

GUKURAHUNDI: WHY DOES THIS CONTINUE TO STARE THE NATION IN THE FACE?

Jackson.

us

oh take a

up

been

Others known as Sipo, Maluna,

And

I'm pleased to introduce

another of very detailed

reports on organized violence

and torture in Zimbabwe. A

reported to be launched

tomorrow 1982 to 1987. A period

which coincides as you realise

with the Kukura Hundi. Uh

period. And we have aptly

titled this discussion why does

this what does keep steering

the nation in the face? It's so

because it's unresolved. cannot

be resolved as long as a

national question in Zimbabwe

is not resolved. Is a national

tragedy. A national blemish on

the history of this country. we

have visited this discussion

many times

Sydney and Eleanor were on a
similar but much more poignant.

Discussion held at SAPIS Trust

three years ago and then the

following day in Blawayo. It

was violently emotional. As it

was a a reminder. That is this

an issue that will continue to

to steer us in the face. And

we're we're sorry to have to

say that we we had another on

that occasion. Martin Lupier

was since left us untimely

deaths a few weeks ago. Um and

we like to through this forum convey our sincere condolences to his family. And all of those that have known Martin. A great patriot that that he was. I won't say much more than I have to say. Except to introduce our moderator Musa Kika, one of our young Turks. the new generation of leaders emergent.

Doctor Mandaza, thank you so much and good morning, good afternoon, good evening to those who are joining us on here on Zoom. Those who are following on Facebook and those who watch on YouTube later on. Uh welcome And greetings from Malare, Zimbabwe. Ah, the topic today as doctor Mandaza is eh, painted for us, is Bukuragumbi. Why does it continue to stare us in the face? And he answered that to say because it's unresolved. Let me start by just sharing a few words just to give us context before we jump into our discussion. Love was listening itself is is marred by several episodes of organised violence and torture. And Gukura Windi remained the main episode because it is one of those in the you know periods in history that questions our humanity. As Zimbabweans in Zimbabwe. Robert Mugabe simply said of it. It was a moment of madness. And that was it. Then in 2009 when we formed our unity government, the GNU. We an entity that we called the organ or national healing reconciliation and

integration. Which was supposed to help us deal with our past. But that organ folded a few years later without addressing the Gukurawundi issue. And then when we negotiated our current constitution of twenty thirteen we included there an independent commission that we call the National Peace and Reconciliation Commission. Again this is an entity that had that has multiple purposes. But chief among them to deal with the past. To ensure that issues of justice and accountability, reparations, truth telling are brought to the fore. Uh sadly, nothing has been done. Several years later, since we put in place this mechanism. And if a Supreme Court ruling of October 2021 is to go by. We are anticipating that the tenure of the NPRC is going to terminate in May twenty twenty-three. This was because this body simply started operating in 2018 when the enabling legislation was put into place. Um with the Sunset closing the constitution which says that the tenure is 10 years. Uh so because this act was only passed in twenty eighteen, it means that this body only started doing its work in 20 18. There was litigation in the Supreme Court in Mashvingo. In 2019. And the ruling was to the effect that the NPRC must do its full tenure. Up to 2028 because it only started operating in

January twenty eighteen. Sadly the government appealed the Minister of Justice, the president, the vice president, the attorney general appealed to the Supreme Court. And the ruling was met in October 2019 to the effect that the NPRC should only run its course up to twenty twenty-three. Counting 10 years from May 2013 when the constitution was passed. The NPRC itself was not a party to those proceedings. They were cited as a respondent. They decided not to participate in that. So the NPRC may not be with us next year. But whether it's with us up to next year or maybe with us in upcoming years. You and I are likely correct to say that nothing much is coming from the NPRC. And then we currently see the president, President Edidi Mwangagwa making some moves in Matepeloland. Working with chiefs. To in his words to redress or deal with Gukura Hundi. So we understand that some processes are about to start. Uh some funding probably set aside. Where traditional leaders are going to need some conversations on Kukura wounded Matevele. Is this a real exercise? Is this to is this just window dressing? Is this meant to destroy the evidence or rewrite the narrative? Uh we don't know. But we are going to interrogate this topic tonight with two distinguished speakers. And this conversation

as Ibo mentioned, is coming at the backdrop of a research report that the Zimbabwe rights and geo forum Use number trust, counselling services unit and the research and advocacy unit have put together looking at the history of organised violence and torture in Zimbabwe in the years nineteen eighty-two. 1982. And that report is going to be released tomorrow to mark the international day of the right to truth. Concerning gross human rights violations and the dignity of victims. Three questions. Uh what detain us today? Number one, what has been done in the past to address Ukurawundi and number two, what is being done now? And number three, what really needs to be done? And our keynote speaker today is a brother of mine, a brother of all of us, Siphosami Malunga. Uh, Sipo is a well-known celebrated human rights activist, who really needs no introduction. A human rights lawyer, who has worked five and wide in Zimbabwe, in Southern Africa, in Africa, the rest of the world. On issues to do it rights, rule of law, governance and dealing with conflict. Uh welcome Sipo and it's a pleasure to have you. And we have Elena Sisulu. Who's also no stranger to this platform. Uh a celebrated human rights activist in her own right. Uh a writer. Who has worked with

several human rights and governance organisations here in Zimbabwe and across the Limpopo in South Africa. We are very much pleased to have you. And you know. So we are going to start by coming to UCPO and ah Sipo we are going to give you some 30 minutes to address us on these issues. Thereafter ah Missisulu you can come on board and give your reactions. Ah for some 15 or so minutes and we will open up the floor to receive contributions and comments. Over to you Sibe. Thank you so much Musa. Eh thank you to Doctor Mandaza for inviting for inviting me. For organis this very important event. Uh thank you to Tony with whom I've been in touch in the background. And thank you my sister Eleanor. We we talk a lot but of late we haven't been able to talk. Um I I I will use as a point of departure what you've just said Musa. on the NPRC as being so emblematic of any desire to address the question of Kukrawundi. The fact that the government appealed together the president and the vice president and the minister were fighting so hard to make sure that the mandate of the NPRC ends in twenty twenty-three. That tells you right. Tells you a lot about any desire or intention to address Kukurawundi. Um the the the this Meeting has three questions. What has been done,

what is being done now and what really needs to be done. I will answer the questions in five parts. Uh but before I go to my five parts, I'll just ask, I'll dispose of the question. What has been done? Nothing. What is being done now? Nothing. What really needs to be done, I will answer the question. One of the most fascinating things about Ukraundi is that it's one of the most talked about episodes in our history, post-independent history, but it is also one of the least analysed apart from, I've been working on a, on a, on an academic research study for the past two years on Gukrawundi. I should, I should just say that upfront. And I understand it far much more than I did two years ago. Um, a lot of the discourse on on Gukurawundi has been quite factual. It has been, it has been around questions of the impact of Kugraundi. What it left in its wake people dead, people injured, people, children without birth certificates, property destroyed. Um and and there are two key reports. maybe three, depending. Uh the the breaking the silence is the most is the most illustrative report regarding the the atrocities. Um although it was released in 1997, it's based on compilations and interview statements and witnesses from witness statements from the

time it occur and based largely on the work of the missionaries, the Roman Catholic Church, the missions that were in Lupane, Pumula Mission, Minda Mission, in Matabilen South. So the mission staff, the clergy that were able to compile and receive a lot of reports from victims. Uh, and, and, so that's one part of the source of, of, of, of material for, for the Gukaraundi. There are also some medical records, because at the time, were receiving victims that were that were that were you know brutalised. Doctor Boyd in extensively documented he was working in Matilbean South extensively documented accounts of victims that were coming. Victims of Kukrawundi. Uh there's a report by the Lawyers Committee for Human Rights, Bill Barclay. Uh he spent some time in Zimbabwe around nineteen eighty-five, eighty-six. And he compiled port cold wages, wages of war. Very fascinating report. There's there's a number of other doctoral thesis, K Yap, Katry Up has done fascinating thesis on Gukuraundi, he was able to undertake extensive interviews with key key actors including the Kukurawandi commander actually Colonel Munemo and others and the Minister of, of Justice, Minister of, of Security at the time, Emerson Mnangagwa, and many others. Uh is a

fascinating thesis. It's called uprooting the weeds. And it talks about the the massacres in Matebele land. There are many others. Um many other works. Uh that look at Kukurawandi from many different angles. Um but what's been missing and and I will I would address this. It's part of the study that I've been doing in the past couple of years. Has been the categorization of Kukrawundi. What was it? I mean we we talk about it as if we all were all talking about the same thing. Because if you saying you going to resolve it, you going to resolve what? what was Buku Rawundi for you to resolve? Because what it was determines what needs to be done about it. And that's very fundamental. Um, there are some things, if it's a particular thing, a, a specific thing has to be done about it. Uh, if it's another thing, then you can do many other different things. So, so what has preoccupied me as a criminal lawyer international criminal lawyer has been, I've worked in many different other settings. On crime similar to the Gukurawondi, has been that it hasn't been categorised or characterized. In any way, legally. What was it? Uh, but there are many fascinating pointers that will tell you what it was. And I'll talk about this. So I have six questions which I'll try to

rush through. The first is, did atrocities actually okay in Mathebele nè? Or did what happened in Mathebele and constitute atrocities? and the answer and I answer this in my study. Uh the answer is absolutely, absolutely yes. There are four categories of crimes, maybe more, but the four most serious categories of crimes that atrocities that Buk Raundi committed Mathebe and were firstly mass murder, the second is systematic and math rape of women. This is the least discussed, least under understudied, least researched. For normal reasons, especially cultural. But the the the use of rape, systematic rape, of young women was so prevalent by the Kukurawundi, and I, I, I detail. Uh, in one instance, I detail over 40 instances of rape. And in, in some instance is rates of up to 60 children. You know up to 14 and between 14 and 16 years. And then forcing the boys at the school at which these children were taken. To then rape the girls. While the the Fifth Brigade watched and enjoyed itself. Many instances of girls being taken and kept at the camp, women, girls being raped, repeatedly. For months. Um and of course the consequence which has been discussed. The impact, the birth certificate and all these other things. Is that many of these women got pregnant because of and they

even have children from the Gukura Um the other crime, a very, very prevalent crime with was the enforced disappearance of people, individuals. Uh generally, but more specifically, forced enforced disappearance of individuals perceived to be Zapu. Zapu community leaders or Zipra community leaders. Uh former Zebra combatant in the area. Uh but more generally young men and sometimes old men. And I I talk about this extensively and I have there's many clear examples of this. And the one is the mass detention of civilians. In completely inhumane conditions. Uh atrocious conditions where they were subjected to inhuman treatment, torture, cruel and degrading treatment. Unbelievable treatment. And I I I addressed this. There's other crimes. Uh obviously. Uh other other conduct. Uh including the masks the wholesale destruction of villages, burning of villages. Uh but one distinguishing factor about one distinguishing fact about the ground was the manner in which the atrocities were committed. Uh really heinous, barbaric ways in which people were killed. Not the normal way you kill somebody. Uh and of course the the summary way in which the Fifth Brigade took upon itself the decision the power to decide who lives or dies. And and killed people summarily

executed people. Uh so there are many ehm you know specific illustrations or illustrative examples of the four broad categories I talked about. Mass murder, you have the Siwale River Massacre. As an example, there's many others, of course, but I'll just talk about this.

Quickly, where the Bukurawundi moved around the village in Siwa.

Survive is one of the the most fascinating witnesses to what happened in Tswale. She was taken in the middle of the night with her brothers. She was about fifteen, 16th. And evidently there's no way anybody would think she's a dizzard. There's no dissident that has been named. That was female. That was that young. But she was taken in March. The whole night together with the brothers to a a camp. Near the river. And all and many others were picked along the way. And in the end over fifty, 60 people beaten all night and tortured. Uh herself included. And of course when she describes her own torture, she doesn't say she was raped, But you can you can almost imagine she was raped because she says oh they took me and then they beat me. They took me to the side and they beat me and then they they they came back and then they took they took all of them to the river. In the night and then they they summarily shot them. 62 people. Of which

fifty-five died on the spot and the remainder the survivor survived by pretending they were dead. And all able to get up after the the the Fifth Brigade had left. Absolutely unsolicited. Uh absolutely unarmed. Clearly civilians including this young girl of 15. Can could not have been mistaken as a dissident. Uh unrestrained wanting killing. Just complete. Complete you know in humanity. Uh I can talk about the mass rapes. I've already mentioned the one instance in Ziba and there's many others. I mean teachers were raped. Uh in schools. Uh and and and and it's important when you start talking about impact that you want to understand why then the education system in Matabille and then has faltered because because Bukaraundi literally emptied out the the rural Matebele land of its intelligence intelligence here. Uh and and and set the and set the country back and set the region back. I don't want to even talk about in fourth disappearances. We know that so many people disappeared. One of the most promin examples is this Lovela nine. Uh you know the the gentlemen that were taken from Slovela. And and of course it wasn't just that was involved. When it comes to disappearances. The CIO was involved. They used to work together. And in fact in almost

every crime that the fuel
brigade committed invariably
there was either CIO, PC,
Police Intelligence Services
Unit and some other elements of
the Zimbabwe National Army. and
then of course the fourth crime
mass detentions. And the most
prominent example is in
Mathubille and South. When when
the Kuprawindi moved to Makween
South, it adapted its methods.
And instead of the going
village by village, summarily
torturing and, and executing
villagers, and burying them in
mass graves. At Balagwe, it set
up a camp. Where it brought
everybody from everywhere.
Throughout Matebele and then
some even throughout the
country. And detained them in
one of the most horrible,
despicable inhuman conditions.
And if you, if you, if you are
appalled by the conditions that
the Jews were kept in the
Holocaust, I can tell you that
was exactly the same. People
were kept in human conditions,
no food, no water, no shelter,
and many died just from
starvations. Uh, and they were
tortured daily. They were
beaten. And this was a huge
operation, including the CIO,
the police, Fit Brigade
members. Systematic protest
really aimed at breaking the
community. They were collected
from around around Matebule and
South and and and the camp at
some point would have thousands
of people and and there there

are estimates that you know in total over ten, 15000, 20, 000 people went through the camp. And of course the faith was the same. People would be taken. They would be kept there under fed or not fed at all. And everyday they would be taken and tortured. Uh despicable in the most despicable of ways. And the torture might surprise you involved some many CIO officials including CIO, female officers. So witnesses talk about an officer, a female officer beating people, beating men on the genitals and and standing a stride over them and and asking them why they are not getting erections because because it doesn't mean that she doesn't arouse them and they'll be beaten. And then of course you get for the first time instances of mutilation of women's vaginas at Balakwe. Uh a very new telling. And then of course continued rapes. Women being taken for days. Being given to Bukrawundi. Soldiers as wives for months. And being raped and then of course people many people died from the torture. And when they died they were then thrown into mine shafts. Initially they were being buried around the Balagoi. But of course the burial space was not enough And there was also a chance that they could be discovered. So then it was easier to then put people in mine shafts. People were now being thrown into

shafts. Mine shafts. You know gold mine shafts. And there's many people there. Uh victims of of torture and killing by the Bukaraundi. So the question for me as I as I engage this topic was okay so what was this? Uh Mugabe called it a moment of madness. Okay. Fine. That's his opinion of it. Many people say it was excessive use of force by the army, okay? That's an opinion. Uh some people say it was a war between Zipra and the army, National Army, okay? But I wanted to understand, as a criminal lawyer, international criminal lawyer, what was this? What, what, what, how do you classify it even under international, even under national law? I came to the conclusion which I'm ready to stand by, that Kukurawondi atrocities were international crimes. I've been able to to to conclude that Kukrawundi atrocities constituted three core international crimes. The first is genocide. Uh, the second is crimes against humanity and the third is war crimes. I, I'm able to substantiate this, this conclusions. Was a genocide. In that, the, the, Mugabe and Hizano PF elite made a decision to eliminate Zaku. But in in eliminating Zapu the decision was to eliminate the Ndebele supporters of Zapu. And that's an important distinction. Because there's been a lot of debate about, no, it was

political it was, but I, I, I,
I, I, I've gone through the
motions of analysing this. So
absolutely, there was a
political angle to it. But it
doesn't negate the genocidal
intent. And and and when you
look at at at at what had
happened preceding that, you,
you, you see exactly how the
genocidal intent was formed.
You have somebody like Zogo.
Celebrated lawyer from Harvard.
In nineteen eighty saying after
the election results that hey
you know, we thought that the
white people would struggle to
accept the loss of power to
black people. This is after
Mugabe had won his 57 seats.
But we never we never thought
that in the balance would
reject Mugabe in this way. Now
at what point do you
characterise Zapu supporters as
Ndebeles? And if you think
about it you know there's a
reason why Mathebele and why
Zapu still got twenty votes. 20
seats in Matebele land. There's
a reason. And if you if you if
you're honest in analysing what
happened in the in the in the
run up to the to the nineteen
eighty elections. you will know
that Zander Combat many of them
were not put in assembly camps.
And they went into the villages
and they literally brutalised
villages ahead of the twenty
the nineteen eighty election.
People forget now that 1980
election was violent. Extremely
violent. We celebrated as the

election that Usher doesn't do independence. So violent in fact Lord Songs was asked to cancel the election by Joshua Nkomo. Uh I mean historians and and and philosophers like like Doctor Igbo will remember this. Uh it was so violent. Of course the violence was was unrestrained. It targeted but he targeted the Zapu. The Zapu element in Mashonale. The political element in Mashonale. And many of these were shown up. Uh I I have to make it very clear. Because remember Zapu was never the party. The the the the five or six top leadership in Zampo Weshona. I mean who we celebrate after whom the first hospital was named was the vice president of Zapu. He actually died in Thabaz Nduna there. Hit by a train. So say. But but he was a he was Nkomo's deputy. Chinamano was not in the building. Uh we can keep going. Nyandoro, Chikerema, all these people that were in Zap were not in the valley. Uh Sonkomo, Nkomo was genuinely trying to build an a national party. But what we see in 1980 is a is a is a characterisation of Zapo as a developed party. And you get people like Zobo calling saying this. You get Mugabe in interviews saying the people of Matebele and have to be reoriented. You you get to understand that this is this thing gets very tribal. You get the central committee meeting

and talking about Ndebele's meeting to be wiped down. Uh and and yes it's Zapo but because supporters of Zapo the the perception was that after the election the in club of Mathebele land The in club of Zapo remained Matebele and with Nebele supporters. So so we go and deal with his supporters. And we know this is consistent. I've written a paper which was published last early in the year. Called the History atrocity and it look it traces the, the, the, the agenda, the political agenda and the ideology of Zanopia for one one party state. Uh, and destroying all opposition and critics. Uh, find time to read the paper. Uh, if you can. Um, so I trace this over over 40 years. The history of atrocity over 40 years. I traced it all the way up to nine, 2021. Uh, but, but, but, but, we, on that, we can talk about other separate time. Uh, I'm talking about an ideology. So the ideology was formed and there's minutes Zobo talking about the central committee making a decision. And then when you listen carefully to the to the utterances. And Tony, Tony, I'm answering a question you pose it in your in your report. Where was genocide or crimes against me? It was both. Both the genocide and crimes against humanity. I can unequivocally argue that. Uh of course others can argue other things. So you

you begin to have this narrative that Zapo is a developer. Which it was and you know the adage that if you want to if if a if a if a leopard wants to eat its own children it it it first accuses them of smelling like goats. So so you then have Mugabe and his entire Zanu PF Quttery saying hey you know what? This is this is this is Andebeles. And because remember that they had only deployed the Zanla combatants in Masonal Land, Midlands, Manikaland. They hadn't done the same in Matebele land. So the people were actually able to vote freely. That's why God is twenty-six. I'm 100% certain that had there been no violence around the country, Zapa would have gotten more than 20 seats. But, but, but the, the competence had, had gone out there and emptied Zapo and Thako Tzapo another support. I'm not saying that's why Mzenewa got three votes, I think was just unpopular. But, but, but, but in reality, that's what then happened. Um, so, so that's the backdrop, right? And, and when you, at some point, when I released my findings of my study, you will understand how I reached the conclusion, and I compare the genocide in Matebele land with genocide, rain from 19 well, from 1904, the genocide of the Herrero in Namibia by the Germans, which they finally

admitted. The Armenian genocide by the Turkish, which they've sort of admitted. The genocide of the Ukrainians by the Russians, the Holomodo, which they have refused to accept, but which, which, which is self-evident. The genocide that occurred in, in, in, in the former Yugoslavia of Bosnian Serbs, and Bosnian Croats and so on. In that war which has been acknowledged and which has been dealt with by the International Criminal Tribunal for Yugoslavia. Uh the genocide in Rwanda, the most the most modern, the most vivid in our memories which happened in 19 in 19ninety. I believe it was. Over a space of 100 days. So there's absolutely no question. That the the intent to commit genocide was formed. Um the the the fact that there was politics involved does not negate the genocidal intent. and there's many instances of, of of incitement with genocide. Speech designed you know to to show up and to, to to to to agitate, you know, these attacks against Ndebele citizens. And I have to say this, because if we're talking about resolving ground, we must say what it is, what's the reality? We, we are not, it make, it may make people uncomfortable that we are saying that there was a genocide of Ndebeles, but we're also not saying that all Shaunas went and killed

Nebele's Matebele, no. I will get to, who killed Nebele's Mathebele there? Um, as part of my, of my presentation, when I talk about the criminal responsibility of the perpetrators, but, but there wasn't genocide. It's the same as saying did all Germans kill the Jews? No, it was the Nazi machinery that killed the Jews and the Germans are ashamed of it. To a point where they've even, they've even passed anti, anti-denialism laws. Uh, did some comply? Did some assist? Aid are bad. Uh the perpetration of genocide. For fear. Maybe some opportunities.

Opportunistically yes. And the reality is that the Zano PF machinery was exactly the same as the Nazi. If you're thinking about the planning, the execution, the intention to literally reorient or wipe out these supporters of Zapu. Uh you know the language as a snake. You have to crush it. It's so vivid, right? I mean, can you imagine what you do with a snake every time you see it, you crush it, and the children of a snake, you crush. And this was the mission given to the fifth brigade. That go there, plough and reconstruct. They had complete cut blange. There are now some arguments that oh they were the most ill disciplined and you know, the problem was their discipline. How do you train people and

deploy them and give them these instructions and then try and turn around and say, oh no, it's discipline issues. No. That was the intention. Absolutely the you. So I, I, I, I have absolutely no doubt that, in terms of the nature of these crimes under international law, these atrocities, they were, they were international, they were international crimes, I've described genocide, which is simply, I've said this before in previous lectures, genocide is the, the, the, partial or complete destruction of a group, based on its identity. So it's it's so if you if you destroy in hollow in part a group and there are four groups that are protected by the genocide convention. National groups, religious groups, ethnic groups, and racial groups. So so in modern times the most recent genocide in Rwanda was an ethnic genocide. And and Mathebele land was an ethnic genocide. Because of the Ndebele nature of the victims. And Mugare himself confirmed it was a genocide. You know 20 years later you'd have thought that okay maybe we're not so sure. Let's let's hear the U tent Of the key perpetrator. The key architect when he was asked. But I think it was SABC or Sky News. I can't remember. At Blue Roof after he been deposed by the army. He said well you

remember that Nderele party wanted to overthrow the government. I mean it tells you that genocidal intent. At what point was Zapu ever characterises and developed I'm not saying that they were not Shauna people that were brutalised by Zanu PF around the time they were. All Zapo supporters were brutalized. Mazendame who was a politician in Gweru was beaten and left for dead and yet he had to move to to to and and and was very close to my father and the children were close to me. At some point after ran away from Gweru. He was a businessman in Gweru. But but what I'm saying is that yes absolutely. They were showing citizens attacked by Kukurawindi for supporting Zaku. But but the intention was to wipe out all Zapu supporting Matebele land. Which was Ndebele. And there are many instances of victims. Saying that when you you say the word ensure now when you mentioned you spoke in Shona you would be spared. There are many instances where they would stop buses and search buses and look at IDs and they would spare people bearing Shauna names on their identity. On their ID cards. This is not to say and I say this all the time. That people must stop being defensive about Kukuraundi. Nobody is saying every Shona person went and killed people Mathebele. We are saying that

small group has the plan. To kill the village. Because they supported Zabu. And therefore it was a genocide. It doesn't matter that innocent Kala was part of it. You can commit a genocide against your own people. There's nothing in the genocide convention that says the perpetrator must be from a group other than the the victim. Even though even though that indicative of a genocide, usually, that the perpetrators constitute a different group from the victims, and that's exactly what happened. The, the fifth brigade was predominantly a Shauna Brigade. Some of the earlier Ndebele people who were trained were weaned off. And that made easy, right? Uh and they went to villages, they spoke in Shona, they forced villagers to sing Shona songs. They beat people who couldn't speak Shona, who couldn't understand, they killed people. So so there's absolutely no debate about that. And and as I release my findings, you, you will be able to see more of that. one of the most important things that's never been discussed. Uh which I I chose to look at because of the way my my research took me was whether war crimes were committed in Matebele. And the Midlands. ah I will talk about crimes against humanity. So war crimes are basically violations of the laws and customs of war. There are grave breaches of the

Geneva Conventions in case of international conflict. And war crimes can be committed in in in non-in international armed conflict which is civil wars. Like happened in I don't even want to say happened in Sierra Leone because that war had many different connotations. The war in the DRC in the Civil War but with international implications and connotations. And many of the wars now transcend borders. So the question is for for there to be a war crime, for there to be a war crime, there has to be a war. That's the law, that's the international humanitarian law, the law of armed conflict. Uh, and, and, and the, the question that's never been really engaged, even though we know that, there was this deployment of a brigade three thousand, three thousand, 5 00, strong, to a part of the country, for a long period, right? 1983 to 1987. That's four 4 year deployment was were they going to fight? Because you don't deploy at the brigade for that period. That's you don't train a brigade deploy. And the question then that comes in is who were the deserts? Were they an armed group as envisaged by international humanitarian law? And the specific specific requirements which I've looked at on on on what constitutional armed group level of organisation is required. What what should be the intensity of

the conflict? Uh for it to qualify as a as a non-internal armed group. And there are many different legal requirements of the law. Uh common article three of the Geneva Convention. Uh comment to all the Geneva Conventions which which expressly prohibit the the the targeting of civilians in a in a conflict. But which also helps you set out. Oh most are saying I've got 5 minutes and my goodness I've got so much to say. I mean I five minutes won't be enough. Musa. Maybe give me another ten and I'll try and then and then move quicker. Yes please. We will give you 10 minutes Sibon. Uh so 10 minutes. Yes I can you can take some of my time. So so much. I guess you probably need we need more time for this kind of conversation. So so I I I have come to the conclusion that the the the conflict in Matebele land. I know that this makes some people uncomfortable. Was actually a non-in international armed conflict. An internal armed conflict. And that dissidents ah although they didn't have the sophisticated level required of organisation. They were somewhat organised. Eh and I I I substantiate those findings in different ways. But but I I I then I then looked at whether it the conflict changed into an international armed conflict because of the involvement of the South

African. Because remember that there was Super Zapo in Matebele land. And Super Zapu was supported by the Boaz. Uh the apartheid regime in South Africa. I conclude that the support of the Boaz did not elevate the conflict to an international arm conference. There are many reasons I draw that conclusion. Some of them drawn from international law, case law, jurisprudence. Much the same as the the international criminal Court has has shied away from categorizing the conflict in the DRC as an international conflict. Even though there's there's evidence by and large of the involvement of the country such as Rwanda and Uganda. But that's a story for another day. So once you determine that the international crimes, what are the implications? So who committed these crimes Who committed the crimes? Who are the perpetrators of these crimes? Because international law for any crime they must be perpetrator. Even in Zimbabweans under the Zimbabwean Criminal Court, the crime doesn't commit itself. And there are many different ways in which crimes can be committed. Who are the perpetrators? So simply a more direct, a more direct, a more direct answer is that the entire Fifth Brigade perpetrated crimes. We may not

know their names. We may not know who was at which village at a particular time. But we know that brigade as a whole, as a unit, deployed and committed crimes. So so we can indict as a criminal organisation. Well I would even indict Zane as a criminal organisation for hacking the plan. But we can go there and look at Nuremberg Tribunal. Judgement. How they they they looked at a question of universal criminality and collective criminality. Uh in in in trying to at least attribute responsibility for crimes committed by groups of people. Because it is very and impossible for for the the designer of a crime to not be the person on the ground killing people, right? So how do you then bring and the the the person who kills people on the ground may not be at the table designing the crime. So how do you capture the complexity of a crime which is designed by a few people but executed by others elsewhere? Because the ones who designed did you ever see me in Matebele? I never went to Matebele. Do you ever see me shooting anybody? That's what Mungabe would say if he was alive. But Muka was at the centre of designing a crime. As was his cabinet ministers. There was the centre of instigating, ordering, aiding and abetting. And they were

part of the common design of the common criminal enterprise. And the execution of it. And and ensuring that it was properly and effectively executed. So so so international law has a way in which it can identify who as a collective is part of the perpetration of international crime. So I look at these issues and I address them as well and I can say quite quite definitively without any equivocation that the perpetrators some are known because they never hid themselves. Uh and some are not. But we know that we know the commanders. We know the superiors, the civil, civilian, political leaders. They are known. And there's a way international law attributes criminal responsibility The next question is now if you know the traitors who are I'm going steadily right? Did atrocities happen? What is the nature of the atrocity? Committed the atrocity. If you know the atrocity perpetrators, can they be held to account? And the answer is absolutely, definitely yes. Um, under our law in Zimbabwe, anybody who commits any crime, and I've already said Kugraundi was genocide, crimes against humanity, and war crimes. But the constituent element of those crimes were murder, torture, kidnapping, rape, destruction of property, which

is sometimes used to be known as malicious indirect to property. And so on. So so any crime you find in the criminal code. And I I look at this. I I I analyse the criminal court to see to one extent the criminal court captures the crimes of Mugraundi. So so absolutely the perpetrators can be held to account. But under national law there are some serious obstacles to holding perpetrators to account. The first one I will say is that in 19, in 1987. In 1987. the the Uh no, 1988, in fact. The decision was made in 1987. And the amnesty ordinance of nineteen eighty-eight was signed in April by Simon Muzenda and and and the current president as he was then Minister of Justice. the Mugabe indemnified all perpetrators of of of atrocities in the in the Kugraundi campaign. Of all criminal responsibility. He issued an amnesty to the dissidents and issued an amnesty to all members of the security firmlessness. Which means he issued an an amnesty to himself as well and to his to to his cabinet members who had been implicated in these crimes. So by operation of that amnesty all the crimes were wiped away. But I I it's a strong butt. Uh there's a fundamental question that even though those those amnesties

may apply nationally custom or international law does not support the giving of amnesties for international crimes. It does not. So that amnesty may as well have never happened. And there's serious precedence in many different many different tribunals. Where amnesties have been thrown out. The the in Sierra Leone, the special court throughout the Lome Amnesty. Agreement. which had been actually fascinatingly which had been supported and guaranteed by EcoWax. When the, when the matter came before the court, they said we don't recognise this. The Argentinian Supreme Court and Christianal Court ignored all the amnesties that the generals in Argentina had given themselves. So the law is quite clear. Uh, that, that amnesty is for international crimes, a not supported by international law. But, but that's another story, but, for the sake of clarity, there is an amnesty. There are many other challenge is of course in in holding perpetrators in Zimbabwe accountable. One of them is is the fact that at the high level perpetrators. Many of them have remained in power. So they've got political incumbency. And therefore use that to to to drive the impunity. So you can't hold them to account. Which court? Who's going to start? Mugabe died. Uh you know without

anybody ever thinking how they can hold him to account. Parent Siri, Chimonio, Edmojimonio, all these mind you. There are serious perpetrators of Bukaundi. They held so many positions. I don't know if Muniam was alive. Um people like Magama, Flint Magama. Who who killed Jean Ntuta. Ja. law has a way of attributing criminal responsibility for the different ways in which people contribute to crime. I'll give a simple example. You go to a bank as a gang. Somebody is they plan, they give the the drawings of the bank, somebody brings a car somebody brings a gun, somebody, somebody simply watches and and waits. Uh and watches and, and, and, and, and his guard, so that the robbers go inside, and they go and they commit a crime, they rob, they kill people there. Everybody is accountable, everybody is responsible for that crime. This is just an example of group criminality and, or universal or collective criminality, how it works, in most basic way, but, but there are more expanded ways in which it's explained. So, then there's another form of of of responsibility. So so if you order a crime, you aid and abet a crime. You instigate a crime. If you omit to do something and fail to prevent a crime, there's many forms of responsibility. If you plan a crime, or if you're part of a

joint criminal enterprise that designs a crime. So you can be part of the design. It means that any other crime that's committed as a consequence of the design which was foreseeable or could reasonably have been foreseeable, you are accountable for that crime as well. Some of this is completely too legalistic, so I won't, I won't deliver the point. But the fundamental point I want to make is that, at the end of the day, once we acknowledge that in Mathebele land, genocide, war crimes and crimes against humanity were committed, we must then say, who committed them? We must then say, what is the criminal responsibility for these people? We must then say, which is my next point I've dealt dealt with some of the challenges, not all of them. I can, I can, I can, I can, I can talk about more challenges under the national, national framework, issues around the proper categorisation of crimes, our criminal court doesn't, doesn't criminalise crimes against humanity. It it criminalises genocide and I'm coming to this. It's a very fundamental, fascinating point I want to make on genocide. It, it does it, well, Zimbabwe is a party to genocide conventions as well. Uh, party to the Geneva Convention So, war crimes would have been would have been would have been

obligated to prevent war crimes. And to prosecute and punish them if they're okay. Uh but as I say Amnesty Ordinance eleven wiped away all all responsibility for everybody. Uh so there are many challenges and I've I've I've alluded to some of them. I'm going to end now by saying okay so then what? Right? Um so clearly under the national national legislation, national system, criminal justice system. The many obstacles. Remember I'm I'm taking a very legalistic approach to to ground here. I'm not taking a political approach. The politicians can go and talk to chiefs and do all these other things. But what are they talking **** about. I'm saying I'm looking at the legal aspects of there were crimes under under national law, under international law, the amnesty can be voided. Because it is it is ultravious and contrary to customary international law. It is not allowed. To give an army or international crime. Uh and and finally so so what then? Um There is an international obligation. investigate prosecute, and punish international crimes. That obligation endures until the international crime is committed. Is is is punished. And mind you under international law the principle of crimes don't prescribe. They don't expire. In Zimbabwe

crimes expire after 20 years. Except murder. Murder is the only crime that doesn't expire in Zimbabwe. So if you look at the the criminal process and evidence act. It provides for prescription of crimes. Murder is the only crime. All other crimes expire after 20 years. So all crimes have expired under the national law. And that's a fact. But under international law, international crimes don't expire. There is no statute of limitations for international crimes. That is precisely why Pinot Cher was arrested for crimes they had committed many years before. That is why you know tribunals continue to work. That's why the Jews that's why the Nazis continue to behold before tribunals. Even up to date in their nineties and however old they are. So what next then? So if you acknowledge that if we say that these were crimes, we they are perpetrators that are known there's criminal responsibility that can be attributed to those perpetrators. There are some national challenges. What's the next you know, what's, what next? There's a fascinating opportunity. Uh, and I, I, I argue, and I, we can debate this that Zimbabwe law as defective and deficient as it is provides an opportunity for justice, it does, for justice, under international law. I'll tell you why. In 2000,

Zimbabwe, Zimbabwe, enacted the genocide act. is at number nine of number nine chapter nine of twenty. Chapter nine twenty. Of two thousand. It was enacted on the 16th of June I think. So the Genocide Act literally imports the provisions of the genocide convention. In terms of defining acts of genocide. Beautiful. Perfect act. It also annexes the genocide convention. So, the genocide in Mathebele, remember I said there was genocide, war crimes and and crimes against crimes against humanity. The genocide can be can be prosecuted in in Zimbabwe. The law allows it. We have a genocide act. But what are the elements of genocide act? That are problematic. And I'm sure that our our our, our legal scholars in in government are going to rush to try to crimes that happened after the act was enacted. Which is two thousand. So it means that it wouldn't apply By virtue of that provision. It wouldn't apply to right? Uh that's the first thing. And that's a problematic provision. But that's a provision that is ultra various international law. It is ultra various customer international law. It is ultravirious. All the decisions of the courts. The the the international tribunals. Genocide At the time that Matebele land happened and the genocide was committed. Genocide was already a crime

under international law. So the Zimbabwean genocide act cannot exclude those offences. It can't. It's it's it's almost it's a non-event to try to exclude those crimes. But I'm sure the drafters thought that as they put that oh yes you know it won't apply to Madrid. It does apply to Matebele. Because international law will never allow you to say where the cut-off is for international crime. At the time that the crimes were committed they were already international crimes. It was already genocide. Remember genocide conventions from nineteen forty-eight. So in 1983 there it was already a genocide. The second part that under the genocide act, there's a requirement that the attorney general authorises any prosecution of anybody charged with genocide. And that the prosecutor general authorises any prosecution of any person charged with an attempt to commit genocide. That again is out of various customary international law. There is no requirement for a trigger, there is no requirement for any permission by any official in any government. For the operation of the genocide convention. Or for the operation of the crime of genocide. I mean guess what? if we had that, nobody would ever be tried for genocide. 90% of the time, the perpetrators of

genocide, a high level officials, organized, state officials, party officials, coming together, sometimes organised armed gangs, coming together to perpetrate genocide. Of course, they will absorb themselves. So to then require that, only if the Attorney General says you can be charged, can they, can you be charged of genocide? It's a non-event. That provision is voidable. Maybe even void. at the start. And then of course the the 1 one minor provision in the genocide act which material material in many ways. Because it also does tell you it it also feeds into the sense of what they were trying to achieve with this genocide act is that there's a prescription of penalties for the crime of genocide. Or for killing as a as genocide. Only killing. Says that the the the anyone convict of killing. Because remember genocide you can kill, you can rape, you can do all crimes, you can destroy property and it can be part of genocide, genocidal acts. Uh, but it, it, the, the, the act says that where you kill somebody as part of genocide, the, the, the penalty will be the same as murder. And when you for any other offence that's committed as part of genocide. Say you beat somebody, you torture somebody. The the penalty shall be life imprisonment. I don't even know

why that provision was inserted in the Genocide Act but but my sense is that it has an impact of minimising. Minimising the the seriousness of the crime. Genocide is mass murder, not murder. Mass murder. It's far much more heinous than anything. It's called the crime of crime. Genocide. It's been described as the crime of crimes. The most heinous of crimes. So there's absolutely no requirement or no need on the international law to prescribe penalty for simple murder because then I mean you might want to even I know that the minister the penalty for murder with actual intent in Zimbabwe is is death. But maybe it's not a point to argue too much. Um so I will I will I will I will end there and say that ultimately the law is clear. It provides for the for the holding accountable. People who commit genocide in Zimbabwe. I've qualified how? Uh distinguished how some of the provisions that are problematic in the genocide act. eh be challengeable. I I haven't talked about crimes against humanity. We don't have a law on crimes against humanity. Our criminal court doesn't have visit. If we don't have a law on all crimes. So but a prosecution for genocide in my own opinion. and we can debate this. Would proximate justice. Because genocide is the worst crime that was

committed in Matebele land. There were crimes against humanity too. And remember that it's possible for one conduct, set of acts, one conduct to amount to different crimes. So a killing the Siwale massacre is a genocide. It is also a crime against humanity and it is also a war crime. So one set of conduct can constitute three different crimes. But of course the challenge with the Zimbabwean legislation, the Zimbabwean legal system is that we don't have legislation dealing with crimes against humanity. And a war crime. So if one was to look for a fallback, what can we do? You can certainly pride perpetrators under the genocide act. And for that you could do that in the ordinary courts. Uh because the act is there or you could set up a special tribunal for genocide. Uh I mean I I discussed some of these separately. So I'll stop I'll try and stop there Musa. Sorry I went on a bit long. I should have not asked for 30 minutes. I should have asked for more time. But that's the picture. So the politics of it is up to the perpetrators. But the law is clear. And if I were perpetrators I would really address before Bukraundi addresses them. Because the law is clear and this is the law of Zimbabwe. Zimbabwe has enacted this act. And of course international law is also clear

that the there's possibilities of the exercise of universal jurisdiction. In in relation to international craft. And South Africa has ruled in by the Constitutional Court. A ruling in the torture case. That crimes committed by Zimbabweans in Zimbabwe are prosecuted in South Africa. There's a judgement hanging over perpetrators of crimes in Zimbabwe in South Africa. And it says if they are in the jurisdiction of of of South Africa. So there's a qualification Conditionally. It's conditional universal jurisdiction. They have to be in the jurisdiction. So at least one day anybody who commits crimes. If the South Africans one day decide they can arrest you and and charge you. Like the British did with Pinoche. When the Spanish judge ordered the arrest. But ultimately the politicians the perpetrators, they want to avoid all these things. They need to seriously deal with Kukrawundi, not this Mickey Mouse thing. Because ultimately, one day, there is a prospect and possibility of them being prosecuted for these crimes. There are crimes. Thank you.

Uh Sipo, thank you so much. Uh I think in the history of SAPS dialogues, you have spoken for quite a long time for a keynote. And for a for good reason. Uh if you were looking

at the charts, Tony says this is the most lucid analysis of Bukura Uwundi to date. And someone said this is a and enriching contribution by Malunga. The idea of an international conference to deliberate and document Bukurawundi may be a good one, clearly. And I think that's because Siboniso you have done justice to the topic. To me I think you have painted the reality of what Kukurawundi was. Both in terms of the stories and anecdotes that you shared with names and characters. And how you characterised Gukura Wundi for what it was. claims. Uh and there's a stark reality that actually in Zimbabwe we are yet to legally or in any legal way or sense characterized Kukurawundi. I have so many questions. I know others have so many questions. Uh please hold onto your questions or post them in the chat. We'll jump into them. But for now I want to give Eleanor a chance. Uh to come in and make her response in the next 10 minutes. And thereafter. Let's discuss Early no offer to you. Oh thank you very much. Um it's quite a task to talk after that presentation by Siboniso. It I must say it really took my breath away. Um I I do agree that the the possibility of prosecution must be pursued. And and strategized, we must strategise on how to do this. And what

needs to be done. Uh, to get to the point where we can have prosecutions. Uh, I, the point that, that he makes at the end, that, you know, the government must deal with Gukurawundi. Uh, I think that the state response the only encouraging thing about it is that there's been a lot acknowledgement that it happened. Uh that at some point it was not possible to deny it anymore. Uh when Mugabe said it was a moment of madness, That was an acknowledgement. Uh of course as I said in the introduction I wrote to the report breaking the silence 2007 edition. It was a long moment indeed. But that was the acknowledgement. But there's been two there's two words I can use to characterise the state response. Uh two English words. One of which I find difficult to pronounce, but one is the use of clever but fake arguments, especially with the intention of deceiving. Two, is the, is of, obfuscation. The act of making something obscure, unclear, or unintelligible. And I think, you know, the process that was Siphos describe of the the courts and the constitution and twenty eighteen. In fact the the the organ for healing. All this is characterised by sophistry and obfuscation. People who want to confuse things so that they don't have to deal with it. And I remember one of the members of the organ

talking about this and saying
oh you know if you talk about
you must go right back to
colonial times and we must go
right back to violations in
pre-colonial times. And that is
that is the approach of the
state. To use these
Kwaza legal ways of preventing
confrontation of the issue. And
and I think it's only civil
society. It's only the human
rights community that can take
this forward. And I I like the
idea of an international
conference. Maybe the timing is
not quite right now. But
certainly it's something that
should happen. Uh because and
and one of the things I think
about this dodging
ducking and diving, you know,
in more plain terms about this
issue, is that people are
dying. Uh, the perpetrators,
the architects are dying, but
also the people who were
important witnesses in the
process. And I want to mention
three of them. Uh, I'll mention
Sister Janice McLaughlin first.
Because I remember at the time
these things were happening. I
remember people were used to
say, oh Mugabe doesn't know
about this. You know, it must
be brought to the attention of
Mugabe. And
And Sister Janice brought it to
his attention. And and made so
this there can never be an
excuse to say that anyone in
the top echelons didn't know.
Even if they argued that they

were not directly involved in the planning. So Sister Janice was a person who played a role. The other person I want to mention little known is Kenneth Rankin. Kenneth Rankin was an orthopedic surgeon. Who worked at Mpilo Hospital. Uh his wife was Joyce Sikakane an Ian sea activist and at that time she was an ANC exile. They were based in in Bolawayo. And Ken saw the injuries. As an orthopedic surgeon he had first hand view of what was happening to people. Um As a doctor, he knew that these injuries were not sustained in accidents or whatever excuses were being made. He knew that these were brutal beatings and assaults of people. And he compiled a report. And that report I think I think was given to the International Red Cross. I'm not sure. And I think Sister Janet was involved in the story somehow. She got that report and she made sure that she brought this hard evidence to the table of Mugabe. So those people are gone. And you know that is powerful evidence that a person like Ken had. The other person is Shiba Dube. Uh a woman who for whom I have had enormous enormous admiration. Sadly left us too early. Uh Sheba came when when I was with the Crisis Coalition South Africa office. We brought a group of women to South Africa to speak directly to ANC leaders and civil society

leaders here. To to testify to the atrocities that women were experiencing. The rape, the abuse, the mutilation of genitals that was happening during the post-election violence in South Africa. And I remember we went to this one office or one organisation. And Shiba was the head of that delegation of women. And they they were all age rangers. And they had been affected at different points of the the political violence and torture. And she spoke about how she was so she was raped and she actually had her womb removed. Because she felt so unclean. That was the extent of the torture she experienced. And she said it's it just breaks my heart to see that there's another generation and another generation of women going through this. So I just want to pay tribute to those people especially to Shiba and to Ken for speaking out. I believe that the ANC was not the stifled that exposure of that report because it was not politically expedient for them to acknowledge it. And being being a liberation movement host you couldn't say these things about the host country. So and then on the perpetrator side mention has been made of some of the people that have have died. So this ducking and diving, the softest tree, the

obfuscation is to make this, draw this process out as long as possible. And I think we should really fight against silence on this issue. That it's never too long. That we will continue to bring this thing up. We will we will not be silent about this thing. Uh, because silence is the worst enemy of of, of, It's the worst enemy in a situation of genocide. And in any genocide, anywhere silence whether it's silence of the apathetic or the perpetrator perpetrators who force silence breeds the culture of impunity. It it means that those things can happen again. And I just want to quote I quoted in my introduction in nineteen the two thousand and seven report. Uh Mandela commented on the on this tendency of silence. Uh with reference to Rwanda. And I quote louder and more piercing the cries of despair. Even when that despair results in half a million dead in Rwanda. The more the cries seemed to encourage an instinctive reaction to raise our hands. So as to close our eyes and ears. So the perpetrators obviously have a vested interest in maintaining the silence. But what about the rest of us who lived through the years and continued our lives as if nothing was happening? We we a responsibility to make sure that we continue with the breaking of the silence. Our

quote Thabo Mbeki also on the the issue of Rwanda. That he said speaking about Rwanda he said a time such as this demands that the truth, the whole truth, and nothing but the truth should be told. It should be told because not to tell it is to create the conditions for the crime to recur. Because we are then he apologised to the Ronds and he said because we were preoccupied with extricating ourselves from our own nightmare. We did not cry as loudly as we should have. Against the enormous and heinous crime against the people of Rwanda. That was committed in 19 9-4. For that we owe the people of Rwanda a sincere apology. Which I now extend in all sincerity and humility. And I think that Thabo Mbeki the Zimbabweans up an apology. For the silence on the general's report. and on the issue of Kukura Gundi, this statement could easily apply. The truth needs to be told. Because not to tell it is to create the conditions for the crime to recur. The silence needs to be broken. Hopefully one day, the leaders of the region who have not cried out as loudly as they should have against the enormous and heinous crimes against the people of Zimbabwe. That were committed in the past 23 years. We'll see fit to apologise to the people of Zimbabwe. And I

to just say, you know, I want to mention Operation Murambatsulo. Uh not because I put it on the same level as the nature of Kukura Hundi. But because I say because Gukura Hundi happened, and people got away with it. It made it possible to commit an atrocity such as Operation Murambatsuna. It made it possible to commit many of the atrocities that have that have happened subsequently. It bred a of impunity. And the only way to stop that culture of impunity in its tracks is to have accountability. And so people must be held accountable. Even if it's posthumously they must be held accountable for for the for the grave crimes. And the genocide of Ukuraundi. And I would say that all Zimbabweans have a responsibility. Uh because when something like this happens we need to say thereby there. But for the grace of God go we. And I I would say that this impunity is not only in Zimbabwe. It's in South Africa as well. And in the region organised violence and torture are unfortunately much more a feature of state security apparatus in the region than we would than we would like to believe. So I I I feel that this our greatest weapon Don Matera says memory is the weapon. And I think that that memory needs to continue and discussions like this and for I I also want to ask for a

space for the direct the direct victims and survivors. To be able to to speak. Uh not these state organised platforms. But genuine platforms. And they didn't necessarily be in Zimbabwe. But genuine platforms where the voices of people can be heard. And that we can counter the silence. I think I can stop there. Thank you so much Eleanor for those remarks. Uh the sophistry that is happening deliberate confusion. People dying with their evidence. The need to continue to break the silence telling the story, the truth needing to be told. And breaking impunity. Because happened, we allowed it to happen without redress. It's then possible for us to have Murambajila. It was possible for us to have two thousand and 8. And it is possible us to continue now recording the cases of torture, abductions and enforced disappearances that we are recording. Thank you for that. Um Thabangga I've seen your hand and I'm going to come to you very soon together with those who have questions. Please just raise your hands. I'll come to you. Uh I've seen questions on the chart as well. I'm going to extract those. Uh but let me start by pausing this question to Mister Malunga. I'm going to then go onto the questions in the chart and also take a few in in hands that are raised. And the question to Mister Malunga is

why the defeating silence from the international community? Uh you have characterised which characterisation I agree. Kukurawundi is international crimes. Genocide, war crimes, crimes against humanity. And those law, those crimes are crimes with what we what is understood to be extra territorial jurisdiction or international jurisdiction. They don't necessarily to be tried within our borders. They can be tried in South Africa. They can be tried anywhere in the world. Why the defeating silence? And a comment to go with that. Is there political leaders in office today who include the perpetrators? of this international responsibility, criminal responsibility which they have, which you correctly outlined. That seems to be a powerful contributor to them wanting to hold onto office now. Thereby protecting themselves, at least in their opinions. And as they continue to rule, unwanted by the people, they continue to do so by force. Thereby, perpetuating a cycle of violence, a cycle of impunity. Like I said, we keep recording abductions and torture and enforced disappearance. Today These are people that are seem to be dissidents, people that you know, may be speaking against the government, they continue to face this fate today and the government may be

or the governors of the day may be incentivised to do this as a way of continue continuing to hold onto power as a way of protecting themselves. So what needs to be done? Do we wait for people to simply perpetrators to die, people with evidence, victims to die, and we hope that nature will take its course. What needs to be done? So I pose that question to you, and eh, the question that I also saw from the chart from Tony, says, genocide, these are acts when committed as part of a widespread or systemic attack, directed against any civilian population. With knowledge of the attack. Would this not apply to Operation Muramba Chima in the two thousand and eight election violence? That's a question so Sipo maybe you can attend to those two and then when we come back I will take I'll take William and then I'll take Tony in that order. Okay, thank, thank you so much, Musa. So, why the defining silent? Why the deafening silence from the international community? you know you must remember that the international community has a very short attention span. ah I could ask you the question why the deafening silence to the atrocities in Syria? in the past 5 years Syria has seen the worst most unimaginable atrocities committed against his people by Assad. Including

by the Russians who've been bombing literally the whole country and of course the Western allies there.

Everybody's been in Syria. Why the deafening silence in Yemen? Why the difference in silence in Palestine? Why the deafening silence in Ethiopia? Why the deafening silence in the Sahel?

The reality is that the geopolitical factors do affect what the international community if ever hê can even pin down what the international community is. And we are now in a in a new world order, right?

Western the Cold War. so I I can I can tell you that ultimately justice when it does happen is usually a function of the demands of the people, of a country. less the international community ultimately is the people persisting in their demand. and forcing the international community to do something about it. You do get the odd country that's ready to exercise universal

jurisdiction. The Spanish are very good at it. The Belgians do it as well. And the South Africans as I said have ruled in the torture case. that they have jurisdiction over crimes committed. Including in Zimbabwe by Zimbabweans.

There's a ruling. It's a constitutional court.

Constitutional court here ruling from the South African Courts. That hearing that decision that ruling stands.

Hasn't been overturned. And the long the impact of that ruling is that any of the perpetrators of crimes against humanity, genocide, torture, etcetera, International crimes. In any country in Africa. But especially in Zimbabwe, because that case related to Zimbabwe, could at any point, and I repeat, at any point, find themselves prosecuted by the South African government. it could happen. But of course we know there's politics, there's diplomacy and so on. Our political leaders are aware that they they're individually criminal responsible. Yes they are. They are aware. That's why the first act Mugabe did which was signed by Muzenda. And then Justice Minister Mlanga Gwa was to issue an amnesty. Mugabe was very clear in 1987. He was as clear in 1983 when he commissioned the Mbako commissioned. That crimes had been committed. And Mugabe express regret, he went around Bindura saying we must resolve this. We are sorry. They were excesses. They were this. The political leaders have always been aware. That they committed crimes materially. And they were. Will this make them hold onto office? It has already made them hold onto office for 40 years. that's your answer. But they need not wait in fear. of what might happen. They can resolve the it is possible.

Many countries have resolved these episodes in different ways. But one thing for sure is that not resolving it leaves the possibility and option. Of one day them being prosecuted. And to to rely on being in power as the only condition to avoid prosecution is a very dangerous thing. Because we know that you don't always remain in power. all the strategies, the strata gems with all the facilities, the operators, power at some point, we leave you. So and I'm saying that, from my own analysis of the law, international law, national law, it is in the interest of perpetrators to fix this. Because if they don't fix it, there is waiting the prospect and possibility of a prosecution. at least those that that are still alive. Because what they did were crimes. And there's nothing, nothing that will ever change that. You can shoot the messenger. You can, you can intimidate us for saying it, but we analysing the law, we analysing what happened. These were crimes. And if you don't deal with a crime, it's going to deal with you at some point. We know that. So ja, I mean, Mramba three now, was Mura winner, a genocide, you know, genocide is a, is a special crime. It's one of those crimes, it's a suicide crime, it's called a special intent crime. As I say, there are four

protected groups for genocide. National, ethnic, racial, and religious. And you must, you must be able to characterise the group that is attacked. As belonging to a protected group. There's another element of genocide is that the perpetrator must have genocidal intent. You must establish that there was an intent to wipe out a group. And you must establish that it was a group and there are ways in which you can do this. And that the genocidal intent was there. But and there are many ways of there are negative and positive elements of establishing it. So so one could be that. The perpetrator viewed the other group as different from him. The other factors are that it was a distinguishable group. And the other is that there was discrimination in attacks. That certain members. Only certain members of a group were attacked. There are so many ways. Objective ways. And also you must also look at the subjectives. The subjective factors related to the to the to the perception of the of the perpetrator regarding the group. So I I mean I haven't thought I haven't analysed Murambatuna as a genocide. It could certainly it could certainly be a crime against humanity. Because remember the the legal requirement for crimes against Mariki is

slightly different. You don't need a discriminatory intent. Unlike genocide, you don't need to attack a protected group. Unlike genocide. For crimes against humanity, all you need to do is to attack a white, you need a widespread or systematic attack against a civilian population. As part of an organisational and the only crime against humanity that requires discriminatory intent is persecution. Where a person is then targeted by virtue of politics, nationality, identity, ethnicity, religion. It's a it's a closest to genocide. But it is in the family of the crimes against humanity. You could argue that Mr. was widespread or systematic attack against the civilian population. Uh pursuant to a state or organizational policy. Because you you can you could easily justify those kind of things I think. Okay, I'll stop there. Thank you, thank you so much Siphon. So Thabangga I'm going to come to you very quickly. Ja, sorry Musa, I wanted, I wanted to answer one question before you go Thabang. So you can wait for, do we wait for perpetrators to die? No, we don't. We demand that perpetrators fix Guruundi while they are alive. Because they are there, right? They must fix it. They, they are the ones that started it. They committed

it. And they can fix it. They can, if they seriously intend to. Uh, and they a desire to. And and they must fix it in the context of it being international crimes. Uh a few chiefs sitting under a tree talking to villagers. He's not fixing I'm sorry to say. It's not. In my own opinion. There's an international criminal lawyer. It's never been. Thank you. Wonderful. I'm glad you raised that because it's a contemporary issue happening right now in fact. Uh where the chiefs have been grouped together to address this issue. So Thabang very quickly your question or questions? Uh thank you Musa. Uh so more of comments you know based on the presentations that we made. Uh and to thank my brother Sipo and and dear sister Eleno for for those brilliant interventions. And to also state that going forward you know we need this experience you know there are young people. Some of whom are here. Who's done a brilliant video. Uh you know of a story of a woman called Joyce Ngwenya from Cholocho. Very touching video of the experience that she had where she lost a limb her leg and lost an arm, you know, due to the Kukurawundi people. So, we need that support. There are people working on the ground in Mathebele land. You know, they could be working as individuals. They could be

community groups like Ibeju. Uh we we need to find a way of connecting so that we can have that impact and and change the the lives of the victims who are still alive. And also that for justice. So the the victims would like to see justice. It's good now that we have all the research that people like Sipo have done. And and going forward this is where we need to go. Where the victims themselves will be able to express themselves. I think sis Elinio asked about it. That the direct victims have a role to play. So I I would urge those that are working like Tony, Doctor Ibo and Harare, Professor David Mo to say let's find a way of connecting with people on the ground. And and really affirming the the the people that are there. Um so I I think that's my intervention and and thank you for hosting this meeting. Really appreciate it. Thank you so much. Um William so we are going to go to William and then Tony Tabeth and then Zamchia. So I'm going to ask you Sibo to just note the questions so that you address the questions all at once. Please go ahead William Thank you very much Musa ah for this opportunity and ah thank you to Siphon Malunga and Sisulu. For this enriching reflections Which have met the idea of an international conference. More possible. More palpable and clearly necessary.

That the conversation is expanded. On this genocide. Um there's a an attachment to the theme of today's conversation that what makes this genocide or this collection of crimes against humanity. Continue staring in the face of the the nation. And the short answer to that is that denialism, the active and aggressive denialism that perpetrators are putting out towards the Kukudaundi genocide. And the surface to the and the uppercuts in that Sosulu spoke about a part of that calculated systemic and structural denialism. Where are working overtime. To deny this crime. And it goes further beyond denialism. To actual epidemic side. Which is the equivalent of genocide. In terms of the killing of knowledge. The killing of history and the killing of information. Where the perpetrators are going overboard to conceal as much information as possible concerning the genocide. So every genocide whenever it happens it's accompanied by an Epstein site. Where the culture of the killed, the language of the killed, and the history of the kilt and the facts about the killings are also murdered alongside them after they have been buried and that is continuing up to now. Just a few days ago, Amazon Mnangagwa quoted from his speech threatening MRIP and

threatening those that are calling for for secession. As a remedy to the afterli of the genocide. That's one quality of genocides. The genocides continue to harvest the benefits of the genocide by reminding the perpetrators of what happened of what will happen if they continue resisting of protesting and all that. So Ukuraundi will continue to stay at the nation in the base because Kukura will be continuous by other means. The Bionets might have stopped. The guns might have stopped. Uh the mass bearing might have stopped. But their own tendencies. Hook around the systems and book around the processes that are still taking place. Coming especially from the the perpetrators. So it is important that we remain awake. And we do everything that we can to ensure that the voices of the victims especially remain awake. And one last thing that I want to say continues because it has achieved its purposes. Which is a the facto the facto one party state in Zimbabwe. And where the victims are full of fear and where those that became victims are still victims and those that were perpetrators are still perpetrators. In that systemic and structural way, ground continuous and it continues to stay at us in the face. Thank you so much for this opportunity. William,

thank you for your contributions. Uh very sobering thoughts. Continues to this day and it continues in another way. The violence may have stopped but it's still happening. Uh

Thank you and thank you for an outstanding presentation. Um I want to connect two things quickly. I want to connect what Ibo said the beginning about being a national question. And I want to link it quickly to what Eleanor said about impunity. In about 1997 I wrote a paper. Wrote a an article in in the independent. independent and the fin gas. Saying you cannot open a can of worms selected. You can't choose the issue. And I say this with all respect to because it is an outstanding example of a worm. A very serious worm that eats at the heart of the nation. But the point is that impunity is what bedevils us. It it was the basis of the nation Coming into existence. That's part of the national question. The impunity for the gross human rights violations that took place between 76 and 79, 80, were extreme. They were war crimes. And crimes against humanity without any doubt. And subsequently what we've had are cycles of impunity followed by genocide, crimes against humanity, cyclically. All the way. for the last 40 years. Now one of the points that was made a long time ago in 1997 by is

that if you want to get out of this mess you address four basic rights. The right to know which is the voice of the people, as Alan was talking about, we need the stories and we need all the stories. And especially the stories about we need the right to justice and Siphso has outlined that absolutely clearly. There's no doubt that there must be justice and whether that justice comes from a national process or from an international process is the mute point to be discussed. Uh on how political things work out. There must be a right to non-recurrence. That's absolutely critical. Those people who involved in gross human rights violations So the 50 were 60 years that we've been doing these things. Shall not occupy any public office. That's very clear. There must be frustration of all these groups and individuals who are involved in this. And finally there shall be reparations. And I think it's very important and that was one of the major points in the breaking the breaking the silence report. I think they were very soft on justice. But they were very strong on reparations. the right to restitution, to compensation and to rehabilitation. And these are the things we have to face. We have to face it in the context of exactly what Ellen has said.

Of obfuscation and sophistry.
And in my view what's happened
is the NPRC has failed utterly
and we will undoubtedly be left
as citizens and civil society,
churches and everyone else. Be
responsible for carrying the
banner the banner into the
future. There's no doubt about
that and these moves to off the
skate are not just about
they're about elections,
they're about Murambachina,
they're about all the things
that have been happening. In my
history and I'm now quite an
old man. Uh for 50 years, we
need to address this and I'd be
very interested in Sifo's view
about the the the notion of
addressing the problems of
Zimbabwe. Uh comprehend it. Not
selectively but
comprehensively. On all the
things that we've done to each
other. For over 50 years. Thank
you. Thank you so much Timmy.
And you also bring it back to
the issue of citizens. Uh it
seems like the ball is in the
courts of citizens. Regarding
what they would do with this.
Given the lack of political
will. The that the NPRC
seemingly is incapable of
dealing with this issue. Uh
Thabeth over to you and I'm
just going to ask Thabeth
Mzanchia if you are able to
just quickly summarise your
thoughts as we are running out
of time.
Thank you. Uh I think my
concerns, they've been

addressed by the previous speakers. But, my, my worry is, as a country, I know politicians, they are always saying we are they are going to compensate the victims, but really do they have the capacity and finances to to compensate. After so many years they've always been talking maybe about compensating the victims. Uh what are your views on this? Do you really think the government has the capacity to compensate? Thank you. Thank you. Thank you so much Thabet Sipo. I assure you have captured that question. Uh finally dogs I'm here. If you can hear me, please proceed to unmute and make your contribution.

Yeah I can hear you chairperson. Thank you so so much. Uh but maybe cut me off within a minute because perhaps I might not be able to summarise. I just want to say that what what Siphosami has done is really groundbreaking research. Challenging the many missed that that academics have been trying to to to produce and reproduce. And also people like Elinor have done this brilliant from an umbilical side. And I concur with Igbo that really this needs to be a national question. It's a national question. Not that it needs to be. It is a national person. And the the the question that can you let bygones be bygones on the basis

of what has been presented tonight. I think that you can't just do that and some people think that time is going to to when this out. But if you look just next door, you know, I've been looking at German settler colonialism, 1884 in Namibia. Uh, how the resistance triggered genocide. And from eighteen eighty-four, you then had the independence in nineteen ninety. And in 1991, you know, there was still this euphoria about the independence and you had people were saying no let's not talk about this genocide. Let's not talk about ancestral land claims. But fast forward for the sake of time. To two thousand and 8. Uh you get a strong resolution that no. Actually we must go back to the genocidal issues. Uh to the ancestral land. Rights claim issues. And as we as we talk today I I think the Nami parliament has been given two years to deal with issues that happened in eighteen eighty-four. So you can't wish these things away. And if we talk of it's only 1980 and I'm talking of 18eighty-4 here. And for the sake of time I just want to say there's something that is not coming out clearly that Zimbabwe at the moment is being ruled and governed by the The people who were at the forefront you know of of executing this are the ones now governing Zimbabwe, the president, Amazon Mnangagwa,

the Vice President Chiwenga and
and and so forth. And my
challenge to Sipho would be to
say lastly if Sifu can look at
how the current you know
security structure.
how the current security
structure is also modelled
around one Of course the
co-proofing of twenty
seventeen. But what hasn't been
really looked at is is that the
current security structure in
Zimbabwe is not just about the
2017 coup. It's also about how
these guys can be able to get
away with it in terms of Kukura
wound. So if you look at nine
out of the ten people who
command the brick the
brigadiers. Most of them were
and most of them were part of
the 2017 military coup. Uh
first infantry brigade. Uh look
at Augustine Chipere were
second infantry brigade. Uh
look at third infantry brigade
Joe Muzitziwa. The fourth
General Juma. Currently the
fifth brigade. It's it's it's
Simon Masego. And we have the
presidential guard now under
Fidelis Mwonda. Look at the
mechan brigade eh Thomase
Mulambu, my homeboy, Artillery
Brigade. Arare district,
Charles Shumba, Blawayo, the
first you know brigade to
become commanded by a woman.
Uh Keno you know or since. So
how how that is being
restructured to deal with the
military coup either coup
roofing or a neutralisation.

And to to to to to deal with is really not been given enough research. And I think for the look at that. Thank you. Thank you. Thank you. Thank you. Thank you. Thank you so much Zamchia. Very important contributions. So I am going now in the three, four minutes that remain to come to UCO to respond to as many contributions and questions as you can. And also make your statement. Uh Elena I'm going to come to you as well. So that you can give your closing line and then I will hand over to Doctor Ibo to close off the meeting. Thank you so much. Sipo over to you. Thank you so much Mbusa. Thank you colleagues for the questions. Some of them were comments. So I'm not going to address that. Uh Tony how do we address the problems comprehensively? I believe that this requires either a moment of reckoning. On the part of perpetrators. That they they will die at some point and they will leave this country and their own children. you know, in a, in a complete mess it does happen sometimes. Some politicians have this moment of reckoning. Uh for all my criticism of him, the clerk seemed to have that. I still feel he got away with murder, but he did. At some point, he was pushed, he was forced. There are many, many politicians who, who have had this moment of, of reckoning and they say, you know what?

Uh, I will not die leaving the country worse off than I, maybe even created it or, or made it. So, but, we cannot rely on politicians. Citizens are the determinants of their own fate, always. Uh, and and and this I crossover to addressing Pilani's question. I have no doubt Bilani that authoritarian regimes, they do everything to secure themselves. They strengthen themselves. But invariably and inevitably they all still collapse. They do. Uh and history is replete with examples of the collapse of authoritarian regimes. Uh regardless of how how they do to to protect and insulate themselves. Uh and also it must be also realised that ultimately you know, you can also manage your own fate, right? By doing by doing the things that might eventually insulate you ultimately. Walk freely in South Africa. You know he lived there. He lived freely. He even got a Nobel Peace Prize. But the the crimes he committed were heinous. But he chose to play a more positive role. In the trajectory of South Africa than he had played for many years. And I do believe that it is possible. I maybe I believe in in people. I'm I have so much ultimate faith in them. Uh I know that some people have found Jesus, some people believe in God. Some politicians in their later

lives, they claim to have found God and so on. But I'm saying you need, they need to fix this country for themselves and for their own children and their own legacies. They can still redeem themselves. Uh, but we should not hold our breath, because they, their instinct is to protect themselves. Do we have the capacity to compensate victims? I think we overplay the financial compensation. Sometimes a genuine effort and expression of remorse, apology, acknowledgement of your suffering and justice of some sort. May it is usually just enough for victims. You know there are some losses that cannot be compensated financially anyway. How do you compensate financially? Uh this woman Joyce who lost an arm and a leg. How much money do you give it? How do you compensate the widows of the people the Slovela man who disappeared? Who were taken by the CIO in the Fifth Brigade? How much money is it worth? How much money is a life worth? How do you compensate those girls? Who were raped in Koroziba? The trauma they've lived with for years. How much money do you give them? That will ever be enough. That will wash away their misery and their pain. You know how do you compensate anybody for that matter? So I learning for your questions. I guess I try to address the question of perpetrators that

are there. The generals that are there. these perpetrators. To have to hold on to power. Uh to have to to to worry about what will happen to them. When they could address Kukraundi and live in freedom. perhaps depending on how genuine and how extensive their efforts are to address the challenges. To address the Kukraundi. None of the apartheid generals ended up in jail. And I'm not saying I necessarily support that or favour it. But but if you come at a process with with humility and honesty and commitment. You come out of that process as well. Uh you can secure your freedom from a process. Still. Patima secure it. They are in jail themselves with perpetrators. Because they are afraid. You know you they they they thinking they will have to die in power. But ultimately the ability to hold onto power also slips. You know power always slips. You can't always just hold onto it. It's a very slippery thing. Even our our own culture has words for power. It says you know and then our ancestors knew. They knew that it's ephemeral. in, in, in, in uniformly understanding and appreciating what was. It was genocide, crimes against humanity and war crimes. We must, we must, we must agree on that. As Zimbabweans, and we must agree

that because of what it was,
certain consequences flow from
it, certain obligations flow
from that. And and and and and
that we must then demand that
there has to be accountability
for for these really terrible
terrible crimes. Thank you so
much to everybody and thank you
for the questions and for those
I I was not able to answer my
sincere apologies. I pray
everyday we address Kukraundi.
Uh I I really pray. I mean even
at my age I I worry that you
know it will not be addressed
by us. But the younger
generations know so little
about it and with little they
know it even more dangerous,
right? To our society. Our
country is divided
Eleno I'm going to come to you
for your closing.

Uh okay, yes. I've just got a
short thing and I think it
follows immediately on from
what Siphosaid. Uh you know, I
had times that young people
approaching me for information
and there's a couple of people
who want to do documentaries.
Uh and I think we should really
at least find ways to support
the young people that want to
do these histories. And young
people have new and creative
ways of using digital media. Uh
to to document history. And I
think those are practical
projects. Uh especially when it
comes to the voices of the
victims. Uh having those who
want to actually document what

happened to them. Uh be preserved in some way. Whether through a publication or through a documentary. Or through a radio play or whatever. We need to find ways to do that. Because arts are very powerful in capturing history and conveying what happened to the next generation. Thank you so much Eleanor for those reflections. Uh colleagues I think we are left with so much homework. So much thoughts to process. And personally I'm left with several questions. Uh you know on whether I am doing enough or whether we are doing enough. To really address this issue of Kukurawundi which confronts us. Um I think we have a lot to do and Sibona we look forward to your full study. as and when you finish and release it. Thank you so much. Uh Doctor Ibo Mandaza, thank you for this platform. We really appreciate it. And I'm going to hand over to you now. So that you can see us off. Thanks Musa. I just have to comments to make and before I thank Sydney and Eleno. The first is the pointed which I'm glad that others have acknowledged Tony and Zamchia in particular. Which is that the is a poignant reminder of the failure. So far to resolve the national question in Zimbabwe. And therefore the occasion this occasion reached as a as a as she has been. And

bringing new dimension as Sipo. Waco Sydney has brought to this discussion. I want to adjust one important point. Which is the call for collaboration. Between a historians Political economists. And lawyers. elasticating raising insights into the history of the national question in Zimbabwe. And I hope that whom I'm working at the moment on a history of Zanu. Now understands why my the background to ethnic politics in Zimbabwe. I have a section in that study. Which says ethnicity, ethnic policies made in exile. Cos I first came across Anthony Post in Exile. the rabid anti Ndebele, anti Zapu that I encountered in Maputo was frightening. Then I went deeper. And I want to remind Siphos as he does his research Go back to the split between Zanu and Zapu. not Kukuraundi I mean eh eh massacres. And the same people whom Zam share has identified as perpetrators in Bugaraudi. Where perpetrators at at Mugagao nineteen nineteen seventy-six. go to and to money one and 2. All that tells us a lot. They go back into Zanu itself. The ethnic cleansing. The the example of ethnic cleansing. Is the worst ever. But there was ethnic cleansing in Zanu. of 500 people at Chiphombo wiped out. most of them from one

ethnic group. Chitepo's murder itself was part of ethnic cleansing. We have been we have been closeting these pieces of history. and fed and is fed into punity. This as Tony says right to know. We need to magnify these issues. These examples of which is the most prominent, most frightening. So in thinking to say you have brought us nearer, nearer and nearer. Do you understand? That episode in history. To understanding then the deeper the extent which this has gone so deep into our into our national fabric. Hold it through more and more light thrown on this. Can we learn? And begin to understand. The national question. So certainly a little thank you so much. For coming to the occasion a short notice and also thank you. To Tony, they and the the NGO forum for this study. Which we will also try to immortalise. As we share this discussion which is of course on Facebook and YouTube. And we'll be we'll be transcribed in full. And on that note I'd like to say just say that next week we have a theme looking at the elections. The by-elections just gone by. But again looking at the national question thereby there are many unanswered questions. We don't want to be too euphoric about these by-elections. We need to remind ourselves one. That we have an uncured coup. And it was sad to

see that throughout the campaign noone talked about the coup. Or the fact that we don't have constitutionalism in Zimbabwe. And that and that the military are all over the place. And they're therefore there's a need to to highlight the need to return the constitutionalism. Rule of law and the return of the military of the banks. And secondly to remind ourselves that we are still far from eh letter reforms in Zimbabwe. and that we need therefore to be very cautious as we move forward. And perhaps without a risk of boring you. We need to look at the national the national transition authority again. As the only starting point through which we can have a settlement. A political settlement is about. I thank you. Until next week. Goodbye. And thank you very much.
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