TRANSCRIPTION OF THE

COMMISSION OF INQUIRY

MARIKANA

BEFORE TRIBUNAL

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

HELD ON

DAY 12  14 NOVEMBER 2012  PAGES 1321 TO 1431

HELD AT

CIVIC CENTRE, RUSTENBURG, NORTH WEST PROVINCE

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[PROCEEDINGS ON 14 NOVEMBER 2012]


Before we proceed with the presentation that we were listening to last time, I'm informed that today is the birthday of Mr Bizos SC. On behalf of the Commission we want to extend to him our best wishes. We hope, despite what's happening here today, that he has a wonderful day, many happy returns and a great year.

MR BIZOS SC: Thank you.

CHAIRPERSON: Colonel, you were busy with your presentation. Can you – are you ready to proceed?

LT-COL SCOTT: Thank you, Chairperson. Chairperson, we'd just like to take a moment in recapping to clarify some areas of uncertainty which may have caused some discrepancies amongst some of the evidence leaders and maybe some of the members of the legal teams, amongst which was certain video footage which we put together, reflecting the rituals. What we'd done is we'd taken three videos and we clipped them together to save time, so we didn't show the full clip. With your permission we'd like to show – it's not that long – the actual footage so that it clarifies exactly where it came from and how it came about.

CHAIRPERSON: Yes, certainly you may do that.

LT-COL SCOTT: Thank you. Right, we'll proceed with the video. The videos that we'll watch was the police arrival on the Tuesday, which was the first deployment, the stage 1 deployment. I have included the video's properties, which is 02 MTS, the video camera's clock was out but we can see that the time is approximately 08 30. This is the first arrival of the police.

[VIDEO IS SHOWN]

LT-COL SCOTT: - addressing, still with the air photographers and where they were standing in lines.

[VIDEO IS SHOWN]

LT-COL SCOTT: What you can hear in the background is the negotiator, Lieutenant-Colonel Macintosh, and they are trying to gain representatives from the group to come and speak to them and he's speaking through the interpreter who is speaking over the loudspeaker of the armoured vehicle.

[VIDEO IS SHOWN]

LT-COL SCOTT: What we can see now is the contraption tied to the upper right arm in the last clip. What seems to be the inyangas having some form of contraption tied to the upper right arm in the last clip. We move to video clip 43. This is about 24 minutes after the arrival of the police. One of the protesters representing the group has moved out from the group to urinate in the police's direction. This is after first contact has been made over the loudspeaker from the protesters and the police.

[VIDEO IS SHOWN]

LT-COL SCOTT: Chairperson, those were the videos, those were the four raw video clips of the videos that we initially used on that Tuesday.

CHAIRPERSON: I want to ask you a question, maybe it's something that will come up later. You spoke about the – I think you used the word “inyangas”, the people who were sprinkling liquid and doing other things, taking part in the rituals – have you been able to identify any of those people?

LT-COL SCOTT: Chairperson, I'm not at liberty to answer that but I know an investigation was launched and that there is a case docket that's been opened.

CHAIRPERSON: I see, thank you.

LT-COL SCOTT: A second area that we'd like to clarify as well, Chairperson, is regarding the slides taken from the Google map. You did ask on Friday regarding one of those slides. Similar to the tables that were presented, the slides were placed in the presentation for the Commission and for the legal teams to get a better idea of the different stages of the operation. And as seen on screen, the slides depicted there, 74, was made for stage 1. Stage 2 was slide 78, stage 3 was slide 81 and 76 later on, reflected again on the Thursday the 16th. The slides which spoke to the actual briefing of the day were slides 148, 149 and 150 regarding stage 2 and slide 181 regarding stage 3.

I think a point of emphasis again, Chairperson, regarding your question on Friday was, the briefing given...
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24 cable-tying of the hands of protesters that were wounded.

23 large knife and a panga, thus the initial handcuffing or

22 it's evident that we can see a firearm in its holster, a

21 below the feet of the handcuffed wounded protester, where

20 last week Friday, being photograph 253, is depicted just

19           The photograph which we ended with on Friday,

17 definitely being alive and have handcuffed, as we can see

14 the top photograph who are lying further to the top of the

12 scene.

10 approximately 18 to 20 minutes past four and we continue

9 area.  Those that would be seriously wounded would be dealt

8 would want to move the wounded persons to a centralised

7 priorities of the wounded is established and the paramedics

6 casualties, a triage area to classify the different

5 security for the paramedic.  As is practice with mass

4 wounded protester, with the police member providing

3 four.  In picture we can see a paramedic dealing with a

2 was secured, this being approximately 16:30, half past

1 in onto the scene approximately 10 minutes after the scene

10 did we move to slide 257.  These were the

9 munitions that were expended at scene 2.  According to the

8 statements we have in hand, under unit we can see the

7 national intervention unit, canine – dog unit, the TRT and

6 the public order police and then in brackets that depicts

5 the amount of members, according to their statements, who

4 have discharged ammunition.  If we look at the amount of

3 warning shots, alleged 148, and towards the vicinity or

2 towards protesters themselves 120 and that is live sharp

1 point ammunition, the total amount being 268 sharp point

14 lethal munitions were expired, 30 of those being rubber and

14 four stun grenades.  That should be –

13 [10:27] CHAIRPERSON:  Colonel, does that refer to

12 stun grenades that were fired by people on the ground?

11 LT-COL SCOTT:  On the -

10 CHAIRPERSON:  There was evidence that

9 stun grenades were also thrown from a helicopter.  I'm not

8 sure if that was over scene 2 or scene 1.  Are you able to

7 help us on that?

6 LT-COL SCOTT:  I'll help you,

5 Chairperson, just to rectify that – 33 should read 34 less

4 than lethal in the sub-total and regarding the stun

3 grenades used here, this is at scene 2, the koppie 3.  The

1 startled the operational commanders is the briefing given

accorded to the strategy of the plan.  Circumstances on

ground can change with regard to the perceived opponent,

which causes the operational commander on ground to change

the plan accordingly to meet the situation he's faced with.

So if we – can we proceed with the presentation

where we ended? Thank you. We continue with slide 254 and

this is in the conclusion of the operational situation at

scene 2.  The arrests at scene 2 started happening from

approximately 18 to 20 minutes past four and we continue

now to see the slide which talks to the securing of the

scene.

In picture on screen are two deceased persons in

the top photograph who are lying further to the top of the

photograph, at this stage still unknown to the policemen,

and a third person ringed in red who they've identified as

definitely being alive and have handcuffed, as we can see

in the photograph below.

The photograph which we ended with on Friday,

last week Friday, being photograph 253, is depicted just

below the feet of the handcuffed wounded protester, where

it's evident that we can see a firearm in its holster, a

large knife and a panga, thus the initial handcuffing or

cable-tying of the hands of protesters that were wounded.

Moving to slide 255, the paramedics were brought

onto the scene approximately 10 minutes after the scene

was secured, this being approximately 16:30, half past

four.  In picture we can see a paramedic dealing with a

wounded protester, with the police member providing

security for the paramedic.  As is practice with mass

casualties, a triage area to classify the different

priorities of the wounded is established and the paramedics

would want to move the wounded persons to a centralised

area.  Those that would be seriously wounded would be dealt

with where they were lying.

Moving to slide 256, the removing of the

dangerous weapons from the protesters.  In picture we can

see the firearm with certain smaller knives and in the

bottom picture we can see the more traditional weapons,

including knobkerries, grass slashers, pangas, et cetera.

The police members removed the dangerous weapons from the

arrested protesters as well as from the close vicinity of

arrested protesters, to maintain the safety of the scene.

On request of the medical personnel, police members removed

weapons from the injured or deceased protesters who needed

to be approached in the bushes and between the rocks.  This

was in concern for the safety of the medical personnel.

The paramedics needed to triage seriously wounded

protesters and to determine who was deceased or who was in

need of urgent care.

stun grenades thrown out of the helicopter are allegedly on

wayward areas, not at scene 2.

Moving to slide 258, incidents after the police

intervention at scene 2.  This occurred at approximately

to 19:00.  A report was received of fleeing

protesters forcing entry into a mine building close to

Wonderkop Stadium, damaging the fence and burning five

vehicles or setting five vehicles alight.  Major-General

Naidoo and some of his members from the public order

policing reserve left to attend to the scene.  No arrests

were made.  When they got there, there were no longer

people present.  A case of malicious injury to property was

opened at Marikana police station.

Slide 259.  This shows the vehicles torched at

the Wonderkop mine building after the police intervention

at the koppies.

We move to slide 260, events that were ongoing at

the JOC COM.  The JOC continued to provide assistance with

regard to the following areas and this would be in a co-

ordinating role.  The JOC arranged additional medical

personnel to attend to the injured on the scenes.  The JOC

proceeded to inform hospitals in the area of casualties

that would possibly be admitted – pre-warning.  The JOC

made the arrangements for the forensic personnel to attend

to the bodies on the scene as the initial LCRC members that
| Page 1329 | 1 | were deployed to the operation were not enough in number to deal with the size and the capacity of the scene. The JOC assisted with requests from the scene, for example for the photographers and the detectives and the JOC continued to arrange the visible policing of the area to stabilise the area to ensure that no additional incidents of violence occurred after the incident. Personnel from the police employee health and wellness were called in and arrived in Marikana to start debriefing the police members that were involved during the shootout. Moving to slide 261, these are the incident statistics from the LCRC from scene 1. We can see that there were 16 deceased, 13 wounded, two firearms retrieved. The shell casings, as per the numbers reflected and this reflects the sharp point ammunition as well as the rubber, teargas and stun grenades utilised at scene 1. And then it shows the other weapons retrieved - retrieved from protesters or that were left behind from fleeing protesters. One would notice that the amounts do not tally with the amounts reflected in the statements of the members, with the statements of the members reflecting more rounds shot than cartridges retrieved. This would also be due to the armoured vehicles driving over the ground as well certain shotgun rounds being fired out of the armoured vehicles themselves, meaning that their cartridge would remain inside the vehicle. Slide 262, these are the two firearms retrieved at scene 1. The firearm to the left is an unlicensed Norinco 9 millimetre pistol with one round and one cartridge which was stuck in the weapon’s ejection port. The magazine capacity is initially eight rounds. To the right we see the police pistol, the Vektor 9 millimetre. It was found in the bushes where the protesters were lying. It initially belonged to the deceased police member who was killed on Monday in the ongoing violence. The weapon was recovered with 12 rounds, it has a 15 round capacity magazine. Slide 263, looking at the incident statistics from scene 2, koppie 3. Deceased 14, wounded 15, arrested and processed 259, firearms retrieved three, one of which was unlicensed. Shell casings retrieved as reflected and other weapons retrieved from protesters as reflected. Slide 264, these are the firearms recovered at scene 2. The left firearm is a Norinco pistol, it’s licensed, only two rounds remaining, the magazine capacity is eight rounds. In the middle is the pistol originally photographed in the holster. It’s a licensed Norinco pistol with 15 round magazine and there were 15 rounds present. To the right we see an unlicensed Norinco pistol with six rounds and one empty cartridge, the magazine capacity is seven rounds. There are only six rounds reflected in the photograph. The LCRC report reflects also a cartridge which was found with the weapon. Slide 265, it reflects the cases which were registered. I can give you a moment to read through them on your own.
| Page 1330 | 1 | briefed in detail thereafter. Slide 267. As the police started deploying the barbed wire, a group of protesters charged at the Nyalas, trying to gain access to the police enclosure. The first attempt was prevented by deploying the barbed wire. The second attempt was prevented by utilising water cannons, teargas, stun grenades and finally closing the gap again with barbed wire. The third attempt succeeded in breaching the police public order policing line where the armed protesters were shot at by the TRT line, protecting themselves against the perceived threat. 16 protesters were killed and 13 were wounded. Most protesters were shot inside the neutral area or the police enclosure where they had moved past the POP line of defence. The group of protesters dispersed but some regrouped and formed a line behind koppie 2. When this group was dispersed they regrouped again at koppie 3, which was approached from all directions by various police teams. Various attacks were launched at the police and again protesters were shot at. 14 protesters were killed and 15 wounded at koppie 3. Shortly after the incident at koppie 3, five vehicles at the Wonderkop mine premises next to the Wonderkop Stadium to the east of the koppies were set on fire. We move to slide 268, the summary of events from the 10th to the 16th of Septem – it should be August. We |
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1. look at the casualties, wounded were 94, there were two
2. persons wounded on Friday the 10th, three persons wounded on
3. Saturday the 11th, five persons wounded on Sunday the 12th.
4. On the Monday the 13th protesters wounded one member of the
5. police and the police wounded five protesters.
6. [10:47] And then there’s Thursday where 78 protesters
7. were wounded by the police.
8. Slide 269, depicting the casualties with regard
to deaths. 44 people died from the 10th to the 16th
9. September.  On Sunday protesters killed two of the mine
10. security guards and two of the mine’s employees. On Monday
11. the 13th protesters killed two members of the police, the
12. police killed two protesters and one member was found
13. stabbed to death in a close informal settlement. On
14. Tuesday one of the mine employees was killed and on
15. Wednesday 30 protesters were killed by the police at the
16. scene, four protesters later died in hospital.
17. Slide 270, this is a photographic summary of
18. events using photographs only. The photographs have been
19. taken from four different cameras and then there are a
20. couple of media photographs which were included. The
21. cameras were time-lined as best possible and this is thus a
22. reflection of the events of the 16th of August 2012. It
23. starts early morning and we can see around 9 o’clock very
24. few protesters are at the koppie at this time but we can
25. see protesters moving towards the koppie. At this time the
26. police back at the rear staging area – this is a photograph
27. of the police rear staging area where the JOC were busy
28. with briefings and preparation. The briefing this morning,
29. the morning of the 16th, was given as a stage 2 briefing.
30. The helicopter which was circling was providing feedback to
31. the JOC, talking of groups of protesters moving towards the
32. koppies. With the police arriving at the neutral area we
33. can see the initial stage 1 deployment coming into place,
34. stage 2 being a build-up on top of the stage 1 deployment –
35. with the emphasis on stage 2 being the pre-positioning of
36. the barbed wire vehicles as well as a show of force and
37. this being to dissuade confrontation with the police.
38. There’s the initial stage 2 deployment on screen.
39. We can see that the line of Nyalas with the barbed wire,
40. the defensive line, is angled slightly towards – the last
41. Nyalas towards the west – and what we saw was the more
42. organised armed group moving to the location of the last
43. Nyla in the line from their normal positioning, which was
44. on the sandy patch. At that time, amongst the informal
45. settlement houses there was a group of ladies that were
46. walking around with banners stating that all men needed to
47. report to the koppies. Just after 11 we can see the amount
48. of people now gathering at the koppie has increased
49. significantly from 9 o’clock. In the centre of the screen,
The third approach from the protesters occurred 90 seconds later and they went now, instead of to the right of the kraal, they'd gone around the kraal, regrouped and come in again to the eastern side of the kraal. The police's armoured vehicles at this time had attempted to go out to block the entry and to form a dispersion line, to start the dispersion action from that place. The protesters, however, moved between the armoured vehicles and the kraal which is in picture now. We see in picture again the photograph which depicts the protester with the pistol in his hand, dressed in brown.

We see in picture now the tear smoke being deployed to try to riposte the protest or the advance protesting group away from the police lines and this is after the shooting where the TRT line was approached by the armed protesters. Included in the TRT line there were also one or two public order policing members with assault rifles. This caused the TRT members to remain behind at what is now called scene 1. Many of the protesters who were part of the last approach to the police line, dispersed into the informal settlement. The armoured vehicles of the police, approximately five minutes after the shooting at scene 1, have moved out and formed up, seeing the crowd re-gathering behind koppie 2. In the top left corner we can see the TRT line who's had to remain behind at scene 1. To the right of them or just behind them is the NIU line who has now taken over their responsibility, who would now need to spread their members to clear koppies 1 and 2.

The photograph here shows that the water car is still in sight and the other water car is leaving to join the armoured vehicle dispersion line.

These are the vehicles of forward holding area 2 who were positioned at the informal settlement to the south west of the koppies as a protection element. This group of policemen included tactical response team, dog unit and public order policing members. They started advancing towards the koppies during the shooting at scene 1.

[11:07] The higher sequence of photographs simply gives a time line to where the vehicles, the police vehicles are at that specific time in the operation. In picture now is the police dispersion line and in front of them is the protester line, group, behind koppie 2. The police remained static in this position for approximately nine minutes. We see now in picture the fires that were lit and the water cannon has started the dispersion and the crowd is moving with the water cannon.

These photographs are simply showing many of the protesters leaving on the pathways, who no longer want to be part of the protest action. The police vehicles in that photograph reached the reorganised line, that was part of the briefing given to them after the dispersion action was completed and from there the forces on ground would analyse the situation and continue with phase 3, which was now to isolate or encircle and to disarm and arrest.

The initial action went in two directions. We had public order policing vehicles moving to the north of koppie 3, as a large crowd had gathered to the north of koppie 3, and they moved in to encircle and arrest and made several arrests to the north and the second group of police force noticed the amount of protesters that had regrouped in koppie 3 and went forward with a plan to try to flush out and then to disarm and arrest protesters. The photographs in picture again are taken from the video clip from the one helicopter which was flying at...
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<td>1 the highest level and it was also recording some of the</td>
<td>1 witness would have been Warrant Officer Thamae but the</td>
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<td>2 radio chatter and we can hear on the radio the police</td>
<td>2 witness that Mr Mpofu is going to call is only available</td>
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<td>3 helicopter is stating that the protesters are encircled,</td>
<td>3 today, so Mr Mpofu advises me, so I have made arrangements</td>
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<td>4 the officer observing the movements on the ground gives the</td>
<td>4 to only call Warrant Officer Thamae tomorrow, Mr Chairman</td>
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<td>5 warning that they're going to attempt to break through and</td>
<td>5 and commissioners. Thank you.</td>
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<td>6 then moments later reports to the JOC that there are two</td>
<td>6 CHAIRPERSON: Thank you, Mr Madlanga. I</td>
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<td>7 bodies.</td>
<td>7 thought that Mr Semenya indicated he wanted to say</td>
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<td>8 CHAIRPERSON: Colonel, how much longer is</td>
<td>8 something. Am I wrong?</td>
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<tr>
<td>9 the presentation going to be?</td>
<td>9 MR SEMENYA SC: Not anything, just to say</td>
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<tr>
<td>10 LT-COL SCOTT: Sir, I think if we see on</td>
<td>10 that this document may be Exhibit L for Limo.</td>
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<td>11 screen where the slider is, I think we may have two or</td>
<td>11 CHAIRPERSON: Yes, thank you. I thought</td>
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<td>12 three minutes left.</td>
<td>12 Ms Pillay was responsible for doing that but anyway,</td>
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<td>13 CHAIRPERSON: Oh, so we won't take the</td>
<td>13 Exhibit L is going to be the hard copy of the police</td>
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<td>14 tea adjournment until the end of the presentation.</td>
<td>14 presentation, thank you. Yes, Mr Mpofu? Sorry, yes Mr</td>
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<tr>
<td>15 LT-COL SCOTT: Okay. These are the water</td>
<td>15 Burger?</td>
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<td>16 cannons and the public order policing vehicles which have</td>
<td>16 MR BURGER SC: Chair, if the next witness</td>
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<td>17 entered into the koppie. These were the arrests made to</td>
<td>17 is to be the Reverend –</td>
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<td>18 the north of the koppie by the public order policing group.</td>
<td>18 CHAIRPERSON: I think you'll find that</td>
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<td>19 Simultaneously inside koppie 3 the water cannons were still</td>
<td>19 the Right Reverend is the correct way of describing him.</td>
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<td>20 trying to flush out protesters from between the bushes and</td>
<td>20 MR BURGER SC: I would've asked him how</td>
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<td>21 the rocks to get them to move towards the policemen on the</td>
<td>21 to address him, I'm not confident that I know that. The</td>
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<td>22 outside where it would be safer to disarm and to arrest</td>
<td>22 Right Reverend –</td>
</tr>
<tr>
<td>23 them in open ground than between the rocks and the bushes.</td>
<td>23 CHAIRPERSON: My Lord, I think is the</td>
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<td>24 Chairperson, many of the photographs that are</td>
<td>24 appropriate form of address for a bishop.</td>
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<td>25 running now are simply there for the legal teams to look at</td>
<td>25 MR BURGER SC: Chair, if I can address</td>
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<td>1 the electronic version in their time. We have made a file</td>
<td>1 you as Chair then – we received a statement which I saw</td>
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<td>2 with all the photographs in time sequence so that they</td>
<td>2 yesterday morning and we’re ready to ask him some questions</td>
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<td>3 specifically can look at the movements of the vehicles and</td>
<td>3 but we believe that during the inspection in loco there was</td>
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<td>4 position the police teams according to a time frame.</td>
<td>4 a video made and there might’ve been some pointing out and</td>
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<td>5 We see the first arrests happening at</td>
<td>5 discussions on that video which is relevant in order to</td>
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<td>6 approximately 18 minutes past four in the afternoon.</td>
<td>6 enable me to complete any questions I may ask the Right</td>
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<td>7 Chairperson, with the sequenced photographs we’ve</td>
<td>7 Reverend. So I’m ready to start questioning, if I’m</td>
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<td>8 given as well, one is able to zoom in to see the actual</td>
<td>8 permitted to do so, but I might not be able to finish it</td>
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<td>9 call signs of each armoured vehicle on the roof. We had</td>
<td>9 until such time as I have that transcription, if and when</td>
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<td>10 them spray painted on at the outset of the operation</td>
<td>10 it becomes available.</td>
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<td>11 because we had so many different armoured vehicles coming</td>
<td>11 CHAIRPERSON: Yes, well you can ask him</td>
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<td>12 from different provinces and this also assisting with those</td>
<td>12 what he pointed out. One of the purposes of his being</td>
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<td>13 Google photographs I alluded to earlier where the Google</td>
<td>13 called at this stage, as I understand it, is to confirm</td>
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<td>14 maps which were made after the fact have also got the P1,</td>
<td>14 what he pointed out at the inspection in loco. Logically,</td>
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<td>15 P2, P3 call signs with them, so that one can see where they</td>
<td>15 the first witnesses to be called were those who took part</td>
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<td>16 were initially positioned according to the operational</td>
<td>16 in the inspection in loco, to confirm on oath what they</td>
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<td>17 planning.</td>
<td>17 said at the inspection in loco and he fits into that group</td>
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<td>18 Sir, and that concludes the presentation.</td>
<td>18 and he will be able to tell you what he pointed out but as</td>
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<td>19 CHAIRPERSON: Thank you, Colonel. We</td>
<td>19 you correctly say, it may be necessary for you to look at</td>
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<td>20 will now take the tea adjournment.</td>
<td>20 the video of the inspection. Is there not a transcript as</td>
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<td>21 [COMMISSION ADJOURNS COMMISSION RESUMES]</td>
<td>21 well of what was said at the inspection?</td>
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<td>22 [11:48] CHAIRPERSON: The Commission resumes. Mr</td>
<td>22 MR BURGER SC: Well, we haven't seen that</td>
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<td>23 Madlanga, what is going to happen now?</td>
<td>23 and it would assist me. I wasn't present at the inspection</td>
</tr>
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<td>24 MR MADLANGA SC: Mr Chairman,</td>
<td>24 to see what he is confirming.</td>
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<td>25 commissioners, Mr Mpofu will lead a witness. The next</td>
<td>25 CHAIRPERSON: But how long is it going to</td>
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<td>1 take you to equip yourself to deal with this because I mean</td>
<td>1 be the truth, the whole truth and nothing but the truth,</td>
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<tr>
<td>2 he pointed out basically where he saw the people, where</td>
<td>2 please raise your right hand and say, so help me God.</td>
</tr>
<tr>
<td>3 they were sit – where they were when he, when he went onto</td>
<td>3 RT REV JOHANNES THOMAS SEOKA: So help me</td>
</tr>
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<td>4 the scene on the 16th, where a number of people were sitting</td>
<td>4 God.</td>
</tr>
<tr>
<td>5 and where he spoke to them and so on. That was basically,</td>
<td>5 CHAIRPERSON: Thank you.</td>
</tr>
<tr>
<td>6 as I remember it, what he pointed out but perhaps you could</td>
<td>6 MR MPOFU: Mr Chairman, I'm not sure if</td>
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<td>7 ask him questions about that and if you think of some other</td>
<td>7 the statement needs to be given an exhibit number, maybe Ms</td>
</tr>
<tr>
<td>8 point later, we can recall the bishop at a later stage if</td>
<td>8 Pillay can –</td>
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<tr>
<td>9 it should be necessary. I doubt whether it will be</td>
<td>9 CHAIRPERSON: I think it would be</td>
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<td>10 necessary, but –</td>
<td>10 helpful. I think –</td>
</tr>
<tr>
<td>11 MR BURGER SC: Chair, but the statement I</td>
<td>11 MR MPOFU: It will be M.</td>
</tr>
<tr>
<td>12 was given doesn't deal with that.</td>
<td>12 CHAIRPERSON: It's M.</td>
</tr>
<tr>
<td>13 CHAIRPERSON: Oh, well I haven't seen the</td>
<td>13 MR MPOFU: M, M for Mary.</td>
</tr>
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<td>14 statement but the statement should begin with, I confirm</td>
<td>14 CHAIRPERSON: I suggest you commence by</td>
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<tr>
<td>15 what I pointed out at the inspection in loco and then carry</td>
<td>15 getting him to confirm it and then you can take him through</td>
</tr>
<tr>
<td>16 on but –</td>
<td>16 it –</td>
</tr>
<tr>
<td>17 MR BURGER SC: But it doesn't.</td>
<td>17 MR MPOFU: I will.</td>
</tr>
<tr>
<td>18 CHAIRPERSON: Anyway –</td>
<td>18 CHAIRPERSON: And then presumably ask</td>
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<td>19 MR MADLANGA SC: Mr Chairman – oh, sorry.</td>
<td>19 such supplementary questions as you consider appropriate.</td>
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<tr>
<td>20 Mr Chairman, commissioners, may I make a suggestion to my</td>
<td>20 MR MPOFU: Thank you, Mr Chair.</td>
</tr>
<tr>
<td>21 learned friend Mr Burger? A video recording of the</td>
<td>21 CHAIRPERSON: And remember that the</td>
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<tr>
<td>22 inspection in loco was made and my impression is that the</td>
<td>22 evidence is going to be interpreted, so –</td>
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<tr>
<td>23 bishop's, or rather what the bishop pointed out did not</td>
<td>23 EXAMINATION BY MR MPOFU: Of course.</td>
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<td>24 take long. I would imagine that Mr Dos Reis should be able</td>
<td>24 Bishop, good morning.</td>
</tr>
<tr>
<td>25 to locate that part in the footage that he has and I would</td>
<td>25 RT REV SEOKA: Good morning.</td>
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<tr>
<td>1 suggest to my learned friend that perhaps he should</td>
<td>1 MR MPOFU: Can you please switch on your</td>
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<tr>
<td>2 approach Mr Dos Reis up there and see if an arrangement can</td>
<td>2 recording?</td>
</tr>
<tr>
<td>3 be made for just that part of the clip to be viewed, if</td>
<td>3 RT REV SEOKA: Good morning.</td>
</tr>
<tr>
<td>4 that is acceptable to my learned friend.</td>
<td>4 MR MPOFU: Bishop, I will start before we</td>
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<td>5 CHAIRPERSON: Thank you, Mr Madlanga. It</td>
<td>5 go into the contents of your statement, by asking you for</td>
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<tr>
<td>6 seems to me that the practical way forward would be for the</td>
<td>6 the benefit of the Commission to confirm that the statement</td>
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<tr>
<td>7 relevant section of the video of the inspection which, as</td>
<td>7 that I’ve just handed up, which is in front of you, is your</td>
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<td>8 you say, covers a very short period of time, could be shown</td>
<td>8 own statement and that the contents thereof are in</td>
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<tr>
<td>9 to Mr Burger during the lunch adjournment and that will</td>
<td>9 accordance with the truth and how you remember the event.</td>
</tr>
<tr>
<td>10 enable him, I would think, to ask such questions, if any,</td>
<td>10 RT REV SEOKA: I so confirm.</td>
</tr>
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<td>11 if he wishes in the light of that. I think – you are going</td>
<td>11 MR MPOFU: Thank you. Now Bishop, I</td>
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<td>12 to call the witness, Mr Mpofu, is that correct?</td>
<td>12 don't expect it to be in dispute that you played an</td>
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<td>13 MR MPOFU: Correct. Thank you, Mr</td>
<td>13 important role in the events that are facing this</td>
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<td>14 Chairman, thank you very much and we'll confirm the</td>
<td>14 Commission and that you participated in the multi-party</td>
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<td>15 bishop's availability after lunch, so if that footage is</td>
<td>15 negotiations which ultimately resolved the issue, but</td>
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<td>16 shown at lunch time the arrangement will assist. Mr</td>
<td>16 before we deal with those issues of what happened around</td>
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<tr>
<td>17 Chairman, I call the first witness that we call for the</td>
<td>17 the Marikana issue, I’d like to take you right back to – so</td>
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<td>18 victims, that will be the Right Reverend Johannes Thomas</td>
<td>18 that you can give the Commission some biographical</td>
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<td>19 Seoka, S-E-O-K-A, and I'll ask the Right Reverend to</td>
<td>19 information which will place your evidence in its proper</td>
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<tr>
<td>20 approach. Mr Chairman, while the bishop is approaching the</td>
<td>20 context. So in order to give that context, can you please</td>
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<tr>
<td>21 Chair, if I may hand up three copies of the statement for</td>
<td>21 tell us when were you first ordained as an Anglican priest?</td>
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<td>22 the panel.</td>
<td>22 RT REV SEOKA: Thank you for the</td>
</tr>
<tr>
<td>23 CHAIRPERSON: My Lord Bishop, will you –</td>
<td>23 opportunity but I should say from the outset that the role</td>
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<td>24 stand there, stand there by – please stand. Do you swear</td>
<td>24 that we played was small and insignificant really, compared</td>
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<td>25 that the evidence you will give before this Commission will</td>
<td>25 to what other stakeholders did. To answer your question,</td>
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MR MPOFU: Where were you first placed or stationed, I don’t know what the correct term is, religious term?

RT REV SEOKA: I was first deployed in Newcastle in the steel industry area in Natal.

MR MPOFU: And did you then move towards the Johannesburg/Soweto area in the 80s?

RT REV SEOKA: I went to work in Soweto in 1980. In actual fact I went to Soweto in order to help with the development and promotion of industrial mission in the Gauteng area.

MR MPOFU: And which specific part of Soweto did you work in?

RT REV SEOKA: I was deployed at St Soweto did you work in?

MR MPOFU: And are those areas, Tladi and Diepkloof, in Soweto?

RT REV SEOKA: I was deployed at St Tladi and Diepkloof.

MR MPOFU: And are both those areas, Tladi and Diepkloof, in Soweto?

RT REV SEOKA: Yes.

The meat of it which is simply the experience in conflict management. Thank you, Chair. Yes, Bishop could you just explain to the Commission the role that you played in the turbulent 80s, as it is referred to?

RT REV SEOKA: Well, the parish of St Hilda’s, Senaoane, was close to a high school called Bongo and there was always conflict in that school between students and police and some, if not most, of the students actually were members of the parish where I was in charge.

The parents of some students would ask me to intervene and help resolve the conflict that was going on there, so I did spend some time at the high school and some time at the police station in Moroka.

MR MPOFU: Yes, thank you. And in the – towards the latter part of the 80s you left the country and went overseas until 1992. During that period what experience or training did you receive which would be relevant to the issues in this Commission?

RT REV SEOKA: I did – I continued with the Agency for Industrial Mission which dealt largely with the mining work place. I personally also did the course and I

MR MPOFU: And did you then move towards Newcastle in the steel industry area in Natal.

RT REV SEOKA: Yes. The industrial mission is a very important ministry in Germany, starting with the World War, and so I attended there at a place called Mein Kastell in Germany to do industrial mission. I also did conflict management and resolution at Harvard under Prof Fisher.

MR MPOFU: Thank you. You’ve also mentioned that you had specific interests or focus into the mining industry as such. What programme, after those study, did you introduce in South Africa upon your return, related to what you had learnt?

RT REV SEOKA: Ja, you must recall that when I went to Soweto it was specifically to introduce an industrial mission in that context and when I came back from overseas I was actually appointed a director of the Agency for Industrial Mission which dealt largely with the mines, Anglo in particular, where we placed students in the mining work place. I personally also did the course and I
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1 have been underground to experience the conditions under which the parishioners worked. We also looked at farm workers, we also looked at big factories. We placed students in all those areas where employers would allow us to expose students to the working conditions.
2 [12:08] In fact the students did get credits for their marks when they’d done the course. So it was an accredited course that was done by those who would want to work in urban and industrial communities.
3 MR MPOFU: Yes, thank you. To round off this section then, the student priests that you placed specifically in the mining environment, what did they have to do in the mines and for how long did they have to stay there?
4 RT REV SEOKA: They worked as any other factory or mine worker. Their identity was not revealed because they had to be treated like anybody who worked in that context. Only human resource department knew who they were and what the purpose was.
5 MR MPOFU: And you say one of the reasons for this was for them to experience first-hand the real life experiences of their parishioners or would-be parishioners.
6 RT REV SEOKA: Yes. A lot of clergy persons would either come from rural communities to be
7 Page 1355

1 accompanied me.
2 MR MPOFU: Yes, together with the general secretary of the South African Council of Churches, what time did you arrive in the Wonderkop, Marikana area?
3 RT REV SEOKA: Approximately about 1 o'clock, it was lunch time.
4 MR MPOFU: And can you then please tell us what you observed and what your initial activities were?
5 RT REV SEOKA: Well, when we left the highway and entering the mining area, we asked – because the security people stopped us and we told them that we were going to meet with the striking workers and they directed us to where these men were located and as we moved in, we saw that there were also military people. I’m not too sure were they really soldiers, but the uniform they had gave me the impression, and the type of ammunition they had gave me the impression, that they were soldiers.
6 MR MPOFU: Were those specific people in camouflage?
7 RT REV SEOKA: Yes.
8 MR MPOFU: How did you decide to approach the striking workers or the protesters and I’m asking you in relation to whether you were to approach them maybe with
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1. the police or not, and why you made a decision to approach them in a particular way?
2. RT REV SEOKA: Well, my experience in conflict management is that when you want to engage with the parties involved, you must earn their trust, that's very key and therefore you must be seen as neutral. And so my instincts told me to instruct the general secretary that we must not stop, we must not talk to anybody, we must just go and find the striking miners and fortunately nobody actually stopped us and we drove until we were fully visible to the crowd of the striking miners. When we were sure that they have seen us on our own without any person, media or police, we stopped the car and got out and went to them.

3. MR MPOFU: Were these people at what is now known as the Groot Koppie, the larger koppie?
4. RT REV SEOKA: Yes, they were at the big koppie.

5. MR MPOFU: Yes and you approached them and?
6. RT REV SEOKA: Some were seated and some were standing, moving in a rhythm up and down and as we approached, about three to four men came towards us. They then stopped us from going to the crowd and took us to a group of men who were seated just next to the road. There must have been about six, seven, eight people. We introduced ourselves to them and told them why we were there.

7. MR MPOFU: What in fact did you tell them the reason was why you were there?
8. RT REV SEOKA: We said to them we had seen in the television and the newspapers that there was a standoff between them and the company and as church representatives we wanted to know how we can help and therefore we were there specifically to help them communicate or deal with the issue that has brought them to the koppie.

9. MR MPOFU: Yes, what was their response?
10. RT REV SEOKA: The response was that they were at the mountain because when they went to put their demands before the company and they were met and shot at by the security personnel and some of the officials from the NUM trade union.

11. MR MPOFU: Yes and did they, in response to your offer to assist did they ask you to do anything specifically?
12. RT REV SEOKA: They – we kept on saying, well, we would like to help, how can we help? And then a man that was, appeared to us to be their leader with a green blanket, after sharing with us what had happened to them, he asked us to go to the mine offices and ask for “Mkashe”, that was the word that was used.

13. MR MAHLANGU: He asked us to go to the mine offices and ask for the person the Bishop has referred to as Mkashe, translated the employer.

14. RT REV SEOKA: And to ask Mkashe to come to the koppie and address the workers.

15. MR MAHLANGU: And ask the employer to come to the koppie to address the workers – sorry, sorry, Mr Chairperson, I'm getting a bit confused.
16. RT REV SEOKA: Then we asked who is Mkashe and they gave us the name of Ian Farmer. The second request was water and food and I could understand the reasons for all this. For water, it was a very hot day and food, it was about lunch time. The request to meet Mkashe is because they wanted to engage with Mkashe to resolve the standoff that was taking place. So sir, those were two things that they requested us to do.

17. MR MPOFU: Thank you, Bishop. What action did you then take in response to those two requests or any one of them?
18. RT REV SEOKA: We said we would try and find Mkashe but we are not promising anything. About food, we said we come from Pretoria, it may be difficult to organise food from the koppie because we didn't know that offices of the management. If I'm not mistaken they...
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1 referred to it as LDP. We got there and while we were standing at the reception area looking for some – there was nobody in the reception itself and three gentlemen appeared, accompanied by other people who were just walking around the area there. Then they were introduced to us as Mokoena, Kgote and Kwadi.

2 MR MAHLANGU: Kwadi?

3 RT REV SEOKA: Makwadi, Kwadi yes. They seemed to have known who I was and I did not recognise them at all, except for Mr Kwadi.

4 MR MPOFU: And were these three gentlemen part of Lonmin management, since you were at the Lonmin offices?

5 RT REV SEOKA: Yes, according to Mr Mokoena they were part of the management of Lonmin.

6 MR MPOFU: Right, what then ensued? What did you tell them or what did they tell you, if you can just take us briefly?

7 RT REV SEOKA: We – after introducing ourselves and just casual chatting, we told them that we had come from the koppie and that the miners at the koppie had asked us to request Mr Ian Farmer to come and address them on their demands.

8 MR MPOFU: Thank you, yes and what was the response?

9 RT REV SEOKA: The gentleman called Mr Kgote responded by saying that they would not see these people because they are criminals and murderers. He said they had killed part of their security persons and gradually he pointed at the woman who was wearing a black scarf, a scarf over her shoulders.

10 MR MAHLANGU: If you could just repeat that? You said?

11 RT REV SEOKA: He then pointed at the woman who was wearing a scarf over her shoulders and said, you see that woman, she has just lost her relative, he was murdered by the strikers. We responded by saying to him, why do you call them criminals and murderers and he said they have killed our people. And we countered Mr Kgote by saying that the workers told us also that they were confronted by security forces and they lost two of their men and that pointing fingers would not contribute towards a solution.

12 MR MPOFU: Alright, after that exchange with Mr Kgote, what then happened?

13 RT REV SEOKA: Mokoena, Mr Mokoena then told us that - because we had actually said that if Mr Ian Farmer is not available, we will then ask for somebody to appear in his, instead, and Mr Mokoena said that Mr Ian Farmer was not around, he was sick. And then Mr Mokoena talked to these three gentlemen about the need to go to and...
meet the workers, but we were also hoping that the
Lieutenant would come back and she never did. What then
happened, the place suddenly became busy, people going up
and down. Helicopters had landed in the place and there
was this movement that made us very uncomfortable. I have
to say here that this discomfort of us, in us – I said I
must say that the discomfort we had there was because of
the helicopters, because they then took off in a circling
way and we then decided let’s go back to the koppie to tell
the workers that we have been there, that Mkashe is not
there.

MR MPOFU: Before that, did you have a
conversation with Mr Mokoena?

RT REV SEOKA: As we were walking, just
before we left Mr Mokoena said to us, you can go back to
the koppie and tell the workers that the management will
meet them, provided they do three things. The first thing
he said, they must surrender their weapons, and the second
thing is that they should elect representatives, five to
eight people, and thirdly, that they must disperse from the
koppie.

MR MPOFU: Thank you. And what was your
response to those three demands or requests?

RT REV SEOKA: We were going towards the
mountain to relay the response. At least there was
something that we could take back, but as we were going
towards the cars, just outside that fenced area, another
gentleman that I don’t know who he was, he was never
introduced to us, called Mr Mokoena and he whispered to
him. Mr Mokoena immediately came back to us, joined us and
he said to me, Bishop, you can no longer return to the
koppie or that the place has been cordoned off and is now a
security risk zone, or words to that effect. Something
like that, but that tells us the mine is no longer in
control of the situation.

MR MPOFU: So that your trip to the
kopie, what then – what was the effect of this latest news
in relation to your intended trip to the koppie?

[12:48] RT REV SEOKA: Sir, just thinking about
it I need to say that I believe – I may be wrong – that
when the commissioner left us to go and get food, that’s
when the final instruction was given to deal with the
people at the koppie, I believe at that point, for two
reasons. As she went back there, there was this frantic
movement and secondly, when this Mr Mokoena told us you can
no longer go back there.

MR MPOFU: Thank you. What did you then
do? What was your next movement, seeing that you were
stomped from going to the koppie?

RT REV SEOKA: We went towards the
parking lot to exchange cards and here’s another critical
point, Chair. The chaplain then says to us, he has just
been informed that all the units of his departments must be
ready. When we said who are those, he said clergy persons,
chaplains, social workers and medical people, but he did
not elaborate thereafter. At that point we decided with
the general secretary, we must just leave the area without
going back to the koppie because it did appear that we were
not welcomed by the mine or the police to go back to the -.
We were very concerned, though, that we may lose trust, the
workers may be suspicious of us and that the trust
that we were trying to develop would be lost because we had
promised to go back.

MR MPOFU: Thank you. Was going back to
the workers an important consideration or desire on your
part, irrespective of the nature of the news that you might
be bringing back to them?

RT REV SEOKA: Ja, it was important for
pastoral reasons. We believed that what Mr Mokoena had
told us could have assisted with the desires of the workers
to see Mkashe because that’s what they wanted, they wanted
to talk to the employer and therefore if - part of the
employer says well, these are the conditions under which we
can see you, I think that something would have happened.
But also we wanted to be trusted by these persons,
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<td>1</td>
<td>us to do everything we can to improve the quality of what's</td>
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<td>2</td>
<td>happening here, so – and if you'll be performing under par</td>
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<td>3</td>
<td>with your jacket on, I suggest you do what is required to</td>
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<td>4</td>
<td>enable you to cope with the conditions.</td>
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<td>5</td>
<td>MR MPOFU: Thank you, Chair.</td>
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<td>6</td>
<td>RT REV JOHANNES THOMAS SEOKA (CONTD):</td>
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<td>7</td>
<td>EXAMINATION BY MR MPOFU (CONTD): Thank you very much, Chairperson. Bishop, we stopped at the</td>
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<td>point at which you had left and had seen some of the news</td>
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<td>9</td>
<td>reports and you had also seen the person in the green</td>
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<td>10</td>
<td>blanket whom you later identified as Mr Noki in the</td>
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<td>11</td>
<td>newspaper report. According to your statement, the next</td>
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<td>12</td>
<td>visit that you made to the Marikana Wonderkop area was on</td>
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<td>13</td>
<td>Monday, the following Monday, the 20th August 2012. Could</td>
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<td>you please take the Commission how that came about and what</td>
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<td>happened on that day?</td>
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<td>16</td>
<td>RT REV SEOKA: Thank you very much, Chair.</td>
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<td>that he is Noki, also known as Mambush and I felt very</td>
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<td>2</td>
<td>guilty that I'd promised the man to do the assignment and</td>
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<td>3</td>
<td>go back because I felt that I owed Mr Noki some</td>
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<td>4</td>
<td>report back and that he died before I could return to him.</td>
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<td>5</td>
<td>And of course the voice on the phone, that &quot;Where are you,</td>
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<td>6</td>
<td>the police are killing us,&quot; was sufficient to keep me awake</td>
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<td>7</td>
<td>for several nights. My suspicion was, that was the man's</td>
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<td>8</td>
<td>voice. I couldn't think of any other person but him.</td>
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<td>9</td>
<td>MR MPOFU: Thank you, Bishop. I think at that point, Mr Chairman, if it's an appropriate time.</td>
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<td>10</td>
<td>CHAIRPERSON: The Commission will adjourn until 2PM.</td>
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<td>11</td>
<td>[COMMISSION ADJOURNS COMMISSION RESUMES]</td>
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<td>13</td>
<td>Yes, Mr Mpfou?</td>
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<td>14</td>
<td>MR MPOFU: Thank you, Chair. Chair, I hope you won't shoot the messenger. I've been asked to make a request about the jacket policy for this afternoon.</td>
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<td>15</td>
<td>CHAIRPERSON: Mr Madlanga, what do you say about it?</td>
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<td>16</td>
<td>MR MPOFU: It was his idea that we, I – CHAIRPERSON: I asked the wrong person.</td>
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<td>17</td>
<td>Yes, Mr Semenya, what do you say about it? The air conditioner doesn't appear to be working, is that correct?</td>
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<td>18</td>
<td>COMMISSIONER HEMRAJ: No - CHAIRPERSON: And so it's important for</td>
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<td>1. belong to initiated local churches. So we organised a</td>
<td>1. meet with the delegation from the koppie, that there was a</td>
<td>1. [\text{Inaudible}] – what is in</td>
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<td>2. meeting for Monday at 9 o’clock at the Lutheran Church in</td>
<td>2. willingness from both parties to talk. So for me, if</td>
<td>2. different to what happened.</td>
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<td>3. Wonderkop and notices were made during Sunday worship</td>
<td>3. Lonmin management – Mr Mokoena, Mr Kgotle, Mr Kwadi and</td>
<td>3. the rest of the statement may be relevant at the next phase</td>
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<td>4. throughout Rustenburg area and so clergy did turn up on the</td>
<td>4. another official whose name I can’t remember – had adopted</td>
<td>4. of the inquiry, I don’t propose that we should receive, I</td>
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<td>5. 20th at the church.</td>
<td>5. a tolerant attitude and put anger, bitterness and revenge</td>
<td>5. don’t propose allowing that evidence at this stage – except</td>
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<td>MR MPFU: Yes, what was discussed there</td>
<td>6. attitudes aside, the massacre that took place would have</td>
<td>6. I think paragraph 32, that covers points which are</td>
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<td>and what was done thereafter?</td>
<td>7. then been prevented. I’m saying this because when they</td>
<td>7. relevant.</td>
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<td>RT REV SEOKA: The reason for calling the</td>
<td>8. ultimately came together there was mutual acceptance and</td>
<td>8. MR MPFU: I’ll cover the relevant –</td>
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<td>meeting was to look at what had happened ecumenically and</td>
<td>9. engagement. So that told me that the day would have ended</td>
<td>9. CHAIRPERSON: So I suggest you move to</td>
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<td>find a way of collectively engaging with the workers</td>
<td>10. differently to what happened.</td>
<td>10. there –</td>
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<td>because some of them had died and the first thing we wanted</td>
<td>11.</td>
<td>11. MR MPFU: Yes. Chairperson, if I may,</td>
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<td>to do is to prepare ourselves for counselling because we</td>
<td>12.</td>
<td>12. this might be one of the borderline issues in terms of</td>
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<td>realised that some of them would’ve been hurt, some of them</td>
<td>13.</td>
<td>13. phase 1 and phase 2 – I thought I would canvass the</td>
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<td>would’ve been traumatised by that experience and so we</td>
<td>14.</td>
<td>14. evidence in paragraph 28, with your permission Chair.</td>
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<td>needed to provide pastoral counselling to them. We also</td>
<td>15.</td>
<td>15. CHAIRPERSON: Yes, I think that evidence</td>
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<td>wanted to –</td>
<td>16.</td>
<td>16. can be adduced.</td>
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<td>CHAIRPERSON: Mr Mpofu, I don’t want to</td>
<td>17.</td>
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<td>interrupt you unduly but you understand that evidence</td>
<td>18.</td>
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<td>relating to what happened after the 16th is only relevant at</td>
<td>19.</td>
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<td>this stage – at this stage – for the limited purpose of</td>
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<td>casting light backwards, as it were, on what happened</td>
<td>21.</td>
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<td>during the period from the 16th, from the 9th to the 16th.</td>
<td>22.</td>
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<tr>
<td>Some of the other evidence in the rest of the statement may</td>
<td>23.</td>
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<td>be relevant at a later phase of the inquiry. As I</td>
<td>24.</td>
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<td>understand it, what you’re doing is you’re leading up to</td>
<td>25.</td>
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<tr>
<td>1. MR MPFU: Thank you, Chair. Bishop,</td>
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<td>2. you’ve made several observations in your statement and one</td>
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<td>3. of them is, regards the attitude that the protesters,</td>
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<td>4. mineworkers as you have called them seriously, exhibited</td>
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<td>5. towards the unions. We know that when there had been</td>
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<td>6. negotiations, they had their own delegation but what did</td>
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<td>7. you observe in terms of their relations with the two main</td>
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<td>8. unions, namely AMCU and NUM?</td>
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<td>9. RT REV SEOKA: In actual fact I didn’t</td>
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<td>10. know that there was a union called AMCU organising at</td>
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<td>11. Lonmin. I’ve always known NUM that were working there.</td>
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<td>12. And so when the workers made an allegation that NUM</td>
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<td>13. officials shot at them, I was rather taken aback and there</td>
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<td>14. was a hostile attitude. In actual fact even the songs that</td>
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<td>15. were being sung were negative and were showing that there</td>
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25 suspicious of being represented by the union.

22 contribute towards the general state of tension?

21 what role did the alleged shooting by NUM officials

20 [14:21]   MR MPOFU:          And from what you were told,

19 according to them, that NUM was not really on their side

18 employer, which is Lonmin.  They believed strongly,

17 that were being experienced between the workers and the

16 that NUM actually had contributed towards the hostilities

15 said to them, we need to leave the weapons behind because

14 issue of the traditional weapons that they had, because I

13 Ntelezi.

12 myself, I don't do too many burials now as a Bishop, I will

11 amongst Africans that they will have Ntelezi – I can't

10 family playing soccer.  It is a traditional practice

9 NUM seemed to have taken a position with the employer, the

8 continue to do these things and when we ask them why are

7 you doing it - Bishop, that's how we were brought up, we're

6 continue to do these things and when we ask them why are

5 of these miners are young people, they've been through

4 seem to you to be stereotyped, but we're not.  I mean most

3 making black people stupid, they're not stupid.  And we may

2 against the bullets, it's nonsense really.  I mean you're

1 So these allegations of use of muti to protect the workers

25 injured and the following week they will do the same thing.

24 defeated – they still get defeated and they still get

23 that the team will abandon the game or they would not be

22 sprinkle that thing on the poles, but that doesn't mean

21 and some herbs.  Sometimes they go to the soccer fields and

20 of cleansing.  They'll be sprinkled with this Ntelezi water

19 tradition that they continue to do, even though they depend

18 stand by the car and watch what they're doing.  And they'll

17 some strength of some kind.

16 made of some liquid stuff which people believe gives them

15 Chairperson and – Ntelezi is some herb, the Bishop says

14           MR MAHLANGU:          If I may explain to the

13 muti is practised but I've spent most of my time in urban

12 worked in a rural area as well where it is alleged that

11 amongst Africans that they will have Ntelezi – I can't

10 areas in the townships.  Most of you seated here would have

9 played soccer or been a fan of soccer or had a member of a

8 continue to do these things and when we ask them why are

7 against a bullet.  But as a priest, Christians

6 that you might have encountered?

5 that you are in that answer, if you can touch on what

4 relation to whatever fight they were having and also while

3 general belief – what are the general beliefs around muti

2 So these allegations of use of muti to protect the workers

1 evidence led here about the use of muti.  In your

25 therefore they would want to represent themselves.

24 example of the soccer players, does the fact that they

23 Mkashe comes and speaks to them.

22 anybody, but to withdraw their labour until such time as

21 defence.  And they said they had no intention of harming

20 entirely on prayer but they still do these things - not

19 tradition that they continue to do, even though they depend

18 they grew up being done in their families and it's a

17 they carry these sticks and other things because

16 they were Africans and they can only use them in self-

15 it is alleged that you are violent and it was explained to

14 please leave us behind?  And they will do some kind of a

13 it works for them, it doesn't.  So the argument

12 myself, I don't do too many burials now as a Bishop, I will

11 seated here, sir, will tell you - when I was a priest

10 family playing soccer.  It is a traditional practice

9 they had no fight with the police.  What were you told in

8 that you might have encountered?

7 explanation was given to you in relation to their

6 to whatever fight they were having and also while

5 you are in that answer, if you can touch on what

4 just to stretch your

3 making black people stupid, they're not stupid.  And we may

2 So these allegations of use of muti to protect the workers

1 therefore they would want to represent themselves.

25 therefore they would want to represent themselves.
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1. the game in the belief that the muti will win the game on
its own?

2. RT REV SEOKA: No sir, they still
practise, they still work very hard to make sure that they
do it but they still get defeated, that's the point.

3. MR MPOFU: Now can you move to the – what
you have said in your statement, the broader moral
dimension of the Marikana crisis and I will pick only those
that are relevant to the phase that we are dealing with
now, until I've addressed the Commission on that issue.

4. You have said that the Marikana crisis poses or – poses
issues that serve as warning signs and which point to the
moral degeneration of our society and one of the issues you
talk about is the refusal of the police and Lonmin
management to grab what one might call the god sent
opportunity that you presented to negotiate. Would you
like to elaborate on that?

5. RT REV SEOKA: Thank you for that
question. Chair, I do believe that if only management
could have listened and accompanied us back to the koppie,
alternatively if the Commissioner of Police could have said
to the management we'll accompany you and hear what the
Bishop is saying about these men who have asked that you
come and address them, that the massacre would have been
prevented, it was unnecessary, but the arrogance, the
strong language used I think made these persons to lose the
opportunity that was offered. I don't see why the
commissioner, who was surrounded by so many police persons,
could not say let's do it, let's get a chance, let's go and hear.
Most of you sitting in this room, whether you know me or
you don't, if you recognise me as a clergy person you would
listen to what I say. You see, Chair, incidentally in all
this discussion I never spoke to a white person and
therefore I would have expected black people to understand
what I was saying because we come from the culture of
mbizos, lekgotlas where, when there's an issue to be
addressed, the community come together and talk to each
other. The chief would assemble the community and the
subject will be put before the community and he would
listen and when everybody else has finished talking, he
will make his own suggestions and collectively they would
come with a solution to the issue. And so I believe that
if that thought had occurred to either management or the
police, we would have been in a sitting of mbizo or
lekgotla to talk about these matters and that will have
changed some attitudes in some of these people. And I'm
saying that simply because when they ultimately came
together under one roof, there was that spirit of
understanding and willingness to engage each other. So I
would say that an opportunity was missed at that point to

1. use me as a catalyst to change that hostile environment
into a conducive environment for engagement.

2. MR MPOFU: Yes. Also what attitude was
displayed or discussions that took place in your presence
regarding the action of arresting hundreds of the
protesters and then charging them with the murder –

3. CHAIRPERSON: No, I'm sorry, I'm sorry Mr
Mpofu, I don't think what happened subsequently as far as
the arresting of the protesters assists us in the first
phase. I'm prepared to hear you address me on that.

4. MR MPOFU: Yes.

5. CHAIRPERSON: But prima facie I don't
think it helps us. You've got a lot of material which
assists your cause, from the Bishop, but prima facie I
don't think this is one that at this stage could help you
at all.

6. MR MPOFU: Yes Chairperson, I agree with
you generally, except that the arrests took place on the
16th, so it was only to that extent that –

7. CHAIRPERSON: Okay no, you can lead
evidence on this –

8. MR MPOFU: Thank you.

9. CHAIRPERSON: - on the 16th.

10. MR MPOFU: Yes. Bishop, the Chairperson
is right, the question the way I posed it does talk about
almost subsequent discussions about the arrests but – so
it's a kind of a borderline question but what I was saying,
in relation to what you've called the broader discussions
or moral dimensions, if you could share with us what the
attitude of the workers were about the arrest of their
fellow workers and their charge, being charged with the
murder of their fellow protesters.

11. CHAIRPERSON: - that's something that
happened after the 16th. The decision to charge them with
murder of their fellow protesters, which I think took place
several days later in the context of a bail application –

12. MR MPOFU: Oh yes.

13. CHAIRPERSON: There may be inferences
that can be drawn from that but I'm not sure they assist –

14. MR MPOFU: I'll just confine it to the
arrests, yes, thank you Chair. Thank you very much,
Chairperson. Specifically with the arrests of the 250 or
so people.

15. [14:41] RT REV SEOKA: Thank you, Chair, through
you. My own observation and understanding is that the
arrests again were unnecessary because the people arrested
were victims and had been to the koppie and observed the
killings, observed the shootings that took place and to
have them arrested and charged for murder doesn't really
make sense. I think it was adding insult to injury or
MR MPOFU: Thank you, Bishop. I'm going to be very careful in posing the next question but I'd like your comment I think as a moral leader and somebody who has interacted, as you have displayed, with African tradition, culture and norms. There has been evidence led here which suggests – I won't put it higher than that it suggests – that the, some of the dead bodies on the 16th has weapons placed around them. What would be the cultural –

CHAIRPERSON: I'm sorry, Mr Mpofu. Again I would want an argument on the relevance of that in the context of the present stage of the inquiry. I understand that it might be argued - it might indeed even be held – that if the evidence was tampered with, that might indicate a belief, a lack of belief by the people responsible for the tampering in the soundness of their case and they tried to bolster it by tampering with evidence, I understand that. I can also understand that if there was tampering as alleged, it would call for severe condemnation in the report of the Commission, but I'm not sure that the broader point that you're wishing to make now will assist us in answering the questions which arise for decision of the first phase.

MR MPOFU: Chairperson, yes, firstly I agree with you. The only value of what I was trying to extract is simply – in fact maybe I'll say what the question was going to be and then the Chairperson will either allow or disallow it – was really from the Bishop's point of view, given his stature in society, the sanctity that is placed on a dead body in his experience, both as a religious leader and as an African, to comment on that aspect – not the legal, not the evidentiary aspect of whether it suggests guilt or otherwise.

CHAIRPERSON: I'm sorry, I don't understand the relevance at this stage. I understand what you want the Bishop to say and without expressing my own personal view at this stage, I think there may well be –

MR MPOFU: A place to –

CHAIRPERSON: - a great deal of substance in what the Bishop probably will say in answer to your question, but I'm not sure that that answer, if it is given, will assist us in respect of specific questions we have to answer in the first phase of the inquiry. That's why I'm afraid I'm going to disallow the question.

MR MPOFU: Yes, thank you Chair. That's understandable, Chair. Chairperson, I think this is then the appropriate time for me to address the Commission, which I wanted to do earlier. Chairperson, I'd like to make a request which I may or may not have mentioned when we were debating the issue of phasing but I know that certainly Mr Semenya had touched on it and on this one I find myself on the same side as Mr Semenya.

The issue, Chair, was simply whether the phasing – and I think this was a criticism that Mr Semenya was levelling against the phasing exercise and it's showing itself in relation to this witness and he posed the question whether a witness would, if he's already here, be prevented from giving evidence on something simply because it only touched on phase 2.

My proposal, Chair, would be that for the sake of saving time and not having witnesses coming and going into the Commission, if the witness is already here and the evidence is not so much removed from phase 1, that such evidence be allowed. It may well be that its usefulness, as the Chairperson correctly puts it, is that the usefulness of that evidence will only show itself up when we deal with phase 2. But should we really not take advantage of the fact that the witness is here, lead the evidence so as to prevent maybe having to recall the same witnesses in the second phase. And I'm just posing it as a general question, Chair, which obviously will affect other witnesses as well, it's whether we're going to take the rigid approach which we have so far followed and I've followed it according to your instruction, or whether maybe that leeway should not be opened up. Thank you, Chair.

CHAIRPERSON: Yes, thank you, Mr Madlanga, have you got any comment on the point that Mr Mpofu has made?

MR MADLANGA SC: Mr Chairman, commissioners, I'm quite sympathetic to what Mr Mpofu is saying but my concern is how this would play itself out practically. One can well conceive or rather one foresees that there may be other witnesses who may be in a position that is similar to the Bishop's and do we then, because of that, allow each one of them to testify on other phases whilst we are busy with phase 1 only at this stage? And with other witnesses it may happen also that what they have to say on phase 2 may not necessarily be within a narrow ambit, it may be something quite extensive. Must this Commission then perhaps decide, no, no, we don't allow it with this witness, we'll allow it with that one because it's within a narrow ambit? It may present us with practical difficulties. That's my difficulty with the approach, Chair.

CHAIRPERSON: Yes, thank you, Mr Madlanga. No, I agree with what Mr Madlanga has said. I think it would undermine the whole basis upon which it was
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1 decided that the inquiry would be divided into phases. If
2 the Bishop gives evidence on broader questions relevant on
3 the other phases, he would then be cross-examined on them
4 now and the whole structure that we’ve agreed was virtually
5 on the basis of a consensus on the part of everybody.
6 There was debate about findings, but the actual structure
7 was, as I understood at the end of the debate, a matter of
8 consensus between everybody. I think that would be
9 undermined if I were to accede to your request, which is
10 accordingly refused.
11 MR MPOFU: Thank you, Chair.
12 CHAIRPERSON: Does that mean you’ve got
13 no more questions for the Bishop?
14 MR MPOFU: Chairperson, I just wanted to
15 say – well, given that ruling, Chairperson, as it stands I
16 would just give the Bishop an opportunity which he had
17 asked for, just to thank the role players for having
18 allowed him to play what he, with humility, calls an
19 insignificant role, which I’m not sure about.
20 CHAIRPERSON: It’s for us to decide later
21 whether it’s insignificant. I just want to ask you one
22 question, Bishop, before I invite Mr Semenya to cross-
23 examine you and that is, you were present at the inspection
24 in loco on the second day and you pointed out certain spots
25 at that inspection. I take it you confirm under oath that

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1 those, what you pointed out was correct? Thank you. Mr
2 Semenya?
3 MR SEMENYA SC: Chair, Mr Burger insists
4 on his seniority.
5 CHAIRPERSON: Yes.
6 MR SEMENYA SC: So I’ll come after him.
7 CHAIRPERSON: I’m not sure that these
8 things are necessarily decided on the basis of seniority
9 but I can understand that Mr – there’s a lot of the
10 witness’s evidence that affects Lonmin, so I can understand
11 why Mr Burger wants to cross-examine first. Mr Burger?
12 MR BURGER SC: Chair, my learned friend
13 Mr Semenya has made other mistakes also in this Commission
14 but I’ll lead with the questioning. May I ask my learned
15 friends across the floor to make available to the Bishop
16 Exhibit L, please? That’s the presentation by the SAPS. I
17 will from time to time refer to that in my questioning.
18 MR MPOFU: Chairperson, sorry
19 Chairperson, I don’t want to be pedantic but my
20 understanding was that this presentation is not yet
21 evidence in the Commission.
22 CHAIRPERSON: It’s not evidence but it’s
23 material before the Commission and if it helps to shorten
24 the proceedings and enables Mr Burger to direct his
25 questions in a more focused way, I propose to allow him to

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1 do it – but on the clear understanding that you want,
2 stress at this point that the material in the presentation
3 is not yet before us as evidence but it is evidential
4 material, if there’s a distinction between the two, and it
5 may appropriately be used as a basis for cross-examination
6 inasmuch as it effectively is a statement of the police
7 case.
8 MR MPOFU: Yes –
9 CHAIRPERSON: Just as he could put the
10 opening, parts of the opening statement by Mr Semenya to
11 the witness, so can he put the presentation.
12 MR MPOFU: Thank you, Chair.
13 CHAIRPERSON: Is that –
14 MR MPOFU: I accept that, Chair. Thanks
15 Chair.
16 CROSS-EXAMINATION BY MR BURGER SC:
17 Bishop, we have had a presentation by SAPS which give us a
18 chronology of what transpired on the 16th of August and I
19 would like to understand the time line of your evidence
20 against the backdrop of this chronology. You arrived at
21 Marikana at about 1 o’clock that afternoon.
22 RT REV SEOKA: Yes.
23 MR BURGER SC: And let us try to
24 reconstruct, from the gate at Marikana to the koppie, would
25 it be fair to suggest to you that that might take about 15

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1 minutes by car?
2 RT REV SEOKA: I’m not sure, I’ve never
3 measured that.
4 MR BURGER SC: What we know is that you
5 arrived at the koppie after you’ve reported at the gate,
6 ascertained where the workers were and then drove towards
7 the koppie.
8 RT REV SEOKA: Yes.
9 MR BURGER SC: We know from Exhibit L,
10 that is the presentation, that between 1 o’clock and 2
11 o’clock that afternoon the President of AMCU spoke to the
12 workers at the koppie. If you turn to page 169, it’s
13 paginated in red at the foot of the photographs, the small
14 number in the left-hand foot of the photograph, can you –
15 CHAIRPERSON: Mr Burger, I’m sorry to
16 interrupt you, it’s not actually a page number. You’ll see
17 that each page has actually got two slides. So you’re
18 referring to the slide number.
19 MR BURGER SC: Slide 169. Now Bishop,
20 I’ll invite you to assume with me for the time being that
21 these time lines are correct as pointed out here. I don’t
22 accept it and you don’t have to accept it but for purposes
23 of my questioning, let us assume that. You see Mr
24 Mathunjwa is there shortly before 13:25. That you see from
25 slide 170 which gives us a time. Now what I want to ask
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RT REV SEOKA: I never looked at a watch. I think that can be confirmed by the security who stop people and register their cars. I'm sure that they - if they stop your car when you go in, they must take your number plate, they must register the time at which you enter. Therefore they'll be the ones to calculate.

MR BURGER SC: When, what I would describe as being in the mine property. The mine property becomes when you enter the place with two white walls and it's written, Marikana. But my estimate of time, it's when I arrive and meet the chaplain of the police.

MR BURGER SC: And your evidence now is that that would've been 1 o'clock when you met the chaplain of the police?

RT REV SEOKA: When, what I would describe as being in the mine property.

MR BURGER SC: Where did you meet the chaplain?

RT REV SEOKA: I met the chaplain at the place where there were a lot of police and police cars. It is the same place where I met the Commissioner of Police.

MR BURGER SC: We refer to that as the JOC, that's the head office of the police on the 16th of August, I think we know where that is. By then, on your version, you had already had the discussion with the six to eight workers at the koppie.

RT REV SEOKA: On arrival at the gate and I never looked at a watch. I think that can be confirmed by the security who stop people and register their cars. I'm sure that they - if they stop your car when you go in, they must take your number plate, they must register the time at which you enter. Therefore they'll be the ones who'll be the ones to calculate.
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MR BURGER SC: And as I understand your
evidence, that group of people wanted to speak to Lonmin
management and they were desirous of having a discussion
with mine management.

RT REV SEOKA: Yes.

MR BURGER SC: The man in the green
blanket, if he is the same person as you referred to, we've
seen in the videos and in Exhibit L, may I show you slide
167? Would that be the man in the green blanket?

RT REV SEOKA: Yes.

MR BURGER SC: Yes. If you go to slide
192, 192, is that the man in the green blanket?

RT REV SEOKA: Well, the man that you're
showing me has a green blanket around his shoulders.

MR BURGER SC: Yes.

RT REV SEOKA: Whether they were the same
man or not -

MR BURGER SC: You see, according to the
evidence to be adduced by the police, if you have a look at
slide 192, at 20 to four that afternoon – 20 to two, I'm
sorry, 20 to two, 13:40 – let me read it to you, the second
bullet there. "This followed his earlier comments made at
about 13:40 where he approached the Nyala and said that he
can see the SAPS are making ready for war now. He informed
Lieutenant-Colonel Macintosh that 'we must sign a paper so
that the world can see how we will kill one another
today.'" That's ascribed to this man with the green
blanket.

RT REV SEOKA: Well, it actually makes
sense what you're saying because by that time I should've
been where I met the chaplain. I had left that situation.

This picture tells me that this happened after I had left.

If I say to you I was at that place at about 1 o'clock,
this is about – long after that.

MR BURGER SC: 20 to two, Bishop.

RT REV SEOKA: Yes.

MR BURGER SC: In 40 minutes he puts
aside his peace pipe and he's on a warpath now. How does
that happen?

RT REV SEOKA: I don't know –

MR BURGER SC: Help us. You saw him, you
were one of the last people who saw him, on your version,
between 12 and one perhaps on that day and he was in the
mood to talk.

MR MPOFU: Chairperson, I'm sorry, I know
what - the discussion that we had earlier, that although
this is not evidence it's before the Commission but if it is
being led in this fashion, in other words suggesting the
truth of its contents, that's a different matter –

CHAIRPERSON: Mr Mpfou, I'm sorry, I

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don't understand – I think what Mr Burger is saying is that
if it is correct –

MR MPOFU: No, that's not what he's
saying.

CHAIRPERSON: I think that's implicitly
what he says. If it's correct then how do you explain your
evidence, this change of attitude and so on. There are
various answers the Bishop can give, it's not for us to
tell him what he should say but I would only allow the
question if it is put on the basis that I've suggested,
namely if that is the position, how do you do – how do you
explain it. It can't be put as a fact at this stage
because it's not established as a fact –

MR MPOFU: Thank you, Chair.

CHAIRPERSON: There's no evidence to that
effect.

MR MPOFU: Thank you, Chair.

CHAIRPERSON: But I must say I thought
implicit in the way that the questions were being put was,
and as I understand your

MR MPOFU: Thank you, Chair.

CHAIRPERSON: I have to ask the police can I write it myself.

Mr Burger, one thing you must understand,
that Lonmin and SAPS are not in the same camp in this
inquiry, so I don't hold a brief for them and what I put to
here is simply on the basis, let you and I assume it for
purposes of your evidence. I don't accept it, but let us
assume that will be their evidence. I leave the question
for you, how do you understand this change of heart in the
man with the green blanket, on your version and the
police's version?

RT REV SEOKA: I can tell you under oath,
the man in the green blanket, the one I spoke to, was one
of the most peaceful people in that whole group. He never
showed any hostility towards us, he was open to hearing
what we were saying and he spoke to us very gently. I can
tell you that 100 times under oath. I have written
articles since then that describe the attitude of the man.

You know, sir, I can tell you if this is the evidence of
the police - and that's not where I am, I'm telling you
about what I saw and what I heard – I can tell you, having
been a priest for almost 40 years now, police in this
country can never be trusted. Police in this country,
there's enough to say about how they have tried to plant
things on people and change statements that you have given.
I personally have been to the police station to make a
statement – I have to ask the police can I write it myself.

So I can easily say to you, I was not there when this was
written so I do not know whether it is a fact and I must
tell you I don't trust a police person.

MR BURGER SC: Bishop, I've cross-
14th November 2012  
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**RT REV SEOKA:** I said I believe the phone call came from the man in the green because he is the one that had given the instructions and therefore I would have expected him, as the one who appeared to me as a leader, to be calling. I don't think, having met a person for the first time, engaged in discussion for the first time, I'll be able to identify his voice on the phone.

**MR BURGER SC:** How did you do that, Bishop?

**RT REV SEOKA:** Because I wanted the man to trust me. I said that from the very onset that the first thing I had to establish is trust and then when they asked me who I was, I had to display to them that I was honest, because I wanted them to trust me. If I had my business cards, I would have actually given to them, I didn't have it. The only identity I have was my driver's licence and I showed it to them. And one of the men sitting there literally took my driver's licence and I showed it to them.

**MR BURGER SC:** Bear with us, we weren't there, I just tried to picture what happened. You sit down, and you want to gain their trust, so you show them your driver’s licence, they look at it, and are they satisfied? Correct?

**RT REV SEOKA:** Yes.  
**MR BURGER SC:** You don't have a business card, do you can't give them a business card?  
**RT REV SEOKA:** Yes.  
**MR BURGER SC:** What else do you give them?  
**RT REV SEOKA:** They now believe you, they know who you are, what else do you give them? They now believe you, they know who you are, what else do you give them?  
**MR BURGER SC:** If they had asked for my card, do you card, do you can't give them a business card?  
**RT REV SEOKA:** If they had asked for my card, do you card, do you can't give them a business card?

**MR BURGER SC:** Where would that party get your telephone number from to phone you in the car?

**RT REV SEOKA:** Yes, that's correct.  
**MR BURGER SC:** Where would that party get your telephone number from to phone you in the car?

**RT REV SEOKA:** No, I did say that we introduced ourselves and were as honest as possible. I gave them the telephone number. I gave him my address where I live, I told them where I was working, I told them I was a Bishop in this area. I told them I'm the President of the Council of Churches. I told them that I lived at Irene and I gave them the official residence number of the Bishop of Pretoria and I gave them my cellular phone number.

**RT REV SEOKA:** I took my driver’s licence and I showed it to them.

**RT REV SEOKA:** Yes, that’s correct.  
**MR BURGER SC:** Where would that party get your telephone number from to phone you in the car?

**RT REV SEOKA:** Assume that to be proved.

**MR BURGER SC:** Assume that to be proved.

**RT REV SEOKA:** If they had asked for my card, do you card, do you can't give them a business card?

**RT REV SEOKA:** Yes, you're correct.  
**MR BURGER SC:** And would it be correct to assume that they didn't know you either? You were new to each other.

**RT REV SEOKA:** Yes, that's correct.

**MR BURGER SC:** And would it be correct to assume that they didn't know you either? You were new to each other.

**RT REV SEOKA:** Yes, sir.

**MR BURGER SC:** Bishop, as I understand your evidence, those six to eight people with whom you spoke at the kopje, you've never met them before. They became faces to you on that day.

**RT REV SEOKA:** Yes, you're correct.

**MR BURGER SC:** And would it be correct to assume that they didn't know you either? You were new to each other.

**RT REV SEOKA:** I don't know that.

**MR BURGER SC:** I accept that. In fact, Bishop, as I understand your evidence, those six to eight people with whom you spoke at the kopje, you've never met them before. They became faces to you on that day.

**RT REV SEOKA:** So I cannot guarantee it was him. I just assume it was him.

**MR BURGER SC:** I accept that. In fact, Bishop, as I understand your evidence, those six to eight people with whom you spoke at the kopje, you've never met them before. They became faces to you on that day.

**RT REV SEOKA:** No, I accept –

**MR BURGER SC:** No, I accept –

**RT REV SEOKA:** No, I did say that we introduced ourselves and were as honest as possible. I introduced ourselves and were as honest as possible. I gave them the telephone number. I gave him my address where I live, I told them where I was working, I told them I was a Bishop in this area. I told them I'm the President of the Council of Churches. I told them that I lived at Irene and I gave them the official residence number of the Bishop of Pretoria and I gave them my cellular phone number.

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**Chairperson:** Bishop, I don't think it's quite a frightening experience. But may I say to you with all humility, we should stay with the facts, perhaps we should stay with the facts. I'm still busy with the time line. I also would like to understand when there was the commotion at JOC when the helicopters lifted off. You remember that evidence of yours? Now the evidence we have before the Commission thus far was that one police helicopter lifted off from that JOC at about seven minutes before four that afternoon, 15:53.

**RT REV SEOKA:** I said I believe the phone call came from the man in the green because he is the one that had given the instructions and therefore I would have expected him, as the one who appeared to me as a leader, to be calling. I don't think, having met a person for the first time, engaged in discussion for the first time, I'll be able to identify his voice on the phone.

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**RT REV SEOKA:** If they had asked for my card, do you card, do you can't give them a business card?

**MR BURGER SC:** You don't have a business card, do you can't give them a business card?

**RT REV SEOKA:** Yes.

**MR BURGER SC:** What else do you give them?  
**RT REV SEOKA:** They now believe you, they know who you are, what else do you give them? They now believe you, they know who you are, what else do you give them?

**MR BURGER SC:** If they had asked for my card, do you card, do you can't give them a business card?

**RT REV SEOKA:** Yes.

**MR BURGER SC:** You don't have a business card, do you can't give them a business card?

**RT REV SEOKA:** Yes.

**MR BURGER SC:** What else do you give them?  
**RT REV SEOKA:** Yes.

**MR BURGER SC:** What else do you give them?  
**RT REV SEOKA:** Yes.
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Rustenburg


RT REV SEOKA: No, I know, but they didn’t. I am just asking, what happened in fact?

RT REV SEOKA: No nothing else, all I needed to do is to show these men that I was an honest person, coming with a specific issue to deal with, and that was to help them.

MR BURGER SC: Bishop, but they believed you. You told us they believed you. You showed them your driver’s licence and they believed you, and thereafter there was a trusting debate between the two of you, between the two parties.

RT REV SEOKA: No, the men like spoke to me very openly and honestly, I believe.

MR BURGER SC: I still don’t know where they got your cell phone from.

RT REV SEOKA: But I told you, more than once, I gave them my number. I gave them my residential address also. I said it before. I am not stingy about my number, if you ask for it, I’ll give it to you right now.

I am a spiritual leader, people need to call me I need to tell you that my cell phone is never actually off because people call me all the time.

CHAIRPERSON: You better turn it off now, because it may interrupt us as we carry on with your evidence.

RT REV SEOKA: Well, Chair, the church knows I am sitting here, the whole Anglican Church knows that I am here today and so, they are not going to call me because we respect this process, and they wish that it goes well.

MR BURGER SC: That’s then the time line.

Can we just go now to what you knew when you reported to security on the 16th. You had read about the Marikana troubles in the newspapers, and you saw it on television.

RT REV SEOKA: Yes.

MR BURGER SC: Any other source of information?

RT REV SEOKA: I did say that on the 14th, some journalists asked me about Marikana.

MR BURGER SC: But your sources of information about Marikana is what you and I at that stage read in the newspaper and saw on television.

RT REV SEOKA: Yes.

MR BURGER SC: You wouldn’t have known that by 01:30 on that day, General Annandale, a police general, had already decided to proceed to implement what was called stage 3 of the operational plan. You wouldn’t have known that?

RT REV SEOKA: Yes?
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Rustenburg

1. will be done to their irrigation system, so I hope it won't
2. be necessary for me to say anything further about it. You
3. are still under oath, Bishop. You are still cross-
4. examining, Mr Burger.

5. MR BURGER SC: Thank you, Chair. Bishop,
6. we are probing your knowledge of the events at Marikana
7. when you arrived on the 16th of August and the second
8. proposition I want to put to you is that you did not then
9. of the relationship between NUM and AMCU at the Lonmin
10. site, in fact you didn't know that AMCU existed.

11. RT REV SEOKA: I heard about AMCU but I
12. didn't know I was organising in the mine.

13. MR BURGER SC: You did not know the
14. collective bargaining agreement in place at Lonmin or its
15. terms.

16. RT REV SEOKA: No, I didn’t.
17. MR BURGER SC: You did not know the
18. demands made by the striking workers and on what terms
19. those demands had been made until lunch time on the 16th.

20. RT REV SEOKA: Yes.
21. MR BURGER SC: You had nothing more than
22. a very superficial knowledge of the levels of violence
23. which played itself out during the period 9 to 16 August at
24. Lonmin.

25. RT REV SEOKA: Correct. All I knew was

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1. what I saw on the media.
2. MR BURGER SC: When you drove through the
3. security gate on that day, did you know how many people had
4. already lost their lives?

5. RT REV SEOKA: I knew that there were
6. about ten people who had died, somewhere there. But I
7. wasn’t sure.

8. MR BURGER SC: And then we assume that
9. you didn’t know the circumstances under which those people
10. were killed.

11. RT REV SEOKA: Yes, I didn’t know. All I
12. know is that when, is what the workers told me, that when
13. they returned from the company, they were shot at by the
14. union leader. That’s the only confrontation that was
15. explained to me where life was lost.

16. MR BURGER SC: We will come to that,
17. Bishop, but that you heard at the koppie only.

18. RT REV SEOKA: Yes.
19. MR BURGER SC: And did you believe the
20. version that was given to you at the koppie?

21. RT REV SEOKA: Say that again.
22. MR BURGER SC: Did you believe the
23. version given to you at the koppie?

24. RT REV SEOKA: I was there to listen,
25. whether it was true or not, it was not my concern at that

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1. time. My concern was how can I help to break the impasse
2. that was realised at that point. That’s all. This is why
3. I said to Mr Kgotle, you can’t call them criminals and
4. murderers because that’s what they’ve told me that they
5. lost two of their members through your security forces.
6. And I never asked, did you kill anybody? That’s the
7. information they volunteered to me. My anxiety was to find
8. out how can the church help?

9. MR BURGER SC: Bishop, did you believe
10. what you were told at the koppie or not?

11. RT REV SEOKA: I can’t say yes or no. My
12. mission was to listen to these people, as I left my home I
13. was going there to listen to their plight to see how the
14. church can help. So it’s not matter of being convinced by
15. one party against the other.

16. MR BURGER SC: Bishop, may we also assume
17. that you were unaware of the levels of intimidation which
18. had preceded the events on the 16th of August, starting at
19. the 9th and running up to that fateful Thursday?

20. RT REV SEOKA: That’s true, except what I
21. saw in the media.

22. MR BURGER SC: You told us about the
23. traditions in carrying weapons for African males, will you
24. have look in exhibit L, at page 121, slide 121. Would that
25. fall within your definition, or are those dangerous weapons

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1. which shouldn’t be carried in a public meeting?
2. RT REV SEOKA: Well, in most traditional
3. communities a man in Nguni tradition will carry a stick and
4. a spear if he is going for hunting or going to a situation
5. that needed to – where he needed to defend himself, he will
6. carry that, but the second slide with pangas whatever you
7. call, that will be an unusual thing amongst Africans.

8. MR BURGER SC: Yes, there’s no much
9. hunting on the big koppie, we know. Slide 173 and 172.

10. RT REV SEOKA: You see, Sir, for instance
11. if you look at the slide above on 21, the man in a green
12. blanket has got something in his hand, is that right?

13. MR BURGER SC: You refer to slide 121.
14. RT REV SEOKA: Yes, on top on the left-
15. hand side.

16. MR BURGER SC: What do you want to say
17. about that, Bishop?

18. RT REV SEOKA: That when I met the man
19. personally, he had no stick or anything in his hand when I
20. met him, and that’s a fact., but on this slide he has got
21. something on his hand.

22. MR BURGER SC: I also referred you to
23. slide 173 and 172, and what I really want to ask you is did
24. you see any of these weapons when you were at the koppie on
25. the 16th?
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<td><strong>1.</strong> RT REV SEOKA:</td>
<td><strong>1.</strong> RT REV SEOKA:</td>
<td><strong>2.</strong> MR BURGER SC:</td>
<td><strong>1.</strong> “mediate,” rather than negotiate.</td>
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<td><strong>2.</strong> MR BURGER SC:</td>
<td><strong>3.</strong> MR BURGER SC:</td>
<td><strong>2.</strong> MR BURGER SC:</td>
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<td>And 172.</td>
<td>but not – will you be a mediator but not a negotiator?</td>
<td>Would you be a negotiator</td>
<td>2. <strong>5.</strong> RT REV SEOKA:</td>
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<td><strong>3.</strong> RT REV SEOKA:</td>
<td><strong>3.</strong> RT REV SEOKA:</td>
<td></td>
<td>I will mediate that</td>
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<td>I will not say I did see</td>
<td>that there’s movement towards reconciliation but to negotiate</td>
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<td>these kind of weapons, but I did say earlier that when I</td>
<td>and talk about wages, it’s not my field.</td>
<td>They spoke in Xhosa.</td>
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<td>arrived there, men were singing and dancing to a rhythm,</td>
<td><strong>9.</strong> MR BURGER SC:</td>
<td>And you had no difficulty</td>
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<td>and therefore they had sticks as part of that dancing</td>
<td></td>
<td>in understanding them, and they could understand you.</td>
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<td>thing.</td>
<td><strong>10.</strong> RT REV SEOKA:</td>
<td><strong>11.</strong> MR BURGER SC:</td>
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<td><strong>4.</strong> MR BURGER SC:</td>
<td>Yes. I was aware that</td>
<td>May I just ask about the</td>
<td><strong>4.</strong> Now let me put immediately</td>
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<td>Bishop, I am not referring</td>
<td>they had some weapons, but what type of a weapon it was I</td>
<td>discussion at the koppie, in what language did you</td>
<td>to you, that the three managers at Lonmin will deny that</td>
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<td>to sticks, it’s quite a nasty piece of steel at 172. Did</td>
<td>don’t know. What I know is that the people that I spoke</td>
<td>communicate with the group of people?</td>
<td>they ever referred to the strikers at the koppie as</td>
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<td>you see weapons like that when you were at the koppie?</td>
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<td>criminals or murderer. I will develop that later but that</td>
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<td><strong>5.</strong> RT REV SEOKA:</td>
<td>I did not see a pang as</td>
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<td>will be denied by them.</td>
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<td>I did not see a pang as</td>
<td>you are pointing at it, but I saw them lifting something.</td>
<td><strong>16.</strong> MR BURGER SC:</td>
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<td>you are pointing at it, but I saw them lifting something.</td>
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<td>So you didn’t envisage</td>
<td>I don’t deny they will</td>
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<td><strong>6.</strong> The situation for me as it presented itself was that I</td>
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<td>that you would be a negotiator if there was going to be a</td>
<td>will be denied by them.</td>
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<td>needed to talk to the leadership that I was taken to, and I</td>
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<td>debate between the workers at the koppie and the SAPS</td>
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<td>never kept my eyes on them. The leadership was sitting</td>
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<td>and/or Lonmin?</td>
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<td>there, and dancing and the thing was there. When we were</td>
<td><strong>7.</strong> MR BURGER SC:</td>
<td><strong>21.</strong> RT REV SEOKA:</td>
<td>No, my responsibility as I</td>
</tr>
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<td>coming in, we were stopped from going to that particular</td>
<td>So we may assume, Bishop, that’s our system,</td>
<td>No, it’s not. And that’s</td>
<td>saw it at the time, and what I was raised to do, is to</td>
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<td>crowd.</td>
<td>I did not see a pang as</td>
<td>why I’ve always refused to be called a negotiator, because</td>
<td>bring the parties together and allow them to talk to each</td>
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<td><strong>8.</strong> MR BURGER SC:</td>
<td>you are pointing at it, but I saw them lifting something.</td>
<td>I never negotiated, I provided a space for engagement.</td>
<td>other.</td>
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<td>So we may assume, Bishop,</td>
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<td><strong>19.</strong> MR BURGER SC:</td>
<td><strong>25.</strong> MR BURGER SC:</td>
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<td>that when you gave advice back at the JOC, you weren’t</td>
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<td>So you didn’t envisage</td>
<td>I rather use the word</td>
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<td>aware that this type of weapon was being carried at the big</td>
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<td>that you would be a negotiator if there was going to be a</td>
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<td>koppie?</td>
<td><strong>10.</strong> RT REV SEOKA:</td>
<td></td>
<td>debate between the workers at the koppie and the SAPS</td>
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<td><strong>9.</strong> RT REV SEOKA:</td>
<td>Yes. I was aware that</td>
<td><strong>21.</strong> RT REV SEOKA:</td>
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<td>that you have never been personally involved in wage</td>
<td>they had some weapons, but what type of a weapon it was I</td>
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<td>I don’t deny they will</td>
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<td>negotiations in the platinum belt around Rustenburg.</td>
<td>don’t know. What I know is that the people that I spoke</td>
<td></td>
<td>will be denied by them.</td>
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<td><strong>11.</strong> RT REV SEOKA:</td>
<td>I'd rather use the word</td>
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<td>That's true. But that’s</td>
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<td><strong>12.</strong> MR BURGER SC:</td>
<td>And may we also assume</td>
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<td>And may we also assume</td>
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<td>1</td>
<td>RT REV SEOKA: No, the only time I knew somebody from the company died was when Mr Kgote told me and pointed out the woman who had a scarf around her shoulders.</td>
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<td>MR BURGER SC: This is her brother?</td>
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<td>RT REV SEOKA: He did say it was the brother of the woman.</td>
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<td>4</td>
<td>MR BURGER SC: I will revisit that because there is also a discrepancy between my client's version and you, but I will come to that in due course.</td>
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<td>5</td>
<td>CHAIRPERSON: Unless someone specifically shows me the pictures on the screen. The pictures have all been seen already by people in the auditorium. The bishop wasn't here, you can show him the slides, the relevant slides on exhibit L, it is not necessary for them to be shown on the screen.</td>
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<td>6</td>
<td>MR BURGER SC: Thank you, Chair.</td>
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<td>7</td>
<td>CHAIRPERSON: Unless someone specifically demands it, in which case I have to consider whether I should allow it, but I probably won't. Carry on.</td>
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<td>8</td>
<td>MR BURGER SC: Thank you, Chair. Bishop, now for that proposition can I ask you to turn to page 30</td>
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<td>9</td>
<td>RT REV SEOKA: By the workers, yes.</td>
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<td>2</td>
<td>MR BURGER SC: By the workers.</td>
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<td>3</td>
<td>RT REV SEOKA: Yes. As much as Mr Kgote told me that some of the men had been killed, pointing out at that woman at the reception and now you are telling me that the man lying down here is a brother to that woman.</td>
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<td>4</td>
<td>MR BURGER SC: No, Bishop, at paragraph 8 we are at the koppie and you tell the commission of a discussion between you and the striking workers. Mr Kgote is not in this debate.</td>
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<td>5</td>
<td>MR BURGER SC: What I probing is the information you got at the koppie, we know what you didn't know, but is this the only information as to the ten killings that you received from the striking workers at the koppie?</td>
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<tr>
<td>6</td>
<td>RT REV SEOKA: Yes. I have said that what I am telling the commission here it's what I heard, it's what I saw. Nothing more than that, nothing less than that.</td>
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<td>MR BURGER SC: Were any of the ten people who were killed members of your church, Bishop?</td>
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<td>RT REV SEOKA: No, only one.</td>
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<td>MR BURGER SC: And in paragraph 8 they are now asking for management, can I just get clarity on this, the second sentence reads, &quot;we were informed that we</td>
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should secure the attendance of the management or the employer to come to the koppie and address the workers,”

what would have been the subject of the address? Who would have said what to whom?

MR BURGER SC: No, I am asking your knowledge, Bishop, let’s stay with your facts. I want to know what happened at the koppie that day, you sit opposite them and you say to us, they ask you, management must come and address them. Address them about what? What are the demands and what is the subject of the discussion to be?

How do you understand that?

RT REV SEOKA: They wanted the Mkashe to come and address them on their demands.

MR BURGER SC: What were their demands?

RT REV SEOKA: It was the wages. That is what had brought them to the koppie.

MR BURGER SC: How much did they want and when did they want it?

RT REV SEOKA: They wanted 12 500 and that is what Mkashe was going to address.

MR BURGER SC: Did you know that the demands the whole week was they wanted 12 500 and management must tell them when they will be paid that?

RT REV SEOKA: I don’t know whether management must tell them when to be paid, but I want to believe that is what the workers wanted to talk about.

MR BURGER SC: Bishop, may we assume that you also didn’t know that the workers at the koppie were part of an illegal gathering which had refused to disperse despite a request by SAPS to do so.

RT REV SEOKA: That is correct.

MR BURGER SC: May we also assume that you didn’t know that on the koppie on that day were three shot guns, one R5 rifle and two 9 millimeter pistols which had been removed from the bodies of people who were killed earlier that week.

RT REV SEOKA: That is correct.

MR BURGER SC: We will also assume that you didn’t know that the strike was in contravention of a court order which had been obtained on the Friday the 9th of August – 10th August.

RT REV SEOKA: That’s true.

MR BURGER SC: Now can we go back to my original proposition which I want to put to you, I will argue at the end of this part of the inquiry that it was reasonable for Lonmin knowing these facts, not to be willing to negotiate with the strikers on Thursday the 16th August at the koppie. What is your comment on that, if any?

RT REV SEOKA: My comment is simply that Lonmin managers missed a golden opportunity despite what had happened to them. Here is a messenger I didn’t know those gentleman before, I recognised one of them, I was not too sure about him until he explained to me who he was. I want to assume that the gentleman know exactly who I was. I got to know that Mr Mokoena’s daughter goes to one of my schools in Pretoria and therefore he must have been to the meetings where I would have been and recognised me as the bishop in the Anglican church in Pretoria. As a clergy person you are always in the midst of thousands of people who recognise you and you cannot recognise all of them. I have been a bishop now, I am on the 15th year and there are still people I do not know in the congregations I visit almost every year because there are many but they all know me.

MR BURGER SC: Bishop, we agree on so little, I am delighted to tell you I agree on that proposition, of course we know you are bishop, we can tell it by the way you dress.

RT REV SEOKA: That is for the reason I would have thought when they recognise me and accepted me as spiritual leader of a traditional church, I am not a leader of a fly by night church. I am a leader of the church it is historical well established and therefore they could have taken the opportunity. The Anglican church world wide is known for peace making. We are known for work of reconciliation. We are known for being against weapons of any nature. And therefore I would have expected management to say well this is an opportunity, guarantee us security. When he asked us to go and meet the commissioner I though he would have asked the commissioner to accompany us to the mountain, but neither of them did and so the instances that you are referring to and the images that you are pointing at are all the reasons why I would have tried to persuade the gentlemen to come with me to the mountain, so that they can talk about what has happened and how they can resolve their differences, and they ultimately did.

They sat in the same room.

MR BURGER SC: Bishop, I don’t know what question you are answering and I don’t understand your answer.

RT REV SEOKA: I was trying to explain to you the circumstances I found myself, but I will then withdraw and just listen to you.

MR BURGER SC: Let me explain my problem to you, as I understand your evidence today it was the Lonmin people who at the death had said to you we will go, if you read your paragraph 13 of your statement, this is...
your version, Mr Mokoena said that we should return to the
kopje and tell the striking miners that mine management
would only talk to them if firstly they surrender their
weapons, secondly, they elected between 5 and 8 people to
represent them and thirdly, they dispersed from the kopje.

RT REV SEOKA: If you read further down
it is the same Mr Mokoena who says you can no longer go
there. Then on the other hand the workers had told us go
there and we meet with these gentlemen who will then
ultimately say go and tell them to do these three things.
Halfway there we are told you can no longer go there.

MR BURGER SC: Bishop, no I did read on
and what I read on is that Lonmin couldn't go there because
the kopje had been cordoned off by the SAPS in the
meantime on your version.

RT REV SEOKA: Yes.

MR BURGER SC: How do you blame Lonmin
for that?

RT REV SEOKA: The issue was between the
workers and Lonmin. In the document the workers say they
are not fighting with the police. Mr Mokoena and his group
posed as people who have authority and he could have said,
I am told the place has been cordoned off by the police but
if you go there it's your own business, not to say you
cannot go back there, or something to that affect. Mokoena
stopped me from going back there. If I was in the shoes of
Mr Mokoena myself I would have allowed the bishop to go
back there and relay the message and see what would have
happened thereafter. But the manager is not a bishop and
the bishop is not a manager.

[16:29] MR BURGER SC: You know that's not the
debate, Bishop, and you make light of what is a very
serious issue. It is evidence before this commission that
by that time the kopje had been under the control of the
SAPS for a considerable period, it didn't happen then. But
in your favour I assume it happened then. But by then the
kopje is cordoned off by the SAPS, one can't go there. I
don't understand why you blame Lonmin for not being willing
to breach the SAPS no go area. That I don't understand.

RT REV SEOKA: But how do you know that I
understand why the police did not tell me that, that place
is now under them and I should not go back there. Why did
the company tell me not to go back? The place had been
cordoned off by the police, it was under their control and
I had been talking to the person in charge of that
situation and she does not tell me I should not go there.
The man that approached us and spoke to Mr Mokoena, he did
not have a uniform that would indicate he is either a
policeman or a soldier. My assumption was he was a
civilian. But my question to you is why was it that the
commissioner did not come and say to me, Bishop, this has
nothing to do with you, this is now under our control and
please get into your car and get off. Courtesy would have
required that the police chief comes back to the bishop and
says, "Sir I don't have time to be talking to you I need to
go and do my work." She left as though she was coming back,
she never came back. That's a show of disrespect.

CHAIRPERSON: Mr Burger is putting to you
that it may well be that the lieutenant general was
respectful but he says why do you blame Lonmin for that.

RT REV SEOKA: I am not blaming Lonmin, I
am saying that Lonmin is the one that stopped me when I
would have expected the police to stop me, because they
were the one who were said to have cordoned off the place
and the place was under their control. The person that
told me not to go back there is the same person who gave me
the message to relay back to the workers. But, Chair, I
was aware that I was in the mine property, I was in the
property of Lonmin and therefore if you want to say I am
blaming them, I would say maybe it was because I was on
their property.

MR BURGER SC: Bishop, are you willing to
withdraw that criticism and assume that Lonmin couldn't go
there if the police had cordoned off the big Kopje. Are
you willing to do that?
bishop and I have some further talk to talk, is this a
convenient time for the adjournment?

CHAIRPERSON: Yes, I did understand that
the bishop isn't available tomorrow, is that correct? Mr
Mpfou, the witness is here under your banner. Will you
tell us whether he is available tomorrow.

MR MPOFU: Chairperson, maybe can we have
a short adjournment so that I can see if we can mitigate
that situation

CHAIRPERSON:

[COMMISSION ADJOURNS  COMMISSION RESUMES]

MR MPOFU: Chairperson now, I am afraid
there will be a problem tomorrow and on Friday. The bishop
has suggested that if he has to come back it would have to
be early next week some time and he says there is an annual
meeting that he says some people –

CHAIRPERSON: The short point is we are
adjourned at this stage on the basis he will come back on
the date that is mutually convenient which is arranged
between the evidence leaders, Mr Burger and you, in
consultation with the bishop. We can't fix the date now,
we will merely postpone until tomorrow. Another witness
will give evidence, he can't be here and when he comes back
we can't decide now, and that will be discussed outside the
commission. Is that so?

MR MPOFU: That is correct, Chair.

Except, depending of course how far Mr Burger is with his
cross-examination, I would have preferred that at least one
cross-examination is finished so that we stop at a logical
point not in the middle of one cross-examination. But
that's entirely –

CHAIRPERSON: Well, Mr Burger did say, I
was prepared to go on a little bit longer but Mr Burger
indicated, as he put it, he and the bishop have a lot to
discuss. So I take it by that he meant he couldn't wrap it
up by say 5 o'clock or anything of that sort. Obviously
unless the witness runs up the white flag, which is
unlikely so we must assume that the conversation to which
Mr Burger referred will take some time. Is that correct,
Mr Burger?

MR BURGER SC: Indeed, Chair.

MR MPOFU: Yes, no Chair, I understood
exactly the same way, all I am offering is that if the
bishop has to, or rather if the commission is prepared to
sit for an extra 15-20 minutes after the normal time of 5
o'clock that might resolve that problem. At least one
cross-examination must be finished.

CHAIRPERSON: Apparently we won't even be
finished by then and in any event I take it Mr Semenya
wants to ask some questions. So I can understand that if
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