



CARRYING THE COSTS

Human rights impacts in communities affected by platinum mining in South Africa, and the responsibilities of companies providing mining equipment.

Report #89



Swedwatch is an independent not-for-profit organisation that conducts in-depth research on the impacts of businesses on human rights and the environment. The aim of the organisation is to contribute towards reduced poverty and sustainable social and environmental development through research, encouraging best practice, knowledge-sharing and dialogue. Swedwatch has six member organisations: Afrikagrupperna, the Church of Sweden, Diakonia, Fair Action, Solidarity Sweden-Latin America and the Swedish Society for Nature Conservation. Bench Marks Foundation has contributed to the report as subject matter experts and by conducting and facilitating research.



Church of Sweden 



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Executive summary

According to the United Nations Guiding Principles on Business and Human Rights (UNGPs), companies are linked to adverse impacts on human rights that are caused or contributed to by their business partners; including customers. For companies providing mining equipment, this entails a responsibility to manage human rights risks that may be associated with the activities of the mining companies that they sell their equipment to.

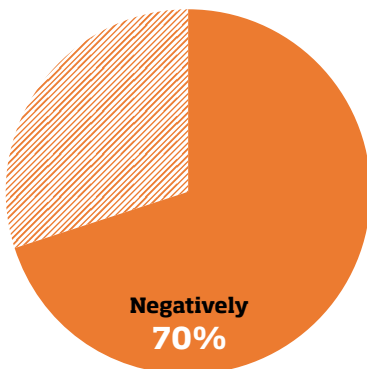
This report reviews the human rights responsibilities within client-provider relationships and provides findings from a case study conducted in the South African platinum belt – an area where people are living on top of one of the most valuable mineral resources in the world. It also compares findings to Swedwatch’s 2013 study ‘Problematic Platinum’ and assesses what impacts company efforts to address human rights challenges have had for the rights holders.

Findings show that instead of benefiting from the wealth of natural resources, communities have for decades experienced salient social and environmental impacts associated with mining operations and the situation does not appear to have improved. On the contrary, many communities attest to that the situation has worsened since 2013.

Swedish companies Atlas Copco and Sandvik provide equipment used in platinum mines. They have direct relationships with the South African mining houses and their equipment is used in the core activities of these customers. In accordance with the UNGPs, this makes them linked to impacts that may be caused by their clients’ operations. As such, they have a responsibility to manage human rights risks accordingly and to seek to influence their customers to address possible risks and actual impacts.

Swedwatch investigations indicates that human rights impacts associated with mining operations include land evictions and health problems caused by water and air pollution. Communities also experience increasing strain on services, loss of land due to informal settlements, and competition for mining jobs between locals and migrants.

Question
How has the presence of mining companies affected your life?



Blockades and protests associated with the mining sectors also put communities at risk, while costing the industry and the South African Government billions in lost earnings and tax revenue. People are also fearful of making grievances known for fear of reprimand, including loss of employment.

Women are particularly exposed to the human rights risks associated with platinum extraction. Many women attested to that they live with the constant threat of sexual violence and other forms of crime in the communities. This vulnerability is coupled with the fact that it is difficult for women to find employment in the mining sector while they are responsible for the care of children, elderly and others who cannot support themselves.

Despite having been made aware of the situation in 2013, there is little evidence that efforts by Atlas Copco and Sandvik to manage human rights risks associated with mining operations in South Africa have been adequate to lead to real change for communities affected by these operations. Both companies only provide general information regarding their human rights work: neither provides information on what specific human rights impacts have been identified as related to platinum mining or if any specific impacts have been acted on in accordance with the UNGPs.

The operating environment in South Africa's platinum mining sector is complex, as is the use of leverage by providers on clients. However, to be in compliance with the UNGPs, Sandvik and Atlas Copco should communicate that they have conducted human rights due diligence to identify possible human rights risks associated to their customers' operations. They should then show how they have used their leverage to address these issues.

Concrete steps are required in order to ensure respect for human rights and towards fulfilment of the Sustainable Development Goals (SDGs). To work towards this end, governments and companies must act to ensure that the communities that for decades have been carrying the social and environmental costs of platinum extraction will also stand to benefit from the wealth that natural resources can provide.

During the research for this report Swedwatch has analyzed the results of 600 questionnaires distributed in six communities in the South African platinum belt and conducted hours of interviews and focus groups. The Swedish companies have been interviewed and provided with a full copy of the report prior to publication. Swedwatch also offered to publish company comments to the report on the Swedwatch website.

FACT

List of abbreviations

BEE	Black Economic Empowerment
CESCR	UN Committee on Economic, Social and Cultural Rights.
ICMM	International Council on Mining and Minerals
NAP	National Action Plan for Business and Human Rights
OECD	Organisation for Economic Co-operation and Development
OCCHR	Office of the high commissioner for human rights
SDG	Sustainable Development Goal
SLP	Social and Labour Plan
UNGPs	United Nations Guiding Principles on Business and Human Rights

Recommendations

Recommendations to Atlas Copco, Sandvik and other companies providing mining equipment to the South African platinum mining sector:

- Communicate how human rights due diligence has been conducted relating to the risks and impacts of customers' operations in the South African mining sector and how findings have been addressed. Any gaps identified should be addressed, based on consultation with communities and in cooperation with organisations or other actors that are true representatives of affected rights holders.
- Use leverage to encourage customers to address adverse human rights impacts. In cases where leverage needs to be increased, this can be done for example by forging partnerships with other suppliers to the mining companies or other relevant parties that may influence the situation and contribute to approaches with local communities' best interest as a goal.
- Review the possibilities of systematically communicating the activities and results of companies' human rights due diligence processes in accordance with the concept of "know and show" as outlined in the UNGPs.
- Ensure that affected rights holders are informed of, and have access to, an effective and meaningful grievance mechanism. This should be done by encouraging customers in the mining sector to ensure that their mechanisms are well-advertised and trusted in the communities. Companies can also update and advertise their own grievance mechanisms and support effective independent grievance mechanisms.

Recommendations to the Government of South Africa:

- Ensure, whether by policy or legislative measures, that mining companies fulfil the terms of their Social and Labour Plans (SLPs). The government must also actively pursue protection of human rights that may be impacted as a result of platinum mining.



Several major mining companies are active in the South African platinum belt and the landscape is littered with mines, refineries and other infrastructure essential to mining. PHOTO: SWEDWATCH

Recommendations to the Government of Sweden:

- Ensure that companies conduct human rights due diligence for their operations, value chains and investments, especially in sectors (for example in the mining industry) and countries where there is a high risk of human rights violations.
- Update the Swedish National Action Plan on Business and Human Rights to ensure that it is aligned with the language of the UNGPs and provides effective guidance to companies on how to act on human rights risks and impacts that they are linked to through a customer or client relationship.
- Actively pursue further measures to prevent human rights impacts that may arise as a result of the activities of companies domiciled in Swedish territory and/or jurisdiction as well as their business partners. This is especially vital in sectors with well-known risks of adverse human rights impacts, such as the mining industry.
- Through its embassies, facilitate dialogue and cooperation between relevant stakeholders in high risk countries and sectors where Swedish companies operate, and strengthen civil society by enabling representatives of affected parties and communities to be a part of such dialogue.

1. Introduction

South Africa's vast platinum reserves are by far the largest in the world and those who control these platinum mines are also in near complete control over the global supply of this rare mineral.¹ Platinum has historically been used in several products, most notably in the automotive industry as an essential component in catalytic converters. However, the platinum mining sector is controversial and plagued by socio-economic problems in the areas surrounding the mines, refineries and other installations.²

Platinum extraction in South Africa, as well as the profits of mining houses and their business associates, comes at high social and environmental costs borne by marginalized sections of society.³ The roots of many associated rights violations can be found in the nation's apartheid past when people were driven from their land to keep power in the hands of a white minority.⁴

According to the UNGPs, mining companies have a responsibility to address human rights risks that arise as a result of their business operations. Furthermore, companies that provide mining equipment are linked to these risks through their business relationships with their clients and therefore have, according to the UNGPs, a responsibility to use their leverage to address these risks.⁵



Swedwatch's 2013 report *Problematic Platinum* outlined the business relationship between Swedish mining equipment companies and the mining houses in the platinum extraction industry in South Africa. Research conducted in local communities revealed how basic human rights were impacted on by the platinum extraction sector.

The report recommended that companies should use their leverage to influence their customers to address these impacts. The companies responded that they were in the process of developing systems to ensure respect for human rights also in the business operations of their customers.⁶ Since then, the prospect of electric cars with little or no need for platinum has led to a sharp decline in the global price of platinum. At the same time, communities in the area remain at risk of human rights violations.⁷

Today, tensions in the platinum belt are so severe that companies have been forced to cut production due to community protests against the mines. Roads have been blocked, vehicles stoned by protesters, and people reporting for work have been assaulted by protesters.⁸

These protests are costing the mining sector billions every year. These losses, coupled with the losses in tax revenue, indicate that mining companies and the South African state share an incentive to take these human rights issues seriously.⁹ At the same time attacks on human rights defenders who speak up against companies are increasing globally, and the mining and extractive industries are the most dangerous for activists.¹⁰

According to a 2017 note from the UN Committee on Economic, Social and Cultural Rights (CESCR), governments are required to take “necessary steps to prevent human rights violations abroad by corporations domiciled in their territory and/or jurisdiction”. CESCR states that governments should require corporations to conduct due diligence in order to deploy their best efforts to ensure that their business partners respect the rights set out in the International Covenant on Economic, Social and Cultural Rights.¹¹

In the context of the case reviewed in this report, this would imply that the Swedish government should require that Atlas Copco and Sandvik deploy their best efforts to ensure that their customers respect the rights set out in the Covenant.

It is imperative that companies and governments start acting towards the fulfilment of the Sustainable Development Goals (SDGs), established in 2015 with the purpose of ending poverty, protecting the planet and ensuring prosperity for all.¹²

2. Methodology

This report is a result of research and investigations conducted in South Africa during 2017 with the purpose of reviewing steps taken by companies since the 2013 release of the Swedwatch report *Problematic Platinum*. Specifically, the report reviews to what extent providers of mining equipment have worked to influence their customers, the mining houses, to address human rights challenges tied to mining operations. This subject, the responsibility of companies for human rights impacts linked to their customers and clients, is a perspective relevant to many sectors.

This report follows up on the work of two companies investigated in the original report: those manufacturing mining equipment – Atlas Copco and Sandvik. Since the purpose of this report is to elaborate on companies’ responsibility for human rights impacts caused or contributed to by their customers, two of the companies investigated in 2013 are not reviewed here. This is because they were featured in the 2013 report as they use platinum in the catalytic converters of vehicles they manufacture and therefore are not relevant to this study.

Human rights implications of platinum mining is a complex issue and Swedwatch does not purport to present all facets and challenges therein. Swedwatch has focused solely on reviewing the responsibilities of providers of mining equipment and presenting findings from research with communities.

The focus of this report is the conduct of the Swedish companies providing equipment to the mining companies, rather than the mining companies themselves. Swedwatch has not conducted research on the mining companies active in the areas visited. Swedwatch’s approach has been to ascertain that there are mining companies active in the area that are customers of one or both of the Swedish companies. Swedwatch does not make any specific allegations against the mining industry in South Africa as a whole or specific mining companies.

The purpose of this report is to examine how Atlas Copco and Sandvik have addressed human rights risks and impacts in the platinum mining industry over the past four years. Therefore, Swedwatch has not conducted research on the sustainability work of the South African mining houses.

Research for this report was conducted from May 2017 to December 2017. An initial desk study reviewed existing reports and research about human rights issues related to the platinum sector in South Africa, which was followed by field research in the affected communities.

Community research was conducted in cooperation with the South African organization Bench Marks Foundation, a non-profit organization based in Johannesburg. The foundation distributed a questionnaire developed by Swedwatch to 600 community members.¹³ To ensure effective comparison, all but one of the communities in the 2013 report was surveyed.¹⁴ In November 2017 Swedwatch also conducted in-depth interviews and focus group discussions with rights holders in the communities. Valuable assistance and background information was provided by the organization BUA Mining Communities and by experts, organizations and community representatives participating at the Bojanala Mining summit in Rustenburg.¹⁵

Interviews with Sandvik and Atlas Copco regarding their sustainability work were conducted in September 2017. The companies were given the opportunity to fact-check and comment on the results of these interviews, which they did. Both companies were also given a full copy of the report prior to publication. Swedwatch also offered to publish company comments to the report on the Swedwatch website along with the report. If comments were forthcoming, these were published at the time of the report launch. In order to provide a benchmark for this report, Swedwatch uses primarily the UN Guiding Principles on Business and Human Rights (UNGPs). Reference is also made to the Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises and to voluntary norms such as the Responsible Mining Framework and the principles of the International Council on Mining and Minerals (ICMM).

The focus of this report is companies' responsibilities with regards to business partners, specifically customers – a responsibility clearly highlighted in the UNGPs that requires a business enterprise to *“seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts.”*¹⁶

The UNGPs are endorsed by both Atlas Copco and Sandvik who in their sustainability work also refer to the OECD guidelines for multinational companies. The UNGPs are a key element of the Swedish government's National Action Plan for Business and Human Rights (NAP) published in 2015. The aim of the NAP is to support Swedish businesses in transforming the UNGPs into concrete action. It is currently being reviewed to ensure that Sweden is living up to the standards of the UNGPs.¹⁷

For the sake of protecting the anonymity of respondents, Swedwatch does not refer to respondents' names, communicate where they live, or give any other easily recognizable characteristics.

3. Responsibilities in the provider-client relationship

While the mining industry can generate a significant number of jobs and potentially lift communities out of poverty, there are social and environmental issues inherently connected to operating a mine that may lead to human rights violations.¹⁸

There are several international recommendations on how companies should take human rights into account in their operations. However, the 31 principles of the UNGPs set the international standard designed to prevent and address the risk of adverse impacts on human rights associated with business activities.¹⁹ The UNGPs, unanimously endorsed by the UN Human Rights Council in 2011, clarify the roles of states and companies in ensuring that companies respect human rights in their business activities and through their business relationships.²⁰

The principles outline a company's responsibilities regarding the human rights impacts of a customer. According to Guiding Principle 19, a company is linked to adverse impacts on human rights that are caused or contributed to by a business partner. If the company has leverage to prevent or mitigate such impacts it should exercise it – or find ways to increase its leverage, for example by collaborating with other actors.²¹ If no other alternative remains, a company can consider terminating the business relationship after considering the human rights consequences of doing so.²²

When companies are working to ensure respect for human rights, different approaches may be needed when working upstream towards suppliers as opposed to working downstream towards customers or clients. However, both undertakings can raise similar challenges since the efforts are made increasingly difficult when adverse human rights impacts are several steps removed in the value chain.²³ However, companies working downstream towards customers often have a close business relationship with the other party. Through these contacts, a company may be able to create and exercise leverage early in the relationship, such as during contract negotiations.²⁴

According to the organization Shift, to build a shared responsibility for the human rights impacts of their customers' operations, a provider may build key provisions on the future use of their products into the terms of contract. Such contractual requirements can be designed to create future dialogue with the customers regarding human rights. The contract can also require a customer to seek clearance from the provider if the use of the product has changed in ways that are potentially relevant to human rights risks and impacts.²⁵

The provisions in the contract can also allow the provider to recall the equipment if it has been used in a way that violates the provisions regarding human rights. If such a contractual breach occurs, the provider should have the necessary means to conduct a recall or other type of action.²⁶

According to the UNGPs, the responsibility to respect human rights is a universal standard that exists over and above national laws, and is applicable independently of states' abilities or willingness to fulfil their own human rights obligations.²⁷

The OECD Guidelines for Multinational Enterprises, that provide principles and standards for responsible business conduct in a global context, reiterate the importance of human rights due diligence and states that a company must seek ways to prevent or mitigate adverse human rights impacts that are directly linked to their business operations, products or services.²⁸ The importance of human rights due diligence is also a central component of the OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector.²⁹

The Framework for Responsible Mining published by the Center for Science in Public Participation states that social risks connected to mining are ultimately borne by the workers and specific communities. Therefore, all efforts to protect human rights must occur with the full participation of the local communities and workers. According to the framework, mining companies must engage local communities in consultative, participatory, culturally appropriate and mutually acceptable processes in all stages of mining. If this dialogue is to be meaningful, companies should disclose critical information regarding a project's financial, environmental and social risks.³⁰

A core principle is that communities have the right to be consulted and give their consent when mining operations affect their rights and lands. However, this right is often poorly implemented due in part to difficulties in assessing a mining operation's impact: a local community might be unable to predict the impact of mining on the land, environment, resources and culture. This problem is often exacerbated by illiteracy, limited access to information and a lack of knowledge in fields such as geology, chemistry or hydrology.³¹

According to the OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector, the extensive social, economic and environmental impacts of mining mean that meaningful stakeholder dialogue is particularly important in this particular sector.³²

However, communities affected by mining are often diverse entities that contain different interest groups. Conflicts may arise within communities between traditionalists and those who are keen to change, or because of generation gaps and gender inequality.³³

The ten principles of the International Council on Mining and Minerals (ICMM) form a best-practice framework that is sometimes used as a benchmark to gauge the environmental and social performance of mining companies. The third principle states that mining companies should "respect human rights and the interests, cultures, customs and values of employees and communities affected by our activities".³⁴

One important tool for identifying and addressing human rights impacts is an effective grievance mechanism that allows adversely affected rights holders and communities to communicate with the company responsible.³⁵ Many mining companies have such a mechanism in place and providers of mining equipment may also have mecha-

nisms that allow community members and other affected parties to express any grievances they might have.

However, a grievance mechanism can only serve its purpose if the people it is intended to serve are informed about it, trust it and are able to use it. Such a mechanism cannot serve as substitute for wider stakeholder engagement.³⁶ When a grievance mechanism is introduced but not used, there is a risk that they provide only the illusion of redress.³⁷

FACT

The United Nations Guiding Principles on Business and Human Rights

The UNGPs “identify and clarify” the responsibilities of companies and states under existing standards and practices. They distinguish between states’ duty to protect against human rights abuses and corporations’ responsibility to respect human rights.³⁸

In this context human rights are defined, at a minimum, as those listed in the International Bill of Human Rights along with the fundamental labour rights in the core conventions of the International Labour Organization. There are several additional human rights standards that companies may also need to consider. Depending on factors such as a company’s operations, context and size, different types of human rights can be at risk in different situations, but the framework makes it clear that all companies should safeguard all human rights, irrespective of their size or industry.³⁹

A central concept of the principles is human rights due diligence. This process should include assessing actual and potential human rights impacts, integrating (and acting upon) the findings, tracking responses, and communicating how the impacts are addressed. This should be an ongoing process, since human rights risks may change over time.⁴⁰

Other central concepts are linkage and leverage. Linkage describes how a company is connected to adverse human rights impacts either by causing the impact, contributing to it somehow, or being linked to the impact through business relationships with customers or other business partners. The concept of leverage is the company’s ability to effect change when the business partner is causing or contributing to an adverse human rights impact.

The framework also formulates the concept of “know and show”, meaning that companies have a responsibility to be aware of and report on how their operations impact human rights at all stages.⁴¹

4. Background: The Platinum Industry in South Africa

Since the abolishment of the apartheid system in 1994, South Africa has struggled to overcome the historic injustices and address the apartheid-era imbalances in areas such as housing, education and health care. Unemployment, poverty and inequality remain among the highest in the world.⁴² In recent years the country has also suffered from decelerated economic growth, slowing to an estimated 0.3 percent in 2016. The official unemployment rate is roughly 26 percent, but significantly higher among black youth.⁴³

In this context, the mining sector is part of both the problem and the solution. While social conditions are generally problematic in mining areas and surrounding communities, mining remains one of the main export industries and a major source of employment. This has locked the mines and adjacent communities in a complex interdependency.⁴⁴

FACT

South Africa

South Africa has been a democracy since 1994 when the African National Congress won the country's first democratic election and thus ended the apartheid regime that had ruled since 1948. After almost 25 years of democracy, the country is still struggling to resolve social and economic injustices.

Population: 54.8 million (July 2017 est.)

GDP: \$739.4 billion (2016 est.)

GDP per capita: \$13,200 (2016 est.)

GDP growth: 0.3 percent (2016 est.)

Inflation: 6.3 percent (2016 est.)

Unemployment: 26.8 percent (2016 est.)
16.6 percent (2016 est.) of the population
lives below the poverty line (\$1.90 per day)

Infant mortality: 32 deaths per 1,000 live births (2016 est.)

Average life expectancy: Men 61.6 years; Women 64.6 years (2016 est.)

Number of HIV infected: 7.1 million, approximately 18.9 percent of the
population (2016 est.)

Exports: gold, diamonds, platinum, other metals and minerals, machinery and equipment

Imports: machinery and equipment, chemicals, petroleum products, scientific instruments, foodstuffs

The Human Development Index of 2016 ranked South Africa 119 of 188 countries. According to Transparency International's Corruption Perception Index, South Africa is ranked 64 of 176 countries. On both rankings, one would indicate the best score.

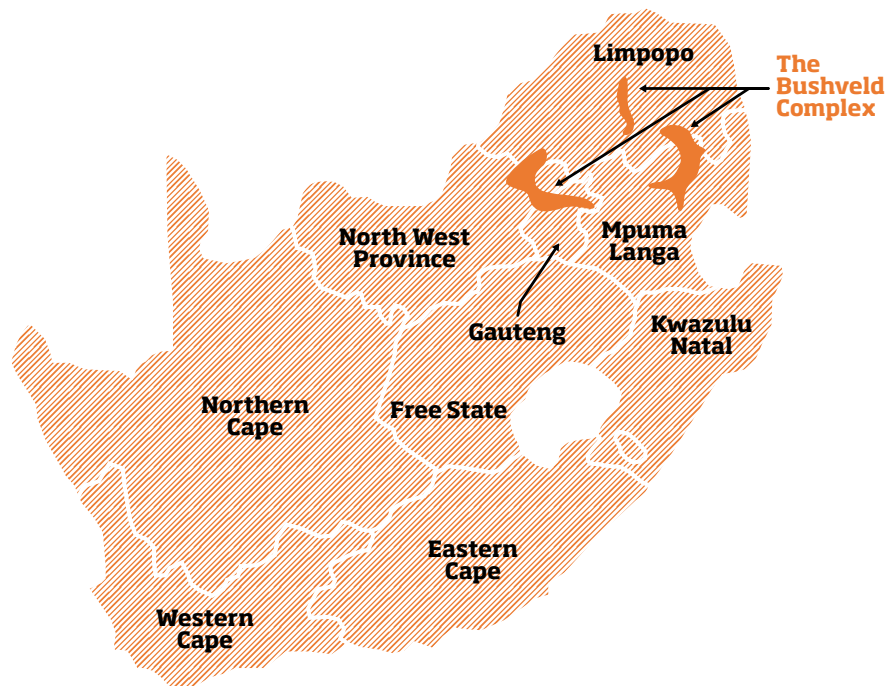
Sources: CIA World Factbook; UNDP Human Development Report; Transparency International Corruption Perception Index.



Of the 490,000 people employed in the South African mining sector in 2015, roughly 41 percent were employed in platinum mining.⁴⁵ Approximately 30 percent of this workforce are contract labourers.⁴⁶

Today, approximately half of all newly mined platinum is used in the automotive industry to make catalytic converters.⁴⁷ The remainder is used in jewellery or a wide range of industrial products, including fertilizers, electronic products, medical technology, implants, fuel cells, glass and in the production of products such as synthetic rubber and polyester fibres.⁴⁸

The broad industrial applications of platinum, and its status as one of the rarest metals in the world, have historically made it one of the most sought-after metals. Since about 80 percent of the global platinum supply is found in the Bushveld complex in north-eastern South Africa, many of the world's leading platinum-producing companies are South African.⁴⁹



Due to the activities of numerous mining companies, people living in the platinum areas are severely affected by mining. They are faced, among other impacts, with land evictions, water and air pollution, and the violent shutdown of protests through police and public or private security forces. They also experience an increasing strain on resources, loss of land due to growing informal settlements, and competition for mining jobs between locals and migrants.⁵⁰

South African law stipulates that mining companies must share the profits from mining with the surrounding communities via Social and Labour Plans (SLPs). Every company that applies for mining rights must submit an SLP that describes how the company plans to reinvest in the local communities. For example, this could be through developing the skills of their employees, upgrading local schools and roads, as well as providing housing, water and sanitation in the area. The SLP becomes a binding legal document once the company is awarded the mining rights.⁵¹

However, the SLP system has been criticized for not achieving intended results. Communities in many mining areas still suffer from extreme poverty and a lack of infrastructure and housing.⁵² These issues, along with unemployment, discrimination and other rights violations should in theory all be addressed by commitments in the SLPs. However, according to a study by the Centre for Applied Legal Studies (CALS) at Wits University in Johannesburg, many communities are unaware of the mining companies' commitments, and in almost no cases were the commitments fulfilled.⁵³

In 2011 the chairman of the Portfolio Committee on Mineral Resources in the South African Parliament stated the following regarding the implementation of SLPs:

*“When we conduct oversights, we come back depressed. Because before you enter into a mine, you walk through a sea of poverty. ... In our own experience these Social and Labour Plans are indeed not implemented... Mining communities lament that here, within our area we extract the wealth of the country but there is no drop that comes back to us as the mining community.”*⁵⁴

Six years later, when CALS conducted a three-year study analysing more than 50 SLPs and conducting over 150 interviews, it reached the same conclusion. The centre stated that the SLPs seemed to have a “limited real impact from a community point of view” and that the case studies indicated that the programmes were “not assisting in overcoming systemic inequality”.⁵⁵

According to the South African Minister of Mineral Resources, hundreds of mining companies had failed to comply with their SLPs as of March 2015. In 2014, the economist Iraj Abedian wrote the following in the *Anglo American* house journal:

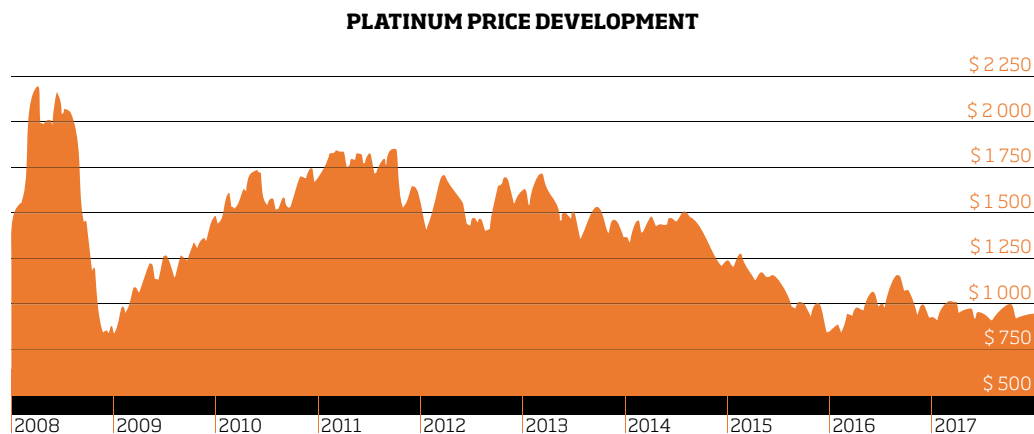
*“Since 2002, mining companies have adhered to the required SLP – yet, operationally, very few have complied with the spirit of the law. They have seldom delivered any effective SLP schemes. At times, they have even corrupted the social community networks for short-term compliance convenience. Consequently, far from mitigating their operational risks, they have compounded the complexities.”*⁵⁶

4.1 Recent developments

In early 2017, the South African government unveiled plans for new legislation on Black Economic Empowerment (BEE). The new law broadened existing legislation with the purpose of extending economic privileges to disadvantaged groups and the measures include a community-development tax equal to 1 percent of revenue, as well as expanded quotas for buying goods and services from companies owned by

identified groups. However, according to an article in Bloomberg, the mining industry plans to fight the plan in court, and the CEO of a major platinum mining company argued that the new rules would deter investment and serve as a “nail in the coffin” for the industry.⁵⁷

The platinum industry has been hit hard by the rise in popularity of electric cars, which do not require catalytic converters. This change in the automotive industry has caused the price of platinum to fall by 50% over the last 10 years. Another principal reason for the downturn is that the expected future demand of electric cars has made platinum, and investment products relying on platinum, less attractive as an investment. This in turn has led to an even sharper fall in the global price.⁵⁸



As profits have fallen, the mining industry promises to impoverished local communities have increasingly gone unfulfilled, creating social unrest that has at times led to violent protests. In June 2017, protesters torched a bus used by mining workers, forcing a mining company to halt operations at two shafts.⁵⁹

These protests echo events that led to the killing of 34 people and the wounding of 78 by the police in Marikana in August 2012. According to Amnesty International, one of the main drivers behind the protests in Marikana was failed promises to provide housing for mineworkers and their families in the mining communities.⁶⁰

While salaries for mining company employees have increased in the years since Marikana, the situation in the mining communities remains severe. According to Amnesty International, living conditions are still “truly appalling”, and a South African member of parliament and Marikana resident recently stated that social conditions are now worse than before the massacre.⁶¹

The Marikana massacre

On 16 August 2012, after a week of strikes and protests among mining employees, police opened fire and fatally shot 34 people. More than 70 others sustained serious injuries. The main reason for the protests were low wages and poor working conditions at the mine.

The post-mortems concluded that 30 of the deceased died after being shot by assault rifles. The remaining fatal injuries were caused by either smaller handguns or by shotguns. The killings came after days of rising tensions. A few days earlier police had killed three mineworkers on strike. Two policemen and three non-striking workers were also killed, allegedly by people among the strikers.

The South African government set up the Farlam Commission to look into the Marikana killings, which recommended a full investigation to ascertain the criminal liability of the police officers involved in the events. However, five years after the killings no one has been prosecuted.

Sources: South African History Online, Amnesty International.

4.2 The mining sector and the apartheid legacy

In South Africa commercial platinum mining began in the 1920s. The industry operated under unique circumstances as the entire global platinum market was largely supplied by the extractives sector in a single country.⁶² Thus, mining houses historically worked hard to ensure that platinum remained under the control of the country's elite.⁶³

Democratic South Africa inherited this profoundly unequal mining sector. A distinct feature of the industry is that many platinum reserves are located within areas that were known as Bantustans, into which parts of the black population were moved during the apartheid regime to segregate them from the white population.⁶⁴ During this era the apartheid regime appointed the leadership of each Bantustan to keep the areas under control. The Bantustan system was abolished along with the fall of the apartheid regime but the effects of these policies persist, not least in mining areas such as those around the Bushveld complex.⁶⁵

When the law prohibiting a large part of the population from owning land was repealed, ownership of the land was supposed to transfer to the legitimate owners. Instead, a large portion of land was given to the traditional tribes. This has caused conflicts over land ownership within communities. For instance, in the area where Swedwatch conducted its field study for this report, several court cases are underway originating from land conflicts between individuals and the tribal leadership.⁶⁶

Many human rights impacts in the affected communities are connected to the traditional leadership structures. The traditional authorities who historically spoke for their peoples are often deemed illegitimate by parts of the communities, and there are ongoing court cases alleging that traditional leaders, rather than the communities, have benefitted from payments from mining companies.⁶⁷

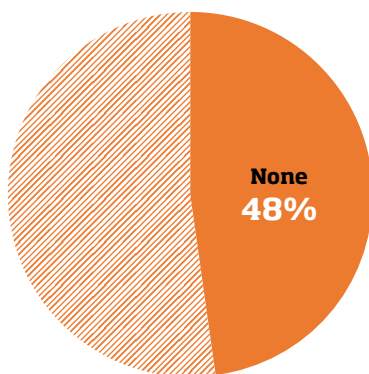
5. Human rights impacts of platinum mining: background and case study

The research for this report was conducted in the communities Segwelane, Ikemeleng, Mafenya, Marikana, Chaneng and Motlhabe (in this study Luka, where Swedwatch conducted research in 2013, was replaced by Motlhabe due to difficulties conducting field research in Luka). These communities are affected by mines operated by companies to which one or both of Sandvik and Atlas Copco provide equipment.

Statistics are compiled from 600 questionnaires distributed in the area, and quotes are taken from individual interviews and focus groups conducted by Swedwatch. In addition to presenting the results of the case studies, this section reviews previous research and provides background to some of the adverse human rights impacts associated with platinum mining.

Question

What development has taken place in the past four years?

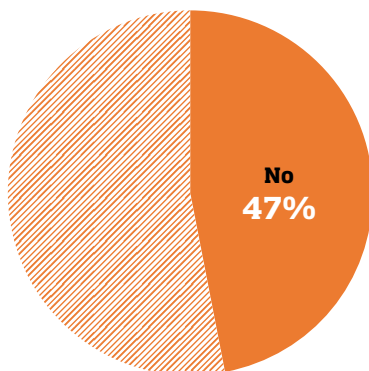


A striking feature and common denominator of all communities in the study is the lack of development. Even though some of the world's largest platinum mines are located in this area, the communities in the case study are poor and suffering from high levels of unemployment, while a majority of those working in the mines are migrants from outside the area.⁶⁸

Nearly every interview emphasized that the mining houses refuse to deal with communities directly. As one community member stated, "You have to go through the traditional council, then the council has to take it up with the mine. But it doesn't work. Months will pass without anything happening".⁶⁹

Question

Do you have any possibility of communicating with the mining company?



When companies work through what is known as traditional authorities, it makes it difficult for many in those communities to submit grievances or voice an opinion directly to the companies.

One interviewee explained that, "If we want to communicate with the mining companies, we must go to court. The legal route is the only way, that is how we communicate now. We cannot communicate through the traditional authority, the traditional authority is useless, contaminated and corrupt".⁷⁰

Many community members reported that they were completely cut off from the mining companies. The companies defer communication with the communities to political or tribal actors who sometimes have their own interests and structures that in many cases are subject to corruption.



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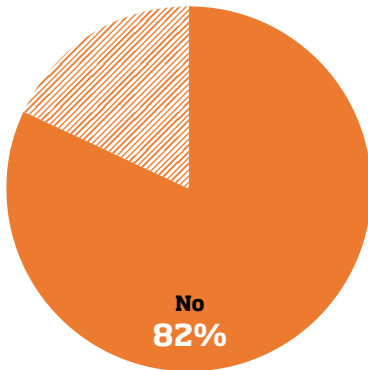
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Despite being located on top of one of the most valuable mineral resources in the world, the communities in the South African platinum belt are poor and often lacking both paved roads and basic services.



Question

Has your community been in contact with any foreign company that is doing business with the mine?

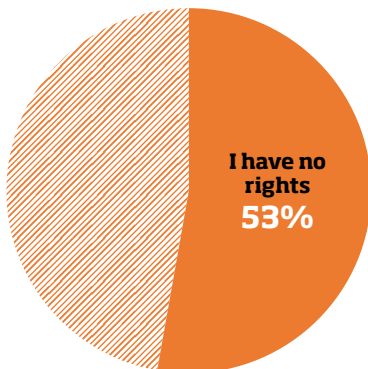


According to one community member, the mining companies’ “strategy is to never talk to the communities. You cannot engage with the mines if the community needs something. You won’t even get through the gate. We must go through the traditional leaders. But the traditional leaders are only representing themselves. So, the mines always get what they want. They have their tricks.”⁷¹

The results of the survey and focus group discussions show that many interviewees feel that if the communities could communicate directly with the mining companies, many of the issues would be resolved. Instead, the mining companies are perceived as using the traditional authorities to divide the communities. One person states:

Question

What is your perception of your rights in relation to the mining companies?



“When the mining companies want to communicate with the community they use the traditional council. If they came to the communities, we would ask questions. Instead the mine works with people that they know are easy targets. There is no consultation from our side.”⁷²

In all the communities assessed, there is a general feeling that the situation has become significantly worse over recent years.

One interviewee explains: “Things have gotten worse in the last few years. The population is increasing, unemployment is increasing, the lack of medicine is getting worse and all of this is because of the mines.”⁷³

5.1 Land rights

When original inhabitants are removed from their land without consultation or compensation, this constitutes a violation of human rights as described in Article 17 of the Universal Declaration of Human Rights, which states that everyone has the right to own property alone as well as in association with others, and that no one shall be arbitrarily deprived of his property.⁷⁴

Ensuring that no one is deprived of their private property and as a result loses their livelihood is an important step toward fulfilment of Sustainable Development Goal One which aims to end poverty everywhere.⁷⁵

While the South African constitution also protects citizens’ rights to private property, there are legal instruments that allow mining companies to claim the land without the owner’s consent. If the rightful owners refuse to give up their land for mining, the company can ask a court to order the owner to give up the land.⁷⁶

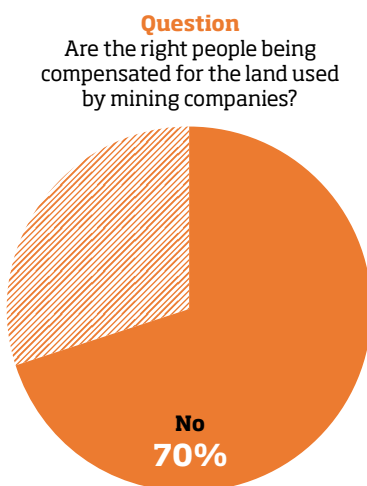
Since mines and their infrastructure take up huge areas, conflicts over land ownership borne from South Africa’s apartheid past are common also in the platinum areas. In addition to this, where companies have failed to provide housing for migrant workers, these workers have built informal settlements on private land, denying the owners of that land access to their property. As people lose agricultural land they often also lose their livelihood.⁷⁷

This situation is the result of a policy adapted by many mining houses. To address overcrowding in worker accommodation, the companies introduced the Living Out Allowance (LOA), a wage supplement that caused tens of thousands of workers to move into local communities, mainly to informal settlements, straining limited resources and infrastructure. According to Amnesty International, the mining companies introduced the LOA despite being aware of the chronic shortage of decent housing and rental stock in mining communities. In response to information presented in the Amnesty report, one mining company gave several examples of how it had tried to address the issue, including building accommodation units and setting aside funds for this purpose.⁷⁸

Loss of land results not only in increased hunger and poverty, but also conflicts within communities and in the destruction of a traditional way of life.⁷⁹ Even when consultation does take place, there is no guarantee that the process will serve its purpose. According to Action Aid, villagers in platinum mining areas have been removed from their homes in agreements signed with associations that the company claims represent the community, but which have been established by the company.⁸⁰

Land rights: case study findings

Land rights are a main concern in the communities, many of which have been relocated, sometimes several times, sometimes forcefully. They might have been ordered to leave their homes by the colonial authorities, by the apartheid regime or because of the mining sector. According to the interviewees, mines and surrounding infrastructure, as well as informal settlements housing mining workers, are in many cases situated on land that has been appropriated without consultation or compensation.



“Our land has been taken and our community is being enclosed by mining shafts. If we just let this happen, what do we say to our children and grandchildren. What will happen to them if we just keep quiet?”, one community member asked during an interview conducted by Swedwatch.⁸¹

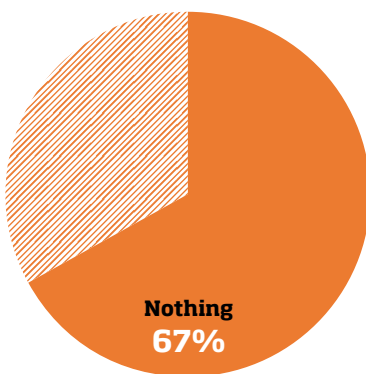
In some communities 70 percent of those surveyed stated that if the mining companies need more land they will forcefully take it from the rightful owners. A woman living in one of the communities said the following in an interview with Swedwatch:

“A lot of people lost their farms because the company wanted to mine there. The company just took their land and there

was no compensation. There was this one lady, she was the last one to go, because she did not want to leave. She said: I am not leaving my home. So, the police had to go and forcefully remove her from her home.”⁸²

In some cases, there are lease agreements outlining royalties that the mining companies are supposed to pay for the use of the land. According to many interviewees, however, this money is paid to traditional leaders and never reaches the communities.

Question
What compensation do local people get when mining companies need more land?



“The mine is not treating us well. They are working hand in glove with the so-called traditional council and the traditional council is looting the money of the community. The mining company come here and divide us and make us fight amongst ourselves”, according to one person.⁸³

The land issue, currently the focus of several court proceedings, is also the root of many other issues.

“There were people ploughing where the mine is now. It was someone’s land and they just took it. They never consulted them, and they did not even give them something for the land. They just had a meeting with the traditional leaders and were offered the land.”⁸⁴

Where private land is occupied by migrant workers who are constructing informal settlements, community members feel that the mining companies are avoiding responsibility for their workers and instead letting the communities bear the costs of housing the workers by giving up their land.

“The mining companies have acted in a way that created these informal settlements. A worker will build a shack anywhere. When he has made enough money, he will build another one and rent it to someone else.”⁸⁵

5.2 Housing and services

The International Covenant on Economic, Social and Cultural Rights states that everyone has a right to an adequate standard of living for themselves and their family, including sufficient food, clothing and housing, and to the continuous improvement of living conditions.⁸⁶ This responsibility is also enshrined in the South African constitution, which states that “everyone has the right to have access to adequate housing” and that “the state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realization of this right”.⁸⁷

The International Covenant on Economic, Social and Cultural Rights also recognizes the right of everyone to the highest attainable standard of physical and mental health. This should be achieved through, among other measures, the creation of conditions to ensure medical attention for all in the event of sickness.⁸⁸ The same convention recognizes the right of all to education, and states that this education shall be directed



Many houses in the platinum mining communities have cracks in the walls, roof and floor. Community members attribute these damages to tremors caused by underground blasting in the mines.

PHOTO: SWEDWATCH

to the full development of the human personality and the sense of its dignity, and shall strengthen respect for human rights and fundamental freedoms.⁸⁹

When discussing services such as access to education and health care one should take into account Sustainable Development Goals Three and Four with the purpose of ensuring good health and well-being as well as access to quality education for all.⁹⁰

Despite the valuable natural resources of the platinum belt, the mining communities are poor and, compared to many other areas in South Africa the standard of housing, schools, health care and infrastructure is low.⁹¹

The housing issue relates to mining in two ways. The first, closely connected to the land rights issue, is that a chronic shortage of housing for migrant mine workers has resulted in informal settlements comprised of shacks growing around the mines and in the surrounding communities. For example, one major mining company only provides accommodation for about 5,000 of its 28,000 employees, most of whom are migrants.⁹² The second housing issue is the damage to houses from vibrations and tremors caused by underground blasting in the mines.⁹³ While many community members are certain that the underground blasting is causing the damage to their houses, some mining companies have denied this and instead claim that the cracks are a result of poor construction.⁹⁴

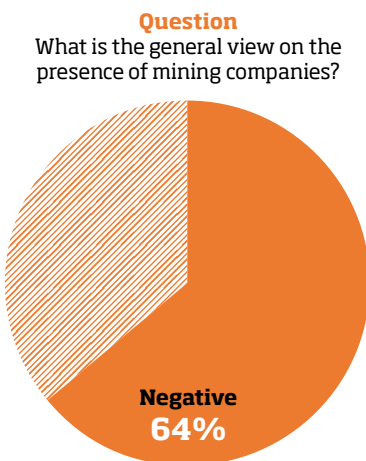
Housing and services: case study findings

Most communities in the case study are surrounded by mines and mining facilities such as smelters, refineries, tailing dams and other types of mining infrastructure. Many interviewees explain how they can feel the blasting rumbling underneath their feet several times every day.

For most communities, cracked buildings are a cause for concern. Vibrations from constant blasting are said to be taking their toll on the houses, and during the field research Swedwatch inspected several houses with cracks in the walls, ceiling and floor – damage that owners and inhabitants attributed to underground blasting from the mines. “The mining company said that the houses crack because we did not build them properly, but houses that the mining company built are also cracking.”⁹⁵

According to some interviewees the available facilities and infrastructure is strained as society has failed to meet the demands of a population that grows with the influx of migrant workers. Swedwatch found that main concerns in the communities include overcrowding in clinics and schools. Out of the respondents, 37 percent reported having no access to health care, with overcrowding of hospitals and clinics stated as the main reason. Many also stated that trucks transporting mining equipment are destroying the roads.

Swedwatch



“All our roads are untarred. Can you imagine trucks and cranes weighing tons and tons passing through on these roads? These trucks destroy our roads. Before the mines our roads were fine.”⁹⁶

5.3 Environmental effects and access to water

According to the UN General Assembly, access to clean water and sanitation is a human right and a precondition for the enjoyment of other human rights. The right to health, for example, cannot be guaranteed without access to clean water and sanitation.⁹⁷

Action in this area would be in line towards fulfilment of Sustainable Development Goals Six and Fifteen that aims to ensure clean water and sanitation as well as prevent environmental degradation.⁹⁸

In South Africa, whole communities in platinum mining areas have lost access to clean drinking water, both due to wells and boreholes drying out and because pollution makes the water unfit for consumption.⁹⁹ According to a report from 2012, poor water management by the mining companies has rendered rivers so polluted that farmers cannot use the water for agriculture, a situation that is sometimes exacerbated by sewerage from inadequate sewers in squatter camps.¹⁰⁰

Another environmental issue connected to platinum mining is air pollution by dust and sulphur dioxide (SO₂),¹⁰¹ which contributes to respiratory problems among local inhabitants.¹⁰² SO₂ emissions cause acid rain and can lead to acute and chronic lung diseases.¹⁰³ Soil and groundwater pollution caused by calcium sulphite, a poisonous acid sludge, is an effect of chemically treating SO₂ to reduce air pollution. Thus, the more effective the mine is at combatting sulphur dioxide emissions in the air, the more calcium sulphite it produces on the ground.¹⁰⁴

In fact, the air around Rustenburg is so poor that the area has been declared a National Priority Area under the South African Air Quality Act, meaning that special intervention is required to rectify the deteriorating air quality.¹⁰⁵

Environmental effects and access to water: case study findings

Water shortages, dust, and different forms of air and water pollution caused by platinum mining represent constant cause for concern in the communities – particularly the worry that the water and air pollution is causing illness and death among people in the communities. According to one interviewee, the local environment is so seriously affected by mining that in a few years it will be impossible to grow even a small garden in the area.

“We are all stuck here. We are just sitting around, without jobs, breathing the poisonous dust. This community is a death trap.”¹⁰⁶

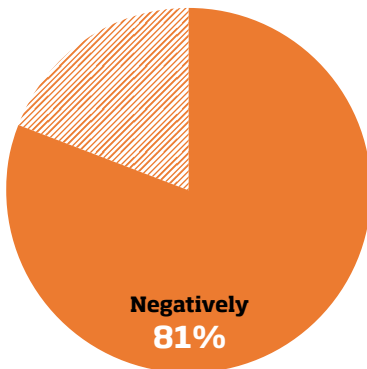


Many community members worry that air and water pollution is causing illness and death in the platinum mining areas. Many also complain about a lack of clean drinking water.

According to interviewed community members, air pollution as a result of mining activities has led to an increase in respiratory diseases such as asthma, bronchitis and sinus problems, conditions that many respondents state are especially dangerous for children. Breathing problems that used to be associated with the elderly are now a concern for people of all ages.

One woman told Swedwatch that her family had been severely affected by air pollution. “My second daughter got bronchitis when she was four, and my mother has been asthmatic since the mines started operating.”¹⁰⁷

Question
How does the presence of the mine affect the air quality in the area?



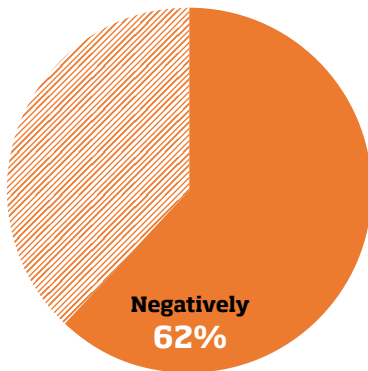
A lack of clean water, caused by pollution or a strain on water supplies from overcrowding, affects agriculture and causes health problems.

“The quality of the water is so bad. It is either filthy, muddy or it makes you sick. People are complaining about stomach cramps and sometimes our drinking water is so bad you cannot even wash your clothes in it, the water is simply too muddy.”¹⁰⁸

The pollution of watercourses also affects how the communities use the rivers in their daily life.

Question

How does the presence of the mine affect the water quality in the area?



“We used to go to the river, bring our kids and teach them how to swim. We used to sit together by the river, but because the river is polluted we cannot do that anymore. The only thing there is to do now is to go to the pub and drink beer.”¹⁰⁹

In one area where the lack of water is especially serious, the mining companies have agreed to provide water to the surrounding villages. But everyone cannot enjoy this water. One interviewee describes how his community lacks water, while the pipeline providing other villages with water runs through his community.

“When the mine started operating the water disappeared. When I was in school we used to drink water from the tap but today the water from the borehole doesn’t reach the school any more, not since the mine came.”¹¹⁰

The lack of water is especially hard on women and the elderly, since they are usually the ones tasked with collecting water. “Can you imagine a 75-year-old man without drinking water, who maybe has to walk 5 km to get water, walking carrying a bucket on his head”, says one woman to Swedwatch.¹¹¹

5.4 Migrant workers and unemployment

According to the Universal Declaration of Human Rights, everyone has the right to work, to free choice of employment, to just and favourable conditions of work, and to protection against unemployment.¹¹²

Working towards employment for the people of the platinum belt would be in line with Sustainable Development goals Two and Eight that aims towards eliminating hunger and ensuring decent work for everyone.¹¹³

Travelling to secure employment is common in South Africa, and platinum mines are mainly staffed by migrants, national and international, rather than by members of the local communities. The mining companies’ preference for hiring outsiders while unemployment is high in the areas around the mines is a cause of unrest in the communities. At times, mining shafts have been forced to close after protesters from nearby communities have demanded that the mine employ its residents.¹¹⁴

The overreliance on migrant workers is also connected to several other issues, including housing these workers, who often live in informal settlements, in backyard shacks, putting further strain on the communities’ health and welfare facilities.¹¹⁵

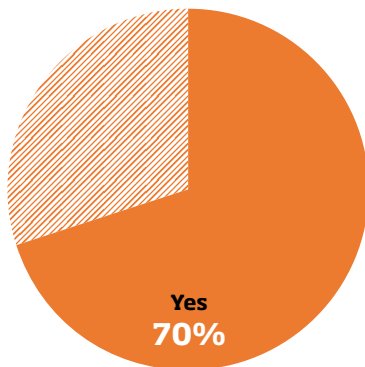
This strain on resources and facilities creates tension in the communities. Coupled with the competition for employment, these factors can cause local resentment and contribute to outbreaks of xenophobic attacks.¹¹⁶

Migrant workers and unemployment: case study findings

In areas where unemployment is the main problem, such as the communities in the case study, seeing migrant workers arriving to work in the mines while a majority of the community is unemployed is said to create bitterness and tension between locals and migrants.

“Basically, all our youth are jobless, even though the mine is right at our doorstep. But if you go to the mine you find a lot of people from Mozambique and from other parts of the country working there.”¹¹⁷

Question
Could mining companies act differently to reduce unemployment in the area?



Employment is also connected to corruption. The people in charge of recruitment at the mining companies are often migrant workers themselves and according to the interviewees, they prefer to hire people from their home regions. When the mines want to employ locals they usually go through the traditional authorities, who then distribute the jobs to those with the right connections.

“When the traditional council gets your CV they just look at your name. If you have spoken out against them or against the mine, or if you have the wrong name, they just throw your CV away. If you don’t comply with whatever they want, you won’t get anything.”¹¹⁸

According to one interviewee, corruption connected to employment is the most infected issue of all.

“We see the mine as an enemy. Because the mine is right here, but we are not working. At the same time, someone from far across the country arrives with their bags, to work at the mines. It is disturbing to us, very much disturbing.”¹¹⁹

Unemployed locals can make a living by renting shacks and back rooms to migrants who need accommodation. Nevertheless, many interviewees noted the tensions between locals and migrants.

5.5 Women’s rights

The special vulnerability of women and girls as well as their right to security and development is elaborated on by many international bodies, not least in the United Nations Security Council Resolution 1325 on Women, Peace and Security. The resolution urges Member States to ensure increased representation of women at all decision-making levels and calls on all actors to adopt measures to ensure the protection of and respect for human rights of women and girls.¹²⁰

Working towards equal rights for men and women is also in line with Sustainable Development Goal Five that aims towards achieving gender equality and to empower all women and girls.¹²¹

With regards to mining, many analyses of human rights impacts on community members fail to distinguish between the effects on men and women: while men reap the few benefits of mining (such as employment, tenders and other forms of income), the social costs fall more heavily on women.¹²²

When consultations do happen, women are often left out and do not benefit from compensation payments, employment or development projects. Thus, women in mining communities become more dependent on the men who control these benefits while they are also denied status and income.¹²³

Furthermore, since women are traditionally responsible for household chores, child-care, and caring for sick or injured family members, they often suffer more from the lack of services.¹²⁴ There are also fewer employment opportunities for women in mining communities.¹²⁵

Many migrant workers take local women as girlfriends. When the workers' contracts end they often go home without taking responsibility for any children resulting from the union; thus there are often many young single mothers in the mining areas.¹²⁶ These women are sometimes pushed into prostitution to support themselves and their children, since claiming government child support can be complicated for an unmarried woman.¹²⁷

Women are also at risk of violence, especially sexual violence. A 2015 study in the Rustenburg municipality found that one in four participants had been raped, and half had experienced some other form of sexual violence or intimate partner violence.¹²⁸

According to a report from the UN Special Rapporteur on the situation of human rights defenders, women in general are particularly at risk when leading the opposition to companies responsible for adverse human rights impacts, or when reporting human rights abuses, since they are targeted both as human rights defenders and as women.¹²⁹

Women's rights: case study findings

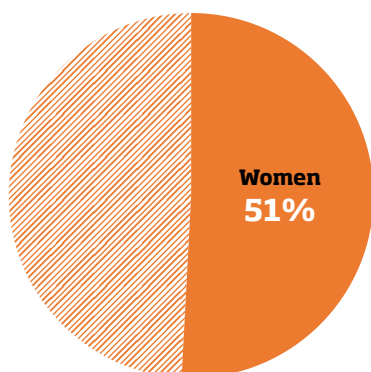
In all communities women are perceived as an especially vulnerable group. When interviewed, both women and men explained that it is virtually impossible for a woman to get a job in the mine unless she is willing to provide sexual favours.

"Whenever you go to the mine to look for a job you either must pay a bribe or give them sex. If you don't, you won't even get an interview. That is what they want from you, either money or sex."¹³⁰

According to the respondents, being unemployed is particularly hard on women.

"As a woman who is not working, what can you do? Maybe you get a man from Lesotho who gives you children and eventually he is going back home. They come here

Question
Which is the most vulnerable group in your community?



and get involved with women, saying that they love them, and then they leave, and the woman is left to raise the child alone.”¹³¹

Sometimes this creates a vicious circle, in which mothers get involved with migrant workers yet again, hoping to get provided for, but ending up with another child to raise on their own.

“I am a mother and it is very hard to raise a kid on your own. But we have to fend for those kids, we have to try by all means to make sure that they get fed, go to sleep and go to school. Even if it is hard, we must try harder”, says one single mother interviewed by Swedwatch.¹³²

All but one of the interviewed women reported that they do not feel safe in their communities. The large influx of male migrant workers is perceived as contributing to an atmosphere of constant fear of sexual violence and other forms of crime.

Most interviewees feel that if women had the same employment opportunities at the mines as men, they would be more independent, and things would be different.

“I don’t feel safe, not at all. It is the crime, but also because women in general are not taken seriously. Even if we have the qualifications it is hard, you must give away sexual favours to get a job. Being a woman here is tough.”¹³³

5.6 Violence and protests

Violence and harassment of those who speak out against companies is increasing worldwide. According to the UN Special Rapporteur on the situation for human rights defenders, it is especially dangerous for land and environmental defenders, since the roots of conflict are often found in the exclusion of affected communities from decisions regarding their land and natural resources.¹³⁴ In fact, 2017 is on course to becoming the deadliest year on record for land defenders globally; the mining industries are linked to the most killings.¹³⁵

Actions for the freedom to speak out regarding human rights violations and communicating with authorities through effective, accountable and inclusive institutions is in line with Sustainable Development Goals Sixteen that has the purpose of creating inclusive societies.¹³⁶

The dire situation in many platinum mining areas has led to community protests. These protests and blockades are often met with police brutality and with legal action by the companies.¹³⁷

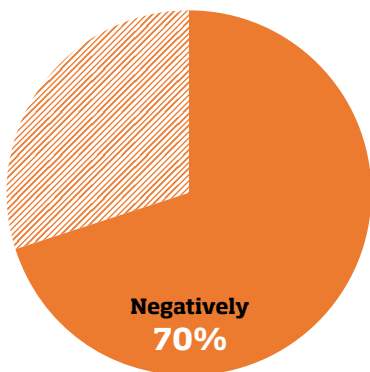


Protests over issues related to mining have erupted in many communities in the platinum belt. These protests disrupt the operations of the mining companies and cost the industry billions of rands.

Violence and protests: case study findings

The interviewees for this study described the tensions within the communities whereby conflicts arise between community members and the traditional leadership structures, between migrants and locals, and also between those who have managed to secure employment and those who have not.

Question
How has the presence of mining companies affected your life?



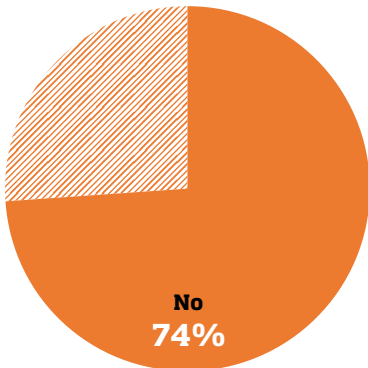
The situation is said to be especially hard on those who speak out against the mining companies or traditional authorities on behalf of communities. Several interviewees stated that the traditional authorities use the money paid by the mining companies to hire people to quell the protests.

“The traditional authorities are recruiting people from the outside and use them against us. They want to create a war by promising them money and jobs if they fight the communities. If we call a meeting they will come and disrupt the meeting.”¹³⁸

The result is an extremely complex situation in which frustration is brewing. Since the mining company grievance mechanisms are felt to be either non-functional or under the control of the traditional authorities, there is a general perception that

Question

Do you believe the mining companies are living up to the expectation of local communities?



the only way to make a mining company listen is to protest. In some communities around 70 percent of the respondents reported that protesting is the main tool for communicating with the mining company.

“It takes violence and trouble for something to happen. They will not even realize that there is a problem until the protests start. The last time the community wanted them to hire locals, we had to attack their cars with stones until they did.”¹³⁹

Community members explained that they block the roads leading to the mines and stone trucks and other vehicles belonging to the mine. Many interviewees stated that it is only during these protests that the police show up in the communities.

“When the police show up we throw stones and they answer with bullets. When the mining company call the police, the police show up right away, but when we call the police to report a crime they won’t come for hours, not until the thieves are long gone.”¹⁴⁰

Several activists state that employment at the mine is used to silence those who speak up for the communities against the mining companies. In poor areas, where the mine might be the only employer, withholding employment is a potent tool.

“They use jobs as a weapon. They capture people on camera when they protest and when you go there to apply for a job, you will find your picture there on the wall. Then you can take your CV there ten times, but you won’t even get an interview.”¹⁴¹

On the other hand, some interviewees explained that there is also a perception that the mines cooperate with the traditional authorities to provide employment for the most outspoken critics of the mine in order to silence them.

“If you keep complaining they will try to sort you out, maybe they will even get you a job. Then you must keep quiet and not complain because you want to keep your job. Today, there are very few vocal people left in this community because they all got jobs in the mine.”¹⁴²

6. Two companies providing mining equipment

Atlas Copco and Sandvik are among Sweden's 20 largest companies (ranked 11th and 16th, respectively).¹⁴³ These two companies are among those who manufacture and sell the drilling equipment used in the South African platinum mines. The equipment is an important part of the core operations of the platinum mining companies, which according to principle 19 of the UNGPs, links the two Swedish companies to the adverse human rights risks and impacts of the mining operations. Thus, once the Swedish companies have identified these adverse impacts, they have a responsibility to seek to prevent or mitigate them.¹⁴⁴

Both companies communicate that they are supporters of the main principles of business and human rights: UNGPs, Global Compact and OECD Guidelines for Multinational Enterprises. Both companies also have philanthropic ambitions, and conduct local development projects in fields such as education, health care and access to water in South Africa and globally.

6.1 Atlas Copco

Atlas Copco supplies technology to a wide range of sectors, including handheld drills and mechanized drilling equipment to the South African platinum industry and provides on-site service and repairs.

The main document of Atlas Copco's sustainability work is the Business Code of Practice, which embraces the UN Guiding Principles on Business and Human Rights. Atlas Copco also supports the OECD's Guidelines for Multinational Enterprises and is a signatory to the UN Global Compact and is committed to those principles, including those regarding human rights.

In its 2016 annual report Atlas Copco acknowledges that it has customers, for instance in the mining industry, that are exposed to problems concerning environmental and human rights issues. Toward this end, Atlas Copco group uses a customer sustainability tool to investigate potential risks based on environmental, labour, human rights, and corruption in markets and industries in which the company operates. According to Sofia Svingby, the company's Vice President for Corporate Responsibility, human rights due diligence is part of this customer evaluation tool.

"We developed this tool because we want to know who we do business with. We had a system for evaluating our suppliers. And in 2013 we also launched the customer sustainability tool where we evaluate our customers according to seven parameters."¹⁴⁵

Atlas Copco

- Business areas: compressor technology, industrial technology, mining and rock excavation technology, power technology, vacuum technology.
- Founded in 1873.
- Global revenue: 101 billion SEK (2016) (US\$ 12,4 billion).
- Customers in 180 countries.
- Number of employees globally: 45,000
- Subsidiary in South Africa since 1956.
- Revenue in South Africa: 1,7 billion SEK (2016) (US\$ 208 million).
- Employees in South Africa: 997
- Majority owner: Swedish investment company Investor holds approximately 22 percent of shares.

Source: Atlas Copco, Problematic Platinum

When the Swedwatch report Problematic Platinum was released, the tool had been tested but was not yet used throughout the company's global operations. The tool is now used worldwide to assess, among other things, how its customers are managing human rights risks.

According to Sofia Svingby, the socio-economic situation in South Africa is characterized by large inequalities, high unemployment, tensions between different parts of society and a lack of services. She states that this is reflected in many sectors of the society, including the mining industry.

Atlas Copco confirmed that the company is aware that the mining industry is characterized by risks of environmental degradation and pollution, working hazards and substandard living conditions for workers and surrounding communities, including access to water and sanitation.

“There are several risks, both connected to the sector and to the country. Every local manager must use their knowledge and expertise regarding local conditions to evaluate the risks”, says Sofia Svingby regarding the evaluation of the company's South African customers.¹⁴⁶

Representatives of Atlas Copco declined to describe which sector- or country-specific human rights risks have been identified through the customer sustainability tool. But South Africa is not one of the 12 markets that Atlas Copco highlights as especially high risk with regards to human rights.

Furthermore, Atlas Copco declined to disclose its list of customers in the South African platinum extraction sector. It only confirmed that the three companies mentioned in the 2013 report are still among its customers. Atlas Copco neither denies

nor affirms having relationships with other platinum mining companies active in the platinum belt area.

“What we can say is that our customers have passed our evaluations. These are big companies that have many systems in place to follow up on their own human rights risks and to act on any risks. The mining companies perform extensive human rights due diligence”, says Sofia Svingby.¹⁴⁷

Atlas Copco has a grievance hotline that employees and others can use to report behaviour or actions perceived as violating laws and regulations, or the Business Code of Practice. According to the company’s website, Atlas Copco can arrange mediation, when necessary, to provide access to remedy to the individual or community whose human rights have been infringed upon.¹⁴⁸

6.2 Sandvik

Sandvik provides technology used for construction and industrial purposes, including advanced mining equipment, such as trucks and drill rigs, to some of the biggest platinum mining companies in South Africa. The company states that its customer base remains largely the same as in 2013, with no new customers. The platinum industry accounts for less than 3 percent of Sandvik’s operations in South Africa, and is concentrated on technical support and maintenance of the equipment on site in the mines.

The Sandvik annual report for 2016 identifies customer conduct as a sustainability risk. According to the company, it continuously works to mitigate these risks and to ensure compliance with national legislation and internationally agreed human rights standards.

Sandvik in South Africa reviews customers using an assessment form that includes human rights. If any deviations surface through this assessment, the company procedure is to engage the customer in an open dialogue. However, it is not currently involved in any such dialogue with customers in South Africa.

According to Christina Båge-Friborg, Head of Sustainable Business at Sandvik, the company has identified human rights risks through the assessment system, and acted on these risks. Sandvik declined to provide information about what these risks were or how they were managed.

Sandvik described several human rights risks associated with the company’s business operations globally, including loss of land, degradation of land and waterways, human rights impact on women, and abuse by security personnel. The company also identified several human rights risks connected to the mining industry as a whole, such as property and land risks, resettlements, conflict and security, women’s rights and water contamination.

Sandvik

- Areas of operations: mining and quarrying technology, construction technology, tools and tool systems for metalwork, material processing.
- Founded in 1862.
- Global turnover: 82 billion SEK (2016) (US\$ 9.6 billion).
- Sales and service in over 150 countries.
- Number of employees globally: 43,000.
- Registered in South Africa since 1926.
- Turnover in South Africa: 2,7 billion SEK (2016) (US\$ 322 million).
- Number of employees in South Africa: 2,211.
- Majority owner: The Swedish investment company Industrivärden owns approximately 11 percent of all shares.

Source: Sandvik, Problematic Platinum

According to Sandvik, South Africa is a medium- to high-risk country regarding human rights. Båge-Friborg confirmed that the company has mapped human rights risks specific to the country and has found them to be similar in the sector globally – except that Sandvik is concentrating on eliminating different forms of discrimination given the history of South Africa.

“What we communicate is process-based. When it comes to the potential violations, we would not publicly communicate that because it could put the people involved at risk. We will keep that to ourselves out of respect for the people whose human rights might have been violated.”

According to Christina Båge-Friborg, the majority of Sandvik’s customers in the South African platinum mining industry are large mining houses with human rights processes similar to those of Sandvik. Sandvik has a whistleblowing system in which employees, affected stakeholders or other third parties can anonymously report grievances related to its operations. Reports can be made via mail, telephone or post in 17 languages. According to the Sandvik annual report for 2016 there were 265 such reports submitted globally that year – but the company provides no information on how many of these originated in South Africa, or what types of cases were brought to the company’s attention through this service.

7. Analysis and conclusions

In order for businesses to act responsibly on human rights risks that may arise as a result of their operations or transactions, it is necessary for them to adequately mitigate risks and address impacts. This includes a responsibility to manage human rights risks that a company is linked to through a client-provider relationship: a recognition of this responsibility is reflected in the UNGPs and, if applied, could make a marked difference for businesses, rights holders and states.

Illustratively, in a 2017 note from the office of the United Nations High Commissioner for Human Rights regarding the responsibility of the banking sector, the note outlines how a company that is made aware of an ongoing human rights issue that it is directly linked to may eventually be considered to be facilitating the continuance of the situation and thus be contributing to instead of being linked to the adverse impacts.¹⁴⁹ Although this may not be the case currently, the note illustrates how important it is for a company to urgently address human rights risks that it is linked to.

As this report outlines, supplying equipment to a sector where the customers are associated with serious adverse human rights risks and/or impacts constitutes a link to these risks and impacts. Through this link comes a responsibility for the company selling the equipment to address human rights risks and to use its leverage to influence its business partners to address any adverse impacts that may arise. This is particularly important in sectors such as mining which is associated with significant human rights risks. As such, special care should be taken by companies to be knowledgeable regarding the operations of their customers to ensure that any human rights risks and impacts are effectively dealt with.

Swedwatch's research indicates that the South African platinum mining sector is coupled with significant and salient human rights risks. People living in the communities located near, or in some cases on top of, this valuable mineral resource experience a wide range of adverse human rights impacts as a result of platinum mining. These impacts should be recognised and addressed by companies providing equipment used in the platinum mining. Adequate address would involve enhanced and ongoing human rights due diligence throughout the client-provider business relationship.

Atlas Copco and Sandvik are two companies that provide equipment for the South African platinum mining industry and are therefore, in accordance to the UNGPs (which both companies have committed to in their policies), linked to these human rights impacts through their business relationships. Both Atlas Copco and Sandvik have a direct business relationship with their customers, as they have offices in the country and staff on-site in the mines doing repairs and servicing machines.

Once the adverse impacts on human rights have been identified, mapped and acted on, the companies need to publicly communicate the methodology and results of this process. This process of human rights due diligence should be based on consultation with affected communities and in cooperation with true representatives of the affected rights holders.

When considering facts on the ground and comparing findings presented in this report to those in Swedwatch's 2013 report *Problematic platinum*, it is evident that - despite efforts made by mining companies and their business associates - local communities do not perceive any significant improvement.

In 2013, both Atlas Copco and Sandvik referred to ongoing efforts to map and address these challenges. Neither was ready to disclose the results of these efforts. Although efforts are good - nonetheless, more than four years later, when investigating the human rights situation on the ground, the situation remains deeply problematic.

Both companies have processes and policies in place, but neither has shown that they map or seek to address the human rights risks specific to their customers operations in the platinum mining areas. During the research for this report Atlas Copco was not willing to disclose the company's customers in the sector.

Policies and internal processes are important first steps towards corporate respect for human rights. However, a company that commits to the UNGPs must also, based on Principle 15, "know and show" what adverse human rights impacts have been identified in connection to its business operations. The company must also be able to demonstrate how it has acted on these findings to address specific impacts as part of basic human rights due diligence. In interviews conducted with company representatives for this report, neither Atlas Copco nor Sandvik was able to do this.

To live up to their responsibility and commitment to respect human rights, Sandvik and Atlas Copco must show that they have conducted thorough human rights due diligence to identify specific human rights issues in the affected communities and then taken steps to address potential and actual human rights impacts. This should be done by using leverage towards their customers in South Africa in order to prevent or mitigate impacts.

If the leverage is perceived to be lacking, the companies should act to increase their leverage. For instance, the Swedish companies can align leverage approaches with other actors providing mining equipment or other essential equipment to the sector.

The grievance mechanisms put in place by both companies have the potential to become valuable tools in this process. But to function properly, any grievance mechanism must be easy to use, well-advertised, safe to use and trusted. Only then can it be used to help address human rights impacts of mining companies' operations. While it is the South African Government's duty to protect the human rights of its citizens, the responsibilities of companies to respect human rights exists regardless of whether the state is fulfilling its duty.

The falling price of platinum makes these pressing issues even more urgent. State actors, providers of mining equipment and mining houses would only benefit from addressing human rights risks and working to ensure that existing issues are resolved and that local communities enjoy the full fulfilment of their human rights and take part of the benefits that could come from mining.

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