

**IN 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 Center, Corner Mirriam Makeba & Helen Joseph Street,
Newtown, Johannesburg

BEFORE

The Honourable Justice Sesi Khampepe (Judge RTD) – Chairperson

The Honourable Justice Frans Diale Kgomo (Judge President RTD)

Adv Andrea Gabriel (SC)

FILING SHEET

Filing of Mr Fikile April Mbalula's Statement.

DATED AT JOHANNESBURG THIS 24TH DAY OF JUNE 2026.



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REF:M.NTANGA/M213/2026

TO: THE SECRETARY

**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)**

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

STATEMENT BY:

FIKILE APRIL MBALULA

INTRODUCTION

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1. I am an adult South African male currently occupying the position of the Secretary-General of the African National Congress. For the purposes of these proceedings, I chose the address of my attorneys of record as the address at which I will receive documents and process in these proceedings.
2. The facts contained herein fall within my personal knowledge and belief, save for where I indicate otherwise or where the context may point to the contrary, and are to the best of my knowledge and belief both true and correct.
3. Where I make submissions of a legal nature, I do so based on legal advice, which I have obtained from my legal representatives herein, which advice I accept and verily believe to be legally sound and correct.
4. Where I rely on information either obtained from and/or conveyed by others and/or gleaned from documents, I state the source and annex the relevant supporting documents where same is available.
5. I was born near Botshabelo in the Free State Province, and I am a South African citizen by birth.
6. This statement is, in the premise, proffered pursuant to a Notice in terms of Rule 3.3. of the Rules of the Judicial Commission of Enquiry into Allegations Into Allegations Regarding Efforts or Attempts Having Been Made to Stop the Investigation or Prosecution of Truth and Reconciliation Commission Cases ('the Commission'), established in accordance with section 84(2)(f) of the

Constitution by way of Proclamation Notice 264 of 2025, published in Government Gazette Number 52749, on 29 May 2025 ('the Proclamation'), and in answer to the Commission's request that I submit an affidavit and/or furnish material that I may have accessed when I served as a Minister of Police and in refutation of any allegations that may be made against me regarding conduct during my tenor as Minister of Police. I dispute any allegation that I may have committed and misconduct of impropriety, influenced, pressured, colluded or otherwise to improperly prevented the investigation of TRC cases by Police and/or prosecution of TRC cases.

7. 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 to 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.
8. I acknowledge that the Commission is mandated to inquire into, make findings, report on, and make recommendations concerning allegations, since 2003, of efforts or attempts made to influence, pressure, or otherwise improperly prevent the South African Police Service ('SAPS') from investigating or prosecuting TRC cases; and, whose terms of reference ('ToR'), *inter alia*, require it to determine whether any officials within the SAPS or the NPA colluded in such efforts, and to determine whether further action –

including investigations, prosecutions or the payment of constitutional damages – is warranted.

1. Prior to directly responding to the request for assistance by the Commission, I deem it prudent to first, detail the background to the establishment of the Commission.

BACKGROUND TO ESTABLISHMENT OF THE COMMISSION

9. During January 2025, Mr. Lukhanyo Calata ('**Mr. Calata**'), a Political Editor at Newzroom Afrika and the son of the late Mr. Fort Calata who, along with Mr. Matthew Goniwe, Mr. Sicelo Mhlauli and Mr. Sparrow Mkonto, posthumously became known as the **Cradock Four**, and who, on 27 June 1985, were all abducted, tortured, murdered and their respective bodies burned by the Security Branch of the erstwhile South African Police, and twenty-two (22) other Applicants (i.e. the '**Calata Applicants**'), instituted proceedings against the Government of the Republic of South Africa and 5 other Respondents, which included the President of the Republic of South Africa ('**President**'), the Minister of Justice and Constitutional Development, the NDPP, the Minister of Police and the National Commissioner of the SAPS in the matter of **L B M Calata and 22 Others v The Government of the Republic of South Africa and 5 Others, North Gauteng High Court, Case Number 2025-005245** ('the **Calata matter**'), in which they, *inter alia*, sought an order in the following terms:

1. 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 ('**TRC**') to

the NPA (i.e. '**TRC cases**'), or to have abandoned or undermined such cases to be:

- 1.1. 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 sections 9, 10, 11 and 12 of the Constitution.
- 1.2. Inconsistent with the constitutional values set out in section 1(a) and the rule of law as enshrined in section 1(c) of the Constitution.
- 1.3. Inconsistent with the principles, values and obligations arising from the Promotion of National Unity and Reconciliation Act 34 of 1995, read with the postscript of the Constitution of the Republic of South Africa Act 200 of 1993 ('**Interim Constitution**').
- 1.4. In breach of the duties and obligations contained in the Constitution, the National Prosecuting Authority Act 32 of 1998 ('**the NPA Act**') and the South African Police Service Act 68 of 1995 ('**the SAPS Act**') to investigate and prosecute serious crime, and not to interfere with the legal duties of prosecutors and law enforcement officers.
- 1.5. Inconsistent with South Africa's international law obligations pursuant to sections 231 and 233, read with section 39(b) of the Constitution.
2. The payment of constitutional damages.

3. Declaring the failure and/or refusal of the President to establish a commission of inquiry into the suppression of the investigation and prosecution of TRC cases to be:
 - 3.1. Inconsistent with his constitutional responsibilities under section 84(2)(f), read with sections 1(c), 7(2), 83(b) and 237 of the Constitution, and
 - 3.2. A violation of the families of victims and survivors of apartheid-era crimes' rights to equality, dignity, and the right to life and bodily integrity of victims in terms of sections 9, 10, 11 and 12 of the Constitution.
4. Reviewing and setting aside the President's failure and/or refusal to appoint a commission on inquiry.
5. Directing the President to promulgate in the Government Gazette the establishment of a commission on inquiry in terms of section 84(2)(f) of the Constitution, to be headed by a sitting or retired judge, designated by the Chief Justice, to be tasked with inquiring into:
 - 5.1. Whether, why, and to what extent and by whom, efforts or attempts were made to influence or pressure members of the NPA and/or SAPS to stop investigating TRC cases;
 - 5.2. Whether any members of the NPA and/or SAPS improperly colluded with such attempts to influence or pressure them; and

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5.3. To make recommendations flowing from the conclusions, for action to be taken by organs of state, including prosecutions to be instituted against persons found to have acted unlawfully in:

5.3.1. Attempting to influence or pressure members of the NPA and/or the SAPS to stop investigating and/or prosecuting TRC cases, and/or

5.3.2. Colluding with or succumbing to such attempts.

10. Following negotiations between the parties, President Matamela Cyril Ramaphosa (**'President Ramaphosa'**) established this Commission, with its Terms of Reference (**'ToR'**), requiring it to investigate matters of public and national interests concerning allegations regarding efforts or attempts having been made to stop the investigation or prosecution of TRC cases in relation to the period since 2003.

11. To this extent, the Commission's ToR require it, in relation to the period concerned, to make findings, report on and make recommendations, guided by the Constitution, relevant legislation, policies and guidelines concerning the following:

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- (i) Whether, why, and to what extent and by whom, efforts or attempts were made to influence or pressure members of the SAPS or the NPA to stop investigating or prosecuting TRC cases.
- (ii) Whether any members of the SAPS or the NPA improperly colluded with such attempts to influence or pressure them.
- (iii) Whether any action should be taken by an Organ of State, including possible further investigations to be conducted or prosecutions to be instituted, where appropriate, of persons who may have acted unlawfully by:
 - (a) Attempting to influence or pressure members of the SAPS or the NPA to stop investigating or prosecuting TRC Cases; or
 - (b) Members of the SAPS or the NPA colluded with or succumbed to attempts to influence or pressure such members to stop investigating or prosecuting TRC cases.
- (iv) Whether, in terms of the law and fairness, the payment of any amount in constitutional damages to any person is appropriate.

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12. The Commission's ToR further accord the following categories of persons the status of interested parties in the Commission:
 - (i) The parties (i.e. the Calata Applicants and Respondents) in the application proceedings in the **Calata matter**, and
 - (ii) Other than the Calata Applicants, families of, or victims in TRC cases who have a substantial interest in the work of the Commission, and who are admitted as parties in the Commission under the regulations made in terms of the Commissions Act 8 of 1947.
13. The Proclamation further:
 1. Clothes the Commission with extensive powers to conduct searches and seizures; secure the attendance of witnesses; and, to compel the production of documents in the gathering of evidence to enable the Commission to conduct its work meaningfully and effectively.
 2. Enjoins the Commission to refer any matter for prosecution, investigation or for the convening of a separate enquiry to the appropriate law enforcement agency, government department or regulator concerned.

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3. Requires the Commission to complete its work within a period of one hundred and eighty (180) days from the date of the Proclamation, namely, with effect from 29 May 2025.
14. Three (3) months [i.e. some ninety-two (92) days] after the establishment of the Commission, on 29 August 2025, the Chairperson of the Commission issued the Rules of the Commission by way of Proclamation Notice 285 of 2025, published in Government Gazette Number 53251, dated 29 August 2025.
15. In accordance with Rule 3.3, where the Commission's Evidence Leader intends presenting before the Commission, a witness, whose evidence implicates or whose evidence may implicate another person, the Commission must, through its Secretary, notify that person in writing within a reasonable time before the witness gives evidence of the following:
 - (i) That he or she is, or may be implicated by the said witnesses' evidence (per Rule 3.3.1);
 - (ii) In what way he or she, is or may be implicated and discover to him or her the witness' statement or the relevant portions thereof (per Rule 3.3.2);

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- (iii) The date and venue of when the witness will give evidence (per Rule 3.3.3);
 - (iv) That he or she may attend the hearing of the witness' evidence (per Rule 3.3.4);
 - (v) That he or she may be assisted by a legal representative when the witness gives evidence (per Rule 3.3.5);
 - (vi) That should he or she personally wish to give evidence (per Rule 3.3.6.1); or wish to call a witness to give evidence on his or her behalf (per Rule 3.3.6.2); or wish to cross-examine such a witness (per Rule 3.3.6.3), then he or she must within two weeks from the date of notice, apply in writing to the Commission for leave to do so.
16. Rule 3.3.7 enjoins the Chairperson of the Commission to decide an application pursuant to Rule 3.3.6, which must be submitted in writing to the Secretary of the Commission within fourteen (14) calendar days from the date of the notice issued in terms of Rule 3.3, which application must be accompanied by a written statement from such implicated person, in which he or she responds to the witness' statement, to the extent that he or she stands implicated. Such a statement, moreover, is required to clearly demonstrate the part of the witness' statement that is disputed or denied (as per Rule 3.4).

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17. Rule 3.5 empowers an implicated person to apply to the Commission for an appropriate order where such implicated person believes he or she had not been afforded reasonable time pursuant to Rule 3.3 before a witness could or was scheduled to give evidence and where he or she would be prejudiced thereby.

APPOINTMENT TO GOVERNMENT AND SUCCESSIVE POSITIONS

18. I was appointed as a Deputy Minister of Police effective on May 11, 2009, until Cabinet reconfiguration of October 31, 2009. My responsibility was to assist the Minister of Police in such functions as were assigned by the Minister.
19. I was appointed as a Minister of Sports and Recreation effective on November 1, 2010, until March 30, 2018. In this portfolio, I was responsible for sports and recreation. This is completely unrelated to policing, crime investigation and prosecution.
20. I was appointed as a Minister of Police effective on March 31, 2017, until February 26, 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.

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21. I was appointed as a Minister of Transport effective on May 30, 2019, until March 2023. I was responsible for transport portfolio, and it is unrelated to policing, crime investigation and prosecution.

LEGAL FRAMEWORK

22. 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 policing and must determine national policing policy after consulting the provincial governments and taking into account the policing needs and priorities of the provinces as determined by the provincial executives.
23. 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 policing.
24. Section 11 of the South African Police Services Act 68 No. 68 of 1995 provides that:

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- “(1) The National Commissioner shall exercise control over and manage the police service in accordance with section 207(2) of the Constitution of the Republic of South Africa.
- (2) Without derogating from the generality of subsection (1), the National Commissioner shall-
- a) develop a plan before the end of each financial year, setting out the priorities and objectives of policing for the following financial year;
 - b) determine the fixed establishment of the Service and the number and grading of posts;
 - c) determine the distribution of the numerical strength of the Service after consultation with the board;
 - d) organise or reorganise the Service at national level into various components, units or groups;
 - e) establish and maintain training institution or centres for the training of students and other members;
 - f) establish and maintain bureaus, depots, quarters, workshops or any other institution of any nature whatsoever, which may be expedient for the general management, control and maintenance of the Service; and
 - g) perform any legal act or act in any legal capacity on behalf of the Service.”

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25. The Minister of Police therefore has no legal authority to determine investigation of cases and/or direct investigations of criminal cases. The Minister plays no role in allocation of operational resources to investigation of criminal cases.
26. 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.
27. 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.

SUBSTANTIVE RESPONSE TO THE COMMISSION'S REQUEST FOR ASSISTANCE

28. As pointed out herein above, as a Deputy Minister of Police, my responsibility was to assist the Minister of Police on matters assigned to me by the Minister. I was never assigned matters related to the 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.

29. As a 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.
30. I did not hold meetings or consultations with any member of family related to the TRC cases.
31. 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.
32. 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 prosecution of TRC-related cases.
33. 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.

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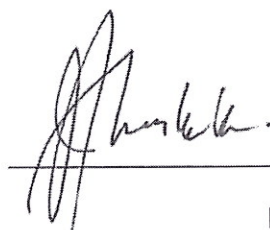
34. As I have not been involved in TRC cases, regrettably, I am unable to provide an affidavit of any discussions, decisions or considerations during my tenure as Minister of Police that may bear on the matters set out in the Terms of Reference of the Commission.
35. As a Minister of Police, I was never involved, directly or indirectly, in any interference with TRC cases.

CONCLUSION

36. 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.
37. 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.
38. 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.

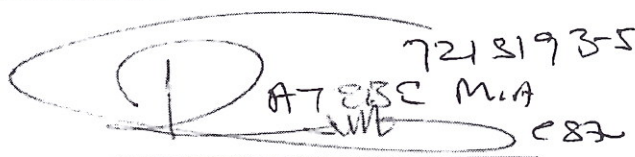
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39. I am available to assist the Commission to achieve its mandate, to the best of my abilities.

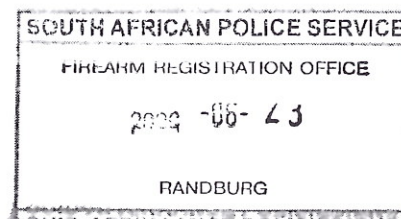


DEPONENT
(FIKILE APRIL MBALULA)

SIGNED AND SWORN TO before me at *Randburg* on this *23* day of **JUNE 2026** the deponent having acknowledged that he knows and understands the contents of this affidavit, that he has no objection to taking the prescribed oath and that he considers same to be binding on his conscience.



COMMISSIONER OF OATHS





Mr Fikile Mbalula

zodwa@anc1912.org.za

Dear Mr F Mbalula,

REQUEST FOR ASSISTANCE WITH INFORMATION IN AID OF THE JUDICIAL COMMISSION OF INQUIRY TO INQUIRE INTO ALLEGATIONS REGARDING EFFORTS OR ATTEMPTS HAVING BEEN MADE TO STOP THE INVESTIGATION OR PROSECUTION OF TRUTH AND RECONCILIATION COMMISSION CASES.

- 1 On 29 May 2025, the President of the Republic of South Africa, Mr Cyril Matamela Ramaphosa, issued Proclamation Notice 264 of 2025 establishing a Commission of Inquiry to Inquire into Allegations Regarding Efforts or Attempts Having been Made to Stop the Investigation or Prosecution of Truth and Reconciliation Commission ('TRC') Cases ('**the Commission**').
- 2 The Terms of Reference of the Commission require that, among other things, the Commission must inquire, make findings, report and make recommendations concerning:

"...whether, why and to what extent and by whom, efforts were made to influence or pressure members of the South African Police Service or the National Prosecuting Authority to stop investigating or prosecuting TRC cases."

- 3 At the relevant time specified in the Commission's Terms of Reference – that is, from 2017 to 2018 – you served as the Minister of Police. In that capacity, you may have had access to information concerning decisions, discussions, or policies affecting the investigation and prosecution of TRC-related cases.

- 4 The Commission therefore respectfully requests your assistance with furnishing any material in your possession, or to which you had access to during your tenure, that may be relevant to its inquiry. This includes memoranda, correspondence, minutes of meetings, or other documentary records relating to the TRC cases referred by the Amnesty Committee for investigation or prosecution.
- 5 In addition to providing any relevant material, the Commission would also appreciate receiving, in the form of an affidavit, your own account of any discussions, decisions or considerations during your tenure as President that may bear on the matters set out in paragraph 1.1 of the Terms of Reference. Such a statement will greatly assist the Commission in understanding the context within which decisions relating to TRC cases were taken.
- 6 Should you require any assistance in preparing your affidavit or in furnishing the requested material, you are entitled to liaise with your legal representatives. Alternatively, you may contact the Commission's Secretariat directly, and we will gladly provide the necessary support.
- 7 We would be grateful if you could provide your response no later than the 24th of October 2025, to allow the Commission sufficient time to consider the information and complete its work timeously.

Yours faithfully

Advocate I Semanya SC

CHIEF EVIDENCE LEADER