

# Mines to probe garnishees

**STUDY:** *Indebtedness on list of potential catalysts for Marikana*

## **MALCOLM REES**

EMPLOYEE indebtedness and garnishee abuse is a prominent item on the list of issues to be investigated by the Chamber of Mines (COM), as it seeks to uncover the socio-economic factors which led to the Marikana strike violence.

This has been confirmed by Xstrata executive director, Andile Sangqu, who spoke to *CitiBusiness* yesterday following the signing of an agreement between the COM and the National Research Foundation (NRF) which marked the launch of the investigation.

The NRF has been signed on in a "project management" role and has in turn commissioned the Human

Sciences Research Council (HSRC) to conduct research into the underlying factors which contributed to the incidences at Marikana, according to NRF corporate communications manager Thabiso Nkone.

In addition to other potential causes, such as inadequate housing, garnishee abuses "will be one of the prominent issues to be investigated", said Sangqu.

"The issues around debt and garnishee orders may be ... a big issue as far as employees are concerned," he said, adding that they are open to the possibility of stumbling upon other issues they are not aware of, or which have not yet been identified.

"The brief is open-ended ...

(and) says that we must look at all the socio-economic drivers which could have participated in the incident, which could include indebtedness and service-delivery," said Nkone. He added that the role indebtedness played will only be really understood after the findings are made public.

*CitiBusiness* has been involved in a sustained investigation into garnishee abuse since the outbreak of violence at Marikana last year.

The investigation has uncovered gross and wide-ranging abuse on behalf of collections entities when imposing garnishee orders on the salaries of indebted miners.

In incidents, entire paycheques

have been absorbed for the repayment of debt through garnishee orders, while in other cases miners have been forced to repay in excess of ten times their outstanding debt.

Following the *CitiBusiness* investigation, National Treasury threatened to abolish the garnishee system, while the Department of Justice has begun to draft amendments to the laws which regulate unsecured credit and garnishee orders.

Finance Minister Pravin Gordhan has also called on employers to protect their employees from garnishee abuse.

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# Phiyega cracks as heat is turned up at Marikana hearing

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## Hlengiwe Nhlabathi

Political Reporter

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NATIONAL Police Commissioner Riah Phiyega lost her cool for the first time since taking the hot seat at the Marikana Commission of Inquiry when a senior counsel poked holes into her evidence.

This prompted commission head Judge Ian Farlam to ask Phiyega to "just relax" as she irritably raised her voice.

This after the counsel for Lonmin mine, Schalk Burger, cornered her about puzzling occurrences on her statement, which was corrected to omit reference to Police Minister Nathi Mthethwa.

Burger had raised Phiyega's temperature when he pointed out that she was not the

author of the statement.

His argument was that one of the pages on her statement, dated March 7, was not signed by her, and only contained the signature of the commissioner of oaths, Lieutenant-General Sehlahle Masemola.

"You and the commissioner were not signing at the same point in time ... you weren't with the commissioner of oaths as you suggested ... the pages do not follow accordingly. We know you read statements before you take an oath because you understand the seriousness of the matter. Anyone who reads the statement can see you did not read it," Burger said.

However, Phiyega lost her cool and snapped: "Doesn't everyone make mistakes?"

The Marikana Commission of Inquiry is investigating circumstances that led to the deaths of 34 miners, including that of 10 other people.

Human rights lawyer George Bizos also accused Phiyega of being unhelpful to the commission and failing to provide relevant answers. This

after she continued to defend police action at Marikana under cross-examination by Human Rights Commission counsel Geina Malindi.

Phiyega has so far been hammered about congratulating the police a day after the shooting, and saying it represented the best of policing despite one of her officers informing her that he saw a constable shooting dead an injured miner.

Meanwhile, yesterday's meeting between Justice Minister Jeff Radebe and Farlam to consider a request that the hearings be moved to Pretoria hit a brick wall when it emerged that counsels for Bapo ba Mogale tribal authority [under which Lonmin falls] are opposed to the idea.

Two venues had been identified in Pretoria but the decision, which could possibly be made by the end of this month, rests with Radebe.

# Phiyega at odds with experts over police capabilities

**ERNEST MABUZA**

Legal Affairs Correspondent

POLICE commissioner Riah Phiyega yesterday disagreed with an international law enforcement expert who submitted a statement to the Marikana Commission of Inquiry that the police personnel at the mine had been out of their depth and were forced to act beyond their capability levels.

Geina Malindi SC, for the South African Human Rights Commission, read some sentences from police expert Cees de Rover, which stated that incidents at Marikana on August 16 alone caused 34 deaths as a result of the crowd management operations implemented by the police. Mr Malindi said Mr de Rover had also said he would place the operation at Marikana at the very end of the scale with regard to the police's capabilities in crowd management. Gen Phiyega said his statement had to be read in context.

She read a statement from Mr de Rover saying: "The basic structure of the operations implemented at Marikana is the same as those implemented at 18,341 operations prior to Marikana."

Gen Phiyega said: "The expert asks why did the South African Police Service not produce the experience-based results.

"That paragraph said to me that it was unprecedented."

Mr Malindi said the Human Rights Commission would argue that "the deaths (and) serious injury recorded was as a result of poor planning, poor execution with a disastrous outcome". Gen Phiyega said she disagreed.

Mr Malindi referred Gen Phiyega to the submission to the Marikana commission made by the police service in which it stated that "policies of crowd control and management have proved inadequate to control this situation". He asked whether she agreed with this statement.

Gen Phiyega said the situation was unprecedented.

Mr Malindi also quoted a statement by another expert, who characterised police actions at Marikana as a "disastrous operational outcome".

Mr Malindi asked Gen Phiyega whether she agreed with that finding, and she said she would say not without understanding what the expert meant by "disastrous operational outcome".

Mr Malindi said the operation was disastrous because in the period between August 9 and 16, 44 people were killed in circumstances where the police could have managed the situation differently and minimised the number of deaths and injuries. "The goal of crowd management is to manage the situation with no loss of life and serious injuries. Do you agree the handling of the situation was disastrous?"

Gen Phiyega said she did not agree with the concept of disastrous operational outcome.

The commission continues.  
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## A top cop we can trust?

**N**ATIONAL police commissioner Riah Phiyega is not having a good time. Her performance at the Farlam commission of inquiry into the Marikana killings has projected her as little concerned about police discipline, sometimes out of touch with operational matters and, significantly, unconcerned about the national mood.

Former corporate titan Phiyega — full names Mangwashi Victoria Phiyega — has been a study in contrasts while testifying at the commission. She has sat in the proverbial “hot seat”, stone-faced, fending off every criticism of her team.

She has defended police actions on that fateful day in Marikana, even venturing that police had a good plan that she thinks was not executed properly.

As a leader, we expect Phiyega to defend the boots on the ground in the manner that she has.

After all, in the military they say that in the face of a retreat, a battalion at war must never leave anyone back in the field.

Clearly her staff would be delighted to have such a boss, who takes heavy blows publicly to defend their actions. What puzzles us is that this defence comes in the face of

systematic blunder after blunder in the basics of public-order policing. Even when given the opportunity to be self-critical, to take responsibility where it is warranted, she has not come to the party.

She has also appeared keen to defend her political superiors. Politically, she has done the right thing to immediately save her own skin from danger, but professionally she has looked vulnerable and not in control.

She has not been helped by events elsewhere in the country. Incidents of severe police excesses, such as in the images that went viral of police dragging a young Mozambican man behind a bakkie for a traffic offence, suggest that police took little or nothing away from the fiasco at Marikana. They have made a mockery of the saying that experience is the best teacher.

South Africans want to see a national police commissioner who is in full control of her force, is demonstrably operationally aware, and knows that her first task is to protect all who live in SA.

The hesitant commissioner they have seen at the Farlam commission of inquiry has left many wondering whether they can trust her to do that.

## Marikana location poser

A DECISION on whether to move the Farlam Commission of Inquiry's hearings from Rustenburg had not yet been reached, commission chairperson, judge Ian Farlam said yesterday.

He said he met Justice Minister Jeff Radebe earlier in the day to discuss the matter. Arguments on the relocation would be heard later this month.

"In the circumstances, I'd say expect oral arguments on the matter on April 16," he said.

In February one of the lawyers for the deceased miners, Dali Mpofo, asked Farlam to move the hearings to either Pretoria or Johannesburg, over cost considerations. Legal representative for the families of the miners, Dumisa Ntsebeza, supported the move. - Sapa

# Marikana was 'not disastrous'

THE POLICE operation in Marikana that led to the fatal shooting of 34 striking Marikana miners was "not disastrous", national police commissioner General Riah Phiyega said yesterday.

"I will go on record to say it was regrettable, not disastrous. I have said that as police we did what we could to negotiate from the 8th to the 10th (August 2012). We continued to do so because our thoughts were similar and we wanted a peaceful resolution," said Phiyega.

She was testifying in Rustenburg before the Farlam Commission of Inquiry into the August 16 shooting at the Lonmin platinum mine.

Phiyega was under cross-examination by attorney Gcina Malindi.

Malindi said a crowd-control expert had said the slaying of 34 miners, and 10 other people being killed in the days before the main shooting, were disastrous events.

"He says it was disastrous because during the relevant period 44 people were killed when the police could have minimised the deaths," she said.

Phiyega said: "We had a plan and I can say it was a good plan. The plan was disrupted. The outcome was regrettable and unintended."

Last year, Phiyega described the incident as "catastrophic".

Yesterday, Phiyega told the commission that "catastrophic" was not synonymous "disastrous".

"I called it catastrophic because in 18 years, as the SAPS, we've never experienced this before," she said. - Sapa

# Lonmin 'doing the right thing', but shares still likely to struggle

**Paul Burkhardt**

**B**EN Magara will lead Lonmin in an effort to restore output at the world's third-largest platinum producer and repair its reputation after a six-week strike at the company's main mine led to at least 44 deaths.

Instead, he may be forced to close shafts and cut staff.

Magara, whose appointment was announced on Tuesday, will take the helm at Lonmin on July 1 as it grapples with higher wages, inflation-busting power costs and social-spending commitments.

Platinum producers are taking steps to boost earnings after pay strikes last year cut output and raised costs. At stake for Lonmin is its recovery from a \$698 million (about R6.4 billion) annual loss, which led it to cut expansion plans and renegotiate debts as stagnating prices capped profit from the Marikana mine, which accounts for 96 percent of the company's production.

"Even with a new chief executive in place, the challenges are significant," Ben Davis, an analyst at Liberum Capital, said in a note to clients.

"Coupled with Lonmin's lack of operational diversification - one major asset at Marikana - Lonmin is most likely to underperform in the

coming months," Davis said.

Magara, 45, is currently the executive head of engineering and capital projects at Anglo American Platinum (Amplats).

Amplats, the world's largest producer, has proposed cutting 400 000 ounces of annual production, or 7 percent of global volumes, to help return to profitability. That may lead to as many as 14 000 job cuts.

The August walkout at Marikana resulted in the loss of an estimated 110 000 ounces of platinum production. As tensions rose, police killed 34 protesters in one day in the worst mine violence since apartheid ended. On the same day, then chief executive Ian Farmer was hospitalised with an illness. He resigned in December.

Lonmin, which in February said it would cut about 150 management positions, could shut its Westerns 1 and Easterns 1 assets, or put its Hossy and Saffy shafts on hold, Davis said.

"I'm on the no-hope side of things," he said.

Lonmin might prefer to focus on reducing overhead costs because it lacked Amplats' size to cut output without it being "keenly felt", he said.

In December, the company raised \$792m selling stock to existing shareholders, using the proceeds to meet pledges to creditors as it resumed operations. Its share price has plunged 48 percent in 12 months, while the price of the

metal has dropped 4.6 percent.

Lonmin said in January that it expected to produce 660 000 ounces of platinum in the year to September and to spend about \$175m.

"The company is doing the right things but we believe the stock is trading at a level reflecting a more dramatic increase in production than the company is guiding to," Goldman Sachs Group analyst Eugene King said last month.

Magara will replace Simon Scott, who became acting chief executive during the August violence at Marikana, which was broadcast around the world.

Executive vice-president of mining Mark Munroe said: "It was very traumatic, obviously, what you saw on television."

"Since then we have to look at ourselves, where we're going, who we are, and what we stand for."

Munroe spoke at Lonmin's conference centre in Mooiooi, on a game park south of its operations where giraffes, kudu and zebras roam between meeting areas, guest villas and a helipad.

The company had considered selling the property, said Natascha Viljoen, Lonmin's executive vice-president of

processing and sustainability.

"They still know how to run leaner and meaner," according to Peter Major, the head of mining at Cape Town-based Cadiz Corporate Solutions, who said the company's community spending was adequate.

"Lonmin has a history of being the most effective platinum producer," Major said in an interview last month.

In an effort to reduce labour conflicts, Lonmin is working to improve housing, employee relations and black-ownership structures.

Viljoen said the number of people living in unheated

hostel blocks, built almost 30 years ago, had dropped by about 80 percent to less than 3 000 as workers used their living allowance to stay off-site.

Lonmin, which has 27 800 full-time employees and several thousand contractors, ranks ninth among mining houses in South Africa in community spending as a proportion of revenue, according to data compiled by Bloomberg. It spent the equivalent of 0.3 percent of revenue on upliftment projects according to its most recent annual report, matching the industry average.

The company said in January that fiscal first-quarter platinum sales rose 17 percent from a year earlier to 108 342 ounces after production ramped up following the labour unrest. Total platinum group metal sales were down 3.7 percent.

Lonmin "is concentrating on quality, not quantity", said Justin Froneman, a Johannesburg-based analyst with Standard Bank's securities unit. Froneman recommends buying the stock.

"If they can maintain their current forecast and keep up current run rate, there's a chance that they may go ahead of that forecast."

Lonmin shares fell by 3.23 percent to R38.95 on the JSE yesterday. The JSE mining index ended 2.57 percent lower, while the platinum index fell 0.91 percent. - Bloomberg

# Cop controls at Marikana 'inadequate'

**By SIMON NARE**  
**MZANSI'S top cop admitted yesterday that police crowd control policies proved inadequate at the Marikana massacre.**

National Police Commissioner Riah Phiyega was being questioned yesterday at the Marikana Inquiry by the advocate for the SA Human Rights Commission, Gcina Malindi.

It was put to her that police were out of their depth and forced to act beyond their capabilities at Marikana as stated

by international law enforcement expert Cees de Rover.

Phiyega said she had noted this expert opinion, which also said that in the 17 years before the massacre, police crowd management operations were responsible for 47 deaths.

Phiyega said the basic structure of operations at Marikana was the same as in past operations.

Then she admitted that police crowd control was inadequate to deal with events at Marikana.

"Yes, we have said it was unprecedented," she said when the statement was put to her.

Lonmin's advocate, Schalk Burger, asked Phiyega to explain why she had submitted a corrected statement to the commission.

He said that if she had read the statement before signing it there wouldn't have been corrections.

Phiyega: "Don't people make mistakes?"

Burger: "I would submit that this is not your statement and

you did not sign it for obvious reasons."

Phiyega: "My statement is my statement.

"Whether it has mistakes or not, that is my statement."

■ The bid to move the inquiry to Pretoria was put on ice after the Bapo baMogale asked for it to stay in Rustenburg. This will be argued on 16 April.

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