

# RealTime Transcriptions

TRANSCRIPTION OF THE

## COMMISSION OF INQUIRY

### MARIKANA

#### BEFORE TRIBUNAL

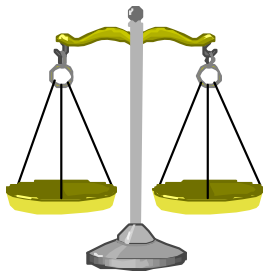
THE HONOURABLE MR JUSTICE FARLAM (RETIRED) - CHAIRPERSON  
MR TOKOTA SC  
MS HEMRAJ SC

#### HELD ON

DAY 290

12 SEPTEMBER 2014

PAGES 37806 TO 37905



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1 [PROCEEDINGS ON 12 SEPTEMBER 2014]  
 2 [09:13] CHAIRPERSON: The Commission resumes. I  
 3 understand that for the first hour this morning, possibly  
 4 slightly less, we're going to have the remaining  
 5 presentations on behalf of the families of the deceased.  
 6 Who is going to present the –  
 7 MR MOJAPELO: The first presentation –  
 8 MS PILLAY: Chair, Mr Mojapelo will be  
 9 presenting the first presentation which would be on behalf  
 10 of Mr Julius Langa.  
 11 CHAIRPERSON: Yes, thank you.  
 12 MR MOJAPELO: As the Chair pleases. The  
 13 first presentation is of the late Mr Julius Langa. Julius  
 14 Langa comes from the Tonka area in the Nelspruit area under  
 15 the traditional authority of Sivosho. He was born on 27  
 16 January 1957 and he died on 13 August 2012. Julius Langa  
 17 was 55 years at the time of his death. The person who has  
 18 been attending the Commission is the wife of Julius Langa  
 19 and she states as follows, "My name is Mary Segwegwe  
 20 Funzama. I was born on 18 January 1963. I was married to  
 21 the late Julius Langa in terms of customary rights on 1  
 22 February 1993. I have been attending the Commission since  
 23 its inception at Rustenburg."  
 24 MRS FUNZAMA: Yes.  
 25 MR MOJAPELO: And then the next slide is

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1 the picture of Mr and Mrs Langa during happier times. "My  
 2 last moments with my husband. Our home is in the Nelspruit  
 3 area. My husband stayed at Segwaelane village next to his  
 4 employment area."  
 5 MRS FUNZAMA: Yes.  
 6 MR MOJAPELO: "My husband telephoned me  
 7 to come to Marikana and I arrived in Marikana on the  
 8 Saturday, 11 August 2012 at around 3 o'clock. We spent  
 9 Saturday together. We spent Sunday together and in the  
 10 early hours of Monday morning I prepared a lunch box for  
 11 him as he usually leaves the house around 3AM for work and  
 12 I then went back to sleep. That was the last time I saw my  
 13 husband alive. How I learnt of my husband's death, two  
 14 police officers came to the house and wanted to know who  
 15 the wife of Julius Langa was and I responded that I am the  
 16 wife of Julius Langa. They did not tell me anything. They  
 17 also asked about the whereabouts of my brother. They then  
 18 left and never came back. Okay, then my brother came back  
 19 and we told him that the police were looking for him. He  
 20 went to the police and later came back to report to us that  
 21 my husband has been killed. On a later occasion I went to  
 22 the mortuary and the Lonmin officials who were assisting me  
 23 asked me to choose a coffin."  
 24 MRS LANGA: Yes.  
 25 MR MOJAPELO: "Out of the marriage

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1 between me and the late Mr Langa four children were born  
 2 and those children are Mduduzile, Thabishile, Precious and  
 3 Noktula."  
 4 MRS LANGA: Yes.  
 5 MR MOJAPELO: "And then all the children  
 6 and myself were financially dependent on Mr Langa. At the  
 7 moment we also have four grandchildren. There are also  
 8 extended families that also depended on Mr Langa for  
 9 support. My wish is that the Commission will help me with  
 10 the money for the children's maintenance. I want me and my  
 11 family to live on the same standard of living that my  
 12 husband used to give us. I am also very happy that Mr X  
 13 came and said that he and others killed my husband. These  
 14 killers should be arrested because they are causing a  
 15 suffering on my life. I am also convinced that my husband  
 16 was killed by his fellow co-workers because he was on his  
 17 way to work. I also want the Commission to hear a message  
 18 from the children of Julius Langa. Our father was an  
 19 important person in our lives because he was everything to  
 20 us. He was the only one who was working for us and he was  
 21 the only one who was putting food on the table. Since he  
 22 died we are suffering because no-one is putting food on the  
 23 table at the end of the month. We were loving him so much  
 24 because he was a good man to us but now since he died we  
 25 are in a bad way because we are suffering very bad. We

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1 want your help and we want a photo or a video of our  
 2 father. We want to see how he died so that we can find  
 3 peace in our lives. I thank you."  
 4 CHAIRPERSON: Does Mrs Langa wish to say  
 5 something herself?  
 6 MRS LANGA: Yes, I want to say a few  
 7 words.  
 8 CHAIRPERSON: What do you want to say?  
 9 MRS LANGA: I am in pain because of the  
 10 loss of my wife, my husband. It was on Friday when he  
 11 phoned me, on the 10th. He said that I should come over to  
 12 Morelane, that it was on the 11th. I arrived here on  
 13 Saturday. I spent on Sunday with him, we slept and then we  
 14 wake up, it was on the 13th, Monday. I wake up, I prepared  
 15 food for him and then he went away. Ja, he put his one  
 16 foot outside the house and then he asked me to lock the  
 17 door, which I did. That's the moment when he was leaving.  
 18 Ja, it was at 3 o'clock when he left. Since then I did not  
 19 see him again. Since the loss of my husband now I am a  
 20 sickly person. I have been to the doctors who told me that  
 21 I'm suffering from high blood because of the loss of my  
 22 husband. Ja, it was very painful to me, that is we started  
 23 at Rustenburg area where we were staying. I produced the  
 24 certificates of my children, they said they are not going  
 25 to register me because they will only concentrate to those

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1 people whose husband has been killed by the police. I  
 2 started to question myself, who is going to help me because  
 3 I have been phoned so that I should also come to the  
 4 Commission, which I did and then I followed it up to date.  
 5 Well, my husband was working for us and then he  
 6 was working at the mine but those, his colleagues, I am  
 7 very scared of them. I didn't expect that my husband will  
 8 die in that way. Then I put my hands on top of my head  
 9 because of the loss of my husband because I've seen  
 10 previously some other people did the same after they've  
 11 lost their husbands. For the period of two years nobody  
 12 was looking after me, then I had to tell the Commission  
 13 what is in my heart, yes. I am asking the Commission to  
 14 help me that my children should have something to eat, the  
 15 food on the table.  
 16 CHAIRPERSON: Yes, yes, thank you Mrs  
 17 Langa, we will –  
 18 MRS LANGA: Well, I have got only – ja,  
 19 it must come out, I have something to vent out here. Where  
 20 my husband has been killed, Chairperson, I was never there  
 21 at the spot itself but I have been to another spot. I  
 22 would love to go and see the spot, that's the place where  
 23 he was killed, then I will be happy.  
 24 CHAIRPERSON: Yes, thank you.  
 25 MRS LANGA: Well, I was told that there's

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1 a certain man who says that Langa died on the outside but  
 2 it surprises me when they say he died on the spot outside  
 3 because there's no person who died into the house. Thank  
 4 you.  
 5 CHAIRPERSON: Yes, Mrs Langa, thank you  
 6 for that. I can understand that you're very moved and  
 7 upset by the whole thing. I will ask the police – please  
 8 keep quiet, this is a very sad moment in Mrs Langa's life  
 9 and please, I ask everyone to respect her grief and her  
 10 feelings. Mrs Langa, I will ask the police to arrange for  
 11 you to be taken to the scene where your husband's body was  
 12 found and I will also ask the representatives of Lonmin to  
 13 investigate the situation in regard to the loss of support  
 14 that you have suffered. Whether they'll be able to do  
 15 anything is a matter I've obviously got no power over but  
 16 I'm sure that they will do what they can to assist.  
 17 MR BHAM SC: May I just say, Mr  
 18 Commissioner, that they're in the processing of finalising  
 19 a document which hopefully we will hand up either on Monday  
 20 or Tuesday, going through what they are doing and what they  
 21 have done.  
 22 CHAIRPERSON: Thank you very much and Ms  
 23 Baloyi, can you please ask the police to arrange for Mrs  
 24 Langa. She has, one of her problems that is preventing her  
 25 from getting closure is the fact that she hasn't seen the

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1 place where her husband was killed.  
 2 MS BALOYI: Indeed, Chair, we'll do that.  
 3 CHAIRPERSON: Would you please ask the  
 4 police to arrange to take her there and I suggest that  
 5 perhaps a social worker or someone could accompany them  
 6 because it's obviously a very emotional, it will be a very  
 7 emotional experience for her and she needs all the support  
 8 that she can get.  
 9 MS BALOYI: We'll do so, Chair, thank  
 10 you.  
 11 CHAIRPERSON: Which is the next family in  
 12 respect of which we're going to have a presentation?  
 13 MS PILLAY: Chair, it's in relation to Mr  
 14 Sokanyile and Ms Motloenya will be doing the presentation.  
 15 CHAIRPERSON: Thank you.  
 16 MS MOTLOENYA: Chair, on behalf of the  
 17 Sokanyile family we've got Mr Sokanyile's daughter, Ziyanda  
 18 Sokanyile, and Mr Sokanyile was killed on the 13th of August  
 19 and he was the man that was found across the river on the  
 20 13th of August. The statement was made by Mr Sokanyile's  
 21 mother. "Pumzile Sokanyile died at the age of 48" –  
 22 CHAIRPERSON: It says sister if you read  
 23 the third line, third paragraph of the statement. "I am  
 24 Pumzile Sokanyile, sister" –  
 25 MS MOTLOENYA: Yes, I beg your pardon.

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1 CHAIRPERSON: "My brother was killed" –  
 2 MS MOTLOENYA: I beg your pardon, it is  
 3 Mr Sokanyile's sister.  
 4 CHAIRPERSON: As long as we get it right.  
 5 MS MOTLOENYA: Thank you, Chair.  
 6 CHAIRPERSON: Is the lady with us  
 7 Songstress Nothakile Nkonyeni?  
 8 MS MOTLOENYA: No, Chair.  
 9 CHAIRPERSON: Oh, it's the daughter?  
 10 MS MOTLOENYA: it is Ziyanda Sokanyile.  
 11 CHAIRPERSON: I see.  
 12 MS MOTLOENYA: She has taken the  
 13 statement and –  
 14 CHAIRPERSON: This is her aunt who made  
 15 the statement.  
 16 MS MOTLOENYA: Indeed, Chair.  
 17 CHAIRPERSON: Yes, I see.  
 18 MS MOTLOENYA: "Mr Sokanyile died at the  
 19 age of 48. He was from Dumazulu Location in Nxeleni in the  
 20 Eastern Cape. My name is" –  
 21 CHAIRPERSON: I think we should get –  
 22 sorry, you're carrying on with what's on the screen now.  
 23 MS MOTLOENYA: Yes, Chair. "My name is  
 24 Songstress Nothakile Nkonyeni. I live in Dumazulu Location  
 25 in Nxeleni. I am Pumzile Sokanyile's sister. My brother

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1 was killed at Marikana. About Pumzile Sokanyile, my  
 2 brother was a very peaceful man who loved his job.  
 3 Everybody in my village knew him by his jokes and he liked  
 4 helping others. I can assure you he only got involved in  
 5 the strike action because he wanted his voice to be heard  
 6 by his employers. He was not scared to speak his mind. He  
 7 always ended his arguments in peace. He visited every  
 8 Easter and December holidays. His dependants, his wife  
 9 Pumfillisa Sokanyile" - he now has four children, Chair.  
 10 There was one child Lindikaya who passed away in August  
 11 this year. So in actuality fact there is Savika.  
 12 [09:33] CHAIRPERSON: No, there are five names  
 13 here, so he must have had six.  
 14 MS MOTLOENYA: Oh, yes, he had six.  
 15 CHAIRPERSON: The name you mentioned  
 16 isn't on the screen.  
 17 MS MOTLOENYA: Oh, he had six.  
 18 CHAIRPERSON: So he had six children.  
 19 How old was the child who died?  
 20 MS MOTLOENYA: 26.  
 21 CHAIRPERSON: 26, I see.  
 22 MS MOTLOENYA: 26.  
 23 CHAIRPERSON: She was grown-up and –  
 24 MS MOTLOENYA: Yes, Chair –  
 25 CHAIRPERSON: - and clearly left home.

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1 MS MOTLOENYA: Yes, Chair.  
 2 CHAIRPERSON: I understand.  
 3 MS MOTLOENYA: Who died 9 August.  
 4 CHAIRPERSON: Yes, I understand.  
 5 MS MOTLOENYA: So it's Seseka, Viyanda,  
 6 Yolanda, Snekiziwe and –  
 7 CHAIRPERSON: And what about Sibulele?  
 8 MS MOTLOENYA: - Sibulele.  
 9 CHAIRPERSON: Yes.  
 10 MS MOTLOENYA: And Sibulele, and his  
 11 brother Luvuyo and Msubanzi, his sister Notugilo and his  
 12 nephew Songezo. He started working for Lonmin in 2001. He  
 13 lived in Karee. Our cousin Mfanisene Sokanyile is also a  
 14 mineworker. He got his job through my brothers who were  
 15 still in the process of trying to get his brother Msubanzi  
 16 a job there.  
 17 His role in the family, Phumzile [mechanical  
 18 interruption] 2009. He built his own home [mechanical  
 19 interruption] school fees. After his father's death in  
 20 2010 the whole family had to rely on him. He was  
 21 everything to the family. His sister is also a widow and  
 22 so she was staying at home.  
 23 About the strike – he called us and told us we  
 24 mustn't be worried if his phone is off because he'll be on  
 25 the mountain and when he comes back he will switch it on

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1 and update us. That was the last time I heard from my  
 2 brother. As I was watching the strike on TV I became very  
 3 worried. When we spoke I even asked him to come home  
 4 instead, but he refused. He told me that he also wanted  
 5 the raise and he also wanted his voice to be heard by his  
 6 employer. He was very sad when he told me that they went  
 7 to see the management, Lonmin would send the police  
 8 instead. We never heard anything about NUM. He did not  
 9 like the way the employers were treating them. He said  
 10 they never listened to their concerns and work conditions  
 11 were unbearable.  
 12 The news of his death – I received the news on  
 13 the 17th of August 2012 that he had died. The person who  
 14 called us, Velile, is also from our village. I never  
 15 thought it would go that far. I thought maybe he might  
 16 lose his job, but not his life. We had been in contact  
 17 with Velile since 14th of August 2012. We asked him to help  
 18 us locate our brother, but they couldn't find him. Velile  
 19 called my aunt on the 17th of August 2012 to say that they  
 20 had found his body. However, since I was still in shock I  
 21 don't know where they found his body.  
 22 The news of his death – my mother did not take  
 23 the news well. She collapsed and died on her way to the  
 24 hospital. We had to deal with the pain of losing two  
 25 family members at the same time. I completely switched off

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1 hearing the news. Velile and Mfanisene Sokanyile took the  
 2 responsibility of viewing the body. I did not have any  
 3 chance to find out what really happened to my brother. I  
 4 don't know if we received the post mortem report.  
 5 The effect of the death – No one can really know  
 6 what we are feeling. I cannot begin to describe the pain I  
 7 feel inside. We lost our brother and mother at the same  
 8 time. We buried our brother and mother on the same day.  
 9 The ritual had to be done on 1st of December 2012. Two  
 10 buses from Marikana came to the funeral. We, the family,  
 11 were not in a good condition. I'm the only one that is  
 12 older and thus I have to take care of the family. I am 50  
 13 years old, but my wish is to get a job so that I can  
 14 maintain my family, so that there's food on the table at  
 15 the end of the day. I'm not looking for any luxuries but  
 16 simply to be able to put bread and butter on the table.  
 17 All I want for my family is for them to survive.  
 18 The Commission of Inquiry – I know about the  
 19 process that will be followed at the Commission of Inquiry.  
 20 It will never replace our family members. If the police  
 21 are found guilty the government must support my family. I  
 22 would also like Lonmin to employ my younger brother and my  
 23 brother's son.  
 24 CHAIRPERSON: Thank you.  
 25 MS MOTLOENYA: Ms Sokanyile does not wish

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1 to say anything, Chair.

2 CHAIRPERSON: She doesn't want to say –

3 well please accept our condolences and sympathy. We can

4 see that you were deeply moved by what's been read on your

5 behalf and it obviously was a very sad and tragic loss to

6 you all and we extend our sympathy to you.

7 The representative of Lonmin is sitting in court

8 and I'm sure he's heard what you, the request you've made

9 that favourable consideration should be given to employing

10 the two family members that you've mentioned. Thank you.

11 I know you can't undertake that that will happen, but I

12 understand that there is a practice at Lonmin where

13 possible to employ people who are related to former

14 employees, or even present employees, and so perhaps that

15 matter can be looked into if it hasn't been already.

16 MR BHAM SC: It will be communicated to

17 management, Chair.

18 CHAIRPERSON: Yes, thank you very much.

19 MS PILLAY: Chair, the next presentation

20 is on behalf of Mr Mabelane and it will be done by the

21 attorney for the Mabelane family, Mr Sam Shandunga.

22 CHAIRPERSON: Thank you.

23 MR SHANDUNGA: Thank you, Chairperson.

24 CHAIRPERSON: Yes, we have a photograph

25 of Mr Mabelane on the screen. I take it the text will

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1 follow.

2 MR SHANDUNGA: The text will follow. "I

3 am an adult female, widow" –

4 CHAIRPERSON: I'm sorry, sorry. Is the

5 lady sitting next to you Ms Leah Mabelane, or – you are Ms

6 Leah Mabelane, I see, and you are the widow of Mr Mabelane.

7 MS MABELANE: Yes, Chair.

8 CHAIRPERSON: Yes, please proceed.

9 [Microphone off, inaudible] her statement on her behalf.

10 MR SHANDUNGA: Thank you, Chairperson.

11 "I'm an adult female, widow of the late" –

12 CHAIRPERSON: I don't think your

13 microphone is on, is it? Yes, it is –

14 MR SHANDUNGA: It is.

15 CHAIRPERSON: - wrong with the

16 amplification.

17 MR SHANDUNGA: It is.

18 CHAIRPERSON: Yes, please carry on.

19 MR SHANDUNGA: "I'm an adult female,

20 widow of the late Frans Matlhomola Mabelane who worked for

21 Lonmin as a security superintendent. I make this

22 submission on my behalf and on behalf of the Mabelane

23 family.

24 The late Frans Matlhomola Mabelane had three

25 children, Kate, Retabile, Karabo, but they are unable to

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1 come because of the prohibitive cost of travel. The

2 children and family are thus not part of this process.

3 I first would like to thank the Commission for

4 the opportunity to permit us to make this submission. Our

5 submission shall address the life of the decease, our life

6 with the deceased, our individual and collective feelings

7 of loss as a family, impact financially and morally as a

8 result of the loss of my husband in the family, as well as

9 the questions we would like the Commission to address in

10 its work.

11 Frans was born in a village of Segwaelane in

12 1964. He is one of the four children and was raised by a

13 single parent. We got married in 1993. He was a hard

14 worker and a pillar of strength to all close and extended

15 family members.

16 Frans was a breadwinner at home. He took, Frans

17 took –

18 CHAIRPERSON: You mean "undertook," I

19 take it.

20 MR SHANDUNGA: Yes, yes, yes. "He

21 undertook to give his siblings, parent and children support

22 in their informal business or businesses, and thus the

23 whole extended family relied on his support. At my place

24 he paid for all other household needs and now I'm in no

25 position to take over these financial obligations.

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1 Impact of his death on the family – As a family

2 we have to but thank Lonmin for some assistance they gave,

3 but we'll address the Lonmin issue later in this statement.

4 The death of Frans means that the support that we all

5 received went with him and the cycle of poverty that

6 gripped the family and the extended family will rear its

7 head again with no one to mitigate it. Frans was working

8 hard to break this cycle, but his death is a great

9 disruption of his intent. His death and these difficult

10 times renders us very vulnerable.

11 The feeling of the family – Though we accept that

12 death can come to any person, but Frans' death was very

13 cruel, very untimely, and we believe very avoidable. The

14 family is unable to cope with the humiliation of the manner

15 in which he died and most have sent the photos that" –

16 CHAIRPERSON: Most have been sent.

17 MR SHANDUNGA: Ja, "and most have been

18 sent the photos that were circulating showing how their

19 father was burned with some stigma as though he was doing

20 something wrong. We feel that Lonmin has taken away Frans

21 and has a responsibility to assist us and replace his debts

22 to his children and the broader Mabelane family and/or make

23 good our loss.

24 Feeling of the family – We also feel that the

25 dastard act committed must be properly investigated and

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1 that those responsible must be made to see what I believe  
 2 the Commission must show to the world and South Africa, an  
 3 indescribable inhuman suffering of slow uninterrupted  
 4 burning of a body in a hot day. We cry when we remember,  
 5 but this is our picture of every day. It goes around with  
 6 us and we see questioning on this by others when they look  
 7 at us. It is us, this picture is us and more, it is the  
 8 picture that now identifies us as a family. Especially our  
 9 children have to deal with this. They go around with this  
 10 picture at the young age they are. Can it be that when a  
 11 person is killed with such indignity the employer cannot  
 12 take responsibility? Can it be that we have to be beggars  
 13 for food from NGOs?

14 As though is not enough, the bodies were given to  
 15 us incomplete and what was left was badly burned. How  
 16 could we live with this? We just have questions and more  
 17 questions. Our situation is very precarious. We request  
 18 those we blame for support.

19 What undertaking Lonmin is prepared to make to  
 20 redress the loss of the family?"

21 CHAIRPERSON: These are the questions  
 22 that they –

23 MR SHANDUNGA: Yes.

24 CHAIRPERSON: - that the family asks, is  
 25 it? The first one you read, "What undertaking is Lonmin

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1 prepared to make to redress the loss of the family?"

2 MR SHANDUNGA: Yes. Thank you,  
 3 Chairperson. "Whether Frans was responsible to deal with  
 4 strikers? What training he had to deal with so many people  
 5 who were clearly angry? Whether the employer did not have  
 6 a duty to warn Frans about the danger of facing the  
 7 strikers after they had attacked his colleagues, namely  
 8 Messrs Vorster and Louw? At what stage were the police  
 9 called for assistance and what was their response? What  
 10 time and where did the strikers start marching? What type  
 11 of assistance shall Lonmin provide to the family?" And  
 12 that is the –

13 CHAIRPERSON: Thank you. Of course these  
 14 questions have been covered in the evidence and in the  
 15 questioning of the witnesses and we hope to deal with them,  
 16 as many of them as we can and as fully as we can in the  
 17 report. Is there anything that Mrs Mabelane wishes to say,  
 18 or is she content with what you've said on her behalf?

19 MR SHANDUNGA: No, Chairperson, that will  
 20 be all.

21 CHAIRPERSON: Thank you.

22 MS PILLAY: Thank you, Chair, the –

23 CHAIRPERSON: Again this is one of the  
 24 deceased who was a former employee of Lonmin. You made a  
 25 comment in respect of Mr Langa. Is there anything you wish

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1 to say at this stage, Mr Bham?

2 MR BHAM SC: Exactly the same I said  
 3 previously –

4 CHAIRPERSON: Well, perhaps Mrs Mabelane  
 5 must stay here and hear what you say. Or perhaps her  
 6 attorney must stay and listen and tell her. Just repeat it  
 7 for her benefit so she'd understand.

8 MR BHAM SC: The issues raised in the  
 9 statement relating to Lonmin and in particular the  
 10 questions on the last page will be communicated to my  
 11 client.

12 CHAIRPERSON: Thank you. Ms Pillay, who  
 13 is next?

14 MS PILLAY: Chair, the next presentation  
 15 is on behalf of Mr Twala and it will be done by Mr  
 16 Ntsonkota.

17 CHAIRPERSON: Thank you.

18 MR NTSONKOTA: Thank you, Ms Pillay.  
 19 Thank you, Chair and members of the Commission. It will be  
 20 recalled, Chair, on day 273 of the Commission when the  
 21 first rounds of family presentations were made I requested  
 22 that we postpone Mr Twala's presentation, owing to the fact  
 23 that there were no family members in attendance on that  
 24 day.

25 CHAIRPERSON: Yes. What is the position

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1 today? Are there family members in attendance?

2 MR NTSONKOTA: Subsequently my attorneys  
 3 got in touch with the family. However, due to  
 4 circumstances beyond our control we were unable to secure  
 5 their attendance at the Commission this morning. However,  
 6 I have been requested on behalf of the family to read onto  
 7 the record a statement –

8 CHAIRPERSON: Yes, thank you. May I say  
 9 that I hope it will be possible for a video clip to be  
 10 extracted from the TV coverage of today dealing with the  
 11 presentation you're going to make, which could perhaps be  
 12 made available to the family so that they could at least  
 13 see what you have said on their behalf.

14 MR NTSONKOTA: We will endeavour to do  
 15 so, Chair. The statement is prepared by Mr Wellington  
 16 Bongani Twala. It reads as follows - we have prepared  
 17 enough copies for the Commissioners and the other parties –

18 CHAIRPERSON: Yes, thank you. You don't  
 19 have to give them to us now. You can give them to us at  
 20 the end of the morning, but I take it, it will be put on  
 21 the screen –

22 MR NTSONKOTA: As the Chair pleases.

23 CHAIRPERSON: - so we can follow and  
 24 everybody in the chamber, everyone who's watching on the  
 25 worldwide web can see it.

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1 MR NTSONKOTA: As the Chair pleases. It  
 2 reads as follows, "In the Marikana Commission of Inquiry,  
 3 statement of Wellington" –  
 4 CHAIRPERSON: I think you must wait for  
 5 the – it's not your fault – can the, oh there it is, thank  
 6 you.  
 7 MR NTSONKOTA: Thank you. It reads as  
 8 follows, "In the Marikana Commission of Inquiry, statement  
 9 of Wellington Bongani Twala. I am the adult son of Mr  
 10 Isaiah Twala who was murdered on 14 August 2012 in the  
 11 immediate vicinity of the area now known as the koppie,  
 12 near Lonmin's Marikana Operation during the unprotected  
 13 strike in August 2012.  
 14 I make this statement on behalf of my father's  
 15 family. In this statement I provide the Commission with  
 16 details about my father and his life and the impact of his  
 17 death on the family.  
 18 At the time of his death my father was 52 years  
 19 of age and worked at Lonmin as a shift supervisor at  
 20 Fourbelt Shaft, Karee Mine. I was first informed of his  
 21 death on 14 August 2013 by my aunt, Constance Mgobosi" –  
 22 CHAIRPERSON: Sorry to interrupt you,  
 23 2012.  
 24 MR NTSONKOTA: 2012, I beg your pardon.  
 25 CHAIRPERSON: It didn't take a year for

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1 the news to reach him.  
 2 MR NTSONKOTA: Thank you, Chair. "I was  
 3 first informed of his death on 14 August 2012 by my aunt,  
 4 Constance Mgobosi and my cousin Siyabonga Mgobosi. I  
 5 personally identified his body on 17 August 2012. My  
 6 father's death was cruel and unnecessary and has caused  
 7 great pain and loss to his family.  
 8 I saw my father often before his death as we  
 9 resided in close proximity to one another in Dibuku  
 10 Section, Wonderkop. I last saw him on 13 August 2012 at  
 11 about 15:00 at a shop near our places of residence.  
 12 My father did not participate in the unprotected  
 13 strike in August 2012, but was prevented from attending  
 14 work on that day because of the strike action. I do not  
 15 know the circumstances of his death the following day or  
 16 how he came to be in the immediate vicinity of the koppie  
 17 where his body was found.  
 18 My father was born in the Free State in 1960 and  
 19 had nine siblings, seven sisters and two brothers. My  
 20 father had four children, my two sisters Nompumelelo, 29  
 21 years of age, and Jabulile, 16 years, and myself 30 years,  
 22 were born to my father and my mother Emma Twala, who passed  
 23 away in 2007. My father subsequently married Nonhlanhla  
 24 Nene with whom he had another son, Sipesihle, two years.  
 25 Nonhlanhla Nene and Sipesihle reside at my father's home in

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1 Hambrook Village near Ladysmith in KwaZulu-Natal.  
 2 Nonhlanhla is unemployed and was entirely dependent on my  
 3 father for her support and Sipesihle's support and  
 4 survival.  
 5 My father returned home to KwaZulu-Natal whenever  
 6 he took annual leave and every Easter. My sister Jabulile  
 7 is a school student and lives with my sister Nompumelelo in  
 8 Ntabaswe near Harrismith. Nompumelelo is married and has  
 9 two children. My father would regularly send money to her  
 10 to support Jabulile, including paying for Jabulile's school  
 11 fees.  
 12 My father worked at Lonmin for over 20 years  
 13 until his death. He initially worked as a winch driver and  
 14 was promoted to shift supervisor around 2006, a position he  
 15 held until his death. He seemed to enjoy his job. Before  
 16 working at Lonmin my father worked at a bakery in  
 17 Ladysmith.  
 18 My father was a longstanding member of the  
 19 National Union of Mineworkers and was an elected union  
 20 safety steward. I was told by a close colleague of his, Mr  
 21 Zuzekile Mtungwana, that my father was good to work with  
 22 and was highly respected by his fellow supervisors.  
 23 [09:53] My father had a good reputation for his ability  
 24 to resolve disagreements amongst the supervisors. Mr  
 25 Mtungwana also informed me that my father's work team had

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1 elected him as a safety representative because of his  
 2 leadership skills and experience. In 2012 his work team  
 3 was appointed by the responsible underground manager, Mr  
 4 Rodney Opperman, to assist with the training of recently  
 5 appointed workers as well as those workers who required  
 6 additional or refresher training. My father was a very  
 7 open and friendly person who enjoyed socialising and  
 8 helping others. He helped to transport fellow workers to  
 9 and from work with his vehicle and during the December  
 10 holidays he would transport some of them to and from their  
 11 homes. He was also a talented and keen photographer and  
 12 would shoot portraits and social photographs for  
 13 individuals and at weddings and social functions. He had  
 14 ambitions to expand his photography business and to start a  
 15 taxi business.  
 16 My father's funeral was held on the 24th and 25th  
 17 of August in KwaZulu Natal. The family had laid him to  
 18 rest in the cemetery in Hambrook village near Ladysmith on  
 19 25th August 2012. My father played a central role in our  
 20 family. I had a very good relationship with him and I miss  
 21 him a great deal. His death has caused the family great  
 22 pain and has left an enormous gap in our lives. His loss  
 23 is felt dearly by his wife, his children, his grandchildren  
 24 and his friends and colleagues. The family hopes that the  
 25 Commission will find out the precise circumstances of my

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1 father's death on 14 August 2012 and establish who was  
2 responsible for killing him and the others who lost their  
3 lives at Marikana. Wellington Mbongani Twala." On behalf  
4 of the Commission, on behalf of the Twala family I thank  
5 you, Chair, and members of the Commission for the  
6 opportunity.

7 CHAIRPERSON: Yes, thank you very much.  
8 I take it that the family have been in contact with the  
9 Social Welfare Department to investigate the possibility of  
10 some grant being made available. If they haven't been, I  
11 suggest that steps be taken to do that. I don't know  
12 whether a grant will be made available but it's something  
13 that should be investigated if it hasn't been looked into  
14 already.

15 MR NTSONKOTA: As the Chair pleases.

16 CHAIRPERSON: Thank you. Yes, Ms Pillay,  
17 who is next, which family is next going to be making a  
18 presentation?

19 MS PILLAY: Chair, the next presentation  
20 is on behalf of the family of Mr Tokote Mangcotywa and it's  
21 Mr Ntsebeza who will be doing it.

22 CHAIRPERSON: Yes, Mr Ntsebeza?

23 MR NTSEBEZA SC: Thank you, Mr Chairman.  
24 Whilst we wait for Vuyiswa Mangcotywa who is the daughter,  
25 may I just make two comments? The first one, Mr Chairman,

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1 is an observation and the second one is an appeal. The  
2 first observation is the fact that the Commission is  
3 bending over backwards to accommodate the families in this  
4 hour of their bereavement, of continued bereavement. I  
5 know that we are operating under strictures of time and yet  
6 the Commission, it seems to me, is prepared to go that  
7 extra mile to accommodate the people who want to speak.

8 CHAIRPERSON: Yes. No, thank you, it was  
9 the least we could do in the circumstances. I'm sorry we  
10 can't do more to enable the families to give full  
11 expression to their feelings of loss and the tragedy that's  
12 hit them all.

13 MR NTSEBEZA SC: Yes, Mr Chairman, thank  
14 you. I said the other is an appeal, the appeal will be  
15 that we continue to balance the demands on our time and the  
16 need to give the families that latitude to express  
17 themselves to the extent that the time allows them to do  
18 so. Julius Tokote Mangcotywa, 61 Sterkspruit, Eastern  
19 Cape. The family member is Vuyiswa Mangcotywa. I live in  
20 Palmfontein, Sterkspruit in the Eastern Cape Province. I  
21 am the daughter to Julius Tokote Mangcotywa. My father was  
22 killed at Marikana. My father was very loving, he was a  
23 peaceful person who hardly got angry. He loved soccer and  
24 doing gardening. When he came home he made sure that the  
25 yard was always clean. The dependants are his wife,

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1 Nowethu Mangcotywa, five adult children, all dependent,  
2 three minor children, Fezile, Sandi, Anele and all three  
3 are attending school. There are three grandchildren and  
4 there is a niece. With respect to Lonmin, this is what is  
5 said, "If I recall correctly he left home more than five  
6 years ago to search for a job or a job opportunity on his  
7 own initiative. Whilst he was an employee at Lonmin my  
8 father lived in an informal settlement in Marikana. He had  
9 built his own shack on someone else's premises. My father  
10 was the sole breadwinner in the family and as such played a  
11 very crucial role in providing food, clothes and all the  
12 important needs of the family. He supported his wife,  
13 eight children, three grandchildren and a niece. On the  
14 strike, he phoned and told me about the strike. He said it  
15 was about wages. A major complaint raised in my  
16 conversation with him was the issue of low wages paid by  
17 Lonmin. About the news of his death one, Vilape Mda, a  
18 miner worker at Lonmin, phoned my cousin Fumanigile George  
19 Mangcotywa and told him that my father had died as he had  
20 been shot by the police. Fumanigile informed everyone at  
21 home about this tragic news. My father was laid in his  
22 final place of rest on 8 September 2012 at Sterkspruit.  
23 Most of his colleagues from Marikana attended the funeral.  
24 The effect of his death has been such that I did not think  
25 he would die, I thought the labour dispute would be

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1 resolved without fatalities, like any other labour dispute.  
2 My father's death remains a painful and a sad moment in our  
3 family. We are all devastated and hurting, the pain is  
4 unbearable. I expect the Marikana Commission of Inquiry to  
5 investigate and tell the truth and get to the bottom of why  
6 my father was killed, as I think Lonmin should not have  
7 sent the police to the mine. In my view, it was this act  
8 that was directly responsible for the death of the  
9 workers." That's the presentation on behalf of the family.  
10 I -

11 CHAIRPERSON: Does the late Mr  
12 Mangcotywa's daughter wish to add anything to what you've  
13 said?

14 MR NTSEBEZA SC: She doesn't want -

15 MS MOTLOENYA: She indicated that she  
16 does not wish to say anything.

17 CHAIRPERSON: Thank you for coming and  
18 thank you for being present when the statement was read by  
19 your family's counsel and we extend our sympathy and  
20 condolences to you also and all the members of your family  
21 on the loss that you suffered.

22 MR NTSEBEZA SC: Thank you, Mr Chairman.

23 MS PILLAY: Thank you, Chair. The next  
24 presentation is on behalf of Mr Babalo Mtshazi and it will  
25 be done by Mr Ntsebeza.



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1 MR NTSEBEZA SC: - Mtshazi.  
 2 CHAIRPERSON: Yes, Mr Ntsebeza.  
 3 MR NTSEBEZA SC: Mr Chairman, the family  
 4 member is Noziphiwo Mtshazi and she would like to say as  
 5 follows, "I am an adult female residing at Ntshale  
 6 Location, Libode, Eastern Cape Province. I am the  
 7 biological mother of Babalo Mtshazi who died in Marikana.  
 8 My son was unmarried and is survived by two children. He  
 9 was a pillar of strength and a rock in my family. My son  
 10 is known to his friends and family as a great soccer  
 11 player, he loved soccer. Babalo quit school because we  
 12 languished in poverty and I could not afford to buy him  
 13 clothes."  
 14 CHAIRPERSON: Are we going to be told how  
 15 old he was because he looked pretty young from the  
 16 photograph? Do you know what his year, in what year he was  
 17 born?  
 18 MR NTSEBEZA SC: I gather, Mr Chairman,  
 19 that he was born in 1986 and –  
 20 CHAIRPERSON: On that basis he would have  
 21 been –  
 22 MR NTSEBEZA SC: In 2012 he would have  
 23 been –  
 24 CHAIRPERSON: He would have been 26.  
 25 MR NTSEBEZA SC: 26, yes.

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1 CHAIRPERSON: Thank you. Yes, I'm sorry  
 2 for interrupting you but he did look much younger than some  
 3 of the others.  
 4 MR NTSEBEZA SC: Yes, indeed. In fact if  
 5 one compares him to Mr Mangcotywa who was 61, it just shows  
 6 the range of the people who got killed on that –  
 7 CHAIRPERSON: It does indeed.  
 8 MR NTSEBEZA SC: Mr Mtshazi had two  
 9 children, Lesakanya Mtshazi, Masethole Mtshazi. One  
 10 dependant was Nosiphiwe Mtshazi. There were three  
 11 siblings, Zameka Mtshazi, Yonela Mtshazi and Boniswa  
 12 Komana. "About Lonmin, he asked for permission to go to  
 13 look for a job. He left for Marikana around 2006 to look  
 14 for work and better living conditions for our family. At  
 15 Marikana my son first lived in a hostel but in 2011 he  
 16 built his own shack. Babalo's late father also worked for  
 17 a mine in Rustenburg. He supported the family and bought  
 18 food and other household necessities. He also bought  
 19 cattle. He had recently bought a stand and had built a  
 20 house for us. He was planning to buy furniture for the  
 21 house. In July 2012 we had a housewarming party in which  
 22 we were celebrating his success in building us a house. My  
 23 son phoned regularly to ask how we were doing and he always  
 24 visited us during Easter, during December holidays and on  
 25 family occasions. Before 16th August my son phoned me and

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1 asked to speak to the children. He undertook to attend a  
 2 family ritual which was scheduled for the 29th of September  
 3 2012. I was at home in Libode and did not know much about  
 4 the strike. His sister, Boniswa Komana, lives in Jabula,  
 5 Rustenburg and saw the news about the strike on television.  
 6 She contacted Babalo and enquired about the strike. He  
 7 answered by saying but he saw on the news what the strike  
 8 was about. Boniswa insisted on getting a straight answer  
 9 from him and asked him to come to live with her at Jabula  
 10 or with his uncle at Bob Mine in Rustenburg. Someone from  
 11 Teba came to my house and took us to my uncle's home to  
 12 tell us the shocking news that Babalo had died in the  
 13 strike. I went to Marikana with my sister and uncle. I  
 14 saw the body at the mortuary. We observed that Babalo was  
 15 injured in the head about the ear and he had stitches in  
 16 the head. We all wanted to ask how he died but my uncle  
 17 could not even ask questions because he was hurting and  
 18 unable to deal with things at that time. We performed a  
 19 ritual in terms of our customs whilst at Marikana before  
 20 taking Babalo's body to the Eastern Cape Province. We took  
 21 the coffin to the koppie where we spoke to his spirit in  
 22 terms of our customs, we uttered the words 'Babalo, you  
 23 died here, we are taking you home for your burial.' At the  
 24 funeral some of his colleagues explained to us that people  
 25 were shot by the police during the strike. In preparation

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1 for the burial we bought a cow and the government brought  
 2 us six sheep. At the time of the consultation with the  
 3 legal representatives on the 29th September 2012, my  
 4 daughter Boniswa Komane broke down and cried. She's very  
 5 disturbed emotionally by her brother's death and hurting a  
 6 lot. She has been seeing doctors. The doctors said she is  
 7 stressed. I and my family would like to attend the  
 8 Commission of Inquiry, including my son who works in the  
 9 Eastern Cape" – I think that has now been achieved, Mr  
 10 Chairman. "We can only attend the Commission of Inquiry if  
 11 the government assisted with transport and living  
 12 expenses." That also has been achieved, I make the  
 13 observation. "I did not receive a telephone call from  
 14 Babalo's employer, neither have I contacted his employer.  
 15 I am still hurting and I have no strength to go to the  
 16 mine. The government must help with the schooling of the  
 17 children, buy furniture for the house that Babalo had just  
 18 built." Thank you, Mr Chairman.  
 19 CHAIRPERSON: Thank you, is there  
 20 anything that the family member wishes to add? I beg your  
 21 pardon, this is Mr Mtshazi's mother, is there anything she  
 22 wishes to add or is she content to stand by what you have  
 23 said in the presentation that you made on their behalf?  
 24 MRS MTSHAZI: If Lonmin had done the  
 25 correct thing, Chairperson, people would not have died,

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1 particularly my child. He is the person I solely depended  
 2 on, also his other siblings, two siblings. His father  
 3 passed away a long time ago. He had to carry the family.  
 4 He would always say that he doesn't want the other children  
 5 to grow up in the same manner in which he grew up. He  
 6 would give them money, R500 a month for each. They have  
 7 both passed and attend, they are presently attending. I  
 8 was so hurting as a result of which I am suffering from  
 9 sugar diabetes and high blood pressure. That is – thank  
 10 you, Chairperson.

11 CHAIRPERSON: Thank you. We extend our  
 12 sympathy and condolences to you and your family on the loss  
 13 that you suffered. May I enquire from – Mrs Mtshazi, would  
 14 you stay for just a minute? May I enquire from the  
 15 representatives of Lonmin what the position has been in  
 16 respect of the schooling of the children? I understood  
 17 Lonmin was going to set u a trust to deal with education of  
 18 the children of those who were killed. Have steps been  
 19 taken to see to it that the children to which, to whom  
 20 reference was made in the presentation have been receiving  
 21 schooling? Is that something you will take instructions  
 22 on?

23 MR BHAM SC: The trust, as I understand  
 24 it, has been set up and has been functioning. The schedule  
 25 of payments made and to whom it's been made or on whose

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1 behalf it's been made will be handed in on Monday.

2 CHAIRPERSON: Thank you. Is that the end  
 3 of the presentations on behalf of the families?

4 [10:12] MR CHASKALSON SC: It isn't, Mr  
 5 Chairperson, I don't want to intrude on the family's  
 6 presentation but there is fact in relation to Mr Mtshazi  
 7 that I think is important to draw to the attention of the  
 8 Commissioners which is that Mr Mtshazi's body is one of the  
 9 bodies that was found at scene 1 on the far side of the  
 10 kraal, more than 40 metres away from the TRT line. He was  
 11 shot through the head and according to the post-mortem  
 12 reports had been immediately incapacitated. And his body  
 13 was found more than 40 metres away from the people that had  
 14 shot him.

15 CHAIRPERSON: That's a fact which the  
 16 legal representatives of the police will doubtless give  
 17 very serious, anxious consideration. I take it they may be  
 18 doing that already. Ms Pillay, are those the presentations  
 19 on behalf of the family members?

20 MS PILLAY: No there are still a few  
 21 presentations left, Chair.

22 CHAIRPERSON: How many are there?

23 MS PILLAY: We've got five left.

24 CHAIRPERSON: Five left, I see.

25 MS PILLAY: The next presentation, Chair,

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1 is on behalf of Mr Patrick Akhona Jijase and Mr Ntsebeza  
 2 will be doing it.

3 CHAIRPERSON: Yes, Mr Ntsebeza.

4 MR NTSEBEZA SC: Mr Chairman, relevant to  
 5 this family member you will see that the statement refers  
 6 to somebody called Mazantuba Jijase, This is not Mazantuba  
 7 Jijase, Mazantuba is a female and the mother of the  
 8 deceased, but Banele is representing the family today.

9 CHAIRPERSON: Yes I see, thank you.

10 MR NTSEBEZA SC: Now they all reside in  
 11 the Ntabankulu in the Eastern Cape Province. About Patrick  
 12 Akhona Jijase, Akhona conducted the family about three  
 13 times a day. He had manners, he was always happy, he  
 14 hardly got into trouble. That was the view of the mother.  
 15 His mother, as I indicated is Mazantuba Jijase, the father  
 16 is Njislwa Jijase. Akhona did not have any children, he  
 17 looked after his brother and two sisters and his nephew.  
 18 He left home in order to try and find a job in June 2012.  
 19 He found employment at Lonmin in July 2012 and he had not  
 20 yet visited home. He lived in the Wonderkop informal  
 21 settlement, he rented a shack there. Akhona supported us  
 22 financially, he put food on the table, he catered for all  
 23 our needs such as medical care and other household  
 24 essentials. Akhona's elder brother has his own family and  
 25 he cannot support us. There was a strike, Akhona phoned us

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1 on Saturday, 11th August 2012 informing me, that is the  
 2 mother, I will strike and also told me that it was a strike  
 3 action for higher wages. He said he was worried about the  
 4 strike, he has just started working. He said he may come  
 5 back home if the strike continues. Akhona told me that  
 6 people were being killed during the strike, he also said  
 7 that employees did not go back to their hostels, rooms or  
 8 shacks, but were gathering at the koppie because people  
 9 were being killed by the police. I tried him on the 16th of  
 10 August 2012 at about 8 o'clock, but his phone was switched  
 11 off. On 20 August 2012 a person from Teba, Ntabankulu  
 12 Eastern Cape came to my home and informed us, the family  
 13 that Akhona had passed away. We were told that he was shot  
 14 by the police. Alfred Mashiya Mzunbane, Akhona's cousin,  
 15 went to Marikana to view Akhona's body in the mortuary. He  
 16 told us that the cause of death was a gunshot wound in the  
 17 head, shot at the back of the head out to the forehead.  
 18 There were cracks in his skull and his clothes had  
 19 bloodstains. He said Akhona was severely injured. I was  
 20 heartbroken and felt severe pain on hearing that he died,  
 21 I'm still not well emotionally. We told all Akhona's  
 22 colleagues who attended his funeral that we are grieving  
 23 his death and did not want to hear what Akhona did in this  
 24 strike or how he died. In addition Akhona was the only  
 25 breadwinner. We're now left with no support or financial

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1 assistance. I don't know what we are going to do to  
2 survive. I did not expect that he would be killed by the  
3 police. I thought that he would either get the pay  
4 increase or be dismissed from work. I am of the view that  
5 Lonmin could have prevented the massacre if it had accepted  
6 the workers' request for a better wage before the massacre.  
7 However, Lonmin simply acceded to the workers' demands  
8 after the mine workers including my son were killed. I  
9 want the Commission to know that I lost a son during the  
10 strike. I want someone to take responsibility for Akhona's  
11 death. Thank you, Mr Chairman.

12 CHAIRPERSON: Thank you. Is anything  
13 going to be added? Would his family member wish to just  
14 associate herself, as it were, with what you said?

15 MS MOTLOENYA: Chair, he has indicated  
16 that he does not wish to say anything, Mr Chair.

17 CHAIRPERSON: Yes thank you. Again we  
18 extend our sympathy and condolences to all the members of  
19 the family –

20 MS PILLAY: Chair, the next presentation  
21 is on behalf Nkosiyo Xalabile. And it will be done by Mr  
22 Ntsebeza. I did say Mr Ntsebeza.

23 MR NTSEBEZA SC: Mr Chairman,  
24 Commissioners, thank you. The family member who is sitting  
25 next to me is the grandfather to Nkosiyo Xalabile who was

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1 and passed standard 9. He had just returned to work after  
2 a two week leave. He went on leave on 24 June 2012 to  
3 prepare for his wedding which subsequently took place on  
4 the 7th of July 2012. I never thought that my son would die  
5 just over a month after getting married. Nkosiyo was my  
6 first born child and the sole breadwinner in the family, he  
7 supported everyone in the family including his wife and his  
8 sister and his sister's children. He bought us food,  
9 clothes, he paid for our medical care and most importantly  
10 he provided school fees for tuition for his two sister's  
11 children. I can say that he helped family to keep their  
12 heads above the water at all costs. Like many workers he  
13 would come during Easter and Christmas holidays. Relative  
14 to the strike he phoned us often during the strike, he told  
15 me that the strike was about the workers' demand for a  
16 better wage in line with the prevailing economic climate.  
17 Further that the strike was about enforcing their rights as  
18 workers and that the reason why they had gathered at the  
19 koppie was to get a better wage. He told me that workers  
20 were prepared and they had invited Lonmin to engage and  
21 endeavour to come up with a solution to the strike,  
22 however, Lonmin failed to engage with the workers or listen  
23 to their grievance. Instead Lonmin sent the police. He  
24 complained of the working conditions at the mine and that  
25 he and other workers were paid too little, taking into the

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1 killed on the day. The statement had been made by Nonesile  
2 Xalabile who is the mother, but she's not able to be here,  
3 but the grandfather to Nkosiyo is here and he's  
4 comfortable that we should read the statement made by  
5 Nkosiyo's mother. Thank you, Mr Chairman, thank you,  
6 Commissioners. I'm Nonesile Xalabile. Nkosiyo Xalabile  
7 who was killed at Marikana was my son. I live at  
8 Elliotdale in the Eastern Cape. Nkosiyo was a father  
9 figure in my family, not only did he send other children to  
10 school, but he would send me money every month to provide  
11 for my daily needs and wants. He was a religious man and  
12 went to church often. He loved soccer and was a part-time  
13 coach of a team called The Eleven Strikers. I loved him  
14 more than I can ever explain. Dependents were his wife,  
15 Lilita Xalabile whom he had married on the 7th of July 2012,  
16 barely a month before he died. Mother, Nonesile Xalabile,  
17 his sister, Pamela Xalabile, his sister's two children,  
18 Melisa Xalabile, 11 years old and Celine Xalabile, 6 years  
19 old. With respect to Lonmin Nkosiyo left home for  
20 Marikana in search of a job in the year 2004. He got a job  
21 through TEBA Umtata after having paid the requisite joining  
22 fee. My son was employed as a winch driver at Lonmin in  
23 Marikana. The position he occupied until his death.  
24 Although he did not hold a formal qualification Nkosiyo  
25 had an opportunity to attain basic or secondary education

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1 consideration the dangerous conditions and the demanding  
2 nature of the job. And that the National Union of Workers  
3 did not duly advance and protect the interests of workers  
4 and did not have our interests at heart and that they sided  
5 with the employer. To the best of my personal knowledge  
6 the strike commenced on the 9th of August 2012. My son told  
7 me that he felt threatened by the armed police's presence  
8 in the strike. He said that all the workers wanted was a  
9 wage increase and not fight. I thought the strike and the  
10 wage dispute between the employees and the employer would  
11 be resolved, I never thought the police would kill my son.  
12 And it is the first time I hear of people being killed like  
13 this over a wage dispute. If Lonmin had spoken and engaged  
14 with the employees no-one would have been killed on 16  
15 August 2012. Lonmin should have agreed to increase the  
16 wages instead of sending the police to kill some workers  
17 before effecting the wage increase. If Lonmin had  
18 increased the wages no-one would have been killed on 16  
19 August 2012. During the period 11 to 15 August 2012 he  
20 complained that things at the mine were bad, tense and  
21 difficult. I heard about my son's death on the 18th of  
22 August 2012. A person from Teba in Umtata came to my house  
23 and asked for an elder man in the family. I instructed one  
24 of the children to take the man to my uncle, Mr Tutwana,  
25 Kolosani, who does not live far from my home. The man came

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1 back with Uncle Kolosani who told us that Nkosiyabo had  
 2 died in the Marikana tragedy. At Lonmin a white manager  
 3 told us our family members were killed by police officials.  
 4 He said some people in the people were killed, so the  
 5 police ended up shooting the workers on 16 August 2012.  
 6 The manager seemed afraid to say more because people were  
 7 asking a lot of questions about the tragedy, in particular  
 8 people were asking as to why the workers were killed  
 9 instead of Lonmin talking to them. He was just evasive and  
 10 did not give answers. At the mortuary when we went for  
 11 body viewing I noticed that Nkosiyabo with serious head  
 12 injuries. We could not even inspect the whole body, it was  
 13 painful and emotional. The post-mortem revealed my son  
 14 died of a gunshot to the chest. I'm told that he died at  
 15 the small koppie. His corpse was removed from the koppie  
 16 and taken to the mortuary and did not even go to the  
 17 hostel. Nkosiyabo's death remains a painful experience  
 18 that will take many years to erase in my memory. It was  
 19 painful reality and I was very scared. The news of his  
 20 untimely death came to me as a shock, I had thought to  
 21 myself Nkosiyabo was just here at home not long ago and had  
 22 just gotten married. Upon receiving the message about his  
 23 death I immediately contacted his wife, sister and other  
 24 family members. His sister, Pamela Xalabile, has up until  
 25 this day not come to terms with the passing of her brother.

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1 I had the time and opportunity to meet with his fellow  
 2 employees who saw him before his death, they told me that  
 3 he was with them on the koppie and when the police started  
 4 shooting at them they dispersed. No-one showed me where  
 5 his body was found, all I know is that his body was taken  
 6 from the small koppie to Phokeng, Ga Rankuwa and then Doves  
 7 Funerals in Marikana. His funeral was held on 1 September  
 8 2012. I still can't believe that my son is dead. The pain  
 9 is unbearable. I feel like it is a big lie, I will be told  
 10 that he didn't die.  
 11 [10:32] She gets not only unbearable pain, but life in  
 12 itself has become unbearable. The family benefited from  
 13 Nkosiyabo's employment at the mine, supported us and sent  
 14 us money on a monthly basis. I don't know how we're going  
 15 to survive without him.  
 16 The family is in deep trouble as he has left  
 17 behind unfulfilled obligations of debts, and thirdly, there  
 18 is no money in his bank account to settle these outstanding  
 19 debts. He had incurred debts in preparation for his  
 20 wedding. I expect the Commission of Inquiry to investigate  
 21 how and why my son was killed. I want the Commission of  
 22 Inquiry to remember the families of the deceased  
 23 mineworkers and hear about the role played by the deceased  
 24 mineworkers in supporting their families." Thank you, Mr  
 25 Chairman, Commissioners.

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1 CHAIRPERSON: Does the grandfather wish  
 2 to say anything? I understood you to indicate that he  
 3 associates himself with what you said. Is that correct?  
 4 MR NTSEBEZA SC: Yes, Mr Chairman, I  
 5 thought Mr Xalabile wanted to –  
 6 MR XALABILE: Thank you, Chairperson. I  
 7 am hurt by what happened which was caused by Lonmin that  
 8 resulted in the death of this child. He was making lots of  
 9 contributions at his home. What Lonmin did was something  
 10 that I least expected would happen, because we regard the  
 11 place of one's employment as being his home. He only goes  
 12 to his real home when he has reached pensionable age after  
 13 having spent his whole life at the place of employment.  
 14 Lonmin leaves at the, for about what our children are doing  
 15 and they went to the mountain and Lonmin went and killed  
 16 them there like birds. If there wasn't this Commission,  
 17 Chairperson, we would be looking around in those trees,  
 18 those forests, finding their rotten bodies there, not  
 19 knowing what had killed them and where they had died.  
 20 We have trust in this Commission, it helped us,  
 21 did the necessary investigations. Lonmin is actually  
 22 making an endeavour to run away from the investigation  
 23 after the death of our children, but originally when were  
 24 at Mooinooi promises were made to us by Lonmin that the  
 25 death of our children would be regarded in the same light

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1 as people who had died underground, even though they were  
 2 killed by the police. We persevere, Chairperson, with the  
 3 real belief that if a person had died underground or had  
 4 died at the company where he's working, he would be paid  
 5 monthly even if it is so hurting.  
 6 All that we ask [inaudible, speaking  
 7 simultaneously with interpreter] my child, my son died at  
 8 scene 2, Mr Chairperson, where he was actually hiding,  
 9 hiding, where he was killed and killed there like an  
 10 animal. I [inaudible] Chairperson that this Commission  
 11 will be of help to us; as our child was working there we  
 12 hope that Lonmin would be of assistance and that this  
 13 Commission would be of assistance. Thank you, Mr Chairman.  
 14 CHAIRPERSON: Thank you.  
 15 MR XALABILE: That is all I want to say.  
 16 CHAIRPERSON: Yes, thank you. These  
 17 matters to which you've referred in relation to the  
 18 circumstances in which your son –  
 19 MR MAHLANGU: He also mentioned that the  
 20 NUM had turned against them, or from before this.  
 21 CHAIRPERSON: Yes. The matters you  
 22 raised about the circumstances in which your son died and  
 23 how he was killed and so forth, those are all being fully  
 24 investigated by the Commission and the representative of  
 25 Lonmin has heard what you've said about Lonmin and I take

1 it that he'll take instructions on that. We will now take  
2 the tea adjournment, 15 minutes, first tea adjourn, 15  
3 minutes.

4 [COMMISSION ADJOURNS COMMISSION RESUMES]

5 [10:59] CHAIRPERSON: The Commission resumes.

6 Yes, Ms Pillay?

7 MS PILLAY: Thank you, Chair. The next  
8 presentation is in relation to Mr Michael Ngweyi and will  
9 be done by Mr Ntsebeza.

10 CHAIRPERSON: Yes, Mr Ntsebeza.

11 MR NTSEBEZA SC: Thank you, Mr Chairman,  
12 Commissioners. Mrs Nositle Ngweyi is the family member  
13 sitting next to us and she's the one who made the  
14 statement. If I may proceed, Mr Chairman.

15 CHAIRPERSON: Yes, please proceed.

16 MR NTSEBEZA SC: "I'm Nositle Ngweyi. I  
17 live in Mvezo Village in Mthatha, Eastern Cape. I was  
18 married to Michael Ngweyi who was killed at Marikana.

19 Michael was a peaceful man. He liked soccer and  
20 church, as well as Maskandi Music. His favourite Maskandi  
21 musician was Thokozani Langa. My husband was very close to  
22 me, to our sons, and to his family. He loved us very much,  
23 came home every two months. He phoned me every morning  
24 before he went to work and in the evenings when he came  
25 home. He even sent call-back messages when he did not have

1 airtime. He was planning to build a house for his  
2 children. I'm so sad that he did not get to realise this  
3 dream.

4 His dependents are me, his wife, two sons Wonder  
5 aged four years, Minentle Olotando, who's one year old.  
6 There are also his sister's children, Anita, 17, Thabiseng,  
7 5, Ovayo, 3, and Sanghe, who is six years old.

8 Michael left Mvezo for Marikana in 2009 to look  
9 for a job so that he could improve his life and personal  
10 circumstances. In Marikana my husband lived in Nkaneng,  
11 the informal settlement. He had erected his own shack on  
12 someone's premises to whom he paid rent.

13 My husband was the only person who was employed  
14 in our family. He thus played a very big role in our  
15 family. He was responsible for everything in the household  
16 from groceries, school fees, medical care, and all other  
17 household needs. This included the needs of his sister's  
18 children.

19 Between the 9th and the 16th of August 2012 my  
20 husband participated in the strike. During this period he  
21 communicated with me and informed me that he was  
22 participating in the strike. He would phone every time he  
23 got a chance to do so, especially in the evening. His  
24 phone would be switched off during the day.

25 He informed me that he did not feel good about

1 the strike, but wanted to stand up for and enforce his  
2 rights as an employee. He informed me that he could not  
3 leave the strike and leave others behind. He said that the  
4 strike was for a good cause. It was about the workers'  
5 rights. He said he worked very hard and earned very  
6 little.

7 On Tuesday the 21st of August 2012 someone from  
8 the TEBA branch in Mthatha phoned my brother Nxoliso  
9 Matjona and said that the TEBA branch in Rustenburg had  
10 asked him to inform our family about the death of my  
11 husband. I felt traumatised. I never thought that my  
12 husband had died in the strike. I kept on believing that  
13 he was arrested and would be released soon. I felt severe  
14 pain and heartache and did not want to believe that he had  
15 died. I could not believe that Michael was dead.

16 At Phokeng Police Station Thandigile and his wife  
17 gave the police my husband's name. The policeman said that  
18 when he shouted Michael's name someone answered or  
19 responded. The police said since he answered when his name  
20 was called Michael was alive and detained at Phokeng Police  
21 Station. When Thandigile and Nxolo requested to be allowed  
22 to see him and explained that the family had just been told  
23 that Michael had died, the police told Nxolo that they  
24 could only see him on Thursday, the 23rd of August 2012 at  
25 1PM. Thandigile reiterated that he was told that his

1 brother had died and wanted to see him, but the police  
2 insisted that they should come back on the Thursday.

3 Thandigile then phoned my family in Mvezo and  
4 said that Michael was not dead but had been arrested. He  
5 then phoned TEBA in Mthatha, asking why they had said that  
6 Michael has passed away when the police were saying that he  
7 was alive and in the police station. This was a great  
8 relief to me and I was very happy that my husband had  
9 survived. TEBA branch in Mthatha said Thandigile must go  
10 to the TEBA Bob branch in Rustenburg and there they would  
11 give him all the information that he needed about Michael.

12 Thandigile proceeded to the TEBA Bob branch where  
13 they confirmed that Michael had indeed died and that his  
14 body had not been seen, still absent on the list, and that  
15 Thandigile would be able to see his body on Thursday, 23rd  
16 of August 2012, and also that transport to the mortuary  
17 would be provided for the memorial service which was then  
18 yet to be held in Marikana.

19 Social workers from Mthatha came to see me and  
20 provide death counselling. Some few hours before I  
21 received confirmation from Thandigile that Michael had  
22 died. I informed social workers that Michael was not dead.  
23 This was despite the fact that the social workers had been  
24 told that Michael had died in the strike and had to see the  
25 list confirming the people who had died, which included my

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1 husband.

2 The social workers had come to provide me with

3 counselling. They were shocked when I told them that my

4 husband was not dead. The social workers asked me how I'd

5 feel if I heard that my husband was dead. They told me

6 that in the event that I had been told that my husband died

7 I must accept it because death does happen. They talked to

8 me as if my husband was dead and as if they were preparing

9 me to accept the death of my husband. I started to suspect

10 that the social workers knew something I was not aware of.

11 Thandigile phoned Ango Matjona and Ango Didigile Thandiso

12 and they in turn told me that Michael had died.

13 On the 23rd August 2012 Thandigile attended the

14 memorial service whereafter he went to view the body. He

15 found Michael's body. Thandigile informed us that he

16 noticed that Michael had been shot in the abdomen. The

17 post mortem which was shown to Thandigile stated that the

18 cause of death was a gunshot in the abdomen. The

19 impression that Thandigile got from the viewing of the body

20 was that he may not have died on the 16th August. The

21 gunshot wound still looked fresh and blood was still coming

22 out of his ears.

23 I felt pain when I discovered that Michael had

24 died. This was on Thursday the 23rd of August. I truly

25 believed that he had survived. This was very traumatic.

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1 I'd been told that my husband had died, was alive, and had

2 died. I felt a severe pain and never had joy in my heard.

3 I truly believed that he had survived. No one had

4 confirmed to me that he was dead until Thandigile had done

5 the body viewing.

6 Government must do something in memory of my

7 husband for my children to see when they're old, like

8 building a house. When my children are grown I want to

9 tell them that their father was killed in a strike and for

10 that reason the government had to build us a house.

11 Nxolo, Thandigile's wife, does not want my

12 children and me to suffer. She says the government must

13 step into Michael's shoes, fulfil all his plans and

14 responsibilities. She wants a tombstone for Michael's

15 grave.

16 No one has told us who killed Michael. From what

17 we know he was shot by the police during the strike. We

18 are expecting to hear from the Commission why he was

19 killed." Thank you, Mr Chairman.

20 CHAIRPERSON: Thank you, Mr Ntsebeza.

21 Does the widow wish to say anything? Is she happy to

22 associate herself with what you've said, what you've read

23 out on her behalf?

24 MS MOTLOENYA: She wishes to say

25 something, Chair.

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1 MS NGWEYI: I thank you, Chairperson. I

2 want to pass a message through to Lonmin, particularly to

3 Ben Magara who came last year and promised us that there

4 would be no suffering at our homes. We last saw him then,

5 Chairperson. He never came back to come and tell us what

6 the position is pertaining to our family lives.

7 I am hurt about Lonmin. Lonmin is contributing

8 to the education of my one child, but does not know what my

9 children have for meals, what they eat. From 2012 Lonmin

10 has not been there to see how Michael's children live.

11 Michael was not only working for the one child. I have a

12 younger child and Lonmin has never cared to think about

13 that child, what the child eats, what the child wears.

14 The question I'm asking myself is why does Lonmin

15 not care whilst Michael was working for Lonmin? Promise

16 was made by Lonmin when our husbands died and they have not

17 done anything for us since then. We are struggling. It's

18 only during December that Lonmin cares what we eat, but for

19 the whole year nothing is done for us and our children.

20 They don't care what they eat. Our children also need

21 clothes to put on over their bodies.

22 What hurts me most, Sir, is that I know my

23 husband was killed by the police. The police are getting

24 paid every month. I am seated at home. And what also

25 hurts me, Chairperson, is that nobody has been held

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1 responsible for the death of my husband, nobody has been

2 arrested for the death of my husband, as though the police

3 had done the correct thing by killing people. I hope that

4 this Commission will look into the way in which these

5 police killed these people. Thank you very much,

6 Chairperson.

7 CHAIRPERSON: Thank you. I can assure

8 you we have been looking into the circumstances in which

9 your husband and all the others were killed. We've heard a

10 lot of evidence on the matter. We're still going to hear

11 argument on the matter and so you can accept that we're

12 doing our best to get the information that you require.

13 I'm sorry that your hopes were raised by inaccurate reports

14 that your husband was still alive when he really died, and

15 my colleagues and I fully understand that that must have

16 immeasurably increased your grief, and made what was

17 already a traumatic experience for you even more so.

18 Please accept our condolences for the loss that you've

19 suffered. The representatives of Lonmin are present in the

20 chamber today and I'm sure they will convey to Mr Magara

21 what you've said.

22 MR NTSEBEZA SC: Thank you, Mr Chairman.

23 CHAIRPERSON: Yes, Ms Pillay?

24 MS PILLAY: Thank you, Chair, the

25 penultimate presentation is in respect of Mr Telang Mohai

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1 and will be done by Mr Ntsebeza.

2 CHAIRPERSON: Yes, Mr Ntsebeza?

3 MR NTSEBEZA SC: Thank you, Mr Chairman,

4 Commissioners. The family member is Sotho-speaking and she

5 is the wife.

6 CHAIRPERSON: The widow of the deceased,

7 Mr Mohai.

8 MR NTSEBEZA SC: Ja, the widow.

9 CHAIRPERSON: Thank you.

10 MR NTSEBEZA SC: The widow.

11 CHAIRPERSON: We now have the Sesotho

12 interpreter in place as well.

13 MR NTSEBEZA SC: Yes, Mr Chairman.

14 CHAIRPERSON: Yes, Mr Ntsebeza.

15 MR NTSEBEZA SC: "My name is Matumelo

16 Mohai. I'm the wife of Telang Mohai who was killed at

17 Marikana. I live in Letabaneng, Maseru, Lesotho.

18 Telang was a loving man. He wanted to provide

19 everything for us. He used to call every day to speak to

20 each of us and find out how we are doing. Since we were

21 renting the place where we are currently living he had been

22 building us a home to call our home. The house is not yet

23 complete.

24 He wanted to buy me a car so that I could

25 transport school children to make us some money whilst I'm

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1 at home. Now I do not know how I will fulfil all his plans

2 without him. I'm his wife. We have three dependents." I

3 believe I must read and pause, read and pause to allow for

4 the translation into Sotho.

5 [11:19] CHAIRPERSON: Is there no simultaneous

6 translation?

7 MS MOSHWANE: I was not aware that I

8 needed to translate, Chair.

9 CHAIRPERSON: Yes. Well, in any event

10 from now on you will translate.

11 MS MOSHWANE: I will.

12 CHAIRPERSON: After each sentence or two

13 that Mr Ntsebeza has read.

14 MR NTSEBEZA SC: The dependants are the

15 wife, Matumela Mohai and three children, Relibohile Mohai,

16 Babalo and Mamres Mohai. "With respect to Lonmin, he has

17 been working for Lonmin since 2003. My husband was the

18 only person working in the family. He provided us

19 everything. He paid for the children's school fees and

20 maintained our family. He also looked after his cousin who

21 was orphaned, he would pay for his school fees and help him

22 with whatever he needed. Insofar as the strike is

23 concerned, he first told me about it on the 14th of August.

24 He said they were meeting at a koppie and they were

25 striking so that their wages can be increased to R12 500.

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1 He didn't say much about what was happening there as he

2 didn't want me to worry about him. The last time I spoke

3 to him was on the 15th of August 2012. He had called me to

4 tell me that he was going to the koppie again as they still

5 had not resolved their issues. On the 16th I saw the

6 shootings on the news. I couldn't believe what was

7 happening. I immediately tried to call him but his phone

8 was off. I was desperately worried. On 18 August 2012 a

9 representative from Theba, Mr Kolozi, came to confirm my

10 fears. He informed me that my husband had been shot and

11 killed by the police on the 16th of August 2012. They did

12 not explain to me exactly where he had died. They only

13 informed me that I had to come to South Africa to choose a

14 coffin and to identify his body. I came to South Africa

15 with his uncle who also works for one of the mines in

16 Rustenburg, to choose a coffin and identify the body, but

17 when it came to time for us to go and look at his body, I

18 was afraid and I refused to go in. His uncle later told me

19 that when he saw him his skin was very dark and he was

20 unrecognisable. His funeral was on the 1st of September

21 2012. His colleagues were there. They told me that when

22 they were on the mountain a police officer told them to go

23 back to work but they told him that they wanted to speak to

24 their employer and not the police. They also said that on

25 the 16th of August 2012 there were many police officers.

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1 The children still haven't recovered from the

2 shock. After hearing of his death they were inconsolable.

3 They talk about the day that he was meant to come home on

4 leave and how they were looking forward to spending time

5 with him, now he is gone. They also talk about the gifts

6 their father had promised them. Relibohile was expecting a

7 computer from her father as she wanted to learn how to use

8 a computer. I want to know how my husband was killed. The

9 mine has undertaken to educate my children, however there

10 are other things that their father used to do for them. I

11 want to know how my family will be assisted as my husband

12 is gone and I have no way of supporting my family. Thank

13 you, Mr Chairman and Commissioners.

14 CHAIRPERSON: Thank you. Does the late

15 Mr Mohai's widow wish to add anything or is she happy to

16 associate herself with what has been said?

17 MS MOSHWANE: Yes, she does, Chair.

18 MRS MOHAI: Thank you, Chair. If Lonmin

19 had resolved their issues with the workers, the tragedy

20 could have been avoided. Lonmin made our husbands their

21 friends and workers but in the end when they asked for an

22 increase in their wages which they toiled for, they are now

23 labelled [indistinct] and they were killed. In Sotho they

24 say a person is normally killed by a person who knows, a

25 friend, so Lonmin was a friend to my husband and Lonmin

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1 killed him. The lady who came and praised the police for a  
2 job well done when our, when blood flowed, we thank her as  
3 she is a woman who knows the pain of bearing a child, I say  
4 to her, forward, may God bless you and may you continue  
5 with your good deeds. To the widows I say let us be strong  
6 in our faith. We should not lose hope, we should pray. To  
7 be able to bring up our children who have now turned  
8 orphan, because most of the children grew up without  
9 knowing their fathers because their fathers left them when  
10 they were still very young. I then say thank you, I am a  
11 woman and I would hold it there. That is all, thank you,  
12 Chair.

13 CHAIRPERSON: Thank you. My colleagues  
14 and I extend our commiserations and condolences to you also  
15 on the loss that you suffered. Ms Pillay?

16 MS PILLAY: Thank you, Chair. The final  
17 presentation is in respect of Mr Andries Msenyeno and it's  
18 going to be made by Mr Ntsebeza.

19 CHAIRPERSON: Yes, Mr Ntsebeza?

20 MR NTSEBEZA SC: Thank you, Mr Chairman  
21 and Commissioners. You are not the family member. The  
22 family member is the widow, Mr Chairman.

23 CHAIRPERSON: Yes, thank you.

24 MR NTSEBEZA SC: Her name is Lebohang.

25 CHAIRPERSON: I'm sorry, Mr Ntsebeza, is

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1 the situation that the widow, is the widow here, the  
2 statement that you're reading by the sister of the  
3 deceased?

4 MR NTSEBEZA SC: Yes.

5 CHAIRPERSON: Is that correct?

6 MR NTSEBEZA SC: Yes, I got my  
7 instructions wrong. We will need a translation for her,  
8 yes, into Sotho.

9 CHAIRPERSON: Yes, the late Mr Msenyeno  
10 was a Mosotho so his –

11 MS MOSHWANE: Yes, he was Sotho, South  
12 Sotho.

13 CHAIRPERSON: So he was, the language  
14 will be Sesotho.

15 MS MOSHWANE: South Sotho, yes Chair.

16 MR NTSEBEZA SC: The statement –

17 CHAIRPERSON: I don't know – sorry, I  
18 said he was a Masotho. I don't know if that means, I  
19 didn't mean by that he necessarily lived in Lesotho but he  
20 was a Sesotho speaker.

21 MS MOSHWANE: Yes, South Sotho speaking.

22 CHAIRPERSON: Ja, and the ethnic group,  
23 if one can use that old-fashioned word, to which he  
24 belonged was the Basotho.

25 MS MOSHWANE: Basotho, yes Chair.

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1 MR NTSEBEZA SC: The statement that we  
2 have, Mr Chairman, was made by the sister to Mr – "My name  
3 is Lebohang Msenyeno. I live in Sasolburg. Motlalipula  
4 Andries was my brother, he was killed at Marikana. My  
5 brother loved his family, he loved his wife and children  
6 very much. He would visit home every month for three days.  
7 He used to call his wife every day in the morning before he  
8 went to work and in the evenings when he came back from  
9 work. He also spoke to his son Thabang often to encourage  
10 him to study and not to work for the mine like he did. His  
11 dependants were his wife, Mathabang Msenyeno, five  
12 children, Thabang Msenyeno 21 years old, Nthabiseng  
13 Msenyeno 19, Mamoketi Msenyeno 18 years, Myeketse 10 years  
14 old, Refilwe 7 years old. There is a mother, Agnes Mabeki,  
15 and a sister.

16 My brother had been working for Lonmin for about  
17 a year. He wanted to leave the mine and buy cars to use  
18 them to transport goods and generate an income so that he  
19 could save up enough money to build a home for the family.  
20 He told us often that he was tired of working at the mine  
21 because the salary was too little to support his children  
22 properly. He was about to leave Lonmin to start this  
23 business and realise his dream when he was killed. My  
24 brother was our sole breadwinner. His wife Mathabang has  
25 not been well for a while. She has not been working and

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1 after my brother was killed her condition has worsened. My  
2 brother had been responsible for everything, he bought the  
3 groceries, paid for the school fees for the children,  
4 clothes and anything else that was needed in the house.

5 About the strike, Motlalipula would call when he  
6 was about to go to the koppie and when he returned from the  
7 strike. He explained that the reason they were on strike  
8 was because they worked very hard underground but earned  
9 little money. He was not happy about that strike but he  
10 thought that it was the only way they would get results.

11 We were very concerned about his safety, for his safety,  
12 because of what we would see on the news. We asked him to  
13 come home but he would always assure us that he was fine  
14 and that he would come home when the strike was over.

15 After we saw the events on the 16th of August 2012  
16 on television we tried to call him, he did not answer his  
17 phone. On the 17th of August we asked his neighbours to  
18 look for him but they could not find him. My other brother  
19 Tebogo then went to Marikana to go look for Motlalipula.  
20 However, his search was in vain. We only officially found  
21 out about Motlalipula's death on the 18th of August from the  
22 representatives from Teba.

23 [11:39] When the TEBA representatives came to the house  
24 to report his death they told us that our brother had died  
25 according to the way it was shown on the news. We were



1 also told by Tebo who went to wash his body that he had a  
2 lot of wounds on his body. However, we were not given a  
3 post mortem report, nor were we told what the cause of  
4 death was. I also noticed many holes on the clothes he was  
5 wearing when he died.

6 We are not sure what is going to happen to his  
7 children. Mr Maruping said the mine would pay for the  
8 children's school fees as long as passed. However, if they  
9 failed they would not. Their father would not have placed  
10 conditions on the education of his children, so we do not  
11 know what we will do in this regard. His deepest desire  
12 was for his children to go to university. Now his older  
13 son Thabang will have to put his studies on hold to find a  
14 job in order to provide for his family.

15 We never expected the strike to result in his  
16 death. We've always heard of people going on strikes but  
17 we never thought people would get killed like that. We are  
18 devastated by his death. He was holding us all together.

19 From the Commission we want to know how  
20 Motlalepula died because in all that we have seen so far at  
21 the Commission we do not know where he was found. All we  
22 know is that he died on the 16th of August." Mr Chairman,  
23 Commissioners, thank you.

24 CHAIRPERSON: Thank you. Does the widow  
25 wish to add anything to what you've said?

1 pain in our hearts. Woe unto the hand that killed Andries.  
2 I take Andries like a soldier who died for his  
3 oath, who died for his rights at work, a soldier who died  
4 in action.

5 I have a question to Lonmin.

6 1, When Lonmin employed or hired my husband, did  
7 they ask him if he is educated?

8 2, Did Lonmin tell Andries that when he demanded  
9 a wage increase they will call the police to kill him?

10 3, When Lonmin hired him where were the police?

11 4, Now that Lonmin says they're uneducated when  
12 they ask for an increase, will Lonmin be able to generate  
13 the millions that he used to generate whilst he was working  
14 underground, whilst they are sitting in their offices  
15 wearing suits and writing with pens? Will Lonmin be able  
16 to generate those millions that Andries used to generate  
17 and put in their pockets by toiling underground?

18 When he asked for an increase due to the  
19 circumstances in his family they now claim he is faceless  
20 or unknown. When he has died Lonmin now turns and says  
21 that they know him. They even know where he stayed.

22 Does Lonmin know how painful it is or what type  
23 of pain there is still in our hearts and in my children's  
24 hearts? To be informed of a corpse of a person that you  
25 loved, that you did not nurture to health, is very painful.

1 MS MOSHWANE: Yes, she has, Chair. She  
2 has prepared –

3 CHAIRPERSON: Yes, Mrs Ntsenyeho, what do  
4 you wish to say?

5 MS MOSHWANE: If I may, Chair, she has  
6 prepared –

7 MS NTSENYEHO: Motlalepula Andries  
8 Ntsenyeho was my husband. He was a man who was a light to  
9 his household. Today that light has faded.

10 MS MOSHWANE: She is emotional.

11 CHAIRPERSON: I can understand that the  
12 recollection of your loss and the circumstances of your  
13 husband's death cause you great emotional distress and  
14 pain. If you find it difficult to read out what you've  
15 prepared perhaps you can hand it to the evidence leaders  
16 and we can have it translated and put in the record  
17 together with the other statements that have been made by  
18 family members. Or the interpreter can read it out  
19 perhaps.

20 MS MOSHWANE: I may. I will. It is  
21 written in Sotho. She says, "Mathabang Ntsenyeho,  
22 Motlalepula Andries Ntsenyeho was my husband. He was a man  
23 who was a light to his household. Now that light has  
24 faded. Only darkness is left. The peace that used to be  
25 within the family is no more. It has turned into shame,

1 On the morning of the 15th I spoke to him at  
2 around 9AM. He said to me 'I am coming back next week.'  
3 When the phone rang at around 7 I knew that there was  
4 something wrong when he did not answer. I could not sleep  
5 for two days until the day when a message was sent by  
6 people from Lonmin on the Saturday. Oh, Lonmin, you have  
7 really inflicted a pain in my heart.

8 To the police, I hate the way the police handled  
9 this situation. They are civil servants who know the law.  
10 They were supposed to intervene in order to resolve the  
11 situation, but what they did is to go and display or  
12 demonstrate how they were trained to use firearms. Even  
13 them do have grievances about wages at work. Police do not  
14 treat civilians well. We see daily how police treat  
15 citizens. I know that it is not all police who do that,  
16 but one rotten potato spoils all.

17 To the government, I am very ashamed. I am in  
18 pain, unbearable pain. I ask myself that how am I going to  
19 take care of my children and how are my children going to  
20 cope about the pain that they are suffering. The  
21 government gave a decision without listening to the  
22 grievances of the workers. They labelled them hooligans,  
23 dangerous people, but I have a question; how dangerous were  
24 the workers for them to deserve to be killed so brutally?  
25 I ask this because wild animals are kept safe in an

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1 enclosure where there can be no harm to human beings. How  
 2 dangerous were they to deserve to be killed in that way?  
 3 Is it because they are illiterate, uneducated? Oh, I am  
 4 afraid of a suit and a pen. I loved Andries with all my  
 5 heart. My heart is bleeding for him to be taken away from  
 6 me when I still loved him. Thank you.”  
 7 CHAIRPERSON: Thank you. Mrs Ntsenyeho,  
 8 I hope that your legal representatives will be able to make  
 9 a copy available to you of the post mortem report which  
 10 they have received, which will give you some of the details  
 11 that you say you didn't receive initially, and when you  
 12 receive the report of this Commission you will find as many  
 13 details as we will be able to discover in relation to the  
 14 matters that you raised in respect of which you wish to  
 15 receive information. My colleagues and I extend to you and  
 16 your family our sympathy and commiserations on the loss  
 17 that you've suffered.  
 18 MS MOTLOENYA: Chair, just to put it on  
 19 the record that SERI and the attorneys have already  
 20 provided the post mortem reports to all the families of the  
 21 deceased persons.  
 22 CHAIRPERSON: I see. No, because that  
 23 was a problem that she raised and I thought if it hadn't  
 24 been dealt with it should be, but I'm pleased to hear that  
 25 it has been done.

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1 MS MOTLOENYA: No, it has been done.  
 2 MS NTSENYEHO: Thank you, Chair.  
 3 CHAIRPERSON: As to the place where he  
 4 died, we were going to have an inspection on Monday, but it  
 5 couldn't be completed for reasons I don't have to go into  
 6 now, and it was hoped that those members of the families  
 7 who were present would get an opportunity at that  
 8 inspection to see where their loved ones died. As I've  
 9 said, it was terminated for reasons I don't have to go into  
 10 at this stage. But Mr Chaskalson, is there any statement  
 11 you wish to make in regard to the possibility that the  
 12 families will have the opportunity at some stage, not  
 13 necessarily at an inspection but in some other way, to see  
 14 the places where their family members died?  
 15 MR CHASKALSON SC: Well, we can't at this  
 16 stage commit to another inspection because we don't know  
 17 whether one is going to take place and if so, when. But  
 18 what we can offer is together with the legal  
 19 representatives of the families to identify the exact  
 20 positions where each deceased person was found, so that  
 21 whether it's at a formal inspection or at an informal  
 22 inspection family members can be taken to the exact  
 23 position where their loved ones died.  
 24 CHAIRPERSON: I'm very pleased you said  
 25 that. It's obviously something that's necessary to help

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1 the closure which everybody desires.  
 2 MR CHASKALSON SC: And specifically in  
 3 relation to Mr Ntsenyeho we can do that today if Mrs  
 4 Ntsenyeho would want that to be done. We can do the  
 5 identification today so that Mrs Ntsenyeho can if needs be  
 6 make arrangements with her legal representatives to go to  
 7 that spot.  
 8 CHAIRPERSON: Thank you.  
 9 MS MOSHWANE: She says okay.  
 10 CHAIRPERSON: Thank you. Very well, that  
 11 concludes the representations by the members of the family.  
 12 We're now moving over to the stage of hearing evidence.  
 13 Before we do that I want to say that we were informed  
 14 yesterday that the President has signed the letters patent  
 15 of Mr Dali Mpfu, who is now Mr Dali Mpfu SC, and we wish  
 16 to extend on behalf of all of us here our congratulations  
 17 to him and our best wishes for his career as a senior  
 18 counsel member of the legal profession and the bar.  
 19 MR MPOFU SC: Thank you very much,  
 20 Chairperson, much appreciated. To all the colleagues as  
 21 well and the people here, I must say that if that honour is  
 22 deserved it will be more so because of the experiences that  
 23 I've gained here and some of the insights that I've gained  
 24 here. Thank you very much, Chairperson.  
 25 CHAIRPERSON: Thank you. Anyway,

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1 congratulations, Mr Mpfu, once again. Right, I think  
 2 let's take the tea break now and then we will proceed to  
 3 the evidence-taking part of today's proceedings, 15  
 4 minutes.  
 5 [COMMISSION ADJOURNS COMMISSION RESUMES]  
 6 [12:15] CHAIRPERSON: The Commission resumes. Mr  
 7 Bham.  
 8 MR BHAM SC: Thank you, Mr Commissioner.  
 9 The next witness is a Lonmin witness, Mr Barnard Mokwena.  
 10 CHAIRPERSON: Mr Mokwena, would you stand  
 11 please? Are you prepared to take the oath or do you wish  
 12 to affirm?  
 13 MR MOKWENA: I do.  
 14 CHAIRPERSON: You do what?  
 15 MR MOKWENA: Take an oath.  
 16 CHAIRPERSON: I see. Do you swear that  
 17 the evidence you will give before this Commission will be  
 18 the truth, the whole truth and nothing but the truth.  
 19 Would you raise your right hand and say, I swear, so help  
 20 me God?  
 21 MR MOKWENA: I swear to God.  
 22 CHAIRPERSON: I swear, so help me God.  
 23 MR MOKWENA: I swear, so help me God.  
 24 CHAIRPERSON: Yes, thank you, you may be  
 25 seated.

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1 MR MOKWENA: Thank you.

2 CHAIRPERSON: Do we have any

3 housekeeping, Mr Bham?

4 MR BHAM SC: Only this, Mr Commissioner,

5 the witness has before him a paginated bundle of documents

6 which we have prepared. Included in that bundle are his

7 two witness statements. I would ask of you, Mr

8 Commissioner, what we should do in labelling it as an

9 exhibit and we can then put page numbers on.

10 CHAIRPERSON: What we did with Mr Seedat,

11 you remember, is that he produced a bundle which we called

12 SSSS1 and then there were various documents in that and it

13 was paginated. So shall we do the same with Mr Mokwena?

14 MR BHAM SC: We should –

15 CHAIRPERSON: In the case of that bundle,

16 actually it was five volumes' worth, that bundle, there was

17 a previous statement or maybe even more that Mr Seedat had

18 made and that was included just for the sake of

19 completeness.

20 MR BHAM SC: Yes.

21 CHAIRPERSON: So I've take it you've done

22 the same here. So shall we call the Bham, sorry, shall we

23 call the – I'll get it right eventually – shall we call the

24 Mokwena bundle TTTT1? Ms Pillay has come back, so let's

25 get her permission. Is that okay, Ms Pillay? Can we call

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1 the Mokwena bundle TTTT1?

2 MS PILLAY: Mr Chair, we have exhibits

3 marked TTTT, so the Mokwena bundle would be WWWW1.

4 CHAIRPERSON: T, U or W? Is there a U,

5 is there a UUUU as well?

6 MS PILLAY: There is a UUUU as well.

7 CHAIRPERSON: I see. So just as well we

8 spoke to you. So this will be WWWW1, thank you. I'm asked

9 by Ms Hemraj to ask you where the bundle is. It seems a

10 not irrelevant question.

11 MR BHAM SC: It's highly relevant. I had

12 imagined, incorrectly so it would appear, that the bundles

13 were made available for the Commission.

14 CHAIRPERSON: Oh I see, that's the bundle

15 we got earlier.

16 MR BHAM SC: Yes.

17 CHAIRPERSON: I see, okay. So that's

18 been dealt with.

19 MR BHAM SC: Am I exonerated from the

20 chastisement?

21 CHAIRPERSON: No chastisement was

22 intended, it was just an interrogatory but that's been

23 answered.

24 MR BHAM SC: Thank you, Mr Commissioner.

25 BARNARD MOKWENA: (d.s.s.)

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1 EXAMINATION BY MR BHAM SC: Mr Mokwena,

2 you have in front of you a bundle of documents. On the top

3 right-hand corner are numbers starting at 1 in bold print.

4 May I ask you to turn to page 159 of that bundle, please?

5 Do you have that, Mr Mokwena?

6 MR MOKWENA: Yes, I do.

7 MR BHAM SC: Mr Mokwena, that document

8 states it is the witness statement by yourself. If you

9 then turn to page 175 at the bottom of the page there's a

10 signature and on the next page there's a date 9 February

11 2003. Do you confirm – 2013, I'm sorry – do you confirm

12 that to be your signature on the date so indicated?

13 MR MOKWENA: Yes, Chair.

14 MR BHAM SC: Before we come back to that

15 –

16 CHAIRPERSON: Sorry, am I correct in

17 thinking that that statement which he's confirmed is

18 exhibit OO15?

19 MR BHAM SC: It may well be but I thought

20 if we, it's got a page number in this existing bundle –

21 CHAIRPERSON: No, no, I understand. I

22 understand it's got a page number in the existing bundle

23 but there's already a statement from him before us as OO15

24 so for the sake of good housekeeping it's appropriate to

25 identify it. And then the next statement we have is a

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1 supplementary statement which is 185 to 196, that according

2 to your index is not an exhibit. Let's check with Ms

3 Pillay, is that right, Ms Pillay? Ms Pillay, there's a

4 supplementary statement at page 185 to 196 of the bundle by

5 the witness dated the 1st of September 2014, that's not – no

6 exhibit number is given and I suspect that it isn't an

7 exhibit.

8 MS PILLAY: It's not an exhibit.

9 CHAIRPERSON: But it's now covered simply

10 as part of WWWW1 point whatever the number is here -

11 MS PILLAY: Chair –

12 CHAIRPERSON: - on the index, which is

13 20.

14 MS PILLAY: Chair, can I just clarify

15 something? We were given bundles in chief in relation to

16 phase 1 and in relation to phase 2 for Mr Mokwena. So I

17 think if we're marking the bundles as WWWW1, it should be

18 the phase 1 bundle in chief of Mr Mokwena.

19 MR BHAM SC: That is the bundle that I'm

20 referring to and that is the bundle which ends at page 427.

21 Thank you.

22 CHAIRPERSON: 427, you say?

23 MR BHAM SC: 427.

24 CHAIRPERSON: Alright, thank you. So

25 WWWW1 is Mokwena bundle phase 1.

<p style="text-align: right;">Page 37878</p> <p>1 MR BHAM SC: That's the one I'm going to 2 be dealing with – 3 CHAIRPERSON: And the supplementary 4 statement, which I take it you're going to ask him to 5 confirm – 6 MR BHAM SC: I am. 7 CHAIRPERSON: - is a new exhibit but it 8 will just be covered by its description in the bundle. 9 MR BHAM SC: Exactly, Mr Chairman. Mr 10 Mokwena, page 185 is a supplementary statement – 11 MR CHASKALSON SC: Sorry, Chair, we have 12 a difficulty in that what we've been given ends at page 408 13 for WWW1. 14 CHAIRPERSON: I had the same difficulty 15 but I thought I was alone in it, so I didn't want to raise 16 trouble about it but that can be sorted out over the 17 weekend, I take it. 18 MR BHAM SC: Thank you, Mr Chair. 19 CHAIRPERSON: It can be sorted out, the 20 missing pages will be provided to us. 21 MR BHAM SC: Mr Mokwena, if you turn to 22 page 186 there's a signature on that page and it's dated 1 23 September 2014. Do you confirm that to be your signature 24 on the date so indicated? 25 MR MOKWENA: Yes.</p>	<p style="text-align: right;">Page 37880</p> <p>1 CHAIRPERSON: I've struck it out of my 2 copy. 3 MR BHAM SC: Thank you, Chair. 4 CHAIRPERSON: Struck them out of my copy. 5 MR BHAM SC: And before we start with the 6 rest of your testimony, Mr Mokwena, I understand that there 7 are two passages, one at page 165 paragraph 4.5 and the 8 other at page 185 paragraph 4 that you wish to clarify. 9 This goes to the conference calls and the other discussions 10 you had on the 10th of August 2012. Would you like to 11 explain that clarification to the Commission? 12 MR MOKWENA: Yes, Chair. On the morning 13 of the 10th of August I was working from the Melrose Arch 14 office when I received telephone calls from Mr Sinclair and 15 Abey Kgotle informing me of a potential march by employees 16 to our offices at LPD. At that time I was with Mr Albert 17 Jamieson. I asked them to obtain more information about 18 the developments and in the meantime I arranged a 19 teleconference in Mr Albert Jamieson's office and invited 20 my team that was located in Marikana – Abey Kgotle, Jomo 21 Kwadi, Mike da Costa – for us to get together and discuss 22 the events. 23 MR BHAM SC: [Microphone off, inaudible] 24 – portion you discuss your position at Lonmin. Since when 25 have you been the executive vice-president?</p>
<p style="text-align: right;">Page 37879</p> <p>1 MR BHAM SC: 196. 2 MR MOKWENA: Yes. 3 MR BHAM SC: Now, Mr Mokwena, in relation 4 to your first witness statement starting at page 159, may I 5 ask you to go to page 162? I understand that in paragraph 6 3.1 and 3.2 you wish to make a correction. Would you tell 7 the Commission what correction you wish to make? 8 MR MOKWENA: Yes, Chair. In paragraph 9 3.1 I would like the word "rumours" to be removed. It was 10 included erroneously and the same word also in paragraph 11 3.2. Paragraph 3.1. 12 MR BHAM SC: On the second line of 13 paragraph 3.1 you wish to have the words "of rumours" 14 removed or deleted. 15 CHAIRPERSON: That's page 162, isn't it? 16 MR BHAM SC: [Microphone off, inaudible] 17 CHAIRPERSON: So it becomes, "I should 18 mention that it was aware that there was a wage demand," so 19 "of rumours" goes out? 20 MR MOKWENA: That is correct. 21 MR BHAM SC: And similarly, Mr Mokwena, I 22 understand that at the end of the third line in paragraph 23 3.2 and the beginning of the fourth line you would want the 24 words "a rumour" deleted, is that correct? 25 MR MOKWENA: That is correct.</p>	<p style="text-align: right;">Page 37881</p> <p>1 MR MOKWENA: I moved into this portfolio 2 in 2009. 3 MR BHAM SC: You served on the Lonmin 4 EXCO, did you? 5 MR MOKWENA: Yes, I did. 6 MR BHAM SC: Did you serve on the Lonmin 7 board of directors? 8 MR MOKWENA: No. 9 MR BHAM SC: Thank you. At page 160 10 under paragraph 2 you deal with the Lonmin human capital 11 division and you make reference to four streams, one of 12 which is the human capital centre of excellence and there 13 are a number of items listed under there. Very briefly, 14 could you give the Commission an indication of your 15 responsibilities in human capital and the manner in which 16 you were reported to and by whom? 17 MR MOKWENA: I was the executive 18 responsible for human capital at Lonmin PLC and my 19 responsibility covered development of the corporate 20 strategy on human capital, policy development procedures, 21 planning, performance management and under me in that 22 particular department I had an executive manager, at time 23 it was Abey Kgotle. Under Abey Kgotle there were a number 24 of disciplines such as remuneration, recruitment, employee 25 relations, and each one of these was headed by a senior</p>

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1 manager and in particular employee relations was headed by  
2 Mr Jomo Kwadi.

3 MR BHAM SC: In respect of the –  
4 [microphone off, inaudible] – for what happened in each of  
5 the streams and what – in respect of the four streams under  
6 human capital, who was responsible ultimately for reporting  
7 to and making presentations to EXCO when something came up  
8 in EXCO in respect of any one of those streams?

9 MR MOKWENA: I was the ultimate person  
10 responsible to bring any input about human capital to our  
11 EXCO and also to the transformation committee which was a  
12 board committee.

13 MR BHAM SC: May I then ask you if you  
14 could turn to page 353 of the bundle in front of you  
15 please, Mr Mokwena? That is the scenario planning  
16 document. Now Mr Mokwena, you've seen this document  
17 before, have you?

18 MR MOKWENA: Yes.

19 MR BHAM SC: Who was responsible for its  
20 preparation?

21 MR MOKWENA: This document was an outcome  
22 of a workshop that I had arranged with a group of my  
23 managers and I did that regularly to look at scenarios,  
24 trends, data analysis and tried to anticipate as much  
25 development in the area of human capital. That's why I had

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1 a group of managers with me in a workshop, we put our  
2 thoughts together and the document is an outcome of that  
3 workshop that then I presented to EXCO.

4 MR BHAM SC: When did you present it to  
5 EXCO?

6 MR MOKWENA: This was presented to EXCO  
7 in June 2012.

8 MR BHAM SC: What was the outcome of this  
9 presentation?

10 MR MOKWENA: The outcome of the – this is  
11 a scenario document, it deals with scenarios, what's  
12 possible, what could develop and all this. EXCO would have  
13 had other scenario documents presented from strategy, from  
14 health, safety and all these things, so this was not an  
15 unusual scenario planning document for our EXCO team. It  
16 was a common practice that we would do this type of work.  
17 So I took EXCO through this document and they also provided  
18 their input into it in as far as what they perceived to  
19 have been trends or issues developing, socio-economic  
20 issues, political issues impacting the organisation. So it  
21 was a brown paper exercise for EXCO to reflect on some of  
22 the issues we would have identified in the document.

23 MR BHAM SC: Thank you, Mr Mokwena. Mr  
24 Mokwena, the next document I want to refer to is a document  
25 starting at page 409. You don't have it in the bundle, I

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1 understand, but it is an exhibit, that's the Lonmin mining  
2 security procedures document. I'm not going to go through  
3 it in any detail but you're familiar with the document  
4 already. Mr Mokwena, this document at page 409, have you  
5 seen it previously?

6 MR MOKWENA: I came across this document,  
7 Chair, for the very first time when I was doing my  
8 preparation for this Commission.

9 MR BHAM SC: And when was that?

10 MR MOKWENA: Very recently, probably  
11 three, four, a month ago.

12 MR BHAM SC: Thank you. Now do you know  
13 whether this document was ever presented to EXCO?

14 MR MOKWENA: This document would never  
15 have been presented to EXCO because, first of all, it is  
16 not signed. A typical policy at Lonmin would have been  
17 authorised or signed by three operational executives  
18 including myself.

19 CHAIRPERSON: Could we have this document  
20 on the screen? I just want to make sure it's the document  
21 that I think it is -

22 MR BHAM SC: It is –

23 CHAIRPERSON: - which Ms Barnes cross-  
24 examined on at one stage, I think.

25 MR BHAM SC: Yes, Mr Sinclair was cross-

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1 examined –

2 CHAIRPERSON: Early in the proceedings.

3 MR BHAM SC: Yes.

4 CHAIRPERSON: Mm. The witness hadn't  
5 heard about it – when did you do this preparation and hear  
6 about this document that had been before the Commission  
7 some months ago?

8 MR MOKWENA: Ja, when I started meeting –

9 CHAIRPERSON: I know, but when was that?

10 Three or four weeks ago?

11 MR MOKWENA: Ja.

12 CHAIRPERSON: Oh, I see, alright. Can we  
13 have the document on the screen, please?

14 MR BHAM SC: Yes. I'm not sure what the  
15 exhibit number is.

16 CHAIRPERSON: Ms Barnes will be able to  
17 tell us, what's the exhibit number, Ms Barnes?

18 MS BARNES: I'm not too sure, I think  
19 it's XXX, XXX8 possibly. I think it's in the XXX series  
20 but I can't tell you the precise number, I'm afraid.

21 MR MPOFU SC: That's XXX –

22 CHAIRPERSON: Ms Pillay – although Mr  
23 Mpofo SC has raised his hand but Ms Pillay, could you tell  
24 us before Mr Mpofo SC does?

25 MS PILLAY: I think it might be XXX8. I

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1 just want to have a look at -

2 CHAIRPERSON: Well, does Mr -

3 MS PILLAY: Sorry, XXXX8.

4 CHAIRPERSON: XXX8. Does the new SC

5 agree with that?

6 MR MPOFU SC: Yes. Chairperson, if we

7 are talking about the document with the, what I call the

8 Lonmin policy -

9 CHAIRPERSON: Yes.

10 MR MPOFU SC: - including the -

11 CHAIRPERSON: How you deal with

12 unprotected strikes.

13 MR MPOFU SC: Yes, it's XXX8, Mr

14 Chairman.

15 CHAIRPERSON: Thank you. Alright, can we

16 see that please?

17 MR BHAM SC: That is indeed the document,

18 Mr -

19 CHAIRPERSON: This is a document, it's

20 got an original document date on it 9 May 2012 and if you

21 go down a bit you'll see it actually says who drafted it

22 and it was approved by the manager of mining security.

23 Look there on the part that we see on the screen. It was

24 compiled I think by Mr Kellerman and it was called "Lonmin

25 Mining Security Procedure, counter-industrial action

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1 response" and the initial date is 9 May 2012, which was

2 approved by the manager, mining security. Who is the

3 manager of mining security?

4 MR MOKWENA: Chair, if you go to the last

5 page where a policy would typically be authorised and

6 signed, that's where -

7 CHAIRPERSON: No, answer my question

8 first and then you can give the other information. We

9 waste time if you answer your own questions and you don't

10 answer mine. My question is, who is the manager, mining

11 security?

12 MR MOKWENA: It was Graeme Sinclair.

13 CHAIRPERSON: Thank you. And now let's

14 go and have a look at the last page and see what it tells

15 us or doesn't.

16 MR BHAM SC: [Microphone off, inaudible]

17 CHAIRPERSON: - the last line actually,

18 seeing you said look at the last - you see it was last

19 printed, it was last printed on the 10th August. You

20 remember its original date was sometime in May and then it

21 says, "A signed off copy of this document is held at

22 E&DM/Mining Security-Middelkraal Security Compound." So

23 where do you get this idea that this document has never

24 been signed off? It was not only produced in May but it

25 was last reprinted on the 10th of August, two days - on the

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1 very day when the miners went to the LPD on the Friday.

2 MR BHAM SC: Mr Chairman, can I just

3 repeat my question? I didn't ask whether it was signed off

4 at all or not, I asked him whether it had gone to EXCO and

5 whether it was signed off by EXCO. That's the question I

6 was dealing with.

7 MR MOKWENA: Chair, it did not go to

8 EXCO.

9 CHAIRPERSON: It was approved by Mr

10 Sinclair and signed off and kept at the Middelkraal

11 Security Compound, is that right?

12 MR MOKWENA: That's what I was trying to

13 explain to you, Chair.

14 CHAIRPERSON: Alright, yes alright, what

15 would you like to explain?

16 MR MOKWENA: To explain that company

17 policies would ultimately seek authorisation from three

18 operational executives for it to be a company policy and

19 the fact that it was not presented to EXCO and bears no

20 signatures of the three operational executives confirms

21 that it was never a fully authorised company policy.

22 CHAIRPERSON: What do you mean by fully

23 authorised company policy? What stress do you place on the

24 word, "fully.?"

25 [12:34] MR MOKWENA: Fully, Chair, means I as

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1 head of HR for example would have critiqued the policy to

2 make sure that there were no conflicts with other relevant

3 policies, and once that is done then the policy gets

4 enforced and gets signed off.

5 MR BHAM SC: Thank you, Mr Mokwena. Mr

6 Mokwena, on page 162 of your witness statement, paragraph

7 3.1, you make reference to the demand by rock drill

8 operators at Karee Mine. That was a demand for 12 and a

9 half thousand rand, was it?

10 MR MOKWENA: Yes, that is correct.

11 MR BHAM SC: Now through that period,

12 this is at the time it had first arisen, going into the

13 August period, do you know whether there was any similar

14 demand communicated to Lonmin by any other category of

15 workers other than RDOs?

16 MR MOKWENA: No, Chair.

17 MR BHAM SC: When you say no, do you mean

18 you don't know or there was no such demand communicated by

19 other categories of workers?

20 MR MOKWENA: There were no other demands

21 that I was aware of or made aware of.

22 MR BHAM SC: Thank you. Mr Mokwena, may

23 I ask you to turn back to pages 5 and 6 of the bundle,

24 please? This is the bundle WWWW1. You'll recognise the

25 document there.

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1 MR MOKWENA: Yes, I do.  
 2 MR BHAM SC: Now if you turn the page to  
 3 page 6 you'll see there's a second of two tables which  
 4 talks of remuneration post October increases, table 2,  
 5 remuneration post October 2 increases. Does that table  
 6 deal with the situation prior to the implementation of the  
 7 drilling allowance for RDOs?  
 8 MR MOKWENA: Yes.  
 9 MR BHAM SC: Having regard to that table  
 10 and what is set out in paragraph 3, what would the position  
 11 of the RDOs at Lonmin have been in comparison with those at  
 12 Impala, at Anglo?  
 13 MR MOKWENA: If we had implemented the  
 14 750 RDO allowance, Chair, Lonmin would have sat above  
 15 Impala and just below Anglo. In other words if you add the  
 16 750 where on the column that says zero rand across RDO  
 17 allowance, and add that to 9 761, we would have arrive at  
 18 10 511, which would have placed our RDO wages just a little  
 19 above Impala and below Anglo.  
 20 CHAIRPERSON: What is the difference  
 21 between Impala A and Impala B in that table?  
 22 MR MOKWENA: Chair, Impala had introduced  
 23 a salary adjustment unilaterally, which is on page 1 and 2,  
 24 without the consent of National Union of Mineworkers. So  
 25 column A is a reflection of the unilateral implementation

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1 by Impala. Column 2 was our estimate if NUM had, or if  
 2 Impala then had agreed to implement the normal wage  
 3 agreement. In other words Impala would have had to pay  
 4 twice. They would have column 1 unilateral implementation  
 5 which is shown on page 1 and 2 of the documents, column B,  
 6 if they were to accede to what NUM was saying to them that  
 7 they should continue with the wage increase as agreed. So  
 8 Impala would have had to have two adjustments. That's why  
 9 we are reflecting them separately.  
 10 CHAIRPERSON: It actually happened? Did  
 11 they concede to NUM's pressure, as you put it in the memo?  
 12 MR MOKWENA: I do not recall. I know  
 13 there was a matter that –  
 14 CHAIRPERSON: But of course if they had  
 15 conceded and if the relevant column was Impala B, then what  
 16 would the difference have been between what was to be paid  
 17 by, was going to be paid by Lonmin if they gave the 750  
 18 increase, compared with the Impala position if we look at  
 19 column B?  
 20 MR MOKWENA: Ja, we would have a deficit  
 21 of around R200 less than Impala. We would be at 10 511.  
 22 Impala B would have been 10 784, so a difference of about  
 23 R200 or so.  
 24 MR BHAM SC: Mr Mokwena, in that same  
 25 page you've got the Anglo column. Now at the time when

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1 this analysis was done did Anglo already give effect to its  
 2 salary increases for 2012?  
 3 MR MOKWENA: Yes. Impala and Anglo wage  
 4 increases happened two, three months ahead of Lonmin. So  
 5 we are always running two, three months behind in terms of  
 6 adjustments because our adjustments occur on the 1st of  
 7 October. Impala and Anglo do their adjustments in June and  
 8 July.  
 9 MR BHAM SC: So the position you've  
 10 spoken of now would have been without regard to the October  
 11 adjustment?  
 12 MR MOKWENA: Yes.  
 13 MR BHAM SC: And that would have further  
 14 taken Lonmin higher up in the scale?  
 15 MR MOKWENA: You are correct.  
 16 MR BHAM SC: Thank you. May I ask you to  
 17 turn to page 164 of the bundle, back into your witness  
 18 statement. In paragraph 4.2 you make reference to, you're  
 19 dealing with the events of the 10th of August 2012, the  
 20 morning of the 10th of August 2012, and in paragraph 4.2 you  
 21 make reference to various calls you made, including to Mr  
 22 Baleni and Mr Mathunjwa. If you then go to page 188 in  
 23 paragraph 6.8 of your second statement you make reference  
 24 to what Mr Mathunjwa had advised you of and you say he had  
 25 advised you "not to speak to the strikers during a

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1 telephone conversation that I had with him on 10 August  
 2 2012." Now Mr Mokwena, when you deal with the events of 10  
 3 August 2012 you make reference to your conference call when  
 4 you were with Mr Jamieson, speaking to people at LPD. Your  
 5 telephone conversation with Mr Mathunjwa, was that prior to  
 6 that conference call or after that?  
 7 MR MOKWENA: My telephone calls to both  
 8 Mr Joseph Mathunjwa and Mr Frans Baleni occurred before the  
 9 teleconference.  
 10 MR BHAM SC: May I then ask you to go to  
 11 page 9 of the bundle? That, Mr Mokwena, is a letter dated  
 12 10 August 2012 on an AMCU letterhead, addressed to you. If  
 13 you turn the page you'll see it is sent apparently by Mr  
 14 Mathunjwa. Did you receive this letter from Mr Mathunjwa?  
 15 MR MOKWENA: Yes, I received it.  
 16 MR BHAM SC: When did you receive the  
 17 letter from Mr Mathunjwa?  
 18 MR MOKWENA: I received it during the  
 19 course of the day.  
 20 MR BHAM SC: And you'll see at the  
 21 commencement of the letter on page 9 Mr Mathunjwa states,  
 22 "Our telephonic conversation today 10 August 2012 refers."  
 23 Now if you go through this letter, is it reflective of the  
 24 telephone conversation that you had with Mr Mathunjwa and  
 25 what he advised you?

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1 MR MOKWENA: Yes, I can confirm that the  
 2 content of the letter is a reflection of the content of the  
 3 conversation I had with Mr Mathunjwa earlier in that  
 4 telephone call.  
 5 MR BHAM SC: Now you'll see he goes on to  
 6 say, "However, as AMCU we propose," and then there are  
 7 three bullet points on that page and another one on the  
 8 next page. The second of the bullet points which starts,  
 9 "Any employee who forms part of this gathering we believe  
 10 belongs to a union." Now can you explain to the Commission  
 11 what he was referring to, to the extent that that reflects  
 12 his discussion with you?  
 13 MR MOKWENA: Looking at the employees who  
 14 had gone on the march, the majority of them were black and  
 15 were mainly RDOs. The membership of such employees would  
 16 have been either National Union of Mineworkers or AMCU. So  
 17 my understanding of belonging to a union would be a  
 18 reference to either National Union of Mineworkers or AMCU.  
 19 MR BHAM SC: He then goes on in the next  
 20 sentence to say, "For non-unionised employees there are  
 21 management structures dealing with grievances." Now do you  
 22 know what he was referring to and is this something that  
 23 you speak about in your own witness statements?  
 24 MR MOKWENA: I have in my witness  
 25 statement, the supplementary statement, explained how line

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1 management and employees on day-to-day basis would engage  
 2 on issues affecting them. It is a common practice at  
 3 Lonmin, and we do encourage it, that issues raised by  
 4 workers on daily basis should be resolved at line, except  
 5 if such issues, Chair, are of substantive matter and would  
 6 have corporate implication. As such those issues would  
 7 then be elevated to my level so that I can review them from  
 8 a corporate perspective.  
 9 MR BHAM SC: Is this what you deal with  
 10 at page 189, paragraph 11 of your supplementary statement?  
 11 MR MOKWENA: Sorry, what was that  
 12 reference again?  
 13 MR BHAM SC: Page 189, paragraph 11.  
 14 MR MOKWENA: 189. Yes, that is correct.  
 15 MR BHAM SC: May I then ask you to go to  
 16 page 186 of your statement, paragraph 4 – before we deal,  
 17 sorry Mr Mokwena, before we deal with that, on the 10th  
 18 Lonmin had gone to court to seek an interdict against the  
 19 strike. Were you involved in the decision for that  
 20 interview to be obtained and if so, why did Lonmin decide  
 21 to go down that path?  
 22 MR MOKWENA: I was involved in the  
 23 decision for us to apply for a court interdict. Chair, it  
 24 is the practice known to us as an employer that when there  
 25 is such an event, unprotected, so that we behave within the

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1 legal framework we do apply to court for an interdict to  
 2 stop the unprotected strike.  
 3 MR BHAM SC: Thank you. Mr Mokwena, can  
 4 I then ask you to go to page 186 and draw your attention to  
 5 what you state in paragraph 4? Again you're talking about  
 6 the march on the 10th of August where you say, "Thereafter I  
 7 held a telephone conference call with various managers who  
 8 were at LPD," and you then state, "We discussed the RDO  
 9 demand and decided that we would not speak to the RDOs  
 10 about their wage demand." If we turn to page 189,  
 11 paragraph 9, you state, "I also saw no point in reopening  
 12 discussions with the RDOs." You're still dealing with the  
 13 10th of August here, Mr Mokwena. You say, "They had already  
 14 communicated their wage grievance through Da Costa, and  
 15 more importantly, EXCO had already considered and  
 16 thereafter addressed the matter." Now there has been a lot  
 17 of talk in this Commission about your decision on the 10th  
 18 not to engage with the striking mineworkers. Would you  
 19 care to explain the decision you took and why you had taken  
 20 it?  
 21 MR MOKWENA: Chair, my experience of the  
 22 march on the 10th was not the beginning of communicating  
 23 with workers on the demand. My experience started way back  
 24 in June through Mr Da Costa when we were made aware of such  
 25 a demand, and as it is customary we used line management to

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1 communicate to them and give clear, simple instructions  
 2 about their demand and how it could not be entertained, and  
 3 the reason for us not wanting to engage with them on the  
 4 10th was therefore not an immediate decision. It was based  
 5 on a number of factors that we discussed during the  
 6 teleconference.  
 7 The first factor that we considered was first of  
 8 all this was an unprotected strike and it should be treated  
 9 as such. Secondly, that the RDOs had already been  
 10 communicated to through Mr Da Costa between June and the  
 11 period we're talking about, the 10th of August, in many  
 12 ways. I personally presented different types of communiqué  
 13 to the workforce to explain their rights, prerogatives, and  
 14 also that what they were asking could not be entertained in  
 15 the manner in which they were asking.  
 16 Thirdly, EXCO had approved an RDO allowance, if  
 17 indeed the issue was that they wanted to earn as their peer  
 18 at Impala and at Anglo, and perhaps Chair, I need to  
 19 emphasise that the most crucial thing that we as a team  
 20 decided we could not engage on the 10th was that our  
 21 engagement would be tantamount to breaking the very basic  
 22 rules of a protected strike and unprotected strike.  
 23 I believed at the time if we had engaged the  
 24 workers on the 10th we would have immediately blurred the  
 25 two types of strike and that would have had far-reaching



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1 implications not only for Lonmin, but also for the industry  
2 and for the country. At the time we believed it was a good  
3 reason for us to treat the march as an unprotected strike  
4 and treat it as such.

5 The other reason is both unions, Mr Joseph  
6 Mathunjwa, Mr Frans Baleni, had actually discouraged me to  
7 engage, and we have gone through that letter, and I was  
8 actually, Chair, happy that the three of us were in unison  
9 in upholding the principle around how you manage an  
10 unprotected strike. Those are the reasons that, Chair, we  
11 felt as a team we needed not to engage to avoid  
12 legitimising an unprotected strike into making it a  
13 protected strike.

14 MR BHAM SC: Mr Mokwena, if you had  
15 spoken on the 10th would the message to the striking  
16 mineworkers have been any different from that communicated  
17 by Mr Da Costa at the end of July 2012?

18 MR MOKWENA: At no stage between the time  
19 when Mike Da Costa approached EXCO in June to the 10th of  
20 August was there any change at EXCO in terms of what could  
21 be different. During that period we consistently kept the  
22 same communication to the RDOs. I personally believe it  
23 would not have changed because I would have communicated  
24 exactly the same message that had been communicated to the  
25 RDOs in June and in July.

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1 MR BHAM SC: And do you believe that by  
2 communicating that same message on the 10th of August that  
3 would have resulted in the strike coming to an end?

4 MR MOKWENA: I also doubt if such  
5 communication would have ended the strike as it was very  
6 clear that the RDOs wanted 12 500 and nothing else. So a  
7 different message would not have changed that intention.

8 MR BHAM SC: Thank you, Mr Mokwena. May  
9 I ask you to turn to page 166 of your statement, please, of  
10 that bundle. In paragraph 5.1 you make reference to the  
11 deaths of two Lonmin Security personnel and two other  
12 employees of Lonmin and you go on to say that "this was  
13 simply unbelievable and I was angered when I was also told  
14 about the chaos at K3 Shaft at Karee Mine." Will you  
15 explain to the Commission what your personal reaction was  
16 and how that impacted on how you viewed what was going on  
17 when you received the news you speak about at 5.1?

18 MR MOKWENA: Chair, at that moment I was  
19 distraught, I was very angry, and I didn't understand that  
20 after numerous attempts to explain to the RDOs in June, in  
21 July, that we were not in a position to pay them 12 500,  
22 that on the 10th they chose to go on an unprotected action  
23 and subsequent to that I saw people dying and being killed,  
24 and all I understood was if you don't give us we will kill  
25 people. That's what I saw. That was my experience. We

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1 said it is not possible; RDOs go on an unprotected strike  
2 on Friday. What happens after, people are killed, and all  
3 as a human being I understood to be going on is people will  
4 die if you don't give us 12 500, and Chair, I may have been  
5 wrong; that was my experience that day.

6 MR BHAM SC: Mr Mokwena, at page 168,  
7 paragraph 5.10, you make reference to an incident which I  
8 understand had some personal impact on you and that was the  
9 death of Mr Twala. Could you take the commission through  
10 how you became aware of the death, the impact on you and  
11 what it communicated to you about a Lonmin management  
12 member going to the koppie.

13 [12:54] CHAIRPERSON: Now before he does that I  
14 think there's a mistake here which he may wish to clarify.  
15 In the previous sentence he says later that afternoon –

16 MR MOKWENA: Sorry what page is that, Mr  
17 Chair?

18 CHAIRPERSON: The one you're referring  
19 to, page 168, 5.9 and 5.10. In 5.9 he says "Later that  
20 afternoon I received a security update from our personnel  
21 that two SAPS officers had been killed and a third badly  
22 injured. I was shocked by this information." Then he  
23 says, 5.10, during the same afternoon at the OPD reception  
24 he heard about the killing of Mr Twala. Now we know that  
25 happened on the Tuesday whereas the events where the two

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1 SAPS officers were killed and a third badly injured were on  
2 the Monday the 13th. So I suspect that 5.10 should read  
3 during the afternoon of the next day or something like  
4 that. Am I correct?

5 MR MOKWENA: Yes, Chair.

6 CHAIRPERSON: So that's the correction  
7 that you obviously will have to make.

8 MR MOKWENA: Thank you, Chair.

9 MR BHAM SC: Thank you, Mr Chair. You  
10 heard my question in relation to that paragraph, Mr  
11 Mokwena.

12 MR MOKWENA: Chair, Ms Constance worked  
13 in my office to do admin and reception work. When I walked  
14 through into my office I found her hysterical with my PA  
15 and she had received a telephone call from the person who  
16 we understood was with her cousin at the koppie and that  
17 person had called Ms Constance that her cousin had been  
18 murdered at the koppie. Chair, when I hear why I didn't go  
19 to the koppie, why I didn't send managers to the koppie,  
20 the koppie for me, because of this experience so close to  
21 me, somebody that I knew, had become a place of death. And  
22 in my conscience I had absolutely no doubt that I would not  
23 personally go there nor send anybody else following this  
24 incident, when Constance's, who had to be treated by  
25 medics, cousin had been killed at the koppie. That, Chair,

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1 was the reason for me not wanting to go to the koppie or  
 2 send anybody to the koppie.  
 3 CHAIRPERSON: There was a resolution that  
 4 you formed after you'd spoken to Ms Mgobhozi.  
 5 MR MOKWENA: Yes, Chair, that was my  
 6 experience –  
 7 CHAIRPERSON: That was on the Tuesday  
 8 afternoon.  
 9 MR MOKWENA: Yes.  
 10 CHAIRPERSON: What time?  
 11 MR MOKWENA: Chair, I do not recall the  
 12 exact time, but it was probably between 2:00 and 3:00,  
 13 somewhere there.  
 14 CHAIRPERSON: That wasn't your attitude  
 15 on the Monday, it was only a attitude you formed on the  
 16 Tuesday afternoon because your statement's incorrect in  
 17 suggesting that this incident took place the same day as  
 18 you heard the news of the killing of the SAPS officers.  
 19 MR MOKWENA: Chair, as I said, probably  
 20 there's a date missing.  
 21 CHAIRPERSON: Yes, yes I understand that,  
 22 but I'm just getting clarity on the point that this  
 23 resolution you formed, which I can understand in the light  
 24 of the explanation you gave, that resolution was formed on  
 25 the Tuesday afternoon.

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1 MR MOKWENA: I formed this opinion upon  
 2 receiving this news about –  
 3 CHAIRPERSON: On the Tuesday afternoon?  
 4 MR MOKWENA: Yes about the koppie.  
 5 CHAIRPERSON: You hadn't formed the  
 6 resolution before that?  
 7 MR MOKWENA: No, Chair.  
 8 CHAIRPERSON: That didn't apply on the  
 9 Monday or the Tuesday morning.  
 10 MR MOKWENA: No, Chair.  
 11 CHAIRPERSON: I see.  
 12 MR BHAM SC: On the Monday and the  
 13 Tuesday did you nonetheless have the same attitude for the  
 14 reasons you've explained about talking to strikers on their  
 15 demand?  
 16 MR MOKWENA: Yes, Chair.  
 17 MR BHAM SC: Finally, Mr Mokwena, may I  
 18 ask you to go to page 20 of your bundle?  
 19 MR MOKWENA: 20?  
 20 MR BHAM SC: Two, zero. Mr Mokwena, you  
 21 recognise the transcript.  
 22 MR MOKWENA: Yes, I do.  
 23 MR BHAM SC: I have no doubt there'll be  
 24 a bit of time spent with you in cross-examination, I'm not  
 25 going to go through it, I just want to ask you a couple of

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1 questions in relation to the discussions. In respect of  
 2 the operational plans by the South African Police Services  
 3 during the period they were at the mine from the 9th to the  
 4 16th, were you at any stage party to the SAPS operational  
 5 plans?  
 6 MR MOKWENA: No, Chair.  
 7 MR BHAM SC: Were you involved – sorry  
 8 were you informed of any the operational plans in the sense  
 9 of how they were going to do what they were meant to do?  
 10 MR MOKWENA: No, Chair.  
 11 MR BHAM SC: Were you informed of the  
 12 operational plans for the 16th of August 2012?  
 13 MR MOKWENA: No, Chair.  
 14 MR BHAM SC: Mr Chairman, I have no  
 15 further questions.  
 16 CHAIRPERSON: Thank you, just one  
 17 question. This is the second proofread version, what we've  
 18 got on page 20 is the second proofread version of exhibit  
 19 JJJ192 which we call JJJ192, there were various errors in  
 20 transcript which were corrected. I take it you read this  
 21 version of the transcript.  
 22 MR MOKWENA: Yes, Chair.  
 23 CHAIRPERSON: Are you satisfied it  
 24 correctly reflects what was said by you and those present  
 25 at this discussion?

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1 MR MOKWENA: Yes, Chair.  
 2 CHAIRPERSON: Yes, thank you. I think  
 3 it's appropriate now for us to adjourn –  
 4 MR BHAM SC: It's appropriate.  
 5 CHAIRPERSON: - until 9:30 on Monday  
 6 morning.  
 7 MR BHAM SC: May I just say this? There  
 8 was a document given to us by the families, subject to  
 9 anything coming out of there, I have no further questions.  
 10 If there is anything coming from the document which I  
 11 haven't had a chance to consider yet, then I might need  
 12 five minutes on –  
 13 CHAIRPERSON: Yes, no you indicated that  
 14 to me in chambers and I said it would be in order.  
 15 MR BHAM SC: Thank you.  
 16 CHAIRPERSON: Thank you. We adjourn now  
 17 until Monday morning 9:30.  
 18 [COMMISSION ADJOURNED]  
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<p><b>abdomen</b> 37854:16,18  <b>Abey</b> 37880:15,20  37881:23,23  <b>ability</b> 37828:23  <b>able</b> 37811:14  37817:16 37843:2  37853:15 37862:7  37868:12,15 37870:8  37870:13 37885:16  <b>absent</b> 37853:14  <b>absolutely</b> 37901:22  <b>accede</b> 37891:6  <b>acceded</b> 37842:7  <b>accept</b> 37818:3  37821:11 37854:7,9  37857:11,18  <b>accepted</b> 37842:5  <b>accommodate</b> 37831:3  37831:7  <b>accompany</b> 37812:5  <b>account</b> 37847:18  <b>achieved</b> 37837:9,12  <b>act</b> 37821:25 37833:7  <b>action</b> 37814:5  37827:14 37841:3  37868:4 37886:25  37899:22  <b>add</b> 37833:12 37837:20  37837:22 37861:15  37866:25 37890:15  37890:17  <b>added</b> 37842:13  <b>addition</b> 37841:24  <b>additional</b> 37829:6  <b>address</b> 37820:5,9  37821:3  <b>addressed</b> 37893:12  37896:16  <b>adjourn</b> 37850:2  37905:3,16  <b>ADJOURNED</b>  37905:18  <b>adjournment</b> 37850:2  <b>ADJOURNS</b> 37850:4  37873:5  <b>adjustment</b> 37890:23  37892:11  <b>adjustments</b> 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