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IN THE HIGH COURT OF SOUTH AFRICA
(SOUTH GAUTENG HIGH COURT, JOHANNESBURG)

Case No:

In the matter between:

**CENTRAL METHODIST MISSION,
JOHANNESBURG**

First Applicant

LAWYERS FOR HUMAN RIGHTS

Second Applicant

NYATHI, BUTHOLEZWE

Third Applicant

D.S.

Fourth Applicant

and

CITY OF JOHANNESBURG

First Respondent

**CHIEF OF JOHANNESBURG
METROPOLITAN POLICE DEPARTMENT**

Second Respondent

**GAUTENG PROVINCIAL COMMISSIONER
OF THE SOUTH AFRICAN POLICE SERVICE**

Third Respondent

**NATIONAL COMMISSIONER OF
THE SOUTH AFRICAN POLICE SERVICE**

Fourth Respondent

MEC FOR SAFETY AND SECURITY, GAUTENG

Fifth Respondent

MINISTER OF POLICE

Sixth Respondent

MEC FOR LOCAL GOVERNMENT, GAUTENG

Seventh Respondent

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

Eighth Respondent

GAUTENG PROVINCIAL GOVERNMENT

Ninth Respondent

GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA

Tenth Respondent

CONFIRMATORY AFFIDAVIT

I, the undersigned

AGNIESZKA WLODARSKI-WELZ

do hereby make oath and state that:

1. I am an adult female attorney, practicing at the AIDS Law Project ("ALP"), with its offices located on the 6th floor, Unit 6/002, Braamfontein Centre, 23 Jorissen Street, Braamfontein.
2. I have been duly authorised to depose to this affidavit by the ALP and the Legal Resources Centre ("LRC") whom we are assisting in this case.
3. The contents of this affidavit are within my personal knowledge and to the best of my knowledge and belief are true and correct.

BACKGROUND

4. On 30 July 2009 at approximately 16h00 I was driving Ms Tolboom ("Tolboom"), she is the former project co-ordinator of the Médecins Sans Frontières Operational Centre Brussels ("MSF") project - the MSF clinic - which is situated on Pritchard Street, Johannesburg. I was driving her back to the MSF offices in Braamfontein after her consultation at the LRC offices with the attorney in this case.
5. At the time we had been concerned about the news we had received from Ms Caroline Tambudzayi Masunda ("Masunda"), her MSF colleague, regarding a group of approximately five women that had

been detained by the police in the vicinity of the Southern Gauteng High Court ("High Court").

6. Whilst still driving Tolboom took another call from Masunda who informed her the women who had been previously detained by the police had just been released.
7. Instead of proceeding to the MSF offices we proceeded to the MSF clinic in order to speak to this group of women.

STATEMENTS TAKEN FROM THE FIVE WOMEN

8. I confirm that I was able to speak to these five women about an hour after the incident and I was able to take their statements which are summarised below.
9. All but one of the women I took statements from required a translator. Mr. Trymore Mushirizindi ("Mushirizindi"), who is a health assistant at the MSF clinic, assisted in this regard. His confirmatory affidavit is attached as Annexure "AW1".
10. All the women wanted their identities to remain confidential for fear of victimisation, hence only their initials will appear here. Their full names will be provided to the Court and the respondents upon request, on the basis that confidentiality be maintained at all times.
11. I confirm I have attempted to meet with these women again in order to obtain confirmed affidavits from them but have been unable to locate them. They do not have cellphones and are not easily contactable.

THE STATEMENTS

12. Below I reproduce the statements that I took from the women. I took each statement separately. However, for ease of reading, I summarise where possible the facts which are common to all the women in this affidavit.

The women

13. All of the women came to South Africa from Zimbabwe seeking employment in order to support their families, none had found any and were to date relying on donations to survive. All had sought refuge at the church when they came to Johannesburg and at the time of the consultation they were all still staying there.

14. Their individual details are as follows:

14.1 **S.S.** came to South Africa in May 2009 with her baby and had applied for her asylum-seeking permit ("permit") in Musina but was still waiting for it.

14.2 **P.S.** came also to South Africa in May 2009 with her baby and young child.

14.3 **C.C.** arrived in South Africa in June 2009 and was initially to stay with the family of her friend, who had accompanied her to South Africa. Unfortunately the friend's family revoked this offer and she and her friend found themselves having to look for alternative accommodation. She had heard about the church and she went there instead to seek shelter. She was then accommodated at the church.

14.4 **S.G.** came to South Africa in April 2009, initially via Pretoria and then ending up in Johannesburg.

14.5 **V.M.** came to South Africa on 25 December 2008 with her baby.

The women described the events of that afternoon as follows:

15. On 30 July 2009 at approximately 15:00 the five women, most of them with their babies and children, were sitting in the area of the statute outside the High Court on the benches when the South African Police Services (SAPS) officers arrived and started dispersing people to go back to the Central Methodist Mission ("the church").
16. There were five SAPS officers, and this group consisted of both male and female officers.
17. In this regard the women recalled the following:
 - 17.1 **S.S.** recalled hearing one of the SAPS officer saying "Go back to your Bishop!"
 - 17.2 heard one of the SAPS officers saying something like "We have been watching you" and ". . . going to teach you a lesson."
 - 17.3 **S.G.** at one point heard one of the SAPS officers say that "We don't want to see you... go back to your country." Followed shortly by "We will teach you a lesson... will take you to the police station."
 - 17.4 **V.M.** heard one of the officers shouting "We don't want to see you here. We are tired of you. Go stay at the church."
18. The people who had been in the area of the High Court benches responded to the various SAPS officers' instructions to go back to the church and started making their way in that direction. The women were amongst these people. While they were all walking **V.M.** heard a SAPS officer saying to them that "We are going to arrest you and take you to the police station."

19. When this group reached the vicinity of the church, the five women were singled out and grouped together in front of the entrance to the church and told by the SAPS officers to walk back with them to the police van which had been parked, near the area of the statue and the benches, on Von Brandis Street.
20. Most of these women had either their babies or children with them.
21. The women were then made to follow the SAPS officers to the police van.
22. Once the women and SAPS officers finally reached the police van, the women were made to stand around the police van and wait to be told what was going to happen to them and whether they were going to be taken to the police station.
 - 22.1 The women stood there and waited while the SAPS officers appeared to be deliberating amongst themselves what they were going to do with the women.
 - 22.2 **S.G.** understood that part of the reason for these deliberations was that these SAPS officers were not sure what they were going to tell their colleagues at the police station, they seemed unsure what reason they were going to give for bringing the women to the police station.
 - 22.3 Finally one of the officers said "You can go, we don't want to see you again!" and the women were finally released from being detained by the SAPS officers and were further warned they would be arrested if they were caught there again.
 - 22.4 **S.G.** also felt that she, along with the other women, had been picked on and made to walk to the police van because she was Zimbabwean. The SAPS officers had shouted earlier that the



group of people that walked back to the church should go back home, in her case to Zimbabwe, and were making a point of harassing people around the High Court for this reason.

- 22.5 The women were confused as to why they had been singled out and made to walk to the police van and then detained there. They felt they had done nothing wrong in sitting on the benches and were told they were going to be arrested and then they were let go.
23. Although P.S. had been part of the initial group singled out by the SAPS officers, she had managed to slip away when they were all walking towards the police van and did not end up going to the police van.


Eye witness account

24. These events were confirmed by an eyewitness, Ms Caroline Tambudzayi Masunda ("Masunda"), who is also a health assistant at the MSF clinic.
25. Her confirmatory is attached hereto as Annexure "AW2".
26. She advised me that she had been sitting with some of the people outside the High Court talking about health-related issues when the SAPS officers arrived and instructed people to go back to the church. She made her way back with the group of people who had been sitting in this area and had responded to these instructions from the SAPS officers. Once she reached the MSF clinic she went in to inform her MSF colleagues what was happening and she also called Tolboom to inform her.

27. When Masunda came out of the MSF clinic a few minutes later she saw the women standing next to the police van with the SAPS officers and headed towards them. During the few minutes she was present at the police van she saw the officers holding the women outside the police van, then speaking to them, and then finally releasing them.
28. Masunda then called Tolboom again to inform her that the women had been released by the SAPS officers.

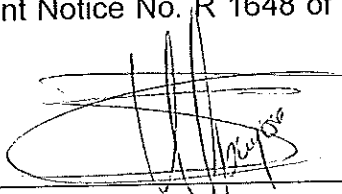
CONFIRMATION OF FOUNDING AFFIDAVIT

29. I have read the founding affidavit of Paul Verryn and confirm the contents of the paragraphs in so far as they pertain to me.
30. I further confirm that the ALP attended to the transcription of the 702 interview conducted by Redi Direko on 23 July 2009 with the Johannesburg Metropolitan Police Department (JMPD) spokesperson, Edna Mamonyane.



 DEPONENT

The Deponent has acknowledged that she knows and understands the contents of this affidavit which was signed and affirmed to before me at Johannesburg on this the 28th day of October 2009 the regulations contained in Government Notice No. 1258 of 21 July 1972, as amended and Government Notice No. R 1648 of 17 August 1977, as amended having been complied with.



 COMMISSIONER OF OATHS

SONIA ZANELE MBUYISA
 COMMISSIONER OF OATHS &
 EX OFFICIO
 PRACTISING ATTORNEY, R.S.A.
 15 Sixth Street, Parkhurst
 Johannesburg 2193

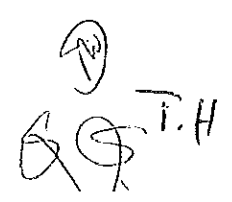
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| D.S. | Fourth Applicant |
| and | |
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T.H.

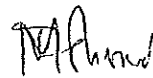
CONFIRMATORY AFFIDAVIT

I, the undersigned

TRYMORE HATITYE MUSHIRIVINDI

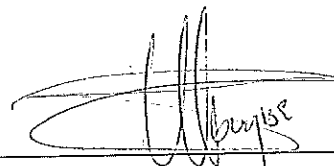
do hereby make oath and state that:

1. I am an adult male employed by the Médecins Sans Frontières, Operational Centre Brussels ("MSF") project, the MSF clinic in Pritchard Street Johannesburg, as a health assistant.
2. The contents of this affidavit are within my personal knowledge and to the best of my knowledge and belief are true and correct.
3. I refer to the supplementary affidavit of Agnieszka Wlodarski-Welz, which I have read and confirm the contents thereof insofar as it pertains to me.



DEPONENT

The Deponent has acknowledged that he knows and understands the contents of this affidavit which was signed and sworn to before me at Johannesburg on this the _____ day of October 2009 the regulations contained in Government Notice No. 1258 of 21 July 1972, as amended and Government Notice No. R 1648 of 17 August 1977, as amended having been complied with.



COMMISSIONER OF OATHS

SONIA ZANELE MBUYISA
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| GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA | Tenth Respondent |

CONFIRMATORY AFFIDAVIT

I, the undersigned

CAROLINE TAMBUDZAYI MASUNDA

do hereby make oath and state that:

1. I am an adult female employed by the Médecins Sans Frontières, Operational Centre Brussels ("MSF") project, the MSF clinic in Pritchard Street Johannesburg, as a health assistant.
2. The contents of this affidavit are within my personal knowledge and to the best of my knowledge and belief are true and correct.
3. I refer to the supplementary affidavit of Agnieszka Wlodarski-Welz, which I have read and confirm the contents thereof insofar as it pertains to me.

Caroline Masunda

DEPONENT

The Deponent has acknowledged that she knows and understands the contents of this affidavit which was signed and sworn to before me at Johannesburg on this the _____ day of October 2009 the regulations contained in Government Notice No. 1258 of 21 July 1972, as amended and Government Notice No. R 1648 of 17 August 1977, as amended having been complied with.


COMMISSIONER OF OATHS

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