

COURT ONLINE COVER PAGE

IN THE HIGH COURT OF SOUTH AFRICA
Gauteng Division, Pretoria

CASE NO: **2025-005245**

In the matter between:

**LUKHANYO BRUCE MATTHEWS
CALATA ,ALEGRIA KUTSAKA NYOKA
,BONAKELE JACOBS ,FATIEMA
HARONMASOET ,TRYPHINA
NOMANDLOVU MOKGATLE ,KARL
ANDREW WEBER ,KIM TURNER
,LYNDENE PAGE ,MBUSO KHOZA
,NEVILLE BELING ,NOMBUYISELO
MHLAULI ,SARAH BIBI LALL
,SIZAKELE ERNESTINA SIMELANE
,SINDISWA ELIZABETH MKONTO
,STEPHANS MBUTI MABELANE ,THULI
KUBHEKA ,HLEKANI EDITH RIKHOTSO
,TSHIDISO MOTASI ,NOMALI RITA
GALELA ,PHUMEZA MANDISA HASHE
,MKHONTOWESIZWE GODOLOZI
,MOGAPI SOLOMON TLHAPI
,FOUNDATION FOR HUMAN RIGHTS**

Plaintiff / Applicant / Appellant

and

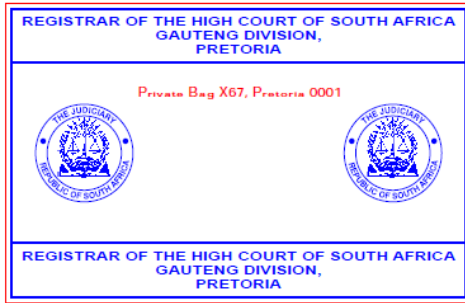
**GOVERNMENT OF THE REPUBLIC OF
SOUTH AFRICA,PRESIDENT OF THE
REPUBLIC OF SOUTH
AFRICA,MINISTER OF JUSTICE AND
CONSTITUTIONAL
DEVELOPMENT,NATIONAL DIRECTOR
OF PUBLIC PROSECUTIONS,MINISTER
OF POLICE,NATIONAL COMMISSIONER
OF THE SOUTH AFRICAN POLICE
SERVICE**

Defendant / Respondent

Notice in terms of Rule 16A

**NOTE: This document was filed electronically by the Registrar on 20/1/2025
at 1:15:46 PM South African Standard Time (SAST). The time and date**

the document was filed by the party is presented on the header of each page of this document.



ELECTRONICALLY SIGNED BY:

**Registrar of High Court of South
Africa , Gauteng Division,Pretoria**

**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

CASE NO: _____

In the matter between:

LUKHANYO BRUCE MATTHEWS CALATA 1st Applicant

ALEGRIA KUTSAKA NYOKA 2nd Applicant

BONAKELE JACOBS 3rd Applicant

FATIEMA HARON-MASOET 4th Applicant

TRYPHINA NOMANDLOVU MOKGATLE 5th Applicant

KARL ANDREW WEBER 6th Applicant

KIM TURNER 7th Applicant

LYNDENE PAGE 8th Applicant

MBUSO KHOZA 9th Applicant

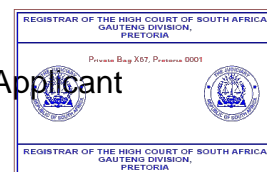
NEVILLE BELING 10th Applicant

NOMBUYISELO MHLAULI 11th Applicant

SARAH BIBI LALL 12th Applicant

SIZAKELE ERNESTINA SIMELANE 13th Applicant

SINDISWA ELIZABETH MKONTO 14th Applicant



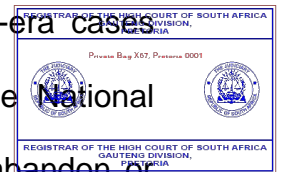
STEPHANS MBUTI MABELANE	15 th Applicant
THULI KUBHEKA	16 th Applicant
HLEKANI EDITH RIKHOTSO	17 th Applicant
TSHIDISO MOTASI	18 th Applicant
NOMALI RITA GALELA	19 th Applicant
PHUMEZA MANDISA HASHE	20 th Applicant
MKHONTOWESIZWE GODOLOZI	21 st Applicant
MOGAPI SOLOMON TLHAPI	22 nd Applicant
FOUNDATION FOR HUMAN RIGHTS	23 rd Applicant
and	
GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA	1 st Respondent
PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA	2 nd Respondent
MINISTER OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT	3 rd Respondent
NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS	4 th Respondent
MINISTER OF POLICE	5 th Respondent
NATIONAL COMMISSIONER OF THE SOUTH AFRICAN POLICE SERVICE	6 th Respondent



RULE 16A NOTICE

KINDLY TAKE NOTICE THAT the applicants hereby give notice to the registrar in terms of rule 16A of the Rules of the above Honourable Court that they have raised constitutional issues in an application launched under the above case number. The constitutional issues are as follows:

1. Whether the alleged conduct of the first to sixth respondents in unlawfully refraining and/or obstructing the investigation and/or prosecution of apartheid-era cases referred by the Truth and Reconciliation Commission (**TRC**) to the National Prosecuting Authority (**the TRC cases**), or to otherwise unlawfully abandon or undermine such cases is:



- 1.1. a violation of the rights of applicants, and more generally, the families of victims and survivors of apartheid-era crimes (**the families**), 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. in breach of the first to sixth respondents' constitutional duties and obligations not to interfere with the legal duties of prosecutors and law enforcement officers; and
- 1.4. inconsistent with South Africa's international law obligations in terms of sections 231 to 233, read with section 39(b), of the Constitution.

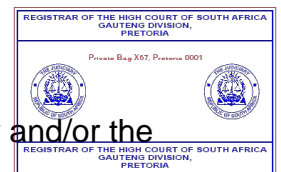
2. Whether this Court should order the first respondent (**the Government of South Africa**) to pay constitutional damages for purposes of affirming constitutional values, vindicating the rights of the applicants and families, deterring future interference and in particular to enable the families and survivors to:
 - 2.1. advance truth, justice and closure by assisting them to pursue investigations and research, inquests, private prosecutions and related litigation;
 - 2.2. monitor the work of the policing and justice authorities charged with investigating and prosecuting the TRC cases; and
 - 2.3. pursue commemoration, memorialisation and public education **activities** around the TRC cases, including the holding of public events, publishing of books and making of documentaries.

3. Whether the failure and/or refusal by the second respondent (**the President**) to establish a commission of inquiry into the suppression of the investigation and prosecution of the TRC cases (**the decision**) is:
 - 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 the victims in terms of sections 9, 10, 11 and 12 of the Constitution.

4. Whether the Court ought to set aside the President's failure or refusal to appoint a commission of inquiry and direct him to:



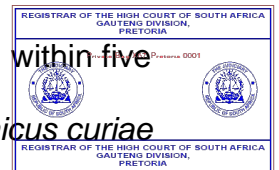
- 4.1. promulgate in the Government Gazette the establishment of a commission of inquiry in terms of section 84(2)(f) of the Constitution, which commission of inquiry shall be headed by a sitting or retired judge designated by the Chief Justice, and which shall be tasked to inquire into:
- 4.1.1. whether, why, and to what extent and by whom, efforts or attempts were made to influence or pressure members of the National Prosecuting Authority and/or the South African Police Service to stop investigating and/or prosecuting the TRC cases;
- 4.1.2. whether any members of the National Prosecuting Authority and/or the South African Police Service improperly colluded with such attempts to influence or pressure them; and
- 4.1.3. to make recommendations flowing from its conclusions, for actions to be taken by organs of state, including prosecutions to be instituted against persons found to have acted unlawfully in:
- 4.1.3.1. attempting to influence or pressure members of the National Prosecuting Authority and/or the South African Police Service to stop investigating and/or prosecuting the TRC cases, and/or
- 4.1.3.2. colluding with or succumbing to such attempts.
- 4.2. to make the provisions of the Commissions Act 8 of 1947 applicable to the abovementioned commission of inquiry in the aforesaid proclamation in the Government Gazette.



KINDLY TAKE NOTICE, that the Registrar of this Honourable Court is required to stamp this notice, in terms of the stipulations of rule 16 A (1)(a)(d) and to see to it that the notice shall remain on the noticeboard for a period of 20 days.

TAKE FURTHER NOTICE that any interested party may, with the written consent of all the parties to the proceedings, given not later than 20 days after this notice has been filed, be admitted as *amicus curiae* upon such terms and conditions as may be agreed upon in writing by the parties.

TAKE FURTHER NOTICE that the written consent referred to above shall, **within five** days of its having been obtained, be lodged with the Registrar, and the *amicus curiae* shall, in addition to any other provision of the Rules, comply with the times agreed upon for the lodging of the written argument.



TAKE FURTHER NOTICE that if the interested party is unable to obtain written consent as contemplated herein, he or she may, within five days of the expiry of the 20-day period prescribed above, apply to the Court to be admitted as an *amicus curiae* in the proceedings. Such application shall—

- (a) Briefly describe the interest of the prospective *amicus curiae* in the proceedings;
- (b) Clearly and succinctly set out the submissions which will be advanced by the prospective *amicus curiae*, the relevance thereof to the proceedings and his or her reasons for believing that the submissions will assist the court and are different from those of the other parties; and

(c) Be served upon all parties to the proceedings.

TAKE FURTHER NOTICE THAT any party to the proceedings who wishes to oppose an application to be admitted as *amicus curiae* shall file an answering affidavit within five days of the service of such application upon such party. The answering affidavit shall clearly and succinctly set out the grounds of such opposition.

DATED AT SANDTON ON 17 JANUARY 2025.



WEBBER WENTZEL

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Ref: W256

TO: THE REGISTRAR
Gauteng Division of the High Court
Pretoria

AND TO: GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA
Union Buildings
Government Avenue

Pretoria
0001
By Sheriff

AND TO: PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA
Union Buildings
Government Avenue
Pretoria
0001
By Sheriff

AND TO: MINISTER OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT
17th Floor
Momentum Centre
329 Pretorius Street
Pretoria
0001
By Sheriff



AND TO: NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS
VGM Building, Corner of Westlake and Hartley
123 Westlake Avenue
Weavind Park
Silverton
Pretoria
0001
By Sheriff

AND TO: MINISTER OF POLICE
7th Floor
Wachthuis Building
231 Pretorius Street
Pretoria
0002
By Sheriff

AND TO: NATIONAL COMMISSIONER OF THE SOUTH AFRICAN POLICE SERVICE
7th Floor
Wachthuis Building
231 Pretorius Street
Pretoria
0002
By Sheriff

COURTESY SERVICE: STATE ATTORNEY PRETORIA
SALU BUILDING
316 Thabo Sehume Street
Pretoria
0001
By Sheriff

