

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION

Case number: I01/2017

In the matter of:

REOPENED INQUEST: LATE AHMED TIMOL

AFFIDAVIT OF IMTIAZ AHMED CAJEE

I, the undersigned

IMTIAZ AHMED CAJEE

do hereby make oath and state that:

- 1 I am the nephew of the late Ahmed Timol ("**Uncle Ahmed**"), who died in police detention at John Vorster Square Police Station in October 1971. My maternal grandparents were Hajee Yousuf Timol ("**Papa**") and Hawa Timol ("**Ma**"). My late mother, Ayesha and Ahmed Timol were siblings.

PERSONAL BACKGROUND

- 2 I was born in August 1966 in Roodepoort. I grew up in Standerton, the Eastern Transvaal (now Mpumalanga). I attended the Stanwest Indian School in Standerton. I worked in the family business over weekends and school holidays.




- 3 The death of Uncle Ahmed, who died in police detention in October 1971, as well as the overnight disappearance in 1978 of my uncle, Mohammad Timol ("**Uncle Mohammad**"), had a devastating impact on me. I learnt that he had gone into exile and this provoked me to commence questioning why Uncle Ahmed had died at such a young age and why Uncle Mohammad had left the country.
- 4 After completing matric in 1985 I commenced working in Standerton in the motor industry in 1986 for almost a year where I witnessed the oppression of workers. Thereafter, I worked in the finance section of a major factory plant in Standerton. I relocated to Johannesburg in 1989 and worked for a major retail store.
- 5 After the unbanning of political organisations and release of political prisoners in 1990, my uncle, Mohammad Timol returned home with many other exiles. Through my association with the local African National Congress ("**ANC**") Mayfair West Branch I was recruited to the Alexandra Health Centre, a Non-Government Organisation ("**NGO**") in Alexandra Township in 1992. During my time with this NGO I witnessed first-hand unprecedented levels of violence in the ongoing conflict between the ANC and the Inkatha Freedom Party ("**IFP**"). I drove the clinic kombi and collected injured victims and rushed them to the clinic for treatment. I also helped in the compiling of statistics and reports on the violence which were released to the media.
- 6 In 1997 I joined the civil service of our democratically elected government. This was one of the proudest moments of my life. Thousands of dedicated fighters had been martyred in order for us to obtain our freedom. My intention was to make my beloved uncle proud, that I would serve my country with pride and

IA GS

ensure that his death and all other deaths were not in vain. I currently work at the State Security Agency (SSA).

MY RELATIONSHIP WITH UNCLE AHMED AND HIS DEATH

- 7 As a five year old, I have vivid and precious memories of Uncle Ahmed. I would accompany him to the Roodepoort Club where I would watch him swim. We would visit Mrs Amina Desai at her residence in Roodepoort. I recall driving with him in Mrs Desai's yellow Anglia, the same vehicle in which he and Salim Essop were stopped at a police roadblock.
- 8 During the period between Uncle Ahmed's arrest and his death I recall travelling with my mother from Standerton to our maternal grandparents' flat in Roodepoort in the middle of the evening. Family members were huddled together around the small kitchen table and there was only whispering. A knock was heard on the flat door and I saw these huge burly plainclothes Afrikaner men strolling into the flat.
- 9 Another enduring memory I have is of my grandmother standing at the flat window staring at a large crowd in the street below. Over the years, I would often accompany my grandfather to the local cemetery in Roodepoort to pay my respects at my uncle's grave. I would recite verses from the Holy Quraan and upon my return, my grandmother would ask me if I prayed for my uncle and I would politely respond, "*Yes Ma, I prayed for Uncle Ahmed*". My grandfather was totally devastated by the loss of his son, Ahmed, and he died a broken man in 1981.

①A GF

- 10 Our family visits to my maternal grandparents continued over the years. By now they had relocated from Roodepoort to Azaadville a township designated for occupation by Indians only as required under the Group Areas Act. My sister, Amina, and I spent a lot of time with Uncle Mohammad. I was well aware that he was under house arrest and was banned. This meant that he was not allowed visitors; had to be at home from work by 19:00. My grandmother would stress if he was running late. He faced arrest if he was not home in time. He also had to be at home during the weekends and was not allowed visitors.
- 11 Uncle Mohammad was unable to attend the weddings of his brother and nieces as he was banned. Despite living under a banning order I recall him as always being in high spirits.
- 12 At the beginning of January 1978, we were in Standerton when my mother received a phone call from my grandmother in Azaadville stating that she had been to Uncle Mohammad's room in the outbuilding of their residence and noted that his bed was neatly made. He was not in the room. A few days later I read an article in the Rand Daily Mail reporting that Uncle Mohammad had left the country.
- 13 At the age of twelve I remember being confused and angry. I had many questions that I needed answered. The sudden unannounced departure of Uncle Mohammad troubled me. Why did he leave the country? I began asking questions and probing my family to find out about Uncle Mohammad and Uncle Ahmed. I began reading the newspaper cuttings that the family had kept from the news on Uncle Ahmed's death and the subsequent inquest that was held.

TA G-5

- 14 I examined Uncle Ahmed's photo album and mentally pieced a picture of what had happened. This deeply affected me and impacted on my schooling. I could not understand why I had to go to school when I wanted to be part of the uprising in the country.
- 15 At my repeated insistence my grandmother patiently recounted the events leading to the death of Uncle Ahmed. She narrated that during the final moments spent with Uncle Ahmed on the eve of his arrest, he stared at her for a long time and was concerned about her health. She described the many visits of the Security Police to their flat. She explained that she asked the late Iqbal Baboo Dindar and his wife Jameela to take food for Ahmed at John Vorster Square. She was pained that the Security Police admonished her for not giving her son a hiding. Most painful of all was the news that her son was dead and that she had to tell Papa to go identify his body at the Hillbrow mortuary. She reflected, with a broken heart, on the injuries on Uncle Ahmed's body and it pained her immensely to recollect that Papa had to perform the Janazah (funeral) prayers to bid farewell to his eldest son.
- 16 My mother, Ayesha Cajee, narrated to me that after Uncle Ahmed's funeral, the Security Police visited the flat in Roodepoort. They wanted Papa to convince Uncle Mohammad to work for them and in return they would release him from detention. Papa refused with no hesitation. The police harassment was relentless and continued until 1989.
- 17 The Security Police visited our home in Standerton to enquire about our motor vehicle that was seen at my grandparent's residence in Azaadville. This was a

TA G3

- clear indication to me that my grandparents residence was under surveillance and that there were informants in the community that were working with the Security Police.
- 18 It was a very proud moment when we learnt that Uncle Moḥammad was part of the ANC delegation that attended the historical Groote Schuur Talks in Cape Town in 1990. I was overjoyed when I reunited with him after almost 12 years.
- 19 My grandmother was approached to testify at the Truth and Reconciliation Commission (TRC) hearings in 1996. Since my grandfather had already passed away in 1981 she was reluctant to appear. I convinced her that it was important for her to narrate her experiences and the loss of her son.
- 20 Her testimony at the TRC on 30th April 1996 at the Central Methodist Church in Johannesburg filled me with emotion. At that moment I made a silent vow to preserve my uncle's legacy from that day onwards. I was no longer going to just talk about Uncle Ahmed but I was going to do something constructive. I wanted the full truth to be exposed.

MY PATH TO ASCERTAINING THE TRUTH

- 21 I wanted to understand who my Uncle Ahmed was. I concluded that this was my calling in life. My journey commenced after Ma's testimony. I started by reading and analysing the newspaper collection of all articles kept by the family; identifying and locating individuals linked to Uncle Ahmed; compiling draft manuscripts and conducting my own investigations.

TA Gm

- 22 Sadly Ma did not get the answers she hoped for. Her death in February 1997 inspired me to continue researching. President Nelson Mandela paid a fitting tribute to Uncle Ahmed at the renaming of the Azaadville Secondary School to the Ahmed Timol Secondary School on 29th March 1997. It was Ma's wish that a school be renamed after him. Sitting in the audience, I was once again inspired to continue my research.
- 23 During the course of my research, I engaged with numerous individuals who were detained with Uncle Ahmed, including the late Amina Cajee; Fatima Wadee; the late Hassen Jooma; Khadija Chothia; Yousuf Hassan Essack; Indres Moodley and others. The Steve Biko Foundation continues to support all my initiatives in preserving the legacy of Uncle Ahmed.
- 24 A remarkable woman who has been influential in my life was the late Mrs Amina Desai. She was detained with Uncle Ahmed at the age of 53 and was subsequently sentenced in 1972 to five years imprisonment. She served her sentence in Barberton and Kroonstad Prisons. She was released in 1978, by which time she was South Africa's longest-serving Indian woman political prisoner. She was then placed under a banning order and house arrest for a further 5 years until 1983. I spent many hours with her before she departed South Africa in 2004 for Ireland. She described how the brutal system of apartheid punished her severely for merely allowing her residence to be used by Uncle Ahmed to do his political work.



- 25 My meeting with Essop Pahad, Minister in the Presidency on 31 January 2001 was significant. He agreed to assist my research and together with his wife, Meg, they assemble a support team.
- 26 During the course of my investigations, I ascertained that a number of police officials, directly involved in the interrogation of my uncle were still alive. This included former Captain JH Gloy and Captain Johannes van Niekerk.
- 26.1 I had three telephonic conversations in 2002 with former Security Police Captain, JH Gloy ("**Gloy**"). He played a leading role in the interrogation of Uncle Ahmed at John Vorster Square Police Station. During the first conversation, Gloy insisted that I had to look at the inquest records and that the case was closed. Gloy also asked that I make an appointment with him to discuss it further.
- 26.2 In our second conversation, Gloy stated that he was advised by his lawyer not to conduct an interview with me and that he was suffering from Parkinson's disease. He also claimed that my grandparents had come to court with a bunch of lies about torture that was rejected by the court. In my final conversation with him, I informed Gloy that I had read the court records. Gloy claimed that he had no reason to apply for amnesty when the courts had already ruled and that I had no case against him. Gloy threatened a court order against me if I continued calling him.
- 26.3 I refrained from contacting him again but the overriding urge to hear the truth overwhelmed me. I wrote a letter to Gloy in 2007 pleading with him that it was almost 36 years since Uncle Ahmed's death; and since he was

approaching the end of his life he may want to speak the truth. My appeal was for us to meet and find closure. I received no response from Gloy.

Suppression of the political cases

- 27 In 2003, I wrote to the then National Director of Public Prosecution (“NDPP”), Bulelani Ngcuka informing him that none of police officers involved in the Timol matter had applied for amnesty. I had established that some of them had died but others were still alive. I appealed to the NDPP to investigate the Timol case afresh as I believed that there was sufficient evidence pointing to his murder.
- 28 I was notified by a letter from Adv RC Macadam, the deputy head of the Priority Crimes Litigation Unit of the NPA, dated 25 February 2004 that investigations produced “negative results”. An internal memorandum of the Priority Crimes Litigation Unit (“PCLU”) dated 29 November 2006, titled: “**Report of the Progress made by the Task Team on TRC Cases**” confirmed that the matter was closed. I attach hereto marked “A” a copy of this letter.
- 29 I was very disappointed by the approach of the NPA which I believed to be cavalier and uncaring.
- 29.1 I learned later through the case of ***Nkadimeng & Others v The National Director of Public Prosecutions & Others*** (TPD case no 32709/07) (“the Nkadimeng case”), brought by the sister of Nokuthula Simelane and the widows of the Cradock Four, the young freedom fighters murdered by a police hit squad, that something more sinister was going on at this time.

TA Gm

- 29.2 During the Nkadimeng case the NDPP was forced to disclose a secret 2004 government report titled "***Report of the Amnesty Task Team***". It was revealed that on 23 February 2004 the government Directors-General Forum appointed a secret "Amnesty Task Team" ("ATT") to address amongst other issues "*the absence of any guarantee that alleged offenders will not be prosecuted*". Its report explored ways of avoiding the state's responsibilities to prosecute offenders denied amnesty by the TRC or who had not applied for amnesty.
- 29.3 In finding for the applicants, Judge Legodi in 2008 held at paragraph 16.2.3.3 of his judgment that:
- "...crimes are not investigated by victims. It is the responsibility of the police and prosecution authority to ensure that cases are properly investigated and prosecuted."***
- 29.4 Notwithstanding the ruling of Judge Legodi the family of Nokuthula Simelane and the widows of the Cradock Four are still waiting for justice. On 20 May 2015 the family of Nokuthula Simelane was forced to file an application before the Gauteng Division of the High Court in Pretoria in the matter of ***Thembisile Phumelele Nkadimeng vs. National Director of Public Prosecutions & 8 Others, Case Number 35554/2015*** in which they sought orders compelling the South African Police Service ("**SAPS**") to finalize their investigations and an order compelling the NDPP to make a decision.
- 29.5 This application disclosed evidence of gross political interference in the operations of the NPA (as per the supporting affidavits of former NDPP, Adv Vusi Pikoli and former head of the PCLU, Anton Ackermann SC) and

TA GM

explained how the political cases from the past were deliberately suppressed.

29.6 Copies of the aforesaid papers, report and judgment can be supplied on request.

THE LAUNCH OF MY BOOK: TIMOL - A QUEST FOR JUSTICE

- 30 I took all my research, thoughts, emotions and investigations and penned my book entitled, "*Timol – A Quest for Justice*". It was launched at the John Vorster Square Police Station (renamed Johannesburg Central Police Station) on 30th January 2005. The Minister of Safety and Security was the main speaker and the South African Police Choir sang the National Anthem. As there remained numerous unanswered questions I continued conducting research for my second book which is at an advanced stage.
- 31 Uncle Mohammad had over the years always reminded me that it was important for us to reverse the findings of Magistrate de Villiers who stated that Uncle Ahmed had committed suicide. The family never accepted this finding as we remain convinced that the first inquest was a farce and cover up. It is important for us to rectify this finding for the annals of our history as well as to preserve the memory and legacy of Uncle Ahmed.
- 32 I made contact with the former TRC Commissioner Yasmin Sooka in 2009 to discuss Uncle Ahmed's matter. After delaying for a number of years, I finally arranged to meet Advocate Howard Varney, Frank Dutton and Yasmin at a meeting convened on 6th February 2015. At this meeting it was agreed that we

IA G-3

should pursue the reopening of the inquest in order to reverse the finding of Magistrate De Villiers. Frank Dutton was appointed to investigate and uncover any new evidence.

33 Frank Dutton concluded his investigation and a meeting was convened with the NDPP, Mr Shaun Abrahams, on 19 January 2016 in 2016. Advocate Varney and Frank Dutton presented new evidence that demonstrated it was in the interest of justice to reopen the inquest. Advocate George Bizos SC was invited to this meeting and he too made representations. The NDPP announced on 26th October 2016 that he had accepted our application to re-open the inquest on Uncle Ahmed.

34 I deeply appreciate those former detainees who testified about their experiences in Security Branch detention. It could not have been easy for them to relive their horrendous ordeal in court. I felt their pain as they testified.

RECOMMENDATIONS

35 I would like to respectfully request this Honourable Court to make the following recommendations to the authorities.

35.1 The erection of a sculpture outside Johannesburg Central Police Headquarters which pays tribute to all political detainees who died in police detention during the apartheid-era. Alternatively, or in addition, a memorial to Uncle Ahmed could be erected at the impact site in the garden outside the south wing.

①
Gim

- 35.2 The conversion of the south wing of the 10th floor of Johannesburg Central Police Headquarters into a memorial and shrine for political detainees who were tortured or killed during apartheid. This could be in the form of a museum or educational centre, open to the public, which tracks the history of security detention and its abuses. In particular room 1026 and the other interrogation rooms should be faithfully restored to how they were in 1971.
- 35.3 The energetic and vigorous investigation of outstanding apartheid era cases before it is too late, which may involve the creation of a dedicated team of carefully selected investigators and prosecutors. All state entities should be required to supply all information at their disposal to this team.
- 35.4 All files pertaining to political detainees of the apartheid-era must be made easily accessible to the families seeking answers



IMTIAZ AHMED CAJEE

The Deponent has acknowledged that he knows and understands the contents of this affidavit, which was signed and affirmed before me at Pretoria East on this the 20th day of July 2017, the regulations contained in Government Notice No R1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.

G.M. Mofhe.

COMMISSIONER OF OATHS

FULL NAMES:

GLADYS MAETSANE MOTHIBE

DESIGNATION:

Ex Officio Commissioner of Oaths

Attorney of the High Court of the RSA

NATIONAL COMMUNICATION CENTRE

ADDRESS:

Musanda

Rietvlei - PRETORIA

0001
Pretoria
South Africa

Dist: 012 344-7551
Fax: 012 344-7551

Office of the Boss
Priority Crimes Investigation Unit
NSM Building
PRETORIA
Pretoria
INTERNAL MEMORANDUM

TO: ADV VP BINGEL
NATIONAL DIRECTOR OF PUBLIC PROSECUTION

FROM: DE WS FAMBITE
CONVENOR OF THE TASK TEAM ON TRC CASES

SUBJECT: REPORT ON THE PROGRESS MADE BY THE
TASK TEAM ON TRC CASES

DATE: 29 NOVEMBER 2006

1. PURPOSE OF THE MEMORANDUM

The purpose of this memorandum is to inform the National Director about the progress made by the task team established in terms of the prosecution policy guidelines on TRC cases.

2. BACKGROUND ON TRC CASES

As you aware that on 12 October 2006 a task team on all cases emanating from the conflicts of the past was established and I had been appointed as Convenor thereof.

The mandate of the task team is to carry all TRC cases in progress of the South African Police Service (SAPS) and the Priority Crimes Litigation Unit with a view to making recommendations to the National Director on whether to prosecute or not.

In 28 October 2006, the task team submitted a report to the National Director from SAPS and the Priority Crimes Litigation Unit. The report of SAPS was based on 11 cases which were identified as TRC cases and had been identified in terms of the mandate of the task team. The three categories of cases identified were: 1) cases which were identified in terms of the mandate of the task team; 2) cases which were identified in terms of the mandate of the task team; 3) cases which were identified in terms of the mandate of the task team. The report also included a list of cases which were identified in terms of the mandate of the task team and a list of cases which were identified in terms of the mandate of the task team. The report also included a list of cases which were identified in terms of the mandate of the task team and a list of cases which were identified in terms of the mandate of the task team.

TA

GF

