

RealTime Transcriptions

TRANSCRIPTION OF THE

COMMISSION OF INQUIRY

MARIKANA

BEFORE TRIBUNAL

THE HONOURABLE MR JUSTICE FARLAM (RETIRED) - CHAIRPERSON
MR TOKOTA SC
MS HEMRAJ SC

HELD ON

DAY 252

30 JUNE 2014

PAGES 31729 TO 31820



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1 [PROCEEDINGS ON 30 JUNE 2014]
 2 [10:34] CHAIRPERSON: The Commission resumes
 3 rather later than we had expected but there was a technical
 4 hitch in relation to the link-up witness the venue where Mr
 5 X is. It's finally been repaired, as far as I can, which
 6 is why we can proceed. Mr Interpreter, would you please
 7 remind the witness he's still under oath?
 8 MR MAHLANGU: Confirmed, Chair.
 9 MR X: (s.u.o.)
 10 CHAIRPERSON: Yes, Mr Mathibedi.
 11 MR MATHIBEDI SC: Thank you, Chair.
 12 Chair, before I start with the witness, I'm going to ask –
 13 leading the witness, I'm going to ask that item 13 and 14
 14 of bundle A be admitted as exhibits. These are the
 15 affidavits relating to the location of where the body of Mr
 16 Langa was found. It gives a description. This is to
 17 conclude it or complete the chain.
 18 CHAIRPERSON: What are the – we're back
 19 with the quadruple A series. What are the exhibits that
 20 you want to have admitted?
 21 MR MATHIBEDI SC: [Microphone off,
 22 inaudible] affidavit – bundle A.
 23 CHAIRPERSON: Yes. The affidavit of
 24 Simon Harry Ngopana, is that right?
 25 MR MATHIBEDI SC: That's correct, Chair.

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1 CHAIRPERSON: It will be admitted as
 2 exhibit AAAA, what's the next number?
 3 MS PILLAY: 23, Chair.
 4 CHAIRPERSON: Sorry?
 5 MS PILLAY: 23.
 6 CHAIRPERSON: 23, thank you. What's the
 7 other one you want?
 8 MR MATHIBEDI SC: It's the statement of
 9 Khanyisa Nxakoshe, it's item 14.
 10 CHAIRPERSON: Also an affidavit?
 11 MR MATHIBEDI SC: That's correct.
 12 CHAIRPERSON: The affidavit of, is this
 13 Khanyisa – I'm sure I won't get the clicks right but it's
 14 Nxakoshe, is it, and that's AAAA24. Any other documents
 15 you want to put in at this stage? No, so we'll –
 16 MR MATHIBEDI SC: Nothing so far, Chair.
 17 CHAIRPERSON: So we'll proceed with the
 18 narrative.
 19 MR MATHIBEDI SC: Thanks, Chair.
 20 CHAIRPERSON: [Microphone off, inaudible]
 21 – I found on my desk this morning in the room that we've
 22 been using as chambers, a transcription of a video with
 23 some words in Fanagolo and then an English translation and
 24 then it was accompanied by a note to the effect that the
 25 parties had been provided with a translation of what was

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1 heard on this video clip. This relates back to the 10th of
 2 August and the notes that I was given read as follows, "We
 3 provide the parties with a translation of the speaker and
 4 some strikers as depicted on the video footage of Cally's*
 5 04-56 clip number 0003 on the SAPS hard drive. The parties
 6 should indicate whether they accept the accuracy of the
 7 translation and if the accuracy of the translation is not
 8 accepted, the parties are requested to give their input.
 9 Now has there been any response to that? Must we deal with
 10 that at this stage or is it something we're going to have
 11 to look at in due course?
 12 MR MATHIBEDI SC: Chair, I think we can
 13 deal with that at a later stage.
 14 CHAIRPERSON: We will now proceed with
 15 the evidence in chief of the witness.
 16 EXAMINATION BY MR MATHIBEDI SC (CONTD.):
 17 Thanks, Chair. Sir, we are still dealing with the
 18 incidents of the 13th of August 2012.
 19 MR X: [Inaudible]
 20 CHAIRPERSON: [Inaudible] – a note on the
 21 screen that says potentially the main cameras are connected
 22 –
 23 MR X: I can hear the interpreter, Mr
 24 Chairperson, but –
 25 MR MATHIBEDI SC: Chairperson –

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1 [inaudible]. Chair, can we take –
 2 CHAIRPERSON: [Inaudible] – now correct.
 3 MR MATHIBEDI SC: Thanks, Chair.
 4 [COMMISSION ADJOURNS COMMISSION RESUMES]
 5 [11:00] CHAIRPERSON: I'm sure that things have
 6 been fixed up, but as I came in I heard the soundtrack of
 7 the, from the television screen; it didn't sound too
 8 promising, but is everything now properly working, Mr
 9 Mathibedi?
 10 MR MATHIBEDI SC: Chair, I don't think
 11 it's properly working because the sound is [inaudible].
 12 CHAIRPERSON: What exactly [inaudible].
 13 I thought for a minute it was the clanking of spears being
 14 knocked against each other, but apparently it isn't.
 15 MR MATHIBEDI SC: I thought so.
 16 CHAIRPERSON: Those responsible for –
 17 MR X: I can hear you.
 18 CHAIRPERSON: [Inaudible] would you
 19 please remind him he's still under oath?
 20 MR X: Thank you, Sir. Okay. [through
 21 interpreter]
 22 EXAMINATION BY MR MATHIBEDI SC (CONTD.):
 23 Sir, on the 13th who arranged transport to take the injured
 24 strikers to hospital?
 25 MR X: It was Mambush and Xolani.

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1 MR MATHIBEDI SC: How many injured
2 strikers were transported to hospital?
3 MR X: I think there were two, Chair.
4 MR MATHIBEDI SC: Do you know whose car
5 was used to transport the injured strikers to hospital?
6 MR X: I don't know the name of the
7 owner, but it was a white vehicle.
8 MR SEMENYA SC: What effect did the
9 attack on the police officers have on the strike?
10 MR X: The result was that many of the
11 people then came and joined in taking the rituals, having
12 realised that the gun was not effective.
13 MR MATHIBEDI SC: Sir, do you know a
14 gentleman by the name Taozela?
15 MR X: Yes, Sir.
16 MR MATHIBEDI SC: Do you know if he was
17 also involved in the unprotected strike?
18 MR X: Yes, he was on the mountain.
19 MR MATHIBEDI SC: Besides being at the
20 mountain, what else did he do?
21 MR MAHLANGU: He also mentioned that he
22 was a committee member. The question, Sir, was?
23 MR MATHIBEDI SC: Besides being a
24 committee member and also being at the mountain, what else
25 was his role in the unprotected strike?

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1 MR X: He was amongst us. He was a
2 member of the makarapas.
3 MR MATHIBEDI SC: On the 13th is there
4 anything outstanding that he did?
5 MR X: Yes, Sir.
6 MR MATHIBEDI SC: Would you please
7 proceed and tell us what is it that he did?
8 MR X: It was on the 13th that he said all
9 the people wearing NUM T-shirts, they should be torn, taken
10 off and torn. He said we abandon a vehicle that is not
11 moving, we get onto moving vehicles.
12 MR MATHIBEDI SC: Sir, on the 13th in the
13 evening, where did you sleep?
14 MR X: On the mountain.
15 MR MATHIBEDI SC: Were you alone?
16 MR X: It was a group of the makarapas,
17 the people that had already undergone the rituals.
18 MR MATHIBEDI SC: And where did the
19 inyanga sleep on the 13th?
20 MR X: Also on the mountain at their
21 place.
22 MR MATHIBEDI SC: Thanks, Sir. We are
23 moving over to the 14th of August 2012.
24 MR X: Yes, Sir.
25 MR MATHIBEDI SC: Would you please

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1 proceed and tell us what happened in the morning?
2 MR X: There was a meeting on the 14th.
3 As the committee on the mountain whilst meeting, three
4 people were called. The three came and stood in front of
5 us. It was Twala, Mawewe, and another young man from
6 Bizana who was working at the Saffy Shaft; I'm not sure of
7 his name. They were questioned, certain questions were put
8 to them. Mawewe as the first one. After being questioned
9 he was left. Then the person who was employed at Saffy
10 whose name I don't know was next to be questioned. He was
11 also left.
12 Then Twala came up to be asked questions. Xolani
13 said he knows Twala, that Twala works with him and that
14 Twala was a spy at work and that he had caused people to be
15 dismissed. He searched him and in his pocket he found a
16 cell phone and then he was asked what he was doing with a
17 cell phone because nobody was to carry a phone on the
18 mountain. He alleged, he said he was handing out
19 information to NUM people using this phone, because the
20 telephone had airtime and then he paged through the phone.
21 They took Twala around the mountain, five of
22 them, he was the sixth. They took him to the other side of
23 the mountain. Twala's gun which he had in his possession
24 was taken by Mambush. People that took him, there were
25 five of them, Twala was the sixth, Mr Chairperson. Those

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1 that I know was Mambush, Xolani and Anele. They took him
2 to the other side of the mountain. After they had gone on
3 the other side of the mountain I heard a gunshot. When I
4 looked on the other side of the mountain where the gunshot
5 had come from I saw Anele took a skull of a beast and put
6 it on Twala's chest. They then came back from that side.
7 I realised that Twala had been shot with the gun that was
8 taken. Anele came back and said "We are through with him,
9 we are finished with him."
10 MR MATHIBEDI SC: Now Sir, what was the
11 response of the strikers to the report that was given by
12 Anele that they are finished with Twala?
13 MR X: They started singing, singing out
14 very loud and the song went louder.
15 MR MATHIBEDI SC: Which song did they
16 sing?
17 MR X: It was a song "How we are going to
18 kill this NUM, we hate NUM."
19 MR MATHIBEDI SC: Sir, who questioned
20 Twala, Mawewe and the other unknown gentleman?
21 MR X: It was Anele, Mambush and Xolani.
22 It was also mentioned by Anele that he was known at work to
23 be a spy and that he was responsible for the dismissal of
24 certain people. Xolani confirmed it that he also knows
25 this man, he had tried to have him fired.

<p style="text-align: right;">Page 31737</p> <p>1 MR MATHIBEDI SC: Were other members of 2 the committee present during the questioning of the three 3 gentlemen? 4 MR X: The two others who had been with 5 them earlier had left and they joined the majority of the 6 group which was standing. 7 MR MATHIBEDI SC: And what was the 8 involvement of the two other gentlemen in the questioning 9 of Mr Twala, Mr Mawewe, and the other unknown gentleman? 10 MR X: The only thing I realised is that 11 they were scared. I actually saw them shaking, but they 12 took part in the singing. 13 MR MATHIBEDI SC: Now before the five 14 gentlemen, including Anele, Mambush and Xolani, left with 15 Mr Twala, was there any discussion as to what should happen 16 to Mr Twala? 17 MR X: As a committee, Chairperson, we 18 had made a decision yes that Twala would be taken on the 19 other side and be killed. 20 MR MATHIBEDI SC: Were you part of the 21 committee that took a decision that Mr Twala should be 22 killed? 23 MR X: Yes, I was in that committee, 24 Chairperson. 25 MR MATHIBEDI SC: The five gentlemen,</p>	<p style="text-align: right;">Page 31739</p> <p>1 MR MAHLANGU: I must mention, 2 Chairperson, I mentioned both the warning in Setswana and 3 Xhosa. 4 CHAIRPERSON: Thank you very much. I 5 think the 30 seconds has now expired. The slide can now be 6 shown. 7 MR MATHIBEDI SC: Thanks. Mr Bennett, 8 will you kindly refer us to exhibit L, slide 102? Sir, are 9 you familiar with the picture depicted on the screen? 10 MR X: Yes, I do, Sir. 11 MR MATHIBEDI SC: Do you know the person 12 who is depicted in the slide? 13 MR X: That is Twala, Mr Chair. 14 MR MATHIBEDI SC: When was he killed? 15 MR X: He was killed on the 14th on the 16 other side of the mountain. 17 MR MATHIBEDI SC: Can you see that on the 18 chest of Mr Twala there is an object, white object? 19 MR X: Yes, Sir. 20 MR MATHIBEDI SC: Will you please proceed 21 and describe the object? 22 MR X: It's a skull of a beast that was 23 put there by Anele. 24 MR MATHIBEDI SC: Do you know why this 25 skull was placed on the body of Mr Twala?</p>
<p style="text-align: right;">Page 31738</p> <p>1 in – 2 CHAIRPERSON: I'm sorry to interrupt you. 3 You said you were in the committee. Were you party to 4 taking the decision that Mr Twala would be killed? 5 MR X: I agreed with the decision, 6 Chairperson, since I was also a member of the makarapas on 7 the mountain. 8 MR MATHIBEDI SC: The five gentlemen that 9 left with Mr Twala, including Anele, Mambush and Xolani, 10 did they have anything on them at that stage? 11 MR X: Yes, they had pangas, bush knives 12 and spears. 13 MR MATHIBEDI SC: Chair, I'm going to 14 refer to slides which are going to show graphic image of Mr 15 Twala. I think the necessary warning be given. 16 CHAIRPERSON: Yes, I'm informed that 17 we're now going to see some slides, graphic slides of the 18 body of Mr Twala and I'm sure that seeing these slides will 19 cause a great deal of emotional distress and pain to Mr 20 Twala's family and those who were near and dear to him, and 21 I ask that the slides not be shown until 30 seconds have 22 expired after what I've said has been translated, to enable 23 those who would not wish to be exposed to the emotional 24 stress that will follow from seeing these slides to leave 25 the chamber.</p>	<p style="text-align: right;">Page 31740</p> <p>1 MR X: I don't know what the meaning is 2 of it. Anele could possibly explain the relevance or the 3 meaning thereof. 4 MR MATHIBEDI SC: But to you, Sir, is it 5 acceptable that a person after having been brutally 6 murdered, a skull should be placed on top of his body? 7 [11:19] MR X: No, no that's just madness. 8 COMMISSIONER HEMRAJ: Do you perhaps 9 where the skull came from, did it happen to be just lying 10 there, did somebody bring it in? 11 MR X: This was just found there, cattle 12 that had died on their own along the bushes there. 13 MR MATHIBEDI SC: Mr Bennett will you 14 proceed and show us slide 103? 15 Sir, are you familiar with what is set out in the 16 slide? 17 MR X: I do, Sir. 18 MR MATHIBEDI SC: Will you please proceed 19 and describe what is depicted in the picture? 20 MR X: I see the head, the skull of the 21 beast and a big cut on it's cheek on the side. 22 MR MATHIBEDI SC: Do you confirm that the 23 person depicted in the slide is Mr Twala? 24 MR X: That is him yes, Chairperson. 25 MR MATHIBEDI SC: Mr Bennett will you</p>

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1 please proceed and show us slide 104? Sir, are you
 2 familiar with what is set in this picture?
 3 MR X: Still Twala appearing,
 4 Chairperson.
 5 MR MATHIBEDI SC: Thanks, Chair, I think
 6 it can be removed. Sir, do you know if Mr Twala belonged
 7 to any union?
 8 MR X: Yes, he was a member of NUM.
 9 MR MATHIBEDI SC: Do you know if he was
 10 an office bearer of NUM?
 11 MR X: Yes he was a steward, a NUM
 12 steward.
 13 MR MATHIBEDI SC: Steward of NUM for
 14 which branch or shop?
 15 MR X: At the Karee shaft at the Karee
 16 mine.
 17 MR MATHIBEDI SC: Sir, the questioning of
 18 the late Mr Twala, Mr Marawa and the unknown gentleman at
 19 what time did that take place?
 20 MR X: It could have been any time
 21 between 12:00 and 1:00 during the day, Mr Chairperson. I
 22 wouldn't be sure of the time because we were not supposed
 23 to carry watches.
 24 MR MATHIBEDI SC: Sir, I would like to
 25 take you to the 14th in the morning where were you, the

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1 14th, the 14th of August in the morning where were you?
 2 MR X: I was on the mountain, Chair.
 3 MR MATHIBEDI SC: Did you, at any stage
 4 in the morning, move from the mountain?
 5 MR X: No I did not move from the
 6 mountain.
 7 MR MATHIBEDI SC: Sir, there is evidence
 8 before this Commission that in the morning at about 10:00
 9 or 11:00 a team of negotiators of the police negotiated
 10 with some of the strikers. Are you aware of that?
 11 MR X: Yes the police came and said they
 12 wanted to talk to us. They asked that five of the people
 13 should come nearer to them so that they could have a
 14 discussion with them. Five of the young men there
 15 proceeded forward towards the Nyala, those that I remember
 16 who was amongst them Mambush and Xolani. Mambush went
 17 right up to the Hippo and followed by Xolani and they spoke
 18 in the loudspeaker.
 19 MR MATHIBEDI SC: Did they approach the
 20 Hippo and reach it?
 21 MR X: Mambush, he had a discussion with
 22 them but when he came back he did not tell us what is it
 23 that was being said.
 24 MR MATHIBEDI SC: Mr Bennett I'm going to
 25 refer to exhibit L, slide 93. Will you please put it up on

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1 the screen?
 2 COMMISSIONER HEMRAJ: Does that mean that
 3 you could not hear what the exchange was that had taken
 4 place between those inside the Nyala and those [inaudible]
 5 who were standing in front of the Nyala?
 6 MR X: We could hear the discussion but
 7 we realised there was trouble there. There was now
 8 fighting going on.
 9 MR MATHIBEDI SC: The fighting that
 10 you've referred to was between whom?
 11 MR X: What was going on there was that
 12 nobody from the NUM was wanted whatsoever on that mountain.
 13 MR MATHIBEDI SC: Sir, Commissioner is
 14 referring to the discussion that took place between the
 15 police negotiators and the five persons that were
 16 appointed. Could you hear what was discussed?
 17 MR X: What he could hear was there was a
 18 request the police should bring our employer to the
 19 mountain there and the police were begging us, pleading
 20 with us to come off the mountain.
 21 MR MATHIBEDI SC: What was the response
 22 of the strikers to the plea that was made by the police?
 23 MR X: The strikers said we were not
 24 going to move away from the mountain until such a time that
 25 the police have brought our employer to the mountain to

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1 come and tell us about the R12 500 we were demanding.
 2 MR MATHIBEDI SC: Sir, will you have a
 3 look at slide number 93? Are you familiar with what is
 4 depicted in the slide?
 5 MR X: I do, Sir.
 6 MR MATHIBEDI SC: Will you please proceed
 7 and tell us what was happening?
 8 MR X: We were being sprayed with the
 9 muti by a person called – the person wearing a jacket that
 10 is woollen. Mambush was walking in front of us arranging
 11 that we should come forward, the Makarabas to be sprayed.
 12 MR MATHIBEDI SC: Who is Buccaneer, Sir?
 13 MR X: Buccaneer was the young
 14 traditional healer, the one who was actually conducting the
 15 rituals on the mountain.
 16 MR MATHIBEDI SC: Now why was it
 17 necessary for Buccaneer to apply muti at that stage?
 18 MR X: He was spraying this muti on us so
 19 as to be ready in case the police - in case there would be
 20 a fight breaking out then between us and the police that we
 21 would be ready to fight there, because there was a fight
 22 going on there.
 23 MR MATHIBEDI SC: Which fight are you
 24 referring to that was going on?
 25 MR X: Because the police were starting

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1 to bring their Hippos, their vehicles nearer to us.
 2 MR MATHIBEDI SC: Sir, I'm going to refer
 3 you to slide 86. Are you familiar with what is depicted in
 4 this slide?
 5 MR X: These people standing in a line
 6 there, in that format, those are the people on whom the
 7 rituals were being conducted.
 8 MR MATHIBEDI SC: The rituals were
 9 conducted by who?
 10 MR X: The Inyanga's sons, boys who were
 11 staying at a place near where we were camped. But I had a
 12 problem with them. The naked people standing in a row.
 13 Thank you, Chair, Commissioner.
 14 MR MATHIBEDI SC: Sir, why were the
 15 people naked?
 16 MR X: This is how the rituals are being
 17 conducted, Chairperson. First people get dressed
 18 altogether, then they get washed, cleansed by the Ntelezi,
 19 then stand in a line, the Nyanga would then come and make
 20 those cuts and then put the muti into those cuts. Because
 21 such rituals cannot be conducted before a person has been
 22 washed, cleansed with the Ntelezi muti. Why a person has
 23 to be totally naked because that where the cuts are being
 24 done blood comes out and then the muti is being put into
 25 the bleeding throughout the body.

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1 MR MATHIBEDI SC: When did that take
 2 place, can you remember the day and the date?
 3 MR X: This was on the 14th, Chairperson.
 4 It was on the 14th, Chairperson.
 5 MR MATHIBEDI SC: For now, Sir, let's
 6 restrict ourselves to the 14th. Now where were these people
 7 taking part in the rituals on the 14th?
 8 MR X: Chairperson, we killed police on
 9 the 13th and the people then realised that the guns were
 10 ineffective so they joined in bigger numbers on the 14th.
 11 Even those that were scared, who did not trust this thing
 12 were then convinced that the gun was not effective.
 13 MR MATHIBEDI SC: Sir, on the 14th the
 14 rituals that you have just described were they performed at
 15 the same spot as on the 11th in the evening?
 16 MR X: It was not exactly at the same
 17 spot but not far away from there. As you can see it was
 18 being done in the public, it's open, it's an open veld
 19 there it was being done.
 20 MR MATHIBEDI SC: Sir, will you have a
 21 look at slide number 87? Are you familiar with what is set
 22 out in that slide, Sir?
 23 MR X: Yes, that's still conducting those
 24 rituals.
 25 MR MATHIBEDI SC: When was that?

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1 MR X: It was the 14th, Chairperson.
 2 MR MATHIBEDI SC: Are you in a position
 3 to state what time of the day was that?
 4 MR X: It was in the region of between
 5 1:00, 2:00 or towards 3:00, yes.
 6 MR MATHIBEDI SC: Sir, will you have a
 7 look at slide number 90? Are you familiar with what is set
 8 out in that slide, Sir?
 9 MR X: It's still part of the rituals
 10 being conducted. As you can see there is a big dish there
 11 with Ntelezi, people are being washed.
 12 [11:39] There's also a tin there which is a Coca-Cola tin
 13 that is cut in which the intelezi was being thrown by
 14 Buccaneer from the main dish.
 15 MR MATHIBEDI SC: Was Buccaneer alone
 16 when he performed the rituals on the 14th?
 17 MR X: No, he was not alone, there were
 18 two.
 19 MR MATHIBEDI SC: Do you know the name of
 20 the other gentleman who was in the company of Buccaneer?
 21 MR X: I don't know his name,
 22 Chairperson.
 23 MR MATHIBEDI SC: Mr Bennett, will you
 24 please show us exhibit JJ28.29, the video clip?
 25 COMMISSIONER HEMRAJ: Before you go

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1 there, can I just ask you? Being convinced that the guns
 2 were not efficient, how did this work because on the 13th
 3 already some strikers had been shot? How did the belief
 4 prevail?
 5 MR MAHLANGU: The question was the belief
 6 that the strikers were shot?
 7 COMMISSIONER HEMRAJ: The belief that the
 8 guns, being convinced that the guns were not effective in
 9 relation to strikers already having been killed on the 13th.
 10 MR X: Commissioner, the belief was that
 11 the two people that were injured and taken to hospital,
 12 these were people who had joined us along the way and who
 13 had not undergone the rituals.
 14 COMMISSIONER HEMRAJ: Thank you.
 15 [VIDEO IS SHOWN]
 16 MR MATHIBEDI SC: Will you please stop?
 17 CHAIRPERSON: We're stopping at 12, the
 18 video began – we're stopping at 12 seconds.
 19 MR MATHIBEDI SC: Sir, will you please
 20 proceed and tell us what is depicted in the slide?
 21 MR X: The rituals are being conducted
 22 there, people are washing with the intelezi, Chair.
 23 MR MATHIBEDI SC: Who was conducting the
 24 rituals?
 25 MR X: The inyanga boys were doing that.

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1 Amongst the people there, there is a big dish which is
 2 usually known as a "waskom," it's a washing basin.
 3 MR MATHIBEDI SC: Sir, can you please
 4 describe the person shown with the pointer? Can you
 5 describe what is that person doing?
 6 MR X: That person had undressed,
 7 Chairperson. Now there, because the police were disturbing
 8 us with talking to us, he was trying to get dressed.
 9 MR MATHIBEDI SC: Why did he undress?
 10 CHAIRPERSON: Sorry, for those who are
 11 going to watch this later, on the left-hand side of the
 12 slide there is a man in what looks like a blue shirt. As
 13 one goes to the right – it appears, the upper part of his
 14 body appears to be uncovered and he's bending forward.
 15 That's the person who is referred to by the witness.
 16 During the time that the slide has been shown it also is
 17 apparent that there was someone who is just, as one moves
 18 to the right from the person to whom I have referred, I see
 19 someone bending over with a red shirt and then one sees two
 20 people to the right of him and then there's the person
 21 whose back is to the camera, who has what appears to be a
 22 vest or a shirt over the upper part of his body. That
 23 person was putting on the garment on the top of his body in
 24 the earlier part of this slide.
 25 MR MATHIBEDI SC: Thanks, Chair. The

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1 persons depicted in the slide, why did they undress?
 2 MR X: They had undressed to take part in
 3 the rituals.
 4 MR MATHIBEDI SC: Thanks, sir. Will you
 5 please proceed and play the video for us?
 6 CHAIRPERSON: On now from 12.
 7 [VIDEO IS SHOWN]
 8 CHAIRPERSON: We've stopped at 56 seconds
 9 and we've just heard the voice of someone saying, "I'd like
 10 to speak to your leaders," saying that in English. I take
 11 it we're going to have a Fanagolo translation in a moment.
 12 Carry on?
 13 MR MAHLANGU: Just before the English
 14 version, Chair, that person spoke in Fanagolo. He said,
 15 [speaking Fanagolo]. "We want to fix your problem without
 16 a fight."
 17 MR MATHIBEDI SC: Sir, just before this
 18 slide did you see people at the top of the boulders?
 19 MR X: Yes, sir.
 20 MR MATHIBEDI SC: Why were those strikers
 21 sitting on top of the boulders?
 22 MR X: Those were watching as we were
 23 down, they were watching from on top of the rocks.
 24 MR MATHIBEDI SC: What is it that they
 25 were watching?

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1 MR X: They were watching at the police
 2 and any other who was approaching, in order to report to
 3 those of us who were down there.
 4 MR MATHIBEDI SC: In particular report to
 5 who?
 6 MR X: If there was anything they regard
 7 as being dangerous they would report to the group of
 8 Makarapas, particularly to Xolani and Mambush.
 9 MR MATHIBEDI SC: Will you please proceed
 10 and play the video?
 11 [VIDEO IS SHOWN]
 12 MR MATHIBEDI SC: Sir –
 13 CHAIRPERSON: Sorry, on the soundtrack of
 14 the video one first heard someone speaking English.
 15 MR MAHLANGU: That's correct, Chair.
 16 CHAIRPERSON: And thereafter someone
 17 spoke in, I presume, Fanagolo.
 18 MR MAHLANGU: Yes.
 19 CHAIRPERSON: Can you tell us what he
 20 said?
 21 MR MAHLANGU: In Fanagolo, [speaking
 22 Fanagolo]. "We want to create a relationship with you in a
 23 good manner."
 24 CHAIRPERSON: Thank you. What we've now
 25 got is, the video has been stopped at one minute 41 seconds

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1 and one can see on the video what looks like a basin or a
 2 small bath, I suppose.
 3 MR X: That is what I refer to,
 4 Chairperson.
 5 MR MATHIBEDI SC: Sir, what was that
 6 basin used for?
 7 MR X: The mixed intelezi was contained
 8 in that big bucket and next to it is a tin that has been
 9 cut, it's a Coke tin, that is the one Buccaneer used to get
 10 the intelezi out of the bigger tin.
 11 MR MATHIBEDI SC: Sir, was it a tin or a
 12 bottle?
 13 MR X: These were the two litre Coke
 14 plastic bottles which was cut in the middle.
 15 MR MATHIBEDI SC: I think it will become
 16 clearer, Chairperson, as we play the video.
 17 CHAIRPERSON: Well, it may be clearer for
 18 us as we watch it but those who are going to read this in
 19 years to come may want to know what's happening.
 20 MR MATHIBEDI SC: Thank you –
 21 CHAIRPERSON: More or less in the middle
 22 of the slide at one minute 41 seconds, slightly above the
 23 middle, slightly above the bottom of the slide there is a
 24 white object and that, we are told, is the two litre Coke
 25 plastic –

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1 MR X: That is correct, Chairperson.
 2 MR MATHIBEDI SC: Mr Bennett, will you
 3 proceed and play the video for us?
 4 [VIDEO IS SHOWN]
 5 MR MATHIBEDI SC: Will you please stop?
 6 CHAIRPERSON: It's one minute 53 seconds.
 7 MR MATHIBEDI SC: Sir, next to a basin
 8 there is a person who appears to be seated, can you see
 9 him?
 10 MR X: I see that person, yes.
 11 CHAIRPERSON: He appears to have a green
 12 shirt, is that right?
 13 MR X: I see that person, Chair.
 14 CHAIRPERSON: Is it a green jacket or a
 15 green shirt or can't you tell us?
 16 MR X: The green one that's a T-shirt,
 17 Chairperson.
 18 CHAIRPERSON: I see, thank you.
 19 MR MATHIBEDI SC: What is he doing? Are
 20 you in a position to describe that?
 21 MR X: He is seated there on a rock.
 22 MR MATHIBEDI SC: Are you in a position
 23 to state whether he's holding an object with him or not?
 24 MR X: There is something he is carrying
 25 in his hand, Chairperson, but my screen doesn't show very

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1 clearly what object it is.
 2 CHAIRPERSON: It looks like a cloth of
 3 some kind, doesn't it? Anyway, that's not a question for
 4 the witness. In front of the person, in front of the
 5 person with the green T-shirt who has something in his
 6 hand, as you say, there appears, there are some objects.
 7 What are they and what are they on?
 8 MR MATHIBEDI SC: Will you please proceed
 9 and play the video for us?
 10 CHAIRPERSON: He hasn't answered my
 11 question.
 12 [VIDEO IS SHOWN]
 13 CHAIRPERSON: Now we can see it as a
 14 cloth that he had in his hand but in front of him, it looks
 15 like a drum with probably two plastic Coke bottles. I'd
 16 like the witness to tell us and not just to rely on what I
 17 see myself. Can you tell us? What are those objects in
 18 front of the person, on what are they?
 19 MR X: It's a jacket, it's a woollen
 20 jacket that is there.
 21 CHAIRPERSON: What are the objects in
 22 front of him? There are two objects in front of him, I
 23 think. They're on something, what are they and what are
 24 they on?
 25 MR X: There's the cut Coke container.

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1 CHAIRPERSON: And what are they on?
 2 MR X: And the dish, the washing basin.
 3 CHAIRPERSON: Thank you.
 4 MR X: That washing basin that I spoke
 5 about there, that is the one in which the intelezi was
 6 contained.
 7 COMMISSIONER HEMRAJ: What is the object
 8 on which the Coke bottles appear to be resting, what are
 9 those?
 10 MR X: Those are big 25 litre containers,
 11 two of them, Chairperson. This was organised with water,
 12 that is the water that was to be mixed with the intelezi,
 13 yes.
 14 MR MATHIBEDI SC: The witness described
 15 them as two drums - [vernacular word] - drum. The two
 16 litre Coke bottle, what was it used for?
 17 MR X: The intelezi would be mixed with
 18 the water, as I have said, Mr Chairperson, into the washing
 19 basin and the Coke bottles would then be used to draw from
 20 the mixed intelezi.
 21 CHAIRPERSON: I'm sorry, just to get
 22 clarity on it. Was there one Coke bottle or two? It looks
 23 either like two bottles or one that's perhaps been split in
 24 half. Can you tell us, was it one bottle or two?
 25 MR X: There's one on the drum or the

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1 container. The lid thereof towards the opening has been
 2 cut open.
 3 MR MATHIBEDI SC: How many two litre Coke
 4 bottles were there, sir?
 5 MR X: There was one, the one that was
 6 cut, the one that was cut which was used to draw the muti
 7 with before spraying it onto us with the Coke bottle.
 8 MR MATHIBEDI SC: Mr Bennett, will you
 9 proceed and play the video for us?
 10 [VIDEO IS SHOWN]
 11 MR MATHIBEDI SC: Stop.
 12 CHAIRPERSON: It's stopped at two minutes
 13 five seconds.
 14 MR MATHIBEDI SC: Sir, on the video there
 15 is a gentleman who is squatting, can you see him?
 16 MR X: I see him.
 17 MR MATHIBEDI SC: To the left, yes, can
 18 you see that gentleman?
 19 CHAIRPERSON: In the left hand bottom
 20 corner of the slide.
 21 MR X: I see that person.
 22 [11:59] That is the person who was spraying the intelezi
 23 onto us.
 24 MR MATHIBEDI SC: Do you know his name,
 25 Sir?

<p style="text-align: right;">Page 31757</p> <p>1 MR X: His name, no, I don't know it. Oh</p> <p>2 yes, that is this Buccaneer.</p> <p>3 MR MATHIBEDI SC: Will you please proceed</p> <p>4 and play the clip for us?</p> <p>5 [VIDEO IS SHOWN]</p> <p>6 Will you please stop? Sir, there is a gentleman</p> <p>7 who appears to be making hand gestures who's got a greenish</p> <p>8 blanket. Can you see that?</p> <p>9 MR X: That's Mambush.</p> <p>10 MR MATHIBEDI SC: What was he doing at</p> <p>11 that stage?</p> <p>12 MR X: He was instructing us to come</p> <p>13 nearer to one another, to be closer to each other, those</p> <p>14 who were going to be sprayed with the intelezi, those of us</p> <p>15 who had undergone the rituals. Buccaneer would be</p> <p>16 appearing there where he was going to spray us with the</p> <p>17 intelezi.</p> <p>18 MR MATHIBEDI SC: Why is it in particular</p> <p>19 that it was Mambush who was giving instructions?</p> <p>20 MR X: Mambush was the person elected,</p> <p>21 chosen by us to be the leader on the mountain.</p> <p>22 MR MATHIBEDI SC: Mr Bennett, will you</p> <p>23 proceed and play the video for us?</p> <p>24 [VIDEO IS SHOWN]</p> <p>25 Will you please stop?</p>	<p style="text-align: right;">Page 31759</p> <p>1 it's being attended to. As soon as the witness – oh,</p> <p>2 there's the witness's face appearing on the screen. Would</p> <p>3 you please inform him that he's still under oath, and then</p> <p>4 Mr Mathibedi can continue with the examination.</p> <p>5 MR X: I am still under oath.</p> <p>6 COMMISSIONER HEMRAJ: Mr Mathibedi, what</p> <p>7 is the exhibit number of the video that you've now shown?</p> <p>8 MR MATHIBEDI SC: JJJ28.</p> <p>9 COMMISSIONER HEMRAJ: Thank you so much.</p> <p>10 EXAMINATION BY MR MATHIBEDI SC (CONTD.):</p> <p>11 Mr Bennett, at the very same exhibit will you please go</p> <p>12 over to point 3-2?</p> <p>13 [VIDEO IS SHOWN]</p> <p>14 Will you please stop?</p> <p>15 CHAIRPERSON: [Microphone off, inaudible]</p> <p>16 MR MATHIBEDI SC: Sir, will you please</p> <p>17 describe what is happening, what is in that clip?</p> <p>18 MR X: Yes, it's sprinkling the muti.</p> <p>19 MR MATHIBEDI SC: Who is sprinkling the</p> <p>20 muti?</p> <p>21 MR X: Buccaneer is sprinkling the muti</p> <p>22 which is cooked from the basin then cut [inaudible].</p> <p>23 MR MATHIBEDI SC: Will you please –</p> <p>24 CHAIRPERSON: Sorry, he's the gentleman</p> <p>25 in the middle of the screen in the green jacket. Is that</p>
<p style="text-align: right;">Page 31758</p> <p>1 CHAIRPERSON: Stopped at 2 minutes</p> <p>2 [microphone off, inaudible].</p> <p>3 MR MATHIBEDI SC: Sir, will you tell us</p> <p>4 what the strikers were doing at that stage in the video?</p> <p>5 MR X: They are squatting.</p> <p>6 MR MATHIBEDI SC: Why were they</p> <p>7 squatting?</p> <p>8 MR X: This crouching stance was</p> <p>9 instructions that were given to us by the inyanga.</p> <p>10 MR MATHIBEDI SC: Will you proceed and</p> <p>11 play the video for us, Mr Bennett?</p> <p>12 [VIDEO IS SHOWN]</p> <p>13 Stop –</p> <p>14 CHAIRPERSON: [Microphone off, inaudible]</p> <p>15 MR MATHIBEDI SC: Thanks, Chair.</p> <p>16 CHAIRPERSON: Is it appropriate for us to</p> <p>17 take the tea adjournment at this point?</p> <p>18 MR MATHIBEDI SC: I think it is</p> <p>19 appropriate, Chair.</p> <p>20 CHAIRPERSON: We will take the tea</p> <p>21 adjournment, 15 minutes.</p> <p>22 [COMMISSION ADJOURNS COMMISSION RESUMES]</p> <p>23 [12:23] CHAIRPERSON: The Commission resumes.</p> <p>24 The microphone is off at the other side according to the</p> <p>25 screen. It is being attended to at the moment. I'm sure</p>	<p style="text-align: right;">Page 31760</p> <p>1 right?</p> <p>2 MR X: Yes.</p> <p>3 MR MATHIBEDI SC: Will you please proceed</p> <p>4 and play the video?</p> <p>5 [VIDEO IS SHOWN]</p> <p>6 Will you please stop?</p> <p>7 CHAIRPERSON: 46 seconds.</p> <p>8 MR MATHIBEDI SC: Sir, the video depicts</p> <p>9 a gentleman who appears to be wielding a panga. Did you</p> <p>10 see that?</p> <p>11 MR X: Yes, I saw that.</p> <p>12 MR MATHIBEDI SC: Why is he conducting</p> <p>13 himself in that fashion?</p> <p>14 MR X: He is ululating.</p> <p>15 CHAIRPERSON: What he's doing, he's</p> <p>16 ululating and walking down and waving a panga, but why was</p> <p>17 he conducting himself in this manner? That's the question</p> <p>18 Mr Mathibedi asked.</p> <p>19 MR X: This is a challenge for a fight,</p> <p>20 challenging the police.</p> <p>21 MR MATHIBEDI SC: Now Sir, why did</p> <p>22 Buccaneer sprinkle the strikers with muti at that stage?</p> <p>23 MR X: He is reviving the rituals that we</p> <p>24 had undergone sometime earlier on using this intelezi. We</p> <p>25 had undergone the rituals long ago and we have been killed.</p>

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1 MR MATHIBEDI SC: Thanks. Will you
2 please proceed and play the video?
3 [VIDEO IS SHOWN]
4 Will you please stop?
5 CHAIRPERSON: We stopped at 1 minute and
6 8 seconds. Before you ask your question, Mr Mathibedi, Mr
7 Tokota has told me, translated for me what we heard on the
8 soundtrack. Perhaps the interpreter can do that for us
9 also. I think it will be useful to have it on the record.
10 MR MAHLANGU: It was said "In peace" - he
11 greeted them first in Sotho, said "Dumelang" - good morning
12 - "Moreni, we are here to talk to you in peace."
13 CHAIRPERSON: Thank you. Yes, Mr
14 Mathibedi.
15 MR MATHIBEDI SC: Sir, will you please
16 proceed and tell us what is depicted in the slide?
17 MR X: This is a belt that is fitting
18 there, it's a belt that is being tightened around the calf
19 of the arm, the upper arm. Inside this belt there is some
20 muti which is sown in there.
21 MR MATHIBEDI SC: Whose belt was being
22 fixed?
23 MR X: That is the belt belonging to the
24 inyanga's son.
25 MR MATHIBEDI SC: The name of the

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1 inyanga's son, do you know it?
2 MR X: We called him Buccaneer.
3 MR MATHIBEDI SC: Are you in a position
4 to give us the names of the person who was assisting
5 Buccaneer by affixing the belt?
6 MR X: I don't remember the name of that
7 person.
8 MR MATHIBEDI SC: But do you –
9 MR MAHLANGU: It wasn't clear what he's
10 saying there.
11 MR X: I don't remember the name of that
12 person who was fixing the belt, Chairperson, safe to say he
13 was one of the members of the makarapa group.
14 MR MATHIBEDI SC: Thanks, Chair, we are
15 done with the videos. Sir, you have already testified
16 about the presence of Mathunjwa at the koppie on the 14th.
17 Do you remember that?
18 MR X: I do, Chairperson. I do remember.
19 MR MATHIBEDI SC: When for the first time
20 did you know about the proposed visit by Mr Mathunjwa at
21 the koppie on the 14th at night?
22 MR X: The report was received by Mambush
23 and Xolani that Mathunjwa would be paying a visit and when
24 he did come he spoke to the group via the committee. The
25 report I received was that Mathunjwa was interested in

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1 membership there, that he would come the following day
2 together with Mr Zokwana and that we should not allow
3 Zokwana to address us there, to kill NUM.
4 CHAIRPERSON: Sorry to interrupt you, Mr
5 Mathibedi. What time did Mr Mathunjwa arrive at the koppie
6 on the 14th?
7 MR X: He arrived in the night. I did
8 not have a watch with me, Chairperson. It was quite late.
9 MR MATHIBEDI SC: Do you know who
10 received the report, or to whom was the proposed report of
11 the visit by Mr Mathunjwa relayed to?
12 MR X: It was Xolani.
13 MR MATHIBEDI SC: How did Xolani receive
14 that report?
15 MR X: We were not allowed to carry any
16 phones, Chairperson. Xolani is the only person who had a
17 cell phone. I saw him with a cell phone.
18 MR MATHIBEDI SC: Why were the strikers
19 not allowed to carry cell phones with them?
20 MR X: Instructions came from the inyanga
21 that we should not carry any phones on the mountain because
22 phones also transmit messages.
23 MR MATHIBEDI SC: After the message was
24 relayed by Xolani, what happened? Was there any discussion
25 amongst the makarapas at the mountain?

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1 MR X: Yes, it was said that we are not
2 going to allow Zokwana to talk on the mountain, we would
3 kill him.
4 MR MATHIBEDI SC: Sir, what I would like
5 to know is that after Xolani received the message of the
6 proposed visit by Mr Mathunjwa, was there a discussion
7 amongst the makarapas relating to the proposed visit by Mr
8 Mathunjwa?
9 MR X: Yes, we had a discussion as a
10 group, Sir. The one who was standing right in the middle
11 of us talking was Kaizer.
12 MR MATHIBEDI SC: What was discussed,
13 Sir?
14 MR X: It was that since Mathunjwa will
15 come with Mr Zokwana at the mountain, Zokwana would not be
16 allowed to address us on the mountain.
17 MR MATHIBEDI SC: Sir, I'm still dealing
18 with the issue of the proposed visit by Mr Mathunjwa. You
19 said there was a discussion amongst the strikers – sorry,
20 the makarapas. I would like to know what was the attitude
21 of the makarapas regarding the proposed visit by Mr
22 Mathunjwa at the koppie on the 14th in the evening?
23 MR X: Everybody was to join the NUM, the
24 NUM on the mountain – no, no, not NUM, AMCU, join AMCU on
25 the mountain.

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1 MR MATHIBEDI SC: Did Mr Mathunjwa appear
 2 at the koppie?
 3 MR X: Yes, he came to us, he said he was
 4 interested in membership, let's kill NUM –
 5 MR MATHIBEDI SC: At the stage –
 6 MR X: - so that we can get what we are
 7 demanding, our demands should be met.
 8 MR MATHIBEDI SC: At the stage that Mr
 9 Mathunjwa had a discussion with the makarapas at the
 10 mountain, at the koppies, in relation to where the rituals
 11 were performed on the 11th, where was Mr Mathunjwa standing?
 12 MR X: It was decided that the committee
 13 should meet him halfway, for him not to come up to the
 14 place where the rituals were being conducted.
 15 MR MATHIBEDI SC: Why was he not
 16 permitted to be at the spot where the rituals were
 17 performed?
 18 MR X: He had to meet them on the side,
 19 Mr Chairperson, because Mr Mathunjwa himself had not
 20 undergone the rituals, so he had no right to come up to
 21 that place.
 22 MR MATHIBEDI SC: How did Mr Mathunjwa
 23 know that he is permitted to go to the koppie and meet the
 24 makarapas?
 25 MR X: Because the AMCU person who was

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1 coming to lead there was a member of his organisation, so
 2 he knew that he would get the support.
 3 MR MATHIBEDI SC: Sir, the question that
 4 I'm asking is that you testified that the committee met and
 5 agreed that Mathunjwa could come to the koppie, but not to
 6 the specific point where the rituals were performed. You
 7 remember that?
 8 MR X: That is correct.
 9 MR MATHIBEDI SC: The question is how was
 10 the message relayed to Mr Mathunjwa that he could come to
 11 the koppie?
 12 MR X: The message was received by
 13 Xolani. Xolani was communicating.
 14 CHAIRPERSON: Xolani communicated. How
 15 was Xolani communicating with Mr Mathunjwa?
 16 MR X: He received a call, a message that
 17 Mathunjwa would be coming.
 18 CHAIRPERSON: Was he communicating with
 19 him by using his mobile phone?
 20 MR X: Yes, Chairperson, by phone.
 21 COMMISSIONER HEMRAJ: Sorry, just one
 22 second. When Xolani conveyed this to you did he say that
 23 Mr Mathunjwa himself had called? I did not understand
 24 that.
 25 MR X: Yes, he said Mathunjwa has asked

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1 for permission to come to the mountain.
 2 MR MATHIBEDI SC: Upon arrival at the
 3 mountain by Mr Mathunjwa, what happened?
 4 MR MATHIBEDI SC: Mathunjwa said what
 5 he's interested in is membership, that he would lead his
 6 organisation and that we had to kill the NUM.
 7 MR NTSEBEZA SC: Excuse me, Chair. I
 8 wonder if the witness can again clarify an aspect that I'm
 9 not sure about. I don't know whether he says he got a
 10 report and then he says what Mathunjwa said, or this is
 11 what he heard with his own ears coming from Xolani to the
 12 effect that Mathunjwa would come?
 13 [12:42] MR X: Chairperson, I was a member of the
 14 committee. I also went nearer and I could overhear what
 15 was being said there. This and this and this was said.
 16 Mathunjwa was talking.
 17 MR MATHIBEDI SC: Upon arrival at the
 18 koppie by Mr Mathunjwa, what happened?
 19 MR X: We slept on the mountain and he
 20 left.
 21 MR MATHIBEDI SC: Sorry, you've testified
 22 that Mr Mathunjwa indicated that he was interested in
 23 membership or numbers, do you remember that?
 24 MR X: Yes, he said everybody should join
 25 AMCU, that he would lead us to what our demands were and

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1 that he would come with Zokwana the following day, this
 2 would be on the 15th and then he said to us we should not
 3 allow Zokwana to address us there, yes.
 4 MR MATHIBEDI SC: What was the response
 5 of the members of the committee?
 6 MR X: They agreed with him.
 7 MR MATHIBEDI SC: Did, at any stage after
 8 the discussions did Mathunjwa leave the koppie?
 9 MR X: That's correct, Chair.
 10 MR MATHIBEDI SC: On the 15th in the
 11 evening where did you sleep? Sorry, Chairperson –
 12 CHAIRPERSON: You mean the night of the
 13 14th, the early morning of the 15th, is that what you mean?
 14 MR MATHIBEDI SC: Sorry, sorry, thanks
 15 Chairperson. On the 14th in the evening, where did you
 16 sleep?
 17 MR X: On the mountain.
 18 CHAIRPERSON: But before you get to your,
 19 what you did that night and how you slept on the mountain,
 20 did you see the vehicle in which Mr Mathunjwa came to the
 21 mountain?
 22 MR X: Yes, it was his van, a silver
 23 coloured van.
 24 COMMISSIONER HEMRAJ: Was he on his own
 25 or was he accompanied by anyone?

<p style="text-align: right;">Page 31769</p> <p>1 MR X: There was a young man there 2 together with him, a member of AMCU. They were not many. 3 CHAIRPERSON: You said he came in a van, 4 can you describe the vehicle in which he came with more 5 particularity? 6 MR X: Silver in colour. 7 CHAIRPERSON: Is it a van or a motor car? 8 MR X: It was a motor vehicle that had 9 the closed back. 10 MR MAHLANGU: Some sort of a bus, he 11 says. 12 COMMISSIONER HEMRAJ: And at the time, 13 how far away from Mr Mathunjwa were you? 14 MR X: Not far away, Commissioner. In 15 metres I would estimate about 15 metres away. 16 COMMISSIONER HEMRAJ: You were able to 17 have a good look at him? 18 MR X: Yes. 19 COMMISSIONER HEMRAJ: Yes, thank you. 20 MR MATHIBEDI SC: Sir, from – 21 MR X: I could hear and see him. 22 MR MAHLANGU: I'm sorry, Chairperson. 23 MR MATHIBEDI SC: How good was visibility 24 that night, sir? 25 MR X: Yes, it was clear because there's</p>	<p style="text-align: right;">Page 31771</p> <p>1 morning we would wake up there and then come nearer to the 2 bigger group, away from the place of the rituals. We did 3 not sleep with the people who had not undergone rituals 4 because they would go home, some of them would then be 5 intimate with women in the evenings. 6 MR MATHIBEDI SC: Now on the 15th did you 7 go to the area where the general people met? 8 MR X: Yes, though we were slightly in 9 front of them where we were caucusing. During the caucus 10 was the committee together with the Makarapas. The 11 Makarapas and the committees came together with us. 12 MR MATHIBEDI SC: What was discussed, 13 sir? 14 MR X: We discussed and came to the 15 conclusion that when Zokwana comes there he will not be 16 allowed to address us, we would challenge him and, if 17 necessary, be killed. 18 MR MATHIBEDI SC: Chair, I'm going to 19 refer to item 41 of bundle B. 20 CHAIRPERSON: I don't know which version 21 of bundle B you're using but according to the amended 22 bundle, sorry, the amended index of bundle B, item 41 is an 23 extract from the Daily Maverick. Is that what you're 24 referring to? 25 MR MATHIBEDI SC: That's correct.</p>
<p style="text-align: right;">Page 31770</p> <p>1 lighting in that area, electric light. 2 MR MATHIBEDI SC: Chair, I would like to 3 start a new point, that would be the 15th. I don't know 4 whether we should start on it. 5 CHAIRPERSON: We lost a lot of time this 6 morning so I'd like, I don't want to lose any further time. 7 Let's use the 10 minutes properly. 8 MR MATHIBEDI SC: Thanks, Chairperson. 9 Sir, we are going to deal with the events of the 15th. 10 MR X: Yes, sir. 11 MR MATHIBEDI SC: Did the Makarapas at 12 any stage leave the mountain, that is the spot where they 13 used to sleep? 14 MR X: No, we slept on the mountain, we 15 did not move. 16 MR MATHIBEDI SC: I'm referring to the 17 15th in the morning. 18 MR X: We were there, we had slept on the 19 mountain. 20 MR MATHIBEDI SC: But did the Makarapas 21 leave the specific spot where they slept on the 14th? 22 MR X: Mr Chairperson, we had a specific 23 place where those of us who had undergone the rituals 24 slept, which was separate from the other people also 25 putting up on the mountain. In the early hours of the</p>	<p style="text-align: right;">Page 31772</p> <p>1 CHAIRPERSON: This will be exhibit 2 AAAA25. It's described in the index to, the amended index 3 to bundle B as "The Daily Maverick, Marikana Commission, 4 what happened before 16 August? Lonmin and police videos 5 fail to capture crucial evidence." Is that – 6 MR MATHIBEDI SC: That's correct, Chair. 7 CHAIRPERSON: It's AAAA25. 8 MR MATHIBEDI SC: Sir, are you, will you 9 please go to page number 2 of the exhibit? Do you have it 10 with you, sir? 11 MR X: I have it, sir. 12 MR MATHIBEDI SC: Are you familiar with 13 what is depicted in that picture? 14 MR X: I do. 15 MR MATHIBEDI SC: Will you tell us what 16 was happening? 17 MR X: The person in the middle, as you 18 can see, that's Kaizer talking to us. This is where we 19 were caucusing that we were not going to allow Zokwana to 20 address us the following day, we would kill him. 21 MR MATHIBEDI SC: Sir, I see it has not 22 been put up on the screen. I don't know if Mr Bennett 23 doesn't have it. 24 COMMISSIONER HEMRAJ: We're having 25 difficulty finding it in our bundle as well, Mr Mathibedi.</p>

<p style="text-align: right;">Page 31773</p> <p>1 CHAIRPERSON: It's in the amended index. 2 The original bundle B doesn't have that document. 3 MR MATHIBEDI SC: Chair, I'm referring to 4 41, I don't know, bundle B. 5 CHAIRPERSON: I know you're referring to 6 41 and we have a bunch of documents here called "Amended 7 index of bundle B, documents to be used in evidence in 8 chief of Mr X" and it's a list of the documents and number 9 41 is the one that you've referred to, which I've already 10 said would be exhibit AAAA25, but attached to this amended 11 index are a number of documents but not the one described 12 as item 41. So we haven't got a copy of the document. It 13 wasn't in the original bundle B that we received, I've just 14 checked that in the index so there is a difficulty. Have 15 you got a copy that you can at least put up on the screen 16 and perhaps during the adjournment you can arrange for us 17 to have copies? But if they're suitably punched we can put 18 them in the bundle we've got which contains number 22 and 19 then 42, 51 through to 58. That's what we've got annexed 20 to the amended index of bundle b. So put exhibit AAAA25, 21 which is apparently document 41 in the bundle, on the 22 screen, let's carry on and not waste any further time. 23 Then during the adjournment you can give us the document. 24 COMMISSIONER HEMRAJ: I've found it. 25 Sorry, Mr Mathibedi, it is in your bundle but it's right at</p>	<p style="text-align: right;">Page 31775</p> <p>1 Daily Maverick dated the 21st of November 2012. Then on the 2 next page there's a picture, a colour photograph of a 3 number of men having, it looks like a caucus, they're all 4 squatting together in a circle on the ground and on a flat 5 piece of ground – there we are, we've got it on the screen 6 now – a flat piece of ground. There's a space and then one 7 can see the koppie in the background with people on it. 8 That's page 1. If we can please see page 2? That's page 1 9 of what we've been shown. Can we perhaps see the next page 10 of this, please? That will be what I think Mr Mathibedi is 11 referring to. That's it, on the copy we have of the 12 photograph there are people squatting in a circle, is in 13 colour. This is black and white but that's not a problem, 14 I take it. Is that what you want us to see, Mr Mathibedi? 15 MR MATHIBEDI SC: That's correct, Chair. 16 CHAIRPERSON: Can the witness see this 17 where he is in an unknown remote location? 18 MR X: I see it, Chairperson. 19 COMMISSIONER HEMRAJ: Are you part of 20 that group? 21 MR MAHLANGU: Part of the group? 22 MR X: Yes, Chairperson. 23 MR MATHIBEDI SC: Mr Bennett, will you 24 please refer us to the last page of the exhibit? 25 CHAIRPERSON: At the foot of the last</p>
<p style="text-align: right;">Page 31774</p> <p>1 the very end. 2 MR MATHIBEDI SC: I'm sorry about that, 3 thanks. 4 CHAIRPERSON: The index – the front of 5 the bundle either. Never mind, if we've got the document 6 we can carry on. 7 MR MATHIBEDI SC: Sir, are you familiar 8 with what is set out in the photo? 9 MR X: Yes, sir. 10 MR MATHIBEDI SC: Will you tell us what 11 was happening? 12 MR X: There was the caucus going on, 13 Chairperson, where it was said Zokwana would not be 14 allowed, we were going to challenge him in the meeting or 15 he's going to leave as a dead person. 16 MR MATHIBEDI SC: Sir, I see the exhibit 17 has not been put up on – I don't know if Mr Bennett doesn't 18 have it or not. 19 CHAIRPERSON: - he's got in the bundle 20 which is not mentioned in the index. It starts off, the 21 first page you've got that heading "Marikana Commission, 22 what happened before 16 August? Lonmin and police videos 23 fail to capture crucial evidence." And then it's 24 information about Mr Siphon Hlongwane who writes the article 25 which is attached and it appears to be an extract from the</p>	<p style="text-align: right;">Page 31776</p> <p>1 page of this exhibit it says in italics, "Photo: Lonmin 2 employees gather on Wonderkop at Marikana, August 15" and 3 it's a photograph, according to what appears here, taken by 4 Mr Greg Marinovich. Are you in this group? 5 MR X: Yes, I am part of that group, sir. 6 CHAIRPERSON: Can you point yourself out 7 to us? 8 MR X: The one that is being indicated by 9 the mark there. 10 CHAIRPERSON: Yes, on the right-hand side 11 of the group about a third of the way in from the right- 12 hand side there is someone in what looks like a slightly 13 frayed blanket. He has his back to the, back, his left 14 shoulder really, to the camera. Is that a picture of you? 15 MR X: That's me, Chair. 16 MR MATHIBEDI SC: Chair, I would like to 17 state that this photo was distributed to all the parties in 18 line with the ruling of the Chair. 19 CHAIRPERSON: No, thank you, no. I see 20 that it is in our bundle, it's just not indexed. That's 21 why when I looked for it I couldn't see it but we've now 22 found it and all the parties have it. It's now one 23 o'clock, so when it's convenient we'll take the lunch 24 adjournment – 25 MR MATHIBEDI SC: Thanks, Chair. I think</p>

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1 it's convenient to take the lunch break.
 2 CHAIRPERSON: We'll take the lunch
 3 adjournment and try to resume at quarter to two.
 4 [COMMISSION ADJOURNS COMMISSION RESUMES]
 5 [14:07] CHAIRPERSON: The Commission resumes. We
 6 had a session during the lunch hour trying to work out a
 7 programme for moving ahead and that took up the time,
 8 that's why we're not starting on the time I indicate. I
 9 apologise to anyone who was waiting here from quarter to.
 10 Please tell the witness he's still under oath, and Mr
 11 Mathibedi, you can then continue evidence-in-chief.
 12 MR X: [s.u.o. through interpreter]
 13 MR QGIRANA: Yes, witness still under
 14 oath.
 15 EXAMINATION BY MR MATHIBEDI SC (CONTD.):
 16 Thanks, Chair. Sir, did the committee reach any decision?
 17 MR X: Yes, a decision was that we will
 18 not allow Zokwana to address us and we will kill him there
 19 on the mountain.
 20 MR MATHIBEDI SC: Was the decision
 21 relayed to other protesters?
 22 MR X: It remained only with us, the
 23 committee members. The decision remained with us.
 24 MR MATHIBEDI SC: Sir, there's evidence
 25 before this Commission that on the 15th again the

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1 negotiating team of the South African Police Services met
 2 with the five committee members that was appointed by the
 3 strikers. Are you aware of that?
 4 MR X: Yes, the police wanted five people
 5 and they asked us to put down the weapons.
 6 MR MATHIBEDI SC: Is that on the 15th?
 7 MR X: Yes.
 8 CHAIRPERSON: Who were the five people
 9 who came forward who were chosen to speak to the police?
 10 MR X: It was Mambush, Xolani and three
 11 others.
 12 CHAIRPERSON: Who were the three others?
 13 MR X: I'm not very clear about their
 14 names, but I can point them out if I see them.
 15 MR MATHIBEDI SC: Do you know if there
 16 was any discussion between the members of the committee and
 17 the police?
 18 MR X: Yes, the committee members told
 19 the police to go and fetch the employer and that they were
 20 not going to lay down their arms. The employer must come
 21 and agree to our demands.
 22 MR MATHIBEDI SC: Are you aware that the
 23 negotiating team gave a feedback that was received from the
 24 Lonmin management to the committee members?
 25 MR X: Yes, in the afternoon Mr Zokwana

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1 and Mr Mathunjwa arrived.
 2 MR MATHIBEDI SC: Sir, I'm still dealing
 3 with the situation of process between the negotiating team
 4 and the committee members. We will come to that aspect at
 5 a later stage.
 6 MR X: I understand.
 7 MR MATHIBEDI SC: Are you aware that on
 8 the 15th the negotiating team gave report-back to the
 9 committee members?
 10 MR X: No, I do not remember that.
 11 MR MATHIBEDI SC: Sir, I'm going to refer
 12 you to exhibit L, show you some of the slides of how the
 13 protesters conducted themselves. Mr Bennett, will you show
 14 us exhibit L, slide 119? Are you familiar with the photo
 15 depicted on the screen?
 16 MR X: Yes, I am.
 17 MR MATHIBEDI SC: What was happening?
 18 MR X: We were singing.
 19 MR MATHIBEDI SC: You will note that
 20 there is a gentleman standing in front of the crowd who's
 21 got something that looks either like a blanket or a towel,
 22 with a knobkierie. Do you see him? With a blue top.
 23 MR X: Yes, I see him.
 24 MR MATHIBEDI SC: Who is this gentleman?
 25 MR X: That is Kaizer from Flagstaff.

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1 MR MATHIBEDI SC: Was he part of the
 2 makarapas?
 3 MR X: Yes, he was part of the committee,
 4 as well as one of the makarapas and we sometimes call him
 5 Madala.
 6 MR MATHIBEDI SC: Mr Bennett, will you
 7 kindly take us to slide 168 –
 8 CHAIRPERSON: Before you move to slide
 9 168, can we see you on this slide 119?
 10 MR X: I am somewhere there at the back.
 11 CHAIRPERSON: So we can't actually see
 12 you?
 13 MR X: No, you can't see me.
 14 MR MATHIBEDI SC: Mr Bennett, will you
 15 please go to slide 168? There's a gentleman depicted in
 16 the slide. Can you see him?
 17 MR X: Yes.
 18 MR MATHIBEDI SC: To be speaking. Can
 19 you see him?
 20 MR X: Yes.
 21 MR MATHIBEDI SC: Who is this gentleman?
 22 MR X: That is Kaizer.
 23 MR MATHIBEDI SC: Sir, I would like you
 24 to compare the top that he is wearing depicted in slide
 25 168, and the one in slide 119. Are you in a position to do

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1 so, Sir?

2 MR BUDLENDER SC: Chair, I'm sorry to

3 interrupt my learned friend, but really, is this a matter

4 on which the witness should give evidence? The Commission

5 can for themselves compare the clothing and see whether

6 it's the same kind of thing. The witness is not an expert

7 on clothing.

8 CHAIRPERSON: Isn't that correct, Mr

9 Mathibedi? We can have an argument about it later, we can

10 be shown the slides, we can decide it. I don't know if

11 this witness can add any value on this issue.

12 MR MATHIBEDI SC: Well, Chair, I think I

13 will do so, but I need to indicate that this is, it's one

14 of the important aspects of the evidence of this witness.

15 CHAIRPERSON: What is the important

16 aspect?

17 MR MATHIBEDI SC: Chair, you will

18 remember that the witness testified that one of the

19 instructions of the inyanga is that within a period of

20 seven days they should not wash. Now this has got a

21 material bearing on the clothing because on a number of

22 occasions, different days, we see people are wearing same

23 clothing.

24 CHAIRPERSON: Yes, I can understand that,

25 but the point is one can see it with one's own eyes by

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1 looking at the various slides on the various days. That's

2 the point. I understand the point you make, but if you can

3 say look at this photograph, he's wearing a brown jacket

4 with a – look at this photograph, the same brown jacket two

5 days later, this photograph same jacket two days after

6 that, then your point is made, isn't it? You don't have to

7 lead evidence on that.

8 MR MATHIBEDI SC: Thanks, Chair, I don't

9 have a problem with that. Will you please have a look at

10 slide 121? You will note that two the top right there's a

11 gentleman who's having a weapon, who appears to be licking

12 the weapon. Can you see him?

13 MR X: Yes, I see him.

14 MR MATHIBEDI SC: Are you in a position

15 to identify this gentleman?

16 MR X: Yes, I know him. He was one of

17 the makarapas.

18 MR MATHIBEDI SC: Are you in a position

19 to give an explanation as to why he's licking this weapon?

20 MR X: No, I can't. He was just being

21 silly.

22 CHAIRPERSON: Do you know his name?

23 MR X: No, I do not know his name but I

24 just know he's one of the makarapas.

25 MR MATHIBEDI SC: Below him to the right

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1 there is a gentleman with dreadlocks who appears to be

2 having two weapons. Can you see him?

3 MR X: Yes, I see him.

4 MR MATHIBEDI SC: Do you know his name?

5 MR X: Yes, that is Makubane, Rasta.

6 MR MATHIBEDI SC: What was his

7 involvement during the unprotected strike?

8 MR X: He was a committee member and a

9 member of the makarapas.

10 MR MATHIBEDI SC: To the left at the top

11 of the slide there's a gentleman who's kneeling, wearing a

12 brownish top, having a weapon. Do you see him?

13 MR X: Yes.

14 MR MATHIBEDI SC: Do you know his name?

15 MR X: Yes, that is Makubane. That is

16 Rasta.

17 MR MATHIBEDI SC: And below him in the

18 middle to the left there's another gentleman. Do you see

19 him?

20 MR X: Yes, I do. That is Mambush with a

21 towel in his hand. Then there's Bob next to him, the one

22 wearing a black coat.

23 MR MATHIBEDI SC: Sir, I'm referring to

24 the slide, the second one immediately after the –

25 CHAIRPERSON: Before we get onto that

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1 one, I suspect he's been talking about the top left slide.

2 Would you look at the top left slide, please? Do you see

3 the top left slide? In the middle of that slide there's

4 someone with a green blanket or something around him.

5 Who's that?

6 MR X: Yes, that is Mambush.

7 CHAIRPERSON: And then to his left,

8 slightly behind him to his left there's someone who wears a

9 blanket, it looks half white and half brown, I think

10 [inaudible] brown. Do you know that person?

11 MR X: I don't know that man's name, but

12 he's a makarapa.

13 CHAIRPERSON: Yes, and then to that man's

14 left is someone with a black coat of some sort. Who is

15 that person?

16 MR X: That is Bob.

17 CHAIRPERSON: That's Bob, and to the left

18 of that person there's someone dressed in red and black.

19 Do you know who that person is?

20 MR X: That's also a makarapa member

21 whose name I do not know.

22 CHAIRPERSON: Thank you. Now in the

23 middle on the left-hand side there's another photograph

24 with two men standing up in front of the crowd. One of

25 them in the middle of the picture has got a light-brown

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1 khaki jacket of some sort, with quite a long weapon in his
2 hand. Who's that?
3 MR X: That is Makubane with a panga.
4 CHAIRPERSON: And then to the left of him
5 there's another man standing up with what looks like a red
6 sleeve, he's got a – I'm not sure if it's a jacket or
7 something, but it's got red sleeves. Can you see that?
8 Who is that person?
9 MR X: That is Bob.
10 MR MATHIBEDI SC: Thanks, Chair. Sir,
11 why were these gentlemen armed like this?
12 MR X: We are ready for anything that
13 might happen. If the employer does not give in to our
14 demands, we are ready to fight.
15 MR MATHIBEDI SC: Thanks, Mr Bennett,
16 will you please move over to slide 124? Sir, are you
17 familiar with what is set out in this picture?
18 MR X: Yes, I am.
19 MR MATHIBEDI SC: What was happening on
20 this occasion?
21 MR X: That's the arrival of Mr Zokwana,
22 in the company of Mr Mathunjwa.
23 MR MATHIBEDI SC: Are you in a position
24 to point out or describe Mr Zokwana in this slide?
25 MR X: Zokwana is the one in front in

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1 white pants, carrying a Coke bottle.
2 MR MATHIBEDI SC: Next to him there's a
3 gentleman who's wearing a black lumber, or jacket like in a
4 red T-shirt with a fawn trouser. Can you see that?
5 MR X: Yes.
6 MR MATHIBEDI SC: Do you know him?
7 MR X: No, I do not know his name.
8 MR MATHIBEDI SC: What was happening on
9 this occasion, Sir?
10 MR X: They are walking now to the Hippo
11 vehicle. Zokwana is in front, Mathunjwa will appear behind
12 these two gentlemen.
13 MR MATHIBEDI SC: What was the reason for
14 the presence of Mr Mathunjwa?
15 [14:27] MR X: Mr Mathunjwa had told us on the
16 14th that he will come there with Mr Zokwana the next day.
17 Now they are going to the Hippo vehicle, Mr Zokwana will be
18 challenged by Xolani. Xolani is going to call him but
19 Zokwana never alighted from the Hippo, he remained in the
20 said vehicle.
21 MR MATHIBEDI SC: Did Mr Zokwana address
22 the protesters?
23 MR X: We never allowed him to talk to
24 us.
25 MR MATHIBEDI SC: Did he try to address

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1 the strikers?
2 MR X: He tried but he was not welcome to
3 talk to us. Mathunjwa was welcome and he was told to come
4 back the next day, the 16th.
5 MR MATHIBEDI SC: For now, sir, let's
6 have a discussion about Mr Zokwana. We'll come to Mr
7 Mathunjwa at a later stage.
8 MR X: Yes.
9 MR MATHIBEDI SC: Why was Mr Zokwana not
10 welcomed by the strikers?
11 MR X: Because we had already heard that
12 they would come the next day and we were going to kill him
13 as he was being called from the Hippo.
14 MR MATHIBEDI SC: Why, when was a
15 decision taken that Mr Zokwana would be killed?
16 MR X: That decision was taken when we
17 were caucusing there as a group, decided that we would kill
18 Mr Zokwana when he arrives.
19 MR MATHIBEDI SC: What would have
20 happened – sorry. Sorry, yes, you wanted to say something?
21 MR X: Because on the 11th when we marched
22 to the offices we were singing the slogan, "How are we
23 going to kill Zokwana? We hate this NUM."
24 MR MATHIBEDI SC: You testified that he
25 was challenged to get out of the Hippo, do you remember

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1 that?
2 MR X: Yes.
3 MR MATHIBEDI SC: Who challenged him to
4 get out of the Hippo?
5 MR X: Xolani called out to him and said,
6 "Zokwana, come here."
7 MR MATHIBEDI SC: What would have
8 happened to Mr Zokwana had he got out of the Hippo?
9 MR X: We were going to kill him.
10 MR MATHIBEDI SC: He was – you are aware
11 that he was in the presence of police officers, is that so?
12 MR X: Yes, we knew but we were not being
13 capable of being shot, firearms would not work.
14 MR MATHIBEDI SC: Now we are going to
15 deal with the arrival of Mr Mathunjwa.
16 MR X: Yes.
17 MR MATHIBEDI SC: What happened once he
18 arrived where the strikers were?
19 MR X: Mr Mathunjwa was welcomed, he was
20 told to come back the next day on the 16th. Yes, on the
21 16th.
22 MR MATHIBEDI SC: Did Mr Mathunjwa
23 address the strikers?
24 MR X: Yes, he addressed them from inside
25 the vehicle, the Hippo.

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1 MR MATHIBEDI SC: Could you hear what he
2 said during his address?
3 MR X: Yes, I heard him. He said it was
4 because of the law that he was addressing the people from
5 inside the Hippo.
6 MR MATHIBEDI SC: Is that all that you
7 heard?
8 MR X: Yes, and we said he should come
9 back the next day.
10 MR MATHIBEDI SC: Why was he requested to
11 come back the next day, that is Mr Mathunjwa?
12 MR X: He was the one to be listened to
13 who was supposed to go and demand our 12 500 which was our
14 demand, get us that money. Everybody was on the mountain
15 was told to join AMCU, cancel membership of NUM. No NUM
16 members were allowed to be on the mountain.
17 MR MATHIBEDI SC: Did the strikers at any
18 stage make a promise or an undertaking to Mr Mathunjwa that
19 they are going to lay down their weapons?
20 MR X: No, we said we were not going to
21 lay down the arms until the employer gives us the R12 500.
22 MR MATHIBEDI SC: After Mathunjwa left,
23 Mr Mathunjwa left, what happened?
24 MR X: Mathunjwa left and returned on the
25 16th, alone.

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1 MR MATHIBEDI SC: Sir, we are still
2 dealing with the 15th.
3 MR X: We slept on the mountain, we sang
4 and slept on the mountain.
5 MR MATHIBEDI SC: On the 16th in the
6 morning did the Makarapas at any stage leave the area where
7 they slept, to the spot where they met with the general
8 workers?
9 MR X: Yes, they did leave the place
10 where they slept.
11 MR MATHIBEDI SC: Did Mr Mathunjwa return
12 on the 16th as he was requested?
13 MR X: Yes, Mr Mathunjwa came back on
14 the, round about nine in the morning and he said he was
15 going to get a feedback from the employer.
16 MR MATHIBEDI SC: Did he at any stage
17 leave after telling the strikers that he is going to get a
18 feedback from the employer?
19 MR X: Yes, Mr Mathunjwa left and the
20 bishop arrived, called five people. We were not told about
21 what the bishop allegedly said.
22 MR MATHIBEDI SC: Can you name the five
23 people that had a discussion with the bishop?
24 MR X: I remember Xolani, Mambush, Bhele.
25 Yes, those are the names I remember but they were five.

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1 MR MATHIBEDI SC: Did the bishop at any
2 stage leave?
3 MR X: Yes, the bishop left and we
4 remained on the mountain.
5 MR MATHIBEDI SC: During the presence of
6 the bishop were the strikers armed?
7 MR X: Yes, they were armed.
8 MR MATHIBEDI SC: What kind of weapons
9 did the strikers have with them?
10 MR X: The pangas, spears, we were armed.
11 MR MATHIBEDI SC: How did the strikers
12 keep the weapons in the presence of the bishop?
13 MR X: We had the weapons in our hands,
14 others had their weapons on the ground, they had put them
15 down.
16 MR MATHIBEDI SC: Did Mr Mathunjwa return
17 to the koppie?
18 MR X: Yes, Mr Mathunjwa returned to the
19 koppie.
20 MR MATHIBEDI SC: Did Mr Mathunjwa give a
21 feedback from the employer?
22 MR X: Yes, I remember him saying we
23 should lay down the arms, there would be bloodshed here.
24 MR MATHIBEDI SC: What was the response
25 of the strikers to the request of Mr Mathunjwa?

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1 MR X: We said we are not, we are not
2 laying down the arms until the employer gives us the
3 R12 500. With the confrontation with the police there
4 can't be two bulls in one kraal. There can't be two bulls
5 in one kraal.
6 MR QGIRANA: Chair, Mr Mpofu's light is
7 on.
8 CHAIRPERSON: I'm sorry, I didn't see
9 your light was on, Mr Budlender's head was in the way. Do
10 you want to object to some evidence?
11 MR MPOFU: Yes, Chairperson. The witness
12 said that they said to him that they will not lay down
13 their arms until such time that the employer comes back to
14 them about the matter of the R12 500 and it was interpreted
15 as, he said he will not, they will not lay down until they
16 give them R12 500. In the context of what was discussed
17 earlier there is a subtle difference between them.
18 CHAIRPERSON: Mr Interpreter, how do you
19 respond to what Mr Mpofu has said?
20 MR QGIRANA: Mr Mpofu must be right, Mr
21 Chair.
22 MR X: Yes, that's what I said.
23 MR MATHIBEDI SC: Mr Bennett, will you
24 please put up slide 163 exhibit L?
25 CHAIRPERSON: Before you look at that

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1 slide, you did say something about two bulls in one kraal.
 2 Just remind me who said that?
 3 MR X: Mambush was talking.
 4 CHAIRPERSON: To whom did he say that?
 5 MR X: He was telling the workers that
 6 there can't be two bulls in one kraal.
 7 CHAIRPERSON: What did you understand him
 8 to mean?
 9 MR X: He said there would be a fight,
 10 two bulls cannot be in one kraal, the coward one will run
 11 away. Only one will remain in the kraal.
 12 CHAIRPERSON: Who were the two bulls, as
 13 far as you understood?
 14 MR X: The police and us, on the mountain
 15 there would be fights. The police would remain down on the
 16 mountain if we defeat them -
 17 CHAIRPERSON: Which bull was the cowardly
 18 bull?
 19 MR X: The coward one will run away and
 20 the victorious one will remain on the mountain.
 21 CHAIRPERSON: Which of the two, you said
 22 one bull was the miners, the strikers, the other bull was
 23 the police, which bull was the one that was going to run
 24 away?
 25 MR X: Mr Chair, there would be a fight.

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1 It will remain to be seen which one will remain on the
 2 ground.
 3 COMMISSIONER HEMRAJ: The comment about
 4 the two bulls in one kraal, did that come up while Mr
 5 Mathunjwa was present?
 6 MR X: Yes, it did.
 7 MR MATHIBEDI SC: Sir, in the context of
 8 the speech of Mambush referring to the two bulls, which was
 9 the brave one?
 10 MR X: We are, we are because we know we
 11 cannot be shot at, we know the firearms of the police will
 12 not work because we'd used, consumed the rituals.
 13 MR MATHIBEDI SC: Which was a coward
 14 bull?
 15 MR X: The coward bull is the bull
 16 carrying the firearm that does not function. We know that
 17 we cannot be shot at.
 18 CHAIRPERSON: You've got your light on,
 19 do you want to object again?
 20 MR MPOFU: Ja -
 21 CHAIRPERSON: Is it the interpretation
 22 that's wrong?
 23 MR MPOFU: No, no, Chairperson. I just
 24 want to find on what's going on in that place where Mr X
 25 is. There seems to be joking around and laughing around in

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1 entirety with whoever is there. Who is sitting there and
 2 why are they are encouraging him or whatever is happening
 3 there?
 4 CHAIRPERSON: I don't know the answer to
 5 that. You can ask that when you get a chance to cross-
 6 examine.
 7 MR MPOFU: No - no, Chairperson. If this
 8 is going - if there's an irregularity happening now, I
 9 can't wait for two weeks before it is - we were told, you
 10 made a ruling that there was going to be somebody sitting
 11 there to make sure that these kinds of things don't happen.
 12 You can't tell me to wait for two weeks -
 13 CHAIRPERSON: There is an evidence leader
 14 there, there is an evidence leader there. In fact, at one
 15 point I saw him in the corner of the screen, so there is an
 16 evidence leader there -
 17 MR MPOFU: Ja, well, that's better,
 18 Chairperson.
 19 CHAIRPERSON: And if anything untoward
 20 happens it is his duty to see to it that it doesn't happen
 21 or it stops and - he's just put his head around the corner,
 22 there he is, there's Mr Wesley.
 23 MR MPOFU: Ja, I'm not worried about Mr
 24 Wesley's head. All I'm worried about is that whatever
 25 interactions are happening with this witness which are

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1 clearly, which can be seen if you play the tape, must stop
 2 and we don't want anyone else interacting with the witness
 3 while he's giving evidence.
 4 CHAIRPERSON: I'm sure Mr Wesley has
 5 heard what you've said.
 6 [14:47] And if there's any suggestion that any
 7 irregularity is taking place which Mr Wesley's presence is
 8 designed to prevent, then we will ask Mr Wesley what has
 9 happened. But anyway you've made your point, Mr Wesley's
 10 heard it and I'm sure that knowing Mr Wesley as we all do
 11 he's likely to prevent any further irregularity if there
 12 was any irregularity so far. So let's carry on with the
 13 evidence.
 14 MR MATHIBEDI SC: Thank you, Chairperson.
 15 When was a decision taken by the Makarapas that they're
 16 going to fight the police?
 17 MR X: The decision was taken, Kaizer
 18 said if they're going to get police officers from the
 19 Eastern Cape to come and kill the black people here those
 20 officers will remain on the mountain.
 21 MR MATHIBEDI SC: When was the decision
 22 taken, Sir, that's the question I'm asking.
 23 MR X: That decision was taken long ago,
 24 Mr Chair, it was said that if the police were brought they
 25 will be killed here and we knew that we'd then not be shot

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1 until we get R12 500 that we want. And we are not moving
 2 here until the employer gives us the money that we want.
 3 MR MATHIBEDI SC: Why was such a decision
 4 taken by the Makarapas to fight the police?
 5 MR X: Because we had undergone these
 6 rituals, we knew that we could not be shot.
 7 MR MATHIBEDI SC: But the dispute, the
 8 increment dispute was between the strikers and the
 9 employer, is that correct?
 10 MR X: Yes.
 11 MR MATHIBEDI SC: That being the case
 12 that the dispute was between the employer and employees why
 13 was a decision taken that the strikers are going to fight
 14 with the police?
 15 MR X: The police are saying we should
 16 lay down the arms and come off the mountain before we get
 17 the money that we wanted.
 18 MR MATHIBEDI SC: Sir, I'm referring you
 19 to slide 163. Can you see that, Sir?
 20 MR X: It doesn't appear yet this side.
 21 Yes I see.
 22 MR MATHIBEDI SC: You will see that in
 23 the slide closer it depicts three gentlemen, can you see
 24 that?
 25 MR X: Yes I do.

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1 MR MATHIBEDI SC: There is one in the
 2 middle who appears to be speaking.
 3 MR X: Yes I see.
 4 MR MATHIBEDI SC: Are you in a position
 5 to identify this gentleman?
 6 MR X: Yes, that is a member of the
 7 Makarapa.
 8 MR MATHIBEDI SC: Do you know his name?
 9 MR X: Yes, I don't understand his name
 10 very well but they say his name is Andries.
 11 MR MATHIBEDI SC: Behind Andries there's
 12 a gentleman who's wearing a blackish or darkish shorts, can
 13 you see that?
 14 MR X: Yes I see.
 15 MR MATHIBEDI SC: Are you in a position
 16 to identify this gentleman?
 17 MR X: That gentleman is an AMCU steward
 18 at Karee. He's in the office of AMCU there.
 19 MR MATHIBEDI SC: In front of Andries
 20 there's also a gentleman who's wearing a darkish top, can
 21 you see him?
 22 CHAIRPERSON: He's the one with a
 23 loudhailer over his shoulder.
 24 MR MATHIBEDI SC: Thanks, Chair.
 25 MR X: Yes I do.

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1 MR MATHIBEDI SC: Do you know this
 2 gentleman?
 3 MR X: I know him by sight but I don't
 4 know his name.
 5 MR MATHIBEDI SC: How do you know him?
 6 MR X: I know him by sight, I saw him on
 7 the mountain.
 8 MR MATHIBEDI SC: Where on the mountain
 9 did you see him?
 10 MR X: I saw him, he was walking with
 11 Mathunjwa and the others who was in the group of Mathunjwa.
 12 MR MATHIBEDI SC: Will you please go to
 13 slide 164? Do you have it before you, Sir?
 14 MR X: Yes I do. Yes I'll located it.
 15 MR MATHIBEDI SC: Behind the gentleman
 16 who's holding a loudspeaker on his shoulder there's a
 17 gentleman, can you see him?
 18 MR X: Yes I see.
 19 MR MATHIBEDI SC: Do you know him?
 20 MR X: I know him, that is Bhele.
 21 Tholakele is his first name.
 22 MR MATHIBEDI SC: How do you know
 23 Tholakele?
 24 MR X: Tholakele is the gentleman who was
 25 talking at the time, also he is saying these white men is

Page 31800

1 making fools of us. Making us for fight.
 2 MR MATHIBEDI SC: Was he part of the
 3 persons that took part in the strike, the unprotected
 4 strike?
 5 MR X: Yes he's a committee member and a
 6 man of the Makarapa.
 7 MR MATHIBEDI SC: In your evidence in
 8 chief you testified about a gentleman who was in possession
 9 of a firearm, the top portion of which was painted red. Do
 10 you remember that?
 11 MR MPOFU: No, no Sir, that was not his
 12 evidence.
 13 COMMISSIONER HEMRAJ: He didn't say it
 14 was painted red, he said it was –
 15 MR MPOFU: He said the red firearm.
 16 MR MATHIBEDI SC: Thanks, Chair.
 17 CHAIRPERSON: No he said there was a
 18 firearm with red on it as far as I can remember.
 19 MR MPOFU: No that's exactly the point I
 20 was clearing the other day. He said there was a red
 21 firearm and I said I can't see a red firearm and then there
 22 was a whole long discussion. Now that's been cured by a
 23 question.
 24 MR MATHIBEDI SC: I'll rephrase it, it's
 25 fine, Chairperson. The person that you have described as

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1 Tholakele you indicated that he was part of the Makarapas,
2 is that correct?
3 MR X: Yes.
4 MR MATHIBEDI SC: Was he, at any stage,
5 armed during the period of the period of the unprotected
6 strike?
7 MR X: Yes, he had his firearm which is
8 red, painted in red paint.
9 MR MATHIBEDI SC: Thanks, Chair. Will we
10 proceed to slide 168? Sorry 165, I'm sorry about that.
11 There's a gentleman who's wearing a black top who appears
12 to be holding a loudhailer, do you see him?
13 CHAIRPERSON: I think it's an optical
14 illusion. I think the gentleman to whom you're referring
15 is holding a microphone and I think behind the microphone
16 is loudhailer and I suspect that the gentleman with the
17 checked shirt is holding the loudhailer.
18 MR MATHIBEDI SC: Thanks, Chair. These
19 two gentlemen depicted in the slide.
20 MR X: Yes I did.
21 MR MATHIBEDI SC: Are they known to you?
22 MR X: Yes this gentleman, I'm not sure
23 to which gentleman the witness is pointing to, the man I
24 said was in the company of Mr Mathunjwa. There were three.
25 This gentleman will speak first and Mr Mathunjwa will speak

Page 31802

1 last. The person I was pointing to is the gentleman
2 nearest to me as I'm watching the three.
3 CHAIRPERSON: With the black jacket and
4 dark -
5 MR X: Yes.
6 MR MATHIBEDI SC: Mr Bennett will you go
7 to slide 166? Do you have the slide before you, Sir?
8 MR X: Yes I do.
9 MR MATHIBEDI SC: There's the gentleman
10 who's wearing a green and black tracksuit top, do you know
11 him?
12 MR X: I know him.
13 MR MATHIBEDI SC: Will you tell us his
14 name?
15 MR X: That is Xolani.
16 MR MATHIBEDI SC: How do you know Xolani?
17 MR X: Xolani was a committee member and
18 a member of the Makarapas on the mountain. He was the
19 clever one on the mountain.
20 MR MATHIBEDI SC: Chair, I note it's 3
21 o'clock.
22 CHAIRPERSON: I was going to take the
23 adjournment as soon as we'd gone through this series of
24 slides with people speaking into the loudhailer, into the
25 microphone and the loud hailer but is this last one or are

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1 there more?
2 MR MATHIBEDI SC: No there are more
3 slides, Chair.
4 CHAIRPERSON: All right well we'd better
5 take the tea adjournment. Tea adjournment, quarter of an
6 hour.
7 [COMMISSION ADJOURNS COMMISSION RESUMES]
8 [15:21] CHAIRPERSON: The Commission resumes.
9 Will you please remind him he's still under oath, and then
10 Mr Mathibedi will continue with examination-in-chief.
11 MR X: [s.u.o. through interpreter]
12 MR NTJINGILA: He confirms, Mr Chair.
13 EXAMINATION BY MR MATHIBEDI SC (CONTD.):
14 Thanks, Chair. Sir, will you have a look at slide 167?
15 MR X: Yes.
16 MR MATHIBEDI SC: The gentleman who's
17 wearing a greenish, who's got a greenish blanket, is he
18 known to you?
19 MR X: Yes, that is Mambush.
20 MR MATHIBEDI SC: Will you go to slide
21 168? You have already identified this gentleman referred
22 to in slide 168. Is that correct?
23 MR X: Yes, I know him.
24 MR MATHIBEDI SC: Will you go to slide
25 169? Are you familiar with what is set out in the slide?

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1 MR X: Yes, those are us, Mr Mathunjwa is
2 addressing us.
3 MR MATHIBEDI SC: Do you remember what he
4 said during the address -
5 CHAIRPERSON: Before you get there, can
6 we see you on the picture?
7 MR X: I'm just there at the back, in the
8 middle there.
9 CHAIRPERSON: I interrupted you. You
10 were going to ask him a question. I was curious to know if
11 he was visible on the photograph.
12 MR MATHIBEDI SC: Do you remember what Mr
13 Mathunjwa said during the address?
14 MR X: He was pleading with us, telling
15 us that there will be bloodshed, we must go down from the
16 mountain. He was canvassing, campaigning, the time he was
17 talking to us here.
18 MR MATHIBEDI SC: Did the strikers listen
19 to the plea of Mr Mathunjwa?
20 MR X: No, we didn't listen. We told him
21 that we are not going away from the mountain until he
22 brings the employer to us there.
23 MR MATHIBEDI SC: Were strikers who were
24 not makarapas permitted to address the makarapas?
25 MR X: No, they were not allowed. They

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1 were at the back of us.

2 MR MATHIBEDI SC: I'm going to move over

3 to exhibit CC18, which is a video clip.

4 CHAIRPERSON: Do you need a warning?

5 MR MATHIBEDI SC: It's not necessary,

6 Chair.

7 [VIDEO IS SHOWN]

8 Thanks. Sir, were you present when this speech

9 was delivered?

10 MR X: Yes, I was. It's Kaizer who said

11 we are going to finish these police here if they could

12 come.

13 MR MPOFU: Chairperson, I'd like to put

14 on record that the witness is laughing and smiling at

15 this –

16 CHAIRPERSON: I didn't hear him laugh,

17 but he did smile.

18 MR MPOFU: Smile with teeth showing.

19 CHAIRPERSON: Yes, no, that can be

20 recorded. It's on record. In any event I assume that what

21 he is saying is being recorded in any event, so if it's

22 necessary at any stage for us to view the video clip of his

23 evidence we can do so. One of the advantages of evidence

24 by video clip is it can be recorded in the way I've

25 mentioned and can be looked at if it becomes necessary.

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1 But what was said was of course, the translation of what

2 was said was at the bottom of the page. Mr Interpreter,

3 are you able to confirm that that translation was correct?

4 MR MAHLANGU: I do, Chair, it is correct,

5 also the laughter that came from the people behind.

6 MR MATHIBEDI SC: What was meant by "The

7 police are going to be finished"?

8 MR X: It meant we are going to fight

9 with them, we are going to kill them.

10 MR MATHIBEDI SC: Whose view was the

11 speaker expressing?

12 MR MPOFU: Chairperson, what kind of

13 question is this? I'm objecting to that question.

14 CHAIRPERSON: I understood he gave an

15 answer, which I don't think was interpreted, but the answer

16 may solve your problem. What was the answer?

17 MR NTJINGILA: No, he didn't answer yet.

18 CHAIRPERSON: I was informed that he had.

19 Do you know whose opinion was being expressed by the

20 speaker in the passage that we just heard and saw?

21 MR X: It was our opinion because we'd

22 already decided that we are going to fight.

23 CHAIRPERSON: You say "It was our

24 opinion," so who are the "we" whose opinion was being

25 expressed?

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1 MR X: It's the group of the makarapas

2 and the committee that met, congregated there together,

3 because we knew that we are not able to be shot at.

4 Firearms couldn't work against us.

5 MR MATHIBEDI SC: Sir, when that address

6 was made, was Mr Mathunjwa present?

7 MR X: Yes, he was present.

8 MR MATHIBEDI SC: What was the response

9 of the strikers?

10 MR X: Yes, we assume that it's better

11 that happens what might happen, because we are not moving

12 away from this place.

13 MR MATHIBEDI SC: The witness mentioned

14 something like "ukufa" and I think it was not translated.

15 CHAIRPERSON: Mentioned something about

16 what?

17 MR MATHIBEDI SC: Sorry?

18 CHAIRPERSON: You say the witness

19 mentioned something.

20 MR MATHIBEDI SC: Mention "ukufa."

21 CHAIRPERSON: I see. Alright, Mr

22 Interpreter –

23 MR MATHIBEDI SC: Meaning dying.

24 CHAIRPERSON: Did you hear what Mr

25 Mathibedi said?

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1 MR NTJINGILA: Yes.

2 CHAIRPERSON: He said that wasn't

3 translated. Can you please translate it for us?

4 MR NTJINGILA: Yes, he said they were

5 prepared for whatever that could happen. They were

6 prepared even to die, they are not moving away from that

7 place.

8 MR MATHIBEDI SC: Thanks, Chair. Sir,

9 did Mr Mathunjwa at any stage leave the koppie?

10 MR X: Yes, he left and we went up to

11 that top part where we were meeting.

12 MR MATHIBEDI SC: What happened once the

13 strikers reached the top part of the koppie?

14 MR X: We were there, being the gang of

15 makarapa, congregated there, singing, going up and down,

16 but those who didn't conduct the rituals were not with us.

17 They were higher than where we were.

18 MR MATHIBEDI SC: Did you notice the

19 presence of police around the koppie?

20 MR X: Yes, the police arrives there next

21 to the kraal there, they were there next to the kraal.

22 MR MATHIBEDI SC: There is evidence

23 before the Commission that there was a line formation that

24 was made comprising of Nyalas. Did you notice that?

25 MR X: Yes, there was a line formation of

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1 Nyalas where there was some space between the Nyalas. If I
2 remember correctly, I think it was four. They arrived and
3 they uncoiled wire in front of us.
4 MR MATHIBEDI SC: What happened after the
5 barbed wire was deployed?
6 MR X: Mambush went in forward to the
7 first Nyala and he came back towards us. Then he came back
8 and told us that we must go towards them and then we went
9 towards them. A shot rang from our side because there were
10 some who had firearms from us. Bhele and Gwayi had
11 firearms. They didn't follow the inyanga's instruction
12 because the inyanga said we must not fire first. There was
13 also water spraying there in the mountain on that place
14 that we were in. We ran away. Others were left down
15 there. We didn't see them. We see them the following day.
16 MR MATHIBEDI SC: Now Sir, you testified
17 that Mambush went to where the police were busy deploying
18 barbed wire. You remember that?
19 MR X: Yes, I do remember.
20 MR MATHIBEDI SC: At the time that the
21 police were busy deploying barbed wire, what happened to
22 the majority of the strikers that had congregated at the
23 koppie?
24 MR X: We went this side and this side,
25 we went this side and this side, and then we went to the

Page 31810

1 police. We were going to the police to kill them.
2 MR MATHIBEDI SC: Sir, I'm referring to
3 the majority of –
4 CHAIRPERSON: Just a minute. He started
5 to say something. He should be given a chance to interpret
6 it.
7 MR MATHIBEDI SC: Thank you.
8 CHAIRPERSON: He didn't get a chance to
9 complete it. What were you saying?
10 MR X: Because we knew that firearms
11 couldn't work against us, nobody could shoot us.
12 MR MATHIBEDI SC: Sir, which group of
13 protesters went in the direction where the police were busy
14 rolling barbed wire?
15 MR X: It's us, the group of the
16 makarapas.
17 MR MATHIBEDI SC: Do you know what
18 happened to the bigger group that was not part of the
19 makarapa?
20 MR X: Ja, they ran away, that other
21 group. After they found out that they were spraying by the
22 water they ran away.
23 MR MATHIBEDI SC: At the time that the
24 strikers, the makarapas approached the area where the
25 police were busy deploying barbed wire, were they armed?

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1 MR X: Yes, we were heavily. We carried
2 all kinds of weapons.
3 MR MATHIBEDI SC: Why were the makarapas
4 armed at that stage?
5 MR X: We were going to kill the police.
6 We were going to fight with the police.
7 MR MATHIBEDI SC: There is evidence
8 before this Commission that at the stage that the strikers
9 were approaching where the police were busy deploying
10 barbed wire, the strikers were going home.
11 MR X: No Sir, we were going to kill the
12 police. That says that two bulls can be in the same kraal
13 and that's saying that we are going to finish the police
14 here. We were going there to kill the police, as Kaizer
15 had said that we were going to finish the police there.
16 MR MATHIBEDI SC: Chair, I'm going to
17 refer to exhibit L, slide 198.
18 CHAIRPERSON: Do you want a warning?
19 MR MATHIBEDI SC: It's not necessary,
20 Chair.
21 MR BUDLENDER SC: Chair, as I understand
22 it this witness says that he wasn't part of that group. Is
23 he therefore able to give evidence as to the intention of
24 that group?
25 CHAIRPERSON: Well, Mr Mathibedi, can you

Page 31812

1 perhaps deal with the point Mr Budlender raised.
2 [15:41] MR MATHIBEDI SC: Thanks, Chair, I will,
3 I will deal with that, Chair. Sir, at the stage that the
4 Makarapas approached the area where the police were busy
5 deploying barbed wire, where were you?
6 MR X: I was just there in the middle.
7 MR MATHIBEDI SC: In the middle of what,
8 sir?
9 MR X: I was there, I was there behind
10 the hill.
11 MR MATHIBEDI SC: Were you part of the
12 Makarapas that approached the area where the police were –
13 CHAIRPERSON: That does sound like a
14 leading question, doesn't it? I think it could be put in a
15 non-leading form.
16 MR MATHIBEDI SC: Will you have a look at
17 slide 198? Are you familiar with what is set out in that
18 slide?
19 MR X: Yes, I am aware.
20 MR MATHIBEDI SC: Will you tell us what
21 was happening, sir.
22 MR X: We were going to the police, sir.
23 MR MATHIBEDI SC: To - you were going to
24 the police to do what?
25 MR X: We were going to kill them, we

Page 31813

1 were going to fight.

2 MR MATHIBEDI SC: Referring to having a

3 look at the slide, are you in a position to tell us where

4 about were you?

5 CHAIRPERSON: Just rephrase the question.

6 Were you somewhere among the group that we see on the slide

7 or were you possibly not in the group that we see on the

8 slide?

9 MR X: This group of the Makarapas which

10 is led by Mambush, I was there.

11 CHAIRPERSON: Can you indicate to us, if

12 you can remember, more or less where you were in that group

13 of people?

14 MR X: Yes, I'm not depicted in the

15 picture but I was there.

16 MR MATHIBEDI SC: Were you armed?

17 MR X: I was carrying a panga and a spear

18 but there were some others who were carrying firearms among

19 us.

20 MR MATHIBEDI SC: Why were you armed,

21 sir?

22 MR X: I was armed because I knew that I

23 was ready for whatever comes my way, I was ready to fight

24 to death.

25 MR MATHIBEDI SC: If you look at the

Page 31814

1 slide, that is slide 198, you will see there are some

2 protesters or strikers next to the Nyala, can you see that?

3 MR X: Yes, I can see that.

4 MR MATHIBEDI SC: What were those

5 strikers doing?

6 MR X: They were challenging, busy with

7 what they were carrying, knocking against the Nyala with

8 what they were carrying, provoking that the police start

9 shooting.

10 MR MATHIBEDI SC: Why were they provoking

11 the police?

12 MR X: They were challenging the police

13 that they must end up starting the fight, they must start

14 shooting.

15 MR MATHIBEDI SC: If you look at the

16 slide, there is a person at the forefront of the group, can

17 you see him?

18 MR X: Yes, I can see him.

19 MR MATHIBEDI SC: Are you in a position

20 to identify the person?

21 MR X: That is Mambush there in the

22 front.

23 MR MATHIBEDI SC: Why was Mambush at the

24 forefront of the group?

25 MR X: He was the one who was trusted in

Page 31815

1 the mountain, he was brave and he was strong and when he

2 said then we must go forward, he doesn't turn back, he goes

3 forward.

4 MR MATHIBEDI SC: Could the Makarapas,

5 the persons depicted in the slide, could they have gone to

6 Nkaneng without approaching where the police were busy

7 deploying barbed wire?

8 MR X: There was another way that a

9 person could use to go to Nkaneng.

10 COMMISSIONER HEMRAJ: Can I just ask you,

11 was it intended that the committee members be at the front

12 of this group?

13 MR X: The group of the Makarapas, they

14 were those who performed rituals and they're supposed to be

15 in front so that they can stand against anything that comes

16 their way.

17 COMMISSIONER HEMRAJ: That's not an

18 answer to the question. Was it intended that the committee

19 members, the 15 committee members, that they ought to be at

20 the front of the group?

21 MR X: Yes, the inyanga has entrusted

22 that the people who have performed the rituals must be in

23 the front because they are strong, they can't be shot at.

24 CHAIRPERSON: No, you haven't quite

25 answered the question. As I understand you, there were

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1 ordinary Makarapas, all the Makarapas had undergone the

2 rituals but there were ordinary Makarapas and then there

3 were Makarapas who were members of the committee. Now the

4 question you've been asked relates to the Makarapas who

5 were members of the committee. Were they supposed to be at

6 the front of the group of Makarapas approaching –

7 MR X: Yes, we were all together there,

8 the committee and all the Makarapas –

9 CHAIRPERSON: No, you haven't –

10 MR X: - and Mambush was leading us.

11 CHAIRPERSON: You haven't answered the

12 question. There was a group of Makarapas, I take it

13 several hundred Makarapas, am I right?

14 MR X: Yes.

15 CHAIRPERSON: Alright. There was a

16 committee of about 15.

17 MR X: Yes.

18 CHAIRPERSON: They had also undergone the

19 rituals, is that right?

20 MR X: Yes.

21 CHAIRPERSON: Were they, the committee

22 members, at the front of the group of Makarapas who were

23 approaching towards the police Nyala?

24 MR X: It didn't matter, anywhere they

25 were, as long as they've done rituals and they were with a

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1 group of other Makarapas.
 2 MR MATHIBEDI SC: Sir, did the strikers
 3 succeed in provoking the police?
 4 MR X: No, we only found that the group
 5 that was in front, the group that was with Mambush, they
 6 fell down and then we started running away.
 7 MR MATHIBEDI SC: Sir, if you have a look
 8 at slide 198, as the strikers were walking along that
 9 Nyala, did they manage to provoke the police?
 10 MR X: No, we didn't succeed. Those that
 11 were in front, they fell down and us who were at the back,
 12 we turned around and ran away.
 13 MR MATHIBEDI SC: Now are you aware that
 14 at any stage the police utilised water, teargas and rubber
 15 bullets?
 16 MR X: Yes, I am aware.
 17 COMMISSIONER HEMRAJ: Mr Mathibedi, that
 18 answer doesn't seem to be in response to your question, did
 19 they succeed in provoking –
 20 MR MATHIBEDI SC: [Microphone off,
 21 inaudible.]
 22 COMMISSIONER HEMRAJ: Oh, okay.
 23 MR MATHIBEDI SC: Why did the police
 24 utilise teargas, rubber bullets and stun grenades?
 25 CHAIRPERSON: I don't know that the

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1 witness can answer that question. You can ask him why do
 2 you think the police utilised stun grenades and teargas.
 3 MR MATHIBEDI SC: At the time that the
 4 police utilised rubber bullets, teargas and stun grenades,
 5 what was happening?
 6 MR X: We were going to fight because we
 7 knew that we cannot be shot at.
 8 MR MATHIBEDI SC: You, the strikers were
 9 going to fight. Was there an actual fight between the
 10 strikers and the police?
 11 MR X: Yes, at the end those who were in
 12 front, they fell down and then we turned around and ran
 13 away.
 14 MR MATHIBEDI SC: Did the utilisation of
 15 teargas, rubber bullets and stun grenades lead to a fight
 16 between the police and the strikers?
 17 MR X: We went forward, we didn't feel
 18 those things like teargas and rubber bullets.
 19 MR MATHIBEDI SC: Went forward to where,
 20 sir?
 21 MR X: We went to fight with the police,
 22 to kill the police.
 23 CHAIRPERSON: Can I ask a question? You
 24 told us that you remember seeing four Nyalas, do you
 25 remember that?

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1 MR X: Yes.
 2 CHAIRPERSON: Now, what happened to the
 3 fourth Nyala? All the Nyalas were uncoiling wire, that's
 4 right isn't it?
 5 MR X: Yes, it was one that was uncoiling
 6 the wire. When it finished the other one was going start
 7 because they were closing this side of Nkaneng.
 8 CHAIRPERSON: Yes, alright. Now the
 9 fourth, did you see the fourth Nyala - you spoke about the
 10 fourth Nyala, did you see the fourth Nyala uncoiling wire?
 11 MR X: I saw the first one that was
 12 uncoiling the wire in front of us.
 13 CHAIRPERSON: What did you do after you
 14 saw the first Nyala uncoiling the wire?
 15 MR X: We were going towards it and then
 16 we sprinkle it with water.
 17 CHAIRPERSON: And then?
 18 MR X: We ran away. We saw that those
 19 that were in front were falling down, then we turned around
 20 and ran away.
 21 CHAIRPERSON: Where did you run to?
 22 MR X: I ran towards the shack
 23 settlement.
 24 CHAIRPERSON: So was this after you saw
 25 the first Nyala uncoiling the wire?

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1 MR X: Yes.
 2 CHAIRPERSON: Thank you.
 3 COMMISSIONER HEMRAJ: If you just look at
 4 slide L198, were you behind the group of people that are
 5 being shown on this slide?
 6 MR X: I was there in the middle of them.
 7 COMMISSIONER HEMRAJ: And you were
 8 walking very close together?
 9 MR X: Yes, we were in a tight formation.
 10 COMMISSIONER HEMRAJ: And would it have
 11 been difficult for you from there to see what was going on
 12 with those that were right in front of the group?
 13 MR X: It was not difficult to see
 14 because we saw that those who were in front were falling as
 15 we were going to the police and then we turned around and
 16 ran.
 17 CHAIRPERSON: Mr Mathibedi, it's now 4
 18 o'clock, so when we reach a convenience stage to take the
 19 adjournment will you please let me know?
 20 MR MATHIBEDI SC: Thank you, Chair, I
 21 think it's convenient to stop at this stage.
 22 CHAIRPERSON: We'll take the adjournment
 23 until – we'll resume tomorrow morning at 9 o'clock.
 24 [COMMISSION ADJOURNED]
 25 .

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