

# WEBBER WENTZEL

in alliance with > **Linklaters**

**The Chairperson: Justice Khampepe**  
Commission of Inquiry, Stopped TRC Investigations and/or  
Prosecutions  
**By email**  
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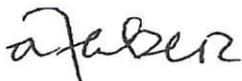
06 March 2026

Dear Justice Khampepe

## APPLICATION TO CROSS-EXAMINE ADV MENZI SIMELANE

1. We act on behalf of Calata and 24 other families.
2. We refer to the timetable of the Commission indicating that Adv Menzi Simelane will testify on 10 March 2026. We hereby apply in terms of Regulation 8(3) of the Commission's Regulations read with Rule 3.7 of the Commission's Rules to cross examine Adv Menzi Simelane ("**Mr Simelane**") when he testifies before the Commission on 10 March 2026.
3. We attach hereto our statement, setting out those averments that we dispute in Mr Simelane's statement.
4. It is in the best interests of the work of the Commission that our clients be allowed to cross-examine and test the veracity of the facts put up by Mr Simelane.

Yours faithfully



**WEBBER WENTZEL**

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**IN THE COMMISSION OF INQUIRY INTO STOPPED TRC INVESTIGATIONS AND/  
OR PROSECUTIONS**

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**STATEMENT: APPLICATION TO CROSS-EXAMINE**

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I, the undersigned.

**ASMITA THAKOR**

do hereby make oath and state that:

**INTRODUCTION**

1. I am an adult female attorney practising as a Partner at Webber Wentzel at 90 Rivonia Road, Sandton. I am the attorney of record for the families and survivors of apartheid-era crimes (known as the "**Calata Group**").
2. The facts contained in this statement are within my own personal knowledge unless the context indicates otherwise and are to the best of my knowledge true and correct.
3. I depose to this statement on behalf of my clients, and also Mr Anton Rossouw Ackermann ("**Mr Ackermann**"), who we represent in these proceedings. I am duly authorised to do so.
4. This statement is made in support of an application in terms of Regulation 8(3) of the Commission's Regulations read with Rule 3.7 of the Commission's Rules to cross examine Advocate Menzi Simelane ("**Mr Simelane**") when he testifies before the Commission on 10 March 2026.

**ISSUES ARISING FROM THE STATEMENT**

5. Mr Simelane has filed a statement with this Commission. The statement is dated 27 October 2025, but I do not know when it was filed.

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6. The Calata Group wishes to put questions to Mr Simelane in relation to the following aspects arising from his statement:

6.1 The need for the TRC cases and the composition of the prosecution team to be discussed at the Directors General of the Justice, Crime Prevention and Security (JCPS) Cluster ("DG Cluster") (para 19 and other paras).

6.2 Why the presence of Adv Ackermann SC as the lead prosecutor on the TRC cases was of any concern to the DG Cluster (paras 20 - 22).

6.3 The basis of the claim that he was an "apartheid prosecutor" (paras 20 and 23) and the actual reasons for the making of such claims.

6.4 Why it was any business of the DG Cluster to interrogate the prosecutorial strategy of the NPA in respect of the TRC cases; and who might be subject to prosecutions (para 37 – 41 and other paras).

6.5 Why the Ministers of the cluster felt it necessary that "*the Minister of Justice engage with the NDPP about having a framework focussed solely on the post TRC matters*" (para 43).

6.6 What were the called "*security risks inherent*" in the TRC cases and why they necessitated the Ministers reporting to the National Security Council (para 44).

7. The Calata Group wishes to put questions and dispute the following claims by Mr Simelane:

7.1 That he never engaged with Adv Mpshe SC regarding the removal of Ackermann from the TRC cases, because there was no need as the issues were resolved with Adv Pikoli (para 47).

7.2 That he never disagreed or stopped anything relating to prosecutions and that he strictly complied with s 179(5) of the Constitution (paras 48 – 52 and other paras).

7.3 That "*quite clearly the NPA did have investigation capacity*" (para 53).

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- 7.4 That a request to remove Ackermann from the TRC cases was not tantamount to stopping prosecutions; and the claim that Adv Pikoli agreed to so remove him from those cases (para 58).
- 7.5 That the DGs Cluster could never have been involved in stopping or attempting to stop any prosecution (para 59).

#### **ISSUES IMPACTING ACKERMANN**

8. Mr Ackermann is a senior counsel, and a former Special Director of Public Prosecutions in the Office of the National Director of Public Prosecutions ("**NDPP**").
9. On 4 and 5 March 2026, Mr Ackermann appeared before the Commission, where he gave evidence. He is set to continue his evidence on 6 March 2026.
10. During his evidence Mr Ackermann disputed certain allegations contained in the statement of Mr Simelane. The allegations appear from paragraphs 20 to 59 of Mr Simelane's statement and are set out above in paras 6.2, 6.3 and 7.1 and 7.4.
11. Considering the seriousness of the allegations that Mr Simelane makes against Mr Ackermann, it would be prudent to permit counsel to cross-examine Mr Simelane to test the veracity of the allegations he makes against Mr Ackermann.

#### **ISSUES IMPACTING PIKOLI**

12. Mr Pikoli is an advocate of the High Court; he was appointed as the National Director of Public Prosecutions from 1 February 2005. On 23 September 2007, Mr Pikoli was suspended from his post by then President Mbeki.
13. Mr Pikoli asserts that his suspension was motivated *inter alia* by his determination to pursue prosecutions of apartheid-era perpetrators who had not applied for amnesty or had been denied amnesty by the TRC.
14. Mr Pikoli disputes the claim of Mr Simelane that while he was Director-General of the Department of Justice and co-chair of the DG Cluster, he penned a memorandum motivating for the dissolution of the DSO (para 24). Indeed, one of the charges advanced against Pikoli at the Ginwala Commission was based on his disagreement with Minister Mabandla on this question.

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15. Mr Pikoli disputes Mr Simelane's claim that other DGs in the DG Cluster knew him "from the time that they grew up together in the same area in Gqeberha" (para 24).
16. Mr Pikoli disputes the claim of Simelane that he attended a DG Cluster meeting with Ackermann (paras 26 – 28). Mr Pikoli never attended such meetings with Ackermann.
17. Mr Pikoli disputes the claim that the cluster meeting descended into disorder (para 35). Mr Pikoli will state that no cluster meeting he attended descended into disorder or chaos.
18. Mr Pikoli disputes Simelane's claim that the 'political military council' was discussed at a cluster meeting (para 37). Mr Pikoli asserts that was never any mention of the Political and Military Committee in these meetings.
19. Mr Pikoli disputes the claim of Simelane that he was present when Ackermann was said to have stated that he will prosecute one member of the liberation movement and then one from the apartheid security forces (para 37). According to Mr Pikoli this was a claim that the late SAPS Commissioner Selebi used to make.
20. Mr Pikoli disputes the claim of Mr Simelane that the DG Cluster played no role in the impeding of the TRC Cases when in fact that group insisted he could not act on any TRC case without their recommendation.
21. Mr Pikoli disputes the claim by Mr Simelane that he acceded to the demand of the DG Cluster "*that if the members insisted on the removal of Ackerman from the TRC cases, then he will remove him but that he will seek his counsel anytime if he needed it*" (para 39); and that there was no need to remove Ackermann as the "issues were resolved with Pikoli" (paras 47 and 58).
22. Mr Pikoli disputes the claim by Mr Simelane that the NPA "*quite clearly had investigative capacity*" in respect of the TRC cases which emerged at a meeting that Ackermann and Pikoli were present at (para 53).
23. We also wish to probe the role played by Mr Simelane in the suspension of Mr Pikoli and whether the latter's conduct in relation to the TRC cases was a reason for his removal.

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24. It is accordingly prudent to permit our counsel to cross-examine Mr Simelane to test the veracity of the claims he makes against Mr Pikoli.

#### **OTHER MATTERS**

25. We wish to seek Mr Simelane's views on the finding of the Ginwala Commission that he gave contradictory evidence and deliberately withheld important information from the Commission, thereby attempting to mislead it.
- 25.1 Given that Mr Pikoli's handling of the TRC cases was one of the complaints before the Ginwala Commission, whether the aforesaid finding should be considered when evaluating his evidence on this topic.
26. We also seek his response to the assertion of Lukhanyo Calata representing the Calata Group that the "*arrival of Adv Simelane at the helm of the NPA was to doom the TRC cases to further neglect*" (Calata Group, Bundle 1, p 125, para 316).
27. We wish to know from Mr Simelane why one of the first steps he took as NDPP was to remove Adv Macadam from the TRC cases and place him on other duties. (Calata Group, Bundle 1, p 125 - 126, para 317). Macadam was steeped in the TRC cases and was well placed to take them forward.
28. Menzi Simelane appeared before the Justice Portfolio Committee on 12 April 2010 where he confirmed that the NPA was not prosecuting any TRC cases stating "*that there were no cases that the NPA was currently prosecuting regarding post TRC matters. The reason being that the dockets were still with the police for investigation.*"
- 28.1 We wish to ask Mr Simelane why he did not disclose to the Committee that an investigating officer (to cases such as Nokuthula Simelane) had only been appointed earlier in 2010 after many years of neglect.
29. We wish to dispute Simelane's claim at the Justice Portfolio Committee on 20 March 2011 that the issues around the investigation of the TRC cases "*was an old matter as there were no problems now.*" (Calata Group, Bundle 1, p 128, para 323).

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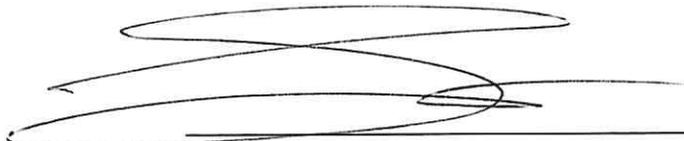
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**CONCLUSION**

- 30. These issues lie at the heart of the Commission's terms of reference.
- 31. It is in the best interests of the work of the Commission that the Calata Group's Counsel be permitted to cross-examine Mr Simelane.
- 32. In the light of the above, I humbly request the Chairperson to permit the Calata Group's counsel to cross-examine Mr Simelane when he appears before the Commission on 10 March 2026 or on any other date permitted by the Chairperson.

  
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**ASMITA THAKOR**

The Deponent has acknowledged that the Deponent knows and understands the contents of this affidavit, which was signed and sworn to or solemnly affirmed before me at JOHANNESBURG on 6 MARCH 2026, the regulations contained in Government Notice No. R1258 of 21 July 1972, as amended, and Government Notice No. R1648 of 19 August 1977, as amended, having been complied with.

  
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**COMMISSIONER OF OATHS**

Full Names:

Business Address:

Designation:

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