

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

**AFFIDAVIT OF DR ZAHEED KIMMIE IN RESPONSE TO IMTIAZ CAJEE
ON BEHALF OF THE CALATA GROUP**

I, the undersigned,

DR ZAHEED KIMMIE

do hereby make oath and state as follows:

1. I am an adult male and the Executive Director of the Foundation for Human Rights (“FHR” or “the Foundation”), registered as a non-profit company, situated at the 7th Floor, Metal Box Building, 25 Owl Street, Braamfontein, Johannesburg.
2. I have a PhD in Mathematics from the University of Cape Town and a Master’s in Public Health from Harvard University. Prior to joining the FHR I was a Senior Statistician and Group Manager for Planning with the Council for Scientific and Industrial Research.
3. On 20 January 2025, twenty-five survivors and families of victims who were forcibly disappeared or murdered during South Africa’s struggle for democracy, together with the Foundation for Human Rights, filed a court application against President Ramaphosa and the government (“constitutional damages application”).¹ The Foundation is one of the applicants. Along with other

¹ Case No.2025-005245 before the Gauteng Division of the High Court, Pretoria. The founding affidavit submitted by Lukhanyo Calata can be accessed [HERE](#) (hereinafter “Calata Affidavit”).

applicants, we alleged that political interference had suppressed the cases referred by the Truth and Reconciliation Commission ("TRC") to the National Prosecuting Authority ("the TRC cases"). We sought an award of constitutional damages in public interest to vindicate the violated rights of survivors and victims' families as well as an order compelling the President to establish a commission of inquiry.

4. A partial settlement was reached and on 29 May 2025, President Ramaphosa issued a Proclamation under Government Notice 264 of 2025, establishing the Judicial Commission of Inquiry to inquire into allegations regarding efforts or attempts having been made to stop the investigation or prosecution of Truth and Reconciliation Commission cases ("the Commission of Inquiry"). The claim for constitutional damages is still being litigated before the High Court.
5. Following the open call by the Commission of Inquiry to all interested parties to file submissions and affidavits before it, Imtiaz Cajee, the nephew of the late Ahmed Timol, filed an affidavit before the Commission.²
6. I record that this is the FHR's Replying Affidavit in a response to the Affidavit submitted by Mr Cajee. I further record that I am duly authorised to depose to this affidavit on behalf of the FHR.
7. 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.

² Affidavit by Imtiaz Cajee before the Judicial Commission of Inquiry into Allegation regarding Efforts or Attempts to Stop the Investigations or Prosecutions of Truth and Reconciliation Commission (TRC) Cases (TRC Cases Inquiry), signed on 9 October 2025 (hereinafter "Cajee Affidavit"): <https://www.trc-inquiry.org.za/wp-content/uploads/2026/03/IMTIAZ-AHMED-CAJEE-STATEMENT.pdf>

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8. For the sake of brevity I do not intend to respond to all the claims made in the affidavit of Mr Cajee which comprises 120 pages. A failure to respond to particular allegations should not be construed as consent or agreement with such claims.

Background

9. The FHR, established in 1996, has for nearly three decades worked to advance human rights and social justice in South Africa. A central component of this work has been the pursuit of accountability for apartheid-era gross human rights violations, including murders, kidnappings, abductions, and tortures, in cases where amnesty was not applied for or was refused by the TRC. The FHR TRC Programme currently supports survivors and victims' families in 24 TRC-related cases through investigative and legal assistance, strategic litigation, advocacy, victim mobilisation, and public campaigns.
10. FHR's support to particular victims' families and survivors is provided as part of a broader effort to pursue accountability. This support includes assistance with the legal process, such as covering the costs of private investigations, expert testimony, and junior counsel, as well as facilitating and supporting families' participation in these processes. There is a shared understanding between FHR and the victims' families and survivors that the costs associated with this support are covered by FHR, although there is no formal contract or written agreement governing this relationship. However, FHR is not the legal representative of the families or survivors, and its role is to ensure that appropriate legal professionals are engaged to provide legal services on a pro bono basis.

11. The FHR supported Mr Cajee in his efforts to seek justice for the murder of his uncle, Mr Ahmed Timol, from 2015 until March 2022.
12. In his affidavit, Mr Cajee raises a number of issues concerning the Foundation, to which we wish to provide a formal response. In addition, the affidavit reflects a change in emphasis regarding Mr Cajee's understanding of the factors that contributed to delays and obstacles in the investigation and prosecution of Truth and Reconciliation Commission ("TRC") cases. Whereas his earlier position placed primary reliance on alleged political interference affecting the National Prosecuting Authority ("NPA") and the South African Police Service ("SAPS"), his affidavit now attributes these difficulties to alleged incompetence or negligence on the part of certain individuals within the NPA and the Directorate for Priority Crime Investigation ("DPCI").
13. Accordingly, this affidavit addresses the following issues:
 - 13.1 The nature and scope of the pro bono assistance provided by FHR and the Webber Wentzel Pro Bono Department;
 - 13.2 Allegations concerning FHR's intentions in relation to the constitutional damages application;
 - 13.3 The timing of the litigation and the period during which political interference is alleged to have occurred;
 - 13.4 The issue of political interference

- 13.5 The issue around the meetings between the FHR, African National Congress (“ANC”) representatives and the Apartheid-Era Victims’ Families Group (“AVFG”).

The nature and scope of the pro bono assistance

14. Mr Cajee appears to be unclear about the role of the FHR in the Ahmed Timol matter.

- 14.1 At no stage did the FHR act as legal representatives for the Timol family. That role was fulfilled initially by the Legal Resources Centre and then subsequently by Webber Wentzel. All legal services provided by these two entities were provided pro bono. Advocate Varney was engaged by the Legal Resources Centre and Webber Wentzel to act as lead counsel, and also provided this service pro bono.

- 14.2 The FHR supported the Timol family’s quest for justice by paying for other specialist support in the form of private investigators and technical experts; and engaging with the media (by issuing press releases and conducting interviews).

- 14.3 The FHR did not conclude any contract or formal arrangement with the Timol family. Support provided by the FHR was part of its broader work to secure justice for unresolved cases, and all costs incurred by the FHR were absorbed by the organisation and not recouped from the Timol family.

15. The affidavit of Mr Cajee questions the nature and scope of assistance provided by FHR and the Webber Wentzel Pro Bono Department, including

whether those services were provided on a pro bono basis.³ In that context, reference is made to the constitutional damages application, which includes amounts reflecting the value of the legal services provided. These amounts were not charged to the families and were only included for purposes of motivating and substantiating the quantum of constitutional damages sought in future matters.

16. Mr Cajee's references the estimated value of legal costs provided in the constitutional damages application in respect of the Timol Inquest, in the amount of R2,685,755, and the Rodrigues matter, in the amount of R1,401,245. As mentioned above these figures were provided to illustrate what such cases typically cost for purposes of computing the quantum of the cost of future cases. Mr Cajee and the Timol family were not asked to pay anything for the legal services provided.

16.1 It is worth pointing out that the work undertaken in relation to the Timol inquest extended well beyond the 20 court days.⁴ It included extensive preparatory and ancillary work such as the review and analysis of documentary material, consultations with witnesses, the preparation of affidavits, and the drafting of legal submissions and related documents.

16.2 Advocate Varney acted as lead counsel for the Timol family on a pro bono basis during the inquest proceedings and in the Rodrigues matter, which means he never charged any fees for his legal work. His junior counsel was remunerated by the FHR at a reduced rate for work.

³ See paras. 51, 83, and 8 of the Cajee Affidavit.

⁴ In response to par. 83.1 of the Cajee Affidavit.

16.3 FHR also covered the costs of private investigator, Mr Frank Dutton. FHR also covered general disbursements such as costs of daily lunches for the Timol family, witnesses and the legal team during the inquest. The amounts expended by FHR in this regard are set out in Table 1 annexed to my supporting affidavit submitted as part of the constitutional damages application.⁵

Reference to the Constitutional Damages Application

17. Mr Cajee, in his affidavit, states his belief that the payment of R115,261,625 asked for by the Calata applicants in their first prayer is “for compensating the FHR and other families for assisting the State to execute its duties.”⁶ This claim is mistaken and Mr Cajee is invited to study the Calata founding affidavit more closely.

17.1 Paragraph 593 of the Calata founding affidavit makes it clear that the support sought is for future cases: *“Accordingly, under this head of damage we seek a total amount of R115,261,625.00, calculated in accordance with Uniform Rules of Court 67A(3) and 69 (Scale A), and based on the anticipated support required to advance the TRC cases over the next 5 years”*.

17.2 The constitutional damages application does not seek compensation in a delictual or personal sense. As set out in the founding papers, the applicants, including FHR and the 25 family applicants, expressly state

⁵ See page 1164 of the Calata Affidavit: https://www.trc-inquiry.org.za/wp-content/uploads/2025/11/Bundle-1_Calata-Group-Volume-Lukhanyo-Calata.pdf

⁶ Paras. 162-164 of the Cajee Affidavit.

that they “do not seek compensation to redress the wrongs endured” and that “[t]he amounts sought are not for the personal use of anyone.”⁷

- 17.3 The founding papers explain that the damages sought are forward-looking in nature and are directed at the formal acknowledgement of the violations suffered, the vindication of constitutional rights, and the reinforcement of constitutional values going forward. The stated purpose of any award is to address the systemic conditions that gave rise to the violations and to reduce the risk of similar harms occurring in the future.⁸
- 17.4 The amount of R115,261,625 is sought in the public interest, with the objective of supporting the efforts of families, survivors, and civil society organisations (not just the applicants) in relation to investigations, inquests, private prosecutions, and related litigation in cases that remain capable of being pursued.⁹ The relief sought is intended to assist families and survivors in the realisation of their constitutional rights, including the right to have matters properly investigated, the rights to truth and justice, access to legal representation, and the right to have disputes adjudicated by a court.
- 17.5 The application does not seek any damages to compensate the FHR or any family for past expenditure incurred. Any amounts awarded would be directed to an independent trust to hold and disburse such funds, in accordance with the Trust Property Control Act 57 of 1998.¹⁰ Such a trust would operate in terms of rules and criteria determined pursuant to the

⁷ Par. 581.3 of the Calata Affidavit.

⁸ Par. 583 of the Calata Affidavit.

⁹ Paras. 64.1.2 and 64.1.3 of the Calata Affidavit.

¹⁰ Par. 606 of the Calata Affidavit.

Court's order. Any person or entity (not just the applicants) would be entitled to apply for funding from the trust for purposes of pursuing future cases and engaging in acts of commemoration and memorialisation.

17.6 In relation to the possibility of FHR applying for funds from any such independent trust, I recorded in my supporting affidavit to the constitutional damages application that, should a fund be established to support the legal and other costs of families of victims, FHR would not seek to access any monies from that fund for its own staffing or administrative costs.¹¹

17.7 While criminal investigations remain a State function, families lawyers and organisations routinely support detectives and prosecutors, and in certain cases may obtain the services of private investigators. For example, families and survivors participate as parties in inquest proceedings through the gathering and presentation of evidence and the examination of witnesses. Not all families and survivors have the time, resources, or capacity to undertake such efforts independently and need financial support to cover disbursements and related costs.

18. In his affidavit, Mr Cajee refers to the amount of R8,000,000 sought in the constitutional damages application in relation to monitoring activities and expresses the view that such functions fall within the mandate of Parliament and its committees, and potentially other institutions. He states, inter alia:

¹¹ Par. 48 of the Supporting Affidavit of Zaheed Kimmie, Executive Director of the FHR signed on 17 January 2025 at pages 1145-1166 (attached to the Calata Founding affidavit).

“This payment of eight million Rands that is sought for oversight purposes by FHR. I believe that this is the mandate of Parliament and the Parliamentary Committee (PC). In my view, this function cannot be assigned to civil society who are also the family legal representatives on these matters.”¹²

19. Mr Cajee mistakenly assumes that this amount is intended for the FHR. This is certainly not the case. All damages claimed under the constitutional damages application will be applied in accordance with the objectives of the trust to be established to hold and disburse such funds under the strict discretion of the trustees.

19.1 In the constitutional damages application, together with other co-applicants we seek an amount of R8,000,000 to enable families and organisations to monitor the performance of policing and justice authorities tasked with investigating and prosecuting TRC-related cases. The application further indicates that such monitoring would include observing the role of those responsible for political and parliamentary oversight, identifying any shortcomings, and proposing remedial measures, particularly in relation to any perceived interference.

19.2 The application characterises this head of damages as relating to “monitoring”, rather than to the exercise of formal oversight functions. Oversight, in the formal sense, is ordinarily associated with powers of enforcement or sanction, such as those exercised by parliamentary committees.

¹² Par. 163.1 of the Cajee Affidavit.



19.3 Monitoring, by contrast, refers to activities commonly undertaken by civil society organisations and members of the public as part of participatory democracy and public accountability. Such activities may include the tracking of progress in individual cases and the compilation of reports based on publicly available information or provided by State institutions. Monitoring of this nature does not displace or interfere with the official functions of state institutions and is an accepted function of civil society in a democratic constitutional order.

20. Under the final head of damages in the constitutional damages application, the applicants, including FHR, seek an amount of R44,000,000 over a ten-year period to enable families and organisations supporting families to undertake commemoration, memorialisation and public education activities in relation to TRC cases.

21. This would include the holding of public events and the production of publications and documentaries. In his affidavit, Mr Cajee claims that such activities fall within the mandate of the Department of Sport, Arts and Culture, and that engagement should take place with that Department in relation to memorialisation and legacy projects.¹³

21.1 As mentioned above, the application does not seek the awarding of damages to FHR or any other party. Any entity, including FHR, would be required to apply for funding from the trust in accordance with the criteria and processes established pursuant to the Court's order.

¹³ Par. 164 of the Cajee Affidavit.



21.2 Memorialisation and legacy initiatives are not confined to the functions of a single State department. While the government has tasked the Department of Sport, Arts and Culture with the implementation of symbolic reparations as recommended by the TRC, commemoration and public education activities have also historically been undertaken by a range of institutions, including civil society organisations and independent public-interest bodies such as the Apartheid Museum. Such initiatives may operate alongside, and in a manner complementary to, the work of State departments responsible for symbolic reparations.

Timing of the lawsuit and the period under scrutiny

22. In his affidavit, Mr Cajee notes that he is not a litigant in the constitutional damages matter and expresses the view that, in his opinion, litigation could have been initiated between 2003 and 2017, during a period when no progress in TRC-related cases was reported. He queries why proceedings were not initiated at that time. While we cannot speak for other organisations, families of victims and survivors, and their reasons for not embarking on similar litigation earlier, our reasons are as follows:

22.1 Between 2003 and 2015 it was reasonably anticipated that investigations and prosecutions would proceed through existing channels. FHR provided support to Thembi Nkadimeng in her efforts to seek justice for her sister, Nokuthula Simelane, with the bringing of an application court to compel the NPA to make a decision. This case forced the NPA to make a decision and opened the door to future cases. The case also helped to expose the political interference that undermined the TRC cases.

- 22.2 FHR also pursued a broader focus on reparations and strengthening the capacity of human rights civil society and community-based organisations in South Africa.
- 22.3 The FHR encouraged the reopening of inquests, starting with the Timol Inquest. The Timol Inquest was a catalyst for other cases and sparked requests from other families for support . This required FHR to adopt a more strategic approach to its programming on accountability for apartheid-era crimes.
- 22.4 Between 2015 and 2019 there was a general expectation that the authorities would expeditiously pursue the TRC cases. The appointment of Ms Shamila Batohi as National Director of Public Prosecutions (“NDPP”) in 2019 further contributed to hopes for a renewed approach to the TRC cases. In 2021, the NPA announced the establishment of a TRC component at its head office.
- 22.5 In the Rodrigues case that was litigated between 2018 and 2019, the NPA admitted that it had been subject to political interference that retarded progress in the NPA cases. In that case the NPA provided further documentation that pointed to the undermining of the TRC cases, particularly between 2003 and 2010.
- 22.6 As a result from 2019, former TRC Commissioners, families and survivors, the FHR and other organisations began calling for a commission of inquiry to investigate the interference.

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22.7 Following the death of Hermanus du Plessis in 2023, the last surviving suspect in the Cradock Four case who was directly implicated in the murders, the families instructed their lawyers to commence litigation for a constitutional damages claim and to compel the president to establish a commission of inquiry.

23. In his affidavit, Mr Cajee notes that the constitutional damages application does not specify a precise period under scrutiny and says that it includes the post 2021 period during which, in his view, there was “a noticeable improvement in progress in TRC-related matters”.¹⁴

23.1 The Supreme Court of Appeal in *Rodrigues*¹⁵ found that the interference occurred between 2003 and 2017, but the applicants did not deem it appropriate to pre-empt findings on when the interference began and when it ended.

23.2 However, applicants agreed to a request from the NPA to amend the notice of motion to delimit the period of interference to the end of 2017, at a time when the then NDPP indicated that a settlement could be reached on that basis. The applicants, did however, assert, given the lack of progress in the TRC cases, that the impact of the political interference persisted post 2017 and was still being felt today.¹⁶

23.3 While the FHR welcomed the renewed emphasis by the NPA and DPCI on the TRC cases in 2021, we do not believe that there has been a

¹⁴ Paras. 160.1 – 160.4, 161.

¹⁵ *Rodrigues v National Director of Public Prosecutions and Others* (1186/2019) [2021] ZASCA 87; [2021] 3 All SA 775 (SCA); 2021 (2) SACR 333 (SCA) (21 June 2021).

¹⁶ Par. 406 of the Calata Affidavit.

noticeable improvement in the investigations and prosecutions for the following reasons:

- 23.3.1 The founding affidavit sets out developments following the reopening of the Timol inquest in 2017, including the steps taken by families. These steps included litigation or the threat of litigation to prompt action, alongside continued delays or limited progress in most of the cases.¹⁷
- 23.3.2 In 2019, following the appointment of Ms Shamila Batohi as NDPP, the NPA implemented a decentralisation policy in respect of TRC-related cases, resulting in the transfer of the matters from the Priority Crimes Litigation Unit (“PCLU”) to provincial offices. By that stage, a significant number of suspects and witnesses had already passed away, with many dying subsequently.¹⁸
- 23.3.3 From 2021, the FHR and families expressed concern regarding the pace and effectiveness of progress in TRC-related investigations and prosecutions. They called for a change in approach, including the establishment of a specialised unit or investigating directorate in which prosecutors and investigators could work together to solve these cold cases.¹⁹
- 23.3.4 This approach was rejected. The NPA and DPCI established separate TRC Components in 2021, which became operational in

¹⁷ Pars. 407 – 448 of the Calata Affidavit.

¹⁸ Par. 419 of the Calata Affidavit.

¹⁹ E.g., https://unfinishedtrc.co.za/wp-content/uploads/2023/01/2020-01-13-FHR-Opinion_Exploring-Legal-Options_Apartheid-era-Crimes_130121-FINAL.pdf

2022, but have made limited impact on the cases.²⁰

23.4 Progress has tended to occur in circumstances where there has been sustained engagement, external legal support or formal representations have been directed to the NPA or DPCI.

23.5 The recent reopening of inquests into the deaths of Chief Albert Luthuli, Griffiths Mxenge, Stephen Biko and the Northcrest Five are welcomed. However, these only occurred in or around 2025.

23.6 More generally, progress in TRC-related matters since 2021 has been slow. The delays and lack of progress are described in detail in FHR's submissions to the Parliamentary Committee on Justice and Development, and we will not repeat those details here.²¹

23.7 By way of example, detailed representations were submitted to the NDPP in August 2024 requesting the reopening of the Matthews Mabelane inquest, yet that inquest will only proceed in June 2026. Similarly, representations requesting the reopening of the Anton Fransch inquest were submitted to the NDPP in March 2025, and a formal response is still awaited. In other matters, investigations have remained ongoing for extended periods without any decisions forthcoming.

23.8 In summary, while some progress has occurred, FHR's assessment is that the progress has been limited in scope and pace. The TRC Components have now been in existence for several years and should

²⁰ See FHR submissions to the Justice Portfolio Committee: <https://unfinishedtrc.co.za/wp-content/uploads/2025/02/2025-02-13-FHR-Written-Submissions-to-JPC-Final-with-annexes.pdf>

²¹ See FHR submissions dated 12 February 2025, and 19 May 2025.

have delivered significantly more. In our respectful view neither Component has treated the cases with sufficient urgency.

24. Mr Cajee notes the conclusions of the Ntsebeza Inquiry that the work of the TRC Component model is adequate.²² However, the Inquiry's report, finalised in June 2023, also contains serious criticisms of the NPA's slow progress in finalizing the TRC cases.

24.1 In particular, Advocate Ntsebeza found that despite having full-time investigators and prosecutors, most cases, particularly in the KZN division, remain stuck at the early stage of locating documents like case files and postmortem reports.

24.2 Ntsebeza further stated that after nearly two years, this failure raised serious concerns about the competence of the assigned personnel. He questioned whether the slowdown of the process was deliberate.

25. The inability to retrieve key records cannot be blamed solely on past inaction. With a clear plan and structure now in place, the NPA leadership must urgently demand results, enforce accountability and ensure full cooperation across state institutions. Ntsebeza concludes this point by stating "*There is no nice way to state this demand that needs to be made from the NPA. The NDPP must crack the whip.*"²³

The Meetings between the ANC, the FHR and the AVFG

²² Par. 44 of the Ntsebeza report: <https://unfinishedtrc.co.za/wp-content/uploads/2024/02/NPA-Opinion-TRC-matters-2023-for-public-access-2.pdf>

²³ Paras. 137-139 of the Ntsebeza Report, June 2023.

26. Mr Cajee refers to various meetings which formed part of FHR's broader advocacy efforts to engage relevant institutions and decision-makers to facilitate resolution of the TRC-related cases.²⁴ The FHR does not consider it necessary to engage with the detailed content of these discussions, which in its view, fall outside the mandate of the Commission of Inquiry.
27. It is sufficient to note that the primary objective of these meetings, from FHR's perspective, was to advocate for the establishment of a commission of inquiry into alleged political interference, to ensure the adequate capacitation of the NPA, including through the creation of a specialised unit bringing together investigators and prosecutors to pursue TRC cases.
28. The FHR has never had any intention of accessing funds set aside for reparations in the President's Fund to support efforts at legal accountability, and that any claims to the contrary made by Mr Cajee²⁵ are expressly denied. It is specifically denied that the FHR asked Krish Naidoo of the ANC to help the FHR gain access to the President's Fund.
29. The President's Fund is reserved exclusively for reparations, and the FHR has campaigned for many years with victims and survivors to have the fund unlocked for their support.

Break from the FHR

30. It appears that Mr Cajee's break from the FHR commenced during 2018 when he claims that he was excluded from a Task Team on the TRC cases

²⁴ Paras 120 – 125 of the Cajee affidavit.

²⁵ Paras. 121-122 of the Cajee affidavit.



comprising the NPA, DPCI and the FHR, which thereafter collapsed.²⁶

31. Our recollection is that the Task Team collapsed after the FHR Private Investigator, the late Frank Dutton, complained of the presence of two police officers, one of whom was a former Security Branch officer and the other had a connection to the case of the late Richard and Irene Motasi. Correspondence in this regard can be supplied on request.
32. The FHR declined to continue in the Task Team, while those officers remained involved. While they were eventually removed, the Task Team was never reconvened.
33. In September 2021, following the passing of João Rodrigues on 7 September 2021, Mr Cajee's legal team in the Timol matter urged him to give them instructions to bring an urgent application to compel NDPP Shamila Batohi to make a decision on the internal review of the NPA's decision not to prosecute former Security Branch officers Neville Els and Seth Sons for committing perjury during the Reopened Timol Inquest. This was in light of the inordinate delay in taking a decision and the advanced ages of Els and Sons.
34. Mr Cajee refused to give such instructions indicating that there would be no such legal action. Shortly thereafter he terminated the mandate of his attorney, Moray Hathorn of Webber Wentzel and his counsel Adv Howard Varney.
35. Some two years later in 2023, even though the NDPP eventually did overturn the original decision not to prosecute, Mr Cajee was advised that no prosecutions were possible as witnesses had either died or were too ill to

²⁶ Paras. 113-116 of the Cajee affidavit.

testify.

36. Although Mr Cajee refused to allow his legal team to act against the NPA, he accused the NPA of having “*no will*” to prosecute Els and Sons and deliberately allowing them to escape justice. As with the failure to prosecute former SB officers Gloy and Van Niekerk, he says that Els and Sons were “*protected*” and “*it cannot be pure co-incidence*” that Rodrigues, Els and Sons never faced accountability.²⁷
37. Notwithstanding his accusations against the NPA, Mr Cajee lavished praise on the NPA for steps they were taking in the very same period (2022 – 2023), even though these steps amounted largely to public relations and outreach, not prosecutions.²⁸

The issue of political interference

38. In his affidavit, Mr Cajee states that he has changed his views on the question of whether political interference delayed the TRC cases. Whereas he previously asserted under oath that interference obstructed the cases, he now claims that he only made those assertions because of legal advice he received.²⁹ He now attributes responsibility to the conduct of certain individuals within the NPA and the South African Police Service (“SAPS”).
39. While Mr Cajee is entitled to change his views, it is necessary to point out the occasions where he asserted that political interference obstructed the Timol case and the other TRC cases. The examples include the following:

²⁷ Paras. 106-109 of the Cajee affidavit.

²⁸ Paras. 137-140, 145 and 150 of the Cajee affidavit.

²⁹ Par. 44, 55, 84, 85, 86, 102, 173 of the Cajee Affidavit.

- 39.1.1 On 20 July 2017, in the Reopened Timol Inquest, Mr Cajee made out an affidavit in which he asserted under the heading “Suppression of the political cases” that the Timol matter and others cases from the past were blocked by interference. In this regard he referred to the affidavits and documents that had been attached to the 2015 application brought by Thembi Nkadimeng in respect of her disappeared sister, Nokuthula Simelane.³⁰
- 39.1.2 On 6 November 2018, Mr Cajee filed an application to intervene in the permanent stay of proceedings application brought by Mr João Rodrigues, who was accused of the murder of Ahmed Timol. In his affidavit, Mr Cajee referred to the political interference to explain the long delay in prosecuting the case post the winding up of the TRC.³¹ He attached the affidavits of Pikoli and Ackermann that had been filed in the abovementioned application brought by Thembi Nkadimeng in 2015 to demonstrate the interference.
- 39.1.3 On 5 February 2019, former TRC Commissioners addressed a letter to the President calling for the appointment of a commission of inquiry into alleged political interference. That letter was endorsed by Mr Cajee.³²
- 39.1.4 On 17 April 2019, legal representatives acting for Mr Lukhanyo Calata, son of the late Mr Fort Calata, submitted representations on the alleged political interference to the Zondo Commission on behalf

³⁰ Paras 27 – 29.6. Available at: <https://www.ahmedtimol.co.za/wp-content/uploads/2024/11/IAC-Affidavit.pdf>

³¹ Par. 62.5.

³² Annex FA68 of the Calata Affidavit.

of the Cradock Four families, the Timol family and several other families. Mr Cajee filed an affidavit dated 14 January 2020 on behalf of the Timol family. In this affidavit Mr Cajee stated:

“The most important perpetrators involved in Uncle Ahmed’s murder have gone to their graves without been held accountable in the new democratic South Africa. This travesty of justice can be directly attributed to the political interference in the criminal justice system. Those responsible must be held to account.

I implore the State Capture Commission to investigate how and why more than 300 murder cases were suppressed. We need to know why so many officials violated their oaths of office.”³³

- 39.1.5 On 23 June 2019, a letter addressed to President Ramaphosa by several victims’ families, and signed amongst others by Mr Cajee on behalf of the Timol family, called for the establishment of a commission of inquiry into the alleged political interference and it also called on the President to make a public apology.³⁴
- 39.1.6 On 23 June 2020, Mr Cajee and several other families comprising the Apartheid-era Victims’ Family Group again wrote to the President again calling for an apology and a demand to establish a commission of inquiry into the interference.³⁵
- 39.1.7 On 25 March 2021, the former TRC Commissioners again addressed a letter to the President calling for the establishment of a commission of inquiry into political interference. While the letter was not individually signed by Mr Cajee, it was endorsed by the Ahmed

³³ Paras 32 – 33 of the affidavit Imtiaz Cajee dated 14 January 2020.

³⁴ Annex FA72 of the Calata Affidavit.

³⁵ Annex FA73 of the Calata Affidavit.

Timol Trust and the Apartheid-Era Victims' Family Group, both of which involved Mr Cajee.³⁶

40. Copies of the abovementioned statements and correspondence can be supplied on request.
41. Notwithstanding Mr Cajee's campaigning over many years to have the political interference exposed and investigated he now concludes "*that that there was no political interference preventing post-TRC prosecutions.*" He also rejects claims that there was "*a lack of logistics or capacity*". He says it was rather "*the conduct of officials*" in the NPA and SAPS that stopped the cases from proceeding.³⁷
42. Mr Cajee is entitled to his views. However, in our view, it cannot be a mere coincidence that the unrelated "*conduct of officials*" in virtually all the TRC cases over decades prevented these cases from proceeding.
43. The FHR persists with its submissions that the stopping of the TRC cases was not simply the product of a few officials not doing their work, but rather the product of the machinations put in place post 2003, which largely closed down the investigation of the cases and prevented prosecutors from pursuing these crimes in the normal course.



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³⁶ Annex FA74 of the Calata Affidavit.

³⁷ Paras 45 and 122 of the Cajee affidavit.



I hereby certify that the deponent knows and understands the contents of this affidavit and that it is to the best of the deponent's knowledge both true and correct. This affidavit as signed and sworn to me before at Braamfontein on this the 7th day of April 2026, and the Regulations contained in the Government Notice R.1258 of 21 July 1972, as amended by R1648 of 19 August 1977, and as further amended by R1428 of 11 July 1989, having complied with.

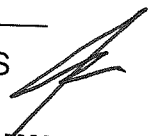


COMMISSIONER OF OATHS

Full names:

Address:

Capacity:



SHEENA JUSTINE SWEMMER
COMMISSIONER OF OATHS
PRACTICING ATTORNEY R.S.A.
D.J. DU PLESSIS BUILDING
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