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**AFFIDAVIT IN THE SECTION 194 INQUIRY INTO THE REMOVAL OF THE  
PUBLIC PROTECTOR ADV. B. MKHWEBANE**

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I, the undersigned,

**MULAO LAMULA**

do hereby make oath and say that:

1. I am currently employed at the office of the Public Protector as Provincial Representative of the Western Cape Provincial Office having joined the Public Protector as a Senior Investigator in the Good Governance and Integrity Unit "GGI".
2. The facts herein contained are within my personal knowledge except where it is evident from the contents that they are not.

**BACKGROUND**

3. I have the following tertiary qualifications:
  - 3.1. Bachelor of Law (Buris – Unisa completed in 2003);
  - 3.2. Bachelor of Laws (LLB – Unisa completed in 2008);




MR

- 3.3. Master of Laws (LLM Human Rights Law LLM completed in 2017);
  - 3.4. Master of Laws (LLM Property Law completed in 2019); and
  - 3.5. Current studies (Doctor of Philosophy in Public and Constitutional Law (LLD since 2021).
4. I have the following Post Matric Qualifications:
- 4.1. Certificate: Forensic and Investigative Audits (Unisa);
  - 4.2. Certificate: Strategic Management (Unisa);
  - 4.3. Certificate: Legislative Drafting (University of Pretoria);
  - 4.4. Certificate: Migration Policy & Management (Wits);
  - 4.5. Certificate: Enforcement of Socio-Economic Rights (University of Pretoria); and
  - 4.6. Certificate: Security Officer Grades E ,D &C (PSIRA).
5. Summary of work experience:
- 5.1. Home Affairs from 2004 – 2013 in the following capacities:
    - 5.1.1. Refugee Status Determination Officer: Immigration Services;
    - 5.1.2. Investigator: Control Immigration Officer: Central Law Enforcement and Special Investigations;
    - 5.1.3. Assistant Director: Counter-Corruption, Security and Integrity Management;



MR

- 5.1.4. Acting Deputy Director: Counter-Corruption: Security and Integrity Management;
  - 5.1.5. Deputy Director: Immigration Services; and
  - 5.1.6. Acting Director: Immigration Services.
- 5.2. Public Service Commission from April 2014 to June 2017 in the capacity of Deputy Director: Public Administration Investigation and Audits.
- 5.3. Public Protector SA from June 2017 to date in the capacity of Senior Investigator: Good Governance and Integrity and currently as a Provincial Representative for Western Cape Province.
6. Although I have not followed the evidence of all the witnesses who have previously testified before this Inquiry and who are currently or were previously in the employ of the Office of the Public Protector, I have listened to some of their evidence and/or followed some of the reports on it in the media.
7. I am of the firm view that some of the evidence has grossly misrepresented the true situation at the Public Protector's office, the nature and purpose of the relevant meetings and the intentions and objectives of the Public Protector. I disagree with some of the evidence given on these topics. I will

MR 

therefore share my own experiences and observations in the hope that this will assist the Committee in the performance of its task.

8. I do agree with what all the employee witnesses have confirmed that the Public Protector is a leader who is dedicated to her work, is highly driven and hard working. She leads by example and is highly focussed on delivering services to all members of the public especially the downtrodden.

#### **DASHBOARD MEETINGS**

9. Although there are various governance meetings within the PPSA at which investigation reports are discussed, as an investigator I do not sit or get invited to all of these meetings. Out of all the meetings, for me the Dashboard meetings were the most important and useful ones. It was like reporting to your principals. It was at this level of reporting that an investigator's work would be thoroughly evaluated and assessed. The Public Protector and other senior managers used to offer constructive criticism focusing on helping the investigators improve their reports/work.
10. Our work was not only criticised but guidance was also provided. If the performance was bad, newer deadlines were given. We used to sit at the Dashboard meetings over and over again until the desired outcome was achieved, which was quality of the report.

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11. Another positive thing about the Dashboard meetings was that our peers would also be present. Although we would be criticised by our own peers, but the positive effects of it included learning from our peers how to do things differently. It also increased self-confidence and enhanced our work. To be honest, it felt like forming a study group. It was inspiring in a positive way. I used to and still look forward to Dashboard meetings.
12. Personally, I was always looking forward to present my work at Dashboard meetings. I still believe it was a wonderful idea to implement. As I have already stated above, it was in a way part of the chain of quality control in that by the time the draft reports were presented to the formal Quality Control Unit, a lot of defects would have been identified and rectified during the internal reporting mechanisms such as Dashboard.
13. Top management including the Public Protector used to sit at the Dashboard meetings. As I am someone who respects rank within the institution and have no fear to constructively engage, I considered Dashboard meetings as an important structure or forum to help strengthen our work. Knowing that one was bound to report to such a well attended structure also ensured that people took care not to present shoddy work.
14. As stated above, you also welcomed the fact that you had your peers, and you could learn from their presentations as well. In other words, one would

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not only learn what to do but also what not to do. I learnt both from my mistakes and those of others.

## DEADLINES

15. For me the deadlines are an indispensable part of an institution such as ours. At PPSA deadlines are not only set by the Public Protector, the Executive Managers and, Chief Investigators from time to time would also set their own deadlines. But of importance was that the deadlines were set per type of an investigation. The office had a strategic plan and early resolutions which set the deadlines. The Public Protector's deadlines were meant to enforce compliance with the broader organisational deadlines already set in the strategic plan and early resolutions. Some of the deadlines are imposed by the statute, for an example the Executive Members Ethics Act 82 of 1998, provides that the Public Protector must submit a report on the alleged breach within 30 days of receipt of the complaint. As such, deadlines are part and parcel of quality production. Once you miss the deadline imposed either by the statute or in terms of the Strategic Plan, the Senior Management including the Public Protector is duty bound to intervene to ensure compliance. This used to be done by asking an investigator or whosoever has missed a deadline to propose a new deadline for himself/herself, failing which, the Public Protector would intervene and set a new deadline. At times the investigator would set a deadline which is too close, then the Public Protector and Senior

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Management would suggest a longer period. At times an investigator would set a longer period and the Public Protector and Senior Management would suggest a revised period based on the nature of the investigation and work that has already been done including the inputs and directions that have been provided to the investigator.

16. The Public Protector was very strict when it comes to deadlines and quality of the work, which explains why a single Dashboard meeting could last for up to two days. No corners were cut and there was always an intention to get to the bottom of any obstacles and to encourage peer-to-peer learning.
17. I have already stated above that I previously worked for the Office of the Public Service Commission (PSC), which is tasked and empowered to, amongst others; investigate, monitor and evaluate the organisation and administration of the Public Service in general.
18. At PSC I was doing investigations. The PSC's investigation mandate sometimes overlaps with the Public Protector's mandate, however at PSC we had tight or rigid deadlines. As tight as they are, at PSC we viewed deadlines as an excellent motivational tool, as well as a great indicator of time management. It allowed employees to take control of their work. We viewed deadlines as a great organisational tool. They motivate completion and make workflow smoother. Obviously the specific departmental and

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individual deadlines are set within the framework of meeting the broader organisational deadlines or timeframes.

19. My experience working with the Public Protector was that she was indeed very rigid when it comes to work done and meeting the deadlines. It is however not true that she was inflexible even in the face of good reasons being given for not meeting deadlines.
  
20. I have occasionally also failed to meet the deadlines. My experience is that you do not wait for a deadline, the moment you realise that you will not be able to meet the deadline, you conscientize your supervisor or prepare a memorandum detailing failure to meet a deadline, as you cannot just keep quiet without making an effort. It is unacceptable and frustrating to management. It is usually the failure to give an early indication of obstacles which causes concern when the failure to meet deadlines is revealed for the first time in the environment of a meeting with a packed programme. At that stage there would be invariably sufficient time to give a full and proper account of the reasons for the failure. Failure to communicate early about failure to meet deadlines and only bringing them on the day of the meeting often irritates Management.
  
21. At PSC I had two employees reporting to me. Before deadlines I would check on them, as I viewed meeting of deadlines as key to performance.

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22. It is common cause that further backlog occurs when deadlines are not met. When the Public Protector took over, she inherited a huge backlog. However, because of her strict enforcement of deadlines, she did not only make a dent on the backlog but ensured that a new backlog was not continuously created.
  
23. In fact, more than any other Public Protector, Advocate Mkhwebane has made an unprecedented progress on the backlog. This had often been confirmed and admired by those employees who have been there for quite a long time and were able to compare the progress made under Adv Mkhwebane to that of her predecessors.
  
24. I also assume that her experience at Home Affairs placed her in a better position on how to manage a backlog. I have stated above that the Public Protector and I worked at Home Affairs, during the same period. Although I did not report to her directly but her work ethic in dealing with backlogs was widely known, recognised and appreciated at Home Affairs. The backlogs we are talking about at Home Affairs ran into thousands of files per Refugee Reception Office. At the Public Protector office our backlogs are much more manageable, they are in the hundreds.
  
25. The system of deadlines is important to manage a backlog. I have no doubt that, like me, the pressure of managing Immigration related backlogs

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provided a tough but useful learning curve in backlog management for Adv Mkhwebane.

26. On many occasions the Public Protector was flexible to suggestions of new deadlines and extend the deadlines, of course depending on reasons. It was not an easy task to convince her that such extensions were warranted and she was intolerant to excuses for non-performance.
27. I must also say that the Public Protector cannot be expected to know everything which was happening at the office. The Public Protector office has a management and leadership structure. Each layer of management or leadership has a role to play. Hence the importance of the reporting meetings such as Dashboard, Full Bench and the like.
28. For instance, the Public Protector is not part of conducting investigations. The Executive Managers and Chief Investigators are supposed to take charge and must be more vocal. But when they fail to perform the Public Protector is forced to intervene. This happened on many occasions in my presence.
29. The Executive Managers and Chief Investigators are supposed to set up deadlines, draft a memorandum to the Public Protector upfront in the event that they realise they will not be able to meet the deadlines. The Executive Managers are expected to come up with solutions. The Public Protector is

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not expected to do the tasks for them. When they performed according to expectations the Public Protector would give them positive feedback openly.

30. The Public Protector used to ask us to suggest and set our own deadlines but should we fail to meet our own deadlines, as expected she would intervene.
31. I understand that evidence has been led in this inquiry while some members of staff have criticised the Public Protector for her approach on deadline management.
32. Based on my previous employment experience and my understanding of project management, no leader will be happy if his or her deadlines were not met, hence I fail to understand employees complaining about deadlines. I must say I am used to deadlines and to tougher leaders when it comes to enforcing them.
33. I never felt that the deadlines were unreasonable. Employees sometimes failed to meet their own deadlines. If I fail to meet a deadline, I would make it a point that my supervisor knows about it and that's what was expected of the employees.

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34. Upon my appointment as the Provincial Representative of the Western Cape Province, my former immediate supervisor Mr Stoffel Fourie once issued me with an *audi* letter for failure to meet a deadline which I accepted as part of consequence management and responded to the *audi* letter accordingly. I was however aggrieved by the fact that I had only assumed the role of Western Cape Provincial Representative for less than a month. When I raised this complaint, the letter was withdrawn.
35. I cannot recall of an instance where the Public Protector herself issued an *audi* letter. It is indeed so that at times she would ask the Executive Managers or the CEO to take action against their subordinates, but she never crossed the line of command.
36. The disciplinary function does not fall under the Public Protector but on line managers.
37. I also think that if one knows what one is doing the quality of the reports cannot be affected by the expectations to meet a deadline.
38. The notion which has also been sold to the Committee that the chasing of deadlines automatically results in compromising on quality or governance is untrue. My own experience was that there was equal emphasis on timelines, quality and governance. The results are all there for everyone to


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see in the successive clean audits which are attributable to those who produced reports.

39. The quality of work cannot be compromised by whatever pressure in fact the office of the Public Protector is pressure orientated. My mindset has been that I produce quality for a deadline.
40. My experience is that it is difficult to chase a deadline and compromise quality structures like Dashboards and quality assurance will automatically detect poor quality and send the report back to the investigator for it to be fixed. If quality and governance were neglected anybody would meet any deadline.
41. The balanced system in place makes malicious compliance difficult.

#### **THE PUBLIC PROTECTOR'S ATTITUDE AND TREATMENT OF STAFF**

42. She is result-driven. As such, she can be harsh when work is not properly done, or worse, not done at all. Compared to Home Affairs and even the Public Service Commission I found the reporting meetings at the Public Protector more accommodating and less pressurised in many respects.
43. When she raises concerns, she was not different from any other leader, at Home Affairs she was even stricter. Although she was at Director level, but she used to frequent our offices to monitor our work, she was always on

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the ground, easy to interact with. I suppose her work ethic with reference to her previous employment is what Parliament took into account and recommended her for the position of the Public Protector. She enjoys working at the coalface rather than sitting in her office and receiving reports. She clearly enjoyed interacting with Investigators. Having been an Investigator herself she knew what was expected of investigators and was familiar with the usual excuses for failing to deliver.

44. I remember during the outbreak of xenophobic attacks, whilst we both worked at Home Affairs, she would work with immigration officers, refugee status determination officers and refugee reception officers half of the nights and sometimes till the early hours of the morning. She never complained and the staff did not complain much either.
45. Unlike some other leaders, I cannot describe her of being arrogant and/or drunk with power. She has been in power for a long time at different workplaces. She is one person who is chasing good governance. Good governance and work quality are part and parcel of her work ethic.
46. Frankly, I was not surprised when she achieved the massive reductions in backlogs and the clean audits. She always emphasised that those were not her individual achievements but those of the collective. However it was her leadership which made the achievements possible.

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47. The office of the Public Protector has mandate to deliver to the public. It has the public as its client. How do we then delay serving the public by fighting unrealistic deadlines. In my view this is selfish. You have someone thinking about his or her job but fail to consider the objective or constitutional mandate of the office she/he serves. Self-sacrifice is in the nature of public service. Maybe those who do not want to serve the public should not have been employed in the office of the Public Protector and some would be more suited and even better paid in the private sector. Think of a person waiting for months with no outcome to address his or her problems.
  
48. People also need to understand that the Public Protector merely exercises constitutional power, not her power, hence no witness is accusing her of exercising her power unconstitutionally. She never belittled or disrespected anyone in the meetings. Even when she would occasionally raise her voice when frustrated, she was never rude.
  
49. The evidence that she wanted to be worshipped or called Madam or "*bowed to*" is frankly, false. I have worked under other bosses who demanded respect. That has never been Adv Mkhwebane's style.

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**THE HUMAN SIDE OF THE PUBLIC PROTECTOR**

50. For the National Assembly to make sense of what I am talking about, when it comes to the Public Protector's ubuntu:

50.1. Some of the witnesses have portrayed her as a demon or monster. As I have indicated I used to report to the late Mr Madiba, who once insulted me and set me up for tribal attack by calling me a 'cockroach'.

50.2. I was deeply hurt and launched a grievance. In my view the seriousness of the allegations against Madiba warranted a disciplinary hearing.

50.3. In fact, the Public Protector, after considering Mr Madiba's health status and his breadwinner status, negotiated an amicable solution through the office of the CEO. I was aggrieved and strongly felt that the Public Protector was too harsh on me or very lenient towards Mr Madiba. Later I consoled myself by accepting that she was being sensitive to his dire health status. I was therefore shocked to hear evidence which suggested that she was insensitive to Mr Madiba's health. That is not true.

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51. Like all human beings Adv Mkhwebane has her shortcomings but she has done an excellent service to the people of South Africa. To even associate her with alleged incompetence is a grave concern. She is more than competent for the job of Public Protector. When her term ends in the next 10 months, it will be a loss to the institution she has helped to build and to the South African public in its constant fight against the twin scourges of maladministration and corruption.



DEPONENT

I hereby certify that the deponent has acknowledged understanding the contents of this affidavit, which was signed and sworn before me at CAPE TOWN on 25 November 2022, the regulations contained in the Government Notice R1258 of 21 July 1972, as amended, and Government Notice R1648 of 19 August 1977, as amended, having been complied with.



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