

Coal mining threatens people's access to water in Mpumalanga, South Africa

South Africa is one of the thirty driest countries in the world. This is due to its geographical location and low annual rainfall, however, large-scale mining operations also have an increasing negative impact on the country's water quality and availability. Communities in Mpumalanga province, where the coal mining business is flourishing, struggle daily to get access to clean and safe water for drinking and cultivating their crops. Women are the most severely affected. Meanwhile, the mining companies as well as the South African government shy away from their responsibility to respect and protect people's rights to water, food and a clean environment.



The impact of the mining industry on water sources in South Africa has become very acute. At least a thousand mines are operational and their water use equals that of the country's entire population of 53 million. The ever-increasing, large-scale mining activities moreover cause the contamination of rivers and groundwater sources, contribute to air pollution and result in land degradation. In Mpumalanga province, the livelihoods of communities that have traditionally relied on subsistence farming are seriously threatened. Sixty percent of the land in the province is currently mined or under exploration. The coal dust laden fields that are left for subsistence farming are becoming barren, their degradation exacerbated ►

► by water pollution. In the town of Carolina, situated 250 kilometer to the east of Johannesburg, people have not had access to clean water since mid-January 2015. Acid water is running from the taps in their houses, caused by the outflow of acidic water from the mines ('acid mine drainage'). At one point, the water in Boesmanspruit Dam, Carolina's main water supply, had a pH value of 3.7; this is extremely low, considering one speaks of acid rain when the pH value is below 5.0. Using water with such low pH levels for washing and bathing causes skin rashes and eye irritations. The people of Carolina currently depend on the municipality to provide them with potable water. In Witbank, situated between Carolina and Johannesburg, a strong presence of heavy metals - aluminium, cadmium, copper, lead, manganese and zinc - was found in treated water.

As a direct result of the water contamination caused by coal mining in Mpumalanga, poverty in households is increasing. Families do not have the money to buy safe drinking water, nor nutritious food to replace the crops they used to grow themselves. On top of that, the livestock of many families have died from drinking contaminated water or grazing contaminated fields.

THE IMPACTS OF COAL MINING ON WOMEN

In most South African communities, women bear the role of caregivers for their families, which includes the responsibility for securing water and food. This role causes women to suffer disproportionately from the effects of environmental degradation. They have to walk ever longer distances to fetch clean water for their families. With limited or no access to farming land, they are forced to look for alternative sources of income. Many women engage in illegal, and extremely dangerous, artisanal mining in abandoned mine pits. They are exposed to the toxins

and dust without any protective gear and moreover risk falling into the acid sinkholes. Many women in Carolina dig for duff coal in abandoned coal mines, putting their lives at risk. Sexual harassment and abuse of women in and around the mines are commonplace. Women have been asked to provide sexual favours in order to gain access to the abandoned mines. An additional burden for the women in Mpumalanga is taking care of the many people in their households who have fallen ill as a result of the environmental pollution. This unpaid care work takes away time from paid economic activities.

There are other social problems that the mines have unleashed. The high rate of unemployment, lack of livelihood sources and increase in alcohol abuse are causing the breakdown of families, with an increase in single parent households, mainly run by women. Younger women and girls increasingly engage in sex work to earn an income. In 2012, Mpumalanga province recorded the second highest HIV prevalence rate among the female population aged 15–49 in the country at 35.6%. ►



Women's responsibility for securing water and food for their families, causes them to suffer disproportionately from the effects of environmental degradation.

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**ON PAPER: LEGAL FRAMEWORKS
PROTECT PEOPLE'S RIGHTS**

There is an international legal framework in place that can protect the rights of communities whose livelihoods are affected by mining operations. For example, the human right to water and sanitation is recognised by all United Nations Member States. This right entitles everyone without discrimination to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic use. Furthermore, the right to 'adequate water' is provided for in the International Convention on the Elimination of all forms of Discrimination against Women (CEDAW) and the Protocol to the African Charter on Human and

Peoples' Rights on the Rights of Women in Africa. CEDAW recognises the right of women in rural areas to enjoy adequate living conditions, particularly in relation to sanitation and water supply.

At the national level, South African law also provides a framework within which both the government and mining companies must operate to ensure respect for the rights of communities affected by mining. The 1996 Constitution of the Republic of South Africa guarantees the right to a clean environment and ecologically sustainable development (Section 24) and the right to have access to sufficient food and water (section 27). South Africa has national laws and policies concerning environmental

protection that back up these constitutional rights. For instance, the 'polluter pays' principle that requires companies to internalise the costs of any negative environmental impact arising from their operations, is included in South African legislation.

**IN PRACTICE: TURNING A BLIND
EYE TO THE HARM DONE BY
COAL MINING**

When appropriately applied, national and international laws should be able to prevent the harmful social and environmental impacts of mining on local communities, and women specifically. However, in reality, the economic interests of both the South African government and the mining companies often trump the interests of the affected communities.



Under international law, States have the obligation to *protect* human rights. The United Nations Guiding Principles on Business and Human Rights, unanimously approved by the Human Rights Council in 2008, stipulate that companies have the duty to *respect* human rights. Yet many companies fail to act according to these non-binding principles. As a result of inadequate enforcement of the relevant national and international laws, mining companies face few or no consequences for their negative environmental impact. They commit their violations with impunity, often amounting to environmental crimes. No mining company in Carolina has come forward to take responsibility for the contamination of the town's water sources. Instead, the companies hide behind the presence of many other mines that operate in close proximity to each other. Persistent cultures of secrecy and 'engagement' between companies and regulators plague the mining industry in South Africa. Non-compliance with the law is concealed, facilitated by governmental regulators who moreover allow the mining companies to misrepresent their compliance status to investors. ►



Banks and financial institutions in turn often fail to conduct proper due diligence on mining projects, despite subscribing to the standards of international institutions like the International Finance Corporation and World Bank global guidelines on responsible investment. All these practices disempower affected communities, who need current and factual information to defend their rights.

STRENGTHENING COMMUNITY ACTION TO UPHOLD FUNDAMENTAL RIGHTS

ActionAid South Africa works with communities in Mpumalanga to strengthen their position vis-à-vis the mining companies and to lobby for more transparency and better adherence to national laws that protect people's rights to a clean environment, water and food. Women are trained to know their rights and how to use legal avenues to claim those rights. These activities have had positive effects. Communities have become far more assertive and organised by the formation of new networks like *Mining Affected by Communities United in Action* (MACUA) – the largest organisation representing mining affected communities – and *Women Affected by Mining United in Action* (WAMUA). Communities are putting pressure on government and municipalities for better service delivery and there is an increase in the number of women participating in advocacy and lobbying activities. Moreover, women increasingly take up leadership roles in community movements. Women's capacity to become trainers, organisers and leaders in their communities is growing and getting stronger. In Mpumalanga, women have started to use the Equality Court to ensure that mining companies and the state can no longer unfairly discriminate against mining affected communities and further entrench them in a cycle of poverty and inequality.



Any prospecting or mining operation must be conducted in accordance with generally accepted principles of sustainable development.

RECOMMENDATIONS

Urgent action must be taken to uphold human rights in order to protect communities in Mpumalanga whose lives and health are threatened by coal mining operations. Compliance with and enforcement of existing environmental laws and regulations needs to be secured. As women are affected disproportionately, gender issues must be specifically addressed, in parallel to human rights and environmental justice. We call upon governments and companies to adhere to national and international obligations and to pay particular attention to the following:

RECOMMENDATIONS TO THE SOUTH AFRICAN GOVERNMENT

- The South African state must live up to its obligation to *protect* human rights, as indicated in the UN Guiding Principles on Business and Human Rights and ensure that the people in South Africa can enjoy their rights to water and food, as well as the right to a clean environment and ecologically sustainable development.
- In drafting as well as implementing its policies, the relation between gender and environment needs to be recognised. The South African government should adhere to CEDAW and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.





- Comprehensive compliance monitoring and enforcement need to be set up and a proper administrative penalty system needs to be introduced. The 'polluter-pays' principle must be enforced.
- A transparent approach to information about mining must be adopted, including publication of all licenses and compliance data.
- Any prospecting or mining operation must be conducted in accordance with generally accepted principles of sustainable development by integrating social, economic, environmental and gender factors into the planning and implementation in order to ensure that the exploitation of mineral resources will serve present and future generations.
- The water and food security that women strive to protect is vitally dependent on land and access to natural resources. Securing women's land rights promotes gender equality. With the appropriate instruments, like equal land tenure rights, women can be supported to prevent human rights infringements that are disproportionately affecting them.

RECOMMENDATIONS TO COMPANIES

Companies have the responsibility to respect human rights. Before and during their operations, activities need to be fully compliant with local, national and international laws, incorporating special attention for the link between gender and environment. This should include for instance the use of compliance action plans and human rights impact assessments that include a gender differentiated analysis.

- Mining companies need to invest in enhancing water-efficient technologies and solutions across their supply chains and prioritise reducing or eliminating water pollution caused by their activities. Concrete targets must be put in place to track progress towards these.
- Companies should conduct meaningful stakeholder engagement and apply the principle of Free Prior and Informed Consent.
- Companies need to commit to transparency with regard to their

own operations and commitments. Plans and strategies that involve communities need to be freely accessible and shared as widely as possible, in order to allow communities to be informed and hold the mining companies accountable.

- In order to account for the often unequal power relationships between men and women, a gender perspective needs to be applied in stakeholder engagement.
- Compensation for loss of livelihoods and economic, social, environmental, cultural and heritage resources should be based on direct and indirect costs including future losses of alternative development paths and value loss of minerals.
- Companies and investors that may contribute to human rights violations like pollution or land grabbing, need to identify, prevent and mitigate any human rights impacts in their supply chain. Investors need to perform ex ante and ex post evaluations of the impact of their investments on people and the environment, that contain strong gender safeguards.





This case summary is developed as part of the *Upholding Human Rights: Bridging the Gender- Environment Divide* project implemented by ActionAid Netherlands, ActionAid Kenya, ActionAid South Africa, Both ENDS Netherlands (Project Coordinator), Centre for International Environmental Law (CIEL) based in Washington DC and Geneva, Forest Peoples Programme (FPP) and India-based organisation Dhaatri (Adivasi Resource Centre for Women and Children) and Keystone Foundation. The project aims to empower women and human rights defenders, to improve sustainable resource management and to further explore the potential of the human rights system to enhance the position and protect the rights of women. The project is supported by a grant from the Dutch Ministry of Foreign Affairs.

See also: www.bothends.org/HRG and www.bothends.org/Upholding-human-rights

For more information about this case, visit ActionAid South Africa (www.actionaid.org/south-africa) or contact Arelys de Yáñez (arelys.deyanez@actionaid.org).

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