

# Khasho



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News for NPA staff, friends and stakeholders

September 2008

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# Heralding monumental events for the NPA

In addition to being Heritage Month, September seems to be a significant month for heralding monumental events for the NPA. Readers will recall that Advocate Vusi Pikoli was suspended in September last year, and I was appointed to act as National Director of Public Prosecutions (NDPP) until all matters around his suspension have been resolved.

In September this year, Pietermaritzburg High Court judge, Judge Chris Nicholson, delivered a significant judgment on the invalidity of our processes in the prosecution of the ANC President. The significance of this judgment relates to its interpretation of the Constitution of South Africa and the National Prosecuting Authority Act (Act 32 of 1998) (the NPA Act), which, if left unchallenged, is set to negatively impact on the operational processes of the NPA. As you are aware, we have applied for leave to appeal the judgment.

More significantly, the turn of events subsequent to the judgment have been almost surreal, with the ruling party's National Executive Committee making a decision to recall the President, to which he obliged and resigned.

The work of the NPA has been placed at the core of the arguments that led to the recalling of the President, which is



*Advocate Mokotedi Mpshe*

most unfortunate. The independence of our institution has again been called into question. It will be an uphill battle for us to regain a position of trust and confidence in some quarters of the public sphere. This puts more pressure on us to prove that we leave matters of politics to those who are mandated to deal with them.

We only concern ourselves with the legal framework, guided by the Constitution

and the NPA Act, where all are equal before the law. Where we are found to have fallen short in respect of legislative provisions, it is apposite for us to retreat and consider our erring ways, and cure any defects in the processes, as required by law. It is also important for us to defend our independence and our constitutional mandate to prosecute without fear, favour or prejudice.

Let us remember our organisational values – integrity, accountability, credibility, service excellence and professionalism. We will need to continuously draw on them, particularly in these turbulent times. If all of us do so individually – as we do our work and deliver a service to the public – we will be able to sleep well.

I am relieved at the news that the 10.5% increase has finally become a reality and that the money is now in the bank for most of you. Those who have still not received payment have been advised of the challenges experienced and I trust that payment will reflect in your accounts shortly. Once again, I would like to thank our prosecutors for exercising patience in this matter.

*Advocate Mokotedi Mpshe*  
*National Director of Public Prosecutions*

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

### Contents

- |  |  |
|--|--|
| <p><b>3</b> Reflections on constitutional democracy</p> <p><b>4</b> Directors-General visit the Eastern Cape</p> <p><b>5</b> First conviction for Green Scorpions</p> <p><b>6</b> The NPA at the Pretoria Show</p> <p><b>7</b> Mamelodi community prosecutions</p> <p><b>8</b> Introducing lean thinking</p> | <p><b>9</b> Apartheid heroes given proper farewell</p> <p><b>10</b> IATSO conference in Cape Town</p> <p><b>12</b> Regional communication managers</p> <p><b>13</b> Recruiting aspiring prosecutors</p> <p><b>14</b> Public Service Amendment Act</p> <p><b>15</b> Employee wellness</p> |
|--|--|

# Reflecting on the concept of constitutional democracy



*Justice Johann van der Westhuizen*

Justice Johann van der Westhuizen of the Constitutional Court provided interesting insights into the concept of constitutional democracy during a prestige lecture delivered at the University of Pretoria on 17 September 2008 as part of the University's centenary celebrations. The event was attended by a most illustrious representation of the legal community, including five judges of the Constitutional Court.

Van der Westhuizen's address reflected on the role of courts, government, the legal profession, universities, the media and civil society. With this lecture, he considered aspects of the meaning of the concept of constitutional democracy against the background of our apartheid history.

In considering pre-constitutional South Africa, Justice van der Westhuizen commented as follows: "In the absence of a constitution as supreme law, the dilemma was, of course, where to find any concrete or more or less objective higher law or guiding principle to override unfair laws – in natural law, international law, the principles of common law, the principles of natural justice, or simply one's own subjective views of fairness and justice.

"Our present situation is very different. The Constitution resulted from the struggle for democracy and was democratically agreed to by the representatives of the vast majority of people.

"We are now living in a constitutional democracy, under a written Constitution

that guarantees the independence of courts, and requires the prosecuting authority to act without fear, favour or prejudice and protects free expression as a basic right," said Justice Van der Westhuizen.

"The functions of the courts are clearly set out in the Constitution," he said. "The Constitutional Court is the highest court in all constitutional matters and thus decides appeals from other courts in disputes involving natural and juristic persons and the state, including criminal matters, provided that the matter is a constitutional matter or an issue connected with a decision on a constitutional matter."

He continued to focus on the importance of the independence of the courts and the separation of powers, referring to the role of various components of society in our democratic order and the responsibilities of judges and the courts, the government, legal practitioners, universities, the media and organisations in civil society, including the right and duty to report, analyse, debate, comment and criticise.

"In a democracy, views will inevitably differ," said Van der Westhuizen. "Therefore, it could not possibly be said that judgments, the judiciary, courts, and even the Constitution, are above criticism." However, he concluded by reminding the audience that "a democracy not only allows, but requires free expression and criticism. But democracy is not necessarily the natural state of humankind. It has been hard-won, is precious and has often been easily lost. When it is destroyed, not only will there be no right to criticise the Constitution and the courts; there will be nothing left to criticise."

Justice Van der Westhuizen, who was intimately involved in the drafting of the interim constitution, as well as the 1996 Constitution, joined the Constitutional Court of South Africa in 2004. His judgments have dealt with matters ranging from constitutional amendments, provincial boundaries and powers, fair trial issues, equality, the development of African customary law, asset forfeiture, search and seizure procedures and the right to privacy.



*Dr JP (Torie) Pretorius, Deputy Director of Public Prosecutions (left), together with Prof Johan Lötze of the Department of Mercantile Law of the University of Pretoria at the prestige lecture of Justice Johann van der Westhuizen.*



# Directors-General in the JCPS Cluster visit the Eastern Cape

The Directors-General (DGs) of the Justice, Crime Prevention and Security (JCPS) Cluster held their regular cluster meeting at the New Law Courts in Port Elizabeth on 2 September 2008. This formed part of their activities related to the 'business unusual' approach to improving service delivery to the citizens of the country. This was the third provincial visit, following the visits to KwaZulu-Natal and the Western Cape. The aim is to ensure greater insight into and synergy between national and provincial priorities.

The visit was intended to give the DGs an opportunity to interact with their provincial colleagues and gain first-hand experience of service delivery at grassroots level. This kind of experience would prove invaluable in the daily management of the departments that comprise the JCPS Cluster, in particular, and government in general.

The delegates were briefed by Commissioner Mpumelelo Landu, Chairperson of the provincial Joint Operational and Intelligence Structure, comprising mainly members of the South African Police Service (SAPS), the National Intelligence Agency (NIA), the National Intelligence Coordinating Committee (NICOC), the NPA and the South African National Defence Force (SANDF). He reported on the general situation with regard to crime and the programmes launched to reduce crime in the Eastern Cape. The DGs said that they were encouraged by the drop in the overall crime statistics in the province, particularly those for contact crimes.

However, it was worrying that the trio crimes (carjackings, business robberies and house robberies) had shown an increase. Commissioner Landu alluded to a number of challenges, which included long remands due to full court rolls.

The strategy adopted by the province to address crime includes establishing a provincial operational room using the methodology whereby crime intelligence and case docket analysis are used to identify and compile a list of active criminals involved in trio crimes. A rapid response unit and a tracing and investigation team have been established and significant breakthroughs were made with ATM bombings and cash-in-transit robberies.

It was notable that conviction rates in district courts were at 90%, those at regional courts were 58% and those at high courts were 92%.



*The DGs of the JCPS Cluster came together in Port Elizabeth.*

The DGs also received a briefing from Mr Vuyani Mqulwana, Chairperson of the Provincial Integrated Justice Development Committee. He provided a report on various milestones achieved by the development committee, such as the Child Justice Forum, the Restorative Justice Programme, the Case Backlog Project, the Forensic Science Laboratory in Port Elizabeth and the Video Postponement Project. With video postponement, an accused does not need to physically appear in court for the postponement of a case. The system allows the use of modern technology to set up 'video-conference courts' to remand accused persons in criminal cases who are already in custody awaiting trial.

Apart from the regular meeting, the DGs also visited the Nerina One-stop Child Justice Centre in Shauderville, Port Elizabeth. This centre is one of three child justice centres in the country. The other two are in Mangaung (Free State) and Port Nolloth (Northern Cape). Child justice is an area in which partnerships with government departments and civil society are fundamental to the overall success of the strategy. These centres bear testimony to the success government has achieved.

The DGs paid a visit to the Motherwell Police Station, which is adjacent to the Motherwell Court. This indicates government's commitment to improve service delivery. The station commander briefed the gathering on the current state of affairs.

A media briefing was held soon afterwards, where Mr Ray Maqutyana, the provincial chairperson of the Community Policing Forum, highlighted various initiatives being undertaken to ensure the safety of the community and to win the fight against crime. He said that the partnership between the police and the local communities was critical in reducing the levels of crime.

DGs who were present during this visit were Advocate Menzi Simelane, (Justice and Constitutional Development), Commissioner Vernie Petersen (Correctional Services), Mr Mavuso Msimang (Home Affairs), Advocate Mokotedi Mpshe (NPA), Mr Silumko Sokhupa (NICOC), Deputy National Commissioner Andre Pruis (SAPS), Lieutenant-General TT Matanzima (SANDF), Provincial Commissioner Mpumelelo Landu (SAPS), Mr Vuyani Mguqulwa (Chairperson of the Development Committee) and Mr Joe Matshapa (Chairperson of the Motherwell Community Policing Forum).

# First conviction for Green Scorpions:

## amendment of environmental act puts man behind bars

The Pretoria Magistrate Court handed down a harsh sentence to a man found to be in possession of an endangered *Encephalartos lebomboensis*. André Brits was sentenced to four months' imprisonment or a R2 000 fine.

This is a first conviction by the Green Scorpions – an environmental inspectorate group under the Gauteng provincial Department of Agriculture, Conservation and Environment – since the amendment of the new National Environmental Management: Biodiversity Act (NEMBA) (Act 10 of 2004).

*“When the case was presented to me, I was reluctant to take it, because it did not have that serious criminal element to it and I thought the cycad was just an ordinary plant.”*

State prosecutors Don Sithole and Lucas Choma of the Pretoria cluster said it was their first case of this nature and they were also the first prosecutors to deal with such a case. Usually they handle common law cases, which involve serious crimes. Advocate Sithole said: “When the case was presented to me, I was reluctant to take it, because it did not have that serious criminal element and I thought the cycad was just an ordinary plant. Later, when I started doing my own research to get more knowledge about it, I learned that it was not just any plant, but a very important one.”

Cycads are believed to have existed since the dinosaur era. They are highly protected by South African environmental laws. The public is not allowed to possess, trade in, buy, donate, transport, export or import this indigenous plant without a permit. The act, promulgated in 2004, had its regulations introduced in February 2007 and amended in January 2008. These regulations make it easier to prosecute transgressors.

According to Cornia Hugo, an investigating officer and nature conservationist with the Green Scorpions, the female plants are the ones that are usually stolen in the wild. When asked about the beneficial properties

of the plant, she said the status value of the plant was what made it so valuable in the market. The plant is also used for ‘muti’ purposes. Traditional healers do not know how valuable it is, because they have been using it for generations.

Large groups of local and international syndicates are adding to the problem of this plant being in danger of extinction. The plant can be grown in artificial conditions, provided it is artificially propagated. But this format is not appreciated in the black market, as it is time-consuming. Microchips have been inserted into a number of wild cycads, but syndicates are using detectors to uproot and transport them to their destination of choice.

Of the 38 species of cycads occurring in South Africa, 29 (76%) are endemic to the country, occurring nowhere else in the world. The world's three cycad families, Cycadaceae, Stangeriaceae and Zamiaceae, are considered to be among the most threatened plant families in the world.

The Green Scorpions were introduced as a pilot project to enforce the National Environmental Management Act. They are a small and underresourced group, and manning strategic points does not seem to

have much of an impact on protecting these plants. Poachers develop new tricks daily to bypass security measures.

Although Sithole admits that his colleagues teased him a bit about his involvement in this case, he never gave up. He says his curiosity to know more about this plant contributed to the successful conviction. The only obstacle is the lack of training in law enforcement agencies. Outside common law, the police do not understand the complex integration of the National Environmental Management Act.

Advocate Sithole is concerned that the majority of officers can mistake the cycad for an ordinary plant, as most of them have never been exposed to environmental studies. He says it is his wish to have a special court for such cases, because evidence gets lost in the process. He is worried that the chain of evidence and command is usually broken when evidence is booked into storage. He says “cases that are considered trivial or less serious are allocated to ordinary personnel who lack experience”. An officer can find a cycad and throw it away, because he/she does not know anything about it. Law enforcement agencies need to be trained about such species and other endangered environmental entities.



*Cornia Hugo, Assistant Director: General Investigations and Phillip Honeyborne, Chief Nature Conservationist from the Green Scorpions.*



# The NPA at the Pretoria Show

The NPA exhibited at this year's Pretoria Show, which was held at the Tshwane Events Centre in the capital city from 27 August to 7 September 2008. The show has become renowned as a festival of diversity, culture and lifestyle, and is a celebration of the legacy that is South Africa. The showgrounds overflowed with colourful exhibitions, excellent shopping bargains, world-class entertainment and an impressive agricultural programme. The NPA shared an exhibition stand with the City of Tshwane Metropolitan Police, thus saving costs

and promoting justice cluster work. This year's stand was bigger and better than those of previous years. The stand was manned by prosecutors, advocates and communicators of the NPA's Pretoria cluster to address public needs. Information brochures, pamphlets and booklets about the NPA and its services were available at the stand. Various individuals and schools visited the stand, as well as Advocate Mokotedi Mpshe, Acting NDPP, and Advocate Matric Luphondo, chief prosecutor of the Pretoria cluster.



*At the NPA stand are (from left): Danie Nel, Eunice Makhafola, Ismael Motaung, Kas Sami-Kistman, Advocate Mokotedi Mpshe, Advocate Matric Luphondo, Yvonne Phoshoko and Lydia Monyoko.*



*At the NPA stand are (from left): Ismael Motaung, Louise Brits and At van Aswegen of the Tshwane Metropolitan Police, together with Advocate Matric Luphondo of the Pretoria cluster.*

## Prosecutors **race** for charity



On Saturday, 30 August 2008, the prosecutors of the Pretoria cluster participated in the Spar Challenge at the LC de Villiers sports grounds at the University of Pretoria. The event concluded the cluster's Women's Month programme. These prosecutors formed part of 17 000 women in Gauteng who commemorated the rights of women, as entrenched in the Constitution. The proceeds of the race were donated to various charity organisations, including places of safety for abused women and children.

The NPA flag flew high on the day as the Pretoria prosecutors exhibited the accessibility and vision of the NPA. Their efforts were well received by many women requiring information on issues surrounding maintenance, domestic violence and sexual offences. The solidarity and team spirit displayed on this day clearly displayed the efforts of the prosecutors of the Pretoria cluster to inform, educate and avail themselves to the public – after all, they are the people's lawyers!

*The NPA flag flew high as prosecutors of the Pretoria cluster participated in the Spar Challenge.*

# Mamelodi **community** prosecutions



**On 16 September 2008, the NPA, in partnership with Dr Richard Griggs, stakeholders and the South African Police Service (SAPS), held a meeting at the Mamelodi Magistrate's Court to obtain feedback from Advocate Ron Mncwabe and the Community Policing Forum (CPF) on how community prosecutions have helped them since they were started in 2006.**

**V**arious community prosecutors work around the country, and community prosecutions are headed by Advocate Shamila Batohi. Community prosecutors help to reduce the pressure on the courts by preventing crimes from occurring by embarking on various activities with other branches of government (particularly the SAPS), the community and civil society. The work of a prosecutor involves working with selective prosecutions, fast-tracking cases, public education with regard to the law and joint projects that are specifically targeted at managing crime problems that have been identified by the community and looking at innovative ways to make communities safer places in which to live.

Sectoral leaders (CPF executives) reported on the problems they still experience in Mamelodi. These problems include gambling, drugs – especially 'nyaupé' (a mixture of cocaine, heroine and dagga), shoplifting at Tsakane, crime hot spots (Ikageng parks/Mississippi, Buladikhoro and Matsibitsibi), robberies, problems experienced in the taxi industry (fights), unreliable

municipality systems (electricity being cut off), mob justice, rape, housebreaking and xenophobic attacks. Issues that also need to be examined include providing correct information on police statements, improving general police responses and patrolling and programme integration.

The success of the programme was highlighted, as well as the fact that the project belongs to the community and not to any other organisation, such as the NPA, the SAPS or the Department of Correctional Services (DCS). The delegates visited flea markets, a scrapyard, Hector Peterson Street, Sector 6, Alaska and Vusi's Place. Various aspects of these sites were addressed to enhance safety and security in Mamelodi. One such aspect is the establishment of a community garden around Alaska.

To Advocate Mncwabe, the NPA, the SAPS, the DCS and the Mamelodi community: Keep up the good work and let's keep on fighting crime!



*Advocate Shamila Batohi, Director of Public Prosecutions:KZN and head of Community Prosecutions in the NPA (Third from left) and the Community Prosecutors, from left, Gugulethu Mampofu (Senior Public Prosecutor: Mdantsane), Jacoleen Pretorius (Senior State Prosecutor: Mthatha-Ngalesizwe), Advocate Walter Baganeneng (State Advocate: Galeshewe), Advocate Fiona Cloete (Senior Public Prosecutor: Phillippi), Advocate Ron Mncwabe (Senior Public Prosecutor: Mamelodi), Advocate Val Melis (Senior Public Prosecutor: Point), Benedict Matolong (Senior Public Prosecutor: Kudumane) and Ishmael Motaung (Public Prosecutor: Bethlehem).*



*Advocate Shamila Batohi and Advocate Ron Mncwabe*



# Introducing lean thinking

**The lean thinking (process improvement) concept was adopted as a strategic initiative of the NPA and aims to develop systems and processes that will improve the operational performance of the organisation.**

This initiative is part of the Operations Management Systems (OMS) strategic project. The project team comprises members of the National Prosecutions Service (NPS), Human Resources Management and Development, the Programme Management Office, Research and Policy Information, the Strategy Office and a few consultants.

Originally an industrial concept from Japan (Toyota), lean thinking has been tried and proven to be effective in the workplace. Government departments have also introduced it and found it to be effective. Organisations are encouraged to invest in a long-term commitment as results cannot be achieved overnight. Dr Anton Grütter, coordinator of the Lean Project, says “speedy delivery is one of the primary concerns.” He also indicated that “the process is expected to undergo some up-and-down stages before reaching success”.

The Toyota thinking, as it is widely known, has been adopted by many of the big organisations around the world, and its success depends on the amount of buy in from the company. Some of the reasons why this initiative was incorporated into the existing OMS strategic project are the following:

- There is a lack of operations management understanding in the NPA.
- The required operations management skill and knowledge is not in place.
- There is a lack of integration and alignment between the processes of the NPA and those of other role-players in the criminal justice system.
- Inefficient and ineffective processes that do not deliver the desired results are prevalent.
- There is a lack of a process improvement approach.
- Limited understanding of the importance of processes to give effect to policy and regulations exists.
- Existing NPA processes are not working optimally and in some instances certain processes have not been implemented.

The abovementioned factors result in poor service delivery and flawed process flows throughout the criminal justice system. A lot more is attributed to lean thinking, but the following major principles form the whole essence of this strategy:

- Understanding what creates value for the customer
- Eliminating tasks that do not add value because they are wasteful and time consuming
- Making work flow through the process by removing obstacles
- Involving front-line employees in the continuous improvement of the process

- The project has identified two pilot sites: the Pinetown Magistrate’s Court and the Recruitment section of Human Resources Management and Development at Head Office. Steering committees have been established at these sites to monitor the progress and achievements of the lean implementation initiative. The steering committees are made up of representatives of the various role-players at each site.

From research conducted at Pinetown, first-hand information flow of incidents of crime through investigation and court preparation were documented and the collection of actual case procedures to determine process inefficiencies were analysed.



*The Lean Thinking Project has been developed to establish systems and processes to improve operational performance.*

The first set of information is based on the process flow map of actual tasks performed to ensure that improvement recommendations are based on a realistic understanding of how the work on the criminal justice system process actually takes place, while the second traces the root cause of court delays, wasted time and work effort.

A study has been conducted on these sets of information and was submitted to local representatives early in June 2008. The next step was that of information analysis and the identification of high leverage intervention points where waste can be eliminated. Small teams were established by ‘process improvement’ champions to take ownership of the design and implementation of the identified actions required to improve workflow and processes within the criminal justice system. The challenge facing these projects will be to drive implementation of the improvement recommendations through to completion where results would be measurable.



# Apartheid heroes given proper farewell

**The NPA Missing Persons' Task Team conducts research and investigations into the tracing of the remains of persons who disappeared during the period of conflict covered by the Truth and Reconciliation Committee (TRC). Ongoing investigations during the last year recovered the human remains of 17 apartheid heroes from both formal burial sites and informal secret disposal sites.**

On 26 September 2008, the remains of some of the heroes killed during the apartheid years were handed to their families at Freedom Park. Dr Mochubela Seekoe, head of the TRC Unit (Department of Justice and Constitutional Development), thanked the ambassador of Argentina, Dr Carlos Sersale de Cerisano, who delivered a message of solidarity and acknowledged the fact that Argentine had started a process of truth and reconciliation due to the high rate of violence that ravaged that country.

Families of the departed heroes could not hold back their tears as Dr Seekoe announced the names of the families who should come forward. The remains of the following people have been found by the NPA Missing Persons' Task Team:

**The Mamelodi Ten, student activists:**

Jeremiah Ntuli, Morris Nkabinde, Jeremiah Magagula, Steven Makena, Rooibaard Geldenhys, Samuel Masilela, Thomas Phiri, Elliot Sathège, Phillip Sibanyoni and Abram Makolane.

**The Nietverdient Four, MK operatives (only one was recovered):**

Duncan Molehe (MK Boitumelo).

**The Mmabatho Two, MK operatives:**

Petrus Ramodiche Waisi (MK Dumakude) and David Takalani Nembaye (MK Madoda).

**The Zeerust Two, AZANLA combatants:**

Petrus Phaswane Masango and Petrus Mkobi.

Humiliation and inhumane deaths were the only experiences that these cadres endured throughout their ordeals. Jabu Shabangu (former AZANLA combatant) paid tribute to his comrades, and said: "The job is not

done yet, we would like the NPA to do more in recovering more bodies of our beloved brothers and sisters."

**“ We must engage our government in developing a policy that will guarantee that our martyrs are given state funerals. ”**

Mr Kebby Maphatsoe, from Umkhonto Wesizwe Veterans' Association (MKVA) and brother to Rev Maphatsoe, thanked the NPA, Department of Justice and Constitutional Development (DJ&CD) and the TRC for carrying out their mandate to find struggle heroes. He indicated that the present government does not have a clear policy on the repatriation of the remains of heroes killed during the struggle. Instead individual families must attempt to find their loved ones and bring them home. "We must engage our government in developing a policy that will guarantee that our martyrs are given state funerals," he continued.

"Today, we can move freely and enjoy the new dispensation because of these people," said Mr Maphatsoe. "These comrades joined the ANC as individuals with nothing but passion for what they did." In his final words, Mr Maphatsoe quoted the ANC manifesto and said "there comes a time in a nation when its peace and stability is threatened by external forces and its only choice is to fight or submit". This quote he equated to the fact that those struggle heroes had no choice but to fight to bring stability and peace to this country.

The Missing Persons' Task Team continues to work in close conjunction with the TRC Unit in the DJ&CD and other state structures such as the South African Heritage Resources Agency (SAHRA), the National Heritage Council (NHC) and Freedom Park Trust.

Liaison with non-governmental organisations and victim organisations continues on a case-by-case basis to find those who are lost.



*The families of apartheid heroes receive the remains of their loved ones.*

# Cape Town hosts 10<sup>th</sup> IATSO conference



This year, Cape Town was privileged to host the 10<sup>th</sup> International Association for the Treatment of Sexual Offenders (IATSO) conference from 27 to 30 August 2008. The main theme of this year's conference was *Preventing sexual violence through effective sexual offender treatment and public policy*.

IATSO was founded on 24 March 1998 in Caracas, Venezuela, during the 5<sup>th</sup> International Conference on the Treatment of Sexual Offenders. It is an international non-profit organisation committed to the promotion of research into and the treatment of sexual offenders throughout the world.

IATSO believes that sexual offender treatment and research are enhanced through international communication and the exchange of ideas, research and treatment methods. Sexual offender treatment should be widely promoted, available and accessible in order to reduce the incidence of sexual offences. Punishment for sexual crimes alone is an inadequate deterrent for sexual crimes. Sexual offender recidivism is best reduced by treating the sexual offender.

Advocate Thoko Majokweni, Special Director of Public Prosecutions and Head of the NPA's Sexual Offences and Community Affairs (SOCA) Unit, Chairperson of the Interdepartmental Management Team (IDMT) and Innovations Ambassador, was the chairperson of the local organising committee.

Other NPA staff members helped to organise IATSO and took part in events and discussions. The Vice-Secretary-General of IATSO is Advocate Dario Dosio, a regional magistrate with the Department of Justice and Constitutional Development.

Some of the fascinating topics that were considered included the following:

- Sexual offender treatment: its scope, power and benefits for society
- Working with children who are sexually aggressive: an overview of policy and legislation supporting the treatment of children
- Reducing the risk of reoffending
- Intermediary services for child witnesses testifying in criminal court proceedings in South Africa
- How police interviewers can assist sexual offenders to provide accounts
- Childhood sexual abuse experiences of female student teachers in Zimbabwe
- Personality characteristics of sexual offenders: how intractable are they?
- Psychosomatics, dependency and sadism: chances and limitations of forensic psychotherapy
- The use of psychometrics for treatment planning of sexual offenders in prison
- Sexual homicide perpetrators: a comparison of child versus adult victims
- Restorative justice as a challenge to traditional legal strategies in sex offending cases



*IATSO specialisation focussed breakaway session*





*IATSO specialisation focussed breakaway session*



*National and international delegates in the main Conference room at IATSO*

**Specific issues relevant to South Africa are the following:**

- The management of sexual offending in the context of high levels of HIV infection
- The impact of culture on sexual offending
- The effectiveness of restorative justice programmes
- The rehabilitation and treatment of young sexual offenders
- Gangsterism and sexual violence
- Human trafficking and sexual offending
- Substance abuse and sexual offending
- The impact of war on sexual violence
- The use of pornography and sexual offending
- The integration of offenders with the emphasis on prevention, reaction and support

Partners for this year's IATSO conference included the NPA, the United Nations Children's Fund (UNICEF), the Embassy of Denmark, Shoprite Checkers, Southern Sun, South African Airways (SAA), the South African Human Rights Commission (SAHRC) and government in general.

The purpose of hosting the conference in South Africa is to consider new ways of implementing programmes that address sexual offender therapy. The statutes and by-laws of IATSO support the development and improvement of effective sexual offender treatment through international communication and the exchange of ideas, research and treatment methods.

The next and 11<sup>th</sup> IATSO conference will take place in Oslo, Norway, from 1 to 4 September 2010.



*NPA Risk and Security Personnel, Shannon Randall, Samuel Mathoane, Macdonald Lucas, Rodney Bosman and Phulani Mashishi.*

## Goals and objectives of IATSO:

- The sponsorship of biennial international conferences on the treatment of sexual offenders for the dissemination of new research, treatment methods, and to provide continuing education and networking opportunities
- The promotion of international, regional and local conferences on the treatment of sexual offenders
- Updating the IATSO standards of care for the treatment of adult sexual offenders and the IATSO standards of care for the treatment of juvenile sexual offenders, consistent with advances in knowledge on the treatment of sexual offenders
- Advocacy of humane, dignified, comprehensive, ethical and effective treatment of sexual offenders throughout the world

# The life of a regional communication manager

The NPA's regional communication managers play an important role in promoting the image of the organisation. *Khasho* spoke to Sandy Godlwana (SG), Lehuma Ntuane (LN), Tsepo Ndwalaza (TN), Khuselwa Rantjie (KR), Frank Lesenyego (FL), Medupe Simasiku (MS) and Natasha Ramkisson (NR) to gain some insight into this important function.



*Regional communication managers (from left): Tsepo Ndwalaza, Medupe Simasiku, Sandy Godlwana, Frank Lesenyego, Khuselwa Yonto, Natasha Ramkisson and Lehuma Ntuane*

## How do you view your role as a regional communication manager (RCM)?

**SG:** It's always great to transform a dream into reality. I'm very passionate about what I do, and my work is really stimulating. I particularly enjoy the interaction with internal and external stakeholders. Challenging as this aspect of my job may be, it is one area I thrive in. I get so much fulfilment from having satisfied stakeholders. At any given time of the week and month, my work is synonymous with pressure. These are the times when one's ability to work and cope under pressure is tested to the fullest (in terms of the media, for instance, journalists always have tight deadlines, even if one is busy with other work, the media always manages to win).

**LN:** My role in the region is to coordinate the activities of the organisation and to create a presence and visibility of the NPA in the existing media platform, thereby creating positive media coverage.

## How have you found the work in your region so far?

**TN:** People are beginning to understand our role and we are excited about the programmes that we are working on. I find my work environment to be very positive and I have received a lot of support from my colleagues.

**KR:** I find it hard sometimes to crack it: to make people understand the impact of the work that I am doing or the importance of utilising my service to maximise the impact of the work of the organisation.

## How do you distinguish between your role as a communicator and that of other units/people in your region?

**FL:** My role is to support the core function of prosecutions by communicating information that will assist the general public in understanding the work of the NPA and in participating in preventing and combating crime.

**MS:** I have a personal work plan that distinguishes my role. However, there are times that I need support from colleagues locally in terms of transport, photocopying and many other administration functions, and they are always willing to help. The roles are clear and easily distinguishable, especially those that need to be done collectively with Human Resource Management and Development. At times I receive calls from the media regarding a certain matter in court, and I need to link the media with the relevant prosecutor, or request the prosecutor to brief me accordingly, thus enabling me to address media queries on time.

## Do you think there's any confusion about your role?

**KR:** I would not call it confusion, but colleagues need to understand the work we are doing, and that it entails much more than just issuing media statements or sourcing venues for regional events. I regard the input of an RCM as critical to the success of an event: from the planning to the implementation.

**SG:** I was fortunate enough to have been introduced to colleagues at various meetings by the Director of Public Prosecutions. In one of the management meetings I was requested to make a presentation on what I'd be doing in the region. In addition, a regional communication strategy was presented to managers who, I assume, filtered that information to other colleagues in the different clusters.

## Do you think it has made a difference to have an RCM on the ground?

**NR:** Yes, definitely. I may be biased, but I have received a lot of positive responses from people in my region who support the idea of an RCM. They've said that it has made a huge difference. I think that we've only just started making a change, as there's a lot more work to be done.

*continued on page 13*



# Recruiting aspiring prosecutors

The North West University invited the NPA to attend its career fairs that were held at its Potchefstroom Campus on 29 and 30 July 2008 and its Mafikeng Campus on 12 and 13 August 2008.

The fairs were attended by members of the NPA's Department of Human Resources, in partnership with the Communications Unit and the National Prosecutions Service (NPS). The whole idea was to introduce students to the NPA's Aspirant Prosecutors Recruitment Programme, and to raise the profile of the NPA at the same time.

An advocate from Klerksdorp, Advocate Mark Adams, who is a tutor in this programme, and two aspirant prosecutors, Orlinah Mputla and Shakeng Kutumela, were part of the team. They assisted in answering prosecutorial questions that were raised by the final-year law students.

Students were provided with information and brochures, organised by all the units.



*Advocate Mark Adams, attending to students*

Almost 300 students visited the NPA stall and asked questions that could be successfully answered. The students could also meet Advocate Adams and ask him any questions they might have.

The career fair was very successful and a wish was expressed that it be continued to provide the NPA with an even greater opportunity to recruit dedicated prosecutors to fight crime successfully.

*continued from page 12*

**TN:** I believe my work has made a difference because some of my colleagues in the region have said so. I am also hoping that as time moves on there will be more visible changes in terms of how the things we do impact on communication in the organisation.

## **What are the highlights of your work?**

**LN:** Developing a positive media response to activities we have had over the past four months and ensuring NPA participation in cluster and relevant provincial government events.

**NR:** There have been many highlights, but I think what I have found most pleasing has been the warm response and support I have received from the staff in my region. They've been very accommodating and receptive to me.

## **What do you still hope to achieve?**

**FL:** To work closely with media institutions to promote and brand our organisation.

I am also participating in public awareness campaigns to get the general public to understand the function of the NPA in order to contribute to an improved criminal justice system.

**SG:** I still get a sense that many people in communities don't understand what the NPA does, especially people from disadvantaged communities. We have exhibitions and career fairs at universities and present conferences, but it's also important that communities benefit from our services. We have already started doing this by way of community outreach programmes that have been very successful.

## **Of all the projects you have been involved in, which one do you consider to have been an eye-opener and why?**

**KR:** Before joining the NPA, I never knew of the existence of the Sexual Offences and Community Affairs Unit, and for me the service that is provided by the unit is very critical to our communities. More

importantly, we need to raise an awareness of the approach that is taken in terms of ensuring that communities are made aware of the risk factors and are able to take preventative measures.

**MS:** An eye-opener for me was the Bethlehem Blanket Donation Project for orphaned children. One could actually tell that the children were there as a result of some form of crime. Some of them are orphaned as a result of HIV/Aids, and in many instances also as a result of rape. This made me realise that the role of a prosecutor is really that of a people's lawyer. In other words, prosecutors are not only involved in courts and fighting crime; they are involved in partnerships with the community, and are accountable to the citizens in the specific areas in which they serve. I realised how important it is to raise the awareness of the community about the important role of prosecutors in society.

## Important implications of the **Public Service Amendment Act** on **labour relations processes**

**A previous *Khasho* article briefly covered the amendments to the Public Service Act and their intended effect on certain aspects of labour relations. At the time of the publication of that article, the Public Service Amendment Act had not yet come into operation. The final version of the Public Service Amendment Act (Public Service Act 103 of 1994, as amended by Act 30 of 2007) has since been promulgated. This article aims to emphasise the important aspects of the act as it relates to labour relations matters.**

A number of changes have been applied to the Public Service Amendment Act to strengthen the organisational and human resource pillars of the public service to enhance internal efficiency and service delivery.

Firstly, the anomaly that existed between the Public Service Act, which gave only the head of department the power to dismiss, and the Disciplinary Code and Procedure for the Public Service, which gave the chairperson of a disciplinary enquiry the power to impose sanctions, have been remedied (section 16B(1)). The current status is that all sanctions pronounced by the chairperson must be implemented by the head of department.

Many of us are familiar with situations where employees tender resignations in the light of pending disciplinary enquiries, only to find that they have subsequently found employment in other government departments or in other regions of the same department. There was a great deal of uncertainty about whether or not a department could pursue disciplinary action against employees once they had left. The Public Service Amendment Act has now clarified this issue by expressly providing for the commencement or continuation of a disciplinary hearing by the new department (section 16B(4)).

Another point on the issue of resignations is that even though an employer cannot refuse to accept a resignation, the employer can refuse to accept a period of notice that is shorter than the prescribed period (section 16B(6)). This means that a 30-day notice period must be enforced and cannot be deviated from if notice of a disciplinary hearing has been served on an employee.

The strong stance taken by the public service towards transgressing employees is further emphasised through the inclusion of the provision for the prohibition of the re-employment of employees dismissed for certain kinds of misconduct (section 17(4)). However, it should be noted that different periods for re-employment may be prescribed by way of regulations for different transgressions.

During the past few years, the public service has been inundated with unfair labour practice disputes resulting from the failure to promote internal candidates (public service employees). Although certain departments have tried to argue that such cases would amount to appointments and not promotions, the courts did not agree.

A well-known case in this regard was *Jele vs the Premier of KwaZulu-Natal* and others, where the Labour Court rejected the Department of Transport's argument that the application for the position in question would have amounted to an appointment and not a promotion. Arguments of appointment versus promotion were further hampered by the terminology expressed in the Public Service Act. In terms of the act, if a government employee applied for a higher post in the public service and was successful, he/she was regarded as having been promoted. The act has been amended to limit such disputes by omitting any references that were previously made to promotion (section 9). This is intended to place both internal and external candidates in the same position (neither may declare unfair labour practice disputes). No court decision has been delivered on this issue since the implementation of the Public Service Amendment Act, but it will be monitored closely.

A few additional issues worth mentioning in respect of the Public Service Amendment Act is that it empowers the Minister of Public Service and Administration to make regulations on the powers of the chairpersons of disciplinary hearings to summon employees and other persons, administer oaths, examine witnesses and call for the production of books and documents (section 16B(3)). Furthermore, section 17(2) of the Public Service Act, which provided for various grounds of dismissal, including misconduct, ill-health, the abolition of posts, misrepresentation, etc, has been replaced by grounds of dismissal that are in line with the grounds as specified in the Labour Relations Act.

The Public Service Amendment Act, which has the intention of reinforcing the supremacy of collective agreements, also aims to enhance its implementation and compliance by implementing these agreements by means of ministerial determinations (section 5(6)).

In order to ensure that the objectives of the Public Service Amendment Act are achieved, comprehensive provisions have been made for the delegation of functions vested in executive authorities and heads of department (section 42A).

It is trusted that the above information will assist employees in understanding some of the important implications of the Public Service Amendment Act and that, in turn, all employees – and especially management – will help to ensure that these amendments are correctly applied and utilised by the NPA, thereby improving the management of discipline and other labour relations and human resource processes.



# A healthy mind and a healthy body

**On 21 and 22 August 2008 the Employee Wellness Programme (EWP) held a regional coordinators' work session at the VGM Building to present its annual plan and to explore its implementation in all regions and business units.**

The two-day work session was an opportunity to reflect on its 2007/08 annual report, and also provided the opportunity to market EWP services and gain support for its activities.

After the words of welcome by Romeo Adams, Executive Manager: Human Resource Management and Development, Ms Kathy Berman of Quantum Space Wellness (QSW), the EWP service provider, presented the annual report, which reflected on the counselling service utilisation rate and various workshops conducted in all the regions. This presentation provided an opportunity to reflect on the effectiveness of the EWP and the achievements and progress that have been made.



*Regional representatives reaffirmed their commitment to employee wellness.*

**“Health is a state of complete physical, mental and social wellbeing, and not merely the absence of disease or infirmity.”**

*~World Health Organization, 1948*

Ms Nsovo Shirilele of the EWP Division presented the 2008/09 plan to the regional coordinators. The purpose of this was to make them aware of the objectives of the plan, as well as the activities to be carried out in order to achieve these objectives. The annual plan also focused on various

wellness activities that can assist in enhancing the success of the activities of the EWP Division.

Ms Eunice Potsane, a QSW representative from Khanya Family Centre, a service provider rendering HIV/Aids workshops for NPA employees, reflected on the benefits of HIV/Aids workshops and the challenges encountered during visits in the different regions. These include people's attitudes and perceptions of HIV/Aids workshops, poor attendance and lack of interest from NPA employees, no access to the NPA intranet and lack of awareness of the NPA's HIV/Aids policy. She also gave a brief presentation on the content of the HIV/Aids workshop programme.

In conclusion, all EWP regional representatives made a pledge reaffirming

their commitment to pool their resources in the fight against HIV and to deal with HIV/Aids in a professional manner. The role of regional representatives is to assist with the promotion and marketing of the EWP, to increase awareness nationally and to establish and maintain internal and external relationships. Services offered by the EWP Division are telephone and face-to-face counselling, preventative and information work sessions (on stress management, healthy lifestyles, trauma management, etc), HIV/Aids workplace programmes (voluntary counselling and testing, and care and support programmes) and health promotion (general health screening and the dissemination of health and wellness information).

**The toll-free EWP telephonic counselling number is:  
0800 239 355.**

## Secretaries' Day at the NPA



Secretaries at the NPA celebrated their special day in style at Mbokoto Lodge in Pretoria East on 3 September 2008. They were treated to a scrumptious lunch and were pampered with attention and massages. Both the secretaries and their managers were welcomed by the Acting CEO, Dr Khotso de Wee. Dr De Wee commented that busy managers don't normally give secretaries dedicated attention and that Secretaries' Day helps to cover some neglect suffered by secretaries during the rest of the year. The speaker of the day, Advocate Mokotedi Mpshe, Acting National Director of Public Prosecutions, regards secretaries as valuable members of the NPA. Advocate Mpshe indicated that every organisation has a vision and a mission, and that secretaries are there to assist managers to ensure that this vision and mission are met. He also encouraged secretaries to broaden their horizons and to strive to achieve new goals. Lilly Nkgapele, the chief organiser of the event, thanked management for acknowledging their secretaries and allowing them to enjoy their special day in style.

## Spring has sprung



Spring Day is a day marking the coming of spring, which takes place on different dates in different countries. In South Africa, it is celebrated on 1 September every year. Usually people exchange flowers and wear colourful clothing. At the NPA, staff at the VGM Building celebrated Spring Day on 1 September with beautiful flowers: roses, gerberas and carnations.

## New appointments

### Asset Forfeiture Unit

- Colleen Louise Brown (Pretoria), Cecilia Smit (Far North), Frederick Mxolisi Ndlovu (Durban), Roseline Dumi Sejeng, Willem Petrus Venter, Philip Gerald Claassen (Johannesburg): senior special investigators

### National Prosecutions Service

- Sinothile Purity Msomi: Manager: Court Preparation

### Director of Public Prosecutions

- Deborah Edith Zinn (Pietermaritzburg): junior state advocate

### Chief Public Prosecutor

- Kameshnee Sewnarain (Port Shepstone), Boy Steven Mongwe (Mmabatho): advanced district court prosecutors

### Human Resource Development:

#### Head Office

- Cheryl le Roux: Human Resources Manager

## Promotions

### Chief Public Prosecutor

- Irene Malitsha (Thohoyandou): regional court prosecutor
- Constance Gasealolwe Louw (Bethlehem): district court control prosecutor

### Specialised Commercial Crimes Unit

- Maria Naomi Humphreys: Senior Deputy Director of Public Prosecutions
- Mamodise Magaret Thulare: senior state advocate



Send your news (serious and funny) and letters to [khasho@npa.gov.za](mailto:khasho@npa.gov.za). Alternatively, fax your stories and information to 012 843 2141.

Publishing Editor: Janet de Jager, NPA Communications Unit  
Publication management, sub-editing, layout and design: Janine Smit Editorial Services: [www.jses.co.za](http://www.jses.co.za).

