
AFFIDAVIT OF FIROZ CACHALIA

I, the undersigned

FIROZ CACHALIA

do hereby make oath and state that:

- 1 I am an adult male born on 22 July 1958. I am currently employed as a professor of law at the University of the Witwatersrand.
- 2 Unless the context indicates otherwise, the facts contained in this affidavit are within my personal knowledge and are, to the best of my belief, both true and correct.

PURPOSE OF THIS AFFIDAVIT

- 3 The purpose of this affidavit is to set out important events and facts regarding my detention and torture by the Security Branch of the South African Police force ("**Security Branch**") (more specifically during the years 1981 and 1982) which I believe may be of assistance to the reopening of the inquest into Dr Neil Aggett's death.

Firoz

BACKGROUND AND POLITICAL ACTIVITY

4 I was a student at the University of the Witwatersrand ("**Wits University**") when I was detained in the early 1980s. I was very politically active and was involved in a number of different student organisations at the University, community youth organisations as well as in civic organisations. I was active in the Black Students Society on campus, serving as the president, vice president and on the executive committee at different times.

5 I was part of an anti-apartheid national network of people who were active in various mass public organisations but which operated in a more or less clandestine way. The groups I was active in were aligned ideologically with the African National Congress ("**ANC**") but I was not directly taking instructions from the ANC.

6 During my time as a student at Wits University I was detained several times. I was also banned during the early 1980s.

7 I was also active in national politics at the time. I acted as the vice president of the Transvaal Indian Congress, an affiliate of the United Democratic Front.

MY DETENTION AND TORTURE

8 I was detained in December 1981 under section 6 of the Internal Security Act 74 of 1982 ("**the Internal Security Act**") by members of the Security Branch. I spent my first week in detention at Vereeniging Police Station. At the point I

was being removed from the police station in Vereeniging, I saw Prema Naidoo in the police station on my way out. He had just arrived in Vereeniging from John Vorster Square. I communicated with him. He was in a very bad way, and indicated to me that he had been tortured at John Vorster Square. When I saw him he was in leg irons. I was then moved to John Vorster Square where I was detained for a further six months

- 9 I point out that Dr Aggett was also detained during this period at John Vorster Square. I spent the entire duration of my detention in solitary confinement. The entire detention from beginning to end was laced with intimidation and fear. I would describe the atmosphere in the cells as deathly since we were filled with fear and apprehension about the future.
- 10 My detention was not unexpected, given the role I was playing politically. I had also been detained previously and was a banned individual at the time of my arrest. I was, however, given no explanation of the reasons for my arrest and detention.
- 11 It became clear to us, however, that the Security Branch were making these arrests in preparation for some kind of political trial. They were determined to secure convictions in a treason trial. It was our understanding that the security police either intended for us to be called as witnesses in that trial or that we too would be charged with various crimes. It was clear that the Security Branch was on a fishing expedition to cobble together evidence for a treason trial.



- 12 My understanding was that the Security Branch believed this political trial was necessary because the apartheid government was under political strain at that time. The regime was trying to protect the system by reforming it through the tricameral system, independent homelands, providing a measure of trade union rights and so forth.
- 13 However, many of us took advantage of the legal space to build effective mass opposition, which operated strategically within the legal framework. These efforts threatened the reform agenda of the apartheid government. It needed to demonstrate that those operating in the legal space were in fact members of banned organisations and were engaging in illegal activities. In this way it would delegitimise those opposing apartheid. I believe that Neil Aggett's death completely derailed this plan.
- 14 I knew Major Cronwright hated all those who were associated with Barbara Hogan. He had a personal grudge against Barbara. He had a visceral hatred for her. Cronwright believed that Barbara was responsible for causing him to fall and break his back at a protest at Wits University. I believed that he was capable of absolutely unrestrained behaviour.
- 15 After a period where I was left alone in solitary confinement in John Vorster Square my interrogation began. The interrogations took place on the 10th floor of John Vorster Square.
- 16 On the 10th floor I could hear people screaming and shouting from other rooms. I assumed these individuals were screaming from pain while under torture. It

created a sense of fear in me. At one point I could hear Samson Ndou screaming and shouting and I was convinced that he was being electrocuted.

- 17 Once my interrogation began, I was still not informed of the reason for my detention. I was given no indication of the information required from me. I was simply given writing material and told to write a statement. I was told that the Security Branch knew everything relating to my activities and that any attempt by me to omit or misrepresent information would be severely punished. I believe that this was part of their interrogation tactics.
- 18 Because I had been given no reason for my detention I had to be very careful about the information I would give. Even harmless information might result in detention of people, because the security police were in a position of power and tended to act both arbitrarily and capriciously. Even to state what was in the public domain was problematic because if one mentioned any names, one knew that those people could become the object of Security Police scrutiny, detention, interrogation and torture. I was therefore not prepared to give over any information unless it was clear to me that my interrogators already had that information. As a result I had to constantly assess what they did and did not know and this caused me great anxiety.
- 19 At the end of the second or third day after my interrogation began I had written about seven pages of a statement. My interrogators, however, tore this statement up and it was at this point that I was first assaulted. This was repeated one three or four occasions, where invariably my statement would be torn up and I would be assaulted.



- 20 During my interrogation I was given very rough treatment. I was spoken to and shouted at in degrading and abusive language and frequently called a "Coolie". I was badly beaten. I was slapped, punched and kicked. My testicles were squeezed regularly. I was regularly beaten on the soles of my feet with a baton. I came to expect that I would receive this treatment whenever I was taken up for interrogation. Sometimes they would make me write up a statement before beating me up and then get me to write another statement after. Other times they would beat me up even before asking me to write a statement.
- 21 During the interrogations when I was being beaten up, there would usually be a quite a large number of security policemen in the room with me. The room was a very constricting, restrictive, spatially confined space and became easily crowded with the large number of security policemen in it. I would be frequently insulted and disparaged by the security policemen present in the room. This conduct was humiliating, degrading and frightening.
- 22 Although I was never electrocuted my interrogators repeatedly threatened me with electrocution. I was shown some sort of wiring in the interrogation room and told that I could be electrocuted by the wires which they would attach to my testicles or shove up my anus. I was told that I would be electrocuted if I failed to cooperate with them.
- 23 I was also forced to undress from the waist up.

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- 24 The worst treatment I received was the wet sack or bag treatment. This treatment would invariably be preceded by a punch to the solar plexus leaving one fighting for breath, followed by my interrogators placing a wet sack, made of cloth, over my head and holding it tight so that my breathing became impossible. They would then release the sack so that I could get oxygen and then they would immediately tighten it again. This would be repeated several times. I never lost consciousness but I once was taken to the point of defecating in the room. They knew, physiologically, that this is what would happen but the treatment was designed to humiliate you. Most of the torture was designed to humiliate you - to make you feel insignificant, powerless and completely under their control.
- 25 The wet sack treatment caused a lot of fear and anxiety and caused me to lose control of my rational faculties. The treatment was designed to induce fear and compliance and to force one to cooperate. I felt that they were bringing me close to death. I feared that I may die or a fellow detainee would die as a result of this treatment.
- 26 The typical *modus operandi* of the Security Branch police officers was to beat you up and then take you to a district surgeon only after the evidence of assault had disappeared. Sometimes one would be taken to the district surgeon before being assaulted. However, once when they took me to the district surgeon, a Doctor Jacobson, there was still evidence of some assault, such as bruising. I felt that Doctor Jacobson was a good man and I felt I could take a chance reporting the assaults to him.

- 27 In that situation you did not know who you can trust and you had to consider the risks from reporting the assault to the district surgeon. The Security Branch might find out and beat you further, as punishment. But you were also looking for opportunities to survive and act effectively in a difficult situation. I felt that Doctor Jacobson was a decent person and that it would be very difficult for him to ignore the information I gave him about the assaults. Further, I made the complaint after Neil's death because it was a good time to do so since the security police were on the defensive.
- 28 The torture I experienced caused me to become extremely anxious and depressed. Many times I doubted whether or not I would survive the experience, either mentally or physically. On a physical level the torture resulted in a loss of appetite, constant exhaustion, lethargy and difficulty sleeping. On a psychological level I experienced strong feelings of anxiety, despair and depression.
- 29 I believed that the Security Branch would beat me until I gave them what they wanted, and that they were capable of destroying me both mentally and physically. Their actions entailed an arbitrary exercise of power and there were no ethical limits. They would do anything to protect this system of theirs. We were the enemy and we also had no protections under the law.
- 30 The methods of interrogation used by the security police was designed to incrementally increase the amount of pressure on the individual being interrogated. This was a strategy of the security police which aimed to induce cooperation. Once the security police identified you as someone they wanted

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to charge the pressure would increase to a much higher level. As such I would hypothesise that an individual such as Dr Neil Aggett, who had been detained for over two months, would have experienced torture of a much greater intensity than I experienced.

EXPERIENCE IN THE SECOND FLOOR CELLS

31 In my first few days detained in John Vorster Square I was held in a large cell near the back of the cell block for the males. A youngster who had been arrested on the Lesotho border was detained in the cell opposite mine. He was regularly beaten quite mercilessly. I was then moved to a different cell. The cell that I was moved to was the first cell on the left as you walk through the charge office and through the entrance into the male cells. The cell was diagonally across from the charge office. I do not recall the number of my cell. I can confirm, however, that the cell currently numbered "B2" was the cell in which I was detained at the time. I was in this cell at the time of Neil Aggett's death.

32 I do not know in which cells Neil Aggett or Auret Van Heerden were detained. I am, however, quite sure that they were not detained in the first row of cells with us (the cells currently numbered B1 to B10). I say this because we had a system of talking to one another after hours through the toilet pipes, and I never heard Neil Aggett or Auret Van Heerden's voices. The detainees were able to flush all of the water out of the toilet bowl which would leave a hollow pipe, through which we could speak to one another. The people I recall being in the

J.M.B.

row of cells B1 to B10 with me were Frank Chikane, Jabu Ngwenya and Ismail Momoniat.

- 33 Through the toilet system we would often discuss amongst each other the questions the security police were asking us and the information they were looking for. This is the basis for my knowledge that they were planning a big political trial. Therefore, despite the security police's best efforts to keep us from communicating with one another; we had the ability to find out what was going on.
- 34 There were also other opportunities for interaction. Perhaps when they took you to shower or to be interrogated you would pass by a fellow detainee. Sometimes the security officers, the African officers, who often tried to help us and were more empathetic, would allow us to greet one another. Sometimes when the Security Branch brought food to the detainees, the officers would leave the doors open and allow you to greet the person in the cell opposite you. On a number of occasions I was able to greet Frank Chikane who was in the cell opposite me.
- 35 When we were collected from our cells to be taken up for interrogations or for any other purposes we would be taken through the charge office. We had to be signed in and out of the cells at the charge office. When we were led from our cells to the top floor we were hand and leg cuffed. My face was never covered.
- 36 I was never questioned in my cell or visited by any security police in my cell. The Security Branch who interrogated me never came to fetch me from my cell



to take me up for interrogations. The officers who did the fetching and carrying were the African police officers who were part of the Security Branch, but who had no status or role in the interrogations.

- 37 I was never collected from my cells for interrogation after hours. I don't recall being returned to my cell after hours either. I remember having long days of interrogation, from about 08h00 to 18h00, however, I was never interrogated overnight. From discussions I had with other detainees I understood that the Security Branch would increase the period of interrogation up to 24 hours long as a means of increasing the pressure of interrogation.
- 38 While I was aware that the Security Branch would perform routine searches of the detainee's cells, I do not recall my cell being searched. It was a large bare cell with nothing in it and there was no opportunity for detainees to bring anything into the cell. The security police were concerned about suicide and so they made sure there was nothing in the cells that you could use to harm yourself.
- 39 I find it absurd that Neil Aggett would have been allowed to keep a long kikoi in his cell since this could be used for to hang oneself. The last thing the Security Branch wanted was for someone to harm themselves as this would derail their plans for a big political trial, which Neil Aggett's death subsequently did. There is no way Neil Aggett would have been allowed to keep that scarf with him in his cell. The only objects we were allowed to have in the cells with us were one blanket, polystyrene utensils and a very thin mattress.

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40 I do not recall there being any perspex sheeting on the bars of my cells. I remember chicken wire on the bars of the windows.

EVENTS SURROUNDING DR NEIL AGGETT'S DEATH

41 I did not know Dr Neil Aggett prior to my detention. I did not know that he was detained with me until I saw him, approximately the day before he died. The police officers had come to fetch me and I was waiting in the charge office when they brought Neil Aggett in as well. This was the first time I had seen him. He was tall with a sensitive face and a gentle demeanour. There were maybe four to six police officers in that space at that time and so we were unable talk to one another. However, we were both detainees in the same situation, comrades in a way, and we therefore connected at a certain level.

42 My impression of Neil Aggett during that interaction was that, although he smiled at me he was not coping with detention. Given that he had been in solitary confinement and had been tortured for several weeks he could have been at a breaking point.

43 Approximately a day later, I awoke and sat in my cell waiting for the police officers to come and collect me for interrogations, but no one came. I grew anxious wondering why they had not yet come. After a while Jabu Ngwenya

Jabu Ngwenya

came down the corridor from a shower to his cell and the black police officer escorting him allowed Jabu to communicate with us and speak through the hole in the door. Jabu informed me that Neil was dead.

44 I recall feeling that Neil's death was no surprise. First, because we all thought something terrible was going to happen to one or more of us. Secondly, I had seen the condition Neil Aggett was in on or about the day before his death. When the police officers did not come to fetch me I knew that something was wrong. His death was very unsettling for me.

45 After Neil Aggett's death the political project of the Security Branch and their treason trial collapsed and they were only left with a case against Barbara Hogan. Barbara Hogan admitted guilt to protect us. However, had we been called to testify against her we would have refused and refusal to testify might have attracted sanctions, including imprisonment.

46 After Neil Aggett's death and the collapse of their political project and treason trial the atmosphere changed dramatically. The pressure on us from the security police and the torture ceased. We were suddenly allowed access to our parents. We were allowed to keep books. We were also allowed to receive food from home.

47 The night that Dr Neil Aggett died I did not hear anything suspicious happening. There were no noises, no sounds of people shuffling up and down. I would have expected to hear noise when they found his body. But instead it was a very ordinary and quiet night.

48 I believe that one of two things happened to Neil Aggett. Either he succumbed under torture when the police miscalculated and took him too far, perhaps through the wet bag treatment; and then staged the hanging. Or the security police, through the unrelenting torture and abuse, brought him to the point where he believed he had no option but to take his own life. Either way, the Security Branch are responsible for Neil Aggett's death.

Fachalia
FIROZ CACHALIA

The Deponent has acknowledged that he knows and understands the contents of this affidavit, which was signed and affirmed before me at *Parkview* on this the *14* day of *July* 2018, the regulations contained in Government Notice No R1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.

M.A. Maguzy
COMMISSIONER OF OATHS

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