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International Centre for Trade Union Rights

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ICTUR was founded to
defend and extend trade union rights and
to raise awareness of these rights and their violations
around the world

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rights to freedom of peaceful assembly and of association

South African unions: NUPSAW; SATAWU; NUMSA; AMCU; NUM;
SAFTU; COSATU

Global union federations: Industriall, ITF, PSI

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Dear President,

The International Centre for Trade Union Rights is gravely concerned about multiple reports of police violence against striking workers, as well as a spate of shootings of trade unionists in South Africa.

ICTUR is particularly alarmed at the following incidents of violence – in most cases perpetrated by state authorities – against workers participating in organised industrial action:

Denel Aeronautics

On 17 September 2018, police fired rubber bullets and stun grenades at ninety-five members of the South African Transport and Allied Workers' Union (SATAWU). The workers were conducting a peaceful protest during a strike over wages at Denel Aeronautics in Kempton Park, Gauging. At least one person was injured and hospitalised.

United Pharmaceutical Distribution

On 6 November, a private security company fired on workers with rubber bullets in Gauteng. Workers were on strike over wages at the United Pharmaceutical Distribution workers. According to the National Union of

Metalworkers of South Africa (NUMSA), the Labour Court had previously dismissed the company's attempt to have the strike banned. At least five workers were seriously injured.

Dis-Chem

On 16 November, police fired rubber bullets at around 2000 striking workers in Midrand, Johannesburg. Workers were protesting over wages at the Dis-Chem company. The National Union of Public Service and Allied Workers (NUPSAW) has accused the police of intimidating and attacking striking workers; three were injured in the incident and two arrested. Since January, NUPSAW members have been demanding that the company recognise the union, but Dis-Chem has refused.

Sibanye-Stillwater

On 21 November, at least six workers were shot - one fatally - and another stabbed during strike action at Sibanye-Stillwater's gold mines. The National Union of Mineworkers and the Association of Mineworkers and Construction Union (AMCU) report that these attacks against their members took place at the company's Beatrix (Free State) and Kloof (Gauteng) mine operations respectively. Both unions have called on the authorities to intervene. Around 15,000 AMCU members began a strike in November over wages at the company. Twenty-one workplace fatalities at Sibanye's goldmines were reported between January and July 2018, accounting for nearly half of all deaths in South African mines in the period.

South Deep, Goldfields

On 3 December, Ndlela Radebe, the regional Chair of Gauteng miners' union NUM was stabbed and injured. The NUM report that the attack occurred while addressing members during an ongoing strike against retrenchments, now in its fifth week. Radebe was rescued from the scene by NUM security and is now reported to be in a stable condition. The strike was called after more than one thousand workers and more than 400 contractors lost their jobs at the mine.

This catalogue of violent and deadly attacks on trade unionists demands to be urgently addressed by the government. A climate of endemic lethal violence and intimidation against trade unionists in South Africa has been escalating for many years. To date, no one has been held to account for the police massacre of 34 striking miners at Marikana on 16 August 2012, or for the further killings of trade unionists on the platinum belt. As reported in previous correspondence, the NUM's branch chairman of Lonmin's Eastern Platinum Mine was shot dead in January 2018, and at least six members of AMCU were murdered in North West Province in 2017. Last year, AMCU's leadership stated that the murders of their members constituted a 'concerted attack' on their union, a 'carefully planned, well-funded hit programme'.

ICTUR notes that the AMCU and NUM leadership have condemned in the strongest terms the climate of violence in South Africa and repeatedly called upon the authorities to intervene and investigate. On-going speculation that violence meted out against NUM and AMCU members is a product of inter-union rivalry does not alter the government's responsibility to take immediate and effective action to investigate and remedy all of these crimes. The ILO's Committee on Freedom of Association (CFA) has clearly stated that even 'violence resulting from inter-union rivalry might constitute an attempt to

impede the free exercise of trade union rights'. In cases which are 'sufficiently serious', the authorities have a duty to intervene 'to provide adequate protection of those rights'; a failure to properly react constitutes an 'infringement of trade union rights by the government' (*Freedom of Association: Compilation of decisions of the Committee on Freedom of Association*, ILO. 6th Edition, 2018. para. 1624). There can be no doubt that these circumstances are 'sufficiently serious' to demand such intervention.

The CFA has also stated that 'the use of police for strike-breaking purposes is an infringement of trade union rights' and that 'the use of the forces of order during trade union demonstrations should be limited to cases of genuine necessity' (*Freedom of Association*, paras. 229, 931). The CFA further notes that 'authorities should resort to calling in the police in a strike situation only if there is a genuine threat to public order', and that governments must take action 'to avoid the danger of excessive violence' (*Freedom of Association*, para. 935). To this end, 'governments should take measures to ensure that the competent authorities receive adequate instructions so as to eliminate the danger entailed by the use of excessive violence when controlling demonstrations which might result in a disturbance of the peace' (*Freedom of Association*, para. 217).

The State's obligation to protect workers' freedom of association also clearly requires that 'all allegations of violence against workers who are organizing or otherwise defending workers' interests should be thoroughly investigated and full consideration should be given to any possible direct or indirect relation that the violent act may have with trade union activity' (*Freedom of Association*, para. 101). The CFA has called for the institution of independent judicial inquiries to investigate incidents of murder or violence against trade unionists, 'in order to shed full light, at the earliest date, on the facts and the circumstances in which such actions occurred and in this way, to the extent possible, determine where responsibilities lie, punish the guilty parties and prevent the repetition of similar events'. (*Freedom of Association*, paras. 81-89, 94). Failure to protect against such acts or hold guilty parties to account creates a culture of impunity, 'which can only reinforce a climate of fear and uncertainty highly detrimental to the exercise of trade union rights' (*Freedom of Association*, paras. 90, 96-99, 102, 106).

ICTUR calls on the government to urgently address and investigate these incidents, to provide victims with adequate remedies and to hold perpetrators to account. ICTUR further urges the government to take all measures necessary to adhere to the principles of freedom of association enshrined in the ILO Fundamental Conventions – all of which South Africa has ratified – in order to protect the fundamental rights of workers to freely organise and take action in defence of their interests. ICTUR will report these incidents in the journal *International Union Rights*, which was established in 1993, and which enjoys a readership in more than 100 countries.

Yours faithfully,



Daniel Blackburn, Director