

# *Report*

TO : MR WILSON MAGADHLA

FROM : RAJIE MURUGAN

RE : ANTON LUBOWSKI INQUEST

JUDGE : NIC HANNAH

DATE : 13 FEBRUARY 1998

## SUMMARY OF EVIDENCE

On the 5 May 1998 I received an instruction from yourself to proceed to Namibia and attend the Anton Lubowski Inquest ( AL ). The Inquest started on the 9 February 1998 at 10:00. Prior to my departure I received a briefing from Christelle Terblanche and she mentioned names of persons that may be of assistance.

I will thus outline the proceedings as it unfolded and indicate this gist of the evidence that was tendered. It must be noted that the Namibian Prosecutor General Mr Hans Heyman indicated that this was not a new inquest, but an extension of the previous one. Advocate Kobus Muller led the evidence and the judge stated the PG was asking the court to make a new finding as the PG did not agree with the one made by Justice Levy, now retired.

FIRST WITNESS : HANNES SMITH

Mr Smith is the editor of the NAMIBIAN OBSERVER. On the 26 January 1996 he published an article entitled " EX SADF REVEALS LUBOWSKI'S ASSASIN" The article stated that he (Smith) had interviewed an unnamed and unknown source in Johannesburg on the 22 of January 1996, who informed him that he knew one of AL's assassins. The witness refused to name the alledged assassin and was warned by the judge that he will be held in contempt and faced the possibility of a jail sentence. The witness stated further, that he had acquired some documents from this source. He was requested to hand over the documents as well and was given until Thursday to do so.

The witness wrote the name of the alledged perpetrator and his address on a piece of paper and handed it into court. The judge entered the piece of paper into the evidence as an exhibit.

It decided to approach the judge in chambers and request that the name be handed over to the TRC. I motivated our case and he decided that he will make it available. I handed him an official request (see attached copy) and he handed me a copy of the note. The judge impressed upon me that the name should not be published until or unless the TRC could verify the veracity of the allegation. The name was not made available to the press or other interested parties.

The saga over the documents should be resolved and a further report on its progress will be forwarded.

SECOND WITNESS : WARRANT OFFICER MOYEMBU

This witness is a Policeman who made certain allegations of collusion by the Namibian Police. His evidence was around any information or documents that he possessed that may give credence to his allegations. It appeared that he was not able to do so. Advocate Muller seemed to be a bit heavy on this witness to the extent of refuting or saying that his (the witness's) theory was far fetched. Whilst the witness did not have much to offer by way of evidence, it would be prudent not to reject his theory out of hand.

THIRD WITNESS : MR POTGIETER

He was the first policeman on the scene together with Inspector Gert van der Walt. He found the deceased in front of the gate.

His evidence is vital because he states that the street light was not working. This is extremely important especially as it would probably have a direct implication in relation to the name tendered by Hannes Smith. He stated that he had to park police vehicles in front to cast light on the deceased. Corroboration of this aspect of the evidence must be sought. The TV news footage of NBC may be of value.

FOURTH WITNESS : MRS JANSE

This witness was available but did not testify. Her statement was read into the record. She states that days before the murder she saw people monitoring AL's home , No 7 Zanderberg Street. She worked as a maid in a house nearby. She was able to describe the white persons and sated that they were photographing, videoing and scanning the premises with binoculars. It also happened the next day and she wrote down the registration number and gave it to her boss, Mrs Scheepers. This is vital information as it ties in with the evidence of the first Inquest.

FIFTH WITNESS ; MRS SCHEEPERS

She was the boss of Mrs Janse. She also saw these vehicles and mentioned a red Golf a white kombi and another white car. It is interesting to note that both statements were taken by Moyembo in June 1993.

SIXTH WITNESS : MR VON KEUNAN

He is a German who lived next door to AL. He heard an automatic burst of fire and ran to investigate. Micaela was at home and she was hysterical. The police arrived and he saw them picking up the AK 47 cartridges and then throwing them back down again. They were also trampling over footprints in the vicinity. The termed this “destroying of evidence” in the statement and it appears that he was called so that this part could be changed to reflect on poor investigations rather than destruction of evidence. He was a policeman in Germany for twenty years prior to the incident and this would have influenced his judgement and give credibility to it.

SEVENTH WITNESS : MARIUS VISSER

He was a member of the investigating team under the command of Jumbo Smith. He examined the vehicle and was of the opinion that the marks was made by an AK47. The PG tried to ascertain why he came to that conclusion and the witness was not able to give an acceptable answer.

EIGHTH WITNESS : DEP. COMMISSIONER JUMBO SMITH

He was the chief investigating officer. He was of the opinion that the vehicle was a Conquest. He also explained that the statement made by Verster into the matter was not worth the paper it was written on. This is why he did not hand it into the first Inquest. He also chose elected to comment on the issue of the light. He stated that there is no way that the light could have been off as his experience and the fact that he was on scene until the end would have caused him to notice that the light was off. This is an interesting if not, unusual stance.

COMMENTS AND ANALYSES

Although, the evidence of Smith should be treated with caution, the name of the alledged assassin is a new one to this case. It is as the judge says “a bald allegation” based on hearsay, but is of primary investigative value. This name **must** not be thrown around irresponsibly, but enough should be done via existing intelligence and other security structures to determine the substance of this allegation.

Whilst it is clear that the Inquest will not reveal any new information, serves to renew the motivation and political will that is required to bring this matter to a successful close. The efforts of the department of Justice and Safety and Security in RSA together with that of the Namibian authorities is important in this regard. There has been emphasis on much of the evidence that cannot in the final analysis be disregarded or not acted upon. This includes two witnesses who saw white males monitoring the house of AL. This is more corroborative evidence to the all too well known CCB activity.

I would like to comment on the evidence of Hannes Smith.

He is an eccentric old man who does not conform to acceptable journalistic ethics, very forceful and not scared to take on even the most powerful. He is emotional and plays with words and is quite articulate. He seems to have quite some method to his madness, and is very much an able investigative journalist.

Given his track record, can one disregard his information?

NO. I believe that the name given by him is one that he did not suck out of his thumb. The perpetrator he names is "MARTIN HENNIG" a new name to this case. The alleged suspect is currently in the employ of the Johannesburg City Council and is a former MI man (SADF) who was mentioned in the Hiemstra Commission as having spied on Webster.

The evidence of Potgieter is also a particularly important one. There may be a relation between Martin Hennig and the light issue and/or the assassination. So too is the evidence around the monitoring of the house.

Dep. Comm. Jumbo Smit also gave evidence and it is one aspect of his evidence that raises some questions. During his testimony, he stated without any prompting that he disagreed with , Potgieter about the light. This is odd as he says that his experience and time spent on the scene would have caused him to notice if the light was off. Thus the light may be a crucial factor in any further investigations.

### INVESTIGATIONS CONDUCTED

I proceeded to the airport and checked with air Namibia and found that on the 22 January 1996 a Mr J Smith travelled on an SAA 072 to Johannesburg. If it is in fact Johannes Smith then it helps to corroborate his story.

I also spoke to the American woman now living in AL's house and she said that there was a computer network in the house in which the Ministry of Finance was being set up for the new Government. She referred me to a Dino who was AL's maid who can assist with some information.

## INVESTIGATION PROPOSAL

I am of the firm opinion that this is a case that can be solved. It requires a concerted effort from all the relevant South African institutions and that of the Namibian authorities. Whilst much has been done already and there seems to be a political will on all sides to resolve this issue, what is outstanding is a final push over the line.

The Commission has in the main played a reasonably active role in this case and given time and more resources, it may be successful, but the torch has to be carried further by our Department of Justice and/or Safety and Security.

There still is a role to be played by the TRC. We can question some of the CCB people and try and facilitate the access to witnesses and perpetrators by the Namibians. There is much to be done by way of investigation by the TRC in Namibia, in a way we may be the family's last hope.

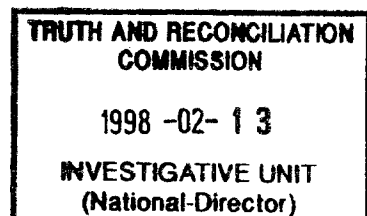
It is however a sensitive matter especially that there is a sovereign country involved but I think that we owe it to the family, the Namibians and mostly to ourselves to bring our own people who may have been responsible to book. The opportunity to apply for amnesty was scorned and justice must prevail.

The name of MARTIN HENNIG has now been released to the media by Smith more in a fit of rage and the investigations need to be focused on him for a while.

What is important now is what recommendations are made in the final report on this and many other such matters that cannot be left unresolved.

KIND REGARDS

RAJIE MURUGAN



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Ex Secretary Secretary

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