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## AFFIDAVIT

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I, the undersigned

**MATAMELA CYRIL RAMAPHOSA**

declare under oath:

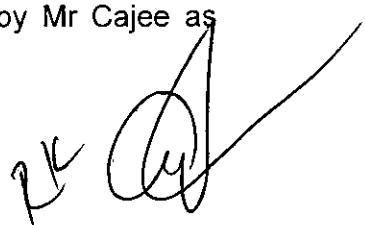
1. I am the President of the Republic of South Africa. I am the head of state and the head of the National Executive in terms of section 83(a) of the Constitution of the Republic of South Africa, 1996.
2. The facts deposed to below are within my personal knowledge. I believe them to be true. Facts not within my personal knowledge are confirmed by supporting affidavits. Legal submissions are made on the advice of my legal team.

### **Purpose of Affidavit**

3. This affidavit responds to the notice in terms of rule 3(3) of the TRC Commission of Inquiry, proclamation 285 of 2025. It was issued by the TRC Commission of Inquiry. It is dated 30 October 2025. I received it on 30 October 2025.

### Terms of the Notice

4. The notice (in paragraph 6) summarises the allegation by Mr Cajee as follows:



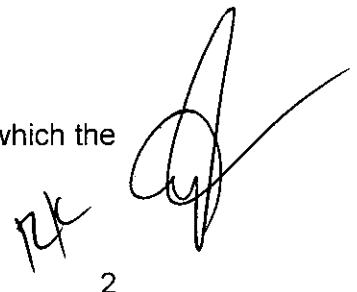
"He alleges that you ignored the pleas of the Victims of Apartheid Atrocities and their Families to have the TRC Cases investigated and prosecuted."

The Notice – Inconsistent with the Commissions Terms of Reference

5. I draw the attention of the Commission of Inquiry to its terms of reference (ToR) particularly clauses 1.1 and 1.2.
6. The ToR do not include the investigation of the allegation that I ignored pleas to have TRC cases investigated and prosecuted.
7. As far as I am aware, no allegation has been made against me, of efforts or attempts to influence or pressure the SAPS or NPA to stop investigating or prosecuting TRC cases, as contemplated by clauses 1.1 and 1.2 of the ToR.
8. I also draw the attention of the Commission to the fact that after receipt of the founding affidavit in the application by the Apartheid-era Victim's Family Group (AVFG) in the High Court, I established this Commission of Inquiry.
9. In so far as there was a dispute over the establishment of a Commission of Inquiry, that dispute was resolved, after I established the Commission, and agreed to pay the costs of the application relating to the establishment of a Commission.

The Reasons for the Notice

10. The r3(3) notice goes on to refer to an affidavit by Mr Cajee, from which the



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allegation appears.

11. That affidavit refers to the following:

Letter by former TRC Commissioners dated 5 February 2019

- 11.1 The letter heading reads:

“CALL FOR APOLOGY TO VICTIMS & FOR APPOINTMENT OF A  
COMMISSION OF INQUIRY TO INVESTIGATE THE  
SUPPRESSION OF THE TRC CASES”

- 11.2 In the first paragraph of that letter, former TRC Commissioners record that they write to me ‘to call on you to appoint a commission of inquiry into the political interference that has stopped the investigation and prosecution of virtually all the cases referred to the TRC to the ... NPA’.

Letter dated 23 June 2019 by AVFG

- 11.3 The letter heading reads:

“CALL FOR APOLOGY TO VICTIMS & FOR APPOINTMENT OF A  
COMMISSION OF INQUIRY TO INVESTIGATE THE  
SUPPRESSION OF THE TRC CASES”

- 11.4 On the third page of that letter AVFG say that they ‘take this opportunity of genuinely imploring you and your esteemed cabinet to consider prioritizing the more than 300 TRC cases that were – for some uncanny reason – ignored and that were forwarded to the ...

  
PK  
3

NPA for further investigation and prosecution'.

- 11.5 On the third and fourth pages of that letter, AVFG refer to the letter by the former TRC Commissioners calling for a commission of inquiry and record that there was as yet no response to those Commissioners.
- 11.6 On the fifth page of that letter I am asked to 'firmly intervene' so that my 'office can assist to bring about some form of justice to many of the affected families and friends' and to 'bring some measure of closure' to 'traumatized families and friends' and to 'help heal our deeply troubled nation'.

12. The Office of the Presidency could not locate this letter. It does not have a record of having received this letter.

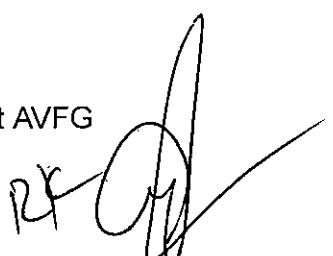
Open letter dated 23 June 2020 by AVFG

13. The letter heading reads:

"CALL FOR APOLOGY TO VICTIMS & REQUEST FOR APPOINTMENT  
OF A COMMISSION OF INQUIRY TO INVESTIGATE THE SUPPRESSION  
OF THE TRC CASES"

14. That letter records:

- 14.1 A year had passed since the previous letter to me and that AVFG were hopeful that I would offer a reply to that letter.



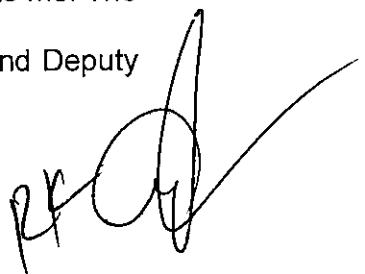
It was the urgent wish of AVFG that I give my 'full and immediate attention to our request'.

- 14.2 The AVFG requested 'an assurance from both your administration and the NPA that the kind of political interference that had occurred and continues to occur in all matters of TRC cases will never happen again'.
- 14.3 The AVFG 'would like to hear about the necessary measures, including checks and balances, which will be put in place in order to prevent a recurrence of these unacceptable breaches of our rights and our Constitution'.
- 14.4 The AVFG 'openly and humbly appeal' to me to 'make a decisive intervention ... firmly, if not forcefully ... so that justice may bring about familial solace to the affected families'.

15. The Office of the Presidency could not locate this letter. It does not have a record of having received this letter.

February 2019 Letter

16. That letter by former commissioners of the TRC was addressed to me. The commissioners copied in the Minister of Justice (Mr Masutha) and Deputy Minister of Justice (Mr Jeffery) on that letter.

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17. The letter requests that I appoint a commission of inquiry to investigate political interference in the suppression of TRC cases.
18. As President, I have a constitutional and statutory discretionary power to appoint judicial commissions of inquiry.<sup>1</sup> I am not under a constitutional, statutory or other legal obligation to establish a commission. The presidential power to establish a commission is discretionary. Provided, I am advised, that power is exercised consistently with the Constitution, statutes, and the law, my not establishing a commission is lawful. As appears below, I did not accede to requests to establish a commission, because the NPA, Justice Ministry and Department of Justice were committed to addressing the complaint of a delay in prosecutions and the suspicion that the delay was due to political interference in legitimate ways, other than a commission of inquiry.
19. The DOJ had established a TRC section in that Department. It was not responsible for prosecutions. Nor is the NPA accountable to the DOJ for investigations and prosecutions. That is the constitutional and statutory duty of the NPA. But it was responsible for the administration of the President's TRC fund (established under s42 of the Promotion of National Unity and Reconciliation Act 34 of 1995) including the payment of reparations, and for assisting the families of victims of apartheid era violence.

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<sup>1</sup> Section 84(2) of the Constitution  
Daniel v President of the RSA [2013] ZACC 24



20. That section, together with the Ministry of Justice, as described below, tried to find ways to address the delay complaint and the suspicion that the delay was the result of political interference by members of Government. They could not and did not do that by interfering with the prosecutorial work of the NPA. Neither did I.

21. During the time after my receipt of the letter:

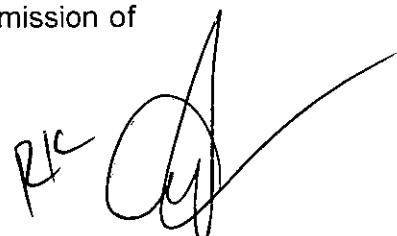
21.1 The Ministry of Justice was considering the request for the purpose of advising on its feasibility.

21.2 The Ministry took the following view:

21.2.1 Before advising on the feasibility of a commission, it would be proper to explore finding a solution to the underlying problem identified in the request.

21.2.2 That complaint was that there had been a delay in the prosecution of TRC cases, that could be ascribed to political interference.

21.2.3 It would be more effective in addressing that complaint, first to consider and find ways to speed up TRC prosecutions and to prevent delays before witnesses passed away, rather than start a judicial commission of inquiry.

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21.3 I rely on the information in relation to the work done and the view adopted by the Justice Ministry throughout this affidavit, on the knowledge of officials in the Justice Ministry and the DOJ. The necessary confirmatory affidavit will be filed in due course.

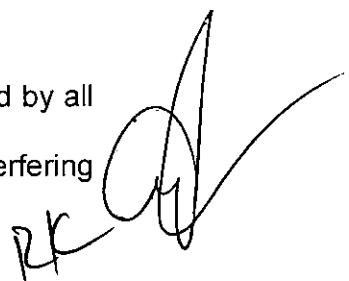
21.4 The NPA is in law independent of the Ministry of Justice and the DOJ. It is monitored by Parliament, to whom it reports.

21.5 That is why, the Justice Ministry could not itself intervene to speed up prosecutions. It enquired of the NPA what was being done to speed up prosecutions.

21.6 Even before Ms Batohi took over, the Justice Ministry had enquired from her predecessors, why TRC prosecutions were taking so long.

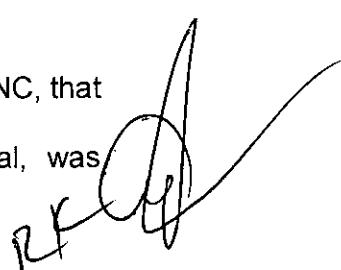
21.7 I was informed and aware that the Justice Ministry had enquired of the NPA about delays in prosecutions after the first letter by former TRC Commissioners. The Justice Ministry was satisfied that the NPA was working at reducing delays and speeding up prosecutions. Constitutionally and statutorily, the Justice Ministry and DOJ could do no more than make enquiry of NDPP.

21.8 As I say elsewhere in this affidavit and as must be accepted by all parties at the Commission, I am prohibited by law from interfering

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in the prosecutorial decision-making and work of the NPA. I left enquiry of the NPA to the Justice Ministry. It was the appropriate Ministry to deal with such enquiry. I was satisfied that both the Justice Ministry and the NPA were dealing with the complaint of delays in TRC prosecutions. In so far as there were delays, as is explained in the affidavit of Ms Singh, they were not the result of political interference. That had been conveyed to the Justice Ministry.

- 21.9 As is confirmed in her affidavit, very soon after I appointed Ms Batohi and she took over as NDPP, the NPA under her direction took steps to start and speed up TRC prosecutions.
- 21.10 A comprehensive account of the investigative and prosecutorial steps taken by the NPA after Ms Batohi became NDPP, is set out in the affidavit of Ms Singh. She is the senior state advocate who is Head of the TRC component within the NPA. It is apparent from her affidavit that since I became President, the NPA has worked hard to finalize TRC investigations and prosecutions.
- 21.11 The Ministry of Justice also engaged with the African National Congress (ANC) and Foundation for Human Rights (FHR).
- 21.12 I know, as a result of my position of leadership within the ANC, that Ms Jessie Duarte, then ANC Deputy Secretary General, was

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mandated by the ANC to assist the AVFG. Most of the people whose families were represented by the AVFG who died in the course apartheid era violence were members of the ANC or part of the broader liberation struggle. Ms Duarte engaged with the DOJ and the FHR for the purpose of seeing what the ANC could do to assist the AVFG. The engagement focussed mainly on assistance to the AVFG from the President's Fund. As a senior member of the ANC, and as a member of Government, I was aware of the efforts of Ms Duarte together with the DOJ and FHR to assist the AVFG with their complaint.

21.13 The DOJ, ANC and FHR could not interfere with or intervene in the work of the NPA. The way that the complaint was addressed by the Ministry of Justice and the DOJ, was to use the President's Fund to alleviate the hardship suffered by family members of the victims of apartheid-era violence by providing assistance to them. The measures taken are relevant to the matter of constitutional damages. They will be dealt with in a separate affidavit that will be filed in due course.

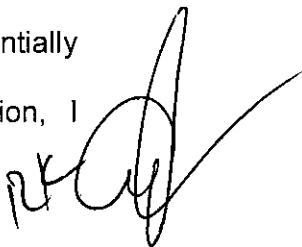
June 2019 Letter

22. I am prohibited by law from prioritising the prosecution of TRC cases or to intervene in TRC cases to bring about justice, as is requested in this letter.
23. Ms Batohi's affidavit sets out the constitutional and statutory provisions

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guaranteeing the independence of the NPA from external control. If I tried to influence the NPA in prioritising TRC or any other cases, or if I intervened by attempting to get the NPA to speed up their prosecutions, that could and would be seen as executive interference with the prosecutorial independence and work of the NPA.

24. This letter issues a reminder of the request by former commissioners in their February 2019 letter. As I point out above, the reason for that request – the delay in the prosecution of TRC cases – was addressed, particularly by the NPA.
25. That was consistent with its constitutional and statutory responsibilities. That, according to the view of the Justice Ministry, was also the right way of tackling the delay problem. If the NPA started and speeded up prosecutions, that addressed the delay complaint. That also got on with the duty to prosecute TRC cases. That addressed perceptions that delays were the result of political interference. That was also a more practical and effective measure than a commission of inquiry. As I say above, I was aware of and informed of these developments. I considered that the response to the request for a commission of inquiry was appropriate in the circumstances.
26. I decided later to establish a commission. That was after the application in the High Court. I read and considered the affidavit and took legal advice. Rather than pursue litigation in the High Court with only some potentially affected parties over the allegation of interference and collusion, I

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considered establishing a commission of inquiry to be more appropriate.

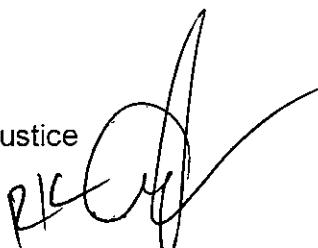
27. But at the time of the two letters, rather than establish a commission, the NPA got on with its duty of starting and speeding up prosecutions. That, I considered at the time to be a more effective way of addressing the delay complaint. Steps were taken by the NPA. Delays were addressed. That is apparent from the affidavit of Ms Batohi. Investigations, inquests and prosecutions were conducted by the NPA. That also addressed the danger of potential remaining witnesses passing away or fading recollections of the evidence. A commission of inquiry was not the most effective way of addressing the root cause of the call for a commission.

11 November 2021 Open Letter

28. The letter recognises the re-opening of the inquest and the overturning of the 1972 apartheid inquest to a finding of a murder. The letter refers to the statement by the Minister of Justice that a commission of inquiry into these matters would soon be established. However, Mr Cajee criticises this and calls rather for a focus on actual prosecutions -

“an investigation into political interference would be good, but actually proceeding with the criminal investigations and prosecutions while alleged perpetrators are still alive to be held to account would serve justice better”.

29. At the time, that was the focus of both the NPA and in so far as the Justice



Ministry could assist, its focus too. As is apparent from what I set out above and Ms Batohi's affidavit, the concern that prosecutions were not being conducted was addressed by the NPA. The Justice Ministry also addressed a concern of Government that families should not be neglected and should be assisted from the Fund.

30. The letter:

30.1 refers to an undated press release from the FW de Klerk Foundation referring to an "informal agreement between the ANC leadership and former operatives of the pre-1994 government";

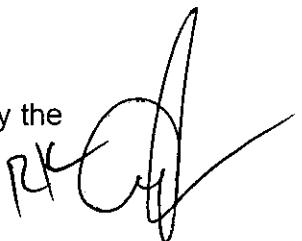
30.2 seeks an answer to the question whether there was such an "informal agreement".

31. I do not know of such an agreement. As far as I am aware, there is no agreement as alleged or suspected.

March 2021 Letter by Commissioners

32. By letter dated 6 May 2021 (annexure B) the Acting Head of Legal and Executive Services responded to the 25 March 2021 letter from the Commissioners. (annexure A) which is part of the High Court Record. But Annexure B is not.

33. The letter by the Commissioners refers to previous correspondence by the



Commissioners and the AVFG and repeats the call for a commission of inquiry.

34. The response explains that "the matter has been referred to the Department of Justice and Correctional Services for further attention and reply".

35. That, as is apparent from what I say above, had been done in 2019 already.

As is also apparent from what I say above, the root cause – the delay in prosecutions - of the call for a commission of inquiry by former Commissioners was addressed. Which is why at that stage, a commission of inquiry was considered not to be the most appropriate way to deal with the root cause.

June 2021 Webber Wentzel Letter

36. This letter is part of the High Court record. In it the attorneys of the AVFG do the following:

36.1 They repeat the request for a commission of inquiry;

36.2 They purport to place me on terms, recording that if they do not hear from me within 10 days of receipt, their clients will apply to court to compel me to fulfil my obligations under the Constitution 'and to

36.3 appoint a commission to inquire into the suppression of TRC cases.'

37. As I say and submit above, I have a constitutional and statutory

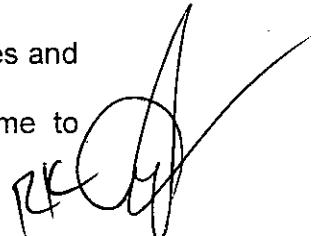


discretionary power (not a constitutional obligation or duty) to appoint judicial commissions of inquiry. As I also say above, I was aware that the root reason for the call for a commission – delay in investigations and prosecutions - was being addressed. That is why I did not consider it appropriate at that stage to appoint a commission.

38. By letter dated 15 June 2021 (annexure C) I delegated to the Acting Minister in the Presidency the task of attending to the AVFG matter 'towards reaching an agreement with the affected families' and methods alternative to court action to resolve the matter.
39. When the Justice Ministry engaged with the ANC and FHR, it also engaged with representatives of the AVFG. Again, this information will be confirmed in a confirmatory affidavit. The AVFG were aware of the steps being taken by the NPA to start and speed up prosecutions. The Justice Ministry informed those representatives that Government preferred the practical solution to the real problem, by starting and speeding up prosecutions. The Justice Ministry also informed those representatives of the steps taken to assist family members from the Fund.

### **Ntsebeza Report**

40. Ms Batohi's affidavit sets out the context within which the opinion of Ntsebeza SC was sought. The mandate given to Ntsebeza SC was to investigate the measures adopted by the NPA to deal with TRC cases and assess whether they are adequate. If during this process it came to

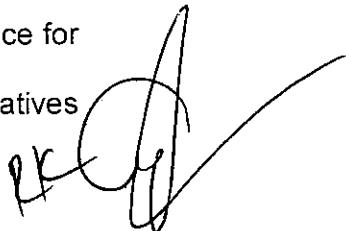
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Ntsebeza SC's attention that there had been interference, hinderance or obstructing the prosecuting authority or any member thereof in the exercise, or performance of powers, duties and functions, such issues would be escalated to the NDPP.

41. The outcome of this report is set out in Ms Batohi's affidavit. It indicates that Ntsebeza SC largely found that the NPA's measures were adequate, as well as the NPA's implementation of the recommendations made in the Ntsebeza SC report.
42. I was aware of these steps at the time and knew that the NPA was taking steps to assess their processes and implement the recommendations.

#### **Action was Taken**

43. The fact that there was no response to previous letters, does not mean that nothing was done to address the root cause of the concerns in those letters.
44. Action was taken by the NPA. That was constitutionally and statutorily proper. The objective conduct of the NPA, described in Ms Batohi's affidavit, demonstrated that it was addressing prosecution delays in TRC cases.
45. Action was also taken by the Justice Ministry and DOJ. It had queried delays in prosecutions with the NPA. The Justice Ministry also engaged with the ANC and FHR about those concerns, and particularly about assistance for the Families. Finally, the Justice Ministry also engaged with representatives

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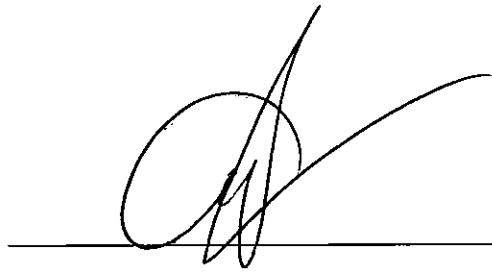
of the AVFG.

46. All of this was done during the Covid-19 period. A state of national disaster was declared on 15 March 2020 in response to COVID-19. It was only terminated on 4 April 2022. From 5 April 2022, transitional provisions remained in place, and it was only on 22 June 2022 that the remaining COVID-19 health regulations were officially repealed.<sup>2</sup>
47. During Covid-19, the Government and the NPA battled with a national state of disaster. That affected the work of the NPA, particularly investigating criminal allegations and consulting with witnesses and even running trials in courts.
48. Government faced the enormous task of having to take action to prevent the most vulnerable in our country from succumbing not only to the disease, but to the disastrous economic and social consequences of the shutdown.
49. Yet, as is apparent from what I say above and Ms Batohi's affidavit, TRC investigations and prosecutions were not ignored during this period. Nor was the root concern of the Commissioners and the AVFG. Steps were taken by the NPA and the Justice Ministry to address that problem. They are described above and in Ms Batohi's affidavit.

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<sup>2</sup> Supplementary exemption application, paragraph 4.5

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MATAMELA CYRIL RAMAPHOSA

I certify that the deponent has acknowledged that he knows and understands the contents of this affidavit, which was signed and sworn to before me on 13 November 2025 at Johannesburg, and the deponent's signature was placed thereon in my presence, the regulations contained in Government Notice R1258 dated 21 July 1971 and R1648 dated 19 August 1977, having been duly complied with.

W.O  
R.H. Mabuse  
71366806  
COMMISSIONER OF OATHS

I certify that the above statement was taken by me and that the deponent has acknowledged that he / she knows and understands the contents of this statement. This statement was sworn to / affirmed before me and the deponent's signature / mark was placed thereon in my presence.

SANDTON 2025/11/18 14:30  
(R.H. Mabuse)

(SIGNATURE) COMMISSIONER OF OATHS  
RHENGA KEYTON MABUSE  
FULL FIRST NAMES AND SURNAME IN BLOCK LETTERS  
SAPS IROVE-172 PRETORIA  
BUSINESS ADDRESS (STREET ADDRESS)  
WAKEAN 1 OFFICE

RANK S A POLICE SERVICE

SOUTH AFRICAN POLICE SERVICE  
PRESIDENTIAL PROTECTION SERVICE  
2025-11-13  
PRESIDENTIAL PROTECTION SERVICE  
SOUTH AFRICA POLICE SERVICE