



Electoral Institute for Sustainable Democracy in Africa

THE 12TH EISA ANNUAL SYMPOSIUM

STATE CAPTURE AS AN OBSTACLE TO DEMOCRATIC CONSOLIDATION IN AFRICA

Wanderers Club, Illovo, Johannesburg, South Africa
28 and 29 November 2017

About EISA

Since its inception in July 1996 EISA has established itself as a leading institution and influential player dealing with elections and democracy related issues in the African continent. The organisation's Strategic Goals are:

- Electoral processes are inclusive, transparent, peaceful and well-managed;
- Citizens participate effectively in the democratic process;
- Political institutions and processes are democratic and function effectively.

The vision of EISA is "an African continent where democratic governance, human rights and citizen participation are upheld in a peaceful environment". This vision is executed through the organisational mission of "striving for excellence in the promotion of credible elections, participatory democracy, a human rights culture, and the strengthening of governance institutions for the consolidation of democracy in Africa".

Having supported and/or observed over 100 electoral processes in Africa, EISA has extensive experience in formulating, structuring and implementing democratic and electoral initiatives. It has built an internationally recognised centre for policy, research and information and provides this service to electoral management bodies, political parties, parliaments, national and local governments and civil society organisations in a variety of areas, such as voter and civic education and electoral assistance and observation. Besides its expanded geographical scope, the Institute has, for the past several years, been increasingly working in new in-between election areas along the electoral and parliamentary cycle, including constitution building processes, legislative strengthening, conflict management and transformation, political party development, the African Peer Review Mechanism (APRM) and local governance and decentralisation.

EISA provides technical assistance to inter-governmental institutions, such as the African Union, the Pan-African Parliament and Regional Economic Communities (RECs), to reinforce their capacity in the elections and democracy field. The Institute has signed Memoranda of Understanding with the African Union (AU), the Economic Community of Central African States (CEEAC); the East African Community (EAC); the Economic Community of West African States (ECOWAS), the International Conference on the Great Lakes Region (ICGLR) and the Common Market for East and Southern Africa (COMESA). EISA also regularly works with the Southern African Development Community (SADC),

EISA has current and former field offices in Angola, Burundi, Central African Republic, Chad, Côte d'Ivoire, Democratic Republic of Congo, Egypt, Gabon, Kenya, Madagascar, Mali, Mozambique, Rwanda, Somalia, Sudan, Zambia and Zimbabwe.

The Institute is overseen by an international Board of Directors and has 70 full time staff.

Programme

Tuesday

28 NOVEMBER 2017

08:30-09:00 REGISTRATION

WELCOME, OFFICIAL OPENING AND KEYNOTE ADDRESS

Session Chair: Dr. Christiana Thorpe, Chair of EISA Board of Directors, Deputy Minister of Education and Former Chairperson of the National Electoral Commission, Sierra Leone

09:00-09:15 **Welcome remarks**
Mr. Denis Kadima, EISA Executive Director

09:15-09:45 **Keynote address and official opening**
Justice Albie Sachs, Retired Judge of the South African Constitutional Court

09:45-10:00 DISCUSSION

10:00-10:30 GROUP PHOTO FOLLOWED BY TEA BREAK

SESSION 1: DEFINING STATE CAPTURE

State capture is a form of corruption, but the two concepts are not fully synonymous, as the term 'state capture' goes beyond the simple looting of state resources for private gain, and targets amongst others, key state institutions that might and should ensure accountability for such acts. It is therefore reductionist to equate 'state capture' with grand corruption, and understanding the term's implications and various guises will enable a deeper analytical consideration of the complexities and challenges state capture implies for democratic advancement in African states.

Session Chair: Mr. Sheik Abdul Carimo Sau, Chairperson of the National Electoral Commission, Mozambique, EISA Board Member

10:30-10:50 **Types and forms of State Capture: A theoretical framework**
Presenter: Prof. Tom Lodge, University of Limerick, Ireland, EISA Board Member

10:50-11:10 DISCUSSION

SESSION 2: STATE CAPTURE AND THE HOLLOWING OUT OF GOVERNANCE INSTITUTIONS

The facilitation of state capture is often achieved through the agency and support of key individuals within the state, often high profile and influential individuals in the government and key state bodies. Under ordinary circumstances, democratic states prescribe the powers of key decision-makers; limits which are most often applied through the strength and scope of state institutions which restrict the privileges afforded to these key individuals. State capture, however, not only circumvents the institutions tasked with limiting the agency of captured decision-makers in the state, the term most often describes the active targeting of these institutions as a method of weakening the institutional safeguards built into a country's constitutional and legal framework. Often, the process of weakening/dissolving these institutions leaves a country with no viable institutional course of correction should illegal practices be exposed in the public domain.

Session Chair: Dr. Victor Shale, Country Director, EISA Zimbabwe

- 11:10-11:30** **State Capture in the USA: Lessons and Challenges for Sustainable Democracy in Africa.**
Presenter: Prof. John Stremlau, University of the Witwatersrand, South Africa, EISA Board Member
- 11:30-11:50** **Capture of the judiciary: A case study from Zimbabwe**
Presenter: Mr. Derek Matyszak, Institute for Security Studies, Zimbabwe
- 11:50-12:10** **South Africa and the capture of the Executive: Undermining transformation?**
Presenter: Mr. Mphumelelo Mkhabela, Centre for the Study of Governance Innovation, University of Pretoria, South Africa
- 12:10-13:00** **DISCUSSION**
- 13:00-14:00** **LUNCH**

SESSION 3: THE FORMATION, SPREAD AND CONSOLIDATION OF COLLUSIVE NETWORKS IN DEMOCRATIC STATES

State capture is rarely possible for single individuals. Far more common is a conspiratorial network of similarly aligned interests within and outside of the state which collaboratively work towards the goal of capturing the state for their private interests. These networks are complex structures which are typically nurtured over time and as the control of these interests over state activities and institutions grows, tend to expand accordingly. However, the collaborative nature of these networks comes with considerable risk, and each new member brings with them the risk of partial or complete exposure. If such exposure comes too early in a group's efforts to capture the state, this can have catastrophic consequences for all concerned. In this context, state capture networks typically employ a range of tactics and methods to 'groom' potential additions to their networks, often investing considerable time and effort into adding to the membership of their collaborative.

Session Chair: Ms. Jessica Ranohefy, Country Director, EISA Madagascar

- 14:00-14:20** **Collusive power blocs and the capture of the political landscape**
Presenter: Prof. Roger Southall, University of Witwatersrand, South Africa

- 14:20-14:40** **The exploitation of natural resources: The case of the 'Rosewood scandal' in Madagascar**
Presenter: Ms. Randrara Rakotomalala, Assistant Programme Officer, EISA South Africa
- 14:40 – 15:00** **DISCUSSION**
- 15:00 – 15:15** **TEA**

Session Chair: Dr. Roukaya Kasenally, University of Mauritius, Mauritius, EISA Board Member
- 15:15 -15:35** **The capture of the military by political interests to entrench political power**
Presenter: Mr. Mohamed Elgohari, Atlantic Council's Hariri Center for the Middle East Arabic, United States
- 15:35 – 15:55** **Africa Australis: Imperium in imperio?**
Presenter: Prof. Anthoni van Nieuwkerk, Wits School of Governance, South Africa
- 15: 55– 16:15** **DISCUSSION**
- 18:00** **COCKTAIL AND BOOK LAUNCH**

Checks and Balances: African Constitutions and Democracy in the 21st Century
Edited by: Mr. Grant Masterson and Mrs. Melanie Meirotti
- END OF DAY ONE**

Programme

Wednesday
29 NOVEMBER 2017

08:30-09:00 REGISTRATION

SESSION 4: STATE CAPTURE THROUGH ELECTIONS & POLITICAL COMPETITION

At an advanced stage, the capture of the state by private interests is often able to completely insulate its patrons from almost all forms of accountability from within the state. In such circumstances, credible elections are often seen as the final bastion against complete annexation of the state's right to govern by private interests. However, given the nature of state capture projects, and the philosophy of avoiding accountability which is built into their DNA, the manipulation and corruption of electoral processes is the final, inevitable step. Yet detecting when this may be happening is extremely challenging, and even when such efforts are diagnosed, the nature of state capture itself presents significant challenges for the citizen concerned with the credibility of their vote.

Session Chair: Prof. John Stremlau, University of the Witwatersrand, South Africa, EISA Board Member

- 09:00-09:20 **Encoding rules of the electoral game to benefit private interests: Case studies from Africa**
Presenter: Ms. Olufunto Akinduro, Head of Elections and Political Processes, EISA South Africa
- 09:20-09:40 **Campaign finance and captured political interests: Lessons learned from the OSCE region**
Presenter: Dr. Marcin Walecki, Democratization Department, OSCE/ODIHR, Poland
- 09:40-10:00 **Perceptions of systematic corruption and the corrosion of democratic culture and institutions**
Presenter: Mr. Sibusiso Nkomo, Institute for Justice and Reconciliation and Afrobarometer, South Africa
- 10:00-10:50 DISCUSSION
- 10:50-11:10 TEA BREAK

SESSION 5: INSTITUTIONAL ACCOUNTABILITY: THE ROLE OF ALTERNATIVE ACTORS

Where the capture of the state by private interests has become deeply entrenched in the state's composition, normal procedural processes (such as resorting to legal challenges) are often rendered redundant by the very nature of the captured state itself. In such instances, alternative mechanisms of accountability such as the media and non-state actors become critical in continuing to challenge the exploitation of the state for private gains. This often characterises these actors in opposition to the state, which creates complexities for the media and civil society actors when relating to the state. Yet, in the absence of alternative options, these actors are the last line of defence in advocating for accountability and by exposing corrupt and illegal practices within the state.

Session Chair: Ms. Ilona Tip, Operations Director, EISA South Africa

- 11:10-11:30** **Buying and manipulating the media in Kenya**
Presenter: Ms. Nanjala Nyabola, Political Analyst, Nairobi, Kenya
- 11:30-11:50** **The use of state institutions to repress the media and limit access to information**
Presenter: Ms. Pili Mtambalike, the Coalition on the Right to Information/the Media Council of Tanzania, Tanzania
- 11:50-12:10** **The role of civil society in the fight against state capture: Practical Lessons from East Europe**
Presenter: Dr. Alexander Stoyanov, Center for the Study of Democracy, Bulgaria
- 12:10-13:00** **DISCUSSION**
- 13:00-14:00** **LUNCH**

SESSION 6: SUMMARY OF PROCEEDINGS AND CLOSING

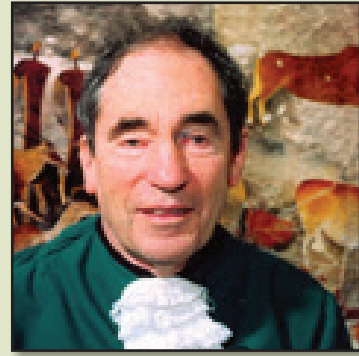
- 14:00-14:30** **Summary of proceedings and way forward**
Presenter: Mr. Miguel De Brito, Country Director, EISA Mozambique
- 14:30-14:45** **Vote of Thanks and Official Closing**
Presenter: Ms. Ilona Tip, Operations Director, EISA South Africa
- 14:45** **TEA AND CLOSE**
- END OF DAY TWO**

Presenters



Mr. Denis Kadima

Mr. Denis K. Kadima is the Executive Director of the Electoral Institute for Sustainable Democracy in Africa (EISA). He has participated in over 100 electoral and political processes worldwide in different capacities. In July 2010 he worked for the United Nations as the Director of the United Nations Referendum and Electoral Division supporting the self-determination referendum of South Sudan. In 2011 he was deployed as the Elections Chief Technical Advisor of UNDP in Tunisia and helped to kick-start preparations for the first post-Arab spring elections. Mr. Kadima has published extensively on electoral processes and party systems. In 2000 he founded the accredited Journal of African Elections and is presently the editor of this journal. Mr. Kadima is a board member of the Open Society Foundation's Africa Regional Advisory Committee, member of the Board of Trustees of the Oslo Center and a board member of the Geneva-based Peace Nexus Foundation.



Justice Albie Sachs

Justice Albie Sachs is an activist and a former judge of the Constitutional Court of South Africa (1994 – 2009). He began practising as an advocate at the Cape Bar at the age of 21, defending people charged under the racial statutes and security laws of apartheid. After being arrested and placed in solitary confinement for over five months, Sachs went into exile in England, where he completed a PhD from Sussex University. In 1988, he lost his right arm and his sight in one eye when a bomb was placed in his car in Maputo, Mozambique. After the bombing, he devoted himself to the preparations for a new democratic constitution for South Africa. When he returned home from exile, he served as a member of the Constitutional Committee and the National Executive of the African National Congress. He is the author of several books, including *The Jail Diary of Albie Sachs*, *Soft Vengeance of a Freedom Fighter* and *The Strange Alchemy of Life and Law*. His latest book, published with Wits University Press is *We, the People: Insights of an activist judge*.

Sachs has travelled to many countries sharing his experiences in order to help heal divided societies.



Professor Tom Lodge

Professor Tom Lodge is Professor of Peace and Conflict Studies and was the faculty dean at the University of Limerick between 2011 and 2017. He is currently on sabbatical in France affiliated to "Les Afriques dan le mone" at Sciences-Po, Bordeaux. Until his appointments at the University of Limerick he worked at the University of the Witwatersrand in Johannesburg. He has worked with EISA in various ways since 1999 and is at present a director on its board. He is the author of several books about South African politics, most recently *Sharpeville: An Apartheid Massacre and its consequences* (Oxford 2011). His most recent research has focussed on the efforts of African governments to address the HIV/AIDS pandemic.



Professor John Stremmlau

Professor John Stremmlau is a visiting Professor, International Relations, at the University of the Witwatersrand in Johannesburg, South Africa and a visiting Bradlow Fellow at the South African Institute of International Affairs.

He served from January 2006 until January 2015 as vice president for peace programs at The Carter Center, where he oversaw the Center's programs to advance human rights, democracy, and conflict resolution globally; regional cooperation in the Americas; and promotion of grassroots democracy, rule of law, and social justice in China.

From 1998 to 2006, he resided in South Africa where he was Jan Smuts Professor, Head of the International Relations Department, and the founding co-director of the Centre for Africa's International Relations at the University of the Witwatersrand.

Previously, he served as senior adviser to the Carnegie Commission on Preventing Deadly Conflict in Washington, D.C. (1994-1998), deputy director for policy planning in the office of the U.S. Secretary of State (1989-1994), strategic planning officer for the World Bank (1988-1989), and an officer of the Rockefeller Foundation (1974-1987), directing its international relations division from 1984-1987.

Prof. Stremmlau publishes extensively on foreign affairs and is a frequent media commentator on international network news programs. He authored 'The International Politics of the Nigerian Civil War' and edited several books.



Mr Derek Matyszak

Mr. Derek Matyszak joined the Institute for Security Studies (ISS) in 2017 as a consultant in the Peace and Security Research Programme, working on the economic, political and security dynamics in Zimbabwe. He left private legal practice in 1991 and spent the next 17 years lecturing law at the University of Zimbabwe. After that, Derek was a senior researcher with a Zimbabwean governance non-governmental organisation. He has an LLB from the University of Cape Town, South Africa.



Mr Mpumelelo Mkhabela

Mr. Mpumelelo Mkhabela is a fellow at the Centre for the Study of Governance Innovation at the University of Pretoria, where he is studying for a PhD in Political Science.

He has in depth knowledge of the South Africa's political system and policy developments. He has worked as a senior journalist for major publications in South Africa, including City Press and the Sunday Times. He had a stint as Power FM station manager and he writes a weekly political column on News24. The former chairman of the South African National Editors' Forum has edited some of the iconic South African publications – the Daily Dispatch and Sowetan. While editing the two titles, he was twice listed among South Africa's most influential young South Africans in the Mail & Guardian's editions that recognised young trailblazers.

He holds an MA in International Politics, BA Honours in International Politics (UNISA), BA Honours in Journalism (Stellenbosch University), BA Honours in Political Science (University of Limpopo).



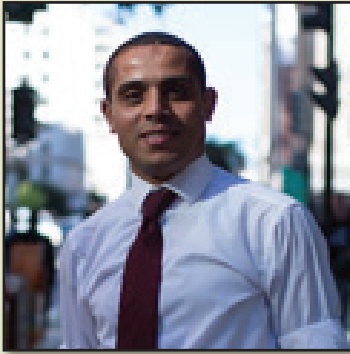
Professor Roger Southall

Professor Roger Southall is Emeritus Professor in Sociology, University of the Witwatersrand. He was previously Executive Director, Democracy and Governance, at the HSRC and before that Professor of Political Studies, Rhodes University. His books include *The New Black Middle Class in South Africa* (2016) and *Liberation Movements in Power: Party and State in Southern Africa* (2013). He has also published extensively in academic journals.



Ms Randrara Rakotomalala

Ms. Randrara Rakotomalala is an Assistant Programme Officer within the department of Elections and Political Processes (EPP) at EISA Head Office, where she coordinates and implements EISA's projects related to technical assistance to the Southern African Development Community (SADC) and ACE electoral knowledge network. Before joining EISA Head Office, she worked for the Madagascar country office in the area of gender and governance. She also has experience with the United Nations Development Programme (UNDP) in Indonesia, on a programme related to women's participation in democracy and governance. She holds a Masters in Development Studies from the University of Paris 1 Panthéon-Sorbonne in France, and also has an academic background in law.



Mr Mohamed Elgohari

Mr. Mohamed Elgohari is a PhD candidate at George Mason's Department of Sociology and Anthropology where he is pursuing a PhD degree in political sociology. His research focuses on authoritarianism, democratization, state-society relationships, and the political role of social and grassroots movements within the Middle East. He completed his MA at New York University in Comparative Politics. His Master's thesis analyzes the political role of the Egyptian Ultras groups by examining the contentious relationship between the state and society by focusing on the post-revolutionary politicization of these groups. Elgohari is currently leading the Atlantic Council's Hariri Center for the Middle East Arabic website as their Arabic content editor. The Atlantic Council is one of the leading think tanks in Washington DC, United States.



Professor Anthoni van Nieuwkerk

Professor Van Nieuwkerk holds an MA in political science from the University of Johannesburg and a PhD in international relations from Wits University, Johannesburg. He has been research-active from the early 1990s and has pursued an academic career in teaching, training and policy analysis from 2000.

He acquired extensive management skills as research director at the Institute for Global Dialogue, the Wits School of Governance and as Assistant Dean (Research) for the Faculty of Commerce, Law and Management at Wits. In 2013 he received recognition by the National Research Foundation as a rated scholar.

He teaches and supervises postgraduate students in the areas of public policy, African security, and international relations (with an interest in foreign policy analysis).

Van Nieuwkerk publishes widely on foreign and security policy, has participated in several scenarios development exercises, and has broad experience with advising African policymakers on foreign and national security policy processes and frameworks.

He is a visiting lecturer and external examiner at academic and training institutions in South Africa and elsewhere on the continent, and serves as editorial board member of the accredited journals African Security, South African Journal of International Affairs, and the European Journal of International Studies.



Ms Olufunto Akinduro

Ms. Olufunto Akinduro is the Head of Elections and Political Processes at the Electoral Institute for Sustainable Democracy in Africa (EISA). Prior to joining EISA she worked for over five years in the field of democracy and elections in Nigeria. She holds a Masters in Democracy and Governance from the Institute for Social Studies, The Hague and a Masters in Peace and Conflict Studies from the University of Ibadan, Nigeria



Dr Marcin Walecki

Dr. Marcin Walecki is from Poland. He is the Head of Democratization Department with OSCE/ODIHR. Marcin is a seasoned expert who has worked on anti-corruption and political finance, political party assistance in some 40 countries.

He has over 15 years of democracy assistance and governance experience working in more than 35 countries around the world implementing programs that ranged from anti-corruption and political finance, political party assistance and development, to gender equality. Prior to joining the OSCE Office for Democratic Institutions and Human Rights, he was the Executive Director of the Brussels based European Partnership for Democracy (EPD). He has written for numerous publications on democratization and democratic governance. A graduate of Oxford University, Dr. Walecki studied there law and political science.



Mr Sibusiso Nkomo

Mr. Sibusiso Nkomo is the Afrobarometer Network assistant operations manager for communications based at the Institute for Justice and Reconciliation in Cape Town, South Africa. He oversees and supports country-level and global results disseminations, both by providing direct management and technical assistance to national partners and by mentoring/training Afrobarometer regional communications coordinators. He also works on building strategic partnerships with key stakeholders and ensure Afrobarometer's engagement in important policy debates. He holds a MA in Journalism and Media Studies at the University of the Witwatersrand, Johannesburg. He also took a BA in Socio-Informatics, Political Science and, Values and Policy Studies and a Postgraduate Diploma in Marketing from Stellenbosch University.



Ms Nanjala Nyabola

Ms. Nanjala Nyabola is a Kenyan writer, independent researcher and political analyst based in Nairobi, Kenya. Her work focuses on conflict and post conflict transitions, as well as East African politics generally. She publishes political commentary frequently for publications around the world.



Ms Pili Mtambalike

Ms. Pili Mtambalike is a veteran journalist with over 30 years experience working in various capacities in the media and outside the media. She started her journalism career as a reporter in 1982 with the then Tanzania News Agency (SHIHATA). She later joined UNICEF in 1992 where she worked as a Communication Expert and a Media Liaison Officer up to 1998 when she joined UNDP as a Communication Expert in the National Multi sectoral HIV/AIDS Programme executed by the National Aids Control Programme (NACP).

Ms. Mtambalike is one of the founder members of the Tanzania Media Women's Association and served as its Secretary General from 1992-2000.

Ms. Mtambalike joined the Media Council of Tanzania (MCT) in 2001 as a Programme Officer and is currently the Programmes Manager of the media industry self regulatory body. She has co authored two books, one on Media Ethics and the other on Gender and the Media.

She is a human rights activist and currently sits in the Boards of the Legal and Human Rights Centre (LHRC) and the Tanzania Media Foundation (TMF) which provides funding to individual journalists and media houses to fund investigative and public interest stories.



Dr Alexander Stoyanov

Dr. Alexander Stoyanov is Director of Research of CSD and Director of Vitosha Research. Since 1991 worked on a number of social and market research projects in the fields of social and economic behaviour, social justice and institutional structure of Bulgarian NGOs, corruption monitoring and anticorruption policy assessment supported by the EC, UNDP, the World Bank and USAID. He has designed and managed more than 200 quantitative and qualitative international, national and regional surveys (social, marketing, and opinion research).

Dr. Stoyanov is Associate Professor in the Department of Economic Sociology at the University of National and World Economy in Sofia.

Symposium Overview

For the past twelve years, EISA has held an annual continental symposium, focused on a selected democracy and governance issue. The ambition of the EISA Symposium is to not only facilitate academic discourse and critical analysis, but incorporate the views and experiences of policy practitioners and civil society stakeholders in the substance of each Symposium's subject matter.

- The first Annual Symposium, in November 2006, examined the challenges of conflict, democracy and development in Africa.
- The second, in October 2007, focused on a policy discussion around the prospects for sustainable democratic governance in Africa in an environment of dire socio economic conditions and entrenched poverty.
- The third, in October 2008, dealt with the challenges facing civil society engagement with the African Peer Review Mechanism.
- The fourth Symposium focused on the problem of persistent, violent election-related conflicts in Africa with a view to understanding their causes, magnitude and consequences for democratic governance.
- The fifth, in November 2010, provided a platform for political parties from across Africa to develop benchmarks to support political parties in institutional development and to enhance democratic systems of governance through political parties.
- The sixth Symposium in November 2011 explored the role of ICT in promoting political change in Africa. It provided a platform for stakeholders from across the continent to share experiences and learn best practices on the use of ICT and its impact on democracy and elections.
- The seventh EISA Symposium in March 2013 reviewed the two decades of election observation in Africa since the re-introduction of multi-party elections.
- The eighth, in September 2013, focused on causes and consequences of political party alliances and coalitions in Africa.
- The ninth Symposium held in December 2014 offered the platform to share experiences, harness lessons, and examine best practices regarding gender equality and participation of men and women in politics in Africa.
- The tenth symposium focused on recent constitutional reforms and the promotion of constitutionalism and how these impact on the progress of democratic governance in Africa.
- The eleventh symposium which coincided with EISA's 20th Anniversary and was held in October 2016. The symposium reviewed democratisation efforts in Africa over the past several decades with a view to pinpointing the factors that are influencing positively and negatively the continent in its trajectory of democratic consolidation.

The theme of the 12th annual symposium is "State capture as an obstacle to democratic consolidation in Africa" This gathering will explore how the phenomenon of state capture impacts the consolidation of democracy in Africa, exploring specifically its influence on elections; the institutionalization and normalization of democracy; and the transformation of post-colonial states.

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