



Social and economic effects of illicit financial flows in South Africa

Moorosi Leshoele and Vusi Gumede

Introduction

Mining plays an important role in the South African economy and society at large, as is the case for many countries with a significant mining sector. The South African Chamber of Mines (2016) estimates that the mining industry contributed R286 billion to the economy, which translates to 7.1% of Gross Domestic Product (GDP), in 2015. Furthermore, the Chamber of Mines indicates that almost half a million (457 698) people were employed in the mining industry in 2015, which translates to 3% of all employed people in South Africa (South African Chamber of Mines, 2016). It is in this context that this chapter deals with Illicit Financial Flows (IFFs) in the mining sector in South Africa. IFFs are a big challenge, especially in the extractives sectors.

This chapter analyses effects of IFFs in the mining sector in South Africa, focusing on selected communities. This is done bearing in mind that accurate quantification of the amount of IFFs is not feasible due to the nature of IFFs. Nevertheless, as indicated above, it is generally agreed that IFFs are rife in the mining sector. Our analysis is based on fieldwork conducted in Sekhukhune and Bapo ba Mogale. The overall finding is that mining communities have not (sufficiently) benefited from mines. We found that the relationship between community representatives, the mining companies and communities is not good.

The next section gives background pertaining to implications of IFFs for social and economic development. It is followed by a discussion of the methodological approach, then follows a brief discussion of the study areas before the analyses of the IFFs effects on socio-economic development in the communities studied then the chapter concludes.

Background

Kar and Cartwright-Smith (2010) estimated that, in a period of 50 years, Africa lost more than \$1 trillion in IFFs. It is said that this amount is equivalent to all the official development aid that African countries received over the same period. In addition, Africa is estimated to be losing more than \$50 billion annually in IFFs (ibid). The estimates could be underestimating IFFs because of the very nature of IFFs. There are speculations that the amount lost annually by African countries through IFFs may likely exceed \$50 billion by a significant amount in the near future if proper mechanisms are not put in place to prevent IFFs.

It is a given that IFFs from Africa pose a major problem in Africa's socio-economic development. The need for strengthening socio-economic development in Africa is constrained by many factors including IFFs. Human development has remained low in many African countries. IFFs have been defined differently by different people and institutions but there are some salient common meanings. As Forstater (2018: 4) explains, "the most common working definitions of illicit financial flows converge around the core concept of *financial transfers across borders* that are in some way *related to illegal activity*." In this chapter, we use the definition of IFFs in the 2015 Report of the High-Level Panel on IFFs; that IFFs refer to "money [that is] illegally earned, transferred or used."

The study of IFFs regarding socio-economic development suffers from both methodological and conceptual complexities and confusions. For instance, capital flight is often confused with IFFs. This chapter is an attempt to contribute to some understanding of possible implications of IFFs on communities instead of broad guestimates of the quantities of IFFs in the various countries. The analysis in the chapter cannot draw direct correlations but it examines relationships and possible implications.

Methodological approach

The South African mining communities where fieldwork was undertaken are in Sekhukhune region (Atok village) in Limpopo province and Rustenburg region (Bapong village) in North West province because these two provinces both have a lot of platinum deposits and have experienced a lot of instability and protests also attracting media coverage. The other important similarity between these mining areas is that they are under traditional leadership that has been critiqued by many. Traditional leadership "means the customary institutions or structures, or customary systems or procedures of governance, recognised, utilised or

practised by traditional communities” (Traditional Leadership and Governance Framework Amendment Act 23 of 2009). Fieldwork followed a qualitative research approach.

Primary data was collected mainly through direct interviews and questionnaires. Semi-structured interviews and focus groups were used when engaging with community members in both communities. Observation notes were made during visitation at the mining communities and in the homesteads of the interviewees. In Sekhukhune, two focus group discussions (FGD) consisting of ten (10) community members were conducted. Each FGD had five participants. In addition to this, two traditional leaders in a rural village of Atok were individually interviewed. Two different research instruments (semi-structured interviews and a survey questionnaires) were used, one for traditional leaders (chiefs) and the other for community members. Interviewees were sampled through snowball technique because the research site was very remote and hard to reach by researchers, therefore one contact person from each of these mining communities was sourced and asked to recruit potential participants for the FGDs and to organise appointments with traditional leaders. It might be important to highlight that in Bapong (where four focus groups were conducted), fieldwork was intermittent because of a dispute between some members of the community and traditional leadership. In addition to this, certain members and friends of the people interviewed had been murdered and targeted for opposing how the mining company (i.e. Lonmin) was conducting its operations in the area.

The collected data, namely community and government responses, was analysed using Thematic Analysis (TA) and textual analysis. TA is a tool by which collected field data is placed and organised for purposes of analysis, the data begins as a large amount data and is systematically whittled down into dominant themes, discourse for analysis. Explained more conventionally by Boyatzis (1998), TA “is a type of qualitative analysis. It is used to analyse classifications and present themes (patterns) that relate to the data. It illustrates the data in great detail and deals with diverse subjects via interpretations”. Put differently, according to Braun and Clarke (2006: 79), thematic analysis is a “method for identifying, analysing and reporting patterns within data.” Braun and Clarke (2006) discuss six steps in thematic analysis, which we followed: (1) familiarising yourself with the data, (2) generating initial codes, (3) searching for themes, (4) reviewing themes, (5) defining and naming themes and (6) producing the report.

Overview of Sekhukhune and Rustenburg

Sekhukhune is one of five district municipalities in Limpopo province which is rural and water scarce. Land is communally owned and chiefs are custodians of land in this region. Sekhukhune is further divided into four smaller local municipalities (these being the Ephraim Mogale, Elias Motswaledi, Makhuduthamaga, Fetakgomo-Greater Tubatse municipalities). In the Limpopo province, Sekhukhune takes up only 11% of the province's geographic area with a population of approximately 1 169 762 people (Sekhukhune District Municipality (SDM), 2017). The Limpopo province and this district are endowed with mineral resources such as Platinum Group Metals (PGM) like platinum, palladium, rhodium, ruthenium, osmium, and iridium (South African Chamber of Mines, 2017). Other mineral deposits found in this province include but are not limited to the following: chromium, iron ore, coal diamonds, antimony, phosphate and copper, gold, emeralds, and silicon. Mining in Sekhukhune is mostly done in the Merensky Reef, which forms part of the mineral rich Bushveld Igneous Complex that stretches as far as the Rustenburg area in the North West province (SDM, 2017). The Bushveld Complex (which Sekhukhune is part of) is said to have the world's largest PGM deposits estimated at about 80% of the world reserves (Cawthorn, 2010).

Sekhukhune's main economic source/driver is mining, which contributes about 20% to the overall economy of the district (SDM, 2017). Other main sectors; trade, financial and business services, and agriculture contribute 17%, 12%, and 9.7% respectively (Local Government of SA, 2017). Even though the district is rural, agriculture only contributes only 9.7% to the economy (ibid). This could be as a result of the largely arid and mountainous landscape and due to its water scarcity. The extent of socio-economic problems in this district, what Langton and Mazel (2008) call poverty in the midst of plenty, is worrisome and could be linked to the mining operations in the area. Youth unemployment (age 15-34) in 2011 was estimated to be 60.6% while general unemployment rate was 50.9% (SDM 2017). People with basic amenities such as flushing toilets connected to sewage system and piped water in their homes are below 10% (ibid).

Rustenburg Local Municipality (RLM) is one of the five local municipalities in the Bojanala Platinum District Municipality found in the North West province of South Africa. This municipality (RLM) is well known as a mining town and also largely known because of the Marikana tragedy and massacre of 34 mine workers in August 2012 at the Lonmin mine

where police gunned down scores of protesting workers. Rustenburg has a total land mass area of 3416 square kilometres and an estimated population of 625 522 in 2016 (Municipalities of South Africa 2018). Rustenburg has a fairly young population as 28.1% of its population is people below 15 years of age and only 3% of the population is over 65 years (ibid). In terms of education, only 34.6% of people completed their matric certificate and a meagre 7.4% of them have some form of higher education qualification (ibid). In terms of education levels, it performs much better than Sekhukhune and many other municipalities because it invests quite a lot in funding education and giving scholarships for higher education. For instance, in Sekhukhune 24.3% of people have matric and 6.4% have a higher education certificate qualification (Municipalities of South Africa 2018).

Rustenburg is endowed with a lot of PGM as it also forms part of the Bushveld Igneous Complex mentioned above. Platinum is the main mineral mined in the area. The sector economic activity in Rustenburg shows that over fifty per cent (55%) of the economic activity is from the mining sector alone and only 20% is from trade (Anglo American Platinum 2015).

The South African N4 national road leads to the village of Bapo ba Mogale (hereafter referred to as Bapong), which is where data was mostly collected. Bapong is a densely populated rural community located in the platinum rich mining fields in the North-West province which is 83 kilometres away from the capital city, Pretoria. It has over a dozen mines operating within its jurisdiction.

Many of the resident's homes are dilapidated with blame placed on mine blasting operations by Lonmin (Rustenburg Interviewee, 2016). The same accusation was made in Sekhukhune by residents there. There is relatively adequate education infrastructure available at primary and secondary levels. There are other public services such as the Bapong community health centre but these no longer have capacity to serve the expanding population of Bapong. There is also a public hospital in the area of Marikana which is slightly far from Bapong community. There are no adequate recreational facilities. In addition, there is, however, a community multipurpose hall used for community meetings. We found that poverty in the community exposes young girls and women into transactional sex for survival as employment opportunities are limited (Rustenburg FGD, 2016).

Effects of IFFs in mining communities

Failure to retain revenue due to outflows of incomes or proceeds in the mining areas contributes to the social development challenges South Africa and other countries are plagued with. This plays a role in the service delivery upheavals in South Africa. For instance, the 2012 labour unrest in Rustenburg and the 2015 upheavals in Sekhukhune were said to be informed by concerns for better living conditions and employment considering failure to witness improvement in terms of growth and human development in the said mining communities. In 2015 there were widespread protests in Atok (a mining community in Sekhukhune) where citizens decided to take their battle to the streets because Bokone Platinum mine management was said to have refused to engage with the community leaders about how the equitable share of 2.1% was allocated and used over the years because no development projects had been initiated in the area (News24, 2015). Royalty redistribution, labour issues and employment opportunities also constituted part of the issues that led to the eruption of protests. The community members' livelihood practices, which included subsistence farming in the 1950s, have been eradicated by mining production leaving the community dependent on mining related activities and employment, which in any case excludes the majority of the local population (Sekhukhune Interviewee, 2016). Young people are largely idling or witnessed to be engaging in illicit drugs and alcohol as therapeutic substances to quell the painful reality of poverty and hopelessness (Sekhukhune Interviewee, 2016).

Communities in Sekhukhune are rural with no adequate physical infrastructure. Inequalities in Atok in Sekhukhune are visible when observing the bifurcated education infrastructure whereby the better resourced school is afforded by mining professionals and management while the rest of the community uses public schools which have dilapidated infrastructure. There seemed to be a clear link between embezzlement of funds and royalties that were due to the communities and poor socio-economic outcomes especially in Sekhukhune. This was confirmed by the recurring complains of residents during the focus group discussions where they lamented the destruction of roads by trucks and lack of clean water. These basic necessities could have been delivered if the funds from the mines that were due to the people were transparently used for services required by the community and if all minerals mined were duly declared to the government. This will in turn mean that the tax base would increase, making more revenue available for the local governments to better service the mine communities.

Africa needs no foreign aid, Africa is aiding the world

There is an unsubstantiated narrative that is often peddled and propagated by western media that Africa is in dire need of all sorts of aid and that it cannot self-sustain without foreign aid. A lot of research on IFFs has proven this narrative to be untrue because in essence Africa is a net creditor to the west. Corroborating this assertion is a report by African Development Bank and Global Financial Integrity (2013: 1) which “finds that during the thirty years covered by the study, Africa provided net resources to the world of up to US\$1.4 trillion on a cumulative basis, far exceeding inflows over the same period. The illicit haemorrhage of resources from Africa is therefore about four times Africa’s current external debt and almost equivalent to Africa’s current GDP”. This therefore suggests that Africa can survive and develop without foreign aid if IFFs were not depriving it of the much-needed financial resources to use for its developmental agenda.

Effects of IFFs on socio-economic development in mining communities where fieldwork was undertaken are by and large negative and glaringly apparent through mere observation of the living conditions of the majority of people in these mining areas, more so in Sekhukhune. In the North West, Rustenburg area, living conditions there are somewhat better compared to Limpopo (Sekhukhune). In fact, one of the respondents in the focus group discussions had also worked in the mines in Rustenburg. He spoke relatively fondly of the institutional arrangements between mines, traditional leaders and communities in Rustenburg and hailed their better infrastructure and royalty’s accumulation system. This respondent, when asked if there were any community projects of note that were funded by the mines responded as follows: “The answer is a resounding no... It’s a disgrace if we were to compare Rustenburg and Sekhukhune because the former is better managed and there is a lot of infrastructure built, compared to us here.”

It is important to note that “trade mispricing accounts for over 80% of the illicit outflows” (GFI, 2013) and that majority of IFFs in South Africa are reported to be from the extractive industries like mining (GFI, 2014). Corroborating this point, African Development Bank (2017) argued that “in Africa, the extractive sector, which is a major driver of economic growth and source of revenues, is more prone to illicit flows. The features of the extractive sector – high level of complexity and revenue-generating potential; cross border supply chains; high degree of technological specialization – makes it particularly susceptible to the

various forms of illicit financial flows”. This therefore explains, to some extent, why the respondent cited above felt that no substantial community development projects had been committed to and delivered by the mines in their area. This is because most of the mines are not only prone to various forms of tax evasion but they actively and consciously ensure that they pay the least tax possible in the countries where they mine Forslund (2014).

The residents in Rustenburg, particularly one respondent from Bapo ba Mogale (who was born and raised there), however, lament corruption by traditional leadership compounded by the lack of transparency by the mining authorities and state officials. This lack of non-full disclosure of the finances of mining companies implies that “since the commodity slump began in 2011, South Africa’s income has been squeezed out ever faster, especially by transnational mining and smelting corporations, including Lonmin, Anglo American and Glencore” (Bond, 2016). This by extension means that mining watchdogs and ordinary citizens especially those who live in mining communities do not have enough information to use in order to hold mines accountable for the commitments in line with Social and Labour Plans (SLPs) that they commit to for the upliftment of societies where they mine.

It is also worth noting that community members in Sekhukhune and Rustenburg all complained about the pollution including the dust which affects them during blasting operations. Other mining towns benefit from not being in close proximity to the mining operational pit. Moreover, communities and national economies can greatly benefit from mineral wealth as in the case of what was observed in Botswana and the Royal Bafokeng Kingdom in Rustenburg where there are infrastructures visibly built due to royalties and proceeds from mines – fieldwork was also undertaken in other parts of South Africa, Botswana and Namibia. For instance, schools, clinics, and other facilities are available and children from these communities are purported to be given bursaries to capacitate them to better manage and run institutions connected to the mines. However, corruption can have opposite and corrosive effects. Another dimension of IFF is “the proceeds of theft, bribery and other forms of corruption by government officials” (Africa Monitor, 2017). Indeed, corruption forms part of the strategies used many stakeholders in mines to either acquire a mining licence or to bribe government officials who are tasked with monitoring and scoring mines on their SLP performance. As often complained by communities in mining towns, corruption (of mines, traditional leaders, and government officials) was flagged as a huge problem and since it is another key enabler of IFF, there exist some prima facie evidence suggesting that there exist IFFs in these mines.

For instance, Bapo ba Mogale are enmeshed in the cycle of poverty with scandals pertaining to the distribution of mining royalties. Focus group informants in Bapong have acknowledged that there is an education trust whose funds have not benefitted the broader community and there are complaints over the quality of education infrastructure and resources they have. Therefore, in our view, the distinction between these two mining areas – Sekhukhune and Rustenburg, can best be explained by 1) patriotism of traditional leaders who receive royalties and land lease proceeds, 2) transparent and disciplined management of community of monies by their authorities, and lastly 3) Agency of mining communities to hold both their traditional leaders and mining companies accountable.

Another study by Hajkowicz, Heyenga, and Moffat (2011) revealed the socio-economic implications of mining in Australian communities and found different results to ours. They concluded that in the case of Australia and the mining town where they conducted their research, mining was beneficial to the livelihoods of people living in the areas that are in close proximity to the mines. They found that mining generally had positive impact on socio-economic development of people in 71 local municipalities based on “household income, housing affordability, access to communication services, educational attainment, life expectancy” (Hajkowicz, Heyenga, and Moffat, 2011: 30). These findings are not surprising because an ordinary rock drill miner in Australia earns far more than a rock drill miner in South Africa, and the irony of this large income gap is that these miners often work for the same multinational conglomerates.

Another important issue in South Africa is illegal open cast mining. In Sekhukhune, one of the main manifestations of IFF is illegal open cast mining. This practice has almost been normalized because some locals have resolved to identifying any mountain in Atok and bringing light machinery to mine chrome without permission from either the department of mineral resources or from traditional leadership in that area. It is claimed that legal chrome mining was stopped in Atok and the broader Sekhukhune area because there is/was no market for chrome, yet many individuals are still illegally mining this commodity and generating profit from it. One of the traditional leaders estimated that there about 7 illegal mining operations, and Bokoni platinum mine is the only legal mine in that village. The small village has about 600 people only and he reported that there are many other illegal mining operations in the nearby villages. One of the focus group discussions estimated that “there are about 20 mines [legal] in the broader Sekhukhune region, these are mostly platinum mines

monopolized by few mining companies like Anglo Platinum”. However, the total number of illegal open cast mines far exceeds the number of legal mines.

In his (traditional leader) own words, when probed about why there are so many illegal mines in Sekhukhune, he argued that “Illegal mining should be legalized/de-criminalized so that people can freely mine and make a living for their families. More formalized chrome mines should be opened. That will help alleviate the unemployment scourge. Another problem is that these illegal miners do not approach us when they come here to mine. These illegal miners use open castes, so there are few incidents of people who get injured/die during mining (in relation to Zama Zamas¹).” It could be argued that one of the reasons why people end up resorting to illegal mining is because of the dire living conditions that they find themselves in, in mining areas. Non-disclosure of the exact amount of minerals mined therefore leads to lesser tax payment to the governments which could have otherwise enabled the governments to offer much needed services and infrastructure to mining communities and society at large.

It would seem that these unregulated/illegal mining in Sekhukhune may have potential benefits for the surrounding communities as articulated by one of the chiefs. This is because unlike illegal miners in deep gold mines in Gauteng where many people in illegal mining operations, in Sekhukhune, chrome is not extracted deep underground thus injuries and deaths are often minimal. Furthermore, the people who open illegal mines employ a substantial amount of people in their illegal operations thus reducing the high unemployment rates in mining communities including within some miners who lost their jobs in formal/legal mining firms.

It is difficult to stop or at least reduce IFFs if, as the traditional leaders interviewed suggested, that at the root of most of their unemployment problems and lack of community improvement projects, is political meddling and corruption by the same government officials who are supposed to be watch dogs and guardians of communities where mining takes place. One of the focus group participants also reiterated this widely-held notion in Atok that “the government [officials] is in bed with the mines”. This assertion, of political meddling and corruption is further corroborated by media reports which investigated traditional factional battles in Sekhukhune, illegal mining and role of politicians (Athandiwe Saba of Mail and

¹ This is a term used in South Africa for illegal miners especially in Gauteng and Free State provinces who risk their lives by going underground in old mines that ceased operating to try and mine whatever gold or any other precious metal that they can find in these mines.

Guardian, September 2016). “Proceeds of theft, bribery and other forms of corruption by government officials” (Africa Monitor, 2017) as alluded, forms another critical avenue through which monies can be siphoned out of the country at the behest of mines and with the assistance, at times, of corrupt government officials.

Another issue that came up during fieldwork relates to employment of non-South Africans in the mines in South Africa. One of the loudest grievances of mining communities in both Sekhukhune and Rustenburg was what they described as the influx of ‘foreigners’ and other South African non-locals in the towns and villages whom they perceive to easily get employed over locals in the mining towns. They note that locals languish in unemployment and poverty. This phenomenon, in our view, may be one of the triggers of Afrophobia which has plagued South Africa in recent years. However, the irony is that most of the horrific incidents where the so-called xenophobia reared its ugly head were in townships, not necessarily in remote and mostly rural mining areas where many fellow Africans from nearby countries work.

Role of traditional leaders

Secondary to an outcry on mines favouring foreign workers opposed to local people in all the mining communities where fieldwork was undertaken, another common outcry is that traditional authorities are part of the problem of illicit financial flows because most of them line their pockets with royalties that are supposed to be used for the advancement of their communities. To shed more light on the institution of traditional leadership, the following roles of this institution are important to outline. According to the Traditional Leadership and Governance Framework Amendment Act 23 of 2009, this institution must:

promote freedom, human dignity and the achievement of equality and non-sexism; derive its mandate and primary authority from applicable customary law and practices; strive to enhance tradition and culture; promote nation building and harmony and peace amongst people; promote the principles of co-operative governance in its interaction with all spheres of government and organs of state; and, promote an efficient, effective and fair dispute-resolution system, and a fair system of administration of justice, as envisaged in applicable legislation.

In some instances, it was reported that mines, politicians/government officials and traditional leaders collude in corrupt activities so that money geared for community projects is released (by mines) but never reaches its intended beneficiaries. Therefore, the issue of monitoring

and evaluation of royalties is another policy gap that needs to be filled and decisively implemented. The following excerpt is important to highlight because it talks directly to the complications that communities flagged out regarding their discontentment with the current system where chiefs act as the middle man between them and the mines.

When asked if there were any development projects in the community as a result of the mines investing in the community, one respondent replied that,

There are no new development projects pioneered by the mine except the old one where a crusher plant was established but it was monopolized by individuals. This crusher project began in 2007 facilitated by traditional leaders. These chiefs then hijacked this project so that it only served them. It has come to our understanding that the mine is aware that this particular project has been ‘hijacked’ by certain individuals linked to the chiefs, but they are complacent about this. So, then the question that arises becomes: who then, between the mine and the community leaders/authorities, is supposed to ensure that adequate monitoring and evaluation of such projects is done? (Sekhukhune Interviewee, 2016).

It is clear from this response that many people in these mining towns feel betrayed and dissatisfied by the role that has thus far been played by traditional authorities as the overall sentiment is that most chiefs do not have the best interests of their communities at heart, hence the poor living conditions of most people in South African mining areas evident through the multiple court cases in Rustenburg, including the court case where civil society organisation (Royal Six) took traditional leaders to the Public Protector’s office of South Africa on allegations of fraud pertaining to the missing income from royalties. The fact that these monies that were meant to change the living conditions of people somehow disappeared and cannot be accounted for implies that there might have been misappropriation of funds or deliberate profit shifting that may have taken place where other stakeholders in this sector were wittingly or unwittingly involved. Patrick Bond (2016) adds that “Several spectacular local cases have been documented in recent years: misinvoicing by the biggest platinum companies, especially Lonmin with its Bermuda “marketing” arm, De Beers with its R45 billion in misinvoicing over seven years, and MTN Mauritius profit diversions from several African countries.” This undoubtedly gives a glimpse into how deep and wide this scourge of IFF is in the South African mining sector and its effects on the developmental trajectory of South Africa should not be understated.

In the report titled “Allegations of Maladministration in the Bapo Ba Mogale Administration” the Public Protector found that,

failure by department (North West Department of Local Government and Traditional Affairs) and Bapo Administration (traditional leadership) to ensure that the Multi-purpose centre, Wonderkop community hall, and Segwaelane community centre are utilised for the purpose for which it was built constituted fruitless and wasteful expenditure...and the community has benefitted nothing out of the project' (Public Protector of South Africa, Report No. 5 of 2017/2018: pg 7).

One of the lamentations from respondent in a focus group was the lack of knowledge on how royalties are calculated. He lamented that there are over 10 mines operating within the jurisdiction of the Bapong community yet some of the companies, such as Samacor, have been accused by some community members for not paying royalties and between 1994 and 2010, the company deposited a meagre amount of R5-million into Bapong community's account. In an attempt to show why the mining sector is more susceptible to IFF, Le Billon (2001), cited in Fotoyi (2016: 9), mentions the following factors as some of the key factors that plague the mining industry: "the high-level discretionary political control under which extractive sectors tend to come; blurring of public, shareholder, and personal interests with regard to extractive sectors; limited competition; complex technical and financial processes that require a high degree of expertise". It is the latter factor on the complexity and technicality of this sector that one of the respondents was worried about in terms of how mines and government arrive at the figures they promise as mining royalties. This grey area and loophole therefore help mines to continue with illegally siphoning profits from the country to tax havens.

Social and labour plans

The notion that mining companies should consult local people before commencing business in an area and come to some agreement about the 'terms and conditions' of how the mine operations will benefit the community has gained a lot of traction in recent years (see Prno, 2013; Prno and Slocombe, 2012; Hilson, 2012; Kemp and Owen, 2013). Mining executives started paying more attention to the issue of Social License to Operate (SLO) due to the growing pressure by mining communities in the early 1990s. As Prno (2013: 577) puts it, "the concept of a SLO began entering the vocabulary of mining industry practitioners in the late 1990s after it was coined by a Canadian mining executive, Jim Cooney. However, its use and operationalisation in the mining industry have only recently attracted meaningful scholarly attention." Through SLO and strengthened SLPs, devastating effects of IFFs can be significantly reduced because those that illicitly channel monies away from developmental

projects where they operate would know that by so doing, they would in essence be jeopardising their own business as their contracts could be swiftly revoked.

In the context of South Africa, SLO has not been thoroughly researched. In short, SLO is understood to mean that “a mining project is seen as having the broad, ongoing approval and acceptance of society to conduct its activities” (Joyce and Thomson, 2000) cited in Prno (2013: 577). In the context of South Africa, the underpinning factor that plays a significant role on whether mines are issued with a mining license by the Department of Mineral Resources (DMR) and if the mining community eventually issues or denies the mine a SLO, depends on the mines’ SLPs. At the heart of the recent dispute in the Eastern Cape province of South Africa between the Minister of Mineral Resources Gwede Mantashe, and the Xolobeni community is this very notion of Social License to Operate.

In November 2018, Pretoria High Court made a historic judgement in favour of the Amadiba Crisis Committee (ACC) which took the land rights matter to court, representing the Xolobeni community. ACC sought to stop DMR and Australian company Transworld Energy and Mineral Resources (TEM) from proceeding with mining in their community. They unequivocally reiterated that they do not want mining in their community, instead, they prefer other forms of economic development like agro-business and tourism. In her final ruling “Judge Annali Basson declared that the Mineral Resources Minister must obtain consent from the community, as the holder of rights on land, prior to granting any mining right to TEM.” (Mitchley, 2018).

Conclusion

IFFs, though hard to quantify, affect the socioeconomic status of mining communities in that monies that could have been used to develop these areas are instead illegally taken to tax havens through myriad of tax evasion tactics. The case studies of mining communities discussed in this chapter illustrate the fact that mining companies are actively undermining local authorities and citizen’s ability to benefit from mining. While Lonmin in Marikana and Bokone Platinum in Sekhukhune can argue that they are providing employment and income to local residents, fieldwork highlights three important points.

Firstly, mining companies in both areas have not built the requisite infrastructure to uplift the area beyond simply being able to export platinum out of the area. Secondly, there has been an active undermining of community rights to protest Lonmin's business practices in the Marikana area. Interviewed community members question how much money has been invested into the area. Thirdly, whether by design or coincidence mining companies in both these areas have corrupted the institution of traditional authorities. It is in this context that the chapter finds that mining communities have not (sufficiently) benefited from mines.

References

- Africa Monitor (2017). Report 1: State of Illicit Financial Flows in South Africa, a Scoping Exercise. Cape Town.
- African Development Bank (2017). The economic costs of illicit financial flows in Africa's extractive sector. Online: <https://www.afdb.org/en/blogs/industrialisation-and-trade-corner/post/the-economic-costs-of-illicit-financial-flows-in-africas-extractive-sector-17190/> [10 January 2019].
- African Development Bank and Global Financial Integrity (2013). Illicit financial flow and the problem of net resource transfers from Africa 1980-2009.
- Anglo-American Platinum (2015). *Social and Labour Plan: Rustenburg Section PSA*. Johannesburg: Marshal town.
- Bond, P. (2016). Flight of corporate profits poses biggest threat to South Africa's economy. Online: <https://www.wits.ac.za/news/latest-news/in-their-own-words/2016/2016->

- 06/flight-of-corporate-profits-poses-biggest-threat-to-south-africas-economy.html [11 January 2019].
- Boyatzis, R.E. (1998). *Transforming Qualitative Information: Thematic Analysis and Code Development*. London: Sage Publications.
- Braun, V. and Clarke, V. (2006). Using Thematic Analysis in Psychology. *Qualitative Research in Psychology*, 3(2), 77-101.
- Cawthorn, R.G. (2010). The Platinum Group Element deposits of the Bushveld Complex in South Africa. *Platinum Metals Review*, 54(2), 205-215.
- Forslund, D. (2014). The Bermuda connection: Profit Shifting and unaffordability at Lonmin 1999-2012. Alternative Information and Development Centre (AIDC). Cape Town.
- Forstater, M. (2018). Illicit Financial Flows, Trade Misinvoicing, and Multinational Tax Avoidance: The Same or Different? Center for Global Development Policy Paper 123.
- Fotoyi, A. (2016). Illicit Financial Flows in the Mining Sector in South Africa: Implications for Industrialisation. Online: <http://www.tips.org.za/research-archive/annual-forum-papers/2016/item/3163-illicit-financial-flows-in-the-mining-sector-in-south-africa-implications-for-industrialisation-asanda-fotoyi-tips> [11 January 2019].
- Global Financial Integrity (2010). Illicit Financial Flows from Africa: Hidden resource for development. Online: <http://www.gfintegrity.org/report/briefing-paper-illicit-flows-from-africa/> [07 December 2016].
- Global Financial Integrity (2013). Illicit Financial Flows from Developing Countries: 2002-2011.
- Global Financial Integrity (2014). Illicit Financial Flows from Developing Countries: 2003-2012
- Gumede, V. (2017). *Illicit Financial Flows in Southern Africa: Exploring Implications for Socio-Economic Development*. The World Bank, Washington, DC.
- Hajkowicz, S.A., Heyenga, S. and Moffat, K. (2011). The Relationship Between Mining and Socio-economic Wellbeing in Australia's Regions. *Resources Policy*, 36, 30-38.
- Hilson, G. (2012). Corporate Social Responsibility in the Extractive Industries: Experiences from Developing Countries. *Resources Policy*, 37, 131-137.
- Kar, D. and Cartwright-Smith, D. (2010). *Illicit Financial Flows from Developing Countries: 2002-2006*. New York: SSRN.
- Kemp, D. and Owen, J.R. (2013). Community Relations and Mining: Core to Business but not "Core Business". *Resources Policy*, 38, 523-531.

- Langton, M. and Mazel, O. (2008). Poverty in the Midst of Plenty: Aboriginal People, the ‘Resource Curse’ and Australia’s Mining Boom. *Journal of Energy & Natural Resources Law*, 26(1), 31-65.
- Local Government of SA (2017). Municipalities of South Africa – Limpopo. Online: <https://www.localgovernment.co.za/provinces/view/5/limpopo> [19 June 2017].
- Mitchley, A. (2018). High Court rules in favour of Xolobeni community in historic mining rights case. *Mail & Guardian*, Online: <https://mg.co.za/article/2018-11-22-high-court-rules-in-favour-of-xolobeni-community-in-historic-mining-rights-case> [27 January 2019].
- Municipalities of South Africa (2018). Rustenburg Local Municipality (NW373). Online: <https://municipalities.co.za/demographic/1191/rustenburg-local-municipality> [16 October 2018].
- News 24 (2015). Residents feel done in by mine. *News 24*, Online: <http://www.news24.com/SouthAfrica/News/Residents-feel-done-in-by-mine-20150511> [09 December 2016].
- Prno, J. and Slocombe, D.S. (2012). Exploring the Origins of ‘Social License to Operate’ in the Mining Sector: Perspectives from Governance and Sustainability Theories. *Resources Policy* 37, 346–357.
- Prno, J. (2013). An Analysis of Factors Leading to the Establishment of a Social License to Operate in the Mining Industry. *Resources Policy*, 38, 577-590.
- Public Protector of South Africa, Report No. 5 of 2017/2018. Allegations of Maladministration in the Bapo Ba Mogale Administration. Online: http://www.publicprotector.org/sites/default/files/legislation_report/SKMBT_C55417_061916570.pdf Pretoria: Public Protector’s Office.
- Rudin, J. (2014). SA biggest losers of transfer pricing. Alternative Information and Development Centre (AIDC). Online: <https://aidc.org.za/sa-biggest-losers-transfer-pricing/> [11 January 2019].
- Saba, A (2016). Phosa, mining and a royal battle. *Mail and Guardian*, online: <http://mg.co.za/article/2016-09-30-00-phosa-mining-and-a-royal-battle> [09 December 2016].
- SAMDA (2014). Submission to the portfolio Committee on Trade and Industry re: transfer pricing and transformation within mining industry, presented 3 September 2014.

- SAMDA (2015). Charter non-compliance, transfer pricing, lack of transformation within the mining industry and achieving the NDP. Presented on 22 April 2015 to: portfolio committee on trade and industry.
- Sekhukhune District Municipality (2017). Geography, History and Economy. Online: <https://www.localgovernment.co.za/districts/view/27/Sekhukhune-District-Municipality#demographic> [20 June 2017].
- South African Chamber of Mines (2017). *Illegal Mining Fact Sheet 2017*. Johannesburg: Chamber of Mines.
- Szirmani, A. (2005). *The Dynamics of Socio-Economic Development: An Introduction*. Cambridge: Cambridge University Press.
- Thakur, C. (2018). Illicit Financial Flows – Part I: Primer. Lost Funds Lost Opportunities. Helen Suzman Foundation.
- Tonts, M., Plummer, P. and Lawrie, M. (2012). Socio-economic Wellbeing in Australian Mining Towns: A Comparative Analysis. *Journal of Rural Studies*, 28, 288-301.
- Traditional Leadership and Governance Framework Amendment Act 23 of 2009. Pretoria: The Presidency.
- United Nations Economic Commission for Africa/African Union (2015). *High Level Panel Report on Illicit Financial Flows (IFF) from Africa*. “Track it! Stop it! Get it! Illicit financial flows from Africa”.