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FOR IMMEDIATE RELEASE

**LEGAL AID SOUTH AFRICA EXPLAINS ITS DECISION TO APPEAL
THE JUDGMENT ON THE MARIKANA COMMISSION OF INQUIRY**

In welcoming the court's decision granting Legal Aid SA leave to appeal on the recent North Gauteng High Court judgment, ordering the organisation to fund the Marikana Commission of Inquiry, we wish to clarify the reasons behind our launching an appeal.

"We stand by our view that the judgment has far reaching consequences for Legal Aid SA's sustainability. Based on a number of factual findings, we feel that certainty has to be sought from the Supreme Court of Appeal," says Legal Aid SA CEO, Ms Vidhu Vedalankar.

"We believe that this judgment has to be appealed as the order was made despite absence of evidence as to the costs that would be entailed by such order and, more importantly, the impact of such order on the finite resources of Legal Aid SA and the consequent impact on its ability to meet its statutory and constitutional duties towards indigent persons whose rights are finally determined by courts of law," explains Vedalankar.

She continues: "This sort of order fundamentally trespasses on the separation of powers. In effect, the court has not only changed the priorities set by Legal Aid SA but has also fundamentally interfered with its budget thereby impacting on its ability to provide legal representation to persons who will have their rights finally determined by a court of law without any legal representation."

“Despite seeking to limit the impact of this order to the specific circumstances of Marikana, it has the import of potentially opening the door to many other interested parties to make out a special case for legal representation and this will not be sustainable for the organisation especially taking into account current commissions alone. In light of the fact that the constitutional court had already indicated that courts should not direct the executive arm of the State on how to deploy resources, our considered view is that the criteria set has a potential of instructing us on how to expend our funds.

“We furthermore hold the view that Section 34 of the Constitution does not find application in Commissions of Inquiry as this section requires that there must be a “dispute” that can be “resolved” by the application of law. Commissions on Inquiry are fact finding in nature and can only make recommendations. There is accordingly neither a “dispute” nor an issue that is “resolved” by a Commission of Inquiry. The ambit of Section 34 has therefore been construed too widely,” concludes Vedalankar.

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Issued by the Communications Department of Legal Aid South Africa. For more information or interview requests, please contact Mpho Phasha on 011-877-2081, email: MphoP@legal-aid.co.za . **Visit our website at www.legal-aid.co.za or call the Legal Aid Advice Line on 0800 110 110.**

Please be reminded that the name of our organisation **Legal Aid South Africa** is **correctly abbreviated as Legal Aid SA** and not as LASA. We respectfully request that you use the correct abbreviation **Legal Aid SA** which is representative of our Mission to deliver quality **legal aid** services to the poor and vulnerable in South Africa.