

**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 Varney (SC) – The Calata Group
Adv D Pillay – The Calata Group
Ms A Thakor – The Calata Group
Mr Siphon Thhaole – The Calata Group
Adv KD Moroka (SC) – DoJ representative
Adv Motlalepula Rantho (for SAPS)
Mr Tabata (for Adv B Ngcuka)

5 MARCH 2026

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PROCEEDINGS ON 5 MARCH 2026

CHAIRPERSON: Mr Varney?

ADV VARNEY: Chairperson, we thank the commission for the indulgence for the late start this morning. Mr Ackermann did have a poor night last night. He has indicated that he wishes to explain briefly why we are starting late this morning. We are also grateful for the offer of more frequent breaks and I understand that the commission has agreed to allow the witness to stand down after approximately every 45 minutes or so. And of course we will be
10 guided by him and our team in Cape Town as to how much time he needs.

CHAIRPERSON: Yes, you will just bring it to our attention when he needs a break.

ADV VARNEY: We will do so. Mr Ackermann, I understand that you just wish to offer a short explanation. You may go ahead.

ADV ACKERMANN: Thank you, Commissioners. Yesterday another batch of documents were released on the TRC website. I was only interested to read what Macadam stated in the affidavit, but amongst all the documents I saw a letter that Adv Mpshe addressed to the
20 minister January 2008. It is about a complaint by Reverend Chikane. I deemed it prudent not to refer to any of the matters dealt with in the letter, lest it be said that I amended my version after reading of this letter.

The version I will give to the commission is what I wrote months ago and was typed by my wife. Commissioners, little sleep

and a gluttony of documents the last few days was taking a toll on me on my health. It is of a bit embarrassing for me to discuss my health on national TV and to ask for short adjournments all the time. I appreciate that it is always granted and that you understand my situation. Fortunately I have my private physician next to me who will at all times, Jos Venter will monitor my *compos mentis*. With that being said, we can start then with the next topic.

COMMISSIONER KGOMO: Yes, just a correction. I do not think it matters much. Maybe the witness needs to say a cloud of
10 documents. Gluttony means avarice, but we understand what he is conveying, but gluttony means greed.

ADV VARNEY: Yes, indeed. Indeed, Commissioner and thanks for pointing that out. So certainly the witness is not greedy for more documents. I do not think any of us are; and in fact, we are now busy scrambling to try and find the documents that he has referred to.

COMMISSIONER KGOMO: *Nee, en ons weet hy is Afrikaans-sprekend, nè.*

ADV ACKERMANN: Chairperson, I believe that there is a new word in the dictionary, the gluttony. There is over-information, gluttony of
20 information. That is where I picked it up. In any event ...[intervenes]

COMMISSIONER KGOMO: Okay, thank you. Thank you very much.

ADV ACKERMANN: Shall I start then with the topic of Reverend Frank Chikane?

ADV VARNEY: Yes, let us kick off and just to advise the commissioners that we will probably only deal with three or four topics

this morning, depending on how you feel, but let us kick off with what you want to say about your prosecution strategy in relation to the Frank Chikane matter.

ADV ACKERMANN: Before I start then with the case itself, I think it is important to explain my prosecuting strategy relating to these atrocities committed by the security forces. Prior to the establishment of the PCLU in 2003, I was a prosecutor in a number of human rights violation cases. Somewhere in 1997 I was instructed by the attorney-general – that was Dr D'Oliveira, to present myself at the Saambou
10 Building on Church Square. That was the first time I have been to that place. I have already stated that I am not; I was not a member of the D'Oliveira investigating team.

Present at this meeting were a number of high-profile legal people. Mostly of the Goldstone Commission, but I also saw Adv Chaskalson who later became the Chief Justice of South Africa and there were also justice representatives. I believe there was a general of the Zimbabwe police force there too. I was probably introduced, but I cannot recall them all.

A number of police dockets were handed over to me with a
20 brief to prosecute the persons mentioned in the dockets. The persons mentioned in the dockets were generals of the security force and senior politicians, but the main focus was on the notorious Vlakplaas unit. I perused the dockets and presented my report a week later. It was clear to me when I presented this report that people present there expected indictment and conspiracy trial. I,

however, rejected the conspiracy trial either to prosecute Colonel Eugene de Kock as head of the Vlakplaas unit as the only accused.

ADV VARNEY: Mr Ackermann, if you can just pause there. I just want to follow up by way of clarification. You mentioned that this meeting was around 1997. Now the Goldstone Commission round up during the course, I believe, of 1994 or 1995 and you commenced your prosecution of Colonel Eugene de Kock in 1996. So is there a chance that that meeting was probably a little earlier than 1997?

ADV ACKERMANN: It was before the prosecution of De Kock, the commencement of the prosecution. I had to draft it. So, it was a
10 mistake I made in these notes. I do not know why I said 97 there.

ADV VARNEY: Okay, that is a small matter. And just to confirm that the members of the Goldstone Commission, apart from Judge Goldstone himself, did it include Arthur Chaskalson and Judge Tyrion [?] as well as Nicholas Zietsman?

ADV ACKERMANN: I know Judge Tyrion was not there, because it is well-known to me, I was from Pietermaritzburg. He was at Pietermaritzburg office. He was a judge there. By now he was not present.

20 ADV VARNEY: But you recall that Arthur Chaskalson at that time was a member of the Goldstone Commission.

ADV ACKERMANN: He must have been. He was there. That is the only person that I could really, him and Dr D'Oliveira were the only people that I knew.

ADV VARNEY: Okay, thanks. You can proceed.

ADV ACKERMANN: Now as I stated, I rejected this conspiracy trial, decided to prosecute Eugene de Kock. My strategy was; perhaps I should explain. You get two counts, as the commission know, of conspiracies. You have the wagon wheel conspiracy where there is a person in the middle and he knows everybody, the spokes going out; and then you have a conspiracy calling, say the train links and the person in the chain only knows the person on top of him and underneath him.

So I work on the chain conspiracy method where each part of
10 the link is just linked to the person on top and we are able to just incriminate that person. I was quite certain that after De Kock was convicted, he would implicate the perpetrators who gave him the orders. At that stage I knew it was Krappies Engelbrecht and the next person in the link was General Basie Smit and the next general in the link will be General van der Merwe. That was my strategy that the next accused will probably be then Krappies Engelbrecht. I had already at that stage drafted an indictment.

Well, things did not work out the way I expected, because De
Kock decided to join the stable of the TRC after he was convicted and
20 he was out of my reach. Colonel De Kock, July winner, he was in their stable. When I decided later on to prosecute the perpetrators of Reverend Frank Chikane of attempted murder, I employed the same strategy. The Chikane matter was investigated during the trial of Dr Wouter Basson, which I prosecuted. The Chikane matter, therefore, did not require any evidence, investigations, except the formal

evidence in Madison in the USA. I discussed the matter with Mr Ngcuka and later with Dr Ramaite and explained my strategy to them.

I ...[intervenes]

ADV VARNEY: Can we just pause again? Just be clear when, we can just go back to what you are saying about De Kock deciding to join the stable of the TRC and he was therefore out of your reach. When you say he joined the stable of the TRC, can you explain that in more detail, please? What did you mean when you used 'stable'?

ADV ACKERMANN: What happened is; after his conviction, we
10 approached him. I was under the impression that he will implicate the people – Krappies Engelbrecht, Basie Smit. I will take an affidavit from him, because he was quite willing to implicate them. And I was under the impression he was going to approach us, but then I was told by somebody from the TRC or I do not know how it came about that he is off limits; that he is in the camp of the TRC. And as I said, from that moment on he was out of my reach.

ADV VARNEY: So did you mean he was at that point working with the ...[intervenes]

ADV ACKERMANN: With the TRC.

20 ADV VARNEY: The investigators of the TRC rather than with the NPA.

ADV ACKERMANN: Yes, that is correct.

ADV VARNEY: Okay. And then you moved on to discuss your approach in relation to Dr Wouter Basson and you said except for formal evidence in Madison, you will say; what formal evidence from

Madison you will say you are referring to?

ADV ACKERMANN: Of course there were the clothes, there were reports, the poison, medical reports, the position [indistinct] because he [indistinct] three times and the FBI person who investigated the matter also had an affidavit, because I had no evidence from the office.

ADV VARNEY: Okay, thank you.

ADV ACKERMANN: Now, I obtained knowledge from a source that the three perpetrators – those are the foot soldiers, was General
10 Christoffel Smit, Colonels Gert de Kock and Johannes Manie van Staden; that they indicated that they were not going to take the fall for this poisoning. Somebody close to them told me that. So, I knew that perhaps my strategy works out this time.

At no stage did I, however, anticipate that Minister Vlok and Commissioner van der Merwe were going to admit to giving the orders and plead guilty. They said to me at least this time the strategy worked, except that it must be said that Vlok and Van der Merwe only offered a plea after the negotiations between the state and the three foot soldiers failed.

20 That must have been beginning of 2007 that Vlok and Van der Merwe came on the scene. That is the time when the washing of feet started. Commissioner van der Merwe appeared about five times before the TRC Commission, but never said anything about the Chikane matter. Now, the attempted, got any near the attempted arrest of the Chikane accused.

ADV VARNEY: Just before you start on that, you made reference to the washing of feet. Was that in relation to the late Adriaan Vlok's various attempts to, I suppose, reconcile with families and victims by washing their feet? Is that what you are referring to?

ADV ACKERMANN: Exactly.

ADV VARNEY: Thank you. Please proceed.

ADV ACKERMANN: Approximately a week before the intended arrest of the accused, foot soldiers, I contacted Attorney Wagenaar and informed him that the three accused must present themselves at
10 the magistrate's court or the police station – I am not sure where it was; where they will be arrested and arranged for trial in the Supreme Court of Pretoria and that I will not oppose bail.

During my discussions with Wagenaar, it was obvious that they caught him by surprise. In short, he told me again the whole story about it would be a futile exercise, because the politicians have already decided that there will be a special dispensation for the accused in TRC matters and a bill to that effect will be presented to parliament in the near future. I merely informed him to be at court with the three accused.

20 I then made an appointment with Dr Ramaite to discuss this matter. I cannot recall all the matters we discussed, but it was in the main about the independence of the NPA and the powers of the Minister of Justice. A day or two before their arrest, Wagenaar phoned me again to enquire if I have been informed by the Justice Department about what was to happen with this case, the TRC case

of Reverend Chikane. I said no and once again informed him that he must ensure that the three accused present themselves at the police station, otherwise they will be arrested at their place of abode. He informed me then De Klerk was in contact with President Mbeki and it was decided that all TRC prosecutions investigations must be put on hold, pending the formulation of TRC guidelines policy, the policy guidelines.

Now, the morning of the intended arrest, I received a phone call again from Wagenaar who informed me that I would receive a call
10 from the Minister of Justice and that I would be advised that the case against the accused should be placed on hold. Shortly thereafter indeed I received a phone call from an official, Mabandla's office, who informed me that the decision had been taken by the minister and the Chikane case should be placed on hold. I told the official that the minister does not have the power or authority to give me such an instruction and that only the NDPP would give me such an instruction.
ADV VARNEY: Mr Ackermann, do you by chance recall the name of that official?

ADV ACKERMANN: I have mentioned that it was; the person said
20 hold on for Mr de Lange. Immediately I thought it is the Deputy Minister De Lange that was going to talk to me, but when I spoke to this person [indistinct] was not the deputy minister that spoke to me. So, I do not know if there is another De Lange there or that I was supposed to speak to the deputy minister, but the name De Lange came up and it was not... I know him and he knows me. Probably he

would address me as 'Anton'.

ADV VARNEY: Okay, thank you.

ADV ACKERMANN: That is after I said I am not taking any instructions from him. Approximately 15 minutes later I received a call from Dr Ramaite requesting me to come to his office. Of course I knew what it was all about. He told me that he received a call from Minister Mabandla, informing him that he must not proceed with the rest of the Chikane perpetrators and that the NPA must put on hold all investigations and prosecutions of TRC cases. I reminded him that
10 we had discussed this scenario two or three days ago and that we both agreed that the minister did not have the power to give instructions to the NPA pertaining to prosecutions.

We had an argument, a legal argument, I would say, I do not know, for approximately 15 minutes or 20 minutes, I am not sure, because I was upset that Ramaite who previously agreed with me about the legal principles had succumbed to the pressure by the minister. I have read the transcript of Dr Ramaite's consultation with Mr Semanya and agreed with the reasons he furnished to Mr Semanya; and that is, he did not want to cause a conflict between the
20 NPA and the Minister of Justice.

He told me that the justice clusters, directors-general was going to formulate guidelines, but this cluster was not happy about my conduct in the prosecution of the TRC cases. At that stage I was not in the mood to have the same legal argument again with him and simply requested him to give me instructions on what to do. The

instruction was to stop the arrest, not to proceed with any TRC prosecutions. I stood up and walked out.

Another heading I have here is “meeting with Reverend Chikane on 22 January 2007”. Commissioners, it is relevant and important to explain what occurred before the meeting with Reverend Chikane. At some stage I was informed by General Jacobs that Chikane was against the prosecution and at ...[intervenes]

10 ADV VARNEY: Mr Ackermann, when you say General Jacobs, can you explain to the commission who he is and what was his role at that time?

ADV ACKERMANN: He was a legal, attached to the legal division of the police. He was also the representative. He was nominated by General, Commissioner Selebi to sit on the so-called task team, the task team where that started its first sitting, I think, was here in October 26; and I knew him from a number of matters I had to deal with the police, but he was a legal man.

ADV VARNEY: Thank you. Please proceed.

20 ADV ACKERMANN: Now, as I said, it is important to explain what occurred before the meeting with Reverend Chikane on the 22nd. We had a number of meetings. As I said, I have not got the dates here, but it must be middle of October and we had about three meetings of the task team during that time. Now, at this meeting virtually all the members, like a rehearsed choir informed me that Reverend Chikane does not want a prosecution. The minutes of the meetings of the task team is available and it...

ADV VARNEY: Yes. So the minutes that Mr Ackermann is referring to, Commissioners, they are attached to the COI bundle, Mr Ackermann's bundle that we provided separately. From page 87 there are some of those minutes and just before those minutes there are also a number of emails between SAPS and a member of the NPA, Mthunzi Mhaga; and that is at page 82 to 83 of the same bundle and it reflects this claim that the witness is talking about that Reverend Chikane did not want a prosecution.

ADV ACKERMANN: At the bottom of the meeting of 6 November
10 2006 there is a note.

“It is, however, worth mentioning that when Adv Ackermann informed the meeting that the decision to prosecute has already been taken by the NDPP on the Reverend Chikane case, Josias indicated that recommendations of the task team are necessary, because the national commissioner is of the view that Reverend Chikane is not interested in the prosecution of the matter. He suggested that contact has to be
20 made to Reverend Chikane to ascertain his attitude ...[intervenes]

ADV VARNEY: Mr Ackermann, before we read from documents, we need to make sure that we are all on the same page. I need to refer the commissioners to the document you are reading from. Just can you remind us which document that is?

ADV ACKERMANN: I do not know exactly where it is in the batch of documents, but it is the minutes. I am going to refer to the minutes. I think there were four that I have quite extensively, because there is also another matter that emanates from these minutes. I am told that this is page 70.

ADV VARNEY: That is page 70 of the COI bundle.

ADV ACKERMANN: Yes.

ADV VARNEY: So that is titled "minutes of task team on TRC cases meeting dated 6 November 2006".

10 ADV ACKERMANN: That is correct.

ADV VARNEY: Just hold on a moment. Commissioners, have you found that?

CHAIRPERSON: Yes, we are on the same page.

COMMISSIONER KGOMO: Yes, thank you.

ADV VARNEY: Thank you, all right, we are all on the same page. Please proceed.

ADV ACKERMANN: I will start again.

"He suggested that contact has to be made with

Reverend Chikane to ascertain his attitude."

20 I think I am not sure that these dockets, these minutes were obtained from Commissioner Jacobs, whilst of course all the members received the minutes; and I think this one that I have was in his possession and he probably gave it to the commission, because there is in longhand stating the following.

"Ackermann also informed that NPA discussed

the matter with Reverend Chikane.”

Because at that stage I knew that the NDPP, Mr Pikoli, also spoke to Reverend Chikane; and Reverend Chikane informed me that I assume that that is why he stated that and that is why it was written in longhand.

10 “Now according to Adv Ackermann, the complaint, Reverend, indicated that he leaves the matter in the hands of the NPA. It was then decided that the lattice attitude be ascertained and the matter was therefore closed, pending a feedback on his attitude.”

If I can carry on; there is another minute of the task team. It is on page 87 and it says “minutes of task team meeting 29-01-2007”. You have that copy?

ADV VARNEY: Yes, page 87, minutes of task team meeting dated 29 January 2007. You can proceed.

ADV ACKERMANN: May I read from that document?

ADV VARNEY: Please go ahead.

20 ADV ACKERMANN: The third paragraph starting with “this is now the meetings”.

“Adv Ackermann requested members for their input with a view to finalise the draft report to be submitted to the national director. Commissioner Jacobs indicated he was made to understand that Reverend Chikane was not interested in the

prosecution of the accused in this case.

Therefore, he needs to be consulted and the matter needs to be discussed with their principals before making a recommendation. Adv Ackermann reminded the meeting that the national director has made his decision on this matter. Yvonne...”

That is Yvonne Mabule. She is the representative [indistinct] I think of NIA.

10 “...stated, concurred with Commissioner Jacobs on the Reverend Chikane matter. Ngidi said he had no objection to the national director’s decision on this matter.”

You can see that the Chikane matter played a central role for the meetings of the task team. They were very concerned about that matter. Now, also ...[intervenes]

ADV VARNEY: Just to be clear about some of the role-players. So you mentioned that Yvonne Mabule was one of the National Intelligence Agency representatives; and Mr Ngidi, Nhlanhla Ngidi,
20 was he from the DSO?

ADV ACKERMANN: Yes.

ADV VARNEY: Scorpions.

ADV ACKERMANN: There is a list somewhere where it says where they are all from. I am not sure. I know where Jacobs was. I know where Mthunzi Mhaga was. Now 81, on page 81 you find the list of

positions, these representatives role. I have not got it in front of me, but...

ADV VARNEY: Okay, thanks. That is helpful; and in fact, Mr Ngidi was from the DSO. You can proceed.

ADV ACKERMANN: Now, let us see. 82 is a trail of emails between Commissioner Jacobs and Mthunzi Mhaga.

ADV VARNEY: That is on page 82 of your bundle. You can proceed.

ADV ACKERMANN: And this was sent on 6 December 2006 where
10 Commissioner Jacobs to Mthunzi Mhaga.

“Dear Mthunzi, I have said I am waiting to brief the national commissioner on the draft report. I will revert to you once I have spoken to him. Provisionally I wish to indicate that from SAPS side we are still not happy how the Chikane matter is reflected. There was definite decision that Reverend Chikane must be consulted again; that the witness that his wishes need to be reflected; that the issue be reported to our
20 principals and that they must make a recommendation to the NDPP on the matter.”

Again it appears that the only concern this task team had was the provision of Chikane to proceed or prosecute him. Now say that Mr Pikoli informed me that Chikane is not in favour of a prosecution and I gave him my views on the matter. I refer the commission to the

following documents. These are two documents on page 88 and 89.

Let me start with the 89, page 89. It is a letter addressed to Mr Pikoli from the national commissioner where he says:

“It was brought to my attention that *S v Otto...*”

That is one of the perpetrators in the Chikane matter.

10 “A decision to prosecute was taken without consultation with the respective departments. I have insisted that the complainant be consulted in terms of the guidelines on the basis that the directors-generals who had an opportunity to provide input before a decision on prosecution is taken. That decision has already been taken ...[intervenes]

ADV VARNEY: Just if you can just pause for a moment. There is; and this is for the technical experts. It says the battery in this computer is running low. Oh, and that is because the power was not switched on. Okay, we are back on board; apologies, Mr Ackermann.

20 ADV ACKERMANN: Yes. Page 89; that is the letter where again, the central problem they had was the Frank Chikane matter. The commissioner says also the following:

“Although I do not insist on a meeting of the directors-general after each meeting of our officials, I deem it necessary that the substantive report and the recommendations of the officials should be discussed by the directors-general

before a decision is made. I am of the opinion that the directors-general should meet as soon as possible to provide guidance on the procedure to be followed by the officials in the task team. I am also of the opinion that the Chikane matter should be discussed, both in terms of the procedures followed and the way forward. I have requested the NPA to request a meeting as soon as possible and trust that you will be in agreement with that request.”

10

ADV VARNEY: Thank you, Mr Ackermann.

ADV ACKERMANN: Then ...[intervenes]

ADV VARNEY: Mr Ackermann, if we can just pause for a moment. We have reached the 45-minute mark and the team in Cape Town have requested a short break. Can we ...[intervenes]

ADV ACKERMANN: I will proceed and deal with the Chikane matter ...[intervenes]

ADV VARNEY: You wish to proceed.

ADV ACKERMANN: Yes, is that correct.

20 ADV VARNEY: Okay. Well, then we act under your advisement and you will just let us know when you wish to stop for a break. But before you proceed to the next document; this letter that National Commissioner Selebi sent to Adv Pikoli; am I right in saying that he also sent it to, the very same letter to Adv Menzi Simelane who was then Director-General of the Department of Justice.

ADV ACKERMANN: That is correct.

ADV VARNEY: As well as Mr Manzini, Director-General, National Intelligence Agency.

ADV ACKERMANN: Correct.

ADV VARNEY: So it seems he was sending it to all of those individuals on the task team.

COMMISSIONER KGOMO: So the Simelane, the letter to Simelane is at page 91. Is that correct?

ADV VARNEY: Sorry, Commissioner?

10 COMMISSIONER KGOMO: Page 91.

ADV VARNEY: Yes. So those letters are from 91 through to...

CHAIRPERSON: 94.

ADV VARNEY: 93, 94 rather. Now, Mr Ackermann, let me draw your attention to the third paragraph of that letter. I will read it again to you. Commissioner Selebi says:

“I have insisted that the complainant be consulted in terms of the guidelines on the basis that the director-general will have an opportunity to provide input...”

20 And here is the emphasis:

“...before a decision on prosecution is taken.”

And then can I refer you to the next page, second paragraph? He says:

“Although I do not insist on a meeting with the director-general after each meeting of our

officials, I deem it necessary that the substantive reports and recommendations of the officials should be discussed by the directors-general before a decision is made.”

And then he ends off saying that:

“In relation to the Chikane matter that needs to be discussed both in terms of procedure followed and the way forward.”

10 What is your takeaway that Commissioner Selebi is insisting that the directors-general have an opportunity to provide their input before a decision is made on this prosecution?

ADV ACKERMANN: It is unconstitutional.

ADV VARNEY: And just to elaborate; the laypeople in the audience. Why is it unconstitutional?

ADV ACKERMANN: Well, it is only the prosecutor or the National Director of Public Prosecutions that are authorised to make decisions on court cases; and he has that sole discretion to do it. No outside agency can give an opinion on who or what charges a person must be prosecuted of. He is *dominus litis* on that matter.

20 ADV VARNEY: So am I right in saying that effectively Mr Selebi is saying that until the NPA has heard from the directors-general, it cannot proceed?

ADV ACKERMANN: That is correct.

ADV VARNEY: All right, thank you.

ADV ACKERMANN: I may add that page 88 Adv Pikoli then wrote to

Commissioner Selebi. That is page 88 where he states that:

“I advise that it is clear that our understanding of the mandate of the task team as well as the guidelines that cabinet approves are not the same. In the circumstances, this matter as well as other issues that have emerged in the course of the NPA dealing with the TRC cases are currently being taken up with the Minister of Justice and Constitutional Development.”

10 That was his view on the matter.

ADV VARNEY: All right, if you are happy to proceed, you can.

ADV ACKERMANN: Now, I am at this meeting. I just want to see when it was. Any event, Mr Pikoli then instructed Adv Mthunzi Mhaga to accompany me to them to be witnessed what transpired. He said that the meeting generated into a confrontation, I think he said. Now, at this meeting Chikane stated that he is not against the prosecution, but he is also not against the prosecution, but he is also not in favour of the prosecution. I cannot recall exactly how that meeting went.

20 I am quite certain that there must be a secret recording of the meeting and I have no objection and indeed give my permission for the recording to be released. All I can remember that I asked him for his reasons for not being in favour of the... but I cannot exactly remember what reasons he advanced. I may add that this letter that I read last night, he gave the reasons why he did not want to proceed, but I do not want to refer to that document. At some later stage I will.

ADV VARNEY: Just on the score of Frank Chikane saying that he is not against the prosecution, but he is also not in favour of a prosecution. In terms of prosecutorial discretion under the prosecution policy and the NPA Act; if a complainant says 'I do not want a prosecution, I am not in favour of it', is the NPA or the prosecutor concerned obliged to follow that wish?

ADV ACKERMANN: No, as a representative of the public I will decide whether there will be prosecution or not, because in a serious matter like the poisoning of a high-ranking official, I am not interested
10 in the abuse of the complainant.

ADV VARNEY: Is that because the NPA has to act in the interest of the wider society?

ADV ACKERMANN: Of the public.

ADV VARNEY: Thanks. Please proceed.

ADV ACKERMANN: It is exactly because of that, I already knew what his views were. That is Reverend Chikane. I might add; it is very important that the letter that I read last night of the national director writing to the minister about this meeting, at some stage you will have to discuss it, but I did not have the time last night to do it in
20 detail and I did not want to get involved in that letter at this stage, but he said something like he is now between the national public prosecutor and government. They have different opinions and he is in the middle, but I am not going to refer to that letter anymore.

The point that I would like to make is; that it must be borne in mind that I was in possession of all this knowledge that the ANC

feared that the prosecution of the perpetrators in the Chikane matter would open the door to the prosecution of the ANC leadership. And of course Reverend Chikane was working for the president. I think he was his chief of staff.

Now with all that in the back of my mind, you must understand I arrived there. I know he was going to tell me that he is not that interested in the prosecution. And the discussion I had with him at some stage, this is what I can recall. I told him: Reverend, you know, in any event, it is not that I really do need your evidence, but I can
10 subpoena you in terms of section... what is it; 179. That is to obtain the presence of any person at the court.

I can remember also that I explained to him that if he does not give the correct version; that there are some other... he can be treated as a recalcitrant witness and it is really not happy with it. I am not happy with his attitude and declared him hostile. I said that is in the act. And of course I think that upset him, because somewhere I read he says I was very hostile towards him, but I think it is because I explained all the legal sections of the Criminal Procedure Act to him. In any event, in this own letter, Mhaga; there is a full record of what
20 happened at that meeting. I then proceeded with the prosecution. That is I can say end of the matter.

ADV VARNEY: Mr Ackermann, before we get to the court proceedings and that matter; should we take a short break at this point?

ADV ACKERMANN: I will appreciate that.

ADV VARNEY: Okay. Can I just check? Would 15 minutes be good or would you like a longer break?

ADV ACKERMANN: No, 10 minutes, 15 minutes will be fine. I am just lying down a bit.

ADV VARNEY: Okay, 15 minutes, if the commission so permits.

CHAIRPERSON: We will adjourn for 15 minutes.

ADV VARNEY: As the commission pleases.

INQUIRY ADJOURNS

INQUIRY RESUMES

10 CHAIRPERSON: Mr Varney?

ADV VARNEY: Chairperson, Mr Ackermann, I believe you went on to proceed to deal with the court proceedings in the Frank Chikane matter, if you are ready, you can proceed.

ADV ACKERMANN: Thank you, Commissioners. I was against the plea bargaining and I did not want to be part of the plea bargaining process, because I knew custodial sentence did not even come into the picture. It was a charade, a farce and a travesty of justice and it came about for two reasons; to prevent the prosecution of the ANC 37 regarding the threat that was made against them.

20 And secondly to comply with the newly promulgated amended prosecuting policy which was blatantly unconstitutional. The crime was a heinous crime, shockingly evil, morally reprehensible and I do not think any member of the society was happy with the sentence. And the day I walked out of that court after sentencing, I was an embarrassed prosecutor.

I expected, and I was hopeful that the presiding judge would refuse to accept the plea and the sentence agreement, because it did not serve justice. The case ought to have opened the door for the prosecution of Colonel Basie Smit who succeeded General van der Merwe and head of the security branch in 1988, as well as senior officers of the South African Defence Force and the former defence force.

However, no cases were pursued. Then regarding the Chikane Ginwala commission, Commissioners I only read the
10 Ginwala commission report and not Chikane's... [intervenes]

ADV VARNEY: I am sorry to interrupt you, Mr Ackermann, but before you move on to the Ginwala commission and I think they wanted to replace the batteries in my mic, but it is still live. So just some follow-up questions. You made reference to this plea and sentence agreement which you have just said was a travesty of justice and you put up your reasons. Can we just advise the commission what the plea and sentence agreement involved and what, if you can recall, the sentence that ultimately was handed down?

ADV ACKERMANN: Chair, would you like me to go, Mr Varney,
20 through this document?

ADV VARNEY: I do not think we have time to go through the full plea and sentence agreement, Commissioners, it is in the record, it is in Bundle 1 at page 569. But my recollection, Mr Ackermann, is that suspended sentences were handed down.

ADV ACKERMANN: Ja, it was something like 10 years all

suspended.

ADV VARNEY: Right.

ADV ACKERMANN: On condition that they do not commit the same crime again.

ADV VARNEY: Yes. We will double check that.

COMMISSIONER KGOMO: Yes, I think it is important for the public as well.

ADV VARNEY: Yes.

COMMISSIONER KGOMO: And for the record, but you can carry on
10 whilst you are doing we will be looking for it.

ADV VARNEY: Okay. In fact my junior got it and once she has found it, we will put it up.

ADV ACKERMANN: Chair, if I may interpose, I am in possession; I have not got it with me, the press release by the National Prosecuting Authority regarding this matter. And there is also, there was a document that was circulated, but there is press release on this document, on the sentence.

ADV VARNEY: Yes, no we have actually got the section of the plea
20 and sentence agreement dealing with sentence. Commissioners, it is at page 580 of Bundle 1 and perhaps since Commissioner Kgomo has requested it, it is fairly short. I will just read it into the record with the leave of the commission?

CHAIRPERSON: Yes, you may.

ADV VARNEY: So sentence agreement, paragraph 81:

“In light of the circumstances set out above,

agreement had been reached on the following as appropriate sentences in respect of count 1: accused 1 and 2, each of the accused is sentenced as follows: 10 years' imprisonment wholly suspended for 5 years. On condition that the accused are not convicted of a crime in which assault or the administration of poison or other hazardous substances form an element of conspiracy to commit such a crime committed during the period of suspension and in respect of which a sentence of imprisonment without the option of a fine is imposed.

And then in relation to accused 3, 4 and 5, each accused is sentenced as follows: 5 years' imprisonment wholly suspended for 5 years. On condition that the accused are not convicted of a crime in which assault or the administration of poison or other hazardous substances form an element of conspiracy to commit such a crime committed during the period of suspension and in respect of which a sentence of imprisonment without the option of a fine is imposed."

I will just let you know who the accused were. Accused 1 was Johannes Velde van der Merwe, he was the former commissioner of the South African Police Service, also head of Security Branch.

Adriaan Johannes Vlok, former Minister of Law and Order. And then the rest were members, Officers of the Security Branch, Christoffel Smith, Gert Jacobus Otto and Hermanus Johannes van Staden.

COMMISSIONER KGOMO: Yes, thank you.

ADV VARNEY: Thank you, Commissioner. Mr Ackermann, before you proceed, one more follow-up question, so you mentioned that that case ought to have opened the door to the prosecution of General Basie Smit who succeeded Johan van der Merwe as commander of the Security Branch in 1988, as well as other senior officers of both
10 the South African Police and the former South African Defence Force. However no further cases were pursued. Why were no further cases pursued?

ADV ACKERMANN: Because there must be a number of reasons, but I think that they did not make any affi... they did not disclose all the information, it was part of the sentence agreement that they will submit affidavits implicating Basie Smit and whoever. I never received those affidavits, I do not know why they were not obtained. So there was no case against Basie Smit.

ADV VARNEY: Okay, let us... [intervenues]

20 ADV ACKERMANN: And of course we were interested to know where the poison came from. There was a list of ...[indistinct] that they had in their possession, we wanted to know who compiled that list, where did they get the poison. But that was the end of the matter after this conviction and sentence.

ADV VARNEY: You can proceed, Mr Ackermann, I think you were

about to deal with the role of Mr Chikane before the Ginwala Commission.

ADV ACKERMANN: I only, as I stated, read the Ginwala Commission's report and not Chikane's verbatim evidence at the commission. In essence it appeared to me that the Rev Chikane had two complaints, that is the manner in which the plea and sentence agreement was conducted and he is expected that the process should have as its purpose the revealing of the whole truth about the poisoning and how the state institutions were used.

10 I have in fully agreement with his views on the matter; I was not a party to the negotiations regarding the plea and sentence agreement. There was a separate committee formed, I think it was under Dr Pretorius and they were three or four and they completed this, the result that they had was that sentence agreement is a final say on the matter.

I can state clearly that I also was against this committee and I told Mr Pikoli I did not want to form part of this committee and I did not form part of the committee and I had no inputs on the committee. It was their decision, that is how it was produced at court.

20 ADV VARNEY: Okay, unless you got anything further to add in relation to the Frank Chikane matter, perhaps we can proceed to the evidence you would like to give in relation to former acting NDPP, Mokotedi Mpshe.

ADV ACKERMANN: About a week after the suspension of Mr Pikoli, I received a telephone call from the acting NDPP, Mr Mpshe and said I

must come and see him in his office. He informed me that after due consideration, he decided to remove me from the TRC cases. He told Mr Mpshe and it was, I told Mr Mpshe that it was not he who took that decision to remove me, but the minister instructed him to remove me from the cases. I then gave Mr Mpshe the background of the meetings that Mr Pikoli had with the minister and Selebi the past two years pertaining to my involvement in TRC cases and that they demanded that I be removed from the cases. Mr Mpshe... [intervenes]

10 ADV VARNEY: Just in terms of timing, this would be September of 2007?

ADV ACKERMANN: Ja, I was under the impression that it was in the beginning of October, I am not sure but...

ADV VARNEY: Yes, it could be in October, because... [intervenes]

ADV ACKERMANN: I asked... [intervenes]

ADV VARNEY: Because Mr Pikoli was suspended, we will get you the date, but it is during September 2007.

ADV ACKERMANN: 27 September he was suspended and I say a week later, that is how I recall it and that it was a week or two weeks
20 later. If I can, my diaries, I requested my diaries, I asked, phoned Msimaga and said get hold of my diaries, but of course I am quite certain I wrote something in my diary about this matter. I have not received it, my diaries from the NPA. My diaries can say, I had two diaries, the one was where I put my personal, if I say personal it will be personal work matters, the other one would be on operational

matters that I referred to. So I am looking for these two diaries so that I can give the correct date when he called me in. I made note of it.

ADV VARNEY: Thank you. Then NDPP Pikoli was suspended on 23 September 2007, so if it was two weeks later, then you are right, it probably would have been in early October.

ADV ACKERMANN: As I said, I told him, I gave him the background and then Mr Mpshe quite honestly looked at me and he says, no, it was not the minister that requested him to remove me, but that it was
10 the Director General Mr Simelane of Justice, must say I found it very ironic, but according to him it was not the minister. I asked Mr Mpshe who was going to take over from me and he said that he was still considering that aspect. My parting words to Mr Mpshe was that he must remember that the TRC cases are a given and that they are not going to disappear. That was now in 2007. I do not think anything happened after 2007. Now Mr Simelane submitted an affidavit to this commission, in... [intervenues]

COMMISSIONER KGOMO: Just before you going there, I am interested to learn whether Mr Mpshe gave you something in writing
20 why you were removed from the TRC cases? Was it all oral, nothing in writing?

ADV ACKERMANN: Nothing in writing, he just said he, after due consideration he decided to remove me.

COMMISSIONER KGOMO: And the due consideration without content, just due consideration, just that bland statement?

ADV ACKERMANN: That is correct, Commissioner and that is why I told him then that is not he who is stating that decision, I know it was the minister who gave him the instruction. And that was, I deduced from what happened a week before or two weeks beforehand, Mr Pikoli was suspended and so of course there were only two obstacles, it was Mr Pikoli and I. So two weeks later when he became the, or I do not know when he became the NDPP, he called me in and said after due consideration he is taking me off.

COMMISSIONER KGOMO: Okay.

10 ADV ACKERMANN: I did not receive any written instruction and to be honest, you know, I do not expect that there will be a letter to the effect stating that you are now taken off TRC matters. He said it to me and I accepted it.

COMMISSIONER KGOMO: Yes, thank you.

ADV VARNEY: Before we proceed, Mr Ackermann and in relation to the Commissioner's enquiry about whether there was anything in writing, Commissioners on Tuesday evening the secretary of the commission did release some documents and in fact Mr Ackermann is more in the build than I am, because he spotted those documents. I
20 had an opportunity to look at them during the tea break and there is reference to the removal of Mr Ackermann in a letter from acting NDPP Mpshe to the minister and I think this will be an appropriate time to hand up those two documents, with the leave of the commission.

CHAIRPERSON: Yes, you may do so.

ADV VARNEY: And I am advised, we have asked the commission to make copies available for the evidence leaders and the parties and I am told that those copies are on their way. So the first document is a letter dated 24 January 2008 and it is from Adv MJ Mpshe SC acting NDPP to Ms B Mabandla MP, the then Minister of Justice.

And the title of the letter is: representations, Rev Frank Chikane. If I could draw your attention to page 2 at the top and I will read into the record the first three paragraphs and then ask Mr Ackermann for his response. Adv Mpshe says:

10 “As a result of this letter and the prominent role played by Adv Ackermann, I have deemed it prudent to relieve him from all his TRC related duties since November 2007.

As you are aware, Adv Pikoli has been suspended and his future role is presently the subject of the Ginwala inquiry.

I have decided that all future post-TRC investigations and prosecutions be managed by Dr Ramaite, Adv Mhaga and the TRC task team.”

20 So Mr Ackermann, you, I assume you have had time to digest that letter and in particular the paragraphs that I have mentioned. What is your response, what is your view in relation to what the acting NDPP Mpshe says?

ADV ACKERMANN: Commissioners, this letter caused me not to sleep last night. As a result of this, what he says is, this letter, I do

not know what letter he refers to, he says as a result of this letter, it must be the letter that Rev Frank Chikane wrote to the minister or to somebody. [Indistinct] so that I can see what this letter stated, but because of that letter he deemed it prudent to relieve me from all TRC duties, it says since November 2007. My recollection is that it was shortly after, if I say shortly, two weeks after the...

ADV VARNEY: The suspension of Mr Pikoli.

ADV ACKERMANN: After suspension of Mr Pikoli. That is why my diaries are very important, because it will be reflected in my diaries
10 when he relieved me. And it says: I have decided that all future post-TRC investigations and prosecutions be managed by Dr Ramaite, Adv Mhaga and the TRC task team. Well at least now we know who did not work on the TRC matters.

It appears to me it is Dr Ramaite and Adv Mhaga. I do not think the TRC task team was still operating during the period October 2007 until to 17. Dr Ramaite must be able to tell us, was he in charge or was it Mhaga? Mhaga was one of my personnel, he sat on the staff compliment of me, I gave him work.

He never said to me that he is now working fulltime on these
20 post-TRC investigations and Dr Ramaite also did not tell me that he is now in charge. I must say that I thought the obvious person would be Chris Macadam, because he knew those cases.

And when I spoke to Mr Mpshe, I think I indicated to him when I said it will not go away and got lots of work, because I thought he was going to appoint Chris Macadam. I read in this document now

that he appointed Dr Ramaite, Mhaga and the TRC task team. That is my comment on it.

ADV VARNEY: Thank you. Commissioner Kgomo, that is the only document that we have at least in relation to this particular incident. But if we find any more, we will certainly bring it to your attention.]

COMMISSIONER KGOMO: Okay, thank you very much.

ADV VARNEY: Mr Ackermann, before we proceed and I think... [intervenes]

10 ADV MOROKA: Chair, just to confirm that we have not received the document, we would appreciate it that...

CHAIRPERSON: Yes.

ADV MOROKA: Photocopies are made for us. Thank you.

CHAIRPERSON: Yes, I believe the photocopies are on their way to you, Ms Moroka.

ADV VARNEY: And my team will correct me if I am wrong, but I believe that they are also on the website. We will just confirm that. Mr Ackermann, while we are on this letter and on page 2, perhaps I will read the middle paragraph and seek your comment. It says:

20 “Adv Ackermann admits that he had some concerns about the guidelines and in a number of official memoranda raised his concerns on the constitutionality thereof. Despite reservations, he diligently applied the criteria as stipulated in the guidelines. With the wisdom of hindsight, it appears that there was some merit in Adv

Ackermann's reservations, indicative thereof is the institution of a civil action in the high court, challenging the validity of the TRC guidelines."

And then he quotes the citation of the Nkadimeng case. What is your response to that paragraph?

ADV ACKERMANN: I think it is a correct reflection of the facts in that I did, I can recall at least two opinions on the matter. I am not sure to who I gave it, but I am quite certain that Gerrit Nel had that insight to these opinions, because I had long number of discussions with him on these, my reservations. And I told him, stated it is unconstitutional and we had our discussions, but of course I applied it even if it is unjust or I thought, for me, I also read the prints the end justified the means, the end I was interested in was justice. And if I had to use these task team and the policy, I must do it. So he is correct if he says that I diligently applied the criteria as stipulated in the guidelines.

ADV VARNEY: And can I draw your attention to page 5 and at the bottom of page 5 there is a subheading called 'the list' and I will just quickly read that paragraph into the record.

20 "I am informed by Adv Ackermann that extensive attempts have been made to obtain knowledge of the contents of the list. He even went as far to use it as a bargaining tool not to accept any plea agreement. All avenues to obtain the list have been explored, matters of this nature would not form part of a plea agreement."

Please advise the commission what is the list being referred to here?

ADV ACKERMANN: I did not read this far last night. But the list he was referring to was the list that we had of all the people that, I do not know should be poisoned, it was a poison list. And in terms of the amended TRC policies, these, if you accept the plea and that is what the President said in his statement, we must obtain information and there must be full disclosure of all the facts before we can accept the plea. In this matter a plea was accepted and we got nothing in return.

All we got was a 10 years suspended sentence and that was the end
10 of the matter. Now I assume, I cannot recall it, but it is obvious now when I read it that I did that to, in terms of this undertaking of them and that they will make full disclosure and they did not.

ADV VARNEY: So it does seem that that list is a very important list, because as you say, it includes, it would have included individuals who were targeted for elimination, potentially by poisoning or some other means. Would you agree that it is important that efforts are made to obtain that list and to see who was on it, in order that the families affected can be advised?

ADV ACKERMANN: Of course.

20 ADV VARNEY: Is there anything else you want to raise in relation to this letter before we move on?

ADV ACKERMANN: I stated this morning, when I found that I start reading it and I see I bind certain paragraphs here.

ADV VARNEY: Mr Ackermann, can I suggest that we do not read the letter now. Perhaps you can read it later today and if there is

anything further you wish to add, you can bring it up tomorrow if you want. And then can we quickly deal with the other internal memorandum that you wish to refer to.

And Commissioners, this is the second document, it is also from Adv MJ Mpshe. Sorry, it is from Adv Chris Macadam, he was then deputy head of the PCLU and it is addressed to Adv Mpshe acting NDPP at that time and it is dated 9 June 2008. And Mr Ackermann, this document focuses on the Pebco Three case and according to Adv Macadam, it requires urgent attention.

10 Now the background is already before this commission, we do not have to go into that detail. We are aware that there was a review of the refusal to give certain of the accused amnesty. But let me read to you the second paragraph on page 2.

 “To date no date for the hearing have been fixed, although Adv Ackermann SC and I were given the assurance that this would be either early or mid 2008. Obviously the Judge President would not be able to convene a full bench to hear the review between now and 5 August 2008. It would be
20 enormously damaging for the Pebco Three matter to be struck from the roll due to a failure on the part of a state department.”

And the rest deals with the postponement. What is your response to the statement by Macadam when he says it will be enormously damaging for that matter if it were to be struck from the roll due to a

failure on the part of a state department?

ADV ACKERMANN: Chair, you will recall that when I gave my view on the Pebco matter about the review, I referred to the review that I also stated that Mr Macadam will be able to tell us what happened, because I recall... just remember I was now taken off TRC matters.

But we are sitting in our office and Macadam will come during teatime tell me there is problems that he had and I will ask him about the review. And this was what I was referring to when I said he will be able to tell us exactly what happened, because the back of my mind, I
10 clearly remembered he told me and now he must go and prepare a memorandum and find documents to assist Mr Mpshe to do, play a role in the review proceedings.

I might be wrong on it, but that is my recollection of what happened about this. This letter was also, came to light only, what was it, last night, because that is when I read it. And it must be followed up with Mr Macadam or Mr Mpshe the roles they played. Because I know I stated that for five years nothing happened pertaining to this review and now I see it was struck from the roll due to a failure on the part of the state department.

20 That is it. Just this. I tell you I was appearing at least three times in the court and every time the judge would ask, has it been convened this new amnesty hearing and then I will say no. And I will contact Department of Justice, there is a specific person and ask him whether they are working on the matter, but as I say, Macadam will be able to inform us exactly what he did. But I know he told me he

prepared some documents in the Pebco matter.

ADV VARNEY: Thank you, Mr Ackermann. Let us now return to the evidence you wish to give or the balance of the evidence you wish to give in relation to Mr Mpshe. And I think the last few words you mentioned were that his parting words to you was, or rather your parting words to him was that the TRC cases were not going to disappear or go away. Do you want to pick it up from there?

ADV ACKERMANN: Yes and at some stage I, the last week or two, Mr Simelane submitted an affidavit to this commission in
10 paragraph 47 and of the affidavit he stated the following. As far as I can recall, I never engage with Adv Mpshe regarding the removal of Ackermann from post-TRC cases. There would have been no need because as far as the cluster was aware, the issues were resolved.

Commissioners, there is something that I must ...[indistinct] what happened. In my first affidavit in the Nkadimeng matter, that is 2015 when Mr Varney came to me and he asked me to, they wanted a consultation with me and I told him what the position is regarding the political interference.

Chair, now we talk about political interference, I think we can
20 just simply say interference and when he presented me with the draft affidavit, I informed Mr Varney about Mpshe informing me that it was the director general who informed him.

And I said to him he must remove that from the affidavit and just simply say, I do not know what I stated in that affidavit, but it was removed and I had good reasons, valid reasons why I decided that

that must not appear in the draft affidavit. He presented me then with the, my affidavit that I signed, perhaps I can just read what I stated in my affidavit. I have not read it lately.

ADV VARNEY: If you just hold a moment, we will find it for you.

ADV ACKERMANN: Ja on paragraph 37 I state the following, advocate... [intervenues]

ADV VARNEY: Just wait a moment, so before we read anything we have to advise the Commissioners what document we are reading from and where they can find it. So Commissioners, this will be
10 Bundle 3 of the Calata group bundles and it is at page 16 of that bundle and it is paragraph 37.

ADV VARNEY: You may proceed, Mr Ackermann.

CHAIRPERSON: Allow us to be on the same page.

ADV ACKERMANN: Paragraph... [intervenues]

CHAIRPERSON: Sorry Mr Adv Ackermann.

ADV ACKERMANN: Page 16. I do not know if that is relevant.

CHAIRPERSON: Yes.

ADV VARNEY: Page 16 of the bundle.

CHAIRPERSON: Which paragraph?

20 ADV VARNEY: And at the bottom of the page, paragraph 37.

“Adv Vusi Pikoli was suspended from his duties as NDPP in September 2007. Shortly after his suspension I was summoned to the office of Adv. Mokotedi Mpshe, then acting NDPP. Adv Mpshe advised me that I was relieved of my duties in

relation to the TRC cases with immediate effect.”

Then I say:

“I have no doubt that Adv Mpshe received a political instruction to remove me from these cases. I advised Adv Mpshe that removing me from the TRC cases would not make the cases go away.”

Of course when I gave evidence here, I stated that Mr Mpshe told me, when I said it is a minister, he said no, it was Mr Simelane who told
10 him. Now I asked the counsel to remove that and I have my reasons and I wishes to give you my reasons why I did that.

Commissioners, in my life I base all my decisions on probabilities. Every decision I make, I take the probabilities and I anticipated a certain scenario and the scenario that I anticipated is that there will be a civil court case in the Thembi Simelane matter. And that I will have to be a witness in that case and my evidence will be to the effect that Mr Mpshe told me that it was Mr Simelane who told him to take me off the TRC matters.

I then had to take a decision as to what are the probabilities
20 that Mr Simelane was going to admit that he informed Mpshe? On the probabilities I decided that it was nil. I have previous information about Mr Simelane, Commissioners of course that is my opinion, that is how I saw it at the time, making my decision.

And I was not so certain about his, I read quite a few court cases and there was a Ginwala commission and there was also an

interview I had with some newspaper, I think it was the daily mail. In any event, I made the decision that he was not, I anticipated he is not going to admit it. Rightly so, because I see he does deny it.

My and I say rightly or wrongly, my opinion was then that he was not, that he was going to be untruthful of that subject. Now if Mr Simelane denies that he told Mr Mpshe to remove me, the next question is, what is Mr Mpshe going to say. And if he also denies that Mr Simelane told him to remove me, I had problems.

10 What, who is going to be the presiding officer, the judge and he will have to make certain decision. He is going to make a credibility decision on two prominent persons in the legal fraternity of South Africa, that is the director general of the Department of Justice and the head of the Prosecuting Services of South Africa.

Now against that, should he believe me, the word of a prosecutor of the old regime? I then made a decision that the odds are against me. It is a two to one decision, two will state that I am not telling the truth. And it must be borne in mind that at that stage I have been framed many a time and I went through the mill in the Department of Justice.

20 Many false claims have been lodged against me during that time in my career. So I made the decision just to say it can safely be assumed that he receive instruction from, political instruction, I even recall exactly what I said. Now Commissioners, I also took out of course another insurance against the evidence of Mr Mpshe and...

ADV VARNEY: Simelane.

ADV ACKERMANN: Simelane. In my affidavit to commission I also deliberately left out a very important fact that Mr Mpshe told me. He said that the meeting between himself and Simelane to discuss my removal from TRC cases took place at an airport and he stressed that it was not a formal meeting. Now it would be very easy for the commission investigators to establish from flight records whether Mr Mpshe and Mr Simelane were together at an airport between the suspension of Mr Pikoli and the date I was rescind from my duties.

CHAIRPERSON: Which airport was it?

10 ADV ACKERMANN: He did not state and I did not want to elaborate on that, he just said it was at an airport. Now how I remember it so vividly, is at the time I thought by myself, in my experience that is where underhand handovers and meetings take place usually at the police... ag at the petrol depot on the highway, there was petrol stations or at airports. But of course I did not tell him that, but that is why I remembered it was at the airport. Now I was right in that Mr Simelane denied that he told Mr Mpshe that, or no he said in his statement he never had any discussions with any person. I do not know, I was waiting for the statement of Mr Mpshe to hear what he is
20 going to say about the matter. Whether he is going to deny that he told me it was Mr Simelane.

ADV VARNEY: Thank you, Mr Ackermann.

ADV ACKERMANN: Those are my reasons and I expect to be cross-examined on it.

ADV VARNEY: Mr Ackermann, unless you have got anything further

to add on the issue of the role of Mr Mpshe, can I suggest that we take a break?

ADV ACKERMANN: I appreciate that.

ADV VARNEY: Commissioners, Chairperson, the request from Cape Town is that this break be 20 minutes of... [intervenes]

CHAIRPERSON: 20 minutes. We will adjourn for 20 minutes.

ADV VARNEY: As the commission pleases.

INQUIRY ADJOURNS

INQUIRY RESUMES

10 CHAIRPERSON: Mr Varney?

ADV VARNEY: Chairperson, are we ready to resume? Mr Ackerman, I think we'll just deal with one more part of your evidence today, the evidence that you wish to give in relation to the role of advocate Menzi Simelane. If you're ready to proceed, you can.

ADV ACKERMANN: Now, Commissioners, I am of the view that the affidavit Mr Simelane submitted to the commission is one of the most damning pieces of evidence to prove the existence of a political interference. Mr Pikoli and I were the only two obstacles that the justice cluster had to contend with pertaining to the decision of TRC prosecutions, and they and Mr Cluster had to find convenable reasons to remove us from the TRC process. I am of the view that the reasons President Mbeki advanced for suspending Mr Pikoli, is unbelievable and far-fetched. Mr President Mbeki stated that the reason for suspending Mr Pikoli was to prevent a gunfight and a

20

bloodbath in the middle of Pretoria between the DSO and the police to prevent the DSO from seizing documents.

ADV VARNEY: Just before we move off that topic, so this, you say that Mr, that President Mbeki wished to prevent, I am sure those words “gunfights” and “bloodbaths”, are you quoting from a report or some document when you refer to those words?

ADV ACKERMANN: No, that is paraphrasing what the President said in his affidavit, the reasons for the suspension of Mr Pikoli. I found it in an affidavit, that Mr Mbeki submitted. I’m not sure whether it is in
10 connection with the Nkadimeng matter or the Ginwala Commission or for this commission. I opened a website and I read this. I can even refer you to in the paragraphs and where I found it, but I, this is what I have, I can read his affidavit, the part that is relevant, that I paraphrased. Can I read that into the record?

ADV VARNEY: Yes, is that the affidavit by President Mbeki before the Ginwala Commission?

ADV ACKERMANN: You ask me, there is so many affidavits, I just opened up and I read an affidavit on my tablet, I am not sure where I, I do not read the whole document here.

20 ADV VARNEY: Okay, if It is just one paragraph, you may go for it.

ADV MOROKA: Chair, I am very sorry to intervene.

ADV ACKERMANN: It is on page 7, paragraph 70.

CHAIRPERSON: Sorry, Mr Ackermann, Ms Moroka has a point to raise.

ADV MOROKA: That proves very difficult, Chair, if I may.

Mr Ackermann quotes an affidavit, he is not sure where he is sourcing it from, we are not sure if we are to go and look for that affidavit and read it for purposes of either elucidation or cross-examination, we will not be able to do that.

CHAIRPERSON: Yes, I am sure you will get an opportunity to cross-examine him.

ADV MOROKA: But that is not the point, Chair, that is not the point. The point is where is the document, how do we find it, how do we relate to it?

10 CHAIRPERSON: Yes, I am sure Mr Varney will be able to assist him in that regard.

ADV VARNEY: Yes, perhaps we can just move on, I do not think It is a central point, but we undertake to locate exactly where that affidavit is in the record and bring it to the attention of the Commission and the parties. Mr Ackermann, no need to read that passage, you may proceed with the balance of your evidence.

ADV ACKERMANN: I say that, according to Mr Simelane's affidavit before this Commission, I had to be removed from the TRC cases because I was apparently a well-known apartheid prosecutor who
20 prosecuted the comrades of the Liberation, I refer here to paragraph 23 of his affidavit. Commissioners, it is false, it is blatantly untrue, and there exists no basis or evidence to make such a statement. Those were the reasons advised by the Justice Cluster to remove me from TRC cases.

It can be proved that the reasons advanced by the Justice

clusters were false, it can be proved that the reasons advanced by the Justice Cluster were false. Then automatically one should ask the question, why was it necessary to produce a falsehood? Why also advance a falsehood against Mr Pikoli?

In any event, I declined to prosecute President Mbeki and the 37 others, the ANC leaders, as early as 2003, and everybody was aware of that fact. They were placed and released, I think it was in late 2003 already. There are documentation, Minister Frenio Meduna was informed, the two policemen, Brits and Nel were informed,
10 Wagenaar was informed, Afriforum was informed. They had to find some other reason and that was that I was an apartheid prosecutor. In paragraph 23 to 40 of Ms Simelane's affidavit, (intervenues)

ADV VARNEY: If we can just pause for a moment, Mr Ackermann. Commissioners, it is the press releases dealing with the ANC 37 that Mr Ackermann refers to. That is attached to McAdams' bundle and in the bundle that we have provided, I believe that is at page, those clippings are at page 37. In relation to the interaction with Minister Meduna, that is reflected in bundle 1 at page 325. Thank you, Mr Ackermann. You can proceed.

20 ADV ACKERMANN: Now, in paragraphs 23 to 40 of Mr Simelane's affidavit, I am going to read where he makes certain statements. Now, as far as I can recall, I never attended a justice cluster meeting. I have never been to the west wing of the Union Buildings. I have never accompanied Mr Piccoli's justice cluster meeting. I have never attended a meeting chaired by Commissioner Selebi. I have never

met Commissioner Selebi.

I have never met the Secretary of Defence or the ministers mentioned in the justice clusters. I cannot recall making inputs at a cluster meeting. I cannot recall informing the justice cluster about people complaining about their treatment in exile, and I have never taken their statements. I never attended a meeting which descended into disorder. I cannot recall having a list of the members of the so-called military council or a list of the ANC leaders in Lusaka. I never attended any meeting where my removal from the PCLU was
10 discussed.

Now, Mr Simelane states in his affidavit that the official documents of the justice cluster in the form of agendas, minutes, and reports are available in the Department of Justice. These documents must be obtained so that we can ascertain whether I attended these meetings, because I cannot recall it. We did ask for those minutes, and the Justice Department sent us, I do not know, it must be about eight pages of meetings that they had, but we couldn't find these minutes and the reports.

I intend only to refer a few reliable sources and persons who
20 can vouch for the principles I lived by during my time at the prosecuting office.

ADV VARNEY: Mr Ackermann, before we talk to people who can vouch for you, I think we need to deal in a little more detail with some of the aspects arising from Advocate Menzi Simelane's affidavit. So you have made reference to paragraphs 20 to 40, I think 23 to 40 at

least, but we do need to go a bit further back. For example, paragraph 20. Commissioners, I assume that you have access to the affidavit of Menzi Simelane. Paragraph 20. I am just going to read to you an extract, and you can respond. It reads:

10 “In preparation for the meeting, it was agreed that the police, defence and intelligence services primarily, but anybody else if they did have, would indicate their concerns to the rest of the team which they did. It was at the presence of Advocate Anton Ackerman, SC, as the lead person on TRC cases, and the NPA was creating unhappiness in some quarters because of his alleged links to the persons it was alleged were likely to be investigated and prosecuted.

20 It was suggested that Ackerman was an apartheid prosecutor, meaning that he was a prosecutor before the democratic dispensation and prosecuted comrades on behalf of the apartheid government. It was understood that the word comrades referred to members of the liberation movements who were prosecuted by the government of the apartheid era.”

Your brief response to that?

ADV ACKERMANN: No, It is false. I have never prosecuted any of the comrades. I can recall of one case, and that must have been in

1977, and the advocate for the defence was Pius Langa, he later became the Chief Justice. And when he saw the indictment, he said to me his first time that he'd seen an indictment where the accused are prosecuted for murder and not for the terrorism acts.

It was a simple murder matter, but commissioners, in those days, in the 70s, 80s, probably in the 90s, an indictment against the comrades, as he refers to, was about a 4-5 page preamble in how the accused conspired with the Russians and Lenin and MK. It was a preamble that was about a person's political beliefs.

10 I never prosecuted in my life a person for his beliefs. I prosecuted for the common law crimes of murder and he was thankful to me that the indictment was so easy. That was the only case that I can think of that I prosecuted in.

I was asked, I was requested by the minister who wants to fly up to Pretoria and be involved in the case against Mr Boessak. I have given you documents what transpired in that case was exactly the same. They also wanted a grand conspiracy trial and I said the indictment is simple. It was, I can't recall, economic protests that they had.

20 Other than that I do not know of any case. On the contrary, you will see how I was accused, you will read the evidence, the documents where I was in fact accused of making heroes of the UDF and the ANC. You will probably read that at some stage.

ADV VARNEY: Yes, we'll get to that. We just need to deal with all the allegations by Advocate Menzi Simelane. Then in paragraph 21

he says:

"I was then tasked as co-chairperson to go ahead and indicate to Advocate Pikoli what the concern was and that the view held by the police and the intelligence services is that it was not supported that Ackerman lead this process.

10 Further that because of his history there was unhappiness especially in the police and intelligence services about the prospect of dealing with him for the reasons mentioned above. The view expressed at the meeting was that he should not be involved in TRC cases and that Advocate Pikoli should remove him from these cases and consider appointing somebody else from the NPA.

20 In paragraph 22: I requested to meet with Advocate Pikoli at the NPA offices and in our meeting I informed him of the meeting of the members of the cluster. I indicated to him what was discussed and the view widely held. I also informed him of the request for a full meeting with the DGs and other members of the cluster to discuss the matter. He agreed to the meeting but not with the suggestion. I do not recall everything we spoke about but he made it clear that he would not remove Ackerman from the head of the PCLU.

And then finally paragraph 23: A meeting was subsequently scheduled and it took place in the West Wing in the Presidency. Although this was not the regular cluster meeting including all the departments of the cluster present were the members mentioned in paragraph 19 above and others who I do not immediately recall.

I remember these ones because they were most vocal about the concerns of their departments.

10 From their contributions in the preparatory meeting they indicated their concerns informed in part by their and their members personal experiences with the operatives of the apartheid government as commissars and commanders in exile. And also in part from a lot of comments and reports they were receiving from their members in their department and outside of government.”

Your brief response?

ADV ACKERMANN: I did not attend any meeting in the West Wing.

20 ADV VARNEY: And then lastly I draw attention to paragraph 37. This is the last paragraph we'll deal with.

“The argument back and forth continued and then Ackerman sought to provide additional clarity by stating that the PCLU cannot ignore the complaints that it had received. And that in prosecuting all the

cases they will proceed with the one involving a former apartheid government individual. He did not name the person concerned and when done then start with one on the other side. When asked to clarify he indicated that the NPA had a list of the members of the Political Military Council.

10 I do not recall the exact name. The highest decision making structure of the ANC in Lusaka, Zambia. His members were subject of the PCLU investigations because in that capacity they were accountable for the decisions that were taken by the commanders on the ground about which the complainants had complained.

In that regard the NPA viewed them as prosecutable. A list was produced and alleged to be of the members of the Political Military Council. And it was passed around for everyone to see. I do not recall if it was given back to him or what happened to it afterwards. It contained members
20 of cabinet at the time.”

Your response?

ADV ACKERMANN: Chair, I cannot recall ever having such a list. I managed the prosecutions of the TRC matters. I know of, I do not know where I read perhaps in books or what about this decision-making structure of the ANC in Lusaka. I do not know if Wagenaar

told me about what is in his docket, but I would never have told any person that I have this list and I am going to investigate them. I cannot recall anything about this.

CHAIRPERSON: Advocate Ackerman, do you not recall or you did not have such a list?

ADV ACKERMANN: I do not recall having such a list and that the list must be available somewhere if it was produced at this meeting. That is what I heard. Nobody gave me a list. I do not even know where this meeting was. I cannot recall.

10 ADV VARNEY: I am just trying to establish the meeting, So Mr Simelane at paragraph 23 talks about a meeting in the West Wing of the Presidency. He doesn't appear to give a date. So it is a bit vague. All right, I don't think we can take this matter forward right now. Mr Ackermann, you were about to talk about individuals who had vouched for you. Perhaps let us begin with a letter dealing with you that was prepared by the late George Bezos, SC.

Commissioners, this is in bundle 3 of the Calata Group bundles at page 30. It is dated 14 January 1988.

"To whom it may concern."

20 Mr Ackermann, would you like to read that into the record?

ADV ACKERMANN: Yes. It says:

"To whom it may concern.

Dated 14 January 1998.

During 1976 to 1977, I appeared at a formal inquest in the Magistrate's Court, Johannesburg,

on behalf of the family of Jabu Vilakazi, who was killed by members of the South African police.

Prosecutor who led the evidence was Mr AR Ackerman, now Senior Counsel in the office of the Attorney General in Pretoria.

10 It was contended by us on behalf of the family that members of the Brixton murder and robbery, arrested the late Vilakazi, took him for a so-called pointing out, and then shot him in cold blood, and that their story that they did so because he tried to escape was a fabrication.

It was customary during the period for prosecutors to defend the police irrespective of the weight of the evidence against them. To our surprise, Mr Ackermann's objectivity was demonstrated by submitting that the members of the Brixton murder and robbery unit were criminally responsible for the death of the deceased.

20 In my view, this was a breath of fresh air and gave one hope that despite the pressures that must have existed on a comparatively junior member of the profession, he courageously and correctly submitted what he believed to be in accordance with his oath of office.

We were not alone in that belief. The magistrate

made a positive finding in accordance with Mr Ackermann's and our submissions. I have always singled him out as an outstanding exception amongst those who thought that protecting the police was more important than serving justice.

10 Although we have lost touch, I am reliably informed that he has continued to behave in an objective and proper manner throughout his professional career. I am pleased to place on record what has been in my mind so long."

Just of interest, what happened in the old regime, I was transferred, I think I argued this in say January, February 1977, that was after this inquest was held. The next month I was transferred to Maritzburg. I already put an offer in a house there, I was going to stay in Johannesburg and they transferred me forthwith. Later on, yeah, that is all I want to say. I did not ask for a transfer.

ADV VARNEY: Thank you, Mr Ackermann.

20 COMMISSIONER KGOMO: The letter is dated the 14th of January 1998.

ADV ACKERMANN: That is correct.

COMMISSIONER KGOMO: By George Bezos.

ADV VARNEY: That is correct., Commissioner. Mr Ackermann, before we proceed and before I forget, my junior has just passed me a note to say that in the Menzi Simelane affidavit he states at

paragraph 17, that he does not remember dates and that probably explains why there is no date to that meeting.

Let us now turn to other individuals and entities that have vouched for you. Commissioners, we are now going to turn to an article that was published by Independent Online some 24 years ago. That is looking for a date. I do not see it. My colleagues will bring the date to my attention when they find it. But the article is attached to Bundle 3. It is at pages 41 to 42. And It is followed by a write-up on Mr Ackermann by one Retha Meintjies. And those are pages 43 to
10 46.

Now, Mr Ackermann, the heading of this IOL article, which was published some 24 years ago, is titled The Sun Prosecutor Gets International Honour. Can you explain to the Commission what honour this was?

ADV ACKERMANN: Chair, it must have been before the judgement of the Basson case when this was stated. I went to Australia for an award there from the International Prosecutors Association. I can recall that the prosecutors, I shared this award with the Scottish prosecutors involved in the Lockerbie trial.

20 The document speaks for itself. I have not read this report. I do not know who wrote it. Do you want me to state something from it? Do you want me to read portions?

CHAIRPERSON: Mr Varney, we do not have a copy of that article.

ADV VARNEY: My apologies, Commissioners. I was told that it had been added to Bundle 3.

CHAIRPERSON: No, it hasn't.

ADV VARNEY: Do we have copies of it? They were handed to the Secretary of the Commission yesterday, and we had assumed that they would then be added to Bundle 3.

Do you have copies? I am told that we have copies, perhaps we can just hand them up right now.

CHAIRPERSON: Okay, thank you. Ms Moroka, do you have?

ADV MOROKA: No, Chair, I do not believe so.

ADV VARNEY: We do not want to leave Ms Moroka out. So the
10 page number of the Article Commissioners, at the top on the right, It
is numbered 41. And it will be added to Bundle 3, that is
Mr Ackermann's Bundle.

CHAIRPERSON: You will give the necessary copies to the other parties?

ADV VARNEY: We just handed over copies now.

CHAIRPERSON: Oh, thank you.

ADV ACKERMANN: Chair, I have now read this article. I think the only part that is relevant is perhaps the last three paragraphs. Where it says, I see they ask me, what will it mean for my career?

20 "Ackerman smilingly answers, a trip to Sydney. I
of course can't recall this interview, I do not know
who wrote this article. But in any event, I think the
relevant part is,
"Ackerman has prosecuted in some of the most
publicised cases in South Africa's history.

This includes the trial of André Stander, one of the country's most notorious bank robbers and a former policeman. Stanger was sentenced to 75 years in jail and 23 charges of armed robbery.

Other cases included the trial of Charmaine Phillips and Pieter Grundling, South Africans Bonnie and Clyde, on five charges of robbery and murder.

10 The trial of the Afrikaner Weerstand leader, Eugene Terblanche, on counts of public violence. The murder trial of Ferdie Barnard, and Eugene de Kock murder, fraud, theft and illegal possession of arms stolen.”

Commissioner, I think there are very few people alive that still know that André Stander matter and Bonnie and Clyde, Phillips and Gundling matter.

20 ADV VARNEY: Thanks Mr Ackermann. I am told that the date of that article is 10th of June 2001. Now, we have also attached from page 43 of your bundle, the motivation prepared by someone by the name of Retha Meintjies. At the bottom of the page, on page 46, she is described as a member of the Executive Committee. Do you remember who Retha Meintjies was, or is?

ADV ACKERMANN: Yes, she served on the Executive of this International Prosecution Society.

ADV VARNEY: And can you just read into the record paragraphs 2

and 3?

ADV ACKERMANN:

“Mr Ackermann is a man of unfamed integrity and a prosecutor at heart. He proved himself to be a fearless litigator with a strong sense of fairness who will pursue the case of justice irrespective of the circumstances or the consequences.

10 Although Mr Ackermann was a member of the apartheid legal state, he always remained true to his oath of office. His perseverance, integrity, and pursuit of justice was as evident in his prosecutions of terrorists who have committed crimes of murder and terror acts under the apartheid regime, as it is in prosecutions of high-profile employees of the apartheid government who committed crimes.”

With all due respect, I do not know who she refers to when she talks about the terrorists who committed crimes of murder.

20 ADV VARNEY: Alright, and then she refers to various cases, some of which you have already alluded to, such as Mr Busak. There is also a reference in paragraph 6 to the fact that you were the... (intervenes)

ADV ACKERMANN: May I read this paragraph 5? I have not read this document for a long time. I found it amongst the file in my office, in my study.

“It says that in the 80s Mr Ackermann was

instructed to manage another high-profile prosecution on behalf of the apartheid government.

Mr Alan Busak, a well-known anti-apartheid activist for the Contravention of Terrorism Act. After he drafted an indictment, it became apparent that the government wanted to make a political point through the prosecution.

10 They insisted that the prosecution proceed on the basis of a grand conspiracy which would include all the prominent apartheid movements, including the internal United Democratic Front. Mr Ackermann refused. His decision was based on sound legal principles.

In a series of meetings with the highest political figures in South Africa at the time, including State President PW Botha, he maintained his point of view. Another prosecutor was then identified to prosecute this matter. A year later, the investigation into this conspiracy trial was
20 abandoned.”

I can recall that matter well.

ADV VARNEY: In paragraph 6, you played a leading role in the commission that looked into the conduct of a member of the House of Delegates, Minister Rajbansi. Do you want to read into the record that paragraph?

ADV ACKERMANN:

“During 1988, Mr Ackermann was appointed to appear on behalf of the state in the high-profile commission of enquiry headed by Judge President James into alleged corruption by a member of Parliament, Minister A Rajbanshi, who also chaired the Minister's Council in the House of Delegates. During his 10-day-long cross-examination of Rajbansi, the latter was exposed.

Full prosecution ensued as a result of the commission leading Minister Rajbansi's conviction on a charge of corruption.

10 I know a letter was handed to me by Judge President James during this enquiry, and I have given it to you, what was said in that letter. Perhaps if I have not got it here with me.

ADV VARNEY: Let us skip to paragraph 8, please, if you could read that into the record.

ADV ACKERMANN: Paragraph? 8?

“Mr Ackermann has prosecuted in some of the most famous cases in South Africa's criminal history. André Stander, South Africa's most famous bank robber and a senior officer in the police service on 23 charges of armed robbery. He was sentenced to 75
20 years imprisonment. Charmaine Philips-Grundling, South Africa's Bonnie and Clyde, a runaway couple on five charges of robbery and murder. Eugene Terreblanch, the re-enactment leader of the Afrikaner Weerstandsbeweging, a right-wing political movement on counts of violence in the so-called Battle of Ventersdorp, Perry Barnard, Eugene de Kock and Wouter Basson.

ADV VARNEY: And maybe let us conclude with the last paragraph, that is paragraph 15.

ADV ACKERMANN:

“Thus far, Antoine Ackerman has been the only prosecutor to prosecute former leaders involved in atrocities committed during the apartheid regime. He has clearly demonstrated special dedication in the pursuit of his professional responsibilities, even during the apartheid years, and has also discharged saying in the face of hardship and adversity in circumstances which deserve recognition by
10 an organisation as the IAP.

ADV VARNEY: The International Association of Prosecutors. So just to wrap up then, Mr Ackermann, your response to the claim by Advocate Menzi Simelani that you were an apartheid prosecutor, a man not to be trusted?

ADV ACKERMANN: It is false. Not correct.

ADV VARNEY: Chairperson, I have been advised that the reference in Mr Ackermann's evidence to President Mbeki saying that he wanted to prevent a bloodbath between the NPA and the SAPs. That is apparently a reference to a paragraph in President Mbeki's affidavit
20 in which he sought to intervene in the application brought by the Calata Group in the High Court last year. We will extract the affidavit and the paragraph in question and put it up to the Commission and the parties in due course.

ADV VARNEY: Mr Ackermann, unless there is anything further to add in relation to people who have vouched for you over the years, I

think we can wrap up for today.

ADV ACKERMANN: Chair, I am quite certain that Justice Azur Chachalia will vouch for me. And there is a letter, pages, I say here 4 to 6 of 29 December 1988, a letter to President PW Botha from Rashbanji, that is in my view, very important To state my views, what I did and what Rasbanji said, Rasbanji said about me. May I be permitted to read out of this letter? It can be handed in as an Exhibit. It is addressed to President PW Botha.,

“Dear President, (and it is signed by Mr Rashbanji.)

10 ADV VARNEY: Mr Ackermann, we are just scrambling to find that letter. I am told that it is part of the bundle. Yes, I see it.

Are you referring to the letter dated 29 December 1998 from Mr Rashbanji to President PW Botha? Commissioners, that is at pages 31 to 40 of the small bundle just handed up. I am just looking at that letter, Mr Ackermann. I see it is quite a long letter. Is your proposal to read out?

ADV ACKERMANN: I have marked here places that I think is relevant. Most of it was a long commission. Can I read out what Mr Rashbanji stated in this letter? I will refer you to the page
20 numbers.

ADV VARNEY: Okay, if It is just a few extracts, please go ahead.

ADV ACKERMANN: Page 4, page 4 on the top.

CHAIRPERSON: Which is page?

ADV ACKERMANN: 4.

ADV VARNEY: Page 34.

ADV ACKERMANN: It says at the top of page 34.

ADV VARNEY: You may proceed.

ADV ACKERMANN:

“Advocate Anton Ackerman used his powers to seize confidential documents from the administration and handed them over to ANC activists. Boga and Company to be used against the administration with the knowledge of Justice James.”

10 Next paragraph.

“Advocate Anton Ackerman made heroes of another ANC activist, the Salaji family of Lenasia by book orders. I had reminded Mr Justice James in this chamber that ministers and certain officials had to pass decisions in the interest of, in the security of the state. In spite of this, it was allowed to, the humiliation to continue.”

In the middle, there is no number, but starting with:

20 “Both, Justice James and Anton Ackerman championed the cause of the Chief Executive Director of Education and Culture, Mr AK Singh, who in my opinion is a leftist and will steer the education administration, in my opinion, to the left. To the left wing forces.

ADV VARNEY: Towards the left wing forces.

ADV ACKERMANN: Sorry, I misread there. And then on page 35, in

the middle, towards the bottom, it says,

“Mr President, even like this, events like this did not happen before in our administration. These are the people whose cause was championed by Advocate Anton Ackerman and which was allowed by Mr James. I am afraid our Department of Education is moving to the left.”

On page 36. The second paragraph on page 36.

10 “I believe that the role of Advocate Anton Ackerman succeeding the UDF has scored its greatest triumph, and history will record this.

Those are the... (intervenes)

ADV VARNEY: Thank you for highlighting those passages in the letter that Mr Rashbanji addressed to PW Botha at that time. Is there anything further you wish to add or comment on?

ADV ACKERMANN: No. Nothing.

ADV VARNEY: Thank you, Mr Ackermann. That concludes your testimony for today. Commissioners, my attorneys advised me that that reference in President Mbeki’s intervening affidavit, that the term
20 the bloodbath actually does not appear there, and that was Mr Ackermann's paraphrasing of what President Mbeki said in that affidavit, but we will in due course put it up so that it can be inspected.

CHAIRPERSON: Yes. Thank you. Is that all for Mr Advocate Ackerman for the day?

ADV VARNEY: For the day. There are a few more aspects we wish

to canvas with him in the morning, Chairperson.

CHAIRPERSON: Yes. Do you think you will conclude his evidence tomorrow?

ADV VARNEY: We aim to conclude his evidence tomorrow.

CHAIRPERSON: The proceedings are adjourned until tomorrow morning at 09:00.

ADV VARNEY: As the Commission pleases.

INQUIRY ADJOURNS UNTIL 6 MARCH 2026

CERTIFICATE OF VERACITY

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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