

Name: James Thabiso Lenkoe

Date of Birth: Unknown

Date of Death: 10 March 1969

In Summary: James Thabiso Lenkoe was a Lesotho national who was arrested under the 1967 Terrorism act on 5 March 1969. He was taken to prison and declared dead on 10 March 1969. His death was classified as a suicide by hanging but the truth about his death was never revealed.

Laws such as the [Terrorism Act of 1967](#) allowed for the police to detain almost anyone they wanted with little to no cause and hold them for undetermined lengths of time. These laws lead to the death, detention, and suffering of people like James Lenkoe. Very few families have found any justice for the wrongs done to their loved ones. James Lenkoe was a Lesotho national who was working on railroads in South Africa. He was accused as a leader of a terrorist cell and was arrested on 5 March 1969 under the Terrorism Act of 1967. During this detention Lenkoe's death was falsified by an alleged suicide while the true reason for his death was never fully uncovered, despite substantial evidence and a trial. He was married to Julia Lenkoe.

The terrorism Act of 1967 consisted of eight separate sections in which different components of the act were laid out. In section one of the act, the word terrorism is defined. Section two goes on to clarify the meaning in section one and the actions included under the definition of terrorism. *'The Act defined someone as participating in terroristic activities if they acted "with intent to endanger the maintenance of law and order" or if took take action which "incites," "commands," "aids," "encourages" another person to commit such an act.'*¹ Section three goes on to extend the act of terrorism not only to the person acting, but also to anyone who

¹ Jon. '1967 Terrorism Act, No. 83 of 1967.' South African History Online. July 06, 2012. Accessed October 20, 2017. <http://www.sahistory.org.za/topic/1967-terrorism-act-no-83-1967>.

knew or was indirectly assisting to the acts of terror. Sections four and five clarify that *‘Regardless of where a violation of the Act was committed “any superior court or attorney general” in South Africa had jurisdiction over this offence as “if it had been committed within” their area of authority. (4.1) The Minister of Justice, too, could determine where any trial for a violation of the Act would take place. (4.2)’*², meaning that no matter where an ‘act of terror’ was committed, any attorney general could precede over the case. In the sixth section of the Terrorism Act, we see the most important piece of the Act. Section six describes the law for how alleged terrorists would be detained. In this section it is observed that *‘if any police officer of or above the rank of Lieutenant-Colonel believed that any person was a terrorist or was withholding information on terrorists, that person could be arrested “without warrant and [be] detain[ed]”’. The circumstances of their detention remained “subject to such condition as the Commissioner [of the South African Police] may determine” and the accused could be held “until the Commissioner orders [their] release when satisfied” that they have provided all useful pieces of information*³. The final two sections of the Terrorism Act ensured that *‘judiciary would maintain some control over the trials of those arrested under the Act.’*⁴ This last section of the article was put into place to outline trials for those arrested and that the Attorney General has reaching power over the police, but this section of the act was very loosely written, and was rarely actually used.

Following his arrest in the middle of the night, James Lenkoe was taken to Pretoria Prison where he was held for five days before his death. Pretoria Prison was the official site for capital punishment.

² SAHO History, 1967 Terrorism Act

³ SAHO History, 1967 Terrorism Act

⁴ SAHO History, 1967 Terrorism Act

Thad Hand
December 2017

On 10 March, just



5 days after he was arrested, James Lenkoe died. His wife was sent a message to collect his body later that week, to

which later she told Joel Carlson, the lawyer who defended Lenkoe, that *'She had watched the police beating her husband when they took him away, for reasons they would not disclose. When she went to visit*

*him in Pretoria prison the following day, she was told she could not see him for 180 days, but should bring clothes and food for him on Sunday. When she arrived with her parcels, she was told that her husband was not there and was sent away. Although her husband died on 10 March, she was only told on 13 March. She concluded her story by handing over James's belt to Carlson. 'This is my husband's belt,' she told him. 'He had only one and he didn't take it when he was arrested. How can he have hanged himself with his belt?'*⁵

Joel Carlson was a white South African lawyer who fought apartheid during the 1950s and 60s. Carlson represented the oppressed and some of the most influential leaders during the fight against apartheid. Carlson represented over 100 people, including the Mandela family while Nelson Mandela was held in prison on [Robben Island](#). In 1971 he was forced to flee to the U.S. to protect himself and his family from the threats and acts of aggression against them. Leading

⁵ Bizos, George. *No one to blame?: in pursuit of justice in South Africa*. Cape Town: David Philip Publishers, 2000: 15.

up to his exile from South Africa, Carlson was recruited by Julia Lenkoe to investigate her husband's death. Carlson accepted Julia Lenkoe's request and started by recruiting Jonathan Gluckman to conduct an autopsy.

Dr. Jonathan Gluckman was a pathologist who examined the bodies of those who died under apartheid while detained in prison. 'Dr. Gluckman said last year that he believed that the police had killed most of the 200 or so detainees he examined after they died in custody.'⁶ One of Dr. Gluckman's most famous cases is the case of Steve Biko, in which he determined that Biko died of brain damage.

Upon examining James Lenkoe, Gluckman discovered a mark located on one of James Lenkoe's toes. Following the examination, an American pathologist, Professor Alan Moritz was recruited to help conduct a spectrographic test to determine if the mark located on Lenkoe's toe was caused by an electrothermal injury. Upon the skin examination, conducted by the South African Bureau of Standards, it was determined that the mark was caused by some sort of electricity and that it contained copper. *'The Injury also made it possible to fix the time of death at no more than twelve hours after the injury had been received.'*⁷ Following the examination, Professor Moritz concurred with the results of Gluckman's examination and agreed with the suspicions that the alleged hanging was fabricated. During the inquest into James Lenkoe's death, which examined the credibility of Lenkoe's alleged suicide by hanging, *'Counsel for the family were not permitted to have copies of the photograph of Lenkoe's body hanging in his cell. No detailed examination was possible to...[determine] weather he had actually hanged himself. What was interesting was that Lenkoe had been dressed in overall[s] which was not normally*

⁶ 'Jonathan Gluckman, Biko's Pathologist, 78.' The New York Times. May 27, 1993. Accessed October 20, 2017. <http://www.nytimes.com/1993/05/27/obituaries/jonathan-gluckman-biko-s-pathologist-78.html>.

⁷ Bizos, No One to Blame?: 16.

worn with a belt and, indeed did not require one.’⁸ The fact that Lenkoe was wearing overalls corroborates the comment that Julia Lenkoe made to Carlson about her husband not wearing his belt, that there is no way James Lenkoe could have hung himself with his belt because he in fact did not even have his belt when he was in prison. When the head state pathologist, Hieronymus von Praag Koch, was cross examined during the inquest, *‘he concluded that a spectrographic test would establish whether the burn was an electrothermal injury.’*⁹ Upon his comment, it was announced that the Spectrographic test had already been conducted by the South African Bureau of Standards and that the skin located on Lenkoe’s toe tested positive. The prosecutor then went on to question how Lenkoe’s arm could have been raised up in the air during a suicidal hanging to which Koch replied *‘Lenkoe had undergone an instantaneous cadaveric spasm which had caused immediate rigor mortis’*.¹⁰ Cadaveric Spasms, being associated to violent deaths under extreme physical and emotional circumstances, is an extremely rare phenomenon in which the muscles of the body stiffen up until the process of rigor mortis is in place. While this is a plausible reason behind Lenkoe’s raised arm, it is extremely rare and unlikely that this would have actually happened.

Following the cross examination of Hieronymus Con Praag Koch, Hillel Shapiro, a new attorney stepping in for the Lenkoe family, provided evidence which supported the finding conducted by Dr. Gluckman. Hillel Shapiro brought witness Professor Moritz to the stand, but this is where things began to go downhill for the Lenkoe family. During the cross examination, *‘the prosecutor put it to Moritz that if someone were working with metal, then they would have trace amounts of metal on their skin. When Moritz agreed, the [the prosecutor] pushed home his point: ‘Then you will agree that if the deceased had constantly come into contact with copper by*

⁸ Bizon, No One to Blame? 16.

⁹ Bizon, No One to Blame? 16.

¹⁰ Bizon, No One to Blame? 16.

reason of his work, then his skin would contain more copper?'¹¹ Following this examination, the state called Professor Bernard Meyer to testify that you could not determine the normal amount of copper that would be in James Lenkoe's Body. The counsel for the Lenkoe family requested a postponement so that they could gather evidence to refute the testimony, but Magistrate Tucker did not grant the postponement. In a final attempt, the council attempted to take evidence on the Lenkoe trial's lead interrogator, Jordaan 'Rooi Rus' Swanepole. Rooi Rus was known for being one of the major members of the 'Sabotage Squad.' This squad '*conducted interrogations throughout the country, employing methods such as applying electric shocks, brutal assault, burning, breaking bones, hanging the suspect upside-down from an open window in a multi-storey block and making him stand in the same position without sleep or food for long periods of up to 60 hours.*'¹² During this last attempt, counsel's '*attempts to lead evidence on Maj. Swanepoel's systematic brutality were rejected outright. [the prosecutor] accused [consul] of telling an 'infamous lie' in his application ...[Magistrate] Tucker declared that he had listened to [consul] and all the evidence he was prepared to hear.*'¹³ Magistrate Tucker then adjourned to make his decision and came back to conclude that James Lenkoe had hanged himself and that there was no evidence to prove anyone to blame for his death.

Although the truth behind the death of James Lenkoe was not brought to light and the family did not get any reconciliation for their loss, the Lenkoe Trial was a key trial. Following the trial, Carlson continued to work with the Lawyers Committee for about two decades, working in several different cases. These cases and this work lead to the creation of the Southern Africa Project.

¹¹ Bizos, No one to Blame? 17.

¹² Dwyer, Jim. 'Joel Carlson, 75, Lawyer Who Fought Apartheid in 50's.' *The New York Times*. Accessed October 20, 2017. : <http://www.nytimes.com/2001/12/04/world/joel-carlson-75-lawyer-who-fought-apartheid-in-50-s.html>.

¹³ Bizos, No One to Blame? 17.

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