

# Marikana negates the Struggle

Farcical Farlam Commission impotent after the return of Sharpeville and Soweto in the police murder of 34 miners

**I** SPENT the first anniversary of the Marikana massacre in Dakar, Senegal. The city is enchanting in its own way. The Grand Mosque is impressive, tied up with its Sufi tradition of resisting French colonialism.

The Sandaga market is fascinating and intricate, with beautiful silver jewellery brought in from neighbouring Mauritania.

And of course this city, home to Yousou N'Dour, is renowned for its music and nightlife. Dakar is also home to the Council for the Development of Social Science in Africa, the pan-African academic federation that has become an intellectual home to many of our continent's greatest minds. Intellectuals such as Mahmood Mamdani, Achille Mbembe, Amina Mama, Jacques Depelechin and others have all passed through it.

But it is Gorée Island that brings so many people to this city to honour the memory of the millions of Africans who passed through it en route to a life of slavery in the New World.

Like our own Robben Island, or Auschwitz, Gorée Island, and the Door of No Return, has become a site to which people journey from around the world to remember our collective history of inhumanity.

The 20-minute ferry trip to the island is beautiful. The contrast between it and the horror of slavery leaves you reeling.

Slavery is not just the horror at the roots of the modern societies in the Caribbean, the US and Latin America. As Wits academic Pumla Gqola has argued, we have never taken the history of slavery in the Cape seriously enough. The way in which the descendants of the Cape Town slaves have been left out on the Cape Flats to deal with the gangs is appalling.

Of course, the great hope of anyone who is moved by a site like Gorée, Auschwitz or Robben Island is that the memorialisation of our inhumanity will inspire us to say "never again".

But on the anniversary of the Marikana massacre it was clear that we cannot assume that the horrors of our apartheid past will never return.

The fact of the matter is that Sharpeville and Soweto did return at

Imraan  
Buccus

Marikana. The fact of the matter is that the police murdered 34 miners on that day in cold blood. The fact of the matter is that the police, the National Union of Mineworkers and much of the media, in the early days, in effect endorsed the massacre. The fact of the matter is that we have not made a clear break with the past.

The Farlam Commission is now generally seen as a farce and a year down the line not a single police officer has been arrested for the murders.

Some commentators have noted that the miners have had little access to express their feelings in our media.

There has been a flurry of people talking about the miners, but little opportunity for them to speak for themselves.

At one point Julius Malema was blamed for the strike. Then former Durban resident Liv Shange was blamed for the strike. Few people in the chattering classes have seemed to want to take the miners seriously.

Here in Dakar I was able to access the online version of the supplement that Niren Tolsi, a journalist working in South Africa, and the gifted photographer Paul Botes produced for the Mail & Guardian to commemorate the massacre. This is journalism in its highest form, superb work that humanises and dignifies the families of the miners murdered a year ago.

The heartbreaking stories of how the families of the miners who perished in Marikana have been abandoned by our society reminded me of a 1971 essay by James Baldwin.

He argues: "If one really wishes to know how justice is administered in a country, one does not question the policemen, the lawyers, the judges or the protected members of the middle class. One goes to the unprotected – those, precisely, who need the law's protection most – and listens to their testimony.

"Ask any Mexican, any Puerto Rican,

any black man, any poor person – ask the wretched how they fare in the halls of justice, and then you will know, not whether or not the country is just, but whether or not it has any love for justice, or any concept of it. It is certain, in any case, that ignorance, allied with power, is the most

ferocious enemy justice can have."

By this standard it is clear that we have failed to say "never again" and really to mean it after apartheid.

There are no simple solutions to the problems we face. But until we take seriously just how badly our society is failing

so many of our compatriots, we will never be able to really move. We need to look deeply into places like Robben Island and Auschwitz and the various ways in which writers and film-makers are trying to honour the memory of Marikana.

We need to look deeply into ourselves.

We need to look deeply into our society and our world. We need to look, judge, then act.

● *Buccus is a research fellow in the School of Social Sciences at the University of KwaZulu-Natal and academic director of a university study-abroad programme on political transformation.*

# Mpofu has effectively stolen the limelight from plight of miners

**NATHAN GEFFEN**

I ENJOY lawyer jokes, but in my time with the Treatment Action Campaign (TAC) the lawyers I worked with didn't fit the stereotype. They often represented TAC pro bono or at reduced fees. They put money aside to fight for justice, especially for poor people. They were also modest. In our high profile cases, the TAC's lawyers were not the centre of attention. Nevertheless, TAC won most of its cases and all the key ones. We were very ably represented.

In TAC's litigation, people living openly with HIV, like Hazel Tau and Zackie Achmat, were the main focus of media attention. That was achieved through

deliberate effort and made strategic sense.

So in the grim aftermath of Marikana, I would have expected that in the public mind the salient names of the tragedy would be surviving miners or the widows and children of the dead miners.

But it's not. Instead it's been Advocate Dali Mpofu. Somehow, he has placed himself at the forefront of media attention covering the commission of inquiry.

Recently, Mpofu's remuneration for representing the miners at the commission has attracted notice. Not what the police did at Marikana. Not the lives of the family members of the deceased. Not the post-traumatic stress and anguish of the survivors. No. Instead it has been Mpofu

and his fees.

A Business Day editorial said: "What is most certainly undermining the inquiry's credibility is the tussle over whether the Legal Aid Board should be obliged to pick up the tab for Mr Mpofu's not inconsiderable fees." It also says, "The legal issues are complex, and it is by no means certain that Mr Mpofu will win. But the government should relent – it is common knowledge it has already paid the police's legal team as much as R7 million."

The lawyers for the miners brought an urgent application before the North Gauteng High Court. They asked for urgent temporary relief compelling the state to pay their legal fees and, ultimately, final

relief. The High Court has ruled only on the claim for interim relief. It dismissed the case "on the basis that it was constitutionally inappropriate for a court, in interim proceedings, to direct the Executive on how to expend public resources in the absence of proof of unlawfulness, fraud or corruption".

On August 19, the Constitutional Court dismissed an appeal by the miners on very much the same basis.

Nevertheless, perhaps the Business Day editorial is correct. Maybe the state should pay Mpofu's "not inconsiderable" fees – even if the law doesn't compel it to. The issues are complex.

But what is striking is this: Mpofu has

not worked free of charge for the miners. From October last year, he and his "team" have received more than R2.5m from the Raith Foundation to represent the miners. They have also been offered R2m more since. This was to pay Mpofu, his junior counsel and three attorney firms working on the case.

The lawyers are not working solely on the Marikana Commission. It is reasonable to assume that a large chunk of the money has gone to Mpofu personally. Now it's true that some lawyers make considerably more money than Mpofu would have earned in the months that he has worked on the commission, a point that raises questions about legal fees generally. But,

by any standards, Mpofu has nevertheless received a large amount of money.

By contrast, lawyers representing TAC seldom earned more than a few tens of thousand rands in fees for a case – and certainly never millions. Although the Marikana Commission may be more time-consuming than the average court case, Mpofu is being very well paid.

Representing the Marikana miners should be seen as a great honour where the fees are secondary. Advocate Mpofu's remuneration should not have taken centre stage.

● *Nathan Geffen is the editor of GroundUp. This article first appeared on [www.groundup.org.za](http://www.groundup.org.za)*

# Marikana focus should be on miners and families, not legal fees

## Nathan Geffen

I ENJOY lawyer jokes, but in my time with the Treatment Action Campaign (TAC), the lawyers I worked with did not fit the stereotype. They often represented the TAC pro bono or at reduced fees. They put money aside to fight for justice, especially for poor people. They were also modest. In our high-profile cases the TAC's lawyers were not the centre of attention. Nevertheless, the TAC won most of its cases and all the key ones. We were ably represented.

In the TAC's litigation, people living openly with HIV, like Hazel Tau and Zackie Achmat, were the main focus of media attention. That was achieved through deliberate effort and made strategic sense.

So in the grim aftermath of Marikana, I would have expected that in the public

mind the salient names of the tragedy would be surviving miners or the widows and children of the dead miners.

But it's not. Instead it's been advocate Dali Mpofu. Somehow, he has placed himself at the forefront of media attention covering the commission of inquiry.

Recently, Mpofu's remuneration for representing the miners at the commission has attracted notice. Not what the police did at Marikana. Not the lives of the family members of the deceased. Not the post-traumatic stress and anguish of the survivors. No. Instead it's been Mpofu's fees.

A Business Day editorial said: "What is most certainly undermining the inquiry's credibility is the tussle over whether the Legal Aid Board should be obliged to pick up the tab for Mr Mpofu's not inconsiderable fees." It also says, "The legal issues

are complex, and it is by no means certain that Mr Mpofu will win. But the government should relent – it is common knowledge it has already paid the police's legal team as much as R7m."

The lawyers for the miners brought an urgent application before the North Gauteng High Court. They asked for urgent temporary relief compelling the state to pay their legal fees and, ultimately, final relief. The high court has ruled only on the claim for interim relief. It dismissed the case "on the basis that it was constitutionally inappropriate for a court, in interim proceedings, to direct the executive on how to expend public resources in the absence of proof of unlawfulness, fraud or corruption".

On August 19 the Constitutional Court dismissed an appeal by the miners on

much the same basis. Nevertheless, perhaps the Business Day editorial is correct. Maybe the state should pay Mpofu's "not inconsiderable" fees – even if the law does not compel it to. The issues are complex.

But Mpofu has not worked free of charge for the miners. From October last year he and his "team" have received more than R2.5 million from the Raith Foundation to represent the miners. It has also been offered R2m more since. This was to pay Mpofu, his junior counsel and three attorney firms working on the case.

The lawyers are not working solely on the Marikana Commission. It is reasonable to assume that a large chunk of the money has gone to Mpofu personally. Now it's true that some lawyers make considerably more money than Mpofu would have earned in the months that he has worked

on the commission, a point that raises troubling questions about legal fees generally. But, by any standards, Mpofu has nevertheless received a large amount of money.

By contrast, lawyers representing the TAC seldom earned more than a few tens of thousand rand in fees for a case – and certainly never millions, not even close. Although the Marikana Commission may be more time consuming than the average court case, Mpofu is being very well paid.

Representing the Marikana miners should be seen as a great honour where the fees are secondary. Advocate Mpofu's remuneration should not have taken centre stage.

● *Geffen is the editor of GroundUp. This article first appeared on [www.groundup.org.za](http://www.groundup.org.za)*

# Aluta continua for Marikana women

Life is hard for women as they pledge solidarity with mine workers in mines

YAZEED KAMALDIEN

Desperation fills the voice of middle-aged Laura Mokhutle-Flepu as she sweeps through her house in the troubled mining town of Marikana.

"We are poor. Sometimes we have no food for our children. We all live in this one room," she laments.

The room where she lives with her eight children is four-by-three meters. They do not have much furniture, apart from a bed and a few chairs. She and her family personify poverty in South Africa.

Their little house has a kitchen but no toilet nor running water.

"We go to the bushes when we want to use the toilet. We share the tap outside with 20 other families," says Mokhutle-Flepu.

Stories like hers are commonplace in Marikana - a small town surrounded by similar other small mining towns in the North West province.

Mokhutle-Flepu is 46 years old. She is also unemployed. She is a widow whose mine worker



**Despite the massacre at Marikana, life for many has not changed. We need more work for women and funding to start projects.**

husband, Jikinteto Flepu, died of diabetes in 2009, and whose children are now also employed by the mine.

When her husband died, she stayed on in one of the Lonmin platinum mine's family housing units because by then her eldest daughter, Nancy Mokhutle, 31, the family's sole breadwinner, had started working at the mine. Mokhutle wasn't working regularly late last year, though, when mine workers labour strikes for better wages resulted in a blood-bath.

On August 16, 2102, police opened fire on Lonmin miners gathered on a hill and an open field. There was mayhem, and 34 mine workers were killed in what became known as 'Marikana massacre'.

Tebogo Mauwane, a twenty-something mine worker at Anglo

American Platinum mine in Rustenburg, was among thousands of workers who went on strike.

They faced dismissal when they asked for a wage increase. Tension spread across the mining towns as workers grew increasingly frustrated with poor living conditions and what they saw as exploitation.

"I went on strike because my

wage was too low. After deductions I earn R4 200 a month. I need to send money home to my mother who lives in Brits, in the North West province. She is unemployed, and we don't have a father," says Mauwane.

"Nobody else is working at home. I have two sisters and a brother. My brother is the youngest. He is in Grade 2. I still have to pay R600 rent."

Mauwane and other mine workers

at various mines demanded a basic take-home salary of R12 500 a month. She lives in a single room in a township. She shares an outside toilet with other residents. She says she works hard for

her money.

"I get up at 3 in the morning and get to the mine two hours later. It takes me an hour to get to work in the morning. We then work eight hours underground. My work is heavy. I fit pipes," she says.

"Sometimes you don't get water for two to three hours because they turn off the water underground. We are not allowed to eat underground. If they catch you eating, they can fire you."

Mauwane adds that being a female mine worker is not easy and often unsafe. Sexual harassment and abuse is a real risk.

"A few months ago a woman was raped and killed when she went to work. And it's so difficult to get a promotion at work. You must sleep with someone who can promote you. I refused so I won't get promoted," she alleges.

"We sometimes finish work late. There aren't many people around when we go home and we are on our own' literally. You can come across thieves on the way. They are unemployed. They are likely to rape you if they find you alone. That is the most dangerous thing."

Thumeka Magwangqana, mother of a female mine worker, says she fears for her daughter's

safety too. She lives with her 26-year-old daughter in a shack, in Wonderkop township, next to the Lonmin mine.

"I am worried about my daughter's safety. My daughter was punched by a man at the mine. She was cleaning the change rooms. The man wanted to use the room but didn't ask her nicely. He was furious and punched her."

"They took me out on a stretcher. I woke up in hospital. The man was dismissed. But I didn't like that he was dismissed because that man was there to work for his children. Work is scarce," says Magwangqana.

"Sometimes men are jealous when they see women working at the mine. They think women are taking their jobs."

When mine workers went on strike, Magwangqana rallied with other mothers and wives of workers to form the Marikana support group. They headed to the hill where mine workers were on strike on the day the police opened fire.

"That day we made a chain of prayer at the mountain. Some of the mine workers had already died. We went there, and the place was covered in dust. We saw ambulances and we couldn't



**Being a female mine worker is often unsafe. Sexual abuse is a real risk. A few months ago a woman was raped.**

get close to the mountain. We just had to stand there," says Magwangqana.

Following the massacre, the Marikana support group was soon assisted by other women's groups from Johannesburg. The idea was to support the cause of mine workers who were fighting for wage increases with mine management, says Magwangqana.

"There was so much anger in Marikana... my daughter was on strike, but she also wanted to go back to work because we were hungry. Sometimes we slept without food. It was very sad in this place. Nobody was working. Mine

workers on strike were also hungry," says Magwangqana.

"We provided food and water while they were still on strike on the koppie (hill). They were not allowed to come to their houses. They were afraid of the police. Some miners who came home were arrested. After the shooting a lot of men decided to sleep on the koppie until the wage demands were met."

Marikana residents and families of killed mine workers are looking to the Marikana Commission of Inquiry for compensation for their losses. Families of killed mine workers demand compensation from the police.

Magwangqana says the struggle for a better wage may have ended, but Marikana residents, especially the younger ones, need assistance with job creation projects.

She says life hasn't changed much after the 'Marikana massacre'.

"We need work for women. When the men were striking, the women were crying that they have nothing to eat. They must not (rely on) their men. They must work. We need funding to start projects. Marikana is in poverty."

yazeedk@thenewage.co.za