

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

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CALATA GROUP VOLUME
BUNDLE 6: DUMISA NTSEBEZA**

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IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

CASE NO: _____

In the matter between:

- LUKHANYO BRUCE MATTHEWS CALATA 1st Applicant
- ALEGRIA KUTSAKA NYOKA 2nd Applicant
- BONAKELE JACOBS 3rd Applicant
- FATIEMA HARON-MASOET 4th Applicant
- TRYPHINA NOMANDLOVU MOKGATLE 5th Applicant
- KARL ANDREW WEBER 6th Applicant
- KIM TURNER 7th Applicant
- LYNDENE PAGE 8th Applicant
- MBUSO KHOZA 9th Applicant
- NEVILLE BELING 10th Applicant
- NOMBUYISELO MHLAULI 11th Applicant
- SARAH BIBI LALL 12th Applicant
- SIZAKELE ERNESTINA SIMELANE 13th Applicant
- SINDISWA ELIZABETH MKONTO 14th Applicant

Date: 17/01/2025
 Certified a True Copy
 of the Original
~~Nicola Irving~~
 Nicola Grace Irving

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STEPHANS MBUTI MABELANE	15 th Applicant
THULI KUBHEKA	16 th Applicant
HLEKANI EDITH RIKHOTSO	17 th Applicant
TSHIDISO MOTASI	18 th Applicant
NOMALI RITA GALELA	19 th Applicant
PHUMEZA MANDISA HASHE	20 th Applicant
MKHONTOWESIZWE GODOLOZI	21 st Applicant
MOGAPI SOLOMON TLHAPI	22 nd Applicant
FOUNDATION FOR HUMAN RIGHTS	23 rd Applicant
and	
GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA	1 st Respondent
PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA	2 nd Respondent
MINISTER OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT	3 rd Respondent
NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS	4 th Respondent
MINISTER OF POLICE	5 th Respondent
NATIONAL COMMISSIONER OF THE SOUTH AFRICAN POLICE SERVICE	6 th Respondent




CONFIRMATORY AFFIDAVIT - DUMISA BUHLE NTSEBEZA

I, the undersigned,

DUMISA BUHLE NTSEBEZA

do hereby make oath and state that:

1. I am an adult male former Commissioner of the Truth and Reconciliation Commission ("TRC" or "**the Commission**"). I am a Senior Counsel practicing as such as group leader of the Sandton Chapter of the Pan African Bar Association of South Africa (PABASA) Group of Advocates, situated at 1st Floor, PABASA Sandton Chambers, 82 Maude Street, Sandton, Johannesburg
2. The facts stated herein are within my own personal knowledge unless the context indicates otherwise and are to the best of my knowledge true and correct.

Professional Career

3. I have practiced law for 40 years. I was admitted as an attorney in 1984, practicing in the Eastern Cape mainly in human rights. I represented many political prisoners throughout the 1980s and early 1990s.
4. Between 1993 and 1996 I taught law at the University of the Transkei (now the Walter Sisulu University).
5. In the mid to late 1990s, I was a TRC Commissioner and was the Head of the Investigation Unit of the TRC.



6. I was called to the Bar in 2000 and took Silk in 2005. I have been an acting judge in three divisions of the High Court of South Africa, as well as in the Labour Court.
7. In 2004 I was appointed by the Secretary-General of the United Nations as a member of the International Commission of Inquiry on Darfur, which was established pursuant to a UN Security Council Resolution passed under Chapter VII of the United Nations Charter to investigate violations of international humanitarian law and human rights law in Darfur.
8. In 2012 I was appointed by the Socio-Economic Rights Institute as Lead Counsel on behalf of the families of the 37 Marikana miners who were killed by the police.
9. In 2017, the University of Fort Hare Council appointed me as Chancellor of the University of Fort Hare, which was renewed in 2022 for another five years.
10. I am a founder of South African National Association of Democratic Lawyers and served as its President. I also served as president of South Africa's Black Lawyers Association. I was a member of the Judicial Service Commission (JSC) and a visiting professor of Political Science and Law at the University of Connecticut in the United States. I am a former Chairperson of the Desmond Tutu Peace Trust, and I was a trustee of the Nelson Mandela Foundation.
11. I was appointed as Ombudsman by Cricket South Africa. I also serve as a Council member of the University of Cape Town. Rhodes University conferred on me a Doctor of Law (LLD honoris causa) in 2021.
12. In 2021 I was appointed by the 34th African Union Heads of State and Government Ordinary Summit as a judge of the African Court on Human and Peoples' Rights.



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Confirmation

13. I have read the notice of motion and a substantially complete version of the founding affidavit of Lukhanyo Bruce Matthews Calata and confirm the contents in so far as they relate to me.
14. I have also read the confirmatory affidavit of Yasmin Sooka and confirm the contents in so far as they relate to me.
15. I specifically confirm that:
- 15.1 Towards the end of the life of the TRC, Commissioner Sooka and I took steps to hand over lists of cases to the National Prosecuting Authority ("NPA"). These were serious cases, mostly involving murders and disappearances, in which the perpetrators had not applied for amnesty or had been denied amnesty.
- 15.2 Together with the former TRC Commissioners, I wrote to the President in 2019 and 2021 calling on him to:
- 15.2.1 offer an apology to the families of apartheid-era victims for the mass denial of justice visited upon them,
- 15.2.2 appoint an independent and open commission of inquiry into the political suppression of the TRC cases.
- 15.3 Apart from acknowledgments of receipts the President ignored our pleas.
- 15.4 That in January 2023 I was appointed by the NPA to "review the measures that had been adopted to deal with and prosecute TRC matters and to provide recommendations as needed."



15.5 I submitted my report to the NPA in June 2023 and it was released in February 2024. In this report I found that:

15.5.1 The NPA and the PCLU were swayed from their constitutional and statutory duties in relation to the TRC cases.

15.5.2 My inquiry could not investigate the political interference given the narrow ambit of its terms of reference, and its lack of investigative powers.

15.6 I recommended that:

15.6.1 A commission of inquiry was the only sensible way to get to the bottom of why the TRC cases were neglected and suppressed.

15.6.2 A commission must investigate the extent and rationale behind the political interference and look into the roles of multiple state entities as well implicated individuals.

15.6.3 It must be a public inquiry and be empowered to hold hearings and conduct a proper investigation, including the exercise of powers of subpoena and search and seizure

Conclusion

16 I have frequently gone on record stating that there has been a shameful lack of political will to deal with the issue of accountability for the apartheid-era victims of gross human rights violations. I fully endorse Archbishop Desmond Tutu's statement made in 2013 that the failure to prosecute those who failed to apply for amnesty undermined those who did.



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17. The stories set out in Lukhanyo Calata's founding affidavit, as well as the supporting affidavits, are rooted in South Africa's bitter and divided past. They make for difficult and painful reading.
18. We as South Africans entered into a constitutional compact that we would grant perpetrators an opportunity to speak the truth and earn full immunity from criminal prosecution and civil litigation. We made a solemn promise that those who were not amnestied, or who spurned the process, would face the consequences where their crimes were serious, and evidence was available.
19. Instead of cherishing the memories of those who died for our freedom and acting expeditiously to make good on our past promises, the post-apartheid state engaged in various machinations to ensure that the bulk of the TRC cases would never see the light of day.
20. In so doing they treated the families as second-class citizens, not worthy of equal treatment under law. This must stand as one of the most shameful periods in South Africa's history.
21. Most of the TRC cases cannot be revived. Suspects and witnesses have died. Truth, justice and closure have forever been denied to the families, their communities and the nation.
22. In the few prosecutions and inquests that can proceed, they do so in a severely diminished way, since most persons of interest have passed on, particularly high-ranking offenders.
23. The suppression of the TRC cases stands as a terrible stain on South Africa's post-apartheid history. It is in my view, unforgivable. The families and their

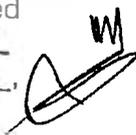


communities are entitled, under law, and as a moral imperative, to an independent commission of inquiry.

24. They are also entitled to constitutional damages to vindicate their deeply violated rights and to assist them to memorialise their loved ones and reach closure.

25. I accordingly endorse this application, and respectfully urge this honourable court to grant the order in the terms set out in the notice of motion.


DUMISA BUHLE NTSEBEZA

The Deponent has acknowledged that he knows and understands the contents of this affidavit, which was sworn to before me and the deponent's signature was placed thereon in my presence at SANDTON on this 8th NOVEMBER day of 20 24,  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


COMMISSIONER OF OATHS

Full Names: NKOSIMATHI ANDREW MOYO
Business Address: 82 MAUDE STREET, SANDOWN SANDTON, JOHANNESBURG
Designation: EX-OFFICIO COMMISSIONER OF OATHS (LEGAL PRACTITIONER)

LC
VGI

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

STATEMENT OF DUMISA BUHLE NTSEBEZA

I, the undersigned,

DUMISA BUHLE NTSEBEZA,

do hereby make oath and state:

1. I am a former Commissioner of the Truth and Reconciliation Commission (the "TRC"). I am a Senior Counsel practicing as such at the Sandton Chapter of the Pan African Bar Association of South Africa (PABASA) Group of Advocates, situated at 1st Floor, PABASA Sandton Chambers, 82 Maude Street, Sandton, Johannesburg. I am currently a judge on the African Court on Human and Peoples' Rights.
2. Save where appears from the context, the facts contained in this affidavit are within my own personal knowledge and are to the best of my knowledge and belief both true and correct.
3. I depose to this affidavit to assist the Judicial Commission of Inquiry into stopped TRC Investigations and/or Prosecutions (the "**Commission**") to address paragraphs 1 to 1.3.2 of the terms of reference of the Commission.
4. I confirm the contents of the founding affidavit of Lukhanyo Calata dated 17 January 2025 filed in *Calata & Others v Government of South Africa & Others* (Gauteng Division, Case No. 2025-005245), insofar as it pertains to me (the "**Calata affidavit**"). A certified copy of this affidavit was supplied by Webber Wentzel to the Commission on 10 October 2025 in bundle 1 at paginated pages 1 - 842.
5. I also confirm the contents of my affidavit dated 8 November 2024 which was attached as a supporting affidavit in the abovementioned matter. I will rely on the full contents of this affidavit to address the aforesaid paragraphs of the terms of reference. A certified copy of this affidavit was supplied by Webber



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Wentzel to the Commission on 10 October 2025 at bundle 6 at paginated pages 1391 – 1398.



DUMISA BUHLE NTSEBEZA

Signed and sworn to before me at SANDTON on this the 3RD day of NOVEMBER 2025, the deponent having acknowledged in my presence that he knows and understands the contents of this affidavit, the provisions of Government Gazette R1478 of 11 July 1980 as amended by Government Gazette R774 of 20 April 1982, concerning the taking of the oath, having been complied with.



COMMISSIONER OF OATHS

KACISO LETSHOLO	FULL NAMES:
34 FRICKER ROAD	PHYSICAL ADDRESS:
ILLOVO, SANDTON	DESIGNATION:
ATTORNEY OF THE HIGH COURT	

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

SUPPLEMENTARY STATEMENT OF DUMISA BUHLE NTSEBEZA

I, the undersigned,

DUMISA BUHLE NTSEBEZA,

do hereby make oath and state:

1. I am a former Commissioner of the Truth and Reconciliation Commission (the "TRC"). I am a Senior Counsel practicing as such at the Sandton Chapter of the Pan African Bar Association of South Africa (PABASA) Group of Advocates, situated at 1st Floor, PABASA Sandton Chambers, 82 Maude Street, Sandton, Johannesburg. I am currently a judge on the African Court on Human and Peoples' Rights.
2. Save where appears from the context, the facts contained in this affidavit are within my own personal knowledge and are to the best of my knowledge and belief both true and correct.
3. I depose to this supplementary statement to assist the Judicial Commission of Inquiry into stopped TRC Investigations and/or Prosecutions ("the **Commission**") to address paragraphs 1 to 1.3.2 of the terms of reference of the Commission.
4. While I was a commissioner of the TRC, I oversaw the TRC's investigation unit. As part of my responsibilities, I interviewed and engaged with various persons in respect to the conflicts of the past.
5. I wish to bring to the attention of the Commission a recent recollection I had regarding an interaction I had during or about 1996 or 1997 with former senior officers of the former South African Defence Force ("**SADF**"), including Major General Pieter Hendrik "Tienie" Groenewald ("**Groenewald**").



T. T

6. Groenewald was a Major-General in the SADF and was head of Military Intelligence (MI) in the mid-1980s under President P W Botha.
7. Groenewald had been involved in clandestine operations to assist the UNITA and RENAMO rebels in Angola and Mozambique; and in South Africa in the mid-1980s he spearheaded secret SADF support, including "offensive paramilitary" support for Mangosuthu Buthelezi's Inkatha movement for purposes of promoting division and violent instability among black people.
8. Groenewald was also a key figure in the early 1990s "Committee of Generals" that opposed the political transition and supported the creation of an independent Afrikaner state. The "Committee of Generals" was formed around 1993, following the assassination of Chris Hani, with the goal of uniting right-wing groups. Other prominent members included General Constand Viljoen, Lieutenant General Koos Bischoff, Lieutenant General Cobus Visser and Lothar Neethling, ex-deputy commissioner of police.
9. Groenewald died on 2 November 2015.
10. Around 1996 or 1997 I was asked to attend a meeting with Groenewald and other former senior SADF officers at the Johannesburg Sun and Towers Hotel. I was accompanied by Lwandle Wilson Magadla, the head of the TRC's Special Investigative Unit ("**Magadla**"). Magadla died in August 2011.
11. I believe that this meeting has significant relevance for this Commission. At this meeting, Groenewald and his colleagues, urged me to cease investigations against the former apartheid security forces, since they had an agreement in place with the ANC that apartheid-era crimes would not be pursued.
12. Around this time the TRC had recovered a large number of SADF and MI documents under a search and seizure warrant.
13. I recall that Groenewald expressed shock at how rigorously the TRC was pursuing its mandate, given that there had been an agreement between the (ANC), the National Party and high-ranking officials of the SADF not to investigate those involved in past conflicts. He also said that they were in possession of dossiers which seriously compromised senior ANC officials.



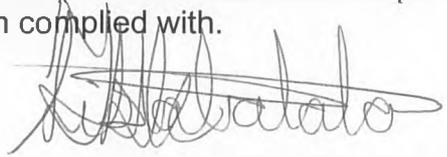
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- 14. I informed Groenewald that in respect of my investigations at the TRC, I take instructions only from the Chair of the TRC, Archbishop Tutu, and no one else. I recall that at some point after the meeting, Magadla and I reported to Tutu and Alex Boraine, the Deputy Chair of the TRC. They advised us that we had adopted the right approach in our encounter with the generals. Nobody else was present in that meeting. Boraine died in 2018, and Tutu died in 2021.
- 15. At the time, I do not recall making a written recordal of this engagement or the contents thereof. I do, however, recall speaking on the issue with a Cape Town based radio station, although I have not been able to find a recording of this interview. Some years later in 2015, when I was interviewed by Stephen Grootes on Cape Talk/ 702 I made reference to this encounter. A transcribed copy of the relevant portion of this interview is annexed hereto marked "DBN1".
- 16. The remarks by Groenewald accords with what has since been alleged about an informal agreement not to pursue the TRC cases. In particular, it accords with a statement made by the FW De Klerk Foundation in July 2021 which confirmed that there existed "an informal agreement between the ANC leadership and former operatives of the pre-1994 government" which ensured that "the NPA suspended its prosecutions of apartheid era crimes" (the "**FW Statement**"). The statement is annexed hereto as "**DBN2.**"



DUMISA BUHLE NTSEBEZA

Signed and sworn to before me at SANDTON on this the 14th day of November **2025**, the deponent having acknowledged in my presence that he knows and understands the contents of this affidavit, the provisions of Government Gazette R1478 of 11 July 1980 as amended by Government Gazette R774 of 20 April 1982, concerning the taking of the oath, having been complied with.



Thembelihle Tshabalala
 The Central, 96 Rivonia Road
 Sandton, Johannesburg, 2196
 Commissioner of Oaths
 Ex-Officio / Practising Attorney R.S.A.

COMMISSIONER OF OATHS
 FULL NAMES:
 PHYSICAL ADDRESS:
 DESIGNATION:

Full Transcription of Interview with Adv. Dumisa Ntsebeza

SPEAKER: Well, parts of the affidavit to which he refers were published, bits of it in the Business Day this morning, quoting from that affidavit by the former NPA head Vusi Pikoli saying that the reason people who were denied amnesty have not been prosecuted is because of political interference by people within our government. Advocate Dumisa Ntsebeza is the former head of the investigative unit for the TRC. He's on the line now from Morningside in Joburg. Advocate Ntsebeza, good afternoon to you. Thank you for your time today. Do you think Pikoli is right that there was political interference here?

ADVOCATE NTSEBEZA: Well, he is confirming what we have been saying since the days that we were dealing with the prosecution. I recall that there was a post-TRC conference, I think it was not a conference, yeah, a gathering in Cape Town at which this very same topic was being canvassed. Why are the prosecutions not taking place? And because I was the former head of the investigative unit, I was on that panel and I said, I can find no answer because, you know, everybody knows, the bargain was that people will not be prosecuted if they come and apply for amnesty. If those who should have applied for amnesty do not come forward or they come forward and because they do not make a full disclosure, they do not get amnesty, then they will be prosecuted. And I concluded then, and I said so, that there is a lack of political will on those who should be making sure that the prosecutions take place. Now, Vusi Pikoli has had the courage, and I have got to commend him for it. He has said so now in so many words that he was being, you know, told, you know, along this whole thing about him being forced to resign and find the group of ministers. You know, can only point to one thing and one thing only, that there was a reluctance on the part of the ruling party or those who were ministers in the ruling party to do the prosecutions.

SPEAKER: Do you think, I mean, Advocate Pikoli suggests the reason for this was that some people in the ANC were worried some of their members could face prosecution. Do you think that's really the case?

ADVOCATE NTSEBEZA: Well, you know, the signs were there because they are part of the order. I mean, once he made the point, he said, we have been investigated and right to the top. And of course in those days they were, ah, Pikoli is, you know, he's lying and what have you. But now that there is somebody who was in the system who says there was an occasion when he was called and he was, you know, not to bother with these prosecutions. There is, that is now proof of what we have always suspected. It actually reminds me of an occasion when I was accosted as head of the investigative unit by top generals in the South African Defence Force and in the, in the army and in the SAPS. You're saying, look, I, you don't understand why you are going, uh, at this rate in seeking to do your investigations because you do not understand that you are being the deal. I said, what deal? He says, no, well, you know, those who are in the top leadership of the ANC know exactly what we are talking about. We have got, uh, dossiers which we have, which if we reveal, would compromise the, the, those a number of those who are in government. So I said, look, my mandate as a commissioner and as the head of the investigative unit is to unearth those gross atrocities which amount to gross violations of human rights and other crimes which took place in the context of the political conflict of the past. That's the mandate I have from the act and from the commission.

SPEAKER: Advocate, do you believe that if the prosecutions haven't taken place, it almost renders the whole Truth Commission process useless or worthless?

Handwritten signature and initials. The signature is a large, stylized 'A' with a loop. To its right are the initials 'T.T'.

ADVOCATE NTSEBEZA: Well, I wouldn't go so far as to say it renders it worthless because, you know, one of the gains of the TRC, despite all its many failings, and I've been one of those who has said, you know, it has had its shortcomings, is the fact that it put additional facts on the table which but for the TRC would not have been there. You must recall that the system, the apartheid system had a system of destroying evidence. That was done. You know, uh, you know, and consequently, it was difficult to get information. But when people saw, for instance, that Biko of all people had been, had not only been arrested, tried, but had been convicted and sentenced to long terms of imprisonment, some of them started to come because they began to realise if they don't come, they don't align with what the TRC was offering them, then they would not be, they might get the Biko way. And as a consequence of that, it was possible to get some information. Like for instance, the

Nokuthula information, we've got to know that Nokuthula was hijacked from a hotel here in central Johannesburg and she disappeared. But we know from some of those who applied for amnesty, uh, some of the truth, which is why it is absolutely obnoxious that the Nokuthula case has not been prosecuted at all. And I do support, speaking for myself, I do support the action that has now been taken by SAHR and other organisations assisting Nokuthula and her family to get this matter properly inquired.

SPEAKER: Advocate Dumisa Ntsebeza, thank you very much indeed for that. The former head of the investigative unit for the Truth and Reconciliation Commission.



A handwritten signature consisting of a large, stylized, looped shape. To the right of the signature are the initials 'T.T.' written in a simple, blocky font.

THE NPA'S DECISION TO PROSECUTE 'APARTHEID ERA' CRIMES

FW de Klerk Foundation Editorial

On 27 June the NPA welcomed the judgement of the Supreme Court of Appeal to dismiss the stay of prosecution application of 82-year-old Joao Rodrigues. Rodrigues had been charged with the murder of Ahmed Timol, an SACP activist, in October 1971. It added that the judgement aligned with its commitment - and the commitment of the Hawks - to prosecute perpetrators of apartheid era crimes - where there was sufficient evidence.

The NPA announced that it was expanding its capacity to deal with the 53 cases that it had already identified. It was setting up a specialist unit to deal exclusively with apartheid era prosecutions and would be appointing former prosecutors and 34 detectives for this purpose.

All of this ignores entirely the fact that amnesty was, from the outset, a *sine qua non* for the negotiations between the ANC and the National Party government. The NP government originally proposed that the Norgaard principles should be used to determine who should reasonably be granted indemnity or amnesty. The principles had been successfully applied in Namibia and allowed amnesty for all those who had committed offences in the pursuit of political objectives - unless they had made use of egregious or disproportionate violence. However, the NP government was forced to abandon the Norgaard principles as the ANC's price for returning to negotiations after 26 September 1992. The ANC demanded the release of all its cadres who were still in prison and insisted that political motive should be the only requirement.

The NP government adopted the Further Indemnity Act in November 1992 in terms of which the only substantive requirement for indemnity was political motive. 1 477 people were subsequently released from prison - the vast majority of whom were members of the ANC and allied organisations - and many of whom had been convicted for "necklace murders" and other egregious crimes.

One of the greatest failures of the NP's negotiators was their inability to conclude a comprehensive amnesty agreement before the 1994 elections. However, the final paragraphs of the 1993 Constitution stated peremptorily that "amnesty shall be granted in respect of acts, omissions and offences associated with political objectives and committed in the course of the conflicts of the past' (emphasis added).

Nevertheless, the 1995 Promotion of National Unity and Reconciliation Act circumvented the clear intention of the interim Constitution and set conditions for amnesty that were far more onerous than those that the ANC had insisted on with regard to the release of its own supporters in terms of the Further Indemnity Act of 1992. The Act set a much higher standard for amnesty than political motive by requiring applicants to "make full disclosure of all the relevant facts relating to acts associated with a political objective" and to "comply with additional requirements set out in the Act." It was then up to the TRC's Amnesty Committee to decide whether or not the applicants had made a full disclosure. It was on this basis that the Committee refused amnesty to Janus Walusz and Clive Derby-Lewis for the assassination of Chris Hani - which, although reprehensible, had indisputably been a political act.

Because of an informal agreement between the ANC leadership and former operatives of the pre-1994 government, the NPA suspended its prosecutions of apartheid era crimes. However, in June 2019, in another matter affecting Rodrigues, the Gauteng High Court instructed the National Director of Public Prosecutions, Adv Shamila Batoyhi, to enquire whether improper influence had been brought to bear on the NPA in suspending apartheid era prosecutions.



The result would appear to be the NPA's recently announced decision to proceed with the prosecutions. However, when it embarks on this course the NPA should give very careful consideration to the constitutional requirement that "everyone is equal before the law and has the right to equal protection and benefit of the law."

It would accordingly be unacceptable to apply one standard to "apartheid era crimes" and another to crimes perpetrated by anti-government organisations. And yet there is not the slightest indication in the NPA's statement that it has any intention whatsoever to prosecute the latter. This is despite the fact is that the vast majority of the approximately 22 000 people who were killed in political violence between 1984 and 1994 died in the conflict between the ANC and the IFP or as a result of the actions of other anti-government organisations.

The struggle has been meticulously documented in Anthea Jeffery's "People's War" - in which she exposes the ANC's campaign to eliminate its revolutionary competitors. Crimes committed by the ANC and other anti-government organisations included the assassinations of more than 400 IFP leaders and the necklace killings of more than 560 people. They also included the killing of 53 IFP protesters outside the ANC's headquarters at Shell House on 28 March 1994. Little or nothing has been done to investigate these killings or to bring those responsible to account. Yet each of these deaths also left grieving families searching for closure.

The NPA should also recall that amnesty was not granted to 27 senior ANC leaders - many who are still alive - who had applied unsuccessfully to the TRC for collective amnesty and who were in overall command of the ANC's revolutionary activities.

If the NPA chooses to prosecute only those from the anti-revolutionary side it will be in clear breach of its constitutional obligation to exercise its functions 'without fear, favour or prejudice.' If it does not act in a scrupulously even-handed manner, it will be difficult to avoid the perception that the trials that would ensue would be political trials.

The question arises why the NPA is so intent on pursuing a course of action that is likely to polarize even further our deeply divide society? Why is it committing so many of its limited resources to raking over crimes that occurred more than 27 years ago - instead of the prosecuting the rampant corruption that is tearing the country apart - or trying to bring to justice the killers of the 21 325 people who were murdered last year (i.e., almost the same number as those who were killed in the political struggle between 1984 - 1994)?

One-sided prosecutions would be irreconcilable with the 1993 Constitution's call for 'understanding but not for vengeance'; reparation but not for retaliation;' and 'ubuntu but not victimisation'.