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## **South Africa: Marikana Inquiry must be enabled to operate effectively**

The powers and ability of the Commission of Inquiry appointed to investigate the deaths of 44 people near Lonmin's Marikana mine in August must be clarified to ensure justice and redress for all those affected, Amnesty International said today.

Less than a week before the Commission of Inquiry, chaired by Justice Ian Farlam, begins its work the scope of the powers it will have to gather evidence without hindrance, to compel the cooperation of witnesses or offer protection to those fearing reprisals remain unclear.

It is also uncertain if the Commission has adequate resources to properly support all those who wish to provide evidence to the Inquiry. Many potential witnesses may need financial support to engage with the Commission, including for legal advice and transport.

The Commission is also under pressure to embark on its work at extremely short notice and to present its findings within four months.

"Forty-four deaths, the majority resulting from excessive use of force by police, as well as other grave human rights abuses occurred in Marikana. This Commission must not fail," said Noel Kututwa, Amnesty International's southern Africa director.

"It is vital that it is empowered, properly resourced and given the time to do everything necessary to uncover exactly what happened in Marikana and help ensure these horrific events are not repeated."

"A public commitment by the government to publish the Commission's report and act on its recommendations within a specified time will be a key step in achieving this outcome."

The events in Marikana have polarised the communities that were directly affected as well as wider South African society. The Commission, tasked with determining what happened and making recommendations for prosecutions or any other measures it deems necessary, begins its work in a context of distrust.

On the day following the killing of the miners, the statutory Independent Police Investigative Directorate announced they were investigating if the police shootings had been proportionate to any threat posed. Yet their ability to undertake this investigation was undermined when, on the same day, the national commissioner of police stated that the police actions were justified.

The striking miners were, however, arrested, charged, including briefly with murder, and allegedly assaulted in police cells in the aftermath of the killings.

Amnesty International fears that these very different official responses may prejudice the Commission's ability to hear evidence from all relevant witnesses, including from commanders or members of the police

unit involved in the shootings.

The state has an obligation to conduct thorough, prompt and impartial investigations where arbitrary deprivation of life has occurred and to bring the perpetrators to justice. The government should ensure that the Commission can carry out its work on a completely level playing field and with full co-operation from police and other authorities.

Amnesty International has regularly reported on cases of excessive use of force and torture by the South African police.

“All potential witnesses, surviving victims and family members of those who died must be able to participate without fear of reprisals from any quarter,” said Noel Kututwa.

“A robust, visibly impartial and open inquiry by the Commission will provide a critical opportunity to begin to secure justice and redress for all those affected by the violence in Marikana.”