

Biko Inquest

WHEN the Biko inquest resumed in Pretoria's Old Synagogue yesterday, Mr Sydney Kentridge, SC, appearing for the Biko family, reported on his private consultations with the two brigadiers to whom Col Pieter Goosen, head of the Eastern Cape Security Police, said he had reported.

The consultations followed the refusal by the magistrate, Mr M J Prins, last week, to admit Press reports of statements by the Minister of Justice and Police, Mr J T Kruger, as evidence.

It was then arranged, that Mr Kentridge could have private consultations with the two brigadiers, Brig C F Zietsman, head of the Security Police, and his deputy, Brig P J Coetzee.

The brigadiers were thought to be links in the chain of information on Mr Biko's death which passed from Col Goosen to Mr Kruger.

Dealing with his meeting with Brigadier Zietsman and Brigadier Coetzee, Mr Kentridge said: "The two brigadiers consulted with us separately. Both consultations were held in the presence of the investigating officer, Major-General Kleinhaus.

"The information and explanations given to us by the brigadiers have cleared up many of the problems which existed when we first made our application for the calling of these and other officers whom we referred to as the links in the chain of communication reaching from Col Goosen to the Minister.

"We did not then know how many links there were in the chain, or who they were.

"We are now able to eliminate Brig Coetzee from the inquiry entirely. He was away from Pretoria on September 13, and Col



MR KRUGER ... no distortion

We don't believe Kruger distorted, says Kentridge

Goosen did not speak to him on that day. We accept that he can have no responsibility in the matter, and there is no need to call him as a witness.

"The officer to whom Col Goosen spoke on September 13 in the morning, was in fact Brig Zietsman. We are satisfied that Brig Zietsman did not more than to note down the information which Col Goosen gave him. Brig Zietsman asked the questions, and Col Goosen gave the answers, which the brigadier wrote down.

"The brigadier then conveyed the information to the Commissioner of Police, General Prinsloo, who presumably reported to the Minister, as it would be his duty to do.

"We do not think that there can be any question of Gen Prinsloo's having distorted the information given to him; nor do we believe that the Minister did so.

"What is most important, it is clear to us, having spoken to him, is that Brig Zietsman did not do so either. Nor, as he has related it to us, can there have been any room for misunderstanding, at least not of any misunderstanding which could possibly have led to the seriously incorrect version of events published by the Minister on the 13th and 14th September.

"It seems, therefore, that it is necessary only to call

brigadier Zietsman. He can briefly clarify the whole issue.

"Moreover, he has told us that subsequent to his conversation with Col Goosen, the Port Elizabeth office did in fact send telexes to Security Branch headquarters in Pretoria in connection with the detention of Biko.

"We have asked for these telexes but Brig Zietsman cannot produce them to us without the consent of the Commissioner. Of course, this court has the power to call for the production of these telex messages, subject to any claim of privilege which may be made in respect of portions of them which do not refer to the facts of the Biko case.

"We therefore ask the court in due course to call Brig Zietsman, and to request him to bring with him the relevant telex messages from Port Elizabeth," Mr Kentridge said.

He wanted to hand in affidavits verifying the Minister's reported statements on September 13 and 14. These were by a Rand Daily Mail journalist Mr Patrick Laurence and a lawyer who acted for the Rand Daily Mail in a recent Press Council hearing on the statements, Mr William Lane.

Mr P R van Rooyen, for the police, objected to the procedure, particularly to the affidavits by Mr Laurence. He said it appeared Mr

Kentridge wanted "a second bite of the cherry" on the admissibility of evidence on which the magistrate had already ruled.

Mr Prins had already ruled that documents relating to statements by the Minister were hearsay and inadmissible, and the affidavits from a journalist was irrelevant and inadmissible.

Mr Prins said any affidavit verifying what was said by the Minister could not change the matter. What was published as having been said by the Minister was accepted as correct.

Until the court had some indication of which aspects of Col Goosen's evidence were incorrect it would not consider ordering an

affidavit from Brig Zietsman and would only then decide on whether to call him to give evidence or to make any telexes available on his reports to the Minister.

Lieutenant Winston Eric Wilken then continued his examination under Mr Kentridge and said he had made a point of visiting Mr Biko from time to time during the night of September 6.

He said he believed he was alone when he spoke to Mr Biko in Room 619 and he believed that Mr Biko was asleep most of the night.

Mr Kentridge asked whether Lieutenant Wilken seriously believed a man could sleep through the night with leg irons and

handcuffs. Lieut Wilken said a person generally woke up in the night in any event even if they did not have on leg irons and handcuffs.

Lieut Wilken said he had testified that Mr Biko had only one foot in the leg iron which gave him a lot of mobility. When he said Mr Biko was asleep he meant that his eyes were not open.

Mr Biko was loosely manacled and he denied that the pressure of the leg iron would always be felt as a weight on the leg.

He said the pressure would be the same as that on a person who was wearing sunglasses — he would be aware of them.

Lieut Wilken agreed that Mr Biko's one foot and ankle were swollen.

Mr Kentridge said according to medical evidence to be introduced it appeared probable that Mr Biko suffered head injuries either during the night of September 6 or in the early morning of September 7, before 7.30 am. If that was the case

he had accompanied Mr Biko on the Land-Rover trip from Port Elizabeth to Pretoria and had sat at the front of the van. Mr Biko's condition was normal, except as they approached towns, when Mr Biko's breathing became much heavier.

Mr Biko apparently slept most of the way. He said when they stopped for petrol he did not give Mr Biko a chance to get out to stretch his legs, Lieut Wilken said.

Mr Biko was given an opportunity to relieve himself, but he did not want to do so. He could not remember when the offer was made to Mr Biko.

When they arrived in Pretoria Mr Biko's condition was the same, which

appeared to lie with Lieut Wilken's night squad or Major Snyman's day squad. Lieut Wilken said he could not throw any light on how Mr Biko might have suffered an injury while under his care or how an injury to his head could have occurred on September 6.

Medical certificate incorrect,

DR IVOR LANG, a Port Elizabeth district surgeon, faced intensive examination about the treatment he had given Mr Biko in detention.

He was called to the box by Mr K von Lieres, who is leading the evidence.

Dr Lang said he was a fulltime district surgeon and since the death of Mr Biko he had made a number of statements which were then handed in to court.

In the first affidavit Dr Lang said:

"This is to certify that I have examined Steve Biko as a result of a request from Col Goosen of the Security Police who complained that the above-mentioned would not speak.

"I have found no evidence of any abnormality or pathology on detainee," he said.

The affidavit was signed on October 11.

Mr Von Lieres then dealt with a background report also made by Dr Lang on October 11.

In this report, headed "Bantu Steven Biko", Dr Lang said that, at the request of Col Goosen, he had examined Mr Biko on September 7 in the offices of the Security Police about 12 pm.

In a later affidavit, Dr Lang said that the time 12 pm was incorrect and that he had in fact examined Mr Biko at 9.30 am.

'If he had been any other prisoner we would have sent him to a provincial hospital'



Some of the doctors at the Biko inquest. From left they are Dr I R Lang, Dr C Hersch, Dr Marquard de Villiers, (back to the camera), assisting Mr Pickard, counsel for the doctors, and Dr B J Tucker.

Mr Biko in consultation with him during the evening.

About 9.45 pm Dr Hersch examined Mr Biko in his presence at the Sydenham Prison and it was agreed that a lumbar puncture be performed the next morning to exclude the possibility of cerebral haemorrhage or other cerebral disease.

A lumbar puncture was performed by Dr Hersch and shortly after this, about 9.45 am Dr Lang visited Mr Biko.

"He was comfortable and did not complain of any pain and was in possession of all his faculties. I received a report from Warde Sebah to the effect that Biko had eaten half a plate of food and that he was found in a bath of water during the early hours of the morning and that all his clothing was soaking wet.

"Shortly after this I telephoned Dr Hersch who informed me that the lumbar puncture was performed with little difficulty but that the cerebro-spinal fluid, although not under pressure, was bloodstained. Furthermore, there was no change in Biko's physical condition."

Dr Lang said that on the morning of September 10 he again consulted Dr Hersch on the phone and the report of the analysis of cerebral haemorrhage was discussed.

Because of the presence of blood Dr Hersch was of the opinion that a neurosurgeon be consulted and if necessary an X-ray of the skull be obtained. He gave his consent.

Shortly after this Mr R Keely, a neurosurgeon telephoned him and Mr Biko's clinical state was discussed at length.

Mr Keely was of the opinion that the findings of cerebral haemorrhage or that that matter, any other brain damage, that an X-ray would not be of much value, and that it was his opinion that all that was necessary at this stage would be observation.

Mr Keely had agreed that he could transfer him to the custody of the Security Police provided that Biko was examined daily by a doctor.

Dr Lang said he advised Col Goosen of this. It

was agreed that Dr Lang would visit Biko during the afternoon and that he would be moved from Sydenham Prison the next morning.

At 3.30 pm he again visited Mr Biko and found him comfortable with no complaints and there was no change in his physical condition.

I received a report that he had flung the plate of food off his bed on to the floor with his hands at midday," Dr Lang said.

"I informed Mr Biko of the findings of the various medical practitioners and that he was to be moved from Sydenham Prison the following morning.

"At 4.45 on September 11 Dr Tucker telephoned me to report that he had re-examined the detainee and that because he was hyperventilating and had not taken any food, he had advised that he be transferred to Pretoria Central Prison hospital either by plane or by road."

The next morning, on September 12, about 9.30 am, he asked Major Fischer to advise Pretoria that whoever assumed charge of Mr Biko should immediately communicate with Dr Tucker or himself in order that they be informed of the clinical findings.

At this stage Dr Lang read to the court his clinical report on Mr Biko.

He said that at Col Goosen's request he examined Mr Biko on Wednesday, September 7, at the offices of the Security Police about midday (Dr Lang in a subsequent affidavit changed the time from 12 pm to 9.30 am).

Dr Lang said that Mr Biko had "refused water and food" and displayed a weakness of all four limbs and it was feared that he had suffered a stroke."

Dr Lang said Mr Biko "replied to questions in a slurred manner, stating that he had no pain and that he had not been ill previously. He said that he was unable to move his limbs and that he was not eating as he did not feel hungry."

Mr Biko had stated that he had studied medicine for four years after which he had switched to a Bachelor of Commerce degree for two years and that he was at present studying law through Unisa.

He had stated that he lived in King William's Town and was married.

Dr Lang said Mr Biko was "a well nourished obese male of about 30 years."

There was a small laceration on the inner upper lip and a superficial bruise over the breastbone at approximately the second vertebra (in a subsequent correcting affidavit Dr Lang said the word "vertebra" should read "rib").

A pigmented mark was present around each wrist and his hands, feet and ankles were swollen.

Dr Lang said there was no evidence that Mr Biko had suffered a stroke nor was there any evidence of any paralysis.

He attributed the slurred speech to the lip injury and (uncontrolled) gait to lack of "cooperation". He could find no cause for his failure to eat and could not agree that he was aphonic (unable to speak). "I advised Col Goosen accordingly," Dr Lang said.

Dr Lang then again dealt with his further examination of Mr Biko, the decision to send him to prison hospital and the agreement that Mr Biko could be transferred back to the police cells.

A fourth statement handed into court contained Dr Lang's remarks to Gen Kleinhaus.

Dr Lang said he did not see the bruise on Mr Biko's forehead during his examination on September 7, 8, 9 and 10.

"If it had been as obvious as it appeared on the photograph I do not think I would have missed it," Dr Lang said.

Col Goosen had informed Dr Lang that Mr Biko "had been aggressive and had tried to hit an officer with a chair. He therefore had to be restrained." Mr Biko was shackled to a grille when Dr Lang arrived in Room 619. The chain was removed before the examination began. Mr Biko did not complain that he had been injured or assaulted during his detention, Dr Lang said.

Mr Kentridge then rose to question Dr Lang. Dr Lang agreed that his primary responsibility as a

doctor was to his patient, Mr Biko.

His responsibility was not only to diagnose the cause of his condition but to prescribe any treatment that might be necessary. Dr Lang said he had treated Mr Biko with the same care and consideration as he would have given any other patient.

Mr Kentridge then drew the court's attention to a certificate Dr Lang had written after his examination of Mr Biko on September 7. In this statement Dr Lang said he found no evidence of any abnormality or pathology on Mr Biko — so that part was also highly incorrect? — Yes, it was.

"It may have been that Mr Biko would one day have said he had a cut, bruised swollen lip and he would have been called a liar? — I see that now.

Isn't that why Col Goosen wanted the certificate? — I don't think so.

In the same report Dr Lang said that in his examination of September 7 he noticed Mr Biko's speech was slurred, which

had assumed that the lip injury and the bruise had been sustained while the police were trying to control Mr Biko. Mr Biko had not complained of being injured or assaulted, Dr Lang said.

Why did you make an assumption? — I think if Mr Biko had not been injured as result of restraint Col Goosen would have told me.

Would he? — Dr Lang said Col Goosen had been present for about half the examination.

Mr Kentridge asked why Dr Lang had not asked Mr Biko for his version of the event while Col Goosen was out of the room.

Dr Lang: I assumed he (Mr Biko) would have told me himself.

Were you not reluctant to embarrass Col Goosen? — No.

Didn't the possibility of a head injury occur to you? — Yes, immediately. The moment I saw the lip injury this was uppermost in my mind.

Why didn't you ask any questions about it? — I can't answer that.

Col Goosen never said anything to you to suggest

the medical examination he had spoken to Dr Lang.

Mr Kentridge: Didn't you go into that?

Dr Lang said he believed that it was because he was being interrogated Mr Biko pretended he could not speak.

Mr Kentridge: What sort of feigning is it that the moment a doctor comes and in the presence of a colonel he stopped feigning. Isn't it odd? — It is odd.

May I suggest that the suggestion of feigning was very largely derived from Col Goosen? — It contributed to it.

Questioned on Mr Biko's slurred speech Dr Lang said he believed it could definitely be attributed to the lip injury. He had not prescribed any treatment for it because the cut was "extremely superficial".

Dr Lang said he attributed Mr Biko's staggering (ataxic) gait to the fact that he had been manacled and his ankles were swollen.

Mr Kentridge asked why, in his report to the pathologist, Dr Lang had attributed Mr Biko's staggering to "a lack of cooperation".

Dr Lang agreed that a person reading this would understand it as a deliberate failure to cooperate. You agree that this is misleading. — Yes, I agree.

Mr Kentridge drew the attention of the court to a report made by Col Goosen and Maj Snyman which said that Mr Biko's speech was not merely slurred but incoherent.

Mr Kentridge: We can understand that if a man has a swelling of the lip his speech would be somewhat thick but doesn't slurred speech suggest something more fundamental?

Dr Lang said "thick speech" was a more adequate description of Mr Biko's way of talking than the phrase "slurred speech".

Mr Kentridge drew the attention of the court to the fact that after the medical examination Mr Biko was left lying on his mat in the office in chains. Dr Lang said he had examined Mr Biko very carefully and found nothing "amphatically" wrong with him.

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When Col Goosen had spoken to Mr Biko, Mr Biko had not replied. In

Mr Kentridge asked why Dr Lang had not ordered Mr Biko to be kept in bed with symptoms he had noticed. Dr Lang said that he had told Col Goosen that if Mr Biko's condition persisted he should be called again.

On the following day, September 8, Dr Lang was again called by Col Goosen and arrived to examine Mr Biko with the chief district surgeon, Dr Tucker. Dr Lang said Mr Biko was coherent.

Mr Kentridge said there were many witnesses who had said that after a certain period Mr Biko was incoherent and that they could not make contact with him. Dr Lang said Mr Biko had replied clearly when asked his name. Mr Kentridge said he had been instructed that questioning on that level was not an adequate test of the degree of consciousness or mental ability.

Mr Kentridge noted that the fact that Mr Biko was in chains had not been mentioned until Dr Lang's fourth affidavit.

Didn't you think it necessary to mention that in your original report? — No I didn't mention it.



MR VAN ROOYEN ... for the police

regard. — No, not in that regard.

Mr Kentridge then turned to the question of the weakness in Mr Biko's limbs. Under examination by Dr Tucker, Mr Biko had complained that he couldn't use his left upper limb.

Dr Lang said that when Dr Tucker helped him to walk he found he had full power in his left arm.

We had better leave Dr Tucker to tell us that. Do you still think of the possibility of his having a head injury? — It was at the back of my mind.

Mr Kentridge: It might have been at the back of your mind but it was not in the forefront of your affidavit.

Asked what had been done when Mr Biko complained of a pain in his head, Dr Lang said he had been very vague about this.

When Dr Hersch was called in to see Mr Biko, Col Goosen filled him in on the detainee's background and said he had been in detention in East London last year and behaved in a similar manner, not speaking and "drawing a curtain down before his eyes," Dr Lang said.

Mr Kentridge said Col Goosen had put Dr Lang under the impression that during Mr Biko's last period of detention he had manifested the same symptoms as conveyed during September.

If this were false, would he not have been seriously misleading the medical practitioners? Dr Lang agreed.

Mr Kentridge said all that Col Goosen had been prepared to tell the court was that in his previous detention Mr Biko had drawn a veil down.

Dr Lang agreed he had not been given the information about Mr Biko's previous behaviour in detention his approach to his diagnosis, heavy bandages, and that it might not have led to the conclusion that Mr Biko was shamming.

Referring to an affidavit by Dr Hersch on September 16, Mr Kentridge asked Dr Lang who gave him information on Mr Biko's previous detention. Dr Lang said Col Goosen had briefed him.

Mr Kentridge: He dropped rather heavy bandages on the bed. My only conclusion was that he couldn't get up. I asked him and he couldn't give me a satisfactory answer. He didn't give a good account of himself in that

Carrying on with his summary, Dr Lang said Col Goosen had expressed concern that Mr Biko might have suffered a stroke since he was not speaking and was not using his limbs.

"I was given a short resume of events leading to his detention in the security offices and Col Goosen strongly emphasized the fact that he did not wish any harm to befall him.

"I then carried out a lengthy and complete examination of Biko who was lying in an office on a number of blankets.

"He was able to give me a good account of himself and did not complain of any symptoms other than weakness of his limbs and lacked the desire to eat," Dr Lang's statement said.

"Before departing I informed Col Goosen I could find no organic cause for Mr Biko's apparent weakness and that I was satisfied that he had not suffered a stroke, nor was there any paralysis of any limb."

The next morning, September 8, Col Goosen expressed concern over Mr Biko's condition since he had not passed urine during the previous 24 hours and he had refused all offers of food.

He agreed to re-examine Mr Biko later in the morning and had requested the chief district surgeon, Dr B J Tucker, to examine Mr Biko in consultation with him.

This examination started about 12.45 pm in the security offices. Dr Lang said he noted no material changes in Mr Biko's physical condition save for the facts set out in his medical report.

"There was certainly no distension of his bladder and no indication that he was suffering from retention of urine. At the conclusion of this examination, Mr Biko complained of thirst whereupon Warde Officer Coetzee was asked to give him water.

"In view of our observations I decided that he be transferred to the Sydenham Prison hospital where a further examination would be carried out by a specialist physician and this was immediately agreed to by Col Goosen."

Dr Lang said that Dr Tucker was contacted during the afternoon and Dr Hersch agreed to examine

him during the evening.

About 9.45 pm Dr Hersch examined Mr Biko in his presence at the Sydenham Prison and it was agreed that a lumbar puncture be performed the next morning to exclude the possibility of cerebral haemorrhage or other cerebral disease.

A lumbar puncture was performed by Dr Hersch and shortly after this, about 9.45 am Dr Lang visited Mr Biko.

"He was comfortable and did not complain of any pain and was in possession of all his faculties. I received a report from Warde Sebah to the effect that Biko had eaten half a plate of food and that he was found in a bath of water during the early hours of the morning and that all his clothing was soaking wet.

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regard. — No, not in that regard.

Mr Kentridge then turned to the question of the weakness in Mr Biko's limbs. Under examination by Dr Tucker, Mr Biko had complained that he couldn't use his left upper limb.

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We had better leave Dr Tucker to tell us that. Do you still think of the possibility of his having a head injury? — It was at the back of my mind.

Mr Kentridge: It might have been at the back of your mind but it was not in the forefront of your affidavit.

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Mr Kentridge: It might have been at the back of your mind but it was not in the forefront of your affidavit.

Asked what had been done when Mr Biko complained of a pain in his head, Dr Lang said he had been very vague about this.

When Dr Hersch was called in to see Mr Biko, Col Goosen filled him in on the detainee's background and said he had been in detention in East London last year and behaved in a similar manner, not speaking and "drawing a curtain down before his eyes," Dr Lang said.

Mr Kentridge said Col Goosen had put Dr Lang under the impression that during Mr Biko's last period of detention he had manifested the same symptoms as conveyed during September.

If this were false, would he not have been seriously misleading the medical practitioners? Dr Lang agreed.

Mr Kentridge said all that Col Goosen had been prepared to tell the court was that in his previous detention Mr Biko had drawn a veil down.

Dr Lang agreed he had not been given the information about Mr Biko's previous behaviour in detention his approach to his diagnosis, heavy bandages, and that it might not have led to the conclusion that Mr Biko was shamming.

Referring to an affidavit by Dr Hersch on September 16, Mr Kentridge asked Dr Lang who gave him information on Mr Biko's previous detention. Dr Lang said Col Goosen had briefed him.

Mr Kentridge: He dropped rather heavy bandages on the bed. My only conclusion was that he couldn't get up. I asked him and he couldn't give me a satisfactory answer. He didn't give a good account of himself in that