

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

HELD AT:

Sci-Bono Discovery Centre, corner Mirriam Makeba & Helen Joseph Street,
Newtown, Johannesburg

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APPLICATION FOR CROSS-EXAMINATION OF DR RAMAITE

I, the undersigned,

LUNGELO GUMEDE

1. do hereby declare under oath as follows:

1.1. I am an adult male attorney in the employ of the State Attorney Pretoria, stationed at Salu Building, 316 Thabo Sehume Street, Pretoria. I am the attorney of record for the South African Police Service ("SAPS") in this Commission.

1.2. Due to my acquaintance with the facts of this matter and the issues involved in the present application, I am authorised to depose to this affidavit on behalf of the SAPS.

1.3. The facts deposed herein are, save where the contrary appears from the context, within my personal knowledge and to the best of my belief both true and correct.

1.4. Where I make submissions of a legal nature, I do so in my capacity as

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an attorney and on advice of counsel on brief for the SAPS in this Commission, which advice I accept as being true and correct.

PURPOSE OF THIS AFFIDAVIT

2. This affidavit is filed in support of the SAPS's application for cross examination of Dr Mashau Silas Ramaite ("Dr Ramaite"). The application is made pursuant to Dr Ramaite's affidavit dated 26 November 2025 and his subsequent oral testimony tendered before this Commission on 23 February 2026.
3. The application is further brought in terms of Regulation 8(3) of the Regulations governing the Commission of Inquiry read with the Commission's rules on cross-examination.

BASIS FOR THIS APPLICATION

4. The evidence tendered by Dr Ramaite confirms the allegations and assertions made against the SAPS and/or its members in matters falling within the Commission's Terms of Reference.
5. In terms of its mandate, the Commission must, in relation to the period 2003, inquire into, make findings, report on, and make recommendations concerning the following allegations:
 - 5.1. whether, why, and to what extent and by whom, efforts or attempts 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;
 - 5.2. whether any members of the South African Police Service or the

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National Prosecuting Authority improperly colluded with such attempts to influence or pressure them; and

- 5.3. whether any action should be taken by any Organ of State, including possible further investigations to be conducted or prosecutions to be instituted, where appropriate, of persons who may have acted unlawfully by –
 - 5.3.1. attempting to influence or pressure members of the South African Police Service or the National Prosecuting Authority to stop investigating or prosecuting TRC cases; or
 - 5.3.2. members of the South African Police Service or the National Prosecuting Authority colluded with or succumbed to attempts to influence or pressure such members to stop investigating or prosecuting TRC cases; and
- 5.4. whether, in terms of the law and fairness, the payment of any amount in constitutional damages to any person is appropriate.

ASPECTS ARISING FROM DR RAMAITE'S EVIDENCE

6. The relevant aspects arising from Dr Ramaite's affidavit and oral testimony which require to be tested by the SAPS are the allegations to the effect that:
 - 6.1. In May 2003 the National Director of Public Prosecutions ("NDPP"), Mr Bulelani Ngcuka, made a determination that all the TRC-related cases in which amnesty had been denied or where no application for amnesty was made be regarded as '*priority crimes*' in terms of Proclamation No. R.25 of 24 March 2003. Some 400 or so investigation dockets were

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transferred to the Priority Crimes Litigation Unit (“the PCLU”). Adv Ackermann SC and Chris Macadam, who was assigned as a Deputy Director of Public Prosecutions (“DPP”) in the PCLU, conducted an initial audit of TRC-related cases and identified some 21 cases which required further investigation.¹

6.2. In October 2006 the NDPP, Adv Vusi Pikoli assigned Dr Ramaite to chair a Task Team that was set up to review the TRC-related cases and to further agree on the provision of investigative capacity. The task team met for the first time on 12 October 2006 and consisted of senior officers from SAPS, National Intelligence Agency (“NIA”) and the Department of Justice and Constitutional Development.²

6.3. At the second meeting held on 25 October 2006, Adv Ackermann SC presented an audit report regarding all TRC-related cases which were being handled by the PCLU. The need for investigative capacity to attend to these cases was also discussed. The SAPS representative, Mr Lekalakala, made a commitment that he would discuss the need for investigative capacity with the National Commissioner of Police, Mr Jackie Selebi (“National Commissioner”), and report back at the next meeting.³

6.4. The next meeting was held on 06 November 2006 wherein the *Chikane* matter was discussed for the first time at the said meeting. Mr Lekalakala informed the meeting that the National Commissioner believed that Rev

¹ Paragraph 23: page 239: Bundle 1 for hearings 23 – 27 February 2026

² Paragraph 40: page 243: Bundle 1 for hearings 23 – 27 February 2026

³ Paragraph 41: page 244: Bundle 1 for hearings 23 – 27 February 2026

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Chikane was not interested in the prosecution of the persons involved. Adv Ackermann informed the meeting that Rev Chikane had left the matter in the hands of the prosecution. The meeting ended without any resolution and with no commitment regarding the provision of investigative capacity. Dr Ramaite reported the development and outcome of the meeting to Adv Pikoli.⁴

6.5. Most strikingly, at the meeting which took place in early December 2006, Commissioner Jacobs informed the meeting that the National Commissioner had told him to make it clear that the function of the Task Team was to make a final recommendation to a "*Committee of Directors-Generals*" which would in turn make a recommendation to the NDPP on the decision(s) to prosecute. Dr Ramaite viewed this as inconsistent with the prosecutorial independence.⁵

6.6. Dr Ramaite further viewed the development and formulation of the prosecution guidelines by a Committee consisting of Directors-General of the Security Cluster to be inconsistent with section 179(5)(a) and (b) of the Constitution as well as section 22(1) of the National Prosecuting Authority Act, 1998 and thus unlawful.⁶

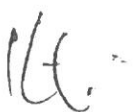
6.7. Dr Ramaite concluded that the effective investigation and prosecution of the TRC cases were severely hampered by political interference.⁷

⁴ Paragraph 42: page 244: Bundle 1 for hearings 23 – 27 February 2026

⁵ Paragraph 44: page 245: Bundle 1 for hearings 23 – 27 February 2026

⁶ Paragraph 51: page 246: Bundle 1 for hearings 23 – 27 February 2026

⁷ Paragraph 53: page 247: Bundle 1 for hearings 23 – 27 February 2026



7. Further allegations that require examination are found in Dr Ramaite's oral testimony wherein he stated that:

7.1. He had no access to any official documents and thus his affidavit was drafted based largely on the documents that were contained in the affidavits of Adv Ackerman SC and Advocate Pikoli.⁸

7.2. The National Director took the decision that dockets be transferred from the DPP's office where they were dumped at the Office of the NDPP.⁹ These were the dockets that came from the Goldstone Commission.

7.3. His task was mainly supervisory and that he was not involved in the day to day operations such as decision making and the actual prosecutions.¹⁰ Adv Ackerman and Adv Macadam provided him with the monthly reports which were presented every month before the Executive Committee of the National Prosecuting Authority, which committee was chaired by the NDPP.¹¹

7.4. Adv Pikoli gave him the important task of chairing the task team that was set up to review the TRC-related cases and get an agreement with the Police for provision of investigative capacity.¹² The role of the Police in the task team was to provide investigative capacity.¹³

⁸ Transcript 23 February 2026: page 3 from lines 1 to 3

⁹ Transcript 23 February 2026: page 12 from lines 2 to 7

¹⁰ Transcript 23 February 2026: page 18 from lines 20 to 24

¹¹ Transcript 23 February 2026: page 19 from lines 13 to 16

¹² Transcript 23 February 2026: page 37 from lines 1 to 3

¹³ Transcript 23 February 2026: page 38 from lines 9 to 19

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- 7.5. The reason why the SAPS was reluctant to provide the investigators became clear during the meeting of 6 November 2006 wherein the *Chikane* matter was raised and discussed. Adv Ackermann SC informed the meeting that Rev Chikane had left the matter in the hands of the NPA. The meeting unfortunately ended up without any resolution and with no commitment regarding the provision of investigative capacity. Dr Ramaite reported this development to Adv Pikoli.¹⁴
- 7.6. The real issue was SAPS's unwillingness to provide investigators for any cases and thus not confined to the Chikane matter only.¹⁵ Dr Ramaite interpreted the National Commissioner's unwillingness to provide investigative capacity in the *Chikane* matter as an indication that there was no will to provide investigative capacity in any other matters. This was made clear in the task team.¹⁶ Thereafter, the discussion in the meeting degenerated into only the *Chikane* matter.¹⁷
- 7.7. After General Jacobs raised the National Commissioner's view that the function of the task team was to make a final recommendation to a committee of the Director Generals, which would in turn make recommendations to the NDPP on whether or not to prosecute, he discussed this impasse with Adv Pikoli. They then agreed that Adv Pikoli

¹⁴ Transcript 23 February 2026: page 40 to 41 from lines 1 to 8

¹⁵ Transcript 23 February 2026: page 42 from lines 1 to 3

¹⁶ Transcript 23 February 2026: page 42 from lines 16 to 25

¹⁷ Transcript 23 February 2026: page 43 from lines 1 to 10

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should directly approach the National Commissioner to resolve that issue.¹⁸

7.8. As the chair of the Task Team, he could not take matters any further as they were awaiting the feedback arising from Adv Pikoli and the National Commissioner's meeting.¹⁹ He does not know if the meeting between Adv Pikoli and the National Commissioner ever materialised.²⁰

7.9. From his knowledge as part of the NPA's Executive Committee, the impasse relating to the appointment of investigators by the SAPS was never really resolved.²¹

7.10. He confirmed that he was aware that after Adv Ackermann SC and Macadam approached the Head of Detective Services ("Commissioner de Beer") as early as 2003, both the DSO and the SAPS had declined to provide investigative capacity.²²

7.11. He was not aware if an instruction from the President ever came pursuant to Commissioner de Beer's communication to Adv Ackermann and Macadam, to the effect that the SAPS would only take on cases if the President directed them to do so in writing.²³

7.12. He confirmed that the underlying reason why Adv Pikoli had requested him to attend the task team meetings was due to the animosity between

¹⁸ Transcript 23 February 2026: page 45 from lines 1 to 8

¹⁹ Transcript 23 February 2026: page 47 from lines 6 to 18

²⁰ Transcript 23 February 2026: page 48 from lines 11 to 14

²¹ Transcript 23 February 2026: page 54 from lines 7 to 14

²² Transcript 23 February 2026: page 72 from lines 5 to 21

²³ Transcript 23 February 2026: page 73 from lines 1 to 9



the representatives of SAPS and others towards Adv Ackermann SC. He further stated that there were even objections to Adv Ackermann's presence at the meetings of the Task Team and thus his presence would help get things moving.²⁴

8. In summation, Dr Ramaite makes the following allegations in relation to the SAPS and/or its members:

8.1. He views General Jacobs' role in conveying the view of the National Commissioner about the function of the Task Team in relation to the Forum of the DG's as political interference;

8.2. The SAPS's refusal to provide investigators throughout his involvement in the TRC cases as amounting to political interference and that the *Chikane* matter was a case in point.

CROSS EXAMINATION FOCUS

9. Flowing from Dr Ramaite's evidence, the following areas of contention will be canvassed during his intended cross examination:

9.1. The various reasons as to why the PCLU was unable to pursue any TRC cases;

9.2. The minutes of the meetings of the ITT and its collapse;

²⁴ Transcript 23 February 2026: page 77 from lines 9 to 25



- 9.3. The *Chikane* matter and a lack of further cases being pursued by the PCLU;
- 9.4. Commissioner de Beer's letter; and
- 9.5. The steps taken by the ITT in respect of the appointment of investigators by the SAPS.

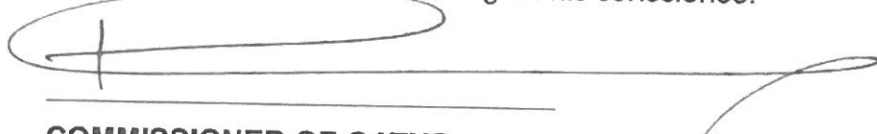
CONCLUSION

10. In the circumstances, it is humbly submitted that it will be in the interest of the SAPS that Dr Ramaite's evidence be tested through cross examination to assist the Commission to make informed findings.



DEPONENT

THUS SIGNED AND SWORN TO before me at Pretoria on this 4th day of **MAY 2026**. The deponent having acknowledged that he knows and understands the contents of this affidavit, has no objection to take the prescribed oath and considers the oath to be binding on his conscience.



COMMISSIONER OF OATHS

FULL NAMES:

CAPACITY:

ADDRESS:

NYIKO LUCKY NKUNA
COMMISSIONER OF OATHS
PRACTISING ATTORNEY
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316 THABO SEHUME STREET
PRETORIA

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DIV COMM DET SERVICE

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SAP 21

SUID-AFRIKAANSE POLISIEDIENS

SOUTH AFRICAN POLICE SERVICE

Privaatsak/Private Bag X302

Verwysing Reference	3/9/91(93)
Navna Enquiries	Div Comm De Beer
Telefoon Telephone	(012) 393 2191
Faksnommer Fax number	(012) 393 2193

Afdelingskommissaris/Divisional
Commissioner
Speurdiens / Detective Service
Hoofkantoor / Head Office
PRETORIA
0001

2003-09-26

Advocate AR Ackermann, SC
Special Director
Head: Priority Crimes Litigation Unit
National Prosecuting Authority
Church Square
PRETORIA
0001

Dear Advocate Ackermann

INVESTIGATION OF TRC CASES

Your letter dated 20 August 2003, as well as the preceding discussion between ourselves, have reference.

As agreed at our meeting, I have discussed your request for the assistance of the South African Police Service, to investigate cases emanating from the TRC processes, with the National Commissioner. It is evident from your letter that the investigation and prosecution of these cases were referred to the National Director of Public Prosecutions, by the President. Our understanding was that this referral was politically inspired. As you know, a large number of cases to be investigated are those of ex-policemen. It is therefore understandable that you first endeavoured to have these cases investigated by the Directorate for Special Operations(DSO).

From your letter it is firstly not clear why the DSO do not have the legal mandate to investigate the cases emanating from the TRC, and secondly, why it was not possible to obtain a Presidential Proclamation to provide such mandate if it was lacking. Your letter only states that: "In March 2002, consideration was given to the issue of a Presidential proclamation, but problems were encountered in this regard."

You are aware of the fact that the capacity created for the D'Oliveira Committee is presently with the DSO.

[Handwritten signatures and initials]
NGT

In view of the nature of the investigations, the fact that the President has referred it to the National Director, and that it seem to be common cause that the initial understanding was that the DSO would have investigated it, the opinion is held that you, or the National Director should approach the President, and confirm the instruction of the President on who he wants to investigate these cases.

If the President indicates that the South African Police Service should be involved in the investigations, the instruction should be obtained in writing. Upon receipt of such instruction, the South African Police Service shall of course assist, and the terms of reference, as well as issues such as logistics, number of investigators, command, can be discussed, as well as other relevant issues.

You are therefore requested to approach the President on the matter, where after we can take the matter further, if necessary.

Kind regards.

DIVISIONAL COMMISSIONER: DETECTIVE SERVICE
JF DE BEER



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NGI

22-NOV-2007 15:43 FROM DEPT OF JUSTICE

TO 0665740592

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msw



THE PRESIDENCY
REPUBLIC OF SOUTH AFRICA
Private Bag 21066, Pretoria, 001

22 October 2007

Ms Brigitte Mabandla, MP
Minister of Justice and Constitutional Affairs
Private Bag X276
PRETORIA
0001

Dear Minister,

STATE V VAN DER MERWE AND OTHERS

As you would know, the case of those who were involved in my poisoning, namely, Johannes Veldt VAN DER MERWE, Adriaan Johannes VLOK, Christoffel Lodewikus SMITH, Gert Jacobus Louis Hossa OTTO and Hermanus Johannes VAN STADEN was disposed of at the Pretoria High Court on the 17th August 2007 through a plea bargaining arrangement between the accused and the State.

Although I am pleased that we have concluded this matter, I am concerned about a number of issues, which I would like to raise with you and, hereby, the Government of the Republic of South Africa. I hope that you will find it necessary to share my concerns with Cabinet as I believe that this will be helpful in handling other matters of a similar nature.

The first point I would like to raise is the handling of this matter by the National Prosecuting Authority (NPA). ~~From my impression with the relevant officials within the NPA, it is clear to me that the said officials are simply the wrong people to deal with the post-TRC matters.~~ My experience with them is that they will not be able to relate to victims of gross violation of human rights or their next of kin with the sensitivity that is required. In fact, they did not seem to understand the nature of the challenge we were facing. Firstly, my court case was used to fight battles between the NPA and the Government about the "Guidelines" for dealing with post-TRC cases. Throughout this process I was left with a feeling that no one in fact cared about me - as a victim. What mattered were the politics around the handling of the post-TRC cases and how people would win their battles.

As part of the consultative processes relating to the cases of the State v Van der Merwe and Others, Adv. Ackerman, the Special Director in the Priority Crimes Litigation Unit, and his assistant visited me (as the victim). Instead of just consulting me as the victim, he entered into an acrimonious argument with me about the approach of the

W.M. Kagor
Assistant

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Government on 'post-TRC' matters and the Guidelines. From this interaction, it was clear that he was radically opposed to the Guidelines as agreed upon by Cabinet and the Parliament of the Republic of South Africa. In fact, he seemed to be more interested in prosecution for the sake of it rather than the management of this difficult 'post-TRC' process.

What I detested most was that my case was being used to fight their battles with the Government. In pursuit of this objective, a draft letter which was constructed in a manner that would enhance their position in the prescribed forum with other departments was presented to me for my signature. What was more disgusting for me was that when I refused to sign the draft letter, Adv. Ackerman then threatened to use Section 204 of the Criminal Procedures Act against me to force me to surrender all the information he claimed I had received from Mr. Vlok on my poisoning. I dared him to do so, and reminded him that this was tried against me during the apartheid days and it did not work and that there is no reason why it would work now. He backed off and left. His colleague who was with him is my witness in this regard.

Secondly, I was not consulted about the details of the Plea Bargaining Agreement. The NDPP informed me in writing about the arrangements for suspended sentences for the accused. My views were not solicited in this regard. In fact, I was not informed about the basis for the Plea Bargaining Arrangements. I only saw the Plea Bargaining Agreement during the proceedings in Court. I was particularly distressed by the submission in Section E, paragraph 6.3 of the 'plea agreement' which claims that I was consulted about it and that I was 'satisfied with the plea agreement' and that I did 'not wish to make any further representation in connection with the matter'. The reality is that I could not be satisfied with something I had not seen. Having now considered it, there are naturally a number of issues I have concerns about which I had no opportunity to deal with. This leads me to the second matter I would like to raise.

Failure to consult me before the Plea Bargaining Arrangements were made resulted in the presentation of documents in Court which did not only have factual errors, but were politically and philosophically problematic to me as a 'victim'. Firstly, my background is presented as if I was both General-Secretary of the SACC and Vice President of the UDF when, in fact, I held these positions at different times (see paragraph 28). Secondly, the Plea Agreement document falsely argues that it was the stated policy of the UDF 'to propagate and support ... violence for the ... purpose of rendering the country ungovernable' (own emphasis).

There are three issues I would like to raise on matters of substance. Firstly, Court 2 was withdrawn as part of the plea arrangements, and by so doing, the collaboration between the Security Police Special Unit and Wouter Basson and his team in producing and/or procuring the lethal chemicals used was not probed further when it is clear from the plea bargain arrangement document that more information could have been extracted. Secondly, there is a reference in the plea arrangement document to a 'list' containing the names of 'high profile' members of the anti-apartheid liberation struggle who were to be acted against, and in 'extreme cases' be killed (paragraph 37). There is no indication that this matter was probed further. The State should be interested, for instance, in a copy of such a list to determine as to who else was on the list and what happened to them. Thirdly, there is no indication as to what discussions the NPA had with General Basie Smit and Dr. Basson to source more information about their operations and what

~~Not true~~
Not true
I was present
No threats
Made in my presence

v. Mhaga
I agree with court's finding

PC
A

been a process to probe the involvement of the SADF on these matters and what happened to their list of external targets.

The Guidelines for the 'post TRC' cases make it clear that our objective is not just prosecution but the need to solicit more information about what happened to victims of gross violation of human rights, especially those who died or disappeared. Moreover, it is to get a better understanding of how the old national security management system functioned to make sure it does not happen again. Although the Van der Merwe and Others case assisted me to know more about what happened to me, failure to follow the Guidelines (and thereby collaborate with other entities of the State, like intelligence services, the Police and the Defence Force) made us miss opportunities to learn more about what befell other people who might have been affected in the same way.

Lastly, I found the Court itself completely 'foreign' and insensitive to me as a 'victim'. Firstly, the Court was completely white, from the Judge to the Prosecutors, defence lawyers and the accused. But worse, the proceedings were conducted in Afrikaans without due regard to the 'victim', especially where technical, legal and court processes are involved. As a result, I missed the greater part of the proceedings in the court. I am sure that we can make the court friendlier to victims than what I experienced that day.

On the side of Government, I felt that the handling of the *State v Van der Merwe and Others* case was left to me, as a 'victim', to explain to the public instead of the State or the Government. No effort was made by Government to manage this process or deal with public perceptions about it. No one got involved to make sure that the process achieved the objectives Government had agreed upon. Clearly, once the NPA acted unilaterally the Government apparently walked away from the matter. I do not think that this hands-off approach assisted us in any way to achieve the objectives set out in the Guidelines.

I shall be pleased, Minister, if the Government could deal with all the matters I have raised as well as remedy the situation before another case is dealt with.

Sincerely Yours,


FRANK-CHIKANE
DIRECTOR-GENERAL

