

#FixOurTrains

We have a right to safe, affordable, accessible and reliable trains!



A campaign of the #UniteBehind coalition

Programme for our presentation:

1. Introduction to #UniteBehind and #FixOurTrains – Zukie Vuka
2. Personal stories from commuters – Zoliswa Dlamini & Warren Johnson
3. No safety, and no security – Leslie van Minnen (Rail Commuters Action Group)
4. State Capture, failure of governance and executive management – Zackie Achmat



#UNITE BEHIND

A JUST AND EQUAL SOUTH AFRICA

NDIFUNA
UKWAZI

DARE TO KNOW



E EQUAL
EDUCATION



WOMEN'S LEGAL CENTRE



AIDC

**Alternative Information
& Development Centre**

Strengthening Alliances for a Wage-Led, Low-Carbon, Sustainable and
Equitable Development Path for Southern Africa





#FixOurTrains

#FixOurTrains

Poor and working class people suffer every day from a dysfunctional train system. Metrorail is in crisis, PRASA was captured and billions were stolen. Join our campaign to #FixOurTrains!

[LEARN MORE](#)



How thousands go to work and school on the trains



Zoliswa Dlamini & Warren Johnson

PRASA cost us our jobs

State of the Crisis: Safety and security

Leslie van Minnen: Rail Commuters Action
Group

Case CCT 56/03

RAIL COMMUTERS ACTION GROUP

First Applicant

LESLIE DAVID VAN MINNEN

Second Applicant

SEVEN OTHERS

Third to Ninth Applicants

versus

TRANSNET LTD t/a METRORAIL

First Respondent

S A RAIL COMMUTERS CORPORATION

Second Respondent

MINISTER OF TRANSPORT

Third Respondent

MINISTER OF SAFETY AND SECURITY

Fourth Respondent

Heard on : 17-18 August 2004

Decided on : 26 November 2004

JUDGMENT

Rail Commuter Action Group and 54
Others v Transnet Limited t/a Metrorail
and 3 others – 2004 Constitutional Court

Settlement Agreement: Rail Commuter Action Group and 54 Others v Transnet Limited t/a Metrorail and 3 others - 2009

SETTLEMENT AGREEMENT

WHEREAS:

The parties are engaged in class action proceedings under case number 8232/2005 in the High Court of South Africa (Cape of Good Hope Provincial Division), (“the Cape High Court”);

AND WHEREAS:

The parties have agreed to settle the matter, on the terms and conditions set out hereunder, which agreement the parties hereto are desirous of recording in writing.

NOW WHEREFORE THE PARTIES HERETO AGREE AS FOLLOWS IN FULL AND FINAL SETTLEMENT OF ANY AND ALL CLAIMS THAT THE PARTIES MAY HAVE AGAINST EACH OTHER PERTAINING TO THIS MATTER :-

BACKGROUND:

1. Metrorail, previously a business division of Transnet Limited (“Transnet”), has been transferred to the South African Rail Commuter Corporation (“SARCC”) by Transnet with effect from 26 December 2006. The Plaintiffs therefore admit that no relief is competent against Transnet in respect of the Part A relief as currently claimed in the

The Urgent Issues Facing Commuters: Safety, Security and the Collapse of the Service

State of the crisis: Security

From the words of the Regional Manager of Security:

- About 1000 of the security staff in the Western Cape have criminal records;
- 80% of security staff are not registered with PSIRA;
- Key areas of the rail network are not fenced;

State of the crisis: Security

- It's “virtually impossible” to patrol rail network due to poor lighting;
- The Western Cape region has no radios;
- All managers were promoted four years ago, some of them skipping two levels;

TRIGGER WARNING FOR NEXT SLIDE

Images of fatalities on the line

All victims are unidentifiable

State of the Crisis: Safety and security

In 2016/17:

- 495 fatalities
- 2079 injuries
- 73 derailments or collisions of PRASA trains

Rail Safety Regulator
Report



State of the Crisis: Richard Walker and the Security Plan



4. As a consequence of the rail passenger service disaster and emergency outlined above, we demand a response to the following by close of business 17 January 2018:
 - 4.1. An alternative emergency transport plan with clear points and times of departure for all interrupted services;
 - 4.2. The immediate release, communication and implementation of a safety and security plan as ordered by the Western Cape High Court *Rail Commuter Action Group and 54 Others v Transnet Limited t/a Metrorail and 3 others* (Case No. 8232/2005 12 June 2005);
 - 4.3. Emergency measures to protect vulnerable people including: women, children, people with disabilities and the elderly;
 - 4.4. The reconstitution of the “Advisory Committee” as agreed in order of court as a Rail Service Emergency Management Committee to include broader civil society including #UniteBehind;
 - 4.5. PRASA must provide the list of all security companies employed in the Western Cape; the number of, and the PSIRA registration numbers for all their employees; and their contracts with the agency. This includes all specified duties and assessments of their security services.

We require the actions in the interest of assisting PRASA/Metrorail to address the disasters facing our City and the region.



prasa

PASSENGER RAIL AGENCY
OF SOUTH AFRICA

PRASA HOUSE
1040 Burnett Street
Hatfield
Pretoria

Private Bag X101
Braamfontein, 2017
T: +27 12 748 7000

23 January 2018

Mr Z Achmat

Organising Secretariat

#UniteBehind

zackie.achmat@gmail.com

EMERGENCY SAFETY PLAN ON METRORAIL SERVICES IN WESTERN CAPE

Your undated memorandum received 12 January 2018 refers.

- 2 PRASA took an unapologetic business decision to employ military veteran (as provided for in the MVA) and to utilise this resource as protection officials in lieu of contracted security. The selection and recruitment process did not prevent members with a criminal record from applying and evading the controls to prevent their appointment.

The impact of vagrancy, homelessness, drug abuse, illegal electrical connections underneath and over our infrastructure; informal settlements within the rail reserve due to lack of serviced land; lack of street to street access across/underneath the rail system; disposal of wet waste due to lack of sanitation facilities; unemployment leading to pilfering of rail assets, ongoing trading of so-called 'bucket shops'/illegal scrap dealers who provide



PRASA RAIL DIVISION

OPERATIONAL SECURITY INSTRUCTION 001/2018 FOR THE
RECOVERY OF COMMUTER RAIL SERVICES ON THE CENTRAL
LINE (W CAPE METRORAIL) TO COMPLY WITH THE PRASA
COMMITMENT TO THE COMMUTERS, STAKEHOLDERS AND
AGREEMENT BETWEEN MANAGEMENT AND UNTU
(CONFIDENTIAL)

COMMENCEMENT 1 FEBRUARY 2018 TO 31 JULY 2018

In its current state the plan is not rational or reasonable;

Fails to address the fundamental rights to safety and security of the person;

- Particularly the needs of women, children and the elderly

It ignores the threat to safety from PRASA's outsourced security.

Security Plan continued

It is a militarised response with no clear plan of

- Securing stations and their surrounds
- Safety for women and children
- Security contract management
- Lighting
- No data driven targets



Radio 786 added 2 new photos.

29 January at 07:45 · 🌐

Authorities may have had a breakthrough in the incidents of sabotage and vandalism on Metrorail lines. A 33-year old technician was arrested at his home in Khayelitsha following an intelligence driven operation by Police and the Passenger Rail Agency, PRASA. The employee of Metrorail allegedly stole parts of trains at the Salt River depot. Police found a petrol grinder that belongs to PRASA at his home among other equipment. The suspect is expected to appear in the Cape Town magistrate's court on a charge of possession of stolen property.



State of the crisis: Collapse of the service

The Central Line, servicing over 120 000 commuters whom are has been shut down since the 8th of January 2018

- Overwhelmingly working-class and poor African and Coloured
- Has cascaded into other modes of transport

The Northern Line heading the same way



State of the crisis: Collapse of the service

Around 43% of former passengers (~ 248 500) have stopped using the trains over the past four years;

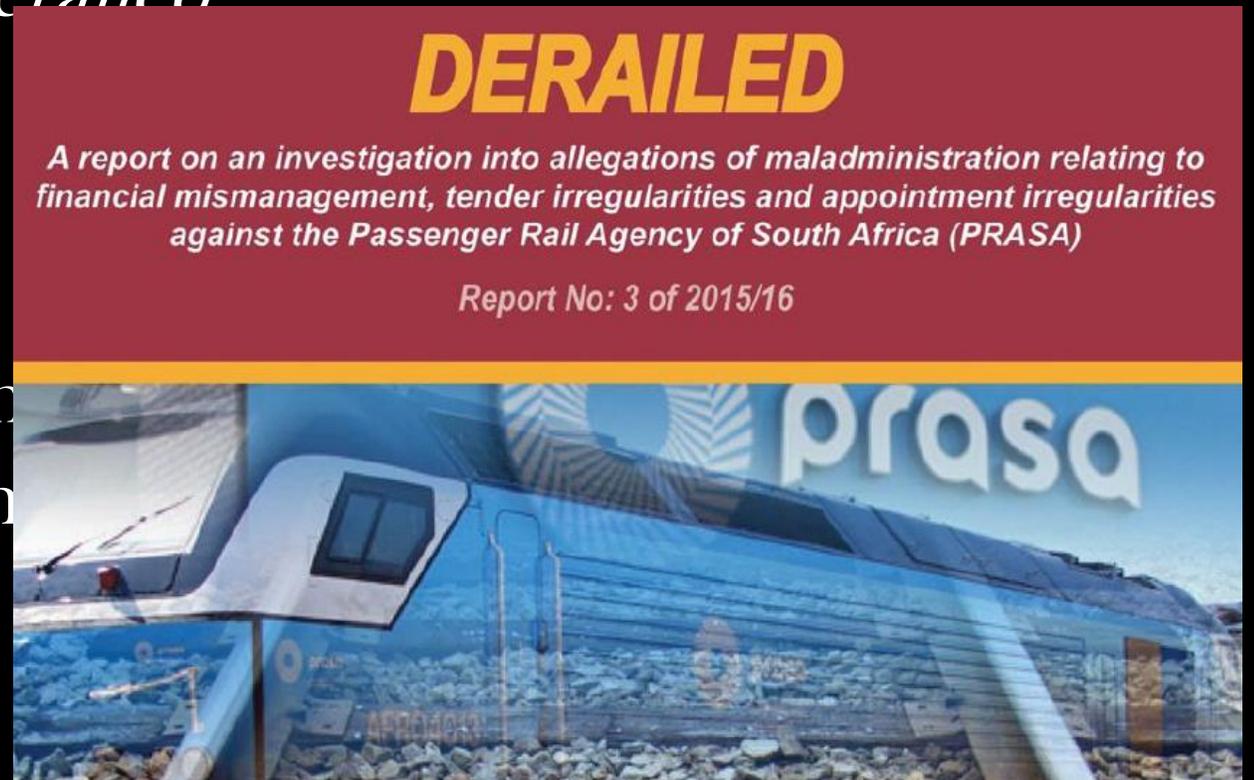
Over 45% of trains are late and that figure increases depending on your line (July - 2017).

Up to 57% of trains have been cancelled during certain weeks on the Central Line, with an overall 400% increase in train cancellations in the Western Cape between 2015 and 2017

State Capture, Corruption and Maladministration

In 2015 Advocate Thulisile Madonsela published her report
“Derailed”

Directed PRASA to assist the National Treasury in investigation of all contracts above R10 million for the period 2012-2015



Treasury Investigations: Main Actors



Peter Spuhler
Ex-CEO of Stadler
Rail – parent
company involved
in corrupt rail
contract with
Swifambo.



Makhensa Mabunda
Director of S-Group &
Siyaya. ANC donor and
accused of corrupt
dealings with PRASA.



Previous board begins to act:

Instituted legal proceedings against various companies:

Siyangena Technologies - Dismissed, but on appeal

Swifambo Rail: Successful, but on appeal

Mandamus application against the Hawks (SIU): Currently before the court

KPG Media – Successfully cancelled



Siyangena:

A R4.5 billion contract, was an illegal rigged tender process



Review application against an award of two contracts to Siyangena for installing security systems at 200 PRASA stations

R550 million to Roy Moodley, a close friend and ally of President Jacob Zuma



PRASA application was dismissed on a technicality

Swifambo

- Involved the purchasing of locomotives (Train engines) that did not fit our railways.
- The deal was initially worth R3.5 billion, but rose to R5.7 billion
- Swifambo was a shell company set up by Auswell Mashaba for the rigged tender process.



Swifambo continued:

- Swifambo fronted for Vossloh España who got the contract for the locomotives
- Mashaba got R800 million, and the ANC got R80 million directly - See Luck Montana's recent submission to Eskom Inquiry.
- The court ruled the Swifambo contract was illegal and criminal.

From the Swifambo Judgment

“This case concerns corruption by a public body concerning a tender that will affect the public for decades to come... Harm has been done in this case to the principle that corruption should not be allowed to triumph. Harm will be done to the laudable objectives of our hard-fought freedom if I was not to set aside the award. Harm will be done to all the hardworking and honest people of our land who refrain from staining themselves with corruption... Harm will be done if the benefactors of the tender were allowed to reap the benefits of their spoils... Corruption will triumph if this court does not set aside the tender.” - Judge EJ Francis

Directorate of Priority Crimes Investigation (Hawks)

Application is for an order directing the Hawks and the NPA to investigate complaints laid by PRASA in respect of Swifambo and Siyangena;

To date the Hawks have refused

The matter is before the court,
set to be heard on the 30th April



Attempts to “Derail” the Investigations

- Dipuo Peters tries to curtail investigations
- Tried to remove PRASA board, court dismissed this calling it “irrational” and “unlawful”.
- Joe Maswanganyi also attempted to shut down investigations and did not renew the term of Popo Molefe and the board.



“Interim Board of Control”

Minister Maswanganyi appointed an interim board until further notice.

Unlawful in terms of the Legal Succession to the South African Transport Services Act 9 of 1989 (the Legal Succession Act)

#UniteBehind has asked the Court to review the decision and to find that the BoC was improperly constituted (23 200/2017)

Inappropriate Appointment of Justice Makhubele

On 5 October 2017, the Judicial Services Commission (JSC) recommended Justice Makhubele as a judge in the Gauteng High Court.

On 19 October 2017, Justice Makhubele was appointed as Chairperson “until further notice”.

Two weeks later, on 2 November 2017, Justice Makhubele was indeed appointed by President Zuma

Inappropriate Appointment of Justice Makhubele

Justice Makhubele's appointment is a serious breach of the separation of powers

Concourt dealt with this in *SA Association of Personal Injury Lawyers v Heath and Others 2000*

The appointment breaches various sections of the Code for Judicial Conduct.

No. R. 865

18 October 2012

CODE OF JUDICIAL CONDUCT

ADOPTED IN TERMS OF SECTION 12 OF THE JUDICIAL SERVICE COMMISSION ACT, 1994
(ACT NO. 9 OF 1994)

Article (4iii): Judges do not appear at public hearings or otherwise consult with an executive or legislative body or official except on matters concerning the law...

Article 12(1): A judge must not –

- b) ... become involved in any political controversy or activity;
- d) use or lend prestige of the judicial office to advance the private interests of the judge or others;

No. R. 865

18 October 2012

CODE OF JUDICIAL CONDUCT

ADOPTED IN TERMS OF SECTION 12 OF THE JUDICIAL SERVICE COMMISSION ACT, 1994
(ACT NO. 9 OF 1994)

Article 12(2): A judge must, upon permanent appointment, immediately sever all professional links and recover speedily all fees and amounts outstanding and organise his/her personal business affairs to minimise the potential for conflicts of interest.

Article 14(3a): A judge must not accept any appointment that is inconsistent with an independent judiciary or that could undermine the separation of powers or the status of the judiciary

Mthuthuzeli Swartz: CEO of Rail

Appointed by Cromet Molepo who was also accused of corruption (Umgeni Water);

There are witnesses in new matters of victimisation, intimidation, irregular procurement processes and sexual harassment;

Provisional findings against him by Public Protector (WC);



Mththuzeli Swartz

The Hawks are investigating his role in the theft of rail lines and sleepers;

Appointed security staff despite them lacking the necessary qualifications, security clearance, firearms training;

He was found guilty by the City of Cape Town on 8 charges relating to an irregular tender and over-payment by R6m.


MOSIRELEYI WA SETSHABA • MOŠIRELEYI WA SETSHABA
MUSIBHELELI WA VAMBU • MUTHRELESZI WA TSHIBANVA
OPENBARE BESKERMER • UMKHUSELI WOLUNTU • UMKHELI WOMPHEKATHI
UMVKELEI WEMPHAKATHI • UMVKELEI WEMPHAKATHI

WESTERN CAPE PROVINCIAL OFFICE
P O Box 712 • Cape Town • 8000 • 4th Floor • 51 Water and Bree Streets • Cape Town
Tel: (021) 423 8644 • Fax: (021) 423 8708

Please quote our ref no. 001076/13/WC

17 November 2015

Metrorail

**SUBJECT: PROGRESS REPORT: ALLEGED MALADMINISTRATION;
MISMANAGEMENT AND ABUSE OF RESOURCES AND
IRREGULAR RECRUITMENT AND LABOUR PROCESSES BY
OFFICIALS OF METRORAIL WESTERN CAPE**

1. INVESTIGATION PROCESS:

0.P.-8.0214222
UID-APRIKAANSE POLISIEDIENS  SOUTH AFRICAN POLICE SERVICE SAPSI

Privaatsak X9037/Private Bag X9037
Postbus/Post Office Box

Verwysing Reference	: Elliot CAS 35/02/2013
Navrae Enquires	: Col Mbonlewa : DWO Xolo 071 481 2705
Telefoon Telephone	: 043 709 0500
Faksnommer Fax Number	: 043 743 1507
E-pos E-mail	: XoloAnderson@cap.gov.za

OFFICE OF THE COMMANDER
ORGANISED CRIME
DIRECTORATE FOR PRIORITY
CRIME INVESTIGATIONS
EAST LONDON
5200

2015-02-12

PUBLIC PROTECTOR
OPENBARE BESKERMER
MKHUSELI WOLUNTU
WESTERN CAPE PROVINCIAL OFFICE

12-02-2015

P.O. BOX 712
CAPE TOWN 8000
TEL: 021 423 8644 FAX: 021 423 8708

The Regional Manager
Metrorail
WESTERN CAPE

Dear Sir

THEFT OF RAIL LINES AND SLEEPERS : ELLIOT CAS 35/02/2013

Board interference with investigations



**CERTIFIED EXTRACT OF SPECIAL BOARD MEETING RESOLUTION
MADE AT A MEETING HELD AT
3RD FLOOR BOARDROOM, PRASA CORPORATE OFFICE,
1040 BURNETT STREET, HATFIELD PRETORIA
ON FRIDAY, 1 DECEMBER 2017**

BoC Resolution No.2-1/12/17

Kindly Take Notice that at the Special Board of Control meeting held on the 1st December 2017 the Board resolved as follows:

www.prasa.com

Be moved



Memorandum

To:	THE CHAIRPERSON OF THE BOARD OF CONTROL OF PRASA Adv. TAN Makhubele SC
From:	GROUP EXECUTIVE: LEGAL, RISK & COMPLIANCE Martha Ngoye GENERAL MANAGER: GROUP LEGAL SERVICES Fani Dingiswayo
Date:	5 December 2017
Subject:	Draft Board Resolution for the meeting of the Board of Control of 1 December 2017

Dear Chairperson,

Makhensa Mabunda and S-Group

#UNITE BEHIND

A JUST AND EQUAL SOUTH AFRICA

• 601, 6th Floor, Constitution House Cape Town • (T) +27 21 424 5660 • info@unitebehind.org.za

MADAM JUSTICE TAN MAKHUBELE

CHAIRPERSON

PRASA INTERIM BOARD OF CONTROL

9 February 2018

Dear Justice Makhubele

**DEMAND FOR IMMEDIATE UNDERTAKING REGARDING PAYMENTS BY PRASA TO
ENTITIES IN THE SIYAYA GROUP OF COMPANIES**

Interventions Required From Parliament:

1. Appoint a credible new board with the requisite qualifications, experience, skills and competencies;
2. All those implicated in corruption, mismanagement, maladministration must be removed from PRASA;

Interventions Required From Parliament continued:

3. Instruct the Board to continue investigations and to support all criminal and civil proceedings against those involved in state capture and corruption;
4. All PRASA appointments must be merit based with the appropriate qualifications, skills and experience.

Interventions Required From Parliament continued:

5. An urgent safety plan is needed, among the immediate steps required:

- The reopening of the Central Line with adequate security;
- Security employed must be qualified and PSIRA compliant (80% unregistered);
- Securing of stations and surrounds (proper lighting and CCTV surveillance);
- Separate compartments for women, children (India, Brazil etc.):

Interventions Required From Parliament continued:

6. Passenger rail services must be transferred to the relevant local authority
 - As per the Draft White Paper of the National Rail Policy – June 2017
 - NLT Act requires all land transport be integrated with municipal transport

7. Alternative forms of transport, must be provided to commuters facing constant delays.

Interventions Required From Parliament continued:

8. In the medium term we need a proper plan that deals with:

- Stopping delays
- New rolling stock
- Upgrading/repairmen of existing coaches

❖ As much as possibly rolling stock must be manufactured and procured locally