

South Africa's police concealed evidence, lied to cover up Marikana massacre

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South African police face accusations this week at the Marikana Commission of Inquiry that they doctored and concealed evidence in order to whitewash their massacre of striking miners.

The inquiry was set up by President Jacob Zuma of the African National Congress (ANC) after 34 miners were killed and 78 others wounded in a bloody assault by police at Lonmin's Marikana Platinum Mine on August 16, 2012. The commission is also investigating the deaths of another 10 people, including two police officers and two security guards, in the preceding week.

Last week, it emerged that a computer hard drive belonging to an officer was not handed over in its entirety. Evidence leaders asked for a postponement of a week to go through files amounting to thousands of pages that were discovered on South African Police Service hard drives. They accused the SAPS of tampering with evidence and withholding documents that officers had said did not exist.

Police witness Lieutenant Colonel Duncan Scott was questioned about footage found in the recycle bin of his computer. Scott had been asked to say what pages of the plan supposedly used to disperse and arrest miners on the koppie near Marikana and then handed over to the Independent Police Investigative Directorate (IPID) last year were created later. The evidence leaders believe the documents were actually written at a nine-day meeting in Potchefstroom where the SAPS prepared its case ahead of the commission. Among the lies concocted there was a reversal of the order of speakers in a video of strike leaders to give the appearance that they called for an attack on the police.

Senior evidence leader, Advocate Geoff Budlender, accused the SAPS of concealing documents that should have been previously disclosed and of doctoring documents so that they could give the impression of being in chronological order when they were not. "Some documents have been added and some files we haven't seen before," Budlender said.

A statement issued September 19 said the documents

showed that the SAPS version of events "is in material respects not the truth."

"We do not make this statement lightly," the statement continued. "We recognise that it is important that the SAPS should have the opportunity to explain the matters which have raised our concern. However, we have to say that ... the material which we have found has serious consequences for the further conduct of the work of this commission."

Among the police called to give evidence in addition to Scott is Brigadier Adriaan Calitz, who infamously gave the "engage, engage" order prior to the massacre. Video evidence presented to the inquiry shows him telling police officers the day after the shooting that the plan was executed "110 percent."

The police response so far has been to stonewall. National Police Commissioner Riah Phiyega said a very unfortunate statement had been issued by the commission and, "Our lawyers are looking into that matter."

Advocate Ishmael Semanya, representing the SAPS, has requested the evidence leaders to show on which documents they based their assertions that the "SAPS version of the events at Marikana, is in material respects not the truth," and said the police would respond in writing at some unspecified time.

The allegations of evidence tampering are devastating for the police. They have already occasioned public expressions of public outrage.

Citizens4Marikana, an umbrella organisation formed on the first anniversary of the massacre and fighting for the rights of the miners injured and arrested during the shooting, said of the revelations, "The fact that the police, at the expense of the taxpayer, has for over a year deemed it appropriate to withhold evidence from the Commission is a clear indictment of the officers involved."

Johan Burger, a senior researcher at the Institute for Security Studies, commented, "The police's image is already in tatters. More and more people are looking at the police as dishonest."

The media has reported that if the allegations were to be

proved, Budlender would have the power to ask commission chairman, Judge Ian Farlam, to consider criminal charges. But it would be naïve to believe that the inquiry will ever bring the guilty to justice. The Marikana Commission is not a criminal court and can only make findings of fact and recommendations of how to avoid a similar outrage in future. Nothing it may issue is legally binding on President Zuma or South Africa's Prosecuting Authority.

The next day, in response to these highly damaging developments, a statement was issued by the commission stressing that the views on police evidence expressed in a statement are not those of the Farlam Commission of Inquiry, but had contained the submissions made to the commission by Budlender.

Farlam said, "I think it appropriate to place on record these are at the moment only concerns."

The Farlam inquiry was conceived from the outset as a means of channelling popular anger at the worst police atrocity committed since the end of Apartheid into a dead end.

Marikana happened because platinum miners disgusted by the constant betrayals of the National Union of Mineworkers struck out in wildcat action, with many joining the rival Association of Mineworkers and Construction Union (AMCU). The massacre was the response of the NUM, the ANC and its governmental partners, the Congress of South African Trade Unions and the South African Communist Party, to what they saw as a challenge to their role as representatives and business partners of the mining corporations.

Cyril Ramaphosa sits on Lonmin's board of directors, owns 9 percent of Marikana and a controlling stake in Lonmin's Black Economic Empowerment partner, Incwala Resources, pocketing US\$18 million a year. Prior to the massacre he sent emails to Lonmin executives calling for "concomitant action" against protests he described as "plainly dastardly criminal acts." Four months later, he was elected as deputy leader of the ANC alongside Zuma.

Even as an inquiry was being prepared, a strike wave rocked the country's extraction industries and civil war-type conditions were imposed in Rustenberg where Marikana is located. The 276 miners arrested by the police on the day of the massacre and in its aftermath were beaten and tortured.

Since then the Farlam inquiry has heard evidence, given month after month, at the end of which nothing will happen. As a result, the past months have seen repeated and angry protests against the authors of Marikana accompanied by bitter recriminations directed against the inquiry.

On the occasion of the anniversary of Marikana, the ANC North West announced it would not be participating in the commemoration. That day miners chanted, "How can we get

rid of NUM?"

On September 11, Ramaphosa was heckled while speaking at the University of Witswatersrand, when he boasted that workers could now strike legally instead of being bussed away from industrial action. "They now get shot instead," a protester shouted.

Particular anger has been generated by the refusal of the government to provide funding towards the legal expenses of the families of the 34 miners killed and those miners arrested and shot. The main counsel for the miners, Dali Mpfu, recently withdrew from the inquiry to spend time seeking funding. Other lawyers for the AMCU and some families withdrew in solidarity. This prompted an extraordinary ruling by Farlam that the inquiry could proceed as the absence of counsel would not be prejudicial to Mpfu's clients.

In Pretoria on September 12, a protest march to the government seat at the Union Buildings was organised by Citizens4Marikana and backed by the main bourgeois opposition parties.

But even as the police were giving evidence to the inquiry, lawyers acting for Zuma and Justice Minister Jeff Radebe argued in the North Gauteng High Court in Pretoria for the dismissal of the application by the miners.

Advocate Marius Oosthuizen gave a clear description of the true character of the commission established by his clients. Legal aid was not mandated, he argued, because Zuma did not have to accept the commission's findings or recommendations as it operated *within* the executive branch of government.

"For the applicants it is a simple comparison between poor 'us' and rich 'them' before the Marikana Commission, but that is an over-simplification", he declared, adding, "Their own subjective perspective and the blatant attempts to gain the sympathy of the court are not a key to the national purse, which has been entrusted by the Constitution to the elected holders of high public office."



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