

**Sunday Times** JULY 3 2011  
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# Review

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# Justice should be blind, but the police should not be

Desire Sprenger's husband was murdered and his body dismembered and burnt — but because investigators didn't collect the right tissue samples, the corpse had to be exhumed before DNA tests could be carried out, writes **Carolyn Raphaely**

**J**UNE 18 was a tougher day than most for Desire Sprenger. It marked the second anniversary of the death of her husband, Dr Michael Sprenger, who had been murdered on a midwinter night in 2009 while working late in his Rosettenville, Johannesburg, rooms. Mike had been stabbed 21 times, his throat was slit and his body set alight and burnt beyond recognition. In the ensuing blaze, his dispensary was destroyed — as were the lives of his widow and the three young children who survived him. Until then, Sprenger had, she said, led a sheltered life in her family's Atholl home. Nothing could have prepared her for the murder of her husband of 12 years or the unimaginably gruesome details she had to digest the following afternoon. At Mike's practice in The Prairie Centre, Sprenger discovered he had been dismembered and that the police had neglected to remove his legs from the crime scene. Nor had they secured it. To make matters worse — if that were possible — 10 months after Mike's death,



CHAMPION OF DNA TECHNOLOGY: Desire Sprenger holds an image of her murdered husband, Dr Michael Sprenger. She was shocked at how forensic evidence was discarded and ignored

Picture: KEVIN SUTHERLAND

samples of his tissue sent to the police's Silverton forensic lab for DNA identification were declared non-viable. "Mike's heart, lungs and all his internal organs were intact. The police had plenty of viable tissue to use but they sent charred tissue for analysis. They also had his dental records," said Sprenger. So, in the face of persistent rumours that the body Sprenger had laid to rest 14 months earlier was not Mike, that he'd been in Germany with a lover and the fire was a ruse, Sprenger, at the insistence of the police, agreed to exhume his body. Matching recovered DNA with his children's DNA proved conclusively that the

body was indeed his. His dental records were never used. In October last year, Sprenger lodged a complaint with the Independent Complaints Directorate and the matter was transferred to the Hawks. "It's now two years since Mike died. Still no witnesses have been questioned other than a brief two-minute statement taken on the night of his murder from the last person known to have seen him alive," she said. As far as Sprenger is concerned, general police ineptitude and lack of awareness of the importance of DNA profiling means she suffered "secondary victimisation".

Former Cape Town commercial lawyer Vanessa Lynch faced the same lack of police and public awareness of DNA in the wake of the murder of her father, John Lynch, in his Johannesburg home seven years ago. According to Lynch, medics attending to her father discarded his clothing, which may have contained DNA evidence. Family members and friends inadvertently destroyed

the crime scene by clearing away all blood and evidence of the crime and police threw away a bottle of brandy, saying South Africa didn't have technology to uplift DNA from a bottle. "All evidence linking the criminals to my Dad's death was destroyed and the opportunity to link the perpetrators to his murder lost forever. Still no one has been arrested," said Lynch.

Today, Lynch is executive director of the DNA Project, a nonprofit organisation lobbying for an expanded national DNA database and the use of DNA as a crime-fighting tool. "DNA places the criminal at the scene forever and is much more reliable than any other form of evidence," Lynch said. "No matter what criminals take, they always leave something behind — it's almost impossible not to leave some DNA

evidence at a crime scene." Legislation governing this area of the law — the Criminal Procedures Act of 1977 — was promulgated before the advent of DNA profiling as a criminal intelligence tool. "Technology has progressed way beyond the law and requires its own regulation to prevent improper use," she said. "The only way to tackle crime is to establish a larger DNA reference database of everyone arrested as well as all convicted offenders. When police collect genetic material at a crime scene, it can be compared with a larger reference base of profiles of known suspects increasing the likelihood of a

match." (The South African database contains only about 121 000 profiles.) Since South Africa has the highest recidivism rate and lowest conviction rate in the world, there's a good chance someone who commits a crime has already been convicted and has a recorded profile. The more profiles entered on the national DNA database, the greater the chance of a match when a crime scene profile is entered. Although forensic labs play a crucial role in fighting crime, South Africa has only two fully functional forensic DNA labs, and the existing DNA database does not contain enough reference profiles for use as a criminal intelligence tool. The head of the police's Forensic Science Laboratory, Major-General Edward Ngokha, said: "In future, if we're looking for suspects in 20 cases, we might find all those crimes are committed by one person. Where there's no known suspect, repeat offenders could be easily identified. This would reduce police work and prison overcrowding." Increased probability of arrest and prosecution might also act as a crime deterrent — but just how police will deal with the explosion of samples on an expanded database remains to be seen. New DNA legislation, the Criminal Law (Forensic Procedures) Amendment Bill, proposes that the SA Police Service collect DNA samples from all people arrested, and administer a national DNA database. The bill seeks to govern the way the database is managed, for how long profiles can be stored and which profiles should be retained. The bill was drafted in 2008, yet only the section of the bill dealing with fingerprint legislation has been adopted. "After the bill was tabled in parliament, we received many submissions about DNA-related human rights issues. These needed investigation," said MP Sindi Chikunga, chairman of the parliamentary portfolio committee on police. DNA profiling critics consider it an invasive form of surveillance that constitutes a serious threat to democracy and violation of individuals' constitutional rights. Issues that need to be urgently addressed include ensuring DNA evidence is properly collected and preserved, that the database is secure, the rights to privacy and human dignity, and the constitutionality of retaining innocent people's DNA on a criminal database. Clearly, an expanded DNA

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 CASE NO. 19668/08  
 In the matter between **FIRST RAND BANK LIMITED** Judgment Creditor and **MARK POTGIETER** First Judgment Debtor **ERF 580 WITKOPPE** CAPTIONED **EXTENSION 56 CC** Second Judgment Debtor **SAFE HARBOUR FAMILY TRUST** Third Judgment Debtor

**NOTICE OF SALE IN EXECUTION**  
 A sale in execution of the undementioned property is to be held by the Sheriff CAPE TOWN at **22 GALLINGTON CLOSE, PARKLANDS ON 13 JULY 2011 at 15h00.**  
 The full conditions of sale can be inspected during office hours at the offices of the Sheriff as mentioned above, and will be read out prior to the sale taking place. No warranties are given with regard to the description, extent and/or improvements of the property.  
**ERF 2414 PARKLANDS TOWNSHIP IN THE CITY OF CAPE TOWN, DIVISION OF CAPE PROVINCE OF THE WESTERN CAPE IN EXTENT MEASURING 311 SQUARE METRES.**  
 Held by the THIRD JUDGMENT DEBTOR IN THEIR NAME UNDER DEED OF TRANSFER NO.: 12359/2006  
 CONSISTING OF:  
 3x Bedrooms, 2x Bathrooms, Lounge, Kitchen, Double Garage.  
 The sale shall not proceed unless the Judgment creditor or it's representative is present at the sale.  
 DATED AT CAPE TOWN THIS 7<sup>th</sup> DAY OF JUNE 2011

**Werksmans Attorneys**  
**Per: W. BROWN**  
 Attorneys for Judgment Creditor  
 18<sup>th</sup> Floor  
 1 Thibault Square  
 Long Street  
 CAPE TOWN  
 (Ref: WB/9/RMB0004.71)  
 Tel: 021 405 5245  
 Fax: 086 614 1239  
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 This notice serves to inform parties that the applicant is interested or effected that **AIR LIQUIDE (PTY) LTD** hereinafter referred to as "the applicant" has submitted an application for **WHOLESALE licence**, application number **D/2007/09/26/0001** **3 VEREENIGING ROAD ALRODE ALBERTON**  
 The purpose of the application is for the applicant to be granted a licence to undertake petroleum wholesale activities as detailed in the application. Arrangements for viewing the application documentation can be made by contacting the Controller of Petroleum Products by: \*Telephone: (012) 444-4444; or Fax: (012) 341-4228; or E-mail: petro-licum.controller@energy.gov.za.  
 Any objections to the issuing of a licence in respect of this application, which must clearly quote the application number above, must be lodged with the Controller of Petroleum Products within period of twenty (20) working days from the date of publication of this notice. Such objections must be lodged at the following physical or postal address: **Physical address:** The Controller of Petroleum Products, Department of Energy, 70 Merrifield Street, Sunnyside Pretoria, 0002  
**Postal Address:** The Controller of Petroleum Products, Department of Energy, Private Bag 219, Arcadia 0007

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The programme is offered through a combination of lecturers from the Leeds Metropolitan University fly – in faculty and consultants at Mananga Centre on a block release basis. The next cohort is starting in January 2012.

Target group: Company Executives, Directors, Permanent Secretaries, Cabinet Ministers, Parliamentarians, Municipal Executives, Programme Managers, Senior Officers/Managers and aspiring executives and leaders from industry, commerce, central and local government, civil society and NGOs.

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For further details contact:  
 The Masters Programme Coordinator; Tel:+268 2416 3155/6 or +268 7602 0994;  
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Applications are therefore being invited from interested individuals. A question and answer session for prospective students will be held at Mananga Centre, Ezulwini Campus, Swaziland on 9th July, 2011 at 13.30hrs.

For further details contact:  
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## REVIEW

# Use bailout to save Swazis from king

If you are a regular reader of this column, you will know that I don't care too much for monarchies. These potentates are out of step with the democratic ethos of the modern world. I detest the idea that we have human beings who do little of what we mere mortals call work and yet they possess the bulk of their country's wealth.

I dislike the fact that while the majority of the world's workers toil in excruciating conditions to bring home a meagre salary, we have a handful of people whose jobs consist of cutting ribbons and opening creches in return for large monetary rewards.

Whether we are talking about the queen of England or the young men in the poverty-stricken Swaziland and Lesotho or indeed the one inside our borders in KwaZulu-Natal, the tragic reality is that we have here a bunch of people who live off the sweat of their subjects with absolutely no accountability.

These monarchs are a law unto themselves. They are not held to the same standards as other rulers, who would be kicked out of office if they didn't meet their citizens' expectations.

You can imagine my temperature levels, then, at the news that South Africa was considering bailing Swaziland out from its economic quagmire.

The mooted figure is R10-billion, although this has been disputed.

You see, this small country of 1.4 million is near financial collapse, with a budget deficit of 14.3% according to the International Monetary Fund. Its public servants' wage bill eats away at 18% of its GDP, more than any other country in Africa.

Ministers and public servants are appointed at the whim of the king.

We only have to cast our memory back to the sacking of justice minister Ndumiso Mamba for allegations of an affair with one of the king's wives, to see the rot in that tiny country.

Against this financial morass is a king who lives large. He collects a fleet of women, flashy cars and property and has amassed wealth estimated at R200-million. In fact, I would go so far as to partly blame him for the country's woes. The country wouldn't be where it is today if this young man spent less.

This is a kingdom where there are state-sanctioned human rights abuses, including the abduction of young girls who are forced



**Against this financial morass is a king who lives large. He collects a fleet of women, flashy cars and property worth millions**

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HIGH ON THE HOG: King Mswati III of Swaziland  
 Picture: VELI NHLAPO

into marriage. There is an absolute disregard for the rule of law. This is a country in which the government does not honour court decisions. Political parties are banned. Unions are allowed to operate but their activities are curtailed by a royal decree that prohibits political marches and public meetings.

While it has become customary for the conditions of such bailouts to include cuts in state expenditure and other economic reforms, as has been seen in the case of Greece in recent months, South Africa needs to go further.

It needs to demand that this king auction off the bulk of his wealth to help resuscitate the economy. Failure to address his

personal spending would render the conditions useless. It is imperative that his runaway spending be curbed and the cuts be stipulated in the contract governing this loan.

If it were me, I would even include a clause relating to his marriages.

The king is reported to have 14 wives and 27 children and each year he chooses a wife from the annual recede dance. This tradition is not financially sustainable in today's world.

It is unacceptable that South Africans have to bail out a country whose main man has siphoned off this obscene amount from its citizens.

South Africa must be firm in its demand for political reforms in that country.

It must take proactive steps to ensure that Swaziland complies with the terms of the bailout. King Mswati and his government cannot be left to implement those conditions. They have a record for disregarding the rule of law, their judiciary and clean governance.

The International Labour Organisation sent labour experts to help draft amendments to a labour legislation which sought to ban labour strikes; South Africa has to do the same.

South Africa has massive problems and its citizens will feel aggrieved at having to fork out billions to help a big spender, but failure to help the Swazis will result in another influx of economic refugees which it can ill afford.

# Can the truth have two sides?

LEHLOHONOLO Moagi, who describes himself as an avid newspaper reader, called to take issue with me on the concept of "truth".

He seemed to believe I suggested in a previous column that there are different levels of truth, and drove me to suggest that there is only one truth, which is what newspapers should be publishing.

If that is the case, he argued, why should newspapers be required to publish both sides of the story, because, invariably, both sides cannot be true – one side would be untrue in most cases and therefore newspapers would be guilty of spreading an untruth.



Latakgomo takes up complaints on behalf of readers. To contact him, email latakgomo@avusa.co.za or phone 011 280 5374

I would like to think he was looking at this issue from a philosophical point of view, rather than as an absolute. Yet, it got me thinking – as it must, and will, many an editor and newspaper critic.

Journalist, philosopher and political commentator Walter Lippman (Lippman House, home of the Nieman Programme for Journalism at Harvard University, is named after him) once said he did not assume that news and truth were synonymous.

For him, "the function of news is to signalise an event, the function of truth is to bring to light the hidden facts, to set them in relation with each other, and make a picture of reality on which men can act".

And then he made a statement with which we as journalists are possibly all in agreement, saying news is "imperfectly recorded" – as is perhaps

**The fundamental principle of right of reply means that if an allegation is made against a person, he has the right to present his side of the story and for his side to be given equal prominence**

all history. Imperfect though it is, it is still the most reliable record of a nation's life and times. It is still the best indicator of the levels of freedom a nation en-

joys. It is still the best social and political barometer of a country.

No journalist can claim he had collected "all the facts" of a news event nor, if he had done so, that his newspaper would have been able to publish "all the facts" about every news item in the paper. And if the newspaper could publish "all the facts", no reader would have been able to read them all.

Moagi also argues that newspapers are often guilty of distortion by omission, an accusation critics and government regularly make.

ANC Youth League leader Julius Malema calls for land-grabbing by the government and the ANC quickly refutes this, adding that it is not ANC nor government policy, Moagi says. But President Jacob Zuma gets up at Albertina Sisulu's funeral and sings about whites having to "let go of our land", and the media ignores it. This, coming from the president, is clearly significant. And then he slams Malema in a subsequent statement.

"Is it coincidence that Malema and Zuma both speak, in different ways, about taking back the land? And why has the media ignored this?" Moagi asks.

Instead, Hogarth, in the Sunday Times, suggests that Zuma "must be the last person in the country who still doesn't have an opinion" on land seizure, he points out.

However, with all the imperfections, and the tortuous nature of news, it is still incumbent on journalists to present the facts that are considered significant to the story in an unbiased manner, and not to slant the story, or to ignore

statements of national importance. Which brings me back to Moagi's thesis: there is clearly merit in what he is saying. The fundamental principle of right of reply means that if an allegation is made against a person, he has the right to present his side of the story and for his side to be given equal prominence.

The argument that journalists use, and which, it seems to me, is the only logical way to deal with it, is that the reader will make up his or her own mind after being presented with both sides. The reader will decide which of the two parties is telling the truth. That, at least, is the theory.

But would journalists be obliged to publish information, knowing it to be false, because it is the affected party's right to state his case? Should such blatant untruths be challenged pre-publication, and how can this be done without being perceived to be prejudiced?

Journalists and their editors should not play God and make such judgments, though. Their responsibility is to present the facts as they have gathered them. The unwanted result of this approach is that readers judge newspapers, rather than the people who provide the information, as "reporting lies".

This is why the credibility of newspapers has been deteriorating over the years, and the strident calls by government and critics like the ANC Youth League are exacerbating this. Newspapers are merely packages for the news – and some package the news better than others.

# DNA database key to fighting crime

**From Page 1**

he knew nothing about this amount. Nor was he willing to comment on implementation costs of the new bill or detail development plans.

"Crime is a living entity. We'll go where the crime is," was all he was willing to say. "We'll establish DNA labs where we've identified needs."

The good news is that a state-of-the-art laboratory is being built in Platteklouf in Cape Town; construction is under way on a lab in the Eastern Cape; and plans are afoot for a KwaZulu-Natal lab. "A backlog of 20 000 cases was eradicated last year. We

can deliver DNA results in major crime cases in less than 24 hours and 92% of cases in this lab should be completed in 28 working days. This means we won't need 50 detectives working on one case for months or have people in custody as awaiting-trial offenders for months and years," he said.

The value of DNA profiling lies in its ability to exonerate the innocent as well as convict the guilty, to include or exclude suspects as well as those implicated or convicted by eye-witness testimony or flimsy evidence. US Innocence Projects using DNA evidence have succeeded in freeing 266 people from prison – 17 of whom were on death row for crimes they never committed.

Whether the right to privacy outweighs the right to safety and security is

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**The value of DNA profiling lies in its ability to exonerate the innocent as well as convict the guilty**

Raphaely is a member of the Wits Justice Project, which investigates alleged miscarriages of justice