

**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**

SWORN STATEMENT

I the undersigned,

JEFFREY THAMSANQA RADEBE

do hereby state on oath that:

1. I am an adult male person and former member of cabinet of the Republic of South Africa. I was the Minister of Justice and Constitutional Development during the period May 2009 until May 2014.
2. The facts deposed to herein are, unless the context indicates the contrary, within my personal knowledge and are, to the best of my belief, true and correct.
3. On 18 March 2026 I deposed to an affidavit on invitation by the evidence leader of this Commission in a letter dated 25 October 2025. In response to the said invitation, I deposed to the said affidavit which I transmitted to the Commission in March 2026.
4. The Commission has, during June 2026, invited me to give evidence in its sitting of 31 July 2026 and to submit a statement beforehand. I was particularly requested to assist the Commission with how I discharged my

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duties and responsibilities as Minister of Justice and Constitutional Development ("Minister") in relation to the National Prosecuting Authority ("NPA") as provided for in section 179 of the Constitution of the Republic of South Africa ("constitution"). I subsequently procured the services of the State Attorney and senior counsel to represent me and lead my evidence at the Commission.

5. This statement is in amplification of the March 2026 statement, and the two statements must be read together. In this statement I provide what my understanding of my role and responsibilities were as provided for in section 179 of the constitution, and how I discharged that responsibility at the relevant time.

The implicated legal framework

6. Section 179 of the Constitution establishes the National Prosecuting Authority and delineates its structure, functions, and the principles by which it must operate. Section 179 (1) provides for the appointment of a National Director of Public Prosecutions ("NDPP"), who is the head of the National Prosecuting Authority ("NPA") with overall responsibility over all staff of the NPA. Section 179(2) establishes the hierarchical structure of the prosecuting authority, with the NDPP at its apex and various Deputy National Directors, Directors, and Deputy Directors constituting the prosecutorial corps at national and provincial levels. Section 179 (3) sets out the prosecuting authority's functions, which include the institution and conduct of criminal proceedings on behalf of the state, and the performance of any functions incidental to such institution and conduct.
7. Of particular significance for present purposes is section 179 (4) of the Constitution, which provides in peremptory terms that "National legislation

J. J. R.
G-M

must ensure that the prosecuting authority exercises its functions without fear, favour or prejudice." This provision is, in my view, the constitutional lodestar that must guide all analysis of the relationship between the executive and the prosecuting authority. It establishes an unambiguous constitutional command that the prosecuting authority must enjoy operational independence in the exercise of its prosecutorial functions. The phrase "without fear, favour or prejudice" is not merely a lofty ideal; it is a constitutional injunction of the highest order, one that imposes obligations on all organs of state, including the Minister, to ensure that the prosecuting authority's independence is respected, protected, and facilitated.

8. The requirement of independence enshrined in section 179 (4) must be understood in its full historical and constitutional context. Our Constitution was adopted at the culmination of a prolonged period during which the prosecuting authority had been utilized as an instrument of political oppression. The drafters of the Constitution were acutely conscious that a democratic South Africa required a prosecuting authority that would be shielded from political manipulation and that would exercise its powers impartially, without regard to the political affiliations, status, or connections of those against whom prosecutorial decisions were taken. The phrase "without fear, favour or prejudice" was deliberately chosen to encapsulate this foundational commitment to prosecutorial independence, and it has been consistently interpreted by our courts as mandating a substantial degree of operational autonomy for the NPA.
9. Section 179 (5) of the Constitution provides that the NDPP "must determine, with the concurrence of the Cabinet member responsible for the administration of justice, prosecution policy, and must issue policy directives." This provision establishes a carefully calibrated balance. On the one hand, it vests the primary responsibility for determining prosecution policy in the NDPP, recognizing that prosecution policy is a quintessentially

J.T.R.
G.N

prosecutorial matter requiring the expertise and judgment of the head of the prosecuting authority. On the other hand, it requires the concurrence of the Minister, reflecting the constitutional assignment of "final responsibility over the prosecuting authority" to the Minister under section 179 (6). This concurrence requirement ensures that the Minister has a meaningful voice in the shaping of prosecution policy, but it does not permit the Minister to unilaterally dictate policy to the NDPP. The requirement of concurrence implies a process of engagement, deliberation, and mutual agreement, not executive fiat.

10. Section 179 (6) of the Constitution provides that "The Cabinet member responsible for the administration of justice must exercise final responsibility over the prosecuting authority." This provision has been the subject of extensive judicial interpretation, and it is one that I approached throughout my tenure with the deepest care and attention. The phrase "final responsibility" is not defined in the Constitution, and its meaning must be ascertained through a careful analysis of its textual setting, its relationship to the other provisions of section 179, the broader constitutional scheme, and the jurisprudence of our courts.
11. In my considered understanding, which I held throughout my tenure as Minister and which I continue to hold, the concept of "final responsibility" under section 179 (6) is not a licence for executive interference in individual prosecutorial decisions. Rather, it is a constitutional assignment of overarching accountability for the proper functioning of the prosecuting authority as an institution. The Minister's final responsibility encompasses matters such as ensuring that the prosecuting authority is adequately resourced, that its organisational structure is appropriate for the discharge of its functions, that legislative and policy frameworks support its work, and that the prosecuting authority as a whole operates in a manner consistent with constitutional principles. It does not, in my respectful view, extend to

J.T.R.
G.N.

the Minister directing the institution, continuation, or discontinuation of particular prosecutions, nor does it permit the Minister to override prosecutorial decisions taken at the operational level by prosecutors acting within their statutory authority.

12. This understanding of section 179 (6) is fully consonant with section 179(4)'s command that the prosecuting authority must exercise its functions without fear, favour or prejudice. If the Minister's final responsibility were construed as permitting direction or interference in individual prosecutorial decisions, section 179 (4) would be rendered substantially nugatory. The two provisions must be read harmoniously, and the only construction that gives meaningful effect to both is one that locates the Minister's responsibility at the systemic and institutional level, while respecting the operational independence of individual prosecutors and the NDPP in the day-to-day exercise of their prosecutorial functions.
13. The National Prosecuting Authority Act gives legislative effect to these constitutional provisions and elaborates upon the mechanisms through which the Minister's final responsibility is to be exercised. Section 33 (1) of the NPA Act provides that "The Minister shall, for purposes of section 179 of the Constitution, this Act or any other law concerning the prosecuting authority, exercise final responsibility over the prosecuting authority in accordance with the provisions of this Act." This provision is significant in that it makes clear that the Minister's final responsibility is to be exercised "in accordance with the provisions of this Act" - it is not an untrammelled power, but one that is structured, limited, and channeled by the statutory framework established by Parliament.
14. Section 33(2) of the NPA Act provides the specific mechanisms through which the Minister may obtain information to enable the exercise of final responsibility. It states that "To enable the Minister to exercise his or her

J.T.R.
G.N.

final responsibility over the prosecuting authority, as contemplated in section 179 of the Constitution, the National Director shall, at the request of the Minister -" and there follows a series of reporting obligations. Section 33 (2) (a) requires the NDPP to "furnish the Minister with information or a report with regard to any case, matter or subject dealt with by the National Director or a Director in the exercise of their powers, duties and functions in terms of this Act or any other law." Section 33(2)(b) requires the NDPP to "provide the Minister with reasons for any decision taken by a Director in the exercise of his or her powers, duties and functions in terms of this Act.

15. Several features of section 33 (2) merit emphasis:

- 15.1. First, the reporting obligations are triggered "at the request of the Minister." This means that the Minister must positively request information or a report; the provision does not require the NDPP to furnish reports unsolicited.
- 15.2. Second, the Minister must have a reason for making such a request - the request must be made for the purpose of enabling the Minister to exercise final responsibility. It is not a fishing expedition; it is a targeted mechanism for obtaining information necessary for the discharge of the Minister's constitutional accountability.
- 15.3. Third, the information that may be requested under section 33(2)(a) is broadly framed - it extends to "any case, matter or subject" dealt with by the NDPP or any Director. However, this breadth is tempered by the requirement that the request be made in the context of the Minister's final responsibility, which, as I have explained, I understood and continue to understand as an institutional and systemic responsibility rather than a licence to micromanage individual prosecutions.

J.T.R.
G.N.

16. Section 32 (1) (b) of the NPA Act provides a critical safeguard for prosecutorial independence. It states that "no organ of state and no member or employee of an organ of state nor any other person shall improperly interfere with, hinder or obstruct the prosecuting authority or any member thereof in the exercise, carrying out or performance of its, his or her powers, duties and functions. This provision establishes a statutory prohibition on improper interference with the prosecuting authority, and it applies to all organs of state, including the Minister. In my understanding, this provision was enacted precisely to give legislative effect to section 179(4) of the Constitution and to ensure that the prosecuting authority's independence is protected not merely as a constitutional principle but as a legally enforceable statutory right.
17. The interaction between section 33 (2) (a) and section 32 (1) (b) is of critical importance. Section 33 (2) (a) provides the Minister with a mechanism for obtaining information about prosecutorial matters, but section 32 (1) (b) imposes an absolute prohibition on the Minister using that information, or any other means, to "improperly interfere with, hinder or obstruct" the prosecuting authority. The line between proper ministerial oversight and improper interference is one that I was acutely conscious of throughout my tenure, and it is a line that I was scrupulous never to cross. My understanding was, and remains, that a Minister who obtains information under section 33 (2) (a) may use that information to discharge his or her institutional responsibilities - for example, by raising systemic concerns with the NDPP, by ensuring that adequate resources are allocated to particular areas of prosecutorial work, or by reporting to Parliament and the public on the general state of the prosecuting authority - but may not use that information to direct, influence, or pressure the NDPP or any prosecutor in relation to individual prosecutorial decisions.

J.T.R.
G.N.

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J.T.R.
G.N.

Prosecutorial independence

20. I have been a member of the African National Congress since my youth, and I was an active participant in the liberation struggle against the apartheid regime. I was detained, harassed, and forced into exile during those dark years. I studied law and did Masters whilst in exile, and I did so with the conscious purpose of equipping myself with the legal tools necessary to contribute to the construction of a constitutional democracy founded upon the rule of law. When I was appointed as Minister of Justice and Constitutional Development in May 2009, I brought to that office not merely the experience of decades of political and administrative service, but the deep conviction that the rule of law and the independence of legal institutions were not merely abstract constitutional ideals but the very foundation upon which our democracy rested.
21. As a lawyer by training and by conviction, I understood from the outset of my ministerial tenure that the prosecuting authority occupied a unique and sensitive position in our constitutional architecture. It is not just part of the judiciary, for it exercises constitutional function in the institution and conduct of criminal proceedings. Yet it is not a conventional department of state, for it must exercise its functions with a degree of independence that is foreign to the ordinary hierarchical relationship between a Minister and the officials of a government department. This hybrid character of the prosecuting authority - simultaneously executive in nature and independent in operation - requires of a Minister a constant and delicate exercise of judgment. I was determined to discharge my responsibilities in a manner that respected this constitutional singularity.
22. I knew that the legitimacy of the prosecuting authority in the eyes of the public depended upon its being perceived as impartial and independent. I knew that any action by a Minister that could be construed as interfering

J.T.R.
G.N

with prosecutorial decisions would corrode that legitimacy and undermine the rule of law. And I knew that as a former liberation activist and a senior member of the governing party, I would be particularly vulnerable to accusations of political interference - accusations that, however unfounded, could inflict grave damage upon public confidence in the prosecuting authority.

23. It was for these reasons that I adopted, from the very commencement of my tenure as Minister, a deliberate and self-imposed policy of non-involvement in individual prosecutorial decisions. I did not seek to be briefed on particular cases that were before the NPA, except where such briefing was necessary for me to discharge a specific statutory function or where a matter had become the subject of public controversy requiring ministerial oversight. I did not express views to the NDPP or to any prosecutor concerning whether particular individuals should or should not be prosecuted. I did not seek to influence the outcome of any prosecution, whether by direction, suggestion, or insinuation. And I made it clear to my officials, to the NDPP, and to the prosecutorial corps that I expected them to exercise their professional judgment independently and without regard to political considerations.
24. This policy of non-involvement was not a policy of neglect or abdication. I was fully conscious of my constitutional and statutory responsibilities, and I discharged them actively and conscientiously. I engaged regularly with the NDPP on matters of policy, resources, and organisational effectiveness. I represented the interests of the prosecuting authority in Cabinet and in Parliament. I ensured that the NPA was adequately funded and that its legislative mandate was kept under review. I responded to parliamentary questions concerning the prosecuting authority in a manner that respected its operational independence while fulfilling my accountability obligations as a member of the executive. But I never, at any point, sought to cross the

J.T.R.
G.N

line that separates proper ministerial oversight from improper interference in individual prosecutorial decisions.

25. I should emphasize that this principled stance was not without scrutiny. There were occasions when I was pressed by the media, and members of the public to comment on particular prosecutions or to indicate my view as to whether particular individuals should be prosecuted. I consistently declined to do so, explaining that prosecutorial decisions were matters for the NPA and that I, as Minister, could not and would not express a view on them. This stance was not always popular, and it was sometimes misunderstood as evasiveness or indifference. But I maintained it because I believed, and continue to believe, that it was constitutionally correct and that it served the long-term interests of the rule of law in South Africa.
26. The principled stance that I adopted was not one that I arrived at lightly or without reflection. I devoted considerable thought to the question of how I should discharge my constitutional responsibilities as Minister, and I consulted with senior legal advisers, with constitutional law scholars, and with practitioners who had experience of prosecuting authority. I studied the jurisprudence of the Constitutional Court concerning the prosecuting authority. I reviewed the practice of Ministers in other constitutional democracies. And I reflected upon my own experiences under apartheid, when the prosecuting authority had been deployed as an instrument of oppression, and upon the constitutional promise that such abuses would never be repeated.
27. It was this process of reflection and consultation that led me to the conclusion that the most constitutionally sound approach was one of principled restraint. I did not adopt this approach because I lacked the confidence or the capacity to engage with prosecutorial matters; on the contrary, my legal training and my experience in government equipped me

J.T.R.
G.N

well to engage with such matters had I chosen to do so. I adopted this approach because I was convinced that it was the most consistent approach with the constitutional design and most likely to preserve and enhance public confidence in the prosecuting authority.

28. I was also influenced in this regard by my understanding of the role that the Minister plays in the broader constitutional accountability framework. The Minister is accountable to Parliament for the functioning of the prosecuting authority. The Minister appears before parliamentary committees to answer questions concerning the NPA. The Minister tables reports and responds to motions in the National Assembly. These accountability mechanisms provide ample scope for the Minister to discharge his or her responsibilities without encroaching upon the operational independence of prosecutors. I was diligent in fulfilling these parliamentary accountability functions, and I considered that they provided a constitutionally appropriate channel through which I could exercise my oversight responsibilities.
29. I should also mention that I was conscious of the symbolic dimension of my role as Minister. As a former liberation struggle activist who had been appointed as Minister of Justice and Constitutional Development in a democratic South Africa, I was acutely aware that my conduct would be scrutinized not merely for its legal correctness but for its symbolic resonance. I knew that if I were perceived to be interfering with the prosecuting authority, it would send a damaging signal about the government's commitment to the rule of law. And I knew that the most powerful signal I could send was one of complete and unqualified respect for prosecutorial independence. My conduct as Minister was motivated, in significant measure, by this awareness of the symbolic significance of my office and the responsibility that attached to it.

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C.N.

30. It is in this context that my tenure as Minister should be understood. I was not a Minister who was oblivious of his constitutional and statutory duties. I was one who acutely understood the limits of his powers within the constitutional framework. This was out of respect to the rule of law, and profound commitment to the constitutional values of prosecutorial independence. I respectfully submit that this was not merely a permissible approach, but one most consistent with the highest traditions of constitutional governance.

The Truth and Reconciliation Commission Prosecution cases

31. During my tenure as Minister, I was never involved in any TRC-related prosecution cases from a prosecutorial point of view. I did not take any decision concerning whether any individual should be prosecuted in connection with any matter considered by the TRC. I did not express any view to the NDPP or to any prosecutor concerning the merits of any TRC-related prosecution. I did not seek to influence the course of any TRC-related investigation or prosecution. And I was not briefed, in any detail, on the progress or outcome of any TRC-related prosecution, except to the extent that such information was provided to me in the ordinary course of ministerial reporting on the general work of the NPA.
32. The reasons for my non-involvement in TRC-related prosecutions were the same as the reasons for my general policy of non-involvement in prosecutorial decisions, but they were reinforced by the particular sensitivity of TRC-related matters. The TRC process had been one of the most consequential and emotionally charged undertakings in South Africa's transition from apartheid to democracy. It had involved the public disclosure of gross violations of human rights committed during apartheid. It had required victims and perpetrators alike to confront painful truths about the past. And it had generated profound and legitimate expectations that those

J.T.R.
G.N.

who had not received amnesty - whether because they had not applied for it or because their applications had been refused - would be subject to criminal prosecution.

33. I understood from the outset that TRC-related prosecutions were matters of the highest prosecutorial complexity and sensitivity. They involved historical events that had occurred decades earlier, often in circumstances where evidence had been destroyed, witnesses had died or disappeared, and the documentary record was fragmentary. In my view, these were cases which solely required independent prosecutorial decisions based on available evidence.
34. Given this complexity and sensitivity, it was of utmost importance that prosecutorial decisions be taken without political interference. The prosecutors were better placed to take such decisions due to their requisite expertise, experience, and independence. I was aware that the NPA had established dedicated units to handle TRC-related matters, including what was known as the Political Crimes Litigation Unit. I understood that these units comprised prosecutors who had been selected for their specialized legal expertise, and understanding of the historical context. I had full confidence in the NPA to deal with such cases. I considered it neither necessary nor appropriate for me, as Minister, to involve myself in the prosecutorial decisions that NPA was constitutionally and statutorily mandated to take independently.
35. It is important to understand that my non-involvement in TRC-related prosecutions was not a product of indifference to the plight of victims or to the importance of accountability for apartheid-era crimes. On the contrary, I was profoundly conscious of the suffering that had been inflicted upon millions of South Africans during the apartheid era, and I was deeply committed to the principle that those responsible for gross violations of

J.T.R.
C.N.

human rights must be held accountable. But I understood that accountability in a constitutional democracy must be pursued through legally sound and procedurally fair processes, and that the institution responsible for ensuring such accountability was the NPA, and not the Minister.

There was no trigger for the necessity to request TRC related cases

36. Section 33 of the National Prosecuting Authority Act entrusts the Minister with final responsibility over the NPA. It sets out in section 33(2) (a) to (f) how this final responsibility is to be exercised. My understanding of this responsibility was that it refers to everything else but for the prosecution's decisions. It is a mechanism to hold the NPA accountable except for their prosecutorial decisions which are to be taken independently without undue influence.
37. This accountability mechanism is enforced through the Minister's request to be furnished with reports on any case, matter or subject from the NDPP or Director. The Minister does not simply request a report about a particular case without a trigger. During my tenure there was no trigger to my recollection which would have required me to ask for a report specifically on TRC cases. Also, to my recollection none of the NDPPs who served during my tenure ever brought to my attention TRC cases or sought my view or assistance in the said cases, let alone briefing me about any difficulties they may have experienced or were experiencing in prosecuting such cases. None of them brought to my attention any political interference in their prosecutorial decisions.
38. I recall that three NDPPs served during my tenure, one of which was in an acting capacity. To the best of my recollection it was Advocate Menzi Simelani, followed by Advocate Nomgcobo Jiba who was acting and then Mr Mxolisi Nxasana.

J.T.R.
G.N

39. It is important to understand what section 33(2)(a) is designed to achieve. It is not a mechanism for routine ministerial supervision of individual prosecutions. It is not a vehicle for ministerial second-guessing of prosecutorial decisions. It is an exceptional mechanism, designed to enable a Minister to obtain information in circumstances where there is a genuine need for such information in order to discharge the Minister's overarching constitutional responsibility for the functioning of the prosecuting authority.
40. A Minister who routinely requested reports on individual prosecutions would be abusing this mechanism and would be crossing the line that separates proper oversight from improper interference. Conversely, a Minister who refrains from invoking the mechanism in circumstances where the prosecuting authority is functioning properly and independently is not failing in his or her duty; such a Minister is respecting the constitutional design and giving practical effect to the independence of the prosecuting authority.
41. During my tenure, as I have mentioned above, I was not made aware of any instance in which a TRC-related prosecution was mishandled, improperly motivated, or contrary to law. I was not advised by the NDPP, by any Director, or by any other person that there were systemic problems with the handling of TRC-related matters that required ministerial attention. I did not receive any complaint from any quarter - whether from victims, from accused persons, from members of Parliament, or from the public - that gave me reason to believe that the NPA was not handling TRC-related prosecutions with the requisite professionalism and independence. And I had no reason to suspect that the prosecutorial decisions being taken in TRC-related matters were influenced by improper considerations of politics, race, or any other extraneous factor.

J.T.R.
G.N.

42. In these circumstances, there was simply no factual basis upon which I could have invoked section 33(2)(a) in relation to TRC-related prosecutions. To have done so would have been an act of gratuitous interference, inconsistent with my commitment to prosecutorial independence and unnecessary in the absence of any indicium of prosecutorial failure. I do not suggest that a Minister is precluded from invoking section 33(2)(a) in the absence of evidence of wrongdoing; a Minister may have legitimate reasons for seeking information even where there is no suggestion of impropriety. But I do submit that in the circumstances as I found them - with the prosecuting authority functioning effectively and independently, with dedicated units handling TRC-related matters, and with no complaints or concerns having been brought to my attention - there was no occasion that required or justified my invocation of section 33(2)(a).
43. I should add that the same was true of prosecutorial matters generally, and not merely of TRC-related prosecutions. At no point during my tenure was I confronted with a situation in which I considered it necessary, for the proper discharge of my constitutional responsibility, to request information under section 33(2)(a) concerning an individual prosecutorial decision. I am aware that other Ministers, in other circumstances, may have taken a different view, and I do not criticize any Minister who has invoked section 33(2)(a) in circumstances that that Minister considered warranted such invocation. But for my part, I made a deliberate and principled choice to refrain from doing so, and that choice was consistent with my understanding of my constitutional obligations and with the political circumstances in which I was operating.
44. It may be useful if I illustrate my point by reference to the kinds of circumstances that might have given rise to a factual trigger for the exercise of final responsibility. Had I been advised by the NDPP that the prosecuting authority was encountering systemic obstacles to the prosecution of TRC-

J. I. R.
G. N.

related cases - for example, if evidence was being withheld by organs of state, if witnesses were being intimidated, or if prosecutorial resources were demonstrably inadequate to the task - I might have considered it appropriate to request further information and to take steps to address these systemic issues. Had there been credible allegations that prosecutorial decisions in TRC-related matters were being influenced by improper political considerations, I would have considered it my constitutional duty to investigate and to take corrective action. Had there been a pattern of manifestly unreasonable prosecutorial decisions that suggested a failure of prosecutorial judgment at a systemic level, I might have considered it necessary to engage with the NDPP concerning the adequacy of the prosecutorial strategy. But none of these circumstances, nor any comparable circumstances, arose during my tenure.

45. I should also address the distinction between the Minister's power to request information under section 33(2)(a) and the Minister's accountability obligations to Parliament. As a member of the executive, I was accountable to Parliament for the overall functioning of the prosecuting authority. Members of Parliament had a legitimate interest in knowing whether TRC-related prosecutions were proceeding and whether the NPA was discharging its mandate in this area. My accountability to Parliament did not, however, require me to involve myself in individual prosecutorial decisions. I was able to discharge my parliamentary accountability by reporting on the general state of the NPA's work, by providing statistics and overviews, and by assuring Parliament that the prosecuting authority was functioning independently and effectively. I did not need to request case-specific reports under section 33(2)(a) in order to fulfil these accountability obligations.
46. It is also relevant to consider the practical implications of a Minister routinely invoking section 33(2)(a) in relation to TRC-related prosecutions. The NPA handles thousands of prosecutions each year, and the Minister cannot

J.T.R.
C.N.

possibly supervise each one. The TRC-related cases, while politically and historically significant, were but a subset of the NPA's overall caseload. If a Minister were to request reports on each TRC-related prosecution, or even on a significant number of them, the burden on the prosecuting authority would have been considerable, and the message sent to prosecutors would have been corrosive of their independence. Prosecutors who knew that their decisions were subject to routine ministerial scrutiny might be inclined to tailor their decisions to avoid ministerial displeasure or might become cautious and risk-averse in a manner that undermined the effective discharge of their functions. This was a result that I was determined to avoid.

47. Furthermore, I was conscious that TRC-related prosecutions were being conducted against a backdrop of intense public and media interest. Any action by me that could be construed as ministerial involvement in these prosecutions would have attracted immediate and critical attention. Had I requested a report under section 33(2)(a) concerning a particular TRC-related prosecution, the fact of my request would likely have become public knowledge, and it would have generated speculation about my motives and my intended use of the information. This would have been damaging not merely to my personal reputation but to the integrity of the prosecutorial process and to public confidence in the NPA. I considered that the wisest and most constitutionally sound course was to refrain from any action that could give rise to such speculation.
48. In summary, the absence of any factual trigger for the exercise of final responsibility under section 33(2)(a) was not a fortuitous circumstance or a product of inattention. It was the deliberate and principled result of a constitutional approach that respected prosecutorial independence, that recognised the NPA's professional competence, that was sensitive to the political context, and that placed the long-term integrity of the prosecutorial authority above any short-term political convenience. I respectfully submit

J.T.R.
C.N

that this approach was not merely permissible; it was the approach that best served the constitutional values at stake.

49. I should emphasize, finally in this regard, that my evidence is not intended to establish a general proposition that section 33(2)(a) should never be invoked, or that a Minister who invokes it acts improperly. There may well be circumstances in which the invocation of section 33(2)(a) is not merely permissible but constitutionally required. My evidence is simply that no such circumstances arose during my tenure in relation to TRC-related prosecutions, and that my deliberate choice to refrain from invoking the mechanism was constitutionally sound and factually justified.

Conclusion

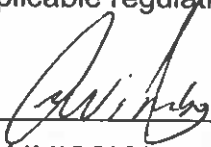
50. I have set out in this affidavit, to the best of my knowledge, recollection, and belief, a full and truthful account of my conduct and my principled stance as Minister of Justice and Constitutional Development in relation to the National Prosecuting Authority and TRC-related prosecutions. I have explained the constitutional and statutory framework within which I operated. I have articulated my deep and unwavering commitment to the independence of the prosecuting authority. I have placed my conduct within its political context. I have addressed the specific question of TRC-related prosecutions and my complete non-involvement therein. I have distinguished my ceremonial attendance at TRC-related events from any involvement in prosecutorial decision-making. And I have explained why there was never any factual trigger that would have required me to exercise final responsibility under section 33(2)(a) of the NPA Act.



JEFFREY THAMSANQA RADEBE



SIGNED and SWORN before me at MIDRAND on this 10 day of JULY 2026. The deponent having sworn that the content of this affidavit is both true and correct acknowledged that She knows and understands the contents of this affidavit, that She has no objection to taking the prescribed oath, and that She considers the prescribed oath to be binding on her conscience, having complied with the applicable regulations.



COMMISSIONER OF OATHS

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J.T.R.