



## THE STRUGGLE TO HOLD A MINING GIANT ACCOUNTABLE: THE VIEW FROM MARGARET VILLAGE

To introduce this article Dr Hibist Kassa provides background information on Margaret village. *New Agenda* spoke with Papiki Shawn Lethoko, a social justice activist in Margaret Village who is also the chairperson of the National Association of Artisanal Miners (NAAM) and a member of the Mining Affected Communities United in Action (MACUA).

Margaret Village is a mine host community in Stilfontein, in North West Province of South Africa, that emerged around the Margaret mine shaft. The mine shaft has been operational since 1945 and was named after the sister of Queen Elizabeth. Located in a water scarce area with a long history of migration drawn from neighbouring states and rural areas to gold mining, it is a small community with a proud and dynamic history of mining in South Africa.<sup>1</sup>

The legacies of colonialism and apartheid are an everyday reality for communities who struggle to access clean potable water, and who are at the coalface of unemployment and precarious livelihoods. Acid Mine Drainage (AMD) is a deep crisis in these older gold mines which have polluted potable water resources and compromised the health of poor and working class. The increased population pressure had an impact on scarce water supply with residents also being relocated to 'dangerous' areas with underlying dolomite and other risks to health and wellbeing.<sup>2</sup>

In a 2006 court case between the Ministry of Water Affairs and Forestry and Stilfontein Gold Mining Company and Others, the court concluded that: "... water found underground at Margaret Shaft, are to be collected and removed to surface, treated to comply with general effluent standards specified ...and either re-used in a legal and approved manner, or discharged into the environment in a legal and approved manner".<sup>3</sup> This was described by the Centre for Environmental Rights remarked this was 'an outstanding example of the kind of judicial approach that is needed if we are to develop a robust mining and environment jurisprudence in South Africa'.<sup>4</sup>

It is on the basis of this ruling that the Margaret Water Company was established to purify the AMD drawn from Margaret Shaft. The underground water was not only undermining operations of other gold mining firms, including Harmony and AngloGold Ashanti, but also polluting the water supply in the area. This placed greater pressure on the availability of clean potable water for the use of the communities living in Margaret Village and Khuma, a nearby township.

In 1979, CHEMWES, a uranium plant that extracts uranium and at times, gold, was established in Stilfontein to reprocess the tailing storage facilities. AngloGold Ashanti took over ownership of CHEMWES in July 2012, and additional plants were commissioned in 2014.<sup>5</sup> The Kareerand Tailings Storage Facility (TSF) for CHEMWES<sup>6</sup> has become a focus of communities affected by mining whose proximity to the tailing storage facility has raised health concerns due to the reclamation operations.

Also, artisanal miners whose livelihoods depend on extracting gold from TSFs are being affected since CHEMWES is extracting gold that sustains their livelihoods in conditions of high unemployment and precariousness.





## THE VIEW FROM MARGARET VILLAGE

I reside in Margaret village, living with my partner Eugenie van Rooyen [who is also a member of Women Affected by Mining United in Action], raising our three children who are the fourth generation from my grandfather. He worked at Margaret mine Shaft, and as a result of lung illness, died in 1983.

Margaret community is not owned or controlled by any firm and is an old native community consisting of indigenous black families even before the start of mining gold in Stilfontein 'Natives' occupied this land and our grandparents died working on this shaft. The community is still occupying the land, though it has evolved and suffered destruction to their livelihood and of their natural environment, disruption of culture, exposed to pollution and health risks. CHEMWES and Margret Water Company are well known as well as AngloGold Ashanti (AGA), and now Harmony, as conducting their business on Margaret Village soil.

Despite the fact that the community lives below the line of poverty and illiteracy. Currently, the community hosts an annual social event on 16 December as a reunion to commemorate the existence of this historic community. The event attracts former residents as far as from the neighboring provinces to meet only to enjoy and reminisce the good old days and also for cultural and spiritual purposes.

Margaret Village used to have top of the range infrastructure. There was a Guest House, Stadium, Tennis Courts, Train Station, a Shopping Complex, Laundry Service, Sub Clinic, etc. But now, all that has disappeared into thin air. These facilities and other streets were demolished by AGA without giving us any explanation.<sup>7</sup> Even so, Margaret Community is still intact against all odds brought to them by mining companies conducting their business.

We lived in peace until AGA mining activities arrived here in 2012. Since then, the community has been turned to a ghost town and has been divided into factions because AGA and CHEMWES attempted to relocate Margaret Village without following the legal guidelines of mining community resettlement. There was no communication or consultation about AGA operations with the community despite our several attempts to initiate this process. It was only in 2017 when each household received letters from AGA.

## AGA'S COERCIVE RELOCATION ATTEMPT

The AGA letter was like a specter haunting the community as it projected them as 'an informal community.' This meant they have no right to occupy the place and they understand that the title of 'informal' puts them at risk of being bulldozed from their residences. To recall, Mr Makgwatle, one of the old residents, mentioned that Stilfontein Gold which operated in the area had once told them to pay certain amounts so they can own their houses. Although these payments were made, they never received any title deeds to show that they are the owners, and the following mine owners each introduced new rules whenever they arrived in the community.

Soon after, the community started to organize themselves after AGA hired a company named Umsizi<sup>8</sup> to conduct a survey in the area. When the community enquired if the survey has something to do with the rumoured transaction between AGA and Harmony Gold purchasing some of its properties in the Vaal Region Umsizi denied the rumour. After the details concerning the exit of AngloGold Ashanti from South Africa became public<sup>9</sup>, the community concluded that the survey





and information we provided was retrieved from us *out of bad faith*. Following a strong resistance by the community against AGA secret planned relocation, we finally pressured AGA to meet with the community leaders on the 4<sup>th</sup> June 2019. We were invited to CHEMWES offices to voice the community's concerns as provided by the *Mineral and Petroleum Resources and Development Act, Free Prior and Consent, National Environmental Management Act* and NWA laws that afford us consultations on projects affecting us.

A series of delay tactics by AGA to consult afforded us time to get information about the Margaret land title deed, the transaction between AGA and Harmony Gold and to mobilize the community and seek solidarity from Mining Affected Communities United in Action, Women Affected by Mining United in Action and other NGOs helping the marginalized and vulnerable communities like ours whose human rights are violated by large industrial companies.

On our side, we went to that meeting accompanied by Robert Krause, a researcher at Wits law clinic, Centre for Applied Legal Studies (CALS) and Adv. Mariette Liefferink CEO of Federation for Sustainable Environment (FSE) which has many environmental cases against AGA/CHEMWES operations in SA. Lieferink has an extensive knowledge and done several case studies with the South African Human Rights Commission on Acid Mine Drainage and Artisanal Mining in South Africa. She has enlightened community representatives on the impacts of AGA on the land and environment and health and safety of mining communities of South Africa.

FSE and CALS assisted us a lot in making sure that we were not oppressed to voice out our grievances with AGA in boardroom meetings. Without this support, AGA management would have taken us for granted and abused their institutional power. The key grievances included community benecitiation and accountability on the following Social Labour Plans from 2014-2019 and gender equity on employment, Environmental Management Plan for rehabilitation of sinkholes and the question of Land and Margaret Water Company ownership status and our benefits as the host community.

Importantly, we had a copy of the title deed which *did not* state that AGA and CHEMWES are the owners, contrary to what they had been claiming. During the meeting, when we showed AGA the copy of the title deed, they could not provide evidence that supported their claim that they are the rightful owners of the land. Kgomotso Tshaka, Vice President of Sustainability of AGA, announced that they have abandoned the agenda of relocating the Margaret community as recorded on AGA minutes:

Provision of the basic services to communities is the local government's responsibility and not AGA's, it should be taken into consideration that the mine has a finite life and the services offered currently will become a challenge when the mine closes as the mine will not be able to continue servicing the community. AGA has looked at mechanisms to address some of the matters pertaining to Margaret village. The municipality has been approached to be on board and partner on incorporation of Margaret village. AGA will arrange a meeting with the Matlosana municipality and the stakeholders to address the necessary municipal services. AGA is the owner of the land and is willing to donate the land to the Margaret village community.

Many concerns of the community were discussed on that meeting and action items were designed and each AGA official and community reps given tasks to act on some of those issues





and report progress in the next meeting. Most action items were never implemented except for the meeting with Matlosana municipality; AGA and Margaret village representatives, held on 14 August 2019 at mayors boardroom. The municipality rejected AGA's proposal and claims about their development initiatives, and instead recommended a site visit to confirm AGA's claims.

We welcomed the municipality's decision for a site visit before they can enter into any agreement with AGA, because we knew that AGA wanted to use them avoid accountability of their legal obligation to Margaret community. We were interrupted by Kgomotso Tshaka when the municipality asked us to present our story. She suddenly interjected pointing our direction claiming that "this is the community I told you about, that AGA has been providing water and electricity for free"

### **STRUGGLING FOR DRINKABLE WATER AND ENVIRONMENTAL REHABILITATION**

The claims were offensive. Margaret Village had long been supplied with AMD into our taps. We had to fight hard with AGA before they changed the slow poison water that we believe they deliberately supplied to the village through their company, Margaret Water Company, a registered NPO. We had to ask for an intervention from Benchmarks Foundation and the District Municipal Health Service Manager, Mrs Nokukhanya Pearl Tenza, and Provincial Water and Sanitation Manager, Mr CM Lobakeng. On September 2018, tests by Municipal health manager proved the water was contaminated with high sulphate content (present in AMD) and coliforms (normally found in faeces). Pity we are an impoverished community to take the case further, otherwise we would have sued AGA.

After three months from the promised site visit by the Matlosana municipality, we made a follow up with the ward councilor who was present at the previous meeting. He arranged another meeting with the Municipality manager and promised to make a further follow up. Until today, we have not heard a word from the Municipality.

During 2019, the community chaos erupted in Khuma community over the mine ore dump (or tailing storage facility) donated by AGA to Khuma as their share of benefitiation of Kareerand TSF Expansion Project. Margaret community was again excluded by AGA. Despite the fact that according to National Mine Waste Act forbids anyone to work and handle mine waste except for an authorised professional. The move was to derail the focus of the community from holding AGA accountable on their legal responsibilities rehabilitation and Environmental Plan implementation, that they have been denying. Since the Margaret mine shaft was put under 'disuse,' the closure of AGA operations meant they had nothing to hide behind for not rehabilitating their operations in The Greater Stilfontein communities.

The AGA brewed chaos as the community took their frustrations to the street to protest and high tensions continued until mid 2020. Several factions were formed as a result and a mediator was appointed between AGA and the Stilfontein communities to find the best possible solution in the interest of the community.

On 9 June 2020, due to Covid lockdown restrictions, AGA held a virtual meeting with the Khuma Community Based Organisations. As usual, they did not extend the invite to Margaret community because we would not accept the legitimacy of a 'mine ore dump donation'. Margaret Village was demanding accountability for financial provisions of the EMPR of Kareerand TSF expansion project and that AGA's 'compensation should be based on full cost accounting' one of the cardinal pillars of MACUA/WAMUA.





Of course we have learned a lot from MACUA/WAMUA since we associate with national organisation of mine communities, but this also meant we were sidelined from consultations. AGA divided the community consultations by geographic locations effectively weakening the process. Nonetheless, I was invited to join the meeting with AGA by another faction of Khuma leaders to represent Margaret Village at the meeting which was a hybrid event, on a virtual platform and in a boardroom in town.

The meeting was very tense. The haulage of the mine ore dumps (at the tailing storage facilities) which had been stopped, had impacted the payment of 'gangster members' who were acting as private security of AGA against members of the community who tried to stop the trucks and disrupt the project from continuing. As a result, there had been insults and death threats against community members. I did not feel safe to make any input in the meeting fearing for my life as I had my fair share of threats as well. I had been told my name was mentioned in an open meeting as one of people who must be killed]

After the virtual meeting, I gave feedback to the members of Margaret committee, and the resolution taken was to write an email to AGA to make them aware that I was part of the meeting representing the interest of Margaret community. After AGA received the email, I copied the DMRE as the regulators, and for solidarity various NGOs law clinics that the community is working with. I do this whenever I engage with AGA on community issues as a defence strategy in case I die from this activism work.

AGA did not waste time to respond to the email of Margaret committee. On the 9 July 2020, AGA official Mr Fipaza informed me the Covid 19 food parcels relief request by our Community Based Organisation, KOSH Social and Environmental Care (KOSH-SEC), have been granted to assist the most vulnerable and marginalized communities of Stilfontein such as Stokamina. On that call Mr Fipaza asked 'why did we relate the rock dump hauling in Margaret village as a risk exposure making our community more vulnerable to die of covid 19? I didn't answer.

We partnered with MACUA/WAMUA which rolled out the Covid 19 food parcels program in all their branches in mining affected communities across SA. It is a shame that we are one of many mining communities whose mineral resource is exploited around the world while we are also the most vulnerable to die of hunger during level one lockdown. We are impoverished and living below the line of poverty while rich minerals are found in our yards. We are continuing to build the western empires and local elites at our livelihoods expense.

KOSH-SEC aimed at reaching more communities therefore looked at other stakeholder institutions locally and abroad that can support the cause to feed the most vulnerable during Covid-19 pandemic. AGA was no exception. We also sent the request to them which they initially quickly rejected. Mr Fipaza sent an email notifying us that AGA is coming to Margaret to donate the food on 11 July, 2020. I was asked to open the program and welcome them to the community.

They arrived on the day promised and food parcels were distributed to all the people who were present while AGA was present. Three households were not present by the time of food distribution in Margaret hall, however their parcels were kept safe by the KOSH-SEC and later collected by those households members.

Meanwhile, AGA was running out of time to seal the deal with Harmony Gold. Since we have been virtually a 'hidden' mine host community that is mostly affected by their operations and the trans-





action, there had to be a resolution to how AGA could exist Stilfontein without being subjected to a rigorous consultation process.

A few days after the distribution of the food parcels, Mr Fipaza called me to announce that there are some people who report not having received food parcels. There was a need for a process to address the concerns of these people. However, no details were provided of their names or how they may be reached.

Instead, AGA selected and formed its own Margaret Village committee which AGA will work with to carry over the community concerns with them and also the transition consultations between them to Harmony Gold. It was not surprising that the new committee members were not interested in social and environmental activism and had little knowledge on mining policies of South Africa. Neither had they been involved in MACUA/WAMUA platforms and activities. Most of them are people who were desperate to get a job. So they were employed as general workers by sub contractors hauling the tailings ore dump.

This derailed the process of holding AGA accountable for their legal obligation of rehabilitation in Margaret Village. Some of the people who worked as management of AGA during the beginning of our consultations are the same people working with Harmony, continuing on their corporate objective of making Margaret Village invisible. We are still being excluded in the Harmony consultations. But we will keep demanding and fighting for Free Prior and Informed Consent, Social Labour Plans, Environmental Impact Assessments, Rehabilitation and other legal obligations meant to protect our land and our livelihood.

## REFERENCES

- 1 Margaret village is also close to another black township area called Khuma. Taps has been without water since the beginning of the year and they had to fetch water at Margaret village as they get their water from the mine supply.
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- 6 Water and Environmental Consultants, Kareerand DEIR Public Webinar Recordings. Available at <http://www.gcs-sa.biz/documents>
- 7 It appears there was no direct mining utility of these facilities, but the infrastructure set up was of wider benefit to the Margaret community. These facilities were built during the apartheid period by the Stilfontein Gold Company, and due to segregation was not fully enjoyed by the majority African population. Destroying these facilities, without any form of consultation with the community is a violation of the principle of Free Prior and Informed Consent.
- 8 Umsizi: Sustainable Social Solutions provides support to corporations to achieve compliance deliverables on socio-economic development. Further details are available at [www.umsizi.co.za](http://www.umsizi.co.za) ; AngloGold Ashanti, South Africa Region 2016-2017, Community Report p. 168. Available at [https://thevault.exchange/?get\\_group\\_doc=143/1503393879-2016-2017CommunityReport.pdf](https://thevault.exchange/?get_group_doc=143/1503393879-2016-2017CommunityReport.pdf)
- 9 Mining Technology, AngloGold receives approval to sell South African assets to Harmony Gold, 15 September 2020. Available at <https://www.mining-technology.com/news/anglogold-receives-approval-south-african-assets-sale/>

