

**IN THE HIGH COURT OF SOUTH AFRICA
WESTERN CAPE DIVISION, CAPE TOWN**

CASE NO.: I01/2022

In the matter of:

REOPENED INQUEST: LATE ABDULLAH HARON

OPENING ADDRESS

ON BEHALF OF THE HARON FAMILY

INTRODUCTION

- 1 I appear on behalf of the Haron family together with my learned junior, Ms Naefa Kahn. We are instructed by Odette Geldenhuys of the Pro Bono Department of Webber Wentzel Attorneys.
- 2 We are here today to do justice to the life and death of anti-apartheid activist and religious leader, Imam Abdulla Haron (“Haron”).
- 3 More than 53 years ago Haron was detained by the Security Branch (“SB”) in terms of the notorious section 6 of the Terrorism Act 83 of 1967. He was interrogated by members of the Security Branch of the South African Police Service, including the notorious Spyker van Wyk, at Caledon Square Police

Station, occasionally in his cell at Maitland Police Station and possibly other undisclosed places.

- 4 Haron was subjected to unrelenting brutality during his detention of 123 days. His battered and bruised body was found in his cell at Maitland Police Station on the morning of 27 September 1969. He was 45 years old.
- 5 The autopsy noted that Haron had 27 bruises and a fractured rib. The Security Branch claimed that Haron was well treated. They denied any assault or abuse and claimed that these injuries were sustained during a fall down a staircase at Caledon Police Station. We will demonstrate that this version was manufactured to mask the real cause of those injuries.
- 6 The Haron family sat powerless as an intricate web of lies unfolded to protect the SB members responsible for Haron's death. All key officials played their role, either directly in the cover-up, or by averting their gaze or feigning ignorance. Aside from the interrogators themselves, these included senior SB officers, members of the uniform branch, the investigating officers, the district surgeons, the visiting magistrates and the prosecutor in the first inquest. They all played their part. They did what was expected of them.
- 7 It is hardly surprising then that first inquest, presided over by Additional Magistrate J S P Kuhn found that nobody was to blame for Haron's death. He accepted the police claims, without question. Magistrate Kuhn played his role in the façade of justice that unfolded in the Cape Town Magistrate's Court between February and March 1970.

- 8 We are confident that this reopened inquest will finally unearth the truth about what happened to Imam Haron. The question is why the family had to wait 53 years for this day. South Africa, and in particular the post-apartheid state, has failed the Haron family, and so many other families waiting for truth and justice from the apartheid era.
- 9 Haron's wife Galiema died at the age of 93 on 29 September 2019, exactly 50 years to the day after her beloved husband was buried. Shamela and Fatima advise us that their mother died with inner peace, composure and dignity. However, she went to the grave without the closure she so deserved.
- 10 Fortunately, in court today are the 3 children of Galiema and Imam Haron: Shamela Shamis, Muhammed Haron and Fatima Masoet. Fatima was only 6 years old when her father died, Muhammed was 12 years old, and Shamela was 18 years old. Shamela was living in the United Kingdom at the time and was unable to attend her father's funeral which took place in terms of Islamic law as soon as the body was released to the family.

WHO WAS IMAM HARON?

- 11 Haron was born on 8 February 1924 in Newlands, Cape Town.¹ He was the youngest of 5 children.² After finishing school pursued Islamic studies in Mecca

¹ Amended Death Notice of Imam Abdullah Haron, February 1970.

² South African History Online Imam Abdullah Haron, [Archive 2](#).

for 2 years.³ He married Galiema Sadan in March 1950 and they had three children.⁴

- 12 In 1955, Haron was appointed as Imam of Al-Jamia Mosque in Stegman Road, Claremont.⁵ An Imam is a Muslim religious leader, a recognised authority on Islamic theology and law and a spiritual guide.⁶
- 13 He founded the progressive Claremont Muslim Youth Association (CMYA) in 1958, which began publishing a monthly newsletter known as the Islamic Mirror in 1959. He maintained close contact with activists such as Albie Sachs and Robert Sobukwe.⁷ Haron raised funds for the Coloured People's Congress (CPC) which was banned by the Apartheid regime in 1960.⁸
- 14 Haron gave Friday sermons and public lectures in which he was critical of the Apartheid regime's racial laws. The mosque also ran the Imbadurahmen study circle that discussed social and political ideas.⁹
- 15 In 1961, the CMYA began circulating the "Call of Islam", an anti-apartheid newspaper. By this stage, Haron was in close contact with activists from Langa,

³ Ibid.

⁴ Desai at 23 & 24; *Galiema Haron (born Sadan) N.O v Minister of Justice & Another* (Case No. I 805/1970, Cape Provincial Division) particulars of claim at para 1 & 4.

⁵ South African History Online Haron Archive; Desai at 18.

⁶ Role of the Imam, available at: <https://www.learnreligions.com/role-of-the-imam-2004527>

⁷ Ibid.

⁸ Desai at 40.

⁹ Ibid.

Gugulethu, and Nyanga.¹⁰ He was known affectionately by the people of these townships as "*mfundisi*" (Priest).¹¹

- 16 On 7 May 1961, at a meeting at the Cape Town Drill Hall, Haron gave an impassioned speech describing the Group Areas Act as "*inhuman, barbaric and un-Islamic*".¹² Also in 1961, Haron in involved in a general strike in response to South Africa's decision to leave the Commonwealth.¹³
- 17 In the early 1960s Haron delivered sermons emphasising the concept of brotherhood in Islam and urged Muslims to support black South Africans in their fight against the racist Apartheid regime.¹⁴ He was closely connected with Barney Desai, an anti-apartheid activist, who was prominent amongst the coloured community of the Cape.¹⁵ Through his connection with Desai, Haron began to support the underground activities of the Pan African Congress (PAC).¹⁶
- 18 In late 1965, while the CPC was functioning underground Haron became involved as a member.¹⁷ It was also around this time that he was identified as a "security risk" by Major Genis of the notorious Security Police.¹⁸

¹⁰ Ibid.

¹¹ South African History Online Haron Archive.

¹² Ibid.

¹³ Desai at 41.

¹⁴ South African History online Haron Archives.

¹⁵ South African History online [Rissik Haribhai "Barney" Desai Archive](#)

¹⁶ South African History online Haron Archives; Desai at 37.

¹⁷ Ibid at 42.

¹⁸ Ibid.

- 19 In 1966, Haron travelled to Mecca with his wife, where he reconnected with Ebrahim Desai, Barney Desai's brother.¹⁹ Together, they lobbied members of the Islamic World Council, urging them to intercede with their governments to oppose Apartheid.²⁰
- 20 Haron engaged directly with PAC members when he travelled to Cairo and addressed a conference of Muslim representatives, which was attended by members of both the PAC and ANC.²¹ He became involved in a plan to recruit young men to undertake short courses of guerrilla training outside South Africa, under the auspices of leaving the country to go on hajj.²²
- 21 Haron was closely connected with Canon John Collins of St Pauls Cathedral in London.²³ Collins had founded the organisation, Christian Action, and was involved in establishing the Defence and Aid Fund to assist victims of Apartheid. Haron agreed to disburse funds to assist those left poor and destitute through their political activities.²⁴

¹⁹ Ibid at 43.

²⁰ Ibid at 46.

²¹ South African History online Haron Archives.

²² Desai at 48.

²³ Ibid at 49.

²⁴ Ibid at 50.

- 22 The Security Branch began to raid the family home and mosque looking for incriminating materials. His bank accounts were also scrutinised. The officers who visited his house included Major Genis and Sergeant “Spyker” Van Wyk.
- 23 In December 1968, Haron visited Mecca, Cairo, The Netherlands and London. The purpose of his trip to London was to make educational arrangements for his daughter, Shamela, who wished to become a radiographer.²⁵
- 24 In London, Haron confided in Barney Desai that there were informers everywhere and he was continuously being harassed by Security Branch members who were trying to persuade his employers to fire him.²⁶ Desai advised Haron to leave South Africa or not to return from his visit.²⁷ Haron’s passport was due to expire in March 1969. Haron said that if it was not renewed, he would know that the time had come to leave South Africa.²⁸ The authorities did not respond to his request for renewal.²⁹
- 25 During May 1969 Haron was instructed by the Security Branch to appear at Caledon Square Police Station where he was confronted with a “thick file”. This file contained information about his two journeys overseas and people he met,

²⁵ Ibid at 57.

²⁶ Desai at 57.

²⁷ Ibid.

²⁸ Ibid at 58.

²⁹ Ibid at 59.

such as Barney Desai and Ebrahim Desai.³⁰ He denied their claims. The officers told him that they “*were not finished with him yet*”.³¹

ARREST AND DETENTION

- 26 Haron was arrested by the Security Branch on 28 May 1969, on the day of Milad Un Nabie, the celebration of the birth of Prophet Muhammad.³² Van Wyk and another officer arrived at Haron’s home and took him to Caledon Square Police Station for questioning, and to be detained under section 6 of the Terrorism Act.³³
- 27 That evening he was escorted to his home to collect his personal effects including his toothbrush and nightclothes and informed that he was to be detained indefinitely. He was held in detention for 123 days without being permitted to see his family, private doctor or lawyer.³⁴
- 28 Whilst in detention, Haron arranged for a message to be smuggled out on a piece of toilet paper to Canon Collins.³⁵ The message stated, “*if you hear that I have died in prison by accident, you will know it will not have been an accident.*”³⁶

³⁰ Ibid.

³¹ Ibid.

³² Ibid

³³ Ibid at 61.

³⁴ South African History online Haron Archives.

³⁵ Denis Herbstein, *White Lies: Canon Collins and the secret war against apartheid* (2004) 159.

³⁶ Ibid.

THE VERSION OF THE STATE

- 29 The constant refrain of the SB was that Haron “*never complained*”. They claimed he always “*looked well*” and “*when asked he said he was fine*”.
- 30 This remained the dominant narrative even when it became apparent that the SB had taken Haron from his Maitland Police Station cell on 17 September 1969 and returned him a physically broken man on the night of 19 September 1969.
- 31 The version of “slipping down stairs” only emerged after the completion of the Post Mortem Report when it became abundantly clear that an explanation was needed to explain away multiple injuries and a fractured rib.
- 32 It turns out that even in 1969, this was not the first time that Spyker van Wyk had put up such a fabrication. One Alan Brooks had his ankle broken under interrogation by the SB in Cape Town and sued the police. Spyker claimed that Brooks broke his ankle while fleeing down stairs in an attempt to escape.³⁷ Indeed falling down stairs and out of buildings were to become a standard refrain of the SB to explain horrendous injuries they had inflicted on detainees.
- 33 It was further suggested by the senior state pathologist at the time, Dr Schwar, that Haron’s anxiety and stress could have resulted in rapid heartbeat which increased his risk of myocardial ischaemia, since he already had a constricted

³⁷ Inquest Record A3 (English Translation), pages 112 – 113 and page 241.

coronary vessel.³⁸ The police claimed that at this stage Haron was consumed with worry and anxiety since he realised he had been “caught out” by his interrogators.³⁹ A thrombosis in the deep vein of his calf was attributed to Haron’s own negligence in not being physically active when provided the opportunity while at the Maitland Police Station.⁴⁰

34 Pathologist Dr Schwar and District Surgeons, Dr Viviers and Dr Gosling, as well as visiting magistrates Barnard and Van Greunen all attempted to minimize the condition and state of Haron during his ordeal in detention. Both Dr Gosling and Dr Viviers refused to ask Haron basic questions concerning his health and failed to perform proper examinations, thereby helping to maintain the façade of a well-treated detainee.⁴¹

35 The impression given by these witnesses was that Haron was generally well except for a few aches and pains and some “malaise” at certain points in his detention, and he ultimately succumbed to a pre-existing coronary vessel restriction, arising from his own inertia. They averted their gaze from the real and dire condition of Haron. Their collective conduct was nothing less than disgraceful.

36 The investigation that followed Haron’s death can barely be called an investigation. No photos were taken of the body at the autopsy, and only one

³⁸ Vol. 3 English translation of the Inquest Report, page 156, lines 10, 11, 12 and page 158 lines 16-20.

³⁹ Vol. 3 English translation of the Inquest Report, page 61, lines 12 and 13.

⁴⁰ Vol. 3 English translation of the Inquest Report, page 156 and 157, lines 20-28.

⁴¹ Vol. 3 English translation of the Inquest Report, page 74, and pages 144 to 150.

photograph of the death scene was provided at the inquest. When statements were taken from Security Branch members they were taken and commissioned by other SB members, not the Detective Branch. This was likely to ensure some consistency in the cover story.

THE FINDING OF THE MAGISTRATE

37 During the first inquest, Magistrate Kuhn accepted the police version without question, or even raising the slightest concern or apprehension about its improbabilities. Bland denials under oath by the SB interrogators were good enough for him. It seemed that Haron's interrogators knew from the outset that they had little reason to be concerned by this inquest proceeding.

38 If Kuhn had been engaged in a serious search for the truth, he would have found the evidence of Major Dirk Kotze Genis and Staff Sgt Johannes Petrus Francois 'Spyker' van Wyk to be highly improbable, raising serious questions as to what they were hiding.

39 While the family's legal team led by Adv W E Cooper SC put up a valiant fight, their cause was doomed from the start. Magistrate Kuhn curtailed Cooper SC's cross examination and stopped probing questions on the interrogation itself. For example, he stopped questions dealing with the procedure of the interrogation, and instructed Cooper SC not to spend too much time on the purpose behind the interrogation.⁴²

⁴² Inquest Record A3 (English Translation), pages 9 and 35.

- 40 The first inquest finding of Magistrate Kuhn makes for pitiful reading. His finding amounted to four paragraphs comprising half a page.⁴³ He did not even bother to provide reasons to explain or substantiate his findings.
- 41 On cause of death and the question of responsibility, Kuhn found the following:
- (c) Cause or likely cause of death: Myocardial Ischaemia; a likely contributing cause being disturbance of the blood clotting mechanism and blood circulating due, in part, to trauma superimposed on a severe narrowing of a coronary artery.
- (d) Whether the death was brought about by any act or omission involving or amounting to an offence on the part of any person: a substantial part of the said trauma was caused by an accidental fall down a flight of stone stairs. On the available evidence I am unable to determine how the balance thereof was caused.⁴⁴
- 42 Given the overwhelming medical evidence of injuries (endured by Haron while in detention), Magistrate Kuhn could not wish away the evidence that trauma led to the worsening of Haron's condition resulting in his death.
- 43 Without saying so, Kuhn had to accept that the claimed staircase fall could not explain all the injuries since they were of different ages. He attributed "a substantial part" part of the trauma to the police version of an "accidental fall down a flight of stone stairs" but claimed that he was unable to determine how the balance of the trauma was caused. This was so, even though it was undisputed that the injuries occurred while Haron was in the custody of the police and no other explanation was put up by the police.

⁴³ Inquest Record A1, page 168.

⁴⁴ Inquest record A1, page 168

44 We will submit that Magistrate Kuhn conducted himself in manner that was predisposed to a particular result, namely the exoneration of the police from all wrongdoing. He went out of his way to give the police version a veneer of respectability. It was manifest to any casual observer of the first inquest that the magistrate paid little or no regard to the standard of even-handed justice. His manifest bias was plain to see. We will submit that on this ground alone the finding of the first inquest warrants overturning.

APARTHEID-ERA INQUESTS

45 Regrettably, the obvious bias of Kuhn was no exception in apartheid-era inquests. George Bizos SC, in an affidavit supplied in the Reopened Inquest into the death Dr Neil Aggett pointed out that most apartheid-era magistrates dealing with inquests involving the deaths of political activists had no real desire to reach the truth.⁴⁵ He noted that some of these magistrates saw it as their duty to protect organs of the state, such as the police. Magistrates tended not to interrogate police versions that vigorously.

46 Bizos SC also points out that apartheid-era inquest courts tended to minimize evidence of the ill-treatment of detainees.⁴⁶ Official police versions were often contradicted by forensic pathologists who examined the bodies of detainees. Magistrates typically ignored such expert evidence and uncritically accepted the versions of police witnesses.

⁴⁵ Neil Aggett Reopened Inquest exhibit G1 p 4 para 15

⁴⁶ Neil Aggett Reopened Inquest G1 p 5 para 18

47 Improbable testimony of police witnesses was invariably rubber-stamped by inquest magistrates.⁴⁷ Police versions that deceased detainees were treated with care and consideration were readily accepted by the courts notwithstanding evidence of pre-death injuries.

OUTLINE OF THE FAMILY'S CASE

48 It will be demonstrated that Haron entered detention in good physical health. In a medical examination for an insurance policy at the end of 1967, a Dr Louis Sternberg found him to be in normal health. Evidence will be led that Haron frequently took indigent persons to a doctor's surgery but he himself never required medical attention. Indeed, the SB themselves confirm he was in good health when arrested.

49 We will demonstrate a definite correlation between Haron's complaints of various ailments, including chest pains, headaches and rectum bleeding, to his interrogation, particularly during the first 10 days of July and his interrogation during September 1969.

50 It is the family's case that Haron did not fall down a flight of stairs. This was a story designed by the police to mask the brutality they applied to Haron. The medical and circumstantial evidence point unequivocally to Haron being subjected to considerable trauma through torture. This trauma led directly to

⁴⁷ Neil Aggett Reopened Inquest G1 p 5 para 19.

systemic complications that resulted in the narrowing of a coronary artery, that ultimately caused his death.

51 It will be the submission of one of South Africa's leading forensic pathologists, Dr Steve Naidoo, that but for the unrelenting abuse endured by Haron during his detention, he would not have died at that time. According to Dr Naidoo, the extensive injuries seen all over Haron were caused by blunt force impacts, most likely caused by assaults. This abuse caused significant physiological trauma that led to systemic health complications, which cascaded towards the ultimate demise of the Imam.

52 Both forensic pathologists who will testify in this hearing, Dr Naidoo and Dr Itumeleng Molefe dismiss the possibility of the injuries arising from a fall down stairs. This is due to the shape and pattern of the injuries which are not consistent with typical staircase fall injuries. They also point out that Haron's injuries were sustained at different dates and times.

53 We will also lead the expert evidence of Thivash Moodley who is a mechanical and aeronautical engineer. He considered the versions of Major Genis and Sgt Van Wyk and examined in detail the staircase in question. Moodley concludes that the injury pattern on Haron's body do not reflect those typically seen in falls down stairs.

54 Moodley will testify that since there was no bruising on the buttocks, the back (aside from the small of the back), neck or head, and considering the magnitude of the impact forces that would have been applied to those parts of the body in

such a fall, the police version that all Haron's injuries were sustained during a fall down a staircase is not credible. In contrast, there were significant injuries on Haron's chest, inner right thigh and calf, both shins and left hamstring which cannot be connected to the alleged fall.

55 Similar fact evidence from other former detainees, particularly those also interrogated by Spyker van Wyk, will demonstrate that the torture endured by Haron was not out of the ordinary. Some will testify that Spyker threatened to deal with them as he had dealt with Imam Haron.

56 Evidence will be led to demonstrate that Haron did not break under interrogation. He did not betray anyone. This would have enraged his interrogators, who ramped up the torture to new levels, particularly over the period 17 to 19 September 1969, when he was removed from his cell at Maitland Police Station and allegedly taken to various undisclosed locations. We will submit that the torture he endured over this period led directly to his death on the morning of 27 September 1969.

JUSTICE DELAYED IS JUSTICE DENIED

57 If the post-apartheid state had acted expeditiously, at least following the winding up of the TRC, Galiema Haron could have been provided with closure and the truth of what happened to her husband.

58 The TRC referred hundreds of cases to the National Prosecuting Authority (NPA) in which amnesty was not applied for or denied (the TRC cases). Until the last

few years these cases were not pursued. The responsible institutions essentially sat on their hands, and pretended that investigations were proceeding, when they were not. We now know why the cases from our past have not seen the light of day in courts of law. It has emerged in recent court proceedings⁴⁸ that powerful elements in society shamefully colluded to ensure the suppression of all cases referred by the TRC to the NPA.

- 59 The Supreme Court of Appeal, which dismissed former apartheid policeman Joao Rodrigues's bid for a permanent stay of his prosecution for the 1971 murder Ahmed Timol, said it was "perplexing and inexplicable" why these cases were suppressed:

"... the Executive adopted a policy position conceded by the State parties that TRC cases would not be prosecuted. It is perplexing and inexplicable why such a stance was taken both in the light of the work and report of the TRC advocating a bold prosecutions policy, the guarantee of the prosecutorial independence of the NPA, its constitutional obligation to prosecute crimes and the interests of the victims and survivors of those crimes."⁴⁹

- 60 Most of these cases cannot be revived. As in the Haron case, suspects, witnesses, and family members have died. The harm visited upon these families and their communities is incalculable. They deserve nothing less than a full, open and independent commission of inquiry as to how and why justice was denied to them.

⁴⁸ *Thembi Nkadimeng v National Director of Public Prosecutions and Others* Case No. 3554/2015, Gauteng Division. Court papers available [here](#). See also *Rodrigues v The National Director of Public Prosecutions* [2019] 3 All SA 962 (GJ) at paras 21 – 23.

⁴⁹ *Rodrigues v The National Director of Public Prosecutions and Others* (1186/2019) [2021] ZASCA 87 (21 June 2021) at para 26; see also the 2019 [representations](#) of Lukhanyo Calata and other families to the Judicial Commission of Inquiry into Allegations of State Capture.

- 61 While the NPA and SAPS have turned over a welcome new leaf in relation to the cases from our past, families are still struggling to have their cases attended to. Even in this matter with its high profile, it took the attorneys 3 months to get permission to access the police station to examine the staircase in question.
- 62 Comprehensive representations were made to the NPA on 4 December 2019 seeking the reopening of the inquest. Yet it was only some 2.5 years later, on 31 May 2022 that the Minister of Justice formally requested the Judge President of the Western Cape Division of the High Court to designate a judge to re-open the inquest. To extract this decision, the attorneys had to place the NPA and the Minister of Justice on terms in September 2021 and again in April 2022, before a decision was taken to reopen this inquest. Such steps should not have been necessary.

THE IMPACT ON THE FAMILY AND COMMUNITY

- 63 After Imam Haron died, Galiema, had to move her family into a one-roomed house with shared with her mother. Mohammed was sent to live with relatives. Galiema worked tirelessly as a seamstress to support her family and eventually saved enough money to purchase her own home. Fatima's most vivid memories of her mother are of a woman who wasted nothing and toiled day in and day out to provide for her children. Galiema's life is defined by her stoic commitment to survive and devotion to her children.

64 Haron's death instilled fear and anxiety among many, but in other quarters it ignited a burning fire for change. The Muslim News on 24 September 1982 published a statement of the South African's Students Association which read as follows:

The essence of great achievements is sacrifice. Are we ready? Are we fit? Is our Eemaan [i.e faith] strong? As Muslims we are proud, but we are also humbled to acknowledge that such a Martyr lived amongst us. A Muslim should at all times be exemplary - even in his death. And such a Man, such a Muslim, such a Majaheed, is IMAM ABDULLAH HARON.⁵⁰

65 Haron became a symbol of resistance for South Africa's youth in their resistance to apartheid in the 1970s and 1980s.

66 The Imam Haron Foundation was established in 2019 by the Haron family and close community members "*in order to share aspects of his humble life with the communities not only in South Africa but also in other parts of the world; raise public awareness of the role he played in the Cape community; and teach the current generation about the lives of individuals such as the Imam who dedicated themselves to attain and uphold justice and to always speak and practice the truth.*"

⁵⁰ Gunther, U, *The Memory of Imam Haron in Consolidating Muslim Resistance in the Apartheid Struggle*, Journal for the Study of Religion, vol.17, No.1, 2004.

- 67 Galiema Haron died exactly 50 years after the funeral of her beloved husband. This reopened inquest comes too late for her. However, it is of great meaning to Shamela, Muhammed, Fatima and the wider community. They have lived with the stain of a fraudulent inquest finding for more than 50 years. It is time for that stain to be wiped clean.
- 68 We are confident that this inquest will shine a light on what Imam Haron endured during his 123 days of security detention back in 1969. Imam Haron died for our freedom. It can never be too late for the truth.

HOWARD VARNEY

NAEFA KAHN

Chambers

7 November 2022