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Cyril under the microscope

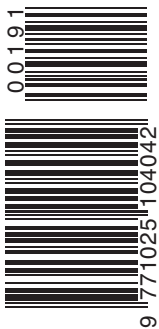
– as Eskom plays Russian Roulette with Glencore

Spies, damned spies and more lies

ANC's sneaky land grab plan



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Squandering Struggle gains

PERIODICALLY MY STANCE ON AFFIRMATIVE action draws critique accompanied by insult. I am neither anti-black nor pro-white, I promote an equal society in a free market system where everyone is treated in accordance with the Constitution. Bheki Mashile's response (*nose* 189), albeit narrow, is welcome, as it means that he is engaging with the important South African issue of blackness.

I applaud his farming and community newspaper endeavours – we need more citizens like him – but I despair at his narrow perspective of what it means to be a black man.

In the US, affirmative action was implemented to protect minority rights, whereas in South Africa it protects majority rights. The United States is rethinking affirmative action since it has not been as successful as hoped. Jason Riley's book *Please Stop Helping Us: How Liberals Make it Harder for Blacks to Succeed* and writers Thomas Sowell and Walter Williams extensively describe how affirmative action has harmed black advancement in the United States.

As Riley says, "if a policy, however

well-intentioned, interferes with that self-development... it does more harm than good". According to Riley, "more than 80% of black kids in New York City public schools are performing below grade level. A big part of the reason for this low performance is the sub-culture of children who reject the attitudes and behaviours conducive to doing what has to be done to achieve academic success. Black kids read half as many books [*as white kids*] and watch twice as much television".

This is reflected in our townships where children have adopted this sub-culture against performance, restyle their uniforms, openly smoke dagga and engage in anti-establishment behaviour that rejects sound morality, self-respect, and concern for their fellow human beings.

Affirmative action in South Africa had noble intentions, but it has had unintended consequences. I would like to see affirmative action abolished and a situation whereby all South Africans have equal access to opportunities.

We cannot achieve a unified nation if access to opportunities is limited to certain groups. We need less divisiveness and more inclusivity. Affirmative action in South Africa is inherently racist and perpetuates a race-based society where the oppressed have become the oppressors.

Race-based legislation only benefits the connected few. Poor black South Africans are the biggest casualties. The economy suffers when the best skills aren't used to drive it. There is enough evidence to back these failures. South Africa fought and defeated the racist apartheid system to normalise our society.

When dissenting voices are shut up instead of heard, we are on danger-

ous ground. It is every South African's democratic right to voice our opinions.

Mashile ascribes the advancement of South African black people to affirmative action, suggesting that black people are incapable of advancement without assistance. Black people are capable, and it's unfortunate that Mashile thinks that black people require assistance to achieve anything in life. For decades black people have been saying what Jason Riley says, that "liberal solutions to the black problems [*are*] as wrong-headed today as they have ever been" and "it's not that they don't work, it's that they make matters much worse".

If we look at cash crops introduced by the colonialists, they didn't create employment, they trashed self-sufficiency. South Africa's mining industry employs on its own terms, management hires and fires at will, and they tear breadwinners away from their families. We must push back against the "fake altruism" that Riley refers to, and ask ourselves "At what point does the helping start hurting"?

It is insulting that Mashile ascribes any thought that is different to mainstream black thought as trying to be white. It is criminal to ascribe whiteness to a black person who aims to be eloquent, who aims to uphold standards for themselves.

Good language skills and a life with integrity aren't the preserve of white people. Who has attached these attributes to white people? The same black people who whine that whites behaved so badly during apartheid, that their opinions are not valid?

Jason Riley validly states that "Liberals and intellectuals do black people no favour when they make excuses for black cultural defects instead of denouncing them... Blacks ultimately must help themselves. They must... develop the habits, characteristics, behaviour that other groups have developed".

Contrary to Mashile's assertion that this is aiming for whiteness, these attitudes don't eradicate our blackness, they develop our blackness, enhance our contribution to society,



"I think we should downsize our poetry"



Herman Mashaba... Don't squander Struggle gains

and promote a stronger South Africa. The liberation struggle achieved a democratic South Africa, but legislation promoting divisiveness squanders the Struggle movement's gains. To aim for an equal society we need to reject any form of racism that interferes with that goal.

Herman Mashaba
Johannesburg

■ IN RESPONSE TO BHEKI MASHILE'S defence of BEE and other affirmative action (*nose189*): I agree that some correction was needed, but the way the policy has been implemented is disastrous. Putting people into positions way above their capabilities has resulted in 90% of affirmative action and BEE benefits going to 1% of the population and this 1% doesn't seem to give a damn about the have-nots.

As a white South African male in his 50s (poster boy of the privileged minority) I have not been able to find employment in South Africa since the mid-1980s but found plenty of opportunity in our neighbouring countries. Therefore all the tax I have paid for the past 30 years has not been in South Africa, so this flagrant squandering of taxpayers' money is no skin off my nose.

The worrying part is that a growing number who have been denied the benefit of affirmative action by those who greedily scooped it for themselves are turning to crime. This has me reassessing my decision to return to SA.

Barry Ellis
Bulwer, KwaZulu-Natal

■ I WAS DISAPPOINTED TO READ BHEKI Mashile's take on affirmative action (*nose189*) and his interpretation and criticism of Mashaba's success with *Black Like Me*. He should read Dr Chika Onyeani's books for his enlightenment. Communism, socialism and even democracy work well in theory but the real test comes when they are put into practice and the chinks are exposed. These gaps apply to Bheki's interpretation of affirmative action, which is confirmed when he says "We deserve to be more than ANC flag-waving, freedom-song-singing darkies".

Yes, you do deserve something more, provided you adequately fulfil the prerequisites of whatever you deem to deserve. One has to earn respect, it cannot be demanded.

It is acknowledged worldwide that the institution of affirmative employment policies should specify a time frame within which the playing fields should have been exponentially levelled; after that, they will surely impact negatively on the economy.

Purely to comply with a quota system, irrespective of the competence of such "deserving" people, will result in increased overheads and compromised productivity.

The ripple effect of inefficiencies, of which there are many glaring examples, will negatively affect the economy – and has done so.

It takes – should take – more than affirmative action to achieve success.

C Alexander
Durban

I couldn't tell you

The silence now
that you've left the room
fills my lungs and
empties my mind
of all except
the thing I couldn't tell you.

Ingrid Andersen
(*Piece Work*, Modjaji Books)

VW named and shamed

I READ WITH INTEREST YOUR ARTICLE ON Baz Bus and Volkswagen. It seems we have another CEO who needs to be dragged through the mud outside his office as he does not wish to step out of his ivory tower and deal with the real issues facing his organisation.

Perhaps your publication should start a column in which such nefarious individuals are named and shamed.

Jaron Tobias
Johannesburg

I reckon we're doing a pretty good job of it already! – Ed.

SAA loyalty scheme fight or flight

PRIOR TO MARCH, A RETURN BUSINESS Class ticket on SAA to Europe would be issued by redeeming 90,000 Voyager miles. Since then, 529,364 "miles" are required for the same ticket – an increase of almost 600%. This is

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supposed to be a loyalty programme to keep customers loyal to SAA.

I was promised that by accepting an SAA Voyager credit card, I would accumulate and redeem “miles”, but if I have to spend R6 for each “mile”, I must spend more than R3 million to get a Business Class ticket. This opens the door to competition from more efficient loyalty card operators such as Discovery, BA, KLM, Emirates etc and puts another nail in the coffin of SAA.

So much for Brendan Seery of Independent Newspapers and his story: “SAA’s miles of smiles ‘game changer’”.

Suretha Cruse, SAA Executive Customer Loyalty, please respond.

Vaughan Johnson
Cape Town

Noseweek already demonstrated SAA’s cynical approach to its Voyager scheme 12 years ago (see nose46). – Ed.

Canned hunting: why deny it?

THE LATEST HORROR STORY OF THE KILLING of Cecil the lion, which has travelled as far as the UN, gives us the opportunity to create new laws and regulations to curb the destruction of wildlife before it is too late.

The primitive blood lust of some humans appears to be insatiable, more deplorable in the case of so-called “educated westerners”. How are we able to motivate the less fortunate, if individuals like the American dentist set such a bad example?

Minister of the Environment Edna Molewa, several weeks ago in the *Sunday Times* denied that “canned” lion hunting was taking place in South Africa; if it was, then only a few individuals might be guilty of such vile conduct, she claimed. That she made the announcement at all – and so publicly – begs the question: why?

Lion breeding farms abound in this country; these farmers openly tout their wares. How can Molewa deny such obvious facts? Why is she white-washing these people? What is she gaining in the process to compensate her for this failure of her role as custodian of wildlife? Nothing is sacred in this era of corrupt governance in South Africa.

Pat Werdmuller von Elgg
Solara Organic Wines
McGregor, Western Cape

Covered yet stark naked

CAIAPHAS KHUMALO’S GOOD ARTICLE ABOUT insurance, “Read the small print – or else!” (nose180), gave a scary glimpse of the tiny tip of a very large iceberg. I was astonished to read the following in a NestLife policy document:

“This cover excludes loss of limbs, the sight of both eyes or the loss of the use of one limb and sight in one eye.” This is the last sentence in a NestLife policy document defining disability as a result of an accident.

This type of policy is marketed to those on low income as a personal risk protection deal, which includes cover for personal accident disability ...until one reads the small print, which is brutally clear: there is no accident cover.

Ian Pringle
Constantia, Cape Town

PS. My interest in this came about because my part-time gardener’s wife lost her forearm in a bus accident and NestLife declined to pay, citing the above clause.

Robbed of a good read

I HAVE NOTED WITH CONCERN THAT THE quality of reporting in the *Cape Times* has dramatically decreased over the past couple of months and my favourite journalists e.g. John Scott (nose184) have all been given the chop. It is not even worth opening the paper in the morning as it seems that Tony Ehrenreich has become its chief reporter.

Seeing that the quality of your magazine on the other hand has greatly improved of late (in absence of lengthy seedy matrimonial items) I wonder if you could not give John Scott, Judith February, Tony Weaver and all the others regularly some space in your magazine. I am sure its circulation will greatly improve.

One of my favourites is “Letter from Umjindi” and I also enjoy very much the more up-date political and economic issues. In fact I have read the last few publications from beginning to end. How is that?

Ingrid Hoffmann
Rondebosch, Cape Town

Ingredients offer food for thought

DO THE MULTINATIONAL PRODUCERS OF OUR foods have a moral or ethical obligation to ensure that the processed food on our shelves contains little or no artificial or possibly toxic chemicals?

The listed ingredients hide behind chemical terms, and who but a pharmacist, knows what they are?

Just about all processed foods contain artificial vitamins, minerals, flavour enhancers, colourants and preservatives, which have no nutritional value whatsoever. In fact I believe they can be harmful when ingested on a daily basis.

Standard bread has a preservative allowing it to last for up to six weeks in a fridge, therefore it cannot be a healthy food for anyone, especially the poor, whose staple diet is refined white bread and refined mielie meal. Any added vitamins are destroyed in the cooking. Is it false advertising?

Those who work in the poorest communities know that these are the very people who have grown so accustomed to high sugar content, that six teaspoons of sugar in a cup of tea/coffee is not unusual.

Sodium (benzoate/chlorite), leading to high blood pressure, is another ingredient added to most processed food as a preservative. Few people other than pharmacists know that sodium extends shelf-life but shortens human life. Recommended sodium intake is less than 1,500mg per day. I have checked hundreds of canned and packaged foods and all of them list salt and sodium in pretty high levels.

Are we being hoodwinked into believing anything that the manufacturers and their marketing agents state on their products has any truth?

Supermarkets have the clout to force manufacturers to reduce sugar, salt, sodium and all other toxic additives in products which they promote and sell, even though it is not their obligation to do so. However, they do have a moral obligation to ensure that what they sell is not detrimental to health.

I believe that most of the illnesses presented at clinics and hospitals are due to poor knowledge of what is in the food carefully targeted at the poorest of poor.

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Glimmer at the end of the tunnel

IN THESE DESPERATE TIMES, WHEN OUR national institutions are collapsing under the weight of corruption and incompetence, light at the end of the tunnel! I have found a glimmer, a spark in two exceptional high court judgments delivered this year by two judges who have had the courage to acknowledge and face up to this national crisis; judges who are brave enough to face the reality that, if they are to achieve an effective, fair result, they should have less regard for costly, time-wasting legal technicalities and shift the focus to how best to achieve a just and practical result in the present circumstances.

These judgments may not have reached the law reports, they may even not make it past the M'luds of the Supreme Court of Appeal, but they certainly deserve to be recorded and celebrated.

These judges have been prepared to descend from the ivory tower and get the dust of the street on their shoes. The admit to sharing the desperation of ordinary citizens. However, both have sufficient professional self-esteem to dare speak truth to power, whether it be that of the government or the country's biggest corporations and law firms.

Last month *Noseweek* reported on a judgment delivered by Acting Judge Esther Steyn in the High Court in Durban. To recap: the governing ANC majority in the eThekweni metro council had voted unanimously – for reasons to be guessed – to approve a developer's plans for the construction of a nine-floor Berea apartment block that contravened zoning, height, bulk and other planning regulations. It deprived numerous neighbours of their views and privacy, destroying the green aesthetics of the grand old neighbourhood and substantially reducing the value of neighbouring properties – all without giving neighbours prior notice, sight of the plans and the chance to lodge their valid objections.

By the time neighbours saw what was happening and applied for an order compelling the council to follow proper procedure, the building was already soaring above them.

Acting Judge Steyn quite reasonably saw no point in referring the matter back to the council, which was fatally compromised and unlikely to reverse its earlier, unlawful approval. If it did, the council could face a potentially huge damages claim from the developer; the applicants would have to come to court again, time would have been wasted and the building completed; costs and risk to all parties would have escalated hugely.

The only practical way justice could be

served was if Acting Judge Steyn ordered the immediate demolition of the half-built structure. Which is what she did – to the great dismay of the developers and their lawyers.

But, they sputtered, the applicants hadn't even asked for a demolition order! No, but they had asked for justice – and the court, faced with a reckless developer and a lawless and incompetent local authority, found the only rational way to deliver it.

The second judgment to celebrate was delivered in February in the South Gauteng High Court in Joburg by Acting Judge N A Cassim, in the application of Mark Stevens (the first of 18 applicants) against Magistrate Theresa Swart of Germiston and three officers of the East Rand Organised Crime Unit.

The story deserves telling in *Noseweek's* next issue. For now, a summary: three years ago the East Rand Organised Crime Unit began an investigation not unrelated to various *Noseweek* reports about frauds involving JSE-listed property companies Resilient Property Income Fund and Fortress Income Fund. (See *noses* 136, 7 & 145)

On the application of the police, the magistrate had issued subpoenas, requiring various banks and brokers to make their records available for inspection in order to track the financial dealings of the suspects. But over the past three years the suspects and their bankers have launched several applications to suspend or set aside the subpoenas, stalling the investigation for all that time.

They wanted the subpoenas set aside on the grounds that the officer responsible is known for using such subpoenas for corrupt purposes. They stated in a supporting affidavit that their attorneys, Werksmans, and private investigators SSG, had previously used him for just such corrupt purposes.

Taking all these factors into account, Acting Judge Cassim felt called upon to preface his judgment with an assessment of the current state of law enforcement in South Africa. Some extracts to give you the drift:

"It is necessary for me to veer beyond the scope of the [*court*] papers to put an element of realism in what is sought in this application ... in the context of the state of law and order in our country. The judicial system and in particular the administration of criminal law, is in tatters... The leadership within the current NDPP is in turmoil and this does not inspire prosecutors to dedicate themselves to the arduous task of properly prosecuting crime in a crime-ridden country... nor is there a civil service with the ethos [*necessary*] to do civic duty. It is no secret that the govern-

ment of the day considers it necessary to staff public positions with its supporters under the guise of transformation when what the country needs is good and able people to manage the organs of state to realise the greatest good for the greatest number of people.

“Recently, the Supreme Court of Appeal observed that there may be merit in the perception of ordinary people that we have two systems of law, one for the wealthy and the other for the poor. In particular that wealthy people armed with the arsenal of lawyers, private investigators and other forms of assistance which only money can buy, are better placed in dealing with criminal charges and avoiding conviction and... incarceration.

“It is a regrettable feature, but a true component of criminal practice that criminal lawyers, particularly those regarded as top class lawyers, utilise private investigators who in turn have a network of policemen to do their bidding. The facts of this case amply demonstrate the practice... So rampant is the practice that

Werksmans do not query or find it distasteful to hire SSG, who they know have an untoward relationship with senior policemen, who are at their beck and call.

“...It is no secret ...that police officers frequently visit the chambers [offices] of leading lawyers to take instructions in order to initiate a criminal complaint. This is an affront to the profession [but the] reality is that... to obtain a successful prosecution it is useful, if not necessary, to obtain the services of private criminal investigators to, literally speaking, prepare the docket on behalf of the police ...our country, whilst bragging of a constitutional democracy, lacks the basic elements to make a constitutional democracy work. A country that has as its functional officers... people who cannot do the job, does not serve the interests of its people ...The starting point of an effective change is an acknowledgment that not only the State, but the legal profession itself, have to be imbued with a value system in terms of which wrongful conduct is to be frowned upon...

The judge suspected the application

to set the subpoenas aside had less to do with preserving respect for the law and was more likely intended to delay the investigation to the point where it would simply be abandoned.

The judge ordered that the National Director of Public Prosecutions be given immediate access to the subpoenaed documents, in order to proceed with the criminal investigation without delay; at the same time he ordered that a senior prosecutor be appointed to supervise the police investigation, to ensure that the policemen accused of improperly assisting private investigators and that SSG do not make documents available to them for use by their clients.

A practical, just resolution to a typically (deliberately?) messed up case. As Acting Judge Cassim has the courage to point out and confront: Werksmans, their favoured private investigators SSG and their clients, JSE-listed companies, have as much to explain as the policemen they have corrupted. That’s where things have got to.

The Editor



Anxious Times Media pensioners await judgment

ARE TIMES MEDIA PENSIONERS about to lose their mystery backer in the battle for their full medical aid subsidy with new group owners Blackstar?

In July, *nose189* reported that an elite group of 23 greyheads, including former executives Stephen Mulholland, Roy Paulson and Jimmy Mould, had accepted a settlement offer by CEO Andrew Bonamour that would see their slashed medical aid subsidies fully restored, back-dated for the past two years.

No such luck for the remaining 200-or-so lower-ranked pensioners. Only the 23 whose names appeared on the original court papers would benefit from the offer. Not to worry, new proceedings will be launched “in which we will seek judgment in favour of ALL pensioners,” former *Sunday Times* managing editor Mould, 76, told *Noseweek* at the time.

Now Mould has informed 51 more old-timers that a new summons was indeed sent to Times Media on their behalf on July 17. Three weeks later they were to learn that Times Media intended to defend the action.

When the campaign began 17 months ago, Mould assured pensioners: “There is no cost to the participants. I have secured guaranteed funding. I remain

responsible for all costs in the first instance.”

But now that Mulholland, Paulson and Mould have secured their exclusive settlement, it seems the anonymous backer may be having second thoughts about picking up future tabs from attorneys Bowman Gilfillan for the rest. Let alone the prospect of a few million in costs, should judgment go against them. A hint of things to come lies in Mould’s latest bulletin to claimants: “We are keen to top up our war chest and you are invited to make a donation to our legal costs.”

“No legal obligation” is old-time management-speak for: if you’re an honourable ex-hack, fish out your cheque book!

All this has left some pensioners uneasy. Not only has the ruling junta of Mulholland, Paulson and Mould kept secret all detail, including the reliability of the anonymous litigation funder, but there’s a similar cloak of silence over the haphazard litigation itself. No copies of counsel’s opinion, affidavits filed – the summons itself – have been circulated. Effectively, they’re flying blind.

Also, some among the 51 “new” claimants are puzzled as to why their names were not included among the now-victorious 23. Mould certainly had their



Times Media CEO Andrew Bonamour

details back in April 2014, before any court papers were issued. Perhaps, they consider ruefully, they just weren’t important enough. ■

Unprofessional conduct costs Corobrik plenty

IN AUGUST LAST YEAR *NOSEWEEK* CARRIED a report that Corobrik had been severely reprimanded at a CCMA hearing in Durban for the manner in which it attempted to fire its South Coast Centre manager, Johann Pretorius (*nose178*). He had allegedly failed to detect credit-note fraud by a junior employee. The CCMA arbitrator ordered Pretorius’s reinstatement, but both parties subsequently agreed to a confidential financial settlement.

Noseweek has only recently learnt that Corobrik – apparently acting on the advice of its legal advisors, attorneys ENS – thought to use the fraud incident as an opportunity to fire four more employees for their alleged neglect in failing to detect the same fraud (committed by one Mohan

Amichand) as a cheap way to reduce staff in recessionary times. If that was the plan, it appears to have been an expensive miscalculation.

The company hurriedly convened the necessary disciplinary hearings, to be chaired by ambitious Allin Dangers, who had his eye on a promotion to the newly vacant national sales director position. Dangers proceeded to bully his way through all five hearings in rapid succession, found all four accused guilty as charged and fired one after the other. But they all then promptly took their cases to the CCMA.

Despite apparently having been warned by management not to record the disciplinary proceedings, company prosecutor Ron Bassett had foolishly done so. When

the recordings were played at the CCMA, the unprofessional conduct of Dangers was immediately apparent, causing the CCMA commissioner to whistle in disbelief.

Corobrik was forced to negotiate a quick but expensive retrenchment settlement. Besides Pretorius, there was a former national manager, two credit controllers and an area sales manager. The total additional cost is said to have been R1.4million.

Noseweek can only shudder at the thought of what ENS’s fee was.

(None of those vacated posts has since been filled).

Instead of his desired promotion, Dangers has effectively been demoted to the backwaters of Durban as the KZN regional sales director. ■

Cyril under microscope

Maybe he's not the mega-rich entrepreneur the public believes him to be. By Barry Sergeant

TESTIFYING TO THE MARIKANA Enquiry on 11 August last year, Cyril Ramaphosa described Shanduka, the company with which he is generally identified (he was a founder shareholder) as “a holding company that invests...” This description, alone, raises questions over whether Ramaphosa ever made the grade as a businessman – specifically as a risk-taking entrepreneur. The record shows, rather, a man who has been happy to act as an agent for investors seeking political cover. The reality is that, for big investors, careful orchestration is essential in securing government approval of “black economic empowerment (BEE)” deals.

The quid pro quo is that Ramaphosa has been handed investments on a platter and has amassed a fortune. Which raises the next question: is the part about his being massively rich true? Ramaphosa's union days are long gone. He officially moved back into politics in December 2012 as deputy president of the ANC and was, of course, later elected also as deputy president of the country. His office has made several statements to the effect that, after returning to politics, he has divested his business interests into a trust, in line with applicable rules.

Ramaphosa has been in the limelight for decades. After he quit politics early in 1997, his first major business involvement was with New Africa Investment Limited (Nail), which won a notable role in Johnnic, the non-mining interests of the original (and giant) JCI.

Johnnic was unbundled by JCI in 1997 under the guiding hand of Anglo American, JCI's controlling shareholder, which had little choice but to make

early and big steps in BEE. Ramaphosa eventually founded the Shanduka group in 2001.

Today Shanduka is invested right across the economy in everything, literally, from mining and energy to fast-foods, from banking to telecoms, to – you name it. To illustrate the description of Shanduka as a holding – as opposed to an operating – company, take the example of the group's stake in platinum digger Lonmin, which over the past year has brought Ramaphosa so much unfavourable publicity.

Shanduka holds 50% of Incwala Resources, which in turn holds 18% – a minority – of Lonmin's two main operations, Western Platinum and Eastern Platinum. Lonmin's original BEE component fell apart – like so many others – when it ran out of cash. On 10 May 2010, Lonmin announced Shanduka as its new, replacement BEE partner.

It was a sweetheart deal: Shanduka needed only to put up GBP27m; to pay for the rest of Shanduka's stake, Lonmin provided Shanduka with a loan of GBP206m (about R2.3 billion at the time) bearing interest at just 5% a year – a very “soft” loan. Lonmin raised the cash, effectively on Shanduka's behalf, from Lonmin shareholders, most of which are based in London.

Shanduka's investment is virtually risk free: The multi-billion-rand loan to Shanduka is secured by Lonmin shares; if the deal for any reason fails, Shanduka would simply return its Lonmin shares. Leaving aside the GBP27m Shanduka put into the deal, Shanduka can only gain: it has no downside. The problem, of course, is that the value of mining investments has declined in recent years, in some cases drastically.



Cyril Ramaphosa

The Incwala deal was signed when Lonmin was trading in London at about GBP17.00 a share; for the past two years-or-so the stock has rarely traded above GBP3.00 a share; more recently the stock has changed hands for as little as 40 pence a share. Dividends, which are crucial to this kind of BEE deal, have been scarce and have even been skipped on occasion.

This raises the question of whether Shanduka enjoys underlying strength: can it really afford its debt? On 26 May 2014, Shanduka announced that its majority shareholders, including Ramaphosa's family trust, Jadeite Limited, and Standard Bank, had agreed to merge Shanduka with Pembani. The announcement of the new Shanduka-Pembani group includes the statement that it “will have a gross asset value in excess of R13.5 billion”.

This creates “an African champion”, according to Phuthuma Nhleko, co-founder and chairman of Pembani, who is to chair the new structure. (It is no



tional headlines. (For more about that see “Glencore bought dud...” on page 12.

Parts of Ramaphosa’s record may be better forgotten. MTN under chairman Ramaphosa lost about five million users; the network’s billing system is not what it could be; bad debts are underperforming, the prepaid system is a little ill, and MTN is relatively expensive to use.

Consider also that Irene Charnley, who moved to MTN from Johnnic, oversaw

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secret that Nhleko has become involved with the Stellenbosch “mafia”, led by Richemont and Rembrandt supremo Johann Rupert.) The new Shanduka-Pembani structure is coy about its net value – gross value, less debt. As shown in the Incwala/Lonmin deal, Shanduka’s structures – Pembani is similar – tend to be significantly, if not overwhelmingly, leveraged to debt.

Ramaphosa has in the past not been averse to striking deals independently of Shanduka. In May 2012, Optimum Coal delisted from the JSE when transnational commodity trader Glencore acquired a majority stake in the company. In the 28-page circular to shareholders dealing with the delisting, another new shareholder in Optimum is named: Lexshell 849 Investments, a company 100% owned by a single man, Ramaphosa.

This investment has proved to be troubled; for the past year-or-so, Optimum has been in a state of upheaval, incurring material losses, both financially and in jobs, and finding a place in na-

the MTN deal in Iran, a deal now under heavy investigation by US authorities. Charnley had worked with Ramaphosa at the National Union of Mineworkers.

Ramaphosa’s links with Standard Bank – not least originating his involvement with MTN – have become increasingly charmless. In October 2007, Standard Bank, long a major shareholder in Shanduka, announced that the Industrial and Commercial Bank of China had acquired a stake of about 20% in Standard Bank for USD5.5bn.

On this theme, Shanduka shareholder Jadeite Limited is a wholly-owned subsidiary of CIC International, which is controlled by China Investment Corporation.

Let’s face it: Ramaphosa may have more luck back in politics. ■

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Glencore vs Eskom – and some curious BEE deals

Massive spoils went to a Mauritius company with anonymous shareholders. By Barry Sergeant and Martin Welz

MENTION OPTIMUM COAL AND THE following words, attributed to Mark Twain, immediately come to mind: A mine is a hole in the ground with a liar standing next to it. Except in this case, there are probably several liars.

Predecessors of mining conglomerate BHP Billiton established the Optimum Coal Mine to supply Eskom's key Hendrina Power Station by way of a conveyor belt from mine to power station. The 30-year contract they signed in 1993 determined that the price of coal supplied to Eskom was to escalate in line with the general inflation rate. Over the years, however, it became clear that mining costs were rising at a far higher rate than the general inflation rate. By 2010 BHP Billiton was happy to sell – some say give away – Optimum to a BEE consortium.

Quite apart from getting shot of an asset with poor profit prospects, what was in it for BHP Billiton? Those BEE beneficiaries were going to secure for Billiton a very unusual BEE deal with the government: rather than having to dispose of 26% of each of its four South African coal mines to meet BEE requirements, BHP Billiton had received a special dispensation allowing it to sell 100% of one of its operations, Optimum, to a curious bunch of shareholders in order to earn BEE credits for its remaining three mines that had no black shareholders.

The problem is, the eight-man BEE consortium to which BHP Billiton was selling Optimum was not that black: three people were black, four were white and one was of Indian descent. None of them could be said to be in need of empowerment.

Even more curious: the largest single segment of the consortium was owned by a Mauritius-based company with anonymous shareholders (said to be American, but why should we believe them?).

For reasons yet to be explained, the relevant government ministers and officials approved the deal.

What gave these BEE shareholders the necessary leverage over the government to secure its approval? And what was in it for those BEE shareholders?

(Even if they got their stake free, as is widely rumoured – they all refuse to divulge what they paid for their shares. On the face of it, all they were getting was a coal mining company doomed to making losses.)

Plenty, it soon transpired. Optimum's new BEE ownership projected such a profile of success in its listing documents that, based on the listing share price of R38-a-share, this group of eight was instantly worth an estimated R3.6 billion.

Their names: Sivi Gounden; Mike Teke; Douglas Gain; Henry White; Thomas Borman; Peter Gain; Eliphus Monkoe; and Mlungisi Kwini.

Teke was a former HR manager at

Impala Platinum. Although included in the BEE section of Optimum's listing, Messrs Gain, White, Borman and Gain are white, if not quite white-as-driven-snow.

Borman, who had previously worked at BHP Billiton, was, in effect, at the centre of a rather neat plot that got his former employers off the BEE hook, while simultaneously enriching a handful of individuals to a degree that might have been considered unbelievable, were all of these numbers, facts and figures not in the public domain.

Within a year of Optimum's listing on the JSE, Swiss-based international commodities giant Glencore, had bought control of this coal mining enterprise from its supposed BEE shareholders for all of USD800 million (R8.2 billion at the time) – making them all unspeakably rich.

(It is not known who shared in the offshore spoils – the massive chunk of the proceeds that went to a Mauritius company with anonymous shareholders.)

But the crunch question remains: Why on earth would a huge and vastly experienced international commodities company, not known for gestures of charity to third-world countries, have bought such a pup – and continued to feed it? Did they not do a proper due diligence investigation before investing such a large sum? Was information about the contract with Eskom somehow withheld from them? Or were they perhaps assured that, with the right BEE partner, the problem could be made to disappear?

They must have been pretty confident that all would come right, because Optimum continued to supply Eskom at a price that resulted in continuing (and escalating) losses to Glencore totalling more billions.

Glencore's only hope of turning around the situation at Optimum was if it could persuade Eskom – and Eskom's

A close-down of Hendrina power station would be the last straw on the way to total darkness for SA

majority shareholder, the South African Government – to agree to changing the terms of their contract so that the price Eskom pays for its coal is increased to an economically viable level.

There is one factor which suggests that Glencore's decision to buy might well have been based on that supposition: it had as its 10% BEE shareholder partner a company called Lexshell 849 Investments – which is 100% owned by Cyril Ramaphosa, later deputy chairman of the ANC and who soon was to be deputy president of South Africa.

But for some reason, until now – perhaps handicapped by his exposure to Marikana – Ramaphosa has not managed to swing it.

During 2012, apparently out of the blue, Glencore, for the first time, classified an Optimum contract as “unfavourable”, recognising a liability of USD688m “related to an acquired contractual agreement to deliver 44 million tonnes of coal over a period ending 31 December 2018 at fixed prices lower than the prevailing market price....”

By early this year it was costing Glencore R400 to produce a tonne of coal at Optimum – for which Eskom was paying just R150. All told, Optimum drew down R2.5bn of bank funding prior to September 2014 to cover its losses on the contract. At that stage, the banks appear to have drawn a line and Optimum's shareholders were forced to step in. Since September 2014 they have advanced some R900m to Optimum to enable it – as Glencore charitably puts it – “to continue operating and supplying Eskom”. Since then, Optimum has drawn down yet another facility from its shareholders

In June this year Glencore felt impelled to inform Eskom that if it did not agree to pay an economically viable amount for coal supplied by Optimum, the mine could not continue producing. Unsaid: a close-down of Hendrina Power Station could be the last straw on the way to seeing South Africa in total darkness, literally and figuratively.

Eskom's current management, appears to enjoy playing Russian roulette. Instead of offering to up the price of coal obtained from Optimum (they are paying other coal suppliers elsewhere up to R1,000 per tonne without complaint), Eskom retaliated with a threat to cut their payment to R1 – yes, just R1 per tonne of coal supplied by the mine – claiming that Optimum had caused

damage to their plant in the past by supplying inferior coal. Eskom now proposed recovering its damages this way. (Optimum denies the charge, insisting it supplied only top quality coal.)

On 1 July this year, Glencore announced it would be closing certain open-cast operations at Optimum. It had flagged possible job losses as early as January this year.

For months, Glencore was then in talks with organised labour and the Department of Mineral Resources (DMR) in respect of possible closures. At the same time, Glencore had continued its efforts to renegotiate the hopelessly loss-making contract that Optimum had signed with Eskom back in 1993.

On 3 August this year, Mining Minister Ngoako Ramatlhodi reacted to Glencore's part-closure announcement for Optimum by suspending Optimum's mining licence, claiming that the company had somehow not followed proper retrenchment processes.

The next day, a Tuesday, Glencore announced that Optimum had been put into a formal business rescue process, and that Glencore was continuing to financially support those parts of Optimum that remained in operation, providing crucial supply to Eskom's Hendrina Power Station.

By Wednesday, despite having been warned of possible job losses six months earlier, Ramatlhodi convened an “urgent crisis meeting” in Pretoria with unions and the industry, with a view to “finding the underlying causes of the mining crisis and obtaining a commitment for saving jobs”.

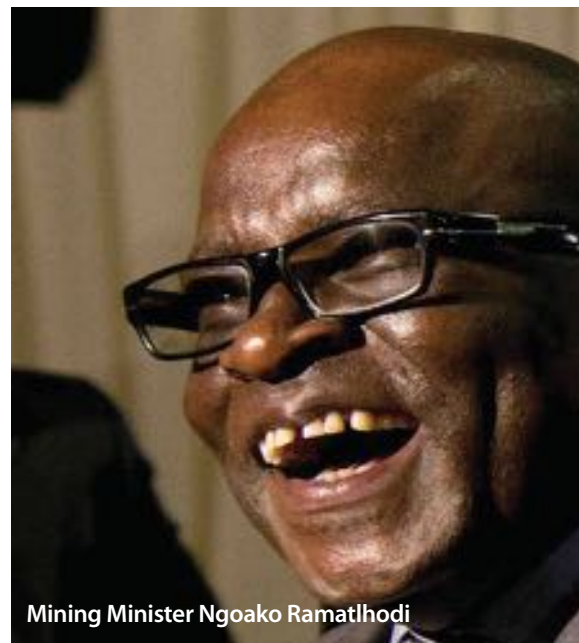
Who was conning whom?

(Note: on 28 January 2015 Glencore had announced: “Optimum has informed the DMR and relevant unions of potential closures.”)

The minister then issued a notice suspending all mining activity at Optimum.

That Thursday, a foreign fund manager wrote a note to clients, saying in part that, based on certain accepted measurements, the South African rand was “almost 50% undervalued”. In his view, only a 20%-30% “political discount” might be warranted – unless the South African Government “did something really stupid” – promptly adding that “pulling the mining licence of a major international player like Glencore because of planned job cuts qualifies”.

Most fund managers would agree that there is nothing that spooks foreign



Mining Minister Ngoako Ramatlhodi

capital quite like the threat of nationalisation.

“I'm sure they will back down but it is time the government learns that an economy is not a toy you can tinker with endlessly,” said the fund manager. “Just like the toy, it will break if you do so. It is time to put away foolish things like Marxist dogma.”

On the same day, President Jacob Zuma said he had “no idea” that Ramatlhodi had suspended Optimum's activities. The following day, Friday, Ramatlhodi withdrew the suspension, on the basis that “there is consensus that the issues of concern have been remedied”.

What might have been remedied overnight, other than the minister's foolish impulsiveness?

There are so many questions raised by the Optimum debacle that it's difficult to know where to start. One potent shining path, to be sure, is to examine just why Glencore bought a majority stake in Optimum.

Another is to examine more closely where Ramaphosa fits into all of this, never mind that when he was appointed deputy president in 2014, the reputed billionaire placed it on public record that he no longer held any mining interests and that his “business interests had been placed in a trust in line with the executive ethics code”.

Between Glencore and Ramaphosa, something approaching USD1bn was paid to take control of Optimum – in any currency a helluva lot of money. ■

Spies, damned spies and more lies

A Byzantine history of internecine strife in the national security system. By Martin Welz, with contributions by the Noseweek investigative unit

GIVEN ALL THE SECRET DEALS AND factional spying that has most South African public structures and institutions in ruin, it came as not much of a surprise when, in August last year, the *Sunday Times* claimed to have discovered an illegal, “rogue” spy unit operating out of the South African Revenue Service (SARS). Even if they did get most of the story wrong and end up targeting the wrong person, the real irony is that they, themselves, appear to have been played in the spy-versus-spy game.

Since the ANC’s earliest days in power, it has been party policy to deploy its loyal cadres to positions of power and influence – not only to do the job and enjoy the financial rewards but, primarily, to advance ANC interests. Why would the management of SARS be an exception?

Noseweek, as far back as November 2001, exposed the deployment of members of an old ANC spy network in the government and the public service. They had all been involved in Operation Vula, a collection of communists and (mostly Natal) ANC intelligence operatives who, prior to the 1990 peace talks, had set up a secret programme to develop the leadership and the financial networks needed to launch a violent revolution.

Vula was controversial because the wider ANC leadership – including Thabo Mbeki – knew nothing about it. It was led by Mac Maharaj (later, made Minister of Transport by Nelson Mandela; fired by Mbeki; and made Minister in the Presidency by Jacob Zuma). It included Siphwe Nyanda (later, National Defence Force chief); Ronnie Kasrils (moved by Mbeki from Defence to Water Affairs); Mo Shaik (demoted from National Intelligence coordinator to Ambassador in Morocco and back), and Shaik’s brother

Schabir (who subsequently lost the protection he once might have expected as Zuma’s personal financial advisor).

Zuma (then still ANC intelligence chief) had obviously known about the Vula network and was long widely perceived to be the closest the group had/s to a protector in government. (In the spy wars, allegiances can quickly change.)

The “Vula boys” opposed Mbeki-led efforts at dialogue with the Afrikaner nationalists. In the midst of those negotiations, Mbeki found himself confronted by the Afrikaner nationalist negotiators with evidence of this secret ANC unit, of which he had been unaware. Some sources believe Mbeki was so angry that, in effect, he allowed the Vula network to be hung out to dry. Maharaj and others were arrested and released on bail – only after the Pretoria agreement with FW de Klerk had already been signed.

By 2001, when *Noseweek*’s story appeared, the Vula boys were positioned strategically throughout state structures. The Shaik brothers’ mentor, that stalwart communist academic Pravin Gordhan, like Maharaj, was unlikely to be welcomed into Mbeki’s political structures; instead he was deployed to SARS, where he was joined by old comrades Vuso Shabalala (in Customs), Ivan Pillay (in SARS’s Special Investigations) and Sirish Soni. [*“It is said ex-poachers make great game-keepers!”* *Noseweek* remarked at the time.] Back then *Noseweek* had already concluded: “The repeated surfacing of Vula members in alleged plots is no coincidence.”

With Mbeki’s departure and the advent of the Zuma era, all of the Vula boys took a step up: for the purposes of this story we need only note that Gordhan became Finance Minister, Maharaj, Minister in the Presidency, and Pillay, acting head of SARS. Even before that



– while Gordhan, Pillay, and the other Vula members deployed to SARS were widely acknowledged to be doing a good job of it – they never forgot that they were party cadres deployed ultimately to look after the ANC’s interests – or, at least, their faction of it.

This became clear when, in January 2002 Pillay intervened to stop a major investigation by his staff into the tax affairs of the country’s most flamboyant mega-millionaire Brett Kebble and his rather more discreet father, Roger. The Kebbles had not rendered tax returns or paid a cent in tax since 1993. In due course it would emerge that the Kebbles enjoyed such protection because they were sharing their stolen loot with the ANC, various of its institutions such as the youth league, and with various leading personalities in the party leadership.



Pravin Gordhan

In response to *Noseweek's* December 2004 exposé of how Pillay was protecting the Kebbles, Gordhan rushed to defend him by threatening to prosecute *Noseweek*. In an official letter I received in January 2005, a SARS spokesperson declared: "The Minister of Finance and Commissioner of SARS have the fullest confidence in Mr Pillay's integrity, commitment to the law and dedication to the SARS mandate." She went on to inform me they intended prosecuting me for breaking tax secrecy laws. They never dared.

Kebble was never to be properly assessed for tax based on a realistic assessment of his income over a 13-year period. In order to close the file, he was allowed to pay a ludicrously small token amount – less than 1% of what the tax inspectors were certain he owed – just so the minis-

ter could "honestly" declare that he had paid tax (no amount specified). And, at Kebble's funeral, a party representative delivered a eulogy in the course of which he reminded all comrades and cadres that "their lips were sealed".

So, yes, it came as not that much of a surprise when the *Sunday Times* claimed to have discovered an illegal, "rogue" spy unit operating out of SARS.

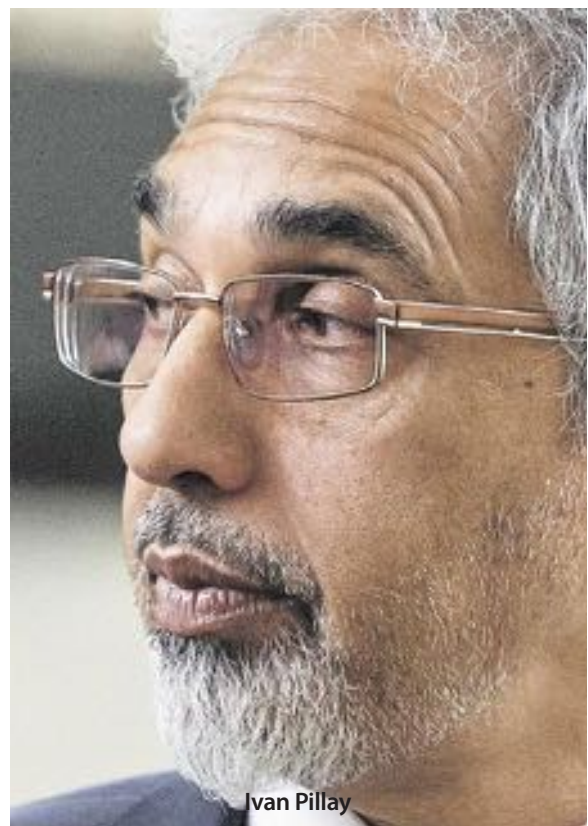
But, as we explained in last month's *Noseweek*, they got most of the facts wrong and ended up targeting the wrong man, thanks to the manipulations of a seductive but ruthless state security spy.

Before we proceed to deal with more of the items the *Sunday Times* got wrong, it is worth summarising what actual spying was taking place out of SARS – the bit the *Sunday Times* missed entirely, possibly because that's what suited the agenda of their sources.

In May this year *Beeld* revealed that in the course of a forensic audit conducted by KPMG of the SARS special investigations unit, the auditors came upon evidence of a "dubious" spying project codenamed "Project Sunday Evenings" which certain members of the unit had undertaken in 2007.

According to the report, Andries "Skolie" Janse van Rensburg, who had been headhunted from the National Intelligence Agency (NIA) to establish the SARS special investigations unit in 2007, had himself initiated the project to spy on the internal activities of the spe-

In an official letter, SARS informed me that they intended prosecuting me for breaking tax secrecy laws. They never dared



Ivan Pillay

cial investigations unit, then known as the Scorpions, attached to the National Prosecuting Authority.

At that time the Scorpions were investigating criminal charges against then-deputy president Jacob Zuma, and unrelated charges against President Mbeki's trusted police chief, Jackie Selebi. Both investigations posed a serious threat to the ANC leadership establishment.

Janse van Rensburg had allegedly – with the assistance of a private security company – established an (illegal) electronic "trapdoor" into the Scorpions' own internal CCTV and recording network at its Silverton, Pretoria, headquarters. Various sources say Janse van Rensburg would periodically hand transcripts of the recordings thus obtained to his SARS boss, Ivan Pillay, who in turn is said to have "quite properly" handed these clearly illegally obtained records to the police crime intelligence unit – which just happened to be committed to defending Selebi.

It is suspected, although still not firmly established, that this was also the route by which Zuma's defence lawyers obtained the recordings that sank the State's case against him.

In March 2008 Janse van Rensburg was persuaded – with the aid of a R3 million payout – to resign. Some newspaper reports have referred obliquely to this as a “blackmail” payment allegedly made to buy his silence. He has since denied any involvement in illegal activities. *Beeld* quotes him saying “I can explain everything when I am called upon to testify.” (In today’s political climate, some might interpret that as an ominous threat.)

Both Van Loggerenberg and Pillay were suspended and then resigned from SARS in December last year, days after the *Sunday Times* ran a further story in which it was alleged that the “rogue” SARS unit had “spied on Zuma” and operated a brothel – both allegations based on unsupported hearsay evidence from apparently malicious sources.

Old loyalties remain: Pravin Gordhan, former head of SARS and now Minister of Co-operative Governance and Traditional Affairs released a strongly worded statement in which he denied that the SARS special investigations unit or its projects were unlawful.

He could hardly say otherwise: the SARS unit was established – and Janse van Rensburg recruited to lead it – under his watch when he was SARS Commissioner.

Beeld notes that it is not clear if he was aware of the “Sunday Evening” project to spy on the Scorpions.

Janse van Rensburg’s successor, Johan van Loggerenberg has taken the brunt of the wave of media and government criticism for its alleged misdeeds that descended on the unit over the past year – almost all of them, based on misinformation or events that took place when the just-established unit was still under ex-NIA man Janse van Rensburg.

In fact, upon the latter’s departure, Van Loggerenberg’s brief was to “clean up” the unit and ensure that all its activities were legal and complied with SARS policy. But his more-recent romantic misadventure with a blonde forcefully seductive national intelligence spy made Van Loggerenberg the perfect villain to be fed to the *Sunday Times* and its large popular readership – perhaps as a red herring to obscure the real issue: that the irregular spying may, in fact, have been in President Zuma’s favour.

The final report on KPMG’s forensic investigation is still outstanding. It is eagerly awaited by all concerned – including the wider public.

Van Loggerenberg’s romantic misadventure with a seductive blonde national intelligence spy made him the perfect fall guy to be fed to the Sunday Times

So, back to the *Sunday Times*’ November 2014 story in which it was alleged that the unit had spied on Zuma and owned a brothel – the story that so shocked the new SARS Commissioner Tom Monyane, that he decided to suspend without further ado – the very next day – his entire management team.

Noseweek doesn’t profess to know all the sources of the *Sunday Times*’ later reports on a “rogue” spy unit at SARS, but apart from the initial stories that came from self-confessed SSA spy Belinda Walter, their subsequent stories were undoubtedly largely based on information that came from a number of disgruntled former SARS employees who had left under a cloud of fraud and misconduct. *Noseweek* has documented how Walter dictated the *Sunday Times*’ initial reports that were damning of Van Loggerenberg, presumably because she had a compromising hold over *Sunday Times* reporter Malcolm Rees.

The *Sunday Times*’ most dubious source for its subsequent reports – by then, produced by its celebrated investigations team – was a former SARS employee by the name of Michael Peega.

Peega was a former SA National Defence Force recce who, because of his background, was immediately assigned by SARS to its National Research Group

(NRG) as a specialist investigator.

He was on leave from SARS when the police and SANParks inspectors stopped him at a road block in Modimolle in Limpopo on Christmas day in 2008. A passenger fled the scene, but Peega was arrested when a .303 hunting rifle, bullets, a blood-crusted axe and a military jacket with blood specks were found in the vehicle. He later confessed to having been hired for R10,000 by a rhino poaching syndicate because of his shooting skills. He also pointed out the scene where rhinos were poached and the location of an AK47 to the police. He was charged and released on bail.

Back at SARS he immediately faced an internal disciplinary hearing chaired by independent advocate Geraldine Dunn. He was found guilty of gross misconduct. Another independent advocate turned down his appeal. He did not take his matter to the CCMA, but he left SARS an angry man and compiled an “intelligence dossier” that alleged misconduct by the NRG. He made allegations that they were running a brothel, spying on Zuma; and that SARS agents were working as bodyguards for politicians and were conducting illegal surveillance and bugging. He had made none of these allegations at his internal hearing.

After *City Press* refused to publish his allegations because he was found not to be credible, he gave his dossier to Julius Malema in 2010.

When Malema aired Peega’s allegations, SARS briefed both Zuma and the finance minister about his conduct and dismissal. SARS also presented a lengthy line-by-line refutation of the “dossier” to most media houses.

Peega’s dossier claimed that the SARS rogue unit had infiltrated “friends of Zuma” and “illegally intercepted communications”. It listed those he claimed were the targets of the rogue unit, but provided no supporting documentation.

Minutes of the accused SARS unit’s team meetings referred only to six projects; none of them referred to Zuma or any politician. They related to cigarette, abalone and drug smuggling – as well as to the investigation of multimillionaire Dave King, who was fighting off huge tax-evasion charges. *Noseweek*’s sources say there was talk of the unit possibly investigating the tax implications of Nkandla – not to Zuma, but to the contractors who, it was suspected, had made huge profits out of the project.

The designation “rogue unit” comes straight from Peega’s “intelligence dossier”, from where it was elevated to the status of “fact” by the *Sunday Times*’ investigations unit. It was in fact a formally established unit of SARS.

In 2007, the ministers of Finance and Intelligence signed a memorandum of understanding to establish a division within the then National Intelligence Agency that would support SARS with intelligence gathering and investigating high-risk cases and cross-border crimes.

The illegal poaching and smuggling of abalone, ivory, rhino and the associated links with organised crime syndicates inside the country; tobacco and cigarette smuggling; and the illegal trade in narcotics were the immediate priorities for the division. In terms of the memorandum SARS would have paid the salaries and personnel costs of the new recruits but they would be appointed as employees of the NIA. Internal squabbles inside the NIA prevented the memorandum from being implemented. By then SARS had already appointed 26 officials to constitute the unit.

Van Loggerenberg was initially not part of this team. Ivan Pillay appointed Van Loggerenberg in February 2008 to take over the unit and convert it into a fully fledged SARS unit, as it was no longer going to be transferred to the NIA. His main task was to ensure that the unit’s procedures and operational arrangements conformed to SARS policies.

With one possible exception: agents were given leeway to work from home.

The unit’s existence was not secret. Its members were formally employed SARS personnel; they were on the system and paid from a normal SARS cost centre.

On 5 November 2010, SARS Commissioner Oupa Magashula and a team of SARS employees briefed the SSA on the existence of the unit, its members, and the investigation projects they were carrying out. SSA did not raise any objections about any of the projects or any member of the unit.

Noseweek has already explained (in *nose190*) how Peega and other *Sunday Times* sources frequently confused the National Research Group headed by Van Loggerenberg, with the often secretive activities of another SARS unit, the Anti Corruption and Security Unit (AcSU), tasked with investigating corruption and security issues within SARS.

There is good reason to suspect it was

the latter unit that on occasion intercepted staff communications. It was that unit that had dealings with “apartheid era agents” and investigated how to acquire illegal spying equipment. The *Sunday Times* happily attributed these misdemeanours to Van Loggerenberg’s unit – because he was the target designated by Walter and her spymasters.

Author Julian Rademeyer wrote in his highly acclaimed book on rhino poaching, *Killing for Profit*: “Peega had clearly been watching too many bad spy movies. The dossier is littered with references to ‘honey traps’, ‘bugging’, ‘cryptology’, ‘cove[r]t tactics’ and ‘counter-intelligence...’ [His] claims were all too easy to refute.”

SARS compiled a 14-page briefing document on the dossier that it distributed to the media. The origins and purpose of the NRG was explicitly explained.

The criminal case against Peega never got off the ground. On 22 August 2011 *The Star* reported that Peega’s docket had gone missing. The State prosecutor said she feared the docket “had been sold”. Other reports stated that critical evidence disappeared from the police evidence room.

Only later did SARS learn that while employed by the revenue service, Peega had been moonlighting (and now continued to work) for what he described as “other law enforcement agencies”. *Noseweek* is in possession of three affidavits by Peega, dated 28 February 2012, in which he said he was “assisting” these “agencies” to curb tobacco smuggling from Zimbabwe. It turns out that the “tobacco spies” that Peega was allegedly assisting were caught by the Zimbabwean intelligence agency not long after their arrival in Zimbabwe – an event widely reported on in the media there.

Peega managed to escape, and crossed the border without his passport. He called a friend, a former NRG investigator, for a lift. The official reported this in a memorandum to SARS management.

In February this year Peega appeared alongside Belinda Walter in a *Carte Blanche* television documentary. He repeated his allegation that had by then appeared in the *Sunday Times*. He was portrayed as a victimised whistle-blower and *Carte Blanche* concluded that it hoped that after seven years of “fighting for justice”, he could “start again”. Peega had tears in his eyes.

Walter made the startling admission

on *Carte Blanche* that she “lies”. When the interviewer asked her if she was “an agent”, she said, smilingly: “I’m not going to lie about that, I was.”

Walter and Peega both work for alleged tobacco smuggler Adriano Mazzotti of Carnilinx – the very man who sponsored *Sunday Times* journalist Loni Prinsloo’s sports team kit and allegedly offered *Business Times* reporter Rees drugs, money and holidays and – according to Walter – had a special arrangement with him to ensure they were treated favourably in the *Sunday Times*.

Another *Sunday Times* source has been identified as former SARS regional manager Kenneth Fitoyi. He was dismissed in May 2009 after pleading guilty to nine counts of fraud. He grossly inflated travel claims.

Fitoyi and Peega co-operated on the “intelligence dossier”. Fitoyi actually wrote to Pravin Gordhan, then finance minister; Cosatu-members; and the Speaker of Parliament describing how he was being “victimised”.

In an SMS to Gordhan he wrote: “Hi Pravin, as the political head of SARS I am reporting to you the continued harassment I am suffering at the hands of SARS through: illegal bugging of my cellphone line. The NIA has reliably informed me this illegal activity is continuing ceaselessly. Fictitious and baseless tax assessment meant to break my spirit and subject me to perpetual poverty. I think it is also [in] your interest to call Ivan [Pillay] to order, as the electorate will correctly interpret your silence as tacit approval and complicity, should this hit the headlines. Regards Kenneth Fitoyi.”

Fitoyi also claimed he had been set up by SARS “because he knew too much”.

The *Sunday Times* gained access to confidential documents such as Pillay’s retirement agreement as well as the salaries of affected employees.

Since September 2014 when Moyane was appointed SARS Commissioner, the leaks appear to have become an open tap. Disciplinary records, notices of suspensions and internal memos were selectively leaked to the press.

Eventually, even letters addressed to Pravin Gordhan found their way to the media. Most alarming is the fact that, where once SARS was known for its strict confidentiality rules, the new commissioner appears to have a great tolerance for these leaks.

Is it all a perfect confluence of agendas? Or maybe, as spy Belinda Walters's SSA handler Ferdi Freyer said: "There's a project to remove the entire leadership of SARS."

Finally, the brothel. The *Sunday Times* wrote on 9 November 2014: "SARS' disgraced rogue unit set up its own brothel... and posed as bodyguards for top ANC politicians. These bizarre revelations about the secretive outfit are contained in a series of damning internal memos and documents written by members and ex-operatives of the unit."

Note: no telephone number or address; no names of who allegedly managed and operated the brothel; no name of any customer; and no word of any money spent on, or made by, this alleged brothel. That is because there never was a brothel.

The story comes from disgraced rhino poacher Michael Peega, and is believed to have its origins in an incident on 18 August 2008, when SARS sent six members of the National Research Group (NRG) to Durban to investigate drugs, abalone and counterfeit DVDs.

The group "had a braai" at the house of a fellow member who, for the occasion, had arranged for them to be entertained by some prostitutes. Peega and fellow investigator Jappie Tshabalala took the prostitutes back to their hotel. Peega had sex with a prostitute – and then stole back the payment from her wallet while she slept.

The prostitute phoned the local SARS investigator who had arranged the braai and complained that Peega hadn't paid her. Peega then concocted a story that the house where they had the braai was a SARS brothel. Peega's close friend and fellow SARS "whistleblower" Dillo Nyaluphi wrote the report about the alleged brothel.

From brothel-keeping, on to bugging Zuma's home: A former spy-master – "Skollie" – blackmailed SARS into paying him R3m to keep silent about how its rogue intelligence unit broke into Zuma's private home in Forest Town, Johannesburg, and planted listening devices.

"At the time Zuma was unemployed after he had been fired as deputy president. He was in the running for the ANC presidency and had just been acquitted on a rape charge.

"Skollie had a falling-out with SARS management and decided to leave. He demanded a large payout for his silence.

"Contacted this week, Skollie declined to comment."

The above are all quotes from the *Sunday Times* report of 12 October 2014. The *Sunday Times*' own version placed the alleged bugging of Zuma at the time when he "had just been acquitted on a rape charge", in May 2006, long before the so-called "rogue unit" was formed.

The bugging story originated at the infamous Durban braai attended by Peega and cronies. Former Scorpions and NIA men who had joined SARS told Peega about the raid on Zuma's home, an event widely reported in the media, as was the raid on Zuma's attorney's home and office. Peega is the source of both the brothel tale and the alleged bugging of Zuma's house.

The statement that Skollie had declined to comment when contacted by the *Sunday Times* was a straight lie. *Noseweek* has a copy of the email Andries "Skollie" van Rensburg sent to *Sunday Times* team reporter Piet Rampedi three days before their report appeared. It reads: "Dear Mr Piet Rampedi, I just want to categorically state the following: I left SARS for personal reasons that related to my family. These reasons have been explained to you in detail. I never threatened nor blackmailed SARS in any way. I deny any such allegation.

"The NRG and I were never involved any bugging operation on President Zuma's house or him as an individual and for that matter, any other surveillance operations or the interception of communication of any citizen. This would

**Peega had sex
with a prostitute
– then stole the
payment from her
wallet while
she slept**

have been illegal and during the period of my employment at SARS we never engaged in any illegal activities." Next, the allegation that NRG members worked as VIP bodyguards for some politicians – the *Sunday Times* named Julius Malema, Fikile Mbalula and Pule Mabe – while working for SARS and reported: "One member, who worked as a VIP bodyguard, indicated that the cover allowed them to eavesdrop on some of the politicians' conversations."

The facts: Alleged rhino poacher Michael Peega used to work as a bodyguard before he joined SARS. After he joined SARS, he continued doing so for, among others, Julius Malema, Fikile Mbalula and Zizi Kodwa. According to affidavits, he organised similar moonlighting jobs for some of his SARS colleagues in 2007 and 2008, without informing SARS.

Maybe they did eavesdrop on the politicians; who would know? But it was to Malema that Peega and friends ran with their spy report when fired for moonlighting as a rhino poacher.

A final example: The *Sunday Times* claimed that the "rogue" unit had been tasked to follow SARS executive Mandisa Mokwena, find dirt on her and destroy her career. The facts:

A simple Google search would have revealed the real story of the demise of Mokwena at SARS. She was group executive of the segmentation and research division of SARS and a member of the executive committee. She was also a former business partner of "first lady" Thobeka Zuma. SARS said that between 2007 and 2009, Mokwena allegedly committed tender fraud. Her case was investigated by their anti-corruption unit, then handed to independent forensic auditors. Van Loggerenberg's alleged "rogue" unit had nothing whatsoever to do with the case.

SARS charged Mokwena but she resigned before her disciplinary hearing. Her case was then handed to the Hawks and the NPA for prosecution. She and eight other accused are currently on trial in the high court on 57 charges under the Prevention of Organised Crime Act.

After Mokwena left SARS, she joined the SSA and was appointed as a manager at the Special Operation Unit (SOU) – the very unit that Belinda Walter spied for. It remains a mystery how Mokwena got top security clearance while on trial on fraud charges.

There's more; but enough for now! ■

Oh what a tangled web we weave...

Insights into the scandalous machinations behind the Cato Manor accusations. By Paul Kirk

HUNTERS HAVE BECOME THE hunted, with members of the former Serious and Violent Crimes Unit, of the Durban Organised Crime Unit based at Cato Manor, now demanding that racketeering charges against them be quashed – and asking that disgraced acting national director of public prosecutions, Nomgcobo Jiba, be ordered to pay all their legal costs from her own pocket. She is cited as both first and second respondent in the application launched on 8 July.

Meantime Jiba was to have gone on trial for perjury and fraud after Judge Trevor Gorven found she unlawfully ordered the prosecution of Major General Johan Booysen on murder and racketeering charges, then lied to the court by saying she had evidence to back the charges. The charges were, however, dropped by new NPA boss Shaun Abrahams, as he believed there was no prospect of it succeeding. Jiba was his deputy, who he has now placed in charge of all prosecutions in the country.

Attorney for the Cato Manor cops, Carl van der Merwe, said: “The NPA are well out of time to reply to our application. I have given them until 24 August to file answering papers though. We have not heard a thing from them yet – and if they don’t reply the application will succeed by default.”

Van der Merwe dismissed rumours that the NPA intended appealing Gorven’s judgment which quashed charges against Booysen. “They are well out of time to appeal that judgment, and even if they did decide to do so they would have to notify us. We have received no such notification.”

Van der Merwe’s most recent application asks the High Court in Durban to declare Jiba’s decision to prosecute 19 of Booysen’s men as racketeers to be ir-



Rehabilitated national director of prosecutions Nomgcobo Jiba

rational, unlawful and unconstitutional. Citing Gorven’s judgment, the 19 Cato Manor detectives say the same facts – a complete lack of evidence – make their prosecution unlawful.

As first respondent in the application, Jiba is cited in her personal capacity because the cops contend “that her decisions were irrational, *mala fide*, and offensive to the principal of legality. In the circumstances she ought to be held liable for the costs of this application on the scale as between attorney and client, in her personal capacity”. As second respondent Jiba is named in her official capacity – meaning that if the court finds against the second respondent, the taxpayer will be left to foot the bill for Jiba’s perjury and fraud.

The application argues that: “Racketeering came to the fore when General

EISHKOM!
WE BETTER
ENJOY AS
MUCH ICE
AS WE CAN,
WHILE
WE CAN...

Tall Horse
A DIFFERENT TAKE ON WINE

Not for Sale To Persons Under the Age of 18.

Booyesen was arrested and we suspect that it was introduced as an offence to overcome the fact that there was no evidence demonstrating him to be complicit in any of the predicate offences.

“Racketeering was thus a tool employed to charge General Booyesen in the absence of any evidence against him. In order to do that we had to be dragged into the “racketeering matrix”.

In their papers the Cato Manor cops point out that it took a team of detectives, their lawyer and a legal expert on

racketeering charges many weeks to go through the dockets. Jiba on the other hand gave a sworn affidavit that she had “carefully studied” the memorandum, the contents of the dockets and “information under oath” in just one day before signing the certificate to prosecute Booyesen and his men for racketeering.

The application points out that repeated attempts to have Jiba and the NPA hand over their records of decision-making related to the racketeering case have met with blunt refusals.

Evidence that wasn't

WHEN JOHAN BOOYSEN SAID THAT THERE was no evidence at all against him, prosecutions boss Nomgcobo Jiba trotted out a statement which was both unsigned and undated – but attributed to one Ari Danikas. She told the High Court in Durban that Danikas's statement amounted to evidence against Booyesen.

Judge Trevor Gorven ruled that it did not constitute evidence as it was not signed, was not commissioned and related to incidents outside the period covered in Booyesen's indictment.

Noseweek has discovered that Jiba has repeated the same story to the General Council of the Bar – who in January this year launched an application to have her struck off the Roll of Advocates for lying about evidence she had, or did not have, against Booyesen.

In papers opposing the General Council of the Bar application Jiba says that the only reason it was not signed was that former NPA head Mxolisi Nxasana prevented her prosecution team from having it signed, turning into proper evidence against Booyesen.

In her reply to the General Council of the Bar, Jiba writes:

“The Prosecutions team were confident that the statement would ultimately be signed... however it remains unsigned as the prosecutions team, in particular Advocate Maema, was instructed by the current National Director of Public Prosecutions Mr Mxolisi Nxasana to halt the process.”

Nxasana was appointed to head the NPA in October 2013. Jiba does not make it clear why she waited until at least October 2013 to get the docu-

ment signed if she intended to use it as evidence.

Strangely the lead prosecutor in the Booyesen case, Advocate Sello Maema, wrote to a lawyer representing Danikas on 23 January this year to say that the NPA did not believe Danikas's claims and would not use him as a witness.

The letter from Maema to, Danikas's lawyer Julian Knight, makes it clear that Danikas was not going to be a witness in the Cato Manor case and points out that the alleged crimes that Danikas accuses Booyesen and his men of are “not referred to in the indictment – and do not have dockets which relate to them”.

In other words Maema and his team simply didn't believe Danikas's gory tales of murder and torture committed by Booyesen and his men.

In his letter, Maema goes on to say: “The real possibility of other offences unrelated to Cato Manor that the witness may be involved in makes it a very risky consideration to expect him to come to South Africa for the purposes of testifying.”

Noseweek is reliably informed that, apart from alleged tax evasion and theft, Danikas is the subject of a murder probe, as well as a fraud investigation related to the manner in which he sold his computer business in South Africa, and then stripped his shop of assets and stock, before fleeing the country.

The letter concludes: “We have to date not been able to convince our prosecution authorities that Mr Danikas's evidence will assist the state case in any way.” ■

In the files relating to Jiba's decision is a copy of the hand-written minutes of a meeting held on 3 March 2012 with members of the Hawks, the Independent Police Investigative Directorate (Ipid), the National Prosecuting Authority (NPA) and then Minister of Police, Nathi Mthethwa. The notes are in the handwriting of Advocate Anthony Mosing.

The minutes record this as the “First meeting with the Minister of Police”, suggesting there were others. It shouldn't surprise anyone that it was at this meeting when it was decided to merge the investigating teams from the Hawks and Ipid. Mosing also records that Mthethwa “wants arrests by the end of the week”.

Among the charges against the Cato Manor cops is that they murdered a

Repeated attempts to have Jiba and the NPA hand over their records have met with blunt refusals

North Coast ANC Youth League official, Qinisani Gwala. Gwala was a close friend of Mthethwa. Investigations by *Noseweek* have revealed there were at least seven cases where Gwala was arrested for car-hijacking and attempted murder but escaped prosecution.

Gwala was out on bail for attempted hijacking – but was also wanted for another car-hijacking and two counts of murder – when he was shot by Cato Manor cops, who did not know of his close association with Mthethwa, or his criminal history.

Mthethwa reported *Citizen* journalist Paul Kirk to the press ombudsman in June 2012 for supposedly defaming Mthethwa by asking whether there was truth in the allegation that Mthethwa ordered the arrest of the Cato Manor men. ■

Her wine is all about caring

Pat von Elgg of Hout Baai farm outside McGregor personifies passion for nature and all creatures alive and has now released her first organically produced wine – at the age of 88.

One look at the Solara Organic Sauvignon Blanc 2014 label and you will realise this is not just another wine competing for a place among thousands of bottles on the shop shelves. The “organic” word and Landmark Foundation sticker immediately denotes that there’s much more to the product, whose name refers to sunlight and nature.

The story behind it is one of dedication and perseverance in caring for the environment, which is embodied in each bottle of this maiden release. It is in fact the culmination of Von Elgg’s unrelenting efforts since purchasing the run-down Hout Baai farm just outside McGregor 12 years ago – so named after the mountain river that runs past it.

Today a myriad of live creatures and natural fynbos vegetation flourish as an interwoven whole around her 10.52 hectares of vineyards (Sauvignon Blanc, Colombar and Pinotage) with numerous animal species having a stake in the wine, including the leopards represented on the bottle sticker. In fact, for each bottle sold, a R3 donation goes to the Landmark Foundation for its leopard research and rescue projects.

Yes, this woman shares her entrepreneurial success with environment and health conscious wine consumers and her farm population alike. The latter includes stray and abused animals from the district, housed in kennels and paddocks which are part of the farm complex of restored buildings and replanted vineyards.

Here, no stone is left unturned in the dedication to preserving the environment and to complying with international standards of organic production of wine as audited by SGS Organic/Lacon.

Von Elgg explains that she purchased Hout Baai farm in 2003 for the purpose of providing accommodation for needy domestic and wild animals rescued through her welfare efforts.



She provides an animal welfare emergency service to the local community, free of charge for the disadvantaged.

She educated herself in viticulture – having previous experience in mixed farming in Mooi River, KwaZulu-Natal, and in business and design internationally on three continents (including India where she was born).

Rooiberg Winery near Robertson started to buy her grapes for its own wine production from 2004. This led to an arrangement in 2008 whereby it processes Hout Baai’s grapes as organic, with full certification of the cellar, followed by Woolworths adding her bubbly to its range. Today Rooiberg produces the Solara Organic Sauvignon Blanc 2014 as a joint venture.

When Von Elgg bought this farm it was run-down and riddled with disease, pests and trash; wildlife was practically non-existent. Now, the natural balance is restored by organic farming and the preservation of substantial areas of indigenous veld and fauna. These include caracal, bat-ear foxes, antbear, civet, mongoose, four species of buck, hare, hundreds of guinea fowl, and all the local bird species abound. “The animals live and breed on the farm and are fearless in their acceptance of human presence,” she says.

The single vineyard Solara Organic Sauvignon Blanc 2014 is available in limited quantities, with the lowest possible sulphur content and an alcohol level of only 12.5%. The wine retails at R70 a bottle from selected outlets including Hout Baai Farm, McGregor.

Text and pictures: Cassie du Plessis, media consultant.



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SAA hits legal turbulence

The national carrier could face up to R6bn damages claims. By Ciaran Ryan

SAA'S ANTI-COMPETITIVE GHOSTS have come back to haunt it. Adding to its current management chaos and desperate attempts to make ends meet, it faces two massive claims potentially amounting to more than R3 billion – one from Comair for R1bn and another for R2.2bn from businessman Robert Watson, who has acquired the rights and interests of Rethabile, the BEE minority shareholder of the now-defunct Sun Air.

Neither of these amounts include interest, so SAA could be facing claims in excess of R6bn, sufficient to swallow the entire bail out received from the government earlier this year.

The Comair claim has been more than 10 years in the making and is set down for trial in April next year. A court date has yet to be set for the Rethabile claim. Its court papers make for disturbing reading. It emerges that SAA, by curious if not devious means, acquired the majority of shares in Sun Air (including those that had belonged to Rethabile) in 2003 – despite not having got around to paying for them – and then promptly shut it down to remove a competitor from the market. Not only was the company closed down; SAA then contrived to have Sun Air's fleet of aircraft banished from Southern African skies, preventing any other potential competitor from flying them.

SAA recently announced it was hunting for a new CEO, the sixth in as many years. The new incumbent will have to deal with the airline's legendary political intrigue, financial mess, and now these two cases. How long before it approaches the government for yet another multi-billion-rand bail out? It has received R30.5bn in guarantees from the government over the past 20 years, which it used to sink 10 out of 11 competing private airlines since the industry was deregulated in 1991. More than a third of this R30.5bn came in the past three years alone. The only competitor of note on domestic routes is Comair, which

flies under British Airways and Kulula livery and somehow manages to survive without shareholder bail outs, albeit on a slender 4% profit margin. Comair's subsidy-free survival is a constant reminder of just how bad SAA's management over the years must have been.

Among the casualties of SAA's taxpayer-funded war on competitors are names long forgotten: Flitestar, Trek, Sun Air, Nationwide, Interlink, 1time and Velvet Sky. The latest hopeful, Safair, still has only a minute share of the passenger market, but is perhaps better-armed with the experience of its predecessors.

SAA has been the subject of numerous adverse findings by the competition authorities, but it prefers to pay the fines and continue kicking the competition to touch. Few competitors have the funds for the legal bills needed to compel SAA – supported by taxpayer-funded bail outs – to comply with Competition Commission rulings. Comair reckons it has already spent R5m on its legal battles with SAA.

Two findings against SAA related to complaints brought to the Competition Commission by Nationwide in 2000 and Comair in 2003. SAA was fined R45 million in the Nationwide matter and prohibited from using its market dominance to influence travel agents to swerve business away from competitors. Comair's R1 billion claim against SAA is what the airline says it lost as a result of SAA's anti-competitive behaviour dating back more than a decade.

Ironically, in what appears to be a tit-for-tat retaliation, SAA in April this year filed its own complaint against Comair, accusing it of the very same thing. SAA spokesperson Tlali Tlali says the complaint relates to "past and ongoing abuse of dominance conduct by Comair which is in contravention of various provisions of the Competition Act. The conduct has been ongoing for a number of years which to our best estimates could go as far back as 2008." It relates to incentives allegedly paid to travel agents.



Comair CEO Erik Venter

In May this year Comair lost a case before the Pretoria High Court seeking to declare government bail-outs for SAA unlawful and unconstitutional. Judge Hans Fabricius dismissed Comair's case and effectively ruled in favour of ongoing state funding of SAA. The case descended into farce when Comair's CEO Erik Venter was muzzled at the insistence of the State's counsel and prevented from reading his own heads of argument into the public record.

"I think this was a tactical move by SAA to get us involved in peripheral skirmishes and take attention off the main case," says Venter. "Most of the information in our papers is in any event already in the public domain."

In most other countries, SAA would have been declared bankrupt and sold off to the highest bidder. The European Union allows bail outs of national carriers, subject to time-specific restructuring plans that must include a benefit to privately-owned competitors, usually in the form of increased seating capacity. If the troubled airline does not demonstrate a financial turnaround within the specified time, they are usually shut down. This is why Sabena, Swissair and

Spanair are no longer around, and why Alitalia and Aer Lingus have been on-sold to private investors.

The argument in favour of state subsidies for national carriers is largely political. SAA opened up routes to many African cities, not all of them profitable, as part of the government's pan-African outreach. But competitors such as Comair argue that serial mismanagement, such as over-payment for aircraft [*Why, one might ask?* – Ed.] and poor fleet selection is to largely to blame.

Comair's R1bn claim against SAA pales alongside Watson's claim of R2.2bn pending before the South Gauteng High Court. It relates to SAA's role in the demise of Sun Air, the first airline to include BEE shareholders, flying under the banner of Rethabile. The court documents offer a glimpse into the predatory mindset of SAA executives, notwithstanding the government's policy to promote competition in the skies.

It's taken 16 years for this case to come before a judge to answer charges that SAA – then under the stewardship of CEO Coleman Andrews – conspired with Safair to take Sun Air out of operation and then share the spoils. For the modest fee of R50 million – the amount SAA paid Safair for its cooperation as a purported liquidating creditor – and a further R28 million to settle the loan debt owed Sun Air's BEE shareholders, SAA walked off with between R125 million and R200 million in additional annual earnings. Tot that up over 15 years, slap on some interest, and SAA appears to have benefited to the tune of about R6.2bn from Sun Air's demise, of which Rethabile's share is roughly a third.

Watson has acquired Rethabile's claims against SAA. The main claim, as set out in his court papers, is based on SAA having allegedly benefited to the tune of R3.2bn in the four years to 2003 from the closure of Sun Air, of which Rethabile was due R1.1bn. A similar amount is claimed for damages suffered as a result of SAA's wrongful conduct.

The alternative claim is potentially much larger. Watson, who is listed as a director of Adrenna Property Group on the JSE with a previous background in construction, is asking the court to compel SAA to "disgorge itself" of any and all benefit it derived from Sun Air's closure on the grounds that it breached its fiduciary duty not to derive a benefit for itself before it had complied with the

suspensive conditions in its share deal with Rethabile. Rethabile's sale of its shares in Sunair to SAA was conditional on SAA securing the government's agreement to write-off of a R20 million loan given by the State to Rethabile. No such agreement was ever obtained.

Disgorgement, in law, places the onus on SAA to provide detailed accounting, from 1999, of the benefit derived from the removal of Sun Air from the domestic market.

SAA is defending the action, claiming that it has already paid R14,25 million to the liquidators of Sun Air "in full and final settlement" of any claims against it. For that argument to float, the court will have to ignore the fact that SAA engineered the liquidation and nominated the liquidators. And, as any lawyer would know, the amount tendered was probably just enough to pay for the lawyers and liquidators fees, plus a few decent lunches.

SAA improbably denies charges that it acted intentionally or negligently to cause Sun Air to fail, or that it failed in its fiduciary duty to exercise care and diligence when it came into possession of Rethabile's shares in the airline. We await the court's decision on these points with interest.

The former shareholders of Rethabile walked off with nothing but debt when Sun Air was liquidated in 1999.

SunAir's aircraft were attached by the leasing company, Safair (by prior arrangement with SAA), while SAA took

over its operations, including its airport counters, and then promptly shut everything down with a rare display of speed and efficiency.

Safair presented itself as Sun Air's major creditor, having leased aircraft worth about R1 billion to the airline. According to Watson, it was critical for SAA to get Safair's buy-in. It would be pointless to shut down Sun Air without removing its 11 aircraft from the field of play. Safair agreed to support the liquidation plan and remove the four MD-80 aircraft on lease to Sun Air from the Southern African Development Community region for a minimum of three years in return for a payment of R50 million from SAA. This R50 million was to be "deemed" a loan, as part of a complex deal involving the sale of Five DC-9 aircraft that Safair had leased to Sun Air, with the proceeds to be shared between Safair and SAA.

More about that R20 million loan to the BEE shareholders that government was supposed to write off. When Government refused, Andrews cheekily tried to claim back the R50 million SAA had paid Safair to secure its collaboration – on the grounds that the conditions precedent had not been fulfilled. Safair told Andrews where to get off.

Sun Air (and all the planes it operated) were taken out of the air so that SAA could fill up its planes. And then, when full, hike air ticket prices.

Watson alleges that the application by Safair for the winding up of Sun Air was in bad faith and an abuse of the court process, since Safair was not in fact a creditor. Sun Air's accounts with Safair were up-to-date. Watson claims that Safair stepped in as a purported creditor on the instructions of SAA, and at the time failed to disclose to the court the agreement between SAA and Safair. Had the court known of this, the court might have rejected the winding up application and Sun Air might still have been in business today.

If Watson succeeds in his claim, the winding up of Sun Air may be reversed, which then opens the doors to other creditors to bring their claims. In which case SAA could be facing claims well in excess of R6bn – enough to swallow most if not all of the R6.5bn bail out it has just received from government.

● See the next *Noseweek* for more incriminating evidence – and why SAA has always believed that competition is a sin. ■

Comair's R1bn claim against SAA pales beside Watson's claim of R2.2bn pending before the South Gauteng High Court

Black like me

Transracial adoptive parents subjected to torrents of criticism. By Kerrin Wilkinson

I RECENTLY JOINED A FACEBOOK GROUP devoted to transracial adoption. I thought that by joining I would meet and have enlightening and fulfilling discussions with like-minded people across the globe on the subject. I also thought it would be a good platform to attract readers to my blog which is on parenting and, occasionally, when the topic calls for it, the fact that my husband and I are white and our children are black and adopted. The old adage of being careful of what you wish for is ringing so loudly it threatens to drown out the maxed-out volume of our home.

The transracial adoptions group is large, with over 6,000 members, based predominantly in the United States. My request to join was accepted and I was told to read the pinned post and then spend at least 48 hours reading past postings to get a feel for the group. I read the pinned post then introduced myself and added a link to a blog I wrote six months ago on our journey to adopt our first child. I immediately received comments and feedback, all positive, with many queries regarding the differences in SA/US terminology, procedures, etc. Then I was rapped over the knuckles, put firmly back in my box and instructed not to engage again until I had done the 48-hour homework.

So I did – and was flabbergasted: I was totally out of tune with a community I had thought would be caring and sharing. Instead, I found my American counterparts so sensitive to the issue of race as to border on the ludicrous. They seemingly have a need to label everyone. A very serious query was posted asking if members would take offence at the ac-

ronym WAP (White Adoptive Parent). No one really seemed to mind, although I added the proviso that I would prefer not to be called such at a dinner party and would restrict the use to written discussion. It was also decided that TAP (Transracial Adoptive Parent) was preferred over TRAP, the latter considered derogatory because the R presumably stands for Race. Next up, a post declaring someone's profound offence at the word "articulate". What?

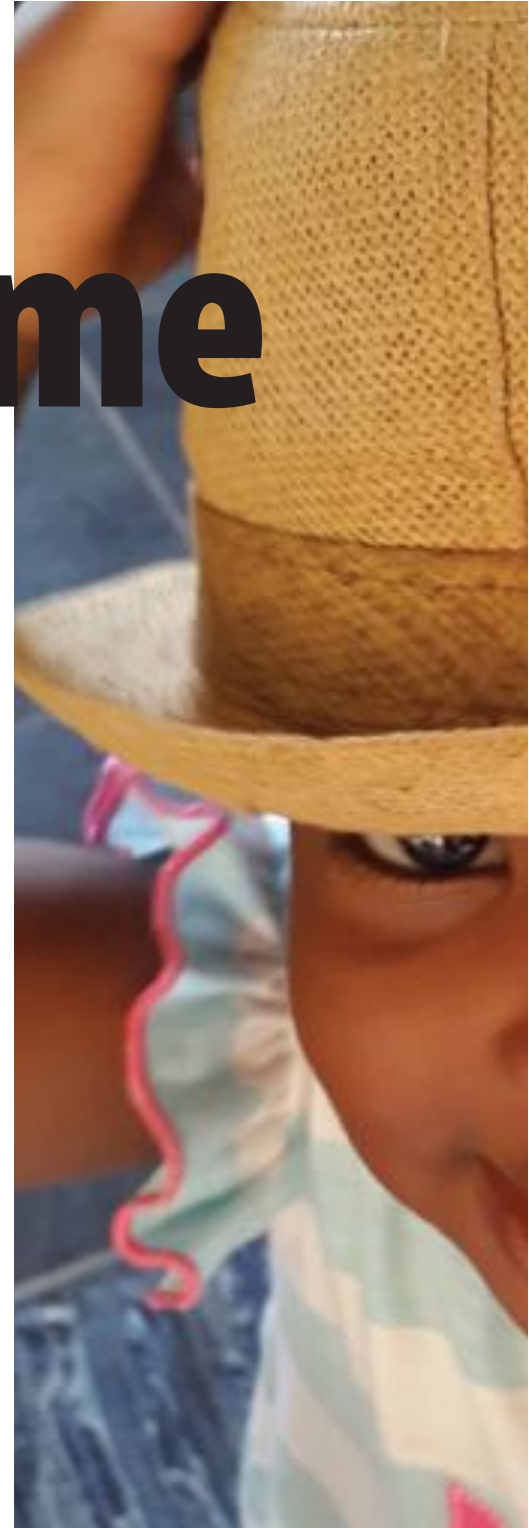
All comments, posts and threads use the abbreviations. Handy for quick texting, sure, but could the constant referrals to these abbreviations (labels) not foster a self-deprecating image and perpetuate the stigmas? All to be passed on to their children. Little Sarah comes home from ballet super-excited: the recital theme is *The Jungle Book* and she wants to be a monkey. Mom explains in her best children's vocabulary that she cannot be a monkey. You would truly believe these people are under constant racial attack. Selfishly, their kids are going to become the adults the parents are, colour conscious with radars scanning every millisecond for a real or perceived slur.

I found posts starting with phrases like: "It's finally happened..." as though this mom has literally been waiting for the moment when her child is the target of a racial slur, instead of getting on with the business of parenting and dealing with these issues as and when they arise. When our son first went to nursery school, we were asked daily by children, "Why is he black and you are white?" For a year I patiently explained that he was adopted. No one asks any more: they all now know.

My new Facebook group seethed with

negativity, gripes, whinges and complaints. I tried to add some levity by sharing links to two humorous blogs on my children; one relates the story of when my son realised his sister was "black like him" and the other deals with the challenges a white mom faces when dealing with her daughter's black-ethnic hair.

My blog was getting good hits, so I thought I might share a blog about something more serious. It relates to our journey to adopt our daughter, a totally different journey. It is hooked on a comment I heard at a child's third birthday party.





Kerrin Wilkiinson's adopted daughter Bella

This is it: "If our first adoption was like navigating our way through a minefield then our second adoption, that of our little girl, was more of a ground offensive, with us as the target of barrage after barrage of incoming fire. We were the French troops at Dien Bien Phu, Pickett's Confederates at Gettysburg, outgunned and outmanoeuvred no matter which way we turned or to whom we appealed."

A 15-month-long emotional assault with weekly incoming sucker punches. Finding our way to our daughter opened our eyes to the scandalous industry

that is the South African social welfare community and its lackey, the 2005 Children's Act (to be fair it's the regulations that govern the act rather than the act itself).

You could comfortably say that by the time we had her in our arms we had seen it all, heard it all and felt it all. We were raw, frustrated at every possible level and in no doubt as to where adoptive parents feature on this particular food chain – they don't even make it up the first rung.

In March I accompanied my son to his friend's fourth birthday party. The mums



Luke and Bella

got talking, as is our wont, and the conversation turned to our boys interacting with girls when they're older (every mother's nightmare), I was blindsided with these words: "I'm so glad I only have boys [*three of them*] because at least when they're older and they impregnate a girl it's not their problem."

Of course I was astounded by this archaic thinking (thankfully I wasn't the only one), but having lived and breathed every word of the Children's Act and its regulations – which now grants equal rights to the biological father, as with the biological mother – my jugular began to twitch.

Both biological parents must sign consent for a child to be "adoptable". Once consent is signed, either or both has 60 days in which to change their minds and rescind said consent. How often do you imagine the birth father is around to sign consent?

In his absence, an advertisement must be placed in one local, one regional and one national newspaper for a period of 90 days. If he does not respond to that he forfeits his rights as a parent.

These two chunks of the newborn's life do not run concurrently. So the baby waits at a place of safety for five months. But that's not all. The government, in its questionable attempt to place children with adoptive parents of the same race ("so they don't lose their culture") instituted a national register, known as

RACAP (Register of Adoptive Children and Adoptive Parents). The act states that this register exists simply to keep a record of adoptable children and screened adoptive parents. It even makes sense: at any time an adoption agency or accredited social worker can have a look at the updated weekly list and know exactly where a child or parents may be found.

That's what RACAP is on the outside. Inside it is a festering cancer of racism because the real purpose of it is to give black couples (who by the way can adopt from birth) an extended opportunity (a further 30 days) to adopt any black child on that register. Again, this period does not run concurrently.

Six months. That's how old the baby will be before it may legally be placed with a loving couple desperate to start a family and shower a child with love and opportunity.

So tell me, Party Mom, when will that attitude change so that the millions of unwanted children can at least have a chance at a happy, fulfilled life? Because here's the rub: couples who want to adopt want newborn babies or babies as young as possible. They don't want to miss a moment. And they certainly don't want to miss three months of their child's life because "it wasn't your son's responsibility".

My article is almost wholly focused on the attitude of this mother. To illustrate the lens through which I saw and heard it – aside from the obvious – I cited facts about the adoption process. Okay, "festering cancer" may have been too harsh but the reality of my experience was one of grave frustration, deep-seated disappointments and anger at a system that I did not for a minute believe – and still don't – is in the "best interests of the child". The facts about adoption in this blog are just that, facts, and festering cancer goes to my state of mind at the time. The fact, however, remains that the focus of this piece is on an adult, educated woman who quite openly and unapologetically washes her and her sons' hands of any responsibility they may have later in life of causing an unwanted pregnancy, ergo an unwanted baby, while the law is very charitable toward these oft-elusive fathers.

Not one person commented on this blog by saying, "I can't believe this mom's attitude." Instead I was lambasted and abused from every direction, not one of which spoke to the essence of the blog. Here are some threads (they obviously

all remain anonymous):

● "... Are you really saying that you wish parents did not have a chance to truly consider the gravity of their decision before they irrevocably sign their rights away? Or that the dad should be cut out of the equation?" [No.]

● "News flash: Adoptive parents should be the lowest rung on the ladder."

● "... many whites in South Africa continue to have a highly imperialist attitude towards black people and towards Africa, but this just boggles the mind."

● "You write as though adoptive parents somehow deserve to experience the newborn phase..."

● "Many potential adoptive parents I have conversed with speak as though they believe it is their right to sign a piece of paper and walk away from the hospital with a newborn baby & pretend the baby's parents never existed." [Not at all. During the screening process we are well briefed on the position of the birth parents within the triad and indeed our social welfare system favours their needs.]

● "Why is it a problem to prefer to place black children with black adoptive parents?" [It's not, I'm all for it, but adoption is not common among black South Africans. An aside here is that same-race adoptions take place from birth... you walk out of the hospital's maternity ward with your baby.]

At first I tried to answer each one care-

**The government,
in its attempt to
place children
with adoptive
parents of the same
race, instituted a
national register**

fully and thoroughly but they just kept coming, shooting from the hip, an answer for everything. I couldn't keep up and one-liners are so easy to misinterpret. I tried the angle of social and economic differences between our countries as a jump-off point. To which I got: "...people make those arguments to justify racist adoption practices everywhere".

I tried again, saying I believe that birth parents should have a period to change their minds but that this period shouldn't be extensive as it prohibits bonding between adoptive parents and the child. Wrong. I was told the real aim of adoption is for it not to be necessary. I don't pretend to understand that.

Now the curve ball: "Is part of the response here essentially that poverty demands redistribution of children from their families to waiting white adoptive parents? How in the world does that address the root issues causing the poverty? Isn't that just a justification of providing kids to meet the demand of WAPs?"

Then it derails and gets insane and quite ugly. My favourite: "It's a white person's luxury to decry people being sensitive to race," and "I can't imagine that you don't think that people know the history of Apartheid and that there must be safeguards in place for black children. That is truly a mind-boggling statement you are making about being in the minority there..." [What am I going to do, make my kids drink out of enamel mugs?]

I tried to keep up, I tried not be naive, help some of them understand how different things are here. I tried to understand how it could be in the best interest of the child to be lying around some home for nine months, but they were rabid, convinced that I was, as an adoptive parent and a white one at that, not even worthy of consideration. I was not holding this discussion in an all-black group: most of the TAPs are white. They consider themselves as the least important facet of the triad yet they are raising a child – a lifetime decision, an inconceivable choice unless you've made it.

I sat back, knowing this was no place for me. I was right – it degraded further into hashtags, #adoptoraptor being the most creative. When I bade them good-night I was #victimplaying. I kept reading for 15 minutes or so and the vitriol took time to dissipate into a discussion on a phone app.

Of course, my children have been the target of clear racism, from within



Kerrin Wilkinson with her husband, Chris (left) and Luke



our extended family to a woman in the middle of nowhere who all but accused us of stealing our son. But we wear thick enough skins to place such ignorance and supremacist thinking where it belongs: on the rubbish dump of social retardation.

I'm also under no illusion that when my children reach primary school they may quite probably become the target of slurs, but so are the little fat girl and the skinny boy with braces and glasses who can't catch a ball. Children have no social filter and can thus be cruel. Is that not the start of our education, that the world is populated with every imaginable type of person and it is up to us to choose with whom we surround ourselves, to learn from those we do not like, to adapt, to accommodate and thereby begin to mould the adult we will become?

I will not apologise for being white and will not bear the weight of white guilt. I will also not apologise for my privileged upbringing; I will instead be grateful for it and use it to the greater good of the community in which I live. I will use it to teach my children well, to expose them to inequality and to instil in them that, before you extend your hand to take, you extend it to give.

In three hours I could not make the

smallest dent in a single one of those people involved in the discussion's thinking. Not one was willing to really listen as I endeavoured to highlight the massive differences between our countries. After 200-plus comments, I bowed out with the

final thought that perhaps these few dozen people would prefer to be black, so as a minority group they could indeed have a valid gripe.

I did wonder what the other 6,200 members thought.

And me? Well, they provided me with a wealth of material and I closed the day on a record 230 reads.

Once I got over the invidious sucker punches with the help of my husband who simply said: "You put yourself out there," I saw all too clearly how ne'er the twain shall meet. Our worlds, or context, our histories and our daily experiences are too far apart.

This is our reality: the latest census statistics put the number of orphans and vulnerable children in South Africa at 3.37 million. This number is said to increase to 5.5m by 2015.

According to the most recent statistics on adoptions, as released by the National Department of Social Development, there were 14,803 legal adoptions registered in South Africa for the period 1 April 2004 to 31 March 2010. This amounts to about 2,400 adoptions per year and includes adoptions by relatives. Since the end of March 2010 the number of national adoptions has declined significantly. These statistics are simultaneously tragic and frustrating since it is "normal" for white adoptive parents to wait a year or more, after completing the rigorous screening process, for a black child. ■



GREATER CAPE TOWN 101.3 | ATLANTIC SEABOARD 97.1
FISH HOEK/NOORD HOEK 107.9 | HOUTBAY 94.7

Partner pulled the plug

Inventor seeks justice in court. By Helen Grange

IT'S THE OLD STORY OF THE BIG BOYS bullying the little guy, taking his idea and then squeezing him out of the deal. But in this case, the inventor of the iconic Wonder Plug is not lying down. He wants to settle the score once and for all with Ellies Electronics, whose very profitable surge protection plug is, at best, based on his product; at worst, a near copy of it.

Jason Roper is MD of Africa Surge Protection and designer of the original Wonder Plug, which he patented. In 2002 he teamed up with Ellies Electronics, who agreed to sell the plug, along with a range of similar Roper products, in its chain stores but with their own branding. "The deal was that we'd supply, and they'd distribute our range," says Roper.

All very well, until the patent on the Wonder Plug lapsed. "I wasn't aware the patent had lapsed, because my lawyer dealing with it had passed away," says Roper.

It didn't affect the business relationship with Ellie Salkow, founder and executive chairman of Ellies, and in 2005, at their annual meeting to discuss production needs, Roper was asked to expand his production capacity to meet the growing demand for the Wonder Plug.

"So at the end of 2005/beginning 2006, I took on a new factory to cater for the required extra production for Ellies, and employed another 125 staff. For six months I was busy with this expansion," says Roper.

He was not only oblivious to the fact that his patent had lapsed but also that, unbeknown to him, Ellies was engaging a new supplier in China.

"Then I had a routine meeting with Ellie Salkow and he simply told me, 'we are not buying from you any more'. He coolly said, 'that's how business goes', then I think he suggested we go for a whisky afterwards!" recalls Roper. His operation was on the rocks. "Ellies was 90% of my business and they knew it."

Roper ended up selling everything he had, but, intent on keeping his com-

pany going, he moved his family into his factory in Wadeville on the East Rand, where they lived for 18 months, while trying to keep the business running on a skeleton staff.

The sacrifices and hard work to build his business up again paid off. Today Roper is in a much stronger position financially – which is part of the reason he decided to tackle Ellies over what they did nearly 10 years ago.

"I'm proud of what I invented – a locally designed and manufactured product, which Ellies copied and had manufactured in China. It was an unfair and unethical move," says Roper.

Is the plug that is sold by Ellies really the same as the Wonder Plug? Although it is a slightly different shape, the electronic configurations and the red-and-yellow colouring are identical. It not only protects appliances from surges, it also checks that the wiring in your socket is correct.

Ellies's plugs do exactly the same as the Wonder Plug, but they're called the Surge Pro Plug and the Surge Pro Power Protector. South Africans know them best as the Wonder Plug, and Roper says that some of the advertising signage in chain stores like Makro and Builders Warehouse, where Ellies distributes their plugs, still states "Wonder Plug".

"Ellies's excuse is that they can't control what signage goes up in the chain stores they distribute to," says Roper.

In 2010, Roper approached Ellies to try to re-establish the manufacturer/distributor relationship and suggested that his company, Africa Surge, provide Ellies with other surge-protection plugs that they do not have in their range, but nothing came of this. Nonetheless, Ellies continues to profit from what was originally Roper's idea, and he wants them



to stop manufacturing and selling what he says are inferior versions.

"The Ellies surge plug uses smaller 14mm Metal Oxide Varistors (MOV) while the Africa Surge Wonder Plug uses a combination of 20mm and 14mm MOVs.


This means that Ellies's plug can resist a 4,500 amps surge, while the Africa Surge Wonder Plug boasts 10,000 amps – more than double the capacity of its Chinese imitator. And it actually costs less. The original, locally manufactured Wonder Plug sells for R107.63, while Ellies are charging R110 for the Chinese product sold under their brand name. Any savings are clearly being pocketed by Ellies.

In response, Ellies wrote to *Noseweek*, via their lawyers, saying that Roper's claims are "untrue" and "unsubstantiated" and, because he had gone to "other media", Ellies had applied to the high court to interdict him from "continuing with (his) untrue, unlawful and defamatory media campaign of misleading disparaging statements concerning our client, its business and its products".

"As the matter is now pending before the High Court of South Africa, it is our respectful view that it is premature to respond to Mr Roper's unjustified allegations via the media," states the letter from Kampel Kaufmann (KK) Attorneys.

Roper says it's time for Ellies to own up and apologise for the theft of his intellectual property.

"The public also has the right to know that Wonder Plug is from Africa Surge and not from Ellies... Why is Ellies riding on the back of the Wonder Plug brand? Simple, because Wonder Plug is a superior, high-quality surge protection plug, and I would like to finally get credit for it!" ■



Crying game: Under proposed legislation, these onion fields in the Baviaanskloof could be placed under the “custodianship” of the state if left to lie fallow for three years

Land grab by stealth

The new euphemism is ‘custodianship’ – where the government will own all the land. By Donwald Pressly

WHAT IT BOILS DOWN TO IS A wholesale land-grab by deceit of the agricultural sector in South Africa. It just won't carry that politically incorrect label and we probably won't see any of the messy pictures of poor white farmers driven down Julius Malema Boulevard in their rusty 1960 Hillmans, trailers full of their farmhouse furniture, à la Zimbabwe.

Even Dr Anthea Jeffery, who is head of special research at the liberal-oriented South African Institute of Race Relations (SAIRR), is careful not to call it a nationalisation assault. But her warnings about the current policy trajectory of the South African Government as it affects farming is deeply disturbing.

It is all carefully argued in her most recent book, *BEE: Helping or Hurting*, published by Tafelberg, which is not only an account of the economic damage that “empowerment” is doing as a consequence of being rooted in the apartheid race-classification system of Whites, Coloureds, Indians and Africans, but

also looks at other forms of dispossession, legislative or otherwise, of those who have assets.

The latest victims are those on the agriculture frontier. What is happening can be summarised simply: the government is not going to call its policy nationalisation. It is also not going to physically drive out white farmers – and other commercial farmers of different colours – who run their operations effectively and still produce the nation's food. But they are going to lose their right of ownership of the land. “Nationalised” is a dirty word and also too closely associated with Julius Malema. Instead, land will be placed under the “custodianship” of the state. That will effectively mean that the state will not have to pay anyone a cent for land which could be taken away from farmers through proposed laws to be passed through parliament. Custodianship, a much more friendly word, is from the new “in” jargon which will govern the agricultural regime.

Jeffery's boss is Frans Cronje, CEO of the SAIRR, who is a chief executive with

a bit of a difference from the besuited tie-wearing brand, who last year published *Our Next Ten Years: A Time Traveller's Guide to South Africa*. Self-deprecatingly, he says he got his real education working as a horse-riding instructor and later a lumberjack in the United States. He has a bit of a zany outlook on the world. It allows him to ask the questions that others just don't. Such as: What will South Africa look like in 2024? Are the angry poor rising up, seizing land and businesses? Will the middle classes still braai in suburbia or will we go the way of Zimbabwe?

Commenting on Jeffery's warnings about the agriculture sector, Cronje makes the point that the government had learnt a lesson from the debate about nationalising mining. “That fell apart. It is looking for a middle ground [*on the land issue*].” It would not simply take land away from white farmers. Instead, as with mining licences, onerous conditions would be placed on those granted farming licences. “The [*state*] will license you as a farmer, but place

conditions on your licence... and squeeze them [*the farmers*] as much as possible through the licence." Farmers could find themselves having to take on BEE partners as a consequence of the licensing conditions and be forced to take on a local "politically connected" black appointee as a 30% partner.

Cronje and Jeffery have more than likely read the government signals right. The government – including the ministers of Rural Development and Land Affairs and of Agriculture – have been talking a lot about about "leasehold" land. So while the goalposts have moved from a position announced in February this year by President Jacob Zuma – that an indigenous (read: South African) farmer would be able to retain 12,000 hectares of land – subsequently reduced to 5,000 for a commercial farm, 2,500ha for a middle-sized farm and 1,000ha for a small farm – the ministers have been making the point that any extra land could be leased.

"There are a number of crucial producers whose farms will far exceed those ceilings," said Jeffery, noting that 16.5 million black people did not have title of land in communal land in South Africa.

Jeffery describes the draft Preservation and Development of Agricultural Land Framework Bill (PDALF) as "misleading". The crucial clause in it is that all agricultural land will vest in the state "as custodian for all the people of South Africa". The Minister of Agriculture, Forestry and Fisheries has published the bill in the Government Gazette – on 13 March. The comments on the draft bill ended in May but the public consultation process was scheduled to begin in the second half of this year.

In her book Jeffery alerted the world to the problems surrounding the Promotion and Protection of Investment Bill of 2013 in her book. A similar "weasel" clause appears in this legislation to the PDALF Bill, but has been quietly dropped in a recent draft. It pretty much proposed the same thing. Under the Investment Bill the government could provide that all commercial farmland against which land claims have been lodged vests in the state as the custodian of the nation's land resources. It could also invite black South Africans in particular to apply to the land department for the right to lease portions of this land for set periods.

"In these circumstances commercial

farmers would be deprived of the property, but the state would acquire it as custodian rather than as owner and there would be "no permanent destruction of the economic value" of the land, which would continue to be used by others. This means there would be no "act of expropriation" under the Investment Bill and no compensation would be payable. Even though this has been dropped from that bill, it is reconstituted in the PDALF Bill.

Jeffery says it is striking that it was essentially the same idea which formed part of the 2014 election manifesto of the Economic Freedom Fighters led by Malema. "In their manifesto, the EFF said they want the state to take all land, without compensation to property owners, and as 'custodian' for the poor," Jeffery noted.

According to the EFF, the state should then grant 25-year leases to land users on a conditional use-it-or-lose it basis. "Despite the ANC's criticism of the EFF, the PDALF Bill suggests that the ruling party may have much the same idea in mind."

Annelize Crosby, legal officer of AgriSA commented: "It is a pity that this issue of custodianship has crept into it.

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of three years**

We are concerned about it."

The idea of the custodianship comes from the passing of mineral rights into the hands of the state, but Crosby does not believe that agricultural activity can be deemed to be deserving of similar treatment. Crosby said that it suggests the Minister of Agriculture would be the custodian of all agricultural land in South Africa. "That [*draft legislation*] gives the minister the power to regulate and we are worried about that."

She disagreed that it would lead – as Jeffery has argued – to farmers being given leasehold over their land, with conditions of co-ownership with "new" farmers, but said: "We are taking legal opinion on the custodianship bill".

She did express concern, though, that compensation could be forfeited. She said AgriSA would also seek to "fix" aspects of that legislation which gave the agriculture minister "quite extensive" powers of expropriation. The minister could, in terms of the bill, expropriate any land he deemed had not been utilised for a period of three years – something which may prove to be a caveat of the bill preventing wholesale landgrabs. "It gives that discretion to the minister... which is not a good thing."

Jeffrey points out the irony that the apartheid regime excluded blacks from owning land – outside the homelands – but now the new democratic government was moving in the direction of preventing blacks – as well as, of course, whites – from owning agricultural land.

Meanwhile, government has also given notice that foreigners will not be able to own agricultural land in future. However, they would be able to lease it. This fits in with the philosophy reported by Jeffery, that agricultural land will ultimately fall under the custodianship of the state, rather than "ownership". Just how far the state goes in this direction will depend on how the Expropriation Bill and the PDALF Bill proceed through their various stages in Parliament. The PDALF Bill has still to be tabled.

Last month Parliament's Public Works Committee held public hearings on the Expropriation Bill. Jeffrey told the committee that the bill limited the jurisdiction of the courts which would be able to adjudicate only the compensation offered "not on the overall validity of the expropriation".

While AgriSA, which represents commercial farmers, was cautiously opti-



Dr Anthea Jeffery

mistic about the expropriation bill, the SAIRR found it worrying because it did not make market value a key consideration of “just and equitable” compensation.

Crosby disagreed with Jeffery that the bill was unconstitutional. Advisers to the public works department, Geoff Budlender SC and UK Naidoo, argued that market value should not be the key criterion of compensation as Section 25(3) of the Constitution included five factors for compensation: the current use of the property; the history of the acquisition and the use of the property; the market value; the extent of direct state involvement and subsidy in the acquisition and beneficial capital improvement of the property; and the purpose of the expropriation.

Crosby said that while it would be ideal for the farmer to get as close to the market value of his property as possible, the factors pointed out by Budlender and Naidoo had to be taken into account. Thus there could be cases where farmers were left still owing part of their mortgages even though they had lost their property.

Jeffery pointed out that agriculture accounted for a mere 2.5% of GDP – insignificant in the greater scheme of things – as it is “hard to see that it can be a solution to rural poverty”. Thus even if there are land invasions on the

Zimbabwe type scale, it will have a lesser impact on the economy it is argued.

Jeffery is not keen to publicly support Solidarity, the former whites-only Mine Workers’ Union – now much transformed ideologically – in its attempts to fight the cause of white workers who have been discriminated against by the black economic empowerment requirements of the Employment Equity Act and the codes of supposed “good conduct” of the Broad-Based Black Economic Empowerment Act. Asked at a Cape Town Press Club function if she backed Solidarity’s move to take an affirmative action case involving a white policewoman to the United Nations, she was hesitant.

Jeffery says whites are skilled and privileged enough to fight their own battles: “I have some reservations about this [*Solidarity case*] as it focuses attention on how affirmative action has an impact on white South Africans [*who*] are better able to take care of themselves even in a system that is loaded against them”.

The policewoman, Lieutenant Colonel Renate Barnard, was refused promotion on three occasions. Solidarity has lodged a complaint to the UN’s Committee on the Elimination of All forms of Racial Discrimination against the South African government, which is a signatory to the applicable UN Convention.

Instead, Jeffery says, the real victims of affirmative action and BEE are “the great majority of black South Africans who have this crisis of unemployment... we should not distract attention from this key problem with BEE”.

Jeffery argues that BEE has largely enriched a small core of black business people. It should be replaced by an “input” drive programme to empower poor people, called the Economic Empowerment of the Disadvantaged, which would use income and other indicators of socio-economic disadvantage as the foundation of interventions.

Racial preferences would fall away. Second, it would strip away numerical quotas with the input-based system that would include decent schooling and opportunities for tertiary training. Instead of race-based BEE equity deals, “which largely benefit a small black elite with close ties to the ANC, all employees should be given the opportunity to take part in employee share-equity programmes”.

But then that is another story. ■

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President Barack Obama with US First Lady Michelle and African Union Chairwoman Nkosazana Dlamini-Zuma

Kenya. Obama's tour a personal success but deep concern about US policy remains

AS SOON AS NKOSAZANA DLAMINI-Zuma, Chairwoman of the African Union Commission, had told President Barack Obama: "Although we welcome you as President of the United States, we also claim you as our own," he held the attention of assembled officials and regional leaders for his lengthy speech at the AU headquarters in Addis Ababa on 27 July.

Like so much of Obama's Africa tour on 23-27 July, it was stronger on symbolism and inspiration than on policy. The first US President to address the AU, he tried to break out of the diplomatic straitjacket and inject some criticism of the mounting clampdown on oppositionists and journalists in the region. "Democracy is not just formal elections," he told a cheering AU audience, amid awkward smiles from the senior politicians amongst them.

When "journalists are put behind bars or activists are threatened, then

we may have democracy in name but not in substance": that might have been crafted as a comment on the political climate in Ethiopia, the AU's host country. Likewise, Obama's barbs against sit-tight presidents struck a chord with many in the audience: "I don't understand why people... want to stay on. Especially when they've got a lot of money. When a leader tries to change the rules in the middle of a game just to stay in office, it risks instability and strife, like we've seen in Burundi."

This was a remark whose weight was matched only by the impotence of both the USA and AU to influence events in Burundi. A week earlier, President Pierre Nkurunziza had defied their calls and stood for an unconstitutional third term as violence escalated in the country. A week after Obama's remarks, Nkurunziza's security chief, Adolphe Nshimirimana, was murdered in Bujumbura in an attack

which many fear will unleash a chain of revenge killing.

The bigger failure on the part of the AU and the USA is the failure to secure an end to the civil war in South Sudan, one recognised in Obama's caustic criticism of the indifference of President Salva Kiir Mayardit and sacked Vice-President Riek Machar Teny Dhurgon to the suffering of their own people. Neither was invited to the AU speech. Instead, US officials were briefing journalists that their failure to accept a peace deal by 17 August would this time trigger serious sanctions against both Salva's government and Riek's rebels.

Obama's attendance at a special AU Peace and Security Council meeting on South Sudan on 27 July suggests that this time, there is near unanimity about imposing sanctions, despite the awkward reality that Uganda's President Yoweri Museveni still provides key military support for Juba, and Su-

dan enthusiastically supplies arms to Riek's forces. Yet regional diplomats in Addis Ababa compare critically the high level of diplomatic engagement that produced the Comprehensive Peace Agreement in Sudan in 2015, which made possible the secession of South Sudan, with the dilatory efforts to broker a peace between two former comrades, Salva and Riek, whose war has killed tens of thousands of civilians since December 2013.

It is in the money stakes that Obama had most catching up to do, mainly with China, whose annual trade with Africa of some US\$240 billion is about three times the value of America's. Although Obama is a cheerleader for African growth, the modest ambition of projects such as Power Africa has prompted plenty of adverse comparison between Washington and Beijing. Obama responded with some barely coded criticism of "those countries" that bring their own workers to build infrastructure in Africa as they buy up the continent's raw materials. The US obsession with China extends to its dealings with Africa but it's little warranted, given the low level of resources that Washington devotes to Africa, compared to its operations in Latin America, the Middle East or the rest of Asia.

Three days before the grandeur of Obama's speech to the AU, his visit to Kenya was necessarily a far more personal affair. The official reason was for Obama to co-chair a Global Entrepreneurship Summit with Kenyan counterpart Uhuru Kenyatta. Obama's father's family hails from Siaya County, in Luoland in Western Kenya. In 2008, that prompted the bitter joke in Nairobi that the USA would have a Luo President before Kenya did.

Obama's half-sister Rita Auma Obama met him off Air Force One and introduced his keynote speech on Sunday, while the Commander-in-Chief was surrounded by relatives, including his step-grandmother Sarah Onyango Obama in Nairobi's plush Villa Rosa Kempinski hotel. Nairobi City Council's project to upgrade eight kilometres of Uhuru Highway and Mombasa Road from Capital Centre to Museum Hill was completed just before the visit. Less successfully, Nairobi County Governor Evans Kidero received a mixture of praise and mockery for planting acres of grass and flowers alongside

the main roads, at an estimated cost of \$500,000. Planted just days before Air Force One touched down at Jomo Kenyatta Airport, the expensive turf barely had a chance to grow, a slightly unfortunate metaphor. "Don't worry. Plant it. It will grow," Kenyatta had advised Kidero in a speech two days before Obama's visit.

Despite emerging as an economic hub for East Africa, with an average growth rate of close to 5%, Kenya is held back by high unemployment, corruption and difficulty in raising finance.

When Obama last came to Kenya as Senator for Illinois in 2006, his attacks on corruption prompted accusations of political motivation. Diplomatic relations between Kenya and the West have only recently begun to thaw. (Kenyatta and his deputy, William Ruto, were both indicted in 2011, accused of involvement in the 2007-8 election violence, by the International Criminal Court in the Hague. Although

Kenyatta's case was dropped last December, Ruto's continues: that didn't stop him from joining the reception line to meet Obama and giving him a vigorous two-handed handshake.)

Obama offered a mixture of chastisement and baubles. Criticism on corruption and gay rights, support for Kenya's battle against the Harakat al-Shabaab al-Mujahideen terrorist group behind the massacres at Garissa University in May. His status as a "favoured son" allowed him to speak with a frankness on corruption that Kenyan leaders would decry as Western colonialism from another mouth.

Equally frank remarks about gay rights were less well-received, at least by Kenyan political leaders. But the strong popular support for the stand of Kenya's Caine Prize-winning novelist, Binyavanga Wainaina, in favour of gay rights suggests Obama's remarks have wider support than Nairobi officials suggest. ■



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Damaged Goodes. Dreamtime nightmare

A CONVERSATION ABOUT RACE, AUSSIE style: In 2013, a 13-year-old spectator called an Aboriginal footballer “an ape”. The footballer identified her and security removed her from the stadium. At the time, a chorus of voices (media “shock jocks” and right-wing commentators) said the AFL player, Adam Goodes, should apologise for humiliating the “little girl” who could not have understood what she was saying.

On realising she was young, Goodes graciously asked people to support her, and the media, to go easy. “It’s not a witch-hunt, I don’t want people to go after this young girl. We’ve just got to help educate society better so it doesn’t happen again. It’s not her fault, she’s 13, she’s still so innocent, I don’t put any blame on her.”

Then, in 2014, when Goodes became Australian of the Year on Australia Day (which many Aboriginal people call invasion day), he used the opportunity to speak out about Aboriginal rights and concerns.

Even though the award was for his advocacy against racism, still, Goodes was criticised for doing just that. The issues re-surfaced in June this year, when his powerful Aboriginal “war dance” on the field to celebrate a goal was slated as inflammatory, aggressive and race-loaded.

One of Australia’s few prominent left-wing media commentators, Waheed Aly, nailed it at the time. Australia, he said, was very tolerant “until its minorities demonstrate that they don’t know their place... The minute someone in a minority position acts as though they’re not a mere supplicant, then we lose our minds... the vanilla velour, the cover does not cope”.

In the next few games, Goodes was booed every time he touched the football. Another spectator told him to “get back to the zoo” and, when he was ejected, said it was “just banter”. Among the nasties who jumped on the bandwagon was the mother of the (then) 13-year-old, telling Goodes the booing would stop only when he apologised to her daughter for humiliating her in 2013.



Adam Goodes

Radio commentator Alan Jones said Goodes should “stop playing the victim” and columnist Andrew Bolt said the booing would best be stopped if Goodes would say: “Look, I did overreact. We mustn’t forget... we’re all human beings, we’re all together in this. And singling out a girl for public humiliation like that I thought was wrong.” This is the same Andrew Bolt who in 2009 wrote about fair-skinned part-Aborigines playing the victim and “sniffing at the trough” for specially targeted prizes and jobs. The booing got so bad that Goodes withdrew from the game amid reports that he was “in a dark place.”

Stan Grant, a very successful Aborigi-

nal television presenter, wrote that even though, like Goodes, he’d been immensely successful, Australia still made Aboriginal people feel “estranged in the land of our ancestors, on the fringes of one of the richest and demonstrably most peaceful, secure and cohesive nations on earth... Our position at the bottom of every socioeconomic indicator tragically belies the Australian economic miracle... Ours is a troubled patriotism. Our allegiance to Australia, our pride in this country un-

A spectator told him to get back to the zoo

dercut by the dark realities of our existence...

“From childhood... to be Aboriginal was to be ashamed. Ashamed of our poverty... ashamed of the bastardised wreckage of a culture that we clung to. This wasn’t the Dreamtime. This was mangy dogs and broken glass.”

Now, after an “outpouring of love”, including support from politicians, businessmen and schoolchildren and from fans at a game he missed, web petitions, newspaper wraparounds, rallies, petitions, twitters and panel discussions – you name it – Goodes is back with a few high-fives, some hugs, and says simply, “It’s good to be back on deck.”

The two-week paroxysm is over, and Australia has already slid back into its complacency, patting itself on the back with an editorial in the *Sydney Morning Herald* about “feeling proud of him for fighting back, and even prouder of this country for standing with him.” ■



Gothic. Flight of fancy

SWEET REVENGE. THE LATEST OFFERING from the astonishingly prolific and wryly entertaining Margaret Atwood professes to trace the history and social significance of the trashy Gothic fantasy era. But *Stone Mattress* is not what it seems. Not entirely, anyway.

Certainly it lays into the infantilism of the Goth kiddies who compulsively disport themselves in bizarre costumes of their favourite cartoon characters. But Atwood's tender abuse of these nutters is window dressing for a cheerfully savage reprise of that old song *The Battle of the Sexes*.

Hostilities start circa 1960, with the lustful tension of the pre-pill student generation, who smoked pot and saw themselves as revolutionary characters straight out of *La Bohème* – inflicting bewildered despair on their exhausted, upwardly mobile, parents. Then, in nine subtly linked tales, we experience the increasing disillusionment of the West as romance dies to be replaced by ultimately tedious realism.

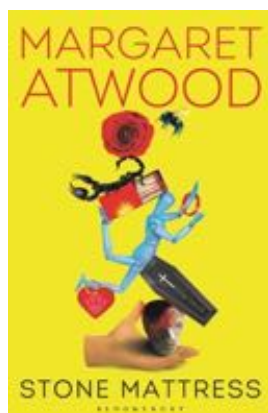
The mechanism for sustaining a barrage of invective against the adolescent excesses of the times is the creation of a goofy “novel”. Gavin, your bog-standard layabout student, is forced to apply his mind to literature when he runs out of rent, and his three room-mates run out of patience. The angry trio reluctantly refrain from casting him into outer darkness, on condition he sign a contract: in the unlikely event of his creepy magnum opus earning a shekel or two, the proceeds must be shared equally between the parties. Gavin the Lazy, Gavin the Randy, Gavin the Greedy labours mightily for the first time in his sweet life. Not that he has avoided suffering: the exquisite pain of conventional and censorious parents.

The literary fantasy he produces under duress (including the physical demands of a comely flat-mate) is a corny swamp of masturbatory malarkey. Freud would have been thrilled by the ...er ... hero: a wrinkled disembodied hand that scuttles about like a malignant crab, in pursuit of ye innocent maiden. Respective publishers would not, of course, sully their mahogany dens with such drivel. They would insist that such ordure be buried deep. Surprise! They lap it up, the money rolls in, and the flat mates get a little tetchy.

Atwood, whose elfin, grey-haired portrait adorns the dust-cover, conveys a powerful im-

STONE MATTRESS

By Margaret Atwood
(Bloomsbury)



pression of autobiography. *Stone Mattress* is mordantly humorous about late adolescent shenanigans, but equally scathing on the shifts and stratagems of the aged.

A consistent thread is the fact that formative years are just that: the slights and pains inflicted in youth tend to throb forever. Which allows our author to weave an intricate, satisfyingly devious, linkage of character development over the years. Or non-development, as the case may be. The struggles of ordinary mortals in puzzling times may not rate as profundity, but the lady knows the emotions whereof she speaks.

In retrospect, the naivete of the post-World War II years is heart-breaking, but the current disillusion of the West is not much of an advance. Atwood's solution? Tough it out, and try to see the funny side as the world goes to hell in a hand basket.

The current obsession with fantasy might serve a serious escapist purpose. It seems that, in a naughty world, it mitigates the lurid fears generated by doomful daily TV news broadcasts. The battle of the sexes? Well, Atwood believes that two-timers and cuckolds come home to roost. And life, lump it or leave it, is largely about tenacity. Hang in there. ■



Margaret Atwood



Anatomy of healthcare. Condition critical

AS CONCERNED CITIZENS, THERE ARE times when we are faced with issues that are hard to comprehend and we find ourselves asking: Why is this happening? and Why is no one doing anything about it?

These are questions I've been asking myself since my last column appeared (in *nose190*) about the shambles of our health system, following which I noticed a plethora of articles in other publications highlighting similar problems in hospitals around the country. Yes, around the whole country.

One, in a Sunday broadsheet, was headlined "Free State's hospitals of death exposed". Like my write-up on Barberton General Hospital, it referred to an alleged misdiagnosis, but this one had led to the death of a patient at the Botshabelo District Hospital in the Free State. There was another story about human blood leaking from a hospital mortuary in Bloemfontein. Whoever heard of such a thing!

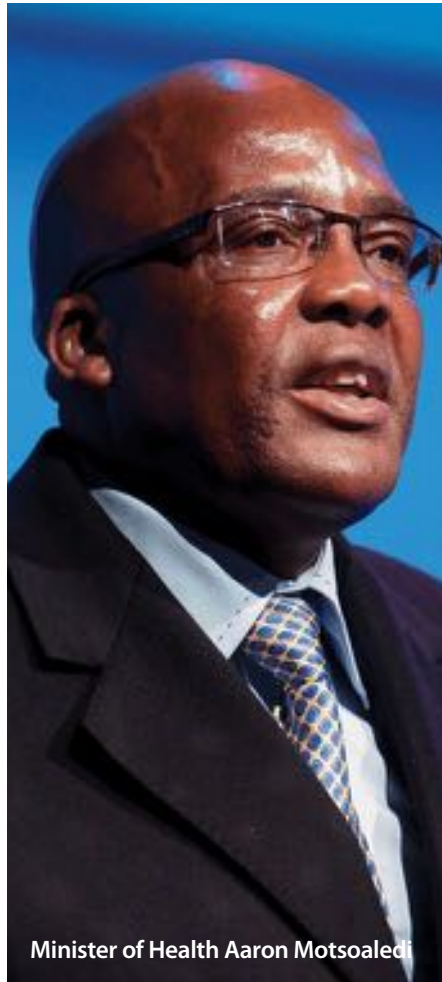
Now the question that needs asking is: does South Africa have a Minister of Health? Where is Aaron Motsoaledi? Is he simply not doing his job or is he not capable of doing it?

One doctor, Russel Kirkby, wrote in a Sunday publication: "Top politicians and government officials ... must receive their care through public healthcare facilities. This should be a condition of employment."

Sorry Kirkby, while many a citizen would agree, this will never happen. After all, why should they risk being misdiagnosed? That is for nobodies like us.

In my previous column I quoted a doctor who said the many misdiagnoses can be attributed to the lack of supervision of trainee doctors. Well it's not that simple. So, to the trainees, my apologies for appearing to cast all the blame on you. After further investigation I deduced that it can be attributed to the shortage of experienced doctors serving our public health system.

A doctor friend of mine who cannot be named as he still serves in public



Minister of Health Aaron Motsoaledi

hospitals, said the shortage has forced trainees to treat patients without supervision because the few experienced doctors there are must also tend to patients.

This doctor also laid the blame on the Health Professions Council of South Africa, which is supposed to ensure that our public hospitals provide trainees with supervision. Several attempts to get comment from the council before going to press failed.

Back to the doctor shortage. What happened to the Cubans? There was so much fanfare a few years ago about how these brothers-in-arms were going to be

the answer to our need for more doctors. Well, it appears that many of our trusted Cubans simply used South Africa as a stepping stone to move on to greener pastures. Talk about putting a new spin on defections!

According to one administrator (who also cannot be named for obvious reasons) at one of Mpumalanga's hospitals, many of the Cubans simply secured South African citizenship and hit the highway, or better said, the skies. They are said to have taken advantage of the demand for South African doctors and reportedly went to places like Australia, New Zealand, Canada – and of course – the UK.

Unfortunately, such claims are hard to prove without a thorough investigation. However, a few years ago I met one or two Cuban doctors at Barberton General. Now they are nowhere to be seen – unless of course they'd been taking a siesta when I went looking for them. Maybe they were taking the siesta with our Minister of Health.

And speaking of the MIA Cubans, what has happened to the much-vaunted National Health Insurance (NHI) plan? Wasn't this supposed to be another saving grace of our beleaguered public health system.

Yes, the so-called Phase One of this plan was said to focus on infrastructure development and renovations. And indeed, if truth be said, if Barberton General and the Provincial Hospital at Nelspruit, Rob Ferreira, are anything to go by, millions of rands have been pumped into this first phase.

That is all good and well, and yes, we have beautiful buildings, but the service to patients has not changed.

It would seem to me – or any logical person – that Phase One should have focused on improving patient care, but when you have a society where there is serious moola to be made through construction tenders, why bother with paying doctors more money.

Health minister Motsoaledi should be ashamed of himself. This gentleman seems to be failing dismally at his job. ■



Every comfort. Foreign affairs

AAAH, CITY OF LIGHT! I ARRIVE IN Paris just as the illuminations are coming on. I ask the taxi man to take me to a modest B&B because I don't have a great deal of money, he pulls up at the Pension Turquoise, Touts Comforts, four floors, about two rooms wide, in a most modest suburb. I present myself at the reception desk where stands owner/manager Madame Turquoise Scilpot herself, in the flesh. Plenty of it.

Aaah, M'me, say I in formal French, I desire title deeds to a family crypt. 'Ere we speak English, she replies, do you wish a rim? Mais oui, say I, I mean yes please, and hand her my RSA passport. Masculinim, femininim, ambidexter or futbol? she asks.

I am not here for sexual purposes, I declare with some dignity, and what, pray, has football got to do with my sexual preferences anyway?

Nononon! she exclaims with some hauteur, it is for toilets; we 'ave Ladies and Gentlepersons each on 'er own floor, also for Gaypersons both masculinim and femininim, and Futbol is for top floor because le ascenseur is inoperable. You mean, say I, that if I book in as a football fan and run up and down three flights of stairs because the lift is bust, I will get a discount on my bill?

Nononon! says she, Futbol floor number three they receive one large gratis teapot of English tea at the bedside for waking up, gentlepersons on floor two receive one cup with teabag. Floor one is easy for the salle é manger. Mas oui, say I, I'll have the Football floor, please, and milk and sugar for the tea, hey? Mais oui, says she.

Well it's not a bad little poz, I tell you. Off the tourist routes for economy, of course, with Algerians and black Francophone folks all about and a certain amount of colonial culture along with

them, like the toilet structure whereby the lavvies are built one over the other and a bit to the side and they all empty into a municipal sewage cave below the ground floor without benefit of plumbing, just gravity and a narrow sort of mine shaft. So if you're unlucky enough to be in the Femininim toilet whilst another guest is in Futbol, you will hear his



defecation come whistling by at Mach 7 or so, followed by a great thud down below of 8-or-so on the Richter scale. That sort of thing. But it's a grand little place for any of you dear readers contemplating romance in the spring.

I breakfast on tripe-and-garlic soup according to a quaint old Côte d'Ivoire recipe, then off fancy-free on the Metro to the City Centre and the sights and sounds: pavement cafés and men in berets playing accordions and struggling artists on the riverside, and Notre Dame, all that sort of thing. I decide on a random bus ride, a surprise journey. All buses are

going to the same place, though, called Complet, and don't stop at my signal, but eventually one comes along saying Bastille, it stops, and I hop on and say to the conducteur How much to the Bastille, please? What part of Bastille? says he. Well, the prison, say I.

Nononon, says he, 'e is démolir. What! I exclaim, you can't just demolish a National Monument, man!

Nononon, says he, 'e is démolir in 1789, finish, caput, and he draws a hand across his throat, not the finger ear-to-ear, English style, but the side of the hand across the back of the neck, guillotine style. He notices I feel a proper narner however, and says to me Why do you not go to the Palace at Versailles, they did not démolir 'im, take a blue bus.

But I don't. I decide to do the non-tourist thing and just wander about and enjoy Parea in the spring and see if maybe I will fall in love as prescribed, but all the waitresses are far too busy for le zizipompom and all other ladies seem to be already in love with good-looking gents which I am not, also I am seventy years old, but I have a lovely time nonetheless, thanks.

So then. After a week or so I decide to try London where also it is spring and maybe I'll

fall just as easily in love there. I bid adieu to Mme Scilpot who kisses me twice upon the cheeks and I'm away on a train to Waterloo Station.

I feel strangely at home. Well KZN is really just another Pom county, isn't it? I hum a small tune hum-te-tum and smile at my surroundings. I might as well just do the surprise bus ride here, I suppose, so I stick around a bit and one arrives declaring Crystal Palace.

'Ullo mate, say I to the conductor, 'ow much to the Crystal Palace then? Are you a bloody loony or summink, says he, it burned down in 1936. ■

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