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973 Tipton Street  
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0184

13<sup>th</sup> June 2013

Sergio Calle - Noreña  
Deputy Regional Representative  
UNHCR Regional Representation  
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RE: BHEKUMDINI QEDUSIZI PENEUEL  
SIMELANE (AKA Bheki Simelane)  
AND THE IMPENDING TRUTH AND  
RECONCILIATION COMMISSION  
TO RE-CONVENE IN DURBAN/  
ETHEKWINI AND WHICH TRC  
WAS ORDERED BY THE CAPE  
TOWN HIGH COURT ON 13 APRIL 2006

1. Kindly find herewith the following documents for your information and records :

1.1 A typed version of my handwritten letter dated 19 April 2013 ;

1.2 A typed version of my handwritten letter dated 2 June 2013 ;

1.3 A typed version of my handwritten open statement of 04 June 2013;

and  
1.4 My letter dated 10 June 2013 to M B Coetzee, Secretary to the Parliament of the Republic of South Africa.

2. I have not repeated herein the annexures to my said letter of 02 June 2013 because as you are aware those are typed documents.

3. Please note also that I have placed all the documents referred to in paragraph 1 above in a bound volume as a complete set for your own convenience and which bound volume you will receive in the ordinary mail in due course.

4. Kind regards

~~Simelane~~

13/06/2013  
11.204.77

BHEKUMUNDENI QEDUSIZI PENUEL  
SIMELANE (qkq. Bheki Simelane)

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19 April 2013

Director /Representative of the UNHCR  
PRETORIA OFFICE

Tel: 012 392 1611

**Attention: Theresa Pretorius**  
**P/A to the Director**  
**E-mail: pretoriu@unhcr.org**

**Re: A REQUEST FOR A MEETING WITH THE DIRECTOR  
/REPRESENTATIVE OF THE UNHCR**

1. My telephone conversation herein at 10:30 am today with **Theresa Pretorius** refers. According to **Ms Pretorius** my request herein must be in writing to enable her to take it up with the Director and revert to me thereon by e-mail.

**BACKGROUND INFORMATION**

2. I was since 1962 an underground member of the Azanian Peoples Liberation Army (**Apla**) then known as **POQO**. **Apla** was a former military wing of the Pan Africanist Congress (**PAC**) of Azania.

3. On **18 July 1980** I commenced legal practice in Durban and in my own account under the name and style of **Simelane & Simelane**. Whilst practicing as an Attorney I continued at the same time with the said underground military activities in opposition to the then **Apartheid Regime** in South Africa.

4. The **Apartheid** regime made numerous clandestine attempts to kill me and which attempts failed. However in early **April 1984** the regime despatched an underground **apartheid** security agent by the name of **Harisunker** to inform me that the then **State President PW Botha** and his **State Security Council** had issued a specific order that I be killed. According to **Mr Harisunker** I was going to be taken into detention and killed and that the people of South Africa would be informed that I committed suicide because of financial problems in my law firm. Further according to the said **Mr Harisunker** the said order would not be carried out if I agreed to certain conditions. I refused to agree to those conditions. My meeting with **Harisunker** therefore ended on the basis that the said order that I be killed would be carried out.

5. On Monday **30 July 1984** two (2) white men and attorneys practising in Durban called at my offices at 08.00 am and each presented a letter to me from the **Natal Law Society** authorising them to carry out an inspection of my practice in terms of section 70(1) of the **Attorneys Act, 1979**. They completed their inspection at about 11.00 am on Friday **3 August 1984**. In the meanwhile the bank accounts relating to my law firm had been frozen on the orders of the said two (2) gentlemen and without obtaining any court order for that purpose. Further at about 04.45 pm on the same Friday of **3 August 1984** I was served with urgent strike-off papers requiring me to be at the High Court in Pietermaritzburg on Tuesday **7 August 1984** and where it was sought that I be immediately suspended from practice and a **rule nisi** be issued and that I show cause why I should not be struck off the roll of practising attorneys. The said strike-off papers served on me on **3 August 1984** were unlawful as they had not been authorised by the **Council of the Natal Law Society** since the said two (2) white gentlemen who had carried out the said inspection had not even reported thereon to the **Council of the Natal Law Society**. **More so I have to date hereof never been charged of any professional offence by the Natal Law Society.**

6. In view of the foregoing it became clear to me that the order issued by the State President and communicated to me by the said **Harisunker** that I be killed was being carried out. It was therefore clear to me that on the said Tuesday of **7 August 1984** the state security agents would detain me and kill me on that day and that my court matter to be heard on that day would have been given as a reason as to why I had, on their version, committed suicide. **In the premise I surreptitiously fled the country to Lesotho on Monday 6 August 1984 and where I was granted political asylum and refugee status by the UNHCR. I crossed over the Drakensberg into Lesotho at an area /point called Ramatsidiso.**

#### **A MEETING AT THE MINISTRY OF INTERIOR IN MASERU, LESOTHO DURING DECEMBER 1984 ATTENDED BY THE UNHCR**

7. During **December 1984** a meeting was held at the **Ministry of Interior** in Lesotho attended by the Head of that office, myself, two (2) members of the **Apla High Command** and the **Chief Representative of the UNHCR in Lesotho**.

8. At this meeting the Lesotho official presented "**protest notes**" from the South African Government (Foreign Affairs) wherein the **apartheid** regime was protesting about my "**presence**" in Lesotho and demanding that I be surrendered to South Africa failing which the then South African Defence Force (**SADF**) would invade Lesotho to retrieve me. According to these "**protest notes**" it was claimed that I was a criminal who had run away with a client's money and that my said client was a cripple and bedridden in hospital.

9. At the said meeting I dismissed the claims that I was a criminal as it was not true. I informed the meeting that they wanted me to be

surrendered because they wanted to kill me for my armed opposition to the **apartheid** regime.

10. The official of the Lesotho Government stated that the Lesotho Government could no longer guarantee my personal safety as South Africa was too powerful and had an army they could not match. It was therefore apparent that the political asylum that had been granted to me was no longer worth the paper it was written on. At this point the **Chief Representative of the UNHCR** intervened emphatically to state that "**It will be over my dead body that a refugee is surrendered to the Apartheid regime!!**"

11. Further, the **Representative of the UNHCR** proceeded to request the Government of Lesotho to issue me and members of my family with travel documents so that we could be relocated to another country. The Lesotho Government acceded to this request.

12. During **June 1985** I and my family were relocated to Zimbabwe by the **UNHCR**. I also proceeded to London to do **Defence Studies at King's College London (KQC)** and returned to Zimbabwe around **June 1986**.

#### **THE GOVERNMENT OF ZIMBABWE**

13. About **October /November 1986** the **Central Committee of the PAC** acceded to a request by **ZANU** as the then ruling party that I be seconded to the Government of Zimbabwe.

14. I served the Government of Zimbabwe with effect from **1 April 1987** as a **Law Officer** in the **Ministry of Justice, Legal and Parliamentary Affairs**. I exited the Public Service in Zimbabwe on **30 November 1994** and had since **4 May 1992** been serving as a **Chief Law Officer /Deputy Secretary**.

15. I also record that during 1988 I crossed over politically from **PAC** and **Apla** to the African National Congress of South Africa (**ANC**) and its military wing, Umkhonthono We-Sizwe (**MK**). The Political Military Council (**PMC**) of the **ANC** in Lusaka, Zambia ratified my said secondment to the Government of Zimbabwe.

16. On my return to South Africa I integrated into the new South African National Defence Force (**SANDF**) and exited the same on compulsory retirement on **30 June 2006**.

#### **A MEETING OF THE LEGAL DEPARTMENT OF THE ANC AND THE PROTECTION OFFICERS OF THE UNHCR WITH THE THEN JUSTICE MINISTER KOBIE COETSEE DURING JUNE /JULY 1992**

17. Pursuant to the **De Klerk** unbanning statement and the release of **Mandela** during **February 1990** I applied for indemnity for myself and

members of my family shortly thereafter through the office of the **Chief Representative of the ANC** in Harare, Zimbabwe. Such indemnity was granted by Pretoria.

18. During **1991** I enquired from **Cde Max Mlonyeni** as **Chief Representative of the ANC** in Zimbabwe whether such indemnity was adequate for me to return to South Africa in the light of the aforementioned **Natal Law Society** and **State Security** murder storm that surrounded my fleeing the country over the Drakensberg to Lesotho on **6 August 1984**. **Cde Mlonyeni** felt that since he was not a lawyer he could not satisfactorily answer my question. **He accordingly referred me to a certain Mr Lauer who was a Legal Practitioner at Kantor & Immerman** a law firm in Harare to advise me thereon.

19. **Mr Lauer** engaged the services of a correspondent in Durban. That correspondent advised **Mr Lauer** that it was not advisable for me to return to South Africa because there was a warrant for my arrest at the Offices of the Attorney-General in Pietermaritzburg. That correspondent was a certain **Mr Collins** and who was also a lawyer and a journalist.

20. In early 1992 **Mr Lauer** took a substantive affidavit from me in the form whereby I sought re-admission as an **Attorney** and this affidavit was also furnished to the **UNHCR** and the **Legal Department of the ANC** the basis upon which the **UNHCR** and the **Legal Department of the ANC** had audience with **Minister Kobie Coetsee** as the **Minister of Justice of South Africa** during **June /July 1992** to request the said **Justice Minister** to allow me to return to South Africa.

21. **Minister Kobie Coetsee** insisted that if I returned to South Africa I would be arrested and refused to waive the said warrant of arrest in issue. **I was given a report on this meeting around August 1992 at the UNHCR offices in Harare by a Protection Officer that had attended this meeting in South Africa. According to this Protection Officer the ANC had advised that my situation could only be resolved by the political negotiations that had commenced and that if the same were successful it would then be possible for me to return to South Africa. Further according to the said Protection Officer the ANC required me to stay in my deployment /secondment in the Government of Zimbabwe until further advice.**

22. During **October 1994** **Justice Minister Dullah Omar** in the new Government of National Unity (**GNU**) in South Africa sent a fax to me at the **Closing Down Offices of the ANC** in Harare advising me that I could return to South Africa and which I did at the end of **November 1994**. The **UNHCR** in Zimbabwe had also written to me on the advice of their Johannesburg Office during **October 1994** that I could return to South Africa since the **Office for Indemnity, Immunity and Release at the Ministry of Justice** had dropped the case filed with the police by the **Natal Law Society** and that the warrant of arrest in issue had been withdrawn.

## **THE TRUTH AND RECONCILIATION COMMISSION (TRC)**

23. Given that I abandoned my law firm when I fled the country on **6 August 1984** I applied for amnesty to the **TRC** during 1997. However the relevant **Amnesty Committee of the TRC** decided on **7 April 1998** that I be refused amnesty because the **Natal Law Society** was involved and that the involvement of a **Law Society** means that the matter could not be political. A political motive is a **conditio sine qua non** for the granting of amnesty.

24. I and my Attorneys engaged the **TRC** over its refusal to grant me amnesty and especially **addressed the political motive issue** in my matter. The **TRC** yielded based on our submissions. However the **Secretary of the TRC** advised that the relevant **Amnesty Committee** was **functus officio** and that I could only reverse that adverse amnesty decision through a **High Court** review process.

25. I filed the review application at the High Court in Cape Town where the **TRC** was sitting during **April 2001**. On **13 April 2006** the then Cape Provincial Division (**CPD**) handed down judgment whereby the said adverse amnesty decision of **7 April 1998** was reviewed and set aside. The said **CPD** also ordered the **Minister of Justice and Constitutional Development** to reconsider my said amnesty application afresh.

26. One of the reasons the **CPD** reviewed that adverse amnesty decision on **13 April 2006** is that the **Amnesty Committee** that had taken it had not investigated my matter as required by the **TRC Act**. **I am now in the process of assisting in investigating my matter as required by the law in order to assist this new Amnesty Committee.**

27. The Minister of Justice and Constitutional Development gazetted the **Amnesty Committee** in **August 2007** to consist of **Judge President Mogoeng Mogoeng** then of the Bophuthatswana High Court, **Adv KD Moroka, SC** and **Adv L Gcabashe** both of the Johannesburg Society of Advocates. There is also a **Leader of Evidence** and the **Secretary to the Amnesty Committee** in the same Government Gazette.

28. The **Amnesty Committee** was scheduled to sit for two (2) weeks in Durban as from **6 December 2008**. However on the very first day of its sitting I applied through my Counsel for its postponement **sine die** because the required investigations have not been completed including my application for access to information in terms of the **Promotion of Access to Information Act, 2000** and which application is against the said **Natal Law Society**. The matter was accordingly postponed **sine die**.

## **THE PURPOSE OF THE REQUESTED MEETING**

29. In the light of the fact that we now wish to conclude all outstanding investigations and to request the **Minister of Justice and**

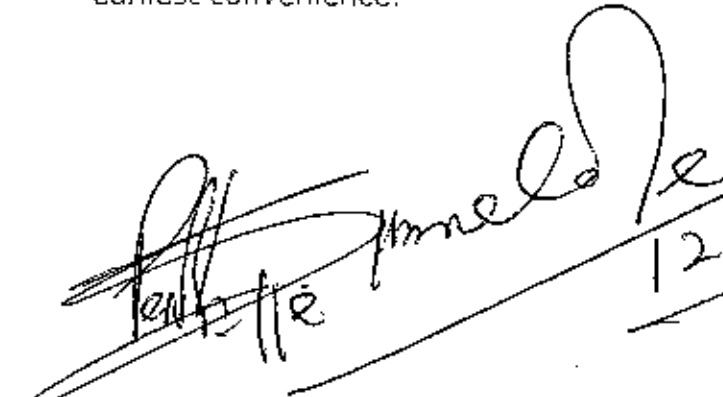


**Constitutional Development** to re-convene the **Amnesty Committee** I need to discuss with the **UNHCR** the said meetings of **December 1984** in Lesotho and **June /July 1992** in South Africa and wherein the **UNHCR** played a role with a view to determining the role and extent the **UNHCR** may wish to play in assisting the coming **Amnesty Committee of the TRC** as ordered by the **CPD to accomplish its task with all the relevant evidence having been placed before it.**

30. I was a ward of the **UNHCR** when the said meetings took place. It is my understanding that my then status as a ward of the **UNHCR** carried with it certain legal consequences at international law.

31. I am also of the firm view that the **UNHCR** can ably assist the said **TRC** as a credible and independent witness that played a humanitarian role during the **Apartheid** war.

32. I hope that the **Director /Representative of the UNHCR** will graciously consider and accede to my request for audience herein at his earliest convenience.



**BHEKUMNDENI QEDUSIZI PENUEL  
SIMELANE** (aka Bheki Simelane)  
E-mail: [simelanebheki1145@gmail.com](mailto:simelanebheki1145@gmail.com)  
ID: 451111 5699 08 6

**DISTR  
For Action**

The Minister of Justice and Constitutional Development

The Minister of Defence and Military Veterans

Secretary for Defence

Acting State Attorney (Pretoria)

Smith Ndlovu Summers  
Attorneys, Durban

**Attention: Mr Sibonelo Ndlovu**

**UN Commissioner for Human Rights, Judge Navi Pillay**

Tel: 012 803 4377 Kwabuyemazweni  
Fax: 012 803 6959 973 Tiptol Street  
Cell: 083 255 8774 SILVERTON  
Enq: **Bheki Simelane** 0184  
e-mail: **simelanebheki1145@gmail.com**

2 June 2013

Regional Representative  
United Nations High Commissioner For Refugees (**UNHCR**)  
UNHCR Metropark Building  
8<sup>th</sup> Floor  
351 Francis Baard Street (formerly Schoeman Street)  
PRETORIA  
0002

**'WITHOUT PREJUDICE'**

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- Attention:**
1. **Sergio Calle-Noreña**  
**Deputy Regional Representative**
  2. **Senior Regional Representative, Mr Gupta**
  3. **Grace Sebecweng**
  4. **Theresa Pretorius**

**Re: DOCUMENTS AS REQUESTED BY THE UNHCR FROM MR BQP  
SIMELANE (aka Bheki Simelane) AS A FORMER REFUGEE AND  
A WARD OF THE UNHCR**

The meeting of Tuesday **7 May 2013** at the **UNHCR** offices in Pretoria between **Mr Bheki Simelane**, the writer hereof and your **Mr Sergio Calle-Noreña** and **Mr Gupta** has reference. I will hereinafter put up the documents the **UNHCR** requested at the said meeting of **7 May 2013** and which documents are expected to assist the **UNHCR** in accessing its archives to retrieve all other relevant documents relating to the said **Mr Simelane** herein and to enable the **UNHCR** to play a role and assist the High Court ordered and impending **Simelane** Truth and Reconciliation Commission (**TRC**) process.

The following documents are furnished to the **UNHCR** and will also form part of the record to be placed before the aforementioned impending **TRC**:

1. **DOCUMENTS ISSUED BY THE UNHCR AND THE OFFICE OF  
THE HIGH COMMISSIONER FOR HUMAN RIGHTS (UNHCHR)**

1.1 Marked **'TRC1'** is a letter dated **25 September 1984**, **MSU/408/IC/632**, issued by the **UNHCR, Maseru, Lesotho** and confirming that **"Mr BQP Simelane (dob 11.11.45) is a registered refugee in Lesotho"**. (The emphasis is supplied.) [Simelane's documentation in Lesotho for political asylum purposes would have commenced with his arrival in Maseru at 01:00 pm on Wednesday **8 August 1984** and would have been completed when the said open letter dated **25 September 1984** was issued by the **UNHCR**]

1.2 Marked **'TRC2'** is an open letter dated **27 January 1988**, **88/A/043** entitled **"To Whom it may Concern"** issued by the **UNHCR in Harare, Zimbabwe** and which reads as follows:

"This is to certify that **Mr Bheki Simelane** is a **bona fide** South African refugee, registered with the **Ministry of Labour, Manpower, Planning and Social Welfare** and of concern to our office." (The emphasis is supplied.)

1.3 Marked **'TRC3'** is an open letter dated **6 April 1992** entitled **"CONFIRMATION OF TRAVEL TO RSA BHEKUMNDENI QEDUSIZI PENUEL SIMELANE"** issued by the **UNHCR, Harare Zimbabwe** and which letter reads as follows:

"This letter serves to confirm that the above named individual has been cleared by the government of the Republic of South Africa and will be using travel document **UNCTD 0072/85**" (The emphasis is supplied.)

**[COMMENTARY:**

1. Notwithstanding the clearance referred to in the above quoted letter by the **UNHCR** the office of the Attorney-General, Natal, South Africa still had a warrant for my arrest. Hence the meeting on **Bheki Simelane** around **June 1992** in Pretoria between the Legal Department of the ANC as represented by **inter alia Mr Matthew Phosa**, the **Protection Officers of the UNHCR** and then South Africa's Justice Minister **Mr Kobie Coetsee** as more fully set out in paragraphs 17-22 of my letter dated **19 April 2013** to the **UNHCR**.

As more fully set out in paragraph 21 of the said letter dated **19 April 2013** Justice Minister **Kobie Coetsee** during **June /July 1992** refused that I return to South Africa and insisted that if I were to return **I would be arrested and refused to waive the said warrant of arrest in issue.**

2. Then **Justice Minister Kobie Coetsee** refused my return to South Africa in **1992** as hereinbefore outlined because he and the **State Security Council** of which he was a member were still, through the instrumentality of **death squads** and **special forces**, carrying out their objectives of killing me the last of which dastardly incidents are reported upon in a letter dated **25 March 1993** by the **Civil Division of the Attorney-General's Office** in Zimbabwe to the **Legal Adviser to the Minister of State for National Security in the President's Office**. The said letter dated **25 March 1993** is also annexed hereto and marked '**TRC12**'
3. The then **Apartheid Regime** gave special attention to using **death squads** and **special forces** in attempting to kill me because parcel bombs were no longer an option as I was considered to be "**too vigilant**". During **October /November 1984** on two separate occasions I went with a post-office slip to the **Maseru** post office in **Lesotho** to collect a parcel and on each occasion I requested the Post Office official to exhibit the parcel to me in order to determine whether I would be prepared to receive it or not. **On each occasion such parcel as exhibited to me showed that it originated from Botswana and I knew that no one in the underground structures I worked with in Botswana would have sent a parcel to me. On each occasion I told the Post Office official in Maseru that I would not accept the parcel and left the Post Office.**
4. The urgent strike-off papers that were served on me at my law offices on the 9<sup>th</sup> Floor of Nedbank House, 91 Albert Street, Durban at about 04.45 pm on Friday **3 August 1984** and requiring me to attend a High Court hearing in Pietermaritzburg thereon on Tuesday **7 August 1984** and when the security agents would have arrested me and killed me that night and the **Apartheid STRATCOM** to issue a statement that "**Simelane committed suicide**" because his law practice had a financial problem were all part of the said **Justice Minister Kobie Coetsee's** plans and operations with the **State Security Council** and the **death squads** and **special forces** to bring those plans to maturity. The said plans and operations under the aegis of the **State Security Council** were alluded to me by an **Apartheid** under-cover security agent by the name of **Harisunker** at a **Blue Waters Hotel** incident around **April 1984** and when the said **Harisunker** stated that the said plan and operations had to be in that fashion because **President PW Botha** did not want a "**lot of noise**" to occur after my death as was the case with the death of **Attorney Griffiths Mxenge** in the hands of the **death squads** and

**special operatives in November 1981** also in Durban, South Africa. It was for reasons aforementioned that I fled the country to the Kingdom of Lesotho in the night of Monday **6 August 1984**. I actually crossed into Lesotho in the morning of Tuesday **7 August 1984** at **Ramatsidiso** and which is an **Immigration Post** in the Drakensberg between the former Transkei and Lesotho. I slept at an Agricultural College at Qasha's Nek in the night of Tuesday **7 August 1984**. I waited until late in the evening in the vicinity of the said College and when the lights went off at the residence of what was said to be the **Principal's Residence** I knew that they had gone to sleep. I and an "**assistant**" I had found at a local market that evening of **7 August 1984** went to one of the classrooms at the College which he knew would not have been locked and which indeed was not locked and he left me there to sleep on the floor. At about 3.30 am on Wednesday **8 August 1984** and before the Principal had woken up the "**assistant**" came to fetch me to go to a nearby post where a helicopter-like aeroplane would arrive and which I boarded at about 09.00 am and it ultimately arrived in Maseru at about 1.00 pm on the same Wednesday of **8 August 1984**.]

- 1.4 Marked '**TRC4**' is a letter, **94/G/0061**, dated **19 January 1994** addressed to **Mr Bheki Simelane** by the **UNHCR Branch Office in Zimbabwe**.
- 1.5 Marked '**TRC5**' is a letter, **94/A;O 294**, dated **18 October 1994** addressed to **Mr Bhukumndeni Q Simelane** by the **UNHCR Branch Office in Zimbabwe** and which letter reads as follows:

"Dear Mr Simelane,

Our office in Johannesburg has been informed by the **Department of Justice, Office for Indemnity, Immunity and Release** that the **Attorney-General of Natal** has dropped the case against your person. For your information the case had been recorded at **CR Swart Square, Durban** as **CR(A) 396/01/85**, with the charge of theft.

Consequently you have been cleared by the South African Police.

For sake of caution, we could try to further verify with our office in Johannesburg whether the above-mentioned case is the same as the one referred to by the **Legal Task Force**, after review of your case and study of your affidavit in **May /June 1992** and by the **Natal Attorney-General (Pietermaritzburg)**, in his letter to **Lyne & Collins Inc** of

**19 February 1992**, respectively as embezzlement and misappropriation of funds in trust money.

Kindly advise whether you still feel it is necessary to double check on the matter or whether you wish to take advantage of the clearance in order to voluntarily repatriate to South Africa.

Please be advised to communicate to us in writing given the extremely busy reception schedule at our office.

Yours sincerely

**A S Farah**  
**Representative**

Mr Bhekumndeni Q Simelane  
PO Box BE110  
Belvedere  
**Harare**" (The emphasis is supplied.)

- 1.6 Marked **'TRC6'** is a document issued by the **Office of the High Commissioner for Human Rights** entitled:

"Convention relating to the Status of Refugees. Adopted on **28 July 1951** by the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons convened under General Assembly resolution 429(v) of **15 December 1951** entry into force **22 April 1954**, in accordance with article 43"

- 1.7 Marked **'TRC7'** is a document issued by the **UNHCR** dated **24 October 1991** entitled:

**"SOUTH AFRICA REPATRIATION OPERATION**

**INFORMATION FOR SOUTH AFRICAN REFUGEES AND EXILES ON VOLUNTARY REPATRIATION"**

(The emphasis is supplied.)

2. **DOCUMENTS ISSUED BY THE GOVERNMENT OF THE REPUBLIC OF ZIMBABWE**

- 2.1 Marked **'TRC8'** is a letter, **Reference: 36/1/23/A**, dated **30 September 1985** entitled **"APPLICATION FOR REFUGEE STATUS"** addressed by the **Commissioner for Refugees** to **Mr BQP Simelane** of No. 4, 68<sup>th</sup> Avenue, Mabelreign, HARARE.
- 2.2 Marked **'TRC9'** is a document dated **17 January 1986** entitled **"NOTIFICATION OF RESULTS OF APPLICATION**

**FOR REFUGEE STATUS [SECTION 6(1) OF ZIMBABWE REFUGEE REGULATIONS 1985]" and is addressed to Mr Bhukumndeni Q Penuel Simelane by the Commissioner for Refugees and which document is also copied to the UNHCR. The said Mr Simelane signed this document which officially admitted him as a refugee recognised by the Government of Zimbabwe on 4 February 1986.**

- 2.3 Marked **'TRC10'** is an affidavit of **7 April 1992** by the **Chairman of the Public Service Commission of Zimbabwe** and which document is self-explanatory.
- 2.4 Marked **'TRC11'** is an affidavit dated **10 April 1992** by the **Deputy Secretary** in the **Ministry of the Public Service of Zimbabwe** and which document speaks for itself.
- 2.5 Marked **'TRC12'** is a letter, **Ref: SIMELANE /STAFF**, dated **25 March 1993** and entitled **"BHEKUMNDENI QEDUSIZI PENUEL SIMELANE: CHIEF LAW OFFICER: CIVIL DIVISION: 4-68<sup>TH</sup> AVENUE, HAIG PARK, MABELREIGN, HARARE: SECURITY GUARDS"** and is addressed by the **Civil Division of the Attorney-General's Office** to **LI Mukandi Esq**, Legal Adviser and Assistant to the Minister of State for National Security in the President's Office and which letter is copied to **Max Mlonyeni**, Chief Representative, African National Congress of South Africa in Zimbabwe.
- 2.6 Marked **'TRC13'** is an open letter, **Ref: STAFF /SIMELANE PBQ**, dated **10 March 1994** entitled **"CONFIRMATION OF EMPLOYMENT: MR PBQ SIMELANE EC NO 809926C: CHIEF LAW OFFICER"** issued by the **Secretary for Justice, Legal and Parliamentary Affairs of Zimbabwe** and which letter *inter alia* confirms that the aforementioned **Mr Simelane** was since **4 May 1992** holding the grade /rank /level of **Chief Law Officer (Level 15)** in the **Ministry of Justice, Legal and Parliamentary Affairs of Zimbabwe** and to which grade he had been promoted into with the approval of **His Excellency, President Robert Gabriel Mugabe**.
- 2.7 Marked **'TRC14'** is an open letter dated **31 May 1994** entitled **'TO WHOM IT MAY CONCERN'** as issued by **Edward Scullion, Commissioner of Taxes of Zimbabwe** and which letter reads as follows for ease of reference:

"This serves to confirm that **Bhekumndeni Qedusizi Penuel Simelane** is a **Legal Adviser** and **in-house Counsel** in my department and is based at the Civil Division of the Attorney-General's Office. He prepares the departments cases for court. He also appears in Court including the **Fiscal Appeal Court, Income Tax Appeals**

**Special Court, High Court and Supreme Court either on his own or with Counsel based at the Advocates' Chambers. (The emphasis is supplied.)**

- 2.8 Marked **'TRC15'** is an open letter, **RC/NM/94**, dated **16 June 1994** entitled **"TO WHOM IT MAY CONCERN"** as issued by the **Acting Chief Registrar of Deeds of Zimbabwe** and which letter is also marked **"re: Bhukumndeni Qedusizi Penuel Simelane"** and further reads as follows for ease of reference:

"This serves to confirm that in his work as a **Law Officer** of the **Civil Division of the Attorney-General's Office** which includes **notarial and conveyancing work** the above-named **Mr BQP Simelane** attends to the registration thereof at our offices."

- 2.9 Marked **'TRC16'** is a document entitled **"Certificate of Service"** issued on **30 November 1994** by the **Secretary: Public Service Commission of Zimbabwe** to **Bhekumndeni Qedusizi Penuel Simelane** and which certificate also confirms that the said **Simelane** was since **4 May 1992** holding the rank /grade /level of **Chief Law Officer (Level 15)** in the **Ministry of Justice, Legal and Parliamentary Affairs of Zimbabwe** with the approval of **His Excellency, President Robert Gabriel Mugabe**.

- 2.10 Marked **'TRC17'** is an open letter marked **"TO WHOM IT MAY CONCERN"** dated **16 January 1997** entitled **"Re: Bhukumndeni Qedusizi Penuel Simelane: EC No 809926C: Chief Law Officer"** and which letter declares that the grade /rank /level of **Chief Law Officer (Level 15)** is equivalent to that of **Deputy Secretary (Level 15)** in the **Public Service** in the following terms:

"This serves to confirm that **Mr Simelane** was employed as a **Chief Law Officer** in the **Civil Division of the Attorney-General's Office, Zimbabwe** and that the grade of **Chief Law Officer** is equivalent to that of **Deputy Secretary** in terms of remuneration within the **Civil Service of Zimbabwe**." [In the military milieu the nomenclature for a **Level 15 /Chief Law Officer /Deputy Secretary /Deputy Director General** is a **Lieutenant General**]

### 3. **DOCUMENTS ISSUED BY THE TRUTH AND RECONCILIATION COMMISSION (TRC)**

- 3.1 Marked **'TRC18'** is a letter, **Reference No: AM6291/97**, dated **20 April 1998** entitled **"Application for Amnesty"** and is addressed to **Mr Bhukumndeni Qedusizi Penuel Simelane** by the **Amnesty Committee of the TRC**.



- 3.2 Marked **'TRC19'** is a document dated **7 April 1998** addressed to **Bhekumndeni Qedusizi Penuel Simelane** of **Application No: 6291/97** and is entitled: **"DECISION IN TERMS OF SECTION 20(1) OF THE PROMOTION OF NATIONAL UNITY AND RECONCILIATION ACT NO. 34 OF 1995"**.

4. **CERTIFICATES AS ISSUED BY CERTAIN UNIVERSITIES**

- 4.1 Marked **'TRC20'** is a certificate issued by the **University of Zululand** in respect of a **Baccalaureus Commercii** degree as conferred on **Bhekumndeni Penuel Simelane** on **15 May 1971**.
- 4.2 Marked **'TRC21'** is a certificate issued by the **University of Zululand** in respect of a **Baccalaureus Commercii Honores in Economics** degree as conferred on **Bhekumndeni Penuel Simelane** on **15 May 1972**.
- 4.3 Marked **'TRC22'** is a certificate issued by the **University of South Africa** in respect of a **Baccalaureus Procuratoris** degree as conferred on **Bhekumndeni Penuel Simelane** on **21 May 1977**.
- 4.4 Marked **'TRC23'** is a certificate issued by the **University of South Africa** in respect of a **Bachelor of Laws** degree as conferred on **Bhekumndeni Qedusizi Penuel Simelane** on **4 May 1993**.
- 4.5 Marked **'TRC24'** is a certificate issued by the **University of Pretoria** in respect of a **Magister Legum with specialization in Fundamental Rights and Constitutional Practice** degree as conferred on **Bhekumndeni Qedusizi Penuel Simelane** on **27 March 2001**.
- 4.6 Marked **'TRC25'** is a certificate issued by the **University of South Africa** in respect of a **MASTER OF LAWS in Tax Law** degree as conferred on **Bhekumndeni Qedusizi Penuel Simelane** on **14 June 2012**.

5. **OTHER RELEVANT DOCUMENTS**

- 5.1 Marked **'TRC26'** is a document entitled **"EXAMINATION IN PRACTICE, PROCEDURE AND BOOKKEEPING"** issued on **17 April 1980** to **Bhekumndeni Qedusizi Penuel Simelane** in terms of Section 14(1)(a), (b) and (c) of the **Attorneys Act No. 53 of 1979** as amended by the **Board**

of **Examiners** in respect of an examination passed and was held on **13 March 1980**.

- 5.2 Marked **'TRC27'** is a certificate issued on **24 June 1980** by the **Acting Registrar** of the then Supreme Court of South Africa (Natal Provincial Division) on the occasion of the admission of **Bhekumndeni Qedusizi Penuel Simelane** "as an **ATTORNEY** of this Court".
- 5.3 Marked **'TRC28'** is a certificate issued on **31 August 1981** by the **Registrar of the High Court of Lesotho** to **Bhekumndeni Qedusizi Penuel Simelane** on being admitted and enrolled as an **ATTORNEY**.
- 5.4 Marked **'TRC29'** is a certificate issued on **16 April 1982** by the **Registrar of High Court of Botswana** to **Bhekumndeni Qedusizi Penuel Simelane** on being admitted and enrolled as an **ATTORNEY**.
- 5.5 Marked **'TRC30'** is an open statement entitled **"TO WHOM IT MAY CONCERN"** as issued on **10 December 1985** by **Prof MDP Bolofo MA PhD, Education Consultant** of 50 Portrush Court, Whitecote Road, Golf Links, Southall, Middlesex UB1 3NR, England and of the **Pan Africanist Congress of Azania** regarding **Mr Bhekumndeni Qedusizi Penuel Simelane** and which elaborate statement *inter alia* reads as follows:

"Other than labour work **Mr Simelane** represented detained /arrested political activists. As a member of the **Black Lawyers Association** he did extensive work in the area of **Civil Rights** and matters arising from the deteriorating race relations. **A notable case in this area which commenced four years ago is the famous WEENEN CASE** by which white farmers cold-bloodedly shot and killed an African man in the reserves. This man was a member of a hunting party that was ambushed by the farmers aforesaid under a pretext of suppressing a "terrorist insurrection". The State refused to bring them to book. Simelane had to put his life on the line to do some of the work relating to this case." (The emphasis is supplied.)

- 5.6 Marked **'TRC31'** is a letter dated **14 May 1986** entitled **"FAIRWAY MOTORS & VARIOUS MATTERS"** and is addressed to **Mr BP Simelane** c/o King's College Hall, Champion Hill, LONDON SE 85 AN, UNITED KINGDOM by **Mr Webber** of Webber Newdigate & Co. and which letter *inter alia* reads as follows:

"As requested we enclose herewith a copy of the **Deed of Sale** re the Hargreaves matter." (My emphasis.)

[NB: The aforementioned **Deed of Sale** relates to the **FARM MIDDLEFORD 4442**]

- 5.7 Marked **'TRC32'** is an open letter entitled **"TO WHOM IT MAY CONCERN"** dated **1 October 1986** and written by **Rt Rev HP Chikomo** of the **City Presbyterian Church**, 60 Samora Machel Avenue, Harare, Zimbabwe of and concerning **Mr B Simelane**.
- 5.8 Marked **'TRC33'** is a letter, **Ref: RP 65/NLM-1-b-1-105**, dated **18 May 1987** and entitled **"Letter of Thanks for participation in ILO Seminar"** and is addressed to **Cde Simelane** by the **Area Co-Ordinator for the Azanian Trade Union Co-Ordinating Centre (Zimbabwe)**.
- 5.9 Marked **'TRC34'** is an open letter dated **30 September 1988** under the signature of **Attorney HJ Bhengu** of Durban and which confirms that **Mr Bhukumndeni Simelane** served articles at the law firm **MH Bhengu & Co** from **June 1977 to June 1978**.
- 5.10 Marked **'TRC35'** is an open letter dated **15 May 1987** under the signature of **Attorney HJ Bekker** of Durban and which confirms that **Mr Bhukumndeni Simelane** served articles of clerkship at the law firm **HJ Bekker & Co** from **July 1978 to July 1979**.
- 5.11 Marked **'TRC36'** is an affidavit of **PRINCE MACHAYA, Assistant General Manager – Legal Counsel of the Reserve Bank of Zimbabwe** on **Mr BQP Simelane** and which affidavit is dated **29 November 1991** and states more than a mouth full especially on the work of a structure like the **Legal Practitioners Disciplinary Tribunal** and the processes leading up to the launching of a strike-off application against a practising Attorney /Legal Practitioner.
- 5.12 Marked **'TRC37'** is an affidavit of **Michael James Gillespie** a registered legal practitioner of the High Court of Zimbabwe on **Mr BQP Simelane** which affidavit was deposed to during **November 1991**.
- 5.13 Marked **'TRC38'** is an affidavit of **Richard Yorath Phillips** a registered legal practitioner of the High Court of Zimbabwe on **Bhekumndeni Qedusizi Penuel Simelane** which affidavit was deposed to on **7 April 1992**.
- 5.14 Marked **'TRC39'** is a letter, **Mr Laue /ay**, dated **16 June 1992** entitled **"BHEKI SIMELANE"** and is addressed by **Kantor & Immerman** of Zimbabwe to the **ANC (SA) – Legal Department** for the attention of **Matthew Phosa**.

- 5.15 Marked **'TRC40'** is a letter dated **30 July 1992** entitled **"Readmission of Bhukumndeni Qedusizi Penuel Simelane"** and is addressed by **Gay J McDougall**, Director, Southern Africa Project, **LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW**, suite 400.1400 Eye Street, Northwest, WASHINGTON, DC 2005 to the Natal Law Society.
- 5.16 Marked **'TRC41'** is a document entitled **"Certificate of Training"** issued to **Bhekumndeni Qedusizi Penuel Simelane** on **18 February 1993** by the Director General of the World Intellectual Property Organisation (**WIPO**).
- 5.17 Marked **'TRC42'** is a letter dated **20 October 1992** addressed by the Black Lawyers Association, Legal Education Centre to **Mr Bheki Simelane**.
- 5.18 Marked **'TRC43'** is a letter dated **28 April 1993** on **Mr Bhukumndeni Simelane** and is addressed by the African National Congress (SA) to the **UNITED NATIONS**.
- 5.19 Marked **'TRC44'** is a letter dated **16 February 1994** entitled **"REQUEST TO FUND MR SIMELANE'S RE-ADMISSION AS AN ATTORNEY"** and is addressed by the Lawyers for Human Rights to **Kingsley Mmamabolo**, Chief Representative of the African National Congress in Zimbabwe.
- 5.20 Marked **'TRC45'** is a letter, **Ref: E Mohamed /vad**, dated **30 March 1994** entitled **"REQUEST TO FUND MR SIMELANE'S READMISSION AS AN ATTORNEY"** addressed by the South African Legal Defence Fund (**SALDEF**) to the **ANC** in Zimbabwe.
- 5.21 Marked **'TRC46'** is a letter dated **26 May 1994** entitled **"REQUEST TO FUND MR SIMELANE'S RE-ADMISSION AS AN ATTORNEY"** and is addressed by **Jeremiah Kingsley Mmamabolo**, Chief Representative, **AFRICAN NATIONAL CONGRESS**, Zimbabwe to **SALDEF** and which letter is copied to the **Legal and Constitutional Affairs Department** of the **ANC** for the attention of **Zola Skweyiya**.
- 5.22 Marked **'TRC47'** is an open letter dated **26 May 1994** entitled **"TO WHOM IT MAY CONCERN"** on **Bhekumndeni Qedusizi Penuel Simelane** and is under the signature of **Kingsley Mmamabolo**, Chief Representative, African National Congress, Zimbabwe.
- 5.23 Marked **'TRC48'** is an open letter dated **5 July 1994** entitled **"Bhekumndeni Simelane"** and is under the signature of **Francis Chambakare** a practising Legal Practitioner of the High Court of Zimbabwe.

- 5.24 Marked **'TRC49'** is an open letter dated **10 July 1994** entitled **"Bhekumndeni Qedusizi Penuel Simelane"** and is under the signature of **AP de Bourbon, SC** a practising Legal Practitioner of the High Court of Zimbabwe.
- 5.25 Marked **'TRC50'** is an affidavit on **Mr Bhekumndeni Qedusizi Penuel Simelane** deposed to on **11 July 1994** by **Vasco Shamu** a legal practitioner practising in Zimbabwe.
- 5.26 Marked **'TRC51'** is an affidavit on **Bhekumndeni Qedusizi Penuel Simelane** deposed to on **12 July 1994** by **Grant Stewart Wernberg** a practising legal practitioner of the High Court of Zimbabwe.
- 5.27 Marked **'TRC52'** is an open letter dated **25 July 1994** entitled **Bhekumndeni Qedusizi Penuel Simelane** under the signature of **Dr R McLaren** the Co-ordinator of the **Children's Performing Arts Workshop (Chipawo)** in Zimbabwe.
- 5.28 Marked **'TRC53'** is a document dated **2 November 1994** entitled **Bhekumndeni Qedusizi Penuel Simelane (Bheki Simelane)** as his official short CV lodged with the Human Resources Division of the Department of Defence (**DOD**).
- 5.29 Marked **'TRC54'** is a letter dated **3 November 1994** addressed by **Bhekumndeni Qedusizi Penuel Simelane** to the **UNHCR**, Zimbabwe Branch Office.
- 5.30 Marked **'TRC55'** is a letter, **KEM/TN/Misc**, dated **5 December 1994** entitled **"BQP Simelane"** and is addressed by **Mlaba, Makhaye & Partners** to the Director, Students Accommodation, University of Natal, King George V Avenue, Durban.
- 5.31 Marked **'TRC56'** is a letter, **Mr Mlaba/anm/s778** dated **12 January 1995** entitled **"Mr Simelane's Accommodation"** and is addressed by **Mlaba, Makhaye & Partners** to the Director, Students Accommodation, University of Natal, King George V Avenue, Durban, 4001 for the attention of their **Mr McDonald** and which letter reads as follows for ease of reference:

"We confirm having advised your **Mr Pase** on **9 January 1995** that we have discussed the matter of **Mr Simelane's** accommodation with **Mr Jacob Zuma**, the National Chairperson of the African National Congress.

**Mr Zuma** has personally undertaken to attend to the matter. He has assured us that the **ANC** will be responsible for **Mr Simelane's** accommodation for three (3) months.

Further we have been assured by **Mr Zuma** that the matter will be resolved by this week end.

**Mr Zuma's** telephone number is 360 6570 and we would suggest that should you have any queries to raise in this matter you communicate with him at this number.

We are sorry that we have not been able to come to you earlier due to the fact that the person who is handling the matter is still on leave, but look forward to your co-operation.

Yours faithfully

**Mlaba Makhaye & Partners**

- 5.32 Marked '**TRC57**' is an open letter dated **27 February 1995** entitled "**Bhekumndeni Qedusizi Penuel Simelane (aka Bheki Simelane)**" and is under the signature of **Stephen Mondlane, General Secretary, Black Allied Workers Union (South Africa) [BAWU]** and which letter reads as follows for ease of reference:

"This serves to confirm that the above named **Mr Bhekumndeni Simelane** was our duly appointed **Legal Adviser** and **ex-officio** member of our **National Executive Committee** during his tenure of office as a practising Attorney in Durban. He practised for his own account in Durban under the name and style of **Simelane & Simelane** from **July 1980 to August 1984** when he was exiled. He was also a member of our negotiating team.

**We also confirm that in our dealings with him we found him to be a man of integrity, industrious and a gifted lawyer. Consequently we are pleased to commend him to those who may require his expertise especially in labour matters."**

(The emphasis is supplied.)

- 5.33 Marked '**TRC58**' is a letter dated **12 April 1995** addressed to **Bhekumndeni Simelane** by **Cde MC Ramaphosa, Secretary General, African National Congress (ANC)**.
- 5.34 Marked '**TRC59**' is a letter, **6/4/3/2/ (287/95) (SPS)**, dated **31 October 1995** entitled "**Application for Employment**" and is addressed to **Mr BQP Simelane** by **JJ Noeth, SC, Director General: Justice**.
- 5.35 Marked '**TRC60**' is an article being a special report by **Tania Broughton** entitled "**Amnesty a major saga of modern SA**" and which appeared in **The Mercury, Friday, December 1, 1995**.

- 5.36 Marked **'TRC61'** is an article by **Nicole Fritz** and **Rehana Rossouw** entitled **"The last battle for former MK soldiers"** and which appeared in the **Mail & Guardian**, **February 9 to 15, 1996**, and which *inter alia* reads as follows:

" ...

**Stofile** is pragmatic about the process, admitting that most former **MK** members wanted to **"get the money and run"**.

He began working underground for **MK** in **1974**, but only officially joined in **1979**. He is now working for a cell phone company. He is fortunate as being employed, he is not dependent on the payment offered by the **SANDF**. Many others are.

**Yasmina Pandy**, of Cape Town, is an unemployed former **MK** member. She discovered when **Western Cape MK** members demobilised last week, that despite filling in forms two years ago to be included in **MK's Central Personnel Register (CPR)**, she has not been listed. **Pandy** is among at least **15** former **MK** members in Cape Town who are battling to have their names included on the register.

**This week she consulted lawyers about bringing legal action against Defence Minister Joe Modise in an attempt to claim what she believes is rightly hers. "I was recruited into MK in 1986 and although there were no membership forms, there was never any doubt that I was a member. The former regime certainly believed I was one, they charged me with terrorism and held me for a year and three months", she said.**

...

...

A **Western Cape MK** spokesman said the organisation realised there were people who were omitted from the **CPR** list. He said the organisation would try to assist them and did not want to delay the integration process further.

**"We can't go on with this process until doomsday. We have to try and stick to deadlines. The onus was on MK members to ensure that their names were on the list. There were no large scale administrative problems on our ...." the spokesman said.**

**SANDF** spokesman **Colonel Riaan Louw** said **Pandy's** problem had nothing to do with the army as the **CPR** list was drafted by the **ANC** and **MK**.

**MK** cadres who integrated into the **SANDF** are also unhappy with the pensions offered to them. **"People who joined the SADF were eligible for pensions from the day they joined the army. I'm only eligible from the time of integration"**, said **Donald Homan** who also reported to Doornkop.

**Louw** said **ANC** members who had integrated will receive no extra payment ... (The emphasis is supplied.)

- 5.37 Marked **'TRC62'** is a letter dated **16 April 1996** addressed by **Senzo Mchunu, Provincial Secretary**, African National Congress, KwaZulu Natal Province to the **Director, Glenmore Pastoral Centre**, 10 Donlene Crescent, Off Queen Mary Avenue, Durban, 4001 and which letter reads as follows:

"Dear Mrs Waddell

**We are pleased to confirm that the Department of Defence in Pretoria has advised us that Mr Simelane has since enrolled on the CPR and that his integration into the SANDF will be finalised in due course. He will be in a position to report with the next intake which is expected to be in June.**"  
(The emphasis is supplied.)

- 5.38 Marked **'TRC63'** is a letter, Ref: **CDFS/CSMK/096/04/1/0**, dated **29 April 1996** entitled **"Application for Integration into the SA National Defence Force"** addressed by the **MK Integration Committee** to **Mr BQP Simelane** to *inter alia* inform him that his name **"has been included in the additional non formal CPR list"**. (My emphasis)
- 5.39 Marked **'TRC64'** is a certificate dated **10 June 1996** issued to **Mr Bhekumndeni Qedusizi Penuel Simelane** by the African National Congress (**ANC**) in respect of **Mr Simelane's** military service in the former non-statutory forces (**ex-NSF**), namely **MK** and **Apla**, from **1962–26 April 1994**, and is in terms of section 224(2)(c) of the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993 (**'the Interim Constitution'**)) as read in conjunction with **Item 24(1) Schedule 6: Transitional Arrangements in the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996) ('the Constitution')** and further read in conjunction with both **Item 3 and Item 5 in Annexure D, Schedule 6: Transitional Arrangements in the Constitution.**



5.40 Marked 'TRC65' is a letter dated **15 January 1997** entitled **"Integration into the SANDF: BQP Simelane"** and is addressed by the **Legal Desk (SGO)** of the African National Congress to Seriti, Mavundla & Partners as then Attorney of Record for **Mr BQP Simelane** and which letter speaks for itself.

5.41 Marked 'TRC66' is a document dated **13 November 1997** entitled **"Legal Opinion on the Integration of Bhukumndeni Qedusizi Penuel Simelane"** and was produced by **Adv D Rheeder** as briefed by Attorneys Seriti Mavundla & Partners then for **Mr BQP Simelane** and the same was furnished to the Minister of Defence and Military Veterans and which legal opinion **inter alia** reads as follows:

"In conclusion of this question of law I would further want to submit that the appointment of the Appellant to the position of at least a **Lt General** in the **SANDF**, would have formed an intricate part of the legitimate expectation of the Appellant as **Section 236(2) of the Interim Constitution of South Africa, Act 200 of 1993** applied providing that "a person who immediately before the commencement of this Constitution was employed by an institution referred to in subsection (1) [which would incorporate the **ANC's MK, whose direct involvement in the placement of the Appellant in the Attorney General of Zimbabwe's Office to be trained in lieu of the liberation of South Africa, is common cause**] (my insert and emphasis) shall continue in such employment subject to and in accordance with this Constitution and other applicable laws regulating such employment."

It should be borne in mind that the expectation of the Appellant to hold the rank of **Lt General**, is legitimate as this had been the last official ranking the Appellant held, implemented and acknowledged by the **MK**, and in the light of the abovementioned **Act's** provisions would have been the employment which the Appellant held immediately before the commencement of **Act 200 of 1993**. **I am therefore of the opinion that Appellant should be able to prove with success that his eventual appointment in the rank of a Lt General by the President would have been a mere administrative formality, as the whole process of integration was an administrative action. I am thus also of the opinion that the non-appointment of the Appellant in the rank of Lt General could be successfully contested.**"  
(The emphasis is supplied.)

5.42 Marked 'TRC67' is a letter, **Ref: JHB/97/439/MCp**, dated **25 June 1999** entitled **"Re: Complaint received from Mr Simelane Force No: 96083068PE"** and is addressed to

the Department of Defence by the South African Human Rights Commission (**SAHRC**) and which letter reads as follows for ease of reference:

"We received a complaint from the above named. He states that when the integration of the **SADF**, **Apla** and **MK** took place shortly after April 1994, there was discrimination in the method of selection of persons into the ranking system, in that:

1. Members of the **SADF** were **en masse** given the same ranks that they held prior to integration.
2. However, members of **MK** and **Apla**, and more particularly **Mr Simelane**, (an **MK** member) were discriminated against in that they had to undergo an assessment.
3. **SADF** consisted predominantly of white persons, while the other two were made up of black persons.
4. That difference in treatment contravened the Constitution.
5. Even if that discrimination were fair, **the evaluation itself was incorrectly done in that it did not take qualifications into account.**
6. **Mr Simelane, who was a Lieutenant General, ought to have retained that rank.**

The above conduct appears to me to be a **prima facie** violation of the following rights contained in the **Bill of Rights**:

**Section 9: "The State may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex ..."**

**Section 33: "Every person has the right to procedurally fair administrative action where any of the rights or legitimate expectations is affected or threatened."**

Kindly look into the matter and let us have your response.

Yours faithfully

**MC MOODLIAR**  
**Head: Legal Services**

cc Director General of Defence"  
(The emphasis is supplied.)

- 5.43 Marked **'TRC68'** is a letter dated **22 November 1999** entitled **"Contribution"** addressed by **Blade Nzimande** to **Bheki Simelane** and which *inter alia* reads as follows:

**"On behalf of the SACP Central Committee, I thank you for your valuable contribution. Your contribution along with those of thousands of others, will help the SACP sustain the struggle for a socialist South Africa."** (The emphasis is supplied.)

- 5.44 Marked **'TRC69'** is a letter, **7/2-1383/97** dated **1999-12-07** entitled **"Redress of Wrongs - SANDF Rank"** and is addressed by the **Public Protector** to **BQP Simelane** and which letter reads as follows:

**"I wish to acknowledge receipt of your letters dated 24 September 1999, 25 September 1999, 28 September 1999, 1 October 1999, 15 October 1999, 29 October 1999, 17 and 17 November 1999.**

**We have now finalised our investigation and are preparing the findings for consideration by the Public Protector, accordingly we will not entertain further submissions in your matter.**

Kindly note my apologies for not responding to your telephonic enquiries however I am presently on leave and prior to this we attended a team-building workshop.

Further kindly note that the **Public Protector** has a large number of international and national engagements and therefore there is a delay in finalising your matter as it must be submitted to him.

**Your patience is appreciated and we hope to shortly inform you of our findings and recommendations.**

With kind regards

**DN SCROOBY**  
**SENIOR INVESTIGATOR"**  
(The emphasis is supplied.)

**[COMMENTARY:** Notwithstanding the fact that the investigations were completed in **1999** as more fully set out in the above quoted **'TRC69'** the **Public Protector** has to date hereof **FAILED "to report on that conduct; and (c) to take appropriate remedial action"** as contemplated in

**section 182(1)(b) and (c) of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996).]**

- 5.45 Marked **'TRC70'** is a certified copy of the photograph section of **ID no 451111 5699 08 6** in the name of **Bhekumndeni Qedusizi Penuel Simelane** as issued by authority of the Director-General of Home Affairs on **2001-02-09**.
- 5.46 Marked **'TRC71'** is an official document of the Department of Defence entitled **"Curriculum Vitae: 96083068PE Col BQP Simelane"** as produced by the division concerned on **16 December 2002** and the same was lodged with the **Human Resources Division of the DOD**.
- 5.47 Marked **'TRC72'** is a document, **Ref: SA ARMY /DIR ARMY HR/R/103/2/1, DATED 21 February 2003** entitled **"Executive National Security Programme (ENSP) 08/03"** as issued by **Lieutenant General GL Ramano, Chief of the SA Army**.
- 5.48 Marked **'TRC73'** is a certified copy of the photograph section of **Passport No. 445876778** in the name of **Bhekumndeni Qedusizi Penuel Simelane** as issued by the Department of Home Affairs on **23 April 2004** and with **22-04-2014** as the date of expiry.
- 5.49 Marked **'TRC74'** is a newspaper article from **The Herald** of Zimbabwe of **7 November 1989** entitled **"Smith wins appeal over his salary"** and is a report on one of the numerous cases in which **BQP Simelane** appeared in the courts of Zimbabwe including the High Court and the Supreme Court sitting as a Constitutional Chamber and which article **inter alia** reads as follows:

"The Supreme Court ruled in Harare yesterday that the House of Assembly had no power in terms of the provisions of Privileges, Immunities and Powers of Parliament Act, to suspend a Member of Parliament's salary for a breach of privilege or contempt.

...

"it is now trite that courts determine the existence of privileges claimed by Parliament and disputed by those affected by the imposition of a penalty or otherwise."

**The Chief Justice**, who sat with four other judges of appeal, **Mr Justice Gubbay, Mr Justice McNally, Mr Justice Manyarara** and **Mr Justice Korsah**, allowed the appeal with costs. **Advocate Mr Julian Colegrave** appeared for **Mr Smith**, **advocate Mr Mike Gillespie** for the **Speaker of the House** and **Mr BP Simelane** of the Civil Division of the

Attorney-General's Office appeared for the then **Leader of the House, Cde Eddison Zvobgo-Ziana.**" (The emphasis is supplied.)

- 5.50 Marked 'TRC75' is a newspaper article from **The Herald** of Zimbabwe of **9 May 1991** entitled "**Death row prisoners in court**" and is a report on one of the numerous cases in which **BQP Simelane** appeared in the courts of Zimbabwe including the High Court and the Supreme Court and which article as written by **Court Reporter Willie Zweni inter alia** reads as follows:

"Two prisoners on death row began a Supreme Court battle with the State yesterday to get the same exercise time as that allowed their fellow prisoner **Phillip Conjwayo**.

**Kevin Woods and Michael Smith, both condemned to death for their part in a South African fatal bomb attack in Bulawayo in January 1988 are presently together with Conjwayo at Chikurubi Maximum Security Prison.**

In an application yesterday, **Woods and Smith** challenged the Minister of Justice, Legal and Parliamentary Affairs and the Director of Prisons over the amount of exercise time allowed them.

They said although they had associated themselves with the case of **Conjwayo**, who was given two hours of exercise every weekday and Saturday, Sunday and public holidays, they were given less time and on weekdays only.

Their conditions of imprisonment were identical in every way to those of **Conjwayo**, the two said, through their lawyers who argued that ..."  
(The emphasis is supplied.)

[**COMMENTARY:** The other numerous reported cases in which **Simelane** appeared include the following:

1. **1990 (3) SA 756 (Z)**

1. **1992 (2) SA 56 (Z)**

1. **1993 (4) SA 272 (Z)**

1. **1995 (1) SA 703 (Z)** ]

- 5.51 Marked 'TRC76' is a letter dated **20 July 2012** entitled "**Re: BPQ Simelane**" and is addressed by **Ms N Sindane**, Director General, Department of Justice and Constitutional Development, to **Mr Lehotlo Moshokoa** (then an **Attorney**

for **Mr BQP Simelane**) and which letter reads as follows for ease of reference:

"Our meeting on **11 July 2012** between myself and your client **Mr BPQ Simelane** refers. I regret not responding to yourselves as promised by **17 July 2012**.

I am now in a position to provide you with a preliminary update on my endeavours in investigating this matter.

**I have confirmed telephonically with the Department of Defence, Ms KC Teffu that your instruction from the Department of Defence still stands.**

**I have issued instructions that the matter as dealt with by Mr Minnaar from the State Attorney on your client's behalf be handed over to another State Attorney to mitigate against the tensions that currently exist between Mr Minnaar and your client, which is impacting on a speedy resolution of the matter.** I must emphasize that moving the file from Mr Minnaar is not a finding against him on the allegations of assault or other allegations on your client's case he has been handling, as the internal investigations have not been concluded to confirm or dispel the allegations against him. **This is a precautionary step to ensure that the case moves to finality.**

**Mr Tshivhase from the Pretoria State Attorney will take temporary control of the file, pending its allocation to another State Attorney.** This will be communicated to you shortly.

**We are following up on the investigation conducted by the SAPS, but encourage you to also do the necessary follow-up on behalf of your client.**

With respect to the alleged assault on your client, we are conducting an internal investigation and request your patience in allowing this process to take its full course.

**We advise that to ensure a proper and independent investigation of the alleged assault, we have decided to appoint an investigator from outside the department to conduct such investigation.**

We will provide you with progress in this regard.

Kind regards"  
(The emphasis is supplied.)

**[COMMENTARY:**

1. As stated above the matter "**as dealt with by Mr Minnaar**" was indeed taken over by **Mr Tshivhase** who passed it over to one **Mr Maxwell Matubatuba**.
  2. The said **Mr Matubatuba** has since **November 2012** been in control of this matter but has to date hereof failed to appoint **Smith Ndlovu Summers** of Durban as **Mr Simelane's** new **Instructing Attorneys** in the matter since **Mr Lehotlo Moshokoa** was conflicted and had to withdraw himself. It would appear that **Mr Matubatuba** is either a sycophant of the said **Mr Minnaar** and therefore beholden to him or is like him also an agent of the erstwhile **Apartheid** regime.
  3. The agreement with the **DOD** is that the **Instructing Attorney** be paid at his /her hourly rate and not less than **two-thirds (2/3) of Senior Counsel's** hourly rate. The same holds for **Junior Counsel**.
  4. I have recently brought to the attention of **Defence Legal Services** and **Mr Tshivhase** of the State Attorney the incompetence of **Mr Matubatuba** as hereinbefore outlined.
  5. According to **Mr Tshivhase** he is now attending to the matter himself including the payment of the long outstanding account of the said **Smith Ndlovu Summers** for the work they previously executed as then Durban correspondents.
  6. Further according to **Mr Tshivhase** he has instructed that a certain form be forwarded by their **Accounts Section** to the said **Smith Ndlovu Summers** to complete and for them to be brought into the system so that in future and hopefully as **Instructing Attorneys** herein their accounts may be settled promptly.]
- 5.52 Marked '**TRC77**' is a newspaper article by **Candice Bailey** in the **Sunday Independent** of **22 July 2012** entitled "**State Attorney probed over 'assault' on MK veteran**" and which article reads as follows for ease of reference:

"The Director-General in the Department of Justice and Constitutional Development is investigating an allegation that one of its state attorney attacked **MK** veteran **Bheki Simelane** during a meeting in his office.

Apart from the assault, **Simelane** – who has been in a six-year battle to get political amnesty – alleges that state attorney **Ben Minnaar** also threatened to withdraw state funded legal fees in two of his current court battles and to

cancel his **Truth and Reconciliation Commission** process altogether.

**Simelane** is the father of axed National Prosecuting Authority head **Menzi Simelane**.

Justice director-general **Nonkululeko Sindane** took up **Mr Simelane's** matter after he wrote to the Office of the president and deputy president, the chief justice, the judge president of the **Labour Appeal Court**, the secretary of defence, the secretary of military veterans and **Sindane**, reporting his alleged assault.

Department spokeswoman **Phumla Sekhonyane** would not comment on the allegations of assault on **Simelane**, but confirmed that **Sindane** had met him and his legal representatives, and **that there was a pending investigation**.

The director-general made certain commitments, which includes the further handling of **Mr Simelane's** long standing matters and the allegations of assault" she said.

**Simelane** had allegedly gone to see **Minnaar** to arrange a date for a cost order, which was granted in **2009** as part of an access to information case he had launched against the **Natal Law Society**.

He asked the society to provide him with the documentation relating to him being struck off the roll, which he said needed to be presented before the amnesty committee considering his application. **The costs order could not be granted at the time of the initial order, as the documentation Simelane had asked for first needed to be provided.**

**The origin of Simelane's political amnesty bid dates back 28 years, when he allegedly defrauded paralysed car accident victim Martha Mkhize of a R50000 pay-out from the Road Accident Fund. He was struck off the roll of attorneys at the time.**

In **2007**, after appealing against the refusal of his amnesty application, **Simelane** was granted a new amnesty committee.

But before he could appear before it, he needed the information from the law society. He alleges that **Minnaar** assaulted him so badly that he ended up in hospital.

**"I want to finalise this access to information case. But we are being stopped from finishing the matter"** he told The Sunday Independent this week.



"Six years have already passed and nothing has happened. These are all the things that I needed to finalise before I die. I need to get my life in order.

"I am now waiting for her to come back to me. She said she would come back to me after having a preliminary investigation done by the chief litigation officer, **Kay Pillay**, " **Simelane** said this week.

A Pretoria police spokeswoman, **Sergeant Ann Poortman**, confirmed that a case of assault was being investigated at Pretoria Central Police Station.

"There are still some elements of the investigation that are outstanding before it can be handed over to the director of public prosecutions for a decision on prosecution," said **Poortman**.

candice.bailey@inf.co.za"  
(The emphasis is supplied.)

- 5.53 Marked '**TRC78**' is a court order as handed down on **14 August 2009** by the **Honourable Mr Justice Hollis, AJ** in the KwaZulu-Natal High Court, Pietermaritzburg in the matter of **Bhekumndeni Qedusizi Penuel Simelane vs KwaZulu-Natal Law Society, Case No. 9248/08** and which court order **inter alia** reads as follows:

"**UPON** reading the Notice of Motion, and the other documents filed of record; and

**UPON** the motion of Counsel for the Applicant;

**IT IS ORDERED THAT**

1. The Respondent be and is hereby directed to within a period of 45 (forty-five) days from the date of this order **to furnish the Applicant with those records which it has in its possession which relate to the Applicant.**
2. The costs of the application are to be reserved but **leave is given to both parties to set the matter down on notice to the other for the purpose of determining the question of costs once effect has been given to in the provision of paragraph (1) of this order.**

**BY ORDER OF THE COURT**

**NP FENTE**  
**SENIOR REGISTRAR"**  
(The emphasis is supplied.)

6. **A BRIEF COMMENTARY ON THE ARTICLE OF 22 JULY 2012 BY CANDICE BAILEY AS PER 'TRC77' ABOVE AND THE HIGH COURT ORDER OF 14 AUGUST 2009 AS PER 'TRC78' ABOVE**

- 6.1 The **Amnesty Committee** in terms of the High Court order of **13 April 2006** by the **CPD** did sit on **6 December 2008** in Durban but was postponed **sine die** at my request as more fully set out at paragraph 28 of my letter dated **19 April 2013** and which reads as follows for ease of reference:

"28. The **Amnesty Committee** was scheduled to sit for two (2) weeks in Durban as from **6 December 2008**. However on the very first day of its sitting I applied through my Counsel for its postponement **sine die** because the required investigations have not been completed including my application for access to information in terms of the **Promotion of Access to Information Act, 2000** and which application for access is against the said **Natal Law Society**. The matter was accordingly postponed **sine die**."

- 6.2 For the **Amnesty Committee** to be reinstated and for it to resume where it left off on the said **6 December 2008** the following events should have been completed:

- 6.2.1 the access to information matter must have been heard and the costs issue disposed of in terms of paragraph 2 of the said High Court order of **14 August 2009** as per '**TRC78**', and
- 6.2.2 the mandatory investigations in terms of the **TRC Act** and as referred to in the above quoted paragraph 28 of my said letter of **19 April 2013** should have been finalised.

- 6.3 The Natal Law Society as the Respondent in the court order of **14 August 2009** as per '**TRC78**' did attempt to comply with paragraph 1 of that court order by filing certain documents as requested by **Simelane** as **Applicant** into the court file and also served the same on **Simelane's** then **Instructing Attorneys**. Hence the outstanding issue to deal with in that matter being the said paragraph 2 of '**TRC78**'.

- 6.4 The said documents as furnished to **Simelane** by the Natal Law Society, in terms of paragraph 1 of the said '**TRC78**' as per paragraph 6.3 above revealed that there was massive fraud and corruption by the Natal Law Society in the striking-off of **Simelane** from the roll of Attorneys on **30 November 1984** and that **certain prominent white male Attorneys, Advocates and Judges** were intrinsically involved in

**perpetuating the said massive fraud and corruption in issue by the said Natal Law Society.**

- 6.5 The documents as filed on **12 October 2009** by the Natal Law Society in terms of paragraph 1 of the said 'TRC78' as per 6.4 above **inter alia** revealed that:

- 6.5.1 An affidavit by **Martha Mkhize** attested to on **5 December 1983** wherein she made it known that she had not settled or compromised her **MVA** claim was before the court. She was therefore expecting no money from the **MVA Fund**. Further **Mr Bheki Simelane** as her **Attorney** received no money from the **MVA Fund** on her account. Put differently, there was no trust money involved. More so the said **Martha Mkhize** had filed no other affidavit with the **Natal Law Society** to complain, for whatever reason, against the aforementioned **Bheki Simelane** as her **Attorney** and the same placed before the court by the **Natal Law Society** as **Applicant** in that strike-off matter as completed on **30 November 1984** when the then **Natal Provincial Division** confirmed the **Rule Nisi** issued on **8 August 1984** to strike **Attorney Bheki Simelane** from the roll of practising attorneys.
- 6.5.2 In contravention of section 71 of the **Attorneys Act No. 53 of 1979** ('the **Attorneys Act**') **NO ENQUIRY** was conducted by the Council of the **Natal Law Society** into the affairs of **Attorney Bheki Simelane** who was practising law under the name and style of **Simelane & Simelane** before Friday **3 August 1984** when the strike-off papers were served on the said **Attorney Bheki Simelane** and in fact to date hereof no such inquiry has been conducted by the Council of the **Natal Law Society** against **Attorney Bheki Simelane**.
- 6.5.3 In contravention of section 72 of the said **Attorneys Act** **NO DISCIPLINARY POWERS** were exercised by the Council of the **Natal Law Society** against **Attorney Bheki Simelane** before Friday **3 August 1984** when the urgent strike-off papers were served on the said **Attorney Bheki Simelane** and in fact to date hereof no such disciplinary powers have been exercised by the Council of the **Natal Law Society** against **Attorney Bheki Simelane**.

- 6.5.4 **Bheki Simelane** has since his admission as **Attorney** by the then Natal Provincial Division on **24 June 1980** to date hereof **NEVER BEEN CHARGED of any unprofessional or dishonourable or unworthy conduct by the Council of the Natal Law Society.**
- 6.5.5 **NO RESOLUTION** was taken by the Council of the Natal Law Society on or before Friday **3 August 1984** when urgent strike-off papers were served on **Attorney Bheki Simelane** to the effect **THAT:**
- "1. Application should be made to the Natal Provincial Division of the Supreme Court for a **Rule Nisi** calling upon the Respondent to show cause **why his name should not be removed from the Roll of Attorneys, incorporating an interdict suspending the above Respondent from practice in the interim;**"
- 6.5.6 In view of the foregoing and especially paragraphs 6.5.1, 6.5.2, 6.5.3, 6.5.4 and 6.5.5 above the court order as granted by **Howard J** (as he then was) of the then Natal Provincial Division (**NPD**) on **30 November 1984** confirming the **Rule Nisi** to remove the name of **Attorney Bheki Simelane** from the **Roll of Attorneys**, and which court order was based on the strike-off application which was served on **Attorney Bheki Simelane** on Friday **3 August 1984**, was unlawful. Consequently, the said strike-off on **30 November 1984** of **Attorney Bheki Simelane** by the said **Howard J** (as he then was) of the then **NPD** is null and void and **of no force and effect as though His Lordship was under a spell of a bad dream.**
- 6.5.7 The urgent politically motivated strike-off application papers as served on **Attorney Bheki Simelane** on Friday **3 August 1984** may have its urgency reasonably explained in terms of the former **President PW Botha** and former **Justice Minister Kobie Coetsee** inspired **death squads** and **special forces** as unleashed to kill **Attorney Bheki Simelane** on Tuesday **7 August 1984**, a la **Attorney Griffiths Mxenge** also killed by the **Apartheid** death squads in **November 1981**, and for **STRATCOM** to disseminate false information to the effect that **Attorney Bheki Simelane "committed suicide"** because his law firm had financial difficulties. The strike-off application that would have served in court during the day on the same Tuesday of **7 August 1984** would have been

referred to as proof of such financial difficulties. This also explains why former **Justice Minister Kobie Coetsee** took special interest in issues relating to **Bheki Simelane** such that around **June /July of 1992** he issued that instruction that **Bheki Simelane** be not allowed to return to South Africa even when exiles had been returning to the country since the release of former **President Nelson Mandela** during **February 1990**. Notwithstanding those positive developments relating to the **Mandela Release Justice Minister Kobie Coetsee** was adamant that if **Attorney Bheki Simelane** returned to the country he would still be arrested. Hence **Bheki Simelane** only returned to South Africa during **November 1994**. The reason why former **Justice Minister Kobie Coetsee** refused **Bheki Simelane's** return to South Africa is that **he and his death squads and special forces were still pursuing their attempts to kill Attorney Bheki Simelane and therefore wanted to keep him out of the country as much as possible in order to pursue those attempts further**. See also in this regard the document of **25 March 1993** and is marked '**TRC12**'. Further the return of **Bheki Simelane** before **27 April 1994** would have caused huge embarrassment to the said **prominent white male Attorneys, Advocates and Judges who were involved in the massive fraud and corruption relating to the Bheki Simelane strike-off of 1984** such that it would have begged for an answer from the **Apartheid Regime** as to why they were not acting to save them from that embarrassment especially as the **Apartheid authorities at the behest of whom they had acted were still in power**. With this analysis the former **Justice Minister Kobie Coetsee's** intervention of 1992 is best understood.

- 6.5.8 Certain members of the former **apartheid** military intelligence were arrested in Zimbabwe in **January 1988** and pursuant to a fatal bomb attack on the **ANC** members in Bulawayo. Three of them, namely **Kevin Woods, Michael Smith** and **Phillip Conjwayo** were sentenced to death and were on death row. Their sentences were subsequently commuted to life imprisonment. Apparently **President Mugabe** offered them a pardon of sorts in **2006** and **Kevin Woods** and **Michael Smith** elected to come to South Africa. **Phillip Conjwayo** elected to stay in Zimbabwe. I was

involved as a member of the **Civil Division of the Attorney-General's Office** in a number of cases relating to the said **Kevin Woods, Michael Smith** and **Phillip Conjwayo**. See also in this regard the document of **9 May 1991** and marked '**TRC75**'. Attempts were made by the **apartheid State Security Council** in terms of a certain plan under the command of one **Colonel Joe Verster** and code-named "**Operasie Direksie**" to spring the said trio from the **Chikurubi Maximum Security Prison** in Zimbabwe. I was also informed by the **Central Intelligence Organisation (CIO)** of Zimbabwe and which information I had reason to believe to be true for obvious reasons that the said plan to spring the said trio from the said **Chikurubi Maximum Security Prison** also involved an operation to kill **Attorney Bheki Simelane**. With the benefit of hindsight and given the documents made available to me on **12 October 2009** in terms of paragraph 1 of the court order as per '**TRC78**' it is now abundantly clear to me as to **WHY** former **Justice Minister Kobie Coetsee** and the **State Security Council** wanted me dead and for **Colonel Verster** to deliver to **President PW Botha** the head of a dead **Attorney Bheki Simelane** at the **Union Buildings** as per the account of the said **CIO**.

"On **26 January 1994**, South African **President FW de Klerk** and **President Robert Mugabe** met in Gaborone, just prior to the installation of the **ANC** government in South Africa. Following this meeting, which was the first ever between the two presidents, **South Africa's justice minister, Kobie Coetsee**, who had publicly insisted all along that we had not been involved in authorised operations, came to Harare – the first ministerial visit by a **South African** minister since 1980, and held wide-ranging talks with my two nemeses, **Emmerson Mnangagwa** and **Dumiso Dabengwa**.

After the meeting **Mnangagwa** said that our fate had been discussed (**why, if we were not South African agents?**) but he did not infer that there would be no speedy resolution of the issue, probably because of the wishy-washy denial attitudes of these **South African** ministers. **So, on one hand you've got the South African government using us in simultaneous raids on three Frontline State capital cities in 1986, which they claim responsibility for, then they**

**try and spring us from jail, then later de Klerk talks to Mugabe about our release but all the while you've got some of these security ministers denying we were ever part of their team.**

The operation to spring us from maximum security was accordingly approved under the code-name **Operasie Direksie** which took place a few months later, but not according to my suggestion.

Under the command of **Colonel Joe Verster, KD** and his people incredulously went ahead and made a plan which was approved by the **State Security Council** without taking into cognizance the opinion of someone actually on the ground and inside the jail.

**I must admit though their plan was quite good.** A few months after my move to **Chikurubi** I started receiving messages from **KD**, either by coded letters which slipped past the official prison censor or in smuggled letters via the guards. In the correspondence I was told that an escape attempt was going to be made by the South African government involving him and others. All we were to do was keep as fit as possible, and make sure we were handcuffed to one another and not to a local common criminal when in transit to court for our bi-monthly remand appearance. My co-accused and I stuck to a very strict exercise regime. Press-ups, sit-ups and jogging in a small figure-eight circuit for kilometres on end – each and every day. No booze and hearty food from our relatives, which we were still allowed to receive as we were not yet convicted prisoners, added to our fitness.

The planning and the fixed date of the escape remained secret; however, from within my limited perspective I guessed **30 June 1988** was our day. I knew basically, that **the prison vehicle taking us to court would be stopped and the guards persuaded to hand us over, after which we would be extracted to South Africa. But exactly how it was to go down was a mystery.** As you can imagine, with total expectation of freedom the next day, there was no sleep that night of **29 June**.

Thursday **30 June 1988** dawned a cold, clear and crisp mid-winter morning. With huge amounts of

adrenaline pumping through my system, I'd sanitized my cell, as had the other okes, so that after we'd bust out, and during the huge cover-ass interrogation that was sure to follow in the jail, nothing even remotely implicating our prior knowledge of the escape would be found.

Without a hint of suspicion we were taken to the reception area of the prison and from there handcuffed together and led to the prison Grey Mariyah waiting outside. No guards fussing, no guns, all was quiet. As we were led out from the huge brass-studded, wooden entrance door to the prison (the doors that seem part of every prison), a helicopter belonging the Zimbabwean Air Force passed overhead. This was being flown, I established later, by **Flight Lieutenant Gary Kane**, who had been recruited by the South Africans to 'borrow' one of **Mugabe's** precious Bell helicopters. This was then going to be used to uplift us from the prison Grey Mariyah, which would convey us to a rural landing strip west of Harare where a South African Air Force Dakota was on stand-by, engines turning over, to convey us and **Kane** to South Africa.

I've subsequently established that **PW Botha** had also authorized a flight of South African Air Force Mirage jets, which were at that time high over Zimbabwe, concentrated around Thornhill air base in Gweru where **Mugabe's** Hawk fighter jets were stationed to prevent any of them taking to the sky.

A couple of hundred metres above us **Flight Lieutenant Kane** was watching us get into the back of the prison truck. The door was slammed shut and a small padlock attached to the hasp and staple and we were off. The Bell helicopter followed us in the paddy wagon and followed it ..... and followed it ..... All the while he was fully aware that the air traffic controllers at New Sarum and Harare International Airport, on the other side of Harare were watching him on their radar. He also knew that he was in a chopper that was getting hotter by the minute, as his unauthorized 'borrowing' of the helicopter would very soon become evident to the operations room at Harare's Zimbabwean Air Force base, New Sarum.

To his complete credit, **Kane** stuck with us right until we ....."

[The emphasis is supplied.]



see: **The Kevin Woods Story**  
**In the shadow of Mugabe's gallows, 30°**  
**South Publishers, pages 146-148 in "Chapter 7:**  
**Arrest, detention, remand, failed escape, jail"**

- 6.5.9 As a State Attorney handling my **TRC** file in the Office of the State Attorney since my **TRC** legal expenses are met by the Department of Defence as my former employer the said **Mr Ben Minnaar** had become aware of the said massive fraud and corruption as revealed by the documents presented to me on **12 October 1999** by the Natal Law Society in terms of paragraph 1 of the court order as per '**TRC78**'. **Apparently some of these white male lawyers and judicial officers were in common pursuit as apartheid agents with the said Mr Ben Minnaar.** One of the reasons for the said **Mr Ben Minnaar** in assaulting me with a view to killing me as he even said so in so many words was to ensure that this **Bheki Simelane TRC** hearing does not take place because those prominent **White male Attorneys, Advocates and Judges** as revealed to have been involved in the said massive fraud and corruption relating to the said **Bheki Simelane** strike-off of **30 November 1984** will also be publicly exposed in such **TRC** hearing as former **apartheid** agents. **Mr Minnaar aforesaid was therefore acting corruptly in the circumstances, defeating the ends of justice and further thwarting the operation of the High Court order issued on 13 April 2006 by the then CPD directing the Minister of Justice and Constitutional Development to set up a new TRC Amnesty Committee for Mr Bheki Simelane.** While the Director General for Justice and Constitutional Development took a commendable step in issuing an instruction as per '**TRC76**' of **20 July 2012** that this **TRC** file in issue be removed from **Mr Minnaar** and handed over to another State Attorney in order to achieve a speedy conclusion of this **TRC** hearing as ordered by the then CPD the matter has not yet moved an inch from where it was in **2009**. **Mr Tshivhase** took this file from **Mr Ben Minnaar** and handed it over to **Mr Maxwell Matubatuba** during **November 2012**. **Mr Mtubatuba** has since perused the file and consulted with **Mr Simelane's** legal team so that **Simelane** and his legal team can take the matter forward. **Mr Matubatuba** knows that he needs to formally appoint **Smith Ndlovu Summers** of

Durban as **Simelane's Instructing Attorneys** and these attorneys to be requested to check on the availability of **Adv Dumisa Ntsebeza, SC** and **Adv Thabani Masuku** as Counsel who were until **2009** involved in this matter. Without the appointment of the **Instructing Attorney** and **Counsel** this matter cannot proceed. This **TRC** file cannot go from one former **apartheid** agent to another. I have since advised **Mr Tshivhase** of this huge problem with **Mr Maxwell Matubatuba** and requested **Mr Tshivhase** to assist in terms of the said '**TRC76**' in taking the matter forward. **Given this account as presented herein a copy of this letter will also be provided to the Sunday Independent to enable them to revisit their story as per 'TRC77'.**

**7. WHETHER ATTORNEY BHEKI SIMELANE HELD ANY TRAVEL DOCUMENTS AS ISSUED TO HIM BY THE GOVERNMENTS OF THE COUNTRIES HE LIVED IN WHILE IN EXILE**

- 7.1 To my recollection, during my entire stay in exile as a ward of the **UNHCR** I held one (1) travel document and which was a blue book and a United Nations Convention Travel Document, namely **UNCTD 0072/85** and is also referred to in the above '**TRC3**'.
- 7.2 As stated above I could not return to South Africa before **27 April 1994** given the former **Justice Minister Kobie Coetsee's** specific refusal in 1992 for me to return. Therefore I voted in Harare on **27 April 1994**. After the **ANC** victory in those elections I also applied for a passport at the South African High Commission in Harare in **May 1994**. My said **UNCTD 0072/85** travel document was in that process taken by the SA High Commission Office and I was issued with a new SA ID valid for 10 years. When that one expired I took another one on **23-04-2004** from Home Affairs in South Africa and which will expire on **22-04-2014** as more fully set out at '**TRC73**'.

**8. ATTORNEY BHEKI SIMELANE'S PERIOD OF DOING DEFENCE STUDIES IN LONDON AND RESEARCHING AT THE INTERNATIONAL INSTITUTE OF STRATEGIC STUDIES (IISS)**

- 8.1 I did not apply for any formal recognition in the United Kingdom as a refugee during my stay in London.
- 8.2 I went to the United Kingdom to pursue Military Studies as more fully set out by **Prof Bolofo** in '**TRC30**'. In fact, around **February 1985** and while in Lesotho I was offered

provisional admission by King's College London (**KQC**) to specialise in **Defence Studies**. About that time I raised the issue with **Sabelo Phama** as Secretary for Defence in the Central Committee of the PAC on his visit to Lesotho. He undertook to arrange with **Elliot Mfafa** as Secretary for Education in the same Central Committee of the PAC on his return to **Tanzania** that an appropriate scholarship be secured for me. Also during **April 1985** the said **Elliot Mfafa** came on an official visit to Lesotho and informed me that he had secured for me a scholarship under the **United Nations Educational And Training Programme for Southern Africa** and which agency was based in New York. However on my arrival in Harare on **30 June 1985** and when I needed to proceed to London the said New York raised the issue of costs in a developed country and suggested that I go to Kenya at the University of Nairobi and which I could not accede to. As I needed a visa to get to London the **Zimbabwe Council of Churches** facilitated the same on the understanding that in London I will live at the **PAC** residence until the scholarship issue was sorted out. I then proceeded to London and commenced my military studies and lived at the **PAC** residence with **Hamilton Keke**. When the scholarship was sorted out I thereafter moved to the College Residence at Champion Hill.

- 8.3 The said scholarship issue was sorted out by **Mr Von Armin** as then **Chief Representative of the UNHCR** in the United Kingdom. **Mr Von Armin** had good contacts with both the **Africa Education Trust (AET)** and the **World University Service (WUS-UK)**. He got me a scholarship from one of those institutions and I left the **PAC Residence** for the Kings College Residence as aforesaid.

## 9. **ATTORNEY BHEKI SIMELANE'S DEMOTION BY SOUTH AFRICA'S DEPARTMENT OF DEFENCE IN VIOLATION OF SOUTH AFRICA'S CONSTITUTION AND AS FURTHER INCONTROVERTIBLE EVIDENCE OF HIS CONTINUED PERSECUTION IN DEFIANCE OF INTERNATIONAL LAW**

- 9.1 The demotion of **Attorney Bheki Simelane** from **Level 15** to **Level 12** in South Africa's public Service as a violation of South Africa's Constitution and its **Bill of Rights** has been succinctly stated by the **South African Human Rights Commission (SAHRC)** in a letter of **25 June 1999** to the Department of Defence (**DOD**) as per '**TRC67**' of this submission.
- 9.2 As a former refugee and a ward of the **UNHCR** the said unconstitutional and unlawful conduct by South Africa's Department of Defence as per 9.1 above constitutes a **continued persecution** of the said **Attorney Bheki**

**Simelane** which is akin to the same persecution that drove him out of the country on **6 August 1984** initially to the Kingdom of Lesotho.

- 9.3 The said **continued persecution** of **Attorney Bheki Simelane** through his said unlawful and unconstitutional demotion by former **apartheid** military intelligence agents associated with the said **Kevin Woods** and them acting in cahoots with certain **askaris (apartheid agents within former MK)** and which demotion was from **Level 15 (Lieutenant General)** to **Level 12 (Colonel)** is also in defiance of international law by virtue of the fact that it contravenes the agreements South Africa entered into with the **UNHCR** relating to the return of former SA refugees pursuant to the cessation of hostilities and the subsequent political settlement including the said **'TRC7'** the complete document of which is in the **UNHCR Archives** in Geneva. **The said demotion was also informed by xenophobia since I served the Zimbabwean Government.**
10. **THE LETTER OF 19 APRIL 2013 TO THE UNHCR**
- 10.1 The abovementioned letter of **19 April 2013** must be read in conjunction with this submission.
- 10.2 I hope that this submission will assist the relevant authorities in retrieving the relevant documents relating to the aforementioned **Attorney Bheki Simelane** from the **UNHCR Archives** in Geneva.
- 10.3 In the light of the foregoing it is trusted that the **UNHCR** will find its way clear in impartially contributing to the impending **Attorney Bheki Simelane TRC** to be held in Durban, South Africa.

**DATED AT KWABUYEMAZWENI 973 TIPTOL STREET SILVERTON, PRETORIA 0184 THIS 2<sup>ND</sup> DAY OF JUNE 2013.**

  
**BHEKUMNDENI QEDUSIZI PENUEL  
SIMELANE (aka Bheki Simelane)**

**12/06/2013**

**11.00 a.m.**

**DISTR  
For Action**

The President of the Republic of South Africa

UN Commissioner for Human Rights

The Minister of Justice and Constitutional Development

The Minister of Defence and Military Veterans

Chief State Law Adviser, **Mr Enver Daniels**

Portfolio Committee on Justice and Constitutional Development

Portfolio Committee on Defence and Military Veterans

The Joint Standing Committee of Parliament on Defence

Public Protector

**Your Ref: 7/2 --- 1383/97**

South African Human Rights Commission (**SAHRC**)

**Your Ref: JHB/97/439/MCp**

Registrar

Labour Appeal Court

**Case No.: LAC JA 39/07**

**Attention**               1.   **Ms Ntuli**  
                                  2.   **Mr Popi**

Secretary for Defence

Secretary for Military Veterans

Smith Ndlovu Summers

Attorneys, Durban

**Attention:               Mr Sibonelo Ndlovu**

General Council of the Bar of South Africa (**GCB**)

**Attention:               Executive Officer**  
    **(in re:               1.   Adv Taki Madima, SC**  
                                  2.   **Adv Patric Mtshaulana, SC)**

Johannesburg Bar Council

**Attention:               Chairperson**  
    **(in re:               1.   Adv Patric Mtshaulana, SC**  
                                  2.   **Adv Jabu Luvuno)**

Cape Bar Council

**Attention:               Chairperson**

(in re: **Adv Taki Madima, SC**)

**Adv Dumisa Ntsebeza, SC**

**Adv Thabani Masuku**

Acting Head: State Attorney (Pretoria)

Black Lawyers Association (**BLA**)

Law Society of the Northern Provinces (**LSNP**)

**Attention:**

- 1. Director**
- 2. Mr Motsepe**
- 3. Ms T Moola**

(in re: **1. Attorney Molusi (ex State Attorney)**

- 2. Attorney Isaac Showe, State Attorney**
- 3. Attorney Ben Minnaar, State Attorney)**

Secretary General, **ANC**

Secretary General, **SACP**

Secretary General, **COSATU**

Society of Advocates, KwaZulu-Natal

**Attention: Chairperson**  
(in re: **ex Adv Selby Baqwa**)

Secretariat to the Judicial Service Commission

(in re: **1. Judge Mynhardt**  
**2. Judge Baqwa)**

Office of the Chief Justice of the Republic of South Africa

Pretoria Society of Advocates

**Attention: Chairperson**  
(in re: **Adv Soraya Hassim)**

The Sunday Independent

**Attention:**

- 1. Moshoeshoe Monare**
- 2. Candice Bailey**

De Rebus

Tel: 012 803 4377  
Fax: 012 803 6959  
Cell: 083 255 8774  
Enq: **Bheki Simelane**  
e-mail: **simelanebheki1145@gmail.com**

Kwabuyemazweni  
973 Tiptol Street  
SILVERTON  
0184

4 June 2013

**TO WHOM IT MAY CONCERN**

**Re: CERTAIN PROMINENT WHITE MALE ATTORNEYS, ADVOCATES AND JUDGES COLLUDED WITH A FORMER APARTHEID DEATH SQUAD IN THE ABORTED ASSASSINATION OF WELL-KNOWN DURBAN ATTORNEY BHEKI SIMELANE ON TUESDAY THE 7<sup>TH</sup> AUGUST 1984**

1. Kindly find herewith for your records a letter dated **2 June 2013** addressed by the abovementioned **Attorney Bheki Simelane** to the United Nations High Commission For Refugees (**UNHCR**) and is **inter alia** copied to the President of the Republic of South Africa, the Minister of Justice and Constitutional Development and the Minister of Defence and Military Veterans.
2. The said "**WHITE MALE ATTORNEYS, ADVOCATES AND JUDGES**" will be subpoenaed to attend the said **Bheki Simelane Truth and Reconciliation (TRC)** as ordered by the then Cape Provincial Division (**CPD**) on **13 April 2006** and to give evidence as a witness on their abovementioned collusion.
3. The Acting State Attorney (Pretoria) has been requested in the said letter dated **2 June 2013** to stop their prevarication and obstructionist conduct herein and to do the necessary in order to make progress in this matter.
4. **LET THE TRUTH BE TOLD!!**
5. **LIBAMBE LINGASHONI!!**
6. Kind regards

  
**BHEKUMNDENI QEDUSIZI PENUEL  
SIMELANE (aka Bheki Simelane)**

cc **South African Police Service (SAPS)**

Ref: 1. **Durban Central  
Case No 1558/11/2010**  
2. **Pretoria Central  
Case No 1270-06-2012**

12/06/2013  
11.02 a.m.

Tel: 012 803 4377  
Fax: 012 803 6959  
Cell: 083 255 8774  
Enq: **Bheki Simelane**  
e-mail: **simelanebheki1145@gmail.com**

Kwabuyemazweni  
973 Tiptol Street  
SILVERTON  
0184

10 June 2013

**M B Coetzee, Esq**  
**Secretary to Parliament**

Tel: 021 403 2241  
E-mail: **mbcoetzee@parliament.gov.za**

**Re: 1. A REQUEST FOR THE TRANSCRIPTS OF THE PROCEEDINGS  
OF THE NATIONAL ASSEMBLY OF MONDAY 6 AUGUST  
1984; and**

**2. A REQUEST FOR THE TRANSCRIPTS OF THE PROCEEDINGS  
OF THE SECURITY COMMITTEES INCLUDING THE JUSTICE  
COMMITTEE OF MONDAY 6 AUGUST 1984**

1. I kindly refer to my letters dated **19 April 2013** and **2 June 2013** addressed by **Bheki Simelane**, the writer hereof, to the Director /Representative of the UNHCR, Pretoria Office and Regional Representative of the United Nations High Commissioner for Refugees (UNHCR) respectively. These two (2) letters were also e-mailed to **inter alia** the Secretary to Parliament and to the Speaker of the National Assembly.

2. The said two (2) letters were e-mailed under the following topic:

**"CERTAIN PROMINENT WHITE MALE ATTORNEYS,  
ADVOCATES AND JUDGES COLLUDED WITH A FORMER  
APARTHEID DEATH SQUAD IN THE ABORTED ASSASSINATION  
OF WELL-KNOWN DURBAN ATTORNEY BHEKI SIMELANE ON  
TUESDAY 7 AUGUST 1984"**

3. The said two (2) letters must also be read in conjunction with a document annexed hereto and marked **'TRC79'** and which reads as follows:

**"MINUTES OF A SPECIAL MEETING OF THE COUNCIL OF THE  
NATAL LAW SOCIETY HELD ON MONDAY 6 AUGUST, 1984 AT  
THE PRESIDENT HOTEL, SEA POINT, CAPE TOWN at 08h00**



**BHEKUMNDENI QEDUSIZI PENUEL SIMELANE**  
Attorney practising at Durban

**PRESENT:**

Messrs	<b>A M Brokensha</b>	(President)
	<b>A J L Geyser</b>	(Vice-President)
	<b>H N Theunissen</b>	(Vice-President)
	<b>G C Cox</b>	
	<b>L M Halse</b>	
	<b>D Asherson</b>	
	<b>A R Fairleigh</b>	
	<b>E J B Smith</b>	
	<b>C A F Froneman</b>	
	<b>F P van der Merwe</b>	(Secretary)

Notice having been given orally and in writing to all members of the Council for the holding of this Special Meeting ten members of the Council with the exclusion of **Mr James** and **Mr Meisch** who could not attend and **Mr Green** whose position has become vacant met at the above venue, date and time.

The Council considered **Mr A R Fairleigh's** sworn affidavit, together with annexures, which has been made available to them before the meeting. **Mr Fairleigh** elaborated on the findings by him and **Mr Chetwynd-Palmer** during an inspection of the office of the abovementioned attorney pursuant to a resolution of the Council taken at the meeting of the Council on 27 July, 1984.

After due consideration THE COUNCIL RESOVED that -

1. Application should be made to the Natal Provincial Division of the Supreme Court for a Rule Nisi calling upon the Respondent to show cause why his name should not be removed from the Roll of Attorneys, incorporating an interdict suspending the above Respondent from practice in the interim;
2. **Mr Alan Robert Fairleigh** be authorised to sign the Affidavit in support of the application wrt authority to Brokensha, Meyer and Partners to supplement that Affidavit by any Affidavits which may be required in the circumstances;
3. The Secretary be appointed as **Curator Bonis** with the usual powers to operate on the trust account and to attend to the office of the said Respondent;
4. Brokensha, Meyer and Partners be instructed to bring the above mentioned application as a matter of urgency.

Confirmed this ..... day of .....

**A M BROKENSHA"**

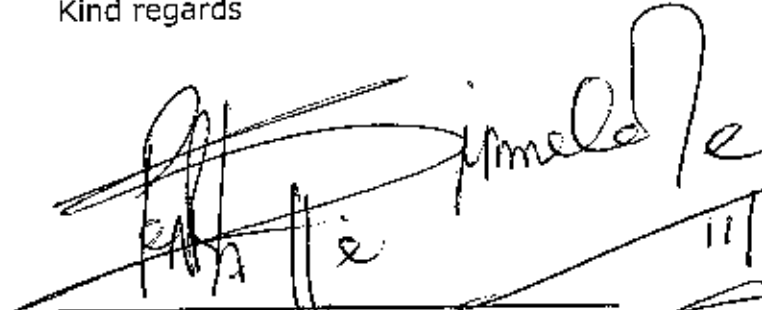
(The emphasis is supplied.)

4. Notwithstanding the court order granted by the KZN High Court on 14 August 2009 the said Natal Law Society has failed to produce /provide the said **Bheki Simelane** with a transcript of the ad verbatim record of the said abridged minutes of 6 August 1984.

5. As apparent from the said two (2) letters **Bheki Simelane** was to be killed by a death squad on the said 7 August 1984. There is reason to believe that members of the Council of the Natal Law Society gathered at the President Hotel in Cape Town on 6 August 1984 to apprise Parliament and the relevant security committees of progress towards the killing of the said **Attorney Bheki Simelane** through the death squad working under the aegis of the State Security Council. For TRC purposes the Parliamentary aspects of the matter need to be investigated in full as well. Hence the request of the transcripts as stated above.

6. Your kind assistance herein will be highly appreciated.

Kind regards

  
**BHEKI SIMELANE**  
Military Veteran

11/06/2013  
10.30 a.m.

cc Speaker of the National Assembly

cc **MH Tshabalala, Esq**

cc **Ms Debbie Billy**

