

Copy Bundle
1 of 2

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG PROVINCIAL DIVISION, PRETORIA

CASE NO: 47151/2015

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA GAUTENG DIVISION, PRETORIA
PRIVATE BAG PAIVAATSAK X67 PRETORIA 001
2015-06-18
E. TIGER MEGISTHAAR'S CLERK
GRIFIER VAN DIE HOE HOF VAN SUID AFRIKA GAUTENG AFDELING, PRETORIA

In the matter between:

LAWYERS FOR HUMAN RIGHTS

Applicant

REGISTRAR OF THE HIGH COURT OF SOUTH AFRICA GAUTENG DIVISION, PRETORIA
PRIVATE BAG PAIVAATSAK X67 PRETORIA 001
2015-06-11
MEGISTHAAR'S CLERK
GRIFIER VAN DIE HOE HOF VAN SUID AFRIKA GAUTENG AFDELING, PRETORIA

and

MINISTER IN THE PRESIDENCY

First Respondent

MINISTER OF HOME AFFAIRS

Second Respondent

MINISTER OF DEFENCE

Third Respondent

MINISTER OF POLICE

Fourth Respondent

DIRECTOR GENERAL OF HOME AFFAIRS

Fifth Respondent

NATIONAL COMMISSIONER OF POLICE

Sixth Respondent

PROVINCIAL COMMISSIONER OF POLICE:

GAUTENG PROVINCE

Seventh Respondent

CHIEF OF THE SOUTH AFRICAN NATIONAL

DEFENCE FORCE

Eighth Respondent

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CHIEF OF THE SOUTH AFRICAN NATIONAL DEFENCE

Eighth Respondent

FORCE

NOTICE OF MOTION

TAKE NOTICE THAT application will be made before the above Honourable Court on **TUESDAY, 23 JUNE 2015 at 10h00** or so soon thereafter as Counsel may be heard for an order in the following terms:

1. Dispensing so far as need be, with the forms and services provided for in the Uniform Rules of Court and disposing of this application at such time and place and in such manner and according to such procedure as this court deems fit in terms of Rule 6(12) of the Rules of this Court;
2. Declaring the employment of the South African National Defence Force in co-operation with the South African Police Services, under Operation Fiela-Reclaim, without the required notice being given in the Government Gazette in terms of section 19(2) of the Defence Force Act 42 of 2002, unlawful;
3. Declaring the authorization issued under section 13(7) of the South African Police Service Act 68 of 1995, for operations which took place in Central Johannesburg on 8 May 2015, unlawful and set aside;
4. Interdicting the Sixth and Seventh Respondents from issuing any future authorizations in terms of section 13(7) of the South African Police Service Act 68 of 1995, for operations under Operation Fiela-Reclaim, insofar as any future operation is not necessary to restore public order or to ensure the safety of the public in a particular area;

5. Interdicting the Respondents from conducting further operations under Operation Fieia-Reclaim, within private dwellings, without warrants issued by a Magistrate or Justice under the section 21 of the Criminal Procedures Act 51 of 1977;

6. Interdicting the Respondents from using force to enter or gain access into private dwellings, in operations under Operation Fieia-Reclaim, until the requirements of section 27(1) of the Criminal Procedures Act 51 of 1977 are complied with;

7. Interdicting the Respondents from conducting immigration operations, in operations under Operation Fieia-Reclaim, within a private dwelling, without a warrant issued by a Magistrate under section 33(5) and (6) of the Immigration Act 13 of 2002;

8. Interdicting the Respondents from arresting and detaining persons under sections 34(2) and 41 of the Immigration Act 13 of 2002, in operations under Operation Fieia-Reclaim, without complying with the requirements set out in Regulation 37 of the Immigration Regulations, 2014;

9. Interdicting the Respondents from detaining persons, in operations under Operation Fieia-Reclaim, in terms of sections 34(2) and 41 of the Immigration Act 13 of 2002, for the purpose of verifying identity and status, for a period exceeding 48 hours;

10. Costs of the application; and

11. Further and / or alternative relief.

TAKE NOTICE FURTHER THAT the Affidavit of ELZEMARI TEMPERMAN will be used at the hearing of this matter;

TAKE FURTHER NOTICE THAT the Applicants have elected the address and contact information below for urgent telephonic communication by mobile phone and e-mail.

TAKE NOTICE FURTHER that if any of the Respondents intends opposing this application, they are required to:

1. Notify the Applicant's Attorney in writing by **MONDAY 15 JUNE 2015 at 16:00** of their intention to oppose;

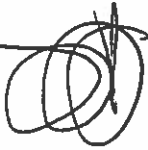
2. Appear in such notification an address within 15 kilometres of the Registrar at which he, she or it will accept service of all process in these proceedings; and

3. Deliver any affidavits that they may desire to deliver in answer to the allegations made by the Applicant on **WEDNESDAY 17 JUNE 2015 at 12:00**.

TAKE NOTICE FURTHER that the Applicant will file his replying affidavit, if any is required, by **THURSDAY 18 JUNE 2015 at 12:00**.

KINDLY PLACE THE MATTER ON THE ROLL ACCORDINGLY.

DATED AT JOHANNESBURG ON THIS THE 11th JUNE 2015:



PER: ANJULI MAISTRY

LAWYERS FOR HUMAN RIGHTS

JOHANNESBURG LAW CLINIC

Attorneys for the Applicant

c/o Lawyers for Human Rights

Pretoria Law Clinic
Kutlwanong Democracy Centre
357 Visagie Street
Pretoria

Tel: 012 320 2943 / 011 339 1960
Fax: 011 339 2665
Cell: 072 628 7698
Email: anjuli@lhr.org.za / david@lhr.org.za

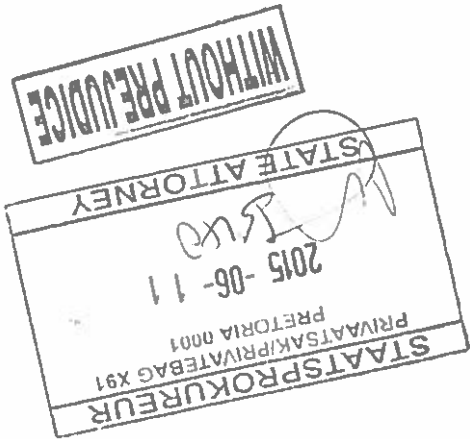
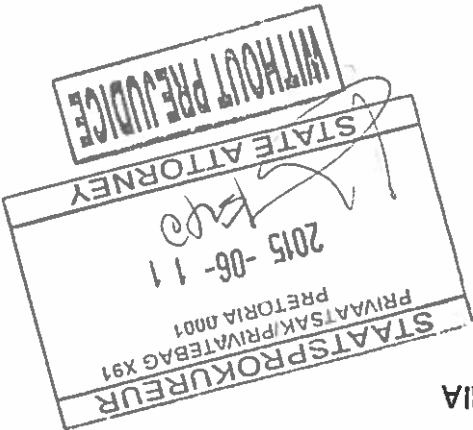
**TO: THE REGISTRAR OF THE
GAUTENG PROVINCIAL DIVISION, HIGH COURT
PRETORIA**

**AND TO: MINISTER IN THE PRESIDENCY
First Respondent**

c/o THE STATE ATTORNEY, PRETORIA
SALU Building
316 Thabo Sehume Street
Pretoria
Tel: (012) 309 1500
Fax: (012) 309 1649

**AND TO: MINISTER OF HOME AFFAIRS
Second Respondent**

c/o THE STATE ATTORNEY, PRETORIA
SALU Building
316 Thabo Sehume Street



Pretoria
Tel: (012) 309 1500
Fax: (012) 309 1649

AND TO

MINISTER OF DEFENCE
Third Respondent

c/o THE STATE ATTORNEY, PRETORIA

SALU Building

316 Thabo Sehume Street

Pretoria

Tel: (012) 309 1500

Fax: (012) 309 1649

AND TO:

MINISTER OF POLICE
Fourth Respondent

c/o THE STATE ATTORNEY, PRETORIA

SALU Building

316 Thabo Sehume Street

Pretoria

Tel: (012) 309 1500

Fax: (012) 309 1649

AND TO:

DIRECTOR-GENERAL: HOME AFFAIRS
Fifth Respondent

Department of Home Affairs

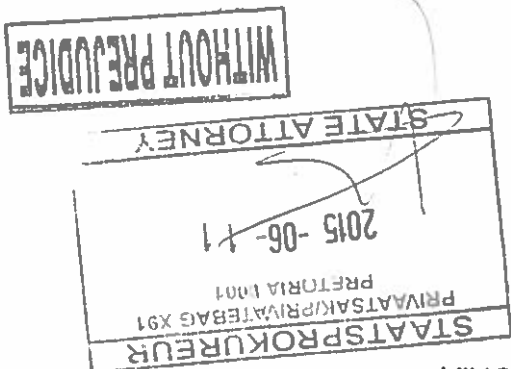
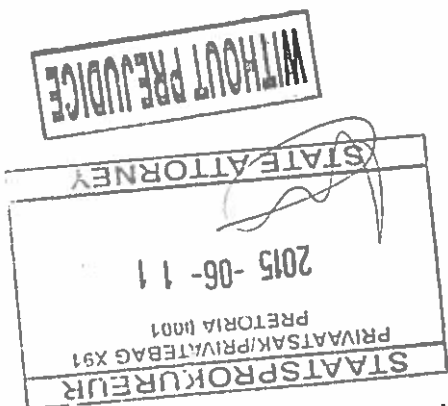
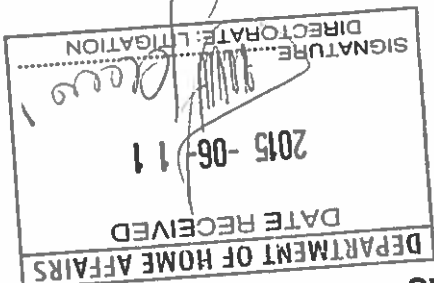
Hallmark building

230 Johannes Harmokhase Street

Pretoria

Fax: 086 512 7864

Email: Mkuseleni.apleni@dha.gov.za / deon.erasmus@dha.gov.za



AND TO: NATIONAL COMMISSIONER OF POLICE

Sixth Respondent

SAPS Head Office

Wachthuis Building

231 Pretorius Street

Pretoria

Private Bag X94

Pretoria

0001

Tel: 012 393 1000

AND TO: PROVINCIAL COMMISSIONER OF POLICE, GAUTENG PROVINCE

Seventh Respondent

16 Empire Road

Parktown, Johannesburg

2017

Tel: 011 274 7859

AND TO: CHIEF OF THE SOUTH AFRICAN NATIONAL DEFENCE FORCE

Eighth Respondent

Defence Headquarters

Cnr Nossob and Boeing Streets

Erasmuskloof, Pretoria

Tel: 012 355 6999

Assa. 12/06/2016

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG PROVINCIAL DIVISION, PRETORIA

CASE NO:

In the matter between:

LAWYERS FOR HUMAN RIGHTS

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NATIONAL COMMISSIONER OF POLICE

Sixth Respondent

PROVINCIAL COMMISSIONER OF POLICE:

GAUTENG PROVINCE

Seventh Respondent

CHIEF OF THE SOUTH AFRICAN NATIONAL

DEFENCE FORCE

Eighth Respondent

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1. I am an adult female attorney, employed at the Lawyers for Human Rights ("LHR") Pretoria refugee clinic situated at the Kulwanong Democracy Centre, 357 Visagie Street, Pretoria.
2. I am duly authorised to depose to this affidavit on behalf of the Applicant. The constitution of the Lawyers for Human Rights Board is attached hereto as Annexure "FA1". The constitution confirms the board's approval of LHR's decision to act as an institutional applicant in this matter.
3. The contents of this affidavit fall within my personal knowledge, unless where the context indicates otherwise, and are both true and correct.

Hereby make oath and state:

ELZEMARI TEMPERMAN
 (890803 0063 081)

I, the undersigned

FOUNDING AFFIDAVIT

9.

THE PARTIES

4. The Applicant is **LAWYERS FOR HUMAN RIGHTS**, a non-profit organisation representing the rights of marginalised communities and registered as a Non-Governmental Organisation. LHR has its registered head office at the Kuliwanong Democracy Centre situated at 357 Visagie Street, Pretoria. LHR's interest and standing in this matter is explained below.

5. The First Respondent is the **MINISTER IN THE PRESIDENCY**, Mr. Jeffrey Thamsanqa Radebe, receiving service at the **THE STATE ATTORNEY**, PRETORIA. He is cited in his official capacity as a representative in the presidency of the Republic of South Africa. The First Respondent is cited as the head of the "Inter-ministerial Committee" as appointed by the President of the Republic of South Africa ("the President") to lead the government's response to the recent spate of xenophobic violence as well as to coordinate Operation Fiela-Reclaim.

6. The Second Respondent is the **MINISTER OF HOME AFFAIRS**, Mr. Malusi Gigaba, cited in his official capacity and receiving service at **THE STATE ATTORNEY**, PRETORIA SALU Building 316 Thabo Sehume Street Pretoria. The Second Respondent is cited in his capacity as the political head of the Department of Home Affairs ("the DHA") and is responsible for decisions taken in terms of the Immigration Act 13 of 2002 ("the Immigration Act") and the Refugees Act 130 of 1998 ("the Refugees Act"). He is further cited as a member of the Inter-Ministerial Committee.

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- 10. The Sixth Respondent is, the **NATIONAL COMMISSIONER OF POLICE**, General Victoria Mangwashi Phiyega, cited in her official capacity and receiving service at implementation of the Immigration Act and Refugees Act.
- 9. The Fifth Respondent is, the **DIRECTOR-GENERAL OF HOME AFFAIRS**, Mr. Mkuweli Apleni, also cited in his official capacity and with offices situated at Corner Ramokhoase and Thabo Sehume Street, Hallmark Building, Pretoria. The Fifth Respondent is cited as the administrative head of the Department of Home Affairs and responsible for the day-to-day operations of the Department, including
- 8. The Fourth Respondent is the **MINISTER OF POLICE**, Mr. Nkosinathi Nhleko, cited in his official capacity and receiving service at THE STATE ATTORNEY, PRETORIA, SALU Building, 316 Thabo Sehume Street, Pretoria. The Fourth Respondent is cited as the political head of the South African Police Service ("SAPS") who has been allocated the role as the "lead agency" in Operation Fiela-Reclaim. He is further cited as the member of the national executive responsible for the South African Police Service Act 68 of 1995 ("SAPS Act").
- 7. The Third Respondent is the **MINISTER OF DEFENCE**, Ms. Nosiviwe Nolutshando Mapisa-Ngakula, cited in her official capacity and receiving service at THE STATE ATTORNEY, PRETORIA, SALU Building, 316 Thabo Sehume Street, Pretoria. The Third Respondent is cited in her capacity as the political head of the South African National Defence Force and member of the Inter-Ministerial Committee.

229 Pretorius Street 7th Floor, Wachthuis, Pretoria. The Sixth Respondent is cited in her capacity as the administrative head of the SAPS. She is further cited as one of the Commissioners who may issue authorisations under section 13(7) of the SAPS Act.

11. The Seventh Respondent is the **PROVINCIAL COMMISSIONER OF SOUTH AFRICAN POLICE SERVICE**, Lieutenant General Lesetja Joel Mothiba, cited in his official capacity and receiving service at 16 Empire Road, Parktown, Johannesburg. The Seventh Respondent is cited in his capacity as the administrative head of the SAPS within Gauteng Province and one of the Commissioners who may issue authorisations under section 13(7) of the SAPS Act.

12. The Eighth Respondent is the **CHIEF OF SOUTH AFRICAN NATIONAL DEFENCE FORCE**, General Solly Zacharia Shoke, cited in his official capacity and receiving service at Armscor Building, Block 5, Level 4, cnr Delmas Avenue and Nossob Street, Erasmuskloof, Pretoria. The Eighth Respondent is cited as the administrative head of the South African National Defence Force and responsible for the day-to-day administration of the military.

INTRODUCTION

13. This is an urgent application for interdicts, prohibiting further operations under Operation Fiela-Reclaim, without complying with the relevant sections of the Defence Force Act 42 of 2002 ("the Defence Force Act"), the SAPS Act and the Immigration Act, as more fully set out in the Notice of Motion.

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14. The Applicant has brought this urgent application in:

14.1. their own interest;

14.2. the interest of a group of persons; and

14.3. the public interest.

15. The Applicant was established in 1979 and has offices throughout the country in Johannesburg, Pretoria, Durban, Cape Town, Uppington and Musina. LHR has specific programmes dealing with Refugee and Migrant Rights, Penal Reform, Strategic Litigation, Environmental Rights and a Land and Housing Programme.

16. Throughout its history, the Applicant has had programmes dedicated to the use of force, rule of law, constitutionalism and policing. Our Refugee and Migrant Rights Programme has a specialist project which deals specifically with immigration detention. This project brings near-weekly cases of unlawful immigration detention, particularly at the Lindela Repatriation Facility ("Lindela"), before the High Court.

17. The Applicant's interest is to ensure a crime-combating environment where the requirements of the Constitution and associated legislation are complied with and respected.

18. Unfortunately, often when non-nationals are targeted by policing operations, they do not have an opportunity to challenge the detention without the intervention of a *pro bono* legal representative. All too often, the detainee may be deported before

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there is an opportunity to contest the lawfulness of their arrest, detention and deportation.

19. The Applicant has consulted with at least 195 arrested and detained persons who were arrested on 08 May 2015, as will be discussed more fully hereunder, and is therefore bringing this urgent application in terms of Section 38 of the Constitution.

20. The Applicant has consulted extensively with affected groups and is now in a position to challenge the lawfulness of Operation Fiela-Reclaim in the public interest and on behalf of the group of affected people (namely those already arrested, harassed or detained and those subject to future arrest, harassment or detention).

BACKGROUND

Operation Fiela-Reclaim

21. On 16 April 2015, the President of South Africa ("the President") made a speech to Parliament condemning the xenophobic attacks that had taken place, the violence that was used and reiterated that foreign nationals must be welcomed within South Africa.

22. The President also, however, expressed "sympathy" for the complaints of citizens with regards to the "problems" presented by foreign nationals in the country:

of
to

26. A copy of this statement is attached hereto as Annexure "FA3".

"The mandate of this IMC has been broadened to deal with all the underlying causes of the tensions between communities and the foreign nationals. Some of the areas to be addressed, is the implementation of our Labour Relations policies as they affect the foreign nationals; the implementation of the laws that govern business licenses; the country's border management and generally the country's migration policies."

speech on 28 April 2015 and the relevant section states:

25. Subsequent to this speech, the President then established the Inter-Ministerial Committee (the "IMC"), led by the Minister within the Presidency ("the First Respondent"). The mandate of the IMC was stated by the First Respondent in a

border policing.

24. In the speech, the President also announced the employment of the South African National Defence Force ("SANDF") to act as immigration officers and to support

as Annexure "FA2".

23. A copy of this speech, as it appears on the Presidency's website, is attached hereto

*"While we strongly condemn the attacks, we are aware of, and are sympathetic to some of the issues that have been raised by affected South African citizens."
...
"These include complaints about illegal and undocumented immigrants in the country, the increase in the number of shops or small businesses that have been taken over by foreign nationals and also perceptions that foreign nationals commit or perpetrate crime."*

29. It is clear that Operation Fielá-Recláim, as it originates within the IMC on Migration, was born as a reaction to xenophobic violence and the President's "sympathy" to problems associated with migration.

- 28.1. Illicit Drugs;
- 28.2. Contraband;
- 28.3. Undocumented migrants;
- 28.4. Human Trafficking and Prostitution;
- 28.5. Hijacked and condemned buildings;
- 28.6. Illegal possession of firearms and ammunition;
- 28.7. Unlicensed businesses;
- 28.8. Management of RDP houses;
- 28.9. Illegal occupation of land; and
- 28.10. Illegal goods and products

28. The IMC listed the following as the crimes which were to be targeted:

As government we are satisfied that operations on the ground by our law enforcement agencies have equally yielded positive results. Peace and calm has returned in the communities that were affected by violent attacks. Government is determined to restore and maintain order within our communities. Operation Fielá - Recláim is an operation to rid our country of illegal weapons, drug dens, prostitution rings and other illegal activities. This operation is a multidisciplinary interdepartmental operation."

"TACKLING CRIMINALITY: OPERATION FIELA - RECLAIM

27. In that same statement, the First Respondent announced Operation Fielá-Recláim.

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30. In a letter dated 23 April 2015, the President reported to Parliament that he had employed SANDF officers to support SAPS in this operation. This letter appeared in Parliament's reports and it reports on the employment of the SANDF to support SAPS "to maintain law and order in Kwazulu-Natal, Gauteng and any other area in the Republic of South Africa as the need arises." The period of employment was authorised for the period 21 April 2015 to 30 June 2015. A copy of this statement is attached as Annexure "FA4".
31. Various raids have taken place:
- 31.1. On or about 2 May 2015 in Hillbrow, Johannesburg, involving a number of apartment buildings in that neighbourhood. An affidavit by Nigel Brankin, a social worker living in Hillbrow, is attached hereto as Annexure "FA5".
- 31.2. On or about 7 May 2015, in Belleville near Cape Town, involving the targeting of foreign owned shops for illicit goods and the shopkeepers for immigration documents. Corey Johnson from Scalabrin Centre, a non-governmental organisation, which gives assistance to asylum seekers, refugees and other categories of migrants in the Western Cape, spoke to clients in the area who forwarded him a copy of the section 13(7) authorisation issued by the Acting Provincial Commissioner of SAPS for the Western Cape under the SAPS Act. The affidavit of Corey Johnson is attached hereto as Annexure "FA6".
- 31.3. On 8 May 2015 in Johannesburg Central Business District ("Johannesburg CBD"), involving Fatt's Mansion, the Central Methodist Church and in the

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streets. This raid ("the joint operation of 8 May 2015") will be discussed more fully hereunder.

32. LHR has also been made aware of raids throughout the country including:

32.1. In Groblershoop in the Northern Cape on 16 May 2015 in which at least 50 non-nationals were arrested and were to appear in court. LHR was informed of this raid through our office in Upington.

32.2. In Korsten in Port Elizabeth on or about 14 May 2015 as reported in The Herald newspaper.

32.3. Several in Kwazulu-Natal resulting in a reported 12 000 people arrested in that province.

33. These raids were also conducted in joint operations between, among others, SAPS, SANDF and the DHA.

34. As will be made clear below, the raids, specifically the joint operation of 8 May 2015, resulted in constitutional rights violations which rights are those of both citizens and foreign nationals alike.

35. Everyone enjoys the rights against arbitrary arrest, search of private dwellings without court supervision and the right to be treated with dignity and humanely during any operation by the state. Courts have repeatedly said that organs of state have a high level of responsibility in ensuring compliance with the law and

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everyone should also be able to believe that officers, who are put in a place of authority, whether it be SAPS, SANDF or the DHA, will also operate within the parameters of the Constitution and the relevant legislation.

The Joint-Operation of 8 May 2015 – Johannesburg CBD

36. On 8 May 2015, the Applicant was informed through the media, as well as telephone calls from community members, that a joint operation had taken place in the early morning hours of that day.

37. Subsequent to the telephone calls from community members, the Applicant attended at the Johannesburg Central Police Station and attempted to consult with persons that were arrested, but were denied access.

38. The Applicant was provided with 7 (seven) names of persons arrested at Fati's Mansion and was requested to consult with these persons. Employees of the Applicant again attempted to consult with those 7 (seven) clients at the Johannesburg Central Police Station.

39. I requested copies of the warrants that were used during the joint operation of 8 May 2015, on behalf of our clients, and was advised by Station Commander Spiers that a warrant in terms of section 13(7) of the SAPS Act had been used. After requesting a copy of the section 13(7) warrant, we were advised that if we had requested a copy of the warrant during the joint operation, it would have been provided, but that it could not be provided after the joint operation.

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40. The Applicant was only given access to 1 (one) client, Mr Givemore Moyo, to consult with and this consultation was cut short, owing to all the arrested persons being given food, for the first time since their arrest, at 13h00, 8 May 2015.
41. The Applicant was denied all further access to any client on the 8th of May 2015.
42. Due to the obstruction by SAPS to consult with the clients on our list, as well as any other person who requested that we consult with them, the Applicant launched an urgent application for access.
43. The urgent application for access was immediately launched in the Gauteng Local Division, Johannesburg High Court under case number 14395/2015. The Court Order was made by agreement between the Applicant and a State Attorney at approximately 20h30, 08 May 2015, before Carelse, J ("the 8 May Court Order"). A copy of this court order is attached hereto as Annexure "FA7".
44. It was ordered that employees of the Applicant be granted access to their 7 (seven) listed clients, as well as any other person who expressed an intention to consult with the Applicant.
45. On Saturday, 9 May 2015, employees of the Applicant separated into 2 (two) teams. One of our teams attended the Gift of the Givers Temporary Shelter ("the temporary shelter") and the other team went to the Johannesburg Central Police Station.

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Sunday, 10 May 2015, when we reached a verbal agreement, at about 21h00, with

52. We started preparing an urgent contempt of court application to be heard on

51. We were denied all further access on the 9th of May 2015.

uniformed immigration officers.

immigration official in civilian clothes, whom I had seen processing detainees with

wanted to consult with the Applicant, but this list was ripped from my hands by an

50. As we were leaving a detainee gave me a list of names of other detainees that

was busy processing and we were told to leave the cells.

Spies had said that we were not allowed to consult with the clients while the DHA

49. We were interrupted by Commander Lembede who advised that Commander

consulting with Mr Givemore Moyo and Mr Sydney Tshuma.

Station. We were eventually allowed access to 2 (two) of our clients and began

48. Our other team, including myself, attended at Johannesburg Central Police

below.

47. Confirmatory Affidavits of two of these 11 (eleven) asylum seekers are attached

as Annexure "FA8".

claims with the DHA. A confirmatory affidavit of Kayan Leung is attached hereto

(two) women detainees were 11 (eleven) asylum seekers who had lodged asylum

22 (twenty two) foreign national women with their children. Amongst the 22 (twenty

46. Our team at the temporary shelter, including among others Kayan Leung, spoke to

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2015.

We were advised by one of the South African woman seeking access to their detained partners, that the detainees would soon be transferred to Lindela to await deportation. This was confirmed by one of the managers at the temporary shelter, Ms. Sarah, in that there was a deportation scheduled for Wednesday, 13 May

56.

Wayne Ncube and another candidate attorney were led to the cells in order to consult with only 2 (two) of the 7 (seven) detainees listed in the court order and were advised by an attending officer that the others could not be found. A confirmatory affidavit of Wayne Ncube is attached hereto as Annexure "FA9".

55.

consult with us.

We were advised at approximately 11h00 that we were only entitled to consult with the 7 (seven) named detainees. Following this we served the urgent contempt of court application on Commander Spiers, as the court order also entitled the employees of the Applicant to consult with anyone who expressed an intention to

54.

access.

On 10 May 2015 and at about 09h00, employees of the Applicant, including myself, attended at the Johannesburg Central Police Station and were again denied

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contempt of court application.

On Sunday, 10 May 2015, failing which we would immediately launch an urgent who expresses an intention to consult with an employee of the Applicant at 09h00 a State Attorney, that we would be allowed access to our clients and anyone else

Handwritten initials/signature in the top right corner.

- 57. Due to the above information we launched two urgent applications in the Gauteng Local Division, Johannesburg High Court, which were set down for hearing on Tuesday 12 May 2015 and they were:
- 57.1. A Contempt of Court application under case number: 14395/15; and
- 57.2. An application for an Urgent Interdict against Deportation under case number: 17123/15.
- 58. The Parties agreed that the Applicant would withdraw its contempt of court application against the Respondents, and particularly the Station Commander of Johannesburg Central Police Station, in order to settle the Urgent Interdict against Deportation Application. The Court orders for both of these matters are attached hereto as Annexure "FA10" and Annexure "FA11", respectively.
- 59. The Urgent Interdict against Deportation Court Order (Annexure "FA11") granted us access to the detainees arrested in the joint-operation of 8 May 2015 and being held at Lindela and/or any other place, from 09:00 on Thursday 14 May 2015, for a period of 2 (two) weeks ("the 12 May 2015 Court Order"). The Respondents were further ordered to provide a list of names of each person arrested on 8 May 2015.
- 60. On Wednesday, 13 May 2015, the Applicant was provided with a list of 234 names (referred to above) of individuals who had been detained during the joint operation of 8 May 2015. This list further stated where they were being detained (either at Johannesburg Central Police Station or at Lindela).

61. The Applicant organized teams of lawyers together with another non-governmental organization, Section 27, to attend at the three sites (the temporary shelter, the Johannesburg Central Police Station and Lindela) to consult and take statements from the detainees.

62. The information that was repeatedly told to the Applicant through the various consultations will be set out below, under the heading "INFORMATION OBTAINED THROUGH CONSULTATIONS", according to the arrest site.

Difficulties in Consultations at Lindela

63. On Thursday 14 May 2015, I arrived at Lindela at 09h00. I was told to wait for Mr. Jackson, the official in charge. At approximately 09h45 Mr. Jackson explained that it is problematic to consult with the detainees from 09h00 since they eat breakfast from 09h00 to 12h00.

64. Mr. Jackson explained that they currently have approximately 4000 detainees in different cell blocks, who are taken to eat at different times, and once breakfast is over then they start serving lunch. This was the reason given as to why it was difficult to prepare all the people on the list for the consultations.

65. I informed him that we are allowed, in terms of the 12 May 2015 Court Order, to consult with the detainees arrested on 8 May 2015 from 09h00 in the morning until 16h00 in the afternoon from Thursday, 14 May 2015 and each consecutive work day, for a period of 2 (two) weeks. I then asked that they prepare twenty detainees

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69.3. 4 consultations with persons who were released.
69.2. 22 consultations with people in the temporary shelter; and

on the list;

names provided on the list) as well as 10 additional detainees who were not

69.1. 159 consultations with individuals in detention in Lindela and (out of the 234

27 mentioned above, conducted approximately 195 consultations which included:

69. Over the course of the next two weeks, the Applicant, in conjunction with Section

INFORMATION OBTAINED THROUGH CONSULTATIONS

go and eat again so it will be difficult to find them.

allowed to consult until 15h30, when we were informed that the detainees have to

68. At approximately 12h30 we finally consulted with six of the detainees and were

officers to prepare the detainees.

consult with six people at a time. Mr. Jackson agreed and told us to wait for the

67. We then requested to have 2 (two) detainees per cubicle which will allow us to

therefore only consult with 3 (three) people at a time.

one of which was filled with files and rubbish bags and explained that we could

66. Mr. Jackson showed me the consultation rooms that consist of 4 (four) cubicles,

to take place in 2 (two) weeks.

at a time for the consultations owing to the large number of consultations that had

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70. The information provided during the consultations, by the detainees with whom we did speak, was consistent through the consultations and we therefore believe that it provides an accurate reflection of the events that took place during the joint-operation of 8 May 2015.
71. Unfortunately, it is not possible to obtain confirmatory affidavits from all the consulted detainees, owing to time restraints, difficulties in accessing clients at Lindela (as will be explained under the heading "Urgency") and owing to the fact that some of the detainees have already been deported.
72. The Applicant will endeavor to file as many confirmatory affidavits, in an indexed and paginated bundle, before the hearing of this matter. Where possible, however, affidavits have been attached below.
73. Of the detainees that we spoke to:
- 73.1. Most were residing at the Fatir's Mansion apartment block located at the corner of Jeppe and Harrison Streets (90 of the consulted detainees).
- 73.2. Another 33 people were arrested while at the Central Methodist Church; and
- 73.3. 19 were arrested in the streets.
74. In terms of the numbers above, the vast majority of people were either arrested within their private dwellings, at the Central Methodist Church, or were detained after being approached on the streets.

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75. The consistent information in relation to each of these places where the arrests took place in the joint operation of 8 May 2015, will be discussed hereunder.
- The Residents of Fatt's Mansion*
76. From the consultations with the residents at Fatt's Mansion, the following were consistent facts between them:
- 76.1. At approximately 03h00 or 04h00 (before it was light out), uniformed members of the SAPS and the SANDF (wearing army fatigues) entered the building and started conducting room – to – room searches within the building.
- 76.2. Prior to the joint operation of 8 May 2015, there were no disturbances or dangerous situations.
- 76.3. Many residents (a total of 50 from the detainees with whom we consulted) stated that there was a knock on the door and before they could even answer the door, their doors were kicked in by either SAPS officers or SANDF officers.
- 76.4. Once inside, either SAPS officers or SANDF officers would ask them if they had any firearms. The room would be searched and then they would ask the residents where they are from and to show them documents.

76.5. On many occasions, occupants were not allowed to retrieve documents once they said that they were from another country. They were simply told to go downstairs. Others were allowed to get documents, but SAPS officers and SANDF officers did not look at them.

76.6. Some residents reported that DHA officers were downstairs checking documents of individuals. Others stated that they were simply bundled into a police van and taken to Johannesburg Central Police Station. People with documents were told that they would be checked at the police station.

76.7. Detainees included children who were taken with their mothers to the Johannesburg Central Police Station.

76.8. Once there, they were given a piece of cloth and told to sit on it on the cement floor.

76.9. The detainees were reportedly only given some bread and juice/water between 13h00 and 15h00 on 8 May 2015 and the conditions were over crowded.

76.10. Some of the women who were in possession of South African ID books were released at approximately 12h30. When they went back to their flats, they found that their rooms had been "in chaos" with their possessions scattered.

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76.11. Some reported that money that they had earned while working (into the thousands of Rands) was missing and many of their possessions were missing.

76.12. Many people were not allowed to get their passports and other documents during the joint operation itself. When friends or family came to the Johannesburg Central Police Station to show the documents, they were turned away by the police, much as we were.

77. Quite disturbingly, more than one resident described the use of violence by SAPS officers and by SANDF officers during the operation. One detainee was slapped in the face when she tried to show her papers. Another said that he was told by a soldier to go home and if he returned the soldier would shoot him.

78. Others reported that during the joint operation of 8 May 2015, officers would step on their heads while the rooms were being searched.

79. The individual circumstances surrounding the operation are included in the 5 affidavits attached hereto as Annexure "FA12".

80. The detainees who were arrested at the Central Methodist Church also had consistent stories regarding the joint-operation of 8 May 2015 that took place at the Central Methodist Church.

80.1. At or around 04h00 or 05h00, security guards from the church ordered everyone who was sleeping on the 1st floor to go to the ground floor. Everyone proceeded down the stairs.

80.2. There, they saw SANDF officers (in army fatigues), SAPS officers and DHA officers who started asking people whether they had documents. DHA officers would not listen if they said that they had asylum documents or had applied but didn't have the documents with them.

80.3. There was no search of the building, it was purely an immigration raid.

80.4. Some of the residents recounted statements by SANDF officers such as "There is no more xenophobia, now you are going back to your country".

81. There was a persistent recollection of many of the persons from the Central Methodist Church that in January and February 2015, DHA officers had attended at the Central Methodist Church and collected photographs and fingerprints from


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- the residents there. They were told that they would be assisted in applying for asylum or with the re-issuing of their expired asylum seeker permits.
82. Many of the residents remained at the church waiting for the documents to arrive. They seem to have held a *bona fide* belief that the DHA officers were assisting them to apply for asylum or to normalize their status by the re-issuance of their expired asylum seeker permits.
83. Unfortunately, these detainees were reportedly deported by 1 June 2015 when we attempted to confirm this information with them (as described below). This is the subject of another court application.
84. After the residents were rounded up, they were taken 10 at a time to the police station.
85. Women with children were only transported the next day, on 9 May 2015, to the temporary shelter set up by Gift of the Givers.
86. Confirmatory affidavits by Linda Hamadziripi and Cynthia Nkosi, residents at the Central Methodist Church, are attached hereto as Annexures "FA13".
- URGENCY**
87. Taking into account the fact that an urgent application is an exceptional procedure, the Applicant has tried to resolve this matter prior to litigation.

88. A letter of demand (attached as ANNEXURE "FA14") was sent to the Respondents on 29 May 2015. At the time of depositing to this affidavit, no response had been received from any of the Respondents.
89. The Applicant was initially denied access to affected and detained persons by SAPS and DHA officers.
90. As discussed briefly above, in order to gain access to the detainees for the purposes of taking instructions, the High Court had to be approached on an urgent basis.
91. The Applicant had to then launch a contempt of court application, owing to SAPS officers refusing to act in accordance with the 8 May 2015 Court Order.
92. Various detainees were then transferred to Lindela and were advised that they would be deported soon.
93. The Applicant therefore had to launch a fresh application to interdict the DHA from deporting persons arrested and denied access to legal representatives for a period of 2 (two) weeks, to allow the Applicant to consult with any person who expressed an interest to consult with the Applicant.
94. This Application was set down for hearing on 12 May 2015 and the parties came to an agreement, which was made an order of court.

95. The 12 May 2015 Court Order further required the Fourth Respondent, the Minister of Police, and the Station Commander of the Johannesburg Central Police Station to provide a list of each person who had been arrested and detained as a result of the operation on 8 May 2015.
96. This list was provided to the Applicant on Wednesday the 13 May 2015 and contained the names of 234 individuals (counting for a repeat of the number 181 in the list). A copy of the list has not been attached to this affidavit out of concern for the confidentiality of the individuals who were arrested and may be deported to their countries of origin. A copy will however be made available, if necessary, at the hearing of this application.
97. On Thursday, 14 May 2015, employees of the Applicant, together with employees of Section 27 attempted to consult with the large number of detainees at Lindela, the Gift of the Givers temporary shelter and the Johannesburg Central Police Station.
98. The Applicant still faced struggles in accessing detainees at Lindela, as more fully described above, and on numerous occasions was prevented from seeing detainees until after lunch time despite the availability of the Applicant's teams at Lindela since Thursday, 14 May 2015 from 09h00 and on each consecutive working day thereafter.
99. Only after consulting with all these detainees was the Applicant in a position to bring this application. The Applicant only finished consulting with detainees,

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100.3. LHR also issued, served and filed an urgent application for the release of Innocent Mwale and Twenty-Five Others, who have expired permits and who are currently detained at Lindela or who have been deported pending the

High Court in Pretoria under case number: 42297/15.

100.2. LHR issued, served and filed an urgent application for the release of Jonathan Hatendi and Nine Others, newcomers that were arrested at the Central Methodist Church, who are currently detained at Lindela or who have been deported pending the application, to be argued on Friday 12 June 2015 at the

“FA15”.

100.1. After LHR was informed that some of our clients were deported on the 29th of May 2015, LHR launched an urgent application to obtain an interdict against any further deportations of our clients and requested immediate access to our clients dispensing with the “48 hour notice to consult rule” at Lindela. LHR obtained a Court order on the 4th of June 2015 with the consent of the opposing parties. The Court order dated 4 June 2015 is attached hereto as ANNEXURE

100. In fact, consultations are ongoing in order to bring applications before the above Honourable Court for the unlawful detention of a number of detainees with existing asylum applications or who applied at the Central Methodist Church. arrested on 8 May 2015 and who expressed an intention to consult with employees of the Applicant, on Thursday 28 May 2015.

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is attached as Annexure "FA16".

was sent to the Department of Home Affairs on 25 May 2015. A copy of that letter to Zimbabwe on Friday, 29 May 2015. This was despite a letter of demand which including clients with asylum claims that have not yet been finalised, were deported. The Applicant was advised by Mr Malaka on 01 June 2015, that various detainees,

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detailed through any other joint operation under Operation Fiela-Reclaim. were arrested on 8 May 2015 and do not include any other detainees arrested and 101. It should also be noted that these detainees referred to are only the detainees that

matter.

day in confirmatory affidavits. This further delayed the filing of the present country, we were required to find other detainees to explain the events of that Fiela for the current application. Unfortunately, due to their removal from the were meant to sign confirmatory affidavits regarding their experiences during 100.5. Some of the people in the applications above who had already been deported

20485/15 who has allegedly been deported pending the application.

stateless client at the local division in Johannesburg under case number: 100.4. LHR also issued, served and filed an urgent application for the release of a

under case number: 42298/15.

application, to be argued on Friday 12 June 2015 at the High Court in Pretoria

- 103. Although the report by the President only indicates that the SANDF has been authorised to be employed until 30 June 2015, numerous statements from the IMC has said that Operation Fiela-Reclaim will "intensify" in the coming months. A copy of a statement is attached hereto as Annexure "FA17".
- 104. There were also accounts of South African citizens that were arrested for the reason that they lived with foreigners. The South African citizens were arrested and only released after 6 – 8 hours of detention.
- 105. Given the nature of the arguments raised in this Application, the Applicant has also sought to give the Respondents every opportunity to answer these papers. These time frames should not be seen as undermining the urgency of the relief sought, but rather an attempt to allow for a properly ventilated application to be before the Honourable Court when making the declarations and interdicts prayed for.
- 106. The case is, and remains one that should be entertained on the urgent roll, as Operation Fiela-Reclaim remains an ongoing operation, which the Applicant will argue, is proceeding in an unlawful manner and seriously violates the rights of affected persons.
- 107. As stated above, media reports and our own lawyers' observations have indicated that raids continue to take place.
- 108. Should this matter be heard on the ordinary roll, numerous affected persons will continue to be subjected to unlawful searches, arrests, harassment, detention and,

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contravention of section 19(2).

113. The SANDF is therefore being employed in co-operation with SAPS in operation with SAPS for any operation this year.

112. A search of notices in the Government Gazette has yielded no results for any notice by the Third Respondent relating to the employment of SANDF in co-

111. In terms of section 19(2) of the Defence Act, the Minister of Defence (the Third Respondent) must give notice of the employment of SANDF in co-operation with SAPS in the Government Gazette.

Contravention of the Defence Act

RELIEF SOUGHT IN THE NOTICE OF MOTION

110. The Applicant is also acting under extraordinary pressure considering the ongoing access obstacles to our clients at Lindela, ongoing deportations of our clients and the urgent applications that have to be launched in that regard, as well as following the continuous Operation Fiela-Reclaim raids across the country.

109. The Applicant is a donor funded Non-Governmental Organisation and has brought this application as early as possible owing to the large amount of consultations that took place and statements obtained.

to seek adequate relief from a Court.
in the case of non-nationals, deportation in an unlawful manner and will be unable

Convention of the SAPS Act

114. Section 13(7) of the SAPS Act entitles the National or Provincial Commissioner to authorise, in writing, that a particular area or any part thereof be condoned off, where it is reasonable in the circumstances to restore public order or to ensure the safety of the public in a particular area.

115. Section 13(7) then entitles any member, upon receipt of the written authorisation, to search any person, premises or vehicle in that area, without a warrant, where it is reasonably necessary to achieve the object specified in the written authorisation.

116. There was no prior disturbance or safety risk at either Fatti's Mansion or at the Central Methodist Church that required the restoration of public order or to ensure the safety of the public on 8 May 2015.

Convention of the Criminal Procedure Act

117. Section 21 of the Criminal Procedure Act 51 of 1977 ("the CPA") provides that an article referred to in section 20 of the CPA shall be seized only by virtue of a search warrant issued by a Magistrate or Justice.

118. This is subject to the provisions section 22 of the CPA, which provides that a police official may search any person, container or premises for the purpose of seizing any article referred to in section 20 of the CPA, if the person concerned consents

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124. Most residents did not give consent for the SAPS and SANDF officers to enter and search their private dwellings.
123. This search was conducted between 03h00 and 04h00 in the morning, before sunrise, and therefore not by day.
122. The SAPS and SANDF officers also enquired about where the residents were from and in most cases, then ordered the residents down stairs, regardless of what the residents said or attempted to show the officers.
121. The SAPS and SANDF officers entered each private dwelling at Fatti's Mansion, without warrants of court, asked if there were any illegal fire-arms and then searched the premises for illegal fire-arms.
120. The Applicant requested copies of any warrant issued and was advised that there were no warrants and that the joint operation of 8 May 2015 took place under a section 13(7) authorisation.
119. The warrants that are to be obtained relate to the seizure of articles referred to in section 20 of the CPA.
- to the search and seizure or if the police official on reasonable grounds believes that a search warrant would be issued to him in terms of section 21 of the CPA and that the delay in obtaining such warrant would defeat the object of the search.

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125. The SAPS and SANDF officers, regardless of not receiving the required consent, continued to enter and search the private dwellings and to question the residents. No reasonable grounds have been advanced for why the delay in obtaining a warrant would defeat the object of the search of each of the private dwellings.
126. There was no search conducted at the Central Methodist Church for any article.
127. The residents at the Central Methodist Church were ordered to go to the ground floor where they encountered DHA officers and were arrested.
128. The raid at the Central Methodist Church was clearly an immigration raid.
129. Section 27(1) of the CPA states that a police official who may lawfully search any person or premises, may use such force as may be reasonably necessary to overcome any resistance against such search or entry, provided that such police official shall first audibly demand admission to the premises and notify the purpose for which he seeks to enter such premises.
130. The SAPS and SANDF officers, when performing their searches of the private dwellings in Fatt's Mansion, either knocked and kicked down the doors to the private dwellings, or just kicked down the doors to the private dwellings.
131. The officers did not first audibly demand admission to the private dwelling, nor did they notify the residents of the purpose for which they were seeking to enter the premises.

Contravention of the Immigration Act and Regulations

133. Section 33(5)(b) of the Immigration Act provides that an immigration officer may obtain a warrant to apprehend an illegal foreigner, subject to section 34(1).

134. Section 33(6) of the Immigration Act provides that a warrant referred to in section 33(5) shall be issued by Magistrate of a Court which has jurisdiction in the area where the premises in question is situated, only if it appears to the Magistrate from information on oath that there are reasonable grounds for believing that a thing mentioned in section 33(5) is upon or in such premises.

135. Section 34(2) of the Immigration Act provides that the detention of person in terms of this Act for purposes other his or her deportation shall not exceed 48 (forty eight) hours from his or her arrest.

136. Section 41 of the Immigration Act requires that any person shall identify himself or herself as a citizen, permanent resident or foreigner, when requested by an immigration officer or police officer, and if on reasonable grounds such officer is not satisfied that such person is entitled to be in the Republic, such person may be interviewed about his or her identity and status.

137. Section 41 of the Immigration Act further allows such officer to take such person into custody without a warrant, and shall take reasonable steps, as may be

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prescribed, to assist the person in verifying his or her status, and thereafter, if necessary, detain him or her in terms of section 34.

138. The reasonable steps that shall be taken by immigration or police officers are set out in Regulation 37 of the Immigration Regulations, 2014.

139. Regulation 37 of the Immigration Regulations, 2014 provides that immigration or police officers shall take the following steps in order to verify the identity or status of the person contemplated in section 4(1) of the Immigration Act:

139.1. Accessing relevant documents that may be readily available in this regard;

139.2. Contacting relatives or other persons who could prove their identity and status;

139.3. Accessing records held by the Fifth Respondent; or

139.4. Providing the necessary means for the person to obtain the documents that may confirm his or her identity and status;

140. The SAPS and SANDF officers that searched the private dwellings at Fati's Mansion, without a warrant of a court, were questioning the residents about where they came from.

141. The officers were therefore enquiring into the immigration status of the residents, without a warrant in terms of section 33(5) and (6) in side of their private dwellings.

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- 142. There has also been no explanation provided relating to why the delay in obtaining a warrant to search a premises or to "apprehend an illegal foreigner", would defeat the object of the search or apprehension.
- 143. The SAPS and SANDF officers, after questioning the residents, did not allow the residents to show any documentation that they did have, or listen to any reason why there was no documentation available.
- 144. Friends and family of detained persons attended at the Johannesburg Central Police Station in order to show documents that could verify the friend or family member's identity and status, but were turned away.
- 145. The officers did therefore not attempt to assist the residents, in any of the required steps, to verify their status or identity.
- 146. The officers sent the residents down stairs to be intercepted by DHA officers.
- 147. The DHA officers also failed to assist any of the residents, in any of the required steps, to verify the residents' status or identity.
- 148. The residents were arrested, regardless of their immigration status and transported to the Johannesburg Central Police Station.
- 149. There was also no search performed at the Central Methodist Church for any article.

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150. The residents of the Central Methodist Church were merely told to go down to the ground floor, where they were intercepted and arrested by DHA officers.
151. The DHA officers did not attempt to assist the arrested persons of the Central Methodist Church, in any of the required steps, to verify their identity or status, before being arrested and detained.
152. Most of the arrested and detained persons, from the joint operation of 8 May 2015, remained at the Johannesburg Central Police Station in excess of 48 hours, either without having their identity and status verified, or after having their identity and status verified, but ignored.
- Injury Actually Committed***
153. Each person that was arrested and detained has suffered violations to their constitutional rights. These rights include:
- 153.1. The right of equality including that the state may not unfairly discriminate directly or indirectly against anyone on any grounds relating to, among others, ethnic or social origin and birth;
- 153.2. The right to inherent dignity and to have their dignity respected and protected;

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157. The arrested and detained persons were treated in an inhumane, degrading and undignified manner through the arrest and detention, Some of the ways in which this happened was that they were not entitled to get warmer clothes and in some

permits or claims were arrested.

156. Persons were arrested without being provided an opportunity to show any documentation and even South African citizens and foreign nationals with valid

155. Foreign nationals were therefore targeted by departments of the state.

was performed.

154. The joint operation of 8 May 2015 appears to have specifically targeted foreign nationals, under a cover of a search for fire-arms at Fatt's Mansion and the raid at the Central Methodist Church wasn't even disguised as no search for any article

court and, if the detention is unlawful, to be released.

153.5. The right to challenge the lawfulness of their detention in person before a

home searched;

153.4. The right to privacy, which includes the right not to have their person or

be treated in a cruel, inhumane or degrading way;

not to be deprived of freedom arbitrarily and without just cause and to not

153.3. The right to freedom and security of the person, which includes the rights

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instances even nappies for their children, were told to sit on the concrete floor on a cloth, were kept in overcrowded cells, were only given food in the afternoon of the day they were arrested and were detained in this manner until being released (in a few instances) or being transferred to temporary shelter or Lindela. Some detainees remained at the Johannesburg Central Police Station for a long period of time.

158. The joint operation of 8 May 2015 also involved a door-to-door search of Fati's Mansion, whereby each private dwelling was searched, mostly after kicking the door down, without any court supervision by way of search warrants. The SAPS and SANDF officers entered private dwellings and started questioning residents about where they came from.

159. All asylum seekers, whether they have valid or expired permits, may not be detained awaiting deportation, or be deported, until such time as their asylum claim has been finally adjudicated on.

160. The Applicant was advised that many of the arrested and detained persons from the joint operation of 8 May 2015, had expired asylum permits and can therefore not be detained for the purposes of deportation or be deported until their claims have been finally adjudicated on. The detainees should rather be fined for not complying with the conditions on their permits.

161. The Applicant has, subsequent to its consultations with many of the detainees that had expired permits and after informing the Department of Home Affairs in the

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received a response.

167. The Applicant sent the Respondents a letter of demand, but has to date not

information, persisted with deporting some of these clients.

deportation proceedings against them. The DHA has, regardless of this letter and

were asylum seekers with expired permits and demanded that the DHA stop all

166. The Applicant sent a letter of demand to the DHA stating that some of their clients

person's rights.

165. There is currently no court supervision over any of the infringements of every

and legislative rights.

process ensures that there is limited deprivation of every person's constitutional

164. The officers are further not obtaining the required warrants from courts, which

Constitution and other mentioned legislation.

163. Officers in the SAPS, SANDF and DHA are acting in contravention of the

No other Satisfactory Remedy

no remedies available to them.

had expired permits, but still had a claim for asylum. These individuals now have

162. Some of the detainees that have been deported were clients of the Applicant that

has been deportations that have taken place.

letter of demand dated 25 May 2015 (Annexure "FA16"), been advised that there

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- 173. It is on these grounds, and the danger to the public interest to allow crime-combating operations to override basic tenets of the Constitution, that the Applicant seeks an urgent order in terms of the Notice of Motion to prevent further violation of the rights of affected persons.
- 172. The Respondents have been obstructive at every corner of the joint operation of 8 May 2015, as well as consultations that have taken place after the arrests, forcing the Applicant to launch this application.
- 171. The Applicant has been forced to launch this application in the public interest, in the interest of a group of people (the people already arrested and detained under these conditions) and in its own interest, as the Respondents are circumventing court supervision by not obtaining the necessary warrants to arrest and detain individuals.
- 170. The Applicant has attempted to resolve the issues before the launching of this urgent application, but with no success.
- 169. The SAPS, SANDF and DHA officers have acted in contravention of the SAPS Act, the Defence Force Act and the Immigration and Refugees Act.

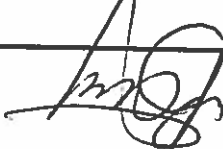
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- 168. The Applicant has no other satisfactory remedy except to bring this urgent application to court.

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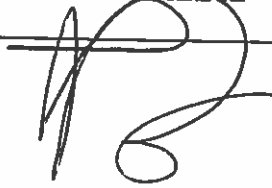
BHAVNA RAMJI
COMMISSIONER OF OATHS
EX OFFICIO PRACTISING ATTORNEY R.S.A
8th Floor, Aspen House, 54 De Korte Street
Braamfontein, Johannesburg

COMMISSIONER OF OATHS



I certify that on the 11th day of June, 2015 at Johannesburg the above deponent appeared before me and acknowledged to me that she knows and understands the contents of the above Affidavit, which Affidavit was signed and sworn to in my presence in accordance with the requirements of Government Notice R. 1258 dated 21 July 1972, as amended, which have been fulfilled.

ELZEMARI TEMPERMAN



SIGNED AT Johannesburg THIS THE 11 DAY OF June 2015.

WHEREFORE I PRAY FOR THE RELIEF SOUGHT IN THE NOTICE OF MOTION

This document constitutes the constitution of LAWYERS FOR HUMAN RIGHTS as adopted by the Board of Trustees on 12 March 2005.

Whereas Lawyers for Human Rights was established in 1979 and adopted its first constitution on 24 January 1981, which constitution was further amended on February 1993, and further amended at its AGM in 1994, and thereafter minor amendments followed from time to time; and

Whereas the previous constitutions have become inappropriate for the present de facto structures and operations of the organisation, the Board of Trustees, after due consultation with all the employees and other stakeholders;

Thereafter resolved at a meeting held on 12/03/2005, at IDASA Democracy Centre, Pretoria, to adopt this constitution.

1. Name of the Organisation

The organisation shall continue to be named LAWYERS FOR HUMAN RIGHTS. The acronym LHR may be used in the alternative. Throughout this constitution, the acronym LHR shall be used.

LHR is associated, but distinct from, The Lawyers for Human Rights Trust. (Reg. nr. IT 1260/01). LHR is a beneficiary of this Trust.

2. Legal Personality

2.1 LHR is a juristic person with all the rights, obligations and competences associated with legal personality. All existing rights and obligations remain unaffected by the adoption of this constitution.

2.2 Without limiting the aforesaid, LHR has the right to acquire, dispose of or encumber any type of property, to enter into any contracts or other legal transactions, can sue and be sued in its own name, can make any type of investment, and may incur debts, all subject to this constitution. LHR may receive donations and may enter into funding agreements.

2.3 LHR may exercise these competences only in the furtherance of its aims and objectives.

2.4 LHR will continue to exist as an organisation which seeks no profit. At present it is registered as a non-profit organisation with registration number NPO 927-027 and

CONSTITUTION OF LAWYERS FOR HUMAN RIGHTS



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2.5 No Employee, Board Member or "Friend of LHR" shall be liable for any of its debts. shall continue to be so registered or to be registered under legislation applicable to non-profit organisations from time to time.

3. Mission Statement

3.1 LHR aims to promote and enforce human rights and to strengthen democracy in South Africa.

3.2 LHR will seek to achieve these aims as part of the broader civil society movement as well as in co-operation with public and private institutions seeking to promote human rights and to strengthen democracy.

3.3 LHR does not promote party political or sectarian agendas.

4. The LHR Vision

LHR's vision is a South Africa in which all people and communities enjoy their human rights, are free to pursue their development in a united and peaceful country and in which all people enjoy a measure of equality and human dignity consonant with a value based democracy.

5. Aims and Objectives of LHR

5.1 LHR shall promote, uphold and strengthen all human rights in South Africa, including civil and political rights, socio-economic rights and environmental and developmental rights.

5.2 LHR shall educate and train individuals and organisations in human rights and democracy.

5.3 LHR shall advocate with appropriate institutions for the promotion of human rights and democracy.

5.4 LHR shall monitor the progressive realisation of human rights in South Africa.

5.5 LHR shall participate in local, regional and international efforts to strengthen human rights and democracy in conjunction with other organisations and institutions with similar objectives.

5.6 LHR shall develop the domestic and international human rights law through the use of courts or other appropriate institutions.

6. Functions and Activities of LHR

6.1 LHR may engage in research, study and publication of human rights issues.

6.2 LHR may organise conferences, workshops or any similar meetings to promote awareness, exchange ideas and mature the debate around human rights.

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- 6.3 LHR may litigate, lodge complaints and initiate enquiries before any appropriate forum in aid of achieving its aims and objectives. LHR may do so in the name of its clients, organisations or in its own name where appropriate.
- 6.4 LHR may engage in any activity which furthers its aims and objectives.

7. Non Profit Nature of Organisation

- 7.1 LHR shall seek no profit to be distributed to any stakeholder in or outside the organisation.
- 7.2 LHR may charge fees for any training, consulting or other work performed. Such income shall remain in the organisation and shall be used for furtherance of the aims and objectives of LHR.
- 7.3 LHR shall be entitled to charge fees for legal services to the extent allowed by relevant laws and relevant law societies, more particularly it will be entitled to collect legal fees pursuant to successful litigation in terms of the relevant laws applicable from time to time.
- 7.4 LHR may never charge a fee or enforce a cost order which may be financially oppressive to another individual or organisation.
- 7.5 In general, all funds, profits and assets of LHR shall be utilised solely to further its aims and objectives. Office bearers, and "Friends of LHR", employees and contractors may be paid reasonable compensation for services rendered.

8. Structure of LHR

LHR shall consist of the following:

- 8.1 The Board of Trustees
- 8.2 The National Director
- 8.3 Employees and volunteers
- 8.4 Friends of LHR

9. The Board of Trustees

- 9.1 The overall control and governance of LHR vests in the Board of Trustees. LHR shall be governed in terms of rules and practices generally accepted for organisations of a similar type and size.
- 9.2 The Board of Trustees shall at all times consist of at least four members and not more than eight members.
- 9.3 The members of the Board at the date of adoption of this constitution will continue as Board members until such time as they resign or are replaced in terms of this constitution.

9.4 Members of the Board will be appointed for periods of three years whereafter they may be reappointed if available.

9.5 The Chairman of the Board will be appointed by the Board itself from one of its members.

9.6 New members of the Board will be appointed by existing Board members

9.7 Whenever a vacancy occurs in the membership of the Board or when a Board member's term expires, the then Chairman of the Board will request the National Director to elicit nominations for new Board members from the public through a process to be approved by the Board.

9.8 Board members shall receive no remuneration for their services other than for out of pocket expenses as approved by the Board itself. The Board may approve a stipend for miscellaneous expenses and inconvenience.

9.10 The members of the Board must be eminent and reputable members of civil society with a track record of human rights work in South Africa.

9.11 No employee of LHR shall be eligible to be a member of the Board of Trustees. The Board may allow an employees' representative to attend Board meetings.

10. Powers and Functioning of Board of Trustees

10.1 The Board must meet at least twice a year and the venue is to be determined by the Chairperson. The National Director shall attend all Board Meetings and shall report to the Board at such meetings.

10.2 The Board will determine its own procedures which should be acceptable for the type and size of organisation involved.

10.3 The Board may meet by way of teleconference and may take decisions by circulation of resolutions.

Three members shall constitute a quorum.

10.4 The Board must keep minutes of its meetings and must take reasonable steps for the preservation of such records.

10.5 The Board has all such powers reasonably necessary to ensure that the organisation functions and works towards fulfilment of its aims and objectives.

10.6 Board decisions supported by a majority of members present, shall be binding.

10.7 The Board shall appoint a National Director or an acting National Director from time to time. The powers of the National Director are set out below.

10.8 The Board has the power to delegate any of its authority to the National Director or such other employee of LHR, as it deems appropriate. Such delegation should be in writing.

10.9 The Board may constitute any number of sub committees and may delegate any authority to a subcommittee.

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- 11.1 The National Director shall be responsible for the day to day running of LHR.
 - 11.2 The National Director shall have such powers as determined by the Board.
 - 11.3 If required, the Board may appoint an acting National Director who shall have the same powers as the National Director unless determined otherwise by the Board.
12. Employees of the Organisation
- 11.3 The National Director may appoint full time or part time staff for the organisation in terms of recruitment and appointment policies as determined by the Board from time to time.
 - 11.4 The Board will from time to time determine the conditions of employment and the general salary structures of the employees.
 - 11.5 Disciplinary procedures, retrenchments and other terminations of employment shall be done in accordance with written policy determined by the Board from time to time.
 - 11.6 The organisation shall comply with all relevant labour laws applicable from time to time.
13. Friends of LHR
- 13.1 The organisation shall keep a register of individuals and organisations enrolled as "Friends of LHR"
 - 13.2 Enrolled friends of LHR shall subscribe to a code of conduct approved by the Board.
 - 13.3 The Board may from time to time determine an enrolment fee for friends of LHR.
 - 13.4 A "Friend of LHR" may resign his/her/its membership at any time.
 - 13.5 Involuntary termination of enrolment as a "Friend of LHR" shall take place in terms of the approved code of conduct.
 - 13.6 Enrolment as a "Friend of LHR" is open to any person above the age of 18 who wishes to associate with the code of conduct and is not limited to formally qualified Lawyers, Paralegals, Judicial Officers or Law Teachers.
14. Financial Governance
- 14.1 The financial year of Lawyers for Human Rights is from the 1st of January to the 31st of December of each calendar year.
 - 14.2 The Board shall appoint the organisation's auditors from time to time.

- 15.5 In the event that the organisation is dissolved in accordance with a decision as described above, the members of the Board shall take further decisions relating to the winding up or the disposal of the assets of the organisation as required by the circumstances.
- 15.4 The Board must consider all representations and must properly debate the issue of dissolution.
- 15.3 Such notice shall call on all interested parties to make representations to the Board members should they so wish.
- 15.2 Prior to passing such a resolution, notice of the intended resolution must be given at least one month prior to the meeting to all board members, LHR employees and all "Friends of LHR"
- 15.1 The organisation can only be dissolved by a decision supported by two thirds of the total of Board members holding office at the time, whether or not all such members be present at a meeting considering dissolution.

The organisation shall only be dissolved in terms of the following procedure:

16. Dissolution of Organisation

- 15.3 In other cases, notice of such intended amendment must be given to all Board members at least fourteen days prior to the Board meeting and in such event a resolution will become effective if two thirds of the Board members present at the meeting support such an amendment.
- 15.2 Any such resolution may be passed without prior notice should all members of the Board be present and unanimously support such a resolution.
- 15.1 Any clause of this constitution may be amended by a resolution of the Board of Trustees.

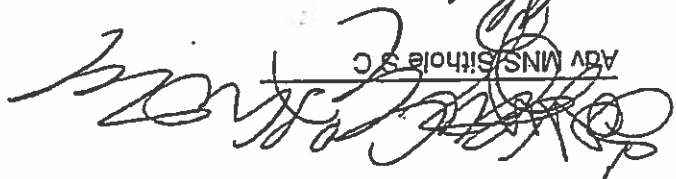
15. Amendment of this Constitution

- 14.6 Procurement Policy shall be determined by the Board.
- 14.5 All transactions which involve obtaining credit or which encumber any LHR asset, must be approved by the Board.
- 14.6 The National Director may sign any funding agreement with a funder on behalf of LHR.
- 14.5 The National Director shall have the power to open and close bank accounts for LHR and to obtain other banking facilities subject to such restrictions as the Board may impose from time to time.
- 14.4 The auditors shall audit such financial statements and such audited financial statements shall be available to all parties with a bona fide interest therein.
- 14.3 The Board of Trustees and the National Director must ensure that financial statements are produced for the organisation in respect of each financial year.

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15.6 If a resolution is duly passed or if for any reason the Association ceases to exist, its assets, after payments of all its debts, shall devolve upon a non-profit organisation such as a charitable or educational or ecclesiastical institution of a public character in the Republic of South Africa as themselves have a similar aim, or if there is no such institution then to (an) a non-profit organisation whose aims are not inconsistent with those of the Association, and which are exempt from donation Tax, as the Board may decide and if no such decision has been made then such (body or bodies) non profit organisation falling within the foregoing provisions as may be agreed to by a majority of the Chairperson of the General Bar Council of South Africa, the President of the Association of Law Societies and the Chairperson of the Association of Law Teachers.

Adopted and signed on this 13th day of March 2005


 Adv MNS Sithole SC

Professor Anshul Padayachee

Ms Justice Monica Leuw

Ms Norah Jurek

Mr Themba Gura

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The police have been directed to work round the clock to protect both foreign nationals and citizens and to arrest looters and those committing acts of violence.

We urge communities to assist the police by providing information on the incidents that have taken place in Gauteng and KwaZulu-Natal so that the perpetrators can be brought to justice.

We thank religious leaders, non-governmental organisations and other stakeholders who are providing humanitarian assistance to the displaced people.

While we strongly condemn the attacks, we are aware of, and are sympathetic to some of the issues that have been raised by affected South African citizens.

We reiterate our view that South Africans are generally not xenophobic. If they were, we would not have such a high number of foreign nationals who have been successfully integrated into communities all over our country, in towns, cities and villages.

There are socio-economic issues that have been raised which are being attended to.

These include complaints about illegal and undocumented immigrants in the country, the increase in the number of shops or small businesses that have been taken over by foreign nationals and also perceptions that foreign nationals commit or perpetrate crime.

We wish to emphasise that while some foreign nationals have been arrested for various crimes, it is misleading and wrong to label or regard all foreign nationals as being involved in crime in the country.

In addition, not all foreign nationals who reside in our country are here illegally.

Many are in the country legally and contribute to the economy and social development of the country. Many bring skills that are scarce that help us to develop the economy and are most welcome to live our country.

Others came to South Africa as refugees having run away from conflict or wars in their countries of origin, in the same way that many South Africans left this country at some point and lived in other countries in the continent and beyond.

We were treated with generosity, dignity and respect by our brothers and sisters from the rest of the continent. We will never forget that hospitality and solidarity.

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The support of the Frontline states in Southern Africa and that of the Organisation for African Unity was critical to the achievement of the freedom and democracy we are enjoying today.

In this regard, Government will continue to play its role and fulfil our responsibilities and obligations as members of the African Union and the United Nations.

Refugees and asylum seekers will be accorded support in line with international law and protocols, with the support of the United Nations High Commissioner for Refugees.

We appeal to our people to support and protect refugees and asylum seekers.

During the weekend, I deployed the Ministers of Police, State Security and Home Affairs to work with the KwaZulu-Natal Provincial government to quell the violence and bring the situation to normality. They have done well but the problem requires a much more comprehensive and sustainable long-term intervention.

I have therefore assigned the entire Justice Crime Prevention and Security Cluster to work on this issue intensively, joined by the Ministers of Social Development, Trade and Industry and Small Business Development.

The security cluster and economic departments had already begun working on this matter, following the Soweto incidents in January.

I have now directed them to work faster and to engage affected communities, organisations representing foreign nationals, business, non-governmental organisations and other stakeholders to attend to the concerns raised on both sides.

The objective is to avoid future incidents by improving relations and promoting peaceful co-existence between citizens and our brothers and sisters within the continent, as well as other foreign nationals.

We will also be seeking cooperation and support from the affected foreign missions based in South Africa. The Minister of Home Affairs met with African Heads of Missions last week.

The Minister of International Relations and Cooperation will take these discussions forward as well in her engagements with the African Heads of Missions as well tomorrow, on the 17th of April.

We request Members of Parliament to work with us as well, in their constituencies, to improve relations and promote peaceful co-existence between our people and foreign nationals.

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Measures are also being put in place to improve controls and better regulate immigration into our country.

In this regard, Government is making progress with establishing the Border Management Agency, which will manage the border environment and all ports of entry.

The capacity of the Department of Home Affairs is being improved to enable it to better handle migration issues especially at border posts.

In this regard, the SANDF will transfer three hundred and fifty soldiers to Home Affairs, to work as immigration officers at border posts.

Furthermore, the SANDF has deployed military personnel along the border line in seven provinces to prevent border crime activities and illegal border crossings.

Fellow South Africans,

We urge all of you to exercise calm and restraint.

We also urge those who use social media, to refrain from fanning the flames of violence on Facebook, twitter and other platforms.

We all have a responsibility to promote social cohesion, peaceful co-existence and good relations in the country.

Foreign nationals help us to develop a cosmopolitan atmosphere and we welcome their presence. We also want to see an increase in tourism figures from countries in the continent and to share a lot of business opportunities as part of promoting sustainable economic development in the continent.

The upcoming Africa Month celebrations in May provide an opportunity for us to further promote our African identity and good relations with our brothers and sisters from the continent.

We look forward to the celebrations of Africa Day in every province on the 25th of May.

Bakwehlu, siyakhuza sithi asehliseni imimoya.

Ukukhaselwa kwabantu bokuhika kulelizwe akwemukelekile neze.

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Sathola usizo emazweni amaningi ngesikhathi silwela inkululeko. Abazange basixoshe noma basihlukumenze.

Siyazizwa izinkinga ezibekwayo njengokuthi abanye abangabokufika abanamvume yokuba seNingizimu Africa.

Kubuye kukhawe nangobugebengu obenziwa ngabanye bokufika kanye nokulathisa amathuba okuhweba nemisebenzi.

Siyazizwa lezikhazazo futhi sizozilungisa. Kodwa siyagcizelela ukuthi akukho okungenza udlame lolu lwamukeleke. Siyalugxeka kakhulu.

Njengohulumeni siyayisebenza indaba yokunisa ezokuphepha emingceleni ukuze abantu bangangenzi ngokungekho emthethweni ezweni. Sesishale namasosha ukuze asize umnyango wezasekhaya, kuloludaba.

Honourable Members,

Let us work together to provide support to all foreign nationals who have been affected by this violence.

The Freedom Charter says there shall be peace and friendship. Our responsibility is to promote this legacy of peaceful coexistence and take it forward.

We also reaffirm our responsibility to contribute to a better Africa and a better world.

Let us work together to make our country a better place for all who live in it.

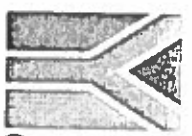
I thank you.

Issued by: The Presidency

Pretoria

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REPUBLIC OF SOUTH AFRICA



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Inter-Ministerial Committee on Migration media briefing statement

28 April 2015

Ministers
Deputy Ministers
Directors General
Generals
Senior officials
Members of the Media
Ladies and Gentlemen

Good morning, and thank you for honouring our invitation to update the nation on the progress that government is making in restoring peace and order in our communities.

INTER-MINISTERIAL COMMITTEE (IMC) ON MIGRATION

President Jacob Zuma has appointed an Inter-Ministerial Committee on Migration to strengthen and broaden the scope of the work started by Ministers Mahlobo, Gigaba and Nhleko.

The IMC comprises of the Minister in The Presidency: Planning, Monitoring and Evaluation (Chairperson); Minister of Police (Deputy Chairperson); Minister of Home Affairs; Minister of Cooperative Governance and Traditional Affairs; Minister of International Relations and Cooperation; Minister of Defence and Military Veterans; Minister of Social Development; Minister of Health; Minister of Basic Education; Minister of State Security; Minister of Justice and Correctional Services; Minister of Small Business Development; Minister of Trade and Industry; and Minister of Human Settlements.

The mandate of this IMC has been broadened to deal with all the underlying causes of the tensions between communities and the foreign nationals. Some of the areas to be addressed, is the implementation of our Labour Relations policies as they affect the

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foreign nationals; the implementation of the laws that govern business licenses; the country's border management and generally the country's migration policies.

In the coming weeks and months the IMC will work with all the affected parties so as to seek a lasting solution to the issues raised by communities and foreign nationals.

We are happy to indicate that the consultation processes have already begun.

OPERATIONAL SUPPORT TO THE IMC

The National Joint Operational and Intelligence Structure (NATJOINTS) which is the structure for coordinating government's response to emergencies of this nature has been activated. It continues to operate on a 24 hour basis to coordinate the plans of the various government departments so as to restore peace and order in communities.

A Technical Committee comprising of the Directors General of all the affected departments provides the critical support on the intensive work that needs to be done in dealing with the root causes of these tensions. These two structures provide the necessary support to the IMC.

PRESIDENT CONSULTS WITH THE STAKEHOLDERS

On the 22 April the President convened a meeting of stakeholders in South Africa to discuss the country's migration policy and discuss how various sectors can work with government to promote orderly migration and good relations between citizens and other nationals.

The meeting was attended by business, sports, trade union movements, arts and sports fraternities, religious leaders, community formations, youth formations, children, disabled person and traditional authorities.

The participants were unanimous in condemning and rejecting the attacks against foreign national. They further pledged their commitment to work within their constituencies to build social cohesion. They also pledged to support the interventions of government in tackling genuine concerns raised by communities and foreign nationals.

PRESIDENT ENGAGEMENT WITH REPRESENTATIVE OF FOREIGN NATIONAL RESIDING IN SOUTH AFRICA.

The President also invited the representatives of the foreign nationals residing in South Africa. Over fifty (50) representatives of the foreign nationals attended the meeting on Friday 24 April.

All the participants were unanimous in acknowledging and commending government's efforts to stop the attacks. The attendees also relayed their experiences in their everyday lives in South Africa. They committed to work together with South African authorities to address the challenges. A number of suggestions emerged from these consultations.

GOVERNMENT ENGAGEMENT WITH COMMUNITIES

Over the past week over seventy seven (77) public engagements were undertaken by the Ministers and Deputy Ministers. The Executive used these platforms to listen to the

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concerns of the communities. They also the condemned the violent acts against foreign nationals.

Provincial government and local municipalities also joined in their respective constituencies in condemning the attacks on foreign nationals.

The majority of the peace loving South Africans were again unanimous in condemning the acts of criminality perpetrated against the foreign nationals. They have equally expressed their frustrations on issues such crime, especially drugs, illegal trading and illicit economic activity by some of the foreign nationals.

There were also a number of public condemnations expressed in various marches by South Africans. Artists have expressed their condemnation using their respective platforms. South Africans took to the social media to launch campaigns that stops attacks on foreign nationals and pledging solidarity with foreign nationals living in South Africa.

ENGAGEMENT WITH AFRICAN DIPLOMATIC REPRESENTATIVES

The Department of International Relations and Cooperation (DIRCO) has engaged with African diplomats that are in the country.

The engagements explained South Africa's position especially on the government's interventions to deal with the acts of criminality. DIRCO further continues engaging to the wellbeing of their nationals.

We are reaching out to reassure the global community that South Africa is stable and open for business.

TACKLING CRIMINALITY: OPERATION FIELA – RECLAIM

As government we are satisfied that operations on the ground by our law enforcement agencies have equally yielded positive results. Peace and calm has returned in the communities that were affected by violent attacks.

Government is determined to restore and maintain order within our communities. **Operation Fiela – Reclaim** is an operation to rid our country of illegal weapons, drug dens, prostitution rings and other illegal activities. This operation is a multidisciplinary interdepartmental operation.

Fiela is a Sesotho word for sweep/ ukushanela ngesizulu. And that is exactly what we intend to do. We want to sweep our public places clean so that our people can be and feel safe. The focus of Operation is, amongst others, will be on the following crimes:

- Illicit Drugs
- Contraband
- Undocumented migrants
- Human Trafficking and Prostitution
- Hijacked and condemned buildings
- Illegal possession of firearms and ammunition
- Unlicensed businesses
- Management of RDP houses

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- Illegal occupation of land
- Illegal goods and products

As I speak to you, our law enforcement agencies are deployed on the ground in different parts of the country to ensure that peace and stability is restored. SAPS is the lead agency in the operation supported by the Provincial and Municipality traffic departments and all the IMC member departments. The President has deployed the South African National Defence Force for specific operations in support of the Police.

Results of Operation Fiea- Reclaim to date:

- 265 suspects have been arrested and charged in relation to 150 cases of public violence around the country.
- 423 suspects wanted in connection with other crimes have been traced.
- 165 undocumented migrants were arrested. In the process of deporting to their respective countries.

- **Search and Seizure Operations in Mayfair, Johannesburg (24 April 2015):** 144 Illegal Immigrants arrested, 200 counterfeit DVD's confiscated, 80 small bank bags of dagga confiscated, and 2 air rifles.

- **Search and Seizure Operations at Alexandra Cluster Hostel, Johannesburg (22/23 April 2015):** 1 suspect arrested for illegally dealing in liquor, 1 suspect for illegal possession of SANDF uniform. The following items were confiscated: 12 kilograms of dagga, 1 pangga knife, and 1 suspected stolen laptop.

- **Search and Seizure Operations Hillbrow Cluster Woihuter Hostel (21/22 April 2015):** 11 people were arrested for dealing in Liquor, possession of dagga as well as possession of suspected stolen property. 2 people were arrested for negligent handling of firearms. 67 illegal immigrants were arrested

- **Pretoria Central Cluster & Sunnyside Cluster (27 April 2015):** 08 illegal immigrants were arrested. 7 fines were issued for contravention of by-laws. 1 stolen vehicle recovered, 02 knives and 24 bags of dagga confiscated.

DETAILS OF THE VICTIMS OF VIOLENCE

We communicated that seven people lost their lives during the recent outbreak of violence were foreign nationals.

The total number of those who lost their lives is seven.

The following are the names of the deceased persons positively linked to the violent attacks:

#	NAME OF DECEASED	NATIONALITY	NATURE OF DEATH	STATUS OF CASE
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1.	Marcus Natas	Ethiopian	Petrol bombing in Umlazi	Investigations continue
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2. Muvo (other details Zimbabwean Attacked by a mob Investigations in Chatsworth continue

3. Dava Sabastio Mozambican Attacked by a mob Investigation in Verulam continue

4. Shaofic Shaof Ul Alam Bangladeshi Gun shot in Plessislaer male arrested A South African

5. Thabo Owen Mzobe South African Gun shot in Ntuzuma males arrested Two South African

6. Ayanda Dlamini South African Gun shot in Bekhithemba arrested Somali national

7. Petros South African Chatsworth Investigations continue Dlamini

The preliminary investigation reveals that the death of Mozambican citizen Emmanuel Jossias, also known as Emmanuel Sithole, related to an act of criminality and is therefore not included in the table above.

Once again the IMC on behalf of the South African nation extends its deepest condolences to the families of those deceased and wishes those injured a speedy recovery.

THE CRIMINAL JUSTICE SYSTEM IS READY TO DEAL WITH PERPETRATORS

The NPA has given priority to the prosecution of cases related to attacks against foreign nationals. Perpetrators of these crimes can expect that prosecutors will ask courts to impose sentences of direct imprisonment.

To ensure speedy prosecutions in these cases, the Department of Justice and the National Prosecution Authority have setup dedicated courts with magistrates, prosecutors and interpreters to address the situation in KZN. As of now the dedicated courts have been put into place in Chatsworth, Umlazi, Ntuzuma, and Durban Magistrate Court.

The South African Police Service has allocated detectives within all provinces to expedite the investigations in cases related to violence against foreign nationals. We are not taking a business as usual approach; we want to ensure that the perpetrators of these vile acts are dealt with as speedily as possible.

PROVISION OF SUPPORT AND REINTEGRATION

Government continues to actively support the displaced foreign nationals at shelters. The Department of Social Development is leading this intervention by providing food, shelter and other necessities. Psycho-social support in the form of trauma counselling and

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debriefing services have been provided to 812 individuals on site at the shelters. Group discussions have also been held in every site.

The Social Development trauma counselling call centre is operational 24-hours a day. We encourage those who require counselling services to call: **0800 428 428**

We have thus far provided **2000 mattresses, food, blankets, dignity packs, baby formula, clothing items** to displaced persons at the various shelters. The South African Social Security Agency has established Help Desk to manage any enquiries and complaints from displaced persons at shelters.

The Department of Social Development also conducted an assessment in Kwa-Zulu Natal and Gauteng temporary shelters to establish the immediate needs of women and children. Pregnant women and people with disabilities have been referred to secure shelters. Retired social workers were also deployed to the temporary shelters to strengthen the psycho-social services.

Reports that some foreign nationals have begun to return to their communities are encouraging. As the situation continues to stabilize, we call foreign nationals who are still in shelters to work with the departments of COGTA and Community Safety to ensure a smooth reintegration process. We further urge communities to open their arms to returning foreign nationals and to assist in their reintegration.

As a result of some displaced persons returning to their communities, the Elsburg Shelter was officially closed on 23 April 2015. Those who were not yet ready to be reintegrated have been accommodated at the Primrose Shelter.

HEALTH CARE

The Department of Health closely monitors, coordinates and deliver health and medical services to foreign nationals in any area needed as well as at the temporary shelters established. The following services are being offered to displaced persons at the various shelters:

- Emergency Medical Services
- Primary Health Care services at temporary shelters
- Communicable Disease Control
- Environmental Health Services
- Health Promotion
- Forensic Pathology Services
- Mental Health Services

DOCUMENTATION AND VERIFICATION OF THE DISPLACED

The Department of Home Affairs as per their mandate ensures that all persons in South Africa are properly registered. Those persons who are in the country illegally are either detained for prosecution or deportation.

The Department is currently assisting displaced persons to verify their status. In cases where documents have been lost or stolen during the violence, the department checks the system and reissues the relevant documentation.

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In cases where the displaced persons have no documentation or they are in the country illegally, the department still captures their details. Their information and fingerprints are captured in order to provide documentation to facilitate their repatriation. The Department of Home Affairs is working closely with foreign missions in South Africa to facilitate the return home of those who are illegally in South Africa. Government has also worked closely with the relevant foreign missions in South Africa to ensure the smooth repatriation of those who wish to voluntarily return to their home countries. We have thus far repatriated a total of 1 997 undocumented migrants from both KwaZulu-Natal and Gauteng temporary shelters. Breakdown is as follows:

- Malawi - 911
- Mozambique -316
- Zimbabwe -753
- Tanzania - 17

The total number of documented persons who are awaiting repatriation is 1507; we will continue to engage with their missions to ensure a smooth process.

TACKLING UNDERLYING CAUSES

We are unyielding in our commitment to ensure that these shameful attacks against foreign nationals never happen again in our country. We are, therefore, committed to find a lasting solution to the problem. Through the appointment of an IMC with an all-encompassing focus on issues related to migration, President Zuma has demonstrated government's commitment to address the underlying causes.

We believe that issues of migration can only be resolved by taking a holistic approach that deals with all issues highlighted by communities. This includes identifying and resolving challenges highlighted by local traders. The IMC working with Department of Home Affairs will address the challenges around migration. The Ministry of Small Business Development has also been tasked with identifying the issues that are relevant to small business. The consultations that have been held in the past week, will provide useful resource in seeking to find a lasting solution to the challenges of migration.

SOUTH AFRICA CONTINUES TO WELCOME OTHER AFRICANS

We are encouraged to note that even with the tragic events of the past weeks, Africans from other countries still consider South Africa a safe place to visit. During the month of March, 10 548 people from Ethiopia, Malawi, Mozambique, Tanzania, and Zimbabwe visited South Africa. From the beginning of April to date, we have welcomed 13 533 people from the same countries.

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We are heartened that our brothers and sisters on the continent still consider our country a multicultural society that welcomes and promotes interaction among people of different backgrounds.

We want to reassure those who have plans to travel to South Africa that our government is in charge. The violence has stopped. We are now working hard to ensure that nobody within the borders of our country is victimised based on their country of origin.

CASES RESULTED FROM ATTACKS ON FOREIGN NATIONALS DURING 2008

We have noted reports in the media that indicated that we have only had one conviction in the aftermath of the 2008 violence against foreign nationals. We would like to categorically place it on the record that these claims are far from the truth.

The NPA list of serious cases following the 2008 attacks on foreign nationals dated 28 July 2009 indicates, 79 cases recorded led to the convictions. These included convictions for public violence, robbery, housebreaking and theft, malicious damage to property, murder, assault, intimidation and possession of dangerous weapons.

Sentences:

- Public violence ranged between 3 and 6 years imprisonment.
- Robbery up to 9 years imprisonment were imposed.
- Housebreaking up to 9 years,
- Murder up to 15 years,
- Assault and malicious injury to property to 4 years and
- Intimidation up to 5 years imprisonment.
- 4 instances of rape. Sentences of 15 years, 25 years and life imprisonment were imposed in these 4 cases.

SOUTH AFRICANS EMBRACE DIVERSITY

The outpouring of love and support to foreign nationals as well as condemnation of these attacks bears out our view that the majority of South Africans are not xenophobic.

We encourage our communities to continue to work with government to ensure that there is a lasting peace. You can be part of the solution by saying no to violence and reporting those who are bent on using violence to destabilise our society to the police.

We urge anyone with information on plans to cause violence or those who have witnessed acts of violence, to contact: Crime Stop - 086 00 10111 or SAPS Emergency Number - 10111

Enquiries:

Ms Phumla Williams, IMC Spokesperson
Cell: 083 501 0139

Issued by: Government Communication and Information System

Media statements
Year: 2015

Media Statement date: Tuesday, April 28, 2015

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70.

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Ms B. Mbete, MP
Speaker of the National Assembly
Parliament of the Republic of South Africa
P.O. Box 15
CAPE TOWN
8000

Mr Jacob Gedleyihlekisa Zuma
President of the Republic of South Africa

Yours sincerely


I will communicate this report to members of the National Council of Provinces and wish to request that you bring the contents hereof to the attention of the National Assembly.

The expenditure expected to be incurred for this employment is R 4 242 448.

The employment is for the period 21 April 2015 to 30 June 2015.

This employment is authorised in accordance with the provisions of section 201(2)(a) of the Constitution of the Republic of South Africa, 1996.

This serves to inform the National Assembly that I have employed 338 members of the South African National Defence Force (SANDF) in cooperation with the South African Police Service (SAPS) to assist the SAPS to maintain law and order in Kwazulu-Natal, Gauteng and any other area in the Republic of South Africa as the need arises.

EMPLOYMENT OF MEMBERS OF THE SOUTH AFRICAN NATIONAL DEFENCE FORCE IN COOPERATION WITH THE SOUTH AFRICAN POLICE SERVICE TO MAINTAIN LAW AND ORDER IN KWAZULU-NATAL, GAUTENG AND ANY OTHER AREA IN THE REPUBLIC OF SOUTH AFRICA.

Honourable Speaker,

23 April 2015



[Thursday, 30 April 2015]

758

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M.A.

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Twist street in Hillbrow Johannesburg.

4. On the 27th April 2015 at approximately 9:05 I was travelling in my motor vehicle with a colleague, Billy Dlamini, ID No 910917 5460 088 along

context indicates otherwise) and are both true and correct.

3. The facts herein are within my personal knowledge (save where the

organisation with registration number 101-777.

2. I am a social worker registered with the South African Council for Social Service Professions with registration number 1015605. I practice as a Social Worker in Johannesburg, mainly in the Hillbrow and Johannesburg CBD areas. I am the Executive Director of Transform, a non-profit

Hillbrow, Johannesburg.

1. I am an adult male person aged forty four years old with identity number 710225 5388 081, residing at 301 Blauwberg Flats, 22 Kaptein Street,

Hereby state and declare under oath:

NIGEL KEITH BRANKEN

I, the undersigned

AFFIDAVIT

"FAS"
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5. I turned into Esselen Street in Hillbrow, Johannesburg from Twist Street. As I turned into the street I noticed that there were many South African National Defence Force Vehicles (SANDF) and police cars in the street. I was stopped behind a police car which was parked in the middle of the street and so had no-where to go. I took out my cell phone and took a photograph of the SANDF (see Annexure 1)
6. Immediately after I took the photo one police officer shouted at me and said "Delete that photo". About 15 to 20 police and soldiers then surrounding my vehicle all dressed in military gear and with R55 pointing in my vehicles direction.
7. I asked the police officer to explain why I should delete the photo. He replied by asking why I am taking photos. I replied stating that it was my right to take photos as this was a public place and I am a South African citizen with rights guaranteed in law. I asked him in terms of what law or what reason he was requesting that I delete the photos. He replied by asking in terms of what law I was taking photos. I explained that the constitution gave me rights.
8. The police officer said that he could limit any of my rights in terms of the constitution. I replied that while I understood the constitution does contain a section which would allow for my rights to be limited that he would need

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to provide me with a valid reason for this to happen. I explained that I would like to speak to a lawyer and asked to speak to his supervisor.

9. During this time I tried to make two phone calls to two different lawyers who did not answer their phones.

10. At some time during the discussion, another police officer shouted "search the car" and a soldier opened the passenger door and pointed the R5 at my colleague Billy Diamini.

11. A soldier who appeared to be a senior officer came to the vehicle at this time and I had a discussion with him about my right to take photos. He said that I could proceed. As I was about to proceed, the commanding officer of the police arrived at my vehicle. I told him I would like to complain about the fact that the police were asking me to delete photos on my phone which was my private property and explained that I had a right to take photos in a public place. He argued with me and said I was wasting their time and I must not try to make any complaint at the police station because they would not take my complaint seriously. He said I could leave. I drove a bit further on and took more photographs (see Annexure 2-5)

12. During the incident I felt very scared. I felt the police and SANDF were very aggressive and that they were not promoting social cohesion in anyway.

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blazing.

16. We moved to the corner of Jeppe and Nugget and witnessed a loud procession of SANDF, police, city of Johannesburg, and Gauteng traffic department vehicles travelling through the city. Their sirens were loudly

vehicles were crowded with people.

15. I arrived at approximately 8:15 am in Kerk Street with my wife, Patricia Ann Branken and Billy Diamini and witnessed what was clearly a joint operation between the police, SANDF, various government departments and the City of Johannesburg. The police and SANDF were well armed, many with R5 weapons. Some police officers were putting people into police prisoner transport vehicles and into the back of police vans. These

take some pictures.

14. On Friday 8th May at 7:03 am I received an sms from a friend who is an advocate at Pitse Chambers informing me that the police and SANDF were "raiding the Methodist Church in Johannesburg". I asked him if he wanted me to come to him to which he replied that he would go and check. He informed me at 7:54am that they had moved to Kerk and Nugget Streets and were raiding there. I said to him I would go there and

SANDF in my suburb is warranted or necessary.

13. As a resident of Hillbrow, I do not believe the presence of the police and

[Handwritten marks]

Signed and sworn to before me at Yeoville on this the 1 day of June _____ 2015 by the deponent who acknowledges that he is

DEPONENT

[Signature]

20. I confirm that these images correctly reflect what I witnessed on that day.

6-27. The said video is available for full view upon request.

19. I took a video which I have attached hereto the snap shots as Annexure

my country was becoming a police state.

18. I was very angry at this as it felt as if my city was being invaded and that

vehicles with insignia I did not recognise.

Department among others. There were also many unmarked vehicles and

South African Military Health Service and Johannesburg Metro Police

Gauteng Traffic Police, vehicles from City Parks, an ambulance from

from the Department of Home Affairs, the military police, vehicles from

transport vehicles. There were many SANDF vehicles as well as vehicles

and K-9 vehicles units. There were also several large SAPS prisoner

many police units including TRT unit vehicles, Flying squad unit vehicles,

Johannesburg Central, Honeydew and Tembisa Police stations, and

17. There were vehicles from many police stations including Hillbrow,

M. A.

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AREA: GOVILLE T.H.B.
 BUSINESS ADDRESS: No 5 Becker Str
 CAPACITY: W/O
 FULL NAMES: ALPHUS Tuckersund
 COMMISSIONER OF OATHS

0628911-8
Alphus W/O

fully conversant with the contents of this statement, he understands the contents thereof, that it is the truth, that he has no objection to taking of the prescribed oath and regards the oath as binding on his conscience.

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By \$

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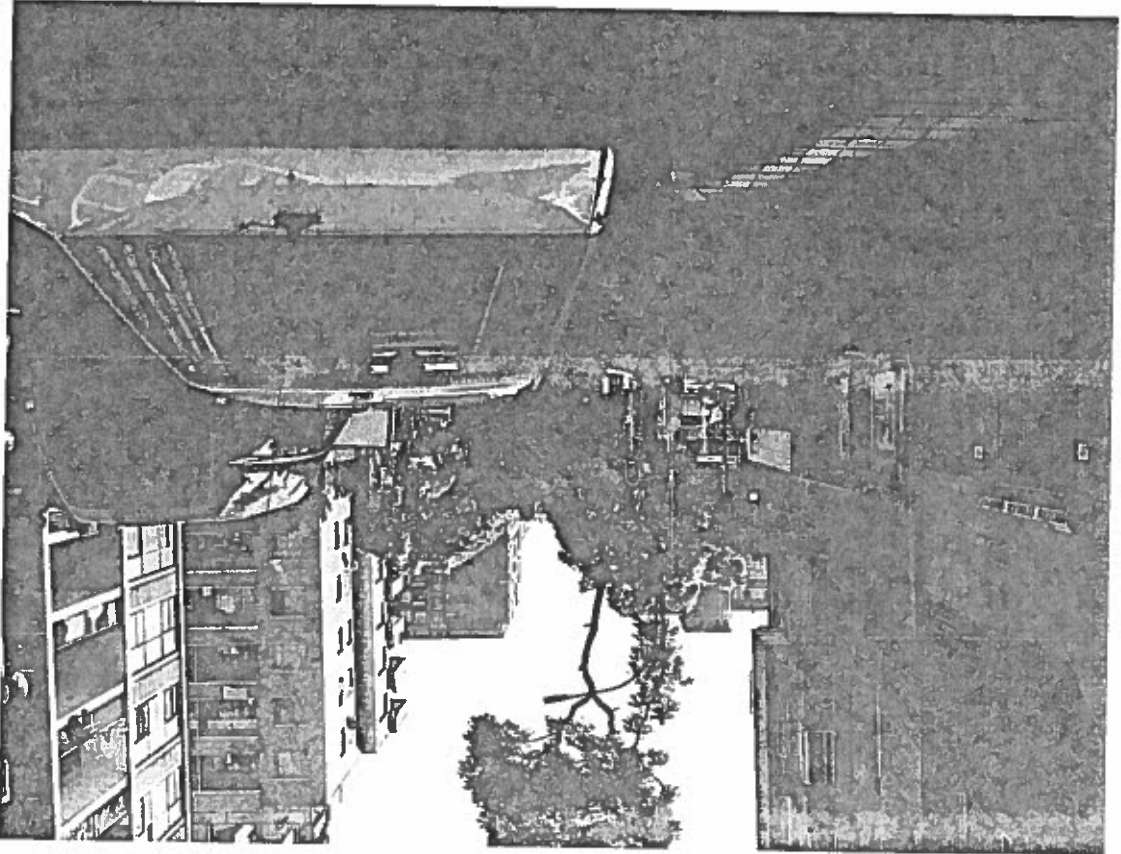


Annexure 1

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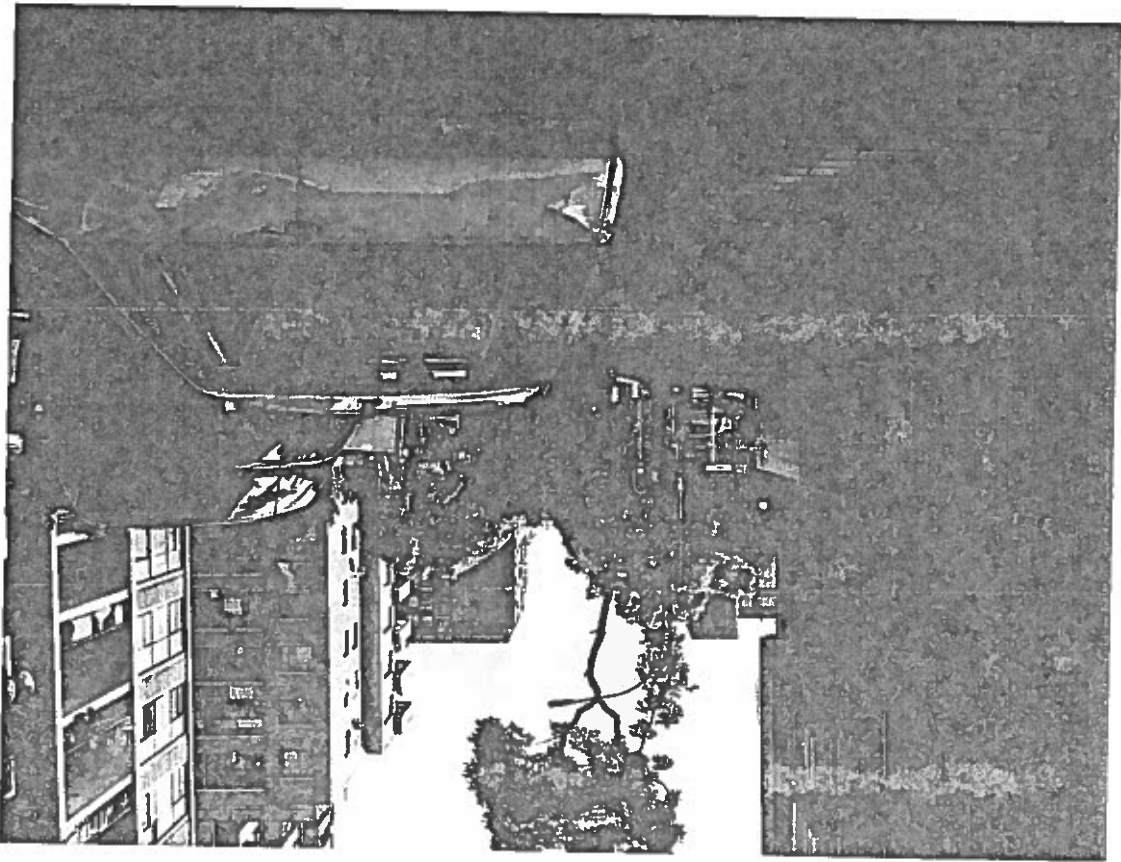


Annexure 2

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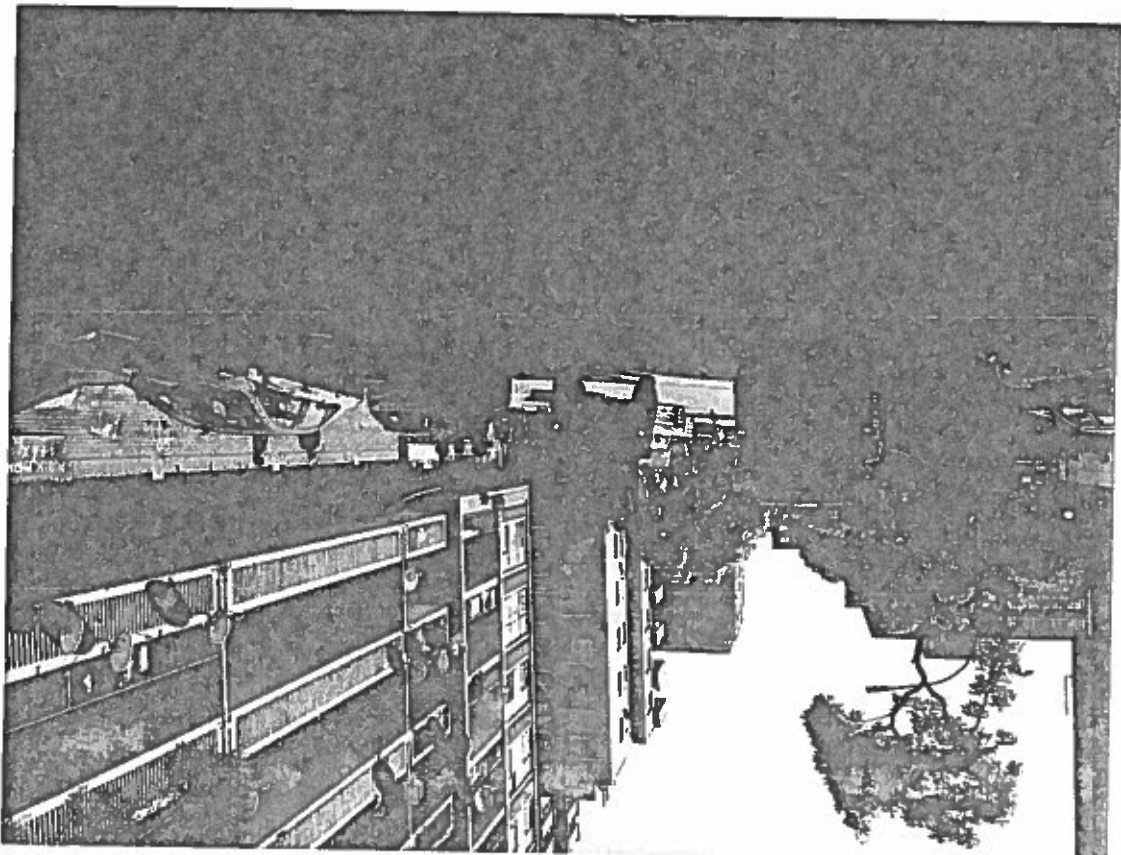
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Annexure 3

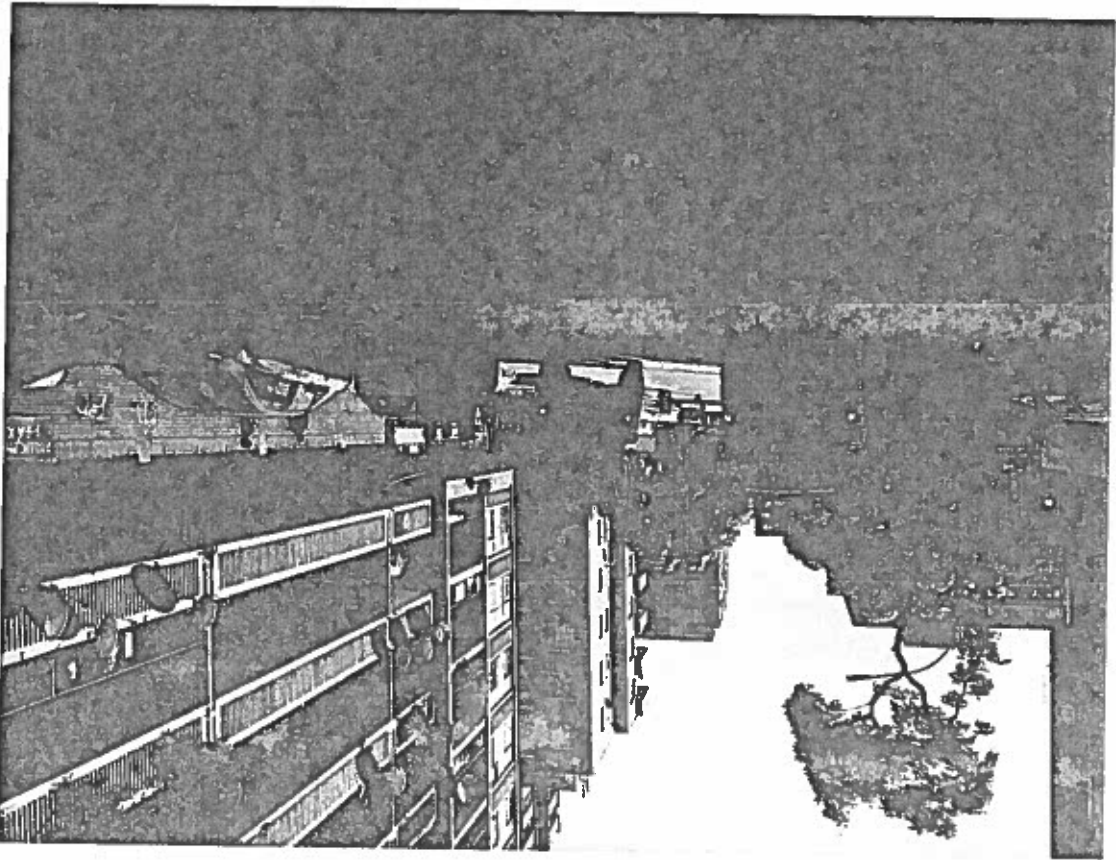
86

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Annexure 4

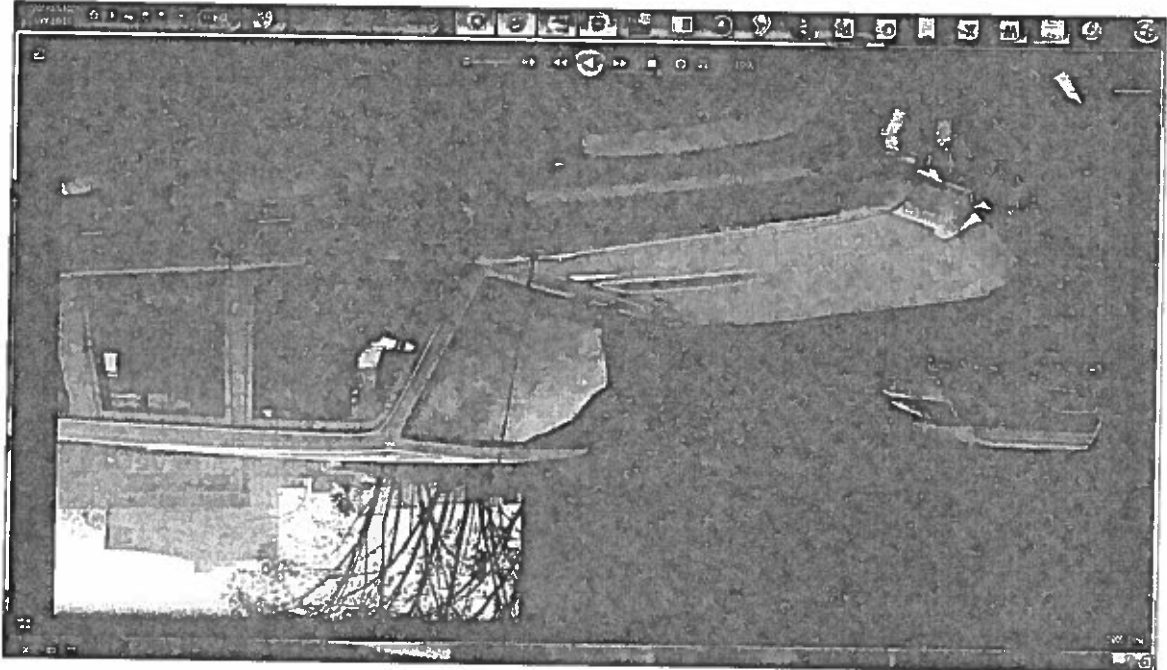
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Annexure 5

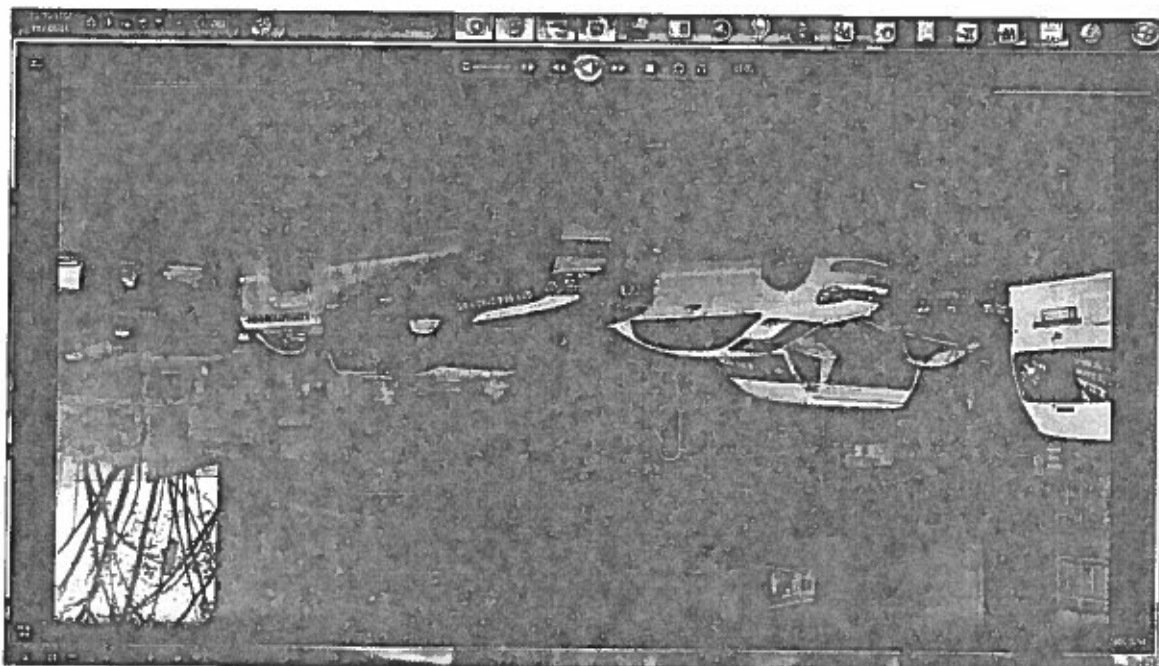
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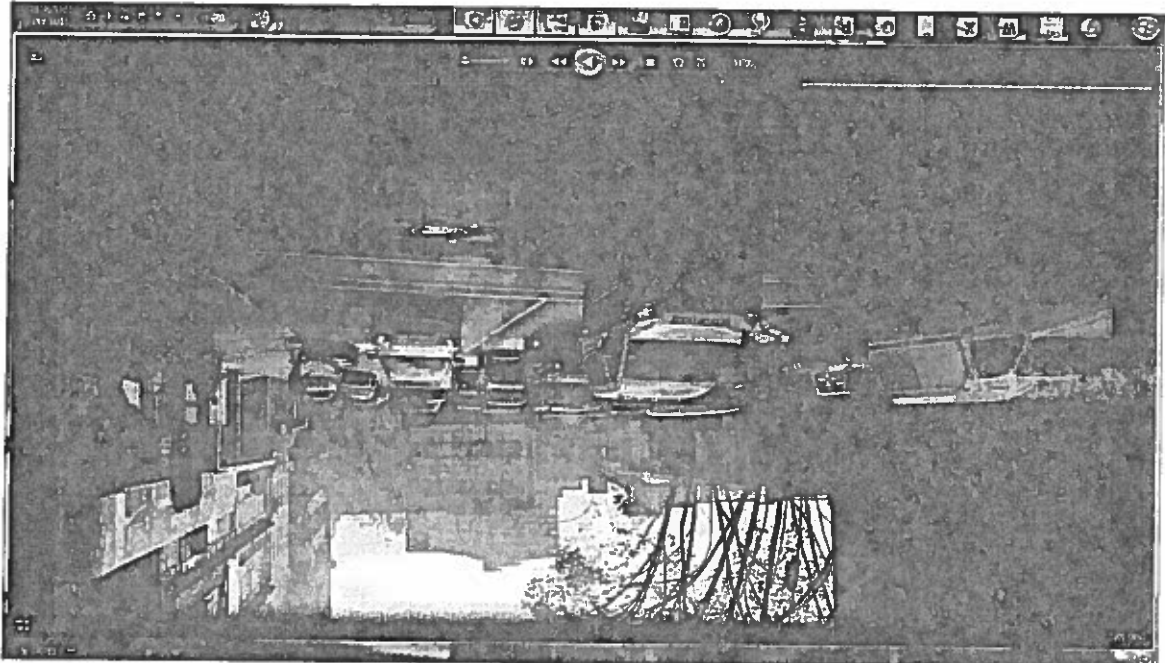
Annexure 9



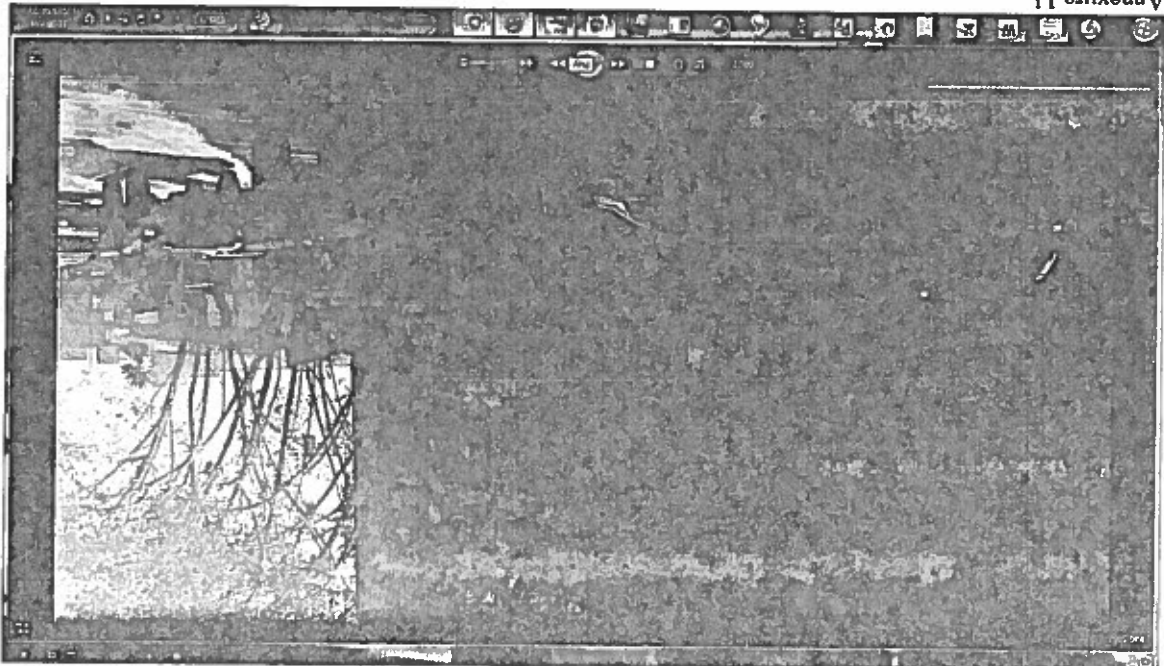
Annexure 8

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Annexure 11

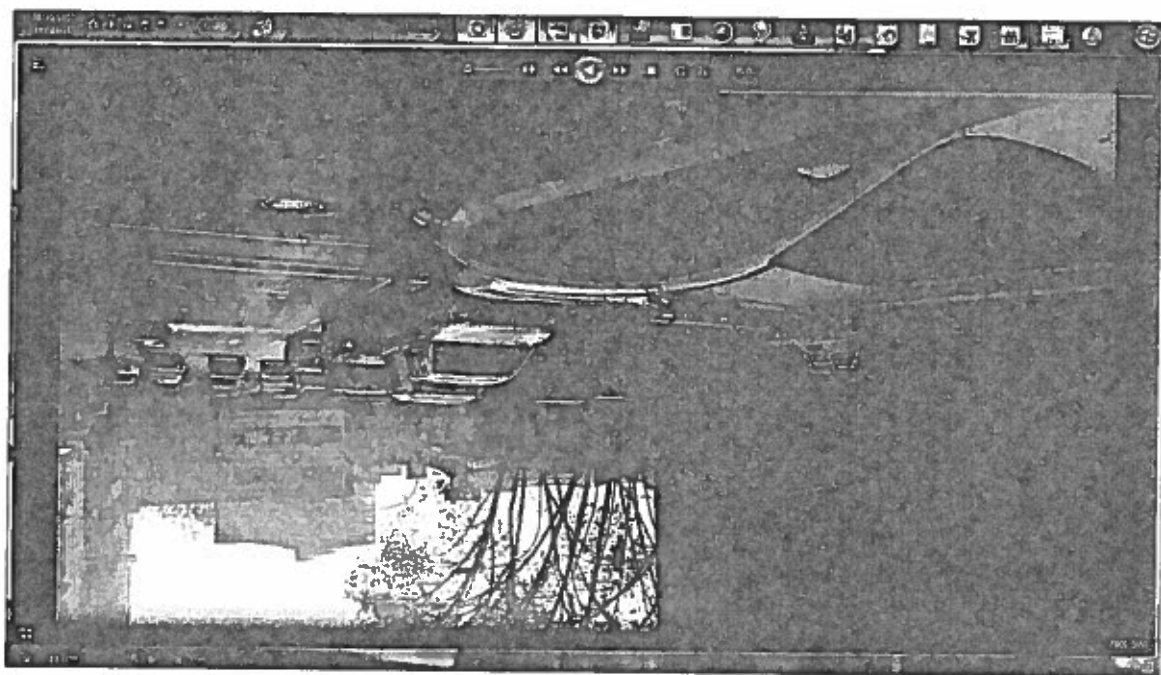


Annexure 10

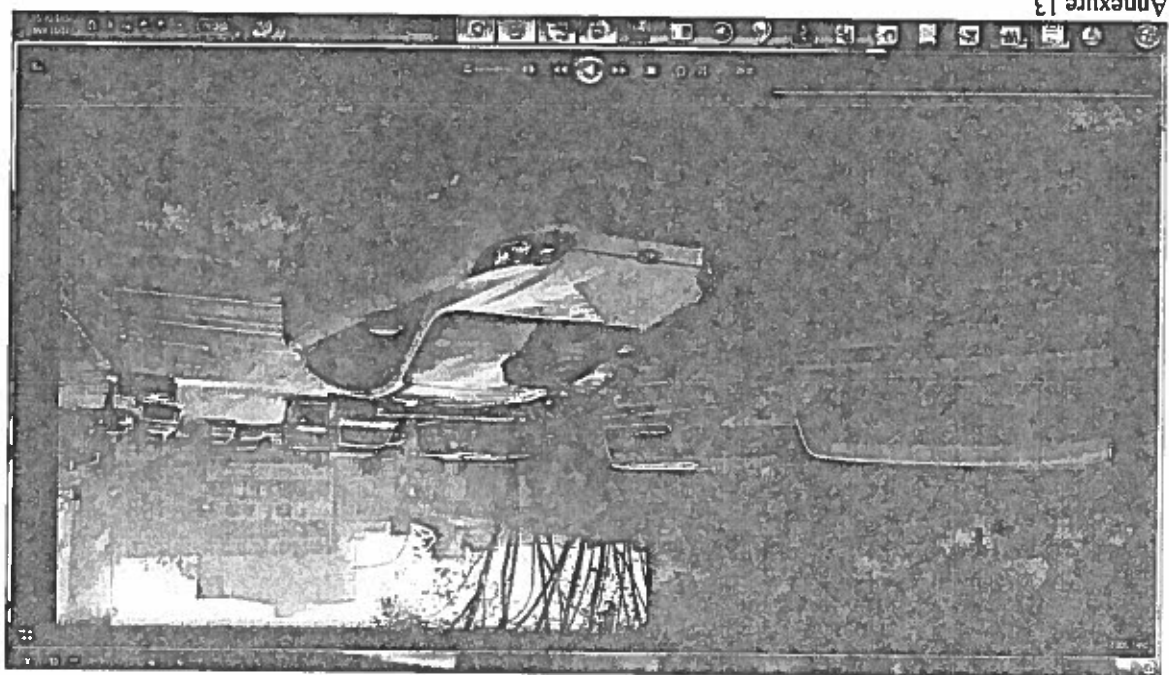
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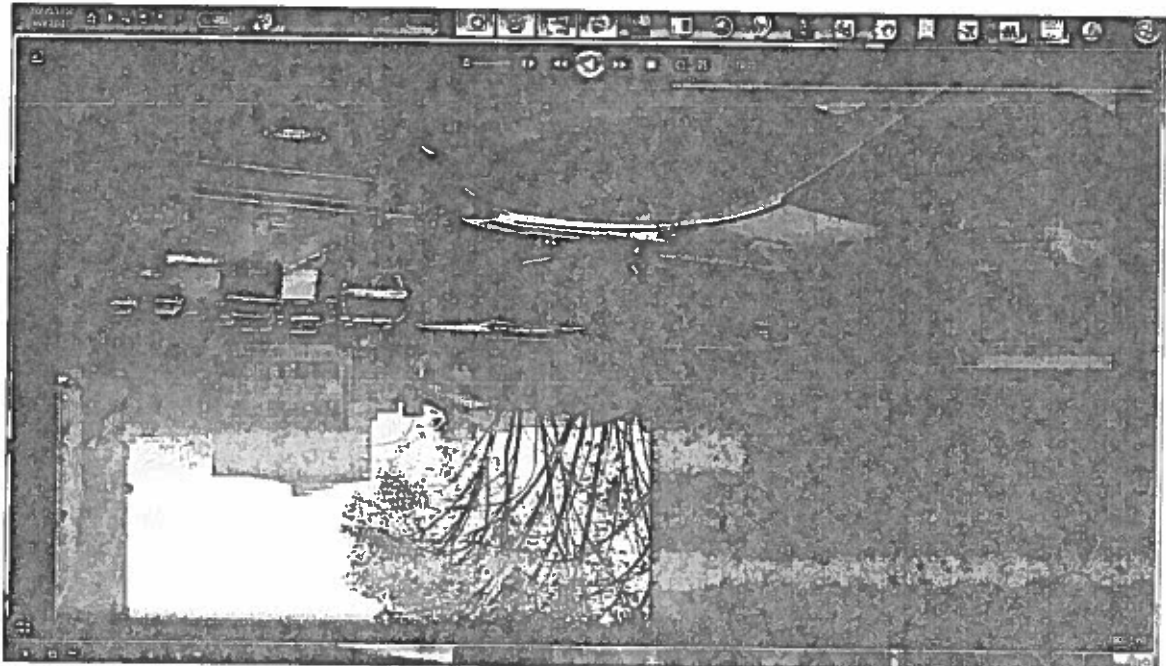
Annexure 13



Annexure 12

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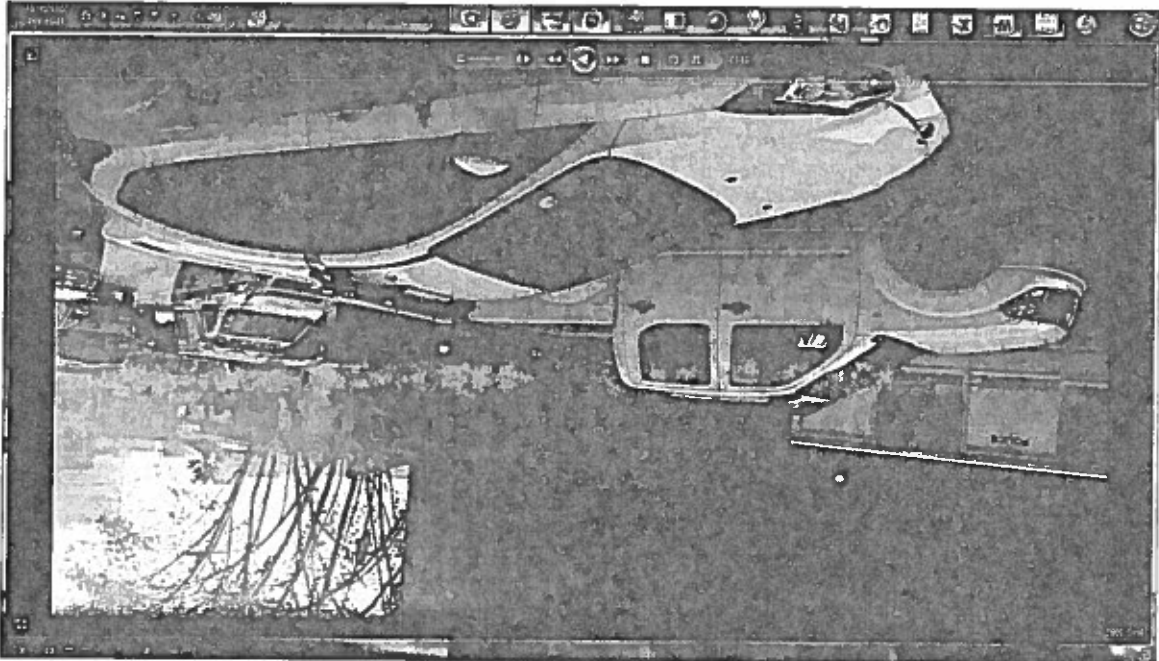
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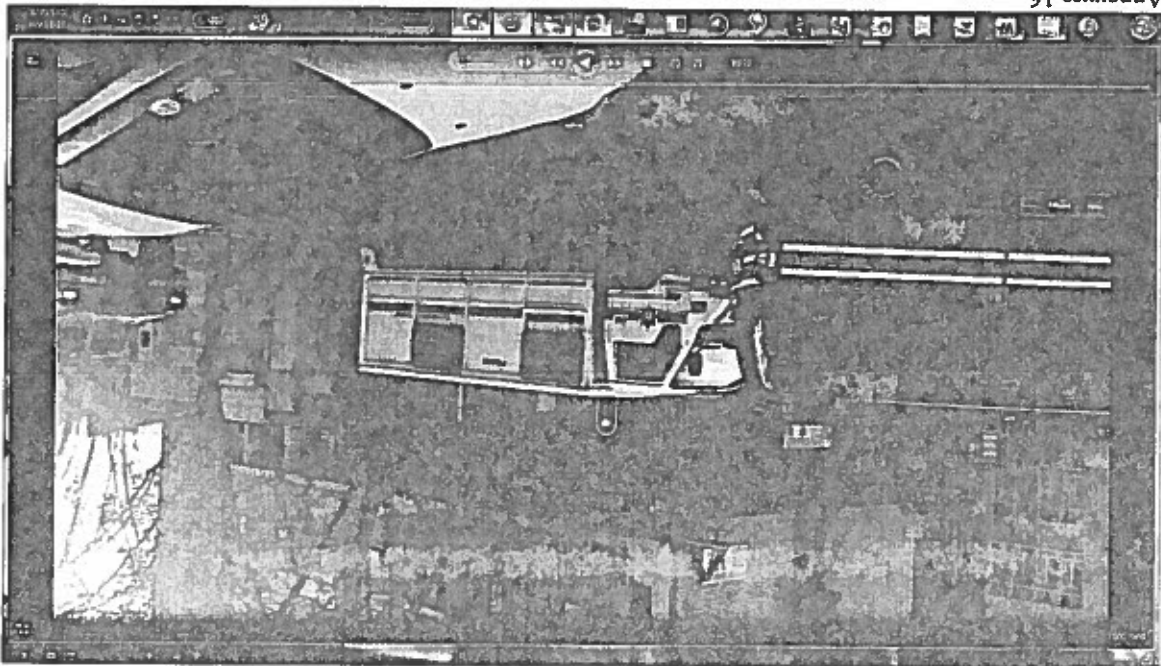
Annexure 14

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Annexure 16

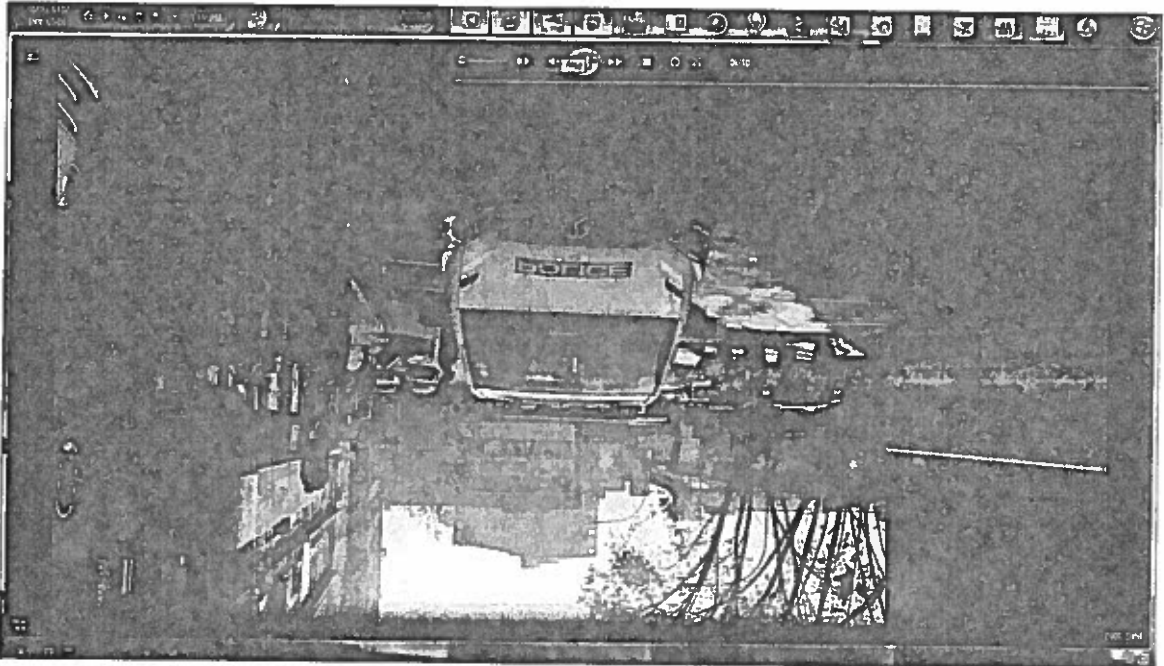


Annexure 15

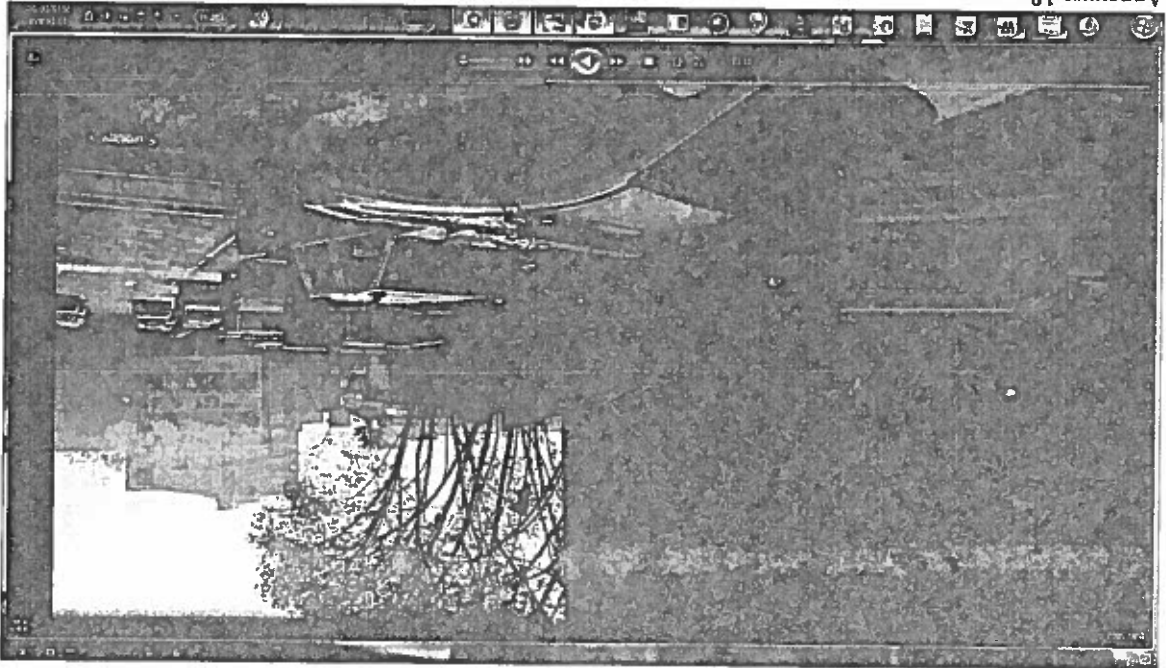
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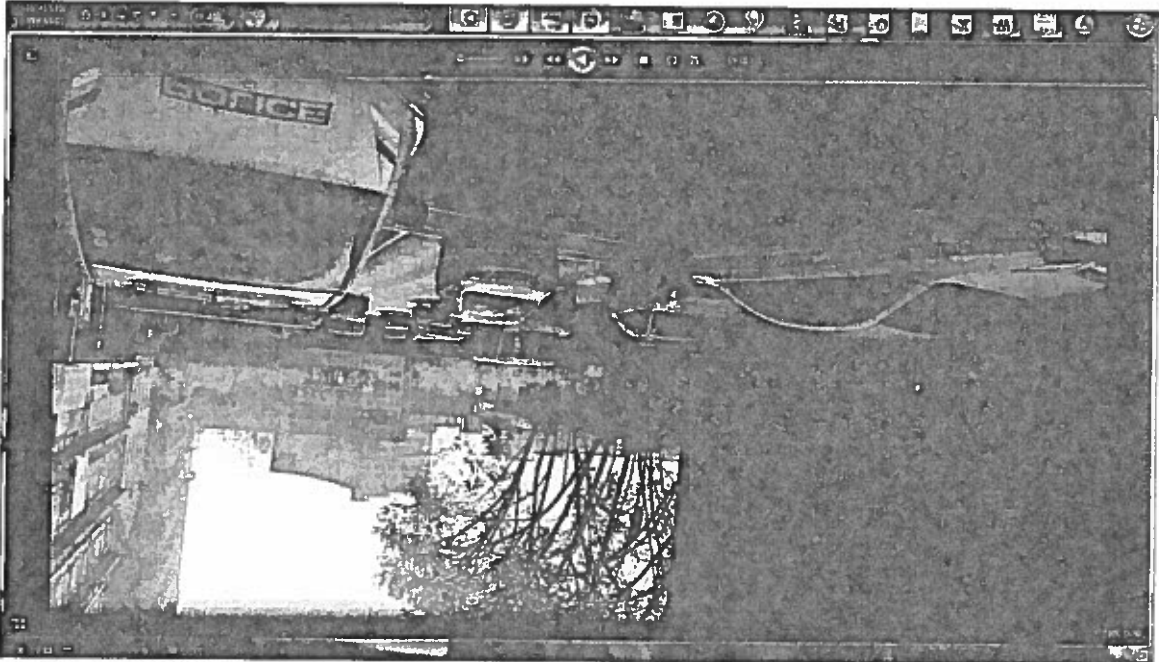
Annexure 18



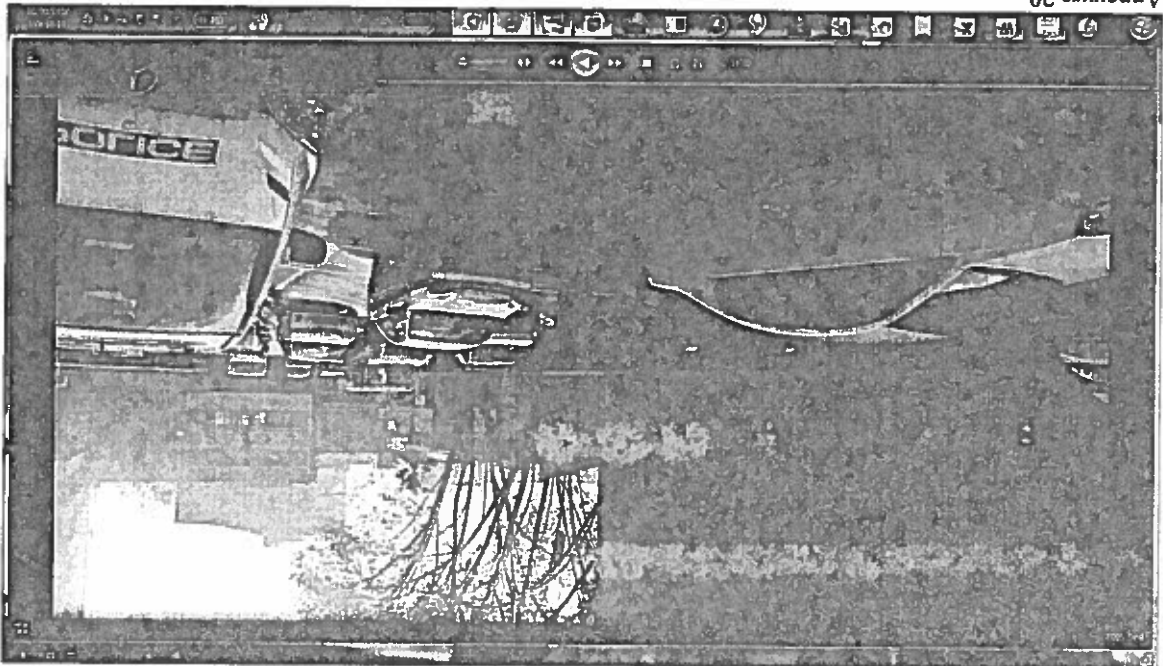
Annexure 17

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Annexure 20

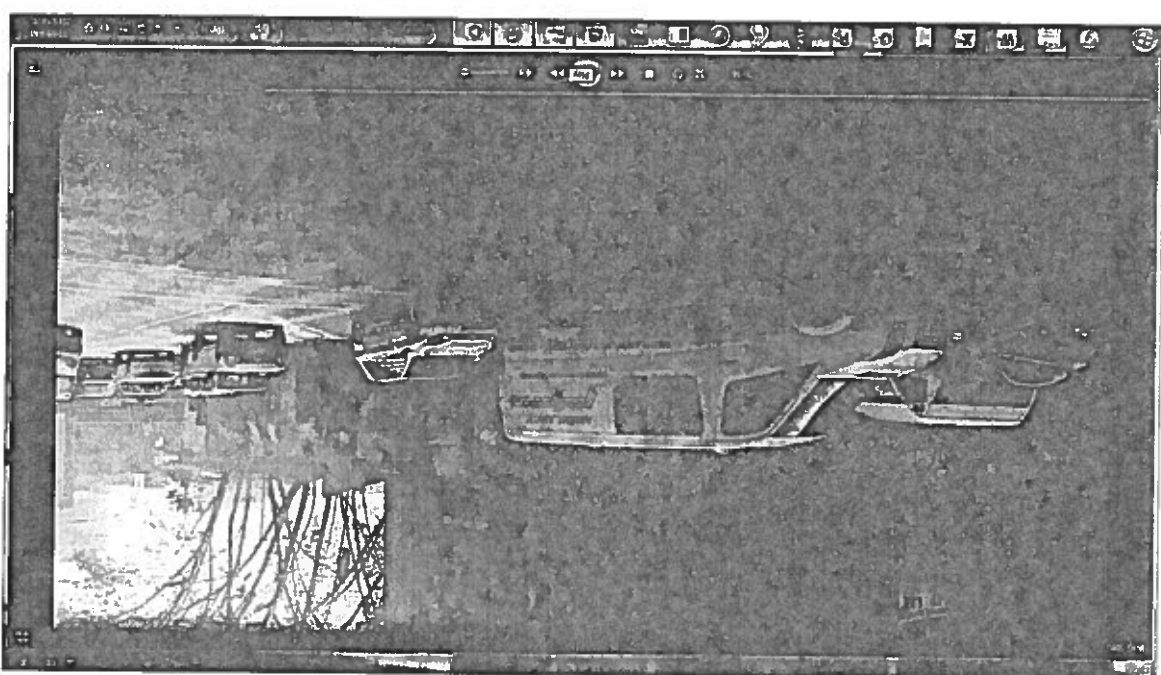


Annexure 19

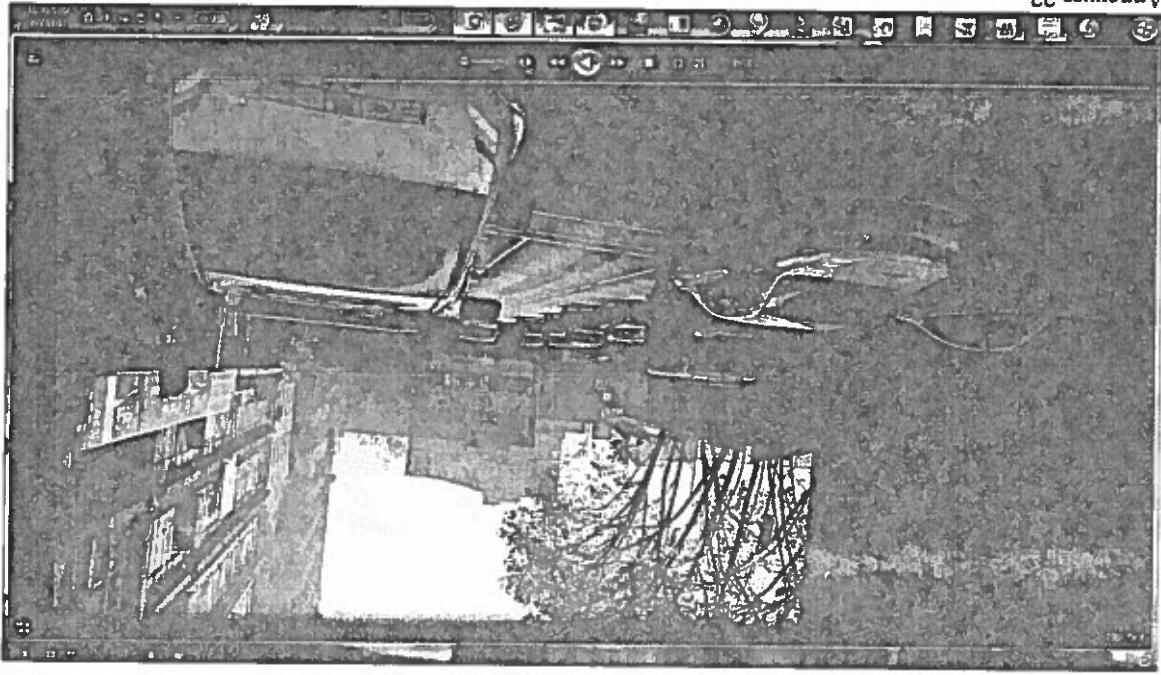
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Annexure 22

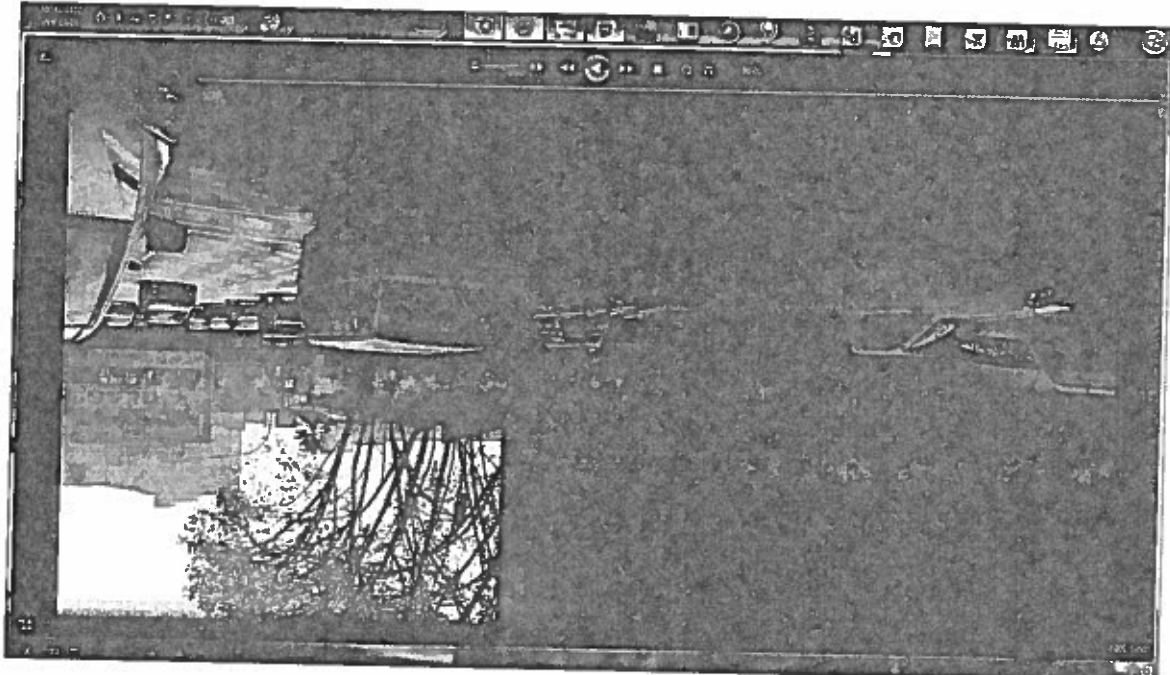


Annexure 21

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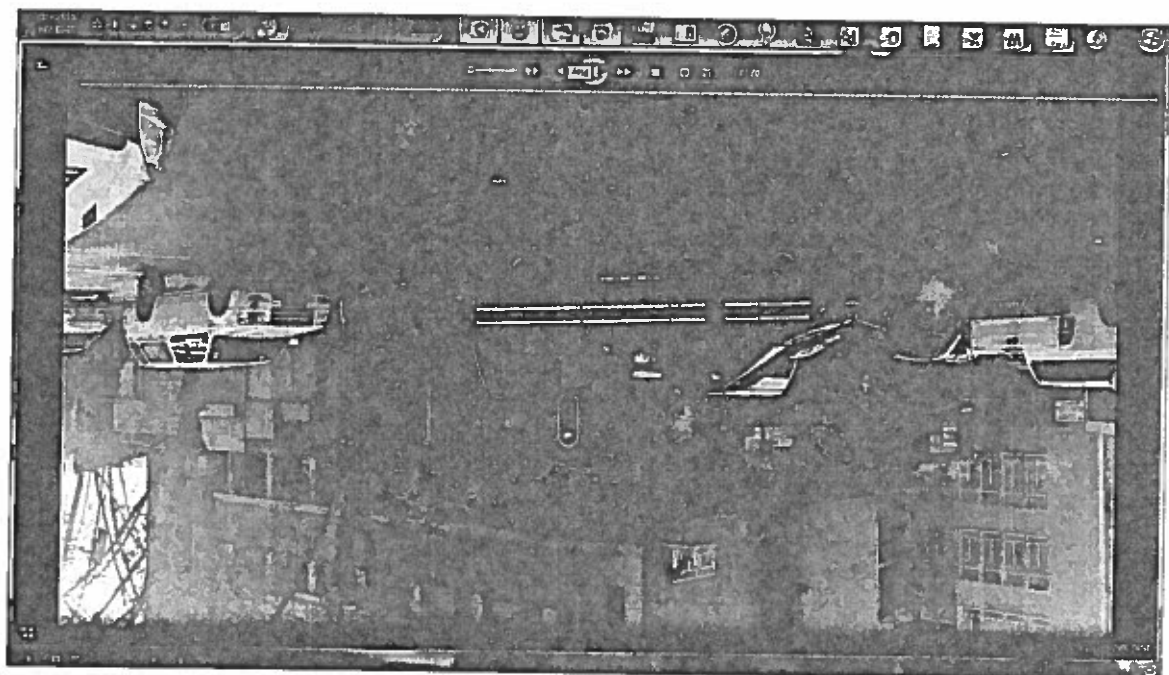
Annexure 24



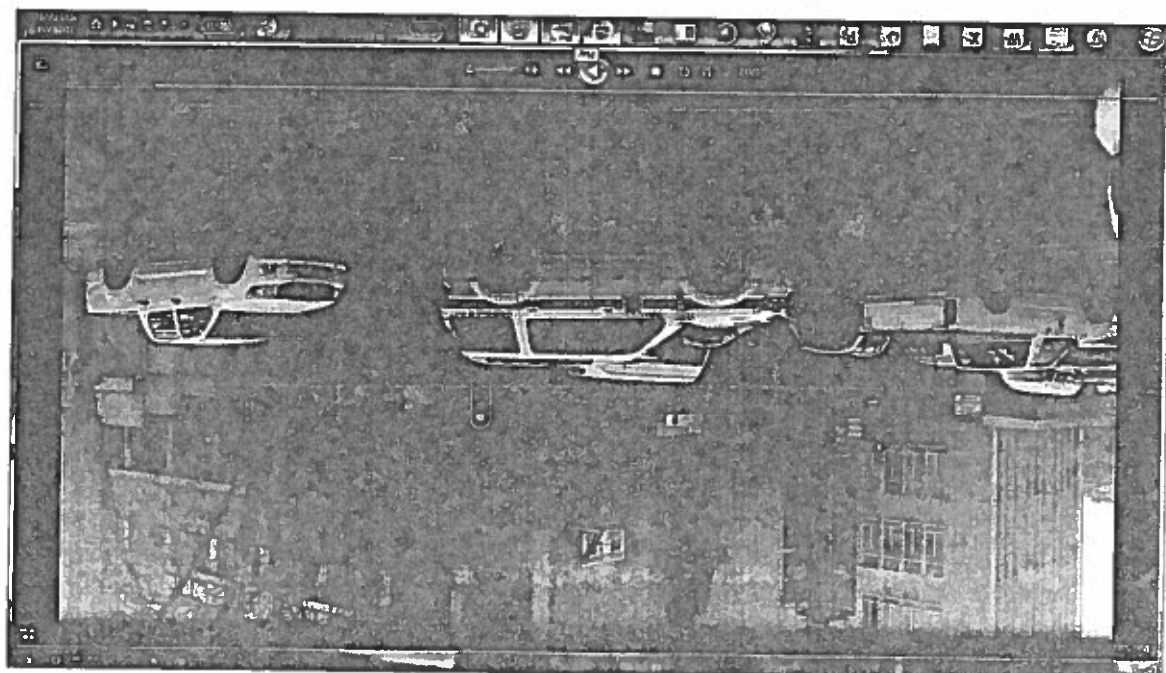
Annexure 23

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M.A.



Annexure 26

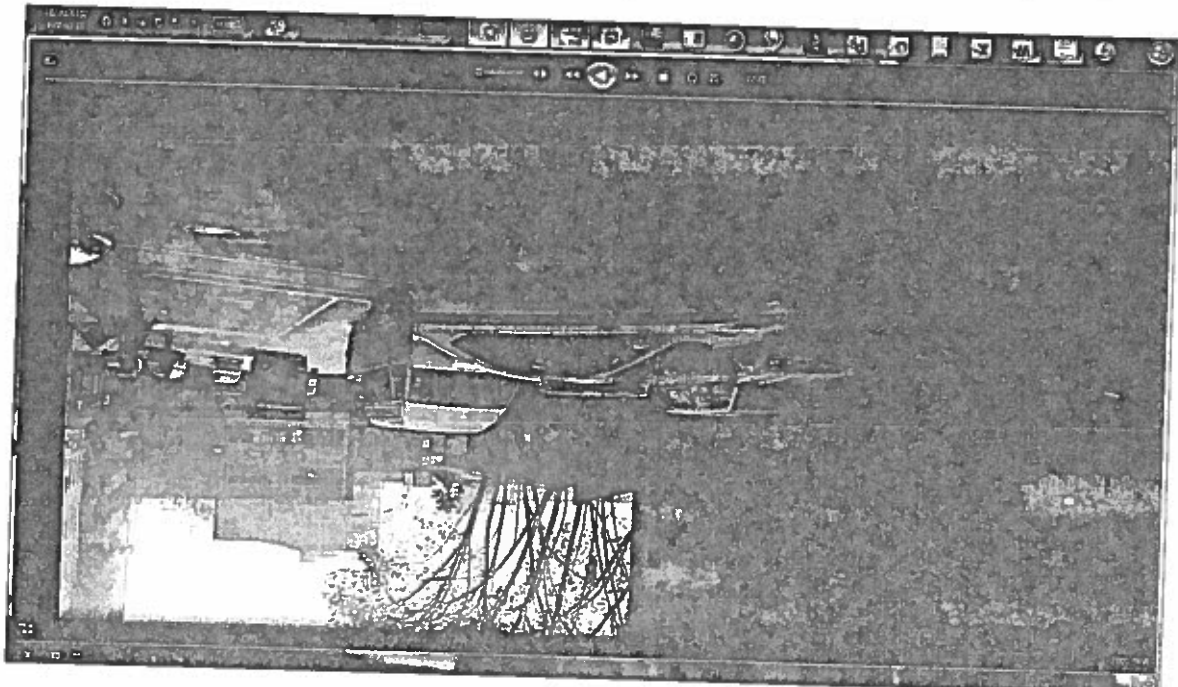


Annexure 25

M.A.

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Annexure 27

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L.M.
CJ

1. I am an adult male and Advocacy Officer at the Scalabrini Centre of Cape Town, a registered NPO (021-079 NPO) that assists asylum seekers, refugees, and foreign migrants with development and integration into communities.
2. The facts deposed to herein fall within my personal knowledge and belief, save where the context indicates otherwise, and are both true and correct.
3. On the morning of 7 May I received a call from a client, a Somali asylum seeker, who informed me that the police were conducting an operation with the army in the Bellville CBD.
4. I called a member of the Somali community, Abdikadir Khalif Mohamed, the Regional Director of the Somali Association of South Africa, who resides in Bellville. He told me he was on the street in Bellville attempting to ask the officials in charge of the operation for information and to offer assistance if possible. I asked him to try and get some form of documentation from those in charge to explain the operation's rationale and intent.
5. Mr. Mohamed was provided with a leaflet from one of the officials in charge of the operation which is attached as an annexure marked "TP1". He scanned and emailed a copy to me on 8 May and I forwarded it to David Cote of Lawyers for Human Rights on 14 May for his interest and opinion on the legality of such an operation.

do hereby make oath and say that:

COREY ROBERT JOHNSON

I, the undersigned,

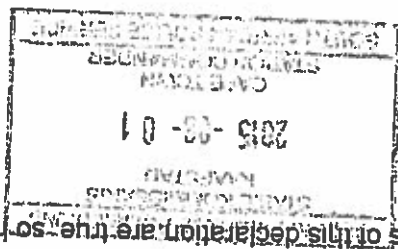
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COMMISSIONER OF OATHS

[Signature]
L. W. GAYNE
7-28-2015



- a) knew and understood the contents hereof;
- b) has no objection to taking this oath; and
- c) considered this oath to be binding on his conscience and uttered the words "I swear that the contents of this declaration are true, so help me God".

I certify that on this ^{15th} day of JUNE 2015, in my presence at CAPE TOWN the deponent signed this declaration and declared that he:

COREY ROBERT JOHNSON
[Signature]

CS
L.N.

MAJOR GENERAL
ACTING PROVINCIAL COMMISSIONER: WESTERN CAPE
TE PATEKILE 2015-05-06

Signed at Cape Town on this 06 day of May 2015

1. I hereby further direct that all members acting in terms of this authorization may - without a warrant search persons, premises, vehicles, receptacles or objects of whatsoever nature, in order to seize illegal firearms, ammunition and explosives and any object referred to in section 20 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), in this area;
2. seize any article referred to above and deal with it in terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), or any other applicable legislation;
3. and any counterfeit products as pointed by brand representatives
4. upon demand of any person whose rights are or have been affected by the search and seizure, exhibit to him or her this authorization; and
5. exercise any of the powers authorized hereby with due regard to the fundamental rights of every person.

from 2015-05-07 (date) at 10:00 (beginning time) 15:00 (end time).

rank: COLONEL name: HJ OLIVIER

be cordoned off by members of the South African Police Service, acting under the command of

South African Police Service in the WESTERN CAPE, hereby authorize that the area bordered by

Durban Road (to the west);

Charl Malan Street (to the east);

Voortrekker Road (to the north);

and Railway line (to the south).

For purposes of ensuring the safety of the public in Bellville CBD and surrounding Areas, in the Magisterial District of Bellville

MAJOR GENERAL T.E. PATEKILE, the Acting Provincial Commissioner of the

AUTHORIZATION IN TERMS OF SECTION 13(7) OF THE SOUTH AFRICAN POLICE SERVICE ACT, 1995 (ACT NO. 68 OF 1995)

"1712"

97.

FAJ
as amended
8/5/15

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG LOCAL DIVISION, JOHANNESBURG

CASE NO: 14395/15

On this the 8th day of May 2015
Before the Honourable Justice Carlse

In the matter between:

LAWYERS FOR HUMAN RIGHTS

and

MINISTER OF POLICE

STATION COMMANDER:

JOHANNESBURG CENTRAL POLICE STATION

Second Respondent

First Respondent

Applicant

URGENT
2015-05-08
REGISTERED
REGISTRAR OF THE SOUTH GAUTENG
HIGH COURT
DRINGEND
HOOGGEREGIS
M. V. A. VAN DER V. A.
J. G. VAN DER V. A.
J. G. VAN DER V. A.

DRAFT ORDER

Having heard Counsel and by agreement between the parties,

THE FOLLOWING ORDER IS MADE -

1. Directing that the forms and services provided for in the Uniform Rules of Court are dispensed with and disposing of this application at such time and place and in such manner and

[Handwritten marks]

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according to such procedure as this court deems fit in terms of Rule 6 (12) of the Rules of this

Court:

2. The officer in command of the Johannesburg Central Police Station is directed to grant the Applicant access to the following detainees held at Johannesburg Central Police Station forthwith:

2.1. Alex Christopher Chlambo;

2.2. Sidney Chima;

2.3. Givemore Moyo;

2.4. Nyamayavo Masakadze;

2.5. Munyaradzi Maroni;

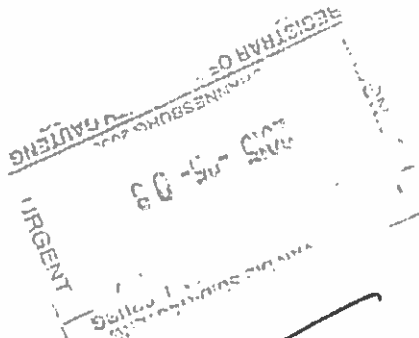
2.6. Viscunt Svodziwa; and

2.7. Beauty Jackie.

3. The officer in command of the Johannesburg Central Police Station is directed to grant the Applicant access to any further detainee held at Johannesburg Central Police Station who requests assistance of the Applicant;

4. The denial of access to legal representation to immigration detainees at Johannesburg Central Police Station is declared to be unlawful;

5. The officer in command of the Johannesburg Central Police Station is directed to produce any warrants and / or authorisations issued in the arrest of the detainees under the South African Police Services Act 68 of 1995, the Immigration Act 13 of 2002 and / or any other legislation pertaining thereto;



BY ORDER

REGISTRAR

8/5/2011

8/6/2011

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