

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, JOHANNESBURG

CASENO: 2019/445

INQUEST INTO THE DEATH OF
DR NEIL HUDSON AGGETT

STATE'S OPENING ADDRESS

My Lord, the opening lines to the preamble of our South African Constitution reads as follows:

“ We, the people of South Africa,

Recognise the injustices of our past,

Honour those who suffered for justice and freedom in our land

Respect those who have worked to build and develop our country and

Believe that South Africa belongs to all those who live in it, united in our diversity.

We therefore, through our freely elected representatives, adopt this Constitution as the supreme law of the Republic so as to

- Heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights

- Lay the foundations for a democratic and open society in which government is based on the will of the people and every citizen is equally protected by law
- Improve the quality of life of all citizens and free the potential of each person and
- Build a united and democratic South Africa able to take its right place as a sovereign state in the family of nations

May God protect our people

Nkosi Sikeleli Afrika, Morena boloka setjhaba sa heso

God Seen South Africa, God Bless South Africa

Mudzimu fhatutshedza Afurika, Hosi Katekisa Afrika

May God Bless our people”

It is ominous that next month, will mark the 38th anniversary of the death of Dr Neil Hudson Aggett.

I believe that this is the second only ever re-opened inquest in the country relating a detainee who died whilst detained by the then Security Branch of South African Police.

In the immortal words of Judge Billy Mothle who presided over the first ever precedent- setting and historic inquest in this country in 2017, The Ahmed Timol Inquest, we quote the following:

“Inquest proceedings are regulated by the Inquest Act, 58 of 1959. The purpose of holding an inquest is to investigate the circumstances of death,

apparently occurring from other than natural causes and where the prosecutor has declined to prosecute.

To achieve this purpose it is necessary for any person who bears knowledge of the circumstances leading to the death and or the incident of death to avail such information to the court conducting the inquest proceedings”.

Dr Neil Aggett died while held in custody by members of the South African Police at the then John Vorster Square Police Station. An inquest was held under Case Reference Number 139/1982, as prosecution was declined.

The National Director Of Public Prosecutions (NDPP) has referred to the Minister of Justice and Correctional Services requesting the reopening of the inquest in terms of Section 17 (a)(1) of the Inquest Act 58 of 1959 which reads as follows:

“The Minister may on the recommendations of the Attorney General concerned at any time after determination of an inquest and if he deems it necessary in the interest of justice, request a Judge President of the Provincial Division of the Supreme Court of South Africa to reopen that inquest whereupon the Judge thus designated shall reopen such inquest”.

The Minister has since directed the NDPP’s request to the Judge President of the Gauteng High Court of South Africa, who in turn designated this Honourable Court to reopen the inquest.

Judge Mothle further stated:

“Considering the conspectus of the documents submitted thus far, there is no doubt in my mind that during these proceedings, we as South Africans are about to enter a door that will rekindle painful memories, a door that invites us to embark on a journey which will cause us to confront the sordid part of our history. That door will only be closed once the truth is revealed”

In the words of the catalyst that set the ball rolling for the historic re-opening of the Aggett inquest, It is a privilege today my Lord, to present evidence, in a democratic South Africa.

Detention under Apartheid South Africa could not be more aptly captured than in the poem penned by Chris van Wyk, which reads as follows:

“ He fell from the ninth floor

He hanged himself

He slipped on a piece of soap while washing

He hanged himself

He slipped on a piece of soap while washing

He fell from the ninth floor

He hanged himself while washing

He slipped from the ninth floor

He hung from the ninth floor

He slipped on the ninth floor whilst washing

He fell from a piece of soap while slipping

He hung from the ninth floor

He washed from the ninth floor while slipping

He hung from a piece of soap while washing”

Like the poem, the evidence that will be presented, will focus on the horrifying practice of torture in detention in Apartheid South Africa. What we will show is that the fundamental aim of government policy in an Apartheid South Africa, was the maintenance of White political supremacy, and the preservation of White social and economical privilege. This was done by the introduction of security laws, which were introduced in as early as 1948.

The passing of the Communism Act in 1950 was the first step towards the creation of I call, a police-state in South Africa. Many other laws were adopted and practised, which had a draconian effect on our people.

What we will endeavour to show is that any resistance to the oppressive government was obliterated, by any means, lawful and unlawful. What we will also endeavour to show was the tendency of some prosecutors, doctors and even judicial officers to “enable” the unlawful and murderous actions of the special branch of the South African Police Force. What we will attempt to show is that if Dr Neil Aggett indeed took his own life, there was no need for the special branch to go through the extremes that they

did, to look for evidence that Dr Aggett was in their words “ a born mental case”, a suicide waiting to happen.

What we will show is the extent that the special branch went through, aided by persons in senior levels of both government and Justice, to cover up the truth.

What we will argue is that given the extensive preparations for his impending inquest, unusual and highly irregular practises were formulated, aided by a psychologist as well as senior members of the special branch. The pattern of behaviour, the modus operandi and the general acceptance of what became the standardised outcome of most inquests were immortalised in the book penned by learned counsel, Adv George Bizos, in his book aptly titled “**NO ONE TO BLAME**”.

Undoubtedly, the very veil of so- called protection to the rest of South Africa, to the benefit of a select few, could only have been sanctioned by those seated at the highest level of Government. Many are yet to be held accountable for their actions.

The reality is that at least 67 detainees died whilst in custody of the security police. Those are which we know of. The grim reality is that the count was probably much more. Even worse, is the reality that all the detainees could not have hung themselves, jumped out of windows, slipped whilst taking a bath and so on.

As boldly stated in our preamble, it is time My Lord to give effect to the words “in recognising the injustices of the past”

And there is no better time than the present to embark on a journey to heal the wounds inflicted on our people by the Apartheid system.

Yesterday, 19 January 2020, I read various Newspaper articles in which certain individual were quoted as saying that they were detained and tortured in about the same time as Dr Aggett. On behalf of the National Prosecuting Authority, I appeal to those people via the National Prosecuting Authority to come forward to narrate their version of this despicable event to this court.

I therefore request that the inquest of Dr Neil Hudson Aggett be reopened.

Dated at Johannesburg this 20th day of January 2020.

JJ MLOTSHWA

FOR THE STATE