

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

CASE NO: I01-2017

DATE: 2017-08-14

INQUEST INTO THE DEATH OF:

AHMED ESSOP TIMOL

BEFORE THE HONOURABLE MR JUSTICE MOTHLE

ON BEHALF OF THE NATIONAL PROSECUTION

AUTHORITY:

ADV PRETORIUS

ADV MALOTWA

ADV SINGH

ON BEHALF OF THE FAMILY:

ADV VARNEY

ADV MUSANDIWE

ADV FAKIR

ON BEHALF OF THE SAPS:

ADV LETHOLE

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PROCEEDINGS ON 2017-08-14

CLERK: Inquest of Ahmed Essop Timol, case number I01/2017.

COURT: Yes, Mr Pretorius?

MR PRETORIUS: Thank you, M'Lord. Yes, M'Lord we did consult with new witnesses that came to the fore, but we do not want to muddle the issues, and we are not going to call people that has been discredited, so we worked with them, there was enough checks and balances through that but we are not going to call that two witnesses, M'Lord.

10 COURT: Yes, so are we going to finish today, or you want us to ... is there another witness that you may be... [intervene]

MR PRETORIUS: M'Lord, we are working on some other leads that we picked up during consultation with these witnesses.

COURT: I see, okay. Yes? You would like to say something, Mr Coetzee?

MR COETZEE: I just wondered whether the court will issue a subpoena for any further witnesses, but they will approach you, I am sure.

COURT: Yes.

20 MR COETZEE: Make sure that it gets wrapped up. M'Lord I did arrange for Mr Rodrigues to be here but we have excused him pending any possible further implications from other witnesses, thank you.

COURT: Okay, okay thank you. So it is confirmed that you will be requested ... [intervene]

MR PRETORIUS: Subpoena... [intervene]

COURT: Authorisations for subpoena?

MR PRETORIUS: We will do that, M'Lord.

COURT: Yes, okay then I will have them... I will deal with them in chambers.

MR PRETORIUS: Thank you, M'Lord.

COURT: Okay, thank you. Mr Varney?

MR VARNEY: M'Lord, we only have one witness for today, that is Mr Enthias Kadjee, the nephew of the late Ahmed Timol. Before we
10 commence with Mr Kadjee, I would just like to hand up the latest list of Exhibits and M'Lord I have three very short Exhibits to hand up. If I could just hand up the bundle.

COURT: Yes?

MR VARNEY: The first document, M'Lord is the updated list of Exhibits as of today's date. The first Exhibit is titled 'Additional newspaper clips' it has an index. M'Lord these are newspaper
clippings that are not in the bundle of clippings already before Your Lordship. We thought we should include these particular clippings because they deal with reports emerging from the case brought by Mr
20 Essop's father.

COURT: Yes.

MR VARNEY: And there is some description about the injuries sustained by Mr Essop. Your Lordship will recall that we have been unsuccessful in obtaining Mr Essop's hospital records.

COURT: Yes.

MR VARNEY: But we put up these clippings which deal with reporting on the court testimony on those injuries sustained by Mr Essop. We have marked that Exhibit E1, Your Lordship.

COURT: Yes, I have that.

MR VARNEY: Your Lordship the next Exhibit is titled 'Tables of Deaths and Detention during apartheid era.' M'Lord, these consist of what we believe to be, probably an almost complete list of persons who died in security police detention. We also have a list of deaths in John Vorster square. We have a table dealing with all recorded
10 alleged suicides in detention and in the final table, M'Lord records known deaths from falls from police buildings. M'Lord, this Exhibit is marked O.

COURT: And other counsel have copies of these?

MR VARNEY: All counsel have copies.

COURT: Yes, okay.

MR VARNEY: M'Lord, the final Exhibit is a memo put together from the Independent Police Investigative Directorate report for the year 2015 and 2016 and deals with deaths in custody as well as cases of assault and torture, dealt with IPAD during the 2015 and 2016 year.
20 M'Lord we intend to make reference to some of these figures in our closing submissions.

COURT: This... [intervene]

MR VARNEY: And M'Lord we have marked this Exhibit P.

COURT: This Exhibit P, the figures stated here do they refer to people who died as a result of an interrogation for security related

matters? Or it is just people who died in detention, that is all?

MR VARNEY: Yes, M'Lord the document it comes from is the financial report of IPAD for the year 2015 and 2016, it is a document of some 240 pages long. Some of those cases do deal with alleged assault and torture, and I will ask my attorneys to identify those cases. It is not disclosed in this memo.

COURT: Yes. I just want to know, you know we must put it in context. What we are dealing with here in regard to this particular inquest is torture at the hands of members of the security branch.

10 Unless I understand it differently, it is members of the security branch. Now these, you could make reference to them, they occurred after the constitutional in the new democratic dispensation, and that is why I am asking whether these are security related, or these are just common criminality, what is the position?

MR VARNEY: M'Lord the only proposition that we would like to make in our submissions, is that the problem of assault and torture in police custody is far from over.

COURT: Yes.

20 MR VARNEY: Unless we are able to establish that some of those deaths are the result of torture, then we will not make reference to the deaths and detention.

COURT: *Ja*, we will deal with it during argument. It is just that I want ...my brief is very narrow.

MR VARNEY: Yes.

COURT: I am sitting here to look into the causes of the death of Mr

Timol. I do not want to extent the brief to then begin to like a commission look into the deaths and detention overall, that will be going too far afield, I am sure you will agree with me.

MR VARNEY: Yes, [intervene]

COURT: So when we argue this matter, please just... we can have the picture yes, painted out and the fact that they are still continuing, but we need to focus on what brought us here.

MR VARNEY: We intend to go no further than that, M'Lord and your point is noted.

10 COURT: Yes, okay.

MR VARNEY: M'Lord, I should disclose that we do have the personal file of captain Hans Gloy. M'Lord, we have decided not to hand that file up for two reasons, one it comprises several hundred pages and M'Lord we have been through that file and we have found nothing of particular relevance. In some respects it is curious given the serious allegations made against captain Gloy that we have discovered in the file of captain Van Niekerk... [intervene]

COURT: Van Niekerk, yes.

20 MR VARNEY: But we bring to your attention that captain Gloy's file discloses none of those allegations which of course raises questions as to whether Gloy's file has been sanitised and we note that he did reach the rank of brigadier but we did not want to burden Your Lordship with a rather large file that has nothing of particular interest in it.

COURT: Yes, okay.

MR VARNEY: M'Lord, with your leave I would now like to call Mr Enthias Kadjee to the stand.

COURT: Yes.

CLERK: Your full names and surname?

WITNESS: Enthias Agmed Kadjee

CLERK: Do you have any objection in taking the oath?

WITNESS: No I do not.

CLERK: Do you swear that the evidence that you are about to give is the truth, the whole truth and nothing but the truth?

10 WITNESS: Yes, I do.

CLERK: Please raise your right hand and say: 'So help me God.'

ENTHIAS AGMED KADJEE (duly sworn statement)

COURT: Thank you Mr Kadjee you may be seated. --- I prefer to stand, M'Lord.

Oh, okay.

EXAMINATION BY MR VARNEY: Mr Kadjee before we commence, I just confirm that you received the permission of the court to wear a t-shirt as opposed to a suit and tie? --- That is correct, M'Lord.

COURT: Yes.

20 MR VARNEY: Mr Kadjee you made out an affidavit in preparation for this inquest? --- That is correct.

Do you confirm that the affidavit which was signed on the 20th of July is your affidavit, do you have a copy of it? --- That is correct, M'Lord. There is one factual error on page 25. The school was renamed not on the 29th of March 1977 but in 1999.

That is paragraph ... [intervene] --- Paragraph 22, that is correct, M'Lord.

COURT: Paragraph? --- 22.

22, you said the correct date is? --- The year, M'Lord is 1999 not 1997.

Yes?

MR VARNEY: Now, Mr Kadjee you travelled a very long road to get to the point where you are occupying the stand at an inquest looking into the death of your late uncle Ahmed Timol. Would you like to express
10 to the court how you are feeling after travelling this long road? ---
M'Lord, I am truly humbled that 46 years after the inquest into the death of my uncle, that the Timol family has an opportunity to present evidence in a democratic South Africa and for that we are eternally grateful, M'Lord.

Mr Kadjee I understand that you wish to refer to your late uncle, Ahmed Timol and your late grandparents in a certain manner, do you want to advise the court how you will be referring to them? ---
M'Lord, I would like to refer to Mr Ahmed Timol as uncle Ahmed and my other uncle Mohammed Timol as uncle Mohammed and I think it is
20 just out of respect to both of them and my grandparents occasionally as papa as for my grandfather, Hadjiv Josef Timol and my grandmother Howa Timol as ma.

COURT: Okay.

MR VARNEY: Mr Kadjee, can you explain to the court what kind of impact the death of uncle Ahmed and the overnight disappearance of

your uncle Mohammed Timol in 1978 had on you? --- M'Lord, the overnight and sudden disappearance of uncle Mohammed had an tremendous impact on me. Age 12 in 1978 when the news broke from my mother that he was not found in his room by my grandmother, I started asking many, many questions. I wanted to know why did he have to leave the country and in addition I wanted to know why my other uncle Ahmed was killed in police detention.

It had a tremendous impact on me, it affected my schooling and I found it difficult to understand that I had to go and educate
10 myself when there was a political uprising in the country and I wanted to be part of that political uprising and more importantly, M'Lord I wanted to know about both my uncles, specifically uncle Ahmed who was killed in police detention.

Thank you, Mr Kadjee, now Mr Kadjee, according to your statement after you finished school you spent time in the motor industry as well as the retail sector. I do not think we have to explain to the court what you did in those industries, but I see you did do some interesting work after the unbanning of the political organisations. You joined the Alexandra health centre. Please
20 explain what that centre did and your role there? --- M'Lord, this is the same Alexandra health centre that Mr Paul Erasmus referred to in his earlier testimony. Mr Erasmus confirmed that he was responsible for the bombing of the Alexandra health clinic and I subsequently joined the Alexandra health clinic in 1992 and the bombing had taken place in 1990.

I was recruited there by a friend of mine who I had met at the branch of the African National Congress in Mayfair, David Robb and my responsibilities at the clinic was at a time, M'Lord when there was unprecedented levels of violence in the Alexandra township between the African National Congress and Inkata Freedom Party and I would drive the kombi from the clinic in the middle of the Alexandra township, pick up injured and [indistinct] patients, load them in the kombi, bring them back to the clinic so that they could get medical attention.

10 In addition, M'Lord I would also assist in the compilation of statistics, because we felt that it was important not just for the country but for the world to know of the devastation of the violence that had imploded in Alex and those are some of the responsibilities that I was carrying out during my term at the Alexandra clinic, M'Lord.

And Mr Kadjee you say in your statement that you joined the civil service in 1997 and that this was a very important moment of your life, why was that? --- M'Lord, thousands of freedom fighters had been [indistinct] in order for us to attend our freedom and it was indeed an honour and privileged for me to serve our country, my
20 country as I wanted to make my uncle proud that I would serve this country with pride and he would be proud of me and hence till today I continue working at the state security agency, M'Lord.

Mr Kadjee we can now return to the matter of this inquest and in particular your relationship with your uncle. In your statement you say that you have vivid and precious memories of your uncle. I

want to focus particularly on the period between your late uncle's arrest and his death. --- M'Lord, I can recall travelling in the middle of the evening with my late mother from Standerton, Mpumalanga to my maternal grandparents' flat in Roodepoort and it was in the early hours of the morning, M'Lord and I can remember family members all crowded together in the small kitchen that they had, around the table and they were all whispering to one another in a very, very hush tone and then there was this knock on the door and there was silence.

And then I could picture these huge white men all walking
10 around the flat and this is the image that remains imprinted in my mind and subsequently to that, M'Lord I have an image of my grandmother standing at the balcony of their flat and this huge crowd standing on the road and only subsequently did I learn that that was obviously the day of my uncle's funeral.

Mr Kadjee you talk about your grandfather in your statement, can you explain to the court the impact of the death of your late uncle on your grandfather? --- M'Lord, my grandfather died a broken man in 1981 after the loss of his eldest son and I spent quite a bit of time with my grandfather. I would accompany him to the local
20 cemetery in Roodepoort where we would go and visit my uncle's grave and I would recite versus from the holy Koran paying tribute to my uncle, and when I would return to the flat my grandmother would always ask me 'Did you pray for uncle Ahmed' and I would politely say: 'Yes ma, I prayed for uncle Ahmed.'

But my grandfather past away in 1981 and he died a broken

man after the loss of his eldest son.

You say in your statement that your uncle Mohammed suddenly disappeared from his place of residence in the beginning of January 1978, can you explain in some detail what was your reaction to his sudden disappearance? --- M'Lord, I was totally shocked and totally confused because over the years we would visit my maternal grandparents' place, they relocated from Roodepoort to Azaadville because of the Group Areas Act and during our school holidays my younger sister and I would spend a lot of time with him. But I
10 deducted very early that he was under house arrest and he was serving his banning orders, which meant he was not allowed visitors to the flat... to the house in Azaadville.

His movements were restricted, M'Lord and I specifically recall that he had to be indoors by 19:00 during the week and my grandmother would look at the clock in the kitchen, as it approach 19:00 and she would start stressing, because if he arrived a minute later, he would be locked up again for breaking his banning order. He could not attend the wedding of his elder brother, uncle Ishmael, he could not attend the wedding of his niece, Fatima and despite his
20 banning orders and being under house arrest I remember him as always being jovial.

When the news broke to me, M'Lord that he had just left unannounced, it left me very confused hence I had many, many questions. It deeply affected my schooling, M'Lord and hence I started the journey of probing my grandmother to find out about the

lives of both my uncles.

And talking of your grandmother, can you inform the court some of your experiences you had with her prior to her death in relation to your late uncle? --- M'Lord, during the school holidays I would take out the newspaper cuttings that the family have kept, from the time... from my uncle's death and the subsequent inquest and I would go through this newspaper cuttings and I would place a picture in my mind, at a very tender age, to try and comprehend and find out what as to what had really transpired and then I would relentlessly
10 pursue my grandmother. I would tell her 'Ma I want to know about uncle Ahmed' and she would always ask me, M'Lord but why do you want to know about him?

I just said, look I want to know about my uncle, tell me about him, give me as much information as possible and then we would sit and she would then relate to me a sequence of events, M'Lord. She would start from the final moment when she had seen him, uncle Ahmed had stared at her for a very long time, he was concerned about her health. Then the subsequent visits from the security branch, numerous raids that they would conduct at the flat. She
20 would ask a family relative, the late Mr Babahu Dinda and his wife, Jomina Dinda to take food for uncle Ahmed at John Vorster square police station.

She then told me of how she was admonished by the security branch officers for not giving her son a hiding. And then when she was broken the news that uncle Ahmed was dead, and she

had been informed my grandfather, papa had to come and identify the body and with grief, sorrow and pain in her eyes she would then narrate to me the condition of uncle Ahmed's body which was then returned to the family.

She reminded me that my grandfather performed the final *Janaza prayer* which is a final funeral prayer, as part of our Muslim belief and that was bidding farewell to uncle Ahmed.

You also mention in your statement that you and your family were not free of visit and surveillance by the security police, can you
10 explain that surveillance? --- M'Lord, my late mother would narrate to me that after uncle Ahmed's death, and this is a period when uncle Mohammed is still in police detention which we then subsequently heard, he was in solitary confinement. The security police would approach my grandfather in Roodepoort and they would want him to convince uncle Mohammed to work for them. So in other words, they wanted him to be an informant, they wanted him to be a collaborator, or as we say in the townships they wanted him to be a *pimpi*.

This is after the killing of his brother and I think that just demonstrated the audacity of the apartheid regime and my
20 grandfather obviously, with the contempt it deserved, dismissed them. But in addition, M'Lord I remember specifically that the security branch officers would visit our home in Standerton, Mpumalanga and they would then ask my dad, this particular motor vehicle, this car registration number, this colour of this vehicle, does it belong to you? And my dad would say, yes it does belong to us.

They would then want to know that on these specifically dates this car was seen at this residence in Azaadville and my dad would concur and say yes, we were at that particular residence because it is the residence of my in-laws. And again, M'Lord I deducted very, very quickly that my grandparents' home was under surveillance, they will be monitored and more importantly there were police informants within the community that were reporting to the security branch of any people that were visiting the residence of my grandparents.

10 Mr Kadjee, can we move to the testimony of your grandmother at the Truth & Reconciliation commission, can you tell the court about that testimony and what you were prompted to do thereafter? --- M'Lord, my grandmother simply refused to appear in front of the Truth & Reconciliation commission in 1996, but I had a very special bond with her, M'Lord and she would always listen to me and I convinced her, I said: 'Look ma, even it is 25 years after uncle Ahmed's death, it is important that, you know that you go and testify. That not just the country but the world should know that what happened to uncle Ahmed' and very reluctantly she appeared before
20 the Truth & Reconciliation commission, I think it was on the 30th of April 1996, at the Central Methodist Church in Johannesburg.

M'Lord, unlike all the other conversations that we used to have in the comfort of our home, when I sat and listened to her, in front of the commissioners, accompanied by her sons, uncle Mohammed and her younger son, uncle Haroon, I was filled with

emotion, unlike all the other conversations that we had, M'Lord. I had to hold back my tears and on that particular day, M'Lord I made a silent vow to myself that from this day onwards I am no longer just going to speak about uncle Ahmed, I am going to do something constructive in memory of my beloved uncle, uncertain as to what it was and how it was going to unfold, but very clear in my mind that I am not just going to speak about him, I am going to do something constructive in preserving the legacy, memory of my uncle and most importantly to find out what really happened to him.

10 Mr Kadjee that testimony of your grandmother before the TRC in April 1996, was it widely covered by the media? --- Most certainly, M'Lord I mean we had local, international coverage, extensive coverage pertaining to my grandmother's testimony.

 Now, Mr Kadjee you mention about the silent vow, about doing something constructive in relation to finding out the truth behind the death of your late uncle, can you explain to this court what you did and where that path took you? --- M'Lord, I once again visited the newspaper cuttings, but this time much more focussed. I started researching, I started analysing, I started identifying individuals who's
20 names had appeared in the newspaper cuttings and with no academic qualifications I started this process of conducting research, conducted numerous interviews and already at that particular point, M'Lord we are talking of 1996, I had known within myself that this was my calling in life, that I was sent specifically to find out about the life of my uncle and more importantly to establish what really happened to him during

his police ordeal, security detention ordeal.

Thank you. M'Lord just for the record I am advised that the testimony of Mr Hawa Timol is part of the [indistinct] that we handed up by the South African History Archives between Life and Death.

COURT: Yes.

MR VARNEY: I understand that a particular school was renamed in your late uncle's honour, you want to tell the court about that? ---
M'Lord, my grandmother had made a number of requests to the TRC, one obviously was to get to the bottom of what really happened to her
10 beloved son. And the other was for the school to be renamed after him because he was an educator. He had taught for many, many years at the Roodepoort Indian High School and hence on the 29th of March 1997 president Mandela renamed the Asako Secondary School to the Ahmed Timol Secondary School.

He paid a riveting tribute to my uncle and as I sat in the audience, M'Lord once again it inspired me to continue my initiative to do something constructive in memory of my late uncle.

And Mr Kadjee you mentioned that you spoke with... you engaged with a number of individuals for purposes of researching the
20 history of your late uncle. I understand you wish to highlight some names and speak of some who are not listed in your statement? ---
That is correct, M'Lord. Apart from the witnesses who have already testified in the earlier proceeding of this inquest, M'Lord I met a number of other individuals who were detained with uncle Ahmed, including the late Ahmina Kadjee, Fatima Wadee, the late Hassim

Juma, Garidja Tortia who has also provided this inquest with an affidavit.

Josef Hassim Izaac, Indes Moodley and many, many others, M'Lord but I think more significantly, M'Lord I have also been engaging with the families of many, many other detainees who have died in police detention. The wife of the late Mr Suliman Babla Selogee who died in 1964 at the Grey's building. I am in contact with his wife Ms Racuel Selogee. The [indistinct] Harm Foundation, we all know of the death of the [indistinct] 1969. The Mabolane family,
10 M'Lord who have been attending the inquest from week one.

I have again made a commitment that whatever... in whatever way I can assist them, and I have already started to assist them, to find some levels of closure. Dr Hossein Heffigy who had died in 1977, his parents have passed on but I am in contact with his sister who is living in Pietermaritzburg. The Biko family, M'Lord the Steve Biko foundation have been very pivotal in supporting all the efforts of the Ahmed Timol Family Trust and I think we are all well aware of the Steve Biko case.

Also the son of the late Piet Nthabeleng. Piet Nthabeleng
20 was a UDF activist who died in the late 80's. So these are some of the families of people who have died in police detention that I am in regular contact with and in whatever way I can, to assist them, M'Lord I am continuing in that regard.

Mr Kadjee I understand that you want to make special mention of the late Ms Amina Desay? --- Yes, M'Lord when I would

spent time with my beloved uncle, age 5 he would take me to the residence of Ms Amina Desay and it was her Anglia in which uncle Ahmed was detained. It was the same vehicle he would drive me around and I ... so obviously I had a very close link with Ms Desay.

But, M'Lord she was detained at the age of 53 and sentenced to 5 years imprisonment which she served at Barberton and the Kroonstad prisons, which made her the longest serving Indian political prisoner at that particular time and when she was released, M'Lord in 1978 she was subsequently issued another banning order, a
10 banning order and house arrest for another 5 years and in similar fashion as to how I would spend hours with my late grandmother, I spent many, many hours with Ms Desay who I would fondly called 'Mammie'.

In 2004 she had left the country to go and live with her daughter in Ireland. But one thing that always remained with me, M'Lord is that she always told me that the apartheid government had punished her purely for allowing her house to be used by uncle Ahmed to do his political work and because of that and the fact that she was totally unaware of what my uncle's activities were, she was
20 sentenced to 5 years imprisonment and I think, M'Lord it is just appropriate that as we celebrate the month of August and we pay tribute to all our mothers, that we pay tribute to Ms Amina Desay.

Mr Kadjee, during the course of your investigations is it correct that you pursued the known interrogators of your late uncle, for purposes of attempting to interview them and that you attempted to

interview captains Gloy and Van Niekerk? Can you tell the court about those experiences? --- Yes, M'Lord I had identified that a number of them were alive at that particular time and instinctively I managed to make contact with captain Gloy. But, M'Lord I would just like to put it in context that all the years that I have been through this particular journey, I have always been polite and very respectful, including many of the other detainees who were arrested with uncle Ahmed and there were instances where they would refuse to see me. And I respected their wishes, M'Lord including close friends of his
10 were not willing to give me an interview.

But at all particular times I have remained dignified, I have remained respectful and I have accepted the decisions that they had made in cases where they were not prepared to see me. M'Lord, it was in this particular context that I had a number of telephonic conversations with Johannes Hendrik Gloy who I had established, was very pivotal in the interrogation of my beloved uncle. My conversations with him, M'Lord was in Afrikaans, as I am fluent in Afrikaans.

On the first occasion when we had spoken he indicated to
20 me that I must look at the inquest records. Very clear, look at the inquest findings, and then stated that I should call him again to make an appointment if I needed to see him and again I respected his wishes, M'Lord. During my second telephonic conversation with him, Mr Gloy informed me that he was advised by his lawyer not to meet me, in other words not to have a meeting with me and he also added,

M'Lord that he was suffering from Parkinson's disease.

Then he went on a bit further, M'Lord. He then stated that my grandparents had spoken a bunch of lies during the inquest, claiming that my uncle Ahmed was beaten and tortured and he said very categorically that that was not true and in my final conversation with him, M'Lord I informed Mr Gloy that I had read the inquest records and he claimed to me that he had no reason to apply for amnesty as the courts had already ruled and that I had no case against him.

10 In conclusion he reminded me that if I continued calling him, he was going to ... he was going to get a court order against me. I respected his wishes, M'Lord however, the urge for me to pursue the matter and in 2007 I wrote him formal correspondence. I sent him a letter in the old fashioned proper letter through the post office where once again I made an appeal to him. I said, look the years are passing on, his time on the earth is coming to an end and will he not reconsider the fact that, you know, we can meet and find some levels of closure. But unfortunately, M'Lord I had no response from Mr Gloy.

20 And just for the record, M'Lord we have provided these tapes of death to the court already, but captain Gloy passed away in 2012 and captain Van Niekerk died in October 2006. So in those... prior to those dates they were available. Mr Kadjee, can we turn to your efforts to secure justice for your late uncle Ahmed. Your statement discloses an endeavour to do this when in 2003 you approached the National Director of Public Prosecutions. Can you

explain to the court what you did in that regard? --- Yes, M'Lord as I stated earlier, I had established that a number of the security branch officers that were responsible for the arrest and detention of my uncle were alive. Knowing very well that none of them applied for amnesty or where ever subpoenaed at the Truth and Reconciliation commission in 1996 and hence I sent formal correspondence to the then National Director of Public Prosecutions, Mr Bulilane Nuka, urging him to follow up on this matter and most importantly reminding him that many of those security branch officers were alive, M'Lord. I
10 indicated that there was sufficient evidence pointing to the fact that my uncle was murdered.

And what was the response to your request? --- M'Lord, I was notified by letter from advocate R C McAdam who was a deputy head of the priority crimes litigation unit of the NPA, dated 25th of February 2004, that investigations had produced negative results and I also established through an internal memorandum, also of the PCLU unit dated 29th November 2006, titled 'Report of the progress made by the task team on the TRC cases' that had confirmed that the matter was closed and I think this letter is attached to my affidavit, M'Lord.

20 Yes, that is correct. Mr Kadjee how did you feel after receiving such a response? --- M'Lord, I was very disappointed as I thought that the response of the National Prosecution Authority was cavalier and very uncaring and it deeply disturbed me because this was a perfect opportunity as this security branch officers were alive, that they could shed more light as to what had transpired to my

beloved uncle.

COURT: Mr Varney, the letter that we have here on page 33 of volume 3,

MR VARNEY: Yes, M'Lord?

COURT: Is not legible, I would like to read what is contained there. Is there a better copy available?

MR VARNEY: M'Lord, we will get you a better copy of that annex.

COURT: Please, because I cannot read what is written here.

MR VARNEY: As the court pleases. Mr Kadjee, your affidavit
10 disclose that you learned a bit more about the approach of the
National Prosecuting Authority on these cases, many of them had
arisen from the investigations of the Truth and Reconciliation
commission, the so-called political cases from the apartheid era.
What did you learn? --- M'Lord, I am going to make reference to the
case that is known as the Nkadimeng case. Nkadimeng & Others v
National Director of Public Prosecution & Others. M'Lord, we will
provide necessary documentation if the court requires, which will shed
more light in that and M'Lord I had established that the desist of
Nokotula Simelane... Nokotula Simelane who was abducted in 1983
20 and tortured and then subsequently killed and the widows of the
Cradock Four, the young freedom fighters who were killed by hit
squads in 1985, that there was something more sinister that was
playing out at the National Prosecution Authority at the time.

During the Nkadimeng case, M'Lord the National Director of
Public Prosecution was forced to disclose a secret 2004 government

report titled 'Report of the amnesty task team', M'Lord and it was revealed on the 23rd of February 2004 that government directors general forum had appointed a secret amnesty task team that was to address, amongst other issues, I quote 'The absence of any guarantee that alleged offenders will not be prosecuted.'

And it explored different ways of avoiding the state's responsibilities to prosecute offenders that were denied amnesty by the TRC or who had failed to apply for amnesty, M'Lord.

And I understand you wish to highlight a certain part of the
10 judgment of judge Legodi in that particular matter, the Nkadiment matter. The judgment was handed down in 2008. --- That is correct, M'Lord. I would just like to quote, judge Legodi states: 'Crimes are not investigated by victims. It is the responsibility of the police and prosecution authority to ensure that cases are properly investigated and prosecuted.' I think, M'Lord that this is very, very profound because it just does not only impact on the Timol family, the Simelane family, the wives of the Cradock Four, but many, many other families that have suffered similar fate during the apartheid era.

Mr Kadjee, in your statement you say that the family of
20 Nokotula Simelane and the widows of the Cradock Four are still waiting for judgment... for justice and that the family of Simelane had to take certain action. Do you want to explain to the court what action that was? --- Most certainly, M'Lord. I mean the opportunist Simelane family, on the 20th of May 2015 was forced to file an application before the Gauteng division of the High Court in Pretoria in

which they sought orders compelling the South African Police to finalise the investigations and an order compelling the National Director of Public Prosecutions to make a decision.

So it is very clear, M'Lord that the process has been stalled and I can only imagine the burden and pain that the families, the Simelane and the families of the Cradock Four are going through this particular process.

And you also say in your statement that that particular case disclose the evidence of political interference in the decision making
10 process of the NPA. Do you have any thoughts on that allegation? ---
Yes, M'Lord I mean the application disclose evidence of gross political interference in the operations of the National Prosecution Authority. This is depicted in the affidavits of the former National Director of Public Prosecution, advocate Vusi Pekoli and the former head of the priority crimes litigation unit, Anton Ackerman S C and it explain how political cases from the past were deliberately suppressed.

Mr Kadjee let us turn to the launch of your book. Can you inform the court when you published it and how you launched it? ---
M'Lord, we managed to publish the book titled 'Timol, quest for justice'
20 in 2005. Importantly we did the launch at the Johannesburg Central police station, it was the former John Vorster square police station, the same building in which uncle Ahmed was killed and we had the Minister of Safety and Security at the time who was the main speaker, and then we had the South African Police choir singing the national anthem.

But, M'Lord I would just like to elaborate that all the royalties that I had accrued from the sales of these books and we sold between 5 000 and 6 000 copies of the book due to generous donations from the public, that the royalties had been used in projects to preserve the legacy of my uncle. Unfortunately, M'Lord we live in a society today where we are only one track minded, with the sole objective that anything we do is to generate revenue and to make profits. So this particular exercise was not to make money, it was about preserving the honour and legacy of my uncle and for the first time ever, to have
10 any publication paying tribute to my late uncle.

And Mr Kadjee, please explain why do you and the Timol family sought to reopen the inquest into the death of Ahmed Timol and what steps you took? --- My uncle, M'Lord my uncle Mohammed had consistently reminded me over the years that it was important to us to reverse the inquest findings, because as a family we had never believed that magistrate De Villiers' ruling in 1972 that uncle Ahmed had committed suicide was a correct one. The family had always believe that it was a farce, it was a cover up and it was imperative that we rectify those findings so that the annals of our history can correctly
20 reflect that Ahmed Timol did not commit suicide, but he was rather killed or murdered in police detention.

And briefly outline the steps you took in order to have this inquest reopened? --- M'Lord, I made contact with the former TRC commissioner Yesmin Suka who was heading the foundation for human rights in 2009 and we discussed the issue of reopening the

inquest. But, M'Lord I must acknowledge that I dragged and delayed my feet. I was dragging my feet as I felt that the timing was not right. And Ms Suka always waited for me and I just disappeared off the radar. But around 2015 I once again went back to see Yesmin Suka and we convened our first of many meetings in the presence of Yesmin Suka, advocate Howard Varney and also Mr Frank Dutton and we agreed that it was important for us to look at new evidence that we could unearth and the meeting concluded that Mr Frank Dutton would be appointed as investigator in the Timol matter.

10 He conducted his investigations, M'Lord and in January 2016 we had a meeting with the National Director of Public Prosecution, Mr Sean Abrahams on the 19th of January 2016 at the offices in Silverton where advocate Varney and Mr Dutton presented new evidence warranting and requesting that the inquest be re-opened in order for justice to prevail and M'Lord I can also state that present at that particular meeting was advocate George Bizos, S C who also made a presentation to that particular meeting.

 On the 26th of October 2016 which was a day before my uncle's 45th anniversary, M'Lord the National Director of Public
20 Prosecutions, Mr Sean Abrahams announced that he had supported our application and hence the process had commenced for re-opening of this particular inquest.

 Thank you, Mr Kadjee. Mr Kadjee, can we conclude by asking you to set out any recommendations that you have for this court? --- I would like to respectfully, M'Lord request that this

honourable court look at following recommendations that I would like to make to the authorities. I think there are four of them, M'Lord. The first one is the erection of a sculpture outside Johannesburg Central police station which again was the former John Vorster square police station, paying tribute to all political detainees who were killed during the apartheid era, throughout the length and breadth of the country. In addition or alternatively, M'Lord a dedicated memorial for uncle Ahmed. This is on the south wing of the building on the area where he had fallen. So that is my first recommendation, M'Lord.

10 The second one is the conversion of the south wing of the 10th floor of Johannesburg Central police station that it be converted into a memorial and a shrine and this would be done in the form of a museum or an educational centre that will be accessible to the general public, M'Lord and it is important that the focus of this particular content tracks the history of security detention and its abuses during the apartheid era. I would also like to add, M'Lord that room 1026 and all other rooms that were used for interrogating political detainees at the time, be transformed into its original form as to how it appeared in 1971.

20 The third recommendation, M'Lord the energetic and vigorous investigation of all apartheid era cases that have not been concluded and here, M'Lord I would like to emphasise on the issue of time. It is very critical that this happens very quickly and very rapidly and as we had seen during this particular inquest that many of the perpetrators are old, so hence the issue of timing and urgency is very

important. And I will also add, M'Lord that there is a creation of a dedicated team, carefully selected of investigators and prosecutors who would lead these particular investigations and an appeal should then go to all other stake entities that they should supply necessary documentation to this particular investigation unit.

Finally, M'Lord my final recommendation is that the files of old political detainees during the apartheid era be made available. In other words they be declassified and they be handed over to the families of loved ones as I am very convinced and certain that it will
10 assist them in finding some levels of closure and as we had ascertained during this particular inquest, M'Lord that the files of security police officers has provided valuable information and hence that is my final recommendation, M'Lord.

Thank you, Mr Kadjee.

COURT: Yes, thank you I will note what you have said, but as you are probably aware the recommendations that I can make as a judge in terms of Section 16 are very narrow, but I will mention what you have said, but I have to keep to Section 16 which has to focus on the cause of death of Ahmed Timol. Mr Pretorius are there any questions?

20 MR PRETORIUS: M'Lord, in the light of the narrow scope of Section 16, as you just eluded to, I have got no questions to this witness. I do not necessarily agree with everything he say, but in the light of what you have got to find, I have got no questions.

COURT: Yes.

MR COETZEE: I have got no questions to the witness either.

COURT: Mr Kadjee, I am sorry that it is possible that other witnesses may come after you, I thought I will do you the honour, but thank you very much for coming through. I have read your affidavit before coming to court and I am aware of even the recommendation that you want us to make. But I will look into that, okay? --- Thanks a lot, M'Lord.

Thank you very much for testifying. You are excused. ---
Thanks.

Yes, Mr Varney?

10 MR VARNEY: M'Lord, we have no further witnesses for today.

COURT: For today, so we will stand down until Wednesday just to give time for the service of the subpoena and hopefully the other witness will be here on Wednesday, okay then we will stand down until Wednesday, 10 o'clock in this court.

MATTER POSTPONED TO 16 AUGUST 2017

COURT ADJOURNS