

EDITOR'S VIEW

## Let's unite and support the Springboks!

WE SOUTH Africans are a diverse group of people. We have different skin tones. We speak different languages. And we believe in different gods.

Given there is more that divides us than unites, it is no wonder national unity has been so difficult to build.

But, every once in a while, we have come together. We did so in 1995 for the Rugby World Cup. We did so in 2010 for the Soccer World Cup. And we cried together when Nelson Mandela died in 2013.

Friday sees the start of the 2019 Rugby World Cup, and it provides us with an opportunity to, once again, come together.

The last few years have been soul destroying. It's been reflected in the crime statistics. We've seen it in the violence that has been perpetrated against women and children. We've seen it in the racial polarisation of our society. And we've seen it in the fury that has been unleashed upon foreigners.

Ironically, it is rugby, the sport that came to be associated with apartheid, that is the sport that has historically united us.

In 1862, the first rugby game was played in South Africa. It was played in Green Point, Cape Town. And not surprising for the time, only whites played on that day.

In 1906, a few years after the British defeated the Afrikaners, a South African team toured the British Isles. It was an all-white affair but served to heal the divisions of the Anglo-Boer War.

It was on this tour that the English media dubbed the team the Springboks, a name that has stuck ever since.

Fast forward to 1995 and rugby once again became a great unifying force, this time between blacks and whites.

If history is anything to by, the success of the Springboks at a Rugby World Cup is linked to the quality of the president.

In 1995, under Mandela, we were world class. Nobody thought we would win, but through sheer passion and commitment, we did.

By 1999, Thabo Mbeki was our president. That year we made it all the way to the semi-finals. In 2003, we got to the quarter-finals. And in 2007, we worked our way through to a second World Cup victory when we beat England.

When the 2011 World Cup started, Jacob Zuma was our president. Our team just managed to beat Wales in our opening game. We struggled against Samoa and lost to Australia in the quarter-final.

By 2015, Zuma was at the height of his presidency, and things were falling apart. That year, Japan beat us. It remains the biggest upset in rugby union history although we somehow managed to get to the semi-final.

And so, what of our chances this year? If the quality of our political leadership is anything to go by, it is pretty good. More importantly, we need the Boks to play a unifying role.

We look forward to our captain, Siya Kolisi, holding aloft the Webb Ellis Cup on November 2, and proclaiming a victory not just for South Africa, but all Africa.

Go Bokke, go!

# Judge muffles Big Brother

Governments used 9/11 to spy on us, but no longer

JUGGERNAUT



KANTHAN PILLAY

"USURPERS always choose troubled times to enact, in the atmosphere of general panic, laws which the public would never adopt when passions were cool."

It's a quote from 18th century philosopher Jean-Jacques Rousseau and comes to mind because 18 years ago this month, the 9/11 terror attacks on the US brought the world to a standstill.

Barely a month after the attacks, US President George W Bush signed into law the "Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001" on October 26.

The US was already steering one of the world's largest surveillance programmes since the 1970s – the Five Eyes alliance comprised the US, UK, Canada, Australia, and New Zealand. The September 11 attacks provided the opportunity to dramatically expand the scope of spying.

The USA Patriot Act passed by an overwhelming majority. It allowed indefinite detentions of immigrants; permission for law enforcement to search a home or business without the owner's or the occupant's consent or knowledge; and allowed the FBI to search telephone, email, and financial records without a court order.

The Patriot Act was supposed to last only for four years, until December 2005; ostensibly while the threat of terror attacks was brought under control. Instead, it was renewed twice under Bush, and again in 2011 by his successor Barack Obama.

Political commentators frequently say, "When America sneezes, the world catches a cold."

This was certainly true in the case of the Patriot Act. The US government was not content to only spy on private conversations within its borders; it put pressure on countries around the world to enact similar legislation.

So in 2002, our government under president Thabo Mbeki dutifully complied and tabled the Regulation of Interception of Communications and Provision of Communication-related Information Act. "Rica", as it is now known, became law when gazetted in January 2003.

Most of us think of Rica as an annoyance when we need to buy a new SIM card for our



SEPTEMBER 11, 2001, the day when privacy fell. | RICHARD DREW AP

mobile phones. Few of us stop to consider that it is a way for the state to associate a phone with an individual and so to snoop on their conversations. It also compels mobile telephone operators to keep track of all phone records for extended periods.

Unlike the USA Patriot Act, Rica had an element of protection built into it; before law enforcement authorities can tap our phones or access our phone records, permission needs to be obtained from a judge who will grant such permission only for valid law enforcement reasons.

In practice, this turned out to be useless. It was easy for the state to simply lie as to the reason for wanting to tap a phone and the judge had no way of verifying whether the request was legitimate.

Sam Sole, managing partner at amaBhungane Centre for Investigative Journalism, suspected in 2008 that his communications were being monitored. His suspicions were confirmed in 2015 when then president Jacob Zuma's lawyers submitted transcripts of conversations between Sole and National Prosecuting Authority prosecutor Billy Downer in the court case for the release of the "Spy Tapes".

In April 2017, amaBhungane and Sole

filed an application to the Pretoria High Court to strike down Rica as inconsistent with the Constitution's right to privacy enshrined in the Bill of Rights. The matter came before court on June 4.

The application said Rica failed to prescribe procedure for notifying people they were being spied upon or procedure to be followed by state officials with access to that information. The procedure for appointing a judge did not ensure the judge's independence. Rica did not protect lawyers or journalists.

This week, on September 16, Judge Roland Sutherland handed down judgment in the matter handing down six orders finding in favour of amaBhungane and Sole. The orders effectively declare Rica to be invalid, but the order is suspended for two years to allow Parliament to fix the law.

So what does this mean in practice? Anyone who has been spied on through his or her communications needs to be informed within 90 days of the expiry of the warrant.

"Bulk surveillance activities" are now illegal. (Advocacy group Right2Know approached telecoms service providers for details of how many such authorisations had

been served on them. In 2017, R2K released figures showing that law enforcement agencies were spying on 70 000 cellphones.)

"Foreign signals interception" is now unlawful. This is a broad category that includes such things as WhatsApp, Skype, Facebook where the signals pass out of the country.

The judgment says the State Security Agency, can no longer "mine internet communications covertly".

I expect the state will challenge the judgement. Its defence will be that drug traffickers and child pornographers will now be able to hide.

But before you agree with them, ask yourself how many child pornographers have been brought to book by our elected government spying on law-abiding citizens?

And then remind yourself of those words of Rousseau.

*Srikanthan is one of the names of Vishnu. Another name for Vishnu is Jagannath, "the unstoppable force", which gives us the modern word Juggernaut. Kanthan Pillay writes about understanding the unstoppable forces which shape our lives in technology, commerce, science and society.*

## The Quote

There is nothing I can say to take away your hurt but you have my shoulder to cry on and my loving hugs. Know that I will be here for you when you need me.

UNKNOWN

www.yourtango.com

## Camaraderie fostered community spirit



SELVAN NAIDOO

AS THE descendants of our ancestors, I am grateful for their childbearing proficiency. Chances are that many of us would have been planting rice in paddy fields had our ancestors returned home once they had substantially grown the pockets of the colonialists.

Luckily for us, they remained behind, struggling through colonial and apartheid-era social, political, economic, and legislative oppression to be a part of a heritage we call South African.

These struggles for 100 years, from 1860 to 1960, saw the majority of this ancestry living in abject poverty. Through these troubles, the *Jahaji* (Indian word for shipmate) camaraderie is what grew our communities. This Jahaji phenomenon saw us rally together to fight the common enemy and stand tall as we near 160 years of being South African citizens.

This Jahaji camaraderie was vital to the survival of the 152 154 souls that were brought here on-board 384 ships. This camaraderie left behind the repressive caste system to see Girmityas (indentured labourers that originate from the word *Girmit* meaning "agreement") develop a unique heritage of collectivity that continues to be evaded in a 21st century India.

On-board the ships' journeys, a nationhood of Muslims, Hindus, and Christians from different parts of India formed a shared culture of community that sheltered us under an umbrella of diversity.

This Jahaji culture continued in the plantations of colonial Natal where labourers took care of each other in times of trouble. Regrettably the early years of indenture, from 1860 to 1885, also saw a plethora of social problems that the Jahaji culture could not mitigate.

Indeed these problems are similar to the social ills that burden our South African existence today.



THE conditions on the ships of indenture. | Supplied

In both eras, the heightened context of economic repression and failing governance contribute toward unimaginable crimes of femicide, murder, child abuse, xenophobia, and rape evidenced by rampant levels.

The Wragg Commission reports of 1885 to 1887 reveal societal problems that overwhelmed our indentured ancestry.

Indeed much of the reports were manipulated to make the colonial planters look good to encourage a steady labour supply. That said, the evidence of societal ills was visible given the abusive context that the colonialist created.

The abuse of dhakka (dagga) resulted in a prohibitive law No 2 of 1870, Section 70. The abuse of this drug saw murders being committed, and families being deserted.

Chapter XII of the Wragg Commission report of 1885 highlights meaningful statistics that point to the relationship between crime, "drunkenness" and the abuse of dhakka.

Between 1876 to 1884, there were 566

thefts and 189 assaults from an Indian population of 26 659. In comparison to the black citizens, who made up 32 146 of the province, these statistics show that 1 in 47 Indians were charged with theft as compared to 1 in 29 black citizens. It also shows that 1 in 141 Indians committed assault as compared to 1 in 122 black citizens.

Beyond the drug and alcohol abuse, there were numerous societal concerns that also plagued our ancestry.

The early years saw an imbalance in the sexes as the colonial planters discouraged the development of family units to maximise profit. This was a recipe for disaster that saw a rampant surge of venereal disease and many crimes committed against women.

It is interesting to note that the spread of venereal disease was the handiwork of the British soldiers, who ruled their empire by spreading the disease to the colonies of indenture.

Again, like the problems we face today, the context of poor governance and eco-

nomical repression have become key drivers for overwhelming crime and frustration that point towards a citizen uprising like that of the Arab Spring of 2010. We simply cannot remain idle when 58 murders are committed in SA daily.

Some years beyond the early years of indenture, the Jahaji revival spurred moral regeneration and community development in times when the government did nothing.

Towns of indenture like Clairwood, Mount Edgecombe, Umkomaas, Verulam, Tongaat, and many others saw family units develop where communities minimised societal ill.

Neighbours became family in protecting and shielding children from monsters of abuse. This Jahaji camaraderie saw the building of schools, clinics, and social welfare societies that took care of the frail and orphaned.

Today, when we analyse where we are 25 years into our democracy, we must critically question our progress.

In this very paper, the POST, we read page after page of horrific crimes that show our humanity at its lowest. Week after week, we read of how we litigate against each other by the temples, churches, and mosques we volunteer, of how we continually criticise each other, of how we use power and wealth to hurt each other, and of how we murder, rape, abuse the vulnerable.

Clearly the moral compass that a good family unit inculcates has lost its bearing.

Collectively from our darkest day of colonialism and apartheid, we rallied as South African Jahajis under the umbrella of diversity from Umlazi to Phoenix to make sure our neighbours and relatives never went hungry nor suffered abuse.

We rallied to ensure our sisters, daughters, and mothers were safe from harm; we rallied to build our communities with the little we had to create a better life for all our citizens irrespective of race, creed or even foreigner status.

Today as we mobilise to rally against poor governance and economic repression that contribute to our societal woes, let us draw inspiration from the heritage of the Jahaji to help grow this country together.

*Naidoo is the curator of the 1860 Heritage Centre*

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