



Legal, Authorisations,
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Enforcing when the odds are stacked up against
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The South Africa I know,
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ENFORCING POLLUTION LAWS

*WHY SHOULD WE EVEN BE CONCERNED
ABOUT ENFORCING POLLUTION LAWS?*

WHO ARE WE DOING THIS FOR?

DOES IT REALLY MATTER?

*IF IT DOES MATTER HOW CAN WE DO THINGS
BETTER?*



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Much ado about Peak

PHILANI NOMBEMBE

THE Cape Town High Court has dismissed an application to stop the construction of a multimillion-rand office on the scenic Chapman's Peak route.

The Residents' Association of Hout Bay and the Habitat Council applied for an interim interdict to stop Entilini Concession, the company that operates the Chapman's Peak Drive toll road, constructing a R54-million control building.

Western Cape premier Helen Zille, transport MEC Robin Carlisle, Environmental Affairs Minister Edna Molewa and SA National Parks were also hauled before the court over the matter.

Residents claimed the construction on the route that crosses a conservation area — that is also a

Judge okays building on Chapman's

World Heritage Site — was illegal.

They said there were two streams close by and that the province had not sought permission for the office space to be built.

But Judge Bennie Griesel dismissed the application yesterday, finding that residents had exaggerated the extent of the potential threat to the protected area because the control building was being built in a disused quarry.

"In summary, I have not been persuaded that the applicants, or anybody else, will suffer any harm — far less irreparable harm — if the control building were to be constructed," said Griesel.

"The application is being

brought because of the special protection afforded to national parks and World Heritage Sites.

"However, when one has regard to the scale and extent of the actual encroachment of the proposed building on the land belonging to SANParks, the extent thereof is minuscule. As Shakespeare would have put it, much ado about nothing."

He did not order the residents to pay the legal costs.

Hector Elliott, head of the Western Cape transport and public works department, said that, had the interdict been granted, construction would have been delayed by a year and cost the province an extra R9-million.

"It's a victory for common sense and of course we are very pleased to have won this. It's been a hell of a long struggle," said Elliott.

"The concessionaire would have said enough is enough and walked away from the contract, and that would have cost the province up to R200-million.

"This is the third time that we've defeated the Residents' Association of Hout Bay in court."

Len Swimmer, chairman of the residents' association, said the courts had failed them.

"It's very sad. It is very, very disappointing and the situation is that we don't have environmental courts and this is a big problem," said Swimmer.

"But we still believe we have a good case and that what's being done is unlawful."

The NGO sector.....



BROKEN PROMISES

The Failure of the Highveld Priority Area

In 2007, government promised to clean up air pollution on the Highveld by declaring it a priority area under the Air Quality Act. A decade later, the environmental injustice remains: toxic air pollution continues to destroy the health and well-being of the people of the Highveld.

A report by the Centre for Environmental Rights



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Dumpsite causes flaming spectacle

Mary-Ann Emanuel

An underground fire, which started last Tuesday night, at the Wasteman Dumpsite in Bulbul Drive, is still causing major air pollution almost a week later. According to member of Bulbul Drive Landfill Monitoring Committee, Shaun Hammond, the fire started around 5:45pm and turned the night sky orange. Hammond, who went with members of the committee to investigate the cause of the flames, found that the Wasteman gates were locked with security officers standing guard. "I asked the security guard if the fire department had been notified and he said, 'No, the company is handling the fire.' Since I am aware that Wasteman has no fire hydrants, fire fighters or water tankers, which is essential as most landfill sites emit gases that are highly flammable, I called the fire brigade. If this had been done sooner by Wasteman, the fire would not have reached such a critical level," said Hammond.

According to a report from the fire department, the fire is a deep-seated one, which is burning underground. Hammond explained, "The department said the fire was too big and was not something which could be handled by the fire department. Clearly, the landfill site is of extreme high risk to members of the community in the area. Landfill sites are not supposed to be located near any residential settlement and, if this is so, why is the Silverglen area, where thousands of people reside?" Co-ordinator of the South Durban Community Environmental Alliance (SDCEA), Desmond Doo, who was supposed to have visited the site to monitor the air quality emitted by the dumpsite, said there is a litany of secrecy surrounding the Wasteman dump-



The fire on the Wasteman site, in Bulbul Drive, has been causing major air pollution over the past week.

site in Bulbul Drive. "When I visited the site with passive samplers, which monitors the air quality in the area, we were not allowed to access the site even though the company had agreed to let us conduct our research, because of what they called 'security reasons'." According to Doo, while waiting for access, there were about 50 trucks that were allowed to enter the site to dump waste. "Wasteman has something to hide and what they've been hiding has flared up now, resulting in this underground fire." Repeated attempts to contact a media liaison for Wasteman proved unsuccessful.

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On building

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POLLUTION CRIME:

WHAT DOES IT'S IMPACT REALY LOOK LIKE?



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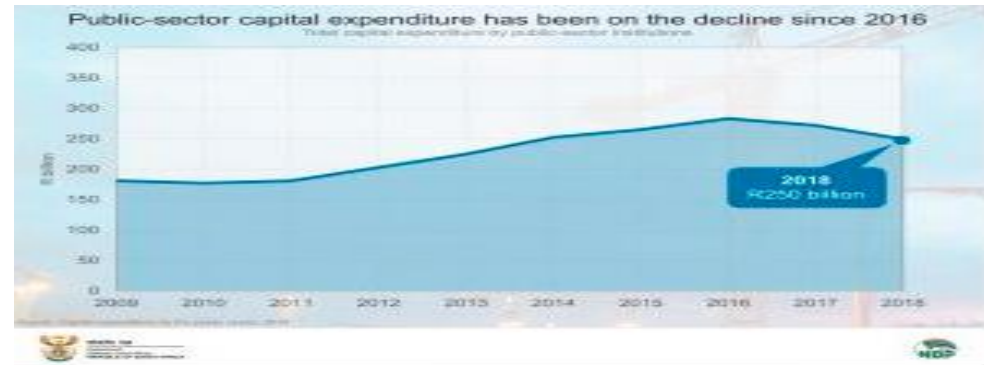
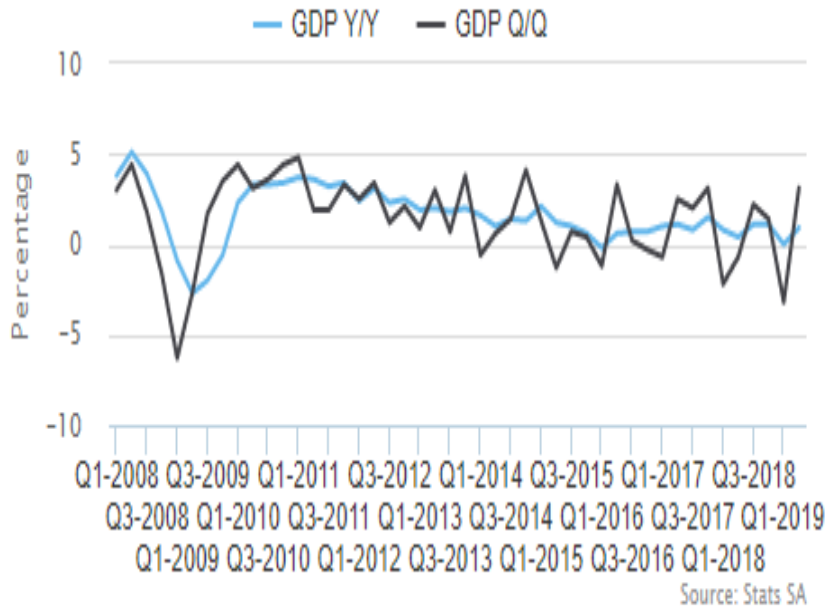








So who pays and why should we care?....



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OPERATING IN A GLOBAL SOCIETY:

POLICY AND LAW REFORM



Why are South Africans so unconcerned about climate change?

- a) Government has everything under control
- b) What is climate change?
- c) Climate change is a myth
- d) Things like “cyber-attacks” are far more of a risk
- e) Climate change impacts will only happen in the distant future, if at all
- f) None of the above



Extreme Weather Event

Cyclone Idai, March 2019

- **Intense Tropical Cyclone Idai was one of the worst tropical cyclones on record to affect Africa and the Southern Hemisphere**
- The long-lived storm **caused catastrophic damage** in Mozambique, Zimbabwe, and Malawi
- Idai is the **second-deadliest tropical cyclone recorded in the South-West Indian Ocean basin**, behind only the 1892 Mauritius cyclone
- In the Southern Hemisphere, it currently **ranks as the third-deadliest tropical cyclone on record**
- The cyclone's exact death toll is expected to never be known.

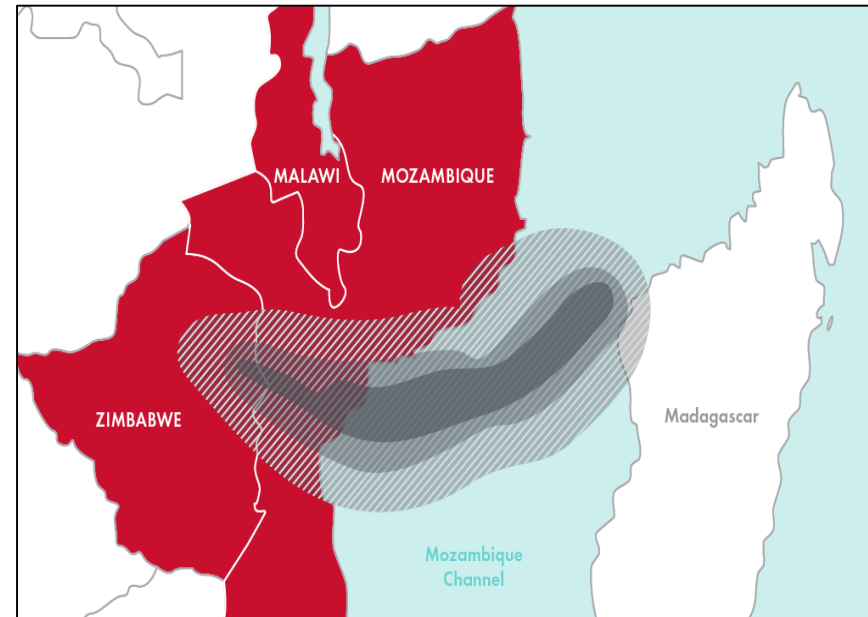
Idai approaching Mozambique shortly after peak intensity on 14 March 2019



Extreme Weather Event

Cyclone Idai, March 2019

- Affected Areas
 - **Mozambique** - 602 people died.
 - **Malawi** - 60 people died.
 - **Zimbabwe** - 244 people died.
 - **Madagascar** - One person reported dead.



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Extreme Weather Event

Cyclone Idai, March 2019 - Mozambique

- On March 15, Cyclone Idai made landfall near Beira, Mozambique, bringing torrential rains, winds and flooding.
- 602 people killed
- 1,641 injured
- 15,467 homes 8 hospitals and 938 classrooms destroyed.



Floodwaters inundate the Zambezia Province of Mozambique



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Extreme Weather Event

Cyclone Idai, March 2019 - Mozambique

- Two thirds of the citizens in the affected areas were displaced, while others remain homeless
- South Africa experienced blackouts due to damaged transmission lines that supply the country with 1100MW of power from the Cahora Bassa hydro-electric plant in Northern Mozambique.



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Extreme Weather Event

Cyclone Idai, March 2019 - Malawi

- Began on the 9th of March washing out bridges and roads and destroying numerous homes
- 922,900 people affected (460,000 being children)
- 125,382 displaced or rendered homeless
- 60 people killed
- 577 reported injured, and three reported missing



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Extreme Weather Event

Cyclone Idai, March 2019 - Zimbabwe

- Heavy rains fell across much of Chimanimani district, eastern Zimbabwe.
- 270,000 affected.
- 244 killed.
- 257 reported missing.
- An unknown number of bodies swept into neighboring areas.



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Extreme Weather Event

Cyclone Idai, March 2019 - Madagascar

- While over the Mozambique channel, the cyclone brought heavy rains to northwestern Madagascar
- One person killed
- 1,100 people affected and 137 homes damaged
- Two people missing



Floodwaters seen in parts of Madagascar's capital, Antananarivo



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Extreme Weather Event

Cyclone Idai, March 2019

Nation	Death	Missing	Injuries	Affected	Damage (USD)
Madagascar	1	2	0	1,100	
Malawi	60	3	577	922,900	
Mozambique	602	Thousands	1,641	1,850,000	\$773 million
Zimbabwe	344	4	1,000	70,000	
Total	1,007	7	2,618	3,744,000	≥\$1 billion

The damage caused by Cyclone Idai is estimated to be well over R14 billion



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Extreme Weather Event

Cyclone Kenneth, April 2019

- Hit the Northern Mozambican province on 25 April
- UN gave Mozambique \$13 million to address cyclone Kenneth damage
- 38 people reported dead
- 160,000 affected
- 30,000 homes destroyed



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Extreme Weather Event

Kwazulu Natal floods, April 2019

- Severe localised and heavy rains affecting eThekweni, Ugu and King Cetshwayo District.
- Over 80 deaths reported.
- More than R1 billion to repair damage.



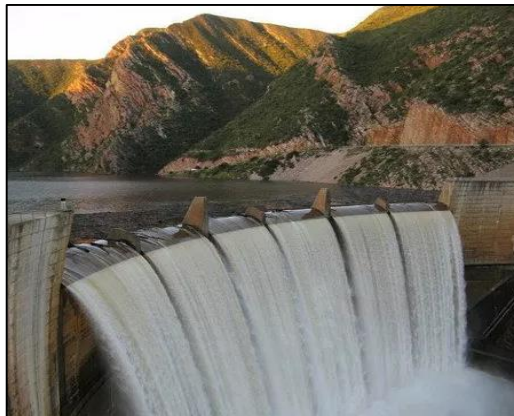
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Rescue workers search for survivors as residents look on after a house collapsed during flash floods in Umlazi township. (Thuli Dlamini, Gallo Images, Sowetan, file)

Extreme Weather Event

Eastern Cape floods, April 2019

- 450 people affected by flooding in Port St Johns.
- 10 people reported dead.



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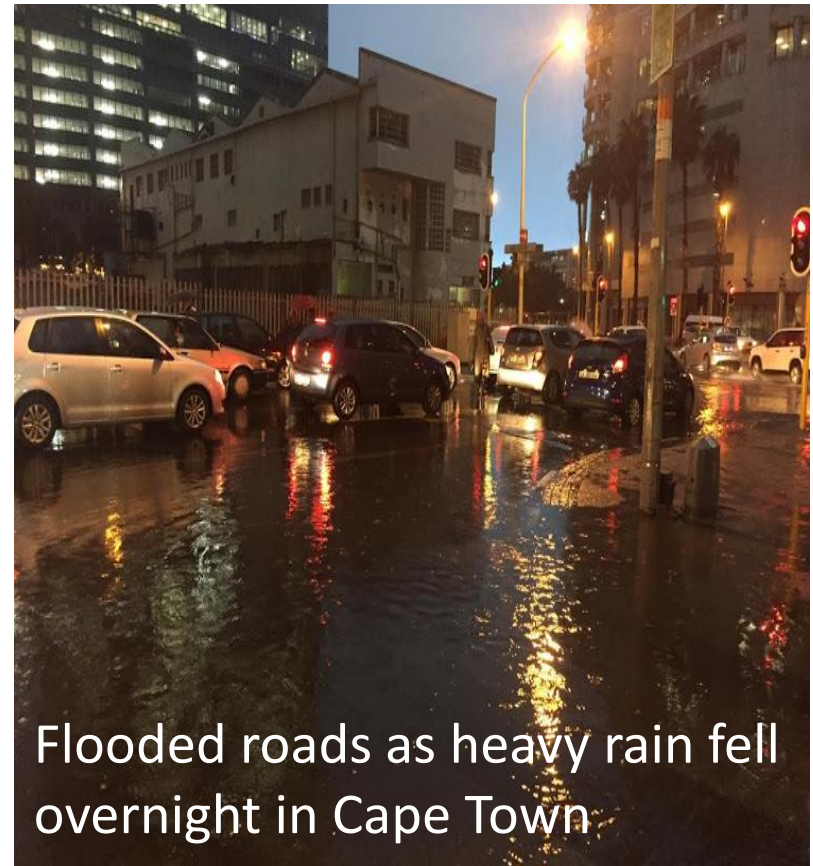
Cape Town Flooding, June 2019



- Heavy rainfall and strong winds (60 to 75 km/h)

Affected areas

- Walter Sisulu road in Khayelitsha
Makhaza, Langa, Philippi, Hout Bay,
Athlone, Gatesville, Diep river and
Wallacedene.



Flooded roads as heavy rain fell overnight in Cape Town



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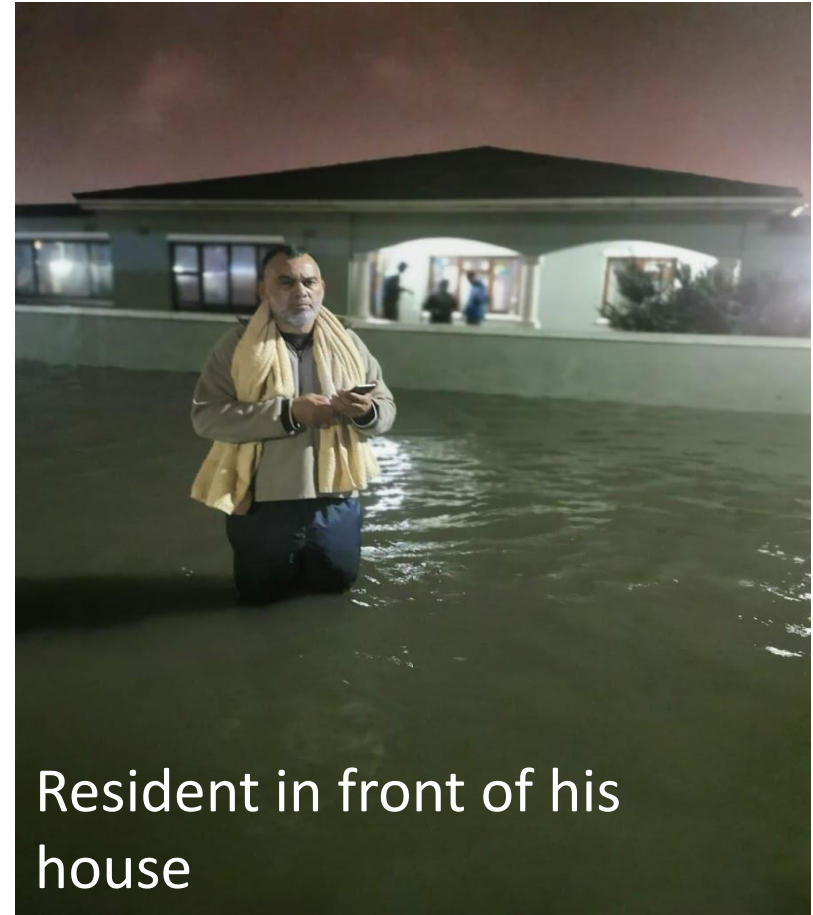


Cape Town Flooding, contd...



Minor Impacts

- Roads inaccessible.
- Blocked drainage systems.
- Residents requiring temporary accommodation.
- Roads temporarily blocked.



Resident in front of his house



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Sifiso Skenjana: Something in the weather? The rapidly rising cost of natural disasters

May 02 2019 05:00 Sifiso Skenjana



Climate change denialists seem have crawled back into their cocoons as its effects become more evident daily. Cyclone Idai recently hit Mozambique, Malawi and Zimbabwe and left a trail of infrastructure damage and tragic loss of lives.

Most recently we saw torrent storms hitting several areas in Kwa-Zulu Natal and the Eastern Cape. The death toll in KZN is reported at 85, with rescue teams still in operation to try to bring all to safety.

According to Aon, insurers no longer considered South Africa as a "low catastrophe risk" economy, with more than R5bn paid for losses incurred from natural disasters in 2017, the highest ever recorded.

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Sifiso Skenjana

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2019-05-01 14:53

Budget 2019



“...insurers no longer consider... South Africa as a ‘low catastrophe risk’ economy, with more than R5bn paid for losses incurred from natural disasters in 2017, the highest ever recorded.”



SA wine harvest hits record low



- SA is the 8th biggest wine producer world-wide and produces about 4% of the world's wine.
- The wine industry contributes R36bn to SA's GDP and employs nearly 290 000 people.
- However, SA wine harvest 2019 has hit a record low, largely due to the preceding drought and fluctuating weather conditions during the season.



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SA wine harvest cont....



Shrinking Crop

- The crop has shrunk for the second consecutive year and 2019 represents a record low since 2005 when 1 171 632 tonnes were harvested.
- The 2019 wine grape crop is estimated at 1 225 620 tonnes, according to the latest estimate of the SA wine Industry Information & Systems.
- This year's output is 1.4% smaller than last year & the country's smallest crop since 2005.



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SA wine harvest cont....



Still good quality

- Weather fluctuations during the flowering and set periods of the crop resulted in berries and bunches which are smaller and lighter.
- However, despite their size, smaller berries have a greater concentration of flavours, good acidity, sugar and elegance.
- Therefore, wine lovers can expect good quality wines from the 2019 vintage.

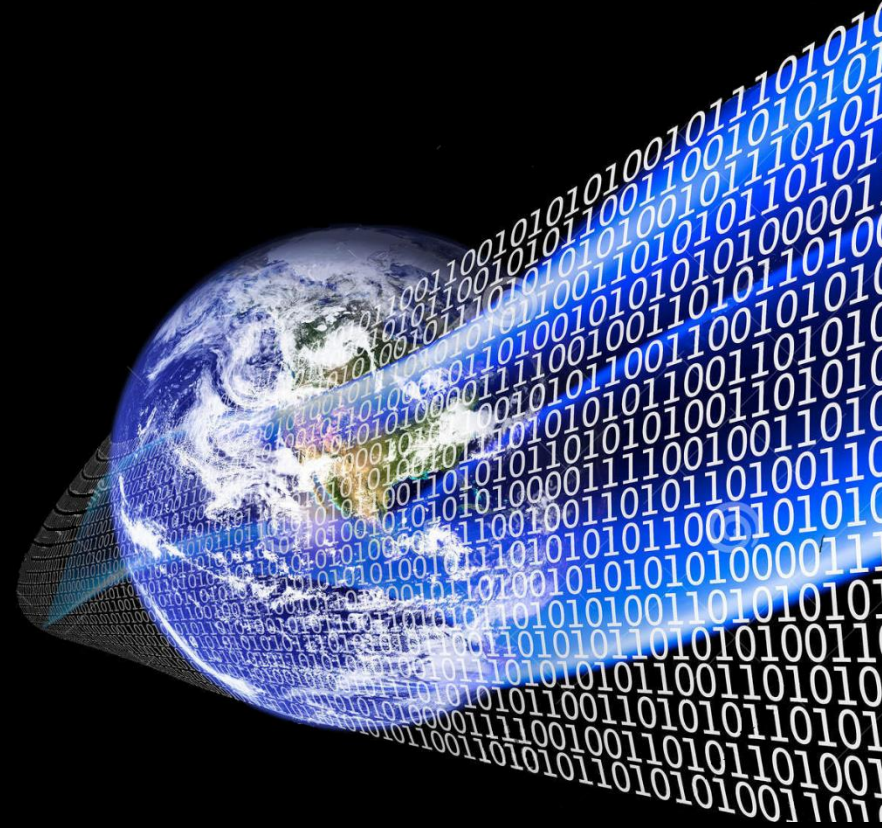


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The Compliance Rule of Thumb



“...sustainable development is only possible if it is underpinned and informed by an environmentally literate society”

(Minister Ms Barbara Creecy’s address at the Ecologic Awards at Table Bay hotel, Cape Town, Wednesday 5 June 2019)

When developing laws and policy....

- There is a general rule of thumb for legal compliance that goes –
 - for a just law,
 - 10% of the regulated community will always comply,
 - 10% will never comply and
 - the remaining 80% will comply if they believe that the non-compliant 10% will be brought to book
- Although this may be an oversimplification of deterrence and compliance promotion which is a complicated and not well understood area that also involves, among others, awareness of the law and ability to comply, it is used here for the sake of argument



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The Compliance Rule of Thumb (Cont.)

- What this means is that, if the majority of the regulated community believe that there is a **very good chance that they will be caught** and brought to book for breaking a certain law – **90% of the regulated community WILL** comply with the law.
- However, if the majority of the regulated community believe that there is a **very little, if any, chance that they will be caught** – **90% of the regulated community will NOT** comply with the law.



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The Compliance Rule of Thumb (Cont.)

- However, as noted before, this ‘rule’ only holds true if the law is regarded as a ‘just law’ – **law that is fair and reasonable.**
- In a Constitutional democracy like South Africa, ‘unjust law’ can be **prone to legal and popular challenge** making it difficult or impossible to enforce.
- Unfortunately, this also holds true if the law is ‘perceived’ to be unjust.



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Sunday Times **Times LIVE**

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SOUTH AFRICA

South Africans will not pay e-tolls and view system as corrupt: AA study

22 August 2019 - 06:03
BY IAVAN PIJOOS

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A survey has found that South Africans have a negative attitude towards Sanral and view the e-toll system as corrupt.

Image: SIMON MATHEBULA

E-tolls for who? Most South Africans will not pay e-tolls and view the system as corrupt, a study by the Automobile Association (AA) found.

The Road Funding report by the AA compared the road funding methods of various countries and discussed the best practices for it.

E-tolls were implemented in 2013 as a method of paying for the Gauteng Freeway Improvement Project (GFIP).

The tolling system has received tremendous backlash from the public, with the highest compliance rate, 40%, reported in 2014.

The report revealed through a survey that South Africans showed a negative attitude towards the SA National Roads Agency (Sanral) and viewed the e-toll system as corrupt.

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The Compliance Rule of Thumb (Cont.)

- Although this rule of thumb may be an oversimplification of deterrence and compliance promotion which is a complicated and not well understood area that also involves, among others, awareness of the law and ability to comply, a couple of things seem clear –
- In order to **promote high levels of compliance** –
 - The regulated community **must be aware of the law**
 - The regulated community **must be able to comply**, i.e. it is practically possible to comply
 - The regulated community must **BELIEVE that the law is fair and reasonable**
 - The regulated community must **BELIEVE that they will probably be caught and punished** if they break the law



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So what does this have to do with the PCWG

So how are we doing in **promoting high levels of compliance** –

- Is the regulated community **fully aware of the law?**
- Does the majority of the regulated community **believe that the law is fair and reasonable?**
- Does the majority of the regulated community **believe that they will probably be caught and punished** if they break the law?
- Does the majority of the regulated community **believe that we are focussing our limited resources on the real threats? Prioritisation**



PROJECT SYNDICATE

Opinion: Mobilizing for a climate moonshot

By Mariana Mazzucato

Published: Oct 17, 2019 11:45 am ET



'We choose to fight climate change in this decade not because it is easy, but because it is hard'





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