

**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 Varney (SC) – The Calata Group
Mr Sipho Tlhaole – The Calata Group
Adv Bridgette Nthambeleni (for Adv Jiba)
Adv B Lukhele-NPA Representative

28 JULY 2026

DAY 65.2

PAGES 1 – 19



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

INQUIRY RESUMES

CHAIRPERSON: Mr Semenya?

ADV SEMENYA: Chair, we beg leave to call Mr Madonsela.

CHAIRPERSON: Mr Madonsela, good morning.

MR MADONSELA: Good morning, Chairperson; good morning to the Commissioners, Evidence Leaders and Representatives of the families of the victims present.

CHAIRPERSON: Yes, are you going to give your evidence under oath or affirmation?

10 MR MADONSELA: Under oath, Chairperson.

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

MR MADONSELA: I do.

VUSIMUZI PHILEMON MADONSELA: duly sworn states

CHAIRPERSON: Thank you. Mr Nalane?

EXAMINATION BY ADV NALANE: Thank you. Thank you, Chair and Commissioners. It is still morning, Mr Madonsela. Good morning.

20 MR MADONSELA: Good morning to you, Senior Counsel.

ADV NALANE: Mr Madonsela, thank you for having availed yourself to assist the Commission with its work. You have given an affidavit in summary of the evidence that you want to give in this Commission, is that correct?

MR MADONSELA: That is correct.

ADV NALANE: And your affidavit is numbered from page 2349 until 2356.

MR MADONSELA: Correct.

ADV NALANE: And at page 2354, there is a signature that appears on that page. Can you see that?

MR MADONSELA: I can, yes.

ADV NALANE: And whose signature is that?

MR MADONSELA: It is my signature.

ADV NALANE: Thank you, Mr Madonsela. So do you confirm and
10 stand by the contents of this affidavit?

MR MADONSELA: I do.

ADV NALANE: Thank you. Before we start with the issues that you have been called upon to assist the Commission, I would like you to briefly tell us about your state in life currently and your brief professional and academic background, if you so please. You have stated in paragraph 1 of your affidavit that you are an adult male presently serving as Ambassador Extraordinary and Plenipotentiary of the Republic and that you are accredited to the Kingdom of Netherlands and stationed as the Head of Mission at the Embassy of
20 the Republic in The Hague, the Kingdom of Netherlands. Is that correct?

MR MADONSELA: That is correct.

ADV NALANE: Can you explain what is an ambassador extraordinary and plenipotentiary?

MR MADONSELA: Ambassador extraordinary and plenipotentiary is

a diplomat who is appointed to represent the head of state and it is an ambassador who is empowered to sign treaties and conclude agreements on behalf of the South African State.

ADV NALANE: Thank you. For purposes of this Commission, you are being asked to, in your capacity as a former Director-General of the Department of Justice and Constitutional Development, do you understand that?

MR MADONSELA: Yes, I do.

ADV NALANE: In paragraph 3, you deal briefly with your tenure at
10 the department, but I also see that you have been very humble not to detail your long service in the public service before you became DG of Justice. Can you briefly tell us your various stations that you held in the public service over the number of years?

MR MADONSELA: Yes. First of all, you asked about my background. I am an attorney of the High Court, admitted to practise as such, but I have since placed my name on the non-practising role, having joined government in 2021. My first station in government was that of Chief State Law Advisor in the Office of the Premier of the North West Province, where I stayed for a very short time, following
20 which I then joined the Department of Social Development in 2021.

In 2023, I was appointed Director-General of the Department of Social Development, a position I held until the end of September 2012, essentially a tenure spanning over nine and a half years. Following that, I was then, by presidential proclamation, transferred to the Department of Cooperative Governance, which is part of the

Ministry of Cooperative Governance and Traditional Affairs, where I also served as Director-General of that department.

My tenure there spanned over a period of about three and a half years, from 1 October 2012 up to the last day of April 2016, whereupon, by presidential proclamation, I was then transferred to the Department of Justice and Constitutional Development, where my tenure started on 1 May 2016, which was finally terminated on 30 April 2020, whereupon I was appointed as a full-time employee of the Department of International Relations and Cooperation.

10 But prior to that appointment, if I may add, just for completeness; on 8 October 2019, I commenced my diplomatic training, having been invited to do so by the Director-General of the Department of Cooperative Governance and... I beg your pardon, the Department of International Relations and Cooperation. Pursuant to an agreement between the president and the minister of that department; that I be invited to assume the role of a diplomat and to represent the South African State as ambassador.

And my training as an ambassador, as head of mission designates, ran from 8 October 2019 until the end of January 2020,
20 whereupon I then transited to the Netherlands, where I am currently stationed as ambassador extraordinary and plenipotentiary.

ADV NALANE: Thank you very much, Mr Madonsela. Now you also say that you have been asked by the chief evidence leaders to come and assist the Commission. You deal with that at paragraph 5 of your affidavit; that you have been asked to assist with information that you

might have in relation to the terms of reference of the Commission of Inquiry which is meant to enquire into whether and to what extent and by whom efforts were made to influence or pressure members of South African Police or the National Prosecuting Authority to stop investigating TRC cases. That is what you say in paragraphs 5 and 6, correct?

MR MADONSELA: I confirm, yes.

ADV NALANE: Just for completeness sake, you are not in any manner, form or shape implicated in any wrongdoing; and all that the
10 Commission is asking you is just to complete the loop, because we are dealing here with institutions over which the department you worked with had some oversight; the National Prosecuting Authority. You understand that? You seem to be muted.

CHAIRPERSON: You are inaudible, Mr Madonsela.

MR MADONSELA: I beg your pardon.

CHAIRPERSON: Thank you. We can hear you now.

MR MADONSELA: Yes, I do understand.

ADV NALANE: Thank you. And then, to be more specific, what you have been requested to come and help the Commission is set out in
20 your affidavit at paragraph 7, and it relates more in particular to your role as director-general of the department at the relevant time. 7(a) says:

“The nature and extent of my functions and responsibilities while serving as Director-General of DOJ&CD in relation to TRC matters.”

You understand that?

MR MADONSELA: Correct.

ADV NALANE: And also, the manner in which you supported the Ministry and the conduct of day-to-day affairs concerning such matters, including oversight, coordination, advisory, administrative or decision-making functions discharged by you and the extent of your involvement in the management, investigation, prosecution, monitoring or administration of such matters, together with the steps undertaken by you in the discharge of your duties; and any further
10 information that might assist the Commission in comprehending the nature of your role, responsibilities and involvement in matters pertaining to TRC cases during your tenure of office. That is what you have been asked to assist, correct?

MR MADONSELA: That is correct.

ADV NALANE: Now, we have had the benefit of hearing from at least two witnesses who were holding the position that you also held. We had the evidence of Adv Mashabane, who succeeded you as the DG. We also had today the evidence of Ms Sindane, who was your predecessor before you took over. Is it correct, Ms Sindane
20 preceded you?

MR MADONSELA: That is correct.

ADV NALANE: And Mr Mashabane followed after you.

MR MADONSELA: That is also correct.

ADV NALANE: So we have got an idea in broad terms about the functions of the DG of the Department of Justice, which you worked

on. In paragraph 9, perhaps you can read that where you deal with your role and operations as far as TRC cases are concerned. You can read paragraph 9 and explain what you mean there.

MR MADONSELA: Let me read.

10 “As regards the manner in which I supported the Ministry in its day-to-day operations concerning TRC, I state that the NPA fell under the exclusive management and direction of the National Director of Public Prosecutions. Save that the budget of the NPA formed part of the vote administered through the Department of Justice and Constitutional Development, it is my understanding and belief that the NPA functioned as an independent body, possessing exclusive authority in respect of prosecutorial and investigative decision-making.”

ADV NALANE: Thank you. And you preface that with your paragraph 8 where you say:

20 “In respect of my role and responsibilities as Director-General of the DOJ&CD in relation to TRC matters, I respectfully state that I had no direct role whatsoever in relation to such matters.”

Do you confirm that?

MR MADONSELA: I do.

ADV NALANE: And then as far as paragraph 10, you deal with the reporting relationship between the NDPP and yourself in your capacity as DG. What we understand is that the department would be in charge of the functions of justice and constitutional development, and within that there would be other organs of state, like the NPA. And you as a DG would have some relationship professionally and accounting-wise with the NDPP office. Is that correct?

MR MADONSELA: That is correct.

- 10 ADV NALANE: You say at paragraph 10, perhaps just read the first paragraph, first, in the paragraph the first sentence.

MR MADONSELA:

- 20 “Consequently, there existed no reporting relationship between the NDPP and myself in my capacity as Director-General. Nevertheless, in my capacity as Accounting Officer of the Department of Justice and Constitutional Development, I bore certain responsibilities in relation to the financial administration of the NPA; and in that regard, rendered such support as was appropriate in assisting the NPA in its engagements before Parliament for the purpose of securing adequate budgetary allocations, particularly with a view to restoring institutional capacity diminished during a period commonly

referred to as 'state capture'."

ADV NALANE: We have discussed with both Ms Sindane and Adv Mashabane section 36 of the National Prosecuting Authority Act, which deals with expenditure of the prosecuting authority. And as we understand it, you were the Accounting Officer of the Department, correct?

MR MADONSELA: That is correct, and by extension, I was also the Accounting Officer of the National Prosecuting Authority.

ADV NALANE: Thank you. And that derives in part from section 36
10 of the NPA Act, and I will read to you a portion. Section 36(2) says:

"The Department of Justice must, in consultation with the national director, prepare the necessary estimate of revenue and expenditure of the prosecuting authority; and

(3) The Director-General Justice shall, subject to the Public Finance Management Act –

(a) Be charged with the responsibility of accounting for state monies received or paid out for or on account of the
20 prosecuting authority; and

(b) Cause the necessary accounting and other related records to be kept."

So, that would have been the function that you fulfilled, as you call it, Accounting Officer for the NPA as well.

MR MADONSELA: That is correct.

ADV NALANE: So, in other words, the National Director of Public Prosecutions, although he or she heads the NPA, but they are not the accounting officer. Is that correct?

MR MADONSELA: That is correct.

ADV NALANE: And your relation with the NDPP would be in so far as you perform the administrative accounting officer roles, correct?

MR MADONSELA: That is correct. Although, if I may add; in practise, there is very little contact between the NDPP and the DG because of the existence of an office called Chief Executive Officer of
10 the NPA, who was a person responsible for the day-to-day management of the affairs of the NPA.

ADV NALANE: So, in discharging your accounting officer duties, you would liaise with the CEO of the NPA?

MR MADONSELA: That is correct.

ADV NALANE: Thank you. And then, as far as the NDPP is concerned, how would you relate to the NDPP?

MR MADONSELA: Occasionally, to the extent that the NDPP may take specific interest in a particular matter relating to the administration, the NDPP would, in addition to the CEO, also engage
20 with me, especially in relation to matters regarding the budget.

ADV NALANE: Thank you. You then go on in paragraph 11 to deal with you not having had any statutory authority or oversight in respect of the investigative or prosecutorial functions of the NPA. Is that correct?

MR MADONSELA: That is correct. I had none.

ADV NALANE: Ja, just read paragraph, ja, read paragraph 11 and talk to it if you prefer.

MR MADONSELA:

10 “During my tenure as Director-General, I possessed no statutory authority of oversight in respect of the investigative or prosecutorial functions of the NPA in relation to any matter under its consideration, including TRC cases. Nor did I at any time seek to exercise any such authority, whether directly or indirectly. Furthermore, I did not participate in, nor was I involved with, any management, administrative, coordinative, monitoring, advisory, investigative, prosecutorial, or decision-making functions pertaining to the work of the NPA.”

ADV NALANE: Okay. And then in paragraph 12, you deal with the relationship between the minister and the NDPP and the reporting lines. What do you say about that in paragraph 12?

MR MADONSELA:

20 “The NDPP reported directly to the Minister of Justice and Correctional Services.”

ADV NALANE: Okay and you say concerning affairs and activities of the National Prosecuting Authority. You say to the best of your recollection, you were not present, nor did you attend any meetings convened for the purpose of such reporting. Is that correct?

MR MADONSELA: That is correct.

ADV NALANE: In so far as there may have been specific cases which are in the public domain; for instance, the inquest into the death of the late Ahmed Timol, would you have come across any such information?

MR MADONSELA: I do not have any specific recollection of what specific role, or rather, whether I have come across any such information, but I would imagine that in so far as any services may be required from or support may be required from the Department of
10 Justice and Constitutional Development in supporting any work relating to any inquest; that any communication relating to that, to the extent that it implicates the resources of the department, may have gone via my desk.

ADV NALANE: But if you had anything to do with inquests, it will be purely on an administrative function and role. Is that correct?

MR MADONSELA: Oh yes, certainly. The decisions to prosecute, or to even open an inquest, if you like, would already have been done by the time any request is made to me to provide any support.

ADV NALANE: All right. And one of the other cases which has been
20 in the public eye and also in a way would have some impact on the work of this Commission, is what is known as the Rodrigues case, where the courts made findings that there may have been interference with prosecutions at some point in time. Would you have any knowledge of that case?

MR MADONSELA: Not specifically.

ADV NALANE: Thank you. You then deal in paragraph 13 about any information which you think might be of assistance to the Commission. Can you read that and comment if you can?

MR MADONSELA: Yes, paragraph 13 reads:

10 “I am not possessed of, nor do I exercise control over, any further information capable of assisting this Honourable Commission concerning decisions to proceed with, suspend, discontinue, or otherwise affect the investigation or prosecution of TRC cases during the periods of my tenure as Director-General of the Department of Justice and Constitutional Development. Matters of that nature lay wholly beyond the scope of my duties and responsibilities.”

ADV NALANE: Thank you, Mr Madonsela. Is there anything else that you think might be of assistance to the Commission which you want to bring to the attention of the Commission?

MR MADONSELA: I do not at this stage, Evidence Leader.

ADV NALANE: Chair, those are the questions for the witness.

20 CHAIRPERSON: Thank you, Mr Nalane. Ms Moroka?

ADV MOROKA: No clarification questions.

CHAIRPERSON: Thank you. Mr Lukhele?

ADV LUKHELE: Thank you, Commissioner, no questions.

CHAIRPERSON: Anyone online?

ADV NTHAMBELENI: Thank you, Chair, Ms Nthambeleni, no

questions.

FEMALE SPEAKER: Thank you, Chair. No questions.

CHAIRPERSON: Thank you. Mr Varney?

ADV VARNEY: Thank you, Chair, just a few questions by way of clarification. I first want to ...[intervenes]

MR MADONSELA: I cannot hear the person speaking now.

ADV VARNEY: Let us just do a sound check. Can you hear me now? Testing.

MR MADONSELA: I can hear now.

10 ADV VARNEY: Thank you, Ambassador. Ambassador, I represent the families, otherwise known as the Calata Group. Firstly, Ambassador, thank you for taking time out of your schedule to assist the Commission today. Like the evidence leaders, we make no allegations against you in respect of the terms of reference of this Commission. My questions relate to the cases referred to by my learned friend, the Timol Inquest and the Rodrigues matter; so just a few questions. In relation to reopening inquests, in terms of section 17A of the Inquest Act, ministerial authority; I am just pausing while the mic is being, a new mic has been given to me. Ambassador, is
20 this clearer for you?

MR MADONSELA: It is much clearer, sir.

ADV VARNEY: Wonderful.

MR MADONSELA: Thank you.

ADV VARNEY: Let me rewind in case you did not hear previously. When it comes to the reopening of inquests in terms of section 17A of

the Inquest Act, the Minister of Justice has to authorise the reopening and then the allocation of a judge to hear that inquest. I assume you are familiar with that provision?

MR MADONSELA: In general terms, yes, I would say.

ADV VARNEY: Yes. And would I also be right in saying that just as a matter of administrative procedure, such a request from the National Director of Public Prosecutions would come to your desk and then would be forwarded to the minister?

MR MADONSELA: Ordinarily, yes.

10 ADV VARNEY: Yes. So there were three, at least three inquests that were authorised during your tenure as director-general. That would be the Timol Inquest that you have already spoken about, and also the Neil Aggett and Hoosen Haffejee Inquests. We know that the Minister of Justice did authorise all three inquests, and we are grateful for those authorisations. Do you have a recollection of also signing off on those inquests?

MR MADONSELA: I do not, I am afraid.

ADV VARNEY: No problem.

20 MR MADONSELA: But if I had any opportunity to have sight of the documentation, that might have jogged my memory, but at this stage, from where I am sitting, I am afraid not.

ADV VARNEY: Yes. Well, we do have a document from the record which indicates that both you and Minister Masutha signed off on the reopening of the Timol Inquest, the historic Timol Inquest, which took place in 2017. Were you aware that the legal representatives for the

families had to place the NDPP on terms in order to get that inquest reopened?

MR MADONSELA: I cannot claim to know. I have no full recollection of the facts, but I am happy that those inquests were reopened, and to the extent that any documentation relating thereto went past my desk, I look at that with great pride, because it is something that needed to be done.

ADV VARNEY: Yes, indeed; and in fact, the reopening of those inquests, we believe, opened the door to further truth and justice
10 being pursued. In relation to the other inquests, that of Neil Aggett and Hoosen Haffejee, were you aware that during 2019, the lawyers for those families had to place the Minister of Justice on terms in order to have those inquests reopened?

MR MADONSELA: I have no specific recollection. I am not even sure exactly when in 2019, because there was a time when I was already committed as a trainee diplomat in the Department of International Relations and Cooperation.

ADV VARNEY: Noted. Yes, you may not have been present at that time. Then lastly, let us turn to the Rodrigues case; and as my
20 learned friend for the evidence leaders indicated, that civil litigation arose out of the Timol Inquest, because Judge Mothle in the Timol Inquest recommended certain charges be preferred against Mr Rodrigues. When he was charged, he approached the high court for a permanent stay of prosecution. Were you aware that in that matter, the NPA admitted that it had been subject to interference in respect of

the TRC cases?

MR MADONSELA: I am not aware of that.

ADV VARNEY: And were you aware that the Minister of Justice, who was a respondent in that matter, did not contest the position of the NPA?

MR MADONSELA: I am not aware of that. I was not privy to any such conversations. Presumably, those would have happened in the reporting meetings between the minister and the National Director of Public Prosecutions.

10 ADV VARNEY: Thank you, Your Excellency. No further questions.

CHAIRPERSON: Thank you, Mr Varney.

ADV MOROKA: Chair, can I ask for a question for clarification following that question?

CHAIRPERSON: Yes, you may.

ADV MOROKA: Mr Madonsela?

MR MADONSELA: Yes, Commissioner?

COMMISSIONER KGOMO: You have switched off.

CHAIRPERSON: Switch it on.

COMMISSIONER KGOMO: Switch on.

20 CHAIRPERSON: Yes.

ADV MOROKA: Generational gap, Chair. You have been asked a series of questions about things that you essentially do not have any personal knowledge of. Is that correct?

MR MADONSELA: That is correct.

ADV MOROKA: And you do not even know why the minister, in the

last question that you were asked, what she did, what he or she did and why she did that?

MR MADONSELA: I have no personal knowledge whatsoever.

ADV MOROKA: Thank you, Chair.

CHAIRPERSON: Thank you, Ms Moroka.

COMMISSIONER GABRIEL: Honourable Madonsela?

MR MADONSELA: Yes, Chairperson.

COMMISSIONER GABRIEL: It is Commissioner Gabriel.

10 MR MADONSELA: Oh, I beg your pardon. Yes, just the disadvantage of being connected to technology from afar.

COMMISSIONER GABRIEL: We are just happy to have you. Thank you.

MR MADONSELA: Thank you.

COMMISSIONER GABRIEL: During your tenure, did you sit on a committee of directors-general?

MR MADONSELA: Yes, I did. I did sit on the... I think it is called the Justice Crime Prevention and Security Cluster, JCPS.

20 COMMISSIONER GABRIEL: And you have made it quite clear in your affidavit that as DG, you had no role to play in NPA prosecutorial decision-making.

MR MADONSELA: That is correct.

COMMISSIONER GABRIEL: So presumably, neither did the other DGs who sat with you on this committee?

MR MADONSELA: I would be surprised if they did. No, definitely not.

COMMISSIONER GABRIEL: Okay. And during your tenure, were the TRC cases ever discussed at this ...[intervenes]

MR MADONSELA: At the JCPS cluster? – No, not to my recollection.

COMMISSIONER GABRIEL: Thank you. Thank you very much.

MR MADONSELA: Thank you.

CHAIRPERSON: Mr Nalane.

ADV NALANE: No questions for the Ambassador. Thank you.

CHAIRPERSON: Ambassador Madonsela, we thank you for your
10 time in coming to give evidence before this Commission. You are
now excused as a witness.

MR MADONSELA: Thank you very much, Chairperson and to all the Commissioners. Thank you, and the evidence leaders.

COMMISSIONER KGOMO: Thank you.

NO FURTHER QUESTIONS

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

INQUIRY ADJOURNS UNTIL 29 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

FORUM OF ORIGIN	:	Inquiry
CASE NUMBER	:	N/A
TRANSCRIBER	:	M Brits
DATE COMPLETED	:	2026-07-28
NUMBER OF PAGES	:	21 (Including front page)

TRANSCRIBER :



TRANSCRIBER'S NOTE:

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



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