

Gathering to commemorate massacre as dramatic as it was a year ago, but with a difference, writes Carol Paton

Year later, Magara the first to apologise for Marikana

IT WAS the same dramatic scene as a year ago — thousands of workers crowded on the rocks of the Marikana kopie, beneath the giant electric power lines strung across the sky — but the contrast in human relations could not have been starker.

While last year, it is alleged, Lonmin was holed up with the police in the joint operations command, where the fatal end of the mine-workers was plotted, this year CEO Ben Magara was on the stage before the workers, who took the opportunity to berate him on their low wages and the company's poor communication, which they said, was a direct cause of the massacre. He bravely took his medicine.

The first to speak, Mzoxolo Magidiwane, also known as “the dead man walking” for surviving eight bullet wounds on the day when the police shot dead 34 striking mineworkers on August 16 last year, told Mr Magara that “we still need that money we died for”.

His colleague Loyiso Mtsheketshe said: “We are not turning back from the R12,500 (wage demand)” and that workers expected Lonmin to replace the dead employees by employing a member of each family, a demand that workers remain adamant should be met.

“I'm happy to say it in front of our CEO: there was a verbal agreement made last year that the people who died would be replaced by their families. Mr Magara, we need you to replace those who died last year,” he said.

When it was his turn to speak, Mr Magara acknowledged their demands. “I heard about your request to employ a relative of each of the deceased. I heard about the

request for R12,500. I am here today to say: let us sit down and talk,” he said.

Poignantly, Mr Magara also apologised for last year's deaths, the first and only company or government official to do so.

The apology, said the Association of Mineworkers and Construction Union (Amcu) president Joseph Mathunjwa “was overwhelming”. “He is the only person who came and gave an apology and he was not (at the time of the massacre) even part of the management. Not even government has done that ... The CEO also has to serve the interests of his masters. But his gestures show that he is a man who is willing to engage,” said Mr Mathunjwa.

It helped matters that earlier in the week, Lonmin — led by Mr Magara — had concluded a recognition agreement with Amcu, which controversially will have the effect of shutting out all other unions.

In the negotiations over this agreement, Amcu drove a hard bargain and, in the end, Lonmin collapsed, giving in to all of the new union's demands.

It was agreed, for instance, in line with the Labour Relations Act, that where a union has a 50% plus one or larger majority it has the power to enforce thresholds which minority unions must reach to get organisational rights.

Amcu insisted these be set at the maximum — a 30% threshold for organisational rights — with the result that the National Union of Mineworkers (NUM), Solidarity and United Association of SA (Uasa) will no longer be able to represent their members at Lonmin or collect union dues through auto-

matic stop-order. Amcu also insisted that the bargaining units — of which there were two — be collapsed into one, a demand over which it had threatened to strike.

Lonmin's capitulation on these demands will have a lasting effect on the kind of industrial relations system it builds in the aftermath of Marikana, but the reality is: what choice did it have?

The company had made it clear

that it did not want a system based on principles of majoritarianism and had hoped to build a new model in which a multiplicity of unions and of occupational groups would be able to communicate directly with management. But without a recognition agreement having been signed it would have been difficult if not impossible for Mr Magara to show up at the commemoration.

The agreement and the gestures

of Mr Magara — his apology and an earlier trip underground in which he spoke to workers — will have helped set the company on a new path with its new partner, Amcu.

This is not to say that the blame game is over between the workers and Lonmin.

While the wider community and the miners are fond of saying that they want the Farlam commission to uncover “the truth of what hap-

pened that day”, there is a popular narrative that explains why the shootings happened.

Simply put, it is a conspiracy of elites — while workers at other mines and factories have been allowed to strike as they want, at Lonmin the special relationship between shareholder Cyril Ramaphosa and the government are the reason why police were called in to shoot the strikers.

“Strikes have happened in SA for many years, but people were not killed for asking for higher wages. If a company can't pay you what you ask for, then it is supposed tell you, not shoot you,” a daughter of one of the Lonmin mineworkers, Wendy Pretorius, says.

The claim of a “toxic collusion” between Lonmin and the police that advocate Dali Mpofu used to great dramatic effect in his opening statements to the commission may have looked far-fetched to those who understood the obvious need to restore law and order during last year's violent and illegal strike wave.

However, in Marikana it resonates profoundly as the obvious explanation as to why Lonmin was viewed differently by the government and the police when it came to the strike action.

While, by staying away from the commemoration, the government and the ANC lost their opportunity to make reparations to this North West community, Lonmin — if indeed it is willing to sit down and talk about a path to higher wages — is now seeing signs of hope of regaining its confidence.

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Snubbing of Marikana service may backfire on the ANC

LAST week's boycott of the Marikana commemorative event by the African National Congress (ANC) government marks a new direction in the party's organisational principle of being rooted in the people.

Or it may be that it again has been caught off guard, which signals weak leadership.

The absence of the ANC and its government officials in a significant event marking a year since the mass killings at a Lonmin mine in Marikana last year — including the 34 killed by police — imply the former liberation movement could be losing traction among the grassroots communities.

In its attitude towards the event the ruling party was a far cry from

the ANC of the apartheid era, when it would have elbowed out rivals to be at the forefront of organising such a commemoration service.

But, ahead of Friday, the party argued the event should have been organised with the involvement of the government and not by “an illegitimate group”. The Marikana support group, though, had been delegated by the workers to put the function together.

The ANC's litany of poor judgments around Marikana could be a case study of how liberation movements lose legitimacy once in government. Firstly, the delay. President Jacob Zuma only addressed the strikers almost a week after the shooting on August 16. Mr Zuma was upstaged by a number of politicians who had

been on the ground days earlier at Marikana, including former ANC youth leader Julius Malema.

Wearing his “commander-in-chief” beret as head of the newly formed Economic Freedom Fighters, Mr Malema was the crowd favourite on Friday. He told the gathering that Mr Zuma was in bed with the “greedy mine bosses”.

“Zuma passed you here and went to speak to the bosses,” he said.

Secondly, the confusion. Provincial ANC leaders in North West referred queries about the party's involvement in the immediate aftermath of the Marikana tragedy to regional leaders in Bojanala district, who in turn pointed to the central government's late intervention through a ministerial task team.

On Friday, Luthuli House rebuked its branch in North West for

boycotting the event, in what seemed like a last-minute attempt to save face by the party's top brass. After all, the province's attitude mirrored that of the central government and the ANC's alliance partners.

Speaking in a radio interview on Friday, Minister in the Presidency Collins Chabane could not explain why both the ANC and government had snubbed Marikana.

Mr Chabane told Gauteng-based talk radio Power FM that there was an “understanding that the province and the district municipality would be present. I did not check as to whether they managed to attend.”

The last straw for the grieving Marikana community may have come last month when the ANC-led government declined to pay legal fees for the relatives of the Marikana strikers to continue their participa-

tion in the Farlam commission of inquiry.

About 250 of the strikers — injured when police shot and killed their 34 colleagues on August 16 — also have criminal charges hanging over their heads.

They were arrested and charged with the murders of their colleagues, who were shot by police, and are on provisional release. The police involved in the shooting are yet to be either suspended or arrested.

This brief background would explain the hostility of the people in Marikana towards the government, the ANC and those seen to be their allies, including the embattled National Union of Mineworkers.

Political analyst Adam Habib said yesterday while the ANC seemed not to want to provide legitimacy to “a range of political play they disagreed

with ... the party ran the risk of further isolating itself in Marikana”.

Mr Habib said the ANC absence at the commemoration could be seen as another example of the party not responding to the concerns of grassroots communities.

The ANC government's handling of Marikana had been “atrocious” from the start, he said.

“There was a sense of leadership when (Mr Zuma) decided to appoint a commission of inquiry, but since then the government appears to have lost the plot.”

The message sent out to the ANC appeared to be clear, at least in one song by a formation of mineworkers marching among the crowd. The song in Zulu said: “Make way for us, we are going to vote, we will choose sensible leaders.”

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NEWS Analysis

Setumo Stone

Marikana inquiry restarts

THE MARIKANA commission of inquiry has announced it will resume hearings today into the circumstances of last year's police killing of 34 protesting miners.

"Sittings will resume tomorrow," spokesman Tshepo Mahlangu said yesterday.

The hearings are only set to start at 2pm to allow police members to attend the funeral of a mother of their senior counsel.

Friday marked a year since 34 people, almost all miners, were shot dead in a clash with police at Lonmin's Marikana mine in North West. Ten people, including two police officers and two security guards, were killed in the preceding week.

Last Wednesday retired Judge Ian Farlam, who chairs the commission, said its proceedings had been delayed due to translations and problems with funding.

Farlam said the commission had held 114 sessions and more than 12 000 pages of submissions had been handed in. – Sapa

Rule of law

FRIDAY was what journalists like to call a busy news day. Reporters were focusing on the anniversary of the Marikana massacre, Pagad leader Abdus Salaam Ebrahim appearing in court on murder charges, Cosatu boss Zwelinzima Vavi's troubles, Egypt in violent turmoil, and bad weather driving thousands from their homes.

Perhaps as a consequence, an event with considerable implications for democracy in South Africa was attracting less attention: in Pretoria, the high court ordered the National Prosecuting Authority to hand over the so-called "spy tapes" to the DA.

In 2009, the tapes were cited by the then NPA boss Mokotedi Mpshe as a reason for dropping fraud, corruption and money laundering charges against President Jacob Zuma. They contain recordings made in 2007 of telephone conversations between then Scorpions head Leonard McCarthy and then national director of public prosecutions Bulelani Ngcuka.

Mpshe suggested the recordings provided evidence of a political conspiracy against Zuma.

Obvious questions were left unanswered. Who authorised the recordings? Who handed them to Zuma's legal team? What else is on the tapes besides the limited transcript made public?

The DA took to the courts to get answers and early last year the Supreme Court of Appeal ruled that the tapes be handed to the party. Zuma's lawyers then embarked on a series of blatant, and blunt, delaying tactics.

We are drifting down

Only strong leadership can take us back to original ideals, writes **Jay Naidoo**

ONE year ago I wrote: “The headlines scream ‘Marikana Massacre’, ‘Killing Fields of Rustenburg’. Radio and TV talk shows and social media all display the anger and expose the psyche of a nation badly wounded. The bloodiest security operation since the end of apartheid has left us shocked and asking what went wrong. The reality is, many things went wrong. Way too many things went wrong, for way too long now.”

I journey back to 1987, the year of worker discontent. It had been less than a decade since black workers had a legal right to join trade unions. Starting from small beginnings the strands had come together into a fighting force united by the repression of a brutal regime and the exploding anger against an arbitrary and exploitative cheap labour system, ruled by an authoritarian management system.

Cosatu, barely two years old, had become a magnet for workers and it plunged into battle.

Tens of thousands of workers had launched rolling mass action that year, fuelled by the Cosatu Living Wage campaign. Seeing Cosatu as the most serious internal threat to its power, the apartheid state imploded our headquarters, hoping to permanently disrupt our logistics and organisational capacity. But we were undeterred.

Years of organisation building and education training had built an army of tens of thousands of Cosatu shop stewards connected to the needs, aspirations and hopes of workers. We were ready.

We stood ready to slug it out, in spite of leaders being victimised and offices bombed.

On the morning of August 9 1987 around 360 000 mineworkers marched over the shaft floor in disciplined regiments. What followed in the next 21 days shook the foundations of apartheid. Close to 50 000 workers were dismissed and shipped back to the homelands and SADC region, their leaders blacklisted forever. Going on strike often meant that or death. It was a conscious choice.

While we lost the battle, it was a watershed that would define the war and eventual negotiations process. The system was ready to implode. A political stalemate had been reached, on the shop floor and in the country. Our choice was a descent into a full-scale racial civil

war or a political negotiation.

Guided by the extraordinary leadership of Nelson Mandela on our side, we chose the latter.

Turn the clock forward 25 years to August 16 last year and we have Marikana, the pinnacle of a growing ferment in our land.

The people in our workplaces, townships, rural areas and squatter camps are bitter that democracy has not delivered the fruits they see a tiny elite enjoying.

Our leaders across the spectrum are not talking to our people, they are not working with them systematically to solve problems.

Thousands of workers are deserting Cosatu’s unions. They have lost trust in branch leaders.

I’m told: “We do not see union organisers. We don’t know what is happening in our union. Our leaders are too involved in politics.”

It is true. Union leadership is more engaged in looking up to the political jockeying than down to the base of its members, where its real strength on the shop floor gives it voice. We cannot hide the disunity and divisions that cripple Cosatu today.

Alongside millions of South Africans, I feel bitterly disappointed. There is a deep-seated anger growing. And yet the leaders are not at the coal face.

People feel powerless. In the absence of strong, legitimate political organisation in communities, they see violence as the only language their leaders will listen to.

Marikana is a festering sore on the body politic of our country. These are not issues a judicial commission will resolve. It requires political action from our political and union leaders.

In the 1990s, a National Peace Accord was set up to deal with a torrent of violence as covert forces sought to destabilise the transition. It was a roadmap based on political principles that established freedom of speech and assembly. It had the structures that brought together the contesting parties and the state, especially the security forces. We had a roadmap that instilled confidence in our communities, compelled us to work together in structures that brought the key protagonists together and

I hope leaders rise from our ranks to put us back on the path of a better life

created peace monitors drawn from all parties to ensure we isolated those who sought to deepen the divisions.

My greatest fear is that the massacre at Marikana has become the watershed of our post-apartheid journey. It has wrought untold physical, financial and psychological damage on all sides and on our social fabric.

If this is not acknowledged and we continue our drift towards the shrill language of divisive finger-pointing and muddled leadership, we will end up where we were in 1990.

My hope is that we ask that extraordinary leaders rise from our ranks and take extraordinary actions to put our country back on the path to the better life that we promised our people in 1994. I hope we will rise from broken promises and rebuild trust, and that we do this with the absence of political arrogance and with a humility and honesty that compels us to serve not the interests of leaders, but the interests of our people.

● *Naidoo was the founding general secretary of Cosatu, a former minister and the chairman of GAIN, a global foundation fighting malnutrition. This article was first published on www.maverick.co.za*

Court rejects wounded cop's plea to have police pay for his legal team

ZELDA VENTER

A POLICE officer who was "brutally" stabbed by a group of protesters during last year's Marikana uprisings has lost his urgent Pretoria High Court bid to force the SAPS to foot the bill for a legal team of his choice to represent him at the Farlam Commission of Inquiry.

While the police said its legal team would also represent Lieutenant Shitumo Solomon Baloyi, he was insisting on having his own representation, due to a possible conflict of interest.

Baloyi last week turned to the court for an urgent order to declare the decision by police commissioner General Riah Phiyega not to fund separate legal representation for him to be unethical and unconstitutional.

He asked the court to interdict Phiyega and Police Minister Nathi Mthethwa from appointing the SAPS legal team to represent him and to afford him counsel of his own choice, paid for by the SAPS.

On August 16 last year, police shot and killed 34 miners

at Lonmin's platinum mine in North West.

Three days before this, Baloyi and other officers were sent to Marikana in response to the strike by miners.

While patrolling under the command of Major-General William Mpembe, the police confronted a group of protesters, armed with weapons.

Baloyi said Mpembe asked the protesters to surrender their weapons. The situation became volatile and some of the protesters attacked and stabbed Baloyi. Warrant offi-

cers Mosese and Lepaaku were shot and hacked to death.

Subsequent to the Marikana tragedy, the police appointed a team of three senior counsel and private attorneys to represent it at the commission. Phiyega also appointed another legal team to represent the family of Mosese. A third team was appointed on watching brief.

Baloyi said both the minister and Phiyega had told him he was a "risky and conflicted witness" to be called. He was consequently never consulted by the police's legal representa-

tives for his version of events.

Baloyi said that in spite of having a story to tell, he was not included in the initial list of witnesses.

The Police and Prisons Civil Rights Union intervened and appointed and paid for counsel to represent Baloyi and the family of Lepaaku.

Baloyi, however, feels the SAPS has to foot the bill as he is willing to testify.

Judge Joseph Raulinga said the matter had to be decided against the backdrop that the commission was an investiga-

tive, fact-finding body with the mandate only to make recommendations. It also had its own rules and regulations.

These, the judge said, didn't give Baloyi the right to testify. It was entirely up to the commission whether to call him or not.

He added there was no dispute that Baloyi was entitled to legal representation at state expense.

Baloyi's lawyer, Mpho Mofomme, afterwards said they would definitely take the matter further.

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Fury is mounting, but our leaders are not paying attention, writes **Jay Naidoo**, founding general-secretary of Cosatu from 1985 to 1993

WHEN we marked the anniversary of the Marikana massacre, we also noted the anniversary of one of the watershed moments in the resistance movement during the 1980s – also led by the workers.

One can only hope that this latest watershed can be managed by extraordinary leadership that can guide us to much-needed development in our country, without further bloodshed.

Two events, separated by two-and-a-half decades define our journey to democracy.

One year ago I wrote: “The headlines scream, ‘Marikana Massacre’: ‘Killing Fields of Rustenburg’. Radio and TV talk shows and social media all display the anger and expose the psyche of a nation badly wounded. The bloodiest security operation since the end of apartheid has left us shocked and asking what went wrong. The reality is, many things went wrong. Way too many things went wrong, for way too long now.”

I journey back to 1987, the year of worker discontent. It had been less than a decade since black workers had a legal right to join trade unions. Starting from small beginnings the various strands had come together into a fighting force united by the repression of a brutal regime and the exploding anger against an arbitrary and exploitative, cheap labour system, ruled by an authoritarian management system.

Cosatu, barely two years old, the product of painstaking discussions, did not have the luxury of birth pangs. Its launch prophecy, to “rise like a giant to confront all that stood in its way”, had become a magnet for workers. It plunged into battle.

The country was on fire. Tens of thousands of retail and railway workers had launched rolling mass action that year, fuelled by the Cosatu Living Wage campaign. Seeing Cosatu as the most serious internal threat to its power, the apartheid state, masterminded by its minister of police, imploded our headquarters in one of the most powerful explosive blasts, hoping to permanently disrupt our logistics and organisational capacity. But we were undeterred. We would not be cowed.

Years of organisation building and edu-

cation and training had built an army of tens of thousands of Cosatu shop stewards connected by an umbilical cord to needs, aspirations and hopes of workers on the shop floor. We were ready. We stood fist to fist ready to slug it out in spite of many leaders being victimised, detained and offices bombed. Our survival was driven from the ground. We did not run our organisation through press conferences. There was no Twitter or Facebook.

August 9, 1987, was a cold morning. The frost hung in the air like a second skin. We were tense. It was our moment of storming the Bastille of apartheid. A total of 360 000 mineworkers marched over the shaft floor in disciplined regiments. What followed in the next 21 days shook the foundations of apartheid. Close to 50 000 workers were dismissed and shipped back to the homelands and SADC region, their leaders blacklisted forever. This was our life. Going on strike

often meant that or death. It was a conscious choice.

While we lost the battle, it was a watershed that would define the war and the eventual negotiations process. The system was ready to implode. A political stalemate had been reached, on the shop floor and in the country. Our choice was a descent into a full-scale racial civil war of either a scorched earth or a political negotiation.

Thankfully, guided by the extraordinary leadership of Nelson Mandela, we chose the latter.

Turn the clock forward 25 years to August 16, 2012, and what we have is Marikana. It is the pinnacle of a growing ferment in our land. The people in our workplaces, townships, rural areas and squatter camps are bitter that democracy has not delivered the fruits that they see a tiny elite enjoying. Our leaders across the spectrum are not talking to our people,

they are not working with them systematically to solve their problems, in providing the hope that one day, even in their children’s lives, things will be better. It is a debilitating threat, not from enemies outside, but from those who lurk within our bosom.

Thousands of workers are deserting our Cosatu unions. They have lost trust in their branch leaders. I have been in many places where I am personally told: “Comrade, we do not see union organisers. We don’t know what is happening in our union. Our leaders are too involved in politics and we do not get the services and education we did in the past.”

It’s true. Union leadership is more engaged in looking up to the political jockeying than down to the base of its membership, where its strength on the shop floor gives it voice. We cannot hide the disunity and divisions that cripple Cosatu today.

Alongside millions of South Africans I feel bitterly disappointed. There is a deep-seated anger growing in the country. And yet the leaders are not at the coalface. People feel powerless and robbed of their voices. In the absence of strong, legitimate political organisation in the communities, they see violence as the only language their leaders will listen to. It’s a vicious cycle that sees our people burning down any institution representing the state, whether a school, library or public building.

Marikana is but a festering sore on the body politic of our country. These are not issues that a judicial commission will resolve. It requires political action first and foremost from our political and union leaders. There are some tough choices to make.

In the 1990s, we had to set up a National Peace Accord to deal with a torrent of vio-

lence as covert forces sought to destabilise the transition. It was a roadmap based on a set of political principles that established freedom of speech and assembly. But it had the structures that brought together the contesting parties and the state, especially the security forces.

We had a roadmap that instilled confidence in our communities, compelled us to work together in structures that brought the key protagonists together, and created a battalion of peace monitors drawn from all parties that ensured we isolated those who sought to deepen the divisions amongst our people.

My greatest fear is that the massacre at Marikana has become the watershed of our post-apartheid journey. It has wrought untold physical, financial and psychological damage on all sides and on our social fabric.

But if this is not acknowledged, and we continue our drift towards the shrill language of divisive finger-pointing and muddled leadership, we will end up where we were in 1990.

My greatest hope is that in these extraordinary times, extraordinary leaders rise from our ranks and take those extraordinary actions to put our country back on the path we set to deliver the better life that we promised our people in 1994. As the proverbial phoenix, we will rise from the burning ashes of broken promises and rebuild trust with our citizens.

This article also appears in the Daily Maverick. Go to www.dailymaverick.co.za and follow it on Twitter @dailymaverick

Marikana is like 1987 all over again

Stabbed Marikana cop loses bid to get SAPS to fund lawyer

ZELDA VENTER
HIGH COURT REPORTER

A POLICE lieutenant who was “brutally” stabbed by a group of protesters during last year’s Marikana Lonmin Mine uprisings, lost his urgent Pretoria High Court bid to force the police to foot the bill for a legal team of his choice to represent him at the Farlam Commission of Inquiry.

While the SAPS said its legal team would represent Lieutenant Shitumo Solomon Baloyi, he was insisting on having his own representation, due to a possible “conflict of interest”.

Judge Joseph Raulinga turned down Baloyi’s application.

Baloyi last week sought an urgent order to declare unethical

and unconstitutional the decision by the national police commissioner, General Riah Phiyega not to fund separate legal representation for him.

He also asked the court to interdict Phiyega and Police Minister Nathi Mthethwa from appointing the SAPS legal team to represent him, and to afford him counsel of his own choice, paid for by the police.

On August 16 last year, police shot and killed 34 miners at the mine in North West Province. Prior to this, a number of people were killed and injured during prolonged strife at the mine.

Three days before, Baloyi and other police officers were deployed to Marikana in response to the volatile strike by miners.

While patrolling the area under the command of Major-General William Mpembe, the officers confronted a group of protesters who were marching, armed with weapons, along the railway line.

Baloyi said Mpembe asked the protesters to surrender their weapons to the police. The situation became violent and some of the protesters attacked and stabbed Baloyi.

Two other policemen – warrant officers Mosese and Lepaaku were shot and hacked to death.

After the Marikana tragedy, the SAPS appointed a team of three senior counsels and private attorneys to represent it at the Farlam Commission. Phiyega also appointed a team to represent Mosese’s family.

A third team was appointed on

watching brief.

Baloyi said both the minister and Phiyega had told him he was a “risky and conflicted witness” to be called.

He says he was never consulted by the police’s legal representatives to hear his version of events.

Baloyi said in spite of him having a story to tell, he was never included in the initial witness list.

The Police and Prisons Civil Rights Union (Popcru) intervened and appointed counsel to represent Baloyi and the family of Lepaaku.

Baloyi, however, feels the SAPS has to foot the bill, as he is willing to testify before the commission.

Judge Raulinga said the matter has to be decided against the backdrop that the Farlam Commission is

an investigative, fact-finding body with the mandate to only make recommendations. It also has its own rules and regulations.

These, the judge said, do not give Baloyi the right to appear as a witness. It is entirely up to the commission whether or not to call him.

He added that there is no dispute that Baloyi is entitled to legal representation at state expense, only whether he could choose who should represent him and having the SAPS fund that person.

The judge said the Farlam Commission is not involved in resolving disputes and if Baloyi is called to testify, he will appear as a witness.

There is no obligation on the police to consult with him.

Phiyega has denied Baloyi’s

claim that joint representation by the police legal team would amount to a conflict of interest.

She said she had offered to Baloyi the services of the senior advocate leading the SAPS team, but he declined the offer.

The judge said the application had to fail, as the SAPS was not bound by Baloyi’s choice.

His lawyer, Mpho Mofomme, said they would definitely take the matter further, possibly to the Constitutional Court.

He is just waiting to see what happens today in the judgment by the Constitutional Court in the matter of lawyer Dali Mpofu, on whether the State should pay the legal costs of the injured and arrested miners before the commission.

Marikana is 1987 all over again

Our leaders are not paying attention

WHEN we marked the anniversary of the horrific Marikana massacre, we also noted the anniversary of one of the watershed moments in the resistance movement during the 1980s – also led by the workers.

One can only hope that this latest watershed can be managed by extraordinary leadership that can guide us to much-needed development in our country, without further bloodshed.

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Our leaders across the spectrum are not talking to our people, they are not working with them systematically to solve their problems, in providing the hope that one day, even in their children’s lives, things will be better.

It is a debilitating threat, not from enemies outside, but from those who lurk within our bosom.

Thousands of workers are deserting our Cosatu unions. They have lost trust in their branch leaders. I have been in many places where I am personally told: “Comrade, we do not see union organisers. We don’t know what is happening in our union. Our leaders are too involved in politics and we do not get the services and education we did in the past.”

It’s true. Union leadership is more engaged in looking up to the political

jockeying than down to the base of its membership, where its strength on the shop floor gives it voice. We cannot hide the disunity and divisions that cripple Cosatu today.

Alongside millions of South Africans I feel bitterly disappointed. There is a deep-seated anger growing in the country. And yet the leaders are not at the coal-face.

People feel powerless and robbed of their voices. In the absence of strong, legitimate political organisation in the communities, they see violence as the only language their leaders will listen to. It’s a vicious cycle that sees our people burning down any institution representing the state, whether a school, library or public building.

Marikana is but a festering sore on the body politic of our country. These are not issues that a judicial commission will resolve. It requires political action first and foremost from our political and union leaders. There are some tough choices to make.

In the 1990s, we had to set up a National Peace Accord to deal with a torrent of violence as covert forces sought to destabilise the transition.

It was a road map based on a set of political principles that established freedom of speech and assembly. But it had the structures that brought together the

contesting parties and the state, especially the security forces.

We had a road map that instilled confidence in our communities, compelled us to work together in structures that brought the key protagonists together, and created a battalion of peace monitors drawn from all parties that ensured we isolated those who sought to deepen the divisions among our people.

My greatest fear is that the massacre at Marikana has become the watershed of our post-apartheid journey.

It has wrought untold physical, financial and psychological damage on all sides and on our social fabric.

But if this is not acknowledged, and we continue our drift towards the shrill language of divisive finger-pointing and muddled leadership, we will end up where we were in 1990. My greatest hope is that in these extraordinary times, extraordinary leaders rise from our ranks and take those extraordinary actions to put our country back on the path we set to deliver the better life that we promised our people in 1994.

Like the proverbial phoenix, we will rise from the burning ashes of broken promises and rebuild trust with our citizens.

● *This article also appears in the Daily Maverick. Go to www.dailymaverick.co.za and follow it on twitter @dailymaverick*

**Prince
Mashele**

Mpofu a monument for slain miners

DALI Mpofu has done things that left many tongues wagging. But, over the past year, he has embodied a truly human attribute – the protection of the weak by the strong.

In the jungle lions prey on weaker animals, simply because they are weak. The jungle is a world in which the brutish character of nature does not disguise its callousness.

Only human beings have the capacity to empathise. But not all human beings are goaded by conscience to side with the weak. Some people are callous. Others are kind.

When we saw workers being killed by the police in Marikana a year ago, the empathetic among us were truly moved.

We were not only moved; we expected our government to take swift action. This expectation arose out of the belief that ours is a government of people with feelings like us.

Even as we all saw the police on our TV mowing workers down, we still suppressed our emotions, and waited for the Farlam Commission of Inquiry to investigate.

Even as we were certain that the 34 dead miners were massacred by the police, we did listen to our government when it said it sought sincerely to establish the truth.

Since the Farlam Commission was established, it has been very difficult for us to hold back tears, especially when we saw widows of the deceased miners weep.

As the spectacle of the commission unfolded, there was a time when National Police Commissioner General Riah Phiyega appeared unmoved by the pain felt by the weeping widows.

To this day, Phiyega remains adamant that her police force acted “professionally” on August 16, last year, when the police sprinkled bullets on those unfortunate miners.

That Phiyega is part of a government of people without feelings became clear when workers and their families ran out of money to pay Mpofu and lawyers representing workers.

Mpofu tried his best to convince the government that it was in the interest of truth for the state to pay the lawyers representing miners.

Our government refused.

The pretext was that the government did not have money, even as the government continued to pay lawyers representing the police.

We must not forget that it is the same government that spent more than R200-million on President Jacob Zuma’s private compound in Nkandla, KwaZulu-Natal.

Despite the Nkandla debacle, the government still expected us

HE’S DEFENDING THE WEAK IN PURSUIT OF JUSTICE

to believe that it did not have money to establish the truth regarding the killing of miners in Marikana.

Like most South Africans, Mpofu refused to accept this naked lie. He took the plight of the workers all the way to the Constitutional Court.

Some may suggest that Mpofu did this because he wanted to be paid. It is true that he is a man of flesh, and, therefore, that he cannot live by the spirit alone.

Like the lawyers representing Phiyega’s so-called “professional” police force, Mpofu deserves a meal when he gets home after a long day

of work at the Farlam Commission.

It is not as if Mpofu couldn’t make money elsewhere; he simply chose to be on the side of the weak.

As our callous government was treating workers as lions do preying on weaker animals, Mpofu decided, as a truly human BEING ought to do, to protect the weak.

It is a great coincidence that, in his humane act at the Farlam Commission, Mpofu sat side by side with George Bizos, the man for whom history is bound to reserve a special place.

In the 1960s, Bizos represented the then politically weak Nelson

Mandela and his comrades, who were fighting for the rights of the oppressed majority in South Africa.

Bizos is a white man and instead of siding with the oppressive white government of the day, he opted to defend the weak in pursuit of justice.

That the apartheid oppressors were white did not make Bizos side with them; he used his legal mind as a weapon against injustice.

Bizos’ situation is strikingly similar to that of Mpofu today. Instead of joining hands with a black government that has mas-

sacred 34 miners, Mpofu decided to pursue justice.

When Bizos withdrew from the commission in solidarity with Mpofu’s demands, that simple act marked a truly remarkable twist of history – a rare moment when skin colour is defeated by the inner yearning for fairness.

In a social system in which it pays to be powerful, it is easy to side with the politically powerful. People like Mpofu, who side with the weak, are a special breed.

We know that our government will never build a monument for the workers who died in Marikana. Maybe Mpofu is a living monument, embodying the moral responsibility that the privileged have towards the weak in society.

Marikana inquiry 'not fair' to dead miners' families

By ADRIENNE CARLISLE

A LEADING lawyer at the centre of the Marikana Commission of Inquiry has warned there is an "inequality of arms" in the commission with taxpayers funding state legal representation to the hilt while victims' families received nothing.

Delivering the Marikana Massacre Memorial Seminar at Rhodes University on Friday evening, advocate Dumisa Ntsebeza, SC, warned such inequality could undermine the integrity of the commission.

Ntsebeza has been acting for the families of many of those killed in Marikana.

The commission is investigating the events around the massacre which resulted in the deaths of 34 people at Marikana in August last year and the deaths of 10 others in the lead-up to it.

He said the commission chairman, Judge Ian Farlam, had seen fit to appoint a total of eight evidence leaders – including three silks (senior counsel).

"I won't talk about how much they earn."

In addition, the state funded two silks and two counsel for the police – at a hefty daily cost.

The state also funded the police minister's separate counsel – including a silk and a junior counsel.

He asked how the commission would ever find the truth if the state was funded – at taxpayers' expense – to such an extent and yet those whose family members were killed received nothing.

"If the state is going to fund the killers then it should find it possible there is also some equal representation and resources deployed to represent those who were killed and their families."

He said this inequality was not in line with constitutional values such as equality before the law.

Inequality could impair integrity of commission, says advocate

Rhodes University's Dean of Humanities Professor Fred Hendriks said illegitimate state violence had been used at Marikana.

"There is no doubt in my mind Marikana is probably the lowest point of our democratic South Africa."

Hendriks said it also had the potential to be a major turning point where the state might embrace the population.

"Increasingly though the evidence suggests this is not going to happen. Increasingly the evidence suggests the arsenals of the state

will be used against the masses of the population."

He warned the opportunities for the state to embrace the population were shrinking.

"As demands are increasingly not met the pain of the poor will find multifarious expressions.

"Depending on what kinds of impulses people use to express their grievances and their poverty – the state has to, in some way, contain it.

"If the state is unable to do so by consensual means, violence will happen again."

THE Marikana commission of inquiry will resume hearings today into circumstances surrounding last year's police killing of 34 protesting miners.

"Sittings will resume tomorrow," spokesman Tshepo Mahlangu said in a statement yesterday.

The hearings set to start at 2pm to allow

Farlam commission to resume today

police members to attend the funeral of the mother of their senior counsel.

Friday marked a year since 34 people were shot dead in a clash with police at Lonmin's

Marikana mine in the North West. Ten people, including two policemen, were killed in the preceding week.

Last Wednesday, retired judge Ian Farlam, who chairs the commis-

sion, said proceedings had been delayed due to translations, the large number of witnesses, and funding problems. He said the commission had held 114 sessions and more than 12 000 pages of submissions had been handed in.

The hearings began last October and are currently being held in Pretoria. — Sapa

MARIKANA A YEAR ON!

Dangerous situation avoided as miners and cops worked together

By **SIMON NARE**

UNLIKE last year, the gathering at the koppie in Marikana was peaceful as thousands of relatives and colleagues of the dead miners sang, danced and prayed.

A potentially dangerous situation was avoided when the miners and police co-operated.

It was agreed the cops would only monitor the situation from a distance.

The miners were unarmed and police searched people as they got off the buses.

Many political parties were present at the gathering but not the ANC.

It had decided to boycott the commemoration.

Many of the miners didn't seem to care about the political speeches as they sang and chanted.

Others showed their anger at the ANC by chanting: "Make way for us to vote. To vote for people with brains."

All the political parties got a chance to address the crowd.

Julius Malema of the EFF accused the government of being killers.

"President Jacob Zuma's government murdered the mine workers," said Malema to loud applause from the crowd.

The ANC in the province said it would not attend because the event had been hijacked by the Marikana Support Group, which they said was an illegitimate group.

The ANC national office condemned the provincial leadership for not attending.

It asked for a meeting to find out what went on.

ANC split on Lonmin massacre

WARREN MABONA

THE North West provincial leadership of the ANC could be in big trouble with the national body for publicly denouncing the Marikana support group and for snubbing the Lonmin mine massacre commemoration event.

ANC sources in Johannesburg yesterday told The New Age that the national leadership was considering hauling the North West provincial executive committee (PEC) to the national disciplinary committee (DC) to face the music.

The sources said the national leadership was embarrassed by the remarks made by the PEC and wanted to take action against the provincial structure.

A highly-placed source in the ANC said the PEC might be summoned to Luthuli House this week to explain the rationale behind their remarks.

A source who asked not to be named said: "The Marikana massacre left the ANC embarrassed to the whole country and some parts of the world. The national leadership wants to show everyone that it took the Marikana massacre seriously by punishing the North West PEC for making those remarks."

Denouncing the Marikana support group on Thursday, North West provincial spokesperson Kenny Morolong said the provincial leadership would not participate in the commemoration event. He said this was because the event was organised by what he called an illegitimate team, the Marikana support group, which he said was not recognised by the governing party.

ANC spokesperson Keith Khoza said yesterday: "I am not aware of any body to be summoned (to Luthuli House)."

But another ANC spokesperson, Jackson Mthembu, on Friday condemned the PEC statement, saying the organisation's deployees in the province would seek an urgent meeting with the PEC to correct them in what he described as their extremely unfortunate views on activities commemorating the Marikana tragedy.

Another source said the ANC feared that opposition parties in the North West, such as the DA, could capitalise on the effects of the PEC remarks. The source said: "There is a fierce battle for votes between the ANC and the DA in the North West. The PEC's remarks on Marikana can make the people view the whole party in a negative light."

Morolong yesterday declined to comment on the claims of being hauled before the ANC DC.

Morolong said: "The national leadership has spoken and the provincial leadership will not make any further comments on this matter."

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Lonmin captured forever

Artist gives Marikana 'crusaders of economic stability' a voice by accentuating their mouths

DIANA KEKANA

CHEPAPE Makgato pushes hard to get what he wants. He approached artist David Krut for an internship at his studio, started community art organisations in rural Polokwane and Limpopo, and is now staging his first solo exhibition themed around the Lonmin, Marikana, tragedy.

Makgato's exhibition, Marikana: Truth, Probability and Paradox is on show at the Michaelis Art Library and serves as a commemoration for the tragic events and lives lost at Marikana on August 16, 2012.

"If my paintings sell, it would be a bonus.

"My objective is to open dialogue about decisions that affect us," he said.

"In this exhibition, I am not blaming anybody.

"I am posing questions and supplying suggestions from my point of view."

While looking at the art pieces one cannot help but notice the emphasis on the mouths of the portrayed characters: a social commentary on the lack of a voice.

Through his art, Makgato aims to give these characters a voice.

He calls them "heroes, crusaders of economic stability". Weapons are prominently displayed and it is through these weapons that the characters are trying to make themselves heard because their

own voices are silenced.

Makgato believes that an artist should empower people with words. As a result he has taken on what he refers to as a mammoth task – completing a three-year

diploma in media practice, majoring in journalism, through Boston Media House.

"Art does not stand in isolation and today more than ever it provides social commentary on

the world around us. It has taken on a role in the media, commenting on events and people in a way that mainstream media cannot," Makgato said.

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Marikana victims honoured

OMPHEMETSE MOLOPYANE

FAMILY members of the slain miners and top politicians were among thousands who attended the first anniversary of the Marikana massacre at Wonderkop in the North West on Friday.

The sombre and at times emotional event marked a year since 34 striking miners of the Lonmin mine were killed when police opened fire on August 16.

Ten others, including police officers and security guards lost

their lives ahead of the massacre.

The CEO of Lonmin Ban Magara who was among the speakers apologised for the tragedy.

Among those at the commemoration were Dali Mpofu, Bishop Joe Seoka, Amcu president Joseph Mathunjwa, EFF leader Julius Malema, IFP leader Mangosuthu Buthelezi, APC president Themba Godi, Agang president Mamphela Ramphele and Zanele Magwaza Msibi of National Freedom Party.

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Marikana begs for peace

PEACE is not the absence of war, so goes the adage. Therefore, while we should welcome with a sigh of relief that no blood-letting occurred during last week's commemoration in Marikana, this cannot be applauded as a sign of peace.

A good opportunity to forge peace - standing together observing a moment's silence for all those killed and those injured - was missed as the first anniversary commemoration turned out to be partisan.

National police commissioner Riah Phiyega rightly admitted that mistakes were made and that some hard lessons would be learnt when the commission probing the August 16 tragedy concludes its work and makes its recommendations.

The tragedy was indeed a watershed in our 19-year-old democratic South Africa.

The anger and pain still lingers for many people touched by the Marikana massacre. These wounds will take time to heal and many may never forget what happened.

As hard as it may be for some, the only solution in the end is justice, reconciliation, tolerance, understanding and peace. It may take time to get there but we need to start hearing messages taking us in that direction instead of the venomous type being currently spewed.

Perhaps we need to start by reminding one another that this whole mess started as an industrial relations dispute which could have been dealt with via the various channels available under our law.

We need to also remember the 10 workers, police officers and security guards, who died in the violence preceding the horrific August 16 massacre.

That is the only proper way to remember the fallen.