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224 JUNE 2018



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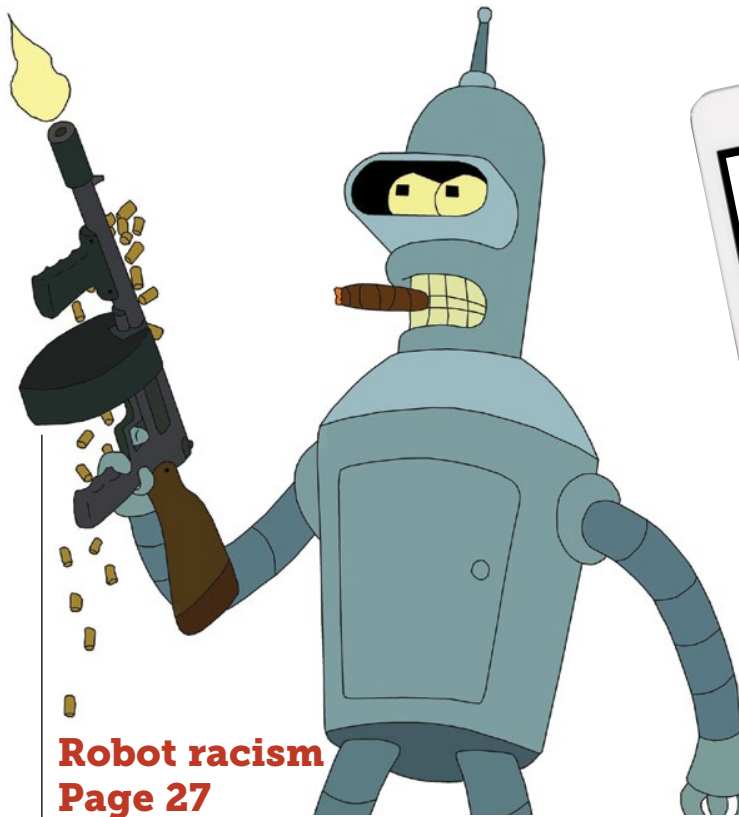


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# noseweek

ISSUE 224 • JUNE 2018



## Robot racism Page 27

**4** Letters

**8** Editorial

**31** Smalls

### COLUMNS

**25** Books

**26** Letter from  
Umjindi

**27** Not Rocket  
Science

**28** Down and  
Out

**30** Last Word

### FEATURES

#### **8** Who Spilged the beans?

Judge surprised to see himself mentioned in SARS Naughty List during court hearing

#### **11** If it smells of state capture...

When clients refuse to pay up

#### **12** Scheme to discredit witness against Zuma

Forensic auditor says dirty tricks being used to neutralise him before trial

#### **16** Crocodile's QwaQwa k-word kerfuffle

Did Investec CEO conspire with lawyer to dilute shares of a comrade to benefit his family?

#### **20** When the ANC's monopoly goes

SA's political system is designed for coalition government, argues political analyst Leon Schreiber

#### **24** Dirty secret behind Norway's clean energy

The happiest country in the world funds its very green power by selling its fossil fuels to the rest of the world

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# Letters

## The SARS 'naughty list'

I RUN A SMALL ACCOUNTING PRACTICE. REST assured that this level of tax evasion is nothing new.

The worst is that SARS on most levels has individual staff members with whom a taxpayer, and particularly certain attorneys, can arrange the writing-off of tax debt for a fixed fee of 10% of the debt. (Even VAT and PAYE can get written off.)

It is therefore okay to owe SARS a lot of money. If you don't owe them a lot, you'll find yourself in a world of trouble because then the 10% is not worthwhile for these crooks.

**CG Cloete**

Cloete Accounting and Tax Services Inc  
Parys, Free State

## Gwen Ngwenya: bitter truth

PITY THAT *NOSEWEEK*, TO WHICH I subscribe, claims to care about issues of probity but the profile in *nose223* of Gwen Ngwenya (now head of research for the DA) fails to mention the incident of IRR's sugar tax research sponsored by Coca-Cola. Different strokes for different folks?

**Sean Muller**

Via Twitter

■ THAT WAS SWEETHEART JOURNALISM AT its worst. Bad pun! Also no mention of Afriforum funding of IRR.

**Shuaib Manjra**

UCT, Cape Town

*An interesting point we failed to notice; so we are human after all. Thanks for reminding us.* – Ed.

■ I HAVE BEEN CONSISTENTLY IMPRESSED BY the articles written by Gwen Ngwenya when she was COO of the IRR. She is indeed a brilliant rising star and I am convinced she will go very far in her chosen career.

**Larry Palk**

Betty's Bay

■ MS GWEN NGWENYA'S LAMENT THAT Parliament is not "a place for really in-depth engagement on policy" strikes a chord. To change this we must outlaw the idiotic practice of caucus voting. When party caucuses decide in advance how they will (or must) vote, then

the debate that follows is redundant, amounting to little more than rationalisation of the chosen line. This leads to the mudslinging, childish interjections, and generally unruly behaviour that now characterise our parliamentary sessions: few members feel any need to listen; some go to sleep.

These habits are learned in school debating societies, where the competitiveness encouraged by teachers leads to petty point-scoring rather than rational discussion. Perhaps fruitful debate is possible in some of our parliamentary sub-committees, but it will remain absent from the main chamber while caucus voting persists.

If our politicians were sincere in their desire to serve the people they would not punish the likes of Dr Makhosi Khoza for voting according to their consciences; instead they would insist that voting according to conscience becomes a constitutional duty.

**John Brodrick**

Bedfordview

## Africa's Unesco City of Literature

YOUR REPORT ON HOW ISSUES OF RACE AND exclusion are threatening Durban's status as Africa's only Unesco City of Literature – as bureaucrats throw the book at the committee over race quotas – brings to mind these words inscribed on Kwame Nkrumah's memorial in Accra, Ghana: "Get thee the political power and all things shall be added unto thee."

**Alain Leger**

(via Facebook)

St Martin de France, Pontoise, Paris

## A Steinhoff puzzle

FOOD FOR THOUGHT: WHY WOULD PSG have sold all their Steinhoff shares (apparently seven million) only a few months prior to "meltdown"?

Why would Steinhoff "strip" solid South African assets and insulate/ring-fence same in STAR (Steinhoff Africa Retail) – even closer to "meltdown"?

Genius? Coincidence? Just asking.

**Luvuyo Mncanca**

By email

## Nedbank's lies

WHY WOULD NEDBANK TAKE SUCH A huge risk by lying for small change (*nose223*)? There is a bigger story

there, look at the people more carefully.

**Rudd van Deventer**

Johannesburg.

*We are watching closely.* – Ed.

■ IN JERSEY THEY STILL PRACTISE THE "Clameur de Haro". Beat that, Nedbank! If someone pisses you off, you go to the Royal Square (your pic) and kneel down facing the statue of the Duke of Normandy, Our Liege; then say "*Haro, Haro, Haro, A l'aide, a l'aide Mon Prince. On me fait tort.*" (Hear me! Hear me! Hear me! Come to my aid, my Prince, for someone does me wrong.) Then the offender must either desist or face immediate arrest and prison. Would be cool here.

**Renee Paul Gosselin**

Johannesburg

■ I HAVE LEARNED THAT, SUBSEQUENT TO the appearance of "How Nedbank lied" (*nose223*) the bank rushed copies to their lawyers in Jersey who, pretending outrage, then asked the Jersey court for a contempt of court order against 83-year-old Dorothy Brakspear – who they assumed was the source of the story, since the Bankers Book evidence was supposed to be kept confidential.

The Jersey court is yet to rule on the matter. Fortunately, back in South Africa, the Constitution guarantees (in S16[b]) our "freedom to receive and impart Information and Ideas".

Nedbank and its lawyers' ongoing outrageous conduct in the Brakspear matter brought to mind some quotes from Auschwitz survivor Elie Wiesel. First, on speaking out: "We must always take sides. Neutrality helps the oppressor, never the victim. Silence encourages the tormentor, never the tormented. There may be times when we are powerless to prevent injustice, but there must never be a time when we fail to protest." Then, on indifference: "The opposite of love is not hate, it is indifference. The opposite of faith is not heresy, it's indifference. And the opposite of life is not death, but indifference between life and death."

Wiesel concludes his argument with a wrenching memory: "Bomb the Rail Line leading to the Concentration Camp ... Just once. (We believed that Auschwitz and Treblinka were closely guarded secrets; that the leaders of the free world did not know what was going



on behind those black gates and barbed wire; that they had no knowledge of the war against the Jews that Hitler's armies and their accomplices waged as part of the war against the Allies.

"If they knew, we thought, surely those leaders would have moved heaven and earth to intervene, would have spoken out with great outrage and conviction. They would have bombed the railways leading to Birkenau... just once?"

The moral of my story: If you are a South African and you support our rights guaranteed by the Constitution, such as to Freedom of Speech and Lawful Action that are threatened by certain Banks and Lawyers, then you cannot, at the same time be a client of those Banks or those Lawyers. You can't say you did not know.

"We must always take sides." Choose, are you for Nedbank and its lawyers or are you for the Constitution, Mrs Brakspear – and *Noseweek*?

**Atholl Canterbury**  
Durban

## Over-rated Joburg advocates

THESE LAWYERS ARE THE CLASS OF PEOPLE I hope never to have to deal with or employ; they are totally disgusting. I comment as a graduate, professional mechanical and aeronautical engineer with local and international qualifications plus 50 years' international professional experience, who charges absolutely nothing like those ridiculous rates charged by the lawyers whose sense of self-importance leads them to "over-rate" themselves. Reasonable rates lead to good relationships with my clients – and to future business.

**Bruce Prescott**  
Benoni

## Vodacom thieving (continued)

I HAVE ENJOYED THE SERVICES OF Vodacom for many years. Only recently, after reading about the problem in *Noseweek*, did I notice that in respect of my cell phone substantial amounts, reflected as "Content Services", have been debited to my account.

These are apparently debited in respect of unlawful data charges generated by unknown entities identified as:

Zip, Bmobil, Gamezz, Jamba, Get the Result, Buzzy Life, Wasp, Andro Games.

Upon enquiry at Vodacom, Brooklyn Mall, they accessed an SMS number, 31050, with a message to "delete all". This instruction via SMS apparently ensures that data reflected as "content services" are cancelled. I was also advised to file a formal complaint via email to [complaint@waspa.co.za](mailto:complaint@waspa.co.za) and [info@waspa.co.za](mailto:info@waspa.co.za) for a refund of the amounts illegally debited to my account, which I did on 21 February.

I have traversed the debits in respect of the relevant cell number and compiled a detailed list of all those amounts illegally recovered from my account, which I forwarded to those Waspa addresses, together with my request for a refund in the amount of R12,768.52. Both emails were returned "undeliverable". Subsequent to the last date listed, I established that a further R144.99 was debited to my March account, despite the SMS instruction to delete all content services.

Kindly forward the contact details of any Vodacom directors that you have, so that I can refute the fraudulent charges debited to my account. I have every intention of proceeding against them to recover my losses and thus be of assistance to those who have suffered the effects of this organised fraud.

**Ferdie Ziondagh**  
Attorney  
Pretoria

*We have had a call from Vodacom's PRO pleading with us to remove the telephone number of their CEO Mr Saki Makozoma from our website as he was being overwhelmed by complainants' calls. It's still there if you need it. – Ed.*

## Last Word in laughter

HA HA HA! THE LAST WORD BY HAROLD... Drop dead funny, I could hardly finish reading, I laughed so much... Eish, die madala!

**Mosa Damane**  
Sydney, Australia

## Those SARS 'rogue unit' charges

THE "SUPER-SECRET EQUIPMENT" referred to in the 2015 charge sheets as having been acquired illegally by the SARS "rogue unit" is a farce – all

of it. All of it can be bought over the counter or on the internet by anyone.

**Paul Kirk**  
Durban

*That might be so, but this lot is said to have come as a hand-me-down from US government sources. And while the accused say it was intended for use by SARS customs officials at border posts, was it in fact used there?*

*Was it used legally to intercept private conversations; ie, did the users have the necessary warrants? Was this the same equipment that was used to "bug" the NPA offices? What equipment was used to record the now notorious "spy tapes"? – Ed.*

■ *NOSEWEEK*, YOU HAVE BEEN WELL and truly suckered. What a load of bollocks.

**Michael MacCarthy**  
Rooi Els

*We were not "suckered" by anyone. Noseweek chanced upon copies of the 2015 disciplinary hearing charge sheets in a bundle of documents "discovered" (handed over) by SARS in another, unrelated criminal trial we are investigating.*

*Whether the charges contained in them are valid or spy-inspired malicious invention, they provide interesting context for the criminal charges recently brought against Ivan Pillay, Johann van Loggerenberg and Andries "Skollie" Janse van Rensburg. As simple as that: no plot, no conspiracy.*

*What has me intrigued, however, is Van Loggerenberg's claim that he resigned rather than defend the disciplinary because it "would have the unintended consequence of also exposing other aspects concerning the state not relevant to my matter".*

*He added that a senior State Security Agency representative he had consulted felt the country "couldn't afford more scandals". What was that all about? What serious state scandal/scandals is he hiding?*

*Was that comment a loaded threat to his bosses and the prosecuting authorities? There is a great deal more to this story than meets the eye. See page 6 – Ed.*

# Dark secrets haunt ex-SARS man

## A disturbing exchange on Noseweek's Facebook page

AFTER READING *ROGUE* BY JOHANN VAN Loggerenberg and *The President's Keepers* by Jacques Pauw, it is clear that the so-called "rogue unit" had substantial successes, especially against organised crime. This is highlighted in both Angelique Serrao's book *Krejcir: Business as Usual* and in Mandy Wiener's latest book, *Ministry of Crime*. It was thanks to this unit, and a statement by Van Loggerenberg, that Krejcir was finally brought down.

I tweeted in 2013, 2016 and again in 2018 commending SARS for their role as well as that of Van Loggerenberg and Paul O'Sullivan. (I have had personal differences with both these men but I have never hesitated to give credit where credit is due.)

Getting back to the *Noseweek* story, it is in the public interest to be told all versions of events available – especially relating to such a high-profile case. The fact that the State is pursuing a criminal case against Van Loggerenberg et al under a new president, no longer fits the narrative of Zuma's trying to neutralise specialist investigation units and the NPA.

In light of the recent failed prosecution of Glynnis Breytenbach, it would be surprising if the state would pursue another case involving an ex senior member of the law-enforcement fraternity and risk of further embarrassment. The state must believe that they have a provable case.

The original SARS rogue-unit story polarised the media once before and led to major embarrassment for a newspaper and certain journalists.

Why would Martin Welz run the risk of this same embarrassment? He obviously believes in the authenticity of the documents he has. Let the court decide on the charges brought.

This is the perfect opportunity for Van Loggerenberg's defence to lead evidence of the entire narrative at play and for the court to decide whether or not there was or is a conspiracy.

**Chad Thomas**  
IRS Investigations  
Johannesburg

### Van Loggerenberg's reply

MY INSTINCTIVE THOUGHT IN REPLY TO CHAD Thomas was to acknowledge the point, with the benefit of hindsight. At first glance, it seems a fair point. But sometimes, life isn't as simple as one would wish it to be. This is a case in point.

But it made me think back to those days: how ignorant we were about what precisely was unfolding; how battered and bruised I was; muzzled and unable to defend myself against the media onslaught; the realisation that even if I did win, my "new" employer [*new SARS Commissioner Tom Moyane*] had made it clear I was unwanted; and not trusted; losing my dad; worrying about my mom's health. Other issues included my concern about potential harm to ongoing investigations; not being heard or given a right of reply by no fewer than three "panels"; an audit firm ignoring me once again and my being denied access to their "reports" yet which were leaked to the media.

I remembered how puzzled both I and the intelligence official I consulted were at the "disciplinary charges". Effectively they contained verbatim extracts from my own whistleblower report. I can confirm it was made in terms of the Protected Disclosures Act and handed to my employer, the Hawks, the State Security Agency and the Inspector-General of Intelligence.

I realised, as did he – and I happen to have a recording of the discussion – that I'd have no choice but to enter into the record a complete data dump of three handsets and a data-cloud given to me by a crooked spook. The dilemma that I struggled with, was that:

- a) the spook, having denied giving me this, tried instead to discredit it by saying I had "unlawfully intercepted" it, and challenged me to produce photos of the handsets and written authority given me (which I can do with ease) and;
- b) I couldn't cherry-pick what I submitted lest it be challenged on that basis. I'd have to submit the complete data set.

I really struggled with the thought of having to do so at the time, because an unintended consequence would have been the exposure of genuine, hard-working and honest state-intelligence officers; some of their work and operations; their methods; financial aspects of their work; and their informants. It was among the most difficult decisions I had to make in my life, under the circumstances, and for reasons totally outside my control.

Collectively, between the state intelligence officer and I, we debated the legalities, the moral and ethical dilemma I faced, and the reality that no matter what happened at the intended disciplinary, harm would be caused to

innocent people (and guilty ones), and the state – and that I'd have to leave my employ in any event on the basis of no trust.

I asked to sleep on it. I was told, in any event, since I made some internal disclosures to this effect, and to the Hawks, and SSA and Inspector-General of Intelligence, those dastardly issues would be dealt with (which they ultimately never were, but I couldn't have foreseen this).

So I slept on it, consulted with high office, and someone whom I trust implicitly, and then made the decision that I wasn't going to do so, on account of the harm that would follow.

It was time to hang up my hat, and go. Which is exactly what I did. My letter of resignation specifically deals with this issue in so many words.

I also, as strange as it may seem, did not seek to embarrass the crooked spook by making public matters of a personal nature, despite the aggression directed at me.

I thought I'd maintain the moral high ground, take the lessons my parents taught me, to remain a gentleman regardless of circumstance, and not direct aggression back at this person.

At the time I honestly believed that in doing so I would bring calm to my employer, calm to the media storm and calm to government. I also didn't wish to cause disharmony with certain families with children, who no doubt would've also suffered as a result of, shall I say, "indiscretions".

Sure, I misjudged the entire backstory to what was really unfolding. Now, with benefit of hindsight, maybe some would argue I shouldn't have cared, and gone in guns blazing. But you know what? If faced with the same choice now, knowing much more than what I did then, I'd most likely choose the same path. Because of a crooked spook, others shouldn't be damaged, nor the state and its good parts.

So, Mr Thomas, it is a bit more complicated than what you suggested. I understand your point. At one level, yes, you are right. But, at deeper levels, it's a choice I made, and I don't regret it. In any event, the "disciplinary charges" were withdrawn. And the "situation" would have "escalated in the way it has" in any event – of that I have no doubt. And that's about as much as I'm prepared to say on this.

**Johann van Loggerenberg**  
Via Facebook





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## Editorial

# Who Spilged the beans?

**T**HE PROCEEDINGS IN COURT 17 OF THE South Gauteng High Court in Johannesburg on 4 May began with a bit of banter between Judge Brian Spilg, and the second accused in the case before him, Ms Susan Bennett.

Bennett told the judge she received a call from a friend asking if she had seen an article in the "current [May] *Noseweek*" – a magazine, she pointed out, that she does not read.

**Judge Spilg:** I am not prepared to disclose when I last read *Noseweek*, but it was a long time ago. And I did enjoy them...

**Bennett:** Well I never subscribed, but I was told on one occasion that it referred to Mr [Gary] Porritt [*her co-accused in the case before court*] as 'Horrid Mr Porritt' [nose65], so I refused to buy them.

**Spilg:** Their rhyming skills seem to have left them.

Then the banter was over and Bennett moved on to the more "difficult" matter arising from a *Noseweek* article that had been brought to her attention. She felt it was only fair to also bring it to the judge's attention.

**Bennett:** They printed an article which referred to an affidavit I had put up many years ago to [*then head of the NPA*] Advocate Vusi Pikoli – it has appeared in various court papers since then. It had a list of SARS defaulters or taxpayers [*attached to it*]. You might recall having seen it in the [*document*] bundle that has [*also*] been placed before you.

**Judge:** I have seen something that identified a number of persons. I did not think it came from *Noseweek*. Carry on.

**Bennett:** They printed an article that referred to my affidavit and they printed excerpts from the SARS list attached to it. I have brought a copy with me.

**Judge:** Do you want me to see it?

**Bennett:** I do want you to see it, M'Lord, because of something that I have never noticed before. It was pointed out to me when I received this phone call that the list reflected ... is reported to be a tax defaulter with R3.661 million. It says BS Spilg.

**Spilg:** For how much?

**Bennett:** R3.661 million. I believe ...I do not know how many other BS Spilgs there are, but I believe I should bring it to Your Lordship's attention. I have got a copy of the *Noseweek* for your Lordship.

**Judge:** I am totally unaware of that.

**Bennett:** I must ask your Lordship to declare whether that is in connection with you or not?

**Judge:** No, it is clearly wrong. I am an up-to-date taxpayer.

**Bennett:** This is from back in 2002 M'Lord.

**Judge:** It would never be. My tax affairs are up to date. I have never done any side deals with anybody or asked for anything ...In fact I get angry because, despite being given documentation, they take over a year at times to refund me; my refunds are generally over R100,000-a-year since becoming a judge. What year do you say it was?

**Bennett:** It is just a list generated by SARS, listing defaulting taxpayers, and at the top of the list is Dave King for a huge amount. [*She goes on to explain that she had appended the list to her early affidavits as it evidenced the tax debt of another person featuring in their case: Gavin Varejes, who was number 3 on the list.*]

**Judge:** Where do I appear?

**Bennett:** No. 30 on the list is BS Spilg.

**Judge:** BS Spilg? Well that is my initials, that is me.

**Bennett:** Yes, M'Lord.





**Judge:** I think it is time to make inquiries then. It could explain why it takes so long for me to get refunds.

**Bennett:** It could do, yes.

**Judge:** Okay, but thank you, I appreciate that.

Shortly before the court adjourned, later that day, Judge Spilg returned to the matter of the SARS list that had appeared in *Noseweek*.

**Judge:** It has been raised in open court that I am supposed to be some defaulter in SARS's list, and [addressing the lead prosecutor, Advocate Etienne Coetzee SC] since you are representing SARS, I want to know by Wednesday next week: am I on a list, or am I not on a list, and I want it in open court.

**Coetzee:** M'Lord, we are not representing SARS...

**Judge:** You are getting paid by them. Ms Bennett raises things for a reason. That reason may well be that somehow or another I may be compromised. How did my name come up in the public domain? [...]

**Bennett:** [The list] is an attachment to an affidavit I did, I think in 2007 or earlier, at the request of Advocate Pikoli...

**Judge:** Well, I am not sure I can proceed with a matter of this nature if there is a suggestion ...either something in my tax is compromised or not. I need that clarified by Wednesday. As far as I am concerned my tax is up to date and at no stage have I ever been in a situation where a figure of that nature was ever an issue. Whether it is false information that is being spread or not, I need that sorted by Wednesday.

**Coetzee:** M'Lord, we will bring it to SARS's attention but with the limited facts that I am aware of, that internal SARS document was never meant for public dissemination. It is a document that was unlawfully obtained from SARS's records and attached...

**Judge:** It is in the public domain.

**Coetzee:** I am not disputing that now.

**Judge:** Well then I need that thing sorted out. I am not going to proceed in a matter where SARS contends that I at some stage owed them R3.5 million. And that has not been resolved[...] Do you not see what the potential is?

**Coetzee:** M'Lord if I could just address you ...

**Judge:** Yes, sure, but you can see how upset it makes me now.

**Coetzee:** I understand, but all I can say is the document was unlawfully obtained and disseminated by Ms Bennett, not our revenue authorities. [How Bennett obtained the document is explained in the "Naughty List" story in nose223.] I will bring it to the attention of SARS's legal section and tell them they must have a representative present on Wednesday.

**Judge:** If it is in the public domain SARS must sort it out publicly. Do you follow where it leads to? It leads to a suggestion that somewhere or another my tax affairs were compromised to a point where I cannot deal properly with a matter where SARS itself has laid significant charges of tax avoidance.

**Coetzee:** The way I understand it, [the list] has got to do with outstanding tax debts, and nothing else.

But be that as it may, SARS must satisfy Your Lordship as to why...

**Judge:** ... (a) my tax affairs are in order and (b) that at no stage have I sought to compromise any tax issue between SARS and myself in any way other than an open way.

Ms Bennett, you will need to explain why you did this in open court.

**Bennett:** M'Lord?

**Judge:** Whether there is a motive to

it? It could have been done in my chambers... You know, the press, they are here.

● Which leaves it to *Noseweek* to pose the question: How did Judge Spilg's name appear as No. 30 on SARS's internal list of its top 200 debtors? And how was it "sorted out"?

● Come Wednesday, no representative from SARS arrived to testify. Instead the Judge announced that there was no need. No explanation was required of Ms Bennett.

● *Noseweek* had not identified Judge Spilg's name on the list when we published it and have a reader to thank for bringing it to our attention.

● Gary Porritt was arrested on 14 December 2002; it took the state until 29 July 2005 to produce an indictment. The case was transferred from the magistrate's court to the high court in 2006. The next ten years passed with a few procedural applications and endless postponements, most of them requested by the state prosecutors. The actual trial began on 5 September 2016. Sixteen years down the line, the case is not nearly done. *Noseweek* has launched a major investigation into the conduct of the case, and SARS's role in it. We will report fully in due course. ■



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# Notes & Updates

## If it smells of state capture...

**B**E CAREFUL WHO YOU WORK FOR. It took me almost four months, and two rounds in the Small Claims Court to get paid R5,500 by Denel contractor Yaha Designs for the editorial work I did for the March edition of Denel's monthly newsletter.

Yaha Designs is a "PR media relations" company that Denel contracted at the end of last year to produce their newsletters, although it's immediately apparent from its website, [www.yaha.co.za](http://www.yaha.co.za), that their only real offering is litho and digital printing, which in any event, is outsourced.

Nomsa Humphrey and Prudence Mnusi from Yaha Designs contacted me in December, having been referred to me by a newspaper colleague, to edit and write for the December edition of the Denel newsletter. The deadline was ridiculously tight – three days – and against my better judgment, I agreed to do it.

My price was beaten down by Humphrey to a nominal R5,500 per newsletter, and I managed to deliver all Denel's edited content in time, together with the ghostwritten editorials for Denel Group CEO Zwelakhe Ntshepe and for Vuyelwa Qinga, Denel's group executive of communications and public affairs. The newsletter was published, and all was well, until work started for the next newsletter.

As before, I edited and delivered all content sent to me by Denel group's internal communication specialist Adelaide Rabotho, and ghostwrote Qinga's editorial. Ntshepe's editorial just needed editing this time. But on inquiring about the status of the newsletter, I was simply informed by Humphrey that the "client doesn't like the writing", with no further explanation. In a phone call a few days later, I was bluntly told by her sidekick Mnusi, that I would not be paid.

I lodged a complaint at the Small Claims Court, and at the second hearing on April 18, the court commissioner was presented with the published version of the March newsletter. It didn't take him long to realise that my edited work had been published virtually unchanged,



including most of my ghost editorial for Qinga. He also established that Yaha Designs had already been paid R40,000 by Denel for this newsletter. "The court finds little difficulty finding in favour of the plaintiff," said the commissioner.

Not to be kowtowed by a mere court ruling to pay me, however, Humphrey simply defied it. Thus I applied to the SCC for a warrant of execution, and also emailed Black Umbrellas, a PPP "incubation" project to develop black entrepreneurs. Yaha Designs is on their programme.

I asked Black Umbrellas' regional manager, Mzingaya Kahla, how its incubatees are screened, and he responded: "We run a paid incubation programme where clients pay to utilise our services. We run credit and criminal checks on all our clients to ensure they are law-abiding citizens. We however do not form part of their business dealings as they are independent entities and we only provide them with business support services."

Nonetheless, Kahla called Humphrey and Mnusi asking them to explain themselves, and ten minutes later I received a notification of payment for the work I did for them. Note to self: if it's tainted by state capture, even by extension, don't touch it! – **Helen Grange**

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# Dirty tricks to discredit me, says key witness against Zuma

## Forensic auditor claims that despite KPMG apology there is good evidence that SARS rogue unit did exist

**A** SENIOR FINANCIAL INVESTIGATOR lined up to be a key prosecution witness in the state's forthcoming corruption trial against former President Jacob Zuma believes there is a political campaign under way to discredit him and get him off the case.

The investigator is forensic auditor Johan van der Walt, the highly-regarded former KPMG partner who led the 30-strong KPMG South Africa team which concluded that an illegal, covert and rogue intelligence unit had operated within the South African Revenue Service.

Last September KPMG International sensationally ordered the withdrawal of the report's findings and conclusions and in the aftermath, nine of the firm's senior South African executives, including CEO Trevor Hoole and head of forensics Herman de Beer, were forced to resign.

Van der Walt is also the author of an earlier 2005 KPMG report commissioned by the state into the nub of the pending case against Jacob Zuma – 783 alleged payments to the former president that were handled by Schabir Shaik, the businessman who acted as Zuma's financial adviser. Most of these funds ultimately emanated from foreign companies associated with the arms deals concluded by the government in 1999. Zuma is accused of illicitly pocketing a total of R4,072,499 from these payments.

Van der Walt has told friends that the ongoing rubbishing of his KPMG report into the SARS unit is deliberate – and designed to discredit him as a prosecution witness. "It's a political

thing, to get me out of the prosecution of Zuma," he told them. Van der Walt, who resigned from KPMG in January 2017, does not deny saying this, but refuses to repeat or elaborate on his fears to *Noseweek*. He declines to be interviewed.

Zuma's next appearance in Durban's High Court is provisionally set for 8 June. Van der Walt met state prosecutor Billy Downer last month to review the evidence against the former president.

So what do we make of this new Byzantine twist to the Zuma and SARS rogue unit stories? A review of the available evidence suggests that Van der Walt is in all probability correct.

His meeting with prosecutor Downer came within days of the publication of *nose223*, which recounted a host of covert intelligence operations conducted by the so-called rogue unit outside the legal framework and in violation of the SARS Code of Conduct. *Noseweek's* report was based on SARS's 2015 disciplinary charge sheets against two suspended employees, investigative unit manager Johann van Loggerenberg and his superior, Deputy Commissioner Ivan Pillay.

Both Pillay and Van Loggerenberg resigned on the eve of their disciplinary hearings; Van Loggerenberg's had been scheduled for 27 January 2015, Pillay's a month later, on 26 February – so the allegations in the confidential charge sheets were never tested. The list of 10 charges against Pillay was leaked at the time to the *Sunday Independent*, which splashed



Forensic auditor Johan van der Walt

the contents in February 2015.

*Noseweek* has been unable to establish whether the charges against Van Loggerenberg were also previously published. However, when he resigned, Van Loggerenberg and SARS said in separate statements that the parting of the ways was amicable.



“Van Loggerenberg has served SARS for a period of over 16 years, a degree of loyalty SARS appreciates,” said the revenue service.

Van Loggerenberg’s statement said that his resignation was done in good faith and in the best interest of SARS and the country. Recent disclosures by Van Loggerenberg about a confidential “whistleblower’s” report he compiled and submitted to his bosses (see Letters on page 6) suggest that much more was at stake which both parties preferred to keep under wraps.

Some of the nine charges against Van Loggerenberg, a one-time deep cover spy – Agent RS536 – in the police’s Organised Crime Intelligence Unit, concerned his relationship with Belinda Walter, an attorney and secret agent of the State Security Agency, who was chairperson of the Fair-Trade Independent Tobacco Association.

“I acknowledge that I erred in personal judgment concerning a matter in my private life and that this led to unforeseen consequences that were outside my control,” read Van Loggerenberg’s public statement issued at the time of his resignation. He apologised to SARS, its employees and the country.

The introduction to the *nose223* story described Van Loggerenberg as one of two architects of the special investigative unit when it was formed in 2007. Although his internal charge sheet states that he was involved in the management of covert intelligence operations since “about April 2007”, Van Loggerenberg only became head of the controversial unit the following year, when he took over from Andries “Skollie” Janse van Rensburg.

Especially incensed by our report is Jacques Pauw, author of *The President’s Keepers*, who insists in his recent book that there had never been a “rogue” unit in SARS. Pauw tells us he has an interest because our report in *nose223* “directly rebuts the facts in my book” [*Pauw’s book was not at issue; we simply published what was stated in the charge sheets, for better or for worse.* – Ed.]

Ignoring the fact that the *Noseweek* article merely lays out SARS’s 2015 internal charges against Pillay and Van Loggerenberg, Pauw said our story was “riddled with factual mistakes” and was “probably the worst piece

## Van der Walt has told friends that the ongoing rubbishing of his KPMG report into the SARS unit is designed to discredit him as a prosecution witness

of journalism I have encountered in my life”. He insisted that “there was nothing secret about the unit and members were treated like ordinary SARS personnel”.

Why the vehemence? A journalist’s sources are, of course, sacrosanct and in the normal course it would be improper to inquire where Pauw picked up his inside information that vindicated Pillay, Van Loggerenberg & Co. When *The President’s Keepers* was launched in Cape Town last December the *Sunday Independent* reported that Pauw had had no intention to write the book until he was approached by an influential group led by former finance minister Pravin Gordhan. And the newspaper said that “impeccable sources” had told them the book came about after several meetings between Pauw and Gordhan, former intelligence head Mo Shaik and, yes, Ivan Pillay and Johann van Loggerenberg. “Sources say virtually all information regarding affairs at SARS was provided by Gordhan, Pillay and Van Loggerenberg,” reported the newspaper.

When Pauw expressed concern at possible lawsuits, “he was given the assurance that he would be provided

with sufficient budget to cater for all litigation”, ran Steven Motale’s story. Confronted at the time, Gordhan denied playing any role in the book. Pillay said: “I do not and did not have contact with the author. I am not aware of how the author got his information.” Van Loggerenberg’s lawyer said his client considered allegations against him “false, malicious, spurious and defamatory”.

According to the *Sunday Independent*, those who have so far instituted legal action against Pauw for his book are former intelligence operative George Darmanovich (who has described Pauw as “a serial liar”) and the family of State Security Agency Director-General Arthur Fraser.

In December 2015 the Press Ombudsman ordered *The Sunday Times* to retract its repeated stories suggesting that there had been an illegally-established “rogue” unit at SARS, and to apologise to Pillay and Van Loggerenberg.

In his 92-page complaint to the Press Ombudsman, Van Loggerenberg claimed that the investigation processes (against him) at SARS were flawed and he had no opportunity to put his side of the case.

The ombudsman’s panel concluded that *The Sunday Times* reportage “has unnecessarily tarnished Van Loggerenberg’s dignity and reputation”. To rub it in, after publication of *The President’s Keepers* last year Pauw publicly blasted *Sunday Times* reporter Stephan Hofstatter on Radio 702 for “not checking his sources”.

Pauw lives in Riebeeck Kasteel in the Western Cape, where he runs a restaurant called the Red Tin Roof. Former spook Van Loggerenberg has a house nearby and the pair are close.

Despite abject apologies by KPMG to SARS and the refund of the R23m it received for its now-denigrated and “withdrawn” report, feelings still run high within the KPMG team that conducted the audit. There is ample convincing evidence, they say, in the 850,000 emails and 1.36m documents they scrutinised over 13 months, that SARS had indeed harboured an illegal spy unit.

“The documents are all there, on the machines at KPMG,” says one team member, who has since left the firm. “Because of confidence and

privacy etc we weren't allowed to take anything with us. But if there are legal processes we can get access to them, on discovery."

Although the audit team leader Johan van der Walt refuses to speak to *Noseweek*, we have established that last month a reporter for the *New York Times* called him, keen to unravel the SARS rogue unit riddle. *Nose223* had just hit the streets and Van der Walt told the journalist he couldn't oblige, but urged him to read *Noseweek's* article, which he told the reporter is "one of the most accurate, in my view, because it's based on fact, as opposed to the rest of the press that is lopsided towards a narrative that my report was used to fire people."

In recent developments, Auditor-General Kimi Makwetu has ordered the termination of all government contracts with KPMG. Sasfin and Barclays Africa are among the host of other clients who have abandoned the auditing giant. One member of the KPMG team on the rogue unit project believes that the exodus and threat to the future of KPMG South Africa following the debacle is "unfair, but our leaders played the wrong game". He said, "As opposed to doing their jobs and the right thing, they apologised to people they didn't owe an apology, and withdrew bits of the report that put Pravin Gordhan in a bad light."

A confidential note by one of the senior auditors involved lists their bosses' failings: "The so-called 'withdrawal' of aspects of the SARS report by KPMG International seem to relate to differences in approach between KPMG SA and KPMG International

**Van der Walt urged a New York Times journalist to read Noseweek's article, which he told the reporter is 'one of the most accurate, in my view, because it's based on fact'**

with regard to certain internal and risk management processes, and partly to KPMG International not having adequately reviewed the pertinent facts," it begins.

The author points out: "None of the factual findings contained in the report have been withdrawn or called into question. And the factually inaccurate narrative regarding the SARS investigation continues to do the rounds in the media." The document quotes from a piece in *Daily Maverick*: "After all, the KPMG report into an

alleged 'rogue' unit had catastrophic consequences. Almost the entire top executive at the revenue service was purged as a result."

The document records some of the findings of the forensic report:

- "Under the guidance of Ivan Pillay, a covert and rogue intelligence unit in contravention of the rule of law was established in SARS.
- "We found no evidence that [Pravin] Gordhan was informed about the existence of the unit. However, considering his position as Accounting Officer, it is reasonable to expect that he ought to have known. This aspect requires further investigation.
- "The members of the 'rogue' unit had exited SARS before the completion of the first draft KPMG report.
- "KPMG did not intend to provide legal advice as that did not form part of the scope of our agreement. It is suggested that our recommendations, insofar as it may be construed to be legal advice, be considered by the SARS legal advisers."

The confidential document points out that KPMG International concluded that there had been inadequate risk oversight, and specifically that their standards required a second partner to review the work done; however, the final "deliverable" was not subjected to second-partner review.

Response: "The assignment was always on the agenda of the Risk Oversight Committee. Initially its risk rating was a 1. During the course of the assignment JvdW (Johan van der Walt) raised this to a 3, due to the contentious subject matter.

"The SARS report was the subject of

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**Former SARS investigator Johann van Loggerenberg**

Risk Oversight Meetings and was internally reviewed by senior KPMG partners independent from the investigation on an on-going basis. A second reviewing partner (head of forensics Herman de Beer) was formally appointed. The reports were made available to De Beer, and after required changes had been discussed these were signed off by him. KPMG, including the then CEO, Trevor Hoole, publicly defended the report.”

The document points out that on completion, the project was subjected to a Quality Performance Review overseen by a non-local reviewing partner and reviewed both as regards content and process.

“The project received a Green review rating. A Green QPR rating would not have been possible if there had not been an adequate second partner review and/or other risk management shortcomings.”

The author hits back at KPMG SA and KPMG International’s joint “desire to undermine its auditors’ report and factual findings” by:

- Failing to refute the “cut and paste” allegations regarding the draft report and to refute that its findings were dictated by the SARS lawyers;
- Failing to refute allegations that its team’s report found complicity on the part of, and thereby compromising, Minister Gordhan;
- Failing to refute that the report

resulted in the dismissal of senior SARS officials;

- Failing to challenge the legitimacy/authenticity of the “leaked” executive summary;
- For falsely alleging that no second partner reviewer was appointed and that the report was not subject to risk oversight;
- For falsely alleging that the increased risks had not been appreciated, when the risk rating of the project had in fact been raised;
- For falsely alleging that inappropriate legal opinions had been provided and made no reference to the report’s specific disclaimers and caveats in the report;
- For stating in the context of the SARS report, that JvdW (Johan van der Walt) was “no longer with the firm”, thereby intentionally creating the impression that his resignation (on 10 January 2017) was related to the report;
- For meeting/apologising to then finance minister Gordhan, deputy minister Mcebisi Jonas and senior SARS ex-officials, given that the report did not implicate Gordhan or Jonas in the activities of the rogue unit and the officials resigned of their own accord before KPMG produced any findings.

● *Readers can find the full 2015 SARS disciplinary charge sheets against Pillay and Van Loggerenberg on Noseweek’s website.* ■

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# The Crocodile's QwaQwa kerfuffle

Cadiz chairman calls Investec CEO a thief and QwaQwa k\*\*\*\*r for allegedly misappropriating shares worth R46m. Investec man counters, claiming his Cadiz colleague stole R1.9m dividend and charges him with crimen injuria. By Jonathan Erasmus

**I**NVESTEC'S NEWLY MINTED CEO, FANI Titi is being accused by a former Robben Island political prisoner of scamming him out of his lucrative multi-million-rand shares in three thriving FM radio stations.

So bitter is the dispute between the Investec boss and his old struggle-veteran friend Peter-Paul Ngwenya – who is today an influential company director – that it has found its way into the Randburg criminal court where legal history, regardless of the findings, will be made in a case of crimen injuria (criminal libel).

Fani Titi is reportedly one of the most searched people on *Bloomberg*. The *FM* called him “a corporate kingpin with a Midas touch”.

Ngwenya, who is described as “a sophisticated businessman,” is chairman/director of Cadiz Asset Management, Cadiz Corporate Solutions, Airlink Ltd, Alumicor SA, Realm Resources and Hulamin Limited. If he is found guilty, it would be the first case of a black man being convicted for using an actionable racist word against a fellow black man. Judgment in the case is expected in June.

So committed is the new Investec boss Titi to getting a conviction that he has employed advocate Barry Roux SC to be on a watching brief.

Ngwenya, whose name means crocodile in Zulu, and Titi have been friends for 20 years, having met through their common acquaintance,



Cadiz's Peter-Paul Ngwenya (left) and Investec's Fani Titi

Congress of the People (Cope) leader Mosiuoa Lekota. How it got to this is, on the surface, straightforward. On 22 June 2016 Ngwenya mistakenly sent an SMS to his friend Titi instead of the intended recipient, Titi's second-in-charge Aqueel Patel. It read:

“You bloody swine of a racist.

You chose a wrong Bantustan man (meaning Titi). He misled you. You will bleed you are a bloody SWINE! Sue me, I will appreciate it. He is as greedy as you. You are a fool to be used by a Qwaqwa k\*\*\*\*\* [Noseweek's asterisks]. You bloody GREEDY racist! You will very soon know what you



are dealing with. I call you a FART! You have to have an MAKANA Radio board meeting. You Bantustan boss tells me to challenge him and he will see his MOTHER! You are FUCKING THIEVES! SUE ME! (all sic.)”

Titi applied for an interim protection order in July 2016 and obtained the final protection order against Ngwenya in October that year. Titi had painstakingly pointed out that “the plural FUCKING THIEVES” was in reference to both him and Patel and the reference to his late mother was a death threat. He admitted it all had to do with a “commercial dispute”.

Noticeably, in the protection order application the “Qwaqwa” part was merely mentioned in passing. He sought the protection order in view of the “deadly attack threatened... [which] can take place at any time and at any place, including my home”.

Ngwenya broke the protection order when he stormed into Titi’s private office in Sandhurst on 23 November 2016 demanding a dividend be paid to him. This resulted in the criminal charges being brought in the Randburg Magistrate’s Court.

But the back story to all of this is contained in several hundred documents first filed at the South Gauteng High Court, Johannesburg, in August 2017, when a civil case was opened by Titi and associates against Ngwenya. The reams of documents have been copied by *Noseweek*. No court date has yet been set.

In 2008 Ngwenya was chairman of the Makana Investment Corporation (MIC) which was set up to help former political prisoners – and in which he has extensive interests in a range of businesses from shipping to asset-management. Early that year Ngwenya got inside knowledge that the investment corporation wanted to sell its stake in two communication assets. The first was its 33.3% share in Makana Radio Communication (Pty) Ltd which owned Heart FM (Cape Town) and iGagasi FM (Durban); the second was its 50.1% stake in a company called Shanike Investments 42 Corporation (Pty) Ltd, referred to as Shanike, which, among its various communication assets, owned a 24.9% stake in Johannesburg’s Kaya FM which, incidentally, in 2016 was among the top ten most profitable

## Is it a crime for a black person to use the k-word?

IT WOULD BE A LEGAL FIRST IF THE Randburg Magistrate’s Court were to convict Peter-Paul Ngwenya of *crimen injuria* for sending an SMS to his estranged business partner Investec CEO Fani Titi, calling him a “Qwaqwa k\*\*\*\*r”.

Use of the k-word is not illegal but it is categorised as hate speech. The first legal question is: can it be deemed hate speech if uttered by one black person to another?

South Africa’s proposed hate speech bill (*nose208*), would have seen Ngwenya go to jail. So draconian is the proposed bill, that merely calling someone a *mompara* could land you behind bars.

Currently hate speech is dealt

with under the *crimen injuria* law.

According to the Wits Justice Project “*crimen injuria* refers to a deliberate injury to another’s dignity by using racially offensive or obscene language or gestures”.

South African law technically knows no colour, but context is key. Ngwenya intended to be offensive towards Titi. So the second legal question is; was he being racist?

The judgment will be significant. Legal history was made in March when Vicki Momberg was sentenced to an effective two years in prison for verbally abusing a black police officer and some call-centre agents by using the k-word a total of 48 times. ■



Mosiuoa Lekota

radio stations in the country.

Ngwenya approached Titi to see if he wanted to come on board as a 50/50 partner in purchasing these assets. Titi already owned 33.3% of Makana Radio through his own company, Tsiya Radio (Pty) Ltd, while his business partner Aqeel Patel held a further 8.4% on his behalf. The other shareholder was Kagiso Media (Pty) Ltd with 24.9%. Titi had once served as the founding Chief Executive of Kagiso,

making him an influential partner.

It was correctly presumed that Titi, with his connections to Investec, would help provide the finance too. The plan was that they would split the stake on offer in Makana Radio, using two special purpose vehicles (SPVs), namely Alphabet Street Properties 98 (Pty) Ltd – controlled by Titi – and Columbia Media (Pty) Ltd – controlled by Ngwenya. They would do a similar transaction in acquiring the 50.1% stake in Shanike and both deals would become known as the Alphabet Agreement and Shanike Agreement respectively.

Because of his conflict-of-interest, being chairman of MIC, Ngwenya left the negotiation up to Titi who in turn delegated much of the work to his lawyer, Zoe Banchetti, of Tugendhaft Wapnick Banchetti and Partners, who helped set up the two SPVs.

Ngwenya thought she (Banchetti) represented both of them, while Titi saw her as his legal aide. Ngwenya was of the belief that the deal was concluded on 3 April 2008 at a price of R48.8 million, of which R32.6m was raised through a loan from Investec. The remaining R16.2m had to be raised by both Ngwenya and Titi, split down the middle.

Ngwenya, through Columbia Media, borrowed the R8.1m directly from Titi at an interest rate of 20% per annum.

According to Ngwenya, the deal was done and dusted. From time to time either Titi or Banchetti would send over a driver with documents for him to sign – which Ngwenya duly did without reading them, while the driver waited. Ngwenya believed he'd landed a sweet deal, owning considerable stakes in several lucrative, predominately black-owned radio stations. He thought he owned 16.67% each in iGagasi FM and Heart FM and 12.5% in Kaya FM.

However, the documents he signed – and this is key to both Titi's civil and criminal cases – tell a different story.

According to Titi the initial Alphabet Agreement did not work because Kagiso Media exercised its right to block the deal – although, according to Ngwenya, they had no reason to do so as they could not buy the remaining stake in Makana Radio due to competition laws.

So Titi's lawyer Banchetti devised a new “elegant” plan. Instead of Alphabet and Columbia buying the Makana Radio stake, Tsiya Radio, which was already a part-owner of the asset, would buy it instead and Columbia would have a 24.5% shareholding in Tsiya Radio. The Shanike Agreement was also altered to allow Tsiya to hold the 50.1% in Shanike.

Ngwenya claims he knew nothing about these transactions although he signed the documents.

Key to Ngwenya's gripe is that Titi and Banchetti embarked on a clandestine process to dilute his stake in the radio assets by misleading him from as early as April 2008.

In Titi's version, Columbia Media not only took an R8.1m loan from him but also handed him a 49% equity stake which he later sold parts of to other shareholders between 2011 and 2014, for which Banchetti issued the share certificates.

A further dilution of shares took place in 2013 when Tsiya Radio raised a further R21m through a rights issue picked up by both Titi and Patel's families, while Titi also sold an 8.5% stake of Tsiya to Banchetti for R5.2m.

The net result was that Ngwenya now owned only 8.35% of Tsiya Radio.

What sparked his renewed interest in the asset in which he had been an idle partner was when in February 2015 he became aware of a R7m divi-

dend paid by Makana Radio.

He started asking questions such as where his cut was. As far as he was concerned all debts were settled, as he had received a dividend in December 2013. He claims he then found out that he was a shareholder of Tsiya Radio and that the company had sold its stake in Kaya FM for about R62m in 2011. He said he also found out he no longer owned 100% of Columbia Media. He asked more questions, such as: why wasn't he invited to Tsiya shareholder meetings; why wasn't he a director at Tsiya; where was his shareholder certificate; and why didn't he get his 25% cut in the sale of Kaya FM?

The reason he did not get a portion of the R7m, it was now explained, was because it was used to pay debt. And he now learned that the December 2013 dividend he received was in fact not a dividend but a reimbursement of an advance he made to Tsiya Radio – a claim Ngwenya emphatically denied.

The claims of being bamboozled have been rubbished by Titi who said Ngwenya knew exactly what was

going on and was in fact getting legal advice all along from the Makana Investment Corporation's company secretary John Nassel-Henderson – which Ngwenya also denies.

After a series of meetings, email exchanges and swopping of legal documents in mid-2015, Titi said, all transactions were “properly authorised and legally executed”.

“Columbia chose not to participate in the rights issue and Columbia and Ngwenya consented to these commercial arrangements. It was unambiguously clear... that Ngwenya's [*claim that his*] economic interest in Columbia was illegally diluted, holds no merit.”

Titi said he and the other shareholders were prepared to sell back their equity in Columbia Media to Ngwenya for R4.8m.

Ngwenya told *Noseweek*: “Titi told me about the rights issue in Tsiya but I just thought I was being told that I had an option. At that stage I was oblivious to the fact that I, through Columbia, was a shareholder in Tsiya.

In his court papers Ngwenya said: “There is no conceivable way that, in addition to the high loan premium [*R8.1m at 20% per annum backed by solid assets in which Titi already had his own interest via Tsiya*] I would give away 49% of the equity in my company”. He added that the provisions to hand over equity, outlined in the signed agreements, were “secreted in by Banchetti”.

At one stage Titi, realising they were at an impasse, recommended the appointment of a forensic auditor and a senior counsel or retired judge to review all legal arrangements. He suggested advocate Vincent Maleka or retired judge Lewis Skweyiya (now deceased).

He also said the entire issue was so sour that he was thinking of getting out of the investment completely. None of this happened.

Despite all the drama, dividends kept rolling in to Columbia Media – at least half a dozen (although some are disputed) between 2013 and November 2016. In total it came to more than R3.5m.

Makana Radio administration staff made all the payments knowingly to Ngwenya's personal FNB account. He claims he was never contacted by Titi

**After the racist  
SMS rant, Lekota  
tried to mediate,  
with little success,  
except that it was  
decided Ngwenya  
would propose a  
settlement offer**



or other “shareholders” about their dividend from Columbia Media.

After the racist SMS rant, Lekota tried to mediate, with little success except that it was decided Ngwenya would propose a settlement offer. Using the help of Johannesburg auditor Rob Theunissen, in August 2016 he proposed that Tsiya Radio owed him R46,236,555 which was calculated by taking into account the sale of Kaya FM and the dividend payouts from Kaya FM, iGagasi FM and Heart FM over several years.

Ngwenya’s settlement offer was not considered by Titi. Ngwenya, in turn, did not consider the buy-back proposed by Titi. Deadlock.

Just days after the final protection order against Ngwenya had been granted in October 2016, Tsiya needed to make a dividend payment of R589,770 to Columbia, except that this time they refused to pay it into Ngwenya’s private account.

According to Titi and various staff affidavits outlining Ngwenya’s alleged breach of the protection order, on 23 November 2016 Ngwenya arrived at the Makana Radio office at the swanky Three Commerce Square office block in Sandhurst demanding his dividend. He was “in an agitated state”, allegedly shouting that he would “kill these dogs” (later denied). Security was called, Titi was locked in the boardroom for his “safety”, while staff quickly processed the dividend. The ordeal left the staff, including Patel “terrified”. It is this final incident that resulted in the ongoing criminal case.

In the interim the high court application was lodged. The applicants are Titi, business partner Aqueel

## **Titi claims Ngwenya’s defence of being fooled is merely a cover, as he is ‘a sophisticated businessman’**

Patel and Videovision Entertainment Consortium (Pty) Ltd. The latter two were sold shares in Columbia by Titi. The respondents are Ngwenya, Columbia Media and Tsiya Radio, represented by Tugendhaft Wapnick Banchetti and Partners and Ramushu Mashile and Associates respectively.

The applicants want to: force Ngwenya and Columbia Media to accept directors of their (the applicants’) choice such as “Johannesburg advocate Steven Ress”; hold a shareholders’ meeting; and to open up a company bank account.

They also want an order against Tsiya, in which the applicants hold a controlling majority stake, to force it

to stop making dividend payments to Columbia until the matter is settled.

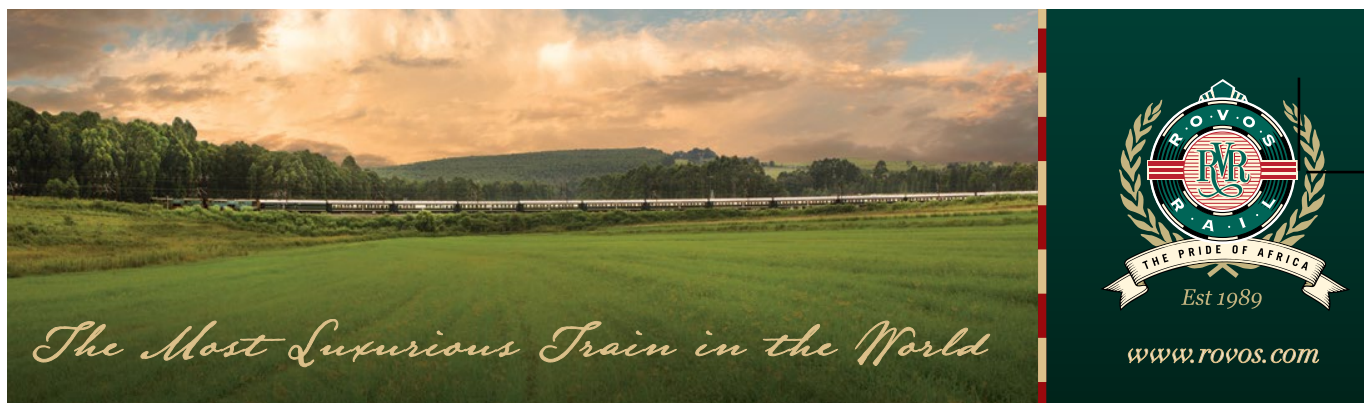
In Titi’s affidavit, he said that Ngwenya had already misappropriated R1,970,087.14 from Columbia Media. He claims Ngwenya’s defence of having been fooled is merely a cover, as he is “a sophisticated businessman” who has served on the boards of many major companies.

“Any suggestion in these circumstances that he was misled into signing a series of agreements... and which he himself implemented... by issuing share certificates to us in Columbia, is so seriously and inherently improbable that it can be rejected as false on paper.”

In Ngwenya’s answering affidavit he said Titi had never honoured the initial agreement of investing in equal terms and that he has “thus far succeeded to dilute my investment to his own advantage”.

“It is important to note the only reason it became impossible for either Alphabet or Columbia to acquire MIC’s interest in Makana Media was because Titi and Banchetti had contrived to derail, in the first instance, and subsequently deflect the intention of the Alphabet Agreement to their own advantage. Titi’s obsession with written agreements, and his disdain for oral agreements, is evident”.

Asked to comment, Titi had not done so at the time of going to press. *Noseweek* asked whether he and Ngwenya ever discussed his equity in Columbia before 2015; whether Ngwenya’s claims of not being invited to shareholder meetings and so forth were true; and why he had appointed Barry Roux SC on a watching brief? ■



# When the ANC's monopoly goes

South Africa's political system is designed for coalition government, argues political analyst Leon Schreiber in a new book. **By Sue Segar**

**S**OUTH AFRICANS SHOULD BRACE themselves for a seismic shift in the political landscape: Welcome to Coalition Country! New political groupings and alliances are about to replace the dominance of a single party – long enjoyed by both the ANC and the National Party before it.

This political transformation could take place as soon as next year, should the ANC win less than 51% in the 2019 general election, rendering it powerless to govern on its own. What is more, the ANC will be “woefully unprepared” for the coalition era, says political analyst and commentator Dr Leon Schreiber in his provocative new book *Coalition Country – South Africa and the ANC*.

Schreiber is a Senior Research Specialist at Princeton University's Innovations for Successful Societies unit. Last year the *Mail & Guardian* included him on their list of the Top 200 Young South Africans.

In *Coalition Country*, published by Tafelberg, Schreiber calls on South Africans to get to grips with a coalition future, which he sketches in three possible 2024 scenarios: a multi-party coalition led by the DA and EFF (excluding the ANC); an ANC-EFF coalition; and a DA-led minority government.

Schreiber explained in an interview with *Noseweek* that he did not include a fourth scenario in which the ANC, bolstered by Cyril Ramaphosa's leadership, stays in power, “because that

is the status quo scenario and a lot of people are thinking and writing about that already”. His book, he says, “is about what happens next”.

Renowned journalist Ferial Haffajee has called the book “brilliant”; *City Press* Editor-In-Chief Mondli Makhanya, described it as “gripping” and Western Cape Premier Helen Zille has raved about *Coalition Country*.

Schreiber avoids explicitly claiming in the book that the ANC for the first time will lose its 50% share of the vote in next year's elections, but he says the trends show the situation is heading that way. “It's not so much about when it happens – whether in 2019 or 2024 – the point is, when it happens we need to be prepared. It can be argued that Cyril Ramaphosa's election as president has somehow changed the game and so the ANC is in a stronger position than it was before. I agree, the ANC is in a better place than four months ago but I think it is still much more up-in-the-air than people imagine... I am not convinced that Ramaphosa's ascension to the throne has fundamentally altered much.”

He adds that “a lot can still change in the year leading up to the election; the way the ANC handles the land issue, in particular, could still have a dramatic impact”. Even under Ramaphosa, he says, coalitions are highly possible – “provincially in Gauteng and perhaps even in North West/KwaZulu-Natal; not impossible nationally in 2019; and probable in 2024”.

Schreiber says that although it may



Leon Schreiber



be hard for many South Africans to conceive of the new coalition era, two decades from now it will seem almost absurd that the country's politics were once dominated by the African National Congress. He says he wrote his book "to start a conversation".

"I realised we have become socialised in South Africa to think of our governing party as a dominant, all-conquering beast. We had the National Party in power on its own from 1948 till 1994 and now we've had the ANC, operating in the same rubric of overwhelming dominance.

"This year is the 70th anniversary of the NP having come to power, which means we have effectively had seven decades of one-party rule. I'd define one-party dominance as a party that consistently gets more than 50% nationally but which also controls more than half of the nine provinces and more than half of the 278 municipalities."

Schreiber says that, having lived in West Germany where there have been coalitions in government since 1945, he noticed the very different understanding there of how government works and of how important compromise is in their society. A German friend of his, who supports the Social Democrats, told him that if he ever got the sense that the Social Democrats would get more than 50% in a national election, he would vote against his own party just to prevent that.

In his book, Schreiber digs deep into how South Africa's electoral system actually works. Though it resembles a winner-takes-all system, proportional representation encourages coalitions.

"To put it in theoretical terms, agency has overruled structure in terms of the electoral system in South Africa. The agency of the ANC, or its ability to sell its liberation narrative, was stronger than the impulses of the structure of the electoral system. This whole book is an assertion for an argument that soon the structure will reassert itself; that you cannot go against the grain of the rules forever; that as soon as the ANC loses its monopoly on legitimacy and on its liberation narrative, and once other things become more important to people and it falls below 50%, our world will suddenly change because we'll actually live under the structure that our elec-

## From Piketberg to Princeton

LEON SCHREIBER, WHO IS BASED IN Cape Town, was born in Piketberg and raised in the small De Beers diamond mining town of Kleinsee, in Namaqualand. His mother was a teacher and his father started off as a diesel mechanic for De Beers and worked his way up in the company.

After matriculating from Paul Roos Gymnasium, Schreiber earned a BA in International Studies at Stellenbosch University in 2009, followed by a BA Honours in Political Science, cum laude, in 2010 and an MA in Political Science in 2011, also at Stellenbosch.

He completed a PhD in Political Science, magna cum laude, at the Free University of Berlin from 2012-2015. In the final year of his PhD, Schreiber took part in an exchange to Princeton University where he met Professor of Politics Jennifer Widner, who runs the research programme Innovations for Successful Societies where Schreiber is currently employed.

The Innovations programme researches and writes up case studies documenting examples of successful government reforms in developing countries. ■

toral system created. Then it will be a totally different world."

Schreiber predicts that in two decades' time, when South Africa is governed by coalitions, with no single party holding more than 50% of the

vote, Jacob Zuma will be remembered "not only as a megalomaniac... but also as an example of how absolute power corrupts absolutely".

"In one of the most culturally diverse societies on earth and with dozens of different political coalitions in charge across the country, history students in the year 2038 will marvel at the hubris of Zuma's 2014 prediction that the ANC will "run this government forever and ever ...until Jesus comes back".

Schreiber writes: "The history class of 2038 might well look back at the 2019 national and provincial elections as the turning point that put South Africa firmly on the path to coalition politics."

The book documents the fast decline of the "once all-conquering ANC" but also shows how and why South Africa's electoral system favours coalitions over single-party governments and why, soon, none of the current opposition parties will be able to garner majorities of their own. It also looks at coalition best-practice elsewhere in the world and examines what different coalition configurations are likely to mean for the country.

Recalling the multi-party negotiations at the Convention for a Democratic SA (Codesa) in the early 1990s, when all parties had to negotiate towards the best outcomes for South Africa, Schreiber argues that soon the country will be governed

**Schreiber predicts that in two decades' time, when SA is governed by coalitions, Jacob Zuma will be remembered as an example of how absolute power corrupts absolutely**

by a “permanent Codesa in which different political parties are forced to work together”. He points out that the first government in democratic South Africa “was, in fact, a coalition government, so the template is there”.

He says that to survive and thrive in our coalition future, we must “urgently prepare to deal with a scale of political complexity we have never seen or experienced before”.

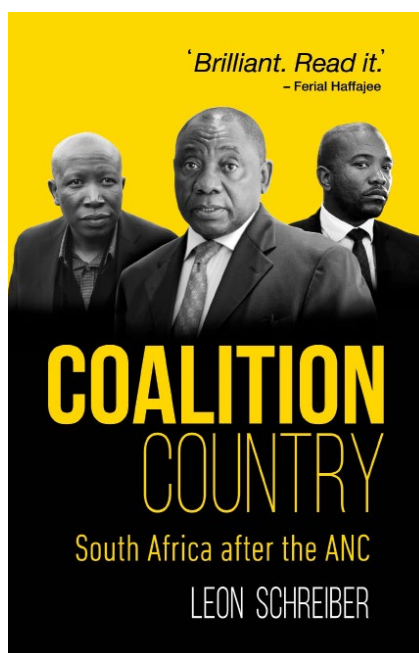
● Schreiber’s first and most positive scenario is that of a DA-EFF-led coalition which he labels “Primed for take-off”. He projects us into the year 2024, with the multi-party coalition that excludes the ANC. An imagined President Mmusi Maimane and Deputy President Julius Malema have taken up office in the Union Buildings. There are also multi-party governing coalitions at provincial and municipal levels. The DA and EFF have decided to cooperate because each has already branded itself staunchly opposed to the ANC. The DA’s experience in handling coalitions and in government means the party is well prepared for the challenge.

The economy is growing, government debt is decreasing and poverty is declining. Public sector reform is taking place and service delivery is improving. South Africa is on the right track towards accountability, good governance, peace and prosperity. As Schreiber portrays it: the coalition government has agreed to operate in the confines of the Constitution to eradicate corruption, professionalise the civil service, and “in a nod to the EFF”, has decided to commit to speeding up land reform by introducing a new expropriation bill and work towards the provision of free university education up to graduate level.

Schreiber foresees that Cabinet portfolios (cut from 35 to 25 ministers) will be divided among the parties and, to build relations, deputy ministers will belong to different parties from that of their ministers. The parties will have agreed that the EFF gets the Land Reform ministry, balanced by DA’s having control of Agriculture.

Cadre deployment is abolished and all appointments in the civil services are based on merit.

Plans for the exorbitant National Health Insurance system are squashed



and higher education funding becomes a national priority.

In land reform – the most contentious area in the DA-EFF coalition – the partners demonstrate how cooperation can come about through constructive compromises.

“The EFF insists the department of land reform should introduce a new law making it easier to expropriate land for redistribution. In a major compromise, the DA agrees on condition all expropriation is subject to the Constitution’s call for “just and equitable compensation”.

“Land reform slowly becomes an example of compromise.”

Schreiber says more compromises are needed in the mining sector, with the EFF initially calling for the nationalisation of mines and the DA opposing this.

Skills development programmes and labour market reforms have made it easier to employ skilled workers and to fire under-performing ones.

The coalition, based on the co-operation and compromise required in a coalition system, means that South Africa is “primed for take off”.

● In Schreiber’s second scenario, an ANC-EFF-led coalition that he dubs “A Toxic Homecoming” it’s the year 2024 and South Africa is governed by an ANC-EFF coalition in which the

EFF has forced its formerly dominant coalition partner to adopt a range of populist policies, including expropriation of land and mines without compensation.

The EFF has also joined the ANC in looting the state; patronage has been extended and corruption has worsened. Following a loss of investor confidence as well as undue government intervention and mismanagement, the economy is in a downward spiral and South Africa’s democracy is under siege.

“Looking back on the five years since the 2019 national elections, the damage wrought by the previous ANC administration led by Jacob Zuma seems almost quaint by comparison,” writes Schreiber.

In this second scenario, the ANC has agreed that Malema should become deputy president and that the EFF should control the mining, agriculture, trade and industry, land reform, economic development, state security, justice, higher education and communications portfolios. Effectively, the EFF gains “near total control of the most productive economic sectors”.

“In terms of the agreement between the ANC and EFF, deputy ministers are drawn from the same parties as ministers, with the ANC agreeing to not interfere in ministries that “belong” to the EFF. This results in each ministry becoming the “fiefdom” of the party controlling it.

Cadre deployment returns, the civil service grows to absorb nearly 50% of the national budget and, as the last remaining skilled civil servants flee, service delivery reaches an all-time low. Health care and education are in a state of collapse. The NHI is implemented with disastrous results.

The EFF’s call for immediate free education for all students is heeded and universities are plunged into a financial crisis. The country goes into an “economic death spiral”.

BEE requirements become even more stringent for private companies: all domestic firms to be at least 80% black-owned to reflect national demographics; foreign companies are forced to sell their shares to local empowerment partners. Those who benefit the most are the ANC-EFF elite.

Eskom and other State Owned Enterprises (SOEs) continue to dete-



riorate and the power crisis is used to push through the nuclear deal with Russia at a cost of more than R1 trillion. The ANC-EFF coalition nationalises the Reserve Bank, economic conditions are dire and inflation reaches 60% by 2024.

As South Africans observe the horror, they vote in the 2021 municipal elections for a range of DA-led coalitions in the metros. But the ANC-EFF alliance then moves to quash the rise of opposition coalitions at municipal level by making up reasons to put municipalities under administration. There are protests in the streets, the media has been captured, the judiciary is struggling.

● Schreiber's third scenario envisages a South Africa run by a DA-led minority government in 2024. Without a majority, the party is unable to address fundamental problems and needs to negotiate support in Parliament for every piece of legislation it wants to implement. This means governance is a very slow process. The DA-led government has managed to reduce corruption and maladministration and introduce some meaningful economic and social reforms. But following the forthcoming national and provincial election, in which no party is again likely to gain an absolute majority, voters are hoping that leaders can build workable and lasting governing coalitions.

In the final section of the book, Schreiber discusses ways of making sure South Africa leverages coalitions to become "an economically prosperous Germany, or even a relatively successful India, rather than a ruined Nepal (where coalitions have failed)".

The success or failure of coalitions are not predetermined. "Some fail due to infighting, the pursuit of ruinous policies, or both. Others develop a firm basis for cooperation by fostering a culture of productive compromise, underpinned by clear procedures for settling disputes when they arise."

He cites lessons from SA's two most successful coalition governments to date: the Government of National Unity and the Cape Town coalition. It is critical to build what Schreiber terms a coalition culture – and civil society is crucial in this. "Civil society and citizens need to engage more actively in the search for progressive

## Schreiber discusses ways of making sure SA leverages coalitions to become an economically prosperous Germany, or even a relatively successful India, rather than a ruined Nepal

solutions to the country's many challenges. It is only through engaging with problems, and with one another, that voters will help generate the incentives for political coalitions to be both cohesive and productive," he writes.

Schreiber believes most South Africans will be surprised at the claims the book makes. "People who live in Johannesburg, Tshwane, Nelson Mandela Bay and Cape Town have experienced a little of how coalitions follow when the ANC loses its 50%... but I don't think we are even close to the point where we understand just how inevitable it is.

"Our political discourse is so polarised that we see these people as fundamental enemies – and anything that's not fighting is a sell-out. "...people expect our parties to be enemies with

one another but what we don't understand is that once the coalition imperative becomes real, we cannot have a government unless these enemies cooperate. So we shouldn't be surprised at any group of parties teaming up, as shocking as it may sound right now."

What is most important, he says, is for South Africans to encourage their leaders "to make compromises based on our interests".

● As deadline approached, and with the recent ructions in the DA dominating headlines, *Noseweek* felt it important to ask Schreiber whether developments in the party could affect the coalition scenarios he examined in his book. His response:

"The 2019 election is the DA's best ever opportunity to dent the ANC majorities nationally and in a number of provinces. But with the internal squabbling, the party does to some extent risk squandering this opportunity.

"On the coalition front, the party's greatest risk is probably that it loses its majority in the Western Cape, in which case it will also be replaced by a coalition.

"But a recent poll published on *Business Day* showed that, even amidst the current instability, 24.5% of national respondents indicated they would still vote for the DA.

"To me, this means that the DA's base has grown over the years to almost a quarter of the electorate – quite an impressive achievement. Overall, I think there's a chance that the DA could under-perform nationally, but not by a substantial margin. The party is still in a position to retain its Western Cape majority, and to drag the ANC below 50% in Gauteng.

"I would caution though that we're still a year out from the election, and if the ANC's meltdown in places like North West and KwaZulu-Natal continues, it could create a fresh opening for the DA to yet recover some of the lost ground.

"But the DA will need to get its act together to seize upon this golden opportunity," said Schreiber.

● What alternative (and creative) scenarios can *Noseweek* readers foresee? Send yours to [editor@noseweek.co.za](mailto:editor@noseweek.co.za) and the most captivating one will be rewarded with a bottle of Graham Beck bubbly. ■

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From another country

# Dirty secret behind Norway's clean energy

The happiest and most democratic country in the world funds its very green power by selling its plentiful fossil fuels to the rest of us. By James Watkins

**I**N NORWAY, THE DISCUSSION AROUND *det grønne skiftet* – the green shift – focuses on a completely different set of issues than in most other countries. Because not only is Norway the most highly developed, happiest and most democratic country in the world, it's also one of the greenest: 98% of its electricity comes from renewable sources (almost entirely hydropower). It also has the largest share of electric car use in the world and ranks third among rich countries for its low carbon-intensive economy, behind only Sweden and Switzerland.

Nevertheless, environmental campaigner Christoffer Ringnes Klyve's organisation, Future in Our Hands, counts 30,000 passionate members fighting for even more climate action. And that's because Norway has a giant environmental elephant in the room: it is one of the world's largest exporters of oil and gas, a moral stain on the country's green image. In fact, if you include emissions from its exported fossil fuels, Norway plummets from having one of the least carbon intensive economies among wealthy countries, to having the most – by a far.

Add the roughly 500 million tonnes of CO<sub>2</sub> equivalents that are emitted from its annual oil and gas exports to the roughly 50m tonnes emitted by activities within its borders, and you take Norway from third place on the Organisation for Economic Cooperation and Development (OECD's) list of greenhouse gas emissions per unit of GDP to dead last – by a long way.

Lots of people are uncomfortable about some of the problematic aspects of the oil sector.

Of course, other OECD countries export fossil fuels too, but none have such a proportionate effect on these stats relative to the size of the Norwegian economy and its existing low



Norwegian oil rig

emissions rates. Calculating environmental responsibility in this way would increase Canada's carbon footprint by 115% and would triple the carbon budget of coal powerhouse Australia... but for Norway, it's a ten-fold increase.

These numbers directly influence how we think about who has the moral duty to tackle climate change the most. The debate gets very real very quickly when countries like Norway have specific emissions targets under European environmental rules as well as the Paris climate agreement.

"Norway doesn't accept responsibility for these [exported] emissions," says Robbie Andrew, a senior researcher at the Centre for International Climate Research in Oslo. "I struggle to find a good analogy that doesn't piss people off, but it's like selling arms to a country that's at war and committing atrocities," and not taking responsibility because you're not the one pulling the trigger, he says.

The shale gas boom in the United States has allowed the country's emissions to fall dramatically as coal has been replaced with less-polluting natural gas, but research has shown that most of that drop has been offset by the US simply exporting more cheap

coal to the rest of the world.

Norway's situation presents another paradox for environmentalists, as much of the country's vast wealth has been built on its fossil fuel exports – its Oil Fund is the largest sovereign wealth fund in the world with more than \$1 trillion of assets. "Lots of people are uncomfortable about some of the problematic aspects of the oil sector," says Klyve, "but then it's also been one of the main reasons why we have one of the best welfare states in the world. A lot of people don't want to compromise that."

Gas flare burns off natural gas released during oil extraction process in plants of Hammerfest, in Finnmark county, Norway.

So Klyve's organisation, among other environmental campaigners in Norway, focuses on a more nuanced argument – that the steady flow of oil wealth may soon dry up, so diversifying makes economic, as well as environmental, sense. The state-controlled Statoil is soon to change its name to Equinor to move away from its association with only fossil fuels, and the pension fund is looking to divest from oil and gas shares.

In this moral maze, the state hopes that profiting off the fossil fuel industry while investing in the green revolution makes them the good guys on net, but for Klyve, it's little more than "camouflage".

This moral dilemma could grow into a full existential crisis for the country's economy: Ironically, by being a world leader of the electric car industry, "we're driving a trend that will in the long run undermine the market for Norway's main export product," says Klyve. It's "a huge national dilemma".

● A longer version of this story can be found online at [www.ozy.com](http://www.ozy.com) ■





## Love in three parts. No happy endings

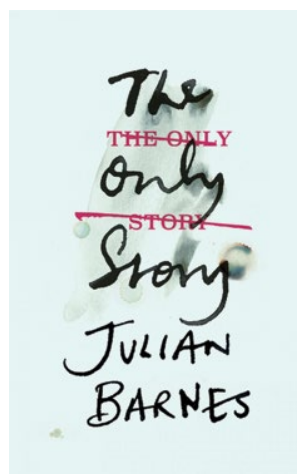
IF JULIAN BARNES HAD NOT BEEN SUCH A good writer, he would have been a very depressing one. His oft-recurring theme is death: in *Nothing to Be Frightened Of*, the nothing Barnes is (very) frightened of is death; in the short story collection, *The Yellow Table*, the eponymous table is death; in *Levels of Life*, despite the title, Barnes movingly recalls the death of his wife. And yet, insists Barnes, or the narrator of his latest novel, the only story is love. Well, death and love have been companions for centuries, and here, too, love is death-directed.

The love that is the narrator's only story is that, initially, between a 19-year-old boy, Paul, and a 55-year-old woman, Susan. Problematic as this may seem, it gradually morphs into the far more problematic love between a 30-something man and a 60-more-than-something woman, who also happens to be a hopeless alcoholic.

Only a writer of Barnes's calibre could have turned this dismal premise into a highly readable, even enjoyable novel. No matter how grim the subject matter, Barnes's lively intellect and wit keep the interest, even as the narrative moves from cheerfully insouciant youth to resigned old age: by novel's end the narrator, his lover long dead, is a vaguely contented cheese-maker in Somerset.

I don't feel that revealing the ending is a spoiler, in that this is not really a what-happens-next kind of novel. It is, rather, a book-length disquisition on the topic of love; more specifically: what is love? (An earlier novel of Barnes's is called *Love, etc.*) The narrator in fact keeps a notebook in which he writes down definitions of love he comes across, and crosses out as he discovers their inadequacy or inaccuracy. One that he preserves as valid is: "In my opinion, every love, happy or unhappy, is a real disaster once you give yourself to it entirely." Of course, that's not a definition, merely an observation, and by novel's end, Paul decides that "Perhaps love could never be captured in a definition: it could only ever be captured in a story".

**THE ONLY STORY**  
by Julian Barnes  
(Jonathan Cape)



This book, then, is that story, divided into three parts: the first part describes the oddly effortless way in which the young boy and the middle-aged woman fall in love and drift into a passionate relationship. His parents, the pebble-dash semi-detached dwellers in a London suburb coyly referred to as The Village, are genteelly dismayed, but present no obstacle to his youthful determination and ardour; Susan's husband, the morose Gordon Macleod, is more interested in his crossword puzzles and his golf (which he plays "as if he hated the ball") than his wife, and for most of the time seems either impervious or indifferent to the affair happening under his nose. The only people who are outraged are the members of the tennis club, who expel both the lovers. This section ends as Paul leaves a bland little note for his parents: "I am moving up to London. I shall be living with Mrs Macleod. I shall send you an address as and when."

The second part of the novel traces the gradual decline of Susan into alcoholism (it seems both grotesque and sad that her tipple of choice is sherry), with Paul doggedly keeping to his belief that this, too, is what love is: a patient, never-irascible pretence that there's nothing wrong, putting up with her vaguely resentful taking-for-granted of his ministrations, while still trying to build a career for himself as a lawyer.

Barnes here manages the almost-impossible, in depicting Paul (sometimes in first-person, sometimes in third, even in second-person narration), as entirely unselfish, without becoming a martyr or a saint. This, believably, is also love.

But even this is not the last of his trials. The third section, written in Paul's late middle age, looks back at Susan's final decline and death – and yes, the extinction of his love, or at any rate of his caring, as he decides, not unreasonably, that he must salvage what is left of his life, and hands Susan over to the care of her daughter and, eventually, the state. So if the only story is love, it does not, it would seem, have a happy ending. ■

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# Letter from Umjindi

BHEKI MASHILE



## Journey. Where are you going?

**B**OY OH BOY! HOW MZANSI PEOPLE love these ridiculous phrases that seem to pop up like seasonal fashion trends. Please, someone tell me, who comes up with these phrases, David Tlale?

First it was “space”. Every Tom, Dick and Harry, including Sally, was using the space phrase. Everything had become a “space”, industries were no longer industries but spaces, the mining space?

Ah! I would ask myself what the heck is this interviewer talking about, “mining space”? Argh! Maybe they are talking about a particular shaft. I mean, to me a space is something almost tangible or at the very least an area that is easily identified. And area is the key word here, e.g. “I’m looking to rent a warehouse or office,” I say to the landlord, “how big is the space and when can I see it?”

Alas I am taken to a building and shown an area that is surrounded by four walls, a ceiling and of course a floor. Now that is a space – not flipping music. “How long have you been in the musical space?” Oh good lord I nearly pulled my hair out more times than I can remember. I cherish my dreadlocks and wouldn’t cut them even if the request came from the ancestors, and that’s no joke.

Alas, all of a sudden the “space” phrase craze is gone, much to my relief and extreme pleasure. But argh! My happiness would be short-lived as Mzansi embraced another one; now everyone is on a “journey”. Yes I have seen this phrase used in stories published in magazines like *National Geographic* and *Time* although its use in those stories clearly seemed to me, well, relevant.

But now everyone is on a journey. I have actually seen several interviews of late wherein the interviewer asks,

“So you are studying engineering at varsity what got you started on this journey? I’m like, “What!?! What journey? The kid is in flipping college, it’s certainly not as if his been gone for ten years on some archaeological expedition deep in the Amazon.

“So, you’ve done modelling in New York and London, this must have been an exciting journey for you.” Once again I’m like, “What? She’s a model, for crying out loud, who briefly lived in NYC and London walking down the runway or posing for some fashion line photo shoot, where is the journey in that?”

Please don’t get me wrong. I understand that many words can be used in various contexts in order to accentuate an explanation, paragraph and of course a story in general. My problem is that when words are used just because some Joe schmo somewhere has made said word trendy, one has to say, Houston we have a problem.

So what is a journey? Well in my view, an extensive (months, years) trip or expedition. Let’s look at some examples such as expeditions undertaken by sailors of old who subsequently claimed that they discovered the lands they came upon, despite the fact that there were already indigenous people there – think Captain James Cook and his “discovery” of what is now Australia, to the detriment of the aborigines of course.

Now you want to talk about another journey, think of the African slaves who were shipped to the Caribbean and the Americas, South and North as in the United States of America.

Like the above, treacherous journeys continue to this day. Think of the tracks made by many a Central American trying to make it to El Norte (the North – US of course).

But why must we go that far? We

have our own fellow Africans making tracks from up north to make it to Africa’s “land of opportunity” and that of course is right here in Mzansi.

So please, please, oh please, stop using the word “journey” for some idiotic explanation, accomplishment or occupation. These are not journeys. The only journey most people who have become accustomed to misusing this word are on, is probably a trip to the record store to buy a CD of well, the rock band Journey.

Next time do yourselves a favour people, expand your mind, gain a little knowledge and instead of buying the Journey CD rather get Bob Marley’s *Exodus* (yeah that’s right, movement of Jah people). Even the Marley single *Buffalo Soldier* will do.

Now, some may ask, why would such a simple matter as a word get Bheki riled up? Well when a young man stops me on the street and asks for my help with his interest in setting up an online newspaper and says he is very excited about taking this journey, yes, I have to say “Houston, we have a problem”.

I gave the young man a piece of my mind on using trendy expressions if he was serious about his journalism pursuits. Unfortunately I think I might have dampened his spirits because as we parted ways I could sense the excitement in talking to me was, well gone.

Argh! Heck, if that is the case maybe I did a good thing for real journalism. Next thing you know, this kid would have been writing stories using phrases like “baby mama”, as did a *Sowetan* sub-headline in a few months back. I haven’t bought another *Sowetan* since. “Baby mama”? The editor of the *Sowetan* should be ashamed for allowing this to go through, so much for a South African newspaper icon. ■





## Artificial Intelligence. Robot racism

**T**HERE IS SOMETHING RATHER democratic about the robot called Bender (from the TV show *Futurama*) and his desire to kill all humans. It means he doesn't seem to care about race, nationality, gender or diet preference; he hates all humans just the same: they are whiny meat bags doomed to a self-inflicted apocalypse.

Bender's equal opportunity approach seems far removed from today's Artificial Intelligence (AI) – news stories keep popping up about AI failing to treat all humans equally, surprisingly along racial lines. These machines are sexist, racist and they make a lot of mistakes, so much so that it seems we have created autonomous technology that looks more like us than we might like. But how bad is it really?

The famous COMPAS (Correctional Offender Management Profiling for Alternative Sanctions) programme was revealed by ProPublica in 2016 to be unfavourably biased against black offenders when it was used to measure the risk that a convict might re-offend. In the ProPublica article they use a few examples to illustrate how good the system is at punishing black offenders, and showing exceptional leniency toward white offenders.

COMPAS surprises: a white offender scored three out of ten, having spent five years in a state prison, compared to a black man who resisted arrest, with no other offences, scoring a ten.

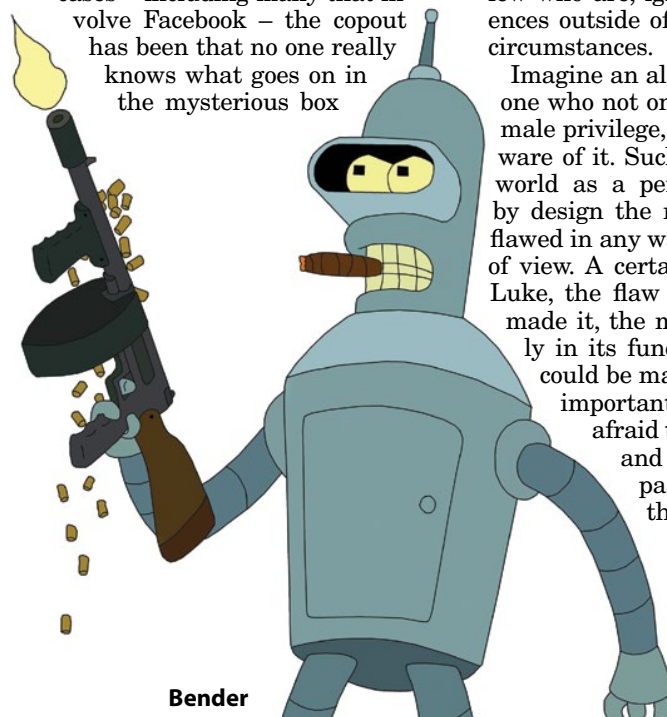
A recent story in the *New York Times*, aptly titled "Facial Recognition Is Accurate, if You're a White Guy", says facial recognition programmes could identify "white guys" correctly 99% of the time, compared to 35% for black women.

Just a week before writing this, the *Financial Times* reported that the UK Home Office had told thousands of foreign students to leave the UK in

error after a voice recognition system found that these students cheated in an English proficiency test, with no hope of appeal with a human.

These stories do not so much say that these tools are racially biased as that they are not agents in law and we cannot hold them accountable. That's a problem since more and more of these systems are being given increasing responsibilities every day. In the UK visa example, it is easy to say that the system made a mistake and that technicians will look into it, but if a few humans had done it, the Twitter horde would have happily ended someone's career.

Google has been known to identify black people as apes, and Snapchat in trouble for a "hot" feature that gave users distinctly European features to make them look "hotter". In such cases – including many that involve Facebook – the copout has been that no one really knows what goes on in the mysterious box



of algorithms that make such mistakes.

It's not that humans have built the bias into the machines; rather, they learn from humans and the data fed them. So a system that is fed real-world data that paints black people in a bad light will deem black offenders a higher risk than white offenders.

Our history and prejudices affect how we collect data, who gets to curate that data, and it determines the select few who have the means to create bots and unleash them out into the world.

As we relinquish more of our judgments of society to these tools, we should never forget that we have created them in our own image, and should therefore not see them as innocent gods with impeccable reason. They hold our collected values, except those values are mainly from a privileged few who are, ignorant of lived experiences outside of their own circles and circumstances.

Imagine an algorithm built by someone who not only benefits from white male privilege, but is completely unaware of it. Such a tool would see the world as a perfect meritocracy, and by design the machine would not be flawed in any way from a certain point of view. A certain point of view? Yes, Luke, the flaw is in the human who made it, the machine works perfectly in its function. Such a machine could be made to help us make an important judgment we are too afraid to determine ourselves, and with that we can bypass all accountability, as things stand.

My biggest worry with AI isn't that it will become self aware and kill all humans, like Bender, but that it will kill only some of us. ■



## Berlin and beyond. Broken promised lands

**B**ERLIN IN LATE APRIL, SUNNY IN A wintry way, a spritz of rain, a South African Australian wrestling with a lifetime's demons: sweetly, many of the particularities of my Cape Town childhood are there – the milk-rice my mother made my German father as a treat, for example, was echoed in the supermarket, *milchreis*, *milchreis* everywhere, and the men's manicure sets he was partial to and kept in his bedside table were there, at the Sunday neighbourhood flea market. But at the flea market too, were some people of a certain age (I found myself doing the calculations all the time) selling antique jewellery, and I wondered where it came from. Contradictions, loving the language of the émigré who bought their salt pretzels from the German bakery in Cape Town, but shuddering still at its associations.

On arrival, my friend who picked me up (who had confessed some time ago, in sunny Sydney, that his parents were Nazis) drove straight to the Olympic Stadium where Herr Hitler had held his rallies. From there, since I expressed no preference and had never heard of it, it was off to Gleis 17, the train platform from whence Jews were sent to Auschwitz and other camps, and from there it's a blur of monument after monument for the rest of the week. And still I didn't see them all: the restored synagogues, the infamous bunker, and all those pavements with embedded name plaques of their one-time Jewish residents.

I learn from my host, who is a history teacher, that the school syllabus has an age-appropriate holocaust unit every year. I go to the Gestapo headquarters, I walk in the lovely Tiergarten but imagine these poor people sheltering there, just as I imagine them hiding among the gravestones when I visit the resting place



Germany's restored parliament, The Reichstag, in Berlin

of my late grandmother in the toppled cemetery, where trees have once again made a forest with ancestors between. There, I greet the other Hirschs, the Liebermanns and the various bergs, baums and steins whose names are second nature to me.

I am dazed and not seeking it out, but I stumble upon the "Topography of Terror" which takes perhaps three hours to go through, a huge covered open-air display detailing the horrors. I go to the Berggruen Museum, and read that the art collection had found its place in Germany because the art dealer Heinz Berggruen, a German Jewish man who fled and fought with the Allies, had decided on a gesture of reconciliation, to show he'd made his peace with his past. He was buried in Berlin in 2007. Nearby, an avenue where people cycle up and down, and smoke cigarettes and wheel babies

among huge weather-proof fabric banners with pictures of victims (Polish, Russian, others too) fluttering in the wind, and I feel obliged to stop and read every story, out of respect.

I meet with a cousin who's about my age and bears the same surname, a good German name once upon a time, and who returned to Berlin after living in Israel awhile (there are reportedly 150,000 Jews living in Germany, reclaiming their rights). I don't want to say goodbye to her, wanting family, us wandering Jews, in my case with relatives all over the world post-Germany and because of leaving South Africa, to which my father Hans fled in 1936 (he had a sister, believe it or not, called Gretl and another, Lisl and a brother Fritzl, more German they could not have been).

The cousin, whose holocaust history is more scary than mine in terms of



immediate family, is a psychotherapist specialising in trans-generational trauma and says that it is here of all Europe that she feels safest in terms of the rising tide of anti-semitism, because the Germans have worked so hard to process their past.

At lunch, I refrain from the Jewish joke that I've heard at tables groaning with food in the festive season, "They tried to kill us, they failed... Let's eat". She shows, to my mind, that same mix of German pride my father did when he used to try to instruct me in the use of a fish knife or some such thing and tell me that "we" do it this way, and I would be maddened by the "we". My father who would be home trembling with fear if I'd been at a student protest at university, who saw only too clearly what was going on in South Africa but, not surprisingly, lacked the courage (or will) to speak up. I see now only how hard it must have been for him, and why he rushed to pay his bills early, and why he was often almost obsequious in his dealings with authority.

My cousin says she's most comfortable with German people her age because she just knows them, the way I guess I just know South Africans my age. But back to Berlin. I am bristling on arrival, but in the middle, I appreciate what they have done in putting their shame on display, right there in the streets and on subway walls, not in an apartheid museum or a District Six museum, not really a matter of

## I appreciate what they have done in Berlin in putting their shame on display, right there in the streets and on subway walls, not in an apartheid museum or a District Six museum

choice but unavoidable.

For me, though, more than all the monuments and museums and tours, it is a solitary thing and I am more disturbed by the everydayness in the stairwell of an old building where I see in my minds' eye people with their belongings scuttling down, or a window from which I imagine someone

jumping while the gestapo stamp up those stairs. And so on, my imagination paints it all for me, and I think of South Africa, and even Australia, and the humiliations visited on people there, where reparations have not been made, can never seem to be made, and how does one make them?

Before I leave, I make sure to go to a *biergarten* and have a bratwurst sausage and mustard on a white roll and sit among these people, being ordinary on a Sunday. But it is Tempelhof we are at, which was Hitler's air-strip and is now an extraordinary open-air playground, alive with farm garden allotments, kite fliers and roller bladers and believe it or not, refugee housing on its perimeters.

I am a little uplifted, but then I meet a blue-eyed baby called Leni and my friend makes a comment in German to the baby's mum about Leni Riefensthal and my being Jewish and this does not escape me and I realise maybe I did not want them to be expiating their historic guilt this way, and that my family story seems to be part of one giant tourist attraction, the unspeakable made real and feasible, and there is something repulsive in the display on the streets.

On arriving home, I read about my old friend Graeme Bloch's family, and a story in *The Australian* is headlined: South African dreams taking root in our safer soils. A 50-year old citrus and avocado farmer, Cor Greyling, has been sponsored to manage an orange orchard in NSW, and he and his wife and four children live in a spacious farmhouse without gates and security cameras. *The Australian* goes on to report that it's a happiness Mr Greyling would like more South African farmers to have the opportunity to enjoy, as violence invades his former homeland and farmers, mainly white, are killed in their remote farmhouses at the rate of one a day. He says he has friends keen to follow in his footsteps and work in Australian agriculture, particularly since radical February 27 laws were passed authorising government land seizures from white farmers without compensation. "South Africa has excellent farmers and it would be good for Australia economically, as well as from a humanitarian perspective," Mr Greyling reportedly said. ■



Avocado and citrus farmer Cor Greyling, his wife Bertha and children Kara, Lisa and twins Evert and CG down on the farm near the Gwydir River



## Go on Mamas. Make my day!

**A**LL YOU UNATHLETES OUT there, it may interest you to know that many of the marathon events these days include also a 10km fun-run for one's family, so they don't feel left out. That doesn't mean they have to run, of course, they can walk if they fade along the way. Stroll. It's all for the companionship, you see; we-e-ell, the Comradeship, on a small scale. The serious club runners blast off first, see, so the kids and cripples and geriatrics don't get under their feet. I qualify for the fun run on two counts: Cripple and Geriatric.

What happened to me when I was only 85 was real Mad German Scientist stuff, I tell you: to dig veins from my legs and plant them in my heart. I mean next thing you know is they'll be extracting DNA mysteries from one's genitalia and grafting them to one's sensibilities. Why, I recently met a crumpled up old Emeritus Professor of Something who said to me he felt okay about being all crumpled up and ready for the hereafter because he had humped 200 women in his lifetime and how's that hey? And how I thought was, hey this ou has got his dick diced up by some psychopath sangoma somewhere and stuck in his skull.

Well anyway, here I am 92 and all healed up, my flesh knitted together like an old jersey, and one day I suddenly feel it's a matter of dignity that I should declare myself yet nimble and young of spirit. I should now go into training for the Sardine Run Half Marathon. Well, that bit of it as described, and strolling.

I put on my old stink-tekkies and sally forth, with careful sitting down wherever there's a flat place, taking it easy, bit by bit. And the first such place I come across is a long low wooden



bench outside a supermarket with a little notice saying these seats are for the comfort of seniorburgers, like I'm an old piece of mincemeat twixt bits of bun. Which indeed I am, in a manner of speaking.

I sit down next to two fat old Zulu mamas. After a bit mama number one raises a forefinger and starts marking a slow time, and both start to sing, softly and oh so delicately. They modulate their voices, each counterpoint to the other; it is very gentle singing in the coarse world of electronic gadoomp! mass music. After five minutes or so they stop and wave at the world and I say That was a lovely song. You think so? says Mama One, she smiles sweetly and takes my hand and makes like a little apple pie between hers. We have an English song too, for you, says she. She whispers to Mama Two and they sing: *Greensleeves*. They sing it as Henry VIII would have sung it, with perfect thirds and fifths. Clearly they learned their singing somewhere without a piano, which has perfect octaves and all in between sli-i-ightly sharp or sli-i-ightly flat. I quite suddenly realise it is this that gives Zulu singing its wistful nature.

Its nostalgia.

That song was written by the King of England, say I, and you sang it as he would have sung it, very beautifully. You mean the Queen? says Mama Two. No, the King, called Henry, in 1550, say I. Wew! say both mamas in unison, so old! Yes, say I, and still lovely and fresh. Where did you learn your singing? In Nongoma at a mission school, says Mama Two. No piano? say I. No, just a guitar, says she. I rise to go, shake hands and bow. You have made my day, say I. And you have made us too heppy! they say, in unison.

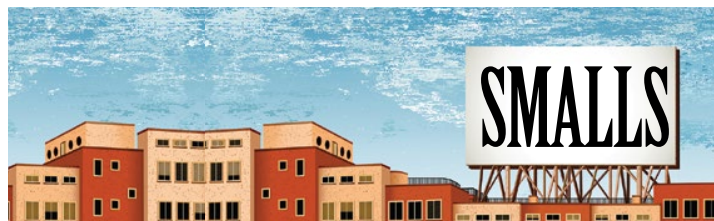
Out on the street I briskly take off, the sun shines upon me, man, but I exercise restraint and discipline and watch out for the next resting spot. And there it is, a concrete bench 'neath a great shady uMkhuhlu, a decommissioned bus stop, and there sits Doctor Felicity Groats, sociologist, Commentator on All of Life.

Hullo ducky, say I, and how's the world treating you today? How long do we have to submit to this? says she. Submit to what? say I. Everything, the country is failing before our eyes, there are no excuses, says she, I've been sitting here half an hour and the bus just doesn't come. Everything is failing. Well why don't you take a taxi? say I. What? And catch a filthy disease? says she.

We're stuck with this government, says she, voting means nothing any more. See for yourself, you can go to any polling station and witness the corruption before your very eyes. Ja, say I, it's a bugger, isn't it? Excuse me, please, I'm training for the Comrades Marathon, and it's such a relief to get away from the old cow I find myself actually running. The sun still shines upon me, my day has been made. ■



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