

Khasho



News for NPA staff, friends and stakeholders

March 2010





Bulelwa Makeke
Executive Manager: Communications

Letter

from the Editor

Correctional Services, Ms Hlengiwe Mkhize. It is exhilarating to see the Justice, Crime Prevention and Security (JCPS) Cluster at work empowering citizens with useful information to ensure that they feel safe, in keeping with the cluster's stated purpose: "all people in South Africa are and feel safe." The cluster will continue to work together to implement the strategic objectives recently announced by Mr Jeff Radebe, Minister of Justice and Constitutional Development, in his capacity as the chair of the cluster.

Another highlight for the NPA in March was the Human Trafficking National Conference. The NPA commissioned the Human Sciences Research Council (HSRC) to conduct research on the overall understanding and prevalence of human trafficking in southern Africa, and the key findings of the research were discussed at the conference. The benefits of the discussions will contribute further to guiding the actions and interventions by the South African government, NGOs and the general public in addressing the fight against human trafficking.

This year marks the 50th anniversary of the Sharpeville Massacre, which is commemorated as Human Rights Day,

and the month of March is recognised as Human Rights Month. In this issue, *Khasho* shares with you articles that are linked to the theme of celebrating and recognising human rights in our country. We have also taken the decision to feature more articles about prosecutorial work in our courts, therefore providing a platform for our prosecutors to share their successes, challenges and perspectives on their cases with the organisation. We hope that you gain value from this 'learning and sharing' platform, and we look forward to more articles, especially from the lower courts.

I once more take this opportunity to thank all the staff members who provide us with stories and share their work and information on their events with us. *Khasho* belongs to the people of the NPA and reflects the outstanding work the NPA is doing. I call upon all staff to send their news or contributions to our dedicated e-mail at khasho@npa.gov.za.

Let us fly our South African flag high and continue to support Football Friday.

Bulelwa Makeke
Executive Manager: Communications

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NDPP in the media and the public domain

Tebogo Seate

During the past month, there were several occasions on which the National Director of Public Prosecutions (NDPP), Advocate Menzi Simelane, was requested to comment on various issues in the media and other public domains. These are extracts from some of those media interviews:

Some people have the perception that there is political interference in the work of the NPA, citing examples of some high-profile political cases.

There is no interference. There are many people who have a misconception of the meaning of prosecutorial independence and take it to mean institutional independence. The NPA is part of a community and cannot be viewed in isolation. Government is divided into three parts: the judiciary, the executive and the legislature. The NPA is definitely part of the executive.

There is a general concern that the NPA does not have adequate human resources and skills.

Yes, this is indeed a challenge in the NPA, but it varies from province to province and from court to court. The NPA will ensure that people with the right skills will be appointed to the right positions. The organisation will continue to develop prosecutors to properly meet the needs of the criminal justice system and communities.

Court cases generally appear to take too long to be finalised, for example, the Jackie Selebi case and the case relating to the murder of Brett Kebble. What is being done to address this problem?

It is not fair to generalise that all cases take too long. There are many cases that are finalised quickly and efficiently every day in the courts. It is just that some of the cases that take a long time tend to be more high-profile cases and are highly publicised, so they dominate the thoughts of the public and the media. There is a legal and constitutional requirement that an accused person must appear before court within 48 hours, which happens most of the time. Then the case must be postponed for further investigation. It is important to remember that because a court trial involves an adversarial process, a matter can be delayed for many reasons. However, the case itself is heard in a transparent manner in an open court of law.

Is there corruption in the NPA?

I am not aware of any corruption in the NPA. I have the fullest confidence in the country's prosecutors.



*Advocate Menzi Simelane
National Director of Public Prosecutions*

The NPA has structures in place that can deal with corruption issues and I know what I would do, should I be faced with cases of corruption.

What is being done to address the current backlog of court cases?

There are more challenges in the district courts than in the high courts. The Department of Justice and Constitutional Development is considering the establishment of more district courts. Our country is characterised by high levels of crime, which contribute to the high case backlog. It is therefore important for the communities of South Africa to participate in finding solutions to reduce crime.

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THE NPA HOTLINE – 0800 212 580

Building a culture of reporting unethical and unlawful practices, promoting and enabling whistle-blowing.

Human Rights Day: key messages from government

Nomilo Mpondo

This year marks the 50th anniversary of the Sharpeville and Langa massacres, the most important events of the liberation struggle. These events signified the first protest action against mass action by the people of South Africa against the pass laws, which resulted in the banning of liberation movements. By celebrating Human Rights Day, we reinforce our commitment to human rights.

Our Constitution guarantees the rights of every South African. The Bill of Rights is instrumental in realising the democratic values of human dignity, equality and freedom. The Human Rights Commission was set up in terms of the Constitution to promote respect for human rights, and to monitor and assess the observance of human rights in South Africa.

Since 1994, basic service delivery programmes have been pursued to restore the lives and dignity of its people. Housing units completed or in progress under the subsidised housing programme had reached a cumulative total of 2.8 million by March 2009. The government is pursuing a more comprehensive service delivery model within the context of sustainable human settlements. The percentage of households with access to water and the infrastructure for potable water above or equal to the standards of the Reconstruction and Development Programme (RDP) increased from 61.7% in 1994 to 91.8% in March 2009. More than 10 million households (77%) had access to sanitation by March 2009 in comparison to 5 million (50%) in 1994. The estimated number of households with access to electricity increased from 4.5 million (50.9%) in 1994 to 9.1 million (73%) in 2008.

Government is aware of the growing demand from its citizens, which is intensified by the service delivery backlogs. Partnerships are critical in the realisation of effective service delivery, where citizens must acknowledge their rights and responsibilities. If communities deem that their right to service delivery is not realised, they have the right to express their dissatisfaction in a responsible, constructive manner, respecting the rights of others.

The President proclaimed 2010 as the Year of Action. The adoption of an outcomes approach ensures that the intended impact on the lives of the people is now being used to monitor and assess progress in implementing government's priorities. This includes upgrading well-located informal settlements and providing proper service and land tenure to at least 500 000 households by 2014. There are plans to set aside 600 hectares of well-located public land for low-cost and affordable housing.

A new key initiative will be to accommodate people whose salaries are too high for government subsidies, but who earn too little to qualify for a normal mortgage. A guarantee fund of R1 billion will be set up to incentivise the private banking and housing sector, and to develop new products to meet this housing demand.

Protecting the rights of road accident victims

Nomilo Mpondo

In protecting the rights of victims of road accidents, the Law Society of South Africa (LSSA) is taking the lead in openly challenging the new Road Accident Fund legislation. The South African Association of Personal Injury Lawyers, the Quadpara Association, the National Council for Persons with Disabilities and seven road accident victims joined forces in support of the LSSA.

The new act came into effect on 1 August 2008. It brought about some major changes on how the fund operates.

Some of these changes include the following:

- The removal of certain inequalities to ensure that all innocent road users will be able to claim for injuries, medical treatment and loss of income. Before the amendments came into effect there was no limit to the amount that could be claimed as loss of income. Now a maximum of R160 000 per annum applies for income loss or loss of support, irrespective of the number of dependents.

- A claimant no longer has the right to sue the guilty party in the event of an accident. For example, if one earns more than R160 000 per annum and is totally disabled after an accident, one can only claim the maximum of R160 000. The implication, therefore, is that one should ensure that one has sufficient income protection insurance, medical aid and disability cover to make up for the shortfall.

These changes are alleged to be unconstitutional and irregular, therefore prejudicing road accident victims. It is against this backdrop that the act is being challenged. The *Khasho* team will keep a close watch on the proceedings of the court on this matter.

Ndabezitha Izimbizo Project

seeks to engage rural communities on domestic violence

Bulelwa Makeke

At the Justice, Crime Prevention and Security (JCPS) Cluster media briefing in Parliament on 4 March 2010, Mr Jeff Radebe, the Minister of Justice and Constitutional Development (DoJ&CD), emphasised government's commitment to foster partnerships with the community and deter crime in general. He further restated the cluster's specific focus on fighting crimes against women and children by strengthening awareness programmes in communities.

To this end, the first phase of the Ndabezitha Imbizo Project was rolled out in earnest during February and March 2010. This took the form of roadshows to rural communities throughout the country with the aim of raising awareness about domestic violence and other legal matters.

The project is part of the broader Ndabezitha Programme, an initiative led by the Sexual Offences and Community Affairs (SOCA) Unit, in partnership with the Chief Directorate: Promotion of the Rights of Vulnerable Persons of the DoJ&CD, the National House of Traditional Leaders and the Malibongwe Women's Development Organisation.

The overall programme seeks to develop a best practice model to deal with domestic violence by integrating the criminal justice system and the traditional justice philosophy. This allows the integration of both retributive and restorative justice in resolving cases of domestic violence. The Ndabezitha Izimbizo is therefore aimed at creating a constructive and well-coordinated referral system between prosecutors, magistrates, the police and traditional leaders in the multidisciplinary management of domestic violence.

The Ndabezitha Izimbizo specifically targets rural communities to raise awareness on domestic violence. It is also a deliberate intervention to bring information to communities whose access to information about legal matters and human rights is generally limited compared to their urban counterparts, who have a myriad of information channels at their disposal. Gender power relations in the rural communities are still deeply



Ndabezitha Imbizo in Giyani, Limpopo.



Ndabezitha Imbizo in Kuruman (Batlharos).

entrenched in the traditional patriarchal perspectives that men are entitled to abuse women.

Strangely, there are women who also tend to accept abuse as an acceptable way of life.

This partnership with traditional leaders in taking the awareness campaign to the rural

communities is therefore very powerful in that it places value in their leadership role in these communities. The biggest impact that the Ndabezitha Izimbizo aims to achieve is that the community members that have been visited will be left with a sense of empowerment to address domestic violence.

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JCPS Cluster:

Tebogo Seate

Seven strategic objectives

As you may already know, government's Justice, Crime Prevention and Security (JCPS) Cluster is driven by the Department of Justice and Constitutional Development, the Department of Correctional Services, the Department of Home Affairs, the Department of Social Development and the South African Police Service (SAPS). The purpose of this cluster is to coordinate the implementation of the programmes of these departments through an integrated approach that creates synergy for the best outputs.

During the JCPS Cluster media briefing that was held on 4 March 2010, the Minister of Justice and Constitutional Development, Mr Jeff Radebe, said that government had declared 2010 as the Year of Action. In support of this declaration, the mandate of the JCPS Cluster is to ensure that "all people in South Africa are and feel safe". The Minister then explained that the cluster has set itself the following seven strategic objectives to achieve its mandate:

Addressing the overall levels of crime

The aim is to reduce the overall levels of crime by improving police visibility, identifying hot spot areas and integrating JCPS interventions in these areas, the effective control of firearms, improving forensic services and fingerprinting, as well as the coordination of intelligence gathering. In this regard, the capacity of the SAPS, prosecutors, Legal Aid and the courts will be increased to improve the efficiency of the criminal justice system (CJS).

Improving effectiveness and ensuring integration of the CJS

The capacity of the detective services and forensic science laboratories will be increased to improve the detection rate of crimes, the finalisation of court-ready cases leading to efficiency in the courts and a reduction in case cycle times, humane incarceration, effective correctional supervision and the rehabilitation interventions of offenders. The Case Backlog Reduction Project, which is aimed at reducing the backlog of court cases, is currently underway. Stakeholders will be required to work more closely than ever before, and information technology systems will be used to provide integrated management information to the cluster departments and the JCPS Cluster.

Combating corruption in the JCPS Cluster to enhance its effectiveness and ability to serve as a deterrent against crime

Government will step up anti-corruption measures and ensure that offenders are brought to book. Corruption relating to dockets being lost, bail payments, identity documentation, court cases and the illegal release of detainees will be fought through the strengthening of internal risk management. Incidents of corruption and organised crime within the cluster will continue to be targeted through various interventions, including activities of the Special Investigating Unit (SIU) and the Asset Forfeiture Unit (AFU).

Managing the perception of crime among the population

Perceived levels of crime directly inform citizens' sense of wellbeing and safety. A Community Safety Forum Strategy will be finalised by the Secretariat of the SAPS during 2010 and will contribute to a greater understanding of the role and responsibility of the public in combating crime, building partnerships with civil society and corrections as a societal responsibility (including the successful reintegration of offenders in the community).

Combating cyber crime

The development of an integrated and technology-based approach to combating cyber crime, including increased capabilities of the cluster to address the growing phenomenon of this crime, will receive priority attention during 2010. The draft cyber crime policy was gazetted on 19 February 2010, inviting public comments. The revised integrated document will be finalised during 2010.

Increasing the effectiveness and integration of border management

A Border Management Agency will be established during the course of 2010. This agency will improve the security of our borders and ports of entry and promote cooperation among security agencies in the region, while boosting economic trade relations. This will also bring about the improved management of population registers in Southern Africa. Last year, Cabinet took a decision that the South African National Defence Force (SANDF) should take over the responsibility for borderline security from the SAPS.

Securing the identity and status of citizens

The JCPS Cluster will ensure that our citizens are not threatened by identity theft and the fraudulent acquisition of identity by syndicates aided by corrupt officials and members of the public. The focus will therefore be on combating identity theft, improving the integrity of South African travel and identity documents, prioritising joint operations aimed at identity theft offenders and considering a review of legislation to combat identity theft.

Justice at last

remains of hanged PAC men exhumed

Nomilo Mpondo

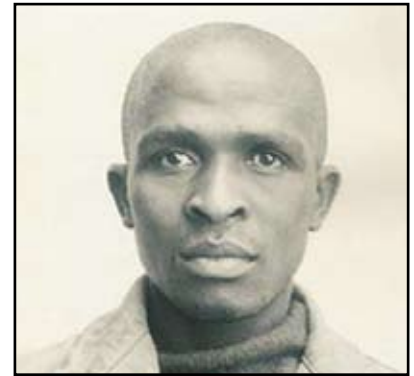
Wednesday, 24 February 2010, saw the exhumation service of the remains of six Pan-African Congress (PAC) men, known as the 'Langa Six', who were hanged 40 years ago. Five of these men were hanged after being convicted for their involvement in an attack on police vehicles in Langa, Cape Town. The sixth member was also convicted of a similar incident. The remains were of Nontasi Shweni, Bhidekile Ntsabo, Veyishile Qoba, Zibongile Dodo, Mqokeleli Nqulwana and Mountain Ngantweni. Five of them were in their twenties and the eldest was only 36 years old when he was taken to the gallows.



Zibongile Serious Dodo



Mountain Jim Mbila Ngantweni



Bhidekile Donker Ntsabo

Members of the PAC and the Azanian People's Liberation Army (APLA) Military Veterans Association, clad in PAC regalia, would not let sombreness prevail at the graveside. They broke into APLA revolutionary songs, reminiscent of the apartheid era.

Mr Johnson Mlambo, a veteran, conveyed a message of gratitude on behalf of the PAC to the NPA's Missing Persons Task Team, as well as to the other organisations that had made the day a resounding success. Among these were Argentines who had come to the country to help with the project. The Argentinean ambassador to South Africa, Mr Carlos, pledged his support and solidarity by attending this auspicious occasion with his family. He saluted his fellow countrymen for taking part in this project of the NPA.

Ambassador Seekoe, Head of the Truth and Reconciliation Committee (TRC) Unit of the Department of Justice and Constitutional Development, spoke on behalf of government. He gave a detailed account of how the process had unfolded

since the TRC representations. He alluded to how difficult this process was and reiterated government's position to see the process through to its conclusion.

After exhumation, the remains would undergo forensic testing for verification. They would then be handed over and a proper burial would take place.

Both excitement and anxiety was etched on the faces of family members in the graveyard. They all shared one common dream: to see the remains in their final resting places and close the long and winding chapter.

Another common factor was the compelling and recurring visual images they would have of them in dreams. Not surprisingly, great value seemed to have been attached to these dreams throughout the journey. In an African sense, that would be interpreted as mystical. This mysticism provided them with hope that one day these remains would be found. The NPA would indeed make this dream come true after 40 years.



Veyishile Qheya Sharps Qoba



Mqokeleli Gladstone Nqulwana

Safari widow guilty

Prosecutorial insights of the Mbokazi matter



Advocate Mahlubi Ntlakaza

The headline of *The Sowetan* of 5 March 2010 proclaimed the Safari widow to be guilty. Here is the story of Celiwe Mbokazi. The sequel of her conviction was that she lost all her inheritance, including a R1 million trust fund and lifelong usufruct of the Heia Safari residence.

The deceased, Franz Richter, had celebrated his 80th birthday on 30 October 2007. Celiwe and the deceased had been together for two decades, from 1987 to 2007. It was with satisfaction that one saw the front-page

pictures of *Beeld* and *The Sowetan* of 5 March 2010, with the smiling face of the deceased's daughter, Gaby Burgmer, with both arms raised in the air in front of the Johannesburg High Court with a statement saying: "She is where she belongs." This was certainly the vision and mission of the NPA in action.

Background

In October 1987, the deceased, a German tourist mogul who had come to South Africa in 1952, bought land in the Muldersdrift area on the West Rand. He also owned the Heia Safari Game Ranch, Aloe Ridge Hotel and other properties countrywide and had brought 20 traditional Zulu dancers from Empangeni to dance at the Zulu Kraal at the ranch. This was mainly for the entertainment of overseas tourists. Celiwe, who came from Empangeni in KwaZulu-Natal, was one of the dancers.

Mr Richter fell in love with Celiwe in November 1987 when she was only 16 years old. They started living together in Richter's house on the ranch. In the 1990s, Richter paid *lobolo* to Celiwe's parents in Empangeni. They then lived as husband and wife with five orphans in the house.

In 2006, Celiwe commenced an adulterous relationship with Ronnie Khumalo, a former employee at the Heia Safari Game Ranch, and fell pregnant during August 2007. She tried unsuccessfully to abort the foetus. She eventually told Richter, who was angered by this revelation and told Celiwe to go back to KwaZulu-Natal. They were living together as husband and wife until the day of the incident. She had shared his rich lifestyle. On evidence, the court found that Celiwe had probably been aware of her benefits from the deceased's will.

Vital use of telephone records in a criminal trial

Cellphone data is accepted as reliable evidence in terms of section 15(3) of the Electronic Communications and Transactions Act, Act No 25 of 2002. The relevant communication was between one of the accused in the trial, Dumisani Xulu, and Celiwe. Xulu was among the four robbers who had pounced on the deceased at about 10:30 on 28 November 2007. Celiwe, the deceased and the orphans were on their way to the Zulu Kraal to pay the Zulu dancers.

Payment on the 28th of the month was unusual, as payments were usually made at the end of the month. The deceased had told Celiwe that payment would be made on Wednesday 28 November at about 10:00, as opposed to the usual month-end, which would be Friday, 30 November 2007. The route to the Zulu Kraal is a gravel road inside the ranch. The deceased was driving the vehicle and had R23 000 packed in envelopes for wages.

En route to the Zulu Kraal, they stopped at a gate that was closed. The gate was then opened and the deceased drove through the gate, waiting for it to be closed behind him. That was when four robbers who were hiding in the nearby bushes pounced on them. The deceased was shot three times in the upper body. The robbers shouted that they wanted the deceased, even though he pleaded with them to take only the money. In addition to the Zulu dancers' wages, they also stole Celiwe's handbag with her cellphone.

Three robbers were arrested the same day. Two were hiding in the reeds near Heia Safari and the other was pointed out at a nearby squatter camp. Celiwe's SIM card was found in the pocket of one of the robbers. Xulu was the third robber. The police confiscated his cellphone when they arrested him at the squatter camp. He had worked at Heia Safari Ranch from February 2006 to May 2006. At that stage, Celiwe was a complainant as well as a state witness. In her witness statement, she stated that she could not identify any of the robbers. The three arrested suspects made confessions on the evening of 28 November 2007. They appeared in court for the first time on 30 November 2007, but did not implicate Celiwe in any of their confessions.

On 5 December 2007, the investigating officer obtained landline telephone records from the Heia Safari Hotel. The landline extension number of the residence of the deceased and Celiwe was connected to the hotel.

The investigating officer observed that there were calls from the residence extension of the deceased to Xulu's cellphone number. The investigating officer had already confiscated Xulu's cellphone and knew his cellphone number. He sought the assistance of Director Piet Beyleveld, who instructed him to bring Xulu in for an interview.

On 7 December 2007, Director Beyleveld interviewed Xulu and took a second confession from him. The accused had already appeared in court, where he had indicated that he wanted legal assistance from the Legal Aid Board.

The accused implicated Celiwe in this second confession, stating that Celiwe had requested him to kill the deceased. He had not implicated Celiwe in his initial confession. This second confession was taken in the absence of the legal representative he sought in his first appearance in court on 30 November 2007. After taking this second confession from the accused, Director Beyleveld instructed the investigating officer to bring Celiwe to him after she had been arrested.

On the same date, Celiwe was arrested at the ranch for the murder and robbery of the deceased, based on the fact that Xulu had implicated her in his second confession. She was not taken to Beyleveld immediately, but was detained at the Roodepoort police cells.

The investigating officer took a warning statement from her on Sunday, 9 December 2007, in which she indicated that she had a lawyer from Legalwise. She did not make a statement. On Monday, 10 December 2007, she appeared in court for the first time. She reiterated that she would get her own lawyer from Legalwise.

On Tuesday, 11 December 2007, the investigating officer took Celiwe to Beyleveld, who interviewed her at the Brixton Police Station and took a wholly exculpatory statement from her. Without a lawyer from Legalwise, she stated, inter alia, that during the robbery she could identify the accused, Dumisani Xulu, among the robbers.

She further stated that Xulu and Ronnie Khumalo, one of the other accused and her adulterous boyfriend, had planned to kill the deceased. She also stated that the deceased had told her that payment of the Zulu dancers would be made on 28 November 2007 at about 10:00. These aspects had not been mentioned in her witness statement.

The investigating officer, armed with Xulu's cellphone, Celiwe's SIM card that had been found in the pocket of the first accused, and the landline telephone printout of the residence of the deceased and Celiwe, approached Vodacom and MTN for cellphone data.

The data, inter alia, showed calls made in the period from 2 to 28 November 2007 from the landline of the residence of the deceased and Celiwe to Xulu's cellphone on four occasions for a total of 184 seconds, as well as from Celiwe's cellphone to Xulu's cellphone on six occasions for a total of 277 seconds, and from Xulu's cellphone to Celiwe's cellphone on one

occasion for 105 seconds. The last call that was made from Celiwe's cellphone to Xulu, lasted 36 seconds and was made at 09:59, approximately 30 minutes before the murder and the robbery.

After lengthy trials within trials, all the confessions and Celiwe's exculpatory statement were admitted as evidence against them in the trial. The difficult part was the admissibility of Xulu's second confession and Celiwe's exculpatory statement, which were taken without legal representation even though they had both already appeared in court and sought legal representation. They were, however, poor witnesses. Beyleveld's account that they had agreed to make the statements without legal representation was found to be credible.

During the trial, Celiwe denied any knowledge of Xulu and disavowed the contents of her exculpatory statement to Beyleveld. Xulu's second confession was not admissible against Celiwe, vide, section 219 of the Criminal Procedures Act.

On the indictment, Celiwe was charged with others for counts of murder and robbery. There was also an alternative count of conspiracy against her. Together with the other robbers – with the exception of her adulterous boyfriend Ronnie Khumalo – she was convicted on the main counts of murder and robbery.

According to the judge, her position was comparable to someone who "plants a bomb and looks on when it goes off," vide *S v Nglengethwa* 1996 (1) SACR 737 (A) at 743A per Harms JA.

The court found that her exculpatory statement and cellphone records constituted enough circumstantial evidence against her. The date and time of paying the Zulu dancers on the unusual day of the 28th of the month was her exclusive knowledge. She was the person who passed the information on to Xulu.

In convicting Celiwe, the judge relied heavily on the unreported judgment of the SCA *Benzani Nxumalo v The State* (450/2008) [2009] ZASCA 113 (23 September 2009) by Griesel AJA with Streicher and Brand JJA concurring. The judge cited this in the judgment.

This judgment, inter alia, dealt with the sufficiency of circumstantial evidence relating to cellphone communication.

The cherry on top was when two of the accused were further convicted for a contravention of section 11(2)(b)(iv) of the Prevention and Combating of Corrupt Activities Act, Act No 12 of 2004, for offering R15 000 to a court orderly at the Krugersdorp Magistrate's Court to steal the case docket.

Judge Piet Meyer sentenced Celiwe to life imprisonment, together with her co-accused. The sentences on the other counts were ordered to run concurrently with the life sentence.

Advocate Mahlubi Ntlakaza was the prosecutor in the matter. He is a senior state advocate in the Johannesburg Office of the Directorate of Public Prosecutions.

A conversation with Advocate Mzinyathi

Nomilo Mpondo

It was announced in the Cabinet statement of 10 March 2010 that Advocate Sibongile Mzinyathi has been appointed to the National Council for Correctional Services (NCCS).



*Advocate Sibongile Mzinyathi
DPP: North Gauteng Region*

Congratulations on your appointment. Can you share with us what this appointment entails?

In terms of section 83 of the Correctional Services Act, 1998, the Minister of Correctional Services must appoint the members of the National Council for Correctional Services. The primary function of the NCCS is to advise the Minister

of Correctional Services in developing policy with regard to the correctional system and sentencing process. The NCCS must also consider cases of offenders with sentences of life imprisonment and must make recommendations to the Minister regarding the placement of such offenders on parole. The NCCS consists of members who bring together knowledge and experience from a wide variety of fields, such as the prosecutions service, the judiciary, the police service, the medical profession, the academic community, civil society organisations, the non-governmental organisation community and relevant government departments. The NCCS meets at least four times a year. The current NCCS is appointed for a period of five years.

What does this mean for your career going forward?

In terms of the Correctional Services Act, the Minister must, in consultation with the NDPP, appoint a director or deputy director of public prosecutions to be a member of the NCCS. After such consultation, the NDPP proposed that I be appointed as a member. I am both honoured and humbled by the confidence shown by the NDPP in recommending me and I will endeavour to make sure that the interests of the NPA are well represented.

What criteria did you have to satisfy to be selected for appointment?

Because the NCCS members are expected to bring together experience and skill in their respective fields, I believe that my experience in the criminal justice system generally and the Prosecuting Authority in particular, accumulated over 24 years of service, was considered when I was recommended for appointment.

What particular value do you think you will add to the Council?

I believe that in the event of any business of the Council that requires inputs from the perspective of the NPA, or that affects the position of the NPA, it will be my responsibility to champion the NPA's views. At the level of advising the Minister on policy-related issues, I believe that knowledge and experience of the prosecutions service will add value in enabling me to provide advice on appropriate policy interventions and considerations.

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During the Constitution Week that was hosted by the University of Cape Town from 22 to 25 February 2010, the NDPP participated in a debate on whether courts are able to hold public officials accountable. This is what the NDPP had to say:

"There is often lack of trust because of our past history, and issues were often debated from a political perspective mainly because of the largely divisive history of our country. This lack of trust can be attributed to failure on the part of the NPA to properly explain decisions that were taken in the past, which led to the public not trusting the NPA to make proper decisions. Prosecutorial decisions should be explained in a way that does not leave the public with more

questions than answers. The way the NPA deals with cases sometimes leaves the public believing that not all are equal before the law. This point can be illustrated by referring to instances where, if a member of a particular race is charged, prison is always avoided or alternative avenues are explored. This results in the justice system being seen to favour certain race groups. This is also evident in the selective manner in which law enforcement agencies handle cases. This is largely influenced by race, sex and ethnicity. It is a reality that we face but choose to ignore. The NPA undertakes to be more transparent in its decision-making processes. The cases that are currently before our courts clearly show the court's ability to hold public officials to account. A plea is made for everyone to be optimistic that the situation will improve and for all to have faith in our criminal justice system."

Three life sentences for Eastern Cape trio: precisional prosecution credited

Luxolo Tyali

Sheer determination, perseverance and cooperation between the prosecutor, the investigating officer and witnesses have seen three Eastern Cape men jailed for more than 100 years by the Mthatha High Court.



Advocate Humphrey Lusu, DPP: Mthatha congratulates Advocate Mzukisi Siyo.

Sandile Goniwe (26), Mongezi Mce (26) and Dumisani Lambiso (28) were given three life sentences and 103 years each after they were found guilty of shooting and killing three men during a robbery of Green Inn Tavern in Tsolo, in November 2003.

Their marathon trial, which had to be started afresh when the presiding judge, Judge Peko, passed away in 2008, proved to be a test of character to the prosecution.

As if the delay caused by the unfortunate passing on of the judge was not enough, Goniwe escaped from custody and was at large for a year, during which time he

was linked to 16 other crimes, ranging from murder, armed robbery, illegal possession of firearms and ammunition, and escaping from lawful custody.

According to Senior State Advocate Mzukisi Siyo, who heads the Organised Crime Section of the National Prosecutions Service in Mthatha, the three dangerous criminals would not have been sentenced had it not been for the “very cooperative manner” in which the state witnesses and Detective Inspector Nzimeni Soko had worked.

“The witnesses were so cooperative, despite numerous postponements and delays and the relatives of the deceased

never lost hope. Instead of straining relations, the delays made the bond stronger because a full explanation for the delays was given to the relatives and they understood,” said Siyo, a seasoned prosecutor who cut his teeth as a prosecutor nearly 25 years ago. “I attribute this success mainly to the good relations between the investigating officer and the witnesses,” he added.

Speaking to *Khasho*, Detective Inspector Soko had only praise for Siyo. “When you have a good understanding of what evidence is needed for a successful prosecution, the work becomes easy, and that was the case when working with Advocate Siyo,” explained Soko.

Judge Miller found the three criminals guilty on all 11 counts with which they were charged. They were sentenced to life sentences for each murder, 15 years for robbery, 20 years for attempted murder, five years for illegal possession of firearms and another five years for illegal possession of ammunition.

The trio had robbed the Green Inn Tavern on the evening of 22 November 2003, after holding patrons at gunpoint and robbing them of their cellphones. Before making away with only R771, the men shot randomly at the patrons, killing three people. One of the victims was Zukile Qwaka, whose brother Zola was one of the witnesses and never missed a single day of the trial.

Zola told *Khasho* that he was impressed with how the prosecution was meticulously handled. “I am very happy with the way the prosecution was conducted, but am most satisfied with the sentence because I believe these thugs will never terrorise innocent people again,” said Zola.

Human Trafficking Week in Durban

Natasha Ramkisson

*“Know your enemy, know yourself, and your victory will not be threatened.
Know the terrain, know the weather, and your victory will be complete.”*

This quotation from Sun Tzu’s *Art of War* set the tone for the KwaZulu-Natal Human Trafficking, Child Pornography, Prostitution and Brothels (HPPB) strategic planning session held in Durban in early February.

This intersectoral task team comprises government departments such as the NPA, the South African Police Service (SAPS) and the Department of Justice and Constitutional Development, non-governmental organisations like Operation Bobby Bear, Childline, Kidz Clinic, and international organisations such as the European Union and the International Organisation for Migration (IOM).

It is the first provincial task team to be set up in the country to deal solely with issues of human trafficking and prostitution. During the two-day workshop, facilitated by Esther Maluleke of the Sexual Offences and Community Affairs (SOCA) Unit, task team members worked like soldiers in readiness for battle, strategising ways to further sharpen their approach to curbing the scourge of human trafficking and child pornography. They had the opportunity to engage each other and work out action steps to implement their objectives: prevention, protection, partnerships and prosecution.

The task team has been in existence for the past 18 months and has trained approximately 800 people, ranging from companies to faith-based organisations, on the dangers and signs of human trafficking. Awareness has also been created among an estimated 1 500 schoolchildren in the region.

Members also arranged training on the ‘traffick proof tool’ by its author, Tonya Stanfield, in conjunction with a member of the task team. The first traffick proof workshop was held in Pietermaritzburg,



Members of the KwaZulu-Natal HPPB Task Team during Human Trafficking Week.

where 89 people were trained on the tool. The second workshop was held in Durban, where 42 people were trained. Once trained, delegates get a copy of the tool so that they can create human trafficking awareness in communities.

There are concerns that human trafficking will increase as the 2010 FIFA Soccer World Cup approaches. Vulnerable children will fall prey to traffickers who will have to meet the perceived increased

demand for cheap labour and sexual services. According to the members of the task team, they are confident to have taken the first steps by putting structures in place that will address the concerns for 2010, as well as the future concerns on human trafficking. “We are a passionate and determined team who are always willing to go the extra mile and we are doing our best to ensure that people in KwaZulu-Natal are informed and aware enough to protect themselves.”

Court preparation officer shines

Charlene Labuschagne

A court preparation officer, Ms Mittah Tau, is making a name both for herself and for the NPA's Directorate of Public Prosecutions in South Gauteng. She is busy with an awareness campaign called Adopt-A-School. This is a long-time programme that was close to the heart of former Director of Public Prosecutions, Advocate Charin de Beer.



Court Preparation Officer, Ms Mittah Tau, in Dobsonville, Soweto.

Her mission was to bring the legal process to learners who, more often than not, become victims of crime. They are taken through this learning process using puppets to explain tasks fulfilled by different role-players during court proceedings. Among other things, learners are made to recite the Childline helpline number (0800 555 5555), turning the session into a reciting competition, and having loads of fun at the same time. NPA promotional material was used to reward learners who participated in the competition.

The programme is about communicating the right messages to schoolchildren. Her weekly mission is to go to at least one school in her jurisdiction, where she brings awareness to schoolchildren about the role of a prosecutor in the successful prosecution

of crime, careers at the NPA, the protection of children from sexual abuse, the role of a court preparation officer in preparing witnesses to testify in court, children's rights and child protection. She recently visited a primary school in Dobsonville, Soweto.

The children were eager listeners and actively participated in a very lively session. By the end of the day, learners had learnt about court processes and victim's rights. This vital information will certainly empower them in a lifelong journey ahead.

It's "Football Friday" for the JCPS in North West

Frank Lesenyego

As part of its support of the Football Friday campaign, the Department of Justice and Constitutional Development (DoJ&CD) in North West hosted festivities to pledge support for Bafana Bafana. The NPA, together with other Justice, Crime Prevention and Security (JCPS) Cluster departments, was also part of these festivities. The event was held 92 days before the much-anticipated FIFA Soccer World Cup.

The Football Friday campaign is a call to all South Africans to get behind the

2010 FIFA Soccer World Cup. Its main objective is to mobilise the country to start getting excited about the biggest sporting event to be hosted on African soil for the first time.

Regional Manager of the DoJ&CD in North West, Mr Tsietsi Malema, urged his employees to go all out in support of Bafana Bafana. He encouraged everybody to get ready to welcome the world to our shores. "South Africa is more than ready to host this tournament, proving beyond

reasonable doubt to all, especially the international media, the readiness of our infrastructure, security, media and people," he said. He indicated that courts have been set up in Rustenburg, one of the host cities, to fast-track the administration and management of cases during the tournament.

Mr Jan Malombo Lechaba, former player of Orlando Pirates and head coach of the North West University Soccer Institute, encouraged everyone to get ready for the World Cup.

Society of State Advocates of South Africa

Ukugqwesa Prosecutor of the Year Award

JG Wassermann

The Society of State Advocates of South Africa held its annual general meeting during May 2009 at the Drakensville Mountain resort in KwaZulu-Natal.



JG Wasserman, chairman of the Society for state advocates congratulates Advocate Louis Mashiane

During this meeting, the annual Ukugqwesa Prosecutor of the Year Award was presented to Advocate Louis Mashiane of the Office of the Director of Public Prosecutions, South Gauteng: Johannesburg.

He was awarded this prestigious award for the successful prosecution of the accused responsible for the death of world-renowned Reggae music icon, Lucky Dube.

Mr Dube was killed in a botched hijacking of his motor vehicle in Rosettenville, Johannesburg. Two shots were fired by the assailants, fatally wounding the deceased.

Advocate Mashiane had to present evidence that led to two trials within a trial. All the evidence presented as such was ruled admissible by the court in the end. His perseverance and diligence paid off when the accused were eventually convicted on all charges.

This matter received extensive coverage from both the national and international media. The media covered the case on a blow-by-blow basis, as the judge had also allowed the media to broadcast the trial live.

The case came at a time when the trust of society in the NPA had deteriorated to a large extent. Through his professional handling of the matter, Advocate Mashiane succeeded in restoring the faith and trust of the public in the NPA, even though the odds were stacked against him.

The impact of this case on our society is further reflected in the fact that a Member of Parliament, Dennis Bloem, mentioned in Parliament that the world is happy with the outcome of the case.

We wish Advocate Mashiane well in his career, as we know he will reach even greater heights as a state advocate.

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The programme for the izimbizo includes workshops with rural men and boys to unpack issues related to domestic violence, imparting knowledge about aspects of the law against this violence and engendering positive behavioural changes in domestic relationships. It also focuses on rural women and girls by informing them about their rights and

about restorative justice as an effective intervention in domestic violence.

One example of domestic violence that stood out in the roadshows was the custom of 'Ukuthwala', which is found to be prevalent in some rural areas of the previous Transkei in the Eastern Cape. This custom should be condemned by all as it has elements of human rights violation.

The last Imbizo was held in KwaZulu-Natal and the Deputy Minister: Correctional Services, representing the JCPS cluster, also attended. These imbizos are in line with the mandate of the cluster that says "all people in South Africa must be safe and feel safe in their homes, places of work and businesses, while they carry on with their lives".

Law Professions Day

Natasha Ramkisson

This year marks the centenary of law being taught at the University of KwaZulu-Natal. According to Robynne Louw of the Law Faculty, Law Professions Day, which is an annual event, is the first in a series of events to celebrate the University's milestone. Other events will include talks, articles in the press, as well as events for alumni.

The NPA was among several members of the larger legal profession who attended the Law Professions Day on both the Durban and Pietermaritzburg campuses of the University of KwaZulu-Natal early in March.

Having participated since the inception of the idea of a law professions day in 2008, the NPA took advantage of this opportunity to liaise with students and promote the organisation.

The focus was on the Aspirant Prosecutor Programme and many students were very interested in the requirements, as they had a keen interest in criminal law. Some students even commented that the Aspirant Prosecutor Programme sounded more lucrative and promising than offers from private law firms.

Over the years, there has been an increased interest from students in the work of the NPA. Initially, students would bypass the stand, now they actually come looking for us.



Advocate Thulani Mavundla assisting the students.

This is a great indication of the impact the NPA is having on the students. It also shows the students' enthusiasm to work for the government and make an added difference to society.

EWP in Mpumalanga

Sibongile Mogale

On Friday, 26 February 2010, prosecutors from Mpumalanga braved the chilly weather to attend the STI and Condom Week that was organised by the Employee Wellness Programme. The event was held at Midway Inn in Middleburg.

A part from the voluntary counselling and testing (VCT) services that were offered on that day, the Government Employees Medical Scheme (GEMS) was invited to inform employees about their services and benefits. Representatives from GEMS never failed to remind the prosecutors about the importance of knowing their health status, and how GEMS could assist in that regard.

A well-known motivational speaker, Mr Solomon Mathibela, delivered a powerful speech to raise awareness about the individual's responsibility towards HIV/Aids, but also to remind

them of the crucial role they play in society as prosecutors.

With regard to HIV/Aids, Mr Mathibela said that although it was a noble thing to talk about sex and HIV/Aids, it was even more important to turn HIV talk into action, hence this year's theme: "I am responsible, we are responsible, South Africa is taking responsibility."

He told employees that self-control and discipline were very important in combating HIV infection. "When we talk about sexually transmitted infections (STIs)," he said, "we are talking about a serious thing.

There are 21 known types of STIs that are caused by irresponsible behaviour. If we are serious about reducing the number of sexually transmitted and HIV infections, we need to change our behaviour and be committed to our relationships and marriage."

Mr Mathibela congratulated the prosecutors on the excellent job they are doing to help reduce the levels of crime. He encouraged them not to let fear stand in their way. He said the greatest weakness to overcome was fear, because in its mission statement, the NPA has committed itself to "prosecuting without fear, favour or prejudice".

Rhodes University holds its Law Market Day

Tsepo Ndwalaza

Rhodes University's Faculty of Law and the Law Society of South Africa invited the NPA, the Legal Aid Board and other private law firms to participate in the Law Market Day in February. Students came in large numbers and showed a very keen interest in all the exhibition stalls.

Advocate Chris Ndzengu from the Port Elizabeth Cluster enjoyed himself at the NPA stall, giving information and answering interesting questions from students. Students were very keen to learn about the NPA's Aspirant Prosecutor Programme. The information was packaged in such a way that students got assurance that they have indeed made a good career choice. They also showed a burning desire to be part of the criminal justice system of the country.

The dean of the Faculty of Law at Rhodes University voiced his appreciation to all the exhibitors and was particularly excited about the NPA's attendance. He made an undertaking to regularly invite the NPA to the annual event and thanked the legal fraternity in general for the good work it is doing in protecting the constitution of the country.



Advocate Chris Ndzengu of the Asset Forfeiture Unit assisting students.

Fly the Flag Day

Charlene Labuschagne



On 2 March 2010, South Africans celebrated 100 days to the kick-off of the 2010 FIFA Soccer World Cup. The South Gauteng office of the Directorate of Public Prosecutions was not prepared to let the excitement go by. Staff members were united and gathered in the team room, where each member received a Vuvuzela, a national flag and a cap, compliments of the 2010 FIFA World Cup Organising Committee. Flags of all the nations that will be participating in the World Cup were also displayed. The day was not complete without refreshments. Cakes decorated with soccer themes formed part of the display, which did not last long. Soon everybody was feasting on the beautifully decorated cakes. The enthusiasm displayed was just a microcosm of what is happening across the entire country. This small event was a good gesture that the NPA is also excited about the World Cup.



Send your news (serious and funny) and letters to khasho@npa.gov.za or fax your stories and information to 012 843 2120.

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