



## EDITORIAL

## REPERCUSSIONS FOR THOSE WHO FAIL TO DELIVER

THE rampant corruption and maladministration in municipalities across the country remain a major cause for concern, and something needs to be done to stop the rot.

Every now and then, we witness shocking incidents and allegations levelled against those tasked with the management of these institutions. More shocking is the fact that municipalities are the sphere of government closest to the people on the ground.

The spate of fraud, corruption, maladministration, theft, infighting and, lately, alleged involvement in political killings against those tasked with leading the institutions, threatens South Africa's developmental agenda.

A recent Independent Media news report looked at how a certain district mayor was allegedly part of a bid process that hired additional bodyguards, which exceeded the budget, and donated money to an oil company. He also allegedly interfered with the municipality's administrative duties.

In Umkhanyakude the IFP and ANC have been squabbling since the beginning of the year. The IFP snatched control of the municipality and appointed Tim Moodley as mayor in March after the ANC boycotted a council meeting. The ANC has been trying to take it back through various motions that have been unsuccessful. This has severely affected service delivery.

In eMadlangeni in Dannhauser, the ANC had fought internally over who should be appointed speaker.

The Alfred Duma Municipality mayor in Ladysmith, Vincent Madlala, was recently arrested, together with his three sons, for their alleged involvement in politically related killings.

Newcastle mayor Ntuthuko Mahlaba recently appeared in court on charges of theft, assault and malicious damage to property.

This is just the tip of the iceberg.

Under Chapter 7 of the Constitution, a municipality has the right to govern, on its own initiative, the local government affairs of its community, subject to national and provincial legislation, as provided for in the Constitution.

There should be major repercussions for those who fail to fulfil their constitutional obligations. Especially for those entrusted with leading the interests of the poor.

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## opinion

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HELMO PREUSS

## Regulatory measure on tech companies is not unique to China

SOUTH African investors may perceive that the Chinese government is unfairly treating Chinese technology companies in their recent regulatory moves, but the reality is that many governments around the world worry about the monopolistic and anti-competitive behaviour of large technology companies such as Amazon, Apple, Facebook and Microsoft.

Anti-monopoly legislation in fact goes back to the 19th century in the US. The 1890 Sherman Act was aimed at being a "comprehensive charter of economic liberty aimed at preserving free and unfettered competition as the rule of trade". One of the act's main provisions outlaws all combinations that restrain trade between states, while a second key provision makes it illegal for attempts to monopolise any part of trade or commerce in the US.

Firms found in violation of the act can be ordered dissolved by the courts, and it was used in the 1990s against Microsoft, where the US Department of Justice found that Microsoft had attempted to create a monopoly position in Internet browser software.

Google has already settled one anti-trust lawsuit in France after paying \$270 million in fines and agreeing to change some of its business practices.

This is similar to the \$2.75 billion fine that Alibaba paid for monopolistic behaviour in April 2021. The difference between China and other countries is that China has only recently enacted anti-monopolistic legislation, so investors still need to figure out the "rules of the game".

China's anti-monopoly laws were only passed in 2007, years after the Chinese big tech companies were founded, so when they expanded there were no rules of the game in place.

Tencent was founded in 1998 and Naspers took a significant early stake, while Alibaba was founded in 1999 and Baidu in 2000. The State Administration of Market Regulation, which has to apply the anti-monopoly laws, was only established in April 2018, so it is only 40 months old.

China has recently noticeably stepped up supervision over its internet companies, and it is at pains to say that the regulatory moves should not be misunderstood as a signal that the country wants to punish those companies as a warning. The aim is to usher in an era of orderly and sustainable development of internet firms, which protects consumers and allows space for smaller competitors to develop. The aim now is to extend regulations on Chinese private enterprises.

The regulations are aimed at curbing corporate excesses, such as the so-called 996 work culture, where workers have to work from 9am to 9pm six days a week. In particular, consumers are worried about data security.

This is by no means aimed at cracking down on private internet companies. Rather, it is aimed at genuinely establishing rules, building an environment conducive to protecting competition and accelerating the overall development of internet companies.

Foreign investors remain upbeat about the long-term performance of overseas-listed Chinese companies with strong fundamentals, though regulatory uncertainties may have clouded their short-term prospects.

Firming up the rules of the game may provide more policy predictability, so the shares of overseas-listed Chinese companies, such as Tencent, are expected to bounce back.

This view by foreign investors should give comfort to investors in Naspers.

Pretorius is an associate professor of Anthropology at the University of the Free State

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## We stand with Palestine

*Unjust actions committed by Israel offend letter and spirit of AU charter*

## COMMENT



DR NALEDI PANDOR

ON BEHALF OF the South African government, I recently had to communicate our objection to the unjust and unwarranted decision of the AU Commission to grant Israel observer status in the union.

The commission has taken this decision unilaterally without consultation with its member states. The decision to grant Israel observer status is even more shocking in a year in which the oppressed people of Palestine were hounded by destructive bombardments and continued illegal settlements of their land. The AU strenuously objected to the deaths of Palestinians and the destruction of civilian infrastructure. The commission's decision in this context is inexplicable.

The unjust actions committed by Israel offend the letter and spirit of the Charter of the AU. The union embodies the aspirations of all Africans and reflects their confidence that it can lead the continent through the practical expression of the goals of the charter, especially on issues relating to self-determination and decolonisation.

Israel continues to illegally occupy Palestine in complete defiance of its international obligations and relevant UN resolutions. The world continues to witness some of the most horrific scenes of brutality and violence exercised against Palestinians living in the Occupied Palestinian Territory.

We have witnessed the senseless taking of young, innocent lives, the destruction of civilian infrastructure and livelihoods in an "unbalanced power equation between an occupying

power and a people, resisting occupation".

The Palestinian narrative evokes experiences of South Africa's own history of racial segregation and oppression. As oppressed South Africans, we experienced first-hand the effects of racial inequality and discrimination and we are well aware of the long-term impact and consequences of racial and other forms of discrimination.

An unwavering commitment is required to eradicate discrimination and policies of exclusion completely and permanently the world over. It is paramount that the global system deepens its efforts to eradicate the scourge of racism and discrimination and allow those whose basic rights have been violated, to enjoy the inherent human rights that others enjoy on a daily basis.

Since its inception in 1945, the UN has championed the principles of equality, non-discrimination and the right to self-determination as an integral element of basic human rights and fundamental freedoms. With international human rights instruments to

guide us such as the Universal Declaration of Human Rights, the Covenants on Civil and Political Rights and Economic, Social and Cultural Rights, as well as the Declaration on the Granting of Independence to Colonial Countries and Peoples (1960), we ask, why is it that, over half a century later, the question of Palestine remains unresolved and why is it that the people of Palestine are denied many of the rights contained in these seminal documents?

South Africa, along with many in the UN membership have long accepted and supported a two-state solution, with Israel and Palestine living side by side in peace. Decades of aggression have made this internationally recognised concept improbable.

South Africa urges the international community and in particular the UN to ensure the safeguarding of the rights of the Palestinian people. In this regard, we welcome the initiative to convene a Special Session of the Human Rights Council on the grave human rights situation in the Occupied Palestinian Territory.

South Africa supports the recent adoption of the UN Human Rights Council Resolution which establishes an International Commission of Inquiry to Investigate Violations in the Occupied Palestinian Territory, including East Jerusalem, and in Israel. However, action in this regard must be peremptory to avoid reducing these initiatives to "feel good talk shops".

We are currently living in unprecedented times. The Covid-19 pandemic has presented enormous social and

economic challenges, straining existing systems that are already grappling with numerous difficulties.

The pandemic has further exacerbated the challenges faced by civilians and vulnerable groups, especially women, girls, people with disabilities and children, including those in the Occupied Territory. Containment measures have affected access to socio-economic necessities.

In this regard, it is paramount that the occupying power fulfil its obligations in terms of international law and together with the international community ensure that all barriers to accessing health care are eliminated.

The illegal settlements leading to dispossession and displacements and human rights abuses are incompatible with international humanitarian law and international human rights law. The policies and practices of Israel, as the occupying power are in flagrant violation of UN General Assembly and Security Council resolutions and contravene international law.

It is therefore imperative that the Security Council, as the body entrusted to maintain international peace and security, take concrete steps against these illegal acts and go beyond mere rhetorical condemnation.

The recorded failures of the council in ensuring respect for and the upholding of the rule of law has dented the integrity of this august organ and highlighted the urgent need for the council reform.

*Pandor is the Minister of International Relations and Co-operation*

## Paramilitary police force the new normal?

## PROFESSOR THEODORE PETRUS

IN THE latest episode of the controversies within the top leadership of the SAPS, the Supreme Court of Appeal dismissed the appeal by SAPS National Commissioner General Khehla Sitole, to overturn the decision made by the High Court that he and both of his deputies were found to be politically compromised, putting the interests of the ANC above those of the country.

The SCA judgment preceded the chaos of the looting and violence that swept across Gauteng and KZN in July, and that once again exposed, among other things, the perceived inability of the SAPS to adequately address public violence of this scale.

The controversies surrounding General Sitole are also not new. He has been embroiled in conflicts within the most senior leadership structures of the SAPS. But what is the bigger picture of this latest situation involving the country's top cop? An analysis

of the historical and contemporary context of the SAPS suggests that there is an observable pattern that points to the systematic weakening of the SAPS since the 1990s.

Post-1994, the need to transform the police and gain the trust of communities became a priority. Unfortunately, certain key events since the 2000s, in which the SAPS played a significant part, have not only served to undo the efforts to transform the police, but have arguably weakened them as a credible bulwark against crime.

The death of Andries Tatane in 2011 and the Marikana incident in 2012 were two major events that exposed the inherent weaknesses in the SAPS. Subsequent to these, excessive force in their handling of protests, growing allegations of police corruption and criminality, and the fact that most national commissioners left their posts under a cloud further weakened the SAPS' public image and its ability to properly combat crime.

Is the endgame of the chaos in SAPS to ultimately create a restructured paramilitary police force? In a previous article, I alluded to the problem-reaction-solution strategy employed by those in authority to convince the public to accept a particular course of action.

In short, a "problem" is created. In this case, the problem is the systematic weakening of the SAPS that has been going on for decades. The problem is then allowed to escalate to crisis levels, until the public react in a way where they demand that the authorities step in and resolve the issue. This is then the desired "reaction".

The authorities may then at this point introduce their "solution", which in this case could be the creation of a paramilitary policing structure, with the support of the public.

If this was the case, what was the strategy? Create conditions where the public could be systematically conditioned to accept paramilitary policing as a viable solution to the country's

policing problem. Create instability in the police leadership. Create a perception of the police as corrupt and involved in criminality. At the same time, allow crime levels to rocket and paint the police as inadequate in addressing high crime levels.

This, in turn, has led to increasing calls from various sectors of the public for the military to be brought in to assist the police to quell crime. Most recently, the military has been called in to assist in addressing the violent looting that has happened in the country.

It is conceivable that we are perhaps being prepared for a new permanent paramilitary police force. Whether or not this will in fact materialise remains to be seen. But if this is the endgame, an even more significant question is – what will this mean for our rights and freedoms as citizens?

*Petrus is an associate professor of Anthropology at the University of the Free State*

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