

IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA

CCT number:

In the matter of:

DEMOCRATIC ALLIANCE

Applicant

And

**THE MINISTER OF INTERNATIONAL RELATIONS
& COOPERATION**

First Respondent

**THE PRESIDENT OF THE REPUBLIC OF
SOUTH AFRICA**

Second Respondent

**THE NATIONAL DIRECTOR OF PUBLIC
PROSECUTIONS**

Third Respondent

GABRIELLA ENGELS

Fourth Respondent

NOTICE OF MOTION

PLEASE TAKE NOTICE THAT the above-named Applicant intends to make application to this Court for orders:

1. Granting the Applicant direct access to this Court in terms of Rule 18 of the Rules of this Court and hearing this application on an urgent basis;

2. Declaring that the decision of the First Respondent of 19 August 2017, in terms of section 7(2) of the Diplomatic Immunities and Privileges Act 37 of 2001 (*"the Act"*), to recognise the immunities and privileges of Dr Grace Mugabe, as published in the Minister's Minute in the Government Gazette of 20 August 2017, No. 41056 Notice 850 (*"the impugned decision"*) is inconsistent with the Constitution of the Republic of South Africa, 1996 and invalid;
3. Reviewing and setting aside the impugned decision as irrational, unreasonable, *ultra vires* the Act and unlawful;
4. Directing that the Applicant's costs are be paid by the First Respondent and by any other Respondent that opposes this application, jointly and severally, the one paying the other to be absolved, such costs to include the costs of two counsel; and
5. Further and/or alternative relief;

PLEASE TAKE NOTICE FURTHER that the accompanying affidavit of **JAMES SELFE**, together with the annexures thereto, will be used in support of this application.

PLEASE TAKE NOTICE FURTHER that the Applicant has appointed its attorneys below as the address at which notice and service of all the process in these proceedings will be accepted.

PLEASE TAKE NOTICE FURTHER that the Chief Justice is requested to give directions in terms of Rule 18(4) of the Rules of this Court for the further conduct of this matter.

DATED AT PRETORIA THIS 23rd DAY OF AUGUST 2017.



MINDE, SCHAPIRO & SMITH

Per: Elzanne Jonker

ATTORNEYS FOR APPLICANT

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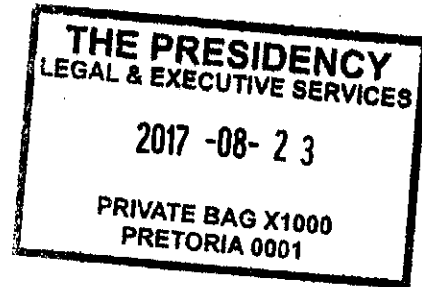
TO: THE REGISTRAR
 Constitutional Court
 Constitution Hill
 Braamfontein
JOHANNESBERG

**AND TO: THE MINISTER OF INTERNATIONAL RELATIONS
 & COOPERATION**
First Respondent
C/O THE STATE ATTORNEY
 316 SALU Building
 Corner of Francis Baard & Thabo Sehume Streets
 (Entrance at Thabo Sehume Street)
PRETORIA

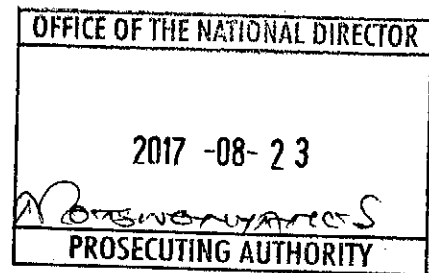
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| STATE ATTORNEY | |
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| STAATSPROKUREUR | |

**AND TO: THE PRESIDENT OF THE REPUBLIC
OF SOUTH AFRICA
Second Respondent
Union Buildings
26 Edmond Street
PRETORIA**

*Reviewed By Mollo Mthabisi
at 15h00*



**AND TO: THE NATIONAL DIRECTOR OF
PUBLIC PROSECUTIONS
Third Respondent
VGM Building (Corner Westlake & Hartley)
123 Westlake Avenue
Weavind Park
Silverton
PRETORIA**



**AND TO: GABRIELLA ENGELS
Fourth Respondent
Care of Afriforum
Afriforum Building
58 Union Avenue
Kloofsig
CENTURION**

*Ontvang Sonder Benadring
Received Without Prejudice*

23-8-2017

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PUBLIC PROSECUTIONS

Third Respondent

GABRIELLA ENGELS

Fourth Respondent

FOUNDING AFFIDAVIT

I, the undersigned

JAMES SELFE

do hereby make oath and say that:



DAN

I. INTRODUCTION

1. I am a Member of the National Assembly of the Parliament of the Republic of South Africa, representing the First Applicant (*"the DA"*). My offices are at 242 Marks Building, Parliament, Cape Town, Western Cape. I am the Chairperson of the Federal Executive Council of the DA, and I am duly authorised by it to make this affidavit.
2. The facts set out in this affidavit are true and correct and within my personal knowledge and belief, unless indicated to the contrary. Where I make legal averments, I do so on the advice of the legal representatives of the DA.
3. This urgent application for direct access in terms of Rule 18 of the Rules of this Court is brought, *inter alia*, to review and correct the hasty, embarrassing and above all illegal and unconstitutional decision of the First Respondent (*"the Minister"*), in terms of section 7(2) of the Diplomatic Immunities and Privileges Act 37 of 2001 (*"the Act"*), to recognise the immunities and privileges of Dr Grace Mugabe.
4. This decision (*"the impugned decision"*) was made on 19 August 2017 (a Saturday), and published in the Minister's Minute in the Government Gazette of 20 August 2017, No. 41056 Notice 850. I attach a copy of the impugned decision as JS1. It records in relevant part:

"In accordance with the powers vested in me by section 7(2) of the Diplomatic Immunities and Privileges Act, 2001 (Act No. 37 of 2001) and acting in the

interest of [the] Republic of South Africa, I hereby recognise the immunities and privileges of the First Lady of the Republic of Zimbabwe, Dr Grace Mugabe, in terms of international law and as set out in the attached notice."

5. The basis and purpose of the impugned decision was to shield Grace Mugabe from being tried in a court of law for her assault on a South African citizen, Ms Gabriella Engels (the Fourth Respondent), and two others in a Sandton hotel on 13 August 2017.
6. The DA contends that this decision is wholly without legal merit, and should be declared to be unconstitutional and invalid.
7. Grace Mugabe is not a member of the Zimbabwean government, was not in South Africa on official business (she was apparently in South Africa for medical reasons), and there is nothing in either South African or international law that renders her deserving of diplomatic immunity.
8. The impugned decision was taken hastily, unreasonably, without according the victim a prior hearing, and thus irrationally and unconstitutionally, both procedurally and substantively. It constitutes an irrational abuse of a statutory power.
9. And Grace Mugabe's attack on Ms Engels was vicious and unjustified. It was the act of a person who has come to believe that she is above the law.



10. Condoning such behaviour, as the Minister has done by making the impugned decision, is not, and cannot be, in the interests of South Africa. Section 7(2) of the Act thus has no application here, and the impugned decision must be declared to be unconstitutional, invalid and set aside.

11. In support of the above, this affidavit deals with:

11.1 The parties;

11.2 The facts;

11.3 The impugned decision;

11.4 Challenges to the impugned decision;

11.5 Urgency and direct access; and

11.6 Conclusion and relief sought.

12. The DA has also simultaneously applied for identical substantive relief in the Gauteng North Division of the High Court, Pretoria, conditional upon this Court declining to grant direct access in terms of Rule 18 of this Court's Rules.

II. THE PARTIES

13. The First Applicant is the Democratic Alliance, a registered political party and the official opposition party of the Republic of South Africa in the national sphere.

14. Its principal offices are at Theba Hosken House on the corner of Breda and Mill Streets in Gardens, Cape Town.
15. As a registered political party, the DA has an interest, *inter alia*, in ensuring that members of the executive and of Cabinet abide by their constitutional and statutory duties, and that no South African has his or her rights – including the right to seek justice for an assault upon their person – unreasonably, unlawfully and/or irrationally violated.
16. The First Applicant has standing in its own right, as well as in the public interest in terms of section 38(a) and (e) of the Constitution of the Republic of South Africa, 1996 (*“the Constitution”*).
17. The First Respondent is the Minister of International Relations & Cooperation, Mrs Maite Nkoana-Mashabane, who took the impugned decision on 19 August 2017.
18. She is cited in her official capacity as the political head of the Department of International Relations & Cooperation (*“DIRCO”*), care of the State Attorney at 167 Andries Street, Pretoria.
19. The Second Respondent is the President of the Republic of South Africa, Jacob Gedleyihlekisa Zuma (*“the President”*). He is cited at the offices of the President at the Union Buildings, 26 Edmond Street, Pretoria. As this matter may concern relations between States, the President, as head of State and



head of the national executive, may have an interest in the outcome of this matter.

20. The Third Respondent is the National Director of Public Prosecutions, Adv Shaun Abrahams ("NDPP"). The NDPP has an interest in this matter as the National Prosecuting Authority ("NPA") must determine – once Grace Mugabe's diplomatic immunity is set aside – whether or not to proceed with the criminal prosecution of Grace Mugabe. He accordingly may have an interest in the outcome of this litigation. The NDPP is cited at his offices at 123 Westlake Avenue, Weavind Park, Silverton, Pretoria.

21. The Fourth Respondent is Gabriella Engels, the adult female South African model who was the victim of Grace Mugabe's assault on 13 August 2017. She is served care of Afriforum, a non-governmental organisation, which has publicly announced that it represents Ms Engels. Afriforum Building, 58 Union Avenue, Kloofsig, Centurion. The Applicant shall however attempt to obtain Mrs Engels's address for the purposes of serving these papers formally.

22. Grace Mugabe herself is not cited as a respondent, because until this application is granted, she has – by virtue of the impugned decision – immunity from this Court's jurisdiction. She therefore cannot be sued before this Court.

23. However, the DA will ensure that a copy of these court papers are delivered to her official residence in Harare, Zimbabwe, as soon as possible. Should she wish, she may waive her immunity and join in this litigation.

24. The DA undertakes not to oppose any joinder application filed by Grace Mugabe.

III. THE FACTS

25. In setting out the facts as I do below, I rely upon media and other public reports, as well as research carried out by members of the DA, which I believe to be correct and which I contend should be accepted by this Court in the interests of justice, in terms of section 1(c) of the Law of Evidence Amendment Act 45 of 1998.

26. The key facts have been widely – indeed, internationally – reported by reputable organisations and persons, including by members of government and by the Minister herself, and there is no doubt as to their veracity.

27. In sum, these facts are:

27.1 Grace Mugabe is the wife of President Robert Mugabe of Zimbabwe;

27.2 She entered South Africa in or about August 2017 for a medical procedure, unaccompanied by her husband;

27.3 She was later scheduled to attend the Southern African Development Community ("SADC") conference, but, presumably for the reasons below, did not attend;



- 27.4 On Sunday 13 August 2017, at the Capital 20 West Hotel in Sandton, Johannesburg, she assaulted three young South African women with an electrical extension cable;
- 27.5 At least one of the women, Gabriella Engels, suffered significant injuries, including deep gashes to her forehead and the back of her head;
- 27.6 A public outcry ensued, Ms Engels laid criminal charges against Grace Mugabe, and the South African Police Service ("SAPS") indicated that an alert had been issued to border posts to prevent Grace Mugabe from leaving South Africa;
- 27.7 Notwithstanding the above, Grace Mugabe left South Africa by apparently unlawful means, via Waterkloof Airbase (just like President Al-Bashir of Sudan), and returned to Zimbabwe;
- 27.8 After her departure, the Minister made the impugned decision on 19 August 2017, granting Grace Mugabe diplomatic immunity in South Africa.

28. The above set of facts is all that this Court need consider in determining this application. The DA contends that none of these facts will be contested by any of the parties.

29. However, *ex abundante cautela* and in the interests of providing the Court with a fuller picture of events, I set out below further details, all of which are facts in the public domain. They are what would be considered by the appropriate trial Court. That is the court that tries Grace Mugabe. What the grant of immunity has done is to prevent a court from even evaluating this evidence.

30. Dr Grace Mugabe is the First Lady of Zimbabwe. Her status as the spouse of Robert Mugabe, and the latter's status as the President of the Republic of Zimbabwe, are matters of public knowledge and record.

31. She is also known to visit South Africa regularly, and her family controls, *inter alia*, houses and other immovable property in South Africa.

32. She entered South Africa for medical treatment for an injured ankle, according to:

32.1 A report by the Sunday Times of 15 August 2017, titled "Mugabe hit me: model", which I attach as JS2; and

32.2 ENCA in an article dated 19 August 2017, titled "UPDATE: Grace Mugabe a no-show at SADC summit", which I attach as JS3.

33. She was not accompanied by her husband, but (at least) her two sons – Robert Mugabe Junior and Chatunga Bellarmine – were present in South Africa. These two young men have a reputation for excessive, frivolous behaviour and for enjoying a "high life" of women, partying and alcohol, as documented in:

33.1 The Sunday Times report of 17 August 2017 titled "Mugabe sons 'ticking PR timebombs'", attached as JS4; and

33.2 A News24 report titled "Model involved in nightclub 'brawl' before Grace Mugabe alleged assault", attached as JS5.

34. On Sunday 13 August 2017, Ms Gabriella Engels, a model, along with two other unknown women, were socialising with the abovementioned Mugabe sons at the upmarket Capital 20 West Hotel in Sandton (*"the Hotel"*).
35. Around 9pm, Grace Mugabe burst into the room and angrily attacked the three women with an electrical extension cord. The two sons fled, and Grace Mugabe's bodyguards merely looked on without taking any action while Grace Mugabe assaulted the women. Ms Engels' confirmation of these events is recorded in the 14 August 2017 Sunday Times article "Joburg woman claims she was assaulted by Grace Mugabe", which I attach as **JS6**, and in another article of 20 August 2017 titled "First lady, Grace Mugabe, 'was ready to murder'", which is attached as **JS7**.
36. The international news publication Newsweek also reported on the incident. Its article, dated 17 August 2017 and titled "Could diplomatic immunity save Robert Mugabe's wife from prosecution?", attached as **JS8**, carries images of the gashes inflicted on Ms Engels by Grace Mugabe.
37. While running from his mother, Robert Mugabe Junior knocked over a pregnant waitress, who subsequently lost her baby. I attach in this regard as **JS9** the Sunday Times report dated 20 August 2017, titled "Hotel waitress loses baby after Grace Mugabe's hotel rampage".

38. Ms Engels went to the nearest police station that night, but was not assisted by the police officer on duty, who told her to first seek medical attention (see JS2 above).
39. She subsequently opened a case of assault with the intent to cause grievous bodily harm at the Sandton Police Station the following morning (see the Sunday Times article of 17 August 2017, titled "We didn't arrest Grace Mugabe because of her status", attached as JS10).
40. The same article records, as evident from the title, Minister of Police Fikile Mbalula's statement that Grace Mugabe was not arrested because of her status, and "*If it was somebody else . . . we could have long moved a raid on her in terms of the issues*".
41. However, DIRCO spokesperson Clayson Monyela, in response to initial queries, stated that Grace Mugabe would not be protected by diplomatic immunity, as she was not present in South Africa on official business and because as a spouse, she was not a member of the Zimbabwean government.
42. His (correct) views are recorded in the Timeslive article attached as JS11, dated 14 August 2017 and titled "Would diplomatic immunity apply in alleged Grace Mugabe assault case? No, says Dirco", as follows:

"Dirco spokesperson Clayson Monyela said she would not receive diplomatic immunity.

'Firstly, for it to apply, she needs to be here on official business. It won't apply if she's here on holiday or for something else,' he said.

'Secondly, as a First Lady, she's not part of government or a government official. It doesn't apply just because she's the wife of a president,' Monyela said."

43. The Mail & Guardian also reported that *"advice from lawyers consulted by the South African government indicates that the nature of Mugabe's visit and the circumstances around the alleged assault disqualify the first lady from diplomatic immunity"* (see the article attached as JS12, dated 18 August 2017 and titled "Government lawyers: 'No diplomatic immunity for Grace'").
44. The SAPS accordingly put a 'red alert' on all South African border posts to prevent Grace Mugabe leaving the country (see the Sunday Times article of 17 August 2017, titled "Borders on 'red alert' to stop Grace Mugabe fleeing", attached as JS13).
45. Notwithstanding this, under circumstances which are unknown to the DA but which must be within the knowledge of the Respondents, Grace Mugabe left South Africa, it appears, on Tuesday 15 August 2017 via the Waterkloof Airbase.
46. This was despite having made promises to the SAPS that she would hand herself over to the SAPS on that day. This is recorded in the report of 16 August 2017, titled "Grace Mugabe kept cops waiting 'all day': Mothiba", attached as

JS14 and referring to comments by the Acting National Commissioner of the SAPS, Lieutenant-General Lesetja Mothiba.

47. She accordingly failed to attend at the 37th Ordinary SADC Summit in Pretoria, at which she was expected to take part in the First Ladies Programme (see the Report of BBC News of 19 August 2017, titled "Grace Mugabe fails to appear at leaders summit in SA", which I attach as **JS15**).

48. On 19 August 2017, the Minister made the impugned decision.

49. Before I turn to deal with the impugned decision in more detail, I emphasise that:

49.1 The above media reports, although covering different facets of the story, all reinforce and confirm the underlying narrative; and

49.2 Indeed, were the above events not correct, there would be no reason why the Minister would so hastily – on a Saturday evening, no less – make the impugned decision.

50. In any event, should there be any errors in the above set of events (for example, should Grace Mugabe in fact be innocent of any assault), it would make no difference to the underlying legal question: was the decision to grant Grace Mugabe diplomatic protection in terms of section 7(2) of the Act procedurally and substantively rational and correct in law?

IV. THE IMPUGNED DECISION

51. For convenience I quote the impugned decision again:

"In accordance with the powers vested in me by section 7(2) of the Diplomatic Immunities and Privileges Act, 2001 (Act No. 37 of 2001) and acting in the interest of [the] Republic of South Africa, I hereby recognise the immunities and privileges of the First Lady of the Republic of Zimbabwe, Dr Grace Mugabe, in terms of international law and as set out in the attached notice."

52. The "attached notice" is presumably the following page, but this page adds nothing of substance. All that it states is:

"It is hereby published for general information that the Minister of International Relations and Cooperation has, in terms of section 7(2) of the Diplomatic Immunities and Privileges Act, 2001 (Act No. 37 of 2001), recognised the immunities and privileges of the First Lady of the Republic of Zimbabwe in terms of international law."

53. Section 7 of the Act states:

- "(1) Any agreement whereby immunities and privileges are conferred to any person or organisation in terms of this Act must be published by notice in the Gazette.*
- (2) The Minister may in any particular case if it is not expedient to enter into an agreement as contemplated in subsection (1) and if the conferment of immunities and privileges is in the interest of the Republic, confer such immunities and privileges on a person or organisation as may be specified by notice in the Gazette."*

54. There is no published international agreement in terms of which any immunities or privileges were conferred on Grace Mugabe.
55. Therefore, in terms of the Act, prior to the making of the impugned decision Grace Mugabe had no claim to diplomatic protection.
56. If she had, it would have to have been published as contemplated by section 7(1) of the Act (and the Minister would never have needed to make a decision in terms of section 7(2) of the Act).
57. DIRCO further issued, on 20 August 2017, a media statement which I attach as JS16. It appears to contain the Minister's reasoning in making the impugned decision. I quote it in full:

"Decision on Diplomatic Immunity relating to an alleged assault case in Sandton

On Wednesday, 16 August 2017, the Embassy of the Republic of Zimbabwe invoked immunities of Dr Grace Mugabe in relation to the alleged case of assault widely reported in the media.

The Minister considered the communication from the Embassy in accordance with the discretion granted to her by section 7(2) of the Diplomatic Immunities and Privileges Act.

According to Section 7 (2) of the Act: "The Minister may in any particular case if it is not expedient to enter into an agreement as contemplated in subsection (1) and if the conferment of immunities and privileges is in the interest of the Republic, confer such immunities and privileges on a person or organisation as may be specified by notice in the Gazette."

After careful consideration of all the relevant factors, including the following:

- *the need to uphold the rule of law, ensure fair administration of justice and uphold the rights of the complainant;*
- *the imperative to maintain good inter-governmental relations within the SADC region, and in particular between the Republic of South Africa and the Republic of Zimbabwe;*
- *the fact that the matter coincides with South Africa's hosting of the 37th SADC Summit of Heads of State and Government;*
- *legal considerations, including derivative immunity of spouses of Heads of State,*

the Minister has made the determination that the conferring of diplomatic immunity is warranted in this particular instance.

The Department wishes to convey the message that the Minister has agonised over this matter and the decision was not an easy one to make."

58. Presumably this statement ("*the statement*") was issued to justify the impugned decision.

59. But in fact it is inherently contradictory, and it demonstrates the material

defects, irrationality and unconstitutionality within the impugned decision.

V. CHALLENGES TO THE IMPUGNED DECISION

60. There are, *inter alia*, five bases on which the impugned decision falls to be reviewed and set aside.

61. I deal with each in turn.

There is no diplomatic immunity under international law for the spouses of foreign heads of state

62. First, it appears from the words of the impugned decision that the Minister considered herself to be recognising the rights and immunities of Grace Mugabe at international law.

63. But there are no such rights or immunities.

64. The impugned decision itself is glaringly vague on detail. No reference is made to any source of international law, or whether this is meant to be international customary or some unspecified international agreement, whether multilateral or bilateral.

65. There is no customary law immunity for the spouses of foreign heads of state.

66. For such a rule to exist, there would have to be a settled practice of States, together with an acceptance by those States of the binding nature of the rule. While there may be isolated examples of the spouses of heads of state who have been granted some form of immunity, there is nothing close to the level of practice required for a rule of customary international law to be formed.

67. There is equally nothing in international conventional law. The Act attaches, in its first and second schedules, the 1961 Vienna Convention on Diplomatic

Relations ("*the 1961 Convention*") and the Vienna Convention on Consular Relations ("*the Vienna Conventions*").

68. But these multilateral treaties deal only with the staff and families of those posted to diplomatic and consular missions, not with the heads of state.
69. There is accordingly nothing in these Conventions that can assist the Minister or Grace Mugabe. Nor is there any other international instrument that can come to their assistance.
70. The Minister's invocation of international law as the basis for her decision is thus erroneous, indeed meaningless. As no such international law exists, the impugned decision itself is without any basis, is irrational, and must be set aside.
71. This applies *a fortiori* when, as in this case, the spouse is on private business, in a private hotel, taking private (criminal) action against a private person. In no way can the assault on Ms Engels be linked in any way to the government of Zimbabwe or its affairs.
72. Grace Mugabe is not an office-bearer within the Zimbabwean government, was not accompanying her husband, and was not representing the Zimbabwean government at the SADC Summit, or indeed at all.

73. Thus, even should there be some basis on which the spouses of foreign heads of state might be protected by diplomatic immunity when engaged in official visits, such immunity does not apply to Grace Mugabe.

The Foreign States Immunities Act 87 of 1981

74. It appears from the impugned decision, and the statement, that the basis of Grace Mugabe's immunity (if any) is her marriage to President Robert Mugabe.

75. This appears from:

75.1 The absence of any other ground given for her immunity (no mention is made, for example, of her forming part of the Zimbabwean government or playing any role at the SADC Summit);

75.2 The reference in the impugned decision to her status as First Lady; and

75.3 The "*derivative immunity of spouses of Heads of State*" referred to in the

statement.

76. But the Act – like the Vienna Conventions – is not the legal basis for any immunity of foreign heads of state. It thus cannot be used to be the basis of the immunity of the spouses of foreign heads of state.

77. Instead, the Foreign States Immunities Act 87 of 1981 ("*the FSI Act*") regulates such matters. Notably, section 1(2) of the FSI Act states:

"Any reference in this Act to a foreign state shall in relation to any particular foreign state be construed as including a reference to-

- (a) the head of state of that foreign state, in his capacity as such head of state;*
- (b) the government of that foreign state; and*
- (c) any department of that government".*

78. It is section 2 of the FSI Act which incorporates into South African law the rule of head of state immunity.

79. And even the FSI Act does not purport to extend this immunity to the spouses or families of heads of state.

80. Reliance on the Diplomatic Immunities and Privileges Act, as a basis for any immunity for Grace Mugabe, is therefore wholly misplaced, and is unlawful, invalid and unconstitutional.

Vagueness and arbitrariness

81. Even read with the statement, the impugned decision is vague, empty of content, and contradictory to the point of arbitrariness.

82. First, while "*international law*" is referred to in the impugned decision, this is meaningless unless the actual rule or instrument of international law is cited.

83. To illustrate: No public decision-maker in South Africa would be allowed to make a decision which gave as its sole basis "*domestic law*", without specifying which statute or legal authority is actually meant. How could any affected

person know the legal basis of the decision, or the factors which had to be taken into account, or the procedure to be followed? They could not.

84. The same logic must apply when placing reliance on "*international law*". To say "*international law*" is as vague as saying "*domestic law*" or "*all law*".
85. More is required.
86. Secondly, the impugned decision is logically inconsistent, in that it contradicts itself as to whether it is recognising Grace Mugabe's (presumably pre-existing) immunity, or conferring it.
87. The language of the impugned decision states that it recognises Grace Mugabe's immunities and privileges.
88. Such recognition, moreover, is purportedly in terms of international law. International law is clearly, in terms of the impugned decision, seen by the Minister as being a pre-existing basis for Grace Mugabe's immunities.
89. But the very nature of the decision in terms of section 7(2), the explicit reference to the "*conferring of diplomatic immunity*" in the statement, and the need for any decision at all indicates that the impugned decision conferred immunity upon Grace Mugabe.
90. She accordingly had, prior to the impugned decision, no claim to immunity.

91. The impugned decision is therefore internally self-destructive. It claims to confer a right, on the basis that the right already exists. It makes no sense, and indeed renders the impugned decision nonsensical and arbitrary.
92. Arbitrariness is anathema to the principle of legality and the rationality of the exercise of public power under the Constitution. For this reason alone, the impugned decision must be reviewed and set aside as being unconstitutional and invalid.

Procedural Irrationality

93. The impugned decision was made – extraordinarily – on a Saturday evening.
94. It was clearly made in great haste, in the wake of the national and international outcry over Grace Mugabe's criminal assault on Ms Engels.
95. There was, however, no need for that degree of haste, as Grace Mugabe had apparently already fled from South Africa (although urgent considerations remain).
96. In particular, it appears that this undue haste resulted in a procedurally irrational process having been followed by the Minister, in that she failed even to allow Ms Engels, the victim, to have input into her decision.

97. Decisions made without input from those affected offend against section 33 of the Constitution, and also against the principle of rationality. As this Court held in *Albutt v Centre for the Study of Violence & Reconciliation* 2010 (3) SA 293 (CC) at paragraph 51:

"The Executive has a wide discretion in selecting the means to achieve its constitutionally permissible objectives. Courts may not interfere with the means selected simply because they do not like them, or because there are other more appropriate means that could have been selected. But, where the decision is challenged on the grounds of rationality, courts are obliged to examine the means selected to determine whether they are rationally related to the objective sought to be achieved. What must be stressed is that the purpose of the enquiry is to determine not whether there are other means that could have been used, but whether the means selected are rationally related to the objective sought to be achieved. And if, objectively speaking, they are not, they fall short of the standard demanded by the Constitution."

(Emphasis added.)

98. There was no rational reason to exclude Ms Engels. Even if her input would have failed to change the Minister's mind, Ms Engels – as the victim – had a right to at least be heard before the decision was made. There would be no costs, nor unreasonable delays, in granting her such a hearing.
99. Had Grace Mugabe not assaulted Ms Engels, this matter would never have arisen and the Minister would never have been called upon to decide whether to confer immunity on Grace Mugabe.
100. Ms Engels' experience and testimony concerning the relevant events is therefore central to this entire dispute.

101. To fail to include Ms Engels' input, without justification, is procedurally unfair and arbitrary, and unconstitutional. The impugned decision is invalid for this reason.

Substantive Irrationality, unreasonableness, and the interests of the Republic

102. Lastly, the impugned decision fails the standard required in terms of section 7(2) of the Act: it is not in the interests of the Republic.

103. The DA contends that the Minister's motive in making the impugned decision was not to further the interests of the Republic, but instead to shield Grace Mugabe from embarrassment.

104. But this came at the price of sacrificing the rights of a South African citizen, and
the rule of law.

105. A founding value of the Constitution is accountability. The impugned decision makes a nonsense of this constitutional value.

106. If Grace Mugabe was charged with the crime of assault, this would not be persecution, but justice.

107. It is significant that article 41(1) of the 1961 Convention provides:

"Without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the receiving State."

108. Grace Mugabe has grossly failed to comply with the above duty. Her conduct was high-handed, violent, and deeply unfair (one must ask, for example, why she did not physically assault her own sons instead of Ms Engels)?
109. South Africa has nothing to gain by condoning or excusing such behaviour. If this means that Grace Mugabe will not return to South Africa, this can be no loss.
110. And a firm stance in protecting Ms Engels would have reaffirmed South Africa's commitment not just to its citizens, but to basic notions of justice, fairness, and dignity.
111. In failing to uphold these constitutional values, the Minister acted against the interests of South Africa in making the impugned decision.
112. Ms Engels' constitutional rights of access to court (as well as freedom and security of the person) are further violated by the impugned decision, which has allowed the perpetrator of serious crimes against her to escape justice.
113. For all of the above reasons, the impugned decision falls to be reviewed and set aside.

VI. URGENCY AND DIRECT ACCESS

Urgency

114. The DA contends that this matter must be heard on an urgent timeframe, and that an order in due course will be of no assistance.

115. This does not mean that the Respondents are not entitled to a fair period within which to file papers. The notice of motion to which this affidavit is annexed grants the Respondents the usual periods prescribed in the Uniform Rules of Court.

116. But a hearing in the ordinary course would mean, at this stage, a hearing in 2018. It is contended that this would be too late:

116.1 If Grace Mugabe is not entitled to diplomatic immunity, the SAPS must

be made aware of this with a degree of swiftness, so that they can begin

the process of collecting evidence and determining whether they intend to prosecute Grace Mugabe.

116.2 This matter is of public importance; indeed, it has been headline news in South Africa, and has attracted comment from major media organisations around the world. The eyes of the world are on South Africa, and they will be watching how we deal with this case.

117. Lastly but perhaps most importantly, the rights of Ms Engels must be vindicated. She has been the victim of a brutal, physical attack. Her face has been damaged, and as a model her livelihood has thus been endangered.
118. And unfortunately, the Minister has failed to protect Ms Engels as she deserves.
119. In the circumstances, an expedited – but fair – timeframe is appropriate.

Direct access to this Court in terms of Rule 18

120. In *Electoral Commission v Mhlope and Others* 2016 (5) SA 1 (CC) (“*Mhlope*”), this Court, per Madlanga J (in a concurring judgment, but the majority judgment of Mogoeng CJ agreed with the findings concerning direct access), stated at paragraphs 75-76:

“This court is slow to grant direct access. In Bruce Chaskalson P explained:

‘It is . . . not ordinarily in the interests of justice for a court to sit as a court of first and last instance, in which matters are decided without there being any possibility of appealing against the decision given. Experience shows that decisions are more likely to be correct if more than one court has been required to consider the issues raised. In such circumstances the losing party has an opportunity of challenging the reasoning on which the first judgment is based, and of reconsidering and refining arguments previously raised in the light of such judgment.’

Direct access may be granted only where the interests of justice permit. For this requirement to be met, exceptional circumstances must be demonstrated to the court. In addition to the prospects of success, other factors in establishing exceptional circumstances include: the nature of the constitutional issues raised; the need for an

urgent decision from the court; whether the court requires the views of lower courts, and, relatedly, if it is desirable for it to sit as a court of first and final instance; whether similar issues are pending before the court; whether prejudice to the public good or good governance may occur; and whether the issue to be decided has a 'grave bearing on the soundness of our constitutional democracy'. This does not purport to be a closed list. And the relevance and relative weight of each factor will depend on the circumstances of each case."

(Emphasis added. Footnotes omitted.)

121. The DA contends that these factors favour the grant of direct access in this matter.
122. First, it is contended that this application has very good prospects of success, for the reasons given above.
123. Secondly, the DA contends that the high profile and potentially politically-sensitive nature of the issues raised are such that it is for this Court, and no other, to determine them.
124. Thirdly, for the reasons set out above, this matter is urgent. A hearing before any other Court will inevitably cause significant and prejudicial delay.
125. Fourthly, this is not a matter where the Court requires the views of the lower courts:
 - 125.1 There are no disputes of fact and the factual matrix is simple.

125.2 The legal dispute – the validity of the impugned decision – is straightforward and the decision itself is only a single paragraph.

125.3 The sources of law to consider are the Constitution, a single domestic statute that incorporates international law (the Act), and, potentially, whatever international law the Minister may claim she relied upon in deciding to grant Grace Mugabe diplomatic immunity. These are all areas of law in which this Court is pre-eminently qualified. There are no common law questions arising on which this Court might benefit from the views of, *inter alia*, the Supreme Court of Appeal.

126. The sixth and final factor is perhaps the most important. The DA contends that the issues raised herein have “*a grave bearing on the soundness of our constitutional democracy*”.

127. This is not the first time that an immunity issue has arisen. Indeed in the Al-Bashir matter, not only did the SCA find that the Executive acted unlawfully in granting President Al-Bashir immunity but SA, on an international level, was found to have violated its international obligation. The Immunity issue cries out for this Court to deal with it once and for all. Indeed, this Court was deprived of considering and dealing with it in the Al Bashir matter because the minister in that case withdrew the appeal to this Court (see *Democratic Alliance v Minister of International Relations and Cooperation and Others* 2017 (3) SA 212 (GP)).

128. It is patently unfair for the victim to have to wait while this issue of immunity winds its way through the High Court, SCA and most likely this Court.

129. The Applicant, do be prudent, has also lodged an urgent Application for similar relief in the High Court, which case is dependent upon this Court not granting Direct access, it is submitted that it is clearly in the interest of justice for this Court to grant direct access.

130. Once was concerning enough. Two such incidents is a warning that basic constitutional notions of justice, accountability, transparency and the rule of law are not being upheld as they should. Such matters call for the attention of the highest court in the land.

VII. CONCLUSION AND RELIEF SOUGHT

131. This application enjoins this Court to consider a constitutional matter within its power.

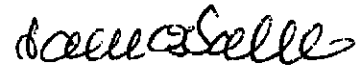
132. That being so, were this Court to come to the conclusion that the impugned decision is inconsistent with the Constitution for any reason, the Court must, by virtue of section 172(1)(a) of the Constitution, make a declaration to that effect. This is the declaratory order sought in paragraph 2 of the notice of motion.

133. In addition, and in any event, this Court has wide remedial powers to make whatever order is appropriate, just and equitable in the circumstances, by virtue of section 172(1)(b) of the Constitution. The appropriate order following from

the abovementioned declaratory order would be an order reviewing and setting aside the impugned decision, as sought in paragraph 3 of the notice of motion.

134. Lastly, the DA seeks an order that the First Respondent, together with any other Respondent who opposes this application, pay the costs of this application, jointly and severally, the one paying the others to be absolved.

135. The complexity of this matter, its public importance, its precedent-setting nature and its urgency renders this a matter in which the employment of two counsel is warranted.



JAMES SELFE

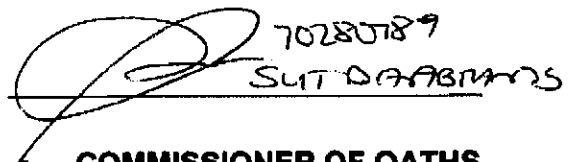
I certify that:

The Deponent signed this affidavit and swore and acknowledged that s/he:

- a) Knew and understood the contents thereof;
- b) Had no objection to taking the oath; and
- c) Considered the oath to be binding on his/her conscience.

The Deponent then uttered the words "*I swear that the contents of this declaration are true, so help me God*".

DATED AT CAPE TOWN THIS 23RD DAY OF AUGUST 2017.



70280789
Supt D. A. ABRAMS

COMMISSIONER OF OATHS

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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF INTERNATIONAL RELATIONS AND COOPERATIONS

NO. 850

20 AUGUST 2017

MINISTER'S MINUTE

In accordance with the powers vested in me by section 7(2) of the Diplomatic Immunities and Privileges Act, 2001 (Act No. 37 of 2001) and acting in the interest of Republic of South Africa, I hereby recognise the immunities and privileges of the First Lady of the Republic of Zimbabwe, Dr Grace Mugabe, in terms of international law and as set out in the attached Notice.



MS MAITE NKOANA-MASHABANE, MP
Minister of International Relations and Cooperation

Date: 19/08/2017



It is hereby published for general information that the Minister of International Relations and Cooperation has, in terms of section 7(2) of the Diplomatic Immunities and Privileges Act, 2001 (Act No. 37 of 2001), recognised the immunities and privileges of the First Lady of the Republic of Zimbabwe in terms of international law.

[REDACTED]



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South Africa

Mugabe hit me: model

Gabriella Engels says Zimbabwe's first lady assaulted her with appliance cord, gashing her forehead

15 August 2017 - 05:51 By Jan Berman



Zimbabwean President Robert Mugabe and his wife, Grace, at a rally in Marondera. File Photo.
Image: Reuters

A Johannesburg model has claimed she was assaulted by Zimbabwe President Robert Mugabe's wife, Grace, after she partied at a Sandton night club with her two sons.

Gabriella Engels, 20, alleges she was assaulted by Mugabe's wife at the Capital 20 West hotel in Sandton on Sunday night.

Engels said she met Mugabe's two sons at a club for the first time on Saturday night.

"[On Sunday night] we were chilling in a hotel room, and they [the sons] were in the room next door. She came in and started hitting us. The front of my forehead is busted open. I'm a model and I make my money based on my looks," Engels said.

She came in and started hitting us. The front of my forehead is busted open.

Gabriella Engels

The model said Mugabe beat her and two of her friends with an extension cord, while Mugabe's bodyguards looked on.

Garnet Basson, CEO of the Capital hotel group, said there was an incident that prompted management to ask guests to leave.

"What happened in the hotel room, I don't have a comment on ... I can't disclose the name. We did have guests removed from the premises due to a scenario where we thought it was not good for them to stay there."

Engels said she suffered gashes to her forehead and scalp.

The Times has seen pictures of the injuries.

"What is a girl compared to a woman beating you and 10+ bodyguards standing back, leaving her to do this sh*t," she tweeted about the incident.

Engels said she went to the nearest police station on Sunday night, but was shown away by the police officer on duty, who told her to first seek medical attention.

Engels' mother, Debbie, said they were going to open an assault case yesterday.

"She was in so much shock, she couldn't tell me what happened," the mother said.

"I rushed her to the hospital to get stitches and when she calmed down, she told me she was assaulted by Mugabe's wife," she said.

Calls and a Facebook message to Mugabe's spokesman, George Charamba, went unanswered yesterday, while Mugabe's one son, Chatsanga Bellarmine, didn't respond to messages on Facebook either.

Grace Mugabe's spokesman, Olga Bungu, declined to comment.

Zimbabwean news reported that Mugabe was in South Africa for treatment following a "freak accident" in which she hurt her ankle.

The Department of International Relations and Co-operation said diplomatic immunity would not apply in this case.

Spokesman Clayson Moxysia said Mugabe would not receive diplomatic immunity.

"It won't apply if she's here on holiday or for something else," he said.



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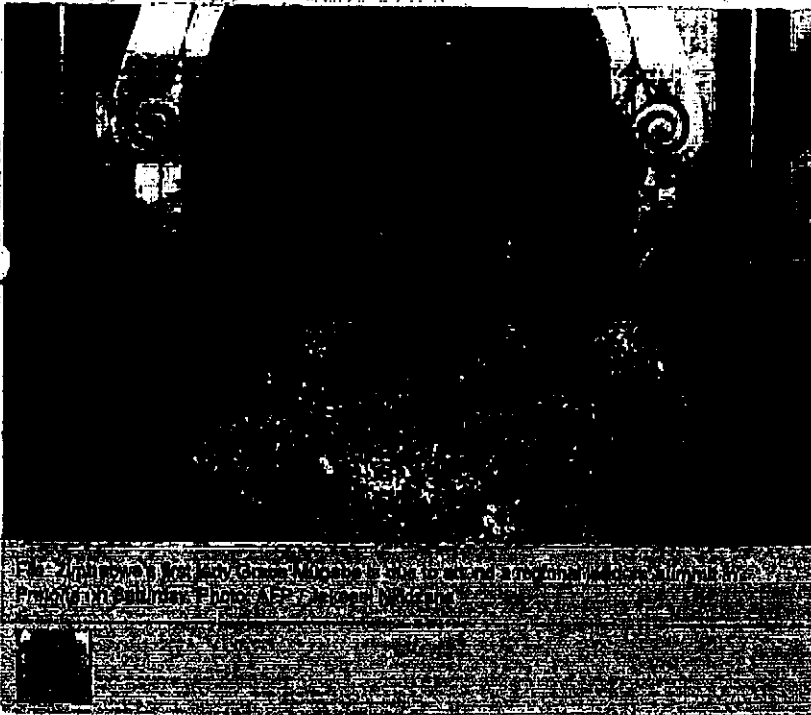
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EXTRA CAVITY PROTECTION



UPDATE: Grace Mugabe a no-show at SADC summit

SOUTH AFRICA Saturday 19 August 2017 - 12:07pm



• **Editor's note:** This article is updated each time new information becomes available.

RETORIA - Zimbabwe's first lady Grace Mugabe, who is allegedly seeking diplomatic immunity for an alleged assault in South Africa last weekend, did not show up a regional leaders' summit in Pretoria on Saturday.

The wife of President Robert Mugabe is accused of attacking a 20-year-old model with an electrical extension cord in a Johannesburg hotel where the Mugabes' two sons were staying.

South African police said she was expected at the two-day Southern African Development Community (SADC) meeting that opens at 9.30am, with a "first spouses programme" starting at noon.

A closing ceremony on Sunday afternoon includes partners of the heads of the states from the 15 member nations.

Officials were unable to provide details about the spouses' programme or confirm if Grace Mugabe was expected to appear in public during the meeting.

She has claimed diplomatic immunity after allegedly assaulting Gabriella Engels nearly a week ago - the reason for which is not known.

The South African foreign ministry confirmed to AFP on Friday that the immunity application was under consideration.

Engels - who has registered a case of assault with intent to do grievous bodily harm - appeared at a press conference on Thursday, wearing a large plaster on her

<http://www.abc.com.au/news/2017-08-19/grace-mugabe-no-show-sadc-summit/4411112>

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forehead.

- Disputed Immunity -

Lawyers who have taken up her case told reporters that she was offered cash to make the incident "go away" but that she refused and is determined to press charges against Grace Mugabe.

Wille Spies, one of the lawyers, said that if diplomatic immunity was granted they would consider bringing an urgent court application to halt the decision.

The 52-year-old Zimbabwean first lady was in South Africa reportedly to have her ankle treated following a minor accident last month.

Her husband flew into the country late Wednesday, the day after she failed to attend an agreed meeting with South African police over the alleged assault.

Zimbabwean officials have declined to comment on allegations against the first lady or her immunity claim. She has not been seen since the incident.

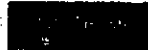
South African police have said they are on high alert to prevent her leaving the country, with an arrest warrant also reportedly being considered.

Grace and Robert Mugabe's two sons Robert Jr and Chatunga live in Johannesburg, where they have a reputation for partying, while the couple also have an elder daughter who lives in Zimbabwe.

The incident has threatened to create diplomatic friction between South Africa and neighbouring Zimbabwe, who have strong political and economic ties.

Grace Mugabe regularly speaks at rallies in Zimbabwe and is seen as one potential successor to take over from her increasingly frail 93-year-old husband.

AFP



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Africa

Mugabe sons 'ticking PR timebombs'

17 August 2017 - 05:38 By Nhlalo Ndaba



Zimbabwe's President Robert Mugabe, his son Chatsunga (L) and wife, First Lady Grace Mugabe (R), cut the cake during celebrations marking his 90th birthday in Marondera, on February 23, 2014.

The Mugabe siblings and their allegedly plug-wielding first lady mom, Grace, may have sparked a row in South Africa. ~~They have been living and partying in Johannesburg since earlier this year, are regular features at Harare nightclubs with an entourage of women, close relatives, former school mates, children of diplomats and politicians who serve at the Mugabes' will. A favourite haunt is Rufaro Shisananyama in Warren Park in Harare.~~

Mugabe jr, 24, and Chatsunga Bellarmine Mugabe, 20, are a ticking public-relations timebomb. And it often goes boom.

The siblings, who have been living and partying in Johannesburg since earlier this year, are regular features at Harare nightclubs with an entourage of women, close relatives, former school mates, children of diplomats and politicians who serve at the Mugabes' will. A favourite haunt is Rufaro Shisananyama in Warren Park in Harare.

They are big spenders. Recently someone shared on social media a US\$3000 bill they rang up - three times the annual income per capita in cash-strapped Zimbabwe.

Chatsunga posted a video on Facebook showing off a bottle of Armand de Brignac champagne. The bubbly, also known as the "Ace of Spades", can sell for between R4000 and R10000 a bottle.

A waitress at one of their favourite hang-outs in Harare said: "At times we don't even get close to them when we serve. Their aides are the ones who deal with payments. All they do is entertain their friends."

In South Africa the Mugabe sons have paid top dollar for plush residences in Sandton.

Robert jr and Chatsunga were most recently residents of the Capital 20 West Hotel, over the road from The Regent Apartment Hotel where they stayed before.

According to the company's website, rooms at the Capital 20 West begin at R1410 a day.

The pair were kicked out of the Regent for unruly behaviour last month.

The Regent offers two-bedroom flats starting at R38000 a month while the "monthly basic package" for the four-bedroom penthouse is R75000.

Staff at both addresses refused to comment on the pair's exploits.

Handwritten mark resembling a stylized 'G' or '9'.

22/08/2017

Mugabe sons 'looking PR timebombs'

Gorecua is known to be intimately entwined in Grace's business interests. He was named in court papers as being behind the seizure of properties belonging to a Lebanese diamond dealer, Jamal Joseph Hamed, who is embroiled in a \$1.4-million diamond-ring wrangle with his mother.



Robert Mugabe Jr



Chatunga Bellarmine Mugabe.

DA3

Mugabe sons 'toking PR timebombs'

Robert jr and Chatunga relocated to South Africa in January this year. Robert jr had been studying at the American University in Dubai but dropped out as he had from a military academy in China.

After he failed his matric-equivalent exams, his father has called him out on national television as an "undertaker", a common disparaging term for those who get the lowest symbol - a "U".

Bearing a striking resemblance to his father, Chatunga could be the president's favourite son.

In an interview, Grace said whenever she was not around, the president shared his bed with Chatunga.

He was expelled for wayward behaviour from St George's College, a Catholic-run school in Harare.

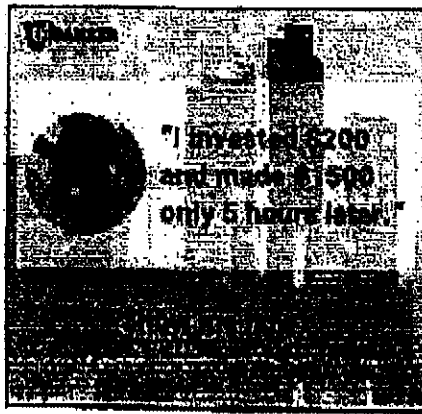
Some of Harare's socialites such as Wicknell Chivayo are close to the Mugabe boys - a ticket to the powerful Grace Mugabe.

"That's the shortest route to an audience with the first lady. She always creates time for her sons. To her they are still babies," said a Harare socialite.

- Additional reporting Naledi Shange and Jan Bowman



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Model involved in nightclub 'brawl' before Grace Mugabe alleged assault

2017-08-20 06:02

Ntombizodwa Makhoba, Dewald van Rensburg and Abram Masehego

City Press

The damage-control machine that gathered around Zimbabwe's First Lady Grace Mugabe this week is desperate to poke holes in the story of the young model who accused Mugabe of assaulting her with an extension cord.

They have acquired closed-circuit television footage which, they claim, shows Gabriella Engels (20) involved in a brawl at Sandton's popular Taboo nightclub in the early hours of last Sunday morning, the day Mugabe allegedly assaulted her.

But Mugabe's sides may not need it.

City Press understands that on Friday, Zimbabwe's first couple was given assurances by senior government officials that she would not be charged over the assault.

Engels denied yesterday that she was involved in any such brawl: "Yes, I was at Taboo, but I was not involved in any fight."

"They are trying to discredit me. The fight that happened at Taboo on Saturday has nothing to do with my case," she said, adding that it was a friend here who was involved in the brawl.

"I was not partying with the boys and I would prefer not to be commenting on my connections with Taboo."

But two sources, one close to the Mugabe family and the other a regular at Taboo, told City Press this week that in the early hours of Sunday morning, Engels and a group of friends came to blows with another group of women inside the club.

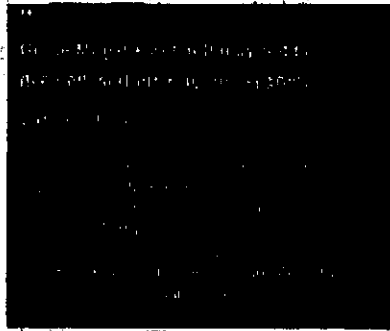
The witness claimed he saw Engels and her friends with the Mugabe brothers, Robert Junior and Chelunge Belamhina, inside the club's large VIP section.

They were drinking 'lots' of French Champagne – including bottles of Verve Cliquot, which the club sells for R2 400 each, and Moët which it sells for R2 100.



Gabriella Engels following an alleged assault by Grace Mugabe on Sunday (Supplied)

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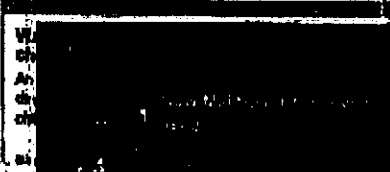
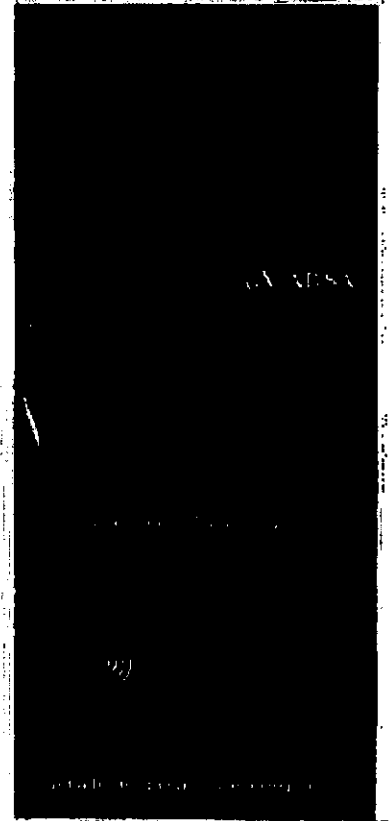


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Grace Mugabe assault may not be deemed 'serious enough' - expert WATCH UP

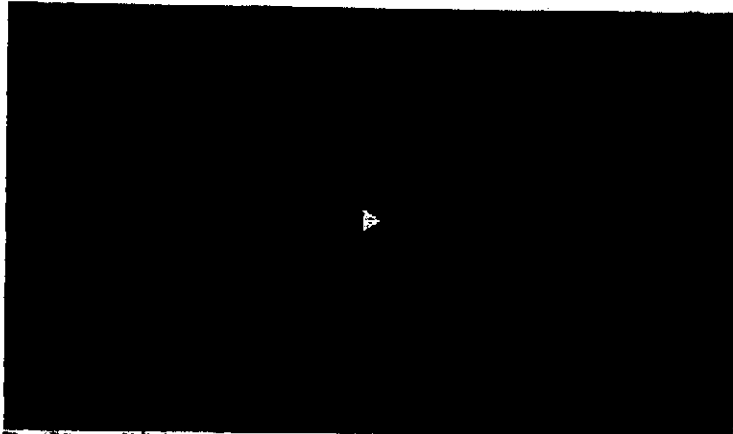
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The witness said the two groups of women came to blows inside the VIP section and that the Mugabe brothers separated them.

But later when they left, and as the brothers settled the bill, the fight started again in the parking lot.

"The quarrel was very serious," claimed one source.

When the fight happened outside, I saw one of the Mugabe brothers running outside, while the bouncers were separating the girls. I even called the bouncers and they managed to separate them."

Engels, however, denied she knew the Mugabe brothers, insisting that she met them on the day of the assault.

A security guard at the Capital 20 West hotel in Morningside, Sandton, said the Mugabe brothers rented up to six rooms - which cost more than R1 000 a day each - for almost two months.

He told City Press that Engels arrived at the hotel in the early hours of Sunday with bruises on her face.

Engels denies this: "No, I left the club in the morning with no injuries at all."

The guard claimed that Engels had been a regular visitor to the hotel since the Mugabes moved in.

He said she and her friends spent the day there on Saturday and left with the Mugabes later that evening in a convoy of four cars, accompanied by bodyguards.

He was adamant, however, that Engels only "sustained the cut on her forehead during the assault [by Mugabe] at about 21:00 on Sunday".

Disagreement

The security guard said the Sunday evening drama started when a disagreement broke out between a young woman and the Mugabe brothers, and the first lady was called to intervene.

"The scuffle continued inside one of the rooms," he said.

"It just got out of hand. One of the bodyguards tried to stop them from making noise, but they didn't even listen to him. He then phoned Mama Grace."

Just before 8pm, he said, Mugabe entered the room to find the young woman sitting in the lounge with Robert Junior, surrounded by bottles of alcohol.

He said the first lady exclaimed: "What are you doing here? You are supposed to be at home with your parents!"

The woman allegedly responded: "Who the hell are you?"

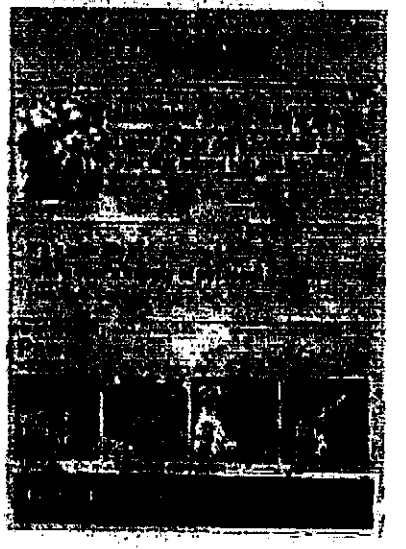
"She was very irritated. She then took the extension cord and started to beat everyone, including her eldest son, who was sitting with the three girls. But the other girls managed to flee, while Engels sustained the cut on her forehead," he alleged.

"The bodyguards were running up and down. It was just a mess. I believe Mam' Grace came to discipline her sons. It wasn't her intention to assault anyone."

Meanwhile, another source close to the first lady told City Press that she attacked Engels in self-



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them out of trouble. However, the boys regularly escape to hotels when they want to party.

Mugabe's property, which spans 9 240m², cost R43m and was paid for in cash. The previous owners were the Ravazzotti family, who founded the company itself.

Deeds office records show that the property was bought on February 27 and registered three months later to a nameless shell company with only one director: Mugabe's son from his first marriage, Russell Goraraza.

Goraraza (38) became a director of the company a few weeks after the property was transferred. He has registered at least three other companies in South Africa since January under a different passport number.

Other members of Mugabe's inner circle, close to Zimbabwe's governing Zanu PF, said this week that the first lady was "not a bad person" but just had "temper issues".

A businessman who contributes to Mugabe's political campaign to succeed her husband as party leader, said she was "very protective of her sons" and had wanted them to become role models. She also wanted them to take over the reins of the country after their father stepped down.

"That has failed and that is why she is now aspiring to succeed her ageing husband. She is running the show in Zimbabwe and that is public knowledge," he said.

Another insider sympathised with the first lady, saying the boys' 93-year-old father was now too old to control them, and the job had fallen to her. He also said she had a short fuse.

"In Zim, people do not even bother to open a case because they are afraid they can receive further ill treatment by the police," he said.

A senior source within the department of international relations and cooperation told City Press on Thursday there was "no way" South Africa would arrest Mugabe.

"The fear is not only limited to South Africa-Zimbabwe relations, but that of other African countries as well," he said.

"Her husband is an elder statesman and still commands respect in other African countries. We do not want to be isolated and she will definitely be granted diplomatic immunity."

The source added: "If she was not arrested in China after assaulting someone, who are we to arrest her?"

Police Minister Fikile Mkhulu's spokesperson, Vuyo Mhaga, was unable to comment yesterday. Neither was Clayson Monyela, spokesperson for the department of international relations and cooperation.

Capital 20 West hotel management did not respond to requests for comment.

Taboo co-owner Annmar Janayem said he was unaware of the alleged brawl.

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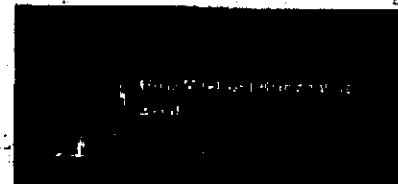
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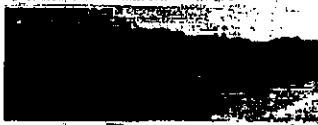
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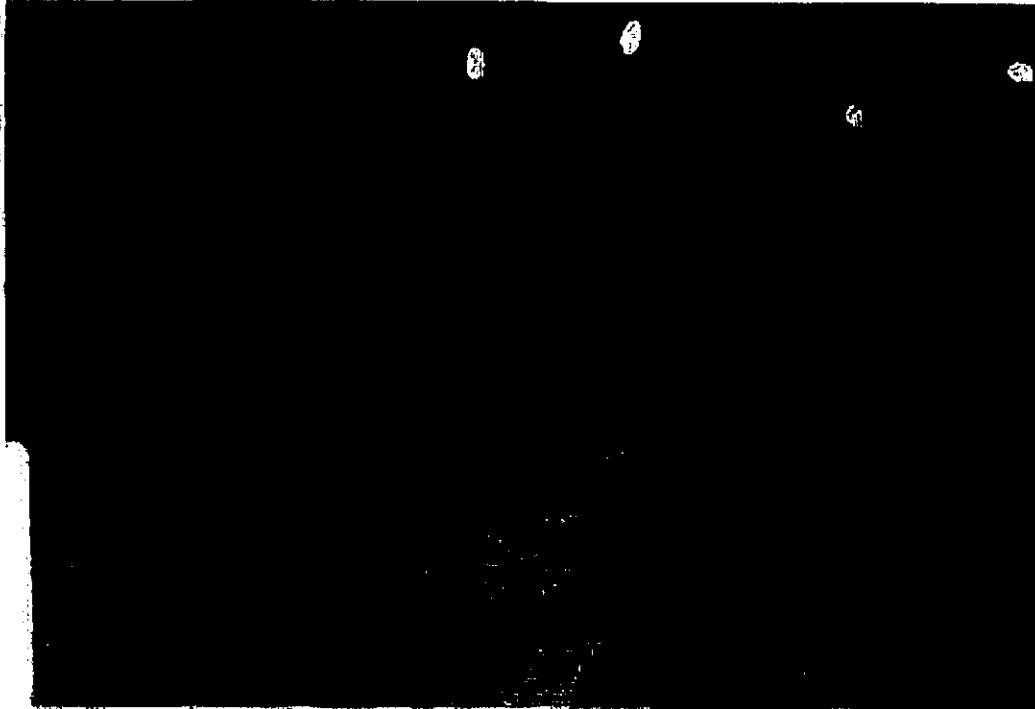
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South Africa

Joburg woman claims she was assaulted by Grace Mugabe

14 August 2017 - 12:54 By Jan Roussouw



Zimbabwean news has reported that Grace was in South Africa for treatment following a "trunk accident" in which



Image: Katherine Mutsek

A Johannesburg woman has claimed she was assaulted by Zimbabwe President Robert Mugabe's wife, Grace.

Gabriella Engels, 20, claimed she was assaulted by Mugabe's wife at a Sandton, Johannesburg, hotel around 9pm on Sunday night after she went to visit the Zimbabwean president's two sons.

"We were chilling in a hotel room, and they were in the room next door," Engels said.

"She came in and started hitting us. The front of my forehead is busted open. I'm a model and I make my money based on my looks," she said.

She said Grace Mugabe proceeded to beat her and two of her friends with an extension chord, while the two sons ran away and the Mugabe bodyguards looked on.

She said she suffered gashes to her forehead and scalp. TimesLIVE has seen images of the injuries.

"What is a girl compared to a woman beating you and 10+ bodyguards standing back, leaving her to do this sh*t," she tweeted about the incident.

Engels said she went to the nearest police station on Sunday night, but was shown away by the police officer on duty, who told her to first seek medical attention.

Gabriella's mother, Debbie, said they were going to the police station to open an assault case on Monday.

"When she got home [on Sunday] I was already sleeping. She was in so much shock, she couldn't tell me what happened," Debbie said.

"I rushed her to the hospital to get stitches and when she eventually calmed down, she told me she was assaulted by Mugabe's wife," she said.

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22/08/2017

Joburg woman claims she was assaulted by Grace Mugabe

Calls and a Facebook message to Mugabe's spokesperson, George Charazaba, went unanswered on Monday, while Mugabe's one son, Chatunga Ballarmine, also didn't respond to messages on Facebook.

Zimbabwean news has reported that Grace was in South Africa for treatment following a "freak accident" in which she injured her right ankle.

Garnet Basson, CEO of The Capital hotel group, where the alleged assault took place, said there was an incident that prompted management to ask guests to leave the hotel.

"What happened in the hotel room, I don't have a comment on ... I can't disclose the name. We did have guests removed from the premises due to a scenario where we thought it was not good for them to stay there.

"It was almost a forceful exit, but it wasn't. It was a decent exit after about a half an hour of discussions."



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News

First Lady, Grace Mugabe 'was ready to murder'

Mugabe victim tells how she was dragged by her hair, whipped

20 August 2017 - 00:02 By KHANYI NDABENI



Gabriella Engels says she is living in fear.
Image: Supplied

One of the three young women attacked by Grace Mugabe last Sunday night has described her terror as Zimbabwe's first lady lashed out in fury with an electrical cord.

Only Gabriella Engels, a 20-year-old model, has been named, but two other women also suffered injuries in the attack, allegedly by Zimbabwean President Robert Mugabe's wife.

The three were in a Sandton hotel room when Mugabe stormed in, armed with an electrical cord. Engels has posted pictures of a gash on her forehead which was allegedly inflicted by the cord.

One of the three women, who describes herself as a promotional model, told of her terror as Mugabe lashed out at them. Mugabe was accompanied by about 10 bodyguards and hotel security guards and she was looking for her sons, Robert Jr, 25, and Chatunga Belfarminas, 21. Both men had fled the room when they heard their mother coming.

The attack took place in Sandton's The Capital 20 West hotel.

The woman said that at the time she did not know who her assailant was or why she and her friends were being beaten.

"I really thought she was going to kill me ... From the moment she stormed into the room she was ready to murder someone," the woman said. "The electrical cord-cable was tightly wrapped around her hands. No one could stop her. The guards and hotel security guards just stood there and watched as she whipped me with the cord and dragged me across the floor by my hair."

Mugabe's sons have recently been in the news for their behaviour: The brothers were kicked out of a Sandton hotel last month, allegedly for bad behaviour.

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DAA

First Lady, Grace Mugabe 'was ready to murder'

Unlike their father, a teetotaler with a string of university degrees, the sons party hard and fail often; they have been expelled from several educational institutions in Zimbabwe, Dubai and China.

The brothers often flaunt their wealth. Their extravagant lifestyles are shown on social media with snaps of luxury shopping, scantily clad groupies and exotic holiday destinations.

For the pair, only the most expensive alcohol will do - Armand de Brignac, the bubbly of choice for rapper Jay-Z, is a favourite.

Chatunga recently boasted on YouTube that he did not eat Zimbabwean food such as sadza (maize meal).

The events that led to last Sunday's drama began the night before when Engels and her two friends were celebrating a 21st birthday. The three had gone to the Taboo nightclub in Sandton where a friend introduced them to Chatunga, who was with his brother and some friends.

But after an altercation with a posse of groupies hanging out with the Mugabe brothers, the three friends left. But they left a jacket behind.

The next day, the women's friend called to apologise about events the previous night and invited the three women to the hotel to return the jacket.

"We had no interaction with the Mugabe brothers at all on Sunday," said Engels's friend. "We were literally there for 15 minutes. The only thing we managed to do was smoke a cigarette on the balcony. Then our friend asked us to turn off the music. Someone important was coming.

"This lady stormed into the room with more than 10 bodyguards and hotel security guards, demanding to know the whereabouts of her son, who she calls Bellarmine."

When the three friends could not tell her where her sons were, Mugabe lashed out at them with the electrical cord. The woman said the attack carried on for 20 minutes. While she was being assaulted, her friends fled.

"She dragged me by my hair and held me tight. She slashed me viciously with the electrical cord. She then dragged me by my hair across the floor and threw me on a couch where she forced me to call our mutual friend and Bellarmine's best friend, but their phones were off.

"She continued beating me with the cord; I was rescued by the hotel manager, who rushed to the room after hearing my screams for help."

Engels's two friends said they were too frightened of Grace Mugabe to lay criminal complaints, but said they would support Engels in court.

Since the attack, the Engels family have accused the Mugabe clique of offering money to make the case go away.

They have been offered protection by AfriForum, which has appointed advocates Gerrit Nel to take on the case. Nel said he would give the National Prosecuting Authority three months to investigate the case.

"We will do whatever we can to ensure justice is done in this case," said Nel.

"Nobody in this world should be untouchable."

Nel was dissatisfied with the way the police had handled the matter and said they had only contacted Engels on Thursday, four days after the alleged attack.

Speaking to the Sunday Times earlier this week, Engels said she was living in fear and was not sure if she would model again.

"I remember everything that had happened ... the traditional attire Grace was wearing, the shiny gold slippers and an expensive blue bag she was carrying ... The terror on my friends' faces as they grabbed a blanket to protect themselves from the beating ... How I had to kneel down in order to escape from her, and the blood dripping from my face.

"I remember it all.

"I'm still terrified when I think about what happened. For the past few days I was even scared to go out in public. I do not know if this is the end of my modelling career. Right now I am focusing on the criminal charges. Maybe I will sue her at a later stage."

AfriForum said it would challenge any move to give Mugabe diplomatic immunity. It said Mugabe was not in South Africa on any official visit.

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WORLD
COULD DIPLOMATIC IMMUNITY SAVE ROBERT MUGABE'S WIFE FROM PROSECUTION?

BY CONOR FARREY ON 8/17/17 AT 11:47 AM



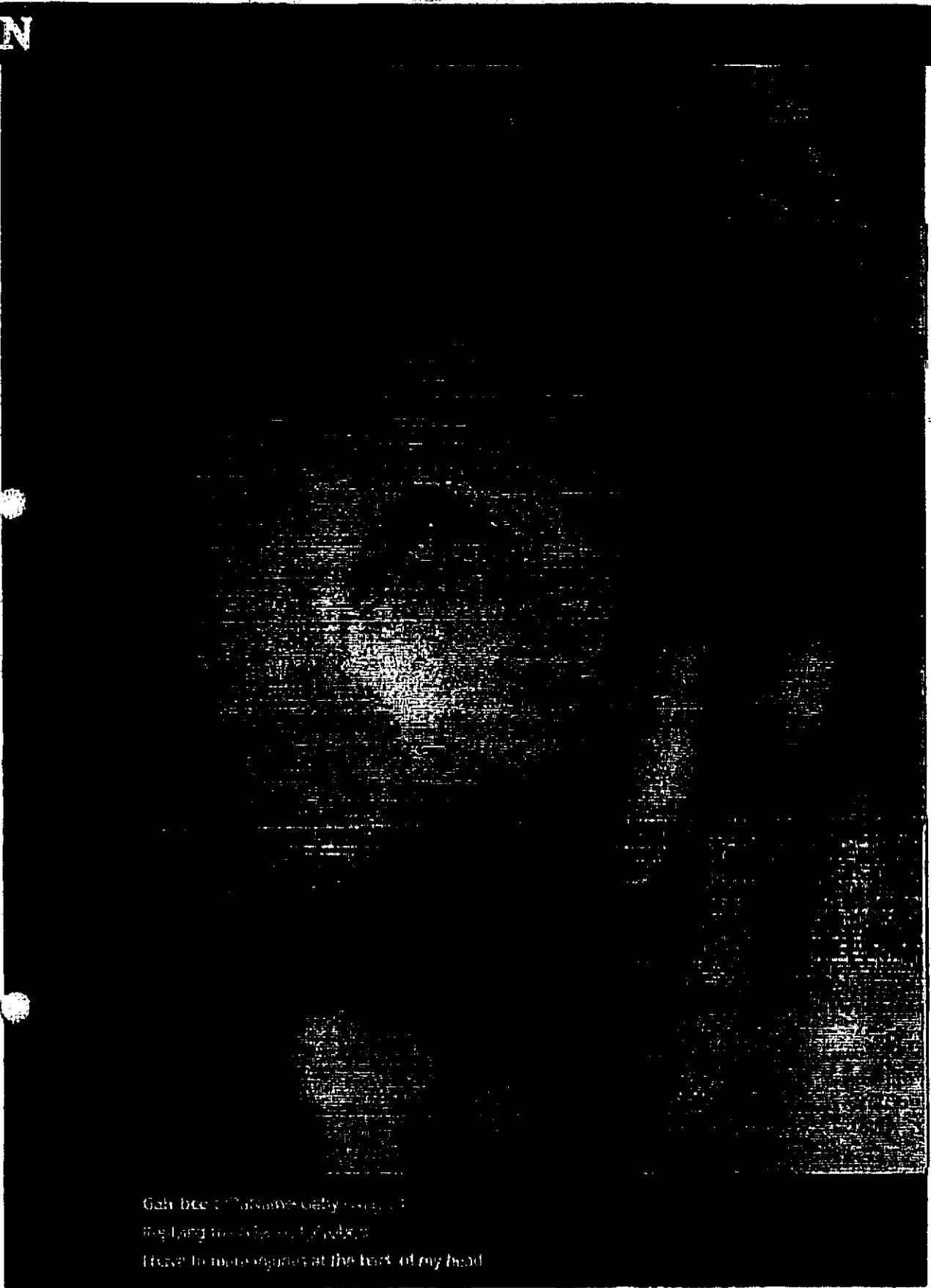
WORLD ZIMBABWE FOREIGN AFFAIRS PEACE/MILITARY DIPLOMACY/INFLUENCE

Grace Mugabe, the wife of Zimbabwe President Robert Mugabe, is looking for a way out after being accused of assaulting a South African woman with an extension cord.

The first lady of Zimbabwe is still in South Africa after the alleged incident took place at a Johannesburg hotel on Sunday. A 20-year-old model, Gabriella Engels, alleges that Grace Mugabe assaulted her for visiting two of the Mugabe sons in a Johannesburg hotel and has opened an assault case with police.

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Gaby bee @DeNamesGaby
 my lang to the...
 I have 10 more injuries at the back of my head

A screenshot of an image tweeted by Gabriella Engels (@DeNamesGaby) on August 14 of a head injury she alleges she sustained when she was assaulted by Grace Mugabe.

SCREENSHOT/TWITTER

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investigation. Mugabe's wife, who was seen to arrive in South Africa late in the week in a regular aircraft, was seen to arrive early, presumably to try to defuse the situation.

Read more: Robert Mugabe's life has become very awkward thanks to his wife

Diplomatic immunity is a privilege afforded to heads of state, politicians and diplomats that protects them from arrest or prosecution in a foreign country. The principle was first set out in the 1961 Vienna Convention on Diplomatic Relations, which states that a "diplomatic agent" (i.e. the head or member of staff at a diplomatic mission) should "not be liable to any form of arrest or detention." A total of 191 states, including South Africa and Zimbabwe, are party to the convention.

The principle of diplomatic immunity usually extends to family members and people traveling with heads of state or diplomats. But the principle only applies when the diplomat is conducting official state business on behalf of the sending countries, and not when they are traveling on personal or private business.



Zimbabwe's first lady Grace Mugabe addresses the crowd during a ruling party ZANU-PF youth rally at Rudhaka Stadium in Marondera, Zimbabwe, on June 2. Mugabe is trying to dodge allegations of assault, but many are adamant she should be charged.

JEKESAI NJIKIZANA/AFP/GETTY

The deputy director-general of South Africa's international relations department, Clayson Monyela, told Africa Check: "In my case, when I travel on business, I use my diplomatic passport. But when I go on holiday, I have to use my private passport. I am not allowed to use my diplomatic passport." (Monyela made the comments on Tuesday prior to the latest developments in the case.)

This clause is a problem for Grace Mugabe, who was reportedly traveling to South Africa for private medical treatment for an ankle injury she sustained in a road accident in July. Zimbabwe's first lady is also due, however, to attend a conference of the South African Development Community (SADC) with her husband later this week, raising the possibility that she may try to claim that she was in the country on official business but had simply arrived early.

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Mugabe based on her status and the close ties between Mugabe and South Africa's President Jacob Zuma.



Simon Grindrod
@SimonFGindrod

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If a South African had gone to Zim and assaulted and injured #GraceMugabe in Harare, I do not think they would ever get out of jail. Ever.

9:31 AM - Aug 15, 2017

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The case is currently at a standstill. South Africa's police ministry said on Thursday that it is waiting for instruction from the international relations department regarding Grace Mugabe's status before it proceeds.

Would Grace Mugabe be granted diplomatic immunity, she would be protected from prosecution. But the South African government could still declare her to be persona non grata and have her expelled from the country. Diplomatic immunity can also be revoked by Zimbabwe, or Grace Mugabe could be prosecuted back home, but both of those would seem remote, if not impossible, given her political standing.

If Grace Mugabe were to get off without charge, it would not be the first time diplomatic immunity has worked in her favor. In 2009, she was accused by a British photographer in Hong Kong of repeatedly punching him in the face after he took photographs of her. Grace Mugabe was reportedly protected from prosecution under Chinese immunity laws.

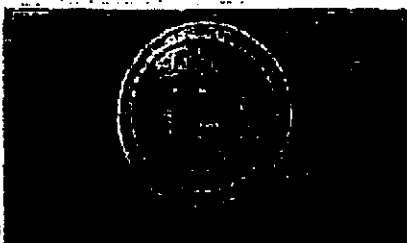
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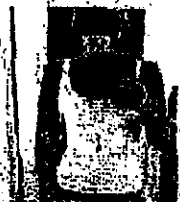
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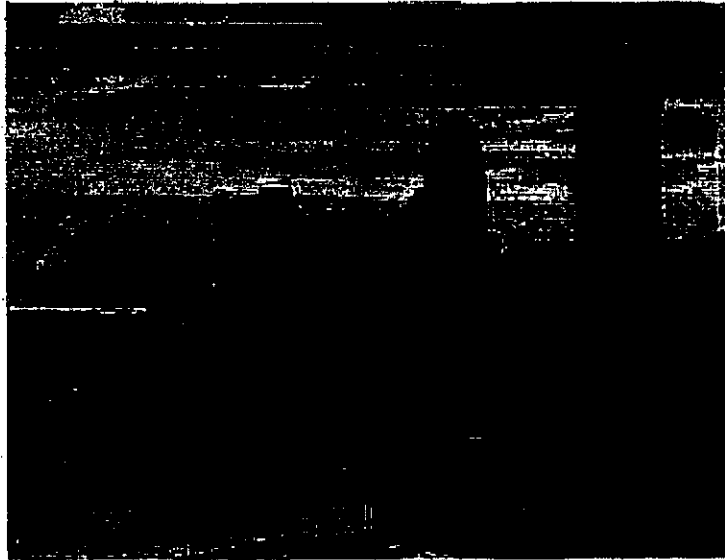


News

Hotel waitress loses baby after Grace Mugabe's hotel rampage

Robert Jnr pushes pregnant employee as he flees mom's fury

20 August 2017 - 00:05 By KHANYI NDABENI, THABO MOKONE, JAN-JAN JOUBERT and RAY NDLOVU



Grace Mugabe's alleged violent attack at a Sandton hotel last week Sunday has been a controversial talking point. File photo.

Image: Supplied

A waitress suffered a miscarriage after she was pushed by Robert Mugabe Jr as he fled his mother Grace Mugabe's violent attack at a Sandton hotel on Sunday.

The waitress at Capital 20 West was delivering food when Robert Jnr ran past her and pushed her out of the way. The woman fell to the ground and was rushed to hospital, where she later lost her baby.

A hotel employee confirmed the incident.

"She was not hit by Grace. It was Robert Jnr who pushed her out of the way as he ran away from his mother.

"Grace did hit staff members ... She was hitting everyone - her sons, their friends, the girls and staff members."

Another hotel staff member, who did not want to be named, said the waitress had been delivering food on that floor when she got caught in the fracas.

"There was a meeting between Grace Mugabe's people and the hotel's human resources people on Tuesday," he said.

Garnet Basson, chief operating officer at The Capital Hotel Group, did not confirm or deny the incident, but said: "We are handling this thing internally. Please respect that. We will decide on how to deal with this matter going forward.

"It's the staff member's privacy that we must respect. I can assure you that we are doing everything in all aspects to ensure that we follow the necessary steps."

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Robert Mugabe Jr with girlfriends on social media photographs.
Image: Supplied

A source said Grace also assaulted a manager at the hotel.

It appears Grace is set to get a free pass from the South African government, with little chance that she will face charges after the highly publicised rampage.

President Jacob Zuma's administration has buckled under pressure from the Zimbabwean government and other countries in the Southern African Development Community region, and is likely to give diplomatic immunity to Grace.

South African government sources said relations with neighbouring states were the main consideration.

A week of chaos and recriminations, which began with Grace assaulting local model Gabriella Engels with an electrical cord, ended with the two countries on the brink of a full-blown diplomatic row as they blocked each other's flights.

Highly placed government sources dealing with the diplomatic fallout said Grace was likely to be granted immunity from prosecution following high-level discussions among several government departments.

Several sources said the decision was influenced by the need to protect political stability and trade relations in the SADC region after several other regional countries applied political pressure on South Africa on the sidelines of the regional body's 37th summit that ends in Pretoria today.

Discussions were still ongoing late yesterday between the departments of international relations, justice and police, the Presidency and the State Security Agency. The dominant view was that Grace should be granted immunity.

"She will get it because if we don't, this thing will have an impact on the relations between the two countries and the rest of the region. The other countries in the region are also working with us," said a senior government official close to the discussions.

Grace was hitting everyone — her sons, their friends, the girls and staff members

Hotel staff member

Engels laid a charge of assault with intent to do grievous bodily harm against Grace following the incident at the hotel on Sunday.

"This is actually the fourth incident where she's assaulted people and gotten away with it," said the official.

"The minute you arrest the first lady, you are essentially saying the husband must get involved, and that's the head of state and the implications for us are huge. Zimbabwe is one of our biggest traders in the region.

"So because of the overwhelming diplomatic and political impact of this issue, the decision is you grant the immunity, but that does not mean you don't understand and appreciate the seriousness of the alleged crimes."

Hotel waitress loses baby after Grace Mugabe's hotel rampage

Clayson Monyela, spokesman for the Department of International Relations, referred queries to the South African Police Service. SAPS spokesman Brigadier Vish Naidoo referred queries back to international relations.

It emerged that Police Minister Fikile Mkhahla was ready to effect the arrest of Grace but was stopped following the intervention of International Relations Minister Malke Nkomo-Mashabane.

Yesterday, the diplomatic nightmare intensified and split over into a major aviation crisis.

Thousands of passengers flying between Zimbabwe and South Africa were left stranded as civil aviation authorities from both countries grounded flights after what insiders said was "political interference" - and an attempt to force the South African government to grant Grace diplomatic immunity.

The furore began when a flight to Harare by Air Zimbabwe - operated by Robert Mugabe's son-in-law Simba Chikore - was grounded on Friday night.

Government sources said the plane was due to fly the Mugabes back to Harare today.

Following a meeting with all aviation entities yesterday afternoon, Transport Minister Joe Maswanganyi assured the matter would be resolved within a day.

Maswanganyi said Air Zimbabwe and South African Airways did not have the required foreign operator's permit, and both airlines had been instructed to comply with regulations.

"From the South African side, the SAA issue was a coincidence and had nothing to do with the restriction of the Air Zimbabwe aircraft by the [SA Civil Aviation Authority]," read a statement.

The meeting followed "retaliation" from Zimbabwe in which SAA operations in Zimbabwe were halted after flights into and out of Harare, Bulawayo and Victoria Falls were cancelled over what the airline said were "restrictions" imposed by Zimbabwe's aviation authorities related to the requirement of a foreign operator's permit for its aircraft.

British Airways, operated by Comair, also cancelled its flights into Harare and Victoria Falls.

The standoff is believed to have been sparked by the grounding of the Air Zimbabwe plane at OR Tambo International Airport.

David Chawota, chief executive of the Civil Aviation Authority of Zimbabwe, told the Sunday Times yesterday that Zimbabwean authorities were "enforcing" regulations and had not imposed any restrictions on SAA operations, as claimed by the airline.

"We don't have any restrictions; we are simply doing an enforcement of the regulations and this is over noncompliance to operational issues as SAA doesn't have a foreign operator's permit. But they [SAA] are making efforts to redress the situation," he said.

With a combined nine daily flights into Harare, Bulawayo and Victoria Falls, the standoff could harm SAA's grip on the lucrative airlines industry in Zimbabwe, which it dominates.

Chawota said the action against SAA "was not a tit for tat".

In Victoria Falls, SAA passengers were ferried by bus from Victoria Falls Airport to board their flight from Livingstone Airport in Zambia - where it is understood SAA planes were landing.

SAA spokesman Tlali Tlali said the airline was "completely surprised" by the events.

Tlali said 120 passengers were on board flight SA025 from Harare to Johannesburg.

"This was surprising as we have been operating that route for more than 20 years. We are still trying to understand it," said Tlali, who did not want to comment on whether the Zimbabwean step was in retaliation for the Air Zimbabwe plane being grounded.

"In total, there were supposed to have been eight flights operated by SAA into and out of Zimbabwe on Saturday - some to and from Harare, and some to and from Victoria Falls," said Tlali.

"We have decided not to operate those flights until the situation changes. If the situation changes."

Civil Aviation Authority spokesman Kabelo Ledwaba said the Air Zimbabwe flight was prevented from leaving on Friday when a routine "ramp inspection" uncovered the absence of a foreign operator's permit.

- Additional reporting by Sobelo Skiti and Dave Chambers

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South Africa

We didn't arrest Grace Mugabe because of her status

17 August 2017 - 12:38 By Nico Goss



Minister of Police, Fikile Mbatula.
Image: Mail Load/Sunday Times

South African police have avoided arresting Zimbabwe's First Lady Grace Mugabe as a result of her status, Police Minister Fikile Mbatula said on Thursday.

Mbatula was asked what measures the police had put in place to ensure Mugabe does not leave the country.

"We, in terms of (the) South African Police, we had already put tabs on the borders in relation to her leaving the country," Mbatula said.

"If it was somebody else ... we could have long moved a raid on her in terms of the issues."

Mbatula said Grace has "her own version" of the alleged assault and never tried to flee the country.

Mbatula was addressing the media on Thursday on the sidelines of the Ayiklome Indaba Against Gender-Based Violence at the Valmore Hotel in Ladismith close to Pretoria.

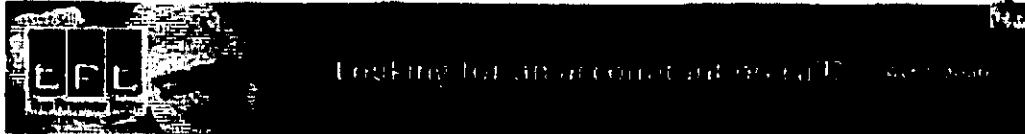
The Department of International Relations and Cooperation (Dirc) has to determine if Mugabe will be granted diplomatic immunity.

She has been accused of assaulting 20-year-old Gabriella Engels with an extension cord at a luxury hotel in Sandton, Johannesburg, on Sunday night, where Mugabe's two sons were staying.

Engels on Monday opened a case of assault with the intent to cause grievous bodily harm at the Sandton police station, and Mugabe was expected to be appear in court on Tuesday. But by the close of business she hadn't been arrested or handed herself over to the police.

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Africa

Would diplomatic immunity apply in alleged Grace Mugabe assault case? No, says Dirco

14 August 2017 - 16:26 By Jan Berman



President Robert Mugabe and his wife, Grace, attend the funeral of the vice-president, John Nkomo, in Harare, Zimbabwe.

Image: REUTERS

A claim by a Johannesburg woman that she was assaulted by Zimbabwe's first lady on Sunday night has prompted people to question whether she would receive diplomatic immunity.

A claim by a Johannesburg woman that she was assaulted by Zimbabwe's first lady on Sunday night has prompted people to question whether she would receive diplomatic immunity.

Gabriella Kngala, 20, claimed she was assaulted by Zimbabwe President Robert Mugabe's wife, Grace, at a Sandton hotel on Sunday night.

This prompted Twitter users to question whether the first lady would receive diplomatic immunity and not face any charges. However, a criminal lawyer and the department of international relations and cooperation said diplomatic immunity would not apply in this case.

Dirco spokesperson Clayton Monyela said she would not receive diplomatic immunity.

"Firstly, for it to apply, she needs to be here on official business. It won't apply if she's here on holiday or for something else," he said.

"Secondly, as a First Lady, she's not part of government or a government official. It doesn't apply just because she's the wife of a president," Monyela said.

Criminal law expert Ulrich Roux also dismissed the idea that diplomatic immunity would apply.

He said a president or their spouse was just another foreign citizen. However, some Twitter users weren't that confident.

@Peter_Mphahlele said: "Im still shocked that ppl think the law still applies 2 evry citizen in the world. Grace Mugabe won't get a single charge. Diplomatic immunity."

Twitter user @matphosha said: "Grace is applying Zimbabwean law of strike first ask questions later even when she is in SA. Must be nice to have diplomatic immunity."

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AFRICA (HTTP://M&G.CO.ZA/SECTION/NEWS-AFRICA)

Government lawyers: 'No diplomatic immunity for Grace'

Oliver Sandoz (https://mg.co.za/authors/oliver-sandoz/) 18 Aug 2017 05:38



Pets of Grace: Arriving Grace Mugabe is going to be 'swicout, if not impossible', says a government insider. (Johannes Mufwana/AFP)

Original: <https://mg.co.za/article/2017-08-18-00-government-lawyers-no-diplomatic-immunity-for-grace>

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South African government has received legal advice indicating that, despite travelling on a diplomatic passport, Zimbabwean first lady Grace Mugabe does not qualify for diplomatic immunity and may be arrested for allegedly assaulting a Johannesburg woman.

The *M&G* has learned that frantic behind-the-scenes negotiations are underway between Zimbabwe and South Africa in an attempt to devise a plan that will help Mugabe to avoid arrest.

Although Zimbabwe has claimed that Mugabe was in the country as part of a delegation attending the Southern African Development Community (SADC) summit that starts on Saturday, well-placed government sources have confirmed she had entered the country to seek medical treatment for a leg injury.

On Sunday, reports surfaced that Mugabe allegedly assaulted Gabriella Engels at a Sandton hotel where the 20-year-old model was visiting the first lady's sons, Robert Jr and Bellarmine.

The *M&G* understands that advice from lawyers consulted by the South African government indicates that the nature of Mugabe's visit and the circumstances around the alleged assault disqualify the first lady from diplomatic immunity.

"If she had come here as part of the official delegation of Zimbabwe to participate in the summit, she would have had diplomatic immunity. But even there, it becomes what we call functional immunity. In other words, it's limited to if she does anything in relation to the summit. If anything goes wrong, she's covered diplomatically because she's part of the official delegation," a senior government official told the *M&G*.

"So even if right now they retrospectively put her as a travelling member of the delegation that is here for the SADC summit, it would still not be enough because what happened in Sandton is not linked to the summit."

<https://mg.co.za/article/2017-08-18-00-government-lawyers-no-diplomatic-immunity-for-grace>

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It's understood that Mugabe's arrest is unlikely to be pursued; the high-level negotiations underway suggest that she will be whisked back to Zimbabwe without appearing before a South African court.

One of the tactics is an intention by the Zimbabwean government to interdict any attempts by South Africa to arrest Mugabe, with Harare arguing that its first lady enjoys diplomatic immunity.

Cathleen Powell, a senior public law lecturer at the University of Cape Town, explained that legally, the first lady has no grounds for justification as she was not an accredited diplomat and couldn't claim immunity.

"The immunity relating to a particular international summit [such as the SADC summit] is covered by the agreement setting up the summit. Unless that agreement specifically covers the spouses of heads of state attending, she won't be covered. The fact that she is on his arm at an international event does not make her a diplomat and does not give her immunity," she said.

The other option would be for the South African government to delay making a decision on whether or not Mugabe will be granted diplomatic immunity, pending which she will be allowed to return home.

"We're trying to find alternative ways of managing it. I suspect that it may not necessarily end up in court," a source said. "There are all sorts of delaying tactics that are being considered."

Political considerations are understood to be the biggest reason behind South Africa's apparent reluctance to arrest Mugabe. It is understood that fears of isolation in the region and on the continent have forced officials into a difficult position. The historical links between South Africa and Zimbabwe are another factor delaying action on the matter.

This week, South Africans watched as Police Minister Fikile Mbalula gave varying accounts of why Mugabe had not been arrested and questioned the government's apparent lacklustre approach to the matter.

Questions about Mugabe's location also stirred confusion as, at one point, it was believed that the first lady had travelled back to Zimbabwe after the assault.

In his most recent statement, Mbalula confirmed that Mugabe was still in the country and gave assurances that the necessary legal procedures would take place.

"Discussions with the suspect's lawyers and the Zimbabwean high commission representatives are taking place to make sure that the suspect is processed through the legal system," Mbalula said in a statement.

A government insider told the M&G that South Africa needed to think carefully about the effect that arresting Mugabe would have on future relations, especially as this would be the first documented case on the continent of a country arresting the first lady of another state.

"So unfortunately all of those issues will have to be factored in, in terms of what we do next, and the only way out of this is to find a loophole where you manage it differently and you allow her to go back home. But arresting a first lady is going to be difficult, if not impossible," the insider said.

The source also warned of the isolation that has befallen African countries and their leaders who betrayed their continental counterparts, using the example of Nigeria giving former Liberian president Charles Taylor safe exile before "betraying" him to a United Nations-backed tribunal.

Afrikaner lobby group AfriForum on Thursday said a "third party" had already offered Engels money to "make the matter go away", but she did not accept it. It did not provide further details of the offer.

AfriForum said it was making sure Engels received trauma counselling. Former top public prosecutor Gerrie Nel, now heading the group's private prosecutions unit, vowed to monitor the police and prosecutors closely, and to step in if necessary. The group promised to fight the government to "the highest court in the land" should Mugabe be granted diplomatic immunity and not be arrested.

Engels's mother, Debbie, said she was confident that AfriForum's help would prevent Mugabe from escaping justice. — Additional reporting by Matuma Lotsoai, Simon Allison and Phillip de Wet

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JS13



South Africa

Borders on 'red alert' to stop Grace Mugabe fleeing

17 August 2017 - 20:25 By Reuters



Zimbabwe first lady Grace Mugabe. File photo
Image: Jekesai NJIKIZANA / AFP

South African police have put a "red alert" on the country's borders to prevent any attempted flight by Zimbabwean First Lady Grace Mugabe, who is accused of assaulting a model in a Johannesburg hotel with an electric cable.

Her 93-year-old husband, President Robert Mugabe, is also in South Africa for a regional summit, complicating the diplomatic dilemma confronting Pretoria, which already has a difficult relationship with its troubled northern neighbour.

South Africa is home to an estimated 3-million Zimbabweans who accuse Mugabe of trashing a promising African democracy but Pretoria has been powerless to prevent Zimbabwe's economic and political decline over the past two decades.

Grace Mugabe, 52, has asked for diplomatic immunity in the case but has not been charged. Her whereabouts were not known on Thursday although police minister Fikile Mbalula said she remained in the country.

The alleged victim, 29-year-old Gabriella Engels, has accused Mugabe of barging into a hotel room on Sunday where Engels was waiting to meet one of Mugabe's sons, and whipping her with an electric extension cable.

Mugabe had been due to appear in court on Tuesday afternoon under a deal struck with authorities but failed to turn up, police said.

On Thursday, Mbalula said a "red alert" had been issued to South African border posts to prevent Grace Mugabe fleeing.

"We had already put tabs on the borders, in relation to her leaving the country, so there's no question about that," he said. So far she had made no attempt to flee, he added.

The South African government has made no official comment on the case and foreign ministry spokesmen have not answered their phones for two days but the issue is causing waves at the highest level.

Justice Minister Michael Masutha told Reuters he was attending a meeting on Wednesday evening to discuss the matter but declined to give details.

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Borders on red alert to stop Grace Mugabe fleeing

Police have said Grace will get no special treatment, and Engela's mother, Debbie, is cranking up the public pressure, including releasing graphic pictures of her daughter's head injuries that required 14 stitches.

On Thursday, it emerged that she had also enlisted the legal help of Gerrie Nel, the former state prosecutor who secured a murder conviction against track star Oscar Pistorius.

At a news conference, Nel said the Engela family had been offered cash to drop the case but had turned it down.

"It's not about money. It's about justice," he said.

Nicknamed "The Pitbull" for his combative style in the blockbuster Pistorius trial, he also said detectives had told Engela they were seeking an arrest warrant for Mugabe.

'Diplomatic immunity'

However, a senior police source said Nel was jumping the gun because of Mugabe's application for diplomatic immunity.

"We are not preparing an arrest warrant yet," the source said. "Our investigations were completed but before we could take the next step, the suspect applied to invoke diplomatic immunity. We are waiting the outcome before we can move on to the next step."

Mugabe came to South Africa for medical treatment to an injured foot, almost certainly invalidating her claims to diplomatic immunity, legal experts said.

However, given the potential diplomatic fallout, prosecutors could decide not to pursue the case if they thought the injuries to the alleged victim were not too severe, criminal attorney Riaan Louw said.

Herare has made no official comment and requests for comment from Zimbabwean government officials have gone unanswered.

A lawyer identified to Reuters as Mrs Mugabe's representative declined to answer any questions. Zimbabwe's ambassador to Pretoria, Isaac Moyo, did not answer his phone.

Reporting Robert Mugabe's visit to South Africa, Zimbabwe's Herald newspaper, the government's main mouthpiece, made no mention of the controversy swirling around his wife, which puts Pretoria in a diplomatic bind.

Mugabe is seen by many Africans as the continent's elder statesman and a hero of its anti-colonial struggles but Nelson Mandela accused him in 2008 of a "tragic failure of leadership" and Mugabe's relationship with President Jacob Zuma has been rocky at times.

For Debbie Engela, the only issue is getting Grace Mugabe to face the law.

"She had an electric cord wrapped around her hand and she started attacking them. She hit my daughter with a plug socket," Engela told Reuters. "I just want justice for my daughter. It's not about money. It's about justice."



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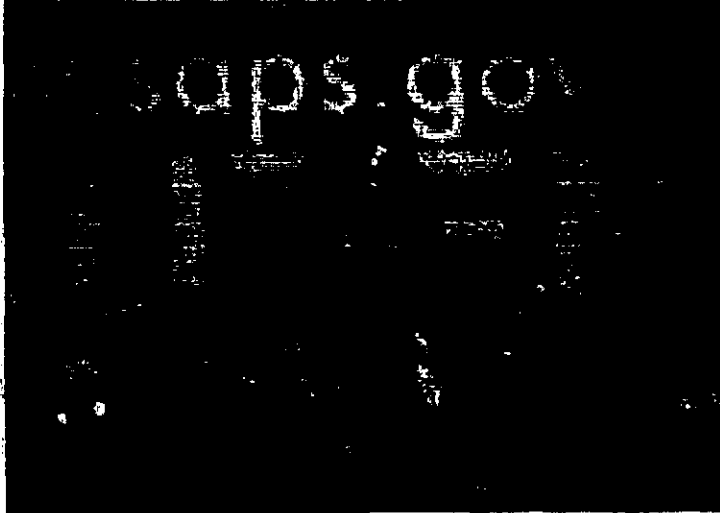
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Politics

Grace Mugabe kept cops waiting 'all day': Mothiba

16 August 2017 - 16:51 By Beale Ndenze, Jan Borman And Nhlalo Ndaba



Acting National Commissioner of the South African Police Service, Lieutenant-General Lesetja Mothiba. File photo

Image: Supplied

Acting police commissioner Lt-Gen Lesetja Mothiba has explained how Zimbabwean first lady Grace Mugabe gave police the slip on Tuesday as details of diplomatic talks emerged.

Mothiba was addressing a portfolio committee in Parliament on Tuesday in which he was asked about the ongoing impasse between the police and Mugabe's lawyers, after she was accused of assaulting a 20-year old woman on Sunday night.

Mothiba said police had waited all day on Tuesday for Mugabe to hand herself over, but she was a no show.

"On the issue of Mrs Mugabe, honourable chairperson, the whole thing happened around Sunday but the matter was only brought to the attention of SAPS on Monday in the afternoon and our provincial commissioner in Gauteng put a team to look for her and she had booked out of the hotel where she was staying with her sons," Mothiba said.

The alleged assault had taken place at the Capital 20 West in Sandton. The alleged victim Gabriella Engels, said Mugabe had beat her with an electrical extension cord.

"Sunday evening we got a call that she would hand herself over. The whole of yesterday we were waiting for her. Her lawyers arrived at Sandton police station around six o'clock," Mothiba said.

"They said that they would be coming to plead that she has diplomatic immunity, but we were supported by NDPP Adv Shaun Abrahams and his provincial head. Our position was that she must go to court. Whole day yesterday we were waiting for her."

Meanwhile the police ministry released a statement indicating that the Zimbabwean government has officially gotten involved in negotiations.

In the statement Filike Mbalula's office says Mugabe had "made arrangements acceptable to SAPS that she would present herself to" police in Sandton.

"The time scheduled was changed several times. By end of business yesterday she had failed to present herself as arranged. Her attorneys and government of Zimbabwe representatives did arrive at the Police Station in Sandton for channels of cooperation," the statement said.

Mbalula's office said Mugabe was meant to give a warning statement before a docket was presented to the NPA for a decision whether to prosecute or not.

Sm

"The suspect's lawyers and her government representatives made verbal representations to SAPS investigators that the suspect wished to invoke diplomatic immunity cover and thus she elected to change her mind about the warning statement," the statement said.

Mbakula's office said the Zimbabwean government has since dispatched an official diplomatic note invoking diplomatic immunity.

"The suspect remains in South Africa and has not departed the Republic, we are advised her itinerary includes amongst private matters her attendance and participation at the scheduled SADC Heads of States/Governments Summit and Bi-lateral Diplomatic Meetings already underway in Pretoria. Discussions with the suspect's lawyers and the Zimbabwean High Commission representatives are taking place to make sure that the suspects is processed through the legal system," the ministry said.

Sources in Zimbabwe have told TimesLIVE that Zimbabwean President Robert Mugabe will be arriving in South Africa on Wednesday, two days earlier than scheduled. He is attending the SADC event in Pretoria.



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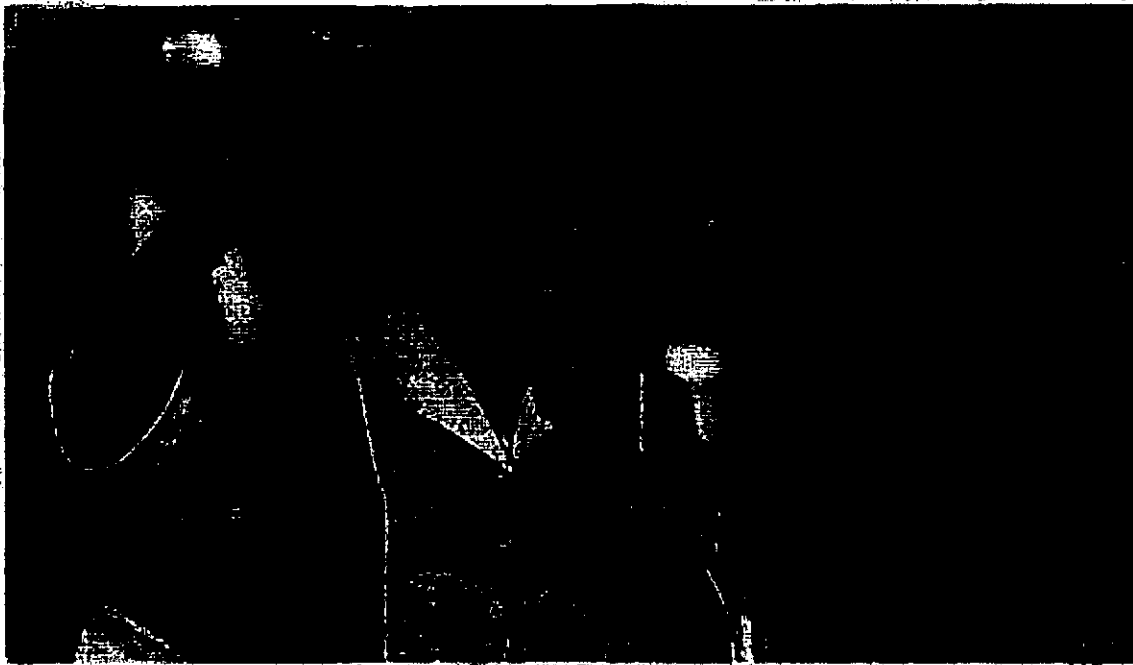
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NEWS

Grace Mugabe fails to appear at leaders summit in SA

19 August 2017 | Africa



The wife of the Zimbabwean leader, Robert Mugabe, has failed to appear at the start of a regional leaders summit in South Africa.

Grace Mugabe, 52, is claiming diplomatic immunity after she was accused of assaulting a model last week.

She had been due to take part in the first ladies' programme at the summit.

The authorities say she remains in South Africa and her request for immunity is under consideration.

Police want to interview Mrs Mugabe about an alleged assault at a hotel in Johannesburg.

She is accused of hitting a 20-year-old woman over the head with an extension cord.

Police expected her to turn herself in on Tuesday, but she failed to show up.

They set up a "red alert" at the country's borders to try to ensure she does not flee the country.

Police Minister Fikile Mbalula said: "We, in terms of South African police, [have] already put tabs on the borders in relation to her leaving the country, so there is no question about that."

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DRA

"So tabs have been put, a red alert has been put, so she is not somebody who has been running away."

Diplomatic Immunity

South African Airways, which is owned by the South African government, says its flight from Zimbabwe's capital to Johannesburg was unable to take off as scheduled on Saturday morning.

The airline says Zimbabwean authorities are demanding a "foreign operators permit" to allow them to operate in Zimbabwe, despite the fact the route has operated for more than 20 years without one.

The restrictions come as South Africa's government considers whether to grant diplomatic immunity to Mrs Mugabe.

The first lady's whereabouts are not known but she is believed to still be in South Africa.

Mrs Mugabe has not commented on the allegation.

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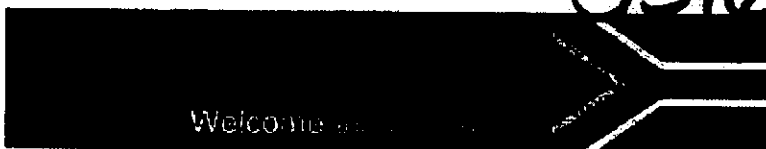
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JS16



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Media Statement

20 August 2017

Decision on Diplomatic Immunity relating to an alleged assault case in Sandton

On Wednesday, 16 August 2017, the Embassy of the Republic of Zimbabwe invoked immunities of Dr Grace Mugabe in relation to the alleged case of assault widely reported in the media.

The Minister considered the communication from the Embassy in accordance with the discretion granted to her by section 7(2) of the Diplomatic Immunities and Privileges Act.

According to Section 7 (2) of the Act: "The Minister may in any particular case if it is not expedient to enter into an agreement as contemplated in subsection (1) and if the conferment of immunities and privileges is in the interest of the Republic, confer such immunities and privileges on a person or organisation as may be specified by notice in the Gazette."

After careful consideration of all the relevant factors, including the following:

- the need to uphold the rule of law, ensure fair administration of justice and uphold the rights of the complainant;
- the imperative to maintain good inter-governmental relations within the SADC region, and in particular between the Republic of South Africa and the Republic of Zimbabwe;
- the fact that the matter coincides with South Africa's hosting of the 37th SADC Summit of Heads of State and Government;
- legal considerations, including derivative immunity of spouses of Heads of State,

the Minister has made the determination that the conferring of diplomatic immunity is warranted in this particular instance.

The Department wishes to convey the message that the Minister has agonised over this matter and the decision was not an easy one to make.

ISSUED BY THE DEPARTMENT OF INTERNATIONAL RELATIONS AND COOPERATION

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