

1. INTRODUCTION

The **unique characteristics** of the mining environment in the **Southern African Development Community (SADC – established in 1980)** are that mining communities are mainly isolated, originally rural with high illiteracy rates and very dependent on the mining companies for their livelihood and development. The rural-based environment often becomes barren and is associated with ugly landscape caused by large-scale excavation. In addition, communities are often exposed to toxic environmental hazards from mine operation wastes. Although some mines could reach a life span of nearly forty years, mining is by its nature a temporary activity because of its dependence on the available mineral deposits. It is also fast growing and is associated with high earnings for the mining corporations which have an impact on the local communities who are usually unable to respond to this across-the-board momentum because of their rural-based background. Consequently the local population experiences **cultural shock** and do not respond effectively to the developmental changes, occupational skills requirements and the rapid change from an agricultural-based society to a cash-dependent environment. This has also resulted in companies depending on labour from elsewhere.

As a consequence of the above-mentioned background, mining communities throughout the SADC region are characterised by **poor environmental as well as social conditions**. The poor management of waste and substances that impacts on surface water, ground water, the health of community members, air pollution, etc. is seriously threatening a **sound eco-system** in most of the mining environments. Some of the **poor social conditions** in mining communities are poverty, unemployment, poor housing (and in some places overcrowded single-sex male hostels) and infrastructure, prostitution, poor health as well as the high influx of unaccompanied documented and non-documented migrants.

Despite political reform in the region, for example the new political dispensation in 1994 in South Africa, these environmental, social and economic conditions still persist in most of the mining communities. Globally and nationally there has been pressure on corporations to be more corporate accountable for and transparent about their actions in the communities they operate. This entails that companies not only focus on the profitability and production of the company, but direct the focus of their core business to **corporate social responsibilities (CSR)** which implies being involved in **sustainable development** in the communities. However, these policy interventions have their own limitations, and the fact that many mining operations still confuse corporate social responsibility with philanthropy and/or hand-outs to communities, has resulted in numerous problems associated with omissions, deliberate cutting of corners and overt and covert misrepresentations.

2. BACKGROUND AND ORIGIN OF THE RESEARCH PROJECT

This research on **Corporate Social Responsibility (CSR)** and the extractive industry in Southern Africa is a research project of the **Bench Marks Foundation** in collaboration with the **Peace, Principles and Participation Network (PPP)** covering Angola, the DRC, Malawi, Mozambique, South Africa and Zambia – a multi-sectoral grouping that has evolved primarily for purposes of advocating developmental benefits at grassroots level across the SADC region. The initiative is supported by the **Netherlands Institute for Southern Africa (NIZA)** and arises from research completed by the Bench Marks Foundation on Rustenburg Platinum Mines and extended by the Peace, Principles and Participation Network (PPP) meeting of November 2006 in Durban, South Africa. At this meeting it was decided to focus the research on the applicable **legislation, policies and practices in the extractive industries** in the above-mentioned countries in the SADC region. **International best practice and benchmarking** conceptualised and monitored by the **Bench Marks Foundation** as specified in the Bench Marks framework, Principles for Global Corporate Responsibility: Bench Marks for measuring Business Performance, (The Bench Marks Foundation, 2003) will be key principles in the design and execution of the research.

Mining-related developmental issues - against the background of the **social responsibility** of the industry - that will be raised in this project will, amongst others, be the following: **health and safety, security, education, migrant and settlement patterns, environmental management, poverty eradication, job creation, local economic development, gender, HIV/AIDS, measurement of development needs** of communities, etc.

The **first phase** of this SADC research project involves the mining activities in **Malawi** (uranium), **South Africa** (coal, gold, platinum and uranium) and **Zambia** (copper and cobalt). A comprehensive **Desktop Report** on the above-mentioned mining activities in the different countries was done and is available on disk from the Bench Marks Foundation office. After the completion of the fieldwork, a final report for each mining sector is compiled and will be released and officially launched during the first week of June 2008 in Johannesburg.

This is the report for the mining industry in **South Africa**. Before continuing with the report, the most important **critical challenges** in the South African mining sector being revealed by the **Desktop Study** will be presented as background and orientation to the rest of the report.

3. CRITICAL CHALLENGES

The following **critical challenges** were revealed by the Desktop Study and were placed under the magnifying lens during the empirical part of the research:

General

- There are serious concerns about the legislative environments within which mining corporations operate throughout SADC. We would **recommend that legislation be standardised throughout the region** so as to avoid some countries becoming “pollution havens” for unscrupulous mining corporations.
- Despite positive signs, **engagement with and development of surrounding communities** need serious attention; projects must be designed to avoid potentially significant adverse impacts; and frameworks must be established for **facilitation, mediation and dispute resolution**
- **Bad environmental management and control** in the mining environment as well as the **poor social conditions** in mining communities bring about or enhance quite **serious health problems**, e.g. TB, silicosis, Wilson’s Disease, HIV/AIDS, etc.
- With **bad environmental practices** and **poor community engagement** in mind, mining companies have a long way to go before being recognised as **responsible corporate citizens**; **CSI and CSR issues** must be prioritised and practised
- **Safety** is an enormous issue and challenge in South African mines, particularly the gold mines; quite a number of the safety problems seem to be related to the **role of contract workers** and the **lack of training**. Safety in the ultra-deep level mines of South Africa is also a matter of great concern.
- Taking all the fatal accidents into consideration, especially in the gold-mining industry, mine safety legislation, regulations and oversight need to be revisited.
- Noting the fact that the South African Mining Charter was negotiated between Government, labour and the industry only, and that the targets set in the Charter are rather low, the Charter must be renegotiated more widely involving other stakeholders such as communities as well.
- **Junior and emerging mining companies** are ‘flying under the radar’ with regard to reporting, legislative compliance and CSR in South Africa. **Control over these firms needs to be tightened.**
- Major mining corporations in South Africa **remain largely male and white at top management level**, even if they are Historically Disadvantaged South Africans (HDSA) compliant at junior and middle management levels.
- **Mining-induced dislocation and resettlement** is proving to be hugely problematic in Limpopo in particular.

Platinum Mining in Limpopo

- Limpopo is a water scarce province and the damming up of the rivers by the Department of Water Affairs and Forestry in partnership with mining corporations is limiting the access of rural communities to water. In suggesting that communities pay for piped water from such dams is to commodify water to communities who might not be able to afford to pay for it.
- Acid mine drainage is a threat to streams and rivers in Limpopo.
- Communities complain that, since the commencement of mining, their boreholes, wells and springs have dried up.
- The conflict between mining corporations who claim prospecting and mineral rights on the one hand, and communities who claim communal or commercial agricultural and ownership rights of land on the other, is starting to resemble the 19th century wars of land dispossession. The land question needs to be urgently resolved.
- The severely disruptive impact of mining on communities in terms of community health and psychology must be dealt with.
- The mining companies engage in corporate social responsibility programmes either because they are obliged to, or because they consider it good publicity. They do not do so because they consider communities to be partners, or because they realise the severely disruptive impact of mining on communities. Mining companies behave as if they are 'entitled' to the minerals and treat communities as if they are an obstacle to this entitlement.
- The involvement of current and former government officials as shareholders, board members or managers in mining companies is undermining democracy, causing tensions and conflict and is undermining the trust of communities in the various spheres and institutions of government.

Gold and Uranium Mining in Gauteng and the North West

- The safety record of the ultra-deep-level mines leave much to be desired.
- The impact of mine waste on the surface water resources. The Mooi River, the Crocodile River, the Vaal River and the Wonderfontein Spruit are all under severe stress as a result of mining and industrial activities.
- The impact of mining on groundwater in all the areas under considerations is severe.
- The impact of mine waste facilities such as tailings dams on air quality is severe.
- The problem of silicosis on the health of mine workers is disconcerting.

Coal Mining in Mpumalanga

- The impact of coal mining on the lakes district of Mpumalanga is severe. The Olifants River is considered to be highly stressed as a result of acid mine drainage. The condition of the Olifants River will impact on the Limpopo River thereby affecting the Kruger National Park, Mozambique and Zimbabwe.

- Coal mining and the burning of coal for electricity will also have severe impacts on air quality on the South African Highveld.
- Many coal mines operate without water licences and are consuming agricultural water illegally.
- There are ongoing conflicts between mining corporations on the one hand and farmers and communities on the other over land and water.

4. AIM OF THE STUDY

The aim of the study is **three-fold**:

- To **highlight key issues** in the South African mining environment against the background of the **CSR practices of mining companies** in relation to the **dimensions of sustainable development**;
- To **critically examine and discuss the findings** in terms of the gaps between policy and practice, practice and human rights, and policy and human rights; and
- To make **practical recommendations** in order to bridge the above-mentioned gaps through sound CSR practices

5. RESEARCH METHODOLOGY

Mainly three basic **research procedures** were used for the project, namely:

- **Historical procedure**
- **Survey procedure**
- **Historic-comparative procedure**

The **historical procedure** (literature review) was used specifically for the historical, legislative, policy and industry overview of each country, for reviewing applicable programmes and policies for the industry in the region as well as for the general analysis of the relationship between global, national and local forces and the mining industry per SADC country. More generally, the historical procedure was also used to conceptualise and contextualise all facets of the research. **Books, scientific journal articles, popular articles, newspapers, reports, annual reports of mining companies, conference proceedings, databases** as well as the **Internet** were used as sources for applying the historical procedure. Several documents were also obtained from Non-government Organisations (NGOs), Community-Based Organisations (CBOs), legal firms, local newspapers, etc. The Mothlotlo community provided documents about relocations, the Maandagshoek community provided documents about legal cases, minutes of meetings, correspondence, etc. Documents supplied by the mining houses include their **sustainable development reports, annual general reports, newsletters** and **CSR**

strategies. Researchers also collected national, provincial and local **government policies concerning mining.** Some NGOs provided reports regarding their own policies in relation to the mining companies.

Typical relocation documentation, Mokopane

To gather the empirical information, the **survey procedure** was used. When working with and in mining communities, a **qualitative approach** is the better choice for the subject matter in that it enables the respondents to expand on their points of view without being limited by the questions. **Data collection methods** included **focus groups, researcher observations and interviews.** As the elements of interviews with communities were not fixed beforehand they were **semi-structured** on the basis of a list of topics related to the interaction between mining companies, government and communities; the environmental, cultural, socio-economic, political and health impact of mining on communities. A degree of flexibility was allowed to assist the interviewer to probe deeper where it was felt that more relevant information could be obtained through further questioning. Questions and topics were not necessarily asked in the same order each time as this depended on the way the interview developed. This allowed the person being interviewed a degree of freedom to voice concerns and to participate in directing the flow of the conversation. These **in-depth interviews** assisted in clarifying what **themes and topics** were considered to be important, what the major concerns of individuals and communities are and the relationships between different strata within communities such as those who support mining development, those who oppose it, gender-related views, views of the youth, the aged, traditionalists, modernisers, etc.

Focus groups (8 to 12 people) and interviewees were selected purposively to take account of gender, race, migrant or local status, age and specific interest groups. To enhance the scientific nature of the study, at least two researchers (interviewers) and a translator, where necessary, facilitated each focus group and each personal interview. Different individuals in different areas were also used as **key informants**. Patton (2002:321) describes key informants as "... people who are particularly knowledgeable about the inquiry setting and articulate about their knowledge – people whose insights can prove particularly useful in helping an observer understand what is happening and why." During the long drives to mining operations extensive reflections of informants, cameramen, Bench Marks staff, journalists, etc. all served as valuable sources of information.

The researchers also **attended meetings between communities and corporations, mining and other related conferences and NGO** (non-government organisation), **CBO** (community-based organisation) and **FBO** (faith-based organisation) **workshops**. Some of the interviews and focus groups were not structured at all because of the coincidence or informal settings of these encounters. An important part of these informal meetings consisted of reflections with different people about mining or even about the research. Thus, conversations at conferences and workshops, meetings of Section 21 companies, meetings of development structures, consultation meetings between mining consultants and community representatives or between NGOs, local government and mining companies all served as sources of information.

As part of a qualitative manner of gathering information, **participatory observation** was also practised by the researchers (see Babbie & Mouton, 1998:293-298). Several observations were possible during the research that gave an insight into the research setting.



The research team attended numerous conferences and workshops including several which were part of the NIZA /PPP program in which representatives of NGOs from Southern Africa participated. All the participants came from areas where industries cause environmental pollution and social disruption. They were therefore all in one way or another active in issues with regard to the impact of corporates on communities. All of the above-mentioned provided good additional information on the environmental, social and political consequences of mining.

The researchers also participated in conferences hosted by Jubilee South Africa, groundWork, Action Aid, etc. which was all very informative and helpful. Researchers also participated in the Women in Mining Colloquium organised by the DME and the University of the Witwatersrand (2007), the Chamber of Mines Conference (2007), the Conference on Environmental Accounting (2007) and a number of other similar events.

Researches also **visited the areas** being researched and stayed with communities during such visits. The research team participated in viewing a blast at an open cast mine with an effected community and ‘felt the earth move under our feet!’ Researchers also observed the daily channelling of polluted mine water into a river system at another community. Graveyards to be relocated and relocated graves in yet another community were also visited. The team attempted to participate in a ‘Section 21’ meeting on the relocation of graves to a very hostile response from the organisers of the meeting. The camera man was almost run over by a furniture removal truck that deliberately steered the vehicle towards the camera man on the side of the road. Fortunately, the whole intimidating incident was captured on camera. Dead and/or dying cattle lying beside polluted water sources was a common sight. Lastly, observations were also made of the billboards the companies put around their operations and the pronouncements they make as participants in projects. Visiting the mining companies also led to observations concerning their plants and shafts, the tailing dams and waste facilities in the areas of operation, the dust caused by these dams and the villages or squatter camps surrounding the mining operations.



Interview with community members at Mothlotlo

The interviews with the respondents were translated, where necessary, and transcribed. The content of the data was then analysed by means of **conceptual (thematic) analysis**. According to Palmquist *et al.* (2005), the process of conceptual analysis comprises eight steps, namely:

1. deciding on the level of analysis
2. deciding on how many concepts to code for
3. deciding whether to code for the existence or frequency of a concept
4. deciding how to distinguish among the concepts
5. developing rules for the coding of texts
6. deciding what to do with irrelevant information
7. coding texts
8. analysing results

A more theoretical (contrary to a practical) approach - that is the interpretation of written sources (literature control; *also see historical procedure*) - was used as the basic point of departure for the analysis and interpretation of the results.

According to Guba (in Krefting, 1991), there are four important elements for increasing **trustworthiness** in qualitative research:

- **Truth value** (confidence in the truth of the findings and the context in which the study was undertaken);
- **Applicability** (the degree to which the findings can be applied to other contexts and settings or with other groups);
- **Consistency** (whether the findings would be consistent if the inquiry were replicated with the same subjects or in a similar context); and
- **Neutrality** (the degree to which the findings are a function solely of the informants and conditions of the research and not other biases).

The researchers tried their utmost to guide their research in accordance with these elements during the study.

Further investigation was also performed through the **quantitative research paradigm** by collecting data from **questionnaires**. These were compiled for use on mine management ('*CSR Assessment Tool*') as well as on some community groups ('*Community CSR Assessment Tool*'). These questionnaires are based on the Bench Marks Foundation's (2003) document [Principles for Global Corporate Responsibility: Bench Marks for measuring Business Performance]. The quantitative data used in this project aims at serving as a verification of the qualitative data by illustrating the opinions of respondents in a quantified

manner (see **Appendix A** for the results of the 'Community CSR Assessment Tool'). **Quantitative data analysis** was done by manually analysing information obtained from questionnaires. This was done through interpreting the scores given to items in the questionnaires that intended to measure respondents' experiences of CSR in the mining environment.

All **sampling** and the nature thereof was done jointly by the researchers, community leaders, community members, government officials, the mining companies and other interest groups, e.g. groundWork in South Africa.

The **historic-comparative** procedure was applied in order to compare and "measure", for example the different countries against one another. Here and there comparisons with other (developed) countries (e.g. Australia and Canada) also took place as a way of benchmarking and the application of international best practice.

A few **case studies** were also used to gather some information. In some SADC countries some "classic examples" of certain aspects in the mining sector were encountered (e.g. good practices, areas of pollution, areas of conservation, successful community engagement, etc.). These case studies can serve as "show cases" to illustrate certain points and even help with the processes of **pattern-matching** and **explanation-building** (see Babbie & Mouton, 1998:280-283).

Contracted **research assistants and fieldworkers** were used for certain facets of the project. The **PPP Networks** in the SADC region were also used for data collection and translation. Members of the research team visited the different research settings in 2007 and in 2008 in order to familiarise themselves with the research setting, "test and verify" certain theoretical assumptions, strengthen networks and conduct the fieldwork. Given time and practical constraints, the focus of the research was only on the **dominant mineral per province/region** in each of the countries.

The research results will be disseminated in the following ways:

- Dissemination to all the affected **mining corporations** for their comment prior to the results being made public
- An international **Bench Marks Foundation Conference** in June 2008 at which representatives of all stakeholders will be present
- **Regional conferences** in the applicable SADC countries to which PPP partner organisations and stakeholders from other SADC countries will also be invited
- **Community workshops** with the researched communities so as to empower them to understand and use the research results in their engagement with mining concerns

- **Scientific publications, popular media and the Internet**

6. ETHICAL CONSIDERATIONS

The following ethical considerations were always kept in mind while conducting the research:

- **Voluntary participation** (no participant was forced to participate in the research and participants were free to withdraw from the research at any stage)
- **No harm to participants** (the researcher ensured that no physical or psychological harm was done to the participants as a result of the study)
- **Anonymity and confidentiality** (all information gathered during the study were dealt with confidentially and permission from the participants was obtained for all information to be shared publically. Permission was also obtained from all individuals who were photographed to allow the use of these photographs where required)
- **Not deceiving the subjects** (participants were informed concerning the aim, the purpose and the procedures of the study and were not deceived in any way)

7. LIMITATIONS OF THE RESEARCH

Although the main outcomes of the survey were **generally successful** there were, however, some limitations the researchers experienced in the research process.

- The first drawback experienced was that the response of the mining companies to the survey was uneven. Anglo Platinum and Implats gave their full cooperation at head office level. Xstrata communicated regularly by electronic means. However, they had not completed the questionnaire within the required time frames. As a result, the researchers had to depend on the **annual general reports** and the **corporate social responsibility reports** of companies who did not respond (see **Table 1** for a list of mining company participants). It is interesting to note that the companies that were covered by the previous Bench Marks research on mining in Rustenburg were the best respondents to the current round of research (The Bench Marks Foundation, 2007).
- Some community members, such as those involved in Section 21 Companies operating in communities near Mokopane were openly hostile to researchers.
- Many of those who are resisting relocation were afraid to be interviewed, claiming police and company harassment.

The researchers also experienced various sources of information as containing their own implicit biases:

- First the bias of **official mining documents**. Such documents are produced to promote the image of the mining corporation concerned and even where such documents are signed off by auditing firms, the fact that these firms have the mining corporations as clients, impact on the objectivity of their findings. However, the advantages of such documents are that they clarify processes, adherence to the requirements of the legislative environment and information about structure and function of operations as well as policy positions of corporations.
- The bias of **information from NGOs and CBOs**. These organisations have as their mandate a variety of issues pertaining to the environment, community well-being, developmental or social goals. Many of these organisations have campaign goals and often information obtained from them is influenced by prior perceptions about what will or will not promote their goals and objectives. However, engaging with these structures is useful because many of them have a presence in communities and are trusted by communities. They give resources that allow communities to have a voice and that allow communities the ability to engage with corporations and government in a meaningful way.
- The bias of **information obtained from government officials**. Such information is often clouded by party political considerations. Communities occasionally perceive, rightly or wrongly, government officials to be colluding with mining corporations, particularly because cash strapped government departments, particularly in the local sphere, look towards funding and involvement from mines to realise local economic development strategies.
- The bias of the **researcher team itself**. The Bench Marks Foundation has perceived **the need to monitor** the activities of corporates in the extractive industry in Southern Africa. This implies that the Foundation considers the practice by some of these corporations to be problematic, or at least to be less than what could be considered best practice. To this end, the Foundation has developed a **set of *Principles, Criteria and Bench Marks*** of what it considers **best practice** in extractive industries. **This set of criteria is the benchmark against which the mining corporations were measured in this research.** Despite the seeming objectivity of this process, the researchers involved all have their own attitudes towards the extractive industry to contend with. These attitudes are informed by world-view and political persuasion of religious orientation, culture, background and empathy with communities affected by mining operations. The Bench Marks Foundation is also aligned with a number of other organisations such as the South African Council of Churches, which has a strong pro-poor stance and a number of NGOs that have definite views on poverty, the environment and social justice. Often these factors influence the research as such organisations seem to find it difficult at times to clearly delineate between activism and research and the order in which these two processes occur. This often leads them to interfere with the research themselves in their eagerness to confront or engage with the research subjects. Being aware of this, the researchers tried their utmost

to keep these two processes separate and to conduct the research in an **objective manner**.

- With regard to **local NGOs**, interviews were held with their representatives at various conferences and workshops. It is important to note that **communities in mining areas suffer from research and meeting fatigue**. Many have expressed their frustration about the number of times they have been the subject of research by mines, by NGOs, by universities and independent researchers without being able to determine the outcome or value of the research exercises. They are particularly tired of what can only be described as “drive-by” research where researchers arrive to do some quick interviews and then disappear, with the communities being unclear about the purpose of the research, the outcome of the research or how they as communities benefited from the research at all. Communities also find research products alienating in that reports are often mired down in technical or ‘scientific jargon.’ Research often suffers from the disease of making simple things complicated as academics seek to impress their peers. This made some community groups appear as unwilling or rather unmotivated to participate. It is for this reason that the Bench Marks Foundation included **community workshops** as one of the ways of disseminating the research results (see *Methodology – Point 5*).

Table 1: Responses from mining companies to the research

| Company | Mineral | Response |
|--------------------------|-------------------|--|
| XTRATA | Platinum and Coal | E-mail query 9 March 2008 |
| Anglo Platinum | Platinum | Full cooperation from head office. |
| African Rainbow Minerals | Platinum and Coal | No response. |
| Exxaro | Coal | No response from head office. |
| Anglo Platinum | Platinum | Full cooperation from head office. |
| Implats | Platinum | Full cooperation from head office. |
| Nkwe Resources | Platinum | Responded via e-mail claiming that they are not mining yet. |
| Harmony Gold Mine | Gold | Received a sustainable Development report for 2007. No response to questionnaire |
| Goldfields | Gold | No response |
| Uranium One | Uranium | Two scheduled meetings failed because of urgent commitments by the respondent. |

Before getting to the key issues identified by the research, it is important at this stage to briefly outline the **theoretical framework** in terms of the key concepts of **sustainable development** and **corporate social responsibility**; the discussion of the findings of the study will be broadly presented within this framework.

8. SUSTAINABLE DEVELOPMENT AND CORPORATE SOCIAL RESPONSIBILITY

This section will focus on giving insight into the meaning and development of the very important concept of **Corporate Social Responsibility (CSR)** against the background of **Sustainable Development**. The accompanying concepts of **Corporate Social Investment (CSI)** and **Corporate Citizenship** will also be briefly highlighted. Furthermore, attention will be given to the importance of CSR in the mining industry.

8.1 INTRODUCTION

The concept **sustainable development** initially mainly focused on economic sustainability. With subsequent pressure from the environmentalists, this concept was extended to include the impact on the environment. An example of such a (economic) definition is reflected by the following statement (Joyce & Smith, 2003): 'Using the economic engine by mining to build an economy that survives and is better off after the end of the mining.' However, this narrow definition has been expanded to include political, educational, psychological and social dimensions. Taking account of this wider perspective of the concept, Treurnicht (1997:31) and Kirkby *et al.* (1995:2) define the concept as including social and economic progress which ensures human development and during which the basic needs of the present are satisfied. Future generations are not compromised by the definition because each generation must use its own capacity to satisfy its needs.

Hamann and Kapelus (2004) argue that the objective of corporate social responsibility is to align corporate policies and practices to sustainable development in order to ensure companies' reputation and their access to capital, land and markets. In their efforts to embrace CSR, companies must identify the interests, concerns and objectives of various stakeholders (including national and regional government, local authorities, indigenous people, local communities, employees and competitors) and address their often-varying needs (Guerra, 2002).

Jenkins and Obara (2006) point out that the challenge for mining companies is to develop CSR programmes that maintain good will for the company and to address the long-term developmental needs of communities in a sustainable way, without creating a culture of

dependency. The mining industry should therefore aim its progress in line with the three dimensions of sustainable development (economic, environmental and social). This can be achieved through: **economic development** – investment of generated revenues to ensure the future development and long-term livelihood of the communities (Epps, 1996); **environmental protection** – minimising the environmental impact of natural resource exploitation and land rehabilitated to allow successive use (Sanchez, 1998); and **social cohesion** – reducing the social and cultural disruption to communities, maintenance of stakeholder dialogue and transparency of operation.

At this point, it might be meaningful to give an overview of the **development goals of the World Bank** as well as the so-called **Millennium development goals**; especially regarding the contribution of this report to sustainable development in the South African mining sector. Most of these development goals are nevertheless being addressed in the key findings (*point 9*), analysis (*point 10*) and recommendations (*point 11*) of this report.

The **World Bank has identified six (6) development goals** as part of a new international development strategy (Thomas, 2000:4):

- **Poverty:** Reducing by one half the proportion of people in extreme poverty by 2015
- **Mortality:** Reducing by two-thirds the mortality rates for infants and children under 5 and by three-fourths the mortality rates for mothers by 2015
- **Education:** achieving universal primary education in all countries by 2015
- **Health:** Providing access to reproductive health services for all individuals of appropriate age no later than 2015
- **Gender:** Demonstrating progress towards gender equality and the empowerment of women by eliminating gender disparities in primary and secondary education by 2015
- **Environment:** Implementing national strategies for sustainable development (supposed to be implemented by 2005) to ensure that the current loss of environmental resources is reversed globally and nationally by 2015

The eight **Millennium Development Goals** (MDGs) – all by the target date of 2015 – form a blueprint agreed upon by all the world's countries and all the world's leading development institutions (UN, 2008). They are:

- Eradicate extreme poverty and hunger
- Achieve universal primary education
- Promote gender equality and empower women
- Reduce child mortality
- Improve maternal health
- Combat HIV/AIDS, Malaria and other diseases

- Ensure environmental sustainability
- Develop a global partnership for development

The **International Council on Mining and Metals (ICMM)** has its own **ten (10) principles regarding sustainable development** (ICMM Sustainable Development Framework):

- Implement and maintain ethical business practices and sound systems of corporate governance
- Integrate sustainable development considerations within the corporate decision-making process
- Uphold fundamental human rights and respect cultures, customs and values in dealings with employees and others who are affected by our activities
- Implement risk management strategies based on valid data and sound science
- Seek continual improvement of our environmental performance
- Contribute to conservation of biodiversity and integrated approaches to land use planning
- Facilitate and encourage responsible product design, use, re-use, recycling and disposal of our products
- Contribute to the social, economic and institutional development of the communities in which we operate
- Implement effective and transparent engagement, communication and independently verified reporting arrangements with our stakeholders (ICMM, Annual Review, 2007:22)

Against the afore-mentioned background, it is then obvious that **CSR and sustainable development go hand in hand**. The concept Corporate Social Responsibility (CSR) will subsequently be scrutinised in more detail.

8.2 DESCRIBING CORPORATE SOCIAL RESPONSIBILITY

Before starting the conceptualising exercise regarding CSR, a more complete picture might be drawn by touching on the concepts of Corporate Social Investment (CSI) and Corporate Citizenship. At this point it might be useful to mention that the three concepts build on one another and in themselves represent an ever-evolving journey that tracks the question as to what an appropriate relationship between the business and social contexts should be like. CSI is often the starting point, CSR the natural second step and Corporate Citizenship completes the picture by incorporating CSI and SCR in a holistic vision for the company, the community and the planet (Njenga & Smit, 2007).

Corporate social investment (CSI) refers to an organisation's contributions to society and community that are extraneous to its regular business activities – whether such investment is monetary, or in the form of other corporate resources or time. While CSI might be via charitable or philanthropic giving, it increasingly serves to support business development objectives. As such and as indicated above, CSI is an important sub-set of corporate citizenship or CSR, but should never be interpreted as being synonymous with those terms (Rochlin, 2003; Freemantle & Rocky, 2004; Van Den Ende, 2004; Njenga & Smit, 2007).

A narrow definition of citizenship might simply imply compliance with the laws of the land. But in the context of sustainable development, corporate citizenship goes much further. It considers the rights and responsibilities of organisations within broader societal contexts and is therefore concerned with the contribution a company makes through its social and environmental impacts as well as its economic contribution. Corporate citizenship elevates the discussion to a different level in that it deals with the increasing realisation that the future of humanity and that of the planet on which we live are at stake and that business ought to join stakeholders in the political, social and environmental domains in charting a way to sustainability. Corporate citizenship can thus be described as a value system, a code of conduct that is applied throughout an organisation (Rochlin, 2003; Freemantle & Rocky, 2004:8; Van den Ende, 2004; Njenga & Smit, 2007:5).

Corporate social responsibility is a term for which no universally acceptable definition exists. The following, more formal definition emerged from an international meeting the WBCSD (World Business Council for Sustainable Development) organised with 60 opinion formers from within and outside business (Holme & Watts, 2000:10): ***“Corporate social responsibility is the commitment of business to contribute to sustainable economic development, working with employees, their families, the local community and society at large to improve their quality of life.”*** Corporate social responsibility is also described as the decision-making and implementation process that guides all company activities in protecting and promoting international human rights, labour and environmental standards and compliance with legal requirements within its operations and in its relations to the societies and communities where it operates. CSR involves a commitment to contribute to the economic, environmental and social sustainability of communities through the on-going engagement of stakeholders, the active participation of communities impacted by company activities and the public reporting of company policies and performance in the economic, environmental and social arenas (The Bench Marks Foundation, 2003).

Farrel *et al.* (2004) make **four classifications of social responsibility**. These are **legal, ethical, economic and philanthropic**. The **legal dimension** of social responsibility refers to obeying laws and regulations established by government. The **ethical dimension** of social responsibility refers to behaviours and activities expected of or prohibited by organisational

members, the community and society. The **economic dimension** of social responsibility relates to how resources for the production of goods and services are distributed within the social system. The **philanthropic dimension** refers to a corporation's contribution to society as business and is expected to contribute to the quality of life and to the welfare of society.

It becomes clear that corporate social responsibility is concerned with a variety of dimensions a corporation must consider in maximising its positive impact and in minimising its negative effects. Whatever the circumstances may be, sustainability of these activities over an extended period is the most important (Lungu & Shikwe, 2006).

8.3 CSR IN MINING

Jenkins and Obara (2006) maintain that the mining industry has historically taken a “devil may care” attitude to the impacts of its operations; operating in areas without social legitimacy, causing major devastation and then leaving when an area has been exhausted of all economically valuable resources. Cost benefit language has often been used to excuse the damage caused in one place because it is outweighed by the overall financial benefits (Jenkins, 2004). However, in recent years the global mining industry has addressed its social and environmental responsibilities; numerous factors have contributed to this, amongst others international pressure coming from different angles as well as national legislative measures (*also see Introduction and Background; Points 1 and 2*); the extractive industry is now world-wide key in debates about social and environmental sustainability (Cowell *et al.*, 1999).

Although multinational (mining) companies (MNCs) have “remodelled” themselves as good corporate citizens, there is still not much evidence as to how this recognition of the need to address sustainability issues has affected communities, and whether development initiatives have been effective in contributing to more sustainable communities and more effective community engagement (Jenkins & Obara, 2006). For the mining industry, CSR should be about balancing the diverse demands of communities and the imperative to protect the environment, with the ever-present need to make a profit – the well-known **three Ps**, namely **Profit, Planet and People** (*also see Jenkins, 2004*). CSR calls for a company to respond not only to its shareholders, but also to other stakeholders; including employees, customers, affected communities and the general public on issues such as human rights, employee welfare and climate change (Hamann, 2003).

8.3.1 The development of CSR in the mining industry

Today's heightened interest in the role of businesses in society has been promoted by increased sensitivity to and awareness of environmental and ethical issues. Issues such as environmental damage, improper treatment of workers and faulty production that

inconveniences or endangers customers are highlighted in the media. In some countries government regulation regarding environmental and social issues has increased. Also, standards and laws are often set at a supranational level (e.g., by the European Union). Some investors and investment fund managers have begun to take account of a corporation's CSR policy in making investment decisions (so-called ethical investing) (Wikipedia, 2007).

In the case of mining, Warhurst (1998) differentiates between two models of CSR:

a) *Traditional models of Corporate Social Responsibility* – are based on “rights”. These approaches can be summarised as successfully running a business paying regard to the interests of employees, investors, suppliers and customers, while making charitable donations and social investment in the local community, in response to perceived moral imperatives, as well as to ensure the maintenance of a healthy work-force. It involves complying with regulation where required and includes cleaning up pollution, managing incidents and treating other *post-facto* effects of mining after they have occurred. It involves two forms of socially responsible practice: philanthropic giving and the implementation of codes of conduct. These approaches mitigate negative environmental and social impacts in response to the “moral imperative” through add-on social spending measures. Such measures are often costly and non-productive. For example, cleaning up pollution once it has occurred usually means adding on expensive end-of-pipe treatment technologies, such as water treatment plants, dust precipitators and smelter scrubbers. The traditional approach, however, did not take account of the complex conflicts of interest that may arise over time and among different stakeholders regarding what constitutes an efficient use of resources.

b) *Pro-active Corporate Social Responsibility* - requires a more forward-looking longer-term approach to the integration of social responsibility at the very heart of doing business. This means that negative environmental social impacts in all spheres, namely the bio-physical, the economic and the social, are anticipated and prevented right from the start, and that participative approaches to working with stakeholders towards improving the balance benefits for all are, over time, integrated into the very way of doing modern business. It is argued that adopting the pro-active approach would provide an effective way for mining companies to transform their commitment to sustainable development into operational reality. It can further be argued that newly emerging drivers of environmental social responsibility may well lead to multinational companies (MNCs) being obliged for commercial reasons (the acquisition of credit, insurance, the next permit or next contract for the long-term success of the operation, etc), in addition to the moral imperative to integrate this new type of proactive social responsibility more fully within their business practices.

8.3.2 The importance of CSR for mining companies

Society and business cannot be separated. They are both contributing to and benefiting from each other. To survive and prosper, companies need to accommodate changes in what the public expects of business. Current shifts in societal expectations are strongly towards business demonstrating that it can behave ethically and responsibly in return for the freedoms and opportunities society bestows on it. Maintaining such a reputation is essential for survival. In short, **business needs the approval of society to prosper** (Holme & Watts, 1999).

Two other important aspects of CSR for companies as indicated by Holme and Watts (1999) include:

- **Creating shareholder value**

Social responsibility consequently is essential for the creation of long-term value for shareholders. Managers must consider and satisfy the needs of a much broader range of people in their specific quest to deliver value to the shareholders. This requires a mindset that acknowledges the complexity and diversity of a fast-changing world and looks for new and better ways to manage it. The idea of consulting stakeholders can be seen as a tool to understand complexity and prioritise actions. It also reminds the corporation of the social and environmental obligations which come with the freedoms society bestows on companies. Such an inclusive approach to commercial life often also reveals more business opportunities by exposing companies to information and influences they would otherwise miss.

- **Financial and social performance**

Social obligations should not be seen as just another cost. To the contrary, a clear CSR strategy could improve profitability because it will reduce costs by helping to enhance positive social effects and avoid the negative. Furthermore, such a strategy will help align corporate and social values, and because of this may well identify new commercial opportunities.

Hamann (2003) points out that the business case for social responsibility is not yet very clear, but that particularly in the mining industry, social responsibility may have **direct implications for bottom line profits**. Rio Tinto's chief economist convincingly shows how relations between mining companies and local communities play a crucial role in the economic and competitive strength of a mine (Humphreys, 2000):

- Local community opposition, ranging from protest to sabotage, can cause costly delays in production or even termination of production. Such production delays are particularly problematic in the context of increasingly demanding customers in just-in-time supply chains.
- Customers of raw materials are becoming more and more concerned about the production conditions of the materials and increasingly demand certification (e.g. ISO 14001) and apply social sustainability standards.

- Good community relations are crucial for a company's reputation which, in turn, are vital to the company's access to financial resources, government permits and highly qualified and motivated staff.

Warhurst (1998) also indicates that mining activities, like other infrastructure developments, risk the degradation and reduction of environmental resources as well as human health and well-being due to the potential for releases of pollutants to air, water and soils. These risks to the natural environment **translate into financial risks** to the project developer/operator and to the institutions providing financial backing for the project. The strategies adopted by financial institutions to manage and mitigate these risks can be increasingly significant in driving the developers and operators of large infrastructure projects such as mining towards the evaluation, monitoring and improvement of social and environmental performance.

The Bench Marks Foundation's (2003) *Principles for Global Corporate Responsibility: Bench-Marks for Measuring Business Performance* identifies the following **operational principles of CSR**:

- CSR should be integrated into all the various aspects and levels of the companies' operations. CSR is a process in which a company takes its responsibility for the consequences of its acts in the social, ecological and economical field throughout the complete chain.
- Stakeholder involvement: a readiness to engage in a dialogue with stakeholders, these might be individuals or groups who could affect, or are affected by, corporate actions, decisions, policies, practices or goals. Corporations should address all stakeholders, including workers, suppliers and the local population, including consumers, social organisations and the public authorities.
- Transparency and reporting: companies should be accountable by being open and transparent about their policies and practices.
- Independent verification: the quality, use and credibility of a company's social and environmental reports can only be guaranteed by independent verification. Taking responsibility obtains a meaning when a company develops specific policies to observe, respect and promote the international guidelines and treaties related to the specific industry in which it is involved and that which affects all industries in general, while a company guarantees that this policy will be internalised in all aspects of its business activities.

The Bench Marks Foundation provides perhaps the only **independent verification agency** in South Africa; most mining corporations do 'independent verification' by means of engaging the services of consultants such as global auditing firms. There are numerous shortcomings with the auditing firm as verification agency, for example these firms may operate on verification for

profit basis where they consequently need to retain existing clients while simultaneously growing their client base. This means that they will hardly ever produce findings that will cause them to lose a client. In other words, their findings are predetermined by their economic interests, more particularly the need to show a profit to shareholders.

8.3.3 Social licence to operate (SLO)

Since the global environment in which mining companies operate is highly visible, they need to have a **good reputation as being socially responsible**. To achieve this, three fundamental considerations need to be heeded (Veiga *et al.*, 2001:192):

- Environmental impacts must not pose any unacceptable risk to associated communities;
- Mine development must be perceived to bring a net benefit to the community (it is no longer enough to simply mitigate impacts). To achieve this, community diversification must be part of mine planning, development, operation and post-closure; and
- Communications between the mining company and the community must be transparent and effective; citizens should be encouraged to share in decisions that directly affect their future; this will help mining companies avoid risks to the sustainability of both their own operations and those of the community.

These considerations relate to mining companies gaining the consent from the communities in the South Africa to explore, develop and extract their resources responsibly – this means acquiring a **Social Licence to Operate (SLO)**. It not only forms the foundation of the mine life cycle, it also permeates each and every phase from discovery to reclamation (Nelsen, 2005). If Social Licence is not gained from the onset or maintained during the mine's operation, it is likely that the project will not succeed in the long run. Lassonde (2003) makes the following observation: *"Without local community support, your project is going nowhere."* He describes social licence as *"...the acceptance and belief by society, and specifically our local communities, in the value creation of our activities, such as we are allowed to access and extract mineral resources. ...You don't get your social licence by going to a government ministry and making an application or simply paying a fee. ... It requires far more than money to truly become part of the communities in which you operate."* SLO is also described as: *"an intangible (not a piece of paper), non-permanent (implying standards and renewal) measure of ongoing acceptance of a company's activities by communities"* (Nelsen, 2005).

Spierings (2006) also refers to the need for mining companies to obtain '**social licence**' to operate. She raises a number of issues concerning the notion of 'social licence':

- At a theoretical level, one of the issues is who the stakeholders of a company are that are authorised to give a licence to operate.
- Issues raised by different stakeholders may well be contradictory.
- In some cases the social licence to operate is used as a way for a company to build good relationships by means of, for example, stakeholder management.
- Alternatively, social licence to operate is seen as a goal, to have a good relationship with the social environment in which the company is settled. In that case different strategies can be used to finally obtain a social licence to operate (Spierings, 2006).

Nelsen and Scoble (2006) argue that SLO represents a genuine opportunity to transform mining into an activity that is recognised to promote economic and social development of associated communities. As companies venture increasingly into developing and remote locations, contemporary mining development encounters situations in which communities are disadvantaged in terms of economic prosperity and quality of life. Overall, Social Licence to Operate addresses the relationship between a mine and its affected communities through the perceptions created by an **effective consultation and participation process**. How then, can mining companies acquire a social licence to operate?

According to a survey done by Nelson (2005), the top 10 answers on **how to acquire a Social Licence to Operate**, are:

- understanding culture, language and history;
- educating local stakeholders about the project, e.g. mining processes, environment impacts;
- ensuring open communication amongst all stakeholders;
- maintaining a sound track record and a positive corporate reputation;
- training the work-force;
- creating a business partnership with communities for economic development;
- employing innovation and technology to avoid undue impacts;
- seeking community support and capacity building;
- enabling corporate transparency; and
- collaborating with communities to help meet their infrastructure needs.

In order to determine whether a Social Licence has been obtained, the **results from a community consultation program** and a **letter of support** from the community would be the main indicators of its acquisition. The company and community are the main determinants governing whether or not a Social Licence has actually been obtained. Furthermore, a mining company that operates in the Copperbelt needs to have a **mine planning process** that enables an **integrated and comprehensive analysis** of the factors that characterise the situation in which the mine is operating in (see SWOT analysis in 9.5). This analysis is seen

as a logical basis on which to resolve the appropriate process for acquiring a Social Licence according to the particular situation (Nelson & Scoble, 2006).

8.4 CONCLUSION

Spierings (2006) summarises that “CSR is about the structure of the core activities of a company to create a surplus value for society at an economical, social and environmental level. CSR means that the activities of a company must have a positive impact on all stakeholders, which entails clearly more than complying with legislation”. Over the past few years, CSR has become an increasingly significant part of business in Southern Africa. It is especially in the mining sector that CSR has a huge role to play. Although CSR is a difficult concept to pin down in terms of a single universally accepted definition, the character, theme and broad aim of the concept can easily be understood by companies who are willing to make the little effort in attempting to behave in ethical and socially acceptable ways. The fact that there is no single CSR standard should not deter mining companies to form their own unique ways of developing into good corporate citizens. Embracing CSR as a means to achieve sustainable development holds a large number of different advantages (e.g. better financial performance) for mining companies, as well as for the communities within which they operate. As a crucial part of the CSR process, it is very important for mining companies to gain the consent from the communities to explore, develop and extract their resources responsibly (acquiring a SLO).

Subsequently, certain **key findings** with regard to CSR in the South African mining industry will be **critically examined** and **discussed**. These key issues for **each mineral (platinum, coal, gold and uranium)** that came to the fore from the research (desktop as well as empirical research) are categorised under the **three dimensions of sustainable development** (economical, environmental and social). Some of these themes are also cross-cutting across the dimensions. Integrated within the findings of this research are certain relevant **Principles**, **Criteria** and **Bench Marks** [Principles for Global Corporate Responsibility: Bench Marks for Measuring Business Performance] - **printed in bold and stated as questions**, by which mining companies’ CSR performance are **measured with** to determine how (and in which areas) they should still improve (The Bench Marks Foundation, 2003). This is done in order to contextualise the CSR issues that arose in terms of international best practice (see *Methodology – Point 5*). Given the importance of the regulation of the industry as well as the indirect link between legislation and CSR, an overview of the regulatory framework of the South African mining sector will firstly be given, before proceeding to the rest of the discussion.

9. LEGISLATIVE AND POLICY FRAMEWORK

9.1 MINING LEGISLATION

Changes to the National Environment Management Act to effectively remove environmental oversight and regulation over the mining industry from the Department of Environmental Affairs and Tourism, and placing it under the auspices of the Department of Minerals and Energy is of **major concern to both environmentalists and communities**. These changes came about as a result of pressure brought by the industry on the National Government, resulting in an effective investment boycott between 2005 and 2006.

The 'green backlash' by the industry is continuing as the government is under pressure to speed up the granting of new-order rights from old-order rights. Mining corporations are complaining that even the minimalist mining charter is holding the sector back.

There is a strong perception that the ways in which exploration and mining licences are issued in terms of the **Mining Petroleum Resources Development Act (MPRDA)** are unconstitutional. No communities have tested this in court. However, most communities are too poor to take super rich mining corporations on in a drawn out legal battle. Clearly the class-based judicial system in South Africa serves those with the requisite financial backing. Section 25(1) of the Constitution says that property rights may not be interfered with unless it is done under a law of general application, meaning that the law does not target named or easily identifiable individuals or groups. The same section also prohibits the arbitrary deprivation of property.

Section 25(2) deals with the expropriation of property, noting that it requires a law of general application. Expropriation also requires a law of general application. **Expropriation can only be done for a public purpose or in the public interest**. The public interest includes the nation's commitments to land reform and to reforms to bring about equitable access to all South Africa's natural resources section 25(4). Should land be expropriated, there must be **just and equitable compensation** for individuals or communities whose land has been seized.

In the case of mining, the law of general application refers to the MPRDA. However, the law comes short in that, in the case of mining, two clearly identifiable groups almost invariably suffer the loss of their land. These two groups are **commercial farmers**, or **rural communities** who depend on subsistence agriculture to survive. Commercial farmers are essential to the food security of the nation. Not only do they lose valuable agricultural land to mining, but also the kind of environmental degradation of land, water and air that makes farming almost impossible.

There is significant evidence of collusion between the state and mining companies to undermine the constitutional land rights of communities as was shown in the case of the *Alexkor Ltd and the South African Government v the Richtersveld Community and Others*. In this case, the State and Alexkor argued that there are no grounds to claim the right to aboriginal title or ownership based on indigenous rights in South Africa. On October 2003, the Constitutional Court decided that the Richtersveld community had a right under section 2(1) of the Restitution of Land Rights Act to the restitution of the right of ownership of the subject land (including its minerals and precious stones) and the exclusive beneficial use and occupation of the land. The Richtersveld finding surely contradicts the ease with which mining corporations are pushing traditional communities off their land using the instrument of the MPRDA.

The **complete incapacity** of the Department of Minerals and Energy to monitor, oversee, or regulate the industry is leading to the systematic destruction of the environment in general and of both ground and surface water resources in large parts of the country. This incapacity of the DME has also impacted on mine safety, with safety spiralling out of control at the end of 2007.

9.2 LEGISLATIVE CONCERNS REGARDING CSR

The industry has successfully lobbied to reverse control and oversight by the Department of the Environmental Affairs and Tourism through the mechanism of the National Environment Management Act, back to the Department of Minerals and Energy as it had been under *Apartheid*. Having brought about this reversal, the mining corporations have not only demonstrated their power over the government, but also their cavalier attitude to matters concerning the environment. Society cannot function within a poisoned environment. The single most destructive impact of mining is on the environment. A clean environment is the foundation of a healthy society. Mining corporations are not held accountable for many of the costs that their operations impose on society; those costs are borne by the state and by tax payers.

The inordinate power mining companies exert over the government is derived from the government's inability to address questions of unemployment, poverty reduction, crime and the health and housing questions – in a word delivery – outside the structural imperatives of the neo-liberal economic model it has adopted. Mining is seen as the vehicle, not only for the elitist empowerment model adopted, but also as the means for delivering on all the other challenges faced by government.

Mining corporations are expert at what is known as “green washing” i.e. making a big song and dance in public media over environmental and social responsibility issues that are legal imperatives in any case; responsibilities that had to be forced on them through legislation - legislation which they fought tooth and nail to prevent and which they continue fighting to reverse. The extent of corporate social responsibility can also be measured by the fact that many mining operations across the country **operate without water use licences**, as well as by the extent of struggles between communities and farmers on the one side and mining corporations on the other. Surely, effective corporate social responsibility programmes addressing the impact of mining on communities would have seen far less of the current clashes where corporations rely on the South African Police Services to impose themselves on communities. What the South African public is seeing on television is reminiscent of the forced removals the *Apartheid* regime was so infamous for.

10. PLATINUM MINING IN LIMPOPO

10.1 INTRODUCTION AND BACKGROUND

The research in the Limpopo area focused on Anglo Platinum’s PPL, now renamed RPM – Mogalakwena section located 20 km north-west of Mokopane (formerly Potgietersrust) in the Waterberg District and Mogalakwena Local Municipality (Anglo Platinum, March 2008) and the impact of these operations on Mothlotlo and other villages in the area looking at the environmental impact of this operation on land, water and air. Community relocations are also addressed with a focus on both those who have resisted relocation, and those who have been relocated to Armoede. Questionnaires were also filled in and interviews conducted in Sekuruwe and Fikiming villages, both situated in close proximity to the PPRust operation.

The second area of focus in Limpopo is the Sekhukhune District, looking at the operations of Implats’ Marula mine, and operations and intended operations of Phokathaba Platinum (Pty) Ltd which is a joint venture between Corridor Mining Resources (Pty) Ltd (“Corridor”), Limpopo Economic Development Enterprise (“Limdev”) and Smokey Hills Platinum (Pty) Ltd (“SHP”), a subsidiary of Platinum Australia Limited (“PLA”). The impact of these operations on Sehlaku Village, Mamphahlane Village, Crossong Village, Magabane Village, all located on the farm of Maandagshoek (Farm 245 KT), in the Greater Tubatse (formerly Burgersfort) Municipal Area will be scrutinised. Additional focus also fell on some of the relocation projects involving Anglo Platinum in Sekhukhuneland such as the village of Mecklenburg.

Before discussing the findings, a more complete picture might be drawn by first looking into the **structure of Platinum in Limpopo**:

10.1.1 Geology

The Bushveld Igneous Complex (BIC), which extends for 400 kilometres in the Northern Province, contains the world's largest known deposits of platinum group metals (PGMs) - platinum, palladium, rhodium, ruthenium, iridium and osmium. The BIC system is divided into an eastern and western lobe with a further northern extension: it is believed that all three sections of the system were formed around more or less the same time - about 2 billion years ago - and are remarkably similar. Vast quantities of molten rock from the earth's mantle were brought to the surface through long vertical cracks in the earth's crust creating the geological intrusion known as the BIC. The effects of these injections of molten rock over time, combined with the crystallisation of different minerals at different temperatures, resulted in the formation of a structure rather like a layered cake consisting of distinct mineral strata, including three PGM-bearing reefs.

10.1.2 Reserves

The unique BIC contains estimated PGM reserves of 62 816 tons – about 55,7 per cent of the world total. So far, the Merensky Reef has been the source of most of South Africa's PGMs. It is estimated to contain some 17 000 tons of PGM reserves. In the western BIC, where the major platinum mines are situated, the reef occurs in a narrow 25-centimetrewide PGM rich band bounded by two thin chromite layers. This pattern falls away in other areas resulting in the reefs diverging between the chromite bands until it is many metres wide. The Merensky Reef is characterised by its high PGM grades and the high ratio of platinum to the other PGMs, especially those of major importance such as palladium and rhodium. The UG2 Reef, which is more consistent throughout the BIC, is rich in chromite, but lacks the Merensky's gold, copper and nickel by-products, though its PGM reserves may be almost twice as large as those of the Merensky Reef. It is estimated that increasing exploitation of the UG2 Reef will lift its contribution to South Africa's platinum output. The Crocodile River mine was the first devoted entirely to exploiting UG2 ore.

In the northern extension of the BIC the Platreef is found. Whereas the platinum palladium ratio in the Merensky and UG2 reefs is close to three to one, the two metals are found in equal measure in the Platreef deposits. What makes for a major political conundrum is that the platinum is found mainly in those areas that were designated 'homelands' under *Apartheid*. Before 1968 and the major oil crisis of the early seventies and the air pollution crisis in major US cities, platinum was not considered to be a mineral of major importance. However, since the introduction of petrol catalysers in motor vehicles in an attempt to reduce carbon exhaust

emissions, the price of platinum has risen dramatically. The growth of private motor vehicle ownership in China has also greatly contributed to the rise of the platinum price in recent years. Most of the platinum bearing land is therefore land which falls under traditional authorities, rather than land which belongs to private landowners. Given that under *Apartheid* 78% of all land belonged to private white landowners, the alienation of land in the remaining 13% which formed the homelands for purposes of mining is extremely problematic. The government is involved in processes of land restitution and redistribution in order to address the inequities of *Apartheid* on the one hand, while on the other it is **taking away land from the very same black majority for purposes of mining.**

10.1.3 Market

The major industrialised countries of the world – spearheaded by the United States, Japan, China and the European Community – member states are enacting legislation to apply increasingly stringent auto emission standards, in spite of developments such as lean-burn engine technology (which aims at complete petrol combustion), and Ford's claims (subsequently shown to be exaggerated) regarding a new type of platinum-free, palladium oxidation catalyst, for the foreseeable future platinum/palladium/rhodium catalysts are likely to be the overwhelming choice of motor manufacturers world-wide. Auto catalyst demand and especially that for the three-way converters with their higher unit loadings of precious metal, continues to be encouraging. As a result of the European Parliament's series of votes in favour of tighter emission controls, 80 per cent of European cars were required to carry three-way catalytic converters by 1993. After Kyoto and the World Summit on Sustainable Development (WSSD) most new vehicles that are manufactured come standard with catalytic converters, driving up the platinum price.

The electricity supply crisis which hit South Africa in the first four months of 2008 and caused a week-long shut-down of all mining operations and thereafter a 10% reduction in electricity supplies to mines, meaning that mines operate with only 90% of electricity supply, has further contributed to the spectacular rise in the global price of platinum. Signs of recession in the USA and increasing production costs, partly as a result of the high price of platinum and the price of oil driven by continued instability in the Middle East, has seen a dramatic fall in car sales globally. Car manufacturers are looking for ways to cut production costs in both alternative fuel to drive vehicles and for a substitute for platinum in the manufacture of catalysers. One heavy-vehicle manufacturer has already announced that it is able to manufacture auto catalysers from silver instead of platinum (SABC News Desk, April 2008). The heavy dependence of certain provinces in South Africa on mining, and the complete failure to diversify their economies, could prove disastrous should the current commodity boom collapse.

Consequently, the impact of platinum mining in Limpopo on the **three dimensions of sustainable development (economical, environmental and social)** will be discussed.

10.2 FINDINGS AND DISCUSSION

Platinum producing areas of Limpopo reviewed by the researchers were Amandelbult, Mokopane (PPRust), Sekhukhuneland (Marula and Twickenham, and emerging Nkwe and PLA operations).

10.2.1 Economic dimension

Do the corporations have policy statements that measure their social, environmental and economic impact on local communities affected by their operations? (1.3.C.1)

Each of the mining companies under review is governed by the Mining Charter and is required by this Charter and the Minerals and Petroleum Development Act to develop **Social and Labour plans** and report in terms of a balanced scorecard on an annual basis, which is then submitted to the Department of Minerals and Energy. The Act along with the National Environmental Management Act also requires that each operation develops an Environmental Impact Assessment (EIA) and Environmental Management Plan (EMP), which can only be drawn up after local communities have been duly consulted. The social and labour plans must similarly follow a process of consultation with local communities and labour.

The bigger corporations such as Anglo Platinum, Implats, Lonmin and Xstrata make reference to these documents in the CSI/CSR components of their Annual reports. However, there is scant reference in the same literature produced by BEE, emerging or junior mining companies such as African Rainbow Minerals, Nkwe Platinum and Platinum Australia.

Given the immensity of mining operations and the sheer scale of the corporation's size, power and wealth vis-à-vis local communities, civil society structures (NGOs, CBOs, FBOs) and even local and provincial government, there is need to consider an evaluation process which is not underpinned by the market or client relationship that underpins current audits and evaluations. It is also necessary to create a centralised fund to which mining corporations should contribute to be used by communities in order to access legal opinion and expertise to assist in making the consultation process between communities and mining corporations more balanced and meaningful. It is necessary to give communities more meaningful say in the consultation process and its outcomes. The approach Anglo Platinum took with communities to the North of its PPRust operation where "it took a principled position to pay for all costs of consultants required by the community on all issues relating to the relocation process" (Anglo

Platinum, 2007, p. 22) is an extremely dangerous and divisive one. Members of the community hostile to Anglo Platinum's intentions immediately concluded that such consultants and lawyers are doing the bidding of the corporation, given that they are being paid by the same.

Do the corporations under review, in consultation with local communities, establish a policy that incorporates into their business plan the best interests of the community, both now and into the future? (1.3.C.2)

All the major corporations where they do have operations impacting on local communities do consult with communities to establish policies that incorporate the best interests of the community, *as perceived by the corporation*. Corporate perception is often clouded by the corporate world-view and interests and an assumption about the corporate's own 'civilising' mission of community upliftment. In its response to Action Aid, Anglo Platinum constantly uses the word 'underdeveloped' when referring to communities targeted for relocation. It also refers to "the community was overwhelmingly in favour of the proposed relocation because of the greatly superior housing, infrastructure and facilities offered by way of compensation" (Anglo Platinum, March 2008, p. 22) in what may be described as a crude messianism referring to a promised land. Corporations share the misconception common in western discourse (Bitterli, 1989) which argues that any community not having the amenities or wealth judged by the ownership material goods and commodities of western urban life must be poor and deprived. Add to this the colonial perception which plagued the mining industry in South Africa from its inception, that any person who is not in waged or salaried employment must be unemployed (Bundy, 1979) and consequently a very dangerous notion of 'community interests' will arise. Many of the corporations direct their interventions through the local economic development plans and strategies of local or district governments. Others engage with the traditional authorities and many do both simultaneously, covering all bases as it were. Interestingly, where mining operations occur on land owned by commercial white farmers, mining corporations engage in consultation and negotiation individually with each farmer. In other words the rights of the person as an individual are recognised. The process and outcomes of these consultations are fraught with problems:

- The crisis of delivery affecting local government throughout South Africa has resulted in communities considering these democratic structures with great suspicion and cynicism. Community members from Limpopo referred to the dominant party in the local council at Mokopane as the Anglo National Congress (African National Congress) as they perceive counsellors from the local and district government to be colluding with the dominant mining corporation in the area.
- Traditional authorities are often divided on the issue of mining; some like Kgosi Isaac Kgoete at Maandagshoek has taken a principled stance opposing mining on his

community's land, whereas Kgoshigadi Langa at Ga Puka and Ga Sekhaolelo supported mining her community's land.

- There are often divisions between communities and traditional leaders on the issue of mining. Communities are often not homogenous in their attitude towards mining, and it is dangerous to subsume individual rights and perceptions into community rights and perceptions as Anglo Platinum has found out in the case of Ga Puka and Ga Sekhaolelo. The identity of indigenous communities is often tied very closely to the land and land use. Gender identity and responsibility is closely tied to cultivation and herding on the land as is status within the community. Anglo Platinum and the other mining corporations in Limpopo talk of traditional communities and avoid the term indigenous community. This is perhaps because the Constitutional Court finding against Alexkor and the Department of Minerals and Energy in favour of traditional communities in the Richtersveld (Lahiff, 2007, p. 224) to the effect that not only the surface rights but also the mineral rights belonged to the indigenous community under section 2(1) of the Land Rights Act.
- Resistance from at least part of the community to Anglo Platinum and the Section 21 Company's efforts to relocate them to Armoede is well documented (Brown, 2007).
- Anglo Platinum claims that the two Section 21 Companies set up for the relocation operate as independent entities, with a set memorandum and articles of association [Anglo Platinum fails to point out that the Directors of these companies are paid for by Anglo and that it is therefore not unreasonable for communities to assume that these Directors will do Anglo Platinum's bidding]... The community is entitled to understand and assert its legal rights throughout the resettlement process and that is why the community had access to a legal advisor when the community relocation steering committees were first established [Anglo Platinum fails to point out that the 'community' is not a legal entity, only individuals in the community are legal persons, the community also cannot assume a collective understanding of the individual rights of its members. Many in the community did not accept that they would be represented by a legal advisor appointed by and paid for by Anglo Platinum as this denied them their **human right to independent legal representation**. It is therefore doubtful that any contracts entered into by the Section 21 Company could be binding on individuals in the community, particularly those who have refused to participate in it]....Anglo Platinum took a principled position to pay for all costs on consultants required by the community on all issues arising out of the relocation process. This includes legal consultants, environmental experts as well as blasting consultants [This flies in the face of Anglo Platinum's claims that its approach to communities are 'partnership oriented rather than paternalistic and reactive' (Anglo Platinum, 2007, p. 62). **The fact that Anglo creates, hosts and pays for community structures implies a belief that it can buy democracy.** This spells huge problems for democratic institutions in South Africa. The payment for 'experts' on behalf of communities is also extremely

unsettling, given that these consultants are in the pay of the corporation and the results of their findings will no doubt always reflect the wishes of their paymaster].

The points that are raised above show that the entry of mining activities onto the land of a community can prove to be extremely divisive. Expert papers, presented at the Mining Minerals and Sustainable Development (MMSD) Conference in April 2002, demonstrate that where a community is to be displaced by mining it is wrong to adopt a relocation approach. Instead, the corporation involved should refer to the **rehabilitation of the community**: *“Project owners, financiers and governments are apt to mistakenly call relocation and rehabilitation costs benefits for the displaced. If a mining promoter is injured in a car when hit by Mr. X, would the promoter call the damages Mr. X pays for his injuries benefits?” The goal of these exercises should not be compensation, but **rehabilitation and sustainable development for the community relocated**”* (Downing, 2002, p. 15). In other words, relocation is never a benefit to communities, it is always an injury. Therefore, the first option to a community should be the option of refusal; a right which should be respected by both government and corporations. The South African Constitution only calls for fair compensation in cases of relocation in the public interest and in this sense it fails rural communities in their engagement with corporations and is in need of review in this regard.

Do the mining corporations under review affirm the central importance of sustainability for communities (in present and in the future), for the integrity of human beings, culture, society, economic well-being, environmental responsibility and the way of life of the people impacted on by mining? (1.3.C.2)

The major mining corporations under review claim to affirm the importance of the sustainability of communities, the integrity of human beings, culture, society, economic well-being, and environmental responsibility. However, they have very little respect for the way of life of these communities as the world-view of the corporate, driven by the profit motive and realising the highest possible dividends for their shareholders. In both Mokopane and Sekhukhuneland there has been mining-induced displacements of communities and where communities have resisted, corporations have resorted to using both public and private security forces and the courts of law (Sonnenburgs, 2008) to force communities to comply with the wishes of the corporation (Thakali, 2007). Many of those who have been relocated at both Armoede and Mecklenburg complain about a **collapse of cultural institutions**, a **loss of respect for elders**, a **loss of economic well-being** as well as a **failure of Section 21 Companies to recognise their human integrity**.

The Section 21 Companies or “Empowerment Companies” often displace the structures of traditional societies and local government. The powers of Kgosis or Indunas are effectively usurped by these companies, even where Kgosis participate in them. Some Kgosis also

voluntarily relinquish their responsibilities in return for material wealth and prosperity proffered by the corporations. This is certainly the case in villages in the areas to the North-West of Mokopane in Limpopo including Mothlotlo and Armoede. The divisions created by the corporations utterly destroy the institutions and traditions of traditional communities and leave them without identity. The Section 21 Company also assumes the roles and functions of local government with regard to the direct provision of services as well as infrastructure to the representation of communities, the calling of meetings, etc. The effect of this is the **disempowerment of elected local government** and the **emptying out of the content of government by election**. Local government is therefore effectively usurped by the Section 21 Company.

Anglo Platinum assumes that the Section 21 Company collectively represents the community and broaches no individuals or families that refuse to recognize this collective representation. This does not mean that local government opposes this disempowerment of itself. In fact, in many cases local government seems to welcome it as it reduces the weight of its own responsibilities and it allows local government to claim investment by corporations as examples of 'delivery' in its own reports.

Communities are severely disempowered in the process of the establishment of Section 21 companies by mining corporations in that their recourse to both traditional authorities and the democratically elected local government is effectively dissolved and they are referred to the Section 21 Company when they try to raise any concerns about their relocation, lack of water in relocated houses, services, infrastructure or the cracking of new houses. While the directors of Section 21 companies were originally 'elected' at their inception, it would seem as if subsequent annual elections required by law are not taking place and that the current incumbents, some of whom are not even members of the community would resist any challenges to their lucrative positions.

Do the mining corporations under review evaluate all their operations in the light of community sustainability? (1.3.C.3)

It has been found that mining companies do consider community sustainability in terms of the specifications of the Mining Charter, the balanced scorecard and their social plans and because the legislative environment within which they operate compels them to do so. Most commonly the mines link into the local economic development (LED) programmes of the nearest local or district government. For instance, African Rainbow Minerals (ARM) "takes great care to ensure that its corporate and social investment programmes are directly aligned with that of local government's economic development projects (African Rainbow Minerals, 2007, p. 91).

Without legislative compulsion it is doubtful that the corporations under review in this section are as generous. This legal compulsion is required to force mining corporations to act in a socially responsible manner, which can be seen from the fact that these companies **continue to exert pressure on the government to relax social and environmental legislation**. Thus the Business Times reports that, according to a recent anonymous poll of mining executives 'by Canada's Fraser Institute, showed that there clearly is a problem. Nine percent of respondents are so strongly opposed to the new mining laws and they will consequently not invest in SA, and 36% regarded the new laws as a strong deterrent... SA's mining regulations were regarded as the 53rd worst out of 68 mining regions. SA ranked the overall 50th most attractive mining destination in 2006, falling from 25th before the new laws were promulgated in 2004 (Laing, 2008).

Pro-corporate lawyer Peter Leon of Webber Wentzel Bowens, who is also senior vice-chairman of the Mining Law Committee said the following at a Merrill Lynch Mining Indaba in 2008: "In view of what appears to be a serial decline in South Africa's mining industry at a time when the world experienced its longest – six and a half year – commodity boom, one has to ask how this happened and more importantly, how can it be remedied... In my view, South Africa's mining regime plays a principal role in this" (Laing, 2008).

What are the issues in the legislative environment that are upsetting the companies so much?

- **The 'nationalisation' of South Africa's minerals.** The MPRDA places the ownership of South Africa's minerals in the hands of the government. This seemingly 'progressive' or 'leftist' content of this particular Act is often cited by pro-industry commentators as a cause for grave concern as in the 'old-order' i.e. the pre-1994 Apartheid order mining companies could lay claim to mineral resources by negotiating prospecting rights with the individual owners of land. Those owners were, in the pre-1994 era mostly white, given that the white population owned 78% of all land. This led to a monopolistic situation in the mining sector, with a handful of corporations dominating not only the industry, but also the mineral reserves of the country. The South African government's schizophrenia with regard to its national legislation versus its obsession to globalise has put it in a thorny situation. It also stems from the fact that the ruling party is attempting to pursue a program of creating a black middle class while simultaneously trying to appease working class Allies in the Congress of South African Trade Unions (COSATU) and the South African Communist Party (SACP). The nationalisation of SA's mineral resources is contradicted by its commitment to World Bank, International Monetary Fund and other global market mechanisms and agreements. For mining corporations these global commitments supersede national legislation, thus 'Italian investors in Marlin and Red Granti last year launched their €266 million expropriation claim against the South African government, under the

World Bank's dispute settlement facility, and a flood of similar cases may start" (Laing, 2008). However, human rights lawyers and NGOs acting on behalf of communities have pointed out that the 'nationalisation' of minerals in South Africa has greatly simplified matters for mining corporations in that they no longer have to negotiate with individual farmers or traditional communities but with the South African government as a single entity, thereby shortening and simplifying the process of acquiring mineral rights. This has had the consequence of undermining the land and housing rights of communities as well as their ability to negotiate royalties, fair compensation, and shareholding in their own right (Capps, 2008).

- **The "use it or lose it" principle** allows for 'juniors' or 'new entrants' to mining to claim prospecting and mining licences over property that belonged to mining companies who failed to effectively use their 'old-order' rights, or to convert them into new-order rights within a specific time frame. This has opened the door for new entrants, or 'juniors' into the industry. Typically Canadian and Australian prospecting or mining companies team up with BEE partners and apply for prospecting licences. In many instances the intention is not to mine, but to acquire land obtain a prospecting licence, determine that there are bankable minerals in the ground and then 'sell' their mining rights to the highest bidder. This has caused a situation akin to treasure hunting, with unscrupulous individuals seeking instant wealth. A clear instance of this was the acquisition of some of the most lucrative platinum mining concessions by Nkwe which belonged to Anglo Platinum under the old order.
- **Social and labour plan issues.** In accordance with South Africa's Mining Charter, mining corporations are obliged to submit social and labour plans to the DME and are annually measured against a balanced scorecard. According to the Mining Charter corporations are obliged to:
 - Achieve 10% women's participation in the employment structure of the company by 2009;
 - Achieve 40% black participation in the labour force by 2009;
 - Gradually phase out migrant labour;
 - Achieve 26% BEE participation.

These 'transformation' requirements are considered further impediments to investment in the industry by pro-corporate commentators such as Merrill Lynch and Weber Wentzel Bowens (Laing, 2008).

Critics of the industry consider the relationship between DME and corporations within the mining industry as being far too cosy and that the targets set in the Mining Charter as minimalist. They also point out that the Charter fails to address issues such as the impact of mining on the environment, on communities and on human rights (The Bench Marks

Foundation, 2008). One is reminded of something written by the Bard: ***“When law can do no right, let it be lawful that law can bar no wrong”*** (Shakespeare, King John Act 3).

It was further reasoned that the DME had the concentrated skills capacity to deal with mining issues and the environment and that these are so specialized that the DEAT would not be able to cope with the demands. This argument put forward from the floor by an official of the DME at Colloquium, co-hosted by Wits and the DME on 11 November 2007 (Women and Mining Colloquium, 2007), is spurious to say the least, if one considers the mine safety crisis which erupted after a spate of mining accidents which lasted from June 2007 through to January 2008, and the fact that the DME had in fact cut the budget of the mine safety inspectorate prior to this rapid rise in mine fatalities (Seccombe, 2007). The DME and DEAT has in fact initiated the process of excluding the mining industry from NEMA and DEAT control towards the end of 2007 (The Bench Marks Foundation, 2007) leading to a flurry of objections from NGOs and CBOs. This opposition stems from the fact that the prime objective of the DME is to promote rather than retard mining. For NGOs and CBOs the proposed changes implies that DEAT will become a player as well as a referee. Earthlife Africa has warned that “(i)t seems that not only the DME, but also the DEAT who is supposed to protect the environment, are creating inappropriate loopholes with the kind of flexibility that, if given to government organizations verges on dictatorship - stripping people of their rights to participatory governance... Are South Africans aware that these proposed amendments will do away with their rights as landowners since landowners' consent is not required where a third party intends to undertake a listed activity on that owner's land?” (Enviroadmin, 2007)

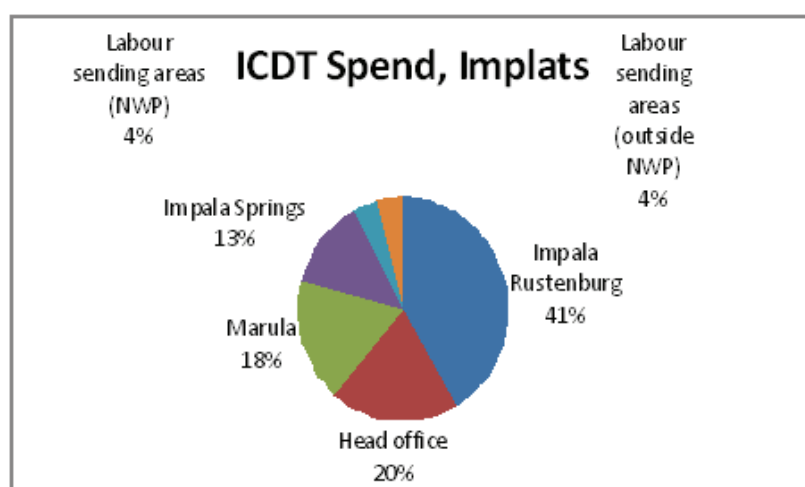
The impact of mining corporation sustainability programmes is also rather limited given the scale of mining operations and the revenues generated by mining from land which belongs to communities. Thus, during the 2007 financial year, direct and indirect beneficiaries of Implats social investment expenditure numbered 14, 195 and 11,599, of which 410 (148 direct, 262 indirect) were people living with disabilities. The total Impala Community Development Trust Spend for 2007 was a mere R28,184,828 (Implats, 2007). Anglo Platinum spent R126 million in 2007 on corporate social investment (Anglo Platinum, 2007) out of a gross profit R19,097 million (a gross profit margin 40.7%). The corporate social investment spend of Anglo Platinum therefore amounted to roughly 16%. This figure seems large until it is realised that hidden in the CSI spend are some normal costs. Included in Anglo Platinum's social investment spend is the costs of mining-induced relocation of communities (Anglo Platinum, 2007, p. 4). Mining-induced community relocation spend is a Constitutional obligation and not a corporate social responsibility (welfare) spend. The Anglo Platinum CSI spend is therefore inflated by what it is obliged to spend in any case. Paying for the rehabilitation of someone you have run over is not an act of charity, it is an obligation.

Do the mining companies under review establish consultative structures, including senior directors and representatives of stakeholders identified by local communities, society and its own work-force which meets on a regular basis to discuss the

company’s business goals in relation to community needs, including social and environmental concerns, community sustainability and respect for the dignity of all persons? (1.3.B.3)

Implats has a Corporate Responsibility Director with an independent budget. This directorate then engages with stakeholder structures, although most of the attention is focussed on Rustenburg rather than on Limpopo operations. Thus Implats spends 42% of its CSI budget in Rustenburg and 18% at Marula in Limpopo.

Figure 1: Impala Community Development Trust expenditure in FY 2007 (excluding administration costs)



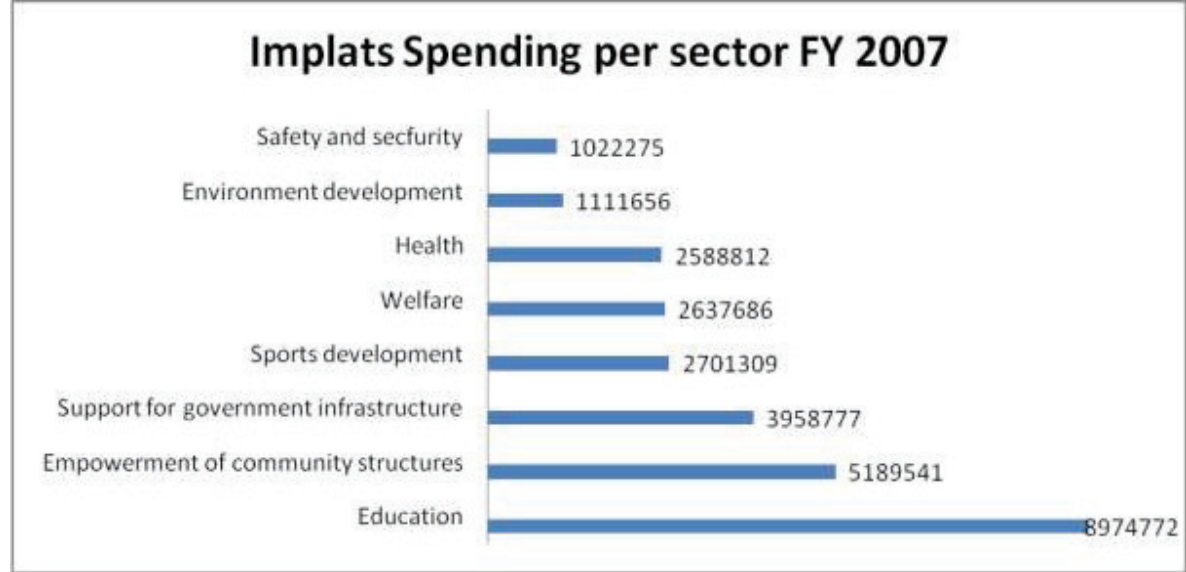
Source: IMPLATS (2006, p. 31)

African Rainbow Minerals reports spending R7.5 million in 2007 on local government economic development projects down from R9 million in the previous year. It projects that it will spend a further R27 million over the next five years. The projects ARM focuses on are ‘integrated within the Integrated Development Plans (IDPs) of the various district and local municipalities. Projects under discussion include olive plantations, household chemicals, brick-making, coffin-making and funeral services, tourism and archaeological and cultural preservation projects, vegetable gardens and intensive crop tunnels....” etc (African Rainbow Minerals, 2007, p. 91). The impact of ARM’s CSR programme can therefore be described as minimal, completely unrelated to the impact of its operations on communities and completely tied in with the needs of local government rather than of communities affected by ARM operations.

The direct and indirect beneficiaries of Implats’ corporate social investment expenditure numbered 14,195 and 11,599 respectively. Of these 410 were people living with disabilities.

This equals a total of 25 794 people benefiting from R28,184,828. This amounts to roughly R1 092.69 per recipient per annum. Placing this against the total combined populations of Rustenburg and Sekhukhuneland of some 2 million people, Implats reaches exactly 1,25% of the total population affected by its operations. The impact of the Implats CSR programme is therefore also miniscule.

Figure 2: Implats spending per sector (ZAR) FY 2007



Source: Implats (2007, p. 30).

As mentioned earlier in this document, Anglo Platinum is engaging with communities through Section 21 Companies, a highly problematic engagement strategy.

Do the mining corporations aspire to integrate the interests of all stakeholders with that of their own business goals? (For example local farmers) (1.3.C.8)

The research has found that mining-induced displacement and resettlement is extremely disruptive of traditional communal farming in all phases of mining from exploration through to closure. Exploration rigs pop up in the middle of grazing and cultivation fields. Mining waste cover huge tracks of agricultural land, while resettled communities often complain that the land to which they have been resettled is not suitable for agriculture or lacks access to adequate water. Attempts at integration of interests through the agency of Section 21 Companies at times **causes social conflict and disharmony**.

Do the mining corporations under review develop a transparent process for the inclusion of indigenous peoples as full participants in business decisions? (1.4.C.7)

The general findings of the research suggest that they do not. Indigenous peoples, if narrowly defined as local traditional communal or ethnic groupings are not full participants in business decisions. In terms of participation as shareholders, the situation varies from company to company and province to province with community shareholding varying greatly.

Thus Royal Bafokeng Holdings (RBH) holds 13.4% of Implats equity, on behalf of the Royal Bafokeng 'Nation' (North West Province); the Marula Community Trust holds 22,5% in Marula (Limpopo), and the Bakwena Ba-Mogopa Traditional Community tribe holds 26% in the Leeuwkop Project (North West Province) (Implats, 2007).

ARM runs a Broad-based Economic Empowerment Trust (the BBEE Trust), which holds 10% of the corporation's issued share capital. A variety of groups from union representatives through to a broad-based women upliftment trust are registered beneficiaries of the BBEE Trust. Additionally, communities around the Modikwa operation own a 17% stake in ARM Mining Consortium Limited, which in turn owns 50% of Modikwa Platinum Mine. It is reported that the Modikwa communities have been the beneficiaries of some R13 million in CSI expenditure over the past three years (African Rainbow Minerals, 2007, p. 88). The figure of R 13 million pales into insignificance when compared to the prices of luxury corporate homes in Sandhurst or Sandton.

Anglo Platinum reports shareholding by RBH in the Bafokeng Rasimone Mine (North West Province) stands at 50%, that the Bapo Ba Mogale community is a participating shareholder in the Pandora Joint Venture, while the corporation has signed a legal agreement with the Bakgatla-Ba-Kgafela near Union Mine (North West) to turn their existing royalty arrangement into a 15% shareholding in the operation. The Bakgatla community also provides 47% of the labour-force to the mine. This latter piece of information would be refreshing, and probably a first, although there is some doubt about how many of these employees are actual members of the Bakgatla-ba-Kgafela community, or ex-migrant workers on the living-out allowance (Anglo Platinum, 2007, p. 38)

On 26 October 2007 Kgosi Nyalala John Molefe Kgafela appeared before Mogwase regional court magistrate, Stefaan du Toit, on fraud charges, the case resumed on March 31, 2008 and will decide whether the Kgosi has committed fraud of R27 million.

The Bakgatla ba Kgafela chief from Moruleng in Saulspoort, North West, is facing 43 counts of theft, corruption and defrauding the Land Bank of R27 million. Chief Pilane, 47, is appearing

with Councillor Koos Shimane Motshegwa, 46, who is facing a charge of stealing R10 000 which belonged to the tribe.

In December the Government Communications and Information Services (GCIS) reported that five major organisations at the heart of North West's economy have joined hands to grab opportunities in the mining industry, "while committing to protect land from waste contamination and air pollution."

It is further reported by GCIS that the North West Parks and Tourism Board (NWPTB), the Heritage Park and the three mining companies have signed a collaboration agreement which will see a joint and consultative approach to mining in the mineral rich Rustenburg area. Previously there have been concerns that mining activities took place with little regard for issues of conservation which had a negative impact on the health of residents and the land. Another concern was that, while the area had massive mining potential, miners embarked on such activities on the land that could rather be used for tourism and nature conservation - another key economic strength prevalent in the area.

The three mining companies - Barricks, Boynton and Itireleng Bakgatla Mineral Resources signed an agreement "which also paved the way for affected community members to be brought on board on issues of mining and conservation in the area." The Heritage Park, which raises awareness around issues of conservation, established a mining collaboration project to deal specifically with issues related to mining, conservation and economic development. Chairperson of the Conversation Sub-Committee of the NWPTB, Gabriel Makgoko described the collaboration between his organisation and the mining companies as the pioneering achievement in collaboration between conservation and mining. "In the past, mining and conservation were operating separately. The focus has always been on mining. We are very glad that in the history of South African mining, we are the first province to actually bring mining companies together to consider the importance of mining and conservation," Mokgoko said.

According to Mokgoko, relevant stakeholders have agreed to support the innovative approach of engaging mining with conservation and tourism in a proactive and collaborative manner to optimize the return from the land. Seven mining companies have licences to prospect the platinum and chrome resources in the heritage parks corridor to the immediate north of Pilanesburg National Park. The Rustenburg Minerals Development Company had ongoing operations in the region for some time. Other companies such as Anglo Platinum, Barricks, Boynton Platinum, Chrometco, Nkwe Platinum and Anooraq are at different stages of prospecting. The Bakgatla Ba Kgafela tribe in Pilanesburg owns the largest portion of land in the area that is targeted for mining. Chief Nyalala Pilane of Bakgatla Ba Kgafela, who owns the Itireleng Bakgatla Minerals, signed the agreement on behalf of his company and tribe. He

said the collaboration would enhance their working relationship with mining companies and communities in the area. The Chief Executive Officer of Platmin Limited, Ian Watson, said his company has agreed to sign the agreement because they wanted to change the perception that mining companies did not take conservation seriously. NWPTB Chief Executive Officer, Charles Ndabeni said they will work closely with these mining companies to also advance the economy of the province.

Kgosi Pilane was dismissed by his tribe in March 2008 on the corruption allegations. Mr Gabriel Mokgoko appears to be the proverbial 'wolf in sheep's clothing', as he has many conflicting interests including serving both North West Parks and Tourism and being on the board of a mining company and close family associate of Mr Patrice Motsepe the CEO of ARM. It is clear that the corporate have their eyes set firmly on conservation and heritage areas and a breakthrough in the North West Province would give them a platform into similar areas in other provinces, including Limpopo. This is a matter of grave concern.

Full stakeholder participation in business decision making **requires full disclosure**. The annual report of Anglo Platinum represents the best attempt at a detailed report which could be used for effective engagement with stakeholders. While the reports of other established mining corporations such as Implats have shown a great deal of improvement since The Policy Gap Report, which was published in June 2007, matters are still far from what can potentially be achieved. The reports of emerging or junior mining companies operating in Limpopo are of such a poor quality that they are beyond comment.

As the Alexkor case referred to earlier and the struggles over land near Mokopane and also in Maandagshoek and elsewhere shows, **the relationship between mining corporations and communities are still of a conflictual nature**. This also becomes apparent when one interprets the community questionnaires (see **Appendix A for the results of the 'Community CSR assessment Tools'**).

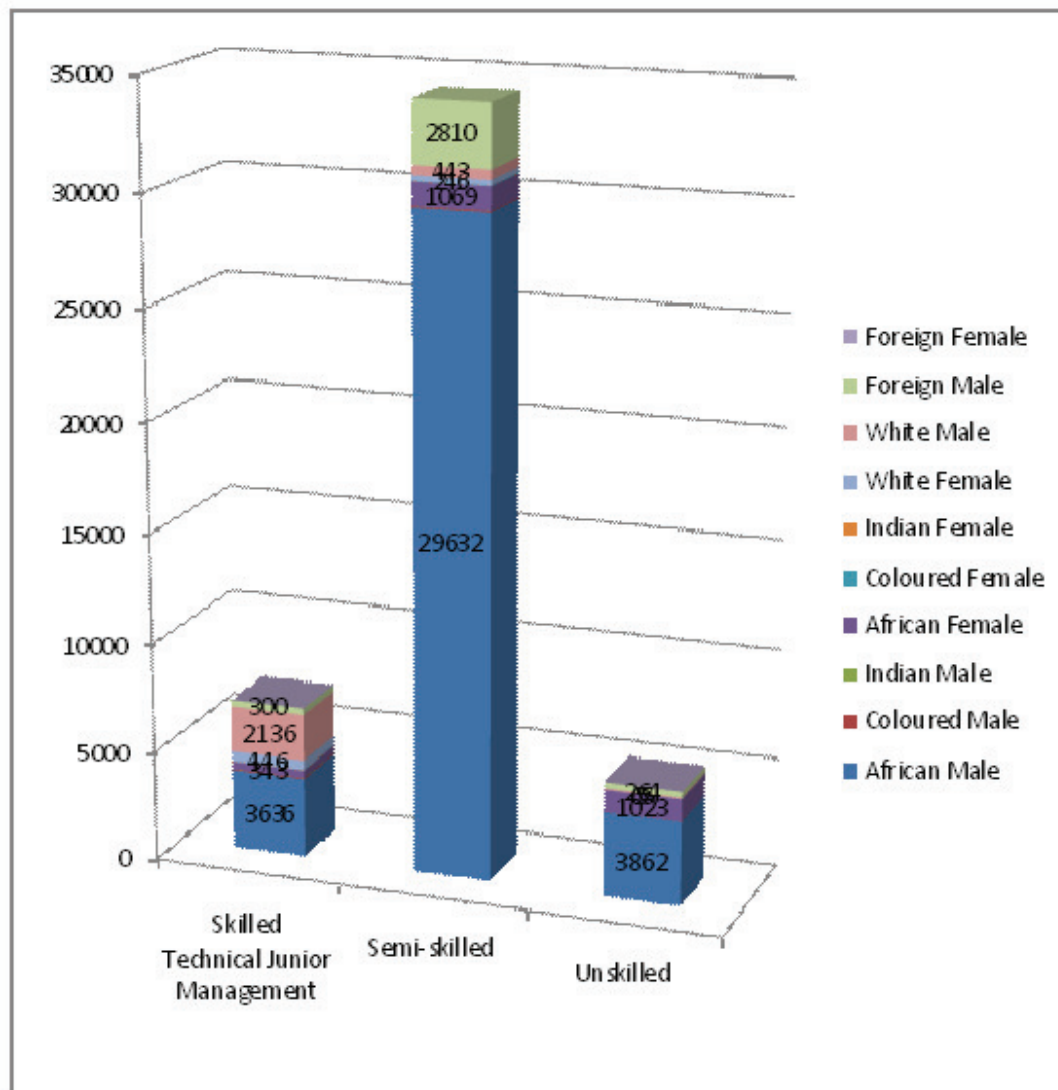
Do the mining corporations provide employment and training opportunities for and actively recruit from indigenous communities for all levels of employment? (1.4.C.8)

Pre-1994 the mines were reliant on migrant labour, much of it from beyond South Africa's borders. In accordance with the Mining Charter, migrant labour is gradually being phased out. Many former mine workers are now employed by sub-contractors as mining corporations have become reliant on subcontractors to supply them with labour not directly employed by the mine. Many permanent mine workers have also taken advantage of the living-out allowance to

take up residence in local communities (as in Limpopo) or at informal settlements in close proximity to the mines (North West Province). The workers employed by sub-contractors are in most cases former migrant workers, many of those utilising the living-out allowance are similarly former migrant workers. This allows most mining corporations to claim that they are now recruiting labour from local communities. In reality, these are migrant-labourers living in local communities. This situation has caused conflict and in cases in the North West Province cases of xenophobic attacks. These attacks result from resentment by locals that foreigners are given employment preference by mining corporations. Many local women, having been displaced from their farm land resort to sex work in order to generate an income; others establish shebeens frequented by mine workers. Others rent out rooms or shacks to mine workers to make a living. Local men resent 'foreign' mine workers for their jobs, their income, and their sway over local women. This is a very dangerous situation that may explode at any time.

The day to day running of mining operations is dealt with at a management level. Macro-economic and business decisions are taken at head office level either in London, New York, Johannesburg or in Canada and Australia. Local management at the operational level make the day-to-day operational decisions. The mining charter requires that mining corporations reflect a 40% HDSA content by 2009. Anglo Platinum reports that it has exceeded 40% target by achieving 43%. However, top management boasts only 1 African male, and 1 'foreign male' compared to 11 white males and no women.

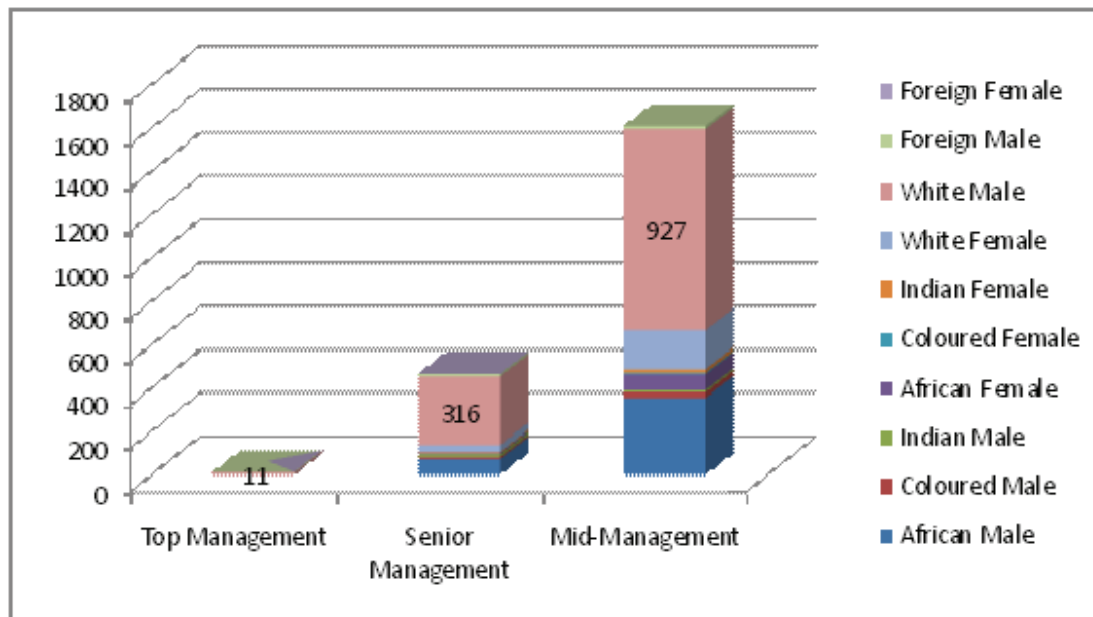
Figure 3: Junior Management, Skilled and Unskilled Labour at Anglo Platinum by race



Despite Anglo Platinum's HDSA assurances to the contrary, the graph below demonstrates that Black South Africans are still very much at the bottom of the 'rice crispies box' in this particular corporation.

In contrast to Anglo Platinum, ARM boasted 50% blacks on their board and 13% women. 40% of the ARM steering committee is black, while 20% are women. However, only 19% of senior managers at ARM are black, while only 11% of senior managers are women. The numbers of blacks and women in these positions at ARM have steadily declined since 2005 (African Rainbow Minerals, 2007, p. 89).

Figure 4: Mid to Top Management by Race at Anglo Platinum, 2007



Source: Anglo Platinum (2007)

Do the mining corporations under review provide on-going, free and compensated education and training for workers? (2.4.B.10)

It has been found that companies do provide this, given the nature of mine work and the fact that productivity issues, health and safety are very much dependent on education and training. However, high fatality levels at South African mines have brought safety education and training under the spotlight.

An extensive consultation with a mine safety expert who wishes to remain anonymous for reasons of professional security has shown that:

- Productivity bonuses in the **industry leads to negligence** as work teams speed up work processes in order to realise bonuses.
- Productivity bonuses lead to **safety conscious workers being victimised** and isolated as 'spoilers' by fellow workers keen to realise the productivity bonuses.
- Safety training often occurs after shifts, when workers are tired and their concentration levels low. Workers complain that they are not even provided with refreshments and that, because they have not yet had a chance to eat, they are hungry during training sessions, thus further **impacting on their concentration levels**.

- Safety training occurs in a classroom context. It is difficult for workers to relate the training which is, because of the location, theoretical and **removed from the work situation**.
- Safety **training is conducted in English** rather than in the mother tongue of the worker.
- Safety **notices are written in English** rather than in the language of the worker.
- **Low literacy levels** mean that workers are often unable to read safety notices regardless of the language such notices are written in.
- Rock face or work-place safety training is **considered an impediment to productivity**.
- Workers who make use of the living-out allowances often find themselves living in squatter camps with a **lack of access to clean water, proper meals or conditions required to rejuvenate the body for a new day of work**.
- Those who find residence in squatter camps **do not have access to healthy entertainment** and find themselves frequenting shebeens and sex-workers. This also impacts on mine safety.

Do the mining corporations provide adequate technical training which contributes to the advancement of all workers, especially women and the disabled?

Implats reports the continuation of its Da Vinci project for training women. There is no reference in this corporation's reports about its employment, education and training policies towards those who became disabled as a result of their employment within mining operations. Implats recorded 54 new cases of noise-induced hearing loss (NIHL) in 2007. However, the report fails to say what happens to such employees, or whether they are redeployed, or sent to education and training facilities for the deaf (IMPLATS, 2006, pp. 20-29). While the corporation reports that 13 employees lost their lives in 2007, (1 at Marula in Limpopo) it fails to report the numbers and nature of non-fatal injuries, except in terms of lost-time injury frequency rate per million man-hours. Implats reports no policy regarding the employment of the disabled. Implats does report on a Corporate Social Responsibility reach to a small number of disabled people in communities in proximity to its operations.

Anglo Platinum similarly reports on education and training opportunities for women in its employ, but says nothing about the education and training of the disabled. It also has no policy with regard to the employment of the disabled as a historically disadvantaged group of South Africans (HDSAs). Anglo Platinum reports that 25 employees were fatally injured in 2007 compared to 18 in 2006. Anglo Platinum is the only corporation to report the number of serious reportable injuries showing a decrease from 819 in 2006 to 485 in 2007 at all its operations. Like Implats, Anglo Platinum fails to report on a policy regarding the employment of the disabled, or the redeployment of its cable employees who become disabled as a result of job-related injuries. Anglo Platinum reports 107 new cases of NIHL compared to 778 in

2006 and 697 in 2005. It reports that 111 NIHL cases were compensated in 2007 (Anglo Platinum, 2007, pp. 41-57).

ARM reports on the education and training of women. It says nothing about mining-induced disability. It also does not report on injuries. It has no policy on the employment of the disabled as formerly HDSAs (African Rainbow Minerals, 2007, pp. 89-90).

The junior, emerging and smaller corporations completely lack providing any information regarding this question.

Do the mining corporations under review have a policy of employing people with disabilities and of providing the resources and facilities which enable them to achieve progression in employment in the company and to receive training and promotional opportunities without discrimination? (2.3.C.2)

The mining corporations seem not to consider the disabled as HDSAs. They have no policies concerning the employment, education, training or advancement of people living with disabilities. Workers who become disabled or too ill to continue working seem to be released from employment, adding to the social costs of mining on communities receiving such former employees. Anglo Platinum reports that 40% of medically affected employees are placed in alternative employment positions. This implies that **60% of medically affected employees are released from employment.**

Do the mining corporations work with their suppliers to put in place on-going education and training programmes for workers and management on worker's rights and how to achieve and sustain compliance with labour, social and environmental standards? (2.4.C.5)

The research has found that training with regard to workers' rights is still a huge concern in the industry. Cynthia Carol the CEO of Anglo American PLC has blamed the heavy reliance of Anglo American Corporation on **subcontracted labour** for its poor safety performance. Anglo Platinum requires that its suppliers adhere to applicable environmental legislation.

Do the mining corporations under review pay sustainable living wages which enable employees to meet the basic needs of themselves, their families, as well as investing in the ongoing sustainability of local communities through the use of discretionary income? (2.1.P.7)

The corporations under review pay wages in compliance with national legislation. However, South African wages lag far behind those of Canada and Australia. There is also a heavy reliance on subcontracted labour on South African mines. Thus Implats employed 30,744 people in South Africa, in addition it employed 13,783 (30.9%) contracted employees (Implats, 2007). Anglo Platinum employed 48,926 workers and 39,341 subcontracting workers (Anglo Platinum, 2007, p. 104). Therefore, 44.6% of Anglo Platinum's labour force is made up of subcontractors.

Subcontracting workers tend to be less unionised. However they are poorly trained and educated, they live in poorer accommodation, they are normally ex-migrant workers and are therefore 'foreign' and could be the targets of **xenophobic attacks**. The situation with regard to wages and salaries, employment conditions, human rights and gender remains largely the same in platinum mines as they were during the review of the industry in the Policy Gap report published in June 2006.

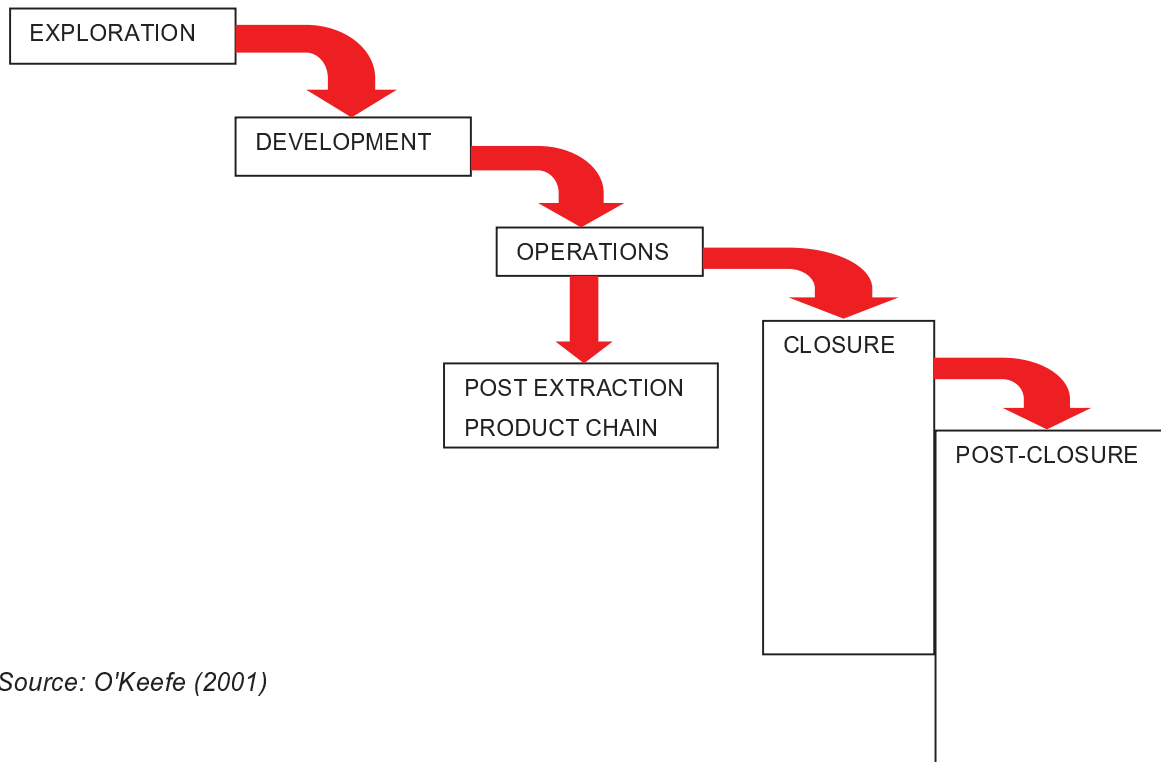
10.2.2 Environmental dimension

Do the mining corporations under review pay careful attention to ensure that their actions do not damage the global and local environment regarding issues such as climate change, bio-diversity and pollution prevention? Do they adopt, as a minimum, internationally recognised standards and ensure that they are implemented universally, regardless of any legal enforcement or lack thereof in any jurisdiction and seek continually to improve their performance? (1.1.C.1)

The reporting by mining corporations on their impact on the environment varies. The more detailed and honest reports come from those corporations that have come under scrutiny of civil society research the most frequently. Thus Anglo Platinum and Implats give the most detailed account of the impact of their operations on the environment.

Mining impacts on the environment at all stages of the mining process from mineral exploration, through development, operations, closure, post-closure, and the post extraction product chain.

Figure 5: The stages of the mining process



Source: O'Keefe (2001)

The environment in which mines operate and on which they impact, include not only the natural environment, but also the social, cultural, economic and political environments. Most mine corporate social responsibility (CSR) corporate social investment reports (CSI) in South Africa fail to report on the full cycle of mining operations. The impact of prospecting in the two areas researched in Limpopo, namely north-west of Mokopane, and Sekhukhuneland, west of Burgersfort there are extensive prospecting processes under way by all the platinum mining corporations, including Anglo Platinum, Implats, Lonplats, Nkwe Platinum and Platinum Australia is not reported on. Impacts of exploration on biodiversity are often overlooked, and certainly are in Limpopo. Communities in Limpopo frequently complain about exploration and in some cases attempts by mining corporations to explore have led to violent clashes between communities, the mining corporations and the police (Thakali, 2007, p. 2).

- **Exploration phase**

The exploration phase is crucial in determining the location of future mining operations, and when an exploration rig suddenly arrives in the middle of a village the inhabitants of that village rightly fear that their continued occupation of their land is under threat. It is important therefore that even before exploration commences, communities and individuals occupying the land should be fully and properly consulted and the necessary permissions obtained.

Members of communities complain about the location of prospecting inside their villages, in the middle of their crops and grazing fields.

Picture 1: Exploration rigs in grazing land



While the direct impacts are less obvious, exploration has significant indirect impacts including noise, access roads, dangerous equipment, access roads and heavy vehicles suddenly appearing in communities.

Picture 2: Exploration right next to crèche in a village



Exploration is often carried out by junior mining companies who have no intention of actually mining. Once they establish the presence of a mineral in bankable quantities they sell their