

**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 Motlalepule Rantho (for SAPS)
Adv Ebenezer Propphy (for SAPS)
Adv KD Moroka (SC) – DoJ representative
Adv Gwala (SC) – NPA representative
Adv Yanela Ntloko- NPA representative
Adv Varney (SC) – The Calata Group
Mr Sipho Tlhaole – The Calata Group
Ms A Thakor – The Calata Group

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PROCEEDINGS ON 7 SEPTEMBER 2026

CHAIRPERSON: Good morning to you all. Mr Semenya.

ADV SEMENYA: Good morning, chair, and good morning to the commissioners as well. Today we have former Minister Mufamadi to come and help us. Ms Rantho will be leading him, but I may for the record indicate that the witness is visually challenged, so we might do certain things differently as a result.

CHAIRPERSON: Yes, thank you for bringing that to our attention. Good morning Mr Mufamadi.

10 DR MUFAMADI: Good morning, chair.

CHAIRPERSON: How are you?

DR MUFAMADI: I am okay.

CHAIRPERSON: Fine.

DR MUFAMADI: How are you?

CHAIRPERSON: I am fine.

DR MUFAMADI: Thank you.

CHAIRPERSON: It is good to have you with us today. Are you going to give your evidence under oath or affirmation?

DR MUFAMADI: Affirmation.

20 CHAIRPERSON: You affirm that the evidence you will give will be the truth, the whole truth and nothing but the truth?

DR MUFAMADI: I do.

CHAIRPERSON: Thank you. Ms Rantho.

FHOLISANI SYDNEY MUFAMADI (affirms)

EXAMINATION BY ADV RANTHO: Thank you, chair. Good morning,

Dr Mufamadi.

DR MUFAMADI: Good morning, Adv Rantho.

ADV RANTHO: There is an affidavit in front of the Commission deposited to by Fholisani Sydney Mufamadi. Can you confirm if that is your affidavit?

DR MUFAMADI: I do.

ADV RANTHO: Can you also confirm that you have personal knowledge of the contents of the said affidavit?

DR MUFAMADI: Yes, I do.

10 ADV RANTHO: In paragraph 3 you inform the Commission that the reason why this affidavit was prepared was consequent to the notice that was issued to you in terms of rule 3(3) of the rules governing the proceedings of this Commission. Do you confirm that?

DR MUFAMADI: I do, yes.

ADV RANTHO: And that is a notice dated 21 October 2025, and annexed to your affidavit FSM1. Do you confirm that?

DR MUFAMADI: I do, I confirm.

ADV RANTHO: Now before we deal with the notice that we refer to, in paragraph 5 under the heading, My Political and Career History,
20 you inform the Commission that you became involved in public life from your teen years. And you confirm that paragraph that talks about you being a founding member of the Azanian People's Organisation, United Democratic Front and the Congress of South African Trade Unions, that that is your statement?

DR MUFAMADI: Yes.

ADV RANTHO: In paragraph 6 you inform the Commission that:

"I had the privilege of involvement in statecraft as one of the framers of our country's interim and final Constitutions."

You confirm that?

DR MUFAMADI: I do.

ADV RANTHO: Can you perhaps elaborate more on your political life to the Commission?

DR MUFAMADI: Yes, Madam Chair and Commissioners, I was born
10 in Gauteng, presently Gauteng, in the Alexandra Township, but I spent the formative years of my life in presently Limpopo, that is where I was raised. I entered high school, or the high school system in the early 70s, during a period which I would characterise as a period of "black consciousness ferment".

The area where I was raised, a village called Tshisaulu, is closer to Zimbabwe and Mozambique than it is to Pretoria and Johannesburg. So as we were growing up, Mozambique became independent shortly after I entered the high school system. And the struggle for Zimbabwe was also raging at the time.

20 One of the liberation movements of Zimbabwe took advantage of the independence of Mozambique, and re-settled its assets, human and material, from Tanzania, which was too far from the point of view of persecuting the struggle in Zimbabwe, re-settled to Mozambique.

And the combination of the independence of Mozambique

and the ongoing struggle in Zimbabwe had, therefore, a formative influence in the political upbringing of my generation. Because as the Zimbabwean liberation movement was broadcasting its message into Zimbabwe from Mozambique, the message was so clear, it was as if it was coming from a local radio station. So that is the context in which I was raised politically.

In 1975, as early as then, I came into, or rather, let me say I had an early epiphany with the horrors that get visited on people who were opposed to colonialism at the time, people who were opposed to
10 apartheid. In this way we started to hear about a Zimbabwean legal scholar, Edson Sithole, who had disappeared together with his secretary by the Rhodesian Security Forces.

That was in 1975, and as I say, I then had an early epiphany with the horrors that were visited on opponents of the system at the time. Two years after this particular incident, that was in 1977, Steve Bantu Biko was killed in detention, police detention, the
12 September 1977.

At the time I was a member of the Soutpansberg Students Organisation. Under the auspices of that organisation we organised,
20 in the context of the time, a massive protest action in that corner of our country. That we did in October of the same year, and that resulted in my being ejected from the schooling system.

I was 18 years at the time, but what had been my home for all those years ceased to be a place of solace for me, because I was hounded not only out of school, but out of the area. It was then that I

moved into Gauteng.

But I must say that in the same year, before, actually before the death of Steve Biko, two of my associates died in detention: Edmond Malene was killed in January 1977, the same year, and Lawrence Laurence Nzamba, a Unionist, was also killed in 1977, January. So that is something which I am citing, because I think it is of relevance to the brief or the mandate of this Commission, Madam Chair, and commissioners.

10 So having left my roots, having been outrooted out of Limpopo and now I am in Gauteng, that consciousness organisations and newspapers were banned, a major swoop which led to the detention of quite a number of people that I knew that I was interacting with.

They were detained in Modderbee. As they were sitting in detention, and those of us who were running around, we were planning to re-occupy the legal space which had been diminished by the banning of the organisations. That is how we came to form the Azanian People's Organisation in May 1978.

20 During that period, those who were in detention came out, and perhaps I will talk about this later, but I just want to highlight that two, at least two of the people who were in detention in Modderbee in 1978 thought that I was too young not to continue with my studies, and they pioneered me into alternative systems of continuing to study.

That was the late Percy Xoboza and the late Nthato Motlana, but I will come back to that because it is of relevance to other parts of

my lived political experience which do not belong to what I would want to call the "formative stages" of that life.

ADV RANTHO: Thank you, Dr Mufamadi. You also informed the Commission that you represented the ANC at multi-party negotiations held under the banner of the Convention of the Democratic South Africa, CODESA, wherein the constitutional framework for the coming "new South Africa" was negotiated. Do you want to tell the Commission more about that involvement in CODESA?

DR MUFAMADI: Yes, that comes very, very late in my political life.

- 10 When it became possible to resolve, what was a protracted struggle for change in South Africa, to resolve that conflict through negotiations, I was one of those who represented the African National Congress at that forum, CODESA.

And when it moved into what was called the "Transitional Executive Council", the Council had sub-councils that were thematic, so to speak, and I served on the sub-council on law and order. At that stage we were preoccupied with creating conditions for a relatively smooth transition from apartheid to democracy, so I was very much part of that process.

- 20 ADV RANTHO: Thank you. Have you or any of your family members ever been subjected to any apartheid atrocities?

DR MUFAMADI: Yes, well, apart from detentions without trial that I was subjected to, both in the so-called "South African jurisdiction" of the time and in the "Bantustan", I had two spells of detention in the Ciskei and two spells of detention without trial in South Africa,

so-called.

I was banned and house-arrested. My home, which I kept in Soweto, Diepkloof, was firebombed twice. My brother, Lawrence Mufamadi, after whom I come, was disappeared, it happened more than 30 years ago; to date, we do not know where he is. When I spoke about my home being firebombed, to date I do not know who did it.

So but this is not an experience that is exclusive to me. I shared these experiences with many, many South Africans and
10 people of other nationalities who have a shared history of fighting against military dictatorships, colonialism, and apartheid.

ADV RANTHO: Thank you, Dr Mufamadi.

COMMISSIONER KGOMO: Sorry, Dr Mufamadi, Commissioner Kgomo. Your brother, was he disappeared before 1994 or after 1994?

DR MUFAMADI: He was disappeared before 1994, but in the interregnum between the unbanning of organisations in 1994. In other words, he was disappeared when we were saying we, as the ANC and other formerly banned organisations, we have now
20 reoccupied the legal space. So I will talk in some bit of detail about this, because I think it will help this Commission and the South African population to have, or to relive what was then our sense of how difficult the transition period was.

Just maybe to add to what I said about my brother, a very close comrade of mine, who was very close to me and my brother,

Samuel Thambane, was killed by the police in the week after the assassination of Chris Hani. So I am trying to say to this Commission, even that period of transition during which my brother disappeared was just as unstable and violent as anything that should be a matter of concern to this Commission.

ADV RANTHO: Thank you, Dr Mufamadi. Paragraph 7 and 8, you inform the Commission that following South Africa's first democratic general elections held in April 1994, you became the first Minister of Safety and Security, and served in this portfolio from May 1994 until
10 June 1999, correct, as a minister of police?

COMMISSIONER KGOMO: You may have to raise your voice a bit, Ms Rantho.

ADV RANTHO: Okay, in paragraph 7 of your affidavit it is stated as follows:

"Following South Africa's first democratic general elections held in April 1994, I was appointed the first Minister of Safety and Security, and served in this portfolio from May 1994 until June 1999."

You confirm that?

20 DR MUFAMADI: Yes, I do.

ADV RANTHO: And then paragraph 8:

"From June 1999 I became the Minister of Provincial and Local Government, now known as Cooperative Governance and Traditional Affairs, until September 2008."

You confirm that?

DR MUFAMADI: Yes, I do.

ADV RANTHO: Now in paragraph 9 it is stated that:

10 "In August 2011 I was appointed as a director at
the University of Johannesburg, and I was
charged with the responsibility of establishing the
Centre for Public Policy and African Studies. My
teaching and research focussed on industrial
policy, transitional justice and strategic
diplomacy."

You confirm that, you confirm?

DR MUFAMADI: I confirm.

ADV RANTHO: Is there any relevance of your position, the position
that you held at UJ, you can say University of Johannesburg, to the
politics of today in South Africa?

20 DR MUFAMADI: Yes, yes, madam. As I stated in the affidavit, I
served as minister of government from 1994 to 2008. After I left
government, I became director of the Centre for Public Policy and
African Studies at the University of Johannesburg. Actually, that
centre did not exist, I established it, and as you can see, the offerings
of the school were on subjects which placed the school at the
intersection of socially-engaged scholarship and state craft.

I will talk more specifically about a course there which is of
relevance to our discussion today, transitional justice. I "curriculated"
[sic] the module for both undergrads and postgrad students. That

course is relatively new in the world of scholarship, it emerged in the mid-80s, responding to the challenges facing countries that had a history of, as I said, military dictatorship, colonialism or apartheid.

The early lessons of this, which offer material for comparative study, is derived from experiences in Latin America. But as I say, there are case studies that come out of the lived experiences of people of Africa, a case in point is Rwanda, South Africa.

The centre was targeted at recruiting members of parliaments in South Africa, the region and beyond the region, I am
10 talking about the SADC region. The idea was to empower our practitioners by raising their level of competence on matters that have to do with the positions of service in which they find themselves in the legislatures and the executive branches of their countries.

So I am really spending a bit of time on this course of transitional justice, which should be read together with another course that we were offering called "Strategic Diplomacy". This course, Transitional Justice, broadened my, or rather gave me insights into the broader canvass of the anatomy of counter-insurgency warfare.

I understood better what I got exposed to in earlier years
20 what happened in Zimbabwe, for instance, with the disappearance of Edson Sithole, the atrocities in South Africa. But as I say, there were major, big atrocities that happened in places like Chile, Paraguay, Mexico.

Perhaps they happened there earlier than they happened here, but it became clear that what we were going through in our

country was not a peculiarity of our country. But when it became possible to transit from situations of the absence of democracy to democracy.

Practitioners in those situations found themselves with having to deal with the exigencies of ensuring that you get into a future on the basis that addresses the concerns and grievances of those who were at the receiving end of the horrors of criminal systems, such as apartheid.

10 You must be seen to have addressed those concerns justly and fairly. I am talking to the notion here of "justice as fairness", but there is a question as to whether only the victims of that system are the ones who must "cross the line into the new order", or you want to create a new society in which there is a "place for everybody under the sun".

What I am saying is "easier said than done", but I am prepared to talk about how we tried to grapple with that national assignment.

ADV RANTHO: Thank you ...[intervenes]

20 COMMISSIONER KGOMO: Can I just find out from you, you imparted this to your students and to the audience. And how was the feedback, and do you believe that what you did had an impact?

DR MUFAMADI: Yes, commissioner. If this will help, I will through my lawyers submit reviews, peer reviews that were done about the impact of what we were teaching. I am saying "we were" because I have since left university as well. I keep on leaving everything that I

do along the way, so I have since left that.

It had to be effective and welcome because of its relevance to a situation such as ours, where we have a national agenda of nation-building, which is really, if you look at experiences all over the world, it is a permanent work in progress, and the importance of research cannot be overemphasised. So it is not like we have done it once and for all, you know, we have this approach, at least I have it, to learning a life-learning, I mean, a lifelong undertaking.

COMMISSIONER KGOMO: Thank you, doctor.

- 10 COMMISSIONER GABRIEL: Ms Rantho, can I ask a question? Dr Mufamadi, it is Andrea Gabriel, I am one of the commissioners. Could I ask you specifically about your work at UJ with transitional justice? Did I hear you correctly that you recruited or targeted parliamentarians to prepare them for public office, to raise their levels of competence for public office, did I hear you correctly?

DR MUFAMADI: Yes.

COMMISSIONER GABRIEL: Okay, and would that have included the first parliament, and presumably, also the second parliament?

- DR MUFAMADI: No, well, I started this centre post the first and the
20 second parliaments ...[intervenes]

COMMISSIONER GABRIEL: Okay, so....

DR MUFAMADI: But there are people whose involvement in parliamentary work straddles different terms, parliamentary terms. So, yes, some of my students are people who were there in the first and second terms, but it was particularly your subsequent terms of

students.

But I must also point out that it was not only for parliamentarians, because these are not, you know, technical courses. They actually are academic courses with both case studies components, as well as theoretical components. They are prototyped, therefore prototype academic courses.

There are people who are not public office bearers, who are researchers, who were attracted to the course. There are students within the university system who branched from what they were doing
10 before they became aware of these offerings, and they came into the courses.

These are properly accredited courses, so, I mean, I can cite two cases of a colleague of mine who was lecturing, he had a PhD, but when he became aware of this course, he said I want to diversify my knowledge base, and he enrolled at three levels lower than the PhD he had. So, I had students who had long gone past masters and PhD levels who were also participating in this course.

COMMISSIONER GABRIEL: Okay, and did you, in this time working on transitional justice, did you author or co-author any papers on
20 transitional justice?

DR MUFAMADI: No, I was, firstly, the director of the centre.

COMMISSIONER GABRIEL: Oh, I see.

DR MUFAMADI: It was a lot of work, particularly when you are setting up something from scratch. Two, I was also doing the teaching, not only in transitional justice, but strategic diplomacy and

industrial policy. I published from time to time, but my publishing was making interventions on live issues, given the fact that I was myself a practitioner. And remember, I spoke about the intersection between socially-engaged scholarship and state craft. But what I published, I can share it with you ...[intervenes]

COMMISSIONER GABRIEL: Please, that would very helpful.

DR MUFAMADI: I do not think you will fault it on scholarly grounds, because I am a scholar myself.

COMMISSIONER GABRIEL: Thank you, that would be much
10 appreciated.

DR MUFAMADI: Thank you, commissioner.

ADV RANTHO: Thank you, Dr Mufamadi. In paragraph 10 you informed the Commission about your involvement in the promotion of peace in countries, such as Mozambique, Lesotho, and you were also involved in inter-Congolese dialogue, and then peace talks in Zimbabwe sometime in 2007. Can you just briefly inform the Commission what your role was during these processes?

DR MUFAMADI: Well, as you counted the countries, so the roles were not exactly the same in each case, for instance, in the case of
20 Lesotho, an election took place, a national election in Lesotho, and there was a contested election result. I was dispatched by President Mandela then to go and do some conflict resolution.

I thought it was something that I was going to spend two days attending to and come back, but I ended up going to Lesotho at least three days a week, because the problem was much deeper than

just a disagreement about the elections.

It became clear that that was not the first time that an election in Lesotho was followed by a dispute. It was a perennial problem of Lesotho, every time there was an election, there will be conflict, in some instances even armed conflict.

So trying to diagnose the problem, because it is clear that you were not just going to look at who voted where and so on, it became clear that there are electoral laws, the electoral system was innately conflictual. So I was leading, as I say, the team that was
10 working with me on this.

The way we ultimately found the solution was to work with Lesotho to develop a different electoral framework. We ended up with new constitutional act, constitutional law, I mean, amendments to their constitution and new electoral law, and a system which would ensure that the parliament of Lesotho after elections, in the first place, would be as inclusive as possible. Because the one that the system they had was so exclusionary that they call it "first-past-the-post" and so on.

You know, a party gets 50% of the votes, and it gets 100% of
20 the seats in parliament. I am just giving that as an absurd example of some of the manifestations of the problem. We solved, together with Lesotho, that problem by reviewing the systems, and since then they continue to have quarrels, but they have relative stability.

In the case of Zimbabwe, I do not know what to call it, because as I was saying earlier, as young people growing up in the

70s, inspired by the struggle for Zimbabwe, suddenly we see the Zimbabwean, for lack of a better word, "revolution losing its way", instability.

Again we were assigned as a country by SADC to facilitate a multi-party dialogue, which was between the two factions then of the Movement for Democratic Change and the ruling party then, ZANU-PF. That was really a prolonged process of deliberations.

What became clear in the end was that the problem was that the constitution, which was the framework for governance post the Lancaster House negotiations, was a "hand-me-down" that was not really conducive to having a dynamic democracy in which there is multi-party participation within the system.

Following those negotiations, the parties agreed, in a sense, to start all over again, because amongst themselves they formed a government of national unity. They drafted a new constitution for Zimbabwe and took it to a referendum, under our guidance of course, they took it to a referendum and it was adopted by the population.

It was not exactly the same in the case of the DRC, but I was leading the team which facilitated an inter-Congolese dialogue, to solve a problem which was traceable back to the 60s, the time of independence.

And we got the Congolese ultimately again to form an inclusive government, which also included representatives of organs of civil society in the DRC. And they then had for the first time since the 1960s a free and fair democratic election as a result of that inter-

Congolese dialogue that we facilitated.

ADV RANTHO: Thank you. You also inform the Commission that you served as expert advisor to the African Union High-Level Panel on Darfur.

DR MUFAMADI: Yes, but unfortunately that conflict is still ongoing in Sudan, and that was before Sudan sub-divided into two, Sudan and South Sudan. So the African Union and the United Nations established what they called a "High-Level Panel on Darfur", but it was dealing with the problem of Sudan as a whole.

10 The former President Thabo Mbeki was appointed as chair of that High-Level Panel on Darfur, and he invited me, together with people of my type from other countries on the continent to serve as expert advisors to the panel.

And after an elaborate process of travelling around the Sudan, meeting with political players, organisations of civil society, armed belligerents, and so on, we produced a report. I am saying we, as the panel, to the extent that the experts were attached to the panel, they produced a report.

20 Again I am narrowing my focus back to the issue of transitional justice. A pathway to a "new Sudan" was sort of proposed within that report. An element of it was an exercise in seeking justice and reconciliation, and therefore, transitional justice was the issue.

ADV RANTHO: Thank you. In paragraph 11, excuse me, sorry commissioners, I am just taking a quick break just to allow the witness to take some water.

CHAIRPERSON: Yes.

DR MUFAMADI: Thank you for your indulgence.

ADV RANTHO: Thank you, Dr Mufamadi. Paragraph 11 of your affidavit, you inform the Commission that you currently serve as the National security advisor to President Cyril Ramaphosa, and before that you were appointed by the president as a chairman of a High-Level Panel into the State Security Agency in 2018. Do you confirm that?

DR MUFAMADI: I do.

- 10 ADV RANTHO: Thank you. Now, we are now going to deal with your involvement in TRC-related processes, and you will deal with your involvement as the Minister of Safety and Security, and also your other encounters with the TRC processes, okay. Now, paragraph 13, this is what you stated in your affidavit:

20 "I took part in the special purpose mechanisms, such as the National Peace Committee, CODESA, and the latter's sub-council on law and order, which were responsible for creating conditions for transition from apartheid to a new order. These included discussions about finding a way to deal with human rights violations that were committed either by members of the apartheid State agencies or by opponents of the apartheid system. Among the processes that were borne out of negotiations with the previous

regime was the establishment of the TRC during
or about 1995."

I will also just go before you elaborate further on that one just
in paragraph 14, you stated that:

10 "However, none of the negotiations wherein I was
involved concerning the formation of the new
government were ever aimed at concluding any
agreements with anyone not to pursue any cases
against those responsible for atrocities committed
under the apartheid government. On the
contrary, I have always been a proponent of the
TRC Commission from its formation, and continue
to believe in the principles that underpinned the
work undertaken by the said commission to date."

Yes, so I would like you to inform, sorry, to inform the
Commission in terms of your role in the establishment of the TRC as
you stated during 1995?

20 DR MUFAMADI: Yes. Now, advocate, I hope the Commission will
bear with me, because when I talk about the TRC, I think I will be able
to illuminate my outlook on this matter by the upfront state that I come
into this subject as a victim and a perpetrator. And in order to clarify
what I mean by this, I will have to go a little bit back, not to start at the
point at which the TRC was established.

As I was saying, I was on one side of the conflict which gave
rise to the need for the TRC. I am one of those people, therefore,

who, sorry, who understands very well why we had problems before the TRC was formed and after. I spoke about the period before 1994. During that period, but after 1990, or maybe not, just after 1990, or maybe after 1990, sorry ...[intervenes]

COMMISSIONER KGOMO: CODESA 1 and 2.

DR MUFAMADI: Ja, that is right, even before CODESA, because we were looking at a way of transitioning from apartheid to the "new order". And during that period, after the unbanning of organisations, the single biggest obstacle to the transition was politically-motivated
10 violence which took place, especially, but not exclusively, in KwaZulu-Natal, Gauteng, and every now and then in other provinces, like Mpumalanga, North West, and so on, and we were beginning to wonder whether this transition will ever come to pass.

One of the early initiatives at addressing this problem was the signing of the negotiation, the negotiating and signing of the National Peace Accord. I was involved in that process, and what was critical about that peace accord is that we sought to use it as a framework for mobilising members of organisations on the ground to reach out to one another, working within established mechanisms.

20 The mechanism at the apex of that system was called the "National Peace Committee". I served on that National Peace Committee representing the ANC, and there were representatives of other parties and organisations, and that structure was replicated at other levels, regions, and local.

You will recall that the assassination of Chris Hani happened

during that period when the National Peace Process was being unfolded on the ground. I think we must also not forget that whilst the negotiations were underway, Mr De Klerk made a request to his interlocutors in those negotiations that he should be allowed to convene a whites-only referendum.

Because he was being accused, as he told us, by the whites, who he thought were his natural constituency, of being a sellout, a *verraaier*, and they wanted the transition and the negotiations to stop. The threats they were making were not idle. Commissioners will
10 remember that at one point right-wing elements, white right-wing elements, organised themselves and stormed the venue of our national negotiations at the World Trade Centre.

So, we, the ANC, did not think that whites had a natural right to decide that question of whether negotiations should continue or not. We thought that that is a matter to be decided by the people of South Africa. We were not ready anyway for a national, an all-inclusive, what do you call it now, a referendum.

So we said we are opposed, in principle, to a whites-only referendum, but if whites want to participate, let them do so. Our call
20 to them is that they must vote in favour of the process of negotiations proceeding. The referendum took place, the majority of the whites voted in favour of negotiations proceeding.

So those who wanted to stop the transition were proved to be a minority, even amongst the whites, they were proved to be a minority, but they were a noisy minority. They were not a minority that

you could pretend does not exist.

So here we are, we have a negotiating table whose shape is round, it is not two-sided, contrary to what many people thought, it is the ANC and the government of the time, it is round. everybody has a place around that table. This is bringing everybody, it is what political scientists would call a "centripetal force".

But what was also playing out was the fact that there was in existence a new equilibrium in which that centripetal force was playing out simultaneously with a centrifugal force. You are seeing
10 separatist movements coming up, they do not come to the negotiating table, they make demands. That is where Orania comes from, the Boeremag come from that, and, of course, the AfriForum.

So we are agreeing, the majority of the people are manifestly agreeing that we want to move away from apartheid, and you have this flotsam of apartheid that is resisting. So even a week before the elections we were still seeing bombs going off in various parts of the country, seeing bombs going off in various parts of the country. And you can imagine what kind of psychosis was being generated in the generality of the South African population.

20 At least from the side of the ANC we realised, as I said, we made a call to the whites, De Klerk's constituency, as he saw it. But it was clear that the ANC, given its place in that process of transition, needed to find a way of addressing all the people of South Africa, including the whites.

So when people talk about negotiations on the TRC, it is also

important to think about it in the context of a national conversation that was taking place about South Africa beyond the platitudes. So we addressed the whites in general, bombs are going off.

We summoned the general staff of the special branch to Shell House, the then headquarters of the ANC, and the person who was coordinating that programme, it is a General Tim Williams. He was not a general then, he was a civilian.

We summoned them to Shell House, and we said to them the bombs are going off, we are a few days away from elections, elections will take place, despite this attempt to stop the movement forward. The fact that you are not arresting the perpetrators of these bombs means that you are defining for yourselves a particular place in the "new South Africa".

So they said to us, look, because we said we refuse to believe that you do not know who is doing this, so they said, no, we know. We know, but our members are not motivated to stop this, because they are themselves apprehensive about what is going to happen to them in the "new South Africa".

So we said, well, you know, with each passing day, you write your CV, whether you "get to heaven will depend on not only what you did before, but what you did when what you were doing mattered". That parable seemed to work, because they said we hear you. They went away and that evening there were arrests that took place, the bombs were silenced, elections happened.

Post-elections we continued to see serious incidents of

violence, in KwaZulu-Natal particularly. And then the Boeremag was beginning to crystallise as a serious threat to the "new order", they had tentacles into military bases, like Tempe in the Free State, where they stole a lot of military-issued weapons, and they actually carried out attacks.

I am telling this story to make the point that managing transitions is not a process which entails "going to a shop and pick up a solution from the shelf". That period was really a period of reflexivity, you had to think about, as I spoke about, justice and
10 fairness. People who are aggrieved about what happened to them during the days of apartheid must feel that their concerns are taken care of by the new dispensation.

But as I said, the transition was not happening in conditions of our choosing. So you have also to think about how do we get to this "new South Africa" in which you will then be able to implement your normative vision of a South Africa in which there will be justice and fairness for all, and so on.

We are coming into these positions of government from our own "bushes". The problem is coming from these separatist
20 movements plus the hit squads that were trained in the context of those conflicts of the past, trained by Pretoria, at Capri, and things like that.

Members of the Special Branch are "jumping ship" despite the assurances that if they do certain things, including earning amnesty, we will come back to that, then they will have a place in the

"new South Africa". They are "jumping ship", but there are those who said they are willing to serve the "new order".

Thanks to those, we were able to infiltrate the Boeremag and other separatist movements. They caused a lot of harm in the immediate aftermath of the transition, but I guess that you will have received testimonies from people who dealt with those problems that were posed by the Boeremag.

And I am saying the fact that you had some people from the old Special Branch willing to serve the "new order" meant that we had
10 the capacity which we would otherwise not have had. You know, you could not get someone from Tshisaulu to infiltrate the Boeremag.

So I am saying all this knowing that I am telling the Commission a long story, but because I think that it is important to, when you engage with me, to understand my mindset then and now, where were we coming from, what were we trying to solve for, what could we afford in the circumstances of the time to make certain decisions and not others. So, advocate, I took too much of your time because I thought it is necessary for me to say what I have just said.

ADV RANTHO: Thank you. Luckily, it is the Commission's time, not
20 my time ...[intervenes]

COMMISSIONER KGOMO: And you were also trying to dispel, Dr Mufamadi, that you people sold out.

DR MUFAMADI: Well, you are [indistinct] ...[intervenes]

COMMISSIONER KGOMO: I am not inviting, I am not giving you a broad canvas.

DR MUFAMADI: Okay, yes, yes, we had no prize.

ADV RANTHO: Commissioners, may we just request just 10 minutes' break?

CHAIRPERSON: Yes. We will adjourn and reconvene at 20 to 1.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Thank you, Ms Rantho.

ADV RANTHO: Thank you, Chairperson. Dr Mufamadi, before we proceed to deal with your appearance before the TRC Commission, 10 when you were explaining the process that took place during negotiations, one of the things that you mentioned was that the former police members were leaving or they jumped ship, I think as you put it; and then they were asked if they did certain things, they would not have to leave, and that included amnesty. Would you like to just elaborate more on what you meant by that statement?

DR MUFAMADI: Yes, Advocate, we decided after long deliberations – I am saying 'we', meaning the parties to the negotiations; that it is important for the truth and the whole truth to be told about incidents that constitute violations of human rights.

20 And of course, behind those incidents there are perpetrators; which then means the perpetrators must approach the Truth Commission, go before the Amnesty Committee and satisfy the Amnesty Committee that they have made disclosures in full of what happened, because when they do that, they give, they help the remaining family members of the victims to find closure, and then the

reward for doing that would be amnesty.

It is not a process which only those who served the apartheid system were going to be subjected to. Even those who fought against the system, if they committed acts which were similar to the ones I have just described, they would have to go through the same process. That is what I meant by justice as fairness.

ADV RANTHO: Thank you. We can now proceed to deal with your very own appearance before the TRC Commission, and this is what you stated in paragraph 15.

10 "I must also mention that I am one of those who appeared before the TRC to make a full disclosure of the activities for which I needed to be amnestised. My disclosure was deemed to merit the granting of amnesty and that was duly awarded."

Can you just inform the Commission as to what your appearance was like before the TRC at the time?

DR MUFAMADI: My appearance before the TRC had to do with an incident involving one Joubert or Joubert Maleka. He was a police
20 constable who was sent on a mission to place the offices of COSATU – at the time, I was Deputy Secretary General of COSATU – under surveillance; under surveillance in the sense that he was looking for the movement of a comrade who was working in that building, Geraldine Fraser-Moleketi. If she comes out and walks in some direction, he would then communicate through a two-way radio with

his handlers at John Vorster Square.

Now because we had been subjected to attacks of our buildings, as at that time there had been 42 incidents of firebombing of the offices of COSATU itself and those of its affiliates, we also had our own counter-surveillance measures, which enabled us to detect that Maleka chap, and we carried out what you would call a citizen's arrest. We pulled him into the building. We searched him. We found stuff that incriminated his bosses at John Vorster Square. We called a press conference. We exposed this to the press conference. By
10 then obviously the police, his handlers were exasperated because they became aware that there was something happening at COSATU. Their men were no longer communicating.

We then called them after we had finished what we wanted to do with him, and we said come and fetch your asset. When they arrived, they actually fetched their asset, plus Jay Naidoo, the then General Secretary of COSATU, myself and Moses Mayekiso who was the General Secretary of NUMSA, one of the affiliates of COSATU. And we were charged with kidnapping and assault, a rigged charge. We were tried and found guilty, sentenced to some years, but it
20 happened at a time when political prisoners were coming out. It was not going to make sense to have fresh political prisoners. So they suspended the sentence.

The only way we could deal with that situation was follows; we appealed. Whilst the appeal was pending, the Truth Commission came to be established. We applied for amnesty. We appeared

before the Amnesty Committee and we made full disclosures, as a result of which we were given amnesty.

ADV RANTHO: Thank you, Dr Mufamadi. Paragraph 16 you stated as follows:

10 “I further encouraged some of my fellow comrades from time to time to appear before the TRC for their own involvement in acts of political resistance that resulted in the death of people and damaged property. To name but a few, I provided guidance to some comrades who were involved in what became known as the Wimpy Bar attacks on the amnesty process that saw them appearing before the TRC for the said attacks, and they were granted amnesty by the TRC.”

Would you just briefly tell the Commission what the Wimpy Bar attacks were about?

20 DR MUFAMADI: Yes. What was called the Wimpy Bar attack was just one of the many operations that were carried out by what I later got to know was the Johannes Nkosi Unit of MK. Of course, that happened in the 80s. The unit at some point ran out of the means of subsistence and in desperation they made contact with me.

And when they said to me that they were based in the East Rand, I thought I needed to see if they could help me answer a question that I was instructed by the then President of the ANC,

Oliver Tambo, to answer. I do not know why he thought I had an answer, because on occasion when I met him in Lusaka, he asked me: who is attacking Wimpy Bars in the East Rand? And I said I do not know. And he said: put your ear on the ground.

So these two comrades came to see me. I knew one of them. I did not know the other. So when they said they are operating from the East Rand and they needed my help, I said who is attacking Wimpy Bars in the East Rand? I am repeating Tambo's question. And the reason for it is that operations of that kind, where there was a
10 strong likelihood of affecting civilians, were contrary to ANC policy. The ANC having signed the Geneva Protocol that provides for the principle of distinction, in a sense saying armed belligerents must not... international law must not attack civilians. So they said they do not know, and we parted on that note.

Years later, we are now in the new South Africa. I am Minister for Safety and Security. Those two comrades say they want to see me when they arrived there with five others. So they are now seven and they say: 'Comrade Sydney, we are the ones who were attacking Wimpy Bars. Now we are afraid people died. What we do?
20 Do you think we should go to the Truth Commission?' I said yes. So we sat and discussed the matter.

Not only did I encourage them to go to the Truth Commission, I actually accompanied them and they had a very cogent explanation. President Tambo was worried, because what they were doing was also going to complicate his diplomatic work across the world. But if

he had their explanation for doing what they did, he was going to be proud of them, because the Amnesty Committee understood the context in which they did that and gave them amnesty.

ADV RANTHO: And perhaps just to inform the Commission, what attacks or what those attacks entailed.

DR MUFAMADI: Well, as I said, they carried out other attacks or operations wherein there was no violation of the rights of, ja, human rights of civilians. I am not talking about those. In the case of Wimpy Bar, they had intelligence that there was this particular Wimpy Bar in
10 Springs, which was frequented by members of the Special Branch. They had detailed intelligence even about what they were discussing as they were dining at this Wimpy Bar, which made unfortunately, from their point of view, that particular Wimpy Bar a legitimate target. And as I say, unfortunately, in the process civilians were caught in the crossfire.

ADV RANTHO: And you said those that were involved did receive amnesty by the TRC?

DR MUFAMADI: They received amnesty, yes.

ADV RANTHO: Okay. In paragraph 17 you further inform the
20 Commission as follows.

“It was during my tenure as the Minister of Safety and Security when members of the South African Police Service arrested former Security Branch members who were responsible for the killing of Warrant Officer Glen Mgoduka, Sergeant Amos

Faku, Sergeant Desmond Mapipa and Mr Charles Jack outside Port Elizabeth in 1989. The said members were successfully prosecuted after TRC refused to grant them amnesty for their involvement in the said killings.”

You confirm that is your statement?

DR MUFAMADI: It is, yes.

ADV RANTHO: Perhaps if you can just also again give some more explanation to the Commission as to what the killings of Mgoduka
10 and others, how were they carried out?

DR MUFAMADI: Yes, Glen Mgoduka and his colleagues who were killed alongside him were members of the Special Branch in Port Elizabeth. I think there were about four of them in the car, in a car. One of the passengers was an askari. An askari is a person who joins a liberation movement and defects to the other side, whether under duress or voluntarily.

So these Special Branch members who were travelling in a car, they are all black, happened to have been involved in one of the horrendous, perhaps even more, of the horrendous operations of the
20 Special Branch in which people were killed. People, I am talking activists of the mass democratic movement then. So they were involved, but they were in the company of their seniors, and their seniors were white members of the Special Branch.

So there was a fear on the part of the white members that these blacks know what we did. Change is coming. They are likely,

just by dint of being black, to tell what happened. So to remove the threat we face as white members of the Special Branch, let us kill them. So they were killed through a car bomb.

Then a message was sent out immediately to say they were killed by the ANC. It was a false flag operation. You find a way of putting into the public domain a message in which you say the ANC claimed responsibility.

Now, there was, how can I put it; when a message like that comes out in the public domain, it is taken as gospel truth, because
10 these are members of the Special Branch. For them to be attacked by the ANC is as obvious as to be banal. So, it so happened that later evidence was beginning to come to light that these members or the black members of the Special Branch were killed by their white colleagues.

Confronted with that evidence, the legal services of the police come to me and say: Minister, you are being sued. They tell me the circumstances. 'We must oppose this.' So I say: why? What are the grounds of opposing this thing? They say: no, you know, in law, if you do not report a matter within a given period after an incident
20 happened, the case prescribes. So the case has prescribed. So I say: did you tell their families that you killed them? No, sorry, I say we killed them, because now I am Minister of Police; that we killed them. They say no.

So I said no, then you cannot, in my name, oppose this matter, because it was actually you who concealed this, because you

wanted to defeat the ends of justice. Your instruction now is to reach out to the lawyers of these families, negotiate a settlement so that justice can be done. But you see, those people had actually already gone to the Truth Commission and lied. I am aware that they are now out because they served their sentences. They were charged. And as I say, we did not re... I said we are not going to re-victimise the remaining members of the families by being this callous as to say that the case had prescribed as if they knew from the beginning that their family members were killed by their colleagues.

- 10 ADV RANTHO: Thank you, Dr Mufamadi. During the evidence that was tendered by Minister Thembi Simelane, she informed the Commission about some form of assistance that you rendered to the family during your tenure as the Minister of Police. And she also informed the Commission that following your intervention, there was progress in the investigation of her missing sister, Simelane...

COMMISSIONER KGOMO: Nokuthula.

ADV RANTHO: Nokuthula Simelane. Thank you for that, yes. Do you want to tell the Commission just briefly how you assisted the family in that regard?

- 20 DR MUFAMADI: Yes. Adv Nokuthula Simelane was arrested by members of the Special Branch. She was an underground operative of the ANC. They arrested her, because she was unfortunate to have, in a mission, been detained; also to get in touch with someone who was working for us and for the other side. So she gets arrested. She has disappeared.

How do I come to know this? We were going through a period where, as I said, many things were happening. One of them is that there are members of the Special Branch, members of Military Intelligence who were actually peeling away from the system. That happened even before we came into government. And that is one of the things that helped us to understand better the complexity of the situation we were dealing with.

So when Nokuthula's parents came to see me, asking for advice, Nokuthula has disappeared for so many years by then without
10 trace. I fortunately already had occasion to debrief some of the former members of the Special Branch, who happened to be askaris, to debrief them and they had knowledge of the circumstances in which she was arrested.

So because I had that knowledge, I actually knew which way the Simelane family should look. And incidentally, the people that they needed to look at are people that General Van der Merwe, the then Commissioner of the South African Police, was trying to recommend to me as people who needed to be given a particular machine, because they are very good and so on. What he did not
20 know is that I knew what he did not want me to know.

So I then advised the Simelane family that the starting point must be a formal reporting to the police in case of a missing person. And then if they look in the direction in which they needed to look, they are likely to find a solution. So Minister Simelane, the younger sister whom I did not know at the time, is telling the truth about the

assistance that I gave to her parents. I was in a position to give that. I am not in a position to give such assistance in all cases. I gave that assistance to the family and she is also correct that they made progress, which progress I am not at liberty to talk about.

ADV RANTHO: Thank you, Dr Mufamadi. In paragraph 19, you stated that:

10 “I cite these instances to show that I had no reason to interfere with the TRC processes by protecting those who were involved in serious acts of human rights abuse.”

Do you confirm that is your statement?

DR MUFAMADI: It is.

ADV RANTHO: Now we are going to deal with your response to the Rule 3.3 notice that we spoke about. That is now the notice that you received from the Commission. In paragraph 20, you referred to the Terms of Reference of the Commission and in paragraph 21 you are explaining as follows.

20 “It is alleged in the Rule 3.3 notice that during the interview conducted in May 2006 by one Bubenzer with the former SADF, General Jan Geldenhuys, Geldenhuys reported that I formed part of secret meetings held between government and the high-ranking former generals of the former SADF. These meetings allegedly commenced in 1998 and ended in 2004.”

You confirm that you are aware of those allegations?

DR MUFAMADI: I am aware of the allegations, Advocate.

ADV RANTHO: Before you respond to that, I just want to take you to paragraph 22, wherein it is stated as follows.

10 “Having been advised of the fact that I only
served as a Cabinet Minister from 1994 to 1999,
my attorney of record, Mr Lungelo Gumede,
addressed a letter to the Commission on 1 April
2026, seeking clarity on the exact information
required from me. The said letter was written
based on my understanding that the
Commission's mandate is to look into allegations
of political interference in the TRC cases from the
year 2003.”

And then you attached a letter of Mr Gumede to your affidavit. You are aware of that? You confirm this is your statement?

DR MUFAMADI: Yes.

ADV RANTHO: Paragraph 23, you inform the Commission that:

20 “In their response to Mr Gumede’s letter dated 1
April 2026, the evidence leaders stated as
follows. The allegation is that the events covered
by the terms of reference have, as part of their
genesis, *inter alia*, those meetings in which Dr
Mufamadi participated. The suggestion made is
that part of the reason why TRC cases were not

investigated and prosecuted was because the ANC had secret agreements with the generals and that Dr Mufamadi participated in those secret agreements.”

And then you were referred to the transcript of the hearing of the evidence of one Mr Bubenzer. And the same letter in paragraph 4 of the evidence leader’s letter, it is stated that:

10 “Dr Mufamadi is therefore affected by the terms of reference. We accordingly request that he furnishes the Commission with information dealing with the evidence of Mr Bubenzer in so far as it relates to him.”

You are aware of the contents of that letter from the evidence leaders, correct?

DR MUFAMADI: Yes.

ADV RANTHO: And as you indicated earlier, there is an attachment of that letter to your affidavit as FSM3. You are aware of that? You confirmed it?

DR MUFAMADI: Yes.

20 ADV RANTHO: Thank you. Now in paragraph 25 you stated as follows.

“In short, I am required to respond to allegations levelled against me by an author called Bubenzer, who, apart from the confirmatory affidavit by Schmidt, relies on hearsay evidence from various

individuals.”

You confirm that is your statement?

DR MUFAMADI: Yes. Paragraph 26:

10 “Whereas I remain of the firm view that my
 affidavit will be of little or no assistance to the
 Commission when one considers the
 Commission's terms of reference, coupled with
 the vague allegations that are contained in the
 Rule 3.3 notice, I nonetheless endeavour to
 respond as follows to the allegations levelled
 against me.”

That is your statement. Then, yes, now you refer to, now you respond to the allegations by Mr Bubenzer and specifically you refer to paragraphs 380 to 382 of the Commission's, of... I think it is the Calata affidavit as quoted in the notice by the Commission. Now Commissioners, if I may, with your permission, just to go through those relevant paragraphs.

CHAIRPERSON: Yes, you may.

20 ADV RANTHO: Thank you, Commissioner. Commissioner, with
 your permission, just to give a proper context, I think it would be wise
 to rather start from paragraph 380 just to give context.

CHAIRPERSON: 380?

ADV RANTHO: 380, that is page 16 of Dr Mufamadi's bundle. It reads as follows; that is now the Commission's notice that was issued to Dr Mufamadi.

“According to an interview conducted by Bubenzer with former SADF General Jan Geldenhuys in Pretoria on 10 May 2006, consultations between government and a group of high-ranking former generals of the SADF commenced during 1998.

10 380.1 Former Chief of the SADF, General Constand Viljoen, was approached by Jacob Zuma, the then Deputy President of the ANC, with the aim of discussing questions of criminal accountability arising from the past. Viljoen referred Zuma to Geldenhuys and the Contact Bureau, known in Afrikaans as the *Kontak Buro*. As with the police negotiations, these talks were aimed at finding a mutual agreement to avoid post-TRC trials through a new indemnity mechanism. The government was represented by Jacob

20 Zuma, who became Deputy President of South Africa in June 1999. The talks were mediated and facilitated by Johannesburg businessman, Jürgen Kögl, who was closely connected to leading ANC members. Apart from Zuma, other high-

ranking members of the ANC, such as Penuell Maduna, then Justice Minister Mathews Phosa, Sydney Mufamadi and Charles Nqakula also participated from time to time. On various occasions, Thabo Mbeki was also present, initially in his capacity as Deputy President and later as President. The SADF was represented by Geldenhuys and other generals. Both sides had legal advisers present. These talks continued until early 2003, with fellow follow-up meetings held in 2004. Bubenzer explored the motivation of the government in reaching out to the SADF generals in two interviews conducted with Jürgen Kögl on 12 May 2006 and 14 June 2006. Apparently, the government was, for among other reasons, interested in persuading the generals to come clean on its past third force operations in KwaZulu-Natal, and in particular to disclose the sites of arm caches which could be used in future political violence.”

On the next page:

“On 21 December 2019, investigative journalist

and author, Michael Schmidt, conducted an interview in Hartbeespoort with Major-General Dirk Marais, former Deputy Chief of the Army and the Convenor of the SADF Contact Bureau. Schmidt's confirmatory affidavit is annexed and marked as FA59. Schmidt writes in his book, Death Flight, that according to Marais, the government was seeking a *quid pro quo*."

And then the copies of the relevant extract are attached to that
10 affidavit.

"Marais claimed that Mbeki indicated in their discussions that they do not want us to be charged and they do not want them to be charged. Marais said in the interview that on his side at the talks were former Defence Minister, General Magnus Malan, former Chiefs of Defence, Generals Constand Viljoen and Jannie Geldenhuys, and former Chief of the Army, General Kat Liebenberg; although sometimes
20 they brought in other generals, such as former Sergeant General Neil Knobel or one of the former chiefs of the Air Force, as required. Marais told Schmidt that on the ANC/Government side, Mbeki's team usually consisted of the security cluster, which included Minister of

Defence Joe Modise, Minister of Safety and Security Sydney Mufamadi, and Minister of Justice Dullah Omar. According to Schmidt, when Mbeki became President, Zuma's security cluster team would most likely have included Minister of Defence Mosiuoa Lekota, Minister of Justice Penuell Maduna, replaced by Brigitte Mabandla in Mbeki's second cabinet, Minister of Intelligence Joe Nhlanhla, later replaced by
10 Ronnie Kasrils and Minister of Safety and Security Steve Tshwete, later replaced by Charles Nqakula.”

I would just like to end it there, just to give a context, Commissioners, in the response that is now given by Dr Mufamadi in his affidavit. Now, I just read out what is contained in the Commission's notice that was issued to you, in so far as the allegations were made that you formed part of the high-ranking officials of the ANC that were in talks with the former generals about some agreement that was entered into.

20 In short, the agreement was about promising each other that we will not prosecute you; and then they intend, they said you will also not be prosecuted for whatever deeds that were committed by the ANC. Those are the allegations. And now, those allegations were made by an author called Bubenzer, who relies on the interview that was conducted by one Schmidt sometime in May 2006. Now, if I

may just ask a question; do you know of Bubenzer, Bubenzer? The author called Bubenzer, do you know him?

DR MUFAMADI: I first came into contact with that name when I received the notice from the Commission.

ADV RANTHO: And you never came across Bubenzer before this notice was issued to you, as you explained?

DR MUFAMADI: No.

ADV RANTHO: Now, regarding the allegations that are made, in paragraph 27, you stated as follows:

10 “It is common knowledge that I participated in negotiations and/or discussions with various stakeholders at different levels in a build-up towards the formation of the democratic government. These commenced even before the democratic elections in 1994 took place, and included negotiations and/or discussions with leaders of the business community, religious organisations, civil society organisations, former liberation movements, different political parties
20 and former government officials.”

And then you ended by saying that:

“The said discussions were mainly aimed at ensuring the smooth transition from the apartheid era into the democratic dispensation and nothing else.”

Do you confirm that is your statement?

DR MUFAMADI: Yes, it is.

ADV RANTHO: Yes. Now, if I may say to you that you should explain as to why you say to the Commission that the kind of negotiations that you engaged in had nothing to do with what you were accused of by Bubenzer, what would be your response?

DR MUFAMADI: Yes. I think I have partly traversed that ground earlier when I explained that the truth and reconciliation process had its provenance in the way we thought to approach the transition to a
10 new society; and we had an idea as to how we could get there with least instability.

So, I am saying against that backdrop, and as I said in the affidavit, clearly Bubenzer in his book, he relies on hearsay evidence. But I will also talk about the talebearer, if indeed Geldenhuys, General Geldenhuys was the talebearer. I will talk about him in the context of the claim he is alleged to have made, which I am saying has absolutely no substance.

General Geldenhuys was one of the accused in a case which involved the murder of 13 people, one-three, from a family, who were
20 members of a family in KwaMakhutha in KwaZulu-Natal. It was part of these operations that were authorised at a very high level. Now, if people who did that dastardly thing, who carried out that dastardly act, had gone to the Truth Commission, to the Amnesty Committee, possibly, and made full disclosures, possibly, they would have been given amnesty.

The reason why they found themselves arrested and charged, alongside, by the way, the then former Minister of Defence, Magnus Malan, is because we were continuing to see violence raging in KwaZulu-Natal, as if we have not transitioned into a new society. But we also had people who were trained in terms of the plans of people in leading structures, decision-making structures of the system then, who were trained in Caprivi, who are amongst those who were peeling away. The matter had to be investigated.

I must also say, because I think it is important, at least for
10 posterity, to say this. At that stage, that is before 98, around 95, 96, we were in the process of amalgamating the 11 police forces. And the leadership of the ANC thought that it is important that those who are afraid of the new South Africa – I am not talking about the police now, I am talking about the generality, amongst the generality of the whites in South Africa and others who committed wrong things and so on.

Even those who did not commit anything wrong, they just thought of the ANC and other liberation movements as these terrorists who were going to nationalise their homes and so on. If
20 they see some of the people who were in leading positions in the past serving in the new South Africa; that might also help to pacify these fears. It was in that context that General Van der Merwe was going to be my commissioner, because he was told no, look, if you are prepared to serve, we wanted him to be this symbol of assurance. That same assurance was given to George Meiring, who was Chief of

the South African Defence Force of old.

So I am working with Van der Merwe. He is not prepared at all to carry out investigations that will stop the killings in KwaZulu-Natal, because that was a continuation, whether he was involved or it is happening independently of him, a continuation of actions by people who were trained at Caprivi in the context of the old days. So he is not prepared to move. We have to stop these killings.

So I then say to my president, then President Mandela; we cannot have this chap becoming Commissioner of Police, because he
10 is just standing rooted on the banks of the Rubicon. He does not want to cross. So, President Mandela called him and told him to leave.

In the meantime, we had set up an investigation task unit and an investigation task board, which enabled the prosecutorial wing of the legal system and the investigative wing of the SAPS to work together. We brought in even some civilians who were legal practitioners in the area of human rights to do this investigation. And as I say, Geldenhuys is one of those who were arrested and charged.

Mr de Klerk tried to persuade Mr Mandela to get the charges
20 dropped. I sat in one of, the one and only meeting which discussed that issue and Mr Mandela said no. They ought to have gone to the Truth Commission. The law must take its course. I suspect that that is one of the reasons why Mr de Klerk left the Government of National Unity. I am not saying I know for certain. I say I suspect. But Van der Merwe had to go under those circumstances.

General George Meiring was allowed to continue as Head Chief of the South African National Defence Force. Then at some point, that must have been 1997, he gave the head of state a report which was, an intelligence report which was palpably fake, which was basically a continuation of the things they used to do during the apartheid days.

Of course, the report was not just dismissed. It was duly investigated. In the result, he was also asked to go. Now, this is 97. Geldenhuys says I was part of meetings between 1998 and 2003 and
10 he and Malan, Magnus Malan and others were in those meetings. To the extent that they, Malan, Geldenhuys and those who were charged with them, regarded me in my capacity as Minister of Safety and Security as having caused them being arrested and charged. I do not think they would at all be comfortable after they had been arrested and charged to sit in the same meetings with me between...

ADV RANTHO: 1998.

DR MUFAMADI: 1998 and 2000...

ADV RANTHO: And-four.

DR MUFAMADI: Ja, 2004. But again, I think if regard is had to what
20 I have been saying about our approach to these issues, the scenario of sessions *kamina kawena*, *kamina kawena* between the ANC and people from the old order, it is really a fantastic scenario. We had no business to exchange, or rather, to compromise on the principles of truth and reconciliation, because we sought to be absolved from the responsibility, ourselves to account for what we did.

COMMISSIONER KGOMO: Dr Mufamadi, do you have that saying correct – *kawena, kamina kawena, kamina kawena*? It has to be *kamina kawena, kawena kamina*.

DR MUFAMADI: Oh, *kawena kamina*.

COMMISSIONER KGOMO: Yes.

DR MUFAMADI: I see ...[intervenes]

COMMISSIONER KGOMO: You say it this way and you say it the other way; *kamina kawena, kamina kawena, kawena kamina*, yes.

DR MUFAMADI: Okay. You can see that I am not used to the
10 politics of transaction in any language, but I am glad you are saying
that there is no truth in that. From 1999 after all, I was no longer part
of the security cluster. If those meetings, General Geldenhuys spoke
about did happen, I was not part of them.

ADV RANTHO: Thank you, Dr Mufamadi. Then in paragraph 29 you
stated that:

“In summation, I deny that I ever took part in any
secret meetings with former security generals
with the aim of negotiating agreement on
subverting criminal accountability arising from the
20 past politically motivated atrocities as claimed by
Bubenzer and/or Schmidt and/or Geldenhuys.”

You confirm?

DR MUFAMADI: Yes.

ADV RANTHO: Now in conclusion, if I may just read into the record
what you stated in conclusion. That is paragraph 30 of your affidavit.

You stated that:

“Given my voluntary participation in the TRC process and the advice and support I rendered to those who were wronged by the apartheid regime, I had no reason to interfere with any investigation and/or prosecution of the cases related to the TRC. I further never directed and/or instructed anybody not to pursue the TRC-related investigations and/or prosecutions in
10 whatever manner. I remained true to the values underpinning our constitution throughout my career as a cabinet minister and beyond.”

You confirm that is your statement in conclusion?

DR MUFAMADI: Yes.

ADV RANTHO: Yes. Commissioners, that brings an end to evidence-in-chief of Dr Mufamadi.

CHAIRPERSON: Mr Gwala, any clarificatory or Ms Moroka?

ADV MOROKA: No, I was not going to ask now, Chair, because I do want to ask, but I was going to say it is 25 to two. Maybe it is
20 convenient to take tea, lunch adjournment now.

CHAIRPERSON: Ms Rantho, are we able to proceed or would you like us to adjourn in the interest of Dr Mufamadi?

ADV RANTHO: Perhaps if I may, Dr Mufamadi, I think we can proceed for clarification questions, or should we take a break?

DR MUFAMADI: No, we can take clarification questions.

ADV RANTHO: We would love to get done with it, Commissioners.

CHAIRPERSON: Thank you. Ms Moroka?

DR MUFAMADI: Advocate, I can hear that you are addressing me, but the volume is not right.

ADV MOROKA: Oh, my apologies. I think you know my voice very well. If I may ask; you talk about, I want to take you back to the beginning of your affidavit where you talk about being a victim and a perpetrator. And the issue about being a perpetrator is that you got amnesty for it. Am I correct?

10 DR MUFAMADI: Yes, Advocate.

ADV MOROKA: When you talk about being a victim, you sketched it very thinly, and I would appreciate if you could tell the Commission what you meant by being a victim, because I want to align that to the understanding of your issues about not stopping TRC prosecutions; if you could just shortly tell us about the victim scenario.

DR MUFAMADI: Yes, Commissioner, I cited examples of my family having a member who has disappeared without trace. We do not know what happened. We cannot find closure. Therefore, we are victims who deserve to know what happened to my brother.

20 My house was firebombed twice. My wife and child could have died in that firebomb. The community of Diepkloof came to their rescue, but we still do not know who did that. I would not go into too many examples. That is the point I was making. But also, I had duty of care to look after the property of COSATU and its affiliates. To date we have not been told who bombed the headquarters of

COSATU, who firebombed the other offices of either affiliates or regional offices.

But you see I could not approach a matter of this national importance from a view which says that if I personally did not get these redemptions, therefore nothing moves. You know, we went into the struggle knowing that there was a price that we could possibly pay. So, we were prepared to take those risks. The comrades I speak about that we lost, some of them were very close and known to me, but I had to look at what we need to do within the context of the
10 challenge that was facing the nation.

ADV MOROKA: Were any of your family members injured in those fire bombings?

DR MUFAMADI: Well, you know as I say, they could have died in that inferno. People in the neighbourhood came and did the best they could. I do not want to be personal, amongst them was the late Eric Molobi, Frank Chikane was there, Max Mayisela, and again, Thabo Mmutlana was always there whenever he was needed to help us. Not only was he there on the day of the incident, but he was the doctor that treated my wife and daughter, because they did not come
20 out unscathed from that incident.

ADV MOROKA: Do you by any chance, or do you recall the speech that was given by the President when he was addressing Parliament on the occasion of the incident... [intervenes]

CHAIRPERSON: Ms Moroka, is that a clarificatory question?

ADV MOROKA: Yes, Chair, because the witness talks to why it is that

there was no *Kamina Kawena*.

CHAIRPERSON: Yes.

ADV MOROKA: And I want to confirm with him what the view of the president was on the issue of *Kamina Kawena*.

CHAIRPERSON: Okay.

DR MUFAMADI: Ja, well, you know ...[intervenes]

ADV MOROKA: President Mbeki, not President Mandela.

DR MUFAMADI: Ja, President Mbeki then in his capacity as Deputy President of both the country and the ANC, but he was speaking as
10 Deputy President of the ANC when a delegation was sent to the Truth and Reconciliation Commission to state our position on the issue of the Truth and Reconciliation Commission and its processes. I was part of that delegation.

He delivered a speech but he made an intervention on our behalf, I am sure you can find it in the archives of the Truth and Reconciliation Commission, where he set out the circumstances in which we felt compelled to take up arms against the apartheid system. He spoke to our policy in terms of how we committed to abide by the international laws of war.

20 He did say that you must not be surprised if this Truth Commission, the Amnesty Committee are approached by some of our cadres who acted contrary to our policy. Please listen carefully to what they have to say, because they will be able to explain to you the circumstances which may have led them to deviate from policy. But, in general, we are aware that where such deviations happened, they

were reacting to acts of extreme provocation from the other side, and they were indeed "responding on the hoof".

One case we cited, which is in that speech, was the case of Andrew Zondo, who comes into the country with a clear mission, which was within the ambit of our policy. And whilst he was reconnoitring his targets, he gets to hear about the SADF having raided Lesotho, killed members of the ANC, who were not armed, as well as Lesotho civilians.

10 And in the spur of the moment he carried out an act of revenge, which was not consistent, which content was not consistent with our policy. He explained this to the court of law, the apartheid court of law. I am sure that the court of law would not have listened to him in the way that we think the TRC would have, you know, with some empathy and understanding.

They sentenced him to death, and they hanged him. So I am saying that that kind of ANC which talks like this, it is inconceivable that it would go out and seek to be part of transactions that run counter to its own policy.

20 ADV MOROKA: Dr Mufamadi, I think my question was really related to his speech when he was President, and on the occasion when he presented the Truth and Reconciliation report to parliament. What I really want to understand from you is whether there was at any moment in time when the ANC-led government was of the view that prosecutions should not happen against those perpetrators, because the ANC would have been scared that they would also be

prosecuted?

DR MUFAMADI: I said no. The ANC knew that instances where the TRC would not be satisfied, prosecutions were the natural course of action to follow. So I do not, sitting here now, remember what exactly the president said in this regard, but he cannot have said anything which is at odds with what I said was his message to the TRC itself. Our position has always been consistent.

ADV MOROKA: Thank you. Those are my questions.

CHAIRPERSON: Thank you, Ms Moroka. Mr Gwala?

10 ADV GWALA: Thank you, chairperson. We do not have questions for the witness.

CHAIRPERSON: Thank you. Anyone online? Mr Varney.

ADV VARNEY: Thank you, chairperson. Chairperson, we have conferred with Adv Rantho. There are some documents that we wish to put to Dr Mufamadi, but Adv Rantho and Dr Mufamadi would need some time to confer, so we will apply to cross-examine Dr Mufamadi.

CHAIRPERSON: Thank you, Mr Varney. Mr Semenya.

ADV SEMENYA: Well, as has been practice, chair, we would defer the questioning of the witness.

20 CHAIRPERSON: Yes.

COMMISSIONER GABRIEL: Dr Mufamadi, it is Commissioner Gabriel again.

DR MUFAMADI: Yes, commissioner.

COMMISSIONER GABRIEL: I am very interested in your experience in transitional justice. Please do not forget that you promised to send

us your articles on transitional justice, that is the first point. The second point is, doctor, you have stated on so many occasions that you could not betray the principles of national unity and reconciliation. I think by that you meant the Act.

DR MUFAMADI: Yes.

COMMISSIONER GABRIEL: That is right. That report was released in 2003, the final report.

DR MUFAMADI: Yes.

COMMISSIONER GABRIEL: But as part of your negotiations, the
10 interim Constitution made reference to that process. Do you recall that?

DR MUFAMADI: Yes, I do. But as I say, sitting here, I would not say paragraph 7 said this ...[intervenes]

COMMISSIONER GABRIEL: I understand, I understand.

DR MUFAMADI: Yes.

COMMISSIONER GABRIEL: Now, here we are 23 years later in a commission of inquiry to investigate whether anyone, I am going to paraphrase, stopped the prosecution or investigation of TRC cases. And we have heard months and months of evidence about the lack of
20 prosecutions flowing from the TRC cases, in particular those who were denied amnesty. Now, given your experience in transitional justice, how well do you think South Africa has done in its process of transitional justice, what would your views be?

DR MUFAMADI: Well, let me make sure that I do not answer this as a general question, because we are dealing also with this matter in a

situation where there is context. You will recall that I said we knew that we were going to have to undertake the transition. This aspect of the transition is just but one aspect; it is a multifaceted process of transition. We will be undertaking this in conditions which are not of our choosing.

We inherited a police force, actually, it was the SAP and the 10 Bantustan police forces. All of them were part of this counter-insurgency warfare machinery. Your ability to make progress depends in part on the effectiveness and willingness of people who
10 constitute your technocratic cadreship. Are they organic to the type of society you are intending to build? That is one.

And I told you about the machinations of people within, I mean, we had situations where, so to speak, even ministers had to go operational because you could not avoid using your position there to make yourself available to people who give you information, which you then have to find ways of ensuring that the system responds to and follow up.

I spoke about the arrest of Magnus Malan. A lot of people were worried that we acted so irresponsibly, there was going to be
20 Armageddon in the country; it did not happen. I am saying, therefore, that things could have gotten worse than they actually became. Silencing the Boeremag by counterfactual reasoning, if we did not succeed to do that, a lot more problems would have been encountered.

Now, if you look at the balance sheet of cases that have

been solved *vis-à-vis* those that have not been solved, sure you will say we do not have an ideal picture. I think the fact that we do not have this ideal picture must motivate all of us to continue to find ways by which we can contribute to processes of pursuing these matters.

As a matter of fact, even after I left government, people who are involved in the investigation and re-opening of inquests into matters that were not finalised in the context of the TRC will tell you that they have always found me ready and willing to assist their work. Because I do not believe that we can afford to throw up our hands in
10 the air and say this and that has not happened. Our task is to make sure that it happens.

The inquest into the death of Neil Aggett, who was a very, very close comrade of mine, the people who were dealing with that inquest will tell you that I pointed them in the directions they needed to go. Not because of information I became privy to when I was in government, but because Neil Aggett was detained with people that me and him worked with when he was killed in detention.

So all I am saying is, if you adopt the concept of, you know, bringing about desirable change in South Africa, it is a permanent
20 work in progress. Then you are not going to be fazed by instances of slow progress and setbacks, you were to keep persisting.

COMMISSIONER GABRIEL: And then just, thank you for that, just moving onto what you spoke about, justice as fairness. You said that that includes fairness to the victims and/or the families of the victims. Now, if transitional justice is an ongoing process, where does justice

as fairness fit in? And I am talking specifically now in the context of the final report of the Amnesty, of the TRC in 2003, in your view?

DR MUFAMADI: Are you done, commissioner?

COMMISSIONER GABRIEL: Yes, I am done, thank you.

DR MUFAMADI: Well, what I am saying is, we are two sides to the conflict. There are issues which, if in the context of the discourse were not handled from a perspective which is based on a proper understanding of complexity, could have become a red herring. Is there moral equivalence between those who fought for the demise of
10 apartheid and those who fought for its perpetuation?

We say there is no moral equivalence, but we, coming from my political tradition, say all are equal before the law. We cannot on that basis say that those who were fighting for the demise of apartheid did not have to account for the aberrations that I spoke about, actions contrary to policy. We have to account for that and give the remaining members of the families of those who were victims of our actions closure. That is what I meant by justice as fairness.

I had instances where some comrades of mine were arrested and prosecuted whilst I was minister. And comrades were saying,
20 but, comrade Sydney, why would you allow this to happen? So I said, but the Freedom Charter says, "All shall be equal before the law", and by "all", it includes these comrades. But they have to avail themselves of the opportunities that were given, so that is what I meant by justice as fairness.

I am still saying that those who did not bring the spirit of

reciprocity to the table of justice and reconciliation will have to be made to account for not having done that. Well, ideally, this would have happened, all of it, yesterday. But these realities that I have "painted out" tell you why there is a discrepancy between ideal and reality.

COMMISSIONER GABRIEL: So just your understanding then of transitional justice, you say justice to the families ought to have happened yesterday, in other words, sooner rather than later?

DR MUFAMADI: Sure.

10 COMMISSIONER GABRIEL: Okay.

DR MUFAMADI: But also because, you see, the notion of transition speaks to a temporal moment which is transient. So it is important that we also do not allow this notion of transitional justice to mean transitional justice for all time. The issue is justice, that is the issue. But the notion of transitional justice speaks to the fact that these agreements about how we were going to deal with this matter was contingent, it was a matter for a particular national historical moment.

COMMISSIONER GABRIEL: So you have spoken also about the principles of the Truth and Reconciliation Act. When you were
20 engaging in these negotiations, which you are very fortunate to have been a part of in CODESA, in the interim and the final Constitution, and then the passage of the TRC Act. Was it ever contemplated that there would be a process beyond the TRC, that there would be a process beyond the amnesty committee process to provide perpetrators, let me use the words, another chance?

DR MUFAMADI: Well, that would have been a perverse incentive if there was such a contemplation. The process is time-bound. If you do not avail yourself of the opportunity, then the processes of enforcement of the law kick in.

COMMISSIONER GABRIEL: And that is, as you said, what Mandela said.

DR MUFAMADI: Sure, that is why Mr De Klerk was taking a chance, they walked out of that meeting empty-handed.

COMMISSIONER GABRIEL: Thank you so much, Dr Mufamadi.

10 DR MUFAMADI: Thank you, thank you, Commissioner Gabriel.

COMMISSIONER KGOMO: Yes, Dr Mufamadi, Adv Moroka SC asked you a genuine and very important question about the address of President Mbeki to Parliament. After the final report of the TRC Commission was handed over to him, you were unable to help. I know you will be eager to help, so you are in the same position as your former colleague, advocate, I mean, Minister Hadebe.

I am going to address myself to the chief evidence leader, Adv Semenya, to in the same way as former Minister Hadebe make that address to Parliament available to you, so that when you return,
20 you may be of assistance to the Commission. Would you be prepared to help?

DR MUFAMADI: I am indebted to you.

COMMISSIONER KGOMO: Yes. Counsel, I have addressed you also in some way. Would you assist?

ADV SEMENYA: We will indeed, Commissioner Kgomo.

COMMISSIONER KGOMO: Yes, thank you, chair.

CHAIRPERSON: Thank you. Dr Mufamadi or Ms Rantho, any re-examination?

ADV RANTHO: None, chairperson. I am actually ...[intervenes]

CHAIRPERSON: For now.

ADV RANTHO: I am indebted to Commissioner Kgomo because I wanted to put it on record that the witness was never privy to that presidential speech, but I think there is a way forward, we do have it. We can relieve evidence leaders of that burden of having to furnish a
10 copy to Dr Mufamadi, we will do so.

CHAIRPERSON: Thank you, ma'am.

COMMISSIONER GABRIEL: And please add to your list the articles?

ADV RANTHO: The articles, thank you, commissioners.

COMMISSIONER GABRIEL: Thank you.

DR MUFAMADI: The articles, we will have to talk about the prize.

COMMISSIONER GABRIEL: I thought this was global knowledge [indistinct].

DR MUFAMADI: No, no, no, advocate, I am really willing to share.
20 You will not always in all cases find them captioned "transitional justice".

COMMISSIONER GABRIEL: I know, that is why I am so curious and so interested.

DR MUFAMADI: Okay, thank you.

COMMISSIONER GABRIEL: Thank you.

CHAIRPERSON: Thank you. Dr Mufamadi, as you have heard, an application for your cross-examination will be made by Mr Varney on behalf of the Calata Group.

DR MUFAMADI: Yes.

CHAIRPERSON: You will therefore be expected to return to the commission for such cross-examination at a date to be determined. For now you are excused as a witness. We thank you for attending.

DR MUFAMADI: Thank you, Madam Chair, and thanks, commissioners. I stand ready to assist this Commission, so I will
10 return should I be asked to return.

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

INQUIRY ADJOURNS UNTIL 10 SEPTEMBER 2026

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We, 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:

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