



**MOERANE**  
**COMMISSION**  
INVESTIGATING POLITICAL KILLINGS IN KZN

**REPORT OF THE  
MOERANE COMMISSION  
OF ENQUIRY INTO THE  
UNDERLYING CAUSES OF THE  
MURDER OF POLITICIANS  
IN KWAZULU-NATAL**



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**NATAL**

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## **INTRODUCTION**

1. *“Something is rotten in the State of Denmark.”*<sup>1</sup>
  
2. Had Shakespeare lived in KwaZulu-Natal (KZN) between the years 2011 and today, he might have had a modern-day Marcellus utter those words – a theme to which we shall return. For present purposes, suffice it to say that the apparently never-ending murder of politicians in KZN is a symptom of a serious pathology in the Province’s body politic.
  
3. On 28 October 2016 the Premier of the Province of KwaZulu-Natal, the Honourable TW Mchunu, established a Commission of Enquiry into the underlying causes of the murder and attempted murder of politicians in KwaZulu-Natal, (KZN), in terms of section 127(2) of the Constitution of the Republic of South Africa, 1996, (“the Constitution”), read with section 2(1) of the KwaZulu-Natal Commissions Act, 3 of 1999, (“the KwaZulu-Natal Commissions Act”).
  
4. The establishment of the Commission was made known by the publication of Proclamation 1 of 2016 in Provincial Gazette 1748 of 28 October 2016.

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<sup>1</sup> William Shakespeare: The Tragedy of Hamlet, Prince of Denmark (Act 1. Scene IV).

5. The Commission was appointed with the terms of reference, generally, to investigate and report on the underlying causes of the murder of politicians in KZN with reference to:

5.1 the number, nature and locality of incidents of murder and attempted murder involving politicians, both as victims and suspects, in the Province from 2011;

5.2 indications whether the incidents are related to political, ethnic, tribal, social or criminal factors or any other internal or external influences or factors which may be considered relevant;

5.3 the outcome of any police investigation and prosecution of the incidents, including the number of successful prosecutions, trials and convictions of the perpetrators;

5.4 the perceptions of the public, political parties, community structures and members of the relevant communities in respect of the underlying causes of the incidents of murder and attempted murder involving politicians, both as victims and suspects, and the effectiveness of the policing thereof by the police service in the Province.

6. The Commission was required to make recommendations:
  - 6.1 to address the underlying causes of the murder and attempted murder of politicians in KZN;
  - 6.2 in respect of the prevention of future incidents of murder and attempted murder involving politicians, both as victims and suspects and ensuring the successful investigation and prosecution of the perpetrators;
  - 6.3 on any other matter of whatsoever nature that the Commission deems necessary or appropriate.
  
7. The provisions of the KwaZulu-Natal Commissions Act No 3 of 1999 were made applicable to the Commission, provided that the Commission was required to produce and submit its final report containing a summary of the evidence, its findings and recommendations no later than 12 months after 28 October 2016.
  
8. By reason of the fact that there were unavoidable delays in the commencement of the functioning of the Commission, its term was extended by five (5) months to 27 March 2018 by Proclamation 1 of 2017 published in Provincial Gazette 1891 of 27 October 2017.

9. The duration of the Commission was further extended by Proclamations 2 and 3 of 2018 to the end of April and the end of May, respectively.
10. In terms of section 2(1)(e) of the KwaZulu-Natal Commissions Act, Advocate MTK Moerane SC was appointed Chairperson of the Commission, whilst Advocate V Gounden and Prof C Potgieter were appointed as additional Commissioners. Mr S Mdledle was appointed Secretary to the Commission in terms of section 2(1)(d) of the said Act.
11. In terms of the Regulations applicable to the Commission, the Chairperson designated Advocates B Manyathi and AM Ngqanda of the Durban Bar as Evidence Leaders and Retired Brigadier C Marion as Investigator. The said persons were duly appointed as such.
12. The appointment of the Commission arose out of concern by the Executive Council of the Province of KZN over politically related killings which had become prevalent in KZN since 2011 and had escalated rapidly during 2016 with adverse consequences for governance in the Province.
13. The situation was of great concern not only to the Provincial Government, but also to political parties in the Province of

KwaZulu-Natal, who were of the view that the matter required urgent intervention.

14. Regrettably, there does not seem to be any reduction in the rate of the murder of politicians in KZN. There is still something rotten in the Province of KwaZulu-Natal.
  
15. Long after the establishment of the Commission, there was criticism from certain quarters about the necessity of establishing a Commission of Enquiry into the murder of politicians as a group or class of persons. It was argued that politicians were not so special as to warrant the time, energy and resources devoted to the investigation of only their murders. It was also contended that the Commission would amount to nothing more than a mere “*story telling*” exercise. However, some of these critics actually came before the Commission and gave relevant and valuable evidence.
  
16. It is generally accepted that it is the responsibility of the South African Police Service (“SAPS”) to prevent, combat and investigate crime in terms of section 205 of the Constitution. On the other hand, the Provincial Government is responsible for research, analysis and the development of safety models in terms of the Civilian Secretariat of Police Service Act 2 of 2011. The Province is accordingly mandated to analyse the

underlying causes of murder, in general, and the murder of politicians in KZN, in particular, and develop measures to address such causes.

17. In any event, the Premier is empowered by section 127(2)(e) of the Constitution of the Republic of South Africa, 1996, read with section 2 of the KwaZulu-Natal Commissions Act, to appoint a Commission of Enquiry. Furthermore, the establishment of the Commission of Enquiry has not been the subject of a legal challenge.

### **ANALYSIS OF THE TERMS OF REFERENCE**

18. At the outset it is deemed appropriate to set out our understanding of the import of the Terms of Reference.
19. As stated above, the Commission is required to investigate and report on the underlying causes of the murder and attempted murder of politicians in KwaZulu-Natal ....
20. The question that immediately arises as to who is a “*politician*” within the contemplation of the Terms of Reference. The South Africa Pocket Oxford Dictionary defines “*politician*” as “*a person who is involved in politics as a job, either as a holder of or a candidate for an elected office*”. Other dictionaries define the



word as “a person who is professionally involved in politics, especially as a holder of an elected office”, “representative”, “candidate”, “official”, “legislator”, “office-bearer”, “statesman”, “stateswoman”, “officer”, “policymaker”, “lawmaker”, “elected official”.

21. It is clear from the above dictionary definitions that the word “*politician*” has a wide connotation encompassing various persons who are involved in the political process as elected representatives or officials, candidates, office bearers, lawmakers or legislators, officers or officials etc. This was also the connotation that the Evidence Leaders urged the Commission to adopt.
22. We have accordingly adopted this broad definition of “*politician*” to include elected councillors, candidates in local government elections, municipal officials and officers, such as, Municipal Managers, Mayors and Deputy Mayors, members of the Executive Committee of municipalities, members and office bearers of political organisations.
23. Furthermore, the Terms of Reference are wide enough to permit the Commission to investigate the murder and attempted murder of politicians, as defined, “*with reference to indications whether the incidents are related to political,*

*ethnic, tribal, social or criminal factors or any other internal or external influences or factors which may be considered relevant.”*

24. The Commission was acutely aware of the fact that all murders and attempted murders are, by definition, crimes or criminal acts. However, we conceived our mandate as that of identifying those killings or attempted killings that were perpetrated with a political motive or purpose or were politically related. The known or reasonably inferred facts attending such crimes were important in determining whether or not the killings were committed with a political motive.
25. In what follows, we deal with and analyse what we consider the murder and attempted murder of politicians that fall within our Terms of Reference.

## **METHODOLOGY**

26. For obvious reasons, related to time and resources, it was impossible to investigate the murder or attempted murder of

each and every politician killed in KwaZulu-Natal over the period 2011 to date. We also deemed it unnecessary to do so. We believe that the number of persons that were interviewed by the Investigator and Evidence Leaders and those that were called to give evidence before the Commission provide a sufficient and representative sample to enable us to make credible findings and recommendations.

## **WITNESSES**

27. The Commission employed the above-mentioned Brigadier Marion as Investigator and the two above-named advocates as Evidence Leaders to find and consult with witnesses.

28. The Evidence Leaders and the Investigator sought and found witnesses and evidence from:

28.1 the KZN SAPS database, which compiled political violence cases and which indicated politicians that were murdered or in respect of which attempts were made to murder them;

- 28.2 a data bank of political murders/murders of politicians provided by a political violence monitor in the Province;
- 28.3 various political parties, professional organisations and civil society organisations who were invited to provide testimony on their understanding of the underlying causes of the killing of politicians in KZN (see appendix .... for organisations who were invited to testify and those who testified);
- 28.4 academics and violence monitors who were invited to testify based on their scholarly and/or advocacy work in the area; and
- 28.5 individuals who contacted the Commission Secretariat indicating that they had information and strong opinions on the underlying causes of the killing of politicians.

29. **Procedure for Final Selection of Witnesses.**

- 29.1 The Investigator and the Evidence Leaders selected cases using police dockets from the SAPS database, which represented the various geographical areas where killings of specific politicians had taken place. They also ensured that the cases represented the various political parties that have a presence in KZN.
- 29.2 The family members of the deceased were contacted by the Evidence Leaders on the contact numbers that were provided in the police dockets, and meetings were scheduled with them.
- 29.3 In instances where the contact numbers were no longer in use or had changed, the Evidence Leaders requested the Investigator to trace the family members and obtain their current contact numbers.
- 29.4 In the latter instances, the Investigator had an initial meeting or contact with the family members.
- 29.5 The Investigator then provided the Evidence Leaders with a report based on the interview with the family members.

- 29.6 The Evidence Leaders then contacted the family members and scheduled meetings with them.
- 29.7 In all instances, the Evidence Leaders interviewed the family members.
- 29.8 In some instances, the family members referred the Evidence Leaders to the friends or comrades of the deceased, who were also interviewed.
- 29.9 Where the Evidence Leaders were in agreement that the deceased was a politician in the broad sense and that the underlying context or motive was political, they invited the family members, friends or comrades to testify before the Commission.
- 29.10 The potential witnesses were briefed on the risks attendant on testifying and were also informed of the protection that would be offered to them should they testify.
- 29.11 All witnesses were provided with copies of the Terms of Reference, which were also explained to them in the consultations.

29.12 All witnesses who testified gave oral consent to do so.

29.13 If transportation was requested to the venue where the public hearings were taking place, the Investigator transported some of the witnesses to the venue and back to their residences.

29.14 In other instances, the Secretariat asked the office of the Premier's travel agent to make the necessary travel and accommodation arrangements.

30. **Violence Monitor Database**

The data bank which the violence monitor Ms Mary De Haas had provided as killings of politicians was consulted. The same procedure was followed as set out in paragraph 29, above, in the selection from the SAPS database.

31. **Organisations**

After the organisation had responded that they were willing to testify the same process was followed as set out in paragraph 29, above. Organisations made the decision as to who would testify and the number of persons in their delegation. The Evidence Leaders consulted with all members of the delegation prior to them testifying. All

organisations were provided with the Terms of Reference of the Commission.

32. **Academics and Professionals**

After they were contacted and they indicated a willingness to testify the Evidence Leaders met with academics and other professionals. They were all provided with the Terms of Reference of the Commission.

33. **Site visit to Glebelands**

To gain first hand evidence of the context, the Commissioners and the Evidence Leaders, the Investigator, the Secretariat and the Commission support staff visited the Glebelands hostel on 21 July 2017.

34. **Public Hearings**

34.1 All witnesses took the oath or made an affirmation.

34.2 The Evidence Leaders led the questioning.

34.3 Questions were informed by the Terms of Reference of the Commission.



34.4 Representatives of the SAPS were present at the hearings and were given an opportunity to pose questions to the witnesses.

(5) The Commissioners also put questions to the witnesses.

(6) All public hearings were recorded and transcribed verbatim.

(7) The verbatim recordings, the closing arguments of the lead advocates and the notes of the Commissioners were used as primary data for the making and analysis of the findings.

35. **Final Sample**

The final sample of witnesses who testified was therefore determined using a qualitative methodology which included a purposive targeted approach to ensure representivity and was sensitive to the geographical spread of where the killings took place.

36. In addition, the purposive targeted approach ensured representivity of the various political parties.

37. The final number of witnesses who testified was 63.

### **Limitations of the Methodology**

38. The major limitation to the methodology is that some witnesses were not willing to testify for a number of reasons, including fear of repercussions and the fact that some were still in mourning.

39. The Institute of Security Studies was invited to give evidence, but after consideration declined.

40. Amnesty International offered to make a presentation to the Commission, but on reflection, decided not to.

41. Although a representative of the eThekweni Municipality attended the inspection-in-loco at the Glebelands Hostel on 21 July 2017, and notwithstanding a written invitation, the said Municipality did not volunteer any witness to testify on its behalf. In our opinion, as the largest municipality in KZN that controls a budget of more than 40 Billion Rands, their testimony would have been material and would have contributed to the findings in the report.

42. Time and resource constraints were a challenge, but we are of the opinion that this final Report provides valid and reliable finding and recommendations that deal adequately with the matters that had to be investigated according to the Terms of Reference of the Commission.

## **THE EVIDENCE**

43. We propose to set out a summary of the evidence presented to the Commission, both orally and in written form as witness statements. The purpose of the summary is to provide an overview of the issues traversed by the respective witnesses. While it is intended to capture the basis of our findings and recommendations, we came to our conclusions based on the evidence as a whole. Thus, the evidence on which the Commission made its findings and recommendations comprises the oral testimony of the witnesses as transcribed and the written submissions and other documentary evidence presented by the witnesses, which were admitted as numbered exhibits.
44. We propose starting with the evidence of the families of the victims, so as to set out the evidential material in respect of which other witnesses gave their testimony and expressed their opinions.

**SIMPHIWE NTOMBELA (VOL 8).**

45. He testified on 15 June 2017. He is the brother of the late **Vusumuzi Bonginkosi Ntombela** (“Vusumuzi”). He was 46 years, married and had four children when he died. He was a teacher by profession. In early June 2015 he was shot and killed in the classroom at Luvisi Primary School, where he was the Deputy Principal, in front of the learners.
46. The circumstances of the killing were the following. The would-be hitman approached the Principal of the school requesting to speak to the deceased. The deceased responded that he was still busy teaching. Another learner was sent to him. The deceased then decided that the visitor should come to him. The visitor then entered the classroom, shook the deceased’s hand and spoke to him about work. It appears that the deceased then gave this person some numbers to phone. The person pretended to be leaving, at which point the deceased turned to write on the chalk-board. That is when the hitman fired 3 or 4 times at the deceased. The bullets struck the deceased and two learners, Elizabeth Nhleko and Bongumusa Cele. As a result, the deceased and

Ms Nhleko died while Mr Cele suffered gunshot injuries but survived.

47. The deceased loved his family because when he attended political meetings in Durban and they finished late, he would drive back home at Nquthu irrespective of the time and would sometimes get home at 2h00.
48. He was very humble and respectful and the people loved him. He was a person of principles and would not be swayed if something was against good principles. He was against corruption and advocated good governance. He had no enemies except in political circles. One of the speakers at his memorial service said to be loved by people is something that no one could take away from him.
49. At one stage, Amakhosi did not allow people to come to their areas and talk about the ANC, but Amakhosi instructed their Izinduna to allow him to canvass and campaign for the ANC in their areas.
50. Mr Mdakane, the hitman, pleaded guilty in the High Court. He was convicted on 22 June 2015 of two counts of murder, one of attempted murder, unlawful possession of a firearm

and unlawful possession of ammunition. He was sentenced to life imprisonment.

51. In his guilty plea statement, Mr Mdakane said he was approached by one Mr Khambule who asked him to kill the deceased for a fee. Mr Khambule told Mr Mdakane that the deceased wanted to kill him (Khambule) and so, Mr Khambule procured Mr Mdakane to have the deceased killed first. Mr Ntombela disputed the version that was given to Mr Mdakane by Mr Khambule as being false. In the statement, Mr Mdakane stated that he was promised a hit fee of R15,000 plus a job at Ocean Dawn Company as a security guard.
52. Subsequent to Mr Mdakane's sentencing, a statement was obtained from him as a witness and Mr Khambule was prosecuted. There was a trial and he was also sentenced to life imprisonment on 27 March 2017.
53. Mr Ntombela indicated that he did not know Mr Mdakane prior to seeing him in court. He knew Mr Khambule by sight prior to seeing him in court. From the facts in court, Mr Mdakane was the hitman and had no motive to kill the deceased. Mr Ntombela was asked whether Mr Khambule

would have had a motive of his own to have the deceased killed.

54. In reply, Mr Ntombela first gave the following background. Mr Khambule was born at Sandlwana and he was a security guard in Johannesburg. He was also a member of an organisation called Isikebhe, a community group which fights stock theft. The ANC approached Isikebhe to work together so that it would convince its members to become ANC members.
55. After Isikebhe was brought closer to the ANC, Mr Khambule joined the ANC and many members of the ANC were surprised. He was very close to the ANC Regional Chairperson prior to December 2014. Before joining the ANC, Mr Khambule had no permanent job and he was struggling financially. After joining the ANC, people in the area were surprised to see him driving a Toyota Fortuner. He alleged that he was mobilising support for the ANC.
56. The Ntombela family believes that Mr Khambule's partnership with the ANC opened doors for him to drive expensive cars that he would otherwise not afford. According

to Mr Ntombela, it was clear that Mr Khambule was sent by someone who was behind the scenes to organise the hitman.

57. There was a time when the deceased told Mr Ntombela that he was side lined by the ANC. He asked the deceased why he could not go and be active in other ANC branches like Isandlwana. He replied that it was no longer easy to get into Isandlwana because there was a new person called Khambule who was active there and who was “fighting” with him (Vusumuzi).
58. Vusumuzi believed that Khambule had been sent by others to target him. Vusumuzi said that Mr Khambule was not even in the sub-region leadership but was seen driving cars and having all the resources to do the work.
59. Moreover, when Mr Khambule was asked where he got all the resources from, he used to say that he was sent by the ANC regional Chairperson. Even the local PR Councillor said that he had a problem with “this person”, meaning Mr Khambule because he was fighting with everyone. He was always armed and was intimidating them to leave their positions.



60. Mr Khambule was saying that he was working for the ANC and he was sent to different branches and wards. Other members of the ANC in those areas were surprised because when you work for the ANC, you are not employed, but are doing party work voluntarily.
61. Vusumuzi was a member of the ANC, a Councillor and speaker of the Nquthu Municipality. He was previously a branch Chairperson and held a leadership position in the sub-region and was also the Deputy Secretary in the region. At the time of his passing, the Municipality had a coalition government between the ANC and the NFP.
62. Mr Ntombela testified that his brother's murder was a political assassination. Shortly after being elected as speaker in 2011, he phoned Vusumuzi to find out how he was coping with his new deployment. He complained about his colleagues, especially the Mayor, that she had pressured them in approving a certain security company contract without following proper tendering procedures.
63. His concern was that such irregularities played into the hands of the opposition. He also felt that it looked like some of his colleagues were not really concerned about service

delivery, but rather more about self-serving benefits for pushing through the security company contract without following proper procedures.

64. During the national elections of 2014, as a senior member of the ANC who had even sat in the Bambatha region, he expected to be deployed to campaign for the ANC as it was usually done. Surprisingly, he found himself being isolated from ANC activities by both the Nquthu sub-region and the Bambatha region.
65. Around September 2014, Vusumuzi called his brother reporting that he had been called to the ANC Nquthu sub-region meeting. There was only one item on the agenda and the meeting was chaired by the former ANC Regional Secretary. The Secretary asked Vusumuzi to write a letter of resignation from his position as Speaker. The reason given was that at Umvoti Municipality, there were ANC councillors who had voted with the IFP on a certain motion.
66. The Secretary told the meeting that Vusumuzi was also going to follow the same trend as the Umvoti councillors. The Secretary told him that if he did not resign, he was going to shoot him dead. As Mr Ntombela could feel the stress on his

brother's voice, he advised him to report the matter to the police and obtain bodyguards.

67. Vusumuzi said he did not think that the police could help him. With regard to bodyguards, he felt that he could not afford his own and he did not trust the security company that was contracted by the Municipality as he felt that it was a rogue security company owned by a certain ex-convict.
68. Vusumuzi then decided to phone Mr Sihle Zikalala of the ANC PEC for advice. Mr Zikalala responded by informing the IEC that no one had the power to recall ANC councillors without the approval of the PEC and the NEC. From then on, the relations between Vusumuzi and certain leaders of the region and sub-region were so tense such that he decided not to attend sub-region meetings as they were platforms, in his words, to insult him and those who were close to him.
69. When Mr Ntombela asked him why his comrades were treating him that way, he replied that, as Speaker, he was supposed to approve certain documents relating to tenders. At times, he found it difficult to approve them because the Mayor was not following proper procedures.

70. A week before he was assassinated, Vusumuzi called the witness telling him that the NFP wanted to work with the IFP in voting the ANC out of the Executive Committee of the Municipality. He laid much of the blame on the Mayor and also mentioned someone else in the ANC who was determined to get rid of the rule book in the governance of the Municipality.
71. He said the real reason why the NFP wanted to end the marriage between it and the ANC was corruption and the arrogance of the Mayor and also a few ANC councillors who were “*yes men*” of the Mayor.
72. As the Mayor was closer to the ANC Regional Chairperson and Secretary, the Mayor was using them to fix him up as he was a stumbling block to the Mayor’s world of riches. Vusumuzi hated corruption and entered politics to be a servant of the people.
73. As to why he did not mobilise the ANC branches after being isolated and muzzled by the then ANC leadership, he indicated that it was so difficult because there was a Khambule who was driving around in a car, hired by the Mayor of uMzinyathi District. Mr Khambule had all the

resources given to him by the regional leadership to garner support for them.

74. The same Khambule was supposedly the bodyguard of the Mayor. The Ntombela family received information that he was working for a security company called Ocean Dawn, which was hired by the Municipality. It is unknown as to how he became the bodyguard of the Mayor. He was driving for the Mayor and the community believed that he was the Mayor's bodyguard. Ocean Dawn was the same security company that was awarded a tender without following proper procedures.

75. The Bambatha region was due to have a regional conference in December 2014. Even though Vusumuzi had confided in his brother that he had had enough of politics, as there were two ANC factions that were contending for the regional election, Vusumuzi was approached by one faction. He agreed to work with them and worked very hard to win over branches that were already regarded as supporting the former Regional Chairperson and Secretary.

76. As days grew closer to the conference, it became apparent to the former regional Chairperson and Secretary that defeat

was imminent. A certain KZN MP was sent to speak to Vusumuzi with the purpose of uniting the two slates during the conference. He took the matter to the relevant faction, but they replied that it was too late and that they regarded that attempt as a trick up the sleeve of their opposing faction.

77. Vusumuzi's faction won the regional conference elections. Relations between him and his nemesis got worse. State witness, Mr Sithole, in the Khambule murder trial stated that before the actual assassination, there were two previous attempts to assassinate Vusumuzi that never materialised. All this information was shared with Mr Sithole by Mr Khambule. Mr Sithole also told the court that Mr Khambule had told him that if he failed to get the hitmen, he (Khambule) would be in trouble as the Mayor had threatened to poison him.
  
78. Somehow the Mayor was desperate to speed up Vusumuzi's murder. The family believes that certain municipal records could also give a clue as to why the assassination had to be expedited. The family is also questioning who paid Mr Khambule's legal fees as he could not afford them.

79. The reasons that were advanced by the regional leadership that some of the members of the ANC caucus at Nquthu Municipality would follow suit to what happened at Umvoti and vote with the opposition, was just a smokescreen for wanting to get rid of him. They knew very well that he was a seasoned member of the ANC and would not betray the organisation. As a person of principle, he refused to resign as Speaker because it would have opened the door for them to do as they pleased and perpetuate corruption.
80. The family believes that the by-election results at Nquthu have a bearing on the attitude of the people at Nquthu regarding Vusumuzi's murder. The people said that some of the ANC candidates, especially the mayoral candidate, had *iphunga* (stench). People said that they would not vote for murderers. The IFP ultimately won the Nquthu Municipality by-election, reducing the ANC membership from about 10 to 3.
81. The Ntombela family believes that there were people behind Messrs Khambule and Mdakane who are still free and would like the investigation to be reopened with regard to these masterminds.

82. Despite the outcome of the cases against Messrs Mdakane and Khambule, the family is not happy about the investigation. The evidence was readily available because the suspects were caught red-handed and there was nothing difficult to investigate. At some stage, the investigating officer told the family that he had a problem in getting hold of the regional Chairperson for questioning. The family does not believe that. The family doubts whether the investigating team ever followed up on the Municipality, the tender, the Mayor etcetera with the objective of getting to the bottom of the matter.
83. According to a report compiled for the Commission by Brigadier Maqhashalala of SAPS, a possible underlying cause of the murder was competition for positions which was characterised by slate politics and factionalism.

**KHETHIWE PHAKATHI (VOL 2).**

84. She testified on 23 May 2017. She is the daughter of the late **Mrs Thokozile Alice Phakathi** who was murdered on 10 July 2015. She was 56 years old when she died. The family was residing at Kwa-Ndengezi at the time and consisted of Mrs Phakathi, her husband, their three children and a grandchild.



85. Mrs Phakathi was a member of the ANC. She was active in the ANC at local level, Kwa-Ndengezi and was the Chairperson of the Women's League. She was sociable and was a community health care worker and started a community project. She helped people by giving them wheelchairs and applying for grants for them. She also helped orphans to apply for their grants.
86. She would assist the people with food parcels whilst they were waiting for the processing of the grants. She would also arrange for the elderly to be placed in an old age home. Mrs Phakathi was approachable, caring and loving. It was easy to talk to her about anything as a mother and grandmother.
87. She received a phone call at the beginning of 2015 from someone at the ANC regional level pertaining to nomination as Councillor. She explained to her daughter that the caller was from the Regional level but did not mention the person's name.
88. When her daughter asked why she was unhappy because she was talking to her comrade, Mrs Phakathi asked her to keep the news to herself and not tell anyone, to which the daughter agreed. She asked her daughter whether she was aware that a Councillor had to be elected at Kwa-Ndengezi. She replied

affirmatively. She then disclosed that the Regional leader had called to inform her that they wanted her to be on the list of nominees. The daughter advised her to accept the nomination. She said that was exactly what her daughter did not understand because many people who had accepted councillor nominations were previously killed and the same fate could befall her.

89. In her testimony Miss Phakathi confirmed that councillors were indeed previously killed at Kwa-Ndengezi. Reverting to their conversation, Miss Phakathi stated that she immediately recalled that her mother was stating a fact about councillors being killed. She however thought that she would not be killed because she was a woman and that the others were killed because they were males.
  
90. She advised her to take the position possibly for just one year in order bring change at Kwa-Ndengezi. Mrs Phakathi was still not persuaded by her daughter. She was very active member in the ANC and community and was hardly at home. They would spend a short while with her at home and people would come and call her to meetings.

91. She was an influential mobiliser. Whenever she called a meeting, attendance would be very good. These announcements were made by megaphone while driving around the community in a vehicle.
92. A meeting of the Women's League was held at Kwa-Ndengezi library. The meeting was held prior to the day of the call from the regional leader. Mrs Phakathi invited her two daughters to the meeting to come and observe. At the meeting, delegates were nominated to attend an ANC conference. She was also nominated to be part of the delegation.
93. She advised the nominated members who would be delegates at the conference about the importance of maintaining integrity in voting at the conference. She said they would meet people who would pretend to be ANC members, though they were not.
94. She said she had attended conferences on many previous occasions and they would come across people with briefcases full of money to bribe the voters. She stressed that they were not going there to accept bribes, but for the struggle.

95. She then announced that she was stepping down as the Chairperson of the Women's League because of her old age. She then pointed at some of the younger members and urged them to carry on with the work.
96. There was a special Women's League meeting which was convened at short notice. A few days later, she informed her family that they were nearly killed at that meeting. She related that a man came and tried to attack the attendants. She stated that the police had to be called and they fetched her from the hall and escorted her home.
97. She died on 10 July 2015 at about 18h30 at home. There was a knock on the door and the child who knocked said there was an elderly woman outside who was asking for Mrs Phakathi. She indeed went out and when she reached the gate, she was shot. She was rushed to the local clinic but died on arrival.
98. A few days prior to that, certain boys came to the homestead looking for Mrs Phakathi. Her son advised her of the boys who were outside looking for her. She peeped out of the door and asked the boys whether they were the ones sent to kill her. That occurred after the call she had received about her proposed nomination for councillor.

99. Her daughter believes that she posed that spontaneous question to those boys out of anxiety caused by the call about the nomination. Even at the Women's League meeting, out of anxiety she spontaneously addressed the attendants and said *"You women know very well that they will come into my house and shoot me"*.
100. The family ultimately got to know that she was on the nomination list of candidate councillors, but she had never told them that she had accepted the nomination. The Women's League was very powerful in the area and men had threatened women with guns at a Women's League meeting.
101. Her mother did not have enemies outside politics. Ms Phakathi believes that her mother was killed for political reasons. There has been no arrest for her murder and the police are not keeping the family informed of progress.
102. There were two camps in the ANC at Kwa-Ndengezi. The one supported the then Councillor and the other was against him, based on the manner in which he was doing things. They said that the Councillor had been in office for a number of years, but there was no change in the area.

**JABULILE STELLA MSIYA (VOL 30).**

103. She testified on 18 October 2017. She is a ward 16 Councillor at uMzimkhulu. The town of uMzimkhulu and other locations fall in her ward. She serves the uMzimkhulu Municipality and is a member of the Executive Committee. The current term is her third as councillor.
104. She joined the Municipality in 2006 and was once the Chief Whip and Speaker of the Council. When she joined the Council in 2006, she was a PR councillor. Prior to 2006, she was a teacher.
105. She has been a member of the ANC since 2003. The ANC is the majority party at uMzimkhulu Municipality. She stated that after winning the elections, the ANC was supposed to have something called an inauguration, but the inauguration cannot be done before the appointment of people into positions. The Province is responsible for the inauguration.
106. As people are appointed to be councillors, members normally do not get information as to who will occupy which position.

However, in her case, someone tipped her off that she was to going to become the Deputy Mayor. Usually three names are submitted and hers was supposedly on that list.

107. Someone informed her that a certain taxi owner had indicated kidnap her and no one would know her whereabouts.
108. She thought the reason why the taxi owner made the threat was because he used to obtain tenders from the Municipality, as well as the Harry Gwala District Municipality.
109. Councillor **Sindiso Magaqa (“Magaqa”)** was also a member of the Executive Committee at uMzimkhulu Municipality. Before attending the Executive Committee meeting, they would first have an ANC caucus meeting where they would agree on issues and then proceed to the Executive Committee meeting in one accord.
110. The ANC was factionalised within the Municipal Council. She did not expect factionalism in the Council because its task was service delivery.

111. There was a situation where she, Messrs Magaqa and Lukakayi enquired about the Memorial Hall which had taken long to build but was still incomplete. They wanted to know about the progress. They proposed that a forensic investigation or audit should be conducted in that regard and decided to submit the matter to the Council.
  
112. The Council decided that there would be no forensic investigation because the Council was satisfied with the responses from the administrative officials and the Executive Committee. Being loyal to the ANC and seeing that their proposal was defeated by the majority, they accepted the position. In other words, as the ANC, they spoke as a collective.
  
113. As the issue of the Hall became public, Cosatu requested a march about it and requested the office of the MEC Dube to accept A memorandum. This was in 2017. The march was held and the memorandum was handed over to the MEC's representative.
  
114. Even the community was unhappy about the progress of the Memorial Hall.



115. The issue of the Memorial hall was not the only matter which they questioned. There was an issue about how council finances were being banked. It was said that a private company must be appointed to facilitate the banking. They then requested the officials to go back and deliberate on the matter and come back to convince them as the Executive Committee. The officials came back and they were indeed convinced.
116. There was also a perception that a member of the Municipality's management approached the Speaker to sign certain documents regarding the Memorial Hall. The Speaker refused to sign because he apparently did not understand and he would be unable to explain to the public when questioned. The Speaker was Councillor **Khayaletu Thobela**, who was subsequently murdered.
117. Ms Msiya believes that Mr Thobela was murdered for political reasons which had a bearing on the issue of the Memorial Hall and his refusal to sign the documents.
118. Councillor **Tshibase** was also a member of the Municipal Council and he was also murdered. Before his death, he had concerns about their safety. Mr Tshibase once told the

witness and others that they needed to reach their homes early and lock themselves in.

119. After the burial of Mr Tshibase, Mr Magaqa approached Ms Msiya. He advised her that his intelligence had notified him that since Mr Thobela was number one, Mr Tshibase was number two, he (Magaqa) would be number three and she (Msiya) would be number five to be killed.
120. Mr Magaqa then sought security for himself because the situation was tense and everyone was afraid. They were indeed subsequently attacked on 13 July 2017. Ms Msiya, Mr Magaqa, Councillor **Nontsikelelo Mafa (“Mafa”)** and others were coming from a meeting in different cars. At some point, they parked in order to buy food and Ms Msiya and Ms Mafa joined Mr Magaqa in his car. Immediately thereafter, several gunshots were fired at them in the car.
121. There has been no arrest regarding the shooting. Ms Msiya heard news in a public media briefing about a suspect who was allegedly involved in their shooting. She then called the Hawks and questioned why they were not briefed about progress. A police officer thereafter came and advised her

that one of the suspects in the shooting had been fatally shot by the police in a robbery incident on the N2 freeway.

122. After that a National Task Team was sent to assist in the investigation of the murders and attempted murders. Ms Msiya is happy about its efficiency. When Ms Msiya testified, she and Ms Mafa had not been provided bodyguards or security. She pleaded for urgent attention to their safety and to be provided with security. Besides their own personal safety, Ms Msiya testified that her family was also not safe.
123. Despite the attack, Ms Msiya indicated that she would not quit being a Councillor. She joined the ANC knowing very well that she was there for the people and loves serving them.
124. Despite all the problems in the ANC, she believes it can still save itself and that the veterans should be utilised in the process. She recommended that the ANC be united at national level and do away with factions.
125. Ms Msiya believes that the underlying causes of the killings at uMzimkhulu are the determination by some to cling to power and that there is also a quest to “capture” uMzimkhulu to control it and the resources.

**NONTSIKELELO MAFA (VOL 30).**

126. She testified on 18 October 2017 and confirmed Ms Msiya's evidence in a great number of respects.
127. She is a Ward Councillor at Adelaide Tambo branch in ward 11, uMzimkhulu. It is her first term as councillor. She passed matric in 2008 and joined the ANC Youth League when she was 16 years, as well as the Young Communist League of the SACP.
128. She is a member of the ANC and SACP. She got to know the late **Mr Magaqa** in 2011. Mr Magaqa was previously the National Secretary General of the Youth League and was suspended. He was a branch member of the ANC, but when he returned from the national level after suspension, some members of the BEC did not accept him as a member of the ANC.
129. Mr Magaqa was a volunteer at branch level, but he was not allowed into the ANC meetings. Even in 2011, he could not campaign for the elections at a broader scale, but only campaigned in ward 16 where he was volunteering.

130. Ms Mafa did not know why Mr Magaqa was marginalised. They continued working together in 2015 when they were preparing for the 2016 local government elections. At the time, her branch was divided into two factions. There was division regarding the candidates to be nominated as councillors.
131. The list that was submitted by the BEC to the Province had the name of a former councillor who was candidate number one. The former councillor was the Chairperson of the BEC. When the list returned from the Province, the former councillor had been moved to position number two and Ms Mafa had become number one on the list.
132. That caused division and resulted in the branch having an independent candidate who stood for election. They tried to meet as the BEC even before they became aware that the order on the list had been changed. The former councillor then called private meetings where it was discussed that Ms Mafa could not stand as number one because she was young.

133. Ms Mafa knew that she was not safe because at one stage the former councillor convinced her to leave the area and go to Johannesburg before the elections took place.
134. The independent candidate was nominated by the branch members who were against Ms Mafa. The independent candidate was not the former councillor, but someone else. The ANC ultimately won the ward election. Although Ms Mafa became councillor, the branch was however still divided.
135. Mr Magaqa was the one who assisted her to win the election. The Chairperson (former councillor) and other BEC members started going door to door informing people that there would be a by-election in respect of her position. She understood their utterances to mean that they would do something to her in order to remove her from the position.
136. Mr Magaqa asked whether it meant that the ward councillor would die so that there would be a by-election. At the latest BGM which was held around May 2017, they were supposed to elect people to be appointed at the regional conference. There were security guards who were armed with rifles. Mr

Meshack Radebe from the Province attended to oversee the process.

137. They were surprised to see the armed security guards because the same security guards are providing security for the taxi industry. The venue of the BGM was changed at the eleventh hour to a different location. That is where they found the former councillor with armed security guards inside the venue and armed security guards at the gate.

138. The issue of having armed security guards inside and outside the BGM was contrary to ANC policy. Ms Mafa, Mr Magaqa and others were outside the gate and an argument ensued between Mr Magaqa and the former councillor. Mr Magaqa was asking why the former councillor was having security guards and he used the word *izinkabi* (hitmen), referring to the security guards.

139. Mr Magaqa stated that the former councillor cannot be seen going around with *izinkabi*, yet they (Magaqa and others) did not have any security. Mr Radebe intervened and tried to calm the situation. He even involved the police, saying that was not a forum for people to point guns at each other.

140. Ms Mafa clarified that the term *izinkabi* (hitmen) was commonly used at uMzimkhulu to refer to the security guards in question.
141. The BGM did not proceed because some members decided to go out of the gate and said they would not go back inside because of the argument. Mr Radebe decided to adjourn the meeting.
142. At that time Mr Magaqa was no longer happy about his safety and he said there were security guards and many cars that were following him. Mr Magaqa had a personal bodyguard whom he had arranged privately. In other words, it was not provided by the Municipality.
143. Ms Mafa believes that the factions within the Council are the underlying causes of the killings at uMzimkhulu. She alluded to the fact that Mr Magaqa was very vocal and unpopular at the Council's ANC caucus meetings.
144. She also alluded to the phenomenon of clinging to power at all costs, having influence over the award of tenders and corruption as being underlying causes of the killings at uMzimkhulu.



## LULWAZI KNOWLEDGE MAGAQA

145. He testified on 15 January 2018. He is a cousin of **Mr Sindiso Magaqa**, who was shot on 13 July 2017 and died on 4 September 2017 at the Chief Albert Luthuli Hospital.
146. The deceased was detained in hospital throughout from the day he was shot until his death. He had he been married for about a year when he died. He had five children altogether, but not all with his wife. All five children were under 10 years of age.
147. The deceased was a member of the ANC which he had joined at a young age while still at high school. He continued being a member until his death. He was 34 years old when he died. He was the Secretary of the Kokstad region while they were still under the Eastern Cape.
148. He was also the Secretary of the Youth League in the region and then the Provincial Deputy Secretary. Eventually, he was elected the national Secretary-General of the Youth League. Together with Mr Julius Malema he was found guilty

of misconduct by the ANC and suspended for one year, but was still a member of the ANC.

149. After he had served his sanction, he resumed his political activity at branch level. He was a good mobiliser, in such a way that he was able to unite his ward. He was a PR Councillor at uMzimkhulu Municipality for the ANC when he died.
150. The rumours that shortly before Magaqa died he was going to join the EFF were not true. He was a loyal member of the ANC. There was speculation that he was going to join the EFF when it was formed, but he stood firmly in the ANC. If he had joined the EFF, it is believed that he would have been among the top five of the EFF.
151. He was shot on the lower body, more particularly in the legs. At the time of his death, he was due to start physiotherapy. It was a shock to the family to hear that he had died of stomach ache problems because the wounds were on his legs, not on the upper body. The family does not understand the link between the stomach ache and the injuries on the lower limbs.

152. The family believes that he was shot because of corruption at uMzimkhulu Municipality. He first complained about the uMzimkhulu Memorial Hall. That is when the problem started. He complained that there was no progress on the Hall, but the money was being spent on it.
153. After Messrs **Thobela** and **Tshibase** were killed, Mr Magaqa told his family that he was next to be killed. As a result, the family believes that his reports about a hit list were true. The family believes that there was nothing other than regional politics that could have led to his murder.
154. There has been no arrest regarding his murder. The family is not satisfied with the manner in which the police are conducting the investigation. Since he was shot and died, the family has received little information from the investigators about progress.
155. Regarding the public media statement that was made by the police that one of the suspects who shot him was shot by the police during a robbery, the family is confused as to how the police know that the said person was indeed one of the suspects in Mr Magaqa's murder.

156. The family was informed that some tissues were taken to the Pretoria laboratory for further examination as part of the post-mortem examination.

**NKOSINATHI RICHMOND THOBELA (VOL 41)**

157. He testified on 24 January 2018. The late **Councillor Khayaletu Thobela (“Khayaletu”)** was his brother. At the time of his passing away, he was the speaker of uMzimkhulu Municipality. He had joined the ANC when he was still in the Youth League and also a member of the SACP. He was 46 years old when he died.

158. The deceased became a Councillor in 2008, as Ward Councillor. He then became a PR Councillor and was designated Chief Whip in that term. He was subsequently elected to the position of Speaker.

159. In the ANC, he was the Regional Deputy Secretary of the Harry Gwala region. He was nominated for the position of Regional Secretary but was murdered before the Regional Elective Conference was held. The conference had to be postponed due to contestation, factionalism and conflict in the region. There were two slates that were contesting positions on the REC.

160. The deceased was part of the slate that was led by Mr Zondi. As stated above, the deceased had been nominated to become Secretary. The other slate was led by Mr Nxumalo. The late **Councillor Sindiso Magaqa** (“Sindiso”) was part of this slate and had been nominated to become Deputy Secretary. The witness believes that Khayaletu and Sindiso did not see eye to eye, given that they were supporting different slates.
161. Pictures of the top five of Zondi’s slate were posted on the social media. Khayaletu’s picture was removed and initially replaced with a picture of a dog and thereafter a candle. The family understood that to mean that Khayaletu was going to be killed as a candle symbolises death. Indeed, he was murdered on 20 April 2017 before the conference was held. It was not a long period between the time that his picture was removed and his death.
162. He returned home in the afternoon and was in the yard behind his house around 18h00. It appears that the killer was waiting in the yard of his house to ambush him. The perpetrator fired five to six shots at him. Spent cartridge

cases were found on the scene by the police. He died in hospital on a later day.

163. Mr Thobela stated that the family does not believe that Khayaletu was killed because of corruption at uMzimkhulu Municipality and also because he allegedly refused to sign a certain document in his capacity as Speaker.
164. The family believes that the underlying cause of his death related to the internal contestation in the ANC, specifically the two slates that were contesting for the REC. This belief is based on the substitution of Khayaletu's picture on the social media.
165. Three people were arrested for his murder but the third one was released before appearing in court. The other two appeared in court. The first one was allegedly the driver who transported the hitman to and from the scene. The second was allegedly the hitman and the third one was allegedly sent to obtain ammunition that was used in the murder weapon.

166. It was the alleged hitman and driver who appeared in court. The alleged hitman was arrested in Ladysmith on his way to Johannesburg and was found in possession of a firearm without a licence. The police advised the family that the spent cartridge cases were going to be compared with the firearm, but they did not update them on the results of the comparison.
167. The family was surprised to hear that the murder charge was withdrawn and the alleged hitman was then attending the case in relation to the charge of possession of an unlicensed firearm.
168. Information was in circulation in the community that two ANC women councillors were sent to deliver the hit fee to the hitman. However, that information was not followed up by the police to the family's satisfaction.
169. The alleged driver was only charged in relation to the car because it was established that the getaway car had been stolen. The family was not informed by the police whether he was interrogated about the murder. The family is not happy about the police investigation because the masterminds are not being investigated. It could be that

there is political interference in the investigation, given that the murder was political.

170. Mr Thobela alluded to the fact that regions control the sub-regions in terms of the deployment of councillors, speakers and mayors in municipalities. Therefore, regional contestation has a bearing on power, control of state resources and financial benefit.

**NOLUTHANDO PRIMROSE THOBELA (VOL 41)**

171. She testified on 24 January 2018. She is 31 years old and the late **Khayaletu** was her husband. They had been married for eight years when he died. They have two children together and he had two other children, four altogether. They are 22, 17, 8 and 1 year(s) old, respectively. The last born was five months old when he was murdered.

172. Mrs Thobela stated that the deceased arrived home about 6pm, got out of the car after the children had opened the gate for him. He then went to their bedroom where he changed his clothing. Thereafter, he went to another structure in the premises to obtain holy water with which to perform a certain ritual. That is when he was shot



several times by unknown assailants. The witness and neighbours picked him up and rushed him to Rietvlei Hospital in a motor vehicle. He was later transferred to Port Shepstone Hospital, where he succumbed to his injuries and died.

173. His death has been very sad and traumatic to the family. Mrs Thobela and some of the children received counselling. He was a very loving and caring husband, father and family man.

174. He was a qualified teacher before becoming a councillor. He left teaching and was a full-time councillor when he died. If he had left being a councillor, he had teaching to fall back onto. As a councillor, the community loved him very much. He served the community very well and he was a very kind person.

### **MANDLA CORNELIUS NGCOBO**

175. He testified on 13 October 2017. He was born and raised in Bulwer. He is a qualified teacher and worked as such but was later elected as a Councillor. When the ANC was unbanned, he became a member thereof in the Bulwer

Branch. He later became a branch leader, REC member of the Harry Gwala Region.

176. He was a Councillor for more than 15 years. He has been exposed to the policies and principles of the ANC and has attended workshops on governance and social issues. He was also a member of the SACP but did not renew his membership.
177. In the 1990s, there was political violence in and around Pietermaritzburg, which also spread to Richmond, Impendle and Bulwer. It was between the ANC and the IFP. Many people were killed. After the 1994 national elections and the 1996 municipal elections, the violence continued.
178. The ANC was hoping to win the 1994 provincial elections but lost. In the 1999 elections, the ANC recruited IFP members to join it. A special feature in Bulwer was that the members who were recruited from the IFP always expressed a desire to be armed. Some of them were trained in the Matigulu camp as IFP members. When they became joined the ANC, they still expected to be given weapons.

179. The witness and others used to report them to the police, but the police did not take any steps. Very few of them ended up being arrested or having their weapons taken away. It was said that the weapons that they were carrying were legal State weapons. After the new government was ushered in in 1994, there was an attempt to collect all those weapons. Some of them were taken, but no one knows what happened to them afterwards.
180. UMzimkhulu has always been an ANC stronghold. From 2000 to 2006, everything was functioning well. Around 2006, a decision was taken to reintegrate municipalities. Matatiele would become part of the Eastern Cape and uMzimkhulu part of KZN. The people of Matatiele felt aggrieved because they had been well served in KZN. There was so much activity that during the election of 2006, they broke away from the ANC and formed a party called the AIC. The leader of the AIC was previously the Secretary of an ANC region and the witness was his deputy.
181. When the demarcation took effect, it caused so much resentment among the people that they were prepared to leave the ANC. In 2006, the ANC won the uBuhlebezwe and Ingwe Municipalities from the IFP. Mr Eric Sikhakhane was appointed as the Mayor of Ingwe Municipality. Messrs

Sikhakhane and Ngcobo were both teachers by profession. They grew up together and attended the same church.

182. Before Mr Sikhakhane was appointed Mayor, there were widespread rumours that people were plotting to kill him. Mr Ngcobo was named as one of the plotters. The ANC leadership confirmed the rumours and decided to provide Mr Sikhakhane with bodyguards. The security company that was appointed was Globetech in circumstances where normal procurement procedures were not followed as everything was done in a hurry.
183. The owner of Globetech was Mr Romeo Mbambo who was trained in Caprivi by the apartheid government on behalf of the IFP government. When Mr Mbambo went to Caprivi, he was a member of the IFP. The people who were appointed as Mr Sikhakhane's bodyguards were ANC members. One of them was Mr Sihlungu and the other was Mr Bheki Bekwa. Before that, Mr Bekwa had worked as a member of the Kwa-Zulu Police.
184. The point that was being made by Mr Ngcobo was that the rumours about him wanting to kill Mr Sikhakhane were false and malicious and they caused division among comrades. He

was also questioning the appointment of Globetech. He believes that the ANC created a business environment for a company owned by a Caprivi trainee, using their names, thereby making ANC comrades to distrust one another.

185. ANC members and councillors were complaining about the irregular appointment of Globetech. When they raised this with the provincial ANC leadership, they did not want them to discuss it.

186. Mr Ngcobo moved on to uMzimkhulu which had been reintegrated into KZN. KZN created a special budget to cater for the backlogs in uMzimkhulu. At the time, one of the policies was that if a person had been employed in government and his tenure came to an end, there should be a cooling off period before he was re-employed either as a consultant or a service provider to the Municipality.

187. A special budget was allocated to uMzimkhulu for development purposes. A programme manager to oversee that development programme was appointed. The company that was appointed was Busiya Consulting. Its director was a head of department in the Sisonke Municipality. During

the appointment, the issue of the cooling off period was ignored. Mr Ngcobo raised it, but he was defeated.

188. The contract was improper and it provided for payment of 1,5% per annum of the whole budget that was allocated by the Province to uMzimkhulu. Before the director of Busiya Consulting left Sisonke Municipality, his term of office overlapped with the new Council's term. A great deal of information was landing on his desk because he was still an employee of the Municipality.
189. When he stopped being an employee of the Municipality and became a consultant, he used that information that was acquired when he was still an employee to charge the Municipality. It ultimately turned out that there was an over-payment of about 3 to 4 Million Rand to the consultancy.
190. Mr Ngcobo also testified about the formation of the Sisonke Development Agency (SDA) in 2011. SDA was a municipal entity that could be used as a special agent for the economic development of the District and its Local Municipalities. The reports of the Auditor General (AG) reported that the manner in which the SDA was formed was not in compliance with the legislation, in that, there was no public participation.

191. SDA had a project to build a Farmers' Market for which it received funding from the Provincial Government. At that time, Mr Ngcobo was the Chairperson of the Infrastructure Committee. Part of the committee's oversight was to check the budgets against the implementation of projects. A company called Cyclone was appointed to implement the Farmers' Market project. The company was paid R2,5 million in advance. That was done without a Council resolution. When the relevant officials were asked, they said the company had issued a guarantee that the Council was going to get its money back.
192. However, only R500 000.00 was paid back and R2 million was lost. The material that was supposed to be used to build the Farmers' Market was used to build a private home which is linked to the company's director. Nobody pursued the company to recover those funds. Despite the negative findings of the AG, there were no consequences to the wrongdoers. The Council would make undertakings year after year that it was going to address the matter, but nothing ever happened.

193. Mr Ngcobo became the Speaker in 2011. He wanted to follow up on corrupt and irregular practices at the Municipality. The culture of the ANC is that you do not take people by surprise. So, he took the caucus into his confidence and raised the matter with his colleagues, the Chief Whip and the Mayor. In Mr Ngcobo's view, justice was not done. It was merely decided that the matter would be closed because the company was bankrupt.
194. When their Council term came to an end in 2011, the terms of the municipal officials also came to an end. One day when they were going to discuss whether they were going to reappoint the CFO or not, he was requested by the CFO, Mr Mewalall, to meet him. Mr Mewalall asked him to help him to be reappointed. The policy of the Municipality prohibited canvassing. The CFO was required to apply for the post when it was advertised and be subject to due and proper process.
195. The CFO was Chairperson of the Bid Adjudication Committee. He stated that he had helped the Municipality and the ANC to appoint its people and to give tenders to its people, who did not qualify. Mr Ngcobo referred to documents that were given to him by the said CFO to illustrate the favours he had done for companies that did not



meet the tender requirements but were nevertheless successful bidders. The tender resolution was taken on 22 July 2011 and it provided “*It was resolved to recommend to the municipal manager that K&M Security be appointed for provision of security services for Sisonke District area, namely, the main building offices, Umgeni offices, uMzimkhulu offices, Underberg offices and Kokstad offices at the bid price of R8,7 million*”.

196. The tender was supposed to cost R241 000.00 a month. However, expenditure reports indicated that in November 2011, payment was R476 000.00 and in December 2011, payment was R497 000.00.
197. Mr Ngcobo testified that Mr Mewalall subsequently went to work at the Richmond Municipality. Prior to Mr Mewalall’s appointment, the previous CFO, Mr Mncwabe, served a very short period and resigned. Mr Mncwabe indicated that the irregular practices in the Municipality were so bad that it would compromise him professionally. He did not want to be part of the people who would be imprisoned for wrongdoing.
198. Mr Ngcobo alluded to the possibility of monies in the municipalities that were being taken out of the public purse

to do other things, possibly to pay hitmen. He referred to the disturbing trend of killings. He raised these issues in the ANC caucus. However, it caused tension in the Council. He became a loner and was rebuked.

199. Mr Ngcobo also referred to other incidents of irregular and corrupt practices at his Municipality.
200. He raised the issues in a letter dated 17 October 2012 with the Provincial Secretary of the ANC, Mr Sihle Zikalala. The Provincial Secretary then notified the REC of the Harry Gwala Region. Mr Ngcobo wrote a subsequent letter to the Provincial Chairperson, Mr Senzo Mchunu, on 15 January 2014 and to the Provincial Secretary, Mr Sihle Zikalala. He wrote in his capacity as both Speaker and member of the REC. The subject was “*Financial irregularities and conduct of comrades*”.
201. He indicated that municipal staff were allegedly being threatened by service providers and alluded to the killings of Councillors **THOBELA, TSHIBASE, MAGAQA** and former Councillor Mncwabe. There were allegations that REC members of the ANC were allocating tenders.

202. His letter to the PEC was somehow leaked to the newspapers. The PEC subsequently informed him that there was a letter written by his Region to the PEC proposing that he should be charged with misconduct for bringing the ANC into disrepute. Mr Ngcobo pointed out that his conduct was purely in accordance with the ANC resolution that comrades needed to be champions and take tougher action against corruption. Yet, he was charged by the ANC PEC and convicted of misconduct.
203. Mr Ngcobo believes that Councillors Thobela and Magaqa were killed because they were very vocal about alleged corruption at uMzimkhulu Municipality. He does not hold any view and knowledge regarding Councillor Tshibase's killing. He believes that kickbacks in tenders are used, *inter alia*, to fund the hitmen. The targeting of people who fight corruption also creates an environment that is conducive to the looting of more funds in municipalities.
204. In response to a question whether poverty, unemployment and inequality played a role in the killings, Mr Ngcobo replied that what does not belong to you should become yours by permission. He alluded to the fact that corruption perpetuates poverty and that poverty was not the underlying

cause of the killings. There is a correlation between the desire for material things and the defence of ill-gotten gains.

205. He conceded that he did not have an idea how we should deal with poverty but added that poverty should never replace morals. In our social development, people should be encouraged to make a living and theft cannot be promoted as an alternative. He referred to Prof Lumumba from Kenya, who stated that in South Africa, you need to arrest two Cabinet Ministers and people are going to change. He believes that some people do wrong because they have seen others doing wrong with impunity.

### **Mr Ngcobo's Recommendations**

206. (a) Every licensed gun must have a sensor that will monitor its movement and use.
- (b) The establishment of a political school to teach political and moral education for ANC members.
- (c) There should be consequence for wrongdoing, irrespective of the level.

207. She testified on 16 January 2018. She was the fiancée of the late **Mr Tshibase** of uMzimkhulu. They met in March 2010 and were in a relationship continuously until his death on 23 May 2017.
208. In January 2013, Mr Tshibase approached her family in Ntabankulu, Eastern Cape to pay *ilobolo*. In 2014, he made a further payment of *ilobolo* for her and altogether he had paid eight cows for her. They were in the process of getting married.
209. Mr Tshibase had three children altogether. They have one child together, the youngest, and the other two are not hers. Their child was 19 months old and was 11 months old when he was killed. Mr Tshibase was 39 years old when he died.
210. She testified that she worked at the uMzimkhulu Municipality for eight years as a personal assistant but was currently in the administration in a new position to which she had been recently appointed. She was from Ntabankulu in the Eastern Cape and had started working in uMzimkhulu in 2009.

211. She stated that her fiancée was killed on Tuesday 23 May 2017 after **Mr Khaya Thobela** had been killed in mid-April 2017. He was staying at home, because his school is in the rural area. She was staying in town closer to work. It is far for her to travel every day to town. So, they called each other regularly, as couples do. On the day in question she was not feeling well. At his suggestion she went to the doctor. In the afternoon she tried to call him and he did not answer. He then sent a message that he was in a meeting at Segolo School in Harding. After the meeting he called her around 6.05pm and said he is out of the meeting, he is on his way home. That was the last time she spoke to him. The incident happened around 6.30pm when he was entering his homestead in Gugweni. He was shot as he was entering his residence.

212. When she arrived at the scene she realised that he must have been trying to open the gate because the gate was already opened and you could see from the way he was shot, that he was shot whilst he was running back to the car. From the house inside the yard they said they heard the sound of the hooter. She assumes that he was hitting the steering wheel with his head due to the gunshots. When his father came out the people who shot him were nowhere to be found.

213. As far as she was concerned, this was a political assassination.
214. The deceased was a teacher by profession and a part-time PR Councillor. He first became a Ward Councillor in 2006 in ward 14. It was his third term as a councillor when he died on 23 May 2017. He was a member of the ANC. As a Ward Councillor for two terms, he was a hard worker. The community loved him and he also loved and respected them.
215. Before his death, the deceased told Ms Diko that he had enemies within political circles, but he did not mention the names of the people with whom he was not on good terms. As his spouse, he was not inclined to tell her a lot regarding his political activities as he said he was trying to protect her.
216. He would not say much. but would highlight some of the things and tell her that things were not going well. At some stage, she asked him why he was not leaving politics and he would say it would make no difference, so he would continue.

217. He did not mention any problems during his first term in 2010. It was during his second term as Ward Councillor that he mentioned that certain people did not want him, but the community still needed him. So, the community voted for him for two terms. The people who did not want him were ANC members. There was an internal conflict in the ANC.
218. In his third term when he was a PR Councillor, he also mentioned that there were people who did not want him, even as PR Councillor. She did not ask him who they were, but they were within the ANC.
219. He believed that his phone was bugged and preferred to talk to her in person. Even when he visited her, he would not stay until late because he felt unsafe. After the murder of Mr Thobela, Mr Tshibase was afraid of driving late. He always highlighted the fact that things were not going well within the ANC. They knew about the intimidation but did not think he would be murdered.
220. Based on the little that he was willing to divulge to her, Ms Diko believes that the underlying motive for Mr Tshibase's murder was political.



221. There has been no arrest for his murder. The investigators, however, kept her informed on a monthly basis regarding the progress of investigation. They last updated her in January 2018.

**SIPHOZAKHE ZITHULELE ZULU (VOL 40).**

222. He testified on 23 January 2018. He has been a member of the ANC for a long time having joined it as a Youth League member. He resides at Madadeni, Lister Farm, Newcastle. He is an ANC Ward Councillor at the Newcastle Municipality. He was elected as a Councillor in a by-election in November 2016.

223. The late **Ms Thembi Mbongo** was his fiancée and they were staying together at Lister Farm, ward 6, Newcastle. She was murdered on 2 July 2016. They had been residing together for 16 years when she died.

224. They have four children together, two boys and two girls. Their ages are 17, 16, 12 and 7 years, respectively. Ms Mbongo was also a member of the ANC. She was a Branch Secretary of the Chief Albert Luthuli Branch, ward 6, in 2014. In 2015, she was nominated as a candidate for

ward councillor. She was nominated together with three male candidates.

225. Some of the members took kindly to her nomination while others were not happy. She was a hardworking person and if the community needed something they would send her for whatever they needed. She was 35 years of age when she died.

226. The small group that was not happy with her nomination supported one of the other candidates. It is ANC policy for nominations to be approved by a higher structure. Her name was second on the list after the nominations at branch level. When the higher structure had approved, she moved up to number one on the list.

227. There were factions within the branch that were linked to the regional level. After the approval, some people were unhappy about her being number one. In June 2016, there were about 30 people protestors who were protesting past Mr Zulu's residence and they were all female.

228. They had placards and they were making death threats. Some of the protestors were ANC members and others were not.
229. On 2 July 2016, around 19h00 while the Zulu family were watching the news at home, there was a knock on the door. One person entered the house and said they were looking for Thembi and Mr Zulu told him to sit down. A second person then entered, went past where they were seated and started shooting towards Thembi. She died on the spot.
230. Councillor Zulu believes that his fiancé's murder was related to the protest and the death threats that were made regarding her being number one on the list. Other than the political conflict, he was adamant that there was no other reason or motive why she would have been killed.
231. After her murder, the ANC decided that her name would remain on the list as it was close to election time. The community also wanted to vote for her posthumously and she indeed won the ward.
232. The community and other comrades showed great support for the Zulu family and insisted on a councillor being elected

from the family. That is how the witness Mr Zulu was elected at the by-election.

233. There has been no arrest for her murder. The family is not satisfied with the police investigation. Mr Zulu made a statement to the police and gave a description of the person that entered his house first. He had last heard from the police in April 2017. Although he had lost his mobile phone, he had done a “*sim swop*” and retained the same mobile number.

234. Prior to becoming a ward councillor, Mr Zulu was self-employed as a builder, building houses. If he had not been put forward for councillorship, he would have been able to continue sustaining himself as a builder.

**MUSAWENKOSI PENWELL ZONDI (VOL 18).**

235. He testified on 21 August 2017. He is the brother of the late **Councillor Beauty Nompumelelo Zondi**. She was murdered on 14 March 2016 at Pomeroy, Msinga. She was 45 years old when she died. She was single and had no children. She had been a member of the NFP for about five years. Prior to that, she had been a member of the IFP for

about five years also. She was a PR councillor of the IFP at Msinga.

236. The family established that she shared the same name and surname with another Ms Nompumelelo Zondi. The other Nompumelelo Zondi made a call on radio, voicing out her discontentment about the IFP. The other Nompumelelo was their relative, but they did not share the same father.
237. The other Nompumelelo voiced her dissatisfaction with the IFP. When other IFP members heard it, they concluded that the person was in fact Councillor Zondi. The call was made on a radio talk show where people phoned in to voice out their dissatisfaction. Councillor Zondi tried to deny it, but other IFP members insisted that she was the one who made the call. She tried to clarify that it was another Nompumelelo Zondi, but that was not accepted. She then realised that her relationship with the party would not be as good as before.
238. She then decided to leave the IFP and join the NFP and it was around the time of the NFP's formation. She also became a PR Councillor in the NFP. As an NFP member, she started facing some challenges. It was at the time when the leader of the NFP, ka Magwaza Msibi, was sick and one of the party

members (“Mr X”) asked Councillor Zondi to relinquish her councillor position.

239. Mr X wanted to give the position to someone else who was his lover. She did not agree to step down and she called her brother about the challenges she was facing in the party.

240. About a week later, people were sent to kill her. Fortunately, on their arrival they found that she was not in the house. She was staying alone in Pomeroy. She saw the people who were surrounding her house and they could not find her inside. She was outside the house at the time. Again, she called her brother and he asked her to come and live at his house in Paulpietersburg.

241. She lived with him for three weeks and on the fourth week, she received a call from the party notifying her that if she did not return to work, certain measures would be taken against her. As a result, she returned to Pomeroy, Msinga.

242. She then requested bodyguards. Ka Magwaza Msibi sent an investigator to take a statement from her about why she wanted bodyguards. After that meeting, certain members organised for the investigator to be killed before handing over

the findings of his investigation regarding the request for the bodyguard. The investigator was indeed killed.

243. Arrangements were made for another investigator to continue the process, but he also was killed soon after meeting Councillor Zondi. The second investigator, however, did take a statement from her. Both investigators were NFP members. She again went and lived with her brother in Paulpietersburg for about five months and subsequently returned to Pomeroy around November 2015. After that, the situation seemed quiet, but the family received a message that she had been fatally shot on 14 March 2016.

244. After refusing to step down, Mr X apparently stated that he would not be defeated by a woman. She owned a Toyota Hilux bakkie and was killed inside her bakkie outside her residence.

245. The family believes that the underlying motive for her murder was political. Before her death, she was about to quit politics and the family was also encouraging her to do so.

246. NFP and IFP members came to pay their last respects and also attended the funeral. Various speakers at the funeral gave clues about the motive for her murder.

247. There has been no arrest for her murder. The family believes that the police could have solved the case if they had followed up on the given clues. The police have also not given the family any update on the progress of the investigation.

**XOLANI DELIGHT NDLOVU (VOL 28).**

248. He testified on 13 October 2017. He is currently not a member of any political party. He was previously a member of one political party only, the NFP. He joined it when it was formed in 2011 and was supposedly expelled in 2016. He was the NFP's national Treasurer and Chairperson of the deployment committee, which was responsible for deploying councillors to municipalities and he was authorised to have contact with the IEC.

249. He testified in his personal capacity on events that transpired during his tenure as national Treasurer and made specific reference to the late **Councillor Beauty Nompumelelo Zondi**. When Councillor Zondi's brother testified before the Commission, Mr Ndlovu felt the need to



share some information that might be useful regarding her death.

250. He also wanted to answer questions as to why the NFP did not take part in the Municipal Elections in 2016. According to him, the death of Councillor Zondi was intimately connected with the elections. The NFP's KwaZulu-Natal PEC was disputing Mr Ndlovu's appointment as the liaison between the NFP and the IEC, to the extent that they took the matter to court.

251. He did not understand the challenge because, in terms of the NFP's constitution, that responsibility lies at national level. Despite the challenge, his appointment as the official liaison with the IEC was finalised on 11 March 2016.

252. Councillor Zondi was a Councillor at both Msinga Local Municipality and uMzinyathi District Municipality. She was the only NFP Councillor that represented Msinga Municipality on the 60% party proportional representation in the uMzinyathi District Municipality. In the said Municipality, she was the NFP's whip and there were three NFP Councillors altogether.

253. The NFP was in coalition with the ANC. Out of the three NFP caucus councillors, one was perceived to favour the ANC and another was perceived to favour the IFP, but their identities were unknown. One of the biggest challenges that faced the NFP at the time was that if somebody did not like you, you would be labelled as having “*returned*” to the IFP.
254. Sometime early in 2016, uMzinyathi Municipality did not have a mayor and Mr Ndlovu was not sure as to how that came about. Two council meetings were held to elect the mayor, one was on 29 January 2016 and the next one in February 2016. Both had to be adjourned due to the inability of either the ANC or IFP to secure the vote of Councillor Zondi. Both parties were lobbying and enticing her for her vote through party members and provincial leaders who were known to be close to her.
255. Councillor Zondi had some issues on which she wanted clarity before attending those council meetings. She needed advice from the national level and the PEC was not happy about that, because they felt that she was supposed to seek advice from them. Unfortunately, that presented an opportunity for shrewd and power-hungry members within the NFP to exploit for their own gain as she was the king maker.

256. Councillor Zondi was murdered on 15 March 2016. A week before her murder, there was evidence that pointed to a conspiracy to murder her. Certain NFP members accepted nominations to replace her. There are three grounds on which a councillor may be replaced, i.e. death, expulsion or resignation.
257. Mr Ndlovu showed the Commission forms for acceptance of nomination which are required to be signed by councillor candidates in acceptance of a nomination. The forms were signed by a Mr Ximba and a Ms Dlamini on 3 and 7 March 2016, respectively, accepting nomination to replace Councillor Zondi. At the time, Councillor Zondi was still alive and had not resigned or been expelled. Ms Dlamini ultimately replaced Councillor Zondi at Msinga Municipality.
258. The forms were supposedly sent by Mr Ndlovu to the IEC. He however pointed out that his purported signatures thereon were forged. As a result, he opened a case at Westville police station and the Cas number is 73/05/2016. He is convinced that Councillor Zondi's death was engineered internally within the NFP. He received information that a Mrs Dudu

Mhlongo, who had access to his office, is the one who forged his signature on the forms that were sent to the IEC.

259. One day while Mr Ndlovu was sitting in his office, a known person who was a bodyguard of one of the NFP's mayors, informed him that he had been approached and promised R2 million to kill him, as well as Mr Shelembe, Mr Khubisa and a fourth person whom he could not recall. Mr Shelembe is the former national Chairperson and Mr Khubisa is the former Secretary General, of the NFP. Both were still office bearers when the man approached him.

260. It was also discovered that certain people were paying money to some members of the PEC for councillor positions in the upcoming elections. He was regarded as a stumbling block because he was responsible for signing nomination acceptance forms and sending them to the IEC. That was the reason why the NEC decided that all constituencies must submit nomination acceptance forms directly to him at head office. He testified that, in his view, the PEC was defying the NEC.

261. Mr Ndlovu alluded to the fact that they were extremely busy attending to internal problems, misconduct matters and

preparations for the upcoming Municipal Elections. In that midst and confusion, the elections deposit was supposed to be paid on 2 June 2016. Mr Ndlovu missed that deadline as Treasurer and he took responsibility for the omission.

262. A rumour started doing the rounds that he had been bought by the IFP to sabotage the NFP from standing in the elections. Because of that rumour, the tension between IFP and NFP members was at a boiling point, as the IFP was angry at the false accusation. Fortunately, that tension did not result in any violence. Mr Ndlovu believes that it was averted by the public statement he made, refuting the allegation of being bought by the IFP.

263. Besides Councillor Zondi, Mr Ndlovu was not aware of any other NFP councillors who were killed due to the selling of councillor positions. Mr Ndlovu alluded to violence that occurred between the IFP and NFP after the NFP was formed and resulted in killings. He referred to Councillors **Shezi** and **Shelembe** of Kwa-Mashu who were both killed. Both were NFP members. He indicated that the underlying cause of their deaths was the conflict between the IFP and NFP.

264. He knew of one case, the death of Mr **Nhlebel** of uMzinyathi, that was caused by the internal conflict within the NFP.

265. Mr Ndlovu believes that when political leaders make reckless statements in the media, it has the potential to cause political violence in general. Mr Ndlovu testified that poverty has nothing to do with the political killings in the Province. He based his assertion on the fact that most people grew up poor and most are still poor but are not killing or stealing. He indicated that the underlying causes are greed and the lust for power.

**NQABA JACKSON MKHWANAZI (VOL 22).**

266. He testified on 18 September 2017. He has been a Councillor at Pongola Municipality since 2011. He has been a member of the ANC since the early seventies. He is 65 years old and has been residing at Pongola since he was young.

267. In the past, the ANC was in the minority at Pongola, but after the 1994 national election, it started increasing its representation and eventually became the majority party. In 1990, after the unbanning of the ANC and its members

returned from exile, he was one of three members who were active in building the ANC at Pongola.

268. He was Treasurer of the Pongola Branch from its establishment and then became its Chairperson. He is currently a member of the Inqaba Branch, which was named after him because he is its founder.

269. He knows the late **Councillor Mbhekiseni Patrick Khumalo**. Mr Khumalo was murdered on 17 December 2016 at Lubisi in Pongola. He first knew Mr Khumalo when they were still in school and thereafter they worked together. The two of them were friends. He was 58 years old when he died.

270. Mr Khumalo was due to begin his second term as Councillor at Pongola Municipality when he died. He was also a member of the ANC at the Hector Petersen Branch.

271. The ANC nominates four candidates in the ward for Councillor. A Regional Committee then screens the candidates and a regional delegate comes to conduct interviews with the four candidates and reports to the Region. The Region then selects two of the four nominees. The delegate then returns

and tells the Branch who of the two candidates have been selected by the Region.

272. If one person obtained 80% votes at the Branch nomination and the other received 50%, and the Region decides to select the one who secured 50%, then conflict starts because the people would argue that their preferred candidate was the one with 80% of the vote.

273. Mr Khumalo was selected by the region even though he did not gain the highest votes at the Branch nominations. That is how the conflict started. Some people were supporting Mr Khumalo and others were not.

274. At an ANC meeting, some members said there had to be a by-election in Mr Khumalo's ward. Around September 2016, the ANC had a roadshow at Lubisi. In that roadshow, there were people who said they were from an area called Five. They said Mr Khumalo was not providing them with services. He responded that those people were not from his ward but from a different one. Mr Mkhwanazi then requested to speak to those people aside. He asked them to calm down. They responded that they would stop complaining only when he was no longer there, implying, when he was dead.



275. Councillor Mkhwanazi believes that the talk of a by-election and the assertion that they would only stop complaining when Mr Khumalo was dead are linked. Mr Khumalo's death was aimed at having a by-election.
276. The ANC is in the majority at Pongola Municipality. There are 29 seats. The ANC has 15, the IFP has 10, the DA has 2, the EFF has 1 and an independent Councillor occupies 1. The IFP, DA, EFF and the independent Councillor are in a coalition and the ratio is therefore 15/14.
277. Some of the opposition parties took advantage of the unhappiness of the ANC members. The ANC members who were unhappy about Mr Khumalo became friendly with the IFP. After Mr Khumalo's death, there was an equal ratio of 14/14 and the by-election could have been won by any party or coalition of parties. The IFP was hoping to win the by-election because there were rumours that the IFP was saying it was going to take over the Municipality, even before the results were announced. However, the ANC won and is still the majority party.

278. Mr Mkhwanazi also expressed his views regarding the underlying causes of the political killings in the Province. According to him there are two opposing camps in the ANC in KZN. The Regional Screening Committee also creates conflict when they select a candidate who is not the preferred one in terms of branch votes. The conflict leads to people killing one another.
279. Mr Mkhwanazi believes that factions in the party play a role at Regional and Provincial level on the issue of the selection of the final candidates for Ward and PR Councillors equally. He recommends that the ANC must stick to the order of candidates as per their votes for Ward and PR Councillors equally.
280. He is further of the view that the killings are motivated by corruption in the municipalities. When a person is selected at Regional or Provincial level to become Mayor or Municipal Manager, for instance, the Regional or Provincial level will control him or her remotely by pulling strings.
281. He recommends that members must be deployed on merit and qualifications. When the ANC is campaigning for elections, it utilises volunteers who are generally not well educated. After

elections, they are side-lined. Councillor Mkhwanazi recommends the employment of these volunteers on programs like the EPWP.

282. He stated that within the ANC in the 1990s in their regional offices they employed organisers who were employed to recruit. They are not politically appointed. They are just employees who are employed for recruitment. Then there are regional secretaries who are politically voted. Now the organisers are not being used for their appointments as recruiters. It is now the regional secretaries who visit branches and do the recruitment. Unfortunately, the regional secretaries are biased and favour their own camps. Yet the organisers are not biased. They are just employees. He believed that the ANC leadership must use the organisers for their duties to recruit, not the regional secretaries.

283. Mr Mkhwanazi also expressed the surprising view that if the ANC loses in KZN and is not in control, maybe that will stop some of the killings, because there will be nothing to compete for.

284. Mr Mkhwanazi proposed that while the ANC was having these problems of leadership in KZN the national leadership should call a Provincial Council or should call an *imbizo* where people would elect the leadership of KZN, because if that is not done, come local government elections in 2021 there will be three factions and more killings will be experienced. In the run-up to the 2017 ANC elective conference, he predicted that we will see more killings if this provincial council is not called.

285. The witness identified poverty and unemployment as a cause of the political killings. However, he singled out corruption as a leading cause, coupled with access to and competition for tenders. He added factionalism as another cause.

### **THANDAZILE KHUMALO**

286. She testified on 18 September 2017. She is the wife of the late **Councillor Khumalo**, mentioned above, who was murdered on 17 December 2016 at their residence at Lubisi, Pongola. He was inside the house when he was called outside and was then shot outside the door. She and their two children were inside the house when the murder took place. The children are 16 and 10 years old. Khumalo had another child who is 20 years

old. They are still traumatised and did not receive any counselling.

287. As stated above, Mr Khumalo was 58 years old when he died. They had been married for four years. Besides being a Councillor, he was self-employed. He loved his family and children.

288. Two people were arrested for his murder and the case was due back in court on 21 September 2017. The family is happy with the manner that the police have investigated the matter. The police were also keeping them informed of progress.

289. Mr Khumalo was loved by the community, even children. When the by-election was held, the ANC won again because the community said they would vote in his memory.

**THOKOZANI DUBAZANA (VOL 19).**

290. He testified on 22 August 2017. He is a member of the IFP and a Councillor at Inkosi Langalibalele Municipality in Estcourt.

291. He knew the late **Councillor Mcebisi Patrick Duma**. The two of them were friends for about 10 years. Mr Duma was married and had five children when he died. He was murdered on 16 February 2011. He and his wife were married in December 2010.
292. Mr Duma was a member of the IFP and a Councillor at Zwelisha, Estcourt. Mr Duma was initially an IFP member and Councillor. There was misunderstanding in the party regarding positions. There were also ideological differences and views. Then a group called “Friends of VZ” was formed.
293. “VZ” is Ms ka Magwaza Msibi, the leader of the NFP. At the time, Friends of VZ were not yet a political party. Friends of VZ were subsequently expelled from the IFP and they were welcomed by VZ at Imbabazane, Estcourt. A series of meetings subsequently took place and discussions were held regarding the situation.
294. After that, there were threats that were directed at the people who were expelled from the IFP by members of the IFP. The situation was very stressful, but the community offered support because they knew what was happening. Councillor

Dubazana was one of the members who left the IFP and mobilised for the Friends of VZ.

295. From 2007 onwards, Councillor Dubazana was a bodyguard of the Mayor of Thukela District Municipality and he was also expelled from his job because of his support for the Friends of VZ.

296. On the day that Mr Duma was killed, a meeting was held at Emhubheni. The NFP was going to be launched about a month thereafter. The community of Emhubheni was informed about the program of action.

297. Mr Duma could not attend the meeting because he took his sick mother to the doctor. When Councillor Dubazana was on his way home after the meeting, he received a call that Mr Duma had been killed on the road near Ntabamhlophe. He proceeded to the scene and found Mr Duma in his white Honda car and his gun was between his thighs.

298. There was also a red Toyota Corolla which was suspected to have been used by the assailants. There were bullet holes in Mr Duma's car indicating that he was shot in the car.

299. Mr Duma was loved by the people. In the ward where he was a Councillor, he was loved by everybody, even children.
300. There was a hit list of people. Mr Duma was number two on the hit list and Councillor Dubazana was fifth or the sixth. The people on the list were targeted because they were loved by the community and since they were expelled from the IFP, it was believed that they would form or join another political party. There were concerns that they would leave with followers.
301. The situation in the Municipality was hostile and it was even hard to live each day. Councillor Dubazana believes that Mr Duma's murder was politically motivated and he based that conclusion on the background he had testified about.
302. Three people were charged with Mr Duma's murder and another murder. One accused was convicted of both murders and the other two accused were convicted of Mr Duma's murder only. The police investigated well and there were attempts to bribe them so that the matter would not go to trial, but the police did not succumb to corruption.



303. Someone, who was part of the plan to kill Mr Duma, informed Crime Intelligence of the police that a vehicle was already out to go and kill Mr Duma. The police did not respond to that intelligence that was given to them. The hit list was released less than a month before Mr Duma's death. Councillor Dubazana believes that if the police had done their job efficiently, Mr Duma's death might have been prevented.
304. He also alluded to the perception that the police are politically biased and that they sometimes support a political party. He indicated that they had a recording to confirm that fact. A station commander from Wembezi SAPS made an adverse remark in relation to a certain political party at a police parade.
305. The NFP was formed after Mr Duma's death. Councillor Dubazana believes that Mr Duma would have also joined the NFP. After some time, there were problems in the NFP too.
306. Besides ideology, the conflict in the NFP was caused by the fact that the provincial leadership was imposing its authority on the branches and not adhering to their wishes.

307. Councillor Dubazana and others went back to the IFP and the President of the IFP, Inkosi Mangosuthu Buthelezi, came to Imbabazane at the playground of Umtshezi High School and they were warmly welcomed back into the IFP.
308. He also shared his views about the political killings outside the IFP/NFP, that some people do not want to be led and they are hard-headed. Hitmen are hired to kill people and it makes it easy for people to kill each other. Hitmen are hired to kill people in order to eliminate competition for positions.
309. In the ANC, many councillors and other people who are holding higher positions are killed. A lot of these killings are related to the fight for positions and power amongst politicians.
310. Mr Dubazana was not very complimentary about the role of the police in the murder of the deceased. He insisted that the police knew an hour before he was killed of his impending death and did nothing about it, although the police stations of Ntabamhlophe and Estcourt were three and four kilometres, respectively from the scene of the murder.

311. He also stated that the hit list, with the deceased's name thereon was released less than a month before Mr Duma's demise.

312. He further disclosed that he was an eye witness to the killing by a policeman of his, (the policeman's), neighbour, who was a member of an organisation, which he did not identify, after a misunderstanding. The policeman was transferred to Johannesburg and the case "*just disappeared*".

313. Further evidence on the murder of Councillor Duma appears hereunder in the evidence of Brigadier Maqhashalala. [Paragraph 421 - 421].

**(Z)**

314. A direction was made that no person may disclose in any manner whatsoever her name or address or any information which was likely to reveal her identity. Any person who contravened the direction would be guilty of an offence and liable on conviction to a fine or to imprisonment not exceeding 12 months.

315. She testified on 26 May 2017 and will be referred to as **Z. Z** was residing at Imbali, Pietermaritzburg. **PATTY REGINA NGUBANE**, Z's mother, who shall hereinafter be referred to as "the deceased" was murdered on 8 June 2016 at Imbali. She was 59 old when she died.
316. The deceased was a member of the ANC. She was an additional member of the BEC and also a member of the Community Police Forum (CPF). She was also the Treasurer of the Women's League at Branch level.
317. She was a loving mother. She was very helpful to other people and the community. She is survived by her three children and other children from her late relatives. Those other children were also staying with her and were raised by her. The deceased was not employed. On one occasion, she obtained a temporary job from a community project of waste removal.
318. People used to listen to her and they loved her, especially in Ward 15. She assisted them in obtaining ANC membership. She was a co-ordinator and used to encourage people to join the ANC. Problems started when they were busy coordinating the issue of membership.

319. She gave ANC membership forms and money to a certain man (“Mr X”) to submit on her behalf. It turned out that the forms were not submitted. Mr X was also a member of the BEC. At that time, the term of office of the then Councillor was nearing the end, but he died before the end of his term.
320. The BEC had a meeting where it was discussed that the then BEC Secretary should take over the position of Councillor. Mr X and other members subsequently dragged their feet in attending BEC meetings. They did not want to attend because they wanted the Councillor to come from their area, not the then Secretary. Mr X was vocal in that regard.
321. The deceased and Mr X were close, but he suddenly changed and was not as friendly as before. Mr X was aspiring to become a councillor. He once asked the deceased and another lady to assist him to get the position. Mr X asked them to canvass for him because the two of them were familiar with the people and were active in the party.
322. They, however, told him that, as a member of the BEC which had agreed that the Secretary must become councillor, he must respect that decision. He did not take kindly to their advice.

323. Mr X subsequently supported a certain Ntokozo who stood as an independent candidate for Councillor.
324. The other lady, mentioned above, was also shot together with the deceased. They were coming from an ANC meeting. It was three women and one man was with them at the time. The first woman entered the yard of her house and the others continued walking on the road. The lady mentioned above as *‘the other lady’* was shot first and she died on the scene. The deceased was shot immediately thereafter. She was rushed to hospital, but subsequently died there.
325. She was able to make a statement to the police in hospital before she died and mentioned the name of the perpetrator. Three people were arrested for the murders, but two of them were released the following day before appearing in court. Mr X appeared in Court, but the family subsequently heard that the charges were withdrawn. The police and the prosecution did not explain why the charges against him had been withdrawn.
326. The family believes that the deceased’s murder was related to politics, based on her daughter’s testimony. There were no

other reasons outside politics that could have caused her murder.

327. It was not clear whether Mr X and the others who supported the independent candidate were still members of the ANC. Z stated that there are factions in the ANC and believes that members are fighting over councillor positions, which come with salaries.

**[REDACTED] (Y)**

328. A direction was made that no person may disclose in any manner whatsoever his name or address or any information which was likely to reveal his identity. Any person who contravened the direction would be guilty of an offence and liable on conviction to a fine or to imprisonment not exceeding 12 months.

329. The witness testified on 12 June 2017 and will be referred to as Y. Y resides in Mpumalanga, Hammarsdale. Y is a member of the ANC and the SACP. Y was the Chairperson of the voting district. There were five voting districts at Intshanga at the time. Y is married and has one child.

330. On 24 January 2016, a meeting was convened by the SACP and held at Ndokweni stadium at Intshanga. Y was the Chairperson of that meeting. The purpose of the meeting was to explain to the members of the SACP and the community about the situation because a meeting had been convened by the ANC on the same day, 24 January 2016.
331. The purpose of the ANC meeting was to elect members who were going to be candidates for councillor positions. It was held at Michael Gwala Hall at Intshanga. It takes about four minutes to drive from the stadium to the Hall.
332. The witness and others got to know on Friday, the 22<sup>nd</sup>, that there was going to be a meeting at the Hall on Sunday, the 24<sup>th</sup>. Proper procedure was not followed because one week's notice was supposed to have been given. They heard in the corridors about the meeting that was scheduled.
333. The voting districts were also not aware of the meeting at the Hall. The issue was discussed in the caucuses of the voting districts and it was decided to call the meeting at the stadium. They believed that they were being excluded from the ANC meeting because there were different views within the ANC at the time.



334. Some members wanted some changes in the ward and they wanted to be part of the members who were going to elect the Councillor candidate. They also wanted to make clear the type of people they wanted to stand as councillor candidates.
335. Shortly before the meeting started at the stadium, there was a Mercedes Benz that came and stopped close by. The windows of the car were then half open, but the occupants did not alight to attend the meeting.
336. The attendants were concerned that the Mercedes Benz was unknown in the area. The then Councillor asked one Nkosinathi to go and tell the occupants to come out if they were coming to the meeting. The occupants had firearms in the car and they indicated that they were instructed to perform security duties at the Hall.
337. It was explained to them that the stadium was not the correct venue to perform their security duties. The SACP had not arranged any security guards to perform duties at the stadium. The occupants were then told to leave. The car was started but it appeared to have a mechanical problem.

A local resident who will be referred to as Mr X was inside the car. At some point, the occupants alighted from the car, except Mr X.

338. The Councillor asked Mr X why he was there and he explained that he was sent to identify certain individuals. Chaos then ensued and gunshots were fired. The crowd dispersed and Mr X made a phone call, asking for backup. In less than five minutes, about six more cars came and shots were being fired.

339. Two people died. One was **Mr BONGANI HLATSHWAYO**, a member of the SACP who was attending the meeting and the other was unknown to the witness. He came in the Mercedes Benz. The witness was shot and injured in the attack. The attack was witnessed by **Ms NONSIKELELO BLOSE**, who herself became a victim of an assassination on 1 August 2016.

340. The murder of Ms Blose will be dealt with later, when we consider the evidence of political parties, in particular, the SACP.

341. Y believes that the attack was planned and politically motivated. There were factions in the ANC, as well as tension between the ANC and SACP at Intshanga. The conflict started when the ANC did not follow correct procedure and process.
342. The names of members in good standing did not appear on the ANC voters' roll because there were branch leaders who used to select people who will be part of the voters' roll and excluded others. Being excluded from the ANC voters' roll has a huge impact because one cannot attend ANC gatherings if one was not on the roll.
343. It also has a bearing on being able to have a vote in the nomination of candidates for Councillor. The correct procedure would be for the branch to obtain the voters' roll from the region. The Secretary and Chairperson are allowed to attend the meetings and are assigned the duty to visit the voting districts for a period of one month, during which members get a chance to check their names on the voters' roll. If they do not appear, they lodge complaints to have the issue rectified before voting time.

344. However, some wards failed to adhere to the correct procedure because they deliberately wanted to ensure that certain individuals remained in the positions. It was a deliberate manipulation of processes.
345. Y recommends that the ANC at all levels should listen to people when they speak so that issues can be dealt with timeously before a dispute arises.
346. Certain people were arrested and charged regarding the shooting and the criminal case is pending in court.

**FANYANA PETROS JELE (VOL 29).**

347. He testified on 17 October 2017. The late **Khanyisile Ngobese-Sibisi** was his sister. She was 40 years old when she died on 18 July 2016. She was a qualified teacher but was no longer teaching. She was divorced and had five children aged 21, 18, 17 (twins) and 11 years, respectively.
348. Khanyisile was a member of the ANC and was born into the party. She was the Regional Secretary of the Women's League in the uKhahlamba region. She loved the community and also worked for it. She was originally from Madadeni in

Newcastle and came to Ladysmith through marriage. She was called *umalumekazi* (aunt).

349. One day, she and Mr Jele went to dump some rubbish at eSigidleni dump site and they found children eating from the garbage. She went and bought bread and drinks for them. She then started a soup kitchen for the children and funded it from her own money. She continued feeding the children and their number increased over time.

350. She fed the children every Saturday and Mr Jele also made contributions to the scheme. The feeding scheme was extended to people who were on Anti-Retroviral medication because some of them were unable to take treatment due to lack of food. At some stage, she went into business and left teaching. She became more involved in the ANC and the community. If someone had died and their family could not afford the funeral, she assisted with the funeral arrangements and expenses.

351. As a result of her community upliftment, the community asked her to become a councillor for ward 20 and she accepted the nomination. Mr Jele was however concerned about her acceptance of the nomination because councillors

were being killed. Even her own sister, who the witness believed was going to be a councillor had been shot at Osizweni.

352. On 15 July 2016, she established what was called *Amayangayanga*, which focussed on grooming young girls to understand the culture and procedures of the ANC. A lot of people attended the formation of *Amayangayanga* and many of them joined the ANC in that event.
353. There was another ANC meeting which was held on a Friday. When she returned home, she told her brother, Mr Jele, that she had stepped on someone's toes. After accepting the nomination for councillor, she was tipped for the position of Deputy Mayor. She was principled, hated corruption and advocated accountability, clean governance and service delivery.
354. Mr Jele testified that it was the uMzuvele RDP housing project that made her unpopular. People from uMzuvele were complaining about the housing project. During the 2010 storms in Ladysmith, RDP houses were built but were not completed because the money that was allocated to that project was used for something else. There were concerns

that when she became councillor and Deputy Mayor, she would start questioning that misuse of public funds.

355. On 18 July 2016, it was Mandela Day and she wanted to spend the day with the elderly. She and her son loaded some blankets in a Nissan bakkie to distribute them to the elderly in celebration of Mandela Day at the nearby stadium. They were ambushed on the way to the stadium and shots were fired at her bakkie with a rifle. She died on the spot and no one else was injured in the bakkie.

356. There was information that a certain member of the ANC had sent her a text message advising her not to go out on that day, but she went out because she wanted to assist the community.

357. On the day of her memorial service, a certain office bearer of the ANC Women's League mentioned a discussion that she had had previously with her bodyguard. She said her bodyguard had pointed at Khanyisile's car and said: "*The owner of this car must get bodyguards*". The family was shocked as to why the bodyguard believed that Khanyisile should have bodyguards.

358. A suspect was arrested and found in possession of the rifle that was allegedly used to kill her. The case was due to be heard on 13 November 2017 at the Madadeni High Court. The family is grateful to the police for their good work, especially the investigating officer, Mr Ndlovu.
359. The family believes Khanyisile's murder had to do with the internal politics of the ANC and the misuse of the uMzuvele RDP housing project funds. The family bases this belief, *inter alia*, on the fact that the hitman did not know her.

**PHILILE NGCOBO (VOL 6).**

360. She testified on 13 June 2017. She currently works at uMgungundlovu District Municipality and was previously the Deputy Mayor of Richmond from 2011 to 2016. The late **Mr Andrew Mthulisi Ngcobo** was her brother. He was murdered on 16 October 2015 outside his house in Richmond. He was 41 years old when he died. He was a senior security officer at Richmond Municipality at the time.
361. Mthulisi was single and had two children. He was not an outspoken person and was politically active. He was a member of the ANC and the local Chairperson of the MKMVA and also a REC member of the MKMVA. He was also the



Chairperson of the Community Police Forum (CPF) at Richmond.

362. He loved the ANC and participated in its activities. He was influential and the people loved him very much. Two councillors were elected in Wards 2 and 7, respectively. For Ward 2, it was Mr Kunene and for Ward 7, it was Mr Shabalala.
363. The community wanted to remove Mr Shabalala but Mthulisi was active in defending him. The reason why he was defending Mr Shabalala was because he was elected under Ward 7, but after the demarcations ward 7 fell under Ward 2, where Mthulisi and the Ngcobo family were residing.
364. Subsequently, there was no peace in Ward 2 because people were saying they had not elected Mr Shabalala. The Ngcobo family was defending Mr Shabalala because it was not his own doing that he ended up in Ward 2, but this was as a result of the demarcation. Some community members did not take kindly to the fact that Mthulisi was defending him.
365. The ward ended up being divided and having two slates - those who were supporting Mr Shabalala and those who

wanted him removed. A meeting was convened by the anti-Shabalala group in April 2014 at Mlamuli Primary School. Mthulisi, Ms Ngcobo and other people also attended the meeting.

366. The school venue was locked and the anti-Shabalala group unlocked it without the key and entered. The pro-Shabalala group stood outside the school premises and did not enter the venue of the meeting. The meeting continued and the anti-Shabalala group resolved that Mr Shabalala must go back to Ward 7, but the pro-Shabalala group disagreed with that resolution. The hostility between the two factions got worse.

367. There was a former councillor (“Mr X”) who had been shot and injured previously and was in the anti-Shabalala group. Rumours were circulating that Mr X believed that Mthulisi was involved in his shooting. Mthulisi tried to clarify to Mr X that he was not involved in the attack, but Mr X did not accept the explanation.

368. Mthulisi was murdered about six months after he had gone to explain to Mr X. After Mthulisi’s death, the person who had shot Mr X was convicted and sentenced to

imprisonment. However, Mr X did not come to apologise to the Ngcobo family. Mr X was a branch Chairperson of the ANC and was a general worker at the Municipality.

369. The relationship between Mthulisi and Mr X was not good. It was Mthulisi and others who had encouraged Mr X to be a councillor and mobilised support for him. After he had failed to perform his duties efficiently as councillor, Mthulisi lobbied for Mr Shabalala.

370. The ANC at higher level decided that Mr Shabalala must be removed from Ward 2. Sadly, they also did not consider the fact that it was the demarcation that landed him in Ward 2. When Mr Shabalala was removed, two years of his term were still left. Another person took over and completed the two years. After that, the position was taken over by Mr X's brother, who became a councillor.

371. Mthulisi was a disciplined member of the ANC, who followed procedures and the community loved him for that, even non-ANC members. He was fearless. There are rules in the MK that if you were once a member of another organisation, you are not allowed to be a member of MK. Also, if you had been guilty of killing other comrades, you are not allowed to be a

member of MK. Mthulisi was strict in following procedures and policies in that regard.

372. There were certain people who wanted to join the MKMVA at local level, but he disqualified them on the above grounds. They accepted his discipline, but after his death all those who were disqualified were then accepted to join MK. Therefore, soon after his death, rules were no longer being adhered to. Mr X also became a member of MK after Mthulisi's death.

373. The family believes that his murder was political for the reasons alluded to in Ms Ngcobo's testimony.

374. Three suspects, including Mr X, were arrested and charged for his murder, but the charges against them were withdrawn on 11 March 2016. The police and prosecution did not explain to the family why the charges were withdrawn. The family just saw the suspects celebrating on the road after their release. The family is not satisfied about the investigation and would like it to be re-opened.

375. He testified on 19 February 2018. He resides at Blaauwbosch, Newcastle. He has been a member of the ANC for 7/8 years at the Thabo Mbeki Branch. The Branch had requested a meeting with the Province, but only to find that the meeting was ultimately conducted by the Region.

376. The first meeting did not proceed because a quorum was not attained. A second meeting was subsequently held to elect the BEC but did not proceed as the REC Secretary who was present complained about the lateness of time. The meeting was rescheduled. The third meeting was ultimately held on 2 April 2016.

377. There were two factions and they supported NDZ and CR17, respectively, for the position of ANC president. The then Ward Councillor on 2 April 2016 was Mrs Mentusi, who belonged to the NDZ faction. Mr Nxumalo was initially in the NDZ faction and supported Mrs Mentusi.

378. At some stage, Mr Nxumalo changed allegiance and supported the CR17 faction. He was visited by some comrades because he was one of the ward mobilisers. When he visited the community, he would hear them complaining

about the Councillor, Mrs Mentusi, saying they were no longer supporting her.

379. Mr Nxumalo tried to explain to Mrs Mentusi what the community was saying about her, but she did not accept it. The community was saying she had done nothing in the period of ten years as a councillor. In other words, her second term was going to come to an end and she was heading for a third term.

380. When Mr Nxumalo changed camps, Mrs Mentusi did not take kindly to it because she had put her hopes in him as he was a good mobiliser for councillor candidates and also recruited people to join the ANC.

381. The meeting of 2 April 2016 was held at Zamakhanya Primary School to nominate councillor candidates. The Chairperson was Mr Ntuthuko Mahlaba and the Secretary was Ms Ntoko Mhlungu. Mr Gcabashe from the Province was also present at the meeting.

382. The Branch did not want the Region to preside over the nomination meeting because the REC was visiting branches with ulterior motives. If they had earmarked someone to be

a councillor, they would ensure their victory regardless of the number of votes received. In short, they did not trust the REC's integrity. Their region was called Emahlaheni.

383. The Province did not accede to the Branch's request to oversee the meeting. The person who presided over the meeting was not delegated by the PEC. Mr Nxumalo was uncertain as to whether the presiding officer was delegated by the REC.

384. They tried to tell the presiding officer that they were expecting the Province to come and oversee the meeting, but he told them that the meeting was going on whether they liked it or not. As a result, they were forced to be part of the meeting. The meeting had to proceed with only a 10% quorum because it had failed twice previously to secure a proper quorum.

385. The presiding officer was accompanied by many armed bodyguards. The police were also present and it was reported to them that the bodyguards were armed. The police merely took a register of those arms and allowed the bodyguards to continue carrying the arms.

386. Five candidates were nominated and Mrs Mentusi was one of them. After the nominations, it was reported that there were some members in good standing who were outside the gate but wanted to come in. The members who were outside were eligible to vote.
387. The presiding officer said the meeting had already started and he would not allow anyone else to join it. There was a misunderstanding because some of the members present wanted those who were outside the gate to take part in the meeting. The members who were in the meeting did not take kindly to the exclusion of the others. The presiding officer took off his hat and gave it to his bodyguard. The hat that was held by the bodyguard was used to put the nominations and votes from members.
388. After Mr Nxumalo had placed his ballot paper in the hat, he went out with the intention of meeting the members who were outside the gate. Whilst he was going out, one of presiding officer's bodyguards also came out.
389. It appeared that the bodyguard and a certain Khulekani had a quarrel about the members who were shut out of the meeting. When Mr Nxumalo tried to establish what was



going on, the bodyguard took out a firearm and shot Mr Nxumalo in the arm.

390. Mr Nxumalo believes that he was shot because of the factions, specifically because he had left the presiding officer's faction and joined the CR17 faction and they did not take kindly to it. Mr Nxumalo was then supporting Mr Thobani Ndaba for nomination to become a councillor. Mr Thobani Ndaba eventually won the election with Mr Nxumalo's mobilisation for support.

391. The Mahlahleni region was disbanded before the ANC's national elective conference in December. Mr Nxumalo was of the view that Malahleni was disbanded because it was not supporting the NDZ campaign but that of CR17 faction and was not doing things the NDZ way.

392. Mr Nxumalo indicated that there was still instability and fear in his area, even after the national elective conference.

**SANELISIWE HLONGWA (VOL 3).**

393. She testified on 24 May 2017. The late **Nkosinathi Hlongwa** was her husband. He was murdered on 1 June 2016. They

were residing at Imbali, Pietermaritzburg. He was employed at uMgungundlovu District Municipality as a Local Economic Development manager.

394. He was a member of the ANC. They met in 2000 and got married in November 2013. At the time of his death, they had no children together, but he had two children. She has not been involved in politics. He was a branch Chairperson of the Youth League in Ward 12 and thereafter became the branch Chairperson of the ANC in ward 12. Edendale also fell under ward 12.

395. Mr Hlongwa was a loving person. He loved politics and he also loved to help the community around Esigodini area. He was 42 years old when he passed on. Around May 2016, the deceased told her that he was tipped for a position at regional level, but she was unsure of the precise position. Some people, particularly the community of Edendale, did not take kindly to the position he was tipped for.

396. There was another issue of conflict. The people of Edendale were not happy that the councillor for Ward 12 would come from Esigodini area. The Edendale residents wanted the councillor to come from their area. Mr Hlongwa attended a meeting, but it did not materialise and had to be cancelled.

It was on a Saturday before his death and the meeting was supposed to be held at Thuthuka Hall, however certain people came and burned the hall down.

397. People from Edendale threw stones and fired shots inside the hall. The people inside the hall tried to defend themselves and got out of the hall. They then proceeded to Esigodini and continued with the meeting there. After the meeting, when Mr Hlongwa was on his way to Imbali where he was residing, a car followed him. Mrs Hlongwa heard of the story after Mr Hlongwa's death.

398. Thuthuka Hall was between Edendale and Esigodini. Mr Hlongwa had acquired a licensed firearm around April 2016. On the day he was murdered, 1 June 2016, he left the witness at home and went to an ANC meeting at Esigodini, but it did not materialise because of some hiccups. The meeting ended up taking place at Imbali. After the meeting, Mr Hlongwa accompanied his comrade to his residence at Esigodini and then returned home.

399. She then heard gun shots being fired in her sleep. She thought they were being fired elsewhere, but it was actually in their yard. She then heard footsteps in their yard and

woke up. She looked and saw him lying down. She went to him and ascertained that he was dead.

400. There has not been any arrest for Mr Hlongwa's murder. The police have not given the family any feedback on the investigation. She does not believe that the police are doing their best to solve her husband's murder.

401. She does not think that her husband's death had anything to do with his employment at the Municipality. She believes it was related to ANC politics, his position as branch Chairperson and the regional position he was tipped for. This is based on her evidence regarding the community of Edendale, the conflict regarding the Councillor, the disruption of the meeting at Thuthuka Hall and the car that followed him after the meeting.

**NKOSINGIPHILE SIMON MKHIZE (VOL 7).**

402. He testified on 14 June 2017. He is the brother of the late **Mr Wandile Mkhize** ("Wandile"), who was murdered on 30 June 2012 in Margate. He was shot together with his friend, **Mr Nhlakanipho Shabane** ("Nhlakanipho").

403. Wandile was 34 years old when he died. He was divorced and had six children. He was a loving person and the family was proud of him because he was more educated than the other family members. After the death of their father in 2002, the family expected more from Wandile.
404. He had a Bachelor of Administration degree from the University of Zululand. He was a member of the ANC and specifically the Youth League. He was also a member of the SACP, specifically the Young Communist League. When he died, he was an additional member of the REC of the ANC. He did not have any position in the SACP. He was working at the Hibiscus Coast Municipality, currently known as the Ray Nkonyeni Municipality. He was an executive committee member and the Chief Whip of the ANC.
405. Wandile acquired most of his political skills in the North Coast of Durban. When it was realised that he was originally from the South Coast, it was decided that he should go back and work there at his place of birth. At that stage, the ANC was about to hold the National Elective Conference in Polokwane.

406. His duty was to unite all the forces in the South Coast. It was not easy because he was expected to visit all wards and all branches and there was a lot of resistance from the people in the area because some did not know him. His main duty was to ensure that at the Polokwane conference Mr Jacob Zuma won the position of ANC president.
407. Because he was young and influential, some people did not accept him and also did not take kindly to his work in the ANC. Mr Zuma won at Polokwane and Wandile was influential in mobilising for him. Prior to the Polokwane conference, there were the Regional and the Provincial conferences. He was assigned to mobilise support in all branches.
408. One of his friends who was in power wanted big contracts (tenders) from Ugu Municipality. Wandile was a councillor at the time and he advised against corruption and breach of proper procedure. At that time, Wandile was also a director of a company from which he resigned to concentrate on politics, because he said business was not his career of choice.

409. At national level, he was fostering unity in the ANC. That could be confirmed by the SMSs he exchanged with national leaders before his death. He was opposed to factionalism in the ANC.
410. On 30 June 2012, Wandile was coming from an ANC policy conference in Midrand. He returned with an REC leader and was supposed to sleep in Pinetown that day. His residence was at Manaba, Margate. However, one of his white friends was waiting for him at Pinetown and he was going to sleep over there.
411. It appeared that on their way back from Midrand, they did not go to Pinetown but Margate. The witness indicated that he was suspicious about that fact. Wandile had left the key to his house with his friend, Nhlakanipho. He then contacted Nhlakanipho so that they could meet in town to get his key. They met at Margate and the REC member then left.
412. They eventually proceeded to his house at Manaba. They parked the car on the road and Wandile then walked into the premises, leaving Nhlakanipho behind in the car. Wandile was then shot several times and died on the spot. Nhlakanipho must have alighted from the car to investigate

the shooting. He was also shot on the scene, apparently by the same hitmen.

413. It seems that the target was Wandile and Nhlakanipho was eliminated because he was a witness who possibly saw the perpetrators.

414. Mr Mkhize was notified of the shooting by someone who was supposedly at Harding, some 100 kilometres away from Margate. To his surprise, there were a lot Wandile's comrades at the scene, but none of them had called to notify him of the incident, despite having his number. That was suspicious to him.

415. He believes that Wandile's murder was politically motivated, given his calibre. He was influential and eloquent. Whenever he spoke, even older people would say that he was indeed a leader. Some people from the area did not take kindly to the fact that he had returned to the area. Some of them were much senior to him and had been active in the area much longer than he. As a newcomer, he was seen as a threat.

416. He was tipped for the position of Deputy Secretary at regional level. A lot of people, especially those who were more senior



and active, did not take kindly to his political ascendancy. His brother suspects that Wandile's death was related to the factional fights in the ANC. At the time of his death, Wandile had direct contact with Mr Zuma and his call for unity also made him very unpopular.

417. Two accused, Messrs Sikhakhane and Hlongwa, were prosecuted for the murders. Mr Mkhize did not know them before his brother's death. Neither of them was active in the ANC at local level. So, he believes that neither of them would have wanted to kill Wandile. Mr Mkhize heard certain things about his brother's murder indicating that the masterminds behind the scenes were political leaders.

418. The two accused were acquitted of the two charges of murder and convicted of illegal possession of firearms. The family is not happy with the investigation and believes that they were acquitted because of police inefficiency. The first police officer who arrived on the scene was Mr Nkosi Khoza and he made sure that no one would find the real evidence.

419. The family believes that he deliberately interfered with the crime scene because he was not even on duty that night. According to the witnesses' accounts, Mr Khoza was the one

who collected the spent cartridges on the scene. Mr Khoza subsequently died. After his death, a lot of exhibits were found in his safe. It is uncertain whether the spent cartridges relating to Wandile's shooting were also part of those exhibits.

420. The family is also unhappy with the manner in which the trial was conducted. Mr Mkhize complimented police officer Carstens for his efficiency in his brother's case. He was critical of police officer Nyawose who was a bad witness when he testified at the trial. He could not recall many crucial details. That had an impact on the negative outcome of trial.

421. Mr Mkhize believes that the Prosecutor did her best in preparing the police for trial and in conducting the prosecution, but the police let her down in Court.

422. Mr Mkhize had deposed to an affidavit regarding the case on 6 December 2012. Part of the evidence he was going to give was about what he heard being discussed by the accused, Mr Sikhakhane, and other people regarding the planning of the murder. However, he was not called to testify.

423. The family believes that there were masterminds behind the scene and would like the investigation to be re-opened to gather evidence against them.
424. Mr Mkhize also expressed his views on the underlying causes of political killings. The major factors are greed among comrades and factionalism. In order to occupy a position, someone must fall. If you are contesting to be a councillor, you must die because someone else wants to be a councillor for five years. Once their term ends, they are nothing again, if not re-elected.
425. He believes that the problem may be solved through academic and political education. He alluded to socio-economic factors as being contributory factors to the underlying causes.

### **BRIAN MFANA SHABANE**

426. He testified on 14 June 2017. He is the brother of the late **Nhlakanipho** who was killed together with Wandile. He was 24 years old when he died and was Wandile's friend. Mr Shabane confirmed the evidence of Mr Mkhize in so far as he had mentioned his brother Nhlakanipho. Nhlakanipho was

also a member of the ANC and the Secretary of Youth League at branch level. He was not married. He had one child and a woman was pregnant with his second child when he died. Nhlakanipho was very kind and was playing the father figure to the family because their father was deceased. Nhlakanipho had three siblings, including the witness. His passing has had a negative impact on the family financially and otherwise.

427. The family shares the sentiments of the Mkhizes regarding the manner of investigation and the outcome of trial.

**SIZWE CEDRIC GWALA (VOL 16).**

428. He testified on 17 August 2017. **Mr Mthunzi Innocent Gwala** (“Mthunzi”) was his brother. He was killed on 14 July 2012 at Unit 17 Hostel, Umlazi. He was 29 years old when he died. Mr Gwala and Mthunzi were staying at Unit 17 Hostel. Their home is at Endulinde in Mandeni. He was single, had two children and was employed.

429. Mthunzi was a member of the NFP and prior to that had been a member of the IFP. He joined the NFP in 2012 when it was introduced at the Hostel where the IFP was more dominant. When the NFP was formed, IFP members at the Hostel were

not welcoming to the idea. Some people ended up being killed.

430. On 14 July 2012 around 15h30, Mr Gwala and Mthunzi went to a tavern at the Hostel to have drinks. Someone, who was an IFP member, said he does not drink with NFP members. Mthunzi responded by saying he was indeed an NFP member and even showed the NFP T-shirt he was wearing. Mr Gwala then told Mthunzi that they should leave because of the quarrel, which they did.

431. They were staying in different rooms at the hostel and they parted ways for their respective rooms. Mr Gwala decided to sleep. He was subsequently woken up with news that his brother was dead. He believes that Mthunzi was killed for political reasons because of the quarrel regarding his NFP membership and the T-shirt.

432. He also cited a previous incident as evidence to reinforce his belief regarding the political motive for Mthunzi's murder. A certain Mr Thabethe was going to be killed and the hitmen had been seen by Mthunzi, who notified Mr Thabethe. Mr Thabethe was an NFP member. Mr Thabethe was going to be

killed because he was an NFP member. The NFP and IFP were not seeing eye to eye at the time.

433. Two suspects were arrested for Mthunzi's murder. There was a trial in the Durban High Court and both accused were found not guilty. The family is satisfied that the police did their best in terms of investigation, but they are not satisfied with the prosecution. A material witness not called to testify at the trial. The prosecution did not explain to the family why she was not called and also whether there were any difficulties in proving the case for the State.

434. The accused who were charged with Mthunzi's murder are the same ones that were seen by Mthunzi who notified Mr Thabethe that they had come to kill Mr Thabethe. The person who quarrelled with Mthunzi at the tavern was the brother of one of the murder accused. Mr Gwala believes that the suspects had planned to kill Mr Thabethe but could not carry out their plan.

### **BRIGADIER BONGANI MAQHASHALALA**

435. Brigadier Maqhashalala testified as part of the SAPS delegation. What we shall deal with here is his evidence relating to his report on concluded cases of alleged political

murders and another document headed Consolidated Report – Political Cases. The rest of his evidence will be considered when we analyse the input of SAPS.

436. With regard to the deceased ANC **COUNCILLOR JIMMY JABULANE LEMBETHE**, from Ward 8 Umtshezi Local Municipality, the evidence is that on 17 August 2012 he was attacked and shot, together with his wife and children. His wife sustained a gunshot wound below her left knee and burn wounds to right leg caused by boiling water. One child, Nhlanhla Nzuzo aged 11, sustained burn wounds from boiling water and Nontando Lembethe aged 6 years, sustained gunshot wound to left leg and burn wounds to her face caused by boiling water.

437. The suspects came through the kitchen door and knocked. Councillor Lembethe opened the door. He then offered them two chairs to sit whilst they waited for him. They pretended to sit. One of them drew a pistol and began shooting at the family who were in the kitchen. Mr Lembethe died on the scene.

438. Bad blood existed between the ANC, IFP and NFP over control of the area. The Municipality was led by the ANC. The friction was exacerbated by a road construction project

which was believed to be dominated by the IFP and NFP as workers.

439. The project was allegedly stopped by the ANC as the majority party. This angered IFP and NFP supporters as that deprived them of jobs.

440. Two people were arrested and charged. It was established that they were members of the NFP and brothers to the NFP PR Councillor. Both accused were convicted and sentenced to life imprisonment for murder and ten years attempted murder.

441. According to Brigadier Maqhashalala, the possible underlying causes were the inter party political conflict and allocation of jobs to people affiliated to a particular political party and the use of projects by politicians to lobby for support.

442. He further reported on the murder of **Mr WISEMAN MSHIBE**, an ANC Ward 80 Councillor at Umlazi. (**Montclair CAS 22/3/2011**).

443. According to the reports, ANC members were not happy with the manner in which he conducted himself as Councillor. He



was perceived to be very strict. He was assassinated on 1 March 2011 outside his residence on his way from a political meeting. He was about to enter his house at Yellowwood Park when he was shot. He managed to drive away but later collapsed and died. One person, who is an ANC member was arrested, charged, convicted and sentenced to 25 years imprisonment for murder.

444. The possible underlying cause of the murder was factionalism and competition for positions within the ANC.
445. Brigadier Maqhashalala further reported on the deceased **ISAAC THULEBONA NHLEBELA (DUNDEE CAS 51/7/2012)**. The deceased was an NFP Councillor at the uMzinyathi Municipality. He had the responsibility of seeing to it that other NFP councillors accounted to him.
446. The deceased summoned NFP councillors and warned them they would be removed as they were allegedly not delivering.
447. On 6 July 2012, on the road along Hazeldene Farm, the deceased was fatally shot. A hitman and an NFP Councillor, who was the Deputy Mayor, were arrested. The hitman implicated two other Councillors. The Deputy Mayor was

part of the councillors that had been warned by the deceased.

448. The hitman was convicted and sentenced to 18 years imprisonment. He then deposed to an affidavit wherein he implicated the Deputy Mayor, two other councillors and another hitman. He later refused to testify against the persons that he had implicated with the result that cases against them were withdrawn. A triple member case is still pending in court against the second hitman who was arrested in September 2017.

449. Brigadier Maqhashalala identifies the intra party competition relating to competition for positions and the fear of losing jobs as an underlying cause of the murder of the deceased.

450. There had been an earlier attempt to kill Mr Nhlebelo on 11 April 2011 in Greytown. (Msinga CAS 43/4/2011). The same Deputy Mayor and another NFP Councillor were arrested for attempted murder. Key witnesses died from natural causes resulting in the withdrawal of the charges against the two accused.

451. On 16 February 2011 at Ntabamhlophe Road near Blue Haze **Mr MCEBISI DUMA**, an IFP Councillor in the Mbabazane Municipality, who had joined the NFP, was travelling along the Ntabamhlophe road when the occupants of a Toyota Corolla opened fire on him thereby killing him. The suspects abandoned the Toyota at the scene and fled.
452. Four hitmen were arrested and one of them was convicted and sentenced to 25 years imprisonment. The second accused died. The charges were withdrawn against the third accused. The fourth accused turned state witness and testified against the first accused. He was later sentenced to life imprisonment in respect of another unrelated murder.
453. There was political friction and intolerance between the IFP and NFP in the area. The underlying cause of the murder was the political intolerance between the IFP and the NFP fuelled by competition for power and influence.
454. Brigadier Maqhashalala also reported about the murder of ANC eThekweni Regional Secretary **Sibusiso Sibiya**, who was assassinated during July 2011. He states that the deceased was shot at his residence at Inanda. A suspect was arrested. A key witness was killed in an unrelated taxi incident, resulting in the withdrawal of the case against the suspect.

455. Notwithstanding the fact that most witnesses before the Commission and political commentators believe that the killing of Mr Sibiya was politically motivated or related to politics, Brigadier Maqhashalala states that the accused that died “*could not be linked to political circles.*”

**DEAN WILLIAM MACPHERSON (VOL 20).**

456. He testified on 28 August 2017. He is a member of the Democratic Alliance (“DA”), an MP and constituency head for Richmond. He is the DA's Shadow Minister for Trade and Industry. He has been residing in KwaZulu-Natal his whole life. He made a written presentation to the Commission and also referred to certain annexures that were not submitted as evidence.

457. He has been a member of the DA for about 16 years and a public representative since 2009. He served in the eThekweni Municipality Council as a Ward Councillor for Durban North from 2009 to 2014. In 2014, he was elected to the National Assembly as a Member of Parliament for KwaZulu-Natal.

458. He was appointed by his party as the constituency head for Gingindlovu East, which includes Richmond in 2014, shortly after the elections.
459. Since he became the constituency head for Richmond, they have witnessed a climate of fear, intimidation and killings in the Municipality which has virtually brought service delivery to a halt. Corruption was rife, the budgets have had to be slashed and, as a result, service delivery has been severely compromised.
460. In November 2015, the then Municipal Manager's office and a town hall were set alight by unknown suspects. It was believed to be a result of factional issues between the SACP and the ANC in Richmond. On 17 October 2015, **Mr MTHULISI NGCOBO** was shot dead outside his home. He was the brother of the then Deputy Mayor, Thulile Ngcobo.
461. He was the head of the Municipal Security Services. It was believed that his murder was politically motivated because of Mr Ngcobo's connection to the Municipal Executive and that it was regarding a scramble for positions within the executive head of the then 2016 elections.

462. On 6 March 2017, **Mr SIBUSISO SITHOLE** was gunned down in Richmond around 9h00 by two unknown gunmen behind the police station. There have been no arrests and no further statements from the police have been made, despite the Police Minister making assurances that a high-powered task team had been appointed within the Hawks to deal with the murder.
463. Mr Sithole was the Municipal Manager for Richmond Municipality and his term was about to come to an end. He was about to take up a new position at the Umgeni Municipality as Municipal Manager.
464. Mr Macpherson had information that Mr Sithole had bodyguards from the Municipality, but he had chosen to leave them at his office or in fact did not inform them of the reason why he had been called to this particular meeting point to meet whoever he was supposed to meet when he was murdered.
465. It was strange that he had chosen to do so and they were not sure why he decided to make that choice. In October 2016, the Department for Cooperative Governance and Traditional Affairs had gazetted a request that they had received from

Richmond Municipality to make two councillors of the executive designated full time.

466. At the time of the elections, only the Mayor had been designated a full time executive committee member. After the elections, the executive in terms of the ANC component had been reduced by one because the DA had taken a seat in the executive because of the election results.

467. It was brought to the DA's attention by Mr Sithole that this request had been made and he requested that they put in an objection to it because it would be difficult for him to do so from his position. Mr Macpherson then submitted an appeal to the MEC Mrs Nomusa Dube-Ncube on 25 October 2016.

468. He detailed why it was problematic for the Municipality to designate two more councillors full time. The Municipality was in a very serious financial situation and was running at a R9 million deficit and for a Municipality that had an R80 million budget, that posed a very serious problem.

469. Mr Sithole had also had to slash the capital budget by half, from R34 million to R17 million, which meant that there would be less service delivery and less capital projects to be

built in the Municipality. Mr Macpherson had calculated that roughly it would cost the Municipality an extra R20 million over five years to designate the Deputy Mayor and the Speaker full time. Both were ANC members.

470. On 8 November 2016, Mr Macpherson received a response from the MEC's office that she had considered and declined the Municipality's application. That meant that those two councillors would be considered ordinary councillors and would receive ordinary salaries.

471. Mr Sithole was unfortunately killed on 6 March 2017. Mr Macpherson believes that the issue of designating the two councillors full time played a part in Mr Sithole's continued unpopularity in the Municipality. Mr Sithole had also recently suspended a Senior Manager for unauthorised payments to a particular company and for a section 36 contract.

472. A section 36 contract is basically a contract without tender, so it is deemed to bypass normal tendering processes. It is done when it is deemed to be an emergency situation. Mr Sithole was also investigating the CFO of Richmond Municipality for maladministration and corruption. Mr



Macpherson believes that Mr Sithole had deposed to an affidavit to that effect.

473. It was particularly disturbing that the Municipality had chosen not to retain his services despite the many awards that he had won as the Municipal Manager and for being the best Municipal Manager in KwaZulu-Natal. Mr Macpherson believes that, with his anti-corruption views, it had made him deeply unpopular in the Municipality and therefore the political executive of the Municipality had chosen not to extend his contract.

474. It was for that reason that he sought employment at Umgeni Municipality, which was itself entering into a very serious debt crisis. It would have been to Umgeni's benefit to have someone like Mr Sithole. However, there were also individuals who were becoming concerned at what he would bring to that Municipality in cleaning it up and cracking down on corruption.

475. On 2 April 2017, the Deputy Mayor of Richmond Municipality, Ms Thandazile Phoswa, was allegedly killed by her boyfriend in her house. No further statements had been made by the police if he was actually ever charged for the

killing. The boyfriend had claimed that she had killed herself, but she did not own a gun.

476. There were claims by the community surrounding her that it was not possible for her boyfriend to kill her and that there would seem to have been some ulterior motive, but it is simply unknown because the police do not give updates.

477. On 30 June 2017, ward 2 **Councillor SIFISO MKHIZE**, was killed in a hail of bullets by a number of gunmen. Again, no arrests have been made. With regard to Mr Mkhize's murder, there is a strong belief that it was politically motivated and that it was caused by ANC factional violence.

478. With regard to the Deputy Mayor, it does not make sense that the police came out very quickly after her killing to say it was not political. Mr Macpherson was not sure how they came to that assessment so quickly. The boyfriend was arrested but it was unknown whether he was ever charged.

479. The point being made was that in all the killings and the arson that took place, there has not been a single arrest or communication, despite a lot of visits to the area from political high flyers.

480. Mr Macpherson believes that the political violence in general and specifically in Richmond takes place for two reasons. Firstly, it happens because those that are stealing want to eliminate those that are trying to expose them and the fact of the matter is that the ANC is the governing party in KZN.
481. Those who want to stop the stealing are people that want to return the party to what it should be in a larger context on national level from those that have sought to use political power to enrich themselves to the detriment of the electorate and ordinary citizens.
482. There is a big fight within the ANC in KZN in order to have access to State resources. If you have a tender worth R1 million, it would be expected that some percentage of that tender would be fed back into party political coffers. The best example is the Hitachi deal which was done through Chancellor House, which is the investment arm of the ANC.
483. Another best example is the killing of **Mr SIBUSISO SIBIYA** of Inanda. He was the ANC's Regional Secretary at the time. He was a very warm gentleman and had a reputation of being a no-nonsense man who despised corruption and wanted

transparency. Mr Macpherson believes that the murder of Mr Sibiya was politically motivated.

484. The eThekweni Municipality budget is nearly R45 billion and there is a lot of opportunity for cream to be skimmed off the top towards political parties.

485. The Chairperson of the eThekweni Region was Mr John Mchunu. Mr Mchunu and Mr Sibiya were the polar opposites of each another. Mr Mchunu was known to use access to State resources within the Municipality to fight Regional conferences, Branch AGMs and to leverage access to tenders as an opportunity to get people elected into ANC structures and to fund those operations.

486. If one looks at the then Ngubane report which was tabled in 2009 into the Municipality, that made serious allegations of corruption, maladministration, not only by politicians but with the assistance of municipal officials. The Ngubane report then laid the foundation for the Manase report which went deeper into these allegations that had been made.

487. It detailed a web of influence and a toxic relationship between politicians and civil servants in senior positions to

tender awards to friends, families and politicians amounting to tens of millions of Rands.

488. However, not a single person has been criminally charged in the eThekweni Municipality from the Manase report.

489. Mr Macpherson believes that law enforcement is either involved in the killings or is protecting very senior politicians in the ANC who are responsible for the killings.

490. Mr Macpherson could not comment on why Mr Sithole was allocated bodyguards but indicated that there would have been a threat assessment that would have been done. They would have realised that there was a threat to his life and they would have allocated him protection.

491. As recommendations, Mr Macpherson indicated that the ANC needed to come before the Commission and explain what they are going to do to stop political killings.

492. In terms of systems and governance, the bid adjudications for tenders must be made transparent and open to the public and members of the public must be invited into bid adjudication committees.

493. When investigations or forensic audits are commissioned, the recommendations must be implemented. A good example is the Manase report recommendations.
494. We need to start appointing people that are fit for purpose, not fit for cash flows, not fit for assisting in bank accounts, not fit for pushing tenders. We need to appoint people that will do the job in terms of legislation, not try to move the goal posts. The sad thing is that Mr Sithole was a man who was fit for purpose, but the political environment let him down.
495. We need to take put a review into the SAPS's culpability in these deaths, in whether they have been a part of the killings or covered up the killings. That question must be answered.
496. COGTA needs to have a stronger implementation and a stronger ability to intervene where clear political factional fighting is taking place in municipalities. They are not strong enough in intervening where they need to because KZN and most municipalities are run by the ANC.

497. The Evidence Leader had indicated to the Commission that there was a statement in the police docket purporting to be Mr Sithole's but decided not to place it before the Commission because it contained sensitive information and names. The police representatives at the Commission were given the docket CAS Number in order to follow up on the allegations.
498. Subsequently, Brigadier Maqhashalala, who was part of the SAPS delegation before the Commission, confirmed that Mr Sithole had indeed made a statement to the Hawks reporting alleged corruption at the Municipality.

**SLINDILE SITHOLE (VOL 20).**

499. She testified on 28 August 2017. She is the wife of the late **Mr Sibusiso Edward Sithole** who was the Municipal Manager of Richmond Municipality. He was murdered on 6 March 2017 at Richmond. They had been married for two and a half years when he died and they did not have any children together and individually.
500. There are five children that they are assisting. Three of them are at University, one is in High School and last one in Primary School. They are assisting them financially,

especially with school fees and other school necessities.  
None of them are related to either of them.

501. Sithole was a family man. He was willing to assist people in the community as he was working for the Municipality. Some people even misunderstand the limits of service delivery in the Municipality in that some of the children they are assisting came to the Municipality requesting school registration fees.


502. When the Municipality said it does not provide such assistance, Sithole would be touched when looking at their results. He would come home and make a plea to the witness to assist them personally.

503. The deceased's mother is 72 years of age and he also supported her and his siblings as their father is late.

504. He did not talk much about his work at home. He worked even at home and she used to call him a workaholic because he even forgot that it was the weekend.



505. He was the best husband ever and used to spoil her. He loved her and people could attest to that because he expressed his love for her publicly.
506. She confirmed that she heard the evidence of Mr Macpherson, who testified before her. Mr Sithole was due to start a new job at Umgeni Municipality as Municipal Manager. She did not know why he was allocated bodyguards. He never mentioned anything about his life being threatened but explained that the bodyguards were members of Umkhonto we Sizwe who needed employment and he was told that he must take at least two of them so that they could be employed.
507. The police had not given the family an update as to what is happening with the investigation. She did not know whether anyone had been questioned or arrested about her husband's murder. The family is not happy about the lack of feedback.
508. The family believes that Mr Sithole's murder was politically motivated. This was based on Mr Macpherson's evidence and also the fact that he had no enemies.



509. A direction was made that no person may disclose in any manner whatsoever his name or address or any information which was likely to reveal his identity. Any person who contravened the direction would be guilty of an offence and liable on conviction to a fine or to imprisonment not exceeding 12 months.

510. He testified on 24 May 2017. He has been residing at Glebelands hostel since 1995. He is a member of the ANC and the SACP. There is an alliance at Glebelands between the ANC and the SACP. He was the Chairperson of the Young Communist League and then the Deputy Secretary of the SACP. He was also elected to the ANC leadership as an organiser.

511. A vote of no confidence was passed by the residents in the Councillor. Firstly, there was an ANC branch general meeting, but he could not recall the date of the meeting. ANC members voiced their vote of no confidence in the leadership of the ANC and also in the Councillor. Secondly, there was a community meeting and the community expressed their vote of no confidence in the Councillor.

512. He believes that the resolutions of both meetings were escalated to the next level of the ANC, but he was not sure. He confirmed that a memorandum was handed to the eThekweni Municipality regarding the resolutions of both meetings. Point 5 of the memorandum read *“We are not satisfied about the type of development that is brought to us and the manner in which it is managed”*. Point 6 read *“We are not happy about the fact that our development is being managed by people who were stripped of power.”*
513. He confirmed that one of the grievances of the residents and community was the lack of regular meetings that were supposed to be convened by the Councillor. Those meetings would have been the forum for the community to air their concerns and needs and the Councillor would also give feedback on the Municipality’s plans to improve their lives and on the management of the hostel.
514. Given the fact that there was no official forum to air their views, the residents were then talking in the corridors and the Councillor regarded that as plans to overthrow those in power. That caused division in the hostel. The residents ended up having three protests. That led to the SACP convening a meeting which was attended by a provincial delegate, Ms Judy McKenzie. The meeting basically

reminded the members who were going to be elected on that day of their duties and the need for service delivery to be prioritised.

515. He alluded to the existence of a hit list on which there were a number of people to be killed. The people on the hit list were vocal about lack of service delivery and lack of meetings. As a result, they were perceived in a negative light by the leadership. One of the points on the memorandum read “*We want our residential permits to be changed as per the hostel indaba resolution*”. That related to development.
516. The leadership and the Councillor did not implement the recommendations of the hostel indaba. The residents ended up doing as they pleased because there was no management of rooms and bed space. The permits were linked to rooms and bed space. As a result of the non-implementation of the resolutions of the indaba, conflict arose leading to the start of violence.
517. The ANC leadership, including the Councillor, had the power to decide who would work where and when in terms of developments, in the sense of infrastructure and construction. The witness confirmed that when two new

blocks were built, the residents were not consulted. Those buildings were meant to benefit residents in terms of job opportunities, but the only people who benefited were those in leadership and the Councillor.

518. Residents were supposed to get preference in terms of the allocation of units in those new buildings because they were family units. 98% of those who were seen to be against the leadership and the Councillor were side lined in terms of job opportunities and accommodation. That led to violence.

519. The requests and grievances in the memorandum were subsequently escalated to the regional and provincial levels of the ANC, but nothing was done about them. The residents see themselves as being neglected. Besides the two buildings, there were other developments at Glebelands.

520. There was a development of fencing the hostel which was not a priority for the residents. The residents' priorities included the development of areas like the corridors and storm water drains that put their lives at risk, especially when it was raining because there was soil erosion that covered the buildings. Water would seep into their rooms through the windows.

521. Even with the erection of the fence, the residents were not consulted. Had there been proper consultation about the proposed erection of the fence, the residents would not have accepted it in terms of their priorities. Opportunities were not afforded to those who were perceived as being opposed to the Councillor.
522. He believes that the only solution for the problems at Glebelands is to remove the current Councillor. The community believes that the eThekweni Municipality has neglected them.
523. He proposed that the leadership and Councillor must convene regular meetings to discuss issues of concern. There have been several peace agreements at the hostel, but they failed because they were not adhered to.
524. He also recommends that the ANC should afford every resident an opportunity to be able to join it. One of the problems is political power and positions. Those who are perceived as being vocal against the leadership and the Councillor are not afforded the opportunity to join the ANC.

If you are already a member, you are not allowed to attend ANC meetings.

525. The violence is not confined inside and around Glebelands but spreads far and wide. There are many incidents where people were killed elsewhere, but their killings were related to the conflict at Glebelands. In the many killings relating to Glebelands, there have been no successful prosecutions. The witness also recommends that the SAPS must ensure that the information given to them is treated confidentially.



526. A direction was made that no person may disclose in any manner whatsoever his name or address or any information which was likely to reveal his identity. Any person who contravened the direction would be guilty of an offence and liable on conviction to a fine or to imprisonment not exceeding 12 months.

527. He testified on 17 July 2017. He is 45 years and was residing at Glebelands hostel from 1989 until 2016. He left because it was not safe. He is currently employed.

528. He concurred with the evidence of the witnesses who testified before him that the causes of the violence at Glebelands are

politics, power, financial enrichment (linked to power), criminality (warlords and hitmen), failure by the Municipality to properly manage the hostel and failure by the SAPS and Metro Police to properly police the hostel. The last two causes are also based on the findings of the Public Protector.

529. He was a member of the Peace Committee which was formed at the beginning of 2016. It consisted of 20 members plus the Chairperson. The Chairperson was Mr Sibusiso Donda and he was appointed by the current Premier, Mr Willies Mchunu. Mr Donda was usually placed by State organs to assist in places where there was violence. His understanding was that Mr Donda was a mediator.

530. The 20 members of the Peace Committee consisted of what was termed “10 aside” of the Madala Stezi, which was led by block 52, and “10 aside” of block R. Blocks 52 and R were the main blocks but were also representing other blocks in the hostel.

531. The Peace Committee was formed after the Municipality and the police had tried but failed to maintain peace. People continued to die and it was an alternative to try and make



peace. The Peace Committee still exists, but its members are being killed. Mr Donda's services were terminated around February 2017. The residents were informed that Mr Thabani Nyawose from the Municipal Manager's office would take over from Mr Donda. While Mr Donda was the Chairperson of the Peace Committee, it received a lot of positive feedback and recognition. The witness indicated that the Peace Committee is gradually losing power and influence.

532. Everything was fine until the issue of the selling of bed space started and that was the cause of the current conflict and violence between the two main blocks. Bed space is sold at R1,000. It is illegal and irregular for residents to sell bed space, but no action is being taken by the Municipality.

533. Hitmen came into the equation because of the selling of bed space. The hitmen were not involved themselves in selling bed space, but they continued killing people from R block. Selling bed space means evicting someone from a room where the bed space is and replace him with a new buyer.

534. A room accommodates four beds, but because of demand and illegality, sometimes there are more than four

occupants, and in other rooms, there are less than four occupants.

535. After the Peace Committee was formed, it was pledged by the government authorities that no decisions would be taken without the Committee. That pledge was signed between the Councillor, representatives from blocks 52 and R, the Premier and the Mayor. The Councillor was however opposed to the powers that were given to the Peace Committee.

536. The Committee started working and yielded positive results because the killings declined and the people from block R were able to come to block 52 and vice versa. Politicians, including the Councillor, were however not happy with the positive results. There was also a police officer who was residing in block 52 who was not happy with the good relations that had developed between the two blocks.

537. This police officer did not approve of the peace initiatives. The police officer was residing at Glebelands but was subsequently removed. However, he is still involved in what is happening at Glebelands, otherwise people would not continue being killed. The witness believes that the police officer is the mastermind behind the violence and that he

brought an R5 or R4 rifle that was used in the shooting in block R.

538. Money was collected at Madala Stezi and the police officer told the residents that the rifle cost R9000. The policeman called them *iminqundu* and, when he said so, he was making a call to the people who were involved in perpetrating the violence. Those people he was calling were at Westville prison at the time. He was telling them that *iminqundu* had neglected them by allowing peace between the two main blocks.

539. The police officer used to write memoranda and give instructions that they must be read at the community meetings or marches. The memoranda contained names of people that he said must be evicted from the hostel. The police officer would write the memorandum and ask someone else to read it as if it represented the views of the residents of Glebelands, when in fact it was his personal views drafted by him alone.

540. The residents were afraid of him since he was a police officer, but they realised that it would be problematic in future if the problem was not resolved. Several members of the Peace

Committee were subsequently attacked. As a result, the witness left Glebelands because he was a member of the Peace Committee. There were also subsequent attempts on his life.

541. Glebelands is an ANC stronghold. Members of the Peace Committee are members of the ANC. The hitmen are also members or supporters of the ANC. So, the violence perpetrated against the members of the Peace Committee and others is internal within the ANC.

542. Throughout the violence, the Councillor acted as though nothing had happened and he did not even want to be part of the meeting or march where the memorandum was read. That painted a negative picture to the residents because he was supposed to assist them as the person deployed by the Municipality.

543. Money was collected at the hostel to buy ammunition, replenish firearms and to bribe the police to release suspects who were arrested. Based on the information within the knowledge of the residents, the witness testified that some of the hitmen at the hostel are being used for political violence, not only at Glebelands, but elsewhere in the Province.

544. The witness indicated that there are certain blocks at Glebelands that are controlled by hitmen. The witness denied that the violence is influenced by ethnicity and tribalism.
545. The witness believes that the solution to the problem would be to remove the Councillor and to deploy the police officer in question far away, for example at the border. In addition, police officers from outside the area must be deployed to police the area and investigate the cases. The witness remarked that there had been no conviction despite about 19 people having been killed.

### **MARY DE HAAS**

546. The first witness was Ms Mary De Haas. She qualified herself as a registered social worker, holding an Honours and Masters degree *cum laude*. She had been a university senior lecturer in social anthropology and the programme director before her retirement in 2002. She was a violence monitor in the Province of KwaZulu Natal since 1985. She had worked in places like Lamontville at the time when that location was resisting incorporation into the KwaZulu homeland. She had worked with leaders such as the late Rev Mcebisi Xundu.

She worked closely with Professor Paulus Zulu, (who also gave evidence before the Commission) in places like Chesterville, Umlazi and Lamontville. She also worked with Mr Roy Ainsley, a member of the Progressive Federal Party in taking affidavits from people who were being tortured, assaulted and imprisoned by the apartheid police. In about 1987, she started keeping data of the violence. She also worked closely with the Goldstone Commission. From 1990, she did more than just collect data, but also tried to get the police to respond and be proactive in preventing the violence.

547. She obtained funding for a research project based at UKZN project called the KZN Monitor. That allowed them to do some legal work and interventions. It started with the Shobashobane Inquiry where the funders agreed to fund the lawyers for the victims. After working closely with the Goldstone Commission (1990 - 1992), then on the Shobashobane Christmas Massacre (1995 - 1998), the violence in Richmond and the intra-ANC fratricide, she reported on the killings at the Glebelands Hostel. She was also networking with international organisations like Amnesty International to have some action done. There was a huge amount of interventionist legal work done. There was a great deal of political violence after the elections in 1994

and she was involved in different areas to monitor the violence.

548. Ms De Haas testified that the nature of the killings in KwaZulu Natal changed from inter-party killings (1980s to 1990s), between United Democratic Front/ANC aligned groups and IFP supporters, to intra-party killings (2011 to 2017), largely among groupings within the ANC itself and its tripartite allies. She stated that violence of the 1980s and 1990s was state sponsored and was driven by the desire of the Apartheid regime to keep the Province of Natal (as it then was) as a bastion against the ANC and the ANC aligned members of the UDF. She stated that the people who drove the IFP were largely White – the Apartheid regime. She alleges that the people pulling the strings behind the scenes were, for example, Mr Walter Felgate, Mr Ambrosini and General Jac Buchner (head of the KwaZulu Police).

549. In the 90s, the violence was mostly between the IFP and UDF and later the ANC. In the early 2000s, power in the Province was fiercely contested between the ANC and IFP and the ANC won it in 2004. Since then, intra-party violence within the ANC has been on the increase.

550. In the 90s, the violence was mostly between the IFP and UDF and later the ANC. In the early 2000s, power in the Province was fiercely contested between the ANC and IFP and the ANC won it in 2004. Since then, intra-party violence within the ANC has been on the increase.
551. According to Ms De Haas, in order to understand the violence from 2011 onwards, we need to go back to the Polokwane ANC elective conference. There were clear divisions within the ANC in KZN at the time and there was a lot of unhappiness with alleged doctoring of party lists to exclude some members. Ms De Haas stated that her frustration was that no conclusive evidence could be obtained regarding the political violence in order to have successful prosecutions. However, some of the allegations were fairly well-founded.
552. People were excluded before Polokwane. There was militancy, and people feared that there would be more violence. After the said Conference some members of the ANC residing at Glebelands joined the Congress of the People (COPE). There were a few strong leaders in COPE and that came out as being an “*Eastern Cape thing*”. About 2009 there was violence, especially in Glebelands against these COPE



members. Clermont was another area in which there were threats and incidents of violence, including murders.

553. Ms De Haas produced a document which she had compiled listing what she referred to as political killings. (Exhibit B). She, however conceded that not all the killings were political. Some of them related to taxi violence, while others were simply of criminals fighting among themselves.

554. Dr Zweli Mkhize was the Premier in KZN and when he was deployed nationally to the ANC, there was competition over who was going to succeed him. Two divisions emerged then between Mr Senzo Mchunu and Mr Willies Mchunu for the leadership of the ANC.

555. Ms De Haas indicated that over the past years, it has become increasingly difficult to work out what's political and what's not. One can say with certainty that a deceased person was an activist in the ANC, IFP or NFP, or he was a councillor or party official, but sometimes there was no way of knowing whether or not the motive was political.

556. Nevertheless, Ms De Haas has kept data of what she regards as political killings. She made those statistics available to the Commission for the period 2011 to 2017 and they added

up to a total of 80 incidents. She, however, qualified it by saying that her figures should not be regarded as being comprehensive and accurate. She had also excluded the incidents at Glebelands hostel from the said total of 80.

557. In 2014, people were unhappy with the Councillor at Glebelands and they wanted him out because they said there was no service delivery. There were protests in that regard. Those people who wanted him out were ANC members, but some of them had been members of COPE that had returned to the ANC. A lot of the leaders were block Chairpersons and they were involved in bringing a vote of no confidence in the local Councillor at an ANC meeting.

558. An ethnic/tribal label cropped up repeatedly in Glebelands because some of the dissenters who joined COPE and returned to the ANC were from the Eastern Cape, namely, AmaMpondo. AmaMpondo is used to also include AmaXhosa because of the historical context.

559. This resulted in violence at Glebelands. People do not trust the police in general and specifically regarding the confidentiality in treating information. In some of these political killings, there have been arrests. However, one or

two cases are currently in Court. There had not been a single conviction thus far.

560. Ms De Haas alluded to the fact that one of the underlying causes of the killings at Glebelands is politics. There was a concerted effort in the run-up to the 2016 local government elections to field the right candidates in different constituencies in Durban. Many people within the ANC complained that they were being side lined because the candidate selection was a foregone conclusion. You had to be in the right political camp or faction to be selected.

561. The people who were dissatisfied with the then councillor, who was the subject of a vote of no confidence, appealed to the Provincial ANC structures, but they said they got absolutely nowhere. They said they exhausted all the avenues. Ms De Haas believes no action was taken by the ANC because it was essential to get the right candidate in in terms of factions and patronage.

562. Another problem in Glebelands is the unlawful eviction from bed space in rooms under threat of death. If you pay more protection money, you are allowed to stay in the room. There was a whole spate of evictions in 2014. Some of the victims were women who had children. At least two of the women

evicted had protection orders against the man who was effecting the evictions. They went to the police and the police advised them to move out.

563. The underlying motive in some of the evictions was political, in that, those who were targeted were largely block committee members who were regarded as a thorn in the flesh of the Councillor. Some of the women victims were their partners or girlfriends. The other motive for the evictions is financial gain. There is suspicion that the police probably took bribes because corruption at the Umlazi Police Station is fairly well-known. The police were standing back and not intervening.

564. Criminals were taking over blocks from which they would lodge attacks. People in those blocks were paying protection fees. A great amount of money was being made from allocating bed space and rooms. Some of that money was allegedly used to pay hit men.

565. In 2014, a meeting was held with the eThekweni Municipality and the Police. The residents demanded the removal of those criminal elements and indicated that there was a hit list that was being disseminated. Some of the people on it were already killed. Ms De Haas testified that she sent a large

amount of email correspondence about the evictions to the Municipal Head of Housing. He did not seem to know that there were criminal cases to do with intimidation, threats and evictions.

566. According to Ms De Haas, hitmen are a big problem in KZN. This is aggravated by the paramilitary training that was carried on until 2008. Political killings have been execution style. Some of the hitmen who were doing the killings at Glebelands are involved in some of the political killings elsewhere in KZN. The hitmen are not only hired in political killings, but also in taxi killings.

567. Ms De Haas also testified about the KwaMashu Hostel. The KwaMashu Hostel has historically been an IFP stronghold and that dates back to the eighties. In short, her analysis was that when the NFP broke away from the IFP in 2011. That caused tension between the two parties, which led to political violence in 2011/2. The ANC is not dominant at the KwaMashu Hostel. However, when COPE broke away from the ANC, there were reported incidents of political violence between the two parties.

568. There are financial benefits attached to being a Councillor. In all political parties, becoming a Councillor is a way of

enrichment because you have families and connections who set up companies to receive tenders. There is evidence of corruption in municipalities, provincial and national levels in terms of procurement, tenders and kickbacks.

569. Ms De Haas was asked whether the political violence was high or not in KZN, compared to other provinces. She replied that it was difficult to say. However, she alluded to the fact that KZN has a well-documented culture of violence historically. It suited the apartheid regime for black people to kill each other. Therefore, guns were brought into the Province. In her analysis in general, KZN leads the pack in terms of the levels of political violence.

570. She believes that there has not been transformation in policing, if one considers that the Kwa-Zulu police were largely directed by the former apartheid security police. After 1994, the former apartheid police were largely right wing. What was carrying on was a complete lack of transformation. Instead of promoting decent, credible black SAPS members, it was the former Kwa-Zulu police members who were generally promoted beyond their levels of competence.

571. After 1994, a number of former white security police officers were promoted. However, they kept a low profile and were

not necessarily implicated in the TRC process, although some of them were had committed serious crimes. She alluded to political interference in the police, particularly in management nationally and provincially. Many national commissioners without policing experience have been appointed.

572. Traditional leaders are also another problem, in that, very often, the police bow to them in rural areas. Some of the traditional leaders have been warlords or have involved themselves in partisan politics. So, politics is everywhere in policing. However, in some areas, depending on the station management, policing is better.

573. In her analysis and experience, police investigations into political killings are not effective. It has always been problematic and exceedingly difficult to get known warlords convicted. Because of the use of hitmen, it has become worse. She referred to the murder of **Mr Sbu Sibiya**, the ANC's Regional Secretary who was killed in 2011 at his home in Inanda. Everyone she spoke to in the ANC said it was an inside job, because he was unravelling too much corruption. She was informed by someone who knew Mr Sibiya well that the police were doing things improperly. There were arrests, but some key people died or disappeared and a crucial

witness was killed. So, the case was withdrawn against the suspects.

574. Ms De Haas also raised concerns about the allocation of political cases for investigation. Failure to utilise good and experienced detectives with proven track records contributes to police inefficiency in solving cases. Unfortunately, many good and experienced detectives have either retired or left the police. Many investigators try to do their work honestly, but their commanders are corrupt.

575. There are all sorts of intervening variables. Dockets sometimes disappear or statements are often badly taken. Another big problem, including in Glebelands, is that the police make malicious arrests or fabricated arrests, sometimes without enough evidence. This is sometimes aggravated by the collusion of some prosecutors who do not screen cases properly, leading to the withdrawal of the charges.

576. She referred to a policeman who was living in Glebelands and was allegedly bringing in guns there, including an R4 or R5 rifle. She notified the cluster commander in writing and asked him to check their guns registers. She never even received a response.



577. It appears that she has been vindicated by the recent arrest of the said policeman.
578. Ms De Haas indicated that she has been working with the IPID since the early nineties. In her experience, the IPID has been very disappointing. She cited the case of Mr Zinakile Fica, a Glebelands resident who died in police custody while he was being interrogated. The IPID was very lax about the investigation, which dragged on.
579. Ms De Haas also referred to the cases of Messrs Richard Nzama and Sipho Ndovela, both Glebelands residents. Their names were allegedly on a hit list. She wrote to the Police Management who promised to act on it, but nothing much happened. Mr Ndovela was shot dead at Umlazi Magistrate's Court. A couple of months later, Nzama was picked up by the police and tortured.
580. When the IPID took over Mr Nzama's case, the IPID investigator took a very brief statement from him when Mr Nzama was in no fit state to make it. He subsequently made a very detailed statement, giving more detail to the first one, but the IPID did not act on it. A year passed after the

incident, but the identification parade had still not been held.

581. Ms De Haas testified about the murder of Mr Joe Dlamini, a traffic chief who was killed in Pietermaritzburg in 2014. In her analysis, his murder was linked to politics. There was a hit list doing the rounds. She was given the names of the people on that hit list. She was told by inside ANC sources that all the names on that list were in the Senzo Mchunu camp.

582. In response to a question, Ms De Haas alluded to the fact that there is a correlation between criminal syndicates and politicians throughout the world, including South Africa. She disputed that poverty has any correlation to the political killings because there are poorer countries all over Africa that do not have levels of violence that are equal to ours.

583. In her analysis, there are complicating variables. Violence in any form, including political, is also aggravated by the fact that criminals get away with it, and when they do, they will carry on doing it. There is no message of deterrence out there. It is about the fundamental nature of our society - actors that are facilitators, poverty, unemployment, bad

policing, the fact that there are so many guns, etcetera are fuelling it.

584. Another contributing factor is the private security industry. It is common knowledge that there are more security officers than the police. The security industry is very badly regulated. At the time of the Polokwane Conference, there were allegations that there were guns being used from the private security industry. In her analysis, there is a correlation between the private security industry, the taxi industry, politics and political killings. Often, the same security companies guard the taxi industry and politicians.

### **Ms De Haas' Recommendations**

585. (a) Politicians must set an example by competing peacefully and responsibly over positions.
- (b) The police must be reconstituted by identifying police officers who have clean track records and who have done good work.
- (c) Crime intelligence must cease being subverted for political ends and must be reconstituted and empowered.

(d) Experienced and credible people, including retired policemen, must be brought in to train detectives and IPID investigators.

(e) The guns and cache of weapons, still unaccounted for in this Province, must be found and accounted for.

### **VANESSA BURGER**

586. She testified on 17 July 2017. She is a graphic designer by profession. She does community based human rights work in her spare time and calls herself an independent community activist for human rights and social justice. She is a sole practitioner and is not attached to any organisation or political party. Her testimony focussed on the Glebelands hostel as from March 2014 up to July 2017.

587. She was doing community work with other hostels and started off at Dalton hostel in 2008/2009 during the xenophobic attacks. She worked with Mthembiseni Thusi, the Chairman of Dalton hostel who is also the Deputy Chairperson of Ubunye bama Hostela (Hostel Dwellers Association). He then got her involved in issues of other hostels and when a Glebelands man was tortured and killed in police custody, they invited her to assist the family. That is how she became involved in Glebelands.

588. She concurred with the other witnesses that the causes of the violence at Glebelands are politics, power, financial enrichment (linked to power), criminality (warlords and hitmen), failure by the Municipality to properly manage the hostel and failure by the SAPS and Metro Police to properly police the hostel. The last two causes are based on the findings of the Public Protector.
589. She had compiled documents for the Commission entitled “Glebelands Stats”, “List of Deceased” and a “Chart”, to which she referred in her testimony. (Exhibit E). There are 71 blocks altogether at the hostel and they are divided into three, the very old ones, the not so old ones and the new ones, which are family units. There are approximately 22,000 residents.
590. Some of the medium aged blocks are overcrowded and the old ones are grossly overcrowded. People are living in terrible conditions and the level of unemployment is very high.
591. There are collections going on in the old blocks and residents are forced, often at gunpoint, to contribute specified amounts of money and are threatened with eviction if they

do not do so. The amounts may vary but the average is about R50 per person. There is a group of politically connected criminals who move from block to block taking collections. This money is used to purchase firearms, pay for hitmen and bribe investigating officers, prosecutors and magistrates. The number of blocks that are controlled by criminals is 14.

592. Ms Burger stated that the underlying causes alluded to above are interlinked. From 2014 to date, they had connected 89 killings throughout the Province to Glebelands hitmen or their associates. There are also 6 additional deaths that are unconfirmed but are strongly suspected to be linked to the same hitmen and their associates. That also includes people who have died of stress related illnesses brought on by their violent eviction from Glebelands.

593. Many of them became unemployed because of the violence. They were starving, developed health problems and died. Seven of them reported that they had been tortured by the police and two of them had since died. Five of them are being investigated by the IPID. One of the tortured victims was a woman. Nine people reported that they had malicious or fabricated charges brought against them and were either acquitted or had these charges withdrawn.

594. Ms Burger also referred to the findings of the Public Protector regarding the failure of the Department of Social Development to fulfil its responsibility to the victims of the violence at Glebelands.
595. Ms Burger further stated that in 2008/9 there was political conflict involving the ward councillor at the time. He orchestrated violence against COPE members and members of the block committees who had been raising concerns about service delivery and corruption. A lot of questions were being asked about the allocation of rooms in the new blocks. The people that were asking questions were members of COPE and were then targeted with violence.
596. From that time, there was unhappiness with the Ward Councillor and the ANC BEC. A vote of no confidence was passed in the BEC and the Councillor, an ANC member, who was asked to resign in 2012/3. The unhappiness was not limited to Glebelands but extended to the informal settlements surrounding Glebelands. The community leaders started mobilising the community, leading to protests.

597. The issues were escalated through the ANC structures and the Municipality, but no action was taken. Eventually, as the protests intensified towards the end of 2013, the Councillor's office was burnt down. Immediately, the Municipality allocated the Councillor 24-hour security and bulletproof vehicles at a cost of R230 000.00 a month to the ratepayers.
598. Early in 2014, there was a meeting that was attended by the community and leaders from the informal settlement. Most of the top ANC leaders from the Province attended.
599. Ms Burger further disclosed that a warlord was working with a police officer from Durban Central SAPS and had brought in hitmen. He recruited and armed them and housed them in some of the rooms from which residents had been evicted. That policeman was also staying in Glebelands and brought firearms, including a rifle. That policeman was reported in writing to the police at provincial and national levels, as well as to the IPID.
600. The hitmen were used to kill members of the block committees and many people were killed. The block committees were instrumental in mobilising the community in protests relating to service delivery and perceived



corruption. They were thus perceived to be mobilising against the Ward Councillor.

601. She agreed with the view that the hitmen that are housed at Glebelands are also used all over the Province not only for political killings, but also taxi assassinations and other crimes. If you need a hitman, you go to Glebelands.
602. Ms Burger made an example of the late Mr John Mchunu, who was a Regional Chairperson of the ANC. In 2008, he apparently invited Councillors who had hostels in their wards to a meeting. He said that the hostel budgets were going to come out soon and he suggested that they must start their own businesses for construction, cleaning or security, and many of them did.
603. Glebelands has always been an ANC stronghold. Corruption is very easy to conceal when there is no opposition looking over your shoulder. There are allegations that contracts are awarded to politically connected individuals at Glebelands. In that way, the violence becomes self-sustaining, because the more violence there is, the more you can justify contracts for security and the installation of CCTV cameras.

604. According to Ms Burger many of the “*developments*” that have been embarked upon at Glebelands are illogical. It was important that the Councillor be retained in that position so that the contracts could be pushed through with no difficulty. A portion of the funds were allegedly channelled to the ANC provincial coffers.
605. On the effectiveness of the police, Ms Burger stated that the police are not “*clean*” and that they are actively involved in some cases. The police are not politically independent. The whole problem is about politics and money. From the Provincial Commissioner down, there is interference with good police officers that have been trying to do decent work.
606. Cases were interfered with and fabricated statements were found in dockets, including statements from people that did not even exist. The police at Umlazi SAPS, which is right next to Glebelands, are discredited in the community’s eyes and have no credibility. Most of them have proved to be corrupt. There is evidence of their involvement in many instances of torture, theft and damage to property. The ones who are trying to do their work properly are “*sort of politically smacked down*”.

607. She made an example of Mr Zinakile Fica, a block committee Chairperson, who was taken by the police to a satellite police station near Isipingo and was tortured. He died in police custody and the matter was reported to the IPID. There was interference from the police at that time to try to mess up the case. Despite the IPID's involvement, there had been no progress in the investigation. Ms Burger alleged that the IPID was basically dysfunctional.
608. She also referred to the example of Mr Sipho Ndovela. He had been receiving death threats for some time. He was a witness in a murder case and had witnessed a warlord's involvement in Mr Fikile Siyepu's murder. He made a statement to the police about what he had seen and was targeted because he was a witness. So, he was taking a huge risk by trusting the police and thought they would protect him. He was never offered witness protection and the police lied that it had been offered to him.
609. Ms Burger, Mr Ndovela and the community leaders were begging for him to be placed in witness protection. He had a fabricated case of attempted murder brought against him. There were many people at Glebelands that were targeted, and malicious charges were fabricated against them. So, Mr Ndovela appeared in court as an accused and his case was

withdrawn at Umlazi Magistrate's Court. Ms Burger was on her way to fetch him from court when she was informed telephonically that he had just been killed at court. The police had failed to protect Mr Ndovela.

610. She believes that there is political interference in every government department in KZN and nationally.

611. Due to the high level of unemployment in hostels, in 2006, the residents asked the municipality if they could not start their own cooperative to service the needs of the hostels by doing small repairs and maintenance jobs. The municipality did not like the idea because it was going to take away the self-enrichment and if the violence stopped, that would also cut off the money from tenders. A lot of residents have been saying that they are making money from their blood.

### **Ms Burger's Recommendations**

612. (a) The ANC must learn to listen to the community.  
(b) Remove the Councillor.  
(c) Disband the BEC as it has no legitimacy.

(d) All the police that have been implicated must be investigated, but must be suspended in the meantime and removed from the area.

(e) The police and the IPID from national level must take over the investigation of cases together with dedicated prosecutors.

(f) The cases should be removed from Umlazi Magistrate's Court and transferred to Durban Magistrate's Court.

(g) As per the Public Protector's recommendations, the evicted people must be provided with alternative accommodation.

(h) Visible policing must be deployed on the ground to do patrols between the blocks.

(i) There must be public engagement and participation in resolving issues.

(j) The security company, Secureco, that was contracted by eThekweni municipality must be removed from the hostel as two of its employees have been involved in murders.

(k) Employees of contracted security companies must be vetted at both local and provincial levels.



613. A direction was made that no person may disclose in any manner whatsoever his name or address or any information which was likely to reveal his identity. Any person who

contravened the direction would be guilty of an offence and liable on conviction to a fine or to imprisonment not exceeding 12 months.

614. He testified on 23 May 2017. He has been residing in Glebelands hostel for 31 years. He confirmed that the residents of Glebelands have been working with Ms Mary De Haas and Ms Vanessa Burger for many years regarding the violence at the hostel.

615. He concurred that the causes of the violence at Glebelands are politics, power, financial enrichment (linked to power), criminality (warlords and hitmen), failure by the municipality to properly manage the hostel and failure by the SAPS and Metro Police to properly police the hostel. The last two causes are also based on the findings of the Public Protector.

616. He believes that politics is the root cause of the situation in Glebelands. For purposes of voting, Glebelands falls under ward 76. The ANC is the biggest and dominant party at the Hostel. There is also the SACP which is in alliance with the ANC and SANCO. Years ago, some members left the ANC and joined COPE. However, COPE is no longer active at Glebelands.

617. The witness is a member of both the ANC and SACP. He was once an executive member of the ANC and is currently the Secretary of the SACP. The current Councillor at Glebelands is serving his third term of office.
618. The relationship between the SACP and ANC leadership in Ward 76 is not good. The witness dealt with the history of contestation for power between two comrades. One of them is Mr Vusi Zweni. He and other comrades left the ANC and joined COPE. After some time, some of them returned to the ANC. However, Mr Zweni did not return. The persons who returned were marginalised in the ANC and referred to as criminals.
619. That led to the existence of two groups, the so-called criminals and non-criminals. The two were at loggerheads giving rise to hostility and division. There was also no unity and working relationship between the SACP and ANC.
620. A meeting was held on 7 August 2013 at Megacity, Umlazi. Mr Willies Mchunu, who was then the MEC for Transport and Safety, decided to convene that meeting. It was attended by the ANC and SACP. The witness was the Secretary of the

SACP at the time. The leaders who attended included the current and former Mayors of eThekweni Municipality and the then Regional Secretary of the ANC.

621. The causes of the problems in Ward 76, of which Glebelands is part, were discussed. One issue was the acceptance of the persons who had returned to the ANC and the resolution of political disputes and grudges among comrades. The other issue that was discussed was AGMs, where the leadership is nominated. It was agreed that all members of the alliance must be invited to those AGMs to give support to one another.
622. The other matter related to meetings of the Alliance. It was agreed that the Secretaries of the parties must meet and discuss the agenda for those alliance meetings. One of the resolutions was that no party should be regarded as being dominant. There were 11 resolutions that were taken, but sadly none of them were implemented.
623. That failure to implement has a bearing on the political conflict and violence in Glebelands. The then Regional Secretary of the ANC denied that the resolutions were even



taken. Mr Willies Mchunu asked the witness to make copies of the resolutions so that the ANC would relook at them.

624. The witness did, but he was disappointed because the ANC branch Secretary did not show up at the meeting that was scheduled. He then called him and went to his room to give him the resolutions. They were supposed to discuss them, but unfortunately that did not materialise because the ANC branch Deputy Secretary came and took the Secretary away, apparently to meet the police. After that, the resolutions between the parties were never discussed.

625. The witness alluded to the fact that even they, as the leadership of the SACP, did not accept the comrades who had returned from COPE until an SACP AGM that was held. At that SACP AGM, Ms Judy Metkins pointed out that what they were doing was wrong and persuaded them to fully accept the comrades. After that AGM, they sat down with those comrades and stopped marginalising them.

626. The Councillor was not enamoured of the fact that the SACP was henceforth embracing those comrades who had returned from COPE. There was a dispute between the Councillor, on the one hand, and Mr Zweni and the members

who were regarded as working with Mr Zweni, on the other. The witness believes that the cause was the political contest between the Councillor and Mr Zweni. Both were Chairpersons and Councillors of the ANC at different times.

627. A memorandum, dated 13 November 2013, was compiled by the community and addressed to the eThekweni Municipality Council. It contained grievances regarding the Councillor and other issues at Glebelands. Point number 7 stated “*The Councillor that we nominated, we do not need him anymore because he is disorganising us, but the council is pushing him down our throats*”. However, the eThekweni Council did not do anything regarding the community’s unhappiness about the Councillor.

628. It was further stated in the memorandum that the community wanted to be part of the development at the hostel, specifically the building of new blocks. There was violence, and people were fighting when the rooms in those new blocks were allocated.

629. Politics, power, slates and conflict have a bearing on the violence at Glebelands. He mentioned two of the many victims of the violence. The ANC branch Chairperson, **Mr**

**MBONA** was fatally shot. Mr Mbona was not a biased leader and he consulted all the comrades in his leadership. By so doing, he was regarded as a hypocrite by some because of his all-inclusive manner. He believes that Mr Mbona was killed for political reasons.

630. The second example was **Ms ZODWA SIBIYA** who was killed in April 2016 at Glebelands. She was a principled person who stood for what she believed. She believed in unity and was active in uniting people. She was a member of the ANC and SACP.

631. The community saw her as an appropriate person to lead their development and upliftment. She also consulted with the comrades who returned from COPE and was consequently perceived as a hypocrite, just like Mr Zweni. The witness believes that Ms Sibiya was also killed for political reasons.

632. He heard that someone was arrested for Mr Mbona's murder but did not know whether anyone had been prosecuted and what had become of the case. There was no arrest regarding Ms Sibiya's murder.

633. He alluded to the fact that the community does not trust the police and the manner in which they investigate cases of violence at Glebelands. In substantiation, he referred to the incident of Mr Fica who died at the hands of the police, as well as Mr Sipho Ndovela, who was a State witness. Mr Ndovela was taken by the police to Umlazi Magistrate's Court and was fatally shot there. The community also does not believe that the police treat information confidentially.
634. The witness stated that the problems at Glebelands can be resolved if the senior political leadership of the ANC does the right thing by ensuring that the ANC and SACP work together within strict structures, lines of authority and procedures.

### **THABISO EMMANUEL ZULU**

635. He testified on 11 and 12 October 2017. He was born in 1981 and resided in Pietermaritzburg. Three days after Mr Chris Hani's murder, a mass march was organised to Market Square. He participated in it and that was the start of his political career. He became involved with the SACP and also joined the ANC Youth League.

636. In 1996, he was elected to the BEC as the publicist of the ANC Youth League. Most comrades had dual membership of the SACP and ANC. At some point, Mr Zulu was residing in Smero where there were self defence units (SDUs). Firearms that were meant for the SDUs were then being used for criminal acts and some of which were organised in his presence, hence the notion of comtsotsis (criminal comrades). He, however, did not participate in the execution of these criminal acts.
637. Around 2005, he became the first Regional Secretary of the ANC Youth League at Dr Nkosazana Dlamini-Zuma sub-region of Harry Gwala Region.
638. An IFP Councillor had died at Kilmore necessitating a by-election to be held in 2005. Certain comrades of his approached him requesting “*material*”, referring to guns. He replied that he no longer touched those things. These comrades feared that they might be attacked by their own ANC comrades.
639. Kilmore was an IFP stronghold but the witness’ comrades were fearful of one another. Those comrades then left and returned with two rifles. The by-election was won by the IFP.

Mr Zulu explained why his comrades feared one another. They believed that those who had lost in the BGM elections were bitter and angry. They feared that the persons that had been nominated would attack them.

640. The negotiations for merging uMzimkhulu into Harry Gwala started around 2005. Night meetings were held by ANC/Youth League/SACP members. They wanted to ensure that the transition was smooth and that uMzimkhulu was not going to be swallowed into KwaZulu-Natal, but that they would become equal partners, both in government and in ANC structures. Those meetings were unofficial as they were not sanctioned by the ANC leadership.

641. The regional office bearers of the Youth League were elected on 20 August 2006 at uMzimkhulu. **MR SINDISO MAGAQA** was the Chairperson, Mr Zulu was the Secretary and Mr Bheki Mtolo was the Deputy Chairperson. The three of them had a very close working relationship. They built branches of the Youth League through sweat and sacrifice.

642. The regional conference of the ANC was approaching, which created a very unstable climate in the region. This was because, as the Youth League, they we were expected to

pronounce on who they were going to support in the upcoming conference. The Youth League supported the views of people who were not in power at that time.

643. The Youth League was expected to influence the ANC in its deployment of persons to municipalities because the Youth League does not deploy. There were two municipalities that were resisting everything the Youth League was trying to do. One of those municipalities was Ingwe Local Municipality, which was led by a Mayor who wanted to attend the conference in the company of armed bodyguards.

644. Mr Zulu and Mr Magaqa objected to him bringing in the bodyguards. They were removed. The Mayor felt humiliated at the conference. He was the kind of person who wanted to be worshipped by everyone. Mr Zulu alluded to the fact that there are currently similar kinds of people in the ANC, who want to be worshipped.

645. The way the Mayor secured bodyguards is the same way things are currently happening in the region. He started the current trend. He obtained bodyguards because the SAPS Crime Intelligence members, with whom he worked, lied.

They drafted a dubious and shady report to say certain people wanted to kill him.

646. According to Mr Zulu, one of the problems in the ANC is that people who have a direct line to senior leaders think they are senior leaders themselves. At some point, certain ANC comrades were spreading false and malicious rumours in the media that Mr Magaqa was a former UDM member and that Mr Zulu was an IFP member. When that strategy failed, the bodyguards and other people close to the Mayor were involved in an attempt to kill Mr Zulu.

647. The other challenge was that the Youth League was raising issues about the security company that was irregularly contracted to guard the Mayor at the time. The things that are currently happening in that regard are the same things that were happening then. The security company in question was Globetech. It is owned by Mr Romeo Mbambo, a former IFP assassin.

648. According to Mr Zulu, that is how the ANC undermines its own people. People went to exile and have been working for the ANC, but when they want protection services, they contract former IFP assassins. Whenever the Youth League



was questioning the appointment of the security company, senior leaders of the ANC at provincial level did not want to discuss the matter because they were benefiting from it.

649. Mr Zulu also referred to Mr Dumisani Khuzwayo, a feared IFP warlord who joined the ANC around 1999. In a meeting, Mr Khuzwayo informed those present that he had heard that the IFP was going to have a meeting and he offered the comrades R4 rifles to use to prevent people from attending the IFP meeting. Mr Zulu told Mr Khuzwayo that he was not going to be allowed to import such an IFP culture into the ANC.

650. There was going to be the National Elective Conference in Polokwane in 2007. There were mumblings within the Youth League that some of its structures were not supporting Mr Jacob Zuma. There were certain individuals who were lobbying quietly for a different candidate of their choice. It was a time of paranoia in the movement. Your name would just be mentioned with people who supported Mr Thabo Mbeki, and you would be isolated and marginalised by other comrades.

651. There is a special relationship between municipal officials and politicians. Politicians make sure that when the term of employment of the municipal officials ends, it is renewed. So, if you “touch’ municipal officials in any way, you are also ‘touching’ politicians because politicians provide employment and officials provide tenders. So, you cannot “touch” any of the two.
652. The Youth League was going to have its next regional elective conference. Certain people came to disrupt it because it was highly contested. The police were there but did not do anything and people were brandishing guns in front of them. They were blocking the gate of the conference hotel with cars. The people who were causing chaos were not even delegates.
653. Delegates were being phoned by the people who were outside, who included REC members of the ANC. Delegates had to get under the tables and take instructions on their phones regarding what to do. Nevertheless, the conference was successful and the elections were not contested.
654. When they were preparing for the ANC regional conference, there were factions in the region. A new culture emerged. BGMs were held in secret places and you would hear that

your own branch had sat. No information would be disseminated regarding such A meeting. You would only hear that a certain person was a delegate. Procedures and processes were not being adhered to and the number of delegates was being manipulated.

655. On the day of the regional conference, Messrs Zulu and Magaqa attended in their official capacities. Both were ANC REC members by virtue of being office bearers of the Regional Youth League committee. They wanted to explain to the delegates that the conference was already stolen through the inflation of the number of delegates. Both were, however, shocked because they were stopped at the gate by political thugs who were brought to the conference and did not allow them to enter.

656. Those thugs were feared because some were involved in cash-in-transit heists and other crimes. They were using weapons to protect ANC members. The conference was presided over by the Chairperson of the Province at the time, Dr Zweli Mkhize.

657. As the Youth League, they maintained that the outcome of that elective conference was irregular. They wrote to the

Provincial and National leadership. A task team was set up to investigate. The task team recommended that the conference must be re-run and the REC must be disbanded. When the decision was communicated to the REC by the PEC, the REC was asked to resign on their own, instead of being disbanded.

658. Mr Zulu believes that the PEC did not disband the REC because they had found new loved ones within the elected leadership. uMzimkhulu was bringing in a sizeable number in the Province and they did not want to offend them. Mr Zulu testified that they were then purged one by one as the Youth League leadership.

659. There was a certain Municipal Manager who was once employed at Kwa-Sani and the REC had deployed him. He was later acting dubiously in terms of his employment. As a result, Mr Zulu checked his credit record and discovered that he had three judgments against his name. The point of the story was that cadres who were deployed were not being vetted.

660. Mr Zulu testified that he is an anti-corruption crusader. He testified about three ANC councillors at Ingwe municipality

who were defrauding SASSA. A letter was written to COGTA at provincial level, but they did not act and these councillors continued being councillors. Every time he questioned their retention, he was told that that they were going to pay back the money.

661. Their issue was also discussed in the PEC meeting and it was said they must be removed, but someone very senior said they cannot be removed because the comrades who were involved in “*Travelgate*”<sup>2</sup> were retained in Parliament and not removed.

662. Mr Zulu testified about a project involving Sisonke Development Agency and K&M Security where a company was given a tender worth R8 million, but it ended up being paid R22 million without variation. They were investigating this project with a certain policeman who was given the documentary evidence. The only thing that was outstanding was to access bank records of a certain account.

663. Mr Zulu and Mr Mandla Ngcobo met with the said police officer to discuss obtaining a subpoena for the bank records.

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<sup>2</sup> This refers to the scandal involving the fraudulent use of Parliamentary Travel Vouchers between 2004 and 2010 in which several Members of Parliament belonging to various political parties were convicted and sentenced to pay fines.

The policeman said they fundraise money which would be put in the docket so that the Magistrate would authorise the subpoenas. They were shocked by this conduct of the policeman.

664. On 6 April 2016, Mr Zulu sent an email to the police at national level and the acting Provincial Commissioner. He was raising issues that he thought were important for the police to look at as the local government elections were approaching. He believes that if some of the issues he raised had been looked at, the killings at uMzimkhulu and Harry Gwala region would probably have been prevented.

665. On 4 June 2016, he wrote a document titled "*Unmandated security analysis on election candidates and the ground picture through the eyes of a civilian*". It was meant for the Acting Provincial Commissioner and the head of Crime Intelligence. The document dealt with issues regarding political killings, the causes and proposals. He set out the following causes: Intra and inter party political intolerance within political parties, political feud which is caused by the scramble for tenders, factions, power that guarantees proximity to and access to State resources. The infiltration of political parties by people in the taxi industry who bring the culture of resolving disagreements through the barrel of

a gun. These people are not only bringing in their culture to politics, but also their guns, hitmen and money to support their criminal acts.

666. Mr Zulu believes that if the police were doing their job properly, we would not be having these political killings. Acting appointments in the top leadership of the police aggravates the inefficiency of the police. Those who are acting do not have serious authority, but always try to please political principals in order to secure permanent appointments.

667. That is why politicians are making everyone to act, so that they will control them like a “yoyo”. Suspend this one, make this one act, remove that one and put another one to act. That results in instability in the whole system. There is a lot of infighting within the police between career police officers, political deployments and the old guard.

668. There is also mistrust between White and Black police officers. Black officers believe that their White counterparts leak information to the DA and the media about ANC leaders when they are being investigated. Their White counterparts believe that the Black ones are corrupt.

669. The police are not networking and sharing information with one another because they serve different principals. Each one wants to get information first so that he will cover up or give it to his principals first. Principals use that information to blackmail others or to arrest their opponents.
670. There has been a pattern. A politician is killed and the police shoot all except one suspect. They did it with **MR SBU SIBIYA** of Inanda. They shot everyone and left only that “*Zulu guy*”. When it was close to trial, a witness was exposed and killed. It begs the question why the witness was not in witness protection. Even if he was not in protection, arrangements should have been made to protect him. The case against Mr Zulu was accordingly withdrawn.
671. Mr Zulu also referred to the case of **MR WANDILE MKHIZE** of Margate. The first police officer who arrived on the scene took the suspect’s cell phone that would have provided important clues and evidence in solving the matter. That cell phone was not placed in the exhibit register at the police station. They delayed the case and when it was close to trial, it was alleged that the policeman who had taken the cell phone had died in a car accident.



672. When Mr Magaqa died, nothing was being said and pressure mounted from the public. It was then the same story. One of the alleged suspects was shot by the police and you would hear funny and conflicting stories about his identity, origin and residence. Those are their tricks to ensure that the masters are protected and not revealed.
673. Mr Zulu alluded to the fact that this was being done deliberately because political masters are pulling strings of the puppets, including the police. It cannot be possible that in Harry Gwala region so many people are murdered at uMzimkhulu and the police do not get any signal. He was referring to Messrs **THOBELA, TSHIBASE, MAGAQA,** Mncwabe and others.
674. He then dealt with the true culture of the ANC in that it is not inherently corrupt but opposed to corruption. Fighting against corruption is implementing ANC policies. Instead of being victimised, those who fight it must be hailed as true cadres. The ANC resolved that those who are facing serious charges must not hide behind the principle of presumed innocent until proven guilty in a court of law.

675. The good name of the ANC must not continue to be tainted and brought into disrepute by those who are accused of serious crimes. They are all expected to step down from their elected positions until they have cleared their names in court.
676. The other problem is the Private Security Industry Regulatory Authority (PSIRA). It is a useless body that is supposed to regulate private security companies. The bodyguards of most politicians are known criminals and *izinkabi* (hitmen). Mr Zulu referred to a video clip that was circulated recently in the media showing people carrying an AK47 rifle.<sup>3</sup>
677. Security companies are employing people who are not properly accredited. Mr Zulu referred to a known robber who had served 15 years imprisonment. He had become the bodyguard of a senior ANC official in the Province.
678. The bodyguards of a controversial and notorious family who were working at a certain taxi rank approached a certain councillor. They said they could make a plan if he wanted them to be his bodyguards. He was a new and young

councillor who did not have bodyguards. They said they would just shoot his empty car so that the police would see that he had been fired at, then the municipality would provide him with bodyguards.

679. He alluded to the fact that the security risk of certain councillors was staged and faked in order for security companies to obtain tenders to guard them.

680. Mr Zulu then testified about his discussions with Mr Magaqa about suspicion of corruption at the uMzimkhulu Municipality regarding the Memorial Hall. Mr Magaqa suspected that funds pertaining the hall were being looted. Mr Zulu presented documents that purportedly substantiated their belief regarding the alleged corruption. He believes that Mr Magaqa was murdered because he was questioning and exposing the alleged corruption.

681. Mr Zulu linked positions and power in the ANC with positions and power in municipalities. He indicated that the killings are motivated by that aspect. These days, getting a position means you are going to have a better life. The understanding is that being the chairperson of a branch gives you a chance of becoming a councillor.

682. Being the chairperson of a region gives you a chance of becoming a District Mayor. Being in the PEC gives you a chance of becoming a Mayor or an MEC. Being at national level gives you a chance of becoming a Minister or something else.
683. He testified about what he regards as the “gang of three” at Harry Gwala region, namely Messrs Zamo Nxumalo, Mluleki Ndobe and Amon Zondi. When the three started having disagreements, comrades started to be killed and to acquire bodyguards. He believes that the conflict in the region has a bearing on their disagreements.
684. It is a known fact there are many guns in KZN. That fact was confirmed by people like Messrs Eugene de Kock and Phillip Powell. Other guns from the mutiny that happened in Lesotho ended up in South Africa. Those guns have never been found and it is imperative that they are found.
685. Mr Zulu alluded to the fact that socio-economic factors and lack of education and skills have a bearing on the killings. A councillor who lacks basic education gets elected into the executive committee. He is expected to understand policy

directives of the municipality and to give direction to an official who has tertiary qualifications, for instance, the Municipal Manager.

686. The easiest way of escaping poverty is being a councillor. It changes your life overnight in terms of lifestyle. Getting a position in the ANC at various levels also secures you a higher lifestyle. Mr Zulu doubts if there are any REC members who are unemployed. Even if there is no post, one is created for you because “*society is not going to respect an unemployed leader*”.
687. On the question of solutions to the problems, Mr Zulu had the following to say. Former President Mbeki used to say that comrades must rise wherever they are and try to correct things. Comrades in the ANC must not keep quiet but must raise their voices. Democratic centralism in the ANC does not mean that an individual must be worshipped. However, he believed that was exactly what was happening at the time he testified.
688. The ANC needed to be cleaned up and cleansed by its members, who must be prepared to lose everything for its sake. Mr Zulu believes that the ANC can still be saved and

restored. The ANC did not allow its councillor to leave the community that elected him to live elsewhere in the city. An ANC that is accountable to its members says the councillor must remain in the community that elected him.

689. Mr Zulu made an example of his comrade Mr Mandla Ngcobo, who sat next to him when he testified. Mr Ngcobo lost everything, but he remained steadfast, resolute and was prepared to work and fight. He was once a Deputy Mayor and also a Speaker. All those perks are gone, but he still stands for good principle in which he believes.

690. However, that does not mean that people must wear rags in poverty. The point of the matter is that freedom for some is freedom for none. People must be capacitated to survive and the spirit of *ubuntu* and sharing must be revived.

691. Mr Zulu disputed the suggestion that there is a third force. He maintained that people are being killed by their own comrades. These are targeted, calculated, cold blooded, ruthless assassinations of comrades by thugs who are hired by their own comrades in the ANC. Those who are claiming that there is a third force must explain what the term means.

Comrades are killing each other because they want tenders and are contesting positions.

**MPHUTHUMI BARTHOLOMEW MPABANGA**

**(UMZIMKHULU MUNICIPALITY)**

692. On 11 December 2017 the Commission heard the evidence of the above-mentioned Mayor of uMzimkhulu, who was accompanied by a delegation of officials of the Municipality, who comprised Mrs Sindi Nkala, the Deputy Mayor, Mr Mzweliphansi Sikhosana, the Municipal Manager, Mr Xolani Tshazi, the Chief Whip, Ms Nokuthula Nduku, director of corporate services, Ms Thembakazi Ngcemu, Chief Finance Officer, Ms Khumbuza Dweba, director for structure and engineering and Mr Thulani Cele, Deputy Manager, planning, housing and LED.
693. Mr Mpabanga testified on the basis of a written submission, which was handed in as Exhibit X.
694. He told the Commission that in the 2011 Municipal elections the ANC, of which he is a member, won the elections with a considerable majority. The seat distribution was as follows: ANC – 37, NFP – 2, IFP – 1.

695. Upon the resignation of the Speaker, Mr **KHAYALETHU THOBELA** was elected as the new Speaker. The Municipality ran smoothly until the end of its term in 2016. The Municipality's financial affairs were properly administered and they received unqualified audits for the financial years 2012/2013 and 20113/2014. They also received awards from the Premier's Office, COGTA and CIGFARO as one of the best run Municipality.
696. During the 2016 Municipal elections the ANC won 38 seats, the AIC one, the DA one, the EFF two, the IFP one. The Municipality received further awards from the Premier.
697. Mr Mpabanga then dealt with matters that gave rise to political conflict. He attributes this to a contest between Mr Khayaletu Thobela and Mr Zamo Nxumalo for the Chairmanship of the region, which Mr Nxumalo won. Out of that arose two factions, one supporting Mr Thobela and the other supporting Mr Nxumalo.
698. With regard to the events that preceded the murders of Messrs Thobela, Tshibase and Magaqa, his version accords with that of other witnesses and it is not necessary to repeat it herein. However, he disputes Mr Thabiso Zulu's evidence with regard to the alleged corruption related to the Memorial



Hall. He produced documents which tend to dispute Mr Zulu's evidence.

699. Fortunately, it is not necessary to resolve the dispute between the two men. It is common cause that there were factions in the ANC at the Municipality. It thus appears probable that the death of the three above-mentioned ANC comrades was connected to the said factionalism.

### **EDWARD SENZO MCHUNU**

700. He testified on 20 September 2017. He originates from Hlabisa but is currently residing at Empangeni. He has a teachers' diploma and a degree in education from the University of Zululand.

701. While he was a student at the University of Zululand in 1983, they were informed that the IFP was going to come to the university to commemorate King Cetshwayo. As students, they had a different view of that commemoration. They rejected the notion of a commemoration and saw it as a kind of invasion and as a kind of an activity that would, *inter alia*, deal with them because they were perceived as hotheads.

702. Indeed, that commemoration left five university students dead. The occurrence confirmed their perception that it was no ordinary commemoration as it ended in a tragedy.
703. While at university, the students went on strike against bad food. The university was closed and the students were sent home. After a few weeks, the university was re-opened and he received a telegram advising him that he was being denied permission to return to the university.
704. He subsequently met the current Deputy Chief Justice Raymond Zondo, who was then serving articles of clerkship. He advised him that he was one of ten students who had been expelled. They were subsequently represented by the Durban Legal Resources Centre to fight the expulsion. They won the case and were reinstated.
705. The following year, the university was closed again. Upon re-opening, he again received a letter expelling him from the university. When he asked for a testimonial from the university, he was informed that his files were “*red*” and that he did not qualify to get it. It became apparent that

he was one of the students whose names were in the university's bad books because of their political activities.

706. Mr Mchunu has been a member of the ANC since 1990, but had associated himself with the organisation long before joining it. He became the first Secretary of the ANC Ngwelezane branch in 1990. In the same year, he became the interim Secretary of the region which was then called Northern Natal.
707. At the end of 1990, he was elected full Regional Secretary. He left teaching in March 1992 and became full time Secretary of the Northern Natal region. He became the first Secretary of the Province after the amalgamation of the regions in December 1994 up until 1996.
708. At the end of 1996 at the conference, he was asked by the ANC nationally not to avail himself to stand as Secretary. This had nothing to do with him personally but was a mechanism to resolve a problem that had arisen. The provincial Chairperson at the time was Mr Jacob Zuma. Mr Mchunu accordingly complied with the directive of the ANC.

709. In February 1997, he was requested to join the Legislature, which he did. The following year, he was elected Deputy Secretary of the North Coast region for a year. In 1998, he was elected Deputy Secretary of the Province until 2005. He was then re-elected as Provincial Secretary.
710. In 2009, he was appointed MEC for Education and relinquished the position of Provincial Secretary as a result of being appointed MEC. He then became a co-opted member of the Provincial Executive Committee. In 2013, he was elected as Provincial Chairperson of the ANC, replacing Dr Zweli Mkhize.
711. Mr Mchunu later became the acting Premier and was later appointed Premier in the same year, 2013. In 2015, he lost the contest for the position of Provincial Chairperson but remained as Premier. In May 2016, he was “*fired*” as Premier.
712. Mr Mchunu proceeded to express his views of the underlying causes of political violence in the Province. The violence in the Province in the form of pre-colonial wars, colonial wars and apartheid oppression related

violence, is part of the overall recorded history of our country.

713. The late 1980s stand out as a period of intensified violence in the Province. Violence in this period took the form of the murders of targeted politically active individuals with both Griffiths and Victoria Mxenge as the most remarkable of those who were politically active and were targeted. Griffiths was murdered in 1981 and Victoria was murdered in 1985.

714. The killings appeared to be State driven and directed at anti-apartheid activists, trade unionists, political activists, academics and students. People were targeted in these categories at various periods, but the collective perception was that the State was behind these targeted killings.

715. The State security apparatus, mainly the police, and other assassins were often in the frontline in the mass attacks and murders. Towards the close of the eighties and beyond, and pursuant upon the unbanning of political organisations including the ANC, the State exacerbated and fully exploited differences between the UDF affiliates,

on the one hand, and the IFP, on the other. They were fully conscious of the existence of these political formations in KZN, in particular.

716. They knew the sentiments that were shared by all of them and the feelings they had about each other and they added fuel to the differences between them and exploited those differences to consciously fan the fires of violence. When the ANC and other organisations were unbanned in 1990, the Province was already on fire.

717. Kwa-Zulu Police were very visible as an extension of the State security machinery and were highly involved in the political conflict in the Province. Examples of a few large-scale incidents of violence are the seven-day war in Pietermaritzburg in March 1990, the Shobashobane Massacre on Christmas day in 1995 and the killing fields of Mandeni, Macambini area.

718. In this conflict the ANC always felt justified in defending itself and its cause. The establishment of self defence units was justified because there would be individuals, families, villages and townships that would be targeted for

assassinations or mass killings for their known sympathy with the ANC.

719. The State and its machinery was the enemy against which the ANC needed to defend itself. In the ANC's eyes, the IFP was never an enemy and the ANC always looked beyond it. The ANC always looked at itself and the IFP as victims of a State driven conflict and resultant violence. The Kwa-Makhutha case involving Mr Magnus Malan, the then Minister of Defence, are useful pointers as to where the violence was masterminded. It was masterminded neither by the ANC nor the IFP.

720. On the other hand, the IFP felt that it was under attack from the UDF and later on from the ANC. There was a proliferation and distribution of firearms and ammunition in the Province. KZN is the only Province that ever received seven tons of arms and ammunition at one stage, as such information was made public.

721. It was the State and its machinery that was distributing those arms. It gave them to the Kwa-Zulu Police and paramilitary formations that had come to the fore. In hindsight, the ANC and IFP could have averted this heavy

conflict if they had not pointed fingers at each other, but perhaps had more discussion, understanding, and interaction. Perhaps there was not enough time dedicated to this cause and there was no space to deal with it fully.

722. The ANC does not accept what is termed “*black on black violence*”, which happened in the eighties and nineties, given that the State machinery and its apparatus was in the driver’s seat of the conflict.
723. From the beginning of 1997 though to 2011, political killings remarkably decreased, surging only around particular periods, namely, during general and local government elections.
724. The peace processes involving political parties, churches, non-governmental organisations and prominent individuals played an important role in changing the situation for the better. That was from 1994 onwards. There has, however, never been any organised big dialogue to intensify and consolidate peace involving the same people.



725. From 2011, political killings in the Province took a new turn. The phenomenon is within and around the ANC. Local politicians are the victims and this is on the increase. In the main, people who have been targets are councillors and potential councillors, branch leaders of the ANC, including those in sub-regions.
726. There are some levels in the hierarchy of the ANC that are called sub-regions whereby a number of branches are clustered together. Being a councillor is something that is easily accessible, a paying public position for most of the people at local level. You do not need any academic qualification or money to become a councillor.
727. At election time, you can make yourself available and find yourself from a position where you are not receiving any income and you suddenly earn an income. So, it is gradually becoming highly competitive. It is no exaggeration that at any given point, you can find up to 10 people competing to be a Ward or PR councillor in the same area.
728. The competition is very high and it promises double growth. Growth is in terms of your social status. You have

become somebody, all of a sudden you get respected even by people in their social functions. You even become conscious of it in terms of your dress code.

729. If people campaign for a councillor and they win, others get in their inner circle. There are layers, and in those layers, there is a person who would be number one to the councillor in terms of closeness. There is a benefit for you, notwithstanding where you are in the circle, because it puts you next in line. So, you would sooner or later get to be a member of the BEC or in a sub-region or even in the REC.

730. Thirdly, there is proximity to tenders or proximity to power broking within the political power ladder. This in turn brings the possibility to offer employment and other favours. So, when you become a councillor, you are in a close proximity to awarding tenders, either formally or informally, directly or indirectly because you know what is going to come up in your discussions at council meetings.

731. You know what tender is going to be out, where, for how much, and you then informally go to potential interested

parties and inform them. Sometimes conversations can go on to say can you link me up? In all these processes, tensions develop because of competition and the syndrome called “*my or our turn to eat*”.<sup>4</sup>

732. There is manipulation and factionalism within the ANC. When positions are available through manipulation, mostly based on factions, it becomes a factor in potential violence, sometimes which develops into full violence. The benefits from this practice of factionalism and manipulation often take the form of guarantees for continued support.

733. If you are in a position at regional level or even at provincial level as a powerful individual or with a grouping, you benefit when you manipulate and you also benefit via your faction when you manipulate. You benefit from continued support from the beneficiaries of manipulation because you know that things were manipulated in your favour.

734. This manipulation takes place at different levels in line with factional preferences. It includes manipulation of

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<sup>4</sup> Based on the book “It’s Our Turn To Eat” by Michela Wrong – Fourth Estate, dealing with endemic corruption in Kenya.

membership. You know long before time that there is going to be a branch meeting and in order to get to the meeting, you manipulate membership so that the people who get in are those on the list. You manipulate such that those who are in majority are the ones that are going to ensure a particular pre-determined outcome.

735. The other one is via deployment. When there is going to be an elective meeting in a branch, you send somebody and give them a particular brief in terms of what outcome is wanted by whomever. You then design tactics, you will point at a particular person to speak, they will be ready because they have been briefed.

736. You brief the deployed person. Regardless of the actual counting, just be brazen and say it is not correct and then leave, or say it is correct when everybody can see that it is not correct. It also happens by pointing nominations in meetings. You point at nominators, you point at people with a particular understanding that they are going to nominate a particular person.

737. You also do it through counting. You count hands and say so and so has the majority, when actually they are the

minority. You look at people in a brazen way and say this is the result.

738. You also do manipulation through placements on a rationalised list. Once lists have been compiled and they are submitted somewhere at a committee or wherever, you start balancing and you change them. Number one becomes number two or number four and so on. You do it through quorums at meetings. Sometimes you do it via venues. You say in the morning the venue is public works office and a few hours before the meeting, you change the venue.

739. Many people will come to one venue and others will go to another, via social media. Then you go on with the process when others are waiting, or you send them to the one place but you go to a different place. Those who are misled will depend on which faction they are. Sometimes in one branch, you receive two submissions, one saying the meeting never sat and the other saying the meeting sat. We were in such a place and this person was not there.

740. You say the meeting is at 10h00 when it is actually at 15h00 or vice versa. You call a meeting of the ANC, but

then a bouncer enters. A bouncer is a physically big and visible male with intimidating eyes and body who is sent for that purpose. He will take you out of a meeting at the whim of the person who directs him. Sometimes it is a person you have never seen in the area or in a meeting of the ANC.

741. Sometimes you call the Metro police, SAPS, private security or bodyguards with whom you are associated as an individual or faction. You say there are some people that you would need to remove from a meeting. It is a sort of physical gate-keeping because sometimes there are people who qualify to be in the meeting, but because you did not include them on a list or voters' roll deliberately, they are kept outside.

742. The overall outcome of this practice is that some communities are in permanent tension. Some enjoy the result of the manipulation while others decry it and then want to revenge in one way or another.

743. There is a need for strong leadership in the ANC at all levels. In these manipulations, leaders often get compromised by factions. You shift from principles,

traditions, fairness and objectivity and you get compromised and begin to try and justify these wrongs. As the leadership, in turn you succumb to these wrongs and become the underlying cause of the violence yourself.

744. Mr Mchunu also gave his analysis of the violence at Glebelands hostel. These killings started in the 1990s. One contributing factor is the administration of Glebelands by the eThekweni Municipality. Instead of the Municipality allocating and controlling rooms, they are controlled by criminal forces.

745. They make money by allocating a room and by displacing another person. You get killed or in some instances, the person who is willing to pay a higher price gets the room. So, the main driver of killings there is room allocation.

746. Some of the solutions are to build a wall around the hostel and control access at the gate for pedestrians and vehicles. In addition, you still need to fence off each block and control access by using an electronic identification system to enter and exit the gate. Mr Mchunu indicated that these suggestions were agreed with eThekweni

Municipality while he was still in office, but have not been implemented.

747. Lights and cameras need to be put in and around the hostel. That would assist the police in the identification and arrest of wrong doers. Glebelands has also been contributing in the proliferation of illegal firearms and ammunition because of the number of illegal firearms and ammunition there.

748. Mr Mchunu used the recent killings at uMzimkhulu to give his views on the effectiveness of the SAPS. The murder of **Mr SINDISO MAGAQA** was not the first murder in the area. Ideally after the first murder, one would have expected the security apparatus to identify that something was developing in that area. If the security apparatus does not indicate things before they happen, it means we are all blind.

749. After an incident has happened, they should have reacted by analysing what had happened and use the results of such analysis to see whether another incident was likely to occur and then take precautionary measures. If one analyses the Magaqa incident, the perpetrators had to



drive the car for quite some time after the shooting. Everybody would have seen the car and disseminated the information.

750. That talks to the ineffectiveness of the police in coordinating a concerted effort to pursue the culprits, given that UMzimkhulu is a fairly small town.

751. In general, there is a concern about the level at which the State security apparatus, in the form of State intelligence, operates on the preventative side. In other words, on picking up information before things happen. The concern is that we might not be at the requisite level as a country.

752. When you interact with police, very often you get a story of how police depend on crime intelligence and other intelligence, including State intelligence generally. When we look at cash-in-transit heists, very often you get from the media how police were tipped off before the heist occurred.

753. However, on politically motivated killings, the question is what prevents the police from being equally effective. Mr Mchunu then referred to an incident that he had

experienced personally in 2015. Mr Xolani Nkosi was murdered at uMhlathuze Township in Empangeni. He was part of his security team as the Premier.

754. On that particular day, Mr Nkosi was not at work and Mr Mchunu was on official business in Ladysmith until late in the evening. On the following day, he visited Mr Nkosi's home where he was killed. After a few days, he received information that the case was being handled by a police unit based in Pietermaritzburg.

755. Mr Mchunu waited and waited and it became apparent that he was unlikely to receive any briefing. He had assumed that he would be briefed because Mr Nkosi was associated with him as the Premier. He then personally phoned the Minister of Police, Nathi Nhleko, requested to meet him and he duly briefed him. At the time, Mr Mchunu was already hearing some "*political poison*" around Mr Nkosi's murder.

756. Mr Nhleko deployed two senior police officers from the national level to come and take over the case. Mr Mchunu had also approached a private investigator from Johannesburg and he caused them ("the team") to meet

and work together. By the end of their first working day, they had identified a person who had used the Nkosi's cell phone on the first day after his murder.

757. They went to the vicinity of the one who was operating Nkosi's phone and indeed found the phone. They arrested him together with another person who was with him. The team also indicated that they were picking up that the police unit in Pietermaritzburg was of the view that Mr Mchunu was a suspect in Nkosi's murder. The following day, he phoned the Acting Provincial Police Commissioner enquiring if he was indeed a suspect. He said he did not know, but he was going to investigate. The following day or so, the Commissioner emailed a letter to Mr Mchunu saying he was not a suspect.

758. The team required the police docket from the unit in Pietermaritzburg so that the arrested suspects could appear in Court. They asked the acting Commissioner to facilitate, but nothing was done. They never received the docket and the case was withdrawn and the suspects were released.

759. On the second day of investigation, the team had also identified a suspect whom they believed had probably pulled the trigger. The said suspect was in Jozini.
760. Mr Mchunu established that the docket had finally moved from the Pietermaritzburg unit to a police officer by the name of Hlongwane. Mr Hlongwane said he had established that the Prosecutors at Empangeni are the ones who had withdrawn the case against the suspects. Apparently, the junior Prosecutor who was handling the case in court was briefed by the senior Prosecutor to withdraw the case.
761. There was no clear explanation as to why the case was withdrawn. The next time, Mr Mchunu heard that the docket had been removed from Mr Hlongwane and given to the Hawks. When it was taken over by the Hawks, one would expect to see sparks as they are an elite crime fighting unit. Mr Mchunu subsequently heard that a decision was taken to arrest him within five days because he was a suspect, despite the Commissioner's letter.
762. He pointed out that he was relating the story to illustrate his personal experience on how the police sometimes

*“fumble around”* in handling serious cases. Overall, when the State cannot resolve the majority of murder cases, an element of decay sets in and it is not the expectation of the people that the State security apparatus should show signs of decline.

763. Mr Mchunu indicated that when he met the Magaqa family they said they were not willing to share information with the local police and the police from the Province. They were willing to interact only with the police from national level.

764. On a personal level, there was a fabricated suspicion that he was a suspect and the investigation was derailed and resources were wasted. Failure to solve crime destroys public confidence in the police.

765. Corruption breeds anger. When others see that you are benefiting from corruption, they become angry because they feel that they are not benefiting because they are fools and you are clever. In the process, it also causes fundamental divisions in the public sector and community because some defend corruption because they are also benefitting from it.

766. Mr Mchunu expressed his views on the notion that State institutions are being used for political ends. He related to his own personal experience regarding Mr Nkosi. He questioned how the Hawks, which were established to carry the hopes of millions in the country to fight and solve crime, could then become ineffective. It is a painful experience that is shared by many people.

767. Mr Mchunu agreed that poverty, unemployment and inequality would not be resolved in the next few years, but emphasised that those socio-economic problems and the internal weaknesses in the ANC do not justify the perpetuation of wrong doing. Whoever wants to kill and steal, must not find refuge inside the ANC.

### **MR MCHUNU'S RECOMMENDATIONS**

- (1) (a) The ANC must accept responsibility for the violence directly or indirectly and then act accordingly.
- (b) A regular and organised dialogue must be held to intensify and consolidate peace involving

political parties, churches, non-governmental organisations and prominent individuals.

(c) There is a need for strong resolute leadership that does not depend on factionalism for survival.

(d) Uncompromised, consistent and coherent integrity in leaders.

(e) Unity of purpose in leadership.

(f) Communities need to be mobilised on a continuous basis so that they can assist the police in fighting and solving crime.

**SIYANDA RICHARD MHLONGO (VOL 34)**

768. He testified on 12 December 2017. He resides in Groutville Mission, Kwa-Dukuza. He has a Master of Education degree and studied at the universities of Zululand, KwaZulu-Natal, Bristol and Wits University. He taught at the Wits and Zululand Universities.

769. He was a Councillor and Mayor of Kwa-Dukuza and a representative of Kwa-Dukuza within the District Council of Ilembe. He was a member of the ANC and resigned and joined Cope in 2008. He did not stay long in Cope because of some problems and contradictions in the party.

770. He regards himself as a free agent and not affiliated to any political party. He identifies with the ANC ideologically, but not practically, because it has the best policies. He is a believer in the Freedom Charter and regards himself as a social activist. He reads and writes extensively on governance and policies of different political parties, and on interpreting issues and commenting on issues in the public discourse.
771. He believes the killings impact on good governance and paralyse the State in the fight against corruption and the ills of incumbency.
772. He disagreed with Mr Super Zuma's assertion that there is a third force behind the violence in KwaZulu-Natal. He believes **MR MAGAQA**'s killing is part of a broader ANC civil war and it must take blame for his death as a collective.
773. To him, the assertion that the killings are an act of criminality only is not good enough. He saw the death of Mr Magaqa in the same way as the death of Mr Thami Zulu (real name was Boniface Muziwakhe Ngwenya) who was eliminated by some in the ANC. He also saw it in the same way as the killing of Mr Ben Langa, brother to comrades



Messrs Mandla and Pius Langa. Messrs Thami Zulu and Ben Langa were falsely labelled as spies, the same falsehood that was levelled against Mr Bulelani Ngcuka.

774. The ANC and SAPS did not take appropriate action, thus encouraging people to use violent methods to achieve their objectives within and outside the ANC. In his view, the former Secretary-General of the ANC, Gwede Mantashe, made a bizarre statement that “*The ANC cannot stop the abuse of state resources to fight ANC battles*”.

775. In his view, the conditions in which the assassinations occur are important. In the books on MK and ANC by Messrs Ronnie Kasrils, Hugh MacMillan, Stanley Manonga and Thula Simpson, it is revealed that the SAPS used criminals to infiltrate MK. One of them was Mr Joe Mamasela who was part of the criminals who killed Mr Griffiths Mlungisi Mxenge.

776. He dealt with unbecoming behaviour in Parliament. Whenever the EFF disrupted former President Zuma, he demanded protection. But, it was he who created misconduct after he was removed by former President Mbeki

as Deputy President. According to Mr Mhlongo, “*what goes around, comes around.*”

777. He indicated that they were demonised for coming out openly against the heckling of Mr Mbeki in Kingsmead and Harry Gwala stadiums. However, when the EFF uses the same tactics in Parliament, it is labelled as a “*bunch of hooligans*”. He believes that Mr Julius Malema is a product of Mr Zuma.

778. He mentioned what he terms the “*poo brigade*” in Kwa-Dukuza, where it was used against Mr Pravin Gordhan. It is important to note that the misbehaviour of the EFF emanates from what is happening in the ANC. ANC leaders attract criminals into its ranks.

779. When you read about the activities of MK, Mr Oliver Tambo stopped the using of stolen cars to transport arms. He was correct and his intervention was decisive in taking responsibility as the leader, and thus led a morally guided liberation struggle.

780. In his book “*Armed and Dangerous*”, Mr Ronnie Kasrils mentions a debate in the MK camps between Mr Johnny Makhathini and Ms Portia Phila Ndwandwe about the use of

the “*necklace*”. Later, the ANC condemned use of the “*necklace*”.

781. Controversial elements like Mr Berning Ntlemeza and Mr Richard Mdluli have been involved in ANC factional wars. Mr Mhlongo questioned as to who attracts them into the ANC. It is not the third force that does, but corrupt leaders who invite criminals into politics, in general, and, specifically, into the ANC.

782. He believes that Mr Zuma and some are above the law. The reasons why the Scorpions were dissolved was to protect a “*super leader*” in the ANC who does everything to avoid his day in court.

783. Mr Muziwendoda Kunene was instrumental in the creation of hoax emails. He is currently serving 20 years in jail for the murder of a white Ballito property business woman. Mr Mhlongo believes that Mr Kunene is not different from Mr Joe Mamasela and questions as to who invited him into the ANC.

784. After the rape case of Mr Zuma, Ms Fezeka Khuzwayo was forced into exile because she feared for her life as the State

could not protect her. It is now known that Mr Richard Mdluli was involved with Dr Zweli Mkhize to mediate between Mr Zuma and Ms Fezeka Khuzwayo.

785. In today's ANC, leaders who are summoned to court for corruption create a group of friends and manipulate the masses. The pioneer of this strategy is Mr Zuma. Mr Zuma blamed a political conspiracy for his wrongs and weak morals. Mr John Block also adopted the same strategy.

786. Mr Zuma lied so many times in Parliament and the ANC applauded him when he lied and also heckled the opposition. Criminals and thugs see MPs defending thieves in Parliament.

787. What is worse is that ANC MPs who are loyal to the teachings of the ANC are being "*disciplined*" by the party that is supposed to be the moral and ethical vanguard of our society.

788. When preparations were made for the Polokwane Conference, KwaZulu-Natal campaigned for the removal of two papers from the discussion documents, namely "*Revolutionary Morality and Ethics*" and the "*RDP of the Soul*".

The argument was that these documents were crafted by Mr Mbeki and Mr Joel Netshitenzhe to discredit Mr Zuma.

789. Space was opened for “*comtsotsis*” (criminal comrades) to steal with impunity because corruption is not punishable. They see the ANC throwing its moral compass by defending a leader who is on the run from the court.

790. Attempts by the Hawks to fight corruption without fear or favour led to removal of Mr Anwar Dramat, the head of the Hawks. The selling of posts by some in SADTU demonstrates that crime is legitimised and unions can blackmail our leaders.

791. The ANC must do its soul searching and confront its weaknesses. It must stop being rhetorical but take gigantic steps to remove those who are crooked.

792. Mr Mhlongo alluded to selective and politically driven prosecutions by the NPA and cited Mr Gordhan as an example.

793. SALGA and KWANALOGA argued that attractive salaries attract people to become councillors, but Mhlongo believes

that is not the only factor. He agrees with Professor Zulu and Mr Senzo Mchunu that a lack of minimum standards for public representatives attracts everyone to be a public representative.

794. He believes that some in the ANC of today dislike “*clever blacks*”. They rely on factionalism to intimidate those who are a threat because they speak “*big English*”. It is those without a fall-back position that invite criminals to protect their political careers and they are ready to kill for these careers.
795. ANC members kill one another because of careers and closeness to the public purse. Mr Mhlongo made an example of how the Zuma family became instant millionaires and everyone saying “*It’s our time to eat*”. Chaos is emulated at grassroots level.
796. Security and intelligence structures are weak, factionalised and professionalism is gone. Good examples are Mr Mdluli and Mr Ntlemeza. The purging of Messrs Jeff Maqetuka, Gibson Njenje and Moe Shaik indicated the beginning of the crisis.

797. After the trio were expelled, the Guptas were free to influence even the appointment and dismissal of Ministers. This is not happening in India where the Guptas come from. The Guptas left India from a civilian airport but landed at a SANDF airbase in Waterkloof.
798. The book by Mr Jacques Pauw “*The President’s Keepers*” and the one by Mr Du Toit entitled “*Enemy of the People*” deal in depth with the problems about appointments and the type of people that are being appointed. Ms Nomgcobo Jiba protected Mr Mdluli because he was doing dirty work for Mr Zuma.
799. If you have a weak police force, especially the intelligence part of it, you are not going to be able to solve these problems. Secondly, if you have a police force that is factionalised, you are not going to solve these problems. Thirdly, if you have police force leaders that are friends of drug dealers, you are not going to solve these problems.
800. Deputy-President Cyril Ramaphosa supported the dissolution of the Scorpions. Mr Mantashe and SACP’s Dr Blade Nzimande demonised both the Scorpions and former Public Protector Adv Thuli Madonsela.

801. It is incorrect to place these assassinations only in KwaZulu-Natal. The killings started in Mpumalanga and the pattern is the same. Mr Mhlongo indicated that Mr Mzilikazi Wa Afrika's book<sup>5</sup> was a must read by the Moerane Commission.
802. **MR MAGAQA** was alleged to have had a dossier on corruption, just like **MR WANDILE MKHIZE** of Margate. Messrs Bomber Ntshangase and Jimmy Mohlale were killed for the same reason like Messrs Magaqa and Mkhize. In Rustenburg, Mr Moss Phakoe was killed by his comrades for the same reason.
803. All this speaks to the moral decay in the ANC. At the grassroots level masses are misled and manipulated. They get indoctrinated and blindly follow the leaders. Lies are hatched. If power is to be lost, leaders hire killers.
804. Mr Kebby Maphatsoe had to pay Mr Ronnie Kasrils R500 000 in damages for telling lies about him. Mr Malema has conceded that he was told lies about Mr Mbeki. It is natural, lies are not sustainable, but the truth becomes a victor. Lies were told that Mr Gordhan and others are agents

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<sup>5</sup> Nothing Left to Steal - 2014 Penguin Books



of white monopoly capital without giving concrete evidence. These lies were driven by Messrs Edward Zuma, Jimmy Manyi and Sihle Zikalala.

805. Lies were crafted that Messrs Malema, Joseph Mathunjwa and Adv Thuli Madonsela are CIA agents. The ANC faction that took the ANC to Court was represented by Adv Thembeke Ngcukaitobi, a young brilliant lawyer. Mr Zikalala called him a “*counter revolutionary*”.

806. Mr Mhlongo wrote an article in *Isolezwe* disputing this lie by Mr Zikalala. Later, Adv Ngcukaitobi represented the ANC in North West. Lies, vulgar indoctrination and tribalism, pseudo left wing radicalism, mistrust and tension end in thuggery and assassinations.

807. Corruption and “*bling*” has become a lifestyle for public representatives. When you begin to live a lifestyle far above your income, the next thing is to bring in funders who will fund your lifestyle. Those people who are protesting that this person is corrupt are killed because you want to continue living a lifestyle above your income.

808. That is why there is abundance of cash towards conferences in the ANC. The funders of factions are rewarded by being awarded tenders.

### **MR MHLONGO'S RECOMMENDATIONS**

809. (a) The ANC must do self introspection.
- (b) Explicitly detail what political parties and the State must do to inculcate robust, but civil debate.
- (c) Recommend public education on ethics and governance.
- (d) Not to reduce these killings as a KZN problem, but a national catastrophe which was left unattended in Mpumalanga Province.
- (e) All political parties must agree that the correct avenue for any politician who is charged with corruption is for them to face the charges in court.
- (f) Restoration of moral and ethical values that underpinned the teachings of great leaders.
- (g) Election and restoration of ethical leaders across all political parties.
- (h) The SABC must have lessons on moral renewal and ethics in governance as part of public education.
- (i) Public representatives and candidates must undergo security clearance by an independent body.

- (j) Introduction of minimum educational qualifications from President to Councillors.
- (k) Public Representatives caught lying must be subjected to discipline by an independent body.
- (l) More powers must be given to the Inspector-General of Intelligence to probe breach of the code of conduct to avoid politicians from abusing power.
- (m) Insulting and demonisation of judiciary, NPA, SAPS and Public Protector must be criminalised.
- (n) Glorification of arms through songs and displaying of arms must be criminalised.
- (o) Depoliticise the State.
- (p) Fight the politicisation of the security cluster and ensure that it is not used for ANC factions.

### **KwaZulu-Natal Christian Council (KCC)**

810. The KwaZulu-Natal Christian Council (“KCC”) which operates in all regions of the Province appeared before the Commission on the 20 July 2017 and provided us with their analysis on political violence and killings. It was represented by Mr Mxolisi Nyuswa the director of the Regional Christian Council that is based in the northern part of KZN called KRCC. Mr Nyuswa was accompanied by Reverend Sonto

Nkosinathi Manuel Thusi a pastor based at the Thukela Amajuba Mzinyathi Christian Council in Ladysmith.

811. Amongst the work that the KCC does within the Province, it monitors electoral violence throughout the Province before and after elections. With monitors stationed at every corner of the Province, the KCC was able to dissect the underlying causes to be as follows:

(a) that the violence experienced in the Province is not motivated by elections or rather does not flare due to elections in isolation but that there are other causes contributing to the violence. The KCC provided that up until 2009 the electoral violence experienced was mainly inter-political between opposition parties. The trend then changed to intra-political violence within political parties with members fighting for positions such as councillorship and mayoral positions.

(b) that the intraparty conflict observed is mainly based on the competition over tenders and resources.

(c) the public's perception is that financial enrichment is the main driving factor contributing to the killings. People fight tooth and nail to secure and remain in positions.

(d) some of the reports received by the KCC from the monitors deployed indicate corruption is a common denominator underlying the causes of violence.

(e) that political intolerance sometimes contributes to the impeding problem which also speaks to the erosion of *ubuntu* in communities which leads to the taking of a life being an easy thing to do when solving differences.

(f) that the language used by politicians is sometimes toxic and incites violence. That even senior leaders use provocative language when communicating with members of the public which conveys a message that violence is condoned.

(g) the imposition of leaders on the community leads to the elimination of the un-preferred candidates.

(h) Settling old scores and revenge for earlier killings by persons associated with the intended victim.

(i) The elimination of persons who have defected from their political party and joined another.

(j) The failure or reluctance to accept defeat and the accompanying loss of status and income, particularly in respect of people who do not have qualifications or skills.

812. When pressed to give insight on why KZN was experiencing this kind of violence, KCC was of the view that when taking

into account the political history of the country, the Province has always been a politically contested Province yielding much power.

813. On the political history and violent history of the Province, KCC attributed the use of *intelezi* in the past to be contributing to the brazen killings taking place. On the issue of *intelezi* KCC stated “...*the point is not necessarily about whether that is true or not, whether it was successful or not, but it is still the belief that people have that it is because we have intelezi with us and therefore intelezi is still with us, then we have to take it out in a way so that we don’t have violence that is said to be caused by what you have inside there So that’s another cause of violence in the Province...*”<sup>6</sup>

814. The KCC provided the following recommendations to the Commission to prevent future incidents of political killings:

(a) that there be ongoing theological reflections about our democracy;

(b) permanent violence monitoring throughout the Province that will go hand in hand with voter education and democracy deepening;

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<sup>6</sup> Para 13-19, vol 13 at pg 605 of the record .

(c) that traditional leaders have a pivotal role to play by being vigilant in their respective communities and holding political leaders in their communities liable for their actions;

(d) educating political leaders on what it means to be a public servant serving community. The majority of politicians especially at local level serve their pockets instead of their communities;

(e) there has to be continuous engagement with political parties and stakeholders in the form of *izimbizo*, talks and dialogue in an endeavour to establish peace and stability in KZN;

(f) there has been a major decline in morality in the Province which is evidenced by the ease in which people are willing to kill for. A moral revival has to be undertaken.

### **House of Traditional Leaders KZN – Inkosi Chiliza**

815. Inkosi Chiliza is the Provincial Chairperson of the House of Traditional Leaders in KwaZulu-Natal. Before he delved into his evidence of providing the Commission with the Traditional Leaders perspective of the underlying causes of political violence in the Province, he acknowledged that violence started around the 1980's towards 1990. He

attributed the origins for the violence to be that of the fighting and bloodshed spilt between the IFP and ANC. That the country moved into democracy without the two parties involved in the fighting undergoing a cleansing ceremony. He urged the top leadership to consider having a cleansing ceremony because if it is not done, the killings would continue to the next generation as we are currently witnessing.

816. He attributed what is currently being witnessed in the Province as a breakdown of the societal moral fibre in that violence has now become the norm and even young children get exposed to violence from a very young age.

817. He bemoaned the reduced roles of *izinduna* and *amakhosi* in society resulting in communities not having a respected structure of authority. He made an example that, in the past political leaders would not dare go into a hostel and cause chaos because *izinduna* at the hostels encouraged togetherness and unity but now chaos ensues because *amakhosi* cannot visit and speak anymore without being accused of being there on behalf a political party.



818. The proposed recommendations by the House of Traditional Leaders are as follows:

- a) that a meeting should be held between the Traditional Leaders, Premier with his cabinet, and all politicians in the cabinet because the Traditional Leaders believe that the violence and these killings are politically connected and are as a result of the loss of values and self-respect of people.
- b) that *Izinduna* and *amakhosi* should be recognised as having an integral part to play in their communities and local government.
- c) that there should be a cleansing ceremony performed and carried out throughout the Province in consultation with the King accompanied by prayers asking for forgiveness and peace. That the King would on consultation provide guidance on how the cleansing ceremony should be conducted.<sup>7</sup>

### **Ubunye bama Hostela**

819. The delegation of Ubunye bama Hostela (“Ubunye”) appeared before the Commission on the 14 December 2017 and was

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<sup>7</sup> Para 19-25, vol 11 at pg 536 of the record.

led by Mr Mthembiseni Thusi the Deputy Chairperson of Ubunye and also spokesperson for the organisation in Durban.

820. Ubunye is an independent organisation which represents all hostels around Durban (i.e. Glebelands, Wemmer, Dalton, Jacobs etc). Mr Thusi is presently the Deputy Chairperson of the organisation since 2006 when the organisation was formed. As an establishment, Ubunye has members from various political parties but retains its independence from any political influence. Ubunye was established to defend and to fight for residents of hostels and to negotiate on their behalf challenges faced with the municipality since hostels fall under the administration of the municipality.

821. Prior to presenting its evidence, the Ubunye delegation requested to pay its respects to the Zulu King by way of salutation which the Commission granted. It must be acknowledged that the act of paying respect to the king is evidence of the influence, reverence and regard people of this province have for *Isilo*.

822. As already stated, Ubunye is an organisation representing all hostels; therefore, it is no surprise that its evidence was

focused mainly on the challenges faced by hostel residents. They were permitted to testify before the Commission because of the contributions they would make in making hostels more governable which would counter the allegations of hostels being dens for hit-men in the Province. Also due to the killings experienced in the hostels, with some of them taking a political form, their input was required.

823. The failure of the municipality to control the increased number of people in the hostels came up once again and it was submitted that the lack of control and oversight by the municipality led to the phenomenon of selling beds at Glebelands hostel. However, Ubunye is of the view that the issue in Glebelands is not limited to the selling of beds but can be aligned to political and criminal activities. Ubunye expressed the hope that IPID would have made some progress regarding Mr Zinakile Fica's death who was a resident in Glebelands and killed at the hands of the police.

824. In 2015, the King was meant to visit Glebelands and KwaMashu hostels where people had died but unfortunately, that meeting never transpired. Various meetings were held with different structures discussing how hostels, the hardest hit by the killings would be visited but all those meetings

yielded no results due to a misunderstanding with the provincial government because the province did not want the King to be the only person addressing the hostel residents. Ubunye is of the opinion that the Province has failed the people that died in hostels because had the King been allowed to visit the hostels, he would have heard the recommendations to be made by Ubunye.

825. The significance of the role the King can play in the ending the killings experienced in the Province is vital. This important role was explained by Ubunye as, had the King addressed his subjects at the meeting that was scheduled at the hostels most of the killings that took place at hostels could have been prevented. The reasoning for the analysis is that everyone in a hostel comes from a village which has an *Induna* who falls under the authority of the King. Thus, had the King addressed his people, they would have listened.

826. Ubunye proposes that *amakhosi* from the south and north coast be invited to be part of discussions that will look at solutions for the more than hundred people killed in Glebelands because approximately four of the people killed in Glebelands are from the north coast and the majority of them are from the south coast.

827. Ubunye expressed their dissatisfaction with the current status of *amakhosi*, as they have a huge role to play in restoring the dignity of hostel residents and in the manner they behave because the people are from the villages where *amakhosi* have authority.

828. When Ubunye was asked as to what it considers to be the underlying causes of violence in the Province, the delegation stated that people are fighting over public money and positions and the people dying are from one political party, the ANC. Therefore, it is clear they are fighting over power. On whether tribalism and ethnicity have any influence on the killings, Ubunye said the majority of people who have died in Glebelands are from the south (i.e. Eastern Cape) but ethnicity and tribalism cannot be considered relevant because most of the people arrested for the killings are from the south. In short, though the killings in Glebelands are political, tribalism and ethnicity have no bearing on the killings but it is all about fighting over power from within.

829. Ubunye's hypothesis on the killings being linked to poverty is that the people voted hoping they would be taken care of

but that did not happen. As a consequence, poverty does have a bearing on the killings.

830. Ubunye provided the following recommendations to the Commission:

(a) permanent violence monitoring throughout the Province that will go hand in hand with voter education and democracy deepening;

(b) the King should be allowed to visit hostels and he should facilitate a cleansing ceremony at the hostels that experienced violence. Most importantly, the King or his delegation should lead the ceremony of cleansing the hostels of the souls that lost their lives in the hostels.

(c) that since politicians have failed to intervene in the situations faced by hostel dwellers, the King should be permitted and given an opportunity to intervene and solve the problems plaguing hostels because he is not begging for any votes but he is a neutral person.

(d) that the two issues of bed selling and leadership power struggles should be resolved in Glebelands, as those

in power control what happens within the hostel and benefit financially.

### **Abahlali baseMjondolo**

831. Mr Sibusiso Zikode testified before the Commission on the 19 July 2017 in his capacity as the President of Abahlali baseMjondolo (“Abahlali”) which is an organisation not aligned to any political party formed in 2005 to fight, protect, promote and advance the interests and dignity of shack dwellers and the impoverished in South Africa.
832. Abahlali’s members have been victims of political violence in the past years and Zikode detailed to the Commission various incidents in which violence was inflicted on the members by the police.
833. On the 26/27 September 2009, Mr Zikode and his family and other families of the Abahlali leadership were attacked by a group of people who called themselves ANC members. The attacks were also advanced at the Abahlali Youth camp held at Kennedy Road, Clare Estate. During the attacks guns, knives and stones were used to destroy property and to assault people. What astounded Mr Zikode and other

Abahlali members was that the attacks occurred in the presence of the members of SAPS, Public Order Police, Crime Intelligence, Durban Metro Police and other law enforcement officials in broad daylight.

834. Twelve (12) people were arrested for the September attacks and they became known as the “Kennedy 12” but to Abahlali’s surprise, all the arrested were Xhosa-speaking from the Eastern Cape. To add to the amazement, the arrested people were also victims of the attack, who had had their property (*spaza* shops and houses) burnt down and destroyed.

835. The Kennedy 12 were charged with murder among other charges but when the matter went to trial they were acquitted and found not guilty. The Magistrate presiding over the trial commented that the cases were fabricated against the Kennedy 12 and the Court could not rely on the witnesses.

836. After the incidents of attack against some of its members the organisation ceased operations for a period of six months due to the lack of a safe and suitable meeting place. However, what exacerbated the tensions was that two days after the



death of two people, MECs conducted a press briefing at Kennedy, informing the community and celebrating that Kennedy had been liberated.<sup>8</sup> It was after the press briefing that Mr Zikode became a target of the MKVA members due to headlines raising suspicions that he was suspected of killing people. MKVA members and ANC members were allegedly instructed to hunt down and kill Mr Zikode.

837. After the attacks of September 2009, Mr Zikode's life was in danger and as consequence of the threat he faced, he then sought and accepted assistance from Amnesty International and was also offered some protection by the United States Government, through being invited to the United States under the auspices of the International Visitors Leadership Programme. Throughout the intimidation perpetrated against Mr Zikode, the SAPS never offered to protect him. In any event, he didn't have much faith in them as he believed they were somehow involved in the attacks. Mr Zikode also believes that he was being monitored by the police and had an incident where his identity was tampered with.

838. What deepened the rift between Abahlali and the eThekweni Municipality was the court case instituted by Abahlali

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<sup>8</sup> Para 23-25, vol 12 at pg 553-554 of the record.

against the municipality challenging the constitutionality of the Slums Act. The matter went all the way to the Constitutional Court where the Act was declared unconstitutional. The majority members of the Executive Council of eThekweni Municipality and other political leaders around Durban who were not members of the council were unhappy with the outcome of the court case to the extent where a video was circulating claiming that Kennedy Road is the only informal settlement that took the government to court and went against the President of the country.

839. Mr Zikode confirmed that the relationship between Abahlali and local government (especially with eThekweni Municipality) and at provincial level is very bad. The cause of tensions amongst Abahlali and eThekweni Municipality was caused by the uncovering of corruption by Abahlali in the allocation of RDP houses and the outspokenness of the organisation outside the ANC and government structures.

840. **Abahlali members who experienced violence at the hand of the police**

(1) On 15 March 2013, Thembinkosi Qumbela: **CAS 154/03/2013** was killed. He was the local leader working with Abahlali in Cato Crest, Mayville.

- (2) On 26 June 2013, Nkululeko Gwala, the Chairperson of Abahlali was shot at Cato Crest. A few hours prior to Nkululeko's death Zikode had a conversation with him and he told Zikode that his life was in danger due to having uncovered corruption involving high ranking officials at the eThekweni Municipality. Nkululeko's murder was political. Some people were taken in for questioning but Zikode could not recall if any arrests were ever made and to that, Abahlali believe there have been no arrests because of the involvement of high ranking municipal officials. It is believed that Nkululeko was killed for exposing corruption.
- (3) On 30 September 2013, Nqobile Nzuza who was 17 years old at the time was shot and killed by the police at Cato Crest. Nqobile was part of a service delivery community protest (about housing corruption) and was shot on her back whilst fleeing. Nqobile was harmless and unarmed at the time she was shot. The police officer who shot Nqobile was found guilty of murder and his sentencing was scheduled to take place on the 9 October 2017. Abahlali are relieved that the police officer who shot Nqobile has been found guilty and that justice had been done.

- (4) On the same day of 30 September 2013, another young girl Bulelwa Makhwenkana was also shot at the protest, she was also shot from behind while fleeing from the police. Fortunately, Bulelwa survived the shooting but no one has been arrested.
- (5) On 8 September 2013, Nkosinathi Mngomezulu was shot by members of the Anti- Land Invasion Unit, a Unit under the control of the Municipality. Nkosinathi was shot eight times in his stomach with live ammunition. Miraculously, he survived but he is now permanently disabled. The person who shot Nkosinathi is known but has not been arrested and Abahlali believe it is due to him being a municipal official and was acting under municipal instructions.
- (6) On 29 September 2014, Thuli Ndlovu, leader of Abahlali, KwaNdengezi was shot and killed in the presence of her two children and a neighbour's child Siphesihle Madlala got caught in the cross fire and was shot at and was injured. Siphesihle survived but he is now disabled. Before Thuli got killed, she had led a community march against the corruption in the allocation of houses in her area. On the day she was killed she had just returned from Cape Town when she received threatening phone calls from the councillor telling her that her days were numbered

and indeed she died on the day. Three people were arrested and subsequently convicted and sentenced to life imprisonment (the councillor and his gunmen). The perception of Abahlali is that the arrests were only effected because the councillor in question and started killing people within his own organisation (ANC and SACP).

- (7) On 26 March 2017 at Bhambayi, Inanda the Chairperson of Abahlali Blessing Nyuswa was threatened by the current local councillor at an Abahlali community meeting and when shots were fired at Blessing, Banele Manyathi was unfortunately, struck twice. Banele survived the shooting incident. Blessing's life remains under threat and there have been no arrests made for the shooting of Banele and attempt on Blessing's life.
- (8) On 29 May 2017, Jayden Khoza, a two-week old baby was killed by teargas thrown by members of SAPS at Foreman Road in Clare Estate. On the day there had been a protest march by the residents which led to a road blockade away from the residential area but the police left the area where the protesters were and proceeded to the houses and threw teargas. Unfortunately, the baby was sleeping in one on of the houses, he suffocated and died. No arrests have been

made for the death of Jayden. IPID has conducted the *post mortem* but the family has not received any official report. The family has engaged the services of an independent pathologist and the report is still awaited.

- (9) On 13 June 2017, Samuel Hloele of Ekuthuleni in Dassenhoek was shot dead by the Municipality's Anti-Land Invasion Unit. The unit was at Ekuthuleni in Dassenhoek to demolish shacks without a court order authorising them to do so and a violent situation erupted. No arrests have been made for the murder of Samuel. The Anti-Land Invasion Unit acted (acts) on the mandate of the Municipality.

841. Abahlali believe that the police are not independent, that they are being used by politicians to achieve or further political agendas. Abahlali are also of the view that the police act (unlawful conduct) out of the fear of politicians and in the fear of losing their jobs. Further, Mr Zikode expressed a real fear within communities on reporting crime as communities have no trust in the police. He advocated having police from outside the Province to deal with the ills

in the Province as he is convinced that the current provincial SAPS are pressured politically.<sup>9</sup>

842. Interestingly, Zikode is of the view that the training received by SAPS members is sufficient. However, out of fear of politicians and at the risk of losing their jobs, they resort to following instructions contrary to their duty. Political interference not only affects service delivery but the criminal justice system as well.

843. An area of concern that was highlighted by Mr Zikode is that of the language used by leaders which incites ethnic discrimination. When asked of the possible causes for Xhosa speaking people from the Eastern Cape being marginalised and treated differently in the Province, he was of the opinion that it was due to the appointment of leaders with no educational background who have prejudices of believing that a proper human being is a Zulu speaking person.<sup>10</sup>

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<sup>9</sup> There was an incident where Ababhlali's Cato Crest Leader was called by the local Station Commander enquiring if he had been shot and how critical his injuries were. The Station Commander is said to have received instructions from the Provincial Commissioner to check if Mzimela was still alive. It is clear to Abahlali that the police were well aware that Mzimela was going to be shot but took no action to protect him. Mzimela was further warned to stop with the protests. Vol 12 p, 574/575 of the record..

<sup>10</sup> Para 1-9, vol 12 at pg 568 of the record.

844. The ethnic discrimination of the *aMampondo* people is even carried out by some senior officials and high-profile officials at meetings where they would address the gathering by stating that people from the Eastern Cape came here (KZN) to take houses from the locals therefore, they must go back to the land of their origin. Mr Zikode at one stage was accused of siding with Xhosa-speaking people over the Zulu speakers and he almost died. <sup>11</sup>

845. Mr Zikode cautioned that the rhetoric adopted by politicians is very dangerous and what is sad is that they don't recognise their statements to be inflammatory. He acknowledged that a lot still needs to be done to educate authorities as well as communities about the meaning of *ubuntu* beyond the phrase and that the problem must be realised as a societal one.

846. **Recommendations of Abahlali baseMjondolo**

(1) Abahlali as an organisation, support the idea of having investigating officers from outside the Province thoroughly investigating the causes of these political killings. Mr Zikode is of the opinion that the

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<sup>11</sup> Para 12- 20, vol 12 at pg 568 of the record.



SAPS members from the Province are compromised and pressured by the '*paymasters*'.

- (2) That corruption must be reported on and rooted out especially when it comes to the allocation of RDP houses to the beneficiaries.
- (3) The language used by politicians must be one that fosters unity and *ubuntu*.
- (4) That SAPS members, Metro Police and other municipal units must be adequately trained on crowd management and the Municipality should stop purchasing Casspirs and military vehicles with the sole intention of abusing the informal settlement dwellers.
- (5) **NB:** It is unfortunate that the SAPS despite having being given a memorandum that included the list of Abahlali members that were allegedly brutalised by the police, they could not respond to the few cases that led to death of the Abahlali members because there were no CAS numbers provided. The representative of the SAPS delegation stated as follows:

*“from my side I cannot assist the Chairperson.  
We don’t have, due to lack of reference. There is  
nothing from my side.”*<sup>12</sup>

## **POLITICAL PARTIES**

847. The evidence relating to the **Democratic Alliance (“DA”)** has been dealt with above, in connection with the murders of Messrs **MTHULISI NGCOBO, SIBUSISO SITHOLE, SIFISO MKHIZE** and **SIBUSISO SIBIYA**, at paragraphs 460 to 483, above.

### **Vikizitha Mlotshwa (National Freedom Party - NFP)**

848. Mr Mlotshwa, the Provincial Chairperson of the National Freedom Party (NFP) appeared before the Commission on 15 December 2007 accompanied by the party delegation. The NFP presented its opinion on the underlying causes for political violence in the Province.

849. The NFP divided the potential conflicts between political parties as between the NFP and the IFP, the IFP and the ANC, the ANC and the SACP and ANC within the ANC.

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<sup>12</sup> Para 15-21, vol 49 at pg 2972 of the record.

850. A brief history of the formation of the NFP was given, that shed light on the conflict between the IFP and NFP. The NFP was formed in 2011 when it became clear that there were irreconcilable ideological differences within the IFP. The NFP then broke away from the IFP and formed its own party. Since its formation, the NFP has contested two elections, the first being the 2011 local government elections and the second being the 2014 general elections. Unfortunately, the NFP failed to register and participate in the 3 August 2016 local government elections, save for one voting district.

851. On the violence between the IFP and the ANC, Mr Mlotshwa noted that the history of the two parties has to be taken into account and whenever that history is looked at, it cannot be ignored that the bloodshed and the amount of violence experienced in the Province was due to the political conflict of the two prior to 1994. However, he cautioned that the hatred that existed between the two parties did not magically disappear but the two need to iron out their old political differences. The ANC and the IFP need to cultivate a culture of political acceptance and tolerance that would eradicate the arrogance and tendency of violence that exists within their structures.

852. On the conflict between the ANC and the SACP, the political battle between the two parties is said to be due to the eThekweni Municipality's budget of 41.5 Billion Rand. The multi-billion budget of the eThekweni Municipality gives rise to the conflict of the two parties. The struggle to control the city's budget resulted in poor innocent people of Intshanga dying for reasons of greed and hunger for power by the leaders. In order to rectify the conflict between the two parties, the ANC must engage its members in political classes where they will learn that being in power is not about abusing state resources.
853. On the intra-party conflict within the ANC Mr Mlotshwa stated that the ANC members have deviated from the founding principles and values of *Ubuntu* and the teachings of former icons of the ANC, such as Mr Oliver Tambo, Inkosi Albert Luthuli, Dr John Dube, Mr Raymond Mhlaba, Mr Nelson Mandela, Mr Walter Sisulu and Mr Thabo Mbeki, to name a few. That it is unfortunate that the ANC has cultivated a culture of "*it is now my time to eat*". The culture of eliminating whoever stands in your way is rife in the ANC as they kill one another "*left right and centre like nobody's business*".<sup>13</sup>

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<sup>13</sup> Para20- 21, at volume 37, at page 2378 of the record.

854. Mr Mlotshwa noted that the spirit of comradeship no longer exists within the ANC as it used to, now that tender procurement policies, corruption, control over state resources, greed and self-enrichment, looting of state resources has become the order of the day which has in turn made the ANC to be its own enemy. The NFP noted that the ANC's infighting and power mongering is no longer influenced by the battle of ideas or principles and values but now it's all about the looting of state resources to benefit one's self and friends. He attributed the current state to that of ANC inculcating a spirit of arrogance amongst its members in that they are entitled to state resources as if they are the only beneficiaries of the gains of democracy.<sup>14</sup> Local municipalities have become ANC battle fields where comrades kill each other for councillor positions and cover up corruption or perpetuate maladministration to pursue certain agendas. The ANC needs to revisit the issue of cadre deployment and set clear standards and norms as it has created an unbearable condition where experienced and qualified people are compromised in order to accommodate comrades that are incompetent and ineffective.

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<sup>14</sup> Para 5-15, vol 37 at pg 2379 of the record.

855. The NFP also commented on possible conflicts between the SAPS and other state security agencies in that the state security agencies are compromised and are being controlled by certain political masterminds.
856. The NFP identified one of the problems plaguing the ANC, that of electing *izinkabi* and incompetent leaders into its ranks. In its analysis the NFP noted that the ANC's tendency of recruiting well known people who are rude or are *izinkabi* or previously jailed murderers to serve as Branch Chairpersons is compromising the quality of leaders and the behavioural aspect of the members of the ANC.<sup>15</sup>
857. What was of great concern was a report on the release of some inmates by the Department of Correctional Services where the National Intelligence Agency revealed that some of the prisoners to be released had no family structures or homes to go back to. However, these inmates were released without the concerns being addressed and most of them were from the current hotspot areas of Richmond and UMzimkhulu. Unfortunately, ninety-five per cent of the released inmates joined the ANC. The question that needs to be asked is whether the ANC has provided a program of

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<sup>15</sup> Para 6-20, vol 37 at pg 2383 of the record.

integrating them into the party, their families and communities.<sup>16</sup>

858. The NFP is of the belief that the ANC has compromised its values, principles and culture by welcoming members who have not been schooled in the tradition and culture of the ANC. Those members should be inducted into political schools and education.

859. The NFP did have some praise towards the governing party in that the principles and policies of the ANC are good. However, the ANC today is only about politics of the stomach because the newly joined members have not been taught the policies and principles and the way things are done within the party, as most of the hit men and former prisoners are given positions as branch leaders.

860. The concerns raised by the NFP regarding the ANC welcoming or accepting former prisoners into their ranks is a concern that has been expressed by a number of witnesses that appeared before the Commission. Clearly, the ANC accepting within itself people who are not properly schooled

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<sup>16</sup> Para 2-18, vol 37 at pg 2384 of the record.

on the policies and values of the ANC is destroying the organisation.

### **Recommendations of the NFP**

861. The NFP proffered recommendations and solutions to curb the violent killings witnessed in the Province as follows:

- (1) The tender procurement policies and processes have to be revisited and that political heads should be removed from tendering processes and independent credible bodies should be appointed to handle tender procurement and appointments.
- (2) The ANC and all political parties must take their members to political schools for political education. There needs to be a clear line between the government and party politics, so as not to influence government operations.
- (3) There is an urgent need to revisit the cadre deployment within the ANC as basic essential services are being compromised by the quality of people being deployed within municipalities.
- (4) The IEC and COGTA must play an effective role not only during elections but also after elections to



continue with programs such as voter and political education so as to enhance political tolerance and advance the agenda of political stability within the Province.

- (5) The government must speedily implement security measures and recommendations that come from experts on this point of political killings.
- (6) There should be a clean-up and recovery of unlicensed firearms that are readily available in the Province. It is believed that there are a number of unlicensed firearms throughout the Province.
- (7) The police and soldiers should be deployed in all affected areas in the Province for the recovery and destruction of all these unlicensed firearms.
- (8) One of the observations made by the NFP is that the political killings experienced seemed to have the same *modus operandi* in that a person is assassinated whilst entering or leaving their place of residence (which reflects precision and coordination).
- (9) On the question of whether or not poverty has a role to play in these political killings, Mr Mlotshwa commented that "*indeed it is poverty because the economic gap that is prevailing in South Africa, those*

*who have more and those who have nothing*".<sup>17</sup> He went further to explain that money has an influence in the procurement of contract killers. However, it could be argued that greed has a major role to play.

- (10) When asked for comment on the effectiveness of the police in successfully and effectively investigating the political killings, the NFP was of the view that the police are failing to execute their jobs properly and effectively. The NFP was not the only political party that held the same view.
- (11) Lastly, on violence between the NFP and the NFP, Mlotshwa was clear that there have been no killings within the NFP itself but there are tensions that are experienced within the party. However, the evidence set out in paragraphs 436 to 453, above, relating to the murders of Messrs Jimmy Jabulane Lembethe and Isaac Thulebona Nhlebela, seems to suggest otherwise.

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<sup>17</sup> Para 2-4, volume 37, at page 2392 of the record.

## **Inkatha Freedom Party("IFP")**

862. The IFP delegation led by Mr Blessed Gwala, who is the National Chairperson and leader of the Inkatha Freedom Party (IFP) in the Province appeared before the Commission on 19 September 2017.
863. The IFP provided a historical background of political violence in the Province. The IFP attributes blame on the ANC for the killings experienced prior to 2011 against its political opponents.<sup>18</sup> It submitted that the emergence of the NFP did not present new conflict from that experienced in the past. Instead, the conflict between the NFP and the IFP is a continuation of the conflict between the ANC and the IFP. The IFP believes that the NFP at its commencement was strategically funded by the ANC.<sup>19</sup>
864. The IFP is also affected by the political killings taking place and has lost a number of its members due to the violence. There are many incidents that took place prior to 2011. He further stated that the trends of the political violence prior to 2011 remain unchanged in that there is a poor rate of successful investigations of IFP leaders killed resulting in

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<sup>18</sup> Para 3-5, vol 23 at pg 1165 of the record.

<sup>19</sup> Para 21-25, vol 23 at pg 1165-1166 of the record.

convictions. In this connection Mr Gwala produced a document setting out the names of 446 of alleged members of the IFP that were killed from 1985 to the date on which he testified, that is, 19 September 2017. Although only two of the persons on the said list (Messrs **Mcebisi Duma** and **Themba Xulu**) were killed during the period under investigation according to our Terms of Reference, the document was admitted as Exhibit L.

865. The case of Mr Mcebisi Duma is dealt with in paragraphs 452 to 453, above.

866. The IFP believes that many murders and attempted murders would never have taken place if not for the belief on the part of the perpetrators that they were politically protected from punishment. This perception caused by the ineffectiveness of the police in solving politically linked violence and murders has led to the escalation of crime caused by the lack of notable consequences.<sup>20</sup>

867. According to the IFP, there is no doubt that much of the current violence is intra-party violence within the ANC and the NFP. Nonetheless, the murder of IFP members and leaders is still continuing with few consequences

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<sup>20</sup> Para 1-9, vol 23, at pg 1170 of the record.

(convictions of perpetrators) fuelled by the perception that politically connected hit-men act with impunity.<sup>21</sup>

868. On the underlying causes into political killings, the IFP was of the strong view that some of the killings recorded are a result of criminality and general lawlessness and that the general public view this as being attributable to the incompetence of the police. In the IFP's opinion, there should be an investigation into the allegations that the murder weapons used to commit these crimes are firearms taken or coming from the police.<sup>22</sup>

869. Another underlying cause or factor into political violence alluded to by the IFP was that of the infighting within the ANC and that the struggle was mainly for positions and business opportunities.<sup>23</sup> Politicians and aspiring politicians have become desperate to secure positions within structures and in all tiers of the government.

870. The policy of cadre deployment to lucrative positions such as administrative positions within municipalities and the legislature has contributed to the incompetence and corrupt practises witnessed.<sup>24</sup>

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<sup>21</sup> Para 3-8, vol 23 at pg 1171 of the record.

<sup>22</sup> Para 18-25, vol 23 at pg 1178 of the record.

<sup>23</sup> Para 20-25, vol 23 at pg 1179 of the record.

<sup>24</sup> Para 3-6, vol 23 at pg 1180 of the record.

871. The other underlying cause for the killings and violence identified by the IFP is that the ANC comrades when seeing their colleagues accumulating wealth through ill-begotten means also want a share of the forever dwindling pie which then causes violence amongst ANC members, who are constantly jostling for positions.<sup>25</sup>
872. Political intolerance was also listed as a factor to the underlying causes of political violence in the Province.
873. The ANC's selection processes of councillors is also a cause contributing to the political killings.
874. On the hypothesis of poverty, unemployment and inequality, the IFP agrees that the three factors might be driving forces behind the killings taking place but on a relatively small scale because the main underlying cause for these killings are power struggles and people jostling for tenders and positions.<sup>26</sup>
875. Lastly, the IFP contends that the ANC is a common denominator in the violence witnessed in the Province in that there is no violence in the Province without the ANC being

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<sup>25</sup> Para 7-11, vol 23 at pg 1180 of the record.

<sup>26</sup> Para 1-5, vol 23 at pg 1230 of the record.

involved. The IFP drew a reasonable inference of the ANC being the main perpetrator of violence currently and over the past years.<sup>27</sup>

### **Recommendations of the IFP**

876. The IFP provided the following recommendations to the Commission:

- (1) That the Commission should release the outcome of its investigations to the general public, as it is common for commissions be established but for the findings never to be made public.
- (2) That the police should be effective in investigating politically linked murders and that the notion of an outside police unit might be more effective is not necessarily true. The IFP is of the opinion that a unit comprising of people from outside the Province might not understand the political climate and situation faced by the existing police in the Province and that the police force in the Province need to be depoliticised.
- (3) That there should be political tolerance amongst political parties and that political acceptance should go beyond political formations.

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<sup>27</sup> Para 5-10, vol 23 at pg 1210 of the record.

- (4) In concluding, the IFP remarked that there are no clashes between itself and the ANC as the killings are mainly intra-party and on the contributory factor leading to killings in Glebelands, the eThekweni Municipality should be blamed for turning of a blind eye to the conditions festering in the hostel.
- (5) That the ANC must reveal where the arms caches are because the conclusion to be drawn is that the weapons are given to the assassins to kill their own people.<sup>28</sup>

### **South African Communist Party (“SACP”)**

877. The South African Communist Party (“SACP”) appeared before the Commission on the 21 September 2017. The delegation was led by Richard Themba Mthembu (“Mthembu”). The SACP stated that it was the first political party that called for a Commission of Enquiry into political killings in KZN back in 2011 to Provincial and Local government. However, the calls were met with silence.<sup>29</sup>

878. On providing a background history into the political killings witnessed over the years in the Province, the SACP touched

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<sup>28</sup> Para 19-21, vol 23 at pg 1245 of the record.

<sup>29</sup> Para 19-25, vol 25 at pg 1370-1371 of the record.



on the types of killings that are indistinguishable to the killings witnessed presently.<sup>30</sup> Political killings experienced during the days of clashes between the IFP and the UDF in the 1980's continued into the 1990's where the conflict was between the ANC and the IFP. However, according to the SACP, the political killings continued in the Province and now the conflict is mainly within the alliance structures despite significant traces of political killings between the IFP and the NFP.

879. The SACP traced the continuation and the intensity of the killings within the alliance to the post Polokwane and pre and post Local Government Elections of 2016. That the current increase in political killings within the ANC alliance structures can be attributed to intra-power struggles generated at leadership level.<sup>31</sup>

880. These political killings witnessed presently can be traced to the killing of local government officials, which are seen as a consequence of unfair processes in the selection of councillors, candidates and subsequent deployment in municipalities.

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<sup>30</sup> Inter-tribal and inter-clan killings; family killings, witchcraft killings, taxi killings, killings which have been termed social killings, political killings and State killings. Para 14-20, vol 25 at pg 1340 of the record.

<sup>31</sup> Para 10-15, vol 25 at pg 1345 of the record.

881. The other cause of intensity of these political killings is linked to tender processes in municipalities and government departments. Competition for tenders and manipulation of the tender processes are interlinked with the killings. Power contestation in the political organisation was also flagged by the SACP as a cause and link to the political killings. Unfortunately, political killings are the most problematic and complex kind of killings and difficult to curb or bring to a standstill because they are killings where the police are either by collusion or omission failing to solve.

882. It is said, in order to understand the present, history needs to be revisited. Thus, the SACP noted incidents of political killings prior 2011 that could lead to an appropriate explanation of the current killings. The killings of Messrs **Sbu Sibiya, Mshibe, John Mchunu** and others leaders of the eThekweni ANC Region were seen as the grand plan in preparation for a political takeover of the eThekweni Metro. The political conquest of the Metro was seen to be influenced by financial interest and national politics. The belief among many structures on the ground is that any faction that leads the eThekweni Metro will have influence in national politics and leadership.<sup>32</sup>

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<sup>32</sup> Para 1-10, vol 25 at pg 1347 of the record.

883. The budget of the eThekweni Metro of more than 40 billion is the main motivation for the conflict as the faction that emerges victorious is the one that would be in control of the Metro's resources.<sup>33</sup> The other reason identified as the driver to control the Metro, is that of the public transport tender and housing projects.<sup>34</sup> The killings of the leaders mentioned above were the precursor to the real build up towards the fierce contestation for the eThekweni ANC Region.
884. An important aspect in understanding the dynamics in the eThekweni Region is the link between the national power struggle and the local power struggle within the ANC. Divorcing the direct link between national politics and local politics would be a travesty of the political climate as the problem starts with provincial leaders carrying out instructions or programmes of national leadership.<sup>35</sup>
885. The SACP admitted to having suffered a tremendous loss of its members due to the political killings but an incident that stands out is that of Intshanga. The tensions in Intshanga started over leadership contestation for the ANC eThekweni Region. The SACP having a strong hold in Intshanga and supporting James Nxumalo resulted in SACP members who

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<sup>33</sup> Para 11-14, vol 25 at pg 1347 of the record.

<sup>34</sup> Supra.

<sup>35</sup> Para 6-9, vol 25 at pg 1372 of the record.

are also ANC members being denied their right to renew their ANC membership leading to the majority of SACP/ANC members in the area being marginalised by the ANC from branch activities. The tensions between SACP and ANC reached boiling point when a meeting at the KwaNdokweni Stadium, organised by the SACP was invaded by armed men who fired gun shots at random injuring and killing many SACP attendants of the meeting. Despite attempts at reconciliation between the alliance structures, the SACP and the ANC of Intshanga received a cold reception from the ANC leadership of eThekweni Region.<sup>36</sup>

886. Commenting on the killings plaguing Glebelands, the SACP was of the strong view that the killings at the hostel are orchestrated by an organised syndicate operating through or behind some political leadership. The syndicate's primary objective is to capture Glebelands as a monopolised market.<sup>37</sup> However, the SACP is of the opinion that the situation in Glebelands is not political as the residents there have no political differences.<sup>38</sup>

887. The SACP's perception of the current political killings is that State security apparatus are being used in the present-day

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<sup>36</sup> Para 15-17, vol 25 at pg 1362 of the record.

<sup>37</sup> Para 19-25, vol 25 at pg 1363 of the record.

<sup>38</sup> Para 21-22, vol 25 at pg 1398 of the record.

killings, factional battles in the alliance and within the ANC. A serious phenomenon noted by the SACP is that of false arrests and disinformation due to public pressure mounting on the SAPS.

888. The SACP remarked on a strange occurrence and practice of private security personnel controlling political meetings. and This practice is rife in the eThekweni Region but now has extended beyond the Region to the entire Province. In support of this contention, various witnesses have alluded to the increase of local government officials being surrounded by private security. Metro police have also been said to be used in the political gatherings.

889. When the hypothesis of poverty, unemployment and inequality as underlying factors to political killings was canvassed with the SACP, the delegation held that committing a crime is a choice which cannot be attributed to the three factors. That greed and self-centredness are the driving causes for the killings as opposed to poverty, unemployment and inequality which are not unique to the Province but a national problem.<sup>39</sup> The killings occurring now are ***simply opportunistic factional killings*** and have nothing to do with political ideologies.

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<sup>39</sup> Para 5-23, vol 25 at pg 1407 of the record.

## **Recommendations of the SACP**

890. The SACP had seven (7) recommendations for the Commission which can be summarised as follows:<sup>40</sup>

- (1) That there should be a programme to combat the culture of violence that has overtaken the communities in KwaZulu-Natal;
- (2) That the tender procurement process has to be reviewed as the current system is open to manipulation;
- (3) That the criteria and selection method for councillors to local government should be reviewed to prevent manipulation of the system;
- (4) That there should be a programme to depoliticise security structures and mainly the police as the police are highly politicised;
- (5) That a special unit needs to be established but only for a limited period in the police force to deal with political killings (most witnesses have advocated a special unit comprised of members from outside the Province);

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<sup>40</sup> Para 3-25, vol 25 at pg 1366-1367 of the record.

- (6) That there should be a Commission of Enquiry into the abuse of state intelligence in private factional battles; and
- (7) That the state budget needs to be biased in fighting poverty, inequality and unemployment.

### **Economic Freedom Fighters (EFF)**

891. The EFF delegation appeared before the Commission on 23 February 2018 led by Mrs Hlengiwe Mkhali. Other members of the delegation were Dr Mbuyiseni Ndlozi and Mr Vusi Khoza.

892. The delegation raised some fundamental points relating to the establishment of the Commission. They questioned the need for a Commission of Enquiry whose terms of reference were to investigate the underlying causes of the murder of politicians in KZN. They submitted that in terms of the Constitution of RSA everyone is equal and politicians should not be accorded a status superior to other victims of crime, especially murder. They further submitted that that these killings are not political killings but merely criminal acts that must be understood as such especially since the majority of the people being killed belong to one political party, the ANC. On elaborating on the point, they made an example, if an

EFF member is killed by a member of another political party, then that killing can be characterised as political because of their differences in ideas but people killing each other for resources can never be characterised as being political. In fact, the Commission has heard overwhelming evidence that of the majority of the killings being among one political party the ANC and in instances where other political parties have been involved i.e. (IFP and NFP, it was over ideological differences and such killings can be correctly termed to be political killings).

893. Since its formation five years ago, it has been subjected to violent political intolerance from the ANC in the Province of KZN. Detailed accounts of the violence experienced can be found in their presentation<sup>41</sup>. Of interest the political intolerance experienced by the EFF, points to what a number of witnesses have alluded to, that of political intolerance in the Province.

894. In attempting to understand the underlying causes of political violence in the Province, the EFF, like many other witnesses emphasised the importance of tracing the history of political violence of KZN. However, the EFF cautioned against elevating political killings above other killings when

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<sup>41</sup> Vol 46 at pg 2765-2772 of the record; Exhibit GG.



statistical sources show murder to be a problem plaguing the entire country. The phenomenon of killings in our country is demonstrated by the fact that South Africa is in the top 10 countries with the highest murder rate in the world. Hence, prioritising political killings over killings in general should be avoided and KZN should not be treated as an exceptional Province from the rest of the country.

895. The problem, according to the EFF to be examined is; why are politicians, councillors and provincial government officials in KZN guarded by armed men. The practice of being guarded by men with guns is prevalent in the Province. In fact, it is not seen anywhere else in the country.

896. On the third force theory suggested by the ANC, the EFF strongly denied the existence of such force by saying there is no third force in South Africa. The EFF went further stating that the only third force is the ANC as it was implicated in the '*fees must fall campaign*'.<sup>42</sup> On elaborating on the third force theory, the EFF contended that it is actually the ANC fighting for resources amongst themselves that is the root cause and in particular the issue of who must control the multi- billion budget of the eThekweni Municipality.<sup>43</sup> Factions within the ANC fighting over resources are the

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<sup>42</sup> Para 4-14, vol 46 at pg 2791 of the record.

<sup>43</sup> Para 5-11, vol 46 at pg 2792 of the record. See also the submission of the SACP on this issue.

cause of the killings and the infighting has nothing to do with politics. Thus, it must not be termed a political problem. Simply put, the intra-party conflicts are not due to political ideologies but a marathon between factions that must eat.<sup>44</sup>

897. One of the underlying causes for the killings, according to the EFF, is that of patronage being at the core of what is happening because people are pushing for political power by using the very same resources they get from their proximity to the State, to be able to issue out patronage by the buying of support.<sup>45</sup> Once wealth is amassed mainly through corruption, the very same wealth is then used to buy patronage (i.e. hitmen).<sup>46</sup> The EFF submitted that patronage is the main driver of violence and is not necessarily political but corruption is at the centre of everything.

### **Glebelands**

898. The EFF touched on an issue that keeps resurfacing before the Commission, namely, that of the ANC inviting criminality within the organisation as an underlying cause. The EFF made an example of people who were jailed for their involvement in political violence during the 80's and 90's.

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<sup>44</sup> Para 22-26, vol 46 at pg 2793-2794 of the record.

<sup>45</sup> Para 12-25, vol 46 at pg 2806 of the record.

<sup>46</sup> Para 1-4, vol 46 at pg 2807 of the record.

When they were released from prison with nothing, the ANC would take them in and house them in Glebelands and that it is easy for such people with no source of income to be hired to carry out heinous crimes.<sup>47</sup>

899. When asked for comment on the issues surrounding Glebelands Hostel, the EFF made it clear that the concept of hostels was an apartheid concept that sought to provide a kraal of black people for white people to go when in need of cheap labour. The concept of hostels is inhuman, degrading and completely dehumanising yet the ANC continued with the concept and left people in the conditions. The EFF's stance on the killings taking place in Glebelands is that they are simply criminal and about greed.<sup>48</sup>

900. *“Where there is chaos there is an opportunity for criminals to make money. I must repeat that. The chaos in Glebelands is created by the State, by the Municipality, by the ANC, because where there is chaos they can steal, they can loot, they can rob poor people blind. That is our take on Glebelands and we are saying those people are just collateral damage in the battle of the ANC fighting for resources.”*<sup>49</sup>

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<sup>47</sup> Para 4-9, vol 46 at pg 2811 and para 1-19 at vol 46, pg 2819 of the record.

<sup>48</sup> Para 24-25, vol 46 at pg 2819 of the record.

<sup>49</sup> Para 8-13, vol 46 at pg 2821 of the record.

### **UMzimkhulu**

901. The EFF are of the view that the issues of uMzimkhulu are similar to problems faced elsewhere, that at the core of the killings is the greed and corruption of the ANC characterised by fighting over tenders and self-enrichment. The murders are just criminal committed by criminals trying to protect their criminal empire at all costs. UMzimkhulu was unfortunate to be co-opted into this corrupt and unstable Province of KZN run by the ANC. An interesting observation made by the EFF is that of comparing the state of the Province before under the rule of the IFP and presently under the rule of the ANC. They draw a comparison of the killings taking place under the watch of the ANC with the majority of the politicians killed being ANC members.<sup>50</sup>

### **Proliferation of arms**

902. The EFF drew from statistics to show that the Province is experiencing a serious problem of easy access or availability of arms by showing that 42-43 per cent of murders in the Province are carried out by using a gun. That the problem is exacerbated by the fact that there still is a high number of unaccounted arms in Province. A link was also established

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<sup>50</sup> Para 1-4, vol 46 at pg 2825 of the record.

between the men in the Province, guns and masculinity, in that the weapon of masculine fascination in KwaZulu-Natal is a gun.

903. In conclusion, the EFF appealed that all murders of politicians be treated as criminal and investigated as such and the police must do their jobs effectively and without favour.

904. At the start of their evidence the delegation expressed the strong view that the Report of the Commission be published, unlike some reports to which they mentioned, which are gathering dust somewhere. Specific mention was made of the Manase Report into the goings on in the eThekweni Metro.

#### **AFRICAN NATIONAL CONGRESS (ANC)**

905. The ANC delegation gave evidence before the Commission for two consecutive days from the 19-20 October 2017. The delegation was led by the Provincial Chairperson, **Mr Zikalala**. As it was customary with all delegations, the ANC was allowed to make its presentation with the least interruptions which took the better part of the first day. On the second day of the hearings, Evidence Leaders were able to then lead the evidence and probe for clarity in certain respects. The presentation of the ANC was very detailed and

extensive and with a lot expected from the governing party, the two days were warranted.

906. The ANC commenced its presentation by acknowledging and commending the Commission for its work and by owning that the ANC as the leader of society has an immense responsibility to play in providing solutions to the political violence challenge faced by society.

907. The ANC confirmed that it made a call for the establishment of the Commission of Enquiry out of grave concerns resulting from widespread killing of politicians which began to intensify towards the 2011 Local Government Election and became extreme pre and post 2016 local government elections. The killings affected most political parties in the Province to varying degrees, but of all political parties the ANC is the hardest hit by the political killings. Despite ANC members being the most impacted by these killings, the ANC cautioned against those concluding that the killings of politicians is a problem emanating from the ANC and thus an ANC problem.

908. The delegation provided some insight on why the ANC is most affected party by the killings, two reasons were provided as follows:<sup>51</sup>

(1) The ANC as a governing party has the majority of politicians in government compared to other political parties; and

(2) Due to the magnitude and influence the party has on society, it will be the most affected.

909. Consequently, anything that affects or has an impact on the political climate of the country or the Province is likely to have a far-reaching effect on the ANC as the governing party with a majority in the Province.

910. On attempting to understand why political killings are prevalent in the Province, the delegation was of the opinion that the institutionalised culture of violence planted since the arrival of the colonists is the brunt still borne till this day. The ANC highlighted various episodes of violence throughout history dating back to the 19<sup>th</sup> century, to demonstrate how the culture of violence was systematically established and engrained in the life of the nation.<sup>52</sup>

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<sup>51</sup> Para 7-11, vol 31, at pg 1859 of the record.

<sup>52</sup> Para 4-9, vol 31 of the record at pg 1861 of the record.

911. Of the historical events of violence mentioned, the delegation held that the culture of violence in the Province cannot be complete without highlighting the events of the Durban Riots of 1949. Of importance, the ANC emphasised that in a number of violent incidents, the apartheid regime was always at the centre of the violence against so-called black on black aggression.<sup>53</sup> Commissions such as the Goldstone Commission, proved beyond doubt the role of the apartheid government in fostering black on black conflict, a culture well-entrenched and in continuation till this day.<sup>54</sup>

912. The ANC has always been concerned about the violence and as a consequence, has been an active initiator, facilitator and participant in peace building initiatives in the province. The ANC's peace initiatives in the Province since the early 1990's are well documented such as the process of putting an end to the ANC/IFP conflict that affected areas such as Shobashobane, Hammarsdale and Estcourt to name a few. It was during that time the ANC contends, that the third force continued to rear its ugly head, undermining the democratisation processes through the divide and rule stratagem that the racist propagandists termed 'black on black violence'.<sup>55</sup>

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<sup>53</sup> Para 22-25, vol 31 of the record at pg 1868-1869 of the record.

<sup>54</sup> Para 7-10, vol 31 of the record at pg 1871 of the record.

<sup>55</sup> Para 16-25, vol 31 at pg 1880 of the record.



913. The ANC is of the view that the instigators of violence who worked for the apartheid state to destabilise South Africa are not happy twenty- three years down the line of democracy.

914. The ANC admits that on its own assessment, it has lost nineteen of its members since January 2016, three members of the IFP, three members of the NFP, three members of the SACP and lastly one member of the EFF.<sup>56</sup> Areas identified as experiencing high levels of violence are Intshanga, Glebelands (which has a majority of killings of a criminal nature as opposed to political i.e. criminality of bed selling) , Madadeni and Ezakheni and have been stabilised through arrests and rapid deployment of public order police and visible policing.<sup>57</sup> It must be noted that no examples were given of arrests made in these areas.

915. The ANC expressed the following hopes regarding the works of the Commission:<sup>58</sup>

(1) that through the Commission's findings and recommendations, families, friends and comrades affected by the killings will find closure and healing;

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<sup>56</sup> Para 11-18, vol 31 at pg 1883 of the record.

<sup>57</sup> Para 23-25, vol 31 at pg 1884-1885 of the record.

<sup>58</sup> Para 5-25, vol 31 at pg 1887 of the record.

- (2) that the Commission will advance innovative means to strengthen and improve the effectiveness of law enforcement;
- (3) that the Commission should assist in recommending a programme to foster the collective participation of all citizens for nation building and unity against crime;
- (4) that the killings are clearly taking a shape that illustrates a complex mix of political decay, social and moral degeneration, criminality and deadly competition for economic or financial resources and control;
- (5) that the institutionalised and deep ingrained culture of violence in our society is at the core of the killings;
- (6) the ANC agrees that it is one organisation mostly affected by killings judging by the number of incidents affecting its leaders, councillors and members but does not believe that there is a patronage network in the province.<sup>59</sup> However, the

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<sup>59</sup> Para 4-5, vol 31 at pg 1950 of the record.

ANC cautioned against the narrative that the killings are an ANC problem alone.

(7) that the Commission must assist in making citizens understand the extent to which socio-economic conditions are playing a role in the killings nationally and provincially;

916. The ANC requires the Commission to conduct a comprehensive analysis of the role played by the criminal justice system in fuelling the flames through the unsuccessful arrest and prosecution or discouraging the killings through successful arrest and prosecution.

917. The ANC identified causal factors for the killings with the main being the following:

(1) Contestation for political power backed by the belief that holding office comes with influence and control over state resources which can be accessed for material benefit and self-enrichment.

(2) Corruption in government which comes in various forms and the most corrupted being government officials and public representatives.

- (3) Careerism in political office that is manifested by the belief that becoming a councillor at local government level is easy and seen as a soft landing towards self-enrichment and power mongering as a means to sustaining the position of influence. The ANC admitted that since it is easy to become a councillor, they are the most vulnerable.
- (4) Inter-political conflict which manifests itself mainly in hung municipalities where killing of a councillor creates a possibility of changing power balance and leadership in a municipality.
- (5) The growth of independent candidates seen in the last local government is not an exercise of democracy but an exercise of a sponsored campaign to beat the ANC at the polls.
- (6) The existence of external forces “third force” that complicates political tensions but the ANC is of the opinion that it cannot characterise the external influences as the notorious third force of the apartheid era. However, the ANC claims to be ill equipped to rule out that the third force has taken a new form as seen from the killings taking place. The ANC emphasised that even during the apartheid rule, the third force did not become easily identifiable. When asked shouldn't the Intelligence Service have

identified the third force by now, the ANC conceded that indeed, the Intelligence Service should have identified the hand of the external force.

- (7) Some of the killings characterised as political killings are as a result of family disputes as seen in various cases where there have been convictions.
- (8) The role of hit-men "*izinkabi*" in these killings is a factor of concern, especially the link of *izinkabi* and the taxi industry in the Province. All MEC's for Transport, Community Safety and Liaison, who have been ANC leaders have made all attempts to deal the lingering issue of taxi violence in KwaZulu-Natal.

918. On issues plaguing Glebelands, the ANC noted that the killings in Glebelands started back in late 1990's and it was around 1996 that the struggle of bed selling emerged. One of the interventions made by the ANC in dealing with the conflict in Glebelands was to call on the eThekweni Municipality to fence the hostel as an access control measure. A second call made was for the municipality to register all residents of the hostel. The Municipality was also requested to transform the hostel dwellings into humane, liveable and communal facilities to bring dignity to the residents.<sup>60</sup> However, as was presented before the

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<sup>60</sup> Para 4-25, vol 31 at pg 1903-1904 of the record.

Commission, corruption linked to these initiatives saw the projects being a failure.

919. A call was also made to the SAPS to establish a mobile police station at Glebelands as a means of tackling the criminal elements in the hostel. However, the ANC believes that the affected people and communities, with the agency of community-based safety, civic and political structures must be central to finding lasting solutions for Glebelands.

920. On the tensions witnessed in uMzimkhulu, the ANC expressed that in their analysis, there are two issues; firstly, corruption allegations within the Municipality and secondly, the power contestation experienced heading towards the regional conference that has been postponed. The ANC submitted that problems of uMzimkhulu are being dealt with by the national leadership.<sup>61</sup> The corruption allegations within the Municipality have been disputed by the Municipality. What is not in dispute is the power contestation within the Region.

921. In an attempt to address the perceptions of state security apparatus being used by the ANC to fight factional battles (a perception held by most of the witnesses that testified before

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<sup>61</sup> Para 20-25, vol 31 at pg 1961-1962 of the record.

the Commission), the ANC submitted that the perception is unfortunate and the ANC believes that it is incorrect. The delegation maintained that the ANC has always strived to maintain the independence of state organs including state security apparatus without influence from politics.

922. On the selection process of candidates, the ANC explained that there are guidelines and a Candidate Process Manual which is used to select candidates for the ANC. The ANC added that their election processes are transparent and available for scrutiny by both members and South Africans.

923. The election process was described as follows:<sup>62</sup>

- (1) nominations are only made by the Branch General Members (“BGM”) who nominate candidates.
- (2) every branch forms a screening committee that screens ward candidates and presents the candidates to the community.
- (3) screening committees are made up of six members of the ANC with no direct interest in the outcome of the candidate selection process plus one representative from each of the alliance partners.

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<sup>62</sup> Para 3-25, vol 31 at pg 1907-1909 of the record.

- (4) On the issue of the alliance partnership, the ANC contended that it had a healthy relationship with the alliance partners and that they are part of resolving problems arising at branch level. The importance of the alliance relationship was stressed and the partnership with the SACP was complimented.
- (5) the committee then screens and interviews candidates and together with the regional list committee deploys to the branch, select a ward candidate after the meeting.
- (6) The screening committee then reports back to the ANC BEC on any negative findings encountered during the interview process.
- (7) the regional list committee (“RLC”) is set up by the regional executive committee (“REC”) and convened by the secretary and six senior members with no direct interests in the outcome of the candidate selection process plus one representative from each of the alliance partners.
- (8) that the RLC has no power other than overseeing the fair and proper functioning of branch nominations and ward selection processes and the screening and drafting of the PR list according to nominations and representations to present to the municipality and district or metro PR selection conference.



924. The ANC provided the Commission with short, medium and long- term solutions in dealing with these political killings as follows:<sup>63</sup>

(1) **Short term solutions**

- (a) state security and crime intelligence should play a major role in identifying culprits and perpetrators of crime and violence to ensure that police work is informed by accurate inside intelligence to find perpetrators and collect evidence for successful prosecution.
- (b) the government should identify all violent hotspots in the Province that require special attention.
- (c) operations like operation Fiela should continue targeting hotspot areas and areas which are known for violence or harbouring hit-men.
- (d) the ANC should hold regular oversight meetings with the MEC for Transport, Department of Community, Safety and Liaison to receive briefing on the progress on cases under investigation by SAPS and NPA.

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<sup>63</sup> Pg 1915-1917of vol 31 of the record.

- (e) the ANC will encourage its members to be active participants in the community-based crime prevention structures to deal with threats and prevent killings as well as other social ills.
- (f) the ANC will also call on its members to work closely with the SAPS to prevent crime and identify issues and challenges faced in various communities as well as activating peace and stability subcommittees across regions to address the killings in local level.

(2) **Medium term solutions:**

- (a) it would ensure that its regions and branches are actively involved in tracking cases under investigation and will mobilise society to take an interest in the political killing cases within their communities.
- (b) it will work actively to identify formal issues of discomfort and criminal activities that have a potential to cause violence or lead to killings.
- (c) it would continue to encourage the government to intensify its social cohesion and social

development programmes that address social ills, including substance abuse and crime.

(d) it would intensify the radical socio-economic transformation programme to unlock opportunities for jobs and in the long run assist government in its effort to reduce and ultimately eliminate poverty and inequality.

(e) it would institute reforms that effect the transformation of the State into a developmental responsive State that engages society at local level through community-based structures and social enterprises as a strategy for nation building and peace building. That social cohesion programmes should include religious formations, academia, traditional leaders and the business community.

(3) **Long term solutions:** the ANC vowed to do as follows:

(a) continue with political education in all branches and structures with the aim of promoting tolerance, political consciousness and constructive political engagement.

- (b) as a leader of society, it will embark on an aggressive societal educational programme to empower communities to utilise democratic processes and government channels in resolving differences.
- (c) it will advance the socio-economic transformation programme in line with the policies of the country to ensure that training opportunities and skill building opportunities are created for young people, women, military veterans and people with disabilities to enable them to benefit from employment and business opportunities.
- (d) it will canvass academics across tertiary institutions to assist in peace building efforts and scientific research towards eradicating the scourge of violence in the Province, as it is everyone's responsibility to ensure that historical culture of violence in the Province is eliminated.
- (e) ultimately, the ANC hopes the work of the Commission will amplify the importance of socio-economic transformation programmes to improve the lives of people and for sustainable development of the country. Of critical

importance, the ANC expects the Commission to contribute to the transformation of the criminal justice system and improvement of local government systems.

- (f) lastly, it remains committed to working for peace and stability of the Province.

925. The ANC made some concessions on the problem faced by the Province by admitting the following:

- (a) by agreeing with the SACP that most of the problems with these political killings stem from tenders and corruption and suggested that there should be an open tender system or a tender board for transparency.<sup>64</sup>
- (b) it admitted to cadre deployment but explained that it is normal for political parties to employ people who resonate with the party in terms of thinking and policies but it does not mean incompetent people will be employed. That the ANC has always made sure that it employs/appoints people in all spheres of government with qualities and the expertise to do the job.<sup>65</sup>

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<sup>64</sup> Para 23-25, vol 32 at pg 1941 of the record.

<sup>65</sup> At pg 1973-1974, vol 32 of the record.

- (c) that it and the alliance have always been opposed to materialism and conspicuous consumption displayed by its members to the extent that the issues have formed part of the discussion documents.<sup>66</sup>
- (d) that the King has attempted to attend to the culture of violence in the Province by conducting a cleansing ceremony.<sup>67</sup> However, as alluded to by most witnesses, another cleansing ceremony facilitated by the King has to be conducted as a solution to the violence experienced in the Province.
- (e) that the external force's motive is to deepen the tensions in the Province in order to ultimately weaken the ANC. The current political killings are weakening the ANC as an organisation and are creating a bad image for the party.<sup>68</sup>

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<sup>66</sup> Para 10-15, at vol 32 at pg 1978 of the record.

<sup>67</sup> Para 17-20, vol 32 at pg 1993 of the record.

<sup>68</sup> Para 10-20, vol 32 at pg 1998 of the record.

## **ACADEMICS & POLITICAL ANALYSTS**

926. A number of academics and social and political analysts and commentators gave evidence before the Commission. We shall consider their evidence in no particular order.

## **LUKHONA MNGUNI**

927. Mr Mnguni was the second witness to testify before the Commission, having done so on 30 March 2017.

928. Mr Mnguni stated that he had done a comparative analysis of political violence of KZN and other Provinces and is of the view that comparatively, the killings are more prevalent in this Province. He backed his analysis by quoting from a paper written by Mr David Bruce of the Institute for Security Studies (“ISS”), in which political violence was researched and found that 90 per cent of the political killings post-apartheid South Africa have taken place in KZN.<sup>69</sup>

929. In order to understand the present climate of the Province Mr Mnguni took the Commission through a brief background history of the Province by acknowledging the deadly wave of

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<sup>69</sup> Para 9-18, vol 1 at pg 102 of the record.

violence that hit the Province during the apartheid era. The violence experienced in the 1990's was inter-party. Even though other Provinces like the Eastern Cape and Gauteng experienced violence it was not as widespread as in KZN, which was a political hotspot for violence. The violence of the 1990's was between the IFP and the ANC. The Province experienced widespread violence compared to certain areas of country. If the Province was to be considered in its present form, one would realise that KZN has not experienced a clean break from the past violent history. The fact is violence diminishes for a while only to resurface again and the reason for the escalations in violence could be due to no post conflict recovery process carried out that would have ensured the nurturing of a different mindset amongst political players and citizens and discourage violence as a mechanism to sort out political differences.<sup>70</sup>

930. Mr Mnguni argued for two things to be implemented in order to facilitate the “*post conflict recovery process*” namely; that violence not be a *de facto* remedy to solve political differences and secondly, violence not to be used as a tool to control others. That the fostering of a different political climate is required. The “*process*” he argued would have to be overseen by national, provincial and local government as cooperation

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<sup>70</sup> Para 15-25, vol 1 at pg 103-104 of the record.



from all spheres of government is required in addressing the problem of post conflict.

931. In his analysis of what the underlying causes of political violence in the Province he stated the following:

(a) The scramble for political power is now understood to mean an opportunity to access state power which is applicable to all levels of government. However, high contestations are rife at the local level. Political power is seen to be a vehicle to amass wealth. For example, a councillor is in a position to influence who gets a RDP house and at what price. In a way, those in power see themselves as gatekeepers that can manipulate processes and elicit bribes to their benefit.

(b) Being in politics is seen as being better off. Politics of virtue is now politics of the day. Politics of today has changed from the traditional centring of society and the pursuit of justice to being “*crass-materialism and self-wealth accumulation*”.

(c) Patronage - the chain of patronage starts from the top down from those in power ensuring that they distribute resources to stay in power by dispensing patronage to their supporters. The chain of patronage creates two types of people; those that are part of the network and

those that oppose and expose corruption termed '*whistleblowers*'.

(d) Criminality - there are criminal elements (but also political) in all the killings taking place and from the execution of the killings it can be said that they are premeditated and deliberate.

932. On perceptions of the political climate of the Province, Mr Mnguni stated that the Province is highly intolerant politically with a potential of politics of fear, politics of inducement, politics of censoring, politics of coercion and politics that seeks to control independent minds.<sup>71</sup>

933. When it came to the effectiveness of the police regarding investigating political murders, Mr Mnguni shared the sentiments expressed by most witnesses that the police are ineffective when it comes to dealing with political murders due to the roles being muddled and influenced by politics. The public holds the view that most of the ineffectiveness of the police investigations is due to political agendas being deliberately executed and designed not to lead to any convictions. That it is rather unfortunate that police are also

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<sup>71</sup> Para 3-12, vol 1 at pg 116.

viewed as being corrupt and some members of the police having sympathies with certain political parties.

934. On the successful prosecution rate for the killings, Mr Mnguni's perception was that, conviction rates are generally low in the country. So, it should not come as a surprise that the prosecution rate for political killings would also be low. He further pointed out that there are a number of factors that determine a successful prosecution and unfortunately when it comes to political killings people are reluctant to testify for a fear of being killed. The fear is also exacerbated by the lack of confidentiality of information shared with the police, thus making it difficult for the National Prosecuting Authority to execute its mandate. The general perception held by ordinary members of the public is that one must not involve oneself in political killings.

935. Mr Mnguni, concluded by recommending solutions to the Commission that might assist in reducing or curbing future incidents as follows:<sup>72</sup>

(a) creation of mechanisms that would deal with political intolerance. Political tolerance can be made part of the KZN school curriculum to educate and foster political

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<sup>72</sup>Vol 1 at pg 123-127 of the record

tolerance whilst children are still young so that they grow up being aware and able to deal with political differences.

(b) urgent demilitarisation of the Province is required through initiatives spearheaded by the government to recover the caches of arms. There has to be a plan to recover and to destroy the arms once recovered.

(c) the commitment of political education by various political parties of their members. A culture of practising politics of virtue needs to be embedded in political education. Each party must demonstrate as part of their political induction, political education and political tolerance education.

(d) there needs to be a dedicated police unit that will deal with the political killings coordinated at provincial level.

(e) Lastly, the government must make a concerted effort to root out corruption within its ranks as currently the manipulation of state resources has no consequences.

### **PROTAS MADLALA**

936. He testified on 12 June 2017. He is currently the CEO of the Small Enterprise Development Agency (SEDA). Mr Madlala started as a journalist and was employed by the then Natal Mercury. He then did a BA and BA honours in Political Science and Philosophy at the University of

Zululand. Thereafter, he moved to Pretoria as a journalist. He was a press officer of the Catholic Bishops of Southern Africa, under the late Archbishop Dennis Hurley, where he was serving Namibia, Swaziland, Botswana and South Africa.

937. He then obtained a scholarship through the late Professor Sibusiso Bhengu and did an MA in International Communications in Washington DC. He returned to South Africa in the late eighties, when there were massive forced removals by the apartheid government. He successfully and peacefully headed the struggle against forced removals of the people of Mariannhill.

938. He then went to the then Natal University where he taught Community Development. Some of his former students are currently Cabinet Ministers in government. From 1994 to date, he has been an independent political analyst.

939. He has travelled extensively internationally on a professional level. Mr Madlala gave a historical background of violence in the Province. When he grew up as a young boy, what was typical of killings in KwaZulu-Natal arose from faction fights, mainly in Msinga. In the late eighties,

particularly at the time of the death of Mrs Victoria Mxenge in 1985, the violence escalated to a higher level.

940. After the death of Mrs Mxenge and her husband, Mr Griffiths Mxenge, political violence escalated. *Amabutho* (warriors) were IFP aligned and *Amaqabane* (comrades) were UDF aligned and thereafter ANC aligned. It was mass killings that were directed at masses like in Shobashobane and Mpumalanga, Hammarsdale. According to him, those mass killings were State sponsored and targeted particular areas which were viewed as belonging to a particular enemy political party.

941. In the last four years or so, the kind of killings have become different from the eighties and nineties. The killings appear to be targeted and well calculated with military precision. It is an intra-party kind of violence and it is comrade against comrade, specifically within the ANC, NFP and IFP - remarkably, not within the DA.

942. The victims of the violence have been largely the ANC, IFP and NFP, the latter two parties to a lesser extent. The ANC made a mistake, especially with the first local government elections in 1996. They imposed Councillors in communities. In the last municipal elections in August 2016, KZN had the

highest number of independent candidates who had defected from the ANC.

943. Another dimension is the killings between the ANC and SACP, especially at Intshanga. The violence is predominantly within the ANC largely because it is the governing party and controls State resources. Mr Madlala believes that the violence within the ANC is a curse that was witnessed after the ANC Polokwane National Elective Conference. What is happening nationally, provincially, regionally and locally is all interlinked, but the violence happens mainly at local level.
944. Since Polokwane, there have been different slates and the ANC has been in disarray. The killing of people is a business and the killers are available and well trained. It seems that people are killed as they arrive home after a political meeting. There are very few arrests and a very low conviction rate of the culprits.
945. The new government came up with things like outsourcing State work in the form of tenders. It makes sense that the killings are largely within the ANC because it controls many municipalities and State resources.

946. Mr Madlala suggested that the government should utilise some of the strategies of the apartheid government. He illustrated this by saying that the army must be utilised to raid Glebelands hostel for arms and ammunition. He alluded to the fact that in Mpumalanga, Hammarsdale, the army was brought in and the strategy was effective in solving the violence there.
947. He indicated that perhaps the current violence is linked to the past violence through cultural beliefs, in the sense that the past deceased are “*still fighting and not finally rested*”. *Iqunga* (propensity to kill) means that when people are at war, traditionally they use *umuthi* to strengthen themselves. After the war, they need to be cleansed of *iqunga*, otherwise they will have the urge to kill again.<sup>73</sup>
948. He also suggested that the issue of tenders and access to State resources should be reviewed. People become millionaires overnight through tenders.
949. He alluded to the fact that the DA has been in government in the Western Cape for quite a long time, but there are no political killings there. His analysis of that aspect is that

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<sup>73</sup> See the discussion at Vol 5 pg 268 of the record.



there is perhaps less patronage, jobs for pals, and everything is done above board and transparently there.

950. He testified that he had read that the Youth League wanted R1 billion from eThekweni Municipality's budget, plus 40% employment for the youth and that no qualifications must be asked for.

951. He made a comparison between the ANC and IFP. The IFP is a traditional party and they respect their leader like a father figure. It is sort of autocratic and he said he meant that in a good spirit. On the other hand, the ANC is in disarray and the centre does not hold. It is no longer the ANC that was once respected and where the centre held everything together. It needs very strong leadership to pull the various factions together.

952. That aspect also extends to the arms of the State. There is a lack of commitment and a lot that has gone wrong in our country. The ANC must do a self-introspection<sup>74</sup> at all levels and the veterans must play a leading role in the process. The councillor candidates must be those who are elected by the communities, instead of being imposed by the ANC.

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<sup>74</sup> He used a Zulu expression – iANC 'kufanele izinuke amakhwapha". Literally. The ANC should smell its armpits".

953. On the view that the police are not efficient in the investigation of political killings, Mr Madlala indicated that much has to do with patronage and the fact that most people in the public service are not careerists. In the old times, most teachers were teachers because it was their chosen vocation. Currently, there is a lot of mismatch, not only in the police force. There are many good people who are in wrong jobs for a variety of reasons.
954. It is a pity that in the past six years non-police candidates have been appointed as National Police Commissioners. General Phiyega was a social worker and Mr Bheki Cele was a political activist. They have never worked even in a charge office.
955. Mr Madlala alluded to the high unemployment rate as having a bearing on the killings. Most people are unemployable because they lack skills. Once they have tasted a higher lifestyle of being a councillor and the elections suddenly throw them out into the wilderness, they could resort to whatever means to remain in position, even if it means killing.

956. What concerns Mr Madlala is that, in a typical black community, formal education does not matter. Someone who has hardly sat in a classroom becomes a millionaire quickly. That kind of message is worrying because it drives people into materialism at whatever cost, even if it means killing.

**PAULUS MZOMUHLE ZULU.**

957. He testified on 18 July 2017. He is a Professor and a Social Scientist. He has a PhD in Social Sciences. He is the Director of a research unit located in the School of Social Sciences at the University of KwaZulu-Natal. He was previously the Vice Chancellor at the then University of Natal and a Senior Research Fellow in the Centre for Social and Development Studies in the University of Natal.

958. He has written extensively and has many publications. His first interest was on elections and then on migrant labour and his experiences and perceptions took him to the hostels for one and a half years in 1976 to 1977.

959. He next went into marketing research with Unilever and his main focus was on black advancement when multinational companies were interested in recruiting black people into

senior positions. At that time, the concept of Ubuntu gained prominence in the South African lexicon.

960. He proceeded to the University of Zululand where he studied and wrote about political authorities, *Amakhosi* and *Izinduna*.
961. In 1985 he witnessed the first serious wave of political violence in KwaZulu-Natal following the murder of Attorney Victoria Mxenge. When violence became endemic, it was then that he began collecting data. In a book entitled *South Africa Beyond Apartheid*, where he wrote a chapter that chronicled the views and activities of the United Democratic Front and other organisations that had mushroomed at the time.
962. He has authored a number of articles, including *Political Violence in the Hostels*, *The Third Force in a Hidden Hand*. He has also written a book entitled *A Nation in Crisis*, which deals, *inter alia*, with what he calls public morality in the modern day South Africa. He maintains that there must be an alternative morality from that which governs the way people behave. He decries the type of conduct and morality that culminates in what we now call State Capture.

963. He believes that morality and the violence are interlinked in the sense that the alternative morality is the main cause of the current violence.
964. He compared the violence of the eighties with the current violence. He stated that the two are different in terms of magnitude. You had a battlefield in the 1980s through to the early 1990s. Causally or in terms of participants, it was also different.
965. In the eighties, it was much more complex in terms of participation. A number of people were involved in violence either in retaliation or as instigators who were recruited into it as foot soldiers.
966. The violence today is very different, in that, it is very selective and does not target ordinary people unless they are hit by stray bullets. It is targeted at the leadership in the political drama. One has to have a certain status to be involved in that violence. The actual perpetrators are hired assassins. You would not know who actually pulled the trigger.
967. The people that are targeted are people who occupy specific positions in society. In comparison between then and now, the violence is predominantly intra-political party.

968. Furthermore, between the eighties and the nineties although there was an ideological dimension, that was not the driving force.
969. It was the South African government and those aligned to the government system versus others that were opposed to that system.
970. He alluded to what he terms a competition culture. His contention was that there seems to be a culture of eliminating the competitor. It is not only in political violence, but also in taxi violence. It is also the same in other competitive engagements.
971. If you chat with soccer players, they would tell you that for their games they consult some medicine man. In general, he gives them *umuthi* that would hamper their opposition from performing effectively.
972. Professor Zulu stated that he had never come across a team that said they went to an *inyanga* who gave them *umuthi* on how to place their goals accurately. He regards that as negative competition.

973. Having worked for five years at Unilever, he understood it quite well. If you wanted your Lux soap to sell better, you would advertise it through a beautiful young model to make people believe that it would make them beautiful too. You would not advertise negatively against your competitor's similar product.
974. But in the case of our people and it happens even with the so-called xenophobia, foreign nationals are accused by locals of taking their businesses. What they should be doing is to sell their goods at reduced prices or give them another marketing gimmick that would enhance their products' sale.
975. Elimination culture does not go down well. Prof Zulu indicated that South Africa is a nation that does not want to be criticised. We do not look inwards when things happen, but we are always the victims of something or we have been duped into something or victims of white monopoly capital.
976. That probably explains why political violence manifests in the elimination of the opposition.
977. He was talking about culture as a human response to environmental conditions. For an unknown reason there seems to be a culture of blood in KZN. He could not say

where it emanated from and indicated that serious studies needed to be undertaken to understand the underlying root.

978. His understanding was that the competition went very high up in the social and political structures. That is the syndrome that we have, particularly in the ANC. That is aggravated by a culture of complacency in the criminal justice system, particularly the police.

979. The same that happens with political violence also happens in taxi violence. It is very rare that the perpetrators are caught immediately and, given the extensive resources that we have in this country, one wonders why this is the case.

980. The violence occurs between people on the ground, that is your councillors, because that is where it is happening mostly. It seldom happens at the level of MPLs and MPs. He traced the links from councillor right up to find out where they were linked to.

981. He maintains that the orders must be coming from higher up, either directly or indirectly through the connections, connectivity and linkages. He shared the view that state organs are being used for political ends. He alluded to the



existence of political factions at Branch, Regional, Provincial and National levels.

982. On why the violence is predominantly at low level, specifically councillors, he was of the view that numbers played a major role. That was his first empirical response. There are only 400 MPs in the whole country from different provinces. There are about 80 MPLs in the Province and more than 400 councillors just in Durban alone. So, there are much more competitive positions for councillors than there are for MPLs and MPs.
983. In the political arena, one needs to be connected to the political elite. There are no qualifications. So, the stakes are much higher. A number of councillors would probably not be qualified to do anything other than as labourers or as ordinary factory workers. The salary of the councillor is relatively high, well over R15 000.00 per month.
984. It is a question of all or nothing that really operates. One either has the job or nothing at all. Given this competition, in the absence of qualifications, negative competition in the form of violence is the perfect recipe.

985. Although there are councillors in all provinces, the trend of violence in terms of the culture of violence and negative competition about councillorship is concentrated in KZN. In his analysis, the first reason is that KZN is considered the biggest Province that contributes to and shapes national politics.
986. Empirically, there are more votes in the national positions coming from KZN than from anywhere else. Secondly, the history and culture of violence in the Province seems to be much more than elsewhere. That is a very serious contributing factor.
987. In his book, *A Nation in Crisis*, he compares the remuneration packages of politicians, particularly members of parliament in Australia, India, United Kingdom, Canada and South Africa. He found that South African politicians are inordinately highly paid. Another form of remuneration derives from the tender system, corruption and kickbacks.
988. All these are interlinked as being the underlying causes of the political violence. The stakes are extremely high. You either are in or out and even having adapted your lifestyle that you would never have had. He indicated that some of

the loan sharks were saying that their clientele were MPs, MPLs and councillors because of their high lifestyles.

989. His recommendations are to make the criminal justice system effective, but it could probably be serving the interest of some high-ranking politicians that the criminal justice system is not effective. Secondly, some qualifications for political positions. He explained that he was not necessarily referring to academic qualifications, but moral qualifications and appropriate minimum skills for the job.
990. Beyond that, if the relevant candidates had minimum qualifications and skills and did not make it as a councillor, there would be an alternative to fall back on. It therefore reduces the incentive to kill but does not eliminate it.
991. His contention was that the current state of poverty, unemployment and inequality in the country had no bearing on the culture of violence and negative competition where there is the sharp struggle over scarce resources that drive poverty, unemployment and inequality.

## **Professor Sihawu Ngubane**

992. On 18 August 2017, Professor Sihawu Ngubane (“Ngubane”), the Head of African Languages at the University of KwaZulu-Natal testified before the Commission in his personal capacity and as a member of the public as permitted by the Terms of Reference.
993. He is also the Chairperson of the African Renaissance in the Province of KwaZulu-Natal.
994. Ngubane made submissions to the Commission from an African and cultural philosophy viewpoint. Throughout his presentation, he stressed the spirit of *ubuntu*, which, according to him, stands for unity of humanity through the principles of empathy, that could endeavour to resolve the issues of instability in the Province.
995. In providing a background to the history of the Province, he held that in the 1960’s KwaZulu-Natal was the most stable Province in South Africa (with parents from all over the country sending their children to prominent schools like Ohlange High School, Inanda Seminary etc). Unfortunately, the conflict witnessed between the UDF and the IFP in the ‘80s saw the Province plunging into a dark period of violence.

996. That there were initiatives undertaken by politicians, religious and traditional leaders from the 1990 to 2004 to bring stability to the Province. The African Renaissance Conference held in 1990 was the first conference held in the Province with the theme “Beyond the Conflict”. Peace was successfully negotiated at the Conference and following that there was a Seminar called *Unity of Faith* where religious leaders prayed and discussed peace. Thus, the return of the violence witnessed today is shocking to many as the root of the violence is deeply political as the politics of today is viewed as a meal ticket and source of wealth by many.

997. The Terms of Reference require an investigation to be made into whether the killings have anything to do with ethnicity amongst other underlying causes and interestingly Ngubane had the following to say:

*“...the most unfortunate element of this instability is that it affects a single ethnic group. It is amongst the Nguni people themselves, as we are aware that Nguni is constituted by amaZulu, amaXhosa, amaSwati and amaNdebele so it is not cross ethnical. It is a single ethnic that is fighting or that is in war.”<sup>75</sup>*

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<sup>75</sup> Para 1-5, vol 17 at p 849 of the record.

*“It is unfortunate that it is amongst people of the same ethnic group. It would have taken a different view if there were ethnic conflict, but here we are all Nguni, so we can work together as the Nguni people to solve these problems.”<sup>76</sup>*

998. As a social scientist, Ngubane advocates ubuntu as a concept to be used in the restoration of peace. He maintains that cultural resources may be important to construct a solid and sustainable peace initiative in the Province by revisiting indigenous roots.

999. On giving insight into the underlying causes of violence in the Province, Ngubane held that the culture of violence is escalating due to self-interest fuelled by wealth accumulation and egocentrism amongst people.

1000. The second underlying cause he listed is the lack of identity amongst people. People who kill others have simply lost ubuntu.

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<sup>76</sup> Para 6-9, vol 17 at pg 869 of the record.

1001. Ngubane concluded by opining that the lack of equal distribution of resources, greed, political intolerance and competition amongst Africans is the cause of killings.<sup>77</sup>
1002. On recommendations, he proffered that traditional leaders need to be included in political administration as people are more loyal and accountable to their *izinduna* and people are unlikely to behave in a manner contradicting the values of their local *induna*. Thus, traditional leaders have an important role to play in resolving the current problem.<sup>78</sup>
1003. He further proposed that the King of amaZulu and traditional leaders should be engaged for the ritual of *ukuvala umkhokha* to be performed in the Province.

### **Professor Richard Pithouse**

1004. Professor Richard Pithouse (“Pithouse”) is a Professor of Political Studies with the Rhodes University but was born and raised in the Province of KZN. With a journalistic background he has written extensively on political violence since 2001. He has worked with various organisations and

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<sup>77</sup> Para 18-22, vol 17 at p 868 of the record.

<sup>78</sup> Para 4-10, vol 17 at p 863 of the record.

community groups and currently he is working with *Abahlali baseMjondolo*.

1005. Pithouse acknowledged the serious problem facing the Province and that whilst the political violence is heavily concentrated here in KwaZulu-Natal, it is slowly manifesting elsewhere. The reason for the concentration in the Province can be traced to civil war that took place in the 1980's through to the 1990's. Pithouse is of the opinion that political violence has not been thoroughly addressed hence it keeps rearing its ugly head. In trying to understand the reason for violence peaking at various instances, he explained that people are socialised in different ways and that at times violence becomes normalised and people with a capacity for violence or even a taste for violence become valuable assets and moved to the forefront.<sup>79</sup>

1006. He expanded that there is a clear social crises in the country and the crisis is not necessary limited to political violence (i.e. xenophobic violence, attacks on gay people and on women) point to a serious crisis of the country. The violence perpetrated against women is often ritualised here in South Africa.

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<sup>79</sup> Para 15-25, vol 16 at pg 795 of the record.



1007. Tracing the history of violence, Pithouse touched on conflict between the IFP and the ANC and that Richmond was the epicentre of the conflict. Later the NFP emerged resulting into conflict between the IFP and the NFP. However, the decisive turning point he observed was the support for the former President Zuma during his rape trial. That a military approach was adopted and even the theme song of *awulethe umshini wam* at the time were clear symptoms of an obvious military posture taken up by all kinds of actors.<sup>80</sup> As a consequence, there was a sudden much more militarised discourse by certain people that took on an ethnic and racial form.<sup>81</sup>

1008. On the underlying causes for political violence, Pithouse gave political intolerance as one of them.<sup>82</sup> As he has studied political theory, he stated that the intolerance amongst people is not due to political ideologies but simply a contestation for resources. That in most cases it is clear that factions are not about ideology but about power and resources resulting in a language used to legitimise themselves in what they are doing.<sup>83</sup>

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<sup>80</sup> Para 21-25, vol 16 at pg 797 of the record.

<sup>81</sup> Para 7-9, vol 16 at pg 798 of the record.

<sup>82</sup> Almost all of the witnesses that have testified before the Commission alluded to political intolerance being an underlying cause for the violence.

<sup>83</sup> Para 17-24, vol 16, at pg 806 of the record.

1009. Another underlying cause as listed by Pithouse is that of ethnicity. He gave an account of how witnessed in Cato Crest a mobilisation of ethnic claims to distinguish between who counts as a friend and who count as an enemy. The people of the Eastern Cape were presented as illegitimate, having no right to be present in certain spaces, to live in spaces and to be present politically and those who relate to the people from the Eastern Cape as equals were presented as traitors.<sup>84</sup>

1010. On socio-economic conditions playing an underlying role in these political killings, Pithouse had the following to say:  
*“...We have to be careful here because when people argue that social and economic conditions lead to certain pathologies, it is often a way of thinking and speaking that quickly collapses into saying the impoverished people are pathological. So we need to be careful about that. There are many people who have no money, live incredibly hard lives and conduct themselves in a dignified manner and do no harm to anyone else.”*

1011. He stressed the importance of not pushing a narrative that leads to saying socio-economic conditions lead

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<sup>84</sup> Para 15-25, vol 16 at pg 807 of the record.

people to killing. Instead, he urged that it be realised that when there is a serious economic crisis it can often result in real pathological political outcomes. That despite having an economy that doesn't meet the most urgent and basic needs of millions of people, this does allow certain things to become possible to fester but there are cases where you have qualities that don't result in the kinds of violence we are experiencing here.<sup>85</sup>

1012. Pithouse also identified political power as an underlying cause into the political violence. He explained that it is human nature to do despicable things where money and power is concerned but qualified the statement by adding that not everyone is susceptible to the trappings of power.<sup>86</sup> He observed that there is something seriously wrong with society in that people involved in a political culture of violence or a culture of legitimising violence remain credible actors within society yet under normal circumstances such violence would not be tolerated.<sup>87</sup> He cautioned on attributing the conduct displayed by those with power and money to be due to a decline in human

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<sup>85</sup> Para 12-25, vol 16 at pg 810 of the record.

<sup>86</sup> Para 8-11, vol 16 at pg 811 of the record.

<sup>87</sup> Supra.

values because the majority of the population still adhere to the human values as known to society.

1013. Pithouse made the following recommendations:

(a) That political violence cases should be investigated by an outside police unit as local units are likely to be manipulated by the local influential power brokers who control political spaces in their communities, business people and opportunistic criminals.

(b) That the battle is not necessarily about being a councillor but about access to resources which then creates an unhealthy competition (i.e. RDP houses are often sold by councillors). Therefore, councillors and government officials in the municipality colluding together to loot resources meant for the communities should be held accountable.

(c) That despite various witnesses before the Commission advocating minimum requirements for councillors, Pithouse, unfortunately is of a different view in that the introduction of minimum requirements as an entry to local government would mean a reduction of democracy. He cautioned against responding to this crisis by reducing democracy for the ordinary South African and opening it to the elites. Instead a solution is for democracy to be taken seriously by all actors in the political sphere and in the

communities (i.e. all political parties, law enforcement agencies etc).

1014. He indicated that he always finds it very difficult to explain bad practices using poverty as the causal factor. A number of poor people are morally upright. With regard to inequality, the chances of leapfrogging your position would probably feature. One would have to be well connected to have that opportunity.

1015. Poverty *per se* does not necessarily make people murderers or want to compete for better positions by eliminating others.

1016. We need to put the right people in the right positions to make governance and the country to work. You get a good principal and a very bad school and all of a sudden it functions efficiently.

### **AMAR MAHARAJ**

1017. He testified on 16 August 2017. He is the Ethics Manager of the Independent Police Investigative Directorate (IPID) and is based at the national office in Pretoria. Mr Maharaj testified in his official capacity. His current position serves as the official reporting line for whistle blowers to report unlawful

and irregular conduct. Ethics and integrity is important at IPID, considering the work that they do.

1018. IPID has provincial offices in all the major provinces and the KZN office is headed by the provincial head, Mrs P Maharaj. The IPID's national head (Executive Director) is Mr Robert McBride and the national Head of Investigations is Mr Matthews Sesoko.

1019. Mr Maharaj made a presentation to the Commission in the context of the following allegations that were made by witnesses before the Commission.

1020. A large majority of the family members of the deceased are dissatisfied regarding the manner that the police are investigating their cases. They have made the following complaints:

(a) Dereliction of duty on the part of the police in investigating the matters.

(b) Alleged corruption on the part of the police in terms of conducting investigations.

(c) General dissatisfaction with IPID in terms of their investigation of the police with regard to wrongdoing.

(d) The assertion by Ms Vanessa Burger that the IPID in KZN is dysfunctional.

1021. Mr Maharaj started off by saying that Ms Burger testified that the IPID in KZN is dysfunctional and has failed to hold police officers to account. In a media response, the IPID dismissed her claims as being spurious and unsubstantiated. His office had received numerous reports from within the IPID relating to Ms Burger's testimony.

1022. The data that was received by his office was vast regarding cases that were closed as unsubstantiated, cases that were completed without proper investigation, especially in KZN. Mr Maharaj furnished the Commission with data in that regard about cases of torture, assault, rape, death as a result of police action, deaths in police custody and discharge of official firearms. He then conducted an investigation and evaluated the data and concluded that the IPID in KZN is indeed dysfunctional, based on the data in question.

1023. In essence, Mr Maharaj testified that the relevant data indicates cases relating to various offences were completed

and closed in KZN without proper investigation. Such closure and completion are contrary to the IPID Act and standards.

1024. He also referred to the Public Protector's report 7/2017 relating to the Glebelands Hostel, specifically regarding three cases, as follows:

(a) In Isipingo CAS 129/03/2014 (Zinakile Fica), the IPID reported to the Public Protector that the docket was sent to the DPP on 28 January 2016 and a decision was awaited. According to his investigation, there was no such record on the IPID master recommendations register.

(b) The SAPS case management system reflects the date of the incident as being 14/03/2014. Mr Maharaj was made aware that the docket was only picked up by the IPID on 5/08/2015, almost 17 months later, to commence their investigation.

(c) In Umlazi CAS 389/03/2014 (Xolisa Yena), the IPID reported to the Public Protector that the docket was sent to the SPP on the 19 November 2015 and a decision was awaited. However, he established that the CAS number 389 was incorrect, and the correct one is 398. According to the



IPID records, that case was completed and closed on 29 October 2014 and no recommendations were recorded on the IPID master recommendations register.

(d) There was no indication on the register that the docket was sent to the SPP on 19 November 2015 for decision, as alleged. This case was a classic example of cases that were completed, closed and archived without proper investigation.

(e) In Umlazi CAS 565/07/2015 (Richard Nzama), the IPID reported to the Public Protector that the case was under investigation. Mr Maharaj stated that he was unable to find that case in the IPID's records and therefore could not substantiate the IPID's report to the Public Protector.

1025. Mr Maharaj referred to data to illustrate hundreds of cases that were closed without proper investigation at the IPID in KZN. He testified that an IPID investigator from KZN had blown the whistle to him regarding cases that were being closed without proper investigation. Mr Maharaj alleged that the cases were being closed to chase statistics to create the false impression that the KZN office was performing well.

## **IPID DELEGATION**

1026. They testified on 13 December 2017. Their presentation to the Commission was made by Mr Matthews Sesoko, the national head of investigations, who was accompanied by the head of the IPID, Mr Robert McBride.

1027. The summary of their evidence focusses only on aspects that are relevant to the mandate of the Commission's investigation, as follows:

- (a) Their legislative mandate.
- (b) Their role in the Commission.
- (c) Feedback on identified cases that were mentioned by other witnesses.
- (d) The IPID's alleged dysfunctionality in KwaZulu-Natal.
- (e) Allegations made by Ms De Haas and Ms Burger relating to the police supplying firearms at Glebelands.

1028. The IPID is a statutory body that was established in 2012. It emanates from section 206 of the Constitution and its enabling Act is the IPID Act. Mr Sesoko testified that the IPID was not sufficiently resourced in terms of human and financial resources to be able to execute its mandate. This

fact was mentioned as it was important for the Commission to understand the context within which it operates.

1029. He stated that the allegations that the KZN office was dysfunctional cannot be substantiated. His view was based on the assertion that the KZN office is investigating hundreds of cases and the witnesses who alleged its dysfunctionality based that view on only four cases that were being investigated by the KZN office.

1030. He conceded that there are issues and challenges in KZN relating to workload, lack of capacity etcetera that needed to be addressed, but that could not characterise the office as being dysfunctional.

1031. He dealt with the matter of Mr Zinakile Fica who was allegedly tortured and died in police custody. The delay in finalising the investigation was beyond the IPID's control, who were required to obtain toxicology and histology reports. Those examinations are conducted by the National Department of Health.

1032. They were informed that it takes between three to five years to obtain those reports because of the backlog. The NPA even

got involved in trying to assist them to get the reports as quickly as possible, but it was difficult.

1033. The post mortem examination on Mr Fica was conducted by two doctors, a private pathologist and a State pathologist. There had to be interaction between the two of them in terms of analysing the toxicology and histology reports. Their conclusions were that the deceased had a history of a heart condition which could have led to his death but could not exclude death occasioned by torture. If the deceased was suffocated, it could also have resulted in his death. The docket had been referred to the NPA and a decision was still awaited.

1034. They dealt with the matter of Mr Jiyane, who was allegedly tortured by suffocation. The victim visited the district surgeon 14 days after the alleged assault. The IPID was informed by Ms De Haas and Ms Burger that they would facilitate all meetings between the victim and IPID, as the victim feared for his life.

1035. The victim had moved to Gauteng and that was part of the challenges in concluding the investigation. Numerous attempts were made to engage with the victim, without

success. The docket was referred to the NPA for a decision. The latter declined to prosecute.

1036. The other matter related to Mr Richard Nzama who was allegedly arrested by the police on a charge of attempted murder. Mr Nzama alleged that he was assaulted by the police. Statements were obtained from witnesses. After the warning statement of the police officer who arrested the complainant was obtained, the docket was referred to the NPA for a decision.

1037. The NPA asked that the other suspects must be identified and warning statements be obtained from them. Numerous attempts were made to engage with the complainant and witnesses without success over a period of time. Ms De Haas was engaged to render assistance as she was aware of the whereabouts of Mr Nzama.

1038. Mr Nzama had moved to a farm in Tongaat where there were no proper street addresses, thus making it difficult to locate him. On 11 January 2017, Mr Nzama arrived late for an appointment to point out the scene of the crime and the pointing out could not be done as he was rushing to work.

1039. Mr Nzama subsequently contacted Ms De Haas and informed her that he was available and that the investigating officer must contact him. On 17 August 2017, Mr Nzama pointed out four crime scenes. The investigation was finalised and the docket was submitted to the NPA and a decision was still awaited.

1040. The IPID refuted the evidence of Mr Amar Maharaj regarding the alleged closure of cases. Mr Sesoko stated that Mr Maharaj had no authority to testify before the Commission. He averred that Mr Maharaj's evidence was incorrect and that it was informed by his misunderstanding of investigation procedures, given that he was not an investigator. If he had taken time to clarify issues with them as investigators, they would have explained the case management system to him.

1041. He confirmed that Mr Maharaj had written to the Public Protector requesting an investigation regarding issues of case management and he indicated that the Public Protector had advised that the matter must be dealt with internally.

1042. He also dealt with the allegations made by Ms De Haas and Ms Burger relating to the supply of firearms at Glebelands. He confirmed that allegations were made to their office in

that regard. He requested Ms De Haas and Ms Burger to assist them with information and evidence so that they would approach potential witnesses, but nothing tangible came forth. The IPID also engaged the police to get information, but they did not obtain any tangible information or evidence.

1043. Mr Sesoko testified that from 2011 to date, they had not received any information or complaints that the police were colluding or instrumental or involved in cases of political violence in the Province.

1044. He conceded that the IPID has a standard procedure that requires investigators to give feedback regularly to complainants every 30 days, however, they were struggling with adhering to that procedure because of their workload and capacity constraints.

1045. It was put to the IPID that the Commission had heard evidence that the police investigation of political cases was being interfered with by political masters who are allegedly handling them. They were asked whether there was any such political interference with the IPID in its capacity as the watchdog of the police.

1046. Mr Sesoko assured the Commission that they would resist any political interference in their investigations, if it occurred. He made an example of the fact that they even went to the Constitutional Court to fight against political interference. He cited the fact that Mr McBride, a colleague and he were charged criminally by the police on fabricated charges because their decisions did not accord with a certain political agenda. They were, however, vindicated in the end.

1047. On the question of the success or otherwise of the arrest, prosecution and conviction of those involved in the murder of politicians, Mr Sesoko stated that generally there are good policemen and women who are in the service to make sure that they protect life and property and in terms of the Constitution, but when you have a situation where the police at the highest level get themselves involved in corrupt activities, it does affect how policing happens at lower level. That is a matter that needs to be urgently addressed. He was hopeful that with the appointment of the new National Commissioner most of these issues will be addressed.

1048. As to their effectiveness in KZN, they had investigations even at the highest level involving a Provincial Commissioner. It is important that the criminal justice



system takes all these matters very seriously so that in all their respective spheres they make sure that they prosecute those people at the highest level to send out a message that corruption cannot be acceptable, and when they do that, then they will be able to make an impact. He added that as a department, with due regard to capacity constraints, they took a strategic decision that they are going to prioritise high impact cases, especially where senior officers are involved so that they try and make an impact in the police by removing those at the highest level that are involved in criminality and assisting the police. In that way, once they do that, then the message that goes down is that criminality in the police at whatever level is not acceptable. When you have a situation when junior members see crime and corruption happening at the highest level and they complain to management and management does nothing about it, and, in fact, when they complain they are disciplined, suspended, even dismissed, It sends the message that when you see crime happening here, don't say anything. So, part of these investigations that they are doing came as a result of honest police officers saying corruption is happening at the highest level, and they have been complaining and nothing is happening. That is how they got involved.

1049. He further stated that they realised how serious the situation was when they themselves were receiving death threats from those that they were investigating. So, it is important that they all target those at the highest level that are involved in these crimes. So that when the message goes out everyone is clear, that whoever you are, you will still be prosecuted for committing these crimes. In that way, he believes, it will also change the perception of the public in terms of policing, in general, and the effectiveness thereof.

**South African Local Government Association (“SALGA”)**

1050. The South African Local Government Association (“SALGA”) appeared before the Commission on the 29 August 2017 with a delegation of five members. SALGA represents the interests of councillors and its mandate is to organise and represent the interests of local government in different structures. SALGA is an organisation that operates in all nine provinces with national executive committees and provincial executive committees and is established in terms of the Constitution of the Republic of South Africa.

1051. SALGA represents over nine thousand (9 000) councillors country wide and are thus best to speak on issues affecting councillors in the province. Of the nine thousand councillors SALGA represents, it was noted that 70 per cent of those councillors are new, having entered into local government after the 2016 local government elections, meaning out of every ten councillors, seven are new having never been in the local government sphere consequently having limited understanding of local government. It was submitted that the high turnover of councillors often has an impact on service delivery as a person with the five-year cycle of councillorship often spends two years learning local government workings and when finally gets to grips with their office, their term is over.

1052. SALGA provided a breakdown in numbers of municipalities and councillors as: 257 municipal councils with 9 306 councillors across the length and breadth of the country and an excess of 250 000 municipal employees within the local government sphere throughout the country.

1053. SALGA distinguished councillors as not being employees of a municipality but defined as office bearers in terms of the Public Office Bearer's Act adhering to a code of conduct for

councillors. Councillors have a clear set of rules that they need to observe (however, roles are often blurred).

1054. Further, SALGA submitted that there are two kinds of councillors in theory, full-time and part-time councillors. The significance of the two types of councillors will become clear herein below when the correlation between poverty and unemployment is made in relation to the number of part-time councillors as against full-time councillors. There are also councillors elected and voted for by the community and PR Councillors.

1055. Full-time councillors were described as those that are given full time responsibilities, for example, the mayor, speaker and, in certain municipalities, the chief whip or member of the executive committee or mayoral committee. They would be referred to as full-time councillors because of their day to day responsibilities which make them appear as if they are employees of the municipality but as already mentioned they are not employees in the true sense.

1056. Part-time councillors are those with full time employment elsewhere for example, teachers, policemen, doctors etc. Part-time councillors, though elected and given

responsibilities within the municipality, discharge their duties on a part-time basis.

1057. When it comes to remuneration of these two types of councillors, SALGA stated that the remuneration scales differ according to roles played i.e. full-time or part-time and that salary scales are also determined by the grade of the municipality. Municipalities are graded between 1-6. Grade 1 is the entry level and is usually a very small municipality with little income and a small population number. The highest grade is grade 6 municipality like metropolitans with high population and high income with an entry level salary scale of R 215 000 per annum. The highest salary scale of a grade 6 municipality for an executive mayor is R 1.2 million per annum.

1058. Looking at the structuring of municipalities in KwaZulu-Natal, they all are members of SALGA and there are 54 municipalities in the Province.

1059. SALGA highlighted an increase in by-elections since the year 2000 countrywide and that the by-elections are mainly due to councillors dying either through natural causes, motor-vehicle accidents or political killings. Studies

conducted by the Association also revealed that there are an increasingly high number of threats directed against females within local government (councillors and administrators in the municipality) who are more vulnerable. This factor can be confirmed by the Commission by looking at the number of female councillors who have been brutally killed during the period under investigation. Worryingly, the study showed that the threats come from community members and political parties of which the threatened person is a member causing the threats to be intra-party.

1060. The effect of threats made to councillors as well as the culture of intimidation against councillors which is now prevalent, has a major impact on municipal system processes and directly impacts on service delivery.

1061. On the question of socio-economic factors playing a role in the killings witnessed in the province, specifically that being a councillor is seen as a means of employment because of the salary and perks that come with councillorship, SALGA dispelled the myth in that:

- a) There are councillors that were employed elsewhere but requested by their political parties to serve their communities;
- b) There are councillors that are business people but requested by their political parties to serve in local government;
- c) The majority of councillors are employed full-time elsewhere and are councillors on a part-time basis. There are 9 300 councillors and 10 per cent of them are full-time. Therefore, a large proportion of the councillors are part-time.<sup>88</sup>

1062. SALGA rejected the argument that killings are informed by unemployment. The notion that people are killing each other because being a councillor comes with a better pay and perks was said to be inaccurate and incorrect. “*People are killing each other for power*”.<sup>89</sup>

1063. Gwala, one of the delegates who gave his personal views, rejected the argument that poor, uneducated people are easily manipulated and used to commit crimes of eliminating

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<sup>88</sup> Para 8-11, vol 21 at p 1065 of the record.

<sup>89</sup> Para 15-16, vol 21 at p 1077 of the record.

each other for resources. He posed a question: “there are poor municipalities elsewhere, why are the people there not killing each other?”<sup>90</sup>

1064. Lastly, on answering the question related to poverty and unemployment Gwala stated as follows:

“I, however, differ with the dilution of power in the sense that people would kill each other for food and this being relevant in the work of the Commission, because if that was to be the case one would see largely hungry people killing, or people who are without food at a very much material level. If one looks at the way the poverty index in South Africa is, one sees poverty prevailing in specific parts of South Africa, such as in the Eastern Cape and some parts of KZN and in the north and Limpopo and so forth, and yet one doesn’t see the kind of violence happening and so the broader issues around access to guns also are quite important”.<sup>91</sup>

1065. Gwala further argued that people are not killing each other so that they can have something to eat, but that people have moved beyond having an RDP house and meagre income. That state power is not being used to feed people (per notion

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<sup>90</sup> Para 8-11, vol 21 at pg 1080 of the record.

<sup>91</sup> Para 16-25, vol 21 at p 1091 of the record.



of poverty) it is used in the pursuance of power for oneself and power to pursue resources.

1066. SALGA raised an important factor, that in municipalities where there are well established systems in place it is unlikely for councillors to be killed. However, in a municipality that has broken down systems, it is likely for a councillor to be killed. The killings can be attributed to the need for state power.

1067. A study was conducted by SALGA into the effectiveness of strong Human Resources Policies (“HR”) in place within municipalities and found that lack of policy leads to opportunists taking advantage of the system. Municipalities were ranked between 1-5, 5 being the existence of strong HR policies and none of the municipalities in the province scored between 5 or 4. Three municipalities scored 3 and the majority scored 1 attesting to a lack of HR processes and that decisions are made ad hoc.<sup>92</sup> The problem simply is a lack of systems in place but municipalities are instead given the task to manage substantial amounts of money and when there is a lack of policy, the will of man prevails.

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<sup>92</sup> Para 10-21, vol 21 at p 1078 of the record.

1068. The underlying causes of political killings in the personal views of one of the delegates of SALGA are:

- a) Weak systems in place to curb corruption and manipulation of the system;
- b) The extraordinarily high number of weapons in the Province;
- c) The rhetoric of politicians and political actors that encourages violence.

### Recommendations

1069. SALGA acknowledged that a safety and security manual for councillors will have to be developed because currently there is no prescribed document when it comes to safety and security issues of councillors. SALGA conceded that there are numerous instances where deaths could have been prevented by providing security timeously. SALGA also made the following recommendations:

- (a) That KwaZulu-Natal have a collective executive system and that the system of not having executive mayors should be reviewed.
- (b) That a system should be devised to attract appropriately qualified candidates in the local government sphere, despite the challenges that would arise.
- (c) That there should be proper document management in local government to curb corruption and manipulation of tender processes.
- (d) That councillors be trained and equipped with basic skills.

### **Electoral Commission (IEC)**

1070. The IEC was represented before the Commission by Mr Mawethu Mosery who is the head of the Electoral Commission in KwaZulu-Natal (Provincial Electoral Officer) who gave the IEC's perspective of the killings taking place in the Province.

1071. The IEC assisted the Commission in understanding the circumstances in which it gets to be involved in filling a vacant seat in a municipal council and how they are charged with managing and promoting an environment that is conducive for free and fair by-elections to take place in circumstances where an elected representative being a ward councillor has died.

1072. The IEC provided some statistics on the number of councillors that have been replaced during the period falling under investigation by the Commission. The IEC submitted that during the period of 20011 to December 2017, a total of 502 sitting councillors were replaced in the Province resulting in vacancies that had to be managed by the IEC. Unfortunately, the IEC does not maintain records of causes of death resulting in the vacancies having to be filled.

1073. Out of the 502 seats that had to be filled, 391 were of Public Representatives (“PR”) derived from proportional represented seats. About 111 were seats of ward councillors that had become vacant, 31 of them were as a result of death of a sitting elected representative. Out of the 391 vacant seats of PRs that became vacant, 93 of the vacancies were due to the death of the councillors and 19 of the deaths were confirmed

being due to unnatural causes (murder and culpable homicide). The remaining 316 seats were vacant due to resignation or termination of party membership and other reasons not related to death.<sup>93</sup>

1074. The causes of vacancies in municipalities are outlined in section 27 of the Municipal Structures Act of 2009 and could be due to the following:

- (a) Resignation of a sitting councillor;
- (b) A councillor no longer being qualified to continue as a councillor;
- (c) When a councillor contravenes the code of conduct for councillors and thus removed from office for being in breach of the code of conduct;
- (d) When a councillor ceases to be a member of the political party that elected him to office;
- (e) When a councillor ceases to be a member of the local council which elected him to the district council;
- (f) When an independent ward councillor becomes a member of a political party or when an elected ward councillor

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<sup>93</sup> Para 1-14, vol 47 at pg 2879 of the record.

ceases to be a member of a political party that elected him.

1075. The process of by-elections was explained by the IEC, in that, the Municipal Manager would publish a notice setting out a date for the by-elections but due to arrangement and practise adopted, the IEC has asked Municipal Managers not to publish a notice calling for the by-elections but rather the MEC for COGTA to publish the notice in terms of the Municipal Structures Act. By-elections are then conducted in terms of the provisions of the Act and the results finalised and released within seven days.

1076. The IEC does get involved or rather intervenes when there are political tensions and conflicts arising in communities during political campaigns. The IEC ensures that political parties and those contesting an election publicly commit to and sign the code of conduct. The code encourages free political activity and promotes political tolerance amongst the competing political parties. The IEC ensures compliance and enforcement of the code through the electoral court. However, the question is, is it enough that the IEC enforces the code only during political campaigns. Perhaps, enforcement of the code to maintain tolerance should be

ensured throughout not only leading to elections. On the positive side, the IEC together with the provincial government of KwaZulu-Natal have sought further interventions to promote political tolerance through a committee that was established in 2011 in preparation for local government general elections. Clearly, the provincial government acknowledges that it has a problem when it comes to political education in the Province and various witnesses have testified on the political intolerance. When probed on how the Province compares to other Provinces when it comes to political tolerance, unfortunately, it was submitted that KwaZulu-Natal has more cases of political intolerance than other Provinces.<sup>94</sup>

1077. The IEC conceded that where conflicts are intra-party, their success rate is very low and almost non-existent when trying to mediate.<sup>95</sup> The failure is due to a number of issues such as:<sup>96</sup>

- a) it is difficult to identify who are the differing parties to the tension or conflict within a political party;

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<sup>94</sup> Para 9-10, vol 47 at pg 2894 of the record.

<sup>95</sup> Ibid.

<sup>96</sup> Para 17-24, vol 47 at pg 2891 of the record.

- b) political parties tend to rely on their own internal mechanisms when it comes resolving their differences and they tend not to welcome external interventions;
- c) there is also a resistance or reluctance to share details on the tension or conflict (factionalism being a major cause) with an external body or institution like the IEC.
- d) That it is impractical for the committee to intervene and build tolerance in the above listed circumstances.

1078. The IEC further submitted that political killings especially in the Province have been a concern for the IEC as they have an impact on the voting public and that the killings impair on the voting enthusiasm of the public being from being active participants in the broad constitutional democracy.

1079. The IEC noted a high number of by-elections compared to other Provinces but could not produce any empirical reasons except for noting that there is a high number of councillors who resigned in August 2016 and as already mentioned 19 councillors died resulting to 19 ward seats having to be filled.

1080. The existence of the Multi-Party Political Intervention Committee (“Committee”) formed in 2011 only in KwaZulu-



Natal is indicative of the persistent problems experienced in the Province when it comes to political developments and intolerance.<sup>97</sup> The IEC confirmed the Committee only exists in the Province due to the high level of political intolerance here in KwaZulu-Natal compared to other Provinces.<sup>98</sup>

1081. Mr Mosery, in his personal capacity gave his analysis of what are the underlying causes for the killing of politicians in the Province as follows:

- a) competition within a political party for the occupation of a political office;
- b) the level of desperation to hold a position of to be in a political office fuels the killings to the extent that taking another life is a consequence of the ambition;
- c) a lack of understanding of the role a public representative elected to serve the community entails. People see being a public representative as a way to self-enrichment which flames them being in public office by all costs;

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<sup>97</sup> Para 12-21, vol 47 at pg 2901 of the record.

<sup>98</sup> Para 24-25, vol 47 at pg 2901 of the record.

- d) a lack of suitable, mature, responsible people of integrity as public representatives. Even though qualifications would play a role, a measure of moral character and integrity is strongly needed to hold public office;
- e) the general perception that being a councillor confers upon a person access to resources points to a misguided understanding of a role of being a councillor or public representative.

1082. The IEC was clear in its presentation that political intolerance is still a major problem faced by the Province.

### **Statistics South Africa (Stats SA)**

1083. Stats SA was invited to the Commission to provide the Commission with insight on the possible underlying cause of poverty, unemployment and inequality being factors for the killings of politicians and whether or not a correlation can be drawn.

1084. Stats SA was represented by Ellen North and Mrs Anneline Creighton, the chief director and chief statistician, respectively.

1085. Stats SA defined poverty as a deprivation of basic needs.

That poverty is determined in two ways:

- a) A money metric poverty- where you determine a monthly earning to be above poverty line.
- b) A poverty measuring index - where deprivations are determined such as unemployment, health, whether you have assets or not and whether you have basic services.

1086. KwaZulu-Natal is the second largest Province with a population of 11.6 million people and has the lowest life expectancy rate in the country of 60.7 per cent. A third of the Province population is the youth between the ages of 15 and 34 and a higher unemployment rate of 24 per cent.

1087. The causes of violent crimes which include murder, attempted murder and robbery are commonly cited as follows:<sup>99</sup>

- a) Poverty and inequality in terms of worsened social conditions and vulnerability, specifically social exclusion and marginalisation;

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<sup>99</sup> Para 16-25, vol 48 at pg 2929 of the record.

- b) Early childhood development, in that how children are normalised to violence in terms of family circumstances and how they learn to reason has an impact, so as a lack of coherent family structures and a failure to have caring and engaging adults;
- c) Abuse of alcohol, drugs, abuse and trauma has an impact on a person's propensity towards violence; and
- d) Failure of the criminal justice system to secure the rule of law effectively and to address injustices as there is an absence of deep value-based commitment to law in society.

1088. Stats SA submitted that in comparison to other Provinces, KwaZulu-Natal has the third highest murder rate with 36.6 per cent whilst the Western Cape has the highest percentage of 55 per cent followed by the Eastern Cape with 51 per cent with Limpopo having the lowest murder rate. However, interestingly, when it comes to poverty as a driving factor for violent crimes, Limpopo, the poorest Province has the lowest murder rate.<sup>100</sup> Therefore, the logical correlation to be made

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<sup>100</sup> Para 14-17, vol 48 at pg 2930 of the record.

is that poverty in KwaZulu-Natal cannot be said to be a driver. For one to argue poverty as an underlying cause for the political killings, an explanation will have to be proffered in relation to the statistics of the murder rate in the poorest Province.

1089. A reverse correlation was drawn by Stats SA in that, Limpopo having the lowest murder rate has the highest incident of food poverty and is the worst affected Province in the country, followed by the Eastern Cape and thirdly, KwaZulu-Natal.<sup>101</sup> So if a hypothesis could be made on the analogy that the political killings are due to socio-economic circumstances, Limpopo should be having the highest murder rate and we should be witnessing a high level of political killings as everyone would be scrambling to '*serve politics of the stomach*'. The reasonable conclusion that can be drawn when one considers the statistical diagnosis of the Province, the underlying cause being poverty can safely be excluded in this instance and perhaps an underlying cause of **greed** could be examined more broadly.

1090. It was also pointed out that there is no correlation between the poorest parts of the Province and murder rates. A connection between deprivation and higher murder rates

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<sup>101</sup> Supra.

was drawn for eThekweni (Umlazi, Glebelands) as well as Newcastle, Alfred Duma, uMhlathuze, KwaDukuza, Mduduzi and Ugu. These were noted as areas with the highest murder rates.<sup>102</sup>

1091. In a nut-shell, poverty, inequality and unemployment cannot be given dominance over the other underlying factors as alluded to by various witnesses that of greed, factionalism, patronage and a breakdown of the moral fibre of society.

1092. The witnesses conceded that there was a correlation between murders, poverty and inequality and marginalisation.

### **South African Police Service (SAPS)**

1093. The SAPS delegation appeared before the Commission on the 20 February 2018 led by the Acting Provincial Commissioner Major General Langa, Major General Chiliza who was the Cluster Commander for eThekweni from 2009 to 2015 and well versed with the Glebelands situation, two Major Generals from National Office, Generals Chauke and Ramatsoele, who spoke on the issues of training of the police

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<sup>102</sup> Para 10-18, vol 48 at pg 2931 of the record.

and two other Provincial Brigadiers, Brigadiers Maqhashalala and Mbhele.

1094. The Terms of Reference are clear about what information the SAPS is required to provide to the Commission. In particular, paragraph 1 (c) of the terms require the following from SAPS:

*“the outcome of any police investigation and prosecution of the incidents, including the number of successful prosecutions, trials and convictions of the perpetrators; and...”*

1095. Paragraph 2 of the Terms of Reference requires the Commission to then make recommendations on the underlying causes giving rise to murder of politicians in KwaZulu-Natal and most importantly, recommendations in respect of the prevention of future incidents of murder and attempted murder involving politicians, both as victims and suspects and ensuring the successful investigation and prosecution of the perpetrators.

1096. It is against this backdrop that much was expected of and required from SAPS. The Commission had hoped that since the SAPS was represented throughout the proceedings,

proper account would be given on all the individual cases presented before the Commission. For the period which SAPS was not presented before the Commission, the SAPS legal representatives were handed a memorandum in which the evidence of the few witnesses that had appeared before the Commission was summarised. That memorandum was marked exhibit “**DD**” dated the 28 January 2018.

1097. Concern has to be registered about the manner in which SAPS gave its evidence and most importantly how the Acting Provincial Commissioner, without prior warning, was not available for the entire third day of the SAPS’ testimony. However, the Commission managed to receive important evidence from the SAPS presentation.

1098. The evidence by SAPS is at most fragmented but we have divided it into three segments, namely:

- a) Glebelands Hostel;
- b) Police training; and
- c) Responses to complaints on individual cases.

**SAPS response on Glebelands Hostel**



1099. During the period of 2009 to 2015, General Chiliza was the Cluster Commander for eThekweni outer cluster, previously known as Umlazi Cluster under which Glebelands Hostel fell. General Chiliza is currently the Deputy Provincial Commissioner for crime detection in KwaZulu-Natal. Since he was the Cluster Commander from 2009-2015, he was best placed to assist the Commission to understand the complexities of Glebelands.

1100. General Chiliza provided the background to the attempts and interventions made to resolve the issues of Glebelands in that, in 2009 a task team was established under the command of Captain Kane to take over investigating murder cases and attempted murder cases arising from the hostel. The indicators of violence at the formation of the task team were that there was in-fighting between the ANC and COPE supporters within the hostel. It was alleged that the residents of Glebelands were unhappy with the Montclair Police Station, alleging that the members from Montclair Police Station were biased when dealing with cases from the hostel.

1101. When the task team commenced its investigations, it established that the hostel dwellers had a system of Block Chairmen in place with each block having its own Chairman,

a secretary and the chairperson of the block chairperson's committee being Mr Mthembu who was residing at block R. As a consequence of the various block chairpersons, two groups emerged, namely, the R block supporters and the supporters of the Ubunye bamaHostela's ("Ubunye") President who was a former Ward 76 ANC Branch Executive Chairperson and a former ward 76 Ward Councillor. Glebelands Hostel falls under ward 76 in which the Ubunye's President was a previous ANC ward councillor.

1102. After the 2007 local government elections, the Ubunye president lost his councillorship position to a Mr Mzobe who remains a councillor to date. Prior to the 2009 national and provincial government elections Mr Mthembu's group defected from the ANC to COPE, which led to a conflict between COPE and ANC supporters and the president of Ubunye, mentioned above, also defected with other members of the branch to COPE. This was the set-off of the conflict at the hostel, so it would appear.

1103. The Mthembu group that had defected from the ANC to COPE returned to the ANC after the 2009 government elections. When the group returned to the ANC problems started to emerge with the group having differences with Councillor Mzobe by not recognising the Councillor as well

as the BEC and as a result aligned themselves with the SACP and SANCO. The battle between the two groups was for the control of the Ward and the Hostel.

1104. Glebelands is dominated by one political party, which is the ANC, with members of the ANC Branch Executive Committee also being members of the Ward Committee. On examining the trends of violence within the hostel, it is clear that before the emergence of another group known as the “Hlophe group” in May 2014 which was in opposition to the Mthembu group, murders and attempted murders were subsiding within the hostel, despite the prevalence of in-fighting and grumblings regarding councillorship and constitution of the Ward Committee.

1105. Drastic change in the not so peaceful climate of the hostel occurred at the emergence of the Hlophe group that controlled what is known as the Madala Stezi (meaning the old block in the northern part of the hostel). The Hlophe group and the Mthembu group were flinging accusations against each other, which often led to someone being killed.

1106. A break-down of the number of people killed in Glebelands for the period of 2010-2017 was provided by General Chiliza. Unfortunately, it was only numbers with no additional

information to assist in determining the identity of the victims. There were 24 murders committed within the hostel and the pattern that emerges is that the majority of murders were committed through stabbings that occurred mainly at night and they are as follows:

- a) **1 April 2010- 31 March 2011:** five (5) murders were committed. Out of the five, two were victims of shootings and three (3) were victims of stabbing.<sup>103</sup>
  
- b) **1 April 2011- 31 March 2012:** eleven (11) murders were committed. Out of the eleven, (7) seven were victims of stabbing. Two (2) of them were shot and the last two (2) were victims of assault. Five arrests were made for the (11) murders and ended up in Court but two (2) cases were withdrawn and the accused was acquitted in one. In one an accused was sentenced to four years and in another the accused was sentenced to ten (10) years. <sup>104</sup>
  
- c) **1 April 2012- 31 March 2013:** five (5) murders were committed. Four (4) out of the five (5) were victims of stabbing. One (1) was a victim of assault. Three cases

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<sup>103</sup> Para 19-25, vol 43 at pg 2544 of the record.

<sup>104</sup> Para 1-10, vol 43 at pg 2545 of the record.

went to Court, one was withdrawn and the remaining two the accused were found not guilty and acquitted.<sup>105</sup>

d) **1 April 2013- 31 March 2014:** three (3) murders were committed. One of the three made it to Court and the accused was sentenced to five years.<sup>106</sup>

e) **1 April 2014- 31 March 2015:** there were eighteen (18) murders that were committed. Four of the eighteen murders went to Court. Nine of the cases of murder could not be linked to what was happening in Glebelands.<sup>107</sup> However, even the remaining eight could not be linked to politics as the motives differed from room-mates fighting over switching off of a light and various other criminal activities.<sup>108</sup>

f) **1 April 2015- 31 March 2016:** there were seventeen (17) murders that were committed. Fifteen of the victims were shot and one victim was stabbed and one victim died as a result of their house being petrol bombed. Out of the seventeen cases, five could not be linked to a political motive.<sup>109</sup>

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<sup>105</sup> Para 19-25, vol 43 at pg 2545-2546 of the record.

<sup>106</sup> Para 6-9, vol 43 at pg 2546 of the record.

<sup>107</sup> Para 20-25, vol 43 at pg 2554 of the record.

<sup>108</sup> Para 1-25, vol 43 at pg 2555 of the record.

<sup>109</sup> Para 1-25, vol 43 at pg 2556-2557 of the record.

g) **1 April 2016 – 31 March 2017**: there were eleven (11) murders committed. Nine of the victims were shot and one was stabbed. The eleventh victim was pushed from a window from the third floor and died on impact.<sup>110</sup>

1107. Statistics provided on attempted murders that occurred in Glebelands were as follows:

a) **1 April 2010- 31 March 2011**: there were three (3) attempted murder cases that were committed. Two out of the three cases, the victims were shot and one was assaulted with a hammer. Two cases went to Court and one case was withdrawn and in the other the accused was acquitted.<sup>111</sup>

b) **1 April 2011- 31 March 2012**: there were six (6) attempted murders that were committed. Out of the six, four were victims of stabbing, one was a victim of a shooting and one was a victim of assault. Out of the six cases, four ended up in Court and three of the cases resulted in withdrawals and one the accused was sentenced to three years imprisonment.<sup>112</sup>

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<sup>110</sup> Para 22-25, vol 43 at pg 2560-2561 of the record.

<sup>111</sup> Para 5-12, vol 43 at pg 2547 of the record.

<sup>112</sup> Para 14-24, vol 43 at pg 2547 of the record.

c) **1 April 2012- 31 March 2013**: there were nine (9) attempted murders that were committed. Out of the nine, four were victims of stabbing and three were victims of shootings. In one case boiling water was poured on the victim and the one victim was otherwise assaulted. Six cases made it to Court, four were withdrawn at Court and in the one case, the accused was fined Five Thousand Rand.<sup>113</sup>

d) **1 April 2013-31 March 2014**: there were six (6) attempted murders that were committed. Out of the six, three were victims of a shooting. Two of the victims were stabbed and boiling water was poured on one victim. Four of the six cases went to Court; two were withdrawn in Court; and in one, the accused was sentenced to 15 years imprisonment. In the other, the accused was fined Two Thousand Rand.<sup>114</sup>

When General Chiliza was asked on whether he could confirm that all the cases of murder and attempted murder in Glebelands were politically connected, he was unable to validate that the killings were politically connected. What

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<sup>113</sup> Para 1-5, vol 43 at pg 2548 of the record.

<sup>114</sup> Para 15-18, vol 43 at pg 254 and para 20-25 at pg 2551-2552 of the record

emerged from his evidence was that in most instances the causes of murder or attempted murder are not political in Glebelands.<sup>115</sup> General Chiliza emphasised that there are many dynamics to be considered when attempting to understand the issues of Glebelands, but general criminality features prominently. In General Chiliza's analysis, the criminal elements plaguing Glebelands are exacerbated by the conflict caused by the selling of bed spaces, illegal evictions, power to control the blocks and accessing the collection fees that are demanded from the residents.<sup>116</sup>

1108. On the challenges faced by the SAPS in investigating the murders and attempted murders in Glebelands, General Chiliza held that the SAPS would encounter reluctance from residents to come forward as witnesses despite having knowledge of the criminal activities in the hostel. Another obstacle was that potential witnesses were dissuaded by some people from going into the witness protection programme.<sup>117</sup> General Chiliza commended the work done by Ms Vanessa Burger which assisted in breakthroughs in certain cases despite mostly working for the Mthembu group that was in opposition to Councillor Mr Mzobe.<sup>118</sup>

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<sup>115</sup> Various causes of death in the hostel, para 1-17, vol 43 at pg 2557 of the record.

<sup>116</sup> Para 5-18, vol 43 at pg 2560 of the record.

<sup>117</sup> Para 15-22, vol 43 at pg 2561 of the record.

<sup>118</sup> Para 4-13, vol 43 at pg 2562 of the record.



1109. General Chiliza was of the view that even if a thousand police members were to be deployed to Glebelands, the killings would still continue at the hostel.<sup>119</sup> However, despite the problems that exist within the hostel, a dedicated task team is still in place and the police have improved their efforts and there is even a Satellite Station in the hostel to make the services accessible to residents.

1110. The existence of the two rival groups in Glebelands adds to the challenges prevailing in the hostel which amongst them is the high number of firearms recovered at the hostel.<sup>120</sup> General Chiliza disputed the allegations that there are high calibre firearms in the hostel but admitted to an AK 47 being recovered.<sup>121</sup> He did later on admit that during his tenure as cluster commander there was an incident where an R5 or R4 rifle was used during an attack but disputed R4's and R5's being recovered at the hostel during his time as commander. When probed to conceding that these rifles should not be readily accessible to the general public, Chiliza stated that R4s and R5s are similar to LM4s and use the same ammunition. The SANDF and security companies also use the same (LM4s) cartridges and ammunition. When probed further on the possibility of an ordinary citizen owning a high

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<sup>119</sup> Para 13-14, vol 43 at pg 2564 of the record.

<sup>120</sup> Para 17-20, vol 43 at pg 2579 of the record.

<sup>121</sup> Para 13-15, vol 43 at pg 2567 of the record.

calibre weapon his response was he wasn't aware of any person owning such a weapon however, he did not verify with the firearm registry.<sup>122</sup>

1111. It must be noted that the responses provided by SAPS on the high calibre weapons being easily accessible or used in some of the killings in the hostel is disturbing. What is the most distressing is the fact that these R4s and R5s/LM4s are issued to security companies and there have been allegations that security companies have employees who sometimes double up as *izinkabi* and the fact that the SAPS has no knowledge and control of the issuing of these dangerous weapons in the Province despite having confirmation of these weapons being used in some murders is unacceptable.<sup>123</sup>

1112. Lastly, on Glebelands General Chiliza stated that SAPS are apolitical and do not account to any political body and most importantly the killings taking place in Glebelands are criminally linked and not political.

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<sup>122</sup> Pg 2580, vol 43 of the record.

<sup>123</sup> Para 7-11, vol 43 at pg 2581 of the record.

## **SAPS response on adequacy of police training**

1113. General Chauke and General Ramatsoele from Pretoria gave evidence before the Commission on 21 February 2018, dealing specifically with the adequacy of training SAPS members undergo. The two Generals' evidence sought to deal with the allegations of the police not being competent to sufficiently investigate and resolve the political killings in the Province.

1114. It was unfortunate that on this second day of SAPS giving their evidence that the Acting Provincial Commissioner, General Langa had to be excused at 12h00 due to some commitment in Pretoria. The Chairperson expressed his displeasure at the senior officer in the Province leaving without imparting valuable information and recommendations to assist the Commission.<sup>124</sup> General Langa was excused to return on 12 March 2018 with the SAPS delegation for a third day of evidence hearings from the police. Unfortunately, on 12 March 2018 General Langa could not attend the proceedings as he was reported to be out of the country on official business.

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<sup>124</sup> Para 1-15, vol 44 at pg 2642 of the record.

1115. General Chauke is the person responsible for training all permanently appointed members of SAPS countrywide and with twenty-six years in the service, twenty-four of those years spent training members of SAPS.<sup>125</sup>
1116. General Chauke's responsibility in the division of Human Resource Development component is to train all members of the police but the training of each member is informed by a competency profile which assists in determining the type of training required by a member based on the competency profile. A process of conducting a skills audit for each member is undertaken when training permanent members of SAPS.
1117. New SAPS members go through a basic training programme which is an entry level programme. On completion of the basic training programme, members are then deployed to various units (i.e. crime prevention, public order policing etc). Once members are in their respective categories, a skills audit is conducted to determine what type of training each member requires and which category profile they fall into. It is after the audit that the extraction training needs is done to consolidate all the needs of the members of SAPS.

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<sup>125</sup> Para 12-23, vol 44 at pg 2608 of the record.

1118. Skills development facilitators from each province at every station have skills development facilitators who assist in the conducting of needs extractions and skills audits which are then forwarded to the provincial head for verification. The provincial training committee which consists of the provincial commissioner, labour, human resources and provincial human resources department, receive the needs of each province. The committee then prioritises in terms of the strategic priorities of the organisation. Every five years the organisation (SAPS) compiles strategic planning which the strategic priorities guide the areas of focus and look at the priorities of each province (i.e. priority crimes differ from province to province. For example, in the Eastern Cape stock theft might be dominant and in KZN sexual offences might be dominant).<sup>126</sup>

1119. The training provisional plan for members is informed by two parts, the national plan and the provincial plan. The national plan consists of courses that are presented by the national training institutions and the provincial plans are those courses presented at each and every province where the provincial human resource departments are tasked with the job.<sup>127</sup>

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<sup>126</sup> Para 1-16, vol 44 at pg 2610 of the record

<sup>127</sup> Para 1-9 vol 44 at pg 2612 of the record.

1120. Members of SAPS are exposed not only to internal courses but also international courses. SAPS have bilateral agreements and sponsorships with various countries such as France, China and the USA. Detectives, operational members within the TRT and POP members receive training that focuses on forensics.<sup>128</sup>

1121. SAPS has partnered with tertiary institutions as well as private institutions in the country to provide training to members. Detectives undergo a fifteen week course on general detective environment which includes general principles of criminal law, functioning in a team, provisions of the Criminal Procedure Act, management of exhibits, investigative interviewing, statement taking, victim empowerment, witness protection procedures, crime scene management, stress management, investigation of specific crimes, inquest investigations, missing persons, docket administration, principles of evidence in the investigation of a crime, giving of evidence, the role of crime intelligence in the investigation of a crime, informers, tracing techniques and utilisation of information systems.<sup>129</sup>

1122. The allegations that SAPS members lack adequate training and the necessary expertise to solve the political murders

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<sup>128</sup> Para 10-14, vol 44 at pg 2612 of the record.

<sup>129</sup> Para 1-25, vol 44 at pg 2613 of the record.

was disputed by the two Generals and the above attests to the extensive training that detectives countrywide receive before being tasked with solving crimes.

1123. The allegations of the Umlazi Police failing to deal with the Glebelands situation was touched on by the Generals in that out of the seventy (70) members falling under Umlazi SAPS, forty-seven (47) of the members have undergone the crime solving training courses and twenty-three (23) of the members have been trained with the basic investigation course. Training is ongoing. Therefore, the majority of the detectives falling within Umlazi are sufficiently trained in crime investigation and the perception held by many is incorrect.

1124. Major General Ramatsoele (“Ramatsoele”) is with the National Head Office at the Detective Service and is the National Head for Specific Crime Investigations with thirty-seven years of being in the SAPS and with thirty-two (32) years in the detective service. His evidence focused mainly on the criteria followed when selecting a police official to function within the detective service.

1125. As already touched on by Chauke, all SAPS members receive basic training and on completion of that basic

training, they identify their interests and potentials within the service and those that fit the profile of being a detective are identified through their work ethic in docket handling, registering of cases, visible policing, statement taking, state of the investigating diary etc. The best candidates are then recruited to the detective service on authorisation of the station commander and then are placed on probation. The probation period is twelve months with the potential candidate working with an experienced investigator.

1126. The detective services at all stations is divided into three main groups of investigation:

- a) Violent crimes-murders, armed robberies, hijackings etc;
- b) Economic crimes- fraud, forgery etc ; and
- c) A group investigating general crimes.

1127. The two Generals emphasised that the SAPS do their best to ensure that all the members receive the theoretical knowledge of the field they have chosen as well at the practical skills to execute their functions. The SAPS believe



that they have sufficient systems in place to provide their members with the required knowledge.

1128. On addressing the public's perception that junior officers are given the task of investigating these political murders which leads to no arrests in the majority of cases, SAPS responded that their investigating priorities are not based on rank level although sensitivity is borne in mind when it comes to cases which would require an experienced investigator. In allocating a case to a detective, skills are examined and you might find that a Warrant Officer of fifteen years has the skills and expertise to investigate a high-profile case wherein one would be of the opinion that such case should be investigated by a General or Brigadier. Therefore, rank level is not a criterion for investigating crimes, the criterion is the capability of the officer to execute her/his duties.

1129. The SAPS conceded that the successful combating of crime is the role played by Crime Intelligence to a great extent. Crime Intelligence is part of the value chain in investigation and is a critical link in crime detection. Unfortunately, despite widely being acknowledged that Crime Intelligence is failing when it comes to political killings, SAPS could not comment on who is responsible for crime intelligence and the workings of that section of SAPS.

1130. The SAPS further admitted that it plays an integral part in leading a case to successful prosecution and that prosecutor guided methods of investigations are promoted because they lead to successful convictions. However, the evidence tendered before the Commission dealt largely with the difficulties faced by the prosecution in obtaining successful outcomes.

1131. It was also regrettable that there was no one in the SAPS delegation that could speak authoritatively about crime intelligence and its role in gathering intelligence concerning the murder of politicians in KZN. To the Commission's amazement, none of the police officers seemed to know about the scandal involving the sacked former head of the Rapid Deployment Head, Captain Morris "KGB" Tshabalala.<sup>130</sup>

1132. The SAPS even recommended a team of integrated detectives and prosecutors to gather all (dockets under investigation and dockets pending in court) dockets in the Province associated with political violence to be dealt with by the integrated task team.<sup>131</sup>

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<sup>130</sup> Vol 44 pg 2676 – 2679 of the record.

<sup>131</sup> Para 3-9, vol 44 at pg 2637 of the record.

**NATIONAL PROSECUTING AUTHORITY**

**(CYRIL THULANI SELEPE)**

1133. He testified on 22 February 2018. He is an advocate and a Deputy Director of Public Prosecutions at the office of the Director of Public Prosecutions (DPP) in Pietermaritzburg. He has been a prosecutor for 17 years and a deputy director for 8 years. He prosecuted the case of the so-called KZN26.

1134. The office of the DPP is in charge of all prosecutors in the entire province, i.e. in the lower and high courts. Adv Selepe confirmed that the NPA had received a memorandum from the Evidence Leaders containing specific cases that required feedback.

1135. The evidence leader alluded to the fact that the Commission was aware that the DPP's office deals with sensitive matters in terms of the stage of the investigation, etcetera and he was given the liberty to withhold any information at his discretion. Adv Selepe then proceeded to give feedback on the cases, as follows.

**Nqutu CAS 2/6/2015**

**Deceased: Vusumuzi Bonginkosi Ntombela**

1136. He complimented the SAPS for good investigation, the members of the public who assisted in the apprehension of the perpetrator who pleaded guilty and the second accused who was prosecuted, convicted and sentenced to life imprisonment in the High Court. He confirmed the fact of the case as testified to before the Commission by the brother of the deceased.
1137. With regard to the family's concerns that there were masterminds behind the scene, he indicated that there was no evidence in the docket pointing to anyone else besides the two accused who were convicted. He conceded that he was not excluding the possibility of masterminds, but there was no evidence to suggest it.
1138. He confirmed that, in general, the hitmen are usually not given much information by the middlemen who procure them. As a result, they reveal very little to the SAPS and NPA when they are caught and some even deny that they were involved. That makes it very difficult and not feasible to detect the masterminds behind the scene. The NPA would

welcome any further information and would guide the SAPS to investigate it further.

**Richmond CAS 92/10/2015 and CAS 114/10/2015**

**Deceased: Mthulisi Ngcobo**

1139. Adv Selepe had perused the docket and confirmed that the charge was withdrawn on 11 March 2016 in the lower court. He stated that the charge was withdrawn due to insufficient evidence. He was not willing to comment about the evidence as the investigation was still on going, suffice that when there is sufficient evidence and prospects of a successful prosecution, the matter will be re-enrolled.
1140. Adv Selepe alluded to the need to educate the public. If the NPA persists with a prosecution where there is no evidence, it constitutes a civil wrong for which it may be sued civilly. Besides the civil aspect, it is morally wrong to prosecute an innocent person, in the sense of without evidence.
1141. In terms of informing the complainants, victims and interested parties, he indicated that the investigating officers are the NPA's voice to the community and they rely on them in that regard. The NPA's decisions are communicated to the investigating officers properly. Nevertheless, the NPA has an

open-door policy in dealing with complaints, queries and representations and they do respond to them.

**Umlazi CAS 478/7/2012**

**Deceased: Mthunzi Innocent Gwala**

1142. Regarding the family's concern that a material witness was not called to testify, he explained the gist of her evidence. She said on a certain day, she was in Durban when she saw two African males having a conversation. She overheard them saying they had killed the deceased. Her evidence was very vague in that she did not identify those people. She did not say whether they said they had killed the deceased themselves or they were talking about what other people had done.

1143. So, her evidence would not have added any value to the case. The issue was complicated by the fact that the witness refused to testify. There is an entry in the docket by the investigating officer to that effect.

1144. Adv Selepe then moved from that specific case to what occurs in general. Witnesses do frequently refuse to testify at trial for a variety of reasons, including fear of being killed. The NPA tries their best to refer them to witness protection

programme, but some refuse it. When you compel such a witness to testify, they become hostile in court and that aggravates the case.

**Ibisi CAS 91/4/2017**

**Deceased: Khayaletu Edgar Thobela**

1145. Adv Selepe had dealt with this case himself and declined to prosecute in respect of the murder charge as there was no evidence linking them to the murder. Brigadier Mbhele met with Adv Selepe and informed him about a person who has been arrested in possession of a firearm in a roadblock near Ladysmith. His informer had told him that he was the hitman in Thobela's murder.

1146. They fast tracked the ballistic analysis. Within two or three days, the ballistic report was obtained and it excluded the said firearm as being the murder weapon. They had no other option, but to prosecute the accused for possession of the firearm, not murder. In respect of theft of motor vehicle, there was no evidence in the docket giving a full description of what vehicle was used in the Commission of the murder.

1147. Regarding the murder charge, the investigation was still ongoing to gather further evidence. Adv Selepe urged the

community to assist the SAPS and the NPA in obtaining evidence, not only in the Thobela case, but all cases.

**Plessislaer CAS 169/6/2016**

**Deceased: Petina Regina Ngubane**

1148. Adv Selepe stated that the DPP's office declined to prosecute in the matter because there was no evidence warranting a prosecution. The only evidence was the deceased's statement that was made in hospital to the police before she died. She mentioned the perpetrators' names in that statement. That would have constituted hearsay evidence in court.

1149. The NPA's decision was informed by case law which provides that, in as much as hearsay evidence may be admissible statutorily, it should not play a decisive role towards the conviction of the accused. It needs to be accompanied by other evidence to enhance the prospects of a successful prosecution. Adv Selepe referred to a similar reported case where the Supreme Court of Appeal set the conviction aside based on the precedent alluded to above.

1150. He indicated that in most cases, the NPA is required to make a judgment call on whether to hastily prosecute a weak case because of public sentiments or to wait a bit longer to



acquire more evidence. He conceded that the best option is to wait because it gets worse if the accused gets acquitted due to weak evidence. He confirmed that the investigation was still on going.

**Margate CAS 1/7/2012**

**Deceased: Wandile Mkhize and Nhlakanipho Shabane**

1151. Adv Selepe confirmed that the matter was dealt with in the DPP's office. The two accused were prosecuted on the basis of a confession and a pointing out respectively. The court ruled both to be inadmissible and the NPA was left in a difficult position as there was no other material evidence.
1152. Regarding the family's allegation that a potential witness was not called to testify, Adv Selepe indicated that he could not find that witness' statement in the docket. If the statement never existed, the prosecutor who dealt with the trial in the High Court would not have known about such witness.
1153. There are instances where a witness has not made a statement and it is brought to the attention of the prosecutor that they have material information. The first thing is that the NPA must be fair to the accused and disclose that fact to the defence because one cannot ambush the accused as they

are entitled to receive the State's evidence because to prepare adequately for trial. Once those constitutional hurdles are crossed, such witness may be called to testify.

1154. He indicated that the request to have the prosecution reopened was welcome by the NPA, provided that further evidence would be obtained to prove that there were other people who were involved.

1155. He conceded that Glebelands had been troubling everyone for years. He was tasked by the DPP to look into all dockets relating to Glebelands matters and the co-operation and dedication of the SAPS was impressive. It had been a joint project for many years and the difficulty had always been lack of evidence. However, at some point there were breakthroughs in obtaining the evidence as people were then willing to come forward.

1156. Mr Siphon Ndovela was a witness and he was killed at Umlazi Court. A person was prosecuted, convicted and sentenced recently to life imprisonment. Also, recently certain people, including a policeman, had been arrested in connection with offences at Glebelands.

1157. Adv Selepe was not willing to divulge any more information regarding those arrests due to the sensitivity and stage of the matter. He stated that, in an environment like Glebelands, only the brave ones would come forward and give statements to the SAPS because of the risks involved.

1158. He also referred to a letter dated 18 August 2017 from his colleague, Mr S Prithipal, indicating that they had received a total of 49 cases involving members of political parties for the period 2011 to date. As the NPA, they are informed by the evidence and information in the whether a case is a political killing or not. He also confirmed that political killings and other high-profile cases fall under his portfolio in the DPP's office. He conceded that the statistics may not be absolutely accurate, as sometimes a case is perceived as being political in the public domain when in fact there is no factual evidence in the docket to confirm it.

1159. Regarding the recommendation that a task team of experienced prosecutors and detectives must collect all of the relevant dockets of political killings and work on them, he indicated that that has been happening for a long time.

1160. In response to a question by a Commissioner whether experienced investigators and prosecutors would know how to collapse a case, Adv Selepe replied that he did not want to speculate as the public required answers. He however stated that he had never encountered such a situation in his career. Similarly, he had never heard of any prosecutor who was influenced by any politician to ensure that a case was not successfully prosecuted or that it was withdrawn.

1161. In response to a question by a Commissioner, Adv Selepe conceded that there is a provision in our law to subpoena people who have information relating to crimes to compel them to give information. He added that such procedure never been utilised in political offences simply because the NPA has never received any information to the effect that a particular person has information but does not want to make a statement or to testify. If the police had brought it to the NPA's attention, they would indeed deal with it accordingly.

1162. In response to a question by a Commissioner, Adv Selepe indicated that they have had instances of hostile witnesses in political cases. Generally, such witnesses are accomplice witnesses and they let the prosecution down in their testimony in court by changing their versions or denying their statements. Ultimately, it becomes difficult to

prosecute such witnesses thereafter because there is no other evidence to prosecute them and, by law, you cannot subsequently utilise their own accomplice statements against them.

1163. He also confirmed that, in terms of recent jurisprudence, a decision to prosecute and a decision not to prosecute are both justiciable in that they can be challenged in court and set aside.

## **FINDINGS**

1164. We have carefully considered the evidence set out above. We have read the transcribed evidence and studied the written submissions that accompanied some of the oral testimony of the witnesses that testified before us.

1165. As these proceedings are inquisitorial and not adversarial, we have not attempted to resolve the few disputes of fact. We did not find it necessary to do so, as the bulk of the evidence was common cause or otherwise not disputed.

1166. What follows are the essential findings.

1167. The murder of politicians were at a local level, involving mainly Councillors, potential Councillors, and branch leaders of political organisations.
1168. The barriers of entry to becoming a Councillor are extremely low. Essentially if one is a popular person without any academic or vocational qualifications one is able to become a Councillor.
1169. The election into a political position of Councillor gives one political power which creates the opportunity for access to resources through tenders and other financial avenues, leading to corruption, crass materialism, and conspicuous consumption.
1170. Election as a councillor allows for upward mobility in financial and social status. Consequently, the loss of the Councillor position leads to a corresponding loss of the financial and social status.
1171. Accession to the position of Councillor puts one in close proximity to the awarding of tenders and creates the opportunity for the manipulation of the tender process for personal benefit.

1172. Election as a Councillor also lends itself to the creation of a patronage network. However, should the Councillor lose his/her position, not only does the Councillor lose their income and social status, but the entire patronage network may suffer a similar loss.
1173. The advantages that come with election as a Councillor therefore results in fierce competition for those positions and consequently manipulation of voting for those positions are common especially at branch, regional, and national levels within political parties.
1174. The evidence of a number of witnesses confirm that branch, regional, and provincial meetings of political parties are manipulated using a number of underhand tactics which seek to marginalise some in the battle between different factions. This often results in violent attacks and retaliatory attacks, which have been at the core of a number of murders of politicians.
1175. The evidence also suggests that a lack of political leadership or manipulation by leaders is also a contributory factor to the disruption of branch, regional, and provincial meetings often resulting in the murder of politicians.

1176. The evidence suggests serious weaknesses in the entire criminal justice system, especially the security apparatus, including national intelligence, crime intelligence, and other general and specialised investigation units, in terms of effectiveness of personnel, and coordination, and coherence among security entities.
1177. The evidence also indicates that there were weaknesses in crime intelligence in the gathering, processing and deploying of evidence to prevent or resolve the murder of politicians.
1178. There was evidence to the fact that state institutions, particularly security institutions, are being manipulated by politicians for political ends.
1179. There was evidence that criminal elements are recruited by politicians to achieve political ends, resulting in a complex matrix of criminal and political associations that also lead to the murder of politicians.
1180. Evidence that senior political functionaries in the province employed private and out of province police to resolve criminal incidents, involving them personally, in the province does not give much confidence in the ability of the local security establishment.



1181. The murder of politicians and other killings relating to Glebelands Hostel received a lot of attention in the local media. As a consequence the Commission made an *in loco* inspection of Glebelands Hostel. The conditions witnessed by the Commission in the Hostel corroborated the evidence of those who alleged neglect of the Hostel by the responsible authority, the eThekweni Municipality.
1182. The abdication of this responsibility was both in terms of the lack of maintenance of the physical property, as well as in the administration of the property, including the allocation of beds, which was left to criminal elements, resulting in violent competition for control of the lucrative business of controlling the renting of the beds.
1183. The correlation between electoral and political competition and its attendant violence was highlighted by the IEC. The result is the impairing of the voting public's willingness to engage with democracy and it increases voter apathy.
1184. There was evidence that language used by politicians is sometimes provocative and incites violence, contributing to the murder of politicians.

1185. There was also evidence that suggested that a culture of violence had taken root in the Province and that this culture had its roots in the colonial and apartheid eras. The murder of politicians is not a new phenomenon in KZN. The killing of Griffiths and Victoria Mxenge is one of the most high-profile cases of the murder of politicians. They were assassinated in 1981 and 1985.

## **RECOMMENDATIONS**

1186. The Commission deliberated and decided on the recommendations that follow hereunder.

1187. Political parties must take responsibility for the violent competition between their members for political positions and power. The Commission recommends that political parties urgently educate their members about democratic practices, especially the universal practice of peaceful political competition as opposed to political intolerance and violent political competition. Political parties must discipline their members whose conduct encourages or results in political intolerance and violence and where their members are involved in or are accomplices to killings they must report these members to the relevant law enforcement authorities.

1188. In the current context of an extremely volatile political environment and an upcoming election, it is recommended that political parties immediately settle differences within and between themselves through peaceful means using negotiation, mediation and other consensus building techniques to avoid the continuing murder of politicians and public officials.

1189. There was overwhelming evidence from the majority of witnesses that access to resources through the tender system is the main root cause of the murder of politicians. The Constitution of the Republic of South Africa (s217(1)) states that, when an organ of State in the national, provincial, or local sphere of government, or any other institution identified in national legislation, contracts for goods or services, it must do so in accordance with a system that is fair, equitable, transparent, competitive, and cost effective. There was ample evidence before this Commission that the above constitutional provisions were violated in all respects by manipulation and exploitation by politicians and public officials in collusion with business people. It is therefore strongly recommended that the State must urgently investigate this matter and where necessary revise its procedures to ensure that it complies with the

constitutional provisions of fairness, equity, transparency, competitiveness, and cost effectiveness.

1190. The Commission recommends that the State immediately take measures to depoliticise and professionalise the public service. The State must rebuild a public service that is driven by the politics of delivery and public service and not the politics of patronage and personal accumulation. The State must also take measures to immediately enforce the separation of powers, duties, and functions between public representatives and public officials and hold each accountable professionally and criminally for their respective conduct.

1191. Government functionaries must, without exception, have the appropriate qualifications for the jobs that they are expected to perform in. Political deployment of persons as government functionaries into positions without the appropriate qualifications must be discouraged and eliminated as a practice.

1192. The investigation of corrupt activities and the attendant criminal acts by politicians, public officials and business people must be vigorously investigated and those against whom there is evidence of corruption must be expeditiously

prosecuted and if found guilty must be appropriately sentenced to rebuild the confidence of the public in the public service and to avoid building a culture of impunity and a culture where perpetrators believe that they are politically protected from prosecution and punishment.

1193. There was ample evidence before the Commission that acts of omission and commission by the police, through incompetence or political manipulation, has led to a loss of public confidence in the criminal justice system but especially the police services and security agencies in general, including crime intelligence, national intelligence, and the specialised policing and prosecution agencies. It is recommended that the State take immediate measures to ensure that institutions of the entire criminal justice system are immediately depoliticised and the political manipulation of these agencies to meet political ends is immediately brought to an end and public measures be taken to instil confidence in the public that the State is acting vigorously, expeditiously, and without fear or favour.

1194. It is recommended that an inter-ministerial task force of national Ministers of the security cluster, working with their provincial and municipal counterparts, immediately review the workings of the security agencies to ensure that effective

coordination and coherence among and between these agencies is reinforced in practice. Competition and non-cooperation among these agencies is a major contributory factor to the unresolved murder of politicians and consequently contributes to the perceptions and actual culture of impunity.

1195. It is recommended that the recruiting, training, and deployment of police be improved through ensuring that properly qualified people are recruited, adequate and specialised training is given, and appropriate police be deployed to appropriate situations.

1196. The evidence indicates that weak political parties and leadership is what leads to factionalism and intolerance within and between parties which in turn results in violent conflict, often resulting in the murder of political functionaries. It is therefore recommended that political parties build a strong membership base that is rooted in democratic values, political competition, tolerance, sound moral values and service to the public.

1197. It is also recommended that political parties re-enforce a culture of adherence to and mobilisation along the lines of democratic principles and political programmes and not

narrow identity or along the lines of political positions and power.

1198. Whilst educational qualifications should never be made a requirement to hold public office as such a requirement will violate the democratic right of any citizen to hold public office, it is recommended that political parties and state institutions should provide effective and appropriate training as well as reassess any current training so as to ensure that elected public officials are well prepared for the tasks that they are expected to carry out.

1199. In the medium to long term, it is recommended that political parties must work with religious organisations, civil society organisations, the media, academics and any other appropriate institution to reverse the current culture of intolerance, violence, and killings and political parties, together with the State and organs of civil society, must enforce a strict code of conduct which prevents politicians, state officials and citizens from using language which incites hatred, prejudice, and violence.

1200. The evidence presented before this Commission is not confined just to the Province of Kwazulu-Natal but has similarities with incidents of the murder of politicians in

other Provinces, and the underlying causes of the murder of politicians are potentially present in all Provinces. The Commission therefore recommends that this report be referred to the National Cabinet so that the evidence and findings can be studied and the recommendations can be implemented nationally. The culture and network of patronage and impunity does not stop provincially but stretches nationally and the problem must therefore be prioritised provincially but eventually addressed nationally!



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THUS SIGNED AT DURBAN THIS 12<sup>TH</sup> DAY OF JUNE 2018.

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