

Civil Society Statement Regarding the Killings at Marikana

A DEMAND FOR JUSTICE AND THE TRUTH

3 September 2012

We are human rights organisations that seek to protect and promote the Constitution of the Republic of South Africa (the Constitution). We stand for the interests of the poor and marginalised and believe our Constitution's greatest strength is its promise of equality and the advancement of the political, social and economic rights of the poor.

The Marikana massacre is a defining moment in our history and cannot be allowed to pass without establishing the full truth, ensuring justice and providing redress for the victims and their families.

We are outraged by the emerging evidence of targeted killings at Marikana. The Marikana massacre and the subsequent callous responses of both Lonmin and several representatives of the state, violate the very spirit of our Constitution and undermine the rights to life, freedom of expression, association, dignity and equality. A failure to ensure justice for the mineworkers, their wives, partners and families, both at an individual and institutional level, will deal an unprecedented blow to South Africa's democracy.

As organisations committed to social justice and the protection of human rights we state the following:

Background to the Killings

- We note that the Marikana massacre is part of an emerging pattern of violence and unlawful conduct by elements within the police. It is part of a continuum that runs through the killing of Andries Tatane and provides growing evidence of excessive use of force and a lack of training, preparedness and leadership resulting in police violence against the poor.
- The massacre is also symptomatic of the growing strain on the industrial relations system and a lack of leadership, which are pushing many strikes into violent confrontations.
- The killings occurred in a context of systemic failures, including low wages, appalling and dangerous working conditions and sub-human living conditions. These are characteristic of many mines throughout South Africa and, in particular, on the platinum belt.
- We believe that the indifference of mine executives and investors to the impoverished conditions in and around the workplace ought to have consequences. For too long corporate abuse has gone unpunished, with unsustainable approaches ending in mine closures and destitute workers.

Police Conduct and Integrity of Investigations after the Killings

- We are extremely concerned at the mismanagement of the processing of the crime scene. This has severe consequences for the availability and quality of evidence and impedes the pursuit of truth and justice.
- We stress the need to protect the independence and integrity of post-mortem examinations of all the deceased, the findings and that of any other necessary forensic investigations, including into alleged torture and ill-treatment of detained miners.

Charging Arrested Mineworkers with Murder

- We condemn the charges of murder through the common purpose doctrine that were brought and then withdrawn by the National Prosecuting Authority (NPA).
- We call for the immediate release of all those arrested pending proper, impartial and transparent police investigations.
- We are alarmed at reports of torture of detainees, condemn any such occurrence in the strongest terms and urge the necessary independent authorities speedily to investigate and take any necessary action against such conduct.
- We condemn any failure by the prison authorities to ensure that medical treatment is available to detainees. We have requested the Inspecting Judge of Prisons to investigate urgently reports that detainees are being denied access to essential medicines. This is unlawful.
- We are concerned about the continuous postponements of proceedings in court, at the expense of those who remain in prison for unnecessarily long periods of time.
- We are concerned at the failure to ensure that all those who were facing charges were present in the Magistrate's Court to hear the proceedings concerning their own futures.

The Judicial Commission of Enquiry

We welcome the appointment of the Judicial Commission of Enquiry, led by Judge Farlam, but we:

- Are concerned that its Terms of Reference do not adequately allow for an investigation into the complexity of the incident;
- Require an opportunity to comment on the scope and content of the Terms of Reference, particularly in light of new evidence emerging;
- Believe that the Commission will need to maximise transparency and seek ways to engage with extremely distressed, angry and sceptical community members to ensure that all voices are heard and trust is restored;
- Urge the Commission to support witnesses who have been through traumatic experiences or may fear intimidation.

We affirm the commitment of our collective organisations to the goals of:

- Ensuring that the miners, their families and others affected by the violence have access to justice. We have and will provide legal assistance and advice, including trauma counselling and other forms of psycho-social support, to mineworkers, their partners and the affected communities should they request it;
- Upholding the rights of miners working in South Africa to bargain for decent wages, benefit from the wealth of the mines and enjoy dignified and acceptable working and living conditions;
- Collating information, reporting and challenging all acts of torture, violence and intimidation against detainees, survivors, miners, family and/or community members;
- If necessary, conducting, supporting and publicising independent investigations.

We demand that:

- No witness, survivor or miner is intimidated;
- All involved parties are held to account where appropriate, including police, business, government and trade unions.

The Independent Police Investigative Directorate (IPID) Enquiry

We welcome the IPID investigation into police conduct but believe:

- That it must lead to an inquest or appropriate investigation into each individual death;
- That it must not preclude individual investigations and prosecutions;
- That the IPID must sustain comprehensive monitoring of police conduct in the area henceforth;
- That the IPID must be given the space and resources to conduct its work independently and openly.

The Role of the Business Community

It is not enough for denunciation of these killings to come from civil society, trade unions and concerned citizens. Organised business must also condemn the killings and make a commitment to paying mineworkers a living wage and ending the apartheid-like conditions in which mineworkers continue to live and work.

The Chamber of Mines is morally culpable for the crisis.

We call on shareholders and investors in the mining industry and, in particular, the platinum belt, to add their voices to this outrage and demand more from the entities in which they invest.

Defending our Democracy

We condemn all forms of violence and support all peaceful social mobilisation, including the work of the Marikana Solidarity Campaign, and the day of action on the 8th September to ensure that never again is our democracy so tainted.

This statement is endorsed by the following organisations:

Amnesty International South Africa
Centre for Applied Legal Studies
Centre for the Study of Violence and Reconciliation
Equal Education Law Centre
Human Rights Media Trust
Lawyers for Human Rights
Legal Resources Centre
Marikana Solidarity Campaign
RAITH Foundation
SECTION27
Social Justice Coalition
Socio-Economic Rights Institute of South Africa
Studies in Poverty and Inequality Institute
Treatment Action Campaign