



SOUTH AFRICAN PERMANENT MISSION GENEVA

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The Permanent Mission of the Republic of South Africa to the United Nations Office at Geneva and other International Organisations in Switzerland presents its compliments to the Office of the United Nations High Commissioner for Human Rights and has the honour to refer to the joint communication from Special Procedures AL ZAF6/2023 dated 4 January 2024.

The Permanent Mission of the Republic of South Africa wishes to transmit a letter from the Minister of International Relations and Cooperation, Ms G.N.M. Pandor to the United Nations High Commissioner for Human Rights, Mr V. Türk, along with South Africa's additional response to the joint communication from the Special Rapporteurs.

The Permanent Mission of the Republic of South Africa to the United Nations Office at Geneva and other International Organisations in Switzerland avails itself of this opportunity to renew to the Office of the United Nations High Commissioner for Human Rights the assurances of its highest consideration.



Geneva, 6 June 2024

The Office of the United Nations High Commissioner
for Human Rights
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**MINISTER
INTERNATIONAL RELATIONS AND COOPERATION
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Your Excellency

**Follow-up Response to Joint Communication Received from UN Special
Rapporteurs on the Rights of Migrants**

I refer to the letter, dated 04 January 2024, from the Special Rapporteurs on the rights of migrants, on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, and on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, requesting an official response by the Government of South Africa to concerns on allegations of human rights violations, including inaccessibility to adequate housing, food, health care and water; as well as racism, racial discrimination, xenophobia, and related intolerances alleged to have been experienced by migrants who informally occupied a building on 80 Albert Street, Johannesburg, South Africa, and which, sadly, was destroyed by fire on 31 August 2023.

You will recall that I forwarded an initial response to the allegations that were reported under cover of my letter, dated 4 March 2024.

The process that was initiated by Government to obtain information needed for a comprehensive response to the above-mentioned letter is continuing. In this regard, the Commission of Enquiry that was established following this incident has released the first part of its report. The Commission is expected to release the final part of its report towards the end of 2024. I am therefore forwarding this second response from the Government of South Africa, which includes comments received from the Office of the Premier of Gauteng Province, including Part A of the report of the Commission, as well as comments received from the South African Police Service (SAPS), on the understanding that additional information will be submitted in due course, to complement this follow-up response in addressing the allegations that were raised.

I trust that you will find this to be in order.

Please accept, Your Excellency, the assurances of my highest consideration.

Dr GNM Pandor, MP

Minister of International Relations and Cooperation

Date: 6/6/2024

His Excellency Mr Volker Türk
UN High Commissioner for Human Rights
Geneva, Switzerland

SOUTH AFRICA'S SECOND RESPONSE TO THE JOINT COMMUNICATION FROM UN SPECIAL RAPPORTEURS:

A. COMMENTS BY THE OFFICE OF THE GAUTENG PREMIER

1. Appointment of a Commission of Inquiry by the Premier of Gauteng:

The Premier of Gauteng, consequent to the fire that engulfed and ravaged the Usindiso Building in Marshalltown established the Commission of Inquiry under the Chairpersonship of Madame Justice Sisi Virginia Khampepe, to conduct an inquiry, with the expedition, into the circumstances surrounding the fire that led to the death of at least 77 people, including women and children, and dozens more others seriously injured and homeless.

This aspect is victim-centric and constitutes Part A of the mandate and proceedings of the Commission. Therefore, arising from this specific mandate, the Commission was required to consider and report by no later than 30 April 2024 on issues that must include but not limited to the following:

- how they came to live and/or allowed them to live at the building
- who benefited from them living at the building
- the lawfulness of their occupation at the building
- their rights to housing, if any
- the appropriate steps that must be taken and by whom

These are the first set of issues of the investigative process under the Khampepe Commission of Inquiry whose mandate is to look at and report on – the set of issues that relate to the residents, their conditions, their rights, et cetera.

Commissions of Inquiry are investigative platforms which the Executive in a constitutional democracy may draw on in respect of matters of public interest for the primary purpose of assisting the Executive to make a decision in the exercise of power or performance of a duty conferred or imposed by law; or formulate a policy.

- The Commission of Inquiry is tasked to conduct a fully-fledged inquiry without bias, fear or favour, and must therefore be insulated from any reasonable apprehension of political inclination or representation.
- The existing processes run in the space of the criminal justice system in instances where instances, such as fires occur and lives are lost.

Arising from the specific mandate in Part A, the Commission will then proceed with Part B which is, with the expedition, to conduct an inquiry into circumstances surrounding:

- generally, the prevalence of buildings in the Johannesburg Central Business District being abandoned by their legitimate owners or landlords and taken over by criminal syndicates or other groups and leased out to and populated with tenants who do not have the means to afford other forms of housing without these said syndicates or groups providing any basic sanitation and paying property rates, municipal service charges and surcharges as well as other forms of taxes (the so-called 'hijacked buildings').

This aspect of the mandate and proceedings of the Commission involved probing issues or matters that relate to the policy position of Government (at national, provincial and local spheres) over that and how that policy has shifted, in particular, concerning the provision of inner-city housing and basic services in respect to poor residents.

In addition, is the role and conduct of non-state bodies who may have taken advantage of the shift in policy, including criminal syndicates and other (vigilante) groups and whether they may have any involvement in relation to the fire at the Usindiso Building.

The Commission is expected to submit its second and final report by no later than 31 August 2024. Currently, the Commission is housed at SCI-BONO Discovery Centre, 1 Mirriam Makeba and Helen Joseph Streets, Newton, Johannesburg, and proceedings run daily, from Monday to Friday, at 10h00, and in public, except where otherwise ordered by the Chairperson.

As an independent body that is not affiliated with the Government, the Commission, in the fulfilment of its mandate, without any undue political influence or interference to ensure complete legitimacy, is being assisted by the following team of personnel:

Secretariat to the Commission –

- Seanego Attorneys Incorporated, a law firm of attorneys, was appointed and designated as the Secretary to the Commission, to support the Commission with administrative and logistical arrangements.

Counsel to the Commission –

Three advocates had been appointed and designated by the Chairperson of the Commission to:

- act as Counsel to the Commission
- assist the Commission with its investigation
- advise the Commission on matters of law and evidence
- present evidence during the proceedings of the Commission

The first part (A) of the report of the Commission of Enquiry is attached.

2. Forensic Pathology services provided following the incident

In relation to interventions undertaken by the Gauteng Department of Health in response to the incident, the Gauteng Department of Health Forensic Pathology Services unit was able to ensure that DNA was taken from 59 victims (for comparison with families) The Outstanding DNA are: 2 (recently taken for comparison). Bodies with DNA results that still need to be identified by next of kin: 18

3. Access to Health Services in the Province

The South African National Health Act of 2003 underscores the fundamental principle that the South African health system provides healthcare to all individuals residing within its borders without discrimination, irrespective of nationality, immigration status, or documentation. In line with international human rights norms and commitments, including those articulated in the Universal Declaration of Human Rights and the International Covenant on Economic, Social and Cultural Rights, South Africa reaffirms its unwavering commitment to ensuring equitable access to healthcare services for all, including undocumented foreign nationals. Upholding the principles of inclusivity, solidarity, and social justice, South Africa recognizes the inherent dignity and worth of every individual and endeavours to promote their right to health, regardless of their legal status. By upholding these principles, South Africa affirms its dedication to fostering a society founded on principles of equality, non-discrimination, and respect for human rights, in alignment with the United Nations Sustainable Development Goals and the universal pursuit of health for all. Total number of patients treated with our

facilities from the incident: 61 People treated at facilities and 17 were admitted with serious injuries.

B. COMMENTS BY THE SOUTH AFRICAN POLICE SERVICE

The criminal case JHB Central CAS 1276/08/2023, Inquest was changed on 2024-01-25, to JHB Central CAS 1289/08/2023, Arson, 76 murders and 120 attempted murders.

On 2024-01-23, a suspect, [REDACTED] was traced at Turfontein and taken to the Khampepe Commission of Enquiry for his evidence. During his testimony at the Khampepe Commission of Enquiry he admitted to killing an African male who has stolen drugs from him, after he tortured and strangled the victim, he realised that he was dead and poured petrol over him and set him alight.

The accused made a confession at Johannesburg Magistrate court on 2024-01-24, before a Magistrate and he is still in custody.

Khampepe Commission of Enquiry is still in progress, 130 witnesses already testified and 80 witnesses still need to testify.

South African Police Services: Gauteng confirm that no searches and raids have been done by the South African Police Service to evict occupants without a court order.