; Médard, 2002, 392). Neopatrimonialism thus gained traction as an explanation for the various failures of African states, including low levels of economic growth, the lack of democratic reforms ('big man politics'), and the prevalence of corruption.

Several authors have pushed back against this line of argument, challenging the tendency to apply neopatrimonialism to a huge range of countries, resulting in sweeping generalisations about the 'African state' (Erdmann and Engel, 2007, 97; Pitcher et al., 2009, 126; Mkandawire, 2015, 563). Critics of neopatrimonialism have also disputed the assumption that political networks explain African countries' poor performance in governance and economic indicators, even though they are not an exclusively African phenomenon (Pitcher et al., 2009, 146; Beresford, 2015, 229). Thandika Mkandawire has argued that neopatrimonialism holds little explanatory or predictive value and has created a 'self-reinforcing discourse' to describe African governance while undermining the value of existing systems of social provision (2015, 592). Similarly, Pitcher *et al.* assert that previous authors have wrongly used neopatrimonialism to downgrade countries to a state of 'backwardness' or 'developmentally challenged', judging African states against a Weberian bureaucratic ideal not realised anywhere (2009, 128, 138). The limitations of neopatrimonialism underlines the value of considering specific practices within patronage networks to avoid generalisations about these networks' character and their outcomes. Using rent-seeking as a framework to analyse dynamics within patronage networks mitigates some of the determinism of neopatrimonialism, acknowledging the variety of practices and their outcomes.

1.2.3 Understanding the links between 'corruption' and political patronage

The definition of corruption is contentious. Andrei Shleifer and Robert Vishny broadly define corruption as the 'sale by government officials of government property for personal gain' (1993, 599). While Tom Lodge argues that it must include acts that are 'fundamentally dishonest' (1998, 158), Thomas Koelble asserts that corrupt acts can be legal or illegal (2017, 283). Competing understandings of corruption can lead to the conflation of the practice with

other activities such as rent-seeking, or with patron-client relationships more broadly. In addition, these varieties of definitions demonstrate that there is no universal understanding of the line between corrupt and ‘acceptable’ practices. Contexts and relationships consequently shape conceptualisations of corruption.

Ethnographic studies of corruption in West Africa have demonstrated that the definition of corruption – and tolerance of various behaviours – is highly dependent on participants’ perceptions (Blundo and Olivier de Sardan, 2006b; Olivier de Sardan, 1999). Although corruption is almost universally condemned, various other practices are acceptable through the ‘logic of gift giving’ (Olivier de Sardan, 1999, 38-40). Jean-Pierre Olivier de Sardan refers to this contradiction as ‘the moral economy of corruption’. He, and other authors, have also argued that social norms and conventions offer an insufficient explanation of the gap between laws and regulations (or official norms) and bureaucratic behaviour in many sub-Saharan African countries (De Herdt and Olivier de Sardan, 2017a, 4; Olivier de Sardan, 2017a, 24). They identify a third set of ‘practical norms’, which they define as ‘the various informal, de facto, tacit or latent norms that underlie the practices of actors which diverge from the official or social norms’ (Olivier de Sardan, 2017a, 26). Practical norms are not generalisable and are shaped by the ‘ground rules’ of particular circumstances, such as different types of accountability (Olivier de Sardan, 2017a, 29; Blundo, 2017, 155). In acknowledging context-specific practices, practical norms provide a lens to analyse practices as they are and not against an ideal of what they should be.

1.2.4 Political patronage in South Africa

Political factions’ ability to distribute rents across their networks play an important role in how they maintain political legitimacy in South Africa. Allegations of corruption within these networks is nothing new. When the National Party came to power in 1948 it used its position to award supporters with key positions in government and at SOEs (Hyslop, 2005, 781; Clark, 1994, 149-50). At its strongest, the NP was seemingly able to use its access to rents ‘productively’, albeit to the benefit of an extremely small proportion of the population. However, as the party became weaker it lost its ideological moorings and was less able to discipline its followers. Economic sanctions compounded these problems and the government

entered into dubious business deals (Hyslop, 2005, 783). In addition, the government was spending billions of rand on the expansion of homeland governments, in which ‘corruption was sometimes endemic’ (Hyslop, 2005, 783; Lodge, 1998, 162). As a result of these factors, corruption became a serious problem for the apartheid government by the 1980s.

When the ANC took over in 1994 party leaders declared their intention to ‘transform’ South Africa and eliminate entrenched racial inequality from apartheid and colonialism. Black economic empowerment (BEE) policies are one strategy that party leaders have used to redistribute economic wealth. Former-president Thabo Mbeki hoped to mimic the experience of South Asian countries, using government rents to achieve high rates of economic growth (Southall, 2004, 323). Mbeki also sought to create a class of ‘patriotic capitalists’ who would remain loyal to the party, recognising that their success was due to ANC support (Iheduru, 2004, 4). Roger Southall argues that in the early years of ANC-led government, there were ‘major deals constructed around the transfer of shares, particularly in the mining, manufacturing and financial sectors to party notables’ as businesses sought to establish connections with the ANC (2013, 221). Party elites were therefore legally rewarded for their loyalty to the party. Meanwhile businesses were able to forge links to the ruling party, which potentially offered preferential access to government contracts, as well as the opportunity to influence government policy (Southall, 2013, 221; Plaut, 2012, 212-238; Handley, 2008, 88; Hyslop, 2005, 786).

Several researchers have noted that political elites were the primary beneficiaries of early BEE policies, and that the government’s affirmative action strategies had little redistributive benefits (Bowman, 2019; Bracking, 2019; Lodge, 2014, 13; Marais, 2013, 123-5; Murray, 2000, 184). As a result, writers have critiqued these beneficiaries as ‘crony capitalists’ (Hyslop, 2005, 786; Southall, 2004, 326), referring to ‘the use of private connections to public authority to facilitate private capital accumulation’ (Beresford, 2015, 230). Other criticisms of this particularly affluent group of beneficiaries have positioned them as ‘parasitic’ or the ‘puppets’ of ‘white monopoly capitalism’ (Desai, 2018; Mngxitama, 2016; Southall, 2004, 313). BEE policies became codified as broad-based black economic empowerment (B-BBEE) and continue to play an important role in influencing rent-seeking processes. Companies need to comply with – or commit to comply with – B-BBEE quotas to be eligible for government contracts and

procurement at SOEs is the primary driver of these policies. Public inquiries into procurement processes at SOEs have addressed the manipulation of empowerment regulations to benefit preferred providers. The thesis approaches this issue by examining the operationalisation of discourses around transformation in rent-seeking processes to identify drivers of rent-allocation at Eskom.

The ongoing ‘state capture’ debate in public and academic discourse in South Africa, highlights the relevance of a project that assesses rent-seeking practices in South Africa. Research on state capture approaches rent-seeking as a predatory activity, arguing that the political elite ‘are only interested in rent-seeking and political survival’ (Swilling et al., 2017, 9). World Bank economists, Joel Hellman, Geraint Jones, and Daniel Kaufmann used ‘state capture’ to describe the rise of politically powerful oligarchs in Eastern Europe following the collapse of the USSR. They described ‘state capture’ as a form of corruption where ‘firms make illicit and non-transparent private payments to public officials in order to influence the formation of laws, rules, regulations or decrees by state institutions’ (Hellman et al., 2000a, 7). The beneficiaries of rents through state capture ‘manipulate politicians, shape institutions, and control the media to advance and protect their own empires at the expense of the social interest’ (Hellman et al., 2000a, 2). Researchers from the South Africa based Public Affairs Research Institute have adapted this definition to encompass a political project that aims ‘to change the formal and informal rules of the game, legitimise them and select the players who are allowed to participate’ (Chipkin et al., 2018, ix).

‘State capture’ is therefore closely related to crony capitalism, representing a wholly unproductive form of rent-seeking and spoils politics, which is associated with economic crises, precipitated by corruption and looting (Allen, 1995, 307-9). Research into ‘state capture’ focuses on these negative aspects of political patronage, linking them to the fundamental failure of democracy in South Africa (Swilling et al., 2017, 5; Chipkin, 2016, 1; Martin and Solomon, 2016, 21).

However, this assessment overlooks some of the positive aspects of patronage. Instead of representing a failure of democracy, membership to political patronage networks can offer clients an opportunity to hold their patrons accountable, calling for their dismissal when they

have overindulged themselves, or failed to provide adequate resources (Anciano, 2017, 16; Dawson, 2014, 538; Bénit-Gbaffou, 2011, 456). In debates around ‘state capture’, the term seems to condemn a specific form of rent-seeking, perpetrated by a specific faction, and not the systems and dynamics that the practices that constitute ‘state capture’ emerge from. It is therefore useful to contextualise debates around ‘state capture’ as part of established but shifting rent-seeking processes. The following chapter goes into these debates in more detail, further situating the project within the wider scholarship and sets out the thesis’s conceptual framework.

1.3 Methodology

The summary of the grounding literature discussed above reflects the value of understanding the dynamics of rent-seeking as a practice within patronage networks. This understanding avoids normative judgements around corruption and contextualises debates around ‘state capture’ as emerging out of established – and evolving – rent-seeking practices in South Africa. This thesis adopts an interpretivist epistemological position to address research questions that are grounded in examining the social processes – such as discourses around transformation and practical norms – and how they shape rent-seeking dynamics. Interpretivism considers the meaning of behaviour in an attempt to understand others ‘in their own terms’ (Furlong and Marsh, 2010, 185; Fay, 1996, 113). This approach stems from an anti-foundationalist ontological position that rejects the positivist assertion that it is possible to uncover and test objective facts, arguing instead that social and political phenomena are socially constructed (Furlong and Marsh, 2010, 185). This thesis engages with rent-seeking processes and key stakeholders’ accounts of navigating the dynamics that inform rent allocation from Eskom. The analysis of rents, the dynamics of rent-seeking, key stakeholders’ descriptions of these processes and how they negotiate them, reinforces the appropriateness of an interpretivist approach for this thesis.

This is a tightly focused study that addresses rents and the dynamics of rent-seeking in Eskom's Primary Energy Division³, using coal procurement as a case study. Coal is Eskom's single biggest expenditure and represents a nexus point in the MEC, between mining companies and Eskom (Eskom, 2020b, 70-1). The 2019 Integrated Resource Plan (IRP) also indicates that coal will continue to dominate the country's energy mix at least until 2030 (Government of South Africa, 2019, 41), reflecting the relevance of this nexus point in the MEC for understanding the political economy of the wider energy sector beyond electricity. This focus allowed me to approach analysis forensically and contributing an understanding of how rent-seeking has shaped the political economy of the MEC. I chose to use documentary analysis and elite interviews because it offered an opportunity to combine publicly available sources with original data from interviews. This approach provided granular details into rent-seeking processes that are harder to obtain without data from targeted interviews that build on insights from documentary analysis.

1.3.1 Documentary analysis

My use of documentary analysis aligned with Ariadne Vromen's recommended approach. Vromen summarises John Scott's four criteria when using or approaching a document:

- 1) To determine the authenticity of the source
- 2) Its credibility
- 3) The extent to which the source is representative of its genre
- 4) Its meaning (Vromen, 2010, 262-3)

She also asserts that an interpretivist approach to documentary analysis includes situating the text 'within an analysis of broader social, political and cultural processes' (Vromen, 2010, 264). Similarly, David Silverman argues that it is as important to study the creation of documents and as the texts themselves, due to the role that documents play in constructing the organisations they ostensibly describe (2016, 77).

³ This department is responsible for fuel (such as coal, diesel, water) sourcing and managing these contracts.

The data I used to inform my analysis included publicly available documents pertaining to procurement at Eskom (such as public inquiries), energy policy and ANC discussion documents (see Table below). In addition, I drew on government policy documents and statistics, and reports from anti-corruption NGOs and industry watchdogs. I supplemented documentary analysis with 30 key stakeholder interviews (see Chapter 1.3.2), adding additional personal accounts to testimonies and affidavits from public inquiries.

Table 1.3.1: Primary document sources

Resource	Types of documents
Parliamentary Monitoring Group (PMG) – Portfolio Committee on Public Enterprises: Eskom State Capture Inquiry ⁴ (June 2017- November 2018)	Proceeding transcripts Witness testimonies and supporting documents Committee reports
Judicial Commission of Inquiry to Inquire into Allegations of State Capture, Corruption and Fraud in the Public Sector Including Organs of State (Zondo Commission) ⁵ (August 2018-)	Proceeding transcripts Witness testimonies and supporting documents Committee reports and announcements
Eskom ⁶	Annual reports Policy documents Parliamentary presentations (through PMG)

⁴ Documents are available at: <https://pmg.org.za/page/state%20capture?via=homepage-feature-card>

⁵ Documents are available at: <https://www.statecapture.org.za/>

⁶ Documents are available at: <https://www.eskom.co.za/sites/heritage/Pages/Annual-Reports.aspx> ; https://www.eskom.co.za/OurCompany/Investors/IntegratedReports/Pages/Annual_Statements.aspx ; https://www.eskom.co.za/AboutElectricity/FactsFigures/Pages/Facts_Figures.aspx ; https://www.eskom.co.za/OurCompany/CompanyInformation/Pages/Company_Information.aspx

ANC ⁷	Discussion Documents January 8 Statements (through SA History Online) Umrabulo Policy Notes
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As much as possible, I moved through inquiry documents chronologically⁸, first analysing the witness’s affidavit and supporting documents before addressing the proceeding transcripts. Analysing supporting documents before proceeding transcripts provided background to questioning. I stored files in NVivo, using individual ‘projects’ for documents from different sources. However, I used the same set of nodes to manually code themes across projects. I used the following themes to manually code the documents in NVivo:

- Accountability
- Bureaucratic Norms
- Factionalism
- Impact of corruption
- Institutional change
- Intimidation
- Manipulating the legal system
- Networks
- Procurement

⁷ ANC documents were unavailable online from late 2018 until mid-2021, due to problems with the party’s website during this period I sourced documents from alternative online repositories, such as South African History Online (documents are available at: <https://www.sahistory.org.za/>).

⁸ The scale of the Zondo Commission meant that it was unfeasible to keep up with testimonies day-by-day. I consequently focused on days that involved Eskom personnel or public officials that worked with the company.

- Rent-seeking
- State Capture
- Transformation
- Whistleblowing

I created these themes inductively, reflecting on written notes and similarities between documents. This reflective process also led to me changing some of the themes, for instance, I found that the overlap between productive and unproductive rents in the sources meant that it was more effective to use ‘rent-seeking’ as a single theme. This alteration also better suited my research questions, which address overarching rent-seeking dynamics. Similarly, text I coded under ‘transformation’ was particularly relevant in responding to the question on the operationalisation of discourses around transformation in rent-seeking at Eskom. This discussion also drew on text coded under ‘rent-seeking’, ‘institutional change’, ‘networks’, and ‘procurement’ among others. Meanwhile, text I coded under ‘bureaucratic norms’, ‘whistleblowing’, ‘intimidation’, ‘institutional change’ and ‘manipulating the legal system’ was relevant for the question on the ‘practical norms’ that shape rent-seeking dynamics. I accommodated for overlap by coding some sections under multiple themes and took extensive hand-written notes during the coding process. These notes reflected on the themes across the documents, their context, and further questions that the documents raised. I also noted additional sources referenced in the documents and – where possible – incorporated these into my analysis. When analysing witness testimonies, I noted the witness’s position and if there were notable media reports about them to further contextualise their testimonies. Where possible during fieldwork I attended and took notes during Zondo Commission sessions in Johannesburg. Attending sessions gave me the opportunity to consider witnesses’ body language and their reaction to questions. I could also informally network with other attendees, informing my analysis and humanising transcripts. I cross-checked references from my interviews with testimonies for consistencies (and deviations) in accounts; this was particularly useful in cases where interviewees were mentioned or appeared at commissions. Documentary analysis consequently served to triangulate interview data, further supporting my analysis.

Several recent publications on corruption or ‘state capture’ during Zuma’s presidency have relied heavily on media reports and investigative journalism as their evidence of practices within these patronage networks (Chipkin et al., 2018; Desai, 2018; Chipkin, 2016; Martin and Solomon, 2016; Swilling et al., 2017). While these are important resources, they offer insufficient insight into the nuances of the dynamics driving rent-seeking and the factors that inform them. An over-dependence on media sources also fails to historicise accounts, limiting insight into continuity and shifts in practices over time. My approach accounts for the wider context of the documents and how they relate to other sources, including unique interview data. This approach contributes an analysis of personal accounts of rent-seeking at Eskom and how these accounts relate to high-level policies or inquiry findings.

1.3.2 Key stakeholder interviews

I conducted the bulk of interviews during fieldwork in South Africa from October 2018 to April 2019, although I conducted a handful of interviews remotely in July 2020 during the COVID-19 pandemic. I had planned to use a ‘snowballing’ method to collect data. This is a non-random, purposive sampling method, where participants are approached specifically for their potential role or knowledge of an event (Laws et al., 2013, 182; Pierce, 2008, 91; Burnham et al., 2008, 233). Gatekeepers who act as intermediaries between the researcher and potential participants, can facilitate snowball sampling (Pierce, 2008, 91). This approach worked to an extent but did not gain momentum. Ongoing inquiries provided material to relate to in interviews, but also meant that discussing the management of SOEs was an extremely sensitive issue and several people who I reached out to were unwilling to speak with an external researcher. Similarly, several interviewees also noted that while they were able to speak with me, many of their contacts were less willing to speak ‘on the record’ about these issues. Representatives from mining companies were particularly unwilling to speak with me as part of a formal interview.

Despite these challenges I used a key informant interview strategy, identifying a group of stakeholders who could offer insights into the dynamics surrounding coal procurement at Eskom. I targeted individuals who approached procurement from a range of perspectives (see Table below). I interviewed actors who were/are directly involved in procurement processes, such as managers in the Primary Energy Division, Eskom executives, and lawyers who

specialise in public procurement and have worked with Eskom. I also spoke with actors who have or have had working relationships with Eskom and have an intimate knowledge of company operations, such as union members, geologists specialising in coal, members of government energy task teams, and a former cabinet member. These elite interviews offered the possibility to gain information on decision makers and the decision-making process (Burnham et al., 2008, 231). In addition, I interviewed actors who have expertise in the energy sector, like representatives from anti-corruption NGOs who focus on Eskom and the energy sector, economists from the Mineral Council (a mining company association), a mining financier, renewable energy specialists, and energy sector consultants. Data from these interviews consequently supplemented, nuanced, and deepened extensive documentary analysis.

Table 1.3.2: Interviewees' fields of interest

Field	No. of interviewees
Representative from anti-corruption NGOs	3
Economists (with specialism in mining)	3
Energy sector consultants	2
Current and former Eskom division managers	4
Former Eskom executives	2
Former cabinet member	1
Geologists specialising in coal	3
Lawyers (with specialism in public sector procurement)	4
Members of government energy task teams	2
Mining finance	1

Renewable energy specialists	2
Trade union energy sector coordinators	3

I was sensitive to my position as a white international researcher and how it affected my interactions with interviewees, including my assumptions going into interviews and interviewees' responses to me. Although I grew up in Botswana and have extensive family and personal networks between Botswana and South Africa, my accent is noticeably foreign, and I present as an outsider. This carries specific connotations with my race and western countries' critical and patronising approach to discussing issues around corruption and development in sub-Saharan Africa. I tried to mitigate the association with corruption by asking potential interviewees to speak with me about the processes of procuring coal for electricity generation. However, the association of coal contracts with corruption and 'state capture' in the media at the time increased the sensitivity of this topic and contributed to people's unwillingness to speak with me.

I have had a pragmatic approach to informality in business, acknowledging that it occurs (in all contexts), while broadly agreeing that transactions should be conducted transparently. This is particularly the case for transactions in the public sector, which can impact the delivery of services. However, I underestimated the extent that questions of morality would arise in discussions about what I thought would be largely procedural issues. Nomtha Gray reported a similar trend in her research into corruption in procurement practices in South Africa, noting 'an aspect I had not considered arose in several interviews, concerning the motivation and morality of those undertaking corrupt acts' (2021, 4). Gray discusses these issues in terms of Peter Ekeh's 'two publics' – the 'civic' and 'primordial' – and the differing moralities

governing these publics.⁹ Gray argues that some South Africans would view the 1994 Constitution as their ‘primordial’ public, indicating that their public and private realms share the same moral foundation. Meanwhile, others may view SOEs as part of a ‘civic’ public, serving to justify behaviours that may be regarded as corrupt. Although Gray is using Ekeh’s theory to frame justification of corrupt practices – and I engage with Ekeh and his argument in relation to practical norms at Eskom more thoroughly in Chapter Six of this thesis – her observations speak to the assumptions that interviewer and interviewee bring to the discussion. For instance, I do not identify with Ekeh’s ‘two publics’, nor do I have extensive networks of dependence and obligation, familial or otherwise. I was consequently more likely to share assumptions about the role of the public sector with highly educated (and in particular, white) middle class South Africans. In interviews with white middle class South Africans, discussions around procurement did tend to be more procedural and discussed the broader social dimensions of procurement in a removed sense. Conversely discussions with non-white South Africans – particularly those accused of transgressing against the ‘primordial public’ – about their experiences were emotional and sensitive. In these cases, I avoided pushing the interviewee and allowed them to tell their account with limited interventions, except to occasionally ask them to clarify a point. In instances where interviews became more emotional, that it was useful to ‘lean-in’ to my position as an outsider, establishing a rapport where the interviewee was able to explain their experiences to me with the assumption that I had limited understanding of how processes worked. I acknowledge that interviewees’ accounts were filtered by their assumptions of my position and how they believed that I would use the data. However, this speaks to the wider limitations of using elite interviews. Officials may be unwilling to deviate from the official party position and may not disclose new information. In addition, interview data is unlikely to be factually reliable; people’s memories are fallible, and participants may describe their position or role in an event in the best possible way (Lilleker,

⁹ Ekeh argues that the morality of the ‘primordial’ public is determined by an ‘individual’s primordial groupings, ties and sentiments’, whereas institutions ‘historically associated with the colonial administration’ define the ‘civic’ public (1975, 92). Critically, institutions in the ‘civic public’ have ‘no moral linkages with the private realm’, legitimising the extraction of resources from these institutions to support the ‘primordial public’ (Ekeh, 1975, 92). See chapter 2.3.2 for further discussion of Ekeh and the ‘two publics’.

2003, 211-13). This is particularly the case with legal issues around corruption as interviewees are likely to justify decisions that may face legal scrutiny. With the Zondo Commission taking place at the same time as time as my interviews, interviewees were able to blame the Gupta family for mismanagement at SOEs, exonerating themselves. Nonetheless, my approach enabled me to ask basic questions about processes or dynamics, which the interviewee could explain in their own words. I then triangulated this data through comparison with other interviewees' accounts. In addition, inquiries include witnesses testifying under oath – which does not necessarily mean that they are truthful – but these inquiries provide detailed and in-depth questioning on similar issues.

I approached meetings with interviewees formally, conducting interviews during office hours, at interviewees' offices or in cafes. I always asked the interviewee to recommend the location to ensure that it would be a space that they were comfortable talking in and to give them a sense of control over the interaction.¹⁰ Semi-formal meeting settings established boundaries between myself and the interviewee; however, as a woman living and conducting research independently, these boundaries were important for my own sense of security. Moreover, I was not conducting an ethnographic study and semi-formal settings helped to confer a sense of respect towards interviewees and their position.

Interviews followed a semi-structured format; with a handful of predetermined questions or themes to cover but that generally allowed the interviewee to shape the discussion. This interview style allows the researcher to develop a rapport with interviewees who can also play a role in guiding the discussion and is less rigid than structured surveys that do not deviate from a specific set of questions (Burns, 2000, 424-5). A semi-structured interview meant that the direction of the discussion evolved organically, which helped interviewees to relax and ease into discussing a sensitive topic. I eased interviewees into the discussion by first asking them to talk a bit about their background in the energy sector or with Eskom if relevant. This helped interviewees relax and provided me with a natural point to respond with a question. The

¹⁰ Although interviewees could choose the location of the discussion, they always took place in a public location.

wording of questions changed from person to person, depending on their role and background, however questions addressed the following broad topics:

- Describe Eskom's role in the economy.
- How does the tendering process work for coal at Eskom?
- How have these processes changed?
- What factors influence coal procurement at Eskom?
- What are some of the problems that emerge in the procurement or contract management processes?
- How are these problems addressed? Who is responsible for addressing issues?
- What role do ongoing inquiries play in accountability? Are they effective?
- How is energy/electricity policy developed?
- What interests are present in the energy sector? How do these interests affect the formation and implementation of electricity policy? How has the composition of these interests changed or stayed the same?
- How do proposals to restructure Eskom relate to the wider political economy of the energy sector?

These questions approach discussions around rent-seeking indirectly to allow interviewees to speak about broad processes surrounding procurement. Asking people to discuss the role Eskom plays in the economy provided data on the nature of rents and their intended purposes. Meanwhile, questions about proposals to restructure Eskom, and the interests driving energy policy, related to research questions on rent-seeking and the political economy of the MEC. Questions around the processes of coal procurement provide insights into rent-seeking dynamics, as interviewees discuss regulations and formal processes but also how procurement works in practice. This discussion around formal regulations (and the processes that deviate from them) also speaks to research question on practical norms. I found that interviewees raised transformation in relation to questions about the factors that influence coal procurement and the development policy. However, discourses around transformation also emerged organically

as interviewees recounted their experiences and personal interactions at Eskom. I also adapted questions depending on the interviewee role (see Appendix).

I used a voice-recorder to record interviews – with interviewees’ permission – and took short notes during the discussion. This reduced the risk of missing information from the conversation due to thinking about new questions at the same time as taking notes (Laws et al., 2013, 150). I wrote more extensive notes of my impressions of the interview once discussions ended in my fieldwork diary. This enabled me to reflect on the content of the interview and any further questions that it raised. I also reflected on my role as the interviewer, and where I thought I could improve my technique.

Transcribing interviews was the next step in analysing this data. Roger Pierce recommends a three-column format for transcribing; recording notes, who said what, and analysis (2008, 130). He estimates that this technique can take a day to transcribe 50 minutes of speaking time (Pierce, 2008, 130). I adapted this technique, transcribing the conversation but keeping a separate document that recorded any notes or initial analysis. Managing data in this way made it easier to check data across different sources, while creating reference points for me to locate data easily during my write up.

I anonymised interview data and stored interviewees’ names and contact details separately from transcripts and audio files. These files were also stored on an encrypted portable hard drive as well as on University of Leeds’s OneDrive. All interviewees gave their consent to participate, although some asked not to be recorded. The university’s ethics committee approved my proposal for fieldwork.

1.3.3 Critical Discourse Analysis

I also used critical discourse analysis (CDA) as a guiding framework to inform my analysis of the operationalisation of discourses around transformation in rent-seeking dynamics at Eskom in Chapter Five. Norman Fairclough argues that there are three stages in discourse analysis; description, interpretation, and explanation (1989, 26). Within these stages, however, CDA encompasses a wide range of approaches. According to Teun van Dijk, CDA – while broad – has the following ‘general properties’, including:

- It focuses on *social problems* and *political issues* rather than the mere study of discourse structures outside their social and political contexts.
- This critical analysis of social problems is usually *multidisciplinary*.
- Rather than merely *describe* discourse structures, it tries to *explain* them in terms of properties of social interaction and especially social structure.
- More specifically, CDA focuses on the ways discourse structures enact, confirm, legitimate, reproduce, or challenge relations of *power abuse (dominance)* in society. (2015, 467)

These properties indicate that despite the wide range of approaches encompassed within CDA, it offers a framework to identify the power dynamics underpinning how discourses are ‘put into action’ or ‘operationalised’ (Fairclough, 2012, 84). Van Dijk offers three questions to guide CDA research into ‘discursive power’:

- 1) How do powerful groups control the text and context of public discourse?
- 2) How does such power discourse control the minds and actions of less powerful groups, and what are the social consequences of such control, such as social inequality?
- 3) What are the properties of the discourse of powerful groups, institutions, and organisations and how are such properties forms of power abuses?
(2015, 467)

The first and third question are particularly helpful for this thesis. The first question speaks to the operationalisation of discourses, informing my response to the research question on how discourses around transformation are operationalised and how this influences the distribution of rents at Eskom. I adapted the third question to consider the properties of transformation discourses and their outcomes. The resulting discussion outlines how discourses around transformation reflect shifting political priorities in post-apartheid South Africa, and the collective impact of these discourses on rent-seeking and allocation processes at Eskom.

1.4 Main findings and thesis structure

This is a tightly focused thesis that examines rent-seeking processes in the MEC; the operationalisation of discourses around transformation in rent-seeking processes at Eskom; and the practical norms that facilitate and regulate rent-seeking at the company. It sets out a detailed response to the research questions and reflects the dominant themes that emerged from analysis. In addition, it identifies characteristics of the political economy of the energy sector in South Africa, specifically around electricity, that inform the allocation of rents and drive resistance to reform.

1.4.1 Analysing rents and rent-seeking

Chapter Two sets out the debates on the core concepts and provides a conceptual framework for analysing rent-seeking at Eskom. The chapter establishes a foundation for responding to the research questions by discussing theory on rents, rent-seeking and how these theories relate to research into patronage networks and clientelism. Firstly, the chapter outlines Jomo K.S. and Khan's conception of productive and unproductive rents. Their approach acknowledges the importance of examining the nature of rents themselves as well as the processes informing rent-seeking practices (Khan and Jomo K.S, 2000; Khan, 2000a; Khan, 2000b). Considering the nature of the rents also mitigates some of the limitations of research into developmental patrimonialism, which emphasises the intentions of the rent holder and their ability to control rent distribution but overlooks the types of rents (Kelsall, 2013; Booth and Golooba-Mutebi, 2012; Vaughan and Gebremichael, 2011). The chapter situates Eskom as a holder of monopoly rents in the electricity sector, which can have productive and unproductive outcomes. This framing accounts for the nature of rents at Eskom, and the importance of understanding the dynamics of rent-seeking processes in influencing the outcomes of these practices.

The chapter then provides an overview of trends in literature on political patronage. The discussion situates rent-seeking as a practice within these networks and underlines its value as a framework to examining the dynamics of political patronage in institutions. In particular, the section addresses research into political patronage in the post-colonial state in sub-Saharan Africa that has focused on the interaction between informal networks and formal institutions. Analysis of these dynamics has tended to focus on the negative outcomes of these relationships,

specifically the exploitation of government resources to benefit personal networks (Bayart, 2009; Médard, 2002; Van de Walle, 2001; Chabal and Daloz, 1999; Bayart et al., 1999a; Lemarchand, 1988). However, another branch of research into political patronage considers the role of political patronage in fostering networks of dependence between rent holders and their clients, as well as providing avenues for political engagement (Schatzberg, 2001; Ekeh, 1975; Olivier de Sardan, 2017a; Blundo, 2017). The understanding that not all informal interactions are negative, relates to discussions around the moral economy of corruption and the limits to analysing corruption as a universally defined concept. This research builds on E.P. Thompson's conceptualisation of moral economy, which argues that understandings of the 'social norms and obligation' shape tolerance of apparently fraudulent practices (Thompson, 1971, 79). Similarly, this understanding of norms informs Olivier de Sardan and de Herdt's discussion of practical norms, which acknowledges the limitations of assessing practices in public institutions against Weberian ideals of an a-political civil service (De Herdt and Olivier de Sardan, 2017a). Understanding these informal processes provides insight into the factors that shape rent-seeking dynamics in a particular context, facilitating more granular analysis.

1.4.2 Political patronage and rent-seeking in South Africa

Chapter Three of the thesis provides a review of research in political patronage and clientelism in South Africa. It outlines key debates on the nature of corruption in South Africa and the allocation of state resources since the end of apartheid. The chapter relates these debates to wider discussions around rents and rent-seeking, illustrating the relevance of the thesis's conceptual framework in approaching questions over the allocation of resources in post-apartheid South Africa. For instance, the chapter considers how the ANC-in-government has used its access to state resources for rents, and broad trends in how different factions have distributed these rents horizontally to elites and vertically to citizens. This discussion grounds analysis in the following chapters, which link the allocation of rents from the MEC to wider trends.

In addition, through its discussion on work on patronage during Zuma's presidency, the chapter demonstrates the possibility of using the thesis's conceptual framework to nuance existing debates around 'state capture'. Critiquing this literature demonstrates how a focus on processes

could provide a clearer understanding of the distribution of state resources. This is achieved by placing these processes at Eskom in the context of establishing rent-seeking practices in the MEC and not a unique form of corruption under a specific administration.

1.4.3 Transitions in rent-distribution: coal procurement at Eskom

Chapter Four of the thesis historicises rent-seeking in the MEC from the early twentieth century until the early 2010s. Through this discussion the chapter responds to the question:

How have rent-seeking processes and the allocation of rents at Eskom evolved within the minerals energy complex?

The chapter outlines Eskom's position in the centre of the MEC, and its value as a site for rent-seeking for successive administrations. It also identifies the different types of rents that Eskom offers rent holders and how different governments have distributed these rents. The chapter adapts Khan's conceptualisation of forms of rents to position Eskom as a holder of monopoly rents in the electricity sector (Khan, 2000b, 68). Examples of rents from Eskom include, supply contracts and jobs, while different governments have also treated access to electricity as a 'rent-like transfer'. The chapter responds to the main research question, positioning Eskom in the centre of the MEC, highlighting the some of the rents and Eskom offers, as well as the dynamics guiding rent distribution. It finds that while the conceptualisation of productive and unproductive rents is a useful framework to approach analysis, it is too focused on economic growth and does not account for the social drivers of rent allocation. Using a broader understanding of how rents may have productive outcomes, noting that while this framing is a useful tool to frame analysis, the chapter highlights the difficulty in distinguishing between these rents in practice. Rent-seeking practices can be both productive and unproductive, depending on the time frame or the intentions of the rent-holder, and are shaped by competition and political demands.

For instance, Eskom's constant demand for coal, in an environment of ageing electricity infrastructure and coal mines, have created opportunities for unproductive rent-seeking practices. Interview data from key informants at Eskom underlined the need to maintain coal supplies and the impact of this demand on compounding issues relating to the rising coal costs. This constant demand for coal underpins the value of coal supply contracts as a rent from

Eskom, reinforcing the ongoing relevance of the MEC as a source of rents and a site of rent-seeking. In addition, the use of short-term contracts to meet these demands has likely made it difficult to implement long-term plans, reflecting the prioritisation of immediate electricity supplies, over future stability. These findings contextualise periods of crisis at Eskom that load shedding characterises. Providing this context nuances ongoing debates around ‘state capture’ that have emphasised the role of the Gupta-Zuma faction in weakening Eskom (Chipkin et al., 2018; Godinho and Hermanus, 2018; Desai, 2018).

This chapter’s findings are based on documentary analysis of Eskom and national statistics, energy policy briefs, as well as transcripts, evidence bundles, and final reports from inquiries into procurement practices at Eskom. Key stakeholder interviews supplement documentary analysis. Interviewees included current and former members of the Primary Energy Division at Eskom, members of government and individuals involved in the energy sector.

1.4.4 Transformation and coercive rent-seeking

Chapter Five uses critical discourse analysis (CDA) as a framework to demonstrate how aspects of political discourse have shaped, and are operationalised, in rent-seeking processes. It primarily responds to the research question:

How do discourses around transformation reflect contemporary priorities, and influence rent-seeking processes and rent allocation at Eskom?

Its findings also speak to the main research question on how rent-seeking dynamics and processes of rent-allocation influence the political economy of the MEC.

The chapter builds on the previous discussion on how contemporary priorities inform rent-seeking and distributing behaviours at Eskom to show how actors can operationalise discourses around transformation – which reflect these priorities – coercively in rent-seeking. Drawing on research on liberation parties in power (Paget, 2020; Beresford et al., 2018; Dorman, 2006; Reno, 2002), the chapter establishes discourses around transformation as type of post-liberation discourse, with developmental and nationalistic characteristics. Discourses around transformation are also extremely flexible, and while they may broadly refer to a vision of a non-racial, equitable society, these discourses do not speak to a ‘route’ to achieve this vision.

This flexibility underpins actors' competing and seemingly contradictory operationalisation of these discourses in rent-seeking practices. For instance, early efforts to 'transform' the MEC adopted a neoliberal, private-sector driven approach with high-level transactions between black elites and white-owned companies. Senior party members, like Thabo Mbeki encouraged these transactions as part of an effort to create a 'patriotic black bourgeoisie'. However, this approach is dependent on good market conditions, and companies' enthusiasm for these transactions appears to have waned since the global financial crisis, making this approach unsustainable. Nonetheless, it created an affluent group of black capitalists, thereby reinforcing the MEC as a site of class formation – in the sense that it created opportunities for upward mobility – and SOEs as a source of rents to facilitate this process.

Radical economic transformation (RET), as a branch of discourses around transformation, reflects aspirant black capitalists' frustration with the difficulty in accessing rents under this neoliberal model. Discourses around RET are nationalist in the sense that they are explicitly anti-colonial in their criticism of 'white monopoly capital' and rejection of neoliberal norms. Analysis of interview data and testimonies at inquiries indicates that this nationalistic dimension lends discourses around RET some of their coercive potential. Rent seekers or rent holders justify transactions as transformative, and their opponents as 'anti-transformation', which is an allegation that has personal and professional implications. This coercive operationalisation of these discourses means that RET is now closely associated with Zuma's faction of the ANC (Chipkin et al., 2018, 30; Desai, 2018, 502).

Although some factions have apparently used discourses around RET as a tool to facilitate predatory rent-seeking, these discourses reflect real tensions over how to tackle racial inequality. These tensions are evident in debates over energy transitions in South Africa. Proponents of renewable energy producers advocate for a version of a 'just transition' that is seemingly market-led, while opponents to restructuring the energy sector use discourses around RET to present renewable energy as foreign intervention. In analysing the link between resistance to renewables and support for structures within the MEC, this chapter demonstrates how discourses around transformation have embedded the MEC as a site of accumulation and class formation. The desire to preserve the MEC as a site of accumulation creates barriers to much needed reforms. Through this discussion, this chapter contributes to scholarship on the

political economy of South Africa's energy sector and how this affects the country's ability to reduce its dependence on coal-generated electricity.

1.4.5 Practical norms and rent-seeking: organisational discipline and loyalty

Chapter Six identifies some of the practical norms that inform procurement processes at Eskom and the role they play in rent-seeking at the company. Through this discussion the chapter responds to the question:

What are the practical norms that shape rent-seeking dynamics at Eskom?

This chapter considers the role of the employees that facilitate transactions to draw out the practical norms and moral economy that informs their participation in rent-seeking networks as necessary but secondary actors. I focus on actors in the Primary Energy Division who are responsible for procuring fuel for power stations and managing these contracts. These employees may hold senior or middle management positions in Eskom and are essential actors in patronage networks and are responsible for carrying out transactions. However, they are not necessarily direct beneficiaries of these relationships.

This chapter builds on Olivier de Sardan and others' work on bureaucratic practices in public institutions. This research acknowledges the 'truisms of organisational sociology', specifically that bureaucratic practices deviate in practice from regulations (Bierschenk and Olivier de Sardan, 2014b). Olivier de Sardan and de Herdt propose practical norms as a solution to these deviations, defining these norms as the 'informal, de facto, tacit, or latent norms that underlie the practices of actors which diverge from official or social norms' (Olivier de Sardan, 2017b; De Herdt and Olivier de Sardan, 2017a). Although practical norms deviate from social norms they are closely related and context specific. Similarly, work on the moral economy of corruption addresses the situational tensions between inter-personal networks and impersonal institutions, influencing justifications for practices that are apparently fraudulent (Whyte and Wiegratz, 2016; Sanghera, 2016; Olivier de Sardan, 1999; Bracking, 2019). I conclude that it is not that employees approve of – or even accept – corruption. Instead, the costs of opposing corrupt transactions – which some superiors treat as 'insubordination' – and responsibility to personal networks outweigh the societal duty to resist or expose predatory rent-seeking practices.

My findings are based on documentary analysis of the proceedings of public inquiries into procurement practices at Eskom, including investigation reports and personal testimonies. Data from key informant interviews supplements documentary analysis, providing personal accounts from current and former Eskom employees, energy sector analysts and anti-corruption activists. The discussion of some of the interpersonal dynamics at the heart of the Eskom crisis contributes a layer of granularity to macrolevel debates on the political economy of the South African energy sector. This degree of granularity further clarifies understandings of overarching rent-seeking dynamics in the MEC.

1.4.6 Conclusions

This thesis offers a conceptual framework to study the allocation of resources that focuses on processes and situational specificities, contributing to research into the nature of rents and rent-seeking dynamics in South Africa's MEC. I have focused on rent-seeking dynamics in Eskom's Primary Energy Division, due to their role in procuring coal (and other fuel sources) for the country's power stations. This is an effective case study as it offers insights into a key nexus point of the MEC (between coal mines and Eskom's coal-powered power stations), which is critical in understanding the broader political economy of the country's energy sector. Unpacking the political economy of the MEC also sheds light on some of the dynamics that create barriers to reforming or restructuring the sector. This thesis's findings are consequently pertinent to debates on how to transition away from dependence on coal-generated electricity. Similarly, in building on research into political patronage in South Africa the thesis nuances emerging debates around 'state capture'. Analysing rent-seeking dynamics at Eskom has demonstrated how these processes have created opportunities for unproductive practices. These findings contextualise disfunction at Eskom as a result of long-term processes as opposed to practices under a particular administration.

This thesis has made these contributions by adapting Jomo K.S and Khan's conceptualisation of productive and unproductive rents as a framework to study processes at Eskom. This framing accounts for the variety of rents and their varying outcomes. However, I have also added to this framework, by including work on practical norms and using CDA to inform my analysis. This approach maintains the value of considering the types of rents and the processes used to

access them, alongside the contemporary priorities that shape contestation over rents and their allocation. The incorporation of practical norms into a discussion of rent-seeking accounts for the importance of studying these dynamics – and the processes that shape them – in their context. This mitigates some of the risks associated with studying corruption as a clearly (and universally) defined term. This provides a framework to consider the inter-personal dynamics of competing social and institutional obligations, and how these factors shape rent allocation in practice.

2 Unpacking rent-seeking and political patronage

This chapter sets out a conceptual framework for studying the allocation of state resources (in the form of rents). The proposed framework emphasises the importance of studying rent-seeking processes through identifying the norms and contemporary priorities in a specific context, which shape rent allocation. The chapter starts by outlining Jomo K.S and Mushtaq Khan's work on productive and unproductive rents, which provide a framework for analysing the different nature of rents and the possibility for them to have positive and negative economic outcomes. I argue that it is helpful to use an expanded definition of productive to capture rent holders-in-government's goal, which may include social programmes (such as tackling racial inequality in South Africa). The possibility for rents to have productive outcomes underlines the importance of coming to grips with rent-seeking and allocation processes.

The chapter relates rents and rent-seeking to research into political patronage and its outcomes in sub-Saharan Africa countries. Discussing how different researchers have framed their analysis of the allocation of state resources in post-colonial African countries, speaks to the need to avoid labels that essentialise informality in state institutions as a marker of African disfunction. I draw on work into bureaucratic norms to demonstrate that informality is (to varying extents) universal (De Herdt and Olivier de Sardan, 2017a; Bierschenk and Olivier de Sardan, 2014a; Helmke and Levitsky, 2004; March and Olsen, 1998). Incorporating norms into the conceptual framework provides a lens to consider the situational factors that shape rent-seeking processes in practice and avoid normative judgments around acceptable and unacceptable practices. Work on practical norms, which seeks to explain 'the gap' between formal rules, social norms and actual practices (Olivier de Sardan, 2017b; De Herdt and Olivier de Sardan, 2017a; Blundo, 2017), is particularly relevant for studying the allocation of rents in setting such as Eskom. As a state-owned enterprise (SOE), Eskom employees are subject to organisational norms in the governing African National Congress (ANC) and social norms, while being subject to formal regulations governing procurement. It is thus essential for a conceptual framework that studies rent-seeking at the company to consider the factors that shape these processes. The conceptual framework that this chapter sets out frames the

allocation of state resources in terms of broad processes of rent-seeking, alongside the norms that shape these processes in specific contexts.

2.1 Rents and rent-seeking

As stated in the introduction, this thesis uses Jomo K.S and Khan's definition of rents as 'income that is above normal'; specifically, income that exceeds an actor's rights in a 'competitive market' (2000, 5). Rents refer to a wide range of government resources that give the recipient an advantage in the market, including subsidies, preferential access to contracts, or protectionist policies (Khan and Jomo K.S, 2000, 5). There are different types of rent-seeking, which can be legal (lobbying for regulatory changes) or illegal (bribery) (Kelsall, 2013, 9; Khan and Jomo K.S, 2000, 5). Legal forms of rent-seeking are important because they demonstrate that 'corrupt' practices are not an inevitable consequence of rent-seeking. Consequently, corruption should not be conflated with rent-seeking, or indeed, political patronage more broadly.

Similarly, rent-seeking and clientelism are closely related phenomena but are not necessarily synonymous with each other. Researchers have conceptualised clientelism in different ways but with broadly similar characteristics. For instance, Allen Hicken highlights four 'key elements of clientelist relationships: dyadic relationships, contingency, hierarchy, and iteration' (2011, 290). Fiona Anciano builds on this list to include 'patron-client relationships that are interest maximising, voluntary, dyadic, reciprocal, iterative and hierarchical' (2018, 98). A particular trait of clientelist relationships is the exchange of privileged access to state resources for political support (Anciano, 2018, 102; Bénit-Gbaffou, 2011, 456; Hicken, 2011, 291; Van de Walle, 2007, 2; Auyero, 1999, 291). Clientelism is therefore one method of accessing political patronage, which refers to the relationship between state actors (as the patrons) and their clients (which can refer to individuals or groups). Patrons control access to state resources and their political legitimacy is partly based on their ability to distribute these resources across their networks (Schatzberg, 2001, 24; Tangri, 1999, 11). Meanwhile, clients can exercise their own agency within these relationships, using their membership to patronage networks to make demands of their patrons (Dawson, 2014, 538; Bénit-Gbaffou, 2011, 456; Schatzberg, 2001, 272). The reciprocal nature of exchanges between patrons and clients

indicate that clientelism – like rent-seeking – is not necessarily antithetical to democratic or economic development, offering alternative forms of engagement and accountability between citizens and political elites (Anciano, 2017; Bénit-Gbaffou, 2011; Hicken, 2011; Auyero, 1999; Gay, 1998). These possibilities underline the importance of identifying situational specificities in clientelist relationships and rent-seeking processes, and how the context of these processes shapes their outcomes.

Rent-seekers can act as political clients, trying to win rents from rent-holders in government. As will be discussed below, the state actors who distribute these rents can also benefit from rent-seeking and there is a degree of reciprocity within these relationships. This is particularly the case with vertical rents, such as rent-like transfers (see Chapter 2.2), which political elites transfer to citizens. However, this reciprocity is less overt in cases where rents are distributed horizontally to elites or targeted industries. The potential to distribute or redistribute the profits from rents can have political benefits for rent-distributors, helping to retain or regenerate political support (Booth and Golooba-Mutebi, 2012, 5; Khan and Jomo K.S, 2000, 10-12). Yet, in these cases, the allocation of rents is not directly contingent on the return of political support. This difference in the terms of the allocation of resources indicates that while rent-seeking can occur within clientelist networks, rent-seeking is not always clientelism. Studying rent-seeking as a distinct activity consequently avoids conflating different practices, strengthening the analytical clarity of this conceptual framework.

Khan and Jomo K.S argue that under certain conditions, governments can use their ability to distribute rents to achieve economic growth and develop specific industries. In these cases, rents can be considered productive, or ‘efficient and growth-enhancing’, in comparison to unproductive rent-seeking, where the costs of rent-seeking outweigh the benefits and are therefore ‘inefficient and growth retarding’ (Khan and Jomo K.S, 2000, 7, 21-6). Khan and Jomo K.S’s argument contradicts neoliberal theory that government intervention is antithetical to development (Leys, 1996, 18). Neoliberal reforms, which included calls for public spending cuts, anti-protectionist and privatisation policies, informed the World Bank and International Monetary Fund’s (IMF) development strategies from the late 1970s (Leys, 1996, 18). Colin Leys argues that this strategy dominated ‘development theory’ to the extent that, ‘by the end of the 1980s the only development policy that was officially approved, was not to have one –

to leave it to the market to allocate resources, not the state' (Leys, 1996, 24). The World Bank and IMF imposed 'Structural Adjustment Policies' (SAPs) that prescribed neoliberal reforms on several sub-Saharan African countries in exchange for debt relief in the 1980s and early 1990s. However, academics, and the institutions themselves (to an extent), have acknowledged SAPs' detrimental economic impact (Mkandawire, 2015, 172; Cooper, 2014, 33; Leys, 1996, 24).

The clear failure of neoliberal reforms to help countries 'catch up' to high income economies, alongside the economic gains made in countries with interventionist governments have informed more recent work in development studies (Cooksey and Kelsall, 2011, 5; Mkandawire, 2010, 59; Leys, 1996, 40-3). Here, states use their access to rents to further their developmental ambitions. The definition of a 'developmental state' is contested but it broadly relates to 'one that derives its legitimacy from its record in economic development, which it tries to achieve mainly by means of selective industrial policy' (Chang, 2010, 82). This review does not address these debates in detail, focusing instead on how a government's stated developmental ambitions influence and shape rent-seeking processes.

2.2 Productive and unproductive rents

The strategic allocation of rents is one approach that governments can use to work towards their developmental ambitions, using their access to rents to support particular demographics or industries. The targeted distribution of rents can have positive economic impacts. Khan and Jomo K.S use evidence from South and South-East Asia to argue that

[r]ents include not just monopoly profits, but also subsidies and transfers organised through the political mechanism, illegal transfers organised by private mafias, short-term super profits made by innovators before competitors imitate their innovations, and so on. Some rents are legal while others are illegal. Some, such as monopoly rents may signal inefficiency; others, such as rents for innovators, subsidies to infant industries or the rents earned by owners of scarce natural resources, may signal either efficiency or the successful exploitation of growth opportunities. (2000, 5)

Khan identifies six different types of rents; natural resource rents, monopoly rents, rents for learning, rents based on transfers, Schumpeterian rents, and monitoring and management rents

(Khan, 2000b, 24). These rents represent different benefits and outcomes, with some rents likely to be more productive (see Table below).

Table 2.2.1: Types of rents and their outcomes (from Khan, 2000, 68)

Type of rent	Description	Efficiency implications	Growth implications
Monopoly rents	Entry barriers, allowing firms in protected markets to charge more for their product (Khan, 2000b, 29).	Inefficient	Likely to be unproductive
Natural resources rents	Rights to natural resources. (Khan, 2000b, 33)	Efficient	Likely to be productive
Rent-like transfers	Transfers organised through political mechanisms, such as taxes or subsidies but also those that convert public property into private property. Can become inefficient quickly. (Khan, 2000b, 35-6, 68)	Neutral	Indeterminate: maybe productive
Schumpeterian rents	Rents from information generation and innovation, such as preferential terms for a producer with a superior product. (Khan, 2000b, 40)	May be efficient	Likely to be productive

Rents for learning	Adopting and adapting technology from developed countries into the local circumstances.(Khan, 2000b, 47)	Inefficient	May be productive
Rents for monitoring	Incentives for managing and monitoring the production process. (Khan, 2000b, 53)	May be efficient	May be productive

‘Schumpeterian rents’ – or the ‘rents that emerge due to innovation and information generation’ – are the most likely to be growth enhancing, provided that they do not become monopoly rents, which are more likely to reduce growth (Khan, 2000b, 40, 68). ‘Monopoly rents’ occur in circumstances where one producer dominates a market, enabling them to charge higher prices for their product. A lack of competition can be unproductive in cases where costs exceed inputs, as well as deterring potential investors (Khan, 2000b, 26-33). These problems are broadly in line with neoliberal theory which promotes a free and open market. However, Khan’s analysis also indicates that the effects of monopolies can vary. For instance, as long as a monopoly is not permanent, it may actually increase investment and create incentives for innovation, underlining the link between ‘monopoly’ and ‘Schumpeterian rents’ (Khan, 2000b, 33). The variable productivity of different rents indicates that it is useful to distinguish between the different types of rents, even if they are interrelated. Indeed, Khan argues that critiques of rents in developing countries assume that all rents are monopoly rents and designed to curb competition (Khan, 2000b, 33).

‘Monopoly rents’ and ‘rent-like transfers’ are especially relevant for discussing the nature of rents at Eskom. Eskom, as effectively the sole generator of electricity in South Africa,¹¹ holds monopoly rents to the electricity sector. This is particularly the case for coal, as Eskom is the largest buyer of domestic coal by volume (Minerals Council South Africa, 2021, 33). Moreover, broad-based black economic empowerment (B-BBEE) regulations (theoretically) control access to Eskom contracts for majority-black-owned businesses, providing privileged access to Eskom contracts for black-owned firms. ‘Rent-like transfers’, such as jobs and access to electricity, are another valuable form of rent that Eskom offers. Analysis in the following chapters broadly confirms Khan’s assertion that these rents can have productive and unproductive outcomes. However, my analysis also finds that the distinction between productive and unproductive rents can be difficult to distinguish in practice (see Chapter Four). This difficulty partly stems from narrow conceptualisations of productive rents that are largely based on economic growth or industrial development. As Table 2.2.1 above indicates, Khan’s evaluation of productivity is strongly linked to metrics around efficiency and economic growth. While these metrics are important, they do not necessarily result in a reduction of inequality or poverty. Examples from mineral rich countries in Africa, (such as Angola, Nigeria and Equatorial Guinea) indicates that GDP growth based on export revenues from mineral resources has not resulted in a significant reduction in poverty (Jerven, 2015). Similarly, UK government-funded research in Tanzania has reported a ‘mismatch’ between GDP growth and poverty reduction (Mashindano and Maro, 2011). The need to tackle racial inequality is especially important in South Africa due to the legacy of colonialism and apartheid, with the 1996 Constitution envisaging an equitable, non-racial society. As this thesis shows in Chapter Five through its analysis of discourses around transformation, tackling racial inequality is an essential element of a rent’s productivity in the South African context. To capture this broader framing of productivity, this conceptual framework expands its understanding of productive rents, assessing productivity in terms of rent holders-in-government’s contemporary needs and

¹¹ According to the national statistics agency, Eskom generates about 90% of South Africa’s electricity (Statistics South Africa, 2021).

priorities. This approach acknowledges shifting ideas over what constitutes a productive rent and avoids normative judgements over acceptable and unacceptable practices. The thesis's conceptual framework thus prioritises the analysis of rent-seeking dynamics and rent-allocation processes to understand outcomes.

Rent-seeking processes influence the extent that rents can have productive outcomes. Khan argues that 'rent-seeking is a significant process because the resources they use up are a social cost, and they determine the types of rents which are created and maintained in a particular society' (Khan, 2000a, 70). A government's ability to influence the rent-seeking process thus determines the efficiency of the rents, increasing the likelihood that the rents will be productive. For instance, South Korea successfully used rents to achieve rapid economic growth in the 1960s and 1970s. The centralisation of power meant that the government was able to control access to rents for learning and 'prevented individuals unrelated to industrial policy from offering to protect the rents of emerging capitalists independently of the interests and calculations of political leadership' (Khan, 2000, p.96).

2.2.1 Rent-seeking and developmental patrimonialism

Similarly, work from the UK-government-funded African Power and Politics Programme (APPP) on Ethiopia and Rwanda emphasises the importance of centralised rent distribution through a strong ruling party as a key quality of successful developmental patrimonialism (Kelsall, 2013, 118; Booth and Golooba-Mutebi, 2012; Vaughan and Gebremichael, 2011). Work from this branch of the literature challenges the assumption that patronage politics impedes development to examine the ways that patronage networks can facilitate economic growth. Their focus on the structural characteristics of patronage networks over the types of rents and rent-seeking processes reflects this theoretical foundation. David Booth and Frederick Golooba-Mutebi define developmental patrimonialism as a system in which

[r]uling elites acquire an interest in and a capability for managing rents in a centralised way with a view to enhancing their incomes in the long run, rather than maximising them in the short run. (2012, 3)

The key difference between predatory and developmental patrimonialism therefore relates to rent holders-in-government's objectives. In cases where patronage networks are exclusively

predatory or extractive, political elites are likely to try extract as many resources as possible in a short space of time. According to Alice Sindzingre, the main variable that differentiates clientelism in Africa to that in Asia is the ‘temporal horizon’ (2002, 452). Predatory patrimonialism fits within van de Walle’s description of elite clientelism, where a smaller pool of resources is distributed among a smaller group of people (2007, 3). Elite clientelism is more likely to be associated with authoritarian governments and is also more likely to be predatory, as a small group of elites must consolidate their position, potentially through coercive means. In comparison, mass clientelism entails the distribution of resources such as jobs or housing to a large group in exchange for supporting a political party (Van de Walle, 2007, 3). Governments hoping to use political patronage to achieve development goals are more likely to display characteristics of mass clientelism. For instance, work on developmental patrimonialism emphasises the government’s capacity to manage the distribution of rents according to a long-term strategy and the extent to which it has centralised the distribution of rents. Tim Kelsall uses the following table to illustrate the conditions necessary for developmental patrimonialism:

Table 2.2.2: Rent management and outcomes (from Kelsall, 2013, 24)

		Centralisation	
		Low	High
Time horizon	Short	Competitive clientelism	Non-developmental kleptocracy
	Long	Ineffective developmental state	Developmental patrimonialism

In Rwanda and Ethiopia, the state endeavours to ensure that (preferred) business ventures have been successful, employing qualified management from abroad when necessary and protecting domestic industries (Kelsall, 2013; Booth and Golooba-Mutebi, 2012). In these cases, rent-seeking is centralised, and rent holders-in-government prioritise ‘long-horizon rent creation’, which entails

directing a substantial portion of rent-earning opportunities to activities that involve increases in value-added, or transformations in the productive forces over time – as when subsidies are provided to an infant industry that in the long run will compete internationally. (Kelsall, 2011, 79)

Although Booth and Golooba-Mutebi have noted that tolerance of corruption is relatively low in the Rwanda case, this does not mean that developmental patrimonialism is entirely transparent (Booth and Golooba-Mutebi, 2012, 12; Kelsall, 2011, 79). In Nigeria, businessman Aliko Dangote used his close relationship with then-president Olusegun Obasanjo to influence government policy. In return for implementing import tariffs, Dangote made a significant investment into the country's cement industry (Akinyoade and Uche, 2018). Eventually, Nigeria became self-sufficient in cement production, providing opportunities for other industries (Akinyoade and Uche, 2018). Meanwhile, Dangote's ongoing collaboration with the government has reportedly made him the richest person in Africa (CNBC Africa, 2021). By taking steps to protect investment in key industries, rent holders-in-government are not only acting as the distributor of rents but also as the guarantor of investments' success.

This approach consequently suggests that the rent holder's objectives and capacity to centralise the distribution of rents has a greater effect on determining the outcome of rent-seeking than the types of rents these practices produce. While the ability to control the distribution of rents is important, this broad characterisation overlooks the possibility that rents can have multiple outcomes. It is also possible that productive rent-seeking may become unproductive and vice versa. It is therefore valuable to consider the types of rents at stake, as well as the political economy of the rent-seeking process itself.

2.2.2 Corruption and unproductive rent-seeking

The provision of a competitive advantage to a specific actor or group, alongside illegal forms of rent-seeking links research that broadly classifies these practices as corruption and the extent that they can also have productive outcomes. Nathaniel Leff and Joseph Nye suggest that corruption can facilitate economic development. Leff argues that bureaucratic corruption, or 'the practice of buying favours from the bureaucrats responsible for formulating and administering the government's economic policies', can provide private actors with increased

influence over policy creation and implementation, which can promote growth (1964, 8). Similarly, Nye specifies that corruption can have positive effects through ‘capital formation, cutting red-tape and encouraging entrepreneurship and incentives’ (1967, 319-20). The practices listed by both authors constitute a form of rent-seeking in line with those above. For instance, corruption trials in South Korea in the 1990s revealed that substantial bribes were exchanged between politicians, bureaucrats and industrial groups during the 1960s and 1970s, when the government used rents to achieve economic growth (Khan, 2000a, 97). Rapid economic growth in an environment where bribe paying and other forms of rent-seeking was taking place, suggests that corruption is not necessarily an impediment.

In addition, Andrei Shleifer and Robert Vishny’s models on corruption indicate that the phenomenon is more harmful for the economy in situations where the government is unable to control the number of agents soliciting bribes (1993, 609). This argument also highlights the importance of the centralised distribution of rents. However, the authors stress that the ‘imperative of secrecy’ in corruption slows the pace of change and innovations since elites must restrict access to rents gained through bribes to a small group, excluding newcomers (Shleifer and Vishny, 1993, 615). In this way rents for innovation can become monopoly rents. For instance, evidence emerged during the South Korean corruption trials that the government had continued to support companies even after they had stopped being profitable (Khan, 2000a, 97). Ongoing support for specific companies, demonstrates the limits to the productivity of this form of rent-seeking, especially when political allies are awarded preferential treatment regardless of their economic contribution. Moreover, the above arguments have broadly defined corruption, conflating ostensibly legal forms of rent-seeking with illegal practices.

Equating all rent-seeking practices with corruption also carries negative connotations of politically-connected private actors extracting state resources with limited redistributive benefits. The extraction of state resources to benefit private networks relates to forms of crony capitalism, where private individuals use relationships with government officials to accumulate wealth (Beresford, 2015, 230; Hutchcroft, 2000, 212). When opportunities for the accumulation of wealth are predominately associated with access to state resources, these practices can progress into forms of spoils politics, which is associated with looting state resources (Allen, 1995, 308).

Spoils politics is associated with political instability and economic decline or stagnation (Allen, 1999, 380; Allen, 1995, 307-9). Yet, North *et al.* argue that elites can use their ability to restrict access to resources to form ‘dominant coalitions’ to create rents and provide incentives for groups to refrain from using violence (2012). Where elites agree to work towards specific goals, rents can facilitate economic growth, but this growth is likely to be inefficient, since the restrictions placed on access to rents limits competition and economic productivity (North *et al.*, 2012, 8). However, as governments become more secure, they become more resilient to challenges and are more likely to allow for greater levels of competition. Gabi Hesselbein argues that

the state and business stimulate growth and rapid technological change. New enterprises and products will be visible, commercial interests are well organised, a national market with many linkages will be established and the bulk of the economy is formalised. A rising level of taxation goes hand in hand with more gross capital formation. (2011, 7)

This process occurs as governments implement and maintain a number of reforms, including strengthening public institutions (North *et al.*, 2012, 12; Hesselbein, 2011, 6-7). This argument has parallels to developmental patrimonialism in that the productivity of rents is seemingly determined by the extent to which a dominant coalition feels secure in their position. However, a coalition may not necessarily increase access to rents to a significant proportion of the population, particularly if they risk losing control in doing so (North *et al.*, 2012). A coalition’s ability to control rents reinforces its political power while the incentive to stay in power possibly explains why some companies continue to receive political support even after they stop being profitable. In addition, the ongoing restrictions placed on accessing rents are likely to benefit political elites, suggesting that while rent-seeking may successfully encourage economic growth, it is less successful at tackling inequality and other aspects of socio-economic development. Questions over the extent that rent distribution results in meaningful social gains reinforces the benefits of an expanded understanding of productive rents. This is relevant for examining how governments have distributed rent-like transfers from Eskom, and in addressing the research question of how discourses around transformation reflect contemporary priorities in South Africa and influence rent-allocation.

2.2.3 Rent-seeking and political patronage

Rent-seeking thus plays an important role in political patronage networks, especially in gatekeeper states where a dominant coalition uses its ability to distribute rents to retain and regenerate political support. Cooper underlines the importance of this capacity, stating that gatekeeper states would rather ‘shrink services than rents’ (Cooper, 2014, p.31). Gatekeeper states may consequently look to reduce or halt access to, and investment in, public services to retain resources to distribute as rents to elites. Competition to control access to rents can have result in variants of spoils politics. Yet, the above discussion demonstrates that the value of rents for ruling factions does not preclude the possibility that they will use their access to rents productively. This thesis adapts Jomo K.S and Khan’s conceptualisation of productive and unproductive rents as a framework to analyse rent-seeking at Eskom. My framework uses an expanded definition of productive rents, considering the extent that rent holders distribute rents to address immediate needs. This approach focuses on rent-seeking dynamics and rent allocation processes, as opposed to an outcome-led approach. In addition, I treat rent-seeking as a distinct process (with various outcomes), offering a greater degree of analytical clarity to studies that conflate rent-seeking with corruption or clientelism. Similarly, research that focuses on the structure and ambitions of high-level rent-holders offer insights into preconditions for effective rent-distribution strategies. However, this high-level focus lacks the granularity necessary to address rent-seeking at a company level, which is necessary to respond to this thesis’s research questions. Analysing processes – and the norms and priorities that shape them – enables more granular, company level study.

2.3 Political patronage in sub-Saharan Africa

This section outlines the links between research on rents and rent-seeking, and debates on political patronage in sub-Saharan Africa. Discussing practices within patronage networks provides additional background for considering the dynamics of rent-seeking and factors that influence them. The nature and influence of patronage networks has been a common topic of debate in African studies as researchers have grappled with the impact of colonialism on the state in sub-Saharan Africa. Researchers have considered the incorporation of patronage networks into the colonial state apparatus, and how patronage networks have adapted to and

interacted with state institutions in the post-colonial period. The personalisation of power and state offices is common theme among the studies addressed in this section. For instance, several authors have characterised patronage networks as ‘neopatrimonial’, reflecting the personalisation of power, exercised through formal but weak institutions (Bayart, 2009; Médard, 2002; Van de Walle, 2001; Chabal and Daloz, 1999). Studies on neopatrimonialism have commonly associated competition for resources for patronage and then incentives to retain control over these resources with economic crises and political instability in independent African countries (Bayart, 2009, 76; Van de Walle, 2001, 52; Chabal and Daloz, 1999, xviii). Another line of debate considers the importance of the ability to redistribute state resources to political subjects across patronage networks in reinforcing leaders’ legitimacy to lead (Schatzberg, 2001, 151; Berman, 1998, 331).

Some academics have pushed back against the analytical value of neopatrimonialism as a description of politics in Africa. Specifically, authors have contested the negative connotations of the term, arguing that it provides little insight into specific political circumstances or economic performance (Mkandawire, 2015, 565; Pitcher et al., 2009, 128). To counter these negative implications of neopatrimonialism some researchers have moved to repurpose the term and use it as a framework to analyse rent-seeking and economic development (Akinyoade and Uche, 2018, 4-5; Booth and Golooba-Mutebi, 2012, 5; Kelsall, 2011, 79). Other researchers have proposed a ‘political settlements’ approach to studying political patronage as the ‘configuration and operationalisation of power’ in African countries (Khan, 2018; Behuria et al., 2017). Engaging with these frameworks clarifies my approach of analysing these practices in terms of productive and unproductive rent-seeking; identifying the practices and the situational dynamics that shape them.

2.3.1 Patronage networks and the colonial state

In the establishment of colonial states, European powers institutionalised patronage networks. Crawford Young notes how European governments relied on key African allies, offering them ‘real but diminished power’ in exchange for their assistance in consolidating foreign control (1994, 107). Although all colonial powers worked with African intermediaries, for Britain, this involved recognising African chiefs as part of a strategy of ‘indirect rule’ enabling European

powers to rule from the metropolises through African intermediaries (Young, 1994, 107). This strategy of recognising select chiefs and incorporating them into colonial institutions formalised a social hierarchy that matched European ideas of how African societies should be organised, even if these ideas had limited grounding in reality.

Terence Ranger argues that colonialism invented and codified tribal 'traditions' in the continent (Ranger, 2012, 250). Customary laws codified particular practices at the time they were recorded, depicting them as fixed and unchanging. By enshrining social practices, customary laws gave Europeans a template to govern, justifying punitive measures against people who broke with these so-called traditions (Ranger, 2012, 250-1). African elites played a role in the invention of traditions, using appeals to custom to gain or increase control (Ranger, 2012, 254). For instance:

Elders tended to appeal to 'tradition' in order to defend their dominance of the rural means of production against challenge by the young. Men tended to appeal to 'tradition' in order to ensure that the increasing role which women played in production in the rural areas did not result in any diminution of male control over women as economic assets. Paramount chiefs and ruling aristocracies in polities which included numbers of ethnic and social groupings appealed to 'tradition' in order to maintain or extend their control over their subjects. Indigenous populations appealed to 'tradition' in order to ensure that the migrants who settled amongst them did not achieve economic rights. (Ranger, 2012, 154)

Ranger's thesis underlines the hugely disruptive impact that colonialism had on African societies, creating and consolidating hierarchical networks through which citizens gained and demanded access to state resources. The value of patronage networks in gaining access to state resources persisted after independence, with dominant factions' ability to distribute patronage strengthening their political authority.

Bruce Berman argues that the institutionalisation of 'Big Man, Small Boy' politics during colonialism played a critical role in the creation of post-colonial patronage networks. He asserts that the inclusion of African leaders into colonial institutions had three effects:

- 1) It secured the loyalties of beneficiaries

- 2) It reinforced the role of the state as the principal source of the benefits of modernity and development
- 3) It made patron-client relationships not only the fundamental mode of access to the state and its resources, but also, as in precolonial societies the fundamental relationship between ordinary people and those in power. (Berman, 1998, 316)

The role that patronage plays in securing political loyalties and the importance of the state in securing resources for patronage remain prominent themes in work that consider political patronage in the post-colonial state.

2.3.2 Political patronage in post-colonial Africa

For many states in sub-Saharan Africa, independence did not mark a break from authoritarian rule, despite liberation movements' optimism. Nic Cheeseman notes that by the end of the 1970s only four countries in Africa practiced multipartyism (2015, 32). The economies in many countries in the region were also floundering, after successive commodity price shocks caused inflation rates to rise, while governments accumulated unsustainable levels of debt (Cheeseman, 2015, 87-8). In this context of illiberal politics and poor economic performance, the interaction between pre-colonial patronage networks and colonial era institutions emerged as a way to explain the weaknesses of newly formed African states.

In his 1975 paper, Peter Ekeh argues that the public and private spheres in Western countries share a common moral foundation, which is not the case in Africa. Instead Ekeh suggests that there are two publics in Africa; civic and primordial. The primordial public shares the same moral imperatives as the private realm and is strongly linked to 'primordial groupings, sentiments and activities' (Ekeh, 1975, 92). The primordial public thus refers to social ties, such as those within ethnic groups. Conversely, the civic public is associated with colonial institutions and is 'amoral' in that it does not share the private realm's moral foundations. Ekeh uses the concept of the two publics to describe colonialism's legacy in newly independent African states. He asserts that colonialism led to the politicisation of ethnic identities with specific boundaries and loyalties, creating a pool from which new leaders could funnel resources towards and draw on for support (Ekeh, 1975, 103-5).

The same people operate in both spaces and according to Ekeh, Africa's political problems stem from the contradictory objectives of the civic and primordial publics. He asserts that, 'corruption rises from the civic republic and the legitimation of the need to seize largesse from the civic public in order to benefit the primordial republic' (Ekeh, 1975, 110). State institutions thus act as a pool of resources to sustain patronage networks that need to be nurtured and maintained. Aside from political support, the person who gives to the primordial public receives 'immaterial benefits, in the form of identity or psychological stability' (Ekeh, 1975, 107). The sense of personal affirmation that stems from belonging to these networks connects social recognition to political backing, indicating that these networks are an important source of legitimacy for political elites.

Access to patronage networks is not solely an elite privilege. However, elites use these networks to strengthen their support base. According to Jean-François Bayart, the maintenance of 'indigenous networks is essential for the conquest and retention of presidential power' (2009, 227). He also states that a 'man of power who is able to amass and redistribute wealth is a man of honour' (Bayart, 2009, 242). By linking the redistribution of wealth to honour, Bayart connects leaders' legitimacy to their duty to provide for their clients. Similarly, Patrick Chabal states that 'leaders acquire and retain legitimacy in so far as they meet clients' reasonable demands' (Chabal, 2009, 93). René Lemarchand suggests that leaders gain clients' trust through their ability to 'allocate patronage' (Lemarchand, 1988, 155). In these arguments, a leader or dominant factions' political legitimacy is to a large extent dependent on their ability to distribute patronage and provide access to patronage networks.

Similarly, Michael Schatzberg uses the concept of the 'father-chief' to demonstrate the connection between the duty to provide for clients and leaders' political legitimacy in Central and West Africa. Schatzberg argues that 'political legitimacy rests on the tacit normative opinion that the government stands in the same relationship to its citizens that a father does to his children' (Schatzberg, 2001, 1). He grounds this familial metaphor on two premises. Firstly, 'the father-chief must be a provider for his political children', and secondly, 'the father-chief has limits of consumption during periods of scarcity' (Schatzberg, 2001, 150). In Schatzberg's model the 'father-chief' gains legitimacy through distributing resources to his 'children'; services like food, housing and health consequently are viewed as gifts and not rights (2001,

151). As a result, politics becomes personalised, with the distribution of basic services dependent on a benevolent leader and not faceless institutions.

Meanwhile, as long as the 'family' is well-cared for, 'father-chiefs' are permitted to 'eat and to eat well' (Schatzberg, 2001, 26). Leaders are therefore able to accumulate personal wealth while in office, as long as they do not continue to benefit from their position when citizens are suffering. In other words, there are limits to the public's acceptance of possibly corrupt behaviour, and political legitimacy rests on leaders' ability not to overstep these bounds.

This use of state resources to bolster political support for a leader closely relates to work on neopatrimonialism as characterisation of post-colonial states in Africa. Neopatrimonialism gained prominence from the 1970s to describe the incorporation of dominant African political factions' patronage networks into colonial era institutions in the post-colonial era. Dominant factions personalise state offices, using their access to the state to extract resources for patronage. Christopher Clapham defined neopatrimonialism as

[a] form of organization in which relationships of a broadly patrimonial type pervade a political and administrative system which is formally constructed on rational-legal lines. Officials hold positions in bureaucratic organizations with powers which are formally defined, but exercise those powers . . . as a form of private property. (1975, in Mkandawire, 2015, 565)

The association of state resources with a specific faction or actor personalises institutional offices and is one way that neopatrimonialism is used to describe the overlap between the social and bureaucratic spheres. For instance, Nicolas van de Walle characterises neopatrimonialism as a 'hybrid regime in which informal institutions exist within the trappings of a formal state' (2001, 127). Neopatrimonialism characterises the patronage networks themselves and is thus associated – but not synonymous – with practices that occur within patronage networks, such as clientelism. Van de Walle identifies the 'use of clientelism to gain and maintain support; access to state resources to fund clientelism; and the centralisation of power with a strong president' as additional characteristics of patronage (Van de Walle, 2001, 118-127). Van de Walle thus closely relates neopatrimonialism to clientelism, which becomes one of the primary practices of governments that display neopatrimonial tendencies.

Like Ekeh, van de Walle argues that civic institutions are exploited by leaders to fund patronage networks. The legacy of colonialism gave rise to neopatrimonial regimes through the hybrid state, where 'patrimonial practices coexist with modern bureaucracy' (Van de Walle, 2001, 51). Van de Walle also emphasises that not all forms of clientelism are illegal (2001, 120). Nonetheless, the implication of this argument is that the personalisation of the state through a strong ruler, with the careful allocation of state resources towards political allies, creates an environment in which corruption can flourish. Van de Walle later characterises this highly personalised model as 'elite clientelism', where resources and positions are distributed across a small group (2007, 3). He argues that elites' personal interests dominate policy making, reducing incentives to implement economic or political reforms (Van de Walle, 2001, 115).

The personalisation of power, and the control that dominant groups are able to exert over state resources, suggests that neopatrimonialism can occur within 'gatekeeper states'. Frederick Cooper uses the concept of the gatekeeper state to describe circumstances where a leader or ruling faction has almost hegemonic control over state resources and is preoccupied with maintaining control over the gate (2002, 6). These states frequently lack the institutional capacity to set economic policies and priorities, or to generate revenues for improved services by collecting taxes (except from trade). But dominant factions within these states can distribute revenues that were derived from the state itself (Cooper, 2002, 156-7). The importance of state resources for dominant factions suggests that the ability to fund patronage networks reinforces leaders' ability to retain control over the 'gate'.

Although studies on developmental patrimonialism and productive rent-seeking have argued that gatekeeper politics are not necessarily antithetical to economic growth (Booth and Golooba-Mutebi, 2012; Kelsall, 2011; Khan and Jomo K.S, 2000), competition to retain control over state resources can have destabilising effects. Chris Allen argues that clientelist politics within gatekeeper states can encourage spoils politics marked by; 'a winner takes all mentality; corruption and looting the economy; economic crises; a lack of political mediation; repression and violence; communalism; endemic instability; and the erosion of authority' (1995, 307-8). In spoils politics, controlling the state provides resources for personal enrichment and measures to redistribute wealth are likely to be limited to what is necessary to deal with an immediate threat or stay in power. Dominant factions gained control over resources by forming 'loose

coalitions' at independence. Elites built these coalitions through leaders that already had a significant local support base, and through 'clientelist politics to bind local notables to the party and local voters to the candidates' (Allen, 1995, 304). Allen characterises spoils politics as a product of competition for resources for political patronage. Competition to control these resources can have detrimental political, social and economic effects. Allen states that 'terminal spoils politics' is marked by 'a general economic contraction and growth of a second economy', while 'the relationship between state and society consists very largely of mutual avoidance, violence and resource extraction' (1999, 379-80). Spoils politics does not explain entire political systems but identifies a particular outcome of competition for resources to sustain small patronage networks. Like gatekeeper states, spoils politics is not a specifically African phenomenon (Beresford, 2015, 229). Spoils politics is therefore distinct from neopatrimonialism which refers to entire systems of patronage and their associated activities in sub-Saharan Africa. Nonetheless, the studies addressed below associate neopatrimonialism with political and economic instability, depicting spoils politics as the almost inevitable result of political patronage. As the next chapter shows, these debates around patronage and its outcomes have also influenced analysis of the management of state resources under the ANC-led governments in South Africa. In research on post-apartheid South Africa, this characterisation carries similarly negative connotations of how rent-holders have used their access to state resources (see Chapter 3.6).

2.3.3 Neopatrimonialism and instability

Bayart *et al.* argue that African states adopted predatory behaviours to accumulate wealth and power. They describe the 'criminalisation' of the state in Africa, identified by 'the abuse of legitimate organs of state power by those in authority; the existence of hidden, collective structures of power, which surrounds and controls the official occupants of senior offices; and the insertion of economic activities in international networks of crime', among other factors (Bayart et al., 1999b, 26). The criminalisation of the state in Africa was precipitated by the 'combined effects of economic crisis, neoliberal programmes of structural adjustment and the loss of legitimacy of political institutions' (Bayart et al., 1999b, 19). Globalisation and the deregulation of markets have reportedly facilitated this form of elite clientelism by providing new avenues for illegal activities (Bayart, 2009, 79; Bayart et al., 1999b, 8; Lemarchand, 1988,

155). For instance, revenues from international trade can be siphoned off by elites, while goods can be easily smuggled across borders to enrich elite networks (Bayart, 2009, 79; Bayart et al., 1999b, 8). Bayart *et al.* describe a predatory form of patronage networks. Predatory patronage networks act as a barrier to socioeconomic development in the criminalised state, since elites act in ‘pursuit of their politics and economic goals’ (Hibou, 1999, 102) with little room for long term investments, which are vital for economic growth.

Patrick Chabal and Jean-Pascal Daloz also use neopatrimonialism to explain low levels of economic growth and political instability in sub-Saharan Africa. They conclude that disorder has been ‘instrumentalised’ by African leaders who ‘seek to maximise their returns on the state of confusion, uncertainty and even chaos, which characterises most African politics’ (Chabal and Daloz, 1999, xviii). Chabal and Daloz contend that it is a mistake to study Africa within western frameworks of modernity and progress. Instead, they argue that disorder provides opportunities for political actors, whose legitimacy is based on their ability to distribute resources across patrimonial networks (Chabal and Daloz, 1999, xviii-vix). Meanwhile, the need to sustain these networks means that ‘there is inevitably a tendency to link politics to realms of increased disorder, be it war or crime’ (Chabal and Daloz, 1999, 162). However, they also assert that development in Africa is progressing according to a ‘developmental logic that is only superficially akin to the Western model’ (Chabal and Daloz, 1999, 101).

For instance, Chabal and Daloz describe corruption as a ‘complex of behavioural patterns, which are key ingredients of the continent’s modernity’ (1999, 101). In their thesis, corruption is a ‘tool of disorder’ whereby ‘power and authority are constantly negotiated and purchased’ (Chabal and Daloz, 1999, 104). Elites use corruption as a tool to gain political legitimacy, with the inference that the wider populace accepts and tacitly approves of this ‘disorder’ in public life. This perspective speaks to Ekeh’s discussion around the two publics and the sense that the exploitation of public resources is accepted or even encouraged provided it serves the ‘primordial public’ (Ekeh, 1975). However, Chabal and Daloz’s argument assumes that that distinctions between the ‘primordial’ and ‘civic’ public are universally shared, discounting alternative research that records disapproval of corruption among public officials in African countries (Mkandawire, 2015, 571; Blundo, 2006b, 109).

2.3.4 Critiques of neopatrimonialism

In the above studies researchers have conflated neopatrimonialism with wider phenomena like spoils politics and distinct practices like corruption, using the term to explain the apparent lack of democratic or economic reforms in post-colonial African states. Gero Erdmann and Ulf Engel argue that the ‘indiscriminate’ use of neopatrimonialism leads to the conflation of the term with other practices, like clientelism, resulting in ‘conceptual confusion’ (2007, 96, 114). They distinguish neopatrimonialism from clientelism and patronage, asserting that the term relates to two different types of political domination; patrimonial and rational-legal (Erdmann and Engel, 2007, 114). However, they still maintain that regimes with neopatrimonial characteristics are prone to instability due to the ‘erratic and unpredictable’ exercise of power (Erdmann and Engel, 2007, 114).

Anne Pitcher, Mary Moran and Michael Johnston contest the negative connotations of neopatrimonialism, arguing that scholars frequently use neopatrimonialism to condemn African societies as ‘backward’ or ‘developmentally delayed’ (2009, 128). They go further in stating that writers who use neopatrimonialism judge African countries against Weberian ideals of an efficient state bureaucracy that ‘are not recognised anywhere’ (Pitcher et al., 2009, 138). Pitcher *et al.* argue that Botswana is perhaps one of the best examples of a neopatrimonial state, with a ‘modern democratic state built on historical foundations of patrimonial authority (2009, 126). Botswana is often lauded as an African ‘success story’ and Pitcher *et al.* use the country to contest arguments that neopatrimonialism signifies a weak or unstable state (2009, 150). Instead they suggest that it would be more fruitful to call ‘other countries what they are: authoritarian regimes, dictatorships, or democracies with adjectives’ (Pitcher et al., 2009, 150) (Pitcher *et al.*, 2009, p.150). Such an approach would also lessen the homogenising effect of neopatrimonialism, leading to more meaningful comparisons between different countries (Pitcher et al., 2009, 150).

Meanwhile, Thandika Mkandawire challenges the attribution of causal power to neopatrimonialism and contends that neopatrimonialism has ‘no predictive value with respect to economic policy and performance’ (2015, 565). He argues that studies that use neopatrimonialism to explain poor economic performance focus on the ‘downward part of the

curve' and overlook the variation in economic performance across the region (Mkandawire, 2015, 594). According to Mkandawire:

[N]eopatrimonialism simply undermines internally driven change by occluding the real problems: corruption, vertical and horizontal inequality, ethnic and gender discrimination, weak state capacity, wrong ideas, political chicanery, and the machinations of the many external actors who seek to exploit Africa in some form or other. (2015, 602)

This critique reflects Erdmann and Engels concern that neopatrimonialism is used as a 'catch-all concept'. The term encapsulates a broad spectrum of activities, and as a result, it is difficult to separate and differentiate phenomena in specific contexts. Furthermore, the inability to clearly identify individual variables within neopatrimonialism limits the extent to which it can be understood to have specific causal effects, regardless of the country being studied. Debates over whether the term should be used, and the outcomes it implies, suggests that it may be more helpful to focus on dynamics and their context. By addressing the nature of rents and the dynamics of rent-seeking this thesis avoids the deterministic outcomes of labelling a system as 'neopatrimonial' and using that label as a framework to guide analysis.

Further to Mkandawire's criticism that the use of neopatrimonialism should be discontinued, some researchers have proposed the political settlement's approach to studying political clientelism (Khan, 2018; Behuria et al., 2017; Gray and Whitfield, 2014). For instance, Behuria, Buur and Grey argue this approach challenges the 'exceptionalism' awarded to African economies through neopatrimonialism. Similarly, Grey and Whitefield argue that conceptualising African states as neopatrimonial, including work on developmental patrimonialism, misrepresents the 'configuration and operationalisation of power', by personalising these networks and focusing on elites (2014, 7). Khan defines a political settlement as 'a combination of power and institutions and mutually compatible and also sustainable in terms of economic and political viability' (2010, 4). A political settlements framework meanwhile seeks to answer the questions '1) what are the institutions that are likely to emerge in specific contexts and 2) how effective will particular institutions be for achieving specific economic or political objectives?' (Khan, 2018, 643). Khan thus proposes political settlements as a framework to study 'dynamic rent-management in institutions' (2018, 651),

and his work on productive and unproductive rents is part of this approach. In the context of economic development and industrial policy in African countries, researchers use the political settlements approach to consider the drivers of clientelism and capitalist transformations.

It is important to note that the definition of a political settlement is contested, contributing to a lack of clarity over the scope and applications of this framework. For instance, Kelsall argues that Khan's definition 'severs the term from its common-sense roots as an agreement between conflicting parties' (2018, 657). In a later working paper with Mattias vom Hau, they propose an alternative definition for a political settlement 'as an ongoing agreement among society's most powerful groups over a set of political and economic institutions expected to generate for them a minimally acceptable level of benefits, and which thereby ends or prevents generalised civil war and or political and economic disorder' (2020, 3). This definition interprets a political settlement in a more literal sense, yet it also restates the central role of elites and infers that patronage networks are the primary barrier to economic and political breakdown. This interpretation consequently fails to offer a distinct break from the somewhat doom-laden connotations of neopatrimonialism discussed above.

This thesis draws on Khan's approach to analysing rent-management in institutions but does not depend on political settlements as an analytical framework. It is important to consider the configurations of power that shape rent-seeking dynamics, and Khan's definition of political settlements accounts for the specific political contexts that shape these dynamics. However, Khan's approach still focuses on the processes that shape institutions, whereas this thesis also examines the inter-personal and socio-political dynamics that shape the nature of rents and rent-seeking at Eskom. This thesis gains this level of specificity by supplementing the productive and unproductive rent-seeking framework to include work on the moral economy of corruption and practical norms.

2.3.5 The moral economy of corruption and practical norms

Ethnographic studies of corruption in sub-Saharan Africa have noted that the wider public rarely approves of overt corruption in political patronage networks. Giorgio Blundo and Jean-Pierre Olivier de Sardan note that the public is more likely to tolerate the misappropriation of funds if the victim is an entity (2006a, 79). Stealing from the state is acceptable, stealing from

community members is not. According to Blundo and Olivier de Sardan also found that ‘while a good appetite is normal, gluttony is deplorable’ (2006b, 133).

Olivier de Sardan has also used the concept of a ‘moral economy of corruption’ to grapple with the contradictions in how corruption is almost universally condemned while many ostensibly corrupt practices are accepted. He suggests that

[t]he practices that come under the complex of corruption, while being legally culpable and widely reprovved, are none the less considered by their perpetrators as being legitimate, and often as not being corrupt at all. In other words, the real borderline between what is corruption and what is not depends on the position of the actors involved. (Olivier de Sardan, 1999, 34)

Olivier de Sardan also argues that this ‘moral economy’ is a post-colonial phenomenon. The ‘process of state apparatus building during the twentieth-century...is obviously fundamental not only for the production of corruption itself, but also for the production of a cultural embeddedness of corruption’ (Olivier de Sardan, 1999, 26). Blundo concurs, stating that colonialism facilitated corruption in institutions by imposing a top-down system of governance; the growth of ‘zero-sum’ politics; and creating a ruling class that sought to emulate the former European leaders. In addition, colonial rulers had limited ability to regulate corruption in the West African context (Blundo, 2006a, 46-7). This argument has clear parallels to Ekeh’s discussion on ‘two publics’ in considering the social obligations that shape bureaucratic practices. Yet, debates around moral economy are not Africa-specific and speak to the role of wider economic norms in influencing people’s actions, and others’ reaction to them.

The influence of broader economic norms is evident in other studies that have addressed the role of neoliberal norms and ‘values’ in driving practices that may be legally or socially construed as corruption. David Whyte and Jörg Wiegatz argue that ‘neoliberalism advances, directly and indirectly, certain moral values that, in turn, are conducive to fostering fraudulent motivation and practice’ (2016, 6). The presence of fraud consequently does not reflect a lack of morals that ‘(interpretations of) particular values (say, personal success, materialism, enjoyment, power and self-direction) that for instance, advance self-interest and require cutting

corners' (Whyte and Wiegratz, 2016, 5). Like Olivier de Sardan, this conception of moral economy emphasises the role of societal norms in shaping tolerance of and justification for apparently fraudulent practices. This builds off E.P. Thompson's original conceptualisation of a moral economy as 'a consistent traditional view of social norms and obligations, of the proper economic functions of several parties within the community' (Thompson, 1971, 79). Thompson argues that the breakdown of 'the old moral economy of provision' with the 'new political economy of the free market' led to food riots in eighteenth century England (Thompson, 1971, 136). Widespread protests over the apparent violation of existing socioeconomic norms were thus rooted in disruptive capitalist transitions and the renegotiation of societal norms.

Studies using moral economy as an analytical framework have since proliferated to the extent that some researchers have argued that the term lacks clarity (Hann, 2018; Götz, 2015). Similar to critiques that 'neopatrimonialism' extrapolates on the nature of the 'African state', Chris Hann argues against using 'moral economy' as an analytical framework because it is 'problematic to generalise about the values of any stratified community' (2018, 230). Norbert Götz is more sympathetic and proposes using moral economy 'as a concept to illuminate such key features of economic allocation as are motivated by ideational, rather than material expectations of personal gain' (2015, 148). This thesis refers to Thompson's conceptualisation of moral economy, due to the reflection on the norms guiding societal and organisational obligations. This interpretation speaks to the personal dynamics that shape rent-seeking dynamics and relationships within patronage networks. This consideration of the obligations that inform understandings of actors' 'proper economic functions' also links to research into norms in institutions, which I also draw on to further ground my analysis of professional practices at Eskom.

Jon Elster addresses the economic implications of social norms in relation to rational choice theory, arguing that while 'rational action is concerned with outcomes', social norms are not 'future orientated' (1989, 99). Elster further argues that

[f]or norms to be social, they must be shared by other people and partly sustained by their approval and disapproval. They are also sustained by the feelings of

embarrassment, anxiety, guilt and shame that a person suffers as the prospect of violating them. (1989, 99-100)

Social norms therefore regulate standards of behaviour, while the sense that they are sustained by public 'disapproval' or personal 'shame', indicates that they are most visible when someone has transgressed against them. As well as regulating personal standards of behaviour, researchers have also used norms to define institutions. For instance, James March and Johan Olsen's definition of an institution brings together 'contracts, legal rules, social norms and moral precepts' (1998, 949).

[A]n institution can be viewed as a relatively stable collection of practices and rules defining appropriate behaviour for specific groups of actors in specific situations...Practices and rules are also embedded in resources and the principles of their allocation that make it possible for individuals to enact roles in an appropriate way and for a collectivity to socialise individuals and sanction those who wander from proper behaviour. (March and Olsen, 1998, 948)

Under this definition social norms and other, more explicit, standards (like contracts or laws) establish and regulate practices in institutions. This definition speaks to the overlapping standards and expectations that shape bureaucratic behaviour and the allocation of resources from public institutions. For instance, the expectation that actors will use access to the 'civil public' to support the 'primordial public' (Ekeh, 1975, 100).

Gretchen Helmke and Steven Levitsky also use norms to analyse practices in institutions. They argue that informal institutions, which they define as 'socially shared rules, usually unwritten, that are created, communicated, and enforced outside of officially sanctioned channels', play a determining role in institutional outcomes, as well as shaping formal institutions (Helmke and Levitsky, 2004, 727). These informal institutions encompass a wide range of practices and can work to strengthen formal institutions or undermine them. Due to the wide range of practices informal institutions encompass, Helmke and Levitsky argue that they are pervasive and occur all over the world (Helmke and Levitsky, 2004, 728-30). This universal aspect of 'informal institutions' speaks to what Olivier de Sardan and Thomas Bierschenk refer to as 'truisms' of organisational sociology, acknowledge that informal practices are present in all bureaucracies

(Bierschenk and Olivier de Sardan, 2014a, 54). The pervasiveness of informal practices means that instead of simply acknowledging their presence, it is essential to identify the norms that shape informality and how these norms shape rent-seeking and allocation processes.

This thesis uses Olivier de Sardan and Tom de Herdt's conceptualisation of practical norms to analyse rent-seeking processes at Eskom that diverge from official regulations (Olivier de Sardan, 2017b; De Herdt and Olivier de Sardan, 2017a). Practical norms refer to 'the various informal, de facto, tacit or latent norms that underlie the practices of actors which diverge from the official or social norms' (Olivier de Sardan, 2017b, 26). These norms are distinct from formal norms – those that 'express rights and obligations explicitly recognised by public and professional institutions – and social norms – those that influence behaviour in the private sphere' (Olivier de Sardan, 2017b, 22-4) Although practical norms can be closely related to official and social norms, distinguishing between these types of norms offers a further degree of specificity and provides a framework to consider Eskom employees' competing social and professional obligations and how this shapes rent allocation at the company. Practical norms can be broken down into four types:

- 1) Adaptive practical norms, which represent small divergences from formal norms. For instance, police in Niger may solve small problems without sending it through the formal justice system.
- 2) Quasi-tolerated practical norms, which reflect practices that obviously depart from formal norms but receive neither censure nor punishment. Such practices are 'tacitly tolerated, to a certain extent, or under certain conditions'.
- 3) Transgressing practical norms, these practices deviate from the 'letter and the spirit' of formal norms, such as paying bribes in exchange for driving licenses in Niger.
- 4) Palliative practical norms where practices break with formal norms with the objective of rescuing service delivery. An example of these norms include magistrates subcontracting the delivery of judgements to private actors, allowing the court to continue working in the absence of its own transport systems. (Olivier de Sardan, 2017b, 46-8)

The presence of practical norms raises questions over how these standards are regulated and the role that patronage networks play in regulating these practices. Critically, these norms are not universal, and are determined by their specific context (Olivier de Sardan, 2017b, 29). The specificity of practical norms underpins the critique that different values in the public and private spheres cannot explain divergences from formal norms. This is due to the inference that there is a general 'African culture' that drives bureaucratic practice across the continent (Olivier de Sardan, 2017a, 63). Practical norms thus provide a framework to consider how specific 'ground rules' influence bureaucratic practices in particular contexts. The presence of practical norms also raises questions over how these practices are regulated and the extent to which patronage networks play a role in holding bureaucrats accountable.

2.4 Conclusion

This chapter has put forward a conceptual framework for studying the allocation of resources from public institutions. It has also sought to propose a framework that avoids the negative determinism of concepts such as neopatrimonialism to describe the (mis)allocation of state resources in post-colonial African countries. To avoid negative connotations around state failure or disorder this framework addresses broad processes and the situation specific factors that shape these processes. This thesis consequently frames its analysis of resource allocation around rents and rent-seeking, specifically drawing on Jomo K.S and Khan's work on productive and unproductive rents. Productive and unproductive rents acknowledge the various forms that these take and the possibility for the allocation of these resources to have beneficial outcomes. However, the thesis adopts a wider understanding of productive rents, to capture rent holders' contemporary needs and priorities. For instance, in the case of Eskom, the need to correct historic legacies around racial inequality is one marker of productivity in the post-apartheid state.

An expanded understanding of productive rents underlines the needs to study rent-seeking and rent allocation processes. Although work on patronage and clientelism considers informality in public institutions, this thesis draws on research on norms and the moral economy of corruption to analyse informal processes in bureaucracies. Practical norms in particular offer a lens to analyse the gap between official norms or regulations, social norms, and actual

practices. These norms are context-specific and offer a closer analysis of how rent-seeking and allocation processes work in practice at a company level.

The emphasis that this conceptual framework places on rent-seeking and rent allocation processes in the context of their situation specific drivers builds towards a richer understanding of the political economy of rent-seeking at Eskom. Framing rents as productive and unproductive shapes analysis of how different governments have used their access to Eskom's rents, speaking to a sense of the trajectory of rent-seeking within South Africa's minerals energy complex (MEC). Meanwhile, focusing on the role of political imperatives in shaping rent-seeking processes responds to the question on how discourses around transformation influence rent-seeking and rent allocation at Eskom. The thesis also identifies the practical norms present in Eskom's Primary Energy Division, responding to the third sub-research question, while working towards a more granular understanding of rent-seeking in practice at the company. Moreover, this conceptual framework offers an approach to respond to the thesis's research questions that avoids normative judgements around acceptable practices, resulting in a nuanced understanding of the political economy of rent allocation in South Africa's MEC.

3 Rent seeking and political patronage in South Africa

The manipulation of public procurement processes has been at the roots of several scandals¹² since the African National Congress (ANC) won the first democratic elections in 1994 (Du Plessis and Plaut, 2019, 106-9; Robinson and Brummer, 2006, 2-3). The methods used to access these contracts have included bribing senior party members, as well as substantial donations to the party. These methods reflect the relevance of using rent-seeking as a framework to analyse the relationship between political and private sector actors in the post-apartheid state. Close (and opaque) relationships between political and private actors are not unique to post-apartheid South Africa, or Africa more broadly. However, in South Africa criticism of the allocation of rents to politically-connected actors is rooted in questions over the extent that these relationships hinder the government's ability to tackle the legacy of apartheid. In particular, racial inequality remains a problem more than 25 years since the democratic transition. According to national statistics, the unemployment rate for black South Africans was 48.7% in comparison to 11.2% for white South Africans in the second quarter of 2021 (Statistics South Africa, 2021b, 46-7). Meanwhile, the Department of Labour reports that white South Africans account for 67% of 'top management' in firms, despite only representing 9% of the total population (Commission for Employment Equity, 2021, 25). These statistics do not tell the 'whole story' of inequality in South Africa, but they point to the failure to correct historic imbalances and mean that the (mis)use of public resources is interpreted in the context of ongoing inequality. For instance, according to Terry Crawford-Browne, the 1999 'arms deal'¹³

¹² See lists of major corruption scandals in Du Plessis and Plaut (2019, 106-9) and Robinson and Brummer (2006, 2-3).

¹³ The 'arms deal' refers to the 1999 Strategic Defence Deal, where the South African government spent ZAR30 billion on (allegedly) unnecessary military equipment (Du Plessis and Plaut, 2019, 96-7, Robinson and Brummer, 2006, 12, Crawford-Browne, 2004, 335). The deal was the first major corruption scandal in the post-apartheid era and reportedly involved millions of dollars of 'kick backs' from international arms manufacturers to South African politicians, including former president Jacob Zuma and party donations to the ANC (Du Plessis and Plaut, 2019, 96-7, Crawford-Browne, 2004, 333). The Durban High Court found Zuma's associate Schabir Shaik was found guilty of having a 'generally corrupt' relationship with Zuma in 2005 due to his role in soliciting bribes for the deal (Robinson and Brummer, 2006, 12). Meanwhile, charges against Zuma for his alleged role in the deal were dropped in 2006 before being reinstated in 2018 following a legal challenge from opposition party, the Democratic Alliance.

amounted to a ‘betrayal of the struggle against apartheid’ (2004, 229), reflecting the sense that corruption in the post-apartheid state violates its founding principles. Similarly, some authors working on ‘state capture’ in South Africa have called on ‘the nation to realise that the time has come to defend the founding promise of democracy and development by doing all that is necessary to stop the systemic and institutionalised process of betrayal’ (Chipkin et al., 2018, 31). These comments reflect the emotional dimension underpinning reactions to rent-seeking processes and underline the socio-economic imperative of understanding the drivers and dynamics of rent-seeking in the post-apartheid state.

The ruling African National Congress’s (ANC) discussion documents demonstrate that it is keenly aware that the business sector offers opportunities for political patronage, personal enrichment and economic growth (2012b; 2007; 2001a). The political value of connections to businesses means that the line between private and government actors is often blurred. This has consequences for economic growth and socio-economic development, in addition to opening up opportunities for corruption and unproductive rent-seeking. In the South African context, how patronage networks affect the government’s ability to tackle racial inequality is an ongoing question, and one which researchers have addressed since the end of apartheid in 1994. This chapter offers a literature review of the progression of literature on rent-seeking and corruption within political patronage networks in South Africa.

I will first address analysis of business-state relations and corruption under the apartheid government, highlighting continuities and differences during and following the transition. Next, I will discuss business-state relations during the transition period in the early 1990s and how they shaped economic policy. These two sections will provide the background to a discussion of scholarship in post-apartheid South Africa, including work on patronage networks and corruption under the ANC-led government. I will summarise debates over how to characterise patronage networks in the country, focusing on how these networks interact with state institutions.

In 2015, South African academic Susan Booyesen argued that

[t]he contemporary ANC has the inner organs and nostalgic aura of the former liberation movement; it has the framework of a constitutional state and multiparty

democracy, and lifeblood that blends high morality with corruption and self-humiliation – it wears the coat of a developmental state mired in patronage. (2015, 7)

Her description underlines the internal contradictions of the ANC. Bitter leadership battles in 2012 and 2017 publicly exposed ideological and personal divides within the party (Cotterill, 2017a; Booysen, 2012). These divides show that it is important not to view the party as a single, cohesive entity and suggests that an understanding of the competing aims and ambitions of different factions will further contextualise rent-seeking practices. Moreover, this review demonstrates the opportunities to contribute to studies on political patronage in South Africa, using the conceptual framework outlined in the previous chapter.

3.1 Patronage and corruption in apartheid South Africa

The ANC has portrayed corruption as a legacy of apartheid, which has merit to the extent that some practices from apartheid did carry on after the transition (Hyslop, 2005, 774; Lodge, 1998, 164). Tom Lodge argued that much of political corruption occurred in fields that were already corrupt (1998, 182). According to Lodge, corruption – in the form of payments for access to services or benefits – was concentrated in areas where officials worked closely with members of the public who were ‘rightless and defenceless’ before the transition (1998, 169, 171). The power imbalance between officials and the public – particularly the black population – meant that the black homeland governments and the central departments that worked with them were especially susceptible to corruption. When apartheid ended, the ANC-led government lacked a new pool of civil servants to draw from and incorporated many officials from homeland governments into newly formed local government structures. The retention of officials who had previously abused their position suggests that it is unsurprising that corruption persisted, particularly in local government, after 1994 (Lodge, 1998, 175).

Lodge defines corruption as the ‘unsanctioned or unscheduled used of public resources for private gain’ (1998, 158). He also identifies two forms of political corruption; ‘misperformance or neglect of a recognised duty, or the unwarranted exercise of power, with the motive of gaining some advantage more or less directly personal’ (Lodge, 1998, 158). Moreover, ‘it must involve acts that are intentionally dishonest’ (Lodge, 1998, 158). The illicit nature of corruption

distinguishes the practice from rent-seeking, which can be legal. Corruption (legally defined) can be understood as one form of rent-seeking, where competition for rents creates incentives for illegal behaviour. Rent-seeking and the distribution of rents have been an important source of government power in South Africa, both during and after apartheid.

Jonathan Hyslop describes rent-seeking within patronage networks in twentieth century South Africa, highlighting how legal forms of rent-seeking can give way to corruption. He uses Jomo K.S and Khan's definition of rent-seeking and patron-client relationships to examine how the prevalence and types of corruption have changed in the country (Hyslop, 2005, 775). As discussed at the beginning of this chapter, rent-seeking has different forms and to an extent, governments can use access to rents to achieve economic goals. When it came to power in 1948 the National Party (NP) used its access to rents to advance the economic position of white Afrikaners.

At the start of the twentieth century, white English speakers were a major presence in political and economic spheres, facilitated by the mining industry that dominated the country's economy and enjoyed a close relationship with the state (Hyslop, 2005, 780-1; Fine and Rustomjee, 1996, 108; Clark, 1994, 39). This started to change in the 1920s with the rise of the *Broederbond*¹⁴, a secret society that promoted Afrikaner nationalism and formed close relationships with conservative prime ministers. When the NP came to power in 1948, it consolidated its position by driving Anglophones out of the civil service and replacing them with loyal Afrikaners (Hyslop, 2005, 781). Similarly, Nancy Clark has argued that employment at state-owned enterprises (SOEs) helped promote white economic interests, noting that the head of the national steel company, Iscor, in 1948 was rumoured to be a member of the *Broederbond* (1994, 149-50). Employment in the civil service or at state-owned companies continues to be an important method of distributing government patronage. It is also legal. Hyslop argues that until the 1970s Afrikaner rent-seeking was generally legal and there is little evidence of high level corruption (2005, 781).

¹⁴ 'A secret society of Afrikaans male elites dedicated to promoting Afrikaans interests all areas of life and domination in South Africa' (Lipton, 1986, 269).

However, from 1970 until 1984 Hyslop notes that corruption became more common as the NP became weaker. This was partly due to the loss of a clear ideological vision, which made it harder to discipline followers (Hyslop, 2005, 782). Merle Lipton has also noted blurred lines between the NP and the states' interests led to an increase in corruption that disillusioned party members and voters (1986, 317). As a result, people started to exploit patronage networks for personal gain as opposed to the benefit of the wider Afrikaans community. According to Hyslop, in this period, 'the orientation of the National Party almost visibly shifted from an ethos of service to the volk to an interest in the establishment of Swiss bank accounts' (2005, 782). The push for economic sanctions abroad also drove the government into dubious business deals, where 'transactions through fictive offshore businesses became features of state business' (Hyslop, 2005, 783). The use of shell companies to mask dubious business dealings persists in post-apartheid South Africa and is part of the unfolding 'state capture' debate (Chipkin et al., 2018, 80-1; Swilling et al., 2017, 15). These deals are important because they demonstrate that foreign markets and actors continue to play an active role in shaping and facilitating 'corrupt' or unethical business-state relationships in South Africa. The role played by foreign actors highlights the international influences in patronage networks in South Africa, especially with regards to business-state relations. Decades of interactions between financial elites and government actors have blurred the boundaries between these two spheres, resulting in a significant degree of continuity, even as actors within these networks change.

Meanwhile, the homeland governments were expanding rapidly, with 'billions of rand spent on recruiting black civil servants to staff homeland bureaucracies, on supporting traditional chiefs, and on construction projects in homeland capitals' (Hyslop, 2005, 783). The influx of resources, alongside the 'legal fiction' of homeland independence meant that leaders presided over 'massive patronage networks' (Hyslop, 2005, 783; Lodge, 1998, 162). For instance, gambling was legal in the homelands but not in the rest of South Africa and leaders reportedly received large payoffs in exchange for gambling rights (Hyslop, 2005, 783). Homeland governments were therefore not solely reliant on central government for resources to fund patronage, as they were able to exploit loopholes to include businesses into their patronage networks.

In the final decade of apartheid, corruption became a serious problem for the government (Lodge, 1998, 164). Hyslop argues that officials scrambled to enrich themselves before losing power, while the states of emergency gave security services the power to operate without meaningful oversight. In the process they ‘built themselves global networks of assets, in support of covert operations and personal enrichment’ (Hyslop, 2005, 784). The ANC in exile also benefited from access to international resources, including donations and smuggling networks (Lodge, 2014, 10; Ellis, 2012a, 255; Ellis, 2012b, 629-632). For the ANC, participation in these networks personally benefited dealers and donors while giving the party much-needed resources to fund and arm their resistance movement (Lodge, 2014, 9-18). The illicit nature of these activities, through funding an illegal political party and arms trading via criminal networks, forged a culture of loyalty that made it difficult to reject unsavoury partners after the transition or punish them when they broke the law (Lodge, 2014, 9-18; Ellis, 2012a, 273; Hyslop, 2005, 783). Party loyalty continues to play an important role in ANC internal politics, sometimes reducing dominant factions’ willingness to investigate corruption allegations against their supporters in the party (Koelble, 2017; Dawson, 2014; Booysen, 2012). In addition, a lack of transparency remains a problem in party donations, raising questions over the benefits or access to politicians awarded to donors (February, 2016; Robinson and Brummer, 2006).

By the time the first democratic elections were held in 1994 the ANC had formed extensive networks between party elites and their supporters who they were now in a position to reward. Under the NP’s leadership the party’s access to state resources such as employment and contracts meant that it had become a key site for resources of patronage. The business sector actively participated in patronage networks, providing an additional source of revenue or employment for their political allies. Employment in SOEs and in the civil service would prove vital for how the ANC attracted and maintained support (Booyesen, 2012). When apartheid ended the party came under pressure to extend the benefits of its newly acquired resources to those that had supported them during the struggle (Lodge, 2014). Although these studies use corruption as a lens to consider the informal allocation of state resources, they reflect the extent that rent holders in government allocate resources according to contemporary political needs. This thesis builds on this analysis in responding to the question of how rent-seeking processes

evolved at Eskom under different governments. The alternative framing of these informal processes in terms of rent-seeking and practical norms further clarifies some of these dynamics and how different rent-holders have used their access to government resources at Eskom.

3.2 Business-state relations and the transition from apartheid

The business sector had an uncomfortable legacy at the end of apartheid. The Truth and Reconciliation Commission ruled that some industries – such as mining – were ‘active collaborators’ with the regime, while others supplied goods and services, or benefited from the apartheid economy (Nattrass, 1999, 375). Firms had to pay a punishment tax, making a connection between profiting from a regime and complicity with its actions (Nattrass, 1999, 375). Moreover, the association between firms and apartheid linked the business sector to the pervasive inequality in the country. As a result of this negative association, the newly elected ANC government treated white-owned businesses with suspicion (Handley, 2008, 88). Nonetheless, the private sector offered the new government opportunities for patronage beyond the state’s resources, and the new political elite established a close relationship with the business elites.

The embrace of the private sector led to an early and persistent critique of ANC leaders over the extent to which they adopted neoliberal economic policies (Fine et al., 2011; McKinley, 2001; Murray, 2000; Bond, 2000). Patrick Bond labelled the adoption of neoliberal policies while maintaining radical rhetoric as political elites’ tendency to ‘talk left but walk right’ (Bond, 2000, 195). However, the ANC has adopted some redistributive policies and there are limits to the extent that the party’s policies can be classified as entirely neoliberal. According to national statistics, social benefits accounted for 11% of government spending in the 2019/2020 reporting period, with welfare grants playing a critical role in alleviating poverty (Statistics South Africa, 2020; Africa Check, 2017; Borat and Cassim, 2014). The government also uses grants to foster connections with citizens, personalising the distribution of welfare spending and enabling the ANC to maintain a paternal relationship with its supporters (Ferguson, 2015, 162; Booyesen, 2012, 181).

In any case, Bond argues that by the end of apartheid uneven capital accumulation was entrenched to the extent that it was difficult to ‘reverse inequality in anything but marginal,

unsustainable ways' (2000, 20). Moreover, he asserts that political elites were ill-equipped to deal with the economic problems facing the country and adopted policies through 'elite pacts' between 'big capital, big labour and big government' (Bond, 2000, 55). These pacts thus fostered connections of economic and political dependencies between the new (mostly) black political elites and the (mostly) white established business elites. These dependences formed out of white business elites need for political capital and black political elites need for financial capital to support emerging black capitalists (Bowman, 2019, 227-9). In addition, these links demonstrated the new government's commitment to global neoliberal norms to the international community. Bond argues that the process of economic scenario planning 'was not meant to challenge the norms and practices of South Africa's elites, as much as it was to deradicalise further the politicians and technocrats of the democratic movement, precisely in order to prepare them to join the elite' (2000, 74). International markets were another driving force behind neoliberal reforms, exerting pressure on the ANC to drop trade tariffs, avoid protectionist policies regarding foreign investment, and repay the apartheid governments debts (worth an estimated US\$20 billion) (Bond, 2000, 196-201). The end of the Cold War strengthened the arguments in favour of globalisation and put enormous pressure on ANC leaders to conform to the standards set by Western markets. The political elite at the time of the transition therefore reduced resistance to policies that broke with the ANC's left-wing origins by extending access to patronage resources to potential dissenters.

Scott Taylor, meanwhile, argues that the perceived strength of the business sector put it in a good position to bargain with the government, establishing a 'reform coalition' (2007, 164). Business-state coalitions occur around the world, in developing and developed countries. According to Taylor, 'they can be thought of as arrangements in which authority is shared by public and private actors rather than monopolised by state actors' (2007, 6). He defines a reform coalition as 'a cooperative arrangement between the state and business, typically acting collectively via associations that play an instrumental role in the formation of genuinely good policies' (Taylor, 2007, 9). In the South African context, Taylor suggests the ANC's lack of economic expertise, alongside the fact that it inherited a weakened state, meant that the party believed that it was weaker than business associations (2007, 152). As a result of this perceived imbalance of power, ANC leaders decided against pursuing nationalisation policies and entered

into a close relationship with the business associations. In particular, Taylor points to the creation of the National Economic Development and Labour Council (NEDLAC) in 1994 as a ‘commitment to business-government interactions’ (2007, 169). NEDLAC brought together stakeholders from the government, labour and business, to ‘facilitate economic decision making’. However, since decisions were made by consensus, NEDLAC tended to produce policies ‘that were not necessarily any party’s first choice, but that each of the parties could live with’ (Handley, 2008, 68). The new government thus established a tradition of compromise between elites from the outset. The political capital that business elites gained through access and influence in collaborative forums helps explain why businesses were willing to participate in black economic empowerment (BEE) schemes (Handley, 2008, 88), which became prominent channels of rent-distribution.

3.3 Rent-seeking and black economic empowerment

BEE policies emerged as a market-friendly approach to ‘transforming’ South Africa into an equitable, non-racial society. BEE refers to affirmative action policies in South Africa that aim to increase black people’s participation in the economy, thereby reducing racial inequality through increased ownership of companies, employment at management levels and sourcing goods from other BEE compliant companies. Adherence to BEE standards is not a legal requirement, but compliance is necessary to bid for government contracts (Iheduru, 2008b, 354). From 1994, ‘government policy encouraged rent-seeking activity by black entrepreneurs...especially relating to awarding state contracts and corporate ownership’ (Hyslop, 2005, 786). Thabo Mbeki promoted the creation of a new class of patriotic black capitalists during his time as Deputy President from 1994 to 1999 and then as President from 1999 to 2008. BEE policies were consequently a component of Mbeki’s vision for a developmental state, where the government set policies and incentives to drive economic redistribution. Okechukwu Iheduru argues that Mbeki viewed black business as ‘an instrument of regime legitimacy’ (2004, 4). In other words, the government hoped that this new class of black businessmen would remain loyal to the regime, recognising that their success stemmed from ANC support.

Booyesen sums up the relationship between the ANC's political power and its ability to distribute patronage:

A party gains power by being seen to be making progress in pursuit of shared ideals, or being imagined to be better able to do that than opposition parties. Power also results from being justly financially rewarded in the pursuit of these tasks. The status associated with position in the ANC, but mostly with representing the ANC-in-government, brings power, prestige and privilege. It is accepted that politics brings wealth to the political elites. If wisely or shrewdly handled, to some extent irrespective of morality, such power can be self-regenerative, and bring with it the additional power of privilege and economic beneficiation, in either ethical or criminally inappropriate ways. (2012, 8)

The ability to reward loyal party members has become a crucial way that the ANC continues to regenerate political support. The ANC offers its supporters opportunities to enrich themselves and their patronage networks, thereby creating incentives to stay with the party – even when it underperforms. Booyesen's summary also points to the ease with which privileged access to resources can become unethical or illegal. The political elite rely on access to resources to generate and maintain political support, while personally benefiting in the process.

Mbeki had hoped to replicate the experiences of countries, such as Malaysia, where successive governments used rent-seeking for economic redistribution along ethnic lines, while providing incentives to encourage technological advancements and export-led growth (Southall, 2004, 323; Jomo K.S and Gomez, 2000, 274-303). Mbeki thus envisaged BEE as a form of productive rent-seeking, redistributing wealth to historically dispossessed sections of the population, while achieving high levels of economic growth. ANC discussion documents also position this new class of black capitalists as a 'motive force' in its 'national democratic revolution', committed to redistributing wealth to black South Africans more widely (1997). In short, Mbeki wanted to build at least the image of an ANC-led developmental state, through targeted state intervention to achieve policy goals.

However, Bond asserts that neither the economy nor the state were as strong as they were in 1948 when the National Party took power, reducing the opportunities for aspirant black capitalists (2000, 46). Nonetheless, the party used its newly awarded control over state-owned

companies to appoint black directors, while large firms supported the sale of shares to black political elites (Bowman, 2019, 224; Bracking, 2019, 419; Southall, 2013, 221). Large firms were willing to transfer assets to black owners to garner good will from the government and forge alliances with the new political elite. In addition, Iheduru notes that the scale of many firms' investments meant that they were unable to simply leave the country and were compelled to comply (2008a, 340). These early BEE deals did expand and increase the diversity of the upper class (Seekings and Nattrass, 2015, 118-19). However, the emergence of a group of black capitalists had limited redistributive benefits; by 1996, conglomerates still controlled 71% of the Johannesburg Stock Exchange (down from 82% in 1987) (Murray, 2000, 188). Meanwhile, some multinationals were accused of creating shell companies that were fronted by a black owner, while revenues left the country (Marais, 2013, 123-5). Moreover, it was increasingly clear that the main beneficiaries of BEE were a small group of politically connected elites. The Department of Trade and Industry reported that 71% of BEE deals included at least one of six 'BEE heavy weights' in 2003 (quoted in Southall, 2013, 223). The small size of the group that has profited from BEE has attracted criticism that the strategy has facilitated the growth of crony capitalists and corruption, while doing little to tackle inequality.

Yet allegations that the beneficiaries of these early BEE deals are corrupt also suggest that rent-seekers were more preoccupied with their own profits, as opposed to using government rents for the benefit of the wider community. For some authors, the self-interest of rent-seekers – and indeed, the politicians who distribute rents – limits the extent to which we can think of the beneficiaries as patriotic. Georgina Murray argues that 'the changes brought by [BEE] have been minor and self-interested' (2000, 184). Meanwhile, Roger Southall argues that the 'relative advantage' of black intermediary classes made them 'vulnerable to becoming tools of monopoly interests, or parasites that thrive on corruption' (2004, 314). Instead of being developmental, Southall argues that BEE bred 'crony capitalism' (2004, 326). Here crony capitalism seems to refer to a system where political connections facilitate the private accumulation of wealth in exchange for political support, or simply personal kickbacks. The connotations of crony capitalism as 'parasitic' (Southall, 2004) suggest that it represents an unproductive form of rent-seeking, in which the state, or wider economy, reaps limited benefits for the preferential treatment of specific actors. This contrasts to the ostensibly developmental

objectives of building a class of ‘patriotic capitalists’, where the recipients of state rents use these resources productively, in line with the government’s economic objectives.

Even the ANC has criticised the negative side-effects of BEE and the party’s deployment strategy more broadly. A 2001 discussion document, ‘The Eye of the Needle’, reported that some ‘members view positions in government as a source of material riches for themselves. Thus resources, prestige and authority of government positions become the driving force in competition for leadership positions in the ANC’ (African National Congress, 2001a, 6). In addition, business leaders were accused of exploiting their relationship with party members:

Government positions also go hand-in-hand with the possibility to issue contracts to commercial companies. Some of these companies identify ANC members that they can promote in ANC structures and into government, so that they can get contracts by hook or by crook. (African National Congress, 2001a, 6)

The ANC’s striking capacity for self-criticism, highlights at least some factions’ awareness of the problem posed by the misuse of state resources in various patronage networks. In 2005 the party established a taskforce to create a set of guidelines for involvement with the business sector (African National Congress, 2007, 2). A discussion document two years later restated the importance of a ‘shared interest in social transformation’ while bemoaning the tendency for ‘entrepreneurship to be confused with adventurism of the pillaging sort’ (African National Congress, 2007, 5). These documents speak to the tensions over intending to use rent allocation for development and the realities of the competition for these rents. Moreover, employment and tendering strategies that favoured loyalty over skill, helped the ANC gain control over the state’s resources (Booyesen, 2012, 373), but added to the sense that there were competing priorities in the allocation of rents. The thesis addresses these competing priorities in its discussion of discourses around transformation at Eskom, examining how different interpretations of how transformation should be pursued have shaped rent-seeking processes at the company.

3.4 Vertical and redistributive rents

As well as redistributing wealth horizontally between political and private sector elites, rent-seeking also operates vertically between political elites and citizens. The vertical allocation of

state resources to citizens operates as forms of ‘rent-like transfers’ (see Chapter 2.2). Khan argues that services such as welfare grants are not necessarily rents since the recipient would always have had access to this income or have made contributions through taxes prior to receiving this payment (2000b, 36). However, research into vertical rent-seeking in South Africa indicates that political parties treat access to these services as rents, reflecting the ubiquitous nature of rent-seeking and pointing to the social dynamics of these processes. These wider social dynamics are important context for understanding rent-seeking dynamics at Eskom, shedding light on how different actors interpret their access to rents and how they should be allocated.

The ANC came to power as a redistributive liberation party and its relationship with the electorate plays an important role in how it gathers and maintains political support (Booyesen, 2012). Booyesen argues that the ANC worked hard to cultivate an image of itself as a ‘powerful and caring ‘parent’’ (2012, 181). The party established various institutions and initiatives that encouraged public participation with the government, giving constituents an opportunity to engage with the party outside of elections (Booyesen, 2012, 181-196). When combined with the party’s almost hegemonic access to state resources, the ANC assumed the position of a ‘parent-patron party’ to its electorate (Booyesen, 2012, 486).

James Ferguson has used the concept of dependency to discuss the relationship between the ANC and its supporters. To Ferguson, dependence on a patron is not a passive condition, but one which offers the chance for inclusion into a hierarchical social system, with opportunities for advancement (2015, 145-6; 2013, 227). In South Africa, citizens can become dependent on the state through social grants. The provision of social grants enables citizens to view the state, ‘not principally as a protector of equal rights but as a material benefactor or even patron, while the positive content of citizenship itself may increasingly come to rest on being a rightful and deserving dependent of the state’ (Ferguson, 2015, 162). In these cases, the ‘parent-child metaphor can be politically and analytically powerful’, meeting people’s ‘demands for social inclusion and protection’ that the ‘formal equalities of citizenship’ may fall short of in situations of extreme inequality (Ferguson, 2015, 162). Similarly, Hannah Dawson concludes that ‘the state is not understood as a bureaucratic dispenser of public goods on the basis of rights, but as a relational system of reciprocal dependence and obligation’ (Dawson, 2014,

539). These processes blur the boundaries between parties and the state, enabling the ANC to position itself as synonymous with the state. As a result, social resources are distributed as a rent stemming from engagement with the ANC, instead of a right that is distributed regardless of political affiliation.

In cases where rent-holders allocate rent-like transfers in exchange for political support, this form of rent-seeking is linked to clientelist processes. As the ANC has been the only party that has governed since 1994, the efforts taken to foster the ‘parent-child’ relationship between the party and voters can be understood as an effort to institutionalise clientelist networks in the distribution of state resources. However, these relationships are not necessarily undemocratic and allow voters to make demands of the party, indicating that engagement in these patronage networks is not purely a top-down phenomenon. Claire Bénéit-Gbaffou and Fiona Anciano have considered the ways that clientelism encourages political participation in South Africa, challenging assumptions that clientelist relationships are undemocratic. Bénéit-Gbaffou has argued that local governments can lead to clientelist practices due to the interpersonal relationships it encourages between voters and representatives, in addition to the adaptation of national policies to fit local circumstances (Bénéit-Gbaffou, 2011, 455). However, clientelist relationships are not inherently anti-democratic since they provide citizens with an opportunity to make demands of their representatives and hold them accountable (Anciano, 2017, 595). For instance, residents in a Johannesburg neighbourhood used their struggle credentials to avoid being evicted from their homes in an area close to the site of a Football World Cup Stadium (Bénéit-Gbaffou, 2011, 454). In another case, an organisation in charge of distributing food packages gave preferential treatment to their members, who were no less needy, but benefitted from their membership of a wider political network (Bénéit-Gbaffou, 2011, 454).

Service delivery protests are another way that communities use patronage networks to hold their representatives accountable. Since the mid-2000s there has been an increase of protests over local governments’ failure to provide public services (Dawson, 2014, 518). Booyesen argues that these protests are not anti-ANC. Instead residents use protests to ‘pressurise the elected ANC government to do more, to deliver on election promises, to replace local leaders or as a minimum, it has been used to extract promises and reassurances from ANC government’ (Booyesen, 2012, 126). Protests therefore supplement other forms of political engagement, like

voting, allowing people to interact directly with the state. According to Dawson, residents also use protests to hold representatives accountable while giving them access to services (Dawson, 2014, 537). This sense that residents need to actively engage with government representatives to improve service delivery reinforces the positioning of these services as a type of rent in South Africa. In addition, framing access to these services as rents positions these resources, and the rent-seeking practices used to access them, in terms of efforts to tackle legacies of apartheid. This productive framing also reflects the extent that rent-seeking practices are tacitly accepted as a form of engaging with political actors or rent holders.

For instance, Dawson notes that people protesting against corruption or nepotism are often battling for access to patronage networks themselves (Dawson, 2014, 537). Similarly, Anciano finds that some people view clientelism as an effective way to develop their communities (2017, 601). Critically, Anciano's argument is based on research in a Democratic Alliance-led city, indicating that these processes are not unique to the ANC. According to Anciano housing in Hangberg has been allocated according to a rights-based system, as well as through clientelist channels (2017, 601). Informality in bureaucratic processes is commonplace, pointing to the presence of overlapping norms within an institution that shapes resource allocation (De Herdt and Olivier de Sardan, 2017a; Helmke and Levitsky, 2004). Research into vertical rent-seeking and clientelism in South Africa reflects suggests that demands for public resources in return for political support shape norms guiding resource allocation processes in the country. Although this thesis addresses this question at a company level, understanding the wider context vertical rent-seeking informs my response to the research question on practical norms at Eskom.

3.5 Characterising patronage networks in South Africa

Karl von Holdt places redistribution through patronage networks in the context of South Africa's transition to a violent democracy. He argues that

South Africa is torn between the persistence of an exclusionary socio-economic structure marked by deep poverty and extreme inequality on the one hand, and on the other the symbolic and institutional rupture presented by the transition to democracy. This relationship produces a highly unstable social order in which intra-

elite conflict and violence are growing, characterised by new forms of violence and the reproduction of older patterns of violence, a social order that can be characterised as violent democracy. (von Holdt, 2013, 591)

This argument is linked to that made by North et al. (2012) whereby elite coalitions control access to rents to ensure stability. Controlling access to the state, including legal instruments, is therefore vital due to its redistributive power. According to von Holdt

[c]ontestation takes place in and around formal codes and laws, and in the process the law is alternately subverted and wielded by rival contenders. Control over key legal instruments becomes a strategic resource. For those who have transgressed, control holds the prospect of immunity. For those seeking the downfall of powerful rivals, control might tip the balance. The goal, then, is selective application of the law. (2013, 395)

Von Holdt observes that some ‘corrupt’ practices are ‘so pervasive that they amount to collective and tacitly acceptable practices in wide political circles’. He suggests that ‘informal rationales that support elite formation through such practices constitute a local moral order within the elite, legitimating this as an avenue for overcoming the constitutional and policy constraints of the democratic settlement in order to establish their own economic bases’ (von Holdt, 2013, 596). There are parallels between von Holdt’s theory and the concept of practical norms, which are also defined as informal standards that inform bureaucratic practices (Olivier de Sardan, 2017b, 26). In von Holdt’s argument elites justify the manipulation of legal processes to consolidate power and establish channels of redistribution to clients or political supporters. Influence over state institutions and legal codes also increases political elites’ ability to manipulate the boundary between acceptable and unacceptable behaviour.

For instance, von Holdt and Thomas Koelble note that state institutions only moved to investigate corruption accusations against former youth leader Julius Malema once he had fallen out of favour with ANC leadership (Koelble, 2017, 292; von Holdt, 2013, 295). Similarly, Zuma rose to power following the dismissal of criminal charges on the grounds that were allegedly politically motivated by Mbeki’s faction (Booyesen, 2012, 46). The National Prosecuting Authority reinstated sixteen of the 783 charges within a month of Zuma’s resignation as president (Winning, 2018). However, it is important to note that the Democratic

Alliance, the largest opposition party, had already begun legal proceedings to reinstate the charges against Zuma before he stepped down (Cotterill, 2017b). In addition, judges have previously ruled against the government in cases where it has tried to avoid implementing recommendations made by the ombudsman, the Public Protector (High Court of South Africa, 2017; News24, 2016). Opposition parties' ability to use the courts against the president, and courts' willingness to rule against the government, indicates that Zuma's faction in the ANC did not fully dominate the state and its legal instruments.

Lodge argues that ruling elites' attempts to exert influence over institutions demonstrates that the South African state is increasingly 'characterised by neo-patrimonial predispositions' (2014, 1). Lodge makes this conclusion based on the following 'symptoms' of neopatrimonialism:

- 1) Leadership's use of 'public powers for private purposes'
- 2) Factionalism in the ruling party, where rival groups form out of 'personal loyalty rather than a shared ideology'
- 3) And the growing tendency in the ANC to seek 'moral legitimisation from appeals to 'Africanist' racial solidarity and nostalgic recollections of patriarchal social order rather than on the basis of the quality of government performance' (2014, 1-2)

He has also identified several 'indicators' of neopatrimonialism, including the 'acquisition of business interests by leading politicians and their families' (Lodge, 2014, 2). In this interpretation, the negative side-effects of patronage – like corruption or clientelism – are due to the blending of historically entrenched patrimonial networks with 'norms that reflect bureaucratic legal rationality as well as democratic procedures' (Lodge, 2014, 3). Moreover, Lodge suggests that the ANC's neopatrimonial characteristics pose a threat to the party's moral and political standing, as well as to democracy in South Africa (2014, 3-4). Lodge therefore places South Africa into the wider field of neopatrimonialism in Africa, where the phenomenon is associated with state failure (Mkandawire, 2015; Beresford, 2015, 229; Pitcher et al., 2009, 128).

To mitigate the negative associations of neopatrimonialism Alexander Beresford suggests that it is more helpful to understand patronage relationships in South Africa as a form of gatekeeper politics. Beresford argues that gatekeeper politics is more appropriate than neopatrimonialism in the South African context since patronage networks in South Africa are not always based on kin and ethnicity. 'Instead they are channelled through the operation of 'modern' party politics and the loyalties associated with it, making the bonds between gatekeepers and their followers fluid, unpredictable and volatile' (Beresford, 2015, 229). To avoid the specifically African connotations of neopatrimonialism Beresford uses gatekeeper politics to

describe political processes that do not denote some kind of exotic 'African' form of political aberration and breakdown, nor a departure from idealized notions of Western capitalist democracy. The dynamics of gatekeeper politics should be viewed on a broader spectrum of informal politics that forms an integral feature of contemporary liberal capitalist democracy across the world, such as crony capitalism, pork-barrel politics, and the insidious influence of private lobbyists on public political processes. (2015, 229)

An important implication of understanding South African politics in terms of a gatekeeper state is that political patronage and rent-seeking behaviour is not immediately associated with impending state failure. Indeed, patrons can use their access to the gate to regenerate political power (Beresford, 2015, 228; Booysen, 2012). However, there are limits to this regenerative capacity. The ANC's electoral dominance is waning and in the 2019 election the party's share of the vote dropped below 60% for the first time since the end of apartheid. Electoral losses occurred in an environment where the ANC's moral leadership has come under increased scrutiny (Beresford, 2015, 283; Booysen, 2012, 1), suggesting that the ANC's hegemony over the 'gate' is shrinking.

Gatekeeper politics encourages a close business-state relationship through 'spoils consumption (the use of control over public resources for private ends); and crony capitalism (the use of connections to public authority to facilitate private capital accumulation)' (Beresford, 2015, 230). Case studies highlighted in the previous sections on productive rent-seeking or patrimonialism have demonstrated that the focused allocation of rents can facilitate economic growth. However, the selective redistribution of wealth is inherently exclusionary, doing little

to combat inequality and increasing the probability that people will grow increasingly frustrated with their marginalisation from potentially lucrative networks. In particular, the formation of an affluent black capitalist class developed through patronage, places the ANC at odds with the black working classes, its main constituency (von Holdt, 2019, 11; Beresford, 2015, 229; Gumede, 2008, 262). This process of class formation can also be understood in the context of capitalist development in South Africa (von Holdt, 2019, 6-7; Beresford, 2015, 229).

According to Seekings and Natrass, class structure has remained mostly unchanged due to 'enduring unemployment, negligible land reform and only a modest expansion of self-employment (whether formal or informal) or of the small business sector' (2015, 113). They also note that while the class structure has remained the same, black South Africans now account for about half of the country's upper and upper-middle classes, representing approximately 17% of households and 55% of national income (Seekings and Natrass, 2015, 115). This demographic shift saw a process of class formation underpinned by rhetoric around economic transformation and redistribution (which this thesis explores in Chapter Five) (Hart, 2014, 184; African National Congress, 2007; Southall, 2004, 313). The result of these processes is a black capitalist class theoretically committed to development but with interests in maintaining the systems of accumulation that ultimately have limited impact on reducing widespread inequality. Linking capitalist development to the apparent lack of progress in tackling racial inequality, and the growing gap between ANC leaders and its voters, moves debates on the party's moral authority beyond the impact of Zuma's presidency.

3.6 Zuma's presidency and 'state capture'

Discourses around 'state capture' in South Africa emerged during Zuma's tumultuous presidency. Zuma became president of the ANC during the party conference at Polokwane in December 2007 after a protracted leadership battle with Mbeki. His term as South Africa's president began in May 2009, following national and provincial elections. The leadership contest highlighted the impact of factional politics in the party and intense competition for access to resources. According to Booysen, Zuma's campaign 'showed resentment against Mbeki and his followers for their determination to cling to power and in effect, deprive ANC comrades of their turn to drink from the trough' (2012, 35). This assessment indicates that ANC

members do not share equal access to resources, and that access to these resources is determined by loyalty to the leader and not simply the party. Booysen's analogy links the behaviour of ANC factions to Michael Schatzberg's 'father chiefs' who can 'eat and eat well' as long as their people don't go hungry (Schatzberg, 2001, 26). The restrictions to patrons' ability to personally benefit from control over state resources suggests that rival factions permit patrimonial behaviour in the ANC with the understanding that they will also have a turn to 'eat'. This understanding that control over state resources will pass across party factions infers that the personal accumulation of wealth becomes unacceptable once weaker groups perceive the ruling clique to have over-indulged themselves.

Booyesen also identifies five effects of the Polokwane conference:

- 1) Substantial ANC factional politicisation of public institutions
- 2) The diffusion of intra-state factional (or any other ANC-interest grouping) mobilisation for control over certain institutions
- 3) A proclivity to align access to and control over state resources with personal interest
- 4) The ANC top-structures increased loss of control over the lower-level power enclaves fighting over public institutions
- 5) Counter-positioning amongst ANC deployees on the issue of corruption and maladministration (Booyesen, 2012, 359-60).

Consequently, once Zuma's faction won control of the ANC it moved to strengthen its hold over state institutions, such as SOEs. Southall views the expansion of ministerial portfolios from 28 to 34, with an additional 27 deputy ministers, as evidence of the pressure on Zuma to reward different constituencies for their support against Mbeki (2013, 295). Rewarding allies with ministerial positions is unremarkable but connecting these posts to political fealty potentially curtails ministers' agency in running their portfolios.

Zuma's presidency has coincided with a perceived rise in corruption and nepotism, while progress in tackling social inequality appears to be slow (Southall, 2016; Beresford, 2015; Lodge, 2014). According to Afrobarometer data perceptions of widespread corruption

increased dramatically from 2011-2016 (Patel and Govindasamy, 2021, 4).¹⁵ Meanwhile, (as discussed earlier) unemployment disproportionately affects the black population (Statistics South Africa, 2021b), while white South Africans are more likely to hold senior positions in private sector firms (Commission for Employment Equity, 2021, 25). Conversely, ‘public administration and defence; compulsory social security’ was the only category of firm where African men and women represented more than half of ‘top managers’ (Commission for Employment Equity, 2021, 27), indicating that changes have been most dramatic in sectors where the government can influence appointments. The implication that the public sector offers the best opportunities for aspirant black South Africans, is also likely to have further heightened competition for these posts and the resources they offer. This thesis considers the impact of this competition and the extent that the apparently predatory tendencies of the Zuma faction have shaped existing rent-seeking dynamics.

The question of the ANC’s ‘moral decay’ is at the heart of the state capture branch of literature on political patronage in South Africa. In this school of thought, the ANC has worked to erode the independence and efficiency of state institutions to benefit a small elite – Zuma and his supporters (Chipkin et al., 2018; Chipkin, 2016; Johnson, 2015). According to R.W. Johnson, the ANC has facilitated the ‘criminalisation’ of the state (2015, 112). Johnson is particularly disparaging of the ruling party, likening it to Animal Farm and stating, ‘this is not some form of aberration from the liberation struggle. A glance around Africa shows that this is liberation’ (2015, 105).

In Johnson’s argument the country’s new political elite is worse than that of the apartheid era, since ‘the new elite is unproductive and does not generate new wealth’ (2015, 105). His argument is connected to work on the criminal state in Africa, where political elites exploit criminal networks and dominate security apparatus to maintain their position (Bayart et al.,

¹⁵ It is worth noting that despite perceptions of corruption dropping in 2019, they have risen again during the COVID-19 pandemic, while most (60%) participants in the survey felt that Ramaphosa’s government was doing ‘very badly’ in its efforts to tackle corruption (Patel and Govindasamy, 2021, 4-5). While perceptions of corruption do not necessarily reflect realities, they do speak to low levels of trust in public figures and institutions in the country.

1999a). However, Johnson's interpretation overlooks the redistributive aspects of political patronage and assumes that the problem is isolated to the ANC. Factions of the ANC have exploited their position in apparently illegal ways as evidenced by several scandals (Du Plessis and Plaut, 2019, 107-9; Robinson and Brummer, 2006, 2-3). Yet, the conflation of illegal acts with rent-seeking and political patronage, reduces our ability to understand the nuances between different practices and their outcomes. Similarly, depicting political patronage as an ANC phenomenon makes it harder to analyse rent-seeking patterns and how these practices have evolved. The thesis addresses this limitation in its response to the first sub-question on the evolution of rent-seeking in the minerals energy complex (MEC). In responding to this question the thesis contextualises disfunction at Eskom as part of a longer history of unproductive rent-seeking and not simply a side effect of ANC governance.

Debates around 'state capture' also question the moral legitimacy of post-apartheid leadership, specifically during Zuma's presidency. 'State capture' entered South African public discourse in early 2016 when Mcebisi Jonas, former deputy finance minister and whistle blower, stated that the Gupta family had offered him the position of Finance Minister before Zuma had dismissed Nhlanhla Nene.¹⁶ Over the year media reports increasingly used 'state capture' to describe the relationship between Zuma and the Gupta family (Public Protector, 2016, 5). The Public Protector's October 2016 'State of Capture' report also popularised the term in public discourse. Jonas's statement explicitly described 'state capture' as a moral issue, arguing that

[t]he narrative that has grown around the issue of "state capture" should be of concern to all responsible and caring South Africans, particularly those of us who have accepted the task to lead our people. We cannot afford to ignore the obvious impact these sentiments may have on our country and the resultant potential of undermining our moral authority. Neither can we afford to allow the attempts to

¹⁶ In December 2015 Zuma fired Nene apparently after Nene refused to sign off on nuclear power plans that Zuma was strongly advocating. Zuma replaced Nene with Des van Rooyen, who was inexperienced and allegedly had close links to the Gupta family (Desai, 2019, 501, Public Protector, 2016, 343). However, van Rooyen's appointment lasted under a week as local and international outcry over the appointment, and its financial impacts (the value of the rand reached a record low) caused Zuma to backtrack and appoint Pravin Gordhan.

capture the state to divert us from dealing with the challenges that our country faces.

(2016)

The Public Affairs Research Institute's State Capacity Research Project¹⁷, also questions the moral legitimacy of the political elite, 'who are only interested in rent-seeking and political survival' (Swilling et al., 2017, 9). These interests were achieved through the 'capture' of state institutions, in a bid to 'change the rules of the game, legitimate them and select the players allowed to play' (Swilling et al., 2017, 5). This understanding of state capture builds off the World Bank's definition of the phenomenon as the 'the perversion of the rules of the game, through corruption, to the benefit of the captors, rather than for society as a whole' (2000a, 9). The process is fundamentally linked to the abuse of power for personal benefit. State capture is therefore closely related to crony capitalism, as an unproductive form of rent-seeking, where political connections enable private accumulation of wealth (Beresford, 2015, 230).

This conceptualisation of state capture from PARI is analytically rooted in literature on neopatrimonialism, using a similar framework to address rent allocation (Chipkin et al., 2018, xi). These researchers draw on neopatrimonialism's focus on weak and personalised state institutions (see Chapter 2.3.3) to describe the evolution of a 'shadow state' in South Africa. They define this shadow state as 'the network of relationships that cross-cut and bind a specific group of people who need to act together in secretive ways so that they can either effectively hide, actively deny or consciously 'not know' that which contradicts their roles in the constitutional state'. These networks then 'repurpose' state institutions to maximise rent extraction to the benefit of a small elite (Chipkin et al., 2018, 29). The emphasis on personal networks leads to the conclusion that the 'Gupta network has become the lynchpin of the relationship between the constitutional and shadow states' (Chipkin et al., 2018, 60). This focus on the Gupta family underpins understanding of 'state capture' in public discourse. According to Ivor Chipkin

¹⁷ This research project emerged following discussions between Mcebisi Jonas and group convenor Mark Swilling. Jonas reportedly wanted academics to construct a narrative to understand corruption during Zuma's presidency.

[t]he term ‘state capture’ is suddenly ubiquitous in political and social commentary in South Africa. It has become the description of choice in relation to reports that businessmen, the Gupta brothers, associated with the South African President Jacob Zuma and his family, influenced the appointment of cabinet ministers and senior officials and also benefit from huge state tenders. (2016, 1)

In public discourse, ‘state capture’ thus describes a particular – but not inevitable – outcome of rent-seeking, but not necessarily the system that created it. Partly due to this qualification, this thesis challenges ‘state capture’ as an analytical framework for understanding rent-seeking in South Africa. In particular, I challenge the personalisation of the state capture narrative, and the extent that it separates rent-seeking from its wider context. The researchers do acknowledge the historical context of rent-seeking in South Africa, referring to allegations regarding the Gupta-Zuma network as the ‘most recent instance of state capture’ (Chipkin et al., 2018, 2). Yet their work is also a polemical call to action to defend state institutions. For instance, they argue that ‘the nation needs to realise that the time has come to defend the founding promise of democracy and development by doing all that is necessary to stop the systemic and institutionalised process of betrayal’ (Chipkin et al., 2018, 31). I am not diminishing the debilitating effects of extractive rent-seeking practices, which have rightfully attracted severe criticism. Nonetheless, by separating my discussion of rent-seeking from the negative determinism of the neopatrimonialism framework, this thesis nuances this narrative of ‘state capture’ and contributes a degree of granularity to ongoing debates.

3.7 Conclusion

This literature review has outlined relevant debates on practices within patronage networks in South Africa. It has also demonstrated how the thesis’s conceptual framework provides a foundation to contribute to these debates and further understandings of the processes that inform the allocation of state resources in South Africa. Some of research this chapter addresses frames horizontal rent-seeking between elites as form of corruption, with limited positive outcomes (Chipkin et al., 2018; Johnson, 2015; Lodge, 2014; Ellis, 2012b; Hyslop, 2005; Lodge, 1998). Although corruption (legally defined) has undoubtedly occurred, by analysing horizontal rent-seeking in terms of productive and unproductive rents this thesis focuses on rent-seeking processes and how these have influenced their outcomes. For instance, the thesis

nuances and contributes to current debates around ‘state capture’ by historicising rent-seeking processes in the MEC and how they have evolved contextualising these practices beyond the influence of a single administration. Similarly, debates over the extent that BEE is ‘parasitic’ point to the need to understand the processes of how rent holders distribute rents horizontally, as well as the political priorities that drive rent allocation. BEE deals have been framed in rhetoric around economic redistribution. However, research into BEE has been sceptical of the wider benefits of high-level transactions beyond creating an affluent black capitalist class (Bowman, 2019, 224-5; Bracking, 2019, 420; Southall, 2013, 223; Iheduru, 2008a, 340; Murray, 2000, 184). Understanding the factors that encouraged the emergence of this class grounds discussions on discourses around transformation in rent-seeking at Eskom. In addition, understanding the implications of these processes is relevant for responding to the main research question on how rent-seeking has shaped the political economy of the MEC.

Research into clientelism and patronage networks between political elites and the wider public indicates that national and local governments have treated access to public services and utilities as a ‘rent-like transfers’. This form of vertical rent-seeking treats access to public resources as a rent stemming from a particular patron. The ANC-in-government has used these rent-like transfers to foster a ‘parental relationship’ with its voters (Booyesen, 2012, 181), while establishing the party as a redistributive liberation party, responsible for tackling lasting inequalities (Beresford et al., 2018, 149). The need to tackle racial inequalities is a key driver in rent allocation and understanding how this priority has shaped rent allocation processes responds to the sub-research question on discourses around transformation. In addition, the allocation of resources through informal clientelist networks, as well as according to rights and rules (Anciano, 2017, 601), points to overlapping official, social and practical norms in these process.

4 Transitions in rent-distribution: coal procurement at Eskom

4.1 Introduction

Following an investigation into procurement practices at South Africa's national electricity company Eskom¹⁸, the Portfolio Committee on Public Enterprises concluded in November 2018 that

[t]he Eskom Board failed dismally in its responsibility to ensure that Eskom complied with the applicable laws and SCM [supply chain management] processes. In addition, various Eskom Board members were conflicted in their dealings with some of the private businesses and may have acted unlawfully together with senior management to benefit a network that sought to achieve the capture of Eskom. (Portfolio Committee on Public Enterprises, 2018, 122)

The Committee's findings form part of a public debate over 'state capture'; defined as 'the perversion of the rules of the game, through corruption, to the benefit of the captors rather than society as a whole' (Hellman et al., 2000b, 9). In South Africa the term generally refers to patronage networks appropriating government resources to their own benefit, specifically, the faction affiliated with former-President Jacob Zuma that included the Gupta family (Chipkin, 2016). Stories of 'state capture' feature prominently in newspaper headlines, and the ongoing Judicial Commission of Inquiry into State Capture, Corruption and Fraud in the Public Sector Including Organs of State (Zondo Commission), chaired by Deputy Chief Justice Raymond Zondo, is streamed live on the country's major news stations. Eskom, the monolithic national electricity company, is at the centre of these debates following allegations that company officials violated or manipulated procurement processes to purchase coal and other services from businesses owned by the then-politically connected Gupta family. Various inquiries into the coal contracts – among other problems – have found that they were expensive and failed to

¹⁸ Eskom is the name given to the company after it was restructured in 1987, previously it was known as the Electricity Commission of South Africa/Elektrisiteitsvoorsieningskommissie (Escom/Evkom).

stabilise coal supply at power stations, which was ostensibly executives' justification for entering into the agreements (Zondo Commission, 2021b; Portfolio Committee on Public Enterprises, 2018; Funduzi, 2018; Public Protector, 2016).

This chapter historicises this current debate over disfunction at Eskom within the broader context of rent-seeking at the company, considering the dynamics between company management, the state and corporate actors from Eskom's inception to the 2007/2008 electricity crisis, and its immediate aftermath. The second half of the chapter focuses on coal contracts, a relevant and important case study, due to the country's dependence on coal-generated electricity, and Eskom's status as the industry's biggest client.¹⁹ The chapter addresses the main research question on how rent-seeking processes have shaped the political economy of the minerals energy complex (MEC) by addressing the sub-question:

How have rent-seeking processes and the allocation of rents at Eskom evolved within the MEC?

I argue that rent distribution in the post-apartheid state has not necessarily been designed to be 'unproductive' in the sense that they are exploitative or predatory. However, structural and political factors have exposed Eskom to unproductive rent-seeking practices. These include ageing power stations and mines; pledges to rapidly improve access to electricity after apartheid; and the political value of retaining access to Eskom's rents.

This chapter builds on an extensive body of literature on the political economy of energy policy in South Africa and the relationship between various governments and state-owned enterprises (SOEs) (Bowman, 2020; Baker and Phillips, 2018; Jaglin and Dubresson, 2016; Eberhard, 2004). My analysis is also based on publicly available documents, including Eskom documents and national statistics, ANC policy briefs, government policies, as well as transcripts, evidence bundles, and final reports from various commissions of inquiry. Semi-structured, qualitative interviews contextualise and supplement documentary analysis. Key informants included

¹⁹ As of 2017, coal accounted for more than 70% of South Africa's primary energy needs, with 53% of the country's coal used for electricity generation (Eskom, 2017). Meanwhile, Eskom generates approximately 90% of the country's electricity and is the country's biggest buyer of coal by volume.

current and former members of the Primary Energy Division at Eskom, members of government and individuals involved in the energy sector. In historicising rent-seeking within this aspect of the MEC, this chapter identifies and discusses the types of rents Eskom holds. Discussing the rent-seeking dynamics that influence the allocation of rents highlights shifting interests within the MEC, which have regenerated the relevance of the complex. These findings nuance debates over ‘state capture’ and corruption in South Africa, contextualising the roots of disfunction at Eskom. Instead of presenting debates of ‘state capture’ at Eskom as a distinct moment of crisis, this chapter argues that these debates represent the escalation of established rent-seeking practices. Increasingly unsustainable rent-distributing practices and the failure to respond to demands to restructure the energy sector since the 2007/2008 load-shedding crisis characterise the protracted period of disfunction at Eskom, creating opportunities for predatory rent-seekers to exploit.

4.2 Rent-seeking within the minerals energy complex

As I note in the introduction, Ben Fine and Zavareh Rustomjee (1996) initially proposed the MEC to describe the structure of the South African economy. The MEC encompasses the provision of cheap electricity to support production in the export-orientated mining and manufacturing sectors, which form the basis of the economy (Baker and Phillips, 2018, 183; Fine and Rustomjee, 1996, 78-9). Although the direct contribution of these sectors has declined, the MEC remains relevant as a system of accumulation in the mining and energy sectors (Fine et al., 2011, 12; Statistics South Africa, 2017). As well as describing the structure of the economy, the MEC encapsulates the political dynamics that promote its continuation. According to Bill Freund,

[t]he MEC is defined in terms of linkages and agencies tied together through very well-developed institutional and financial structures...The links that tie the MEC together are not just metaphoric or even forged by the state; critical to this is the financial sector and the interconnection between the parastatals such as Eskom, the government and the private sector. (2010, 18)

The importance of these linkages as a driving force in the MEC, makes the complex a useful framework to study the political economy of South Africa’s energy sector (Baker, 2015b, 248;

Baker et al., 2014, 797-8; Freund, 2010, 18). Mushtaq Khan's conceptualisation of productive and unproductive rents has also informed my conceptual framework, providing a lens to analyse the types of rents Eskom distributes and rent-seeking processes within the MEC.

The concept of productive and unproductive rents suits a discussion of rent allocation at SOEs such as Eskom because it captures the range of objectives driving rent-seeking and rent-distribution practices. Khan notes that the strategic distribution of rents can be either socially beneficial or socially impoverishing depending on the objectives of the rent-holders who determine the allocation of resources (Khan, 2000a, 102-3). Moreover, Khan and Jomo K.S's broad definition of rents as 'an income above what one would receive in a competitive economy' reflect the range of resources Eskom offers rent-holders; from jobs, preferential access to tenders and access to electricity. As Khan notes, the types of rents and the processes followed to distribute them influences the extent that these processes are productive (see Table in Chapter 2.2). Particularly relevant for this thesis are 'monopoly rents' and 'rent-like transfers'.

'Monopoly rents' include 'entry barriers' to favour an individual or group of firms. According to Khan monopoly rents are often compared to 'competitive rent-free markets', as an example of a resource that is inefficient and artificially rises prices (2000b, 26). However, Khan also notes the overlap between 'monopoly rents' and rents for innovation, arguing 'if they are not permanent monopolies they may sometimes result in increased investment and create incentives for technological progress' (2000b, 33). Eskom's dominance over the electricity sector, particularly regarding power generation, means that the company can be understood to hold monopoly access to rents in the sector. The company also offers a version of monopoly rents through procurement quotas that protect access to the market for black South African suppliers. 'Rent-like transfers', meanwhile, represent 'not just taxes and subsidies, but also transfers (both legal and illegal) which convert public property into private property' (Khan, 2000b, 36). This chapter demonstrates how successive government have used access to electricity as a 'rent-like transfer', while jobs and promotions are also mediated through 'political' as opposed to 'price' or market mechanisms (see Khan, 2000b, 37). Like 'monopoly rents', Khan argues that 'rent-like transfers' can also become quickly ineffective and unproductive:

The outcome depends on how much of the transfers goes to individuals or groups who have the incentive and opportunity to make the transition to productive capitalism. It would also depend on the configuration of political forces which determines the structure of the transfers to political intermediaries and their factions, since the transfers can also have effects on incentives and opportunities. In some countries, transfers were associated with rapid accumulation and capitalist growth. In others, the result has been large-scale theft and the onward transfer of resources to foreign banks. (2000b, 39)

Khan's emphasis on the political dynamics in determining the potential for 'rent-like transfers' to have productive outcomes (in terms of economic growth) underlines the importance of rent-seeking processes, in addition to the type of rents in understanding their outcomes. However, Khan's framework is focused on economic growth as the dominant indicator of 'productivity' (2000b, 21). A wider understanding of the aims of rent allocation (beyond economic growth), and the practices shaping the distribution of resources, suggests that the distinction between productive and unproductive rents can be unclear. Rents are allocated according to contemporary priorities and demands on resources. Rent holders may choose to allocate rents as a measure to alleviate poverty or improve access to a service; while these decisions may not spur economic growth, they represent political decisions which shape rent-seeking dynamics. Conceptualising the transfers from Eskom within the MEC as 'monopoly rents' and 'rent-like transfers', and analysing the drivers for their allocation, provides a framework to consider the continuities of power in this area of the complex and how they have evolved.

4.3 The minerals energy complex; political power and electricity provision

In his history of coal mining in South Africa, John Lang notes that the exploitation of the country's gold resources would not have been possible 'had large flat-lying shallow deposits of coal not been located in the Eastern Transvaal conveniently close to the gold deposits' (Lang, 1995, 25). Coal supported gold production by fuelling the mines' furnaces, then by powering the railways that serviced the mines before powering the mines themselves through coal-generated electricity (Lang, 1995, 26-7, 54). Initially, private companies (Rand Central Electric, General Electric and African Concessions) supplied electricity to the gold mines. However, they were consolidated into the Victoria Falls Power Company (VFPC) in 1906,

which held a virtual monopoly over electricity provision in the Rand (Clark, 1994, 26). The provision of electricity had a dramatic effect on gold production, which rose from 6,651 tons in 1898 to 12,312 tons in 1906 (Clark, 1994, 24). However, the expansion of the VFPC posed a threat to local governments and coal mines by undercutting their revenues from electricity provision and their control over coal prices respectively (Clark, 1994, 27). These concerns, coupled with gold mines' demands for cheap and reliable electricity, led to the promulgation of the 1910 Power Act. The Act provided for the establishment of the Power Undertakings Board that was ostensibly formed to protect users from 'exploitation' and 'abuse'. Officials from the gold mining industry dominated the board and had the authority to approve all price rises and expansion plans, protecting the sector's interests (Clark, 1994, 29). Thus, in the 1910 Power Act, the white minority government found a way to form an alliance with the gold mining industry through managing access to energy.

This early connection between the mining and energy sectors to the government is the foundation of South Africa's MEC. Formalising the link between these sectors to the state also enabled the government to promote the interests of specific groups, such as white Afrikaners in the early twentieth century (Ashman and Fine, 2013, 160; Fine and Rustomjee, 1996, 108). It was with these interests in mind that the government eventually established the Electricity Supply Commission/Elektrisiteitsvoorsieningskommissie (Escom/Evkom) in 1923.

While the 1910 Power Act gave the government control over electricity pricing and how the VFPC expanded its operations, the VFPC remained heavily dependent on international (especially German) financing and equipment (Clark, 1994, 30). Similarly, Anglophone companies dominated the mining industry and in the absence of local shareholders or financiers, most of the capital was leaving the country (Clark, 1994, 58). The government was consequently looking to retain further revenues from the country's mineral resources and develop its manufacturing sector. The 1923 Electricity Act emerged from this context and provided for the creation of Escom, with the duty to provide cheap and reliable electricity, on a non-profit basis. According to Nancy Clark, Escom marked an 'entirely new' type of company in South Africa. The entity was

neither wholly state-controlled nor part of private industry. Escom's governing board was to consist of individuals appointed by the governor-general, while its funding was to come through private and government loans rather than directly from the government budget. The commission was legally designated a 'body corporate', separate from the state and capable in law of being sued, yet with its operations subject to the supervision of the minister of mines and industries. (Clark, 1994, 57)

Escom's monopoly over the electricity sector would not begin until it effectively expropriated VFPC in 1948. Yet, the 1923 Electricity Act nonetheless marked the beginning of the state using corporations to secure access to and influence over industry. Jaglin and Dubresson argue that technopolitics explains the establishment of Escom since it demonstrated the 'deliberate use of knowledge and technical choices to promote the socio-political vision aligned with government' (2016, 16).²⁰ Similarly, Gabrielle Hecht and Paul Edwards apply the term to apartheid South Africa where 'large-scale technological projects expanded the apartheid state's apparatus and displayed its power' (2010, 620). Technopolitics is a useful concept in understanding why governments value technological innovations as part of a nationalist project. However, in the case of Eskom, the focus on the technical capacity overlooks the political value of the company's rents and assumes that technocrats alone were guiding policy. Jobs at Escom were one way of furthering the economic ambitions of a demographic. Escom was established following years of mass labour unrest in the minerals industry over proposals to remove the colour bar, threatening the positions and incomes of white semi-skilled workers (Feinstein, 2005, 82-3; Clark, 1994, 58). Where the 1910 Power Act did not force VFPC to hire white workers, Escom provided the government with an opportunity to establish and maintain a racialised hierarchy within the entity (Truth and Reconciliation Commission, 1998, 149). Later, the need to protect 'poorer, less-educated white Afrikaners from denationalisation [would become] essential for political aims of the national party' that relied on this demographic for votes (Lipton, 1986, 270). Meanwhile, maintaining white Afrikaans leadership of the SOEs was one way that the government could ensure that policy at these

²⁰ Gabrielle Hecht uses technopolitics to describe 'the strategic practices of designing or using technology to constitute, embody or enact political goals' (1998, 56).

entities furthered their socio-political and economic ambitions. This strategy was encompassed in the *Broederbond's* 'baantjies vir boeties' (jobs for brothers) mantra, which was one of the tactics the society used as part of its mission to establish 'Afrikaner domination in South Africa' (Lipton, 1986, 269). The Truth and Reconciliation Commission (TRC) Report makes the political implication of executives' appointments clear:

Since the *Broederbond* influenced the selection of Eskom's chief executive officers, there was seldom a conflict of interests. (1998, 149)

Similarly, Ian McRae's²¹ memoir states that he felt being Anglophone was his 'biggest impediment to becoming Chief Executive' (2006, 52).

Even technocrats, like Eskom's first chief executive, Hendrik van der Bijl, were aware of the economic and political imperatives of his position. Van der Bijl wrote of the necessity of cheap and reliable electricity to facilitate industrialisation and pushed for the expropriation of VFPC in 1948 (quoted in Jacobs, 1948, 77; Clark, 1994, 84). In addition, Jaglin and Dubresson's assertion that van der Bijl used his political connections to 'create breathing space' for Eskom speaks to the fact that while van der Bijl was a technocrat, he was also entrenched in political networks and committed to implementing their policies (2016, 15). Executives were thus selected from a pool of candidates whose interests were intertwined with those of the state, long before the ANC took over in 1994. A biography of Van der Bijl describes the former executive as fulfilling a national duty by establishing and running the utility – a sentiment that is shared by other executives (Zondo Commission 2019e, 18; McRae, 2006; Jacobs, 1948). This implies that company's executives are performing a civic duty in running the entity.

The government gained a foothold into the minerals industry by creating Eskom. Coupled with the creation of the Iron and Steel Corporation (Iskor) in 1928, the companies facilitated South Africa's industrialisation (Clark, 1994). Eskom was an important source of rents (in the form of 'rent-like transfers') for the government due to its ability to influence the expansion of the energy sector, in addition to providing electricity to the Rand. For instance, the maintenance of

²¹ McRae was Eskom's Chief Executive and Chair of the Management Board from 1985 to 1994.

the colour bar²² and the extension of the grid to remote farms directly benefitted Afrikaans workers (and potential voters) and reinforced Afrikaans political dominance after 1948. According to the TRC Report, parastatals like Eskom propped up the apartheid economy through these policies by entrenching spatial inequality according to race, as well as supplying cheap electricity to maintain the MEC (1998, 149). White minority governments consequently set a precedent of using Eskom – and parastatals more broadly – to serve the wider needs of the state.

National Party (NP) governments sought to expand the grid after coming to power in 1948. Although Smuts' government proposed subsidising the extension of the grid to farmers in 1946, progress had been slow and even by 1959 only around 6% of farms had access to electricity (Clark, 1994, 158). However, the government encouraged the mechanisation of agricultural processes through subsidies (Lipton, 1986, 85). At the same time, Eskom's 1960 Annual Report states that 'the extension of electricity supply to rural areas is accepted as the special task of Eskom and continues to receive special attention from all departments of its organisation' (1960 15). As a result of this campaign, the number of farms with access to electricity increased from 6,023 in 1959 to 18,220 in 1969 (Eskom, 1969, 14). The extension of the grid to farms improved the living conditions – and production capacity – of another key voting demographic for Afrikaans nationalist parties. Eskom provided the white minority government with the means to reward and maintain supporters through securing – and protecting – jobs for semi-skilled white South Africans and extending electricity connections to users far outside of urban centres.

Meanwhile, justifying the decision not to improve access to electricity for black communities until the 1980s because 'blacks did not want electricity' reinforced spatial inequality and the perception of Afrikaner superiority (McRae, 2006, 15). In an interview with a former ANC member of parliament involved in drafting early post-apartheid energy policy, the participant referred to the need to address the effects of the 'silly assumption that blacks did not like

²² The colour bar refers to the restrictions white minority governments placed on accessing skilled and semi-skilled jobs, excluding Africans from these positions.

electricity' and were effectively opposed to 'modernity'.²³ These policies were not necessarily competitive; aside from the socio-economic impacts, maintaining the colour bar drove up labour costs, while connecting farms entailed extending the grid far beyond the mines or urban centres. Escom's annual reports emphasise the costs of electrifying farms, stating that

[i]ncreases in the costs of labour and equipment are, however, making it more and more difficult for Escom to maintain tariffs at their present level. Escom is not permitted, in accordance with the Electricity Act, to supply electricity at below cost and it is unavoidable that the increased costs of new schemes now being planned will be passed on to farmers.

It should be pointed out, however, that by making maximum use of electricity to carry out as many tasks as possible, the farmer can assist in keeping the overall unit cost as low as possible. (1969, 14)

Despite these costs, electrification plans proceeded, facilitating the mechanisation of the agricultural sector (Lipton, 1986, 105). Escom's monopoly over the energy sector also provided the opportunity for innovation rents through developing local technologies and expertise to facilitate efficient electricity production. According to interviews with two geologists, the research and development of specific technologies was necessary due to the nature of South African coal, which takes longer to combust and burns at a higher temperature than European coal.²⁴ Relying on European technologies was therefore unfeasible, providing (and indeed necessitating) a space for South Africa to build its own expertise.

4.4 Escom to Eskom

Escom's first real crisis coincided with the decline of the NP's political hegemony. During the 1970s, rising discontent from black workers and unrest in black townships, alongside mounting pressure from international organisations and private capital in South Africa made it clear that the NP needed to adapt to stay in power (Van der Westhuizen, 2007, 113-14). The party made

²³ In person interview with former ANC minister, March 2019.

²⁴ Both interviewees have conducted extensive research into coal and coal-generated electricity, including at Eskom power plants. In person interview, December 2018; in person interview, April 2019.

concessions towards urban black communities, accepting that townships were permanent and that improvements to living conditions were necessary. Private capital lobbied for these changes, maintaining that industry required easy access to labour (Van der Westhuizen, 2007, 113-14; Lipton, 1986, 326-8). Increased levels of mechanisation also required black workers to be at least semi-skilled to operate machinery, contributing to the rise in projects to improve education for black communities (Van der Westhuizen, 2007, 115-17; Lipton, 1986, 87-8).

Christi van der Westhuizen argues that these changes marked the start of a new closer dynamic between the state and private capital. According to van der Westhuizen, 'capital previously had a 'symbiotic relationship [with the state], with capital adhering to an apolitical stance while benefitting from apartheid's over-regulation and coercion of black labour' (2007, 115). However, this position was no longer tenable due to the private sector's demand for a better skilled black workforce and increasing labour and civil unrest. Under P.W. Botha's premiership the government was thus prepared – and encouraged – to distribute rents to capital to reinforce the alliance with the party. In addition, these rents were attractive to a new demographic: urban white Afrikaners with industrial interests (Van der Westhuizen, 2007, 114-19). These shifts in rent distribution speak to the changing motivations of the apartheid state, from the focus on establishing and maintaining Afrikaners' political and social dominance, towards a state fixed on maintaining political control at the expense of its founding ideology.

Meanwhile, Escom's generating capacity was constrained in the late 1970s and early 1980s, partly due to a severe drought (necessitating the closure of two power stations and reducing the capacity of others), but also due to delays in bringing new stations online (McRae, 2006, 38-42; Eskom, 1983, 21). Instances of sabotage in South Africa and in Mozambique at the Cahora Bassa Dam further undermined the reliability of supply (McRae, 2006, 38-42; Eskom, 1983, 21). Tariffs rose exponentially and were 166% higher in 1977 than they were in 1971, which combined with shortages from a lack of supply, undermined consumers' faith in the utility (Eskom, Undated-a). Consumer confidence was further strained by the levels of secrecy surrounding the energy sector, which the apartheid state guarded (Eberhard and Van Horen, 1995, 16; Truth and Reconciliation Commission, 1998, 149). Two separate commissions of inquiry recommended that Escom alter its tariff structure and become more transparent. This prompted a series of reforms at the utility culminating in the 1987 Electricity Act, which

removed price controls on coal, introduced a new board, more transparent accounting policies and rebranded the company (Jaglin and Dubresson, 2016, 21; McRae, 2006, 66). Eskom and Evkom were amalgamated into Eskom, symbolically removing the political connotations of an English or Afrikaans commission and reflecting the changing political climate in South Africa. The new name coincided with changes at Eskom. The company had in the 1980s started the process of employing black workers in managerial or administrative roles (McRae, 2006, 67; Truth and Reconciliation Commission, 1998, 147). This process entailed working with black unions to incorporate workers into the company's mentorship programmes across the operations (McRae, 2006, p.67). Another major policy shift was the 'Electricity for All' Campaign that began in 1989 and sought to provide black communities with affordable and reliable electricity. 'Electricity for All' followed meetings between McRae and John Maree, Chairperson of the Electricity Council²⁵, with community leaders in townships and eventually senior members of the ANC, including Thabo Mbeki and Nelson Mandela in the late 1980s (McRae, 2006, 79). To Jaglin and Dubresson these changes demonstrated 'management's ability to analyse political change, adapt to it quickly and even anticipate the consequences of it' (2016, 22). In making these changes, Eskom management was probably seeking to retain a degree of political autonomy. McRae highlights the agreement with Mbeki and Mandela that 'if Eskom continues to perform to the satisfaction of the whole country, then the future ANC government will leave us alone to get on with the job, and not intensify the nationalising of utilities' (2006, 79). The theme that Eskom almost existed outside of politics runs throughout McRae's memoir, made clear by his assertion that government needed to 'stay out of the engine room' and let Eskom run independently (2006, 50). But again, it is important not to overstate this independence. McRae describes his 'excellent and interesting relationship with

²⁵ Where the management board (headed at the time by Ian McRae) ran Eskom on a day-to-day basis the Electricity Council determined Eskom's 'policy, planning and objectives'. The Council consisted of 20 members appointed by the Minister for Economic Affairs and Technology, and included Eskom's Chief Executive (i.e. McRae), stakeholders from Eskom's biggest consumer groups (i.e. mining), as well as representatives from the departments of Mineral Affairs and Energy and Finance (Eskom, 1987, 2).

Pik Botha', the Minister for Minerals and Energy from 1994-96, while John Maree reportedly spent Christmas with Prime Minister P.W. Botha (2006, 65, 157).

In addition, the recruitment of black workers was in line with a broader government policy to create a black bourgeoisie as a buffer against rising social unrest (Van der Westhuizen, 2007, 127). The employment and promotion of non-white staff members increased further once the ANC took office, and Eskom established formal employment quotas. For Jaglin and Dubresson this employment drive – particularly after 1994 – marked the decline of technopolitics in the country, due to their assertion that the ANC failed to promote technocrats within Eskom (2016, 32). Concern over the loss – or lack – of skilled workers at Eskom was a common theme across interviews and reflects shifting working practices at the company (see Chapter Six). In any case, company management's proactive employment decisions may have reinforced Eskom's central position in the MEC. With Eskom management implementing empowerment policies and demonstrating their willingness to work with black leaders there was little impetus to restructure the company or the wider electricity sector.

Meanwhile, there was limited growth in the demand for electricity by the 1980s. This was partly because most white municipalities and industrial areas already had access to electricity (Eberhard and Van Horen, 1995, 37). Electrifying black townships or municipalities consequently presented an avenue of growth for the utility and was broadly in line with new efforts to improve living conditions for black people. The Department of Mineral and Energy Affairs established the 'Energy for Development' directorate in 1987 as part of a policy statement that, 'all attempts should be made to provide appropriate and sufficient energy to every person, household, community and economic sector' (Eberhard and Van Horen, 1995, 91). According to Statistics South Africa (StatsSA) living conditions data are unreliable pre-1996 (Africa Check, 2019); it is consequently difficult to quantify the success of the early phase of 'Electricity for All'. However, the enormous disparity in access to electricity reported in the 1996 census suggests that the programme had limited reach. Only 30.2% of black households used electricity from an authority for cooking in comparison to 96.9% of white households. Similarly, 43.3% of black households used electricity from an authority for lighting unlike 98.5% of white households (Statistics South Africa, 1996). Indeed, work in the directorate was reportedly 'largely limited to research' before the 1990s (Eberhard and Van Horen, 1995, 91).

Anton Eberhard and Clive Van Horen argue that even in the early 1990s, electrification proceeded ‘without a clear sense of future direction’ (1995, 92). Moreover, ‘distribution utilities such as Eskom and local authorities made their own policies based on their own experiences of past projects, political demands for new connections and emerging trends in the national policy debate’ (Eberhard and Van Horen, 1995, 92). This argument points to the limited drive from the NP-led government to establish and implement a comprehensive electrification programme. In addition, the point that Eskom and local utility companies were increasing access to electricity based on ‘political demands’, reflects a shift in the allocation of ‘rent-like transfers’ based on the impending political transition.

Eberhard and Van Horen attribute the slow pace of early progress to:

- The absence of a government-driven electrification policy
- Structural problems in the electricity supply industry
- Inequitable and inefficient domestic tariff systems
- Inadequate access to finance (1995)

As well as the absence of a comprehensive electrification policy, the tumultuous political climate at the time of the transition from apartheid meant that ‘the locus of political power was constantly changing’ (Eberhard and Van Horen, 1995, 92). These two factors reflect the absence of two conditions for productive rent-seeking; a long term policy vision, and centralised rent distribution. For instance, Khan argues that the centralisation of power in South Korea enabled the government to award rents in a way that directly served state policy (2010, 71-2; 2000a, 96). Similarly, the African Power and Politics Project’s (APPP’s) work on ‘developmental patrimonialism’ argues that the extent to which a government’s ability to distribute rents – and ensure that they are implemented correctly – in the long term is a necessary precondition for rents to serve a developmental (or productive) purpose (Kelsall, 2013, 118; Booth and Golooba-Mutebi, 2012; Vaughan and Gebremichael, 2011). Rent-distributors are incentivised to allocate rents vertically as it builds alliances with a wider pool of rent-seekers beyond elites, which in the case of political parties, strengthens their power base. In South Africa, from 1989 to 1994, the impending political transition gave the NP little

incentive to actively pursue electrification as they had less to gain from pushing for the electrification of black households. Once the ANC came into power in 1994 the pace of electrification accelerated, from 57.6% of the total population in 1996, to 80.7% in 2006, and 84.2% in 2016 (World Bank, 2021a). As well as reflecting a genuine desire to improve citizens' quality of life, this rapid increase in access to electricity is also a 'rent-like transfer'. The ANC broadly maintained the structure of the MEC, using its ability to influence the distribution of rents within the complex in similar ways to the white minority governments it succeeded. In addition to mass electrification programmes, elite allies could also be personally rewarded through leadership positions at SOEs or through contracts to supply the companies with materials and services – a trend the ANC has also acknowledged. (Hyslop, 2005, 786; Eberhard, 2004, 14; African National Congress, 2001a, 6; Lodge, 1998, 183). At Eskom, coal supply contracts became a particularly lucrative form of rents in the mid-to-late 2000s, as power stations struggled to maintain adequate reserves.

4.5 Linking capital to the state: coal contracts at Eskom

In 1912 the VFPC opened Vereeniging Power Station, establishing the practice of building power stations close to the mines and transmitting power over high-voltage lines to the consumer (Lang, 1995, 54). This arrangement reduced the lost cost of transporting coal to power stations – particularly once conveyor belts were introduced – and meant that power stations could be built to accommodate the specifications of the attached mine's coal. The development of 'tied-collieries' strengthened the connection between Eskom and private mining companies, as the two parties entered into coal-supply agreements (Eberhard, 2004, 4). Initially, Eskom used 'cost plus' contracts to get projects off the ground, assuming most of the financial obligations in exchange for dedicated access to the coal reserves (Portfolio Committee on Public Enterprises, 2013). Although these agreements are expensive for Eskom, they provide protection from fluctuations in the price of coal and security of supply (Zondo Commission, 2019g, 13). As the government liberalised the coal market, enabling companies to export coal, fixed price arrangements became more common (Portfolio Committee on Public Enterprises, 2013). With these agreements, the financial responsibility shifted to the mine operators, who were now able to subsidise costs through exports (Zondo Commission, 2019g,

13; Portfolio Committee on Public Enterprises, 2013). Cost plus and fixed price contracts are typically long-term contracts spanning decades. For instance, the initial supply agreement between the then-operators of Optimum Coal Mine (OCM)²⁶ that supplies Hendrina power station was 30 years with the option of renewing in the 1970s (Zondo Commission 2019a, 52). This was changed to a new 25 year fixed price contract in 1993, reflecting the long term commitment between the owners of the mine and Eskom (Zondo Commission, 2019c, 13). Long term arrangements favoured established mining houses that had the technical capacity and access to financing necessary to start and maintain massive mining operations. Consequently, at the time of the transition Eskom had established links with major mining houses. Long term contracts continue to constitute the bulk of Eskom’s coal procurement, although successive shortfalls in coal supplies, and the drive to support ‘emerging miners’ has led to short- and medium-term contracts from the 2000s (Eskom, 2013). The table below provides an overview of the types of agreements between Eskom and its coal suppliers.

Table 4.5.1: Types of coal supply contracts (from Eskom, 2019; Portfolio Committee on Public Enterprises, 2013)

Long term contracts	Cost plus	
<ul style="list-style-type: none"> • Contracts usually run for 10-40 years with the option of extending. • In the 2018-2019 financial year, cost plus agreements accounted for 33% of Eskom’s coal 		<p>In these arrangements both Eskom and the mine operator contribute initial capital to start the project. However, Eskom assumes the bulk of the financial burden, paying all operating costs <i>plus</i> a pre-determined net return on the operator’s capital contribution. In addition, Eskom is responsible for any further capital contributions.</p> <p>The coal reserves managed under these agreements are then reserved for Eskom in exchange for the above contributions, facilitating ‘security of supply’. The cost, volume and quality of coal is negotiated monthly.</p>

²⁶ The sale of this mine from Glencore to Tegeta, a company of the Gupta-owned Oakbay group, has been a prominent topic of corruption inquiries since 2016 when the anti-corruption Ombudsman, the Public Protector, published the ‘State of Capture’ report.

<p>purchases by volume. Fixed price agreements accounted for 25%.</p>	<p>Fixed price</p>	<p>Under these agreements the mine operators take on a greater financial burden and incur penalties for falling short of their contractual obligations. Instead, coal is sold to Eskom at a pre-determined price, which is renegotiated annually, based on commodity prices and updated operating costs.</p> <p>Eskom has no exposure to financial risks in operating the mine. But it is highly probable that annual negotiations over the price of coal will account for higher operating costs. Moreover, Eskom does not have dedicated access to the coal reserves and operators are free to export coal to subsidise operating costs.</p>
<p>Short- and medium-term contracts</p> <ul style="list-style-type: none"> • Contracts tend to run for 1-2 years • In the 2018-2019 financial year these agreements accounted for 42% of Eskom’s coal purchases by volume. 		<p>These agreements are similar to fixed price arrangements in that the price of coal is pre-determined and then renegotiated annually.</p> <p>Eskom has turned to these contracts as a solution to supply gaps at power stations with tied collieries. As a result, it is highly probable that coal acquired under these agreements will need to be transported to power stations. Eskom is generally responsible for the cost of transporting coal by truck or rail from the mine to the power station.</p> <p>The bulk of these agreements are with junior (in this case a euphemism for black-owned) mining companies.</p>

4.6 Restructuring Eskom

Once it became clear that there would be a political transition in South Africa, the international community increased pressure on the ANC to conform to global neoliberal norms (Bond, 2000, 196-201). Much of this pressure stemmed from negotiations to end apartheid, which scholars have described as an ‘elite pact’ between ‘big capital, big labour and big government’ or a ‘reform coalition in which ‘authority is shared by public and private actors’ (Taylor, 2007, 6;

Bond, 2000, 55). In these discussions, the ANC was encouraged to drop pledges to nationalise sectors such as mining and adopt ‘pro-business’ reforms. A former ANC minister in the first cabinet described how the end of the Cold War brought about the dominance of the Washington Consensus, meaning that South Africa had to work within those policies to prevent being excluded from ‘the international community’:

So suddenly South Africa is one nation among many, and many facing huge challenges...The world was sort of saying – maybe not in so many words – ‘South Africa, learn to swim in this large shark infested pool’. So that was our situation.²⁷

Although this statement underplays the potential bargaining power that the ANC had, it underlines the pressure on the party to maintain the *status quo* between capital and the state. At the same time, the ANC needed to rapidly improve the lives of historically disadvantaged South Africans – who it depended on for support. These contradictory pressures influenced energy policy, as evidenced by the 1998 White Paper on Energy Policy. On ‘stimulating economic development’ the paper states:

- Government will encourage competition within energy markets.
- Where market failures are identified government will intervene through transparent, regulatory and other carefully defined and for time delineated mechanisms, to ensure effective delivery of energy to consumers.
- Government policy is to remove distortions and encourage energy prices to be as cost-reflective as possible.
- If subsidies are required these should be implemented transparently based on agreed criteria. (Department of Minerals and Energy, 1998, 8)

These policy statements suggest that the government was hoping to appease the private sector, by maintaining their access to cheap electricity, while maintaining the right to intervene in the regulation of the sector if necessary. For instance, regarding subsidies,

²⁷ In person interview with former ANC minister involved in drafting early energy policy, March 2019.

Government also wishes to see electrification subsidies allocated in a more transparent and accountable manner than in the past, with elected political representatives playing a larger role in establishing the policy framework. (Department of Minerals and Energy, 1998, 48)

This statement points to the new government's intention to use its access to the parastatal to achieve its redistributive aims. This role of parastatals underpinned and indeed continues to drive some of the resistance to privatise Eskom.

The question of privatising at least some functions of Eskom has arisen at various points over the last thirty years; in the late 1980s right before the transition; in the 1998 White Paper; after the 2008 electricity crisis; and in 2019 as a solution to Eskom's precarious financial position (Department of Public Enterprises, 2019, 14-16; Eberhard, 2004, 13; Department of Minerals and Energy, 1998, 55-6). In the last decade in particular, multi-stakeholder advisory groups on energy policy have proposed partial privatisation as a solution to stabilising Eskom, with the implication that private entities will correct mismanagement of the energy sector and restore stability. Leaving aside the extent to which this perception is accurate, privatisation is politically unpalatable. According to the former minister, 'we smuggled the 'p' word, privatisation [into the White Paper] quietly, you might have seen in it, obliquely. It was rejected then as it is being rejected now...people don't want to hear the *swear word* privatisation' (emphasis added).²⁸ The description of privatisation as a 'swear word' at the same time as it was proposed in policy documents highlights the tensions within the ANC as the party attempted to conform to neoliberal norms in some respects, while retaining its capacity to distribute reserves to its supporters. The ANC's partners in the Tripartite Alliance, the Congress of South African Trade Unions (COSATU) and the South African Communist Party (SACP), also opposed privatisation, limiting the centrist faction of the ANC's ability to unilaterally implement policy (Jaglin and Dubresson, 2016, 26).

²⁸ In person interview with former ANC minister involved in drafting early energy policy, March 2019.

Instead of privatising or ‘unbundling’²⁹ Eskom, parliament passed the Eskom Conversion Act of 2001 into law in 2002, converting the entity into a public company with the government as the sole shareholder. Eskom was now subject to commercial law under the Companies Act, had to pay taxes and was now governed by a board of directors appointed by the minister (Jaglin and Dubresson, 2016, 26, 28; Eberhard, 2004, 29-30; Government of South Africa, 2001). While Eskom had effectively held monopoly rents over the electricity sector since 1948³⁰, the Conversion Act pointed to the extent that the government valued maintaining control over these rents and sought to formalise that arrangement. Jaglin and Dubresson argue that converting Eskom into a ‘competitive organisation designed to operate in a competitive market’ was a compromise between the centrist faction and opponents of privatisation (2016, 26). Eskom was now fully corporatised and aligned with the state. For Jaglin and Dubresson, the Conversion Act signalled the decline of the organisation; ‘highly autonomous in operation until 1987, slightly less so following its corporatisation, Eskom since 2001 has been greatly weakened, and above all has seen the loss of its specific prerogative’ (2016, 28). Moreover, they argue that Eskom was ‘reduced to an instrument of state power’ (Jaglin and Dubresson, 2016, 28). One informant – a former consultant with Eskom – shared this view of the 2001 act as a turning point for the company:

That’s the Eskom Act of 2001, that’s when the wheels fell off. The government began to think that this was a pot of honey now and they would just help themselves. And they did in the first few years, they declared substantial dividends and then they weaned the cow, the cash cow, and ever since then it’s been short of money.³¹

For this interviewee, the 2001 Conversion Act reduced Eskom to a resource for predatory rent-seeking, to benefit political elites. Numerous studies on the ANC in government have found that Eskom parastatals, represent an important pool of resources for patronage for the ANC

²⁹ This term describes suggestions to partially privatise some of the different functions of Eskom (generation, transmission and distribution) (Department of Public Enterprises, 2019).

³⁰ When Eskom took over (with the help of a government loan) the Victoria Falls Power Company.

³¹ In person interview with South African energy sector analyst and former consultant with Eskom, October 2018.

government (von Holdt, 2019, 8; Southall, 2016, 76; Booysen, 2012, 8; Lodge, 1998, 183). This does not mean that the ANC's ambitions for Eskom are wholly predatory, although some factions of the party arguably were/are. For instance, a substantial body of literature suggests that the faction behind former-president Jacob Zuma was particularly predatory (Du Plessis and Plaut, 2019, 179-85; Chipkin et al., 2018, 38-9; Southall, 2016, 74; Booysen, 2015, 151-2). Karl von Holdt argues that the 'Zuma-Gupta project had no interest in the state' and was 'defined by short termism and plunder' (2019, 16).³² As the NP's slow progress towards providing access to electricity to the majority of the population suggests, the implementation of policies cannot be divorced from the politics of the ruling party. Moreover, Mbeki's government viewed strong SOEs as an integral part of a developmental state, using the companies to shape economic growth (von Holdt, 2019, 6). In addition to ongoing electrification targets, the Conversion Act came into force five years after Eskom imposed ambitious procurement and employment empowerment quotas. These factors suggest that the government under Mbeki viewed maintaining control over the company as an expedient way to meet those goals.

4.7 Rent allocation in post-apartheid South Africa

During apartheid – and after sanctions were imposed in particular – the government's primary aim was to achieve the security of electricity supply (Truth and Reconciliation Commission, 1998, 149; Eberhard and Van Horen, 1995, 16). In the post-apartheid state, this goal was expanded to include the universality of supply (Department of Minerals and Energy, 1998, 12, 48). Access to electricity expanded rapidly once the ANC came into government, but this came at the expense of upgrading the grid. The former ANC minister I interviewed stressed the competing pressures on the new government:

³² Zuma resigned in February 2018, but the Commission of Inquiry into State Capture – that receives an enormous amount of media attention – was ongoing as at the time of conducting interviews. This predatory aspect of the ANC was consequently in the public eye almost daily and almost certainly shaped interviewees' perception of how the party used its access to Eskom and other parastatals. Chapter Five of this thesis reflects on factions' different approaches to rent-seeking as demonstrated by the discussion of discourses around transformation.

So, we came forward with it, you need a proper energy mix, a proper energy policy. To be able to do a whole lot of developmental things that must be done. Without energy you are going nowhere...At the same time, there are these other demands that require immediate attention from the state. So, we say we are going to do a long-term kind of projection, there are things that you must do now if you are to avoid whatever consequences ten years down the line. So, there's a lot of to-ing and fro-ing, a lot of debate and whatever. Again, I must say a lack of, on the part of all of us, a lack of a long-term view. Everybody has to have a school now, a house now, a clinic now, a whole lot of those things. All of us are standing in front of the then-president and the then-minister of finance and are saying you better give us money for the following. So, in the heads of many people, energy though a priority, would only be a long-term kind of thing. There are the immediate needs that must be met.³³

This statement highlights the quandary that the ANC faced once it took power. On the one hand, officials were preparing policy documents that outlined long term plans and investments but would have delayed immediate benefits for the wider population. On the other hand, there was the opportunity to immediately provide resources – like electricity, schools or clinics – to citizens who were now its target constituents. The second option gave the party immediate political capital and helped the ANC present itself, and act, as a redistributive liberation party. The ANC chose the second option, treating access to electricity as a benefit it could provide as opposed to a public utility. This framing of access to electricity as a benefit stemming from ANC leadership, positions the resource as a ‘rent-like transfer’. The ability to distribute ‘rent-like transfers’ *en masse* is a powerful political tool, and the ANC has used its access to state resources to cultivate the image of itself as a ‘powerful and caring parent to the population’ (Booyesen, 2012, 181). For instance, James Ferguson argues that personalising the distribution of social grants links these grants to the ANC and has strengthened personal bonds between the recipients of grants and the party (2015, 162). Similarly, other researchers have noted how local governments have allocated resources based on informal patronage and clientelist relationships

³³ In person interview with former ANC minister involved in drafting early energy policy, March 2019.

as opposed to allocating resources according to rights or rules (Anciano, 2018, 601; Dawson, 2014, 539; Bénit-Gbaffou, 2011, 454). Although this informalisation of allocating state resources is not particular to the ANC, the party has moved to blur boundaries between itself and the state by presenting social resources as a benefit of party membership. Indeed, to support another party would be ‘counter-revolutionary’, with the implication that opposition parties would restrict access to these benefits (Beresford et al., 2018, 1236, 1242). This strategy of making access to social rents synonymous with voting for the ANC is one of the ways that the party continues to regenerate political control 25 years after the end of apartheid. The decision to prioritise the distribution of social rents over upgrading the grid may not have been productive or sustainable in the sense that it contributed toward the problems that Eskom now has (Zondo Commission, 2019f, 125; Centre for Development and Enterprise, 2008, 6). As the minister said, this approach ‘lacked a long-term view’. However, people’s living conditions improved and the ANC gained political capital that it continues to benefit from. The social benefits of these ‘rent-like transfers’ speaks to the limitations of framing ‘productivity’ in terms of economic growth alone. The government’s decision to use subsidised access to electricity as a ‘rent-like transfer’ reflected a political choice based on contemporary demands.

Once the ANC dropped pledges to nationalise industry it sought to ‘transform’³⁴ the ownership of firms, redistributing wealth in a ‘market friendly’ way through black economic empowerment (BEE) (Bowman, 2019, 224). Mbeki in particular championed BEE as a mechanism to create ‘patriotic capitalists’, or a new class of black bourgeoisie who were loyal to the party and used their newfound wealth to further the ANC’s objectives (Bowman, 2019, 224; Southall, 2004, 540). The government created incentives for this by setting minimum ownership or employments quotas for firms bidding for government contracts (Iheduru, 2008b,

³⁴ A catch all phrase to describe a break from South Africa’s colonial past towards an equitable economy and society. According to an ANC discussion document the term alludes to their ‘mandate to transform South Africa from a society damaged by the injustices of colonialism and apartheid to a truly non-racial and non-sexist society, characterised by social justice and increased opportunity, particularly for black South Africans’ (2017, 1). Chapter Five of this thesis explores the operationalisation of discourses around transformation in rent-seeking at Eskom.

354). For instance, Eskom's procurement regulations mandate the company to purchase goods to meet development objectives (Zondo Commission 2019d, 257).

BEE deals initially focused on the transfer of ownership shares to a black – usually politically connected – stakeholder, although legislation has evolved to include training schemes and employee shares as Broad-Based Black Economic Empowerment (B-BBEE). Companies gained instant political capital by selling shares to political elites and were consequently willing to help finance these agreements, since many black businesses lacked access to funds (Bowman, 2019, 228; Bracking, 2019, 419). Eskom, as a holder of monopoly rents in the electricity sector, has encouraged the emergence of BEE firms in coal mining through procurement quotas. The opportunities to gain access to Eskom contracts also reinforced the value of the intersection between coal mining and Eskom in the MEC as site of rents in post-apartheid South Africa.

However, competition for resources for elite rent-seeking is intense, fuelling factionalism and unproductive rent-seeking practices. Despite the desire to portray the party as disciplined and united, the ANC has struggled with factionalism since the anti-apartheid struggle, when senior party members clashed over – among other issues – the direction and tactics of the movement (Ellis, 2012a). Ideological divides in the party persist in the post-apartheid era, exacerbated by access to the state, which has presented opportunities for self-enrichment, creating divisions between developmental and predatory factions within the party. According to Booyesen,

[o]n the one hand, the ANC mobilised people in pursuit of the ideals of the Freedom Charter, which would be achieved through social welfare policies...On the other hand, there was the ANC that uses state power, derived through popular mandates, as a stepping stone to personal fame and fortune, opportunities and launching pads for friends, family and acquaintances (2012, 74).

This divide with the ruling party underlines the balancing act between the 'selfish' and the 'selfless' characteristics of the ANC, where it tries to maintain power and access to resources while maintaining a base of popular support (Booyesen, 2012, 74-5). The creation of a politically connected black capitalist class through BEE is one result of this balancing act. Moreover, competition to access the state's resources, compounds problems with factionalism as different

networks jockey for privileged access to the state (von Holdt, 2019, 3; Beresford, 2015, 230). In circumstances where access to rents is linked to an ally's term in office, predatory rent-seeking (which is not just economically unproductive but also extractive) is more likely to occur. For instance, when the Tegeta run Optimum Coal Mine (OCM) started business rescue proceedings in February 2018, allegations emerged that Tegeta had mismanaged the mine. In legal documents from 2018, auditors reported that the Gupta-owned Tegeta Resources used OCM as a 'company treasury'.³⁵ Managers of OCM issued billions of rand in intra-company loans to Tegeta but made limited investment in the mine itself. According to the business rescue practitioners who took over OCM, Tegeta treated OCM as a 'cash cow' and,

[t]he statement 'there are inter-company loans' is not only vague and ironic but conceals a greater truth; namely the indiscriminate misappropriation and transfer of funds between the different company that gave rise to their financial distress in the first place.³⁶

The business rescue practitioners go on to describe the 'deplorable state of equipment that was never properly maintained' and OCM's inability to pay employees.³⁷ These allegations are particularly egregious given the lengths that the Eskom board reportedly went to ensure that Tegeta purchased the mine, including approving a ZAR1.68 billion prepayment for coal (Zondo Commission 2019b). Tegeta's take over and subsequent (apparent) mismanagement of OCM is not necessarily representative of rent-seeking dynamics within the MEC but represents an extreme manifestation of unproductive and extractive rent-seeking practices.

4.8 Load shedding and opportunities for unproductive rent-seeking

The practice of building a power station adjacent to a coal mine, and then establishing a long-term supply agreement between Eskom and the mine operator, restricted rent-seeking opportunities. While mining companies upheld their contractual obligations there was little

³⁵ Unpublished legal documents, Case Number: 29146/2018. p.779 of bundle.

³⁶ Unpublished legal documents, Case Number: 29146/2018. p.779 of bundle.

³⁷ Unpublished legal documents, Case Number: 29146/2018. pp.779, 821 of bundle.

reason for Eskom to look elsewhere for suppliers, nor could they economically justify it. However, ageing electricity infrastructure increasingly posed a problem for Eskom. As mining companies extracted higher quality coal, the quality of the coal seams decreased, making it harder for firms to fulfil their obligations to Eskom (Zondo Commission 2019c, 185; Zondo Commission 2019g, 125).³⁸ According to geologists from the sector, ageing power stations compounded this problem as their capacity to burn sub-standard coal decreased.³⁹

These problems came to a head in late 2007, sparking Eskom's first major crisis since the end of apartheid. From November 2007 to January 2008, South Africa experienced severe disruptions in electricity supply, forcing Eskom – and municipal suppliers – to implement nationwide load shedding schedules that lasted until May 2008. According to the Johannesburg-based Centre for Development and Enterprise (CDE),

[t]he major cities were paralysed by traffic gridlock. Many food-processing enterprises lost their entire stock. At least one person died on the operating table. The national grid almost crashed. If this had happened, the entire country would have been completely without electricity for several days. In order to prevent this, gold and platinum mines were forced to stop all production for five days on 25 January, a date that became known as Black Friday in the mining industry. The mines were only permitted to resume work after agreeing to an ongoing 10 per cent reduction in their electricity consumption. (2008, 1)

The immediate cause of the crisis was an unexpected depletion in power stations' coal stockpiles, which according to Eskom's then-CEO, Jacob Maroga, stemmed from unusually wet weather and poor-quality coal (Centre for Development and Enterprise, 2008, 16). Coal procurement processes at Eskom thus entered the spotlight.

³⁸ Interviewees also referred to this problem. According to a former member of Eskom's Primary Energy Division, the lifecycle of the mines does not align with that of the power stations (In person interview, January 2019).

³⁹ In person interview with geologist specialising in coal and coal-generated electricity, December 2018; In person interview with geologist specialising in coal and coal-generated electricity, April 2019.

By 2007, most of Eskom's power stations were at least 25 years old, as were the coal mines that they depended on. As the quality of the coal reserves deteriorated the mines were less capable of meeting planned deliveries. The national energy regulator (NERSA) noted that deliveries from the collieries at Arnot and Tutuka were far below those scheduled, with coal deemed unusable due to poor quality at Arnot and Hendrina in late 2007 (National Energy Regulator of South Africa, 2008, 19). Here, the failure to implement plans to upgrade the grid was partly to blame, underlining the impact of the decision to defer investment in the sector (Zondo Commission, 2019f, 125; Centre for Development and Enterprise, 2008, 6).

The 1998 White Paper on Energy warned that demand would exceed supply by 2007 without additional generating capacity (Department of Minerals and Energy, 1998, 41). Instead, the government blocked investment in energy infrastructure until 2004, five years after the deadline for making decisions that the White Paper recommended (Centre for Development and Enterprise, 2008, 6; Department of Minerals and Energy, 1998, 53). Eskom reportedly made numerous requests to the government for investment in the interim (Centre for Development and Enterprise, 2008, 6). Meanwhile, the capacity of Eskom's power stations was declining. International standards recommend that electricity utilities generate 20% additional electricity above maximum demand (the reserves margin). In 2001 – the same year the Financial Times named it the 'Power Company of the Year' – Eskom's reserves margin was 15% (Centre for Development and Enterprise, 2008, 7). By the time the first major rounds of load shedding affected South Africa in November 2007, its reserve margin was 7% (Centre for Development and Enterprise, 2008, 7), reflecting the steady decline of the utility's operating capacity while it superficially remained stable.

Assessments of the crisis have also highlighted the skills shortage at Eskom as a reason why the entity could not respond adequately to its growing list of problems. In 1997 Eskom set a list of empowerment targets, particularly relating to recruitment. By 2000, it hit its target of 50% black employees at management and senior-management level. Then in 2006, it stopped recruiting white male managers or technicians and halted promotions for white staff entirely (Jaglin and Dubresson, 2016, 68; Centre for Development and Enterprise, 2008, 11). At the same time, it increased its quotas for other positions, which the labour market was apparently unable to fill. At a time when Eskom was seeking to employ 470 black engineers, there were

only about 230 qualified black engineers in the country (Centre for Development and Enterprise, 2008, 11). Similarly, in 2008 NERSA estimated that there were 1,500 vacancies out of 3,000 positions at power stations (2008, 22). This skills gap, combined with the problems associated with short term contracts, led Michael Spicer, a discussant at the CDE round table and the CEO of Business Leadership South Africa to pose the question, ‘Is this BEE gone mad?’ (2008, 9).

For people who were sceptical of the value of BEE, the crisis thus reinforced the perception that the policy had limited economic benefits. According to Spicer, ‘In effect, Eskom was choosing to support a few hundred new entrepreneurs at enormous cost to the economy, to jobs, and to the well-being of all South Africans’ (quoted in CDE, 2008, 9). For Jaglin and Dubresson, the crisis stemmed from Eskom’s inability to act independently, with executives ‘unable to communicate effectively with its tutelary department’ and ‘seeking political endorsement’ (2016, 68). Meanwhile, they argue that the ‘haemorrhaging’ of skilled staff meant that new managers were ‘unable to handle the question of supplies effectively’ or indeed, ‘understand how contracts worked’ (Jaglin and Dubresson, 2016, 70)).

These critiques speak to a wide literature on the limitations of BEE as method of redistribution (Bowman, 2019; Bracking, 2019; Marais, 2013; Southall, 2004; Murray, 2000). Yet – as the following chapter demonstrates – actors operationalise discourses around transformation extensively in rent-seeking practices at Eskom. Part of Eskom’s mandate in the post-apartheid state is to serve the needs of all citizens and promote socio-economic development (Eskom, 2019, 25). The social and economic functions of Eskom point to the limitations identifying separate ‘productive’ or ‘unproductive’ rents in practice. For Eskom executives and the government, the ability to promote the economic advancement of previously disadvantaged South Africans may factor into the extent that they consider a rent to be productive. A coal supply agreement might not be the most cost-effective, but if it promotes a new BEE-compliant supplier, then it – at least to a small extent – works towards the government’s stated ambition of achieving ‘economic transformation’. But the limitations of BEE as a method of

redistribution, particularly regarding its failure to reduce inequality,⁴⁰ in addition to Eskom's dire financial position,⁴¹ indicates that rents can have both unproductive and productive outcomes.

Although coal majors still account for the vast majority of output, the entry of smaller black-owned mining companies has been particularly successful in the coal sector due to Eskom's procurement policies (Bowman, 2019, 233). Small-scale suppliers became useful to Eskom as a method to address unreliable supply from tied collieries in the mid-to-late 2000s. By the end of 2007, Eskom received about 80% of its coal supplies from dedicated collieries using conveyor belts, while the remaining 20% came from short-term contracts with smaller mines that transported coal to the power stations by road (National Energy Regulator of South Africa, 2008, 2). While some BEE firms worked in partnership agreements with majors at tied-collieries, these short-term contracts constituted the bulk of Eskom's empowerment procurement. Transporting coal by road under short-term contracts presents several potential problems:

- 1) Transporting coal by road is unprofitable. Interview and financial data from the Minerals Council of South Africa,⁴² indicates that transporting accounts for as much as 50% of operating costs in coal mining.⁴³ According to Eskom's data from the 2018-2019 financial year, short term contracts accounted for 42% of coal purchases by volume but 52% of purchases by costs (2019, 121). In the run up to the 2008 crisis, this imbalance made managers reluctant to maintain stockpiles since it would mean

⁴⁰ Statistics South Africa reported that the 'expanded' unemployment rate was 48.7% for the black population but 11.2% for the white population in the second quarter of 2021 (2021b, 46-7). Meanwhile, the Department of Employment and Labour's 2020 Employment Equity Report found that 54.6% of top-level management in the private sector are white men, despite the fact that they only account for 5.1% of the workforce (Commission for Employment Equity, 2021, 28).

⁴¹ At the end of the 2019 financial year, Eskom's total debt and securities was over R380 billion, with the company unable to pay back the servicing charges on its loans (Eskom, 2019, 6, 82). According to the government's 'Turnaround Plan' for Eskom it has pledged R23 billion per year over ten years, underlining utilities dependence on injections of capital (Department of Public Enterprises, 2019, 3).

⁴² Formerly the Chamber of Mines.

⁴³ In person interview with three economists from the Minerals Council of South Africa, November 2018.

operating at a loss (quoted in NERSA, 2008, 17-18). This problem prompted NERSA to conclude that ‘there appears to be a conflict between Eskom’s business objectives and its reason of existence: the supply of electricity’ (2008, 19).

- 2) Quality control is difficult to manage. Boilers in power stations with tied collieries were built with the attached mine’s coal specifications in mind (Zondo Commission, 2019g, 11-12). Coal from other reserves must suit the boiler’s specifications to be effective. Mine operators therefore benefit from the coal to meet these requirements. Yet, according to a former member of Eskom’s Primary Energy Division,

[t]he bottom line is that it reduces the yield because if you take the product as it comes out of the mine versus washing it or whatever you do, whatever processing you do for specific quality. If you had a 100, if you're going to take out the quality you may get 30, 40, 50, so you don't get the coal but the cost is the same and then you are spreading the cost over fewer elements.⁴⁴

Beneficiation is consequently a costly process, particularly if the price per tonne of coal does not change to reflect these costs. In addition, Eskom lacks the manpower and technical capacity to confirm that the coal power stations receive is the coal that it paid for (Jaglin and Dubresson, 2016, 70). At least five interviewees, including geologists with experience in coal-generated electricity⁴⁵, a trade union representative from the National Union of Mineworkers (NUM)⁴⁶, and former Eskom employees from the Primary Energy Division⁴⁷, stated that this remains a problem. According to these interviewees, this gap creates opportunities for fraud through delivery of insufficient amounts of coal, or coal with incorrect properties.

- 3) Short term contracts undermine long term planning. These supply contracts tend only to run for a couple of years, a fraction of the decades-long duration of cost-plus or fixed-

⁴⁴ In person interview with a former manager in the Primary Energy Division, January 2019.

⁴⁵ In person interview, December 2018; in person interview, April 2019.

⁴⁶ In person interview with NUM energy sector representative, March 2019.

⁴⁷ In person interview, December 2018; in person interview, January 2019.

term agreements. Short term contracts do help Eskom fill gaps in supply from tied collieries but it can also take 12-18 months to finalise a coal supply agreement (under ‘normal’ circumstances).⁴⁸ Under these conditions, procurement staff would immediately have to start looking for another supplier once one contract was finalised, instead of implementing a longer-term expansion plan.

- 4) Trucking coal to power stations presents logistical problems. In its assessment of the crisis NERSA reported that the road network was ‘unsuitable’ for carrying coal to power stations (2008, 16). This refers to the practice of multiple 52-tonne trucks using dirt or minor roads in rural areas. During the wet weather at the end of 2007 trucks were unable to travel at all (NERSA, 2008, 16). Road transport also affects the communities along routes; according to a former manager from the primary energy division, community protests against coal truckers was a problem in the late 2000s.⁴⁹

Trucking coal to power stations helped stave off coal shortages and gave smaller suppliers the opportunity to enter the market. But it is also inefficient and gaps in supply chain management created opportunities for unproductive rent-seeking and outright fraud. The Medium Term Mandate exacerbated these weaknesses.

4.9 The Medium Term Mandate and opportunities for unproductive rent-seeking

To tackle coal supply problems Eskom implemented the Medium Term Coal Procurement Mandate. This mandate allowed procurement officers to bypass competitive tendering procedures and directly approach coal producers and vice versa (Funduzi, 2018, 19). Suppliers were still required to produce various documents relating to their mining rights, B-BBEE certificate and employment equity reports, but it generally expedited the procurement process (Funduzi, 2018, 20). However, the mandate created loopholes for unproductive rent-seeking by reducing the transparency of the procurement process. A former member of the Primary

⁴⁸ Detail from an in-person interview with a current manager in the Primary Energy Division, January 2019.

⁴⁹ In person interview with a former manager in the Primary Energy Division, January 2019.

Energy Division stated that under the mandate procurement was ‘personal’, not standardised, making it difficult to audit the procurement process.⁵⁰ Additional interviews with current and former members of the Primary Energy Division allude to pressure to finalise deals with certain parties. Although, understandably, interviewees distanced themselves from these practices, through statements such as ‘maybe I am the wrong character, maybe others have been pressured...But I won’t discount that most probably somebody is talking to the suppliers that I am talking to’,⁵¹ or ‘the push [from the Eskom board] started to become more around, well, ‘you’ve just got to do this’, and I am not the ‘just got to do this’ person’.⁵² The desperate demand for coal also created space for unproductive agreements, and Chapter Six of this thesis identifies some of the changes to practical norms that exacerbated structural issues like coal shortages. The risk of coal shortages suggests that despite problems associated with the lack of transparency we should not simply label transactions made under the Medium Term Mandate as unproductive.

The mandate was approved to expedite the procurement process and (theoretically) ensure that Eskom was not caught off-guard by further shortages.⁵³ The economic and social costs of repeated power cuts are high. Following the 2008 crisis, the mining sector contracted by 21% for the first quarter of 2008, with one company reportedly forced to lay off 5,000 workers. GDP growth meanwhile fell to its lowest rate in six years (CDE, 2008, 1). Nonetheless, the reference to the pressure to secure deals – even suboptimal ones – points to Eskom’s weakened bargaining position following the crisis. The sense that (suitable) coal was a scarce resource for Eskom, and the constant need to top up stockpiles at power stations allowed businesses to demand higher prices than Eskom could afford. Meanwhile, the lack of competitive tendering process under the Medium Term Mandate reduced competition for potential suppliers

⁵⁰ In person interview with a former manager from the Primary Energy Division, December 2018.

⁵¹ In person interview with a current manager in the Primary Energy Division, January 2019.

⁵² In person interview with a former manager from the Primary Energy Division, January 2019.

⁵³ In person interview with a former manager from the Primary Energy Division, December 2018; in person interview with a current manager in the Primary Energy Division, January 2019.

(Funduzi, 2018, 19). Thus, a policy that was intended to reduce the risk of future crises also enabled unproductive practices.

4.10 Continuity in rent-seeking practices and contextualising ‘state capture’

The South Africa-based Public Affairs Research Institute (PARI) is leading the evolution of state capture debates in the country, with a narrative that focuses on the role of the Gupta-Zuma network. These researchers identify a concerted effort to ‘repurpose’ institutions to better channel rents across their networks. They define repurposing as

[t]he organised process of reconfiguring the way in which a given institution is structured, governed, managed and funded so that it serves a different purpose from its formal mandate. Understanding state capture purely as a vehicle for looting does not explain the full extent of the political project that enables it. Institutions are captured for a purpose beyond looting, namely consolidating political power to ensure longer-term survival, the maintenance of a political coalition and its validation by an ideology that masks private enrichment with references to public benefit. (Chipkin et al., 2018, x)

This chapter agrees with some of the political purposes of rents from political institutions. Yet, it contests the extent to which institutions, such as Eskom, have needed to be ‘repurposed’ to serve these aims. The analysis in this chapter has demonstrated the continuity in how various governments have used their access to rents to serve a variety of purposes. The analysis also demonstrates the failure to come to grips with the fundamental weaknesses in the energy sector that created opportunities for unproductive rent-seeking practices that the Gupta-Zuma network could exploit. The following chapters address the political economy of these failings in more detail but this chapter demonstrates the broader context of prolonged disfunction at Eskom since 2008.

4.11 Conclusion

This chapter has examined the nature of rents and rent-seeking processes in South Africa and how they have shaped the political economy of the country’s MEC, particularly the intersection between Eskom and coal mining. Using Khan’s description of different types of rents, the chapter situates Eskom as a holder of ‘monopoly rents’ in the electricity sector. This is due to

the company's dominance over electricity generation and the extent that it protects access to supply contracts through empowerment quotas. In addition, governments have treated access to electricity as a 'rent-like transfer', politicising access to the service. Khan has argued that 'monopoly rents' and 'rent-like transfers' are likely to be unproductive but can be productive under certain circumstances (Khan, 2000b, 68). However, this approach understands productivity in terms of outcomes for economic growth. This thesis adopts a less rigid understanding of 'productivity' and finds that it is difficult to distinguish between unproductive and productive rents in practice. Rent holders can allocate rents to mitigate poverty or further their agendas, thus allocating rents according to contemporary political demands and priorities. Although these considerations may not be strictly growth enhancing, they can still have positive outcomes. This wider understanding of 'productive' rents underlines the value in considering the factors that shape rent allocation for furthering our understanding of rent-seeking dynamics in the MEC.

Eskom's central role in the MEC, as a conduit between the state and the minerals sector, makes it a valuable source of rents. A pattern of governments using access to Eskom to further their social and economic ambitions demonstrates this value. The priorities of various white minority governments have shaped Eskom's evolution; enabling them to access revenues from the Anglophone dominated mining industry; preserve semi-skilled jobs for white workers; and extend access to the grid to remote commercial farms, which were generally owned by Afrikaans farmers – an important constituency for the NP (Feinstein, 2005, 82; Lipton, 1986, 274-77). Moreover, connections between former executives and the government – including links to the *Broederbond* – indicates that the company was not as independent as some studies suggest (Jaglin and Dubresson, 2016, 17; Truth and Reconciliation Commission, 1998, 148). Energy policy during apartheid sought to establish 'security of supply', and the apparently close relationship between senior members of government suggests that Eskom executives were trusted to act in the best wishes of the state (Eberhard and Van Horen, 1995, 16; Truth and Reconciliation Commission, 1998, 149).

Following the transition from apartheid, the newly-elected ANC government presented itself as a redistributive liberation party and extended the goal of energy policy from the 'security of supply' to the 'universality of supply' (Department of Minerals and Energy, 1998, 12, 48). The

ANC was under pressure to quickly improve people's living conditions and access to electricity increased dramatically in the first decade of their rule (World Bank, 2021a). However, treating access to electricity and other social services as a 'rent-like transfer' delayed spending to upgrade the grid, which increasingly became a problem as power stations and mines aged. Meanwhile, Eskom's hold over 'monopoly rents' in the electricity sector acted as a lucrative source of rents for an emerging group of black capitalists. This group benefitted from preferential access to contracts to supply goods and services to SOEs that enforced empowerment quotas in their procurement guidelines (Bowman, 2019; Zondo Commission, 2019d, 257). Given Eskom's position as the biggest coal buyer in the country, as well as the country's dependence on coal-generated electricity, coal supply agreements are among the most profitable rents that the utility offers. The possibility of these reinforced the importance of this intersection in the MEC as a site of rent-seeking, even as it became structurally weaker.

As the model of a 'tied' colliery and power station becomes less reliable, demand for coal from new reserves is increasing, providing lucrative opportunities for supply contracts. Opportunities for unproductive rent-seeking grew after the 2007/2008 electricity crisis, when Eskom implemented policies that enabled them to by-pass competitive tendering procedures to quickly guarantee coal supplies (Funduzi, 2018, 19). The crisis strengthened suppliers' negotiating position against Eskom, creating the sense that coal was a scarce resource with a high demand. Meanwhile, Eskom's increasing dependency on short-term contracts hindered the company's ability to plan beyond a couple of years. The resulting short-termism meant that while Eskom was fulfilling an immediate need to 'keep the lights on', structural problems persisted. By prioritising short term benefits at the cost of long-term stability, Eskom's approach to distributing rents seemingly has had both unproductive and productive outcomes. It was under these conditions that some factions were able to exploit their access to rents in an overtly extractive way, with few benefits for Eskom. The impact of factionalism on the distribution of rents is another avenue of study that will provide further context to ongoing discourse over 'state capture' in South Africa. This chapter provides a foundation for these studies, by framing contracts at Eskom in terms of rents and discussing key factors that have influenced their distribution.

5 Transformation and coercive rent-seeking

5.1 Introduction

The previous chapter argued that rent-seeking and rent-distributing practices are influenced by political imperatives to reward allies and maintain political support. It also showed that while Mushtaq Khan's conception of productive and unproductive rents is useful, it can be difficult to distinguish between these rents in practice. This difficulty underpins the value in adopting a wider understanding of productive to capture rent-holder's goals and wider political imperatives, such as tackling entrenched racial inequality. This chapter examines one of these political pressures, discussing how the African National Congress's (ANC) commitment to 'transforming' South Africa into an equitable, non-racial nation (African National Congress, 1994a; African National Congress, 2020) shapes and drives rent-seeking practices at Eskom. In doing so it addresses the question:

How do discourses around transformation reflect contemporary priorities, and influence rent-seeking processes and rent allocation at Eskom?

Findings are based on analysis of ANC policy and discussion documents, transcripts and affidavits from a parliamentary inquiry into procurement practices at Eskom and the (as of July 2020) ongoing Commission of Inquiry into State Capture⁵⁴ (hereafter the Zondo Commission after Deputy Chief Justice Raymond Zondo who presides over the inquiry). Interview data supplement documentary analysis, providing personal accounts of procurement and rent-seeking processes at Eskom. Informants include current and former Eskom employees, energy experts at transparency NGOs, as well as actors from the wider energy sector. Discussions around rent-seeking and coal procurement at Eskom are sensitive due to ongoing inquiries on

⁵⁴ The commission's full title is the Judicial Commission of Inquiry into State Capture, Corruption and Fraud in the Public Sector Including Organs of State.

It is important to note that the claims made during commissions of inquiry have not been 'tested' in a court. Nonetheless, witnesses testify under oath and include people who would be extremely difficult to otherwise access for an interview on this topic.

the issue and public interest in the revelations from these investigations.⁵⁵ Moreover – as this chapter shows – rent-seeking can be a personal and opaque process, suggesting that without extremely intimate access, it is difficult to uncover a ‘full’ picture of the rent-seeking process. However, public discourse and private interviews are still valuable sources and highlight some of the power dynamics at play in rent-seeking at Eskom, and how they relate to wider strategies to regenerate and maintain political power.

Critical Discourse Analysis (CDA) encompasses a wide range of methodological techniques and is approached in this chapter as a systematic process of identifying, interpreting and explaining transformation as a discourse (Fairclough, 1989, 26; van Dijk, 1993, 158-9; Van Dijk, 2015, 466; Mullet, 2018, 120-1).⁵⁶ Tuen van Dijk argues that CDA lends itself to the study of discursive power through several questions including:

1. How do powerful groups control the text and context of public discourse?
2. How does such power discourse control the minds and actions of less powerful groups, and what are the social consequences of such control, such as social inequality?
3. What are the properties of the discourse of powerful groups, institutions, and organisations and how are such properties forms of power abuse?
(2015, 470)

This chapter focuses primarily on the first question, comparing the context and deployment of discourses around transformation in rent-seeking processes. Analysing the data in this way includes considering which groups can shape transformation as a discourse and how powerful groups then ‘operationalise’ or put this discourse into action (Fairclough and Fairclough, 2013, p.84). The chapter also adapts the third question to consider the properties of transformation discourses and their outcomes. The chapter uses CDA as a guiding framework to discuss the

⁵⁵ Events of the Zondo Commission feature in the national news cycle almost daily.

⁵⁶ The chapter does not seek to make a methodological contribution to theory on CDA but uses it as a broad framework to consider power relations in the creation, promotion and operationalisation of transformation as a discourse. Understanding these factors is a foundation for analysing how these discourses influence rent-seeking and distributing practices.

plurality of discourses around transformation and their impacts, instead of identifying specific discourses individually. It situates discourses around ‘transformation’ as post-liberation discourses, with developmental and nationalist characteristics. These developmental traits stem from rhetoric around the pressing need to redistribute wealth and correct historic inequalities in the country. Nationalistic characteristics emerge through the radical economic transformation (RET) branch of these discourses, which (in the case of energy transitions) rallies against renewable energy technologies as foreign. The chapter demonstrates how ANC-generated discourse on transformation has become incorporated into national policy while these discourses mediate rent-seeking practices and rent allocation. Moreover, by positioning itself as the leader of ‘transformation’, the ANC uses these discourses to legitimise its control over the state and its resources drawing on the ‘exclusionary language of liberation’. In addition, analysis of personal testimonies, affidavits and interview data show the coercive operationalisation of these discourses at an interpersonal level to encourage compliance and discipline subordinates or potential opponents. Through this discussion, this chapter also responds to the overarching research question by demonstrating how rent-seeking has reinforced the value of the MEC as a source of rents, creating barriers to reforming the energy sector. Analysing the role of transformation discourses in rent-seeking dynamics links high-level research into policy with personal accounts. This analysis provides an understanding of how liberation discourses, and processes of class formation have shaped rent-seeking dynamics and rent allocation in the post-apartheid state.

5.2 Transformation as a post-liberation discourse

The broad ambition of transforming a nation, is common among liberation parties in sub-Saharan Africa (Reno, 2002, 842-3; Dorman, 2006, 1088; Paget, 2020, 1). William Reno argues that the ANC, Namibia’s Southwest African People’s Liberation Organisation and the Zimbabwean African People’s Union all recruited supporters through ‘detailed visions of the future’ and promises of a ‘new social order’ (2002, 842-3). Popular support for these visions of a reformed and equitable state gives liberation parties ‘ideological legitimation’ that they can continue to draw on when in power (Dorman, 2006, 1097). According to Dan Paget, through various liberation and developmental nationalism discourses liberation parties (like

Tanzania's *Chama cha Mapinduzi* (CCM)) are able to present 'a possible future, as yet never realised, in which the nation is transformed' (2020, 2). By evoking this vision of an attainable, but just-out-of-reach future, the CCM is able to justify authoritarian policies (Paget, 2020, 2). This justification is partly through what Sara Rich Dorman identifies as the 'exclusionary language of liberation', where liberation parties reiterate their leadership during the liberation conflict to present detractors as enemies of the struggle (2006, 1092). Accusations of opposing the struggle carries the additional implication of support for the old order, 'where those who are not with us are against us' (Bompani, 2006, quoted in Dorman, 2006, 1092).

While ANC leaders may not use liberation credentials to impose authoritarianism, party members regularly draw on the struggle to discredit opposition (Bompani, 2006, 1142; Beresford, 2012, 868; Beresford et al., 2018, 149). Alexander Beresford argues that the ANC draws on its position as the leader of the anti-apartheid struggle to 'discursively construct itself as a liberation movement charged with radically transforming South African society as part of an ongoing (and seemingly infinite) 'National Democratic Revolution'' (2012, 863). Beresford describes this discourse as 'regenerative nationalism' as it helps to renew electoral support for the ANC as the only organisation capable of leading South Africa in this revolution. As well as restating the ANC's moral authority to govern, party members also use this discourse to label critics as 'illegitimate' (Beresford et al., 2018, 149; Beresford, 2012, 868). In a study on the changing role of churches in South African civil society, Barbara Bompani notes that 'offering an alternative to the ruling party's political discourse assumes the meaning of 'abandoning' the struggle' (2006, 1142). Within post-liberation discourses, opposition to ANC policies is therefore presented as opposition to the liberation.

'Transformation' is a component of post-liberation discourse, with nationalist and developmental characteristics, encompassing measures to tackle the social and economic injustices of apartheid; 'transforming South Africa into a united, democratic and non-racial country' (African National Congress, 1990).⁵⁷ The ANC is the self-proclaimed leader of this

⁵⁷ Transformation in the South African context is distinct from the transition, which refers to the processes of ending apartheid and transferring power from the National Party to the ANC after elections in 1994.

process, with internal ‘Economic Transformation’ and ‘Social Transformation’ committees that produce party policy and discussion documents on how to achieve social and economic ‘transformation’. ANC policies and goals on transformation are also embedded in national documents, such as the 1994 Reconstruction and Development Programme (RDP) and the 2012 National Development Plan (NDP), which both set out to tackle and eliminate fundamental inequalities in South African society (Government of South Africa, 1994). This ambition is also present in the 1996 Growth, Employment and Redistribution (GEAR) document, which justifies an emphasis on economic competitiveness and fiscal conservatism as the route towards alleviating inequality (Government of South Africa, 1996b). It is unsurprising that national policies would reflect the ruling party’s stated ambitions, particularly when the ruling party has a decisive majority in parliament. Nonetheless, this incorporation of transformation into national planning documents establishes these discourses as an ANC-led national project. For instance, Caryn Abrahams argues that – with regards to policies on social cohesion – as a ‘project that is so intimately connected with nation-building [discourses on social cohesion] instantiates a version of a nation that is based on and produces a narrative that seeks to solidify the ANC’s political hegemony’ (2016, 96). By making ‘transformation’ a national, as well as party goal, ANC leaders use transformation as a discourse to invoke this ‘exclusionary language of liberation’. Transformation as a discourse reiterates the legitimacy of ANC control over the state by suggesting that opponents to policies that strive towards ‘transformation’ are opposed to the ideals transformation evokes. The need to demonstrate support for, and compliance with, policies that enable transformation has become one method through which South African private sector elites have built connections with the ANC in power. In addition, actors can operationalise these discourses coercively in rent-seeking processes by drawing on the counter-revolutionary connotations of opposition to ANC policies, to justify transactions that are uncompliant with procurement regulations.

5.3 Transformation in the post-apartheid state

The ANC’s Reconstruction and Development Programme (RDP) document highlights the scale of the problems facing the country at the end of apartheid:

The result [of apartheid] is that in every sphere of our society – economic, social, political, cultural, moral, environmental – South Africans are confronted by serious problems. There is not a single sector of South African society, nor a person living in South Africa, untouched by the ravages of apartheid. Whole regions of our country are now suffering as a direct result of the apartheid policies and their collapse. (African National Congress, 1994b, 1-2)

Discourses around transformation in post-apartheid South Africa thus encapsulate a mission to reverse the political, social and economic injustices of colonialism and apartheid. The wide-ranging nature of these discourses mean that they are amorphous and flexible, with ‘transformation’ as an umbrella term covering all policies that seek to redress the wrongs of apartheid. This chapter acknowledges the different types of discourses around ‘transformation’ but its main concern is the aggregate effect of these discourses as a disciplinary device in rent-seeking processes. The ANC’s 1994 election manifesto positions the process of transforming South Africa as a form of nation-building, ANC-led but dependent on the support of all citizens:

While others throw up their hands in despair or point fingers, we want to roll up our sleeves and tackle the problems. We are aware that eliminating the mess created over decades by the National Party will not be easy. But we know that you can make a difference. If we all work together, we are capable of achieving even more. (African National Congress, 1994a)

The 1996 Constitution outlines the vision for the new South Africa, the ‘new order’ that the ANC promises. For instance, the preamble states that ‘South Africa is for all those that live in it’, while the Constitution is adopted to:

Heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights;

Lay the foundations for a democratic and open society in which government is based on the will of the people and every citizen is equally protected by law;

Improve the quality of life of all citizens and free the potential of each person; and

Build a united and democratic South Africa able to take its rightful place as a sovereign state in the family of nations. (Government of South Africa, 1996a, 1)

These principles speak to a conscious effort for the Constitution to be a driver of transformation. Karl Klare argues that the Constitution has a ‘self-consciousness that it is an instrument committed to social transformation and reconstruction’ (1998, 155). The active role of the Constitution as a driver of transformation forms the basis of debates around ‘transformative constitutionalism’, which Klare defines as the ‘enterprise of inducing large-scale social change through non-violent processes grounded in law’ (Klare, 1998, 150; Venter, 2018, 148; Albertyn, 2019, 753). There is debate over the extent of the Constitution’s effectiveness as a driver of transformation (Klare, 1998; Tambe Endoh, 2015; Venter, 2018; Albertyn, 2019; Modiri, 2018). Catherine Albertyn outlines some of these perspectives, including arguments that the Constitution relies too heavily on ‘western norms’ and ‘liberal capitalism’ to respond to country-specific challenges in South Africa (2019, 754). This question of norms speaks to the inherent challenges of trying to achieve an undefined goal. For instance, Klare envisages ‘a transformation vast enough to be inadequately captured by the phrase ‘reform’ but something short of or different from ‘revolution’ in any traditional sense of the word’ (1998, 150). In comparison, Joel Modiri argues non-revolutionary forms of transformation are inherently limited (2018, 40-1). These contrasting perspectives reflect the shaky foundations of understanding transformation in South Africa, and contestation over the best approach to realising this ideal. Transformation can entail making an existing system work better for more people, or it requires overhauling that system entirely. This contestation also reflects the benefits of studying transformation as a discourse, as opposed to a tangible policy. Discourses around transformation are fluid and the different interpretations of what transformation means and how it should be achieved underpins the operationalisation of these discourses. Fixing the ideal of ‘transforming’ South Africa into the Constitution enabled the operationalisation of these discourses in rent-allocation, giving rhetoric around transformation a legal grounding. For instance, the constitution mandates state-owned enterprises (SOEs) to conduct business in the interest of the public and help to ‘redress the imbalances of the past to achieve broad representation’(Government of South Africa, 1996a, 99).

By establishing a vision for a ‘transformed’ South Africa in the Constitution, liberation rhetoric was embedded into national goals and policy. Similarly, in November 1994, the newly elected government adapted and codified the ANC’s RDP as the ‘White Paper on Reconstruction and

Development’ as ‘the policy instrument which will direct the progress of the transformation strategy’ (Government of South Africa, 1994, 6). The programme’s sub-heading in the government gazette (‘Government’s Strategy for Fundamental Transformation’) underlines the incorporation of this aspect of liberation discourse into the national policy.

Rhetoric around a country unified in its mission to correct the injustices of apartheid merged with legal requirements to increase black ownership of the economy as the (predominately white-owned) business sector forged relationships with ANC leaders. ANC leaders have long treated the white-owned business sector with suspicion due to the close relationship between white businesses and the white minority government (Handley, 2008, 93; Seekings and Natrass, 2015, 213). The 1991 and 1992 ANC ‘January 8 Statements’⁵⁸ highlight party leader’s scepticism over the business community’s intentions, arguing that ‘[a]t virtually all levels of the economy the regime and big business are engaged in a concerted drive to restructure the economy at the expense of the poor’ (African National Congress, 1992, 3). They consequently encourage the ‘business community to act in concert with the necessary structures that are actually representative of the people’ (African National Congress, 1991b, 4).

Nonetheless, senior ANC and SACP members held several discussions with prominent figures from the white business community before formal negotiations to end apartheid even began. For instance, in 1985 ANC leaders in exile met with several white business leaders, including the executive director of Anglo-American, and representatives from white media outlets, in Lusaka as part of ‘the process of seeking ways and means of ending the violence of apartheid’ (Harden, 1985). These meetings continued in the run-up to the transition, becoming increasingly conciliatory. Biographer Mark Gevisser quotes former Justice Minister, Penuell Maduna, on former president Thabo Mbeki’s approach to negotiating with businesses; ‘We’ve got to convince everyone that there is a future after apartheid, and it looks good’ (2007, 536). Gevisser also argues that Mbeki made considerable efforts ‘to keep business sweet’ during the negotiations (2007, 572). William Gumede’s biography of Mbeki also notes Mbeki’s efforts to assure the white business community and western foreign governments that an ANC-led

⁵⁸ Statements from the ANC National Executive Committee to mark the anniversary of the party’s formation.

government would not lead to radical left-wing economic reforms (2007, 80-2). The 1994 'January 8 Statement' reflects similarly conciliatory sentiments in an appeal for the business community to work with the party:

The business community, both black and white, constitutes an important sector of our society and a valuable asset in the historic effort to bring a better quality of life to all of our people.

We appeal to these compatriots themselves to play their part in building confidence in the future of our country. The critical and positive decisions which they take will impact on the welfare of the millions of our people as well as the success of democratic transition itself. (African National Congress, 1994c)

The ANC followed up these overtures with concessions to business, dropping pledges to nationalise industries and liberalising trade. Meanwhile, the business sector showed its willingness to work with the ANC through measures to ostensibly reduce economic inequality (van Wyk, 2009, 25; Bowman, 2019, 226). This created a framework for a private sector backed approach to transformation, propelling the growth of a black capitalist class.

5.4 Class formation in post-apartheid South Africa

There are multiple dynamics to class formation and class structure after apartheid. For instance, Beresford and Karl von Holdt position the formation of an elite black capitalist class as a product of capitalist development in South Africa (Beresford, 2015; von Holdt, 2019). In addition, they explicitly link patronage politics to process of class formation. Beresford argues 'the proliferation of patronage-dependent accumulation in South Africa, as elsewhere in the world, is a central feature of the development of capitalism, and is inexorably bound up with the processes of class formation that accompany it' (2015, 229). Von Holdt notes that Mbeki's commitment to creating a 'patriotic black bourgeoisie to counter a 'lack of commitment' from white owned businesses...places the political economy of a rising class at the centre of ANC politics' (2019, 6). Jeremy Seekings and Nicoli Nattrass also link the emergence of a black capitalist class to capitalist development, although they approach the question of class from an operational perspective, considering class structure. They argue that although black South Africans now account for about half of the upper and upper-middle classes, the wider class

structure – and the composition of these classes – remains broadly unchanged (Seekings and Natrass, 2015, 113-17). The formation of an elite, politically connected class of black capitalists, with limited wider societal change, positions this group against the black working classes (Beresford, 2015, 237; Gumede, 2008, 262). Gumede has noted that ‘BEE firms have been among the worst industrial relations violators’, while ‘newly rich blacks’...contribution to social responsibility programmes is negligible’ (2007, 290, 291). Positioning black capitalists’ interests in opposition to the majority of the population suggests that while the group’s formation has been couched in rhetoric around development, its interests are in preserving the systems of accumulation that benefit members. This chapter explores the formation of this black capitalist class in relation to the allocation of rents and rent-seeking dynamics within the country’s minerals energy complex (MEC).

Although the 1994 elections, and the formal political transition, created opportunities for a nascent black capitalist class, the bulk of the country’s wealth remained concentrated in the white population. The redistribution of economic power is consequently a prominent aspect of discourses around transformation. This is unsurprising after almost 350 years of colonialism, which led to the ‘excessive concentration of economic power in the hands of a tiny minority’ (African National Congress, 1994b). For Mbeki’s faction of the ANC the creation of an aspirant black bourgeoisie was one way to tackle this disparity (von Holdt, 2019, 6; Gevisser, 2007, 584; Iheduru, 2004, 1-2). Mbeki envisioned a new class of ‘patriotic’ black capitalists that would facilitate the entry of black South Africans into the ‘economic mainstream’ (Southall, 2004, 315; Iheduru, 2004, 2). This faction of the ANC saw a black capitalist class as a ‘motive force of transformation due to their overlapping interests with ‘the immediate interests of the majority’ (African National Congress, 1997). This approach to ‘transforming’ the economy through affirmative action, or black economic empowerment (BEE), emerged out of the ideological compromises that ANC leaders made during the transition.

Gevisser describes Mbeki's apparent role in pushing for these compromises. He argues that although Mbeki had been opposed to a black capitalist class⁵⁹, he became increasingly concerned that the ANC would not be able to cope with the economic burden of pursuing radical economic policies (Gevisser, 2007, 538). At a party seminar in Lusaka in 1988, Mbeki reportedly questioned the party's ability to build enough houses to accommodate restitution policies. Mbeki also stressed the risk that nationalising industries, like mining, would deter foreign investors (Gevisser, 2007, 539-40). Moreover, a former cabinet minister underlined the global context of the transition period, with the strength of the Washington Consensus and 'the power of globalisation and finance' following the collapse of the Soviet Union.⁶⁰ ANC negotiators' agreement to adopt market friendly reforms, like liberalising trade and dropping pledges to nationalise industries are examples of their efforts to conform to Washington Consensus norms. These compromises form the basis of the 'elite pact' between the ANC and economic elites that Patrick Bond argues characterised the transition from apartheid (2000). Bond and others have argued that the decision to drop radical economic pledges represented the ANC's turn towards neoliberalism (Pons-Vignon and Segatti, 2013; Bond, 2000; Williams and Taylor, 2000; Padayachee, 1994). They argue that this shift is especially evident in the GEAR strategy that effectively replaced the RDP in 1996 (Pons-Vignon and Segatti, 2013; Bond, 2000; Williams and Taylor, 2000). In comparison to the more explicitly redistributive policies of the RDP, GEAR prioritised reducing the fiscal deficit and job creation in the private sector (Government of South Africa, 1994; Government of South Africa, 1996b). The creation of a black capitalist class that was (theoretically) committed to reducing racial inequality was thus a fiscally conservative approach to transformation. The new government used public procurement regulations to incentivise this form of transformation, although the private sector provided the bulk of the financial support for the transfer of shares.

⁵⁹ In 1978 Mbeki wrote that 'black capitalism had no redeeming features whatsoever' (quoted in Gevisser, 2007, 538).

⁶⁰ In person interview with former cabinet minister involved in drafting early energy policy, March 2019.

A market driven approach to BEE created a small class of black capitalists through high-level ownership transactions. Before the codification of broad-based black economic empowerment (B-BBEE) in 2003, BEE deals were largely voluntary as white-owned companies sought empowerment partners to gain political capital (Bowman, 2019, 225-6; von Holdt, 2019, 7). According to one interviewee, ‘before [the BEE codes of conduct]...if it looked like BEE and it sounded like BEE then it was BEE. But I don't think that there were hard and fast rules’.⁶¹

The interviewee also outlined how mining corporations facilitated these transactions:

Now around that time, SA coal mining houses were starting to take a view that now was the time for them to unbundle. The structure of the SA mining houses was that they had hotels, properties, they had banks. So what you saw was this process of unbundling and part of that then became this idea of ‘how do I get black empowerment in there when people have no balance sheets’. What you started to see was a series of BEE transactions where people were essentially given free carries.⁶²

The practice of giving people ‘free carries’, underlines the role of these transactions in enabling aspirant black elites to access the market despite having limited capital. That businesses were willing to shoulder the financial risk of bringing on new partners suggests these transactions were most feasible when the economy was performing well, and when lucrative and accessible sectors for BEE – like mining – were profitable.

However, ownership transfers had limited impact on tackling widespread inequality. Meanwhile, critics of BEE policy argue that in creating a small group of beneficiaries, the policy represents a form of legal corruption⁶³ or unethical business behaviour (Bracking, 2019,

⁶¹ Online interview with a representative of the renewables energy sector at the National Economic Development and Labour Council (NEDLAC), and consultant on the Integrated Resource Plan (IRP) and 2019 Eskom Roadmap, May 2020.

⁶² Online interview with a representative of the renewables energy sector at the National Economic Development and Labour Council (NEDLAC), and consultant on the Integrated Resource Plan (IRP) and 2019 Eskom Roadmap, May 2020.

⁶³ Interviewees from Solidarity, the majority-Afrikaans Trade Union, were particularly opposed to BEE, with one interviewee arguing it represented ‘legal corruption’ and ‘discrimination’. In person interview, February 2019.

419; Desai, 2018, 506). Southall, for instance, argues that instead of being ‘patriotic’ this early group of BEE beneficiaries is parasitic and self-serving (2004). The ANC has also repeatedly criticised the limits of BEE (2018; 2012b; 2007; 2001a), noting in 2007 that

[i]n some instances what is hailed in the private sector as “black empowerment” is symbolic and devoid of real substance. There are possibilities that some of these forces are dictated to by foreign or local big capital on whom they rely for their advancement. There are possibilities too, that the path to riches for some can be directly via public office, sometimes through corrupt practices. Though such instances may be an exception to the norm, experience in other countries has taught us that, without vigilance, elements of these new capitalist classes can become witting or unwitting tools of monopoly interests, or parasites who thrive on corruption in public office. (2007)

In highlighting instances where black capitalists become ‘parasites’ instead of a ‘motive force’ for transformation, this statement reflects the ANC’s awareness of the inherent contradiction of relying on politically connected private sector elites for redistributing wealth. These critiques of BEE as a form of corruption link directly to ongoing debates around the political influence of private actors in South Africa, including state capture debates and the rise of ‘tenderpreneurs’⁶⁴. Karl von Holdt and Sarah Bracking explicitly link corruption in post-apartheid South Africa to class formation. Von Holdt argues ‘corruption is a mechanism of class formation rather than a moral or criminal issue’ (2019, 3). Meanwhile, Bracking asserts that ‘corrupt exchange, and resistance to it, contributes to class-building processes, partly by means of gatekeeper politics, and partly as a consequence of the economic accumulation that arises as a consequential outcome of corrupt exchange’ (2019, 416). These arguments underline the relevance of understanding the moral economy of underpinning rent-seeking dynamics (which I address in the following chapter), as well as the relevance processes of class formation to understand ongoing debates around disfunction at SOEs. However, in linking BEE deals

⁶⁴ ‘Tenderpreneur’ describes the beneficiaries of BEE who have built their businesses through government tenders. Ashwin Desai also refers to them as ‘tender-based capitalists’ (Desai, 2018). Similarly, ‘credit-based capitalists’ describes the beneficiaries of BEE through gaining shares of companies without taking on governing responsibilities (Bracking, 2019, Desai, 2018).

with corrupt forms of political patronage, critiques of these policies are often linked to scholarship on neopatrimonialism in Africa.⁶⁵ This link is especially clear in the implication that elites used access to informal patronage networks to benefit from access to formal but weak institutions. However, conflating BEE with corruption – including practices that participants may regard as legitimate – clouds analysis of the dynamics that shape rent allocation. Conceptualising these practices as rent-seeking and engaging with the operationalisation of discourses around transformation in these practices offers a clearer lens to consider how these practices create opportunities for corruption. For instance, von Holdt argues that practices established during the early period of BEE contributed to the evolution of rent-seeking practices and discourses around transformation:

This is a kind of counter-movement to the dis-embedding processes of globalisation and good governance championed by the Mbeki government and its technocrats, working to re-embed economic agency and wealth formation in the emergence of a local elite - a counter-movement of local processes to appropriate wealth from the circuits of finance. And it was this pervasive informal political-economic system in which Zuma and his networks were able to locate themselves, and which also provided the basis for the emergence of the formal discourse of radical economic transformation within the ANC. (2019, 8)

While Holdt describes an evolution of existing practices, Chipkin et al. depict radical economic transformation (RET) as an ideology that emerged following Zuma's election as ANC party President in 2007 (2018, 101). Chipkin et al. define RET as 'an ambitious project to leverage the procurement budgets of SOEs to displace established white firms and create new, black-owned and -controlled industrial enterprises' (2018, 5). They further distinguish between the faction of 'constitutional transformers', 'who are committed to Mbeki's economic agenda', and the 'radical reformers', who are 'working to repurpose state institutions' (Chipkin et al., 2018, 32). This chapter agrees that RET emerged as a critique of Mbeki's approach to BEE and that factionalism in rent-seeking is important but with some important qualifications. I argue that

⁶⁵ See Chapter 2.3.3 and 2.3.4 for an overview and critique of scholarship on neopatrimonialism.

RET does not reflect an ideology but a branch of wider discourses on transformation that actors adopt and operationalise in rent-seeking. This approach offers additional clarity in understanding continuity in rent-seeking practices and avoids normative judgements over the ambitions of a particular faction of the ANC. Mbeki's approach to BEE established several sectors, including mining, as site of accumulation for nascent black capitalists but was dependent on cooperation from the private sector, which it was willing to provide while economic conditions were good. This dependence on market conditions for BEE deals has made it harder to access similar deals since the 2008 financial crisis (Bowman, 2019, 229-30). These challenges in accessing rents in the MEC have contributed to the emergence of RET and 'white monopoly capital' into South African public political discourse.

Analysis of twitter data including RET and white monopoly capital has shown that proponents of these discourses are broadly pro-Zuma, but also that the discourse is associated with fake accounts (bots) and misinformation campaigns (Findlay, 2016b; African Network of Centers for Investigative Reporting, 2017). In 2017 investigative journalists placed the Gupta family at the centre of this online 'RET network' (Gupta Leaks, Undated-a; African Network of Centers for Investigative Reporting, 2017). Ashwin Desai, like Chipkin et al., places SOEs at the primary target of factions that deploy RET discourses, and indicates how members of the Gupta-Zuma network have used RET as a justification for unproductive practices:

As these allegations unfolded, those defending the Zuptas raised the banner of RET. At its most coherent and audacious, the idea behind (RET) is that the spending of SOEs in particular must handsomely benefit black entrepreneurs, which will be a catalyst to defeat the dominance of [white monopoly capital] and advance the black nationalist cause. To the extent that existing procurement policies or budgetary allocations hinder the creation of black industrialists and financiers, these policies must either be abandoned or their violation ignored. (2018, 502)

Under this discourse, deviating from procurement regulations is acceptable, as it corrects historic economic injustices. Meanwhile, actors who oppose policies in the name of RET are portrayed as selling out to white capital, or even as apartheid era spies. For instance, during his first appearance at the Zondo Commission, Zuma argued that Ngoako Ramatholdi's (the former mining minister) earlier testimony against him was a part of a wider conspiracy:

What made Comrade Ngoako to behave the way he did here, saying that I have auctioned the country, in the ANC I just do what I like, he is carrying out an instruction. He was recruited when he was a student in Lesotho to be a spy. (2019l, 48)

Similarly, a social media campaign against Pravin Gordhan followed his appearance at the Zondo Commission, including accusations that he was part of an Indian Cabal that seeks to exclude black people from higher offices (Haffajee, 2018). This narrative draws on a specific tension within the anti-apartheid movement, in which Indian business owners reportedly used their financial resources to influence the liberation movement, particularly within the United Democratic Front (African National Congress, 1991a; Madlala, 2016; Haffajee, 2018). In this case however, it speaks to anxiety over who is a legitimate beneficiary of rents. For instance, Economic Freedom Fighters leaders and the wider RET online network repurposed the term to attack an opponent, building on portrayals of Gordhan as a puppet of white capitalists during his time as finance minister (Findlay, 2016a; Findlay, 2016b). Meanwhile, the Gupta family (who are Indian citizens) have escaped this critique. Andile Mngxitama⁶⁶, a prominent member of the RET online network instead argued that criticisms of the Gupta family stem from white monopoly capitals' prejudices and are consequently racist and xenophobic (Mngxitama, 2016). These examples highlight instances of how the creation of a black politically connected capitalist class and political factionalism have shaped discourses around transformation. Zuma's faction of the ANC became dominant immediately before the financial crisis triggered an economic downturn from which the country has not recovered.⁶⁷ According to one interviewee, the economic downturn limited the potential for the BEE transactions that took place before the transition, closing one avenue for accruing capital. The interviewee indicated that without the ready cooperation of corporations to enter into agreements with the new

⁶⁶ Mngxitama appears to be closely associated with the Gupta family, with multiple appearances on their news channel as an expert witness (African Network of Centers for Investigative Reporting, 2017, 6)

⁶⁷ The economy has grown (in terms of GDP) by an average of 1.5% per year since 2008 (World Bank, 2020).

political elite, public enterprises became even more important sources of rents.⁶⁸ Discourses around transformation thus shifted to reflect discontent with the limits to Mbeki's model of BEE, which created a group of black capitalists but did not translate into significant gains for the wider population. Moreover, Zuma's victory over Mbeki at Polokwane in 2007, meant that new networks of political elites were looking for similar opportunities, targeting the same sectors but in a context where economic stagnation reduced the private sector's enthusiasm for these transactions.

5.5 Perpetuating the minerals energy complex

Eskom's value to rent-seekers is partly derived from its central position in the country's MEC, linking the mining and energy sectors (Baker, 2015a; Freund, 2010; Fine and Rustomjee, 1996). The previous chapter outlines the establishment of the MEC and Eskom's hold over 'monopoly rents' and 'rent-like transfers' within the complex. The chapter reinforces the MEC's analytical value as a framework to study the political economy of South Africa's energy sector due to the emphasis on networks between the private sector and the government, mediated through SOEs. As a nexus between private industry (particularly in the extractives sectors) and government, controlling access to rents within the MEC holds substantial political and economic value.

The overlap of political and economic power was one reason that early BEE deals were concentrated within the MEC. Roger Southall outlines the ANC's desire to 'promote black ownership and control of the 'commanding heights'⁶⁹ of the economy: mining, energy and finance' (Southall, 2007, 73; Bowman, 2019, 226). Meanwhile, Andrew Bowman argues that the mining sector has been a 'central focus of BEE policy-making', with the largest BEE deal value (2019, 224, 226). The high numbers of BEE deals in the mining industry thus helped to

⁶⁸ Online interview with a representative of the renewables energy sector at the National Economic Development and Labour Council (NEDLAC), and consultant on the Integrated Resource Plan (IRP) and 2019 Eskom Roadmap, May 2020.

⁶⁹ Chipkin et al. also argue: 'radical economic transformation was an ambitious project, not simply to create black-owned small-and medium-sized enterprises but to control the commanding heights of the economy', underscoring the sense of continuity in BEE policy.

perpetuate the political economy of the MEC in the post-apartheid era. The ANC's alliance with COSATU adds another dimension to this political economy through union members. Labour unions have a substantial presence in the mining and energy sectors and (as I discuss later in this chapter) are a powerful force in resisting reforms at Eskom, including proposals to increase procurement of renewable energy sources (Cock, 2019, 13). There is also a sense that mining continues to form the basis of the economy; communities around mines depend on the industry directly for jobs, but also indirectly through income from providing services to mine workers (Cock, 2019, 4-5). In an interview with representatives from Minerals Council, one interviewee stated, 'if we don't have a mining sector we don't have a country'.⁷⁰ This is not necessarily a widespread view and resistance to coal mining in particular has become more vocal and visible (Cock, 2019, 7-10; Munnik, 2019, 13). Yet, other interviewees indicated that it was premature to think that the coal mining would become less important in the medium term.⁷¹ This sense that mining and electricity generation from non-renewable sources will be a constant fixture in the country demonstrates the extent to which proponents of the MEC understand the complex as a fundamental part of the country's political economy.

The ongoing concentration of political and economic power within the MEC after apartheid points to a passive revolution of sorts during the transition. Antonio Gramsci described a passive revolution as 'a process whereby a social group comes to power without rupturing the social fabric but rather by the adapting to it and gradually modifying it' (2014, 247). Moreover, Roger Simon argues; 'when the hegemony of the bourgeoisie begins to disintegrate and a period of organic crisis develops, the process of reorganisation which is needed to re-establish its hegemony will to some extent have the character of a passive revolution' (1991, 49). It is possible to understand the negotiations between business and ANC leaders and the creation of a black business class within the MEC in this context. By giving the new political elite a stake

⁷⁰ In person interview with representatives from the Minerals Council, the main body that represents mining companies in South Africa, November 2018.

⁷¹ In person interview with manager in Eskom's Primary Energy Division, January 2019; in person interview with former manager in Eskom's Primary Energy Division, January 2019; in person interview with geoscientist specialising in coal-generated electricity, April 2019.

in the MEC without disrupting its structure, the complex was regenerated to suit the post-apartheid era. Beneficiaries (or prospective beneficiaries) of the MEC are resistant to proposals that would undermine its dominance as a site of rents, such as those that might weaken Eskom's monopoly or create opportunities for renewables. As this chapter discusses, transformation discourses shape debates over the outlook for the MEC. With supporters over renewable energy sources arguing that disrupting the MEC is one step towards a 'just energy transition'. Meanwhile, proponents of coal-generated and nuclear energy argue that maintaining the structure of the MEC offers the best opportunities for black South Africans.

5.6 Transformation policy at Eskom

Eskom was among the first state institutions to implement affirmative action policies in employment, as well as pledging to expand electricity coverage to black neighbourhoods in the 1980s (Jaglin and Dubresson, 2016, 22-3). Former Chief Executive Ian McRae describes the process of opening employment opportunities to black workers and extending access to electricity to black areas in the 1980s as a religious awakening of sorts in his biography. After 'praying on' decisions at the utility he pursued working relationships with black community leaders and describes himself as becoming increasingly aware of the link between access to electricity and improved living conditions (McRae, 2006, 14,17).⁷² However, a South African energy consultant who worked with McRae described his 'survivalist' approach to deliver on the 'compact with government':

I am a bit more cynical and I put it more as he was galvanised, as humans are to survive, and had he not had this 'reawakening', Eskom in 1994 would have been torn apart by the new government.⁷³

McRae also highlighted the pragmatic reasoning behind Eskom's social policies by reaching an agreement with Mandela and Mbeki before the transition. He noted 'that if Eskom continues

⁷² A former ANC minister involved in drafting early energy policy mentioned the 'myth' that existed during apartheid that blacks 'did not want electricity' or 'modernity'. (In person interview, March 2019) McRae's realisation of these desires is linked to these prejudices.

⁷³ Online interview with South African energy consultant, May 2020.

to perform to the satisfaction of the whole country, then the future ANC government will leave us alone to get on with the job' (McRae, 2006, 79). Eskom's white management therefore sought to garner goodwill from the incoming government by proactively pursuing policies to improve conditions for black workers and increase access to electricity for black communities.

Early policy documents point to the central role that the ANC envisaged for Eskom as a driver of transformation policies. The ANC's RDP document underlines the need for increased access to electricity for households but also small businesses (African National Congress, 1994b, 37, 107). Even the 1998 White Paper on Energy Policy, which proposes restructuring Eskom as part of a wider movement to 'rationalise' state-owned assets, highlights Eskom's role in the electrification programme (Government of South Africa, 1998, 41-2). The Energy White Paper underlines electricity suppliers' obligation to 'improve social equity by specifically addressing the energy requirements of the poor', reflecting the social compact between government and businesses (Government of South Africa, 1998, 42).

In addition to increasing access to electricity, there was a push to incorporate black-owned businesses into the energy sector. The ANC's RDP document states that 'micro, small and medium-sized businesses must be given support and shown preference in the tendering process' for the electricity for all programme (African National Congress, 1994b). Similarly, the RDP White Paper, states that public enterprises are expected to 'make expertise available' to assist in the management of transformation strategies (Government of South Africa, 1994, 17). In addition SOEs were required to 'facilitate the entry of entrepreneurs into opportunities which arise from RDP investments' (Government of South Africa, 1994, 26). This form of affirmative action or BEE became part of procurement policies for all SOEs through national legislation and company specific policies.

The Constitution and Public Finances Management Act (PFMA) of 1999 state that procurement must be conducted in a manner that is 'fair, equitable, transparent, competitive and cost effective' (Government of South Africa, 1996a, 112; Government of South Africa, 1999, 36). Yet, the Constitution enables state institutions to implement a procurement policy that provides for:

- 1) Categories of preference in the allocation of contracts; and

- 2) The protection of advancement of persons, or categories of persons, disadvantaged by unfair discrimination. (Government of South Africa, 1996a, 113)

One interviewee suggested that the Constitution imagines SOEs as ‘commercially-minded public enterprises’,⁷⁴ reflecting the need for them to be profitable, or at the very least, self-sustaining, while providing a public service. These competing ideals underscore some of the tensions of a market-friendly post-apartheid state with one that envisages the state as a driver and enabler of socioeconomic development. The developmental ambitions of procurement are codified in the Preferential Procurement Policy Framework Act (PPPFA) of 2000, that outlines processes for awarding government contracts in a manner that benefits ‘historically disadvantaged persons’ (Government of South Africa, 2000). Eskom, as a Schedule Two⁷⁵ entity under the PFMA, is obliged to implement the PPPFA for all contracts over ZAR30,000⁷⁶. Eskom’s procurement procedure also includes a strategy to monitor the impact of their preferential procurement policies, identifying various developmental objectives, how they should be achieved, and how to evaluate progress in meeting these objectives. This strategy thereby outlines plans to facilitate BEE through preferential procurement as a form of productive ‘monopoly rent’. However, there is limited readily available data on these policies’ outcomes and the extent that they have been effective. While other research projects have shown residents actively use company-financed social services (Cock, 2019), it is difficult to gauge the effectiveness of similar policies from Eskom in practice.

Eskom power stations’ dependence on coal-generated electricity enabled coal supply agreements to become one particularly lucrative avenue for black entrepreneurs. A representative from the renewable energy sector on multistakeholder forums⁷⁷ with experience in the mining sector described coal mining as ‘mining for dummies’, arguing that before 2008

⁷⁴ In person interview with lawyer specialising in public procurement, November 2018.

⁷⁵ A ‘major public entity’.

⁷⁶ Virtually all coal supply agreements are above ZAR30,000.

⁷⁷ Business Unity South Africa (BUSA) and the National Economic Development and Labour Council (NEDLAC).

it was close to impossible for black mining entrepreneurs not to make a profit.⁷⁸ A mining financier highlighted the lee-way banks awarded to BEE entrepreneurs looking to supply coal to Eskom:

For a long time Eskom was looking to transform the coal sector by having a 51% BEE policy so I think when BEE entrepreneurs went to Eskom with new coal find they were very keen to support them and then [Eskom] gives them some loosely worded letter of intent, you know we'll buy from you if you can develop it, they would then go and do more work, kind of to prove up the reserve ...[W]e would then ask them 'where's your letter of intent from Eskom saying that Eskom will buy from you' and then, so you have a little bit of a Catch-22 in that space that 'we would give it to you if you have a letter of intent from Eskom', Eskom will only buy the coal if the mine is going to be fully funded. Ultimately that's where the equity of the business is supposed to tide it through when doing those discussions but ultimately then we would fund on the back of understanding that coal contract.⁷⁹

The willingness of banks to back transactions on the 'understanding' that the company would have a contract with Eskom, underlines how good market conditions enabled the early successes of BEE transactions. The same interviewee noted how following the financial crisis and – more recently – backlash against coal-generated electricity, banks became less willing to fund coal mining projects, limiting opportunities for new entrants to the sector. Nonetheless, Eskom continues to depend on coal-generated electricity, and a range of opportunities are present for potential investors. According to one interviewee:

[o]ne of the easiest places to implement BEE was in the mining sector, you just need to award somebody with a mining license then they own the asset as it were, they own the right to mine in a particular area. They can always get a contractor miner to mine it or a subcontract, it's an easier way to broaden out the benefits. So that angle became quite influential at Eskom...it's essentially a monopoly-type business that is controlled by the politicians. If you are a beneficiary in the last ten or fifteen

⁷⁸ Telephone interview, May 2020.

⁷⁹ In person interview, January 2019.

years of BEE policies in that sector, you're protected from competition, you've got a good option on Eskom, it's a good racket to be in.⁸⁰

By reflecting on the circular nature of Eskom's dependence on coal, and coal mines' dependence on Eskom for electricity, this comment highlights some of the interlinkages within the MEC. These linkages also provided opportunities for black elites, further embedding the MEC as a lucrative site of rents in post-apartheid South Africa.

5.7 Transformation and coercive rent-seeking at Eskom

The focus on high-level ownership transactions is one reason why BEE has had limited success in reducing racial inequality in South Africa (Murray, 2000; Iheduru, 2008a; Southall, 2013; Bowman, 2019; Bracking, 2019). While these transactions created an affluent elite there it did not facilitate a wider degree of social mobility. Nonetheless, interviewees seemed to reflect a genuine desire to bring about 'transformation'.⁸¹ A former minister interviewed for this project, argued that one of the reasons why the government delayed long-term investment programmes into energy infrastructure was to provide immediate benefits to black South Africans.⁸² A former Eskom executive spoke passionately about how 'yes, I also want to contribute to the upliftment of my people, this is why I work in the SOCs'.⁸³ Similarly, current and former coal procurement managers spoke of the need 'to do more for local communities', 'that you've got to educate the guys to where they can participate as well'.⁸⁴ Interviewees also listed their achievements in 'transformation'; for instance, 'I brought in more than 20 transformed entities'⁸⁵, and

⁸⁰ Online interview with a long-time advisor on government energy task teams, June 2020.

⁸¹ This is perhaps unsurprising as it most interviewees would be unlikely to suggest that their practices have impeded 'transformation'.

⁸² In person interview, March 2019.

⁸³ In person interview, November 2018.

⁸⁴ In person interview with manager of Primary Energy Division, January 2019.

⁸⁵ In person interview with former manager of Primary Energy Division, January 2019.

[i]n 2012 when you looked in terms of the supplier base that was coming from black emerging suppliers was 6%. In 2014/15, when now there was quite an aggressive implementation of it, it had moved to 18%, so for me I say that it was effective because we brought a lot more black suppliers into the frame or we transformed some suppliers.⁸⁶

This interviewee's referral to the 'aggressive push' towards transformation alludes to the period when the Gupta-Zuma network appears to have been leveraging RET discourses in its rent-seeking efforts. Jabu Mabuza (Eskom Chairperson, January 2018-July 2019), argued in his statement to the Zondo Commission that 'the stage for capture at Eskom... was between March 2015 and December 2015' (2019f, 127). This period coincides with Brian Molefe's appointment as CEO, the decision to fire several board members, and the decision to authorise the prepayment for coal from Tegeta. This interviewee's comment can consequently be interpreted as an effort to justify transactions – through discourses around transformation – that occurred during a period that the Zondo Commission is scrutinising. However, their comments are similar to other interviewees' remarks, suggesting that people's belief in the importance of tackling apartheid's legacy makes transformation as a discourse a powerful tool of coercive rent-seeking.

At Eskom, the so-called state capture crisis refers to management of the company during Jacob Zuma's presidency. During this period there were frequent changes in company management; a high turnover of staff across different departments; and the abuse of procurement regulations (Eberhard and Godinho, 2017, 6). Among the highest profile of these cases was the board's alleged orchestration of Glencore's sale of Optimum Coal Holdings and its subsidiaries (Optimum Coal Mine (OCM)⁸⁷ and Optimum Coal Terminal⁸⁸) to the Gupta-owned mining company, Tegeta Exploration and Resources (Tegeta) (Public Protector, 2016; Eberhard and Godinho, 2017, 16-19; Portfolio Committee on Public Enterprises, 2018, 13-31). To complete

⁸⁶ In person interview with former manager of Primary Energy Division, December 2018.

⁸⁷ A colliery tied to Hendrina power station in the Witbank Coalfield.

⁸⁸ The export terminal at Richards Bay.

the sale, the Eskom board approved a ZAR1.6 billion prepayment to Tegeta (Zondo Commission 2021a, 4; Portfolio Committee on Public Enterprises, 2018, 25).⁸⁹ Eskom officials allegedly promoted Tegeta in other transactions. For instance, empowerment firm Exxaro’s Chief Executive argued that ‘Eskom has unlawfully pushed Exxaro out of the coal supply space and contracted with a third party(ies) [Tegeta] at a considerably higher cost to the fiscus’ (Portfolio Committee on Public Enterprises, 2018, 25). South African media has extensively documented the fallout from the OCM sale (for example see Gupta Leaks, Undated-b; Holden, 2021); OCM was placed back into a protracted business rescue process in February 2018 (Business Day, 2021), after which the business rescue practitioners (BRPs) reported that it appeared that the mining equipment was not maintained, that the mine was unable to meet its contractual (and pre-paid) obligations to Eskom, and that OCM had effectively been used as a ‘treasury’ to support the Oakbay business group.⁹⁰ The transaction was ‘unproductive’ in the sense that Eskom was apparently paying more money for coal, having previously argued that Glencore’s request to renegotiate their contract was unjustified. Moreover, a key point of contention was that that the quality of the coal was ‘rubbish’ (Zondo Commission 2020f, 42). This issue could stem from Glencore’s alleged decision to export its best quality coal (Zondo Commission 2020f, 42). However, questions over coal quality and the costs associated with beneficiation processes (‘washing’) to improve coal quality, suggest that the risk of shortages remained. Moreover, with the mine in business rescue, it remains unable to meet its contractual requirements to Eskom, as well as increasing insecurity for the mine’s workers and the surrounding community. However, the transaction itself was framed as productive by its proponents, who drew on discourses around transformation to justify it.

For instance, former executives referred to their scepticism over Glencore’s ‘hardship’ declaration, arguing that their situation was insignificant compared to that of South Africans. Molefe’s affidavit for the Portfolio Committee on Public Enterprises stated that

⁸⁹ As well as allegedly flouting Eskom and national procurement regulations, the payment was also apparently irregular in that Eskom paid Tegeta directly instead of the business rescue practitioners who were managing the OCH at the time (Portfolio Committee on Public Enterprises, 2018, 25).

⁹⁰ Unpublished legal documents, Case Number: 29146/2018, pp.779, 821 of bundle.

Glencore's "hardship" was nowhere near Eskom and South Africa's as a result of load shedding. I could find no reason to entertain this request as we had legally binding agreements on the price of coal as well as penalties. (2017a, 4)

Molefe goes on to argue, 'I knew Eskom, and the country, could not be held to ransom by a supplier of coal who was prepared to let South Africa suffer crippling power shortages to secure an increased price' (Portfolio Committee on Public Enterprises, 2017a, 5). These comments relate to discourses around transformation by positioning Glencore's declaration as an attempt to take advantage of the country, receiving more money without further benefits to Eskom. This accusation also suggests that working with Glencore (as a foreign-owned company) has little redistributive benefits for South Africans; the company does not deserve to receive rents from Eskom. Ben Ngubane, former board chairperson at Eskom, underlined this point at the Zondo Commission, arguing that

[Glencore] are misrepresenting the issue that their hardship started when the export coal price collapsed. They have benefited billions at the expense of Eskom, while the coal price was up there. So really, it is pathetic that big organisations like this, wealthy as they are, have totally abused us in South Africa to cream off all the wealth and take it overseas to their shareholders. I think this was a very well felt sensitivity in Eskom that Glencore and their subsidiaries were just interested in profit. (2020f, 42)

Ngubane expanded on the description of Glencore as a parasitic capitalist enterprise:

[Glencore] must not come here, Chairperson, and be holy, holy and nice. They are bad. I will call them crooks, like many other international corporations when they come into Africa, they think we are there for the taking, the stupid Africans for the taking. (2020f, 47)

By demonising Glencore and accusing them of exploiting public finances,⁹¹ Ngubane argues that the Tegeta transaction was in the public interest. Moreover, in presenting themselves as

⁹¹ Ngubane also faces accusations of facilitating the exploitation of public finances, as a board member with connections to the Gupta family (Public Protector, 2016, 119).

saving Eskom from an exploitative capitalist enterprise, these executives draw on the RET branch of discourses around transformation and the argument that rejecting neoliberal norms will facilitate transformation. This operationalisation of the discourse also reflects its nationalist dimensions. The former board was creating an anti-colonial narrative, in line with rhetoric against ‘white monopoly capital’ by deciding not to work with actors who viewed them as vulnerable ‘stupid Africans’. Other actors who supported the sale of OCM to Tegeta also framed their support in relation to the transaction’s transformative potential.

The Portfolio Committee on Public Enterprises reported that the Department for Mineral Resources encouraged sale of OCM to Tegeta to facilitate ‘transformation’:

We would also request for Eskom to play an active role in providing support for the project to proceed. In return for the new owners honouring the current contract up to 2018 and for driving transformation, we would like to propose that consideration be made for some prepayment to be made for up to one year of coal supply. (2018, 36-7)

Similarly, Johann Bester⁹² noted that Tegeta officials further pledged to help ‘support the sustainable growth of majority owned junior miners’ in return for Eskom’s ‘favoured consideration’. Bester also acknowledged that due to Eskom’s ownership requirements meant that ‘it would not surprise me that a supplier would write along those veins’ (Zondo Commission, 2019j, 130). Bester’s lack of surprise over this rhetoric, especially from a supplier that did not fulfil ownership requirements at the time of the transaction (Zondo Commission, 2019j, 129) demonstrates the extent that transformation had become embedded into discourse around procurement. Broader statements around procurement point to the coercive aspect of this discourse. For instance, Bester also recounted an instance when following the rejection of the Tegeta owned Brakfontein colliery, then Chairman, Zola Tsotsi reprimanded the entire Primary Energy Division:

We were told we have to be there, all of us could be there and the Chairman at the time, Mr Tsotsi addressed us and he complained about two things specifically. That

⁹² General manager for fuel sourcing in the Primary Energy Division from 2010-2015.

we were frustrating the transporters and we were putting Eskom at risk and that we were frustrating emerging miners...as we walked out Ms Maharaj told me at the moment there was a lot of toxicity amongst the Executive Team and that we all had to be very careful. (Zondo Commission, 2019j, 114)

Kiren Maharaj was later suspended for refusing to comply with executives' orders regarding a contract, making it clear that this was not an empty threat. At least four testimonies from current and former Eskom employees at the Zondo Commission reference fear of disciplinary action for refusing to approve transactions that – to them – did not meet Eskom's standards. Gert Opperman⁹³, described Matshela Koko's⁹⁴ aggressive management style:

The way he will threaten or talk to people, I mean all of those things at that moment in time it is part of your life. You – when you in the corridor you hear how people is treated, people goes on suspension, other people gets dismissed, things like that so at that moment in time you are trying to be reasonable and do the right thing but you can only operate within the boundary of the contract and that is – that is where my extent of responsibility ended or authority ended for that matter and that is why I engaged my senior. (Zondo Commission, 2019j, 52)

These comments reflect the practical implications of operationalising discourses around transformation, speaking to norms around discipline and obedience that inform professional practices in Eskom.⁹⁵ Ongoing racial inequality reinforces the coercive capacity of discourses around transformation, making it incredibly difficult to resist ostensibly 'transformative' transactions. A former board member (who was suspended in 2015) described being labelled as 'anti-transformation' during their time at Eskom arguing that it was a technique to 'put executives on the backfoot'.⁹⁶ These accusations that they 'did not support the transformation agenda' also led to connotations that they 'did not support the black agenda'. In particular, the

⁹³ Coal Supply Unit Manager.

⁹⁴ Former Group CEO.

⁹⁵ The following chapter expands on professional practices in Eskom.

⁹⁶ In person interview, November 2018.

allegation that the interviewee would not ‘advocate for black advancement’ because they were ‘comfortable where they were’, suggests a particularly insidious form of selfishness (of ceasing to care about fellow black citizens after securing their own privileged position). This parallels critiques that the formation of the black upper and upper-middle classes have limited interests in disrupting the systems that they have benefited from (Beresford, 2015, 245). The interviewee also resented these allegations in light of revelations that ‘the beneficiaries of the transformation drive that they’ve been advocating are actually not black South Africans’. This reference to the Gupta family (who are naturalised South African citizens) as illegitimate beneficiaries of government rents, flips the ‘Indian Cabal’ narrative discussed above, highlighting tensions over what transformation means and how different factions have approached it. The interviewee noted that

[t]here is nothing wrong with the implementation program of the ruling party that says ‘we really want to alleviate poverty, we want to create jobs and we want to make sure that our entities in how they think; they constantly have this thought of transformation, poverty alleviation and being good for society. These are noble things. You struggle to find someone who says ‘I don’t share the same views’... But the moment it starts being very narrow and too driven, you start worrying a bit. And this is where we started pushing back; ‘but this is not for the greater good, this is for that grouping, it’s not for everyone, this is for that grouping’. So in the build up, after Barbara Hogan left and Malusi [Gigaba] started coming in we could see that, that some of his interests were much more narrow as opposed to the broader good of society.⁹⁷

This positioning of Hogan as the true pro-transformation candidate directly speaks to factionalism in the ANC and debate over what legitimate transformation entails. Before this interview Hogan had given extensive evidence at the Zondo Commission over Zuma and his allies’ alleged interventions in appointments at SOEs. Hogan stated in her affidavit that the transport workers trade union argued that (black) candidates for board positions at Transnet were accused of being members of an ‘untransformed cabal’ and ‘puppet appointments’ in

⁹⁷ In person interview with former board member at Eskom, November 2018.

2010 (2018a, 12). Meanwhile, Zuma's preferred candidate for the post had been suspended for negligence at Transnet (2018a, 13). Hogan's frustration over interference in the running of SOEs is similar to the former Eskom board member's comments over the Gupta's lack of respect for 'good governance':

So we starting pushing back on 'Sorry this is how governance works, this request that these people have, they have to go into a queue like everybody else, this is what you require'. I mean the classic example, I'll tell you is that around this Tegeta coal, when you read about it you'll hear that it was for three years that they were in-and-out of the Eskom coal bid because we are showing them that 'you need to do this, you need to get a water works license, you need to have your coal passing the necessary tests unless this is signed off and environmental regulations are all in check we cannot even get to the point of contracting'. They kept going around and coming at us high up but we said that 'this is the process' and we stuck to that. So it is telling that literally after we are all taken out, a day later, or day before, that's when they signed the contract. Because they were not willing to follow all the governance rules.⁹⁸

The alignment of one faction with 'good governance' in comparison with the other that had 'narrow' interests speaks to Chipkin et al.'s, distinction between 'constitutional transformers' and 'radical reformers' (2018, 32). However, assertions around good governance also suggest a divide between a group that maintains that transformation is best sought in the context of a welcoming investment climate. This respect for 'good governance' contrasts to the 'radical reformers' who resent their exclusion from the narrow elite that proponents of the first group worked to create. This second group is more likely to draw on the nationalistic aspects of discourses around transformation, which can be especially coercive, such as attacking opponents as puppets of 'white monopoly capital'.

As well as providing a strategy to silence and discredit opponents, discourse around transformation helps to reassure important stakeholders. For instance, an energy sector

⁹⁸ In person interview with former board member at Eskom, November 2018.

coordinator from the National Union of Mineworkers (NUM) described former Eskom CEO, Brian Molefe as a ‘clever corrupt person’ in his use of transformation discourse to gain union support.

You see, a clever corrupt person makes sure that when everything comes out, he gets support from ordinary people and ordinary members. That is a clever corrupt person. And I think that Brian [Molefe] was very much clever in my view, so he made sure that when this thing emerges, he becomes a clear person, 'I'm doing these things for transformation'. Tegeta matter was not for transformation, you can't transform while you destroy very same company that is supposed to be building your revenue. But you destroy it and say that it is transformation.⁹⁹

Like the former Eskom executive, this interviewee also resented the manipulation of transformation to benefit the ‘wrong’ recipients. However, this interviewee does not disagree with the methods used to distribute these rents. This tacit approval of the operationalisation of discourses around transformation reflects the influence of these discourses as justification for apparently predatory practices. The interviewee also described Molefe’s popularity with at least some NUM members, further illustrating this strategy’s effectiveness:

Brian [Molefe] was dismissed, he went to court for the first dismissal, we won his case and came back. When he came back our members in Megawatt Park celebrated that he is coming back. They went and picked him up from his office, there is a big foyer in Megawatt Park and brought him down there and celebrated with him and are happy that he is back. So he was popular with Eskom workers on the way that he managed the business.¹⁰⁰

If this is an accurate depiction of NUM member’s feelings towards Molefe, the former CEO’s popularity with workers illustrates the social value of publicly aligning with the transformation agenda. The interviewee also compared Molefe to former CEO Brian Dames, who they described as

⁹⁹ In person interview with the NUM Energy Coordinator, March 2019.

¹⁰⁰ In person interview with the NUM Energy Coordinator, March 2019.

[a] good CEO. However [Dames] has weaknesses, he is an anti-transformation person. He doesn't like to surround himself with black and coloured workers, he prefers Indians and white workers. And indeed, when he came in, such people were appointed into senior positions of the organisation.¹⁰¹

Their critique of Dames parallels above references to the accusations the former executive experienced. The critique also reflects the interviewee's discomfort with an approach to transformation that was not explicitly pro-black and anti-capitalist. Molefe's operationalisation of RET consequently offered an alternative approach that at least proclaimed to address these concerns. According to the interviewee,

we had a leadership that we believed was able – was capable – of taking the business forward. We had a government that we believed – we strongly believed – is going to liberate South Africa, is going to end poverty. We had that belief. We are learning the hard way.¹⁰²

Reference to 'liberating' the country underlines the nationalist dimension of discourses around transformation. This is particularly the case for RET, which was the branch of discourse that the interviewee deployed. Investing unions in this vision of transformation, has had implications for the MEC, reinforcing resistance to reforms that may destabilise the value of the complex as a site of accumulation and rent-seeking. For instance, NUM and the National Union of Metalworkers of South Africa (NUMSA) condemned plans to increase procurement from independent renewable energy providers due to the risk to jobs in coal mines and power stations (Cock, 2019, 13; Munnik, 2019, 3). NUMSA even took legal action in an effort to prevent Eskom signing renewable energy contracts in 2018 (Cock, 2019, 13), underlining these organisation's resistance to reforming the sector.

¹⁰¹ In person interview with the NUM Energy Coordinator, March 2019.

¹⁰² In person interview with the NUM Energy Coordinator, March 2019.

5.8 Towards a ‘just-energy transition’

More recently discourse around transformation in South Africa’s energy sector has expanded to include rhetoric around a ‘just energy transition’. This refers to a shift away from carbon intensive energy sources, such as coal, in a manner that minimises the impact on people who work in coal-generated power plants and coal mines, and the communities surrounding plants and mines (Müller and Claar, 2021, 11; Cock, 2019, 2-3; Government of South Africa, 2019, 44). Recognition of the need to move away from coal-generated electricity is not new in South Africa; with the 1998 White Paper on Energy Policy calling for the addition of renewable energy sources to the energy mix to improve sustainability and accessibility (Department of Minerals and Energy, 1998, 14); the inclusion of a ‘green economy’ as a ‘pillar of future’ in the New Economic Growth Plan in 2011 (Swilling, 2012, 211); and calls to diversify the energy mix and reduce carbon emissions in the 2012 NDP (Government of South Africa, 2012, 56). The first round of the Renewable Energy Independent Power Producers Procurement Programme (REIPPPP) took place in 2011, although the push towards nuclear energy during Zuma’s presidency temporarily derailed the programme (Baker and Burton, 2018a, 102; Baker and Phillips, 2018, 184). International agencies such as the World Bank have also made calls for a ‘just transition’ away from coal-generated electricity, with millions of dollars of project funding available for projects that work towards this goal (Stanley et al., 2018).

This international push for a ‘just-transition’ has affected the availability of financing for coal projects in South Africa. One interviewee, a mining financier noted that coal-generated electricity and coal mining more broadly, ‘just aren’t very popular right now’ and that there was a lot of pressure on the banks to limit funding for coal projects. They also noted that

it's a slightly unfair thing that the West developed on coal [and] now that their coalfields are mined out then they come and say, 'no, you guys mustn't develop yourselves on coal' and it's like oh, that's slightly unfair. 'But by the way, you can't develop yourselves on coal, you must use solar or wind power but by the way I will

sell it to you and I will make money off your kind of changing to a green economy'.¹⁰³

The interviewee's comment highlights a sense of resentment in South Africa towards the international community over the push to switch to renewables, despite the country still having substantial coal reserves. Another interviewee referred to European pressure to diversify energy sources while diversification is dependent on purchasing a European technology as a form of colonialism.¹⁰⁴ This resentment has influenced the emergence of a pro-MEC and pro-coal lobby in South Africa, that is linked to factions that operationalise RET discourses, but is not synonymous with it. Although some interviewees¹⁰⁵ identified with the ideals embedded in RET discourses, I also spoke with several 'pro-MEC' participants who do not identify with the vision RET outlines¹⁰⁶. Similarly, politicians at the centre of the energy debate, such as Gwede Mantashe, Minister for Mineral Resources, and Pravin Gordhan, Minister for Public Enterprises, are not members of the faction that operationalises RET discourses.¹⁰⁷

Nonetheless, the faction associated with RET discourses has drawn on its nationalist dimensions to condemn international pressure to shift away from coal-generated electricity. The operationalisation of RET discourses in this way has racialised the 'just transition' debate, depicting renewable energy sources as 'white and foreign', while coal and nuclear energy are local and black-owned. An NUM official reportedly declared that a just transition was a 'northern notion' while 'coal is a part of African culture', underling the polarisation of these

¹⁰³ In person interview, January 2019.

¹⁰⁴ In person interview with a former manager in Eskom's Primary Energy Division, January 2019.

¹⁰⁵ Such as the NUM energy sector coordinator, March 2019.

¹⁰⁶ These participants include representatives from the Minerals Council (in person interviews, November 2018), two geologists who work in coal-generated electricity (in person interviews, December 2018 and April 2019), and representatives from the Afrikaans Union, Solidarity (in person interviews, February 2019).

¹⁰⁷ The RET twitter community has led several negative campaigns against Gordhan, while Gordhan was critical of people responsible for 'looting' during his testimony at the Zondo Commission in November 2018 (Zondo Commission 2018e, 54).

debates in some cases (quoted in Cock, 2019, 13). During a public debate in March 2020, Adil Nchabeleng¹⁰⁸, argued that with renewables

none of the money landed in South Africa, there was no localisation in terms of industries, there was no localisations in terms of build programmes. We have even brought in a village...of Spanish speaking people who are not even South African...the only thing that was done in South Africa was putting up concrete slabs...Money was taken out of South Africa. The government spent 200 billion on this programme to date...we would be sitting at 3-4% economic growth if that money had stayed in South Africa. (2020)

This rhetoric taps into parallel themes of the broader campaign around parasitic ‘white monopoly capital’ and concern over white ownership of the economy. Foreign capital does play a significant role in the REIPPPP and is one source of criticism. Franziska Müller and Simone Claar’s study into the REIPPPP auction process categorises 31 out of 82 projects as ‘transnational renewable energy investment’¹⁰⁹; 26 projects represented ‘transnational social entrepreneurship’¹¹⁰; while the remaining 25 projects were locally owned¹¹¹ (2021, 8-10). The REIPPPP consequently represents a significant departure from energy policy rooted in the MEC, which Müller and Clare describe as ‘protectionist and state centred’ (2021, 11). The REIPPPP – as a route towards a ‘just transition’ – also appears to return to earlier conceptions

¹⁰⁸ A public figure who supports the RET faction, he is reportedly a senior member of Transform RSA and the South Africa Energy Forum, both of which oppose renewable energy sources and are active online (Nchabeleng, 2020).

¹⁰⁹ Müller and Clare characterise ‘transnational renewable energy investment’ as a ‘complex shareholder consortia, involving multiple international partners, and an exceptionally high share of inter- and transnational capital, ranging between 40% and (mostly) 60%, with private equity playing an important role. This is complemented by a lower share of local capital and low involvement of local communities.’ (2021, 8-9)

¹¹⁰ Müller and Clare characterise transnational social entrepreneurship ‘as a high share of transnational investors, complemented by an almost equally high share of community trusts, ranging between 10% and 40% of community ownership’. (2021, 9)

¹¹¹ Müller and Clare describe ‘localised renewable energy’ projects as ‘involving smaller, South Africa-based project developers or joint ventures...engineering and construction work is performed by domestic companies...The shareholder amount of community trusts is higher than the 2.5% required by REIPPPP directives, ranging between 15% and 40%...projects are more likely to be financed through debt from developmental banks than through equity’. (2021, 10)

of private-sector driven economic transformation. Imagining a ‘just transition’ within a pro-market framework, risks deradicalising these reforms, which then raises the possibility of discouraging citizens who find that it offers few opportunities for non-elites. Research in coal mining areas in Mpumalanga and Kwa-Zulu Natal speak to these risks. According to Jacklyn Cock, following interviews with residents in these areas, ‘the notion of a just transition was found to be largely declarative, lacking substantive content, unrelated to everyday lived experience and failing to provide any compelling alternative vision of a world beyond coal’ (2019, 2). The REIPPPP does move beyond the elite accumulation of early BEE policies by including community trusts and locally owned projects (Müller and Claar, 2021, 8-10). However, the programme still represents a shift towards non-state actors – and international finance in particular – in leading energy sector reform. This reform promises jobs, affordable electricity, less polluted environments, and a healthier population. Positioning these benefits as a consequence of community stakes in private projects reframes the private sector as the leader of transformation, de-emphasising the role of ‘rent-like transfers’ from the government.

Interviews underlined tensions around depending on the private sector or reducing Eskom’s monopoly over the electricity sector. Interviewees underlined the political baggage of privatisation policies in South Africa, calling it a ‘swear word’¹¹² or stating that ‘it’s like heresy’¹¹³. Even government policies use the euphemism of ‘unbundling’ Eskom to avoid expressly supporting privatising divisions of the company. Interviewees also noted how they drew on language related to transformation to make independent power producers (IPPs) more palatable:

So when I’m speaking to government there are words that you must try not to use to avoid causing offence because otherwise, particularly when I’m talking renewables, - I think I’m kind of seen as the kind of person who could articulate renewable

¹¹² Interview with a former minister, March 2019.

¹¹³ Online interview with a representative of the renewables energy sector at the National Economic Development and Labour Council (NEDLAC), and consultant on the Integrated Resource Plan (IRP) and 2019 Eskom Roadmap, May 2020.

energy in a way that doesn't offend the politicians - it's about inclusivity, it's about participation.¹¹⁴

Similarly, another interviewee noted that

I try to never use the word 'privatisation', ever, in public discussions I talk about, 'we need to increase the public participation in the business of Eskom', so I talk about it in terms of public participation because people who buy power plants are not private capitalists, they're usually pension funds and institutional investors.¹¹⁵

The effort to distinguish between 'private capitalists' and social corporate institutions, parallels earlier attempts to position BEE beneficiaries as a motive force of transformation, where their success will generate wider economic redistribution. The emphasis on 'public participation' also represents an attempt to personalise financial transactions. These comments demonstrate a conscious effort to engage with discourses around transformation to defend the energy transition through the introduction of private generators. Renewable energy is part of the 'transformed' South Africa in this operationalisation of the discourse, with small-scale producers (in comparison to mega projects) providing cheap, clean, electricity for citizens. Conversely, the operationalisation of RET discourses served to present the 'just transition' as anti-black and a neo-imperial endeavour, justifying the protection of the MEC.

Although interviewees viewed the racialisation of the 'just transition' debate as an impediment to reform, they tended to view a lack of political will as a bigger barrier. For instance, one long-time advisor on government energy task teams noted that the factors that drove efforts to block the REIPPPP during Zuma's presidency were still present. According to this interviewee, 'those dynamics are of course still playing out, it's not like it's over now'.¹¹⁶ They felt that this resistance was partially linked to the threats to sites of accumulation:

¹¹⁴ Online interview with a representative of the renewables energy sector at the National Economic Development and Labour Council (NEDLAC), and consultant on the Integrated Resource Plan (IRP) and 2019 Eskom Roadmap, May 2020.

¹¹⁵ Online interview with an energy consultant, May 2020.

¹¹⁶ Online interview, June 2020.

[Delays to the renewables programme were] basically directly a result of the political economy around, well, the stresses and strains in the political economy that's caused by transition towards clean energy and the fact that it affects the traditional interest groups and their sphere of influence in terms of politics.¹¹⁷

‘Traditional interest groups’ here, refers to actors coalesced within the MEC due to the opportunities it presents for rent-seeking and resources for political patronage. According to the interviewee,

[p]atronage networks and kind of identity networks...extend to a certain generation of up-and-coming professionals, or up-and-coming players, who feel that it's their turn to benefit. They might be within Eskom, they might be outside of Eskom in the coal sector and even have their allies in government, etc. So that's certainly what's led to Eskom - under the previous CEOs – [to] just refuse to sign the power procurement agreements for the renewables programme and being able to get away with that; the minister didn't really stop them and that reflects, ultimately reflects - as you know - a schism within the governing party.¹¹⁸

This comment relates to wider scholarship on the ANC’s tendency to act as a ‘gatekeeper’ to these resources, associating access to rents with holding public office (Beresford, 2015). However, competition for these resources is intense and factionalism means that groups seek to protect access to sites of accumulation that have proved profitable, such as the MEC and coal contracts through Eskom. Another interviewee, a renewable energy representative at forums such as NEDLAC and BUSA, reiterated the importance of the ‘massive coal economy’ that was ‘parasitic’ as an impediment to an energy transition.¹¹⁹ They argued that the political economy of the energy sector had embedded interests in the MEC to the extent that reforming the energy sector meant challenging the fundamental political economy of the country:

¹¹⁷ Online interview with a long-time advisor on government energy task teams, June 2020.

¹¹⁸ Online interview with a long-time advisor on government energy task teams, June 2020.

¹¹⁹ Online interview with a representative of the renewables energy sector at the National Economic Development and Labour Council (NEDLAC), and consultant on the Integrated Resource Plan (IRP) and 2019 Eskom Roadmap, May 2020.

I don't think that there is any other country in the world that gets the kind of vitriol that the renewable energy sector gets in SA because it is disrupting the current political structure, in terms of - you might even say - how does the ANC fund itself and how do individual people fund themselves. So we are stuck on this question now of how do I make this transition move forward and sustain this structure of the government, labour, relationship, and it's a very, very tough one.¹²⁰

Another interviewee, an energy sector consultant, was more sympathetic, noting that the minister of energy had released a 'pro-renewables' Integrated Resource Plan (IRP)¹²¹ but that political imperatives made it difficult to commit to this agenda:

I sometimes feel that there's a lot of smoke of mirrors in the messaging and I have said it on Twitter once, that I don't think one should take too seriously what the minister says sometimes or what his department says because sometimes it's just posturing for effect and also to keep various stakeholders guessing. So obviously there is a very strong coal lobby and a very strong - well I won't say strong - but there is a nuclear lobby (I don't take them too seriously) but they are there and they do seem to have the ear of the minister. But if you read carefully what the minister says he's never very direct or clear, and I think that's deliberate that he tries not to be too clear about anything. He once told me for an interview that he never puts anything to writing. He doesn't like signing things.¹²²

They went on to say, 'labour is part of the coal lobby, I would say, and the minister comes from the coal mining industry or shall we say the mining industry and so he is looked to, to be their man and to be fighting for coal'. This comment speaks to the political networks that have reinforced the position of the MEC in post-apartheid South Africa. Unions' desire to avoid

¹²⁰ Online interview with a representative of the renewables energy sector at the National Economic Development and Labour Council (NEDLAC), and consultant on the Integrated Resource Plan (IRP) and 2019 Eskom Roadmap, May 2020.

¹²¹ The national 'electricity infrastructure development plan', which is updated semi-regularly.

¹²² Online interview with energy consultant, May 2020.

retrenchments¹²³ through closing power stations, or ‘unbundling’ Eskom points to the impact that an ‘energy transition’ could have on communities surrounding mines and power stations. While communities around mines and power stations may be the worst affected by pollution, they also stand to lose their livelihoods (Cock, 2019, 6; Greenpeace, 2019, 2; Munnik, 2019, 12; Stanley et al., 2018, 15). Tensions over jobs losses and community dependence on mines forges links between party leaders and union leaders, union leaders and workers, and communities to mines. These networks are embedded in and reinforce the MEC. Discourses around transformation have reinforced these relationships, through early BEE policies, as well as through RET discourses, which have established a narrative around public procurement at SOEs as a pro-black and anti-colonial approach to realising transformation. This operationalisation of discourses has further embedded the MEC as a site of accumulation for aspirant black capitalists.

According to the renewable energy sector representative, the MEC is so embedded in the political economy of the country that reforms had to come from outside the sector, specifically from the department of environment.¹²⁴ Moreover, the interviewee also felt that the success of the REIPPPP was that it had been developed ‘in isolation’ from the department of energy, with the national treasury and external consultants. They argued that

the problem with REIPPPP is that it is so efficient that it is almost impossible to employ the economic rent model because when an IPP has to essentially put their price together, he can't just suddenly add a ZAR500 million backhander to someone because you won't win. So what happened was that government had tried to work out, 'how the hell do I participate?'. So what do they do? They delay it.¹²⁵

¹²³ In person interview with Eskom representatives from Solidarity, February 2019; in person interview with energy representative from NUM, March 2020.

¹²⁴ Online interview with a representative of the renewables energy sector at the National Economic Development and Labour Council (NEDLAC), and consultant on the Integrated Resource Plan (IRP) and 2019 Eskom Roadmap, May 2020.

¹²⁵ Online interview with a representative of the renewables energy sector at the National Economic Development and Labour Council (NEDLAC), and consultant on the Integrated Resource Plan (IRP) and 2019 Eskom Roadmap, May 2020.

The sentiment that the renewable procurement programme is too efficient to create rents is probably optimistic. Yet, this sentiment is also rooted in the perception that competitive markets are more transparent and better for economic development. This position is in stark opposition to the vision proposed in RET, speaking to challenges in unresolved debates over how to approach sectoral reforms. Ongoing disfunction at Eskom (alongside the climate crisis) has given these debates a sense of urgency. According to Lucy Baker, Peter Newell and Jon Phillips,

South Africa is to some extent already undergoing a transition from an era of ‘energy opulence’ to one of restraint imposed by a series of infrastructural, economic, environmental and physical constraints. Meeting these challenges will involve difficult trade-offs about how to manage conflicting pressures in a way which protects jobs, assists socio-economic development and addresses the economic disadvantage of the historically marginalised population. (2014, 793)

The South African government under Ramaphosa is willing to engage with these debates, underlined by the publication of the Eskom Roadmap, the 2019 IRP and the ANC’s 2020, Reconstruction, Growth and Transformation discussion document. These documents address the need to reform the electricity company and reduce the country’s dependence on coal. However, progress in implementing these plans has stalled and some interviewees, including an advisor on government energy taskforces, felt that it was unlikely that the government would meet the targets outlined in these documents. This is partly due to the political economy of the energy sector, where the MEC provided opportunities the formation of a black capitalist class, while the discourses around transformation reveal unresolved debates over how to approach reforms. Understanding how discourses around transformation are operationalised in rent-seeking at Eskom sheds light on the political economy of the energy sector, and how this can create barriers to reform.

5.9 Conclusion

This chapter has addressed the question over how discourses around transformation are operationalised and how this influences rent allocation at Eskom. In responding to this question, the chapter has demonstrated the flexibility of these discourses, which actors

operationalise to justify unproductive rent-seeking transactions or lobby for reforms. It has argued that discourses around transformation reflect ongoing tensions over how to approach addressing racial inequality as a legacy of apartheid, specifically how transformation can occur within a neoliberal context. Supporters of this approach envisage a model of transformation that the government supports and facilitates but is private sector driven. Conversely, opponents call for ‘radical economic transformation’, which is government led and upends the dominance of ‘white monopoly capital’. The RET branch of discourses around transformation is explicitly pro-black and anti-colonial, giving it a sense of legitimacy that underpins its coercive potential, even if actors often operationalise this discourse in unproductive ways.

The transition from apartheid in the early 1990s saw ANC leaders promise a new South Africa, a vision that they incorporated into national policy, placing ‘transformation’ as the aim of the post-apartheid state. However, the ANC was under immense pressure during the transition to conform to neoliberal norms and consequently sought a strategy to achieve transformation within this context. Early BEE policy reflected the ANC’s compromises in response to competing local and international pressures, as party leaders – Mbeki in particular – sought to establish a black capitalist class to act as a ‘motive force’ in transformation. Early BEE deals were particularly successful in the MEC, as businesses sought to garner favour with the government by ostensibly supporting the creation of a black business-class. Eskom was well-placed to facilitate these transactions as a state-owned company but also due to the entity’s central position within the MEC, which has retained its position as a lucrative nexus of political and economic power. These deals created an affluent, politically connected black capitalist class, but failed to facilitate a wider degree of social mobility (Bowman, 2019; Bracking, 2019; Murray, 2000). The financial crisis and collapse of commodity prices also demonstrated the fragility of this model as businesses no longer have the capital to support these transactions (Bowman, 2019, 229-30). Nonetheless, these early deals cemented the position of the MEC as a site of rents for class formation, even as private actors became less willing to fund high-level transactions.

RET emerged as a branch of discourses on transformation in response to this route of accumulation becoming more difficult to access. RET consequently retained the importance of the MEC while heavily depending on procurement contracts at SOEs to support aspirant elites.

This branch of the discourse is now closely associated with the Zuma-faction in the ANC and ongoing debates around state capture, due to the faction's operationalisation of these discourses to justify unproductive transactions. Actors implicated in these transactions drew on the nationalistic dimensions of RET discourses during public inquiries, framing their actions as protecting the country from exploitative foreign capitalists (Zondo Commission, 2020b; Portfolio Committee on Public Enterprises, 2017a). Further evidence from interviews and inquiries highlights the coercive operationalisation of these discourses. People who opposed transactions in the name of RET were labelled as 'anti-transformation' and 'anti-black'. These accusations carried personal and professional ramifications, underscoring the coercive potential of these discourses in influencing the allocation of rents.

Key stakeholders in the MEC, such as trade unions, have also drawn on discourses around transformation to articulate their resistance to planned reforms in the energy sector. Union leaders have described coal as 'part of African culture', while renewable energy (and the concept of a just transition) represent a 'foreign notion' (quoted in Cock, 2019, 2, 13). Similarly, other actors associated with RET have highlighted the role of foreign capital in the REIPPPP, arguing that the profits from these projects will be taken out of the country. The fact that banks are increasingly unwilling to fund coal projects, adds to criticism that foreign actors (or 'white monopoly capital') are behind calls for diversifying the energy mix. Conversely, proponents of the REIPPPP have repurposed ideas around a market-led approach to transformation in their calls for a 'just transition'. There is a growing field of scholarship on a just transition in South Africa, and many of these sources, like several interviewees¹²⁶, identify the political economy of the MEC as a key barrier to reform (Müller and Claar, 2021; Cock, 2019; Munnik, 2019; Baker and Phillips, 2018; Baker and Burton, 2018a; Baker, 2015b; Swilling, 2012). Yet, an understanding of the nature of political patronage networks and how rent-seeking practices function in the MEC is less developed. This chapter contributes to these

¹²⁶ Online interview with an energy consultant, May 2020; Online interview with a representative of the renewables energy sector at the National Economic Development and Labour Council (NEDLAC), and consultant on the Integrated Resource Plan (IRP) and 2019 Eskom Roadmap, May 2020; Online interview with a long-time advisor on government energy task teams, June 2020.

debates by using CDA as a guiding framework to demonstrate how the MEC has become embedded as a site of rents for class formation in the post-apartheid state. Meanwhile, unresolved debates over how to realise transformation highlight barriers to implementing planned reforms.

6 Practical norms and rent-seeking dynamics: organisational discipline and loyalty

6.1 Introduction

To enter the reception of Eskom's Johannesburg headquarters at Megawatt Park you walk past a large placard encouraging employees to 'blow the whistle on corruption'. This overture is striking given allegations of corruption and mismanagement of the company, which are at the centre of 'state-capture' debates. Advocates leading witnesses through testimonies at inquiries into procurement practices at Eskom (and other state-owned enterprises (SOEs)) have asked witnesses why they did not report illegal or unusual behaviour (Zondo Commission, 2019h, 112; Zondo Commission, 2019i, 76). Witnesses' responses have highlighted norms around discipline and socio-economic responsibilities that make it extremely difficult for middle-level employees to challenge authorities. This is particularly the case in instances where an order is 'irregular' or informal as opposed to overtly illegal.

This chapter explores the influences on employees¹²⁷, particularly those from the Primary Energy Division, who distribute rents at Eskom. These employees may hold senior or middle management positions within Eskom but are not necessarily direct beneficiaries of horizontal rent-seeking or patronage networks between elites. These employees are key linkages within patron-client networks, responsible for carrying out instructions and involved in the day-to-day procurement and management of contracts for resources such as coal, diesel and water. By drawing on witness testimonies at inquiries and elite interviews with current and former Eskom employees (among other stakeholders), this chapter works towards a fuller understanding of rent-seeking and allocation processes in South Africa's minerals energy complex (MEC).

Studies into the moral economy of corruption and 'practical norms' among African bureaucrats have informed my approach to analysing professional practices at Eskom. As this thesis

¹²⁷ Eskom employs over 44,000 people according to its 2020 Integrated Report and it is beyond the scope of this chapter to discuss the experiences of all of these employees (2020b, 6). The chapter offers a snapshot of the experiences of those involved in procurement in the Primary Energy Division, and who are based at Eskom's head office in Megawatt Park.

mentions in previous chapters, Thomas Bierschenk and Jean-Pierre Olivier de Sardan acknowledge several ‘truisms of organisational sociology’:

That organisations are not regulated exclusively on the basis of their formal rules but that informal state actions are always based on a combination of formal and informal practices.

That there is a difference between policy formation and implantation, or between the formulation of law and the application of law.

That state agents interpret new rules in the light of their professional experiences and corporate interests. (Bierschenk and Olivier de Sardan, 2014a, 54)

This chapter accepts that in practice coal procurement procedures at Eskom have been subject to the same situational flexibility. It consequently moves to understand some of the factors behind this flexibility by responding to the question:

What are the practical norms that shape rent-seeking dynamics at Eskom?

Further clarifying rent-seeking dynamics at Eskom contributes to the thesis’s overarching research question which considers the how rent-seeking processes have shaped the political economy of the MEC.

To respond to this question the chapter addresses how regulations created room for informality. For instance, emergency coal procurement guidelines, seemingly enabled staff to by-pass several checks and balances. Coal supply agreements established under emergency legislation still had to ostensibly serve a ‘productive’ purpose, such as ensuring a stable coal supply or supporting black-owned firms. As the previous chapter argued, the framing of transactions in productive terms, particularly with regards to black economic empowerment (BEE), was a powerful tool in influencing rent allocation. However, in accelerating procurement processes, emergency regulations effectively left decisions regarding ‘productive’ rent allocations to employees’ discretion.

The chapter then discusses the obligations that shape how employees allocate rents. This discussion considers questions around moral economy and draws on Peter Ekeh’s work on ‘two publics’ to inform my analysis of the factors shaping practical norms at Eskom. Ekeh describes

the ‘two publics’; civic and primordial in post-colonial Africa. The civic public relates to colonial institutions, while the primordial public relates to personal networks and social responsibilities (1975, 92). Ekeh argues that these publics do not share a moral foundation, which creates opportunities for corruption as actors use access to institutions in the civic public to support the primordial public (1975, 110) (see Chapter 2.3.2). This relates to E.P Thompson’s conception of a moral economy as a social understanding of how the economy should function (Fouksman, 2020, 288; Thompson, 1971, 79) and highlights rent holders’ competing social and institutional obligations. Accounting for these social and institutional obligations consequently helps to identify practical norms by highlighting potential justifications for deviating from formal guidelines or regulations.

The need to use coercive techniques to access rents at Eskom indicates that deviations to facilitate unproductive or predatory rent-seeking is not a norm at the company. A high turnover of staff has contributed to a loss of institutional knowledge and weaker links between team members. As a result of these weaker connections within the company, Eskom staff have become increasingly subject to ANC norms around discipline and loyalty to the executive. These ANC norms link job security to political fidelity, placing enormous pressure on employees to complete transactions. Moreover, strong criticism of rent-seeking practices during Jacob Zuma’s presidency indicates that the exploitative use of public resources for personal gain is not a fully realised norm in the ANC, or among Eskom employees. The chapter consequently finds that social and political imperatives to follow orders have enabled unproductive rent-seeking at Eskom.

This discussion contributes to scholarship on Eskom (and its ongoing disfunction) and the wider energy sector in South Africa, which has tended to focus on the high-level trends and policy decisions. Andrew Bowman argues that the Eskom crisis was ‘due to long running and as yet unresolved contestation of the parastatal and electricity policy more broadly by various interest groups, in a context of an increasingly fragmented political and business elite’ (2020, 398). They also identify a breakdown in the effective allocation of rents as a factor behind the crisis (similar to my argument in Chapter Four of this thesis):

Rather than a pocket of effectiveness strategically and systematically allocating rents through procurement to accelerate BEE and reindustrialisation, there was instead growing disorder and informalisation with ambiguous objectives and accountability measures. (Bowman, 2020, 427)

In their analysis Bowman identifies the ‘informalisation’ and ‘ambiguity’ but not the specificities of rent-seeking at Eskom. Similarly, Lucy Baker and others have discussed broader political economy of South Africa’s MEC, and how it acts as an impediment to reform. Their work focuses on the policy and technical dimensions of the country’s energy sector (Baker and Burton, 2018b; Baker and Phillips, 2018; Baker, 2015b; Baker et al., 2014). Meanwhile, Sylvy Jaglin and Alain Dubresson, also link the crisis at Eskom to wider insecurities within the post-apartheid state through the decline of ‘technopolitics’¹²⁸ in favour of a neopatrimonial regime (Jaglin and Dubresson, 2016). I discuss these high-level dynamics and how they affected practices at Eskom. I also expand on this analysis by engaging with personal testimonies, humanising rent-seeking and adding to our understanding of rent-seeking dynamics in the MEC.

6.2 Practical norms and moral economy in bureaucracies

Olivier de Sardan and others have used practical norms as one approach to describe the divergence between official regulations and bureaucratic practices in reality (2017b). Practical norms encompass ‘the various informal, de facto, tacit, or latent norms that underlie the practices of actors which diverge from official or social norms’ (Olivier de Sardan, 2017b, 26). In contrast, official norms ‘express the rights and obligations explicitly recognised by public and professional institutions’, and social norms ‘regulate the private sphere’ (Olivier de Sardan, 2017b, 23-4). Although practical norms are divergences from their social and official counterparts, they are not always distinct from them, but are ‘interwoven, superimposed and entangled’ (Olivier de Sardan, 2017b, 26). Standards around accepted behaviour are bound up

¹²⁸ Technopolitics refers to the ‘strategic practices of designing or using technology to constitute, embody or enact state goals’ (Hecht, 1998, 56). Jaglin and Dubresson argue that the establishment of Eskom was a form of ‘technopolitics’ due to use of technology to further government ambitions (2016, 16).

in questions around individuals' moral economy. Studies on moral economy have proliferated since Thompson used the term to describe 'a consistent traditional view of social norms and obligations, of the proper economic functions of several parties within the community' (1971, 136). Thompson argues that the breakdown of 'the old moral economy of provision' with the 'new political economy of the free market' led to food riots in eighteenth century England (1971, 136). This tension between inter-personal networks of dependence and impersonal markets underpins the attractiveness of moral economy as a lens to study informal practices in a formal economic setting. This is evident in studies on the moral economy of corruption, which consider the role of societal norms about redistribution in apparently fraudulent practices.

For instance, Olivier de Sardan, uses moral economy to argue that ostensibly 'corrupt' practices are justified within specific social practices and obligations:

The practices that come under the complex of corruption, while being legally culpable and widely reprovved are none the less considered by their perpetrators as being legitimate, and often as not being corrupt at all. In other words, the real borderline between what is corruption and what is not depends on the position of the actors involved. (1999, 34)

Similarly, David Whyte and Jörg Wiegatz argue that 'the existence of fraudulent (and what some regard as immoral) practices does not signal the absence of moral norms but on the contrary, signifies the presence of specific moral views, norms, priorities and judgements concerning acceptable practices and a standard of the treatment of others' (2016, 10). Yet, questions around moral economy also inform decisions over professional and personal obligations. In some instances, unproductive practices are not necessarily accepted, but other obligations are more important. For instance, Balihar Sanghera argues that in Eastern European post-socialist countries 'a lack of commitment to professional ethos can be condemned as moral corruption, but some professionals are reflexive about their situation, recognising the difficulty of satisfying multiple concerns because of economic hardship' (2016, 61). Moreover, 'family well-being can occasionally be incompatible with professional virtues' (Sanghera, 2016, 61).

Sarah Bracking also uses the concept of moral economy in her analysis of BEE policy and corruption. As the thesis outlines in Chapter 3.3, one early objective of BEE policy was to

create a ‘patriotic bourgeoisie’ to act as a ‘motive force’ in transformation. The limitations of this approach – which created a small affluent group of black capitalists but had limited redistributive value – led to critiques of beneficiaries of these policies as ‘parasitic’ and self-enriching (Southall, 2007, 80; Murray, 2000, 184; African National Congress, 2007, 5). However, Bracking nuances these critiques arguing that ‘the idea of being able to normatively define a good or a bad capitalist from their patriotism or general behaviour when managing capital accumulation is arguably analytically incoherent’ (2019, 417). They suggest that ‘more fruitful is to recognise the role of wealth accumulation in class formation as first and foremost an empirical process, and then normatively as either corrupt or rightful redistribution depending on the standpoint of the actors involved’ (Bracking, 2019, 417). Karl von Holdt also links corruption to class formation and argues that the association of public office with access to resources for personal networks represents ‘a system of practices’ that is ‘embedded in a local moral order that provides legitimacy and rationale for such practices’ (2019, 9). These studies emphasise the value of understanding the norms that shape informal practices in formal institutions.

Research into moral economy and practical norms is a useful addition to Jomo K.S and Mushtaq Khan’s analysis of productive and unproductive rents (see Chapter 2.2). Khan identifies different types and rents, noting the possibility for them to have ‘productive’ (or growth enhancing) outcomes (2000b, 66-8). However, the outcome of these rents is dependent on the processes used to access them as well as the nature of the rent (Khan, 2000a, 118-20). Considering the practical norms that shape rent-seeking dynamics at Eskom addresses the situation-specific factors that influences rent allocation, further clarifying rent-seeking processes at Eskom.

6.3 Official(ish) norms

Several interlinked regulations and guidelines outline official procurement processes at Eskom. As of December 2020, Eskom’s website lists the Supply Chain Management Policy and Supply

Chain Management Procedure¹²⁹ as the two main documents guiding procurement across the utility. The wider legislative framework of these internal regulations includes:

- The Public Finances Management Act (PFMA), which broadly covers accounting and auditing.
- The PFMA also requires public enterprises to adhere to the Preferential Procurement Policy Framework Act (PPPFA), which mandates for BEE procurement in the public sector.
- The Companies Act and King Code of Corporate Practices and Finance.
- Section 217 of the Constitution (Eskom, 2014, 3-4)

The alleged violations of these laws are at the centre of audits and inquiries into procurement practices at Eskom and other SOEs. There have also been coal-specific regulations in place over the last decade. A National Treasury commissioned report summarised coal procurement regulations at Eskom:

We understand that Eskom procured coal using the Overarching Mandate until it was replaced in 2008 by the Medium Term Mandate. We further understand that the Medium Term Mandate, approved by the [Board Tender Committee] BTC in 2008, was updated in 2016. (Funduzi, 2018, 18)

The Eskom board approved the 2008 Medium Term Mandate in response to the 2008 loading shedding crisis to rapidly purchase coal to build up stockpiles. Under the Mandate Eskom procurement managers could directly approach suppliers (and *vice versa*) without a public call for tenders (Funduzi, 2018, 19).¹³⁰ Interviews with current and former members of the primary energy division indicate that they did still put out tenders for coal when the Medium Term

¹²⁹ Both documents were approved in 2014 and due for review in 2017.

¹³⁰ Using emergencies to by-pass procurement regulations is not isolated to South Africa. For instance, rushed procurement during the COVID-19 crisis in the UK was opaque and reportedly benefitted companies with connections to the governing conservative party (National Audit Office, 2021; Transparency International, 2021; BBC, 2021; Bradley et al., 2020). This speaks to importance of analysing the factors that drive rent allocation and not essentialising deviations from regulations as an ‘African’ characteristics.

Mandate was in place.¹³¹ However, in instances where coal was procured under the Mandate, the removal of the processes associated with a public call for tender, expedited coal purchases and introduced a degree of informality that facilitated unproductive rent-seeking.

According to one member of the Primary Energy Division, standard tendering processes take between 12 to 18 months, making it difficult to address short-term dips in supplies.¹³² They went on to say that there has never been a time (since they joined Eskom) that ‘we do not want any coal’, especially since 2008 when ‘deficits’ at power stations became more common. Short-term contracts exacerbate time pressures to secure new suppliers. The interviewee noted how these time constraints create pressure to secure contracts, even at terms that may not be the most cost-effective. They referred to times

[w]here you are thinking that, if I had been given enough time, or I didn’t have this pressure, I would have negotiated more out, I would have given more preparation, I would have gone at length to do this. But when the time has come, you have to get the coal and you have got to serve the electricity production.¹³³

The role of time pressures as one factor driving costly agreements speaks to the value of long-term planning in guiding productive rent-seeking. For Tim Kelsall, long-term planning is an essential component of ‘developmental patrimonialism’ (2013). Kelsall argues that without long-term objectives (and political will to adhere to this schedule), government rents will either create an environment of ‘competitive clientelism’ or a ‘non-developmental kleptocracy’, depending on the degree of centralisation (see Table below). Centralisation here refers to the extent that the government tightly controls rent distribution. A decentralised system of rent distribution – in the sense that there are multiple points to access rents and multiple actors making decisions on how to allocate rents – increases the likelihood that rent allocation will be unproductive (Kelsall, 2013, 24; Khan, 2000a, 117; Shleifer and Vishny, 1993, 609). Boards

¹³¹ In person interview with a former manager in the Primary Energy Division, December 2018; in person interview with a manager in the Primary Energy Division, January 2019.

¹³² In person interview with a manager in the Primary Energy Division, January 2019.

¹³³ In person interview with a manager in the Primary Energy Division, January 2019.

of SOEs are generally required to submit tenders above ZAR10 million to the National Treasury for approval, centralising rent distribution to an extent. However, powers to distribute rents is decentralised to a large extent in South Africa. For example, local governments and SOEs have a fairly high degree of autonomy over their procurement budgets (Turley and Perera, 2014, 8), increasing competition for the rents, and the posts that control rent distribution.

Table 6.3.1: Rent management and outcomes (Kelsall, 2013, p.24)

		Centralisation	
		Low	High
Time horizon	Short	Competitive clientelism	Non-developmental kleptocracy
	Long	Ineffective developmental state	Developmental patrimonialism

Researchers have used developmental patrimonialism to explain economic growth in states with autocratic tendencies, such as Rwanda or Ethiopia (Booth and Golooba-Mutebi, 2012; Vaughan and Gebremichael, 2011). Nonetheless, the importance of a controlled rent-seeking process according to long-term developmental objectives in supporting local industries, help to explain some of the difficulties at Eskom. The scramble to secure coal to fulfil short-term needs seemingly weakened company representatives’ bargaining position in negotiations with potential suppliers.

Management of teams within the primary energy division also appeared to be personalised, resulting in inconsistencies. A former manager of the Primary Energy Division noted that they tried to standardise processes when they were working with procurement. They noted that processes were

very individualised. Not just with the head but with whoever is running the process. So if you wanted information on a particular transaction, you go to x, and I kept on saying, ‘it can’t be, it needs to be on the computer, whether I’m there or not’. You

know, and in the meetings you [have] to take minutes, and whether they're good or bad minutes you have them and you put them on a hard drive for anyone to see.¹³⁴

According to this interviewee, processes in the division lacked traceability and were personalised to the extent that transactions depended on individuals. Underlying the importance of interpersonal relationships, prospective service providers noted that negotiations were derailed by personnel changes. For instance, a geologist was working to secure a contract with Eskom to audit coal quality and ensure that the coal that was arriving at power stations was what they bought. However, these negotiations ended when their contact in the department was suspended.¹³⁵ As I address later in the chapter, a high turnover of staff appears to have been a problem in the primary energy division and across the company more broadly, suggesting that similar disruptions in procurement processes are likely. Personalised procurement processes also reflect a degree of informality guiding rent-seeking processes, despite formal regulations and procedures.

In the context of Bierschenk and Olivier de Sardan's 'truisms' of bureaucratic practices (2014a, 54), that personal relationships are important is unsurprising. An interviewee from the financial sector summarised the importance of reputation in professional relationships:

When I joined the bank one of the first things I learned was that we don't lend to companies, we lend to people, and if you don't trust the people you don't do the deal.¹³⁶

This comment underlines the role of personal relationships as a foundation for securing financing for projects. In this instance, the importance of personal connections points to a space where informal personal networks mediate formal business relationships. These are not inherently negative, and even participants who critiqued rent-seeking networks at Eskom did not necessarily recommend changing this way of doing business. For example, a representative

¹³⁴ In person interview with a former manager in the Primary Energy Division, December 2018.

¹³⁵ In person interview with a geologist specialising in South African coal, December 2018.

¹³⁶ In person interview with a mining sector specialist at a South African bank, January 2019.

from an anti-corruption NGO with decades of experience in the energy sector, argued that there was a difference between ‘influence and *abuse* of influence’. They went on to say that

[b]ecause it comes in different categories [and] you need to unpack it because remember, there can be positive influence, there can be negative influence, and then there can be influence, which on its own leaves catastrophic implications or effects.¹³⁷

According to this interviewee, external influence from the private sector over government policy is constant, but the objective of these interactions determines the outcomes of these relationships. This comment also speaks to the interviewee’s moral economy where questions of trust are likely to influence whether they perceive influence as ‘positive’ or ‘negative’. The interviewee also noted that it was ‘not practical’ for relationships between business and state actors to be adversarial, while underlining the need for strong checks and balances in regulating these relationships. These reflections suggest an understanding that personal relationships are an accepted part of doing business and that – in some cases – this ‘influence’ can have positive economic outcomes in terms of economic growth or job creation.

Another interviewee, a former consultant with Eskom, related stories of procuring coal to address shortages. They reflected on the value of being able to draw on personal networks to expedite coal procurement, noting that ‘[w]e then ran into shortages in 2007 and I went to my friends in the industry and I said, ‘guys please, it’s of national importance for me to get some coal here’. They contrasted their own efforts to find coal to serve ‘national interest’ with other actors who also used personal networks to source coal but reportedly demanded ‘kickbacks’. According to the interviewee, cheap coal that they had sourced for Eskom was initially rejected as ‘unsuitable’, although months later the coal was purchased for more money. To the interviewee, the extra payment accounted for a payment for the procurement officer.¹³⁸ However, they acknowledge that they got the coal on a ‘special price’ and there is also the

¹³⁷ In person interview with energy sector expert at a South African anti-corruption NGO. The participant has about two decades of experience in the energy sector at the sector regulator (NERSA) and the National Treasury. November 2018.

¹³⁸ In person interview with energy analyst and former consultant at Eskom, October 2018.

possibility that the higher costs accounted for processes to beneficiate the coal. The interviewee was incredibly critical of Eskom's management since the end of apartheid, arguing that the ANC thought of Eskom as 'pot of honey' or a 'cash cow' that they could 'wean'. Yet, their comments do not condemn rent-seeking or informally turning to networks in a professional context. The interviewee indicates that these relationships are desirable, provided that they are cost-effective, and perhaps (more cynically) when the participant agrees with them. This cynical interpretation also suggests that actors within patronage networks approve of informal networks when they potentially benefit from them, reflecting the influence of rent holders' discretion over access to these resources.

These accounts indicate that people within the sector accept – with limitations – the personalisation of coal procurement processes. This 'familiar' way of doing business underlines the limits to evaluating bureaucrats according to the Weberian ideal of a 'dehumanised', a-political and efficient civil service (Bierschenk and Olivier de Sardan, 2014b, 12; Pitcher et al., 2009). For Bierschenk and Olivier de Sardan, even acknowledging that a bureaucracy does not conform to Weber's ideal concept is a 'sociological banality'. Ekeh's (1975) distinction between an 'amoral civic public' and a 'moral primordial public' also highlights the overlap between informal networks and formal institutions. This 'bifurcation' of the state into separate spheres with competing moral foundations has been incorporated into wider debates on how African states 'work' (Bayart, 2009; Chabal and Daloz, 1999; Hibou, 1999). However, by viewing deviations from official norms as 'truisms' (Bierschenk and Olivier de Sardan, 2014a, 54) it is possible to avoid essentialising these practices as exceptionally 'African'.

Despite this acknowledgement of the role of social obligations in informing practices in public institutions, official norms around transparent, competitive, and standardised procurement practices seemingly strive towards Weberian ideals. Moreover, inquiries and audits into procurement practices at Eskom assess compliance with these regulations. For instance, the parliamentary inquiry 'assessed compliance' with various pieces of legislation, including 'any appropriate legislation applicable to the inquiry' (2018, 5). The apparent gap between the accepted ways of doing business and the standards which Eskom employees are ultimately accountable to, suggests that it is worth restating the limits of this Weberian model. In practice,

business relationships are personal and interwoven with participants' understandings of acceptable boundaries.

6.4 Organisational discipline and coercive rent-seeking

Interview data and documents from public inquiries underline the sense that Eskom plays a determining role in the country's economy. A former executive referred to the company as the 'critical backbone of the country's economy'¹³⁹, while a former minister who worked on energy policy in the 1990s emphasised the importance of access to electricity in improving black citizens' living conditions¹⁴⁰. Similarly, former chairperson Jabu Mabuza¹⁴¹ linked Eskom's success to the 'socio-economic fabric of our society' (Zondo Commission, 2019e, 58). A former Eskom executive outlined the balancing between business and developmental goals:

When you look at your role in a broader context you then understand that some of the decisions you make, they may not optimal. And it's OK. The government can live with a return of 8-10% here and there, not like private entities that are looking for 15-30 and what have you, because you have a developmental mandate that you apply. But you must all be aligned that this is what you want to do.¹⁴²

This comment underlines the importance of a clear awareness of how a SOE should approach its developmental mandate, and that this mandate needs to be shared and understood by all members of the company. This mandate also allows for 'suboptimal' business performance is acceptable within that mandate. Similarly, former board chairperson, Mabuza noted in this statement to the Zondo Commission that

[t]here is perhaps the need to say this and public office bearers and public people in the public service use this line a lot. That irregular expenditure is not always wasteful, fruitless and corrupt. (2019e, 78)

¹³⁹ Personal correspondence with former Eskom executive, May 2020.

¹⁴⁰ In person interview with former ANC Cabinet Minister (1994-2004), March 2019.

¹⁴¹ Mabuza was Eskom Chairperson from January 2018 until January 2020.

¹⁴² In person interview with a former Eskom executive, November 2018.

By raising this point during an anti-corruption inquiry, Mabuza highlights the need to distinguish between practices that deviate from official norms (or regulations) in ways that are acceptable and those that are ‘wasteful’ or ‘corrupt’. However, it also raises the question of where responsibility lies in making that distinction. These examples point to one institutional obligation to allocate Eskom’s rents in a way that serves the government’s developmental agenda. However, the scale of Eskom’s indebtedness as of August 2021, suggests that these sentiments have not translated into effective ‘productive’ rent-seeking in practice.

The senior figures I cite in the above examples acknowledge that deviating from official regulations is acceptable and even desirable if it helps Eskom fulfil its developmental mandate. Yet, the informality of rent-seeking in coal-procurement means that distinguishing between ‘productive’ and ‘unproductive’ decisions is, to an extent, a matter of personal interpretation. For instance, the coal procurement manager I referenced in the previous section acknowledged that they would prefer to have more time to negotiate and pay less for coal. But finalising an agreement fills an immediate shortfall in supplies and mitigates the risk of shortages leading to load shedding (provided the coal is delivered on time and is the right quality).¹⁴³ Interviewees¹⁴⁴ and witnesses at inquiries have noted that it is easier to say that some transactions were mistakes with hindsight (Portfolio Committee on Public Enterprises, 2017b; Portfolio Committee on Public Enterprises, 2017c). Providing that this sentiment is (to some extent) genuine it underscores the difficulty in managing productive rent-seeking in practice. Although officials apparently accept a degree of rent-seeking that ostensibly aligns with developmental goals, tolerance of overtly unproductive or extractive rent-seeking is less clear. This complicates one narrative in work on political patronage and ‘state capture’ in South Africa, which argues that extractive rent-seeking at SOEs was normalised during Zuma’s presidency.

¹⁴³ In person interview with manager in Eskom’s Primary Energy Division, January 2019.

¹⁴⁴ In person interview with the NUM Energy Coordinator, March 2019; in person interview with manager in Eskom’s Primary Energy Division, January 2019.

In South African public discourse, ‘state capture’ broadly refers to corruption during Zuma’s presidency and the alleged influence the Gupta brothers¹⁴⁵ were seemingly able to exert over government affairs (see Chapter 3.6). A research paper from the Public Affairs Research Institute’s State Capacity Research Project describes the creation of a ‘shadow state’ under a political elite ‘who are only interested in rent-seeking and political survival’ (Swilling et al., 2017, 9). This shadow state ‘feeds off the [constitutional state] in ways that sap vitality from formal institutions and leave them empty shells incapable of executing their responsibilities’ (Swilling et al., 2017, 5). Ashwin Desai also highlights the repurposing of state institutions to suit private actors:

This is not the stuff of lobbying or bribing officials to get contracts for work that is both necessary and properly decided upon. The private actor is enabled to directly determine policy such that ‘captured’ members of the executive champion projects and steer budgetary allocations towards these private actors. The state does not simply get ripped off, it is controlled. (2018, 501)

Meanwhile, Ivor Chipkin argues that state capture ‘is a form of corruption’ where ‘private influence is exercised illicitly in public affairs, subverting and even replacing transparent and legitimate forms of intermediation’ (2016, 1). Actors justify this form of corruption as a ‘another conception of virtue in public affairs’, where ‘there are those who defend patronage in the name of ‘state transformation’ or the ‘theory of national democratic revolution’ (Chipkin, 2016, 2). Chipkin and others have incorporated this analysis into their identification of four stages in repurposing an SOE:

A new minister changes the board composition of an SOE; the SOE announces a major new acquisition or build project; people brought onto the board are either strongly in favour of radical economic transformation or have close personal links

¹⁴⁵ The Gupta brothers include Ajay, Atul and Rajesh (Tony) who immigrated from India to South Africa in the 1990s. Although the brothers are the main targets in accusations of ‘state capture’, their wives and other family members also run companies that have benefitted from the brothers’ relationship with former-president Zuma (Cobbett, 2016; Gupta Leaks, Undated-a).

to some of the bidders (or both); and the tender is awarded in circumstances where there is a clear conflict of interest. (2018, 115)

This description of repurposing institutions conceptualises patronage networks in South Africa as ‘neopatrimonial’ in the sense that actors use access to weak institutions to benefit of personal networks. Chipkin et al., describe neopatrimonialism in South Africa as ‘the emergence of a symbiotic relationship between the constitutional state and the shadow state’ (2018, xi). Tom Lodge also conceptualises political patronage in South Africa as neopatrimonial arguing, ‘while formal distinctions between private and public concerns are widely recognised, officials nevertheless use their public powers for private purposes’ (2014, 1). This chapter does not dispute that government actors have used their access to government resources to benefit personal networks. However, neopatrimonialism carries negative connotations of economic determinism and mismanagement (see Chapter 2.3.4). Moreover, positioning bureaucratic institutions as efficient and personal networks as inherently extractive or predatory, renders all informal relationships as corrupt. According to Anne Pitcher, Mary Moran and Michael Johnston, this privileging of a-political bureaucracies holds governments accountable to an ideal that is impossible to realise (2009, 127). Using moral economy and practical norms to ground analysis of rent-seeking thus provides a lens to consider the nuances of informal dynamics within formal institutions. This approach also accounts for the ways that developmental rhetoric cloaks unproductive rent-seeking in the public sector (also see Chapter Five).

Research on political patronage in post-apartheid South Africa also addresses this question of normalising privileged access to state resources. Susan Booyesen argues that

[t]he status associated with position in the ANC, but mostly with representing the ANC-in-government, brings power, prestige and privilege. It is accepted that politics brings wealth to the political elites. (2012, 8)

Similarly, Karl von Holdt describes the state as an ‘obvious resource in the formation of a new elite’ due to ‘the location of jobs, revenue, contracts, tenders and licensing’. Further,

[t]his has given rise to a pervasive informal political-economic system...shaped by the intersection of patronage and factionalism, as patronage networks form political factions in order to gain power in the state. (von Holdt, 2019, 3)

Moreover, opposing factions' criticism of corruption during Zuma's presidency does not represent a commitment to an anti-corruption agenda. According to von Holdt, 'an anti-corruption discourse was not discernible at the electoral conference...delegates were as likely concerned about the dangers of a family dynasty taking control of the ANC, [and] the ANC's dramatic decline in electoral fortunes under Zuma' (2019, 21). In addition, 'several of [Ramaphosa's] main provincial backers are themselves deeply implicated in networks of patronage and corruption' (von Holdt, 2019, 21). Among party members, criticism of corruption during Zuma's presidency focused less on the personal exploitation of state resources, than the beneficiaries of this exploitation, and the implications for other factions once there was a transition of power.

Former mining minister Ngoako Ramatlhodi's testimony at the Zondo Commission highlighted frustration with the Gupta family as beneficiaries of patronage. Ramatlhodi stated that when Ajay Gupta requested a meeting with him (through Zuma's son Duduzane Zuma), he responded that 'I do not know Ajay Gupta and I owe him nothing' (Zondo Commission, 2018f, 16). This comment reflects Ramatlhodi's resistance to extending access to the resources he managed to the Gupta family, and the sense that the family was undeserving of political patronage. For instance, Ramatlhodi distinguished between the Gupta family and other potential beneficiaries of ANC patronage.

You see Chair, I have got friends in the business community and so on. They do see people and so on. But these ones I felt they were insulting even the President. Because what they were doing was to show off. You know that they had captured the Republic it is theirs. They are not presidents but they can land at an air force base. (Zondo Commission, 2018f, 23-4)

Ramatlhodi went on to describe the Gupta family as 'disrespectful of the President, of the country, they were disrespectful of us' (Zondo Commission, 2018f, 24). Ramatlhodi also criticised the manipulation of BEE regulations to suit the Gupta family (Zondo Commission, 2018f, 42). One interviewee, a former ANC minister, made a similar remark, distinguishing

between early beneficiaries of BEE like Patrice Motsepe, who ‘were working strictly within the law’ and decision to allow the ‘real rent seekers’ (the Gupta family) access to government rents. According to the interviewee,

[t]hey [the Zuma faction] even allow foreigners who didn’t know where they were to descend on the resources of this state. Now that is sheer criminality.¹⁴⁶

These former ministers’ condemnation of the benefits that the Gupta family received through their relationship with Zuma, further reflects intense contestation over who gets access to government rents. This contestation is seemingly linked to disagreement not with private actors having a close relationship with the president but how beneficiaries exercise their influence and the implications for the party. According to Ramatlhodi ‘it is the biggest sin to auction Executive Authority’, and that due to the benefits awarded to the Gupta family, new party leadership was ‘going to inherit an empty office’ (Zondo Commission, 2018f, 38,39). In Ramatlhodi’s testimony it was this threat to the National Executive Committee’s (NEC) autonomy and impact on state resources that eventually led to party leadership asking Zuma to resign in early 2018 (Zondo Commission, 2018f, 39). However, despite discontent within some factions of the ANC over Zuma’s distribution of state resources, it took years for the NEC to request his resignation, pointing to underlying norms within the ANC around discipline and loyalty to the executive.

When Judge Raymond Zondo questioned Ramatlhodi on the failure of the NEC to censure the president, he described the party as paralysed by factionalism while attempting to retain an aura of unity.

Chair, you can characterise that period as a season of madness in the organisation in the sense that there was a paralysis of the NEC, occasioned by what I have described as a faction which was led by the head of the organisation.

Now this went to ridiculous levels. I mean at some point we voted on a collective responsibility to something, I cannot remember what it was but the NEC basically

¹⁴⁶ In person interview with former ANC minister involved in drafting early energy policy, March 2019.

owned up to the mistakes that the former President had done, and we took collective responsibility... So it means the balance of power within the NEC was in his favour. (2018f, 51-2)

Moreover, when fellow ANC members asked why Ramatlhodi continued to support Zuma at the 2012 Conference, Ramatlhodi responded that

I do not want us to repeat what we did with Mbeki you know previously, and then you have a COPE¹⁴⁷ you know, coming out and so on. So I think let us allow him to finish his term, err on the side of caution. (2018f, 38,39)

These statements reflect a desire to protect party unity, or at least the outward appearance of unity, despite significant internal divides. Ramatlhodi may not have agreed with how Zuma chose to use his access to state resources but maintaining the illusion of party discipline trumped these concerns. Ramatlhodi's references to his involvement in Zuma's defence team in the early 2000s speaks to a drive to protect party members from external interference:

So we put [together] a team which was both offensive and defensive, in terms of communication, in terms of managing the public perspective...So we had a team like that, which then had to interrogate each and every phase of their appearance in court and to come out with the strategies how to get him off the hook. I believe we did very well in that regard, we got him out, Deputy President Zuma. (Zondo Commission, 2018f, 13)

This sense of accomplishment from protecting Zuma from earlier corruption charges (which were also at the centre of factional battles (Booyesen, 2012, 360; Gumede, 2007, 398)) is striking given the context of Ramatlhodi giving evidence against the former-president's faction during the Zondo Commission. Booyesen argues that the Democratic Alliance, the main opposition party, has pushed the ANC to defend Zuma through legal challenges and votes of no confidence (2015, 196-7). Ramatlhodi's statement aligns with Booyesen's argument, suggesting that party leadership would resist external efforts to criticise alleged malpractice, to protect the illusion

¹⁴⁷ Congress of the People Party (COPE) is a breakaway party that former ANC members established in 2008 after the 2007 party conference in Polokwane when Zuma became president of the ANC.

of party unity. Resistance to external calls for accountability or transparency also reflects a sense of ambivalence towards accountability for corruption, which speaks to von Holdt's criticism of anti-corruption campaigns within the ANC. To von Holdt, 'the specific configuration of forces that supports and mobilises an anti-corruption campaign emerges at a particular time for specific reasons' (2019, 3). Corruption is thus tolerated, to an extent, until it is politically expedient to hold actors accountable.

Yet, the ANC has the capacity for self-criticism, reflected in party discussion documents repeatedly condemning ineffective 'cadre deployment' and calls for organisational 'renewal' through stricter accountability mechanisms (African National Congress, 2018; African National Congress, 2012a; African National Congress, 2012b; African National Congress, 2001a). For instance, a discussion document from the 2012 notes the failure to appoint party members to the benefit of the party's public goals:

The continued absence of a coherent cadre policy represents one of the fundamental reasons behind the current state of organisation and the vicious cycle of internal problems over the past decade-and-a-half. Without a coherent cadre policy that meets the requirements and demands of the current phase, the revolution is left to survive on sheer luck. (African National Congress, 2012b, 27)

This sharp criticism of the misuse of a resource of political patronage (such as jobs) indicates that using state resources to the benefit of personal networks is not a fully realised norm across the party or public servants. This suggests that there are other reasons why corruption is tolerated, or why anti-corruption campaigns are temporal; such as a culture of loyalty and discipline.

Ramatlhodi's special advisor at the Department of Mineral Resources (DMR), Mahlodi Muofhe's testimony at the Zondo Commission highlighted these sentiments. For instance, Muofhe testified that despite feeling that he was ill-qualified for a position in the police ministry

I am a member of the African National Congress, have been a member of the African National Congress for over 40 years now, and the ANC we are more of a family. Former Minister Nhleko is a member of the African National Congress and

in the ANC there is a dictum which says that if you are requested to do a thing you do it. And I understood it in that concept, that it was a deployment I had to execute. (Zondo Commission, 2018f, 129)

This emphasis on familial obligations underlines how within the ANC bureaucracy, remaining loyal to the party supersedes broader social responsibilities towards transparency. Muofhe explicitly noted these dynamics when Zondo pushed him on the distinction between the ANC and state responsibilities.

CHAIRPERSON: But you had not been asked by the ANC, you were being asked by a government Minister.

ADV MAHLODI SAM MUOFHE: Who is an ANC member.

CHAIRPERSON: But this was a state matter...(2018f, 129)

Zondo then asked Muofhe to restate the 'rule' that meant that he was unable to deny the minister's request.

It is not in the constitution of the ANC, Chairperson. It is an unwritten rule that over time we grow into and understand and, Chair, would have heard many people saying that when I am asked to do something I would not say no in the organisation, but it is not, it is not like in the constitution or in any of our policy documents. (2018f, 130-1)

This statement suggests that the 'practical norm', as the apparently unwritten but widely accepted standard of behaviour, within the ANC is obedience. Further testimonies from other ministers indicate that they felt that they lost their positions due to a failure to comply with orders, underlining the sense that transgressing from this standard would have real implications for party members (Zondo Commission, 2018c, 31; Zondo Commission, 2018d, 9-11; Zondo Commission, 2018e, 31). Pressure to comply with orders trickles down the government bureaucracy. For instance, Muofhe and Themba Maseko, former CEO of the Government Communication and Information Systems and government spokesperson, noted pressure on accounting officials 'to do wrong things' due to 'fear of reprisals' (Zondo Commission, 2018f, 167; Zondo Commission, 2018b, 77). This forces people into the position of making calculations within their own moral economy when faced with following orders that they might disagree with. Maseko ultimately resigned and publicly critiqued the influence of the Gupta

family on public procurement, noting that he ‘may just lose one or two friends’ because of his testimony. Muofhe, meanwhile outlined the various considerations underpinning compliance with orders that might deviate from official or socio-political norms.

You know, people have families and children to support. You get to a stage where you have to weigh do I take my jacket and walk away? What about my bonds? What about my children at school? (Zondo Commission, 2018f, 167)

The need to coerce bureaucrats into carrying out dubious requests indicates that predatory rent-seeking is not a ‘practical norm’ within the South African public service. While Eskom employees may not feel the same sense of organisational loyalty towards the ANC, they were subject to similar pressures from superiors, who themselves were embedded within patronage networks.

6.5 Moral economy and practical norms in rent-seeking at Eskom

Inquiry transcripts and interview data with current and former Eskom employees speaks to the level of coercion – or implicit risk to their position – that underpinned predatory rent-seeking at the entity. These threats then presented employees with questions over their ability to fulfil their social obligations. Former General Manager of Fuel Sourcing in the Primary Energy Division, Johann Bester, described the role of Kiren Maharaj¹⁴⁸ in shielding the team from ‘toxicity amongst the executives’:

I learnt to know her as a boss that was very particular or – I can’t think of the right word here...but very principled...I’m not sure how long her career was at Eskom but it was almost her first [employer]...she doesn’t have children and she dedicated almost every waking hour she had to Eskom, I haven’t encountered people as dedicated and she lived and breathed Eskom almost day and night and she expected the rest of us to as well. She was very – she was a very tough lady to work for and we respected her for that...because of that, I suspect over the years had made many

¹⁴⁸ Maharaj was eventually suspended for insubordination following repeated disagreements with former executive Matshela Koko and her refusal to follow his instructions on certain transactions.

enemies as well because she wouldn't turn a blind eye to wrong doing. (Zondo Commission, 2019j, 115)

Bester's description of her relationship with the entity suggests that Maharaj was able to resist pressure because she lacked external obligations depending on her keeping her job. Indeed, Maharaj's primary obligation was to Eskom. Similarly, Bester argued that he stayed at Eskom despite pressure from executives like Koko, because he felt that 'he had important things to do' in the entity and that the decision to resign was a 'sad day for him' (Zondo Commission, 2019k, 26). Personal obligations towards Eskom extend beyond the company to its wider impact, for instance, Bester spoke passionately at his testimony about avoiding trucking coal to power stations because of the risk of 'loss of life' (Zondo Commission, 2019k, 35). A former executive spoke of his wish to 'contribute towards the upliftment of my people' by working in SOEs¹⁴⁹, while a manager in the Primary Energy Division stated that they 'genuinely feel like we could do better'¹⁵⁰ for the communities surrounding mines and power stations. These sentiments reflect layers of obligations beyond personal networks to a wider sense of public duty in working at SOEs, like Eskom. The multifaceted moral economy of Eskom employees and executives speaks to wider research on public sector workers' reflexivity when faced with professional practices that deviate from official norms and regulations (Sanghera, 2016; Blundo, 2006b; Olivier de Sardan, 1999).

Ekeh's (1975) work on the 'two publics' is again useful here in understanding the social drivers that contribute to deviating from official norms. Nomtha Gray uses Ekeh's work to argue that many professionals consider the Constitution to represent their 'primordial public', where the public and social spheres share the same 'morality' (2021, 4). Meanwhile, in cases where people's 'primordial' and 'civic' publics do not share the same moral grounding, 'exploitation' of SOEs is 'reasonable' (Gray, 2021, 4). However, while the Constitution makes provision for competitive and transparent procurement, it also indicates that these processes should serve 'transformation' (see Chapter 5.3). The desire to work towards this ambition suggests that

¹⁴⁹ In person interview with a former executive at Eskom, November 2018.

¹⁵⁰ In person interview with manager in the Primary Energy Division at Eskom, January 2020.

deviating from official norms during procurement processes is consequently justifiable for actors whose ‘primordial public’ align with the Constitution. Eskom is an established site of government rents and the ANC in government views SOEs as essential vehicles to implement development policy (von Holdt, 2019, 6; Bowman, 2020, 407). Yet, the lack of a rent-distribution strategy that clearly set out the criteria for distinguishing between productive and unproductive rents, places the onus on the people charged with carrying out transactions. Workers’ apparent tolerance of corruption masks personal decisions regarding acceptable practices.

Shifting professional practices have also created opportunities for predatory rent-seeking at Eskom. For instance, a high turn-over of staff reduced institutional knowledge, while frequent changes in the board disrupted management at the entity and saw increased interference with procurement teams. At a high-level, the composition of the Eskom board has changed frequently since 2010, though the turnover of executives was particularly high from 2014 until early 2018. From May 2014 until December 2020, five different people have served as board chairperson and seven different people have served as CEO. Anecdotal evidence from interviews suggests that staff turnover was a problem for various administrative teams across the entity too. According to a former manager in the Primary Energy Division,

I think it accelerated around the 2012/2013 time - in my view - that's when lots of people moved around. Around 2009-2013, there was a bit of hiring. Hiring was more, we hired a lot of mining engineers and mine managers to come and join the operations space around the 2013/2014. It's been like that but with the financial situation, we have not been replacing them. So we have just been having an outflow of people.¹⁵¹

The manager went on to outline the pressure that this put on members of the fuel sourcing team:

We were particularly strained around 2016 to 2018, yes. Because of shortages of staff and there was a big pressure to conclude a lot of contracts. I had a very serious straining time. Unfortunately for me, I was the head of fuel sourcing and yea, it was

¹⁵¹ In person interview with manager in the Primary Energy Division, January 2019.

a pretty tough time because of shortage of staff...Yea, it was a hectic time where my staff was really strained and some left because if you strain people, some decide it's too hot in the kitchen and just go.¹⁵²

As well as impacting morale in the team, constrained resources added to existing pressure on staff to finalise contracts. As skilled workers left the team, incoming employees had less guidance and weaker professional support networks. Bester's testimony at the Zondo Commission spoke to the personal impact of losing mentors and dealing with daily pressures in the fuel sourcing team. Bester noted that although he had not been at Eskom for a long time, his initial managers were 'people that could look up to, that I could trust and that supported me when I wanted to do things like renegotiate the Medupi contract with Exxaro'. He stated that he lost this support network once his former managers 'had been removed or left', leaving him vulnerable to pressure from the board who made it 'clear that they wanted to replace me' (Zondo Commission, 2019k, 28). Bester was visibly emotional during his testimony, highlighting the enormous strain and sense of isolation that he felt at the time, and referring to the 'tragedy' of 'what happened to some people'. Bester eventually left to a job in the private sector, but his accounts of a stressful work environment are not unique and are indicative of an situation where employees were felt that they were unable to question superiors. Another representative from the Primary Energy Division Snehal Nagar¹⁵³ testified that

[w]hen the then Head of Primary Energy [Kiren Maharaj] tried to refuse as you put it she was suspended and later you know sort of exited the organisation. Now that whole process of not following an instruction Chair is ugly if I can say it, and expensive and when you follow that you're on your own from an Eskom perspective, there's no support behind you there, so I think, I'm not trying to use that as an excuse I'm saying but understand that here's an instruction from an entity when you don't follow that's the one leg of how they treat you. (Zondo Commission, 2019i, 77)

¹⁵² In person interview, January 2019.

¹⁵³ Head of finance at the Primary Energy Division.

Nagar's testimony reinforces the sentiment that for employees in the division resisting 'instructions' meant risking your job. His comment that 'you're on your own' reiterates the sense of isolation that workers in the department seemed to feel at the time, which could have played a role in encouraging workers to leave. Another possible incentive driving high turnover was that employees who were suspended from Eskom have found it difficult to find new jobs (2017c), potentially reinforcing the sense that it was better to leave before you were forced out.

At the Zondo Commission, testimonies broadly blame the Gupta-Zuma network for the rapid turnover of staff, especially at senior manager and executive levels. For instance, Tshediso Matona served less than six months as CEO before being suspended, along with several other executives, in March 2015. At the Zondo Commission in September 2020, Matona testified that the timing of his suspension and subsequent replacement with Brian Molefe, led him to suspect that it was linked to 'allegations around various matters' (2020c, 91). Former board chairperson (June 2011 – March 2015) Zola Tsotsi, was more explicit in his accusation stating that the suspension of Mr Matona was part of the Gupta family's attempt to 'capture Eskom' (Zondo Commission, 2020e, 53). Preferential appointments also occurred across departments and Tsotsi testified that Tony Gupta met with him to ensure that his 'candidate' was selected as Chief Procurement Officer (Zondo Commission, 2020d, 82). The appointment of Eskom leadership has never been a-political. During apartheid the *Broederbond* reportedly influenced the appointment of company executives (Truth and Reconciliation Commission, 1998, 149), while the company acted as an intermediary between the anglophone dominated mining sector and the Afrikaans-dominated government (Jaglin and Dubresson, 2016, 11-12; Fine and Rustomjee, 1996, 123; Clark, 1994, 58). Eskom policy and government policy are generally aligned. Yet, witness testimonies alleging that interference in the board fostered a 'toxic' work environment (Zondo Commission, 2019j, 115) indicates that more recently this alignment – at least partly – emerged through contestation over the practical norms guiding rent allocation at Eskom.

Government actors, or politically connected rent-seekers, partly achieved this shift in the relationship with board members by drawing on established ANC norms on discipline and adherence to executive 'deployments'. Tsotsi's affidavit for the Zondo Commission argues that

the Gupta brothers explicitly drew on their relationship to Zuma to exert pressure on public servants:

Tony Gupta made no secret of their intention to influence public servants to assist them with their business interests. He easily spoke disparagingly of those who did not want to assist them, and branded them as ‘Baba’s enemies’, a reference to President Jacob Zuma. (2020a, 6)

By labelling people who refused to work with the Gupta family as the ‘enemies’ of Zuma, Tony Gupta was drawing on ANC norms around discipline, linking professional security to political fidelity. When Zondo asked Tsotsi why he did not ‘rebuff’ meetings with the brothers he responded that

[a]s I said earlier that there was a well-known situation regarding them insofar as their relationship with the President. And there were – I had heard of instances where people were supposedly threatened by them if they were not able to at least give them whatever assistance they felt that they needed and that they would report them to the President whom they referred to [as] UBaba. And they seemed to have this authority about them. And I think it is – I suppose something that if one looks at what influence they are capable of exerting then it is clear to me that responding to their requests and their needs whatever it is that they want to have done is something that would cause them to feel that a lack of such of response would be in a way once again disrespecting UBaba. (2020d, 91)

For Tsotsi, disobeying the Gupta brothers’ orders was akin to disobeying orders from the President. In addition, Tsotsi’s affidavit outlines an instance where Tony Gupta explicitly threatened his position, making the terms of disobedience clear (Zondo Commission, 2020a, 12). Although this interference undoubtedly had a negative impact on staff, it is an insufficient explanation for how professional practices shifted at Eskom. While testimonies from the Zondo Commission in particular pinpoint the Gupta-Zuma network as the source of interference at the entity, this was not necessarily clear at the time. Matone now assumes that his experience was linked to ‘various other allegations’ about the Gupta family and their influence at Eskom (Zondo Commission, 2020c, 91). Meanwhile, in her testimony at the parliamentary inquiry, Tsholofelo Molefe, a former executive who was suspended in 2015 does not mention the Gupta

family in relation to her suspension. She does however, comment on her confusion surrounding her suspension and contradictory messages from the board regarding the reason for the disciplinary action against her (Portfolio Committee on Public Enterprises, 2017c). A former executive, who never mentioned personal interactions with the Guptas, described the confusion around their suspension but felt that with ‘hindsight [it] was very clear that this was an execution of a well-thought out strategy intended to loot the state’.¹⁵⁴ The Zuma-Gupta network has consequently become an important part of how people explain what happened to them, as well as how they justify their actions. Instead of representing a distinct episode of ‘state capture’, the Zuma-Gupta network used a particularly predatory form of rent-seeking that accelerated changes in practical norms at Eskom.

The loss of skilled staff at Eskom’s head office had begun before the extreme interference during Zuma’s presidency. Jaglin and Dubresson argue that severe load shedding in 2008 was partly due to the ‘loss of professional skills arising from affirmative action and the largescale removal of white managers and technicians’ (2016, 68). They also cite a report that noted ‘the haemorrhage of qualified staff and, above all, the inability of new managers to understand how coal contracts worked’ in the lead up to the crisis (Jaglin and Dubresson, 2016, 70).

Interviewees also raised the issues of a loss of skilled staff. However, one factor that emerged in some interviews was that some interviewees associated the loss of skilled staff with affirmative action policies. In some cases this led to interviewees equating ‘skilled workers’ with white workers. This false equivalence raises questions over which workers can aspire to the ideal of an a-political bureaucrat. For instance, a recently retired Eskom manager from Megawatt Park argued that there was a difference between politically appointed comrades and ‘degreed blacks that came up with mentorship’.¹⁵⁵ This comment suggests that ‘comrades’ receive appointments due to their political affiliation over credentials. Meanwhile, ‘degreed

¹⁵⁴ In person interview with former board member at Eskom, November 2018.

¹⁵⁵ Online interview with retired Eskom employee who worked at Megawatt Park since the 1970s, January 2019.

blacks that came up with mentorship' are firmly embedded in the 'civic public' and consequently better employees.

Some interviewees also saw empowerment policies as excluding skilled white workers. According to a representative from Solidarity, the predominately Afrikaans trade union, transformation represented a 'legal corruption' that effectively drove white workers from the company. Another Solidarity representative reiterated this point arguing that

the group that we represent, they feel like there is no hope, there's no future in this...they've reached a ceiling. So when the opportunity knocks that they have the opportunity to go to Australia, to New Zealand, to Ireland, to England, to America, they grab this opportunity and they leave. So with them goes skills and then to find those years, and years, and years of skills that goes with them is very difficult.¹⁵⁶

These comments explicitly link the loss of skilled staff to empowerment policies, reinforcing the suggestion that political connections (or assumed political affiliation due to race) is a more important requirement for accessing jobs than skills. This raises the question of the obligations that employees bring to their positions. For instance, workers who come up through the Eskom ranks are possibly more likely to prioritise their responsibilities to Eskom, as opposed to 'cadres' who are most likely to be answerable to ANC norms. Yet, representatives from Solidarity also noted that moving employers was part of a wider trend among young workers, where 'they don't stay around for a long period of time in a certain company, they build up their skills, they get trained, they move on to other companies'.¹⁵⁷ A manager in the Primary Energy Division also commented that many workers had moved into the private sector and the potential of better salaries.¹⁵⁸ High turnover of staff in the public sector is not unique to Eskom, and occurs across the public sector more widely (Ogony and Majola, 2018, 78; Booysen, 2012, 383-4). For instance, in a study on turnover in the KwaZulu Natal Department of Arts and Culture employees reportedly cited 'unsatisfactory salaries, lack of career advancement, lack

¹⁵⁶ In person interview with energy sector representatives from Solidarity trade union, February 2019.

¹⁵⁷ In person interview with energy sector representatives from Solidarity trade union, February 2019.

¹⁵⁸ In person interview with manager in the Primary Energy Division, January 2019.

of promotion, unsatisfactory working conditions, and work stress' as reasons behind decisions to leave (Ogony and Majola, 2018, 89-90). High turnover in other areas of the public sector suggests that while some interviewees emphasised the loss of skilled white workers, this impression is incomplete and turnover of staff at Eskom, mirrors wider trends.

On a practical level, the loss of workers with years of experience at Eskom, altered professional culture. According to the recently retired Eskom employee, policies to accelerate the racial transformation of the workforce had led to a loss of the company's mentorship programmes, exacerbating the loss of skills and 'institutional knowledge':

In the early years, there was a philosophy that people were mentored no matter what kind of level you were in the organisation so you understood what your inputs were what your outputs were and how they affected the organisation. This type of mentorship has totally ceased within Eskom...it does not exist at the moment because a lot of people who have been brought into Eskom do not have that knowledge that can actually pass down and sit on their pants making decisions and a lot of those decisions being a cover up or not been admitted to.¹⁵⁹

Bester's testimony highlighted the sense of isolation that he felt due to the lack of mentorship. Mentors also offer mentees a degree of protection from pressure from above, acting as a guard of sorts for junior employees. Bester stated that in a meeting with Tsotsi over contracts with emerging miners, 'I was glad that Ms Maharaj was there. She indicated to me that I do not need to respond to that and she took it upon herself to respond to that' (Zondo Commission, 2019j, 114). Similarly contract manager Gert Opperman testified to having the expectation that his superior would protect him from pressure from Koko to resolve a conflict with Gupta-owned mining company Tegeta (Zondo Commission, 2019j, 51). Without this protection Opperman felt that he was unable to 'apply my mind and think what is good for the organisation or think what is good for the mine or either way' (Zondo Commission, 2019j, 52). In the absence of mentors or protection from superiors, direct pressure on employees increased. Bester argued that in approving a coal supply agreement with Tegeta despite certain conditions not being

¹⁵⁹ Online interview with retired Eskom employee who worked at Megawatt Park since the 1970s, January 2019.

fulfilled, ‘my intention was not corrupt, and I may have not followed up on those specific conditions, but there were processes in place that should have ensured that that happened’ (Zondo Commission, 2019k, 25). In his attempt to ‘not aggravate the situation’ (Zondo Commission, 2019k, 26), Bester apparently looked to external processes to catch and prevent the contract being finalised.

Corporate Specialist¹⁶⁰ at Eskom, Sincedile Shweni, made similar statements at the Zondo Commission. Shweni testified that he had sent paperwork for a foreign transaction to the reserve bank (SARB) despite knowing that it contained gaps because he ‘didn’t want to be the one to frustrate the process’ (Zondo Commission, 2019h, 100-1). He underlined that the transaction took place in ‘the environment [where] the only person personally I could trust was just myself and I do not know the – the extent to which other people are having different mandates to what we trying to achieve so one had to protect himself in one way or the other’ (Zondo Commission, 2019h, 101). When Zondo asked Shweni why he did not disclose all information relevant (and potentially detrimental) about the transaction to the SARB he indicated that he hoped the SARB would question the transaction.

[A]t the time it was a difficult balance to strike as to what information do I – I agree there was no way that the Reserve Bank could have read in between the lines and to say there is a problem here...

I hoped the Reserve Bank with what I have put will start asking questions and when they start asking questions then I send them all the information with all the concerns. So that was the thinking. (2019h, 104, 107)

Like Bester, Shweni had attempted to shift the onus for rejecting a transaction to another party, claiming to have left gaps in their paperwork that warranted further investigation, while attempting to protect their positions. These decisions, do reflect a clear gap between official norms and actual practices, demonstrating the apparent flexibility of regulations. However, an acceptance of a degree of corruption or malpractice is not the ‘practical norm’ within this gap.

¹⁶⁰ A position in the company treasury, Shweni’s main duties included compiling the funding plan and raising financing for Eskom (Zondo Commission 2019h, 18).

Zondo has questioned if there was an environment at Eskom and other parastatals that made it ‘difficult for good people to stand for what is right?’ (Zondo Commission 2019j, 53). This question underlines the reality that many of the people tasked with actually distributing rents are not part of a wider political project to cripple the country’s SOEs. However, they are subject to shifting priorities in the ruling party, and contestation with the ANC over who is a legitimate recipient of government rents. One way that predatory rent-seeking at Eskom has worked is by exploiting and exacerbating weaker interpersonal ties and a lack of skills transfer among employees. Without these organisational networks within Eskom, middle managers and executives are held accountable to standards of obedience to the executive with the ANC.

6.6 Conclusion

This chapter identifies the practical norms that inform rent allocation and rent-seeking dynamics at Eskom. It discusses the social and institutional obligations that shape these norms, further clarifying rent-seeking dynamics at the company. Drawing on scholarship on the moral economy of corruption and using ‘practical norms’ as a framework, this chapter argues that it is not that employees accept corruption as part of rent-seeking, but that other pressures have enabled predatory rent-seeking at the company. For instance, in the Primary Energy Division, high turnover of staff contributed to the loss of team members with institutional knowledge and weakened institutional networks. These factors meant that team members were increasingly subject to organisational norms in the ANC, specifically around discipline and obedience.

Studies on the moral economy of corruption address questions on the negotiation of social norms in formal institutional settings (Bracking, 2019; Sanghera, 2016; Olivier de Sardan, 1999; Thompson, 1971). The focus on the intersection between informal social obligations and formal institutions complements an analysis of ‘practical norms’, which relate to the ‘tacitly accepted practices that diverge from official or social norms’ (Olivier de Sardan, 2017b, 26). Using these concepts as a framework mitigates the limitations of analysing professional practices against a Weberian, a-political ideal, which is never fully attainable (Bierschenk and Olivier de Sardan, 2014b, 12; Pitcher et al., 2009, 127).

Eskom has an established set of official norms guiding procurement practices. Yet the adoption of the Medium Term Mandate, which enabled procurement officials to by-pass procurement processes, added a degree of informality to coal procurement at Eskom. According to interview data, personalised processes in the Primary Energy Division added to the sense that procurement was heavily dependent on personal connections. This finding aligns with Olivier de Sardan and Biershenk's assertion that notion that personal relationships are important is unremarkable (2014a, 54). However, it speaks to a lack of centralisation in rent-seeking processes and a lack of clarity over where responsibility lies for deciding who is an appropriate recipient of government rents. This question is fiercely contested and at the heart of some criticisms of the Gupta family as a beneficiary of government rents. For instance, former ministers' condemnation of the family focuses on their legitimacy as beneficiaries not the legitimacy of rent-seeking processes.

At the same time, senior ANC members' testimonies reflect a strong norm around obedience to the executive, where the refusal to carry out 'instructions' or 'deployments' is likely to result in ministers and senior bureaucrats losing their positions. Increased interference with the boards of SOEs, like Eskom, during Zuma's presidency subjected executives to these norms and made it clear that professional security depended on political fidelity. Pressure on board members carried through to employees, with several members of the Primary Energy Division testifying to being under enormous pressure to carry out transactions. This pressure on team members exacerbated already high turnover, and the resulting lack of professional mentorship or support created further opportunities for predatory rent-seeking as employees felt isolated and unable to query transactions without risking their jobs.

In developing an understanding of practical norms guiding professional practices at Eskom this chapter contributes to ongoing debates around the roots of disfunction at the company. The focus of this chapter is narrow and this analysis could be taken further through an ethnographic study of rent-seeking practices in the company. Nonetheless, through its discussion on how practical norms shape rent-seeking and distribution, the chapter demonstrates the value of a process-led analysis of the allocation of public resources. Focusing on the processes themselves contributes a layer of granularity to studies on the political economy of the South African energy sector, which are typically focused on the outcome of high-level dynamics.

7 Conclusion

This thesis examines how rents and rent-seeking processes shape the political economy of South Africa's minerals energy complex (MEC), using Eskom as a case study. Eskom occupies a prominent role in the MEC with access to lucrative rents in the form of 'monopoly rents' or 'rent-like transfers'. Rent-seeking processes to access these resources have reinforced the importance of the MEC as a site of accumulation, even as the direct economic contribution of sectors within the complex (like mining) declines. The ongoing relevance of the MEC is also evident in Eskom's ongoing dominance over electricity generation and its dependence on coal-generated electricity. Eskom is at the centre of ongoing debates around 'state capture' in South Africa, which address the mismanagement of state-owned enterprises (SOEs) during Zuma's presidency. These debates largely blame rent-seeking practices during Zuma's presidency for severely weakening SOEs to the benefit of private networks. This thesis nuances these debates, arguing that disfunction at Eskom can be understood in the context of established rent-seeking processes at the company. For instance, the thesis demonstrates how discourses around transformation and practical norms guiding procurement processes have created opportunities for unproductive, exploitative rent-seeking. The thesis makes this contribution through a conceptual framework that shifts the focus from rent allocation outcomes under a particular government, to examine rent seeking and distribution processes and the factors that shape them.

My findings are based on documentary analysis and data from thirty semi-structured key informant interviews. Purposively selected interviews provide personal insights into rent-seeking processes and triangulate findings from documentary analysis, which draws on publicly available documents. The documents I refer to in this thesis include African National Congress (ANC) discussion documents and policy notes; national development plans and policies; and court and public inquiry proceedings. Transcripts and affidavits from public inquiries also offer personal accounts of rent-seeking dynamics, albeit from the specific context of individuals trying to justify their actions or absolve themselves of potential legal culpability. In addition, these sources include insights from stakeholders I could not access for interviews. My study is particularly focused on rent-seeking in Eskom's Primary Energy Division, which

is responsible for fuel sourcing. This approach offers a degree of granularity beyond studies that rely on high-level policy analysis.

7.1 Analysing rents

The thesis adapts Jomo K.S. and Mushtaq Khan's work on productive and unproductive rents to frame my analysis. Khan distinguishes between different types of rents, arguing that some are more likely to be productive or 'growth enhancing' while others are unproductive and hinder growth (2000b, 21-69). The thesis has argued that Eskom holds 'monopoly rents' in the electricity sector. This is due to its dominance over generation, its position as the biggest buyer of the country's coal (by volume), which enables the company to control access to this market in South Africa. In addition, the government can distribute 'rent-like transfers' through Eskom, treating access to services or jobs as a benefit linked to political leadership as opposed to a resource that any citizen can access. Khan argues that both these types of rents can have productive outcomes depending on their allocation and the rent-seeking processes used to access them (2000b, 68).

For instance, Khan argues that tightly controlled rent allocation in South Korea contributed towards rapid economic growth in the 1960s and 1970s. Research into 'developmental patrimonialism' has similarly considered conditions that facilitate growth under (effectively) single-party states in Rwanda and Ethiopia (Vaughan and Gebremichael, 2011; Booth and Golooba-Mutebi, 2012; Kelsall, 2013). These assessments focus on the centralisation of rent-distribution and the 'time-frame' guiding the distribution of state resources; with a longer time-frame being more conducive to wider developmental outcomes (Kelsall, 2013, 24). Distinguishing between productive and unproductive rents is useful in that it emphasises the importance of understanding how rent seeking and rent allocation processes shape economic outcomes. However, prioritising economic growth as a marker of productivity fails to capture the range of drivers that shape rent distribution and what rent holders may be hoping to achieve through controlling access to these resources. This thesis consequently adopts a broader understanding of what constitutes a productive rent and considers contemporary political needs in its analysis of productive and unproductive rent-seeking processes.

To identify and analyse these contemporary priorities the thesis also uses research into practical norms and moral economy. Jean-Pierre Olivier de Sardan and Tom De Herdt propose practical norms to explain deviations from official norms (rules and regulations that govern institutions) and social norms (that govern behaviour in the private sphere) (De Herdt and Olivier de Sardan, 2017a, 4; Olivier de Sardan, 2017a, 63-5). Practical norms acknowledge that deviations from official norms are ‘unremarkable’ and counter the limitations to analysing bureaucratic practices against ideals of an a-political public service (Bierschenk and Olivier de Sardan, 2014b, 12; Pitcher et al., 2009, 138). Moreover, practical norms are situation-specific (Olivier de Sardan, 2017b, 29) and thus offer a framework to consider the norms that shape rent-seeking in a particular context. Practical norms are closely related to discussions around moral economy, due to the emphasis on identifying the norms that shape behaviour in the public and private spheres. Engaging with these concepts provides a framework to analyse informal practices in formal institutions, shedding light on the factors that shape competition for, and the allocation of, rents at Eskom.

7.2 Rents and rent-seeking processes in the minerals energy complex

Chapter Four historicises rent-seeking at Eskom, discussing the forms of rents that the company offers and how these rents have been allocated. The chapter situates Eskom as a holder of ‘monopoly rents’ to the electricity sector, particularly in the nexus in the MEC between Eskom, the government, and coal mining companies. It also demonstrates the value of Eskom as a source of ‘rent-like transfers’ for successive governments. The chapter argues that while productive and unproductive rents is a useful framework to approach analysis, evaluating productivity in terms of economic growth does not fully capture the purposes and outcomes of rent allocation. As a result, distinguishing between productive and unproductive rents is difficult in practice. Through this discussion the chapter responds to the main research question on how rent-seeking has shaped the political economy of the MEC, as well as the sub-research question on how these processes have evolved within the MEC.

When the government established Eskom¹⁶¹ in 1923, the company linked the government to the country's mineral production, which Anglophone companies dominated, and the means to develop a domestic manufacturing sector (Clark, 1994; Feinstein, 2005, 120). Mining companies for their part benefitted from access to cheap and reliable electricity, which was key to increasing mining production (Fine and Rustomjee, 1996, 8-9; Lang, 1995, 104-5). These linkages between the government, Eskom (and the provision of cheap electricity), and the mining and manufacturing sectors, are also the foundations of the MEC (Baker et al., 2014, 797; Fine and Rustomjee, 1996, 71-95). Fine and Rustomjee proposed the MEC to describe the structure of the South African economy and its dependence on export-orientated industries supported by access to cheap electricity. Fine et al. have also argued that capital accumulation remains concentrated around mining and energy sectors (Fine et al., 2011, 178). There is debate over the extent that the MEC remains an effective way to characterise the structure of the economy as the mining and manufacturing sectors' direct contribution to GDP has fallen (Seekings and Natrass, 2015, 98-100). Nonetheless, the MEC remains useful as a description of an entrenched collection of interests, where political actors use the complex to benefit the interests of specific groups and industries (Baker, 2015b, 248; Baker et al., 2014, 797; Fine and Rustomjee, 1996). Rent-seeking at Eskom has served to reinforce the importance of the MEC as a site of wealth accumulation and resources for political patronage.

In addition to linking political elites in government with economic elites in the mining sector, establishing a state-owned electricity company gave the white-minority government the means to protect jobs for low-skilled white workers. Protecting the primacy of white Afrikaans workers helped promote the National Party's (NP) social ideology during apartheid (Lipton, 1986, 270). Senior management of Eskom were almost always white Afrikaans men, who were closely aligned with political elites and able to ensure that Eskom policies aligned with policies of the national government. For instance, SOEs rigorously enforced the colour bar in wages and promotions in comparison to the more begrudging compliance in the private sector

¹⁶¹ The Electricity Act of 1923 provided for the establishment of the Electricity Supply Commission/ Elektrisiteitsvoorsieningskommissie (Escom/Evkom). Escom/Evkom was renamed Eskom in 1987 alongside sector-wide reforms. For clarity I refer to the company as Eskom for this chapter.

(Lipton, 1986, 43; Feinstein, 2005, 86-7). The distribution of rents from Eskom consequently operated horizontally, between political and economic elites, and vertically as ‘rent-like transfers’ between political elites and their supporters. Beyond immediate rents such as jobs, expanding access to electricity was another example of ‘rent-like transfers’ from Eskom.

The expansion of the national grid to remote farms facilitated the increased mechanisation of the agricultural sector, to the benefit (mostly) white farmers who were another key demographic for the NP. Meanwhile the electrification of non-white areas was effectively ignored until the late 1980s (Eberhard and Van Horen, 1995, 91). These examples reflect the targeted distribution of the electricity grid to facilitate specific economic goals of boosting agricultural production while maintaining the superiority of white communities through privileged access to services. Moreover, moves within Eskom to remove the colour bar in employment and provide electricity to the majority of the population only started once the NP’s political hegemony began to wane in the 1980s. These changes were born out of necessity. Maintaining the colour bar was no longer economically viable, as increased mechanisation meant that training black workers was essential. At the same time, unrest in black townships alongside pressure from companies and international organisations forced the government to accept that townships were permanent and that it was necessary to improve living conditions (Van der Westhuizen, 2007, 114-16).

Eskom was among the most proactive organisations in opening employment opportunities for non-white staff members and tentatively launched electrification programmes for majority black areas (‘electricity for all’) in 1991 (Eberhard and Van Horen, 1995, 88-90; Jaglin and Dubresson, 2016, 22). These politically pragmatic initiatives followed meetings between senior management at Eskom and black community and political leaders as it became increasingly clear that a political transition of some form was on the horizon (Jaglin and Dubresson, 2016, 21-2). According to Ian McRae’s memoirs, the chief executive at the time, this was part of an effort to minimise political interference at Eskom following the transition (2006, 79).

However, Chapter Four outlines the co-operative relationship between company leadership and the government prior to 1994, indicating that it is important not to overstate the extent that Eskom management was ever truly ‘independent’. Maintaining a degree of operational

autonomy from the central government is dependent on pursuing policies in line with the political leadership at the time. Indeed, policies that Eskom began before the end of apartheid – such as electrification programmes – rapidly accelerated once the ANC took office, underscoring the importance of high-level political backing. Access to electricity increased from 57.6% of the total population in 1996, to 80.7% in 2006, and 84.4% in 2017 (World Bank, 2021a). The rapid strides in this metric were an important first step in improving living conditions for millions of South Africans after apartheid, although having access to electricity does not reflect the ways that people use electricity, or if they can afford it. The decision to rapidly improve access to electricity also came at the cost of upgrading or reforming the electricity sector, contributing to widespread load shedding in 2007/2008 (National Energy Regulator of South Africa, 2008; Centre for Development and Enterprise, 2008), Eskom’s first public crisis of the post-apartheid era.

The National Regulator’s report into the 2008 crisis underlined the increase in the cost of coal due to increased dependence on trucking coal to power stations. The high costs led to a reduction in coal stockpiles as building adequate stockpiles would undermine Eskom’s financial position. A lack of planning for immediate short falls in supplies, maintenance issues, and delays to the new build programme compounded gaps in coal procurement, contributing to the crisis (National Energy Regulator of South Africa, 2008, 38-9). In addition, a panel report from the Centre for Development and Enterprise referenced the rapid expansion of employment empowerment programmes without sufficient training as a contributing factor to the crisis (Centre for Development and Enterprise, 2008, 11). The distribution of ‘rent-like transfers’ from Eskom prioritised immediate benefits for the wider population, while keeping electricity costs low. However, the decision to delay upgrade and maintenance plans meant that the 2008 crisis represented a failure to adopt and implement a long-term plan to allocate rents. Structural problems linked to ageing power stations and coal mines compounded difficulties in planning and created opportunities for increasingly unproductive rent-seeking.

7.3 Rent-seeking and transformation

In its discussion of the run-up to the 2008 crisis and intermittent disfunction at Eskom, this thesis also identifies shifts in the horizontal distribution of rents, to accommodate new actors

in the MEC. Chapter Five addresses the question on how discourses around transformation reflect these immediate political priorities and how their operationalisation influences rent-seeking and allocation processes at Eskom. In the South African context, ‘Transformation’ broadly refers to efforts to tackle its colonial past and reverse racial inequality in the country. The chapter positions discourses around transformation as liberation discourses with developmental and nationalist dimensions. Rent seekers can operationalise these discourses to justify unproductive transactions as productive, and pressure subordinates into processing transactions. For instance, in defending the decision to end the renegotiation of Glencore’s supply agreement for Hendrina power station, former Eskom CEO Brian Molefe argued that the company’s “‘hardship” was nowhere near Eskom and South Africa’s’. He also described Glencore as holding the country to ‘ransom’ (Portfolio Committee on Public Enterprises, 2017a, 4, 5). In ending contract negotiations with the firm, Molefe thus presented himself as acting in the country’s wider interests. This same logic was flipped to support the prepayment to the Gupta-owned mining company Tegeta, which the Department of Mineral Resources apparently supported on the basis of the company’s promise to ‘drive transformation’ (Portfolio Committee on Public Enterprises, 2018, 36-7). According to procurement officials, firms commonly claim to be champions of transformation, underling the extent that these discourses are embedded in coal procurement processes. Moreover, the deployment of these discourses in the absence of meaningful results highlights its apparent flexibility and contestation over how to approach transformation.

Discourses around transformation in South Africa are rooted in resistance to apartheid and how the ANC in government articulates its mission as the ruling party. The operationalisation of discourses around societal transformations in post-colonial states is relatively common among liberation parties in power (Paget, 2020; Dorman, 2006; Reno, 2002). Liberation parties come to power promising ‘a new social order’ (Reno, 2002, 842-3) and position themselves as the only party capable of achieving it (Dorman, 2006, 1097). In addition to being the only party capable of delivering this new order, liberation parties can draw on struggle credentials to dismiss opponents, framing them as enemies of the struggle (Dorman, 2006, 1092). Similarly, the ANC regularly draws on the anti-apartheid struggle to discredit its critics and potential political opponents (Beresford et al., 2018, 149; Beresford, 2012, 868; Bompani, 2006, 1142).

In the South African context, being labelled as ‘anti-transformation’ is akin to supporting apartheid. This association with the apartheid regime underpins the power of discourses around transformation in rent-seeking at Eskom.

Black economic empowerment (BEE) policies were one aspect of efforts to ‘transform’ South Africa. Early BEE transactions focused on high-level ownership transfers with politically connected elites as companies moved to gain political capital with the new government (Bowman, 2019, 228; Bracking, 2019, 419). Several interviewees noted the opportunities for aspirant black elites in coal mining, with Eskom and the financial sector eager to facilitate the entry of new suppliers in the late 1990s and early 2000s. This was particularly the case as coal mines aged and demand for new suppliers grew. BEE is also codified through broad-based black economic empowerment legislation (B-BBEE), including a scorecard system to rank potential suppliers. The constitution and public finance legislation, which requires contracts to be cost effective while ‘protecting’ the interests of disadvantaged communities, further embeds transformation and empowerment into SOEs’ operating framework.

Discourses around transformation are inescapable in discussions about rent-seeking at Eskom and all interviewees raised the topic. As well as citing their records in working towards transformation, interviewees spoke of their resentment and sadness at being labelled as ‘anti-transformation’. This accusation carries the implication of an especially treacherous form of selfishness and lends power to discourses around transformation in the rent-seeking process. Witnesses at the Zondo Commission highlighted further instances of accusations that they were hindering transformation by not approving transactions. Interview data and documentary analysis suggests that this coercive operationalisation of discourses around transformation became particularly prominent during Jacob Zuma’s presidency.

As I note above, early BEE deals were a form of horizontal rents that altered the composition of key actors in the MEC. This was also part of a strategy to build a ‘black bourgeoisie’, to act as a ‘motive force for social transformation’ (quoted in Southall, 2004, 314). This built on the concept of a ‘patriotic bourgeoisie’ that assisted the ANC by, for example, paying for school fees and housing during the anti-apartheid struggle (Zondo Commission, 2020b, 20). In providing elites with the financial resources to facilitate the transfer of company shares, BEE

agreements were an extension of these earlier relationships. As previous benefactors contributed to the struggle, the ANC (theoretically) expected this new elite to work towards the national democratic revolution and avoid ‘the temptation...to wallow in the self-satisfaction of newly-acquired material gains’ (African National Congress, 2001b). In positioning a class of black capitalists as the drivers of transformation, this form of BEE represented an approach to transformation within a neoliberal framework. Moreover, with early BEE deals concentrated in sectors within the MEC (such as mining), these sectors became sites of class formation for this new black elite. In facilitating the development of this class, the MEC became racially more diverse, but its underlying structure remained. This regenerated the MEC as a nexus of political and economic power, underpinning resistance to energy sector reforms. Eskom’s dependence on coal-generated electricity further supported the regeneration of the MEC, providing opportunities for aspirant black elites, even as the wider economic landscape made accessing these rents harder.

Zuma’s presidency coincided with the global financial crisis and falling commodity prices, which destabilised high-level BEE transactions as a ready avenue for prospective elites as the private sector lacked the capital to facilitate these transactions (Bowman, 2019, 229-30). Partly in response to this, radical economic transformation (RET) and white monopoly capital emerged as branches of discourses around transformation. RET is expressly opposed to working within existing economic norms, which its proponents argue are behind the failure to see a radical reduction in inequality (von Holdt, 2019, 16; Chipkin et al., 2018, 32; Desai, 2018, 502). RET appears to have found traction with groups with political influence but less ready access to capital than political elites in years immediately following the transition. RET simultaneously critiques the limitations of transformation under market-friendly terms while demanding to benefit from similar processes. This has played out in factional battles within the ANC. For instance, proponents of RET have labelled members of opposing factions as ‘puppets’ of white capital, with the implication that they have little interest in meaningfully tackling inequality (Findlay, 2016a; Findlay, 2016b). Former Eskom executives used similar rhetoric to justify allocating rents to specific actors, over foreign companies who will seek to exploit ‘stupid Africans’ (Zondo Commission, 2020f, 47). This nationalist, pro-African dimension of RET is also present in opposition to increased procurement of renewable energy.

Both sides of the renewable energy debate have repurposed discourses around transformation to justify their position, reinforcing the flexibility of these discourses. For instance, although a ‘just energy transition’ is a global concept, in South Africa the idea draws on discourses around transformation to imagine a more equitable social order. Meanwhile, actors associated with RET depict the renewables sector as foreign and representative of ‘white capital’, racialising debates over the future of the energy sector. This position is linked to the sense that foreign forces are moving to cut off established opportunities for aspirant elites due to banks’ increasing reluctance to finance new coal projects. The desire to preserve the MEC as a site of accumulation for aspirant black capitalists is therefore one factor underpinning resistance to reforming or restructuring Eskom. As well as shedding light on how transformation shapes rent-seeking processes, these findings shed light on how the political economy of the MEC (which rent-seeking processes reinforce) acts as a barrier to reform in the energy sector in response to the global climate crisis.

7.4 Practical norms and rent-seeking processes

The operationalisation of discourses around transformation has been a powerful tool because it draws on established organisational norms on obedience that carried professional and personal consequences. These ‘practical norms’ constitute the unspoken standards of behaviour that deviate from official and social norms (Olivier de Sardan, 2017b). Chapter Six identifies the practical norms that shape rent-seeking dynamics at Eskom. In doing so, the chapter also addresses the main research question by investigating how these norms shape the political economy of the MEC. The chapter demonstrates the influence of ANC norms on professional practices in Eskom, which reduced the organisation’s resilience against unproductive or extractive rent-seeking. It argues that Eskom employees responsible for carrying out transactions do not necessarily approve of or accept unproductive (or extractive) rent-seeking. However, changes at Eskom – particularly a high-turnover of staff – weakened internal networks, reducing resilience to ANC norms around obedience and loyalty to the executive, linking professional security to political fidelity. Meanwhile, interview data and testimonies from public inquiries into procurement practices at Eskom, reflect competing social and institutional obligations that informed their justifications to deviate from official norms.

These competing obligations speak to wider research on bureaucracies in African states. For instance, Peter Ekeh describes the ‘bifurcation’ of the state into ‘two publics’; the ‘primordial public’ which shares the same moral foundation as the social and private sphere, and the ‘amoral’ ‘civic public’, which is associated with colonial institutions (1975, 92). These differing moral foundations justify the extraction of resources from the ‘civic public’ to serve the ‘primordial public’ (Ekeh, 1975, 110). This explanation for how informal networks and social obligations interact with formal institutions has led to the explanation that deviations from official norms are due to specifically ‘African’ forms of governance (Bayart, 2009; Médard, 2002; Chabal and Daloz, 1999; Hibou, 1999; Lemarchand, 1988). Using practical norms as a framework acknowledges these deviations as unremarkable (Bierschenk and Olivier de Sardan, 2014a, 54). As a result, this framework avoids essentialising practices in bureaucracies while recognising the context-specific factors that shape informal practices in public institutions.

There are ‘official norms’ guiding procurement in Eskom, although these appear to have been somewhat flexible in coal procurement processes, due to emergency regulations to mitigate the risk of shortages. The Medium-Term Mandate, which was in place for about a decade until 2018, allowed procurement officials to by-pass public tenders and go straight to potential suppliers. Current and former members of the primary energy division suggested in interviews that coal procurement largely operated through direct contacts between division personnel and mine owners while the mandate was in place. Procurement under the emergency mandate was not entirely *ad hoc*, and suppliers ostensibly had to fulfil numerous requirements. Nonetheless, by-passing public mechanisms did make these processes opaque and reflected the extent to which operations in the primary energy division were personalised. Interview data reinforced this sense of personalised operations at the company, including cases where contract negotiations ended following personnel changes. It is unexceptional that bureaucratic practices diverged from regulations; Thomas Bierschenk and Jean-Paul Olivier de Sardan acknowledge these deviations as a ‘truism of organisational sociology’ (Bierschenk and Olivier de Sardan, 2014a, 54). But understanding the drivers of these deviations further clarifies rent-seeking processes at Eskom and how gaps for unproductive norms emerged.

Linked to the embedding of discourses around transformation, interview data and testimonies speak to a sense that deviations from standardised practices are acceptable if they support Eskom's developmental mandate. Yet, discourses around transformation are not accompanied by a long-term framework to achieve these goals. The protracted use of emergency procurement legislation further undermined the ability to implement various sectoral plans, such as the 1998 White Paper or the 2010 and 2019 Integrated Resource Plans. As I noted earlier, short-termism in coal procurement can be at least partially attributed to increased dependence on short-term contracts. These agreements may have diversified suppliers, but the costs and short time frame covered meant that they were only productive in a limited sense.

Meanwhile, employees in the primary energy division appear to have been unwilling or unable to question transactions if there was pressure from superiors to complete them. Changes to professional culture compounded workers' vulnerability to pressure. Testimonies from the Zondo Commission highlighted the sense of isolation that several mid-level employees felt, reflecting on a lack of protection from immediate managers and not being able to trust co-workers. Several interviewees also made anecdotal comments about turnover accelerating since about 2010, with the loss of 'lifers' undermining mentoring programmes and reducing the transfer of organisational knowledge in the process.

Turnover of executives was also extremely high, compounding the sense of uncertainty across different divisions of the company. Eskom executives are affected by machinations in the ANC, with inquiry testimonies and interview data suggesting that the security of their positions depended on their willingness to follow instructions (ostensibly) from senior party members. Senior ANC members and Eskom executives related their suspensions and dismissals to disobeying the Gupta brothers and by extension, Zuma. It is important to note that many people, particularly former Eskom executives, seem to be making that connection in retrospect. Nonetheless, how people explain and justify their experiences sheds light on these practical norms. Members of the ANC in government referred to the unspoken understanding that ANC 'deployments' had to be carried out. The Gupta family allegedly also drew on these norms in their interactions with Eskom executives, referring to Zuma as 'ubaba' and people who did not work with them as 'ubaba's enemies' (Zondo Commission, 2020a, 6). As Eskom executives became subject to ANC norms around discipline and obedience, and the removal and departure

of division managers accelerated, professional culture at Eskom became subject to norms in ANC. In undermining the organisation's resilience to ANC norms, Eskom employees had limited ability to moderate the rent-distribution process.

7.5 Opportunities for further research

The findings of this thesis could also contribute to studies on energy transitions in South Africa. This growing field of research acknowledges the importance of the political economy of the MEC in hindering the take up of renewables (Baker and Phillips, 2018; Müller and Claar, 2021; Cock, 2019; Munnik, 2019; Baker, 2015b; Swilling, 2012). Yet it can go much further in understanding the organisational dynamics that hinder and facilitate change. This thesis has shown how actions to protect the MEC as a site of rents is one factor underpinning resistance to increased procurement of renewable energy. However, there is also the question of discourses around Eskom as 'too big to fail' alongside repeatedly stalled efforts to reform the company and energy sector more broadly. The desire to protect rents is almost certainly one aspect of this reluctance to significantly change the company, yet it also speaks to unresolved questions over the role of SOEs and approaches to distribution in the post-apartheid state. Addressing these questions would provide further insights into rent-seeking processes and their outcomes in the post-apartheid state.

There is also the possibility of using the thesis's conceptual framework to study the allocation of state resources in other contexts. Framing the allocation of state resources in terms of rents and rent-seeking necessitates considering the nature of these resources and the processes through which rent holders in government distribute them. This level of analysis offers a greater level of specificity beyond frameworks that characterise entire systems of resource allocation. For instance, some research into the allocation of resources in post-colonial African states that has characterised these states as 'neopatrimonial' have used this characterisation to explain poor economic performance and political instability in these countries (Chipkin et al., 2018; Lodge, 2014; Médard, 2002; Van de Walle, 2001; Chabal and Daloz, 1999; Bayart et al., 1999a). The term is consequently linked to ideas around state failure and a sense of disorder in state institutions that is essentially 'African' (Mkandawire, 2015, 594; Gray and Whitfield, 2014, 7; Pitcher et al., 2009, 128). In these cases, the label explains the outcome. In contrast,

this thesis's conceptual framework accepts that informal practices happen in all contexts (albeit to varying extents) and emphasises the importance of understanding how different rent-seeking processes shape rent distribution outcomes. The incorporation of practical norms reinforces this conceptual framework, enabling analysis of the context-specific factors that shape rent-seeking and allocation processes. This conceptual framework is consequently helpful for researchers seeking to consider how informal processes (and their drivers) in state institutions shape resource allocation while striving to avoid normative judgements regarding acceptable and unacceptable practices.

7.6 Understanding rent-seeking and rent allocation processes in South Africa

Like wider scholarship on political patronage in post-apartheid South Africa, this thesis has reflected on the political value of maintaining access to state resources for the ANC in government (von Holdt, 2019; Beresford, 2015; Ferguson, 2015; Lodge, 2014; Booysen, 2012). The ANC-in-government has distributed state resources as party resources, using them to regenerate political support for the party and forge 'familial' networks of dependence between the party and its voters (Booyesen, 2015, 166; Ferguson, 2015, 162). In addition, representing the ANC at a national or local level creates opportunities for self-enrichment, as well as opportunities for personal networks, amplifying competition for these positions (Beresford, 2015, 234; Lodge, 2014, 12; Booysen, 2012, 373-8). This tendency towards using state resources to the benefit of a politically-connected elite appears have become particularly pronounced during Zuma's presidency, which was also accompanied by stronger resistance to, and active undermining of, accountability mechanisms (Du Plessis and Plaut, 2019, 104; Southall, 2016, 83; Booysen, 2015, 13).

Members of the South Africa-based Public Affairs Research Institute have characterised rent-seeking practices during Zuma's presidency as 'state capture', linking the phenomenon to the activities of a specific faction (Chipkin et al., 2018; Swilling et al., 2017; Chipkin, 2016). However, their argument that state institutions have been 'repurposed' to the benefit of specific factions overlooks the extent to which different factions have used access to SOEs in similar, albeit less overtly predatory or extractive ways. This is not to downplay the negative impact of unproductive rent-seeking on state institutions, or to suggest that South Africans' anger over

allegations of mismanagement are misplaced. However, clarifying the conceptualisation of ‘state capture’ is vital in understanding how processes have evolved to this point of apparent disfunction in SOEs.

By analysing the types of rents Eskom holds, and the rent-seeking practices used to access these resources, this thesis introduces important nuances to using ‘state capture’ to understand disfunction at SOEs. In its discussion of the factors driving rent-seeking, this thesis has demonstrated the contradictions in using rents as a method to redistribute wealth and spur class formation in a neoliberal context. For instance, coal supply agreements with Eskom offer lucrative possibilities for potential suppliers and have become increasingly unproductive due to the failure to implement long-term energy sector plans. As a result, the immediate pressure ‘to keep the lights on’ has increased dependency on expensive, short-term contracts, creating opportunities for predatory rent-seeking. Moreover, the tacit understanding among executives and procurement officials that agreements could be ‘irregular’ or less cost-effective (provided they aligned with Eskom’s developmental mandate) contributed to a set of practical norms that actors could manipulate to serve predatory interests. Consequently, while actors associated with the Zuma faction exploited and exacerbated existing weaknesses in rent-seeking processes at Eskom, they did not ‘repurpose’ the company to suit their interests.

In clarifying the processes that contributed to disfunction at Eskom, my findings also have practical implications. For instance, the discussion on practical norms and professional practices speaks to the importance of understanding the institutional dynamics that drive deviations from regulations. Although public inquiries are vital for encouraging transparency, my findings on professional practices suggests that there is a disconnect between actual practices and the regulations that inquiries assess company performance against. In identifying some of the pressures driving unproductive (and predatory) rent-seeking, this thesis points to the importance of coming to grips with these dynamics to manage rent-seeking more efficiently. In addition, my findings on how rent-seeking practices have embedded the MEC as a site of accumulation and class formation can inform efforts to restructure the energy sector. As the government comes under increased pressure to transition away from coal-generated electricity, research into the dynamics that block reforms is essential. This would also mean

coming to grips with contradictions that a private sector driven 'just transition' presents and is a key avenue for future research.

8 Appendix

Interviewee	Sample Questions*	Relevance of data
<p>Anti-corruption agencies representatives</p>	<p>Do you receive many complaints about procurement processes at Eskom? What are some of the most common problems that arise in tendering processes?</p> <ul style="list-style-type: none"> - How have these problems changed over time? - What do you think causes these problems? <p>How do you hear about problems relating to procurement? Do you have much interaction with whistle blowers at the company?</p> <ul style="list-style-type: none"> - If yes, what influences people’s decision to come forward about problems? <p>Do you approach Eskom with your findings?</p> <ul style="list-style-type: none"> - If yes, how you do proceed with raising these concerns? Is company management receptive to your concerns? <p>How effective are public inquiries in tackling corruption in state-owned companies?</p>	<p>Anti-corruption agencies have played a prominent role in advancing narratives of ‘state capture’ in public discourse. They often work with whistle blowers from Eskom and – in the case of larger organisations – organise legal challenges against Eskom to gain access to company documents. Their work with whistle blowers and in challenging Eskom management means that representatives from these organisations can have insights into working culture, speaking to the question on practical norms. I collected data on wider rent-seeking dynamics at Eskom by asking representatives to describe the causes of problems related to procurement processes. Moreover, by avoiding framing this question in terms of ‘state capture’, interviewees can describe these processes without explicitly framing these dynamics as ‘state capture’.</p> <p>In addition, anti-corruption agencies in South Africa often frame critiques of corruption in the context of the costs for development. The question of transformation consequently emerges from these discussions.</p>

<p>Economists & financing specialists</p>	<p>Can you describe Eskom's role in the wider economy? What do you think are the roots of some of the problems facing Eskom? What is your knowledge of coal procurement at Eskom? - How have these processes changed over time? - What are some of the drivers of these changes? How has the growth of renewable energy projects affected the political economy of the sector?</p>	<p>These interviewees offer a removed perspective of the political economy of procurement. Their insights into the macroeconomic role of Eskom speaks to the questions on transformation and the minerals energy complex. These interviewees also provide insight into the pressures on coal mines, particularly in the context of the emergence of renewables and a lack of interest in financing coal mines.</p>
<p>Energy sector consultant, including geologists</p>	<p>What are some of the factors driving coal procurement? What are some of the challenges that arise in Eskom's procurement processes? What are the roots of Eskom's current challenges? Do you think that ongoing public inquiries are tackling these issues? What is your outlook for the energy sector? What role should renewable energy play in the future energy mix? What are some of the barriers to increasing renewable energy procurement?</p>	<p>These interviewees have often worked with Eskom or have contacts in the company. They can speak to issues around the broader political economy of the energy sector and can therefore provide insight into over-arching rent-seeking dynamics. Asking interviewees about the outlook for the sector and renewable energy provides data to respond to the research question on the impact of rent-seeking on the political economy of the minerals energy complex.</p>

<p>Eskom (incl. executives and division managers)</p>	<p>What role should Eskom play in the economy?</p> <ul style="list-style-type: none"> - How can procurement work facilitate this role? <p>How do procurement processes work?</p> <ul style="list-style-type: none"> - What criteria do prospective suppliers need to fulfil? - Have these processes changed since you joined the company? <p>What challenges have you encountered in your position?</p> <ul style="list-style-type: none"> - How have you coped with these challenges? <p>How do you navigate the relationship between private sector and public sector stakeholders?</p> <p>Has working culture changed at Eskom since you joined the company?</p> <p>What is the impact of public inquiries on procurement practices at Eskom?</p> <p>What is your perspective of proposals to restructure Eskom?</p> <p>What is your outlook for the energy sector?</p>	<p>Data from interviews with Eskom contacts speaks to all of the research questions. Posing questions about the role that Eskom should play in the economy and linking this to procurement provides data on the types of rents that the company offers. Asking interviewees procedural questions about procurement processes responds to the research question on practical norms, by providing an opportunity to discuss how practices deviate from regulations. Questions on the challenges that interviewees face and how they negotiated them provides data on rent-seeking dynamics. Posing questions about balancing the interests also speaks to rent-seeking dynamics, as well as questions about transformation, since this is an overarching goal of government policy. Finally, questions about the outlook of the energy sector speak to the research question on the political economy of the minerals energy complex.</p>
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<p>Government officials</p>	<p>What role should Eskom and other state-owned enterprises play in the economy? What were/are the priorities when setting energy policy? Who are the different stakeholders involved in drafting energy policy?</p> <ul style="list-style-type: none"> - How do you balance their interests? - How have these interests changed over time? <p>What are the factors that help or hinder implementing energy policies?</p> <ul style="list-style-type: none"> - How have these shifted over time? 	<p>I approached stakeholders with experience in drafting energy policy. By asking them about the role that SOEs serve in the economy and the priorities in setting energy policy, these interviewees provide data on the nature of rents and their planned outcomes. Asking them about the stakeholders involved in drafting energy policy sheds light on rent-seeking dynamics and the processes behind rent allocation. Similarly, asking about policy implementation provides data into the rent-seeking dynamics in practice and how this affects rents' outcomes.</p>
<p>Lawyers with specialism in public procurement</p>	<p>How do businesses apply for and win government contracts? What are some of the challenges involved in applying for government tenders? If disputes arise how are these dealt with? What are some of the advantages/disadvantages to working with public contracts? Have processes involved in working with public enterprises shifted in your experiences?</p>	<p>Lawyers involved in public procurement experience these processes as representatives of private and public firms. Asking them about procedural processes speaks to the research question on practical norms by shedding light on how procurement works in practice. These interviewees also have insight into how different stakeholders navigate procurement negotiations, providing data into rent-seeking dynamics.</p>

<p>Members of government energy task teams</p>	<p>How do the challenges facing Eskom now compare to previous periods of instability? What are the roots of Eskom’s current problems? What stakeholders are involved in task teams? How successful are task teams in presenting proposals to tackle problems at Eskom? - How do these proposals differ from previous suggestions? What are some of the challenges in implementing these proposals? - How have these barriers shifted over time? What is your outlook for energy sector?</p>	<p>Interviewees from multi-stakeholder task teams have first-hand experiences of the various interests involved in the energy sector. In addition, some interviewees have participated in several energy task teams and have insight into the trajectory of these processes and the barriers to reforming Eskom. Data from these interviews is therefore relevant for the research question on the political economy of the minerals energy complex, as well as speaking to wider rent-seeking dynamics at Eskom.</p>
<p>Renewable energy sector representative</p>	<p>Can you describe the structure of the renewables energy sector in South Africa and the development of the procurement programme? How does the renewables energy procurement programme differ to coal procurement? What is the relationship like between Eskom management, the government, and the renewables sector? What factors explain Eskom’s resistance to embrace the renewable energy producers? How do you address some people’s misgivings about the renewable energy providers? What is the outlook for South Africa’s energy sector?</p>	<p>Interviewees from the renewables energy sector can speak to research questions on the political economy of the minerals energy complex from the perspective of an industry that is disrupting the complex. Public debates over the expansion of the renewable energy sector relate to the prospects for a ‘just transition’. Data from these interviews thus speaks to the research question on discourses around transformation.</p>

<p>Trade union members</p>	<p>To what extent are unions able to influence procurement policy at Eskom? What criteria should Eskom be looking to fill when they advertise coal procurement contracts? How have working practices at Eskom shifted over the last few years? What do you think are the roots of Eskom’s current managerial and financial problems? What is your/your organisation’s perspective of plans to restructure Eskom? How do you/your organisation believe that Eskom should be restructured? What are the political dynamics influencing restructuring Eskom?</p>	<p>Trade union representatives are not actively involved in procurement at Eskom. However, representatives have often worked at or with Eskom for many years. They consequently have insight into working and managerial practices in the company. Unions also have vested interest in proposals to restructure the company and participate in consultative forums with government and other stakeholders. Asking interviewees questions about shifts in working culture provides data to respond to the research question on practical norms. Meanwhile, asking them to discuss pressures on Eskom surrounding procurement and restructuring the company provides data on the political economy of the sector. This includes information on discourses around transformation and Eskom’s role in the minerals energy complex.</p>
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