

# Widows, Amcu pull out of Marikana inquiry

**SAMUEL MUNGADZE**

Staff Writer

THE Marikana Commission of Inquiry appeared to be collapsing after more parties withdrew from the proceedings yesterday.

Late in the afternoon, the Association of Mineworkers and Construction Union (Amcu) ended their participation.

The union's lawyer, Irene de Vos, said: "Amcu supports the workers and the widows. Until further notice we'll not participate. I have been asked not to partake in this proceeding,"

Earlier in the day widows of the deceased miners also withdrew from the proceedings, just a day after a similar action by 270 miners who were arrested and injured

during the labour unrest at the Lonmin mine last year.

The widows said their actions were in solidarity with 270 miners who are seeking government funding for their legal representation at the commission.

The miners had sought court relief for their legal fees through an urgent application on June 21. The miners are now awaiting a ruling by the North Gauteng High Court.

The widows' lawyer, Nicole Lewis, told the commission soon after lunch of their withdrawal.

"A number of families returned today and they feel uncomfortable to participate in the proceedings. As things stand at the moment they don't want to participate until they know what

will happen to the injured and arrested miners," she said.

On Monday the commission warned that it would subpoena anyone it needed to see, including the miners who withdrew from the inquiry.

The commission was appointed by President Jacob Zuma to investigate events at Lonmin's Marikana platinum mine between August 11-16 last year that left 44 people dead and more than 270 injured.

Yesterday, Maj-Gen William Mpembe, deputy police commission in North West was pressed by evidence leader advocate Mbuyiseli Madlanga to explain the progression of police plans that led to the shooting of 34 people on August 16 last year.

Maj-Gen Mpembe told the commission that before the debacle the police plan was updated on August 13, three days before 34 miners were shot dead. It was the update that Mr Madlanga sought an explanation of. "Are you telling us that the stages, as the police planned them, were not supposed to take place sequentially from one up to six? Is that what you are telling us?" Mr Madlanga asked.

In response, Maj-Gen Mpembe said: "I have said it earlier in my testimony, the spontaneous operation that I attended and the plan which followed was guided in the way I am speaking now. I chaired the meeting on the 14th (August) at which the plan was adopted."

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# More lawyers pull out of Marikana inquiry

**SAPA**

LAWYERS for families of miners killed at Marikana, North West, last year provisionally pulled out of the Farlam Commission of Inquiry's proceedings yesterday.

Nicole Lewis, who represents the families at the commission, announced after a lunch adjournment that the families were acting in solidarity with the group of mineworkers who were wounded and arrested on August 16.

"The family members have given instructions for us to place on record. They feel uncomfortable participating as long as the miners who were injured and arrested aren't present," she said.

"As things stand at the moment, they have a strong feeling that they do not wish to participate further.

We will take further instructions from them tomorrow."

Lewis said the families' final decision would be announced tomorrow.

"Until that time, the family members won't be participating. I have to ask the commission to excuse me."

The commission chairman, retired Judge Ian Farlam, asked Lewis whether the families had instructed her to sit in and not participate, or to leave the hearings.

Lewis replied she had been told to leave the room. "Essentially they don't want to be present in the commission and they also don't wish their legal representatives to be present."

Judge Farlam replied: "It's a pity, but you will have the transcript, to study it. I am not sure if your clients can prevent you from doing that."

On Monday, lawyers representing the mineworkers who were wounded and arrested provisionally pulled out of the proceedings.

Dali Mpofu announced the decision to withdraw pending a Pretoria High Court ruling on his application for the state to fund the legal team.

"Our instructions are to await the judgment and at that point to receive further instructions. In the meantime, we will not be participating for the victims," he said.

"If we are back later on in the week, we will have the extra burden of catching up with what would have happened."

On June 21, Mpofu told the commission that, due to financial constraints, it could be his last day representing the miners.

He then brought the urgent court application seeking funding for rep-

resenting the mineworkers. Mpofu wants President Jacob Zuma and Justice Minister Jeff Radebe to approve payment for the mineworkers' legal team.

The commission is investigating the circumstances surrounding the deaths of 44 people in strike-related violence at Marikana in August.

On Monday, Mpofu promised that he would update the commission about his team's decision, based on the court outcome.

"Irrespective of the outcome, as professionals, we have a duty to come here and brief the commission. We are not going to just disappear," he said.

Contrary to media reports, the high court ruling could be made "any time from now", he said.

The commission is to resume its hearing tomorrow morning.

# LAWYERS FOR MARIKANA MINERS' FAMILIES PULL OUT

LAWYERS for the families of miners killed in Marikana, North West, last year, provisionally pulled out of the Farlam Commission of Inquiry's proceedings yesterday.

Nicole Lewis, who represents the families, announced after a lunch adjournment that the families were acting in solidarity with the group of mineworkers wounded and arrested on August 16.

On Monday, lawyers representing the mineworkers wounded and arrested provisionally pulled out of the

commission's proceedings.

Advocate Dali Mpofu announced the decision to withdraw, pending a Pretoria High Court ruling on his application for the state to fund the legal team.

"The family members have given instructions for us to place on record," Lewis said.

"They feel very uncomfortable participating as long as the miners who were injured and arrested aren't present or at the very least [if] their position is clear.

"As things stand at the

moment, they have a very strong feeling that they do not wish to participate further [at the commission]. We will take further instructions from them tomorrow," she said.

Lewis said the families' final decision would be announced tomorrow.

Commission chairman, retired Judge Ian Farlam, asked Lewis whether the families had instructed her to sit in and not participate, or to leave the hearings. Lewis replied she had been told to leave the room. – *Sapa*

# Top cop grilled on Marikana

**NORTH West deputy police commissioner William Mpembe was questioned at the Farlam Commission of Inquiry yesterday about police plans to manage the Marikana unrest.**

**Evidence leader Mbuyiseli Madlanga sought answers on the progression of the six-phase plan to deal with striking Lonmin mineworkers.**

**Madlanga asked: “Are you telling us that the stages, as the police planned them, were not supposed to take place sequentially from one up to six? Is that what you are telling us?”**

**Mpembe said the police plan was updated on August 13, three days before 34 miners were shot dead.**

**“I have said it earlier in my testimony, the spontaneous operation that I attended and the plan that followed was guided in the way I am speaking now.”**

**One of the three commissioners, Pingla Hemraj, asked Mpembe about allegations that a plan to cordon off the hill where the protesters had gathered and search them was suggested at the August 14 meeting.**

**Stage six was the final phase of the operation and included cordoning off the hill and searching the protesters and their hostels.**

**In stage three, the protesters were meant to be broken up into smaller groups, encircled and disarmed.**

**Commission chairman, retired judge Ian Farlam, asked Mpembe to clarify the implementation of the stages and their sequence. – Sapa**

# Marikana credibility threat

**SIPHO MASOMBUKA**

THE credibility of the Marikana Commission of Inquiry is on the line — lawyers representing the families of the miners killed in the massacre last year at Marikana, North West, pulled out of the commission yesterday.

They were told to quit by their clients in solidarity with the lawyers representing wounded and arrested Marikana miners, who walked out on Monday pending the outcome of their high court application for state funding.

Black Lawyers Association president Busani Mabunda said his organisation had warned in November that the lack of state

## More lawyers walk out of hearings into miners' deaths

funding for the families of the wounded and of arrested miners would adversely affect the commission's work.

"It seriously affects the credibility of the commission because they [the injured and arrested miners] are the subject matter and without them there would be no commission of inquiry," Mabunda said.

"This could have been averted long before. It has everything to do with funding."

He said the families of the miners shot at Marikana could not benefit

if the commission's hearings proceeded without the participation of the injured and arrested miners.

Mabunda argued that the injured and arrested miners had witnessed the shootings and were therefore an integral part of the commission's procedures.

He said government officials testifying to the commission, including national police commissioner Riah Phiyega, had legal representation funded by the state.

He asked why such funding could not be extended to the wounded and arrested miners.

"What is good for the goose must be good for the gander," he said.

Echoing Mabunda's sentiments, the DA's spokesman on mineral resources, Hendrik Schmidt, said justice had to be seen to be done. He said this was possible only if the affected people had legal representation.

"It is an unfortunate position but justice needs to be seen to be done and unfortunately it costs money.

"I would have hoped that the government would have seen fit to make funds available for [advocate Dali] Mpofo to continue," he said.

Acting on behalf of the injured and arrested miners, Mpofo earlier this week withdrew pending a Pretoria High Court ruling on his application for the state to fund his legal team.

The commission, chaired by retired Judge Ian Farlam, was initially given four months to complete its work. But this deadline was extended to May 31 and then to the end of October.

Schmidt said the extensions had cost implications but "processes like this tend to have a life of their own and drag on.

"But there is nothing that can be done because we have to be thorough."

The hearings resume tomorrow.



# MARIKANA — WHAT A MESS!

## Inquiry hit by more withdrawals

By **SIMON NARE**

**THE Marikana Commission of Inquiry was hit by more withdrawals yesterday.**

First, families of miners killed in the massacre pulled out.

Then trade union Amcu followed, saying it would wait for the ruling on government paying legal fees for injured and arrested strikers.

These withdrawals came after injured mineworkers and their legal team, led by Advocate Dali Mpofu, pulled out on Monday. Advocate Irene de Vos said Amcu wouldn't take part until further notice.

The withdrawal of the families of dead

strikers affected the inquiry's credibility.

Their advocate, Nicole Lewis, told the commission yesterday they felt uncomfortable taking part in the absence of others. Lewis said the legal team led by Advocate Dumisa Ntsebeza would take further instructions from the families after the ruling, which is expected tomorrow.

Commission spokesman Tshepo Mahlangu insisted the inquiry's credibility won't be dented by the withdrawals.

The hearing continued yesterday with North West deputy commissioner Major-General William Mpembe questioned by evidence leader, Advocate Mbuyiseli Madlanga, on the six-phase cop plan.

Mpembe said stage three was meant to split strikers into smaller groups, surround and disarm them. As overall operations commander he decided on the stage three phase that led to the massacre.

Commission chairman Ian Farlam wanted to know why he said the decision was after Amcu leader Joseph Mathunjwa failed to get strikers to disarm.

Farlam put it to him that his senior provincial commissioner, Lieutenant-General Zukiswa Mbombo, had announced the decision earlier in the morning.

Mpembe said the decision had been made as it was clear strikers wouldn't lay down their arms.

# Miners' lawyers pull out

LAWYERS for families of miners killed in Marikana, North West, last year, provisionally pulled out of the Farlam Commission of Inquiry's proceedings yesterday.

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**FARLAM INQUIRY** *Decision on participation soon*

aren't present or at the very least (if their position is clear," she said. "As things stand at the moment, they have a very strong feeling that they do not wish to participate further (in the commission). We will take further instructions from them tomorrow (today)."

Lewis said the families' final decision would be announced tomorrow. "Until that time, the family members won't be participating.

"I have to ask the commission to

excuse me." Commission chairman, retired Judge Ian Farlam, asked Lewis whether the families had instructed her to sit in and not participate, or to leave the hearings.

Lewis said she had been told to leave the room.

"They don't want to be present in the commission and they also don't wish their legal representatives to be present."

Farlam replied: "It's a pity, but you will have the transcript, to study it.

I am not sure if your clients (can) prevent you from doing that."

On Monday, lawyers representing the wounded and arrested mine-workers provisionally pulled out of the commission's proceedings. Dali Mpofu announced the decision to withdraw, pending a High Court in Pretoria ruling on his application for the State to fund the legal team.

"Our instructions (from the mine-workers) are to await the judgment and at that point to receive further

instructions. In the meantime, we will not be participating," he said.

On June 21, Mpofu told the commission that due to financial constraints it could be his last day representing the miners. He then brought the urgent court application seeking funding for representing the mineworkers.

Mpofu wants president Jacob Zuma and Justice minister Jeff Radebe to approve payment for the mineworkers' legal team. - Sapa.

# Marikana Commission blow

DUDU DUBE AND SAPA

THE Marikana Commission of Inquiry has suffered a double blow after families of the deceased and mining union Amcu withdrew from the proceedings yesterday.

The families withdrew in support of 300 mine workers arrested and injured during the Marikana massacre a year ago. The miners also withdrew from the proceedings on Monday pending a court application

where they want the state to pay their lawyer, advocate Dali Mpofo, for representing them. Spokesperson for the commission Tshepo Mahlangu said they would wait for the judgment expected tomorrow.

"We will wait for the judgment and from there they will tell us how they want us to proceed," he said.

Mahlangu said the decision was regrettable. At the start of the commission, regulations were amended to accommo-

date the families' needs during proceedings in Centurion yesterday.

The lawyers provisionally pulled out.

Nicole Lewis said: "As things stand at the moment, they have a very strong feeling that they do not wish to participate further.

Lewis said the families' final decision would be announced tomorrow.

The Commission will resume tomorrow.

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