

**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

Lerato Zikalala-(for Ronald Lamola)
Irene Mpofu-(for Ronald Lamola)
Adv Varney (SC) – The Calata Group
Adv D Pillay – The Calata Group
Mr Jos Venter – The Calata Group
Mr Sipho Tlhaole – The Calata Group
Adv Anisa Kessery-DOJ Representative
Adv Matseleng Lekoane (DOJ representative)
Adv Yanela Ntloko- NPA representative
Adv Motlalepule Rantho (for SAPS)
Adv Bridgette Nthambeleni (for Adv Jiba)
Adv Vivian Rikhotso (for Adv Menzi Simelane)

11 AUGUST 2026

DAY 73

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PROCEEDINGS ON 11 AUGUST 2026

CHAIRPERSON: Good morning to you all.

ADV SEMENYA: Good morning.

CHAIRPERSON: Ms Zikalala, good morning.

ADV ZIKALALA: Good afternoon, Chairperson.

CHAIRPERSON: Good afternoon. Mr Semanya?

ADV SEMENYA: Good afternoon, Chairperson and the Commissioners. We are receiving the evidence of Minister Lamola, led by Ms Zikalala.

10 CHAIRPERSON: Yes. Welcome, Ms Zikalala.

ADV ZIKALALA: Thank you, Chairperson.

CHAIRPERSON: Yes. Minister Lamola, good afternoon.

MINISTER LAMOLA: Good afternoon, Justice.

CHAIRPERSON: Yes. Are you going to give your evidence under oath or affirmation?

MINISTER LAMOLA: Under oath.

CHAIRPERSON: 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'.

20 RONALD OZZY LAMOLA: duly sworn states

CHAIRPERSON: Thank you. Ms Zikalala, your witness.

EXAMINATION BY ADV ZIKALALA: Thank you, Chairperson. Thank you, Commissioners. Good afternoon, Minister. Minister, before you, I just want to confirm that you have a file before you with your statement?

MINISTER LAMOLA: Yes, I do.

ADV ZIKALALA: Thank you. And then if you turn to page 18 thereof, can you confirm that that is your signature?

MINISTER LAMOLA: Yes, it is.

ADV ZIKALALA: Thank you. Minister, just by way of background, can you just give the Chairperson and the Commissioners just your educational and professional background?

MINISTER LAMOLA: Thank you, Counsel. I am Ronald Lamola. I was born in Mpumalanga and also attended primary in the same
10 area. I attended at the University of Venda, LLB, and I am an attorney of the High Court of South Africa. I practised for 10 years as an attorney before I was called to Parliament and became the Minister of Justice and Correctional Services.

And I also, during that period, had a chance of furthering my studies with an LLM in Corporate Law and also an LLM in Extractive Law. I also have various certificates in the legal profession and also in telecommunications. I am currently the Minister of International Relations. I served as the Minister of Justice and Correctional Services for five years and I have now served for two years as the
20 Minister of International Relations. Thank you.

COMMISSIONER KGOMO: Minister, I think the village where you were born, the people there would want to hear you recognise the village.

MINISTER LAMOLA: Oh, okay. Thank you for that opportunity. The village I was born is called Cunningmoor B in Bushbuckridge in

Mpumalanga, but both my parents were farm workers and my early childhood education at the primary school was at a farm where my parents were working, which was TSB Farm in Komatipoort, next to the Mozambican border, but I did Swati in that primary school. Then I moved to the village where my father comes from, in Bushbuckridge, where I now did Xitsonga. And from there I moved to the University of Venda to study LLB. I was also a student activist at the University of Venda. I became the President of the SRC at that university. Thank you.

- 10 ADV ZIKALALA: Thank you, Minister. You indicated already that your first stint as minister was as Minister of Justice. Can you confirm that that was between May 2019 and June 2024?

MINISTER LAMOLA: Yes, I confirm.

ADV ZIKALALA: So just, Commissioners, if we can turn to page 6 of the statement that is before you.

CHAIRPERSON: Yes, Ms Zikalala. Yes.

- ADV ZIKALALA: Yes, thank you. I would like to start from paragraph 17. And just starting with your stint beginning May 2019, can you take the Commission through what were your engagements
20 as at when you began your tenure as Minister of Justice, your engagements with the TRC-affected families and with their families?

MINISTER LAMOLA: Thank you very much. Indeed, at the commencement of my tenure, I received a briefing from the NPA. I think it was Adv Macadam who was at the time the head of the unit, the TRC Unit at the NPA and also the NDPP on the progress on the

TRC cases. And he did show that at the time there was very slow progress and that we need to do a number of steps that will enable the NPA to deal with the TRC matters.

And he also raised the issues that the families of the victims have been raising with the NPA, their frustrations with the NPA on the slow progress and then they put forward suggestions of how we can deal with the matter. And one of the suggestions was to engage with the National Treasury to increase the budget that will impact the TRC Unit. But at the time, I want to bring it to the Commissioner's
10 attention that as the Minister of Justice ...[intervenes]

COMMISSIONER KGOMO: You speak to the Chairperson. You may have to face her.

MINISTER LAMOLA: Oh, okay, sorry, sorry for that. We were also dealing with budgetary issues, not only for the TRC cases. We were also dealing with budgetary issues for the entirety of the Department of Justice, because for almost five to 10 years prior to my tenure, the budget of the department was on a decline. One of the huge impacts to the NPA was that they could not appoint aspirant prosecutors for a period of about five years.

20 We also had now the Zondo Commission of Inquiry, which also needed significant amount of resources. So we had to work within this environment. And we then agreed with the NDPP and the Director-General of the Department of Justice that we need to approach the National Treasury to allocate resources for the department and the NPA and also that the TRC matters need

dedicated resources.

The second issue that he raised was the capacity within the NPA, the unit; that it did not have enough personnel. And again, we agreed that we need to give support for them to appoint the personnel that they need to be able to handle this matter. The other issue was that they then said that the NPA or the justice system work in a relay form of some sort. That it will not help if the NPA gets these resources and then the Hawks does not have investigators.

We then agreed that we must, the NDPP must also approach
10 the Hawks or the National Police Commissioner to increase the capability of the police and have dedicated personnel to deal with the NPA, TRC-specific unit, so that there will be investigations, there will be prosecutions and then the matters can flow in that manner.

I think the other issue that we dealt with, I might be wrong, but there was a debate that he said has arisen between the NPA and the families about the issue of decentralisation of the prosecution of this matter; in other words, having the matters being delegated to the DPPs in the various provinces across the country – that if an incident has happened in the Eastern Cape, it must be prosecuted by the DPP
20 in the Eastern Cape and his team there. Similar, if it is in Gauteng, it must be handled at the provincial level with the team in the Gauteng, so forth.

So with Mr Macadam becoming the overall coordinator with whoever that he will be working with, the families did not favour this according to him, the briefing that I got at the time. And I think I then

agreed with them that it will best serve the NPA if these matters of prosecution will be decentralised, because the DPPs can have clear oversight in their provinces; and if the matter is in Gqeberha, there would be someone there dedicated; and similarly, the Hawks will be engaged to do the same. So I think that is my first recollection of the first interaction of myself with the TRC matter.

ADV ZIKALALA: Thank you. Can you then now also then take the commissioners through what were your engagements then with the families in and around that time?

- 10 MINISTER LAMOLA: Ja. I think my first engagement with the families happened during the COVID period. I am saying so under correction, because what I remember is that the meeting happened virtually. So I can only believe, and that is the reason why I believe it was during the COVID period and it was under the auspices of the ANC. I was called by the Deputy Secretary General of the ANC, the late Comrade Jessie Duarte. I think it was myself, Deputy Minister Jeffrey and the representative of the families. I think it was under Foundations for Human Rights, Yasmin Sookla.

COMMISSIONER KGOMO: Sooka.

- 20 MINISTER LAMOLA: Sooka, yes, and I think there was also Hefner. I might be mixing up, but those were the representatives of the families and there were others who were in the platform representing the families. They then raised an issue with us. One was the budget issue, which we did acknowledge that indeed there is a budget problem, there is a challenge, which we are addressing with the

National Treasury at the time.

Secondly, they raised the issue of dedicated resource and that we should establish a unit on its own for the TRC, which I responded, if I am correct in this, that this is where the issue of decentralisation, they raised it; that they have got a problem with this approach that the NPA is now taking to decentralise these matters.

And then we did say that, in our view, the decentralisation will enable the matters to move. It is better to test this in practise, other than being stuck with the debate as to how best to handle the matter, because the NPA believes that if this matter is handled at the provincial, district or regional level, it will have dedicated personnel, prosecutors who will handle it and also there was also an engagement with the Hawks to do the same countrywide.

I think that was my first meeting with them, with the families. The other issue that they raised was the number of, the issues that they were concerned that these delays, the witnesses are dying. The more the matters are being delayed and so forth, the witnesses are dying and so, and that we made a commitment that we will work with the NPA to resolve these teething challenges. But it was made clear even then that I agreed with the NPA on the decentralisation, because I thought it is the best way also to handle the matter.

And then we, I think that was my first meeting and then I delegated the deputy minister to take further engagements from then with the families, but I also had other interactions in events and activities with the families. The one that I recollect is the one that

happened in Cradock, in one of the commemorations where we also had some discussions and I think there was also another one in Johannesburg Central under the family of Timol, Aggett. There was some form of commemoration, which I attended, where there was also some interaction with the families.

I think another one that may not really be relevant for the purpose of prosecution, but it is in relation to the TRC, was where I also came to the Constitutional Court. There was a group of women that was protesting on the reparations of the TRC, the issues of
10 compensation and so forth. That was at the concord that had been there for quite some time. If I am not mistaken, it was almost like a month or so, the Tumaini or Tumamini Group.

CHAIRPERSON: Khulumani.

MINISTER LAMOLA: Yes, Khulumani, yes. Thank you, CJ. It looks like you are younger than me.

CHAIRPERSON: I wish.

MINISTER LAMOLA: So, again, there was a structured discussion with them on the way forward with regards to their matter of compensation, where we clarified that it would be difficult to reopen
20 the list of beneficiaries on the reparations process, but if there is clear evidence, we can find ways to support them, for them to work with the TRC Unit, including on education for the children and so forth. So, it was more of a reparation and compensation issue, not in relation to what this Commission is currently dealing with.

ADV ZIKALALA: Thank you. Thank you for the context and

background that you have given in relation to some of your engagements. From paragraph 19 to about 21 of your statement – Commissioner, that is from page 67; you set out the kind of legal background and the legal framework within which you understood your role as the minister vis-à-vis that of the NPA. And could you then explain then to the Commission what you understood in that context it meant for you to be taking final responsibility as set out?

MINISTER LAMOLA: Thank you. My role as the final responsibility was to ensure that the NPA has the resources, the policies in place
10 for them to do their job and it is for me to demand accountability, which I could also request reports on specific cases, how far they are progressing and so forth, including the TRC matters, also oversight of the NPA. But my understanding was that the prosecutorial decisions remained theirs and they should be assured and we should always be clear that this is something that the minister cannot do anything about. It is their own independence.

ADV ZIKALALA: Thank you, Minister. I am now reading or looking at your statement from page 7, paragraph 22, and now taking your understanding about what was the legal framework, how then or what
20 steps, and it is set out from paragraph 22; what steps did you start taking to start capacitating the NPA or capacitating, ja, the NPA for purposes of its prosecutorial functions?

MINISTER LAMOLA: Ja, as I have said earlier on, for the NPA to be able to execute their mandates, they need resources. And prior to my term, they were really struggling financially. So we had to engage

with the National Treasury and I think at the time, National Treasury came to the party for the NPA. It was not specifically dedicated to the TRC, but there was a ball figure to improve the finances of the NPA, which also helped the process with regards to the TRC cases.

And as a result, they were now able to appoint people in that space of the TRC prosecution, including support staff, where I also had to write to the Minister of Public Service and Administration to request support in particular for this unit of the NPA on the TRC, which we did, and we did receive concurrence from DPSA; and the
10 staff was appointed to capacitate the NPA to deal with this.

I also received a report from the NDPP that she has engaged with the Head of the Hawks and the National Police Commissioner, and they have committed to put 40 investigators. I think these were retired investigators. So that the relay effect that I spoke about, that firstly there will be investigations, processes will unfold; and when investigations are concluded, it will then lead to the NPA prosecuting will then happen, because the NPA itself was already being capacitated, was gearing up to handle these TRC matters.

And we were now believing that with this ramping up and
20 capacitating of the NPA, they will be able to handle a number of matters and the police will not be left behind. So the police also agreed to put this capacity, and this capacity then enabled the TRC Unit of the NPA to be able to coordinate in the provinces and to work with the provinces in terms of how to prosecute these matters. And I think from that point, I could see improvements on the work of the

NPA, and the improvement came through when they started to bring requests for inquests to be reopened across the country.

ADV ZIKALALA: Thank you, Minister. Just for purposes of reference, if one looks at your Annexure RL3 that is on page 28, is that maybe one example?

COMMISSIONER KGOMO: You will have to speak into the microphone, please.

ADV ZIKALALA: Oh, apologies. Can you hear me better now?

COMMISSIONER KGOMO: Yes.

- 10 ADV ZIKALALA: I can hear myself better. If you look at Annexure RL3 that is on page 28, that is a memo or a letter from the Department of Public Service and Administration. Is that an example of the kind of administrative steps that were being taken?

MINISTER LAMOLA: Yes.

ADV ZIKALALA: Commissioners, I am not certain if there is anything further you wanted to add, but for purposes of your reference, just that annexure. Minister, I would like to now turn to the issue or the question about the record of delivery, and this was one of the issues that was raised in the notice that was put before you.

- 20 And the first question I wanted you to address is; in your opening statements when you were talking about your discussions with, is it Adv Macadam, he indicated that there was slow progress in relation to the prosecutions. Now, can you... and we are starting at the end here, but can you reflect back on your tenure as Minister of Justice, and can you speak about the position that you found when

you arrived and how was the progress throughout your tenure? We will go through the various cases. I just wanted you to just reflect on that at the moment.

MINISTER LAMOLA: I think from what I found and what I then resolved to be preoccupied with after my briefing with Adv Macadam was a preoccupation to ensure that there is prosecution on the TRC matters and that this prosecution is well supported from myself as the Minister of Justice and that it should also not only be through word of mouth, it should be shown in action. And this action was the support
10 for the National Treasury's adjustments, the SAPS, the DPSA and all efforts, as the Commission can see, were put for me to support the work of the NPA to ensure that there is prosecution on these matters.

So I believe that even after I then took over and up until the end of my term, this was the most successful period of dealing with TRC matters since the dawn of our democracy, and this can be proven by the facts, the cases that came to me for reopening after this work of recapacitating the NPA and the SAPS. So Commissioners could look from the period 1994 up until 2019. The difference is tremendous and cases are there to prove it, and this was
20 because of the work that we put to support the NPA.

So if there is anything that could be checked, I believe that this can speak for itself. The stats, the matters, how they came forward, and also what then happened beyond 2024 during my tenure. So I will characterise it as the most successful period of prosecution or of taking forward the TRC matters in a post-

democratic South Africa.

ADV ZIKALALA: Minister, can you then begin to take us from paragraph 26, or we can start from paragraph 26.1 on page 10 of your statement.

MINISTER LAMOLA: Paragraph?

ADV ZIKALALA: 26.1 on page 10, paginated page 10.

CHAIRPERSON: Do you want him to read that?

MINISTER LAMOLA: I have it?

ADV ZIKALALA: Yes; if you can take us through the various
10 examples that have been set out from paragraph 26.1.

MINISTER LAMOLA: Okay, thank you.

“On 16 August 2019, I formally requested the
Judge President of the Gauteng and KwaZulu-
Natal Division of the High Court to designate
judges to reopen the inquest into the death in
detention of Dr Neil Aggett and Hoosen Haffejee.
That request was made in exercise of my
statutory powers to facilitate the reopening of the
inquest, which were warranted in terms of section
20 6(d) of the Inquest Act, 58 of 1959.”

And the copies have been attached, RL4 and RL5.

“In 2021, to support the NPA's decision to pursue
TRC-related cases, the Ministry approved the
request to employ additional personnel to
increase prosecutorial and investigative capacity

and to make the necessary budget available to enable those matters to proceed.”

COMMISSIONER KGOMO: If you mention the paragraphs, it would help.

MINISTER LAMOLA: Paragraph 26.2.

COMMISSIONER KGOMO: Yes, you have read it.

MINISTER LAMOLA: And paragraph 26.3:

10 “A new Acting Head of Priority Crimes Litigation Unit was appointed and decentralised model implemented, in terms of which Directors of Public Prosecutions in the relevant jurisdictions assumed responsibility for investigations and prosecutions, with the PCLU providing oversight and coordination. To give effect to this model, dedicated capacity was created within the NPA to focus specifically on TRC matters. 13 additional prosecutors were appointed, bringing the total to 23 dedicated prosecutors working on these cases in collaboration with 34 dedicated DPCI

20 investigators, who were appointed to strengthen the investigative capacity.

26.4 As a result of these measures, 53 cases were receiving active attention nationwide by April 2021. By March 2022, that number had increased to 115 matters

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

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26.5 The inquest into the 1982 death in detention of Ernest Diapale was reopened in 2021 and concluded in 2023. The Court held that the Security Branch of John Vorster Square was responsible for Ernest Diapale's death and identified further suspects for investigation. The approval of the reopening of this inquest is found and attached as RL4.

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26.6 In 2022, former Security Branch and Reaction Unit officers were indicted for the murder of Caiphus Nyoka. The trial commenced in April 2023 and concluded in late 2025 with the convictions of murder.

- 26.7 In 2022, the judge president of the Western Cape Division of the High Court was requested to designate a judge to reopen the inquest in relation to the death in detention of anti-apartheid activist Mr Abdullah Haron.
- 10 26.8 In November 2023, Gugulethu Madonsela was sentenced to 10 years for the death of Siphelele Nxumalo as a result of the joint efforts by the NPA's TRC component and the Directorate for Priority Crime Investigation.
- 26.9 In relation to the disappearances of Ntombikayise Kubheka and Musawenkosi Phewa, inquests were opened in 2022 and in November 2023, the DPP decided to prosecute four former Security Branch members. A fifth accused was charged in 2024.
- 20 26.10 Following investigations conducted by the KwaZulu-Natal Hawks and the KZN TRC Unit, inquests were held in late 2022. Thereafter, in January 2024, four former Security Branch officers were indicted for the murder of Jameson Ngoloyi

Mngomezulu.

10 26.11 In January 2024, I acted on the recommendations of the National Prosecuting Authority to approach the Judge President of the Eastern Cape Division in Gqeberha to designate a judge to reopen and preside over the inquest into the deaths of Mr Matthew Goniwe, Mr Sparrow Mkhonto, Mr Fort Calata and Mr Sicelo Mhlauli, a collective known as the Cradock Four.

26.12 In May 2024, I accepted and acted on the recommendations of the NPA to reopen the inquest into the death of Chief Albert Luthuli, Mlungisi Griffiths Mxenge and Booi Mantyi.”

Should I proceed?

20 “27. These steps demonstrate some of the progress made during my tenure as Minister of Justice following the steps taken to capacitate the NPA, as discussed above. I have attached various press releases related to the matters discussed above, as RL9 to RL12.”

ADV ZIKALALA: Thank you, Minister. If you could, just for the

Commissioners' records, Annexure RL9 begins at page 71. Minister, if you would like to just have a look at those.

MINISTER LAMOLA: Yes, I am at page 71.

ADV ZIKALALA: Yes, and if you might confirm that those are the various media statements that were issued at the time.

MINISTER LAMOLA: Yes, I confirm. I think there is one, I cannot remember which one, but I think it was the one related to Chief Albert Luthuli or the Cradock Four, which summarises all the cases that I dealt with during my tenure.

10 ADV ZIKALALA: Minister, if I can refer you then; that one is, Commissioners, for your record, it is Annexure RL12.

CHAIRPERSON: Page 76.

ADV ZIKALALA: Yes, page 76. Thank you, Chairperson.

MINISTER LAMOLA: Yes.

ADV ZIKALALA: And Minister, is there anything further that you would like to discuss in relation to this?

MINISTER LAMOLA: No.

ADV ZIKALALA: Chairperson, Commissioners, we then want to then turn to the discussion in relation to the establishment of the
20 Commission of Inquiry; and for that, I would ask that you turn to page 13 of the statement. Actually, it might be better to turn from page 14 of the statement, from paragraph 31 and 32. Minister, in the statement you referred to the Rodrigues judgment having been a watershed moment at certain points. Those are my words. Can you just take the Commissioners through what you have set out in

paragraph 31 and 32 and how that kind of shaped things going forward?

MINISTER LAMOLA: Thank you. The reason; and I agree with the characterisation of it as a watershed moment. I see my period as the pre-Rodrigues judgment and the post-Rodrigues judgment. With the pre-Rodrigues judgment, I was dealing with what I have just outlined to the Commission. The pre-occupation to ensure that the NPA has the capacity, the Hawks and that there is prosecution. That was my pre-occupation on the pre-Rodrigues judgment.

10 It continued to be so even the post-Rodrigues judgment, but the Rodrigues judgment then added a watershed moment or a new dimension that we had to consider from the executive and also in engagement with the NPA. What we had to consider, what was the meaning of the judgment? What does it mean in the actual implementation of the judgment?

 And these Commissioners may be aware or have seen from the previous witnesses, we also had to seek lots of legal advices post the Rodrigues judgment, because one was that there was a ruling of the Rodrigues judgment which said that there must be clear
20 accountability and that the NPA may need to investigate if there was a political hand or executive hand that obstructed the NPA from prosecuting.

 And on the other hand, in the public pressure, particularly from the families, was that this judgment meant that there must be a Commission of Inquiry to investigate this aspect of the political

interference. On the other hand, we are dealing with the issues of the inquest and also the context which I provided, that there is contestation of resources in the space. And this time also is the time where the cost of the Zondo Commissions were escalating and the department is struggling even to close the gaps within the department and also with the NPA.

So all these factors combined, including what is the legal position, became a new watershed moment, because now we needed to seek legal advice on what should be the legal position. And our
10 understanding as we were engaging was that, firstly, we will need to allow the Rodrigues case to run its course. With that I mean to be concluded in the appeal courts, so that there can be legal certainty about its application.

But there were other issues that for me became obvious. Because the prosecution of these matters is ongoing, we needed to assure the victims and the families that prosecution must continue and will continue and there will be no interference with the prosecution that must continue, because it is not going to stop because of the Rodrigues judgment. But at the time we could not
20 really consider whether there should be a Commission of Inquiry, what is the best course of action. So for me that then, it is what I termed the watershed moment of the Rodrigues judgment.

ADV ZIKALALA: Minister, can I ask you to then go to page 15 of your statement from paragraph 34? I do not know if you would want to read 34, 35 into the record or if you want to discuss.

CHAIRPERSON: Ms Zikalala, he is your witness. You must not ask if you do not know whether he is going to read it. You must direct him if you want him to read it into the record.

ADV ZIKALALA: Yes, thank you Chairperson. So Minister, then could you, looking at paragraph 34, 35, could you read those into the record and then we can discuss the issues emanating from there?

MINISTER LAMOLA: Thank you.

10 “34. The power to establish a Commission of
 Inquiry does not vest in the Minister of
 Justice. It is a constitutional prerogative of
 the President. The role of the minister in
 relation to commissions is administrative and
 supportive, once established, and not
 constitutive. While a minister may, within his
 or her discretion and upon proper
 consideration, make a recommendation to
 the President that a commission be
 established, the decision whether or not to
 do so remains that of the President alone. I
20 had no legal authority to create such a
 commission and any suggestion that I refuse
 to establish one attributes to me a power I
 did not have or possess. I recognise that
 the matters concerned involve grave human
 rights violations and that the families have

waited many years for accountability. That frustration is understandable. However, the exercise of public power must remain lawful and within constitutional limits. A minister cannot act simply because a request is made or pressure is exerted, however compelling the cause. Decisions of this nature must fall within the powers conferred by law.”

- 10 ADV ZIKALALA: Thank you, Minister. So, from paragraph 36 then, we then discuss the various states, you discussing the various, in these paragraphs, the various steps that were taken to get legal clarity. So, could you take the Commission through the advices that were sought as discussed in paragraph 36 and 37 of your statement?

MINISTER LAMOLA: Should I read it or just explain?

ADV ZIKALALA: You can read it into the record and then we can then look at the annexures.

MINISTER LAMOLA:

- 20 “36. Following the Rodrigues decision, in 2022, the Deputy Chief State Law Advisor recommended that I appoint an investigating panel to examine alleged interference and delay in the prosecution of TRC matters. I engaged directly with the NDPP on the recommendations and thereafter wrote to

her confirming the legal position. And the legal position is that the investigation of alleged misconduct within the prosecuting authority does not lie within the power of the minister. It falls within the statutory authority and discretion of the NPA itself, including under section 21 of the NPA Act. I did not assume a power that the law does not confer. I attached the memorandums as

10 RL6 to RL7.”

ADV ZIKALALA: Minister and Commissioners, for your records, RL6 can be found at...

CHAIRPERSON: Page 58.

ADV ZIKALALA: Page 58 of the bundle and RL7 can be found at page 64 of the bundle record. Minister, can you then continue to paragraph 37?

MINISTER LAMOLA:

“37. During 2022, the NPA, acting within its powers and with my support, appointed

20 senior counsel to lead an investigating panel to examine allegations of interference and delay in TRC-related prosecutions. A copy of the memorandum is attached as RL8.”

ADV ZIKALALA: And Minister, then to complete then this section, can you continue then to paragraph 38? You already outlined it

earlier in your evidence, but if you can just read this into the record.

MINISTER LAMOLA:

10 “38. This position must be understood in the
broader institutional context of the NPA's
needs as set out above. In those
circumstances, the rational course was to
ensure that the constitutionally mandated
prosecuting authority was properly equipped
to perform its function. Directing available
funds and executive attention towards
institutional strengthening was a more
immediate and effective mechanism for
advancing accountability, particularly where
prosecutions were the relief sought by the
affected families and required by the law.”

ADV ZIKALALA: Then continue to 38 and then 39 and 40 on page
17.

MINISTER LAMOLA:

20 “39. Commissions of Inquiry are significant fiscal
institutional undertakings. They require
extensive funding and long-term
administrative support. There has been
legitimate public concern regarding the cost
and duration of commissions and the burden
they place on the public purse, particularly

where existing constitutional institutions are already empowered to investigate and prosecute.”

ADV ZIKALALA: And then finally paragraph 40.

MINISTER LAMOLA:

10 “The NPA is a constitutionally and statutorily designed body to prosecute criminal offences. The courts adjudicate those matters once enrolled. In exercising my oversight responsibilities over the prosecuting authority and the broader justice system, my primary focus was to ensure that available resources were directed towards strengthening these institutions so that they could fulfil their constitutional mandate effectively.”

20 ADV ZIKALALA: Thank you, Minister. Minister, then I want to turn to the last issue in your statement which was raised in the notice that was put before you in relation to a question you had been asked at the Justice and Portfolio Committee meeting on 8 December 2021. And the question was whether the government had been hampered by a decision taken at CODESA not to prosecute TRC cases. Could you address that question when it was addressed to you then and also then address the Commission in relation to what is your answer to that question now?

MINISTER LAMOLA: Ja, I said I was not aware of such a decision at

CODESA that there should be no prosecution of TRC-related matters. And as the Commissioners can see, and I believe also the families themselves in their applications for request to cross-examine me, they acknowledged that there was work that I did. There was tremendous progress during my term in office.

So I was not aware. That is why I went in with a spirited energy to ensure that there is prosecution, there is investigation. I was not aware. Even the president never raised the issue with me that I must slow down on the work that I was doing to support the

10 TRC matters and all that.

But as the Commissioners could see the dates, I rely on records with regards to CODESA. I was in primary school, but I have no records that said to me there was this decision at CODESA. Therefore, I should not support the work of the NPA and the Hawks in prosecuting TRC matters.

ADV ZIKALALA: Chair, Commissioners, we have reached the end of Minister Lamola's statement; if I might just be permitted to just confer with ...[intervenes]

CHAIRPERSON: Yes, you may.

20 ADV ZIKALALA: Minister Lamola, for purposes of your statement, I think we have covered those issues that were outlined in his statement.

CHAIRPERSON: Yes. Does that conclude your evidence-in-chief?

ADV ZIKALALA: That would conclude our evidence-in-chief.

CHAIRPERSON: Thank you.

COMMISSIONER KGOMO: Microphones off, please.

CHAIRPERSON: Even the other one. Thank you. Ms Kessery?

ADV KESSERY: Chair, we have no questions of clarification for this witness. Thank you.

CHAIRPERSON: I do not see anyone I am familiar with. You are with Ms Kessery? Yes. Is there anyone online who would want to put clarificatory questions to Minister Lamola?

ADV NTLOKO: Good afternoon, Chair. I think there are two of us that are speaking. It is Ms Ntloko for the NPA.

10 CHAIRPERSON: Yes, Ms Ntloko.

ADV NTLOKO: And we do not have any clarification questions for the minister. Thank you.

CHAIRPERSON: Thank you, anyone else?

ADV NTHAMBELENI: Good afternoon, Chair, Ms Nthambeleni. We do not have clarificatory questions for the witness.

CHAIRPERSON: Thank you, Ms Nthambeleni.

ADV RANTHO: Good afternoon, Commissioners, Motlalepule Rantho for the SAPS, no clarification questions. Thank you, Commissioners.

20 CHAIRPERSON: Thank you, Ms Rantho.

ADV RIKHOTSO: Afternoon, Chair, Ms Rikhotso, no clarification questions.

CHAIRPERSON: And you are?

ADV RIKHOTSO: Ms Rikhotso.

CHAIRPERSON: Ms Rikhotso, thank you. Mr Varney?

ADV VARNEY: Thank you, Chairperson.

CHAIRPERSON: Yes.

ADV VARNEY: Chairperson, we have applied to cross-examine Minister Lamola. I understand that permission has been granted, but we have consulted with our learned friends for the minister and they have requested time to consult with him further. So the request is that we schedule another time for his cross-examination.

CHAIRPERSON: Yes. Are we in a position to determine the date for such cross-examination, Mr Semenya?

10 ADV SEMENYA: No, Chair. It is for a date yet to be confirmed with both the minister and ...[intervenes]

COMMISSIONER KGOMO: Your microphone, Mr... this one as well, this one. You switched off the...

ADV SEMENYA: Chair, yes, the date will have to be determined between ourselves and the minister's legal representatives.

CHAIRPERSON: Yes, thank you. Ms Zikalala, you are aware of the application that has been brought and being granted to cross-examine Minister Lamola?

20 ADV ZIKALALA: Yes, Chairperson, we received the application yesterday afternoon.

CHAIRPERSON: Yes, thank you.

COMMISSIONER GABRIEL: Minister Lamola, thank you for your evidence. I just want your views on two matters. The TRC report was released in 2003 and you assumed office into 2019, and it is your evidence that your tenure saw the most successful period on the

TRC cases. Now, what did you think of the 16 years before you took office and the time that the TRC report was released? It is a period of 16 years. What are your views on that delay?

MINISTER LAMOLA: I did not understand why these matters had to wait for me. So, and also the fact that when you look also in that period, the fiscal position of the country was in a more better position. Even the crime level, the priority issues that the criminal justice system had to deal with had not yet evolved to a complex situation where we were now, where we had to also deal with the issues of
10 state capture, violent crime and all these resources that now had to be dedicated to what was in front of the country. And we had to take from that, when we were engaging with the National Treasury, to provide the support to the NPA.

So, that was my reaction. I think I mentioned it even in Parliament that I really do not understand why this had to wait for us when we are dealing with real now, real competing priority crimes in the country that this money should be used for if these matters were resolved a long time ago.

COMMISSIONER GABRIEL: Thank you. And then just your view on
20 this; you say you approached your tenure with spirited energy, to quote you. You approached the TRC cases. Now, I am trying to understand why previous Ministers of Justice did not, your predecessors, why they did not approach these TRC cases with the same rigour. What are your views on that?

MINISTER LAMOLA: I do not know, because, as I have said, from

when I was in the office, there was nothing that was hamstrung me as the Minister of Justice to support the work of the NPA and the Hawks. So, I will not know really. I can only speculate. But during my tenure, there was nothing at all. It was a free will. The president never said: slow down, stop or look at this is sensitive. No, nothing. So, I just continued with my job.

COMMISSIONER GABRIEL: And there were no impediments to you doing your job?

MINISTER LAMOLA: Nothing, zero. I never even received a phone
10 call. So, I will not know.

COMMISSIONER GABRIEL: Thank you very much.

COMMISSIONER KGOMO: Minister, can I ask the same question differently? Did you engage any of your predecessors and asked them but what was the *inkinga*, what was the problem?

MINISTER LAMOLA: I am not... there was a handover report from minister, former Minister Masutha to me. I no longer remember whether we did discuss the issue of the TRC, because I think at that time, I was not fully aware that there is a challenge. I only became aware that there is a challenge after I spoke with the NPA through
20 Adv Macadam and the NDPP, when they told me about the challenges. So, by the time the handover happened, it was just a week after, I assume, and I do not think we went that deep on the discussion. So, I never had that chance.

COMMISSIONER KGOMO: Yes, thank you.

CHAIRPERSON: Minister, we thank you for having availed yourself

to come and give evidence before this Commission. As you are aware, an application to cross-examine you has been granted and you will be expected to return to this Commission on a date to be determined for your cross-examination. We thank you for attending.

MINISTER LAMOLA: Thank you, Commissioner. As the counsellor said, I have no objection to the cross-examination. Thank you.

CHAIRPERSON: These proceedings are adjourned until tomorrow at 10 o'clock.

INQUIRY ADJOURNS UNTIL 12 AUGUST 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:

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FORUM OF ORIGIN	:	Inquiry
CASE NUMBER	:	N/A
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DATE COMPLETED	:	2026-08-11
NUMBER OF PAGES	:	33 (Including front page)

TRANSCRIBER :



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