

**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**

AFFIDAVIT

I, the undersigned

RONALD OZZY LAMOLA

1. I am the Minister of International Relations and Cooperation. I previously served as the Minister of Justice and Constitutional Development from May 2019 to June 2024.
2. The facts and allegations contained in this affidavit are within my personal knowledge or are apparent from the documentation in my possession. These facts are, to the best of my belief, both true and correct. Where I make legal submissions, I do so on the advice of my legal representatives, whose advice I accept.

PURPOSE OF THE AFFIDAVIT

3. On 9 February 2026, I received a notice under Rule 3(3) of the Rules of the Judicial Commission of Inquiry to inquire into allegations regarding efforts or

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attempts having been made to stop the investigation or prosecution of Truth and Reconciliation Commission cases (“**TRC Commission**”), Proclamation Notice 285 of 2025 under GNR 53251 dated 29 August 2025 (the “**Notice**”). This affidavit responds to the Notice.

THE RULE 3(3) NOTICE

4. The Notice states that the Evidence Leaders intend to present the evidence of one or more applicants in the Calata matter, as well as evidence of any person who, in their opinion, possesses information relevant to the allegations and to the Commission’s work. It asserts that I may be implicated in alleged efforts to halt or suppress the investigation or prosecution of TRC matters. The Notice is attached and is marked as “**RL1**”.

The Rule 3(3) Notice is defective and vague

5. On 9 March 2026, my attorneys sent a letter to the TRC Commission requesting clarification on certain issues arising from the Rule 3(3) Notice served on me. The letter is attached and is marked as “**RL2**”.
6. The letter highlighted that a Rule 3(3) notice must clearly specify the allegations and the material relied upon so that the implicated person can understand the allegations they need to respond to. Having reviewed the attached Notice, the letter noted that the Notice fails to achieve this in two significant respects.

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- 6.1 Paragraphs 6 and 8 purport to refer to paragraphs in the Calata affidavit. Instead of the relevant paragraph numbers, the notice refers to *"paragraph Error! Reference source not found."* The relevant reference is therefore not included in the paragraphs, and it is unclear whether the paragraphs intended to be referred to in paragraphs 6 and 8 are identical to those included under the heading *"particulars of implication"* or if paragraphs 6 and 8 intend to refer to other paragraphs.
- 6.2 The Notice is also impermissibly broad. It states that evidence may be led from *"any person who, in the opinion of the Evidence Leaders, possesses information"* relevant to the allegations. It names no witness, identifies no category of evidence, and specifies no conduct attributed to me. The scope of the alleged case is left entirely open.
7. The letter further observes that a Rule 3(3) notice carries with it important procedural rights, including the right to apply to cross-examine any witness whose evidence may implicate them. Where the notice does not clearly identify the witness, the specific allegation, or the evidence to be led, the recipient of the notice cannot determine whose testimony they must confront, whether to apply for cross-examination, or on what basis. That lack of particularity undermines the ability to exercise these procedural rights and may result in material prejudice.
8. The letter asked the Commission to clarify the issues highlighted above and noted that, due to limited time, I would respond only to the identifiable issues mentioned in the Notice.

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The Notice is inconsistent with the Commission's Terms of Reference

9. The Commission's mandate is set out in the Terms of Reference ("ToRs").
10. The ToRs require the Commission to determine whether, since 2003, any person influenced or pressured members of the South African Police Service ("**SAPS**") or the National Prosecuting Authority ("**NPA**") to stop investigating or prosecuting TRC cases, whether there was collusion, and whether unlawful conduct of that nature warrants further action. The inquiry is confined to specific acts of influence or pressure directed at SAPS or the NPA. [My emphasis].
11. The notice does not allege that I influenced or pressured any member of SAPS or the NPA. It refers in general terms to alleged "efforts or attempts to halt or suppress the investigation or prosecution of TRC matters," without factually linking that assertion to the jurisdictional elements of the ToRs.
12. Insofar as there is a dispute over the establishment of a Commission of Inquiry, that issue falls outside the Commission's ToRs.
13. The breadth of the notice is compounded by the formulation that the Evidence Leaders intend to present the evidence of "*any person who, in the opinion of the Evidence Leaders, possesses information*" relevant to the allegations. The formulation is undefined and open-ended. It identifies no witness, no category of evidence, and no defined issue. It leaves the scope of the case entirely to the subjective view of the Evidence Leaders.

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14. The phrase "*possesses information relevant to the allegations*" provides no clarity. Relevant to which allegation and by reference to which element of the ToRs. The mandate concerns influence or pressure on SAPS or the NPA to stop TRC-related investigations or prosecutions. The Notice does not confine the proposed evidence to that question. It does not state whether the alleged relevance concerns interference with prosecutions or broader dissatisfaction with institutional performance.

15. Having outlined my concerns with the Notice served upon me, I reiterate my intention to assist the Commission to the best of my knowledge and reserve my right to further supplement this affidavit and/or to invoke any of my procedural rights in the TRC Rules should further clarity be provided on the issues raised in the letter and this affidavit.

THE ALLEGATIONS AS SET OUT IN THE RULE 3(3) NOTICE

16. The allegations said to implicate me appear to be extracted from the Calata affidavit and appear under the heading "Particulars of Implication" in the Rule 3(3) notice. They relate to three themes: first, that I ignored calls for a commission of inquiry and instead implemented an internal process; second, the steps taken during my tenure to investigate or prosecute the TRC cases; and third, criticism of the overall record of the TRC-related prosecutions and statements I made before the justice committee. I deal with each in turn below.

ENGAGEMENTS WITH THE TRC AFFECTED FAMILIES

17. At the commencement of my tenure as Minister of Justice in 2019, one of the significant matters placed before me concerned longstanding complaints from the TRC-affected families regarding the pace of investigations and prosecutions in TRC-related cases. The families expressed deep frustration with what they perceive as inadequate progress, delays, and a lack of visible accountability. Among the recurring concerns raised in these engagements was the question of capacity within the NPA and whether sufficient resources were being directed towards the prosecution of apartheid-era crimes.

18. At the forefront of their concerns was the advancement of prosecutions and tangible forms of accountability for those implicated in crimes identified by the TRC. This clearly required the NPA to be capacitated to pursue these complex and historic crimes.

19. It is essential, however, to place these engagements within the constitutional framework that governs the relationship between the Minister and the NPA. As Minister of Justice, I exercised final responsibility over the NPA in terms of section 179(6) of the Constitution. That responsibility is one of oversight and accountability. It does not confer the power to direct, halt, or determine prosecutorial decisions. The authority to institute and conduct criminal proceedings vests in the NPA, as provided for by section 179(2) of the Constitution. The NDPP may advise the Minister on matters relating to the administration of justice. The Minister may require information, but may not interfere.

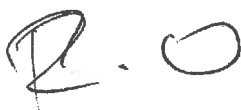


20. Section 32(1)(b) of the National Prosecuting Authority Act¹ (“**NPA Act**”) expressly prohibits any person from interfering with, hindering, or obstructing the prosecuting authority in the exercise of its powers, duties, and functions. The Minister does not have the power to direct that a prosecution be instituted, halted, or prioritised. Any attempt to do so would not only be unconstitutional but would amount to a punishable criminal offence, upon conviction, by a fine or a maximum of 10 years of imprisonment, or both, according to section 41(1) of the NPA Act.
21. No matter how serious the underlying matters, I could never lawfully accede to a request to dictate prosecutorial outcomes. My responsibility was to respect the NPA’s independence while ensuring it was supported through lawful means, including facilitating appropriate resourcing and structural support.

Measures Taken to Strengthen the NPA

22. From the beginning and throughout my tenure, a central priority was to ensure that the NPA was properly capacitated to fulfil its core constitutional mandate. The effective investigation and prosecution of crime, including complex and historic matters, depend not only on the legal authority but on adequate resources, skilled personnel, infrastructure, and inter-agency coordination.

¹ Act 32 of 1998.



23. The capacitation took several forms. It included engagements with the National Treasury regarding budget allocations to stabilise and enhance prosecutorial capacity; engagements with the Department of Public Service and Administration (“DPSA”) to address staffing levels; and engagements with the SAPS and the Directorate for Priority Crime Investigation to improve coordination between investigators and prosecutors. Attention was also directed to the NPA’s infrastructure needs. The DPSA memorandum is attached hereto as “RL3.”
24. The TRC-related prosecutions were one of the motivations for this broader programme of institutional strengthening. These historic matters are factually complex and resource-intensive. During my tenure, steps were taken to support the NPA and the Priority Crimes Litigation Unit within that framework. I set those steps out in greater detail below.

THE TRC-RELATED PROCEEDINGS ADVANCED DURING MY TENURE

25. The Notice refers to quoted paragraphs below, which state (at paragraph 116 of the Calata affidavit) that the overall “record of delivery” is inadequate and that the outcomes achieved to date are insufficient relative to the scale of the TRC matters.

“115.16. In May 2024, then Justice Minister, Ronald Lamola, authorised the reopening of the inquests into the deaths of Chief Albert Luthuli, Griffiths Mxenge and Boo! Mantyi, but there appear to be no further developments in these matters. A statement released by the ANC dated 19 October 2024 appeared to indicate that a judge had been appointed to

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preside over the Mxenge inquest before the KwaZulu Natal High Court.

115.19. *On 7 November 2024, the NPA confirmed in writing that then Minister of Justice had approved the reopening of the inquest into the death of Ramatua Nicholas "Boiki" Tlhapi. In March 1986, Tlhapi, an activist from Ikageng near Potchefstroom, disappeared from the Jouberton Police Station, while in a seriously injured state and was never seen again. On 13 December 2024, the Minister of Justice requested the Judge President of the North-West Division to designate a judge to preside over the reopened inquest.*

.....

116. *The record of delivery is dismal. It amounts to five concluded reopened inquests (between 2017 and 2023), four plea and sentence agreements (all occurred between 15 and 21 years ago) and two concluded criminal trials, one some 18 years ago of Transkei Police officials, and the other in 2023 resulting in the conviction and imprisonment of a gang member. There are only five criminal cases before the courts and all have been the subject of delays, in one matter, for some eight years. In the Nyoka matter, one of the accused has entered a guilty plea. The NPA has released different figures in relation to pending court cases and closed cases, but to date it has not disclosed the names of these cases.*

The TRC-related proceedings during my tenure.

26. It is alleged in the Calata affidavit that there has been a lack of delivery in the TRC-related prosecutions over the past two decades². When properly examined, that same catalogue record shows some of the substantial steps taken during my tenure as Minister of Justice.

² Calata Affidavit paras 112-116.

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- 26.1 On 16 August 2019, I formally requested the Judge Presidents of the Gauteng and KwaZulu-Natal Divisions of the High Court to designate judges to reopen the inquests into the deaths in detention of Dr Neil Aggett and Dr Hoosen Haffejee. That request was made in the exercise of my statutory powers to facilitate the reopening of inquests, which were warranted in terms of section 6(d) of the Inquests Act 58 of 1959. Copies of these memorandums are attached as “**RL4**” and “**RL5**”.
- 26.2 In 2021, to support the NPA’s decision to pursue TRC-related cases, the Ministry approved requests to employ additional personnel, to increase prosecutorial and investigative capacity, and to make the necessary budget available to enable those matters to proceed.
- 26.3 A new Acting Head of the Priority Crimes Litigation Unit (“**PCLU**”) was appointed and a decentralised model implemented, in terms of which Directors of Public Prosecutions in the relevant jurisdictions assumed responsibility for investigations and prosecutions, with the PCLU providing oversight and coordination. To give effect to this model, dedicated capacity was created within the NPA to focus specifically on TRC matters. Thirteen additional prosecutors were appointed, bringing the total to 23 dedicated prosecutors working on these cases in collaboration with 34 dedicated DPCI investigators who were appointed to strengthen investigative capacity.
- 26.4 As a result of these measures, 53 cases were receiving active attention nationwide by April 2021. By March 2022, that number had increased to

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115 matters under investigation. These cases were identified from the TRC report, evidence presented before the TRC, reports from family members of deceased persons, and audits of deaths in detention. A further audit of deaths in detention reported by the TRC identified 57 additional matters, and three more cases were opened following representations from victims.³

- 26.5 The inquest into the 1982 death in detention of Ernest Diapale was reopened in 2021 and concluded in 2023. The court held that the Security Branch of John Vorster Square was responsible for Ernest Diapale's death, and identified further suspects for investigation. The approval of the re-opening of this inquest is found attached as "RL4".
- 26.6 In 2022, former Security Branch and Reaction Unit officers were indicted for the murder of Caiphus Nyoka. The trial commenced in April 2023 and concluded in late 2025 with convictions of murder.
- 26.7 In 2022, the Judge President of the Western Cape Division of the High Court was requested to designate a judge to re-open the inquest relation to the death in detention of anti-apartheid activist, Mr Abudllah Haron.
- 26.8 In November 2023, Gugulethu Madonsela was sentenced to 10 years for the death of Siphelele Nxumalo as a result of joint efforts by the NPA's TRC Component and the Directorate of Priority Crime Investigation.

³ NPA 2022 Annual Report Page 36.

- 26.9 In relation to the disappearances of Ntombikayise Kubheka and Musawenkosi Phewa, inquests were opened in 2022 and, in November 2023, the DPP decided to prosecute four former Security Branch members. A fifth accused was charged in 2024.
- 26.10 Following investigations conducted by the KwaZulu-Natal Hawks and the KZN TRC Unit, inquests were held in late 2022. Thereafter, in January 2024, four former Security Branch officers were indicted for the murder of Jameson Ngoloyi Mngomezulu.
- 26.11 In January 2024, I acted on a recommendation of the National Prosecuting Authority to approach the Judge President of the Eastern Cape Division, Gqeberha, to designate a judge to reopen and preside over the inquest into the deaths of Mr. Mathew Goniwe, Mr. Sparrow Mkonto, Mr. Fort Calata, and Mr. Sicelo Mhlauli, collectively known as the Cradock Four.
- 26.12 In May 2024, I accepted and acted on the recommendations of the NPA to reopen the inquests into the deaths of Chief Albert Luthuli, Mlungisi Griffiths Mxenge, and Booi Mantyi.
27. These steps demonstrate some of the progress made during my tenure as Minister of Justice, following the steps taken to capacitate the NPA, as discussed above. I have attached various press releases related to the matters discussed above, as **RL9** to **RL12**.

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THE COMPLAINT REGARDING THE ALLEGED REFUSAL TO ESTABLISH A COMMISSION OF INQUIRY.

28. The notice refers to the following extract of the Calata affidavit:

"PARTICULARS OF IMPLICATION

Deliberations on a further immunity:

"

31. *For several years we have been asking for an independent and open commission of inquiry into the suppression of the TRC cases. President Ramaphosa and the former Minister of Justice, Ronald Lamola, have ignored our requested. The former Minister instead spoke of holding an internal enquiry, which is likely to be carefully stage managed and held largely behind closed doors to spare government the close scrutiny of an open inquiry.*

32. *We will accept nothing less than a fully transparent commission of inquiry armed with the normal powers of compulsion under the Commissions Act. For this reason, we seek an order compelling the President to establish an independent commission to expose the truth behind how such a monumental miscarriage of justice occurred; and to explore ways of ensuring this never happens again in South Africa.*

....."

29. It is alleged that I ignored calls to establish a commission of inquiry. Before addressing the substance of this allegation, I reiterate the submissions above that this issue falls outside the Commission's ToRs.

30. The allegation at its core misconceives both the constitutional position and the limits of my authority. This allegation must be understood against the engagements I had with the TRC-affected families, including the Calata family at



the commencement of my tenure in 2019, the requests made within the context of my constitutional relationship with the NPA, and the legal landscape shaped by the *Rodrigues*⁴ judgment and its implications for the future conduct of TRC-related prosecutions.

The Impact of the *Rodrigues* Judgment on the Path Forward in the TRC Cases.

31. The *Rodrigues* judgment marked a turning point in the legal and institutional approach to the TRC matters. The findings and *obiter dicta* of the High Court regarding political interference in the work of the NPA between 2003 and 2017, before my tenure, materially affected the investigation and prosecution of TRC cases. The Court indicated that the conduct surrounding such interference warranted investigation by the NDPP, including whether action under section 41(1) was appropriate.⁵

32. The findings in *Rodrigues* required the NPA to confront and address the implications of the Court's conclusions. This introduced the live question of how the NPA should respond to the findings of interference and which mechanism would be appropriate within the constitutional framework to address them. It is against that backdrop that the question of a commission of inquiry became an option for consideration.

⁴ *Rodrigues v National Director of Public Prosecutions and Others* 2019 (2) SACR 251 (GJ).

⁵ *Rodrigues v National Director of Public Prosecutions* [2021] ZASCA 87; [2021] 3 All SA 775 (SCA); 2021 (2) SACR 333 (SCA) [27].



33. Thus, the emergence of the commission of inquiry debate must be understood as a consequence of the legal findings in *Rodrigues*, not as a substitute for prosecutions, which may in any event follow from the commission proceedings. The judgment itself reaffirmed that prosecutions must proceed where appropriate. Any institutional response, whether through strengthening the NPA or considering a commission, had to operate within that constitutional framework.

My Position Regarding the Allegation That I Failed to Support the Establishment of a Commission of Inquiry.

34. The power to establish a commission of inquiry does not vest in the Minister of Justice. It is a constitutional prerogative of the President. The role of the Minister in relation to commissions is administrative and supportive once established, and not constitutive. While a Minister may, within his or her discretion and upon proper consideration, make a recommendation to the President that a commission be established, the decision whether or not to do so remains that of the President alone. I had no legal authority to create such a commission, and any suggestion that I “refused” to establish one attributes to me a power I did not possess.

35. I recognise that the matters concerned involve grave human rights violations and that the families have waited many years for accountability. That frustration is understandable. However, the exercise of public power must remain lawful and within constitutional limits. A Minister cannot act simply because a request is

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made or pressure is exerted, however compelling the cause. Decisions of this nature must fall within the powers conferred by law.

36. Following the *Rodrigues* decision, in 2022, the Deputy Chief State Law Advisor recommended that I appoint an investigating panel to examine alleged interference and delay in the prosecution of TRC matters. I engaged directly with the NDPP on that recommendation and thereafter wrote to her confirming the legal position. The investigation of alleged misconduct within the prosecuting authority does not lie within the powers of the Minister. It falls within the statutory authority and discretion of the NPA itself, including under section 20(1) of the NPA Act. I did not assume a power that the law does not confer. I attach the memorandums as “**RL6**” to “**RL7**”.
37. During 2022, the NPA, acting within its powers and with my support, appointed senior counsel to lead an investigating panel to examine allegations of interference and delay in TRC-related prosecutions. A copy of the memorandum is attached as “**RL8**”.
38. This position must be understood in the broader institutional context of the NPA’s needs as set out above. In those circumstances, the rational course was to ensure that the constitutionally mandated prosecuting authority was properly equipped to perform its function. Directing available funds and executive attention toward institutional strengthening was a more immediate and effective mechanism for advancing accountability, particularly where prosecutions were the relief sought by affected families and required by law.

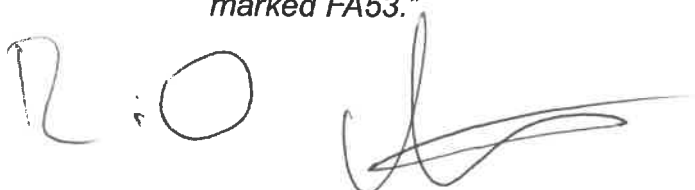
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39. Commissions of inquiry are significant fiscal and institutional undertakings. They require extensive funding and long-term administrative support. There has been legitimate public concern regarding the cost and duration of commissions and the burden they place on the public purse, particularly where existing constitutional institutions are already empowered to investigate and prosecute.
40. The NPA is the constitutionally and statutorily designated body to prosecute criminal offences. The courts adjudicate those matters once enrolled. In exercising my oversight responsibilities over the prosecuting authority and the broader justice system, my primary focus was to ensure that available resources were directed toward strengthening these institutions so that they could fulfil their constitutional mandate effectively.

ALLEGATION REGARDING THE PARLIAMENTARY RESPONSE ON CODESA AND TRC PROSECUTIONS

41. The Notice also cites paragraph 375 of the Calata affidavit, which further relies on a Parliamentary exchange of 8 December 2021 concerning an alleged CODESA-era agreement. The relevant paragraph reads as follows:

“375. The meeting report of the Justice Portfolio Committee meeting of 8 December 2021, disclosed that Hendricks asked Minister Ronald Lamola whether the government “had been hampered by decisions taken at the Convention for a Democratic South Africa (CODESA) not to prosecute the TRC cases.” He said, “Minister Lamola had to be honest with South Africa.” The Minister said he “was not aware of any agreements which provided that there would be no prosecutions of TRC matters.” The relevant extracts of this meeting report are annexed hereto marked FA53.”

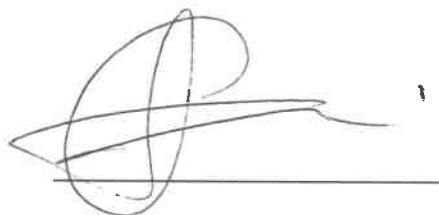


42. As stated in Parliament and reiterated now, I am not aware of any agreement arising from CODESA that provided that TRC matters would not be prosecuted.

CONCLUSION

43. The allegations directed at me do not identify any acts of interference, instruction, or improper influence on the NPA or SAPS.

44. There is no factual basis to conclude that I influenced or pressured any prosecutorial authority to halt or abandon TRC matters. The evidence reflects continued engagement within the justice system to capacitate it and support efforts to prosecute and ensure accountability in relation to these matters during my tenure.



RONALD OZZY LAMOLA

I certify that the deponent knows and understands the contents of this affidavit and that the facts in this affidavit are, to the best of the deponent's knowledge, true and

correct. The deponent signed and swore to this affidavit before me at Pretoria on this the 13th day of **MARCH 2026**. The Regulations in

Governing the Oaths of Office of the Commissioner of Oaths July 1972 were complied with.

COMMISSIONER OF OATHS
EX OFFICIO
MARTELLA MANDISA
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