

TRUTH AND RECONCILIATION COMMISSION

HUMAN RIGHTS VIOLATIONS

QUESTIONS AND REPLIES

SECTION 29 INQUIRY

DATE: 29. 11.1996 NAME: BRIGADIER HERTZOG LERM

CASE: JOHANNESBURG

DAY 1

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CHAIRPERSON: We welcome you to this hearing. As you know we invited you in terms of Section 29(c) which is an investigative procedure, which allows you to come and allows us to question you. You do know that you have the right to have your own attorney present. This panel has been constituted in terms of a resolution of the Commission.

I would like to ask the gentleman who accompanies you, what is his position?

BRIGADIER HERTZOG LERM: No, he is only to support me with the docket, he will leave the room in a few minutes time, should you question me.

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CHAIRPERSON: Right.

BRIGADIER HERTZOG LERM: He must just help me with the docket.

CHAIRPERSON: I see. You know that in terms of this section we have indicated on the subpoena the areas of interest which we have an interest in and in terms of which we will be asking you questions. There are - you know that we have the power in terms of the Act to compel you to answer any question which might incriminate you. So that will be done after consultation with the Attorney-General concerned.

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BRIGADIER HERTZOG LERM: Madam Chairlady, I checked it very thoroughly and I understand everything. No, everything is very clear to me.

CHAIRPERSON: All right. Brigadier, the red button will be pressed when you speak. That is for recording purposes. You might require a transcript or we might require one as well. When you are complete - we have provided the ear-phones and head-sets. People will possibly address you in the language of their choice, but you will hear it in the language that you understand. All of us are not fully au fait with Afrikaans, some of us are more competent than others. 10

Are there any questions that you would like to ask me before we begin?

BRIGADIER HERTZOG LERM: Madam Chairlady, I have got a problem. You know, if I want to explain to you certain things, and if I want to bring things in the picture, then I must do it in context and I can't really do it in context if I don't speak Afrikaans. I need not an interpreter, but as you say, if you can't understand then somebody must do the interpreting work. 20

CHAIRPERSON: Brigadier, if I could just stop you right there. The reason why we have the interpretation services is to allow you to speak in the language that you are comfortable with. This service is provided for us, to allow us to understand you. Wynand, Fanie, Andre and Russel are very fluent but the rest of us are not that fluent, and we will ask you questions in English which will be interpreted to you in Afrikaans. But you will be allowed to use the first language of your choice which is Afrikaans. Are you happy with that? 30

BRIGADIER HERTZOG LERM: No, I am quite happy and I will do so. But another thing, I must say something - I want to say, I want to address the Committee before, because I have got certain things to put under your attention and if you are not satisfied and you convince me, then I will step down to another request. But I have got two certain requests to make firstly.

CHAIRPERSON: If you want to speak Afrikaans, do whatever is most comfortable. 10

BRIGADIER HERTZOG LERM: So I can start. Chairperson, I am going to speak Afrikaans now.

Chairperson, you must please excuse me, I am not quite familiar with the procedure, this is modern technology.

From the very limited particulars at my disposal I am going to read it very slowly. It appears that my appearance today falls outside the jurisdiction of the committee. I want to say why I say that. In the light of the emergency regulations, subsection (4), I want to quote from those:

"If, at proceedings instituted against 20
a subregulation (1) mentioned person or
member or the State or the government of
a self-governing territory, the question
arises whether an Act committed by
somebody or ordered by somebody and
committed by that person in a **bona fide**
manner, it is presumed, until the
contrary is proved, that that Act so
committed or ordered that."

According to the law, I was compelled to maintain 30
public order in KwaNdebele and I was furthermore responsible
for the safety of this area and the public. At all times I

acted in a *bona fide* manner and to the best of my abilities in the period 4 August 1986 to 31 May 1988, within the state of emergency then reigning and in terms of the emergency regulations. Emergency regulations started on 12.6.1988. The police were involuntarily involved in politics, but political leaders as a result of inter-action of states and our security forces, acted within the parameters of the functions imposed on us. For instance, by the emergency regulations and a (indistinct) system.

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The political leaders committed all these actions with all these consequent results. It is now time that the previous political dispensation, which involved us, in the political arena, take full moral responsibility and accountability for their immoral intentions and strategies.

I would like to request you, Chairperson, to question the previous government about the emergency regulations and the state of emergency.

Chairperson, may I be allowed to place my submission before the Commission. I don't know whether it will be a human rights violation commission on the 5th and 6th of December 1986 in Philadelphia Hospital in Mpumalanga. Thank you.

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CHAIRPERSON: Thank you for what you have just said. I am going to ask that you now excuse yourself for five minutes, so that the panel can consider that which you have placed before it and to make a ruling. Thank you.

WITNESS EXCUSED

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ON RESUMPTION:

CHAIRPERSON: Brigadier, I have been asked to speak Afrikaans to you. Your request we have seen as being based on a presumption, which you quoted, and it would be applicable to any trial in which a conviction may follow. You know this is an inquiry. I think you have foreseen our decision and for that reason you have also said you would have a fall-back position with the second request. I would be pleased if you would now put the second request to us. 10

BRIGADIER HERTZOG LERM: Chairperson, I am ready. My second alternative request in terms of the very limited particulars, it seems that my appearance here today is in conflict with the spirit of the Truth and Reconciliation Act, Act 34/1955, because there is no issue of human rights violations from the document in front of us. Because of the people making the allegations have been given access to the courts, so they could have obtained restitution.

As far as the KwaNdebele and SA Governments are concerned, there was a change of government when I left. Now 20 how do you connect this inquiry of human rights violations with the charge of obstruction of the course of justice. How can this be linked this up with gross human rights violations.

Under section 3(1) actions were committed in a **bona fide** manner. I am not aware of any intimidation. There was a Supreme Court case in July 1987, for the release of those detainees and there was judgment given that they should remain in detention.

Three, if the persons mentioned hereunder have been 30 assaulted, these cases ought to be heard in an ordinary criminal court. I refer to a couple of people. I don't know

them. I have a list of detainees, I don't know who these people are. I don't know them, I have never had any contact with them. They are Mr BA Skosana - I don't now if it is a man or a woman - Mrs JC Maseso, RS Mahlangu, Jerry Mahlangu and D Mokono. As far as I am concerned these were not gross human rights violations. That is my inference.

Four. I refer to Colin Mahlangu. I am very well acquainted with this case. There was never any intention to kill him. My question is, if there was such an intention, who prevented it that night. I would like to refer to evidence given in a Supreme Court case in 1988. 10

Five. The warring factions were engaged in a bloody civil war and mainly turned to cases of murder, malicious damage to property and arson from 1986 to 1988. There were 187 cases of murder, 835 serious assaults, 127 cases of public violence, 100 attempted murders, 303 cases of arson and 434 cases of malicious damage to property.

All these cases reported were enquired into and investigated and the incidents which you referred to, all belong in a criminal court and cannot be connected with human rights violations. 20

But I would like to testify voluntarily before the Commission so that you can also hear my side of the story. Mr Parsons violated my rights very seriously with the finding and disclosure of untested and fabricated and false allegations. Thank you. Thus far, thank you and I am in the hands of the panel here.

CHAIRPERSON: Thank you, sir. I will ask you once again to excuse yourself. 30

BRIGADIER HERTZOG LERM: Am I am not wasting your time? I am just coming here with friendly requests, but I don't want -

I am not here to be funny today, really not.

CHAIRPERSON: Yes, sir, but you have in fact placed a request before us. You are determined because you consider that you have not committed a gross human rights violation, that you should be questioned in respect of these particular incidents. You have also indicated to us that you have already appeared in court in terms of the Supreme Court case in July, and that you have also appeared before the Parsons Commission in respect of the same incidents. Accordingly, 10 you have put before us a position which we need to respond to. We are pleased that you have indicated that you are prepared to answer our questions voluntarily. But at the same time we need to discuss what took place before us, and to indicate to you what our response in terms of that is going to be.

BRIGADIER HERTZOG LERM: But you really don't think I am funny today? Because ~~I am not here~~ - you know, I am very, very serious really.

CHAIRPERSON: Sir, let me just say before you move on. You 20 know that in terms of this Act we are not determining prosecutions nor are we putting anybody on a trial, we are not charging anybody or putting them on trial. Our objective in fact, is to ascertain what happened in this country during the period March 1963 to December 1993. We in terms of the Act therefore have to enquire into many matters, which may have been raised in a criminal court already. Because our objective is to get the complete picture, what actually happened.

You know, of course, that statements have been placed 30 before us which implicate you. Because we want to make sure that you have the right to respond to them, we have asked

you to come to this inquiry. It is on that basis that we have asked you to appear before us. Our intention is not to charge you, prosecute you or to make a judgment in terms of what you say. Our objective is to get the information to ensure that every side is listened to and then to record that faithfully and determine what actually happened in that particular time.

BRIGADIER HERTZOG LERM: I am so glad, lady. Thank you.

WITNESS EXCUSED

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ON RESUMPTION:

HERTZOG LERM: (Still under oath).

CHAIRPERSON: Thank you, sir, that you have given us the opportunity to deliberate on what you have said. I have asked Mr Russel Ally to respond to what you have said to us.

DR ALLY: Brigadier, I am also going to speak English. Firstly, brigadier, just to again emphasise that this is an attempt by the Truth Commission to try and get as much information as possible, which is going to help us understand the conflicts that took place in the past. The conflict that we are looking at relate to what was happening in Moutse, KwaNdebele from 1985 to 1993. So that's the main purpose, is really to try and acquire as much information of the events as possible. You were present at the time, sometimes the antagonist in some of those events. That is the context as the Commissioner has put, it is not a court of law. It is not a prosecution of charges. 10

Now as to the actual subpoena which was sent out to you, there are six parts to it and you have covered some in your - what you said to us before you went out. 20

Part of the Human Rights Violations Commission is to make findings as to who are victims in terms of gross human rights violations, which relate to things like torture and severe ill-treatment, abduction, disappearances and killings.

Now in making that finding it is very important that the claims which victims make, as far as possible, we would like to corroborate those claims. Those victims are implicating you directly in what they consider to have been gross human rights violations to them, either attempted murder or assault or detention. 30

Maybe in certain cases you don't know the names and we are not in any way suggesting that you are lying to us about that. What is important is that when we actually questioned you about these events, we relate to you the incidents, when this happened and the context. So maybe you will not remember the names, but maybe the incidents and the number of people who were there. Then that maybe will assist you to answer the questions. We are not saying to you that how can you not remember that you did so-and-so to BS Skosana or you may not know a BS Skosana, but in terms of the statement which we have a BS Skosana was present at the time that these events were taking place. We would like to hear your version and your account. Particularly the allegations made against you, even if as you say you don't remember or you don't know the name of a specific individual. 10

Colin Mphlanga you have spoken about. There are some more questions that we would like to ask you. Similarly, three, also relates to the gross human rights violations, which these individuals believe that they suffered. So it flows almost from one that the other issues relating to detention and intimidation. 20

Four is a lot more wider-ranging. There is a - one of the gross human rights violations that the Commission heard is actually severe ill-treatment, which people believe that they suffered ill-treatment, as a consequence of that conflict. So this is really to assist us in establishing, also in the context of what was happening at the time when you spoke about, what was tantamount to a civil war with properties being destroyed, arson, attacks and counter-attacks from all sides. So this will also assist us, because one of our jobs is to try to get as complete a 30

picture as possible.

With regard to the question of five. This is a very important issue, because there have been allegations that there was tampering with evidence, and you know about that. We would like to hear your account on this.

It is particularly important for the victims because many people who went to court, on what they - on statements which had originally been taken, the day when the trial was actually aking place, were confronted with different kinds of statements, and as a result the case was not settled - well, they will believe that as a result the case was not settled. Their favourite word is, if the original docket which Wilson Modlala had actually prepared and been taken, it would have been a different outcome, as opposed to the statements which were subsequently taken by Stemmet. 10

We are really just to hear what you have got to say about that and if that was the case. It is also important again, as I say, for this as complete a picture as possible, the issue of the course and the role of the courts and how you can assist us in understanding what was happening at that particular time with the courts and those issues. 20

The last issue is really something which we hope you are going to be able to give us some insight in. It relates to broader and more general issues. That, in your role as Commissioner of Police, you obviously had, you had to have a close working relationship with the Cabinet because that's who you were obviously employed to serve, to certain chief Ministers and there are allegations that some of the activities of some Cabinet Ministers, in particular the chief Minister at the time Majosi Mahlanga, that there was a close relationship developed and that many of the things 30

that Majosi himself was implicated with, that often a cover was provided by the KwaNdebele police. The KwaNdebele police developed a very close relationship with the Ambagodo, which was - that it was revived after August 1986. It also worked very closely with the "kits konstabels" and that together these two structures were directly implicated in raids and taking people out of houses and forcing them to make statements and torturing people and taking people to see (indistinct), stop on the floor. So I am sure you know very ... 10

So it is really to hear your side of the story so that we can have a better picture from you, your perspective as it were, as to what was going on. So that is the spirit really in which we want to conduct this inquiry. As I say it is not about prosecution or cross-examination.

If at any time you feel that there are questions which you don't want to answer because they may incriminate you and you may feel that in that situation you want legal representation, then please indicate that to us. 20

But you did, the offer was made to you and you did say you don't think you need legal representation. If at any time during the proceedings, you feel that maybe that was not the correct decision, then please feel free to say I would actually like legal representation. I think we would then have to seriously consider it. Thank you.

BRIGADIER HERTZOG LERM: Thank you. Mr Chairman, I have answered most of the questions in this report. My objections as you heard it in Afrikaans, is that I will do it voluntarily and not - you must not say you must have, because, that's what I said. What about the emergency regulations? Now what about gross human violations. If I 30

read the descriptions, et cetera, et cetera, then I have got a right to object, but I want to give you a full explanation about everything.

So I would like to give you this, but I want to do so voluntarily.

CHAIRPERSON: Thank you for what you have said. The issue is that we are not here to question the fact that you think and believed that you acted in terms of the law as it was at the time. That is not the issue in question. We are, of course, in terms of the Act, empowered to investigate gross human rights violations. I restate that in terms of that power we have received statements which implicate you. We have in the course of our work decided that we need to hear from you, your explanation and your version of the events that have occurred. 10

You are not on trial. At any time you can choose to say that I refuse to answer that question. At that time I will stop the proceedings and I will as you to advance reasons as to why you should not answer. I will then consult with the Attorney-General concerned and I will ask the people who have asked you those questions to advance reasons why they think you should be compelled to answer that question. I will then make an appropriate finding. 20

We are happy that you have decided that you want to volunteer that information and that you are here voluntarily and of your own free will. I think in the spirit of what we are trying to achieve, that is absolutely necessary.

I stress again, this is not a witch hunt, it is not about putting you on trial, it is not about making a judgment call, but it is simply dealing with what is before us and getting your response to that. 30

The two people who will be leading the questions will be Andre Steenkamp and Col Kilian and then the rest of us may chip in if we want some answer for clarification. I think we will now begin by asking Andre to start.

MR STEENKAMP: Can I just make one more point before we begin, because I think you need to hear this, it is very important. You know that the Truth Commission is made up of three committees, the Human Rights Violations Committee, Amnesty (indistinct) Committee.

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Now you may have decided on your own that there is no need for you to apply for amnesty. That is a decision that individuals take. No one can force anybody, but it is important to know that the committees do have close working relationships. You know, that issue of amnesty is entirely your decision. Because if you believe you haven't committed then obviously it doesn't. If you have any doubts about that, then it is something that you may have to consider.

In that context, whatever happens in this meeting is very important.

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CHAIRPERSON: Brigadier, if you are ready, then I am going to ask Mr Malan to ask you to take the oath, please.

MR MALAN: Apologies. Will you please stand again, brigadier.

HERTZOG LERM: (Duly sworn, states).

MR MALAN: Thank you, you may be seated.

MR STEENKAMP: Thank you very much, Chairperson, Brigadier. Before we look at the detail in the subpoena, may I just ask you, you earlier said that the information used against you at the Parsons Commission, that this was fabricated evidence. Could you perhaps very briefly explain what you mean by that.

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BRIGADIER HERTZOG LERM: I mention that they intimidated people to talk. I can mention the names of many policemen who phoned me and said that Johan Kruger had compelled them to speak. He would read them a statement and then make them sign, and he said if they didn't, then he would charge them, he would prosecute them.

For instance, my driver, Riaan Groenewald. It apparently happened quite often. I then wrote a letter to Mr Parsons and I told him that I was objecting to the fact that there is an advocate going around and compelling people to give evidence. 10

MR STEENKAMP: Is that the only incidence of fabricated evidence against you?

BRIGADIER HERTZOG LERM: Yes. Look, there wasn't just the one case. I heard from various sources that this was going on.

MR STEENKAMP: A last question. Did you ever take it up with the chairperson of the Parsons Commission?

BRIGADIER HERTZOG LERM: Yes. 20

MR STEENKAMP: And what was his reaction?

BRIGADIER HERTZOG LERM: Well, you see, I was not allowed to involve Ministers or he often would just let a case stand down and say that it wasn't relevant. He would disappear into the office.

MR STEENKAMP: Thank you. I think we should now turn to the incidents or the information regarding incidents contained in the subpoena. May I ask a question? This term fabricating of evidence. You also talked about a compulsion. Are you implying that the evidence submitted there was false? 30

BRIGADIER HERTZOG LERM: Yes. Yes, they simply signed these

statements.

MR STEENKAMP: And they told you what they had said is false?

BRIGADIER HERTZOG LERM: They just said if you don't do this, then we are going to lock you up.

MR STEENKAMP: No, would you please just answer the question directly. That which they signed, they said that that was false.

BRIGADIER HERTZOG LERM: Yes. 10

MR STEENKAMP: Is that what you are saying?

BRIGADIER HERTZOG LERM: Yes.

CHAIRPERSON: May I just follow that up by asking; did they then in terms of an affidavit confirm that they were compelled to give in a false statement?

BRIGADIER HERTZOG LERM: No. No, they didn't give me an affidavit. That's just what they told me.

CHAIRPERSON: When you appeared before the Commission did you not officially make that complaint?

BRIGADIER HERTZOG LERM: No, not in a - because I was not 20
allowed, I must put it also now in context. You know, you gave witness about three years ago, and I appeared say for instance in 1992, and I appeared in 1993 or 1994, there were not time at all. I haven't got time to cross-questions persons and people. It is gone by gone. They just questioned me about certain things.

CHAIRPERSON: I also hear from what you are saying that you are alleging that Johan Coetzee was the one who pressured these people into making these false statements against you. Is that what you are saying? 30

BRIGADIER HERTZOG LERM: Johan Coetzee - no, now I can't understand it.

CHAIRPERSON: Kruger.

BRIGADIER HERTZOG LERM: Johan Kruger.

CHAIRPERSON: Johan Kruger.

BRIGADIER HERTZOG LERM: Johan Coetzee was a witness, he was a Commissioner.

CHAIRPERSON: Right, okay. Thank you.

BRIGADIER HERTZOG LERM: Thank you, Chairperson.

MR STEENKAMP: Brigadier, how long after the people reported to you about the fact that they had been compelled to make statements which were untrue, how long after that did you appear before the Commission? 10

BRIGADIER HERTZOG LERM: (Indistinct).

MR STEENKAMP: Please just answer that question. How long afterwards?

BRIGADIER HERTZOG LERM: I think it was in 1990. Yes, it started in 1989, you see I now have to rely on memory. I am sorry, in 1993 I appeared before the Parsons Commission and at that stage the Commission had been sitting for three years. I was the last to be heard. 20

MR STEENKAMP: But when you heard from these people who had made the statements, which were allegedly false, what did you do to put the matter right?

BRIGADIER HERTZOG LERM: Well, I wrote a letter and told Mr Parsons that I had been informed that an advocate was going around obliging and compelling people to make statements, and I also phoned Van Staden, the secretary. I said that I was objecting to this.

MR STEENKAMP: Now your objections notwithstanding and your knowledge of false statements against you, the same evidence was given before the Parsons Commission? 30

BRIGADIER HERTZOG LERM: Yes, it had already been given

years ago. Before I appeared on the scene. Yes, when I appeared on the scene the Parsons Commission had already disposed of their evidence. I was never given the opportunity to question them and I couldn't defend myself.

MR STEENKAMP: A last question on this aspect. Could you perhaps explain to me why, when you testified under oath, you never raised this point with the Chairperson and told him that people had, certain people had given false statements and had given false evidence. Why did you not raise it with him? 10

BRIGADIER HERTZOG LERM: I am sorry to have to say to you, but I had no confidence in Mr Parsons, because whenever I said anything, like for instance, about Mpetuli's murder and that it should be investigated, he said it had nothing to do with him, it was a Harms Commission brief. When I wanted to mention names or say anything, then he adjourned and went to his office. He said we shouldn't implicate Ministers. I must be very honest with you, I had no confidence in him whatsoever, it was a waste of time. 20

MR STEENKAMP: Do you understand the question? Is that the reason why you never raised the point?

BRIGADIER HERTZOG LERM: No, I never did, but I objected to it in his office.

MR STEENKAMP: But you never placed it on record.

BRIGADIER HERTZOG LERM: No, I never did so in a public inquiry.

MR STEENKAMP: You didn't think it necessary?

BRIGADIER HERTZOG LERM: No, I repeat what I said. I reject everything what that man said and I can prove that. 30

MR STEENKAMP: You also never raised your objection that you never had confidence in the Chairperson, you never did so in

your evidence?

BRIGADIER HERTZOG LERM: Well, I said many things and I did say that I didn't have confidence in the Commission.

MR STEENKAMP: Just one question. Can I ask why did you not have confidence, do you suspect that there was something else going on? Did you see this as a set-up, fix or what was the reason that you didn't have any confidence in the Parsons Commission?

BRIGADIER HERTZOG LERM: Chairperson, I have got everything 10
black on white. The commission was constituted by Majose and he went to Hertzog and Couzyn and then he launched an inquiry. I have got it here and I can take it out. Hertzog and Couzyn were told that they had no - that the commission should be referred to the State President or the issue of the commission. Judge Boshoff was appointed, he died. James Mahlangu then took over the government and then there was a change in the inquiry. So do you understand what happened there? I have got everything on black and white to explain. So that changed the entire perspective of the inquiry. The 20
Majose government wanted to have an inquiry. He went to an attorney. I have got the details here, I can submit it to you. He said please appoint a commission of inquiry. I think 72% of the government or of Parliament's businesses were involved. Colleen McCleod investigated it. 72% of these people had their homes and businesses burnt down. These are members of Parliament. They called for the inquiry. Couzyn and Hertzog then wanted to have an inquiry. It was then launched through the Commissioner-General. It went up to President Botha and then Judge Boshoff died, 30
Judge Jacobs couldn't act and then an assessor Mr Parsons was appointed. He was a retired man, he was quite old. He

had a hearing problem, almost as deaf as I am. Then there was a change in government and then there was a shift of perspective. It is like we have in this country now. PW Botha handled matters in one way and President Mandela was handling things in a different way. So there was a complete volte face. So what kind of confidence could I have had in that man. I must be honest. How can you expect of me to have trusted him and had confidence in him.

MR STEENKAMP: In short, what you are saying is that the Parsons Commission, the reason you didn't have confidence in it was because when James Mahlanga became the chief Minister, you felt that he was going to use it for political ends. 10

BRIGADIER HERTZOG LERM: Yes, yes.

MR STEENKAMP: Because before that he had been an opponent of Majosi and the old, the previous KwaNdebele government.

BRIGADIER HERTZOG LERM: Mrs Chairman, I was told at Mpumulaga in my witness I will tell it was a circus, and I have got it here. I will show you how it was a circus. 20

CHAIRPERSON: I just want to follow this up. Because you didn't have confidence in this commission because you thought it had now been appointed by James Mahlangu and it was no longer concerned in what Majosi had wanted it to investigate, and because of that reason you did not under oath testify that these witnesses had been intimidated. You had done that before by way of a letter to Commissioner Parsons. But at the actual time when you appeared formally before him, you did not while you were under oath, make that submission? 30

BRIGADIER HERTZOG LERM: No, no.

CHAIRPERSON: Thank you.

MR STEENKAMP: Brigadier, before we look at the details of the subpoenas, I want to clarify one issue. Maybe I have misunderstood. In your written statement which you read you said that during your period of office in KwaNdebele from 1986 to 1988, you were not aware of any gross human rights violations. Could you explain?

BRIGADIER HERTZOG LERM: Yes. I am telling you now that in my submission on the face of it, and with the details at my disposal, it would appear that there was common assaults committed by certain policemen and I want to repeat what I said. According to the spirit of the Act, it cannot be classified as gross violations of human rights. In the same light as things done by Jack Cronje, people who tortured people and blew them up. Those are gross violations of human rights, but if I give you a light slap, then you can take me to court and I will be give a fine of R10,00. That cannot be a gross violation of human rights. I would like to say to Adv Steenkamp, that is how I understood those charges. That is my view. 10 20

MR STEENKAMP: Thank you, brigadier. So to conclude on this aspect. Would you say that an assault on a person does not necessarily constitute a gross human rights violation? So that according to you does not constitute gross violation of human rights?

BRIGADIER HERTZOG LERM: It could be a serious violation, but not a gross violation of human rights. I have read this little book which originally was published by the Truth Commission. There was a pamphlet in which it said that - it explained what gross human rights violations were. You see, I dealt with many assaults in my time as a policeman. If I get cross with Mr Malan and he slaps me on the shoulder 30

that's just common assault, that's not a gross violation.

MR STEENKAMP: Well, I hope to focus on some of those. Do you have the subpoena in front of you? So could we refer to it? Could we start with point number one. Do you have it in front of you?

I am going to give you a bit of background, very briefly, as to what this incident is about. Can you remember the incident on the 12th of May 1987? This deals with an incident which happened in KwaNdebele on the 12th of May 1987. There was an incident at the house of one Princess Fiela Dlamini Mphalangu. Can you recall such an incident? 10

BRIGADIER HERTZOG LERM: Yes.

MR STEENKAMP: If you have information about this incident, could you briefly tell us what you can remember of this incident?

BRIGADIER HERTZOG LERM: Chairperson, I must tell you that I had been a function at the guest house, there was a meeting there at Ystervarkfontein in KwaNdebele that evening. That was the only evening that I operated in KaNdebele. But that night I was definitely there. 20

When we left, Lieut Jones asked whether in terms of these - the hand-grenade operations, many cases, and they were busy with operations. He asked whether we wanted to see how they did their work properly. I can't say that I was - I think it was Ester Mphalangu, I think it was Mphalangu's wife. I spoke to her in a very friendly way and then they - I must say I was not part of the operation. I did visit there but I wasn't part of the operation. It was my duty, I was there. I was in this home. 30

MR STEENKAMP: Is it Sipela Mphalangu?

BRIGADIER HERTZOG LERM: Yes, it is Cornelius' wife.

MR STEENKAMP: If you mention any names, Cornelius, his wife, whatever ...

BRIGADIER HERTZOG LERM: I know these people quite well, because when I arrived there I had a lot of contact with them, negotiations with the mayor of Atteridgeville, Mr Mphalangu. He took me to these people, introduced me to these people, so they know me. So they won't be able to say I wasn't there, because I was, but I wasn't operationally involved. 10

MR STEENKAMP: May I just ask you, what was your specific role, what were you doing there? May I just finish the question. Was there any specific incident which took place at the house, whilst you were there?

BRIGADIER HERTZOG LERM: At the house?

MR STEENKAMP: At the house of Siphela.

BRIGADIER HERTZOG LERM: No, I couldn't say. All I know that is that she was detained that night. It was during the night. 20

MR STEENKAMP: Was there any incident which took place at that house, assault or any incident of violence whilst you were there?

BRIGADIER HERTZOG LERM: Not in my presence, I didn't see anybody being assaulted.

MR STEENKAMP: I find it somewhat strange that according to our information, there were about 25 policemen on the scene. Why the need for 25 policemen? If it was purely a motivational visit. Could you please explain that.

BRIGADIER HERTZOG LERM: Yes, we needed that number, because we had to perform raids, because we had been told that there were hand-grenades in the vicinity and the policemen were 30

busy with a raid.

MR STEENKAMP: Now what was your role?

BRIGADIER HERTZOG LERM: I have already said. I was there as a part of a motivational visit.

MR STEENKAMP: What does that mean?

BRIGADIER HERTZOG LERM: That means you make contact with your people on the ground.

MR STEENKAMP: Was anybody arrested on the scene that night?

BRIGADIER HERTZOG LERM: I think about four or five people. 10

MR STEENKAMP: Who was arrested?

BRIGADIER HERTZOG LERM: This man allegedly who was found with a tape-recorder, he was arrested. I think some others as well. But let us say a couple of people.

MR STEENKAMP: You weren't involved in any of these incidents?

BRIGADIER HERTZOG LERM: No. No.

MR STEENKAMP: And according to you there were no incidents of violence at the house that night.

BRIGADIER HERTZOG LERM: Are you referring to Colin 20
Mphalanga as well?

MR STEENKAMP: You may refer to whom you like. I am asking you, did an assault take place in that house that night.

BRIGADIER HERTZOG LERM: I don't know what you mean by an assault. There were arrests, and it was during the night. I didn't have a torch with me. So it was dark. There might have been a faint moon that night, but arrests were made and people were shouting and I can't say who they were.

MR STEENKAMP: Was the search done on your instructions?

BRIGADIER HERTZOG LERM: No, that was the operational 30
officer's orders. I think it was Col Loots or somebody else. I must also put this into context for you. Whenever the

Majosi government wanted their independence, then they went to President Botha with a memorandum and then it was announced. On each occasion when there were negotiations about independence, then the riots started up. The schools were burnt down at the time. I have many reports to prove that. When we received information that certain people had ties with the ANC - I doubt it today. I would like to quote from the Bible as well at some stage, but what I would like to say, is that they were implicated and connected with acts of terror and weapons and so forth. So an operation was planned. There were more than 800 South African policemen and soldiers replaced on a basis of every three months. There was one base in Vaalbank, one base in Sebiso, one base at Verena, and they all worked together. But I was invited to go there. I would like to say to Adv Steenkamp I was not operationally involved there. Anybody who says that is lying.

MR STEENKAMP: Can I just try and establish the context and take you back a little bit. According to the investigations which we have done, until your arrival there, August of 1986 ...

BRIGADIER HERTZOG LERM: Since 4th of August?

MR STEENKAMP: Since 1986, your predecessor was Chris van Niekerk, who was Commissioner of Police before you.

BRIGADIER HERTZOG LERM: That's right.

MR STEENKAMP: Apparently Chris van Niekerk felt into disfavour with the ...

BRIGADIER HERTZOG LERM: With me?

MR STEENKAMP: No, he fell into disfavour with the KwaNdebele government Cabinet, with Skosana was still alive at the time, with Pieter Tuli who was still alive at the

time and Mojosi who was still alive at the time. Because they believed that he was not acting tough enough against those causing the - the comrades whom they believed was causing the unrest. They actually manoeuvred or requested that both Chris van Niekerk as Commissioner of Police and Gerrie van der Merwe who was the Commissioner-General be replaced. That Chris van Niekerk was transferred and Van der Merwe as well. You were specifically brought in, that in fact, the Commissioner of Police then Coetzee, Johan Coetzee 10 brought you in on the very day that you arrived, you came with a helicopter. There is a whole story ... (Indistinct - not speaking into microphone). And the strict instruction was that you have got to bring law and order to this place, because Van Niekerk is not doing it, and that whatever it takes to bring law and order into this place, that is what has got to be done.

Now if that is ~~true, if that is~~ the context, how then does that square with your comments now that you were never involved in any operations or we don't understand what you 20 mean by that. Can you explain to us, please.

BRIGADIER HERTZOG LERM: Mr Chairman, I was sent there to negotiate between the government of the RSA and the government of KwaNdebele about the death, the brutal murder of Ntuli. That's why I said, you ask me a lot of questions, but I got this papers for the hearing at Mpumulanga. Here Prof Simon Gouws asked for the withdrawal, it is on the 24th of July 1986, of Chris van Niekerk, leap year. Can I read it for you? I will bring it under your attention though. There is Chris van Niekerk, and Coetzee promised that he 30 will withdraw them there. It is not before my time.

On Monday, 2nd of June at 12 o'clock I received a call
SECTION 29 INQUIRY/JHB TRC/GAUTENG

from the Chief Minister that there was a serious crisis and that the Cabinet wanted to see me immediately. I had to meet them at 14:15 in the Cabinet Hall. I was told that the Commissioner-General and the police were undermining them, and that the comrades were organising against them. They also decided to terminate the service of these three people. Then they murdered Piet Ntuli.

You promised me that this evidence will not come out because I do not want to come out. That is why I did not want to testify. I was aware of Piet Ntuli's murder and I will tell you that, it must stay here. 10

At Yskor they told me they were going to murder him. They described and you read who committed these murders, it is known, that Hechter and Brig Cronje murdered him. They acknowledged that and we knew that.

Johan Coetzee told me that I was not allowed to tell that and I had to make sure that there were good relationships. You can read my - the papers I have here. These people were national leaders. I brought some of the best brandy and we were supposed to have good relationships. 20

We negotiated with each other. Do you understand how these things work? I have everything here for you. Chris van Niekerk was not my fault. When I got there he took sick leave for one month and he just stayed there. He was never informed that he was transferred. He was supposed to be transferred.

You must not throw the ball in my court. He was already transferred, that's Johan Coetzee. I just want to put that right. It was about Piet Ntuli's death. 30

MR STEENKAMP: Immediately that the deed was done who ...

BRIGADIER HERTZOG LERM: They informed me.

MR STEENKAMP: Who informed you? Cronje and Hechter?

BRIGADIER HERTZOG LERM: No, Johan Coetzee and Gen Schutte investigated the murder case.

MR STEENKAMP: And informed you that it was done by Hechter and Cronje?

BRIGADIER HERTZOG LERM: They informed me that it was committed by them and it is their indaba and I must not talk about it, not at all, because the whole government of KwaNdebele are against them, because they know it. They also knew that the police do it. 10

MR STEENKAMP: So can I just ask, with that knowledge, why was it then that there were raids in different parts of KwaNdebele to find Piet Ntuli's murderers?

BRIGADIER HERTZOG LERM: No, there were no raids about the matter, no.

MR STEENKAMP: After the murder of Piet Ntuli?

BRIGADIER HERTZOG LERM: No, that is not the truth.

MR STEENKAMP: There were house searches - there are witnesses who say that. 20

BRIGADIER HERTZOG LERM: No, sir, sorry, lady, Mrs Chairlady, this is not the truth and it is not the whole - I can swear it is not the truth. No, no, no. No, this is new information which we received and I have got it on paper.

MR STEENKAMP: Brigadier, can I just go back one or two questions to the night of that incident. We also have testimony from the Parsons Committee, various people testified that you were on the scene, but their accounts radically differ from your account. The question I want to ask you, is do you say that all these people are lying together and yet you are talking the truth? 30

BRIGADIER HERTZOG LERM: If they testified in front of me that I could have, and if I could have questioned them, I could have told them that they lied. I never attacked anybody or assaulted anybody.

MR STEENKAMP: So you say that all the information and all the testimony before the Parsons Commission ...

BRIGADIER HERTZOG LERM: That said I attacked and assaulted these people?

MR STEENKAMP: Do you say that all these people are lying? 10

BRIGADIER HERTZOG LERM: Those who say I assaulted them are lying. I have never assaulted anybody. I was a man of nearly 60 when I arrived there and why would I assault anybody?

MR STEENKAMP: Can you tell me why would they choose you as the person who assaulted them?

BRIGADIER HERTZOG LERM: They did that after the government came to a fall and they said I was a strong man and if it had not been for me - you are asking me about things I have not testified about. There was no light when I arrived there at the meeting of the Cabinet. The police were sitting 20 in their barracks, there was no crime.

MR STEENKAMP: Sir, I just want you to answer this question.

BRIGADIER HERTZOG LERM: If they said that I assaulted anybody they are lying.

MR STEENKAMP: The reason you give, they were lying. Why are they all lying then?

BRIGADIER HERTZOG LERM: Mrs Chair, I have no right to give you a reason.

MR STEENKAMP: Don't you want to give a reason or can't you?

BRIGADIER HERTZOG LERM: No, I say it is politically 30 motivated lies.

MR STEENKAMP: Sir, can you please give me some more

information. Johan Masheshu is an example. He said that you grabbed him by the hair. Mahlangu said that you were involved with the assaults. Have you never heard about these accusations?

BRIGADIER HERTZOG LERM: I do not know these names, but I know Mahlangu. I saw him that evening. He was a young guy, about 17 or 18 years old. He was a small guy. I know that he was arrested, but I never hit him. I never pulled his hair. That is not the truth at all.

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MR STEENKAMP: Because I tell you honestly, I find it very funny that during the time of this incident, in the house, you never heard anything or was not involved. But there were various people who testified that you were involved in the assault and you say that you don't know anything about that.

BRIGADIER HERTZOG LERM: I just want to ask a question to you, Madam Chair. ~~Is he talking about me attacking other people and assaulting other people or other people assaulting other people?~~

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MR STEENKAMP: Mr Mahlangu said that you said that they had to bring the tyre and the petrol and that you said that they had to light Colin.

BRIGADIER HERTZOG LERM: Mr Chair, I brought this with me. Can you just tell me what tyre did I bring there? I testified about that, it was tested by 11 advocates. I said I had it here and I was going to testify about that in Mpumulanga. They said I said that they had to throw petrol over him. This fluid could not even burn. Why would I then order that fluid to be poured over him.

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CHAIRPERSON: Sir, you just have to understand, this questioning is because you said that you were only invited

to go with them, and that you yourself were not involved in any attack. But all the people who were there in the house that evening say that you were involved and that's why we are questioning this - that is why the advocate is questioning you about what happened that evening and what you did on that evening.

BRIGADIER HERTZOG LERM: Madam Chair, I have the case here with me. It is not true. These people only said that in front of the Parsons Commission, but in the Supreme Court it never happened. I brought you the minutes. It is not said in the minutes, it is not true. These things were fabricated after the next person came, started ruling. I never touched that man, and I even said that I denied. They said that Piet de Jager was there. He was not there. Esther mentioned my name, she knew me. It is in the minutes. She recognised me and I spoke to her where she was lying. I asked her where her husband was. Siphela said there were people. I only saw her that evening, but she didn't know me. But De Jager was there and I said De Jager wasn't working that night. He was not part of the operation. Those people later on made perceptions that Lerm was the strong man, he was keeping the government in power. 10 20

MR STEENKAMP: Sir, can I ask you, that evening, why did you go with.

BRIGADIER HERTZOG LERM: I didn't go with them, okay. I have already said - I never said that I went with them. Chair, we were at Ystervarkfontein, it is close to Bronkhorstspruit. There was a meeting with various state officials and we heard something. My driver spoke. I had a driver and some bodyguards who went with me. Lieutenant Jones said brigadier, you are needed in KwaNdebele, don't 30

you want to come here perhaps, in the operational area. And he came and picked us up. My car stayed in Kwaggafontein, it was parked there. Then I got into his car with two policemen in front and we drove there and when we arrived there they were busy with the raid. I was not involved. I did not arrange it. These things were fabricated later on.

The Supreme Court case is in front of me. I want to read it to you if you will give me a chance. They heard that Colin was screaming, that he was being attacked. But they never saw that a tyre was put around his neck, and they never saw me there. I was there. Only Esther said that. They also said that Piet de Jager was there, and he was also not there. It was false testimony.

CHAIRPERSON: Thank you very much.

MR STEENKAMP: ... that you were given as to why you believe people tried to implicate you, why they were saying these things about you. ~~You say that~~ when you arrived in KwaNdebele, in August, early August ...

BRIGADIER HERTZOG LERM: the 4th of August. 20

MR STEENKAMP: The 4th of August, right. You said you found a situation there where a Cabinet was - felt very intimidated, felt they were not in control.

BRIGADIER HERTZOG LERM: Really.

MR STEENKAMP: Just go through, in your experience, the situations that you found and ...

(END OF TAPE 1 - SIDE B)

BRIGADIER HERTZOG LERM: ... cover it. I had to fight a battle. Each Cabinet Minister, many of them even had five wives with five various businesses in various towns. They never acted in public. They said the Commissioner had to be in the public eye. I was always in the public eye, and then

a perception was raised that I - and I want to testify about this. I went to Adriaan Vlok various times and to Hendrik de Wit. Johan was - had to step down. I told them that there are many problems and that I am implicated. They said that if PW Botha told Hendrik de Wit to do something he had to do it, and you, Hertzog Cloete Lerm, have to do your own job in your own service.

You will hear what I have to say about the investigations of the detectives. Williams, from Pretoria, 10 for example, they didn't want to send the detectives to me. These people, they said to me that these people were getting their independence and I had to do my job without any personnel. No political person could put my case in the papers because they were afraid of intimidation.

Hand-grenades and bombs were thrown at Mr Msvene's house how many times. The Cabinet of KwaNdebele was very scared of intimidation and I had to do the job. When I complained at Hendrik de Wit, they just told me to keep the people happy. 20

MR STEENKAMP: Were you therefore just only given something like a blank cheque and they only told you that you had to keep law and order?

BRIGADIER HERTZOG LERM: Yes, that was what Coetzee told me and I called him myself and that was what he was testifying about in the Parsons Commission. He told me that this person was murdered and that we murdered him and that we had to keep them quiet, and we had to keep them happy. You will hear in the testimony that PW Botha gave me a command to keep peace in KwaNdebele with the Mutsi problem. 30

You asked me questions from the outside and I cannot really explain everything because I have to take a certain

direction.

MR STEENKAMP: Sir, can I ask you first, you said that the case had to be kept quiet.

BRIGADIER HERTZOG LERM: I asked you to give me an opportunity to tell you the whole story, then you can see who is sitting behind me. I was the guy who was walking in front and people were hiding behind me.

MR STEENKAMP: So you arrived on the 4th of August. KwaNdebele is burning. Peter Ntuli has just been 10
assassinated, okay? Johan Coetzee, the Minister of Police says to you look, we committed this deed, keep quiet about it, make sure that no investigation is done about this thing. You just ensure now that law and order is established in this place. Did Johan Fourie ever explain to you ... (intervention).

BRIGADIER HERTZOG LERM: Not Johan Fourie, Johan Coetzee.

MR STEENKAMP: Oh, I am sorry, Johan Coetzee, pardon me. Did the Commissioner of Police ever explain to you why they killed Peter Ntuli? Did they give you a reason or did he 20
just say we did it?

MR STEENKAMP: Chair, I am glad you ask this question. Will these things stay in this room? You can investigate it but I do not want you to put this in the papers, for example. Piet Ntuli was murdered not because he was involved with the ANC; he was murdered because Captain Kendall who is now farming with chickens somewhere, I think that he has to be called in. His farm is outside of Bronkhorstspuit. He is the biggest criminal there. He had problems with them and they were arguing about independence. 30

He was an ex-policeman. If we, for example, went to a doctor and we wanted to kill him, I would go there and I would for

instance say that he is stealing cars and smuggling dagga or something, and I give that to the papers then. A little while later on, like in the Ribeiro case he would be murdered. They first blacken your name. For example, Piet Ntuli was accused of stealing cars at various times. Kendall was the person manipulating everything.

MR STEENKAMP: Yes, you know, this doctor ...

BRIGADIER HERTZOG LERM: Yes, chair, he was the person 10
behind everything. He was a small captain, but even Brigadier Cronje worked under his instructions. Also Hechter. But I know who the murderer was, he was Hechter, he has got a problem with his legs now. But there are also, various other senior officers involved, Brigadier Kloppers, Daantjie van Wyk, they were also involved in this. But the - it was planned by Kendall because Piet Ntuli - to leave the KwaNdebele and don't want him. And PW Botha asked if they wanted to put him in George, near the Wilderness - if they will transfer him to George. They even went to the 20
President, they don't want him there. He was the, he caused the murder really there, not the ANC.

MR STEENKAMP: Was this over the question of independence, because Kendall claimed at one stage to have gone, to have conducted a survey in KwaNdebele. He sent his police, in other words, to go and question people independently and the results of this survey is that ...

BRIGADIER HERTZOG LERM: That's right.

MR STEENKAMP: ... not many people ...

BRIGADIER HERTZOG LERM: That is right, that is so. 30

MR STEENKAMP: And he, together with Van Niekerk ...

BRIGADIER HERTZOG LERM: And Gouws said it was not a ...

MR STEENKAMP: ... tried to get Gouws to support them to go to Heunis and to Viljoen and to say, to abandon these ideas.

BRIGADIER HERTZOG LERM: That's right.

MR STEENKAMP: Are you saying it was because of that ...

BRIGADIER HERTZOG LERM: That's right, that's right.

MR STEENKAMP: ... Kendall then began to plot Piet Ntuli's assassination?

BRIGADIER HERTZOG LERM: You are quite right, because Gouws said it was not a valuable research, it was a false ...

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MNR STEENKAMP: U kan maar Afrikaans praat.

BRIGADIER HERTZOG LERM: I just want to mention it, you also saw the picture. Now I see the truth is coming to the fore. That is actually the truth. The security police, and I want to say that to you, I also suffered under the security police, they also intimidated me. I just want to mention this. Mrs Chair, you want to hear this, because you are a woman. If I went to Port Edward, everything was packed and when we arrived there the boss and the manager would say, Brigadier, they cancelled your place last night. Then they would say my son cancelled it because he said you got ill. That was one example. The second example was PW Botha gave me the Suiderkruis Medallion and after my retirement, he first pushed me down into the ground and then he gave me a medal. At approximately eight o'clock a Mrs Venter called me and told me listen, Brigadier, that medal, the giving of the medal was postponed to one o'clock. Then I called Mrs Venter again and then she said no, I never called you. They did these terrible things with me.

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MR STEENKAMP: Let's continue with the hearing. You arrived then in KwaNdebele and you said the place was in flames, the Cabinet is totally intimidated, what next then, what

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happened then next?

BRIGADIER HERTZOG LERM: Sir, I bring it to you here, from Pauline McCleod and everyone. You can't believe it, what is it ... What is a vulture? We flew in the aeroplane and then we saw all the bodies out of the aeroplane, the bodies were necklaced. A vulture doesn't eat burnt meat. They said we are circling like vultures.

You must give me an opportunity to tell you the story. I promised God and I asked God to bring this to the Commission and to tell the truth. 10

I was not operating, I had two colonels, Loots who was the riot specialist of Pretoria and Kuhn, Col Kuhn was also - both of them were very capable people. They were in control of this operation. I was a guest. I was sent around, I had to attend all the Cabinet meetings. They do not have one Cabinet meeting if all the officials are there. The Secretary of Finance, the Brigadier of Police, everybody, all of these people are sitting in the meeting, all of them are talking. It was a complete circus in that Cabinet. It was not a Cabinet meeting as we know it. Then they go overseas and you have to go with them because they do not trust anybody else, because they were blown up. They always believed that there was a large idea, psychological effect that any one of them could be murdered at any stage, because the security forces murdered their man. You can ask me and I will answer any question. 20

I never assaulted anybody, except policemen, for example like Staal Burger, I would grab him and shake him around or something. But you must not accuse me as a Christian, an old man, of assaults. It is not the truth. I came to tell you the truth. Because I was the strong man in 30

this case, but only in the papers. But here I cry with you like a child.

MR STEENKAMP: But first, just some more questions. So how then did you restore law and order? Give us some idea, did you ...

BRIGADIER HERTZOG LERM: Very strict.

MR STEENKAMP: Did you restore law and order within what was accepted or did you sometimes go beyond what was ...

BRIGADIER HERTZOG LERM: No, no beyond it.

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MR STEENKAMP: Well, give us some examples of ...

BRIGADIER HERTZOG LERM: There was a GBS meeting and I brought all the minutes with me. It was supplied to all the police stations, also in KwaNdebele, Mamelodi, Cullinan. I want to explain to you now, sir.

I worked in the Union Buildings in PW Botha's office, to give priority to black areas. I brought the documents today. I had to determine along with a couple of other officers, which location we would try and uplift first, and then we would plough money into the area for upliftment purposes. That was in an effort to keep the ANC away.

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Now you had to remember that I was the chairperson of the GBS, and I wasn't a Commissioner.

The question was asked who was the enemy. The enemy was the ANC. The Communist Party, the UDF and the Mass Democratic Movement and all these troublemakers. And now Jack Cronje said Piet Ntuli was one of them. That was not true. He wasn't. Perhaps he was a troublemaker as far as they were concerned, but he wasn't a member of the ANC. But I had to do that job.

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Each and every morning Leon ... (intervention).

MR STEENKAMP: May I interrupt you. You say you had to do

that job. What job are you referring to?

BRIGADIER HERTZOG LERM: The job is this plan, it is a security plan. The whole country had to be dominated. We could not allow the youth to take over the country. You can read it. And do you know who was in control of this plan? They were the big names during the negotiations. Adriaan Vlok, firstly. Then PW Botha made him a Minister. He as chairman of the State Security Secretariat. He would, after the meeting, walk straight to PW Botha. He wouldn't go via a Minister. He made him Deputy Minister of Defence and Police. He then took the Defence Force and everybody with them under this thing. Then they compelled all the State offices to help in the oppression and people had to be, in a way bribed. Millions were pumped in. For instance, we had to get the mayor on our side. We gave him gold chains and various bits of furniture and then had a majority support of 5%. But we supported him by pumping in millions of rands. 10

You see, Deputy Vlok then became a Minister and then the man who had to co-operate with us in this oppression, this was Roelf Meyer, and after him Leon Wessels. Do you know who these people are? But now, now we are the guilty parties. They were the chairpersons, they were our chairpersons. Every morning at eight we phoned them and said look, two schools have been burnt down, and they would then say why can't you stop it, why can't you prevent this? A certain Wandrag would say why can't you prevent the schools from being burnt down. 20

The KwaNdebele Government would then take all the motorcars from various State departments and give it to the soldiers, the Defence Force and then all these cars would drive around during the night to guard the schools, because 30

there were many schools. The next morning, then Vlok or Leon Wessels or Roelf Meyer would go to PW Botha and say there are still things happening in KwaNdebele. Then we would get into trouble. We would be asked why don't you use the emergency regulations to keep the peace.

So I am very honest, I am not embarrassed to say so, you have got the wrong man here. The Government must come and answer these questions.

MR STEENKAMP: May I ask a follow-up question. You mentioned two names here. Now Meyer and Wessels are people who were quite close to me? 10

BRIGADIER HERTZOG LERM: Yes, they were my bosses in this particular instance.

MR STEENKAMP: You said we would phone them and tell them. Did you phone them directly?

BRIGADIER HERTZOG LERM: Yes, you can ask him. I told him Minister, you are my short-pants Minister.

MR STEENKAMP: Did you have free access to them and did you phone them on a regular basis? 20

BRIGADIER HERTZOG LERM: Yes, yes, I could. I phoned Meyer, I never phoned Leon, he was the secretary, because our times didn't really overlap.

MR STEENKAMP: Fine. You say that you phoned them. I just want to put the thing into perspective here. Please just allow me to first ask the question and then you answer. The question is: you said, if I understood you correctly, we would phone them, which means you. You would phone them personally and I would tell them what was going on and then they would say to me lock them up. 30

BRIGADIER HERTZOG LERM: No, no, I never said that. I said that every morning at eight o'clock one of my staff members

would phone. He would phone the secretariat, that is Genl Wandrag. But I for instance, personally told Roelf Meyer about certain instances, and he would say lock up. You see, he had to sign the detention orders for detention longer than 30 days. But every morning we had to report who we had detained overnight, every day. This was sent to Piet de Jager by hand and Genl Wandrag. I never read his name and he was the cause of what happened at Mamelodi. He was responsible for the gas attack in Mamelodi. But I am just telling you what the **modus operandi** was. Everything, since 1985 was done through GBS and via PW Botha. The domination was effected by the Ministers. 10

CHAIRPERSON: I think what Mr Malan is asking you is did you directly phone Mr Meyer.

BRIGADIER HERTZOG LERM: Yes, directly, I phoned Meyer and Vlok because I had the power to phone them, it was within my authority. Sir, I phoned Meyer on one occasion but it wasn't a continuous liaison.

MR STEENKAMP: It was done through the safety management system. BRIGADIER HERTZOG LERM: Yes, yes, because I was the chairsperson of KwaNdebele. 20

MR STEENKAMP: Now all these management structures were represented on this committee. I would just like to clarify something. You said that you were the chairperson of this joint management system of KwaNdebele?

BRIGADIER HERTZOG LERM: Yes.

MR STEENKAMP: Brigadier, you said that Hechter now has problems with his legs? Are you insinuating that he sustained these injuries with the blowing up of Piet Ntuli? 30

BRIGADIER HERTZOG LERM: No, he had a motorcar accident. But perhaps it was retribution in some way. We have now

actually gone off at a tangent here.

MR STEENKAMP: We started with Piet Ntuli's blowing up in which allegations are made, allegations of assault against you as an individual, as a person, saying that you committed these assaults.

BRIGADIER HERTZOG LERM: That is the easiest question. Anybody who was fat and wore glasses and had pips on his shoulders was called Brigadier Lerm. I am not ashamed of this. I just had to eventually be accountable for everything. But in the submission I also said that. They saw somebody in the top structure, they would call him Brigadier Lerm. 10

MR STEENKAMP: Now the first incident of Moshese Mhlangu, what was her condition on the night of the arrest?

BRIGADIER HERTZOG LERM: I read it during the trial, Chairperson. I can't remember whether she was wearing a gown, but I will read according to the evidence, she was quite far advanced in pregnancy, and as such, as a result of her pregnancy he wouldn't have allowed anybody to assault her or deal in a rough manner with her. No, that woman was not assaulted in my presence. I will swear to that before God, that she was not assaulted. That is simply not true. 20

MR STEENKAMP: I have a slight problem, Brigadier, with your explanation. It seems to me that we are not making progress on this aspect. The explanation you gave to Adv Bissos during the Parsons Commission, he asked you the same questions as we are asking you today, about this house, and you are saying today that it was because there was collusion between the witnesses and you are saying that they all lied, all these witnesses. The reason for that - perhaps you can elaborate on that. You never put this reason to the Parsons 30

Commission. The reason why the witnesses were lying. You never told them or told the Commission that there was collusion against you because you were Brigadier Lerm and the strong man.

BRIGADIER HERTZOG LERM: I can't answer that, I really cannot answer that.

MR STEENKAMP: Why not?

BRIGADIER HERTZOG LERM: I can't.

MR STEENKAMP: It is ridiculous. Why are you today giving a different explanation? 10

BRIGADIER HERTZOG LERM: Maybe I should explain it once again. There was a perception that I slept in KwaNdebele every night and worked there as well. Now I had to be in Pretoria every night for meetings.

MR STEENKAMP: With the greatest of respect, you are missing the point here.

BRIGADIER HERTZOG LERM: I want to please answer the question. I think on a point of order we have to get this matter straight. The advocate says that I am not sticking to the point, he has to explain what he means. He makes allegations and doesn't give me a chance to prove anything and to put my side of the story. 20

I want to ask him if he makes this allegation again, that I am not sticking to the point, then I will not continue because it is insulting.

CHAIRPERSON: I think that what we have got to do, is we will give you an opportunity to give us your version of the story, but there are some questions that need to be cleared up. If Andre has in some way offended you by the comment that he has made, then I will ask him to withdraw that. But I think you must understand that there are a number of 30

issues which emerged from the Parsons Commission, which we need to tackle with you, before we allow you to tell us the story that you want to tell us. If you will just allow us that opportunity.

BRIGADIER HERTZOG LERM: But I will do so, lady, Mrs, I mean Lady Chairman, I will do it, but I don't want to hear such remarks again from Adv Steenkamp.

CHAIRPERSON: All right.

BRIGADIER HERTZOG LERM: But I am not lost. I think if he is lost he must not say I am lost. 10

MR STEENKAMP: I am sorry, I apologise, but could you please answer my question. May I put the question to you? Why is your explanation on this incident given to the Parsons Commission, why does that differ from what you are telling the Commission today?

BRIGADIER HERTZOG LERM: I don't know.

MR STEENKAMP: Then ~~that cannot be the truth.~~

BRIGADIER HERTZOG LERM: This is the truth, what I am telling you now is the truth. Piet Ntuli was murdered by so-and-so ... I wasn't prepared to give the full story to the Parsons Commission, it was a circus, and I am prepared to do it here today. 20

CHAIRPERSON: Brigadier, I think that Andre is actually talking about the question of the case regarding Skosana, and what the story that you gave the Parsons Commission there. You said then that you denied that you hit or threatened Skosana, and that any allegations in respect thereof were false. Adv Bissos then questioned you about a settlement figure. I wonder if you could give us certain ... (intervention). 30

BRIGADIER HERTZOG LERM: A settlement?

CHAIRPERSON: Yes.

BRIGADIER HERTZOG LERM: Oh, you mean the civil claims?

CHAIRPERSON: Yes.

BRIGADIER HERTZOG LERM: Oh, this is very easy to answer. You know what happened in this very, very "dinges". I am going to speak Afrikaans again.

Chairperson, when Majosi was in power, there were no claims, but when James came there were certain claims. My men, who had to pay out these claims, Capt Kloppers for instance, they were - many, many claims were paid out, I didn't know about it. These were things disposed of after my time. The claims didn't come my way. I think I saw one or two, but De Villiers was also locked up. That Human Rights lawyer, he was locked up. He instituted a claim. Those things were paid out after I left. So you can't ask me questions about that, because I wasn't there at the time. 10

May I add this, Chairperson. I was only involved in one claim and that is where a woman claimed an amount of money in the Supreme Court and they subpoenaed me to testify on her behalf. That is the only one in which I was involved. In the Supreme Court. But that was a woman from Kwaggafontein, she said she had been assaulted by the police and called me as her witness. I wasn't called by the State. I was a defence witness or a witness for her. 20

CHAIRPERSON: From this questioning, I just want to clear up one thing. In terms of all the civil cases that were paid out, you were actually alleged that these claims were paid out long after you had gone, and that you yourself had not been consulted at any time. 30

BRIGADIER HERTZOG LERM: That's correct.

CHAIRPERSON: Thank you. I think that's all. If you can

just ...

MR STEENKAMP: Yes, I think it is very important to try and get this chronology of events. So let's proceed along those lines and then we can come back to some of the more specific things.

Now it is claimed that when you arrived there that you established a very close relationship with Majosi who later became Chief Minister.

BRIGADIER HERTZOG LERM: Chairman, then we must answer it. 10
Not with Majosi in the first instance, it was Skosana firstly.

MR STEENKAMP: Right.

BRIGADIER HERTZOG LERM: An old man, because they gave me to him.

MR STEENKAMP: No, that's true, but then Skosana died.

BRIGADIER HERTZOG LERM: Ja, then Majosi.

MR STEENKAMP: Then Majosi took over.

BRIGADIER HERTZOG LERM: And then I - and I must mention it. 20
When Majosi was taken over, he was not appointed yet, but he get a majority vote. Me and Col Kuhn took him to Marble Hall, to Kuhn's house and said look, there is a lot of ... There were many complaints against him. I saw these things. Because I had been to the Attorney-General personally and I didn't want to mention this to the Parsons Commission. I told Don Brunette, the Attorney-General, I told him that. I will tell you that I said to him look, sir, you are now Chief Minister; now these things, are they the truth? He then swore that it was all false and I then said to Willem van Wyk, I said, Willie, those things are true, then you 30
have to lock up the Chief Minister as well. I am a God-fearing man, I am a Christian, but I am not afraid of

anybody. Nobody threw stones at me, nobody shot at me. But I worked in Mamelodi when it was like a war zone. I am a God-fearing man, I fear nobody except God himself.

So you must not think I am hiding from Majosi or this or that or the other. We paraded Majosi like I said to him you must talk to me, but it was definitely so that there was a close relationship. I complained about it to Hendrik de Witt when he was the Commissioner. I am not ashamed to say that. You are right.

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MR STEENKAMP: We want to come to the context. I mean, we know that Majosi was one of those who was very committed to independence.

BRIGADIER HERTZOG LERM: And Chairperson, he called me many, many names. I never told these things to the Parsons Commission. I am telling you this now, because the Parsons Commission was appointed by the RSA Government and they were the oppressors. I knew what they had been doing in KwaNdebele. So you must not ask me about Parsons, I am the hell in with Parsons. I hope he is still alive. But I want to say Majosi brought thousands of names to me, and you will see, the security police also brought me names, and said lock up so-and-so. I want to tell you these things. That's why we are here today.

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CHAIRPERSON: Let me get the picture correctly. At the time when he won this majority, you had already received a number of allegations concerning him, from the Attorney-General and you then took him to Kuhn's house and you asked him are all these allegations true.

BRIGADIER HERTZOG LERM: Sure.

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CHAIRPERSON: And he denied them.

BRIGADIER HERTZOG LERM: Chairperson, Simon Skosana, the old

man and Frank Mahlangu from Law and Order, called me in and said look, these cases are investigated in a very one-sided way. They are only investigating the cases against them and there are thousands of complaints against James Mahlangu and it is a civil war. So you will have to go and speak to the Government. I then phoned Don Brunette and I went to see him personally and I said sir, I have a lot of trouble in KwaNdebele with the Cabinet. There are a lot of doctors here. Daantjie van Wyk left with about 2 000 dockets that he was busy investigating. That was Daantjie van Wyk. They signed for all these dockets and then they left with them. So what was I to do? He then asked what must I do. I said look, I just want a balance here. Please don't have one-sided prosecutions, we should have a balance here. If you prosecute Malan then you must also prosecute Mr Neilson, both sides must be prosecuted or not. A balance should be maintained. He told me that was the only thing I had done wrong. 10

Then I came with Majosi. I then - when he became a prominent person I said what is going to happen, are you now going to go to prison. 20

MR STEENKAMP: What did these cases deal with? What kind of cases were they?

BRIGADIER HERTZOG LERM: I don't know, most of the cases against Majosi were investigated by Van Wyk. A lot of cases were investigated by Van Wyk and a lot were investigated by, I think Van Wyk, I think he was a lieutenant.

CHAIRPERSON: Afterwards, when you were with Majosi, you said that the people gave you a lot of names, that you would do with those names? 30

BRIGADIER HERTZOG LERM: They wanted those people to be

locked up under the emergency regulations. They would run to President Botha and would ask for independence and then they said no, no, no, these people are objecting. Then they would say James and Kerneels and Solly, they all acted - they tried to exert pressure in this way, to gain their independence.

Let me be honest, law and order was represented by the Commissioner. I had four functions. You can't take it away from me. I had to maintain law and order. I had to have cass investigated, investigated about alleged offences or crimes. I was responsible for internal security, it says so in the Act. I had to ensure the safety of the community. I couldn't allow 20 necklace murders to take place without doing anything. I had to keep the warring groups apart from each other. 10

KwaNdebele was not so complex. Let me be very honest. There were two brothers who had a quarrel with each other. They were from the same tribe. Moutsi was just brought in. The Pedis are great people, I am great friends with them. They are not rude people, but these two Mahlangus were always at each other's throats and that's why they put me in the centre to try and keep the peace. The only way I could do that was by using the emergency regulations. 20

MR STEENKAMP: But Majosi was, when Majosi became Chief Minister there were already a lot of allegations and charges against them, stretching right from May of 1986 to ... (intervention).

BRIGADIER HERTZOG LERM: I must give the background of this as well. When I was the inspector of the Northern Transvaal, then all the riots fell under me, in KwaNdebele, Shasangove, Mamelodi, the whole area. The whole Northern 30

Transvaal was under my jurisdiction. Mr De Villiers from - the Human Rights lawyer from Pretoria, he would often say to me look, look what's going on in KwaNdebele; the police are locking up people and then were taken to a certain area where they would be stripped off their clothes and tortured. Now those things constituted human rights violations, if you want to talk about human rights violations.

These things were committed before I got there. The police would take the people and do it to them. I would then phone and say Chris, what the hell is going on. I was his senior. He walked under me. You must understand that. Chris van Niekerk was my junior. And then I had to say Chris you must immediately release these people, and then he would say to me, well, Mr De Villiers is only causing trouble. There was a big cover-up of that whole issue. 10

I have reports here which show that there were gross violations of human rights.

MR STEENKAMP: Knowing the background and history and that Majosi was implicated, when you asked Majosi whether he was innocent or not and he said that this is a lie and ... 20

BRIGADIER HERTZOG LERM: No, politically motivated.

MR STEENKAMP: Did you believe him?

BRIGADIER HERTZOG LERM: No, I would never believe him.

MR STEENKAMP: So you knew that he was involved in all these ...

BRIGADIER HERTZOG LERM: They were all involved. Cornelius and James committed a lot of murder cases. There is a lot of cases against each other.

MR STEENKAMP: No, I appreciate that, but the difference is that you were not - you didn't have any relationship with James or Cornelius Mahlangu, you were the Commissioner of 30

Police, responsible to the Cabinet and therefore responsible to Majosi. So you are saying that you served in that capacity, knowing, with full knowledge of the facts that here was somebody who was involved in gross human rights violations, who should have been in jail, according to your own words earlier.

BRIGADIER HERTZOG LERM: Chairperson, if you would just listen a second. I did not have any evidence that he was guilty, that the Attorney-General has to decide that. But section 5 of the police law says that I have command over the police force, subjected to the prescriptions of the Cabinet of KwaNdebele. The Ministr of Law and Order was Frank (sorry, the Interpreter did not get that name). He had an illegal bottle store there. I then went to Adriaan Vlok and complained about that and they said I had to speak to Majosi about that. Majosi then gave Mahlangu different work and Majosi became my Minister of Law and Order. 10

Most of these things he was responsible for himself. He was responsible for my bad actions, if I am indeed responsible. If I went to Pretoria and complained - how many times we sat around the table, I cannot remember, but he said Hertzog, you are under the Minister and you are responsible to him. 20

MR STEENKAMP: Did he ever give you instructions ever to, ask you to do things that fell outside of normal police, normal law and order?

BRIGADIER HERTZOG LERM: No, I asked him. You know, I asked him immediately. He said - I then said to him you cannot bring law and order under me, that's why I asked the dockets. I said I cannot allow people to be arrested and assaulted, we had to keep law and order. If he is honest 30

with you he will say to you that I said that to him, because I did. No, he was never involved. There are members of Parliament - I found out that some members of Parliament and also policemen who were staying at their houses, they went out during the night, the Ministers, and then they told the policemen to arrest people, because they were with them. I was. I was sitting in Pretoria at that stage.

So the members of Parliament went on raids with the police. I am sure about that, I can affirm that, confirm that. 10

CHAIRPERSON: And these policemen were directly responsible to you?

BRIGADIER HERTZOG LERM: Yes.

CHAIRPERSON: How was it possible that the police that were taken at night without your permission, to go and arrest people, did you allow that, was there any kind of sanction that you imposed on these policemen? Did you ever take the matter up with the Parliament?

BRIGADIER HERTZOG LERM: I think they must - you know, I am responsible. They had to come to me, but the Minister can only walk there, it is very close. They can go to the Cabinet and they said this Mr Malan is a difficult person and he is immediately investigated. That's why I asked Adv Steenkamp to bring me a docket here, or a docket rather, on each person who was detained. Then we can see who arrested him, who took the decision and so on, under the emergency regulations. 20

I also told the Minister not to go to those people. You must remember I was already retired when Majosi had people arrested before the elections, where he fell out. He had them arrested - Cornelius and so on. Mr Vlok then released 30

them and the policemen refused. Somebody had to go from there, from Pretoria to go and release somebody. Majosi had them arrested himself.

CHAIRPERSON: I think we will now break just for a short while. We will break now for a short while.

BRIGADIER HERTZOG LERM: Chair, can I just ask a question, please? How long are we still going to be here? I have a wife and a child, it is my first wife. I love them very much and I do not want to be at the Truth Commission the whole day. They will think I have been locked up. 10

CHAIRPERSON: Approximately one o'clock. So we can be finished at one o'clock.

BRIGADIER HERTZOG LERM: Thank you very much.

COMMISSION ADJOURNS



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ON RESUMPTION:

HERTZOG LERM: (Still under oath).

CHAIRPERSON: I remind you that you are still under your oath, even though we have broken the proceedings. I will allow Russel to continue.

MR MALAN: Brigadier, the questions which I couldn't remember just now. Were you aware of irregularities during your time - please let me finish - relating to George Mahlangu? In which he specifically was involved and actions regarding gross violations of human rights. (The speaker's microphone is not on). 10

BRIGADIER HERTZOG LERM: I don't understand this correctly. Is this now during or before my time? I don't know of anything during my time there, but before my time - well, I must be honest, I have my documents in front of me, which shows that he was involved in certain things, which implicate him.

MR MALAN: Were you aware of those allegations? That is when you arrived there. 20

BRIGADIER HERTZOG LERM: No, it is not when I arrived there. It was after he became Chief Minister, or rather after he was elected Chief Minister. Then he was officially inaugurated, and it was just after he was elected. That afternoon I told him that I wanted to speak to him.

MR MALAN: And after that you are not involved of any direct involvement of his?

BRIGADIER HERTZOG LERM: No. Let me tell you what did happen. The motor vehicle theft unit phoned me and told me that he was involved in motorcar theft, and I said that I didn't know anything about it and that they should investigate it. That's all I know. And it was a Major 30

Buys, I think, who investigated that matter.

MR STEENKAMP: We are going to continue with this, because I think it is very important. You know we are going to be questioning Majosi as well about his role. So it is very important to try and get an accurate a picture as possible.

When he became Chief Minister and later on also Minister of Police, because you explained that the previous Minister of Police had a problem with drink and eventually Mahlangu took over that portfolio of Majosi.

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Now I want to just think about this before you answer me. It was clear that there was a contest for independence, it wasn't a clear-cut - even PW Botha himself at one stage gave them two choices. Skosana was still the Chief Minister. He said to them if you want independence you can do one of two things; either hold a referendum or a commission of inquiry, because he wasn't convinced of what Skosana was telling him that there was overwhelming support for independence. They didn't want a referendum and that is when this whole issue of the Commission then emerged. So clearly there was not a clear-cut case. The guys who were pushing for independence very strongly was Ntuli before his death, S S Skosana before his death and Majosi when he took over.

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Now is the case that Majosi had this record, and you say that you were aware of it, granted none of this was actually proven in court, but there were serious allegations, the record of involvement in human rights violations and some gross human rights violations, particularly the Tweefontein incident. That, as you have rightly said, was before your time.

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Now when you came you were told that your job is to

support the Cabinet.

BRIGADIER HERTZOG LERM: That is correct.

DR ALLY: The policy was independence as far as Majosi and others were concerned.

BRIGADIER HERTZOG LERM: That is really so.

DR ALLY: Now how, I find it difficult to understand, how is it that a man who has a record or who is implicated and there are strong suggestions, so much so that even you call him up and question his involvement in gross human rights violations. 10

After you arrived there in August, you said he underwent some changes. This fight for independence is still on and that Majosi is some or other - you say you are not aware of him being involved in gross human rights violations during your period. In other words, from August 1986 onwards to 1988. I mean can you, is it credible that if I were to say something like that to you, that here is a man who says this is what he was doing before, after 1986 - the stakes are even higher, because he is now Chief Minister. Piet Ntuli is dead and they are pushing for independence and there is this resistance and the people who were resisting were the comrades and the Royal family, the Mahlangu, also from Moutse. How is it that - and you developed this close relationship with Mahlangu, because we have got testimonies from people. We have had Mahlangu, I will let you in on this, because you have the right to know this. We had Majosi's bodyguard in here yesterday, Idildwaba and he says that the two of you were as close as anything, that you spent long hours together, talking and discussing issues. 20 30

That you would go to his house. Now are you really trying to say to us that there two sides to Majosi, there was the

side with you, which was strictly law and order and there was the other side, because the gross violations continued after you arrived there, where Majosi is again implicated.

Now can you just speak about that and give me your impression.

BRIGADIER HERTZOG LERM: I would like to answer it like this. I am going to do so in Afrikaans. Let us get this straight. I knew about Majosi's things before I even got there, but after I got there, I was not aware of any involvement of his, and if you tell me that he was involved in things after I arrived there, I must be very honest and say that I was not aware of that. I have no knowledge of that, that he committed crimes after my arrival there. 10

CHAIRPERSON: By your admission you say that although the allegations are that you remained in KwaNdebele during the night as well, you say that your own policemen were sometimes taken out by members of the Cabinet.

BRIGADIER HERTZOG LERM: Yes. Yes.

CHAIRPERSON: And they then arrested people. I think that's where there was clearly a reign of terror. But you as the Commissioner to whom these men reported, what did you do about making sure that that stopped? 20

BRIGADIER HERTZOG LERM: Chairman, that's why I want to have a look at those dockets. If I received a thing like that or I was made aware of it in the morning, I would say to, for instance, Piet de Jager, I would say to him you are in charge of the investigating team and you must before that man is detained any longer, you must investigate the matter and if there is no evidence against him, then we must release him. I want those dockets. They are full of notes made by me in red pen. I would ask Adv Steenkamp to get me 30

those dockets then I can tell you exactly how I monitored the whole thing.

They would for instance, come and say a certain Mr Malan, for instance, has caused them a lot of problems and distributing pamphlets. Then the police would go and arrest some of those people. I told them no, we can't do it like that, there must be evidence upon which you then act. I was also brought information and I gave it to Piet de Jager.

CHAIRPERSON: Sir, did you know that Majosi also took your policemen at night and pick people up? 10

BRIGADIER HERTZOG LERM: Did he go with the police?

CHAIRPERSON: (The speaker's microphone is not on).

BRIGADIER HERTZOG LERM: Majosi went with me on one occasion, he was invited to come with me. Is that the night of the 12th of May?

CHAIRPERSON: Yes.

BRIGADIER HERTZOG LERM: But if he accompanied other people on other occasions then I am quite shocked about that.

CHAIRPERSON: I am not asking you about the evening or the night of the 12th, but you said that there were cases where members of the Parliament accompanied them. They always said that they would go along to point out certain places. 20

Let me explain, Chairperson. I can't judge myself but it is impossible for Hertzog Cloete Lerm who handled a lot of, thousands of people in Pretoria and had a lot of things to attend to in KwaNdebele, to get to know everybody in one year and nine months. That was impossible. I only knew James and those people. But those people - you see, there were members of the KwaNdebele police and De Witt gave me five policemen to accompany me. He said you could take your driver, take a bodyguard, and so on. 30

I was a senior officer. So I gave them the names and De Witt said no, you can't. You have Colonel King, you can't have Colonel De Waal, for instance. He changed some of the names.

But Piet de Jager and Chris van Niekerk, they were there. They then amalgamated. These people knew where people stayed, but members of Parliament allowed this and I said I could not prevent them from pointing out certain people, but they could not arrest people. That they were not allowed to do. But they were used to point out certain places. 10

They were allowed by the Cabinet.

DR ALLY: ... now indirectly to Umbogodo, not so, because many of the members of Parliament and even of Cabinet, were members of Umbogodo.

BRIGADIER HERTZOG LERM: But James Cornelius was also Umbogodo.

DR ALLY: But at that stage they had split? I mean the ... (intervention). 20

BRIGADIER HERTZOG LERM: The whole Cabinet was Umbogodo.

DR ALLY: Umbogodo, but there was a decision taken in August of 1986, to disband Umbogodo and also to abandon independence, which was contested, but there was a decision taken in the legislature of - the KwaNdebele Legislature, not so?

BRIGADIER HERTZOG LERM: Chairman, I got it on paper. It was said by Solly Mahlangu, there was nothing published in any Government Gazette, there was no decision. Solly Mahlangu just said it as speaker, but two things never happened. 30

Independence was never postponed, Umbogodo was

never banned. It was only mentioned. It was a section. That was definitely not mentioned.

DR ALLY: That was the point that Skosana made in his memo to (indistinct).

BRIGADIER HERTZOG LERM: And there were "kitskonstabels". The Cabinet obliged me. I went with Adriaan Vlok to Koeberg and we attended the passing out parade of the "kitskonstabels" and then the Cabinet instructed me to also appoint "kitskonstabels" and then there were comrades amongst the "kitskonstabels". 10

I don't know whether you know Hans Pienaar's book. He wrote a book called **The Third Force against Mapoeg**. Now I am on the front page. I instructed him to write a book and he had done it at my home. For fourteen days he was in my home to write a book there, for Idasa, for Van Zyl Slabbert, et cetera.

Now some of the "kitskonstabels" were comrades and Umbogodo. So I couldn't say you are Umbogodo, you can't become a "kitskonstabel". I couldn't make those decisions. 20 You know, the policy behind "kitskonstabels" in South Africa.

DR ALLY: Umbogodo, about "kitskonstabels", before that. I heard what you said. This was the speaker who made this remark.

BRIGADIER HERTZOG LERM: It was only a remark.

DR ALLY: But nobody opposed it or there was no voting on that and nobody opposed it?

BRIGADIER HERTZOG LERM: There is nothing written.

DR ALLY: And then - but it came out and the impression created was that ... 30

BRIGADIER HERTZOG LERM: The perception.

DR ALLY: That Umbogodo would be disbanded and that the whole idea of independence was being abandoned.

BRIGADIER HERTZOG LERM: No, the independence was not.

DR ALLY: And this Skosana took up in a memo to PW Botha, saying that this was improper, illegal and it should never have happened. But that's not really what I wanted to say.

BRIGADIER HERTZOG LERM: May I add this? Here Mr Botha says on page 2, President Botha's own words here: the South African Government was not officially notified that any such decision was made. The question is whether KwaNdebele wanted to continue with independence. This I asked Majosi on this date. I have a memorandum from him, the 16th of March 1987. I then went to Majosi and said you never told me that you didn't want independence; I want to know, do you still want independence. Then later there were three things. He had to have support, he had to prove support and there had to be stability in the area. 10

DR ALLY: What I actually wanted to ask: what relationship did your police have with the Umbogodo? I am speaking now about before the establishment of the "kitskonstabels". What kind of relationship existed? 20

BRIGADIER HERTZOG LERM: I think, as with members of the public. When I arrived there there was a complaint before the JMC and Umbogodo gathered in Verena, and then Skosana told me that this group wanted, they wanted to perform a raid on this group, the police and the Defence Force. Skosana said brigadier, these people have fled, they are living there. And I said no, well, if there is a complaint then we have to do it. 30

Then I sent Kuhn and De Jager and they took two people with them. It was Majosi and Mahlangu.

They went with to this camp and they went to search the camp and for irregularities and so on. So there were, so it was Colonel Kuhn and Captain De Jager who worked very closely with them. But I know what you are getting at here. You mentioned a very close relationship. I don't believe there was such a relationship.

DR ALLY: What is also coming out in the testimonies of the witnesses is that they are saying that often when Umbogodo went out on raids, they were protected by the police, that the police were around, sometimes they even provided them with transport, but they ensured that Umbogodo would not be attacked by the comrades. If the comrades did come on the scene the police would intervene, that they acted as a shield from the Umbogodo. 10

BRIGADIER HERTZOG LERM: Mr Chairman, this is a very good question, because I brought it here. I bring it with me.

That happened before my time. The police would convey people with Umbogodo, they would gather at a dam and people would nearly drown. There were very many charges and complaints, and these things happened. But it didn't happen openly in my time. If it did happen, it was a concealed operation. We couldn't allow it. 20

DR ALLY: I don't want to press this point, but there are two stages that I am speaking about here. The first was when Chris ...

BRIGADIER HERTZOG LERM: Chris van Niekerk.

DR ALLY: Van Niekerk, yes. Now during that stage Umogobo was active.

BRIGADIER HERTZOG LERM: Alive. 30

DR ALLY: And we know about the activities there, their raids into Moutse on the 1st of January 1986. Then there

"kitskonstabels" is and what the policy was in respect of them. Do you want to tell us what that policy was?

BRIGADIER HERTZOG LERM: Chairman, I am going to speak Afrikaans again. Their role was to supplement the police force, because we didn't have enough men. A decision was taken by the JMC that they had to join the police, under Chris van Niekerk. I will read it to you. Please just give me a moment. I had everything in right order. Now you must just give me a moment and I will read the decision of the JMC to you and then you will understand perhaps. 10

There was a JMC decision that these people - Chairman, I am sorry. But a decision was taken by the JMC that Umbogodo should not operate on their own, but that they should operate in conjunction with the police. Do you understand that? That was the vigilante group. There was definitely a decision to that effect. Unfortunately I can't find it just now, but there was such a decision. General Moller was the chairperson, Hans Moller. All the senior officials were there. 20

DR ALLY: (Microphone not on).

BRIGADIER HERTZOG LERM: But they had to co-operate, there was a very definite decision to that effect.

BRIGADIER HERTZOG LERM: (Microphone not on).

DR ALLY: (Microphone not on) ... more and more into the politics of the area, it is obvious.

BRIGADIER HERTZOG LERM: But they were under the command of policemen. They can't work without supervision of our policemen. So they did exactly the same as what happened in the RSA, but the Government (END TAPE 2 SIDE B). 30

DR ALLY: The kitskonstabels were established some time in 1987.

BRIGADIER HERTZOG LERM: Ja, 1987.

DR ALLY: About there, that's right. Now I mean, you mentioned comrades in the kitskonstabels, but is it not true that by and large the kitskonstabels were made up of former Umbogodos, either the sons or businessmen, is that not the case? Because we have evidence to that effect.

BRIGADIER HERTZOG LERM: No, it cannot be, I don't think that was the majority of them. I think the young people were in the majority, the young men. On the cover of the book it states that they were young people, they weren't old men, there were some old men and there were some who couldn't even write. 10

DR ALLY: The kitskonstabels, their sympathies or their orientation were more towards the old order.

BRIGADIER HERTZOG LERM: That is certainly so, you are right there.

DR ALLY: Under whose direct control was the kitskonstabels?

BRIGADIER HERTZOG LERM: They all fell under, I think, maybe Lieut Joubert but there was a man responsible for them, but they were divided up and allocated to certain guard duties. They wore green overalls. Yes, they were nicknamed "green beans", and they were placed on certain duties, mainly guard duties, but there was also a group who worked with Lieut Jones. 20

So you must not ask me that because I can't tell you exactly how they were divided up and allocated for duty. They also had to guard the schools and work with the riot police.

Sorry, I don't work at all, I am not an administrator. 30

DR ALLY: So one of the colonels under your command was in charge of ...

BRIGADIER HERTZOG LERM: Yes, Col Loots was really in charge of the outside.

DR ALLY: Now the kitskonstabels, when we - there is lots of evidence linking them to door-to-door raids.

BRIGADIER HERTZOG LERM: No, no.

DR ALLY: After 1987, lots of evidence; to picking up suspected comrades.

BRIGADIER HERTZOG LERM: Together with policemen?

DR ALLY: Yes, lots of testimony and evidence. I can read you lots and lots of testimony, and you are saying all those people are making that up? But after 1987, they actually went out on door-to-door raids and pick up comrades. 10

BRIGADIER HERTZOG LERM: No ...

DR ALLY: They were called crime preventino sweeps, that was the term that was used. It was supposed to be crime prevention, but under the guise of this crime prevention comrades were picked up, the community, there were lots of statements from within the community, who claim they were intimidated. There were lots of people who claimed they were beaten up quite brutally by kitskonstabels. 20

Are you denying any of those - did your colonel not report any of those actions?

BRIGADIER HERTZOG LERM: I would never deny it, but if there were riots in which children were involved and there was stone-throwing, I don't know about these things. I cannot believe that they walked from Moutse to Weltevreden, from door-to-door, to go and perform raids on people's homes. That I cannot believe. But I do believe, that, for instance, if there were riots, that they would then take action. 30

You see, we used these kiddies, because people

complained of gas attacks on their homes and on schools. So we said rather warn people and take the kiddies - and if somebody does something then chase them, but don't disturb the entire population and society by using gas, and disrupt the whole community. But if there were riots and there were incidence of stone-throwing and people were chased and beaten, then I must take the blame for that, because that happened. But raids were not performed from door-to-door in the community. That could not have happened.

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DR ALLY: We have a lot of affidavits.

MR NIELSEN: Brigadier, let's move to a specific incident which some of these allegations of riots and this follows the assassination of Lieut Fourie in Moutse in September of 1987.

BRIGADIER HERTZOG LERM: In Moutse?

MR NIELSEN: In Moutse, yes, that's right. Now we have received numerous statements from people who say following the Fourie assassination, they were visited by - it depends on the circumstances, by a culmination of people or "kits constables". Generally the two combined. Who would abduct people and question them during assault sessions or torture sessions, as to who might have perpetrated the Fourie assassination, or to look at specifically comrades in Moutse who were believed to have been involved or to have information. Were you aware of any such raids in Moutse?

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BRIGADIER HERTZOG LERM: Chairperson, we appointed people and I have to give it straight to you, for Fourie's murder, I specifically appointed a murder unit under a Capt Kloppers. They worked with the security branch and they also worked with Capt De Jager to solve that murder. They worked in the Republic, throughout the Republic. That murder, one

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really wanted to solve that murder, I want to stay in KwaNdebele to solve that murder, but I am not so sure any more. I told Gen De Witt that it was an inside job. I am not very happy with it, I will ask the Chair to investigate that. That man was innocent. He was transferred as a station commander, he was not involved in riots and things. He was chosen as an elder in the church. There may be emotion and so on. You must see this thing in context. One of our colleagues was murdered and there would then, naturally, be drastic reaction. Policemen are not little angels, they will get emotionally involved. But to say that they went from door to door with "kitskonstabels" is not true. 10

But I know that Hans Kloppers in his case where a claim was paid out, I researched that. A lot of money was paid out for assaults that he committed.

CHAIRPERSON: Give us more details?

BRIGADIER HERTZOG LERM: It had not been the ANC, I cannot tell you who told me that - but in the realms of the ANC, and they promised me it is not the ANC, and I believe it is a policeman, it is an Askari who killed him. 20

He was murdered by an Askari.

CHAIRPERSON: Do you know the identity of the Askari?

BRIGADIER HERTZOG LERM: Do you know why I say this, Chair? Because I had been the strong man. At this stage Mr Malan would perhaps say I could not have been the strong man, but I was the strong man. There was this perception and they wanted me to murder me. I said that at Fourie's funeral. I said that I was the one who had to be killed. Each night I slept - in Pretoria I didn't. I was only in KwaNdebele on the 12th. 30

DR ALLY: Which section of the security police and why?

BRIGADIER HERTZOG LERM: The Askaris.

DR ALLY: Yes, but what is your theory?

BRIGADIER HERTZOG LERM: Chair, there is a small point I have to make. Let me put you in the picture.

While we were overseas Mr Moshwene arranged a very big welcome for the return of Mr Mahlangu from overseas. Every time - can I speak Afrikaans again.

This colonel will know that the security police, when there was a big thing made of things, brought it down, played it down. Then they threw a hand-grenade at Moshwene's house and at the Vaalbank police station, so that the people would be scared not to organise things. When they realised that I wanted to raid the boots of their motor vehicles ...

... carried about 20 limpet mines. They have a dead letter box. Elke veiligheidsman het ...

Each security policeman had a dead letter box. Do you know what it is? Chair, it is a couple of limpet mines, AK-47s and so on. They took it wherever they went, and then I gave command to my policemen to raid the security policemen's boots and to stop them and to break it open. Then they turned against us.

This is one of the things that I suspect - I cannot prove it, but it is only a suspicion. I suspect they wanted to murder the strong man and that was me.

CHAIRPERSON: I find it strange that you would send to this area to keep the peace and to restore law and order, and then in a sense the same government that you are coming from, the security branch want to ensure that you are then removed. Can you explain that for me?

BRIGADIER HERTZOG LERM: Chair, it is the same as what happened to Piet Ntuli. They wanted to govern the country by themselves. The security police manipulated the country. They gave reports to the government and they want to play things to their own best interests. That is what I suspect.

I think it is important to make a distinction between the uniform branch and the security branch.

MR MALAN: You refer to the reports of the security branch. Did it not go through the same JNC office. Can you tell us how that happened? 10

BRIGADIER HERTZOG LERM: It is still the case at this stage. It is still working exactly in the same way. The security police have their own head office which is in Pretoria. It used to be Gen Van der Merwe. The security police just when Lang Hendrik van der Berg became their Commissioner, he became the Commissioner for a purpose.

Only a security branch person would be chosen because of all the various crimes that were committed in South Africa. They were not responsible towards me or to a detective or to anybody. They only could report to their own hierarchy directly. The general is also not responsible to the Commissioner. Genl De Witt did not know what was going on in the police, because he was responsible to Vlok. 20

Genl De Witt should not be implicated here. He did not know anything about it. Only Genl Van der Merwe and these people were named now. These are the people who did these things.

MR MALAN: Do you know anything about covert operations done by security policemen on Vlakplaas? 30

BRIGADIER HERTZOG LERM: Yes, I wrote it down here. Mr De Klerk admitted to it.

MR MALAN: Do you know if they were involved in KwaNdebele in your time?

BRIGADIER HERTZOG LERM: Yes, I suspected that. I suspect it but I can't name specific instances.

MR MALAN: I am terribly sorry to have to tell you this, they told me the schools were burnt down by the Defence Force. We locked up Defence Force personnel, but they were innocent, they were not involved. What was your involvement with the security branch?

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BRIGADIER HERTZOG LERM: With the head branch, I was involved with them, but not with the other people, they were criminals.

MR MALAN: How did you link up with them?

BRIGADIER HERTZOG LERM: Yes, I called Genl Van der Merwe directly, I was in his office often. He gave me instructions how to detain people and if I release them I didn't - I wasn't allowed to tell anything.

MR MALAN: Did you know Brig Cronje?

BRIGADIER HERTZOG LERM: Yes, he was in the same position as I.

MR MALAN: Did you have anything to do with him while you were in KwaNdebele?

BRIGADIER HERTZOG LERM: Once in a while, but not very closely because we had to report to the main branch or to the main office. Genl Van der Merwe was the man I had to speak to.

CHAIRPERSON: The word that you used was suspect.

BRIGADIER HERTZOG LERM: It was just suspicion.

CHAIRPERSON: What suspicion did you have of the activities that they were involved in in that area?

BRIGADIER HERTZOG LERM: Let me tell you this. You are now

- if the security police went out and did something, then we would think that it would have been Mr Malan, and then they - I just want to make an example - I am only making a joke here. I will show you - I must show you this. You won't believe how many people I had to train in Moutse. I just want to read it to you. I am going to place it in front of you, how they told me how I had to arrest people in Moutse.

Let me just explain it to you as well. It is a command from the security head branch. They also write to Pretoria, 10
Genl Van der Merwe. Then they told me to arrest these people. We give you this number of names of people who belong to the UDF. They are busy politicising the youth and this office is of the opinion that these people can be arrested at Moutse. You can recognise many of them. The Mtebis are amongst them and so on. This comes from the security branch. I wrote to my policemen to file it.

MR MALAN: Was that command fulfilled, did you ever do what they asked you?

BRIGADIER HERTZOG LERM: No, I did not have it done. You can 20
keep it if you want to.

MR MALAN: You have referred to so many documents. But I want to stay in Mpumulanga. I want the public to hear what is going on. We want to make sure that we make copies of it.

BRIGADIER HERTZOG LERM: You can have everything, I just want to have it back, I want to write a book. I will possibly have to write the book in jail.

MR NIELSEN: Brigadier, on this question of the lists of people ...

BRIGADIER HERTZOG LERM: You can look in it. It is all the 30
Moutse people. Maybe you will recognise it.

MR NIELSEN: Where was the information coming from, that

these people were ...

BRIGADIER HERTZOG LERM: From the security police.

MR NIELSEN: Right, I understand.

BRIGADIER HERTZOG LERM: You know that is a serious request.

MR NIELSEN: I understand that you are saying that the security branch is issuing the order that these people must be arrested. Where are they getting their information from?

BRIGADIER HERTZOG LERM: That I can't say.

MR NIELSEN: You have no idea. 10

BRIGADIER HERTZOG LERM: You know you can't ask a security person where he got the information from. Because he is a security person.

CHAIRPERSON: But you must have a suspicion. You didn't land up there so long in the service of the police without having some kind of idea of how the security branch worked. Where were they - what is your suspicion of where they were getting this information from?

BRIGADIER HERTZOG LERM: Chair, do you know who the security branch is? The security branch is an animal. It was vermin, 20 it was the most terrible thing that ever happened. They went to the agricultural department in Aliwal North, for example, and then they told everybody how terrible the ANC was. They were a propaganda machine and they themselves were killing the people.

The murder of Ntuli that was pushed in front of a train. They pushed him in front of the train. That was the information I gained.

Now you can see Ntuli was a Nobel prize-winner. Now you can understand how he was murdered, and they said a train 30 killed him. It was not the train, he was pushed. He walked close to the train each and every day. We are talking about

an animal.

DR ALLY: The security police, what kind of, are you aware of them having had any kind of relationship with the KwaNdebele cabinet?

BRIGADIER HERTZOG LERM: The security police?

DR ALLY: Yes, the security police.

BRIGADIER HERTZOG LERM: Yes, because I know a lot of illegal hunting, you know, and promises there.

Chairperson, I am aware of many irregularities. You know, when I arrived there and I will also submit this to Mpumulanga. I want to the people to hear. 10

I asked that Lieut De Beer who is now in Middelburg, he is a murderer. I wrote a letter to transfer him, to have him transferred immediately. I said they must immediately transfer Flip de Beer, he was busy with undermining activities. I got this information from various people, amongst them Cornelius and James. They then sent three generals to me, Genl Malan, who was a lieutenant-general, Gen Le Roux and another man. He retired as a brigadier. There were three of them. They came to warn me that I should not interfere with these people and their activities and work. 20

Listen to this; this is also something you should hear, what Vlok had to say, what Vlok told Mr Malan from security branch. This is what Vlok had to say: should I interfere in the work of the security branch. I am sorry my assistant isn't here - although Brig Lerm who is without doubt a loyal dedicated and competent police officer, has been seconded to KwaNdebele and is therefore no longer under my jurisdiction or that of the South African Police, but has to account to the Minister of Police of the government concerned. The 30

commissioner of the SAP has notwithstanding, requested and held talks with the brigadier, and it was put to him unequivocally, that the RSA's safety interests must be given precedence to and that a fragmentation of the security establishment will not be effective, and that was written by Vlok.

So they were untouchable.

DR ALLY: Were you aware of any special relationship between the security police and people like Majosi?

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BRIGADIER HERTZOG LERM: That I can't say. I can tell and I have got witnesses, but the ME, did you heard or learnt anything about Mr Jan Victor? This De Bruyn.

I wrote here every Thursday he had a meeting with Majosi, but I forgot to answer a particular question, namely what did I do so often in Majosi's office and I went to complain to Genl De Witt. I have already mentioned that.

De Witt said that if PW Botha came there it would be an honour and I couldn't tell him he couldn't come and visit me. So I asked him to go away from KwaNdebele. In my evidence I said that.

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I was illegally transferred, I was not seconded. They just dumped me there and said do it.

DR ALLY: ... that Victor, the famous military intelligence had met every Thursday?

BRIGADIER HERTZOG LERM: Yes, every Thursday.

DR ALLY: With Majosi?

BRIGADIER HERTZOG LERM: Yes.

DR ALLY: You were never present at any of those meetings?

BRIGADIER HERTZOG LERM: No, I never spoke to Jan Victor, not one single word. I once saw him during a show, but we were enemies, but because he gave too much information to

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the Chief Minister, information which we should have been given.

DR ALLY: Do you know how Cornelius Mahlangu was arrested at the consulate?

BRIGADIER HERTZOG LERM: Who knew he was at the consulate, have you thought about that? Jan Victor phoned the Chief Minister and the Chief Minister told us that that is where Cornelius was, because we were looking for him, as a result of allegations of certain contraventions. I would like to know what happened to those complaints and cases. So I then had to tell the police to go and fetch them at the consulate. 10

DR ALLY: So he was effectively involved by Jan Victor.

BRIGADIER HERTZOG LERM: I hope you understand the word that I am using. There were these fleeting powers. It wasn't Hertzog Lerm. He was overall responsible, but there were many, many different forces at work. There was Bent Stoltz, clerk of works. He took the Chief Minister to Sabie and he would give him certain information there and then Jan Victor would come and then there is a woman called Pulla, she worked with these lovely Ndebele beads. She had a little shop. Her name was Pulla. We called her Pulla. She and Jan Victor had sessions with the Chief Minister. So it was sort of channelled via the Ministers. Nobody quite knew where it started. It was just said Mr Malan had to be arrested, and we were not given any more information as to why he should be arrested. But we said no, Piet de Jager should first investigate before we make an arrest. 20

There was - what do you call it - a lot of interested groups. Simon Gouws, you should not let go of him, he is trash. 30

DR ALLY: Because of course he argues that his position there was simply to advise. So that if anything happened he says that his relationship was more, you know, on the sideline, that he was hardly party to discussions between you and Majosi. In fact, he has implied, it doesn't matter a direct accusation, but he has implied that a lot of the discussions which may have led to certain things happening, that he was present and you and Majosi were always in discussion with him and similarly Brig Lidwaba, who was - 10
well, Director Lidwaba now - says that often he would take you to Majosi's house, early in the morning, eight, nine o'clock and you would only emerge there five o'clock in the afternoon.

BRIGADIER HERTZOG LERM: No, he had never done it, my driver had done it.

DR ALLY: No, he would take Majosi to Majosi's house to drive Majosi and you would arrive and he would be sitting there from eight o'clock in the morning until five o'clock in the afternoon. 20

BRIGADIER HERTZOG LERM: No, sir, we have open offices. The Cabinet sat the whole day. The whole Cabinet sat every day, the full Cabinet, there is not a meeting, you just sit there.

DR ALLY: No, he says at Majosi's house, his house, not the Cabinet.

BRIGADIER HERTZOG LERM: No, I attended during one or two. Then he asked me brigadier, you must come there, he instructed me really and that's why I went to De Witt. He can tell you straight forward and he said no, you cannot 30
tell me things like that, just carry on.

I just want to bring this to your attention. I have

got something here to mention here, really, what Gouws said. But Gouws got problems. When Gouws got problems with the government about this high increment and subsidised motorcars, that's why, and when the Chief Minister dismissed him, but he, you know, if you tell him listen, here is a rifle or a gun, go and kill Cornelius Mahlangu and I will make it lawful, legal, he will do it. Because he wanted independence, he has got an interest there.

He was born in Ystervarkfontein, he grew up there. He went to school there and he saw himself as a Minister of Economic Affairs. Just listen to what he reads on the 1st of October 1987: 10

"I hereby would like to express my gratitude and thanks for the medal. As a result of the very high esteem in which I hold you and the rest of the police force in KwaNdebele, I regard this as a particular honour.

Furthermore, I would like to congratulate you on your medal which was given to you and I have no doubt that you deserved this award." 20

I am very sorry, you cannot trust Simon Gouws. He was also one of these young Victor and Flip de Beer types, underground.

Look, Chair, the Cabinet could not make decisions on their own, except with the knowledge of Majosi. The Cabinet consisted of illiterate people and what Gouws said was law and order. All these letters to the President, he wrote these things. 30

You should for instance say what the **Vrye Weekblad** had

to say about Simon Gouws. He said that that man was mad to fight for independence. They said he was the brain behind the whole struggle for independence. Jan Victor was behind the casinos. He originally, they had problems with Mr Mills, he was also a Commissioner-General, and they had problems with him because him and Jan Victor went to in to arrange for casinos. He had a bee in his bonnet about casinos. He was the brain behind it.

CHAIRPERSON: Why was Valley Mahlangu arrested?

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BRIGADIER HERTZOG LERM: They said Valley Mahlangu was lying on top of his house. There were lots of information. They said Valley hadn't left the country, he stays at his house every night. Then the police had to go and search for young Valley every night. So I will come back to what I said. There were all these diverse powers, like meteorites in the air.

DR ALLY: Who took ultimate responsibility? Because if you are saying that you were not involved in gross human rights violations. You were aware that there were gross human rights violations being committed; you were aware that members of Parliament, of the KwaNdebele Legislative Assembly were going to policemen and taking these policemen to go on these searches and illegally arresting and detaining people, taking them to (indistinct) for doing all of these things. Who was in charge of the situation and what was your role in all of that? I mean, are you in no way - are you saying that you are in no way implicated? Through all of that you tried to do your job as a policeman?

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BRIGADIER HERTZOG LERM: No, Chair, that is not what I said. I said that I was responsible - as Commissioner I was responsible for everything that went wrong, but I am not

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accountable, I am not liable for everything that went wrong. If some policemen are brought before court, maybe I should also go as well, but I am not liable. There is a difference between being responsible and being liable, but the argument is that the government of the RSA and the government of KwaNdebele, they are responsible. I exercised my duties by virtue of the power vested in me by the Cabinet.

MR MALAN: It is important to me, the structure of command here. You are saying that you were uniform branch?

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BRIGADIER HERTZOG LERM: Yes, administration.

MR MALAN: And you were involved in the combating of crime and investigating crime and so on. That was your responsibility?

BRIGADIER HERTZOG LERM: Yes, control and command, yes.

MR MALAN: And you say that the security vermin, they were also active, as you refer to them, and were there contributions and inputs made to them? Please, please just clarify this whole - you can actually draw it for us schematically.

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I just want to show you the problem here. You are telling us what the problem was, that you had a certain function and then Vlok would say that there were other problems on the security side and there you could not interfere. So there were these separate lines of authority. But then you also say that ultimately the responsibility rested with the governments of KwaNdebele and South Africa. Now give us those lines, structures of command on both sides and tell us where the JNS information was used or abused by the security branch. Please tell us something about that.

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BRIGADIER HERTZOG LERM: Yes, let us first look at the police. The KwaNdebele police could not have consisted of

more than 100 men. When I left there - you see Sydney Mfumadi is also saying the police force must extended. You see, KwaNdebele needed a bigger police force, because they were going to become independent. So they needed generals and about a 1 000 members and so on. But let us look. When I arrived there and until the time that I left, there were five forces; the KwaNdebele police force, about 50, 60 men. Then there was a whole company of policemen. Every three months it was stationed out and then a new company would come. They were a law unto themselves and they could also act under the emergency regulations. Then there was a whole battalion, about 100 Army people, also from South Africa. They would also come and go. Every three months a new group would arrive. Then we had 115 ...

They were opposed to the Army of KwaNdebele. This was a small - I think they were about 100 people, but the big forces were all under South Africa. It was under Genl Wandrach and Gen Moller. So every three months new batches would arrive, they were young guys just from the police college. They were not always loyal. I could report them if I heard anything untoward and then they would be withdrawn. Then we couldn't do the policing, because we lacked the necessary staff.

Now then there was the security branch. The security branch operated directly under Gen Van der Merwe and Jack Cronje and when Jack was chased away - they didn't want Jack in the area. They started working against Jack about Ntuli's death. I must be honest. Gouws said that he had been killed by the security police. I tried to counteract that. I thought that I would also be chased away because I had to lock up the security police.

In any event they said Jack could not enter KwaNdebele, they prohibited him there. Because he was implicated in Ntuli's murder. Then they sent Basie Smit and Basie Smit worked there until I left. Right. They only - if we go from the security branch directly to Basie Smit or Jack Cronje and then straight to Gen Van der Merwe, nowhere else. Only Gen Van der Merwe, that is the line of command. He was solely responsible to the Minister of Law and Order.

Now let's look at the JNC. The JNC was something 10
completley different. The JNC had four components. The first component, the most important component, was the administrative component, headed by a brigadier from the Defence Force or from the police. He was the boss. He couldn't be an ordinary person. Then Phecom, that was the Army and the Defence Force jointly - you must excuse my language, I will just call them Army, and then there was Sencom - social and economic component.

I submitted this in my submissions. I set out how the politics was involved here. For instance, this component 20
dealt with upliftment of people and schools, giving them furniture and so on. But say Mr Malan is the head of education, so I as brigadier would have to offend him as well, because his school is without furniture. So I now had to interfere in all the civil departments, all the State departments as chairperson.

Then there was Comcom. These were the people who would write pamphlets and say it came from the UDF, when it wasn't the case. They would forge pamphlets and documents and distribute it in Soweto and wherever, Laudium, they would 30
distribute all this. That was the Communications Committee, Comcom.

Then there was JIC, Joint Information Committee, and military intelligence was represented there and the police security. But that committee was not given all the stuff that I have here. They were too afraid to give it to the Army. So they would only give them the stuff affecting this JNC system.

MR MALAN: Why were they scared to give it to the Army?

BRIGADIER HERTZOG LERM: The hit squads, Chairperson, I can tell you strange things about hit squads. I mentioned this to high-up people like Sydney Mfumadi as well. These hit squads were a multi-headed monster. Gen Van der Merwe knew about everything. If I kill somebody in Cape Town then Gen Van der Merwe would know about it, because there was control. 10

(The Interpreter could not hear that question).

So everything eventually was channelled through Gen Van der Merwe. Now they could not tell that this Joint Committee, because it was military intelligence and then PW Botha went and do you know who they were? It was all the trash chased away by the police. If somebody was a murderer or a no-good, they would then appoint him. So we had two groups of hit squads. Not only one hit squad, but each one of those had an officer. Gen Van der Merwe knew about each and every murder committed by the security police. 20

I am implicating him today. The Co-operation Bureau

...

MR MALAN: What bureau are you referring to?

BRIGADIER HERTZOG LERM: I am sorry, it was a slip of the tongue. It was the Civil Defence unit. So they operated on their own and they were responsible for all the murders. You know what happened then? That was the biggest shock. 30

Eventually they started killing each other. The security police eventually started killing each other.

CHAIRPERSON: Sir, are you saying that the joint management security structure, that the security police never sat in that structure?

BRIGADIER HERTZOG LERM: I said what I said, he sits there. The chairperson of JIC was the security chief, Jack Cronje was the chairperson.

MR MALAN: I don't understand this. The Civil Co-operation Bureau, this was long after KwaNdebele. Civil Co-operation was a fairly recent thing, the CCB. 10

BRIGADIER HERTZOG LERM: Now the security people, they were the men who did the job.

MR MALAN: You said they eventually started killing each other. Do you know of specific instances of this?

BRIGADIER HERTZOG LERM: (Not interpreted).

MR MALAN: Do you know about the Askaris?

BRIGADIER HERTZOG LERM: If they were scared that somebody was going to spill the beans? Look, I don't like Dirk Coetsee. He is far too cocky, far too cocky before the Commission, but Dirk nearly died himself. He worked under me at the central head office in Pretoria and he told me about them. He was also a victim. 20

MR MALAN: But you are saying now very pertinently, that they started killing each other, amongst themselves. In other words, comrade against comrade.

BRIGADIER HERTZOG LERM: Yes.

MR MALAN: And these were people working in the same unit?

BRIGADIER HERTZOG LERM: Yes. 30

MR MALAN: Are you aware of specific instances or is it just general knowledge?

BRIGADIER HERTZOG LERM: No, I suspect that, because I saw it. You must remember I was steeped in the whole atmosphere of the time. It is different for you.

MR MALAN: Can I ask you, do you know of any incidents in which Askaris were involved in KwaNdebele?

BRIGADIER HERTZOG LERM: Yes. I am now going to tell this Committee (the interpreter is struggling to hear the speaker, he has his hand over his mouth).

MR MALAN: Something which bothers me tremendously, and I am looking at it from a legal perspective. You are saying absolute kind of things but then you say you suspect that certain things were the case. 10

BRIGADIER HERTZOG LERM: No, you see I really felt that they were killing each other.

MR MALAN: I understand what you are saying, but it is not evidence, it is just a suspicion.

BRIGADIER HERTZOG LERM: Yes.

MR MALAN: No, we must just make that clear.

BRIGADIER HERTZOG LERM: I can't be more emphatic about that. 20

CHAIRPERSON: You have suspicions that Fourie was killed by an Askari?

BRIGADIER HERTZOG LERM: Yes.

CHAIRPERSON: What do you have?

BRIGADIER HERTZOG LERM: Chairperson, but do you know who killed him? That bothers me tremendously, I am very, very unhappy about it.

CHAIRPERSON: You will then have to tell me, because it is terrible that an innocent man was killed. 30

BRIGADIER HERTZOG LERM: But let me tell you why I am saying that. There were strange languages which we received

on the radio, people were talking on the radio, that is the first thing.

Askaris were posted in Moutse and I fed them. The same person who wrote the letter, I think it is Harmse, he came to ask me for food. These ration packs I am talking about. I asked him who do you want to give it to. He said no, there were some Askaris in Moutse and we provide them with food. So I said yes, here is the food, but that's why I am saying I phoned Gen De Witt that night and told him it is an inside job. 10

Unless you are going to tell me it was the ANC who did it.

DR ALLY: You know, not in too much detail, but just some of the background is important. What you are suggesting that your suspicions are, that they thought that it was you.

BRIGADIER HERTZOG LERM: Yes, no, that I have murdered Fourie?

DR ALLY: They thought that Fourie were you.

BRIGADIER HERTZOG LERM: Oh, this was the impression, yes, 20
yes.

DR ALLY: That's why you are saying it was an inside job. That it was an innocent man, he was at that spot and he looked like you. Is that what you are saying, and that's why you think they killed him?

BRIGADIER HERTZOG LERM: Chairperson, there were five people who looked alike. It was myself and Col Loots and Lieut Fourie, that's three and then what is his name ... Capt Marais, but he wasn't involved everywhere, so perhaps we shouldn't even mention his name, and Lieut Jantz. We all 30
wore spectacles, we are all fairly short. If these people

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would appear before you today, you would see that.

You see, I have a tape here which I can play for you.

DR ALLY: (Indistinct).

BRIGADIER HERTZOG LERM: No, but it is at night, when it is dark.

DR ALLY: I just want to point out to you that we actually have testimony from the policemen just before the killing of Fourie, a sergeant, Sgt Khan.

BRIGADIER HERTZOG LERM: Kekana.

DR ALLY: Kekana. He actually phoned Lieut Fourie and phoned him directly to say to him that there is an investigation in progress and they need your assistance, will you please go to that spot now. 10

BRIGADIER HERTZOG LERM: Ja, that is so.

DR ALLY: Now how does that work then? Are you saying - in other words, but your suspicions don't seem to correlate. It is not that he was there just by accident. He was there for a specific purpose to meet somebody to go and investigate a case in Moutse. 20

Now the fact that you are saying that Askaris were planted there, doesn't make sense then to send someone who they know is not you, to the spot, to be met by somebody and then for the Askaris to shoot him in the mistaken belief that it is you.

Where your story would have some credibility, was if there were no phone calls and to him directly, and he just happened to be there and the Askaris happened to be there. But it doesn't seem to make sense to me to phone somebody, to tell him to go to the spot and then to kill him in the mistaken belief that it is you. 30

BRIGADIER HERTZOG LERM: Chairperson, I can explain that very easily. They told him there was a robbery case and

he then went there. He was told to meet them there at the turn-off, Melkbos, I think it is Melkbos, Soetmelkfontein turnoff, which goes to the hospital. He took his son with him and they drove there. Kekana - but you see it was a genuine complaint. There is nothing wrong with that. But that was a very vulnerable spot there. It was completely by coincidence that the people came upon him and shot him dead. This as an Askari job, it wasn't Kekana. No, that we investigated and that is the truth. We even detained Kekana. 10

DR ALLY: It is something that the Truth Commission will ... (intervention).

BRIGADIER HERTZOG LERM: Chairperson, we even locked up Capt Jelle, he was driving just in front of him. He was also detained. It was just pure coincidence. The man said, according to the evidence, the man who shot him said, well, the person who allegedly did it. You see, here is the gun that shot him, that's - it was confiscated in Moutse; this is the man whom they allege shot him dead. That's also not the truth. 20

The truth is that the Askaris had shot him. I believe that.

MR MALAN: I just want you to listen to the evidence. Because Dr Ally also gave you this other thing, but you are saying now that the truth is that the Askaris suspectedly shot him. That is an inference you are making. Yes, but based on your suspicion, you believe that it is the truth.

You don't know it, but you believe it. It is like you cannot prove the existence of God to somebody who doesn't believe. 30

BRIGADIER HERTZOG LERM: If I say I believe, it is

because I actually looked after these Askaris, I gave them food.

CHAIRPERSON: What we want to know, is how come you have (indistinct - microphone not switched on). I mean, what do you have in your possession (indistinct) that the Askaris had killed Fourie?

BRIGADIER HERTZOG LERM: Because we heard them speaking on the radio. They had shot Fourie in September and then they moved to bluff me and then a couple of days later, they attacked the police station and they shot the people through the legs, and they threw a couple of limpet mines which did not detonate. You have to connect these things. These are a couple of things involved. If the Askaris were working in Moutse, they would have known. Then Matsamela would have known that the people who were there, he had been involved, not so? They would have known, it had not been a policeman, one of our policemen, it is one of my suspicions that policemen can have a suspicion. If I say I didn't see it, I suspected it. I believe my suspicions. I believe in them. 10

MR NIELSEN: Brigadier, I mean, there seems to be two general hypotheses, one could call them. One that it was an MK operation or people supporting MK or the comrades, who happened upon Fourie at this intersection, fortuitously, as you suggest with the Askaris, not knowing that he would be there. They availed themselves of the opportunity to shoot him. You could also, as you have done, lay out an idea which it was an Askari, an inside job. The same with the attacks on the police station, for instance, in which it could have been MK or you suggest it could be Askaris. 20 30

Now it seems to me on the surface of it, the MK hypothesis holds more weight, seems more plausible to me and

in fact is further substantiated by the actions of your own police force. I mean I am familiar with that picture, of the weapons. Those are found in a suspected UDF supporter's house.

BRIGADIER HERTZOG LERM: That is right.

DR ALLY: A suspected MK operative, by your own policemen.

BRIGADIER HERTZOG LERM: That is right.

MR NIELSEN: Furthermore, the investigations targeted suspected MK or UDF supporters. In fact, names which appear on that list from the security police. Those were the people that were rounded up by your own policemen and interrogated on the Fourie assassination. 10

Now it seems to me on the balance of this evidence, everything leans towards a comrade or an MK operation. I would say to you why do you feel that is not the case? Why do you continue believing that it is an Askari?

BRIGADIER HERTZOG LERM: Because you know, I haven't got this information before me. We don't suspect them. I don't suspect at that time that the MK was involved there. 20

DR ALLY: But at the time, your own policemen, I mean, in statements we have, people were detained by KwaNdebele policemen or kitskonstabels, looking for the whereabouts of people such as Piet Matheba, Chaki Matheba, Peter Mamba, all of these individuals were known UDF supporters and UDF organisers in the Moutse area. They seem to have been your first suspects in this case.

So it seems to me that the people under you were operating with the idea and the hypothesis that they were responsible or would have knowledge of the act. But then you seem to be telling us that you didn't believe that. 30

BRIGADIER HERTZOG LERM: But they still believed it, they

still believe that this is the person, they still believe it. But as I said, I believe, I think always that it is a foofie, what do you call it, it is nonsense from the security branch. The security branch give us the information and now my people believe it and an investigation is directed. I believe no, it is impossible, the ANC is not involved in KwaNdebele.

DR NIELSEN: Why would Askaris have attacked the police station at (indistinct).

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BRIGADIER HERTZOG LERM: I don't know. You are not allowed to question it, because they always said they restore stability there, they use them to restore stability.

DR ALLY: Let's come back to this issue of command structures and lines of authority, because it is very important to get a proper understanding. So if I am hearing you correctly, and you can correct me if I am putting words into your mouth. If I am hearing correctly, that your job there as the Commissioner of Police, was law and order, to be responsible for the cabinet, to the Minister of Police, to ensure that things were done properly. But that there were other forces at work there. There were the security police, there was the Army battalions.

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BRIGADIER HERTZOG LERM: And two outside forces.

DR ALLY: There were outside forces, there were Askaris, there were covert operations.

Now are you suggesting that the police, and particularly where you were responsible, people who were carrying out things on the ground now ...

BRIGADIER HERTZOG LERM: No ...

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DR ALLY: No, let me finish. That your police became implicated in things that they were not necessarily aware

of, that they were there on the orders or instructions, even you yourself were not often aware of; that the security police would be doing certain things, would perhaps go out and set somebody's house alight. That person would then say this is Umbogodo and therefore go and set alight the house of somebody from Umbogodo, and you as the policeman, then had to come in and restore law and order, by either arresting those who you suspected as having burnt - but that you were caught in the middle of a conflict which often you didn't know anything about. 10

BRIGADIER HERTZOG LERM: Right.

DR ALLY: Or where the orders were coming from, you didn't know about. These things were all happening around you and that you as a policeman, you were trying to do your job as best as possible, within the terms of the regulations and laws, but that there were some individuals who you also implicate in perhaps stepping beyond that. You speak about Victor. 15

BRIGADIER HERTZOG LERM: Jan Victor. 20

DR ALLY: Jan Victor. You speak about him having a close relationship with Majosi, about meetings taking place every Thursday. You are speaking about Vlakplaas people, Cronje, Hechter. You are speaking about the security police, Van der Merwe and others. Those are your suspicions. So you have no hard evidence for that. That is just how you suspect things were working, but you have no hard evidence as to what they were actually doing and planning. All you know is that they were capable of doing it, that they were present in the area. But you yourself, in your policing, those who you had authority over, no gross human rights violations were committed. You were not implicated in any of those things. 30

then it is not a fact. Then I cannot put it on the table and say it, there it is, it is a fact, because if it is a suspicion it can't be a fact. There is a difference between a fact and a suspicion.

MR MALAN: Can I just try to reformulate this question. That is exactly what we have been trying to tell you, sir. But first, let me just ask you two things. In the first place you are talking about all these fleeting forces about which you did not have any control. You said the thing you did have control over, had been your own responsibility. You are not - you don't know anything about gross human rights violations or anything. 10

BRIGADIER HERTZOG LERM: That is also not what I said. Regarding myself, you asked me and I said that I have never tortured anybody, I never assaulted anybody or murdered anyone. I didn't have hit squads or anything. But if you can give me the names of the policemen and if I can connect that with something else, I will do that. ARCHIVE FOR JUSTICE

MR MALAN: We are not talking about the planning and the suspicions about the conflict. But that the conflict was fired on rather than made less. You are talking about the suspicion and you say that this suspicion of yours becomes a belief. But the question is: can you prove anything. You don't have any witnesses or evidence and you say no, you don't. 20

BRIGADIER HERTZOG LERM: Yes, but only things that I have here in my book.

MR MALAN: We asked you about any example, do you know about anything that the security branch or the education divisions did or anything like that, where they planned anything specifically, apart from your tasks. That is the question 30

we are trying to ask.

BRIGADIER HERTZOG LERM: But generally the conflict comes into play here. We made zones of the whole area and we measured the incidences of conflict and so on. We in this way used the parameters, but if we really have to say what caused the conflict, I would have to say that it had been independents. If we went to President Botha, the conflict looked terrible in its various forms.

Usually it starts with children staying away from schools, then they burn schools and official buildings and State property and so on. There were four attempts to gain independence. Each time such a movement took place, then conflict arose. I have all the papers on that, that's my evidence. 10

MR MALAN: So you do not blame one of these fleeting forces primarily, you blame this decision for independence.

BRIGADIER HERTZOG LERM: The reason why I am mentioning this, is you must see the story as a whole. For example, if we take Mr Neilsen, if he were the KwaNdebele police and the other person, the SA Police, then it comes from a different side, and that's what I mean when I say fleeting forces. I cannot say the doctor caught somebody, because he is from the SADF or somebody else caught somebody in his own capacity or so on, he was a member of the police, for example. 20

But these people just caught people and kept on catching people and so on, and detaining them. Then they would ask us why are your incidences so high. It was a civil war. 30

DR ALLY: I want to ask specific questions now. You may be aware or you may not be aware of the fact that we

have also asked who was a captain then, but who is now Superintendent De Jager.

BRIGADIER HERTZOG LERM: Captain?

DR ALLY: De Jager.

BRIGADIER HERTZOG LERM: What about him?

DR ALLY: He is coming in as well to speak to the Commission.

BRIGADIER HERTZOG LERM: Yes, that is very good, very important.

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DR ALLY: And he implicates you in a lot of these incidences.

BRIGADIER HERTZOG LERM: That's all right.

DR ALLY: He says he took his instructions from you and many of the things of the violations where he is implicated and he says that these were orders that he was carrying out, given to him by you. Do you want to say anything on that matter? Because as I am saying to you, we are going to speak to him and hear his account.

BRIGADIER HERTZOG LERM: Chair, this is an easy question. 20

Let's say for example, if Mr Frank Mahlangu comes and he says this person has to be arrested. Then there is only one person who could do that job, nobody else. Or in all his reports, all the reports were written by him and he went to court. If there was a Supreme Court case he would go. With the support of Mr Roelf Meyer, he was our security branch. He was the person who had to gather the information for us. He was the interrogator. De Jager was officially in that capacity. He had to move between KwaNdebele and the security branch. We nominated him for the job at KwaNdebele because 30 the Cabinet was not trusted. He was appointed to that job and nominated. Everything he did he was responsible

... (microphone switched off).

MR NIELSEN: What I was going to ask before Russel's question was, and actually it is quite similar. It is very specific on the chain of command that we have been talking about at a ground level. I want to bring it back down to our primary source, which is statements.

Now if you read some of the statements of some of the people who feel that they were illegally detained or assaulted, they often present the following picture. Majosi as Chief Minister, compiled lists of people who were against his government or against independence. He presented these lists to you. You gave those lists to De Jager, as a command. 10

BRIGADIER HERTZOG LERM: That's right.

MR NIELSEN: De Jager gave that to his people working in his unit of the KwaNdebele police and they carried out those orders. 10

Now what you have also added to that today, is that you yourself at times received lists from people like Harmse, from security police, and you were told execute these things. 20

I believe what you have also said, and although it is an assumption, I think at this stage, and not a document in fact, that Victor provided lists to Majosi or provided information to Majosi, which would then, he would pass on to you and you would pass on De Jager and De Jager would pass on to his operatives, and they would carry out the act.

Is that first of all, two questions, is that a faithful representation of the way in which detentions were carried out in KwaNdebele? And is there anything that you want to add to that summary? 30

BRIGADIER HERTZOG LERM: Mr Chairperson, there are certain directives, according to which we had to work, how the information should be collected, how the work should be performed according to certain procedural rules, and we had a diary. Those are the files.

You know, even I asked the Parsons Commission for the files. They didn't bring it. De Jager must tell us where are the files.

CHAIRPERSON: Brigadier, but I think that what Derek is asking you is something different. Derek is saying, and maybe Wynand ought to do this in Afrikaans for you, is that there is this chain of command which we have documented evidence on. You were supplied with information from Majosi. You then were told these are the people you have to detain. You passed that on to De Jager to investigate and this of course, resulted in action on the ground. 10

You have added two other components. That sometimes you received information from Harmse.

BRIGADIER HERTZOG LERM: From? 20

CHAIRPERSON: From Harmse.

BRIGADIER HERTZOG LERM: Ja, the security branch.

CHAIRPERSON: The security branch. But you have also added another factor into that equation, which is that Victor sat with Majosi, and that Victor was the person who supplied Majosi with names, which resulted in this chain down.

Now he is asking the question, is that an accurate representation by us of what you have said.

BRIGADIER HERTZOG LERM: Well, you want my comment on it.

MR MALAN: What we are trying to find out is that what Mr 30

Neilsen put to you, what we are putting to you as a fact, that Victor gave Majosi a list of names. It wasn't all the

names. No, no, just a list of people. Majosi would then come with that list to you, Lerm. Lerm then would take the list of names and give it to De Jager for investigation.

BRIGADIER HERTZOG LERM: For investigation, yes.

MR MALAN: Then De Jager would then write in a file what he did. In other words, he must investigate. He would also take statements from the Chief Minister. So Majosi told you you must detain these people. He would bring information and you knew the information he got ...

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BRIGADIER HERTZOG LERM: You see, he expected it, but it wasn't necessary that I had to, that's why I said he had to go and investigate it.

DR ALLY: What happened after that? Let's say you have to be arrested if Majosi said that you had to be arrested?

BRIGADIER HERTZOG LERM: Then I would say Minister, where did you get this information, and if he would say, for instance, from Jan Victor, I would say all right, I will send Piet De Jager to you and then Piet De Jager would go and investigate and make notes, take a statement. If the allegation came from Adv Steenkamp, then he would go to Adv Steenkamp and take a statement from him and he would put it in the file. Then he would say to his two assistants look, this man is busy organising school boycotts, it is going to disrupt law and order here, we are never going to end the state of emergency, so bring these people. Then he would bring them in. Then he would write in the docket Constable Le Roux arrested so-and-so and that's put into the file. It would then be sent to Genl Van der Merwe. If the detention continued for longer than 30 days then the note would be made in the file as well.

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DR ALLY: I appreciate that procedure, but once the

person, once the authorisation was given for a person to be detained and sometimes De Jager would go out, sometimes the others would go out.

Were you aware of what was actually happening when people were being picked up?

BRIGADIER HERTZOG LERM: No!

DR ALLY: Did they ever report to you?

BRIGADIER HERTZOG LERM: No, sir!

DR ALLY: Because that is apparently where a lot of violations took place as well. 10

BRIGADIER HERTZOG LERM: Ja, no, I can't, no, that's impossible.

DR ALLY: So you didn't bother to ask.

BRIGADIER HERTZOG LERM: No, it is impossible for me.

DR ALLY: What actually happened when they were brought to the police station and when they were tortured (indistinct).

BRIGADIER HERTZOG LERM: I don't see them, I don't hear them, I don't know nothing.

CHAIRPERSON: Can I follow that up with a question, which is that at some point you were the person in charge. 20

De Jager, at the end of the day would need to bring the result of his investigations to a particular person, who would then have to make the decision as to whether or not to detain.

BRIGADIER HERTZOG LERM: That's right.

CHAIRPERSON: Or to carry out these various actions.

BRIGADIER HERTZOG LERM: I don't make any decisions.

CHAIRPERSON: Who was the person?

BRIGADIER HERTZOG LERM: He must make it or one of the colonels. 30

CHAIRPERSON: Which colonels?

BRIGADIER HERTZOG LERM: I think it was Col Loots.

CHAIRPERSON: But if De Jager reported to you, why would he need to go to the colonels?

BRIGADIER HERTZOG LERM: No, but I can't - it is not my duty. It was never ever my duty because it is in the file who made the opinion. It is prescribed. The other person must give an opinion, not me. No, it is impossible, a commissioner can't give an opinion.

MR MALAN: May I ask a follow-up question here. When you were, when Dr Ally asked you what would then happen, when the people were brought to the police station, you say you then knew nothing about the further procedures, and you said that you didn't hear anything, you didn't see anything. 10

BRIGADIER HERTZOG LERM: That's not what I meant.

MR MALAN: No, it was not your duty, but were you aware of torture taking place? Did you suspect that people were being tortured? 15

BRIGADIER HERTZOG LERM: I know of two cases where people were tortured. There was an allegation of torture committed at Kwaggafontein by the Kwaggafontein police and then I also know of a case where Capt Kloppers tortured people. I hear now that shocking machines and devices were used, it was said by Isaac Mashego, but he said Brig Lerm tortured him, using some kind of shock device. If one of my men had a shock device well, then they can shock me, because that is not true. 20

CHAIRPERSON: (Microphone not on). After a specific period you would have to take these cases to the Attorney-General concerned. 30

BRIGADIER HERTZOG LERM: No.

CHAIRPERSON: Not?

BRIGADIER HERTZOG LERM: No, I haven't got any say in any cases. Even with the - you know, when I have a say, I have only one say when Genl Van der Merwe or Vlok decided we must release some of the emergency regulation prisoners, and then I must take it to the Minister and then the Minister must decide who must - because it is a form which has to be written. But I had nothing to do with dockets or the Attorney-General or the Cabinet. That's why I went to Mr Don Burnett. It was only one request.

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DR ALLY: Brigadier, I would just like to ask you, for the record now. Are you saying that you were never ever present during any interrogation or torture of detainees?

BRIGADIER HERTZOG LERM: Oh, no, no, sir, "ek kan sweer".

MR NIELSEN: Does the name Nick de Villiers, is it familiar to you?

BRIGADIER HERTZOG LERM: Nick de Villiers was arrested by a drunk policeman, by a Col Kuhn and the Government paid for this, and the policeman it was said, was drunk. I was not even in KwaNdebele at that time.

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DR ALLY: So when he says ...

BRIGADIER HERTZOG LERM: No, if Nick says I was present, then he is - you can't believe that a person like him can be a liar. No, not at all. No, he blamed a drunk policeman, it was a full colonel. You know they caught the colonel later. The public caught this Col Kuhn. I asked that they must withdraw him then and they did do it. They caught him in Wonderboom for drunken driving, this particular colonel after he arrested this Mr Nick de Villiers.

DR ALLY: So again, you were never present at all.

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BRIGADIER HERTZOG LERM: No, no, that is definitely a lie.

MR NIELSEN: I would just like to say one thing and make one

comment and then I think that that is what Nick insinuated, that it was Kuhn.

BRIGADIER HERTZOG LERM: It was really Kuhn.

MR NIELSEN: I would just like to clarify that and say that to my knowledge he has not implicated you. So I don't want you to leave here under the impression that he has.

BRIGADIER HERTZOG LERM: But he didn't implicate me.

MR NIELSEN: Not to my knowledge.

BRIGADIER HERTZOG LERM: You know he drove with me in the Casspirs in Mamelodi, in Atteridgeville - old Nick and he phoned me about the tortures on Van Niekerk, he phoned me from KwaNdebele. 10

MR NIELSEN: I just want to mention that from my knowledge he has not. So I want to say secondly ...

BRIGADIER HERTZOG LERM: So then I am satisfied, because that is nonsense.

MR NIELSEN: But I want to ask a question that is important for investigation purposes. Two incidences in which you were not mentioned, you were not implicated, but I want to ask you as a matter of information whether or not you can help us. 20

There are several statements in which people were abducted from KwaNdebele or Moutse and blindfolded and taken around, driven around and confused interaction. Taken to a place that they couldn't describe, which they couldn't identify but they described as being a place surrounded by bushes in some sort of a home. One of them suggested he thought it was somewhere near Marble Hall, but he wasn't sure. It was a home surrounded by several caravans. They were interrogated at this place and beaten with pick handles 30

and then later transferred to another room, where they were electrocuted and these wires went out of the room and they believed attached to a car.

BRIGADIER HERTZOG LERM: No ...

MR NIELSEN: Now what I would like to ask you is this; do you know of any such place or have any ideas where this place could be located and where an investigation could begin on these sort of matters? Do you have any information which might help us?

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BRIGADIER HERTZOG LERM: When did it happen, Chairperson?

MR NIELSEN: This is during 1987, I believe.

BRIGADIER HERTZOG LERM: Is it not in Sistershoek?

MR NIELSEN: There is no mention - I just want to ask you if the place that I have described ...

BRIGADIER HERTZOG LERM: Is it a home, was it in a home?

MR NIELSEN: They said that it is a building surrounded by caravans and also with bushes around the area.

BRIGADIER HERTZOG LERM: No, but I learnt from certain documents that they tortured people in Sistershoek in the houses there, but there is no relevance at all. And I

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visited the homes. Me and my driver, I can call you, I visited all the police stations, but Mr Goldstone complained about a lot of things. Then I went and I see every prison and the cells and also go through the police, you know, for kieries and sjamboks and things. We searched the whole lot, but I had heard rumours about Sistershoek but the caravans -

was this now at Verena? I know there was a camp at Verena, a youth camp. They were busy building a youth camp, I think near Leeukop. I think there were houses and caravans,

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because they worked there, they were busy constructing a youth camp. That was a very isolated spot. I will recognise

it, I can bring it to you.

DR ALLY: We have to wrap up. There are a couple of things I would like to say and then I am going to hand you back to the Chairperson.

Firstly, thanks for coming. There may be some things we want to follow up with you at a later stage, but ...

BRIGADIER HERTZOG LERM: I shall be very pleased.

DR ALLY: But we will decide that. You are going to be appearing at a public hearing on the Thursday. 10

BRIGADIER HERTZOG LERM: Yes, Thursday, the 4th.

DR ALLY: Now what I would like you to do is please try your submission, please try and get it down to 20 minutes, because each person who appears only has half-an-hour.

I know that there is a lot that you want to say, so please try and isolate what you considered to be the most important issues and to try and keep it down to 20 minutes, because there may be some questions which people may want to ask you who will be sitting in at the hearing.

Also, all documents which we can have and of which we can make copies of, which will assist us in our investigations. If you could, if you would be so kind to forward those documents, for us to have them. 20

BRIGADIER HERTZOG LERM: No, I will supply them, but you must make the copies, I can't.

DR ALLY: No, certainly, we will make the copies, then you can leave with either Andre or our other colonel here.

BRIGADIER HERTZOG LERM: Yes, he is an old policeman, they can work together, I will help you to do this.

DR ALLY: And also, if you could give us a copy of what you intend to say at the hearing, as well. 30

CHAIRPERSON: Yes, if you could do that.

BRIGADIER HERTZOG LERM: No, that is ...

DR ALLY: So that we can go through that ourselves.

BRIGADIER HERTZOG LERM: It is written in my own handwriting.

DR ALLY: That's fine, we can make a copy of that as well, because we can read that and we would be very appreciative ...

BRIGADIER HERTZOG LERM: What about the disc - I would like to hear how I negotiated with James and Cornelius. I was there to negotiate. That was my whole purpose. On the tape you can hear how we negotiated and spoke to each other. They, for instance, they told me they will chase you away. 10

DR ALLY: All those things and we will make an entry, but the things you need to take back with you (microphone switched off). After this hearing, if you don't mind. (Microphone switched off).

So thanks, and as we say we may need to follow it up.

BRIGADIER HERTZOG LERM: Chairperson, may I just say something, it is a small matter. 20

You see, it is quite a risk for me to go KwaNdebele, I could perhaps be shot. But listen, the controversial South African top cop, Brigadier Hertzog Lerm, who is allegedly responsible for loss of lives of over 500 in KwaNdebele in 1986, and over 1 000 in Moutse as well as 12 in Mamelodi, was the force behind the power of Impeni Repipi constables.

Do you know this is a terrible shock to me. An advocate brought me this. He said, he told me to go and claim something for this. I said I am not going to claim a cent, I am going to the Truth Commission. It was in the newspaper. 30
You can see, it says here, Highveld Advertiser, that's near Bronkhorspruit.

DR ALLY: (Microphone not switched on).

CHAIRPERSON: I think it was ...

BRIGADIER HERTZOG LERM: I am very satisfied, sir, lady.

CHAIRPERSON: Has Mr Kelly been in touch with you?

BRIGADIER HERTZOG LERM: No. No, he didn't phone me.

DR ALLY: (Microphone not switched on).

BRIGADIER HERTZOG LERM: Yes, but do you think - I must object against this. This is very bad.

CHAIRPERSON: Well, let me say that we don't really have control over what is placed in the media. We have been very careful to release the fact of your name and your rank and the incidences about which which we are questioning you. But we don't have any control over the media. As far as possible we cannot be seen to be judging you before we have any information. 10

May I suggest that after this, you liaise with Andre and the colonel so that they can make sure that your security arrangements are taken care of. Secondly, that we have a copy of your lengthy submission and the relevant documentation which accompanies that. 20

I would however, suggest that after that you make some kind of summary which lasts only for 20 minutes. We will have the full submission that you have made, that you intend presenting to us, but that you prepare a shortened document from which you will speak, so that you identify for yourself the areas which you want to deal with directly, the most important ones. Because we will not be able to have a situation where we allow you to talk for longer than the 20 minutes. Are you quite clear about that? 30

BRIGADIER HERTZOG LERM: No, it is very clear, lady, but you have given me a lot of homework.

CHAIRPERSON: Well, it is in the interests of clearing that kind of document in the newspaper. This is your opportunity publicly to put on record things that you may never have been able to say before.

BRIGADIER HERTZOG LERM: And that's what I wanted to ... Thank you very much, Chairperson. I appreciate your attitude.

MR MALAN: When you draft your memorandum about the things that you want to testify about, please just distinguish 10 between facts and suspicions, and please just concentrate on what you can actually factually prove and not things that you suspect to be the case.

BRIGADIER HERTZOG LERM: Yes, but you are attacking me here. You come to me with presumptions and suspicions, so I had to defend myself in the same way.

CHAIRPERSON: It is clear that there is a possibility from what you have said and from what you will say on Thursday, that we might recall you to this kind of hearing.

BRIGADIER HERTZOG LERM: Yes, because I didn't say all the 20 things now, but you now, I have got a lot, I have got another suitcase.

CHAIRPERSON: We will ...

BRIGADIER HERTZOG LERM: I think you must send somebody to me to write a book again.

CHAIRPERSON: All right, thank you.

BRIGADIER HERTZOG LERM: Thank you very much.

CHAIRPERSON: These proceedings are now closed.

COMMISSION ADJOURNS