

**IN THE JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS REGARDING
EFFORTS OR ATTEMPTS HAVING BEEN MADE TO STOP THE INVESTIGATION
OR PROSECUTION OF TRUTH AND RECONCILIATION COMMISSION CASES**

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I, the undersigned,

TSHILO MICHAEL MASUTHA

do hereby make oath and state that:

1. I am an adult male advocate by training and the former Minister of Justice and Constitutional Development and Correctional Services.
2. The facts deposed to in this affidavit are within my personal knowledge and are true and correct.
3. On 29 May 2025, the President of the Republic of South Africa, Mr Matamela Cyril Ramaphosa, issued Proclamation Notice 264 of 2025 establishing a Commission of Inquiry to inquiry into allegations regarding efforts or attempts having been made to stop the investigation or prosecution of the Truth and Reconciliation Commission of TRC cases ("TRC").
4. The Commission's terms of reference require that the Commission must inquire, make findings, report and make recommendations concerning:

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- 1.1 ... whether, why and to what extent and by whom, efforts were made to influence or pressure members of the South African Police Service or the National Prosecuting Authority to stop investigating or prosecuting TRC cases; and**
- 1.2 ... whether any members of the South African Police Service of the National Prosecuting Authority improperly coordinate with such attempts to influence or pressure them, amongst other things."**
- 5. I was the Minister of Justice and Constitutional Development and Correctional Services from May 2014 to May 2019. I have been invited by the Commission to comment and provide information in aid of the judicial commission of inquiry to inquire into the allegations described in the Terms of Reference ("TOR") of the Commission. relating to my tenure as a Minister.**
- 6. I hold a B.luris degree from the University of the North (now Limpopo), and an LLB degree from the University of the Witwatersrand. I was admitted to practice as Advocate of the Supreme, now High Court of South Africa on 16 May 1995 as per the attached certificate of admission.**
- 7. My career began at Lawyers for Human Rights from January 1991 until June 1996, followed by my role as Head of Legal Services at the Department of Social Development for three years. Thereafter I served as a Member of Parliament in the National Assembly from June 1999 until 28 May 2024, with a brief pause between 2019 and 2021.**

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8. From May 2014 to May 2019, I served as Minister of Justice and Correctional Services. In this role, I oversaw matters including those relating to the National Prosecuting Authority (NPA).
9. My approach to criminal and prosecutorial issues, including Truth and Reconciliation Commission (TRC) cases, was to await approaches from the NPA for specific action as opposed to initiation of cases.

INVOLVEMENT IN TRC CASES

10. In my capacity as the former Minister of Justice and Constitutional Development, I was not involved in the operations and daily dealings of the cases.
11. The one TRC-related matter that required my specific action during my tenure was that of Timol's death. I received an application to establish an inquest into Timol's death, which was granted.
12. I authorised the appointment of a Judge to conduct the inquest through the office of the Deputy Judge President. This decision to conduct the inquest was unsuccessfully challenged in court by Mr Rodrigues up to the Supreme Court of Appeal, leading to the inquest and subsequent prosecution, which ended due to his passing.
13. Prior to and post Timol's case being brought to my attention, no other TRC cases required my specific intervention. On the other hand, I have no recollection of any other matters, such as the Nokuthula Simelane

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("Simelane") matter, being brought to my attention for any action during my term.

14. I have also given approval for the reopening of the inquest into the death of the late Dr Neill Aggett in detention on 5 February 1982 at the John Vorster Square Police Station. The authorisation appears from a copy attached marked "MM1".
15. I also approved the reopening of the inquest into the death of Dr Mia Hoosen Haffejee on 3 August 1977 whilst in detention at Brighton Beach Police Station. A copy of the authorisation is attached marked "MM2".
16. I received general briefings on NPA matters under the NPA Act as and when needed. I became aware that, during 2013, before I was appointed Minister of Justice and Constitutional Development, the matter of Simelane was brought to the attention of the National Prosecuting Authority and addressed by my predecessor.
17. My general approach to criminal matters or matters relating to the National Prosecuting Authority was to wait for them to approach me regarding anything that required my attention, similar to what transpired in the Timol matter.
18. I would not, under any circumstances, *mero motu* initiate a process relating to any prosecutorial matter, be it a TRC-related case or any other matter. My responsibility as a Minister was, to the extent necessary, that I would request a written or oral report on any matter I considered significant or necessary for

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me to receive a briefing. From time to time, I would receive briefings on different matters.

19. I was recently made aware of the existence of a report/memorandum dated 15 July 2015 signed by the then NDPP, Adv Shaun Abrahams, regarding TRC investigations and prosecutions. I noted that the said report, although addressed to the former DG, Ms N Sindane, the Deputy Minister, Mr J Jefferey, and me, was not signed by all those cited. I first saw this report recently among the department documents requested for this inquiry.
20. I have had sight of an affidavit of Adv Abrahams dated 12 December 2025 for purposes of the Commission. He refers to a Ministerial Memorandum dated 15 July 2015 which he says was pursuant to section 33(2)(a) of the NPA Act in relation to the investigation and prosecution of matters emanating from the TRC.
21. I do not recall having had sight of the memorandum which lacks my signature. As appears from the memorandum it was merely for my noting by myself. It stated that I would be informed of the outcome of the individual cases once the investigations had been concluded and decisions made on them.
22. No other TRC memos or briefings requiring action from me have surfaced; nothing turned on them beyond noting.

OVERSIGHT AND NON-INTERFERENCE

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23. I am unaware of any formal or informal complaints about delays in TRC cases during my tenure, and no policy existed or was pursued by me to suppress TRC investigations or prosecutions.
24. My stance was accountability for all, with TRC cases being no exception.
25. I am aware that at some point there were discussions about an amendment to government policy regarding prosecutions that was adopted. However, I confirm that when I took office in 2014, there was no such amendment policy, and at no stage did such a policy question arise.
26. During my tenure, there was never an actual policy or an active attempt to suppress any pursuit of TRC cases.
27. While I could request NPA reports and noted briefings, I could neither direct prosecutions nor halt them, respecting NPA independence; examples like Simelane illustrate this - displeasure could be expressed, but prosecutorial decisions remained theirs.
28. My oversight focused on professionalism: querying discrepancies in processes and also urging the exercise of due diligence to avoid creating perceptions, amongst others of political targeting often alleged in the past, but never on prosecution outcomes.
29. **VICTIM-CENTRIC APPROACH:** From day one, I prioritised victims in accountability processes. For parole of TRC-convicted lifers like Eugene de Kock, killers of Chris Hani (Clive Derby-Lewis and Janusz Waluś), I

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introduced a victim-centric policy requiring consultation with victims before decisions.

30. In line with this approach, I rejected Mr Eugene de Kock's initial application upon discovering that families of victims of his crimes were not consulted by the Department of Correctional Services, and only approved his parole after proper engagement with the families of victims had occurred.
31. In addition, I made it one of the conditions of parole that Mr Eugene de Kock assists the NPA's Missing Person's Task Team in locating the remains of victims of apartheid atrocities. This approach extended to TRC matters like the Timol case, emphasising victim impact.
32. My focus in particular, concentrated on overseeing the state's ongoing obligations towards victims identified by the TRC, particularly on the implementation of outstanding reparations and the closure of cases involving "disappeared struggle activists".
33. To this end, I intensified the effort of the Missing Persons Task Team (MPTT) under the National Prosecuting Authority (NPA) to locate Remains of victims and personally presided over several handover ceremonies of exhumed remains of anti-apartheid activists who had been killed or executed in both judicial and extra-judicial circumstances
34. Should further information or assistance be required from me I shall assist to the best of my



 DEPONENT

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 at March on this 21 day of 2026 and that the provisions of the Regulations contained in Government Notice R1258 of the 21st JULY 1972, (as amended), have been complied with.



COMMISSIONER OF OATHS

FULL NAMES: Masemola Millicent
 BUSINESS ADDRESS: Thohoyandou SAPS
 DESIGNATION: Constable
 AREA/OFFICE: Vhembe

