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Special Rapporteur on Human Rights and the Environment  
Office of the UN High Commissioner for Human Rights  
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Dear Professor Knox,

ActionAid South Africa is writing to submit a request for investigation regarding the situation of women in the Mpumalanga region of South Africa. The South African government is undermining the ability for people in the Mpumalanga province, especially women, to realize their human rights due to its sanctioning of expansive coal mining and exploratory activities in the region. The Mpumalanga region has a large number of coal mines, which directly affect the lives of the people in the region, including their ability to breathe clean air and drink clean water. As of December 2016, sixty percent of the land in the Mpumalanga province was being mined or under exploration.<sup>1</sup> This has significant consequences on communities who rely on subsistence farming for their livelihoods. Significantly, mining and its associated activities disproportionately impact women and girls.

Mining, together with exploration, is causing significant human rights violations including the right to a healthy environment, right to food, right to health, and right to water. Additionally, it is leading to increased violence against women and girls in the region as there are escalating instances of sexual abuse stemming from both an influx of migrant workers and women turning to sex work for the economic opportunities.

The high prevalence of active mines, closed mines, and mining exploratory activities have made Mpumalanga a region with polluted water, diminished arable land, and significant air pollution. All of these conditions create an unhealthy environment and a difficult world for an already poor and vulnerable community. These impacts are felt acutely by women and girls as can be seen in the testimonies in “Living Next to the Mine: Women’s Struggles in mining affected communities,” which ActionAid published in January 2017.<sup>2</sup>

### *Threats to water resources*

As women and girls bear the primary responsibility for providing food and water for their families, the fact that the coal mines pollute the water and the land disproportionately impacts them.

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<sup>1</sup> Both ENDS, ActionAid, CIEL, Dhaatri, Forest Peoples Programme, Keystone Foundation, “Coal mining threatens access to water in Mpumalanga, South Africa” (Dec. 2016), <http://www.bothends.org/en/Publications/document/175/Coal-mining-threatens-people-s-access-to-water-in-Mpumalanga.-South-Africa>.

<sup>2</sup> ActionAid (Katherine V. Robinson & Fatima Vally, eds.), “Living Next to the Mine: Women’s Struggles in mining affected communities” (Jan. 2017), <http://actionaid.org/south-africa/publications/living-next-mine-womens-struggles-mining-affected-communities>.

Mining exacerbates the already constrained water situation in South Africa. As one of the driest countries in the world, a fact that is not likely to positively change as climate change will likely increase the frequency of droughts, South Africa already faces a constrained water situation. Thus, it is concerning not only because the mines use a great amount of water, but also due to the fact that the runoff from the mines pollutes the water. For example, as of December 2016, the town of Carolina had not had access to clean water for over a year (since January 2015).<sup>3</sup> One primary problem is acid mine drainage from the mines, including both active and closed/abandoned mines. The mining activity results in water becoming more acidic, therefore the water that is flowing from the mining area is acid water. Not only is acid water not potable, it is also dangerous for bathing as it can cause rashes and eye irritation among many other health issues. Further, the water often has high concentrations of heavy metals, including in water that has already been treated. Ultimately, the water coming from the mines is often toxic and no longer suitable for human use.

Additionally, mines, such as the Mimosa Mines, not only contaminate the water with their activities, but also restrict access to the water in the area because they need it for the mining operations. Owing to the fact that coal mining requires a significant amount of water to operate, groundwater that was previously available to the communities is no longer once the mining operations commence. This exacerbates any existing problems as it means that communities have to go further or pay more to get water for drinking, washing, crops, and livestock care, among others.

Mining's pollution and depletion of water leads to a lack of access to clean water, which results in women having to travel even further to try and get clean water for their families. As noted above, women and girls are primarily responsible for getting water. When there is little water available in traditional sources in the community, then women have to find alternative sources. This can mean traveling greater distances, which can negatively impact their health depending on conditions such as heat or air quality. Additionally, traveling further requires considerably more time, and so women often have to spend hours either traveling to get water and/or waiting in lines to get it from a distributor. This takes away from the time they would otherwise spend engaging in other caregiving or economic activities, which can have further consequences.

Polluted and depleted water sources also have impacts on other rights beyond the right to water including the right to health and food, and impacts women's economic prospects and daily lives.

### *Right to Food*

Contaminated water also contributes to greater food insecurity and negative impacts on the right to food. As stated above, the mining activities impact the right to food, and disproportionately impact women as they are the primary caregivers. The mines encroach on the land that was once used for farming or grazing, contaminates the land itself, and contaminates the water, which harms the land and the animals.

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<sup>3</sup> "Coal mining threatens access to water in Mpumalanga, South Africa," *supra* note 1.

Acid water drainage and heavy metals in the water does not only affect the water of people who are using it, but it can negatively impact the land and livestock. For example, the acidic water can sterilize the soil, thus making it non-arable. Additionally, livestock die as a result of drinking the contaminated water.

Air pollution from the burning of coal also contributes to diminished output from growing crops and from raising livestock. As the air pollution can also affect the soil and the food that livestock eat. Also, coal dust settles on the land, contaminating it and making it unusable.

Further, the mines themselves encroach on land that was previously used by communities to grow food and raise livestock. The companies that are given mining rights are also given the right to exclude other uses of the land. Thus, communities are denied the use of land they previously benefited from. This negatively impacts their right to food as food production decreases. Additionally, this decrease in food production can also lead to rising food prices, which also undermines food security.

Many in the Mpumalanga region have previously relied on growing their own food and raising livestock as one of their primary food sources. Providing food for their families is often the role of women. However, if crops cannot grow and livestock cannot thrive then women have to seek food elsewhere, primarily buying it from other sources. This then requires them to again travel to those places and it requires resources (money) that they do not necessarily have. Further, if food prices are higher due to lower quantity, then women have to make even more money to ensure they have enough food for their family and themselves. This can lead to women and girls having to find new means of earning money and has led women to turn to artisanal mining and sex work.

#### *Air Pollution and the Right to a Healthy Environment, Health, and Life*

The mining process releases particulate matter into the air which exposes people to toxic air pollution.<sup>4</sup> The air pollution can lead to a number of respiratory problems, including asthma. Given the number of mines in the Mpumalanga region, the levels of particulate matter are quite high and exceed the acceptable limits. While poor air quality can directly impact women's health, children, including girls, and the elderly are more prone to be affected by high levels of particulate matter. However, increased illness among children and the elderly can lead to women having to spend more time caring for them and not being able to participate in other economic or cultural activities.

Additionally, despite living in close proximity to the coal mines, which serve as the primary source of fuel for power plants in South Africa<sup>5</sup>, many of the people who live near

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<sup>4</sup> See generally ActionAid, Both ENDS, Center for International Environmental Law (CIEL), Dhaatri, Keystone Foundation, "Severe air pollution threatens people's health and livelihoods in Masakhane, South Africa" (Nov. 2015), [http://www.bothends.org/uploaded\\_files/inlineitem/151123\\_HR\\_South\\_Africa\\_def.pdf](http://www.bothends.org/uploaded_files/inlineitem/151123_HR_South_Africa_def.pdf).

<sup>5</sup> South Africa Department of Energy, Coal Resources, [http://www.energy.gov.za/files/coal\\_frame.html](http://www.energy.gov.za/files/coal_frame.html) (stating "About 77 percent of South Africa's primary energy needs are provided by coal." Further it indicates that this is unlikely to change given that

the mines do not use this energy to cook or to heat their homes as they often cannot afford the electricity costs. Families in Mpumalanga tend to heat their homes and cook using basic energy sources, such as burning wood and coal. To do this, women and girls regularly venture to abandoned coal mines to dig for duff coal, which is coal waste that is then put in the sun to dry to prepare it for burning. Fetching the duff coal is often done in precarious conditions, such as rainstorms, which makes the terrain more treacherous, additionally the sites are often contaminated with toxic chemicals. Moreover, when burned in a confined space the duff coal contributes to air pollution in the home and leads to respiratory illnesses. Women and girls are more susceptible to this risk as they are the ones who are cooking the food and consequently inhaling the fumes.

### *Impacts on Livelihood*

As noted above, as the primary caregivers, women are disproportionately impacted by the environmental degradation related to the mine. Though the pollution affects all people, women particularly feel the effects given that they are often responsible for home life, including providing water and food for their family.

The prevalence of mines in the region has led to increased poverty for a number of reasons. The diminishing availability of clean water and food scarcity forces families, primarily women, to have to buy water and food, which requires increased income that they often do not have. Also, the land impacts contribute to the communities having to be more of an income based society, as they can no longer rely on growing their own food to consume and to sell/trade. Additionally, the increased poverty has been correlated with rising alcoholism amongst men, with many men leaving the family. This leaves women as the head of household, so in addition to having to do the chores of taking care of getting food and water and caring for the children, they are then forced to find ways to make money. This in turn can lead to women searching for new economic opportunities, which often have detrimental impacts on their health, such as those resulting from artisanal mining and sex work.

For example, artisanal mining negatively impacts women's health given the toxic chemicals involved in the process. Women and girls who engage in artisanal mining do not often have the proper safety equipment and are therefore in direct contact with toxins.

Secondly, the need to support the family has led to women increasingly turning to sex work to earn money to support their family. Additionally, young girls (including teenagers) are often forced into sex work to help contribute to the household income. This puts women and girls at risk of pregnancy and disease, while also taking the girls away from school. The sex work industry is also exacerbated by the influx of migrant workers who are able to exploit the women and girls by offering money and other support in exchange for sex. This has led Mpumalanga to have the second highest rate of HIV for women ages 15-49. Additionally, there has been an increase in unplanned teen pregnancy. This negatively impacts girls' ability to receive an education. It also puts additional constraints on the family as it means there are more people to care for.

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they see a lack of "suitable alternatives to coal as an energy source" and since coal "can be exploited at extremely favourable costs and, as a result, a large coal-mining industry has developed.").

These are just some of the impacts on women's and girls' lives that are undermining their full enjoyment of their human rights.

### *Rights Violations*

The South African government grants concessions to the mining companies and as such both the government and the company are complicit in contributing to these rights violations. South Africa has ratified the Convention on the Elimination of Discrimination Against Women (CEDAW) and the African Charter on Human and Peoples' Rights as well as its Maputo Protocol on women's rights. Further, the South Africa Constitution guarantees the right to a clean environment and the right to access to sufficient food and water. Moreover, South African legislation embraces the polluter pays principle, which states that the person or entity responsible for pollution should compensate those who are harmed. However, South Africa is not abiding by its international commitments or domestic constitution as it is allowing the mining companies to engage in activities that severely impact women and girls and the realization of their rights. The mining companies themselves are also violating the rights of women and girls.

Despite these provisions, the women and girls of Mpumalanga have not been able to achieve remedy. There have been two cases regarding the water and air pollution caused by the mines in the magistrate court, however little remedy has been achieved. Despite a ruling in favor of the communities, there is still no access to clean water. Additionally, women have started to increase their capacity to use the Equality Court,<sup>6</sup> but resolution has yet to be achieved.

### **Questions/Clarifications that can be sought from the Government**

- How will it ensure that the rights of women and girls, including the right to food, water, and a healthy environment be ensured?
- How will the government ensure compliance and enforce its laws, including the polluter pays principle?
- How will it ensure sustainable development?
- How will it ensure that women are 1) meaningfully consulted, 2) freely consent to mining and mining related projects prior to their approval, and 3) equitably compensated for related livelihood losses and health issues throughout the life of a mining project?
- How will it ensure that marginalized mining affected communities are recognized as stakeholders, including, for example, in regards to consultation and consent, among other aspects, and treated as equal stakeholders, including, for example, in regards to benefit-sharing?

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<sup>6</sup> "Coal mining threatens people's access to water in Mpumalanga, South Africa," *supra* note 1. For example, a group of women filed a complaint related to sinkholes at Fossman TNDP near Emalahleni detailing the hazards in the area where they dump coal waste including the dangers posed to children and the disproportionate impacts on women as the primary caregivers.

- Will it commit to abiding by and supporting the principles in The Peoples Mining Charter and taking steps to incorporate the Peoples Mining Charter into its actions?<sup>7</sup>

Thank you for your consideration of these issues and the impacts of coal mining on the situation of women and girls in the Mpumalanga region. We would be happy to discuss this with you further or to provide any additional information that would be useful in conducting an investigation. Please do not hesitate to contact us.

Sincerely,

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<sup>7</sup> The Peoples Mining Charter (June 26, 2016), [http://pmg-assets.s3-website-eu-west-1.amazonaws.com/170628Peoples\\_Mining\\_Charter.pdf](http://pmg-assets.s3-website-eu-west-1.amazonaws.com/170628Peoples_Mining_Charter.pdf).