

# Marikana: ‘Staat moet regskoste betaal’

## Piet Matipa

**O**ndanks ’n gemeenskaplike doel was daar gisteroggend wel verdeeldheid tussen die Marikana-betogers – oor wie voor moet loop.

Die oorlewendes van die Marikana-skietery, die vakbond Amcu en lede van verskeie politieke partye het ’n optog na die Uniegebou in Pretoria gehou om op staatsgeld vir hul regskoste aan te dring.

Die optog het op die hoek van Pretoriusstraat en Nelson Mandelarylaan begin. Biskop Jo Seoka, president van die Suid-Afrikaanse Raad van Kerke, was een van die organiseerders.

Die verskillende politieke partye het eers in ’n stryery probeer vasstel wie eerste moet loop. Toe hulle by die Unie-



**Jy kan hardloop, maar jy kan nie wegkruip nie. Ons gaan jou by die verkiesing kry.**

gebou kom, het die onderskeie partye in hul eie groepe saamgedrom.

Zameka Nungu, wie se man in die skietery dood is, het voor die meer as 1 000 optoggangers gepleit dat die regering aandag gee aan hul eise, onder meer die R12 500-looneis “waarvoor my man gesterf het”.

“Asseblief, politieke party vir wie ek gestem het,” het sy gesê. Sy het namens almal gepraat

wat ’n familielid in die Marikana-slagting verloor het.

“Ons is hartseer en honger.”

Verteenwoordigers van die presidensie het die memorandum kom haal.

Pres. Jacob Zuma is vir ’n lafaard uitgekryt omdat hy dit nie self kom haal het nie.

“Jy kan hardloop, maar jy kan nie wegkruip nie. Ons gaan jou by die verkiesing kry,” het ’n spreker gesê.

“Weg met Zuma, weg,” het die betogers geëggo.

In die memorandum eis die betogers Zuma moet vandag aan hulle terugvoering gee oor hul versoeke.

Julius Malema, leier van die Ekonomiese Vryheidsvegters (EJV), het by die optog gesê al wat hulle vra, is gelyke behandeling. Net soos die regering die

polisie se koste dek, kan hulle die werkers s’n ook betaal.

’n Dringende hofaansoek om die staat te dwing om die regskoste van oorlewendes en gearresteerdtes van die Marikana-

skietery tydens die Farlam-kommissie se ondersoek te dek is reeds van die hand gewys. Die regter het bevind die applikante staan nie as beskuldigdes voor die Farlam-kommissie nie.

# Political parties talk tough on Marikana, ANC ahead of elections

**KHULEKANI MAGUBANE**

Political Correspondent

WHAT started as a march to the Union Buildings to demand legal aid for Marikana's mine workers at the Farlam commission, escalated into electioneering by political parties in Pretoria yesterday.

A year since the Farlam Commission of Inquiry was set up to look into the events that culminated in the shooting of miners by the South African Police Service (SAPS) at Lonmin's Marikana mine last August, lawyers for survivors and widows have been unsuccessful, despite a court challenge, in getting the state to fund their continued participation in the commission.

Justice Minister Jeff Radebe said recently it was not possible to fund the legal representation for survivors. The Constitutional Court last month also dismissed an urgent appeal for legal funding.

At the heart of the issue is that the state is already funding legal aid for the police.

Opposition parties joined civil society organisations, Citizens4-Marikana and Marikana Support Campaign in a march to the Union Buildings yesterday.

Marchers submitted a memorandum for President Jacob Zuma's

attention, asking that the government reconsider its decision not to fund the mine workers' legal representation at the inquiry.

However, opposition leaders soon took over after being invited to speak. Among these were Agang SA, the Economic Freedom Fighters (EFF), the Congress of the People (COPE), the Democratic Alliance, the Inkatha Freedom Party and the United Democratic Movement, who spoke about what Marikana meant for voters as next year's general election approached.

The protesters gave Mr Zuma's office until close of business today to respond, saying that if they got a positive response they would withdraw their legal challenge and return to the commission.

Marikana Support Campaign spokesman Rehad Desai said the fact that the state would not venture to fund legal representation for the mineworkers could give the impression that the constitution was being flouted. "Many people have come here for different reasons ... but we are here because we, as South Africans, cannot allow for a situation where it's some for some and nothing for others.

"The murder charges (against the mine workers) have only been temporarily withdrawn and 270

mine workers could still be sent to prison for taking part in an unprotected strike. This is grossly unfair and we have an obligation to see to it that justice is done," Mr Desai said.

EFF leader Julius Malema urged poor voters to refuse food parcels from African National Congress electioneering campaigns — likening

such an act to "accepting a food parcel from blood-stained hands".

"The lawyers can represent mine workers for free. But we want a democracy of parity. If you fund one side, you must fund the other," Mr Malema said.

Agang SA manager in Gauteng Pule Pule said: "Not long ago in

Tlokwe, people called for their rights and the ANC gave them food parcels. This government seems to think our people eat once in five years. Remember what they did to us in Marikana next year and vote right". COPE leader Mosiuoa Lekota said: "Few of us realised that the ANC would change to become what it is

today. When it's time to vote, take the food parcels, it's your money. But cast a vote which will take this country forward".

Democratic Alliance national spokesman and Gauteng premier candidate Mmusi Maimane said the funding of the mine workers' legal fees was "an issue of justice" — and in order to prevent anything like the Marikana shooting from happening again, the commission needed to ensure equal legal representation.

The convener of the march, Bishop Jo Seoka, said they still wanted the wage of R12,500 for which the miners embarked on an unprotected strike last year.

"The president must help the mine workers of Lonmin because we all want a better life. ANC promised a better life for all, not a better life for Nkandla. And if he can't agree, I guess I will not be voting next year", said mine worker Fikile Vava.

Zameka Nunku, widow of mine worker Jackson Lehopa, said her family has struggled to cope since the Marikana shooting.

Mzoxolo Magidiwana, who was injured in the shooting and stood before the Farlam commission, said the shooting would not have happened under former presidents Thabo Mbeki and Nelson Mandela. magubanek@bdfm.co.za

# Marikana was not just about migrant labour

The system is on its way out but its legacy endures — in low wages and dwindling union membership

LABOUR  
**Kally Forrest**

**M**any commentators, including Deputy President Kgalema Motlanthe, blame last year's Marikana massacre on the migrant labour system. They claim that the system is intact after 18 years of democracy.

But a study of the recruitment system used on the Rustenburg mines gives a different picture.

South African mines have always relied on large numbers of unskilled labourers and the Rustenburg platinum belt is no exception. Sustaining a large workforce while ensuring handsome profits has meant mines have kept wages low.

Recruitment systems became central to supplying cheap labour. In 1901 the mines created Wenela, later Teba, agencies that recruited in Mozambique, Lesotho, Swaziland and the South African homelands. Teba delivered thousands of workers whose contracts ensured their return to rural homesteads.

In the 1980s and 1990s the National Union of Mineworkers (NUM) recruited large numbers of migrants, including in Rustenburg. It opposed the migrant labour system and had considerable success in improving wages and job security, but less in dismantling the hostel system.

Despite these changes, it was only in 2005 that Teba broke with the Chamber of Mines to become a commercial operation. It continues to recruit mainly permanent labour for mines and, for many, its offices are still the gateway to employment.

Yet recruitment patterns have undergone massive change. About 15 years ago 60% of South African mine-workers were foreign and 40% South African. Today 30% are foreign and 70% South African, with half being rural and half urban. In short, Teba recruits mainly South African workers, both migrants and locals.

Two factors have been important in this shift.

First, the Mining Charter under the new Mineral and Petroleum Resources Development Act calls for employment promotion and the advancement of the economic welfare of mining communities. The Act also requires companies to submit "social labour plans" to obtain mining licences; these must include information on the impact of mining on communities, including numbers of jobs created.

Second, the new Immigration Act encourages a reduction in foreign labour and its replacement with local workers. Mines must obtain special

exemptions and pay a levy for every foreigner employed.

In the mid-1990s Mozambicans were the largest group of miners, totalling 80 000. Now only 30 000 remain and their numbers are dropping. Basotho and Swazis have also declined steeply. Teba, however, retains its migrant-sourcing monopoly, recruiting about 240 000 workers in South Africa, 35% from the Eastern Cape.

Its recruitment role has also declined. In the late 1980s the gold industry started its decline with 200 000 retrenchments. Today, such experienced workers often bypass Teba and seek work directly on the platinum mines.

Some pay bribes for work. An AngloPlat worker described paying R500 for a certificate stating that he was qualified for a job. "This happens often and the mines know about it, so they train you in case you get injured. It is not like before when Teba recruited and trained."

The reduction in migrants means that sourcing labour is now only 10% of Teba's activities. Hence it has diversified to offer a range of migrant services. It also faces competition from the new recruiters: labour contractors, or brokers, who provide short-term labour. By the mid-1990s, brokers had made significant inroads in Rustenburg and today about a third of workers — about 67 000 — are contracted.

The post-apartheid government has tried to transform the migrant labour system through such laws as the Mineral and Petroleum Resources Development Act, the Labour Relations Act and the Mine Health and Safety Act. The labour-brokering system, however, has brought to the surface some of the contradictions of these well-intentioned laws.

Mines now have to accommodate the Labour Relations Act, but employers see the Act as giving legitimacy to brokers, who become the primary employer. Many retrenched gold miners and low-skilled young workers register with contractors.

Young workers, in particular, are recruited by the unregistered "bakkie brigade", who pay as little as R60 a day and may demand a R150 registration fee. Workers recruited in this way enter very short-term work, making union recruitment impossible. Larger contractors offer a total service to the mine, from sourcing to supervision and payroll management. But, unlike Teba, they mainly recruit locally.

Mines use brokers to circumvent unions, as one broker explained: "Mines don't want to go through all employment procedures, especially

when they want to subcontract sections of a mine for a short time."

Another broker said: "We have no union members and don't bargain [for] wages, because our service-level agreements with companies have their own rules and pay is stipulated in the contract."

Some workers on longer-term projects join unions, but mainly for protection against unfair dismissal. This means that brokers can keep wages low, offer competitive rates to mines and make their own profit.

**P**ermanent labour employed directly by mines is extensively unionised, so it appears that mines are adhering to labour laws, whereas in fact a large part of their workforce is weakly organised or unorganised, brokered workers.

Through brokers, management has fragmented the labour force. When permanent rock drillers revolted against the NUM and demanded higher wages last year, brokered labour was not included in their demands.

"Permanents" fear that, if unions negotiate for all mine workers, this will lower their wages and so they lack the resolve to fight for brokered labour. Wide pay differences result.

In 2012, a permanent AmPlats rock driller earned an R8804 monthly basic, plus a R1000 allowance, whereas a permanent Implats rock driller earned R6540. A brokered driller, on the other hand, earned a R3060 basic. Contracted underground sanitation assistants earn a pitiful R1853. In 2012 Lonmin chief

executive Ian Farmer and Amplats's Neville Nicolau earned an annual R17.8-million each.

Mines benefit even more from brokers' low unionisation levels, because they can discard workers by not renewing the service agreement with contractors. Recently union negotiations reduced threatened job cuts at Amplats from 14 000 to 3 000 — a gain partly achieved by terminating contracted labour.

In the agreement with mines, brokers undertake to observe safety laws because inspectors can close unsafe mines. Thus brokers hide injuries and instruct workers not to claim compensation in case the contract is cancelled. Under the Mineral and Petroleum Resources Development Act, mines must ensure contractors abide by the law, but this makes mines both referee and player, and compromises their oversight.

Contract workers also excavate dangerous areas not mined by permanents, often with inadequate equipment, as a permanent commented: "We often lend them chain block lifts to raise heavy rock, which they lift with their hands."

So what does this say about the dismantling of the migrant labour system?

Mines no longer need a centralised service. But they still benefit from low wages created by the migrancy system, which lay behind last year's ferocious pay strikes.

Labour's new mobility, coupled with high unemployment, has also benefited employers; at the same time, the use of more local labour is

cutting its cost.

Mines also shortcut government's localisation push when it suits them. They hire experienced foreign labour through the back door when migrants pose as locals to get employed by brokers. An Implats manager says: "Contractors use many more migrants."

Implats defines "local" as people living within 60km of the workplace. But companies often refer to workers from North West province as "local" even if they come from Taung — 410km away!

For workers, the fracturing of the migrant system has had contradictory spin-offs. For South Africans, the repeal of apartheid laws has brought open labour-market competition free of fear of arrest and deportation to ethnic homelands. Reduced foreign migration has also eliminated much job competition.

But the focus on local recruitment threatens jobs for workers from elsewhere. Parts of the Transkei have been devastated and the economies of labour-sending countries have suffered.

Labour broking also reproduces the low-wage migrant system, with which it merges. The overt coercion of apartheid mine capital has morphed into a more hidden form, which still puts workers under enormous pressure.

**Kally Forrest is a research associate and the Ruth First fellow of the Society, Work and Development Institute. This is an edited version of her Ruth First Memorial Lecture**

# Miners' secret strategy over funds

## **TEBOGO MONAMA**

VICTIMS of the Marikana massacre might tap into a "secret strategy" if the government does not fund lawyers representing them at the Farlam Commission of Inquiry.

Yesterday, during a march to the Union Buildings by miners and members of opposition political parties, Bishop Jo Seoka said they were giving the government until the end of business today to meet their demands or "miners will have to use their secret strategy". He said he could not reveal what the strategy entailed.

About 2 000 people from different parties and organisations marched from the Caledonian Stadium to the Union Buildings.

The political parties included the Economic Freedom Fighters, United Democratic Front; DA, IFP, Agang and PAC.

The Opposition to Urban Tolling Alliance also joined the march which was organised by Citizens4Marikana. Marchers held placards with the message "Justice for Marikana". One even had a pair of panties on

which was written "Elize Strydom" as they walked down Nelson Mandela Drive towards the Union Buildings. Strydom is a senior executive at the Chamber of Mines.

The Citizens4Marikana want the government to fund the lawyers representing Marikana victims at the Farlam commission. The commission is investigating what happened on August 16 last year when 34 miners were killed after a stand-off with police during a strike at the Lonmin mine.

The Department of Justice has said there is no legal framework to assist the miners in the inquiry. Legal Aid SA has also said it cannot represent them because of a lack of resources.

The commission, which has ruled it would continue without the victims' lawyers, has been adjourned until Monday.

Dali Mpofo, who is acting for the wounded and arrested miners, applied for a postponement of the commission while he continued to seek funding. He recently provisionally withdrew from the commission's hearings after failing to get state funding

for him and his team. At the march, Mpofo said he was happy about the turnout.

The Constitutional Court has also dismissed an application by the lawyers for the arrested and injured Marikana miners for leave to appeal against a ruling turning down state funding for them.

There was nearly a stampede at the start of the march when EFF commander in chief Julius Malema arrived wearing a T-shirt bearing the face of Black Consciousness leader Steve Biko. His supporters mobbed him and police officers had their hands full to restore order.

Seoka said: "These people pay taxes, but they are not being helped. We'd like to raise funds so there can be development in their area. We'd like there to be housing, health facilities, counselling for the traumatised and education for their children."

In the memorandum, the miners demand that if the government does not pay their legal fees, "their tax payments be stopped so that they can fund their legal fees directly".

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# Politicians 'hijack' Marikana march

JULIA MADIBOGO AND  
QAANITAH HUNTER

A MARCH in solidarity with Marikana miners's struggle to have the state pay for their legal representation at the Farlam Commission turned into a political farce yesterday as political parties jostled for attention.

The highlight of the march was to hand over a memorandum to President Jacob Zuma at the Union Buildings in Pretoria.

Families of the dead and surviving miners of the Marikana massacre were overshadowed by leaders of various political parties who robustly campaigned for their respective parties.

The party leaders included Mangosuthu Buthelezi of the IFP, Cope's Mositsoa Lekota, Agang Gauteng leader Pule Pule, DA's Musi Mmaimane and Julius Malema of the Economic Freedom Fighters.

March marshal Lucky Sibanyoni expressed disgust at the "political hijack".

"Please understand that we are the ones who need legal funding and we should be at the forefront of the march," Sibanyoni said.

Another family member of one of the injured miners expressed despondency over how political parties were "buying votes with our suffering".

A miner and Amcu member scoffed when the crowd chanted in support of Malema: "He drives

a nice car. We are the ones that go underground. Stop talking and start doing," he said.

The march was organised by Bishop Jo Seoka and Citizens for Marikana and Marikana Support Group, in a bid to get the government to fund lawyers for the miners at the Farlam Commission.

"We want the government to give us the funding, so that the commission can be fair," Seoka said.

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# 'EFF not using Marikana funds'

QAANITAH HUNTER

ECONOMIC Freedom Fighters (EFF) leader Julius Malema yesterday lashed out at accusations that money collected for the legal fees for Marikana miners was funding his newly-formed political party.

"We are not in the struggle for money and the lawyers are not here for the money. The money that we ask for the lawyers will not go to EFF," he told thousands of people outside the Union Buildings.

Malema was addressing a solidarity march which called on President Jacob Zuma to allow for government to pay the legal costs of miners and their families at the Farlam Commission of Inquiry into last year's Marikana massacre.

"We never received a cent from Dali Mpofo. In fact, we still owe him money for representing us when we were still in

the ANC," Malema said.

Mpofo defended Malema during his ANC disciplinary hearing, after which he was expelled from the party for bringing it into disrepute.

"We are not fighting for money, we are fighting for justice," Malema said.

Mpofo represented miners at the commission, which set up last year by Zuma.

He has since pulled out of the commission due to a lack of funding and lost a court application to compel the State to foot his and his team's legal fees.

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# Victims warn of 'secret strategy' for legal funding

**TEBOGO MONAMA**

VICTIMS of the Marikana massacre might tap into a "secret strategy" if the government does not give in and fund lawyers representing them at the Farlam Commission of Inquiry.

Yesterday, during a march to the Union Buildings by miners and members of opposition political parties, Bishop Jo Seoka said they were giving the government until the end of business today to meet their demands or "miners will have to use their secret strategy". He said he couldn't reveal what the strategy entailed.

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Placards held by marchers stated "Justice for Marikana" and one had a pair of panties with "Elize Strydom" written

on it as they walked down Nelson Mandela Drive. Strydom is a senior executive at the Chamber of Mines.

The commission is investigating what happened on August 13 last year when 130 miners were shot and 34 killed after a stand-off with police during a strike at the Lonmin platinum mine near Rustenburg.

The Department of Justice has said there is no legal framework to assist the miners in the inquiry, while Legal

Aid South Africa cannot help because of a lack of resources.

The commission, which has ruled that it would continue without the victims' lawyers, was adjourned until Monday.

Dali Mpofu, who is acting for the wounded and arrested miners, applied for a postponement of the commission while he continued to seek funding. He recently provisionally withdrew from the commission's hearings after failing to

get state funding for himself and his team.

EFF "commander-in-chief" Julius Malema, addressing the marchers at the Union Buildings, said that if the miners who were killed at Marikana had been affiliated to the National Union of Mineworkers instead of the Association of Mineworkers and Construction Union, their lawyers would have been paid.

"The ANC does not care about people who are not with them," he said.

