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

HELD AT:

Sci-Bono Discovery Centre, Corner of Miriam Makeba & Helen Joseph Street
Newtown, Johannesburg

BEFORE:

COMMISSIONERS:

The Honourable Ms Justice Sisi Khampepe (Judge Ret.) – Chairperson
The Honourable Mr Justice Frans Diale Kgomo (Judge President Ret.)
Adv Andrea Gabriel (SC)

EVIDENCE LEADERS:
Adv Ishmael Semenya (SC)
Adv Fana Nalane (SC)
Adv Mfesane Ka-Siboto
Adv Nompumelelo Seme
Ms Baitseng Rangata
Adv Vas Soni (SC)

REPRESENTATIVES
Adv KD Moroka (SC) – DoJ representative
Adv Gwala (SC) – NPA representative
Adv Varney (SC) – The Calata Group
Adv D Pillay – The Calata Group
Ms A Thakor – The Calata Group
Mr J Venter – The Calata Group
Ms L Doubell – The Calata Group
Ms Ntloko – NPA representative
Adv Gerrie Nel (SC) – AfriForum representative
Adv Masuku SC (for Adv Menzi Simelane)
Adv Motlalepula Rantho (for SAPS)
Adv Tlotlego Tsagae (for Department of Justice)

13 FEBRUARY 2026

DAY 7

PAGES 1 – 55

MzanziSA Business Solutions
Arbour Square
Cnr Melle & Juta Street
Ground Floor, Office 3
Braamfontein, 2001
TEL: 011 339 1289 Cell: 0794374335
E-mail: transcription@mzanzisa.com

PROCEEDINGS ON 13 FEBRUARY 2026

CHAIRPERSON: Mr Varney?

ADV VARNEY: Commissioners, and Madam Chair, good morning. We have the witness by the name of Lukhanyo Calata. We are ready to proceed when the Commissioners give us leave.

CHAIRPERSON: Okay, thank you. Please state your full names for the record.

MR CALATA: Good morning, Commissioners. My name is Lukhanyo Bruce Matthews Calata.

CHAIRPERSON: Do you swear that... are you going to take an oath or affirmation?

MR CALATA: I do not have a problem with taking the oath, madam.

CHAIRPERSON: Yes. Do you swear that the evidence you will give will be the truth, the whole truth and nothing but the truth? If so, raise your right hand and say 'so help me God'.

MR CALATA: So help me God.

LUKHANYO BRUCE MATTHEWS CALATA: duly sworn states

CHAIRPERSON: Thank you, you have been duly sworn.

MR CALATA: Thank you.

CHAIRPERSON: Mr Varney, your witness.

EXAMINATION BY ADV VARNEY: As the commission pleases. Mr Calata, before you proceed, I just would like to get you to confirm certain affidavits that you have made. Commissioners, I am referring to affidavits that are in bundle 1 of the Calata Group volume. I hope you have those files with you. Mr Calata, let us start with the affidavit

that you made out on 5 November 2025 before this Commission of Inquiry. This is at page 837 of bundle 1. Do you confirm that you made out that affidavit?

MR CALATA: 800 you said?

ADV VARNEY: 837, at the very back of the bundle.

MR CALATA: Ja, I am there. Yes, I can confirm that.

ADV VARNEY: In that affidavit you also put up an earlier affidavit you have made, the founding affidavit in the matter *Calata and Others v Government of South Africa*, case number 5245/2025 dated 17 January 2025. Do you also confirm that you made out that affidavit?

MR CALATA: Yes, madam, I do confirm that I did make out this affidavit.

ADV VARNEY: Commissioners, that affidavit is also in bundle 1 between pages 1 and 836. Mr Calata, this day has been long in the making and I understand that today you are not just here in your personal capacity. You are not just here representing the Calata Family or dealing just with the Cradock Four case. Would you like to make a short opening statement?

MR CALATA: Yes, with the commission's permission. Yes, so, my presence here today is not solely as Lukhanyo Calata, the son of Fort and Nomonde Calata, but I am also here to represent at least 22 other families who were joined together in leading a constitutional damages claim against the state for what we believe to be a violation of our rights, for the state had failed to prosecute our loved ones' killers.

In our case it is the Cradock Four, but yesterday this commission heard from Thembi Simelane and she is one of the families that are part of the constitutional damages claim. I can think of the families of Caiphas Nyoka that are part of that I am representing today, the family of Richard and Irene Motasi. Then I am representing here today the family of Imam Haron that I am representing here today and there are many others, madam. So, I am here today in that capacity as well.

ADV VARNEY: Thank you, Mr Calata. Can you just remind us of your current ...[intervenes]

COMMISSIONER KGOMO: Mr Varney, can you lower the…? Yes, so that you are better audible, yes.

ADV VARNEY: Thank you, Commissioner. Can you hear me now?

COMMISSIONER KGOMO: That is much better.

ADV VARNEY: Thank you. Mr Calata, what is your current title and position?

MR CALATA: Madam, I work as a journalist. My current position and title is that of the Director of News and eNCA, which is a 24-hour television channel. They broadcast from Johannesburg and obviously we broadcast nationally and we have got a bit of a footprint on the African continent as well.

ADV VARNEY: And that perhaps explains why you were not available yesterday.

MR CALATA: Yes, madam. As you would know, yesterday was the State of the Nation Address and obviously my capacity as the Director

of News at eNCA, I had to be, I had to lead the broadcast.

ADV VARNEY: Mr Calata, can you tell us a bit about yourself – where you were born, where you grew up and give us a short trajectory of your life up until the fateful day when your father was murdered.

MR CALATA: Right, Commissioners, I was born in the small town of Cradock in the Eastern Cape in the Karoo. It is a beautiful town, a bit neglected now, but still beautiful. My parents are Fort and Nomonde Calata, as I have mentioned. I have got two sisters. One of them is here, Dorothy, who is my older sister; and I have got a younger sister, Thumani.

Ja, we grew up. What I understand is that my mother and father they got together when they were teenagers. My dad really loved her and I think she loved him. They had a daughter when they were quite young, which is Dorothy. Fortunately my father went on to go and study to become a teacher. In 1980 he went back to Cradock and then he married his childhood sweetheart.

I was born a year later in 1981 and we lived at my great-grandparents' house up until 1983 when my parents moved to a municipal council house and that was obviously their first home together; and we lived there for about two years as a family. You know my father was a teacher. He was politically active and from what I gather, you know, we had a happy household. We had a happy childhood.

My sister tells a story of how music was very central to our

home. My father was a musician and, you know, and he loved us and his dream for us was that we would grow up and we would all become musicians and we would tour the world, you know, playing music. Ja, up until 27 June in 1985 when all of that changed. All of that changed.

ADV VARNEY: Can we turn to the story of the Cradock Four? Can you briefly describe who were these young men and why they were targeted by the state?

MR CALATA: Well, madam, the Cradock Four, as they later became to be known, were four community leaders in Cradock, the eldest of whom was Matthew Goniwe, Sicelo Mhlauli, Sparrow Mkonto and my father, Fort Calata, who was the youngest of them. Three of them were, Matthew, my father and *Ouboet* Sparrow, they lived in Cradock and they became, they were community leaders in Cradock having led two organisations – the Cradock Residence Association, which was established in 1983, as well as the Cradock Youth Association, which established in the same period.

Now, my father was the treasurer general or the treasurer of the Residence Association and he was the president of the Youth Association. Matthew Goniwe was, I believe, the president; and *Ouboet* Sparrow was one of the committee members as part of the executive.

And they basically mobilised the community of Cradock between 1983 and 1985 to the extent that at the beginning of January 1985, Cradock, which is a small little community, managed to govern

itself outside of the structures of the apartheid government. In documents that I subsequently later found when I really started pursuing the issue of justice for my dad, we discovered that within the South African Defence Force at the time, Cradock was named as a liberated zone; liberated in the sense that the people of my community were governing themselves outside of the structures of the apartheid government. They were governing themselves.

The apartheid government's only responsibility in Cradock between January 1985 and June 1985 was basically they would be allowed into the community and to, you know to do social grant payments; and then once that process was done, the community would then escort those government officials out of the township and then the township would go on to govern itself.

And obviously that would have presented a massive challenge for the apartheid government, which I then believe led to them classifying my father, Fort Calata, and his comrades as terrorists, which then ultimately led them to call for their assassination. A military signal was then sent out on 7 June 1985 that called for their permanent removal from society. And the instructions of that signal were carried out rather brutally on 27 June in 1985 when my father and his comrades were assassinated by agents of the apartheid government. They were then; the funeral happened on 20 July.

And on the day of the funeral the government declared a partial state of emergency, which was the first one to be declared in this country since 1960. And according to people that I had spoken

to, all hell broke loose basically on that afternoon of my father's funeral.

ADV VARNEY: Thank you. Can we now turn to the impact of the death of your father on you and your family and can you give the commission a sense of your life trajectory post your father's murder?

MR CALATA: Commissioners, it is very difficult for me to be able to explain what it means to be raised in a house by a single mother, knowing that my father was not there, not because he did not want us, not because he did not love us, but because someone had decided that my father had to be killed, because he posed a threat to their life or to their way of being.

If you would allow me, madam to just make two examples. My father was a teacher and he was the breadwinner in our home. I have got crooked teeth. If you look at my teeth, they are crooked. They are what they are. I believe that if my father was alive and as a teacher, he would have ensured that... he would have ensured that during my teenagers years that maybe I could have gone to a dentist, would have had braces and that I could sit before you today; and when I smiled, it would not be an issue for me. So that is one.

As I talk to you today, I have a 13-year old son now and I struggle with fathering that boy, because I did not have a role model in terms of what fatherhood is. So, rightly or wrongly, it is almost I feel like I have to make it up as I go along and I wonder and I worry about whether I am doing right by him; and I wish I did not have to. It is painful for me to sit here and to talk about it, because I should not

have to, madam.

My father did nothing to nobody. Really, he did nothing to nobody, except believe that the colour of his skin did not make him less of a human being and that my life as his child should not be less than that of any other white family in this country or any other white child. That is really all my father wanted. So, I think to avoid me crumbling into a heap, I think I am going to stop there about the impact of not having my dad.

ADV VARNEY: Thank you, Mr Calata. We certainly appreciate the difficulty you face and that this is a traumatic experience. Let us perhaps turn to your career in journalism. How did you get into journalism and can you give us an indication of your career up to date?

MR CALATA: I got into journalism, because I think it is the only thing that I ever wanted to do, madam and I think I was inspired by other journalists that would come to our house; you know, come and do interviews with my mom, do interviews with my sister, Ms Goniwe and the other families of the Cradock Four.

And I knew obviously as a child that, you know, there was something there about the story of my father and that there were people that were interested in telling it; and I wanted to do the same, not obviously just for my family, but I wanted to be able to tell the stories of other families perhaps like mine who were, you know, perhaps not as fortunate to have a matter or a case that was as prominent as that of the Cradock Four.

I obviously wanted to be able to tell the story of my town, of my family and the contribution I think that, you know, Cradock had made in the struggle against apartheid. I remember when I think we were in 95. Former President Nelson Mandela had come to Cradock to come and lay a wreath at the graves of the Cradock Four and we had an opportunity to meet with him. And we were greeting. He asked, you know, what I wanted to become when I grow up. So I said no, I wanted to become a journalist and he asked me do I know what journalists do. I said yes, of course journalists tell people stories. He said well, they do that, but journalists also protect democracy. I was 13 at the time. I had no idea what he meant, but I do now.

And throughout my career, you know, I have always kind of gravitated towards political reporting. I did general news as well. You know I did sports producing. I did sports reporting, but I was always a lot more comfortable, I suppose, doing politics, because we come from a family you know where I mean, Romo political family, if I could put it like that. And that is how really I then kind of, you know, rose through the ranks to finally holding the position that I do now.

ADV VARNEY: You became part of a group called the SABC 8. Can you just explain briefly what that was about?

MR CALATA: Well, the SABC 8; it was a group of journalists at the SABC in 2016 where there was... I am not sure if I should call him a dead spot, but there was this guy that was leading us, the SABC at the time who for some strange reason, you know, wanted us as the journalists and us as the SABC to basically be able to censor the

news that the SABC, that we report on.

And in our various capacities, I do not think it was coordinated at all, at least not in the beginning. In our various capacities, you know, the eight of us, the guys that were in Jo'burg, they wrote letters. They would disagree vehemently with some decisions that were made in diary meetings. I was a parliamentary reporter, so and I did not know what was happening in Cape Town, in Jo'burg at the time.

So on 27 June, which was the day that my father and his comrades disappeared, I think in honour of or to mark the day, I then wrote a statement, like basically asking as to whether or not this is what my father had died for, for us to live in a country where we were being forced to censor the news and a public broadcaster. And that got me into lots of trouble; and ultimately it got the eight of us fired. And then, you know, in subsequent weeks that followed, our colleagues in the media industry then started referring to us as the 'SABC 8'.

COMMISSIONER KGOMO: Mr Varney, there is no prohibition, is there, in him naming them, so that it not be stats the eight. Is there any prohibition in naming them?

MR CALATA: No, I have got no problems naming them. Just see if I can. Suna Venter, may her soul rest in peace; Jacques Steenkamp; Foeta Krige; Krivani Pillay; Thandeka Gqubule; Busisiwe. I forgot, I just forgot Busisiwe's surname. She is going to kill me. I will remember her surname, madam. I promise I will; Busisiwe and Vuyo Mvoko. It was the eight of us. I will remember Busi's surname and

then I will, yes.

COMMISSIONER KGOMO: Thank you.

ADV VARNEY: And did this lead you to write a book of the same name?

MR CALATA: Yes. So what ultimately happened is that after we were fired, there was, you know we received tremendous support from colleagues, both in the media industry and organisations, you know, that supported the right to free speech, you know, and those kinds of organisations.

So, while we were protesting one day, I was approached by the publishers, Tafelberg, I think, ja; and they offered me the opportunity to be able to write a book, which I never worked as a print journalist. I had only ever worked as a broadcaster, either in radio and television. You know, so I accepted. I accepted and that is how I got to be able to write the book.

They wanted me to write a story about the SABC 8, but that would have been a chapter. So when we were discussing it, I asked them if obviously, because I wanted to tell the story around my dad and the Cradock Four and then, you know, try to investigate the truth around what was happening that. They agreed. So I was then able to, you know, have the one chapter around the SABC 8, but then I was also allowed to tell the story of my dad, his family.

My father was raised by his grandfather and his grandfather was Canon James Arthur Calata who was former Secretary-General of the African National Congress between 1936 and 1949. He had

worked very hard to rebuild ultimately an organisation that was really on its deathbed at the time. When he was elected into office in 1936, the year prior to that the ANC had, led by Pixley ka Seme, the ANC did not have a single meeting throughout the entire year of 1935.

When my grandfather was elected into, my great-grandfather was elected into office; he rebuilt the African National Congress from the position of secretary-general. He served under three different presidents. By the time that he left office in 1949, the ANC was in such a strong position that he could launch the defiance campaigns of the 1950's. It could do whatever it had to do because of the work that my great-grandfather had done.

So I was able to recall some of that in the book as well as, you know, just express my complete and utter dismay at that time; the ANC's failures to basically grant families, like mine, justice for having lost our loved ones in the pursuit of freedom, justice, equality against what was, against the tyrannical system of apartheid, I suppose.

ADV VARNEY: Thank you. Am I right in saying that the other member of the SABC 8, her surname is, well her full name is Busisiwe Ntuli.

MR CALATA: Yes, Busisiwe Ntuli. Thank you.

CHAIRPERSON: At least she will not kill you.

MR CALATA: Yes, madam. I can rest easy.

CHAIRPERSON: Yes.

ADV VARNEY: Mr Calata, I think this is a good moment to turn to your struggle for justice; and I think writing the book, my father died

for this, was part of that struggle.

MR CALATA: Yes.

ADV VARNEY: Can you give the commission a sense of the steps you have taken over time to which truth, to which justice and closure?

MR CALATA: Where should I start?

ADV VARNEY: Well, for example, besides the book, I know you did a short film. You have knocked on doors. You went to see certain high-ranking officials.

MR CALATA: Okay, if the commissioners will allow me, I will start. At the end of 2009, beginning of 2010 I had the opportunity to make a documentary film; and I used that film basically to go to Cradock where I went to basically go and ask for permission from my mother, Nomonde, Ms Nyameka Goniwe, Ms Nokosi Mkonto.

Unfortunately I could not travel much more than that, because I had like a very small budget for that, but the idea was for me to be able to travel to the mothers and to ask for permission for me to try to pursue the matter of justice for the Cradock Four. And I did get to do that. The film was called “Unfinished Business” and it aired on the SABC, I think, sometime in April 2010. And that really was the impetus that got me started in pursuing this matter.

Shortly after that film had aired, I was in touch with some people within the ANC who, you know, I will not mention them by name, but when I look back now, it was all very fake what they were doing, but anyway. I was in touch with them, hoping that they would assist me, you know, in pursuing this matter, but really nothing ever

happened of that.

And then I remember, I can recall an incident when I went to go and see the former, I think he was an acting NDPP, Shaun Abrahams again where I appealed to him for assistance with moving the Cradock Four matter forward. I had met up with other families. I can recall someone like Imtiaz Cajee who was pursuing justice for his uncle, Ahmed Timol, and we have been in contact. Me and him we were able to set up, you know, what we called the "Apartheid Victims Family Group", because we were trying to get as many people involved, other families involved and helping as much as we could.

During the period of writing the book, on Freedom Day, 27 April 2017 we were invited to George Bizos. We spent; my wife and I we spent the day with Adv George Bizos and where, you know, we spoke to him a lot about the Cradock Four case and what we needed to do to be able to, you know, to be able to move the Cradock Four case and other cases forward. Adv Bizos' advice to me was that I must make a lot of noise. My sister, she will tell you that I am very good at making noise.

And then I tried to do that as much as I could through the platform that I have, which was the media, which I understood, I was a part of. I had a meeting with the former Deputy Minister of Justice, John Jeffery where I spoke to him about why the state was not pursuing or prosecuting these cases. I remember in that one of those conversations that I had with him, the deputy minister or the former deputy minister said to me that, you know, if it was not for the

agreements that were made, they would have, you know, perhaps pursued the Cradock Four matter.

I was very disturbed by that, because whatever agreements that had been made did not involve us as a family. We were not party to any agreements. Nobody ever came to come and talk to us as a family about any agreement. So we did not know what those agreements were. Shortly thereafter I reached out to ...[intervenes]

ADV VARNEY: Can I just ask you to ...[intervenes]

COMMISSIONER GABRIEL: Mr Calata, did you ask about the nature of those agreements? What were those agreements that he told you about?

MR CALATA: Madam, he did not go into detail, but what I understood was that there were agreements made above or the African National Congress had entered into some agreements. I do not know with whom, but ultimately those agreements meant that my father's case was not prosecuted. I tried to push him as much as I could. It was in an interview setting. I wish I brought a copy of my book, because then I would have been able to quote verbatim some of the things that he said, but what he told me ultimately, madam was that their hands were tied, if I could summarise it like that. Their hands were tied.

COMMISSIONER GABRIEL: And where was this interview? Do you have a written copy, an electronic copy?

MR CALATA: Madam, yes, the interview I should have it electronically. I would have to find the hard drives in which we had

done those interview; that we had recorded that interview on, but I had transcribed the interview as part of the book that I ultimately published in 2018. I am sorry, I did not think of bringing a copy of it, but I will gladly make copies available to this commission.

CHAIRPERSON: Yes.

MR CALATA: Yes, I will ...[intervenes]

CHAIRPERSON: Mr Varney, if the book can be made available to the commission.

ADV VARNEY: Yes, Madam Chair. We will put up the book as an exhibit; and as soon as we get the transcript or the notes of that meeting, we will also put that up as well. Mr Calata, I do recall one quote, which I think is in one of your statements or perhaps the book where Mr Jeffery, when explaining why your case and the others were not being prosecuted. Am I remembering correctly what he said; 'this is the price we have to pay in order to move the country forward'?

MR CALATA: Yes, that sounds about right. That sounds right. I am sorry, obviously I did not anticipate the question around specifically the conversation with Mr Jeffery, but that sounds right.

ADV VARNEY: And when he said that 'this is the price we had to pay', what was your reaction to that?

MR CALATA: I remember I got very upset and I asked him about my younger sister, as the price that she had to pay was for her to grow up without her father. Sorry, if I may just put into context very briefly. When our father was killed, I was 3 years old. I was about to turn 4 later on that year. My sister was 9 years old. My mother was about

eight months pregnant and my younger sister... sorry, so in the intervening period. My dad was killed on 27 June. My sister, Dorothy, was 9 at the time. On 11 July she then turned 10. So by the time of the funeral on 20 July, she had turned 10.

COMMISSIONER KGOMO: You are speaking 1985?

MR CALATA: 1985. Yes, so on 20 July my sister was already 10 then. And then my mother gave birth to my younger sister on 8 August, which was a few weeks after the funeral. So, when the former deputy minister said, you know, this was the price we had to pay, I remember being very upset, because I then asked him: but what about my younger sister? What is the price that she had to pay, because she had to be born into a world where her father was killed where she would never get to know her father and then somebody then decided that she would also not have any justice for having her father taken away from her, because politicians had decided that that was the price that they had to pay with someone else's life?

ADV VARNEY: Thank you. Sorry, we intervened. You were explaining the different steps you took.

MR CALATA: Yes. Okay, so that was Jeffery. That was about 2017. And then I reached out to the FHR in about 2018 when I started working with the Foundation for Human Rights. And once that happened, it was the first time where there was a level of support, where we could start, I could start thinking about challenging some of these issues in a court of law.

I think shortly after, you know, I began working with the FHR,

President Cyril Ramaphosa had taken over, replaced former President Jacob Zuma and the president then appointed the recently retired NDPP Shamila Batohi. And I remember I unfortunately could not attend that meeting, but my mother, you know, represented us as a family in that meeting with Ms Batohi.

And yes, and then from then on, with the support of the FHR, I think it was in 2021. Oh, in 2020 we then set up, as a family, we then set up the Fort Calata Foundation, again as a vehicle that we could obviously use to, you know, pursue the issue of justice and remembrance and memory for my father and his comrades.

In 2021 was the first time that we were able to lodge an actual, you know, legal challenge in court where we sought to compel the National Prosecuting Authority to make a prosecutorial decision, you know, on the case of the Cradock Four. You know and then we started engaging with the NPA. We desperately sought, you know, for the NPA to prosecute ...[intervenes]

ADV VARNEY: Mr Calata, if I can just intervene a moment and just rewind a little bit before we get up to the litigation of 2021. Am I correct in saying that after yourself, your mother and foundation and legal representatives were meeting with the NPA and the DPCI, a rather shocking discovery was made ...[intervenes]

MR CALATA: Oh, I forgot.

ADV VARNEY: The docket was missing ...[intervenes]

COMMISSIONER KGOMO: Do not swallow your words, Mr Varney; if you could speak up, please.

ADV VARNEY: Yes, apologies, Commissioner. I will just repeat that in case it was not heard. If we can just rewind back a few years, I think back to around ...[intervenes]

MR CALATA: It was 2019.

ADV VARNEY: 2019 and perhaps you can start with a conversation that the investigating officer, I believe who was Colonel Makua, had with your mother.

MR CALATA: Thank you. It was in 2019, Commissioners when one morning I received a phone call from my mother and she really, I mean she was quite emotional and she told me that she just had a conversation with Colonel Makua from the Hawks and he had said something about, you know, a missing docket and the fact that, as far as he believed, there was no interest to investigate the Cradock Four matter; and she wanted me to follow up on that.

So I then duly called Colonel Makua. I told him who I was. I informed him that, you know, I just received a phone call from my mom. And Colonel Makua basically confirmed that he did have a conversation with my mother and that he did inform her that he had been, you know he had been an investigating officer on the Cradock Four case and that he, I think he had just retired and that he knew, you know he knew that the docket had gone missing. The murder docket into the Cradock Four case had gone missing.

Now obviously I did not understand how that was possible and then I reached out to the lawyers to inform them of my conversation with Colonel Makua. The lawyers then advised me that it was

perhaps good for me to be able to go to a police station and to go and open a case. As far as Colonel Makua was concerned, the docket had been stolen.

So, I then went to the police station in Cape Town where I had hoped to open a case of a missing docket; and they would not allow me to... the police in the Caledon Police Station, they would not allow me to open a docket for a case for a missing docket. I will paraphrase a little bit and try to make it short, but we ultimately had to get; the lawyers had to write letters to the office of the Minister of Police. I think it was Bheki Cele at the time as well as to the office of the National Police Commissioner.

And it was only once the lawyers had written those letters when we were then ultimately allowed to be able to open this case about this missing docket in the Cradock Four matter. And as far as I know and as I sit here with you, Commissioners, I do not think that there was ever a single day's worth of investigation as to what happened to the original docket in the Cradock Four matter.

ADV VARNEY: Thanks. We are going to return to the question a bit later, because it is dealt with in your statement, but Commissioners, I can confirm that an investigation was opened. It was ultimately closed as unresolved and that the docket had to be reconstructed with the assistance of the foundation's private investigator, retired Brigadier Clifford Marion. What is your reaction to the docket of one of the significant cases in South Africa's history going missing?

MR CALATA: Commissioners, my father's matter has basically

dictated the man that I am today, the decisions that I have made, my career, decisions that I continue to make.

The issue of responsibility and accountability are very, I take those things very seriously to the point where today I lead a television news channel and some of my colleagues that report to me are considerably older than me, but I have absolutely no problem in holding them accountable, because for me the issue of accountability is consequence management, making sure that people do things right, the manner in the way things are supposed to be done. Those are all things that I hold very dear, because in my head I am helping to build the society for which my father died for. So if people have got certain responsibilities, but they do not take those responsibilities seriously, it really rubs me up the wrong way.

So when I heard that the docket in the Cradock Four matter had gone missing, again I was really upset. And I like to make the example that I do not understand how something like that happens inside the offices of the National Prosecuting Authority where nobody, not a single person had ever been held accountable for a missing docket in a matter as serious as the murders of the Cradock Four.

Prior to moving to Johannesburg, I used to work as a programme editor for eTV News and Sport. I remember one day when I had misspelt the word ‘calendar’ and it went on TV. So we come from Cradock and we speak Afrikaans really well; and *kalender* is spelled ‘e-r’ at the end. That is in Afrikaans. ‘Calendar’ is spelled a-r at the end and I had mixed that up. And my editor at the time she

called me into her office and I had to account for why I had misspelt 'calendar' and how that went on TV.

So if I could be held accountable for misspelling the word that went on television, how is it possible, how is it possible that a docket in a matter as serious as the murders of the Cradock Four could go missing and nobody would be held accountable, and it goes missing inside the offices of the National Prosecuting Authority? I do not understand. If my company takes seriously the misspelling of a word, why would the NPA not take seriously the fact that a docket goes missing?

So I was very upset, because again, I felt as if we were being disrespected. We were not being taken seriously; that my father's life and the lives of his comrades did not matter and that it did not matter that they were killed in the manner in which they were killed; and whatever unfolded after their murders unfolded and that we lived in a democracy because my father's blood was spilled for this country. And then these very same people that were in the trenches with my father that called him 'comrade' that did all of those things now could not even bother to make sure that there was justice for his life.

ADV VARNEY: Do you recall the year when the docket was last seen and in which office it was last kept?

MR CALATA: Yes, I do. Commissioners, the last time the Cradock Four docket was seen was in 2013. There was a request for the docket to be transferred to the office of... I think she was acting NDPP at the time, Nomgcobo Jiba. That is what we were informed;

that the docket was last seen when it was being transferred to the office of the acting NDPP, Nomgcobo Jiba in 2013.

ADV VARNEY: Commissioners, that emerges from the affidavit, Rule 53 affidavit filed by Adv Chris Macadam in the litigation referred to by the witness that was launched in 2021. My team will find the references that you have those in due course. Mr Calata, let us then carry on with the story. So the docket then had to be reconstructed from 2019 onwards and then you and your legal team liaised with the NPA and the DPCI for a few years. What transpired next?

MR CALATA: Well, we thought that the NPA was taking us seriously and again, you know, we were talking. You know there was some progress, because through the FHR, Clifford Marion was helping, was investigating, was handing you know new information that he was discovering to the NPA or to the Hawks and we generally thought that, you know, there was progress. But it did not really; it did not seem as if the NPA was interested in prosecuting, because there was always something as to a reason why.

I remember once they called us to a two-day meeting as the families in Gqeberha and I got, again I got really upset with one of the prosecutors. Eventually I asked him a question; and the question that I asked him was something along the lines of or I made a statement that if he did not believe that we deserved justice, then he must just tell us. If he did not believe that we deserve justice, he must just tell us, because we had now spent two days with the NPA.

The purpose of that meeting was for them to apparently reveal

whatever evidence that they had, but by lunchtime on the second day they told us absolutely nothing. They told us that they had information. It did not necessarily translate to evidence. And I generally I felt, you know, I was upset. I wanted them to move. And the prosecutor took offence to what I was saying and I was not being disrespectful. I spoke to him in a manner that I felt was respectful to him and the work that had gone into it, but he took offence to me saying: look, if you do not believe that we are deserving of justice, just tell us.

And then he took serious offence and my sister, Dorothy, she is a clinical psychologist and she had to intervene between me and this prosecutor, because she had to try and obviously calm him down and make him, you know. I mean she is a head doctor. So she could explain what she did, but ultimately we were able to find ourselves. I was able to explain that I was not trying to be disrespectful. I apologised if what I had said has come across as being disrespectful or undermining, you know the work that he had put into the case, but we were just frustrated as the state was not moving along.

COMMISSIONER KGOMO: Can you just help? What was used, the reconstructed docket or was it the original docket that the prosecutor was using?

MR CALATA: So for that meeting, sir, with the NPA they were using the reconstructed docket, because the original docket we do not know where it went. So, they had used the reconstructed docket to run us through what they had, the information that they had and they kept on

saying that, you know, yes, they have got information, but ultimately it was not evidence.

The other thing that frustrated us was perhaps the unit, maybe the calibre of work that had gone into it, because the reconstructed docket or the unit that was working on the reconstructed docket was murdering, robbery; and the Cradock Four case just happened to be one of 6/700 cases that the team was working on at the time.

And so, when they presented us with the information, it lacked the context of what it was, because they treated it simply as a murder, and we should never refer to murders of run-of-the-mill, especially in a country like ours. But they just treated it as just an ordinary murder and the murders of the Cradock Four were anything but ordinary. We know that the murders of my father and his comrades were ordered by the highest office in the land at the time, you know.

The amount of cover-up that went into it, the amount of planning that went into it, you know the smoking mirrors that went into it; all of those things. And when we had that meeting with the NPA, none of that context was taken into consideration and they literally just treated it, because they were saying here, you know, we do not have a murder weapon. You have got two inquests, two previous inquests.

COMMISSIONER KGOMO: They wanted a smoking gun.

MR CALATA: Something like that, sir. Even though that there was a smoking gun in the judgment of, you know, the second inquest by Judge Neville Zietsman, which found that agents of the apartheid

government were actually responsible for the murders of the Cradock Four and then there was the TRC where there were six police officers that came forward and confessed to the murders of the Cradock Four. They were denied amnesty these police officers, but they were never prosecuted for what they had done. So the smoking gun was right there. If only the NPA, if only they had the guts to prosecute, we would not be sitting here today.

COMMISSIONER GABRIEL: Mr Calata, I cannot recall now what is in the papers, but are the names of the people at that meeting mentioned in your affidavit? Can you recall them?

MR CALATA: The meeting in Gqeberha?

COMMISSIONER GABRIEL: The two-day meeting.

MR CALATA: I can recall some of them. I can surely do that from the families and from the NPA as well.

COMMISSIONER GABRIEL: From the NPA is more especially what I am concerned about.

MR CALATA: Okay, from the NPA, certainly I recall Nomava Mvandaba as well as Adv Jannie Coltman. I am not sure if the director for… I think he was there, the Director for Public Prosecutions in the Eastern Cape, Adv Barry Madolo. He was there, like could have very briefly, but I recall that he was there. Ja, so it was those three, madam, from the NPA's side.

COMMISSIONER GABRIEL: And the families.

MR CALATA: Yes, and the families.

COMMISSIONER GABRIEL: How many?

MR CALATA: So from the Calata Family there were three of us. It was myself, my sister, Dorothy, and our mother, Nomonde. From the Goniwe Family I think there were two, but I do recall Mbulelo Goniwe. He was there. From the Mhlauli Family, I know [indistinct] Nombuyiselo Mhlauli, she was there. I cannot recall if Ntsika, her son, was there, but I know Ma Nombuyi was there and Lonwabo Mkonto and Bongani Mkonto was there from the Mkonto Family. Ja, I think those were…

COMMISSIONER GABRIEL: Please help me understand your evidence. Are you saying it was the SAPS, the Murder and Robbery Unit who did not get the context of what they were investigating or was it the NPA as well?

MR CALATA: Madam, so SAPS would have been the ones that were investigating, but we obviously did not have meetings with them. So we only met with the prosecutors from the NPA. And based on, and I can only talk to you now, Commissioners based on the evidence that was presented to us by the NPA and they were the ones that had... the NPA were the ones that had spoken to us about, you know, how they did not have, basically they did not have a smoking gun. They did not have a murder weapon. So it would be difficult to be able to prosecute in this matter. Ja, so the issue around the lack of context from my side is based only on what we were informed of by the NPA.

COMMISSIONER GABRIEL: You say this meeting was approximately when?

MR CALATA: It was in March. Can I just double…?

COMMISSIONER GABRIEL: Estimate.

MR CALATA: It was in March 2023. I am going to say 2023.

COMMISSIONER GABRIEL: And double check and come back to me.

MR CALATA: Yes, yes, I will certain do so.

ADV VARNEY: Thank you, Mr Calata; just one more correction. Are you sure it was Murder and Robbery and not the DPCI, the Directorate for Priority Crimes Investigation?

MR CALATA: Look, it could have been the DPCI, but I recall them having mentioned Murder and Robbery; that they were also part of Murder and Robbery. I remember that, because we still discussed it as the families afterwards to say like how could it be or maybe the investigators that they were using were taken from Murder and Robbery and then asked to investigate, but I do distinctly recall Murder and Robbery and us discussing it afterwards.

ADV VARNEY: Okay, as far as we are aware, the Cradock Four case and the TRC case more generally are with a unit within the DPCI. I think Colonel Makua was also from the DPCI office.

MR CALATA: Yes, I am sure he was.

ADV VARNEY: Perhaps then you can explain to the commission why then in 2021 you took this really big and significant step of applying to court to compel a decision out of the NPA.

MR CALATA: Again, by 2021; so I had really started working on or pursuing like almost on a daily basis pursuing justice for my dad and

his comrades, like really from about end of 2009 onwards, because by then it was also clear that, you know, I think my mother and the other widows, you know they had also... I think they were just tired and they were tired of fighting, of waiting for something to happen and ja, so, anyway, and obviously with the stuff that my mother was saying around how difficult it was and all of that, it really got me to the point where I thought it was important for me to try to move this matter forward.

So, I mean I think I was about 27, 28 at the time and, you know, I decided that okay, now I am old enough to be able to pursue this matter and I gave it everything that I could. By 2021 again, you know, I met with Shaun Abrahams, I have met with all of these people. You know I had met with the ANC and Jessie Duarte and Krish Naidoo and we had done all of these things, but there was still no movement.

And then I think, you know, I asked the Foundation for Human Rights if we could not go to court, if we could not just sue them or if there was nothing that we could do to try to move this matter forward. I was then advised that well, I mean we could, you know we could lodge an application to compel and I asked what would that entail. That was explained to me.

I then said cool, then that is what I would like us to do, which then ultimately led to us, I think on 20 July 2021. I think that was the date, because again I would remember the date, because I thought it was important that we file the papers on the anniversary of the funeral

and I think, like I mean I remember I still pushed the lawyers quite hard to say that it was important that we file on the 20th; and we did file on the 20th, because for me it was important that at that point that we now had to put the state or the government on notice.

If this was the only route that I had to pursue to get justice for my dad and the others, then that is what we would have to do; and I wanted them to know that I was not afraid of them and that this is what we are going to do; and that is what we did.

ADV VARNEY: And then just briefly, can you explain what transpired thereafter? They were forced to disclose what they had and then the legal teams had to get together. Can you recall what transpired then?

MR CALATA: You know, yes, so once we then filed our application, the NPA took a little bit of a softer stance and then they basically indicated to us that they were prepared, you know, for us to talk. Now previously we could not even get them to talk. We could not even get them to meet.

So, once they then came back and said hey, look, maybe we do not have to go this court route and to ensure that they are compelled by a court to have to make a prosecutorial decision. Maybe we could talk. I then said okay, well, it opens a window for us. If this does not have to be adversarial, sure, you know we are prepared to go that route.

And I think it was during that intervening period then when we were then talking to the NPA, you know, we say okay, cool, we will make a decision on this day and then the day would come. The

deadline would pass and then nothing happens; and then they had come back again and say: oh okay, cool, cool, cool, we are going to make a decision on this day and then the deadline would come. There was no decision and nothing happens.

And obviously, you know, those were setbacks each time, because my mother is getting older. All of the other mothers, I suppose, are also getting older. And in that intervening period Ms Goniwe died and that was hard, because Ms Goniwe was almost like a second mother to us. She and my mom; *Ouboet* Matthew and my dad were very close.

My sister, Dorothy and Nobuswe were born in the same year and they were like a few weeks apart. Nyaniso, Matthew's son, I am a few months older than him, I think; eight months older than him. I do not have a brother. He does not have a brother. So we were each other's brothers or we continue to be each other's brothers.

So, ja, so while we were busy talking to the NPA and they kept on moving the goalpost, Ms Goniwe died and I mean that was very sad for us, because Dorothy and Nobuswe were particularly close. And having to watch obviously my sister go through that and me having to support Nyaniso, as he was going through that, because now Nyaniso had basically lost his parents and Nobuswe. They had lost their parents, both of them. Ja, so that was hard.

COMMISSIONER KGOMO: Who was leading the attempt to mediate or who interceded at that time on the side of the NPA?

MR CALATA: I mean I would have to just double check with the

lawyers, Commissioner, because sometimes I obviously was not in those meetings. I would be briefed that, you know, that there was some kind of correspondence or there was a meeting, you know, between our representatives and the NPA, but I do know that; obviously I think Mvandaba that I have already mentioned was part of those meetings. Jannie Coltman would have been part of those meeting and I do believe the Director of Public Prosecution, Adv Barry Madolo, was one of those people leading those meetings.

And then there came a point where I think there was a bit of a struggle, because the DPP in the Eastern Cape was simply not moving fast enough and the matter was then transferred to the national office where I do believe advocate, the former Deputy NDPP, Adv Rodney de Kock was then also involved to try to move the matter forward.

COMMISSIONER KGOMO: Yes, thank you.

ADV VARNEY: Mr Calata, talking of people passing away, not only with family members passing away, but potential suspects in the case and perhaps just to remind you. Since you launched the case in July 2021, the following persons of interest died: Eric Winter, former Cradock Security Branch Commander. He died on 18 August 2021; FW de Klerk, former State President who was on the State Security Council, died on 11 November 2021.

Johannes Velde van der Merwe, former SAP Commissioner died on 27 August 2022; Adriaan Vlok, former Minister of Police who was also on the State Security Council, died on 8 January 2023. And

Lukas Daniel, known as Neil Barnard, former Director of the National Intelligence Service, who was also on the State Security Council, died on 13 January 2025. And let me not forget Hermanus Barend du Plessis, former Head of Security Branch Black Affairs in Port Elizabeth died on 16 May 2023.

MR CALATA: I remember that.

ADV VARNEY: So what effect did that have on the case?

MR CALATA: Commissioners, if you would allow me just to speak about the last matter or the last suspect who died, Hermanus du Plessis. I went to the office that morning; and when I got to the office, by then I moved cities, but I was living, by 2023 I had moved to Johannesburg; and I went to the office, got to the office, opened my emails and there was an email, I think, from the legal team. They had received a notification from the NPA that Hermanus Barend du Plessis had died.

Now, du Plessis was perhaps the last suspect in the Cradock Four killings like that we could directly tie to the physical act of having killed my father and his comrades. And by then I had again been very vocal about, because I remember when former President de Klerk died and when Winter died and when all of these others died, colleagues in the media would call me and, you know, they would ask me questions around: hey, this person died. And obviously de Klerk, former president, was quite prominent.

And so, I would have opportunities to be able to publically state, you know, and remind the NPA that their delays meant that

these guys who were already of advanced age were dying; and each death was taking us further and further and further away from the truth and it ultimately meant that we would not be able to have really the justice that we wanted, which was to prosecute, because I do feel that that is justice.

Yes, the truth is good when you do not have an opportunity to prosecute. Prosecutions for us would have meant that; it is a form of natural justice. Someone is being held directly accountable for what it was that they did; and to be able to take someone's life is ultimately perhaps maybe the worst sin that you could ever have, because the thing that makes us godly or in God's image is not the fact that we have got two legs or two arms or two eyes. The thing that makes us in God's image as human beings is the fact that we have got breath. That is the thing that makes us godly. We have got breath. So when you take someone's breath, you take away the thing that makes them godly.

So when de Klerk and Winter and Taylor and Lotz and all of those guys that were involved in the murders of the Cradock Four decided that they would play God and they would decide whether or not my father lives. They were supposed to have been held accountable properly. Now we did not want them to be killed or we did not want them, you know, to face the death penalty, because I would like to believe that we are better than that, but they should have been held accountable for what they did. So when Barend du Plessis died, it meant that we could no longer hold anybody

accountable for the physical act of stabbing my father and maiming his body and burning him and taking his life away.

So when I got to the office and I saw that email, I had a panic attack at work, because I did not know what to do, because I felt that the NPA was letting us down, because it was failing to move and prosecuting these people. They were coming up with all of these excuses. Meanwhile the actual perpetrators were busy dying. And we do not have a say in this matter, because if the NPA does not prosecute, who else am I going to go to?

If I do not like the public school where Kwezi is at, my son, I can take him to a private school and they can go get a private education. I am fortunate enough to have medical aid. So, I do not have to go to a public hospital if I fall sick. I can go to a private hospital and go get private medical healthcare, but it does not work like that with prosecutions.

COMMISSIONER KGOMO: Ms Thembi Simelane yesterday said she even considered private prosecution, although the course would be prohibitive. Did it ever enter your mind?

MR CALATA: Sir, yes, it did up until I found out how much it would cost. You know, I asked the question and the lawyer said well, I mean we would just have to perhaps put up just R5-million just for security. I mean R5-million, that could buy me three houses, sir, but you know, so realistically the only option that we had for prosecutions was the National Prosecuting Authority. And so when they failed to prosecute, what else, what were we supposed to do?

So on the day when we heard about Barend du Plessis, I had a panic attack at work and I did not know what was happening. I felt that I was going to die. I genuinely, I had no idea what was happening to me. Fortunately at the time my editor saw me and he took me out of the newsroom and, you know, they managed to calm me down and I called the doctor, because I was worried that I was having a heart attack or whatever the case was; and went to go see the doctor. My editor told me to go home.

The doctor could see me that day. I went to her. I had, I think it is called ECGs. They drew blood. They did all kinds of things. Fortunately the tests came back and I was all clear. Like my heart was fine. Physically I was good. I was well. But I remember the doctor saying to me that she had to ask then, she asked me then: what led to this? Then I explained to her that look, I mean I got to the office and I got this email, dah, dah, dah.

And then she said to me that what we needed to do was that we needed to heal the hole in my soul. I will never forget it. I am a lot stronger now, because I remember when she said it to me at the time, I just burst out crying. I, you know, took her advice and then I started going to a therapist and to receive counselling for that, but ultimately the deaths of Barend du Plessis and de Klerk and everybody, what it meant, it meant that we were denied the truth and we were ultimately denied accountability for my father's life, because the people who, not only who executed it, but who planned it, who were involved in the conspiracy and all of that, they died without ever being held

accountable for taking my father away from me.

ADV VARNEY: So you were ...[intervenes]

CHAIRPERSON: Mr Varney?

ADV VARNEY: Yes.

CHAIRPERSON: I think this would be an appropriate time to adjourn for tea.

ADV VARNEY: As the commission pleases.

CHAIRPERSON: Yes. I am apprised that the generator on which the air-conditioner is running is emitting fumes. So instead of taking our normal 15-minute adjournment, we will take the 30-minute adjournment, so as to attend to the problem. So, we will adjourn now and reconvene at 11:30.

ADV VARNEY: As the commission pleases.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Thank you, Mr Varney.

ADV VARNEY: As the commission pleases. Commissioners, before we proceed, my attorneys have pointed out to me where Mr Calata refers to the discussion he had with the Deputy Justice Minister and as ...[intervenes]

MALE SPEAKER: Is one of your mics not off?

ADV VARNEY: Oh.

CHAIRPERSON: Yes.

ADV VARNEY: Let us test.

CHAIRPERSON: Ja, we can hear you.

ADV VARNEY: Okay, great. I will just rewind, thanks for pointing out, Commissioner. We can point the commission to when Mr Calata made reference to the discussion with the former Deputy Justice Minister Jeffrey and that is in Mr Calata's founding affidavit in the 2021 civil litigation.

Commissioners, we have actually put up the papers in that matter and it is sitting on the commission's website under a tab that I believe is called contextual documents. We do have a preliminary index, so we only have one hard copy at the moment, but we can hand this up to the Chair, with your leave.

And the purpose in that litigation of 2021, Calata and others versus NDPP and others, case number 35447/2021. It is referred to from paragraph 72 onwards in that affidavit and it is at page 40 of that paginated bundle.

Mr Calata, before tea time we had been discussing the fact that multiple suspects in the Craddock Four matter had been passing away. And of course needless to say, it was not just those suspects. In the earlier years many other suspects had passed on, for example all the killers on the ground, the members of the hit squad had died in earlier years.

So that by the 2023 or certainly by the end of that year, as you mentioned the prospects for a prosecution at least of those directly involved, had faded and that is why you were then essentially forced into a third inquest.

MR CALATA: Ja.

ADV VARNEY: And that inquest is currently under way and will resume again on 23 March, it will be running in that week. So that is really where you are today. You have been forced into a third inquest in this matter.

MR CALATA: Yes. If I may Commissioners, just on the issue of the third inquest, so right from the beginning when the NPA's stance kind of softened, you know so when they were prepared to engage after we had lodged the application to compel, even in those very early stages the NPA was already talking about an inquest.

And we simply just did not understand, because by that stage there were still people alive that could be prosecuted. And we opposed an inquest quite vehemently, because we were saying but why would you talk to us about an inquest? Why would you seemingly push us in the direction of an inquest, when there are still people that are alive, that we can still prosecute?

And then obviously when du Plessis died, the prospects of a prosecution kind of went away. And it was only then when that window for an actual prosecution was then closed to us, that we ultimately were left with no option but to say okay, cool, we cannot get a prosecution anymore, the only thing that we could perhaps get out of it was a correction of the historic record in terms of who was involved, the names of people that were involved, what their roles were.

And that ultimately that would reflect in history as to say this is what happened. And generally it was only when we had no other

option but a third inquest when we as the families then decided that okay, at least maybe we will get the truth out of the third inquest, that we then finally acquiesced with the NPA to say okay, we can now go for an inquest.

ADV VARNEY: And was the passing of Hermanus Barend du Plessis something of an inflection point or a turning point for you and the families in the sense that you wanted some kind of reckoning for the fact that prosecutions or justice had now been closed off to you?

MR CALATA: Ja. Yes Commissioners, indeed that was the case. Because it was only after Barend, sorry, du Plessis died when I then basically engaged the FHR around what we can do. Because again I was left with very little option. I was angry, I was like, you know, but like the state continues to fail us, at every turn they continue to fail us and it was only after du Plessis' death when I then started talking to the FHR around the issue on whether or not we could sue the state.

Because up until then, you know, it was important that... or I felt at least that it was important that we pursued every avenue that we possibly could to be able to get someone in a court of law and have them charged with perhaps, or have them charged with the murder and then perhaps have them convicted, you know, for the murders of the Craddock Four. But once that window was closed to us, we had no other option and then I said you know, we needed to sue the state.

ADV VARNEY: And what were you advised in terms of this proposed course of action to get you and the families some form of reckoning?

MR CALATA: Well so we were advised around constitutional damages case that ultimately it, that that was an option for us where we could seek to vindicate our rights. That there would be no, it would not be a lawsuit in the classic, you know, American lawsuit where we would sue the state and we would get money and you know, we would live happily there ever after.

I do not think that that is what we wanted in the first place. But that it was, we would be able to vindicate our right and that we would be able to perhaps have a court confirm that indeed the government had violated our rights of human dignity by failing to serve us perhaps with one of the most basic tenants of any society which was justice.

And again, you know, we then spoke about obviously how it was not just the families of the Craddock Four that found themselves in this instance, you know, we spoke about the need for us to be able to invite other families who were in our exact same situation or maybe even worse off than us.

And for us to, you know, have this united front that we are going and suing the state on. You know, the FHR was very kind in that they took those things seriously and they helped us to the point where last year we were then able to file this constitutional damages matter.

When one of which, one of the prayers in that application was for the President to set up a commission of inquiry to investigate, you know, why ultimately, what happened within the state, within the

NPA, Justice Department or you know.

ADV VARNEY: It is us now.

MR CALATA: Yes sir, which ultimately led to this commission.

ADV VARNEY: Am I correct in saying that in relation to the prayer or the relief dealing with the setting up of a commission, that in fact you and the families and former TRC commissioners had already been writing and pressing the President for several years with the request for a commission.

MR CALATA: Ja, yes commissioners, that is correct. I think one of the very first letters that we wrote, I stand under correction but it could have been 2019 when we first, you know, as the families with the former TRC commissioners when we, you know, first wrote the first letter to the President. And the lawyers and them would be able to confirm, but I do not think we even got an acknowledgement letter, you know, from the President.

But we had tried on several occasions to again just set up a meeting or where we as the families could get into the same room with the President or his Justice Minister or whoever, for us to be able to raise this matter around the lack of justice for our loved ones. Ja, we tried several times before obviously we got to the point where we filed the application in court.

ADV VARNEY: On that score, Mr Calata, I believe there were around five or six communications and that the President acknowledged receipt and I think mentioned that it was being referred to the Minister of Justice, but then there was never a substantive response.

MR CALATA: Ja.

ADV VARNEY: Perhaps then we can fast forward to the filing of those papers in January 2025, what was the reaction of the President after the filing of those papers?

MR CALATA: The, I recall immediately after we had filed the papers that there, from the President's spokesperson Vincent Magwenya, you know who basically said that, you know the, something along the lines of that the President, you know, was sympathetic with us as the families, you know, was hearing us and you know, that they would move to try to assist.

And I know, not as familiar with the details again, because the, you know the lawyers were handling that matter, but I do know that there were some discussions that were then entered into between us as the families and the President's team.

And the President had indicated that he would not oppose our application, you know, and he would grant or, you know, grant us the commission, but there was some conditions to him finally agreeing. And you know, and I recall then there was the President...

I think first they did oppose, I think it was just like a kneejerk reaction when they did oppose and then very, very shortly thereafter, you know, there was a withdrawal of all the oppositions to our application. And obviously that gave us hope, you know, because it was a matter of okay, we are finally being seen, we are finally being recognised, thank you, you know, for making what would otherwise be a very difficult process, easier on us as the families.

And then politicians and they were trying to bargain and all of those kinds of things and we as the families would simply not, I suppose we would not get into, you know, the ring and using this as a negotiation. Because it is not a negotiation for us. This is a very serious matter for us.

I think I explained to the commission a little bit earlier about how I struggled with, you know, self esteem issues I suppose. But also with raising my son, so I am not here to come and politic, I am not interested in those kinds of politics.

And so we as the families we pushed hard, you know, in opposing whatever these tactics that the President was coming up with and what he wanted out of it. And I suppose because we would not allow the President to walk over us, he then decided that well okay, he is going to reinstitute his opposition... [intervenes]

ADV VARNEY: Perhaps I can assist you.

MR CALATA: Yes.

ADV VARNEY: So you are correct that notices to oppose were filed by the President and the other government respondents and I think you are correct that that was taken in the normal course. And approximately two weeks later as you mentioned there was a statement from the President's office in which he indicated that he wish to mediate this matter and that he was withdrawing his opposition. He also indicated in that statement that he would agree to the setting up of the commission.

MR CALATA: Yes.

ADV VARNEY: Then some time later once the legal teams got together, it was then heard that the President wish the commission to deal with the questions before the court... [intervenes]

MR CALATA: Oh ja, around... ja, because the President wanted this commission to also be able to determine whether or not our rights were violated and obviously I mean our rights were violated, because as I am sitting here with you I still do not have justice for my father's life.

That is a violation of my right and as... and I did not, or at least we as the families we did not understand why would that be. And the President also wanted this commission to determine whether there should be, you know, some kind of financial compensation which is obviously is part of the lawsuit or the application against the state.

We were praying for an amount of money that would not come directly to us as the families, we will not benefit from it in any way whatsoever, but that that money would be used to do a couple of things and some of those things would be for us to be able to memorialise our loved ones for instance.

I mentioned that as Fort's family we have the Fort Calata Foundation. We have an annual memorial lecture in honour of my father, but that each year it is a complete and utter struggle to try to raise funds for us to be able to hold this memorial lecture. I think the last one we, the last lecture we did cost us in the region of about R300 000, but just to raise that amount of money is quite difficult.

So as part of our prayer with some of the, you know, the funds from the state would be for us to be able to have money ring fenced so that organisations like ours would be able to apply to that organisation, get a little bit of money and you know, be able to go to Craddock, hold a memorial lecture in honour of my dad so that we can honour him for his sacrifice. And obviously to make sure that, you know, that people do not forget.

So and the President, but the President wanted that matter to also be decided or to be considered by this commission and we felt that it was unfair for the President to want to do that, because ultimately the President is not necessarily bound to implement the recommendations of this commission.

While we will sit and go through this process and you as the commissioners will write your report, ultimately the President can say oh well, thank you for this report but I reject it and that is potentially the end of it. And that would ultimately then mean that we would then have to go to court again to try to get, you know, the President to compel him to act on the recommendations of this commission and that could be another five years.

So we felt that on those two matters, one, the violation of our rights as well as the issue around the funding, you know, for the memorialisation project that, you know, we would rather leave that up to the competency of the court. If the court says well, if the court rules against us, then the court rules against us.

But at least then, you know, it would be a decision of the

court and not based on the President just simply not accepting the recommendations of this commission.

ADV VARNEY: So Mr Calata, that litigation that you referred to is ongoing.

MR CALATA: Yes.

ADV VARNEY: And in fact answering papers have to be filed by the President and others next week, so that programme will run through this year. Can I ask you, the fact that you had to go to court and file a substantial application to get this commission appointed, how does that sit with you and the families that you had to take that monumental effort?

MR CALATA: Commissioners, I think I mentioned, I did mention earlier that I come from a family where we trace, as a family we trace our history with the African National Congress back to 1930. Almost 100 years, 200, but we trace it back.

My great-grandfather James Calata joined the ANC in 1930. Immediately when he joined, he was elected president of the ANC in the Cape and he worked very hard for the African National Congress. In 1936 he was then elected to the position of secretary general and again I mentioned that he served under three presidents, Pixley ka Seme, ZR Mahabane between 1937 and 1939 and then AB Xuma in 1940.

And he served diligently in that organisation. It was under him for the first time as a secretary general when by 1942 and 1943 they amended the constitution of the ANC where women could

become fully fledged members of that organisation.

It was under my great grandfather and the work that he did that allowed in 1944 the establishment of the ANC Youth League, where Anton Lembede who became first president and the likes of Nelson Mandela was part of that first executive and he continued to work for that movement.

He worked, he set up a congress choir, it was called the Congress Choir, they would travel around South Africa, they would raise money for the ANC. In 1943 my great grandfather was denied the opportunity to become a bishop in the Anglican Church because of his political activities and the white bishops at the time felt that he was, you know, he would taint the church because of his political activities.

My great grandfather was, can I just mention that in 1953... oh he stepped down as a leader of the National Congress in 1949 or he would not put or stand for re-election in 1949. He was replaced by Walter Sisulu as the secretary general of the ANC.

He remained a member of the national executive committee. He was the chaplain for the ANC and the MEC. There was the defiance campaign in 1952, he was arrested, he was placed under house arrest. And there was a conference of the ANC in the Cape in 1953, by then ...[indistinct] replaced him as the president of the ANC in the Cape.

And because my great grandfather could not travel and go to the conference of the ANC in 53, the conference came to Craddock

just so that they would allow him to be part of the conference and to participate.

It was at that conference that happened in Craddock in 1953 when for the very first time within the African National Congress there was a discussion around the Freedom Charter. It happened in my town in Craddock where I come from. It happened there. Two years later the Freedom Charter was signed and adopted by the ANC in Kliptown.

In 1956 my great grandfather was arrested as part of the treason trialists and that was the year that my father was born. Shortly after my father was born here in Sophiatown in Johannesburg, my grandmother took him... took her son to go and meet her father. It was her father, James Calata that called my father Fort, because he said this boy is going to be the fort of this family.

When ...[indistinct] was released in 57 alongside OR Tambo, OR Tambo shortly thereafter then went into exile, but my great grandfather went back to Craddock and he raised this little boy of his, his grandson. He raised my father as his own child.

My father then becomes politically active and my father is killed in this country and he laid down his life. I mentioned that on the afternoon of my father's funeral, they declared a state of emergency. It was a partial state of emergency, but a state of emergency nonetheless.

There is a family in Craddock, family of Abapuntzi, on that Sunday, Saturday sorry, once the state of emergency was declared

they went into that family, the cops they arrested the father, the mother and the older brother. They left, I think a 9 year old girl to fend for her twin siblings who were about 6 years old.

Those are our stories. I am not fabricating anything that I have said to you here, Commissioners, none of it is a fabrication. We have done everything that we could as families to help advance the struggle against apartheid and particularly for the African National Congress, because that is where my family has got a very strong history.

We understood to some degree that the apartheid government would not kill my father, prosecute themselves and then convict themselves for the murders that they did. We understood that. We understood.

But what we expected was in 94 when the African National Congress took over the governing party in this republic, that they would do the right thing by us, that they would prosecute the Craddock Four's killers.

Judge Neville Zietsman delivered his judgment in the second inquest on 28 May. Madiba was sworn into office on 10 May 94. One of the very first judgments of the democratic South Africa was handed down by Judge Neville Zietsman where he found that the Craddock Four were killed by members of the apartheid government or security branch.

So we expected that there would be justice. But nothing ever came. My father and his comrades, they were betrayed by the

state, because no state should ever be involved in the murder of its own citizens, that should never, ever be the case.

The state cannot become terrorists, never, not with the might and with the resources that the state has. It should never. But in the case of the Craddock Four and many other families, the state became the terrorist. So my father was betrayed by his own state, the apartheid state and then the ANC then comes into power and then the ANC then betrays them again. So two times.

And it is not just my father and his comrades, but it is all of the families, some of whom that I am sitting here representing directly on their mandate and some families who I do not even know, that this commission does not even know, but indirectly I am representing those families here today too.

The ANC and the government and the various administrations that it has led for 31 years now, has failed us in ways that we cannot even begin to articulate. It is the worst form of betrayal. We did not expect that from the apartheid government, we really did not expect better.

If someone is prepared to kill someone, if someone is prepared to commit crimes against a people's humanity, we cannot expect much from those people, that is just what they are. They showed us the worst of what humanity actually is and it is okay. But we expected a lot better, a lot, a lot, a lot better from the ANC.

So they have betrayed us, Commissioners. I am a broadcaster, I talk a lot, but I am at a loss for words to explain the

degree to which the ANC and its governments has failed us. They have betrayed us, those people.

ADV VARNEY: Mr Calata, can I also ask you for your brief reaction to the fact that the government of South Africa and the President in particular announced shortly after the filing of your papers in January last year, that he did not wish to fight with the families. He also wanted to see closure and he wished to mediate and yet just weeks later he seeks to reinstate his opposition and fight with the families and even launches a stay application against your case.

MR CALATA: Commissioners, I despise politicians, I really do. I think they are like the scum of the earth, really like generally. I have got no issues against political activists because my father was a political activist, but politicians they say one thing and they do a complete other.

Because for them it is about form, it is about preying up to the public, it is about time in office close to resources and all of those things. We have heard in this commission here where former President Jacob Zuma as well, where he has mentioned to you directly, Commissioners, said that no, you know they understand the plight of the victim's families and all of those kind of things, but yet they fight tooth and nail to stop the proceedings of this commission.

President Cyril Ramaphosa publicly says oh no, we understand the plight of the families and we do not want to be seen, because politically it is inconvenient for them to be seen to be fighting with us. So they say that in public but behind the scenes and behind

closed doors they do almost everything possible to prevent us from like securing justice.

And they do that all the time. Politicians will laugh in your face and they will pretend and I used to work as a politics journalist, I was once the politics editor of another television news channel. They laugh in your face and they will pretend that they are your friend, meanwhile the things that they do are utterly despicable.

The fact that we are sitting here, we have this commission, it is disgraceful. It is disgraceful and the ANC is responsible for that and I am hoping that this commission will use the opportunity and the powers that this commission have to subpoena former President Thabo Mbeki. He must come here and he must come and answer for his failings.

Former President Jacob Zuma, he must come here, he must come and answer for his failings. They must come here. And you as the commissioners must ask them questions, because the TRC handed over its reports, it handed those reports over to former President Thabo Mbeki, not to anyone else. It handed it over to him.

Him as the President of this republic, what did he do about it? What did his organisation do about it? What did his government do about it? If nothing was happening with regards to these cases, why did he not as the leader, as the President of the republic call his ministers of justice, his national directors of public prosecutions, his police commissioners.

Why did he not call them into a room and say gentlemen or

ladies, I need this to be done pronto? He did not do so, that is why we are sitting here all of these many years later asking these questions.

ADV VARNEY: Thank you, Mr Calata. Commissioners, we are about to turn to the topic of the interference itself, but Commissioners I am concerned about the conditions in this auditorium, the fumes have not gone away, it still thicken the air, I am wondering whether we are endangering ourselves by persisting with the hearing at this time.

And I have not consulted with anybody else, but it does not seem to me to be optimal conditions in which to hold this hearing at the present time. And I am suggesting Commissioners, that we adjourn until Monday and that perhaps between now and Monday technicians can come and make sure that this auditorium is free of fumes, because I do think it is now becoming a health hazard.

CHAIRPERSON: Yes. Mr Nel?

ADV NEL: May it please the commission, we feel exactly the same in terms of the conditions in this venue and we support Mr Varney and thank him for bringing ...[indistinct]

COMMISSIONER: Just repeat that on record, please Mr Nel.

ADV NEL: I hope I can do that. May I just say that we support the application of Mr Varney and we thank him for bringing this application because we also feel that it is difficult to sit in this venue under these conditions and we would certainly prefer to be able to listen and follow the proceedings without being worried about the conditions in this venue.

CHAIRPERSON: Thank you.

ADV NEL: So we support that.

CHAIRPERSON: Ms Rantho?

ADV RANTHO: [Indistinct] good morning Chair, thank you so much. It is actually the afternoon. We share the same sentiments, it is really unbearable.

CHAIRPERSON: Yes.

ADV RANTHO: Indeed so, Chair.

CHAIRPERSON: Am I missing anyone... [intervenes]

ADV RANTHO: [Speaking simultaneously]

ADV TSAGAE: Good afternoon, Commissioners, yes on behalf of the Department of Justice we also agree.

CHAIRPERSON: Yes.

ADV TSAGAE: With the proposition.

CHAIRPERSON: Yes. Mr Semenya?

ADV SEMENYA: No objection on our part.

CHAIRPERSON: Yes. I think these are rather difficult circumstances under which to work, Mr Varney, the commission agrees with you that it would be best to postpone these proceedings until Monday when the situation will be different. In the circumstances this proceedings are adjourned until Monday at 09:00. Mr Calata, you are warned to be here at 09:00.

MR CALATA: Yes, ma'am.

ADV VARNEY: As the Commissioner pleases.

INQUIRY ADJOURNS UNTIL 16 FEBRUARY 2026

CERTIFICATE OF VERACITY

We, the undersigned, hereby certify that **as far as it is audible**, the aforegoing is a true and correct transcript of the digitally recorded proceedings in the matter of:

JUDICIAL COMMISSION OF INQUIRY INTO TRC

FORUM OF ORIGIN	**:**	Inquiry
CASE NUMBER	**:**	N/A
TRANSCRIBERS	**:**	M Brits, B du Plooy
DATE COMPLETED	**:**	2026-02-14
NUMBER OF PAGES	**:**	57 (Including front page) M Brits: Page 1-37 B du Plooy: Page 38-55
TRANSCRIBERS	**:**	

TRANSCRIBER'S NOTE:

- ***Where no information provided, names transcribed phonetically.***
- ***Grammar errors types verbatim.***

MzanziSA Business Solutions
Arbour Square
Cnr Melle & Juta Street
Ground Floor, Office 3
Braamfontein, 2001
TEL: 011 339 1289
E-mail: transcription@mzanzisa.com
E-mail: mzanzisa1@gmail.com