

# Saving artefacts — in the nick of time

Natal Witness

*Filched items from museums and art galleries in South Africa fetch good prices at auctions in Europe — and sophisticated thieves have been at work in the city.*



by  
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**A**RT theft is big business — globally the trade in stolen art and artefacts is second only to the drugs trade as an illegal moneyspinner. And South Africa is increasingly being drawn into the problem.

It is the big thefts of famous paintings from major galleries that hit the world headlines. We've all read about them — a daring thief evades the high-tech security and vanishes, along with a Rembrandt or Van Gogh. But those are the exception. Most theft is of smaller, more portable and less easily identifiable items. And with African art sought after in the rest of the world, South Africa is becoming a target and a conduit for pieces stolen in the rest of Africa.

In 1997, artefacts from the Natal Museum's collections became news when they were found being offered for sale in Howick. Police investigated but charges against the suspects were dropped. With hindsight and internal investigation, museum director Jason Londt is now sure he knows how the theft happened, though proving it will be another matter.

"We had visits to the collection some years ago by art and antique dealers and they were allowed access to photograph pieces which we hold in storage. We now believe that some of these guys came in and took

out objects, probably in their camera bags."

Londt believes the collectors tried to implicate members of his staff in the theft as a smokescreen to protect themselves when the police closed in. Londt admits that, because the collectors were known to staff, they were possibly not supervised as closely as they should have been. And, because the collections are so big, thefts can go unnoticed for a long time. When the museum staff did a complete stocktaking at the time of the incident in 1997, they discovered that about 10 items were missing. All but two are now back in the museum — although some are officially still police evidence. For their safety, they are in a cupboard in the climate-controlled surroundings of the museum — and the police have the key. Still lost are two valuable and very rare brass Zulu arm-bands. “If 10 of them are known to be in collections, it’s a lot,” says Londt. “We had seven of them.”

If the armbands ever turn up again, the museum will be able to identify them as it has photographs. But in many cases, the museum and other institutions do not and Londt says the museum has just acquired a digital camera to record the most valuable pieces. Two of the items that the police recovered, from a container in England, were Zulu sticks. "We think they are ours," says Londt. "But do you know how many carved sticks there are? Without a photograph, it's impossible to be absolutely sure they are the ones taken from here."

Tatham Art Gallery director Brendan Bell also admits that his collection has lost some items — though none in the last year. The gallery does an annual stocktaking and then reports to the TLC on the state of the collection.

"Three pieces are missing. One is a little watercolour by R. R. Roberts which vanished

in transit while being returned from an exhibition and the third is a Zulu dancing mace which went missing when gallery staff were putting up a display. Bell says stocktaking is vital for any institution and is determined to ensure that the entire collection is recorded photographically as an extra safeguard.

Efforts to combat art theft and illicit artefact trade in South Africa are recent. The first workshop on the problem was organised in November 1996 by Gillian Berning, then director of the Local History Museum in Durban.

**'Still lost are two  
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armbands.'**

"I organised it as a result of a theft of medals from the museum. You go through a mixture of disbelief, anxiety and embarrassment, particularly when you realise things have not gone missing as the result of a break-in. It had to be an inside job."

One alarming piece of information to come out of the workshop was the value of the illegal trade. This is confirmed by figures from Captain

Bernadine du Preez of the police. She is the country's "art policewoman", the official title of her office being "Cultural Historic investigations". It is a part of the Endangered Species Unit, as stolen art and illegal ivory are often smuggled together. Asked about the value of art stolen in South Africa, Du Preez said that in just three of the case dockets on her desk, it is about R5,6 million. And, of course, some items would be priceless, unique and irreplaceable.

Du Preez began work in April last year. Her first step was to establish a database by

From there, she could start to see if any pattern emerged.

"Two things have come to light," she says. "Items which

## Replay on the cards for Sarfu vs Mandela

CARMEL RICKARD

THE lengthy, acrimonious and politically controversial court case between the South African Rugby Football Union and President Nelson Mandela could end up back in the Pretoria High Court to be heard from scratch by another judge.

That's one of the options which will be put to the Constitutional Court by Mandela's legal team when the appeal is heard, starting on May 4.

Mandela is challenging the outcome of the case, initiated by the then boss of the rugby union, Louis Luyt, in which Sarfu contested Mandela's decision to set up an inquiry into Sarfu's affairs.

Judge William de Villiers, who heard the case, found that the inquiry was wrongly established. He had harsh words concerning Mandela; the Minister of Sport and Recreation, Steve Tshwete; and the director-general of that department, Mthobi Tyamzashe.

Mandela's lawyers claim the judge's order cannot take effect until it has been confirmed by the Constitutional Court.

The President's legal team has now lodged a 410-page summary of the argument they will present. It reveals they have combed the case records to demonstrate their claim that the decision to set up the inquiry was properly made and that the judge was biased.

The lawyers have suggested several outcomes. One is for the Constitutional

Court to decide whether they can find in favour of Mandela despite any bias. If so, that would be the end of the matter. If not, the matter should be referred back to the High Court and another judge.

Mandela's lawyers will argue that Judge de Villiers approached the President as though he were "just another witness" in an ordinary case. They will say the court took no account of the political context, or of the "indignity" to which he was subjected in the hearing.

According to them, Mandela emerged from a long jail sentence as an international icon of reconciliation. The Sarfu case was one in which he was brought to court by rugby officials identified with the old order. It was therefore a politically controversial issue, involving administrators accused of trying to maintain the status quo which was the product of a "racist past".

In this context, Mandela was ordered to be cross-examined. This suggested that Mandela's earlier written evidence could not be believed, even when there was nothing to contradict him. "It was made, at the insistence of a litigant who symbolised the old order, by a judge of the old order who was reputed to have been one of its ardent supporters."

Their argument is that the cross-examination was prolonged, repetitive and irrelevant, and it was understandable if Mandela expressed indignation. But his behaviour could never be said to have shown a lack of honesty and candour, as the judgment suggested.

### Caves mapped for heritage:

66/200  
The Gauteng budget included a R3,8-million allocation to Sterkfontein Caves, west of Johannesburg, to support a bid to have the caves declared a World Heritage Site.

The funds will be used to prepare a detailed conservation management plan in support of the World Heritage Site application to Unesco. A final decision on its acceptance as a World Heritage site will be announced in December.



# Judge plots new future for legal aid

Natal Witness 8/2/99  
TARYN LAMBERTI writes that the new chairman of the Legal Aid Board has the nation's needs at heart — and is to set up justice centres around South Africa.

JUDGE Mohammed Navsa, the feisty new chairman of the Legal Aid Board, has announced plans for the creation of justice centres around the country and to move away from paying private practitioners to defend the poor.

"Our task is not to provide the private sector with an income but to provide an effective legal service to indigent litigants across the board," Navsa says, outlining the new board's plans for the future of legal aid.

He plans to move away from the Judicare system which currently makes up a massive bulk of the provision of legal aid in the country. It involves the employment of private lawyers to represent those who cannot afford to pay their own legal fees.

Of the 196 749 people who received legal aid during the 1997/1998 financial year at a cost of R210 m to the state, 193 177 of those were represented by private lawyers.

Since Navsa took over the helm of the Legal Aid Board from Appeal Judge Chris Plewman in September last year, a large proportion of his energies has "unfortunately" gone into sorting out administrative and managerial problems.

Because of the huge demands placed on the board by the terms of the new constitution, the costs of providing legal aid have escalated dramatically.

In 1972, 4 500 legal aid applications were granted; in 1982 the figure rose to 9 100 and in 1992, 67 100 defences were provided. Since the African National Congress came into power in 1994, the number of legal aid applications granted has grown to 113 774.

Navsa says that by moving away from the Judicare system and setting up staffed justice centres, legal aid will become far more accessible to the poor in all areas. The centres will provide a range of services, including defence in criminal trials and representation in civil matters.

Navsa believes the justice centres will also cost less.

He hastens to add, however, that this will only be in the short term because the accessibility of the justice centres will create more of a demand for legal aid.

But Johann Gautschi, vice chairman of the General Council of the Bar, says he is not convinced that the justice centres will cost less than the current Judicare system. He believes that if one compares "like with like", it will probably cost less to brief a junior advocate for a case than to lay out costs for premises, secretaries, pensions and other infrastructure.

Gautschi also believes that the private sector has an important role to play in more complex or difficult cases.

"The public is entitled to effective representation and this will often require briefing an advocate with experience commensurate with the complexity of the case."

He says the bar and the board are

currently "looking at the cost aspect", with the aim of negotiating more competitive rates.

"We have made it clear to the board that we recognise that the public interest is paramount. The bar wants to help make the legal aid system work in the interest of justice and we will play our role by negotiating competitive rates," he says.

Navsa, who is also a full-time judge in the Johannesburg High Court, says it is regrettable that the energies of the new board have been concentrated on resolving administrative problems rather than doing the necessary job of taking justice to the poor.

The board's biggest challenge is the backlog of payment of accounts which "is a legacy of the past".

**'The centres will provide a range of services, including defence in criminal trials and representation in civil matters.'**

The massive volume of administrative work has been further hampered by staff shortages and the bureaucracy and red tape involved in hiring more staff.

Between April and December last year the board processed 140 248 accounts at an average of 730 a day.

Navsa's two main concerns at the moment are to immediately address the need for efficient control over unpaid accounts and to open the first few justice centres.

Navsa wants to forge co-operation agreements with legal aid clinics at universities. He says he is willing to involve law graduates and "as many people as possible" but the necessary policy still has to be developed in this regard.

The new board, which includes representatives of the attorneys' and advocates' professions, held a *bosberaad* last year, attended by the Legal Aid Transformation Team, the National Association of Democratic Lawyers, the Legal Resources Centre, Lawyers for Human Rights and the Black Lawyers' Association, who all made presentations and suggestions about the future of the board and how to fulfil the board's constitutional obligations.

The constitution provides for the provision of legal services to all, "the enormity of which was not always fully appreciated", Navsa says.

Navsa, who worked for the Legal Resources Centre for "all of his professional life", has been involved in poverty law and understands the desperation of people.

"Legal assistance is not a privilege but a right. We must educate the public that litigation is not the exclusive domain of the wealthy. The importance of legal aid in this country cannot be overstated. Constitutional rights must be more than just paper rights," he says. — Business Day.

## ANC calls for judicial probe into violence

Accusations fly as parties blame each other for unrest in KwaZulu-Natal

Pule Molebele 23/2/99

DURBAN — The African National Congress (ANC) in KwaZulu-Natal has called on President Nelson Mandela to institute a judicial commission of inquiry to investigate allegations implicating members and leaders of political parties in fomenting violence in the province.

Provincial ANC deputy chairman Zweli Mkhize said yesterday the organisation also wanted national police commissioner George Fivaz to investigate police officials implicated in reports by independent monitors and others in perpetuating violence.

Mkhize said Fivaz should also conduct an audit of provincial intelligence

networks as the ANC believed that informers recruited by the old apartheid order were still operating and playing a role in destabilising the province.

Provincial police commissioner Chris Serfontein also came under fire, with ANC safety and security spokesman Bhekeli Cele sticking to the organisation's long held view that Serfontein should resign because of under-performance. Cele said the ANC would not "test" until Serfontein was dismissed and replaced.

ANC spokesman Dumisani Makhaye said Serfontein admitted during an inquest into the 1995

Shobashobane massacre that police knew of the impending attack on the community.

He said police did not protect the community but instead raided the area and seized all weapons, thereby paving the way for the attackers. "Police became active participants in the massacre of our people," he said.

Addressing the question of no-go areas and lack of free political activity, provincial ANC chairman Sbu Ndebele said the organisation would soon be meeting the Independent Electoral Commission to see how it planned to implement the Electoral Act.

Zwelithini in Moni, outside Nongoma.

Police had to protect Zwelithini and Radebe after a group, allegedly Inkatha Freedom Party (IFP) members, objected to Radebe's presence.

Provincial IFP spokesman Blessed Gwala accused the ANC of playing a political game by asking for a judicial commission of inquiry while people were dying.

Gwala said the ANC was trying to shift the focus from the IFP's calls to have Mkhize investigated on allegations of possible involvement in stoking violence in the Midlands area.

"This is making us suspicious and goes back to political intolerance. It is a bad plan as the ANC is playing with people's lives," he said.

The summit, organised by government, will seek ways to strengthen, and better co-ordinate, anti-corruption legislation affecting both the public and private sectors.

Corrupt public servants often worked in cahoots with corrupt businessmen in defrauding government, Omar said.

He stressed he was not "shifting the blame" from the public sector to

## Plan to clamp down on commercial crime

David Greybe

CAPE TOWN — Provincial directors of public prosecutions are to be strengthened to deal better with the "shocking" high incidence of corruption in the private sector, according to Justice Minister Dullah Omar.

Omar said yesterday he had met Bulelani Ngcuka, national director of public prosecutions, and the two had discussed "steps to strengthen the capacity" of Ngcuka's office, particularly in the provinces, to deal with commercial crime.

Omar said most worrisome were

the huge backlogs of unresolved cases of fraud and white collar crime which were "gathering dust" in the provincial offices of directors of public prosecutions.

He singled out the Western Cape office where, he said, some corruption cases involving companies had been lying around for years.

These cases had not been properly investigated because of a lack of

resources, he said.

Ngcuka was presently dealing with the matter and "taking the necessary steps".

Ngcuka was unavailable for comment yesterday as he was in the US on business.

One of the main reasons for the establishment of Ngcuka's office at the end of last year, as part of the restructuring of SA's prosecuting au-

thority, was to beef up prosecutions. All directors of public prosecution — formerly attorneys-general — report to Ngcuka.

Omar, during a briefing yesterday of Parliament's justice committees on the 1999/2000 budget, said the private sector would be fully involved in the national anti-corruption summit to be held at about the end of next month.

The summit, organised by government, will seek ways to strengthen, and better co-ordinate, anti-corruption legislation affecting both the public and private sectors.

Corrupt public servants often worked in cahoots with corrupt businessmen in defrauding government, Omar said.

He stressed he was not "shifting the blame" from the public sector to

the private sector, but he wanted to make the point that the two sectors needed to work together to expose and deal with the "shocking high incidence" of corruption in the court try at all levels.

"Together we need to develop an anti-corruption culture in SA," the minister said.

Omar praised Business SA for what it had done on the anti-corruption front, but said "too much of the fraud in the private sector is not reported and is settled internally away from the public eye. That has to change," Omar said.