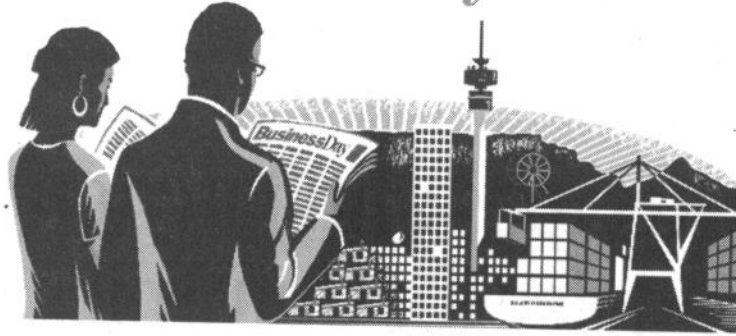


Opinion & Analysis



NEWS WORTH KNOWING SINCE MAY 1, 1985

A government with something to hide

AT FIRST blush, Public Works Minister Thulas Nxesi's use of the National Key Points Act to justify the expenditure of an obscene amount of public money on President Jacob Zuma's private rural retreat, and to avoid having to respond to the entirely justified outcry, seems a stroke of genius.

This apartheid-era law — one of as many as 70 that still restrict the flow of information against the spirit of the constitution — allows the minister to declare any place a national key point if, in his opinion, it is "so important that its loss, damage, disruption or immobilisation may prejudice the republic, or whenever he considers it necessary or expedient for the safety of the republic or in the public interest".

Not only does the government then have the right to refuse to release any information pertaining to a place so declared, but it can prosecute anyone who does, and seek to have them jailed. And the public doesn't even have the right to know what the national key points are — they are deemed so sensitive and secret that discussion of their very existence must be censored.

Hence Mr Nxesi's attitude that the media should be grateful for the scraps of information he deigned to feed them, as they shouldn't really be discussing the subject at all. Fortunately, SA is now a constitutional democracy, so Mr Nxesi's arrogance may yet come back to bite him. It is likely that the courts will, yet again, be called upon to declare unconstitutional a law that any reasonable government would have scrapped as contrary to democratic principles.

The National Key Points Act is clearly unconstitutional because it has the potential to turn people into criminals without them knowing they are doing anything wrong, and because the extreme secrecy clause prevents accountability and makes it impossible for anyone to assess whether decisions made under its cover were rational.

The Constitutional Court has already ruled that executive deci-

sions must have a rational basis. Good luck to Mr Nxesi if he ever has to explain to the court why spending more than R200m on Mr Zuma's private property, "only" about R70m of which was for security upgrades, was a rational move in a country where almost 25% of the population does not enjoy food security and service delivery riots occur almost daily.

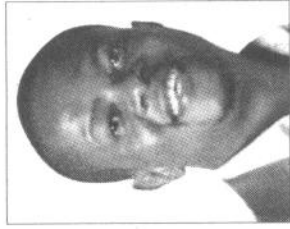
There is another reason Mr Nxesi may yet live to regret resorting to scraping the bottom of the apartheid legislation barrel to achieve his narrow political goals, whatever those may be: he has painted himself into a corner. That is because although there are various laws that provide for necessary expenditure at the state's expense to ensure the security of senior government officials, there are strict limits when it comes to privately owned properties. And the National Key Points Act specifically states that when a property is declared a key point, securing it must be at the owner's expense. Explaining that one in court will be interesting.

There is no small irony in the fact that Mr Nxesi's attempt at a cover-up — and implied threat that the might of the state would be used to crack down on anyone who did not accept it — came in the same week as Reporters Without Borders released its annual World Press Freedom Index, in which SA dropped 10 positions to 52nd out of 179 countries.

Lest we be accused of hysteria, let it be noted that 52nd is a respectable ranking that signifies a place where information still generally flows freely and journalists are not actively persecuted. But the decline is worrying — the first time since 1994 that SA has not made the top 50. Reporters Without Borders attributes that to the threat posed by the Protection of State Information Bill, but it may as well have mentioned the National Key Points Act. The real problem is not the laws, but the fact that SA has a government that does not want the public to know what it gets up to.

When evil enters president's house

The Star, Pg 12, 1 Feb. 2013



MAKHUDU SEFARA

It is hard to comprehend how R206m could be spent on one person's property

IMAGINE a traffic cop stopping a presidential cavalcade for a traffic infringement. After asking for a driver's licence and inspecting the lead car, the officer, with the president waiting in another car, asks for a bribe.

In an ideal world, your reaction would be that this madness is impossible. It ought to be. It's more stupidity than it is guts. How can you ask for a bribe from people working so closely with the president, the commander-in-chief of our armed forces, our anti-corruption chief campaigner and the nation's moral compass?

Well, as I say, in an ideal world, this must be the reaction.

Yet, when Public Works minister Thulas Nxesi told us that "the Supply Chain Management policy and pre-scripts were not fully complied with in procurement of goods and services" in that people inflated prices in the construction of President Jacob Zuma's palatial compound, our reaction was muted.

Granted, we were gobsmacked by other revelations. But the very fact that this corruption is happening at the very halls that must house our great leader did not warrant much attention and reaction. That someone felt they could engage in unethical conduct in a project involving the president speaks volumes.

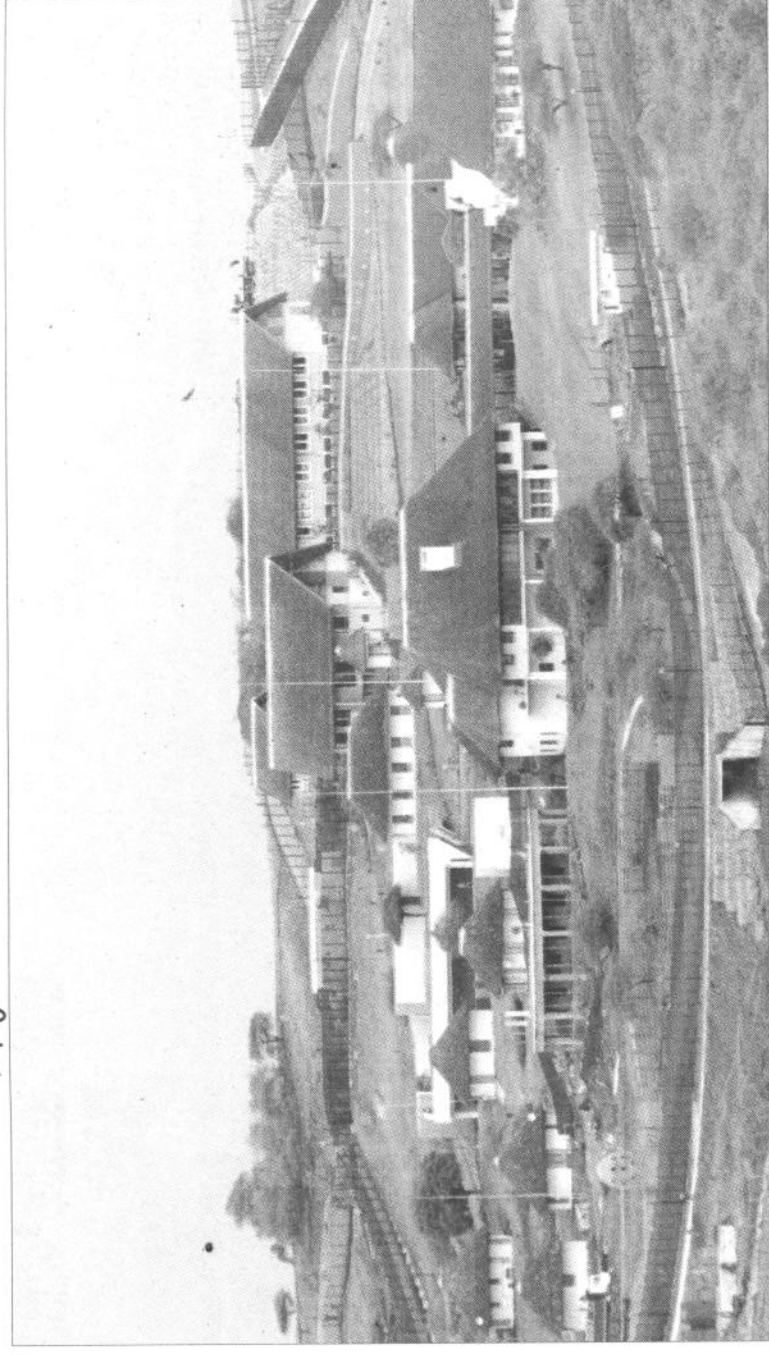
Solon, an ancient scholar of ethics, talks of "public evil entering the house of each man" when ethics is marginalised. John Ralston Saul notes that "ethics is like a muscle which must be exercised daily in order to be used in a normal manner".

For those doing work on Zuma's private home, his weight and perpetual presence in Nkandla were not enough to stop them from violating procurement procedures and, in the end, placing a ridiculous bill of R206 million "so far" on the table. What cheek? It is either these corrupt people are very brazen or they know they have a shield and spear to protect them!

But whatever their cover, the wretched of our country who this week forced multi-billionaire Patrice Motsepe to shed a tear must be brought before the courts to face the full wrath of the law. Nothing less will suffice.

Indeed, when people like Motsepe come forward to do good, they do so with hopes that government will do its part.

That government will continue to



CONTENTIOUS: President Jacob Zuma's home in Nkandla, KwaZulu Natal.

PICTURE: DOCTOR NGC080

help feed the poor and infirm, and also provide an environment in which businesses make it possible for philanthropists to help. Importantly, though, government has a duty to us all to ensure that the bright sparks who inflated the bill to R206m and still counting, are found and used as a lesson to show that corruption does not pay.

A failure to do this will see the president being disrespected without end.

But the irony though is quite remarkable, is it not? By that I don't mean a former unionist-cum-communist minister trying in vain to justify spending R206m on one person's security. No. That part, sadly, I have reluctantly come to expect. I've made peace with it.

One's background is no guarantee of future conduct. That one is a former pro-worker. That one is a former freedom fighter does not necessarily mean one will infinitely work for the advancement of democracy. Our land, unfortunately, is laden with such examples.

The irony for me was that in the week when one prominent South African shows us the way by giving to the poor, the other prominent South African is in

the news too – accused of prioritising himself and his family and of taking away from the poor to ensure a luxurious existence for the family in Nkandla.

Motsepe, on the one hand, encourages and learns from others, who are more monitored, to give. The affair in Nkandla is a complete contradiction.

It came as a shock, first because of the amount, but second, because for many mere mortals, it is hard to comprehend how R206m could be spent on one person's yard (not on the houses).

After all, we had earlier found solace in assurances made in an emotionally charged affair in Parliament last year that the furnishings were only limited to the bunker, the security fence and bullet-proof windows. Now we hear the amounts were bumped up by things like a soccer pitch. Even then, how does it end up costing R206m?

Thirdly, we had an expectation that those who themselves were poor will have the necessary gumption to do more to help others rid themselves of the ignominy of a life of want rather than focus on themselves.

Indeed, Saul and Solon's words are more apposite. Ethics is like a muscle to

be exercised everyday.

It is really pointless applauding Motsepe for doing the right thing when turning a blind eye on those who spread public evil. We are told the Auditor-General is investigating this matter. Yet, the AG has written many other reports that are gathering dust. Why? We have made it easy for people to think that it is possible to be unethical or corrupt, even on projects involving the highest offices of our land, and get away with it.

It does not help that people like Nxesi pretend they do not understand why many people are aghast at the Nkandla splurge.

For us to get rid of the putrid stench, the president too must take an interest in the matter. He must find out who the palookas are who are bringing his name into disrepute, make sure action is taken against them. Otherwise, people will think of him as a joke, as someone under whose nose it is easy to get away with murder, as it were.

Efforts by Motsepe and those like him to help create a better world will come to nought – unless Zuma shows that "public evil" of which Solon spoke, will not enter his house. We wait.

Follow Makhudu Sefara on Twitter @Sefara_Mak