

# Karabus' 'Argo moment' a long time coming



Weary and cynical from a seemingly interminable roller-coaster ride of hope and despair, the close-knit family of manslaughter-acquitted and foreign-entrapped Cape Town oncologist Professor Cyril Karabus could only speak of 'waiting for the Argo moment' last month.

As the World Medical Association (WMA) alerts physicians globally of the risks of working in the United Arab Emirates (UAE), which flouted 'international fair trial standards' in creating Karabus' 8-month ordeal (which included 57 days in jail), his family could be forgiven for making dramatic comparisons. His paediatrician daughter Sarah, speaking days after learning that in spite of his acquittal on manslaughter and forgery charges, her father would be forced to remain in Abu Dhabi to undergo a prosecution appeal, said 'only an Argo moment' would offer hope. She explained that this would be the crystalline second her dad was 'finally in the air on board a flight home' – somewhat like the 6 Americans spirited out of Iran in the highly creative CIA 1980 operation depicted in this year's Oscar-award-winning movie *Argo*. The movie climaxes with the 'rescue' plane airborne, Iranian infantry vehicles in hot pursuit on the runway below.

The clumsy and grossly inefficient legal process that has traumatised the 78-year-old veteran state paediatric oncologist/haematologist drew heavy fire from the South African Medical Association (SAMA), prime architects of the WMA resolution. SAMA believes the UAE's medical negligence procedures flout nearly every tenet of basic human rights and deserve a global healthcare worker boycott – something they lobbied for at the WMA's annual council meeting in Bali, succeeding in sparking the lesser, but nevertheless unprecedented, resolution.

Karabus was acquitted on 21 March this year after a dysfunctional judicial medical advisory committee delivered its long-awaited favourable opinion, clearing him of any wrongdoing or negligence. However, his delight and relief quickly turned to anger and frustration when he heard that his passport would be held for at least another month to give the UAE prosecution team time to mount an appeal. On 9 April the judge summarily postponed the first appeal hearing



Professor Cyril Karabus, (left), his grandson Noah (5) and son-in-law Gavin Morris (husband of his paediatrician daughter, Sarah).

to 23 April, after learning that the translator for the medical advisory tribunal was absent, in spite of having the full appeal on paper before him. This followed a dramatic call the prosecution team made to Karabus and his lawyers on the previous Friday, 5 April, asking for a 'meeting' prior to the appeal hearing. When Karabus' team contacted the prosecution to arrange a meeting that Sunday, the prosecutors promised to get back to them – but never did.

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'It's a bit like a cat with a plaything,' said Michael Bagraim, Karabus' legal anchor in Cape Town, adding that the first appeal postponement took 'all of three minutes – and we still weren't told what the grounds were for the appeal.'

Karabus turned 78 on 1 April, a day he had hoped to celebrate at home with his close-knit family, given his earlier acquittal. Two of his five children flew fruitlessly to Cape Town from Canada and the United Kingdom. Speaking on 2 April, he told *Izindaba* that he had no idea of what the appeal was based on, 'but we'll hopefully find out when I appear – I think for the 16th time. I don't know how long they can keep it up but I have a feeling it's got to end soon. My feelings about this place are unprintable, but I had a fair [birth]day with friends, a bot of JC le Roux champers – and several Scotches.'

Dr Mzukisi Grootboom, SAMA chairperson, said the UAE was clearly bent on not letting justice prevail in what he labelled a long-running 'farce'. 'What possibly could be the basis of any appeal other than just to inflict further suffering on an elderly and respected colleague?' he added, suggesting that the UAE may even be in contravention of its own criminal code. He said the UAE's actions had graduated from a travesty of justice to 'cruel and extreme punishment', and reiterated SAMA's call to all sister national medical associations to boycott the UAE. His deputy, Dr Mark Sonderup, said that if the boycott call was heeded, it would be a powerful lever in forcing an overhaul of the country's 'outrageously unfair' medical negligence system. The UAE relies almost entirely on foreign healthcare workers to bolster and run its healthcare system (estimated at 95% foreign-qualified).

Even if a global boycott does not come together, the shock and outrage at the very public violation of Karabus' rights – and the WMA resolution (e-mailed to all its members) – will give aspirant foreign healthcare workers serious pause for thought. During the trial and after the WMA resolution Bagraim received 'hundreds of concerned calls' from local and foreign healthcare workers reconsidering work in the UAE. Bagraim proposed that local healthcare bodies hold workshops for members considering work in foreign countries where legal systems are significantly different. At its general assembly in October last year, the WMA unanimously called for Karabus to receive a fair trial according to international standards, and demanded he be given access

to all relevant documents or information required to prepare his defense.

Ironically, Karabus was acquitted on South Africa's Human Rights Day.

## **UAE work a 'health hazard' – Sonderup**

Said Sonderup, 'While I'm not saying that if people have legitimately erred there's no case of negligence to be answered, the process and way this was done was so outrageous that you cannot in good conscience tell anybody to go and work there. It's clearly not good for your health.'

Karabus was thoroughly vindicated in his position, held from the time he was arrested at the Abu Dhabi International Airport on 18 August last year (*en route* to Cape Town from his son's wedding in Canada), that he gave his 3-year-old Yemeni patient Sara Al Ajaily, suffering from pancytopenia, a vital platelet infusion the day before she died. She succumbed with fever to intracranial bleeding and a middle cerebral arterial obstruction on 19 October 2002 at the Sheikh Khalifa Medical Centre.

Unknown to Karabus, he was tried and found guilty of murder *in absentia* soon afterwards – a verdict which was overturned on appeal after his arrest a decade later. The UAE authorities then downgraded the charge to manslaughter but added a charge of forgery, insisting he concocted the report of platelet administration after she died. The trial proceeded in spite of records Karabus produced to back his version of events (which for most of the trial the prosecution was unable to independently source from the hospital for confirmation). With no *post mortem* examination conducted on the child, the process grew increasingly tortuous and drawn-out, with multiple postponements, the medical committee disbanding and re-constituting and Karabus securing R250 000 bail after 57 days in prison (much of it in the prison hospital, where he was monitored for his heart condition). His bail was put up by an anonymous South African expatriate while the international medical community helped collect nearly R1 million to cover half his defence fees: the UAE legal firm's retainer fee alone was R1 million.

In the UAE guilt is assumed, and the accused must prove their innocence. Karabus' dilemma evoked worldwide support and sympathy from colleagues and a range of medical and human rights organisations, all of whom vouched for his integrity and impeccable record at the forefront of South African public sector paediatric oncology and haematology, both as a clinician and a

teacher. Halfway through the trial, and after repeated postponements at the prosecution's request, Karabus took the stand and told the judge that the failure to produce the medical records amounted to an insult to the ruling Sheikh (Halifa bin Zayed bin Sultan Al Nahyan) and the court. The judge agreed with him, leading observers to believe that any future prosecution delay would cost them the case – but this proved somewhat premature.

## **SA government slow out of the blocks**

The South African Department of International Relations and Co-operation (Dirco) initially maintained that it was impossible for them to interfere in the judicial processes of another sovereign country. However, they made a 180-degree turn as international outrage mounted. Early in January Dirco sent a demarche – a strong diplomatic statement – to the UAE, demanding that the case be 'expedited'. The UAE ambassador was also called in for a 'chat' on the issue while extensive consular assistance was given to Karabus and his family (including securing supplies of vital medication for his heart condition). South African officials also held discussions with Emirati officials on the sidelines of the African Union Summit in Addis Ababa earlier this year.

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Then, the Deputy Minister of International Relations and Cooperation, Marius Fransman, stung by public queries about the 'value' of a South African passport, travelled to the UAE to warn his counterparts that the case threatened to impact negatively on good relations between South Africa and the UAE. (In 2011 South Africa was listed as the 19th largest stakeholder in UAE, having invested R3.33 billion in the country from 2003 to 2011.)

It later emerged that Dr Iqbal Surve, chairperson of the Sekunjalo group (which recently bought SA Independent Newspapers from the Irish Independent Group), played a pivotal role, travelling to the UAE with two colleagues after friends and family of Karabus appealed to them. According to

*Izindaba* sources, Surve, a personal friend of the crown prince, arrived on a Saturday, met with legal officials on the Sunday (when the medical tribunal, after months of abortive gatherings, suddenly convened) and Karabus was acquitted on the Monday. His diplomatic efforts had begun even earlier, in Davos at the World Economic Forum in January, when he spoke to key Emirati personalities about Karabus' plight. Surve could not be contacted for comment.

Karabus was hosted for most of his enforced sojourn in Abu Dhabi by South African-born gastro-enterologist and artist Alwin Buchel, who risked considerable opprobrium from his UAE hospital employers in doing so. Buchel, who had never met Karabus, volunteered vital accommodation (upon which his visa and thus bail depended) after being tracked down by the late doyen of South African gastrology, Solly Marks. The indefatigable Marks died last year at 86, two days after facilitating the connection.

Karabus has been advised on health grounds to postpone a decision on civil action against Interhealth Canada, the former owners of the Sheikh Khalifa Medical Centre, who allegedly knew about the UAE'S intentions but failed to inform or support him. Reliable sources claim Interhealth Canada paid the equivalent of R250 000 'blood money' to the family of the dead girl, but *Izindaba* was unable to secure their response.

Karabus, a life-long State-employed doctor and pioneer at the Red Cross War Memorial Children's Hospital in Cape Town, was forced into foreign work to supplement his meagre pension. Daughter Sarah reluctantly confirmed that two of his children drew on their home bonds to help meet the foreign legal bills which stood at well over R2 million at the time of writing (excluding daily living, travel and local legal costs).

**A trust account has been set up to assist Professor Karabus: Bagraims Attorneys Trust Account ABSA, Heerengracht, Account Number: 407-103-4654, Branch Code: 506 009, Reference: Professor Karabus Fund.**

*Between now and the next issue of the SAMJ, the online version of this article will be updated as this story develops (see <http://www.samj.org.za>).*

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