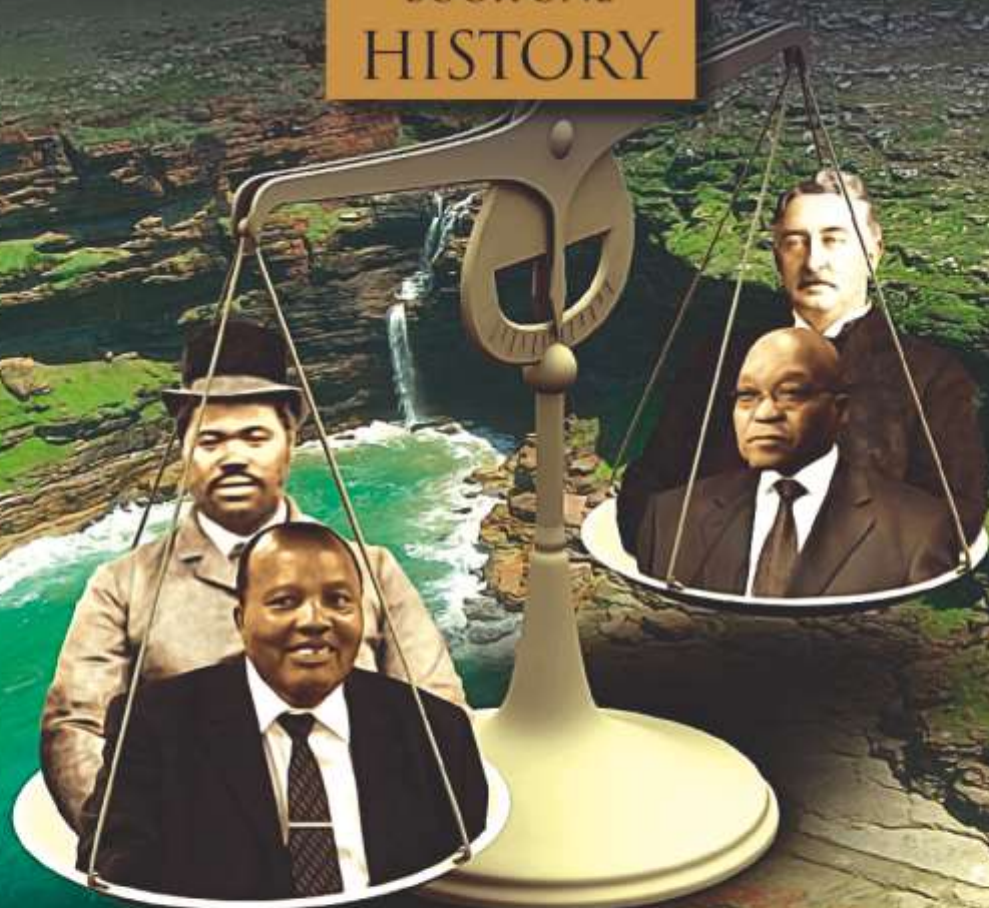


# THE PROMISE OF JUSTICE

JOHN GI CLARKE

BOOK ONE  
HISTORY



KING JUSTICE MPONDOMBINI SIGCAU'S STRUGGLE  
TO SAVE THE KINGDOM OF THE MPONDO  
FROM UNJUST DEVELOPMENTS



'In the days of apartheid we knew exactly where and what was unjust, the crime against humanity. Today it is much more difficult to pinpoint social injustice in South Africa. It seems to be everywhere and nowhere. John Clarke's account of the development conflict generated by Sanral's N2 Wild Coast shortcut and the associated Xolobeni mining scheme reveals how the promise of "development" is but a mask for underlying social injustice. What he also brings to light, though, is the exciting "promise of justice".'

*Rev Albert Nolan OP, Liberation Theologian and Author*

'This story reaffirms our experience during the Truth and Reconciliation Commission. We must confront the ghosts of our past so that they don't return to haunt us in the future. Let's pray that in our "Jerusalem" – our cities where power and wealth are concentrated – the message from John Clarke's "Road to Emmaus" experience with the Mpondo will be heard and understood in our hearts.'

*Archbishop Emeritus Desmond Tutu*

'This story is about civil society 'engaging the powers', the powers that be, who often don't like criticism. A gripping tale of political intrigue, courtroom battles and the awakening of historical consciousness.'

*Wayne Duvenage, Business leader and Chair of Opposition to Urban Tolling Alliance*

'It is with the professionalism of a social worker and the passion of a person of faith working for justice that John Clarke relates this unfolding story. His involvement in the events recounted have come through great personal sacrifice; he is prepared to take risks in relaying it to a wider audience.'

*Ven Dr Andrew Warmback, Director of Social Responsibility, Anglican Diocese of Natal*

# The Promise of Justice

*A Story in Four Parts*

**Book One: History (The Story and His Story)  
(in this volume)**

**Book Two: Mystery (My Story and Our Story)  
(in a future volume)**

In 1894 with troops massing on the border and Maxim guns taking aim, Cape Prime Minister Cecil Rhodes forced the King of Mpondo iKumkani Mqikela ka Sigcau to finally submit to Colonial rule. A year later, intoxicated by power, Rhodes arbitrarily imprisoned King Mqikela.

Thus when President Jacob Zuma deposed his descendant iKumkani Mpondombini Justice Sigcau as King of Mpondo in 2010, the ghost of Cecil John Rhodes hovered fatefully over the court battle that unfolded over the next three years.

The Constitutional Court sat on 21 February 2013 to hear his case. While awaiting judgement King Justice Sigcau told me that he was sure he would win his court case against President Zuma, just as his ancestor had against Rhodes in 1895, precipitating his decline from power. Ten days later King Justice died unexpectedly, charging our final conversation with enormous historical significance.

When the Constitutional Court handed down judgement seven weeks later the Promise of Justice was fulfilled.

His Story made history vitally present to Our Story, and the mystery of My Story began to resolve.

# The Promise of Justice

John G.I. Clarke



John G.I. Clarke

THE PROMISE OF JUSTICE

2014

Copyright ©John G.I. Clarke 2014

E-mail: johngic@iafrica.com

Published by Brevitas

P. O. Box 19986, Ashburton 3213, KwaZulu-Natal  
South Africa

Tel.: (033) 326 1167

(082) 410 7030

E-mail: dennison2@telkomsa.net

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise, without the prior written permission of the publisher.

ISBN: 978-1-874976-63-9

Cover design: Francois Smit, Quba Design and Motion  
([www.quba.co.za](http://www.quba.co.za)).

Cover photograph background: John Costello.

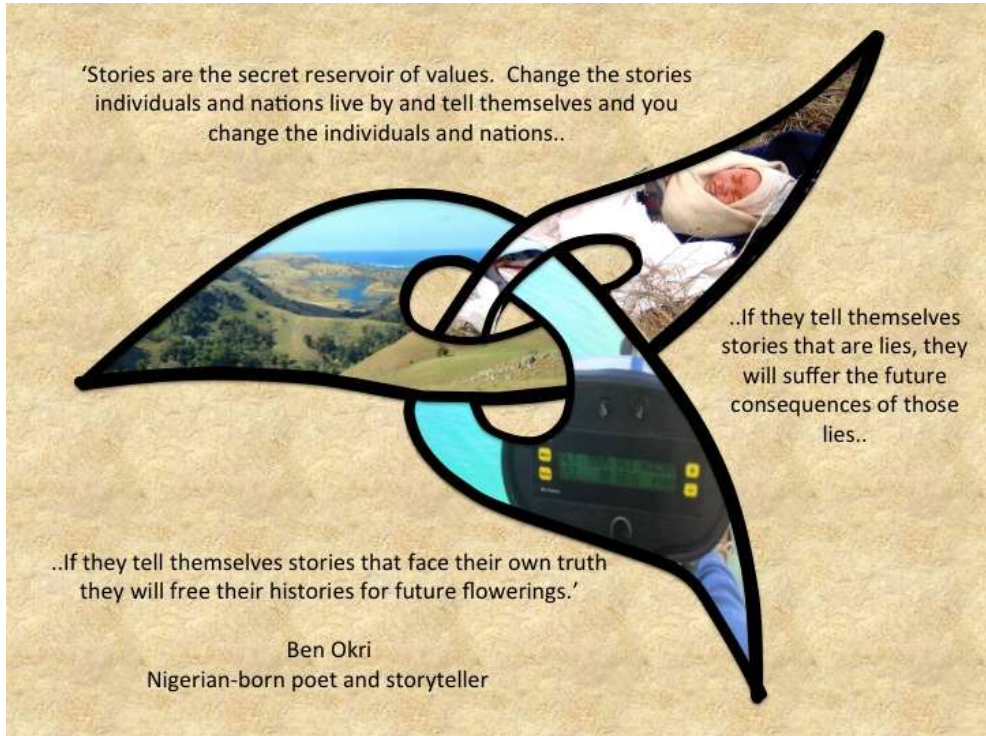
Back cover photo: John G.I. Clarke.

Copy editing: Joan Cameron (Part One), Russell Clements (Part Two).

Layout: Clive Dennison.



## Part One – The Story



## Foreword

Delightful, amusing, informative, insightful and revealing – John Clarke’s personal account of the intrigues and power games undertaken by people in pursuit of power and wealth is played out in that special place, the Pondoland Wild Coast, to remind of the Promise of Justice everywhere. That spectacular coastline is also a centre of botanical endemism and South African cultural heritage. But again what is happening in South Africa is a microcosm of what is taking place around the world.

The challenges confronting the amaMpondo community, as government and foreign mining companies come claiming to bring development, reflect those being experienced worldwide. In reality this means wealth for the outsiders and environmental destruction, landlessness and impoverishment for the indigenous population. For those of us with a faith perspective, it is clear that the world and all within it belong to God, and therefore its development should be sustainable, and in the service of all, and not merely those few who are wealthy or well connected.

Clarke’s book is not anti-development, but highlights the dangers of pursuing inappropriate, unsustainable, development that places profits above people and planet. There are important lessons here from which the whole world should learn.’

Archbishop Thabo Magoba. *Archbishop of Cape Town and Metropolitan of the Anglican Church of Southern Africa.*



*In memory of*

**King Justice Mpondombini Sigcau**



**20 September 1942 - 25 March 2013**

But let judgement run down as waters,  
and righteousness as a mighty stream.

*Amos 5:24*



## Why?

‘Write down what has been disclosed to you and make it plain on tablets so that whoever reads it may run with it.’

Habakkuk 2:2. 8th century BCE.



Mr Mbekiswana Mphothe.

*Photograph by John G.I. Clarke.*

Mbekiswana Ngcaphe Sogeyisi Mphothe is in fact a relatively short name given the long life that he has lived: a life lived mostly in the rolling hills of Pondoland and the Ntafufu forests, above the Mzintlava River near Manteku on the Pondoland Wild Coast.

It was January of the second decade of the twenty first century. My friend Sinegugu 'Nkomba' Zukulu had prevailed on me to film him interviewing Mr Mphothe. The interview took place in the presence of a group of young Mpondo men whom he was mentoring in preparation for their work as guides for tourists eager to experience the Wild Coast in all its magnificence.

'*Mnt'omdala* do you know what year you were born?' Nkomba asked.

But Mr Mphothe could not give an exact date because he was born long before the advent of birth certificates and government bureaucratic rule.

A keen historian of both Mpondo and world history, Nkomba asked him what were his earliest memories of major events.

'I can remember *abantu bakagovemente* (government people) coming all over to give everyone *imjovo* (injections) because many women with babies were becoming sick, and were dying due to *umbathalala* (influenza).'

Turning to me Nkomba reasoned, 'That must have been the inoculation campaign to stem the Spanish flu epidemic of 1918.'

'*Mnt'omdala*, were you a boy or a young man, when they came?'

'I was like these young men you have brought with you,' he said, pointing to the six Mpondo trainee guides that Nkomba had with him.

As I sat filming the interaction under a shady tree outside the old man's *umzi* (homestead) a chill went down my spine. I realised that I was uniquely privileged to be filming an interview with someone who had been born in the century before the last. It occurred to me that I was less than half his age. Immediately I resolved to cease claiming the privileges of senior years, notwithstanding my grey beard; neither would I be making excuses for ageing faculties when my teenage daughter nagged me for anything requiring physical or mental effort.

This wonderful event took place on 3 January 2010. The attentive young men were all in their late teens or early twenties. This made it likely that Mbekiswana Ngcaphe Sogeyisi Mphothe had been

born in the troubled final decade of the 19<sup>th</sup> century, as a subject of King Sigcau ka Mqikela of the Great House of King Faku, the founder of the Mpondo nation. It was likely that Mr Mphothe was around 110 years old.

I made sure both my cameras were working. This was no time for a battery to die, or tapes to run out, before safely recording the reminiscences of an old man whose mortal existence on earth straddled the nineteenth, twentieth and twenty-first centuries. Chronicling oral history from a man who had lived to see the beginning and end of racial oppression in South Africa was a very special privilege. Mr Mphothe had been born soon after Rhodes had annexed Pondoland under Colonial rule in 1894, and had lived to participate in South Africa's first democratic elections, one hundred years later. His generation had to adjust to Colonial rule and deal with the internecine post-annexation conflicts. He would have been a toddler when Cecil John Rhodes died in 1902, and still too young to have any recall of the death of King Sigcau ka Mqikela in 1905.

I wished we had brought with us the classic pioneering anthropological study of the Mpondo, *Reaction to Conquest*, compiled by Monica Hunter Wilson and published in 1936. Listening to the old man was like opening a window into history. The two-dimensional constraint of pen on page had been given three-dimensional authenticity.

Moreover, the day before, Nkomba and I had taken the youngsters to see the film *Avatar*, which had just been released. The cinematic experience of being taken on an imaginary journey to the distant planet Pandora and into its magnificent forests had been wonderful, but sitting in a real forest with a real elder, exchanging real greetings of 'sawubona' was unsurpassable. (*Sawubona* means 'I see you' – coincidentally the same greeting used by the mythical Na'vi in the story of *Avatar*.)

'Yes, I remember the magistrates coming. Then they got cars ...' His frail voice sounded a little strained.

‘How have things changed for you with the coming of *lo govumente*<sup>1</sup> and the white people?’ one of the young men asked.

‘We had our quarrels and fights among ourselves,’ he replied, ‘but that was just with sticks, so no serious injury was caused. We did not kill each other. But the *umlungu* brought metal spears, knives, and guns, which when we used them to fight caused much injury and death.’

There was a pause as his words sank uncomfortably into our consciousness.

‘But,’ he added, ‘the one thing the white people brought, which you young men can be grateful for ...’ as a visual aid to amplify his frail old voice he pulled a long stem of grass from the ground beside him, ‘... they brought us another weapon which doesn’t kill.’ Using the grass stem as a pen, he vigorously stabbed at his other hand, using it as a sheet of paper.

‘So when you feel angry, frustrated and want to fight with each other, you must use instead this weapon, also brought by the *umlungu*. You must stab the paper, not each other. Write it all down, instead. You must educate yourselves with this weapon. Do not kill each other.’

One of his grandchildren arrived with a large jug of *maRhewu* (a non-alcoholic drink), which was passed around. As Mr Mphothe sipped from it I wondered if the brew contained within it the elixir for longevity. When it was passed to me I eagerly drank as much as I dared, without depriving those still waiting their turn.

It was not fear of death that motivated my desire for a long life, but the burden of having so much to write down about my experiences with the Mpondo. Would I have the fascinating story documented before the grim reaper appeared?

I hope it will not be too late to hand a copy of this book to Mbekiswana Ngcaphe Sogeyisi Mphothe, even though he himself cannot read it, so that he can join his ancestors, content in the knowledge that at least one of the young men who listened to his wisdom has done what he urged us to do.

---

<sup>1</sup> Xhosa for “this Government”.





## Preface

General Jan Smuts ironically described the Mpondo in 1936 as ‘a native tribe considered somewhat backward in comparison to other tribes of the Union of South Africa ... unusually conservative and tenacious, resisting ‘the disintegration of native life.’<sup>2</sup>

In the democratic era their struggle for the right to decide their local destinies locally has not become easier.

The Promise of Justice is a four part series written to pay tribute to two great Mpondo Kings: *iKumkani* Sigcau ka Mqikela (ruled 1888-1905) and his descendant *iKumkani* Justice Mpondombini Sigcau (ruled 1978-2013).

On 16 June 1895 Cape Prime Minister, Cecil John Rhodes, arbitrarily imprisoned King Sigcau for siding with his Chiefs against the harsh impositions of 19th century British colonial rule.

On 9 July 2010 King Justice Sigcau was deposed by President Jacob Zuma, mimicking history and threatening to reverse the Mpondo’s success in preventing their ancestral lands from being mined for titanium and undermining their traditional way of life by the construction a new tolled highway through their territory.

In search of justice both kings took their cases to the highest courts.

The Promise of Justice shows how King Justice Sigcau’s extraordinary grasp of history empowered the Mpondo Royal Family to outshine Cabinet ministers in grounding human rights with meaning.

After the Constitutional Court hearing on 21 February 2013 King Justice Mpondombini Sigcau told me that he was sure he would win his court case against President Zuma, just as his ancestor had against Rhodes. Ten days later King Justice Sigcau died unexpectedly, intensifying our final conversation with enormous historical significance.

---

<sup>2</sup> Quoted in Hunter, M. (1936 and 1961).

His Queen, MaSobhuza Sigcau, kept the case alive on behalf of the Mpondo while I frantically worked to complete as much of the story as possible before judgement was handed down.

On 13 June 2013 the Court ruled that President Zuma had indeed acted illegally in deposing King Justice Mpondombini Sigcau.

The Promise of Justice is written in four parts, each published as separate e-books, and in print form in two books.

The present volume, **Book One: History**, looks back to see what may be learned from recent post-apartheid history and pre-apartheid history from the 19<sup>th</sup> century colonial era. It comprises;

**Part I: The Story**, which summarises the back story that got King Justice Sigcau into trouble with government, notably his opposition to the mining of coastal dunes of the Wild Coast, and plans by the South African National Roads Agency (SANRAL) to offer a commercial tolling concession to construct a new highway nearby.

**Part II: His Story** sharpens the focus on the courtroom dramas of two Mpondo Kings to save the kingdom from domestication by colonial and neo-colonial powers. Woven into His Story is another story: the extraordinary effort of a highly principled Johannesburg business leader, Wayne Duvenage, inspired by the Mpondo Civil Courage, to also oppose SANRAL's determination to impose urban tolling of freeways around Johannesburg and Pretoria and hold the South African Government accountable to its citizens.

*John G.I. Clarke*

# Notes

## Picturing the story

A three-minute trailer of a feature length documentary titled *The Shore Break* provides visual cues. It may be viewed on Vimeo on <http://youtu.be/C3RN93QYa1A>, See the FaceBook page<sup>3</sup> for details of public release and download options. Produced and directed by Ryley Grunenwald of Marie Verite Films, the 90-minute documentary provides an up-close and under-the-skin independent narrative of the saga.

## Spelling

This book is written in English about an African story. To show due respect (*hlonipa*) to the subjects of the story, African titles and local place names have been used. Strict obedience to cross language convention would be to italicise the African terms and titles [just as English words would be italicised in a Xhosa (*isiXhosa*) text], with all place names starting with a vowel and the first consonant capitalised. Feedback from reviewers has advised that repeated rendering of African terms and titles that appear frequently (such as *iKumkani* – His Majesty) in the text negatively affects readability. Thus after the first appearance of an *mPondo* (Pondo) word in italics with the lower case vowel, subsequent use is without those distractions. So *iKumkanikazi* (Her Majesty) becomes Kumkanikazi, *Mpondo* becomes Mpondo, and so on.

## Who are ‘we’?

Two simple but important clarifications are necessary to identify the voices I seek to amplify.

First, the conversations should be understood as having been with the Royal Family together, even though the interaction is largely focused on conversations with *iKumkani* Sigcau. Thus in reporting his words the use of ‘we’ is authentically the ‘majestic plural’, referring to myself and his family, and the *Mpondo* to whom Kumkani was ultimately accountable. It is very unusual for a social worker to work with the same client system for as long as I have

---

<sup>3</sup> theshorebreakmovie

with the Mpondo Royal Family and I concede that I have become irretrievably ‘embedded’. The opportunity for readers to critically interrogate my subjective perspectives has become further motivation in the writing of this book.

Secondly, a vast number of people have helped to make the story/history/mystery happen, and use of the common plural ‘we’ is also used when referring to the other founding members of two non-governmental organisations (NGOs) – Sustaining the Wild Coast ([www.swc.org.za](http://www.swc.org.za)) and the Southern African Faith Communities Environmental Institute ([www.safcei.org.za](http://www.safcei.org.za)). In the instances where ‘we’ is used in the context of SWC’s and SAFCEI’s immeasurable contribution, it is to acknowledge my accountability to them. However, this does not necessarily imply that the members or boards of directors of those NGOs have endorsed my views or can be held liable for anything expressed in this publication that uses the common plural ‘we’.

The social work profession also has a claim on my accountability, but, where it is relevant, overlapping or distinct accountabilities are explained, so as to avoid confusion. If anyone mentioned in this narrative takes exception to anything I say, it is my professional duty to inform them that a complaint may be lodged with the South African Council for Social Service Professions alleging unprofessional conduct.

## List of abbreviations

ACC	Amadiba Crisis Committee
DEAT	Department of Environmental Affairs and Tourism (became DWEA)
DWEA	Department of Water and Environmental Affairs
DME	Department of Minerals and Energy (became DMR)
DMR	Department of Mineral Resources.
GIBS	Gordon Institute of Business Science
JSS	Junior Secondary School
N2WCC	N2 Wild Coast Consortium
OECD	Organisation for Economic Cooperation and Development
OUTA	Opposition to Urban Tolling Alliance
SANRAL	South African National Roads Agency Ltd.
SWCC	Save the Wild Coast Campaign (became SWC)
SWC	Sustaining the Wild Coast
SACC	South African Council of Churches
SAFCEI	Southern African Faith Communities Environment Institute
SAHRC	South African Human Rights Commission
SAVRALA	Southern African Vehicle Rental and Leasing Association
TRC	Truth and Reconciliation Commission
ZAR	Zuid Afrikaanse Republiek, Boer Republic of the Transvaal.



# Table of Contents

The Promise of Justice .....	iii
The Promise of Justice .....	v
Part One – The Story .....	vii
Foreword.....	viii
Why? .....	xi
Preface .....	xvi
Notes.....	xviii
List of abbreviations .....	xx
Table of Contents.....	xxi
Table of Figures.....	xxii
1: The Place, the People and the Possibilities.....	1
2: A strange idea of insecurity.....	9
3: In the footsteps of a barefoot economist .....	19
4: Engaging the Powers .....	27
5: The Barefoot Queen .....	40
6: Following Spoor.....	57
7: The Making of the Qaukeni Connection .....	64
8: The Animal in the Earth .....	74
9: Sinking Roots by Spreading Wings.....	84
10: My Mea Culpa with Mayor Capa.....	98
11: Scratching with the Chickens, or Soaring with the Eagles? .....	120
12: Sjambokked.....	127
13: Gampe's Oranges.....	143
14: The Road Re-surfaces.....	151
15: No Thought of the Harvest.....	159
Part Two – His Story .....	171
1: Behind the Irony Curtain.....	173
2: The King's Speech .....	187
3: Beckett's Star-trek to Pondoland.....	196
4: The Methodist in my madness .....	208
5: Courtrooms: Round One .....	228
6: Fraternal Frictions.....	238
7: When fear rules.....	244
8: Courtrooms (Round Two).....	255
9: Beyond Hope .....	273
10: Collapse of a Colossus .....	289
11: 'Muster Rhodes will have a fall' .....	307
12: The Matrix.....	321
13: The 'long downward slope' .....	337
14: Caruso's Tangled Web.....	361
15: Courtrooms (Round Three).....	374
16: iKhaya leZizwe.....	386
Acknowledgements .....	395
Bibliography .....	397
Filler picture credits .....	399

# Table of Figures

Mr Mbekiswana Mphotho.....	xi
Mlambomkhulu Falls at Waterfall Bluff. ....	1
Xolobeni dunes, where it was planned to mine for heavy mineral deposits. ....	7
Blacknecked swans in Carlos Andwanter Nature Reserve, Valdivia, Chile. ....	9
Manfred Max-Neef. ....	19
Nazir Alli, CEO of SANRAL. ....	27
Kumkanikazi (Queen) Sigcau.....	40
Ministers Jeff Radebe and Marthinus van Schalkwyk with former Premier Nosimo Balindlela and Deputy Minister Lulu Xingwana. ....	42
Cartoon by Cuen Miles for <i>The Daily Dispatch</i> .....	51
Bishop Geoff Davies and Queen Masobhuza Sigcau.....	64
SWC founders led by Bishop Geoff Davies return from Mlambomkhulu Falls, Waterfall Bluff.....	68
50/50 filmcrew hear Khumbuza JSS teachers and parents describe mining manipulations. ....	74
Mzamba Gorge, where the <i>Blood Diamond</i> alluvial mine was sited. ....	84
Stone Age litter. ....	91
The same altitude as a horseback rider. ....	96
“Visions of deep gorges, high waterfalls” – the Mnyameni Falls. ....	96
Mrs Zoleka Capa.....	98
Chief Cinani, Princess Wezizwe, Queen Masobhuza Sigcau, King Mpondombini Sigcau, and Mayor Zoleka Capa. ....	112
The Mbuthuma sisters celebrate. ....	120
Marching or walking? South sets off to meet Wild. ....	121
The Bateleurs in formation. ....	123
Mtentu Lodge, a pawn in the battle between “miners” and “environmentalists”. ....	126
Xolobeni Store. ....	127
The author handing a new hoe to Mrs Mthwa. ....	140
The author and Samson Gampe. ....	143
Bhalasheleni Mtanyelwa Mthwa. ....	159
Thutani Mpunga.....	164
Richard Spoor. ....	167
An Onombolo regiment. ....	205
Rev. Peter Hargreaves.....	211
Map of the Republic of Natalia, 1846.....	219
Zanuzuko Sigcau, claimant to the Mpondo throne, in Pretoria High Court.....	228
Partial list of alleged supporters of the proposed mining project.....	241
The somewhat sinister-looking Gxara River, where Nongqawuse saw a vision. ....	243
Johannes Bock’s smallholding at Kei Mouth. ....	252
The Olive Schreiner Cottage in Matjiesfontein.....	293

President Paul Kruger.....	337
John Hays Hammond under guard during the Reform Committee trial after the Jameson Raid.....	344
MRC share price and volume movement from July 2004 to June 2014.....	361
The Constitutional Court in session.....	374
The funeral service for King Justice Mpondombini Sigcau.....	385
Professor Somadoda Fikeni, from the Royal House of the Xesibe, presents the eulogy at the funeral of King Justice Mpondombini Sigcau.....	385
Mbekiswana Ngcaphe Sogeyisi Mphothe.....	393

# 1: The Place, the People and the Possibilities

That green coastline that is Eden yet,  
Being spared the ravages of dynamite and oil<sup>4</sup>



Mlambomkhulu Falls at Waterfall Bluff.

*Photograph by John Costello.*

## **Before time.**

There is a coastline in Africa that unmasks the soul.

Locked in an interminable contest, land and water connect and collide to create spectacular dances of white spray that owe their origin to a geological phenomenon that dates back billions of years when the African continent separated from the Falklands tectonic plate to create a buttress of cliffs. Subsequent erosion has flattened these except along a 5 km stretch where, in months of heavy rainfall, three rivers tumble directly over the cliff face into the welcoming sea spray that reaches up from heavy waves breaking against the rocks below. Only nine other instances can be found of

---

<sup>4</sup> Paraphrased from Roy Campbell's poem, *The Sling*.

rivers flowing over a coastal cliff to meet the sea in the entire 720,000 kms where land and sea abut on planet earth.

If one goes back in geological time conceivably there were several more, but in that place billions upon billions of gallons of water have flowed down from inland mountains to carve and etch the sandstone shelf to create deep river gorges. The waterfalls on these rivers have receded inland such that, in contrast to the vertical tumble of the three remaining ocean-plunging waterfalls, the consummation between river and sea water occurs horizontally within estuaries where sand, wind and tides add further majesty to the dance.

Within those deep river gorges verdant forests have taken hold, sheltered from the strong winds to create a bountiful ecology of botanical biodiversity of some 200 known endemic plants – and perhaps more, which have yet to be discovered and named.

At stretches where the continental cliff is at sea level, the much harder igneous rock resists the eroding effect of water more effectively than the sandstone. Incessant waves collide with a sheer vertical rock face to send sea spray shooting upwards in a spectacular show of waterworks. One can sit for hours, mesmerised as one wave upon another crashes against the unyielding rock face – an ancient prehistoric irresistible force pounding against an equally ancient prehistoric immovable object.

Moving closer to the edge of contest, as the sea-spray curtain is tugged back by gravity to splash upon the rocks, one may glimpse a pod of dolphins surfing joyously in the advancing wall of water, moments before the clash of water against rock erupts another curtain of sea spray to obscure their enviable frolic. If one has ventured too close to the point of impact between earth and water, a refreshing shower of salty-sea drenches and delights, as gravity retrieves the white veil of foam that dutifully returns to the sea in myriad rivulets in the hard rock, sculptured over billions of years, long before *Homo sapiens* appeared to marvel at the phenomenon, and to name the promontory Waterfall Bluff.

While cosmic tectonic energy trapped deep within the Earth continues to force continents apart and together in an ultra-

gradual drift, the circling of Earth around the Sun forces warm ocean currents to clash with cold ones in an annual ritual to show forth the extravagant re-productivity of Life. Arising from the deep, cold South Atlantic ocean, nutrient rich plankton blooms are drawn up from the deep by global geo-thermal dynamics to feed the spawn of unimaginable magnitudes of fast growing sardines to break the deep winter fast of birds, seals, dolphins, sharks and whales hungrily arrayed along the southern African coastal waters and nesting sites.

The peculiar geomorphology of Waterfall Bluff prompts a swirling eddy of current and counter current that has become the threshold where the teeming billions of piscine creatures become trapped and concentrated tightly against the coast by warm equatorial currents flowing down that coastline.

Predators from the air and sea feast upon the hapless creatures as they swirl around in diminishing bait balls. Sometimes the interactive contingencies of ocean currents, waves and weather systems push shoals into the shallow waters to be washed ashore to provide terrestrial creatures with a bonanza of welcome protein.

Unsurprisingly, a search for evidence of human presence on this stretch of African coastline will turn up remains of several shipwrecks. Historical enquiry will reveal hundreds more, each telling a harrowing tale of human vulnerability, the fallibility of sea captains and, often, the forlorn heroism of castaways struggling for survival.

The coast described above is appropriately named the Wild Coast, and is the place where this narrative of unmasking, and the Promise of Justice, occurs.

### **In Time: 1824.**

When a youthful Henry Francis Fynn crossed the Mzamba River for the first time in 1824, the Mpondo had not yet resettled themselves along the 22 km stretch of coastline that is the north-eastern section of the Wild Coast. He was the first white trader to venture toward Pondoland, and left a written record of his adventures.



Unsure of the route, he had hoped to trade beads and trinkets for provisions from locals along the way and be given directions. However, early in their journey (somewhere around modern day Umgababa) they came across a homestead. He managed to obtain some directions.

‘I enquired of the man we had caught the distance to the Mpondo, but could get no satisfactory information. He told me it would be three months on the road; that I must pass through a desert and, on the journey meet with only a few stragglers obliged, like himself to live on roots.’

The next day, long grass, intertwining briars and bushes compelled them to walk along the beach. The inhospitable terrain reduced their progress to a mere 16 km in the day.

He was shocked to find that the Zulu army had virtually obliterated human settlement. Without encountering any people to help him along, the following day he aborted the trip and returned to Port Natal, then visited Shaka to confess his misadventure.

‘He laughed heartily on hearing the account. Moreover he wanted to know how I could expect to travel through those parts without his assistance, for obviously my troubles had arisen out of his having killed off the inhabitants of the surrounding countries. I had, therefore, got only what I deserved for attempting to travel among people from whom it was impossible to reap any kind of benefit; indeed, I could only expect to be murdered by them or poisoned by bush Kaffirs.’

Fynn tried to justify to Shaka that his visit to Faku was a goodwill mission to forge mutually beneficial relations, ‘by teaching them British manners and customs’, but admits, ‘I might have saved my breath on this occasion as well as on many others, for I found I had to deal with a king who had no idea of the limit of his powers, and who was confident his commands were both lawful and strictly reasonable.’

Fynn didn’t waste any time before embarking on a second prospecting mission to see King Faku. With Shaka’s backing he was more successful.

The journey to the Mpondo people was still difficult but his spirits were clearly lifted upon crossing the Mzamba River. They must have been lifted further because he remarks, “in the course of the day’s tedious march we met several droves of elephants”.

It took Fynn only 25 years to shoot the last elephant in Pondoland.

### **In Time: 1957.**

Whereas in 1824 Fynn did not find many people living there, by 1957 the coastal stretch between the Mthamvuna and Mntentu Rivers was populated by the *amaDiba*, one of fifty constituent chiefdoms of the Mpondo nation. Where elephants once roamed, the only memory of them was in the naming of the *Umgungundlovu Komkulu*: The Great Place of the Elephants. This was the place where by customary law, the Amadiba coastal residents would gather to bring matters of communal concern to the tribal elders for resolution.

Otherwise known as the Xolobeni area (because of a nearby trading store of that name), in 1957 a kindling conflict commenced over land rights and the use and misuse of natural resources. The Pondo Revolt (also referred to as the Pondo Uprising or *iCongo*) still casts a long shadow on South African history. White minority rule was gaining momentum with the formalisation of apartheid. In the pretence of offering political and economic self-determination to the black majority, the apartheid government ruthlessly co-opted traditional African tribal leaders to enforce Bantustans upon their people.

Oxford University Professor, William Beinart, the pre-eminent specialist on Mpondo history, reports his interview with a local resident, Leonard Mdingi, telling of the first spark of the uprising, which occurred in 1957 in the precise place that Fynn had spotted the ‘droves of elephants’.

‘There was a standoff in Amadiba Location, near Xolobeni store, where Mdingi’s father had been removed. One man was convicted and spent six months in prison.

‘The people were not consulted on anything now; people were being driven out of the land and they resented that ... at one stage the police went down and were attacked by the people there and had to

flee. Those were the beginnings of this Congo movement, of this Pondoland revolt, 1957, 58, 59. The dispute was getting hotter and hotter ...’

In this context, the local educated elite, such as Saul Mabude, a key member of the Bunga and advisor at the great place who lived in Isikelo location in Bizana, came under strong criticism. The attack on his homestead in March 1960 signalled the beginnings of the revolt...

Saul Mabude had spent years at the great place as an advisor to Botha Sigcau.’

King Botha Sigcau was the King of the Mpondo ase Qaukeni, who had since 1938 ruled a nation increasingly divided.

### **In Time: 1996**

Some 172 years after Fynn’s expedition and thirty-six years after the Pondo Uprising a latter-day prospector named Mark Victor Caruso, from Perth, Australia, followed a similar path in his expedition. Along the same 22 km stretch of coastal dunes that Fynn had traversed, Caruso also found what he was looking for: titanium and other heavy mineral deposits, (ilmenite, rutile, zircon, pig iron, leucoxene). His find was ranked, by subsequent analysis, as the, “tenth largest heavy mineral deposit in the world”, with the ‘space-age mineral’, titanium, being the most plentiful.

### **In Time: 2007**

On 5 September 2007, exactly fifty years after Leonard Mdingi’s father had been forcibly removed from his homestead, he and King Mpondombini Sigcau, the son of Botha Sigcau, drove past the Xolobeni store. Ahead of them were two more vehicles, one transporting Commissioners from the SAHRC and the other with the Mayor of the O.R. Tambo District Municipality. All were headed for the great place of the elephants.



Xolobeni dunes, MRC prospecting for heavy mineral deposits.

*Photograph from MRC Brochure.*

King Justice Mpondombini (the two tusked one) was coming to hear complaints from the Amadiba community against Mark Caruso's mineral prospecting activities and planned plunder of Mpondo natural resources, which, over the preceding decade, had caused havoc in the community.

The *imbizo* (public meeting) was an event of elephantine proportions.

As the motorcade came within view, ten Pondo horsemen led by Jabulani Mboyisa (the eldest son of one of the Pondo Revolt veterans), rode out to welcome the King, Queen and Crown Princess. Riding in formation they escorted the Royal Family, to be enthusiastically greeted by hundreds of cheering Amadiba residents led by stick-wielding veterans of the Pondo Revolt. Praise songs reserved only for Royalty were chanted with gusto.

## **Beyond Time:**

If a soothsayer had fifty years beforehand told Mdingi's father that the above scene would come to pass, one can imagine that he would regard the soothsayer as hallucinating from having smoked too much of the controversial product for which the Wild Coast is famous.

It is only with hindsight that I am now able now to contrast these four moments, all having occurred at the same site but at different moments in history. Doing so tugs one to try to fathom and discern the timeless eternal truth about people, planet and possibilities for the future.

'If I could ask one thing of a crystal ball' a wise man once said 'I would not ask, "what is wrong and how can I fix it?" I would ask, "what is possible and who cares?"'

From the one event to the next, had the Powers learned more about what had gone before, and thought more deeply what might occur in the future, they would have taken more care with the decisions they made. The possibilities of the place (the Pondoland Wild Coast), in combination with the very special people (the Mpondo) who live there, would have been so much more promising. *The Story* I tell would have been very different.

It is too late to change the decisions. But it is not too late to learn from history, so that different decisions may now be made. Then the future will be different.

## 2: A strange idea of insecurity

I dare say that if we have so far been unable to eradicate poverty, it is because we know too much about it, without understanding the essence of its existence as well as the mechanisms of its origins.<sup>5</sup>

*Manfred A. Max-Neef.*



Blacknecked swans in Carlos Andwanter Nature Reserve, Valdivia, Chile.

*Photograph by John G.I. Clarke.*

I had a question I was dying to ask him. The man whose books I had read with religious devotion, the Chilean 'barefoot economist', had finally arrived in South Africa.

Ask the wrong question, and you are always going to get the wrong answer. Ask the right question, and even if the initial answer is

---

<sup>5</sup> Max-Neef, On the Pruning of Language. In Human Scale Development, Conception, Applications and Further Reflections. The Apex Press. 1991.



wrong, the rightness of the question keeps one going, albeit along a road less travelled, but one that leads to life<sup>6</sup>.

The question I asked Professor Manfred Max-Neef on a spring day in Johannesburg in 1993, six months before the first democratic elections occurred, was the right question.

He was still jet lagged from his long flight from Santiago, Chile, but the bed in his hotel room was too short for his large frame. We went to have a cup of coffee while hotel staff tried to find a solution.

‘Professor, in your development thinking about fundamental human needs were you influenced at all by biblical evolutionary concepts?’

He looked puzzled. ‘What do you mean?’

‘Well, reading your book through my theological spectacles I noticed that there happens to be a rather remarkable correspondence between your explanation of the gradual emergence of fundamental human needs over evolutionary time scales and the way the books of the bible are arranged.’

He took off his spectacles to rub his tired eyes. ‘This is very interesting. I was not aware of that. Explain some more.’

To fill in some background for readers, Max-Neef argues that fundamental human needs are few, finite and universal. If they can be said to have changed over time, it is only over long evolutionary time scales. It is developmental change that allows the progressive and cumulative realisation of innate potential. When our ancestors made the leap from *Australopithecus habilis* to *Homo habilis* around two million years ago, Max-Neef argues that *Homo habilis* was motivated by seven fundamental needs: subsistence, protection, affection, participation, understanding, “idleness” (not laziness but the need to ponder in relaxed reflection) and creation. He writes;

‘Probably at a later stage of evolution the need for Identity appeared and, at a much later date, the need for Freedom. In much the same way, it is likely that in the future the need for Transcendence, which

---

<sup>6</sup> From Matthew’s Gospel 7:13-14 ‘.....small is the gate and narrow the road that leads to life, and only a few find it.’

is not included in our proposal (as we do not yet consider it universal), will become as universal as the other needs. It seems legitimate, then, to assume that fundamental human needs change with the pace of human evolution, that is to say, at a very slow rate. Therefore, fundamental human needs are not only universal, but also entwined with the evolution of the species. They follow a single track.’<sup>7</sup>

With this intriguing theory having become like a dose of Viagra to my flagging performance as an idealist, who was at the time hoping to see apartheid give way to a society based on respect for fundamental human rights, Max-Neef’s alternative human needs theory had come like a seductive mistress to entice me into a dual love affair. Could fundamental human rights and fundamental human needs together do justice to the biblical Promise of Justice?

‘The first book of the bible is Genesis. It is about the emergence of human self-consciousness and specifically the need for *identity*’, I explained to him, trying not to sound like a bible-puncher, and unsure of his religious proclivities, ‘then the need for *freedom* is all about the book of Exodus, when the Israelites are delivered from the captivity of Egypt. In a sense the rest of the bible, (and for that matter religion in general), can be seen as a quest by the human species, to come to terms with the tenth fundamental human need, *transcendence*. At least that is true within the monotheistic religions of Judaism, Christianity and Islam which all trace their origins to the patriarch, Abraham. You postulate that transcendence is still an *emergent* fundamental human need, but not yet universal across all cultures. But I found it intriguing that the broad outline of the first five books of the bible, the Pentateuch, supports your argument. The emergence of further fundamental human needs corresponds exactly with the emergence of the three latter human needs. In a sense religion is all about human beings grappling with more enriching, sustainable “satisfiers” of fundamental human needs for creation, freedom, understanding, identity and transcendence.’

‘My God!’ He sat bolt upright, the drowse of jet lag thrown off by a burst of adrenalin, “next year we are going to have an international

---

<sup>7</sup> Max-Neef, M, *Desarrollo a Escala Humana: una opcion para el futuro*. Dag Hammarskjold Foundation, Uppsala, Sweden. 1986.

conference of Human Scale Development practitioners. I will find the money. You are going to come and share those ideas. OK?

‘Er... umm... OK?’ I had only just met the icon. Was this really happening? ‘Yes, Professor. It would be a pleasure.’

‘Good. It’s been decided.’

The hotel staff arrived to say they had found a room with a larger bed. He went off to sleep. I couldn’t. It was all so exciting.

## §

It took a bit longer than a year before the gathering happened. Fittingly it was arranged to commemorate the tenth anniversary of the Spanish publication of his paradigm-shifting book, *Desarollo a Escala Humana: una opcion para el future?* (Human Scale Development: An Option for the Future?)

Manfred had been appointed as the Rector of the University of Valdivia. It is a beautiful setting for a university. The city is appropriately human scale and surrounded a wonderful wetland system. To ensure the proper satisfaction of our fundamental human needs among other idle pursuits, he arranged for a boat trip through coastal beauty, rivalled only by the Wild Coast of South Africa. He proudly pointed out groups of Black-necked Swans *en route* to our mooring on an island where we happily caroused for the better part of the day at a wonderful outdoor restaurant.

I learned that in May 1960 Valdivia had suffered the worst earthquake in living memory (9.5 on the Richter scale) and this had devastated the city. Chile suffered eight straight days of earthquakes and the last one shook the earth for a full three minutes.

Yet the earthquake had a beneficial effect: it triggered the sinking and flooding of a large area surrounding the Cruces River. Aquatic plants and riparian vegetation progressively occupied the flooded areas, creating different habitat types that accommodated a diverse complement of water birds. Nature had destroyed - yet, with evolutionary patience, so had Nature healed. The Cruces River system became home to an even more spectacular abundance of avifauna, with some 119 species registered.



Curious to know more, upon returning home, I discovered that no less an icon than Charles Darwin happened to find himself in Valdivia during his *Voyage of the Beagle* and while there he experienced an earthquake which rocked the city.

“20<sup>th</sup> February 1835. This day has been memorable in the annals of Valdivia, for the most severe earthquake experienced by the oldest inhabitant. I happened to be on the shore and was lying down in the wood to rest myself. It came on suddenly and lasted two minutes, but the time appeared much longer....

“A bad earthquake at once destroys our oldest associations: the earth, the very emblem of solidity, has moved beneath our feet like a thin crust over a fluid; one second of time has created in the mind a strange idea of insecurity, which hours of reflection would not have produced. In the forest, as a breeze moved the trees, I felt only the earth tremble, but saw no other effect.”

Darwin’s ‘old associations’ had been destroyed by this ‘bad earthquake’ - perhaps it was at Concepcion that Darwin first conceived his evolutionary theory?

Another global icon, who, like Manfred Max-Neef, had won the Right Livelihood Award as an advocate of alternative development, helped give further shape to my biblical evolutionary consciousness.

§

‘The Minister of Environment will have to wait’, Wangari Maathai told the inter-faith gathering crowded around her tree planting demonstration in Delta Park, Johannesburg, ‘I have a tree to plant!’

She had earlier launched the Southern African Faith Communities Environment Institute (SAFCEI) into

formal existence. Keeping the Minister of Environment waiting for her might have seemed like arrogance, but it was quite the opposite. Her priority was consistent with the message she had just delivered.

‘We need to remember that, according to the book of Genesis, the human species was created only on the sixth day. Yet, from the arrogant way we humans treat the earth you would think we were created first!’ she had preached. ‘We were the very last life form to come into existence. But if God had created us first, we would have all been dead by Tuesday afternoon!’

With due sensitivity to the highly diverse religious, ideological and material interests that animate environmentalists, she had khaki-clad conservationists laughing with new age mystics at her characterisation of the human predicament on the planet. We all laughed, but the mirthful opening was calculated to open our hearts and emotions and encourage our minds to recognise that, for all the goodness that the Creator contemplated after each of the



allegorical six days of creation, a very bleak situation for the Earth had now evolved from the sixth day onwards, after God created the human species. She urged us to re-read the book without preconceived ideas. It tells us that after each 'day' God marvelled at his work. When God looks upon his good creation today, and sees the pollution, the logging of the forests and the destruction of ecosystems, I hear God saying "This is not good".

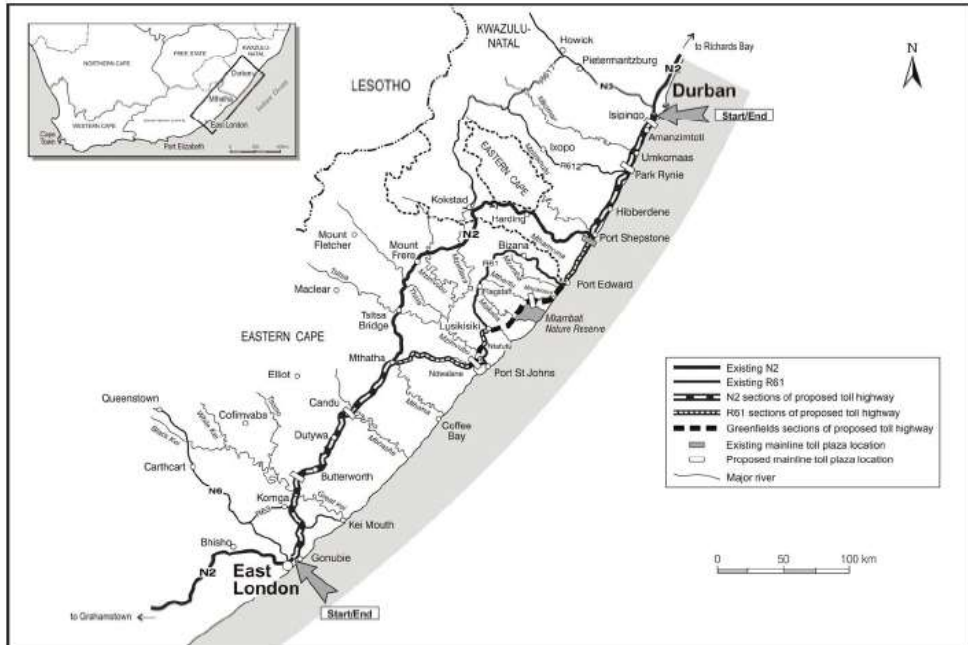
It was the day after she had delivered the 2005 Nelson Mandela Memorial Lecture. *Time Magazine* listed her as one of the hundred most influential women of 2005, in recognition of her work as the founder of the Green Belt Movement in 1977. The movement encouraged farmers to plant 'greenbelts' to stop soil erosion, provide shade and create a source of lumber and firewood. Initially the Kenyan Government applauded her for distributing seedlings to rural women. However, she found herself at odds with President Arap Moi when she led a major campaign to stop the construction of a sixty-two-storey skyscraper in the middle of Nairobi's largest park (graced by a four-story statue of Moi himself). Her courage and sacrificial devotion earned her global recognition and in 2004 Professor Wangari Maathai was awarded the Nobel Peace Prize.

Geoff Davies, known as The Green Bishop and founder of SAFCEI, was in the midst of his own battle to speak truth to power. It was a major coup to have Wangari Maathai, a global icon, formally launch SAFCEI, a civil society organisation linking all faith traditions. Bishop Davies had laboured long and hard to bring it into existence after retiring as Anglican Bishop of the Diocese of Umzimvubu in the former Transkei homeland.

While serving as Bishop of that diocese for 17 years, the Pondoland Wild Coast 'converted' the Cambridge-educated, Anglican clergyman into a new expression of mission work, exemplified by Wangari Maathai. Bishop Davies used his cultured voice to speak prophetically for the voiceless life forms that have been around a great deal longer than we 'crazy apes', which came into sentient mortal existence on the sixth day of creation.

Geoff had risen to prominence for having led the fight against the proposed new high speed motorway, which would have bisected his diocese, divided the Eastern Pondoland Kingdom of Qaukeni, and

threatened ‘one of God’s most wonderful creations’, the Pondoland Wild Coast. The road would have spanned four deep river gorges replete with rare endangered endemic biodiversity, all for the convenience of shortening the driving distance between Durban and East London by a mere 85 km. Six months earlier, Minister Marthinus van Schalkwyk had handed him a major victory by setting aside the approval of the N2 Wild Coast Toll Road.



After Wangari’s departure to meet the presumably anxious Minister of the Environment, those of us without such demands on our time remained behind to mingle in relaxed conversation in the warm winter sun. Someone remarked that perhaps the reason God had left the creation of humans until last was to prevent us from interfering! ‘Had we been created first, we would characteristically have tried to take over God’s job. In this case, on the evidence of all our technological meddling with the earth since our genesis, creation might not have progressed beyond its initial, chaotic, state.’

Bishop Davies was impressed with the photo I took of Wangari Maathai planting a tree. He was also alert to the fact that I had arrived in a smart off-road Nissan X-Trail SUV. With strategic foresight, he invited me to join his team the following month for a strategy session to plot and plan the next round, at Mkhambati Nature Reserve on the Wild Coast.

## §

Antoinette Pienaar, the South African writer, actor and raconteur, featured in the excellent SABC 2 series, *A Country Imagined*, explained how she overcame a chronic illness, arising from cerebral malaria contracted while on a trip to Mali in 2001, which caused her to leave city life. She sought healing from the Griqua sheep herder, herbalist and Shaman, Oom Johannes Willemse, in the deep recesses of the Karoo. Having spent half her life 'creating herself to be', she came to a place of personal healing and transformation where she was content to just 'be who she was created to be'. It was the fulfilment of a premonition she had dreamed of since childhood. The natural herbal remedies helped her regain her health, and she chose to apprentice herself to Oom Johannes and reach out to others.

'Van die oom het ek geleer dat as jy die natuur om jou lief het, dan verander jou binne landskap. Die Natuur verander en jy verander. En daar is 'n middle plek waar julle mekaar ontmoet. En op daardie middelpiek is die plek waar die Natuur haar boeke oopmaak en jou alles wys.'

(From the elder I learned that if you love Nature around you, it changes your interior landscape. Nature changes and you change. And there is a central point where you meet each other. At that central point is the place where Nature opens her books and reveals everything to you.)

Although the landscapes of the Karoo couldn't be more different from the landscapes of the Wild Coast, the seven years that ensued from the moment Wangari Maathai planted the African Wild Peach Tree in Delta Park, speak of a similar transformation, as will be revealed as the narrative unfolds.



While walking our dogs in Delta Park I would often pause to reflect and meditate at Wangari's tree. It had grown from a small inconsequential sapling to become a habitat for insects. In due course it would become a food source for birds.

Then one day, it was gone.



### 3: In the footsteps of a barefoot economist

Under no circumstances whatsoever can any economic process or interest be above the reverence for life.

*Manfred Max-Neef*



The Gordon Institute of Business Science prides itself on being the premier Business School in South Africa. The venue was packed with an interesting assortment of radical NGO types, suited business executives, and even some government officials who had all come to hear what the elegant professor from Valdivia, Chile, had to say.

It was April 2006. Another decade has passed since the publication of Human Scale Development. It was my turn to host Manfred in South Africa. The decade just passed had not erased my experience of Valdivia's Black-necked Swans, for I had received a Christmas

card in December 1999, three years after my visit to Valdivia. It pictured a pair of black-necked swans swimming among the reeds of the Cruces River, with four newly hatched cygnets.

Manfred's message read:

Because we have reached a stage in our human evolution where we know a lot yet understand very little, we have brought into being the most destructive generations of humankind.

Let us, therefore, firmly hope for this year to become the transition from a century of knowledge to a century of understanding.

Very best wishes, happiness, creativity and, above all, understanding, to you and your loved ones.

Manfred.



Smug with the self-satisfaction of having succeeded at short notice to fill a conventional business school auditorium with an unconventional economist, I sat back to listen to him and watch the audience's reaction.

He opened by confessing that he was not a practising businessman and admitted, 'I was one. I entered the university very young. I was only sixteen and graduated when I was twenty'.

As a young, intelligent, bachelor with obvious leadership qualities, the multinational company, Shell Oil, had recruited him soon after graduating. He embarked on a career trajectory that would have taken him all the way to international Vice President of the company. He imagined himself one day, 'negotiating oil deals with the Shah of Iran. The sky was the limit!'

He then explained that before he graduated as an economist his first love had been classical music. He was an accomplished pianist and composer and Johannes Brahms was one of his favourite composers.

‘After five very successful years working as a young international executive for Shell Oil, while listening to music on my brand new state-of-the-art Hi-Fi, something very strange happened to me. I was listening to a performance of Brahms’s first symphony with Bruno Walter conducting the Vienna Philharmonic Orchestra. I was sitting in a comfortable chair, sipping an expensive cognac, relaxing, when Brahms spoke to me ... in German of course!’

The audience laughed, warming to the commanding presence of the eccentric bearded giant.

‘It was at the start of the slow second movement. A beautiful piece ...’ - he hummed the gentle melody.

‘I could hear his voice singing *‘Was machst du mit dem Leben?’* (what are you doing with life?). He repeated it again, four times. I then visualised myself, sitting in the same chair, sipping the same cognac, listening to the same symphony, with one important difference. I imagined myself an old man, looking back on his life and career, as an international executive in the oil industry, now answering his question. I realised this life was not for me.’

Two days later Manfred flew to the company headquarters and resigned.

‘Of course I couldn’t explain why I was leaving such a promising career. They would have committed me to a mental hospital because it made no sense. I did not know what I was going to do yet. I returned to university to do my Ph.D.’

In due course he found that the language of development economics being taught in universities was becoming increasingly incoherent with the reality of people living in poverty.

‘Someone nicknamed me “a barefoot economist”. It was not me who came up with the term, but I thought “what can I say to a man – if I am standing next to him, a man living in poverty, with no shoes, unemployed, with a family to provide for, living in a slum – that could be of help to him.” I realised the language of economics I had been taught had precisely nothing to say that could be of help to that man. So I started work on pruning the language of economics. Pruning lets in more light. And gradually I began to develop a language that was coherent with the reality of poverty. It was not

a matter of gaining more knowledge. It was about developing an understanding. Knowledge and understanding are not the same thing.'

Manfred's lengthy presentation flew by. The rapt attention of the audience hardly wavered as he systematically worked through the six principles of what he now calls, 'a trans-disciplinary economics for sustainability'.

To illustrate his arguments he focused on Ireland, claimed by conventional economists as one of the 'modern economic success stories'. But Manfred showed a shocking divergence between the crude quantitative measures of economic success from the dominant conventional neo-liberal perspective, compared with measures focused on the quality of life of the greater majority of Irish citizens.

The audience was riveted by his presentation but the sense of smug satisfaction warming my inner being immediately vanished when Manfred illustrated the final principle.

'Under no circumstances whatsoever can any economic process or interest be above the reverence for life.'

His tone of voice was serious. He put up a picture of a group of black-necked swans, the iconic species of his home city, swimming contentedly in the Cruces River in the Anwandter Nature Reserve in Valdivia.

He explained that Valdivia, proportioned on a human scale, is a city where 150,000 residents live surrounded by five rivers that together form a nature reserve, boasting the largest population in the world of black-necked swans.

'It is an absolute paradise,' he said, with emphasis. 'These beautiful creatures occur only in that part of the world. The normal population is about 6,000 to 8,000 birds, which along with many other water birds, makes it a tourist attraction not to be missed. It is a wetland which is listed by RAMSAR<sup>8</sup> as a reserve, which the Chilean government is obliged to protect.'

---

<sup>8</sup>[http://www.ramsar.org/cda/en/ramsar-about-sites/main/ramsar/1-36-55\\_4000\\_0\\_\\_](http://www.ramsar.org/cda/en/ramsar-about-sites/main/ramsar/1-36-55_4000_0__)

Anger began to mark his words. ‘Well, I invite you to go there now, and you will find that not a single swan is left. All that paradise has become a water desert. Why?’

As he paused, a sense of horror began to well up inside me.

‘Because economic interests dictated that, for the sake of economic growth, to create jobs, etc., a massive pulp mill must be constructed upstream – which simply threw its shit into the river. Within six months the wetland was destroyed.’

Horrificed murmurs arose from the audience as he continued.

‘The pulp mill, supposedly an economic investment of \$1,500 million to create employment in the area, has given menial work to perhaps ten unemployed local people. The other 200 employees are all from elsewhere, and are sufficiently skilled to get jobs in other big investment projects,’ he told us. Not only had this devastated one of South America’s most biologically outstanding wetlands, decimating its famed population of black-necked swans along with most other birdlife, but the health of the human population has also been affected. Ominously, the indigenous Mapuche people of Chile were demoralised by the consequent collapse of the local tourism industry, which had provided employment and self-esteem.

‘We were threatened, lied to, and assured that such a catastrophe could never happen. We, a group of scientists from my university, had opposed the proposed development. We went to court but the Supreme Court found against us – because of a report produced by the developers, which included the names of many eminent scientists. After the tragedy, it emerged that most of the scientists had never been consulted. Their names were used without their knowledge and consent. They lied to the Supreme Court!’

Venting his anger he went on, ‘But what was their argument? Development! “Don’t you want Valdivia to develop?” they said to us, “don’t you see what this means? This is an investment of \$1,500 million for God’s sake ... can’t you see that ... don’t be so stupid!” Employment! Jobs!’

As he continued, the abstract caricature he was sketching began to sound more and more familiar.

‘Those arguments didn’t impress me in the least,’ Manfred responded to his abstract adversary. ‘If, instead of an investment of \$1,500 million in one project you invest in 1,500 projects by giving them \$1 million each, that will impress me. I have seen and heard the arguments for mega projects all over the world, but I have seldom, if indeed ever, seen a mega project that has proved beneficial to local people and the place where that project is located.’

Indeed, he is widely travelled and speaks seven languages, besides the universal language of music. Manfred had moved on from the slow, soulful, First Symphony of Brahms; instead, the thunderous, angry cadences of the Tragic Overture now pealed forth, provoking volcanic eruptions of anger within me.

‘Beneficial – yes – to the national economy in terms of export earnings,’ Manfred continued, ‘beneficial to the macro economy – yes – in terms of GDP. But hardly ever is it beneficial to the people who are affected. In practice it is almost always the opposite of this principle.’

*Under no circumstances whatsoever can any economic process or interest be above the reverence for life.*

‘I have never found anyone who disagrees with this in theory. But in practice, over and over again, the exact opposite happens.’

Nobody among the audience disagreed with the soundness of the principle; neither did anyone offer evidence to show that a mega project has in fact proved locally beneficial.

‘Some might argue that this is the inevitable cost of progress. But progress surely means that circumstances are better than before. How can any sane person call this progress?’ he challenged.



Darwin’s ‘strange sense of insecurity’ does not even begin to capture how I felt. This was no natural disaster, unfortunate for some in the short term, but beneficial for Life in the long term. This was no tectonic shift to open up a new stream of consciousness and shift the paradigm of understanding how nature works. This was a manmade environmental catastrophe.

The absurd economic rationale applied in Chile and parodied by Manfred had an exact parallel in South Africa. Expensive full page ‘advertorials’ had appeared in all major newspapers in early 2004, to market the N2 Wild Coast Toll Road. Nazir Alli, Chief Executive Officer of SANRAL, had spent millions to justify his R2 billion mega project to, “uplift the local residents” – by constructing a new high speed motorway along the Wild Coast.

There was one important difference: The “progress” on offer to residents of the Wild Coast still had to pass the required Environmental Impact Assessment (EIA). At the same time, while SANRAL’s massive marketing campaign had failed to acquire popular support for the motorway, Mr Alli had shown no signs of giving up – he was determined that it would prevail.

I needed to console both Manfred and myself, and to create some meaning from the looming catastrophe. Accordingly, I pledged to make an absolute and irrevocable commitment to offer my modest professional abilities and efforts to ensure that the N2 Wild Coast mega development did not lead to an outcome similar to that in



Valdivia: life subordinated to the economics of greed rather than need.

I was completely unsure how I would fulfil this pledge, but the time had come to test the bold assertion of Scottish mountaineer, William Murray:

‘Until one is committed, there is hesitancy, the chance to draw back. Concerning all acts of initiative (and creation), there is one elementary truth, ignorance of which kills countless ideas and splendid plans: that the moment one definitely commits oneself, then Providence moves too. All sorts of things occur to help one that would never otherwise have occurred. A whole stream of events issues from the decision, raising in one's favour all manner of unforeseen incidents and meetings and material assistance, which no man could have dreamed would have come his way. Whatever you can do, or dream you can do, begin it. Boldness has genius, power, and magic in it. Begin it now.’<sup>9</sup>

---

<sup>9</sup> W.H. Murray in *The Scottish Himalaya Expedition*, 1951. Often erroneously attributed to Goethe because it resonates with other passages he wrote.

## 4: Engaging the Powers

A man convinced against his will, is of the same opinion still.

*Benjamin Franklin.*



Nazir Alli, CEO of SANRAL.

*Photograph supplied.*

The first providential resource came in the form of a book: *Soil and Soul: People versus Corporate Power* by Scottish writer and Quaker pacifist, Alastair McIntosh, who relates the story of two successful civil society struggles. First, the struggle by Scottish Hebridean crofter communities, who successfully stopped a government-sanctioned plan to turn the Isle of Harris and Lewis into ‘the gravel pit of Europe’, by quarrying rock for road construction; secondly, the efforts of the islanders of Eigg, who formed a Trust that successfully bought out the Laird (who owned the island) and

restored it to communal land ownership, sparking wide-ranging land reform in Scotland.

McIntosh followed the wisdom of Liberation Theologian Walter Wink in developing the strategy.<sup>10</sup> It involved *naming* the powers, then *unmasking* the powers and finally *engaging* the powers, these being the titles of a trilogy of books by Wink (1935-2012) which together set out a process for transforming the ‘Powers that Be’.

‘Only when they have been named and unmasked can we start engaging the Powers. Engagement is a process of wrestling – seeking not to destroy, but to challenge (and accept being challenged) and to uplift. As Wink says: “The Powers are good. The Powers are fallen. The Powers must be redeemed.” Engagement, then, is about action for transformation. It is not about terminal destruction. The Powers do have a rightful and necessary place in life. But when power ceases to be predicated on service, when it ceases to be carried lightly and held responsibly and accountably, its fallen nature shows. That’s the corruption, and the role of redemption is to catch such fallen-crestedness and draw it back to its higher, God-given vocation. Such, of course, is the theology of non-violence and forgiveness that underlies South Africa’s Truth and Reconciliation Commission.’<sup>11</sup>

## §

My first port of call in *Engaging the Powers* was to interview Mr Nazir Alli, the CEO of SANRAL. I asked him why he was unable to see eye-to-eye with Bishop Geoff Davies over the N2 Wild Coast Toll Road.

**Nazir Alli:** ‘I have met with Bishop Davies, and I don’t want to personalise the issues, but I think it is unfortunate that he has taken the line he is taking. Because what concerns me is that, looking at the objections which were sent to the Minister of Environmental Affairs and Tourism, 60% of the objections came from the Western Cape and Gauteng, most of whom have no idea of the level of poverty

---

<sup>10</sup> McIntosh A, *Soil and Soul: People versus Corporate Power* Aurum Press (2004). See Wink Walter (1992) *Engaging the Powers: Discernment and Resistance in a World of Domination*, Fortress Press, Philadelphia. [Also from the same author are *Naming the Powers* (1984) and *Unmasking the Powers* (1986)].

<sup>11</sup> *Op cit* page 199.

in the area. 20% came from KZN, people affected by the road. So that's understandable. But then only 20% from the rest of the country.

I don't want to racialise the issue, but it seems to me that most of the people who are objecting to the road are the same people who were beneficiaries of apartheid, and do not show any social vision. A similar situation is evident with the objections to the Cosmo City development, where we are trying to promote a new ethos of development. The real reason they are objecting is because they don't want poorer black people living in the neighbourhood. This is a lot of hypocrisy.'

**John Clarke:** 'But that can hardly be true of Bishop Davies. He was Bishop of the Umzimvubu Diocese for 17 years and has gone out of his way to plead for roads to be upgraded in the area. One of his best priests was killed in a head-on collision on the R61 near Flagstaff. (This is the route he is begging to have upgraded.)

**Nazir:** 'John, as I said, I don't want to personalise this, and I have respect for Bishop Davies, but I think it is unfortunate that another set of interests is also behind the efforts to stop the road. These are people whose concern is not really for the poor who live in the area. And from SANRAL's point of view to 'do nothing' is not an alternative. People have been living for too long without jobs, as victims, and we cannot let that continue in the new South Africa.'

**John:** 'In that respect I think Bishop Davies would wholeheartedly agree with you. I would like to explain, Nazir, my own interest. The priest who was killed in the collision, Reverend Madoda Hhwatika, in fact helped me understand how apartheid undermined human dignity. We happened to be studying at Oxford University together in 1987. We became close friends and when I was saying farewell to him on my return to Durban, where I was working as a social worker for a humanitarian organisation, I invited Madoda to come and visit me when he finished his studies. He said he would love to keep in touch with me, but was not keen to come to Durban, because, he said, the Zulu people regarded the Mpondo as inferior. On previous visits to Durban he felt forced to pretend he was a Zulu, when travelling on buses and trains, etc., for fear of being ridiculed or even attacked. He didn't want to be put in a situation where he couldn't be true to himself and his culture. This helped me see that apartheid was not

just an issue of blacks *vs* whites, but that there was racial and ethnic prejudice throughout our society.

Unfortunately we lost touch. When I met Bishop Geoff Davies I asked after Madoda, and learned the sad news that Madoda had been killed. So I was never able to meet up with him. But I have now made contact with his widow and I have met his three young daughters. We have become friends, and my own interest and motivation is to ensure that Madoda and his family, and indeed my own children, can enjoy Pondoland and the Wild Coast without it being spoiled. I share that personal background, Nazir, so you can understand my motives and interest in the N2 Toll Road.

But I am sure that you share a similar interest for transformation, and thank goodness we are getting beyond the racial and ethnic fears of apartheid. But in speaking to Bishop Davies and others, they are deeply concerned about the proposed Wild Coast Toll Road proposal. At the workshop yesterday, your project manager, Ron Harmse, explained that one of the criteria for building a national road is that it must have an 'origin and a destination'. Of course he was speaking literally, but it was clear to me that, at a figurative level, opposition to the N2 Wild Coast Toll Road is largely because the 'origins' of the proposal are not clear, and that the ultimate 'destination' is in fact not going to be where SANRAL wishes it to be – in the sense that it will destroy rather than enhance the economic potential of the area.'

**Nazir:** 'If you look at our track record, you will see that we are extremely sensitive to local interests. We get criticised for failing to take account of them. Look at the N4 Maputo Development Corridor. The relocation of people was controversial, and there were sensitivities. But we went out of our way to ensure that the road was of benefit to those who are relocated. But people selectively focus on the negatives. There is a saying that says, "there are none so blind as those who will not see". In that case, there was no employment and needs for schools, clinics, easier access, etc. But by constructing the road there were of course changes. But the question that has to be asked is, "has the quality of life of the people, on balance, improved?" The evidence is very clear that it has. Should we have simply done nothing, and left everything undisturbed? This would be to condemn people to a life of continuing poverty.

Yes, any change results in disturbance, and some of the choices that have to be made are very hard, because we cannot always predict

what will happen. There are always side effects and negative spin-offs. But our critics caricature us by simply focusing on these, without looking at the larger overall benefits. SANRAL is there to ensure delivery. We will not be deterred from that mission, just because of the risks that present themselves.'

**John:** 'Could I sum it up with the saying, 'one cannot make omelettes without breaking eggs?'

**Nazir:** 'Exactly, and there is also the matter of raised expectations. When people hear of a road, their aspirations rise perhaps much higher than what can be met. And they get disappointed, thinking the road will solve all their problems, and guarantee them employment. We don't have control over everything, so we have learned to be careful about raising unrealistic expectations. We need to know exactly what we are dealing with. We don't have all the answers, and we will make mistakes, but we are learning from them, and seeking to make better decisions in the future.'

**John.** I'm sure Bishop Davies wouldn't argue against anything that improves the quality of life and standards of living of the people. Having now had the privilege of personal acquaintance with both of you, it seems to me that both yourself and Bishop Davies have the leadership qualities between you to really make the Wild Coast N2 a win/win/win all round. I see you as natural allies rather than adversaries, and on the face of it, there ought not to be this conflict. Could you not see yourself as potential 'partners' in creating a whole that is greater than the sum of the parts? A bit like a good marriage, where both partners bring different things to the whole. Having spoken in depth to both of you I feel more like a social worker counselling partners in a marriage than a writer dispassionately reporting the facts and opinions.

**Nazir:** 'You know John, a man that I had great respect for, was our former Minister of Transport, the late Dullah Omar. He was a wonderful wise man, who always encouraged us to think differently and not to get too emotional about things or to take things personally. Before he was Minister of Transport he was Minister of Justice, and encouraged us to remember that we always had the courts and justice system, ultimately, to defend us and show what is right. And you remember how in the days of apartheid, what attitude most white people had toward Archbishop Desmond Tutu! But today the very same people who distrusted him have come to trust him greatly

through the Truth and Reconciliation Commission, which he led. Dullah Omar was fully behind the Truth and Reconciliation Commission, and he encouraged us to rely on justice and the legal system to ensure that justice is ultimately done.'

That Nazir Alli also took inspiration from the Truth and Reconciliation Commission seemed a promising enough start to 'engaging the powers'. Perhaps engaging the powers would indeed achieve the sort of outcome about which Alastair McIntosh wrote. Perhaps we could avert a catastrophe such as that which Max-Neef had reported.

I left his office hoping that common sense would prevail and that the 'truth and reconciliation' commitment he espoused would be honoured by engaging with Bishop Davies, in truth and reconciliation – in that order, for there can be no reconciliation without truth, no more than there can be peace without justice.

On the face of it his reference to the TRC and espoused admiration of Archbishop Desmond Tutu and the late Dullah Omar ought to have been an encouragement. Was he offering to participate in a process of truth telling? Or was his strongly held belief in the ultimate vindication of a higher power simply a thinly veiled coded message that said, 'see you in court'?

I wanted to believe Nazir Alli was sincere in his commitment to truth and reconciliation but as things unfolded, although the letter of the TRC was on his lips, truth telling and reconciliation with Bishop Geoff Davies was far from his heart.

## §

Next, even though my bias was toward The Green Bishop's case, and in my engagement with Nazir Alli I had openly advocated for his interests, I decided to interview Geoff Davies formally and try to be as critical and sceptical of his claims and arguments. I intended that both interviews would be placed side-by-side so that readers with an interest could decide for themselves, and the debate could be intelligently advanced. The full text of both interviews is available on the SAFCEI website. For present purposes this excerpt suffices to educate readers on the specifics and subtleties of the issues.

**Geoff Davies:** ‘From the environmental organisations, we have tried our level best to impress upon SANRAL officials that we are concerned to bring about sustainable development, and in terms of this aim we don’t see the SANRAL preferred route achieving this. In fact the specialist review report (appointed by Minister van Schalkwyk of DEAT) to review the previous Environmental Impact Assessment Report (EIAR) says as much, and I have simply quoted that in my own objections to the Draft Scoping Report (DSR). They said that the proposed toll road proposal did not have a sound development argument to it, and its justification was purely commercial.

It would be far better, from our point of view, to upgrade the existing infrastructure. We want development that will benefit the local people. We have tried to emphasise that - if the local people are to benefit, then it is not just the costing of the road, but the social and environmental issues that have to be taken into consideration. For example, we have tried to explore what the social and economic impact would be if the road were built away from the established community, and likewise, what would be the added benefit to the existing community if the existing road was upgraded instead. I can assure Mr Alli that there will be immense benefit to the local community if the local infrastructure was upgraded. We are asking, in fact imploring, SANRAL to upgrade the existing roads infrastructure of Pondoland, if they want to bring poverty relief. The people can help themselves if their roads infrastructure is upgraded.

When the meeting [on alternative alignments] started it was made clear that it wasn’t a meeting that had the power to make decisions about the alignment of the road. It was also made clear that the decision as to the criteria of what constituted a good national road had already been decided, and Mr Harmse, simply presented these as non-negotiables. The expectations of Keith Cooper who represented the Save the Wild Coast Campaign (SWCC), and indeed the representatives present from SANPARKS and the Eastern Cape Department of Environment and Conservation, was that the meeting was in a position to generate creative, “out the box” thinking.’

**John:** ‘From the perspective of SANRAL, the overall framework for determining value has already been decided at a higher policy level, and parameters set accordingly. It became very clear from the outset that the meeting was pitched at an operational efficiency level – i.e. “how can the road be more efficient”, rather than the strategic



question, “how can we make the road more effective?” or indeed the even higher normative question of, “what is the purpose of the road?”

It seems that civil society had arrived hoping to participate in a discussion that widened the “solution space” and to engage in a heuristic search for an optimal solution that satisfied all interests. But SANRAL is simply the instrument for implementing a government policy that seeks to maximise the financial investment and material benefits in developing a national roads infrastructure.’

**Geoff:** ‘Yes John, I think you have hit the nail on the head by pointing to the larger policy and principles issues. We kept pushing SANRAL on the question of why their design standards for the road were not flexible, and got no response. We kept pushing them on the issue of alternatives to tolling, for financing the infrastructure, and got no response from them.

All they said was that the road has to be of an international design standard for a toll road that could competitively match the best in the world, carrying trucks in safety at a speed of 120 kph. We kept asking why the design standards could not be modified to be more appropriate to local needs. This would change the whole scenario, and potentially make it much less costly. But SANRAL kept insisting that these global standards had to be met, and we already know that it is impossible to meet that standard. They will never be able to have a 120 km design speed around the Kei cuttings, for example, or through Lusikisiki and when the road goes through a town. So within SANRAL there is little willingness to cooperate in coming to some form of compromise agreement that involves changing the design parameters.’

## §

‘Lobster Pots are designed to catch lobsters,’ Sir Geoffrey Vickers explains in his classic book of the 1970s, *Freedom in a Rocking Boat*.

‘A man entering a man-sized lobster pot would become suspicious of the narrowing tunnel, he would shrink from the drop at the end; and if he fell in, he would recognise the entrance as a possible exit and climb out again – even if he were the shape of the lobster.

A trap is a trap only for creatures that cannot solve the problems that it sets. Man-traps are dangerous only in relation to the limitations on what men can see and value and do. The nature of the trap is a

function of the nature of the trapped. To describe either is to imply the other.

I start with the trap, because it is more consciously familiar; we the trapped tend to take our state of mind for granted – which is partly why we are trapped. With the shape of the trap in our minds, we shall be better able to see the relevance of our limitations and to question those assumptions about ourselves which are most inept to the activity and experience of being human now.’

It is within ourselves – the way we think and how we interact with each other – that opportunities are either created or mitigated. It is within our subjective state of mind that reality is perceived. Believing is seeing and the very act of believing is a choice to construct reality to suit our preconceptions and reinforce our interests. Fear plays a significant part in shaping perception and creating blind spots. As another mentor, Dr Allenna Leonard, explains,

‘Some of the new control problems lie more in what is not there than what is. ***Blind spots, unfortunately, don’t show up as dark patches*** (my emphasis). Our eyes and our minds fill in the blanks and we do not see that we are not seeing. The missed opportunity, the emerging threat, the unacknowledged stakeholder, and the ham-handed response to a crisis are all possibilities that old-style control thinking may not register. The new challenge is to anticipate risks from many directions and prepare to meet them. Understanding the contexts and thinking behind old style control is a valuable precondition to examining existing control assumptions and practices in the light of current needs and values’ (personal correspondence).’

The proverb Nazir Alli quoted, ‘there are none so blind as those who will not see’ has a validity to it and echoes the Prophet Jeremiah: ‘Now listen to this, stupid and thoughtless people – they have eyes and do not see, they have ears and do not hear’ (Jeremiah 5:21).

Where there is an unequal power relationship between people with different interests and perspectives on a problem of common concern, there has to be a safe space, and a level space, if it is going to be an open space where trust can evolve to the point where we become aware of the logs in our own eyes and the specks in the eyes of others. Truth and Reconciliation works by means of grace,

forgiveness and healing, so that we may become aware of the blind spots and thus escape the lobster traps within which we are ensnared – the state of mind, the assumptions about ourselves, that prevent us from being human now.

It is not for any human being to sit in judgement on the sincerity of commitment. The access roads to hell being what they are, we must be ‘gentle on the people’ including ourselves; we must be forgiving of misguided but sincere intentions, so that we might find our way to something more robust, especially if we desire change in social, political and economic reality. ‘We are indeed made in the image of some God,’ the theologian Walter Brueggemann teaches in his book *The Prophetic Imagination*, ‘and perhaps we have no more important theological investigation than to discern in whose image we are made.’

Although I had an agenda when engaging Nazir Alli, it was not to convert him to my Roman Catholic understanding of God, or Bishop Davies’s Anglican understanding of God, or Alastair McIntosh’s Quaker understanding of God, or even Manfred Max-Neef’s agnostic understanding of God. I was interested in Nazir Alli’s own understanding of his ‘god’, particularly since he seemed to be motivated by an ultimate reality that he believed would vindicate his strongly held conviction that the N2 Wild Coast Toll Road was ethically, strategically and operationally the right thing to do.

Hendrik Verwoerd felt the same about his grand vision for apartheid. I learned this from a young philosophy lecturer from Stellenbosch University. He told me that Hendrik Verwoerd apparently never had even the faintest shadow of doubt about the rightness of his cause. The young lecturer knew what he was talking about: this was Hendrik Verwoerd’s grandson, Wilhelm. How difficult had it been for him to break free from the ideological lobster trap created by his grandfather? Yet he had done it, despite being ostracised by his father who saw his son’s ‘liberation struggle’ as traitorous. Wilhelm and I became close because of our shared interest in Max-Neef’s development paradigm. Max-Neef had given us a new language and an emancipatory framework to enable us to escape our respective lobster traps of culture, class, religion and

language. We fled our cages to work for the ‘RDP of the soul’ that Nelson Mandela had called for.

The most telling insight from Human Scale Development methodology is this: no matter how well-intentioned, benevolent and intellectually robust a ‘satisfier’ of fundamental human needs may be, if it is imposed through power, coercion and manipulation it is *not* going to satisfy fundamental human needs and will likely be rejected. Politics by its very nature is a contest for ideological supremacy. Wilhelm Verwoerd helped me understand that ideological and ethical certainty is extremely dangerous. The danger in ideology lies not in its weaknesses but in the strength with which adherents hold fast to its precepts and assumptions and try to force them on other people.

John’s Gospel relates how Jesus healed a man born blind. The lucky man had an experiential understanding of the difference between blindness and sight (but interestingly also between sight and perception, as his healing was a two-stage process). However, in terms of the religious theological dogma of the day, blindness was a consequence of sin. The Pharisees were stuck in the lobster trap of that assumption and were terribly threatened by someone who seemed less concerned about the man’s state of grace than the fact that he was handicapped by having been born blind. Jesus could not heal the blindness of the Pharisees and chief priests who claimed they could perceive. I sort of understand how Jesus must have felt after his attempt to engage the Powers, and why he warned his followers to proceed with *extreme caution* when anyone in a position of considerable institutional power began to diagnose the blindness in those with considerably less institutional power.

However, it was not only the flaws in Nazir Alli’s development justification that helped us decide the next step; exchanges with his Project Manager, Ron Harmse, during the alternative alignments workshop, were significant.

Bishop Davies, Dr Keith Cooper and a number of other stakeholders, at their own cost, had assembled to engage in an open-ended examination of alternative alignments. At this event Mr Harmse proudly introduced a new software programme purchased by SANRAL from an Australian software developer

called Quantm. Sophisticated proprietary algorithms had confirmed that, after all the relevant data concerning topography, anticipated traffic volumes, population density (and the cost of resettlement and compensation of alternative alignments), gradients, design standards, etc., had been analysed, the programme had determined the optimum alignment for the shortcut. It had verified, with some minor adjustments, that SANRAL's Preferred Alignment was the best possible route for the shortcut and that it had nothing to do with the fact that it happened to pass some 5 km from the mineral-rich Xolobeni coastal dunes.

I wanted to ask if Quantm could respond to this additional parameter: *under no circumstances whatsoever can any economic process or interest be above the reverence for life.*

It became obvious that we were in for the long haul, and that we had to match Nazir Alli in the game he wanted to play, without being so ensnared by the nature of his trap as to believe that his was the only game in town.

He would be playing to his strengths for in adversarial battles with state institutions, strength does not lie in the justice of one's cause or the merits of the case, but in the quantum of money. By definition, the poor don't have any. He had state coffers to fund his legal team in a long-term war of attrition.

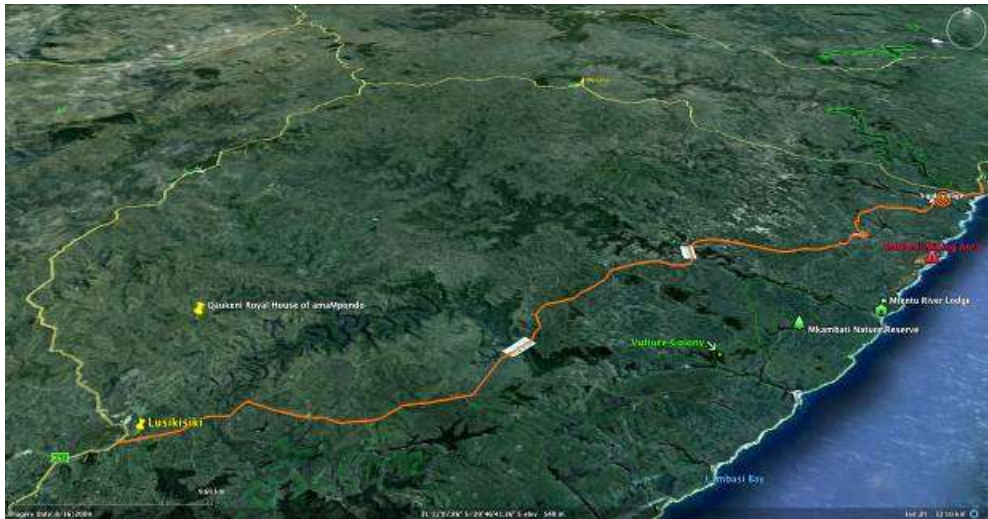
In a perfect theoretical world the merits of the case should win. But as some wag has said: 'In theory, there should be no difference between theory and practice. In practice there always is'. It was in the practice only that the battle would be won.

'Having the right case and the right amount of money are two necessary but not sufficient conditions for winning in court,' our attorney, Cormac Cullinan, warned us, adding, 'one also needs to have the right clients. What do the people most affected really think about the N2 Toll Road? We cannot succeed unless the affected people are empowered to be subjects rather than objects in the process.'

'Go and see the Queen,' Bishop Davies urged me. 'Give her my regards, and tell her we are right behind her and the King.'

The 'shift was about to hit the fan'. As comedian Swami Beyondananda quipped: 'I have been receiving encouraging intelligence reports that say, indeed, humans are becoming more intelligent. Yes, people everywhere are wising-up. And that's great, because we could sure use an up-wising! The time for revolution and overthrowing has passed. Now we need an evolution where we 'overgrow' the current dysfunctional system from the grassroots up.'

The Great Mpondo Up-wising was about to begin.



Proposed Pondoland Toll Road

## 5: The Barefoot Queen

When I married the King of the Mpondo I had agreed to be mother of his children and of the nation. I never imagined this would mean having to fight for my children. But now I realise what it means to be a mother.

*Queen Lombekiso MaSobhuza Sigcau*



Kumkanikazi (Queen) Sigcau.

*Photograph by Cheryl Alexander.*

At that stage I knew the Queen only by reputation. The *Daily Dispatch* had reported in May 2004 that *Kumkanikazi* (Her Majesty) Lombekiso MaSobuza Sigcau was angry at having been left out of the consultation loop with respect to both the N2 Toll Road and the Xolobeni Mining debates.

‘We cannot allow people to be moved from their ploughed fields and grazing lands to make way for a mine that will completely destroy the environment. The Mpondos have a history of being sidelined, so we are putting our foot down,’ Queen Sigcau said.

She pointed out that the process was illegal in that the Pondoland community had not been consulted as is stipulated by section 26 of the Environmental Conservation Act.

After acquainting himself with all the objections, Minister van Schalkwyk sought a special meeting with the Royal Family at the Qaukeni *Komkulu* (Great Place), the Royal Residence of the Mpondo near Lusikisiki in July 2004. At extremely short notice Queen Sigcau extended open invitations to political parties and civil society organisations. The Democratic Alliance, the Independent Democrats, the Pan Africanist Congress (PAC), the Community of Mnyameni, the Wildlife and Environment Society of SA (WESSA) and the Environmental Justice Networking Forum (EJNF); all responded, eager to participate in the event. Media organisations were present, including a crew from SABC2's environmental programme, 50/50.

The delegation included the Minister of Transport, Jeff Radebe; the Premier of the Eastern Cape, Nosimo Balindlela; and the Deputy Minister of Minerals and Energy, Lulu Xingwana; and other senior government officials, including Dr Crispian Olver and Mr Nazir Alli (at the time of writing only Alli is still in the same position that he occupied in 2004 – Radebe and Xingwana have changed portfolios, Balindlela has changed parties and Olver has left government service).

Minister van Schalkwyk informed the gathering that 223 appeals against the Toll Road had been received and that he still had to apply his mind to the appeals before any go ahead could be given. He said that he did not support the mining option and that eco-tourism would be a much better option for the area. 'Pondoland does not deserve mining,' he said.

Queen Sigcau stated that the Province had given her its assurance that the Toll Road would be re-routed via Holy Cross then onto Quakeni to join up with the road to Lusikisiki. 'This will benefit my people far more than a high speed freeway,' she said. She added she would not hesitate to go to court if the Premier of the Eastern Cape reneged on its agreement with the Royal household. She was developing a reputation very similar to that of Wangari Maathai.





Ministers Jeff Radebe and Marthinus van Schalkwyk with former Premier Nosimo Balindlela and Deputy Minister Lulu Xingwana.

*Photograph by Don Guy.*

A princess in her own right as a granddaughter of King Sobhuza of Swaziland, she had been betrothed to become the *Ndlunkulu* (The Great Wife) of the heir apparent of the Mpondo, Mpondombini Sigcau, in 1976. The Mpondo people paid the customary *lobola* (bride price) and a bond of solidarity was forged with the Swazi Royal Family. The alliance would serve also to strengthen the institution of African Traditional Leadership.

Like Wangari Maathai, Kumkanikazi had been educated in the United States of America. She graduated from Vincennes University, Indiana, with a Liberal Arts degree, majoring in anthropology (while her husband studied history) and went on to receive an M.Sc. (Library Science) degree from the University of Columbia. In 1978, upon the death of his father, Kumkani Botha Sigcau, Mpondombini became King and Lombekiso became Queen. From the start they both cherished the environment and cared for

the poor and oppressed in equal measure. Kumkanikazi served as a patron of an eco-tourism venture on the Pondoland Coast known as Amadiba Adventures.

At the consultation meeting Kumkanikazi had asked the simplest of rhetorical questions: ‘We need to know how a toll road develops people. Where in the world has a toll road ever developed people?’

She was encouraged by Minister van Schalkwyk’s openness and gratified by his sincere apology for having neglected to consult properly with the Royal Family. He reassured them that before ruling on the objections he would take all concerns into account.

An ironic situation was presenting itself to the SWCC: might this courageous female African Traditional Leader find a lasting alliance with a shrewd white male politician? Perhaps van Schalkwyk – adept at carving circuitous political paths – might prove to be the one to realign the N2 Toll Road, accommodating both of the complex political and physical landscapes under discussion?

To the delight of all, on the anniversary of Olver’s unpopular Record of Decision, van Schalkwyk set it aside.

His reasoning was brief and to the point: ‘Having taken into account legal advice, and an independent reviewer’s report, the Department’s response to the appeals, and relevant appeals against the decision of 3 December 2003, to grant written authorisation in terms of section 22 of the Environmental Conservation Act No. 73 of 1989 to SANRAL for the construction of the N2 Wild Coast Toll Road between Gonubie interchange, near East London, and the Isipingo interchange, south of Durban, and acting in terms of section 35(4) of the ECA, the said decision and authorisation is hereby set aside.’

His reviewers had found that the links between the Wild Coast Consortium (the applicant) and the environmental consultants (Rufus Maruma, founder of Bohlweki Environmental) are ‘extensive and inappropriately close’. Later the 223 objectors received his reasons through the post.

‘The Minister has concluded that the failure to appoint an “independent consultant” in accordance with the peremptory

requirements of regulation 3(1)(a) of the EIA Regulations resulted in the environmental assessment process being fatally flawed and that since the law had not been complied with the application is regarded to have been withdrawn.'

Minister van Schalkwyk was in effect posing much the same question that Kumkanikazi had asked: How can we be sure that the scheme will be an ecologically sustainable and socio-economically justifiable development, when the person responsible for generating information upon which to make that assessment happens to have a substantial commercial interest in the N2 Wild Coast Tolling Concession?

The drop in the share price of Mineral Commodities Limited (MRC) following the Minister's announcement showed that, notwithstanding Alli's repeated denial that the N2 shortcut and Xolobeni mining ventures were linked, the mining protagonists needed the road. Even though the government would not, market forces confirmed the assumption by the SWCC that MRC was relying on a publicly funded road to ensure the viability of the dune-mining scheme.

However, Minister van Schalkwyk left the door open for the N2 Wild Coast Consortium (N2WCC) to submit a new bid, provided that a firm of consultants whose independence was guaranteed redid the EIA report. It was not clear to what extent the original study would be regarded as legally tainted, or whether the new consultants would be able to salvage parts of the original specialist studies on noise, visuals, tourism, ecology and social impacts, dating back to 2001.

The SWCC soon realised that their exuberant proclamation that the 'N2 Wild Toll Road was dead', was premature. SANRAL was not going to take things lying down. Nazir Alli, clearly miffed by the setback, gave prominence to the issue in his report from the CEO in SANRAL's annual report for 2005. He said:

'Historical planning has left vast numbers of our people without sufficient access to markets or even basic services. The rural backlog needs to be tackled head-on, not only by providing access roads, but also major roads of high mobility and economic significance. Strengthening the abilities of the poor to attack poverty by

accumulating personal assets will become the major ingredient in fostering an incentive structure to shift macro-economic patterns.

It is thus understandable that the decision by the Minister of Environmental Affairs and Tourism (DEAT) to uphold the appeals on the N2 Wild Coast Toll Road was met with great disappointment and disillusionment by SANRAL. The challenge to SANRAL lies in balancing the rights and obligations of both the environment and the welfare of our people. The manner in which this process is managed, and the fact that the strident call in the name of protecting the environment should not be answered at the expense of the poor, are issues that we grapple with on a daily basis.'

In a thinly veiled attack on his detractors, he added:

'Progress has most unfortunately, and to the detriment of the poor, been halted as a result of the ministerial decision from the National Department of Environmental Affairs and Tourism (DEAT) on 9 December 2004 to set aside the previous Record of Decision (ROD).

SANRAL is of the opinion that the responsible Honourable Minister was wrong in law to have set aside the ROD and furthermore that this project should be viewed within its proper context, i.e. furthering sustainable development and improving the quality of life of one of the poorest and most underdeveloped parts of our country.

An extensive appraisal of the report and the Minister's findings will now be undertaken to ascertain what may be retrieved from the original process and plan the way forward. In the meantime, discussions have been held with community structures, the Department of Land Affairs and Agriculture and the Land Claims Commission to determine the process needed to take the project further. These processes have been agreed and the next step, the Intent to Toll process, will only commence once the environmental approval can be obtained.'

Alli never explained why SANRAL had taken the unprecedented step of joining the N2WCC as co-applicant. SWCC suspected that this was a tactic to dilute the strong chemistry between Bohlweki and Stewart Scott International, and blow smoke around perceptions that the lack of independence of the EIA consultants constituted a fatal flaw in the process. In fact, the effect was to confirm suspicion that Nazir Alli was prepared to take the flak for

the N2WCC, for reasons he has never explained. How could he expect us not to be suspicious?

Assuming the role of co-applicant was an extremely permissive interpretation of SANRAL's own policy for regulating unsolicited bids, 'aimed at preventing monopolistic practices'. Clearly Alli was prepared to forego a working relationship with the highly credible Green Bishop and the Mpondo King and Queen, apparently in favour of big business interests. He may have been hoping to fool us, but history has marched on in leaps and bounds to show that he was fooling himself. You cannot fool all of the people all of the time, as Churchill once intoned. The contest escalated.

Having found the EIA process fatally flawed on a procedural and legal issue, van Schalkwyk did not need to comment on the merits of any of the other grounds for appeal. He did not release the report to the public and besides the DEAT minister and his officials, only SANRAL and the N2WCC (presumably), were privileged enough to read the specialists review. But van Schalkwyk did add the rider, 'the fact that this decision dealt only with one ground of appeal does not mean that the other grounds are necessarily without merit'. Perceiving this as a hint to objectors to petition DEAT for more, Dr Nick King, Executive Director of the Endangered Wildlife Trust (EWT) and a member of the SWCC, arranged for EWT's lawyers to demand access to the independent reviewers' report, using the Promotion of Access to Information Act. Although it eventually succeeded, the SWCC was kept waiting for more than a year to see the report.

Meanwhile the N2WCC, presumably smarting from the public relations disaster arising from exposure of the conflict of interests, ran for cover and maintained a stoical silence, despite having received 'scheme developer status'. The website was hollowed out and the only useful information it presented before being shut down completely was 'Last modified on : 10/01/2004 at 11:12:58'.

Efforts to obtain a copy of the 'Scheme Development Agreement' between SANRAL and the N2WCC were rebuffed by Nazir Alli, who cited his obligation to protect the commercial interests of the bidding consortium. If the SANRAL Policy on Unsolicited Proposals is to be followed properly, the agreement must specify

*‘matters to be resolved’ by the Scheme Developer with ‘relevant stakeholders and/or role players and bring about the required scope changes. If successful, the Scheme Developer should optimise the Proposal and present the Agency with the optimised Proposal as well as evidence of solutions to the Matters to be Resolved’.*

Minister van Schalkwyk, obviously a major stakeholder, had saved SANRAL the trouble of pinpointing matters to be resolved by making the specialists review report available to them. As an agency ultimately accountable to Government, one would have thought that SANRAL would have been grateful, and would have dutifully returned the unsolicited bid to N2WCC, to ensure they did a proper job according to the purpose of the policy. *‘Proposals should reflect a conformance with government aims, be in the public interest, avoid the creation of monopolistic practices, not seek to place onerous conditions upon government, for example no explicit government guarantees will be issued, and reflect environmental, social and economic sustainability’.* So as to leave bidders in no doubt as to what this meant, the policy event advises *‘In this respect, the White Paper on Transport and the Reconstruction and Development Programme may further assist sponsors with the preparation of their proposals.’*

A new firm of EIA specialist consultants was appointed, CCA Environmental, together with Nomi Mutiali and Associates. Initially this raised hopes that a better job would be done, and that the SWCC’s proposals and ideas for a ‘win-win’ would be given due consideration. Mysteriously, instead of the N2WCC coming out of its corner for round two, SANRAL donned the gloves instead. The consultants published a revised draft scoping report and called for comment, suggestions and proposals. Few of the concerns raised by the specialists review report were acknowledged, and a clear preference was again expressed by SANRAL for a route alignment of the section of the Toll Road that was still, coincidentally, most favourable for any envisaged dune mining at Xolobeni. But for all Nazir Alli’s claims that the proposal needed to be considered in ‘its proper context’, the Draft Scoping Report did not even mention the mining issue.

The call to my first audience with the Queen happened to clash with another commitment I had made with a group of Christian environmentalists led by Reverend Tim Gray of the St Francis of Assisi Anglican Parish in Johannesburg.

‘Tim, you Anglicans understand that when a Queen summonses you, everything else must take second place,’ I joked, ‘can I excuse myself from the meeting? The Queen of the Mpondo has granted me an audience to see her next weekend.’

‘Really, that’s exciting,’ he said, ‘in fact one of my parishioners has given me a book about Pondoland, written by his mother, Monica Hunter Wilson. It’s apparently the first anthropological study of the Mpondo, written in 1936. I have it here on my desk in front of me.’

‘Tim, you have to lend it to me. Please. It would really help me sound intelligent when I meet her. She’s quite a brain, apparently.’

‘Sure. Come and get it. But it’s a rare book, so look after it!’

After a quick stopover to fetch the book, I headed out from the smog of Johannesburg once more, on the long journey to the Wild Coast to see the Queen. This is how my journal reports the encounter:

**‘5 August 2006:** Queen Sigcau took me to the King’s council chamber so we could talk without interruption. We spent two hours together which gave me a privileged insight into the issues and challenges she and her husband face in their leadership roles in the Qaukeni Regional Authority, which has jurisdiction over 28 chiefdoms and four sub-chiefdoms of the Mpondo.

She explained that for several months she has been undergoing treatment in Johannesburg for a knee-joint problem, and had been recuperating in Swaziland. She had not been back at Qaukeni for very long, and was still ‘finding her feet’, both literally and figuratively, after her absence. She was coming to terms with a range of issues, including how best to contribute to the Nhlapo Commission on Traditional Leadership Disputes and Claims<sup>12</sup>.

---

<sup>12</sup> Professor Thandabantu Nhlapo resigned as Chair of the Commission in 2008, and the vice-Chair, Professor Moleleki, continued in the role. However, the media continued to refer to the Commission, incorrectly, as the Nhlapo Commission. I interviewed Professor Nhlapo in August

The restoration of the Qunu chieftainship to the Mandela clan was for her highly significant, since it signalled an irrevocable endorsement of traditional leadership within a democratic South Africa. (One can hardly question whether chiefs have legitimacy if a man is installed as a chief who happens to also be the grandson of the Father of the Nation, Nelson Mandela.)

Trying to appear intelligent, I said a friend had lent me Monica Hunter Wilson's book, *Reaction to Conquest*. Her face lit up with excitement and she asked if I had it with me – and begged me please to let her borrow it. Even though it was a book lent to me, I believed then and now that it had been providentially given to me, and willingly let her borrow it. I hoped that Tim would forgive me for being loose with his possession – he did – and reasoned that since she happens to be a trained librarian, she could be trusted with a book. Queen Sigcau was extremely grateful, displaying the enthusiasm that one sees when people have received an answer to their prayers<sup>13</sup>.

She promised to take very good care of it, and asked if I might be able to obtain a copy for her. Being of the Swazi nation, Queen Sigcau (together with her daughter, Wezizwe, the heir to the throne) is deeply devoted to playing a servant-leadership role for her adopted people. The book proved invaluable to her. The Commission on Traditional Leadership is busy with claims from a relative who believed he was the rightful King, and Queen Sigcau said she had found material in the book, which was of direct bearing. She had read these sections to the King and this had helped them respond more appropriately. (I was consoled by reflecting that good research and writing never loses its value, and may in fact increase in value over time. The book was first published in 1936, and republished in 1962. Professor Monica Hunter Wilson had two sons, Francis and Tim. Professor Francis Wilson, a labour economist at the University of Cape Town, has since told me that the book is due to be republished.)

This was followed by another encouraging synchronicity.

To accommodate the Queen's wish to postpone our planned discussion on the N2 Wild Coast Toll issues, I told her it was my

---

2010 and he expressed some exasperation that his name continued to be associated with the findings of the Commission after 2008, even though he played no role in the drafting or endorsing the final report.

<sup>13</sup> In proofing this book Kumkanikazi felt I was understating her feeling. "I was ecstatic" she scribbled in the margin.



intention to return in two weeks' time, anyway. I planned to spend some time observing archaeologists from the University of the Witwatersrand when they commenced their field investigation of the Sangoan artefacts and possible hominid fossil remains in the Xolobeni area.'

The background to this is that the famous amateur botanist, Tony Abbott, had found evidence of ancient stone-age tools in the dunes. These stones are randomly scattered, exposed by strong prevailing northeasterly winds that have deflated the dunes over centuries, accounting for the fact that 'heavy' minerals are left behind because 'light' minerals are more easily blown away.

He reported this to his friends, Professor Ron Clarke (no relation but we do share common ancestors) and his wife, Dr Kathleen Kuman, both internationally famous palaeontologists.

To continue from my journal entry: 'Queen Sigcau showed surprise, as she was not aware of that story. Evidently the news had broken while she was away in Swaziland recuperating, and nobody had thought to tell her. But her expression showed still more enthusiasm and she told me that archeology had been part of her studies for her degree in anthropology. I said I would try to arrange for her to visit the site when the team commenced their work.

This led to a further discussion of the paradox that in order to know where we are going we need to know where we have come from. I suggested that perhaps traditional leaders, who deeply understand their heritage and indigenous knowledge, might still prove to be the governance structure that is best suited to ensuring a harmonious balance between the survival trinity of "humanity, nature and technology". I explained how Thomas Berry had been hugely influential in my thinking, with his call for a more animate relationship between humans and the cosmos, "we are not a collection of objects, but a communion of subjects". I asked if she knew of Cormac Cullinan's book *Wild Law*, which argued for an, "earth jurisprudence". She was very eager to obtain a copy and I agreed to arrange this.'

That was how my journal records my first meeting with Queen Sigcau at the Qaukeni Great Place on a peaceful Saturday afternoon in July 2006.

§

The political cartoon pictured below features an angry barefoot woman being bulldozed. The only character identified is Sicelo Shiceka the late minister of Cooperative Government and Traditional Affairs. It appeared in *The Dispatch* some years after my first meeting with Queen Sigcau but it is presented at this point because it explains a great deal.

Kumkanikazi was not sure if the glaring, angry female protestor was meant to be her. ‘I’m not sure John’, she pondered with a smile



Cartoon by Cuen Miles for *The Daily Dispatch*.

on her face ‘surely he would not depict me without any shoes?’

I had not seen the cartoon myself and contacted Cuen Miles the political cartoonist with *The Dispatch* to ask him whether he did indeed have Queen Sigcau in mind when he sketched the character.

He didn't, but the whole point of cartooning is to caricature, to exaggerate and reframe, so as to spark new seeds of consciousness. It is entirely a matter of interpretation and imagination. When I reported back to Kumkanikazi, I asked if she was perhaps relieved to know that Cuen Miles had not been so disrespectful as to draw her barefoot.

'No not at all John,' she reassured me 'in fact as I thought about it I realised it was a great privilege to be shown as someone whose feet were on the ground, without any shoes to stop me feeling the earth beneath my feet. Just as the Wild Coast is wild and undeveloped maybe we have something to communicate to the rest of the world about what will be lost by "development".'

At that stage I had not introduced her to my other friend, the 'barefoot economist' Manfred Max-Neef, so it was another entirely spontaneous serendipity. Queen Sigcau's ready identification with the barefoot protestor said a great deal about her humility, modesty and courage. She had not (yet?) had to lie in front of a bulldozer to stop those powerful people intent on forcing the pace of Progre\$\$\$\$. She had however experienced a lonely and very frightening experience in the dark of a hotel room because of her refusal to be bulldozed.

## §

With Her Majesty's permission I can now share the harrowing experiences she had to endure in the months after the Inter-ministerial visit to Qaukeni in July 2004. Just as Wangari Maathai had had to face sinister forces of evil in the course of establishing the Green Belt Movement in Kenya, Queen Sigcau began to experience an intensification of harassment. When Wangari's book *Unbowed: A Memoir* was published a few months later, I made sure Kumkanikazi received a copy.

During her visit to Pretoria to have medical treatment to her knee, Queen Sigcau was subjected to two successive traumatic experiences. Being of the Swazi Royal Family she had to follow careful security and diplomatic protocols, especially when travelling outside the Qaukeni area. She was booked to stay in the Pretoria Sheraton Hotel before admission to hospital. The Sheraton

Hotel makes its money by giving high-level service to high profile VIPs. The King and Queen of Jordan and other dignitaries happened to be booked in at the same time, on the same floor. Room access is controlled from the moment one enters the lifts, with electronically programmed key cards that restrict guests to exiting the lift only on the floor where their room is situated. Further security measures exist on each floor to ensure no unauthorised visitors are permitted to move around the hotel.

‘The hotel was apparently overbooked,’ Kumkanikazi explained, ‘and my companion – a nursing sister who looks after the medical needs of the Swazi Royal Family – agreed at the last minute to help the hotel management by offering to share my large double room with me, so that members of a German business delegation could squeeze more of their group into the hotel. We talked until quite late and went to sleep. Then, a little after 02h00 we were woken when light from the passage flooded the room as someone suddenly opened the door from the outside. Two men rapidly entered. Sister Jones yelled and screamed loudly. They ran off. They were probably not expecting to find two people in the room and I suspect that, but for the last minute change of room arrangements, they could have killed me. I was very scared.’

In the light of day the Queen thought she might have been imagining things. ‘It seemed so improbable that a hotel with such strict security measures would allow such an incident.’

‘However two days later another sinister incident occurred, showing that it was not paranoid imagination at work. While eating breakfast in the first-floor breakfast buffet room, the contents of my handbag were stolen, including two cell phones containing the numbers of all my contacts.’

‘The King of Jordan and President of Congo Brazzaville were also in the restaurant,’ she explained. ‘I was sitting at a table with the South African ambassador to Congo Brazzaville, Mr Makanya. We stood up to get some fruit from the buffet. When we returned we found that the cell phones and other personal items had been stolen from my handbag.’

The hotel's CCTV cameras captured the theft, showing two men making a beeline for the Queen's bag as soon as her back was turned. However the thieves had ensured that their faces were not visible to the cameras and exited the room rapidly, before the alarm could be raised.

'My blood pressure shot up, forcing a delay in the surgery.'

## §

After my interview with the Queen I headed for Durban. The first half of the three-hour road trip took me through the beautiful Pondoland countryside, with the Ingeli Mountains to the left, and glimpses of blue sea beyond green hills on my right.

Crossing the Mthamvuna River Bridge, which today connects the Eastern Cape and KwaZulu-Natal, I had switched on the radio and was greeted with the sound of President Mbeki's voice on SABC SAfm. He was delivering the Fourth Nelson Mandela Memorial Speech. A year had elapsed since Wangari Maathai had delivered the Third, which had propelled me into my Wild Coast awakening.

My first inclination was to switch off the radio. I was angry with President Mbeki for having presided over the tragic reversal of everything that the liberation struggle stood for: first, by shutting down the Reconstruction and Development Programme; and secondly, by stifling the investigation into the Arms Deal and emasculating the Legislature by forcing Andrew Feinstein to resign as the ranking ANC member of the Parliamentary Select Committee on Public Accounts (SCOPA). Feinstein had called for an unfettered enquiry into allegations of kickbacks and bribes and large donations to the ANC's election coffers. Mbeki, under pressure from the ANC National Executive Committee, had refused to give SCOPA what it needed.

However, reminding myself that President Mbeki had once patiently listened to me pontificating about Human Scale Development during an exchange we had in 1994, my conscience obliged me now to listen to him. Our exchange had occurred shortly before the historic first democratic election. I had been invited, together with a small, select group of social workers and NGO

directors, to an exclusive meeting with Thabo Mbeki. For the better part of the meeting he had listened, while each of us shared experiences and thoughts about the social development challenges which lay ahead, and what we thought the ANC could do about them when it came to power – a virtual certainty but he was modest enough not to be too presumptuous. I had proudly given him a booklet I had written titled *Human Scale Development: A South African Perspective* in which I had interpreted the development challenges we faced in the new South Africa through the eyes of Manfred Max-Neef's re-conceptualisation of development. Mr Mbeki graciously accepted it. After each of us had been given a chance to contribute our wisdom he responded with great modesty, exhorting us to "hold us accountable, to make sure we do not lose sight of the values and ideals which you have all expressed". He frankly acknowledged that, "when we come to power we will inevitably become distracted with the affairs of State and become preoccupied with operating the levers of power". He had urged us to be vigilant, to "remind us of where we have come from, and what the liberation struggle has been about. We could well forget or lose sight of the values, principles and vision that you have each shared with me today".

I was impressed in 1994, but I was disillusioned in 2006. I felt that the dream had not been simply deferred, as Mark Gevisser titled his biography of Thabo Mbeki – I felt it had been abandoned. Yet, I reminded myself, he had anticipated that things would not work out as hoped, and he had predicted exactly the scenario that transpired as soon as he had his hands on the levers of power. Perhaps the time had come for me to now respond to his invitation, instead of moaning and complaining.

With that mind-set I opened my ears and turned up the volume.

Although his speech did not specifically name Manfred Max-Neef, nor use the terminology of Human Scale Development, I was astounded by his obvious grasp of the implicit paradigm.

Thabo Mbeki echoed Nelson Mandela's call for an 'RDP of the soul' and spoke of the soul as the 'intangible element of the human'. By extension this meant that human societies could have a 'soul' too, but that a 'soulful' society did not automatically arise from its

composite members; we would have to ‘accept that this entails a struggle, rather than any self-evident and inevitable victory of good over evil’.

He traced the historical roots of the defining social value of white society in an apartheid/capitalist economic logic: ‘personal wealth constituted the only true measure of individual and social success’, and lamented that, post 1994, the supposedly new order had inherited this deeply entrenched value. Referencing Karl Polyani he said:

‘The central point ... is that the capitalist market destroys relations of “kinship, neighbourhood, profession and creed”, replacing these with the pursuit of wealth by citizens who (Polyani says) have become “atomistic and individualistic”.

Thus every day, and during every hour of our time beyond sleep, the demons embedded in our society, that stalk us every minute, seem always to beckon each of us toward a realisable dream and nightmare. With every passing second, they advise, with rhythmic and hypnotic regularity – get rich! get rich! get rich!

And thus has it come about that many of us accept that our common natural instinct to escape from poverty is but the other side of the same coin on whose reverse side are written the words – at all costs, get rich!’

‘Lord forgive me, I am a sinful man,’ I found myself praying, ‘maybe you have not quite given up on us a nation. Maybe the time has come to write another book to give to Mr Mbeki?’

## 6: Following Spoor

‘Mining the Pondoland Wild Coast is the moral, cultural and aesthetic equivalent of quarrying Ayers Rock for granite, or the Great Barrier Reef for calcium carbonate’.

*Richard Spoor.* Human Rights Attorney.



Car radios! I would not have much of a story to tell were it not for chance tunings. Two weeks later, on 8 August 2006, Talk Radio 702's business talk show host, the jovial Bruce Whitfield, managed to hold my attention long enough during his interview with a troublesome lawyer on the phone from White River, who was saying what he needed to say. It was exactly what I needed to hear.

**Bruce Whitfield:** ‘Now the fight with Anglo Platinum has become quite a vicious fight and they have tried to take you to court to gag



you...they have tried to stop you from making what they say are defamatory statements about them. What is that fight about?’

**Richard Spoor:** ‘It is really about a huge social and economic change that has taken place in parts of Limpopo Province. We have this enormously rich belt of minerals called the Bushveld Mineral Complex. Now, through accidents of history, that belt happens to fall within traditional tribal lands, in this case, belonging principally to the Bapedi Nation. It used to form part of the old Palaborwa homeland and for the first time really, in South African history, since early colonial times, mining companies are moving into tribal lands on a huge scale and this has massive social and economic consequences.

These communities have lived there for hundreds of years, they have rural farming lifestyles, and they are suddenly finding themselves confronted by massive social and economic changes. They are losing their land, they are losing their houses, they're losing their culture, their traditions, their ways of life, and this invariably gives rise to conflict. It just astonishes me that this massive upheaval taking place has not attracted the attention of academics and social commentators earlier than this.’

**Bruce:** ‘And some people call it progress but you clearly don’t think it is?’

**Richard:** ‘Well, mining is an activity that carries with it enormous costs. It also generates enormous benefits. This is about who bears the costs and who enjoys the benefits. Well, principally the costs are borne by the local communities where the mining takes place. Can you imagine a mine in your backyard, on the land where you used to farm and where you live? Where your family graves are? Mining has very, very disruptive consequences. There is the loss of land, there are relocations taking place on a massive scale, I mean, quite unprecedented since the apartheid era.

Anglo Platinum Potgietersrust has moved about 6,000 or 7,000 people to date. It is now busy with another move of about 10,000 people. They are really moving peasant farmers off their land and into townships. They are robbing them of their land, they are robbing them of their traditions, their way of life and the compensation they receive is what they call ‘like for like’.

If you have a little house of 30 m<sup>2</sup>, you are going to get a 30 m<sup>2</sup> RDP house from them. If you have a fruit tree, you will get R75. And these

people are being dumped into unsustainable townships, often without services, without water, without adequate sanitation ... and this is called progress. The incentive, and it is very easy to incentivise poor people with cash, is – in the case of the latest removals – R20,000 per family, but typically it is in the region of R5,000. Now that barely covers the cost and inconvenience of moving. It certainly is not a substitute for the massive losses that these societies endure.

In South Africa, we have a history, we know about relocation, we know about the consequences of relocating people from District Six and Sophiatown, but it appears that we just have not learned that lesson. The costs of those relocations are still being felt in terms of heightened crime, family violence, the collapse of social order and the collapse of communities. It is happening here, it is happening today. These communities are being destroyed and the mining companies don't want to know about it.'

**Bruce:** 'And Richard, you are taking them on, you are trying to prevent this from happening, I guess. You have got very high profile support as well.'

**Richard:** 'These are people who share the kind of values that I would like to think that I stand for, and who are prepared to stand up for poor people. But what I think is more significant is: who is it that *won't* stand up for the poor, the oppressed, the rural people in this country. And there is a deathly silence from the local authorities, from the provincial authorities and politicians.'

**Bruce:** 'Isn't this a matter for the Ministry of Minerals and Energy?'

**Richard:** 'Well, you know, my experience is with people like Land Affairs, they are facilitating the destruction of these communities and the loss of the land rather than fighting to defend the rights of communities. The Department of Minerals and Energy seems to see its role as providing support to the mining companies and to facilitate their establishment in these communities. There is this kind of very, very narrow, very limited perception of growth is good, mining is good, development is good; trickle down will make us all rich.

And of course, there is this enormous capacity of the mining companies to co-opt people. They co-opt on an enormous scale. They co-opt anybody who stands up in the community as a leader. You will be offered shares, you will be offered a job, you will be offered a contract. The municipalities and the councillors are supported, they buy cars, and they co-opt the entire leadership in these very, very

poor communities. It is not corrupt, it is not bribery, they are not buying people off, and they simply co-opt them to their will.'

§



*From The Sunday Tribune.*

I contacted Richard Spoor immediately and he agreed to join the team together with The Green Bishop, Black King and Brown Queen. Our inter-professional collaboration ensured our joint reach could exceed our individual grasp. At the personal level our friendship blossomed to the extent that when my turn came to be interviewed on Talk Radio 702 some years later I knew I could safely tease him without courting legal reprisals by describing him as 'The White Knight' on our technicolour chessboard challenge.

Richard professes to be an atheist and scoffs at the evidence I keep finding of mysterious synchronicities, serendipities and other proofs of at least some intelligent design beyond the finite boundaries of individual human consciousness. Such as, for example, the discovery in my yellowed press clippings, from way back in August 1988, the fact that his name and mine appeared together for the first time in a newspaper article, even though we did not know each other at the time.

The article was a report in the *Sunday Tribune* dated 7 August 1988, which listed the names of 143 conscientious objectors who

had, in a well-orchestrated challenge to the SADF by the End Conscription Campaign (ECC), stated our joint refusal to obey any further call-ups to military service. The article headed 'Conscripts of Conscience' pictured a bunch of fresh-faced, slim youths declaring their commitment to building a non-racial future. Archbishop Denis Hurley OMI gave further profile to show that we were not just draft dodgers, but the Minister of Defence, General Magnus Malan, is pictured as 'Uncle Sam'.

The list of names includes several men who have become well known.

Besides Richard Spoor, three other names leap out as co-objectors, who also play a role in this story.

**Dr Crispian Olver**, who became Director General of the Department of Environmental Affairs and Tourism, whom Nazir Alli successfully convinced to issue a positive Record of Decision to approve the N2 Wild Coast Toll Road (which was set aside by Minister van Schalkwyk).

**Ray Hartley** who went on to become the editor of The Sunday Times. Clearly not everyone from The Sunday Times approved of his decision in 1888 to refuse conscription. "Draft dodgers face stark choices" was how a sub-editor headlined that newspapers report. It is interesting reflection on changing times. A one-time 'draft dodger' became editor.

**Andries Nel**, who has served as Deputy Minister of Justice and Constitutional Development for many years. Breaking news is that President Zuma has redeployed him to serve as Deputy Minister of Cooperative Government and Traditional Affairs.

'See, Richard.' I thrust the clippings in front of him and, quoting Shakespeare, said: 'When our deep plots do pall. And that should learn us, There's a divinity which shapes our ends, Rough-hew them how we will.'

'Bullshit! Next thing you are going to be seeing ghosts appearing in the night. Don't come to me with such nonsense about intelligent design, blah, blah ...'

'Then how do you explain the coincidence that in another press clipping in the same file there is an article written by Sam Sole on

the banning of the ECC a few months after you and I took our stand; and Sam Sole is in the newspaper again today, except that he is the one in trouble with the government?’

The Presidential spokesperson, Mac Maharaj, was pressing charges against him, his colleague, Stefaans Brummer, and the editor of *The Mail & Guardian*, Nic Dawes, for printing a story about Maharaj and his wife Zarina having received more than R500,000 between May 1998 and February 1999 from businessman, Schabir Shaik. Shaik had taken his share of two multi-million rand contracts awarded by the Ministry of Transport whilst Maharaj was Minister.

‘All that proves is that the present government is just as &%#\$@! corrupt as the apartheid government – not that there is a god!’

‘Point taken, but Richard it becomes even more intriguing. Look what happens to be on the reverse side of Sam Sole’s report.’

‘Dune Mine Would Pump R1.5 Billion Into Economy’ was the headline of the main article. A sidebar article was headed ‘Call for objections to titanium scheme gazetted then withdrawn’. Both dealt with the controversy about a proposed titanium mining scheme on the Pondoland Wild Coast at Wavecrest, ‘which would help revitalise the depressed East London harbour but also give the independent homeland its second biggest business venture to date’.

Again invoking Hamlet, I argued that the same intangible spiritual power which had been at work twenty years before, when we were young men, had again brought us together as older men, experienced in the art of challenging social injustice, to continue to ‘name, unmask and challenge the powers’.

‘Come on, Richard. There must be more to it than random probability and pure coincidence! It is easy for intellectuals like Richard Dawkins, in their academic ivory towers, to dispense with the need to believe in a supreme being; but in the harsh reality of the lives of the poor, faith in God is the only thing that sustains them. Here we are, worked up with the same passion and conviction we once displayed in refusing conscription into the SADF, using it to challenge the same deceit, deception and collusion that was evident then.’

Before he could respond, I threw in the game breaker. 'I have my doubts too. Faith and doubt are not opposites but complementary energies. Every time I find myself about to lapse into despair, agnosticism and cynicism – a compassionate, loving, honest, foul-mouthed atheist like you comes along to restore my faith in God!'



SOME of the group of 19 conscripts who yesterday announced at a Press conference at Archbishop Denis Hurley's home in Durban that they would not report for service in the South African Defence Force. From the left are Mr Patrick Vorster (29), Mr Shaun Griggs

(21); Mr Stephen Gerratt (21); Mr Mark Symonds (23); Mr Angus Stewart (22), President of the SRC at the University of Natal; Mr Lindsey Falkov (24), the Nusas national organiser; Mr Donn Edwards (27); Mr Stuart McAnulty (18); Mr Tamas Alexander (33);

Mr Timothy Mosdell (24); Dr Mark Patrick (28) partly obscured by Archbishop Hurley; Mr Steve Collins, the Nusas regional co-ordinator, obscured by Mr John Clarke (31); and Mr Jonathan Gunthorp (22), project officer of the Durban SRC.

## WHO ARE THEY? Physicians, physicists and priests ...

AN analysis of the 142 conscription objections occupations shows that more than 50 per cent are students and more than 10 are students.

They include seven university lecturers, six medical doctors, six engineers, six teachers, five engineers, three lawyers, two architects, two physicists, two journalists, two computer programmers, seven community workers, four lecturers, one librarian, a regional planner, a filmmaker, a computer consultant, and a scientist.

**CHANGING:** Stephen Gerratt (21), medical student; Angus Falkov (24), Nusas national organiser; Shaun Griggs (21), law student; Donn Edwards (27), law student.

Mr Patrick Vorster (29), Mr Shaun Griggs (21), Mr Stephen Gerratt (21), Mr Mark Symonds (23), Mr Angus Stewart (22), President of the SRC at the University of Natal; Mr Lindsey Falkov (24), the Nusas national organiser; Mr Donn Edwards (27); Mr Stuart McAnulty (18); Mr Tamas Alexander (33); Mr Timothy Mosdell (24); Dr Mark Patrick (28) partly obscured by Archbishop Hurley; Mr Steve Collins, the Nusas regional co-ordinator, obscured by Mr John Clarke (31); and Mr Jonathan Gunthorp (22), project officer of the Durban SRC.

Mr Patrick Vorster (29), Mr Shaun Griggs (21), Mr Stephen Gerratt (21), Mr Mark Symonds (23), Mr Angus Stewart (22), President of the SRC at the University of Natal; Mr Lindsey Falkov (24), the Nusas national organiser; Mr Donn Edwards (27); Mr Stuart McAnulty (18); Mr Tamas Alexander (33); Mr Timothy Mosdell (24); Dr Mark Patrick (28) partly obscured by Archbishop Hurley; Mr Steve Collins, the Nusas regional co-ordinator, obscured by Mr John Clarke (31); and Mr Jonathan Gunthorp (22), project officer of the Durban SRC.

Mr Patrick Vorster (29), Mr Shaun Griggs (21), Mr Stephen Gerratt (21), Mr Mark Symonds (23), Mr Angus Stewart (22), President of the SRC at the University of Natal; Mr Lindsey Falkov (24), the Nusas national organiser; Mr Donn Edwards (27); Mr Stuart McAnulty (18); Mr Tamas Alexander (33); Mr Timothy Mosdell (24); Dr Mark Patrick (28) partly obscured by Archbishop Hurley; Mr Steve Collins, the Nusas regional co-ordinator, obscured by Mr John Clarke (31); and Mr Jonathan Gunthorp (22), project officer of the Durban SRC.

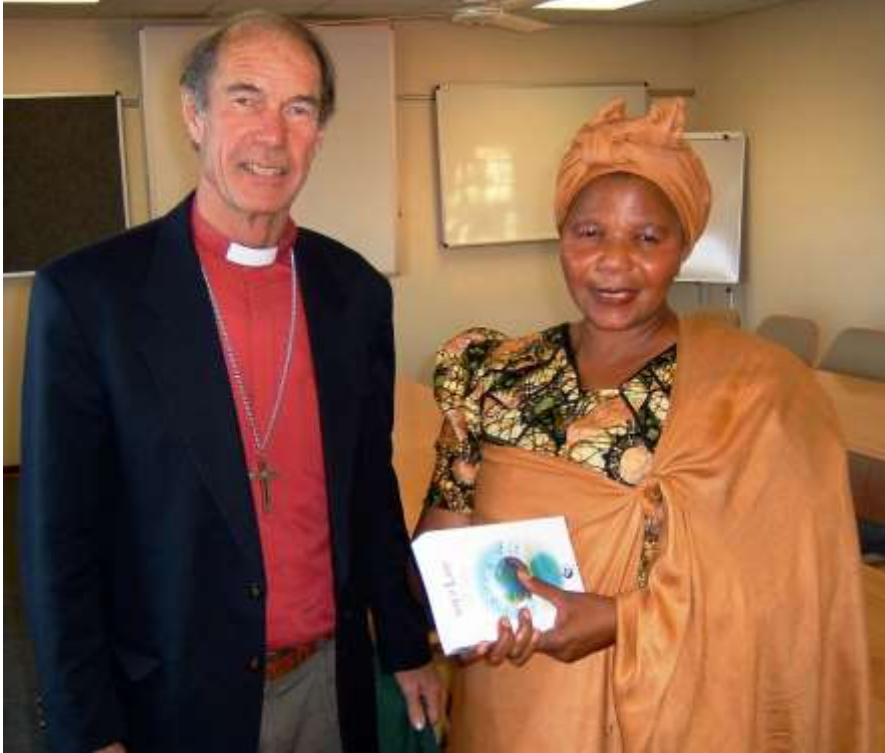
Mr Patrick Vorster (29), Mr Shaun Griggs (21), Mr Stephen Gerratt (21), Mr Mark Symonds (23), Mr Angus Stewart (22), President of the SRC at the University of Natal; Mr Lindsey Falkov (24), the Nusas national organiser; Mr Donn Edwards (27); Mr Stuart McAnulty (18); Mr Tamas Alexander (33); Mr Timothy Mosdell (24); Dr Mark Patrick (28) partly obscured by Archbishop Hurley; Mr Steve Collins, the Nusas regional co-ordinator, obscured by Mr John Clarke (31); and Mr Jonathan Gunthorp (22), project officer of the Durban SRC.

Mr Patrick Vorster (29), Mr Shaun Griggs (21), Mr Stephen Gerratt (21), Mr Mark Symonds (23), Mr Angus Stewart (22), President of the SRC at the University of Natal; Mr Lindsey Falkov (24), the Nusas national organiser; Mr Donn Edwards (27); Mr Stuart McAnulty (18); Mr Tamas Alexander (33); Mr Timothy Mosdell (24); Dr Mark Patrick (28) partly obscured by Archbishop Hurley; Mr Steve Collins, the Nusas regional co-ordinator, obscured by Mr John Clarke (31); and Mr Jonathan Gunthorp (22), project officer of the Durban SRC.

## 7: The Making of the Qaukeni Connection

Healing the universe is an inside job.

*Fritjof Capra*



Bishop Geoff Davies and Queen Masobhuza Sigcau.

*Photograph by John G.I. Clarke.*

Soon after making my acquaintance with Richard, The Green Bishop and a small group of volunteers with the SWCC was on its way to Luphathana for a strategic planning weekend. Just as we were about to set off from Tony Abbott's farm, Clearwater, above the Mthamvuna Gorge, Dr Kuman called to say she was in trouble at Xolobeni.

She and her team of post-doctoral research students were busy with a field investigation of the Xolobeni dunes. Mildly panicked, she said that, despite their permit from the South African Heritage Resources Association, certain local residents had prevented her team from doing their research. Their presence had been noticed

by local residents who had been recruited by an Australian mining company to promote their scheme to mine the same coastal dunes for rich deposits of titanium and other heavy minerals. The discovery of the stone-age artefacts was a major blow to the mining plans, so the team of scientists had been made to feel very unwelcome. The gatekeepers said that no permission had been obtained from the local Tribal Authority.

‘Well, we are about to go to see the Queen on our way to Luphathana. Why not join us and let’s see what she can advise,’ I suggested.

Adversity thus became opportunity. Our motley bunch of SWCC volunteers met with the Wits research team and a convoy of off-road vehicles snaked its way to Qaukeni. By then Kumkani had summonsed available members of his Council and we were ushered into the Royal Council Chamber to plan a response to the crisis.

Dr Kuman’s guide, a local resident named Sinegugu Zukulu, showed himself conversant with much more than geography, which, being a high school teacher, was his preferred subject. We were absolutely astonished by his intelligent assessment and recommendations. His name ‘Sinegugu’ means ‘we have pride’ and he certainly had the bearing of a man who was proud, but in a humble sort of way. Listening to his intelligent and articulate proposal of how to deal with the situation, The Green Bishop whispered to me, ‘stay in touch with him’.

Sinagugu knew the obstructive gatekeepers very well. They had been at school together. He proposed a strategy to circumvent the obstacles posed by his old friends, which was endorsed by Kumkani and his Council. It worked – and Dr Kuman was able to continue with her field investigation.

Afterwards over tea I got to have my first conversation with Kumkani. ‘Are you descended from Reverend Samuel Clark from Emfundisweni Methodist Mission?’ he asked, but I had to disappoint him. I am not related and I am neither a Methodist nor a missionary.



‘I suggest you read this dissertation, John,’ Sinegugu Zukulu advised. ‘It will give you some background so that you know what you’re getting into.’

The dissertation was written in 1967 by educationist, Andries Conradie, for his M.A. degree. His subject was *The life and work of the Methodist Missionary Reverend Peter Hargreaves*. Reverend Hargreaves had played a very important role in advising Kumkani’s forebear, King Sigcau ka Mqikela, through the upheavals of the Mpondo between 1888 to 1901, and during the years before, during and after the annexation of Pondoland by the Cape Colonial Government under Prime Minister Cecil John Rhodes.

Perusing the Conradie thesis I learned that the Reverend Samuel Clark, to whom Kumkani had been referring, had taken over the Wesleyan mission at Emfundisweni from Reverend Hargreaves upon his retirement in 1901. Clark had continued the proud tradition of Wesleyan missionary outreach to the Mpondo that the first missionary, Reverend Thomas Jenkins had commenced in 1838, during the reign of the great King Faku (1824-1867).

Both Faku and Jenkins died toward the end of the 1860s just before the stakes rose appreciably, due to the discovery of diamonds and gold in South Africa, which brought floods of fortune seekers from all over the world. This left Reverend Peter Hargreaves with the altogether more taxing challenge of protecting the Mpondo from the worst of Western influence (‘guns, greed and grog’) while trying to promote the best (bible, science and literacy) first with Faku’s successor, King Mqikela, and then with his son, King Sigcau, between 1888 and 1901. He did so with extraordinary determination and unshakeable faith.

What was I getting myself into?

## §

With the drama of an immediate and serious conservation and heritage threat weighing heavily on our minds, the SWCC group left Qaukeni for our forward planning session at Luphathana. With expert, gentle facilitation by a Belgian organisational consultant,

Luc Hoebeke, we clarified why SWCC was necessary, how we would go about our work, and what we could offer, in that order.

‘But come on, chaps,’ Geoff said, ‘we can’t come to such a beautiful place and sit around inside, just talking. We’ve got to experience what it is we’re supposed to be saving. Let’s go for a walk.’

We set off for Waterfall Bluff to view the scene that has become symbolic of the Wild Coast – the waterfall that tumbles directly into the ocean.

Recent rains had boosted the volume of water in the river and we stayed as long as we could to marvel at the waterfall. Our Green Bishop broke his characteristic Anglican reserve to ‘Praise the Lord’ with charismatic ecstasy upon seeing the plummeting torrent. Yet there was still more in store for us to enrich our spirituality, whatever our cultural or religious traditions.

We walked around the Bluff, intent on seeing a view of the waterfall at its broadest point. Always eager to ascend, I was pushing ahead of the file of walkers so that I could get some photos while the light was still good. We were still a month away from the threshold of the spring equinox, when ‘Brother Sun’ takes over from ‘Sister Moon’, assuming ascendancy for six months. Shortly after sunrise, I had witnessed a spectacular dance of sun, sea, and cloud, and I hoped my appearance at the top of the Bluff would coax an encore from ‘Brother Sun’. The curtain of dark rain clouds had fortunately restrained themselves during our walk to ‘baptism by sprinkle’ rather than ‘full immersion’, but it was another member of Mother Nature’s large cast who chose to charm and delight us with an unheralded appearance.

A shout of joy emanated from the back of the line and word reached us that Tony had found another specimen of one of Pondoland’s rare, unnamed botanical species. The shout sounded like ‘Eureka!’ to my ears. Anticipating another groundbreaking discovery, I scrambled down the slope to see what had so excited Tony ‘Archimedes’ Abbott. ‘I’m going back to get a photo,’ I quipped to the friends I passed, ‘of Tony’s face!’



SWC founders led by Bishop Geoff Davies return from Mlambomkhulu Falls, Waterfall Bluff.

*Photograph by John G.I. Clarke.*

Indeed the man – the world’s foremost authority on the rare botanical endowment of the Pondoland part of the Maputaland-Pondoland-Albany ‘Hotspot’ – was immersed, not in another world but very much in *this* world.

‘This has made the walk worthwhile,’ he exclaimed, ‘a friend had reported a sighting of this unnamed species, but it needed confirmation. I’ve found one of these plants near Margate, which appears to be its northern-most extremity, and now this is the southern-most incidence of the plant.’

He busied himself recording the details and carefully took a sample to be sent for official recording and naming rituals. My photos bear witness to a man absorbed in scientific discovery every bit as significant as Archimedes. Mercifully, Tony kept his clothes on, unlike Archimedes, so my photos can safely be shown to sensitive viewers.



The plant itself appeared un-remarkable and unimportant to my ignorant eye, but Tony was as excited as the biblical shepherd who

had found the one lost sheep that, in its absence, made all the other 99 incomplete and vulnerable. Following this train of theological thought, I wondered how some of my evangelical friends would take to the idea that this hitherto unknown member of God's creation had been 'born again' through Tony's agency?

If the biblical metaphor is unfamiliar, ecological exiles who feel a bit homesick for the Wild Coast can gain understanding by continuing with the classical story of Archimedes. Until his full immersion he was the same guy who had mentally abstracted himself from the earth by boasting, 'give me a lever long enough, and a fulcrum firm enough, and I can lift the earth'. This was an assertion that presumed a completely external vantage point to the earth as an ecological system. This brilliant insight leads easily to hubris and a preoccupation with making and playing with technological toys – and neglect of the other two dimensions of the earth's survival trinity, *nature* and *humanity*. Technology, a wonderful servant, becomes a tyrannical master if we lose the harmonious balance between all three elements.

I regard the celebrated leap by Archimedes from his bath and his (fittingly) naked dash down the street, shouting 'Eureka!' as epitomising the return from ecological exile. In discovering the law of displacement he was baptised into a consciousness, which says, paraphrasing the Law of Displacement, 'the human body, immersed in the earth displaces other earth matter, equal to the mass of the matter displaced'.

Would that all human beings spent more time pondering the universe while taking a bath!

After our walk, over a nightcap to celebrate my 50<sup>th</sup> and Tony's 70<sup>th</sup> birthdays, he related the tale of how his intuitive and natural understanding of nature had also turned him into an accomplished civil engineer. He told us that a local hotel owner friend had commissioned a young graduate engineer to design and supervise the construction of a long paved pathway from the hotel to the beach below. Tony warned him that the pathway would not survive the winter storms. The young man dismissed Tony's amateur assessment, assuring him that, 'I have checked and rechecked my calculations and designs on my computer, and the plan is sound'.

Six months later nature laid waste to the path, causing considerable financial loss to the hotel owner and, one hopes, offering a sobering lesson to the engineer who chose to listen to his computer rather than a wise elder who lived closely in touch with nature.

Reluctantly we left Lumphathana, refreshed and focused on the never-ending quest to ensure that the human species finds coherence with the earth, instead of enslaving it to our selfish short-term interests. Humbled by the encounter with Life through earth, wind, fire and water, we had sensibly re-invented ourselves as Sustaining the Wild Coast (SWC), shedding our messianic pretensions that the salvation of the Wild Coast was within our power.

But the challenge ahead seemed impossible. The Green Bishop's team could never hope to outwit, outplay and outlast the Mega Development team led by Nazir Alli in this '*Survivor: Wild Coast*' reality show, given our complexion.

Liberation theology says 'Name, Unmask and Engage the Powers', but these masks were seemingly stuck with superglue. My social work code of practice says, 'be non-judgemental, and respect the client's right to self-determination' but who were my clients? Human Scale Development philosophy works from the assumption that people must be free to be the protagonists of their own development, but what if the people at the grassroots saw in the Mega Development schemes the promise of development? What right did we have to presume to know what was good for the Amadiba coastal residents? To intimidate and malign us, propagandists for the N2 Toll Road and Xolobeni Dune mining schemes had aggressively caricatured us as, 'caring more about butterflies and plants than people'. We left Lumphathana resolved to formalise SWC as a legal entity with *locus standi* to position ourselves to fight a high court challenge. However, we would be no better than SANRAL or MRC if the action was driven by historically privileged 'greeny-beany' outsiders, no matter how well intentioned and ideologically pure we were.

Having been well schooled by Max-Neef in the 'creativist' rather than the 'consumerist' paradigm of development, I knew that the

only authentic path would be one chosen by the local Mpondo, themselves. Development is a word that commercial interests have made virtually synonymous with sustained economic growth through the production and consumption of material goods. The 'creativist' approach reclaims the word by going back to its real meaning, which, in association with community, means, 'enabling a community to become more fully itself' as Alastair McIntosh explains. This happens when people discover their innate creative potential. It is not simply about creating jobs for the unemployed, but affirming the right to self-determination, and supporting communities experiencing poverty and deprivation, to develop synergic satisfiers of their fundamental human needs. The trouble with grand schemes imposed by outside agents (be they private, public or even well-meaning civil society NGOs), is that they tend to disrupt the social fabric of a people and irreversibly alter the ecological balance of a place. The people become dependent and the sense of place is spoiled. Yes, jobs are created, but how creative are the jobs themselves?

This is not to imply that authority has no place. It certainly does, but as Max-Neef explains, having authority and having power are two fundamentally different capacities. Power he defines as, 'the capacity of control and manipulation exercised by the person (or group) in power'. Authority means, 'the capacity of influence exercised by the person (or group) to whom legitimacy is granted because of recognised capacities and qualities'. The King and Queen had authority, but the ruling party had the power. The authority of the King and Queen grew to the extent that they were on tap to support their people, whereas Nazir Alli, (and the sponsoring cabinet Ministers) lost authority by use of state power and resources to impose from on top.

Thus, to be true to the creativist developmental vision meant that I would have to park my natural activist messianic inclinations, and patiently be on tap, even though I felt very strongly that the N2 shortcut and the Xolobeni mining would be disastrous for local residents and the ecological systems which sustained them.

There is no point to walking on water unless it is to reach shore to connect with the people at a grassroots level. As much as one needs

to look for the stepping-stones below the surface of the water, similarly beneath the grassroots one needs to find the taproots. A successful 'overgrowing' needs sound taproots that are deeply rooted in the soil.

This insight came also from Alastair McIntosh's book. He pays tribute to one of the keenest activists in that struggle, Tom Forsyth, who urged agents of transformational change to go deeper than the grassroots, to, 'where human beings are still prone to social ills of drunkenness, infidelity, petty quarrelling, etc. – and look for the taproots'. The visible part of a shrub or tree above ground is only half of a total plant system. Cutting the plant off above ground still leaves a root system below the soil surface, which will allow the plant to grow back if it is protected from grazing animals and nourished.

Sound community development practice requires that helping professionals, be they doctors, lawyers or social workers, respect the intrinsic latent potential for life. That is why it was so important that SWC transformed from the 'Save the Wild Coast Campaign' to '*Sustaining the Wild Coast*'.

One of the pioneer theologians of liberation theology, the Peruvian Roman Catholic priest, Gustavo Gutiérrez, concludes that liberation, 'gets to the very source of social injustice and other forms of human oppression and reconciles us with God and our fellow human beings'. The South African liberation struggle that eventually brought about the downfall of apartheid was often too narrowly perceived by both Marxist and liberal free-marketeers as freedom from political oppression and market constraints. Both, apparently opposite ideological paradigms, are essentially materialist ideologies and prone to fall into the same trap of a consumerist approach to development. Gutiérrez offers a much more comprehensive vision. Freedom is about social, psychological and spiritual levels of experience. 'Free for what?' Gutiérrez asks, and answers: 'Free to love' adding, 'to liberate is to give life'.

Thus, upon returning to Johannesburg, I was determined not to impose myself on Sinegugu Zukulu. I asked Dr Kuman simply to let him know that I was on tap to offer professional social work services, should he wish to contact me. I explained that the first

obligation of a social worker was to challenge social injustice by affirming and protecting the constitutional rights of the most vulnerable and disadvantaged, and ensure they were able meaningfully to participate in decisions that affected them.

I didn't have to wait long before Sinegugu called me.

As a professional, he understood perfectly the accountability issues and engaged me formally in my professional capacity to work with him, to expose the numerous violations of human rights that were taking place in his community.

The Green Bishop in turn invited Sinegugu to join the rest of the group and together we constituted Sustaining the Wild Coast as a legal entity, ready to go to court if and when necessary. Ironically, insofar as we were self-conscious of our white, privileged, greeny-beany, deep ecology complexion, Sinegugu showed himself far more immersed in deep ecology than the rest of us put together.

Having started on the correct foot with Sinegugu, our relationship rapidly developed from a partnership into an unshakeable friendship. I now affectionately call him Nkomba, after the Nkomba palm (*Jubaeopsis caffra*) another endemic Wild Coast plant, which grows only on the banks of the Mntentu and Mkhambati Rivers and nowhere else in the world. The Mntentu River gorge and estuary were Nkomba's childhood playgrounds.

Two months after we had met in the presence of the King and Queen of Pondoland, emboldened by our Royal commission, Nkomba and I led a TV crew from the SABC's programme 50/50, to surmount the next obstacle: a media cordon that Zamilé Qunya and his pro-mining agents were erecting to prevent the free expression of local views and opinions.

The drama intensified.



## 8: The Animal in the Earth

‘We haven’t had this much rain ever in Pondoland before. Why is this, people are asking. People have noticed that it is since the mining company has come to the area that all this rain has come, which is now too much for us. People are saying that it is because the mining company is disturbing the earth, the animal inside the earth has been upset, and is sending all this rain. My people believe, and I believe too, that all this rain is falling because the earth animal is angry with the disturbance of the earth by the mining company.’

*George Cilo, Community Induna.*



50/50 filmcrew hear Khumbuza JSS teachers and parents describe mining manipulations.

*Photograph by John G.I. Clarke.*

This explanation of abnormal climatic conditions was offered by a wise old *Induna*, Mr George Cilo, during a meeting of community leaders who had gathered to express their concerns to a television

film crew from the SABC environmental programme – 50/50. Representatives from all significant sectors (health, churches, traditional authorities, ANC youth, ANC veterans, business, etc.) were huddled in the Baleni Senior Secondary School library, hoping at last to have their grievances, complaints and frustrations broadcast to a wider audience, beyond the rutted roads and muddy *dongas* (ditches) that isolated them from civil services and support.

Baleni's proud son, Sinegugu 'Nkomba' Zukulu, had arranged for the crew to see for themselves the difficulties constraining learners and teachers. It was here that Sinegugu had matriculated in 1990.

Besides Mr Cilo's fearful subterranean beast, other more tangible animals expressed interest in our visit. Several horses were grazing in the school grounds, having carried some riders (including the headmaster who had to leave his car parked some distance away) to the meeting. They were the only feasible means of transport, given the appalling condition of the roads. The moment that our interpreter translated the *Induna's* comment, the headmaster's horse gave vent to a loud whinny, as if to endorse this diagnosis of the bad state of affairs.

For all his apparent lack of scientific precision, the *Induna's* conviction lent authenticity to the meeting. This was not a pre-rehearsed media conference to lobby public sympathy; this was an opportunity for a new consciousness to emerge; a time of revelation; a moment of grace as Thomas Berry, the Catholic monk and 'geologist', would put it. Berry argues that the earth is our primary revelation. Eugene Peterson, the Protestant pastor and theologian, tends to agree. He warns that, 'theology divorced from geography gets us into nothing but trouble'.

The *Induna's* intuitive discernment of the connection between human interference with the earth and abnormal precipitation from the heavens animated two rivers of thought, flowing in opposite yet complementary directions, making their way to the same ocean. *Think Globally: Act Locally* – the mantra of all environmentalists – bubbled up from its sleep in my head, stirred to life by the idea of an animal in the earth. I sat behind the scene, observing the interaction between people and the camera as it panned around the room, capturing images that would bring 50/50

viewers into the Baleni Senior Secondary School library – without the inconvenience of having to drive the challenging 4x4 obstacle course, or having to seek help from a horse.

When Sandra, the producer, was satisfied that she had enough footage for the 50/50 report and had put her technological beast back in its cage, I asked the group if I could address them, so that Sinegugu and I could clarify our interest and purpose in bringing the TV crew to Baleni.

Here is an edited version of what ‘the animal in the earth’ prompted me to say:

‘Five years ago my family and I found ourselves enjoying, for the first time in our lives, the cultural richness of the Mpondo people and the scenic splendour of the Wild Coast. We were there as eco-tourists, riding a four-day horse trail with Amadiba Adventures. The memorable experience had a significant impact on our family life, not only because of the memories we cherish of that experience, but because it introduced us to the joys of horse riding and a love of horses. We returned nine months later with another family, close friends, who were eager to experience the same excitement we had enjoyed.

Our trail leader and guide was a young man named Mzamo Dlamini. He taught us something about horses that has become a parable for understanding what we mean when we talk about humans having a ‘sustainable relationship’ with the natural world.

On our return from a wonderfully happy time at Mntentu Estuary, my friend challenged me to a horse race across an open stretch of beach. We spurred our mounts into a gallop to see who would reach an outcrop of rocks about 500 metres away. Our trusting horses obediently complied and before we knew it we were at the rocks, narrowly avoiding riding headlong into them. I think I won, but it wasn’t a happy victory, because, when Mzamo and the rest of the group caught up with us, the permanent smile on his face was gone. He took us aside and scolded us for our recklessness:

“Don’t you know that horses cannot see straight ahead of themselves?” he asked, angrily. “You could have injured them - and yourselves.”

He explained the eyes of a horse are positioned on either side of their heads so they can watch for predators while grazing. This gives them

the ability to see both left and right, but there is an approximately 35 degree angle 'blind spot' ahead of them. "Horses trust the human on their back for forward vision. A horse will obediently ride straight over a cliff if that is where the rider directs it."

I thanked the people gathered for producing a young man of such wisdom and went on to explain my motives in coming back to Pondoland.

'When the headmaster's horse applauded the *Induna's* comments earlier, it reminded me of Mzamo's teaching. But I think there is a deeper lesson we need to learn. A horse and a human rider together have four eyes. As a unit they can see almost all around. The only blind spot is an angle of about 30 degrees behind the horse, at the rider's back.

My deep fear is that the people interested in mining at Xolobeni are coming to ride on the back of the Amadiba community, and that the direction they are steering you toward is dangerous. As a social worker I am expected to challenge injustice and exploitation, and to seek always the best interests of the most vulnerable members of society. My work is to ensure access to information and services, and to promote understanding and insight about the social problems people experience. Looking back, it seems to me that wherever there is much money to be made, especially from mining operations and large construction projects, those people who stand to make the most money don't really care what happens to vulnerable people living on the land, or to the environment – the earth, water, plants and animals – in the long term.

Sinegugu asked me to bring the TV cameras to see the hardship you have to bear. From what I have seen and heard, I am now excited again that the wonderful blessings that my family and I experienced five years ago can be experienced by other people. I told many people about the Amadiba Adventures horse trail, and they also came to spend money in this area. I live in Johannesburg, and work closely with friends in Soweto to bring foreign tourists to visit Soweto. I believe those same tourists would love also to come to the Wild Coast and spend money here.

When I return again, if you wish me to, I would like to bring with me more of my friends to learn from the wisdom of the Mpondo people, to learn from people like Mzamo and the *Induna*.'

Circumstances then conspired to separate me from the TV crew.

I had underestimated my fuel needs because the appalling road conditions had compelled me to engage four-wheel-drive most of the way. The nearest filling station was two hours away and I could not imagine the Automobile Association being enthusiastic enough to come and rescue me. But the kindly headmaster, Mr Msabane, had a reserve of some diesel fuel with which to help me. Sparing his horse the burden of having to carry him back to his car, I gave Mr Msabane a lift and then followed him to his homestead. Then I realised that I had no cash on me – my garage card was useless in such circumstances. ‘No problem,’ he said, I could pay him later when I had money. Besides the 20 litres of diesel added to my tank, he threw in four sticks of sugar cane as a gift, and went off on other business. I was left alone to contemplate the dramatic experiences of the morning.

While I waited in the peaceful rural setting for the TV crew to meet up with me I tried to organise my jumbled thoughts and emotions – to ‘fast and pray’. The fast was involuntary as my lunch pack was in a different vehicle, and one can eat only so much sugar cane, but the prayer was intentional. I was feeling intellectually troubled, physically scared and emotionally anxious – always good incentives for prayer, even for those not habitually given to praying.

I was troubled because, despite the apparent superstition inherent in the *Induna*’s warning, it was in its own way strangely prophetic. He may well have been mistaken in connecting the local events of ‘mining’ and ‘rainfall’ too directly, and yes, he may have used the language of religion and myth rather than a scientific vocabulary, but the essential truth of what he was saying could not be denied. It is the same ‘inconvenient truth’ that Al Gore was trying to tell the world. The extreme weather events, which the elderly *Induna* had said were unparalleled in his lifetime were due to global warming.

Global warming happens because the earth’s natural carbon cycle has been abnormally accelerated and intensified by carbon emissions from fuel derived from fossils (veritable ‘animals in the earth’) extracted from the earth’s crust. Left to run its natural course, the carbon cycle normally takes millions of years to revolve,

since it involves subduction of organic matter by the complex dynamics of tectonic plate movements in the earth's crust. Human energy demands have accelerated this process to what amounts to nano-seconds in geological time. Sustainable use of fossil fuels means that we should use them at a rate equivalent to their creation by the earth's geological systems. I started wondering how long nature had taken to create the 20 litres of fossil fuel that Mr Msabane had generously provided for me. How much had it really cost nature to produce these 20 litres? How much will our children have to pay for our extravagance? These were the thoughts that troubled me.

I was scared because I wondered if I had overstepped the mark with my impulsive speech earlier, and was courting reprisals from those who had already sold out to the ambitions of the mining company. But my fear was more a matter of fearing that the local residents would fear me. After all, who was I to judge them if they had accepted the enticements of already rich people bearing expensive gifts, if this promised some relief from the hardships they had to endure? Moral responsibility ultimately rested with those remote interests who really couldn't care less about what happened to local people or the environment, so long as they could get their fix. Even so, my social worker training had taught me to promote insights which can emerge only if one takes a non-judgemental approach to people with addictions and dependencies, whether to alcohol and drugs or to fossil fuels and precious metals.

I was anxious because I was beginning to doubt that I could match my walk to my talk. On the spur of the moment I had raised expectations. What possible influence can a 'stale, pale, male' have, desperately trying to extend his shelf life in the new South Africa?

Moreover, although social workers are professionally obliged to intervene to help vulnerable members of communities, the dividing line between intervention and interference is as ambiguous as the line between activism and advocacy – it all depends who is drawing it. Certain powers were not going to like what I had said, and they had deep pockets with which to fight legal battles. I had nothing but my mixed reputation and professional indemnity insurance to rely on, if they deemed it worthwhile to charge me for

unprofessional conduct. Anglo Platinum had tried, unsuccessfully as it happens, to rob Richard Spoor of his professional mandate as an attorney, simply because he tried to hold them accountable to rural communities who were blessed – or cursed – with valuable minerals under their land and villages.

Eventually the camera crew arrived, breaking my fast and bringing answers to at least some of my prayers.

Mr Zamile Qunya, Chairman of the Amadiba Coastal Community Development Association (ACCODA) Trust, which stood accused of betraying the community's trust, had called to say he would consider granting an interview, provided the community leaders gave him a mandate. We were to report to the *Mgungundlovu Komkulu* the next day. The Komkulu (Great Place) has a community hall, which had been built from the proceeds of the Amadiba Adventures eco-tourism enterprise.

Before the sun rose over the beautiful Mntentu estuary we hastily packed up and headed for the venue. Mr Qunya greeted us courteously but asked that we wait outside while he consulted with the gathering of community leaders about obtaining their mandate. While we waited I noticed two women tilling the soil in the field below. Behind them a red umbrella shaded a bundle of blankets. Separating from the TV crew, Sinegugu and I approached the women and asked if they would mind having their photo taken. They happily agreed and posed, smiling broadly.

'*Nkosikasi*, am I correct in thinking that you have a baby sleeping under that red umbrella?' I asked.

The smile grew even broader. 'Yes, *Numsane*, that is my baby girl. She is now three weeks old.'

Proudly she unwrapped the bundle to show us her baby, sleeping peacefully in the field that her mother was busy tilling, so that maize could be planted and harvested when she was old enough to be weaned. A three-week-old infant, born into this spectacular rural setting, sleeping peacefully in the tilled field, beautiful and unaware of the history she will inherit.

What history: will she know the truth? Will Mr Msabane and Baleni Senior Secondary School be able to serve her as it served

Sinegugu? Will she be allowed to tell us her own truth? A truth perhaps whispered to her by the ‘animal in the earth’ as she lay sleeping in a tilled furrow.

We returned to the TV crew to find Sandra and Richard in some consternation. Mr Qunya claimed that the gathering of men had unanimously decided that ‘since we had not got their permission to talk to people in the community, they refused to grant us an interview with him’. They had been told they were not welcome and had been advised to leave.

So we left, spurred on by Sinegugu who became anxious when he noticed a notorious taxi operator and warlord driving nearby.

## §

The TV broadcast on 12 November 2006, titled *Wild Coast Corruption: Paradise Lost* was aired on SABC2’s Environmental Current Affairs programme, 50/50, slashing through the media cordon.

We thought it would take a year or two to expose the stupidity of allowing a short-term mining venture to displace from the beautiful Wild Coast an eco-tourism venture of indefinite duration. With that out of the way, we hoped we would be able to meet again with Nazir Alli, the CEO of SANRAL, and the N2WCC, to develop an infrastructure plan that really scratched where the local residents were itching, and examine problems with the current N2 route between Port Shepstone and East London.

We wanted a good road that was not premised on moving motorists through Pondoland as fast as possible; we wanted to encourage them to linger and enjoy the extraordinary natural beauty of the place and the legendary hospitality of the people. Insofar as any trading of goods between Durban and East London was important, we could not understand why SANRAL kept insisting that the road had to be made more convenient, safer and faster for heavy freight hauliers, when there was already a well lubricated transport route between the two cities – the Indian Ocean.

However, controversy over the N2 Wild Coast shortcut had been placed on the back burner and, following the huge setback dealt to



him by Minister van Schalkwyk, Nazir Alli had to work hard to resurrect it.

Among grassroots residents it was clear that the real bone of contention was the Xolobeni mining scheme. In fact, in 2006 most of the local residents of the Amadiba coastal area were *in favour* of the N2 shortcut, demonstrating a roughly equal measure of intensity as that with which they were *opposed* to the Xolobeni mining venture. In general they perceived Nazir Alli to be a good guy and they hoped he would alleviate their chronic isolation by fixing their roads. Of course he had repeatedly denied any link between the N2 Wild Coast Toll Road scheme and the Xolobeni Sands mining venture. Had he followed this with an explicit commitment to oppose the latter and, instead of a practiced aloofness, engage with stakeholders in eco-tourism endeavours, as The Green Bishop had repeatedly begged him to do, an entirely different situation would prevail today on the Wild Coast.

Perhaps I should have tried harder to engage Nazir Alli but we judged it to be a futile exercise because, soon after my initial interview with him, I asked our attorney, Cormac Cullinan, formally to request a copy of the Development Agreement brokered by Alli between SANRAL and the N2WCC. But Alli refused to provide a copy, citing obligations to protect the commercial interests of the companies involved, notwithstanding his expressed commitment to the interests of the poorest of the poor of the Wild Coast.

Five years later the very community who had once supported Nazir Alli's vision were the leading applicants in a high court action to oppose it.

The circumstances that led to this stunning reversal in SANRAL's credibility cannot be summarised unless we are willing to disrespect the extraordinary courage and sacrifice of the Amadiba local residents. The part they played was central to SANRAL's downfall. My forthcoming book, *Amadiba Awakening: The Wild Coast Development Conflict*, will provide ever expanding chapters, ever more detailed verses and an ever more passionate description of these events.

However, to tantalise readers and hopefully instil a sense of anticipation for that book, the following five chapters offer excerpts serving as ‘snapshots’: three of the chapters take a bird’s-eye-view, and two are from a worm’s-eye-view.

Neither do justice to imparting a full understanding of *The Story*. That can only happen if readers visit the Wild Coast and engage with the local residents to hear their stories. Stories like this:

Shezi is one of the proudest subsistence farmers along the Wild Coast. His homestead is close to the mining tenement. His vegetable garden is lush. His wife strains under the weight of a bunch of bananas she has fetched as a gift for us.

‘How do you decide where to locate your *umzi*?’ SWC stalwart, Val Payn, asked. I think she knew the answer, being an avid worm farmer herself. She had noticed something that city slicker ignoramuses like me would never have spotted.

‘We look for the earthworms,’ Shezi replied, ‘traditionally, the decision of where to build one’s *umzi* is informed by looking for the pellets of soil left by earthworms.’

There were plenty of them. No chemical fertilizers were needed here to maintain soil fertility for crops. We moved on to the next homestead, also another productive agricultural homestead, and asked his neighbour if he could confirm the earthworm story, to see if this indigenous knowledge was widespread.

‘Yes, it is true,’ he said, ‘but nowadays it is also important to find a site with good cell-phone reception’.

‘I suppose especially if you have teenage children,’ I said laughingly.

Let’s start with a cell-phone friendly bird’s-eye-view.

The following reports were originally featured in the newsletter of *The Bateleurs – Flying for the Environment*, an NGO that offers aerial services in exchange for a written report with photographs.

Our first flight was in February 2007, after 50/50 had broken the media cordon and other journalists were eager to follow.

## 9: Sinking Roots by Spreading Wings

‘You can go home again, so long as you understand that home is a place where you have never been’<sup>14</sup>.

*Ursula le Guin*



Mzamba Gorge, where the *Blood Diamond* alluvial mine was sited.

*Photograph by Ron van Breda.*

### February 2007

“How many places are there on all the coastlines of the world where rivers plunge straight into the sea as waterfalls?”

If this question was put to Mpondo children on the Wild Coast, the clever kids would probably guess ‘thousands’ – because along the 5.5 km stretch of Wild Coast coastline known as Waterfall Bluff they can count two such waterfalls, and three in the rainy season. Given that the total length of coastline of all continents and islands of the earth added together comes to 783,724 km, they would have thought 5,000 was probably the right order of magnitude. But if The Bateleurs were able to fly three Mpondo youngsters around the coasts of all the continents and islands of the world, to count the

---

<sup>14</sup> Ursula le Guin, (1975) *The Dispossessed* St Albans England, Panther Books, quoted in Matt Fisher (1997) *The Journey Home*, Seaview Press. Australia

number of ocean-plunging waterfalls, they would find only about nine other ocean-plunging cascades. Older and presumably wiser, they would return after two years of flying to tell their classmates that such natural wonders are in fact extremely rare. Hopefully they would implore those born within sight and sound of Waterfall Bluff to treasure the exceptional falls on that wonderful coastline.

In 2007 a volunteer pilot from The Bateleurs, Barry de Groot, took three youth leaders from the Wild Coast, Nonhle Mbuthuma, Zeka Mnyamana and Mzamo Dlamini on an aerial expedition. This was not around the planet, but over their own, well-loved world – the stretch of the Wild Coast known as the Amadiba Tribal Area, between Port Edward in the north and the Mntentu River in the south. The youngsters are all part of the Sigidi community, which is the northernmost of five coastal communities that fall within the Amadiba Tribal area; all had already graduated from Wild Coast high schools some years before. As young adults trying to create a future in an area where desperately few job opportunities exist, they were working to revive and develop community-based eco-tourism initiatives along the Wild Coast. Mzamo and Zeka had worked for Amadiba Adventures, an initiative which was now struggling because of plans to mine the coastal dunes for their rich pickings of titanium and heavy minerals. Undeterred, Mzamo was courageously spearheading a new proposal, the Phakamisisizwe Tourism Project.

My own agenda was to obtain a bird's-eye-view of the area, to enrich the worm's-eye-view I had acquired after six months of meetings and interactions with community members. My involvement with these groups aimed to assist them in my professional capacity as a social worker with community development initiatives and access to social services. At the same time, the exploration activities and interference of the mining company with the dynamics of the community was proving highly contentious. Increasingly I was being asked to ensure the community received reliable information about the proposed dune mining and to challenge injustices – a role that professional social workers are expected to perform when necessary, in terms of our code of ethics and values.

Phakamisisizwe translates roughly as ‘we lift up the community’. The Bateleurs had come to ‘lift up’ three of the community members, both in body and spirit, so that they could better represent their project to potential investors.

Mzamo explained: ‘We have approval for our plan to build six *rondavels* (round huts with thatch roofs) for tourist accommodation on the Mnyameni estuary, so that the community can generate income from hosting tourists’. When operational the project would offer holidaymakers an exclusive opportunity for horse riding, hiking, canoeing and fishing, while they experienced the rural hospitality and kindness of the Mpondo villagers.

Barry de Groot’s reputation for precision flying preceded my meeting with him. While awaiting his arrival at Margate airport a Cessna landed and I warmly welcomed the pilot as he entered the terminus, with an outstretched hand and a, ‘Hi, Barry?’

The pilot responded with a somewhat bemused smile, ‘Hi, Tony. I think we have met before,’ he said politely.

‘Not that I recall,’ I replied, ‘My name is John.’

‘Oh, I thought you said your name was Barry’.

‘No,’ I replied, ‘I am waiting for Barry de Groot from The Bateleurs. I thought you were Barry.’

‘No, I’m Tony, but I know Barry, and I’m flattered to be mistaken for him. Do you know he has his Springbok colours for precision flying?’

Resolving our confusion about mistaken identities the real Barry de Groot arrived in his Cessna ten minutes later, to meet me, the Sigidi three and two other passengers who had come along for the ride: Stephan Hoffstatter was on assignment for the *Financial Mail* to report on the contentious mining issue; and Richard Spoor, a human rights attorney based in White River, had been invited by the Sigidi community to advise them on their legal rights and options as occupiers of the contested land.

Old acquaintances renewed and new friendships forged, the first group of three passengers, Mzamo, Stephan and Richard, climbed

into Barry's Cessna and took off into a strong northeasterly headwind.

Our collective mission was to acquire an aerial perspective of a phenomenon known as the 'Red Desert'. Besides hosting two and sometimes three ocean-plunging waterfalls, the Wild Coast is also home to 'the tenth largest known deposit of titanium and heavy minerals in the world', according to John Barnes, a geologist with the Australian mining exploration company, Mineral Commodities Limited (MRC). MRC is hoping to receive a mineral licence for what it calls the Xolobeni Mineral Sands Project. The project takes its name from one of the five villages associated with five large coastal dunes, which lie exposed along a 22 km stretch of coastline between Port Edward and the Mntentu River Estuary.

Barry was ready to please his passengers and proudly showed them what his 1965 Cessna 172 could do. Together he and his plane performed several steep turns, allowing his passengers to study the scenes below and facilitating the best possible angles for Stephan to capture images of the Red Desert, within a context of exceptional scenic beauty. 'It's an old plane, but upgraded with a 180 hp motor, which accounts for its good performance,' Barry told me, modestly giving credit to the machine rather than his skills as a pilot.

While we waited our turn Tony Gooch explained to Nonhle, Zeka and me that he was dropping in to Margate to collect some plumbing supplies, to fix the water supply of his seaside cottage at Port Grosvenor, just north of Waterfall Bluff.

'Do they still send telegrams by carrier pigeon to Grosvenor?' I asked, recalling a wartime anecdote told by my father. He had been stationed for part of his training as a bomber pilot during World War II at the Lambazi airfield, near where Tony lands his plane. My father's story tells of a love letter he received from his girlfriend in Durban. The absence of postal services to such a remote place meant that the telegram had to travel for the last leg of its journey strapped to the leg of a carrier pigeon, for a 20 km overland flight from Lusikisiki to Lambazi.

Tony laughed, intrigued by the story. 'I have a friend who was also a WW2 pilot there, and who would be interested in that story for a book he is writing. I must put him in touch with your father.'

A waiter interrupted us to give Tony the telephone number of a taxi driver who would collect him and take him into Margate. Sufficiently persuaded of his honesty, I offered Tony the use of my car instead. 'Since you know how to fly a Cessna up and down the Wild Coast, I assume my Nissan XTrail will be in safe enough hands for the 3 km drive into Margate and back.'

'That's very kind of you. To return the favour, why don't you let me fly you down to Port Grosvenor and back,' he suggested.

Somehow it didn't seem quite fair. A 150 km return air trip in a Cessna, all along the Wild Coast, doesn't quite match a 6 km round trip in an XTrail to the Margate hardware store! But the offer was tempting, because I have yet to visit my father's wartime flying base and take some photographs.

By then Barry had returned with his first load of passengers. Overwhelmed by the abundance of options, I reluctantly turned down Tony's generous offer and went to meet Mzamo, Richard and Stephan as they stumbled out of the plane displaying mixed emotions – relief to be safely back on the ground, but regret that the trip was over.

Now it was our turn.

Never having had any previous experience of flying in a small aircraft, Nonhle and Zeka climbed nervously into Barry's four-seater Cessna, with me. We were quickly taken aloft to get a Bateleur's-eye-view of their world – their homes, crops, pastures, hills and beaches.

'It looks so beautiful and peaceful from above,' Nonhle remarked, after she had finally yielded to Zeka's prodding to overcome her nervousness and look down to see if she could pick out her own homestead.

Nonhle knew that, in sharp contrast to the beauty and apparent serenity visible from the air, inside the scattered homes beneath us there was bound to be much perturbed, perhaps even angry conversation, taking place. The previous morning 75 residents of

her village had crammed into one classroom at the local school, to hear Richard Spoor explain what they could expect if the planned dune mining was allowed to go ahead.

Based on his experience as an attorney representing mining-affected communities in the platinum-rich areas of Limpopo and North West Provinces, Richard had explained that mining, even though it produced jobs and some other benefits, could also be extremely destructive to the traditional way of life. 'The influx of outsiders, the destruction of traditional means of subsistence, and industrialisation, all have damaging and irreversible consequences for traditional communities,' he warned.

Flying over the large expanses of exposed red earth we could see why they were dubbed the Red Desert. Two opposing theories exist as to how the Red Desert came to be.

The theory favoured by the mining company, MRC, is that the exposed sand is due to wind erosion following overgrazing by too many cattle. Some say this dates back to the time of the Mfecane when herds of cattle were herded together and hidden from Shaka's marauding armies. MRC argues that its interventions will in fact rehabilitate the pre-existing 'degraded environment' once they have exhausted the sands of their mineral wealth. It is estimated that the mineral deposit will give a 22 year lifespan to the mine.

But Tony Abbott believes the exposed sands are an entirely natural phenomenon resulting from a combination of wind, drought and erosion. 'The sands are after all coastal dunes, with heavy deposits of minerals which, in such concentrations, are not exactly favourable to organic processes of growth. We should appreciate why only alien species have been successful invaders, with few indigenous species managing to survive there.'

Tony explains that, paradoxically, the incredible botanical biodiversity found in the river gorges is due partly to the relatively stressful natural environmental conditions of poor soil, strong wind and unusual geology. 'Nature is marvellously adaptive. When the environment is harsh it produces greater diversity to increase the evolutionary options available for life to prevail through the process of natural selection.'



He argues that given enough time and left to itself, nature will eventually find a way of returning indigenous vegetation to the Red Desert.

With perhaps an intuitive sense of this process, local villagers had expressed fears that if the heavy minerals were removed from the sand, their land would turn into nothing but dust, to be blown away by the strong northeasterly winds, such as Barry was having to contend with during our flight.

Whatever the outcome of this debate, there is an indisputable fact that all agree upon: the dunes are pregnant with other signs of life – human life, dating back some 300,000 years.

Dr Kuman has confirmed that stone-age tools recovered from the dunes are indeed highly significant. She has identified them as stone picks, core-axes and choppers used by pre-historical humans from the Sangoan era which she describes as ‘a late development of the Earlier Stone Age which ended about 200,000 years ago’. She also confirms that they are similar to discoveries made at Mapungubwe, now also threatened by mining. It seems that the Sangoan hunter-gatherers migrated inland from the coast, leaving their tools behind. Presumably they had not yet invented toolboxes.

Kuman explains that, ‘only during the late phase of the Earlier Stone Age did humans begin to make more specialised toolkits and inhabit new, more challenging environments’.

The question that occurred to my Bateleurs-enhanced perception was, perhaps it was not the threat of Shaka’s marauding army that was responsible for overgrazing, but Sangoan settlers deforesting pre-existing forests with stone tools? This thought was prompted by Jared Diamond’s book, *Collapse: How Societies choose to fail or survive*. It tells how the demise of the Easter Islanders, the Mayans and many other ancient societies, was caused by the deforestation of their environments.



Stone Age litter.

*Photograph by Cheryl Alexander.*

Although my theory may be highly speculative, Kuman believes there is definite research and educational value in making a systematic collection of artefacts. 'The more interesting and diagnostic artefacts could be used to create educational displays on the Stone Age heritage of the area. This would undoubtedly add value to the eco-tourism potential for the region. The richest concentration of artefacts could also be preserved as a national monument, and hiking and horseback trails to see the archaeology of the dunes at such sites could provide employment for community members as guides and curators,' she recommends.

We flew over the Red Desert, gaining a fuller perspective of the exposed sands, and then on to the Mnyameni Estuary, where the proposed Phakamisizwe tourist camp will be situated, and then on to the Mntentu Estuary, which already has a lodge and campsite that my family and I have visited frequently.

I know the Mntentu Estuary well. It forms the northern border of the Mkhambati Nature Reserve and I had photographed it from the upper reaches of the gorge on the Mkhambati side. However Mnyameni has no such natural vantage points and we needed good

photographs. While the Mntentu Estuary Management Committee may yet ensure that the unique area in their charge escapes negative impacts from proposed dune mining, our aerial perspective confirmed that the Mnyameni Estuary will definitely be harmed, no matter what mitigation measures are taken. The relatively smaller river runs straight through the middle of the Xolobeni Mineral Sands mining tenement area, ending in a beautiful stretch of blue water surrounded by coastal dune forests. There is no doubt that mining will require vast quantities of water for slime dams and settling ponds. Although MRC insists that the sands will be piped out of the environmentally sensitive area before processing, even this will require a constant stream of water, as well as electricity to run the pumps.

Dr Stefan Cramer, a mining geologist with the Heinrich Boll Foundation, says that sea water cannot be used to carry the sand in the pipeline, because the sea salts would upset the chemistry and make the titanium extraction process impossible. MRC has yet to explain where it hopes to get sufficient quantities of fresh water, other than by tapping the rivers that run through its tenement area.

Doing so would clearly absorb the fresh water before it reaches the Mnyameni Estuary, pushing the fresh water/salt water balance in the estuary above the limit for the eco-system to survive.

MRC believes it can re-vegetate the Red Desert after it has taken the mineral wealth away, but it has yet to explain how it will prevent a 'Blue Desert' forming in the Mnyameni estuary – and indeed in other smaller estuaries on the Mphahlane, Mtolane, Kwanyana and Sikhombe rivers – as a consequence of their planned operations.

Mzamo's first efforts to attract a private sector investor to his Phakamisisizwe Tourism Project failed when the mining prospecting licence was granted to MRC by the Department of Minerals and Energy (DME) and the investor withdrew. In addition, private sector partners, Ufudu Fly Fishing Enterprises and Wilderness Safaris, have withdrawn from the Mntentu Lodge and campsite, depriving tourists of a chance to enjoy the

spectacular setting because of the conflict induced in the community between mining and eco-tourism interests. Given this situation, it is easy to see why potential investors were wary of risking their money in the Phakamisisizwe Tourism Project.

Like the invasive black wattle and eucalyptus trees that are such a threat to southern African river systems, once mining interests take root in a money-poor community they tend to spread very quickly and become hard to eradicate once established. Mining companies have largesse to offer, and sophisticated tactics, which some may consider immoral but are not illegal, in order to win over well-meaning community members.

Spoor explains: ‘Corruption is illegal and to sustain such a charge one has to provide evidence that proves corruption beyond reasonable doubt. But where there is a fundamentally unequal power relationship between mining companies and rural communities, the mining companies don’t have to break any laws to co-opt elements of the community to support their mining agenda, regardless of the impact on the broader community. Often even a relatively small incentive – a job or a few hundred rand offered to a hungry man or woman – is sufficient to persuade a community member to put his own and his family’s interests before those of the community as a whole. It’s as simple as stealing candy from a child.’

This is exactly what MRC has done, operating through its wholly-owned South African subsidiary, Transworld Energy Minerals (Pty) Limited (TEM). A company named Xolco, which is an abbreviation of Xolobeni Community Empowerment Company, has already been registered. Xolco will channel 26% of the anticipated profit from the mining operation, in accordance with BEE and Mining Charter regulations.

Zeka was being courted to serve as an interim director of Xolco, representing the Sigidi community. He had been assured that five community trusts – one for each of the five community areas (Sigidi, Mnyameni, Xolobeni, Mphahlane and Mntentu), which will be directly affected by the mine – will be established, to become channels through which benefits will flow to the local communities.

All this had happened even before MRC had been awarded a mining licence or submitted its bankable feasibility study. Why should such efforts be made when the company didn't even have a licence?

My interpretation is that by so doing they pre-empt the possibility of the government refusing to award a licence, since governments can survive only by keeping popular electoral support. By hook rather than by obviously illegal crook, agents of the mining proposal will spread rumours and manipulate communication flows, especially where people are isolated by illiteracy and lack of access to transport and communications.

Nonhle told us how their struggle against the manipulations of the mining-aligned interest was intensifying, with discouraging rumours circulating that 'the community had no power to stop the mining if the government decided to award a mining licence'. Another rumour said 'the late Nkosi had signed approval for the mining to take place, and this decision couldn't be changed'.

Richard Spoor had explained to the community meeting that while it was true that the Mineral Resources and Petroleum Act of 2002 had nationalised mineral wealth, and that mineral rights were no longer owned by those who owned surface rights, but confirmed also that 'no-one has the right to push people off their land and destroy their agricultural production in the pursuit of mineral wealth'.

He advised the community to challenge the Department of Land Affairs (DLA) to do its job, i.e. to 'ensure that communal land rights were protected and not compromised or sold for a fraction of their real worth'. Similarly the Department of Environmental Affairs and Tourism (DEAT) could be challenged 'to ensure your constitutional right to an environment that is not harmful to your health or well-being, and to protect the environment for the benefit of present and future generations'.

'Before the DME awards a mining licence, it must be satisfied that the mining company has an acceptable social and labour plan, and an environmental management plan that does not violate the constitution,' he explained, urging the gathering not to accept any

promises made by the mining company until they had obtained independent legal advice.

Regardless of all the complexities of the local realities, the Xolobeni Mineral Sands of the Wild Coast are symbolic of the global challenge that faces human society as a whole.

## §

As we surveyed the expanse of the Xolobeni area, I became more aware of my privileged perspective. Although a beneficiary of a technology that now afforded us the ability to do something that Stone-age Sangoans would have found unimaginable – flying like birds in the sky – I was perplexed by the thought that two centuries of technological progress has brought us no guarantee that we will prevail as a species. On the contrary, this progress has provoked a false confidence in our technological prowess. Human society is again becoming conscious of its vulnerability to climate change.

Ironically, this is attributable to technologies that have enabled us to extract other, energy-producing substances from the earth's crust. While this has produced unimaginable wealth for some it has also caused the whole planet to lose its natural equilibrium. Poor populations, such as those living and depending on the land we were scrutinising beneath our aircraft, are most exposed to the resulting natural consequences and corrections, such as rising sea levels, extreme climatic conditions, and the like.

A strong northeasterly wind was blowing, which added to the fun of our return flight. Barry offered to provide us with an experiential understanding of the word rollercoaster, by descending to fly just a few feet above the beach. Demonstrating his precision flying skills in the turbulent winds swirling around the dunes, I understood why Tony Gooch had so much respect for Barry's flying talents. We were flying at about the same altitude above the beach as a rider on horseback. In fact I had galloped across that very beach on a horse five years ago in an impulsive race with a close friend. But the prospect of crashing a 180 horsepower plane on a sandy beach is not the same as falling off a one horse-power horse! Mercifully, with expert touch, Barry pulled back the euphemistically named joystick, gunned the engine as we approached the rocky outcrop



The same altitude as a horseback rider.

*Photograph by John G.I. Clarke.*

ahead – and the nimble plane soared skywards. Looking back at Nonhle and Zeka in the rear seat, I saw expressions of relief very much like my own.

Upon landing it took a while for the contents of our stomachs to settle, but the images burned into our memories will remain for as long as we live – visions of deep gorges, high waterfalls, sparkling rivers, white beaches, blue sea, green pastures, neat huts and verdant maize fields. The dunes of the Red Desert are also part of that kaleidoscope of colour, posing searching questions and containing hidden secrets of a distant past.

Mzamo, Nohle and Zeka would like to pose two key questions to



“Visions of deep gorges, high waterfalls”  
– the Mnyameni Falls.

*Photograph by John Clarke*

the shareholders of Minerals Commodities Limited. First: ‘Why do you see only the heavy minerals buried within and not the story of ancient settlements?’ Secondly: ‘Why do you want only short-term profits and not long-term, sustainable returns from nature-based tourism?’

Richard Spoor has his own questions for the Australian mining company: ‘Would you turn Ayers Rock (in the southern part of the Northern Territory in central Australia) into a quarry for granite? Or the Great Barrier Reef into an undersea mine for calcium carbonate?’

§

Eighteen months later, at the height of the struggle, just when things were trembling on the edge, The Bateleurs went four times better. But before we soar with the eagles, what follows next is a worm’s-eye preview from Amadiba Awakening.





## 10: My Mea Culpa with Mayor Capa

‘If you want to avoid earthquakes, don’t dwell on a fault’.

*Swami Beyondananda*<sup>15</sup>



Mrs Zoleka Capa.

*Photograph by Fred Kockott.*

### **9 August 2007**

We had arranged for the Amadiba Crisis Committee to visit Qaukeni to seek the intervention of the King and Queen in the worsening conflict with the Xolobeni Empowerment Company grouping under Zamble Qunya, .

My professional journal records:

---

<sup>15</sup> A US stand up comic and humorist.

‘Purpose: To monitor Amadiba Crisis Committee and Xolco meeting with King and Queen Sigcau, to protest against violations of human rights by pro-mining elements.

Context:

Despite passionate urging from Sinegugu Zukulu, Mzamo Dlamini and myself, the SA Human Rights Commission (SAHRC) was not able to get to the meeting on 9 August, which disappointed and frustrated us. We felt they did not seem to accept that there was a real risk of people losing their lives if the conflict did not receive a decisive and proactive intervention. We had argued that the role of the SAHRC should be to back up the traditional authority in their dispute resolution role, by bringing the powers of the SAHRC to bear on the situation, especially to compel the mining company to appear at tribal meetings to answer to the concerns of the Amadiba Crisis Committee, which they had hitherto ignored.

Content:

Zamile Qunya, (with, I suspect, the collusion of the Executive Mayor, Zoleka Capa) bussed in an unsuspecting and ultimately bemused group of people to gatecrash a scheduled meeting between Xolco directors, the Amadiba Crisis Committee and members of the community. Queen Sigcau angrily pointed out that the large group of visitors had not made an appointment. A particular group of women had gone to a lot of trouble to dress up in traditional tribal dress, expecting to perform traditional dances for the King and Queen to commemorate the annual Women’s Day; they were left looking like wallflowers, and judging from the expressions on their faces, feeling worse. It was a shameful insult to them, and made me even more angry with Qunya.

I had suffered some verbal hostilities from the mayor – my first direct encounter with a person that Bishop Geoff Davies had warned me could be devastating to anyone who dared stand in her path. (He had experienced her forceful personality first-hand when he was Anglican Bishop of the Diocese of Umzimvubu.)

Forewarned by Geoff, I was intent on keeping my mouth tightly shut staying out of range during the meeting, by blending with the journalists and other visitors. But circumstances caused me to change my mind when it became apparent that Queen Sigcau and the Crisis Committee needed some support to counteract the efforts of Qunya, Capa and the chairman. I happened to have with me a

report that I had found on the MRC website that presented a highly misleading account to Australian shareholders on the project claiming ‘unanimous support for the mining project’ among the local community and traditional authorities.

Although it was already old news, having featured in the expose used by Julius Cobbett a journalist with *Moneyweb*, to bring MRC to book last December, I stood up to present the evidence, with Sinegugu translating. After I had introduced myself and explained my role and interest, just before I was about to read the damning sentences the chairman quickly stopped me. By expedient recourse to pressures of time he ruled that I should rather hand in the report to the minute secretary to be discussed by the various parties in dialogue. This censoring intervention had the precise opposite of the outcome desired by the chairman – it served to further arouse the curiosity of the press, the Queen and others, and became the main issue for Fred Kockott’s subsequent report in the *Sunday Tribune*. (Interesting how old news suddenly becomes newsworthy again, if people in power overreact and act suspiciously. I have since learned that one of the tips for good campaigning is to ‘give old news a new twist’.)

Mayor Capa suffered no such censoring from the chairman when she rose to address the gathering. Misappropriating to herself the right to speak from the same platform on which the King was seated, and in a transparent attempt to try to eclipse some rather damning and astute inputs from the Crisis Committee, she spoke for half an hour or more. Reacting to my impromptu contribution she repeatedly insinuated that I had a hidden agenda, was only a voluntary social worker, and had no real standing to influence the course of events. She reassured the gathering that if mining eventually went ahead and some people needed to be resettled, ‘we will send our social workers, employed by the O.R. Tambo District Municipality (DM), not voluntary social workers, to ensure that the housing and resettlement satisfies the community needs’ (roughly translated).

I would have been inclined to shrug this off had she not also used the opportunity to vilify Nonhle. Zamilé Qunya had written a letter to the media, which painted a picture of the Amadiba community as ‘living in abject poverty, in mud huts’ and ‘having to eat snakes and monkeys because they were starving’.

In response a journalist had reported Nonhle's strong objections to the crude caricature. 'Yes we are poor,' Nonhle had protested 'but we are not the poorest of the poor, and we still have a sense of dignity'.

Mayor Capa chose to construe this objection as a suggestion that the Amadiba Community did not need the O.R. Tambo municipality to worry about providing roads, ambulances and municipal services, and had sarcastically attacked Nonhle.

After the meeting the mining company had attempted to put its own spin on the meeting, presenting the follow-up meeting as a 'two day workshop, to be funded by the O.R. Tambo DM, to educate people about mining'. (From e-mail correspondence dated 10 August, at 10h47 pm.) The Queen, when asked by Fred Kockott if this was her understanding of the outcome of the meeting angrily denounced it as a "blatant lie".

In my file the following media report by Fred Kockott, a senior writer at the time with the *Sunday Tribune*, sums up the meeting:

### **Traditional council takes up dunes issue**

12 August 2007 Edition 2

Fred Kockott

PONDOLAND. Queen MaSobhuza Sigcau, has accused an Australian company, planning to excavate heavy minerals from coastal dunes on the Transkei Wild Coast, of misleading its shareholders and the Australian Stock Exchange about community support for the project.

The mining company, Minerals Commodities Ltd, claimed in its quarterly report, in October 27 last year, that the Amadiba community, where mining is planned, 'continues to unanimously support the project and has formed a consultative forum supported by the traditional leaders, the King and Queen of Pondoland as well as local government authorities'.

'That is a big lie,' said Sigcau, after a meeting on Thursday with residents from the Amadiba area who are concerned that mining proposals have sown division in the community.

Concerns

This resource, named Xolobeni Mineral Sands, is said to be the tenth largest heavy minerals deposit in the world. It falls in the Amadiba tribal area, and is named after the nearby Xolobeni school and store.

TEM General Manager, John Barnes, argues Xolobeni Mineral Sands Project will bring economic upliftment and huge benefits to the local community.

However, concerns have arisen that land rights are not only being ignored, but violated by mining representatives planning but not consulting those living there.

Some residents, environmental groups and NGOs are also concerned mining plans have jeopardised important eco-tourism initiatives in the area.

Social worker and development consultant, John Clarke, is assisting the Amadiba Crisis Committee in accessing information about the mining plans.

Sigcau said unnecessary conflict and division had now arisen in the Amadiba community, which she and King Mpondombini Sigcau and other senior traditional leaders had been called upon to address.

On Thursday, representatives of the Amadiba Crisis Committee were invited to the Qaukeni Great Place (the highest traditional council in the area) to share their concerns.

Executive members of Xolco, a black economic empowerment partner, which holds a 26% stake in the project, were also invited.

Chairing the meeting, a representative of the King's council, Nkosi M.G. Cinani, said Xolco had also been invited to respond to residents' concerns about mining plans.

Cinani expressed concern that Xolco executives had brought almost 100 people to demonstrate support for the mining proposals.

He ruled they could stay, but not contribute to discussions, as this would spark tensions and cause further confusion.

'Our aim now is to avoid a crisis. There are people saying there is going to be bloodshed. We don't want that. We must talk to avoid any killings,' said Cinani.

It was resolved that a delegation led by the King and Queen would visit the proposed mining areas on September 5 and 6, accompanied by the Xolco executive committee.

'We want to hear from the people who will be affected by the mining,' said Cinani. 'It is best for us to go there.'

Interviewed after the meeting, Cinani and O.R. Tambo district Mayor, Zoleka Capa, agreed that reports suggesting the Amadiba community unanimously supported the mining plans were grossly misleading.

Barnes and TEM's public relations consultant, Pat Roberts, have told the *Sunday Tribune* that as there was no traditional chief presiding over the immediate area where mining was planned, mining representatives had consulted at a higher level. 'We've gone to the paramount chief - the head of the Amadiba Tribal Authority. We've been working with him,' said Barnes.

But he could not name this chief, provide contact details or facilitate an interview. Roberts also could not name the chief, but arranged for the *Tribune* to be provided with minutes of public meetings held.

After the meeting ended Nkomba, Nonhle and I met with the Queen to plan ahead to ensure the follow up meeting was not hijacked again, and to decide how to brief the SAHRC. Following our discussions, Sinegugu Zukulu reported to the chairperson of the SAHRC, Jody Kollapen:

'The King and Queen and the whole gathering have agreed on the dates of the 5-6 September 2007 as the set date to go and listen to the community at large. This therefore means you need to gear yourselves up for this date, to go and listen as this will be attended by both sides and by the politicians alike. This will be the first meeting of its kind and I plead with you to attend it. The second date is set aside in order to make sure that if the discussions are not finished on the first day they then proceed to the second day to try and bring finality to it all.

In my own report I said:

'While I am pleased that the SAHRC will be present on the 5th and 6th September I believe it would have been prudent for a visit beforehand to familiarise yourselves more with the situation, as the Queen has now requested that the SAHRC in fact chair the follow-up meeting.

I have advised the Xolco executive of this proposal and await their response, but on the evidence of my constructive two-hour interaction with them on Sunday, I think they will welcome this proposal too.

However, as Sinegugu's report below intimates, one party to the conflict whom I expect will not take kindly to the proposal for an SAHRC chair is the Executive Mayor of O.R. Tambo District Municipality, Mrs Zoleka Capa. On the evidence of her behaviour at Thursday's meeting and her statements to the media she appears to believe that it is the prerogative of the District Municipality to intervene in the conflict. My clients in fact have no confidence in the District Municipality and see Mayor Capa as party to the conflict, and it may require some quiet diplomacy on the part of the SAHRC to counsel Mrs Capa into taking a back seat, and allow the Traditional Authority System and SAHRC jointly to resolve the crisis. I myself have requested an appointment with her, to try to build a relationship, but I get the impression that she would more readily confide in someone else at this stage.

If such mediation does occur I would like to request that the SAHRC mediate a private session between myself and Mayor Capa as well, as she needs to be confronted on some of the things she has said from public platforms that have violated human rights.'

However, Jody Kollapen, Chair of the SA Human Rights Commission, indicated that they did not wish to chair the meeting, and communicated to me as follows in an e-mail dated 22 August 2007:

Dear John

Thanks for your note. Following the change in planned visits to the area, the Commission as indicated has agreed to participate in the processes on the 5th and the 6th. Given both issues of language as well as my other commitments, the Deputy Chair of the Commission, Dr Zonke Majodina will lead our delegation accompanied by Commissioner Tom Mantata, as well as a member/s of staff. They are in the process of being briefed about the issues and our view at this stage is that we should not chair the meeting but rather play a substantive role in it. If there are problems about us chairing as you envisage then we will already be perceived as biased. At this stage the Commission wishes to ensure that it is able to play a constructive role and to do that will require it to act objectively (certainly in its

initial interactions with the various interest groups and role players).’

## §

With tensions rising apace regarding our expectations for the unprecedented Royal Visit to the Amadiba Coastal community, the days rushed by.

A year had flown by since Nkomba and I first connected with one another at Qaukeni. How much longer would the intervention last? I had started off with a clear professional boundary. I was not an anti-mining activist but a pro-human rights social worker. The distinction between advocacy and activism was becoming blurred. The situation could by no stretch of the imagination be regarded as simply a lack of information or understanding. It was not about the clichéd ‘give a man a fish, feed for a day: teach him how to fish, feed him for a lifetime’. It was about preventing the plundering of the fish stocks.

However, given the realities about the Xolobeni mining venture there was not the shadow of doubt in my mind that I had rights to calling myself an ‘anti Xolobeni-mining activist’ because in this particular expression of mining, to be pro-mining was to condone outrageous human rights violations. Nevertheless, the Human Rights Commission had to make that finding. I was way too embedded in the situation to be impartial. But I had to be fair.

As the boundary between non-judgemental social worker and militant anti Xolobeni-mining activist blurred, fortunately the role between journalist and social worker became clearer. We had developed enough credibility to be taken seriously by journalists, and I was always careful to clarify that we did not want journalists to become biased to SWC’s advocacy/activism agenda. We wanted them to be as hard on us in making sure we were not deceiving ourselves, as they were on the mining protagonists.

With that understanding the best journalists felt more willing to be counted as trusted friends. We respected the different roles of each profession, and the Amadiba community were the better for it.



The Royal visit to the Umgungundlovu Great Place on 5 September 2007 was a major threshold to secure the Promise of Justice for the future.

## §

My diary records.

‘Purpose:

To ensure the Human Rights Commission was exposed to realities of community discontent and conflict as a result of mining prospecting of Xolobeni Mineral Sands.

Content:

I called Queen Sigcau on Tuesday, 4 September to discuss arrangements. She said she and the King would be staying at the Wild Coast Casino Hotel, arriving later that evening. She asked me to meet with her at 08h00 the following morning, as she wasn’t sure if her driver knew the route to the venue. I said I would do so, and make sure the SAHRC team was also there so we could all travel in convoy.

She also asked me to assist with drawing up an agenda for the meeting, with the client group. Travis, Mzamo and Ndumiso helped me with this task. We put John Barnes/TEM on the agenda, and I called Barnes later in the afternoon to alert him to the fact that he was expected to make an input. He did not take my call but I left a voice mail urging him to call me back. He delegated this call to his publicist, Pat Roberts. Pat called me at around 18h00 on Tuesday to tell me that John Barnes was “in the field” and unable to attend, but that he had “full confidence” in Xolco being able to represent the mining interests.

The Queen had asked me to leave a draft of the agenda for her to collect when she checked into the Wild Coast Casino Hotel later that night.

Mzamo had been called to a meeting with Qunya and Xolco members at the Casino Hotel. I travelled there with him so I could print the draft agenda in the hotel’s business centre.

I was advised to keep my distance from Mzamo and other Amadiba Crisis Committee members (ACC). Qunya and Xolco had been pressuring them to keep their distance from outsiders and the media, in a ploy to try to subvert them. They had agreed to play along so as

to give Qunya ‘more rope with which to hang himself’, knowing that he would not obey the rules if it was in his interest to break them.

While printing the draft, Mzamo, Qunya, Zeka and Chris Ngcwele suddenly entered the business centre. I feigned surprise at seeing them, shook their hands, and off they went.

They were closeted for about six hours in an intense meeting. Mayor Capa and Qunya tried every trick in the book to manipulate them into accepting a diluted strategy. This new tactic would supposedly unite Xolco and the ACC in a scheme to get the current mining rights application rejected, in favour of launching a new application for mining rights, “controlled by the community rather than the Australians or TEM”. This would only be exercised ‘if future generations wanted them’.

Nobody in the Crisis Committee trusted Qunya’s sincerity in this compromise, especially since he had also asked them, “not to tell John Barnes or TEM about this”. (This is perhaps another reason why John Barnes wasn’t at the meeting. Qunya may have advised him to let Mayor Capa, Xolco and himself handle things. If so, it appears that the certainty expressed by John Barnes – of having “full confidence” in Xolco representing the interests of TEM – was grossly misplaced.)

Ndumiso and I met with the SAHRC team in Margate (about 20 minutes from Port Edward) to inform them about the proposed proceedings, and to alert them to the fact that they were scheduled to make an input. The four-person team comprised Dr Zonke Majodina, Deputy Chairperson of the SAHRC; Commissioner Tom Mantata; Khaya Zweni, head of the legal department; and Gunikhaya Dudeni, one of the attorneys. In an opportunistic meeting in their hotel lobby at around 19h00, it became clear that they were very anxious not to be seen as aligned with one or other side – least of all a grey-bearded white social worker from Gauteng – and they were thus reluctant to say anything at the meeting or even to be seen travelling with me. “We are just here to observe,” I was told by Dr Zonke Majodina, the leader of the delegation.

The standoffish attitude of the SAHRC angered me somewhat. I felt this was at variance with what the SAHRC Chairman, Jody Kollapen, had indicated, and that they had misinterpreted my role. Fortunately Ndumiso’s presence gave me moral support. I tried to explain to the SAHRC team that I was not an anti mining activist

but a professional social worker with an overriding concern for the protection and promotion of the very human rights that gave them their jobs.

These concerns aside, none of the party had the faintest idea of how to get to the venue and to aggravate their anxiety, the 4x4 vehicle that they had hired was showing symptoms of gearbox damage. This meant that they had to get to Port Shepstone at 07h30 the following day to swap it for another, prior to driving to the meeting venue.

I explained that the King and Queen were expecting to meet with them at 08h00 the next morning, at the Wild Coast Casino Hotel, so that when the meeting commenced they would have some measure of familiarity with the issues to be discussed.

While Dr Majodina realised that observing this protocol was vitally important, she was anxious that I should not be seen as a broker bringing them to the King and Queen. But, since my vehicle was the obvious and most practical solution to get them there while one of their party made a hasty trip to swap vehicles, we agreed that this would be a solution.

“But could you perhaps send your vehicle back with your driver to collect us in the morning,” Dr Majodina said, with noticeable embarrassment.

They clearly wanted to play it safe, so I managed to swallow my pride and “be open to outcome and not attached to it”. I agreed to allow them their space, keep my distance and lend them my “driver” and vehicle.

We had expected to join the SAHRC team for dinner, but Ndumiso and I found ourselves leaving the hotel in search of a meal elsewhere. However, while discussing things over a snack, I learned that Ndumiso’s driver’s licence had expired. This further exasperated me, as I was not going to take any risks with my car, nor the HRC, and I did not want Ndumiso to do so either.

Our meal and conversation was interrupted by a cryptic SMS, sent covertly by Mzamo from behind a locked door somewhere within the Wild Coast Sun Casino hotel, together with Qunya, Mayor Capa, the Crisis Committee and Xolco. The message read: “Please tell the Queen that she must stick to the agenda we prepared”. This confirmed my worst fears: evidently Mayor Capa was exerting

intense pressure, intent on manipulating the meeting to her advantage.

Mzamo's message prompted the realisation that we could turn the SAHRC's travel predicament to our advantage – Mzamo was familiar with my car and was a good and legal driver. My client could conveniently masquerade as my driver while taking the team to discharge diplomatic protocols with the King and Queen, at the same time apprising them of all the various schemes being hatched.

I hastily tapped out a reply: "OK. But SAHRC team has car trouble. I need you to fetch them in Margate tomorrow at 07h30 in my car. Be ready at 07h00." Driving back to Port Edward, Ndumiso and I laughed at the irony, recalling that during Nelson Mandela's covert political activism he would frequently masquerade as a chauffeur. This ruse enabled him to attend meetings with his white comrades without arousing too much suspicion in a racially obsessed society – a society that tolerated blacks only in a servile position to whites.

Weary and still with some residual anger at the HRC's overly defensive posture, I went to sleep. I was awoken at 1h30 by Mzamo's reply to my SMS. "We have just finished our meeting. See you later."

At 07h00 the next day my weary-eyed 'driver' left the Wild Coast Casino Hotel for Margate, to collect the SAHRC team. Ndumiso travelled with him to facilitate the introduction and clear up any confusion about my 'driver' transforming into their client, later in the day.

When the SAHRC team arrived at the hotel they were an altogether different team and far more cooperative. Mzamo had expertly brought them into the picture, utilising his long years of experience as a tour guide with Amadiba Adventures, and had charmed them into a more relaxed and insightful attitude.

In the meantime I was briefing Queen Sigcau on developments.

She agreed to meet the SAHRC team when she came down for breakfast. She arrived before the HRC. I waited in the wings, observing the coming and goings. When the SAHRC team arrived I was about to take them to meet her but peering into the large Breakfast Room we noticed from a distance that Mayor Capa had ensconced herself at the breakfast table with Queen Sigcau, who looked very ill at ease. Mayor Capa evidently had much to say, as the Queen never said a word in response to her animated conversation.

Dr Majodina prudently decided to leave them in peace to have their breakfast, saying that we would adjourn to the lounge where we would wait for her to join us and meet the team in a more convivial setting.

While we waited for the arrival of the replacement vehicle from Avis, I found myself involved in an interesting and healing conversation with Commissioner Tom Mantata. I discovered that we shared some common background in SACC circles, plus an interest in theology. I learned that he was, like me, a Roman Catholic and our conversation did much to help me revise my somewhat jaundiced view of the HRC. I began feeling reassured enough to detach myself from my own preferred outcome, surrender my book of algorithms, be myself and trust my clients and other collateral interests to keep the momentum going.

Tom told me that during the apartheid era he had worked hard within the Catholic Church to promote inter-racial reconciliation, particularly to urge black Catholics to offer their hands in forgiveness and reconciliation to whites. "But when they did so, there were so few whites ready to take that hand." This was said in an affirming way, in response to my effort to try to explain to him that whatever value I was adding to the present situation was entirely consistent with my decision as a young Catholic to conscientiously object to conscription into the SADF in 1984.

Mayor Capa's monopolisation of the Queen's attention led Dr Majodina to decide that protocol had been observed and the SAHRC party left, with Mzamo as guide, to drive to Mgungundlovu.

I was still not sure if the Queen's driver needed directions, but by that stage I found myself having also to look after journalists and other visitors.

The outrageous humiliation of Nonhle, one of Mayor Capa's constituents during the previous inconclusive meeting at Qaukeni was still to the fore of my mind. I still felt personally aggrieved by Capa's crude attempt to cast aspersions on my professional integrity. This gave me some courage to walk across the dining room to the Queen's table, bracing myself for another likely confrontation with the mayor.

I politely introduced myself to Mayor Capa again. She immediately commenced an abusive barrage of reprimands. She tore into me for daring to interfere in the internal conflict resolution process of the

Traditional Authority systems, by daring to bring in the HRC, and the media. I stood my ground by pointing out that I was acting entirely in the interests of my community clients. My clients had sought my counsel on how to break through the media cordon, and how to expose the human rights abuses of certain influential people, who were clearly eager to promote mining interests. She wanted to know who my clients were and, “since when are communities paying for private social workers!”

I explained that I had a professional obligation to keep a confidential relationship with my clients and hastened to explain that I was not a lawyer but a social worker – consequently I was thus not ordinarily given to adversarial processes. I hoped this would encourage her to drop her highly defensive and clearly fear-driven posture. I confessed that I regretted not making more effort to meet her face-to-face earlier, to explain myself. I said I hoped we could still make amends, in the interests of mediation and reconciliation. (Tom Mantata’s ministry to me had obviously had some effect, making me aware that whites still had much to make up for, given the spurned black hand of forgiveness of two decades ago.)

She dismissed me contemptuously, saying, “Please leave, you are interrupting our breakfast”. I obliged, despite seething with rage and the desire to fight fire with fire. I managed to contain this with appropriate professional restraint while helping the media to find their way to the venue. Mzamo again accompanied the SAHRC, fortunately with their replacement car from Avis in good running order.

That was my last chance to communicate with the Queen before the meeting. Later she told me that she had herself left the breakfast table in tears and distress at the behaviour of Mayor Capa, both toward me and herself. “I felt like going home to Swaziland to recover and recuperate, for three months,” she told me.

We arrived two hours later at the Mgungundlovu Komkulu, astonished to find some 2,000 people had arrived to await the arrival of the King and Queen and other dignitaries. Ten local Mpondo tribesmen on horseback kept the crowd entertained with shows of equestrian skill while they waited.



Chief Cinani, Princess Wezizwe, Queen Masobhuza Sigcau, King Mpondombini Sigcau, and Mayor Zoleka Capa.

*Photograph by Fred Kockott.*

The Executive Mayor and her entourage arrived soon afterwards in vehicles with deeply tinted windows. The King and Queen were not with them, worsening my anxiety as I had left the Queen without obtaining any assurance that her driver would be able to find the venue, thinking it ridiculous that an outsider from Johannesburg should have accepted this responsibility. The event was supposed to have started at 10h00 and it was already nearing 13h00. Moreover there was no mobile phone coverage at that spot. I headed to higher ground hoping to find a signal strong enough to convey an SMS message – one bar appeared on the signal strength gauge on my phone. I hastily started composing an SMS, not sure how to balance SMS brevity with the requisite courtesy and respect for the Mpondo Royal Family, to see if the Queen needed us to send out a search party.

Fortunately I was relieved of my indecision halfway through my composition – the Royal Family motorcade appeared around the bend to excited cheers of *Thandizulu!* from the assembled masses. *Thandizulu* is the customary praise name of Mpondombini the King of the Mpondo. With this visit the King was making an extremely rare visit to this remote but extremely troubled part of his Kingdom. The ten mounted tribesmen cantered into formation to provide a ceremonial cavalcade for the last stretch of the long journey, stopping near a specially erected marquee.

The marquee, which normally accommodated around 1,500 people, was packed to overflowing. The number of vehicles parked nearby left me thinking that crowds of people must have been bussed in, probably to boost the pro-mining faction.

A smaller tent had also been erected as a holding place for the dignitaries to seclude themselves. Mayor Capa, the SAHRC commissioners, representatives of the Crisis Committee and Xolco were caucusing. The King and Queen joined them. More time passed, they finally emerged, and the meeting eventually got underway.

I learned later from the Queen that the caucus debate had been to resolve an impasse over the purpose of the meeting and the structure of the agenda. Apparently the mayor had tried, again, to postpone the complaints of the ACC to another meeting at Quakeni, and to use this occasion to, “workshop and educate”. The Queen said the prospect of bloodshed had been narrowly averted when the Mayor eventually backed down to prevent the ACC from withdrawing from the process.

It appears that the irresistible force of the political and material ambitions shared by Mayor Capa and Zamilé Qunya finally gave way to the immovable object of the draft agenda, prepared by us the preceding day. The agenda prevailed in overall structure and the wish of the SAHRC, simply to observe the process, was accepted. The order of events was changed to some extent but most importantly Mayor Capa was not allowed to have the last word, as she had done at Qaukeni. (Although in a sense she managed at the end of the proceedings to use her own voice to convey the words of another speaker; see below.)

The meeting had been designed to allow speakers from the floor to dominate the proceedings. This was after all the purpose for the King and Queen’s visit – for politicians and traditional leaders to listen to



local residents voicing their concerns, in the best tradition of a truly participatory democracy.

I had fully expected the numerous outsiders to dominate with their pro-mining speeches. Surprisingly, when proceedings started the reaction of the audience to various speakers indicated that about two-thirds of the gathering was strongly opposed to the mining.

Zamile Qunya stood up to make a brief statement. 'My roots are here and what I do is for the sake of this place. I want to set the record straight after all the accusations said against me. I find myself between two committees. Nothing makes us fight like these white people who write for the newspapers who say I have money.'

The audience jeered loudly and heckled him. 'It's you who is the problem!' one person shouted. The strong resistance prompted Chief Cinani to caution Qunya: 'Please do not be so provocative or use language that points fingers, whether they are white or black'.

Qunya tried to justify himself, saying he had not been derogatory. 'I am using the word *Mnyephi*' which is *mlungu* in Mpondo, but is not derogatory.' The crowd clearly was not appeased by this and jeered all the more loudly, which again made the chairman caution Qunya to be careful.

'There are a lot of people from the Amadiba region who are for this and against,' Qunya continued, 'people who are journalists must speak the truth and this is what is keeping people from the truth because journalists are misinterpreting the situation.'

Again the audience jeered and protested. He ended his brief input somewhat shamed.

Midway through the proceedings a soft rain started to fall, heralding the promise of spring. It also caused the 500 or so people standing outside to seek shelter inside the already packed marquee.

This is how the *Sunday Tribune* described the meeting.

### **Big money at stake in dunes**

9 September 2007

Fred Kockott and Smilo Gobingca

DIRECTORS of Transkei's controversial black economic empowerment company, Xolco, believe they could rake in huge sums

of money – possibly up to R145.6 million a year – from planned heavy minerals mining on the Transkei's Wild Coast.

But they have yet to decide what profits will flow back to people who have traditional land rights over proposed mining areas.

People who are directly affected by the mining proposals have no legal share in the planned mining operation extending along a 22 km stretch of coastline below Port Edward – a prime eco-tourism route and potential food basket for the Eastern Cape and southern KwaZulu-Natal.

Mining representatives say this heavy minerals deposit, Xolobeni Mineral Sands, is the tenth largest in the world - a global resource worth \$200 million (R1.4 billion).

While the government is considering granting a licence, people have begun asking who will have the final say as to whether mining does go ahead, if traditional leaders under whose jurisdiction the land falls do not approve.

Also at issue, is how Xolco was formed, who appointed its directors, and what rights a private entity like Xolco has to represent the tribal authority and people living in and around the coastal dunes containing the valuable titanium producing minerals - rutile, zircon and ilmenite.

'How can a structure like Xolco that has been formed outside the tribal authority represent our community?' asked local shopkeeper Scorpion Dimane. 'You can't just form a private company to benefit from taking things from land that doesn't even belong to you. People behind this are hiding some information because they want to feed themselves big money. That's what started this whole problem.'

Dimane recently joined the Amadiba Crisis Committee – a coalition of people opposed to the mining plans. His nephew, 31-year-old Zeka Mnyamana, is Xolco's secretary, and also serves as the group's spokesman at public meetings.

Mnyamana said he and four other directors, including chairman Nomangezi Malunga and deputy chairman Christopher Ngwele, were selected to represent the community at a meeting arranged by the original founder of Xolco, Zamile Qunya, in December last year.

He said that a network of trusts representing women, youth, the tribal authority, businessmen, the elderly and disabled was also being established to 'plough mining profits back into the community'.

'The mining will generate R560 million a year. Xolco's share will be 26% of that amount (R145.6 million a year). It will go to the directors' account, then from there to the trust accounts,' Mnyamana said.

Mnyamana is not sure who will exercise control over these funds, appoint trustees, and oversee financial management. 'We need an expert – an accountant – to see how we run this business and how money is shared. The community can decide these things, how much we as directors get and how much goes to the community trusts,' said Mnyamana.

But there is little consensus on the proposed mining. On Wednesday about 2,000 people met at the remote Mgungundlovu tribal authority to discuss concerns, and hear from those in favour of mining, and those opposed to it.

The meeting, said tribal elders, was the largest known gathering to have taken place in the area.

The meeting was sponsored by the O.R. Tambo District Municipality and proceedings were presided over by the Mpondo King and Queen, Mpondombini and MaSobhuza Sigcau.

Also attending as observers were the principal planner of the Eastern Cape's Department of Land Affairs, Bennie Ntubane, deputy chairman of the South African Human Rights Commission, Zonke Majodina, commissioner Tom Mantata, head of the commission's legal team, Khaya Zweni, and legal officer Gunikhaya Dudeni.

Apart from TEM's community liaison officer, Bashin Qunya (the younger brother of Xolco's founder, Zamilé), mining representatives did not attend, nor did any officials from the Department of Minerals and Energy.

Urging people to work together, O.R. Tambo District Mayor Zoleka Capa said existing tensions would have been avoided had people been properly consulted and educated about the mining proposals. 'What is this animosity among people who are married to each other, relatives who drink together, dance together, who actually shop from the same stores, people who drink from the same water ... what has possibly come between them, what does it mean to me as their shepherd?' asked Capa.

The meeting ended with a forum being established to plan a follow-up meeting. The forum comprises traditional leaders and representatives of local government, Xolco and the Amadiba Crisis Committee.

### Forum

Traditional council leader, Nkosi M.G. Cinani, said this forum would also engage the assistance of the Human Rights Commission and government departments, including land affairs and minerals and energy, in assessing the mining proposals and possible impacts on the community.

Welcoming this decision, Dimane said, 'We are now talking to Xolco people. There is no fighting. Christopher Ngcwele (Xolco deputy chairman) is my friend. Zeka is my nephew. They now understand our concerns. Even they don't know anything about mining, hardly anything at all.'

'What we need is the truth,' agreed Mnyamana. 'We welcome what the Amadiba Crisis Committee is saying. They are asking questions about the mining, which we can't answer. We need to have those answers before people can decide whether the mining should go ahead or not,' said Mnyamana.

Amadiba's co-ordinator, Mzamo Dlamini, said the forum also planned to engage a lawyer to advise them on the community's rights.

To our surprise, at the end of the meeting all the outsiders were invited to offer closing comments – including myself.

I jumped to my feet from my inconspicuous spot on the floor behind the stage and shot a pleading glance to my client-cum-driver to see if he might show even more versatility and be my interpreter, too. He was clearly reluctant, eager to avoid the unnecessary added association by translating my impromptu comments into Xhosa.

The Chairman prompted me to start talking. As I finished my first few sentences, up jumped Major Capa, strategically placed in the middle of the panel of dignitaries on the platform, to translate for me.

Consoled by the fact that Dr Majodina and the rest of the SAHRC team were fluent in both English and Xhosa, I reckoned that Mayor

Capa would not dare try to re-tailor my comments to serve her interests.

My comments as recorded in notes went something like this.

‘Of all the emotions and thoughts going through my mind as I have listened, my overwhelming thought is one of gratitude for the constitution of SA, and that today it is being written into the hearts and minds of the Mpondo people of this beautiful area.

My one regret, however, is that John Barnes from the mining company is not here as he is a representative of the mining company and he owes you explanations. I know he knows about the meeting because I phoned him myself and told him.’

The proposal to get John Barnes to explain directly was greeted with considerable audience applause.

I am told that Mayor Capa did a very good job of conveying my sentiments with accuracy and even excellence. Of course besides the mayor and me, only Queen Sigcau was aware that some eight hours earlier she had scolded me as if I was a naughty schoolboy. Yet now she was expertly amplifying my words!

The meeting ended, with food being served, overstretched for the huge turnout.

## §

When the report by the SAHRC appeared a month later, it stopped short of making any findings in respect of the alleged violations of human rights. However, its observations were enough to cause panic with MRC, TEM and Xolco – and for the Director General of the Department of Mineral Resources, Sandile Nogxina, to resort to desperate measures to deliver on promises made by the government to MRC.

Mr Nogxina knows what they were. He also knows that I know what they were, but I shall politely allow him to go first to explain himself, before my version of what happened is told in *Amadiba Awakening* when it is published.

It was to take another meeting at the Mgungundlovu Komkulu, twelve months later, before the ACC's efforts were finally rewarded.

The Bateleurs take us to the skies again for the telling of that tale.



## 11: Scratching with the Chickens, or Soaring with the Eagles?

‘People are wasting their time *toyi-toying* on the beach, and should follow correct procedures by lodging an official appeal with the department or going to court.’

*Jacinto Rocha, Deputy Director General of DME.*



The Mbuthuma sisters celebrate.

*Photograph by Julia Sestier.*

### **July 2008**

Was it a march or a walk? We were deciding how best to describe the unusual protest event that supporters of SWC from the Ramsgate Conservancy on the KZN South Coast were planning: a 7 km solidarity walk together with Amadiba Wild Coast residents, starting from the Wild Coast Sun Casino Hotel and finishing at the Mnyameni Estuary. The estuary is bang in the middle of the pristine coastal area targeted for heavy minerals mining by the Australian mining company, MRC Limited.



Marching or walking? South sets off to meet Wild.

*Photograph by John G.I. Clarke.*

On the one hand, we reasoned that since many of the South Coast residents would be older and perhaps not quite up to *toyi-toying*, and that since the occasion would not be a formulaic handover-of-a-memorandum-to-a-government-official sort of event (which the pro-mining faction had contrived to do in Pretoria six months earlier), it was not strictly a march of angry protesters. On the other hand we knew that the Wild Coast residents, led by the Amadiba Crisis Committee (ACC), represented widespread local opposition to any mining activities and would want to march rather than walk – even if Mr Jacinto Rocha, Deputy Director-General of the DME, whom we had invited to take official receipt of our petition, did not turn up on the day.

‘OK, so let’s simply use both words, and tell supporters they will be ‘marching’ with their left legs and ‘walking’ with their right legs.’

The other issue was to make sure that media covered the event, to help get the message across to government, even if Mr Rocha didn’t arrive to carry it back in person to the Minister.

‘We could ask The Bateleurs to fly a cameraman overhead, and maybe 50/50 will cover the event.’

‘Great idea!’ everyone agreed.



In response to our formal Flight Request to The Bateleurs, Nora Kreher called me.

‘Thanks John, I’ve received your request. But we’ve decided that The Bateleurs want to do something special. Mining the Wild Coast can’t be allowed to happen. We want to do a formation flight. I’ll let you know how many pilots I can muster.’

Social workers are used to dealing with scarcity, but contending with unexpected abundance poses another sort of challenge.

When the day arrived, instead of the normal constraint of trying to allocate a limited number of seats in one small aircraft to a whole ‘click’ of news photographers, I had the opposite problem of filling three four-seater Cessnas – on a beautiful spring tide Sunday, when all the reporters wanted to do was walk along the beach with the crowd. I had persuaded Dave Coles, chief of eTV’s Durban bureau, to join us and he and his crew agreed to join the squadron. Don Guy of 50/50 had somewhat reluctantly agreed to provide a bird’s-eye-view from the air, instead of joining the pedestrians and delivering a worm’s-eye-view of the march. His assistants, Siphwe and Sam ‘*die klankman*’ had to endure the river crossings, the salt spray off the rocks, and the festivity of Mpondo beauties chanting, ‘*iMining iMpumelo–iMining iMpumelo*’ (Mining won’t succeed–Mining won’t succeed) while several *vuvuzelas* blasted a clarion call to do no harm.

Abundance again manifested itself while I was still on the ground directing South Coast residents through the gates of the Wild Coast Sun to the parking lot. After half an hour of hurrying vehicles along, so as to avoid a traffic jam at the entrance, the chap on duty below came running up to tell us to divert cars to a different parking lot. ‘The bottom parking lot is already full – send the cars to the upper parking lot!’

Some 500 South Coast residents had turned out, in an astonishing display of solidarity with the Wild Coast residents, to make sure the message got across.

I helped eTV get some quick footage of the masses commencing the Beach Walk/March, which had to get going early, to take advantage

of low spring tide to cross the estuaries. Then it was off to board the planes to witness the spectacle from the air.



The Bateleurs in formation.

*Photograph by Paul Dutton.*

Unsurprisingly, Bateleurs veteran Paul Dutton had also turned up with his two-seater aircraft *Spirit of the Wilderness* – there was no way he was going to miss this event.

I was pleased to have Barry de Groot as my pilot once more. He had flown me over the area early the previous year, in a howling gale, so I knew these near perfect conditions would give him no trouble at all, the presence of other planes in close proximity notwithstanding. I knew I could concentrate on getting the still photos while Don Guy filmed the video footage.

As our expert pilots positioned themselves within the agreed altitude, speed, and mutual proximity, thoughts of my father came to mind. In 1943, as a pilot with the SAAF 24 Squadron he had flown this same route many times, patrolling the Wild Coast in search of prowling German submarines, which posed a danger to shipping. Stationed at Lambazi airfield near Port Grosvenor he and his fellow pilots made regular formation flights to Durban and back. I wondered what the Mpondo people had thought back then, when they looked up at the Ventura and Lodestar cargo planes thundering overhead, compared with the group of villagers who

had turned up today, more than sixty years later, to welcome their South Coast neighbours and the elegant flight of Cessnas.

Barry did not disappoint. A very low level pass over the beach provided the chance to see even the facial expressions of our supporters – showing me that they were ecstatic to have this environmental air force to bolster their morale and confidence.

Efforts by the pro-mining faction to counter the impact of the Walk/March, by staging a political jamboree a month later, backfired badly. Yes, they did manage to get government there; no less a person than the Minister of Minerals and Energy, Buyelwa Sonjica herself. However, the obviously contrived and manipulative attempt to impart credibility to the Xolobeni mining proposal left journalists even more sceptical. As Fred Kockott, a veteran journalist with the *Sunday Tribune*, reported: 'It was the strangest of meetings, and a blatant demonstration of the buying power of government, the mining industry and politicians.'

And of course they did not have The Bateleurs doing a formation fly past.

Later the Minister made a crucial tactical mistake by claiming that the anti-mining lobby was simply the work of, 'rich whites led by Richard Spoor, who were dividing the community so that they could stop the mining and continue enjoying pristine Wilderness areas, thereby arresting progress in our community'.

The ACC and their supporters, emboldened with the same banners and placards that had been made for the Beach Walk/March a month earlier, had turned up in significant numbers. They were incensed at the Minister's outrageous comments and insisted that she return for another consultation. This time, they insisted, consultation would be with directly affected local residents only, and without all the political razzmatazz. To her credit, humbled by the courage and conviction of the ACC, a month later Minister Sonjica returned to hear first-hand why people on the ground objected so strongly to the proposed mining.

After hearing one complaint after the other there was little the Minister could say, other than to apologise and plead for forgiveness at the manifest failure of the consultation process.

The following week a terse announcement came from DME: 'The Xolobeni Mining right will not be executed as planned on 31 October, pending the outcome of the appeal lodged by the Legal Resources Centre on behalf of the Amadiba Crisis Committee.'

Most of the supporters who had participated in the fantastic Beach Walk/March two months earlier believe it was that event which signalled a decisive shift in the overall alignment of forces for-, against- and indifferent to dune mining on the Wild Coast.

The profound significance of the contribution by The Bateleurs to the growing confidence of the Amadiba communities hit me only the day after the historic formation flight. I happened to drop in to visit my sister who lives in Durban. Before I could tell her about our exciting flight with The Bateleurs, she told me about an inspirational quote she had heard in a Sunday sermon, which occurred around the same time that I was boarding Barry's Cessna. 'Why keep scratching in the ground with the chickens, when you can soar to new heights with the eagles?'

## §

We had Named, Unmasked and Engaged the Powers. The speech of Martin Luther King jnr, who has been a huge inspiration in shaping my values and convictions came to mind. 'Free at last! Free at last! Thank God Almighty, Free at last.'

It was premature. Although we had engaged the Powers, we did not realise just how deeply the Powers had fallen. A shocking event showed that the redemptive struggle was far from over, and in some respects was just beginning.

After the momentous event presided over by the King of the Mpondo the previous year, we had thought human rights had acquired local meaning that was permanent and irreversible. We were mistaken.

Surely the Minister's dramatic but shame-faced acknowledgement of the supremacy of the Bill of Rights was an irreversible guarantee of victory? We were mistaken again.



Mtentu Lodge, a pawn in the battle between “miners” and “environmentalists”.

*Photograph by Edith Dennison.*

Our celebrations were marred when news came through of a shocking incident of mass retribution against some 100 teenage learners, the sons and daughters of Amadiba coastal residents opposed to the mining venture. The entire student assembly at the Xolobeni Junior Secondary School had been severely beaten by police.

It was back down to earth with a very painful bump.

## 12: Sjambokked

‘Where, after all, do universal human rights begin?  
In small places, close to home - so close and so small  
that they cannot be seen on any maps of the world...  
Unless these rights have meaning there, they have  
little meaning anywhere. Without concerted citizen  
action to uphold them close to home, we shall look  
in vain for progress in the larger world.’

*Eleanor Roosevelt 1948*



Xolobeni Store.

*Photograph by John G.I. Clarke.*

A *sjambok* is a whip traditionally made from the skin of a hippopotamus, and was used to punish slaves and offenders from the earliest days of European settlement in South Africa. Today the whip is made of synthetic plastic polymer, but its effect is no less painful.

While the attention of the country was focused on what was happening to President Thabo Mbeki as a result of his recall by the

National Executive Committee (NEC) of the African Nationalist Congress (ANC), an upset of an entirely different nature was unfolding at Xolobeni Junior Secondary School.

This school had been the venue for Minister Sonjica's visit on 15 August 2008.

'Police in Transkei are being investigated for allegedly beating up school children opposed to the planned titanium mining on the Wild Coast' wrote Malungelo Boo, of the *Daily Dispatch* on 7 October 2008:

The incident allegedly happened early last month just before Minerals and Energy minister Buyelwa Sonjica put the proposed mining permit for an Australian company on hold and prior to her admission that the consultation process was flawed.

The Independent Complaints Directorate (ICD), a body, which investigates claims of wrongdoing against police officers, has confirmed their probe.

The South African Human Rights Commission and the provincial police commissioner's office have also been dragged into the latest feud over the controversial mining issue at Xolobeni after they, too, were informed.

Behind the assault complaint is social worker John Clarke who acted on behalf of the parents of the alleged victims from Xolobeni Junior Secondary School.

Clarke said several pupils, including girls and boys from Grades 7, 8 and 9 at the school were allegedly slapped and even *sjambokked* by police last month on instruction from school principal, Mdumiseni Mpange. This was allegedly after pupils became involved in an anti-mining campaign and refused to wear school uniforms or sing as a school choir when Sonjica went to the village last month.

Clarke said some of the pupils claimed they were forced to 'kneel down as if they were praying' while being *sjambokked* on their backs by police. 'The beatings were so bad that some of the pupils were unable to sit properly as a result of this and the parents decided that this matter should be reported to authorities,' he said.

Mpange yesterday denied that the incident took place and promptly terminated the call.

But Ma-Anyina Mthwa, whose 18 year-old daughter, Sikisiwe, was among those allegedly assaulted, said she still wanted an explanation as to why her child was beaten. 'She could not go to school for three days because she was swollen from the beatings.' Her daughter told her that at the time the police shouted at them: 'We want to remove the mentality you have.'

On behalf of parents and affected children I wrote a report, dated 25 September, for the attention of the Superintendent General of the Eastern Cape Education Department (at the time Ms Nyameka Tokwe), the Provincial Commissioner of the SAPS, the Independent Complaints Directorate of the South African Police and the South African Human Rights Commission.

It pinpointed MRC's community liaison officer, Mr Bashin Qunya, and his older brother Zamilé Qunya, a founder director of Xolco, as the instigators of the trouble.

A deep-rooted conflict exists within the broader community with the majority of directly-affected local residents opposing the mining development because they perceive it be an unjust expropriation of their deeply cherished ancestral land rights, while rural residents from surrounding communities inland perceive benefits from improved road infrastructure, employment and access to services that the mining operation could bring. To defuse what had become an extremely volatile situation the assistance of the SA Human Rights Commission and the King and Queen of the Mpondo Royal House has been sought, to ensure the opposition of affected local residents to the mining proposal could be channelled constructively.

Accordingly this report needs to be understood in the context of a raging storm of controversy that has intensified over the past two months, with the announcement that the Minister of Minerals and Energy had awarded a mining right to an Australian mining exploration company MRC Ltd, and its BEE partner, Xolco (Pty) Ltd, that have over the past decade acted to secure the co-operation and support of local residents for the mining of a 22 km stretch of mineral sands extending from the coast to up to 2.5 km inland. Known popularly as the Xolobeni Mineral Sands project, MRC borrowed the name of the school for the venture and the BEE company that was formed to take the obligatory 26% share in the venture did the same, calling itself the 'Xolobeni Empowerment Company'. Therefore by accident of geography and by design of the mining entrepreneurs, the



school community – the learners, parents, teachers and the school governing body – unsurprisingly find themselves in the eye of this storm.

The student body of Xolobeni Junior Secondary School (JSS) had apparently been instructed by their principal, Mr Mpange, to wear their school uniforms and attend the meeting on 15 August, and for the school choir to sing in honour of the Minister. They apparently refused to do so, angering the school principal and, as it transpired, Mr Bashin Qunya. In my interviews with scholars it has emerged that the mining controversy has become a matter that has all but eclipsed all other learning. One scholar, a girl aged 16, said, ‘there should be an extra period in the school timetable to talk about the mining. It is all we talk about at school’.

Subsequent to the Minister’s first visit in August a 15 year-old scholar (name withheld) has become a client for reasons of having been arrested for allegedly removing dust monitors that have been erected in various locations as part of the Environmental Management Plan for the mining. At Bashin Qunya’s instigation, he and another boy aged 18 have been charged with malicious damage to property. The Bizana Children’s Court released both boys; the younger boy, who is a juvenile offender, was released into the custody of his parents under social work supervision. Both will re-appear in court on 16 October. Without prejudicing the outcome of that trial, what is pertinent to this issue of alleged corporal punishment by police officers is that the client states that he was taken to the police station and he was physically assaulted by police to induce a confession out of him.

In a subsequent development my client was involved in an argument at school during the week of 7 September with a classmate, who happens to be the son of Bashin Qunya’s older brother, Zamile, apparently also concerning the mining issue. The boy apparently reported this to his uncle (Bashin) who allegedly confronted my client after school the following day and proceeded to physically and brutally assault my client with punches and kicks. My client has now laid a charge of common assault against Bashin Qunya. This is apparently still being investigated and to the best of my knowledge he has not been arrested or appeared in court for a bail hearing, despite the far more serious nature of the charge compared to that facing my 15 year-old client.

Given this experience, upon learning from Mr Zukulu of the alleged intervention of the police and fearing that a dangerous conflict situation was escalating, I enlisted the help of two members of the Amadiba Crisis Committee, Nonhle Mbuthuma and Fundile Madikizela, and we interviewed my client again on Thursday last week to seek his version of the most recent incident which had occurred on 17 September, two days after his court appearance on 15 September.

The following is a transcription of a video recording of the interview with the boy.

Q. Can you explain what happened at your school on Wednesday, 17 September?

A. The problem started when we asked for a meeting with the principal. So the principal asked if we knew what a meeting was. So he told us that we wanted actually to *toyi-toyi*. So as far as we know to do a *toyi-toyi* is to march in protest. So there was not an understanding between us and the principal and we returned to our classes. While we were in the classes we saw a police van arrive with three policemen. They started with the grade 9 pupils to beat them, then they went to grade 8 and then to grade 7. Nothing was said. The only thing that they said was 'you are children. You are not to interfere with the mining issues. Your parents are responsible for the mining issues, not you.'

During that time the teachers were in the staff room, so during the first break we just went straight home, and didn't return to school.

Q. Can you identify the policemen?

A. The names of the policemen were Veku, Makheke and Deyi from the Mpisi Police station.

Q. Were any children showing physical injuries?

A. Yes, one boy from Mtentu from the Ndovela family was sprayed with tear gas, and he was suffering from burning eyes. I don't know what physical injuries may be visible on other scholars.

Q. How did the police beat you?

A. They slapped and punched us with their hands and also used a *sjambok*.

Q. How do you understand what the policemen were saying?

A. It seems the police were wanting to force us to say yes to the mining, because they say why are we involved in mining issues, as that was a question for our parents to decide, not for us.

Q. How do you think I can assist you as a social worker?

A. As a social worker I would like you to help us to prevent this mining in the area by building tourism accommodation on the estuaries, like at Mnyameni. We want development that does not negatively affect the people.

Note: This last answer took me somewhat by surprise, because in an earlier interview in response to a similar question – that wasn't recorded on camera – he had asked me to make an appointment with the school principal and to try to help him understand that they were not challenging his authority by refusing to wear their uniforms to the Minister's visit, but the students were concerned that they were being used by the pro-mining interests to give a wrong impression that the mining was supported by everybody. I was impressed with the maturity of the boy and his capacity for insight.

We then interviewed a member of the school governing body (SGB), Mr Xolani Chunu, who presented a rather different version of events.

He confirmed the incident of the police beatings and informed us that the SGB was scheduled to meet with the principal and staff on Tuesday, 23 September to discuss the matter. However, in contrast to my client's version, he was under the impression that the principal had called in the police in response to an incident in which someone's cell-phone had been stolen. He explained that the school has a solar panel, which allows for cell-phones to be recharged and that many community members, lacking electricity, send their cell-phones to school with their children to take advantage of the facility. The cell-phone that was stolen apparently did not belong to a scholar, and the owner had complained to the principal.

In response the principal had apparently therefore decided to stop the practice, forbidding learners from using the solar panel for charging cell-phones. It was this decision, which, according to Mr Chunu, had triggered the discontent among the student body, culminating in the principal calling in the police to apparently reinforce his authority by administering a generalised hiding to all scholars, indiscriminately. He therefore believed that the meeting that the client referred to above (which the principal had refused)

was in reaction to the cell-phone charging issue, and not directly associated with the mining issues.

We engaged with Mr Chunu as to his personal assessment of the drastic measures taken by the principal, in calling in the police. We informed him that such measures were violations of the rights of the children, irrespective of the circumstances. His response was that in the recent past teachers had been threatened by scholars, and that many carried knives. Some of these weapons had been confiscated by the SGB. We said that we agreed that to do so was correct, but calling in the police was not correct, as this did not help to build trust and respect for authority, and would cause further division between parents and the principal and his teaching staff.

Madikizela further reports that since talking to some parents, they have confirmed that they are not at all happy with the handling of discipline in the school, and await the outcome of the meeting of the SGB and the principal and his staff.

To obtain a third independent perspective I asked Mbuthuma to interview another learner known to us and she contacted a 16 year-old learner (the girl mentioned above who had said mining should be given a special space in the time table), to find out if she could confirm the incident, whether she had been beaten as well, and what the reasons and circumstances were.

Mbuthuma reported back that she had indeed been beaten too, and that all learners had been told by the police to 'bend over as if they were praying' and had been '*sjambokked*' one by one. The police officers said words to the effect, 'you are not supposed to be involved in the mining issue. You don't have your own houses and that is a matter for your parents to decide'.

Other indirect reports received state that many learners cannot sit down because of the lingering pain.

The mother of this learner is extremely angry about the beatings by the police and there is growing outrage from the parent body as a whole.'

It had been Ma-Anyina Mthwa and Sikisiwe who had welcomed Nkomba and me into their world two years before. Her baby girl, who was then three weeks old, was now two years old. We were indeed fortunate for Nkomba's alertness to her tilling the fields and

the relationship of trust forged from that first encounter, which enabled us quickly to reach the heart of the matter.

In my assessment I said to the Powers:

‘It is clear that a measure of militancy exists in the student body, not only at this school, but in the area as a whole. On the whole my impression from other schools I have visited, is that the mining controversy has been a source of real educational value and handled well by the teaching staff. Work done by environmental NGOs to educate the community at large as to the costs and benefits of mining, have been taken up by teachers in some schools with imagination. In one school a formal inter-class debate was arranged with the Grade 9s arguing against and Grade 10s for mining. The grade 9s apparently carried the day, but most scholars, irrespective of the position they adopted for the debate, left with a better understanding of the issues. This is what education should be, and in a sense the Amadiba school-going population might consider themselves privileged to have had the chance to get to grips with a real development issue.

However, the Xolobeni JSS has particular challenges. It is significant that MRC adopted the name of the school as the title of its venture, calling it the Xolobeni Mineral Sands project. Over the years MRC has provided support and investments to the school, including I believe having drilled a borehole and subsidising teacher salaries. Bashin Qunya, who lives within earshot of the school, accommodates the son of his older brother Zamilé Qunya, the person who has been the main protagonist for the mining proposal. Moreover the wife of their eldest brother is employed as a teacher at the school, and apparently commands much influence among the staff.

Accordingly it is reasonable to suggest that in the eyes of the Qunya family the Xolobeni JS School has become part and parcel of the mining enterprise, if not their personal fiefdom. Whatever the allegiances or personal views of the principal may be, it is obvious that the Qunya brothers, as influential members of the school community, would have been angered by what they may have perceived as a youth rebellion because of their refusal to wear school uniforms and perform for the Minister’s visit. Under such circumstances it is likely they would use whatever pretext presented itself as an excuse to bring in added inducements for the student body to comply with the pre-determined wish of the Qunya brothers.

I am particularly concerned that, given the latest news that DME will not execute the mining licence pending the outcome of the appeal process, the Qunya brothers will consider this to be a major, if not permanent, setback to their ambitions and will be feeling even more angry and defeated. It can be expected that the less resolute supporters of the mining proposal will start to desert the Qunya brothers, leaving them with growing feelings of isolation.

My various encounters with Bashin Qunya over the past two years have shown that he is prone to desperate measures and to act unthinkingly. His manifest lack of self-control and his previous history of impulsive recourse to threats of violence, leaves me to believe that he may be inclined to take drastic actions, motivated by feeling of revenge, betrayal and humiliation.

I have counselled the ACC and their attorneys to be careful in their public celebrations of the latest development so as not to aggravate any feelings of defeat and humiliation the Qunyas may be feeling – however deserved they may be – as a precaution against those with pro-mining interests feeling justified in taking revenge or exercising reprisals.

Only the ICD and SAHRC responded to my report. The ICD confirmed the incident and recommended that the police officers be disciplined. However, the Police Command Structure shrugged it off, with the officers continuing as if nothing had happened.

No response was received from the Provincial education authorities of the Eastern Cape. I escalated the complaint to the National Minister of Education, at the time Minister Naledi Pandor. She did not respond either.

Richard Spoor arranged for an attorney friend, John Wills, to assist in taking statements with a view to instituting a class action lawsuit against the Minister of Police. Over sixty families joined the action, but John was unable to find an advocate prepared to take the case on risk and it was abandoned.

John Wills also represented the boy accused of removing the dust monitors and succeeded in persuading the prosecutor to withdraw the charges. Bashin Qunya did not relish the prospect of being cross examined, especially since counter charges of assault had been laid against him. Nothing came of them either.

The suspension of the mining rights sent MRC's share price plummeting and Bashin Qunya was retrenched. His older brother Zamilé, pulled strings with the Mbizana Local Municipality to immediately employ Bashin as a civil servant. His job title, laughably, was Tourism Promotion Officer, giving him a secure position from which to subvert the revival of eco-tourism at every opportunity (including a warning to me that I was to stay away from the Amadiba Coastal Area because 'my bell had been rung' by him and his supporters. I laid a charge against him at Kampisi Police Station for intimidation but these were also dropped.)

Zamilé never gave up his ambition to reassert control over the Amadiba community. In February 2013 the CEO of the Eastern Cape Gambling Board, Mr Zwane, appointed Qunya as chair of the board of trustees of the Mbizana Development Trust, the obligatory BEE partner with Sun International. The charitable trust was established with a 30% shareholding in the profits of the Wild Coast Sun Casino. Zamilé Qunya, oversees the distribution of a budget of several million rands annually. How long he will last depends on the success or otherwise of a high court challenge - brought by concerned residents of Mbizana, associated with the Mbizana Development Forum - to have him removed. At the time of writing the Umtata High Court was busy fixing a date.

## §

'Be the change you want to see in the world', the great Mahatma Gandhi once said. To hope that things will change on the strength of a professional report to authorities is to hope in vain. Waiting for official responses is not what has sustained my social work passion for over thirty years. It has been the simple virtues, the courage, the resilience and the spirit of the people I work with that keeps me going.

I can now disclose what kept me going after the shocking incident of September 2008. After the passage of years the children's rights of the Xolobeni JSS learners no longer applies, since all have turned 18 and are now young adults.

Sikisiwe invited a group of her friends who had endured the beatings with her to meet with Nonhle, Mzamo and me to talk

through the traumatic experience. I filmed the therapy session and the recording stands as an extraordinary testimony to the courage and fortitude of the teenagers. These were not juvenile gangsters intent on disrupting classes and making mischief on the streets of urban townships. These were poor rural youngsters who would upon getting home from school each day, immediately turn their attention to fetching water, tilling/planting/harvesting in the crop-fields, herding livestock and performing a never-ending burden of household chores before settling down to do their homework by candle light.

As each of the young men and women took their turn to share their trauma and vent their emotions, little two year-old Nosipho (not her real name), not old enough to understand the horror being described, came inside the hut and dropped off to sleep resting her head on Ma-Anyina's lap. After two hours the indoor light was fading to blackness on my camera viewfinder, for the sun was casting ever-lengthening shadows across the picturesque rural landscape. Nosipho was stirred awake by the sounds of singing and drumming. As we wrapped up the therapy session our mood lifted as we too went outside to join the music. Recourse to song and dance brought fitting closure to the distress.

Fortunately I had enough film and battery life left to capture the impromptu entertainment. Don Guy was grateful for the footage. Although somewhat sow's-ear-ish in terms of camera technique, Don was able to fashion a silk purse from the singing, clapping and drumming, which served as a musical soundtrack for the short documentary film *Pondo People* that 50/50 had commissioned him to produce.

## §

As dreadful as the *sjambokking* incident was, the abiding lesson from the incident was the importance that cell-phone technology played. The interviews with the scholars revealed that the precipitating cause of the confrontation had been Mr Mpange's sudden arbitrary ban on the charging of cell-phones.

My theory is that his arbitrary decision was motivated by pique because he realised it was thanks to the instantaneous



communication channel afforded by cell-phone technology that the anti-mining campaign was so successful. To get messages circulating was as simple as buying airtime from an ATM in Johannesburg, to top up phones belonging to Nonhle and Mzamo, 800 km away on the Wild Coast. But to ban the charging of cell-phones was to close the stable door after the Pondo ponies had bolted.

The incident reminded me of the lesson I learned from a former political prisoner who took me on a personal tour around the prison cells of Robben Island. Walking around the cellblocks he told me about the ingenious method which prisoners in separate cellblocks had used to communicate with one another. He showed me how (at regular pre-arranged times, usually late at night) they would scoop the water out of the toilet bowls, stick their heads into the toilet bowls, cover their heads with blankets in case patrolling warders might hear them, and talk to each other. The plumbing became a communication network within a simple, but very effective, knowledge management system. Prisoner morale was kept up, warnings were circulated about troublesome warders and overall political consciousness was developed, as the 'cell-phone' messages reverberated through the pipes. Some warders apparently feared that they had mastered a special form of witchcraft.

## §

Life must go on.

'John, my uncle needs some vaccination medication for his horses to prevent horse flu', Nkomba called me, "there is a farmers' co-op just near Tony Abbott's farm. You and Mzamo must go there before you go to see Mrs Mthwa. I will meet you there as soon as I can.'

'Good. I have a gift I need to buy her. It's the perfect place.'

'I will be there as soon as I can, but while you are waiting for me can you ask them which medication exactly is needed. They will know.'

In rural areas, far more so than urban shopping malls, trading stores and spaza shops are places where community is kindled. The farmers' co-op above the Mthamvuna Gorge is no exception.

I arrived at the rendezvous and asked the somewhat shy but helpful shop assistant if she could advise which was the appropriate vaccine for Mr Zukulu's horses.

'I will find out for you. Just a minute.'

While she went into the back office, Mzamo and I entertained ourselves by browsing through the store, full of things that one doesn't see in Johannesburg shopping malls. I had resolved to buy Mrs Mthwa a new hoe in gratitude to her for opening her home to allow us to gather the Xolobeni scholars together to process the sjambokking incident. I specifically wanted to buy her a new hoe because when we had first met two years beforehand at the Mgungundlovu Komkulu, Nkomba had noticed that the metal hoe blade was threatening to part company from the wooden shaft. We had asked her for an action shot of her digging. The blade had come off the handle and had to be hammered back on. Any labour saving device, like a sturdy hoe that got the job done quickly, was vital. She had given birth to another child in the intervening two years. Sikisiwe had homework to do.

"A good sturdy hoe. This is what we will buy her," I told Mzamo.

"That would be very nice."

The shop assistant returned. 'Our vet will be here in a minute,' she said, 'he will advise you what vaccine to buy.'

'My gosh, you folk are on the ball. So you have a vet on standby for your customers?' I applauded, 'This doesn't happen where I come from in Johannesburg. In fact I think I need a gynaecologist. Do you have one on call too?' I joked.

Dr Watson arrived before Sinegugu, and was interested to know more about our mission. I wanted to know the extent of his veterinary practice.

'Mr Zukulu lives above the Mtentu River gorge, just where a vulture colony once thrived. We would love to get them back by opening a vulture restaurant.'

Dr Watson was most helpful. He explained that the Cape vulture is threatened for want of more calcium for bone development. He offered us a supply of carcasses of horses that he would from time to time have to put down after injuries.

‘The Cape vulture normally occurs together with the Lappet-faced vulture, with the latter species having a more powerful jaw to break open the bones so that the Cape vulture can get to the mineral-rich marrow,’ he explained. ‘So when the carcass is stripped down all you need to do is get a ten pound hammer and smash the bones up so that the birds can get what they need.’

It was a perfect illustration of nature (Cape vulture) being helped by technology (ten pound hammer) by a clever specimen of humanity (Dr Watson). It all seemed so elementary!

Mrs Mthwa was speechless with delight upon being presented with the bit of technology she needed to open the soils of nature to feed the humanity under her care.



The author handing a new hoe to Mrs Mthwa.

*Photograph by Mzamo Dlamini.*

‘Most people are not really interested in your story,’ Alastair McIntosh had advised, ‘in my own writing I try to use the particular as a carrier for the universal. I advise you to do the same.’

How does one do that? It proved to be another good question. An old friend, whom I had neglected for far too long suddenly reappeared in my life with an answer. Manfred Max-Neef’s universal language is music. Chris Zithulele Mann’s language is poetry. His poem *The Road to Emmaus* serves as a fitting reflection with which to show that the *Sjambok* does not have the last word.

*It's not the friendliest of villages, Emmaus,  
the people parochial, as desert people are,  
bound up in the herding and bartering of beasts,  
the vines on its terraces encumbered with thorns,  
the children in the market roasting a sparrow,  
hardly the place to expect revelation,  
if revelation's the word - I leave that to you.  
Not that we'd never believed, my partner and I,  
not that, but leaving Jerusalem on business,  
with news of the death, or perhaps I should say  
the absence among us of someone like a God,  
we felt at a loss, and not a little diminished,  
and talk as we may, of covenants and creeds,  
our thoughts came round to the prices of wool,  
the bundles of raisins and dates in our panniers.  
Besides, by then we were tired of religion,  
what with the heat, the dust, a mule going lame,  
and the stranger who'd fallen in with our journey  
going on about prophets, the life in that death,  
a vision which didn't make much sense at the time  
but stirred our hearts greatly, before we tired  
and hungry and irritable, slapping at the flies  
entered Emmaus and tethered our beasts.  
That it should, that it could have been otherwise  
presumes I think too much of human piety  
and grants few gaps for love's irruption*

*unbidden, uncalculated into our lives.  
His hands, the strong sunburned fingers  
breaking the rough brown bread of the tavern  
and writing a cross in the spaces between us,  
above the wine in the cracked clay goblets,  
the dim yellow sputter of the wick in its oil,  
his hands first brought it home to us, in Emmaus.  
There was a silence, a humming, a burning,  
the coming more alive of all things about us,  
those arms, opened, their palms in shadow,  
embodying a promise, a blessing still live.  
And then? Ah, the sting of it still afflicts me.  
A breeze off the desert entered that moment,  
the lamplight flared, a door banged shut.  
Emmaus, as I say, we never really go there,  
Emmaus comes to us, when least expected.  
It's not just the journey, the settings out,  
the routes through the desert, the arrivals,  
it's travelling in readiness for Emmaus that counts.*



Xolobeni Junior Secondary School

*Photo John GI Clarke*

## 13: Gampe's Oranges

The minister must come herself, not be carried in the wind a like a 'shekas' (plastic bag). She must come and speak her own truth.

*Samson Gampe.*



The author and Samson Gampe.

*Photograph by Cheryl Alexander.*

Earthworms or cell-phones? Must *Nature* or *Technology* predominate in our development thinking? The obvious response is that Nature *and* Technology must exist in balanced equilibrium with each other. Either one cannot dominate the other. Manfred Max-Neef interprets the two survival imperatives in unity with a third: *Humanity*. The triquetra symbol, which he found inscribed on a Viking Rune Stone in Uppsala, Sweden, has become synonymous with his work; 'The World Survival Trinity,' which he described during his lecture at GIBS in 2006, 'where Nature, Technology and

Humanity are in a serene and harmonious balance with one another, no one element dominating over any other.'

It is only in a Trinitarian unity that the tensions between earthworms and cellphones can be held in balance. Both require Humanity to wake up and realise its utter stupidity in thinking that development can be sustained by technologically-extended arms, relentlessly plundering the earth. Ultimately it is Humanity that will be the loser. Nature will recover, but with no people left to marvel and wonder at its mysteries.

Two human beings from the Amadiba clan exemplify Human Scale Development, sharply contrasted with the damaging distortions of monopolistic mega projects that bury nature and bewilder humanity with expensive foreign technology, such as that exemplified by dune mining and the Gauteng e-tolling gantries.

*uTata* Samson Gampe and Ms Nonhle Mbuthuma helped me realise why the N2 Wild Coast Toll Road and the Xolobeni mining venture are so wrong for the Mpondo people.

Samson Gampe was one of the most outstanding heroes of the community mobilisation against the mining project. His homestead is situated close to the point where the new greenfield section of the proposed N2 highway starts. His strength of character was equal in strength to the physical might of his biblical namesake. It was Samson Gampe's words to Minister Buyelwa Sonjica that brought the temple crashing down, figuratively, on the aspirations of MRC and its partners.

Nonhle Mbuthuma and Samson Gampe live between the Mzamba and Mphahlane rivers in the Amadiba Tribal Administrative Area on the Pondoland Wild Coast of South Africa. The area is collectively identified as the Sigidi community. If the Toll Road goes ahead, Nonhle and Samson will find themselves on either side of a barrier dividing a previously closely-knit rural community in two. This will play havoc with long established patterns of social, cultural and even sporting interaction. Thirty years ago Nonhle's father led the community to create a local football team and built it up over the years into a formidable force in the local league. Curiously, he named the team 'New Standard', hoping to

incentivise youngsters to play well enough to beat their opposition, and also set a 'new standard' of football' – for the benefit of the game and to strengthen the social fabric of society. I have long argued that our national interests would be better served by sending *Bafana Bafana* to learn some lessons in sport from the New Standard football team, rather than constructing an expensive and unwanted motorway that will obliterate an extraordinary narrative. But nowhere in the EIA can one read about the impact of the proposed road on the New Standard football team.

Nonhle's personal testimony has been excellently told through the medium of *Pondo People*. In the film, Nonhle acknowledges that the intense resistance to the threat of mining by the older people in her community, had prompted her own need to understand the reasons for their resistance. This quest had plunged her into the depths of local, national and indeed global politics – aspects of life she never imagined she would need to fathom when she was a young girl, playing happily with her peers amid the dunes and estuaries of the Wild Coast.

Nonhle Mbuthuma is young, female and educated; Samson Gampe is elderly, male and, by his own admission, 'unable even to write my own name – but I know better than any young person when the end of the month has arrived, and how to feed my family.'

For all his lack of formal education, Mr Gampe can boast of more than fifty years of vocal participation in traditional tribal *imbizos*. As a proud young Mpondo warrior he had cut his teeth in the resistance to the 'betterment planning' scheme of the apartheid government. This led, ultimately, to the Pondo Revolt of 1960, which occurred in the same year as the Sharpeville Massacre. The Pondo Revolt is not as well remembered or documented, perhaps because urban protests inevitably trump rural protests, and this may be due to the travelling inconveniences experienced by journalists.

An avalanche of state forces were mobilised to quell the revolt but Mr Gampe escaped arrest by hiding in the deeply forested gorges. He now lives to keep alive an oral history of that saga, so that young Mpondo people like Nonhle can draw wisdom from his traumatic



experience when they confront new challenges to their land rights and cherished cultural traditions.

In my role as a social worker attending an *imbizo*, I had been privileged on more than one occasion to witness the astonished expressions on the faces of senior government officials and politicians when confronted by Mr Gampe's eloquent orations. He warned them not to trifle with the deeply held attachment of the Mpondos to their ancestral lands. Although unable to read a newspaper, he showed astounding political acumen while articulating a coherent vision for community well-being.

In vain the smartly suited visitors would then try to make the case for why mining should be allowed – as a catalyst for 'development' that would provide jobs for young people, like Nonhle. They reasoned that young people nowadays had aspirations that could not be satisfied by Mr Gampe's traditional rural subsistence lifestyle.

That would be the cue for Nonhle to rise to her feet to scold the officials for their presumption. 'What makes the Mpondos different from all other South African citizens?' she would ask. 'Why do we have to sacrifice our land and our identity in order to get roads, electricity and municipal services?'

Predictably, after such awkward questions the meeting would come to a hasty conclusion. The suited visitors, with furrowed brows betraying their bewilderment and confusion, would seek refuge behind the tinted windows of the convoy of 4x4 vehicles parked nearby, and then drive away as fast as the poor roads would permit. Mr Gampe would proudly mount his Pondo pony and return to his well-maintained rural homestead, waving farewell to Nonhle and the happy Mpondo people. Local participants would disperse on foot, still singing mocking songs about the mining protagonists and opportunistic politicians – songs which, if one could understand the Mpondo dialect, would be their oral equivalent of a clever Zapiro cartoon.

The dune mining controversy had made Samson Gampe something of a film star and he featured in various film reports on the DVD I had sent to the Ministers involved. Without electricity and thus

access to national TV, it occurred to me that Mr Gampe had probably never seen the TV reports produced by Don Guy of 50/50, that had kept the nation informed. So Nonhle and I visited Mr Gampe and his proud wife, Maduzemlungu, at their homestead to show them the video footage.

My diary records:

‘As I loaded the portable DVD player, Mr Gampe remarked, “Hey John, what is this clever gadget you are bringing?”

They watched the screen intently while I filmed their obvious satisfaction and delight. Nonhle then interviewed him, in a free ranging conversation in the local Mpondo dialect. The interview gave me even more insight into what made this remarkable man tick. In conversation with Nonhle, Mr Gampe said, “The only thing I need money for is to buy cooking oil. But I can do without that too.”

He added, “I still have not received the war veteran’s pension that I am entitled to as one who fought in the Pondo Uprising.”

Mr Gampe explained that the government considers this pension a gift, which, from his perspective, amounts to a bribe to buy his acquiescence to government development schemes.

Samson Gampe may be cash poor but he is wealthy beyond all conventional economic measures.

After the interview I emerged into the yard where his grandchildren were playing and his wife offered me a bowl of juicy oranges harvested from their orchard. As a guest in the Gampe household I experienced a true sense of a family with a quality of life – “the art of living, and living well” as Aristotle once defined the purpose of economics. Despite his illiteracy and lack of formal education, Samson Gampe epitomised the classic definition of the “art of household management” – what Aristotle termed *Oikonomía*. This is in contrast to the art of money-making or *Khrématistiké*. What passes for economics today should strictly speaking be labelled ‘chrematistics’, as modern economics bears little resemblance to the true Aristotelian conception of economics.

But the elation I felt after my visit to Mr Gampe’s homestead was short lived. Circumstances conspired to present me with a tragedy and a conundrum that distresses me every time I think about it.

While driving away on the rough roads a very distressed young mother ran up to my car to plead for our help, followed a few paces behind by her brother carrying a baby wrapped in a blanket. Through her tears she pleaded with us to give her a lift back to her homestead, some 15 km away toward the coast. We learned that her child had woken during the night with a high fever. At first light she and her brother had walked the approximately 15 km stretch to the clinic. Alas, the clinic staff had been unable to do much for the child because the clinic did not have the necessary medication. She was turned away with a desperately sick child in her arms. Trying to control her tears she said that the child had died in her arms as she sat dejected on the roadside, yielding its frail life to the onslaught of what should have been, if not a preventable infectious disease, at least one that should have been treatable.

With her brother holding the dead child wrapped in a blanket, for the first time in my life my off-road vehicle, a favourite recreational vehicle among the well-heeled-and-wheeled in the northern suburbs of Johannesburg, became a hearse. I drove the grieving family as far as my vehicle would safely permit on the bad roads, back to their homestead, so they could commence the sad process of burying their little baby girl.

Images from the biblical account of the travels of Jesus through the Galilean countryside, healing and ministering to people in similar distress, came to mind. But the best I could do was to pray with them, a prayer that was as much an effort to bolster my own doubtful faith as to console them. In another feeble gesture I gave them each one of the oranges that Mrs Gampe had given me, and (somewhat self-consciously, as one enslaved to chrematistics rather than economics) I gave them also a R100 note that I happened to have on me.

Nonhle and I returned home in confused and angry silence.'

Leaving Nonhle in Port Edward, I drove on to meet my friends, Bishop Geoff and Kate Davies in Durban. I was looking forward to their consolation and pastoral support, to help me process this traumatic experience.

Driving back to Durban I speculated whether the baby would still be alive if the proposed Wild Coast N2 Toll Road, which Geoff had led a hitherto successful civil society campaign to prevent, had become a reality. I do not believe the baby would have survived. I

reasoned that it would probably have made the mother's walk even more difficult, because it has been designed to pass between her home and the clinic, and would be fenced off with a limited number of underpasses along the route.

But, with some of Mrs Gampe's oranges still in the bulging pockets of my jacket to remind me of the early, joyful events of the day, it didn't need much speculation to conclude that the construction of the Toll Road would spell the end of the thriving subsistence livelihood enjoyed by Mr Gampe and his family. The preferred route will pass within a stone's throw of his homestead and almost certainly destroy the freedom, autonomy and wellbeing they presently enjoy. Just another tragic instance of an *oikonomía* lifestyle (i.e. 'people coherent with themselves, the community and the environment') being buried under concrete and tarmac by the chrematistic turn that modern economics has taken. As I reluctantly paid the R17 toll fee at the Port Shepstone 'troll' plaza, it occurred to me that the practice of tolling roads illustrates perfectly the ascendancy of *khrématistiké* over *oikonomía* in modern developed society.

But, I have to concede, the high speed motorway that commences at the 'troll' gate enabled me to complete a journey in one hour that would have taken twice as long before the motorway was constructed. I was in time for my rendezvous with Geoff and Kate, who invited me to join their dinner party. My modest contribution to a sumptuous feast enjoyed in their beautiful mansion was to give my kind hostess another of Mrs Gampe's oranges, in gratitude for her attentive and consoling response when I related the extreme contrasts of my eventful day.

Leaving their home well-fed and comforted, I had one other priority commitment. It was to meet with Kevin, the husband of a couple who have been close friends for over thirty years. His wife Nolene had recently been diagnosed with breast cancer and Kevin happened to be in Durban on business, affording me the opportunity to do what true friends do – spend time together.

Kevin was staying in the home of family friends in Kloof. I entered through the elegant wrought iron gates and came upon an imposing old stone and thatch Natal home. Kevin's hosts were away but he

invited me in and we soon settled in the comfort of a beautifully decorated lounge. We talked for ages. Kevin shared with me Nolene's amazing journey through her operation and chemotherapy. After the stress and confusion of the day I was reminded of the beauty of the human spirit when it is open to Grace.

We walked to the car and as we said our good-byes I realised that I still had one more of Mrs Gampe's oranges left in the pocket of my jacket.

'Take this, Kevin. There is a story to be enjoyed when you peel away the skin.'

## §

A year later, while still waiting for a decision on the objections from the Department of Mineral Resources (the new name for the DME), SANRAL announced that it was ready to go public with its revised Environmental Impact Assessment (EIA), claiming the amended version addressed all the fatal flaws contained in the original rendering.

Yet again The Bateleurs lifted our spirits.



Sikombe Estuary

*Photo: John GI Clarke*

## 14: The Road Re-surfaces

‘The government is coming to us like someone with ‘itchy armpits’. They must scratch where we are itching, not their own itchy armpits<sup>16</sup>. Our roads that we have to use to get to town are mostly just cattle paths. They must close their armpits and listen to us and fix our roads.’

*Velaphi ‘Lolo’ Mhloyingana. Local resident.*



*Photograph by John G.I. Clarke.*

### **August 2009**

This text message was sent to the Minister of Transport, Sibusiso Ndebele, on Wednesday, 12 August 2009, at about midday. He was apparently in a cabinet meeting but his chief of staff, Nirdish Bhikshu, deemed the issue significantly important to warrant an

---

<sup>16</sup> A cultural expression to describe someone who doesn't listen to others because of their own preoccupations.

interruption, and advised me to text the message below to his cell-phone.

‘Dear Minister

Nirdish advised that I should SMS you and ask that you call me back when convenient, so that I can brief you on the current situation in Pondoland regarding the Wild Coast N2 and Wild Coast mining issues. I have just spoken to Queen Sigcau to arrange for the Amadiba Crisis Committee to visit Qaukeni to report the fraudulent use of names, forged signatures and deceit by mining rights applicants in claiming local support for the mining. Also there are reports that construction work has already started on the N2 before environmental approval has been given. I have had calls from international and local journalists who are probing the story. Please call me back so that I can brief you further.

Regards

John Clarke’

To ready myself to give as factual a report as possible when the minister did call me back, I consulted Cormac Cullinan. Cormac is the environmental attorney who was representing SWC and local residents in their challenge to the proposal for the N2 Wild Coast Toll Road. He advised me that we should obtain first-hand confirmation of these reports.

Stuck in Johannesburg, I puzzled over how best to do this. A voice from the inner recesses of my sub-conscious provided the answer: ‘Call The Bateleurs and ask if they will fly you over the route.’

I called Joan Cameron who wasted no time in arranging a flight for me, continuing the extraordinary commitment to environmental stewardship shown by the late Nora Kreher, founder of The Bateleurs. Within forty-eight hours of my message bleeping its way into Minister Ndebele’s inbox, Bateleurs pilot, Nick Lincoln, had me airborne and heading for the Wild Coast, together with Fred Kockott, a journalist with the *Sunday Tribune*, and his cameraman, Luke Frankel.

But let me backtrack, for it had all happened so fast that I didn’t even have the chance to get my Board to approve the cost of my air ticket to Durban.

‘Something will come up,’ I reasoned, consoled by memories of many miracles that had supported SWC ever since The Green Bishop, Geoff Davies, and his wife had invited me to channel my passion for the environment into supporting Wild Coast rural residents in their struggle to conserve their remarkable environmental and cultural heritage.

I arrived at Durban International at 7h30 from where Fred had agreed to fetch me and take me to Virginia Airport. I was gulping down breakfast before the next take-off when, out of the blue, I received a call from Richard White of Rockjumping Birding Tours. He had heard about SWC’s efforts to challenge the Xolobeni dune mining and the proposals for the N2 Wild Coast Toll Road. As a keen birding enthusiast he wanted to know how his company could assist.

‘Well, there is a colony of Cape Griffon Vultures that is threatened by the construction of the N2 Toll Road, and I’m about to go and see what is happening there. Would you consider covering our costs to hire a cameraman and reimburse me for my flight from Johannesburg?’ I asked. ‘The Bateleurs has already sponsored the fuel for a fly over of the proposed N2 Toll Road.’

‘No problem,’ he said. The reimbursement money was in our account before some of my vigilant Board members even knew that it had been spent! Another astonishing random act of kindness and commitment that has made SWC such a rewarding experience for me.

Nick Lincoln was the picture of enthusiasm himself. He had heard about The Bateleurs from a friend, and when the call went out from Joan Cameron for a volunteer, he had overheard it. He enthusiastically signed up as a new recruit, sacrificing time from his sugar farming to make himself available at short notice. I was thus privileged to accompany Nick as navigator on his maiden flight for The Bateleurs. I made sure I had a copy of the article I had written for The Bateleurs after my first flight in February 2007, to give to Nick.

As testimony to the reach of The Bateleurs newsletter, that same article had, to the surprise and delight of all of us, ended up in the



pages of *Skyways*, SA Airlink's in-flight magazine (See *Flying the Falling Waters of the Wild Coast*, July 2007). Re-reading the article before handing it to Nick, I was tremendously reassured to realise how much progress we had made since The Bateleurs first had me airborne, over the Wild Coast, in February 2007.

Nearly three years had passed and the threatening prospect of mining had still not come to pass. It had now become an increasingly unlikely prospect because the applicants were apparently in disarray. They had been unable to counter the challenge posed by South African civil society, aided and abetted by The Bateleurs 'environmental airforce', to expose the numerous fatal flaws in the sinister deal – a deal which the former Department of Minerals and Energy and its Minister Buyelwa Sonjica had gone to extraordinary lengths to encourage.

## §

Mark Twain once famously observed: 'A mine is a hole in the ground, owned by an optimist, operated by a fool and usually followed by a lawsuit'. Such an outcome seems likely to be the fate of the owners of the Xolobeni Mining venture, given their fraudulent behaviour in submitting bogus names and signatures in support of the mining project. Minister Susan Shabangu, the new Minister of Mineral Resources, has all this evidence on her desk, together with expert reports and sound arguments from the Legal Resources Centre. This gives her overwhelming evidence not only to reject the mining rights application, but also to press charges against Xolco, the BEE partner of Australian venture capital company MRC Limited, – for fraud.

Although Mark Twain's witty observation evokes a chuckle, the ACC and SWC were hoping that under President Zuma's presidency, government would be more responsive toward civil society representations and avoid costly and antagonistic court battles. Moreover, we were hugely encouraged by the appointment of Sbu Ndebele as the new national Minister of Transport, with ultimate jurisdiction over SANRAL. The Board of SANRAL, and by extension the CEO, is his responsibility. Previously he had served,

with acclaim, as KZN Provincial Minister of Transport, prior to becoming Premier of the province.

In June I had made contact with Minister Ndebele to get some official explanation after his cabinet colleague, Minister Sicelo Shiceka, had made alarming announcements stating that 'Government had decided that Xolobeni mining and the N2 Wild Coast Toll Road would go ahead'.

He had listened patiently while I explained how ill-informed and incendiary his colleague's statements were, and he reassured me that the Cabinet was now aware of the concerns and would be 'putting the record straight'. He asked me to send him as much background briefing material as possible, 'urgently, please. I am due to present my budget speech to parliament on Friday. I would like to address the Wild Coast N2 Toll Road issue'.

After a mad scramble to courier a compilation of TV broadcasts of 50/50 reports and various briefing documents to Cape Town for Minister Ndebele's attention, it was immensely pleasing to tune into the Parliamentary channel on DSTV a few days later and hear his commitment to ensuring, 'with respect to the N2 Wild Coast, that all the green and the brown issues are satisfactorily addressed with all stakeholders'. Still more encouraging was his commitment to ensuring the extension of the rural road maintenance programme, the provision of bicycles to assist learners in inaccessible areas to get to school, and other initiatives to ensure a transport infrastructure that served the long-term interests of those most vulnerable and disadvantaged, rather than the short-term commercial interests of the trucking, mining and construction industries. We had feared that these were the main drivers behind the N2 Wild Coast Toll Road venture.

'It is better to have jaw-jaw than war-war,' Winston Churchill once said. Access to an air force to gather information to make the jaw-jaw more productive was much better than dropping bombs to escalate the war-war.

With all these thoughts tumbling in my mind, I boarded Nick Lincoln's Cessna. In near perfect weather conditions we took off from Virginia airport, giving me a spectacular view of the Moses

Mabhida stadium and Durban harbour, with my *Alma Mater*, Howard College, visible on the ridge overlooking what is certainly one of the best cities in the world. Heading down to Port Edward I made sure of getting some aerial shots of Ramsgate lagoon and the famous Waffle House and Gaze Gallery, to reward Ken, Brian, Clare and Doreen Gaze for their unstinting, generous support and friendship to me during the ground offensive that the ACC and SWC had been waging. It had taken three years to expose the injustices, human rights abuses and manipulations of the pro-mining forces.

‘That’s where the alluvial diamond mine scenes were filmed for the movie *Blood Diamond*,’ I pointed out to Nick and the other passengers as we passed over the Mzamba gorge, adjacent to the Wild Coast Sun Golf course. This was the point at which the ‘greenfield’<sup>17</sup> section of the N2 Wild Coast Toll Road would commence.

We focused our eyes to commence our intelligence gathering mission.

‘There is Samson Gampe’s home,’ I told Luke, ‘try to get a good shot.’ We quickly completed flying the 85 km stretch and found no obvious evidence that road construction had commenced. Although this deprived my newshound friend, Fred Kockott, of a potential front-page sensational story, I was greatly relieved. After three years of constant battle I was weary of the confrontation and adversarial positioning. Now that we had the ear of Minister Ndebele and a new government administration, it was high time for swords to be turned into ploughshares, so that Samson and Maduzemlungu Gampe and all the Mpondo people could be left in peace to cultivate their soil and graze their cattle.

---

<sup>17</sup> ‘Greenfield’ refers to mining exploration or project development to be undertaken on a new (i.e. un-developed or unspoilt) site. Conversely, ‘brownfield’ exploration is conducted within close proximity to established ore deposits. Greenfields exploration is economically risky because at the conceptual stage of the programme the geology is poorly understood. Brownfields exploration is less uncertain because the geology is better understood and exploration methodologies have already been established.

I arrived back in Johannesburg the following day, looking forward to relaxing in front of the TV, watching the Sharks Rugby team in action and making the most of what was left of the weekend. As I entered my front door and put down my bag, my cell phone rang. It was the Minister himself.

‘I got your message, John. My apologies for only getting back to you now. I have been involved in a cabinet meeting.’

‘Not to worry. The delay has given me a chance to make sure of the facts. I have just returned from flying over the proposed route to check if the rumours were correct,’ I said, trying not to sound too boastful.

His relief at hearing my report was as great as my appreciation for the unstinting support shown by The Bateleurs, enabling me to give an up-to-the-minute and credible account of the situation.

‘We must get the stakeholders together as soon as possible. What do you recommend I do, John?’ he asked.

‘Well, I can see you have a lot of other pressing priorities. I know that your Deputy Minister, Jeremy Cronin, is pretty clued up about the issues, dating from his days as chair of the Parliamentary Portfolio Committee on Transport. Perhaps you could consider giving him this one to handle.’

‘Good idea. Enjoy the rest of your weekend,’ he said as he rang off.

I collapsed into an armchair to watch The Sharks rugby game. I can’t remember the outcome of the game now, but I do remember not really caring about it then; a much more abiding sense of victory had taken hold of me, which was to be confirmed in the weeks that followed.

The SA Breweries Environmental Journalist of the Year awards ceremony was approaching. I knew that the film *Pondo People* by Don Guy was a contender for the Broadcast Category, and an SWC colleague, Sandy Heather, and The Green Bishop’s wife, Kate Davies, had privileged inside knowledge as to who would receive the special Nick Steele Award. This is an innovation in the annual awards, intended to honour an outstanding person as Environmentalist of the Year – a person who had given our journalists a story worth telling. Without him suspecting a thing,

Kate, Sandy and I had successfully conspired to make sure The Green Bishop was in the running for this award. Dr Ian Player, veteran founder of the Wilderness Leadership School and initiator of the annual awards, chaired the panel of judges. They liked our proposal and secretly confided that The Green Bishop was to be named as the Environmentalist of the Year. We had to ensure he was present at the awards ceremony, but without spilling the beans. Thanks to an elaborate ruse we managed to have him there on the day.

‘Geoff, I strongly suspect Don Guy’s film *Pondo People* is going to win,’ I explained, ‘unfortunately Don cannot be there, as he is now living in New Zealand, so it would be fitting that you accept it on his behalf.’

Geoff made special arrangements to travel to Johannesburg from Cape Town. Kate jumped on another plane shortly afterwards without him knowing. When I arrived with Geoff his first surprise was to see his wife seated among the guests. He still hadn’t the faintest idea as to why Kate was there – until Dr Ian Player was invited to make the announcement.

Adding to our pride and pleasure, Don’s film *Pondo People* also won. (I maintain it was the soundtrack that clinched it, but readers can decide for themselves by viewing it on my YouTube Channel, John G.I. Clarke.)

That ought to have been the end of The Story. But it wasn’t. Not by a long shot.



## 15: No Thought of the Harvest

When Nelson Mandela came out of prison he told us that our land was now restored to us, the people who live from it. How can somebody sitting in Pretoria simply make a decision that the land belongs to someone else?

*Bhalasheleni Mtanyelwa Mthwa.  
Induna (headman) at Mgungundlovu Komkulu*



Bhalasheleni Mtanyelwa Mthwa.

*Photograph by John G.I. Clarke.*

Thanks to SWC and SAFCEI and a host of others, I have not ‘trodden the winepress alone’ as T.S. Eliot says in his pageant play *Choruses from the Rock*. However, I do understand his insight and can say I know...

That it is hard to be really useful, resigning  
The things that men count for happiness, seeking  
The good deeds that lead to obscurity, accepting

With equal face those that bring ignominy,  
The applause of all or the love of none.  
All men are ready to invest their money  
But most expect dividends.  
I say to you: Make perfect your will.  
I say: Take no thought of the harvest,  
But only of proper sowing.

Whilst bathing in the reflected glory of the successes of The Green Bishop and Don Guy, I was contacted by the pioneering poet for our wilderness areas – Dr Ian McCallum – who is perhaps better known as a former Springbok rugby full-back, medical doctor and psychiatrist. Ian flattered me with an invitation to speak at a gathering of Wilderness Leadership School trackers and guides.

‘John, we would like you to tell the group about your experience on the Wild Coast, to help us look ahead to the future, to broaden the outreach of the Wilderness Leadership School to other contexts where Wilderness philosophy and outreach is needed.’

‘I would love to, Ian,’ I replied. ‘In fact it was a Wilderness Trail when I was a fifteen year old boy scout that planted the seed of consciousness that has shaped my path ever since.’

‘Good. You will be sharing a panel with Wayne Duvenage, the CEO of Avis, who is going to give a corporate perspective on the issues, and how Avis is trying harder.’

‘That will be interesting. But can I bring along the guy who really made it all happen, Sinegugu Zukulu. He’s the person who really understands what it’s all about.’

‘Sure thing, that would be great,’ Ian said.

Nkomba and I arrived at the Kenneth Stainbank Nature Reserve in a mood of forward-living anticipation. Nkomba told a story to illustrate how the tension between humanity and nature doesn’t have to be resolved by sophisticated technological solutions that kill.

‘In the Ntafufu forest on the Wild Coast I learned how the local villagers have found an innovative solution to stop forest monkeys

from raiding the mealie fields, without having to keep the young boys out of school, and without shooting the monkeys,' he explained. 'They tie some juicy meat to a branch on the edge of the forest, but high enough so that the dogs can't reach it. The juices drip slowly down and the salivating dogs below catch the drops in their mouths. This keeps them on the edge of the field. When a troop of monkeys comes to raid the mealie fields, the barking dogs chase them away, and then return to wait for more juice to drop from the meat hanging on the tree. When the boys get home from school the dogs are rewarded with the meat.'

Wayne Duvenage found this highly amusing. Afterwards he offered us the use of an Avis-sponsored vehicle whenever we needed it for our social development and educational work. It was the first time in my thirty-year career as a social worker that anyone from the corporate world had offered resources without me having to beg!

So began a friendship that led to further multiplication of 'non-conventional resources for self-reliance', notably 'solidarity and the ability to provide mutual aid'.

Engaging the Powers was evidently bearing fruit. After all, we had the ear of Minister Sbu Ndebele and the support of the King and Queen of the Mpondo, who were eager to find a way forward to address 'the green and brown issues delaying construction of the N2 Wild Coast Toll Road'. Surely Nazir Alli would bend to the dictates of common sense! The mining rights for Xolobeni were looking increasingly like an albatross around the necks of both MRC and the DMR. I optimistically reasoned that all they needed was a face-saving exit strategy. I was confident that we were on the threshold of an outcome similar to that described by Alastair McIntosh in *Soil and Soul*. It had the makings of a really good news story.

Our first use of the Avis sponsorship was to take the group of young trainee trackers to Ntafufu Forest to meet Mr Mphothe – travelling via the cinema to see *Avatar*. Our intent was to light the candle of promoting job creation through eco-tourism. It was not to embroil Avis and Wayne in cursing the darkness, because as far as we were concerned there was no darkness left to curse.



How wrong we were.

On New Year's Day 2010, Sinegugu called me to say things were not working out quite the way he had hoped. There were problems: not with monkeys raiding the corn fields again, but a much more challenging problem.

'We need media attention to expose what one of our trackers, Thutani Mpunga, has discovered,' he urged 'can you get a journalist to come and cover the story?'

'On New Year's Day! It not NEWS year day! Nothing is supposed to happen on New Year's Day,' I grumbled, 'but what is this story?'

'There is another conflict over the construction of a road between two rural villages, Mtambalala and Lujazo, on opposite sides of the Ntafufu River. One of my tracker students, Thutani, lives in Mtambalala village and he has become deeply embroiled in this clash.'

He explained that a few days earlier Thutani had reported that a bulldozer had arrived at Mtambalala. At the behest of a local ANC Ward Councillor, Mr Mahini of the Port St Johns municipality, the bulldozer had progressively graded its way through Thutani's maize field, a fragile wetland and a section of the Ntafufu Forest. Thutani had demanded evidence of an Environmental Impact Assessment approving this action, together with requisite approvals and evidence of consultation. All he received was a document supposedly signed by someone claiming to be the head of his household, giving consent for the road to be carved through his cornfield. The justification for the road was supposedly to allow the residents of Lujazo Village, some 5 km away, more convenient access to the main road between Port St Johns and Lusikisiki – but confidential sources suggested otherwise.

I was told that money had been allocated from the Municipal Infrastructure Grant for rural road construction in the Port St Johns area. Mr Mahini, who also owned a road construction business, had allegedly received the money but done nothing. Alerted to an imminent audit investigation, he now had to show evidence of progress. So he hastily dispatched a bulldozer to work on the road, only to be stopped by the courageous Thutani who

knew his constitutional rights and was literally not prepared to be bulldozed.

It ought to have been quite simple. Interview all stakeholders; file a professional social worker's report for the attention of (depending on my findings) either the Human Rights Commission or the Public Protector or both; send out a carefully-worded media release to lubricate the process with requisite public scrutiny; and wait for a response.

On the Wild Coast nothing is ever simple.

Would that I had magical powers to get a journalist to cover the story. Fred Kockott was interested. 'Sounds like the Milagro Beanfield War' he said 'have you seen the film?'

I hadn't but got hold of it. It tells the story of a bean farmer in New Mexico who decides to take back the water rights that a corrupt State politician has granted to a mega developer for an up market golf estate in the water scarce New Mexico rural areas of the USA.

Readers, if you are having trouble understanding this story, get it. The parallels are astonishing. The only difference is that the superstitions at play are of the Mexican Roman Catholic variety, whereas in Pondoland they are African ancestral belief systems. In form different, but in substance much the same.

So began the Pondo Mealie Field War on the Wild Coast.

I was on holiday at Ramsgate with my family enjoying a break at the Gaze holiday home. Despite the sour-faced looks of disapproval from my family, I went to Ntafufu alone, armed with camera and notebook.

On 2 January 2010 I arrived at Ntafufu just as the sun was setting. Driving through the forest in the dusk to rendezvous with Nkomba, Thutani and the rest of the group, I spotted an owl sitting on an overhanging branch. I stopped to film it looking down at me with its creepy stare. Fortunately my superstitions are strictly limited to the Roman Catholic variety, but if I were Mpondo I would have seen the owl as a fateful omen.

Moments later I arrived at the gate. Sinegugu was waiting for me with Thutani, whose right arm was in a sling.

‘Molweni Sinegugu, Thutani. Hey, what happened to your arm?’

Sinegugu replied on his behalf. ‘John, come with your camera. I want you to capture Thutani’s reply to your question on film before it gets too dark. This is serious!’

In short: on the pretext of a crime prevention operation, a squad of policemen had conducted an early morning swoop in the Mtambalala Village to search for illegal firearms. They specifically targeted Thutani for rough treatment, intending to extract a confession as to where his firearm was hidden. At 02h00 he was woken by policemen banging on his door. When he opened it one of them trained a flashlight beam in his face so that he could not identify them. He did not



Thutani Mpunga.

*Photograph by John G.I. Clarke.*

have a firearm and the police did not have a warrant, but that did not prevent them from turning his *umzi* upside down, until it looked like the nest of an *iTekwaan* (Hamerkop) – sundry articles of clothing jumbled untidily amid thatch and bits of firewood. One of the policemen held him face down on the floor bending his arm behind his back, straining the ligaments to breaking point while his fellow officers ransacked his rooms. Finding nothing, they left. Other villagers came to Thutani’s help and at first light they took him to a doctor in Port St Johns.

Fortunately his wife and children had been sent to her parent’s home the day before, since Thutani feared there could be some reprisals against him for his courageous outspokenness. When these came he was ready to face them, having spent a lot of time doing the inner work – “the agony in the garden”. This fortifies the faith-filled to endure the consequences of persecution in the cause of right. His crucifixion was painful but not terminal. Paradoxically, it left him more alive, more convinced of the justice of his cause, filled with courage to face any further consequences, and grateful for the solidarity of our support.

Moreover, if stabbing the paper with a pen is an effective way of sublimating conflict, a rolling camera is even more so, especially if the parties cannot read or write themselves.

Nkomba got right back on track with the original purpose of the tracker training event, and we put the traumatic experience behind us as best we could. Nkomba led us through the forest while I filmed his impromptu teaching to the young men.

‘Why are we walking 5 km through the forest when Avis has given us a car?’ one of them muttered.

‘Because we are here to experience the forest and listen to what it can teach us,’ he replied, ‘not to sit in a car.’

After their long walk of discovery the group emerged from the forest to meet Mr Mbekiswana Ngcaphe Sogeyisi Mphothe on the other side.

Readers will now grasp the import of the 110 year old man’s words, to ‘stab the paper’, with which the story of *The Promise of Justice* commenced.

The four-hour drive back to Ramsgate to rejoin my family for what was left of our holiday was hardly long enough to process all my thoughts.

I was particularly vexed by the despicable behaviour of the police because, before leaving Ramsgate, the local press had carried a tragic story of the death of a policewoman who had been shot and killed during a crime prevention swoop in an informal settlement near Ramsgate. She was a dedicated professional policewoman, besides being a mother and wife, who had given her life to fighting crime. How would her family feel if they heard about the despicable treatment of Thutani by fellow police officers? What could be done to halt South Africa from slipping back into its conflict-ridden past? Are we destined eventually to become an ecological wasteland like Somalia, where teenage boys carry AK47s as if they were fashion accessories?

‘Life can be understood only backwards,’ the Danish philosopher Søren Kierkegaard says, ‘but it has to be lived forwards.’

I don't know how readers feel about my reports to The Bateleurs. I wrote them with a pen full of gentle caress and pleasant seduction. However, as I re-read them myself after the passage of years, I am reduced to tears. Tears for the mother who lost her baby because of an entirely avoidable failure of government service delivery; tears for Thutani and his family at their treatment; tears for my own dashed hopes, failed idealism and the naïve romanticism which I expressed in February 2007, July 2008 and again in August 2009.

Looking back, with the benefit of hindsight, I now understand how vitally important it was for the further unfolding of the strategy to 'Name, Unmask and Engage the Powers', to have been at the Wilderness Leadership School Conference, to meet Wayne Duvenage. In the three years since, he has helped me re-frame *The Story* into a larger narrative; and to escape the often insidious 'lobster trap' of idealism. 'Every form of addiction is bad,' counselled Carl Jung, 'no matter whether the narcotic be alcohol or morphine or idealism.'

Jung also says that he never ever really helped his patients solve their problems, in the technical sense. He said the task of a therapist is to support patients/clients to find a larger more compelling life force beckoning from the future horizon of their lives. 'My patients did not really solve their problems. They just outgrew them and left them behind. They ceased to be problems any longer.'

Nevertheless, it would be misleading to imply that the traps, the conundrums, or the issues of *The Story* simply vanished: instead they became larger, more inclusive and more universal.

While Mr Mphothe's prophetic words added an indelible and long-life preservative to my inkpot, Wayne Duvenage has helped me sharpen the point of my pen, enabling me to leave more of an impression, and show the average South African reader, and the average Gauteng motorist, that *The Story* is in fact their story too.

## §

To end Part One, some loose threads need to be tied.

**Richard Spoor** not only survived the SLAPP suit but had his victory over the mining industry by winning a case on behalf of a

chronically ill former mine worker Themvikile Mankayi against his former employer AngloGold Ashanti Ltd. Losing along the way via the High Court and Supreme Court of Appeal, by the time the matter had reached the Constitutional Court, Richard had run out of money to pay advocates and on



Richard Spoor.

*Photograph by John G.I. Clarke.*

17 August 2010 opted to argue the case himself. The respondent's side of the court was replete with a Goliathan army of lawyers. The applicant's side had a Davidian simplicity about it: Richard, a young law student and me. Queen Sigcau, Mrs Spoor (Richard's very proud mother) and a number of activists were, however, in attendance in the gallery, rooting for the lone crusader.

On 3 March 2011 the Constitutional Court handed down not one but two judgements; a majority and minority judgement. This is not unusual, except in this instance both judgements found in *favour* of Themvikile Mankayi against the respondents, but on different lines of arguments.

It was a stunning, yet bittersweet victory. A week before the judgements were handed down Mr Mankayi had sadly finally succumbing to the chronic health condition of silicosis that he had acquired while working underground.

Now that a legal precedent has been set there is no shortage of willing lawyers competing to represent sick mine-workers in multi-billion dollar class-action law suits against the gold mining industry.

The three founder-directors of Xolco, **Patrick Caruso, Zamide Qunya, and Maxwell Boqwana**, have been the subject of complaints. Patrick Caruso and his brother Mark were named in a complaint lodged with the Australian Government for having violated the guidelines for multi-national enterprises of the Organisation for Economic Cooperation and Development (OECD). The Australian National Contact Point, however, refused to accept the complaint as a specific instance.

Zamile Qunya's appointment (by the CEO of the Eastern Cape Gambling and Betting Board, Mr Mabutho Zwane) as Chair of the Mbizana Development Trust has been challenged in court. Together with several other alarmed citizens I have submitted an affidavit asserting that, due to symptoms of anti-social personality disorder, Mr Qunya should not be entrusted with the responsibility of overseeing the disbursement of funds intended for charitable purposes.

The Cape Law Society declined to investigate a complaint lodged against **Maxwell Boqwana** for improper conduct as an attorney. He was then elected co-chair of the Law Society of South Africa in March 2014.

MRC have returned to lodge a fresh application, starting from scratch, with ambitions to secure prospecting rights for the Kwanyana Block. They have another BEE partner, Blue Bantry Investments Pty Ltd, which MRC has announced is positioned with Xolco to obtain dividends from both the Xolobeni mineral sands and the Tormin Mineral Sands project in the Western Cape, 400 kms north of Cape Town. The founder directors of Blue Bantry Investments are Max Boqwana, Zamile Qunya, and Ntandokazi Yolisa Capa, an ANC ward councillor for the Flagstaff municipality whose mother, **Zoleka Capa**, was the MEC for Rural Development and Agrarian Reform in the Eastern Cape Provincial Government. She was also re-elected as a member of the NEC of the ANC at its congress in Mangaung.

She has recently been redeployed to National Parliament as an ANC MP, after an undistinguished tenure as MEC for Rural Development and Agrarian Reform for the Eastern Cape Provincial government.

At the time of going to press news was breaking that the Department of Environment was investigating allegations of non-compliance with environmental regulations at the Tormin mine. Rumours of serious internal conflict between the owners, managers and staff at Tormin were surfacing, necessitating an urgent visit to South Africa by Mark Caruso.

Two of the local residents mentioned in the foregoing chapters **Zeka Mnyamana** a former tour guide for Amadiba Adventures, and **Nkululeko Msabane** the principal of Baleni Senior Secondary School were co-opted by Qunya and Boqwana to serve as directors of Xolco. Nkululeko Msabane became involved only to seek investment in his school. When he realised that directors were 'entitled' to help themselves first from whatever proceeds accrued from the proposed mining venture, and that he was being used to give a veneer of respectability to the corrupting structure, he and two other directors resigned.

Fortunately his school has gone from strength to strength, steadily improving the Grade 12 final examination results from some 29% in 2008 to a whopping 87% in 2012. Parents would rather send their children to his school and he is currently overwhelmed by enrolments, beyond the classroom and teaching capacity of the school. But he has not given up on his dream and deserves all the support he can get.

Zeka Mnyamana remains a director of Xolco. The greater moral responsibility for the co-option process rests with those who do the co-opting. One day I hope he will be reconciled with his friends and family, from whom he is now alienated.

Finally, what happened to Wangari Maathai's African Wild Peach tree in Delta Park?

On one of my visits I noticed Kikuyu grass had grown over the bed and workers employed to cut the grass had evidently damaged the stem. The tree was in danger of being ring barked if it happened again. I resolved to get a plaque to identify the tree and some protective fencing, but never got around to doing so. A few months later I noticed it had gone. All that was left was a slightly hollowed out bed where it once grew.

When Wangari Maathai passed away on 25 September 2011, even though the tree was no more, I went to Delta Park to mourn her passing. When I reached the spot she had so carefully planted the tree six years earlier, I could hardly believe my eyes. It was back. It was growing again. Not one but several stalks had now broken



through the surface. Beneath the surface the taproots were still present.

‘Have no thought of the harvest. But only of proper sowing.’



## Part Two – His Story

*The Story* ended at the beginning of January 2010. We thought it was the beginning of the end of a decade-long struggle to actualise human rights. It was only the end of the beginning.

History was about to be made.

**His Story** was about to commence.

**Part Two** goes behind the scenes of the public narrative covered by **Part One** *The Story* to offer a slice of *His Story*.

It is but a small slice, written from my particular perspective. It is not Kumkani's authorised biography, but a modest effort to tell the story of how his *authority* clashed with state *power*.

*His Story* shows that empowerment flows from ordinary people embarking on concerted citizen action with leaders like King Justice Mpondombini Sigcau and Queen Lombekiso MaSobhuza Sigcau and Mr Wayne Duvenage, acting with civil courage to steer the path away from violent revolution toward the "things that make for peace".<sup>18</sup>

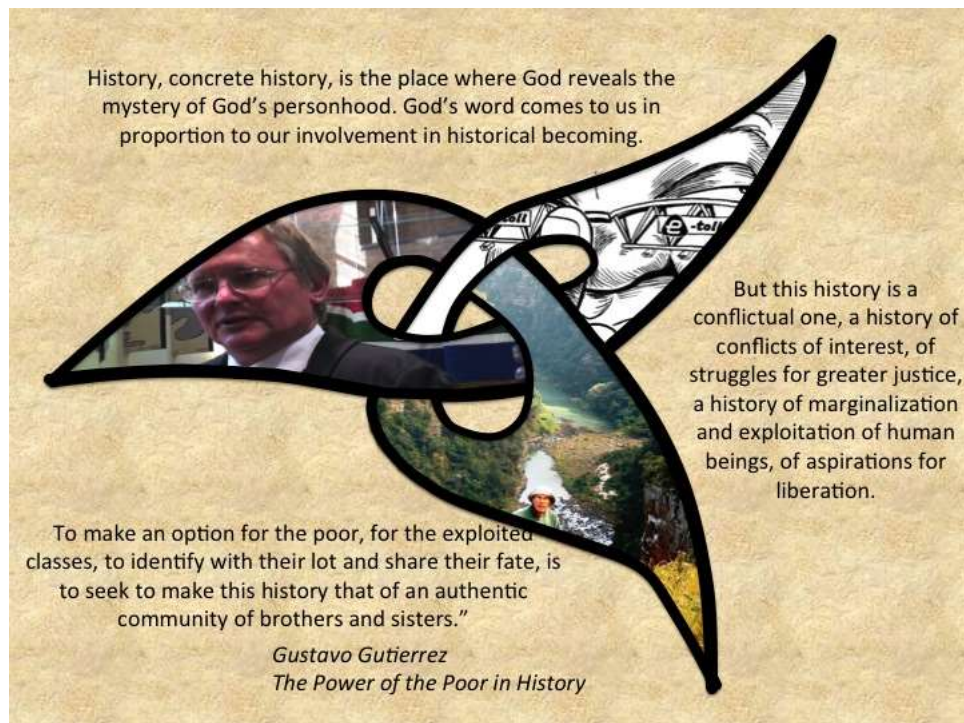
It offers a glimpse into the personal story of a King, his Queen and his family, who have found themselves fatefully cast by history into working out how to balance the promise of great wealth buried in the earth against the promise of justice. Faced with the choice of giving in to the clamouring voices tempting them with the temporal, secular gratification of smelting the minerals into a graven image of power from a lifeless inert metal they listened to the prophetic voices, the Mosaic promise, and the transcendent spirituality of biblical faith to 'choose life'<sup>19</sup> instead.

---

<sup>18</sup> From a verse from the Gospel of Luke 19:41-41. Jesus weeps over the City of Jerusalem which has become steeped in obsession with money and power rather than justice, mercy and compassion. 'Now as He drew near, He saw the city and wept over it, saying, "If you had known, even you, especially in this your day, the things that make for your peace! But now they are hidden from your eyes."

<sup>19</sup> "This day I call the heavens and the earth as witnesses against you that I have set before you life and death, blessings and curses. Now choose life, so that you and your children may live and that you may love the LORD your God, listen to his voice, and hold fast to him.' Deuteronomy 30:19-20

Yet it is also a story of how these leaders of a traditional African community, the Mpondo, found common cause with the leaders of a modern Western business movement to act with civil courage to name, unmask and engage the fallen Powers that Be: a government that had forsaken the promise of justice, and lost its moral authority.



# 1: Behind the Irony Curtain

‘What gets us into trouble is not what we don’t know. It’s what we know for sure just ain’t so.’

*Mark Twain.*

It’s called “nominative determinism” - when the name fits the job. Such as, for example, the names of two urologists who authored an article on incontinence in the *British Journal of Urology*, whose names are Splatt and Weedon. Or the author who wrote a book called *Pole Positions – The Polar Regions and the Future of the Planet*. His name is Daniel Snowman.

The names of the late King of the Mpondo were *Mpondombini* (two tusked) and Justice: a man who stood for justice by balancing the dilemmas of life between two horns, and who had a memory like an elephant. Our society is full of people who aspire to be leaders of willing servants, and who lead them with the eye for the shortcut, and the short, effortless road downhill. The planet Earth needs servants of willing leaders, who go out in front to find the narrow road that leads to life<sup>20</sup>. Justice Mpondombini promised and, with the stoicism of an elephant, would travel far to deliver. With his feet on the ground acutely sensitive to the minute sound waves travelling through the earth from afar, he could walk long distances with patience and foresight.

‘I played as a prop, in the front row,’ he told me, during one of our conversations, ‘but I could also run very fast, so our tactic was for me to hang out on the wing to receive a long pass. The opposing wing and fullback could never catch me and I would score for the team. They never thought a prop could run so fast.’

He then added with great modesty, ‘but as to whether I was a good player, that is for my team mates to say, not me,’ whereupon he rattled off from memory the phone number of one of his old team mates, Mr Lefume, so I could call him and get his perspective. His friend confirmed that Kumkani was a great team player.

---

<sup>20</sup> From Matthew’s Gospel 7:13-14 “...small is the gate and narrow the road that leads to life, and only a few find it.”

The conversation took place in Margate Mediclinic in March 2009, where he had been hospitalised for treatment for his chronic diabetic condition. His condition deteriorated over the next year. Late onset diabetes is a chronic but treatable disease of the circulatory system. The blood supply to the extremities of the body is compromised, with the big toe, feet and ankles suffering the consequence of a lack of nourishment and the absence of the cleansing flow of blood. Kumkani was not inclined to complain of the discomfort. He would grit his teeth and bear it, not wishing to place a strain on family resources. Early treatment is better and less costly in the long run, but humble leaders are especially disinclined to make demands. He was admitted to One Military Hospital in Pretoria in May 2010 for the amputation of his left leg below the knee<sup>21</sup>.

Things were looking promising. We joked about the fact that his rugby playing days were well and truly over, but his medical team assured him that once a prosthetic leg was made and fitted he would be able to get around without too much handicap.

Social workers are trained to support patients to adjust to chronic health challenges by counselling around the four 'R's', *Roles, Relationships, Resources and Reactions*. If given the choice of winning the lottery or having ones feet amputated it goes without saying that the lottery wins. Yet research has shown that a year or so after such dramatic events, surprisingly both the lottery winners and paraplegics in fact report a similar sense of overall happiness and wellbeing. The outcome depends on how adequately they are able to adjust in their roles and relationships, manage their resources, and handle the emotional reactions (theirs and others), in coming to terms with the crisis event. Often those experiencing the 'negative' crisis fare much better than those who hit the jackpot. Perhaps it's because it is more likely that people rendered paraplegic after a sudden crisis event are more likely to seek the

---

<sup>21</sup> His doctors were hoping his right leg would improve with treatment but it did not. Thus some months later he had to again go under the knife for his right leg to be amputated. This meant a long stay in hospital was lengthened further.

help of social workers than lottery winners or gamblers who have hit the jackpot at a casino.

## §

Social workers tend to be in demand in the gambling industry, but not to intervene in the crisis presented by winning, but the much more commonplace crisis of losing; when gamblers find themselves snared in *'Hotel California'*. Some casino patrons win on the swings, others on the roundabouts, but overall, as the line from *Hotel California* goes, 'you can check-out any time you like, but you can never leave'.

The odds in a casino are stacked against the gamblers who, as a whole consent to a deal that will reward a lucky few who win alongside the 'house'. The system is structured to ensure some of the gamblers win some of the time (to keep them in the game), and for the 'house' to always win all of the time. The slogan of the National Responsible Gambling Program 'winners know when to stop' has a plausible ring to it. However, winners cannot win without somebody losing. Gambling is a zero-sum game. Some gamblers cannot stop. Rone Visser couldn't, and went into deep crisis.

'I could forget the world when I was in the casino. Reality ceased to exist there for me. The thrill of winning a jackpot was heady and I'd play bigger and bigger amounts so that I could win bigger jackpots. All along I knew that I was spiralling out of control, but I seemed to be removed from reality.'

A significant percentage of gamblers, like Rone Visser, become addicted to the buzz and fall into a 'pattern of gambling always believing that "one last throw of the dice", as it were, would allow her to recoup the losses and pay back the monies' as a court judgement explains in the prosecution of Rone whose 'borrowings' had mushroomed into the theft of an accumulated sum of R377,000 over fourteen months.

## §

For people with money to spare and an appetite for risk, the venture capital market offers a more promising option. It appeals to those with the good sense to realise that it is better to risk one's money on an investment opportunity that promises some long-term added value, rather than the zero sum game that underwrites lotteries and casino operations. If a profit is to be made, better that it is an all-round 'healthy profit' - one that has a win/win benefit.

Mark Victor Caruso is an adventurous Perth entrepreneur on the lookout for investment opportunities that ordinary investment bankers would regard as too high-risk and untested. In 2006, while Nkomba and I were engaging the media to expose the reality of attempted cooption and subversion of the Amadiba community by MRC and its BEE partner, Xolco, Mark Caruso was assuring his shareholders that,

'The Amadiba Community continue to unanimously support the project [the Xolobeni Mineral Sands venture] and have formed a consultative forum supported by the traditional leaders, the King and Queen of Pondoland as well as local government authorities. The forum is focused on bringing long term sustainable development to the area and the mining is its key element.'

The complete falseness of this claim has already been established in Part One (*Chapter Ten, My Mea Culpa with Mayor Capa*), which describes the extraordinary day when Kumkani visited the Amadiba community to turn the tide on MRC. Besides championing the Xolobeni Mineral Sands venture to investors, Mark Caruso also had this to say in his 2006 third quarter report;

'The No 11 tailings dump resulted from alluvial diamond operations in the 1960s by the Sierra Leone Diamond Trust. Although the plant was advanced for its time, investigation into the operating history of the plant after the fortuitous discovery of the 969.8 carat Star of Sierra Leone diamond indicated that the initial plant design was flawed and it is believed the operating efficiency would have been reduced with time, leading to the loss of diamonds to tailings.'

When he penned this assessment he was unaware how embarrassingly stupid it would sound when the movie *Blood Diamond* was released. The plot is centred around the discovery of a 'big pink' diamond, 'the kind of stone that can transform a life..

or end it'. The Hollywood blockbuster is a fast paced action adventure set in Kono, Sierra Leone, aimed at raising global awareness of the gross injustices and exploitation, including the phenomenon of child soldiers, associated with conflict diamond mining in Africa.

The message of the film is summed up by the director, Ed Zwick.

'It seems that almost every time a valuable natural resource is discovered in the world - whether it be diamonds, rubber, gold, oil, whatever - often what results is a tragedy for the country in which they are found. Making matters worse, the resulting riches from these resources rarely benefit the people of the country from which they come.'

The film concludes in a dramatic scene with the heroes Danny Archer (a South African mercenary played by Leonardo DiCaprio), Solomon Vandy (a fisherman from a village in Sierra Leone played by Djimon Hounsou) and his son Dia (Kagiso Kuypers), clambering up a hillside with mercenary soldiers in hot pursuit to rob them of the rare pink diamond that Solomon found.

Still more extraordinary was the irony that the scene from *Blood Diamond* just described above was filmed in a river gorge between the Wild Coast Sun Casino Resort and the Sigidi village where Samson Gampe, Mzamo Dlamini, Nonhle Mbuthuma and Zeka Mnyamana live. For seven weeks of filming the Wild Coast of South Africa was used as a location. Ed Zwick, the actors and crew stayed at the Wild Coast Sun Resort and employed many local Amadiba residents as extras. The beautiful unspoilt Mzamba River Gorge, which is the northern boundary of the Xolobeni mineral sands tenement, was dressed up pretending to be an alluvial diamond mine in Kono, Sierre Leone. The film earned Oscar nominations for Leonardo Di Caprio (best actor) and Djimon Hounsou (best supporting actor). For the Amadiba community *Blood Diamond* is most memorable for describing a similar dynamic of disruption that MRC and Xolco were fostering in their own community. In 2006, six months after the film crew had left, Nonhle, Mzamo and Zeka had scrambled up the same hillside that the three Blood Diamond characters (Danny, Solomon and Dia) had ascended six months earlier, to tell their story to the outside world. The three young





Scene from *Blood Diamond*: Djimon Hounsou and Leonardo di Caprio

*Photograph from promotional material.*

Sigidi Villagers did not have armed soldiers in hot pursuit to try and dispossess them of a 'big pink' diamond but they were scared and feared for their lives. The life of the Amadiba community has imitated the art of *Blood Diamond* in broad strokes. In October 2006, Zeka Mnyamana was outspoken against the mining of his ancestral lands. In a few short months he had been co-opted by MRC and Xolco, leaving his friends and family feeling deeply betrayed.

In the countless occasions that I have since walked from the Wild Coast Sun to visit the Sigidi community I always pause at the spot where Di Caprio's character, mortally wounded, handed the 'big pink' back to the wise 'Solomon' who escapes with his son to tell his story. Danny is left behind grasping a handful of red earth. Blood from his bullet wound mingles and flows into the earth as he breathes his last. How much titanium and other heavy mineral deposits were in fact present in his fistful of sand?

Mark Caruso's optimism about the potential from the Erebus Diamond tailings operation in Sierra Leone proved grossly

misplaced. It was a costly flop ending in legal recriminations. He has nevertheless persisted in assuring his investors that there is money to be made from the Xolobeni Mineral Sands, 'the tenth largest deposit in the world.'

## §

Four years after *Blood Diamond*, Hollywood obliged with a yet more vivid portrayal of 'life imitating art'. *Avatar* in 3D provided an added dimension. The irony curtain opened again.

Notwithstanding the potential market value of the titanium deposits, from the perspective of the Amadiba community and the Mpondo Royal Family, everything that happened between 2006 and 2010 spoke of an impending development disaster if the mining rights were upheld and the N2 Wild Coast Toll Road was constructed. Minister Buyelwa Sonjica, had in September 2008 only suspended, not revoked, them. By 2010 two years had elapsed without any notable enthusiasm from government to adjudicate the objections from the Amadiba Crisis Committee. Eco-tourism was still in the doldrums of uncertainty pending the outcome of their appeal, and we were determined to keep the pressure on President Jacob Zuma's Minister of Mineral Resources, Susan Shabangu, to conclude the matter. To try and pull the fat out of the fire for MRC shareholders, the BEE company, Xolco, became ever more disgraceful in deceit and dishonesty to try and recover the rights to mine at Xolobeni. By serving as a director, Zeka Mnyamana hoped he could steer it toward credibility to ensure it would provide some meaningful benefit to the local residents. Instead he found himself progressively more alienated from his community. Just as Richard Spoor had predicted, the pro-mining interests were still working to co-opt wherever possible. Where resistance was strong, they would simply subvert.

As the first decade of the 21<sup>st</sup> century drew to a close, South Africa was in the grip of the 'weapon of mass distraction', hosting of the 2010 Fifa World Cup. All controversies and awkward political issues were parked until after the world's media had left. The Fifa World Cup provided a useful strategic opportunity to spark the revival of eco-tourism jobs and thus deprive the mining protagonists of the only card they had to play, job creation from

mining operations. At its height in 2003 the eco-tourism venture was providing income opportunities for some 400 local residents. Zamilé Qunya and his allies had tried their best to sabotage eco-tourism, but there was enough resolve and experience still latent within the community to turn the tables on him.

In late January 2010, the holiday movie momentum still had some slipstream to offer. The impact of *Avatar* still swirling in my mind, and my fingers firing staccato salvos wherever a gap in the government propaganda defences presented themselves, I aimed some fire from within the fortification provided by South Africa's most distinguished movie *fundi* (expert) Barry Ronge. He sharpened the aim and amplified the message in his WRITES ON RONGE sidebar in his popular *Spit and Polish* column in *The Sunday Times*.

*'While the movie world raves about Avatar, the drama enacted in the film is likely to play out in South Africa with the Zuma government's blessing. John Clarke, a social worker on the Wild Coast explains why.'*

Avatar is a classic tale retold. But why, after numerous films featuring the same basic outline, do we still have mining exploration companies roving the length and breadth of Africa – and elsewhere – behaving in precisely the same way as the Earthlings in Avatar behave?

I am a social worker, and took a group of indigenous people from Pondoland to see Avatar. They felt a remarkable, albeit chilling, sense of reality while watching the film – spectacular special effects notwithstanding.

The vast biodiversity of the Wild Coast and the traditional way of life of the Mpondo people are threatened by the ambitions of an Australian mining company to mine their ancestral lands for titanium.

Next month the South African Minerals Board meets to consider their appeal against the South African government's award of mining rights to what is nothing more than a dubious Australian venture capital outfit, MRC.

They will be met by Mpondo tribesmen looking like the Na'vi waving placards stating, "This is not just titanium. It is unobtainium." But will the Minerals Board (and Zuma's government) get the message?

The scene captured the imagination of the editor of another monthly publication, *Huisgenoot*, who called me to plead for exclusivity to cover the anticipated street protest. I had imagined it would feature Nonhle and her beautiful sisters costumed with blue body paint, in a creative blend of Mpondo and Na'vi traditional dress, covering only what modesty required, riding through the streets of Durban on their way to the public hearing on suitably made up Pondo Ponies.

Unfortunately we had to disappoint the editor. We decided not to antagonise the Minerals Development Board. The hearings were a huge anti-climax anyway and we were glad we didn't invest resources to win a battle that the Department of Mineral Resources and MRC had to all intents and purposes already lost.

## §

The Director General of the Department of Mineral Resources, Sandile Nogxina, appointed a three-person Special Task Team from among the members of the Minerals Development Board to evaluate the objections that the Amadiba Crisis Committee and Sun International had lodged against the award of mineral rights. The chair of the Special Task Team was Sango Phathekile Holomisa. He is a public figure who rides not one, not two, but three horses simultaneously in a tricky balancing act. He is the President of the Congress of Traditional Leaders of South Africa (Contralesa), where he is greeted by his traditional praise name *Ah! Dilizintaba*. In the course of his normal day job he gets to be called 'the honourable member' while warming the ANC parliamentary benches in Cape Town as a Member of Parliament. Occasionally he takes leave from that hallowed institution to be called 'my learned friend' as an Advocate of the High Court of South Africa.

It had been an astute move by the government to hand the hot potato of the disputed mining rights to *Dilizintaba*. After getting over our initial scepticism, we came to appreciate his skill in

juggling it. His praise name means ‘the one who cuts through the mountain barriers’.

The media were not allowed into the room ‘because of a lack of space’ but *Dilizintaba* was careful to sooth things by unexpectedly asking me ‘since you seem to know the journalists’ to be so kind as to keep them informed on behalf of everyone. I wasn’t expecting the ball to be passed my way with such confidence, but it was an easy ball to play because as it happened there wasn’t much to tell them. The much-anticipated event was over in 20 minutes ‘due to the Special Task team having only received five large files of documentation from the Department of Mineral Resources a few days prior, and which they had not had time to study.’

*Dilizintaba* suggested that it may only be necessary to reconvene if the Task Team had questions, but courteously heard the plea of Gilbert Marcus SC for an oral hearing, so as to assist the Task Team to get to grips with all the issues. Xolco’s attorney bravely agreed that oral hearings would be useful ‘for we have additional information to contribute’.

Nkomba and I begged for a suspension of hostilities and the removal of the millstone hanging around the neck of the Wild Coast communities, so that the thousands of foreign visitors to South Africa might be able experience the Wild Coast as a tourism destination, and take home stories of a wonderful place, to attract more tourists. ‘We need closure on the mining issue. We need to bring the conflict to an end.’

## §

Within days of the closing ceremony of the 2010 FIFA World Cup, a tearful call came from Princess Wezizwe Sigcau.

‘John, have you seen the film Avatar?’

‘Yes Ma-Faku,’ I said using the honorific title of respect, which recognises her distinguished ancestry as King Faku’s descendant. ‘I have seen it about six times. Why do you ask?’

‘Because that is what they are trying to do to my father and us a family. President Zuma has announced that my father is to be deposed, and my cousin, Zanzuzuko Sigcau, is to be made king. It is

all political, John, because we have opposed the N2 Wild Coast Toll Road and the Xolobeni mining.'

President Zuma had announced that King Justice Mpondombini Sigcau was, according to the findings of the Commission for Traditional Leadership Disputes and Claims, not the rightful king of *amaMpondo ase Qaukeni*, and that Zanzuko Tyelovuyo Sigcau was to be installed instead.

It was within my professional skills-set to work with Kumkani and his family in adjusting to the physical health challenges brought on by the amputation of his legs below the knee. Their strong spiritual faith and the sense of meaning in their lives gave them and me resilience. However, I found myself way out on a limb when they were plunged into this altogether more challenging situation when Kumkani and his family had the feet knocked out from under them. Even more devastating was the complete silence on the part of the Government as to what they were now supposed to do. They have only ever known themselves to be of the Royal Family, and had strived to serve the Mpondo people with sacrificial devotion all their lives.

### **Emergence of Civil Courage**

Disconsolate I wrote to Alastair McIntosh for guidance and to specifically ask him if he could help us get this scandalous abuse of power into the focus of international media. I had followed the same Winkian threefold strategy of 'naming, unmasking and engaging the powers' that had proved successful for the Hebridean Crofter communities, inspired by the liberation theologian and pacifist, Walter Wink. It didn't seem to be working. He replied.

'Oh dear, John, I don't know what to say about this one!

Were Colin Legum still alive he'd have covered it for the Observer, but I don't know any Africa correspondent these days. What I would suggest is that you sharpen up the press release into a short statement of what has happened, why it is significant, and how it reflects on Zuma.

I can only wish you well in seeking to give strength to those who are connected to Truth and the soul rather than to power and money.

Perhaps as a prayerful afterthought Alastair added another paragraph. It had massive ramifications.

'This evening we had a group of Peace Activist pilgrims visit the GalGael Trust with which I am involved here in Glasgow. One of them is a South African born activist. I had a little rant about our work here and about the way in which deepening of the soul, such as happens on pilgrimage, is where we must take the nuclear debate. She was very much in agreement with this, and came up afterwards to me and my colleague, Gehan, and said the following. I pass her words on to you and you might wish to convey them to the King and Queen of Pondoland. She said: "Civil disobedience is difficult to sustain. Only civil courage can be sustained in the long run."

I shared this with Queen Sigcau and she asked me to draft a media release along those lines.

On 12 August 2010 the following statement was issued in the name of the King of the Mpondo.

'We address this statement to the Traditional Leaders of amaMpondo under the jurisdiction of the Royal House at Qaukeni concerning the statements by His Excellency President Jacob Zuma, in response to report of the Commission on Traditional Leadership Disputes and Claims.

It is released to the media with an appeal to assist in ensuring widespread distribution. The institution of Traditional Leadership together with the media, faith communities, NGOs and voluntary organizations, is an integral part of the fabric of civil society. By acting with civil courage, together we shall move forward in the further democratic transformation of our society.

From the moment that King Sigcau was forced to sign the Treaty of Annexation by Prime Minister Cecil Rhodes of the Cape Colony in 1894, the Mpondo became known for their passive resistance and at times civil disobedience in resisting the forces which sought to dispossess us of our land, heritage and identity as Africans. Even though they no longer manifest themselves in the guise of apartheid and colonial conquest, such forces continue to threaten to undermine African culture through a globalised economic system that thrives on consumerism and greed.

These forces need to be confronted but, thanks to our democratic freedoms, it is no longer necessary to do so in campaigns of defiance

and civil disobedience, but by displays of Civil Courage. This means Traditional Leaders should exercise their power and influence with integrity, acknowledging that ultimately we are all accountable to a Higher power.'

Encouraged, Kumkani obtained an urgent High Court interdict to prevent the installation of Zanuzuko in his place, pending the outcome of an application to show up the artificiality of the Commission's findings. Artificial limbs, and determined resolve to regain his mobility, served to get him walking again. Kumkani and his family managed to jump the hurdles all the way to, and over the final hurdle, the Constitutional Court.

I had almost completed another book *Amadiba Awakening: The Wild Coast Development Conflict*, which tells the story. It was more sharply focussed on the Xolobeni mining and N2 Wild Coast Toll Road saga. The dispute over the Mpondo kingship featured, but not as the primary focus. It was important to bring His Story into the foreground for I came to realise that Kumkani's personal story corresponded precisely with Ben Okri's counsel to truthfully confront our history and thus 'free our histories for future flowerings'. Thus *Part One* is a prequel to enable the reader to grasp enough of the broad outline of the plot and the plotting.

I felt that *Part Two-His Story* had to be finished before the Constitutional Court handed down its judgement (which eventually came in June 2013) if it was to be true to *prophetic imagination*<sup>22</sup>.

This is the title of a much acclaimed book by the academic theologian Walter Brueggemann, in which he argues 'for a "prophetic ministry" which is fuelled by a "prophetic imagination" that creates and nurtures an alternative consciousness, which in turn creates and nurtures an alternative community'.

Brueggemann views the radical break of Israel from Egypt through the actions of God through Moses as the framing consideration of this alternative consciousness and community. He views the drift in Israelite community toward the monarchy as a drift to a pre-Exodus

---

<sup>22</sup> Since the Promise of Justice is an ongoing saga, readers should register via my website [www.johngiclarke](http://www.johngiclarke) for updates and alerts on further instalments.



consciousness, a reversal of the liberating act of God in their past. The role of the prophet, then, was to constantly recreate and nurture the new consciousness defined by Moses and the Exodus.

Prophetic ministry, according to Brueggemann, is characterized by critique and energizing. Critique is not simply aiming darts at something that we disagree with, but it is engaging the dominant powers of the day and declaring them to be unable to provide what they claim to provide<sup>23</sup>.

Brueggemann's main thesis is that monarchical rule entrenches old consciousness, oppression and exploitation. The irony is not lost on me that my prophetic imagination has been stirred while helping a monarch to survive a challenge to his authority from a democratically elected government.

But is only by peeping to see what lies behind the irony curtain that we begin to see ourselves in a more humble and humbling light.



---

<sup>23</sup> <http://www.discerningreader.com/book-reviews/the-prophetic-imagination>

## 2: The King's Speech

If I'm King, where's my power? Can I form a government? Can I levy a tax, declare a war? No! And yet I am the seat of all authority. Why? Because the nation believes that when I speak, I speak for them. But I can't speak.

*King George VI from The King's Speech: How One Man Saved the British Monarchy.*

'Patricia, I desperately need your professional services,' I texted the well-known South African radio and TV personality and author, Patricia Glyn, 'to help a King to overcome his physical handicap and film a very important speech he needs to deliver to encourage his people in the face of an impending conflict.'

Those who have seen the Oscar Award winning film *The Kings Speech* will recognise the plot. In 1938 the British Monarchy had just emerged from a crisis of its own. King George V had died in 1936 but his firstborn son and heir, King Edward VIII, had abdicated for the love of a woman deemed unsuitable to be his Queen, because she was a divorcee. His younger brother, 'Berty', thus found himself thrust into the role of providing state leadership at a critical time in British history. Berty was crowned, taking the name of his father, to become King George VI, and the father of Queen Elizabeth II who reigns today.

In 1938 Britain was again about to go to war with Germany. The film discloses the enormous personal struggle that King George VI waged to overcome his severe speech impediment so as to inspire



the Commonwealth in its darkest hour, while Hitler's armies massed for the attempted invasion of Britain.

Again Hollywood had come to our aid with the release of a film that bore an uncanny resemblance to the circumstances facing the Mpondo Royal Family in March 2011.

Since Kumkani had been away from Qaukeni for a long time, his legal team were concerned that his supporters needed physical evidence that he was doing well, and ready to go all the way to save the Mpondo kingdom from subjugation to external powers. Word had come through that Zanuzuko's followers and political supporters were organising an 'installation ceremony' in defiance of a high court interdict to prevent the formal installation until the Courts had disposed of Kumkani's application to have the Commission's findings and the President's acceptance thereof, set aside.

My homespun production of *The Mpondo King's Speech* won't win any Oscars (unfortunately Patricia wasn't available so I had to go it alone), but, as we shall duly see, it served its purpose perfectly. The fifteen-minute speech was hastily burned onto a DVD and dispatched to Qaukeni with the necessary equipment to counter the strategy of presumption by Zanuzuko and give the assembled Mpondo faithful reassurance that Kumkani was still their king.

As a bonus, a fascinating behind-the-scenes story unfolded, just as in the King George V drama in Britain in 1938. Who knows, maybe *The Kings Speech* director, Tom Hooper, will make it into a film and win another Oscar.

Nkomba and Kumkanikazi became part of my film crew, to ensure Kumkani was relaxed and didn't fluff his lines.

Kumkani knew this history intimately. His speech may be viewed on this link: <http://youtu.be/B0J14pzv5Ak>.

The edit shows only the content of the prepared speech, which his legal team had scripted. It does not show an introduction, featuring Kumkani relating from memory the entire Mpondo Royal ancestry that he had received as oral history, from the time way back in the 18<sup>th</sup> century when Njanya's wives gave birth to three sons, twins Mpondo and Mpondomise, and Xesibe. In the 19<sup>th</sup> century the

descendants of Mpondomise and Xesibe were frequently at war with Mpondo's descendants (providing a ready pretext for colonial powers to intervene). Kumkani's mother was, however, a Xesibe princess, and well aware of the human suffering of centuries of internecine conflict, so he worked always to be a peacemaker and peace builder - to try and lay to rest historical animosities, by making sure those who cared to listen to him, understood their history. The whole tenor of his speech shows this, and his extraordinary memory in relating the lineage of Mpondo kings from Mpondo to himself shows that he knew how heavily the burden of history was weighing on his shoulders. He spoke looking at the camera, without the aid of a teleprompter (this was a strictly amateur production), to name every one of his ancestors from the fraternal split that occurred some twenty-six generations before him.

As the further unfolding of this narrative shows, it would seem the ancestors, duly acknowledged, smiled on him.

## §

We got the recording of the speech done quickly, but Nkomba wasn't going to waste the opportunity to get Kumkani to talk about his great love, history.

After the King's Speech was safely recorded, there was enough tape on the reel left for more. 'Kumkani, can you explain to John how Faku became King of the Mpondo.'

'It was because his mother, Mamgcambe, was a better cook than Phakani's mother, who was the Great Wife,' he replied. 'The King's councillors found Mamgcambe's cooking more tender, and the beer she brewed more tasty. The old men struggled to eat the tough meat that Phakani's mother cooked. So they decided to hand the leopard's tail to Mamgcambe'.

"Kumkani, are you saying that it was thanks to a mother's cooking that the Great King Faku became King?" I asked, noticing the smile on Kumkanikazi's face.

The story of how the course of Mpondo history was shaped by a woman, is narrated by Faku's Right Hand House descendant,

Victor Poto Ndamase (1897 to 1974), translated by Monica Hunter Wilson in *Reaction to Conquest*. This is how Poto tells what happened.

‘When the paramount chief wants to marry his great wife, he says to his councillors “*Nanku unyoko wenu Mampondo*” (There is your mother, Mother Mpondo). Then the councillors talk about it, and cattle are given by all the men of the country. The *iKhazi* given for the great wife is a hundred head or more. Usually she is the daughter of a chief. Once a great wife has been married she cannot easily be put aside, but one case is remembered in which the great wife was supplanted by another who found favour by her skill in cooking.

The great wife of Ngqungqushu had been appointed. Her son was Phakani. The mother of Faku was a junior wife but she was skilful in cooking meat and brewing beer. She made it nice and tender so that the old councillors, when they came to the great place, could eat it. The other wives cooked game in hard lumps so that the old councillors could not eat it. And the mother of Faku brewed a little beer, and drew it for the councillors when they were thirsty, while the other wives only gave them the gravy of the meat to drink. The councillors consulted together and said that she who resembled a chief’s wife was the mother of Faku. A tribal meeting was summoned and it was announced that the appointment of the great wife was to be reversed. Now there was a leopard’s tail on a stick planted in the ground in the *inkundla*. The councillors went to the mother of Phakani and said: ‘Listen to us: we are placing you below because you tie in knots this *umzi*’ They went to the mother of Faku and said: ‘Listen to us: undo and take out the tail out of the stick’. She obeyed. Then they invited the mother of Faku to put the tail back in its position. Then they said to the mother of Phakani: ‘Listen to us we are placing you below because you have undone the knots of this *umzi*’. They went to the mother of Faku and said: ‘Listen to us we are placing you above because you build up this *umzi*.’ The mother of Phakani said: ‘You are disgracing the leopard’s tail by placing it below.’ The councillors were silent and said nothing. The mother of Faku said: ‘You are building up the *umzi* by raising the leopard’s tail.’ The councillors said: There is the woman who builds up the *umzi*.’ So they made her the great wife<sup>24</sup>.

---

<sup>24</sup> Translated by Monica Hunter Wilson from Chief Victor Poto Ndamase *Ama Mpondo, Ibhali ne Ntlalo*. See Hunter M., *Reaction to Conquest* 1936

Today the popularity of TV programs featuring cooking skills testifies to the importance of food preparation. Nigella Lawson has nothing on Mamgcambe in terms of shaping history. Mamgcambe outshone all the other wives by virtue of her special talent for hospitality. She was sensitive to the particular desires and digestive systems of the people for whom she was preparing a meal so they would not be ‘tied up in knots’ on account of perhaps lacking the requisite dentition in their old age to chew the meat. It proved to be a very sound ‘constitutional’ decision, which gave Faku to the Mpondo, who saved them from subjugation or assimilation by King Shaka.

Modestly working behind the scenes, Mamgcambe inspired an act of extraordinary foresight by the elders of the five major constituent Mpondo clans. Had she not done so, history might have run a very different, likely disastrous, course for them. As is invariably the case, before HIStory can emerge there has to be a prior HERstory.

To fully appreciate the extraordinary significance of the event, some background explanation on Mpondo systems of traditional governance is necessary.

The Mpondo trace their origins as a distinctive indigenous ‘tribe’ of Africa to over ten generations before King Shaka and the founding of the Zulu nation. But they owe their survival in the face of Shaka’s empire building conquests, to Faku (1780–1867), who united the fearful disparate clans and refugees from Shaka’s marauding *impi* to successfully avoid conquest and assimilation during a period of upheaval known as the *Mfecane*.

In the polygamous culture of the Mpondo, with potentially many possible candidates to succeed a deceased King, as a rule the King should descend from the Great Wife (*Ndlunkulu*). Usually the daughter of a senior chief or even the King of another nation altogether, in the interests of expanding good relations and countering conflictual tendencies, she would be that spouse for whom *ukulobola* has been contributed out of the herds of the

---

(republished 1961) page 382. The date and ages of Faku and Phakani are not known.

people, not from the King's herds. Accordingly, when the *Mvusimusi* (first born son) is born from her womb, he 'belongs' to the people, awaiting the day that his father passes on, to in turn receive 'the leopards tail' to serve the people as a symbol of unity and identity in him.

As such the Mpondo custom of Royal succession is similar to those of other southern Nguni kingdoms such as the Xhosa and the Thembu by comparison with the more authoritarian kingdoms to their north, such as the Zulu and the Swazi. The Mpondo have never been governed by an absolute monarchy, and while King Mswati of the Swazi might be heard to echo the words of Louis XIV of pre-revolutionary France, '*L'état, c'est moi*' (Literally: "The state, it is me"), the King of the Mpondo can entertain no such illusion. He is subject to checks and balances in his exercise of authority that are a lot more in keeping with democratic principles of accountability than one might think. Although he sits at the apex of a hierarchical triangle with Senior Chiefs, Sub Chiefs and Headmen below, it is implicitly understood that any tier above must serve the tiers below. Insofar as there is anything in Mpondo culture akin to the Western medieval notion of 'the divine right of kings', divinity is not located 'above' in any abstract heavenly realm where God reigns supreme, but deep within the Earth where their ancestors are buried.

Although the origins of this homely incident of far-sighted statecraft is not recorded, the circumstances of this serendipitous event, alongside the wonderful time spent with Mr Mphothe drinking *mahewu* outside his *umzi* illustrate the strong relational rather than transactional mode of engagement that I have come to experience with the Mpondo. Mamgcambe showed consideration for the elderly councillor's dental limitations. My intuition says that she was also a wonderful mother to Faku, and that the selecting elders were somewhat wise it seems in knowing the ingredients for nation building.

Callaway observes.

'Faku inherited his responsibilities when he was young and he carried them through a great many years of heavy strain. When he

became chief the Mpondo were a small and unimportant tribe. When he died they were a nation.<sup>25</sup>

What happened to produce this outcome?

King Faku duly ascended the throne when his father Ngqungqushe was killed by the invading Bomvana in about 1815, just as the momentum of the *Mfecane*, (Zulu: "The Crushing") was building. Wars and forced migrations were to forever change the demographic, social, and political configuration of southern Africa, causing immense suffering and devastating large areas as refugees scrambled to safety in mountain fastnesses or were killed, thus easing the way for white expansion into Natal and the Highveld.

The Mpondo kingdom survived two Zulu invasions, in 1824 and 1828, providing refuge to several substantial chiefdoms which became vassals to Faku, such as the Xolo, Tolo, Diba and Nci, thereby earning Faku the title of '*iKhaya leZizwe*,' (home of the nations). Under Faku's long rule his astute and pragmatic leadership ensured that the Mpondo emerged not only relatively unscathed, but strengthened through the ordeal. The great African missionary and intellectual, J.H. Soga, explains the situation thus<sup>26</sup>.

'At this period the terrible Tshaka was scattering the tribes of Natal. There were few, if any, who could stand against them - at any rate, none after the defeat of the Ama-Ndwandwe of Zwile, who were powerful enough to try conclusions with Tshaka. Therefore, Tshaka looked round for enemies to the more distant tribes, and espied the Mpondo whom he attacked. He made frequent raids upon them, in search of cattle for the support of his army. The fear of these constant attacks caused Faku to secrete himself, and he found a favourable retreat in the fastnesses of the Mngazi heights.

By this time, the people were reduced to a state of poverty by the frequent raids<sup>27</sup>. Besides the victims of Tshaka's forays, the Mpondos

---

<sup>25</sup> Callaway, G. (1939) *Pioneers in Pondoland*, London, The Loveday Press. P 27

<sup>26</sup> Extract from pp 307-308 of J.H. Soga's *The South Eastern Bantu* (Abe-Nguni, Aba-Mbo, Ama-Lala). Witwatersrand University Press. 1930.

<sup>27</sup> For a more detailed study of this period of Mpondo history see Beinart, W., 1980, *Production and the material basis of chieftainship: Pondoland, c.1830-80*



were joined by refugees from many broken tribes who were scattered by the eruptions of those days. Sonyangwe, son of Madzikane, chief of the Bhacas, fled to the Mzimkulu and settled there. His son of the Right Hand, Ncapayi, passed on to Pondoland, and was a great burden to Faku, by frequently attacking the Mpondos. His gratitude for all that Faku had done for him took the form of frequent armed raids. So also were the Xesibes continually disturbing the peace, especially Jojo, son of Mjoli of the Right Hand house of Xesibe. These things kept the country in a constant state of ferment, unsettling Faku's country and people.

After Hints'a's war, as that debacle is called, in fact in the following year, 1836, Sir Benjamin D'Urban, Governor of the Cape, sent a message saying peace should reign between the Mpondos, Xhosas and Tembus, as if he was not aware that he was the cause of the Mpondos attacking the Xhosas from behind in that war.

When things were more settled he said, "Let the Mpondos lay aside their assegais." And again "Faku should permit the missionaries to pass" who were escaping from the unsettled state of the country. Of course, Faku willingly agreed to these points. After the Tshaka terror had ceased, through his murder, there began to be more stable conditions in Pondoland. So Faku issued out his fastnesses at the Mngazi, and crossed the Mzimvubu, settling at the Mzintlava and claiming all the country between that river and Umtata.'

In due course Faku crossed back over the Mzimvubu to re-establish Mpondo settlement right up to the Mzimkulu River (where Port Shepstone is today situated at the river mouth). He established his Great Place at Qaukeni, in the vicinity of present-day Lusikisiki, the town that visitors to the Pondoland Wild Coast will know as the nearest provisioning place. In the 19<sup>th</sup> century only scattered trading stores offered supplies. Today it is a bustling small town.

It was to the Qaukeni Great Place that I was trekking in April 2011 with Denis Beckett, another well-known TV personality whose show *Beckett's Trek* for many years, entertained, educated and edified South African TV audiences.

---

in S. Marks and A. Atmore, *Economy and Society in Pre-Industrial South Africa*, Longman, London.

It was ten days after my makeshift film crew had done their job. Neither Nkomba nor I had been able to be at Kaukeni to witness its impact when shown on 1 April 2011. Nkomba had to go back to his day job, but we had managed to seduce Denis to keeping me company instead.

Daily Dispatch, Monday, April 4, 2011

# Warring AmaMpondo royals hold separate events at weekend

Both Zanzuko, Thandizulu declare 'I am the only king'

BY KALAMBE KEN  
Traditional Affairs Reporter

A BUNCH of people over the weekend gathered at the AmaMpondo ancestral graves to pay tribute to the royal lineage of the AmaMpondo people.

Although many feared that the AmaMpondo people would not be able to hold separate events close to each other at the weekend.

However, the AmaMpondo people, who are the AmaMpondo people, held separate events close to each other at the weekend.

Although many feared that the AmaMpondo people would not be able to hold separate events close to each other at the weekend.

However, the AmaMpondo people, who are the AmaMpondo people, held separate events close to each other at the weekend.

Although many feared that the AmaMpondo people would not be able to hold separate events close to each other at the weekend.

Although many feared that the AmaMpondo people would not be able to hold separate events close to each other at the weekend.

However, the AmaMpondo people, who are the AmaMpondo people, held separate events close to each other at the weekend.

Although many feared that the AmaMpondo people would not be able to hold separate events close to each other at the weekend.

However, the AmaMpondo people, who are the AmaMpondo people, held separate events close to each other at the weekend.

Although many feared that the AmaMpondo people would not be able to hold separate events close to each other at the weekend.

However, the AmaMpondo people, who are the AmaMpondo people, held separate events close to each other at the weekend.

Although many feared that the AmaMpondo people would not be able to hold separate events close to each other at the weekend.

However, the AmaMpondo people, who are the AmaMpondo people, held separate events close to each other at the weekend.

Although many feared that the AmaMpondo people would not be able to hold separate events close to each other at the weekend.

However, the AmaMpondo people, who are the AmaMpondo people, held separate events close to each other at the weekend.

Although many feared that the AmaMpondo people would not be able to hold separate events close to each other at the weekend.

However, the AmaMpondo people, who are the AmaMpondo people, held separate events close to each other at the weekend.



1. AM AmaMpondo King Zanzuko (left) and Thandizulu (right) are seen at the AmaMpondo ancestral graves on the weekend. The AmaMpondo people, who are the AmaMpondo people, held separate events close to each other at the weekend.

### 3: Beckett's Star-trek to Pondoland

'To an unknowable number of Mpondo - the humble, the old and the vulnerable being strongly represented - his kingship is a rock of stability in a topsy-turvy world. Mpondombini is a bulwark of resistance to the mining plan. His nephew and rival, Zanozuko, is more in tune with the BMW/tinted-window/big sound brigade, who behold the mining option with dollar signs in their eyes.'

*Denis Beckett. Report for The Star 12 May 2011.*

Pondoland was heavy with uncertainty.

On the 4 April 2011, Lulamile Feni, of the *Daily Dispatch*, reported under the headline, **'Warring amaMpondo royals hold separate events at weekend.'**

'A Royal rumpus over the sovereignty of the amaMpondo monarchy again reared its ugly head when the supporters of the two fighting royals held separate events close to each other at the weekend.

Although many feared bloodshed....the two events were peaceful.

Following findings of the Nhlapo Commission, Zanozuko was pronounced King of all amaMpondo by President Jacob Zuma and was named the new and legitimate king.

A traditional ritual to install him on the throne was conducted in Mzimdlovu about 3 km from the Qaukeni homestead of the ousted king, Thandizulu, in Lusikisiki over the weekend.

In a recorded video message from 1 Military Hospital where he has been admitted for over a year, Thandizulu conveyed a message of "peace and harmony within amaMpondo".

"Be calm and do not resort to violence and arms. There is no need to panic. I am the only king of amaMpondo," he said in the recorded message, which was played to hundreds of followers that packed the Qaukeni Great Place Hall in Lusikisiki.

He raised concern that Zanozuko was "going around amaMpondo saying he is a king."

Thandizulu said there was a court interdict prohibiting Zanuzuko from “calling himself king of amaMpondo”.

On his side Zanozuko also called for peace and tranquility. “We bear no grudge and are eager to extend an olive branch even to those who think they are our enemies,” he said.

However, Zanozuko said the truth sometimes hurt. He called on Thandizulu to desist from confusing the amaMpondo by still claiming he was their king.’

It was after the two rival meetings that Denis Beckett and I wandered wonderingly around Pondoland. He and I, driving in the same vehicle through the same territory, were travelling in parallel universes. He was in the *universe of Local Government*, to probe contradictions of local government, looking for perspective on how our adolescent democracy might transcend its tantrum teenager hood.

I was in the *universe of Traditional Affairs*, assigned by Kumkani’s legal team to follow up on The King’s Speech to snoop around to get hold of information that would help prove that the government was in violation of the High Court interdict by giving official recognition to Zanuzuko’s rival gathering.

The ‘galaxy’ into which we ventured was in fact the ancestral home of the Minister responsible for both: Sicelo Shiceka, Minister of Local Government and Traditional Affairs (since deceased).

I will use the words *Consentience* and *Subsidiarity* to explain how Denis’ universe differs from mine. The meaning of each will become apparent in the exchange.

### **Subsidiarity in Traditional Affairs.**

‘I spoke to Sicelo Shiceka once. On radio,’ I told Denis as the conversation evolved, ‘He was the guest on SAfm’s *After 8 Debate*, soon after he had been appointed by Zuma. But I think he thought I was being facetious when I suggested he send a task team to Somalia to learn how local government should work.’

‘Well, I can understand why,’ Denis laughed, ‘Somalia! Come on John.’

Denis patiently listened to my explanation.

I visited Somalia in 2005 on a humanitarian mission for the World Health Organisation during a three-year stint with them. In Somalia, to my surprise, after a decade of anarchy in national government, some local municipalities were better off. People were deciding their destinies for themselves, and producing (with help from global NGOs and Somalis abroad) better services than many SA municipalities. I suggested to Shiceka that he send a task force to Somalia to study best practices in local government.

I had also expressed concern that, within the ANC, service in local government was seen merely as a stepping stone to higher office, leaving local municipalities cursed to be left with the least capable ANC deployees, while the upwardly mobile moved to higher rank, elsewhere. In Somalia, with no seductions of higher office, local leaders had to make ‘a better life for all’ more than a hollow slogan.

Shiceka assured listeners that ‘policies were in place’ to solve all problems, and dismissed my study-tour suggestion as facetious.

‘Well, I suppose it was,’ Denis said, ‘But is “facetious” the same thing as “wrong”?’

‘The point is, Denis, that higher levels of authority must be subsidiary to lower levels. That is what subsidiarity means.’

Careful not to sound too proselytising, I explained to Denis that subsidiarity forms part of the intellectually and biblically sound body of doctrine known as Catholic Social Teaching. Catholic theologians of a liberation theology bent, complain that it is the ‘best kept secret’ because when applied as a critical lens through which to examine the actual governance structure of the Roman Catholic Church, over the years a rather contradictory governance principle seems to be followed in practice. Catholics who have gone into self-imposed exile rather than submit to Catholic ecclesiastical authority, have especially cherished the doctrine of subsidiarity.

### **Local Government ‘Consentience’**

While generating content for his commissioned *Startrek* piece for *The Star* newspaper, Denis was also gathering evidence to substantiate his ‘magnificent obsession’– Democracy V 2.1, which once adopted would see regular and repeated balloting by citizens

to ensure their political representatives were kept on a short leash of democratic accountability. How short was up to the electorate to also decide, in a dynamic flux which depended entirely upon how leaders responded to issues of concern, contention and controversy. If they took too much liberty, the electorate would reel them in. If they showed themselves to be consistently trustworthy and faithful to their election promises, they could range further from centres of individualised power he calls 'hillocks'.

Mpondo who know their history will greet Denis' metaphoric expression with a flash of recognition. It has endemic roots. Pondoland is well endowed with hillocks and hills aplenty. The Mpondo live on hillocks, which define their material and spiritual identity. In 1960, as the iron jaw of apartheid bit ever more deeply, Mpondo tribesmen were alarmed that their Kumkani, Botha Jongilizwe Sigcau, and several senior Nkosi and councillors had entered into a deal with the ascendant power of the apartheid government. Fearing this would be the beginning of the end of their autonomy as a distinct cultural group and their communal land rights, hillocks and hills were used as venues for joint and joined-up decision-making venues, separate from the traditional authority komkulu of the headmen, chiefs and king, whom they feared had capitulated. Groups of angry men banded together on hillocks to designate representatives who would duly aggregate on higher hills that designated assembly points.

Unfortunately time did not allow for me to take Denis to Ngquza Hill where a monument stands today, commemorating the lives of those who were either killed during the revolt or executed afterwards. Between August 1960 and October 1961 altogether 30 Mpondo tribesmen were tried and ultimately 22 executed in Pretoria for leading the Mpondo Uprising<sup>28</sup> against the co-option strategy. The bodies of the 22 were exhumed and reburied in Pondoland at Ngquza Hill. Being remote and rural, the Mpondo Uprising is never given as much prominence in struggle history as the other protest event of the same year, which, by dint of having

---

<sup>28</sup> The Mpondo revolt is celebrated in Govan Mbeki's book, *The Peasants Revolt* (1964) written while he was in deep hiding prior to his arrest at Rivonia.

been more convenient for journalists, gets much more: the Sharpeville massacre following the defiance campaign.

In Denis' conception of Enhanced Democracy, the descendants of not only the fallen heroes whose names are engraved in the Ngquza Hill monument, but also the descendants of the King and Chiefs who were co-opted by the apartheid regime (many of whom now occupy high-ranking positions in the ruling party, notably Zoleka Capa, former Executive Mayor of the OR Tambo District Municipality and now Eastern Cape MEC for Land Affairs and Agrarian Reform), would queue with the many now elderly survivors to turn spears into pencils, entering one at a time into the solitude of ballot booths perhaps alongside the monument.

'This is not as foreign an idea within Mpondo folklore as one might think,' I told Denis, recalling my encounter with Mr Mphothe, whom I introduced at the very start of this book. Recall his urging to the mostly born free Mpondo youngsters to 'stab the paper', and write words and stories to 'take out your frustrations'.

In contrast to Denis's investigation into how democracy was faring, my mission focused on an upcoming battle, in the Pretoria High Court, between kings.

### **Consentience in Local Government**

Denis Beckett is a tireless exponent of a 'higher level' of democracy, where people really do govern. They do not give their votes, but lend their votes, to be retrieved if needs be. He scoffs at rule by entitlement, whether ecclesiastical (popes), land (feudalism), class (proletariat or capitalist) or birth (monarchs). He is an unlikely ally for the cause of protecting the reign of an unelected hereditary King.

In addition Denis's recent books, *Magenta*, *Radical Middle*, *Temba's Head* and *Demogarchy* take a dim view of the judiciary adjudicating over political disputes. He is thus an additionally unlikely ally for the cause of protecting the King by forcing the President to obey a High Court interdict!

'Consentience,' Denis explained 'is like consensus, but not quite. Consensus is about uniform intellectual agreement. Consentience

is something that comes from a pre-literate expression in the gut. A kind of value consensus, which allows, in fact encourages, intellectual disagreement and contestation, at the level of intellectual ideas and points of view. But it is a reflexive sensation of commonality between people.'

'A fusion of conscience and consent perhaps?' I suggested.

'Mmm, Yes. Never thought of it like that till you mention them. But yes it comes close,' He agreed.

'I experienced that among fellow conscientious objectors, in the End Conscription Campaign in the 80s,' I continued. 'Although the Catholic Bishops never went so far as to state that white male Catholics like me should not report for military service, Archbishop Hurley encouraged us to develop for ourselves a conscientious position. Even when the Board for Religious Objectors was formed to examine those of us claiming to be "religious objectors", the Catholic Bishops would not send a representative to "judge" the sincerity of those of us seeking to be classified as such, because they said no human being is competent to judge the conscience of another. Only God can do that. But it was a lonely place to be, swimming against the stream of white attitudes. But those of us who did, experienced what you now tell me is "consentience".'

Wondering if I was again sounding too evangelical, I paused. But Denis encouraged me to continue.

'What is really quite ironic, is that I experience a similar sense thing now in my relationship with the Mpondo Royal Family. Odd isn't it. That notwithstanding the fact that they are not democratically elected, and would have been seen to have been part of the oppressive system that the End Conscription Campaign was challenging, today I experience exactly the same consentience that I once experienced in the ECC, in my work to support them in their struggle to have the decisions of a democratically elected government set aside.'

In my own view, there was a clear connecting link between my pacifist convictions honed in the early 1980s and my efforts to stop the plunder of our natural resources in 2010, which helps explain why I was, thirty years later, trekking with Beckett through the



old Transkei homeland, reminiscing over both personal history, and the national political history. We both felt we had made some modest contribution to ensuring that South Africa did not forever allow its troubled colonial and then apartheid history to get in the way of its future. Unlike many of our contemporaries, who had subsequently emigrated, we were committed to continuing that struggle, even as the new political elite was showing worrying signs of making precisely the same mistakes as the apartheid regime, and prior to that, that the colonial powers had made.

There was no forced conversation as we made our way up around and over the myriad hillocks of Pondoland, heading to the homestead of the Mpondo Royal Family at Qaukeni. As parallel as our respective universes were, like railway tracks, we were content with the illusion that they eventually converged somewhere in the far horizon, so long as the ride was pleasant and interesting – which it was. More so because we are both of an age where our children, our wives and our general life experience had mellowed us to an increasingly greater tolerance of ambiguity, and a deeper appreciation of paradox.

Which is not to imply that we had fatalistically resigned ourselves to becoming philosophical ‘Charlie Browns’, ready to go wherever the current took us, accumulating experiences for our ‘bucket lists’ before our buckets got booted. Common to our respective universes was the cross-membering concern: what can we still do with the life still left within us to avoid the ‘Zanufication’ of South Africa’s political future?

So within the ‘yin’ of Denis’s consentience universe I hope he recognises a bit of my ‘yang’ universe.

Inevitably, Karl Marx entered our conversation.

‘Did you see Xolela Mangcu’s article in *The Sunday Times* recently quoting Marx on tragedy and farce?’ I asked Denis.

‘Yes. But I thought it was Hegel.’

‘No, it was Marx quoting and amplifying Hegel.’

The precise quote reads, ‘Hegel remarks somewhere that all great world-historic facts and personages appear, so to speak, twice. He

forgot to add: the first time as grand tragedy, the second time as rotten farce.’<sup>29</sup>

Denis was worried that South African history was about to take the second repeat into ‘grand tragedy’ for want of enhanced democracy. I was concerned that the Mpondo kingship dispute was already commencing the ‘rotten farce’ cycle.

I hurried Denis through discussions he fell into with local people, so I could gather evidence needed by the King’s lawyers, and take it to the Queen who was waiting for us at Qaukeni. Talking as we drove, passengers whose views we canvassed enlarged both of our universes. I became more certain that Zanuzuko’s ‘appointment’ to the throne was an anti-democratic, unconstitutional abuse of power. Denis became more certain that upgraded democracy would durably resolve contradictions. As he says, ‘Of course people didn’t vote for their kings in the past. The past has past. Now the only justification for having a king is that he means something in people’s lives, which you are in no position to pronounce on. Neither is the High Court and neither is the president. Ask democracy.’

## §

We arrived at Qaukeni to be welcomed warmly by Kumkanikazi.

I had not been present when my debut amateur film production *The Mpondo King’s Speech* had been shown on 1 April 2011 and was eager to know what had in fact transpired, to supplement the *Daily Dispatch* report.

‘I can say, John, the event went off very well,’ she said, ‘no blood was spilt. And another miracle, if we can call it that, happened. It was actually very amusing.’

On almost every occasion that I met with her, Kumkanikazi would somehow find the funny side of things. This time was no exception.

---

<sup>29</sup> The eighteenth Brumaire of Louis Napoleon. The thought inspired the theme of the third volume of the *New South Africa Review*. See Pillay, D., Daniel, J., Southall, R. & Naidoo, R. (eds), 2013, *New South Africa Review: The Second Phase Tragedy or Farce*. Wits University Press, Johannesburg.

It was almost inevitable that given the proximity of the two rival meetings some confusion would result.

We learned that a lorry loaded with five fattened sheep had arrived at the Qaukeni Great Place on Friday morning before both events. The driver had mistakenly assumed that his live cargo was to be delivered to the place that King Faku had established as the traditional home of Mpondo royalty at Qaukeni, and seeing evidence of preparation for a big meeting, offloaded them, explaining that the animals were a donation from the new Executive Mayor of OR Tambo District Municipality, Eunice Diko.

Kumkani's loyal subjects gratefully offloaded and immediately slaughtered the hapless animals, while fires were lit to roast them to feed the gathering of *Onombolo* (Mpondo Traditional Regiments) in loyal attendance at the official *Imbizo* to hear the *Mpondo King's Speech*.

A quick-witted chief loyal to King Mpondombini, upon learning what happened immediately called the Mayor - with whom he has a good cordial relationship - to heap profound thanks and gratitude on her for the donation.

She let her executive bodyguard take the call saying that she was, 'in a meeting'. The meeting was in fact nephew Zanuzuko's event further along the road at Mzimdlovu. To get around the interim High Court interdict, the event had been billed as a '*Traditional Inauguration Ceremony*', not a government sanctioned event. No government officials were meant to be present, especially not in their official capacity. Mayor Diko was accordingly keeping a low profile, because she was not supposed to be aligned with either side of a dispute that was before the High Court.

The quick-witted Chief asked her bodyguard to convey the Mpondo Royal House of Mpondombini's undying gratitude to her for the unexpected gift of five sheep.

Evidently anxious that the sheep had not arrived, and with a few hundred hungry mouths to feed, upon being told by her bodyguard that the sheep had been delivered to the wrong gathering, Mayor Diko immediately phoned the Chief back. She embarrassingly had to admit that they had been delivered to the wrong 'king', and that

she would send someone to fetch them because the five animals were to be the main course of the celebratory feasting, which could not commence without the food.

But by then the Onombolo regiments were already marching home on their stomachs, replete with fresh mutton. Their brothers at the Zanuzuko gathering had to return to their homes ravenous.

Whether it was hunger or consentience that motivated Mayor Diko's next move, I cannot say. She said she would like to visit the Mpondombini household anyway. She arrived at the Great Place with her hungry party hoping that some of the donated mutton was still on offer. All that was left was the smouldering remains of the fires that had roasted the meat. Whatever meat the Onombolo had not already devoured between them had been shared out to take home to their families.

Eager to show hospitality nevertheless, Queen Sigcau and her daughter Princess Wezizwe searched the larders for something with which to honour Mayor Diko's magnanimity in restoring her



An Onombolo regiment.

*Photograph by Mzamo Dlamini.*

impartiality. A box of biscuits, well past their sell-by date, was all they could find. Notwithstanding, they were quickly devoured.

We left Qaukeni with a story to tell. I was heartened to draw from the incident evidence from the ancestral realm which had not only smiled upon helping me get *The Mpondo King's Speech* prepared, but also on the audience who had gathered to digest it by apparently misdirecting the delivery of the five sheep to the household of the true King of the Mpondo.

The heads and hearts of the loyal gathering were greatly assisted to do so by having had their stomachs fed with tender roasted mutton, no doubt prepared with the same care that Mamgcambe had shown two centuries before, which had in turn led to Faku's anointing as King of the Mpondo.

Denis remains agnostic as to that interpretation.

Mayor Diko will perhaps take a more atheistic view, but I hope that she will now laugh, knowing that she was nevertheless unwittingly instrumental in helping to bring about a peace-building outcome.

## §

After a fascinating week meandering over the hillocks, hills and humps indulging our respective obsessions, travelling in our parallel universes, Denis and I had to return home, to be sucked back into yet a third universe by the all-powerful gravitational pull of the media-generated 'reality' of Johannesburg.

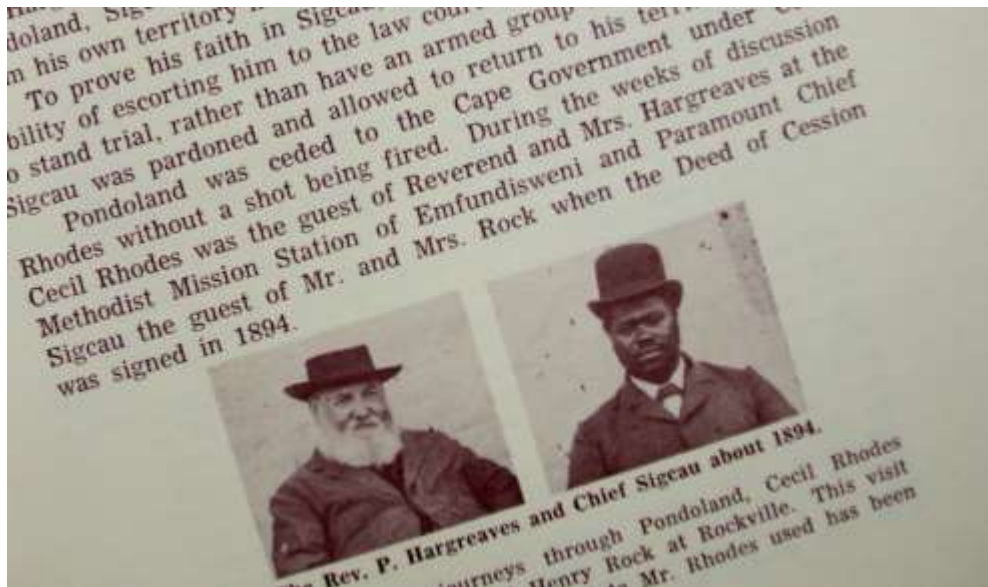
A headline shouting, 'Shiceka must be fired' greeted us upon our return. *The Sunday Times* exposed how Sicelo Shiceka, the Cabinet Minister responsible for both of our respective 'universes' was living the lifestyle of a billionaire and had misspent vast sums of tax-payers money to visit his girlfriend in a Swiss prison with his personal *Sangoma* (shaman or priest) in attendance!

The self-same Minister made it two front-page headline stories in a row when Stephan Hoffstatter, one of the two investigative journalists who had exposed the extravagancies, detailed how, in addition to his extravagancies of travel, the Honourable Minister's traditional home had been prioritised to receive a tarred road, electricity and water in an area that is rated as one of the poorest municipalities in the country, Ngquza Hill. Revolting!

Six months later President Zuma sacked Sicelo Shiceka from his cabinet, replacing him with Minister Richard Boleyi. Six months later Sicelo Shiceka died.

§

To get perspective on the tragedy that befell this promising politician who played his part in the bringing about of democracy, but failed to master the levers of power with integrity, we need to travel back in time again. If Sicelo Shiceka's soul is to rest in peace, it is important that we all learn the lessons on offer if our future, national and globally, is to be something other than an endless dialectical dance between tragedy and farce.



## 4: The Methodist in my madness

‘Men make their own history, but they do not make it just as they please. They do not make it under circumstances chosen by themselves, but under circumstances directly encountered, given and transmitted from the past. The tradition of all the dead generations weighs like a nightmare on the brain of the living.’

*Karl Marx.*

Had Karl Marx ever visited Pondoland he might have revised his view of ‘dead generations’. In the exchange of our respective stories it soon emerged that ‘the tradition of our respective dead generations’, was for Kumkani, Kumkanikazi, Nkomba and myself, far from weighing us down in nightmarish oppression, immensely empowering to our respective narratives. Some surprising (at times disturbing) intersections between his story and my story revealed themselves, to completely shatter whatever residue of apartheid ideology may have yet remained in my subconscious mind.

This was because in keeping with the accepted emancipatory practice of Liberation Theology, the *conscientisation* methodology of Paulo Freire and the *creativist* development paradigm of Manfred Max-Neef, we felt ourselves swept up in a much larger historical narrative; a narrative of hope.

Then there was the extraordinary correspondence with the experience of the Hebridean Crofter communities of Eigg and Harris and Lewis. This passage from Alastair McIntosh’s *Soil and Soul* made a deep impression on me to nerve me against panic. It describes his experience during his visit to Eigg for a meeting with the crofter community:

‘We’re passing the highest spot in the middle of Eigg. It’s just before the road drops down through the hazel wood ... I start to become aware that a river is flowing into me. A river! It feels like the ancient blocked-up wells and springs have broken free. They’re merging and melding and the confluence is a torrential, silvery stream of light. I’m bathed, soothed, inwardly illuminated.

I become aware what the stream is composed of: voices! A vast chorus of them. They're literally flowing out from the rocks and soil. They're come from all around the Highlands. The Earth, the ground itself, is their source. They are the voices of the old people. The dead are with us. Dry bones have come back to life.

The strange experience lasted about a minute; it faded as we came down through the wood on the other side of the island. I said nothing to the others. But as we walked into the tea-room that night, I felt swept along by an unstoppable confidence: an unshakeable knowledge that what we were doing was right; an entreaty to put aside self-doubt. ...

I got up to speak, a threefold approach to community empowerment came together in my head. It was straight out of liberation theology: a direct application of Paulo Freire's 'Conscientisation', the unity of conscience and consciousness which enables us to analyse and act upon the causes of oppression.

"What can we in Scotland do about landlordism?" I asked.

First, I suggest, we *remember*.... No cultural carcinogen is more powerful than oppression internalised to the point that a community blames itself alone for disempowerment, dysfunction and underachievement. So let us start by remembering. But let us do so mindful of the curative role which forgiveness must eventually play. Only forgiveness breaks the knock-on effects of oppression re-perpetuating itself.

Then we must engage in *re-visioning*. We must envision what our communities could become.... Sorting out the realistic from the fantasy and asking what kind of people we want to be. Are our values primarily those of market-forces, or do we stand for values to do with place, culture and relationship?

Finally, dare we re-claim? Can we as, in the words communicated by Moses in Leviticus 25, "Proclaim the liberation of all the inhabitants of the land.... A jubilee for you; each of you will return to his ancestral home.... Land must not be sold in perpetuity, for the land belongs to me"?

Contrast the above passage with the following sweeping synopsis of Mpondo history from the pen of the great statesman, General Jan Christiaan Smuts, taken from his foreword to Monica Hunter Wilson's *Reaction to Conquest*.



He was writing in 1936, before the respective British and Mpondo kingship disputes had arisen. He uses patronising terminology that today evokes a cringe, but was a reflection of pre-apartheid, and pre-modernist white intellectual society at the time. It nevertheless offers some pegs upon which hang the irony curtain.

‘The Mpondos are a native tribe living between the provinces of the Cape and Natal, and are generally considered somewhat backward in comparison with other native tribes in the Union of South Africa. They were the last to be annexed by the British and they have retained their ancient tribal domains, and have not an acute land question such as obtains among other native tribes.

Into this Arcadia came first the missionary, with the disturbing influence, which Christianity must necessarily have on the native outlook and way of life. As, however about 90 per cent of the Mpondos are still pagans, it cannot be said that this influence has gone very deep yet. Later on, especially since the annexation in 1894, the trader has appeared, and with him the deeper reaching disturbance of the economic factor. To the ancient native life the traders dotted over Pondoland have proved a far more potent factor of change than the missionary with his ideal spiritual message of Christianity. More recently still, employment on the mines and big industrial centres of South Africa has given enormous impetus to change. Here too, as over the whole civilised world of today, the economic factor is proving the most disturbing of all to the old order of things.... Johannesburg has become a sort of Mecca of the native, and quite the biggest factor of change to the native all over Southern Africa. It has profoundly disturbed the ancient immemorial life of Africa, and the Mpondo has also felt the force of this disturbance.

Even so, however, the Mpondo is unusually conservative and tenacious of his old culture, and in Pondoland the disintegration of native life is by no means so alarming as in other parts of South Africa”<sup>30</sup>

---

<sup>30</sup> Professor Francis Wilson explained to me that his mother, Monica Hunter Wilson, met General Smuts while she was travelling by ship to commence her post-graduate studies at Cambridge. Smuts was on board too, and always the intellectual, would wander around the ship in search of intellectual stimulation that he was wasn’t getting in the First Class lounge. He met the young, extremely bright student and found in her a worthy protégé. After she had



Rev. Peter Hargreaves.

*'The life and work of the Methodist Missionary Reverend Peter Hargreaves in the land of Sigcau, Chief of the Amampondo 1882-1901'*, which Nkomba had given me to read in 2006 only got a superficial overview from me back then. Nkomba had to return it to the library, but my first scan was enough to alert me to the existence of a narrative about Mpondo history that was in danger of eclipse by the dominant materialist and liberal narratives.

Six years down the road, after I had gained some direct personal history in working with the Mpondo Royal Family in a role that had some parallel with the experience of Rev. Hargreaves, I decided to track it down to make a more in-depth study. Although Bishop Geoff Davies was always ready to advise, he and his wife Kate were themselves overwhelmed with the challenge of leading SAFCEI to maturity, and I was floundering for want of some mentoring. I hoped a hefty dose of historical awareness would fortify me to be more able to serve Kumkani and his family as the buffeting of political, economic and legal waves crashed against their defences. I eventually found and extracted the dissertation out of the bowels of the University of Pretoria library. Six years of hard-won experience had by then ploughed open my consciousness to better receive the seeds of understanding of what 'Hagile' (Rev. Hargreaves' African name) and his family faced. An intriguing larger narrative of peace building was readily discernable. It was a great encouragement. While there were some marked parallels, the most significant difference between the Rev. Hargreaves/King

---

completed *Reaction to Conquest*, she in turn boldly approached him to write the forward to what has become a classic pioneering anthropological study.

Sigcau relationship of 1888-1901 and the Clarke/King Sigcau relationship of 2006-2013 was that King Sigcau ka Mqikela, lacking a western education, had to depend on Rev. Hargreaves to understand the British *govumente*<sup>31</sup>. Over a century later King Mpondombini Sigcau and his family had enough education between them to start a university (with Nkomba as the registrar who had signed me up as the first student). What an immense privilege it became for a descendant of British colonial settlers to talk about the history of colonial conquest of the Mpondo, the clash between African Kings and Western Imperialists and the contemporary re-enactments, with an African King who knew that history from within.

Cynical historians of colonialism caricature the era of European colonial conquest as, 'first the missionaries, then the traders, followed by the gunboats.' While this proved to be ultimately true when the British imperialist zealot, Cecil John Rhodes, arrived on the scene, for the duration of Faku's reign, thanks to the missionaries, British influence was on balance more empowering than disempowering for the Mpondo.

Thanks perhaps to the presence among the 1820 settlers of a devout Wesleyan of missionary impulse, Reverend William Shaw, the Wesleyans got first bite at evangelising the Mpondo. William Shaw had a huge influence to give some redeeming shape to South African colonial history.

'The sixth and last of the Chain of Stations envisaged by the Missionary pioneer was set up in the land of the *amaMpondo*. Mr Shaw had long desired to seek out the chief Faku and did so... Riding close to the sea through broken country and tall grass, which increased the stifling heat, Mr Shaw entered Faku's country and eventually found his kraal on 15<sup>th</sup> May 1829. The Mpondo had recently been driven across the Umzimvubu by Chaka's Zulu impi and were living closely together in the beautiful Umgazi Valley; they were in a sad state and the prospect of a missionary to come and live with them was received with joy; one old councillor put in these words: "The news you have told us today is good. Make haste and let a missionary come. We are tired of war, of prowling like wild beasts

---

<sup>31</sup> Xhosa for "government".

and being hunted like game.” Another, agreeing the news was good, could not believe it and accused the visitors that they were telling lies and that Faku would be forgotten as soon as they had left. But Faku was not forgotten; In January 1830 it was decided to send the Rev. W.B. Boyce to commence the Mpondo Mission.’

The Anglicans and Roman Catholics followed but modestly acknowledge the vital role played by another 1820 settler, a protégé of Shaw, Reverend Thomas Jenkins, who took over from Rev. Boyce in 1838 to assume responsibility for the Wesleyan outreach to King Faku’s people. Rev. Callaway (an Anglican) remarks in *Pioneers in Pondoland*.

‘Jenkins became pre-eminently Faku’s missionary. He won and held the confidence and warm friendship of the chief for the rest of his life. It is a great tribute to both missionary and chief...’<sup>32</sup>

‘The deeper reaching disturbance of the economic factor’ that Smuts associates with the appearance of the trader, arrived in the form of a man who has already been introduced into this narrative in *Book One, The Story*, Henry Francis Fynn.

Whereas Shaw had journeyed northeast from the Cape Frontier, Fynn approached Faku from the opposite direction, and with a different agenda. He found Faku before Rev. Shaw, and their chemistry was altogether different.

Worth noting, while journeying down the coast on his second visit, Fynn describes for the first time a curious phenomenon.

‘We reached the Umthentu<sup>33</sup> River, where we observed among the rocks something resembling the trunks of old trees; these had apparently been jammed in the crevices of rocks. Upon examining them, we found them to be the trunks of trees, which had petrified and become as hard as the solid rock by which they were held. We counted six of these trees. One or two had retained several of their largest branches, and showed the marks of such as had decayed. The knots and grain of the wood were still perfect. In breaking several pieces off by means of large stones, as much fire was produced as if

---

<sup>32</sup> *Op. cit.* p29

<sup>33</sup> An error. The petrified logs are at the Mzamba River. Mntentu is a further 20 km down the coast.

the hardest flint had been struck. This induced us to look along the shore to see if these characteristics were general but found them in no other place than between the Umtamvuna and Umthentu Rivers and there only between the high and low water mark.’<sup>34</sup>

Although we cringe in horror at his fireworks display in smashing off the petrified branch from the petrified trunk, he did not know what he was doing. He was a product of his time. Slavery had yet to be abolished, and even the servants he had with him were still regarded as mere objects. Tellingly his diary only refers to them as his ‘Hottentots’: we are never told their names. How could we expect him to have named a petrified tree that was millions of years old? It was just a ‘thing’, so dead as to have become transmogrified into stone that could not respond with any sentience. Remember, he was on a commercial not a scientific expedition.

Darwin had yet to embark on his Voyage of the Beagle, let alone pen *The Origin of Species*. He was busy dropping out of his medical studies at Edinburgh University. We can safely assume that Darwin would have been ecstatic to have discovered the trees for at the same time that Fynn was prospecting for ivory, Darwin was finding seashore invertebrates a much more interesting life form with whom to converse than cadavers in the pathology laboratories. We now know the trees to be remnants of trees dating back some 100 million years.

Had he been with Fynn, he would have presumably examined the ten-metre cliff face above the fossilised tree trunks and scribbled notes to describe the abundance of marine shells, among them spirally coiled cephalopod ammonites, echinoids (sea urchins) and bivalve shells. It was to take another 30 years before the formation was brought to the attention of the scientific world in 1855. Although the geological history of the planet had yet to be divided and subdivided into spans of time with names like Cambrian, Jurassic and Cretaceous, Ecozoic and Cenozoic, palaeontologists now date the Mzamba fossils to the Upper Cretaceous period,

---

<sup>34</sup> Stuart, J. and Malcolm, D.McK. (eds), 1951, *The Diary of Henry Francis Fynn*, Pietermaritzburg, Shuter and Shooter. p100.

between 100 to 65.5 million years ago. They were the first evidence of fossils from that era to be discovered.

Fynn's eye was primed for a different target. He was still in the prospecting phase and was in no position to start shooting the elephant herds and harvesting the ivory as his Hottentots were already burdened with provisions for the journey. He needed King Faku's consent and cooperation so that the valuable resource could be transported to Port Natal for shipping to London and other European capitals.

Presumably to avoid the elephants he continued along the beach. Had he opted to journey on the inland side of the densely forested coastal dunes, besides elephants his progress would have been hampered by wetlands of squelching mud, either side of the Kwanyana, Mnyameni, and Mtolane estuaries and, oddly, stretches of red dunes that certainly fit the definition of desert, although in a micro level. Local film producers have saved money by shooting desert scenes here instead of travelling to the Sahara or Namib. Although Fynn dismissed the information given during his first aborted mission about the 'stretch of desert' he would need to cross, his informant was correct. Fynn's assumption that he was being misled deliberately 'a device to make me return and so prevent such tracks as there were from being turned into a general thoroughfare' perhaps says more about his own motives than those of his informant. Fynn purpose was to open up a thoroughfare; not 'general' but 'specific': to open up a route to transport ivory to Port Natal for export.

'At Umtentu we fed on mussels and slept in a cave among the rocks. By this time we all felt weak for want of better food, hence on the following day, travelled about six miles, where we again fed on mussels. We slept on the Umsikaba River.'

Fynn eventually found Faku. Suspecting Fynn to be on a spying mission for Shaka (which in fact he was), Faku subjected Fynn to a gruelling interrogation. Fynn managed to somehow bluff his way out of the 'difficult and dangerous circumstances' to avoid being condemned and executed.

'At length, the charges were dropped and, after Faku had received from me a present of beads, I proceeded to the particular business I

had come upon. After this visit to Faku, which lasted two days I returned to the amaNthusi tribe to set up there a trading station for the purchase of ivory'.<sup>35</sup>

He wasted no time in proceeding to co-opt and coerce sufficient numbers of Mpondo to support him, and thus commenced his efficient exploitation of the natural resource.

As with every fear-based conquest for power and domination known to human history, so too did Shaka's end. To sustain fear the powerful have to keep upping the ante, by escalating both the threats and the intensity of brutality until numbness sets in and the tactics don't work. Shaka's half-brothers Dingane and Mpande took decisive action and assassinated him. But without a real transforming alternative, the Zulu nation splintered, in the face of the conquest by the Boer Voortrekkers led by Andries Pretorius, who had trekked all the way from the Cape Frontier to put as much distance as possible between themselves and the British colonial powers seeking to subdue them to British notions of civilisation.

Faku, by contrast with Shaka and Dingane, ruled by the inspiration of authority rather than by the coercion of power. According to Max-Neef, there are two types of resources necessary for sustainable economic development - the 'conventional resources', which include physical resources that are depleted by usage, and the 'non-conventional resources', that are depleted by *non*-usage. The non-conventional resources include intangible, qualitative resources like intellectual capital, i.e. historical awareness, solidarity, indigenous knowledge and wisdom, and the capacity to learn from experience. In contrast to the conventional resources, non-conventional resources multiply through usage. They become scarce by NOT being shared. Any effort to monopolize and control them in fact diminishes their value.

The Mpondo under Faku's leadership may have seemed 'backward' within a paradigm of development, which only measures quantitative material dimensions, but in terms of the development of qualitative phenomena of resilience and cohesion, their non-conventional resources multiplied. King Faku did not allow the

---

<sup>35</sup> *Op. cit.*, p111.

once bitter hostile relations between the Zulu and Mpondo people to blind him from learning the lessons from the history of his enemy. Shaka's assassination by his rival brothers, Dingane and Mpande, led to a disastrous civil war between them. When Faku's sons, Mqikela and Ndamase, rivalled each other for the mantle of successor to him, to pre-empt a similar bloody outcome, Faku pragmatically divided his territory into two. Thus Mqikela and Ndamase could each follow their own convictions and styles, the result of which has been a richer breadth and texture of Mpondo cultural experience than might have otherwise been the case.

Over a span of half a century, Faku kept the peace in an on-going delicate balancing act between Boer expansionism and British political ambivalence; the claims of rival sons; the claims of rival colonial powers (Britain and Germany); the ambitions of rival Crown colonies (Natal and the Cape, which vied with each other to extend their territorial boundaries by annexation of Pondoland); and between Wesleyan missionaries at Palmerton (whom he trusted) and the pioneer trader, Henry Francis Fynn (whom he didn't trust).

Indeed in 1840, Faku, having survived Shaka's imperialistic ambitions, was alarmed by Boer trekkers under Andries Pretorius. Soga explains that before long Faku;

‘...was placed in a dangerous position for the Boers who had just arrived in Natal were a cause of anxiety to the tribes abutting on them, and they sent out a commando to fight Ncapayi in 1840, and were joined by Fodo, a chief of the Ntlangwini tribe, who was an ally of the Boers, and his *impi*. Ncapayi's Baca were therefore defeated, and the Boers seized immense booty, justifying themselves by the plea that the Bacas had crossed the boundary and helped themselves to the Boer cattle. Faku soon perceived that people would not be in want of a pretext for war against him. So he asked to be taken under the protection of the English. They replied by sending Captain Smith ("Ndimiti" according to the Mpondos) with a small force to prevent the Boers if they should attempt to fight Faku.



Smith fixed his camp at Umgazi, but the decision to put Faku under British protection was not completed then.<sup>36</sup>

While it is true that ‘the map is not the territory’ it is also true that maps communicate a great deal about what was in the head of the cartographer at the time of drawing the map; information not about the geography of the depicted region but of the historical circumstances that prevailed and, most tellingly, the prevailing assumptions.

The map overleaf was drawn in 1846 or thereabouts to supposedly define the borders of the Boer Republic of Natalia.

It has a seductive simplicity to it, but it is wholly a scenario of an ultimately unrealisable Boer aspiration rather than an accurate rendering of an enduring political landscape. Several complications presented themselves to ultimately thwart the aspiration of an enduring, independent Boer Republic of Natalia. From the perspective of the relations between Mpondo and Boer, two complications seem to have been most telling. The first was a failure by the Boers to ‘act locally’ in an appropriate manner and the second was a failure to ‘think globally’, with appreciation of the larger colonial power play of the mid 19<sup>th</sup> century, which was still coming to terms with the abolition of the slave trade.

Had the Boer Republic of Natalia been better attuned to the local inter-tribal conflict and had they been less greedy in the drawing of the boundaries of their Republic they may have had more moral authority upon which to justly claim their sovereign independence from the British.

The agricultural economy upon which the Boers relied was traditionally based on expansive cattle ranching and slave labour, supplemented by a completely unsustainable decimation of the once large herds of African game, and ivory hunting. Once the indigenous herbivorous herds of antelope had been shot out, cattle would replace them to feed on the vast grassland plains. Predators, deprived also of their normal food source, preyed on the herds, but would be hunted and shot.

---

<sup>36</sup> Soga, H.T. *Op. cit.*



Map of the Republic of Natalia, 1846.

Indigenous peoples, especially hunter gathering Bushmen who had been deprived of their normal protein source due to the large scale hunting, would in turn help themselves to the cattle of both boer and African tribes. Inevitably cattle rustling and stock theft became an endemic and intractable problem, and a pretext for warfare.

Stock theft gave cause for Boers to attack alleged thieves, and after the ensuing conflict 'apprentices' were taken (on the pretext of a humanitarian gesture to care for orphaned children) together with whatever stolen cattle could be retrieved. The liberal British historical narrative justifies British colonial rule as arising from a humanitarian imperative to ensure the practice of slavery was abolished wherever there was British influence.

Having presumptuously drawn the boundaries of the Republic of Natalia to include the domain of King Faku's Mpondo was bad enough, but Andries Pretorius' brutal handling of Bhaca Chief Ncapayi's alleged stock theft incident was the beginning of his undoing. He commanded a strong loyalty for his decisive retaliation against Dingane for the killing of Retief and the Weenen massacre, but lost respect even among many Boers for his heavy-handedness. Historian Frank Welsh explains;

'The British persisted, backed by public opinion back home, in distrusting Afrikaner willingness to treat blacks decently; although it should be said that as soon as British newcomers themselves became farmers their views quickly approximated to those of the Afrikaners.

London's suspicions were confirmed when in December 1840 the Revd William Shaw accused a Natal commando, under Pretorius' command, of attacking Ncapayi, who led a group now known as the Bhaca – the homeless ones – formed from fugitives from Shaka's aggression. Shaw, a Wesleyan, was on good terms with the Cape Government, and his report that not only had the Bhaca been savagely attacked by the Boers but women and children carried off to what could only be described as slavery – all quite true, although Ncapayi was himself no innocent – had to be taken seriously, and indeed was taken seriously even by the Natal Volksraad, where a motion of censure was moved but not carried, against the Commandant himself.<sup>37</sup>

In a footnote he adds:

'the commando returned "with 36,000 head of cattle, and 3-4 children for every man on the commando, by way of plunder"<sup>38</sup>.

The fate of the children's parents may be taken for granted.'

It is now generally accepted that the cattle in question were stolen by Bushmen robbers, and that Pretorius was incited to attack the

---

<sup>37</sup> Welsh, F., 2000, *A History of South Africa*. Harper Collins, pp179-180.

<sup>38</sup> Quoting Walhberg, J.A. (ed Craig A and Hummel C) *Travel Journals*, Cape Town.

Bhaca by Fodo, the chief of the Ntlangwini, who had a grudge against Ncapayi who had killed his father, Nombewu<sup>39</sup>.

There was a natural inclination from among the scattered and vanquished tribes who had borne the brutal impact of Shaka's and Dingane's conquests to seek shelter and protection with the Boers. The Mpondo under Faku were thus initially so inclined, notwithstanding the attitudes of racial superiority they encountered from the Boers.

Before Shaka commenced his upheavals, altogether some 94 different chiefdoms had lived in and around the well watered and fertile territory which today forms the Province of KwaZulu-Natal. The governance system was based on kinship affiliations rather than the notion of defined territorial jurisdiction. Shaka radically changed that in a process of centralised militarisation.

Whatever the influence of the global slave trade as a precipitating force, as argued by Cobbing and others, is for debate elsewhere. From the Mpondo perspective there can be little doubt that had Pretorius and the Boer settlers found it possible to surrender their illusions of racial superiority over Africans, their chances of securing a lasting independence from 'British interference' would have been better. Boer society was 'built upon the assumption that the black is the inferior race' says Conan Doyle in *The War in South Africa* (1902).

'The imperial government has always taken an honourable and philanthropic view of the rights of the native, and the claim which he has to the protection of the law. We hold, and rightly, that British justice, if not blind, should at least be colour blind.'<sup>40</sup>

It is, however, true to say that the British were as much prone to illusions of superiority, and hypocrisy. A few pages on Conan-Doyle writes of the 'dwarf bushmen, the hideous aborigines, lowest of the human race'. Nevertheless, it would appear that the British sin was to assume themselves to be culturally rather than racially superior (to the Boers as well as the African communities). This belief was

---

<sup>39</sup> See B.J. Liebenberg, *Andries Pretorius in Natal* (1977), Ch. 7.

<sup>40</sup> Conan-Doyle, A.I., 1902, *The War in South Africa: Its cause and conduct*. Smith Elder and Co, London.

shown by history to have also led to shameful acts of brutality, not only against Africans but Afrikaners.

Although Faku and Ncapayi had been in protracted conflict with each other over cattle thieving, and although it was to Faku's advantage to have had the Boer forces deal with his enemy, he was alarmed by Pretorius' brutal prosecution of the matter. He astutely used the channel of communication via the Wesleyan missionary presence to get the message to the Colonial Governor Napier that British protection against Boer aggression was needed, and to complain that the Boer had no right to the land between the Umzimkulu and Umzimvubu Rivers that they were claiming. This was the ancestral land of Mpondo and those tribes with whom Faku had established an *nkonza* agreement (a fealty relationship whereby allegiance was given to him as a political superior in return for land and protection).

With relative peace after the disturbances under Shaka and Dingane, many thousands of Zulu had by that stage drifted back into the Boer Republic, erected kraals and squatted near the Boer farms. This made the Boers nervous and the Volksraad of Natalia decided they should be relocated to the Eastern Pondoland territory between the Mthamvuna and Mzimvubu Rivers. This was land that Dingane had, without any legitimacy, ceded to Piet Retief before killing him and his delegation. Nevertheless, from Pretorius' perspective the Boers had paid for the land with their blood. Unfortunately for the Boers it was land that Dingane had no right to sell. The Boers were unaware that Faku was astutely hedging his bets by seeking British protection, with the Wesleyan missionaries serving as honest brokers with the British Colonial Governor, Napier .

In response, on 28 January 1841, Captain Thomas Charlton Smith of the 27<sup>th</sup> Regiment marched from Fort Peddie with two companies from his regiment and 50 men from the Cape Mounted Rifles (under Captain H.D. Warden), eight Royal Artillery and four Royal Engineers to the Umgazi River, to afford Faku protection if needed<sup>41</sup>.

---

<sup>41</sup> Cory, Vol IV, p123.

Pretorius had scored a damaging own goal by his excessive use of violence and punishment to solve the problem of stock theft. Pretorius' deeply felt conviction that the Boers had paid for the land with their blood, left Napier disinclined to trust the Boers. The spilling of blood always intensifies conflict and retributive justice always lurks beneath the surface. The Volksraad declared themselves open to negotiating and agreement. The Boers offered a promise of allegiance to Britain and an undertaking never to enter the slave trade, in return for recognition as an "independent Republic of Port Natal and adjoining countries". Conan-Doyle summarizes,

'And now at the end of their great journey, after overcoming the difficulties of distance, of nature, of savage enemies, the Boers saw at the end of their travels the very thing which they desired least – that which they had come so far to avoid – the flag of Great Britain. The Boer's had occupied Natal from within, but England had previously done the same by sea, and a small colony of Englishmen had settled at Port Natal, now known as Durban. The home Government, however, had acted in a vascillating way, and it was only the conquest of Natal by the Boer, which caused them to claim it as a British colony.

Perhaps the British might have found a way to enlighten the Boers to move away from their traditional cattle based agricultural economy (and associated labour practice) but given the complication of the prevailing 'global' situation, the Boer aspirations were beyond reason.

Historians with different ideological lenses, who tend to disagree over the 'local' problem, tend nevertheless to agree that, given the global geo-political situation, with rival European powers looking for trade routes and colonies, there was no way that the British were going to let the natural harbour of Durban (Port Natal) remain in the hands of disgruntled former British subjects, whose sympathies were decidedly anti-British. Moreover the British were not inclined to gamble their hard won international moral authority in having abolished slavery, by entrusting the Boers to keep Port Natal out of the hands of their rival Colonial powers, the French, American, German, or Dutch. The Boers had strong cultural ties with the Dutch.

The relationship between the British (politically represented by Napier , advised militarily by Captain Smith based at Umgazi) and the Boer Republic (politically represented by the Volksraad who were, alas, finding an increasingly tense relationship with their military commander, Andries Pretorius) deteriorated over the course of 1841 such that by the end of the year, the first Anglo - Boer military confrontation, over control of Port Natal, commenced. It was not the last, and over the rest of the century conflict escalated.

By the end of 1841, despite the espoused motto, 'Unity is Strength', the Boer citizens of the Republic of Natalia were anything but unified. The pragmatists in the Volksraad had tried to clip Pretorius' wings. Internal tensions within Boer leadership left Pretorius frustrated. Whether it was the criticism he received for his excesses in dealing with Ncapayi, or a troubled conscience, one can only guess, but when it came to leading the military campaign to drive the British into the sea, Andries Pretorius showed a lack of confidence. The brutal decisiveness he had displayed in dealing with Ncapayi's Bhaca was replaced with a dithering uncertainty. Despite his early success in ambushing and trapping the British, he failed to drive home his initial advantage. Was he not ruthless enough? Even among the Boers opinion was divided, but Pretorius failed to achieve a favourable outcome for the long-term benefit of the Boer Republic of Natalia. The enduring heroes of that skirmish are Dick King and his groom, Ndongeni Zulu, who rode 100 miles a day through Faku's country to Grahamstown to summon relief for the besieged British garrison. When it arrived three weeks later, the Boers forces were soon forced to withdraw. Notwithstanding the sacrifices of the innocent blood of Boer women and children, and the deaths of Boer fighters, the dream of an independent Boer Republic began to unravel.

Although the Boers had established themselves as militarily superior to the Zulus, they were regarded as deserters from British Colonial authority. Historians have cited this as a factor that gave Dingane justification for killing Piet Retief and his delegation. Some argue that Dingane killed the Retief party, not out of treachery but in order to curry favour with the British. Had

Dingane's own subjects deserted him, he would have been well disposed toward any power imposing the death penalty on them on his behalf.

Whatever the shades of opinion, what cannot be denied is that the Boers were in a still unresolved conflict with the British Colonial powers of the Cape. They had effectively renounced their allegiance to the British State, and were indeed considered deserters. Their struggle to form a sovereign independent state and the endless iterations of conflict, and the swinging pendulum between fight and accommodation between Boer and Brit is of course the dominant narrative of the 19<sup>th</sup> and 20<sup>th</sup> century history of South Africa. However, given the amount of blood that has been spilt, it is only in the 21<sup>st</sup> century that South Africa can revisit its conflict-ridden history to obtain better insight into the past, without risking the resurgence of armed hostilities. We now have a liberal democratic, non-racial, non-sexist constitution, which recognises a common citizenship. Our governance system entrenches a constitutional separation of powers, between the Legislative, Executive and Judicial arms of government. The South African constitution also entrenches a bill of rights that takes the 1948 Universal Declaration of Human Rights several steps further. South Africans now have safeguards, which enable us to confront, express (and perhaps confess) the various historical narratives to each other without coming to blows.

There was no such democratic space when Pretorius and Captain Smith clashed over sovereignty of Port Natal. There was, however, some safe space among the Mpondo under King Faku, which the Wesleyan missionary presence helped to create and protect. Faku's canny foresight to engage in a tactical alliance with the British colonial powers in the face of Boer encroachment duly led to further benefits.

When the ageing Sir Peregrine Maitland assumed the governorship of the Cape Colony from Napier in early 1844, he unilaterally revoked the treaties struck with the Xhosa chiefs on the southeastern frontier so that settlers might have more security of protection by colonial forces. Maitland was in need of a powerful African power friendly to the British government, which could be



relied upon in case of trouble with the Xhosa tribes further south. Since Faku was not perceived as an aggressor, Maitland drafted a treaty to formalise British friendship with King Faku's Mpondo as strategic allies in future campaigns against the Rharhabe and Gcaleka Xhosa. While extracting some notable concessions from Faku, the Maitland Treaty of 1844 tellingly said,

‘....as a proof of friendship, the Governor, admitting the rightful claim made by Faku, hereby acknowledges that he is the paramount Chief of the whole territory lying betwixt the Umtata River from its mouth to the Waterfall Wagonford, thence along the ancient line of boundary between the Mpondo and Tambookie [Thembu] nations to the uKhahlamba [Drakensberg] Mountain to the west; and the uMzimkhulu from its mouth along the principal western branch to its source in the uKhahlamba Mountains on the east; and from the coast inland to a line to be drawn along the base of the uKhahlamba range of mountains, between the sources of the said rivers.

In exchange for a few virtually unenforceable restrictions, Faku had secured a military alliance with the powerful Cape Colony, which recognised him as monarch over a huge region, right up to the territory of the Basotho King Moshoeshe I with whom he would cultivate friendly relations.

The “Maitland Treaty” afforded the Mpondo the best of all possible worlds. It might have been more aptly named the Faku “Treat”, for it treated him very kindly, at least in comparison with the subordinate status that other indigenous tribes had to endure under British rule. The Mpondo were free to decide their own sovereign destiny with the help of British military might to keep enemies at bay who might threaten this. The Mpondo could enjoy the fruits of British influence, without have to chew on the pips as well, at least for the duration of King Faku's reign.

Faku had the foresight to know that it was not in his long-term interests to be at odds with other independently minded Xhosa-speaking nations whose narrative under colonial rule was decidedly less peaceful, but it seems he never intentionally left his British allies in the lurch in their peacekeeping operations. The unique rugged terrain of Pondoland provided the excuse he needed. He simply could not be blamed for failing to arrive with his warrior

regiments for battle when swollen rivers and rugged terrain obstructed their movements. Often the only warriors who were able to fight were those of the Khonjwayo clan, loyal to Faku, from the most southernmost region of Faku's kingdom.

Meanwhile, Andries Pretorius headed back north, to grace the Highveld with his presence and Pretoria - the Capital City of South Africa - with his name. Since the advent of our non-racial democracy, despite the determination of the ruling ANC to rename the capital, Pretorius' name has clung to the name of the capital with considerably more adhesion than the ill-fated Boer Republic of Natalia had managed to do under British colonial expansion.

## §

It was in Pretoria a hundred and sixty years later, in February 2012, that Acting Judge de Klerk sat to hear argument from Kumkani's counsel as to why King Faku's descendant, King Justice Mpondombini Sigcau, was the legitimate king, and why President Jacob Zuma was wrong to depose him in favour of his nephew, Zanzuko.

## 5: Courtrooms: Round One

Why may not that be the skull of a lawyer? Where be his quiddities now, his quillities, his cases, his tenures, and his tricks? Why does he suffer this rude knave now to knock him about the sconce with a dirty shovel and will not tell him of his action of battery?<sup>42</sup>

*Hamlet, graveyard scene, Act 5 Scene 1.*



Zanuzuko Sigcau, claimant to the Mpondo throne, in Pretoria High Court.

*Photograph by Ryley Grunenwald.*

By the time *Justice Mpondombini Sigcau vs. President of the Republic of South Africa and others*, was heard in the city which immortalises a fearsome man, my friend Denis Beckett had successfully sown seeds of doubt as to whether the promise of justice would be fulfilled by legal disputation in the courts of law.

---

<sup>42</sup> For those unfamiliar with Shakespearean English a modern paraphrase would be, 'There's another. Could that be a lawyer's skull? Where's all his razzle-dazzle legal jargon now? Why does he allow this idiot to knock him on the head with a dirty shovel, instead of suing him for assault and battery?' From [http://nfs.sparknotes.com/hamlet/page\\_282.html](http://nfs.sparknotes.com/hamlet/page_282.html).

Denis' autobiography *Radical Middle; Confessions of an accidental revolutionary* tells of the two instances in his 11 years as editor of *Frontline* magazine that took him, unwillingly, to court, to remind him why he had forsaken his professional credentials as a qualified advocate in law in favour of journalism.

Aggrieved plaintiffs, named in articles that he had published, took umbrage for what they considered were unjustifiably defamatory statements. The first was Dr Mangosuthu Buthelezi whose legal team succeeded in lightening Denis of R12 000 for implying that Dr Buthelezi was 'pompous' and his movement, Inkatha, was prone to 'thuggish behaviour'. The second was the editor of *The Citizen*, Johnny Johnson, who took offence at a line that said his writing was 'depraved'. The first was a failure, which succeeded nevertheless to bring political street-cred to Denis. The second was a success that failed to leave Denis with any enthusiasm to celebrate.

When the first case ended up in the Supreme Court of Appeal in Bloemfontein, Denis wrote in retrospective reflection.

'There were two good things about this ludicrous day. One was the courtroom. It was the first time I had seen inside the Appellate Division and I couldn't help but bask in its venerability. The other: I was again inexpressibly relieved not to be a lawyer. I nearly had been, after all, and indeed technically I am. A yellowing document in an archive in Pretoria records that DP Beckett was admitted as an Advocate of the Supreme Court of South Africa.

Sensible people ask how I could forsake this golden profession for journalism, even lower in status than it is on lucre. The answer is that I could look for truth where I thought I might find it. That's the unique thing about journalism, at least in principle; you're paid to search, not to come to a conclusion pre-determined by a client or employer.'

It was another ludicrous day when on 21 February 2012 King Justice Sigcau was wheeled into court in his wheelchair to hear his counsel argue his application, and the Respondents reply. The matter was politically charged.

My first disappointment was in finding that the case was not going to be heard in the historic Palace of Justice on Church Square that

I had fantasised it would. Built on the site where Andries Pretorius' son, (the first President of the Zuid Afrikaanse Republiek, Commandant General Marthinus Wessel Pretorius) had his first dwelling, it is better known as the venue of the South Africa's most famous political trial, the Rivonia Treason Trial where Nelson Mandela and his fellow trialists narrowly escaped the death sentence. Instead the case was heard in the unremarkable multi-storey building behind and across the street in the windowless Courtroom 4D of the North Gauteng High Court. The courtroom has the customary timber panelling, is spacious, but lacks any distinctive 'venerability'. The signage said that it is normally used for divorce cases. Hardly reason for any basking.

My second disappointment was in seeing whom the Respondents had got as their counsel, the prominent silk from Cape Town, Norman Arendse SC. He is a well-known high profile heavyweight, who does what good lawyers are paid to do: convince the judge to come to their clients' pre-determined conclusion. When the Court dutifully rose in respect upon Acting Judge A.J. de Klerk's entrance, Mr Arendse had all his "quiddities, quillities, cases, tenures and tricks" in readiness. He was no empty skull chucked up by a gravedigger. He was very much alive and thinking cleverly how best to win over the aspirant judge.

In our favour, however, was the greater numbers of King Mpondombini's supporters who had travelled long distances from Eastern and Western Pondoland in loyalty to their King. Significantly these included representatives of the *amaKhonjwayo* clan, fiercely loyal to him, represented by Prince Mpumalanga Gwadiso and Prince Sabatha Mbalekwa. As the Khonjwayo had been valiant in battle for Faku in the 19<sup>th</sup> century, they were ready again to support his descendant, whom they regarded to be King Justice Mpondombini without any doubt. It seemed to me that from Judge de Klerk's remarks from the bench that he wanted to get a feel for where the balance of support lay. Unfortunately he didn't know who in the public gallery was supporting whom. I think Arendse skilfully led him to misinterpret where the weight of sympathy lay, into assuming it was with Zanuzuko.

The third disappointment – more precisely a frustration – was in the arcane rules of judicial review procedures. Unlike criminal and civil litigation trials, review hearings are based entirely on documentary evidence submitted in the form of sworn affidavits. The only voices heard are those of the opposing advocates, and occasional questions of clarification from the judge. No witnesses are called and thus no cross-examination happens. Whatever factually useful information may pass in whispers between people in the public gallery is not admissible. The legal counsel of the opposing teams have total command over the ‘facts’ to filter, attenuate and amplify according to their tactical and strategic game plan in order to win the case. It is fair inasmuch as each side has equal opportunity to spin their client’s case, and an impartial judge must decide which case to accept as the most fair (or least unfair) argument on the merits. The judgement will be shaped by his or her prior experience as an advocate, mastery of the body of legal knowledge relevant to the case, and wisdom. All understand and accept the duty to present sound evidence, and not to stray beyond substantive merits and procedural fairness. The loser can seek leave to appeal to the Supreme Court of Appeal (SCA). The judge can refuse – an indication as to how confident he or she feels in the judgement handed down, - but if refused, the loser still has recourse by means of a petitioning procedure to the SCA, which has the discretion to grant or refuse the petition. If refused, a third and final option exists to petition the Constitutional Court, the apex court, for leave to appeal. If the Constitutional Court decides for whatever reason (it need not say why) to reject the petition, the applicant must learn to live with that.

Sometimes when the law fails, the devastated applicant seeks help from a social worker. Fortunately I had had recent experience with another client who had sought my professional help in just such a situation. It was a completely different matter concerning the rights of children with respect to imprisonment of the parents. It is a story that will be told in due course in another book when circumstances allow. I mention it in passing to signal some insight into the perversities of the judicial system. Denis to this day cannot understand why he lost the defamation suit brought by Dr Buthelezi, and still hopes in the fullness of time his bitter

experience ‘might one day contribute to an erasing of ways whereby right law can have a wrong effect’.

I knew we should soberly prepare for the worst, but hope for the best.

There are many complex and subtle points of law. My attempt to make sense of what happened on that day must commence with due confession that I am not a lawyer, and that moreover my perspective is entirely subjective and partial to my clients interests. Readers are invited to study the judgement that ensued for themselves and form their own impression.

A key plank in the platform constructed by Kumkani’s advocate Patric Mtshaulana SC was that, procedurally, the Commission and the President had failed to lawfully consult with the Royal Family before announcing their findings, and that there was grossly inadequate participation of the affected Traditional Community. He argued that one of the commissioners (Mr Ndengezi) had displayed a contemptuous and insulting attitude, which prompted a letter of complaint written by Prince Sabatha Mbalekwa and signed by several chiefs loyal to Kumkani stating.

‘Is there an explanation by the Commission why a complaint which was brought to its attention in 2006 only reached the Mpondo nation in 2008? We request that this matter be referred to Mpondo for them to resolve it. It is embarrassing for Mpondo to listen to radio broadcasts and read newspapers about a dispute, which they are not aware of and which was never referred to them.

And why is Mr Ndengezi (commissioner) causing discord among the Mpondo by asking what the fourth respondent will do with the reigning king if he succeeds? We want a response because we know our customs as Mpondo and we do not know how such success would be possible with the knowledge we have.’

An affidavit by one of Kumkani’s senior councillors Nkosi Faku put the complaint on record. Arendse’s tactic to exclude the letter from the evidential record was to cast doubt as to whether it had been properly attested or verified as valid. Although both Nkosi Faku and Prince Mbalekwa, and many of the signatories, were sitting in the public gallery the arcane rules of the court did not permit them to be sworn in to testify as to the validity of their complaint. If so

they could be cross-examined, and the judge would have a much better sense of where the truth lay.

Arendse's other successful tactic left us flabbergasted. His rebuttal of Mtshaulana's argument that the Royal Family had been ignored in the process of consultation was to explain that the statutory concept of a Royal Family or indeed King 'did not yet exist' prior to the Commission's determination as to which of the thirteen 'traditional communities' claiming to be Kingdoms/ Queendoms were in fact so. He argued that only 'paramount chiefs' existed in law because enabling legislation had prior to the passing of the Traditional Leadership and Governance Framework Act not defined in statutory terms the role and function of a 'King'. It was a seductive idea, I think cleverly calculated to appeal to any judge.

Arendse explained that the Commission came into existence, under the legislative mandate of an Act of a democratically elected parliament, to firstly decide which Paramountcies met the criteria as valid kingships/queenships, and in the second phase to then decide who was the rightful king or queen. Implicit in the line of argument was the presumption that there was no Royal Family and no King until the Commission had made a finding, made a recommendation to the President and the President had in turn accepted that, and certified the named claimant.

By that logic the man who had served the Mpondo for thirty years, who was sitting in court in a wheelchair, was, according to Arendse, never a King, but only a 'Paramount Chief' styled in the apartheid concept of such. Only a top-down process of legitimation could give Kumkani the right to call himself Kumkani of the Mpondo.

Arendse did what was necessary to impress the judge, even though it did not impress anyone else. He had clearly shown mastery of the abstractions of Western legal jurisprudence, but his complete ignorance of Mpondo customary law and history was experienced as deeply offensive to the Mpondo King and his supporters (and I suspect even to Zanzuko and his more enlightened supporters). Sitting listening with disbelieving ears, I imagined how I would feel as a Roman Catholic to be told that Pope Francis could not call himself 'Pope' until President Zuma had certified him as such! Irrespective of how Catholics feel about their Pope, to have any



President arrogate to himself the right to decide whom Catholics should choose as their Pope would be a return to the days of the Reformation. In fact, the Chinese Government to this day reserves the right to approve the ordination of Catholic bishops, - a matter of serious diplomatic dispute between the Vatican and the Chinese government.

During a recess I sat with Kumkani, not knowing what to say in response to the utterly bewildered look on his face. He told me that even from within the Nelson hereditary line (upon which Zanuzuko based his substantive claim to the kingship), there was no dispute as to whether the Mpondo were ever a kingship. He told me that Nelson, who had unsuccessfully challenged his father Botha for the Kingship in 1938-1944, bore him no personal animosity. He told me that when his father King Botha Sigcau died in 1978, Nelson had in fact led the motion to name him as the successor.

When Nelson's son Zwelidumile later made a bid for the kingship, Kumkani told me that in the midst of the controversy Zwelidumile visited him to sit silently in respectful kinship even though there was a political battle raging with the Matanzima regime trying to domesticate the Mpondo to their narrow political ambitions. I didn't know what to say in consolation to him. All I could do was just listen, and pray silently to myself that the dreadful experience would be over.

When court resumed it became increasingly obvious which way the chill wind was blowing. I decided that mitigation measures were needed to contain the collateral damage that Mr Arendse was unwittingly causing in pursuing the strategy he had chosen to achieve his clients' objective.

Judge de Klerk reserved judgement. I approached Mr Arendse to introduce myself to open channels of communication, taking care to explain my professional mandate, and to show due respect for the role he had to play. Fortunately we had worked together during the 1994 elections in the IEC in the Western Cape. Although he did not remember me, it gave us some common ground upon which to establish a respectful relationship. I pointed out to him that, although I could see it was not his intention, the strategy he had followed was being experienced as extremely disrespectful, and

even vindictively punitive, given the appalling manner in which the matter had been handled from the outset. To his credit Mr Arendse heard me, and subsequent e-mail correspondence between us was constructive.

Despondently we left the court. While waiting at the entrance of the court for the driver to arrive, Queen Sigcau (also in a wheelchair due to the pain in her knee joint) received a random act of kindness from a complete stranger. A woman (presumably a lawyer given her apparel, but not anyone involved in our case) stopped in the passageway to bend down and say, 'Madam, can I say how beautiful you look in that outfit and headdress.' (Kumkanikazi had decided to also wear shoes for this important formal occasion).

She did not know the target of her compliment was in fact the Queen of the Mpondo, and flushed proudly when told, while the Queen blushed in appreciation. At least there was some redeeming 'yin' of dignity to emerge from the otherwise brutal, harsh, calculating lawfarish 'yang' of the North Gauteng High Court.

Afterwards, back at their home, we had a post-mortem.

'He doesn't understand Mpondo history,' the Queen said of Arendse's line of argument. 'When King Sobhuza asked me if I was willing to marry Kumkani it was not to marry a 'Paramount Chief' but to marry the future King of the ancient kingdom of the Mpondo.'

Our consensus was that the Respondents case was built on a rather shallow historical foundation: that everything that had happened in the institution of traditional leadership before the 1994 democratic elections was 'bad' and that the Commission for Traditional Leadership Disputes and Claims was the competent physician to diagnose and treat the disease. It seemed quite evident that Arendse's grasp of 19<sup>th</sup> century Mpondo history was highly selective.

The first half of the 19<sup>th</sup> century saw the Mpondo star ascendant. The Boer Republic of Natalia had been the Boers best chance of achieving sovereign independent existence. Had Pretorius been at least as respectful of Mpondo sovereignty as were the British, and

had the Volksraad been at least as pragmatic as Faku, in allowing the British control of a port, the second half of the 19<sup>th</sup> century would have been an entirely different narrative for the Trek Boers who had sacrificed so much.

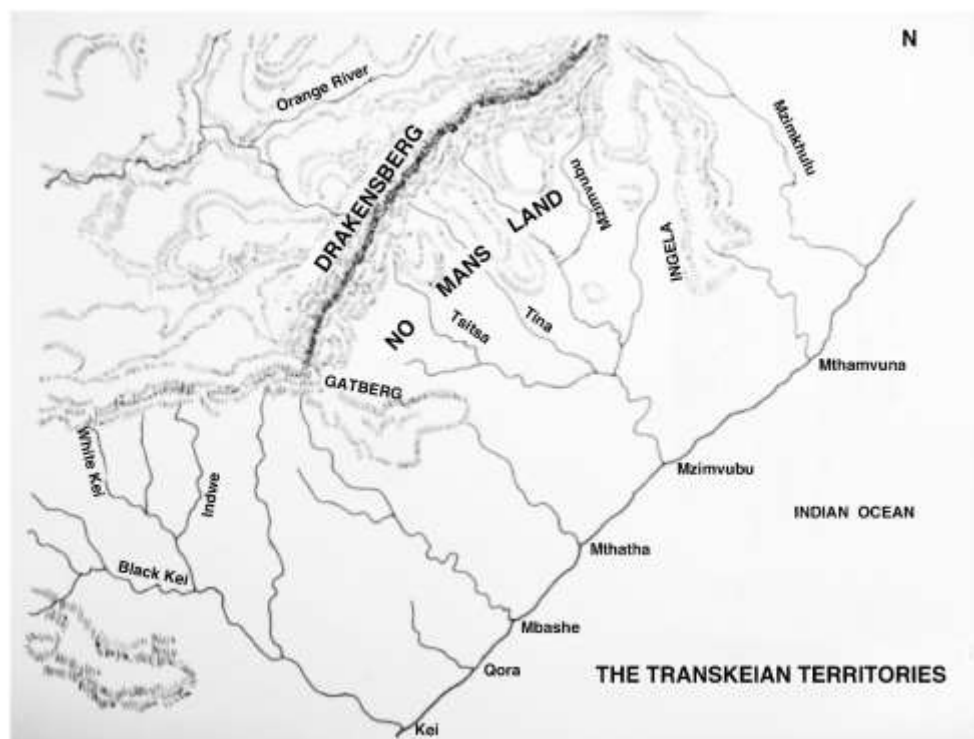
However, perhaps the first half of the 19<sup>th</sup> century is too distant to be helpful to gaining insight into the vexing challenges that the Commission for Traditional Leadership Disputes and Claims faces of the first half of the 21<sup>st</sup> century. But wilful ignorance of what transpired in the second half of the 19<sup>th</sup> century is only to invite a repeat of the calamitous drift that over the next generation led to what historians now call the second South African War of independence. It was previously known as the second Boer War, *vyheidsoorlog* (freedom war) or as the second Anglo Boer War<sup>43</sup>.

To make good for readers the ignorance shown by the legal team of the Commission for Traditional Leadership Disputes and Claims, we roll back in time to the midpoint of the 19<sup>th</sup> century. From the conclusion of the Maitland Treaty in 1844 the Mpondo were to cling to their independence for 48 years. But as the last decade of the 19<sup>th</sup> century dawned it was becoming increasingly obvious that the arc of history had bent itself into a dreadful detour, due to the seemingly never-ending discoveries of unimaginable mineral wealth.

The next two chapters narrate the difficulties that beset the Mpondo, and their neighbouring African and settler population, as the tide of history turned.

---

<sup>43</sup> The first was the rebellion of Boer farmers of 1880-1881 culminating in the decisive Battle of Majuba, which won Boer independence for the Transvaal. Arguably the Congella battle between the Boer Republic of Natalia and the British for control of Durban was the first Boer *vyheidsoorlog*, which would make the 1899-1902 conflict the third historically significant war of independence.



## 6: Fraternal Frictions

‘The tales of our frontier policy at the Cape, and the losses which that policy has brought upon this country, when they are recounted to those who come after us, will appear all but fabulous. It will appear the height of extravagance, that this country should have gone ahunting, as it were, to the uttermost ends of the earth to find means and opportunities of squandering its treasure and the lives of its subjects for no conceivable purpose or policy.’<sup>44</sup>

*Lord William Gladstone.  
British Prime Minister in 1852*

One cannot but sympathise with Gladstone’s lament, expressed in 1852, about costly peacekeeping operations in a far-flung colonial outpost.

Faku did seem to get the benefit of a one-way bargain, shrewdly positioning Mpondo interests in the unresolved tensions between Boer and Brit so as to bend the arc of the moral universe toward justice for the Mpondo.

Whatever the exasperations of Gladstone, by 1852 the purpose for which Fynn had gone ahunting had been achieved with ruthless efficiency. It took him a mere twenty five years or so before he shot the last Mpondo elephant, near Lambazi, not far from where he had met Faku for the first time, and lied his way into Mpondo confidences. In the latter half of Faku’s rule, as the 19<sup>th</sup> century passed its midpoint, with no more elephants left to shoot, Fynn managed to persuade High Commissioner Sir Harry Smith to appoint him British Resident at the court of King Faku on account of his local knowledge and fluency in the native tongue.

He harmed rather than helped diplomatic relations between the Mpondo and the British, and, again, were it not for the intervention of the missionaries, the Mpondo would today be confined to a third of the territory that sustains them today.

---

<sup>44</sup> Quoted in Meredith, p6.

Reverends Shaw and Jenkins, having served Faku well by securing British protection against the perceived threats posed by the Boer Republic of Natalia, in 1850 got wind of another rumour that aroused suspicion that there was another looming injustice ahead. This time it was not the Boers of Natal but their British countrymen: the settler presence that kept Port Natal in British hands. The rumour said plans were afoot for another group of colonial settlers to be sent to the colonial outpost of Natal.

Shaw alerted Rev. Jenkins to be vigilant about any overtures that the Natal colonial authorities might make to King Faku to obtain cessions of land to accommodate the new arrivals. Rev. Jenkins kept a beady eye on Fynn. The root of their suspicion was not that the good men of the cloth were environmentalists, eager to protect the slaughter of elephants. It was Fynn's track record of having formed a private army to achieve that objective, which was not averse to also rustling cattle and causing dissention while the missionaries tried to preach a gospel of peace.

Armed with the intelligence report from his superior, Jenkins was able to successfully expose Fynn's plot to obtain by deceit and fraud a cession from King Faku of the same stretch of land that the Boer's had once claimed as theirs, the territory of eastern Pondoland between the Umzimkulu and Umzimvubu Rivers. Fynn had worded a letter, claiming that the illiterate King Faku had dictated it, generously ceding Eastern Pondoland to the colony of Natal, and delivered it to the Natal Colony representative, Sir Walter Harding.

The shrewdness of the Wesleyan missionaries in exposing the sinful deceit was it seems motivated equally by pure-hearted missionary integrity as by Rev. Shaw's horror that the settlers targeted for resettlement into the domain of Wesleyan evangelisation were said to be 'convicts or Irish Roman Catholics'! The historical record is silent as to which category was less appealing to the Wesleyans, but it seems that they were anxious to ensure the Wesleyan prerogative over Pondoland was kept secure from Papist alternatives that the Irish settlers would inevitably bring.

Writing in 2013, in an age of ecumenism and religious tolerance, I tease my Wesleyan friends about this. In turn, they are quick to remind me of embarrassing instances of Roman Catholic prejudices and intolerance toward Protestants. One of the cited reasons that influenced some Boer trekkers to pack their wagons and leave the Cape colony was a rumour that they would all be forced to become Roman Catholics! It was a rumour entirely without foundation, but I have had to ask why the rumour had any power and purchase in the first place. What logs do we as Roman Catholics have to take out of our eyes? What blind spots do we have? Recall, the point made in my reflections on my conversations with Mr Nazir Alli in Book One, *blind spots do not show up as dark patches*. We cannot see them until a trusted other points them out to us, lovingly but firmly.

The incident is recorded for two reasons; it shows that history has thankfully moved on in the very important respect that religious freedom is now a constitutional right. Alas, in relation to my experiences on the Wild Coast with the mining conflict, the incident also shows that contemporary human beings have become no less prone to similar acts of blatant fraud and deceit.

Returning to much more recent history, in September 2008 the mining company in question did something very similar.

Following the objections by the Amadiba Crisis Committee to the award of mining rights (over the same stretch of land that Fynn had depopulated of its elephant herds), as will be shown below, the mining company sponsored a massive fraud. It was done in an attempt to rebut the Amadiba community's assertion that they had never been offered the opportunity to give their prior, free and informed consent to the Xolobeni mining scheme. The mining company (Transworld Energy and Minerals, a wholly owned subsidiary of the Australian venture capital company MRC Ltd) and their so called 'empowerment partner', Xolco, produced a list of 3087 names of local residents, stating that they were all fully informed about the mining venture and had given their free and informed consent. Each name was written with the correct identity numbers and a signature, or an 'X' where it was assumed the person was illiterate. Included with the 'certificates' were letters

from an uncle of the Chief of the Amadiba clan, claiming that he was the rightful chief and that he had been duly consulted by the mining rights applicants and was supportive of it.

On closer inspection the long list was found to foolishly contain Nkomba's name and a forged signature. Further inspection revealed many long-deceased residents, one of whom was Mrs Nokwanda Mazeka, the wife of Robert Mazeka, the founder of Baleni High School where Nkomba matriculated. To add to the insult, her name appeared with an undignified 'X'. She was a qualified teacher and had she been alive would certainly have been able to sign her name.

201	Zukulu Mntomane	5011050295086	X
202	Zukulu Mntomane	6506120000087	X
203	Zukulu Mntomane	5001034560086	X
204	Makhele Mntomane	4001000596085	X
205	Makhele Mntomane	6410200570084	X
206	Vendele Mntomane	5511310611084	X
207	Mntomane Mntomane	6412126193084	X
208	Mntomane Mntomane	8012226062084	X
210	Mntomane Mntomane	5011050342084	X
211	Mntomane Mntomane	3102250302084	X
212	Mntomane Mntomane	6301012675083	X
213	Mntomane Mntomane	6307195750083	X
214	Mntomane Mntomane	6510100076083	X
215	Mntomane Mntomane	3706107530083	X
216	Mntomane Mntomane	3109060221083	X
217	Mntomane Mntomane	6510200060083	X
218	Mntomane Mntomane	8306250000083	X
219	Mntomane Mntomane	7411110000083	X
220	Mntomane Mntomane	7204210000083	X
221	Mntomane Mntomane	5307250000083	X
222	Mntomane Mntomane	8412060000083	X
223	Mntomane Mntomane	7005160000083	X
224	Mntomane Mntomane	6406060000083	X

Partial list of alleged supporters of the proposed mining project.

Notice the last name on this page, "Zukulu, Sinegugu", obviously forged.

Such discoveries showed the list to be so obviously fraudulent that it didn't require educated missionaries to uncover the deceit. However, it did require that I got on my knees in prayer to seek God's guidance on what to do, given the militant outrage of the local residents. For a people with deep reverence for their ancestors it was an unimaginable offence and violation of not just human rights



as articulated in the Bill of Rights in Chapter 2 of the South African Constitution, but also contempt for the intentions stated in the Preamble to the Constitution and the values expressed in the founding provisions. In Chapter 1, the very first clause states:

‘The Republic of South Africa is one, sovereign, democratic state founded on the following values:

(a) *human dignity*, the achievement of equality and the advancement of human rights and freedoms;...’

It took some urgent pre-emptive action by the Amadiba Crisis Committee to steer the more militant residents from resorting to violent and drastic remedies. We urgently sought an audience with Kumkani and his Royal Council at Qaukeni. The receptivity shown by the King of Mpondo helped defuse the anger. However, all efforts to get the Minister of Mineral Resources to take up the matter went unheeded. We were, however, somewhat consoled when the mining rights were eventually revoked in May 2011. The fraudulent lists must have been a key factor in the Minister’s decision, although to our astonishment she said the consultation process had been ‘satisfactory, under the circumstances’. She revoked the mining rights nevertheless, but on the grounds that ‘concerns about the negative environmental impact had not been sufficiently addressed in the Environmental Management Plan’.

The historical parallel is drawn between Fynn’s attempt to dispossess the Mpondo of their land rights in 1851 and MRC/TEM and Xolco’s efforts to do the same in 2008, to remind readers that this story is not being told for whatever entertainment value it offers. At the very least I hope that by again lodging the incident on public record in these pages, future generations of Mpondo will be ever more vigilant when the next foreigner arrives with an eye on their natural resources. Perhaps it might yet prompt the South African government to face up to its responsibilities in the present, recalling the speech of the assassinated US President John F. Kennedy, ‘those who make peaceful revolution impossible will make violent revolution inevitable’. His stirring speech is considered by many to be the cause of his assassination. One may hear his speech echo through the decades on YouTube ([http://youtube/\\_AesVsRvOEo](http://youtube/_AesVsRvOEo)).

Returning to history, if this localised incident is not persuasive enough of the risks that foreign interests bring to indigenous people, further unfolding of 19<sup>th</sup> century colonial history in the Eastern Cape instructs. President Kennedy might have focused on the episode to precisely illustrate his conviction.

If the above rendering of history has hitherto painted a picture of British colonial interests as mainly enlightened, sacrificial humanitarianism, the next incident will dispel that. Jeff Peires describes it as ‘an open sore in the historical consciousness of most South Africans’. The passage of more than 160 years of further history has not been sufficient to enable historians to distil a consensus as to why it happened.



The somewhat sinister-looking Gxara River, where Nongqawuse saw a vision – see opposite page.

*Photograph by Edith Dennison.*

## 7: When fear rules

‘Tell that the whole community will rise from the dead; and that all cattle now living must be slaughtered, for they have been reared by contaminated hands because there are people about who deal in witchcraft.

So says the chief Nkapade, the descendant of Sifuba-sibanzi. The people must leave their witchcraft, for soon they will be examined by diviners.’<sup>45</sup>

*Message from two strangers to Nongqawuse,  
aged 15.*

King Faku had his enemies among other tribes, especially the Rharhabe and Gcaleka Xhosa, but he picked his battles carefully, always with a view to defusing rather than escalating conflict. He was disinclined to arm his warriors with guns, but faced enemies who had no hesitation to do so. In modern corporate parlance he could be said to have ‘developed a risk assessment and management strategy that inspired stakeholder confidence’. He did not need to spend resources in costly arms deals with Western arms manufacturers. To have done so would provide would-be enemies with justification that the Mpondo threatened them. Yet, if attacked, he could call on his well-armed British allies to contain the threat.

However, from the British perspective, many felt somewhat aggrieved that Faku’s military forces on more than one occasion failed to arrive to back them up in their military operations against their subjugated African tribes on the Frontiers of the Cape Colony. Between 1779 and 1850 eight wars had been fought, each one progressively more fierce due to both advances in weaponry and the escalating determination/desperation of the opposing interests. Military historian Phillip Gon writes,

---

<sup>45</sup> From Peires, J., 1989 *The Dead Will Arise*, Jonathan Ball Publishers. The source of this particular account is taken from Gqoba, W.W., 1888, *Isizatu Sokuxelwa Kwe Ngomo Ngo Nongqause*, Isigidimi SamaXosa (1888). This is one of three alternative versions.

‘The last in the series, which erupted on Christmas Day 1850, was the most bitter of all. It involved 15 000 British regular troops and thousands of colonials in a gruelling campaign that lasted more than two years. The war ended with the destruction of the Xhosa military power and the complete subjugation of the Ciskeian clans.’

With the exception of Rev. Jenkins’ mission to the Mpondos, the Methodist missionary outreach to the Xhosa-speaking peoples north of the Kei was caught in the crossfire and the mission stations became collateral damage. In between the wars the Wesleyans would rebuild the mission stations, only to have them destroyed when the next war broke out. Conradie assesses the impact.

‘The damage wrought to spiritual progress was even more severe, so that the returning missionaries, now on the verge of despair, wondered whether they should not rather leave the Xhosa alone.’

While the Wesleyan Missionary endeavour had been reduced to a state of near despair, heathenism and barbarism seemed to be triumphant as the 19<sup>th</sup> century entered its second half.’

Phillip Gon explains;

‘The comprehension, a few years later, of the hopelessness of their situation, resulted in a catastrophic national convulsion that came to be known as ‘The Great Cattle-killing’ - a disaster that put the seal on the downfall of the Xhosa. The combined effect of the eight Frontier Wars and the cattle killing of 1858 had left the spirit of the Tembu crushed.’

A young teenager, Nongqawuse, while chasing birds from the family cropfields experienced an encounter with what she believed were messengers from the ancestral realm. They instructed her to issue a call for the sacrificial slaughter of all of the cattle of the Xhosa speaking people and the destruction of all crops, in the promise that after eight days, their herds would be replenished and their enemies driven back into the sea from whence they came.

Peires has been the first historian to rigorously research the incident in an endeavour to separate the myths from the reality, the self-deception from the honest truth, and the propaganda from the ‘plots’ (a conspiracy by the Xhosa Chiefs to bring about another

war with the Cape Colony *versus* a sinister plot by Sir George Grey to trick the Xhosa into destroying themselves).

'I started this book in 1981, feeling somewhat sceptical about both "Grey's plot" and the "Chief's plot". Six years later, having examined all the evidence on the Cattle-Killing that I can find, I am more than ever convinced that there was no plot on either side. Moreover, I am convinced that we do not need a plot or a conspiracy to explain the Cattle-Killing movement. I believe that the Cattle-Killing was a logical and rational response, perhaps even an inevitable response, by a nation driven to desperation by pressures that people today can barely imagine. I further believe that the Cattle-Killing would not have been so fatal an error had it not been for the measures of Governor Grey, which first encouraged and then capitalised on the movement.'

Grey capitalised on it to assert colonial power at the expense of indigenous authority. My modest contribution to Peires' excellent research is simply to interpret it by means of the conceptual lens of Max-Neef's development paradigm in the hope that we can better see the early warning signs, should such a catastrophic situation ever threaten us again.

Ominously that spectre was raised (alas by grossly erroneous oversimplification) by the Eastern Cape Premier, Ms Noxolo Kiviet<sup>46</sup> on 12 July 2013, who spoke at a political rally at Xolobeni to accuse the Amadiba local residents who opposed the N2 shortcut of failing to learn the lessons of history.

'You people forget easily, do you know why we are so poor now? It is because of Nongqawuse. Are you people still listening to the Nongqawuse's of today, even after we have seen so much as a country? They show you a mirror and tell you to go and burn a cow and you do exactly that? That is what you people are doing. A man comes to Xolobeni driving a big car and has loads of money to waste and whilst we are working hard and tirelessly to build our nation, he comes and gives you only just a small fraction of the large amounts

---

<sup>46</sup> Mr Phumulo Masualie was named as replacement for Ms Kiviet following the 2014 Provincial Elections. Ms Kiviet was however elected as Speaker of the Eastern Cape Legislature.

of money that he has and tells you to oppose the government and that is what you do.’<sup>47</sup>

She was clearly insinuating that the ‘man coming to Xolobeni’ was me, which besides the laughable assertion that I have ‘loads of money to waste’, is an extremely dangerous propaganda ploy. Her interpretation of the Cattle Killing movement of 1856-57 is clearly in keeping with the ‘Grey’s Plot’ belief – an alleged plot engineered by the Colonial Governor to further weaken the Xhosa, and advance the colonial conquest. Grey considerably worsened its effects by misunderstanding its origins and imposing remedial measures that created passive dependency, from which the affected people took a century to recover. Ironically if a valid parallel is to be drawn between that disastrous episode and the present, it is that the proponents of the N2 Toll Road are undermining self-reliance by selling a fantasy that deliverance from poverty and hardship will come from some mythical realm beyond. Kiviet clearly has not read Jeff Peires’ book *The Dead Shall Arise*. She needs to be challenged for the extremely dangerous insinuation that opposition to the N2 is an external plot. She is the one amplifying superstitious and delusional beliefs.

It is a rich irony that before I was aware of Premier Kiviet’s propagandistic invocation of the Cattle Killing, I had asked Prof. Peires to read this manuscript and offer his comment, advice and correction. I was unsure whether it was relevant to the larger historical narrative. While awaiting Prof. Peires thoughts, Premier Kiviet’s speech answered the question for him.

Returning to the actual incident, the Mpondo never joined the movement and were thus blamed by the ‘believers’ for the failure of the prophecy, which required total and absolute compliance by all African tribes of the Eastern Cape. That rationalisation doesn’t help us learn the lessons on offer. Mercifully, we at least have a narrative from Mpondo history to enrich the historical enquiry.

As European settlers (predominantly of Dutch origin) of the Cape of Good Hope migrated further up the Eastern coast, during the

---

<sup>47</sup> Address on 12 July 2013 to the Amadiba community. Translated by Nonhle Mbuthuma.

second half of the 18<sup>th</sup> century, they encountered the Xhosa, who were established in the region between the Bushmans' River and the Great Kei River where they farmed cattle in particular. As more Cape migrants (and later settlers imported from Britain in 1820 under plans to colonise the area) arrived, the population pressures and competition over land, cattle and good grazing intensified, resulting in eight wars being fought between European settlers and the Xhosa between 1779 and 1856.

Given the decimations of decade upon decade of violent conflict and the spread of contagious lung disease through their herds, the resilience of the Xhosa kingdom was, after the eighth war, on the threshold of collapse. In such a state of vulnerability and anxiety the people were highly susceptible to mass delusion and 'weapon's of mass deception'. To use Max-Neef's human-needs paradigm, circumstances were such that they had experienced prolonged 'poverties' with respect to every one of their fundamental human needs; subsistence, protection, affection, understanding, participation, identity, freedom, creation, and idleness. Their economic, social, and political systems had been so weakened as to be in a state approximating to what Max-Neef terms 'a collective pathology of fear', rendering them highly susceptible to drastic prescriptions, and tragic manipulations. The call went out widely and was obeyed to sufficient extent to be catastrophic.

Was the confusion of their traditional ancestral belief systems by a foreign biblical cosmology brought by the British missionaries an aggravating factor? As a devout Christian, Conradie in his dissertation predictably interprets the cause of the catastrophe as due to the rejection of the Christian message and an 'illusion of victory' which,

'...dealt the heathen tribes of the Transkei a blow that made their subjugation an easy matter: in the year 1857, acting upon the supposed intimations of the ancestor spirits to a maiden Noquasi (sic) spread by her uncle and supported by the chief Krili (Sarhili), the people consumed all their provisions, slaughtered all their cattle and left their lands untilled to await the day of liberation from white influence. But the sun, which they had been told would rise blood red on the morning of 18<sup>th</sup> February, rose in all its glory; neither did it turn back at noon, nor did a whirlwind come to drive the hated white

men back into the sea. Instead, hunger and panic seized the infatuated thousands, sending them in all directions to search for food, only to find death on the way. Thus close on fifty thousand people perished, and the Xhosa, who had thought themselves to be triumphant, were reduced to ruin by their rejection of the Christian message and its messengers.'

As some heeded the call to slaughter their cattle, the absence of the promised deliverance did not cause the prophecy to be discredited as false. Under normal circumstances, where fundamental human needs were satisfied it would have, but in a climate of pathological fear the consequent social, cultural and spiritual vulnerability provided conditions for the message to be amplified in its effect. 'The promised deliverance has not come because the original instruction has not been obeyed' diviners interpreted. 'Only when all the cattle have been killed will the promise be fulfilled.'

King Faku received messengers from the Gcaleka councillor Mhlakaza, the uncle of Nongqawuse, demanding that the Mpondo destroy their herds 'or become a nation of moths'. He replied 'In all great matters of this kind I have been accustomed to listen to my missionary. I will send for him and hear what he has to say, and be guided by his counsel.'<sup>48</sup> They tried but failed to dissuade Faku from calling Jenkins, quickly leaving before he could arrive. Jenkins predictably counselled against heeding the prophecy. To have done so would have produced precisely the opposite outcome: the triumph of Colonial power.

Although Jenkins obviously reasoned from scriptural and theological convictions, without necessarily disputing such interpretations, Max-Neef's development paradigm offers an alternative basis for explaining why the Mpondo under Faku were able to resist the pressure to kill their herds. Mpondo culture, a generation on from the impoverishments of the Mfecane, under the extraordinary leadership of King Faku was resilient because their needs for protection, affection, participation, creation, subsistence, freedom, identity and idleness, were on balance "synergistically satisfied". Jenkins was a participant in that synergy, at least with

---

<sup>48</sup> Stapleton T.J., 2001, *Faku: Rulership and Colonialism in the Mpondo Kingdom* (c. 1780-1867), Wilfred Laurier University Press, Canada, p105.



respect to Faku and his household, and a vital link to benevolent Colonial administrators.

While neighbouring African kings all around the borders of Pondoland had by and large “lived and died by the sword” (see Matthew 26:52), Faku sought a way of peace. Although he never converted to Christianity, his relationship with Rev. Jenkins speaks of a relationship of real mutual friendship and respect that the Christian gospels articulate as the better way.

‘In the final months of his life, Faku continued to maintain cordial relations with the missionaries and became personally receptive to Christianity. In early September 1866, the chief Umhlangaso, a grandson of Faku, along with his family and followers, visited Qaukeni. Umhlangaso informed the venerable king that he and his people had all converted to Christianity, and requested permission to leave their place and move to Jenkins’ Emfundisweni Mission. After expressing great surprise, Faku paused for a moment and then said, “My children, you have done right! Go and sit down in peace! We want to remove to that part and be converted also as you have been!” Despite the jeers of the traditionalists, Umhlangaso and his people moved to Jenkins’ Mission. Around the same time, according to Jenkins, an Mpondo man who had heard the missionaries preaching asked Faku if he had any hope of going to heaven? The old king replied, “Is Jenkins going to heaven?” The man stated, “Undoubtedly, he is.” Faku, perhaps in jest, then maintained that, “I’ll go wherever Jenkins goes. When Jenkins gets to heaven he won’t stay there without me! I’m sure he’ll come out and take me in with him!”<sup>49</sup>

King Faku died peacefully of natural causes in his late eighties on the 29 October 1867. Rev. Jenkins died some months later. It is ironic that the last known conversation between Faku and Jenkins concerned rumours of copper deposits in Pondoland. Whatever reunion they may have had in the afterlife, two decades later their respective successors King Sigcau ka Mqikela and Reverend Peter Hargreaves were to have many more conversations about such matters. Even though Pondoland proved not to have mineral wealth that came anywhere close to the diamond resources that spawned the booming diamond mines of Kimberley, the copper

---

<sup>49</sup> Stapleton, p119.

deposits in Pondoland that Jenkins and Faku had discussed meant that the Mpondo could not escape the incoming tide of history, as we shall see.

The next two decades of South African history were to be shaped by a discovery, made sixteen days before Faku died, of the Eureka diamond in the ironically named Hopetown district in the sun-parched landscape of what is today the Northern Cape.

Terry Crawford-Browne sums up the theme of that period of history in his book, *Eye on the Diamonds*.

‘Lord Randolph Churchill (Sir Winston Churchill’s father), when visiting Kimberley’s Big Hole in 1891, commented in astonishment: “All this for the vanity of women.”

A quick-witted woman bystander replied: “And the depravity of men.”<sup>50</sup>

Today the most enduring legacy of that period in Kimberley is the very big hole left by the now exhausted non-renewable diamond resource. By contrast the Pondoland Wild Coast is still today unspoilt by such hollow spectacles.

Although diamonds and gold were not discovered in Pondoland, many a fortune seeker was caught up in the same ‘depravities and vanities’. In 1925, a drifter named Johannes Bock found a bright stone in the river sands of the Kei River Mouth, 150 miles south of where the wreck of the Grosvenor had occurred 1782. It was a diamond, and he eventually accumulated over a thousand of them. He sold mining concessions, but no one else found anything. He was accused of fraudulently planting them to mislead others (known as ‘salting’) and found guilty, and sentenced to three years hard labour. Only twenty years later, after his death, was it realised that the diamonds had come from the wreck of the Grosvenor, evidently lost by one of the hapless survivors who perished, unable to cross the Kei River.<sup>51</sup>

---

<sup>50</sup> Crawford-Browne, T., 2012, *Eye on the Diamonds*.

See <http://penguinbooks.co.za/book/eye-diamonds/9780143530107>.

<sup>51</sup> White, C. (2011) *Diamonds, A Man’s Worst Enemy*. Bluecliff Publishing, Port Elizabeth.



Johannes Bock's smallholding at Kei Mouth.

*Photograph by Edith Dennison.*

§

‘Simon, I think I have stumbled on a whole new insight as to why the Boer republic of Natalia collapsed,’ I said to Simon Blackburn, a close friend and fellow amateur historian, ‘mind if I bounce it off you?’

Simon and his wife, Cheryl, have since we met in 2009 offered me the generous luxury of their up-market lodge as a halfway house between Johannesburg and the Wild Coast. The Three-Tree Lodge nestles below Spionkop hill, the famous battleground that saw Boer and Brit locked in ghastly combat in one of the early and most famous battles of the South African War. Simon hosts a steady stream of mostly British tourists, many being descendants of British soldiers who were fortunate to survive the pounding of Boer artillery shells which rained down on them once they had captured the high ground. It turned what ought to have been a major advance into an embarrassing retreat. Simon has a library of history books that combine with the excellent cuisine, game walks

in the adjoining reserve and stimulating conversation with his guests, to ensure my many happy returns. I became one of their many 'social responsibility projects' to shave their short-term profit margins, but contribute to a long term vision of sustainability.

'Sure John. Let me top up your glass first.'

'It seems that the Wesleyan missionary Rev William Shaw....'

'My great, great, grandfather. Yes, carry on'.

'What?' I said disbelievingly, 'are you telling me that you are a direct descendant of Reverend Shaw?'

'Yes. I have the genealogy in a family bible from my parents.'

As I photographed Simon Blackburn's bible, I thought again of how wrong Marx's cynical assessment was about the 'weight of dead generations'. Taking my leave, Simon and Cheryl's four happy young children gave me added resolve to finish writing this story so that when they are old enough they will be better served to make history, like their ancestor did, upon crossing the Kei River two centuries ago.

## §

The Kei River was crossed again in 2000 by a group of high profile ANC politicians, Minister of Environment and Tourism, Mohamed Valli Moosa, Minister of Finance, Trevor Manuel, and Eastern Cape MEC for Economic Development and Environment Affairs, Enoch Godongwana.

Nkomba and I learned this from Mohammed Valli Moosa, when we sought his advice in early 2012 on how to bring closure to the Xolobeni mining saga. We were visiting him in his capacity as Chair of the Board of Sun International, owners of the Wild Coast Sun Resort. Sun International had, after a strategic ambush at a public hearing organised to reconsider their gambling licence in August 2008, agreed to join the Amadiba Crisis Committee in opposing the Xolobeni mining scheme. The King and Queen were there too, and with a packed hall of sceptical local residents from the *amaDiba*, Sun International CEO, David Coutts-Trotter, was cornered into stating his opposition to the mining rights.

Three years later, when the tactical alliance between the Amadiba and Sun International succeeded in getting the mining rights revoked, we had approached them to put some of the money they had saved from the unspent budget for Senior Counsel court appearances into helping us revive eco-tourism. David Coutts-Trotter had been disappointingly uncooperative, confirming our impression that their declared interest in opening up eco-tourism, also made during the 2008 public hearing, was pure expedience.

Our other purpose in visiting Mr Valli Moosa was to test our assumptions on the widely perceived connections between the N2 Wild Coast Toll scheme (which his director general at the time, Dr Crispian Olver, had approved) and the Xolobeni mining scheme (which he and his DG had strongly opposed).

Valli Moosa was as genial as always and told us how he came to be a champion of the Wild Coast. With Nkomba's deft facilitation, we came away well satisfied.

'President Thabo Mbeki had spent his end of year vacation with his wife on the Wild Coast in 1999,' Valli Moosa told us. 'While he was still on holiday, he was seemingly stirred with concern. I received an e-mail, obviously written by himself, urging me to do something to ensure the Wild Coast was properly conserved. So I invited Trevor and Enoch to join me on a Wild Coast Walk, together with some media people. We were horrified by the damage done by 4x4 vehicles on the beaches and legislation was soon enacted to ban them.'

Valli Moosa was hoping the Eastern Cape Government would go further and declare the Wild Coast a no-go zone for dune mining, and instead to promote eco-tourism. Unfortunately Enoch Godongwana wasn't converted from his pro-mining sympathies. When the award of mining rights for the Xolobeni dunes were announced in August 2008, Godongwana did not object. But another of the participants who had crossed the Kei River with Valli Moosa in 2000 did, and thankfully provided another contemporary twist in this historical tale.

## 8: Courtrooms (Round Two).

‘We are not to simply bandage the wounds of victims beneath the wheels of injustice, we are to drive a spoke into the wheel itself.’

*Dietrich Bonhoeffer*

On 5 August 2008 a blogger wrote in response to a newspaper report headlined “Disgraceful plan to mine beaches on Wild Coast”;

‘This is a shocker. The dunes of the Wild Coast, one of this country’s great unspoilt wilderness areas, are to be turned into mine dumps in a short-sighted, cynical move that will damage tourism and sustainable incomes for generations.’

It helped that the outspoken blogger was one of South Africa’s most respected and universally liked journalists, Ray Hartley, who was part of the media junket that had accompanied Valli Moosa and his fellow ANC politicians on the Wild Coast walk in 2000.

It helped that he went on to amplify the voice of my friend, Richard Spoor, one of South Africa’s most outspoken and universally feared lawyers (within the mining industry at least), by adding (when few other editors were prepared to give Richard print space or airtime),

‘Richard Spoor, a South African human rights lawyer argues that, “mining the Pondoland Wild Coast is the moral, cultural and aesthetic equivalent of quarrying Ayers Rock for granite, or the Great Barrier Reef for calcium carbonate”.’

One could hardly wish for a better pair to conduct a ‘good-cop/bad-cop’ interrogation of a suspect. Ray is good right down to his toenails. Richard? ‘Bulldog lawyer’ is how radio journalist David O’Sullivan describes him.

It also helped that Richard, Ray and I were among the 143 comrades ‘not-in-arms’ who had all refused to obey further call-ups to the SADF in August 1988. We were oblivious of each other at the time, living in different cities and pursuing different careers. Ray was still at Rhodes University in Grahamstown, studying to become a journalist (but impressively listed as ‘SRC vice-president’ in the End Conscription Campaign communiqué). Richard was in Johannesburg doing his articles, pretending to be a corporate

lawyer for the mining bosses, while leaking information to the National Union of Mineworkers. I was well into my social work career, working for the international humanitarian aid organisation, World Vision, in KwaZulu-Natal, married and, with Sharon, about to welcome our son into the world.

Pertinent to this narrative, one of my colleagues in World Vision happened to be Rev. Amos Ndebele, the brother of Sbu Ndebele who was formerly ANC Premier of Kwa-Zulu Natal, before President Zuma made him a cabinet minister in 2009. I had met Sbu in 1985, shortly after he had been released from prison after serving a sentence for crossing the Swaziland border to join *Umkhonto we Sizwe* (The Spear of the Nation, the armed wing of the ANC). Sbu had been impressed with my stand to refuse conscription to the SADF. It was that bond of solidarity, in seeking the things that make for peace that explains why some twenty years later, I felt confident enough to renew our connection. We had not seen each other since I had left World Vision in 1988 to pursue postgraduate studies.

Encouraged by Valli Moosa, I went to see Ray. Even though Ray was a stranger to me, I reasoned that since we had both taken a stand on principle back in 1988, he would be a reasonably sure prospect for helping Richard, Nkomba and me tell our tale. With prejudices among the rank and file of *Sunday Times* sub-editors against 'draft dodgers' having duly given way to fond embrace with the appointment of Ray as editor, all it took to grant me the privilege of the lead article in the Features section was a visit to see him and Fred Khumalo, the Features editor. Even Denis Beckett was envious when he saw the result.

I wasn't looking for any special favours or indulgence. I tried to explain to Ray that, as passionate as I was about the specifics of the issue, I believed that it was well within the scope of newsworthiness for South Africa's leading national weekend newspaper to give prominent coverage.

Why should the average reader of *The Sunday Times* who sits in Gauteng, bother about 'a backward native tribe' from one the poorest parts of the country, whose King and Queen are griping about a mine and freeway development that would at least help

them enter into the 20<sup>th</sup>, if not the 21<sup>st</sup> century? I reasoned that it would bother them if the underlying concern of the Royal Family could be presented to them as fundamentally the same as the cause of the massive hangover that each Gauteng *Sunday Times* reader wakes up with every Sunday morning, even though they may not have touched a drink the night before. The 'hangover' is of course metaphorical, and refers to the sober reality that was creeping up on them. They were realising that somebody was going to now have to pay for the indulgence in the mega-development madness of the first decade of the 21<sup>st</sup> century.

The symbolic bookends of the wasted decade are the Arms Deal at the start and the 2010 Fifa World Cup at the end. Although they had enjoyed the party, neither the international armaments industry nor Sepp Blatter's FIFA were paying the bill. We (i.e. those who keep the economy of Gauteng and South Africa turning) were.

Still too abstract perhaps for the *Sunday Times*?

Not if it could be shown to be concrete; as concrete as the impressive concrete flyover's and interchanges that make up the Gauteng Freeway Improvement Project; as concrete as the intricate bridge crossing where the Gautrain has to tunnel under the N3 near Marlboro station; as concrete as the 42 e-tolling gantries that SANRAL have erected around the freeway network. The names of the 42 e-tolling gantries are seductively named after various indigenous bird species of South Africa. I was told by sources in the know that the construction of the Marlboro Gautrain/N3 intersection was perilously delayed while top officials squabbled over a claim by one that the impressive work of civil engineering should bear his name, since he had made it possible.

To open the window on the absurdities of the Wild Coast mega development madness, I reasoned that all I had to do was get the *Sunday Times* readers to see with fresh eyes what was happening in their own front yard. Then, as the data passed through their occipital cortices, to plant a seed of doubt in their collective corpus colossi to apprehend the fuzzy cloud of unknowing with a defining shape to awaken new thoughts and insights, so that every time they drove through SANRAL's e-tolling gantries named 'Mossie



(sparrow), Indlazi (speckled mouse bird), Troupant (roller), Ivuzi (African darter), Flamingo, Ihobe (Cape turtle-dove), Tarentaal (guinea fowl), Blouvalk (black-shouldered kite), Owl and Pelican, they might say 'this e-tolling is for the birds'. Perhaps the more 'outa-raged', having read the *Rime of the Ancient Mariner* would stop their car at each gantry in turn and re-inscribe the labels with but one common name: 'Albatross'.

Even though *His Story* now records that the Mpondo Royal Family's troubles started in 2004, with the outspoken opposition voiced by the Queen to the N2 Wild Coast Toll Road, during a hearing in Court 4D on 21st February 2012 into the Mpondo Kingship dispute, nowhere did SANRAL feature in the papers before the court. In the newspapers sold on street corners, we had managed to get the media to keep questioning the links between the N2 Wild Coast Toll Road and the Xolobeni mining venture. However, to get journalists to also examine the links between those ambitions and the troubles experienced by the Mpondo Traditional leaders who questioned the real agendas behind the schemes was a harder task.

However, when the Court rose in Courtroom 4D again, eight weeks later on 30 April 2012, SANRAL was the feature. Same courtroom, different case. Or was it?

The connection between the two cases did not formally feature in the sworn statements of the two sets of court papers, but in the real world the connection between Wayne Duvenage and the Mpondo Royal Family had already been well forged in mutual solidarity. Six months previously, Wayne had helped launch the "Too Great a Toll" campaign, to help us raise funds to take SANRAL and the Government to court to oppose the approval of the N2 Wild Coast Toll Road. The campaign had focused on the production and sale of a beautifully photographed 2012 calendar, with each month featuring a Wild Coast scene, together with a picture and quote from 12 different local personalities. One of these was Queen Sigcau, with her classic rhetorical question, "where in the world has a toll road ever developed people?"

With Avis sponsorship and Wayne's personal commitment and support, the campaign was a great success. The least I could do in

return for Wayne's help was to turn up to support him as I had done for the King and Queen in what was by then an all too familiar courtroom, with not-so-happy memories. We still had some calendars left and since the market for 2012 calendars was contracting apace with the advance of the days of that year, the public gallery, replete with journalists from every medium and shade (none of whom had found it interesting to come to the court case two months earlier), presented a captive audience to dispose of them. The beautiful pictures of Wild Coast scenes offered an enticing visual contrast to the drably unvenerable courtroom. They were passed willingly down each row. Unfortunately, they ran out before the pile reached Nazir Alli, seated on the opposite side of the court, which I had hoped he would accept as a peace token.

For the sake of readers not familiar with the issues, a brief visit to [www.ota.co.za](http://www.ota.co.za) and [www.sanral.org.za](http://www.sanral.org.za) websites will give ample background from the opposing perspectives. This YouTube film provides a crisp summary of OUTA's argument: <http://youtu.be/4hNYrcU5Hh4>. Somewhere in the SANRAL website readers will also find a document that explains that part of its mandate is to, 'harness the efficiencies of the private sector' by means of Public Private Partnerships to ensure the construction of roads in fulfilment of its mandate from the Department of Transport to serve all the citizens of South Africa impartially, without imposing unwarranted expense on taxpayers. While Nazir Alli claimed that the Gauteng Freeway Improvement Programme (GFIP) was a shining example of a successful Public Private Partnership, done under severe time constraints to meet the demands of hosting the FIFA World Cup, Wayne Duvenage questioned why e-tolling was about to commence to collect revenues to now finance the hugely costly world class road infrastructure?

With the experience of having kept Avis ahead of its competitors by sound business management and cost control, Wayne's interrogation of SANRAL's published numbers showed that the cost of the sophisticated hi-tech revenue collection system made absolutely no sense, on the criterion of efficiency. To simply raise the fuel levy by 9c per litre seemed much more efficient than the high-tech e-tolling method, from Wayne's (and the average

motorist's) point of view. Others suspected that certain other criteria had been dominant in the decision making process – criteria that had also influenced the still-unresolved and controversial decision by the Government to buy jet fighters, helicopters, frigates and other military equipment that General Magnus Malan would have eagerly welcomed when Ray, Richard, me and the other 140 conscientious objectors were proving uncooperative.

It had not escaped the notice of some journalists, notably the veteran newsman, Chris Gibbons, that the electronics used in the e-toll gantries had been supplied by one of the companies that had supplied the electronics for the Gripen Hawk fighter jets. Gibbons had examined the career path of one of the arms deal company executives, Mr Chris Dover, and discerned a pattern, which begged a question. The elusive Mr Dover had worked for SAAB Aerospace, one of the companies accused of paying bribes to secure a contract to supply 26 Gripen jets as part of the arms deal. Gibbons had done some probing and discovered that Dover was now employed by Kapsch Trafficom, a sister company to SAAB Aerospace, which was the 85% shareholder in the Electronic Tolling Company (ETC Pty. Ltd.), contracted by SANRAL for electronic systems now installed in the gantries. Thus Kapsch Trafficom was a beneficiary of the e-tolling revenues. In June 2013 it announced to shareholders that they stood to earn R650 million per annum from the deal. This hugely disproportionate benefit to foreign shareholders was one of the major bones of contention brought by OUTA against SANRAL. On 3 May 2012 Gibbons concluded his article in *The Daily Maverick*,

'Remember that as far back as 1997, the SA Air force rejected the Gripen. It was not fit for purpose and too expensive. Yet we went ahead anyway and bought 26. The reasons why are very apparent. As you drive along roads like the N1 and N3 around Johannesburg and Pretoria and pass beneath those fancy white toll gantries, you might ask yourself if each one is, in fact, a mini-Gripen?'<sup>52</sup>

---

<sup>52</sup> <http://www.dailymaverick.co.za/article/2012-05-03-e-tolls-and-the-arms-deal-another-play-same-actors>

But surely a Christian pacifist like me should welcome swords being beaten into ploughshares? Indeed, but not if the foreign sword manufacturer is simply seeking to increase the fortune he has made from swords by making another fortune from the exploitative sale of ploughshares.

Judge Prinsloo worked throughout the public holiday of 27 April, 2012 to be able to hand down an urgent judgement granting OUTA's application for an interdict, pending a full judicial review. The outcome put a smile on my face to erase the worried frown that the court case of two months prior had etched on my brow. The outcome put tears of joy in Wayne's eyes. It was a huge victory and catapulted him into national prominence as a courageous business leader ready to take on the Government to question what he perceived to be a grossly inefficient revenue collection system.

While Wayne Duvenage, well qualified to assess efficiencies as the CEO of Avis Rentacar - the market leader in the car hire industry - was proving a major thorn in the right rump of Government, Zwelinzima Vavi, the General Secretary of Cosatu, was proving a major thorn in the left rump. Cosatu, South Africa's largest labour federation and partner with the ANC and SACP in the ruling alliance were also at severe odds with the Government over e-tolling, vowing to take to the streets.

The person feeling the discomfort most acutely was my old friend, Minister Sbu Ndebele, the minister of transport, with whom I had been in regular, patient contact over the N2 Wild Coast Toll Road issues.

Shortly before this contest, we had received notice from Minister Ndebele that the Ministry of Transport, which was named together with SANRAL and the Minister of Environment as a respondent in the application to set aside the N2 Wild Coast Toll Road authorisation, had decided not to oppose our application and to abide by the court's decision. I interpreted this as a clear indication that Sbu Ndebele and his deputy, Jeremy Cronin, were going to leave Nazir Alli to fight his own battles.

This view was given further credence when, in a bizarre 11<sup>th</sup> hour agreement forged between the alliance partners (while the court

was still in session and the respective advocates slogged things out before Judge Prinsloo), Minister Ndebele announced that an agreement had been reached between members of the Tripartite Alliance to delay the switch-on by two months. The message seeped through the Twitterverse into the court. Nazir Alli hurriedly exited the courtroom to take a call. He returned to offer the *Sunday Times*' lens man the perfect shot to grace my article when it appeared eight days later.

The above background explains why, on the Sunday following Nazir Alli's spectacular defeat in court and on the streets, Ray Hartley didn't have to risk criticism for giving top prominence to an article about the otherwise provincial concerns of the Wild Coast toll road and mining controversies. Given the SANRAL connection between the N2 Wild Coast Toll Road and the Gauteng Freeway Improvement Project e-tolling controversies, my article in the May 8<sup>th</sup> edition of the *Sunday Times* was in fact all about what the average *Sunday Times* reader was most bothered about: the switching on of the gantries and the commencement of SANRAL's e-tolling revenue collection.

To give further sizzle to the sausage, on other pages of the *Sunday Times* the global media story of the time was the first centenary commemoration of the sinking of the Titanic in 1912. My suggested working title was "Titanic Troubles for Nazir Alli". Ray commended me for the opening paragraph and gave me the thumbs up.

'The Gauteng e-tolling saga has become a disaster of titanic proportions for SANRAL CEO Mr Nazir Alli. But some lessons may yet be salvaged if we go back in history to when things started going wrong for him. Ironically it was a place famous for its shipwrecks, the Wild Coast.'

Alas, when it came to print, his subs watered down my titanic metaphor to fit within the tight constraints of the newspaper, and gave it a new handle “The Forgotten Toll Road.”

To flavour it with further relevance, I had spiced it with two other elements. The previous Features lead had been authored by Jeremy Cronin, riding one of my cherished hobbyhorses: the need



for a more penetrating and rigorous historical consciousness.

My first draft also let one of my high horses out for a gallop; the ethical blind spots among institutional leaders. The subs wisely made me put that high horse back in the stable, and severed the explicit connection with Jeremy Cronin’s previous reflection, to keep the hobbyhorse reined in a bit. Now in this version, freed of the tight constraint of an 1800 word newspaper op-ed, I indulge the reader with my original text, and allow the high horse and hobbyhorse some exercise.

‘A century after the sinking of the supposedly unsinkable Titanic, Mr. Alli has, with the e-tolling system, steered us into unsafe waters at high speed with overweening faith in technology. The scramble for lifeboats has begun. Will Mr Alli finally do the right thing and tell us the truth?’

The late management guru Russell Ackoff instructs: “It is better to do the right thing wrong, than to keep doing the wrong thing right. For if we do the right thing wrong and learn from it we become righter. But if we continue to do the wrong thing right we become wronger.”

The riddle is explained by examining the e-tolling saga.

To be fair, Mr Alli’s job is ‘below decks in the engine room’. The ‘wrongness’ began with the assumptions made during the ‘design’ of the vessel, and the ‘route planning’ that launched SANRAL on its present course. The extraordinary sequence of events that unfolded in the final week of April has not only shown the folly of e-tolling, it has dispelled the mirage in transport policy created by two immiscible ideological currents within the Tripartite Alliance.

Thursday afternoon: arguments put by OUTA’s advocates in the North Gauteng High Court reveal the outline of a looming iceberg ahead, causing much scurrying back and forth of occupants of the ‘deckchairs’ in the public gallery. ANC and Cosatu (where was the SACP?) suddenly throw the ‘engines’ into reverse, effectively trapping highly paid government advocates below decks, their entire case submerged by rising waters of public OUTA rage.

Friday. Freedom Day: Judge Prinsloo finds himself doing what another Judge was doing 18 years ago. Applying judicial discretion to calm massive storms that imperil the smooth sailing toward democratic freedom.

Saturday: Judge Prinsloo rules to allow the ‘passengers’ (and their lawyers) to assume *de facto* command of the vessel. If OUTA does not run outa steam (money to pay their lawyers) this will become *de jure* too.

Sunday: The most exquisite irony of all. The SACP finally appears. The *Sunday Times* features a lead article by Deputy Minister of Transport, Jeremy Cronin, headlined, “How History Haunts Us”!

Jokes aside, Jeremy really did help me understand how, “the past continues to distort our future”. Although he said nothing about e-

tolling, there are some obvious lessons from history to be salvaged amid the wreckage of the Gauteng e-tolling disaster.

It was on 23 May 2004 that things started going wrong for Mr Alli. That was the date that he ignored a letter Bishop Geoff Davies had written to him warning, “If you consulted the public, you would find there is much we could do together. Your present course of action is only leading to increased and highly disturbing conflict.”

In 1999, Mr Alli received an “unsolicited proposal” from an entity known as the Wild Coast Consortium (WCC) offering to realign the N2 by means of a short cut along the Pondoland Wild Coast and upgrade the N2 between Durban and East London, in return for a 20-year tolling concession. But the WCC worked out that the treasury would still need to invest approximately one third into the R4.8-billion budget (now escalated to approximately R11-billion) to bring it within reach.

The “Green Bishop” felt it was simply the wrong way to go and decidedly the wrong thing to do. He argued that the shortcut would make the mining of the lucrative Xolobeni heavy mineral deposits feasible, threaten the Pondoland Centre of Endemism, and destroy a rare stretch of God’s good earth. In his view the proposal could never be redeemed by ‘doing things right’ through mitigation measures. It was simply wrong: another misguided instance of the State trying to solve big problems with big solutions.

They met to try and find a compromise. Mr Alli said that the purpose of the road was to alleviate desperate poverty by affording access for marginalized and vulnerable rural residents into the mainstream of the South African economy. Bishop Davies questioned why it had to be a tolled road when the treasury had already committed some R3 billion to pay for the massive bridges to span the deep coastal gorges that define the Wild Coast. From his experience as pastor of the Anglican flock in the area he knew what their priorities were. He had lost one of his best priests Rev. Hlwatika Madoda, killed in a car accident on a treacherous stretch of neglected R61 near Flagstaff. “Why not invest that money in upgrading the existing infrastructure?”

Faced with such a gaping flaw in the developmental rationale of the scheme, Mr Alli lost his cool, stubbornly insisting there could be no highway but his way. When he calmed down he offered to improve the existing road infrastructure if Bishop Davies withdrew his



objections. This was like offering bread to the hungry on condition that the rich could continue to indulge themselves with cake. Only a bridge of titanic proportions could span their respective positions. No deal.

Mr Alli continued his aggressive media campaign to try to counter opposition to his scheme.

He adamantly maintained that the massive scheme would help solve the problem of poverty, that the particular route favoured by SANRAL was the only technically feasible and financially affordable option, and that the proximity with the Xolobeni mineral sands venture, which by then had moved firmly into the prospecting stage, was purely coincidental.

It was a massive setback to Mr Alli when Minister van Schalkwyk set aside the environmental authorization. The fatal flaw was the “lack of independence” of the Environmental Consultants, Bohlweki and Associates. The late Mr Rufus Maruma, proprietor of Bohlweki and Associates who had done the EIA report, was also chairman of the board of Stewart Scott International, one of the five companies in the Consortium. However, this conflict of interests did not kill the scheme. Minister van Schalkwyk allowed Mr Alli a second chance to ‘do things right’. But when the Wild Coast Consortium disappeared from public view and Mr Alli suddenly included SANRAL as “scheme developer”, suspicion mounted as to how ‘unsolicited’ the proposal really was.

Bishop Davies asked me to intervene in my professional capacity as a social worker to see if anything could be done to influence SANRAL toward an alternative alignment of the route, away from the environmentally sensitive areas and crucially away from the titanium rich Xolobeni Mineral Sands.

Mr Alli agreed to meet me. He rejected any compromise with Bishop Davies on either realigning the route or forsaking tolling as a funding model. I asked if rumours that tolling was envisaged on urban roads around Gauteng were true. “Yes, but to talk about toll roads is misleading” he said, ‘it’s about the “user pay principle”’. It was the ‘right thing’ and to ‘do it right’ “intelligent transport management systems” (i.e. e-tolling) would be most efficient.

There was no transparency as to exactly who the user pays, and how much the private contractors would get.

Unconvinced, I then applied for a copy of the Development Agreement struck between SANRAL and the WCC. Mr Alli refused because of the potential harm it might cause to the 'commercial or financial interests of a third party'.

But what about the interests of rural residents who would be displaced by the road? That question had to be answered by the rural residents, not Mr Alli. I embarked on a six-year 'ground-truthing' investigation to find out.

Suffice to say I found nothing to justify spending billions on impressive large span bridges required by the short cut that substantiates the case for any long-term 'national interest' being served. Neither did I find any evidence whatsoever to give credence to Mr Alli's claim that the N2 short cut would be an effective means of alleviating the poverty of local residents who are likely to be displaced.

What I did find were rumours and suspicions that certain politicians and senior officials had allowed their personal interests to conflict with their public duty. It became abundantly clear that the main beneficiaries of the N2 short cut would be the shareholders and directors of the mining rights applicants, Australian listed venture capital outfit MRC Ltd and their BEE partner, Xolco.

I learned that the new road was 'mission critical' to the success of the mining venture. Mr Alli insists that the mining venture only emerged in 2002, 'five years after the N2 Wild Coast short cut was conceived of in 1997'. In fact 2002 was the year that MRC publicly announced that the DTI-controlled SA Export Development Fund had approved an R18 million loan as seed funding for MRC to develop a prospectus for investors in the venture capital market. Mark Caruso, CEO of MRC Ltd, personally told me in 2007 when we spoke, that he had first been invited to the Xolobeni Area by nameless government officials in 1996, (a year before the N2 Wild Coast Toll road scheme had been conceived), with a view to developing a mineral sands mining operation. He undertook to raise foreign capital for both the mining at the Xolobeni Mineral Sands venture and the beneficiation thereof in a new smelter to be constructed in East London. In return, Government firstly assured him that full mining rights would be duly awarded. Secondly, that the necessary road infrastructure to truck the concentrate from Xolobeni to East London by the shortest and flattest route possible (which so happens to be SANRAL's preferred

route) would be provided. Thirdly, that seed funding would be arranged.

The mining rights were awarded, but revoked after local residents successfully appealed. The N2 was ultimately approved, but faces a similar possible fate when the North Gauteng High Court rules on their application for it to be set aside. The similarity to the Opposition to Urban Tolling Alliance's legal arguments is no coincidence. Their respective legal teams have been comparing notes.

So far the only promise the South African Government has kept was to lend MRC R18 million. Mr Caruso and his investors are not impressed. MRC's share price has been in the doldrums for years.

Comrade Jeremy, it is not apartheid that 'masks the real history we need to undo'. It is a much more recent history.

Indeed there is a lesson to be learned from 1893 when President Paul Kruger angered the uitlanders digging for gold by erecting tollgates on the seven major entrances into the Johannesburg gold fields. The diggers complained that these were punitive taxes to provide revenue for the near bankrupt Zuid Afrikaanse Republic, not to maintain the roads. Seven years later it was war.

Indeed there is a lesson to be learned from when P.W. Botha's cabinet plundered the Fuel Levy Fund to finance the SADF's illegal occupation of Namibia and the war in Angola. It is good that the ruling party and Cosatu suddenly suspended the e-tolling plans on Thursday afternoon of 26 April, 2012. It would have been better if the ANC had more searchingly de-militarized our society by again ring-fencing the fuel levy for designated road construction and maintenance, when they won the election on 27 April, 1994.

But the really haunting historical 'ghosts' only took up residence after President Nelson Mandela retired.

Why did Mr Alli ignore Bishop Davies' prophetic warning about 'increased and disturbing conflict' in May 2004? Had he done so, the Wild Coast rural residents and OUTA would not have to raise money for costly court action.

Why was the Treasury not more forthcoming to explain the contradictions in the N2 Wild Coast funding plan? Had they done so perhaps Mr Pravin Gordhan would not be now frantically rushing around to rearrange the proverbial deck chairs?

Why was the *Sunday Times* and other media so generous with page space and air time to broadcast SANRAL's propaganda instead of helping me and Bishop Davies investigate who the user would have been paying, and for what, once the gantries went up on the N2? Had they done so maybe there would have been more transparency with respect to the e-tolling deal!

Even in its attenuated form, 'The Forgotten Toll Road' will be remembered in the Clarke household, (not known for calm and predictable routines at the best of times) for sending us into another higher orbit.

Anxious that Nazir Alli would retaliate, I was half expecting a call from his lawyers. Reassuringly, instead I received an e-mail from a former senior executive of SANRAL, who wrote this e-mail (without consciously intending any pun on my Titanic vs. iceberg metaphor).

'I read with great interest your article "The forgotten toll road" in yesterday's *Sunday Times*.

I served as \*\*\*\* for SANRAL from 2000 to 2003 and in fact it was primarily as a result of my consternation regarding the proposed funding for the Wild Coast toll road and the way in which I believed the Board of SANRAL was being manipulated to accept the proposal that led me to resign from the organisation. Your article has vindicated the concerns that I had, but also suggests that what I was aware of was only the tip of the iceberg.

The current Gauteng e-tolling debacle also raises many concerns, not only the issue of levying a toll and how much that toll should be; not only about Alli and his desperate tactics to make the albatross fly, but about the procurement and approval processes in State-owned entities. How can we have come so far and spent so much on a system that is obviously inappropriate for the South African application? What abject failure of common sense has brought us to this point?

It is irrefutable that many board members of State-owned entities are seriously challenged to grasp the salient issues that they deal with, but how could they miss an issue as obvious as, "how are we going to collect the money?" or "how much is it going to cost to run this system and who will be paying for that?" or even "how are we going to ensure compliance?" At least I will not be responsible for credit control!

If you feel that I might be able to assist you in any way please let me know.

Regards,

\*\*\*\*\*.

The adrenalin pumping, we meet immediately to share information. Mindful of what had happened to the King and Queen, my first concern was for the informant's own well-being and protection, and cautioned the person that the offer of help could be risky. I was assured that the passage of time, and prudent career choices, meant that they were no longer vulnerable or susceptible to the intimidation and manipulation that they had once endured from Nazir Alli. Nearly a decade had passed since they had left SANRAL, in desperation after a very unhappy tenure. Nazir Alli had made working life a misery. The parting of ways came after he had deliberately side-lined the person after they had voiced misgivings about his proposal to allocate some of SANRAL's annual treasury budget to meeting part of the capital costs of what was supposed to be a tolling concession project, the N2 Wild Coast Toll Road.

Why had Nazir Alli been so eager to help the 'unsolicited bidders', the N2 WCC, with what had effectively amounted to a massive state subsidy to bring the costly scheme within commercial reach?

The information helped me piece together the bits of what was becoming an increasingly well-defined picture, and reward for more than a decade of patient effort. Even without the aid of the picture on the box, a jigsaw puzzle can be completed. However, it requires concentrated attention, intuition and a long period of time. After more than a decade the pieces were now falling into place.

I now understood why Nazir Alli had lost his composure when Cormac Cullinan had innocently asked if SANRAL had actually engaged local Mpondo residents regarding their priorities if offered vast sums of public money for road infrastructure. In the light of what the informant had revealed, Alli's mysteriously angry response back in 2004 was a mystery no more. After conferring with Cormac and Geoff we decided we had enough to report to

Minister Sbu Ndebele, so that he, as Minister of Transport, could do what public and political accountability dictated.

Next I conferred with a senior staff member in the Office of the Public Protector who gave me further useful corroborating information and guidance on how to proceed.

‘Politics is the art of the possible,’ goes the cliché. We reasoned that with the information we now had to contribute, it was now possible for Minister Ndebele to do the right thing, and to do it right. He could emerge politically very strong.

Even more exciting was the thought of an out of court settlement between OUTA and the Government.

Wayne Duvenage called me to say that if Minister Sbu Ndebele, whom he had never met, was open to finding a non-adversarial solution over the e-tolling controversy, he (Wayne) wouldn’t hesitate to drop everything else to prioritise such negotiations. I fantasised that Wayne might even be offered the job of CEO of SANRAL, and that the court case over the N2 Wild Coast Toll Road would give way to what logic and common sense dictated: the upgrading of existing infrastructure to benefit the growth of eco-tourism and long term jobs.

Sbu was equally open to such possibilities when we spoke. He had seen the *Sunday Times* article. Thanks to Ray’s sound editorial judgement, I was no longer just a lone voice crying in the wilderness of the Wild Coast. I explained to Sbu that the article had attracted further disclosures from a former executive of SANRAL. He was even more eager to turn things away from the proverbial ‘war war’ to ‘jaw jaw’.

“Sbu, I would advise you not to try and raise the Titanic. Rather, let’s focus on the other party to the collision, which is still very much afloat. The iceberg.”

He got the joke.

Next came the announcement on 7 May 2012, that Nazir Alli had tendered his resignation, prompting Cosatu spokesperson Patrick Craven to say ‘Cosatu hopes this will mean the end of the e-tolling project’.

## §

Before giving a blow-by-blow account of the next round, we need to pause and switch channels again to *His Story*. Back in Pondoland, Queen Sigcau was increasingly anxious. We hadn't at that stage heard if our application for leave to appeal had been granted. It was back on the road to see the Queen.

## 9: Beyond Hope

‘Never forget that justice is what love looks like in public.’

*Cornel West.*

‘John, please tell Mr Duvenage that he is an “angel in a white coat who has come from heaven in answer our prayers”. But I need to tell you a story to explain what that means.’

Kumkanikazi explained that while growing up in the very extended Swazi Royal Family, one of her younger brothers (from another mother) was placed in the same household that she and her sister were part of by exasperated parents hoping that some of their good Christian virtue would rub off on him. With teenager-hood upon him he was proving a handful.

‘At night we would hear the car being pushed out of the driveway. Some distance away, thinking we hadn’t noticed he would then start the engine and go for a drive. Fortunately he came back safely and would switch off the engine and wheel it back thinking he had successfully eluded us. But we knew.’

‘Every evening after dinner it was customary for us to spend time in prayer, led by our housemother. Hoping our naughty brother’s conscience might be awakened she would always ask the mischief-maker to say the closing prayer. His prayer would always be “Lord God, please send your angels in their white coats down from heaven to comfort us and give us answers to all our prayers.”

‘My sister and I decided after another late night escapade, which he thought he had got away with, to gently prick his conscience a bit. “Brother, if God answered your prayers and sent his ‘angels dressed in white coats from heaven’, what would you do if you suddenly met one on the road?”

‘I would be frightened of it and run away, I suppose’, he said,

‘Yes, of course, it is not normal for angels to present themselves in such frightening appearances. They come in ways that don’t cause us fear and alarm. In very ordinary ways.’



Wayne's visitation in Court 4D of the North Gauteng High Court, which culminated in tears of joy rolling down his cheeks, that every newspaper and news channel had broadcast, had reached all the way to the Qaukeni Great Place as an angelic tiding to console and inspire the Mpondo Royal Family to soldier on.

Wayne blushed, as red as the red coat he was wearing as Avis CEO. Why oh why did not a few more angels get deployed from the heavens to ensure defeat wasn't snatched from the jaws of victory!

## §

Mercifully, Judge de Klerk did not take long to write his judgement. On 12 April 2012 the 35-page judgement emerged. We felt it was grossly unjust.

He struck out Chief Faku's affidavit attesting the validity of Prince Mbalekwa's letter of complaint, dismissed Kumkani's application and ordered him to pay costs. To add insult to injury he deemed the judgement to be non-reportable and not to be of interest to other judges (these being internal procedures to manage the flow of information).

Although the severity of the judgement was biting, our clear-sighted lawyers advised we should apply for leave to appeal. Judge de Klerk had remarked in the opening exchanges that, 'it seems this judgement, whichever way it goes, is going to be appealed'. Despite his early forecast, he sought to impede that by dismissing leave to appeal. There was no way, given the larger canvas of political and economic interests colouring the case, that we would not go the next step to petition the Supreme Court of Appeal, despite the fact that this would entail a hefty outlay to obtain all the documentation for the court record. Moray Hathorn, Kumkani's attorney, filed papers for leave to appeal. On 15 May it was heard but dismissed. It was back to work to file an application to the Supreme Court of Appeal. On 15 June 2012 it was duly lodged. Evidently disinclined to overrule Judge de Klerk, the SCA also dismissed the petition.

Such rulings are supposed to be made strictly on the merits, and aimed at giving litigants some signal of whether or not the 'glass'

has any residual content that another judge might perceive to be quantitatively or qualitatively more substantial than a lower court had adjudged. The Mpondo King and Queen are not 'glass half full' people. Any drop of fluid left in an apparently empty glass was reason enough to keep going. The 'fluid' that kept the Royal Family going was a deep conviction that, as Martin Luther King jnr had once preached, 'the arc of the moral universe does indeed bend toward justice'. Within the time frames of individual life spans, the bending seems to be like glacial movement. Looking on the bright side, we chose to interpret the SCA's ruling as hastening the bending toward justice while leapfrogging a costly step, so that we could get to the Constitutional Court a year or more earlier than would otherwise have been the case.

Kumkani instructed his lawyers to lodge an application with the Constitutional Court for Leave to Appeal. On 12 September, after receiving word from Moray that this had been done, I felt stirred to commit my thoughts into words to him.

Hi Moray,

I have had experience where a client battled for six years through the courts, believing in the justice of their cause, only to be devastated when the Constitutional Court dismissed leave to appeal. No reasons given as per custom. That's when I got called in. To try and make the best of a situation where 8-year-old twin boys couldn't understand why their devoted and outstanding father had to go to prison, and a family with nothing but contempt for the legal profession.

My worst nightmare is that the Constitutional Court simply decides to dismiss our client's leave to appeal. (Actually, that's my second worst nightmare. The worst is that Julius Malema gets wind that the Amadiba have a huge gripe about govt's intent to mine their ancestral land and turns up to jump on the bandwagon). Jokes aside, what is your sage opinion as to the likelihood of me having to try and help a family come to terms with the second worst nightmare?

We have to be careful not to bring on a self-fulfilling prophecy. I actually do have a strong conviction in the justice of King Mpondombini's cause, but my other client is still in prison, notwithstanding my convictions on that case.

Look forward to hearing your thoughts.

Best.

John

Moray sidestepped my question, by asking me to say some more about the other case of justice denied.

‘The client has now served two of his six years in prison and should be eligible for parole now, but I left the case with Nicro. I will send you my report for the sake of learning, as it is quite an interesting story with big lessons for the legal profession in the meaning of restorative justice.’

Sobered to the very real possibility that the Constitutional Court *could* dismiss the application without giving reasons, for that is what had happened in my earlier experience, I tried again to coax him to offer an opinion on our chances.

‘I mentioned the case simply to explain why I am now careful to prepare clients for the worst, while hoping for the best. My concern is that since Albie Sachs retired I don't see many judges on Constitutional Court now who seem to understand restorative justice.

In fact I see the original, pure purpose of the Nhlapo commission as having been a restorative justice initiative, much like the TRC. But that got "lost in transformation" too, and not only was the new commission no longer restorative but in the hands of Zuma, his mishandling of King Mpondombini's case is undoing the work of the TRC which was seeking to bring closure to the pain and anguish of the Mpondo Uprising.

We are in serious shit as a nation right now, and while I don't want to be alarmist, I don't see anyone in the executive, judiciary or the legislature with the leadership vision we once had. The only voices of hope are coming from business and civil society. We are in a *de facto* state of anarchy.

So what is the worst-case scenario for the King's case (besides Julius Malema popping up on Pondoland), and what is the likelihood of Constitutional Court dismissing the leave to appeal?

John

Moray is too good a lawyer to be suckered into sticking his neck out.

'I wouldn't hazard a guess, John. I have been shocked by the High Court and SCA decisions. I hope we are not in for another. But I wouldn't hazard a guess.

Moray'

Given the decisive rulings of the lower courts, 'could' was seeming like too hopeful a word. More likely the Constitutional Court 'would' dismiss the appeal.

Unless we could get other parties involved.

## §

'Sarah, does the Legal Resources Centre not have any clients who might be interested in coming on board in this case?' I begged the equally highly able attorney for the Amadiba Crisis Committee, Sarah Sephton, 'the Queen was hoping that given the ramifications of their case there would be a number of applications from all sides applying to be admitted as *amicus curiae*. But so far nobody seems to be taking any interest.'

She agreed to check, but wasn't hopeful. 'The UCT Centre for Law and Society are concerned about the Traditional Courts Bill and the LRC is looking for a way of challenging it. But we need to pick our battles. But let me see what others think'.

'Well you couldn't have a better ally to that cause than the Queen and Crown Princess, of the Mpondo,' I argued, 'the Queen has plenty of bitter experience of outrageously chauvinistic patriarchal attitudes as she has sat in Traditional Courtrooms. Surely you need allies from within the institution of Traditional Leadership?'

Sarah understood.

I was on my way to Grahamstown's Cory Library to dig further into historical records for some clues about the future. I made a detour via Qaukeni for a hasty report back to Kumkanikazi. This was not a matter to be spoken about over the telephone nor committed to writing.

'The LRC are considering the idea,' I informed her, 'It is being hotly debated internally, however. What else can I tell them to convince them it is worth it?'

‘Did you see the *Daily Dispatch* earlier this week?’ she replied, ‘The Commission for Traditional Leadership Disputes is now also facing a challenge from the Mpondomise. Things are becoming so farcical for the Commission.’

Fortunately I was able to find an unsold newspaper in a Lusikisiki convenience store with the story. It reported on a Traditional Leadership dispute raging in the fraternal Mpondomise clan. Three rivals had laid claim to being the rightful Kumkani of the Mpondomise. At odds over that, they were nonetheless in fundamental agreement that the Mpondomise had been unjustly punished for the killing of Magistrate Hamilton Hope in 1880 by being denied recognition as a kingship by the Colonial powers. They complained that the Commission for Traditional Leadership Disputes and Claims, which had been established precisely, ‘to restore the dignity of traditional leadership, remove historical tensions and locate its role within the democratic order in the country’ had crucially failed to unwind a blatant instance of Colonial injustice, especially since King Mhlontlo had been acquitted.

What made the matter farcical was not that the three rival claimants had opted to fight each other to claim the kingship but that the Eastern Cape MEC for Traditional Affairs, Mr Mlibo Qoboshiyane, had shown up at the installation ceremony of one candidate, Luzuko Matiwane, to congratulate him, thereby gracing it with official authority even though the Commission had already ruled that the Mpondomise could not claim a legitimate kingship.

The article may seem mildly interesting to the average reader, but (thanks to my panel of historians) with the privilege of knowing more about the killing of Hamilton Hope in 1880 and the eventual capture, trial and acquittal of his alleged murderer, King Mhlontlo, twenty three years later, I couldn’t wait to get back to the Cory Library to delve more deeply into the matter.

In outline, the background to the killing of Hope was that the ironically named *Peace Preservation Act of 1878* had been passed in law, which had made it illegal for the subordinated African and Griqua clans to own guns.

# King' installed despite court order, other claimants



NSI FOR NEWS: Luthando Makhosini, left, was traditionally installed as a king of the Mpondomise at Ressa Greater Place in Quthing on Wednesday. Congratulating him is the civil government and traditional affairs MPF Alibho Qelashiyane.

By LUTHEMBA PHE  
Traditional Affairs Secretary

THE installation of the installation of Luthando Makhosini as Amampondomise king, despite a court order declaring him this king, could be short-lived if his opponents take his followers to court.

Makhosini was installed on Wednesday, but court action by his opponents could prevent the disputed issue of sovereignty being resolved for some time.

Luthando Makhosini, one of the three kingship claimants, yesterday indicated he would approach the court over Makhosini's installation.

"His case being an urgent application for contempt of the September 23 court order," said Makhosini's lawyer.

The matter is divided by two houses of chiefs - Dlamini house and the Juba house. These residences, both chief and Juba houses, claim to be the rightful holders of the kingship of the Juba house, and Dlamini's Makhosini and Zandiswa Victor Tshepo.

Makhosini was crowned a court order on Thursday prohibiting Makhosini's supporters from declaring him a king of Amampondomise. The court order did not prevent Makhosini from being installed as another piece of ordinary traditional leader.

"The first respondent, Luthando Makhosini, is not a king and will never be. We don't have a problem if the Juba house installs a king for Amampondomise, but not for Amampondomise. If they install

him as the Mpondomise Royal Council, are barely interested and restrained from declaring Makhosini to be a king or king designate of the nation of Mpondomise, installation pending finalisation of the main application set down for hearing on 18th October 2012," read the September 23 instalment court order.

The order would remain valid pending a final ruling in a case where Makhosini is challenging the Whipple Commission's finding that Amampondomise never had a king. That matter is set to be heard on October 26. Makhosini said that Makhosini's application for reconsideration of the June 26 court order had been dismissed by Makhosini High Court on Wednesday afternoon.

"This means the September 23 order remains effective," said Gaba.

However, the elders of Juba house of the community in Quthing did not deny they were "installing Amampondomise king in accordance with our custom."

Makhosini's supporters believed Makhosini's claim that they were happy that local government (MFC) still supports him and that Makhosini's supporters did not recognise Makhosini as king.

"Luthando is not king and will never be. We don't have a problem if the Juba house installs a king for Amampondomise, but not for Amampondomise. If they install

him as installing a king Amampondomise they would be contempt of court," said Tshepo.

Makhosini's lawyer Makhosini said on the other hand, said they were in contempt of court. At the court the National Heritage Council does not own towards the King, while Development Trust.

Amampondomise are united fighting for the restoration of a kingship, but divided over who sits around the throne. They claim were stripped of their kingship by British colonial government in 1904 after King Makhosini allegedly killed white Queen's magistrate, Isaac Ruge, and two white police officers during the Mpondomise Royal 1904-05.

Although Makhosini was a single the matter, he has his kingdom administrative action in about 19

However, in 1914 the Curatorial Traditional Leadership Structure Claims Commission Amampondomise had never had a kingship. An application submitted to the High Court to set aside the court's findings and instruct the court to grant recognition of a king status of Amampondomise.

Cited as respondents are President Jacob Zuma, the Minister of Cooperative Governance, Makhosini and Tshepo. The matter will be heard October 18.

*From The Daily Dispatch.*

By that stage rifles and ammunition were easily available, bought with earnings from the Kimberley diamond diggings. Hamilton Hope had developed a sound trusting relationship with the Mpondomise King, Mhlontlo, who had pledged loyalty on behalf of his forces to the Colonial government to suppress the growing rebellion of Basotho and Griqua clans against disarmament. Hope believed, given his good relationship with Mhlontlo, that the risk of issuing his warriors with rifles and ammunition was worth the benefit of the additional strength to their arm in suppressing the Basotho rebellion.

Despite misgivings, Charles Brownlee and his superiors acceded to the plan. When Hope and his two clerks, Warren and Henman, were then killed in a frenzied war dance upon the handover of the weapons, the logical assumption of the Colonial authorities was that Mhlontlo had treacherously betrayed Hope. It was a firmly held belief for twenty-three years and has persisted, notwithstanding Mhlontlo's acquittal.

A firmly entrenched principle of British Colonial justice, and one of the hallmarks of its presumed superiority over other systems of law, is the presumption of innocence until guilt can be proved in a court of law. However, for over two decades Cape history stated as

if it was fact that, 'Major Hope, Resident Magistrate of Qumbu, and his two clerks were murdered by the Mpondomise Chief Mhlontlo in 1880.' The 'fact' is even inscribed in a ten-foot-high stone obelisk monument erected as a memorial to Hope, Warrene and Henman,

'who were cruelly and treacherously murdered on 23<sup>rd</sup> October 1880 by the Mpondomise Chief Mhlontlo at a friendly conference to which they had gone, not ignorant of their danger, with object of serving their country by preventing the Mpondomise clan of joining in the Native Rebellion of 1880. They did their duty.'

As the saying goes, 'Justice delayed is justice denied'. However, when justice is delayed for more than three or four years, it is not simply justice denied, but *injustice compounded*.

It took twenty years before Mhlontlo finally had his day in court. I asked Kumkani what he could tell me about the episode. He confirmed that Mhlontlo had taken refuge in Basutoland, but that before heading for those hills he sheltered in Pondoland in the Ntabankulu area. He was said to have special powers to 'make himself invisible', to avoid arrest.

But was he avoiding arrest knowing he was guilty? Or serving a self imposed sentence of seclusion to try and find hope beyond the death of Hope?

In my previous visit to the Cory library I had found some letters written by Hamilton Hope in the months and weeks before he was killed, which cast new light on the episode. The astonishing story is related in *Book Three, My Story*, and I must resist the temptation here of straying too far out of Pondoland. Suffice to note in this part of the larger narrative, that Kumkani had, with his vast knowledge of history helped me clarify and correct what has been recorded in the historical record. Such as, for example, this excerpt from Beinart and Bundy's account of the return of Mhlontlo after his exile.

'Mhlontlo was arrested immediately he crossed from Basotholand into Herschel district in November 1903.... The chief and his followers apparently resisted violently: Mhlontlo repeatedly tried to bite one of his arrestors; one of his sons, who was with him, drew a knife. But it was not these offences that Stanford wished to pin on the chief. The turnover of officials in the Cape was not sufficiently

high for the passage of twenty-three years to have obliterated the memory of Hope. Arrangements were made immediately to have Mhlontlo tried for murder. After a preparatory examination in Herschel, officials began to gather evidence and statements, which, they hoped, could make the charge stick. The prepared themselves for a show trial. Stanford, however felt it wiser not to hold the trial in Umtata, near Qumbu, for it was bound to have a “disturbing effect” on the Mpondomise. His aim was not to so much to hold a red rag before the Mpondomise, but to gain public retribution in the eyes of the colony. The trial was therefore re-sited at King William’s Town, 320 km away.<sup>53</sup>

I learned that the trial was not actually sited in King William’s Town but in Grahamstown, still further away (the preparatory examination was in King William’s Town).

‘Although the trial was conducted some distance from Qumbu it was not without its effect on the local population. The problem of finding witnesses created some tension. Moreover, two of Mhlontlo’s sons Charlie - his heir, who had been living in Pondoland, and Bob, who had been living in Basutoland asked permission to collect funds in Qumbu for Mhlontlo’s defence. Stanford, intent on making the trial absolutely fair and legal decided to allow them in, though he kept a strict watch on their movements. They met with some success, despite the fact that a collection had only recently been made for action against the councils. They certainly collected sufficient to organise a good defence and, in May 1904, Mhlontlo, who had spent the intervening months in prison awaiting trial, was found not guilty and released. Stanford, convinced that he was in fact guilty, refused to allow the chief back into the Transkeian Territories and threatened special legislation if he disobeyed. The local magistrate suggested that, ‘even visits by him would... have unsettling effects upon the people generally’. A place was found for the chief near a Roman Catholic mission in King William’s Town district (He was said to have converted to Catholicism in Basutoland).

I learned that Mhlontlo had very definitely converted to Catholicism. Nkomba had pointed me in the direction of the Cory Library and this, in turn, led to other historians, notably Milner

---

<sup>53</sup> Beinart, William and Bundy, Colin (1987) *Hidden Struggles in Rural South Africa*.



Snell, curator of the Kokstad Museum, who has helped me to find primary sources to confirm this. Such as, for example, a letter written to *The Kokstad Advertiser* in 1904 by a Jesuit Priest, Fr J. Hoenig (who had served as prison chaplain to King Mhlontlo).

‘In certain volumes which treat of Cape History it is stated that Major Hope, at that time resident magistrate of Qumbu, and his two clerks were murdered by the Pondo (Mpondomise) Chief Mhlontlo in the year 1882 (in fact 1880). Now, after a lapse of twenty-three long years, this chief has been formally tried for the crime and publicly exonerated of all participation in it, so that future historians of the Cape will have to rewrite the narrative of the murder and lay the guilt at the right door.’



Fr J Hoenig SJ

The long letter explains in detail how he first encountered the Mpondomise King,

‘During his exile in Basutoland, Mhlontlo had made the acquaintance of the Oblate Fathers and had been instructed by them and baptised in their fine native Mission Station at Roma. When the prisoner was brought to Grahamstown and lodged in the local gaol pending his trial, I, being conversant with his native tongue, was appointed to look after his spiritual needs. When I first went to make his acquaintance, as I was crossing the prisoners yard through a number of evil-looking criminals my eye fell on an old, grey-haired and grey-bearded man whose shoulders were covered by a thick blanket. With his head bent low he was kneeling in a corner of the stone floor, praying aloud in spite of the noisy talk and foul language of the other prisoners. “That is the chief Mhlontlo;” said the warder who conducted me, “he spends much time in prayer.”’

The priest continues an intriguing narrative designed to gladden the hearts of devout Roman Catholics, especially the Queen of the Mpondo, and my ninety-one year old father.

‘it was clear to me that the Pondo chief had completely resigned his himself to the hands of Providence, and that whatever the result of the trial might be he would take it with perfect calm and resignation. He was fearless, yet seemed a bit depressed by the knowledge that the public were deeply prejudiced against him.

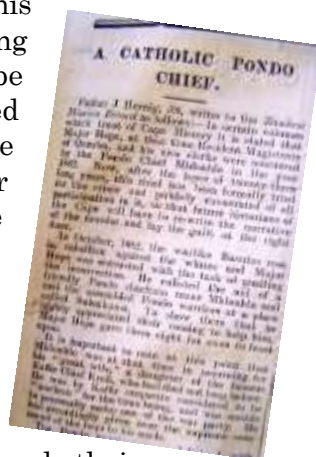
Mhlontlo’s trial lasted for nearly three days and a half, and from first to last he seemed to be the least perturbed person in the whole court. Each time a fresh witness stepped into the box the prisoner bent down his head, evidently in earnest prayer. When himself subjected to a long and severe cross-examination he was perfectly calm and at his ease, while his replies were prompt and to the point and made a very favourable impression on the crowd which filled the court. It happened that at one point he was sneered at by the cross-examiner for a remark in which he expressed his strong faith in Almighty God. But he solemnly repeated what he had said, and even in more emphatic words, which both astonished all present and abashed his interrogator.

After being absent for nearly half an hour the jury returned a verdict of “Not guilty,” and the prisoner was immediately discharged.

The crucial bit of evidence that exonerated Mhlontlo was the fact that his great wife, the daughter of the famous Xhosa King Sarhili (Kreli), had died shortly before the delivery of guns for the Mpondomise that Hamilton Hope had requisitioned. By custom he was in a period of ritual mourning and was not permitted to be in command of the war party. Hope had arrived for the handover at Sulenkama with eight fat oxen to feast upon, which delighted the Mpondomise warriors. Fr Hoenig explains.

‘After gorging themselves to repletion the whole army started their wild and exhilarating war dance and soon worked themselves up into a state of frenzied excitement. While they were in this condition it was extremely dangerous for any white man to approach them, but Major Hope and his two clerks were anxious to obtain a near view of the famous dance, and in spite of warnings and remonstrance they entered the circle of dancing savages. What anyone might have predicted came to pass in an incredible short space of time. A wild yell rent the air, and it was seen that the blood-thirsty warriors had assegaied the three whites.

Mhlontlo had accompanied his soldiers to the place of rendezvous, but being, as I have said in mourning for his principal wife, he was debarred from taking part in the banquet provided by Major Hope and in the dance, which followed it. Seated alone some distance from the revelling band he beheld all that went on, and when he saw their sudden attack on the three defenceless white men, he shouted with all his force: "What are you doing men? You are killing me." His remonstrance was unavailing; the deed was done, and all that the Pondo chief was now able to do was to protect the remaining white people of the district – mostly traders – against his warriors, who, having dipped their assegais in blood, were eager to exterminate the Europeans. Mhlontlo defended the latter with great peril to himself, and by doing so he in turn incurred the bitter animosity of his impi. The remainder of his people, fearful of what the savage warriors would do to them if they remained true to their chief, gradually forsook him. Then deserted by his tribe and charged by the whites with the crime, which he would have done anything to have prevented, Mhlontlo fled across the Pondo border into Basutoland. In that country he lived as an exile for twenty-three years, hiding among the dreary Drakensberg Mountains and in constant fear of his life.'



The eventual acquittal of King Mhlontlo after twenty-three years of wandering in the wilderness has an epic appeal to it. The priest gave credit to British justice.

'I believe that on that day the British sense of right and justice won for the ruling race admiration and gratitude among a great number of British subjects in South Africa. In spite of all that had been alleged to the contrary, no evidence whatever was adduced to show that Mhlontlo had in any way instigated, abetted or consented to the murder of his friend Major Hope and the two clerks. All that could be reasonably concluded was that the chief had lost control over his savage warriors at a moment when they were frantically excited...

It was a touching sight to see Mhlontlo, his shoulders still covered by his rude blanket, surrounded by a crowd of people immediately he left the court house...

I led him quietly away from the crowd, half bewildered by the sense of suddenly regained freedom, and as we walked along in silence the old man suddenly stood erect, stopped me, and lifting up his hand cried out in emotion, "Father, I now know better than ever that there is a God who takes care of me."

He starts the wrap up with words perfectly suited to awaken again in me a sense of extraordinary synchronicity.

'Early on the morning after his release he entered the chapel of St Aidan's College and there he made his First Communion at the hands of Rev. Fr Walmesley, the Rector of the College. These were two very happy days for Mhlontlo, and the last traces of gloom vanished from his countenance ere they were over.'

St Aidan's College is where my father, older brother and all my uncles were educated as schoolboys (astonishingly this story was never told to them, as it is the sort of story ideally suited to cultivating Catholic enthusiasms).

The incentive of spending a week in the home of my old friends, Chris and Julia Mann, was enough to convince my daughter, Aimee, to fly down to help me in my research. Aimee had studied his poetry at school and university, and was looking forward to returning to Tukkie<sup>54</sup> to boast to her fellow students that she had spent time with the greatly admired poet.

Aimee can therefore bear witness to her father's hyper-excitement upon finding among the papers left by some unknown descendant of the late Captain O'Connor (he died in 1899), a letter written to him by his friend Hamilton Hope. Twenty-year-old students are supposed to develop a healthy scepticism about the obsessions and convictions cherished by their parents. But with respect to my conviction (shared by Jeremy Cronin) concerning the haunting power of history, Aimee conceded that argument without a word. To convince her that history does matter, all I had to do (also without having to utter a word) was to place alongside each other, firstly Hamilton Hopes letters from 1880, secondly Fr Hoenig's letter to *The Kokstad Advertiser* from 1903, and finally the press clipping from *The Daily Dispatch* dated 2012.

---

<sup>54</sup> The University of Pretoria.

The first letter dated 15 May 1880 makes reference to the ill-health of Mhlontlo's great wife, asking Captain O'Connor to convey the fact to the family of Sarhili (Kreli). It suggests a measure of care and trust between Hope and Mhlontlo. The next two letters are mostly light banter and gossip. There is a gap between June and the end of September which seems to have prompted Captain O'Connor to write to find out why his friend had not written for a long interval, prompting a reply, which given what transpired some four weeks later, imbues it with dramatic irony.

'Dear old man' the letter opens (in a scrawling handwriting that took the divining of four people to decipher)

'Trust you to be so absurd as to think I was offended! I have not written because I am down on my luck and have nothing to write about! This Basutoland business is worrying me not a little and I have had a great deal of work too.

I'm awfully glad to hear that your wifie is well and jolly and you may depend upon it that if there is any possibility of my paying you a visit will do so like a shot.

I am sorry Clarke [no relation but it did cause us to wonder] got his quietus from the Basotho, but he died like a solider, which will be a kind of consolation to his friends.

This Basuto business will be a long and tedious war - and very unpopular both in the Colony and home.

The chances are that it will end in a formal war - I am glad old Austen made a good Stand. To give the devil his due - Austen has lots of pluck when put to it but he is an alarmist too.

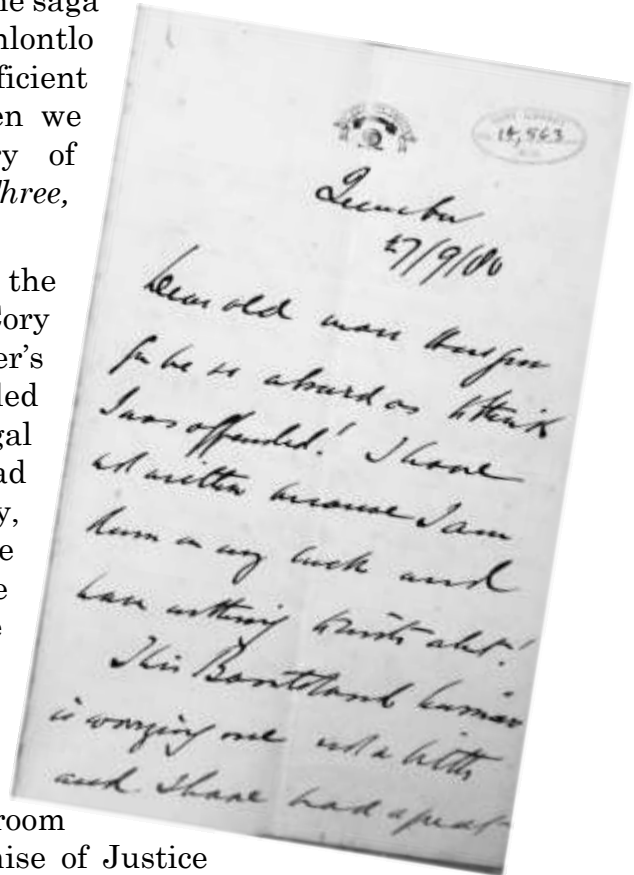
Give my very best wishes to Mrs O'Connor and thank her very much for thinking of such a bumbling (fumbling?) old fellow - next time I visit I hope to be in better health & spirits - to our (indistinct) and ever yours faithfully

H. Hope'

There was never to be a visit, and Hamilton Hope's luck really did run out on him. The Gun War escalated into disaster when four weeks later on 23 October 1880 he was killed. But not by Mhlontlo.

The above excerpts from the saga of Hamilton Hope and Mhlontlo must suffice for now, a sufficient hint of what awaits when we return to the backstory of Hamilton Hope in *Book Three, My Story*.

While sifting through the above history in the Cory Library with my daughter's help, Sarah Sephton called to say that the Legal Resources Centre had agreed to enter the fray, and would make application to the Constitutional Court to be admitted as *amicus curiae*. The welcome news left me feeling a bit like Fr Hoenig must have felt in observing the courtroom drama of 1903: the Promise of Justice would ultimately prevail. The priest concludes his one-hundred-and-ten-year-old letter,



27/9/00  
 Dear old man  
 for he is absurd as I think  
 I was offended! I have  
 written because I am  
 down on my back and  
 have nothing better to do!  
 His [illegible] business  
 is worrying me with a letter  
 and I have had a great

‘It is hoped that in future editions of certain Cape Histories the imputation of guilt, which has been laid at the door of this native chief, will be replaced by the declaration of his proven innocence.’

## §

Word came through that the Constitutional Court had set down 21 February 2013 for Case no CCT 84/12, *Justice Mpondombini Sigcau v President of the Republic of South Africa and Others*<sup>55</sup>.

<sup>55</sup> The other respondents were, The Commission for Traditional Leadership Disputes and Claims, the claimant, Zanozuko Tyelovoyo Sigcau, the Minister of

Whew! Whew! Whew! The threefold ‘whew!’s are intended to express the aspirations of three sets of lungs.

Firstly the Mpondo Royal Family were at last beginning to see light at the end of the tunnel. Insofar as his artificial limbs could get a spring in their steps, Kumkani was ready to run the race of his life.

Secondly, Sarah Sephton, because this gave the LRC a chance to bring the Centre for Law and Society, and wider civil society, into an arena to offer some enlightenment on the transformation of living customary law in a way that furthers rather than retards the values and principles embodied in the constitution.

Thirdly, Wayne Duvenage, because after the heady success of winning the interdict to stop the ‘switch on’ of e-tolling, OUTA faced a fierce counter-strategy from SANRAL and the Treasury.

To appreciate the significance of the contemporary legal struggles of the King of a traditional community living in deep rural fastnesses, and a modern business leader living in Africa’s most sophisticated urban centre, we must stay with history. It would be interesting to survey the recipients of the prestigious Rhodes scholarship to find out how many of them are aware of His Story (the story of Kumkani) as it clashed with the story of the man whose money funded their generous scholarships. They will no doubt know about Rhodes’ clash with the rulers of Johannesburg but few are likely to know about what historians call, “The Great Sigcau Case’ of 1895 -1897”. It might alternatively be termed “The Collapse of a Colossus: how an insolent Native Chief put the skids under Cecil John Rhodes”.

---

Cooperative Governance and Traditional Affairs, the Premier of the Eastern Cape Provincial Government, the National and Eastern Cape Houses of Traditional Leaders, and the King of amaMpondo ase Nyandeni (Western Pondoland).

## 10: Collapse of a Colossus

‘What is government itself but the greatest of all reflections on human nature. If men were angels, no government would be necessary. If angels were to govern men, neither external nor internal controls on government would be necessary. In framing a government which is to be administered by men over men, the great difficulty lies in this: you must first enable the government to control the governed; and in the next place oblige it to control itself.’

*James Madison*

*The Federalist Papers, 1788.*

Peter Hargreaves arrived in the Eastern Cape after the 1856-57 Cattle-Killing episode. Conradie locates his arrival in that context:

‘Yet out of this greatest disaster for the people living beyond the Kei River was born a new period of missionary zeal and progress. Those who reached the colony searching for food, had not come in vain. They were fed. Those who realised the stupidity of superstition and witchcraft, white men again offered the Gospel they had rejected. The deserted Mission Stations, could be occupied again by men willing to go forth – amongst these new pioneers was a young preacher on trial who had just arrived from England, Peter Hargreaves (page 28).’

By the time that he arrived in Pondoland some years later, to pick up where Rev. Jenkins had left off in the missionary outreach to the Mpondo, the portly Lancashire preacher was presented with an altogether more taxing challenge of protecting the Mpondo from the worst of Western influence (‘guns, greed and grog’) while trying to impart the best (bible, science, literacy) first with Faku’s successor, King Mqikela, and then with his grandson, King Sigcau, between 1888 and 1901. He did so with extraordinary determination and unshakeable faith.

Since Pondoland was still independent, free to determine its own future within the boundaries delimited by the Maitland Treaty, in order to better understand how *lo govumente* managed its guns, we need to cross the border into an area between the land of King Faku and the land of King Moshoeshoe known as Nomansland.



Snell explains the background.

‘Until the early 1870s the area between the British colonies of the Cape and Natal consisted of a number of independent African states, which had to that point been largely spared from colonial interference. This was, however, to change after 1872 when the Cape Colony was granted responsible government. John Charles Molteno became the Cape’s first Prime Minister and Charles Brownlee was appointed the Secretary for Native Affairs. Brownlee, who greatly influenced the Molteno government’s African affairs policy, believed that in order to maintain peace on the border of the colony, the Cape administration should extend their influence ‘without violence and bloodshed’ beyond the Kei River. The Cape Government’s decision to annex territory beyond the Kei coincided with a confederation policy introduced in London by the Secretary of the Colonies, Lord Carnarvon. Carnarvon, influenced by concerns over security as well as a changing economic reality after the discovery of diamonds, wanted to amalgamate the various states in southern Africa into one country under the British flag.’<sup>56</sup>

The annexation of the territories beyond the Kei was a drawn out and complicated process that took over 20 years, with Pondoland only capitulating in 1894.

Remembering Max-Neef’s distinction between authority and power, Hargreaves’ peace building and mediation work may be summed up as *cultivating authority by inspirational influence* while the growing evidence of vast mineral wealth unleashed a determined quest by British imperial interests to *accumulate power by autocratic control*.

The era of European colonisation from the mid 18<sup>th</sup> century to the mid 19<sup>th</sup> century has been explained in terms of three archetypes<sup>57</sup>

---

<sup>56</sup> Snell, M., 2013, *Justice meted out with an even hand*. Self published pamphlet. Kokstad.

<sup>57</sup> No prejudice is intended toward traders, missionaries or soldiers. I use the term ‘archetype’ in the Jungian sense (a primitive mental image inherited from the earlier human ancestors and supposed to be present in the collective unconscious), as distinct from ‘stereotype’ (a widely held but fixed and oversimplified image of a person or group). Challenging the stereotype of the Trader, Bishop Callaway (a ‘Missionary’) wrote “When one trader sits up all night with a dying Christian native; when another supports a boy at the Mission

of conquest; the trader, the missionary and the gunboat. In the character of Henry Francis Fynn we encountered the trader archetype. In the characters of the Wesleyans, Shaw, Jenkins and Hargreaves we have encountered the missionary archetype. The 'gunboat' implies the third archetype: *govumente*. This is to signify that the ascendancy of British colonial influence was due to its maritime superiority, decisively demonstrated by the arrival of the British forces and firepower by sea, which drove the Boer's out of Port Natal and dashed their ambitions for the Republic of Natalia.

It wasn't the gunboat as much as the 12 pound cannon and then the Maxim machine gun, which ultimately cowed the resistant African kingships into submission. Since the decisive battles occurred beyond the borders of Pondoland in the Eastern Cape frontier, the mountains of Lesotho and the area under Cape Colonial jurisdiction known as Nomansland, the relevant stories are narrated in Book Three (My Story) and Book Four (Our Story). Although they had significant ramifications for the Mpondo, the crucial episode that makes the story of Kumkani's legal battle to regain the Kingship of Mpondo so remarkable happened in 1895, a year after the annexation of Pondoland.

By 1890 Rhodes had amassed the requisite fortune from his diamond dealings to lubricate his political career as the Barkley West Member of the Cape Parliament<sup>58</sup>. By mid-1890 he had achieved the pinnacle of political and commercial success as Chair of De Beers, which controlled the diamond industry, Managing Director of the British South Africa Company, which controlled what was to become Rhodesia (now Zimbabwe), and Prime Minister

---

School who could not otherwise be supported; when another works with his own hands to build the native church, with evidence such as these, who will say that trade is altogether in the opposite camp to missionary work." The interests of traders, missionaries and gunboat commanders are different but not necessarily in conflict. Peace and collective social well-being arises when all three, in fulfilling their roles, are ultimately guided by integrating the paradox of the *Way of Justice* and the *Way of Mercy and Compassion*. The paradox is explored in Book Three My Story.

<sup>58</sup> Meredith, M., 2007, *Diamonds Gold and War: The making of South Africa*. Jonathan Ball, Cape Town.

of the self-governing Cape of Good Hope Crown Colony. He made a promising start as Prime Minister by appointing an unlikely coalition cabinet of English liberals and conservative Afrikaner Bondsmen, including James Sivewright (1848 - 1916) as his Commissioner for Public Works. Sivewright was a prominent South African politician of Scottish birth. The Olive Schreiner's letters online website explains;

'Sivewright was educated in Scotland and trained in telegraphy. He travelled to South Africa in 1877 at the Cape Colony's request as a telegraphy expert, and from 1877-81 he developed and organised the telegraphy systems of the Cape Colony, Natal, the Transvaal and the Orange Free State. In 1887 James Sivewright joined the Cape Town branch of the Afrikaner Bond and in 1888 he was Bond member for Griqualand East. His subsequent political rise was based on acting as a link between Hofmeyr and Rhodes, and between the Cape and the Transvaal. Indeed Sivewright began acting as Rhodes' right-hand man and he secured the Bond's support for Rhodes's premiership in 1890. In 1891 what was called the Sivewright Agreement gave the Cape Government Railways a virtual two-year monopoly with the Witwatersrand goldfields, and following this agreement Sivewright was given a knighthood. Sivewright developed strong links with several key mining magnates and a close association with Barney Barnato in particular.'<sup>59</sup>

Olive Schreiner initially idolised Rhodes, and developed a chemistry with him of a particular compound. No other woman came close to cracking the formula.

'An accident to him would, I believe, mean the putting back of our South African development for fifty years,' she wrote to a friend when Rhodes was travelling in Mashonaland. When she heard he had returned safely she was relieved, but shortly afterwards woke in the night and found herself,

'standing on the floor in the middle of my room, crying and wringing my hands. I'd dreamt that I saw Rhodes walking by with his old big felt hat on, drawn down very low over his head, and an overcoat on and his head sunk very low between his shoulders. I ran up to him and stood before him. He did not speak a word, but he opened his

---

<sup>59</sup> <http://www.oliveschreiner.org>.

overcoat and as he turned it back I saw his whole throat and chest covered with blood and his face ghastly pale, like a dead person's; he said nothing...'

Some time later she learned that Rhodes had fallen off his horse and been badly bruised<sup>60</sup>. It turned out to be an eerie omen of future troubles, and perhaps a window into the condition of his soul.



The Olive Schreiner Cottage in Matjiesfontein.

See [www.matjiesfontein.com](http://www.matjiesfontein.com).

Things soon took an ominous turn when Rhodes began to show his true colours. Early in his term he voted in favour of the notorious “Strop bill” which would have mandated rural magistrates to order the flogging of disobedient farm labourers. Rhodes saw it as a necessary expedient to retain the electoral support of Dutch farmers. This was thoroughly offensive to Olive Schreiner’s liberal sensibilities. They quarrelled and their relationship took strain, but they remained in touch as Schreiner grappled to rationalise the contradictions she saw emerging on the man she once almost worshiped as a messianic figure.

The Strop Bill never passed into law, fortunately, but next came a political crisis. The media exposed James Sivewright for awarding an 18-year monopoly contract (for the sale of food and beverages for all trains and stations of the expanding Cape rail routes) to a personal friend, James Logan, without putting it out to open competitive tender. The liberal members of his cabinet, John X. Merriman, James Rose Innes and Jacobus Sauer, threatened to

---

<sup>60</sup> R.I. Rotberg, 1988, *The Founder: Cecil Rhodes and the Pursuit of Power*, Oxford University Press, Johannesburg, p400

resign unless Rhodes fired Sivewright. He refused to do so and instead manoeuvred to rid himself of the conscience-pricking liberals. He dissolved his cabinet and formed a new government without them.

A correspondent for *The Cape Times*, Vere Stent, lamented the departure of the liberals:

“High honesty, and a nice sense of honour, brilliant biting wit, and moral courage, erudition and fearless criticism, [all] left Rhodes’s cabinet, and the door was open for sycophancy, opportunism and time-serving.”

By 1892 Olive Schreiner, could no longer tolerate Rhodes’ lack of moral scruples. She met Rhodes and Sivewright in a final confrontation at Matjiesfontein station. Afterwards she wrote to her sister, Ettie,

‘We had a talk, and my disappointment at Rhodes’s action was so great that when both he and Sivewright came forward to shake hands, I turned my heel and went home. I saw that he had deliberately chosen evil. The perception of what his character really was in its inmost depths was one of the most terrible revelations of my life. Rhodes, with his gift of genius ... and below the fascinating surface, the worms of falsehood and corruption creeping.’<sup>61</sup>

She did what voters should have done: reject him. South Africa would be a very different place today had the electorate been as discerning. Instead, it was left to a prudent African King, a wise Christian missionary, and a smart young lawyer to get the first bridle on Rhodes’s *hubris*. It was the early warning sign of things to come.

The descent into *nemesis* gained momentum two years later, in 1894, when Rhodes decided the time had come to end the sovereign independence of Pondoland. ‘Troops were massed upon the border,’ Judge Albie Sachs explains,

---

61 Quoted in Meredith, M., *Diamonds, Gold and War*.

‘the Cape Prime Minister, Cecil John Rhodes, demonstrated the efficacy of a Maxim gun, and the Mpondo chiefs capitulated without rattling a spear.’<sup>62</sup>

The circumstances leading to this step were as follows.

With the passing of King Faku, it became progressively more problematic for the British to allow the Mpondo to remain independent. Sitting between the rival ambitions of the Cape and Natal colonies, which had been given self-government with indirect British rule, unfortunately Faku’s successor, Mqikela, showed himself to be a pale shadow of his father. Faku was always going to be a hard act to follow.

It was not only the British who had interests in Pondoland. Some German adventurers, claiming the support of the German Kaiser, also made territorial claims.

Reverend Hargreaves had worked tirelessly to try to be a peacemaker in the internecine conflict that had erupted in the Great House of Mpondo upon King Mqikela’s death in 1887. Mqikela’s senior advisor had been Chief Umhlangaso who had since 1885 become the virtual ruler of Eastern Pondoland. Hargreaves was suspicious of the influence of Europeans ‘of doubtful character, W. Welbourne and E.B. McNicholas, who advised Umhlangaso’<sup>63</sup>.

King Mqikela had not produced a son from his Great Wife, and without an obvious successor the Mpondo had to choose between sons from his other wives. Chief Umhlangaso professed support for Sigcau but was actually secretly hoping that a younger brother, Umdibaniso, would be elected.

‘Sigcau was aware of his uncle’s schemes to strengthen his own position, while Umhlangaso, still under the influence of his German friends, complained that Sigcau was allowing the country to go to ruin, an accusation containing the seeds of ruin for Mpondo independence’<sup>64</sup>.

---

62 Sachs, A., 1973, *Justice in South Africa*, University of California Press, Berkeley. p112.

63 Conradie, p143

64 Conradie, p129

Tensions simmered and in February 1889 civil strife eventually turned into civil war. When the war ended, although Umhlangaso had been defeated, the Mpondos were severely weakened, ripe for the picking by colonial powers.

Conradie explains,

‘As conditions in Pondoland went from bad to worse, chiefly as a result of Sigcau’s inability to control his subordinate chiefs, Hargreaves realised that Mpondo independence was an idle dream. Although he had cherished the idea of helping to preserve the sovereignty of the tribe his eyes were not closed to their shortcomings. Thus he believed that there was “a Providence in these things (the civil war and border clashes) that are coming on these people – driven hither and thither at the will of MAD chiefs,” he wrote in his diary.’

Yet as the threat of annexation loomed ever larger, the missionary was reluctant to be ‘a party to any coercive measures’ and therefore advised that the whole matter be placed before the Chief and the nation and while the Colonial powers positioned themselves to take over, he spent time in private discussions with the King to advise him.

‘Sigcau was officially informed of the Cape Government’s intentions at Emfundisweni on 8th March 1894. Government representatives, led by Major Elliot, had arrived a few days earlier and met Sigcau on the verandah of the Mission house where Hargreaves made the announcement to Sigcau; the news greatly upset the Chief who wanted to know what he had done to the Government; the Major replied by setting out the two courses open to the Mpondos – to submit and save their land, or, fight and be destroyed; he then gave the Chief a letter from the High Commissioner in which submission was demanded.”

Hargreaves advised that it was only fair to allow the Mpondo ten days’ grace to formulate a reply.

“Their request was granted and it was also agreed that Mr Stanford (the Chief Magistrate based in Kokstad) would await their decision at Emfundisweni while Major Elliot proceeded to Western Pondoland on a similar mission.”

Seven days of anxious deliberations followed during which the advice of both Stanford and Hargreaves was sought by the Chief. Both men advised peaceful submission, with Hargreaves hoping for as good terms as can be got for the Mpondos. At some stage, however, different advice must have prevailed and there were rumours that the Mpondos intended to fight. One of the native Ministers came to Hargreaves urging him to go and prevent the Chief from “accepting the advice of the advocates of war”.

The final meeting took place on 15 March when Hargreaves was invited to attend protracted consultations at which all the leading men had to give an unambiguous yes or no to the question of whether or not the Chief should surrender.

The outcome was a unanimous decision to submit, at which Sigcau “gave them a sound lecture” saying “the Government is not here because of me but because of you.” (sic) “You would not listen to ME. It is painful to fight - it is painful to submit.” The Government was then asked “to join the ring” formed under the trees near the mission house, where Sigcau “in a husky voice gave his word of submission.”

The deed of cession was completed on 17 March 1894, and Pondoland became part of the British Dominions.’

This is the version contained in the Conradie dissertation, but after reading other accounts, and after conversations with Kumkani, Nkomba and I came to realise that another interpretation of the dramatic episode is possible.

From the perspective of Mpondo customary law, Nkomba points out that for a decision affecting the Mpondo as a whole to have binding validity, the King would need to have had the participation and assent of the senior chiefs and councillors. However, King Sigcau was presented with the treaty without all the senior chiefs from the five main constituent clans in attendance. This was a violation of the customary mutual accountability between King and Chiefs.

The rift between Sigcau and Umhlangaso meant that the British colonisers dealt with each separately, forcing Umhlangaso to nominally accept King Sigcau as his Paramount Chief, and acquiesce to the annexation. Moreover, a joint *imbizo* between the Great House of Faku (Sigcau) and the Right Hand House (Nqwiliso - Ndamase’s son from his great wife) would have to have taken



place for the treaty to have binding effect on all Mpondos whose spiritual identity stemmed from the Great King Faku.<sup>65</sup>

It may be that Rhodes knew that if the elders were present, the King would be, as it were, 'robed with the Majesty of the assembled elders', and thus less susceptible to his intimidating methods. In the event of a standoff in the 'diplomatic phase' of the battle, Rhodes was prepared to escalate things to more violent and brutal measures: measures that he showed himself very capable of as his exploits beyond the Orange, Vaal and Limpopo rivers were to demonstrate.

Nkomba maintains that after a number of days of futile waiting for the requisite quorum, under threat of military action King Sigcau was forced to sign without the assembly of tribal elders. That would explain why Nqwiliso's son, Bokleni, had travelled to Emfundisweni to urge Sigcau to resist. However, in the knowledge that more troops from the Cape Mounted Riflemen were ten miles away, Sigcau replied: "*Ndiyakundliwa Ngamaxhalanga*" (I will be devoured by vultures)<sup>66</sup>. Mrs Emily Rock who ran the Emfundisweni trading store with her husband, Henry Rock, reported this utterance. King Sigcau had sought consolation with them and apparently wept, much to their astonishment. 'To see any proud Mpondo man weep was rare enough, but for the King to show such emotional distress was unprecedented.'

Nkomba suggests that even intimidation would not have been accepted as an adequate defence for a King who had betrayed the covenantal trust that bound the Mpondo together. To allow fear to get the better of one's judgement was a betrayal of a sacrosanct principle that forbade any higher tier within the traditional authority hierarchy to impose changes in the prevailing custom with respect to land and territorial boundaries. It was an

---

<sup>65</sup> The division of the amaMpondo kingdom had occurred while Faku was still alive who had, with characteristic diplomacy and far-sighted pragmatism, preempted a struggle for power between his sons by allowing his son Ndamase to govern Western Pondoland with Mqikela taking over Eastern Pondoland when Faku died.

<sup>66</sup> Reported in Callaway, *Pioneers of Pondoland*, p91. Reporting Mrs Rock, wife of the trader.

unforgivable sin. People at lower levels would suffer the consequences, losing confidence in their traditional leaders and thus make the entire society more vulnerable to enemy agitation. After Nkomba had explained all this, two trains of thought preoccupied me.

First, as a Roman Catholic who is familiar with Catholic social teaching, the governance structure of the Mpondo (at least while Faku was King) struck me as functioning precisely according to the doctrine known as ‘subsidiarity’. Was the heathen King Sigcau practising what pious Pope Pius XI was preaching to the Catholic faithful just three years before the annexation?

I chuckle at the irony that Rhodes was having to deal with an ‘anonymous Catholic’ in the person of King Sigcau, whose only influence from a Western Christian missionary was that of the humble pioneering Methodist missionary, Rev. Hargreaves. One can say without fear of contradiction that Rev. Hargreaves had never instructed Sigcau in the emergent Papist doctrine, even if he was aware of it<sup>67</sup>.

There is a medieval saying that ‘God can write straight with a crooked pen’ and the Sigcau *vs* Rhodes confrontation seems to bear this out, appealing to those eager to transcend the ‘dogma eat dogma world’ of religious intolerance in quest of sound universal doctrines and scientifically rational articulations of truth/falsehood that help rather than hinder the making of history. Subsidiarity is one such teaching, to which even the European Union and the United Nations Office for the Coordination of Humanitarian Affairs subscribe (with credit given to neither Pope Pius XI, nor Mpondo Customary law, but that doesn’t matter for if something turns out to be true, that is all that should really matter).

In modernised summary the Catholic doctrine says.

---

<sup>67</sup> Stafford Beer, a pioneering systems scientist and founder of the discipline of managerial cybernetics has in his quest to find ‘invariant principles’ that explain the necessary and sufficient conditions for systems to be ‘viable’ (capable of separate existence) has in this formulation of the Viable Systems Model also since validated the principle of subsidiarity as scientifically rational.

‘A community of a higher order should not interfere in the internal life of a community of a lower order, depriving the latter of its functions, but rather should support it in case of need and help to co-ordinate its activity with the activities of the rest of society, always with a view to the common good.’<sup>68</sup>

Could it be that this ‘bottom up’ system of accountability was the key ingredient, which enabled the Mpondo under King Faku to survive Shaka’s imperial conquests, being the complete opposite of his ruthless command and control despotism? Faku outlived Shaka by four decades, in a period of ongoing upheaval both to the north and south of Pondoland. Had the Mpondo managed to stay true to the principle after Faku’s death in 1867, would King Sigcau have also managed to withstand the conquest by Prime Minister Rhodes? My many conversations with both Nkomba and Kumkani have produced sufficient cause for me to confidently hypothesise that subsidiarity remains indigenous to the collective consciousness of the Mpondo, even though over time many leaders from both the Great and Right Hand Houses of Faku have strayed from it.

My second train of thought was launched by King Sigcau’s dramatic utterance *‘Ndiyakundliwa ngamaxhalanga’*.<sup>69</sup> By sheer coincidence a friend who shares my fascination with the Mpondo Royal Family told me of a collection of Mpondo folk tales that she had discovered, which contains the exact expression in one of the short stories. It is uttered by the wife of an African missionary evangelist in deep shame and penitence for having failed to obey her husband’s instruction to feed a desperately hungry man who had arrived at their door begging for food. Without telling her husband, she turned away the hungry man who shortly afterwards died of hunger.

The husband has a recurring dream telling him that the poor man has died of hunger. His wife, in denial says, ‘the dream is telling you lies’, but eventually the truth cannot be escaped. The evangelist arranges for the poor man to be buried. Four days later

---

<sup>68</sup> CA 48 § 4; cf. Pius XI, *Quadragesimo anno* I, 184-186

<sup>69</sup> I will be devoured by vultures.

the wife complains about a terrible headache and has a dream herself, in which she is convicted of having failed to feed the man dying of hunger. Alongside the Mpondo version the English translation goes thus.

‘She woke uMvangeli, and said.

“Call the people for me”

uMvangeli called the people.

The place was full!

She said, “Lord I am going to die today,

I am going, I have sinned:

I shall answer for the case of the old man

Who was killed by hunger because of me.

So you must not bury me.

Place me upon this stone on which the old man died.

For should you bury me in the ground.

There would be nothing for the cattle to eat.

The earth will dry up.

The grass will dry up.

You will never plough.

The mealies will dry up.

The water will dry up.

And there will be nothing whatever.

The forests will dry up.

So place me upon the rock

That I may be eaten by the crows.” (*“Ndiyakundliwa Ngama-xhalanga”* in the Mpondo translation)

She was buried on top of the stone

She was placed on top of the stone

She rotted upon that stone.

She was eaten by the crows.

All the birds of the earth ate her up and finished her!

Not a happy ending, but one sure to leave imaginative young Mpondo minds awakened to the imperatives of obedience to spiritual truths. Did King Sigcau perhaps hear the folk tale as a youngster and believing that he failed to be true to the collective well-being of his people, feel similarly distraught such that to be

buried in the earth would weaken the great animal therein, and render the earth barren? Better that he be fed to the Animals in the Air, for his contaminated remains to be more widely dispersed so as not to have concentrated toxic effect?

The next episode in the grim historical account of annexation suggests that, thanks to the ministry of Rev. Hargreaves, King Sigcau found another more atoning path; one that may have given Rhodes nightmares instead.

### **Rhodes' 'Scamper through the Transkei'**

To seal the deal on annexation Rhodes embarked on what his former cabinet minister, John Merriman, described as his 'scamper through the Transkei' to 'demonstrate the reality of British Rule'.

The meeting between Rhodes and Sigcau took place on 10 April 1894. King Sigcau assured him of his friendly attitude but *inter alia* requested that Eastern and Western Pondoland be united again and administered as one unit.

Mr Rhodes answered with effect: Slapping his right leg he said, "This is Major Elliot, the Chief Magistrate of Western Pondoland." Then slapping his left leg he said, "This is Mr Stanford, the Chief Magistrate of Eastern Pondoland." Then, pointing to himself, he added, "they unite in me". His meaning was clear.'

A rather fanciful account from Felix Gross says:

'The Chief Sigcau was summoned by Rhodes and told in plain words that, since his people were incapable of governing their country, it would be annexed. The Chief was taken to a cornfield. Suddenly, at Rhodes's command, machine-guns began to spray their bullets into the high maize stacks (sic) which were mown down as if a ghost was running wildly over the field, cutting them down with a sharp sickle. Looking at the frightened Chief and pointing at the field and the machine-guns, Rhodes told him, "And that will happen to you and your tribe if you give us further trouble!"'

This is pure legend, first written in 1926 by Basil Williams, an overly admiring biographer of Rhodes, and perpetuated in many subsequent biographies. Although the incident did apparently happen, neither Rhodes nor Sigcau were present. The demonstration was apparently ordered by the Chief Magistrate,

Major Henry Elliot as a last resort to convince the militant Chief Bokleni to face reality. By then both the Great House King Sigcau and Right Hand House King Nqwiliso had signed the annexation treaty. Elliot was caught between the rock of Rhodes determination to achieve his ends by whatever means necessary, and the hard place of knowing that the firepower of the Mpondo would be feeble against the new weapon of colonial 'peace keeping', the Maxim machine gun.

Moreover, according to the Chief Magistrate of East Griqualand, Walter Stanford, King Sigcau was by no stretch of the imagination a 'frightened Chief ... the cowed and submissive potentate'. In fact he seemed to display much the same attitude toward Rhodes as Olive Schreiner had a few months earlier; disbelief and disappointment at the unprincipled exercise of brute power. King Sigcau was in no mood for diplomatic pleasantries any more than Olive Schreiner felt like shaking Rhodes hand.

Rhodes is said to have taken great umbrage at King Sigcau's apparent failure to follow the customary diplomatic protocols of politeness, to which he had become accustomed. Conradie explains in his dissertation,

'A curious incident after the meeting seems to confirm that the Prime Minister's replies did not please Sigcau: As the Chief walked away from him Rhodes called to him in Zulu, "*Hamba Kahle*" meaning, travel well; but Sigcau perhaps not having heard the great man's words, did not respond at all.'

Perhaps this fuelled Rhodes's vengeful humiliation of Sigcau when it came to the implementation of the treaty. Rhodes made no further remarks but it was noticed that 'he looked annoyed' when he left for his next appointment.

Rhodes's next engagement was in Kokstad. The emotionally unsettling experience with King Sigcau, symptomatic of a decline in his mental health, was followed by a painful unsaddling, marking the point of decline in his physical decline according to biographers. Nearing the town Rhodes fell from his horse. He said it was 'a nasty fall'. Was this the fall that Olive Schreiner had dreamed of in her eerie premonition some months earlier? Eight

years later Rhodes died an early death, aged 48, on 26 March 1902. It was eight years after his fateful meeting with King Sigcau.

Upon arriving in Kokstad, Stanford noticed that Rhodes' legs were trembling under the table (possibly due to the shock of his fall). However he recovered his composure sufficiently to accept the banquet that had been arranged in his honour and reassured the residents that annexation meant that the history of border clashes, cattle theft and hostility between the white and Griqua settlers of East Griqualand and the Mpondo was over. Magistrates would be appointed and stationed at designated points with a detachment of Cape Mounted Riflemen to ensure law and order 'as part of the overall Transkei model with similar taxation.'<sup>70</sup>

The legendary pioneer of East Griqualand and first Resident Magistrate, Donald 'Madonela' Strachan,

'..in a vote of thanks, congratulated the premier on these arrangements, declaring Pondoland (his own Achilles heel)<sup>71</sup> to be the fount from which all mischief flowed.'

On his way back to Cape Town, Rhodes visited the tribal areas on the frontier to try to convince the already long colonised Xesibe, Tembu, and Gcaleka Xhosa tribes to the south that the Glen Grey Act, the keystone of his Native policy which he ambitiously described as the 'Bill for All Africa', was the 'shoes that they needed' to progress toward civilisation 'even though they would pinch a bit' when first worn. He not only failed in that ambition, but in the process completely alienated the four Colonial Magistrates responsible for its implementation: Robert Stanford (Butterworth), Captain John Thomas O'Connor (Nqamakwe), Newton Thompson (Tsomo) and William Brownlee (Idutywa Reserve), with Major Henry Elliot as their well respected Chief Magistrate.

---

<sup>70</sup> Rainier, Margaret. *Madonela: Donald Strachan, Autocrat of Umzimkulu*. Page 262.

<sup>71</sup> In 1887 when Mqikela was still alive Strachan had been sent as Colonial representative to negotiate a new road route from Port St Johns to Kokstad, and oversee its construction. It was a disastrous experience for Strachan. Coincidentally Mqikela died before agreement had been reached and Strachan had to flee for his life because he was 'smelled out' as the person allegedly responsible for the King's death. It seems that certain traders along the existing route had good reason to sabotage the new bypass, and stirred up the suspicion.

William Brownlee describes what happened.

‘Then came the Proclamation, and it became our duty to lay matters before our people and to tell them of the new laws. It was like prodding a hive of bees with a stick. ‘What! Have our taxes doubled in one stroke?’ Up to then the only direct tax was a ten shilling hut tax, but the Proclamation imposed a general rate of ten shillings and a labour tax of ten shillings – ‘and then in addition to have another tax which carries with it the stigma of idleness! We are not idle people. We work. Who dig diamonds? Who dig the railways? Who load and unload the ships at the fords of the sea (seaports)? Who shear the farmers’ sheep? Who? Do you see these white men doing these things? If not who do them? Why do not you magistrates stop this new law? You are our Government. You are the only Government we know. It is you magistrates who are destroying us with this new law.’

Rhodes then travelled to Nqamakwe to address the people of Fingoland. Brownlee describes the event.

‘I have seldom seen a larger meeting, and I have seen no other meeting when the feelings were so tense. The people crowded round thick as bees, determined to lose nothing to be seen and heard, and so eager were some to see the man who was making the new laws that they climbed up into the trees under whose shade the meeting was held. Speaker after speaker rose and put forward the views and the feelings of the people. More and more electric became the atmosphere, and then from the top of one of the trees came a great shout: “You men, it is no use you speaking here. That is Mgebisa,” (using Rhodes’s native name). We officials understood. Rhodes did not.

At last Rhodes rose to reply. I will repeat only one of his arguments; it was this: “You go to the shop; you buy a pair of boots; the boots pinch. You do not, because of that, throw away the boots. You wear them. The boots stretch. You now like your new boots. Do the same with the new law. Try it. You will soon come to like it.”

The meeting drew to a close and Rhodes started off for the house of Captain O’Connor, whose guest he was.’

Brownlee graphically describes how the four magistrates clashed with Rhodes in a succession of heated exchanges. Rhodes nevertheless persisted in forcing the tax through, but never implemented his threat to send Brownlee, whom he perceived to



have started the dissent, to Walvis Bay. 'Now Walvis Bay was once upon a time the Siberia of the Service' (a presumably much relieved) Brownlee writes.

The lesson I take from Rhodes' bullyboy approach is that he suffered from 'teenager deprivation syndrome'. He never fathered any children, so was ignorant of a truth learned by parents with teenage children, who are necessarily given to questioning authority. He could not appreciate that while the exercise of superior power may force people to submit, it can never force them to cooperate. Pushed to extremes, the exercise of brute power provokes quite the opposite reaction from the intimidated party; a passive resistance or passive aggression.

This is a lesson taught to me by Samuel Clarke, my son, who is thankfully now a young adult. His namesake Rev. Samuel Clark (without the 'e', the Methodist missionary that Kumkani thought was my ancestor who took over from Reverend Hargreaves when he retired) has another lesson to teach in his account of what happened in How the Chief Learned to Pray.

## 11: 'Muster Rhodes will have a fall'

"It is forbidden to kill; therefore all murderers are punished unless they kill in large numbers and to the sound of trumpets."

*Voltaire.*

Rev. Samuel Clark in *Missionary Memories* writes.

'I have told of my visit to the Paramount Chief with the Rev. Peter Hargreaves.

During our stay there, he related one of his great experiences, in a house belonging to the Chief. "You will remember," he said "the time when the Chief was arrested. I should like you to know what then took place. Come with me," he said; and we went together to the bottom of a saucer shaped valley, with three houses on the top of the three sides of the ridge. All three houses belonged to the Chief.

"Let me now tell you the whole story. You know how I worked to persuade the Chiefs not to fight, but to cede their country by treaty, and under the conditions the Government offered. As you also know they followed my advice. The country was handed over to the Cape Government, and the Treaty made, and duly signed. One of the first steps was to enroll the people with a view to bringing them under the Hut Tax law; and during that process, something took place, which led the Government to determine to arrest the Chief."<sup>72</sup>

Following the enforced annexation, just as the long-colonised Gcaleka, Mfengu, and Tembu people resented the imposition of taxation, so King Sigcau and his chiefs did not take kindly to the imposition of hut taxes and the arrival of colonial magistrates to 'separate the chiefs from their people'. Within a year they complained about the failure of the Colonial Government to honour the terms of the treaty.

To add to the volatility of the situation the conduct of Cape Mounted Riflemen who had arrived with the new magistrates had

---

<sup>72</sup> Clark, S., 1927, *Missionary Memories*, Methodist Book Depot and Publishing House.

not made a very good impression on Reverend Hargreaves. He had seen a worrying shift in the culture of policing over the previous decade, ever since the change of policy brought about by Governor Sir Henry Bartle Frere. In 1878 the Frontier Armed and Mounted Police had been reorganised on strict military lines as the Cape Mounted Riflemen (CMR). It was no longer a police service but an army of military occupation. Hargreaves was 'worried about the bad influence of the CMR troops.' He regarded them as 'godless people' who were 'busy playing cricket, quoits and tennis while the natives built the magistrate's quarters'<sup>73</sup>.

The CMR had already 'shown themselves to have no regard for the natives whom they believed to have no rights beyond slaving for the white man,' he wrote in his diary.

Rhodes's response was characteristically heavy handed. Hargreaves, fearing that Rhodes would follow his policy of 'blood and fire' to force his way, was on bended knee anticipating the worst.

The worst came. Rhodes ordered the arrest of Sigcau. However, before the troops could be moved into Pondoland 'to crush the life out of these poor people', as Hargreaves writes, King Sigcau presented himself for arrest at Kokstad.

Rev. Samuel Clark continues the narration of the dramatic episode. Quoting *Hagile* (Hargreaves' African name) he explains;

'Late one evening a soldier from Kokstad appeared at the Mission Station asking to stay the night. Early in the morning he called me aside and said: "I am directed by the Chief Magistrate to inform you about my errand. I am the bearer of a writ for the apprehension of the Chief." I asked him what the Chief had done. He replied, "I do not know the particulars, but he is charged with resisting the Government, and threatening to shoot the clerk sent to register the men." I said, "Well, of course you must do your duty, and I shall do mine. I shall follow you to the Great Place."

He left, and I followed. On arriving at the Flagstaff Magistracy, I found great excitement. All the soldiers were busy preparing for active service. One of the officers asked me where I was going? I

---

<sup>73</sup> p174.

replied, "I am going to the Great Place." "Oh, but," he said, "you must not do that, don't you know the country is now in a state of war?" "Oh yes," I said, "I know that, and it is for that reason that I am going." Then said he, "Well, if you must go, take this with you." And he offered me a revolver. I said, "No thank you, I shall be much safer without the pistol, you need have no fear about me." So I travelled on. When I arrived here, the Chief and his Counsellors were all assembled in that house you see above us. I went to them and was permitted to see the Chief. I asked him what the charge against him was. He replied, "I am told I would not let the man write down the names, and that if he came near to me I would shoot him." "But," he continued, "I was not at that place, I never saw the man, nor did I ever make such a threat." I told the Chief I fully believed his statement. I said, "You say you have done no wrong, I do not think you have; therefore I advise you to go to Kokstad and confront your accusers." At once a great protest was made by the other Chiefs present, who declared, "we will never give up our Chief." I reasoned with them a long time but could not move them. They said, "Missionary, can you tell us of any case where a nation has given up its King without fighting for him?" I replied "No, I cannot, but I want you to do that now." I then turned to the Chief, and I said: "Sigcau, I was your father's friend and adviser; I have known you for many years, and have always tried to be your friend. This is a difficult place to have to come to. There are three drifts before you. You can fight as your Chieftains desire, but you will be destroyed; you can run away and hide yourself in the bush, but they will hunt you like a wild beast; you can, however, go to Kokstad and declare your innocence; and that is what I advise you to do." The Chief rose up and thanked me for coming to him in his time of trouble, and turning to his men he said, "I shall follow the advice of the Missionary".

We had been there all night, the day was breaking, and on looking out, I saw men coming in from every direction, all prepared for war. Later on the Magistrate came, with four hundred C.M.R. (Cape Mounted Rifles). I was anxious to prevent any hostility from either side, so let the Magistrate know that the Chief was prepared to surrender himself, if the Magistrate would come to receive him. The Magistrate came down that hill with all the troops at his heels; seeing this, all the host of the Mpondo come close after their Chief. The Magistrate halted, and sent word that unless the Mpondo remained behind they would order the soldiers to open fire. To this they replied, "We are quite willing to let our Chief go alone if the Magistrate comes

alone; but we are not going to let our Chief fall into a trap." The Magistrate saw the reasonableness of this, and it was agreed they should meet just here where we now stand. I remained here, and the Magistrate came from one side, the Chief from the other. I informed the Magistrate that the Chief denied the charges made against him, but was quite ready to go to Kokstad and declare his innocence there. I said, "I am anxious to prevent any trouble, but if Sigcau is taken through his country as a prisoner, the whole land will be aflame. Let me take him to Kokstad, and I will be responsible for handing him over to the Chief Magistrate." To this the Magistrate agreed.

Arrangements were made whereby the Chief would have time to arrange the affairs of the tribe, and he undertook to be at Emfundisweni at a stated time. I then returned home and awaited the Chief's arrival; but for some reason he was hindered, and did not come at the time appointed. I waited, watching all day, and late again another soldier came, with the letter from the Chief Magistrate asking "Where is Sigcau? Unless he is reported to me by nine o'clock to-morrow morning, I shall order the troops to march into the country." We had no sleep that night. I walked up and down the veranda praying, yet wondering why he did not come. At three o'clock the messenger came, saying, "I must saddle up now, as I have to report at nine o'clock, and I have a six hours journey." I replied, "Yes, you must obey your orders, but you must tell the Magistrate from me that the Chief will come; there is some good reason for the delay; but he will not break his word." He went to saddle his horse, when just round the hill we saw the cavalcade coming. I was greatly relieved and said, "You can go now and tell the Chief Magistrate that the Chief is with me, and will be handed over to-day."

I received the Chief, gave him refreshment, and let him rest for two or three hours; then I got out my cart and horses to drive him to Kokstad. But oh, what a sight! Hundreds of people had gathered, and crowded round him crying, some of them literally hung around his neck, saying, "You are our saviour. You are giving up yourself to save us and our country." I handed him over to the Chief Magistrate and went home expecting he would soon return. Then came the astounding information that the Chief was imprisoned, and that he was not to return to Pondoland. He might go and live in Cape Town with a certain amount of freedom, or he might live in Tembuland under police surveillance; and all this without any trial, but done by

“Proclamation.” Hagile continued, “All that followed you know.” Yes I did.

From that point I was associated with Hagile in efforts to aid the Chief, as he sent to me at once asking what I thought best to be done. The Mpondos were inclined to think that he had betrayed the Chief. The uncle of the Chief came to me with a great following of angry and excited men.

“Where is our Chief?” cried Valelo, as I met him at the gate. “He is in Kokstad jail.” I replied. “What has he done?” thundered out the Chief. I replied, “I do not think he has done anything wrong.” “Then why is he kept there if he has done no wrong? We want our Chief; fine him if you like; fine him a thousand head of cattle if you will, and we will pay, but we must have our Chief.” I replied “Valelo, we are as distressed as you, and we are not going to submit to this without an effort to help Sigcau. Be patient with us, and trust us to do our best, and I think all will come right. I will let you have all the information that comes to me.” And with that he had to remain content.

Rev. Godfrey Callaway talks of the Resident Magistrates as being deserving of a great debt of gratitude by ‘all lovers of justice and peace, all men of goodwill and especially those who love the African people’ for the resolving of ‘this crisis of the history of the Mpondo’. As we shall see, Africans did not hold a similar view. However, there seems to be consentience across the board with Callaway singling out ‘the very remarkable share taken by the Rev. Peter Hargreaves in averting disaster’.

‘The very fact that in the day of crisis Chief Sigcau should go in the darkness of the night to his missionary says a good deal for that missionary for the influence he had gained.

But it says a good deal more still that Mr Hargreaves was able to persuade Sigcau to give himself up to the authorities. Having persuaded him he was bold enough to act with swift decision. He inspanned a couple of horses and drove Sigcau to Kokstad. There he remained as a sort of fellow hostage with the chief.’

Despite mounting evidence to show that Rhodes had acted with an antagonistic and heavy hand, he stubbornly insisted that he was legally empowered to issue the proclamation authorising the arrest of King Sigcau. The Chief Magistrate, Sir Walter Stanford, was

anxious to find a peace-making compromise, but he and Rhodes now found themselves increasingly at odds, just as the Magistrates from the Frontier areas had felt about the Glen Grey tax. Rhodes wanted to banish the King to a remote part of the country far from his people (as the apartheid government did to Winnie Madikizela Mandela, in 1977, by banishing her to Brandfort in the Free State). The best that can be said of Rhodes is that he was consistent. He believed in a policy of 'oriental despotism in dealing with uncivilised natives', and King Sigcau remained in prison.

Rev. Clark describes the situation.

'Numbers of our people went to Kokstad, and many were admitted to the prison yard. Several of them were Leaders and Preachers, one especially was a friend of the Chief. Jabez was there and the day fixed for the trial. The Chief called Jabez and said, "Jabez, this is a great day. It was to be decided today whether I am to go to Cape Town, or whether I am to go to my own country and people. Jabez you must pray." Then commenced one of the most remarkable prayer meetings, probably of all time. Other preachers gathered, the police came. Crowds assembled round the prison yard, and prayer, it might be said, was offered without ceasing, for only when they sang and prayed crying to God with tears and entreaties, that He would save their Chief.'

Clark does not give prominence to the extraordinary role played by the lawyer and the 'eminent counsel' he obtained, who made sure the legal gunpowder was kept dry, while Rev. Hargreaves led the prayer meetings.

**uNgangomntwana** (He who is as big as a child)

'Jones was his name,' Kumkani explained to me 'He was a short man. From Kokstad. But sometime after the trial he was playing cricket. The bowler bowled a short ball bouncer, and it hit him on the chest and his heart stopped beating. He died shortly thereafter, because there was no proper medical attention.'

Intrigued to find out what was on the historical record I called Milner Snell (with the mischievous thought playing on my mind that perhaps the fast bowler had received some enthusiastic coaching by Rhodes behind the scenes).

‘Gosh, John, what a coincidence,’ Milner said, ‘I have just sent a pamphlet off to the printers on the whole episode. I will send you a copy. But what else did the King tell you? I didn’t know about Jones getting hit by a bouncer. It isn’t mentioned in his obituary. But he was a keen sportsman.’

I shall disclose what else Kumkani had to say about the Great Sigcau case in conclusion. Milner went back to his sources and sure enough, in *The Kokstad Advertiser* in 1973 he found an obituary for Eddie Jones’ daughter, which made mention of the death of her father as ‘having been accidentally killed by being hit by a cricket ball’.

Milner deserves credit for his very helpful research, humility in taking note of Kumkani’s information, and for providing a more impartial voice than either Clark or Clarke can provide given our respective biases.

‘Edward Thomas Jones was short. Almost every description left of him mentions his height. Walter Stanford described him as ‘small of stature and very brainy’. William Scully commented that he was a man of ‘extremely short stature’. K.A. Carlson writes that he was ‘diminutive in size but a giant of sparkling wit’ and remembers him as ‘witty and waggish’. The Mpondo called him *Ngangomntwana* (the size of a child). Edward Thomas Jones was admitted as an attorney of the Supreme Court of the Cape Colony on 25 November 1886, after having served his articles with R.W. Rose Innes of King William’s Town. Richard Rose Innes, who was married to Pansy Brownlee, daughter of the Secretary of Native Affairs, Charles Brownlee, was a Cape Liberal and, in the language of the time, ‘a friend of the Natives’. He helped Africans involved in court disputes over voter registration, and is probably now best remembered for assisting John Tengo Jabavu to establish *Imvo Zabantsundu* in 1884, the first Xhosa language newspaper in South Africa.’<sup>74</sup>

To connect some interesting interpersonal threads in the intellectual network of the time, while Richard Rose Innes was married to a Brownlee, his older brother James Rose Innes married Jessie Dods Pringle the youngest daughter of William Dods Pringle, a well-known 1820 Settler and a half-brother of Thomas

---

<sup>74</sup> Milner Snell, *Op. cit.*



Pringle, commonly known as ‘the father of South African Poetry’, who had returned to England to pour himself into a long but ultimately successful cause to abolish slavery throughout the British Empire. Olive Schreiner was a close personal friend of Jessie Rose Innes and correspondence between them survives. James Rose Innes (Jessie’s husband) was a casualty of Rhodes’s first cabinet, because of his protest against the corrupt practice of Sivewright and Rhodes’ growing hubristic incompetence.

Incidentally, while mapping the network, readers might also pencil in that Hamilton Hope was married to Emmie Rolland, a cousin of Olive Schreiner. For reasons that will become relevant later, also pencil in that Captain O’Connor was married to Augusta Button, who was the sister of Edward Button, who is credited in history as having been the first to strike payable deposits of gold, in 1873 near Lydenberg in the Eastern Transvaal (now Mpumalanga Province). Returning to the Sigcau/Rhodes legal confrontation, Milner Snell continues,

‘While the commission was collecting evidence, Sigcau requested a private meeting with Stanford. At the meeting he admitted that he had given Stanford trouble and expressed regret for doing so. He begged Stanford not to send him away from Pondoland. “Put such other punishment on me as you may think right,” he said, “and I will abide by it but let me go back to my country and my people. I promise to support and obey you and you know that I am able to give you effective aid with the Mpondo. Stanford came to the conclusion that a heavy fine should be imposed on Sigcau and he should be allowed to return to Pondoland. He put this suggestion to Scott and Jenner the next day. Scott agreed but Jenner strongly objected to the suggestion. As the commission could not come to an agreement, Stanford sent a telegram to Stripling (Rhodes’s telegraphic name) stating:

“We are agreed that if Government decide upon Sigcau’s removal from Pondoland, he should not be detained in any part of the native territories but he should be sent farther away. Jenner is decidedly in favour of such removal, holding that risk of further trouble resulting from continuance of Sigcau’s past acts is too great to allow of his return to Pondoland. Scott and I are of the opinion that a fine of six

hundred head of cattle with the establishment of a magistracy near the Great Place would be found effective”

In Stanford’s own words,

‘I fully realised that this telegram was likely to get me into trouble with Rhodes. I personally took it to the telegraph office for dispatch. On my way I met Mr Peter Hargreaves. He knew and approved the course Scott and I recommended, as did Jones the attorney. I held the telegram up and jocularly remarked to Mr Hargreaves, “This means my downfall with Mr Rhodes.” When Hargreaves was deeply moved he dropped into his native Yorkshire. “Muster Stanford”, he said, “you are doing your duty. Muster Rhodes is treating Sigcau unrighteously. He will have a fall”. I smiled incredulously. “He will have a fall”, solemnly repeated the missionary.

A wrathful reply from Rhodes came.’<sup>75</sup>

Snell continues his summary.

‘[Stanford] was informed that the commission should confine itself to reporting on Sigcau’s behaviour since annexation, and leave to the government the decision about what should be done with the Paramount.

Sigcau’s attorney, Edward Jones, decided that the only hope for his client was to challenge, in the Supreme Court, the legal validity of the Governor’s proclamation against Sigcau. The first indication that he was going to follow this route was a report in *The Kokstad Advertiser* on 21 June,

“We learn that steps are being taken by Sigcau’s legal adviser to call upon the Government to define the offence of the chief, and, if necessary, application will be made to the Supreme Court for his release.

Sigcau will most probably dispute the legality of the Governor’s Proclamation, on the ground that he is a British subject, and, therefore, has committed no statutory offence, and, therefore, was not liable to be arrested.”

Jones, convinced that the Governor’s proclamation would not be upheld in the Supreme Court, hurried off down to Cape Town and

---

<sup>75</sup> Stanford, W., *The Reminiscences of Sir Walter Stanford*, Vol 2. Page 174.

sought the advice of several leading advocates. They all felt he would lose, except Henry Juta, who agreed to represent Sigcau.

On 29 July 1895 Juta presented a petition drawn up by Jones & Walker to the Supreme Court on behalf of Sigcau praying them to order his immediate liberation and discharge; or otherwise that your Lordships will call upon the magistrate of Kokstad aforesaid, under whose custody your petitioner understands he is, to produce your petitioner before your Lordships, and to show cause why he should not be discharged ...

The case was heard before the Chief Justice, Sir Henry de Villiers, and Justice Sir Thomas Upington.'

While the case was being fiercely argued by both sides, Hargreaves visited King Sigcau regularly to offer him spiritual counsel and support. On the day of the verdict one of the converts from Emfundisweni kept a prayer vigil at the prison for hours on end, such that even a prison guard joined the prayers for the King's release. Ironically, William Schreiner, the younger brother of Olive Schreiner, was the Attorney General and had to argue Rhodes' case. One can well imagine that Olive watched the proceedings with very mixed feelings.

Snell continues:

'Schreiner as Attorney General defended the proclamation. Juta argued that the proclamation was not a legal enactment as the Queen had not "expressly signified her assent thereto". He further stated in the petition, as reported in the Cape Times Law Report, that the Governor could assent to no law that was repugnant to the law of England. It has been repugnant to the law of England since the date of the Great Charter to detain a man in custody without a proper trial.

Schreiner responded that the Government had power to issue the Proclamation, which had the same effect as an Act of Parliament, and the Court could not upset it even if unjust. Further, Sigcau was not acting on the best advice in presenting this application.

Justice De Villiers interrupted Schreiner, saying that, "he looked upon it as wishing to abide by the law that Sigcau looked to that Court for justice. No fault could be found for appealing to the highest tribunal in the land".

Sir Henry gave judgement for Sigcau. In his summation de Villiers said “the Governor has, I must repeat it, arrested, condemned and sentenced an individual without the intervention of any tribunal, without alleging any necessity for such a proceeding, without first altering the general law to meet the case of that individual, and without giving him any opportunity of being heard in self-defence. The proclamation does not even specify the particular offence of which he has been guilty”.

He concluded by saying, *‘I believe justice meted out with an equal hand to all tends more to keep peace in the country than anything else’*. The Chief Justice declared the Governor’s proclamation to be *ultra vires* and ordered Sigcau’s release. Justice Upington agreed *‘with every word which had fallen from his learned brother’*. He too found the Governor’s proclamation *‘repugnant to the principles of our law, and it was his duty equally to dispose of it’*.

*The Kokstad Advertiser* of 2 August noted that the result ‘has in a great measure been brought about by the persistent and plucky action of Attorney Mr Jones’.

The numerous biographers of Rhodes gloss over this episode and, so far, I have not been able to find any recorded reaction from Rhodes himself to this final judgement. Not even Olive Schreiner seems to have discerned in the tale of King Sigcau’s bridling of Rhodes autocratic power the embryonic idea that three decades later Mahatma Gandhi, in his philosophy and practice of non-violent civil resistance would perfect. Known as *Satyagraha* – ‘insistence on truth’ or ‘truth force’ he sparked a movement first in South Africa and then in India which inspired Martin Luther King jnr in his leadership of the American Civil Rights movement and South African conscientious objectors (myself included) to seek better ways of peace-building than bursts of machine gun fire on maize fields.

Schreiner was herself a convinced pacifist whose instincts and intuitions suggest she would have thrilled to the story of how King Sigcau prefigured the Gandhian strategy of throwing the moral responsibility on the oppressor to account for his actions, and in the process earning respect and moral authority at the oppressor’s expense. Schreiner and Gandhi knew one another well and

collaborated politically in a 'behind the scenes' way. Gandhi himself wrote of her:

'...Olive Schreiner, was a gifted lady popular in South Africa and well known wherever the English language is spoken... Although she belonged to such a distinguished family and was a learned lady, she was so simple in habits that she cleaned utensils in her house herself... the Schreiners had always espoused the cause of the Negroes. Whenever the rights of the Negroes were in danger, they stoutly stood up in their defence. They had kindly feelings for the Indians as well, though they made a distinction between Negroes and Indians. Their argument was that as the Negroes had been the inhabitants of South Africa long before the European settlers, the latter could not deprive them of their natural rights. But as for the Indians, it would not be unfair if laws calculated to remove the danger of their undue competition were enacted. All the same they had a warm corner in their hearts for Indians.'<sup>76</sup>

Eventually the albatross came home to roost for Rhodes. Three years after Rhodes had gotten rid of Merriman, Sauer and Rose Innes, he was himself forced to resign as Prime Minister following the disastrous Jameson Raid when his conspiracy to seize the Boer Republic of the Transvaal by force was revealed. Rhodes was impenitent and vowed to be back. Merriman, Rose Innes and Sauer hoped that British Colonial Secretary Joseph Chamberlain, who had started out well with Rhodes, but who eventually hated him, would assist their efforts to expose Rhodes for what he was. Merriman wrote to Olive Schreiner, evidently feeling alone and isolated. In her reply, written on 3 April 1897, she encourages Merriman to stand firm in taking a principled stance against Cecil John Rhodes and James Sivewright.

Schreiner first advises Merriman that Chamberlain,

'would only do what is best for himself' and not to pin their hopes on any enlightened or principled intervention from the British Imperial government.

---

<sup>76</sup> Gandhi, M.K. 1926, *A review of grievances in the Transvaal*, The Collected Works of Mahatma Gandhi 1926, vol. 34, p. 33. Quoted in Olive Schreiner's Letters Online.

Yes, I have no doubt Sivewright has a hold on Rhodes! There must be many men who have. Rhodes's career will probably come to an end forever, when one of his confederates in evil is so filled with anger that he refuses to be bought & speaks the truth.

There is one point I hope you, Sauer & Innes will keep in mind and that is that Rhodes is a coward.

If you are going to handle him with kid gloves, he may return to the Cape Parliament. If you three are going to fight straight from the shoulder he dare never show his face there. I believe if only one of you stood firm, he would not dare.

But after all - the old sorrow comes back again. We fight Rhodes because he means so much of oppression, injustice, and moral degradation to South Africa; - but if he passed away tomorrow there still remains the terrible fact that something in our society has formed the matrix which has fed, nourished, and built up such a man.

How relevant is that observation today? Rhodes is by far not the only despotic leader to emerge from a pathological societal matrix. Are we seeing the re-emergence in South African society of a pattern that bears a remarkable resemblance to the pattern?

Have we exorcised the 'something in society'?

A prophet is never loved in his own country, nor appreciated in his own time. In 1923 a writer, Moore Ritchie, had begun to appreciate Schreiner for being 'incontestably the most formidable interpretive intellect that South Africa has produced' stating,

'Most remarkable to anyone who knows latter-day South Africa is the author's apparent gift of prophecy; her forecasts written in most instances not less than a quarter of a century ago have all come true to-day. But then to prophecy is only to possess the gift of thinking so deeply and so logically as to be able to pronounce the outcomes of one's conclusion. ...'<sup>77</sup>

He was referring to the outbreak of war, the entrenching of racial injustice in the Union of South Africa, the passing of the 1913 Land Act (ironically with onetime liberal, Jacobus Sauer, presiding) all

---

<sup>77</sup> Moore, Ritchie, 1923, *Olive Schreiner on South Africa*, The Bookman September 1923, pp284-5.

of which were the ominous fulfilment of what Schreiner said to John X. Merriman in the rest of her letter written in 1897,

'It is the far future of Africa during the next twenty-five or fifty years which depresses me. I believe we are standing on the top of a long down-ward slope. We shall reach the bottom at last, probably amid the [outbreak] of a war with our native races (then not the poor savage but generous races whom we might have bound to ourselves by a little generosity & sympathy - but a fierce & half educated much brutalized race, who will have their own).

I see always that day fifty or sixty years hence; & it is with reference to it that I judge of many things in the present. The men to come after us will reap the fruits of our "native policy", as we today in a smaller fashion are reaping the fruits of the "Dutch Policy" of sixty years ago. One tenth of the consideration that the Dutch have wrung from us during the last 15 years, yielded them from motive of humanity & with sympathy & respect, would have blended us into one people emotionally long ago.'

Surely a country that had for the entire century that ensued after Rhodes' death, struggled to claw back from 'the long downward slope' of the 'native policy' to achieve a modern democratic constitution that starts with the words '*we, the people of South Africa recognise the injustices of our past*', would never allow the 'worms' that Olive Schreiner so perceptively recognised, to reappear?

Alas, there was already too much rotten matter for the worms to feed on.

## 12: The Matrix

'I know that waiting for grandiose solutions to come from the top is not only self-defeating, but turns me into a passive accomplice of a situation I dislike.

Therefore I know that one must do what one can do.

Not matter how little it is, it is nonetheless a human testimony... and human testimonies... as long as they are not based on greed or personal ambition for power... can have unexpected positive effects.'

*Manfred Max-Neef. 1982*

'So John, what's the headline story in next week's *Sunday Times*? a mate, Rob Charlton, teased, 'Clarke knocks out Alli?'

The rest of my breakfast group laughed but I didn't immediately get the joke. Partly because I am hopelessly ignorant of boxing folklore, but mainly because another kind of bell had been ringing in my head. A bell prompted by Olive Schreiner's use of the word 'matrix'.

Manfred Max-Neef had discovered the 'matrix' in developing his Human Scale Development theory and methodology. If Olive Schreiner were alive today I think she would have been enthralled with Manfred's explanation. He literally stumbled onto the word 'matrix' while deep in thought, so deep that he tripped and fell flat on his face. It was an earth-shattering 'aha moment' for him.

Manfred had established the Centre for Development Alternatives in Santiago, Chile, with the prize money he received for winning the Right Livelihood Award in 1983. With a group of kindred spirits they had been grappling with the implications of success, by moving from 'diagnosis and critique' to 'treatment and change'.

'We had thought our way through the distinction between few and finite number of fundamental human needs, on the one hand, and the infinite number of possible ways that people could satisfy them on the other,' he once told me.



‘We had identified the needs, but were grappling with a way of classifying, distinguishing and arranging them, to develop a logical methodology that people could use to identify their individual “poverties” and “collective pathologies” of frustration’.

I was walking in the street, not paying much attention to my surroundings deep in thought. As I reached the steps of the subway, I tripped and fell flat on my face. At that same moment it suddenly hit me “it is a matrix!”

Readers who have got this far deserve the reward of hearing Manfred explain what that all means in his own words, by viewing this YouTube clip, taken from the presentation which started me off on this journey, in 2006.

<http://youtu.be/jJTvd0Yg2hk>,.

Getting one’s mind around The Human Needs Matrix needs some investment of time and thought, which is best done with the people with whom we are mutually involved in reciprocal satisfaction (or dissatisfaction) of our fundamental human needs. In the film clip Manfred uses the example the institution of the Business School, to illustrate. A business school has as its main purpose to satisfy the need of *understanding* for its students. The extent to which that ‘poverty’ is satisfied would be a matter for students and staff to work out. The circumstances leading up to Manfred’s presentation at short notice to a packed auditorium suggest a good synergy at work, sustained by a network of people alert to possibilities for better understanding. The Gordon Institute of Business Science (GIBS) has not achieved its high regard and stature by neglecting to ensure both students and staff experience synergistic satisfaction of their fundamental human needs, in ways that are appropriate to that institutional context.

<b>NEEDS</b>	<b>Being (qualities)</b>	<b>Having (things)</b>	<b>Doing (actions)</b>	<b>Interacting (settings)</b>
<b>Subsistence</b>	physical, emotional and mental health	food, shelter, work	work, feed, procreate, clothe, rest/sleep	living environment, social setting
<b>Protection</b>	care, adaptability, autonomy	social security, health systems, rights, family, work	cooperate, plan, prevent, help, cure, take care of	Living space, social environment, dwelling
<b>Affection</b>	respect, tolerance, sense of humor, generosity, sensuality	friendships, family, relationships with nature	share, take care of, make love, express emotions	privacy, intimate spaces of togetherness
<b>Understanding</b>	critical capacity, receptivity, curiosity, intuition	literature, teachers, educational and communication policies	analyse, study, meditate, investigate	schools, families, universities, communities
<b>Participation</b>	adaptability, receptivity, dedication, sense of humor	responsibilities, duties, work, rights, privileges	cooperate, propose, dissent, express opinions	associations, parties, churches, neighborhoods
<b>Idleness</b>	imagination, curiosity, tranquility, spontaneity	games, parties, spectacles, clubs, peace of mind	day-dream, play, remember, relax, have fun	landscapes, intimate spaces, places to be alone, free time
<b>Creation</b>	imagination, boldness, curiosity, inventiveness, autonomy, determination	skills, work, abilities, method, techniques	invent, build, design, work, compose, interpret	spaces for expression, workshops, audiences, cultural groups
<b>Identity</b>	sense of belonging, self-esteem, consistency	symbols, language, religion, values, work, customs, norms, habits, historical memory	get to know oneself, grow, commit oneself, recognize oneself	places one belongs to, everyday settings, maturation stages
<b>Freedom</b>	autonomy, passion, self-esteem, open- mindedness, tolerance	equal rights	dissent, choose, run risks, develop awareness, be different from, disobey	temporal / spatial plasticity (anywhere)

My effort to engage Nazir Alli in 2006 was to try and open up the space for stakeholders in the N2 Wild Coast Toll Road to critically engage in searching for a better way of ensuring that the infrastructure development that SANRAL had envisaged, scratched where the Mpondo rural residents were itching. In my objection to the original Record of Decision, I had given up most of my Christmas leave to compose a carefully worded response to the questions asked in the questionnaire sent out by the office of the Minister of Environmental Affairs and Tourism. In response to, ‘Do you have any objections in principle against the development?’ I had written,

‘My objection is more a matter of the development principles that appear to motivate the protagonists for the project. The understanding of development appears to be materialistic and simplistic – that humans can live by bread alone, as it were. The

science employed does not provide a more integral understanding of the functioning of the earth and how human activity and earth activity can be mutually enhancing. Approval seems to have been given without sufficient care to develop a "feel for the whole organism", or any sense of the ultimate subjectivities present.'

It wasn't my reasoning, which persuaded the Minister to set aside the authorisation, but the fact that he had done so gave me the opportunity to explain what I meant. While interviewing Nazir Alli in 2006, in the back of my mind was a proposal waiting to be voiced, if he had shown himself amenable to participating in a real planning process with all stakeholders. The proposal I had in mind was to invite Manfred Max-Neef to come back to South Africa to further educate us in the use of the Human Needs Matrix, and to get a team of facilitators skilled in the use of planning methodologies that were based, (as I argued in my submission),

'..on a systems approach which would at least create a model that enables various alternative scenarios to be developed based on the interplay of forces already at work in the area, and of new forces that the toll road construction and operation will precipitate. I propose that these forces be interpreted in professionally facilitated interactive planning workshops of diverse groups of stakeholders participating, and guided by advisors with expertise in the four classical learning domains – scientific, aesthetic, economic and ethical (from Aristotle's four goals of human endeavour truth, beauty, plenty and good).'

This quote is also straight out of the submission I had made objecting to the original N2 Wild Coast Toll Road approval. It had been ignored in 2004. When SANRAL finally received authorisation again in 2010, I again objected. A search through the files in the offices of the Minister of Environment will show that the objection document I submitted is, but for a change of date and mandate, exactly the same. The grounds of my objection had not changed at all. The only difference was that, in 2004 I had not tested my assumptions with the local residents and had made the objection in my individual capacity. In 2010 I was able to do so in my capacity as their social worker.

Given the OUTA *vs* SANRAL conflict over e-tolling, if it was a laughing matter, the last laugh would have been mine. The

idealism expressed in January 2004 in my wordy objection to the original N2 Wild Coast Toll Road proposal had by 2012 acquired the requisite 'ground truthing'. I had worked hard to thoughtfully and rigorously articulate development principles in 2004. Eight years of 'barefoot social work' with the Amadiba and Mpondo Royal family had grounded them in reality. Many good journalists had come along to educate me in the practical theology implied in Jesus' teaching 'Behold, I send you forth as sheep among wolves: be ye therefore as wise as serpents and gentle as doves'.

Martin Luther King jnr remains to this day the most powerful and seminal influence in shaping my pacifist convictions. He embodied in his principled non-violence the perfect equilibrium that must obtain in the matrix of Justice and Mercy. In one of his inspiring sermons he sums up the paradox; 'be tough minded, but tender hearted'. I understood this to mean be tough-minded in seeking the *Way of Justice*, but tender-hearted in walking the *Way of Mercy and Compassion*. To successfully progress along both ways simultaneously means going barefoot. The stubbed toes and cuts soon heal, but one more readily learns where the brambles and thorns are. My feet had hardened in inverse proportion to the softening of my heart thanks to the love and acceptance of the people I worked with.

With the FIFA World Cup having served as a spur to action, The Gauteng Freeway Improvement Project had left us with an infrastructure of a very high standard. But the superstructure – the e-tolling revenue collection scheme – had under scrutiny of the same development principles espoused in my critique of the N2 Wild Coast Toll Road, also come up woefully short.

Wayne Duvenage had examined SANRAL's justification of the e-tolling scheme and come to the conclusion that it too lacked scientific, economic and ethical justification: 'truth and good' were absent, and the 'plenty' seemed structured to enrich foreign shareholders in Kapsch Trafficom at our expense. With Nazir Alli having removed himself from the situation, and having the ear of Minister Sbu Ndebele, I was euphoric with excitement that *good* and *truth* would now be manifest. The 'backward Native tribe' had a lesson to teach the nation as a whole about the meaning and

purpose of development. The stage had been cleared for *plenty* and *beauty* to also be restored in sensible alignment with a positive human needs matrix.

I reminded myself that I was a social worker, whose task it was to promote insight with the people involved, for their empowerment. But the peace-building imperatives to ‘engage the powers’ in restorative rather than retributive justice meant I could not gloat or triumph over Nazir Alli’s knock-out and retirement from the game. Rather than fixating on Nazir Alli’s personal role and culpability, I tried to do what social workers are supposed to do, to be hard on the problem and gentle on the people. Alli had resigned, but what remained of the ‘matrix’ that produced him, and kept him in office for 16 years?

I now realise I was in effect trying to answer the same awkward questions that Olive Schreiner posed with such extraordinary foresight: how to spot the ‘worms’ beneath the deceptively fascinating surfaces that influential leaders like to present (spending a fortune on publicists and wooing the media); how to probe more deeply for that ‘something in society’ that produces the ‘matrix’ that feeds, nourishes and builds up such people.

In preparation for further consultations with Nkomba, the Amadiba Community and Kumkanikazi, I re-read my process notes from my personal interactions and written correspondence with Nazir Alli over the years, and laid out all the fragments of useful information that had come into focus. With the informant’s revelations providing something approximating the picture on the lid of a jigsaw puzzle box, I was able to piece together a picture of ‘the iceberg’. Moreover, a pattern could be discerned that was consistent across Nazir Alli’s handling of the N2 Wild Coast Toll Road and the Gauteng Freeway Improvement Project, especially with respect to the gross inequality and injustice in the structure of the respective revenue plans. Against the larger backdrop of 19<sup>th</sup> century history that Kumkani and Nkomba had patiently schooled into my consciousness over seven years, the emergent picture sharpened further into relief. Comparisons between Rhodes’ British South Africa Company and SANRAL as a wholly owned corporate entity made it hard to find much difference.

Yet in 2012, the foundations of our South African constitutional democracy seemed firm. The Judiciary had exercised its power to grant OUTA an interdict to prevent the Executive from switching on the e-tolling gantries.

In August 1895, when the Cape Supreme Court had ruled in the Rhodes vs Sigcau case, Rev. Samuel Clark captured the euphoria outside Kokstad prison.

‘Suddenly in the midst of them the Chief Magistrate appeared, holding a telegram, declaring that the Chief was free. Who could describe the scene that followed? I need only say that the Chief returned in triumph to his own country and people, accompanied by a vast host rejoicing that their Chief was free. Sigcau went first to the Mission House, and then all adjourned to the Church, where a thanksgiving service was held, to acknowledge that God had graciously heard the cry of the Mpondo people, and had answered them with great deliverance.’<sup>78</sup>

The same sense of the fulfilment of the Promise of Justice can be discerned in Martin Luther King jnr’s stirring speech on 3 April, 1968.

‘I just want to do God's will. And He's allowed me to go up to the mountain. And I've looked over. And I've seen the Promised Land. I may not get there with you. But I want you to know tonight, that we, as a people, will get to the Promised Land. So I'm happy, tonight. I'm not worried about anything. I'm not fearing any man. *Mine eyes have seen the glory of the coming of the Lord.*’

This speech was delivered five years after his famous ‘I have a Dream’ speech. The speech is famous for different reason. The following day King was assassinated.

On 31 May 2012, the day after my friends teased me about ‘knocking out Alli’, the ‘shots’ that shattered my euphoria were not bullets, but bulletins.

First newspaper billboards on Jo’burg lamp posts, as I drove past proclaimed ‘Nazir Alli withdraws resignation’. As I hurried to meet my Breakfast Group, the ‘bulletins’ whizzed past in volleys like bullets from a maxim machine gun decimating a maize field.

---

<sup>78</sup> Clark, S., (1927) *Op. cit.*

Next MRC announced that they had been offered the chance to reapply from scratch for the Mineral Prospecting Rights for the Kwanyana Block of the Xolobeni Mineral Sands.

I called Sbu Ndebele. In a state of shock and horror I was forthright and direct in my assessment. Perhaps too forthright. For four years I had kept him briefed, and advised him that the development conflicts in the Amadiba community would never be resolved without a firm application of the rule of law, and credible leadership from government officials. Nazir Alli's disgraceful manipulation of the N2 Wild Coast Toll Road scheme was in my view enough reason to fire him, without even taking into account his arrogant self-righteousness and hubristic incompetence in responding to the OUTA challenge. My assessment evoked a very angry and defensive response from Sbu. It was very uncharacteristic and out of all proportion. My social-worker intuition told me that something was going on that he couldn't tell me: something very, very alarming in the inner caucus of the Powers that Be. I let him have his say, listening carefully while he ventilated. After our frank exchange I sent an apologetic and conciliatory SMS. I did not want the channel of engagement that I had so carefully cultivated shut down.

A few days later the explanation for his angry defensiveness came. President Zuma announced a cabinet re-shuffle. Sbu was redeployed from Transport to Correctional Services. Jeremy Cronin to Public Works. A special inter-ministerial task team, headed by Deputy President Kgalema Motlanthe embarked on a charm offensive to retrospectively consult over the Gauteng e-tolling with civil society.

My worst fear was becoming reality; government was trying to raise the Titanic, instead of facing up to the iceberg.

Meanwhile the crisis presented by MRC's return to reapply for mineral prospecting rights meant a hasty return to consult with Nkomba, the Amadiba Crisis Committee and the Mpondo Royal Family.

The months of May and June 2012 were devoted to writing a no-holds barred report titled *‘Co-option, Subversion and Offensive Exploitation: The failure of Cooperative Governance for the Amadiba Community of the Eastern Cape’*.

‘Address it to Collins Chabane,’ Nkomba advised me, ‘he is responsible for keeping all the other cabinet ministers on their toes. They apparently jump when he starts asking questions’.

Nkomba never ceases to point in the right direction. It was smart, taking advantage of the very promising move President Zuma had taken upon his election in May 2009. He had created a portfolio in his cabinet for Performance Monitoring and Evaluation, and appointed Collins Chabane as Minister. Housed in the Office of the Presidency together with the National Planning Commission, our expectations were high that this inner circle of Power was the place to lodge the report.

It is exceedingly rare for a social worker to work with the same client system for as long as I have with the Amadiba community and Mpondo Royal family. However, the imperatives of ‘barefoot’ social work and the particular circumstances that affect communities living atop valuable mineral resources meant that professional ‘termination’ can only happen when the underlying problem is resolved. In writing the report I felt I had at last put my finger on the key issues, and had framed them in such a way that any constitutionally accountable government would have had little difficulty in accepting. Given our particular history I felt that I had got the balance between ‘cursing the darkness’ and ‘lighting the candle’ exactly right. If anything, given the shock of having seen my painstaking four year effort to ‘Engage the Powers’ via Minister Sbu Ndebele dashed, the report could have been justifiably laced with many more curses. It was restrained.

Off the report went, copied to seven of Minister Chabane’s Cabinet colleagues, chiding them for fumbling their obligation defined in Chapter 3 of the Constitution to “cooperate with one another in mutual trust and good faith”, and heaping special criticism against the Minister of Mineral Resources.

Those who read it were told,



‘The prospect of another mining rights application has alarmed local residents. This is a year after the original rights were revoked, and without any redress to the community regarding the allegations of human rights’ violations, corruption and criminal conduct.

The report details how SANRAL’s proposed N2 Wild Coast Toll Road has become mired in controversy due to its unresolved connections with the mining site. It asks the new Minister of Transport to mediate a private meeting between SANRAL CEO Nazir Alli, Bishop Geoff Davies and myself to resolve a decade long dispute over suspected impropriety and conflicts of interests when the Development Agreement between SANRAL and the N2 Wild Coast Consortium was reached.

The report argues that if the mineral wealth in the Xolobeni dunes is ever to be “unlocked” as a “justifiable social and economic development” as stated in the Constitution, two keys of equivalent importance must be turned: the one is held by the Minister of Water and Environmental Affairs and the second by the Minister of Rural Development and Land Reform.

The Minister of Water and Environmental Affairs must satisfy herself that the environmental impacts of the mining can be effectively mitigated so as not to violate section 24 of the Bill of Rights which stipulates environmental rights. The Minister of Land Reform needs to satisfy himself that that the property rights of local residents as defined in Section 25 of the same document are not violated. The land in question is held in trust by the Minister on behalf of local residents under communal land tenure.

By tracing the history of the problem from 1996 the report shows that hitherto the Government has only given credence to the environmental impacts and largely ignored the land rights issue. This has had the unintended consequence of leaving local residents with strong feelings of alienation from government leaders and suspicion as to the intention behind the mining proposal as well as the N2 Wild Coast Toll Road.

It has compounded their sense that the mining company and their BEE partner, Xolco, simply regard them as an obstacle to be overcome in order to get their hands on the mineral wealth. This is due to Xolco founders, Mr Zamble Qunya and Mr Maxwell Boqwana, having firstly manipulated respected local residents into becoming directors of the company, and secondly having attempted to

undermine the Traditional Authority and Amadiba Crisis Committee.

The report describes recent meetings and events in the community that show that Xolco does not enjoy the support of the local residents as a vehicle for Black Economic Empowerment, and is instead perpetuating the conflict and distrust that the community had hoped would be over once the mining rights were revoked.

The situation is assessed focusing on three controversial issues:

1. Is the community divided? The Traditional Authority system is burdened to manage not only internal community conflict, but the division within Government and the ruling party over national minerals policy. The contest between eco-tourism *vs* mining is reframed.

2. Is the community poor? Although poorly served by government services, the residents are considerably more food secure as a peasant farming community than the mining protagonists claim. They make the classic mistake of offering a 'solution in search of a problem', by over-materialising the fundamental human needs of the community as simply a matter of passive recipients of government services. This gross oversimplification only serves to undermine their resilience as a community and reduce them to welfare dependency.

3. What does BEE really mean? The controversy over Black Economic Empowerment is discussed, with Xolco cited as illustrative of Moeletsi Mbeki's searching critique of the prevailing BEE policy as having become debased into "Black Elite Enrichment" as a front for the largely white owned Minerals Energy Complex, which has for more than a century perpetuated the extractive economy that has shaped and distorted South Africa into what is today. It is fundamentally unsustainable because it relies on non-renewable resources.

In the short term the report urges a return to the rule of law, asking SAPS not to tolerate any anti-social behaviour and criminality, so that mediation efforts can be 'hard on the problem and gentle on the people'.

In the medium term the report proposes that the Minister of Land Reform initiates a process whereby the Independent Electoral Commission be engaged to conduct a plebiscite for all adult residents who derive their livelihoods from the land and eco-systems that will

be affected, so as to obtain a free and fairly contested communal land rights resolution that either approves or disapproves of the rezoning of the area to allow the mining proposal.

In the long term the report advocates a Restorative Justice Process that addresses the injustices of the past decade, to build a climate of peace, conducive to the revival of eco-tourism and other sustainable livelihoods options, as well as to boost the efforts of local school principals to improve the standards of education offered.

Finally the report urges the Minister of Transport to intervene in the dispute between SANRAL CEO, Nazir Alli, and the writer, to pave the way for the critical roads infrastructure needs of the community to be addressed, before the contentious issue of the shortening of the National Road route between Durban and East London can be satisfactorily addressed.

In conclusion the report reiterates the rationale for the title: Co-option, Subversion and Offensive Exploitation by situating the present conflict in the historical context of the Pondo Uprising of 1960, citing the experience of a veteran of that conflict, Samson Gampe, who fears that history may repeat itself if Government does not get its act together.'

Minister Chabane's Chief of Staff acknowledged receipt of the report on 13 June 2012 and undertook to bring it to his attention, as I had gently asked her to do.

Meanwhile, while I was fighting government on the Wild Coast, Wayne was facing a reprisal attack from government in the Constitutional Court to get OUTA's success overturned. In May 2012 SANRAL and the Treasury applied directly to the Constitutional Court for a ruling as to the constitutionality of Judge Prinsloo's decision, arguing that it was a trespass by the Judiciary on the autonomy of the Executive arm of government, entrenched in the Separation of Powers clause of the Constitution.

In addition a charm offensive driven by the Office of the Presidency was undertaken to consult retrospectively with civil society. That included a hastily arranged meeting with the South African Council of Churches. Bishop Geoff Davies was invited, but at short notice could not fly from Cape Town. I was awakened by a call from Geoff urging me to get to Khotso House, to deliver a letter from him

on behalf of SAFCEI to add their voice of protest. On the way through the morning traffic I called Fr Mike Deeb, of the SACBC J&P department hoping he would be there to give moral support. He had not been informed or invited. We agreed I would report back to him as well.

To my delight I arrived to find that besides Deputy President Kgalema Motlanthe, two of the ministers to whom I had sent the report were there. Minister Collins Chabane and Minister Ben Martins (the new Minister of Transport), were there at my tender mercy. A quick call to Wayne primed me with further guidance on how to use the opportunity to maximum effect, and curb my inclination to rage. In politely alerting them to the report sitting in their inboxes, in the course of making a plea for the terms of reference to be widened to other tolling schemes, notably the N2 Wild Coast and Western Cape Winelands scheme, I was as gentle as a dove can be and as wise as a serpent in making sure my camera captured the interaction.

Minister Chabane responded by arguing that each case should be dealt with in consultation with their particular stakeholders, rather than collectively in a joint task team. I wasn't going to argue with that, so long as there was the will to do so. After the formal proceedings, with the government leaders all anxious to get going, I had just enough time to introduce myself to Minister Ben Martins who assured me he would respond to the report. I heard nothing more from the Ministry of Transport.

Wisdom had also prompted me to also send the report to opposition MPs. Gareth Morgan the DA shadow minister for Environment responded, 'It shook me to the core. It is an excellent account of events' he wrote back within hours of receiving it.

He also offered to formally table a parliamentary question to ask Minister Chabane whether he had received the document, and how he intended to respond.

Blowing one's own vuvuzela is unbecoming for a social worker. However, it is not pride but abject disappointment that prompts this final blast.

I have more than thirty years of experience in developmental social work in a range of settings. That work has taken me to the Tsunami ravaged coastlines of Somalia and Phuket, Thailand, the drought ravaged communities in deep rural in Zambia where young children had never hitherto seen a white man and into the inner city of Johannesburg and the slums of the urban periphery. I have written reports for the World Health Organisation that a Google search should reveal, and have authored articles in academic journals and chapters in textbooks that readers pay good money to read. Never in my entire career as a social worker, had I felt as satisfied about any of my outputs as I felt about the *Coopton, Subversion and Offensive Exploitation* report addressed to Minister Collins Chabane and his colleagues. Readers can judge if my self-assessment is merited, by downloading it from this hyperlink. [https://dl.dropboxusercontent.com/u/42642722/](https://dl.dropboxusercontent.com/u/42642722/Clarke%20Chabane%20Rpt.pdf)

[Clarke%20Chabane%20Rpt.pdf](https://dl.dropboxusercontent.com/u/42642722/Clarke%20Chabane%20Rpt.pdf).

Before parliament adjourned for the December 2012 vacation, Gareth Morgan finally received a reply to the parliamentary question number 1937 formally lodged on 3 August 2012. On 11 December 2012 the one liner reply read, 'No, the Minister has not received a copy of the document.'

On 16 August 2012, exactly two months after Minister Chabane's Chief of Staff had acknowledged my report, the repeat of history that Samson Gampe had feared occurred. It happened not in Pondoland but on a hill called Wonderkop situated alongside the Marikana platinum mine near Rusten-burg in the North West Province. Police opened fire on striking mineworkers involved in a wildcat strike. It was, 'The single most lethal use of force by South African security forces against civilians since 1960' according to *The Washington Post*. The majority of the 34 dead and some 200 wounded were from the Eastern Cape, many from communities that had in 1960 been traumatised by the Mpondo uprising. Niren Tolsi, senior writer for the *Mail and Guardian* picked up the irony,

and Jonny Steinberg amplified on it in ways that were deeply distressing<sup>79</sup>.

It was undeniably a much more serious priority for Minister Chabane than the failure of cooperative governance in the Amadiba community. However, when parallels are drawn, I am plagued by the thought that had Ministers Collins Chabane, Susan Shabangu (the Minister of Mineral Resources) and Nathi Mthetwa (the Minister of Police) read my report perhaps they would have had more insight and perspective on why it happened, and how to ensure nothing like that ever happens again.

Recall James Madison's wise words quoted at the start of chapter ten, about the obligation of government to control itself. The chapter on Cooperative Government in the Constitution comes after the Bill of Rights. The imperative is clear. Government must place the long-term interests of the governed above parochial, provincial, professional or jurisdictional rivalries of the government. It must control itself. The quote by Madison ends,

‘A dependence on the people is, no doubt, the primary control on the government; but experience has taught mankind the necessity of auxiliary measures.’

‘Dependence on the people’ comes from regular periodic free and fair elections. Such contestations leave rivalries and enmities. No matter how angry and divisive party-political contestation proves to be, once the people have voted, the explicit obligation on elected representatives and appointed officials is to practice Cooperative Governance as an ‘auxiliary measure’. Civil society has recourse to the courts when the moral compass of government starts drifting from ‘true north’. If we yet lack the maturity in our young democracy to coalesce around the service ethos of ‘subsidiarity’, ‘consentience’ will suffice in the meantime to help those paid by the public purse to at least lay aside political horse-trading, power plays and Machiavellian deceit that characterises politics.

---

<sup>79</sup> <http://marikana.mg.co.za/>. A free iPad download is available which offers an excellent insight into the far-reaching impact of the incident on the families of the victims.

British Imperialism was sustained by a form of 'consentience' centred upon the influence of 'British civilisation' held together by a constitutional monarchy. Rhodes' enterprise in diamonds and gold had opened up a fabulous source of wealth for Imperial Britain, but effective cooperative governance between the Cape Colonial Government under Prime Minister Rhodes and the British Colonial Secretary Joseph Chamberlain in charge of the Imperial Cabinet's interests, was wholly absent. Instead the two powerful men were engaged in precisely the same self-serving manipulations that characterise South African politics today.

The episodes following Rhodes' defeat by King Sigcau in the Cape Supreme Court illustrate how disastrous things can become when cooperative governance and consentience is eclipsed by naked political ambition and hubris by the powerful. Cooperative Government failed with disastrous consequences; it precipitated a war that has taken more than a century to come to terms with.

## 13: The 'long downward slope'

'Do not talk to me of gold, the element which brings more dissention, misfortune, and unexpected plagues in its trail than benefits. Pray to God, as I am doing, that the curse connected with its coming may not overshadow our dear land just after it has come again to us and our children. Pray and implore Him who has stood by us that He will continue to do so, for I tell you today that every ounce of gold taken from the bowels of our soil will yet have to be weighed up with rivers of tears'.

*President Paul Kruger, 1885.*

*In response to news of another major gold discovery on the eastern border of the Transvaal.<sup>80</sup>*



President Paul Kruger.

*Source: Ellen Palestrant, Johannesburg One Hundred.*

Attorney General Schreiner (instructed by Rhodes) applied to the Supreme Court for leave to appeal to the Privy Council in London. This was refused on the grounds that such leave could only be granted in civil suits or actions in which the sum or matter at issue exceeded £500. A direct petition to the Privy Council was made and on 12 December 1895 the Queen, upon advice of the Privy Council, granted leave to appeal.

We need to pause to note that Rhodes had been admitted as a member of the Privy Council eleven months earlier, on 2 February 1895, before the trouble started. Admission to the select group is reserved for

---

<sup>80</sup> Recorded by the editor of the Pretoria Press, Leo Weisenthal.



elder statesmen and politicians who have distinguished themselves, and deemed to be wise enough to advise the monarch on matters of State. He was the first Colonial statesman to be invited to join the elite club. Thus it was 'the Right Honourable' Cecil John Rhodes who had arrived at Qaukeni Great Place to impress upon King Sigcau his subordination. Privy Council membership alone entitles such honorifics. Membership is for life unless the member resigns, or is forced to resign. Was the Privy Council swayed to advise the Queen to grant leave to appeal because the Cape Supreme Court had called into serious question the prudence of Rhodes' political decision making? Was the exceptional decision to grant leave to appeal in this instance motivated by something more than the potential merits of the case?

What might the Privy Council have advised had they dallied longer before making the decision? Had they waited for three weeks it would have been enough time for the 'worms of falsehood and corruption' to emerge. The worms that Olive Schreiner had discerned beneath the 'fascinating surface' of Rhodes' public image three years earlier broke that surface in the Jameson Raid. For all his might and power Rhodes was never able to stop the rot. Within four years the rot led to a war. Three years thereafter he was dead.

'If the real history of the Raid is ever written,' wrote Lady Sarah Wilson in 1909, 'when the march of time renders such a thing possible, it will be interesting reading'.<sup>81</sup>

Indeed it is. The march of time has indeed rendered it possible to write the real story. However, in every account I have read, the really interesting aspect is in what is missing from the accounts! The 'real history' seems still unfinished and after more than a century still slightly unreal for want of some in-depth critical analysis and contextualisation. It needs to situate those dramatic developments in the context of what was happening to the King and people of the 'backward Native tribe' living between 'the Cape

---

<sup>81</sup> Wilson, Lady Sarah, *South African Memories: Social, Warlike & Sporting from diaries written at the time*. 1909, Edward Arnold London. Lady Wilson was the first female war correspondent. She was the sister of Lord Randolph Churchill the British statesman and father of Sir Winston.

and Natal Colonies'. If any readers are aware of any such study, I would be grateful to know of it, for it seems extraordinary that no historian has yet zoomed in to compare and contrast Rhodes' blundering in the post-annexation of Pondoland with his blundering in the pre-annexation of the Transvaal. Is there a pattern to be divined by such critical study that might tell us what to look out for when our contemporary politicians start behaving in similar ways?

Unrepentant, and chafing against the bridle placed by the Chief Justice's stinging judgement on his autocratic exercise of power in mishandling the annexation of Pondoland, Rhodes conspired with his old friend Dr Leander Starr Jameson to orchestrate a rebellion with the ambition of extending British rule over the independent Boer Republic of Transvaal.

He needed a pretext to do so. One was readily to hand. Around the same time that King Sigcau was seeking British justice, the diggers of Johannesburg, mostly British subjects, were not getting any from the ZAR government of President Paul Kruger. The socio-political situation in the Witwatersrand was becoming unnerving as the relationship between diggers and State was becoming progressively strained.

The Kruger Government enjoyed the revenues from gold mining that brought the Boer Republic of the Transvaal back from bankruptcy, but had already seen one cycle of misplaced optimism by gold seekers. In 1873, Edward Button had discovered gold in the Lydenburg district of what is today the province of Mpumalanga east of Johannesburg. The sun rose rapidly on the eastern Transvaal gold boom, but rather dropped out of the sky when the deposits were found to be limited. Kruger feared another boom and bust scenario which, when the teeming masses left to chase after the next discovery somewhere else in the world, would leave the ZAR picking up the pieces with nothing left but ghost towns and wasted agricultural land.

In 1885, (the year that he prayed his prophecy about the curse that gold would bring upon the land) Kruger had served as President of the ZAR for a mere five years. Still in office ten years later, Arthur Conan Doyle opines to try and explain why war erupted in 1899;

‘[Kruger’s] career as ruler vindicates the wisdom of that wise but unwritten provision of the American Constitution by which there is a limit to the tenure of this office<sup>82</sup>. Continued rule for half a generation must turn a man into an autocrat. The old President has said himself, in his homely but shrewd way, that when one gets a good ox to lead the team it is a pity to change him. If a good ox, however, is left to choose his own direction without guidance, he may draw his wagon into trouble.’

That he eventually did, and in the process dragged the entire laager of Boer wagons along with it, figuratively speaking. However the whirlwind was greatly intensified by catalytic provocation by Cecil John Rhodes, who exploited a situation that called for patience, prudence and foresight. Rhodes instead acted recklessly and impulsively, losing contact with reality. It was a fiasco.

Prior to the disastrous episode, the version of ‘reality’ that was circulating in the taverns and tea parties of Cape British society as regards the Boers of the Transvaal Republic is described by Lady Wilson so;

‘In those anxious days everyone had relations or friends in the Golden City... [if fighting occurred] the possibility was never entertained that the English community might get the worst of it. Such a contingency was literally laughed to scorn “The Boers were unprepared and lazy; they took weeks to mobilize; they had given up shooting game, hence their marksmen had deteriorated; and 200 men ought to be able to take possession of Johannesburg and Kruger into the bargain.” This was what one heard on all sides, and in view of more recent events it is rather significant; but I remember then the thought flashed across my mind that these possible foes were the sons of the men who had annihilated us at Majuba and Laing’s Nek, and I wondered whether another black page were going to be added to the country’s history.’<sup>83</sup>

Kruger, fifteen years as President was showing the same telltale symptoms of hubristic incompetence that his adversary Rhodes was showing, with ox-like stubbornness refused the ‘uitlanders’

---

<sup>82</sup> It in fact became a written provision when the Twenty-second amendment was passed in 1947, and ratified by the requisite number of states in 1951.

<sup>83</sup> The echoes with the civil war in the American South are marked.

any meaningful say in government. The Boers had long trekked away from British dominion, but given the vast discoveries of gold, (estimated at the time at seven hundred million pounds by Conan Doyle) for as long as there was gold to be found, he could not escape the inevitable. There was no way he could hold back the tide of fortune seekers. However, he expected it to recede. He privately adopted the policy of ensuring that as much cash should be extracted out of the extractors so that when the mighty Britain eventually did take over the Transvaal (which he apparently came to realise was inevitable) it would be left with nothing but a 'sucked orange' as far as mineral wealth was concerned. He hoped that Britain would then abandon the conquest, and leave the Boer Burghers of the ZAR in peace to fulfil what he believed to be their God anointed destiny to care and tend the Promised Land that God had led them to.

While the Burghers had every reason not to want to be overwhelmed by foreign interests (predominantly, but by no means only, British) the Burghers of Kruger's ZAR offered them no comfort of amenities. Johannesburg was denied municipal status, and was administered initially by a diggers committee who were expected to keep good order. Only after much agitation over worsening public health problems was the status enhanced to a 'sanitary committee' to address the water and sanitation problems. The roadways carried an ever-increasing burden of heavy traffic of carts drawn by horses and wagons dragged by spans of oxen. The roads were reluctantly maintained only once the dust that plumed in dry winter months and the mud of the wet summer rainy season became intolerable. The Kruger government erected seven tollgates to collect revenue from the road users. However the expected maintenance and improvement of the road network never happened. The diggers complained that the revenues were simply another source of general tax to fund the corrupt ZAR fiscus rather than to repair and upgrade the roads.

Rhodes had huge material interests at stake in the mines of Johannesburg and had tried to co-opt Kruger before deciding to subvert him instead. Although Kruger's government was corrupt, it seems this was due to Kruger having to rely on educated Dutch

recruits to run his administration. They were by and large dishonest opportunists, taking advantage of the Burghers' lack the experience and skills to feather their own nests wherever possible. The opportunistic civil servants were not constrained by the biblical fundamentalism that Kruger faithfully espoused. It was only when Jan Smuts arrived to serve as Attorney General that the Kruger government became more capable. Rhodes knew that the landlocked Transvaal needed access to the sea, and that Delagoa Bay (Maputo today) would offer such. Rhodes had proposed soon after his ascent to office as Prime Minister to act in collusion with Kruger to simply take it from the Portuguese who had refused to give it up. 'But that belongs to the Portuguese' Kruger exclaimed when Rhodes suggested they simply take it by force 'I can't take the property of other people... a curse rests upon ill-gotten goods'<sup>84</sup>.

As Prime Minister of the Cape, Rhodes had a duty to act lawfully but thought he could circumvent the scrutiny of British justice, by secretly engineering a solution to the growing aggravation in the Transvaal goldfields by deceit and conspiracy. A Reform Committee was mobilised, which was led by five men, (which included his brother, Colonel Frank Rhodes) to campaign for redress to *uitlander* grievances and campaign for political representation in the Volksraad.

The editor of *The Cape Argus*, Francis J. Dormer, knew Rhodes well. In 1881, when Rhodes was planning his political ascent, Dormer accommodated Rhodes' offer to buy a controlling interest in the newspaper. Rhodes had made the investment of £6000 in the expectation that the newspaper would favourably report his speeches in the Cape parliament as MP for Barkly East. The deal was concluded with the utmost secrecy, and only revealed years later by Dormer, in 1901, in his book *Vengeance as a policy in Afrikanerland*<sup>85</sup>.

---

<sup>84</sup> Meredith, p260.

<sup>85</sup> It reads somewhat like the *Confessions* of Saint Augustine. Augustine was a man of the world who enjoyed himself to great excesses of indulgence before his conversion. He is said to have prayed "Lord make me perfect. But not just yet".

In July 1895, a month before the Great Sigcau case was heard, and five months before the Jameson Raid, Dormer tried to persuade Rhodes to adopt a more conciliatory approach to the Transvaal issue.

‘Rhodes seems to think far more of giving Kruger a fall than dealing with these difficulties in the manner of the prudent statesmen’ he writes, and contrasts their meeting with the first encounter fifteen years before, to emphasise how Rhodes had changed,

‘He is peremptory where he used to be open to reason, impatient where he was formerly content to accommodate his pace to that of the most halting and hesitating Boer, and he has clearly become possessed of the idea that, if there are some whom money cannot “square” there are none who are able to withstand its might when brought to bear upon them by a genius such as his.’<sup>86</sup>

Because of the vast mineral deposits at stake, the growing tensions were a matter of global significance. An American perspective written by Robert Kinloch Massie enriches our overall understanding. He summarises what happened, highlighting the role played by another of the Reform Committee members, the colourful American mining engineer, John Hays Hammond,

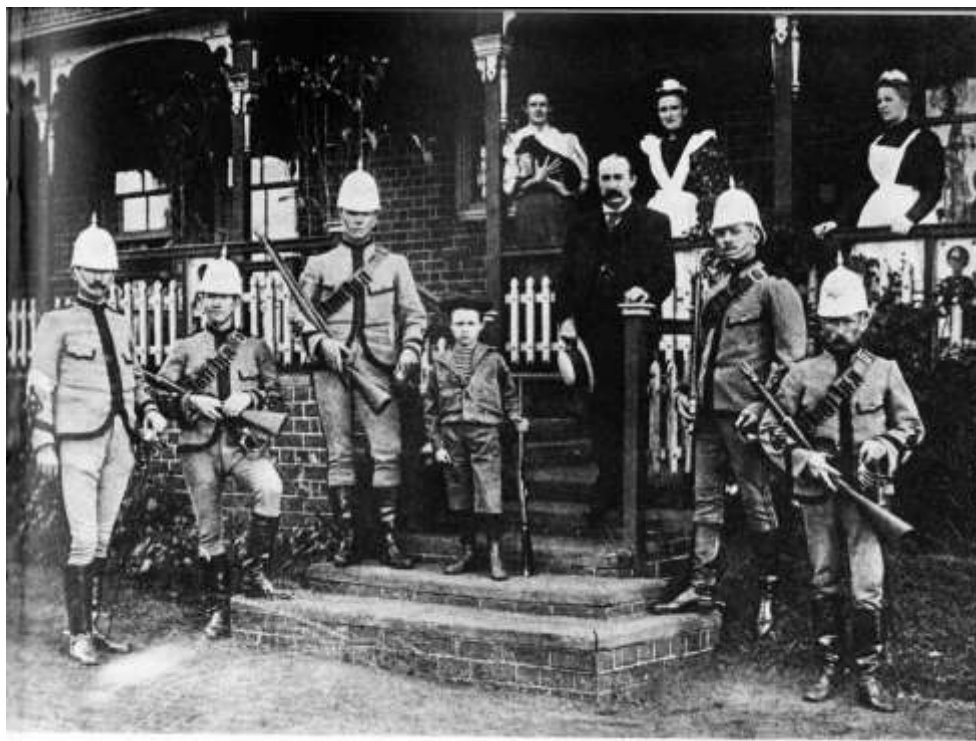
‘By the time Hammond reached South Africa in 1893 at the age of 38 he was considered one of the top engineers in the world, with experience in mines from Mexico to Idaho. Hammond first took a job with one diamond baron, Barney Barnato, and then with his archrival, Cecil Rhodes. Hammond persuaded Rhodes that instead of digging gold from the surface one could follow the reef underground, a feat thought technically impossible until that point. Rhodes sold his open-mine holdings, bought the tracts nearby that permitted him to pursue deep mining, and increased his wealth to a fabulous degree.

Hammond eventually got tangled up in a political fiasco in which a friend of Rhodes’, Dr Leander Starr Jameson, tried to fabricate an internal rebellion against the Transvaal republic ... and then to lead an expeditionary force to “rescue” British citizens and seize control of the territory. The episode ended in disaster. Jameson’s forces were rapidly defeated by the unexpected hardy Boers, and John Hayes

---

<sup>86</sup> Dormer, F.J. 1901, *Vengeance as a Policy in Afrikanderland; A Plea for a New Departure*, London. Quoted in Meredith, M., *op cit.* p313.

Hammond found himself in prison along with seven other Americans on charges of high treason. Transvaal President Paul Kruger, a bearded biblical fundamentalist who literally believed the world was flat, took a stern view and sentenced Hammond and the other ringleaders to hang. Only after appeals come in from around the world did Kruger relent and commute their sentences to life imprisonment.'



John Hays Hammond under guard during the Reform Committee trial after the Jameson Raid.

*Source: Ellen Palestrant, Johannesburg One Hundred, p63.*

Interestingly the 19<sup>th</sup> century US writer, Mark Twain, famous for his witticisms (except in the Boer Republic), happened to be in the country. Massie tells us,

'One day while Hammond was languishing in prison and his supporters were haggling on a price that might buy his freedom, Mark Twain dropped by. Twain chatted with the prisoners, inspected the jail, and spoke to reporters about his visit. When the reporters asked about the conditions, Twain joked that compared to the

Nevada mining camps Hammond's prison was luxurious. The facilities were so attractive, Twain continued, that he was considering taking advantage of them to rest his nerves and seek relief from his creditors. The South African reporters, not familiar with Twain's brand of humour, dutifully printed his remarks, which produced an outcry in the Afrikaner press and a sudden increase in the severity with which the prisoners were treated.'

The British Colonial Secretary Joseph Chamberlain was in no mood for jesting. Rhodes had conspired with Chamberlain in the plotting, and the ambitious, canny businessman turned politician was very anxious to cover up any suggestion of his personal knowledge and involvement in order to save his career.

Fred Hamilton, editor of the *The Star* reports this exchange when he called at Groote Schuur.

**Rhodes:** I'll go to Pretoria to see Kruger.

**Hamilton:** He'll hang you.

**Rhodes:** Hang me? They can't hang me. I'm a Privy Councillor. There are only 200 of us in the British Empire.

He dropped that idea in favour of turning the heat up on Chamberlain.

**Rhodes:** Well, anyhow, I have got Chamberlain by the short hairs....

**Hamilton:** Then he really is in it, Mr Rhodes?

**Rhodes:** In it? Up to his neck.<sup>87</sup>

Chamberlain was anxiously busy covering his tracks, realising that the fiasco was an unmitigated disaster and heading to become a profound embarrassment to the British Government. The effect of the hare-brained plot and the incompetent execution thereof was to leave the British Government with a bad case and a weakening moral authority. Kruger looked more sinned against than sinner and by dispensing clemency won the moral high ground and international support from all other powers with a bone to pick against the British.

---

<sup>87</sup> Quoted in Meredith, pp339-339.



In the Cape the news was greeted with shock and disbelief, the stimulus for endless rumour and gossip in the taverns and salons, and a helpful boost to the circulation of newspapers purporting to have the full story.

Lady Sarah Wilson describes the mood in Cape high society.

‘We learnt that the Governor [Sir Hercules Robinson] had left Pretoria on January 15, and that the military prisoners, including most of the troopers, were to be sent home to England immediately, for the leaders to stand their trial. The same morning I heard privately that Mr Rhodes meant to leave by that very evening’s mail-steamer for England, to face the inquiry which would certainly ensue, and, if possible, to save the Charter of that Company<sup>88</sup> with which he had so indissolubly connected himself, and which was, so to speak, his favourite child. I remember everyone thought then that this Charter would surely be confiscated, on account of the illegal proceedings of its forces.

The fact of Mr. Rhodes’s departure was kept a profound secret, as he wished to avoid any demonstration.’

Lady Wilson was sufficiently close to Rhodes to get his subjective view just as he was about to leave Cape Town to ‘face the music’, accompanied by his co-conspirators Alfred Beit and Dr Rutherford Harris;

‘Mr. Beit looked ill and worried; Mr. Rhodes, on the other hand, seemed to be in robust health, and as calm as the proverbial cucumber. I had an interesting talk to him before we left the ship; he said frankly that, for the first time in his life, during six nights of the late crisis he had not been able to sleep, and that he had been worried to death.

I was careful not to ask him any questions which might be embarrassing for him to answer, but he volunteered that the objects of his visit to England were, first, to do the best he could for his friends at Johannesburg, including his brother Frank, who were now

---

<sup>88</sup> Rhodes had pioneered the arrangement whereby the British State conferred a charter upon the British South Africa Company, in essence a commercial enterprise like the Dutch East India Company to effectively act with certain defined powers in its name. It was the BSAC that governed Rhodesia, under British Imperial authority, but with the interests of its shareholders paramount.

political prisoners, practically at the mercy of the Boers, unless the Imperial Government bestirred itself on their behalf; and, secondly, to save his Charter, if by any means it could be saved. This doubt seemed to haunt him. "My argument is," I remember he said, "they may take away the Charter or leave it, but there is one fact that no man can alter—viz., that a vast and valuable territory has been opened up by that Company in about half the time, and at about a quarter the cost, which the Imperial Government would have required for a like task; so that whether, in consequence of one bad blunder, and partly in order to snub me, Cecil Rhodes, the Company is to cease, or whether it is allowed to go on with its work, its achievements and their results must and will speak for themselves.'

Lady Wilson appears to not have been privy at the time to the truth of what had in fact transpired between Rhodes and Chamberlain leading up to the Raid. She reports this ironic exchange,

"Now," he added, "I have thought the whole matter out, I have decided what is best to be done, so I am all right again, and I do not consider at forty-three that my career is ended."<sup>89</sup>

"I am quite sure it is not, Mr. Rhodes," was my reply; "and, what is more, I have a small bet with Mr. Lawson that in a year's time you will be in office again, or, if not absolutely in office, as great a factor in South African politics as you have been up to now."

He thought a minute, and then said:

"It will take ten years; better cancel your bet."

Lady Wilson also contributes (unwittingly) more evidence to substantiate a retrospective diagnosis that Rhodes was becoming dangerously hubristic for want of the psycho-social intimacy that a partner (Oliver Schreiner perhaps, if the heavy gossip in Cape Town in 1890-92 had turned out to be true) and/or dependent children could have provided to keep his feet on the ground.

---

<sup>89</sup> Although the conversation occurred before his death, her book was only edited and published in 1909, seven years after his death. To determine to what extent his death coloured her editing and arrangement of memories would require study of her sources. It would be impossible for her not to be influenced by his death, in some way or other.

'With reference to the political prisoners, I recollect he repeated more than once:

"You see, I stand in so much stronger a position than they do, in that I am not encumbered with wife and children; so I am resolved to strain every nerve on their behalf."

His youthfulness and lack of family encumbrances were rationalisations that an intuitive therapist would have picked up on, had Rhodes sought such to better cope with the crisis. Instead he assured his critics that that he 'would be back soon'.

However, in order to do so he would have had to firstly find a way of regaining respect from the Cape liberals, Merriman, Rose Innes and Sauer whom he had alienated in 1892 (ironically because he appeared to prize the support of Cape Afrikaners above that of the liberals). He had shot his bolt with them. Even William Schreiner deserted him. Secondly he would have had to bridge the gulf of betrayal that that opened up between himself and Jan Hofmeyr, the leader of the Afrikaner Bond. However the blood ties between the Cape Afrikaners and the Transvaal Boers ran much thicker than the fluidity of Rhodes political seductions. Hofmeyr describes his sense of violation to Rhodes.

'I could explain better if you had ever been a married man. You were never married. I have not yet forgotten the relation of perfect trust and intimacy, which a man has with his wife. We have often disagreed, you and I, but I would no more have thought of distrusting you than a man and his wife think of distrusting each in any joint undertaking. So it was until now; and now you have let me go on being apparently intimate while you knew that this was preparing and said nothing.'<sup>90</sup>

In consequence the Cape Afrikaners became even more embittered against the English in the Cape Colony, which in turn influenced their subsequent attitude towards the Transvaal Boers.

One gets the impression that even Shakespeare would have been hard put to imagine a plot so rich in intrigue and tragedy, especially as things played themselves out in London. Rhodes and Chamberlain effectively blackmailed each other to place an

---

<sup>90</sup> Meredith, p348.

artificial veneer over the whole affair, which the passage of time has since stripped away while their bones have whitened in their respective graves. Rhodes did manage to save his 'favourite child' from being removed, but only by more dishonesty.

The 'short hairs' that Rhodes held Chamberlain by were 52 telegrams sent by Chamberlain in the months and weeks before the debacle, which showed Chamberlain was very much party to the conspiracy.

'When Rhodes met Chamberlain on 6 February 1896, not a word was mentioned about the telegrams. After a two-hour discussion, Rhodes left with Chamberlain's assurance that, as far as he was concerned, the Charter was safe. The blackmail was mutual. While Rhodes used his possession of the cables to prevent Chamberlain from abrogating the Charter, Chamberlain used his power to withdraw the Charter to prevent Rhodes from publishing the cables.'<sup>91</sup>

Without the hard evidence that would undoubtedly have led the sham enquiry to a different conclusion, Meredith relates that Chamberlain was exonerated.

'When a move was made to deprive Rhodes of his membership of the Privy Council, Chamberlain rallied to his defence: Rhodes had been honoured, he said, "for invaluable services nothing can dim".

Thus the Rhodes conspiracy ended as it had begun: in collusion, lies and deceit'.

William Schreiner (Olive Schreiner's brother) resigned as attorney general alongside Rhodes, although he was unaware of the plot. For want of any statesmen of stature, the somewhat wilting former Prime Minister Sprigg took office again for a period but the ominous drift toward war had begun. Schreiner managed to bounce back after the disaster and became Prime Minister in 1898, vainly trying to arrest the worms that his sister had discerned six years before.

When the great Sigcau case eventually reached the Privy Council the tide of history had already turned such that the outcome came as no great surprise.

---

<sup>91</sup> Meredith, p349.

## The Privy Council judgement

In February 1897 the Lord Chancellor Lord Halsbury ruled, *“autocratic legislation of that kind in a Colony having a settled system of criminal law and criminal tribunals would be little calculated to enhance the repute of British Justice.”*

Snell gives a blow-by-blow account,

“The appeal was heard before Lord (Hardinge) Halsbury (the Lord Chancellor), Lord (William) Watson, Lord (Arthur) Hobhouse, Lord (Edward) Macnaghton, Lord (Alexander Burns) Shand and Sir Richard Couch on 26 February 1897. Rhodes had left office on 21 April 1896 [in fact forced to resign in the wake of the Jameson Raid] and Gordon Sprigg, the new Prime Minister, was now the appellant. He was represented by Herbert Cozens-Hardy, QC and Mackarness. They argued that, “Sigcau was lawfully arrested and detained by virtue of the Governor’s proclamation, which had force of law. The proclamation was an act of State necessary for the public safety, and had the force of law. It was a provision of other Annexation Acts that the Governor’s proclamation should have the effect of law, and as this proclamation was never repealed or questioned, the Supreme Court had no jurisdiction to set it aside.”

Sigcau’s lawyers, H.H. Asquith QC, R.M. Bray and E.M. Beard, replied that,

“The Governor’s proclamation was illegal and invalid, as it attempted to supersede the laws which had been enacted for the territory. No subject of the Queen could be arrested without due process of law on the authority of such a document as this. The Annexation Act confers no such authority on the Governor or High Commissioner as is claimed by this proclamation, which was not a “law statute, or ordinance” within the meaning of section 2 of the Annexation Act, such as the Governor for the time being is authorised to proclaim.”

Lord Watson delivered the judgement of their Lordships. He pointed out that the proclamation,

“...exceeds any delegated authority which was possessed by the Governor in two particulars which constitute its leading features. It is a new and exceptional piece of legislation differing entirely in character from any of the laws, statutes, and ordinances, which he is authorised to proclaim, and it in substance repeals the whole

provisions of the existing law, with respect to criminal proceedings, in so far as the respondent is concerned.

The Lordships are of the opinion that the issue of the proclamation was an illegal and unwarrantable act, and that the Supreme Court of the Colony did right in refusing to give effect to it, and in liberating the respondent.”

One wonders to what extent the Privy Council members were ultimately influenced in making their ruling by the disastrous turn of events that the Jameson Raid had precipitated.

Rev. Samuel Clark concludes his narrative by joyfully remarking that the Privy Council judgement was,

‘one of the greatest vindications of the majesty of British law... A poor black man was equal, in the eyes of the law, to the Prime Minister of a British Colony.

At a later period a British Officer visited the Great Place, and giving utterance to sentiments that startled the Chief, Sigcau asked him directly whether he believed in God. “Yes,” he replied, “I believe in a Supreme Power, but I do not think He takes much interest in us.” “But,” said the Chief, “don’t you pray to Him?” “No,” replied the officer, “I do not pray.” “Oh,” said the Chief, “I am surprised at that; why, I pray now, I pray every day. Why, prayer delivered me out of Kokstad jail!”

## §

After learning about this fascinating episode of history from Kumkani, Nkomba and Milner Snell, I canvassed my fellow freelance writers who are part of a discussion forum of members of the Southern African Freelancers Association with a snap poll. I asked them (without Googling it) to simply say ‘yes’ or ‘no’ to the question ‘do any of you know what the Great Sigcau Case of 1895-1897 was all about?’ I was interested to know how many of this group of relatively well-educated writers and journalists had been taught about it in either school or university history lessons. Of the thirty or so replies not a single person had ever heard of the episode. However it goes without saying that they were all aware of the Jameson Raid.

It was sufficiently definitive in law for General Jan Smuts to draw attention to the case while serving in the War Cabinet of Prime Minister David Lloyd George during World War I. At an Imperial Conference in London the war cabinet was looking for a legal basis to authorise detention without trial under the Defence of the Realm Consolidation Act. Smuts said it would be illegal to do so because ‘we settled all that long ago in a case in Pondoland’. One legal academic commentator observed ‘the migration of legal ideas does not always go from centre to periphery in the Commonwealth, and that those that go from periphery to centre can bear good fruit.’<sup>92</sup>

## §

Rhodes had told Lady Wilson in January 1896 that within ten years he would be back in power. When the tenth anniversary of his prediction came around he was already four years in the grave. He died on 26 March, 1902, aged 48. It was just a few days short of eight years since his fateful meeting with King Sigcau ka Mqikela at the Qaukeni Great Place.

Even historian Paul Maylam’s critical study *The Cult of Rhodes*, makes no mention of how King Sigcau, Rev. Peter Hargreaves and Eddie *Ngangomntwana* Jones combined to provide a critical nudge to accelerate Rhodes along the steepening Nemesis decline.

Maylam sums up Rhodes legacy,

‘A century after his death, Rhodes’ money seems to have brought him some respite. The scholarships, the centenary celebrations and the link-up between the Rhodes Trust and Nelson Mandela Foundation have shaped the present proclivity for whitewashing Rhodes. Many are now being polite about Rhodes – a far cry from the damning indictments uttered by some prominent writers of past generations. Mark Twain, for instance, thought Rhodes should have been hanged. G.K. Chesterton’s scathing attack bears repeating: ‘It was exactly because he [Rhodes] had no ideas to spread that he invoked slaughter, violated justice, and mined republics to spread them’. Evelyn Waugh wrote that Rhodes ‘was a visionary and almost all he saw was hallucination’. The historian J.H. Plumb, was rather less blunt than Twain, but still savage in his assessment: ‘The pantheon

---

<sup>92</sup> Dyzenhaus. See footnote at page 196 [www.law.cam.ac.uk/faculty-resources/10005693.pdf](http://www.law.cam.ac.uk/faculty-resources/10005693.pdf),

of great lives contains, as it must, men who, like Rhodes, did evil unconsciously in the wanton pursuit of grandeur. And by that irony in which history delights, Rhodes aided humanity by his death.’<sup>93</sup>

He concludes,

‘In reflecting on the life and career of Rhodes I find little to redeem him. I have not come across a sentence spoken or written by him that is inspiring or uplifting; his utterances range from the ordinary to the abhorrent. His crude racist outbursts have been well documented. He possessed an authoritarian personality, and some of his ideas about empire were puerile. His methods were often dubious or despicable – something even some of his admirers concede. The distinction they have drawn between his noble ends and questionable methods is a false one. Rhodes’ methods were entirely in keeping with his objectives, and neither brings him any credit. Rhodes does not deserve to be rehabilitated.’

It is curious that while historians and biographers devote many pages to describing, analysing and interpreting the significance of the Jameson Raid in Rhodes fall from grace, his hubristic conduct against the Mpondo receives little space and even less analysis for the implicit revelation of where the arc of history was bending. Pondering the sequence of events I cannot help but think that a disastrous and increasingly violent turn of events might have been averted had closer attention been paid firstly to Olive Schreiner’s warnings in 1892; secondly the hubristic arrogance Rhodes displayed in the manner in which he enforced the annexation of Pondoland in 1894; and thirdly his arbitrary arrest of King Sigcau in 1895. Had someone in addition to the judges, lawyers and missionaries done so, it could not only have led to a different course of events over the final years of the 19<sup>th</sup> century. It could have led to an entirely different unfolding of South African history over the following hundred years: a history of increasing oppression, violence and suffering that was only arrested in April 1994. That was when, exactly one hundred years after the annexation of Pondoland, all South Africans went to the polls to usher in a democratic constitutional dispensation.

---

<sup>93</sup> Maylam, P. 2005 *The Cult of Rhodes*, New Africa Books, p159.



What is that ‘something’, which permits the doing of ‘evil unconsciously in the wanton pursuit of grandeur’?

Recall his trouble started because he refused to fire from his cabinet a man who had awarded a lucrative tender to a friend (ironically for a government contract in the transport system of the time). In 1892 the rail infrastructure system was where the ‘worms’ were worming their way to fatten themselves. Henry Ford had sold his first car in 1893, but mass production was still a decade away. A century later in 1998 the road infrastructure had usurped rail as the key transportation network from which large revenue streams could be accessed, and the South African National Roads Agency (SANRAL) had been established to do that. The establishment of SANRAL bears an uncanny resemblance to the Charter that the British South Africa Company enjoyed from the British government.

## §

Soon after Nazir Alli withdrew his resignation, SANRAL sought relief from the Constitutional Court arguing that Judge Prinsloo had by granting the interdict caused the Judiciary to trespass on the turf of the Executive. The case was argued in the Constitutional Court on 15 August 2012. On 20 September 2012 the Constitutional Court handed down its judgement. The Deputy Chief Justice Dikgang Moseneke wrote a stinging rebuke of Judge Prinsloo and set aside the interdict. Fortunately he stopped short of interfering with the High Court review process, scheduled for November 2012. The detour via the Constitutional Court left Wayne Duvenage and OUTA with a much higher legal bill to pay. However, although Nazir Alli and the Minister of Finance Pravin Gordhan had won back the prerogative to commence the revenue collection via e-tolling, the public visibility and media profile of Wayne Duvenage and OUTA rose to ever greater heights.

In anticipation of victory in the Constitutional Court, SANRAL had launched a massive marketing campaign to try to persuade motorists to comply with the e-tolling system by signing up for the purchase of e-tags. Motorists who refused to do so would be charged much higher punitive rates, upon being identified from their

vehicle number plates by electronic readers installed in the gantries. So as not to further burden the existing law enforcement system, SANRAL said non-compliance would be policed by *kitskonstables* (instant police constables), auxiliary police personnel with elementary training who would be deployed to enforce the new rules and issue summonses. Motorists who failed to pay up would be prosecuted.

While OUTA's legal team prepared themselves for the Review proceedings in the North Gauteng High Court, Gauteng motorists simply refused to respond in numbers sufficient to swing the tide of momentum in SANRAL's favour. Neither the enticements of carrots nor the threat of sticks were sufficient. The retrospective public consultation process was disastrous for SANRAL with angry motorists turning out in large numbers to lambast SANRAL for its arrogance and presumption.

With Kumkani having prevailed through the deep valleys of 'lawfare', Wayne Duvenage was seeing some angelic tidings to hearten him, ahead of the review process, which had been scheduled for December 2012.

However, enormous pressure was brought to bear on Wayne and his corporate comrades to capitulate, including SAVRALA members. Most corporate executives yielded, leaving Wayne feeling increasingly isolated among his traditional support system, as they deserted him, under pressure from Government who threatened to terminate lucrative government contracts unless they did so. Nevertheless, OUTA's fund raising efforts were rewarded by ordinary motorists making donations. My encouragement to Wayne echoed that of Olive Schreiner's to John X. Merriman a century before, 'sooner or later the edifice will crack. Someone deeply entrenched in the system will have an attack of conscience and will spill the beans,' I assured Wayne 'it happened in the Wild Coast toll road and mining saga, and will happen again.'

As the public dissatisfaction became ever more evident, and political commentators ever more savvy, and journalists ever more sceptical, opposition political parties, sensing the obvious opportunity of attracting voters away from the ANC ruling party, were eager to jump on the anti-e-tolls bandwagon. Wayne steered

OUTA with care to ensure its brand identity transcended narrow party based political interests, by keeping his eye on the ball, without being fixated on the scoreboard, even though the legal costs were mounting dramatically.

Moreover, Cosatu was becoming ever more militant in opposing the scheme, with the General Secretary, Zwelinzima Vavi, showing adroit skill in positioning the labour federation to ensure that its membership of the Tripartite Alliance with the ANC and SACP was not taken for granted by Government. He confidently asserted the interests of the average worker against the bias of the e-tolling scheme toward commercial interests, especially foreign companies involved. Vavi insisted on complete transparency and accountability to show that the interests of Cosatu members were placed ahead of foreign capital. He refused to yield to the Cabinet policy decision, which had endorsed the e-tolling scheme.

To try and best Cosatu and OUTA, Nazir Alli used the same evasive tricks he had used in blocking our efforts to get information on the N2 Wild Coast Toll Road. Firstly he refused to provide information required, citing obligations to protect the commercial interests of private sector contractors. Next he would either blank out the 'sensitive information', or bury it in a proverbial 'haystack' of documentation to overwhelm legal teams and drive up the cost of the litigation.

Although Nazir Alli had claimed SANRAL was ready to proceed with the revenue collection in April 2012, despite having had the interdict lifted in August, by December 2012 SANRAL had still not switched on the gantries. To have done so would have entailed a risk of helping make OUTA's case for them in the High Court by providing concrete evidence that the system was indeed inefficient, unworkable, and way short of the compliance levels necessary for its success.

Recognising that the public face of SANRAL needed a change, Nazir Alli was kept in the background, and a media spokesperson, Vusi Mona, recruited to handle the media. It wasn't a smart move. Yes, Mona had already shown himself to be a loyal street fighter in service of dubious government decisions, but the baggage he brought with him did not endear him to journalists with long

memories, and some respected journalists such as talk Radio 702's John Robbie were having doubts about e-tolling, despite having initially supported it. Robbie and others had advocated that the public had to bite the bullet, especially since there could be no doubt that the Gauteng freeways, after all, constituted a world-class infrastructure.

Meanwhile Wayne had resigned as CEO of Avis and put his business career on hold to work full time for SAVRALA. Speculation was rife that government had put Avis under pressure to fire Wayne because of the thorn in the flesh he had become in establishing OUTA from his highly credible position as Avis CEO. Wayne had told me in a recorded interview as far back as June 2010 that he planned to move on from CEO of Avis after five years, to pursue other career goals. Some journalists refused to believe Wayne's departure from Avis was a planned move. While there was no doubt that Government was putting pressure on the corporate sector not to continue their support of OUTA, Wayne introduced me to the new Avis CEO, Simon Rankin, and Avis continues to support the educational and eco-tourism revival efforts of Sustaining the Wild Coast.

Despite keeping in the background, Nazir Alli had managed in the Constitutional Court proceedings to cynically insinuate that OUTA was simply a front for naked commercial interests of the car hire industry, intent on protecting their profit margins. Knowing this to be totally untrue, I was determined to strengthen the bonds of solidarity that had been forged between OUTA, the Amadiba Community and the Mpondo Royal Family. Wayne never flinched from the task of seeing the mammoth challenge against a scheme that he believed to have been 'conceived in sin', through to its conclusion. He wasn't sure when that would be, but was hopeful that the legal pendulum would swing back in OUTA's favour. He was ready to do the right thing, even if it meant doing it wrong and making mistakes, in the interests of becoming 'righter'. By contrast, Government's determination to try and do the 'wrong thing right' only made matters worse: it became 'wronger'. Respected business leaders like Clem Sunter who had also, like

John Robbie, initially supported Government, began to have their doubts, and swung around.

Nevertheless, Wayne's legal team were sober about their chances of success. Government had shown absolute determination to 'refloat the titanic' and the lower courts of the judiciary had been chastened against trespassing on Executive turf. Wayne was reconciled to the possibility of the judgement going against OUTA, but was consoled in the knowledge that the courts of law had nevertheless uncorked a bottle to release a genie into the court of public opinion that had in fact already achieved its objective of calling for a more trenchant accountability from the Executive. Although the Constitutional Court ruling had been a costly setback, paradoxically it served to sharpen the implicit duty of the Executive to exercise its duly separated Powers with transparent accountability. The Constitutional Court had replaced the cork back in the bottle, but the genie was already out, weaving its friendly way via social media to effectively thwart SANRAL's ever redoubling efforts to convince motorists to buy e-tags.

When Judge Vorster entered the North Gauteng High Court on 26 November 2012 to hear arguments for and against the legality of the e-tolling scheme, the stress of the preceding nine months was noticeable on Wayne Duvenage's face.

As the hearing got underway, Mike Maritz SC went as far as he could within the constraints of an administrative review process to call into question Nazir Alli's integrity by suggesting he had deliberately misled the public. Alli's advocate, David Unterhalter SC leaped to interject, threatening to launch defamation proceedings against OUTA if there was no retraction. Maritz bravely stood his ground.

It was expecting a lot of Judge Vorster to show boldness, given the Constitutional Court's censure of Judge Prinsloo. Yet boldness he indeed showed, but in the opposite direction entirely. He not only dismissed OUTA's case, but awarded costs against OUTA, as Mr Unterhalter had pleaded, as a punitive measure.

The militants in the union movement were ready to tear down the gantries, and the term 'civil disobedience' re-entered the political

discourse after an absence of two decades. Civil courage seemed to be working for Kumkani. Would it help Wayne to find a better, sustainable way forward?

I pulled together some preliminary thoughts and sent them in an e-mail to Wayne, adding a consoling word,

‘..if it is any consolation, I thought we had won the N2 Wild Coast toll Road Saga in 2004 when the Minister set aside the original Record of Decision. I thought we had won the battle against the mining last year when the Minister revoked the mining rights.

At least we have a story to tell of confronting hard truths.

Stay strong. The best is yet to come.’

He immediately twigged onto the ‘civil courage’ idea. To start the New Year on a civilly courageous note, I followed up on 30 December 2012,

‘Hi Wayne. I am busy reading a biography of Smuts. Fascinating read. He quotes Pericles in a speech given when Smuts was Rector of St Andrews Univ. in Scotland (bet you didn't know that).

"Happiness is freedom, and freedom is courage," and comments, "That is the fundamental equation of politics and all human government, and any system that ignores it is built on sand."

He was speaking in 1934 while watching the ominous rise of Hitler's Nazism and says, "social freedom and equality before the law is the foundation of the State"...

I suggest you add these ideas to the "call to civil courage" theme.

When you announce the final decision of OUTA, I suggest you say that Judge Vorster's judgement is based on a fundamental misconception of the meaning of equality before the law, for his ruling on costs tips the balance further in favour of the government of the day and against the governed.

It is SANRAL and the Treasury who have abused the courts and it is incumbent on civil society to now uphold the values of our constitution, which SANRAL have betrayed.

As to the merits, I think the issue of what is meant by public participation is crucial. There is case law on it, which we used in our objection to the mining rights. I will send it to you.

Am making good progress with my book, which will be launched on 21 March, Human Rights Day. If I don't get blown off course by any crisis.

Best for New Year.

John'

On 8 January, *The Daily Maverick* carried Wayne's announcement that OUTA had decided to appeal the judgement by Judge Louis Vorster, couched as, 'e-Toll judgement is a call for civil courage.'<sup>94</sup>

Ironically, it was the punitive costs award that gave OUTA further impetus to appeal the judgement. Recall Denis Beckett's reflection on how 'right law had a wrong effect' when he was unsuccessful in defending a defamation suit brought by Chief Mangosuthu Buthelezi. In this instance, the High Court judgement seemed to be 'wrong law' but, as it happens, produced a 'right effect'. It evoked even more public sympathy for Wayne and distrust of Nazir Alli.

## §

'We see the world not as the world is, but as we are'. Our being and our doing shapes our having and our interacting. These four axiological needs, as Manfred Max-Neef terms them, mesh with our nine existential needs of subsistence, protection, affection, understanding, participation, idleness, creation, freedom and identity. Many Mpondo work in Gauteng but their homes in the beautiful rolling hills of Pondoland is where their identity is primarily vested. The reverse shapes my perspective and perception: I live in the most 'developed' province, Gauteng, and work in the least 'developed' region, Pondoland.

Because of his capacity for lateral, systemic thinking, Wayne is one of the few urban sophisticates whose eyes don't glaze over when I go on about my experiences with the Mpondo, experiences such as I relate in the following chapter. It serves to bridge His Story with Wayne's story and history with our story. It also adds further grounded content to the meaning of Civil Courage.

---

<sup>94</sup><http://www.dailymaverick.co.za/opinionista/2013-01-09-appeal-of-e-toll-judgement-a-call-for-civil-courage/#.Ukqq-WSUXxw>

# 14: Caruso’s Tangled Web

‘Oh, what a tangled web we weave,  
when first we practice to deceive.’

*Sir Walter Scott.*



MRC share price and volume movement from July 2004 to June 2014.

Source: Australian Securities Exchange.

The week after the Marikana Massacre I was driving with Nonhle Mbuthuma and a local tourism consultant to meet Belgian tourists who were enjoying the extraordinary beauty of the Mntentu River estuary. ‘Did you see the terrible conditions that the Marikana miners were living in?’ Nonhle asked, having seen recent TV footage of appalling living conditions of the Marikana mineworkers. ‘So that is what the Government is offering us if we allow the mining! To destroy our comfortable traditional homes, and put us into shack settlements,’ she said sarcastically.

As we rounded a bend the road narrowed, winding its way through a woodlot. Our conversation was interrupted when I noticed a



vehicle coming from the opposite direction, driven by her mortal enemy, 'Bashin' Zamokwake Qunya. He had, together with his brother Zamilé been the first two local residents to be co-opted by MRC. From having pioneered the eco-tourism initiative, in the pay of MRC and their collaborators they soon turned to sabotage their own good work, when offered more lucrative, and more immediate gratifications. Recognising me and Nonhle, Bashin Qunya stopped his pick-up truck in the middle of the narrow road, blocking our path. He got out of the vehicle with one of his passengers and proceeded to intimidate us. 'Clarke, where do you think you are going?'

'To see tourists from Belgium who are on holiday at Mntentu,' I replied.

When he saw Nonhle in the back seat his expression of hatred intensified.

One would not wish to meet up with Bashin Qunya on a lonely stretch of road on the Wild Coast at the best of times. The encounter happened to occur one week after the hard-hitting SABC TV current affairs program 'Cutting Edge' had featured both Bashin Qunya, and Nonhle Mbuthuma on sharply opposite sides of the Xolobeni mining debate. Bashin's hostility toward us had been aggravated by Nonhle having gone public to accuse him of having used his company vehicle (which MRC had provided to him as a perk during his employment with them) as a private taxi, and pocketing the money. The producer had afforded him the right to reply, but his justification had been wholly unconvincing, and his local reputation badly tarnished. Although the Cutting Edge film had been filmed before the Marikana massacre had shot South Africa into world headlines, it had been coincidentally scheduled for broadcast on national television in the widely watched African language channel of SABC 1, in the same week that the dreadful event occurred. My brief contribution to the Cutting Edge feature had been to warn that Government was allowing the same forces of colonial exploitation that had for centuries bedevilled the country to undermine social cohesion and create community conflict. The government's handling of the Marikana mineworkers' strike had unwittingly served to underscore my words. This

encounter on the narrow road was the first opportunity since the broadcast of the program that Bashin had to confront us.

‘You are not welcome in this community,’ he said wagging his finger. ‘I have just come from a meeting. We have decided your bell is to be rung’.

I reached for the only defensive weapon I carry, my camera. ‘Would you mind if I filmed you saying that, Bashin?’

It had the anticipated effect. He and his companion showed distinct reluctance to pursue whatever intent they had in mind.

Fortunately another vehicle loaded with churchgoers dressed in their Sunday best, came into view heading toward us, driven by a well-respected local school principal. Cowed by the arrival of further witnesses and the hooting of the horn, Qunya’s companion managed to herd him back to his car. He sped off, shooting a final filthy glare at us.

Weighing up our options, we decided to lay charges against him at the local police station; the same police station from which the three policemen had been sent to sjambok the Xolobeni JSS scholars four years earlier. The SAPS were short on reputation locally as well as nationally, given the recent events at Marikana. Thus it was with some trepidation that we entered the charge office, determined to ensure at least that our experience was formally on record. Not to do so would have left us with regrets. Reassuringly, both the desk officer and the investigating officer did their jobs proficiently and courteously, and deserve due commendation. Not so, the National Prosecuting Authority who let them down. Without reasons and despite the hard evidence of multiple witnesses, after two court appearances instructions came from higher up for the matter to be dropped from the roll.

Bashin Qunya remains an employee of the local Mbizana municipality. His job title is laughably, ‘tourism promotion officer’, a job he was given within weeks of his retrenchment by MRC in September 2008, after the mining rights had been suspended. He is still listed on record as a director of Xolco, the BEE partner with MRC, which Mark Caruso proclaims to be the means whereby the local residents will be uplifted.

Contrast my exchange with Bashin Qunya described above with the first verbal exchange I had with his Mark Caruso, five years earlier in November 2007.

‘Go and do something practical to help these people, John, Caruso had angrily lambasted me. ‘In Australia we have a saying; “piss, or get off the pot”. And you can quote that!’

The sound bite came half way through a 20-minute conversation prompted by his receipt of a report circulated to all stakeholders by the South African Human Rights Commission, in response to the complaint I had lodged on behalf of the Amadiba Crisis Committee. The report wasn’t as strong as we believed it should have been, but it should one day be preserved in a museum to illustrate how ‘stabbing the paper’ does work. It worked to steer things away from violent confrontation between pro and anti mining factions. Next, backed up by a subsequent report from environmental officials from the Department of Environmental Affairs and Tourism, it worked to show definitively why the Xolobeni mineral sands venture would amount to a gross violation of environmental rights as defined by Section 24 of the Bill of Rights, if it went ahead.

Mark Caruso heaped scorn on me for my esoteric indulgence in abstract notions of fundamental human rights when the far more relevant issue for the local residents was (in his firmly held conviction) the satisfaction of their fundamental human needs. He claimed that his primary interest to develop the Xolobeni mine was compassion for the starving children living in abject poverty in mud huts.

He conceded nevertheless that, although I was hopelessly uninformed and misguided, he could not stop me from becoming involved, but challenged me to ‘do something practical’. However, he was not prepared to let me get away with negative aspersions cast about on MRC’s venture in Sierra Leone. I had been quoted in the media stating that MRC also used ‘questionable methods’ in their Erebus Diamond Tailings venture in Sierra Leone. He was incensed that I dared to comment about his Sierra Leone venture without having ever been there. He threatened legal reprisals for the harm done to his good reputation in Sierra Leone and elsewhere in Africa. Nothing came of them after I presented him

with evidence of correspondence with a source in Sierra Leone who had given me sufficient reason to back up my 'questionable methods' opinion.

With respect to my inconsiderate occupation of ablutions, I tried to explain to him that it was not his assessment of my work that mattered, but that of the Amadiba community and the social work profession. He was too angry to pause long enough for me to explain to him that Nkomba was sitting in the passenger seat alongside me listening to his every word on my car speakerphone, fuming quietly at his outrageous ignorance and insensitivity to the real needs of the Amadiba community. Before I could introduce Nkomba to educate Mark Caruso as to how his community actually felt, he abruptly terminated the call, leaving Nkomba and I staring at each other in shocked disbelief, searching for words to make some sense of it all. Ironically the unscheduled call had come through while I was driving with Nkomba after a meeting with staff from the United Nations Development Program office in Pretoria. We had been planning practical ways of boosting job creation prospects through eco-tourism.

'I think that was an admission of defeat,' I said, hoping it would console Nkomba's anger, 'he is looking for a face saving exit strategy'.

Nkomba is the embodiment of mercy and compassion, one of the most outstanding servant leaders I have ever had the privilege to work with. I have never seen him so outraged as by Mark Caruso's presumptive messianic claim to be the salvation of the Amadiba community.

Soon thereafter, Mixael de Kock, owner of the communications consultancy, Maverick Communications, fired MRC as a client. Mixael de Kock had been contracted prior to the lodging of the mining rights application to ensure MRC got the best possible media coverage. After a torrid six months of controversy, Mixael had come to realise that his good professional reputation was at stake and his long term interests were incompatible with the 'questionable methods' that his client employed to advance their mining ambitions. At the time, his professional code of ethics, and the cost of defending anticipated legal proceedings that he feared

Mark Caruso would institute if he spilled his beans, constrained him to only place on record that ‘I fired MRC, not the other way around’. It was an act of extraordinary civil courage.

The detailed story behind his decision to forgo a lucrative contract, (which meant the retrenchment of staff) can now be told because Mixael’s professional code of ethics is no longer a constraint and because Mark Caruso cannot tie him up in litigation. Mixael de Kock died of a stroke on 25 August 2013. May his soul rest in peace.

His story is really an emblematic recursion of Our Story, and will be disclosed in Book Four as a further warrant for the ultimate Promise of Justice.

## §

Before his angry phone call, Mark Caruso was in my mind but as a caricature; a ‘Perth Entrepreneur’, which a financial journalist explained to me, was cautionary code among journalists to ‘be careful’. After his call, the stereotype softened into an archetype - a less prejudicial explanatory profile. Although Nkomba found it understandably difficult to find anything good to say about Mark Caruso, I recognised enough of myself in Mark Caruso from my youth as a guilt-ridden privileged white male, who had mercifully come around to eventually recognising my own messianic complex. My blind spots didn’t show up as dark patches either. Thank God black friends and colleagues had loved me enough to help me see how disempowering a guilt-driven response to human suffering can be.

‘Perth is the most remote continental city in the world,’ I pointed out to try and mollify Nkomba, ‘even Australians from other states regard them as “different”. Besides, maybe he has a point about being more practical.’

Nine months later, after the mining rights had been suspended I received another phone call from Mark Caruso. He was less aggressive, and the conversation more friendly, for in the intervening months a great deal had happened. The death of a leading member of the Crisis Committee, Scorpion Dimane, a further intervention by the Human Rights Commission to

subpoena three cabinet ministers to hand over documents, and the dramatic beach walk/march that had finally turned the tide. Without Mixael de Kock, or any other self respecting PR company willing to work for him, MRC opted for a strict 'no comment' policy. Journalists had no way of getting MRC's perspective other than from what Mark was obliged to disclose to investors in terms of the rules of the Australian Securities Exchange.

For four months, between May and August 2008 I permanently relocated from my home in Johannesburg, to immerse myself still more deeply into the community. As local residents came to trust me an ever more vivid picture emerged of 'questionable methods' such that there was no doubt in my mind that I would survive any legal reprisals were I to go public about them. I was worried about a more irreversible and final method. I moved around a lot, and never travelled in the community after dark.

The stony silence from MRC did not help. Without a spokesperson to give them MRC's case, journalists were frustrated. Consequently, journalistic ethics left editors cautious about running a story that had only one side. Editors needed to ensure a fair, accurate and balanced coverage.

When Mark Caruso eventually broke the silence and called me again (eight months after our first conversation in November 2007) it was not an unexpected call. He said the call was a spontaneous gesture of friendship, made against the advice of his lawyers, to warn me that the Caruso family was deeply offended by remarks I had made in a television interview about his brother's manipulative co-option and subversion methods. My remarks had indeed been provocative, but deliberately so, for by then I had worked out a strategy that was carefully contoured to the true nature of those whom I wanted to engage. It worked.

His brother Patrick, who was based in South Africa to oversee MRC's interests, had refused my direct efforts to engage with him. To be fair to him I had wanted to confront him about his alleged conduct, both with respect to his attitude and behaviour toward the community, as well as toward Mixael de Kock, leading up to the parting of ways between them.

Although Mark Caruso may have felt that his call was the start of a friendship, it was not about friendship. It was about holding one's friends close, and one's enemies even closer. Alastair McIntosh and Walter Wink had helped me understand that 'naming and unmasking the Powers' is about identifying the psychological and economic forces at play, which keep the 'domination system' in place to oppress us and rob us all of our humanity. 'Engaging the Powers' via Mark Caruso had unmasked a great deal of both already. However, Mark was still unconscious of any explanatory psychological archetypes and unwilling to consider any other economic rationality besides the crude 'casino capitalism' profit maximisation logic of the venture capital market. But as more of his authentic human form emerged during our half hour conversation, I was hopeful that we might yet be able to one day watch a rugby match together between the Springbok and Wallaby test teams, as he had suggested we do. However, I was in August 2008 still very much on my guard against a manipulative charm offensive. He would not be the first to use 'mediation talks' merely as a tactic to achieve a hidden agenda of co-option. The mining rights had only been suspended, not revoked at that stage. The 'hurly burly' was not yet done. The battle was not yet lost or won.

It was only three years later, in December 2011, that the tipping point was coming into view and inclining me to make peace, but still not without conditions. From what I could discern from shareholders reports lodged on the Australian Stock Exchange, MRC looked to be in deep financial trouble. The Xolobeni mining rights had been revoked, but the Minister had left a back door open for them to start from scratch and reapply, 'provided they could satisfy all legislative requirements, and address environmental concerns'. I called him to ask what he planned to do. Was he ready to concede defeat and walk away? Would he help me unmask the next layer of Powers so that I could engage them?

He was categorical that MRC intended to reapply for the mining rights. 'John, one thing is certain. We are going to mine at Xolobeni.'

There was bravado in his voice. I did not argue with him, saying only that if that was ever to happen, it was important that we at

least embraced the lessons on offer, which I planned to document in a book. ‘I want to be truthful and fair to all stakeholders Mark,’ I said, ‘especially to you, because notwithstanding our differences I have appreciated your willingness to engage’.

‘Good luck to you John. If your book is all about the practical tangible benefits John Clarke has made in the lives of the local people’ he mocked, ‘it is going to be a very thin book!’

I had heard it all before, but I was in a generous mood. I let him ventilate without comment.

He went on, ‘Hey, why don’t you let me write the epilogue. For the last word in the story is how we are going to successfully mine at Xolobeni.’

Working up a head of steam, another, better idea occurred to him. ‘I tell you what, I will pay you for a thousand copies of your book to distribute to those desperately poor and helpless people at Xolobeni so they can use it for firewood instead of cutting down the forests.’

Listening to him, a strange sense of *déjà-vu* rippled through my head. Not a flashback to anything from my own direct experience, but from Alastair McIntosh’s profound insight on how ‘mendacity lubricates normality’; how ‘blind spots do not show up as dark patches’; how toxic concentrations of power and wealth distort perception and understanding. Alastair reflects back on his engagement with the Laird of the Island of Eigg, Keith Schellenberg, who couldn’t understand why his acts of generosity toward the Crofter community who lived on ‘his island’ were not appreciated, and why they wanted to buy him out, and see the back of him<sup>95</sup>.

‘Often when I spoke with him, it was clear that he was genuinely confused and distressed as to why people did not appreciate what he gave to them. Like all who substitute charity for justice, he missed a crucial point, cogently made by Paulo Freire:

---

<sup>95</sup> McIntosh, A., 2001, *Soil and Soul: People versus Corporate Power*, London: Aurum, pp174-176. For kindle edition see <http://amzn.com/B008QWCS0Y>. Alastair’s webpage is <http://www.alastairmcintosh.com>.



In order to have the continued opportunity to express their “generosity,” the oppressor must perpetuate injustice as well. An unjust social order is the permanent fount of this “generosity”, which is nourished by death, despair and poverty..... True generosity consists precisely in fighting to destroy the causes, which nourish false charity. False charity constrains the fearful and the subdued, the “rejects of life”, to extend their trembling hands.

So it was that at times I’d feel sorry for this visibly ageing man with an island millstone around his neck to sell. He seemed to try in life – God, he seemed to try; but he kept crashing because he always needed to grab the steering wheel. He failed to perceive the suffocating strings that he attached to community relationships, or to how evident it was that his island was little more than just another hobby. He confessed as much himself; “Somehow it seemed more important to beat the Germans at Silverstone than to deal with a little Scottish island,” he told Harpers & Queen. “The race put it all in perspective..... I’m not worried if I don’t win. I just don’t want to lose.”

During our previous conversation in August 2008, Mark Caruso had used a metaphor from motor racing to rationalise his interest. I imagined he and Schellenberg would surely have got on well. Alastair’s reflections and forgiving attitude left me feeling strangely compassionate toward Schellenberg, and by implication toward Mark Caruso: yes even toward Cecil John Rhodes and Nazir Alli; all trapped in a trap shaped by their unnatural ‘nature’, as Vickers had so perceptively explained in his *Freedom in a Rocking Boat*<sup>96</sup>. Alastair explains the nature of the trap.

‘I do not believe people like Schellenberg are conscious of constructing reality to legitimise their power. This process is inevitable in a ruling class who since childhood have generally been emptied out from within themselves and are desperate for a world to fill their emptiness. Money lets them create a world of their own. For them, this is “the real world”, but for everyone else – for those whose lives are but props on their stage, - the make-believe nature of such fairy-tale lives is obvious. The cardinal rule is that you don’t name the game; you don’t name the powers and thereby shatter their

---

<sup>96</sup> Vickers, G., 1972, *Freedom In A Rocking Boat: Changing Values In An Unstable Society*. Pelican

veneer. And if you don't play the game, your job, home, sanity and reputation may be at stake.

Your role, then, if looking at power from the underside, is to help "keep up appearances". Indeed, it is your role to prop up what Scott Peck calls "the people of the lie" with their delusions of family, class, gender, or racial superiority that justify privilege. Here mendacity lubricates "normality". It's not that the rich and the powerful mean to lie; it's just that their reality is plastic. It can be moulded as much as money can buy. Agreements, memories, and even histories become reconfigured in the mind as image defines reality rather than the other way around.'

For a full century after the annexation of Pondoland, the corrupting, distorting effect of power was tightly held by a white minority regime saturated by the syndrome Alastair so perceptively describes, manifested by Keith Schellenberg. Notwithstanding my conscientious decision to oppose that, I could not deny that I had benefitted from those injustices by virtue of the accident of being born white. Moreover, as a male in the predominantly female profession of social work I had also been the willing beneficiary of 'affirmative action' to correct the prevailing imbalance, because of another arbitrary accident of birth, my male gender. I had received a State bursary that my female colleagues were denied. What blind spots still remained, distorting my ability to see reality from the perspective of those discriminated against? Alastair's next paragraph was cause for me to ponder very long and very hard before rushing into print to tell this story.

'Of course, we all do this (including the writers of books), but when those with power over others do it, they force their world on to their servitors – the ghillies, the housemaids, the waiters, and yes, the artists, accountants and lawyers, too.

In such a world huge emphasis is placed on politeness: on having 'good manners'. You are part of the 'establishment' only if you 'know how to behave', if you 'know your place', if you know how to dress, speak and even eat 'properly'. It is a question, as the French Sociologist Pierre Bourdieu says, of expressing the right 'taste'. If things were otherwise, the rich would not be able to live with themselves. The need to believe their own story, to keep in position the lens that focuses their own privilege. While some of this is just

harmless ego posturing, much of it injures others. Victim blaming, inferioritisation, and even charity, contribute to maintaining that edifice. All demarcate the boundary between the 'in group' of the elite, and the majority 'out group'. Scapegoating controls the poor, if they are 'bad', or just by patronising if they are 'good'. The underlying sanction of punishment usually goes unspoken and thereby renders invisible the violence that keeps justice suppressed.'

Breaking out of the trap can only happen if we allow the deeper, authentic self, an acceptance of our true nature, to emerge.

'But the terrible price to be paid by the rich is to be untrue to one's own self. Mammon's only jewels are human hearts. Moloch is an empty stone god. That's the trouble with false gods: at the end of the day they let you down. Being death, they have no life of their own to share: only the transient proceeds of vampirism, sucked from other people's lives and from the Earth itself.

The false gods exist only as emergent properties of their own fears. We make the graven images, the idols. And if we let these reflections of our psychic shadow overcome us, if we let ourselves die spiritually, we will indeed find no God, no Heaven; because the god we were looking for was death, and death is, precisely, non-being.

Such are the dynamics of what in olden days was called 'Hell', the fire being only to warm an otherwise icy space, the brimstone only a suffocating smokescreen,<sup>97</sup>

Nonhle had failed to see anything approximating 'paradise' in the living conditions of Mpondo mineworkers at Marikana, but Mark Caruso quite obviously believed that the Amadiba community were living in hell, and that his Xolobeni mining venture was going to be their emancipation into paradise. He really did seem personally convinced that his mining venture would be beneficial in the long term, even to the point of dismissing any examination of 'questionable practices' in pursuit thereof, such as his former employee, Bashin Qunya, threatening to 'ring my bell'

I asked Mark if he was prepared to help me at the very least to ensure that the gross injustices now evident might now be faced in

---

<sup>97</sup> Excerpt from *Soil and Soul*. Alastair McIntosh, 2004. Aurum Books. pp173-175.

a spirit of truth and reconciliation. He was extremely helpful, far more than I think he realised

‘Have you read Darwin’s *Voyage of the Beagle*, John?’ he asked.

‘Yes, Mark. In fact I have it on my shelf. I quote from Darwin in the beginning of my book.’

‘Good then you will understand...’

Mark, true to the Explorer archetype had also found insight from the explorations of Darwin. Not the same insights that I had gained, to be sure, but I was gobsmacked to hear my enemy quoting from the very same source from which I had found inspiration, in understanding life.

As he bent my ear with his interpretations of current reality in the light of Darwin’s discoveries, I felt the long ‘arc of the moral universe’ was being recalibrated to take a steeper curve toward justice. The synchronicity that had both of us reading Charles Darwin’s *Voyage of the Beagle* to try and make sense of life, did not impart instantaneous understanding of the moral universe. However, it was enough to inform my conscience (and hopefully his) to better divine the direction and the inclination of the arc. It was, paradoxically, exactly what I needed to nerve me against panic and seduction and to carry on (regardless of threat and harassment), to support both Wayne Duvenage and Kumkani as their respective court cases oscillated through the courtrooms during the following year.

More specifically he gave me what I needed to confirm my discernment in the contemporary conspiracy of political and economic powers seeking to force the Xolobeni mining and N2 Wild Coast Toll Road developments upon the Mpondo, the same dynamic of mutual blackmail that trapped Rhodes and Chamberlain more than a century before. It gave me confidence and conviction to pen my report to Minister Collins Chabane without fear of contradiction; and to doggedly support Kumkani on the swings and Wayne on the roundabouts, as their court cases swung back and forth, culminating in the OUTA Supreme Court Appeal hearing in September 2013.

However, nobody was supposed to die!

## 15: Courtrooms (Round Three)

‘Mining the Wild Coast is simply absurd. It can be likened to the slaughter of rhino for their horns: the destruction of endangered species of life for short-term commercial profit of greedy foreigners. It is a wholly unjustifiable social and economic development option and if the Department of Mineral Resources continues to entertain the prospect of dune mining along the Wild Coast they will be doing so in gross violation of the constitutional right defined in Section 24 of the Bill of Rights.’

*King Justice Mpondombini Sigcau* <sup>98</sup>

When the eleven distinguished judges of the Constitutional Court



The Constitutional Court in session.

*Photograph supplied.*

rose on 21 February 2013 (coincidentally exactly one year from the

---

<sup>98</sup> Media statement in support of Amadiba residents objection to new application by MRC for Mineral prospecting rights on the Wild Coast. May 2012

date of the High Court hearing), in contrast to the throngs of journalists who had been present to report on SANRAL's application to have OUTA's successful interdict set aside, the media gallery was populated by but a single journalist. All the world's attention was focussed on another court case involving a younger man, also coincidentally challenged by the amputation of his lower limbs, Oscar Pistorius, the Olympian mega-sports star who had been arrested for shooting his girlfriend. When the fortunes of the rich are at stake, few give a damn about the misfortunes of poor rural residents of Pondoland, whose King was fighting to retain his traditional authority and to protect them from 'greedy foreigners'.

The customary pile of official media statements left in the press gallery to explain to the journalists were oversupplied. The statement explained,

'The Traditional Leadership and Governance Framework Act (Act) provided that the Commission could investigate whether paramountcies under the pre-Constitutional legislation should be recognised as kingships or queenships. The kingship of the Mpondo Ase Qaukeni was so recognised. The fourth respondent referred a dispute to the Commission claiming that he was in fact king, and not the applicant. The Commission conducted an investigation and concluded that the fourth respondent's claim was valid. It made a recommendation to that effect to the President, who confirmed the recommendation. The applicant then sought to review the President's decision in the High Court, but failed. He now seeks leave to appeal against the High Court's decision.'

The Legal Resources Centre had in their own media release named the elephant in the room.

'The Centre's key submission is that the approach adopted by the Commission mirrors the rigid, genealogical methodology used by government ethnologists under apartheid to justify their decisions to appoint compliant chiefs, often at the expense of those who enjoyed popular support. As such, the Commission's approach to appointing chiefs undermines local accountability mechanisms that make chiefs accountable to their people...

An approach that relies exclusively on rule-bound genealogies is at odds with the jurisprudence of the Constitutional Court, which

recognises living customary law as flexible, changing and dynamic and warns against the danger of entrenching distorted “official” versions of customary law, particularly those with colonial and apartheid origins. The Centre argues that any investigation into succession disputes should have regard to the support enjoyed by the rival contenders. This is what, in practice, determined leadership disputes prior to the advent of colonialism and apartheid.

The present case is just one of many challenging the findings of the Commission. Similar, is a dispute currently underway in Limpopo challenging the Commission’s finding that the rightful incumbent of the “vhaVenda kingship” is to be found in the Mphephu-Ramabulana line. There are many who argue that this would entrench distortions that privileged the Mphephu line while Patrick Mphephu was President of the then Venda “homeland”.

In all of these cases the stakes are high for the communities concerned. Legislation such as the Traditional Courts Bill seeks to vest extraordinary power in traditional leaders. Valuable minerals have been discovered in many former homeland areas - generating disputes concerning the accountability of traditional leaders to the people who have lived on that land for generations. Pondoland is mired in disputes concerning the proposed Wild Coast toll road and contested mining ventures. The deposed king has played an important role in community opposition to these processes.’

In the absence of a more neutral and impartial media account, my ‘embedded journalist/social worker’ perspective will have to suffice to describe the day’s proceedings.

Patric Mtshaulana represented Kumkani, and argued that the President erred because the applicable legislation obliged him, upon receiving the Commission’s report and findings, to firstly refer the matter to the then existing Royal Family before deciding whether to recognise the new king. The Commission’s acting chair, Professor Mololeki, had acknowledged (in a sworn affidavit) that the report had in fact only been submitted on 9 February 2010, but that this was an inconsequential error and oversight and that amendments to the governing legislation (which came into effect on 1 February 2010) nevertheless provided an implied legality to the President’s decision to accept the report and its findings, and act on them, without referring or consulting with the Royal Family. In

other words that the President was empowered to decide who should or should not be king or queen, without so much as even informing the Royal Family concerned.

Mr Mtshaulana opted to concentrate on the technical legal procedural point of questioning whether the President even had a legally sanctioned report to act on. Amendments to the Act had come into effect on 31 January 2010, which effectively terminated the Commission, rendering its work of no further force or effect, unless the President had at least received its findings and applied his mind to them before the Commission ceased to exist.

From the public gallery it was obvious that most of the judges were becoming impatient with the plodding pedantry of Mr Mtshaulana's carefully worded technical legal proceduralism, and wanted him to scratch where they were itching: the substantive matter of whether the Constitution allowed the Executive or Legislature to overrule customary law of any Traditional Community.

Their mood, (and the mood of those laypeople in the public gallery for whom legal proceduralism is unfathomably arcane) lightened considerably when the *amicus curiae* proved himself to be exactly what the Latin term says: a *friend* of the court.

Tembeka Ngcukaitobi, armed with an affidavit by Dr Aninka Claasen of the UCT Centre for Law and Society, scratched exactly the itchy spot. His crisp presentation even earned him praise from Norman Arendse SC, "I enjoyed it too. But it is not relevant to the case".

The hearing went very badly for Mr Arendse. The normally unflappable, high profile silk was reduced to fighting a rearguard action on three fronts;

Firstly, he had to defend against the procedural attack of Patrick Mtshaulana, which had awkwardly exposed glaring problems in the communication flow between the Commission and the President.

Secondly, he had to contend with the attack by the *amicus* on the substantive issue; the absence of any meaningful participation by the Mpondo people in the Commission's investigation.



Thirdly, he had to defend against an interrogation, led by the Chief Justice himself, Hon. Mogoeng Mogoeng.

In the course of marshalling his defences and before Mr Arendse could set his sights on the first two adversaries, the Chief Justice effectively lobbed back at him the grenade that Arendse had himself used in his apparent triumph in the High Court twelve months earlier. In February 2012 Arendse had argued before Acting Judge de Klerk in the North Gauteng High Court that in effect no kingships existed in law in South Africa before enabling legislation had been enacted to recognise them. The aspiring judge of the North Gauteng High Court had bought the argument. The Chief Justice did not, sending Arendse into a tailspin.

In response to the *amicus*' concerns about the absence of participation, Mr Arendse had argued that the Commission had allowed extensive participation, by virtue of having witnesses to testify and be cross examined.

'Were the witnesses members of the Royal Family only, or where there members of the public as well?' the Chief Justice asked, explaining that, 'If you are seeking to meet Mr Ngcukaitobi's point you will need to show that the witnesses who testified went beyond royalty.'

'Chief Justice, if I may answer the question firstly by saying that at this stage of the Commission's work there was no such thing as a Royal Family.'

'I don't understand, there has always been a Royal Family. How can there be no Royal Family?' the Chief Justice asked with astonishment.

Arendse tried to shake off the attack by the diversionary tactic of legal hair-splitting, but the Chief Justice stayed on his tail.

'I don't understand. Of course there was a Royal Family. Of course there were Royal Families and kings in existence before the legislation recognising them came into being. The existence of the Royal Family is not dependent on any legislation. The existence of the Royal Family is part and parcel of customary law and practice, in any tribe. So it is within that context that I ask if there were

witnesses from beyond the Royal Family, if you are going to meet Mr Ngcukaitobi's point.'

Arendse argued that the record of proceedings of the Commission showed that hearings were attended by large numbers of interested members of the public (some supporting the claimant and others the defendant) watching while witnesses were cross-examined by legal representatives and questioned by Commissioners. (For the record, on the one occasion that I attended a hearing at the Wild Coast Sun auditorium in March 2008, besides the witnesses, only a small handful of people was present. Nonhle Mbuthuma had remarked on the absence of any public audience).

Bleeding from the self-inflicted wound of having presumed that kings and royal families did not exist in law until the President confirmed their existence, Mr Arendse allowed himself to stray too close to the gravitational pull of a black hole.

'Yes, the sequences of the clauses do make sense linguistically, but not logically, because in this case the Commission was tasked with deciding who should fill a historical vacancy in the kingship, not a future dispute.'

The 'vacancy' in Arendse's mind was that left by the death of King Mandlonke (Paramount Chief, in the terminology of the time) in 1937. As far as Mr Arendse was concerned, the Commission had found that Botha Sigcau was not the legitimate king because he was a 'creature of colonial statute', by virtue of having been recommended over his brother, Nelson, by another Commission appointed by the Governor General, Sir Patrick Duncan. Thus King Justice Mpondombini Sigcau, as the son of Botha, had by Arendse's argument not inherited any kingship. He had inherited the illegitimacy of being a 'creature of colonial statute' – the same colonial statutes that had in 1895 ironically bridled Prime Minister Cecil John Rhodes, one of the most powerful men in the British empire, and led to his censure for detaining King Sigcau without trial.

At one stage Mr Arendse, in a Freudian slip of the tongue said, 'At the Commissions' hearings there were witnesses, including Botha Sigcau himself'. None of the judges corrected him, and I was not in

a position to say ‘Advocate, I think you meant to say “*Justice Sigcau* testified”, not his father Botha Sigcau who died in 1978’.

Botha Sigcau was indeed a controversial choice when he got the nod from the Royal Family, but equally, had his brother, Nelson, been put in the hot seat of history, who is to say that he would have been any less so? It was Botha Sigcau’s collaboration with the apartheid regime only twenty years after his enthronement, which earned him the ignominy of history. An ignominy that celebrated columnists like Jonny Steinberg dwell on in their columns, ignorant of the vexatious effect that repeated reminders of the sins of the fathers has on the generations that follow.

None of this undercurrent of history was explicitly featured during the exchange between the advocates and Constitutional Court judges. Neither was any reference made to the ironic parallel between King Sigcau *vs* Rhodes (1895-7) and King Sigcau *vs* President Zuma (2010-13). Judgement was reserved and the court adjourned.

## §

It was pretty obvious to those of us observing the legal jousting, that Norman Arendse SC was in big trouble in trying to make his client’s case.

This perception was reinforced when two weeks later the Respondents lodged an urgent application to submit further evidence that had allegedly only come to light after the hearing.

Such applications can be considered if the case that the interests of justice will be better served is well made. The fair procedure is for the other parties to say what they think. Although Kumkani’s lawyers argued against the application, from my layman’s perspective the interests of Justice, King Justice Sigcau, were very well served by the late evidence. The documents and affidavits suggested to me that Mr Arendse’s self-inflicted wound had become infected with the germs of self-destruction.

A key point of Kumkani’s legal case was that the Commission failed to convey its decision to the President before it had expired on 31 January 2010, and thus the President was without legal authority

to accept and act upon its findings. The new evidence produced was an internal Government memorandum that supposedly showed that the report of the Commission had indeed been communicated to the President before it had expired. This effectively contradicted the sworn statement by the Commission's acting Chair, Prof Mololeki, which had repeatedly stated that the report had only been conveyed on 9 February 2013.

Still more bizarre, on the dispute over whether there had been meaningful participation (Royal Family or general public) in the Commission, the Respondents effectively showed that they were now 'OK' with a document being admitted into evidence for the Constitutional Court, which showed that there had been real and lively engagement between the commission and the Traditional community at large. However, the document in question happened to be the very same one that Arendse had successfully convinced Acting Judge de Klerk to *exclude* from the High Court hearing, for want of proper attestation.

The new 'evidence' to my unseeing layman's eye seemed, as far as I could fathom it, further indication that the Respondents were indeed in a hole. However, the 'evidence' did not seem to be a rope with which they could pull themselves out of the predicament, but rather an ever-tightening hangman's noose. It left the credibility of both the deponent for the Commission (the deputy chair Professor Mololeki) and the legal team who drafted his affidavit in tatters. Irrespective of the value added (or subtracted) from the cases argued by parties, the beneficial interests of Justice were multiplied by the opportunity provided by obtaining Kumkani's sworn affidavit to put this evidence in the court of public opinion, and for the judgement of history to decide.

I was lucky enough to be the person charged with the duty of shuttling between lawyers and client to ensure the Constitutional Court had a response from the King.

Driving with Kumkani to the local police station to get the affidavit duly attested by the helpful desk officer, I couldn't help thinking that it may have been more advantageous for Kumkani to welcome rather than oppose the new evidence. However, I am not a lawyer and such reservations were not for me to express. I tried my best to

explain to Kumkani the arcane logic of why he was opposing the admission of evidence that I personally felt was substantively in his favour.

Afterwards, to clear our heads of bewilderment and confusion we took refuge in history.

‘Kumkani, I have this dissertation from the library,’ I told him, ‘it describes the work of Reverend Hargreaves and his relationship with Nkosi Enkulu Sigcau ka Mqikela, describing the episode when Rhodes arrested your ancestor, King Sigcau, in 1895. Can you help me to understand better what happened?’

It was a bit like an oral examination, except that the examiner was not a bookish professor but a man who knew the history from the inside out, more precisely than Milner Snell, in those details which happened to intersect his other great passion, sport. He knew that Eddie Jones was killed by a bouncer. There was another surprising detail, which intersected with yet a third great passion, nature.

‘Yes,’ Kumkani confirmed my reading of history as related in the Conradie dissertation as corresponding to his own knowledge, ‘but did you know that when Hargreaves and Sigcau left Emfundisweni on the way to Kokstad they came across a pride of lions. But the lions did nothing to them. They watched them pass by.’

That detail was new to me. Sensing another serendipitous moment I probed further, ‘Kumkani, where did you learn about that?’

‘When I was growing up as a boy, my mother would tell me that story.’

Did she compare that experience with the bible story of Daniel emerging unharmed from the den of lions, whose jaws had been sealed?’

King Sigcau’s face lit up. ‘No!’ he exclaimed. It was as if a flare had burst into light, ‘But yes, now I see it.’ We laughed with joyful recognition.

‘Kumkani, I don’t know what Reverend Hargreaves was thinking way back then, but I know what I am thinking now. I am thinking that history is about to repeat itself. Just as your great, great grandfather got the better of Cecil John Rhodes in court, I am sure

that you will win your own court battle, for the same reason. Justice is on your side.'

'But there are no more lions to be found on the road to Kokstad' he added as an afterthought. There was a hint of sadness in his comment. Later his daughter, Wezizwe, was to explain to me that he regretted the cultural practice of using leopard skins in traditional dress, and the leopard's tail as a symbol of kingship inheritance.

I left the Conradie dissertation for him to read, looking forward to our next conversation, and looking forward to bragging to Moray, Richard, Sarah and Cormac, the lawyers who had been variously involved in the overall search for justice. I have known very many doctors who humbly acknowledge divine intervention to help them in their medical emergencies. Not so common among lawyers. Jesus found them impossible to teach. At last we had another instance where a prayerful missionary and a smart lawyer had combined with devastating effect in the promise of justice.

As I drove through seven or eight still lifeless e-toll gantries on my way home from Pretoria to Johannesburg, I said to myself 'better warn them to be on the lookout for any short balls'. Kumkani's disclosures about the Great Sigcau Case of 1895, and the enormous pressure that had been placed on the Mpondo Royal family again today had shocked me into the sudden realisation that, given all the related issues of mining rights for the Wild Coast, Nazir Alli's gross obfuscation and lack of accountability over the N2 Wild Coast Toll Road and the e-tolling battle with OUTA, a rerun of history was threatening; ominously so. South Africa could be taken back, to an era before apartheid, to the worst of colonial arrogance of the 19<sup>th</sup> century.

In-the-moment, the final conversation was, following Kierkegaard's insight, uniquely an experience of simultaneously 'living life forwards', and 'understanding life backwards'. It had galvanized me with further zeal to be obedient to the urging of Mr Mphothe three years previously to 'stab the paper'. My understanding of life had been immeasurably enriched by reflecting on history with a man who not only knew that history, but was deeply conscious of having been fatefully cast to play a role

in the further unfolding thereof. Kumkani, his wife and daughters all dearly hoped the unfolding future would be different from the tragic past.

I went home to finish writing the book. I knew I wouldn't make my Human Rights Day target date (21 March 2013), but there was no obvious sign of any ill wind ahead to blow me off course, and that Youth Day would still be feasible (16 June 2013). Kumkani left Pretoria to return to his ancestral home, the Qaukeni Great Place, to await the constitutional court judgement.

When the Crown Princess Wezizwe called me to say her father had experienced a mild stroke, a cocktail mix of panic prayer and denial kept the dreadful thought at bay.

Next came a frantic call from Moray Hathorn, 'John, do whatever you can to make sure King Sigcau doesn't die. At least until the Concourt has handed down judgement.'

'Gosh Moray,' I laughed 'I am flattered that you think I have such powers.' I reassured him that it was apparently just a mild stroke and that on the evidence of how hard Kumkani had fought to get back on his feet, he was not about to give in before the full race had been run.

The 'short ball' struck on 25 March 2013.



Professor Somadoda Fikeni, from the Royal House of the Xesibe, presents the eulogy at the funeral of King Justice Mpondombini Sigcau.

*Photographs by John Costello.*



The funeral service for King Justice Mpondombini Sigcau.

A quote from the Praise Singer, Bonginkosi Mbhamali, “When you were born the lions ran in terror, the kudus fled. The elephant herds panicked and ran from you. You Lion of the nation!”

*Photograph by John Costello.*



## 16: iKhaya leZizwe

‘Life can only be understood backwards; but it has to be lived forwards.’

*Søren Kierkegaard.*



In life Kumkani had been treated disgracefully by President Jacob Zuma’s government. In death President Zuma praised ‘Thandizulu’ (the Royal praise name recognising him as King, which ironically translates as ‘the one who loves paradise’).

‘This is indeed a great loss to South Africa. The King was a great and admired leader, who worked tirelessly for his people, building traditional institutions and preserving the Mpondo heritage.

Sigcau was known for taking a stand against the mining of the Wild Coast, saying that it would destroy endangered species for the short-term commercial profit of greedy foreigners.’

He stopped short of specifics.

On Saturday 13 April 2013 some seven thousand mourners arrived at Qaukeni for his State funeral. Kumkani's casket was draped with a lion skin with the lifeless stare of the lion's eyes following me as I entered the vast marquee, with mournful hymns being sung by the tearful mourners.

I arrived to be given a VIP pass and shown to a seat in the VIP section, surrounded by traditional leaders and ANC politicians. After the choir had finished singing the opening hymn, the Master of Ceremonies commenced the protocol of welcoming and acknowledging the dignitaries. 'We would like to especially welcome the unexpected arrival of the Honourable Minister Derek Hanekom', he said, looking in my direction. I glanced around looking for the Honourable Minister. The chuckles that waved through the vast gathering awakened me to the realisation that it was a case of mistaken identity. I reminded myself to tweet Mr Hanekom to suggest he shave his beard off. I didn't mind being mistaken for him, but thought it could be dangerous for him to be mistaken for me!

On behalf of the maternal family Professor Somadoda Fikeni paid tribute to a man who was 'the personification of Grace',

'A person who lost his leg through amputation, and then lost yet another leg: then to receive the news that he had been dethroned at the very same time, a deluge of piercing pains all at once.

Yet, I found a person who was at peace, bearing no grudge, without any sign of bitterness, which would overcome, understandably, any mortal being under the aforementioned circumstances.'

Mercifully, as the ceremony progressed from traditional custom to State Funeral the lion skin that was draped over his casket was replaced with the South African flag in a ceremonial interlude with a joint Military and South African Police Services guard of honour. To represent President Zuma, Minister Richard Boloyi, who had been appointed to replace the late Mr Sicelo Shiceka as Minister of Co-operative Governance and Traditional Affairs in November 2011, paid warm and glowing tribute.

'Only those with the wisdom and guidance of traditional leaders can come to terms with the dispensation of locating, affirming and

entrenching the institution of traditional rule in the three tiers of government. The passing on of Kumkani is robbing us of such guidance, and such wisdom. The wisdom like that of King Solomon. The wisdom to not only interpret the current dispensation ... but the wisdom to understand that ours is a democracy where the institution of traditional rule has a space.'

Minister Boloyi grieved the loss of a man of wisdom, but expressed hope that the legacy he left will inspire and encourage those of us who remain behind.

The mourners were not to be disappointed of further Cabinet graces. There was no mistaking Minister Fikile Mbulula when he arrived late. 'I apologise for being late, but I was determined to be here. To pay tribute to a man who had been a great sportsman'. Pointing to Kumkani's flag bedecked casket he boldly said 'therein lies the last man to speak the truth – all the rest left behind are spineless, like seaweed which just flows back and forth with the current. Kumkani always stood firmly for the truth. May his soul rest in peace.'

I had arrived with a letter of tribute from Bishop Geoff Davies to hand over, and a not too brief tribute of my own in readiness should I be called upon to do so; Bishop Davies' letter was read, The Way of Mercy prevailed. I was not called to pay *Tribute to Justice*. The funeral was thus shorter by half than it may have been.

Although buried by Roman Catholic rites, the Methodist missionary influence of Reverends Shaw, Jenkins, Hargreaves and Sam Clark was very much alive to inspire Bishop Mvume Dandala to deliver a funeral homily that transcended race, ethnicity, denominationalism and even history.

I lack the gift of tongues, but the Holy Spirit and Avela Nompula, an ANC member of the Eastern Cape provincial legislature, who happened to be seated next to me, overcame my extremely limited grasp of the vernacular. She may have been disappointed that I wasn't Derek Hanekom, but had nonetheless warmly welcomed the odd pale face that had arrived, and helped me fill the blanks in my understanding of what was being said. Bishop Dandala focused on the final chapter of the Book of Joshua, in which the Israelites are

reminded of the Promise of God, which had been fulfilled in their deliverance from captivity and oppression under Pharaoh in Egypt. Inspired with profound 'prophetic imagination' he reminded the nation that had gathered to mourn the passing of a king, of the implicit promise made by South Africa's emancipation from the injustices of apartheid.

'We must never forget we are a people of promise. We must leave behind the false gods on the other side.

Kumkani had shown what this meant in the manner of his principled leadership in life, and in the dignity with which he walked his particular Calvary road, "for me and my house, we shall serve the Lord."

"Did our hearts not quicken within us as he explained the scriptures to us," said the one disciple to the other while journeying on the Road to Emmaus.'

Bishop Dandala's preaching did the same for me. For the Israelites 'the other side' had vivid coordinates of geography, the Red Sea, the River Jordan. For South Africa 'the other side' was more about coordinates of history: the 'long downward slide' that Olive Schreiner had prophesied; the miracle of democratic transition and political transformation; and the unfinished work of attaining economic freedom, effective social change, and deep, psycho-spiritual healing.

On behalf of the Amadiba Crisis Committee, Nonhle and Mzamo had managed to collect a 'widows mite' to offer a customary contribution to the funeral expenses. After handing it to the collection, we bumped into 'the Prince of minerals', Mr Patrice Motsepe, the Chair of Africa Rainbow Minerals. His contribution, as one of the richest men in Africa, had been considerably more, but I was impressed that he had prioritised mourning the death of Kumkani above watching his soccer team, Mamelodi Sundowns, play a football match.

Given the extent and nature of the funeral; the ironic tribute by the Minister of Cooperative Governance and Traditional Affairs, Mr Richard Boloyi singing the praises of the late King; and the conversations I had afterwards with certain key individuals,

(especially Prof. Somadoda Fikeni and two younger members of the Royal Family), the conviction firmed within me that *His Story* needed to be written and widely read, and as soon as possible. My *Tribute to Justice* morphed into the *Promise of Justice*.

I rushed back home intent on completing this book before the ‘Day of Judgement’. God’s judgement will come unsuspectingly like a thief in the night but the constitutional court is somewhat more helpful in giving clues as to when to expect its days of judgement. Based on past record we could expect its judgement in about eight weeks. I felt it was important to complete the second draft before I knew what the judges of the Constitutional Court had decided. I didn’t want to interrupt and affect the stream of consciousness that I felt the Spirit of God had chosen to breathe into my final conversation with Kumkani.

On 12 June 2013, Moray alerted me that he had received notice that the Constitutional Court would do so the following day. I hastily sent my second draft of this narrative to my learned friend, Denis Beckett, so he could, if needs be, attest to the fact that I had no prior knowledge of the outcome before drawing a predictive conclusion as to what it would be.

Justice Mpondombini Sigcau was granted his application, with costs, against President Jacob Zuma’s decision to depose him as King of amaMpondo ase Qaukeni. President Zuma’s appointment of Zanuzuko as king of the Mpondo was set aside.

## §

Before taking his passage to India, the editor of *The Mail and Guardian*, Nic Dawes, made good the neglect by the media of Kumkani’s *Promise of Justice*. A leader editorial opined,

‘Lawfare over the constitution is among the most consequential features of our current political environment. There is a dimension to this contest, however, much less noticed than headline battles over President Jacob Zuma, the prosecutions service and the transformation of the judiciary, but equally important to millions of South Africans – in some ways more so.

The Constitutional Court is now wrestling increasingly with the practical implications of developing customary law to ensure its continued function within a constitutional framework and its judgements are creating precedents, although at times revealing telling divisions on the Bench.

On Thursday, a unanimous court set aside a decision by President Zuma, acting on the advice of the Commission of Traditional Leadership Disputes and Claims, to appoint Zanuzuko Tyelovuyo Sigcau as king of amaMpondo ase Qaukeni. Had that decision stood, he would have taken over the title, and the considerable powers that come with it, from Mpondombini Sigcau who inherited the position in 1978.'

Nic followed this up with a personal editorial comment in the M&G online edition, which sharpened the outline.

'The battle over the kingship of the amaMpondo ase Qaukeni goes back 75 years.

There is a detailed narrative in the court papers of its roots, some of which is recounted in rather dry, lawyerly style in this video,

[http://www.youtube.com/watch?v=0FN1N3SBX\\_s&feature=youtu.be](http://www.youtube.com/watch?v=0FN1N3SBX_s&feature=youtu.be)

What doesn't figure in the legal proceedings, of course, is the controversy surrounding plans for titanium mining along the wild coast, and the proposed N2 toll road.

Critics of the Nhlapo commission I've spoken to suggest that economic interests, particularly in relation to mineral rights, sometimes overtook customary law and community interests in the resolution of leadership disputes.

In the Pondoland case there appear to be major financial issues in play. Mpondombini Sigcau was an outspoken critic of plans to mine the Xolobeni mineral sands, linking the character of the landscape to the heritage of amaMpondo. Zanuzuko Sigcau is widely seen as more accommodating of mining development.

The constitutional court ruled on narrow legal grounds that won't finalise any of this for good, but certainly the ruling swings the momentum behind the late king's supporters, and opponents of mining. And others unhappy with the Nhlapo commission's outcomes may well be encouraged to litigate their own cases. Customary law is set to be a growth sector.'

Dawes opened the door for comment. President Zuma said nothing but his actions did. He axed the Minister of Cooperative Governance and Traditional Affairs, Mr Richard Boleyi, and appointed an entirely new political leadership in the persons of Minister Lechesa Tsenoli to be assisted by Mr Andries Nel (formerly deputy minister of Justice and, three decades ago, a conscientious objector like myself, Ray Hartley and Richard Spoor) as his Deputy.

Constitutional law professor, Pierre de Vos, argued in his column in *The Daily Maverick* that the president lost the case because of ‘shockingly bad lawyers in the Presidency’.

Was it bad lawyers, or ‘something rotten in the State..’, still festering ‘beneath the fascinating surface the worms of falsehood and corruption creeping’, more than a century on?

Like Prime Minister Rhodes, President Zuma had grossly underestimated the resolve of the Mpondo, and gambled on a ‘lawfare’ strategy of litigation by attrition.

It failed.

In its failing, the Mpondo succeeded to again fulfil their destiny as expressed in the motto on the Royal Family coat of arms *Ubukhozi Bamampondo Lukhuselo* (The Kings of Mpondo Protect) to protect South Africa and proclaim again The Promise of Justice.

Thandizulu!

## §

Hours before printing of this volume commenced Queen MaSobhuza Sigcau's lawyers received papers from lawyers representing President Zuma informing her that government has filed fresh papers in the High Court asserting that Queen Sigcau has no right to name her daughter, Wezizwe Sigcau, as Queen of Mpondo and heir to the late King Justice Mpondombini Sigcau.

Again, despite the Constitutional Court judgment having already found against President Zuma, the application asserts that Zanozuko Sigcau is the rightful King - not because the Mpondo say so, but because President Zuma has said so, based on the

recommendation of the Commission for Traditional Leadership Disputes.

The following week Nazir Alli held a clandestine meeting with Zanuzuko Sigcau and his followers to assure them that the N2



Mbekiswana Ngcaphe Sogeyisi Mphothe.

*Photograph by John G.I. Clarke.*

shortcut would be going ahead, and to announce that arrangements would soon be made for 'His Majesty and his chiefs' to be flown over the proposed bridge crossings by helicopter. Unbeknown to them, a member of the Amadiba Crisis Committee had managed to gain admission to the closed meeting and was not recognised.

The immediate effect if these development was to convince me to double the print order of this book, so as to raise funds for the continuation of the legal battle, in the sure hope that the *Promise of Justice* shall be fulfilled.

Mr Mbekiswana Ngcaphe Sogeyisi Mphothe, who helped me understand why this book had to be written (see opening passages), died on 23 March 2014 aged *circa* 114 years old.

May his soul rest in peace content in the knowledge that His Story has now been recorded. History is the better for it.



§

To be continued in Book Three: My Story

## Acknowledgements

Beside thanking the characters named and featured (protagonists and antagonists) for giving me the texture of the story, I wish to acknowledge, with gratitude, the behind-the-scenes contributions of the following:

My wife, **Sharon**, for patiently waiting, and actively supporting and funding this project.

My children, **Aimee** and **Sam**, for helping me feel compassion for the childless Cecil John Rhodes.

**The Gaze family** of Ramsgate for providing a safe haven and retreat to write in peace, and the many friends I made in Ramsgate for welcoming me into their community life.

My colleagues in the Southern African Freelancers Association, for advice and information to keep me going.

Other writers and bookish folk, **Denis Beckett, Fred Kockott, Patricia Glyn, Zann Hoad, Val Payn, Richard Poplak, Andy Mason, Jonathan Shapiro, Graham Fysh** and **Alastair McIntosh** for raising the bar.

**Cheryl Alexander**, the ‘Wildawake’ photographer from Canada, for obeying the wild and untamed impulse to come and capture graphic images of Pondoland, and her daughter, **Maia Green**, for following in her footsteps to make this a universal story.

**Clive and Edith Dennison** of Brevitas for publishing this print version and exorcizing the devils in the detail.

**Warren Homber**, my webmaster, for helping me graduate fully into the digital age.

**Milner Snell, Jeff Peires** and **Somadoda Fikeni** for turning me into an unlikely historian by patiently steering me along the narrow path.

The expanding international fellowship of Human Scale Development transdisciplinaryans, especially **Katrine Carstens, John van Breda, Inga Molzen, Sharon White, Nic Marks, Ivonne Cruz, Jacques Boulet**, and of course the ‘barefoot economist’ himself, **Manfred Max-Neef**, for helping me realise I wasn’t barking up the wrong tree.

Stalwart members of the *Metaphorum*, **Russell Clements** (Australia) and **Luc Hoebeke** (Belgium), for refined critique to help mediate the story to international readers.

My weekly breakfast fellowship group members, for holding me together in the dark moments of despair.

Primedia's **Alistair Teeling-Smith, Bruce Whitfield, David O'Sullivan, Kate Turkington, Redi Hlabi and Jenny Crwys-Williams** for tolerating my constant pestering.

Some 30 journalists, editors and producers for demonstrating what freedom of expression means to provide ladders of information to circumvent the snakes.

The **Amadiba coastal residents, the Mpondo Royal Family and the spirits of our ancestors** for making *The Promise of Justice* what it now is.

## Bibliography

- Beinart, W. (1980) Production and the material basis of chieftainship: Pondoland, c.1830-80. In S.A. Marks, *Economy and Society in Pre-Industrial South Africa*. Longman, London.
- Bundy, W.B. (1987) *Hidden Struggles in Rural South Africa: Politics and Popular Movements in the Transkei and Eastern Cape 1890-1930*. Ravan Press, Cape Town.
- Callaway, G. (1939) *Pioneers in Pondoland*. The Lovedale Press, Cape Province.
- Clark, S. (1927) *Missionary Memories*. Methodist Book Depot and Publishing House, Cape Town.
- Conan Doyle, A. (1902) *The War in South Africa*. Smith Elder & Co., London.
- Conradie, A. (1967) *The life and work of the Methodist Missionary Reverend Peter Hargreaves*. M.A. dissertation. University of Pretoria.
- Crawford-Browne, T. (2012) *Eye on the Diamonds*. Penguin, London.
- Darwin, C. (1839) *Voyage of the Beagle*. H. Colburn, London.
- Fynn, H.F. (1951) *The Diary of Henry Francis Fynn*. Shuter and Shooter, Pietermaritzburg.
- Gutiérrez, G. (1983) *The Power of the Poor in History*. SCM, London.
- Hunter, M. (1936) *Reaction to Conquest*. Oxford University Press, Oxford.
- Liebenberg, B.J. (1977) *Andries Pretorius in Natal*. Academica, Pretoria.
- Max-Neef, M.A. (1986) *Human Scale Development: An Option for the Future. (Desarrollo a Escala Humana: una opcion para el futuro)*. Dag Hammarskjöld Foundation, Uppsala.
- Max-Neef, M.A. (1991) *Human Scale Development: Conception, Applications and Further Reflections*. The Apex Press, London.
- Maylam, P. (2005) *The Cult of Rhodes*. New Africa Books, Cape Town.
- Mbeki, G. (1964) *The Peasants Revolt*. Penguin Books, London.

- McIntosh, A. (2004) *Soil and Soul: People versus Corporate Power*. Aurum Press, London
- Meredith, M. (2007) *Diamonds Gold and War: The making of South Africa*. Jonathan Ball, Cape Town.
- Moore, R. (1923) *Olive Schreiner on South Africa*. The Bookman, London.
- Murray, W. (1951) In *The Scottish Himalaya Expedition*, J.M. Dent & Co., London.
- Peires, J. (1989) *The Dead Will Arise*. Jonathan Ball, Cape Town.
- Rainier, M. (2002) *Madonela: Donald Strachan, Autocrat of Umzimkulu*. Mark Rainier, Port Elizabeth.
- Rotberg, R.I. (1988) *The Founder: Cecil Rhodes and the Pursuit of Power*. Oxford University Press, Johannesburg.
- Sachs, A. (1973) *Justice in South Africa*. University of California Press, Berkeley.
- Soga, J.H. (1930) *The South Eastern Bantu (Abe-Nguni, Aba-Mbo, Ama-Lala)*. Witwatersrand University Press, Johannesburg.
- Spoor, R. (2007, August 8) (B. Whitfield, Interviewer)
- Stapleton, T.J. (2001) *Faku: Rulership and Colonialism in the Mpondo Kingdom*. Wilfred Laurier University Press, Toronto.
- Vickers, G. (1972) *Freedom in a rocking boat: Changing values in an unstable society*. Pelican, London
- Welsh, F. (2000) *A History of South Africa*. Harper Collins, London.
- White, C. (2011) *Diamonds, A Man's Worst Enemy*. Bluecliff Publishing, Port Elizabeth.
- Wilson, L.S. (1909) *South African Memories: Social, Warlike and Sporting from diaries written at the time*. Edward Arnold, London.
- Wink, W. (1992) *Engaging the Powers: Discernment and Resistance in a World of Domination*. Fortress Press, Philadelphia.

## Filler picture credits

John G.I. Clarke, 13, 14, 18, 276

Clive Dennison, 8, 26, 64, 342

Edith Dennison, xii, xx, 74, 146, 210, 230, 402, 406, 415

Rod Haestier, 162

Erika Ortmann, 404

Sean Pike, 293

