

RealTime Transcriptions

TRANSCRIPTION OF THE

COMMISSION OF INQUIRY

MARIKANA

BEFORE TRIBUNAL

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

HELD ON

DAY 248

24 JUNE 2014

PAGES 31141 TO 31227



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|---|---|
| <p style="text-align: right;">Page 31141</p> <p>1 [PROCEEDINGS ON 24 JUNE 2014] 2 [09:06] CHAIRPERSON: The Commission resumes. 3 Would you please tell the witness that he's still under 4 oath? 5 MR X: [s.u.o. through interpreter] 6 CHAIRPERSON: Mr Mathibedi? 7 EXAMINATION BY MR MATHIBEDI SC (CONTD.): 8 Thanks, Chair. Chair, before I proceed with the evidence 9 of the witness I would like to indicate that even up to 10 this stage we have not received the necessary statements of 11 the arrested and injured persons who claim to have been, 12 you know, assaulted by the police during the taking, during 13 the period when their statements were taken down and this – 14 CHAIRPERSON: I understand the problem 15 you have. I did understand that the evidence leaders were 16 endeavouring to get relevant dockets from IPID. I don't 17 know how successful that has been. Perhaps Mr Budlender or 18 Mr Wesley or Mr Chaskalson or Ms Pillay can tell us. 19 MS PILLAY: Chair, we are engaging with 20 IPID and we've been told that once they follow the 21 necessary internal protocol they will let us know when they 22 can release the dockets. 23 CHAIRPERSON: These dockets are relevant 24 actually in relation to the points that were raised by Mr 25 Mpofo originally in regard to the admissibility of the</p> | <p style="text-align: right;">Page 31143</p> <p>1 put us in a position to assess, perhaps more effectively 2 than otherwise, the admissibility of the statements and 3 whether there are likely to be issues that would have to be 4 investigated before one can accept that the statements are 5 admissible, which may raise further questions which we 6 won't have to debate now, but I see that the attorney for 7 the injured and arrested persons has turned her light on. 8 What do you want to tell us? 9 MS KEETSE: Sir, we have given the SAPS 10 team the medical reports of all these arrested people. We 11 only heard from Mr, from Adv Semenya yesterday regarding 12 those statements, I mean those medical records that have 13 been given to them. Be that as it may be, we have engaged 14 evidence leaders with regard to the statements that IPID 15 took, so we are presently waiting for all that information. 16 Once that comes to hand we will definitely respond. Thank 17 you. 18 CHAIRPERSON: It may well be that if we 19 get the IPID statements it won't be necessary for you to 20 get fresh statements from the witnesses concerned because 21 all the material that you would put into the statement is 22 already contained in the IPID statement, which would have 23 the advantage also of having been made fairly close to the 24 time when the alleged assaults or torture took place, so – 25 but anyway, Ms Pillay has undertaken to do what she can to</p> |
| <p style="text-align: right;">Page 31142</p> <p>1 statements that the SAPS want to rely on and so I can 2 understand Mr Mathibedi's impatience to get the information 3 but I understand also that if IPID have got their protocols 4 to follow and – but perhaps something can be done to try to 5 expedite the matter because it does put Mr Mathibedi in a 6 difficult position. 7 MS PILLAY: We will follow up, Chair. 8 MR MATHIBEDI SC: Chairperson, the 9 statements that I'm referring to, I'm referring to the 10 statements by the arrested and injured persons – 11 CHAIRPERSON: Yes, I understand – 12 MR MATHIBEDI SC: - dealing with those 13 aspects, not necessarily the ones contained in the dockets. 14 CHAIRPERSON: I understand that. There 15 are two issues, you see. The first issue relates to the 16 statements which Mr Mpofo undertook to provide, I 17 understand that but also linked to that is the question of 18 the fact that these persons from whom he is going to obtain 19 statements apparently lay charges with IPID against the 20 police who they say tortured them and clearly, if we can 21 get those dockets they will contain statements by the 22 people in question and they will also, I assume, if there 23 is any substance in the allegations of torture and so 24 forth, there will be medical reports as well which will 25 solve our – well, perhaps solve is the wrong word, but will</p> | <p style="text-align: right;">Page 31144</p> <p>1 expedite the obtaining of those dockets from IPID and we 2 can obviously take the matter no further at this stage. Mr 3 Mathibedi, are you ready to proceed with the evidence in 4 chief? 5 MR MATHIBEDI SC: Thanks, Chair. Chair, 6 we are going to show graphic images of both Mr Mabebe and 7 Langa, if the families could be warned about that, Chair. 8 CHAIRPERSON: Yes. I'm told we are now 9 going to be shown images of the two deceased security 10 guards who were killed on the 12th of August 2012. I 11 understand that these pictures are of a – oh, am I wrong? 12 It's not the security guards, is it the worker who reported 13 for work at K4 on the night of the 12th, is that correct? 14 MR MATHIBEDI SC: It's Mr Mabebe who was 15 attacked on the 12th and Mr Langa who was killed on the 16 13th. 17 CHAIRPERSON: I see, okay. Yes, alright. 18 The two workers who were killed at K4 or in the vicinity of 19 K4, the one on the night of the 12th and the other in the 20 early hours of the morning of the 13th, we're going to see 21 video material relating to them. This material is likely 22 to cause emotional distress and pain to their relatives and 23 loved ones and I would ask that it not be shown until 30 24 seconds has elapsed after what I have said now has been 25 interpreted. Before we see the video material, Adv Hemraj</p> |

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1 wishes to ask a question which deals with a matter that
2 arose yesterday.

3 COMMISSIONER HEMRAJ: You said that on
4 the 12th the real issue was with NUM and that's why a group
5 of you had armed yourselves and proceeded to the offices of
6 NUM. My question is when you came upon the security guards
7 the group of you outnumbered them, their bullets had no
8 effect on you, how did it come about that the group engaged
9 in this attack on the security guards?

10 MR X: Mr Chair, the security guards were
11 stopping us from going to the NUM offices, that is why.

12 COMMISSIONER HEMRAJ: And the attack on
13 the security guards, did this take place on the spur of the
14 moment or was this something that had been discussed in the
15 meeting that was held prior to embarking on the march to
16 the NUM offices?

17 MR X: We had talked about it on the
18 mountain.

19 COMMISSIONER HEMRAJ: What was the
20 discussion about the security guards on the mountain?

21 MR X: We said we would kill anything in
22 front of us until our demands are met.

23 COMMISSIONER HEMRAJ: Thank you.

24 CHAIRPERSON: Mr Chaskalson, I see you
25 have your light on.

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1 MR CHASKALSON SC: That's not deliberate,
2 Chairperson.

3 CHAIRPERSON: Mr Mathibedi, you haven't
4 got your light on but you can now turn it on and carry on
5 with your evidence in chief. We will then see the videos,
6 will we?

7 MR MATHIBEDI SC: Thanks, Chair.

8 CHAIRPERSON: Give the exhibit numbers
9 and indicate the times on the videos of the portion that
10 you are showing to us so that it will be apparent from the
11 record what exactly we're being shown.

12 MR MATHIBEDI SC: Chair, at this stage
13 I'm going to refer to exhibit L slide number 39. Do you
14 have the slide with you, sir?

15 MR X: Yes, I do.

16 MR MATHIBEDI SC: Are you familiar with
17 what is depicted in the slide?

18 MR X: Yes, I remember what I see in
19 front of me.

20 CHAIRPERSON: This is just a still that
21 you're showing us, not an actual video so it's not
22 necessary to have to give us the time, just enough to give
23 us the slide number.

24 MR MATHIBEDI SC: That's correct. You
25 will see to the left there's a person who is wearing a

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1 white T-shirt with something bluish, can you see that?

2 CHAIRPERSON: I've got an idea blue is
3 the top of the blanket.

4 MR MATHIBEDI SC: Sorry?

5 MR X: Yes, I see that.

6 CHAIRPERSON: Blue, it looks like part of
7 the blanket.

8 MR MATHIBEDI SC: Thanks, Chair. With,
9 there's a blanket on the person, can you see that?

10 MR X: Yes, I see that.

11 MR MATHIBEDI SC: Are you in a position
12 to identify the person?

13 MR X: That's a man we killed.

14 MR MATHIBEDI SC: When was he killed and
15 where?

16 MR X: He was killed at K4 on the 12th.

17 MR MATHIBEDI SC: Did you take part in
18 the attack on the person?

19 MR X: Yes, he was killed by us, the
20 Makarapa gang.

21 MR MATHIBEDI SC: Now Makarapa gang, who
22 are you referring to?

23 MR X: I'm referring to the people that
24 consumed muti on the mountain.

25 MR MATHIBEDI SC: Are you in a position

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1 to state the names or details of the persons that took part
2 in the attack on the person that you've just identified?

3 MR X: There were many of us. I know
4 some and I do not know the names of the others, gang.

5 MR MATHIBEDI SC: Will you provide us
6 with the names of the persons that you remember that took
7 part in the attack?

8 MR X: It was myself, Bhele, Boy – or
9 Boy, Mambush, Makhubane, Anele, Bob, Baai, Kaizer, Nido,
10 Masinga, those are the people I remember but we were many.

11 MR MATHIBEDI SC: Sir, in the same slide
12 there is a person depicted to the right. Can you see the
13 person?

14 MR X: Yes.

15 MR MATHIBEDI SC: Are you able to
16 identify the person?

17 MR X: We killed that person along the
18 railway line if you move from Segwaelane to the eastern
19 plant. We killed that person on the 13th. I would estimate
20 the time would be the time when we normally go to work
21 because we did not get the cell phones on the mountain. I
22 estimate the time to be around four when people wake up to
23 go to work.

24 MR MATHIBEDI SC: Thanks. We will come
25 back to the incident of the 13th at a later stage. We are

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1 still dealing with the incident that occurred on the 12th at
2 K4 shaft.

3 MR X: Yes.

4 MR MATHIBEDI SC: Did the strikers at any
5 stage leave that premises where the attack occurred?
6 MR X: Yes, we left the shaft and went
7 back to the mountain. Mambush and Xolani gave a feedback
8 there and they produced a radio and a cell phone, the
9 things that we have confiscated from the security.

10 MR MATHIBEDI SC: Do you remember what
11 was said during the feedback session?
12 MR X: Yes, it was decided that we should
13 go and block off the bobs plants, the people who appeared
14 to be going or reporting for duty.

15 MR MATHIBEDI SC: Sir, I'm still
16 referring to the feedback that was given on the 12th.
17 MR X: It was said on the 12th the group
18 had to go to eastern plant to block off the eastern mine.

19 CHAIRPERSON: After the events at K4 and
20 the killing of the gentleman whose picture see on the left-
21 hand side of the slide and the setting alight of a number
22 of motor vehicles, did you people return to the koppie?
23 MR X: Yes, we went back to the koppie.
24 CHAIRPERSON: And when you got to the
25 koppie – sorry.

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1 MR X: And muti was sprinkled on us as
2 soon as we arrived on the koppie.

3 CHAIRPERSON: When you got back to the
4 koppie and after the muti had been sprinkled on you, was
5 there any report given to the people who had remained on
6 the koppie as to what had happened at K4?
7 MR X: Yes, we gave a report as to what
8 we've done at K4.

9 CHAIRPERSON: Who gave the report?
10 MR X: Mambush and Xolani gave the
11 report.

12 CHAIRPERSON: What did they say?
13 [09:26] MR X: The report was that, car, or cars
14 were burnt. People ran away. A cell phone and a radio
15 were confiscated.

16 MR MATHIBEDI SC: What happened to the
17 cell phone and the radio that was confiscated?
18 MR X: They were given to Xolani at the
19 koppie.

20 MR MATHIBEDI SC: Sir, you've testified
21 about the setting alight of motor vehicles at K4 Shaft.
22 I'm going to refer you to slide number 38, exhibit L. Do
23 you have the slide with you, Sir?
24 MR X: Yes, I do.
25 MR MATHIBEDI SC: Is what depicted in the

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1 slide, are you familiar with that?
2 MR X: Yes, these are the cars that were
3 set alight at K4.

4 MR MATHIBEDI SC: When was that, Sir?
5 MR X: On the 12th.

6 MR MATHIBEDI SC: And who was responsible
7 for setting alight the cars at K4 Shaft?
8 MR X: Bhele set the cars alight.
9 MR MATHIBEDI SC: Now Sir, you have
10 testified that upon arrival at the koppie muti –
11 COMMISSIONER HEMRAJ: Sorry, before you
12 get there can I just clarify something about this? When
13 you arrived at the K4 Shaft did you notice any workers
14 standing in the parking area where the cars were?
15 MR X: Yes, that's the person we killed
16 that was there. The other people ran away.

17 COMMISSIONER HEMRAJ: Was anything done
18 to the other people before they ran away?
19 MR X: We chased them but could not
20 apprehend them. They got away.

21 COMMISSIONER HEMRAJ: Yes, thank you.
22 MR MATHIBEDI SC: Had the workers not run
23 away, what would have happened to them?
24 MR X: We were going to kill them.
25 MR MATHIBEDI SC: Now we are back at the

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1 koppie on the 12th. You testified that intelezi was
2 sprinkled on the strikers.

3 MR X: Yes, intelezi was sprinkled on us
4 and the decision was taken that we should go now to Eastern
5 Plats and block off that place.

6 MR MATHIBEDI SC: Who was responsible for
7 sprinkling the strikers with the intelezi?
8 MR X: The inyanga.

9 MR MATHIBEDI SC: What was the reason for
10 sprinkling the strikers with intelezi?
11 MR X: The reason was to revive the
12 rituals that had been done earlier on, on us.

13 MR MATHIBEDI SC: Sir, why was the cell
14 phone and the radio given over to Xolani?
15 MR X: He was the chosen one on the
16 mountain who would keep all these things that we take from
17 the police and the security people.

18 MR MATHIBEDI SC: Sir, on the 12th where
19 did the strikers sleep, including yourself?
20 MR X: We slept on the mountain.
21 MR MATHIBEDI SC: Why did the strikers
22 sleep on the mountain on the 12th?
23 MR X: Because according to the inyanga's
24 instructions we had to stay away from women for seven days
25 and even the food that we ate we bought that with the money

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1 from the donations.
 2 COMMISSIONER HEMRAJ: Are you able to
 3 tell us how many of the miners were sleeping over at the
 4 koppie?
 5 MR X: There were many of us, Mr Chair,
 6 because even those who did not believe in the muti
 7 initially had come and joined, they could see that the
 8 firearms were not working.
 9 MR MATHIBEDI SC: Are you in a position
 10 to mention some of the names of the persons who slept at
 11 the koppie on the 12th?
 12 MR X: Yes.
 13 MR MATHIBEDI SC: Will you proceed, Sir?
 14 MR X: It was myself, Bhele, Booï,
 15 Mambush, Makubane, Anele, Bob, Baai, Kaizer, Nido, Masinga,
 16 Matetjisa. There were a lot of us, Mr Chair. I only
 17 mention those I remember.
 18 COMMISSIONER HEMRAJ: Less than 50?
 19 MR X: No, we were more than 50.
 20 MR MATHIBEDI SC: Are you in a position
 21 to give us an estimation of the number of persons that
 22 slept at the koppie?
 23 MR X: The vicinity of 600.
 24 MR MATHIBEDI SC: The names that you have
 25 provided us with, were they all members of the makarapas?

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1 MR X: That was a group of the makarapas,
 2 people who had undergone the rituals.
 3 MR MATHIBEDI SC: On the 12th of August in
 4 the evening, where did the inyangas sleep?
 5 MR X: They were staying with us at the –
 6 they were guarded. Other people could not leave, they were
 7 guarding the house of the inyanga.
 8 MR MATHIBEDI SC: Till when did the
 9 inyangas stay at the koppie?
 10 MR X: The inyanga was on the koppie
 11 until the 16th.
 12 MR MATHIBEDI SC: Sir, you've already
 13 indicated that a decision was taken that the strikers
 14 should go to Bob Mine. When was that decision taken?
 15 MR X: After we had left K4 it was
 16 decided that we should now go and kill at Bob Mine.
 17 MR MATHIBEDI SC: When did the strikers
 18 go to Bob Mine?
 19 MR X: We went to Bob Mine late that
 20 evening. If I remember correctly the man we killed on the
 21 railway line was killed at about 4AM.
 22 MR MATHIBEDI SC: Prior to going to Bob
 23 Mine was there a meeting that was held by the strikers?
 24 MR X: Yes, we held a meeting, the gang
 25 of the makarapas, as well as the committee members, on the

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1 mountain.
 2 MR MATHIBEDI SC: What was discussed
 3 during that meeting?
 4 MR X: It was decided that we should go
 5 and kill people at Bob Mine to send a message to the people
 6 that there is a strike here, until our demands are met, we
 7 get the money that we are demanding.
 8 MR MATHIBEDI SC: Was there no discussion
 9 as to what would happen in case the strikers encounter, or
 10 meet the security personnel in the employment of Lonmin?
 11 MR X: It was decided we knock off
 12 anything on our way, we kill anything on our way.
 13 MR MATHIBEDI SC: Are you in a position
 14 to provide us with the names of some of the protesters that
 15 took part in the march to Bob Mine?
 16 MR X: It was myself, Bhele, Booï,
 17 Mambush, Makubane, Anele, Bob, Nido, Kaizer, Baai, Masinga,
 18 Matetjisa, Xolani. There were a lot of us, Mr Chair.
 19 MR MATHIBEDI SC: Were the strikers
 20 armed?
 21 MR X: We were armed to the tooth.
 22 MR MATHIBEDI SC: With what kind of
 23 weapons were the strikers armed?
 24 MR X: Spears, pangas, firearms, we had
 25 all those.

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1 MR MATHIBEDI SC: Do you remember who was
 2 in possession of firearms?
 3 MR X: Mambush, Bhele, Baai, Anele.
 4 Those are the people I remember, but there were many of us.
 5 CHAIRPERSON: How many firearms did you
 6 have?
 7 MR X: There were many people who had
 8 firearms, but the people I remember of carrying firearms
 9 are those I've just mentioned.
 10 MR MATHIBEDI SC: Will you proceed and
 11 tell us what happened?
 12 MR X: We turned at the shop where they
 13 sell stuff, as well as meat, because these people ran in
 14 the direction of the compound, two of them ran. We then
 15 turned back there after having killed the person we
 16 confronted at the railway line. Because this gentleman
 17 said he was going to work, we asked him where he was going
 18 to, he said he was going to work. We asked him how can he
 19 go to work when he knows there is a strike going on, and we
 20 killed him.
 21 MR MATHIBEDI SC: Sir, will you describe
 22 how the person was killed?
 23 MR X: Mr Chair, we stabbed that
 24 gentleman. I also took part in that.
 25 MR MATHIBEDI SC: What was your

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1 involvement in the killing?
 2 MR X: Mr Chair, I also struck with the
 3 panga that I had on this gentleman.
 4 MR MATHIBEDI SC: Are you in a position
 5 to give us the names of the persons that took part in the
 6 attack on the deceased?
 7 MR X: There were many of us who took
 8 part. The people I remember is Bhele, Mambush, myself,
 9 Kaizer, Nido, Masinga, Anele, Makubane, Bob, Baai. Those
 10 are the people I remember who took part in the killing, but
 11 it was not only those people.
 12 MR MATHIBEDI SC: Prior to the victim
 13 being attacked was there any discussion between the victim
 14 and any of the strikes?
 15 MR X: Yes, he was asked where was he
 16 going to. When he said he was going to work we asked
 17 didn't he hear about the strike and he did not have a
 18 chance to respond to that.
 19 MR MATHIBEDI SC: Who spoke to the
 20 deceased?
 21 MR X: Mambush did.
 22 MR MATHIBEDI SC: In which language did
 23 the deceased respond?
 24 [09:46] MR X: He was not speaking in Xhosa, he
 25 was speaking Sotho. I was under the impression he's saying

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1 something part Sotho, part Shangaan, but it was not Xhosa.
 2 MR MATHIBEDI SC: Chair, I'm going to ask
 3 that item A of bundle B be given an exhibit number and that
 4 also the family of Mr Langa be warned because of the video
 5 clips that we're going to show.
 6 COMMISSIONER HEMRAJ: May I just ask a
 7 question in clarification please? You say that many people
 8 had firearms.
 9 MR X: Yes.
 10 COMMISSIONER HEMRAJ: Were these firearms
 11 in the possession of these persons prior to the 9th of
 12 August?
 13 MR X: Mr Chair, they had not revealed
 14 these firearms, I had not seen the firearms. I had only
 15 seen the firearms of the people I just mentioned. It's not
 16 easy to see a firearm because it's normally underneath the
 17 clothes. A firearm's a secret thing, you don't publicly
 18 carry it.
 19 COMMISSIONER HEMRAJ: Are you able to say
 20 how many people had firearms with them that you were able
 21 to see?
 22 MR X: No, I cannot say how many.
 23 COMMISSIONER HEMRAJ: Thank you.
 24 CHAIRPERSON: The document to which you
 25 wish to refer, is that the document which is marked A34?

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1 MR MATHIBEDI SC: It's item 15, Chair, of
 2 bundle A, it's key to photographs and photo.
 3 CHAIRPERSON: Oh, I thought you were
 4 going to refer to something in bundle B.
 5 MR MATHIBEDI SC: No, no.
 6 CHAIRPERSON: You did mention something
 7 about that.
 8 MR MATHIBEDI SC: Sorry, Chair.
 9 CHAIRPERSON: So you changed your mind,
 10 alright. It's the key and photograph?
 11 MR MATHIBEDI SC: That's correct, Chair.
 12 CHAIRPERSON: You want to make it an
 13 exhibit?
 14 MR MATHIBEDI SC: That's correct, Chair.
 15 CHAIRPERSON: Is this a key prepared by
 16 Constable Ngqakoshe?
 17 MR MATHIBEDI SC: That's correct, Chair.
 18 CHAIRPERSON: Ms Pillay will help us. Is
 19 this AAAA21?
 20 MS PILLAY: That's correct, Chair.
 21 CHAIRPERSON: Thank you. It's key to
 22 photographs, so then there's some photographs with it. So
 23 it's key and photographs really.
 24 MR MATHIBEDI SC: Chair, if the Langa
 25 family could be given a warning.

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1 CHAIRPERSON: Yes, alright. Well, let me
 2 mark the exhibit first before I give a warning. The key
 3 won't upset them. Key and photographs in CAS59/08/2012
 4 prepared by, prepared and taken I suppose, and taken by
 5 Constable - I'm sure my pronunciation is wrong so it's N-G-
 6 Q-A-K-O-S-H-E. Now are you also going to use the post
 7 mortem report which follows this exhibit in the bundle?
 8 MR MATHIBEDI SC: That's correct.
 9 CHAIRPERSON: Do you want to mark that as
 10 well? Do you want to mark it also?
 11 MR MATHIBEDI SC: That's correct, Chair.
 12 CHAIRPERSON: Alright, so we'll make that
 13 AAAA22, PM report. It's prepared by Dr Shirley Mashilo and
 14 it appears to be dated the 14th of August 2012. Right, now
 15 you want me to warn the family of Mr Langa that we're going
 16 to see some photographs depicting his body where it was
 17 found on the morning of the 13th of August, depicting his
 18 injuries. I'm sure if they see these photographs it will
 19 cause them a great deal of distress and before these slides
 20 are shown I want a period of 30 seconds to expire from the
 21 time that what I've said has been interpreted to give the
 22 members of the Langa family and all those others who feel
 23 they may be distressed at seeing these slides the
 24 opportunity to leave the chamber.
 25 MR QGIRANA: May I, Chairperson, also

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1 explain it in the Swazi language, which is the language of
 2 the Twalas.
 3 CHAIRPERSON: I'm sorry, Mr Mathibedi,
 4 are the Langa family siSwati-speaking?
 5 MR MATHIBEDI SC: That's correct – or I'm
 6 not sure –
 7 CHAIRPERSON: According to the evidence
 8 so far, if it's correct, the late Mr Langa was apparently a
 9 Shangaan. Now I know that the Shangaan people come from
 10 the area in the vicinity of Swaziland but I don't know
 11 whether siSwati is a language they speak as well. But
 12 anyway, the warning has been given, let's proceed.
 13 MR MATHIBEDI SC: Thanks, Chair.
 14 CHAIRPERSON: I'm not sure that the Swazi
 15 warning was given as I said, but never mind, let's carry
 16 on.
 17 MR MATHIBEDI SC: Sir, do you have
 18 exhibit AAAA21 before you?
 19 MR X: Yes, Mr Chair, it's him.
 20 MR MATHIBEDI SC: It's whom, Sir?
 21 MR X: The gentleman we killed near the
 22 railway line, near the Eastern plants.
 23 MR MATHIBEDI SC: When was the deceased
 24 killed and by whom?
 25 MR X: He was killed on the 13th in the

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1 early hours of the morning when people were starting to
 2 leave their houses to go to work, killed by us who had come
 3 from the mountain, yes.
 4 MR MATHIBEDI SC: Sir, I'm going to refer
 5 you to – Chairperson, I'm told the widow would like to see
 6 the photos. Maybe that can be arranged with her, Chair.
 7 CHAIRPERSON: Ms Pillay, you were
 8 communicating with Mr Mathibedi. Can you tell us what
 9 exactly the widow wants and where she wants it to happen?
 10 MS PILLAY: Chair, during our
 11 consultations with Mrs Langa one of her concerns was that a
 12 lot of the other deceased, the pictures of how they died
 13 and where they died were displayed in the Commission and
 14 none were shown of her husband. So I think at this
 15 particular point it might be appropriate to have those
 16 pictures shown.
 17 CHAIRPERSON: Aren't these the
 18 photographs 1 to 10 which is part of exhibit AAAA21?
 19 MS PILLAY: Those are the photographs,
 20 Chair.
 21 CHAIRPERSON: Oh, she wants them on
 22 screen? Alright, I understand the point she makes.
 23 MS PILLAY: Chair, I'm advised that Mrs
 24 Langa has been taken away by paramedics, so she's not
 25 attending today.

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1 CHAIRPERSON: Yes, no, no, I understand.
 2 There are two points, aren't there?. The first is whether
 3 she should be here while they're shown, would that cause
 4 her distress, and I think that's already been determined
 5 for us because she's left and I think we heard a lot of
 6 wailing and crying from outside which I imagine was her,
 7 but the second point is, from what you tell me is she would
 8 like the photographs to be seen by everybody else so they
 9 will understand what her husband underwent, what happened
 10 to him when he was killed.
 11 MS PILLAY: That's my understanding,
 12 Chair.
 13 CHAIRPERSON: That's her point. Alright,
 14 so you have that request from her representative here in
 15 the chamber this morning.
 16 MR MATHIBEDI SC: Chair, I think it's a
 17 reasonable request.
 18 CHAIRPERSON: Well, I can understand
 19 where it comes from. It's a request that I think one could
 20 scarcely decline in the light of what's happened in the
 21 case of other people who were killed.
 22 MR MATHIBEDI SC: Mr Bennett, will you
 23 please show photos 1 up to 10 of exhibit AAAA21?
 24 Chairperson, I think the ones are not coloured ones, I
 25 think if we could maybe take an adjournment that we should

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1 make available the coloured ones so that they could –
 2 CHAIRPERSON: We're going to take the
 3 short adjournment at half past 10 and that aspect can be
 4 sorted out during that adjournment. So we won't lose time
 5 now.
 6 MR MATHIBEDI SC: Thanks, Chair.
 7 CHAIRPERSON: We have the request from
 8 Mrs Langa, which has been granted, but we don't have to
 9 hold up the proceedings at this stage. That can be sorted
 10 out, as I said, during the short adjournment.
 11 MR MATHIBEDI SC: Thanks, Chair.
 12 CHAIRPERSON: So carry on with the
 13 evidence in the meanwhile.
 14 MR MATHIBEDI SC: Chair, I'm going to
 15 refer to exhibit AAAA22, that is the post mortem report.
 16 CHAIRPERSON: If you get to what we're
 17 now seeing and the copy we have in the bundle, it begins
 18 with a – oh, it's stapled incorrectly, I see. We will see
 19 in due course the sketch with the position of the wounds
 20 indicated. Alright, we'll get there in due course. Carry
 21 on then with the first section that's before us on the
 22 screen, which is the beginning of the affidavit of Dr
 23 Shirley Mashilo.
 24 MR MATHIBEDI SC: Thanks, Chair. At the
 25 bottom of this page there's a heading there, "The chief

| | |
|--|---|
| <p style="text-align: right;">Page 31165</p> <p>1 post mortem findings made by me on this body were the 2 following. 1, Multiple stab wounds on the body. 2, Stab 3 wounds on the liver, spleen, stomach, heart and pericardium 4 and both lungs; and number 3, fracture of the skull." Sir, 5 I would like to know these findings by – 6 CHAIRPERSON: Before we get there, on the 7 next page we see in paragraph 4 "The external appearance of 8 the body and condition of limbs, had multiple 18, 18 [one 9 eight] incised wounds on the body anteriorly and 10 posteriorly, chest, back and upper limbs, the sizes varying 11 from 1 centimetre to 11 centimetres and a 1 by 1 centimetre 12 punctured wound with rim of abrasion on the left nostril, 4 13 centimetre deep punctured wound on the right chest, which 14 is 2 by 1.5 centimetres by size and an incised wound 7.58 15 to 9.5 centimetre long on the left temporal occipital 16 area," and then there was a fracture of the left temporo- 17 occipital bones of the skull. I think those are factors 18 also that have to be taken into account. [Microphone off, 19 inaudible] puts on the screen the last page, which is the 20 sketch, is part of the form, the post mortem examination 21 form on which – we've just passed it, go backward. That's 22 the sketch indicating - well the doctor's indicated where 23 all the various wounds were. 24 MR MATHIBEDI SC: Sir, the wounds shown 25 on the sketch and described by the doctor, are they</p> | <p style="text-align: right;">Page 31167</p> <p>1 killed someone at Bob Mine and we were told about a group 2 of people who had just left for K3. It was said that there 3 should be support for that group by people who felt strong 4 enough. We then went out, left for K3. We met that group, 5 they were waiting for people who had gone to inspect or 6 find out at the shaft if there are any people there. 7 MR MATHIBEDI SC: Sir, during the report 8 back session were reasons given as to why Mr Langa was 9 killed? 10 MR X: The report was that he was killed 11 because he was going to work whilst we were on strike. 12 Didn't he want the money that we were striking for? That's 13 what I remember about the report, I can't remember other 14 things that happened long ago. 15 MR MATHIBEDI SC: Now dealing with the 16 march to K3 shaft, are you in a position to name some of 17 the persons who took part in the march? 18 MR X: Yes sir, I can remember that. 19 MR MATHIBEDI SC: Will you please name 20 them for us? 21 MR X: Myself, Bhele, Baai, Kaizer, 22 Makhubane, Anele, Mambush, Xolani, there were many of us 23 but not all of us left. 24 MR MATHIBEDI SC: Before embarking on the 25 march to K3 shaft, was there a discussion as to what was</p> |
| <p style="text-align: right;">Page 31166</p> <p>1 consistent with the wounds that were caused by the 2 strikers, including yourself? 3 MR X: Yes, they are consistent. 4 MR MATHIBEDI SC: Sir, are you in a 5 position to indicate why was it so that so many, you know, 6 strikers or persons participated in the brutal killing of 7 Mr Langa? 8 MR X: We wanted to send a message to the 9 people who were not aware of the strike that there is 10 strike, after we'd killed this man, so that they should 11 come and join and support the strike. We were killing at 12 that time. 13 MR MATHIBEDI SC: After the killing of Mr 14 Langa what happened? 15 MR X: We went back to the mountain, 16 Mambush and Xolani gave the feedback. 17 [10:06] We arrived at the mountain at about 11, 12 18 midday. We were told that there is a group of people who 19 had marked to K3 and we had to support that group. It 20 appeared there would be problems there. The other people 21 remained guarding the mountain. Only those who felt strong 22 enough, were man enough, left. 23 MR MATHIBEDI SC: Sir, during the report 24 back session, what was said? 25 MR X: The report was that we had just</p> | <p style="text-align: right;">Page 31168</p> <p>1 going to happen upon arrival and what would happen along 2 the way in case the strikers meet the Lonmin security 3 personnel? 4 MR X: It was said if we meet security 5 personnel, we don't listen, we just kill. 6 MR MATHIBEDI SC: Now will you please 7 proceed, sir, and tell us about the march? 8 MR X: We went there, arrived, the people 9 who had gone to check at the shaft came back, gave a report 10 that they could not find anyone in the shaft, then turned 11 back – 12 MR MATHIBEDI SC: Sorry, sir, can you 13 just give me a moment? Did some of the strikers go into 14 the shaft to check if there were any people who were, who 15 reported for duty? 16 MR X: Yes, such people left with the 17 security to go and check on the shaft, if there were any 18 people there. 19 MR MATHIBEDI SC: Are you in a position 20 to name the five persons that went with the security into 21 the shaft? 22 MR X: No, I can't remember them but I 23 remember that they were five in number. 24 MR MATHIBEDI SC: Upon returning from 25 inspecting whether there were people who reported for duty</p> |

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1 or not, what happened?

2 MR X: They gave a report that there was

3 no-one at the shaft. We then met up with the security

4 people who told us we will not be able to pass the police

5 carrying these things that we were carrying. We did not,

6 we ignored the security personnel, we know they were

7 sissies, we did not worry about them. We had a caucus,

8 Mambush showed us there are police that we are going to

9 meet up with. It was said we should not all talk with the

10 police, only three people should speak to the police

11 because if we all speak to the police we'll be afraid,

12 we'll be scared.

13 MR MATHIBEDI SC: Sir, can you just deal

14 with the meeting with the security personnel?

15 MR X: Yes.

16 MR MATHIBEDI SC: Where did the strikers

17 meet the security personnel?

18 MR X: We met the security personnel

19 after leaving K3, met them at a place where there were some

20 water pipes. We had not met Mr Mpembe, the tall police

21 officer, at that stage. They were still ahead of us, we

22 were still moving in that direction.

23 MR MATHIBEDI SC: I'm going to ask that

24 the video which is exhibit HHH61 be played.

25 CHAIRPERSON: I was wondering whether it

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1 wouldn't be advisable to take the short adjournment now and

2 that starts a new chapter, as it were, thereafter and we go

3 into what happened when they met the police and General

4 Mpembe and what happened thereafter. So we'll take a 15

5 minute adjournment now.

6 [COMMISSION ADJOURNS COMMISSION RESUMES]

7 [10:41] CHAIRPERSON: The Commission resumes.

8 Please remind the witness he's still under oath.

9 MR X: [s.u.o. through interpreter]

10 MR MAHLANGU: Confirmed, Mr Chairperson.

11 CHAIRPERSON: Mr Mathibedi. Ms Pillay,

12 have you got something to say?

13 MS PILLAY: Chair, the Langa family are

14 now present in the auditorium, if I could ask in those

15 circumstances that we view the photographs attached to

16 AAAA21?

17 CHAIRPERSON: Do they want to see them?

18 MS PILLAY: That was what we had

19 previously been informed, that they want to see the

20 pictures.

21 CHAIRPERSON: They want to see them. I

22 thought they simply wanted them shown to everybody else,

23 not to see them themselves.

24 MS PILLAY: Well either way, Chair, it

25 hasn't been flighted in the auditorium because it wasn't

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1 copied –

2 CHAIRPERSON: Oh, because they were going

3 to be sorted out during the adjournment.

4 MS PILLAY: That's right.

5 CHAIRPERSON: Colour copies were going to

6 be obtained during the short adjournment.

7 MS PILLAY: And I'm informed by Mr

8 Mathibedi that has happened.

9 CHAIRPERSON: Yes, I understand. Well,

10 if it is correct that the Langa family wish to be present

11 when the photographs are shown then obviously I can't

12 compel them to leave the chamber. Mr Mathibedi, you'd

13 better take us through the photographs then.

14 EXAMINATION BY MR MATHIBEDI SC (CONTD.):

15 Sir, are you familiar with photo number 1?

16 MR X: I see it, Sir.

17 MR MATHIBEDI SC: Which area does it, or

18 location does it depict?

19 MR X: This is along the railway line

20 from Segwaelane as one proceeds to Eastern Plats.

21 MR MATHIBEDI SC: What happened at the

22 spot depicted on the photo?

23 MR X: This is the person that we killed

24 at 4 o'clock in the morning.

25 MR MATHIBEDI SC: When was that?

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1 MR X: On the 13th, 13th in the morning.

2 MR MATHIBEDI SC: Will you please go to

3 photo number 2, depict the same area where Mr Langa was

4 killed?

5 MR X: Yes, Sir.

6 MR MATHIBEDI SC: Does this picture also

7 depict Mr Langa and the spot where he was killed on the

8 13th?

9 MR X: Yes, Sir.

10 MR MATHIBEDI SC: Photo number 4, does it

11 still depict the spot where Mr Langa was killed on the 12th?

12 CHAIRPERSON: 13th.

13 MR MATHIBEDI SC: On the 13th, I'm sorry.

14 MR X: That's him, yes.

15 MR MATHIBEDI SC: Photo number 5, does it

16 still depict Mr Langa who was killed on the 13th next to the

17 railway line at Segwaelane?

18 MR X: That's him, yes.

19 MR MATHIBEDI SC: And the same applies

20 with photo number 6; it shows the backside of the –

21 CHAIRPERSON: The rear, or the back.

22 MR MATHIBEDI SC: Sorry, not the back;

23 the rear side of Mr – the top portion, the rear back, the

24 rear top portion of the body of Mr Langa.

25 MR X: It is so.

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1 MR MATHIBEDI SC: The same applies with
 2 photo number 7, it shows the upper body of Mr Langa who was
 3 killed on the 13th by the strikers?
 4 MR X: That's correct, Sir.
 5 MR MATHIBEDI SC: And the same applies to
 6 photo number 8?
 7 MR X: Yes, Sir.
 8 MR MATHIBEDI SC: Photo number 9 also
 9 shows the body of Mr Langa who was killed on the 13th next
 10 to the railway line at Segwaelane?
 11 MR X: Yes, Sir.
 12 MR MATHIBEDI SC: You also confirm that
 13 photo number 10 shows the body of Mr Langa who was killed
 14 on the 13th by the strikers next to the railway line at
 15 Segwaelane?
 16 MR X: That's correct, Sir.
 17 CHAIRPERSON: This is the part of the
 18 narrative where he and his companions were coming away from
 19 the direction of the K3 Shaft along the railway line and
 20 they were just about to meet General Mpembe and the group
 21 of policemen who had gone with him. So those are the
 22 points which you can take up the narrative again I think.
 23 MR MATHIBEDI SC: Sorry Chair, it's not –
 24 CHAIRPERSON: You were in fact going to
 25 show the video.

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1 MR MATHIBEDI SC: That's correct, Chair.
 2 CHAIRPERSON: Yes.
 3 MR MATHIBEDI SC: Mr Bennett, will you
 4 please show us video exhibit HHH61? Will you please play
 5 the whole footage?
 6 CHAIRPERSON: When you show it would you
 7 please indicate from where to where we are seeing the – are
 8 we going to see the whole video?
 9 MR MATHIBEDI SC: That's correct.
 10 CHAIRPERSON: I see. Alright. It must
 11 be a Lonmin video, I take it?
 12 MR MATHIBEDI SC: That's correct.
 13 CHAIRPERSON: Showing the water pipe to
 14 which the witness referred.
 15 MR MATHIBEDI SC: Sir, can you see the
 16 video?
 17 MR X: I see it.
 18 CHAIRPERSON: Mr Mathibedi, we see it at
 19 the moment fast forward without sound. I think it would be
 20 helpful if we saw the whole video at normal speed with
 21 sound.
 22 MR MATHIBEDI SC: Thanks, Chair.
 23 CHAIRPERSON: Go back to the beginning,
 24 put on the sound and let's do it again at the normal speed.
 25 So play it again. Let's go back to the beginning and turn

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1 on the sound and then have it at a normal speed with sound.
 2 [VIDEO IS SHOWN]
 3 MR MATHIBEDI SC: Thanks. Sir, you've
 4 seen this video. Are you in a position to tell us what was
 5 happening?
 6 MR X: Chairperson, in that video we are
 7 marching from K3 in the direction of where we eventually
 8 met Mr Mpembe and the others.
 9 MR MATHIBEDI SC: The video shows
 10 strikers making, using the weapons in their possession to
 11 make a clicking sound.
 12 MR X: I heard that, yes.
 13 MR MATHIBEDI SC: Why did the strikers
 14 conduct themselves in that fashion?
 15 MR X: We were actually encouraging our
 16 muti to work fast. We knew things were bad, that there
 17 were going to be people killed and we were hurrying things
 18 up. We knew that the guns wouldn't work, that we were not
 19 capable of being shot at.
 20 MR MATHIBEDI SC: At one stage the
 21 strikers can be seen in a squatting position. Did you
 22 observe that?
 23 MR X: Yes.
 24 MR MATHIBEDI SC: Why were the strikers
 25 squatting?

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1 MR X: That's where we were busy
 2 caucusing and this is where it was mentioned that the
 3 people that we are seeing in front of us there, not all of
 4 us have got to speak, only three people should, because if
 5 we all speak those cowards would then get scared. Only
 6 three people have got to speak.
 7 MR MATHIBEDI SC: At the time that the
 8 strikers were squatting, where were the Lonmin security
 9 officers?
 10 MR X: We had already met the security
 11 officers on our way. That's when they spoke to Mambush and
 12 said "You people will not be able to go past with the
 13 things that you have here because there are police in
 14 front," but we did not take note of that. We didn't worry
 15 about that.
 16 MR MATHIBEDI SC: Why is it that the
 17 strikers were not worried when there was a discussion about
 18 the weapons?
 19 MR X: Because we knew that our muti is
 20 such that the guns will not do any harm to us.
 21 MR MATHIBEDI SC: The strikers can be
 22 heard ululating.
 23 MR X: It is so.
 24 MR MATHIBEDI SC: Why did that happen?
 25 MR X: Our blood had become hot at this

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1 stage, Chairperson. Our blood was burning us and we were
2 also encouraging our muti to act fast.
3 MR MATHIBEDI SC: Were you present in
4 that group of strikers?
5 MR X: Yes, I was there. I was part of
6 the makarapa group. I was amongst them.
7 MR MATHIBEDI SC: I'm going to ask that
8 the video be played. The time would be 28 to 35 seconds.
9 COMMISSIONER HEMRAJ: What does this
10 blood being hot mean? Does it mean that the emotions were
11 running high, or what?
12 MR X: Chairperson, the intelezi in our
13 blood was working in such a way that we did not listen to
14 anything. We just wanted the employer to come to us and
15 give us what we wanted.
16 MR MATHIBEDI SC: Sir, if you look at the
17 video, there's a gentleman who's having a pinkish blanket
18 around him. Can you see it?
19 MR X: Yes, I see it.
20 MR MATHIBEDI SC: Are you in a position
21 to identify this gentleman?
22 MR X: That's me, Sir.
23 MR MATHIBEDI SC: At that stage where
24 were the strikers heading to?
25 MR X: Going towards Mpembe who was ahead

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1 of us, in front there.
2 MR MATHIBEDI SC: Chair, I forgot to ask
3 for a ruling that this portion of the clip not be shown or
4 be broadcast.
5 CHAIRPERSON: Yes, is it the Langa –
6 which family? Not the Langa family. Which family –
7 MR MATHIBEDI SC: The clip showing Mr X.
8 CHAIRPERSON: Oh, yes. You're quite
9 right. Well, it's happened that – if you're going to show
10 – yes, the video which we've just seen which depicts the
11 witness, I would request the broadcasting companies, the
12 media houses not to broadcast that in order that the
13 witness's identity can be protected.
14 MR MATHIBEDI SC: Thanks, Chair. Prior
15 to meeting General Mpembe was there a discussion amongst
16 the strikers?
17 MR X: Yes, Sir, the decision was made
18 that not everybody has to talk there and that we have got
19 to select three men who would do the talking.
20 MR MATHIBEDI SC: Were the three people
21 that were going to talk to General Mpembe chosen?
22 MR X: Yes, Mambush, Xolani, and Mosotho.
23 MR MATHIBEDI SC: Is there any particular
24 reason why Mambush and Xolani were chosen?
25 [11:01] MR X: We selected them because we

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1 believed in them. We trusted them.
2 MR QGIRANA: They are "tight," is the
3 word he used.
4 MR MATHIBEDI SC: And why was Sotho
5 chosen to be one of those that were going to talk to
6 General Mpembe?
7 MR X: We did not only want to be
8 represented by Xhosa-speaking people, we wanted another
9 race, another nation to be present.
10 MR MATHIBEDI SC: Was Sotho part of the
11 Makarapa?
12 MR X: Yes, sir.
13 MR MATHIBEDI SC:
14 CHAIRPERSON: Is Sotho his name or are
15 you just referring to someone who was a Sesotho speaker?
16 MR X: I don't know what his name is, Mr
17 Chairperson, but he speaks the Sesotho language.
18 MR MATHIBEDI SC: Chairperson, I'm going
19 to ask that the ruling be repeated. The video footage that
20 we are going to play is going to show Mr X.
21 CHAIRPERSON: I did previously say that
22 when videos were shown or even documents were shown which
23 revealed the witness's identity, these were not to be
24 broadcast or in any way published. I don't propose
25 repeating it every time a video is shown on which the

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1 witness appears. I trust that the media houses will take
2 note of what I'm now saying and when a video is shown or
3 indeed a photograph is shown of this witness or which shows
4 this witness, that is not to be published. That is covered
5 by the ruling I originally made.
6 MR MATHIBEDI SC: Thanks, Mr Chair.
7 CHAIRPERSON: And also the overflow group
8 must also not be shown either the photographs or the videos
9 which show this witness. The cameras must be switched off.
10 People in the overflow room will just have to make do with
11 the sound.
12 MR MATHIBEDI SC: Thanks, Chair. Mr
13 Bennett, will you please show us exhibit Z1?
14 [VIDEO IS SHOWN]
15 MR MATHIBEDI SC: Mr Bennett, will you
16 please forward and show us the area next to the railway
17 line?
18 CHAIRPERSON: Please indicate the point
19 at which the video is being shown, indicating how far down
20 the video – is this where you want us to start, Mr
21 Mathibedi?
22 MR MATHIBEDI SC: That's correct, Chair.
23 CHAIRPERSON: It's about 9:17, I think it
24 was. It's now 9:22. We see the strikers squatting on the
25 ground at the railway line and we see General Mpembe. Now

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1 one of the strikers –

2 [VIDEO IS SHOWN]

3 MR MATHIBEDI SC: Will you please pause?

4 CHAIRPERSON: Stopped at 9:57.

5 MR MATHIBEDI SC: Sir, are you in a

6 position to identify the gentleman who is standing to the

7 left?

8 MR X: Yes, sir.

9 MR MATHIBEDI SC: Will you please

10 identify him for us?

11 MR X: That is Mambush.

12 MR MATHIBEDI SC: Thanks, will you

13 proceed?

14 [VIDEO IS SHOWN]

15 MR MATHIBEDI SC: You can hear –

16 CHAIRPERSON: Pausing at – sorry, pausing

17 at 10:14.

18 MR MATHIBEDI SC: Thanks. You can hear

19 the strikers making, using weapons in their possession to

20 make clicking sounds.

21 MR X: I can hear this, sir.

22 MR MATHIBEDI SC: Why did the strikers

23 conduct themselves in that fashion?

24 MR X: To hasten the muti that we had

25 used, for it to act fast.

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1 MR MATHIBEDI SC: You can also see

2 strikers in a squatting position.

3 MR X: I can see that, sir.

4 MR MATHIBEDI SC: Why were the strikers

5 squatting?

6 MR X: These were instructions that were

7 given to us by the inyanga.

8 MR MATHIBEDI SC: Thanks. Will you

9 please proceed and play the video?

10 [VIDEO IS SHOWN]

11 MR MATHIBEDI SC: Will you please pause?

12 Sir, you could hear that the pace of the sound that was

13 made by using the weapons was, you know, in a faster mood.

14 MR X: That's correct.

15 MR MATHIBEDI SC: Why was that?

16 MR X: We were hastening the operation of

17 the muti. We wanted it to work fast and so to annoy the

18 police, for them to shoot if they want to.

19 MR MATHIBEDI SC: Will you please proceed

20 and play the clip?

21 [VIDEO IS SHOWN]

22 MR MATHIBEDI SC: The strikers can be

23 heard singing a song.

24 MR X: Yes, I can.

25 MR MATHIBEDI SC: Will you please

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1 describe what was meant and why was that, why was it

2 necessary for the strikers to sing?

3 MR X: The name of the song is

4 [vernacular words], translated into English, tighten your

5 balls young man, otherwise you won't come right. This is

6 because we knew that we are not capable of being shot, the

7 police would do nothing.

8 MR MATHIBEDI SC: By tightening whatever

9 was to be tightened, what was meant by that?

10 MR X: Anything that was to be done had

11 to be done then.

12 MR MATHIBEDI SC: Was General Mpembe

13 present during that stage when that song was, when the

14 strikers sang?

15 MR X: Yes.

16 MR MATHIBEDI SC: You are aware that

17 General Mpembe is an elder, is that correct?

18 MR X: I apologise because we were acting

19 on instructions, somebody had told us to do this. I am not

20 turning away from what I am saying, it's true.

21 MR MATHIBEDI SC: Did the strikers at any

22 stage show respect towards General Mpembe?

23 MR X: No, there was no respect shown.

24 MR MATHIBEDI SC: Will you please proceed

25 and show us the video?

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1 [VIDEO IS SHOWN]

2 MR MATHIBEDI SC: Will you please pause?

3 CHAIRPERSON: It's now at 11:13.

4 MR MATHIBEDI SC: Can you please identify

5 the gentleman who is standing in front of the strikers?

6 MR X: That is Mambush.

7 MR MATHIBEDI SC: Are you in a position

8 to describe what was happening at this stage?

9 MR X: He was, three of the people that

10 we had chosen that would address the police.

11 MR MATHIBEDI SC: Would you please

12 proceed and describe how he is holding his right hand?

13 MR X: He has his fist clenched and these

14 were the instructions that we were given, Mr Chairperson,

15 that whenever we speak we have got to have our fist

16 clenched.

17 MR MATHIBEDI SC: When was this

18 instruction given?

19 MR X: He gave us these instructions on

20 that day, the 11th, when the rituals were being conducted.

21 MR MATHIBEDI SC: And who gave the

22 instruction?

23 MR X: The inyanga assistants, the boys.

24 These were instructions from the witch – I'm sorry, from

25 the traditional healer.

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1 MR MATHIBEDI SC: Was an explanation
 2 given by the traditional healer or the inyanga as to what
 3 would happen if instructions are not followed?
 4 MR X: Yes, he said.
 5 MR MATHIBEDI SC: What did he say?
 6 MR X: The inyanga told us that if we did
 7 not follow his instructions the result would be that the
 8 guns of the police would be effective, they would work,
 9 that we had to follow the instructions at all times that he
 10 had given us.
 11 MR MATHIBEDI SC: Sir, would you proceed
 12 and show us the –
 13 [VIDEO IS SHOWN]
 14 MR MATHIBEDI SC: Will you please pause?
 15 CHAIRPERSON: Pausing at 11:20. The
 16 person who you say is Mambush is in the foreground. On his
 17 right, our left looking at the screen, there's someone else
 18 standing up. Do you know who that person is?
 19 MR X: Mr Chairperson, this one was just
 20 becoming scared. He just stood up there and talked. He
 21 was not one of the three that were chosen.
 22 MR MATHIBEDI SC: Are you in a position
 23 to identify him? Do you know his name?
 24 MR X: I only know him by seeing him, I
 25 don't know what his name is but I know he was one of the

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1 Makarapas on the mountain.
 2 MR MATHIBEDI SC: Will you proceed and
 3 play the video?
 4 CHAIRPERSON: Pause for a moment at
 5 11:26. Mr Interpreter, what is the person who has been
 6 described as Mambush, what is he saying at this point?
 7 MR MAHLANGU: He was saying, the last
 8 thing he said is, "That is all we want, we are not
 9 fighting" and it was also confirmed by the other one –
 10 CHAIRPERSON: It sounds like, as if the –
 11 MR MAHLANGU: If the video could be
 12 played just a bit back for me to interpret?
 13 CHAIRPERSON: It's exhibit QQ2 which is a
 14 translation of the transcript of what is said, it appears
 15 to be the passage at page 4 round about line 10, I would
 16 think.
 17 MR MAHLANGU: If the video could be
 18 replayed a bit, sir?
 19 [VIDEO IS SHOWN]
 20 MR MAHLANGU: "That is all that we ask,
 21 we are not fighting with you."
 22 CHAIRPERSON: And is that said by the
 23 person who the witness says is Mambush?
 24 MR X: It is said by Mambush but also
 25 confirmed by the other person.

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1 CHAIRPERSON: By the other one, yes.
 2 Thank you. Mr Mathibedi, I'm right, am I, the transcript
 3 of what's being said is exhibit QQ2 and we're on page 4, is
 4 that right?
 5 MR MATHIBEDI SC: That's correct, Chair.
 6 CHAIRPERSON: Okay. Well, that helps me
 7 to follow. Yes, please carry on.
 8 MR MATHIBEDI SC: Sir, why did Mr Mambush
 9 tell General Mpembe that they are not fighting?
 10 MR X: We were just fooling him.
 11 MR MATHIBEDI SC: Why do you say you were
 12 just fooling General Mpembe?
 13 MR X: We wanted him to hurry up, get
 14 angry, so that they should start shooting.
 15 COMMISSIONER HEMRAJ: But you had no
 16 quarrel with the police as at that stage.
 17 MR X: We were fighting them.
 18 COMMISSIONER HEMRAJ: Why?
 19 MR X: We wanted – the police were
 20 stopping us from what we wanted. We wanted the employer to
 21 come to us to give us what it is that we wanted from him.
 22 MR MATHIBEDI SC: Why were the police
 23 seen as stopping the strikers?
 24 MR X: We knew that the police would not
 25 allow us to proceed with the things that we had because

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1 this was illegal.
 2 MR MATHIBEDI SC: Will you please proceed
 3 and play the video?
 4 [VIDEO IS SHOWN]
 5 MR MATHIBEDI SC: Will you please stop?
 6 CHAIRPERSON: Stopping at 12:20, it looks
 7 like the top of page 5 of the transcript, exhibit QQ2 I
 8 would think. I'm not, is that correct, Mr Mathibedi? I
 9 see we actually stopped at the foot of page 4 of the
 10 contract.
 11 [11:21] Is that correct?
 12 MR MATHIBEDI SC: That's correct, Chair.
 13 CHAIRPERSON: Ja.
 14 MR MATHIBEDI SC: During the time that
 15 General Mpembe spoke to the strikers, did the strikers
 16 understand what he was conveying to them?
 17 MR X: Yes, Sir.
 18 COMMISSIONER HEMRAJ: How do you know
 19 that?
 20 MR X: We heard him clearly,
 21 Commissioner, saying those things that we had were not
 22 legal, but we were not prepared to conform to what his
 23 request was.
 24 CHAIRPERSON: He was speaking Zulu, was
 25 he?

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1 MR MAHLANGU: He was speaking Zulu, a
2 mixture of Zulu and Xhosa.
3 CHAIRPERSON: I'm asking the witness.
4 General Mpembe was speaking Zulu, was he?
5 MR X: Yes, I could hear him. His
6 language was mostly Fanagalo.
7 CHAIRPERSON: I see. So that's why you
8 were able to understand him?
9 MR X: That's correct, Chairperson.
10 MR MATHIBEDI SC: Did the other strikers
11 understand Fanagalo language?
12 MR X: Any language comes into Fanagalo,
13 Mr Chairperson. This is the language that is generally
14 used in the mines.
15 MR MATHIBEDI SC: Thanks. Will you
16 proceed and show us the video?
17 [VIDEO IS SHOWN]
18 [Microphone off, inaudible] problem.
19 CHAIRPERSON: I don't think it's a
20 problem. If you look at the transcript, page 5, QQ2, you
21 would see that it's recorded "At 12min:26 seconds the video
22 screen darkens. The police are talking and comes back on –
23 13min:01 seconds." That's what happened, no technical
24 problem. Well, there was a technical problem maybe on the
25 day but certainly what, we are seeing what's on the video

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1 here.
2 MR MATHIBEDI SC: Thanks, Chair.
3 [VIDEO IS SHOWN]
4 Pause.
5 CHAIRPERSON: [Microphone off, inaudible]
6 15:05. It looks as if we're in the middle of page 5, round
7 about line 11 I would think. The person described as
8 Lonmin worker 1 is the person the witness says is Mr Noki.
9 MR MATHIBEDI SC: That's correct. You
10 confirm that the speaker is Mr Noki?
11 MR X: Yes, it's him.
12 MR MATHIBEDI SC: Now he spoke about the
13 weapons. Did you hear that?
14 MR X: Yes, Sir.
15 MR MATHIBEDI SC: Amongst others he said
16 the weapons will be handed over at the koppie. Did you
17 hear that?
18 MR X: I heard him say so.
19 MR MATHIBEDI SC: What is your view about
20 what Noki said?
21 MR X: It wouldn't have happened. What
22 he says wouldn't have happened.
23 MR MATHIBEDI SC: Will you please proceed
24 and play the video?
25 CHAIRPERSON: Going on to 15:06.

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1 [VIDEO IS SHOWN]
2 MR MATHIBEDI SC: Will you please pause?
3 CHAIRPERSON: Now we can see the
4 [inaudible].
5 MR MATHIBEDI SC: Are you in a position
6 to identify the gentleman who is depicted standing in the
7 video clip?
8 MR X: That is the one I referred to as
9 Mosotho.
10 MR MATHIBEDI SC: Will you please
11 proceed?
12 [VIDEO IS SHOWN]
13 Will you please pause? You have seen as he is
14 talking he's making gestures with his hands. Did you see
15 that?
16 MR X: Yes, he's speaking in the language
17 Fanagalo with both his fists clenched.
18 MR MATHIBEDI SC: Why were both fists in
19 the clenched position?
20 MR X: Those are the inyanga's
21 instructions.
22 MR MATHIBEDI SC: Will you please proceed
23 and play the clip?
24 CHAIRPERSON: From 15:21.
25 [VIDEO IS SHOWN]

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1 MR MATHIBEDI SC: Will you please stop
2 the clip? Amongst others the speaker said "They are not
3 fighting anyone." Did you hear that?
4 MR X: Yes, Sir.
5 CHAIRPERSON: I'm sorry to interrupt you,
6 Mr Mathibedi. At the top of page 7 of exhibit QQ21 it is
7 said, "We are not fighting with the government." Is that
8 what was said? You said you're not fighting with anybody.
9 Perhaps Mr Tokota can help me. Mr Tokota says he heard the
10 words in Fanagalo they were not fighting with the
11 government.
12 MR MATHIBEDI SC: Thanks, Chair. What is
13 your –
14 CHAIRPERSON: [Microphone off, inaudible]
15 up to 15:45.
16 MR MATHIBEDI SC: What is your view about
17 what the protester said that the strikers are not fighting
18 with the government?
19 MR X: Yes, I heard him say so.
20 MR MATHIBEDI SC: Do you know who he was
21 referring to by "the government"?
22 MR X: He was talking to Zuma.
23 MR MATHIBEDI SC: He was talking about
24 Zuma –
25 MR X: Mentioned NUM and Zuma.

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1 MR MATHIBEDI SC: By Zuma who are you
 2 referring to, Sir?
 3 MR X: If we speak of the government,
 4 that is the person who is known as the government. That's
 5 how I know him.
 6 MR MATHIBEDI SC: You have mentioned the
 7 name NUM. What is the relevance thereof?
 8 MR X: NUM is also part of the
 9 government. It's ANC.
 10 MR MATHIBEDI SC: Thanks. Will you
 11 please proceed and play the video?
 12 CHAIRPERSON: Carrying on now from 15:46.
 13 [VIDEO IS SHOWN]
 14 MR MATHIBEDI SC: Will you please pause?
 15 Will you please identify the gentleman depicted in the
 16 video?
 17 MR X: We had only chosen three people
 18 amongst them, Xolani, this is one of those people who just
 19 stand and stood up unelected.
 20 CHAIRPERSON: We're stopping at the
 21 moment at 15:55 and I'm informed by Mr Tokota that we're on
 22 page 7 of the transcript QQ2 and the person standing up and
 23 speaking is the person described as Lonmin worker 3,
 24 starting at the fourth line on page 7. Is that correct, Mr
 25 Mathibedi?

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1 MR MATHIBEDI SC: That's correct, Chair.
 2 Will you please proceed and play the clip for us?
 3 [VIDEO IS SHOWN]
 4 Will you please pause?
 5 CHAIRPERSON: 16:18.
 6 MR MATHIBEDI SC: You saw the speaker
 7 making gestures with his hand. Did you see that?
 8 MR X: I saw him yes, with the clenched
 9 fist.
 10 MR MATHIBEDI SC: Why did he make a
 11 gesture with a clenched fist?
 12 MR X: No, those are the instructions
 13 that were given by the inyanga.
 14 MR MATHIBEDI SC: Now amongst others the
 15 speaker requested that General Mpembe, or the police should
 16 go with them because they are not fighting.
 17 MR X: Yes, Sir.
 18 MR MATHIBEDI SC: What is your view about
 19 that?
 20 MR X: We were just fooling him.
 21 MR MATHIBEDI SC: Had the police at that
 22 stage disarmed the protesters, what would have happened?
 23 CHAIRPERSON: I think you mean tried to,
 24 Mr Mathibedi. If they tried to disarm, what would happen.
 25 MR MATHIBEDI SC: Thanks, Chair.

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1 CHAIRPERSON: The question you're being
 2 asked is if the police tried at that stage to disarm the
 3 protesters, what would have happened according to you?
 4 MR X: We were going to kill them, Sir.
 5 MR MATHIBEDI SC: Using what to kill
 6 them?
 7 MR X: Bush knives, pangas we had, all
 8 the weapons that we had.
 9 CHAIRPERSON: He mentioned the word "bush
 10 knife," which I gather is Xhosa for panga.
 11 MR MAHLANGU: That's correct, Chair.
 12 MR MATHIBEDI SC: Were you aware at that
 13 stage that the police had, some police had firearms with
 14 them?
 15 MR X: Yes, Sir.
 16 MR MATHIBEDI SC: Sir, will you proceed
 17 and play the video clip for us?
 18 CHAIRPERSON: 16:18.
 19 [VIDEO IS SHOWN]
 20 MR MATHIBEDI SC: Sir, amongst others
 21 you've heard –
 22 CHAIRPERSON: We've now stopped at 18:18.
 23 MR MATHIBEDI SC: There was a request by
 24 Mambush that the employer should be brought to the workers.
 25 Did you hear that?

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1 MR X: Yes, Sir.
 2 CHAIRPERSON: Again this was quite a long
 3 speech that Mr Noki made, it's translated into English and
 4 transcribed at pages 8 and 9 of exhibit QQ2 and on page 9,
 5 line 5, it says, "Come back with the boss that hired us so
 6 he can give us the response we want from him." Is that the
 7 passage we just heard, I take it?
 8 MR X: That's correct, Chair. That is
 9 so.
 10 MR MATHIBEDI SC: Thanks, Chair. Sir,
 11 what would have happened had the police succeeded in
 12 bringing a representative of Lonmin at the koppie to
 13 address the strikers and give a negative response about the
 14 demand of the strikers?
 15 MR X: We would have killed that white
 16 man.
 17 MR MATHIBEDI SC: Chair, I'm asking for a
 18 comfort break of about five minutes.
 19 CHAIRPERSON: Well, I won't give you a
 20 comfort break – application refused. We'll take the tea
 21 adjournment now instead.
 22 MR MATHIBEDI SC: Thanks.
 23 [COMMISSION ADJOURNS COMMISSION RESUMES]
 24 [12:02] CHAIRPERSON: The Commission resumes.
 25 Please remind the witness that he's still under oath.

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1 MR X: [s.u.o. through interpreter]
 2 MR MAHLANGU: Confirmed, Chairperson.
 3 CHAIRPERSON: Mr Mathibedi.
 4 EXAMINATION BY MR MATHIBEDI SC (CONTD.):
 5 Thanks, Chair. Mr Bennett, will you please proceed and
 6 show us the video?
 7 CHAIRPERSON: We're now at 18:18.
 8 [VIDEO IS SHOWN]
 9 CHAIRPERSON: Stop it, sorry that passage
 10 we've just heard is, I understand, on page 9 of the,
 11 translated into English on page 9 of the transcript,
 12 exhibit QQ2 and he's just ended at line 22 on page 9. Is
 13 that correct, Mr Mathibedi?
 14 MR MATHIBEDI SC: That's correct, Chair.
 15 CHAIRPERSON: Now we're going to hear
 16 Lonmin worker 2 as he's described on the transcript, whom I
 17 presume is the gentleman standing up now on the screen at
 18 19:02 in the video.
 19 [VIDEO IS SHOWN]
 20 MR MATHIBEDI SC: Will you please pause,
 21 Sir?
 22 CHAIRPERSON: 19:06.
 23 MR MATHIBEDI SC: On this portion of the
 24 video, Sir, there's a gentleman there who – can you see
 25 him? I'm using a pointer to indicate him.

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1 MR X: I see that person, that's me.
 2 CHAIRPERSON: It is the gentleman in a
 3 pink blanket in the right-hand corner of the slide and
 4 there's someone directly in the corner and then diagonally
 5 behind his right shoulder is a person in a pink blanket.
 6 The witness told us who that person is.
 7 MR MATHIBEDI SC: Thanks, Chair. Will
 8 you please also proceed and identify the gentleman who is
 9 standing?
 10 MR X: This was just one of the cowards,
 11 not one of those that were chosen to speak.
 12 MR MATHIBEDI SC: Will you please proceed
 13 and play the video?
 14 [VIDEO IS SHOWN]
 15 Will you please stop the clip?
 16 CHAIRPERSON: 19:46
 17 MR MATHIBEDI SC: Sir, you can hear
 18 General Mpembe trying to have a discussion with the
 19 speaker, but the speaker appears not to be listening to
 20 him. Was that your observations?
 21 CHAIRPERSON: It would be 10 in the
 22 transcript –
 23 MR X: Yes, that's right –
 24 CHAIRPERSON: - line 7 and 8 is General
 25 Mpembe and then the person who interrupts him is at line 9.

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1 MR MATHIBEDI SC: Why did the speaker
 2 conduct himself in that fashion?
 3 MR X: We wanted Mr Mpembe to act fast,
 4 to start shooting.
 5 MR MATHIBEDI SC: Thanks. Will you
 6 please proceed and play the video?
 7 [VIDEO IS SHOWN]
 8 Will you please pause?
 9 CHAIRPERSON: 20:38.
 10 MR MATHIBEDI SC: Sir, I would like you
 11 to identify this gentleman in the picture. Can you see
 12 him, where –
 13 CHAIRPERSON: What you are indicating
 14 with the pointer, Mr Mathibedi, is a person who is under
 15 the right arm of Mr Noki, and it appears from the slide,
 16 but appears to be under the right arm, under the elbow as
 17 it were of Mr Noki.
 18 MR X: I see that.
 19 MR MATHIBEDI SC: Will you please tell us
 20 who this gentleman is?
 21 MR X: That is Rasta, Rasta Makubane.
 22 MR MATHIBEDI SC: Are you in a position
 23 to describe his clothing?
 24 MR X: Yes, he was wearing a jacket, I
 25 can see it.

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1 MR MATHIBEDI SC: Can you see the colour
 2 of the jacket?
 3 MR X: It's whitish, the colour is not
 4 clear, it's colourless.
 5 MR MATHIBEDI SC: Thanks, Sir. Will you
 6 please proceed?
 7 [VIDEO IS SHOWN]
 8 Will you please pause?
 9 CHAIRPERSON: 21:41.
 10 MR MATHIBEDI SC: Sir, will you please
 11 identify the gentleman standing, depicted in the clip?
 12 MR X: Yes, I can.
 13 MR MATHIBEDI SC: Will you give us his
 14 name?
 15 MR X: That is Xolani.
 16 MR MATHIBEDI SC: Was he part of the
 17 makarapas?
 18 MR X: Yes, he was a makarapa, not only a
 19 makarapa but also on the committee at the mountain.
 20 MR MATHIBEDI SC: Is this the gentleman
 21 who was entrusted with the responsibility of safekeeping of
 22 weapons and articles that were taken from the police?
 23 MR X: Yes, he was the clever person on
 24 the mountain there.
 25 MR MATHIBEDI SC: Will you please proceed

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1 and play the video?

2 CHAIRPERSON: Moving on to 21:43.

3 [VIDEO IS SHOWN]

4 Stopped at 22:32.

5 MR MATHIBEDI SC: Witness that at one

6 stage he spoke while his fist was not clenched?

7 MR X: Yes, Sir.

8 MR MATHIBEDI SC: What was the attitude

9 of the strikers about that conduct?

10 MR X: He screams on him that he was

11 disobeying the instructions of the inyanga. The person who

12 then stood up and made order was Mambush, he clenched his

13 fist and ordered us.

14 MR MATHIBEDI SC: Will you please proceed

15 and play the video?

16 [VIDEO IS SHOWN]

17 Will you please stop?

18 CHAIRPERSON: 23:30.

19 MR MATHIBEDI SC: Sir, will you please

20 describe what you are seeing on the clip?

21 MR X: We did not obey what the policeman

22 was saying. We wanted them to shoot first but he seemed

23 not to have been shooting. We wanted them to shoot first.

24 MR MATHIBEDI SC: Can you describe how –

25 can you describe the position of the strikers?

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1 MR X: Yes, this was the position – this

2 was the instructions given by the inyanga that we should

3 walk in a crouching manner.

4 MR MATHIBEDI SC: On the video the police

5 officer appears to be alone at that stage, pointing a

6 firearm in the direction of the strikers. Can you see

7 that?

8 MR X: Yes, I see.

9 MR MATHIBEDI SC: Why was that police

10 officer not attacked at that stage?

11 MR X: Because he wasn't shooting. We

12 were waiting for him to shoot first.

13 MR MATHIBEDI SC: Will you please proceed

14 and play the video for us?

15 [VIDEO IS SHOWN]

16 CHAIRPERSON: 23:38.

17 MR MATHIBEDI SC: You once again can hear

18 the strikers ululating, is that correct?

19 MR X: Yes, Sir.

20 MR MATHIBEDI SC: Why did they do that?

21 MR X: To hasten our mutu.

22 MR MATHIBEDI SC: Are you in a position

23 to describe the manner in which the strikers are walking?

24 MR X: We were crouching, beating the

25 spears, trying to hasten the medicine and for the police to

Page 31203

1 start action.

2 MR MATHIBEDI SC: Will you please proceed

3 and play the video?

4 [VIDEO IS SHOWN]

5 CHAIRPERSON: 23:50.

6 MR MATHIBEDI SC: At this stage where

7 were the protestors heading to?

8 MR X: We were going towards the

9 settlement.

10 MR MATHIBEDI SC: What were the strikers

11 going to do in the settlement?

12 MR X: We were going to go through the

13 settlement to look at the people who were just hiding

14 there, taking beer.

15 COMMISSIONER HEMRAJ: I'm sorry, I didn't

16 understand that. Could you –

17 MR X: We were going to go through the

18 settlement to look and see the other strikers who were not

19 with us, who were busy with beer there.

20 MR MATHIBEDI SC: Sorry, I think the

21 interpreter missed a portion that they were going to be

22 killed.

23 CHAIRPERSON: Mr Mathibedi, repeat it?

24 COMMISSIONER TOKOTA: He said something

25 about the mountain, about those who were not with us at the

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1 mountain.

2 MR X: Yes, those who were not with us at

3 the mountain, who were busy in the settlement with beer.

4 MR MATHIBEDI SC: What was going to

5 happen to those who were not at the mountain?

6 MR X: We were going to kill them.

7 MR MATHIBEDI SC: Why were those people

8 going to be killed?

9 MR X: Because we're dying alone on the

10 mountain whilst they're seated in the settlement.

11 MR MATHIBEDI SC: There is evidence

12 before the Commission that the police, some members of the

13 police utilised teargas and stun grenade. Are you aware of

14 that?

15 MR X: Yes, Sir.

16 MR MATHIBEDI SC: At the stage that the

17 stun grenade and teargas was utilised where were the

18 strikers going to?

19 MR X: We were going to go through the

20 settlement towards the mountain.

21 MR MATHIBEDI SC: Through the settlement

22 to do what?

23 MR X: The people that we found there we

24 were going to kill.

25 MR MATHIBEDI SC: Are you in a position

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1 to tell the Commission what happened after the utilisation
 2 of the teargas and the stun grenade by the police?
 3 MR X: Then there was confrontation, Mr
 4 Chairperson, we killed two policemen. The third policeman
 5 ran towards the vehicles. We took two of the shorter guns
 6 and a long gun, cell phones and the radios and then we
 7 proceeded to the mountain.
 8 MR MATHIBEDI SC: What led to the
 9 confrontation between the strikers and the police?
 10 MR X: They first fired rubber bullets,
 11 the police.
 12 MR MATHIBEDI SC: And after firing, what
 13 happened?
 14 [12:22] MR X: We then attacked and killed one
 15 policeman. When we left the one policeman was still
 16 moving, he had not died as yet.
 17 MR MATHIBEDI SC: Now the firing that was
 18 done by the police, was it not effective to, in dispersing
 19 the strikers?
 20 MR X: No, it didn't work, we really did
 21 not care much about it.
 22 MR MATHIBEDI SC: Why was that firing not
 23 effective?
 24 MR X: Because the tribal healer had
 25 worked on us. He had put rituals on us.

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1 COMMISSIONER HEMRAJ: The confrontation
 2 that you talk about, did that come about because of the
 3 teargas and the stun grenades or because the police fired
 4 rubber bullets?
 5 MR X: Yes, Chairperson.
 6 COMMISSIONER HEMRAJ: Did it come about
 7 because of one or the other or all of them?
 8 MR X: Commissioner, it was the police
 9 who started the shooting. We did not shoot before them.
 10 They were to start the shooting.
 11 COMMISSIONER HEMRAJ: So when the teargas
 12 and the stun grenades were deployed, that didn't bring
 13 about the confrontation?
 14 MR X: First they shot the teargas and
 15 thereafter the fight ensued. Thereafter the fight ensued.
 16 COMMISSIONER HEMRAJ: Thank you.
 17 MR MATHIBEDI SC: Was the firing of the
 18 teargas and the stun grenade the cause of the attack by the
 19 strikers on the police?
 20 MR X: We started fighting them after
 21 they had fired the shot, after the rubber bullet was shot
 22 we knew that their gun had been blocked from working.
 23 MR MATHIBEDI SC: Sir, I just want to get
 24 clarity on something. What was the cause of the attack on
 25 the police by the strikers?

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1 MR X: It's because they were using a
 2 real gun now, they were using a real gun.
 3 MR MAHLANGU: He calls it a CCS.
 4 MR MATHIBEDI SC: Sir, you've testified
 5 that at one stage the protesters were going towards the
 6 informal settlement, do you remember that?
 7 MR X: Yes, sir.
 8 MR MATHIBEDI SC: Now, the police noting
 9 that the strikers were going towards the informal
 10 settlement –
 11 CHAIRPERSON: How does he know what the
 12 police noted? That's a leading question, please don't lead
 13 the witness.
 14 MR MATHIBEDI SC: Thanks, Chair, sorry.
 15 At the stage that the strikers were going towards the
 16 informal settlement was there any reaction from the police?
 17 MR X: Yes, they did not want us to go
 18 into the settlement, that's when they fired with the rubber
 19 bullets.
 20 MR MATHIBEDI SC: Did the police fire
 21 teargas at any stage?
 22 MR X: There were those who fired
 23 teargas, yes.
 24 MR MATHIBEDI SC: At what stage did the
 25 police fire teargas?

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1 MR X: When they, when we started walking
 2 towards the settlement, that's the first time they shot
 3 teargas.
 4 MR MATHIBEDI SC: And what effect did
 5 that have? The firing of teargas, what effect did it have
 6 on the conduct of the strikers?
 7 MR X: We did not care for them, then the
 8 fight started and the two policemen were eventually killed.
 9 COMMISSIONER HEMRAJ: Would the teargas –
 10 sorry.
 11 MR X: I chased the one, I chased the one
 12 who ran away. He ran towards the cars. He was saved, Mr
 13 Chairperson, I only got him on his left leg, that is the
 14 third policeman. The others attacked the other two
 15 policemen.
 16 MR MATHIBEDI SC: The police officer that
 17 you attacked, where was he at that stage?
 18 MR X: He was amongst the other
 19 policeman, amongst the two who were killed there and then
 20 he ran away towards the vehicles.
 21 MR MATHIBEDI SC: Now I would like you to
 22 describe the attack on the other police officers.
 23 MR X: I hit the one policeman and took
 24 his gun, probably to chase.
 25 MR MATHIBEDI SC: Now this police

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1 officer, on which part of the body was he hit?

2 MR X: He hit the policeman with a gun.

3 MR MATHIBEDI SC: On which part of the

4 body was he hit? Are you in a position to assist us?

5 MR X: It was in the region of the

6 forehead.

7 MR MATHIBEDI SC: And then what happened

8 to – are you in a position to describe the firearm that was

9 in the possession of the police officer?

10 MR X: It was the shotgun that he took

11 and threw over to Shezi.

12 CHAIRPERSON: You say shotgun or short

13 gun?

14 MR X: There were two of the shorter

15 guns, different sizes and then there was the long one.

16 CHAIRPERSON: Are you talking about a

17 pistol, in other words?

18 MR X: Yes, two pistols and a long gun.

19 MR MATHIBEDI SC: Will you tell us about

20 the second pistol? Who was in possession of that pistol?

21 MR X: Mambush, Chairperson.

22 MR MATHIBEDI SC: Where did Mambush get

23 that firearm?

24 MR X: Guns were found from the police.

25 MR MATHIBEDI SC: Which police officer

Page 31210

1 are you referring to?

2 MR X: From the two who were lying on the

3 ground, Chairperson.

4 MR MATHIBEDI SC: Now will you please

5 proceed and tell us how it came about that those police

6 officers should lie on the ground?

7 MR X: Magubane and Anele attacked the

8 one policeman and hit him.

9 MR MAHLANGU: He indicates on the head.

10 MR MATHIBEDI SC: Do you know if that

11 police officer who was attacked sustained any injuries on

12 the head?

13 MR X: Yes, he was hit with a panga and

14 he was injured.

15 MR MATHIBEDI SC: Are you in a position

16 to help us as to who else took part in the attack on the

17 police, the police officer that you have just testified

18 about?

19 MR X: Yes, sir.

20 MR MATHIBEDI SC: Will you please

21 proceed, sir, and tell us?

22 MR X: Baai, Mambush, Anele, Rasta,

23 Bhele.

24 MR MATHIBEDI SC: With what was the

25 police officer attacked?

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1 MR X: With the pangas and the gun.

2 MR MATHIBEDI SC: Are you aware that

3 another police officer also sustained injuries?

4 MR X: There were three policemen. One

5 had already died, the one when we left was still shaking,

6 he wasn't dead. Later the other one ran towards the

7 vehicles.

8 MR MATHIBEDI SC: Sir, can we now deal

9 with the police officer who was killed. Will you proceed

10 and describe how he was killed?

11 MR X: He was chopped on the back of the

12 head with a bush knife, a panga.

13 MR MATHIBEDI SC: Who chopped the police

14 officer on the head?

15 MR X: It was Magubane and Anele.

16 MR MATHIBEDI SC: Precisely how did Anele

17 attack the police officer that was killed?

18 MR X: He had a panga as well, he was

19 chopping him with a panga.

20 COMMISSIONER HEMRAJ: Sorry, was the

21 policeman running away at that stage?

22 MR X: Chairperson, there was a lot of

23 commotion, there was fighting going on there.

24 COMMISSIONER HEMRAJ: Yes, but do you

25 know if the policeman was with his back towards the two

Page 31212

1 persons you've mentioned?

2 MR X: Yes, he was running.

3 MR MATHIBEDI SC: Was the police officer

4 in possession of a firearm?

5 MR X: Yes, he had a gun. His gun was

6 taken. We took all their firearms from the three

7 policeman.

8 MR MATHIBEDI SC: For now, sir, let's

9 concentrate on the police officer who was killed. Was he

10 in possession of a firearm?

11 MR X: Yes.

12 MR MATHIBEDI SC: What happened to his

13 firearm?

14 MR X: The firearm was taken.

15 MR MATHIBEDI SC: Who took the firearm?

16 MR X: One was taken by Mambush and the

17 other one was by Baai.

18 MR MATHIBEDI SC: Now the one who was

19 taken from the police officer that was killed, are you in a

20 position to describe that firearm?

21 MR X: He had a pistol.

22 MR MATHIBEDI SC: Now we go over, sir, to

23 the second police officer who, sir, appears to be still

24 alive, did you see how that police officer was attacked?

25 MR X: Yes, sir.

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1 MR MATHIBEDI SC: Who attacked that
 2 police officer?
 3 MR X: Anele and Magubane.
 4 MR MATHIBEDI SC: With what was the
 5 police officer attacked?
 6 MR X: They had pangas as well and a gun,
 7 a [indistinct].
 8 COMMISSIONER HEMRAJ: Are you saying the
 9 same two persons who attacked the first policeman, attacked
 10 the second policeman as well?
 11 MR X: No, no. We were acting
 12 differently. Some were chasing this policeman and others
 13 were attacking the other one. The guns were taken, we took
 14 the firearms.
 15 COMMISSIONER HEMRAJ: Perhaps you want to
 16 clarify that, Mr Mathibedi.
 17 MR MATHIBEDI SC: Thanks, Chair. Sir,
 18 can we clarify the attack on the police officer who was
 19 killed?
 20 MR X: He was attacked by Baai and
 21 Mambush.
 22 MR MATHIBEDI SC: Are they the only two
 23 people that attacked the police officer?
 24 MR X: Yes, because Magubane and Anele
 25 were attacking the second policeman. The third one was the

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1 one that was being attacked by me and the others who ran
 2 away to the vehicles.
 3 MR MATHIBEDI SC: The second police
 4 officer, was he in possession of a firearm?
 5 MR X: All three. Chairperson, yes, all
 6 three policemen had firearms except that the one, the two
 7 had pistols and the one had a longer gun. We also took the
 8 cell phones.
 9 MR MATHIBEDI SC: The second police
 10 officer, what kind of firearm did he have with him?
 11 MR X: It was a pistol.
 12 MR MATHIBEDI SC: The third police
 13 officer, what kind of firearm did he have?
 14 [12:42] MR X: This is the gun that – there were
 15 two pistols and the one longer gun that one pulls from the
 16 back. All in all there were three guns that were taken
 17 from the police.
 18 MR MATHIBEDI SC: Which police officer
 19 had the long firearm?
 20 MR X: The one that was being attacked
 21 and being hacked by Makubane, who was lying on the ground,
 22 yes.
 23 MR MATHIBEDI SC: What happened to the
 24 three firearms?
 25 MR X: These were taken and put on the

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1 mountain. Mambush and Xolani then made a report back.
 2 MR MATHIBEDI SC: Sir, for now let's
 3 concentrate at the scene where there was, the police
 4 officers were attacked.
 5 MR X: Yes, Sir.
 6 MR MATHIBEDI SC: You testified about the
 7 cell phones that were taken. You remember that?
 8 MR X: Yes, Sir.
 9 MR MATHIBEDI SC: From whom were the cell
 10 phone taken?
 11 MR X: I did not know the names of the
 12 police who were lying down, they had cell phones.
 13 MR MATHIBEDI SC: Yes, Sir, I'm referring
 14 to the persons that took the cell phones from the police.
 15 MR X: Mambush, Chairperson.
 16 MR MATHIBEDI SC: How many cell phones
 17 were there?
 18 MR X: What I remember is that there were
 19 two.
 20 MR MATHIBEDI SC: You said Mambush took.
 21 How many cell phones did Mambush take?
 22 MR X: From the one policeman Mambush
 23 took one cell phone and a radio.
 24 MR MATHIBEDI SC: Do you know who took
 25 the other cell phone from the police officer?

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1 MR X: Yes, it was Anele, Chairperson.
 2 MR MATHIBEDI SC: Did the strikers at any
 3 stage leave the area where the attack took place?
 4 MR X: Yes, we then left through the
 5 settlement and towards the mountain. There were some of
 6 our people that got injured, were taken to the mountain and
 7 Mambush and Xolani arranged for their transport,
 8 Chairperson. These are people who joined us along the way,
 9 Mr Chairperson, who had not undergone the rituals.
 10 MR MATHIBEDI SC: Sir, upon the arrival
 11 from the scene where the police officers were attacked,
 12 where did the strikers go?
 13 MR MAHLANGU: I'm sorry, Sir, just repeat
 14 the question.
 15 MR MATHIBEDI SC: From the scene where
 16 the police officers were attacked, where did the strikers
 17 go?
 18 MR X: We're in the direction of the
 19 settlement, we went through the settlement and proceeded to
 20 the mountain.
 21 MR MATHIBEDI SC: Did the strikers
 22 ultimately arrive at the mountain?
 23 MR X: This is where Mambush and Xolani
 24 made the report about the things that had been taken from
 25 the police. It was then decided, Chairperson, that anybody

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1 who is wearing a red T-shirt should take it off, it must be
 2 torn and be burned because we did not want NUM on the
 3 mountain. It was said the vehicle that is not moving is
 4 being left and we get into a vehicle that is capable of
 5 moving.
 6 MR MATHIBEDI SC: To which vehicle were
 7 the strikers referring to?
 8 MR X: It was said NUM is not moving and
 9 the movement, the organisation that is moving is AMCU and
 10 we should join AMCU.
 11 MR MATHIBEDI SC: Why was NUM referred to
 12 as a vehicle that was not moving?
 13 MR X: Because we had taken a decision
 14 that NUM was to be killed.
 15 MR MATHIBEDI SC: Why was a decision
 16 taken that NUM should be killed?
 17 MR X: We were killing it with bush
 18 knives, with pangas. That is why we mentioned we were
 19 going to kill Zokwana.
 20 MR MATHIBEDI SC: The question is why was
 21 that decision taken to kill NUM?
 22 MR X: Because they were stopping us from
 23 our demands. They were stopping the demands that we were
 24 making.
 25 MR MATHIBEDI SC: Which demands are you

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1 referring to, Sir?
 2 MR X: We wanted 12 500.
 3 MR MATHIBEDI SC: Which vehicle was the
 4 one that was referred to as a moving one?
 5 MR X: It was said it was AMCU.
 6 MR MATHIBEDI SC: Why was AMCU referred
 7 to as a moving vehicle?
 8 MR X: Because it was together with us.
 9 MR MATHIBEDI SC: What do you mean by
 10 that, that it was moving together with the strikers?
 11 MR X: Because it was also interested in
 12 what we were demanding, that 12 500.
 13 MR MATHIBEDI SC: When did you become
 14 aware that AMCU was interested in the demand of the
 15 strikers?
 16 MR X: After the killing of the police at
 17 Marikana on the 13th, Mr Chairperson, when it was also
 18 mentioned that the red T-shirts should be destroyed, we
 19 should not get into a non-moving vehicle but get into a
 20 vehicle that has movement.
 21 MR MATHIBEDI SC: From whom did you hear
 22 that, Sir?
 23 MR X: Mambush and Xolani were addressing
 24 us.
 25 MR MATHIBEDI SC: Was a decision taken

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1 regarding the red T-shirts?
 2 MR X: Yes, that it was to be torn,
 3 thrown away.
 4 MR MATHIBEDI SC: What happened after
 5 that decision was taken on that day?
 6 MR X: We were then revived by being
 7 sprayed with intelezi, those of us who had undergone the
 8 rituals.
 9 MR MATHIBEDI SC: During that discussion
 10 were you a member of any union?
 11 MR X: Yes, I was then member of NUM. I
 12 changed from it and joined AMCU, because I was forced to
 13 join AMCU –
 14 MR MAHLANGU: If I may just ask him,
 15 Chairperson.
 16 MR X: - otherwise I would have been
 17 injured because this other union was rejected there.
 18 MR MATHIBEDI SC: When did you join AMCU?
 19 MR X: At the mountain.
 20 MR MATHIBEDI SC: Will you proceed and
 21 tell us how you joined AMCU at the mountain?
 22 MR X: I just gave them my clock card
 23 number and joined AMCU without reading any of its
 24 constitution. I filled in a form, the gentleman said I
 25 just should fill in that form, AMCU did not have a

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1 constitution but NUM had a constitution which stated that
 2 this and this and this should be done and this and this
 3 should not be done.
 4 MR MATHIBEDI SC: The form that you
 5 completed, where did you get it?
 6 MR X: There was a person over there who
 7 was dishing out these papers there on the mountain. It
 8 looked as though he was working for AMCU.
 9 MR MATHIBEDI SC: Do you know the details
 10 of the person who dished out the forms?
 11 MR X: Yes, by seeing him, yes, I
 12 remember him. He was a member of the makarapas on the
 13 mountain.
 14 MR MATHIBEDI SC: Did you at any stage
 15 cease your membership with AMCU?
 16 MR X: As I was with AMCU for two months,
 17 Chairperson, I then went back to NUM.
 18 MR MATHIBEDI SC: He mentioned something
 19 was done for two months.
 20 MR MAHLANGU: It seems he was a member of
 21 AMCU for two months where there were deductions made.
 22 MR X: I then went back to the NUM.
 23 MR MATHIBEDI SC: Thanks, Mr Mahlangu.
 24 MR MAHLANGU: Sorry, I didn't mention the
 25 deductions.

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1 MR MATHIBEDI SC: Why did you cease your
 2 membership with AMCU?
 3 MR X: I realised that it had no future.
 4 It will just end up, there is no organisation that kills
 5 people.
 6 MR MATHIBEDI SC: You testified that upon
 7 arrival at the koppie three firearms were presented. Do
 8 you still remember that, Sir?
 9 MR X: Yes, Sir.
 10 COMMISSIONER HEMRAJ: Before you go
 11 there, you said that there's no organisation that kills
 12 people. What does that mean?
 13 MR X: Chairperson, the constitution of a
 14 union does not allow people to be killed.
 15 COMMISSIONER HEMRAJ: Yes, and what
 16 organisation was allowing anyone to kill people here?
 17 MR X: AMCU, Chairperson.
 18 COMMISSIONER HEMRAJ: Why do you say
 19 that?
 20 MR X: On the 14th, Chairperson, a message
 21 was received by Joseph Mathunjwa that people should join
 22 AMCU because NUM is the mouthpiece of Zuma. AMCU was the
 23 organisation that would help us to achieve our demands. It
 24 was also mentioned that they would be coming to the
 25 mountain on the 15th together with Zokwana to come and

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1 address the strikers and we were told not to allow Zokwana
 2 to address the meeting.
 3 CHAIRPERSON: Was that mentioned on the
 4 Tuesday?
 5 MR X: It was on the 14th, Chairperson,
 6 that this was mentioned and Zokwana and Mathunjwa arrived
 7 on the mountain on the 15th.
 8 CHAIRPERSON: Yes, so you say on the 14th,
 9 that's the Tuesday, you were told that Zokwana was coming.
 10 Is that correct? Do I understand you correctly?
 11 MR X: That's correct, Chairperson.
 12 CHAIRPERSON: What time on the Tuesday
 13 were you told Zokwana would be there on the Wednesday?
 14 MR X: Chairperson, the message was
 15 received through Xolani's phone because they were the only
 16 two, him and Mambush, who were carrying watches. We wear
 17 not allowed to carry watches or any cell phones. They gave
 18 us this information what Mathunjwa was saying.
 19 CHAIRPERSON: Was that during the daytime
 20 or the evening?
 21 MR X: It was quite late, quite late.
 22 CHAIRPERSON: The sun had gone down?
 23 MR X: Yes, it was quite late,
 24 Chairperson.
 25 CHAIRPERSON: Was it after sunset or

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1 before sunset?
 2 MR X: He was driving a van, that's
 3 Mathunjwa. Mathunjwa was driving a van.
 4 CHAIRPERSON: Now I understand you're
 5 going to tell us something about Mr Mathunjwa coming there,
 6 but I understood you to be talking now about something that
 7 happened before Mr Mathunjwa came when you were telling us
 8 about a message that Mambush got on his cell phone.
 9 MR MATHIBEDI SC: Sorry Chair, he said
 10 Xolani.
 11 CHAIRPERSON: Xolani. Yes, of course,
 12 Xolani was the cell phone holder. Yes, that's right. So
 13 what I'm interested in is the message that Xolani got over
 14 the cell phone which he then conveyed to the rest of you,
 15 what time did that happen?
 16 MR X: It was quite late, Chairperson,
 17 and on the same day Mathunjwa came and he said to us he'll
 18 come the following day with Zokwana, we should not allow
 19 Zokwana to address us.
 20 CHAIRPERSON: Yes, I understand that, but
 21 Mr Mathunjwa came after Xolani had received this message on
 22 his cell phone. I understand that. What I'm interested in
 23 knowing is –
 24 MR X: Yes, Sir.
 25 CHAIRPERSON: - what time roughly, was it

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1 before sunset, after sunset, when Xolani got this message
 2 on his cell phone which he conveyed to the rest of you?
 3 [13:01] MR X: I didn't have time with me,
 4 Chairperson. It was quite late.
 5 CHAIRPERSON: Was it already dark?
 6 MR X: It was after sunset, Chairperson.
 7 CHAIRPERSON: Perhaps this is a
 8 convenient stage, Mr Mathibedi, to take the lunch
 9 adjournment, unless there's some point you want to deal
 10 with before we take the lunch adjournment?
 11 MR MATHIBEDI SC: Thanks, Chair, I think
 12 we could take the lunch.
 13 CHAIRPERSON: We'll take the lunch
 14 adjournment and we'll reassemble at quarter to.
 15 [COMMISSION ADJOURNS COMMISSION RESUMES]
 16 [14:03] CHAIRPERSON: The Commission resumes. We
 17 had some housekeeping matters relating to this witness and
 18 statements which have to be given, which we had to tend to
 19 during the adjournment and I'm sorry we're resuming later
 20 than I thought we would. Mr Mathibedi?
 21 MR MATHIBEDI SC: Thanks, Chair. Chair,
 22 at this stage we are bringing an application for a
 23 postponement for the hearing of the evidence of Mr X to
 24 Friday. It's because he's tired. That is due to fatigue,
 25 Chair.

1 CHAIRPERSON: You know we all get tired,
 2 but that's not a reason to postpone a case without more.
 3 Why is his tiredness of such a nature that we can't carry
 4 on this afternoon? We lose two hours and we have to make
 5 them up at some stage later, so when will we do that?

6 MR MATHIBEDI SC: That's correct. Chair,
 7 you will bear in mind that as far as we are concerned we
 8 have been initially allocated two and a half days for the
 9 hearing of Mr X and the way in which, you know, things are
 10 going I think taking into account that we did not utilise
 11 yesterday, we only have had two days to hear his evidence
 12 and also on Thursday probably we started at about 12
 13 o'clock, we respectfully submit, Chairperson, that we are
 14 within trying to complete the evidence of Mr X, evidence-
 15 in-chief, within two days, but he's in such a situation
 16 that he's fatigued to an extent that he will not be in a
 17 position to can properly concentrate in the proceedings,
 18 and Chairperson, taking into account that he's a very, very
 19 important witness in as far as the events that transpired.

20 CHAIRPERSON: You know I understand what
 21 you say. Of course it's sometimes an unwise thing for a
 22 judicial officer to compel a witness to give evidence when
 23 he complains he's unable to continue properly, because it
 24 affects the value of the evidence he gives and those who
 25 may wish to rely on statements that he makes while he's in

1 examination-in-chief because particularly this witness as I
 2 am informed is illiterate, so one can't just give him a
 3 bundle of documents and say read them. The documents have
 4 to be read to him and translated in fact, so I have spoken
 5 to the attorney representing the injured and arrested
 6 persons and I understand – and perhaps you can repeat here
 7 in the chamber what you told me in chambers in regard to
 8 you – in regard to what you told me in chambers, Ms Keetse,
 9 about what you're going to do about the problem that I put
 10 to you.

11 MS KEETSE: Thank you, Chair and the
 12 Commissioners. I'll be communicating with my leader this
 13 afternoon and to ensure that the ruling that has been made
 14 by the Chair is taken care of.

15 CHAIRPERSON: We do want the list by
 16 tomorrow morning so that, first thing tomorrow morning.
 17 That will give counsel for the police service two full
 18 days, tomorrow and Thursday, to deal with these documents,
 19 the one that you're going to tell us about and the
 20 documents to which their attention has already been drawn
 21 by other parties, so that one hopes the evidence-in-chief
 22 of the witness can be concluded at the end of the evidence
 23 on Friday. But at this stage we will adjourn until
 24 tomorrow morning 9 o'clock.

25 [COMMISSION ADJOURNED]

1 that condition may find that the statements they wish to
 2 rely on can be explained away on the basis of tiredness and
 3 fatigue and inability of the witness really to concentrate
 4 properly.

5 I'm very reluctant to grant the postponement, but
 6 on the other hand I have to bear in mind that all witnesses
 7 must be dealt with in a humane manner and as I've said it's
 8 actually unwise for a judicial officer to force a witness
 9 to give evidence at a time when he appears not to be in a
 10 proper position to concentrate properly on the evidence
 11 he's giving. It affects the value of the evidence he
 12 gives, so in the circumstances I grant the application.

13 MR MATHIBEDI SC: Thanks, Chairperson.

14 CHAIRPERSON: The witness is to return on
 15 Friday morning at 9 o'clock, return in the electronic
 16 sense. Tomorrow we will have the evidence of Mr White,
 17 tomorrow and on Thursday. That's the expert who's coming
 18 specially from Northern Ireland. I understand that all the
 19 parties who wish to cross-examine Mr X bar one have given
 20 notice of the documents on which they wish to rely and I
 21 take it, I haven't seen the application, the topics on
 22 which they seek leave to cross-examine. However, we
 23 haven't got a list of documents upon which the injured and
 24 arrested persons wish to rely. That makes it extremely
 25 difficult for counsel leading the witness to complete the

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| <p style="text-align: center;">A</p> <p>AAAA21 31159:19 31161:18 31162:18 31163:23 31170:16 AAAA22 31160:13 31164:15 able 31148:15 31153:2 31158:19,20 31169:4 31176:12 31189:8 abrasion 31165:12 accept 31143:4 account 31165:18 31225:10,18 achieve 31221:23 act 31177:2 31181:25 31199:3 acting 31183:18 31213:11 action 31203:1 actual 31146:21 address 31184:10 31196:13 31222:1,2 31223:19 addressing 31218:23 adjourn 31227:23 ADJOURNED 31227:25 adjournment 31163:25 31164:3,4,10 31170:1 31170:5 31171:3,6 31196:21 31224:9,10 31224:14,19 ADJOURNS 31170:6 31196:23 31224:15 admissibility 31141:25 31143:2 admissible 31143:5 Adv 31143:11 31144:25 advantage 31143:23 advisable 31170:1 advised 31162:23 affidavit 31164:22 afraid 31169:11 afternoon 31225:4 31227:13 ago 31167:14 ahead 31169:21 31177:25 alight 31149:21 31150:21 31151:3,7,8 alive 31212:24 allegations 31142:23 alleged 31143:24 allocated 31225:8 allow 31187:25 31221:14 31222:1 31223:18 allowed 31222:17 allowing 31221:16 alright 31144:17 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31151:13 31166:17 31168:8 31222:6 articles 31200:22 asked 31156:17,18 31157:15,16 31195:2 asking 31189:3 31196:17 aspect 31164:3</p> | <p>aspects 31142:13 assaulted 31141:12 assaults 31143:24 assess 31143:1 assist 31209:4 assistants 31184:23 assume 31142:22 ate 31152:25 attached 31170:15 attack 31145:9,12 31147:18 31148:2,7 31149:5 31157:6 31206:18,24 31208:22 31210:16 31211:17 31213:18 31216:3 attacked 31144:15 31157:13 31202:10 31205:14 31208:14 31208:17 31210:7,11 31210:25 31212:24 31213:1,5,9,9,20,23 31214:1,20 31215:4 31216:11,16 attacking 31213:13,25 attending 31162:25 attention 31227:20 attitude 31201:8 attorney 31143:6 31227:5 auditorium 31170:14 31170:25 August 31144:10 31154:3 31158:12 31160:14,17 available 31164:1 aware 31166:9 31183:16 31195:12 31204:13 31211:2 31218:14 A34 31158:25</p> <p style="text-align: center;">B</p> <p>B 31158:3 31159:4 Baai 31148:9 31153:15 31155:17 31156:3 31157:9 31167:21 31210:22 31212:17 31213:20 back 31148:25 31149:7 31149:23 31150:3 31151:25 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