

**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG PROVINCIAL DIVISION, PRETORIA**

CASE NO:

Application for intervention of as parties:

MINING AFFECTED COMMUNITIES

UNITED IN ACTION

First Applicant

MINING AND ENVIRONMENTAL JUSTICE

COMMUNITY NETWORK OF SOUTH AFRICA

Second Applicant

In the matter between:

CHAMBER OF MINES

First Applicant

and

MINISTER OF MINERAL RESOURCES

First Respondent

SUPPORTING AFFIDAVIT

INTRODUCTION

I the undersigned

GLADYS NESTER NDEBELE

Hereby state under oath that;

1. I am adult female employed as service provider at WoMin a feminist organisation that deals with issues of development on behalf of women. WoMin's offices are situated at Office 902, Floor 9, Heerengracht Building, 87 De Korte Street, Braamfontein.
2. I am the chairperson of the Women Affected United in Action ("WAMUA") a women's movement within the MACUA structure. I am duly authorised to depose to this affidavit in terms of the resolution of WAMUA.
3. Save where I state otherwise, or where the contrary appears from the context, the facts herein stated fall within my personal knowledge and I believe them to be true and correct. Where I make legal submissions, I do so on the advice of the applicants' legal representatives, which advise I accept as correct.
4. The purpose of this affidavit is two-fold. Firstly, it confirms those aspects of **Mesheck Mandlenkosi Mbangula's** affidavit that pertain to me. This affidavit also provides information relating the impacts of the lack of engagement of women members of mining affected communities and WAMUA in the negotiations and the drafting of the 2017 Mining Charter.

BACKGROUND

5. In most community based organisations women's voices are not heard. It became of paramount importance women to mobilise against mining that tends to be exploitative to mining affected communities. Women need to be at the forefront of championing those struggles as they are there ones who carry the burdens of mining or environmental degradation on land and mining resources.

6. As a result, a women's movement was established as part of MACUA. WAMUA was founded on 5 December 2012. Our membership is spread across 8 provinces within the country where MACUA has its own presence.

WAMUA's ACTIVITIES

7. Since our establishment in 2012 we have organised around 15 marches raising issues affecting women living in mining communities. We have at times used various platforms of other to demonstrate and raise our issues.

8. In all MACUA's interventions we have been clear that all our demands must be made by women for women. In our campaigns we have been clear that we want women in the forefront in mining struggles. WAMUA's vision is to be stakeholders when key decisions in mining are considered, such as, Social Labour Plans.

9. WAMUA's messaging has been towards creating a space to have the right of refusal in mining, believing in free-prior and informed consent.
10. We have also challenged the fact that when there are benefits related to mining, women are not considered. It is often the case that men are at the forefront of processes to negotiate benefits and as WAMUA we believe in revenue share for women.
11. Since our establishment we have organised campaigns, marches, workshops, training, dialogues, roundtable discussions and various submissions to different panels.
12. As WAMUA we have attended two mining Lekgotla's where big mine bosses meet with the department to discuss mining. In 2014 we attended the first mining Lekgotla in Sandton estate whereas communities affected by mining we were not given the opportunity to raise our concerns. Our members were given accreditation to be in the meeting on the conditions that they will be silent in the meeting.
13. We refused the accreditation and handed our memorandum together with MACUA to the lekgotla. While the lekgotla was in progresses as communities we demonstrated outside the venue.
14. In August 2014, WAMUA attended the mining lekgotla at Gallagher Estate. WAMUA's members marched at that lekgotla and handed a memorandum to DMR, Chamber of Mines and CEO's and management of mining companies. Whenever we have handed a memorandum we have received no responses

including from DMR. This once again has worked to exacerbate the exclusion of women and mining affected communities in decisions that are taken about mining.

15. In November 2016, WAMUA made submissions to the Motlante High level panel raising issues faced by women in mining affected communities including inheritance, land and socio-economic rights.

ENGAGEMENT WITH THE MINING CHARTER

16. In June 2016, WAMUA furnished recommendation in the draft People's Mining Charter to include issues affecting women. WAMUA's recommendations sought to acknowledge and eradicate the gendered imbalances affecting women in mining. It further highlighted the recognition of all marginalised groups, on the basis of gender, sex, religion, race, ethnicity and disability. A copy of the People's Mining Charter with our comments is attached and marked "GNN1." The People's Mining Charter was presented at different panels and were adopted.

17. WAMUA learnt of the Mining Charter in July 2017. A member of WAMUA informed the membership of the publication of the Mining Charter. I am not aware of how she accessed the gazette. Copies of the Mining Charter was subsequently distributed to communities.

18. We were shocked to learn of the Mining Charter. There had been no consultation with the community organisations and its constituents on the finalisation of the document.

19. We were not invited to any meetings on consultation on the charter. We were not informed of the Mining Charter, not even through other organisations. We are not aware of any of our members in different communities who have been consulted on the mining charter.

EFFECTS OF THE EXCLUSION

20. The exclusion of WAMUA in mining developments has been very painful to us. It has affected our dignity as human beings and we are treated as 'the unseen'. Female members of Parliament, are complicit in gender discrimination, as they too fail to highlight and consider women's lived realities.

21. It appears at times that exclusion is deliberate. This is contrary to the fact that in mining affected communities and society in general we are the majority. As much as women have power, women are disempowered. The complete disregard of women by the Minister is as though culture is used to deface women in issues affecting development.

22. Patriarchy manifests through the lack of consultation with women and it aids the mining processes.

DEVELOPING A CULTURE OF INCLUSION

23. WAMUA insists to be part of the decision making processes with regards to the Mining Charter. Our participation ought to be at all processes from the working paper, drafting and implementation.

24. Mining affected communities must also be included in these processes. When consulted mining affected communities must be consulted in their mother-tongue.

25. The Mining Charter process should also prioritise the needs of hosting communities and they are included in those process.

26. The notification of meetings must be clear and circulated in advance. The notification must reflect, dates, times, venues and cater for transport of community members or alternatively, the meeting must be held at a venue that is accessible to women.

27. DMR must be transparent in their information processes and should be strict with complying of access to information protocols.

GLADYS NESTER NDEBELE

Thus signed and sworn to at _____ on this _____ day of _____ 2017, the deponent having acknowledged that he knows and

understands the contents of this affidavit, that he has no objection to taking the prescribed oath and that he considers the oath to be binding on his conscience.

COMMISSIONER OF OATHS