



COUNCIL
FOR THE ADVANCEMENT OF THE
SOUTH AFRICAN
CONSTITUTION

MEDIA STATEMENT ON MARIKANA COMMISSION'S TERMS OF REFERENCE

12 May 2014

The removal of the Department of Mineral Resources and other government departments from the scope of enquiry of the Farlam Commission investigating the circumstances surrounding the killing of 44 people in Marikana in August 2012 is deeply worrying.

This announcement published in the Government Gazette on 5 May 2014, fundamentally amends the terms of reference of the Farlam Commission, and is designed to avoid any proper scrutiny of government departments in the massacre of miners, security personnel and police officers at Marikana.

The Commission's initial terms of reference required it to consider the roles played by Lonmin, SAPS, AMCU, NUM and 'the Department of Mineral Resources or any other government department or agency' in the massacre that has tarnished our post-apartheid society, and shocked the South African public.

This change will also undermine the series of public seminars that has been envisaged under phase 2 of the Commission looking at the broader socio-economic and labour market issues that prevail in the mining sector. This must of necessity look at the role of the Department of Labour.

CASAC's Executive Secretary Lawson Naidoo says:

"This narrowing of the terms of reference will significantly reduce the scope and comprehensiveness of the Commission's final report and accordingly undermines the status and credibility of that report. Aside from SAPS no other state institution will be investigated by the Commission. We will therefore not have a full picture of the circumstances that led to this shameful massacre."

The terms of reference were also amended to direct the Commission to conclude its investigation by 31 July 2014 and submit its final report within six weeks thereafter. Whilst we welcome the announcement of a final deadline for Judge Farlam's report, given the drawn-out process of the Commission's work thus far, we must be sceptical about the seeming haste in ending the life of the Commission.

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In particular it is unclear whether the Commission will have sufficient time and information to produce a report that deals with all the issues in manner that gives all South Africans, and particularly the families of the victims, some closure to this tragic episode in our history.

Judge Farlam's report must also make recommendations for appropriate mechanisms for accountability of those responsible for the massacre.

This decision by the President to excise a key part of the enquiry will greatly handicap Judge Farlam in properly executing his mandate.

For further comment/enquiry

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