

**THE JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS
REGARDING EFFORTS OR ATTEMPTS TO STOP THE INVESTIGATION OR
PROSECUTION OF TRUTH AND RECONCILIATION COMMISSION CASES
(TRC CASES INQUIRY)**

HELD AT:

Sci-Bono Discovery Centre, Corner of Miriam Makeba & Helen Joseph Street
Newtown, Johannesburg

BEFORE:

COMMISSIONERS:

The Honourable Ms Justice Sisi Khampepe (Judge Ret.) – Chairperson
The Honourable Mr Justice Frans Diale Kgomo (Judge President Ret.)
Adv Andrea Gabriel (SC)

EVIDENCE LEADERS:

Adv Ishmael Semanya (SC)
Adv Vas Soni (SC)
Adv Fana Nalane (SC)
Adv Nompumelelo Seme
Ms Baitseng Rangata

REPRESENTATIVES

Adv KD Moroka (SC) – DoJ representative
Adv Anisa Kessery-DOJ Representative
Adv Gwala- NPA Representative
Adv Lukhele-NPA Representative
Adv Varney (SC) – The Calata Group
Adv D Pillay – The Calata Group
Mr Sipho Tlhaole – The Calata Group
Ms Lamiah Casoo-The Calata Group
Adv Motlalepule Rantho (for SAPS)
Adv Vivian Rikhotso (for Adv Menzi Simelane)
Adv Bridgette Nthambeleni (for Adv Jiba)

14 JULY 2026

DAY 56

PAGES 1 – 84



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PROCEEDINGS ON 14 JULY 2026

CHAIRPERSON: Good morning.

ADV SEMENYA: Good morning, Chair.

CHAIRPERSON: Yes, Mr Semenya.

ADV SEMENYA: Good morning, Commissioners. We have former Minister Cele to come help us with his evidence today, Chair.

CHAIRPERSON: Thank you. Yes?

ADV SEMENYA: If we can have the witness sworn in?

CHAIRPERSON: Thank you.

10 ADV SEMENYA: Chair, it is former Minister Cele and we have him today to give us his evidence.

CHAIRPERSON: Mr Cele, are you going to take an oath or make an affirmation?

MR CELE: I will take an oath, Chair.

CHAIRPERSON: Yes. Do you swear that the evidence that you will give will be the truth, the whole truth and nothing but the truth? If so, raise your right hand and say, 'so help me God'.

MR CELE: So help me God.

BHEKOKWAKHE HAMILTON CELE: duly sworn states

20 CHAIRPERSON: Thank you. Ms Seme.

EXAMINATION BY ADV SEME: Thank you, Commissioners. Today we have Mr Cele, he is going to be talking to his role as the Minister of Police and as National Commissioner and what he did to advance the course of the TRC cases. I beg your indulgence Chair and Commissioners, to allow him to provide the background of his

upbringing. You will note from the affidavit that this background informs his role as a Minister and how he discharged those obligations.

So that becomes relevant; of course within reasonable limits of that background and then we will deal with the request that came to him to fund SAPS members who were facing prosecution for gross human rights violation. Then he will explain his role and that is how we are going to proceed with our evidence.

CHAIRPERSON: Yes.

- 10 ADV SEME: Thank you. Mr Cele, you have in front of you a statement that appears at page 2032 of that bundle. Is this your statement?

MR CELE: Yes, it is my statement.

ADV SEME: You may face the Commissioners when you respond. Is this your statement?

MR CELE: Starting from 2032, yes correct, that is my statement.

ADV SEME: Yes. Do you still stand by everything that is contained in that statement?

MR CELE: Yes, I do.

- 20 ADV SEME: Is there a correction that you would like to make perhaps in your role as the Commissioner of the Police on the dates?

MR CELE: Yes Commissioners, if you go to page 2046, I think it is paragraph 40, I was a National Commissioner from 2009 to 2011, not 2018 to 2024. I was a Minister from 2018 to 2024. I think I would love to correct those dates.

ADV SEME: Thank you, Mr Cele. Can you take the Commission through your journey and Commissioners, we are referring to page 2034, paragraph 5 of Mr Cele's affidavit, if you can just read that into the record?

MR CELE: Thanks very much, Commissioners. Well reading as verbatim, is that:

10 “To appreciate my approach to the previous roles relevant to the Terms of Reference of this Commission, it is important that I place before this Commission my background, the experience and political activism. These experiences will inform the backdrop against which I submit the Commission ought to view and judge the evidence that follows.”

ADV SEME: Can you take us through your upbringing, how you were, where you were born and how you came to be an activist?

20 MR CELE: Yes, I was born at a place called Mzumbe in Port Shepstone, that to about a 100 kilometres south of Durban. I was born 22 April 1952 but if you go to my official book, that would be my ID book, it is written I was born 22 February 1952. What happened here, when you are arrested, when I was on Robben Island we were given an opportunity to get the documents, so when it came back, it came back with as 22 February.

 I told the officers there that it was a wrong date, they told me that prisoners have no choice so I had to take that ID as it was provided to me, but my actual date is 22 April, not 22 February. But I

live with it, I have regarded it as one of the scars of the apartheid on me, that I was given the date by force that was never mine.

So my mother got married and told that she was 18 and gave birth to me when she was 19, and my mother lost her life when she was 20 and I am told that I was nine months old by then. I was schooled at Inala in Fairview and attended Mthwalume High School up until what was then called "JC", that is short for Junior Certificate which is now Grade 10. I am sure that the Commissioners would know "JC" at the time.

10 And then I could not pursue Matric as my father had passed on I think when I was 17. After my father died I wanted to finish Matric and pursue my dream of being an attorney. I approached the Railway Manager where my father was working, requesting for funding from the bursary reserved for the children of railway workers.

 The Railway Manager who worked with my father, informed me that he could not help me because in his words, "They could not provide the education assistance for black kids because there would be nobody to carry bags in the trains" in that particular time, so he said it was a policy of the company not to give bursaries to black kids
20 to pursue their education.

 After passing "JC" and having failed to secure funding to complete my Matric, I worked at a hospital called Greenville Hospital at the Medical Laboratory Department as an assistant. An opportunity arose while I was in Greenville Hospital for me to receive training as a medical technician at Umthatha Hospital.

I seized that opportunity, yet my burning desire to complete Matric remained with me, having completed the training. I then worked at Mseleni Hospital, saved some money, and went back to school to finish my Matric. Upon completing Matric, I proceeded to Mbumbulu College of Education and obtained a Certificate in Education and I am thus a teacher by profession.

ADV SEME: Mr Cele, did you teach anywhere after obtaining the Certificate?

10 MR CELE: Yes, I did teach, I taught to Mtwalume where myself, I studied. I taught to one school in Port Shepstone called Nobamba and I taught to one school called Charles Sabelo at Umbumbulu. That was the last school that I taught at.

ADV SEME: Which grades were you teaching?

MR CELE: I was teaching History to matriculants at that particular time, up to Grade, it would be Grade 11 now. Ja, it would be Grade 11 where I was teaching at Umbumbulu. That is the last school that I taught at and abruptly my profession stopped there because I had to go out of the window when I saw the guys coming through the, through gates and I knew that they were there to collect me, those
20 police who were there to come and arrest me. So that is how I stopped teaching.

ADV SEME: At paragraph 10 you then moved to Lamontville where everything begins.

COMMISSIONER KGOMO: You have to raise your voice, Ms...

ADV SEME: At paragraph 10 you speak about your, the beginnings

of your political activism when you moved to Lamontville. Can you explain that?

MR CELE: Yes, I because I have lost my, all my parents and then I moved to stay with my aunt in Lamontville, in the township south of Durban there is a small township there, but this is the township that was, has been always very active political, especially on the community struggles that would be your bus fares, rents and some organisations were formed there under the leadership of Msizi Dube and there were some of us who were young activists then like Jabu

10 Sithole, Lechesa Tsenoli who is being a Deputy Speaker now.

We joined those community struggles like Joint Rent Action Committee was known as JORAC and the Asinamali which was an organisation against the hiking of the rent. So one can simply say that my political tooth was cut mostly on the community struggles rather than the student struggles.

ADV SEME: Then you talk about an incident when you went to Durban, at, to Cape Town rather and you were listening to Dr Alan Boesak who convinced you strongly to remain in the struggle at paragraph 11.

20 MR CELE: Well it was 93 when the UDF was formed, so we drove to Cape Town from Durban. It was a long trip and I remember we had a lot of sandwiches in the bus that we made them ourselves. So we were part of the formation of the UDF in 1983, I think it was August where the leadership like Alan Boesak they were talking and I think the Bishop Tutu was part of that, Reverend Chikane, Reverend

Xundu.

Mostly it would be the people from the clergy that were leading that and the people from the communities that were leading that. So from there the activism grew up to all of us, but we realised that immediately after that we were approached to join the underground structures of the African National Congress. We continued to work on the mass based organisation but also we started to work underground.

10 So I remember that my job and with my team was what was called as a propaganda, we were dealing graffiti where in the township we would write that "Tambo is coming", "Mkonto is here" and all that, I mean [Indistinct] Mkonto that I would say Mkonto is here and all. So one would be in the form of a propaganda machinery during the underground work while we were still activists of the United Democratic Front in that particular time.

ADV SEME: Then you get arrested the first time in 1984.

MR CELE: Yes, I was arrested and detained for the first time in 1984 and taken to the 14th floor of the CR Swart Building. Today it is called the, it is called Durban Central. There a certain Colonel Botha
20 who became my nemesis throughout my political career, arrested me in the early hours roundabout 02:00 in Lamontville and took me to the 14th floor.

There was a window, I remember very well there was a window with loose bards, thin bars and then I was very, myself I was thin, very thin at that particular time. He encouraged me, he went to

these burglar bars and they were loose, he moved them away and he said if I wanted to jump, I could jump from that 14th floor. I did not want to jump, so I did not jump, so but he encouraged me to ...[intervenes]

COMMISSIONER KGOMO: You would not be here. If you jumped, you would not be here.

MR CELE: Come again?

COMMISSIONER KGOMO: No, no, look this way ...[intervenes]

COMMISSIONER GABRIEL: At the side ...[intervenes]

10 COMMISSIONER KGOMO: I am saying if you jumped, you would not be here to give your evidence.

MR CELE: Well Commissioner, I do not know, maybe I would have survived. But it was the 14th floor, I would have survived maybe, I do not know, but I guess I would not have been here, so I did not.

ADV SEME: And then you encountered Colonel Botha again when you were released, at paragraph 13.

MR CELE: So from that arrest I had many encounters and Botha was always on my case and also with a certain Colonel Hunter whose speciality was swearing in IsiZulu, so he would stand in front of us as
20 [indistinct], he was specialised in [vernacular]. When I was released, I realised that I was arrested with Pravin and when I released, that particular time I was working with people like Pravin, Professor Coovadia, Zak Yacoob and Dhaya Pillay who finally represented...

Dhaya Pillay I think she is a judge now and Zak Yacoob was [indistinct] that time. They represented me at a later stage when I

was arrested, coming back from the exile after I have been trained as a guerilla and arrested when I came back in the country.

ADV SEME: Tell us about the passing away of Victoria Mxenge and what that did to you.

MR CELE: Victoria Mxenge was one of our legals, her and the other attorneys. She was an attorney representing the arrested leadership of UDF at the time, that would be Archie Gumede and them. And then this one day if I am not mistaken, it was the 1 August when we were called that Victoria has been killed. So I was one of the people
10 that came on the stairs of the door when it was really fresh, the blood was still wet when we came there to pick up the body of Victoria.

People, other people that came there was Pravin, I think Jerry was there, Kuvatia and other activists like Jabu who came from Lamontville. And then it was quite a bad loss, the death of Victoria Mxenge and dying almost in front of you when you came when the body was still very, very hot.

But one thing that Victoria did because Umlazi was very much conservative when it comes to politics, very much conservative, Victoria turned it around, completely turned it around. That is how
20 Umlazi got to be progressive and being in the struggle, is I remember a week or two you could not buy anything at Umlazi, there was no shop, there was nothing, everything just gone bad that was after the death of Victoria Mxenge whom we all when we remember and look back, would say that is a person who really organised and turned Umlazi away, around to be the home of the struggle.

ADV SEME: I am going to move you a bit away whilst on the subject of Victoria Mxenge. Victoria passes away, there is no investigation into her death, the TRC hearings happen, you become Minister, you are a part of the Liberation Movement but you are now the ANC Government with all the resources to investigate. You speak so passionately about her but were there any steps taken to investigate who killed Victoria Mxenge?

MR CELE: It is not only Victoria that we were passionate about, there are too many people we lost on the way. There are too many
10 people that we knew and we lost on the way. I remember that about three houses from my house where I grew up in Lamontville, Mhlongo Road, there was one [indistinct] boy, Sipho, who disappeared, even today we have no idea what happened to him.

Yes, the question of investigation, the, I think the mandate was more on the Hawks. I was a National Commissioner of the South African Police but there was a wing that was dealing with the crimes against the State.

ADV SEME: We will get there Mr Cele, I was just asking just from a position of a personal level, that you knew Victoria Mxenge and you
20 were moved by her death. One would have imagined that there would be a consistent and a... a consistent effort made later on to answer the question as to who killed here, even the disappearance of those who you say disappeared.

One would have imagined from the perspective of a Liberation Movement, a comrade and activist who later on gets an

opportunity to lead in government even if it is not your responsibility, one way or the other, but the influence and the power is there to ensure that at least the deaths of the heroes at least in this case Ms Mxenge and others, are really investigated and prosecutions do follow. What is your comment on that?

MR CELE: Well the edge of knowing how people like Victoria Mxenge and many others died and who really ordered their murder and those that disappeared, the edge is still there, that it would have been good to know what happened to them and it could have been
10 then, it could be now, it could be the other time coming if the truth can be found exactly, it would be an extra in understanding and give a little bit of comfort to understand what really happened to those people.

ADV SEME: After Ms Mxenge's death you get, you say you were getting arrested daily. It is at paragraph 15 of your statement. Can you take us through that, those arrests and the danger and threats that you faced?

MR CELE: Well after the death of Victoria, there are, generally there was a turmoil. There was a turmoil in the country. I remember that
20 there was some form of a state of emergency, but what was funny is that there was no state of emergency in KZN. We were told or the theory was that a state of emergency protects people, so if there is no state of emergency, you can arrest or kill them. So it was more dangerous to be out on the state of emergency, it would be better if you are inside, you are a little bit safe.

So I was almost arrested almost every week. Every week I would be arrested and released and the theory that came is that I was one of the candidate to be eliminated. And then, and I was completely non-functional as an activist because I spent more time now hiding. So my commander who was working on my matters underground, instructed me to leave the country and the word was sent with a contact in Lamontville that my commander is commanding that I must leave the country and my commander was Jacob Zuma who was based in Maputo in that particular time.

10 So I, that is how I left the country and I had a foster mother at the time, Ms Madlala whom I went to say goodbye, not knowing if I would ever see her again. So I was moved from Durban and I was taken to Soweto where I stayed inside houses for three weeks. It was called a cooling off period before you can go and cross the border.

I was taken to cross the border and I crossed the border to Mbabane and then from Mbabane I was supposed to move to Maputo. And in Maputo I was arrested by the border people there and taken to the police station at Siteki. I was kept 27 days without a
20 bath because there was a belief that if you bath you would run away and so we were locked in a way, there were two us with [Indistinct] boy. So we were locked there for 27 days before then negotiations were made that we were to be flown.

I think I flew from Mbabane to Maputo where we were to be debriefed by the commander, then the commander was as I have

said, it was Jacob Zuma and Sue Rabkin who were commander of my unit.

ADV SEME: And then you leave for Angola.

MR CELE: Well I stayed a short time in Maputo where you get debriefed and then you are asked a few questions, you are given choices of going to school, of getting trained and go back to the country. Well most of us, we did see schools. Things that we did not have were guns, so one of the things we did not have which were the guns. So I wanted to go and train.

10 So I was taken to military camps in Angola where I trained. I think I spent about eight months in my training, in my military training and then I went back to Lusaka in the place called Political Military Command where the first time I met Tambo, though I did not speak to him but it was just good to see that this Tambo and I met other several people.

 We used to use a, to do a lot of reading of *Sechaba*, there were a lot of articles written by somebody called ANC Khumalo, so when I was in Lusaka they showed me ANC Khumalo. I said, 'But this is a white guy, this cannot be' and that is Kasrils. Kasrils was
20 ANC Khumalo, I said, 'But this cannot be Khumalo'. They said, 'Ja this is Khumalo'. It was the first time I met Khumalo, ANC Kasrils in Lusaka. So one got brought here with a better understanding and further political training when we were based there at PMC.

ADV SEME: And you come back into the country in 1987.

MR CELE: As I have said that the choice I had was to come back

and continue in the country, so late 87 I was dispatched back in the country, stationed a little bit in Swaziland, yes, [indistinct] before I departed in the country.

A funny thing happened when I was about to cross the border. A person that was escorting me, did not want me to get in the country, he told me that people that were supposed to fetch me have not arrived and I did not stay long in exile, I stayed I think two or two and a half years or two years and then I still had a very understanding of my, of the country and the terrain inside the country.

10 And then he said he will take me back and will come the next day, those people that were supposed to fetch me and take me to Durban to my base, they would be there. I said to him no. Having studied in new things, I said, 'No, if I do not get in the country now, I am going back to Maputo and I will explain to the command there that I could not come in or I am doing it myself'.

 And then I did it myself, I came without his blessing and I think I did well because at a later stage as I came in, I went to my base, not the base that was arranged. At a later stage that guy who was supposed to take me in the country was a State witness in the
20 case of Ibrahim Ibrahim. Ibrahim Ibrahim was kidnapped from Swaziland and that guy was a State witness, so I realised that if I had waited for him and listened to him, something bad could have happened to me.

 Especially at a later stage when Botha raised an issue when I was arrested in the country, Botha raised an issue that I did not

come with the channels that they were expecting me to come through, how did I come back in the country? So I realised that I was being handed over by that guy who was bringing me in the country. Well I do know where that guy is now.

ADV SEME: And then you come back from Maputo without your escort at paragraph 20. We...

MR CELE: Well I found my way, I find my way. I just crossed. There is quite a close border of Eswati at Pongola. Funny enough, I was at Pongola last week and I went past the area where I jumped
10 coming back and as I was there, as the South Africans, South Africans like good shoes, I was wearing my ostrich shoe and the leather jacket, and I was, it was a funny place to be wearing the ostrich shoe and leather jacket, and I realised that I was easy identifiable.

So I could not stop to wait for a taxi, so I took a taxi to town of Pongola so that I can move there and the first breach I did was to ask how much was the taxi fare. That was the first breach and then the driver immediately asked, 'Who is this one who does not know what is the fare here?' Fortunately but we discovered later that
20 almost all taxi drives there were working for the system, so they were watching everybody that they did not know very well.

Fortunately one lady said, 'Well myself I did not know because the taxi fares have just been raised'. I said, 'Ja, it is because I know that the taxi fares have been raised, that is why I was asking', so I immediately took a lift on the [indistinct]. That is how

then they let me go.

So from there ...[intervenes]

COMMISSIONER KGOMO: Just there, you said the lady took a fancy to you but you did not tell us where did it all end. [Laughter].

MR CELE: Come again, Judge?

COMMISSIONER KGOMO: I say you say the lady took a fancy to you because, maybe it is because of the shoes and the leather jacket, but you did not tell us she took a fancy to you [indistinct] and all that ...[intervenes]

10 MR CELE: No she did not say anything about my shoes.

ADV SEME: And jacket.

MR CELE: And the jacket and myself, I did not look much at her because I did not want to be identified. Remember by the time I left ...[intervenes]

COMMISSIONER KGOMO: It was just by the [indistinct].

MR CELE: By the time I left the country I was an activist and my face was known, so I did not want to be familiar with the people that were there. So I find my way, I took a... I had a little bit of money, no it was not a little bit of money that was given to me, it was money. I

20 had about R6 000, this is 1987, so I took a taxi from Pongola to Mkuze and I took a taxi from Mkuze to Empangeni.

And when I reached Empangeni, because I could see other people wearing kind of things that I was wearing, so I was in a normal taxi, these were special hirers going to that place, so I took an ordinary taxi and then I went back to Durban to join my base and

create what was my mission. Most of my mission was a propaganda machinery and the underground education of the structure, so I went back to Lamontville to create those structures.

ADV SEME: And you come back to Lamontville. I am now leading you to the part where you are going to discuss your refusal to fund the cost of prosecuting former Security Branch Police. I want you to begin at paragraph 22, but taking it from paragraph 21 where you say Colonel Botha comes back to your house now and searches your house and you are arrested again in solitary confinement.

10 MR CELE: Well I think I operated about 12 months in the country and then I was arrested at a place called Mkababa and taken to one safehouse at Tongaat. There were Botha. Well Botha made a comment that, 'Just look how fat you have gone'. I do not think I was fat, I think I was fit. I was quite big, in the camps we used to eat a lot of Czechoslovakian milk and a lot of training, so we were quite big, so he was just jealous to say I was fat, I was fit.

And he took me to the house which was a safehouse, I guess, because I have seen that house after the TR, after the Truth and Reconciliation Commission. So he asked me if anybody has
20 seen when I was collected, when I was arrested. Fortunately one young police officer who arrested me, he is a person I knew in the township that grew in the hood there, so I knew when they arrested me.

There was a tendency that the black cops would arrest you and take you in and the white cops will interrogate you, so because it

was dangerous to collect you as a terrorist, so they sent those that
...[intervenes]

COMMISSIONER KGOMO: Adv Seme, do we need all those
details? Do we need all those details?

ADV SEME: I am ...[intervenes]

COMMISSIONER KGOMO: I thought a summary might
...[intervenes]

ADV SEME: Yes, we are getting there, Commissioner.

COMMISSIONER KGOMO: And do like, for instance did Botha
10 testify at the Truth and Reconciliation Commission and so forth,
whether the general, General [Indistinct] was maybe a witness or
gave evidence at the Truth and Reconciliation Commission because
he saw the fresh blood and so forth, more, more towards to our
Terms of Reference.

ADV SEME: Thank you, Commissioners.

COMMISSIONER KGOMO: We read the statements but it is more of
interest maybe to the general public. But even the general must
please assume that we did read his full statement. Yes, can you
proceed maybe towards that direction?

20 ADV SEME: Ja, certainly Commissioners.

ADV MOROKA: Chair, if I may please, if Commissioner JP could
speak louder? He is always asking other people to speak louder.

CHAIRPERSON: Okay.

COMMISSIONER KGOMO: I cannot hear you.

CHAIRPERSON: If you can speak louder.

ADV MOROKA: I could not hear you either. I think Chair, we are of the same generation so hearing is a bit of a problem, so if we could both speak louder. Thank you, Chair.

CHAIRPERSON: Yes, Ms Seme.

ADV SEME: Thank you Commissioners, I accept your point, Commissioner Kgomo. You will see we are coming towards the end of it. The aim really is to explain his approach but we will move along. Perhaps to get to the stage, we are at paragraph 26 of your affidavit.

10 MR CELE: Ja, that is fine but ...[intervenes]

ADV SEME: Can you read that into the record?

MR CELE: Ja but can I finish this one of the safehouse? Because in the safehouse Botha asked if anybody did see that I was arrested and I said yes, and he said that was a pity because the arresting team made a mistake, they were supposed to shoot and kill me. And that would have been good for me because I would have been buried in Lamontville as a hero.

Now they will never know what happened to me, so fortunately or unfortunately we did when the Truth and Reconciliation
20 discoveries were made, that is one house we went to, that safehouse, and indeed one dead body of a student, a medical student, was found in that house. So Botha was not joking when I said to me I cannot disappear without a trace because there we found one student that has disappeared without trace when the Truth and Reconciliation was doing its job. So I think I should have put that because it does link

with the job of the Truth and Reconciliation Commission.

ADV SEME: I appreciate Mr Cele, your affidavit. As the Commissioner said, it is before the Commission so all your historical experiences are documented and will be taken into account. Paragraph 26, can you read that into the record?

MR CELE:

10 “What has all of this to do with the Terms of Reference of this Commission and my role as a former Minister of Police and National Commissioner? Below I connect the dots beginning with my role as a Minister of Police and specifically with my refusal to fund the litigation costs of members of the Security Branch and SAPS members like Colonel Botha who had committed gross human rights violations. I also deal with my responsibility as a Minister of Police in the investigation of the TRC.”

So firstly would be the Commissioner and secondly would be the Minister. I ...[intervenes]

20 ADV SEME: Perhaps before you get to that, it, we will begin with the funding of the police and then we will go to your position as the National Commissioner and as Minister of Police. I want you to place on record why you believe your history and where you come from, influenced how you discharged your obligations generally as a Minister of Police, particularly with reference to how when you now became a Minister or even within the Security Cluster of KZN, you

were working with the same people who had committed gross human rights violations against you, like Colonel Botha when apartheid came to an end.

MR CELE: Well indeed before I was the National Commissioner in 2009, I was an MEC of Police and Transport in KZN, so that put me on a pedestal of working with the police from very early in the dispensation of the, of the new dispensation. And I was unfortunate that I worked with a lot of the police now as an MEC and as in government with the police that were there to pursue, harass and
10 humiliate and arrest some of us that were in that government, including myself.

So I remember one guy, like I forgot his name, he was given the responsibility of constructing and formulating what was called as the Community Policing Forum and he was coming from the Special Branch, so those structures what was creating, they were further rather than working for the community, they were working for the police. That is how he was making those structures to work for the police.

So it was a pain continuing seeing those people working in
20 this particular time and yet we had to work for their comfort and make sure that they do not get to pay for these things that they have committed.

ADV SEME: So we are now getting into paragraph 27 of your affidavit. Can you read that into the record?

MR CELE: That would be, you said 27?

ADV SEME: Paragraph 27.

MR CELE:

10 “My position then and it continues to be that SAPS
ought not to have extended monies to pay for the legal
costs of lawyers who were in essence providing legal
representation of members of SAPS like Colonel Botha
who had tortured, kidnapped and killed innocent
activists who were fighting for the liberation of this
country. I did not wake up and become a Minister of
Police. I had a history before then, which I carried with
me into this position. When I had to make decisions as
a Minister of Police and issues came across my desk, I
approached them with all of my biographical
experience. Insofar as police matters were concerned, I
had a painful history. I had lost comrades, graves had
been dug up with people we knew, there were missing
persons that are still missing today where we do not
know what happened to them. I had seen exhumations
of bodies of my friends and my comrades sitting in
20 positions indicating that they were buried alive.”

 If I expand a little bit here, correctly or incorrectly, in me I
find it very much awkward that it did happen that we had to pay for
the legal fees of the people that killed people, of the people that were
running the system that was declared by the United Nation as a crime
against humanity and then those same people should then be

protected through legal, look, legal fees and legal lawyers by the very same people that they pursued and did not want them to see that.

So in my mind there was that and it is still living with me, it is still with me that they were supposed to pay for themselves the crime they have committed pursuing the system that was declared as a crime against humanity. That was my mentality on this matter.

COMMISSIONER GABRIEL: And this is why you were the Minister of Police?

MR CELE: So that is why I was the Minister of Police.

10 COMMISSIONER GABRIEL: You have this attitude while you were the Minister of Police.

MR CELE: Yes, yes, yes.

ADV SEME: So you do understand Mr Cele, that there is that position that you have, obviously informed by your history, but there is also another side to this aspect, that the truth is important for victims and their families, so if this Security Branch Police were prosecuted, the truth may have come out during the litigation process which is also all that families and their victims want, is to know what happened to their loved ones. What is your response to that?

20 MR CELE: Well indeed Commissioners, that should be so, as I have said that the people I, there are people I personally know. One person I know very well, is Matthew Goniwe. We worked together with Matthew Goniwe to establish what is known today as the Teachers' Union, so I was working with him. So it is not just a hearsay, it is not just a history to me, it is things that has touched me

very closely.

And indeed it would be good and to know what happened to all these comrades and who ordered their murder and all that. My mentality and my understanding of this, was not to stop that happening, but was to say they should not be carried by the very same people that they wanted to see them dead, eliminated and not exist. They should do that from their own steam, they should pay for the things that they have created.

For me it was a too easy and too life and too soft for them to
10 be given that opportunity to be paid for by the State, by the people that they wanted to see them eliminated anyway.

COMMISSIONER GABRIEL: But there was a court order ordering the payment of their fees. What did you do about that? Did you still refuse to pay the legal fees?

ADV SEME: Perhaps to assist you Mr Cele, you may refer to paragraph 30 and paragraph 31 in answering the Commissioner's question and you may read that into the record.

MR CELE: I will read 30:

20 "30. However, I am constrained to record that I struggled and still struggle to come to terms with the following; how could government be obligated to fund, through taxpayers' money, including taxed paid by the very people that victims, black people, the litigation costs of those who committed crimes against humanity, particularly

against black people. This was my limitation then and remains my limitation to this day. If this limitation condemns me, I am willing to go back and serve for those, and serve for my conscience of not agreeing with this thing happening at it is at the present moment.

10 31. But I am aware that the courts had indeed rules that SAPS has an obligation to pay for the litigation costs of former Security Branch members. I am further aware of this rule of law, issues arising from the judgments of the courts insofar as litigation costs are concerned, obligating me to pay for these costs. Legally and as far as the rule of law is concerned, I should have and ought to have to challenge the payment of legal costs. Indeed, I did later on, in line with the rule of law, agreed to payment of these legal costs. I attach hereto, a newspaper article detailing my reluctant position in what the article
20 terms a "somersault" as annexure."

So this is as I explained Commissioner, this is not me but there is this court. Maybe again here, the people that take decisions, South African Police people that take decision mostly when it comes to operations, would be Commissioners, National Commissioners and the Ministers. And then finally one would have signed with all

reluctance that is there, with all my feelings, with all my raw mentality to how this happens, if the law says so, one would have still signed. So finally against that conscience, but the law would have been respected.

COMMISSIONER GABRIEL: But initially you refused to pay for the legal fees, particularly in the trail of the – well particularly in the case where the COSAS 4 Families were looking for justice. How do you explain ...[intervenes]

MR CELE: Can you come again on that?

- 10 COMMISSIONER GABRIEL: Okay let me take it slowly. You have given us an article in your affidavit, referring to the prosecution of members of the police, of the former Security Branch who were responsible for the murders of the COSAS 4. There had been an order obliging SAPS to pay for the legal fees to represent the accused in that matter. There were being pursued by the NPA and the families of the COSAS 4. Initially you refused to pay those fees.

Now I understand your biological reasons, but you were Minister of Police. What did you do to comply with the court order that those legal fees are paid?

- 20 MR CELE: As I have said, these cases were dealt by the Hawks, the DCPI which is specialising on the crimes against State as these cases were determined as such. And then I would work with Head of Hawks which happened to be Dr Lebeya, General Lebeya. And the, if you look at those that we paid, was a very high kind of money that was paid for, the few of them. I think it is Dr Basson and them.

But I know that with all that reluctance, finally the operations that were done by the Head of Hawks and the Hawks, would have been then finally paid and I guess that the Commissioner then would bring those things to me, so as those things were brought to me, it would be against me but the law would have said so. So I think that is why some of those cases did continue because at the end of the day I guess some of them were paid for.

COMMISSIONER GABRIEL: But initially you refused to pay those legal fees?

10 MR CELE: Yes.

COMMISSIONER GABRIEL: Thank you.

ADV SEME: Can we go to paragraph ...[intervenes]

MR CELE: But I refuse legal because I took the matter to court. I appealed on the matter and all that, so though I refused but I wanted to remain within the law, my refusal and all that kind of stuff, yes.

COMMISSIONER GABRIEL: You did not pursue those appeals?

MR CELE: I think at the end of the day when the Head of Hawks come to me as I have said Commissioner, I paid with all reluctance, so I signed those, against those things to say we can continue.

20 COMMISSIONER GABRIEL: Thank you.

ADV SEME: Thank you, Commissioner. I want to take you to paragraph 33 and 34, it is around this part of the, of your evidence. If you can read those paragraphs into the record?

MR CELE:

“33. The State did not contemplate what the impact of

the experiences of those who were part of the liberation movement and were grossly abused, therefore would have on implementing the TRC recommendations and facilitating prosecutions by further protecting and benefitting the perpetrators.

10 34. I have detailed my background and experiences not as an excuse or justification for my actions, but rather as context against which my position must be evaluated. The positions taken are more nuanced than a simple black and white answer to the question posed by the Terms of the Reference.”

So I with all what has happened, but I do not want that to get lost, that sometimes we feel the apartheid perpetrators, things were good for them then and are still good for them now. So there is that.

COMMISSIONER GABRIEL: So in paragraph 35 you accept that your actions had consequences. Perhaps you want to read that into the record.

20 ADV SEME: It is what I were, that is what I was going to ask the ...[intervenes]

MR CELE:

“I accept that as a result of the position I adopted, there are members of the Security Branch who never faced prosecution and that affected members of the families appearing before the Commission and beyond. I also

acknowledge the pleas from the Legal Resources Centre, the Foundation for Human Rights and others whose voices were not brought to my attention, as the Minister of Police. However, right or wrong, I struggle with how and why democratic South Africa expects me to pay for the crimes Colonel Botha committed against me and my comrades.”

ADV SEME: And can we then take you through to your position as the Minister of Police? What did you do as a Minister of Police in your capacity to investigate, to show that there is an investigation of TRC cases, given the constitutional mandate of the police to investigate crimes?

MR CELE: I go to 36?

ADV SEME: 36, yes.

MR CELE:

“As indicated above, I was the Minister of Police from February 2018 to June 2024. As an Executive Head of the Police, there is a separation between myself as an Executive Member of the operational aspects relating to the police members, who act under the command of the Provincial Commissioners and ultimately the National Commissioner.”

COMMISSIONER KGOMO: Ultimately. No, you see ultimately, I am saying, “And ultimately the Commissioner of Police”.

MR CELE: Did I say ultimately?

COMMISSIONER KGOMO: I may miss ...[intervenes]

MR CELE: It is ultimately.

COMMISSIONER KGOMO: Yes, thank you.

MR CELE: Yes. So Provincial Commissioners and all that, ultimately the supreme of them will be a National Commissioner. So as a National Minister I have raised this on the [indistinct]. The Minister cannot tell the National Commissioner who and what to investigate.

10 The Constitution and the Police Act would give me the power to develop the policy and direction, and will say to the National Commissioner, create the structures and then command those structures on a day-to-day basis. So you stay afar from knowing who has been investigated, who should be investigated. I just imagine when the Ministers are beginning to say, 'Investigate So-and-So, and So-and-So'.

So but now and again the National Commissioner or any other mandated by the National Commissioner could come and brief the Minister of what is going on on that matter.

20 ADV SEME: Just on that point, when you were a Minister of Police and you were developing policy direction, did the TRC cases feature at all in your policy direction as a Minister of the Police?

MR CELE: Well the policy, Commissioners, would not be specific on your specific areas, it, the policy would develop the investigation, will show the investigation of the crimes that have been committed without specifically saying investigate cash heist, investigate murders.

So it would be the crime and then when you develop that as a policy which started from the white paper, as you develop that then it will out of the policy, the law, Police Act, will instruct the Commissioner to create the structures then to issue those individual units, those individuals' channels. So that is why you will create a special unit to deal with the cash heist, will create the special unit to deal with the murders, will create a special unit to deal with the JPV and all that.

But this one also did not fall direct under the Commissioner.

- 10 It still fell under the Head of Hawks that had a little bit of independence. So Lebeya then would have been responsible after he has been appointed, would have been responsible to specifically deal with these matters even outside the mandate of the Commissioner, of the General Commissioner of the Police, but it would have been given to the Head of Hawks as a special unit to deal with such things.

ADV SEME: But the police operating within the DPCI would still be members of the South African Police Service. Can you explain?

- MR CELE: Yes, they are members of the South African Police, but
20 they report direct. They report direct to the Head of the Hawks. One major problem that the Hawks faced that was a reality, is that until I left the police, Hawks were always operating almost on the 50, 50 plus capacity, they were never in the full capacity to operate there.

So they will request and take the police and recruit from the South African Police and immediately they come here, then they will

report to the Head of Hawks rather than the National Commissioner. There is this problem of a mighty crossing within the law enforcement agencies, that would be, well there is IDAC, now there is IPID, there is Hawks, there are police.

All these, they do not train their own people, most of them including the IPID, they come from the police. Including the IDAC, they come from the police and other structures of police like Crime Intelligence and they... and IPID to IDAC. So that makes sometimes have what you would call the turf wars, people that will leave from
10 police because they are angry and they go to the IPID and sometimes they go the extra mile as a revenge and avenge instead of dealing with the job.

So it would have been good if every other structure would develop their own people from the very word go, to know that Hawks will get their people, go and train them, IDAC get their people and go and train them, because it leaves some kind of a bitter taste when maybe you have a problem with a particular structure. Let us say you have a problem with the police, now you must go to IPID and IPID, their job is to look after the police. You might go an extra mile
20 because you are still angry, rather than doing the job.

So I think that is part of the things that maybe when it is recommended, it would be really good that all other law enforcement agencies, they develop their own people rather than having this gross kind of people.

COMMISSIONER GABRIEL: Minister, were you aware that the TRC

report recommended that those who had been refused amnesty using one set as an example, that the State ought to follow a bold Prosecution Policy? Were you aware that there were many cases arising from the TRC Report that required investigation first before the prosecutions could follow?

MR CELE: Yes, I was aware that there was an investigation to be made by the police, but investigations as I have said, do not come to the Minister. The Minister should not even know about who investigates who, so the investigation will go straight to the operators.

10 So on this case it would be the Head of the Hawks. I could not know but it is not my job to know who has been investigated and not investigated, it is the National Commissioner and the Head of the Hawks. I might know but when it comes to operations *per se*, it could not be me running that.

ADV SEME: Mr Cele ...[intervenes]

COMMISSIONER KGOMO: Can I just come in there, general? But as Minister of Police you would sign off on the annual report prepared by the DPCI. Is that correct?

MR CELE: Yes, that is correct.

20 COMMISSIONER KGOMO: Yes, so in other words you, you would know what is happening at the DPCI?

MR CELE: It is exactly what I said to the Judge, to say I would know that there are cases to be investigate, but I would not know who is investigated by who. I would know that there were investigations and the Head of DPCI would say, 'We have investigated these cases, so

many people we have arrested', but would not sit in front of me and give me head-by-head investigation, who is supposed to be investigated.

No, that is not for the Minister. That [indistinct] would be really political interference if the Minister can go to those details. But the overall report from the Hawks would be brought, this is the job we have done, we have investigated these case, we have investigated the cases, one case, the other type like a cash heist that falls under mandate and all that we have investigated, but giving you details that
10 we investigated Bheki Cele and we found him guilty, that would not be the purview of the Minister.

ADV SEME: I take you to paragraph 37 and ask you to read that into the record. In fact, begin at paragraph 36.

MR CELE: I think I have read 36.

ADV SEME: You have read 36?

MR CELE: Yes.

ADV SEME: Okay. As the Executive Head of the Police, there is a separation between yourself as the Executive Member and the operational aspects relating to police members, and ...[intervenes]

20 MR CELE: So what ...[intervenes]

ADV SEME: Paragraph 37.

MR CELE: Okay.

ADV SEME: Go to paragraph 37, sorry.

MR CELE:

"What I accept firmly is that the police are charged with

investigation of all crimes within the Republic of South Africa. This is an obligation flowing from section 204 of the Constitution and is giving effect to by the South African Police Service Act, the various regulations, policies, directives and practice manuals regulating the functions of the South African Police Service. It is this regulatory framework in its entirety that must be considered when examining the investigative role of the police relating to the investigation of the TRC cases.”

10 I explained exactly that, that the Minister cannot wake up in the morning and call the National Commissioner or the Head to say, ‘Who are we investigating today? Can you go and investigate So-and-So?’ No, that goes straight... Even if let us say the information comes to me to say there is something that happened, I immediately pass that to the National Commissioner or the Head of Hawks, but I cannot say, ‘Go and investigate So-and-So’.

COMMISSIONER GABRIEL: So am I understanding you correctly? During your time as Minister of Police, you took no action in respect of the investigation of the TRC cases, you formed no policies, you
20 took no action, you were unaware of the investigation of these cases and whether they were happening at all. Do I understand you correctly?

MR CELE: No, I would not say I took no action. For instance, if the Head of Hawks would bring the information, I would not say no to the Head of Hawks, but at the same time I would not say, ‘You go and

investigate'. I believe that there were cases that were investigated by the Head of Hawks, by then which I would not have said no. So taking action maybe if it is financial matters and all that, the Accounting Officer at the end of the day of the police, is the National Commissioner.

Even for the Hawks when it comes to finances, you will sign that with the National Commissioner, though there is that independence and all that. So I could not have said to the Head of Hawks and the [indistinct], 'Do not investigate that', so as I was aware
10 that there are those cases and I am aware that there were cases that the Head of Hawks continued to investigate.

CHAIRPERSON: Yes and Mr Cele, if there ...[intervenes]

MR CELE: Yes, Chair?

CHAIRPERSON: Were complaints regarding the investigations surrounding TRC cases, who would bring those complaints to you?

MR CELE: It could be the members of the community, it could be the families, it could be any other South Africans that feel that way that it has got the complaint. But as I have just explained, once the complaint is brought to me, mine is to hand over to the people that
20 have a legal right to pursue those things. And I cannot even tell them that, 'You go and investigate that'.

I will say, 'There is this information' and then I give that information to the police. It could not only that, there are many other Chair, things that would come. I received the call to say there is something happening there, I cannot just say. Most of the time I

would speak to the Provincial Commissioner to say, 'This is information that I have received, can you check on it?'

And then the Provincial Commissioner would look and sometimes he will come back and report to say, 'Indeed that was a correct information', but I cannot say, 'There is this, you go there and investigate' but I can hand over the information. Any party can raise the issue with me and it is up to me who do I think is relevant.

My most relevant outputs would be National Commissioner and the Head of Hawks, because it is not my job to run around
10 instructing police. I can speak to the Provincial Commissioners, but I cannot go to the police station and tell the police what to do and not what to do.

ADV SEME: Yes. Mr Cele, during your tenure as the Minister of Police, did you receive any complaints from the DPCI or members of the public about the shortage of investigations or of investigators in relation to TRC cases?

MR CELE: Though I cannot remember the specifics, but I would not say no, I did not. Fortunately or unfortunately I fall in the same category myself, that I would complain that I in my head, there is this
20 picture I have of that young [indistinct] boy who is my next door, whom I know very well was younger than me and all that.

I was told when I came out of prison that he went to exile and disappeared, no, but he... I would love to know one day what happened on that boy, but there are, people would talk and many of us would love to know and people will raise it, as I have said that the

structures then that are meant for that created by the legislative framework to do it which had the police to investigate, they would have to do that.

ADV SEME: I am just asking a specific point because, and I am asking because there is a refraining complaint that the PCLU initially who were investigating and charged with investigating and prosecuting TRC cases, complained that they did not have enough investigators, so the police did not provide investigators to the units that were mandated to investigate and prosecute TRC cases.

10 So I want to know that during your tenure, were such complaints brought to your attention by the Head of the DPCI because you operated at that time when the legislation had changed and the Hawks were now the investigators of priority crimes and TRC cases are priority crimes? So did you ever receive a complaint from within the police structures that there are not enough investigators to assist with TRC cases?

MR CELE: Commissioners, I have made the point that says DPCI Hawks, they operated much under their capacity. At one time there would be 50%. That information Commissioners, would come as a
20 generic complaint of their investigation capacity rather than to say we cannot investigate this one, the TRC, we cannot investigate the cash heist, we cannot investigate the fraud and all that.

But I know as I am seated here and I still believe that it is still so, that the capacity has not reached the level where the Head of Hawks would say, 'I am comfortable with the capacity I have', but

that capacity would not have complained with specifics that we cannot investigate. It was a capacity across the investigations and the generic investigations of the Hawks..

ADV SEME: And then what steps did you take as a member of the Executive, to ensure that your, that the Police Service is adequately resourced in order to deal with cases in general but specifically TRC cases?

MR CELE: Well again my efforts as an Executive Member would be across the board, rather than specific that Hawks... Would be across
10 the board. I hope Commissioner Justice Kgomo, I am not going all over. There was a time, 2010 there were a 195 000 members of the South African Police and there were 50-million South Africans. When I came back in 2010, there were 185 with 60-million South Africans.

So you could see internationally, I think internationally it is supposed to be for proper policing, it should be one, is one to 220, but when I came in South Africa, it was one to 400. So this is generic under capacity of the South African Police, so which means ...[intervenes]

COMMISSIONER KGOMO: Sorry ...[intervenes]

20 MR CELE: All other units then would be under capacity ...[intervenes]

COMMISSIONER KGOMO: Sorry, you say a 185, not 185 ...[intervenes]

MR CELE: 1 000.

COMMISSIONER KGOMO: 185 000, yes.

MR CELE: Yes, yes, okay, 185 000, so which means all units would be under capacity, hence at a certain given point I went to the Minister of Finance, Tito Mboweni, may his soul rest in peace and I said, 'Can we please work on this thing of this reduction of the South African Police?' And he said, 'If it is so, the Health is complaining, Education is complaining, it would birth across the board'.

But as I said, I pursued it in the Cabinet to such an extent that at a certain given point, the Cabinet did agree with the President to say... I cannot remember the years, 'That we will try to increase
10 the capacity of the police in 10 000 per training'. All the time when you train the South African Police Service a year, it would be 5 000, but we put 30, that we train 10, 10, 10.

All other units whether it is Crime Intelligence, whether it is the Hawks themselves, they go and recruit from those students, so as we increase that base which means you are increasing the capacity of all other units. To answer the question that was asked, yes I tried to put a lot of effort to increase the capacity of the South African Police at all level, including the Hawks so that they can investigate those cases that they are mandated to do.

20 CHAIRPERSON: Were your efforts successful?

MR CELE: I do not think Chair, at the level that one would have. Look, you know as you put these 30 000, I remember one day every month I was signing about an exit of 100. At one time I was signing 302 one month of police that were exiting the system. I called them and said, 'This House is burning, what is the story here?' As you

were putting these young ones there, there is a huge exit in the top level which further weakens the capacity, because that is an experience that is leaving.

So successful I would say no. But efforts done, yes, we need to pursue those efforts until we reach the element where we believe that the capacity has been built, Commissioners.

ADV SEME: Thank you, Mr Cele. Can we now move to your position as National Commissioner of the South Africa Police Service? Now you are now operational and that is where you made
10 your correction at paragraph 40. What was your contribution to the TRC cases?

MR CELE: Paragraph?

ADV SEME: 40.

MR CELE: Well I started being a National Commissioner before I was a Minister. I was appointed 2009 and until 2011. At that time, again I do not think much attention was brought to me about the TRC cases. I am sure the Head of Hawks then was General Dramat. It was General Dramat who was the Head of Hawks then. I am sure if there are cases that would be, then would have directly sent to him. I
20 must admit on this one that my coming into contact with these cases of Truth and Reconciliation, came to me more as a Minister rather than as a National Commissioner.

COMMISSIONER GABRIEL: Why was that because now you were responsible for operational matters? Are you saying you did not know about the TRC cases while you were National Commissioner?

MR CELE: Commissioners, when I became a National Commissioner, we had a very focused project. That was the 2010 World Cup. I am sure many other things I admit, would have maybe taken a little bit of a backseat because we had to make this 2010 happen and there was a big issue of 2010 cannot come to South Africa because we were a paradise of crime, so the world did not know.

Again Commissioners, the South African Police saved the World Cup. Maybe that is not a big good story that it spoken about
10 the South African Police, saved the World Cup when in March it was supposed to start on the 9 June, when in March the President of SAFA called on the National Commissioner who was in East London launching the TROT, to immediately come to OR Airport where I found the Secretary, Mr Valcke, who was in tears because the World Cup was going either to Australia or to Germany.

And then the National Commissioner had to put the team of generals. There were 13 of them to go to Zurich and the headquarters of FIFA to say, 'Bring the World Cup, it would be safe'. That is a trip that saved the World Cup coming to South Africa.
20 Unfortunately not too many people know that good story of the South African Police. So ...[intervenes]

COMMISSIONER GABRIEL: And what about the stories of the families who were waiting for justice arising from the report of the TRC?

MR CELE: Commissioners, no other operation that was stopped, no

other operation that was stopped but I am simply saying to the Commissioners, South Africa and the world has this focus that had to be dealt with in that particular time, but it cannot be that all other units, for instance I remember very well that we were still very much up with the cash heist, with the GPV and all others, so maybe if at that particular time the Head of Hawks can give us a better understanding what was their take when it comes to that, but it, there was never a time when any form of cases of any unit was stopped because it was 2010.

- 10 ADV SEME: But you say in your statement that there was this focus and obviously diminished capacity for all the generals are flying to Zurich and they are flying to or flying all over the world trying to convince the world that the World Cup must come to South Africa, so are these competing interests and in a way TRC cases are not receiving that, as much focus as they would had, there being no World Cup?

- MR CELE: No, I would not say so, that it diminished the focus on other units including this. By the way, even then Hawks had their particular capacity. Even then it was almost having this
20 independence under General Dramat, so they would have continued with the cases that are for the investigation by the Hawks. But again I would be lying if I say there was no extra focus to the World Cup in that particular time but which does not mean that all other activities of the South African Police according to the units, was stopped.

ADV SEME: Okay.

CHAIRPERSON: Mr Cele, in paragraph 41 of your affidavit, you say that you take responsibility for the delays that occurred during that period. Do I understand you correctly that you take responsibility for not having attended to TRC cases because of the World Cup?

MR CELE: Not specifically for it would be part of it. I take responsibility ...[intervenes]

CHAIRPERSON: It would be part of it?

MR CELE: Yes, but it was a generic kind of work of the police, even in that particular... As a National Commissioner it would be folly for
10 me to say I was not responsible for the functioning and full capacity of all units, but this functioning of the capacity of all units is based on the resources that are given and the Minister of Police will take what he gets when it comes to budget, otherwise it would have been nice to say this is the amount I want and then you get.

But I would really be, it would a folly and foolish of me to say the National Commissioner cannot take the responsibility of the under capacity of the resources at that particular time at the level of operations.

COMMISSIONER GABRIEL: So during the period 2009 to 2011
20 when you were National Police Commissioner, as I read your paragraph 41, you accept that there were delays in the investigations of the TRC cases. Am I reading that correctly?

MR CELE: Can I read it?

COMMISSIONER GABRIEL: Yes, please.

MR CELE:

“I take responsibility for the delays that occurred during that period. However, as I detail hereunder, in my capacity of Commissioner there were several matters that required my attention and to which police resources had to be deployed during that period.”

COMMISSIONER GABRIEL: So I am trying to understand what responsibility and what delays are you accepting.

MR CELE: You see, one other, maybe specifically when it comes to this one, the capacity of the Hawks has been always a question.

10 There was no time when it was full. The then... Hence when I came as a Minister and we appointed General Lebeya and tried to work hard in the increase of that capacity including the capacity of Hawks, but the responsibility for me is a functionality of the police *vis-à-vis* the shortage of resources, which shortage of resources is not the make of the National Commissioner, it is a make of the Cabinet where the decisions of budget are taken.

COMMISSIONER GABRIEL: So what delays are you taking responsibility for in your paragraph 41?

20 ADV SEME: Perhaps... All right, perhaps to guide you, to remind you of the context of the operations of the police around 2010 including threats to, coming from Al-Qaeda and others, and what that meant for the Hawks and all the other divisions?

MR CELE: Well Chairperson, as I have said that the police saved 2010, maybe it is not all the stories that happened during that time that one can tell. I agree that there would have been while all other

units were doing their job, there would have been a concentration of resources to the project that was a national project that was there.

As we would take these Commissioners on there, but also there were other threats besides the withdrawal. I remember that there was a statement issued by Al-Qaeda from Tunis that they would be very happy to see the bodies of Americans and British all upside down as the World Cup was continuing and there was a match of America and England that was playing in North-West, so you would as a National Commissioner look that you maximise, you maximise
10 your efforts and your resources to be really that part of that statement is not realised.

So it would be the issues, others in a subtle way that the resources would be moved towards that 2010. But I want to emphasise, at no stage that the units were stopped to do their work, they might not have had the luxury of getting more money, concentrating and focusing to the 2010 like all other units.

CHAIRPERSON: Yes, but you do accept that there were repercussions for other cases as you were dealing with World Cup matters?

20 MR CELE: Well the repercussions are there and are still there for the very fact that resources are not enough. Chairperson, the repercussions are still there. There is a, is that a ...[intervenes]

ADV SEME: Sorry, just to come in, just on this aspect of TRC cases only, so I mean there are other issues we admit, but if we take them as an example of the general that when your resources are focused

on a particular project and it would not, it would be 2010 and it will go beyond but you are coming in 2009 and 2010 is just an effort that you are leading up to, to host this World Cup, that it does become a success, as you do that you must accept that when you pull resources away to focus on a particular project, surely the other units will function but they will not function at the capacity that they ought to be functioning in and the consequence of that would be that there would be delays which is what you are talking about in paragraph 41.

COMMISSIONER GABRIEL: Specifically delays in the investigation
10 of the TRC cases.

MR CELE: In principle I will agree with that.

CHAIRPERSON: Yes.

MR CELE: In principle I will agree with that but in details I would not know what was going on with the Head of Hawks that was there at the time. Look, there is no instruction, no attempt to say, 'You stop your operations in your particular unit because we are busy with the 2010'. Maybe the resources which by the way I must agree, there were extra resources that were put for 2010, no doubt, there were actual resources that were put from the Treasurer in that particular
20 time, but it went there.

So let us say if those resources were put and they should have been put across the units, that would have increased capacity there at that time, but I do want to make this point, that nobody has said to any unit whether it is Organised Crime with a cash heist, whether it is FCS with the GPV, whether with the drugs and

everything, whether with the kidnapping who said you slowed down at your work because you are busy with the 2010.

All units had to work maybe on the normal not increased capacity as it would have been done with the preparation of 2010.

ADV SEME: We have come to the conclusion but before we get to that, I just want to deal with one aspect. The investigation of crime you accept, is the obligation of the police, South African Police Service.

MR CELE: Yes.

- 10 ADV SEME: And TRC cases are also crimes. So to the extent that there is evidence before this Commission that there was not enough capacity to investigate, it is the police who should have provided at all times the capacity to investigate TRC cases. No other, in other words no other arm of the State or department of the State has the obligation to investigate crimes in this, in the Republic of South Africa.

- MR CELE: No, I would not entirely agree with that. I guess if you can say 'Head of Hawks, Head of Organised Crime, Head of Intelligence, give us your needs for your full capacity,' life can be
20 easy. I do not remember at any given time where you would make the suggestion of this money to the Cabinet and to the Treasurer and get that money. For me then it would be very much unfair for the police alone to face the consequences of the capacity of resources.

It would be, because resources, police they take what is given to them, not what they want, not what they need, what is given.

You budget, I remember I would complain there is a combat, it is a committee that deals with budget before it is announced, I used to complain to say there is not even a single Security Minister that sits in that body, ourselves to go and argue then on that.

So hence now and again, even this 30, this 10, 10, 10, I would always be very much thankful to the present Minister of Finance, Treasurer, who is one Minister that has been a little bit sympathetic when it comes to the police issues and finances. So the non-resourcing and the incapacity of the police to do the work cannot
10 be only put on their door, it also goes with the entire available of the resources that are channelled to the police to work on it.

Not, I know we are talking about this and these cases, but there are many other cases that they cannot get favour because of the non-capacity that exists across the police.

COMMISSIONER GABRIEL: So who then should take responsibility? This Commission has heard over a substantial number of months now, evidence of a failure to investigate, even decades later. Who in your view should take responsibility for that?

MR CELE: Chair, I think it would be across the government when it
20 comes to the budgeting issues for me. Yes, police would have done one particular thing. I have raised this thing time and again, that at the present moment I do not think, I am not there now, I do not think that the Hawks operate more that 60% capacity. That is not their making.

That is not their making, it is the making of resources of

employing those people, teaching them, buying machinery, buying equipment and all that kind of stuff, and it is a highly specialised and sophisticated area of policing. You just do not need an ordinary police when it comes to Hawks, we need forensics, we need accountants, you need people that they would go there and know their job. They do not come cheap, those people.

So for me, for even these cases are not easy cases to investigate, these are difficult cases that you need a top notch kinds of skills and top notch kind of skills do not come cheap, and that
10 money does not come from the police *per se*, it comes across the government.

COMMISSIONER GABRIEL: So you are saying the State should take responsibility?

MR CELE: If you ask me I am reluctant to say so.

ADV SEME: Commissioners, Chair, may I kindly request a break and then we can continue after lunch?

CHAIRPERSON: Yes.

ADV SEME: Kindly.

CHAIRPERSON: Yes, we will take a lunch adjournment until 14:00.

20 INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Good afternoon, Ms Seme.

ADV SEME: Good afternoon, chair.

CHAIRPERSON: Yes, you may proceed.

EXAMINATION BY ADV SEME (CONTINUES): Mr Cele, I have two

issues that I will canvass with you. I would like us to tie up that loose end around the responsibility for the investigation of TRC cases, the issues around the budget, and how the police have always been under-resourced.

MR CELE: Ja, no, thanks, commissioners. If you remember, I was asked if I put blame to government, I said reluctantly so. Because sitting in the government is a cabinet minister while you are given an opportunity to work on your lane, you have an opportunity of having the IPID view eye on the issues.

10 South Africa has issues, big issues, starting, most of them stemming from the history. If you look at education, so much money is spent, even now, for our kids to be at school. That NSFAS matter, I just imagine how many of those who would not have gone to school if there was no NSFAS, the responsibility of government.

 So there were some of us who were killed by not having money to go to hospital, you could not go if you do not have money. So that is the responsibility of government, South Africa, minimal as it could be, but finding some grants for South Africans to have some, a little bit of a slice of bread or not.

20 So while you are given the responsibility that you are an executive of this particular, but you listen to other colleagues putting, and you look at things you see that, really, the responsibility is quite huge. So hence, reluctantly, because I have a "helicopter eye" view on the matter. But that does not mean that as a human being you are not there. Indeed, as a human being we can always maximise the

effort.

So even if it is not financial, in other words, but morally, for the fact that we are given the opportunity to lead, it is because people would expect. So mine would be to say you do the best of your capabilities, and for that it would be foolish to say I am clean, I have no responsibility, and all that. But not saying that because one went to sleep when one was given the responsibility, thanks.

ADV SEME: Thank you, Mr Cele. Commissioners, there is one issue, I do not think it is in the bundle, but it is in the Calata bundle at
10 page 1003, the pagination on top is 67. If I can just be reminded of the bundle number of the affidavit of Mr Khoza? We will revert to the Commission with the bundle numbers so that you are able to cross-reference when we deal with this issue, and that the record reflects accurately where in the record.

Mr Cele was mentioned by the Calatas, and giving him an opportunity, it is not in his affidavit, but to be able to respond. It is a confirmatory affidavit of one of the family members who is alleging that Mr Cele might know something about the disappearance of their father, but he is withholding the information.

20 They are also alleging that Mr Cele could have done something because he was very close to their father. Mr Cele, without knowing of this affidavit, had already mentioned the pain he feels about the disappearance of Mr Phewa. So I would like to give Mr Cele an opportunity to talk to these issues that are contained in

our record, which he was not aware of, and were brought to his attention.

CHAIRPERSON: Yes.

ADV SEME: Thank you.

CHAIRPERSON: Yes, you may.

ADV SEME: Thank you, chair. May you continue, Mr Cele
...(intervenes)

COMMISSIONER KGOMO: Maybe you may start by reading the
allegation by the person who says General Cele might know about
10 the disappearance of the next-of-kin. That would be better for the
record.

ADV SEME: I will do so, commissioner. As I had indicated, the
allegation begins at paragraph 16 of this affidavit, and it is page 1006
of 67 of the Calata papers:

20 "Post the Truth and Reconciliation Commission,
in 2002, my aunt Zama Phewa submitted an
application on my behalf to the Department of
Finance so that I could benefit from my father's
special pension. My aunt had to submit
supporting documents, which included my father's
certificate of service and a biography that was
authored by my father's close ally, Bheki Cele.
In the biography, Cele stated that he made
enquiries after my father disappeared, and he
heard that my father left for exile in Uganda or

Nigeria. This depiction never sat well with our family. We knew that my father never had any intention to go into exile. We were highly suspicious of this claim. We suspect that Cele knows more about my father's disappearance, but he is not disclosing information.

10 And given the fact that my father was closely involved with comrades who climbed the ranks within the ANC, like Bheki Cele, Vusi Ngcobo, and Zimba Khupetete. We remained hopeful that when the ANC government came into power, time and resources would be allocated to find out what happened to my father. This turned out not to be the case."

And then again on the family's attempt to uncover the truth, Vusi Gama, the uncle of the deponent, who is the son of Mr Phewa, who disappeared, says on the affidavit that:

20 "On 13 August 2008 my uncle wrote to Bheki Cele, who was the MEC for transport in Kwa-Zulu Natal at the time to request his assistance in establishing the truth about my father's disappearance."

Then a copy of that is attached:

"My uncle was under the impression that Bheki Cele would come to the family's aid because of

the close relationship that he had with my father. Cele had political influence, and we were hopeful that he would use his high standing in the government and the ANC to help us to get to the truth. Cele never responded to my uncle's emails, and we took this to mean that he did not have any interest in solving my father's disappearance."

Can you comment on that?

10 MR CELE: No, thanks, commissioner ...(intervenes)

ADV SEME: And, sorry, just before you comment, it is bundle 9 of the Calata papers. Sorry, commissioners.

MR CELE: Can I go?

ADV SEME: Yes, you may continue.

MR CELE: No, thanks, commissioners. You know, people, they do not know who is it that you go around with bleeding and painful. Besides losing comrades, many of them we lost, they were friends, beyond being comrades, some people were friends that you grew up.

20 There are quite a few names, Phila Ndwandwe is one of those names, who was abducted and killed, and his grave was at Kato Ridge. She left, and fortunately I found her in the camps training in Angola. One guy is Lulu Gasa from Hammarsdale, we were so close.

I remember when we were training, when we were carrying company machines, guns in the camp, we say, "What is wrong if we

march straight home like this?", we were just friends and training. And Lulu died with the Piet Retief 9, Piet Retief 9, all those kids came from Durban, Lamontville. I knew them all, all of them, without fail.

In my talks, not just here this morning, whenever I talk about those people I lost, Sbho is one of those people that I forever mention. Sbho is the name that we say Phewa, we called him Sbho. Wherever, he one person that I lost. Now, it hurts me to hear this kind of affidavit, it really hurts me, that has hurt me big time.

COMMISSIONER GABRIEL: So are you saying that what is in that
10 affidavit is inaccurate?

MR CELE: Absolutely, big time.

ADV SEME: Mr Cele, have you ever authored a biography?

MR CELE: Big time.

ADV SEME: Mr Phewa.

MR CELE: Just before that, I was 19, Sbho I think got lost in about 1987.

ADV SEME: Yes.

MR CELE: I think I was between exile and prison, I cannot remember, I think I was arrested somewhere in 1987. So my take
20 when I asked where Sbho, I was told that he went to exile and disappeared. I think that is a statement I made here this morning, and I did not know about this affidavit. So all my life, what I know is that Sbho went to exile, he did not reach exile, but he disappeared. So I hear that he was kidnapped by these three people and all that. For me, that is new information.

There was a body, I cannot remember who led it, that was doing confirmation of the comrades that would have come up front and say they have lost their relatives, they have lost their people in the execution of the struggle. Those names had to be affirmed, because many people, the real people do not know, they never heard of them, they would come forward, especially with the reparations, especially with that.

And then, surely, Lamontville, where I grew, people would have asked if I know Sbho. I would say yes, I know him very well, I
10 worked with him. Though, these people he is mentioning, Ngcobo and Zimba, were young people behind us. So he is not mentioning the real people I worked with, Jabu Sithole, Baba Dhlamini, Lechisa, Angel, and all, they were youth, but little bit behind us.

But knowing him, I knew him even beyond because he was next door, he was just two houses away from the house where I grew up in Lamontville. For the kind of thing to say I know more about what happened to Sbho as if I was, people that would have briefed me about knowing more would be the special branch that it ended with. So I take that with a lot of pain, to say there is somebody
20 somewhere that thinks special branch would have briefed me about Sbho.

Biography, I do not know what kind of biography that you are talking about, whether it is a book or what, but I have not written my own biography. I intend to write about it. I intend to write about it, but I have not. So I have not written any biography about anybody.

Maybe if somebody would have asked a question to say you know so and so, if I know so and so.

Actually, there are many people that people have asked me, especially with this information, so that they can get reparations and taken forward and all that, and put in the database and all that, the database, so I would. But ...(intervenes)

CHAIRPERSON: You mean reparations for the TRC?

MR CELE: Yes, yes. So I really do not want to take this one, it disturbs me ...(intervenes)

10 COMMISSIONER KGOMO: Do you understand it, if they say you probably know more or you know more, do you understand the statement to be saying you did not disclose what you know, and so they would want you to disclose, is it how you understand it?

MR CELE: Chairperson, I understand it in a negative way to say they expect me to have known more, and they do not take, they negatively take my understanding to say I thought he was in exile and disappeared. So they say he was abducted and never intended to go to exile. I do not know, I left to exile far before him. By 1987, I was back operating in the country, going to prison and all that, so I would
20 not know.

But my information when I asked where is Sbho, I was told he left for exile but never reached exile. So it is the first time I hear today that he was abducted by those three guys and was killed and all that. So my pain, Judge Kgomo, comes, maybe I have a wrong understanding.

My understanding seems like I have some collaboration in understanding with the people that abducted and killed Sbho. And those would be, surely, those would be the special branch guys. I know about Kubela (Indistinct), who was from KwaMashu, that we worked with and all. I guess herself was killed and all that, working with...

So for me, that would really, really hurt me, to such an extent that maybe it would be good one day to go to the family of Sbho. if they are still there. I still go to Lamontville, but I spend time visiting
10 people that I grew up with when there are nice things happening in the township.

But I did not know that there was such an issue. If I knew that there was such an issue, I would have really availed myself to the family to take the matters through. But the inaccuracy is there, they are not just big, they are also painful.

ADV SEME: Do you remember receiving an email from Vusi Gama when you were MEC for Agriculture?

MR CELE: I do not think I know Vusi Gama. I do not think I know Vusi Gama, but it does not mean I cannot receive an email from you if
20 I do not know you. But if I know Vusi Gama, it would have been easy to remember the email. I cannot deny it. You know, there is, I do not know which year that would be, I do not know which year
...(intervenes)

ADV SEME: It was in 2023, in 2023 Vusi Gama writes to you, no, in fact, on the 13 August 2008. Commissioners, this is page 1014 of bundle 9. And Vusi writes to you, Mr Gama writes to you and says:

"Dear Honourable MEC Cele.

Today I unintentionally went through..."

(intervenes)

MR CELE: Which year, sorry, which year is that?

ADV SEME: It is 2008, in August.

MR CELE: Okay.

10 ADV SEME: And he says:

"Dear Honourable MEC Cele.

Today I unintentionally went through the Truth and Reconciliation Commission of South Africa report. The name of Sbho Musa Phewa from Lamontville is written amongst the list of the victims. Sbho is the father to my only nephew, Mbuso. When Sbho decided to exile, Mbuso was still in his mother's womb.

20 The mysterious circumstances under which Sbho died are a painful story that has turned Mbuso into a victim. Mbuso is a victim because he does not know how and where his father died. Zama, a sister to Sbho, and my sister have tried to find closure to the matter, but lately they are running out of steam. It is because there seems to be no

progress regarding the investigations.

I therefore humbly appeal to the MEC for assistance to discover what happened to my brother-in-law. Seemingly, time is not on our side. Each time Sbho's son asks for financial assistance from me, I always wish his father was here. He is even battling to get funds so that he can further his education at a tertiary level.

10 South Africa is a free country today, but some sons and daughters of the people who struggled and sacrificed with their lives are feeling the pain of growing fatherless and suffering from financial muscle, therefore, pain and tears is their story. I am requesting for assistance from the MEC because of your will to assist where you can.

May Sbho rest in peace."

COMMISSIONER KGOMO: Yes, can I address myself first to Mr Soni. I am not so sure how this escaped you. It seems that, I am glad that the general is prepared to answer, but it seems to me it is a
20 bit of an ambush, that he did not get this type of information in the rule 3.3 notice so that he can prepare himself thoroughly. I might be mistaken, Mr Soni. What happened?

ADV SONI: Commissioner, I understand the position, we were informed this morning ...(intervenes)

COMMISSIONER KGOMO: The microphone is not on, is it?

ADV SONI: Oh, sorry.

COMMISSIONER KGOMO: Yes, yes.

ADV SONI: We were informed this morning by Mr Varney about the existence of this information in the Calata affidavit. And Ms Seme, in order to deal with all matters concerning Mr Cele, then raised it with Mr Cele, as I understand it, at lunchtime. Now, you are absolutely right, Judge Kgomo, that at the end of the day it is an ambush ... (intervenes)

ADV SEME: If I may, just to correct the circumstances. It definitely is
10 not an ambush, Mr Kgomo.

COMMISSIONER KGOMO: Yes.

ADV SEME: I conversed this issue with Mr Cele properly, and it was only after I had satisfied myself that Mr Cele is comfortable and, in fact, wants to address this properly, that I am now raising it. I was quite aware of the circumstance of ambush, but the pain he felt, he felt he could not even leave it to a later stage, and that is why he needs to, he wants to address it now. Thank you, Mr Kgomo, for raising that.

COMMISSIONER KGOMO: Yes, because that at least allays my
20 worry, speaking for myself.

ADV SEME: Thank you, no, just to place it on record, during lunchtime I spent quite a bit of time, and you will recall that Mr Cele, I had consulted with Mr Cele, he is very much familiar with the issue of Sbho and Phewa, so it is not the first time. He himself raised it when

I was leading his evidence, that it was one of those things, and he is familiar about it.

CHAIRPERSON: Yes, I think he had raised the name of Phewa in his evidence before we adjourned for lunch.

ADV SEME: Yes. Thank you so much, chair. Thank you, Mr Cele. Does that accord with your recollection and how you have dealt with the issues?

MR CELE: No, I do not feel ambushed on the matter.

COMMISSIONER KGOMO: Thank you, general.

10 MR CELE: No, I do not feel ambushed, but I feel sad, but it can go forward. I have suggested that if I need to see the family or whoever else, but the last reading, I do not remember per se receiving that. That would be 2008.

ADV SEME: 2008, yes.

MR CELE: I do not remember. I am not denying it, but I am sure, nothing raises the name Vusi ...(intervenes)

ADV SEME: Gama

MR CELE: Vusi Gama as a person, but which means I received it. Surely I would have taken to those people that were dealing with
20 these matters, because it was not within my capacity to investigate these things. There were bodies that were some churches and some people.

I remember there is this, I forget his name now, who was taking our CVs, and fortunately he is still there, I go to the gym with him even now, who was responsible for taking our names so that we

can go to the database of the people that were in struggle. I am sure those are people that I would have spoken to, because it was not my purview, it was not in my hands to pursue those matters, thanks.

ADV SEME: Thank you, Mr Cele, and thank you for your evidence. I would like to take you to the last paragraph of your affidavit, but before doing so, I assure you that the Commission takes cognisance of your pain. We understand that this is a very painful process, particularly for people who really worked hard for the liberation of this country, and that this is not just a run-of-the-mill issue, but that it does
10 raise wounds. And for that we apologise, and thank you for your participation in the liberation of the country. Will you please read the last paragraph of your..." (intervenes)

MR CELE: Is that the conclusion now?

ADV SEME: Yes. May you please read the last paragraph of your affidavit?

MR CELE:

"While there can never be a justification or
excuse for any failure to investigate or prosecute
TRC cases, I place before this Commission the
20 nuances involved, and argue that this is not a
matter where issues are "black and white", and
only about constitutional obligations and
legislation.

The issues are about real people and their
histories and how, in my case, as Bhekokwakhe

Cele, navigated his biographical experiences and also tried to fulfil his constitutional obligation in a democratic South Africa with leaders and opponents who had a past in the brutality of the system we lived in called 'apartheid'."

ADV SEME: Thank you, Mr Cele. Commissioners, I am concluding my examination-in-chief.

CHAIRPERSON: Thank you, Ms Seme. Ms Moroka?

10 COMMISSIONER KGOMO: Ms Seme, switch off your microphone, please?

CROSS-EXAMINATION BY ADV MOROKA: Thank you, chair, just one small question, Mr Cele. And maybe before I do that, chair, just to place my junior on record. Her name is Anisa Kessery.

CHAIRPERSON: Anisa?

ADV MOROKA: Kessery.

CHAIRPERSON: Kessery?

ADV MOROKA: K-E, Kessery.

CHAIRPERSON: Kessery, thank you.

20 CROSS-EXAMINATION BY ADV MOROKA: For the Minister and the Department. Ntate Cele, you were asked a question by the chair *apropos* the issue of capacity and what you did, and you were trying to explain. Part of the answer was that it was not in your purview, but you tried to increase the number of investigators for the Hawks. Can I refer you to page 23? It is BC, I think BC2 of your annexures.

MR CELE: Page 23?

ADV MOROKA: Yes, the second last page of BC2. You give an answer there that I would love if you could read it into the record. And it will start with: "Cele had previously given Parliament an undertaking", and more specifically the second paragraph thereof, because it answers the question that the chair had asked you.

MR CELE: Can you repeat, page?

ADV MOROKA: Page, it is BC2, page 23, and it is the second last ... (intervenes)

CHAIRPERSON: I think it is 2054, typed page 2054.

10 ADV MOROKA: We do not have it as such, chair.

MR CELE: Two, O?

CHAIRPERSON: Yes, Mr Cele might have it as such.

ADV MOROKA: Thank you, chair.

MR CELE: 205 ... (intervenes)

ADV MOROKA: It is an annexure to your affidavit.

MR CELE: Yes, 2054, yes, I am there, on BC2.

ADV MOROKA: And it is really an answer that you did not give to the question that you were asked. I just wanted you to then place it on record.

20 MR CELE: If chair can repeat so that I ... (intervenes)

ADV MOROKA: The question was from the Chair, and I think, from the commissioner, about what it is that you did in respect of capacitating the Hawks. And this is a newspaper report that seeks to say what you did, and I wanted to find out whether this would be the correct statement of fact, more specifically after... If you see, it says:

"Cele had previously given Parliament an undertaking that investigations arising out of the TRC in terms of the promotion of national unity and reconciliation were receiving the attention of the Hawks."

I wanted to draw you to the paragraph that talks to that as an answer to the chair, whether that is the correct answer or not?

MR CELE: I think it is correct, because there were cases that were investigated by Hawks. And if I go to Parliament, I would have gone
10 with the head of Hawks, but I would have been briefed with the report they had to put there. So ...(intervenes)

ADV MOROKA: The second paragraph, that talks to the investigators, because I think we are here really concerned with investigations and the capacity that was there within the Hawks.

MR CELE:

"Cele had previously given Parliament an undertaking that investigations arising out of TRC in terms of promotion of act were receiving the attention on the Hawks..." (intervenes)

20 ADV MOROKA: No, the second paragraph, ntate Cele.

MR CELE: The second paragraph from the top?

ADV MOROKA: Ja, that starts with, "The Hawks have since"
...(intervenes)

COMMISSIONER KGOMO: The paragraph that follows.

ADV MOROKA: That comes thereafter.

MR CELE: Oh, that starts with "Cele", no, starts with, "The Hawks".

ADV MOROKA: Yes.

MR CELE:

"The Hawks have since hired investigators on a three-year contract basis, and 34 of these investigators have been specifically assigned to investigate these TRC cases."

As I have said, that there were investigations. I think those investigations are still there. The major thing here was the capacity,
10 and what I said to say, I did not, I did not, my mentality and my pain of doing this thing could not have made me not to respect the law.

That what I was saying, finally, with all that I have, with all that I have with these people, Botha and them, but this should have happened. And as I am saying, but the capacity was never, and I do not think it is enough, and I do not think is about to be enough, including for this and any other things.

ADV MOROKA: Thank you, sir.

COMMISSIONER GABRIEL: Sorry, do you know what year this would have happened? Was it before or after the World Cup?

20 Adv MOROKA: If I may, commissioner, the report is the 17 April 2023.

MR CELE: I was a minister, so then I was, I was the National Commissioner in the World Cup. Service provider 2018 I came as a minister, after appointing the head of Hawks.

COMMISSIONER GABRIEL: Where do you get that?

ADV MOROKA: At the bottom it is page 2, but it is just before BC3, right at the ...(intervenes)

CHAIRPERSON: Yes, 14 October.

ADV MOROKA: The 17 April, chair.

CHAIRPERSON: The 17 April 2023.

COMMISSIONER GABRIEL: I am a bit confused, because the byline under the headline says, "Published three years ago".

ADV MOROKA: It is. at the top it is printed ...(intervenes)

COMMISSIONER GABRIEL: 2026.

10 ADV MOROKA: But right at the bottom it is 2023, when he was still minister. He was not a minister in 2026.

CHAIRPERSON: Thank you, Ms Moroka. Mr Gwala.

CROSS-EXAMINATION BY ADV GWALA: Thank you, thank you, commissioners. Good afternoon, General. I just have ...(intervenes)

MR CELE: I could not see who is talking.

ADV GWALA: (Indistinct). Just before I address myself to the general, commissioners, may I also take the opportunity to introduce into the record my colleague, Mr Lukhele.

CHAIRPERSON: Lukhele?

20 ADV GWALA: Yes, he has been part of the hearings, but never physically appeared before you.

CHAIRPERSON: Yes.

ADV GWALA: Thank you.

CHAIRPERSON: Welcome, Mr Lukhele and Ms Kessery.

ADV GWALA: General, a few things I just want clarity on. You testified about two periods: the period you were the minister and the period you were the Commissioner, National Commissioner. Now, the reluctance to pay the legal fees that you spoke about occurred during which period? Is it limited to the period you were the Minister, or it also relates to the period when you were the National Commissioner?

MR CELE: I think when I was a Minister.

ADV GWALA: Okay. Was it... Let me put the question differently. Was your reluctance to pay the legal fees contemplated to interfere
10 with the investigation of the TRC cases? Was it your intention to interfere with the TRC investigation when you were reluctant to pay the legal fees?

MR CELE: No, I think I have answered that thing. My qualms and my reluctance was my mental issues, but there was a law, there was a decision of the court to say you will pay. Maybe that is why at the end of the day there were investigations. And I would have gone to the legal ways rather than sitting down. It was not, it was not... The law, I wanted to continue, not to interfere with the law, but I wanted those people to continue with their own scheme.

20 ADV GWALA: So the way I must understand it is that it happened, but you never intended, or it was not your intention to interfere with the investigations?

MR CELE: All right, chairperson, I have said time and again that even now I wish to know more about what happened to those people I knew.

ADV GWALA: Yes, and if you had known now, if you had known then what you know now, you would not have interfered, you would not have done what you did?

MR CELE: No, it has not changed my feeling that they should pay. As I was feeling the same that time, but we continued with the legal cause. Even then I did not want to interfere, but my issue was that why are they having comfort then and having comfort now? So not that they should not account for interfering and getting to know is always in my mind. Because as I have said, we have lost too many
10 people on the way, we would love to know what happened to them.

ADV GWALA: Lastly, general, also you spoke about the focus that the police had to the FIFA World Cup. You remember that story?

MR CELE: Yes, sir.

ADV GWALA: Now, must I also understand that part of your evidence in the following sense, that whilst you were focussing on the FIFA World Cup, it was not your intention, or was it, to interfere with the investigation?

MR CELE: Not at all, that it could be, hence I said all other units continued, there is no unit that was stopped to do its work that it was
20 supposed to do. And I guess that the head of Hawks then, Anwar Dramat, could give evidence that nobody ever said to stop, do not deal with these issues, that they fall in the purview of Hawks.

ADV GWALA: Okay. Would it then be correct to understand, in summary, of what you have testified about that, be it the legal fees, be it the focus to the FIFA World Cup, be it the under-resource to the

SAPS, none of those were intended to interfere, and they may have had their unintended consequences?

MR CELE: Well, it is so, but no decision would have been taken to interfere with it.

ADV GWALA: Thank you ...(intervenes)

COMMISSIONER KGOMO: But, Mr Gwala, all those things that you are asking are set out in the judgment of Judge Cynthia Pretorius that was given on the 15 May 2018.

ADV GWALA: Yes, I just had to deal with the evidence that is before
10 you now, that is all I was trying to do. I am done, thank you very much.

COMMISSIONER GABRIEL: And, Mr Gwala, by the time these former security officers were being prosecuted, the investigation was long over. And do you agree with me, former minister, that the delay in paying for the fees of those former security branch members meant that the prosecution could not continue in that period?

MR CELE: No, I do not agree with that. From the side of the police, I do not think there was a time when they could not be investigated.

COMMISSIONER GABRIEL: No, I am dealing with the prosecution,
20 investigations first, then prosecution.

MR CELE: Well, I do not think I can answer on the prosecution side, I do not think I am qualified to answer prosecutors and those who are prosecuting, because even my work would end up with investigation. Even now I know that they investigate and they take it somewhere for further prosecution.

COMMISSIONER GABRIEL: So the article you attached to your affidavit says that former members of the security branch were in the dock as accused for their apartheid-era crimes. They applied for legal funding from the State. You did not initially comply with that order, which led to delays in the prosecution, in the criminal trial of those security branch officers.

MR CELE: That is what the article says?

COMMISSIONER GABRIEL: Yes.

MR CELE: Well, I do not know, maybe the prosecution could answer,
10 because I think that maybe the prosecution ...(intervenes)

ADV SEME: To assist, so the people who needed to be prosecuted, so the investigation is now completed, people need to be prosecuted. They are former members of the security branch. They make application to, an application or applications to the police. Obviously, the National Commissioner will deal with that and state it to you. So you do agree that once they are making this application, the prosecution is not going ahead because they are not funded, their legal costs are not paid. You agree with me?

MR CELE: Ja.

20 ADV SEME: Yes. So do you agree with that whilst their applications are pending, and in your office there is this delay, because obviously in your heart you are contemplating why must I pay for this, you do eventually do it. But during that period there is a delay in the prosecution of these security people. (Indistinct) speaking to the record.

MR CELE: No, I hear, I hear that, I agree.

ADV SEME: Yes.

COMMISSIONER GABRIEL: And do you accept that during that delay the families of the COSAS 4 were denied or had to wait that much longer to get justice for the loss of their loved ones?

MR CELE: Maybe the second statement, because the initial one said they were denied. I do not think they were denied, I think they were delayed.

COMMISSIONER GABRIEL: They were delayed?

10 MR CELE: Ja.

CHAIRPERSON: Ms Rantho.

CROSS-EXAMINATION BY ADV RANTHO: Thank you, commissioners. Good afternoon, General. Just one question that I want to clarify. The decision that was taken regarding the provision of legal assistance to the former SAPS members that were going to be prosecuted, at what level was that decision taken, At ministerial level or at national commissioner's level? I am trying to understand from your evidence.

20 MR CELE: I think it was taken at the government level, and whether it was a presidential proclamation, I guess, or whatever the decision. But for it to investigate, it would be taken at the level of the National Commissioner. The Minister of Police cannot say investigate or not. We will listen to what the National Commissioner or the head of the Hawks are saying. But it cannot be the minister saying please investigate or please do not investigate.

ADV SEME: Maybe to assist ...(intervenes)

ADV RANTHO: Sorry, if I may. sorry, Mr Cele, I want to contextualise my question, because I am asking this against the background of the National Instruction 1/2017, the one that deals with the procedure to be followed for legal provision of members that are faced with criminal liability. And that is what I am trying to understand from the general, was it the National Commissioner that decided on that or the minister? I know the minister said it was either. I am trying to understand, was that in terms of vicarious responsibility as the

10 minister, or it was taken by the minister himself?

MR CELE: What, to prosecute?

ADV RANTHO: To grant them or to refuse them their fees?

MR CELE: The commissioner would take a decision of operations. He might come to the minister for the funding, to say this would be the funding. For instance, other operations would not have the original funding, you will have to get it somewhere because it comes as you go on, for instance, operations of COVID could not have been budgeted for.

So this one will come, but not all the time. For instance, the

20 minister sitting here, many a times, commissioners, you read on the paper that the minister has paid R8-million for litigation. That is something that you have never heard of it before, never. You call the commissioner and say what is this, he says, no. Sometimes they have already paid that litigation, so it is not all the time that commissioner, and I cannot go back and ask the commissioner why

did you do it. So long as it is operational and all that kind of thing, the final decision of investigation of whatever is a National Commissioner issue, not the minister.

ADV RANTHO: Okay, maybe just to make myself clear, general. My question relates to the article that, or the copy of the article that is next to your affidavit about the refusal to give or to provide for legal fees of those that were facing prosecution, and that is now former members of the SAPS. Now ...(intervenes)

ADV SEME: If I may just assist. Mr Cele, the question that is being
10 asked is around the issue ...(intervenes)

COMMISSIONER KGOMO: Please switch on both microphones?

ADV SEME: The question that is being asked by my colleague is, the decision to refuse to pay for the legal services of former members of the security branch, that decision which you say you are uncomfortable with, but you eventually went along with it, which is documented in this article, and it appears in your affidavit.

My colleague is asking you who made that decision or what are the processes? And she says she is asking this against the backdrop of a national circular of the police about decisions relating to
20 security or to the payment of legal fees for members of the security, of the police, rather. How did that decision come about?

MR CELE: Maybe, commissioner, the word refusal, maybe the word refusal, because you cannot say [VERNACULAR], I am refusing. But it does not mean you cannot scrutinise things that are brought to you until you are satisfied that this is correct. As I said, there are many

other things, and you say you go into this, you go into this, the case in hand. A lot of things that we have done almost the similar way with Marikana, you go and do this, you go into this until you are satisfied.

So for me, maybe it is what I raised with one commissioner, that maybe it is not a denial. It is a delay, because you need to be satisfied, you need to apply your mind. So when you apply your mind as an executive, you do not know everything, you are advised by your legal people, and all that kind of thing.

10 So it will be a presentation of the National Commissioner stroke to say there is this, and you say, you ask this and you say do this and all until you are satisfied, and then it continues, as it finally did continue. But it is not just every morning you sign everything that is on your desk without really applying your mind.

ADV RANTHO: Thank you commissioners, there are not any questions.

CHAIRPERSON: Yes, thank you, Ms Rantho.

COMMISSIONER GABRIEL: Ms Rantho, can I just ask a question from you? That circular, was that after the judgment?

ADV RANTHO: Commissioner, it is National Instruction 1/2017.

20 COMMISSIONER GABRIEL: 2017?

ADV RANTHO: 2017, yes.

COMMISSIONER GABRIEL: So it is after.

COMMISSIONER KGOMO: Yes, and I must correct myself, the judgement was given on the 5 June 2018, and not on the

15 May 2018, that when it was heard. If I can just make that correction, please?

CHAIRPERSON: Yes, thank you. Ms Nthambeleni.

CROSS-EXAMINATION BY ADV NTHAMBELENI: Thank you, chair.

Good afternoon, minister. Maybe just one question from my side.

You testified earlier about delays that emanated from (indistinct),

where it was directed towards the FIFA World Cup in 2010. If one is

to look at the importance that is placed on TRC matters, as well as

the care that was given to the World Cup itself, just maybe if you can

10 help us here. How important was it that South Africa would host the World Cup in 2010?

MR CELE: Thanks, commissioner. I do not mind you calling me a

"former minister", because I do not want to rule from the grave as a

minister, so I would not mind to be called "former minister" or

"General", because that is permanent. When you are given to

oversee the government, the president, there would be things that are

priority than others in that particular time. I think health will be priority

when there is COVID.

20 With the police we have units. There are things that happened, that happens maybe periodical and they call your attention. One of those things would be a thing called a "cash heist". And where the resources must concentrate, one of those things is GBV and femicide.

That will call in many ways, it will call you to increase, to increase, I am sure you are aware that there is a unit FSS that deals

with the increase, increase their swabs, increase (indistinct) and all those kind of things.

And then there will be World Cup that is threatened because South Africa is a criminal paradise, or is a crime paradise, then you prioritise that. But that does not mean that at that particular time those other things must stop. Then you will come back, and I guess these 34 additions were stolen from somewhere, to say let us move this 34 to this priority that we have agreed in Parliament to happen.

So periodically there will be things that come, and I am sure
10 these investigators were taken from other environments. Not because they did not need them, because it was accepted that 34 of them can help if they go there.

So that will be my explanation, it is not just a flat move. Sometimes the conditions drive the particular action within the organisation, but it never comes where you say we are not investigating cash heist, we are not investigating (indistinct), we are not investigating this. But as I said that, periodically there are those that come a little bit higher than others.

ADV NTHAMBELENI: Thank you. Apologies, I did say one question,
20 but from your question, from the answer further questions are then probed. Am I understanding you correctly to say the importance of ensuring the safety of other countries that we would then host meant that we do split resources?

And that possibly says to me that TRC matters were given their own attention, but to a certain extent of ensuring the safety of

the nations that would then come into our country, we had to divert a little bit of, some level of importance there.

MR CELE: Yes, again, it was not just the Department of Police that would decide that. The World Cup was a government decision, so as I have said, they were given a little bit extra resources for that, and this is a project, do it proper and then concentrate on it. But there is no way of saying do not do these other things, continue to do this.

They might be on the same speed that you have been doing them all the time, but because there is this one that is pitched up,
10 everybody would think that the policing in South Africa now is a World Cup.

You see, two days before World Cup, before the match we were in that stadium Calabash, we were doing some exercises there. And in Soweto there was a cash heist on that day, so we had to move, take the helicopter on that dry run, to run and do those things, so it never stopped. That other things will stop, but maybe at a certain given time pitched up, and these 34 investigators given is a form of pitching up. I am sure with better resources there would have been more.

20 ADV NTHAMBELENI: Thank you. And with that now said, what contribution, extent of contribution ...(intervenes)

COMMISSIONER KGOMO: Can you count? Can you count? You said one question, and then a second question, and now the third.

ADV NTHAMBELENI: Commissioner, I did apologise that further questions flowed from the initial answer given. With that said ... (intervenes)

COMMISSIONER KGOMO: It also seems that it is the same question asked differently. I am not so sure where are we getting to.

ADV NTHAMBELENI: Apologies Commissioner Kgomo. With that said, what contribution did the World Cup generally provide to the country, in general?

MR CELE: Well, economists can tell us that.

10 ADV NTHAMBELENI: Thank you, chair.

MR CELE: Thanks.

CHAIRPERSON: Thank you. Ms Rikhotso.

MR CELE: But from the side of safety, there was a big safety during the World Cup, but in terms of economy, I am sure economists can tell us what were the outcomes.

ADV RIKHOTSO: Thank you, thank you, chair. I have questions, but I think Mr Cele has answered them in my colleague's questions. So I am not going to be (indistinct).

CHAIRPERSON: Thank you.

20 COMMISSIONER GABRIEL: Mr Former Minister, I am not sure what to say, Mr Cele, there has been a lot of attention about the World Cup, and then the provision subsequently of the dedicated 34 additional investigators. You will recall that the Promotion of National Unity and Reconciliation Act was passed in 1995, and that was part of the negotiated settlement in this country.

And that made provision for the amnesty committee, its hearings, and the whole country watched that unfold, and the report of the TRC was produced in 2003. So that is some way before the 2010 World Cup. So one of the issues that we are probing is, at least from 2003, what happened with the investigation and the prosecution of these cases? Now, your involvement, as I understand it, only starts in about 2009.

MR CELE: Yes.

COMMISSIONER GABRIEL: Okay, and so you are able to speak to
10 the period 2009 to 2024?

MR CELE: Yes, 2009 and 2020, 2009 and 2011, and then 2018 to 2024.

COMMISSIONER GABRIEL: Okay, thank you.

CHAIRPERSON: Mr Varney.

ADV VARNEY SC: Chairperson, we thought we might be able to simply pose questions for clarification, but given the evidence, we would like to put certain documents dealing with the tenure of Mr Cele as National Commissioner, and then, secondly, as minister. He would not have seen these documents, and we do not wish to
20 ambush him. So with your leave, we would like to apply to cross-examine.

CHAIRPERSON: Yes. When do you intend to bring that application, Mr Varney, if I may press you on that one?

ADV VARNEY SC: Yes, chairperson, you may, it is a legitimate question indeed. We will bring it before the end of this week.

CHAIRPERSON: Yes, okay.

ADV VARNEY SC: As the chairperson pleases.

CHAIRPERSON: Okay, thank you. Mr Cele...

MR CELE: Yes, chairperson.

CHAIRPERSON: We thank you for having come today to give your evidence before this Commission. Your evidence has not become concluded, as there is an application to bring, there is an application to cross-examine you further by Mr Howard Varney. So you will be required to come back to this Commission for that cross-examination.

10 So for now you are excused as a witness. I see it does not sit well.

MR CELE: No, chairperson, I cannot defy the Commission calling me, but I would love the process to appreciate that we have other processes too.

CHAIRPERSON: Yes.

MR CELE: We have other work to do. It is very difficult to find time, and this one was not negotiated with me. I was told that it is Tuesday, and I am here, because, really, that one is a retired, it does not mean that there is not a lot of work, especially with the political situation that is there, that one is very much...

20 I remain the member of the National Executive Committee, I am remaining the member of the Task Teams that deal with elections, and all that kind of thing. As I am here today, I had to postpone the meeting of the branches, and all that I was supposed to address. So one does not have much time, but we can negotiate the time. Maybe

if it is so within time and we see what day, but I will never defy to come back.

CHAIRPERSON: Thank you. Ms Seme will try and liaise with you on an appropriate date that will be convenient to you for your cross-examination.

MR CELE: Okay, including after the 4 November.

CHAIRPERSON: You are stretching it too far.

MR CELE: Okay, no, thanks, we will negotiate with Ms Seme.

CHAIRPERSON: Thank you.

10 MR CELE: Thank you.

CHAIRPERSON: These proceedings are adjourned until tomorrow at 10 o'clock.

INQUIRY ADJOURNS UNTIL 15 JULY 2026

CERTIFICATE OF VERACITY

I, the undersigned, hereby certify that **as far as it is audible**, the foregoing is a true and correct transcript of the digitally recorded proceedings in the matter of:

JUDICIAL COMMISSION OF INQUIRY INTO TRC

FORUM OF ORIGIN : Inquiry

CASE NUMBER : N/A

TRANSCRIBERS : M Botha, A van Staden

DATE COMPLETED : 2026-07-15

NUMBER OF PAGES : 86 (Including front page)
M Botha: Page 1-50
A van Staden: Page 51-84

TRANSCRIBERS : 



TRANSCRIBER'S NOTE:

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