

IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA

Con Court case no: CCT380/2024

High Court case no: B4429/2024

In the urgent application matter between:

MINING AFFECTED COMMUNITIES UNITED IN ACTION

Applicant

And

**MEMBER OF THE EXECUTIVE COUNCIL
FOR COMMUNITY SAFETY AND
TRANSPORT MANAGEMENT**

First Respondent

**MINISTER OF MINERAL AND PETROLEUM
RESOURCES**

Second Respondent

MINISTER OF POLICE

Third Respondent

MINISTER OF SOCIAL DEVELOPMENT

Fourth Respondent

**MINISTER OF CO-OPERATIVE GOVERNANCE
AND TRADITIONAL AFFAIRS**

Fifth Respondent

BUFFESLFONTEIN GOLD MINE LIMITED

Sixth Respondent

HARMONY GOLD MINING COMPANY LIMITED

Seventh Respondent

SUPPORTING AFFIDAVIT

I, the undersigned

CLEMENT MOELETSI

do hereby and state as follows:

S.B.M
C.T.M

1. I am an adult male and currently reside at Extension 6, Khuma, Stilfontein, North West, South Africa, 2001.
2. I have read the Supplementary Affidavits of **SABELO MNGUNI** deposed to on 18 December 2024 and 02 January 2025, on behalf of the applicant in the above matter, and to which the latter, this affidavit is annexed, and confirm that to the best of my knowledge and belief, the allegations made in the applicant's supplementary affidavits are both true and correct as far as they relate to me and the conditions underground at Shafts 10 and 11 of the Buffelsfontein Gold Mine (*'Stilfontein Mine'*).
3. I wish to start by providing the above Honourable Court with an overview of the harrowing circumstances underground at Shafts 10 and 11 of the Buffelsfontein Gold Mine, particularly concerning the dire conditions of the individuals trapped beneath the surface, the challenges with the aid received, and the ongoing inability to facilitate their safe resurfacing. The conditions underground are not mere abstractions, they are painful, daily realities for those suffering, with no certainty of rescue or relief.
4. I was finally granted bail on 31 December 2024, and it was only then that I had the opportunity to speak with my desired legal representatives, Lawyers for Human Rights. Before this, while I was detained, I had instructed my mother to approach Lawyers for Human Rights on my behalf, to ensure that I was represented in these proceedings. However, I have been informed that my attempts to access legal representation were stopped, and I was denied the right to consult with my chosen legal team by members of the third respondent where I was detained.

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5. I submit this affidavit in support of the supplementary affidavit mentioned above, detailing my experiences underground in Shafts 10 and 11 of the Buffelsfontein Gold Mine, the conditions endured during that time, and the effects of Operation Vala Umgodi on myself and others in similar circumstances underground.
6. I have briefly provided evidence to the applicants regarding the circumstances surrounding my rescue; however, I was unable to give a more detailed account as my legal representatives were denied access to me while I was held at Hartbeespoort Police Station from 9 December 2024 until my release on 31 December 2024. This lack of access severely impeded my ability to communicate and provide critical information during that period. Now, having regained my freedom, I am in a position to offer a clear and detailed account of the events and conditions I experienced, which I believe will significantly assist the Court in understanding the urgency and gravity of the situation.
7. In July 2024, I made the difficult decision to descend two kilometers underground, driven by financial hardship and the overwhelming need to provide for my family. Despite my best efforts, I was unable to secure employment, leaving me without the means to support my household. The pressure of not being able to provide food or basic necessities for my child and loved ones became unbearable, leaving me with no choice but to take this desperate step in the hope of alleviating our dire situation.
8. As a result, on 24 July 2024, I entered Shaft 10 using the rope system. This system, operated manually by artisanal miners, required coordination and physical effort to lower individuals into the shaft. With their assistance, I was

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- able to descend into the mine, joining others who had similarly turned to underground mining out of desperation to survive and support their families.
9. Upon descending to level 6 of Shaft 10, I remained there for approximately one month before the impact of Operation Vala Umgodi was felt. During this time, I witnessed the daily struggles of those around me as we grappled with the harsh realities of life underground. The environment was suffocating and devoid of natural light, with the air thick and heavy.
 10. Prior to the implementation of Operation Vala Umgodi, we relied on the support of other artisanal miners above ground and community members above ground to send food, medications, and other essential supplies. Families would provide these items, which were then delivered by miners on the surface to those trapped below. This system, while informal, was crucial in sustaining life underground.
 11. However, this support network was disrupted when the police began operating in the area. Deliveries of food and medication were effectively blocked, as law enforcement actively prevented such exchanges. This sudden cessation of critical supplies exacerbated the already dire conditions underground, leaving miners us with no means of sustenance or medical care.
 12. In August 2024, the supply of food and other essential necessities for dignified living from above ground was completely cut off for Shaft 10. This abrupt termination of supplies left us utterly blindsided, as we had no warning or explanation for why the provision of food, water, medication, and other basic supplies had suddenly stopped. The lack of communication added to the

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distress, leaving us in a state of confusion and desperation as we struggled to survive in increasingly dire conditions.

13. Around September 2024, desperation for sustenance reached unimaginable levels. People began eating cockroaches and mixing toothpaste with salt to create makeshift meals, extreme measures born out of sheer deprivation. The lack of food and safe drinking water left us with no viable means of nourishment. From September through October 2024, the absence of even basic sustenance was absolute, and survival became a daily battle against starvation.
14. Personally, I went without food or potable water for nearly six weeks. The prolonged starvation left me physically and mentally drained, pushing my body to its limits. To survive, I resorted to drinking underground water, which had a strong chemical taste. While it kept me alive, it came at a cost, I suffered severe headaches, abdominal pain, and what I suspect were symptoms of stomach ulcers, brought on by the water's contamination.
15. Operation Vala Umgodi, implemented without warning by the South African Police Service, abruptly cut off any chance of aid or rescue. The impact was devastating. Starvation took hold swiftly, and I watched as those around me grew weaker by the day. Their bodies wasted away, and their conditions deteriorated rapidly. Many succumbed to the unrelenting hunger, their skeletal frames haunting reminders of the horrors we endured. From what I witnessed, it was not illness but starvation that claimed the lives of those underground. These were preventable deaths, caused not by natural circumstances but by human decisions.

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16. This is what I saw underground, people wasting away, their bodies betraying them in slow, agonising defeat. Hunger stripped them of their strength, turning once vibrant individuals into fragile shadows of themselves.
17. At first, there were the pangs of hunger, sharp, and relentless. People held on, trying to ignore the gnawing emptiness inside them. Their faces grew thinner, their eyes sunken. As days turned to weeks without food, their movements became sluggish, as if every step was an unbearable effort.
18. The fat that once cushioned their frames disappeared, leaving their bones painfully visible beneath thinning skin. Faces hollowed out, and limbs looked impossibly frail. With nothing else to sustain them, their bodies started feeding on their own muscles. Arms that once could dig or carry now trembled under the weight of even the smallest task.
19. The air was heavy with sickness. Cuts and sores festered, unable to heal. Coughs rattled through the tunnels as people grew too weak to fight off what appeared to be infections. Skin cracked and broke open, leaving them vulnerable to infections they could no longer fend off.
20. Some, like me, drank the underground water to survive, but it brought its own torment causing searing stomach pain and unbearable headaches. The water burned their insides, yet we had no choice but to drink.
21. I watched as hunger robbed people of their dignity. Some huddled in silence, too weak to speak or cry out. Others were delirious, mumbling incoherently or calling out for loved ones they would never see again.

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22. Then came the final moments for some. Their breath grew shallow, their bodies still. They didn't die with any great commotion, just a quiet surrender, as if their bodies had finally given up. The hollow, lifeless look in their eyes was a constant reminder of what awaited the rest of us.
23. It was not an illness that killed them. It was starvation. A cruel, drawn-out death that consumed them piece by piece. This is what I saw underground. This is what we lived through, and this is why, respectfully, no one, despite what they have done, should ever endure such suffering again.
24. On 13 November 2024, news spread underground that food would be available at Shaft 11, sparking a wave of desperate hope among us. With no time to waste, we gathered what little strength we had left and ran, pushing our bodies beyond their limits in pursuit of sustenance. The journey was treacherous. Along the way, we encountered a section of the mine where the heat was almost unbearable, so intense that it was deemed unsafe to cross under normal circumstances. Yet, driven by the sheer will to survive, some of us managed to navigate this hellish passage, pushing onward until we reached Shaft 11.
25. Not everyone chose or was able to take the same path. Some, in their desperation to escape or reach the surface, turned to the ligaters, a single metal rod extending from the deepest part of the mine to the surface above. The rod, rusted and precarious, was never meant to serve as a means of escape. It resembled a thin, unsteady wardrobe pole, ill-suited for the weight and conditions it was subjected to. Despite the evident danger, many attempted the climb, driven by a hope that was stronger than their fear.

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26. Tragically, the ligaters became a death trap. Most who tried to scale it fell, their weakened bodies unable to withstand the exertion or maintain their grip on the slippery, corroded surface. Those who fell plummeted to the very bottom of the mine, a place so remote and dangerous that recovery was nearly impossible without specialised equipment.
27. Their remains were left at the base of the mine, a haunting reminder of the lengths people went to in their fight for survival. The sight of this rusted lifeline and the lives it claimed will forever remain etched in my memory.
28. Upon arriving at Shaft 11, we were met with a scene that defied both hope and despair. The tunnel was crowded with others who had also heard whispers of promised aid from the surface. Some were slumped against the walls, too weak to stand, while others sat silently, their hollow eyes fixed on the shaft above, waiting for signs of relief. The air was thick with anticipation and desperation, as if every moment stretched endlessly in our fragile state.
29. Hours turned into days, and although some food was eventually lowered into the shaft on 16 November 2024, it was nowhere near sufficient to sustain the growing number of starving miners. The small parcels of instant maize meal and water were torn apart with frantic hands, dividing into fragments so small they barely counted as nourishment. Fights erupted, not out of malice but sheer survival instinct, as the weakest among us often went without. Watching this unfold, I was struck by how quickly humanity eroded in the face of starvation.
30. The physical toll was impossible to ignore. Many of us had pushed our bodies to their limits on the journey to Shaft 11, and the lack of adequate sustenance

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only worsened our conditions. Even the act of chewing or swallowing became an insurmountable task for some. I watched as men who had been strong enough to descend into the mine months earlier now could not muster the strength to lift a cup of instant maize meal to their mouths. Their bodies had simply given up, wasting away in slow, painful defeat.

31. The failure of the authorities to provide notice of Operation Vala Umgodi loomed over every death underground. This was not just a tragedy, it was a failure of duty. Had we known about the operation, we could have planned an evacuation or sought safety in time. Instead, we were left to fend for ourselves in a labyrinth of suffering and death. The lack of communication was not just negligent, it was inhumane, stripping us of our right to prepare for what was to come.
32. As the days dragged on, the hope that had driven us to Shaft 11 began to wane. The community above ground had done their best to send aid, but their efforts could not counteract the scale of our need. For many, there was no escape from the crushing reality of hunger, dehydration, and despair. The tunnels became quieter, the silence punctuated only by the faint cries of those whose strength had finally left them.
33. Those of us who survived did so not because we were stronger or more deserving but because of sheer luck. Every moment underground felt like a gamble, one we had not chosen to take but were forced into by the circumstances of our lives. What I witnessed in Shafts 10 and 11 will stay with me forever, a testament to the cruelty of neglect and the resilience of those who fought to survive despite impossible odds.

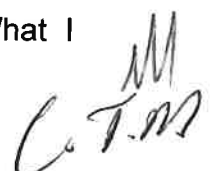
C. T. M.
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34. During the food distribution, another artisanal miner and I counted roughly 900 people waiting in line for a share. The sheer number of people, coupled with their weakened and emaciated state, made the scene harrowing. Although we counted 900 people, I believe there were still other artisanal miners scattered throughout different levels of the mine.
35. Food was never delivered again until 3 December 2024. When it finally arrived, we were deeply grateful, but the provisions were barely enough to sustain us. The amounts of food, water, and basic necessities were grossly insufficient for the number of miners still underground. We barely had time to eat, as within minutes of receiving the food, it was gone. We were left with nothing, and we had to wait for the next day, though the provision was inconsistent. On some days, we were fortunate enough to get something, and on others, nothing came at all. The uncertainty and deprivation added to our suffering.
36. On 9 December 2024, I was rescued from Shaft 11. I had been selected by the community underground for evacuation due to my weakened state, and I was one of the fortunate few to make it out. The relief of being taken out of the mine was overwhelming, but the toll of the experience still weighed heavily on me.
37. While I was detained at Hartbeespoort Police Station, I was informed by some artisanal miners who were rescued after me and subsequently arrested that the unimaginable desperation faced by those still underground. Some miners, driven to the brink of starvation, had been forced to resort to the unthinkable, eating the flesh of those who had died in order to survive. The horror of hearing

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this only deepened my pain and sense of loss. I attach confirmatory affidavits indicating that some miners have resorted consuming human flesh deposed to by SETSOTO MASHIANE and TSHOHLEHO NTSOKOLO as annexure "CTM1" and "CTM2" respectively.

38. It is abundantly clear that the situation underground had become unbearable. The deaths of many artisanal miners were the direct result of the appalling conditions, and in addition to this, children were left orphaned. This is a grave violation of our fundamental right to life. The failure to provide prior notice before implementing Operation Vala Umgodi only worsened the crisis. Those of us underground had no choice but to face the prospect of arrest, as it was a better alternative than staying and continuing to suffer and die. It is imperative that the court intervene, not only to prevent further loss of life but also to ensure the humane and dignified treatment of all those affected.
39. I submit to this Honourable Court that, based on my experience and what I have witnessed, everyone underground was ready to come out. The reports circulated by the police and other media outlets that I have seen are grossly inaccurate. There were no stockpiles of food, and the notion that we could voluntarily come out is entirely false.
40. The truth is that we are/were trapped in a situation of dire necessity, and no one could leave until the rope came down. The circumstances were far more desperate than has been portrayed.
41. I humbly ask this Honorable court to make an order holding the police accountable for the actions that have led to the senseless deaths of many. This is not an abstract matter, it is real, and I lived through it. What I


S.B.M

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HARMONY GOLD MINING COMPANY LIMITED

Seventh Respondent

CONFIRMATORY AFFIDAVIT

I, the undersigned

SETSOTO MASHIANE

do hereby and state as follows:

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C.F.M.
S. Mashiane
S.B.M

1. I am an adult male and currently reside at Extension 6, Khuma, Stilfontein, North West.
2. I have read the Founding Affidavit and Supplementary Affidavit of **SABELO MNGUNI** and Supporting Affidavit of **CLEMENT MOELETSI**. I confirm that to the best of my knowledge and belief, the allegations made in these affidavits are both true and correct as far as they relate the conditions underground at Shafts 10 and 11 of the Bufflesfontein Gold Mine ('Stilfontein Mine') and the consumption of human flesh by the artisanal miners trapped underground.
3. I confirm that I was trapped underground at Shaft 10 and 11 of the Buffelfontein Gold Mine. I was rescued on 25 December 2024 and confirm that prior to my rescue, some miners had resorted to consuming human flesh from other deceased miners in a desperate attempt to stay alive.

S. Mashiane

SETSOTO MASHIANE

I hereby certify that the deponent has acknowledged that the deponent knows and understands the contents of this affidavit, which was signed and sworn before me at _____ on the _____ day of _____ 2025, the regulations contained in Government Notice No R1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.

[Signature]
 05310879
 UP P. 0 00W

COMMISSIONER OF OATHS

FULL NAMES: *Uchana Thomas*
Maria J. Ester
Stilfontein

[Handwritten initials]
 S.B.M.
 C.T.M.

ADDRESS: 1254 dries STR STR
DESIGNATION: W10

TIRELO YA MAPODISI A AFRIKA BORWA
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SUID-AFRIKAANSE POLISIEDIENS SOUTH AFRICAN POLICE SERVICE

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I, the undersigned

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do hereby and state as follows:

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T.P.

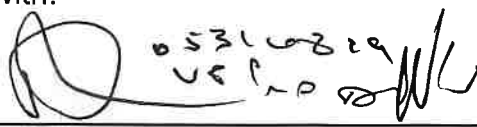
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1. I am an adult male and currently reside at Extension 6, Khuma, Stilfontein, North West.
2. I have read the Founding Affidavit and Supplementary Affidavit of **SABELO MNGUNI** and Supporting Affidavit of **CLEMENT MOELETSI**. I confirm that to the best of my knowledge and belief, the allegations made in these affidavits are both true and correct as far as they relate the conditions underground at Shafts 10 and 11 of the Buffelsfontein Gold Mine ('*Stilfontein Mine*') and the consumption of human flesh by the artisanal miners trapped underground.
3. I confirm that I was trapped underground at Shaft 10 and 11 of the Buffelsfontein Gold Mine. I used the ligaters, which is incredibly dangerous as attested to in the supporting affidavit, to resurface on 25 December 2024 and confirm that prior to my exit, some miners had resorted to consuming human flesh from other deceased miners in a desperate attempt to stay alive.



TSHOTLEHO NTSOKOLO

I hereby certify that the deponent has acknowledged that the deponent knows and understands the contents of this affidavit, which was signed and sworn before me at Stilfontein Court on the 02nd day of JANUARY 2025, the regulations contained in Government Notice No R1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.



COMMISSIONER OF OATHS

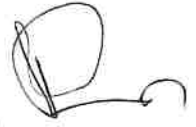
FULL NAMES: Noyam Tsof

C.T.M
S.B.M

ADDRESS: 1 RUTH DIERST STR STE BRUNNEN
DESIGNATION: N10

TIRELO YA MAPODISI A AFRIKA BORWA
COURT
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SUID-AFRIKAANSE POLISIEDIENS SOUTH AFRICAN POLICE SERVICE

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experienced underground was nothing short of cruel. People were deprived of their basic human rights, left to suffer and perish in the most inhumane conditions. I am asking the court to intervene and ensure that those responsible for this horrific situation are held accountable. Families have been torn apart, children are left orphaned, and this crisis has only been exacerbated by the lack of proper action.

42. People died because of decisions made without consideration for their wellbeing or right to life. I urge this court to hold those responsible accountable for the deaths that occurred, and to take steps to prevent further loss of life. This is not just about the tragedy of the miners, it is about ensuring justice for those who have been wronged and preventing future atrocities of this nature. The suffering I witnessed must not be forgotten. The lives lost underground demand justice.



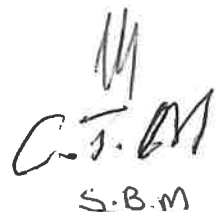
CLEMENT MOELETSI

I hereby certify that the deponent has acknowledged that the deponent knows and understands the contents of this affidavit, which was signed and sworn before me at Stilfontein on ^{not} 2 the January day 2025 of 2025, the regulations contained in Government Notice No R1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.



COMMISSIONER OF OATHS

Mdunipi Lebetsa
COC
6 Centurion Ave
Stilfontein



S.B.M.

