



## FOR IMMEDIATE RELEASE

*Executive Director for the Bench Marks Foundation, an organisation on the cutting edge of research into the Corporate Social Responsibility practices of the mining sector, John Capel, highlights some of the weaknesses in the Farlam Commission's mandate into investigating the incidents at the Lonmin Mine in Marikana in the North West Province of South Africa during August 2012 and calls for the establishment of a fund that will adequately compensate the widows and orphans affected by the events of 16 August 2012.0*

The Bench Marks Foundation welcomes the long awaited release of the Farlam Commission report and its recommendations. In particular, we welcome those recommendations dealing with the South African Police services and the recommendation on demilitarisation of the police.

However, we feel that not enough attention was given to the material conditions under which workers live, the squatter-like conditions experienced and the failure of social and labour plans to deliver tangible improvements, which were the underlying causes for the events that led to the massacre on 16 August 2012.

Yes, the fact that the report touches on housing and false promises, broken commitments and the finding of the commission that Lonmin are responsible to provide houses and not merely facilitate bank loans for workers is most welcome. But access to water, sanitation, and improved conditions in the shanty informal settlements also needs investigation as well as Lonmin's stated commitments to rental and other subsidised accommodation. These issues needed stronger language and criticism from Farlam.

As our report titled "Lonmin, Coping with Unsustainability", released in October 2013 showed, it was difficult to separate fact from fiction when it came to housing promises made by the corporation. This has been confirmed by Farlam and we welcome this. But we wonder if the Department of Mineral Resources will now revoke their license as Lonmin seem not at all committed to improving the living conditions of workers, as seen when leaders were cross examined.

This and the social and living conditions of workers, the sea of squatter camps surrounding Lonmin operations, and the failure of Lonmin to abide by the mining charter warrants bigger censorship and penalties. We had hoped that the commission would devote more time and recommendations around these material conditions.

Equally, the commission finds that Lonmin could have done a lot more to resolve the strike and engage the workers. However, they chose to use their BEE partner to make a call to the minister of Mineral Resources and Police to criminalise the strike. The report differs to what President Zuma said: both the provisional commissioner and national commissioner of police seemed to be highly influenced by political considerations. But this was spearheaded by Lonmin. The company continually applied pressure on Ramaphosa to impress on the minister that this is not a wage dispute but a criminal act.

Although the minister of mineral resources at first talks about this as a labour matter in the report, language and attitudes after Ramaphosa's intervention change, which we believe also changed the

nature of the outcome. What we also note within the report is Lonmin's continual use of shooting rubber bullets at protestors which was often in contradiction to the instructions of the police, as not warranting such action. It would seem violence escalated after Lonmin's aggressive actions and after the NUM shooting of two workers. This is when strikers begin to arm themselves with sharp objects. Until then, according to the report, they were only carrying sticks and shields. Somehow these facts seem not to have influenced the outcomes of the Farlam proceedings. The report shows that Lonmin's actions escalated the strike into a huge confrontation that led to the events that transpired on August 16<sup>th</sup>.

It has to be said that Cyril Ramaphosa's conflict of interest as shareholder definitely had an influence in the events. He relied exclusively on what Lonmin was telling him. Yes he might have helped to diffuse a similar strike at Impala, but in this case, his powerful position and influence within the ruling alliance and his messages of criminalising the strike seem to have at least influenced the police response.

This chain of command seems to have been glossed over by the commission and is extremely worrying. It is clear to us that just about every mining company board is loaded with former ministers, premiers and directors generals. We consider this as a blurring of lines between state and corporates which undermines democracy and oversight.

This practice of appointing senior politicians and politically connected people to the boards of mining companies is clearly simply to seek favours and circumvent legislative and regulatory obligations on the part of corporations. Perhaps this, and the role of seeking political favour should have formed part of the terms of reference for the commission as it undermines democracy and furthers the interest of capital and the state.

On 15 August, in an interview on South African radio station, 702, AMCU general secretary Mathunjwa, and Lonmin executives, were challenged to resolve the strike. For a while there was hope of settling the strike, but it seems the police, informed by Mr Cyril Ramaphosa, dealt with this as a criminal issue and not a labour concern. Whether he could have anticipated the police brutality that would follow, Farlam thinks not. However after reading the report, there definitely is a casual link leading to the harsh action and killing of 34 workers.

What is clear from the Farlam report is that this was a labour issue albeit with violence overshadowing the real issues. The use of police to deal with labour disputes is unacceptable and Lonmin should have been severely censured on this. They could have agreed to negotiate as the report suggests and for this Lonmin need to accept responsibility for the outcome on the 16<sup>th</sup> August.

We need to stop this practice of corporations using their BEE partner to solicit favours and not muddy the water between state and company's obligations.

Lonmin definitely seems to have gotten off far too lightly.

The commission should have called for the Minister of Mining to revoke its license until it could prove adherence to the social and labour plans and housing needs of their workers.

After all this time, Lonmin has not made proper amends. It is not good enough, in our modern society, to offer jobs to the wives, sons and relatives of deceased workers. This is an old colonial practice and is used to evade proper material support and monetary compensation for the aggrieved parties.

We insist that Lonmin establish a compensation fund and accept its culpability by doing what is right. This fund should at least compensate the widows and orphans for 20 years based on lost

wages to these families. In addition, it must supply its workers with proper subsidised accommodation as the report shows that Lonmin is only paying lip service to this.

The Bench Marks Foundation is also disappointed that the commission directed much of the blame at AMCU. In the beginning of the report it is acknowledged that the workers didn't trust NUM who failed to raise their wage concerns, and according to Lonmin's own data of July 2012, AMCU had no membership. It is only after the 16<sup>th</sup> August that workers begin to join AMCU. Yet the report continues to categorise the strikers as AMCU members. Why do this when evidence says otherwise? Is this because of popular belief, or due to common wisdom propagated by the media in their failure to fully understand what was actually happening? The report cannot be seen to be fair as it apportions blame where it should not. Farlam needs to come out clearly and lay the blame on Lonmin.

The striking rock drillers had elected their own committee to represent them. AMCU general secretary Mathunjwa was called on by Lonmin to defuse the strike, and that's all. Up until then, Mathunjwa and AMCU were not involved at all. He addressed the workers thrice. The first time, they told him to fetch management to come and talk to them. The second time was to report back and the last time he addressed them, he tried to get workers to leave the Koppie. So for AMCU to be blamed for the event is unfortunate and surprising.

There was therefore no evidence at the time that this was an inter-union rivalry dispute. It was only after the strike that Lonmin workers joined AMCU in mass. It is thus bizarre that AMCU share the same responsibility as NUM, Lonmin and the SAPS. It's like the learned judge who said *don't tell me the facts, I know what I believe*.

Yes, workers marched on NUM offices and were shot at. Yes, workers killed other workers. And yes, company security and police also killed workers and a total of 10 people died before the fateful day of August 16<sup>th</sup>.

But out of the 44 people who died during the period reviewed by the commission, 37 were actually killed by the police.

This overwhelmingly demonstrates the culpability of the police and the state in this terrible act of killing of miners.

Due to the limited terms of reference of the commission, it could not dig deeper into the history of the area and the preceding strikes at other platinum producers, thus clouding the full story.

It is important also to know the role, if any, of the tri-partite alliance in developments leading up to the killing: the elephant in the room. This must have had some role in influencing the State's response.

We also cannot forget the role of Bishop Jo Seoka, on the day addressing workers on the koppie.

All they wanted was for management to meet with them.

They had also asked Seoka to request management to bring them water and food - hardly a picture of workers intent on solving this in a violent way. And why could they have not remained on the hill? They were not on private property, or a threat to mine infrastructure. Why was this not dealt with in the report?

What seems clear is that Lonmin could have avoided these outcomes completely had they just negotiated. Instead they chose to frustrate the workers by refusing to meet with them, to hide behind NUM and to use private militarised security. This is a serious attack by a corporation on our democracy. We in civil society need to follow this up and explore what remedies Lonmin should institute and the role of Mineral Resources in this.

Whilst we welcome many of the recommendations on policing and further investigations into the happenings and killings of the 34 workers, and the 10 before them, we cannot but believe this will go nowhere. Equally we are concerned that the material conditions, the strikes proceeding Lonmin, and the political collusion have not been adequately addressed. We need to relook at BEE and set out principles that avoid political interference.

In addition how can it be that all parties are held equally responsible? Surely had the strike not been criminalised and Lonmin engaged with its workers, and had Seoka been listened to on 16 August 2012, things would have turned out differently. Consequently, Bishop Seoka believes the only route to justice is for the workers, widows and those injured to seek litigation as a means to justice and for a proper contextual analysis to be done.

Failing that, these events will repeat themselves.

ENDS

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