PRESS RELEASE
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POLICE INTIMIDATION OF WITNESSES AT MARIKANA COMMISSION OF INQUIRY

Yesterday evening, four persons who were assisting the Socio-Economic Rights Institute of South Africa (SERI) in our work at the Marikana Commission of Inquiry were arrested, ostensibly on charges of murder. The names of the arrested persons are: Zamikhaya Ndude, Sithembele Sohadi, Loyiso Mtsheketshe and Anele Kola.

These persons were picked out from a minibus taxi transporting a group of 14 people, who had been attending the Commission’s hearings yesterday, back to their homes in or near Marikana. The taxi was stopped by a police armoured vehicle. The four were pointed out and arrested, apparently by, or on the information of, a police officer who had attended the Commission’s hearing yesterday. Hoods were placed over their heads and they were told not to speak, or they would be shot.

The circumstances of the arrest suggest that the police followed the arrested persons from the Commission, where they were identified for arrest. The four arrested persons were present at the inquiry and were assisting SERI, and the team of legal representatives led by Adv Dali Mpofu in our work. They were arrested in the presence of police officers who had been present at the Commission and were on their way back from the Commission at the time they were arrested.

The arrests materially and adversely affect SERI’s ability to prepare for and participate in the Commission’s work. It is no answer to suggest that the arrested persons will be made available for the parties to consult with and to appear at the Commission if necessary. They were providing SERI and the team lead by Adv Mpofu with information and testimony which is adverse to the police. They are unlikely to do so without fear of retribution while in police custody. Furthermore, it appears, prima facie, that the arrested persons were targeted because they were assisting us at the Commission. SERI can no longer, in good conscience, provide to the Commission, or the parties to it, information relating to the identities of potential witnesses who may provide information and testimony adverse to the police.

In the above circumstances, we have written to legal representatives of the South African Police Service (SAPS) and the Commission today, and requested the following undertakings from SAPS:

1. That the police provide an assurance, through their legal representatives at the Commission, that no further arrests will be effected in relation to charges that may arise in connection with the events under investigation by the Commission, or of persons travelling to, from, or attending the Commission.

2. That the four arrested persons referred to above be released forthwith.

Should we not receive an undertaking in the above terms by the time the Commission recommences its work on Monday 29 October 2012, SERI will apply for a postponement of the Commission until such time as we receive these undertakings. SERI is currently taking instructions from our clients on whether they are prepared to continue to participate in the Commission should such a postponement be refused.

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