

# **An historical overview of problems associated with the formalization of the South African minibus taxi industry**

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## ***Samevatting***

Die minibus taxi bedryf in Suid-Afrika is 'n belangrike afdeling van die vervoerstelsel, en daarom is dit 'n beduidende faktor in die nasionale ekonomie. Sedert die middeltagtiger jare het hierdie bedryf binne 'n eie stel reëls en regulasies ontwikkel, in dié mate dat dit betrokke geraak het by wetteloosheid. Verskeie gewelddadige 'taxi oorloë' het al plaasgevind. In baie dele van die land is daar min alternatiewe openbare vervoerstelsels. Daarom het die eienaars wat die bedryf beheer, die gesamentlike mag ontwikkel om die regering se pogings om kontrole uit te oefen, te ontduik. Baie regeringsamptenare blyk betrokke te wees by taxi-sindikate. Die regering se taxi herkapitaliseringsprogram het ten doel om die swak beeld en veiligheidsrekord van die taxi-bedryf te verbeter, en om opnuut die mag af van die regering te druk op die toekenning van hulpbronne in die sektor. Hierdie inisiatief mag heel moontlik op 'n mislukking afstuur. 'n Meer pragmatiese oplossing sou kon wees om die bedryf te dereguleer, in samehang met effektiewe polisiëring, sodat die mag van die beherende partye in die bedryf aan bande gelê kan word.

### **Keywords:**

South Africa; Informal sector; Minibus taxis; Taxi wars; Deregulation.

## **Introduction**

The ascendancy of the minibus taxi industry in South Africa was a consequence of the apartheid policy of situating poorly-serviced black settlements on

the periphery of the urban conurbations.<sup>1</sup> After deregulation in 1977 the taxi industry experienced exponential growth to the point where it came to be regarded as a shining example of black entrepreneurship in action.<sup>2</sup> Notwithstanding some of the seemingly intractable problems that afflicted the sector, the Minister of Labour, echoing sentiments first articulated by former President PW Botha, warmly referred to it as “a sector that we need to be particularly proud of.”<sup>3</sup>

Before 1977, taxi operation was restricted to sedan motor vehicles equipped with fare meters. Roving taxis that could be waved down were not allowed. Amended legislation passed in 1977 allowed for the use of kombi (minibus) vehicles as taxis and, in time, regulations allowed for the conveyance of 15 passengers by a driver.

As the Railroad Association of South Africa goes on to explain: “The use of meters fell away, as did official efforts at enforcing the prescribed areas to which minibus-taxis were confined in terms of their working permits. Strictly speaking, the term ‘taxi’ is no longer appropriate to this mode of passenger transport, which is listed elsewhere in the world under the headings of minibus operation or para-transit”.<sup>4</sup>

The rise of the industry was classically demand driven. Black people, having been moved to under-serviced dormitory towns and peripheral areas, nevertheless needed to access the areas from which they were excluded from residing in, in order to work, shop, and transact business. The rigidity of the state-run trains and buses’ routes and timetables made day-to-day commuting extremely time consuming, tiring and expensive.<sup>5</sup>

Notwithstanding state subsidies, the public transport system’s lack of flexibility often necessitated multiple changeovers during a single journey and this, apart from being intensely inconvenient, often made commuting prohibitively costly. The pressure on the state - from black commuters,

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1 KG Nustad, “The right to stay in Cato Crest: Formality and informality in a South African development project”, KT Hansen & M Vaa (eds.), *Reconsidering Informality: Perspectives from urban Africa* (Uppsala, Nordiska Afrikainstitutet, 2004), p. 55.

2 MM Khosa, “Accumulation and labour relations in the taxi industry”, *Transformation*, 24, 1994, p. 55.

3 Department of Labour, “Minister’s speech: Launch of the sectoral determination for taxi sector”, 2005 (available at <http://www.labour.gov.za/media-desk/speeches/2005/minister2019s-speech-launch-of-the-sectoral-determination-for-taxi-sector-1>, as accessed on 9 June 2009).

4 Railroad Association of South Africa, “Passenger transport” (available at <http://www.rra.co.za/passenger.shtml>, as accessed on 9 June 2009).

5 International Labour Organisation (ILO), *Organising in the taxi industry* (Johannesburg, ILO, 2003), pp. 8-9.

aspirant minibus taxi operators, and the white business sector - to allow for kombi taxis, became quite overwhelming and the state had little option but to capitulate in the face of the compelling market logic these pressure groups were able to draw on. The minibus taxi industry had become a popular *de facto* reality that simply ignored official restrictions.

The Department of Labour, some ten years ago, reported that:<sup>6</sup>

Transport plays a key role in enabling job search, affordable travel to work and services, and access to education. Yet, public transport fares in South Africa are 32 per cent higher than the world average, taking into account purchasing power parity and subsidies... 13 per cent of urban residents cannot afford access to any form of transport. Almost 30 per cent of urban residents are 'captive' to public transport; about 17 per cent are totally dependent on the cheapest form of transport available.

The Department went on to say that "long distances and low densities [were] causing low levels of capacity utilization (22% on rail, 52% on buses, 48% on taxis)". This last figure suggests that either the taxi industry was over-traded - or it was not matching demand effectively. This analysis will argue for the latter and will claim that little has changed to ameliorate the situation in the intervening years. It will be argued that this is largely due to self-appointed 'strongmen' having opportunistically usurped the enforcement of certain of the state's regulatory strictures. It will also be shown that, while the state is trying to formalize the industry by means of a raft of elaborate and ultimately unenforceable regulations (cf. the National Land Transport Transition Act, Act No.22 of 2000), it continues to neglect enforcing basic 'rules' which could serve to rehabilitate the sector, and bring it into line with good business practices.

The study also demonstrates the strength of the dangerous belief that the "commons" (a public route) can be "owned" by whoever (not excluding the state) is strong enough to "capture" it and fight off challengers.<sup>7</sup> It is this "commodification", of what is in fact an intangible public good, that lies at the heart of the taxi industry's present malaise - and which the state is misguidedly perpetuating as part of its taxi recapitalization programme. This programme will be dealt with in a later section.

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6 South African Government Information, "Create jobs fighting poverty: An employment strategy framework", 1998 (available at [http://www.info.gov.za/otherdocs/1998/jobs\\_poverty.htm](http://www.info.gov.za/otherdocs/1998/jobs_poverty.htm), as accessed on 9 Jun. 2009).

7 See "Taxis have no legal rights", *Sapa*, 24 June 2009 (available at <http://www.iol.co.za>, as accessed on 4 Jul. 2009) for a refutation of the minibus taxi industry's claim that bus routes are its "intellectual property".

## **Structure, size and importance of the minibus taxi industry**

The Human Sciences Research Council (HSRC) aptly summed up the South African transport sector as follows:<sup>8</sup>

The South African transport system is extremely complex with all three spheres of government [local, provincial and national] being the provider of transport infrastructure and public transport services and at the same time being the regulator of public and private transport. Inter-modal linkages between passenger and freight, road, rail, aviation, ports and airports further add to the complexity. An additional level of complexity arises in the urban context, because South Africa does not have one [integrated] urban transport system, but rather a series of individual transport systems in urban areas, often with little or no relation to one another.

According to the Competition Commission of South Africa,<sup>9</sup> the taxi industry consists of two types of taxis: metered taxis (represented by the SA National Metered Taxi Association, or SAMTA) and minibus taxis (represented by the SA National Taxi Council, or SANTACO). These two national umbrella bodies operate in parallel, altogether independently of one another, but have an identical hierarchical structure. Each national body has its members who belong to their particular local taxi associations. These in turn elect local taxi councils. Local taxi councils are represented on regional taxi councils which, in their turn, are represented on provincial taxi councils. It is these latter councils which report in to their respective national affiliates.

The Competition Commission reported in 2003 that it was impossible to determine the number of taxis operating in South Africa, due to the informal nature of the industry. The Western Cape and KwaZulu-Natal taxi industries seemed, however, to be rather better coordinated than was the case in the Gauteng province where there were about 3700 “metered” taxis, only half of which were thought to be “legal”. The Commission estimated that there were approximately 150 000 public minibus taxis nationwide. The South African taxi industry was thought to have an annual turnover of roughly R16.5-billion (excluding metered taxis) but the overall contribution of the taxi industry to the country’s Gross Domestic Product was not known. Many, if not most, taxi operators were not registered as taxpayers, although they might well have been registered with the Department of Transport as taxi operators. The

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8 Human Sciences Research Council (HSRC), “Transport sectoral study for the Department of Provincial and Local Government, Pretoria”, Unpublished report (Pretoria, HSRC, 2004).

9 Competition Commission of South Africa, “The South African taxi industry”, 2003 (available at [http://www.compcom.co.za/resources/CompComIssue11/pages/04\\_taxi.htm](http://www.compcom.co.za/resources/CompComIssue11/pages/04_taxi.htm), as accessed on 9 June 2009).

### Competition Commission added that:

While conventional metered taxis continue to operate in the major centres minibus taxis are thought to constitute at least 90 per cent of the local taxi market. In the case of minibuses, different individual taxi associations appear to decide collusively on taxi fares to be charged per route, outside consultation with, or interference by, the authorities. According to ... the South African Competition Act, Act No 89 of 1998, such agreements between competing firms, or an association of competing firms, are prohibited as they involve directly or indirectly fixing a purchase or selling price or any other trading condition. At present, minibus commuters are charged fixed amounts for travelling on particular routes. These routes are generally known, without being published.

If there are indeed upwards of 150 000 minibus taxis on the road then the industry is unlikely to provide direct employment for fewer than 300 000 people.<sup>10</sup> The Free State Department of Public Works, Roads and Transport estimated in 2004 that the industry provided 14 000 jobs in the province.<sup>11</sup> Given that the Free State economy represents roughly a twentieth of the national total, a figure of roughly 300 000 jobs nationally would seem to be about right. This is a very considerable figure given a total population of about 50-million with unemployment rates oscillating between 30 and 40 per cent.

Indirectly, the taxi industry supports a host of upstream and downstream economic activities.<sup>12</sup> These include advertising, motor repairs, vehicle financing, passenger insurance, and the maintenance of taxi rank ablution blocks. The industry also employs rank marshals, car washers, and fare collectors apart from the drivers themselves.

The HSRC articulates transport's importance to society and the overall economy as follows:<sup>13</sup>

Transport performs many functions. It is the backbone of a country's economy. Without transport, firms and entrepreneurs in both urban and rural areas would not be able to get inputs in, nor products out. Adequate transport service makes rural areas vibrant and a country economically competitive. But that is not all... Transport services have a crucial social function to play,

10 MM Khosa, "Accumulation and labour relations..." p. 56 provides a figure of 300 000 derived from sources dating back as far as 1989.

11 Free State Department of Public Works, Roads and Transport, "Taxi *lekgotla* heralds new era for the industry in the Free State", November 2004 (available at <http://www.bulletinonline.co.za/archives/specfeat/nov2004.php>, as accessed on 9 Jun. 2009).

12 See also MM Khosa, "Accumulation and labour relations..."

13 HSRC, "Transport sectoral study..." 2004.

linking families, providing access to education, health, welfare and many other social services. They are also the means by which families sustain themselves, commuting to work and to stores for the necessities of life. It is not surprising that a recent World Bank study showed that the returns on investments in the transport sector in developing countries were one and a half times higher than the Bank average.

### **Employment conditions in the industry**

Employment conditions within the minibus taxi industry were identified as long ago as 1994 as being almost Dickensian with many drivers working 16- to 18-hour days for a mere pittance.<sup>14</sup> In March 2003, the Community Agency for Social Enquiry (CASE) conducted a survey of earnings and working conditions in the taxi industry commissioned by the Department of Labour.<sup>15</sup>

The survey found that taxi drivers were almost invariably male (98 per cent of the sample); that the majority of drivers could officially be classified as “youth” (63 per cent were less than 35 years old); and that drivers tended to have modest levels of education (less than one-third of drivers had a matric school-leaving certificate, and this proportion increased to almost 90 per cent among those older than 35).

Although most taxi drivers are not taxi “owners”<sup>16</sup> fewer than 10 per cent of the drivers in the CASE survey had a written employment contract. Almost all the drivers indicated that they worked in the taxi industry because they had no choice - either there were no other jobs available or because they were not qualified to do anything else. Drivers were paid an average wage of R1200 per month. Wages in metropolitan areas were, on average, R200 per month higher than wages in non-metropolitan areas. Drivers tended to work either for the entire week (70 per cent of all drivers) or six days a week (21 per cent) and on average spent about 13 hours at work each day.<sup>17</sup>

In the light of these details it is hardly to be wondered at that taxi drivers have a fearsome reputation for being short-tempered and accident prone.<sup>18</sup> That:

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14 See especially MM Khosa, “Accumulation and labour relations...”, pp. 63-67.

15 Community Agency for Social Enquiry (CASE), *Determination of earnings and working conditions in the taxi industry* (Johannesburg, CASE, 2003).

16 International Labour Organisation (ILO), *Organising in the taxi industry...*, p. 5.

17 Also see “No easy ride for taxi drivers”, *Mail & Guardian*, 11 May 2005.

18 See for example Road Traffic Management Corporation (RTMC), “Road traffic report”, April 2006, pp. 48-51;

“about half of South African road users are driving with ‘irregular licences’”<sup>19</sup> is also not the sort of finding which instills confidence in the professionalism or integrity of the industry. The implications of this issue will be examined more fully below.

## Taxi violence

In Hernando de Soto’s survey of the informal transport sector in Peru, which spans a period of some 70 years, it is salutary that, although mention is made of corruption, the kind of violence that has come to be associated with the taxi industry in South Africa appears to be altogether lacking.<sup>20</sup>

Violence is endemic to South Africa’s minibus taxi industry. According to Dugard,<sup>21</sup> during the period 1991 to 1999, taxi-related violence claimed an average of 19 lives a month with a further 26 seriously injured every month. Croucamp<sup>22</sup> describes the hiring of foreign nationals to act as “hit-men to eliminate rival strongmen” in describing the “mafia-style nature of violence in the industry”. He also reiterates the widely held view that the police force is often complicit in this violence.<sup>23</sup>

Unsurprisingly, barely a day passes in South Africa without a media report of some or other taxi-related incident which frequently involves straightforward murder.<sup>24</sup> This violence is not confined to within the taxi sector either but is sometimes directed at other transport sectors, most especially bus operators and even Metrorail.<sup>25</sup> The following report is but one of many hundreds that exemplifies the general situation:<sup>26</sup>

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B Molosankwe, “Talkshow host in tears about abuse”, *The Star*, 19 February 2008, p. 3.

19 “Half of SA using ‘irregular licences’”, *The Mercury*, 30 May 2005.

20 H de Soto, *The other path: The invisible revolution in the Third World* (New York, Harper & Row, 1989), pp. 93-127.

21 J Dugard, “Drive on: Taxi wars in South Africa”, J Steinberg (ed), *Crime wave: The South African underworld and its foes* (Johannesburg, Witwatersrand University Press, 2001).

22 PA Croucamp, “The social relations of the taxi industry in South Africa: Contending theories of corporatism, pluralism and systematic patronage” (PhD., UFS, 2003), p. 5.

23 Also see KG Nustad, “The right to stay in Cato Crest...”, p. 56.

24 An archival search for ‘taxi’ in <http://www.iol.co.za> will reveal literally hundreds of such cases.

25 See for example B Maclennan, “Taxis linked to rail sabotage, inquiry hears”, *SAPA*, July 2005 (available at <http://www.iol.co.za>, as accessed on 9 June 2009) and C Barnes & E Lewis, “Bus petrol-bombed in Cape Town”, *Cape Argus*, 13 February 2009, p. 1.

26 “Warring taxi organizations agree to meet”, *South African Press Association (SAPA)*, 12 May 2005 (available at <http://www.iol.co.za>, as accessed on 9 June 2009).

Rival taxi associations in the Durban city centre were meeting... in an attempt to resolve the differences which led to a shootout... “The dispute at the moment is about the dropping off and picking up of passengers,” said [a] police spokesperson... police and traffic police were facilitating the meeting between members of the Durban Taxi Association and the Durban Long Distance Taxi Association. In the meantime, members of the police’s area crime combating unit were on standby at the taxi rank in Brook Street, where two bystanders were wounded in an exchange of fire between the two groups during morning rush hour traffic.

This violence generally features territoriality over coveted routes<sup>27</sup> or access to taxi ranks, but can easily escalate into broader conflagrations, of quite bewildering complexity, as happened at Durban’s Cato Crest and which claimed 14 lives.<sup>28</sup>

### **Transport needs: Extensive and unmet demand**

At a November 2004 transport conference, the Department of Transport’s Director-General (DG) announced the following findings which had arisen out of a National Household Travel Survey:

- Low household incomes constrained the affordability of public transport services. Of the 5.8-million households earning under R1000 per month, 53 per cent were in rural areas. Of the 2.8-million households that earned up to R500 per month, half spent more than a fifth of their income on public transport.
- Twice as many workers used either public transport (including rail, bus or taxi) or walked than used cars. Just under 10-million people travelled to work regularly. Of these 32 per cent used private cars, 39 per cent used public transport (including taxis), and 23 per cent walked.
- Minibus taxis carried 64 per cent of the 3.8-million workers who had recourse to public transport. As a mode of transport, taxis were dominant in all areas. Private transport was not available to 74 per cent of households.
- While most children who walked could get to school within 30 minutes there were about 550 000 children who spent more than two hours a day walking to

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27 C McCaul, *No easy ride: The rise and future of the black taxi industry* (Johannesburg, South African Institute of Race Relations, 1990).

28 C Goodenough & C Forster, “Community safety and public security”, P Robinson, J McCarthy & C Forster, *Urban Reconstruction in the developing world: Learning through an international best practice* (Johannesburg, Heinemann, 2004), pp. 334-335; KG Nustad, “The right to stay in Cato Crest...”, pp. 56-57.



and from schools. Only nine per cent of school children used taxis.<sup>29</sup>

The DG went on to report that public transport user dissatisfaction levels were very high. Forty-two percent of train users, 31 per cent of bus users, and a massive 48 per cent of taxi passengers were dissatisfied with the overall service. The main reasons for dissatisfaction with taxi services were inadequate safety (67%), a lack of facilities at taxi ranks (64%) and the poor condition of vehicles (59%). Over half the taxi users were also dissatisfied with fares, crowding, and the drivers' behaviour towards them.

The inescapable impression derived from the literature is that consumers' interests (other than financial) are, notwithstanding protestations to the contrary, the least of the minibus taxi industry's concerns. The industry exudes a strong air of entitlement which that sector of the populace that patronizes metered taxis would never tolerate. There is no sense of "customer service" whatsoever.

### **Minimum wages**

As of July 2005, South Africa's minibus taxi drivers were entitled to a minimum wage, unemployment insurance and paid leave in terms of a new "sectoral determination".<sup>30</sup> It was not clear that the industry could bear the cost of compliance with the regulations (even though the minimum wage was set far lower than workers had been hoping for) or that it had the capacity to deal with the administrative implications of the regulations. For one thing, the fact that fewer than one in 10 employees had any form of written employment contract suggested an environment in which literacy was low.<sup>31</sup>

While operators did not want to be seen to be endorsing anything that might be tantamount to driver exploitation, it was made very clear that many were not at all happy with these regulatory developments and would probably ignore them. That a state which has shown itself to be unequal to the task of administering and controlling drivers' licences,<sup>32</sup> has the capacity to enforce labour regulations in a hugely dispersed, autonomous and anarchic industry is very much to be doubted.

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29 "Transport subsidies will target non-motorized public transport", *SA Local Government Briefing*, November 2004.

30 Department of Labour, "Minister's speech...", 2005 (internet accession).

31 "A bumpy road ahead", *Mail & Guardian*, 11 May 2005.

32 "Half of SA using 'irregular licences'", *The Mercury*, 30 May 2005.

The taxi industry sectoral determination aimed to formalise the sector “from the bottom up”. The Minister for Labour set a minimum wage of R1350 a month for all taxi drivers and administrative staff, R1080 for rank marshals and R945 for fare collectors and car washers. In the South African context these levels were far from demanding. The determination specified a 48-hour working week for all drivers, as well as rates and conditions for overtime; and makes provision for annual, maternity and sick leave. The determination further provided for an annual increase for workers. This is to be calculated at the officially determined inflation rate plus two percentage points after one year, and another of the same margin a year after that.

Compulsory rest periods were also provided for. According to one driver sick leave is a serious concern: “In the taxi industry you can’t afford to get sick. You get sick and there is another driver tomorrow, forever, and you end up hoping he gets sick so you can get your job back”. During the launch of the sectoral determination, “taxi owners muttered a running commentary, indicating that there might be a bumpy ride ahead”.

Objections raised by the industry revolved ostensibly around concerns over job losses, as taxi operators claimed that the industry would battle financially in meeting the minimum conditions. The veiled threats (and demands for a *quid pro quo* by way of subsidies) implicit in the following comment bode ill for compliance with government’s attempts at formalizing the industry:<sup>33</sup>

A spokesperson for the industry said owners were in broad agreement with the sectoral determination, but concerned about its practical execution and the implied costs. Referring to provisions for sick, parental and other types of leave and the curbing of working hours, he said: “We do not oppose these, but we do have to ask, who will bear the costs?” He pointed to the fact that the taxi industry receives no government subsidies. It is based in the informal sector of the economy, yet “now the government expects us to adhere to formal sector provisions”. He also warned that the new determination [brought] with it “a great possibility for misunderstanding... It is already an industry where there are more than enough grounds for unrest and violence...The last thing anyone wants is for a government Act, intended to improve the situation of employees, to result in the worsening of the picture.”

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<sup>33</sup> “Taxi industry moves into ‘exciting era’”, *Mail & Guardian*, 28 April 2005.

## The taxi recapitalization programme

In 2005 Government said it planned to spend R7.7-billion over the next five to seven years on scrapping the ailing taxi fleet.<sup>34</sup> The recapitalization programme also aimed to formalize the sector by regulating taxi fares, the labour conditions of drivers, and by introducing more stringent safety specifications.

In mid-2003, the Department of Transport (DoT) indicated that it was considering postponing the implementation date for the taxi recapitalisation programme due to pressure from taxi organisations. Top Six Taxi Management protested that their members would not be able to meet the deadline, because a large number of them would still be paying for their old vehicles when the cutoff date was reached in September 2006. Top Six accordingly asked for an extension to 2010 also partly because the bidders for the tender to manufacture the government-approved, safer, purpose-built 18- and 35-seat vehicles had not even been announced yet. According to the original timetable, recapitalisation should have begun in 2001 and been completed by September 2006. By the time 2003 came the DoT was left with just over two years to implement the phasing in of about 90 000 new vehicles to replace the ageing fleet of minibus taxis. But according to the Department's estimates, only about 25 000 vehicles were expected to be delivered each year.<sup>35</sup>

In November 2003 the Department of Transport and SANTACO announced an agreement to extend the date for the implementation of the taxi recapitalisation programme. The previous month, the government and SANTACO had had to postpone the signing of a Memorandum of Agreement (MoA) after the Pretoria High Court granted the KwaZulu-Natal Taxi Council (KWANATACO) an interdict to prevent SANTACO from signing the MoA. The provincial body said they had not been properly consulted and lacked necessary information on the whole process. SANTACO, which a few months previously had demanded that the recapitalization programme be handed over to it to administer, on the grounds that it was proceeding too slowly, now expressed its satisfaction with the postponement as this would allow all the roleplayers time to gain a better understanding of the process and buy into it.

According to the *Mail & Guardian*<sup>36</sup> SANTACO's about-turn came as a result of "a mutiny by its members that was endangering the whole taxi

<sup>34</sup> "Time is running out for 'death-trap taxis'", *Saturday Star*, 21 May 2005.

<sup>35</sup> See "Government may delay taxi recapitalization date even further", *SA Local Government Briefing*, August 2003; "Taxi industry urged to shake up govt.", *Mail & Guardian*, 23 May 2003; "Government extends taxi recapitalization deadline", *SA Local Government Briefing*, November 2003

<sup>36</sup> "Omar bows to taxi industry pressure", *Mail & Guardian*, 28 November 2003.

recapitalization programme”. Members of SANTACO were threatening to boycott the programme because they would not be able to afford the new taxis by 2006. It was said that SANTACO had no alternative but to call for the programme to be slowed down in order to improve communication with its members and prevent a mass exodus of its provincial affiliates. Jeremy Cronin, the parliamentary transport committee chairperson, was reported as saying that the taxi recapitalization was “... a very complex process, and when we first started out in 2000, we could not imagine half the challenges we would come across.” He added that his committee had been worried all along about the affordability of the new taxis.

SANTACO’s accommodating sentiments certainly did not seem to have been shared by all its members, and dissatisfaction continued to be expressed at the delayed roll-out of the programme. At a Taxi Summit held in Welkom in October 2004, and attended by 1200 representatives, resolutions were adopted for the expediting of the recapitalization programme and, tellingly enough, for the 18- and 35-seater vehicles proposed by the government to be augmented with options for sedan vehicles and 16-seater minibus kombis. The delegates were also particularly keen on being given ‘equity shares’ in various bus companies and on being guaranteed preferential treatment in the awarding of tenders for the construction of roads, the building of taxi ranks, and the “designing and putting up of transport-related billboards”.<sup>37</sup>

In May 2005 the then Minister of Transport, Jeff Radebe, announced that the process for the scrapping of ageing minibus taxis was imminent. The safety requirements for the new taxi vehicles were complete and would be published as regulations in June 2005. He said that the provinces were converting current permits into operating licences and that permit holders should convert their permits by the end of August 2005 or risk forfeiting them. Radebe explained that, “The taxi recap is primarily about the removal of the ageing and unreliable taxi fleet and its replacement with new taxi vehicles... One group is those vehicles whose owners intend to exit the taxi industry immediately. In exchange for the R50 000 scrapping allowance, we will require them to hand in their vehicles and permits and/or operating licences”.<sup>38</sup>

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<sup>37</sup> Free State Department of Public Works, Roads and Transport, “Taxi *lekgotla* heralds new era...”, 9 June 2009.

<sup>38</sup> “Scrapping old taxis to start soon – Radebe”, *SAPA*, 20 May 2005 (available at <http://www.iol.co.za>, as accessed on 9 June 2009).

But according to a subsequent media report<sup>39</sup> the practice of leasing or renting out licences was widespread. It was also alleged that licences were being sold for up to R30 000 apiece to operate along certain Cape Town routes. When the present writer spoke to a taxi owner about this it became clear that he regarded his operating licence as being held in perpetuity to the extent that it might one day be inherited by his children, or by another family member.

Radebe continued: “The others we need to get off the roads quickly are the death-traps, the worst wrecks on the road... We envisage a period of grace for voluntary surrender of these wrecks, but failure to do so within the time stipulated will lead to these vehicles being impounded. No scrapping allowance will be paid for vehicles impounded in this way”.

It was not made clear why traffic law enforcement agencies had not pulled these “wrecks” and “death traps” off the roads already, or whether the “period of grace” meant that until such times as the taxi recapitalization process was implemented, drivers could continue using their “death traps” on public roads while carrying passengers.

### **Market dysfunction in the taxi industry**

The minibus taxi industry in South Africa possesses enormous resilience and appears quite unassailable.<sup>40</sup> Due to a welter of opportunities for corruption, however, it has appropriated for itself many of the most negative aspects of the regulatory hand of the state and become a law unto itself. Whether the state can ever wrest control back from the industry is open to doubt.<sup>41</sup> Notwithstanding the minibus taxi industry’s market being hobbled and distorted by the excess of anti-competitive practices which characterize its operations, and its apparent indifference to the convenience of its consumers, it nevertheless manages to thrive due to captive demand and the inability of the state and its organs to provide consumers with viable alternatives.

The following excerpt from the Musina Integrated Development Plan (IDP)<sup>42</sup> illustrates the extent to which the state could be held hostage by the taxi industry should it choose to flex its muscle by going on ‘strike’ (which it

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39 “Councillor receives several death threats”, *Cape Argus*, 31 May 2005.

40 See for example F Forde, “Why a 2010 transport timebomb is ticking”, *The Star*, 13 June 2009, p. 10.

41 PA Croucamp, “The social relations of the taxi industry...”, pp. 3-4.

42 Musina Municipality, *Integrated Development Plan* (Musina, Musina Municipality, 2002) p. 59.

not infrequently does):

[N]o mass transportation system exists. The only form of public transport is one bus service (private) between Nancefield... and the CBD, and privately owned taxis that transport people within Musina and Nancefield, to Beit Bridge and to other long distance destinations. ... Musina has one taxi rank that is located in the central business area and was built in 1997. Some 43 taxi operators and 119 taxis are registered with the Beit Bridge Taxi Association... Some illegal taxi's are operating [from] Musina.

Numerous other instances could be added including that of the Free State Gold Fields. The Matjhabeng (Welkom) IDP, for instance, states: "There are no public transport systems operating in Matjhabeng except the privately owned taxis".<sup>43</sup> It should be noted that Matjhabeng is an important economic hub.

It is also noteworthy that municipalities appear far more willing and comfortable with liaising with the taxi industry than with the formal business sector. For instance, apropos of the Nala (Bothaville) municipality in the Free State: "In 2001, an LED forum was established and a supervisor for LED projects was appointed by the Municipality. The forum only represents Council and the taxi industry, neither the black nor the white business sectors are represented".<sup>44</sup> For much of the country then it would appear that minibus taxis are the only show in town and that the state is beholden to the industry in a way that is far from healthy.

The extent of market failure is illustrated if one poses the hypothetical question: "Would someone who won a new minibus kombi in a lottery be able to leverage this asset to earn a living in the minibus taxi industry?" It is this writer's contention that such a person's chances would be minimal, unless they were prepared to relocate to an ostensibly under-serviced region or unless they already had good contacts within the myriad autarkic associations that effectively control the industry and police the routes.

De Soto's observation that: "it was easier to avoid detection by the authorities and by formals in a motor car than in a larger vehicle"<sup>45</sup> may presage the future of the informal transport sector in South Africa should the state ever succeed in co-opting the minibus taxi industry. There is every indication that

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<sup>43</sup> Matjhabeng Municipality, *Integrated Development Plan* (Welkom, Matjhabeng Municipality, 2001) p. 12.

<sup>44</sup> Free State Premier's Economic Advisory Council (PEAC), *An evaluation of Local Economic Development (LED) in the Free State*, (Bloemfontein, PEAC, 2004).

<sup>45</sup> H de Soto, *The other path...*, p. 108.

the recapitalization will result in a rise in fares asked by the 'formalized' taxis, which will stimulate even more informal (pirate) competition. Peru's informal transport history, as detailed by de Soto, is likely to repeat itself in South Africa. This is one of successive waves of the state 'capture' of pirates leading to openings for a new generation of pirates, which, in its turn, results in the bankruptcy of the formalized, erstwhile pirates who can no longer compete with their informal counterparts.

It is also not clear that the DoT, with a massive infrastructural backlog of roads that are disintegrating<sup>46</sup> should be pursuing a very costly solution to the problems presented by the taxi industry, when a far more economical one, namely deregulation, is at hand.<sup>47</sup> As Croucamp points out, the state is wont to commit itself to much more than vehicle recapitalization. It also variously contemplates providing funds for the establishment of taxi "co-operatives which will extend the operational authority of taximen to the petroleum industry, retailing in spare parts and vehicle maintenance". Apart from the fact that this reads like a recipe for providing yet more niches for organized crime to colonize, it is all quite unnecessary.

In this context the implications of the following very serious assertion are of the essence: "The problem of corruption, as relating to the ownership of taxis, is wider than the police force, pervading the entire government bureaucracy, and it greatly contributes to the ongoing violence as officials promote the taxi association to which their taxis are affiliated".<sup>48</sup> If this is the case might not the best course of action be to minimize the opportunities for corruption via careful deregulation?

## **Conclusion**

South Africa suffers from a lack of diversity and variety in the range of transport services it provides. As per the Human Sciences Research Council:<sup>49</sup>

International best practice indicates that road-based public passenger transport is likely to be cost effective and better suited to customer needs when there is some product differentiation and a range of different services

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46 One estimate is that it will take R50-billion to restore the infrastructure, see "R50 bn road shock", *The Star*, 16 February 2008.

47 PA Croucamp, "The social relations of the taxi industry: ...", pp. 3-4.

48 J Dugard, "Drive on...", p. 33.

49 HSRC, "Transport sectoral study...", 2004.

provided. The benefits of creating clearly differentiated sub-brands within the overall industry offering, and tailoring these to the specific needs of the consumers, should be encouraged. These differentiated service brands could be built around, as an example, a broader mix of vehicle sizes and capacities. This new competitiveness, based purely on service delivery, would result in a better offering for the consumers, the people of South Africa. In addition, it would mean increased profitability for the business entities that subscribe to it.

It is submitted that only a private sector in which entrepreneurs can function as free agents can give rise to such differentiation. To this end the only “formalization” that is really required is the proper enforcement of “already existing” standards such as, for example, those that automatically address passenger safety by requiring adherence to the normal rules of the road.

The head of the Western Cape’s Department for Transport and Public Works, on re-opening a taxi route which had been closed due to violence, made the following announcement which neatly encapsulates the intrusive, hegemonic thinking that informs government policy regarding the minibus taxi industry:<sup>50</sup>

Our intervention in the taxi industry is informed by three important objectives. Firstly, it is aimed at formalising and democratising the taxi industry. Secondly, it is aimed at integrating the industry into the formal public transport environment. To this end, the strengthening of regulations governing the taxi industry is key to our success, especially the implementation of the taxi recapitalisation project. Thirdly, government will implement measures aimed at supporting the taxi industry to make it sustainable... [and] ensure that taxi operators become viable and sustainable businesses.

The past [violence] brought to the fore the question of who is responsible for regulating public transport. The tendency for self-regulation, which is common in the taxi industry, is going to be a thing of the past. “The taxi operators and their associations must understand that all routes, permits and/or operating licenses as well as ranking facilities, belong to the Government”. The taxi operators are only afforded the opportunity and privilege to render services to commuters, and should therefore not be involved in regulatory and enforcement exercises, which are the exclusive domain of the Government.

Instead of trying to wrest ownership of the public routes commons from the strongmen for its “own” allocation, the state should be keeping these routes open for the free use of its public, including aspirant taxi entrepreneurs. The state’s current approach, if it has the enforcement capacity to give effect to

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50 Cape Gateway, “Lifting of restrictions on Kraaifontein/ Bellville/Modderdam Road taxi route”, April 2005 (available at <http://www.capegateway.gov.za/eng/pubs/news/2005/apr/103334>, as accessed on 9 June 2009).



it, would seem to sound the death-knell for a market-driven taxi industry. Whether the state will be able to second-guess the market and, by co-opting the present cohort of minibus operators, deliver a more focused and efficient supply of transport than that which has been achieved by the informal industry to date, is what is at issue.

The laws pertaining to vehicle usage are adequate as they stand to ensure passenger safety. Far rather that the authorities should focus their energies on more vigorously giving effect to the existing laws regarding straightforwardly criminal behaviour; vehicle roadworthiness; bad driving; overloading; and the validity of drivers licences, and conserve their sorely limited enforcement capacity by pulling out the rug from under the feet of the informal regulators exercising a stranglehold on the industry from within, and opening up the market to all-comers.

It is said that the violence in the taxi industry is caused by its being so competitive but the reverse is true. It is caused by the zero-sum notion that competition is something to be suppressed. There is nothing in the nature of competition that says it must find expression in violence or corruption or that it should compromise service to the customer. This only happens when the societal “rules of the game” give way to the “law of the jungle”.

The objection that scrapping ownership of routes will lead to a harmful oversupply will not hold either. The market is better able than any local authority to rectify oversupply and a much-needed differentiation of transport options could arise organically instead of being arrived at via a costly process of trial-and-error on the part of a state that tends to overrate its omniscient wisdom.

It was allowing markets to function, in the face of an intransigent state, which gave birth to the minibus taxi industry in the first place. The market will not kill off its creation until it has outlived its usefulness, but the resurgence of unnecessary state interference could seriously sap its potential for growth, if not effectively checked by compelling market realities. Arguably what is needed is not more state regulation but less, and for this level of regulation (which is little more than common sense and good housekeeping) to be properly enforced. This entails the state jealously maintaining its prerogative to act as “sole” regulator, in order to root out the element of ‘street justice’, and the mobster ethos, which has so tarnished the South African minibus taxi industry’s image.