

**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 Semanya (SC)
Adv Vas Soni (SC)
Adv Fana Nalane (SC)
Adv Nompumelelo Seme
Ms Baitseng Rangata

REPRESENTATIVES

Adv KD Moroka (SC) – DoJ representative
Adv Anisa Kessery-DOJ Representative
Adv Gwala- NPA Representative
Adv B Lukhele-NPA Representative
Adv Varney (SC) – The Calata Group
Adv D Pillay – The Calata Group
Ms A Thakor – The Calata Group
Mr Sipho Tlhaole – The Calata Group
Mr Kopano Ledwaba-The Calata Group
Adv Irene Dikgale (for SAPS)
Adv Vivian Rikhotso (for Adv Menzi Simelane)
Adv Bridgette Nthambeleni (for Adv Jiba)

15 JULY 2026

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PROCEEDINGS ON 15 JULY 2026

CHAIRPERSON: Good morning to you all. Mr Semenya?

ADV SEMENYA: Good morning, Chair and to the Commissioners as well. We have the evidence of Mr Mbalula to take; and with your permission, if he may be sworn in, we can proceed, Chair.

CHAIRPERSON: Mr Mbalula, good morning.

MR MBALULA: Good morning, Justice.

CHAIRPERSON: Yes. Are you going to take an oath or make an affirmation?

10 MR MBALULA: Oath.

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'.

FIKILE APRIL MBALULA: duly sworn states

CHAIRPERSON: Thank you.

ADV SEMENYA: Good morning to you again.

MR MBALULA: Good morning, Senior Counsel.

EXAMINATION BY ADV SEMENYA: As a matter of public record, you are the Secretary General of the African National Congress, am I
20 right?

MR MBALULA: Yes, Senior Counsel.

ADV SEMENYA: But that is not why you are here today.

MR MBALULA: Yes.

ADV SEMENYA: All right. And in your decorated history, though, you have served in various portfolios in the government of the

country, am I right?

MR MBALULA: Yes, Senior Counsel.

ADV SEMENYA: And that is the reason for your presence today.

COMMISSIONER KGOMO: Maybe you could just say 'Counsel'.

Leave the 'senior' out. He knows.

MR MBALULA: Oh, no, thank you, thank you, Justice, thank you.

ADV SEMENYA: And for the purposes of your presence today, it is in reaction to issues associated with your portfolio positions in your past, am I right?

10 MR MBALULA: Yes, Counsel.

ADV SEMENYA: Now, and in that capacity, you are here to relate to matters that concern the terms of reference of this Commission, am I right?

MR MBALULA: Yes, Counsel.

ADV SEMENYA: There would be a document before you with a heading "Statement by Fikile April Mbalula". Do you have the document before you?

MR MBALULA: Yes, I do have the document, Counsel.

20 ADV SEMENYA: It is a statement you filed with this Commission in relation to matters concerning the Commission, am I right?

MR MBALULA: Yes, Counsel.

ADV SEMENYA: I just want, at the foot of the page of the document, you will find a page 18. Do you see that?

MR MBALULA: Page 18?

ADV SEMENYA: Ja, at the foot of the page. Do you see that?

MR MBALULA: Yes.

ADV SEMENYA: There is a signature above the word “deponent, Fikile April Mbalula”. Do you recognise the signature?

MR MBALULA: Yes, Counsel.

ADV SEMENYA: Whose signature is that?

MR MBALULA: It is my signature.

ADV SEMENYA: Right. Now, I just want to draw your attention to paragraph 6 of that statement, which you will find at the foot of page 2 of the document. Do you see that?

10 MR MBALULA: Yes.

ADV SEMENYA: I thought we could do some bit of correction about what it says. It says that the statement was made pursuant to a notice in terms of Rule 3.3, leaving out the technicalities. It is a statement that was given, asking for information. So instead of 3.3, it should have said “request for information”. Do you accept that correction?

MR MBALULA: I accept the correction, Counsel.

ADV SEMENYA: And if we go to paragraph... Yes, if we go to paragraph 19, which you will find at the foot of page 12...

20 MR MBALULA: Yes.

ADV SEMENYA: Are you there?

MR MBALULA: Yes.

ADV SEMENYA: You will see it refers to the period when you were appointed Minister of Sports and Recreation, and it says “effective on 1 November 2010 until 30 March”. 2018 should read 2017. Am I

right?

MR MBALULA: Yes. Correct.

ADV SEMENYA: With those corrections, you accept this affidavit to be correct, Mr Mbalula. Am I right?

MR MBALULA: Yes, Counsel.

ADV SEMENYA: Well, it is structured in this way; and I think by far the majority of assertions you make are common cause. Let me walk with you and start maybe from paragraph 5 of your statement, which you will find at page 2.

10 MR MBALULA: Yes, Counsel.

ADV SEMENYA: Happily, we know where you were born, and you say what about that?

MR MBALULA: Yes, I was born near Botshabelo, which is a district in Bloemfontein, in the farm of Dealesville, which is called Noordhoek. That is the farm I was born, and then moved to Botshabelo in the Free State, 1979, yes.

ADV SEMENYA: Yes. And then under paragraph 6, as we have now corrected, it is a statement in response to matters pertaining to what this Commission is about, right?

20 MR MBALULA: Yes, Senior Counsel.

ADV SEMENYA: Please read for the Commission what you say under paragraph 7. On the foot of the page, it will be page 3.

MR MBALULA:

“This statement is moreover presented in
response to a written request from the

Commission for assistance in furnishing it with material in my possession or such material that I had access to during my tenure as Minister of Police concerning decisions, discussions or policies affecting the investigation and prosecution of TRC-related cases which may be relevant to the work of the ... Commission.”

ADV SEMENYA: Under paragraph 8 is what I think provokes no controversy. You deal with the question of the mandate of the
10 Commission. Am I right?

MR MBALULA: Yes, Counsel.

ADV SEMENYA: And I say we may not dwell on that, because it is common cause what the mandate of this Commission is. Would I be correct?

MR MBALULA: Yes, Counsel.

ADV SEMENYA: All right. And then you deal under paragraph 9 with matters that I propose to just run through with you, also of no controversy that this Commission has as its history matters that obtained in what is popularly now known as the Calata matters, right?

20 MR MBALULA: Yes, Senior Counsel.

ADV SEMENYA: And there in your statement you cite what were the issues in that matter about which there is again no controversy.

MR MBALULA: Yes, Counsel.

ADV SEMENYA: That you cite as issues under paragraphs 1.1 and really to a whole list of them. I may be tempted to say it merely

covers the powers of the president for the appointment of a Commission. Those are legal matters. Am I right?

MR MBALULA: Yes, Counsel.

ADV SEMENYA: It would seem to us that; again I am leading you, because, as I say, it is a matter of no controversy.

MR MBALULA: Yes, Counsel.

ADV SEMENYA: Okay?

MR MBALULA: Yes.

ADV SEMENYA: But then you come in your statement under
10 paragraph 10, which you will find at the foot of the page of 7, about the establishment of this Commission. Am I right?

MR MBALULA: Yes, Counsel.

ADV SEMENYA: You then continue in your statement, and I am leading you deliberately, because I do not think there would be objections about that. Then you recite all of them in the terms of reference about this Commission. Am I reading your statement correctly?

MR MBALULA: Yes, Counsel.

ADV SEMENYA: So we go, including to paragraph 13, we proceed
20 to the following page 10 about what are really matters of law and what this Commission must deal with. Am I right?

MR MBALULA: Yes, Counsel.

ADV SEMENYA: All right. Then comes what I think is central to the reason for you being here, which would commence at paragraph 18 of your statement. You will find that at the foot of the page, being 12.

MR MBALULA: Yes, Counsel.

ADV SEMENYA: And its heading is "Appointment to government and successive positions". That is principally why you are here.

MR MBALULA: Yes, Counsel.

ADV SEMENYA: To assist the Commission. You tell us that you are appointed under paragraph 18, Deputy Minister of Police, effective on 1 May 2009 until cabinet reconfiguration of 31 October 2009. Your responsibility was to assist the Minister of Police in such functions as
10 were assigned by the minister. Please explain that to us.

MR MBALULA: Counsel, what it means is that the deputy minister in government is the deputy to the minister of which the executive authority in government, decision-making rests with the minister. The deputy minister gets to be delegated tasks by the minister. It does not take decisions.

ADV SEMENYA: Ja. Now, as the deputy, you would have been assigned such responsibilities as the minister would have wanted done by the deputy. Am I right?

MR MBALULA: Yes, Counsel.

20 ADV SEMENYA: In that specific space, were you assigned anything that has to do with the investigations and/or prosecutions of TRC cases?

MR MBALULA: No, I was not.

ADV SEMENYA: All right. Then, as you tell us, you do take over as minister for portfolio irrelevant for these processes. Am I right?

MR MBALULA: Yes, Counsel.

ADV SEMENYA: But I would like you to read out for the Commission what you say under paragraph 20 of your statement.

MR MBALULA:

10 “I was appointed as Minister of Police effective on
31 March 2017 until 26 February 2018. I was the
political head of the police portfolio. My
responsibilities were confined to the
determination of national policing policy and
executive accountability of the police service.”

ADV SEMENYA: And if you tell us more, that position you held would in law require you to do what in relation to policing?

MR MBALULA: My position supported by the police secretariat will be a position to ensure that policy is implemented properly and at the same time legislation that has been passed to guide the police on various matters is not violated, and is executed by the police and supported by the police secretariat in doing that particular work. So, we are guided by section 206 of the constitution in terms of oversight of that responsibility, whereas the police are guided by 205, which is
20 operational.

ADV SEMENYA: More importantly, would you in your portfolio as Minister of Police do anything or have anything to do with what matters are investigated by the police?

MR MBALULA: No.

ADV SEMENYA: That would be whose responsibility in that

framework?

MR MBALULA: That would be the responsibility of the national commissioner.

ADV SEMENYA: Okay. So, *qua* Minister of Police, you would not have had anything to do with investigations and/or possible prosecution of individual policing work?

MR MBALULA: Yes.

ADV SEMENYA: All right. And the period within which you held that was under a year, I see.

10 MR MBALULA: Yes, it was under a year.

ADV SEMENYA: Now, part of the responsibilities of a Minister of Police would be to have annual reports filed with parliament in relation to policing. Am I right?

MR MBALULA: Correct, Counsel.

ADV SEMENYA: Would you be able to tell us during the short period you were there whether or not the filing period for the annual reports of police happened during your stay?

MR MBALULA: No, we had not filed the annual report during my stay. I stayed for less than a year. It looked like I stayed for four
20 years because of my activism in that portfolio.

ADV SEMENYA: All right. And then under 21, you then moved to a different responsibility unrelated to what you are about here as a commissioner. Am I right?

MR MBALULA: Correct, Counsel.

ADV SEMENYA: Your statement begins then to deal with the legal

framework and I may even suggest to you that policing under 205 is the responsibility of the police, would I be right, in investigating crime amongst others?

MR MBALULA: Yes.

ADV SEMENYA: All right, and you then deal under paragraph 22. Please read that out for us for clarity.

MR MBALULA:

10 “The minister is responsible for policy and not operations within the police portfolio. Section 206(1) of the constitution provides that a member of the cabinet must be responsible for policy and must determine national policing policy after consulting the provincial governments and taking into account the policing needs and the priorities of the provinces as determined by the provincial executives.”

ADV SEMENYA: And significant about that paragraph, you are not about operations of the police as a minister.

MR MBALULA: Yes, Counsel.

20 ADV SEMENYA: And for that reason, you would shed no light in relation to what investigations and/or possible prosecutions would happen in relation to the TRC matters.

MR MBALULA: Yes, Counsel.

ADV SEMENYA: Please read out what you say is section 207 for what it is worth.

MR MBALULA:

“Section 207(2) of the constitution provides that the national commissioner must exercise control over and manage the police service in accordance with the national policing policy and the directions of the cabinet member responsible for policy.”

ADV SEMENYA: Then you cite a number of provisions of law. Again, I would suggest to you require no further elaboration, but you
10 make the concluding remark in 25, which I invite you to read into the record. 25 paragraph would be foot of page 15.

MR MBALULA: Counsel, you are asking me to read?

ADV SEMENYA: Paragraph 25.

MR MBALULA: Okay.

ADV SEMENYA: As a concluding comment you make there.

MR MBALULA: Okay.

“The Minister of Police therefore has no legal authority to determine investigation of cases and/or direct investigations of criminal cases.
20 The minister plays no role in allocation of operational resources to investigation of criminal cases.”

ADV SEMENYA: And if you may add if you recall that there would be a DPCI under the policing as a directorate. Am I right?

MR MBALULA: Yes.

ADV SEMENYA: And you would have a head of the DPCI having its independence removed from the national commissioner and/or the minister, but responding, I mean reporting to the minister.

MR MBALULA: Yes, correct.

ADV SEMENYA: And basically about matters money than anything else. Am I right?

MR MBALULA: Yes, correct.

ADV SEMENYA: Not relating to whether to investigate or not to investigate. That is the point you are making.

10 MR MBALULA: Yes.

ADV SEMENYA: Under 26 you tell us what, if you read it into the record?

MR MBALULA:

20 “The prosecution of criminal cases falls within the authority of the National Prosecuting Authority as determined by the constitution and the National Prosecuting Authority. The Minister of Police has no political oversight authority over the National Prosecuting Authority. It is impossible for the Minister of Police to give directions, stop or delay prosecution of criminal cases.”

ADV SEMENYA: And if you continue on paragraph 27, you would say?

“Accordingly, the national commissioner has statutory powers to exercise control over the

investigation of criminal matters. The National Prosecuting Authority has statutory powers to determine and direct prosecution of criminal cases, including TRC cases. As a Minister of Police, I possessed neither of the foregoing statutory powers.”

ADV SEMENYA: And for that reason, you would not be able to talk about what in relation to TRC cases was done by the National Prosecuting Authority. Am I right?

10 MR MBALULA: Correct, Counsel.

ADV SEMENYA: You then deal directly with issues arising out of the request for information that prompted this statement, from paragraph 28, foot page 15. Do you see that?

MR MBALULA: Yes, Counsel.

ADV SEMENYA: And I would like you to read each one of those as being part of your evidence directly speaking to the positions you held. Under 28, we dealt with your role as deputy minister and that you would only do such matters as are assigned to you by the minister, right? I would like you to read into the record what you have

20 under paragraph 29 on foot page 16 of your statement.

MR MBALULA:

“As Minister of Police, I was never involved in TRC cases. I did not have authority to determine, direct or provide resources to any investigations relating to the TRC cases and neither did I

determine or influence decisions relating to prosecution of TRC cases. I played no role in whatsoever manner in the TRC cases.”

ADV SEMENYA: And you continue to tell us what under paragraph 30?

MR MBALULA:

“I did not hold meetings or consultations with any member of family related to the TRC cases.”

ADV SEMENYA: And proceed to say in paragraph 31?

10 MR MBALULA:

“I did not receive a briefing from any member of the police investigating TRC cases and neither did I receive a briefing from a member of the National Prosecuting Authority responsible for prosecution of TRC cases.”

ADV SEMENYA: And you would say what to us under paragraph 32 as you have it there?

MR MBALULA:

20 “I did not attend any meeting at which there were briefings and/or about TRC cases. No information was shared with me concerning decisions, discussions or policies affecting the investigation and the prosecution of TRC-related cases.”

ADV SEMENYA: The request for information also needed you to say

something about any information you may have in your possession in relation to the matters being probed by the Commission. What do you say under paragraph 33?

MR MBALULA:

10 “I am not in possession of any material that may be relevant to the inquiry of the Commission. I never had access to memoranda, correspondence, minutes of meetings or other documentary records relating to the TRC cases referred by the Amnesty Committee for investigation or prosecution.”

ADV SEMENYA: And you go on under paragraph 34 to say what?

MR MBALULA:

 “As I have not been involved in TRC cases, regrettably I am unable to provide an affidavit of any discussions, decisions or considerations during my tenure as Minister of Police that may bear on the matters set out in the terms of reference of the Commission.”

20 ADV SEMENYA: And as a Minister of Police you would say what then?

MR MBALULA:

 “As a Minister of Police, I was never involved directly or indirectly in any interference with TRC cases.”

ADV SEMENYA: Mr Mbalula, I would invite you to just conclude your statement with what you deal under paragraph 36 going forward.

MR MBALULA:

10 “In the premise, I herein dispel any claim or notion or insinuation that I may have influenced, pressured, colluded or prevent investigations and/or prosecution of TRC cases. I never had access to memoranda, correspondence, minutes of meetings or other documentary records relating to the TRC cases referred by the Amnesty Committee for investigation or prosecution. I am not in possession of any material that may be relevant to the inquiry of the Commission. I never had access to memoranda, correspondence, minutes or meetings or other documentary records relating to the TRC cases referred by the Amnesty Committee for investigations. I am available to assist the Commission to achieve its mandate to the best of my abilities.”

20 ADV SEMENYA: And that is your statement?

MR MBALULA: That is my statement.

ADV SEMENYA: And that is your evidence?

MR MBALULA: That is my evidence, Counsel.

ADV SEMENYA: Chair, Commissioners, the evidence of the witness in-chief is that.

CHAIRPERSON: Thank you, Mr Semenya. Ms Moroka?

ADV MOROKA: No questions, clarification from the minister.

CHAIRPERSON: Ms Moroka?

ADV MOROKA: Apologies, Chair, I thought you heard me.

CHAIRPERSON: No, I did not hear you.

ADV MOROKA: A generation issue.

CHAIRPERSON: Yes.

ADV MOROKA: I said no questions, Chair.

CHAIRPERSON: No questions.

10 COMMISSIONER KGOMO: You are not 100 years old.

CHAIRPERSON: Mr Gwala?

MR LUKHELE: Thank you, Chairperson. I will take it for Mr Gwala.

For the NPA, we do not have ...[intervenes]

CHAIRPERSON: It is Mr Lukhele.

MR LUKHELE: Mr Lukhele, indeed. We do not have any questions for this one.

CHAIRPERSON: Thank you. Ms Nthambeleni?

ADV NTHAMBELENI: Thank you, Chair. Thank you, Chair, no questions for this witness.

20 CHAIRPERSON: Yes. Ms Rikhotso?

ADV RIKHOTSO: Thank you, Chair. I also have no questions for this witness.

CHAIRPERSON: Thank you. Where is Ms Rantho?

MS DIGALE: Good morning, Chair.

CHAIRPERSON: You are standing for Ms Rantho?

MS DIGALE: Yes, Chair.

CHAIRPERSON: Yes, it is Ms?

MS DIGALE: I am standing for SARS, Digale.

COMMISSIONER KGOMO: Speaking to the microphone, please.

MS DIGALE: It is Digale.

CHAIRPERSON: Yes, Ms Digale.

MS DIGALE: And we also do not have any clarification questions, Chair.

CHAIRPERSON: Thank you, madam.

10 MS DIGALE: Thank you.

CHAIRPERSON: Mr Varney?

ADV VARNEY: Thank you, Chair. Chair, we do have a few questions by way of clarification.

CHAIRPERSON: Yes.

ADV VARNEY: Mr Mbalula, firstly, thanks for taking time out of your really busy schedule to be with us today. Mr Mbalula, I represent the 25 families that is known as the Calata Group. Firstly, I should make it clear, we make no allegations that you have been involved in any attempt to stop or undermine the cases. I just thought I would make
20 that clear from the outset.

If I can turn to paragraph 28 of your statement, it is on page 15. In that paragraph you point out that while you were Deputy Minister of Police, and I can see that you were only there for a few months, actually, 11 May 2009 through to 31 October 2009. During that period, you were never assigned to the TRC cases by the

minister, and you point out that you did not have authority to determine, direct or provide resources to any investigations dealing with the TRC cases. I just want to ask you whether you might have heard about some developments that were taking place during 2009.

So, this Commission has evidence from a few people within the National Prosecuting Authority, such as Adv Chris Macadam who was with the Priority Crimes Litigation Unit. During 2009, particularly between July and November, he wrote to several people within SAPS, and he attempted to meet with Assistant Commissioner
10 Dramat, who was Head of the Hawks, and ultimately he did have a meeting with Assistant Commissioner Lebeya, essentially to request the appointment of investigators to the TRC cases, because up until then they had been struggling to get investigators to those cases. Did you ever get to hear about that?

MR MBALULA: No, I did not.

ADV VARNEY: And then if I can refer you to a decision of SAPS, which was reflected or reported in the NPA Annual Report of 2009/2010. Essentially it is a decision to only commence investigations in the TRC cases post the 2010 World Cup. I will just
20 read the extract to you. This is from the NPA Annual Report of those years.

“The PCLU is required to advise the NDPP in making decisions whether or not to prosecute in cases arising from the TRC process. Matters need to be fully investigated before any final

prosecution decision can be made. Since 2003, the NPA has struggled to secure the necessary cooperation in this regard. With the establishment of the DPCI, the responsibility for such investigations was transferred to this unit. The PCLU had to recommence its negotiations *de novo*. Currently the DPCI has indicated that it will conduct the necessary investigations, but only after the conclusion of the 2010 FIFA World Cup, due to the fact that it has a number of special responsibilities in connection with this event.”

10

Did you ever get to hear of that decision?

MR MBALULA: No.

ADV VARNEY: And do you have any comment on the fact that SAPS or the DPCI decided to hold back the TRC cases, pending the conclusion of the 2010 World Cup?

MR MBALULA: Well, from what you are presenting, Counsel... is it correct, Counsel?

ADV VARNEY: Yes, yes.

20 MR MBALULA: Yes, okay. From what you are presenting, it is quite clear for the reasons that they give there that, I think if I heard you correctly; they seem to be saying that they needed to undertake investigation before any other thing happened. So, I think from an operational point of view, they would be better placed to respond to that particular question as to what informed their decisions.

ADV VARNEY: Yes.

MR MBALULA: Ja.

ADV VARNEY: From the perspective of the families, you can understand their consternation that their cases were held back as opposed to other cases?

MR MBALULA: Well, I would not want to really delve into that. I would not, ja.

ADV VARNEY: Okay. And then if we can turn to your paragraph 29, and this deals with your tenure as Minister of Police, and there you
10 indicate that you did not have authority to determine, direct or provide resources to any investigations relating to the TRC cases. And again, you were not Minister of Police for very long, March 2017 through to February 2018. As a matter of interest, during that time, did you get to hear of the reopening of the Ahmed Timol Inquest, which took place in 2017, and the ruling was handed down in October of 2017?

MR MBALULA: Like I said, these matters were not brought to my attention, because they squarely belong to the operations of the police.

20 ADV VARNEY: Yes. But I was just wondering, given that it was such an old case that it had taken so long to be addressed. Do you recall any discussion within the police at that time dealing with that delay?

MR MBALULA: No.

ADV VARNEY: Thank you. You indicate that, well, Minister of

Police, you did not have authority to provide resources to any investigations relating to the TRC cases. We heard yesterday from another former Minister of Police, Bheki Cele, and he said, you know, finding resources did fall within his responsibility, and so from time to time he would actually approach the Minister of Finance for additional resources. Do you agree that if you had been asked for resources, you could have done something similar?

MR MBALULA: Yes. Correct.

ADV VARNEY: Thank you, Mr.

10 MR MBALULA: Thank you.

ADV VARNEY: No further questions.

COMMISSIONER KGOMO: Good morning. I will just call you SG.
Good morning, SG.

MR MBALULA: Good morning, Justice. Good morning.

COMMISSIONER KGOMO: Good morning. I hold nothing against you for appointing me Hawks Ombud and then left to Luthuli House.

MR MBALULA: Yes.

20 COMMISSIONER KGOMO: I want to deal with you on one aspect, and that is reparation. If you could go to paragraph 9 of your statement at page 4, and if you could read to us that paragraph 9.1 that starts "declaring the conduct". We are talking, it falls under what you characterise as background to the establishment of the Commission; if you could read that for us into the record.

MR MBALULA: Paragraph 1?

COMMISSIONER KGOMO: Yes.

MR MBALULA:

“Declaring the conduct of the respondents in unlawfully refraining and/or obstructing the investigation and/or prosecution of apartheid-era cases referred to the Truth and Reconciliation Commission, to the NPA, i.e. TRC cases, or to have abandoned or undermined such cases to be.”

COMMISSIONER KGOMO: And 1.1?

10 MR MBALULA:

“A violation of the rights of the Calata applicants, the families of victims and survivors of apartheid-era crimes to equality, dignity and the right to life and bodily integrity in terms of section 9, 10, 11 and 12 of the constitution.”

COMMISSIONER KGOMO: Yes, and if you could end with paragraph 2 at the bottom of that page.

MR MBALULA:

“The payment of constitutional damages.”

20 COMMISSIONER KGOMO: Yes. Now, we are confined as far as that is concerned by the terms of reference and if I could go to the proclamation by the president, I just want to read what it says.

“1. The Commission must, in relation to the period since 2003, inquire into, make findings, report on and make

recommendations concerning the following,
guided by the constitution, relevant
legislation, policies, and guidelines.”

And then we jump to 1.4. It says:

“Whether, in terms of the law and fairness, the
payment of any amount in constitutional damages
to any person is appropriate.”

Now, I would want you to put yourself in the shoes of someone that I
heard speaking on SAfm today at around nine o'clock. The person
10 says he was tortured by the police during the apartheid regime. He is
impecunious and he thought there would be reparation, and there is
no reparation for him. And there was reference made to this
Commission and the issue of the TRC Commission and the
reparation.

Now, as a senior politician and you have been through the
mill, around the block several times, what would you say if... or let me
add, sorry; we know that there is a matter pending relating to
compensation in one of the courts, but the problem is always that I
think we are too legalistic and this person is not looking at the
20 constitution as such. What would you then say to such a person? He
is crying in the wilderness. He wants reparation. What would you
say with that background that I have sketched?

MR MBALULA: I think we must follow the processes to the latter in
relation to outstanding matters of the TRC. One of which is the
question of maybe compensation and therefore it has to be

addressed in a way. I am not here to basically make that particular call, as I too was part of a contingent of people you can characterise as victims of the past.

So, in this regard, if we address matters in terms of this Commission and conflate that with other issues and leave them hanging and therefore it will raise expectation. I think we need to be clear with regard to what we are doing here so that the expectation does not arise that part of the work of the Commission is among others to address issues of compensation, so to say. But should that
10 arise in the future, it is a matter that will have to be addressed.

COMMISSIONER KGOMO: Yes, thank you.

MR MBALULA: Thank you.

COMMISSIONER GABRIEL: SG, good morning.

MR MBALULA: Good morning.

COMMISSIONER GABRIEL: You have used the term 'TRC cases' throughout your affidavit. What did you, what do you understand by the term 'TRC cases'?

MR MBALULA: Well, I use the term in response to what I was asked to do and therefore in relation to the terms of reference of this
20 Commission and also the matter raised by the Calata family, as it relates to our comrades who died, and charge that government did nothing or stopped to prosecute these cases. And I think that is what is required by law and by directive of the president and the terms of reference that this Commission is probing, whether or not there were cases of the TRC that were actually stopped.

COMMISSIONER GABRIEL: So during your tenure as the Deputy Minister of Police and the Minister of Police, which spanned short periods, you understood the TRC cases in the context just of the Calata application or...? I am trying to understand what you knew about the TRC cases at that time.

MR MBALULA: Like I said in my submission, first as deputy minister, I get delegated responsibilities; and one of my responsibilities delegated by the then Minister Mthethwa I was working under before later on the president enforced that deputy
10 ministers must be assigned tasks. The minister assigned me the task to deal with police administration and I report to him. I had no executive authority as a deputy minister.

So I work at the behest of the deputy minister as a deputy minister with the minister assigning me responsibilities. So neither at the top management, which was our structure, we discussed TRC cases or delegated to deal with such matters. So if the minister then, together with the commissioner, would have dealt with the issues, he would be the best person to account for that.

COMMISSIONER GABRIEL: But you were aware of TRC cases
20 during your tenure as the deputy minister?

MR MBALULA: As a political activist, I am aware of TRC matters. But in terms of the terrain of operation and work where I was working as a deputy minister and whether or not I dealt with those matters, those issues were not on my table.

COMMISSIONER GABRIEL: So what was your understanding then

about TRC matters? What in your mind did this mean?

MR MBALULA: There was a Truth and Reconciliation Commission in our country which dealt with our past, and it dealt with it and therefore there were matters that were supposed to be executed for people who did not get amnesty and even for those who did not come to the fore to present their side of the story; and there are many in the system who did not. And therefore, it means those particular individuals are supposed to face the consequences of the law. And therefore, the process was very clear in terms of what needs to
10 happen going forward.

So the relevant authorities in this regard, if anyone was supposed to be prosecuted and all of that, all matters were supposed to be followed up and investigated. The relevant authorities within the state were supposed to follow up on those. So I was just there; and therefore, I was not privy to the investigation, because investigations are confidential and classified.

COMMISSIONER GABRIEL: Okay, thank you very much.

MR MBALULA: Thank you.

CHAIRPERSON: Mr Semenya, any re-examination?

20 ADV SEMENYA: We have no questions in re-examination, Chair.

CHAIRPERSON: Thank you. Thank you. Mr Mbalula, we are profoundly grateful for having made yourself available to this Commission to give evidence before it. You are now excused as a witness. Thank you for coming.

MR MBALULA: Thank you, Justice Khampepe. Thank you very

much.

NO FURTHER QUESTIONS

ADV SEMENYA: Chair, we had meant to have another witness who we are now told, who we are told is medically indisposed to give evidence. That would be the formal proceedings for the day.

CHAIRPERSON: Thank you. We will adjourn these proceedings until tomorrow at 10 o'clock.

INQUIRY ADJOURNS UNTIL 16 JULY 2026

CERTIFICATE OF VERACITY

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

JUDICIAL COMMISSION OF INQUIRY INTO TRC

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