

# NATIONAL TAXI LEKGOTLA 2020

## UNITY & LEADERSHIP

### RE-IMAGINING TOMORROW'S TAXI INDUSTRY

"A real leader uses every issue, no matter how serious and sensitive, to ensure that at the end of the debate we should emerge stronger and more united than ever before." – Nelson Mandela



**transport**  
Department:  
Transport  
REPUBLIC OF SOUTH AFRICA

Ver 1, 11 September 2020



**Unity &  
Leadership**  
OF THE TAXI INDUSTRY

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## Disclaimer

**This discussion document is only intended to guide discussion and debate on topical issues towards the development of a blueprint for the taxi industry of the future.**

**Nothing contained in this document represents any official position of government or industry representative bodies. It merely provides information as a basis for dialogue and engagement.**

## Historical Evolution

1. Prior to 1987, the taxi industry was highly regulated and controlled, with black taxi operators being refused permits. Sixteen-seater minibuses were illegal to operate as taxis. After 1987, the industry was rapidly deregulated, leading to an influx of new minibus taxi operators, keen to make money from the high demand for this service. Because the industry was largely unregulated and the official regulating bodies so corrupt, the industry quickly became criminal in nature.<sup>1</sup>
2. The economic drivers for the wars were intertwined with political unrest around the time of the fall of apartheid in 1994. Commuters were often the target of political violence not necessarily related to the taxi industry itself. Often, the warring factions involved were from opposing political parties as evidenced from the Truth and Reconciliation hearings and it fuelled the conflict between the Inkatha Freedom Party (IFP) and African National Congress (ANC). In the years leading up to the abolition of apartheid, the government is believed to have actively encouraged this violence so as to destabilise its political opposition.<sup>2</sup> For example, in 1998, 13 police officers were charged with complicity in taxi violence.<sup>3</sup>

### Pre-1977 (state-owned monopoly)

3. The Motor Carrier Transportation Act of 1930 prohibited transportation of goods and passengers by road for profit without a permit from the Local Road Transportation Board (LRTB).<sup>4</sup> The transport industry was essentially a state monopoly held by the South African Transport Service (SATS).
4. Taxi owners operating outside the jurisdiction of the LRTB were operating illegally. These taxi operators started banding together into local informal associations.

### 1977–1987 (impetus towards deregulation)

5. Along with growing political pressure, the Soweto Riots of 1976 prompted the then National Party government to form a commission of inquiry into the transport industry. In 1977, the Van Breda Commission of Inquiry recommended freer competition and less regulation in the industry. The commission realised that the transport industry was becoming highly politicised and that it was no longer in the government's best interests to participate in the transport market.<sup>5</sup>

<sup>1</sup> Dugard, Jackie (May 2001), "From Low Intensity War to Mafia War: Taxi violence in South Africa (1987–2000)", Violence and Transition Series, 4, archived from the original on 9 February 2012.

<sup>2</sup> Truth and Reconciliation Commission Report (PDF), 3, 1998, archived from the original (PDF) on 5 October 2006

<sup>3</sup> "AFTER three years of bickering and false starts, the taxi industry is on the brink of forming an all-inclusive national council. Once it is formed, government is ready to give the body statutory self-regulating powers", Business Day, 15 June 1998, archived from the original on 29 September 2007

<sup>4</sup> Sekhonyane, Makubetse; Dugard, Jackie (December 2004), "A VIOLENT LEGACY: The taxi industry and government at loggerheads" (PDF), Sa Crime Quarterly, 10: 13–18

6. In 1979, the first national association of black taxi drivers was established: the South African Black Taxi Association (SABTA). In the years to come, rival organisations, such as the South African Long-Distance Taxi Association (SALDTA),<sup>6</sup> would be formed. This body, along with other political bodies at the time, started putting pressure on government to deregulate the industry. Impetus towards a free-market economy grew stronger in the late 1980s.<sup>7</sup>

### **1987–1996 (deregulation)**

7. The White Paper on Transport Policy, tabled in January 1987, in conjunction with the Transport Deregulation Act of 1988<sup>8</sup> effectively deregulated the entire taxi industry overnight, making minibus taxis legal.<sup>9</sup> This change gave birth to the taxi industry as it exists in its current form. The permit-issuing process was, at the time, rife with corruption; permits were essentially given away to favoured applicants. For all intents and purposes, government of the day had lost all control of the processes.<sup>10</sup>
8. In the absence of official controls, the now-growing taxi organisations started to flex their muscles, using their influence to make more money to intimidate the opposition. The authorities did little or nothing to stop the violence.<sup>11</sup>

### **1994–1999 (post-apartheid)**

9. In contrast to expectations, the violence intensified after the fall of apartheid.<sup>12</sup>
10. In 1995, the government established the National Taxi Task Team (NTTT) to arrive at a solution to the taxi violence. In 1996, the NTTT's first report recommended the immediate re-regulation of the taxi industry.
11. The government's attempts at re-regulation were actively resisted by the now extremely powerful "mother" organisations that controlled the taxi industry; this led to an escalation of violence between 1998 and 1999.<sup>13</sup>

<sup>5</sup> Dugard, Jackie (May 2001), "From Low Intensity War to Mafia War: Taxi violence in South Africa (1987–2000)", Violence and Transition Series, 4, archived from the original on 9 February 2012

<sup>6</sup> Organising in the taxi industry: The South African experience (PDF), 2003, archived from the original (PDF) on 24 September 2006

<sup>7</sup> Sekhonyane, Makubetse; Dugard, Jackie (December 2004), "A VIOLENT LEGACY: The taxi industry and government at loggerheads" (PDF), Sa Crime Quarterly, 10: 13–18

<sup>8</sup> "Archived copy". Archived from the original on 27 September 2007. Retrieved 11 April 2007.

<sup>9</sup> Dugard, Jackie (May 2001), "From Low Intensity War to Mafia War: Taxi violence in South Africa (1987–2000)", Violence and Transition Series, 4, archived from the original on 9 February 2012

<sup>10</sup> *ibid*

<sup>11</sup> *ibid*

<sup>12</sup> Sekhonyane, Makubetse; Dugard, Jackie (December 2004), "A VIOLENT LEGACY: The taxi industry and government at loggerheads" (PDF), Sa Crime Quarterly, 10: 13–18

<sup>13</sup> *Ibid*

## 1999–present (recapitalisation)

12. Today the Taxi Industry is a multi-billion Rand industry that carries over 60% of South Africa's commuters.<sup>14</sup> Generally speaking, these commuters are all of the lower economic class. Wealthy individuals and the middle class drive their own cars for comfort, safety and convenience. The industry is currently largely made up of 16-seater commuter Toyota Quantum buses. Some of these are unsafe or not roadworthy. Minibus taxi drivers are well known for their disregard for the road rules and their proclivity for dangerously overloading their vehicles with passengers.<sup>15</sup>
13. Due to an effectively unregulated market and the fierceness of competition for passengers and lucrative routes, taxi operators band together to form local and national associations. Some of these associations sometimes exhibited mafia-like tactics, including the hiring of hit-men and all-out gang warfare.<sup>16 17</sup> These associations sometimes also engaged in anti-competitive price fixing.<sup>18</sup> The taxi industry also experienced some fierce taxi wars fought between rival taxi associations and between 1991 to 1999 a total of 1 947 people died and 2 841 were injured in those wars.
14. The government intended The National Land Transport Transition Act, Act No 22 of 2000 ("Transition Act"), to help formalise and re-regulate the now out-of-control taxi industry.<sup>19 20</sup> Along with new legislation, the government instituted a four-year re-capitalisation scheme in the same year. The intention of this scheme was to replace the 15-seater minibuses with 18- and 35-seater minibuses.<sup>21</sup> There have been a number of delays in this process.
15. One major sticking point is the possibility of job losses caused by the uptake of the larger buses. The government attempted to do research into the extent of the prospective job losses in 2000, but the research was met with resistance and subsequently abandoned.
16. In 2004, the Minister of Transport released a revised recapitalisation timeline, which was scheduled to start in 2005 and end seven years later.<sup>22</sup> Today the, the TRP had gone beyond its initial 7-year period and it has been revised to assist in scrapping the panel van taxis declared unfit for commuter transportation by the Public Protector and it is plagued by delays.<sup>23</sup>

<sup>14</sup> Sekhonyane, Makubetse; Dugard, Jackie (December 2004), "A VIOLENT LEGACY: The taxi industry and government at loggerheads" (PDF), *Sa Crime Quarterly*, 10: 13–18

<sup>15</sup> Taxi recapitalisation programme, South Africa

<sup>16</sup> Dugard, Jackie (May 2001), "From Low Intensity War to Mafia War: Taxi violence in South Africa (1987–2000)", *Violence and Transition Series*, 4, archived from the original on 9 February 2012

<sup>17</sup> "Shooting at Benoni taxi rank claims life", *Business Day*, 3 July 1999, archived from the original on 29 September 2007

<sup>18</sup> The South African Taxi Industry Archived 24 February 2007 at the Wayback Machine

<sup>19</sup> *ibid*

<sup>20</sup> An Overview of the National Land Transport Transition (Act 22 of 2000) Archived 28 September 2007 at the Wayback Machine

<sup>21</sup> Organising in the taxi industry: The South African experience (PDF), 2003, archived from the original (PDF) on 24 September 2006

<sup>22</sup> Taxi Recapitalisation Project Archived 13 February 2007 at the Wayback Machine

<sup>23</sup> Taxi recapitalisation gets into gear – SouthAfrica.info Archived 30 September 2007 at the Wayback Machine

<sup>24</sup> Taxi recapitalisation programme, South Africa

<sup>25</sup> Bähre, Erik (2014). "A Trickle-Up Economy: Mutuality, Freedom and Violence in Cape Town's Taxi Associations" (PDF). *Africa*. 84 (4): 576–594. doi:10.1017/s000197201400045x.



17. According to the Transport Department, 1,400 old and unsafe taxis have been scrapped, with 80% of the taxi fleet expected to be recapitalised by the 2009/10 financial year.<sup>24</sup> The recapitalisation continues to fuel conflicts within and between taxi associations, as well as between taxi associations and government agencies.<sup>25</sup>

## **NTTT Final Recommendations**

19. The National Taxi Task Team (NTTT) Final Recommendations recommended the following in respect of Industry Leadership issues:

### **Associations**

- 20.<sup>26</sup>As the minibus-taxi associations will remain the primary building blocks of the industry, these structures should be supported and strengthened. In order to structure the industry democratically, openly and transparently, the rules by which it is governed should be accessible to members of the industry and the commuting public alike... The essential unity of purpose of the different associations comprising the industry suggests that the associations' needs of governance are so similar as to be best served by a standard set of rules, which, for present purposes, is call a Standard Constitution.
- 21.<sup>27</sup>It is suggested that there should be a Code of Conduct for owners and drivers. ...As part of the Constitution, the Code of Conduct must inter alia define the responsibilities of operators, drivers and passenger to promote safe operations.

### **Registration**

- 22.<sup>28</sup>It is a mark of professionalism when an industry has a recognised register of its practicing members. If minibus-taxi associations adopt the proposed standard constitution registration is a logical next step.
- 23.<sup>29</sup>...the registration process also aims at the unity of the industry by recognising and supporting greater affiliations of taxi associations at regional, provincial and national level. To this purpose, it is proposed that any taxi body which has affiliated associations based in two or more different provinces be classified as a National Taxi Association. A national register shall be opened and maintained at the Head Office of the Department of Transport. Provincial and regional taxi federations, alliances or composite bodies of taxi associations will register as such with the respective Provincial Registrars.

### **Leadership Structure**

- 24.<sup>30</sup>The point of departure for a strong and safe taxi industry must be the development of a legitimate and representative structure, from the lower echelons right up to national level.

26 National Taxi Task Team Final Recommendations, 6 August 1996  
27 Ibid  
28 Ibid  
29 Ibid  
30 Ibid

25. <sup>31</sup>An overall representation structure for the industry can only be put in place if all types of taxis, that is, short-distance taxis, long-distance taxis and metered taxis, are fairly represented at metropolitan/regional, provincial and national level.
26. The structure envisaged in the NTTT Final Recommendations took the form of the South African Taxi Council (SATACO) established in August 1998. This was achieved through negotiations, which resulted in the folding of a number of 'mother bodies' to form SATACO, which subsequently morphed into SANTACO in 2001.
27. The NTTT recommendation that the leadership structure must represent all types of taxi operations, implies that e-Hailing as a form of a taxi service must find representation in the industry leadership structure. This paper makes reference to the Council as a reference to the apex industry representative body envisaged in the NTTT Final Recommendations.
28. It is equally important to appreciate that the Council must give expression to full and fair representation of the industry. This in effect means that such representation should NOT be subjected to barriers to entry such as affiliation or membership.

## Milestones

29. Since the acceptance of the Final NTTT Recommendations by government, much ground has been covered in addressing the core tenets of the industry transformation, these being formalization, regulation and economic empowerment. Government and industry made significant strides in the implementation of what was agreed on out of the NTTT process. The following key milestones have been achieved, but the progress they represent is a drop in the ocean compared to what could have been achieved had the transformation agenda been pursued with the required tenacity and single-mindedness.
  - A national industry leadership structure, the South African Taxi Council (SATACO) was established in 1998 and subsequently recognised as such by government in 1999.
  - Subsequent to the establishment of SATACO, the South African National Taxi Council (SANTACO) was established in 2001, following a protracted process that involved government, SATACO, Provincial Taxi Councils (PROTACOs) the National Taxi Alliance (NTA), addressing the challenge brought about by the emergence of the NTA, thus succeeding SATACO.
  - Provincial and Regional Taxi Councils were established in all Provinces.
  - Regulation of the industry and formalisation practices were incorporated into law with the promulgation of the National Land Transport Transition Act in 2000.
  - The requirement for compliance with a Standard Constitution was incorporated into law as a basis for the establishment and registration of Taxi Associations.



- All Provinces established offices of the Provincial Taxi Registrar (a statutory body) and Provincial Taxi Offices to assist the industry.
- Registration of Associations, their members and non-members as a pre-condition for the issue of Operating Licenses was introduced as a legal requirement.
- Registrars assumed role as custodian of democratic process and Code of Conduct with the power to de-register Associations.
- Operating Licensing Boards were established to succeed the Local Road Transportation Boards.

## Role of SANTACO

30. The establishment of SANTACO has its genesis in the implementation of the agreement to establish a single industry representative body. The first step was the establishment of SATACO in 1998, followed by a subsequent process that culminated in the 2001 conference that established SANTACO. Its mandate remains to facilitate a process towards the establishment of a united structure representing all the formations within the taxi industry.
31. The key mandate of SANTACO is reflected in a revised MOU was signed in April 2001 between SATACO, PROTACOs and NTA, to include all taxi bodies. All Parties that were midwives to the birth of SANTACO committed themselves to:
  - Lasting unity on the basis of transparency
  - Integrity and
  - The establishment of a united body representing the industry on a democratic basis.
32. From its inception, SANTACO was established as a Council that represents the interests of the industry and NOT as an Association as others are prone to refer to it as such. In this context, it is equally true that SANTACO is yet to undertake its final transformation into a truly industry representative structure through an inclusive, transparent and consultative manner. This refers a body that represents all formations that constitute the taxi industry, including metered taxis.

## Role and functions of Associations

33. Associations were given due recognition in the Transition Act, which recognition became the basis for members to apply for Operating Licenses and other government-sponsored benefits.
34. The NLTA promulgated in 2009, which repealed the Transition Act moved away from the requirement to register Associations and non-members. Notwithstanding, some Provinces which promulgated their own land transport laws have retained this function and the accompanying institutions. It is important to note that section 15 of the recently passed National Land Transport Amendment Bill, empowers Provincial Regulatory Entities (PREs) to maintain the register of Associations, members and non-members in the Province.

35. The fundamental questions we should answer are:
- Does the movement away from regulating how Associations function and elect leadership constitute a deviation from the Final NTTT Recommendations accepted by government?
  - Does this omission add or subtract value in enhancing leadership and good governance in the taxi industry?
  - What is the most effective way to level the playing field such that rules governing interface with Associations is consistent across Provinces?
  - What Is the mere requirement to maintain a register of Associations by PREs sufficient to achieve the objectives of registering Associations?
36. The role of independent taxi operators who are not affiliated to any association, popularly referred to as non-members must find practical expression in addressing the question of unity in the industry. Despite calls from a number of Associations to ban participation of non-members in the industry, taking such a step may place the industry in direct conflict with the supreme law of the country, its Constitution. Clause 18 of the Constitution, in its Bill of Rights, provides that “Everyone has a right to freedom of association.” A culture of tolerance and acceptance of co-existence with individuals who choose not to belong to Associations must prevail in the industry. It is equally important to appreciate that in dealing with barriers to entry to the industry, membership of an Association cannot be one of them. Regulation must adequately address this matter without any ambiguity.

## **Taxi Violence**

36. In trying to find a lasting solution to the intractable challenge of taxi violence, the following questions must be asked:
- Has the institutional arrangement insofar as leadership and leadership structures are concerned provide sufficient incentives/disincentives against escalation of taxi conflicts/violence?
  - Is there sufficient accountability to hold members/leaders accountable for taxi violence?
  - Does the regulatory framework provide sufficient disincentives for taxi violence?
37. It is imperative that disincentives for violence and conflict be introduced across the system. A binding provision in law should be considered, where an individual operator may forfeit their operating licence and any economic incentive derived through government support should such operator be found to have been party to violence.

## **Defining The Future**

38. In defining the future of leadership in the taxi industry, it is imperative that consensus is reached on the form and character of the apex leadership structure that must complete the transition and realise a fully-fledged industry representative body, inclusive of all taxi service modes and representative of all participants in the industry. This includes short-distance operations, long-distance operations, cross-border operations, metered taxis and e-hailing services.

40. Taking due regard of the fact that the key driver of conflict and violence in the industry is economic interests, by extension competition for routes, leadership roles and structures invariably get entangled in the conflict that arises. Associations remain powerful entities that shape the power dynamics in the industry. However, leaders of the apex industry body must represent the totality of the taxi industry without fear or favour. This can only be achieved if they relinquish their leadership roles at Association level, once they get elected onto the Council. This will go a long way in discarding the artificial divide that characterizes leadership structures in the industry. This principle must be applicable at all levels, be it at Regional Council, Provincial Council or National Council.
41. Serious consideration must be given to the nature and form of the ideal apex industry representative body and implications thereto. The key question is: What kind of Council should this body be as an apex industry representative body? Should it be a statutory body established through an Act of Parliament with roles and powers prescribed in law? Should it be a professional body that is mandated to develop, adopt and enforce norms? Should it be a voluntary body that caters for the interests of its members?
42. While the notion of establishing SANTACO as a statutory body whose existence is derived from an Act of Parliament, such an approach would undermine the very purpose of an apex industry representative body. Making SANTACO or any other future apex industry representative body a creature of statute may be counter-productive and weaken its ability to function as a true voice of the industry. However, this does not preclude inserting an empowering provision in law to enable the Minister to recognise such body as an apex industry body who must meet certain prescriptions. This would strengthen its role and authority.
43. Serious consideration must be given to establishing the apex industry representative body as a Professional industry body empowered to develop and enforce norms and standards. The Standard Constitution and Code of Conduct may be prescribed by the Minister through an empowering provision in law after consultation with this body, which Standard Constitution and Code of Conduct the apex industry representative body will be empowered to enforce. This approach will firmly position such body as a custodian of formalisation insofar as it relates to leadership structures and conduct of operators.
44. It is important to recognise that the registration process that unfolded under the Transition Act gave Associations a sense of legitimacy. The registration process was also instrumental in eliminating mushrooming of Associations not based on the interests of members. It was therefore not possible for an individual to establish an Association that did not have members. However, the shift away from registering Associations created fertile ground for mushrooming of illegitimate Associations or splinter Associations that may otherwise not pass muster.

45. Registration of Associations, members and non-members must be undertaken by the PREs, where such Associations operate within a particular Province, and by the NPTR where such Associations or non-member operates an inter-provincial or cross-border service.
46. Consideration be also be given to linking membership to the apex industry representative body to an operating licence. Rather than charging membership and affiliation fees like an Association, one of the conditions of the operating licence may be that by obtaining an operating licence, the operator submits to the authority of the Council. To this end, the Council may be funded through a dedicated surcharge on operating licence fees to ensure that it is funded in a more sustainable way. This will create a symbiotic relationship between the Council and the operators and ensure responsiveness on their issues on the part of the Council.

END



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