## Spin worn thin

OUTH Africa's medical parole system has come into sharp relief in recent weeks, with two of the most high-profile beneficiaries being seen out and about. In disgraced former police commissioner Jackie Selebi's case, this was going into a local shop on an errand, albeit driven there by

In the case of Schabir Shaik, the convicted former financial adviser of our president, it was slightly more of an active pursuit - allegedly clubbing his caddie with his wedge and stomping on him with his golf shoes.

Both Selebi and Shaik were released from prison on medical parole. Selebi was serving a 15year jail sentence when he was freed after 229 days because of kidney failure. Shaik served two years and four months of his 15-year sentence before being released owing to his "uncontrollable" hypertension.

Both men were released because the Department of Correctional Services was apparently unable to treat their conditions in jail hospitals. Nobody in their right mind would wish either man dead, or harm, for that matter. The reality is that both of them were duly convicted of very serious offences. In Shaik's case, he suborned the deputy president of this country and got him fired in the process. The fact that the same person ended up becoming president, and the NPA opted not to charge him, is a subject for another day.

Selebi gave crime intelligence reports to his "friend", a drug

Selebi and Shaik were supposed to spend a major portion of their remaining lives behind bars for these crimes. We cannot question the advice of medical experts who testified to these men's terminal illnesses, but, like the rest of South Africa, we can ponder their apparent miraculous recoveries to non-imminently terminal status.

And we can wonder, too, just why - if they are in such apparent rude health, particularly in Shaik's case – their parole has not been reviewed, if not revoked. The message, whether Selebi or Shaik's camps like it or not, is that freedom for these men shows that there is one set of laws for those who are connected, and another for the rest of us.

And no amount of spin will ever change that.

### **Second take** From the South China Morning Post

### Robbed far and wide

HINA is constantly at the sharp end of Western accusations that it is infringing intellectual property rights. The latest US government vio-

lations report keeps it on a priority watch list of 10 nations.

But theft of patents, designs and copyright is not just a problem in the countries that are named and shamed. It is an international phenomenon that has no boundaries. Hon Lik, the Chinese inventor of the electronic cigarette, well knows that. He claims he is being robbed of a fortune by companies in China and elsewhere that are unlawfully making copycats. Hon is widely acknowledged

as the creator of the smokeless cigarette and the firm he cofounded Ruyan has been selling it on the mainland since 2003.

Patent protections are held by Dragonite International, a Hong Kong-listed company of which he is chief executive. A number of American companies have

TO THE girls I know

and to the billions I

**don't:** Without exception every one of you is gifted,

talented, uniquely curios.

teachers when they ex-

press something similar.

you motivated.

You are to be treasured.

Believe your parents or

Talent, power and

your spirit and your being.

bravery are divinely endowed.

They are yours. They are in your

bones, your soul; in the depths of

uniqueness, your talent and the

power within you will be encour-

aged, respected and deeply valued.

ignore, or squelch you, and do so

often in the "nicest" of ways. Don't

In the best of company your

But, some will try to exploit,

It is not said just to get by Rod Smith

been sued and several more are being pursued, but that has not deterred countless other firms there and around the world from illegally profiting.

The e-cigarette market is exploding, especially in Europe and North America. Tens of millions of the world's 1 billion smokers have turned to them in the belief that they are less harmful than traditional tobacco products.

Researchers at Wells Fargo & Co predict that global sales will near \$2 billion (R20bn) by the end of the year and top \$10bn by 2017. There are likely to be unscrupulous business people in such an environment.

Hon's companies do not have the resources to pursue every patent infringement. Nor can cases always be promptly handled and processed

China has challenges in enforcing intellectual property rights protection but, as the ecigarette shows, so too can Western nations.

co-operate. Not for

money, fame, recogni-

tion, or even to belong.

Stay out of control.

## **Thought for the day**

Man may have discovered fire, but women discovered how to play with it. - Candace Bushnell, author of Sex and the City

You & Me

# A plea for the victims of Cato Manor

WE ARE writing to urge politicians to respond to recent police violence and contraventions of the courts in Durban. On September 30, Ngobile Nzuza, 17, was shot and killed by live ammunition, which witnesses say was fired by the Cato Manor police.

During the months leading up to Ngobile's death, her community of Cato Crest was undergoing forced evictions that, the General Council of the Bar noted with concern in an open letter, the courts had interdicted no less than three times.

Previously, Nkululeko Gwala, who prominently had drawn attention to housing corruption in the area, was killed after receiving death threats. Several other activists have been shot by police.

Activists outside Cato Crest also have been arbitrarily arrested, including Bandile Mdlalose, who has received national recognition as a civil society leader for her work with Abahlali baseMjondolo. Other leaders, such as S'bu Zikode, the founding president of Abahlali, have been threatened with death.

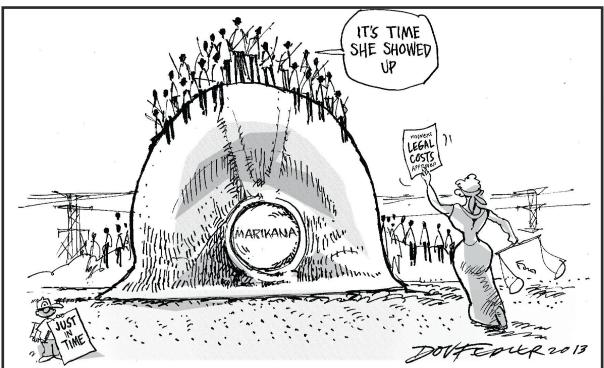
The escalation of violence comes at a time when the Independent Police Investigative Directorate estimates that police assaults have increased by 218 percent.

There have been 4047 cases of assault, 275 deaths in custody, 22 rapes in custody, 50 cases of torture, and 641 complaints of the discharge of an official firearm. Human rights groups such as Amnesty International have documented similarly alarming trends. Adding to the statements made by lawyers, scholars, religious leaders, activists and organisations in South Africa and abroad, we ask that attacks on activists and their homes in Cato Manor be ceased, to fairly investigate the killings and other incidents of violence policing, and to move forward through meaningful negotiations.

Violent policing makes everyone less safe, and in any free, open and democratic society, it should not be tolerated.

PROFESSOR LUCY Northeastern University School of Law, PROFESSOR KARL KLARE, Northeastern School University School of Law, LISA KELLY, S J D candidate, Harvard Law School, DR LAURENCE RALPH, Departments of African and African American Studies and of Anthropology, Harvard University, ASSISTANT PROFESSOR AZIZA AHMED, Northeastern University School of Law, Boston, PROFESSOR BROOK BAKER, Northeastern University School

**TELL THE EDITOR** These pages are a forum for debate. Send your opinions in the form of letters, faxes, e-mails, SMSes, tweets or Facebook posts. Write to, The Editor, PO Box 47549, Greyville, 4023; fax 031 308 2333, e-mail mercletter@inl.co.za; SMS 'Merctalk' and your message to 31455 (standard rates apply); tweet @TheMercurySA; or write on our wall at facebook.com/themercurysa. Please include your name, address and telephone number. The right to edit submissions, which should be no longer than 200 words, is reserved. Pseudonyms will be published only in exceptional circumstances.



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#### Tollgate has a rich history in Durban

IN RESPONSE to Michael Corrigmore's question as to the origin of the name Tollgate in Durban (The Mercury Forum, October 14), I can confirm that a tollgate did exist at the top of Berea Road.

The gate and the tollkeeper's house were erected in 1866 at the city boundary, situated where Ramsay Avenue fed into Berea Road before the building of Tollgate Bridge. The tollkeeper's house straddled the

house Ridgeton, or No 3 Ridge Road, initially owned by John Ramsay and later by Edwin Corbishley.

The first tollkeeper, appointed in 1866, was Henry Bird. What is currently referred to as the Western Freeway, was not always free.

According to the late historian Killie Campbell, both the tollkeeper's house and the gate were removed at the beginning of the 20th century and the gate was then reinstalled at a home in Kloof.

In July 1970, a woman, signing herself only as Mrs M, reported that the "small tollgate" was in her back garden in Kloof.

IAN CORBISHLEY

#### Good old days when 6d got you through

VICTORIAN and Edwardian Natal, a coffee-table book by Verbeek, has two pictures of the tollgate functional in the 1870s. The fee was 6d.

JANET LEVY Westville

#### **Don't miss concert held for Childline**

A CONCERT to raise much-needed funds for Childline KZN will be held at Live-The Venue, at 166 Matthews Meyiwa (Stamford Hill) Road, Greyville, on Saturday, October 26.

The show will feature local bands alty Dog Zwarte Piet Band Customized, Gainsford, ARB, East Coast Basement Blues Band, F'n Rits and Bobby & The Dynamites. With actor and comedian Frank Graham. All these artists will perform

free. The management of Live has offered the venue, equipment and sound crew free of charge. The venue will open at 5pm and

the music will start at 5.30pm. There will be raffles and lucky draws. Anyone wishing to donate items

or wanting more information can e-mail callmesmelly@gmail.com, or phone 078 264 9475

ERROL "SMELLY" FELLOWS Durban

#### Now follow up with action, Mr Phosa

WHETHER it is because Mathews Phosa is no longer an ANC national executive committee member that he speaks out with such conviction against corruption, or because he is trying to instil confidence in a shaky electorate, he should be commended for his strong words ("ANC has failed to deliver" (The Mercury, Oc-

However, he says he remains a committed member of the ANC and that "the ANC is an anti-corruption party". His words become meaningless, hypocritical drivel as long as he serves a president who has over 100 charges of corruption against him, and who has been content to sacrifice the judiciary and our country trying to keep himself out of jail.

He talks about trying to save a once great liberation movement that has become rotten.

It is too late, Mr Phosa, the dam-

age is done. The only way forward is to impeach the president and try to replace the leadership with honest men and women. How this would be done when the opposite is so deeply ingrained I cannot imagine. We have to accept that there was

an old ANC and now a new ANC, the former a proud and great liberation movement, the latter a disgrace.

For anybody voting for the ANC in its current form, you get the government vou de

So, millions will vote for the ANC next year with a thank-you vote, the same vote that kept the Nationalists in power for 40 years. Theirs was a thank-you for liberating the Boers from the Brits; now we have blind supporters of the ANC who will give their vote to the ANC for liberating us from apartheid.

How sad that a country such as ours with such huge resources, such brilliant people and such beauty, has been hijacked by a small bunch perfectly happy to turn us into another Zimbabwe.

**BEEZY BAILEY** Cape Town

## Hlophe casts a dark shadow on SA

THE Constitutional Court has been of seminal importance for the implementation of the democratic dispensation since 1994 in order to give credible and cogent effect to the supremacy of the constitution and a vibrant human rights culture.

It has been manifestly the most esteemed court in the land, being the ultimate guardian of a progressive and universally admired constitution which is the supreme law of South Africa. Its erudite, exemplary and bold jurisprudence is perused

and studied in other illustrious courts, such as the House of Lords, the American Supreme Court, the Indi-Supreme Court and the German Constitutional Court. It has had eminent jurists of world class who have led the court



with distinction, such as Arthur Chaskalson, Pius Langa and Sandile Ngcobo. They have left an invaluable legacy that should not be squandered or tainted. It is therefore a matter of pro-

found sadness and regret that its reputation and esteem are now being tarnished by the ongoing saga involving the Judge President of the Western Cape, John Hlophe, in the Special Disciplinary Tribunal, set up by the Judicial Service Commission (JSC). This state of affairs has its genesis in the serious allegations that Hlophe had attempted to defeat the ends of justice by trying to influence two Constitutional Court judges to give judgment in certain cases in favour of President Jacob

Although the matter has been simmering for five years and it was finality when it was to be adjudicated on by the tribunal, an unprecedented development has now occurred with potentially prejudicial consequences for the integrity, esteem and indeed independence of the Constitutional Court and its

#### Bizarre twist

In what can only be described as a bizarre twist of events, the two principal witnesses, Constitutional Court Justices Chris Jafta and Bess Nkabinde have in an unprecedented volte face refused to appear before the tribunal

It was argued on purely technical grounds that Judge Hlophe had no case to answer, since Justices Jafta and Nkabinde had refused to give sworn statements, to appear before the tribunal to confirm their erstwhile complaint and subject themselves to cross-examination.

The chairperson of the JSC disciplinary tribunal, retired Judge Joop Labuschagne, dismissed the objection that there was no valid complaint, and held that there was indeed a valid complaint and therefore that the tribunal would have to address the substance of the complaint.

However, in a further development, as a result of Judge Labuschagne's dismissal of the objection, Justices Jafta and Nkabinde decided to institute a review application of the dismissal. Moreover, Judge Hlophe is reported to be considering throwing his lot in with the review application. This could greatly prolong proceedings.

As a result, the motives of the two Constitutional Court judges are being openly impugned. Why have the two judges changed their minds?

Who is, and who is not, telling the truth? Has any undue pressure been brought to bear? Although these are profoundly painful questions, failure to address them imperils our system of justice, which is premised on integrity, honesty and public esteem

It is therefore at least the character of three very prominent judges, who will continue to adjudicate and give judgments in the highest courts, that is being called into question. This is indeed a tragic tale of woe that threatens to cast a dark shadow over the judiciary.

Devenish is Emeritus Professor of Public Law at the University of KwaZulu-Natal (Durban) and one of the scholars who assisted in drafting the Interim Constitution in 1993.

## Durban's housing crisis needs a rethink

Arm yourself by THE BLUE flags are back on Durchasing education, reban beaches, Poetry Africa is also jecting the foolish, pervasive belief that beauback and another glorious Durban ty is skin deep. Use your summer beckons us to the wondervoice as early, quickly ful public space at the beachfront. and as loudly as possible. Stand up for your-Durban.

self. Speak up. Express your views. Do it now so it becomes a way of life. Flee all who are more interested in your charm or your beauty than they are in your appreciating your brain and respecting your als of our time have expressed their

• Smith is a family therapist in the US. He can be e-mailed at Rod@DifficultRelationships.com

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These should be good times in But the crisis around housing in Cato Crest is doing massive international damage to the city's reputation. There have been protests in global capitals, churches, international human rights organisations and some of the greatest intellectu-

of Law, and Honorary

deep concern about Cato Crest. Bishop Rubin Phillip, so often the moral consciousness of this city, has expressed his outrage. Protests are planned across Europe on October The Cato Crest crisis did not come out of nowhere. The city's housing programme has been controversial for years. Unlawful evictions, shocking conditions in shack

colonial institution, the transit camp, and tiny, poorly constructed houses on the edges of the urban periphery have all been condemned. Then there was the whole debacle around the Slums Act, pushed by the previous leadership of the province but later found to be unconstitutional. But following the scandal around the massive and

settlements, the return of the hated

of corruption in housing. It is a perfect storm of social toxicity and requires a radical rethink on the part of the government local and national. There needs to be decisive action against corruption

questionable wealth of tenderpre-

neurs, as well as the revelations in

the Manase report, there is evidence

Frank negotiation, not violence, will help city and shack dwellers find each other in the mayhem

and a radical rethink of how the housing crisis is approached. In her important book Cities with Slums Marie Huchzermeyer, the head of the town planning department at Wits, shows that in recent years the state has tended to see the shack settlement as a threat to be eradicated rather than a space requiring democratic engagement and social

In Cato Crest there have been consistent allegations of massive corruption, party political bias and ethnic discrimination against people from the Eastern Cape.

According to advocate Ismael Semenya, of the General Council of the Bar, there has also been repeated illegality on the part of some in the municipality. A number of commenters have serious concerns about what has been termed "the blatant disregard for the courts and the rule of law".

But the reason why the situation has created such waves internationally, and the reason why it is doing such serious harm to Durban's reputation internationally, is the unconscionable violence with which the opposition to corruption and illegal evictions has been repressed on the ground.

Two activists, Thembinkosi Qumbelo and Nkululeko Gwala, have been assassinated. A 17-yearold girl, Nqobile Nzuza, was shot dead, in the back of her head, by the police. Two other activists have also been shot with live ammunition, one by the police and one by the Land Invasions Unit.

There have been constant allegations of assaults by the police. There have also been constant allegations of death threats against activists. A week ago, award-winning activist Mnikelo Ndabankulu was publicly threatened with death on Gagasi

### Outrage

Part of what is creating such outrage is that no one has been arrested for these killings, shootings and other forms of intimidation, vet at the same time a courageous young woman, Bandile Mdlalose, was arrested, held in Westville Prison and released on a shockingly high bail for organising a protest against the murder of Nqobile.

In the eyes of many of Durban's poorest citizens, and in the eyes of the world, it looks like the dark days of repression are back. In this context, many shack dwellers in Durban are organised into the largest social movement to have emerged after apartheid, Abahlali baseMjo-

When people are unorganised repression can often be effective in crushing their struggle. But when



people are well organised it is often possible for repression to be resisted. The attempt to try to crush social movements with violence is one that has backfired massively on the powers that be. There have been, and will contin-

ue to be, court actions. There have been road blockades around the city. There is also a rapidly escalating campaign of international solidarity. The city's ability to govern its poor residents without their consent is in peril. At the same time the city's international reputation is at real risk

It is clear that further repression will lead to further popular resistance and massive international damage to the city's reputation.

What is needed now is a credible investigation, immediate action to arrest those responsible for the assassinations and shootings in Cato Crest, a return to the rule of law by the city and a serious attempt to resolve the escalating conflict between the city and its poorest residents with negotiation rather than violence. The situation is grave and the time to act is now.

Buccus is a research fellow in the School of Social Sciences at UKZN and academic director of a university study abroad programme on political transformation.