

Kenya's turf war of law enforcers sounds a warning in the Selebi affair

By CHARLES GOREDEMA

Earlier this month several newspapers carried summaries of the findings of a panel of four independent investigators appointed by the National Prosecuting Authority to establish whether there was a basis for charging the Commissioner of the South Africa Police Service, Jackie Selebi, with corruption and defeating the ends of justice.

The panel found there was "sufficient cogent evidence" to substantiate the allegations. The outcome of the probe has become part of a chain of events leading to the suspension of commissioner; his indictment for corruption and later resignation from the presidency of Interpol.

Along the way, there have been collateral developments such as the suspension of the director of the National Prosecuting Authority,

Vusi Pikoli, and the arrest of one of his subordinates, Gerhard Nel. The media is abuzz with projections of an imminent meltdown in the administration of criminal justice in South Africa.

Behind the current commotion lie important issues that have demanded repeated attention in post-transition settings beyond South Africa.

The allegations about Commissioner Selebi arouse public concern not just because of the prominence of his position, but also on account of their nature and the accompanying circumstances. He is alleged to have abused his position to solicit bribes from individuals who, to his knowledge, were implicated in organised crime.

In return, the commissioner is said to have made various attempts to protect them from criminal investigation and prosecution. What has

been revealed so far already conjures up parallels with developments in Zimbabwe in the mid-1980s.

In the case of Zimbabwe the demands of post-war reconstruction and drought precipitated a corruption scandal involving fraudulent claims for the transportation of food relief to certain parts of the country between 1981 and 1984.

Investigations revealed that huge payments were made for non-existent grain consignments. They also exposed the source of the claims as an entrepreneur, Samson Paweni.

Paweni had established himself in the transport industry while exiled in Zambia during the 1970s. After Zimbabwe's liberation, he drew closer to the emergent political elites, including the new minister of social welfare.

Having been awarded the tender to move grain to needy areas, Paweni went on to develop a multi-

million-dollar business, partly based on fraudulent claims.

He ensured that the minister, and the minister's influential friends benefited from the proceeds. When the scheme was uncovered the contract was initially suspended, but reinstated on the orders of the minister. As the scam continued, it affected the morale of the entire department of social welfare, eventually enlarging the circle of corruption to include junior officials.

Inevitably this enterprise became unmanageable, exploding into the public realm and resulting in the prosecutions of Paweni and some of the officials involved. In spite of being implicated, the minister escaped censure.

As in Selebi's case, the Zimbabwean minister was prominent in the party and very close to the head of government. A decision to prosecute him was always going to be difficult.

The Paweni case demonstrated the fragility of the much-vaunted independence of the prosecution from the executive, ostensibly inherited from the colonial constitutional set-up.

In the context of the transition in Zimbabwe, the strongest institutions were those with the closest links to the new ruling party. In the early 1980s, these were the executive, parliament and, to a limited extent, the defence forces. The executive exerted its influence over the other institutions in such a comprehensive manner as to render them irrelevant in contentious cases.

Prosecutions that would have embarrassed prominent elements of the executive simply did not happen, a situation that has persisted over the years.

The Selebi case, and its subplots mentioned earlier, reveal a crime-combating system in danger of

being stifled by endless competition for leadership. At its core lies the issue: who should take the ultimate operational decisions when organised crime is suspected to have infiltrated the state?

A similar issue has proved problematic in Kenya, in the context of combating corruption. An unhealthy rivalry between the prosecution and the anti-corruption agency, which occasionally involves the police as well, continues to cripple initiatives to act decisively against corruption in the public sector. In the absence of a resilient constitutional framework, this continues to lead to conflicts within the system.

Clustering of departments at the political level in South Africa was presumably intended to eliminate or minimise debilitating competition for turf, but this does not seem to be working.

As with the Paweni case, the Selebi incident brings the prosecution into potential conflict with the executive. It will be interesting to see what the inquiry into the suspension of NPA director Vusi Pikoli recommends as an appropriate relationship between the prosecution and government.

Commissioner Selebi was parachuted into the leadership of the police service in 2000. At the time of his appointment, questions were raised about the prudence of appointing a civilian to lead the police.

While his satisfactory administrative performance will have done much to allay some of the concerns, the nature of the security screening that preceded his appointment will be called into question.

● Charles Goredema is Programme Head: Organised Crime and Money Laundering, ISS Cape Town.

Signs of a magnificent catastrophe

America's 1800 election marked a transition that may be echoed in SA, writes Derek Catsam

A heavily contested election in a still-new democracy. An irascible, dogmatic, brilliant, flawed, abrasive, talented, condescending sitting president. Hand-wringing over what the contentiousness might mean for the future of the state. Increasing factionalism.

I am writing, of course, about the United States in 1800.

Historical analogies are a fraught endeavour; and those brought to bear across a transom of more than 200 years in time, not to mention worlds of differences in geography and context, should be at best suggestive. Yet even as I have been writing extensively about South Africa's current contested political climate I have been absorbing Pulitzer Prize-winner Edward Larson's fine new book about the 1800 US election, *A Magnificent Catastrophe*.

The 1800 election pitted a grumpy, contentious and brilliant President John Adams against not just another of the founding fathers, Thomas Jefferson, but also Aaron Burr and Alexander Hamilton. In many ways the 1800 election introduced American politics to partisan strife, and while many worried that the divisions that the election revealed would cause the American democratic experiment to die unborn, the country survived the "Revolution of 1800" and indeed thrived.

The differences in context are clear between South Africa in 2007 and the United States two centuries ago. Yet one cannot help but think of Nelson Mandela when reminded of George Washington's willingness to step down from power which he probably could have held to his

death had he so chosen. And while Thabo Mbeki is much more suave, graceful and attractive than John Adams, both men suffered for their vanity and paled in comparison to the man who preceded each of them. It also appears that in South Africa, as in the United States in 1800, the effort to supplant the successor to the country's heroic founding president will go a long way in determining the very character of the fragile democracy for which so many fought for so long.

One of the key legacies of 1800 is that it effectively established a partisan tradition in the United States. The Founders professed to oppose factionalism, but it took only a dozen or so years for those same Founders to determine that parties made for an effective way for people of similar ideological and political leanings to mobilise for power. This partisanship, coupled with some bizarre (and in some cases, still unresolved) quirks in the American system, fuelled a two-party structure that may be unloved in many quarters, but that has endured over the generations. For better or worse, many of the characteristics of American democracy as we know it stem from the election that made Thomas Jefferson president.

The South African circumstance is different. And yet one can speculate as to whether or not the events that effectively began in Polokwane at the end of 2007 and will carry forward through 2009 will have a similarly significant effect on South African democracy. In terms of acrimony and intrigue, the Americans of 1800 carried no advantage over what happened in Limpopo province



BREAK TO THE LEFT: Newly elected ANC president Jacob Zuma addresses delegates during the closing session of the ANC conference in Polokwane on December 20. The writer draws parallels between Polokwane 2007 and USA 1800. Picture: AP

when the ANC gathered to elect a new party president, among other things.

Two years ago Jacob Zuma's political fortunes appeared bankrupt. Accused of rape and of multiple counts of corruption, Zuma, once Mbeki's trusted deputy and vice-president and cherished ally, looked to need luck to hold on to his freedom, never mind even the remotest chance of political viability. But as Mbeki's popularity plummeted, and as Zuma managed to avoid legal peril (though it appears that he will face reinstated corruption charges that might still undercut his political future), he emerged from the ashes.

Suddenly a large plurality of the ANC's fiercely loyal cadres found that Zuma represented them. He took on the mantle of man of the people, even if that title emerged as much from who he was not - namely Thabo Mbeki - as who he is, which has always been a fairly centrist ANC loyalist. There is a reason, after all, that he was once so close to Mbeki. Zuma is no radical, though he is opportunistic enough to be able to tailor his message to the party's left flank.

It is from the left that the break in South African politics is going to occur. The ANC's tripartite alliance consists of the

ANC proper, but also the Congress of SA Trade Unions (Cosatu) and the SA Communist Party (SACP), both of which stand significantly to the left of the ANC's centre. Unlike in the United States in 1800, South Africa has many political parties, some quite negligible but all free to operate in the democratic structures embedded in the country's constitution. But every other party combined pales when placed next to the strength of the ANC.

The country's main liberation party still holds the loyalty of South Africa's masses, and despite wide ideological fissures in the party, Cosatu and the SACP have always known that access to power, to both

political effectiveness and political spoils, comes from within the ANC.

But one has to wonder whether the conflicting forces being brought to bear on the ANC's numerous constituencies won't prove to be too much and ultimately tear the party apart. A viable challenge to the ANC will not come externally from the right. It will come, rather, from within and from the left.

In time, we shall see if 2007 marks a crucial moment in fomenting a division that many observers see as being inevitable, even as one of the chief concerns of the party's many factions in Polokwane, other than victory, was maintaining party unity.

At some point the desire to present a unified front will give way to ideological differences too wide to bridge.

Jacob Zuma appeared poised from the vantage point of December 2007 to be the country's next president. But keep in mind how much has changed since December 2006. And consider what is likely to come in the next 12 months and beyond. There is much that will happen in the two years before South Africa's presidential election. A corruption conviction for Zuma would change everything.

Mbeki has more than his share of the Phoenix in him, and his ability to ride choppy seas to calm waters has, over the years, proved indispensable.

Democratic transitions are alarmingly rare in sub-Saharan Africa.

Unless Mbeki attempts and succeeds in doing both the unlikely and the extreme in challenging the constitution and pursuing another term, South Africa is going to make another peaceful democratic transition in 2009. The process by which that transition happens is likely to shape South African politics for a generation.

South Africans need not look to the United States to see the triumph of democracy. But if they choose to do so anyway, the American election of 1800 and the political machinations and outcomes that accompanied it might not be a bad place to start.

Perhaps South Africans are witnessing their own magnificent catastrophe as they suffer some of the growing pains of their still-nascent democracy. ● Derek Catsam teaches American and African history at the University of the Permian Basin. He is the blogger on South African issues for the Foreign Policy Association and is at work on a book on bus boycotts in the United States and South Africa in the 1940s and 1950s.

They tell me the human brain operates by passing tiny electrical impulses along a complicated network of synapses, whatever they may be.

It's comforting to know that this is one source of electricity that's not controlled by Eskom, although I do seem to be suffering from an increasing number of rolling cranial load-sheddings as I grow older.

One difference between brain electricity and the man-made kind is that you can link up a number of man-made batteries to provide a powerful source of electricity. The more batteries you add, the higher the voltage becomes. This does not happen with human brain power. In fact, the more human brains you link together, the weaker the current appears to be.

A committee of four, for example, produces about a quarter of the brain power of a single individual.

Taken to extremes, the brain power of a "mob" can be measured by taking the IQ of the stupidest member of the mob and dividing it by the number of people in the mob.

This was amply demonstrated last week when an angry mob (mobs are usually angry. We seldom hear about "happy mobs") burned computer trains in Gauteng during a power outage, destroying millions of rands in railway carriages.

This was a completely mindless action, you have to agree. Burning a carriage achieves nothing positive at all. It simply means less seating next time you have to commute to work.

It probably also means increased ticket prices soon, to help pay for

DAVID BIGGS

Tavern of the Seas

new railway carriages. It sends no useful message to the operators of the railway, because they had nothing to do with the fact that Eskom stopped their trains. No matter how many of their trains you burn, they won't go any faster without electricity.

And Eskom felt absolutely no pain at all, because it wasn't their train that was destroyed. If the mob had had any brainpower at all they would have directed their anger at Eskom.

Maybe they could have marched together to the Eskom headquarters and stuck the CEO's head in a toilet and pulled the chain.

It wouldn't have started the trains running, but at least the commuters would know that they'd targeted the right chap.

And Eskom would have a rough idea of how angry they had made the commuters.

Panel discussion

A reader recently wondered what had happened about those amazing new solar panels that were invented in South Africa and were about to revolutionise the world.

I confess I have wondered the same thing.

Donald wrote to say he had heard that the factory in Germany, which was to produce the panels, was still being planned. No production date has been set.

If this is the case we can expect several years of Eskom-sponsored darkness before we come up with cheap individual electricity supplies.

Last laugh

After the visiting preacher finished his service, a woman came up and said: "You were much better than the preacher we had last Sunday. He spoke for almost an hour and said absolutely nothing."

"Thank you," the visiting preacher replied, obviously flattered.

"Yes," she continued. "You did it in just 15 minutes."

The Wanderer

Tel: 021 788 9710
Fax: 021 788 9560
E-mail: dbiggs@glolink.co.za

This column survived an Eish-kom cut

It's the new excuse right across the city.

Anyone late for an appointment or behind schedule on anything immediately blames Eskom. After copying this several times this week, it occurred to me to skip the arduous task of crafting 800 words for your benefit and to tell The Editor that my computer went down at the creative moment critique.

Given that nobody, seemingly not even the power company itself, can keep track of every blackout, I would probably have got away with it. Who really knows if the servers were down in Rondebosch, someone actually got stuck in a lift in Bellville, the trains from Khayelitsha weren't running or there truly was unanticipated gridlock in Table View at midday? So, at the moment, we accept the explanation, say "shame" and share a few expletives about "Eish-kom".

This is the real nightmare scenario from the load-shedding. Cape Town was already ludicrously slack in terms of meeting deadlines of all kinds without a brand-new, unverifiable, long-term cop-out.

What is it about our city that, seemingly forever, has produced and tolerated such astounding service laxity? Does every tradesman or service provider in Cape Town attend a special college where they are taught how to Not Turn Up For Appointments or instructed to Not

MIKE WILLS

Open Mike

Call If They Are Late? Is there a module on How Not To Provide A Quotation and are there extra lessons in the art of Disappearing Off The Face Of The Earth? Do their partners also attend seminars in How To Take A Message But Not Pass It On?

Advanced students become mas-

ters in Taking On Too Much Work and therefore also have to be extremely accomplished at Never Finishing The Job.

Others devote hours to the particular talent of Never Providing A Complete Solution. These guys begin every assessment with "what you must do is..." Only after I have cut a hole in the roof and gone to the hardware store for three very specific items will they turn up to do their quick task before leaving me

with a massive bill and a gaping hole in the roof!

Most Capetonians tackle work that requires anyone to come to their house with a particular kind of dread. The amount of uphill involved in simply getting someone to arrive at your front door on the appointed day, let alone hour, daunts most of us before we even start. Friends will pass on a phone number of a tradesman with a resigned shrug and say "he wasn't any good but at least he turned up".

And should, by some miracle, they know of a reliable and competent plumber, carpenter, electrician, tree feller, roofer, painter or small-scale builder they will not reveal his name for fear of this rare gem realising his true value and going back to the tradesmen's college and doing the course in Double The Rates.

Obviously I am being sweepingly unfair to the likes of Errol the TV man, Tom the computer bloke and JJ's pool crew (no, you can't have their numbers!) who turn up on time and complete their tasks cheerfully and without fail, but they shine like beacons in a morass of unreturned calls, unsupplied quotes, missing goods for which I have already paid, and unresolved problems. And it's obviously something in the air rather than the blood. Someone in the southern suburbs recently was let down horrendously by a tradesman who was born and

trained in Australia but who had clearly been infected by local ways.

I know this is a classic privileged whinge and I have no doubt that when you view it from the tradesmen's end of the telescope most of us are impossible clients with utterly unreasonable expectations, but it's still important stuff.

In spite of the worst efforts of Eskom and some of our politicians, this remains a growing city. Hopefully there's going to be more, not less demand for basic services from an expanding group of people happy to pay for them. There is a huge gap to be filled and it is low-hanging fruit in terms of education and unemployment because academic abilities matter less in this arena than an enthusiastic willingness to learn a trade.

This is classic small business which usually thrives best when big government gets out of the way so we're more likely to crack this problem via old-fashioned apprenticeships rather than cumbersome and expensive modern state organs like Setas and FET colleges.

Wherever they learn their trade, I hope the next generation are taught the priceless value of punctuality and meeting deadlines. As my very first editor put it, "The reason why 'dead' is in 'deadlines' is that I will kill you if you miss one."

I can't imagine him allowing Eskom as an excuse.