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## **Land, conflict and radical distributive claims in South Africa's rural mining frontier**

The article presents an analysis of mine-community conflict in South Africa's rural platinum belt. We draw on a combination of detailed ethnographic research material and multi-scalar analysis of the political economy of mining policy. Our analysis reveals that such conflict is rooted in local claims beyond the labour market – in demands for exclusive control over land and mineral rents. The article engages with Ferguson's (2015) conceptualisation of the politics of distribution to demonstrate that radical claims on mining industry rents have escalated despite the South African state's introduction of progressive redistributive legislation. The post-apartheid institutional arrangements developed to mitigate inequalities in and around mining and address the historical exclusion of the black population have not proved effective. Instead, these measures have been undermined and subverted by powerful groups who funnel mineral rents into new forms of elite accumulation. This phenomenon generates and exacerbates inequality and conflict, because these redistributive institutions tend to exclude rural residents who hold customary rights to the mineral-rich land.

*Key words:* mining, conflict, land, distributive claims, state policy

### **Introduction**

In August 2015, as we<sup>1</sup> were concluding another round of field research in the Limpopo province in north-eastern South Africa, a normally peaceful rural landscape north of the small town of Mokopane, had, once again, turned into a scene of violent local protests. Hundreds of residents in the villages that fall under the Langa-Mapela area took to the streets and protested, demanding an immediate halt to the operations of Anglo-American's (Amplats) Mogalakwena Mine and that the mine management and the local chief meet with them and discuss their grievances. Villagers complained that the mine only made contractual agreements on their land with the local elite – mainly the chief and his traditional council in the Langa-Mapela Traditional Authority (the Mapela area). There was,

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<sup>1</sup> The corresponding author and a team of researchers that were based at the Society, Work and Politics Institute, University of the Witwatersrand.

they claimed, no proper consultation with the broader community about mining-led development.

For two weeks, the protestors blockaded the narrow tarred road that connects the mine to the town of Mokopane with burning tyres and piles of rocks. Movement of traffic in and out of the mine was stopped temporarily, and workers at the Mogalakwena mine could not report for work. Protesters burnt down and vandalised the Mapela traditional authority offices, the chief's house and community infrastructure constructed by the mine, including the small sports stadium and a village agricultural project. In their anger, they torched some of the mine vehicles and even passing private vehicles, including a truck carrying potatoes heading towards the town of Mokopane. Protesters demanded that the mine should cease operating with immediate effect until it had paid adequate compensation for the loss of land rights suffered by villagers due to its operations.

Protesters from several villages sang and demonstrated on the streets day and night during the protest. At times, there was a heavy police presence, and police tried to disperse the protesters with rubber bullets and teargas, injuring some protestors who had to be rushed to the nearby Mahwelereng Hospital. More than 50 protesters were arrested and charged with public violence, damage to property and other charges. Violent protests continued until ultimately the Minister of Mineral Resources<sup>2</sup> intervened and set up an urgent task team to address the impasse.

This was just one of many episodes of violent protests involving workers and communities on the platinum belt over the past decade. These have included large scale strike actions, most notably in 2012, culminating in the South African Police Service's massacre of mineworkers at Marikana, and the five-month long strike of 2014 (Chinguno, 2013; Sinwell, 2019). They have also included frequent community protests at many mine sites, with communities protesting around access to land, impacts of mining on livelihoods, and the contested control of mineral rents via community shareholding arrangements and CSR programmes run by the mines to meet legislative requirements (discussed further below, see also; Rajak, 2016; Manson, 2013; Rubin and Harrison, 2015; Mujere, 2015).

For more than twelve years, the corresponding author has followed rapid transformations on the new mining frontiers in South Africa, much of which has taken place in the former 'homeland'<sup>3</sup> regions. During apartheid, the key function of these impoverished rural areas was to meet the labour demands of white business, serving as reserves for the (re)production of cheap migrant labour supplies, in particular for the mining industry (Arrighi, 1970; Wolpe, 1972; Amin, 1972). Some of these areas have become South Africa's new mining frontiers, with increased mining activity in many of the former 'homeland' areas, including coal and titanium mining in the former Zululand (now Kwa-Zulu Natal),

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<sup>2</sup> The minister at the time was Mr Ngoako Ramatlhodi.

<sup>3</sup> These were semi-autonomous areas ('states') within South Africa, created by the apartheid government exclusively for Africans/Blacks in order to exclude them economically, socially and politically.

titanium in the former Transkei (now Eastern Cape), and – the subject of this article – Platinum Group Metals (PGM) mining in the former Lebowa and Bophuthatswana homelands (now North West Province and Limpopo). Recently, the ‘functional’ significance of the poverty-stricken former homeland areas has become ambivalent, despite the persistence of labour migration. This is largely due to the prevalence of unemployment in the face of increased capital intensity and significant decline in labour demands in the historically dominant industries, particularly in the mining sector (Mnwana and Bowman, 2018). Some have even argued that, now that the “functional utility” of the labour reserves in the capitalist system of accumulation has “‘disappeared’ ... rural residents have now been transformed into quintessential examples of ‘surplus populations’”, meaning that they are ‘surplus’ to the requirements of capitalist accumulation (Scully and Britwum, 2019, p. 408).

In light of the high rates of unemployment and poverty in the former homeland areas, the expansion of industrial mining might be viewed as providing important opportunities for local economic development, and as such be broadly welcomed by inhabitants. However, the empirical material we unpack in this article demonstrates how the complexities of distributional struggles over the capture of mineral rents and exposure to the various socio-environmental risks and harms created by mining activity, and the institutional framework which mediates these struggles, mean that the expansion of mining creates considerable tension. The discussion on the character of these struggles contributes to the growing scholarly debates on mining-related conflict, and the complex, multi-dimensional struggles of the rural poor in mining-affected areas. These struggles can, variously, involve processes of resistance, negotiation, and accommodation among different elements of mining communities, with conflict often centring around defending environmental rights and livelihoods threatened by the expansion of mining, but also involving intra-community struggles to capture the (often scarce) economic opportunities created by mining companies in the form of employment, procurement contracts, CSR programmes, and royalty schemes (see Gilfoy, 2021 in this volume; Issah and Umejesi, 2018; Rajak, 2011; Welker, 2009; Bebbington et al., 2008; Frederiksen, 2019). In a study conducted in Indonesia, for instance, Welker (2009:143) details describes how violent attacks on local environmental activists by local elite groups protected mining capital and enabled its expansion and the destruction of local environment; Welker labels these groups ‘the agents and defenders of capital’. Mining-related conflict is thus not always a simple dyad of ‘mine vs community’: responses to mining reflect pre-existing social divisions and inequalities, and the socio-economic reconfigurations wrought by mining can create new forms of localised inequalities and social cleavages. Even ostensibly well-intentioned redistributive activities in CSR and community development initiatives can have this effect (Rajak, 2011). In this paper, we show how the dysfunctional design and implementation of key legislation to redistribute mineral wealth has contributed to rather than ameliorated social conflict in this manner. However, the analysis presented in this this paper – particularly the mounting relentless claims over ownership of land and direct mineral rents – goes beyond the examination of local elite and

corporate coalitions and the power of violence in enabling mining-led environmental and social violations. It unpacks intricate contemporary dynamics of local demands that shape conflict over mining in rural South Africa.

Social transformations in the context of mining expansion in rural South Africa have been the focus of recent studies. Key empirical themes that have surfaced in recent literature include mining-led conflict, land dispossessions, loss of customary land rights and agrarian livelihoods (Claassens, 2014; Mnwana et al., 2016), abuse of power by local chiefs and escalating legal battles over political power and authority (Ubink and Duda, 2021). In another recent study, Mujere (2020) provides a detailed empirical account on the ‘politics of waiting’ on the platinum belt. Mujere employs the concept of ‘active waiting’ – the deployment of multiple strategies by individuals and impoverished communities “to get-by or alleviate their waiting” for employment and service delivery (Mujere, 2020, p. 13). As we shall see later in the empirical section, such an agency at the local level resonates with the struggles we detail in this study, particularly the tenacity of ordinary villagers in demanding compensation for loss of land rights. Such processes have been the subject of international scholarship (e.g. Bebbington and Bury, 2013; Abuya, 2016). However, there remains a need for more research on the character of mining-related conflict at the local level.

The article examines the role of distributional struggles in these conflicts in the context of industrial mining’s expanding frontiers in Africa. We provide an analysis of mine-community conflicts in South Africa’s rapidly expanding rural mining frontier – the platinum belt. We demonstrate that the coexistence of mining activities with the rural poor, and a dysfunctional institutional framework for managing the distributive tensions this creates, has produced new forms of struggles in rural South Africa. Across multiple contexts, elements within rural communities<sup>4</sup> have fiercely resisted the expansion of mining. But resistance by communities facing dispossession and disruption to livelihoods in mineral-rich areas has largely been portrayed as a response of communities to dispossession and marginalisation, not as active agency by poor people to claim their share of mining revenues.

This resistance has been amplified by the shortcomings of redistributive legislation – in the form of the Minerals and Petroleum Resources Development Act (MPRDA) (2002) and the associated Mining Charter (2004, 2018) – and the manner in which it has been implemented and enforced. We argue that alongside the more typical conflicts accompanying the expansion of high-impact, point-source activities such as mining into complex rural contexts – where mining involves the dispossession of or damage to land and natural resources required to support livelihoods – the heightened resistance to mining reflects limitations in the post-apartheid state’s attempts to socially legitimise mining development from above

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<sup>4</sup> We use terms such as ‘community’, ‘traditional authorities/communities’ aware that these terms are contested and can be potentially derogatory. We also do not imply that Africans in the countryside are homogeneous groups.

through the MPRDA and Mining Charter. This legislation, as we discuss below, has key redistributive functions in channelling a portion of mineral rents to mining stakeholders, including mining communities and the historically disadvantaged black population. More than this, though, its logic is to institutionalise processes of ‘social thickening’ (Ferguson, 2006) – increasing the density of connections between mining operations and their immediate social context<sup>5</sup> – in a mining industry previously defined by its enclave nature and reliance on the migrant labour system and racial segregation (Mnwana and Bowman, 2018). Mechanisms have included mandatory divestment of equity ownership as part of a process of black economic empowerment (BEE) that seeks to create a black capitalist class which counterbalances white economic domination, preferential procurement obligations to build local and black-owned enterprises, and requirements for formalised CSR and community development programmes, created through consultative processes and encompassed within Social Labour Plans (SLP). However, as we shall discuss, the policy approach fails to capture the complex demands and rural politics of distribution. In addition, contestation over rents channelled through these mechanisms has created new forms of intra-community struggle, compounded by instrumental approaches often taken by mining companies, weak monitoring and enforcement by the state, and the turbulent politics of traditional authority governance.

The article engages with Ferguson’s (2015) conceptualisation of the politics of distribution to analyse the role of ideational contestation and claims at a local level. Sharing is and has always been a central process in many societies, but the logic of sharing tends to vary considerably. It is important to distinguish between giving of gifts out of benevolence and kindness – what, according to Ferguson (2015, p. 176) is a Western conception of sharing – and other conceptions of distribution. The Western conception of sharing, Ferguson argues, views sharing largely as an act of kindness or generosity on the side of the giver. However, such an approach to non-market exchanges tends to carry a form of an expectation that the receiver of the gift demonstrate some kind of appreciation or at least show that they deserved the gift, and (if it is money) that they will use it wisely (Seekings, 2019). Such a paradigm conceives non-market exchanges as acts entrenched in the benevolence of the giver. However, as we shall demonstrate later in the empirical discussion, demands by members of a specific community point towards a different logic. Individual members of a local community can demand a share of their own from an asset (e.g. mineral rent or land) that is held collectively by the group. Such demands are based on one’s status as a member of the group. Ferguson (2015, p. 177) draws on Woodburn’s (1998) account on foraging societies to argue:

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<sup>5</sup> Ferguson contrasts the socially thick mining operations of the Zambian Copperbelt in the mid-twentieth century, where mining companies played a paternalistic social role in their communities and were tightly bound with political and developmental processes at national and local levels, in particular through organised labour, with the socially ‘thin’ model of the Angolan offshore oil industry, in which capital-intensive operations are enclaved from the surrounding economy and reliant on migrant labour (Ferguson, 2006, 197-198).

the much-discussed sharing of meat in these societies was organised not around gifts of exchanges but rather the aggressive demands of those who receive the shares.

Therefore, the recipients of the meat are not expected to reciprocate. In fact, they feel entitled to their share (ibid.). This type of distribution is undoubtedly rooted in a demand from the receiver and some kind of obligation on the side of the giver. Thus, Ferguson elaborates:

Each hunter is linked to a family via shared membership in a 'house', and the goods of both fields and forest are understood to properly belong to the house as a whole. They must therefore be divided among its members. (ibid.)

What Ferguson describes here is not only a non-exchange-based, non-market form of distribution, but also a "division or a distribution of a commonly shared whole into shares" (ibid.). Such a perspective on distribution arises out of "ownership of a share" (Ferguson, 2015, p. 181).

We argue that this perspective on distribution is crucial for the understanding of contemporary distributive claims over land and mining benefits in rural South Africa. Such a focus on micro-level politics of distribution might, of course, limit the analysis of other much broader claims articulated within a discourse of national citizenship and their connection to wider, regional or national contestation of land and mineral rents. In this article, we attempt therefore to connect analysis of the local politics of distribution to contested national legislative frameworks and their accompanying politics of distribution. This crucial in-depth analysis of local social dynamics details contemporary trends of distributive struggles and politics that, in this case, demonstrate clashing historically and socially informed conceptualisations of ownership and fairness in the manner in which the costs and benefits of mining are distributed.

The empirical discussion that follows demonstrates how conflict in South Africa's platinum-rich rural locales is rooted in claims over land and radical demands from below. Such struggles are radical in the sense of both their means of articulation through forms of protest mobilisation, and in their political content in the sense that they call for more substantial, direct, disintermediated forms of redistribution than are afforded by the mechanisms created through the legislative framework. Local contestations are expressed mainly through demands for direct payments of mineral rents and claims over land. There are also demands beyond labour market exchange, the call simply for 'more jobs'. The post-apartheid institutional arrangements developed to mitigate inequalities in and around mining and address the historical exclusion of the black population have not proven effective. At both national and local level, such arrangements have been undermined and subverted by powerful groups who tend to funnel mineral rents into new forms of elite accumulation, and by corporations which instrumentalise such arrangements as a means of

enhancing political legitimacy at national and local levels, thus generating new forms of inequality and exacerbating rather than mollifying conflict (Claassens, 2014; Bowman, 2019; Capps and Malindi, 2017). Groups who are excluded from these rent distribution arrangements nonetheless have significant organisational and ideational power despite their subordinate status relative to multinational mining capital and ruling political elites. Their power lies in the capacity of protests to disrupt mine operations and resonates with a wider range of redistributive protests which highlight the increasing fragility of the ANC's broad social coalition in a context of growing populist challenge.

### **On the study method**

For this analysis, we draw on a combination of detailed ethnographic research material and multi-scalar analysis of the political economy of mining policy in South Africa. Since 2008, the corresponding author has studied the social impacts of platinum mining on the villages that straddle the platinum belt in South Africa's North West and Limpopo provinces. However, most of the empirical material presented in this article was collected in 2015 and 2016. As part of a wider research project (Mnwana et al., 2016) we collected in-depth interviews, a small survey (80 households), life histories and observational data. This data collection was part of a larger research project<sup>6</sup> which investigated the multiple impacts of platinum mining in rural South Africa. The discussion below is based on villages that fall under two traditional authority areas: the Bakgatla-ba-Kgafela and the Langa-Mapela in the North West and Limpopo provinces, respectively. In the North West province, we focused on the villages located around the Pilanesburg Platinum Mine – now controlled by Sebidelo Platinum Mines – while in Limpopo we focused on the villages adjacent to the Mogalakwena Mine – an Anglo American platinum mining operation.

### **Transforming the mining industry: A formidable challenge**

South Africa's ruling Tripartite Alliance's<sup>7</sup> hegemony relies heavily on addressing the demands of several key social groups within a complex 'politics of distribution'—the different processes of distribution at work in contemporary capitalism and “the sorts of binding claims and counterclaims that can be made about these processes” (Ferguson, 2015, 20)—deriving from the historical legacies of apartheid and colonialism. Enduring racialised inequalities in South African society mean economic and political power are severely misaligned. While the transition to democracy in 1994 meant that the black majority gained political representation, continued white domination of asset ownership in the economy—most significantly land and key medium and large-scale commercial enterprises—and

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<sup>6</sup> The Mining and Rural Transformation in Southern Africa (MARTISA), based at the Society Work and Development Institute (SWOP), University of the Witwatersrand. The Ford Foundation, Action Aid South Africa and the Open Society Foundation (South Africa) funded this project. This paper draws some of the empirical data from the working paper that was published out of the Limpopo report (see Mnwana et al., 2016).

<sup>7</sup> An alliance of governance formed in 1994 between the ruling party – the African National Congress (ANC), the South African Communist Party (SACP), and the Congress of South African Trade Unions (Cosatu).



income inequality means that most black people continue to be marginalised economically. These enduring inequalities create intense popular pressures for more radical forms of redistribution (Bowman, 2020; Marais, 2013). Land and mineral resources are materially and symbolically important within this politics of distribution.

At the start of the democratic era, the mining industry presented the incoming African National Congress (ANC) government with a formidable challenge. As with much of the rest of the South African economy, ownership in the mining industry was concentrated among a small group of white-owned companies, most under the Anglo American and Gencor conglomerates (Chabane et al., 2006). Mining operations relied predominantly on low-wage labour enduring squalid living conditions and dangerous working conditions, carefully enclaved and isolated from surrounding communities (Bezuidenhout and Buhlungu, 2015; Stewart et al., 2019). This system was maintained through repression by state and private actors, and by the disciplinary mechanism of the migrant labour system. Addressing these inequities and the multiple social problems arising from them in the democratic era necessitated a range of reforms to create a more inclusive mining regime that would reduce inequalities, improve conditions for workers and communities, and diversify ownership.

Post-apartheid institutional reforms in the mining industry were the result of an uneasy compromise (Capps, 2012). The Minerals and Petroleum Resources Development Act (MPRDA) 2002 nationalised subsoil mineral resource ownership, making mining contingent on licences bearing conditions specified in the Mining Charter (DME, 2004), the first iteration of which was released in 2004 (Capps, 2012). The MPRDA also requires mining companies to submit a 'Social and Labour Plan' (SLP) to obtain mining rights. The SLPs involve plans for community development, housing and living conditions, human resources development, and processes to mitigate the impact of downscaling and closure (DMR, 2010). These measures are to ensure the mining company contributes to socio-economic development in the area it operates, and the mining companies are required to implement the commitments in the plans (Ibid). The Mining Charter and SLPs became the main legal instrument through which government has sought to resolve the severe inequalities produced by the mining industry.

Alongside measures for internal transformation of mining companies relating to employment equity and human resource development, requirements in the Charter include redistributive mechanisms to channel mining rents to external stakeholders in the form of preferential procurement from Historically Disadvantaged South Africans (HDSA)<sup>8</sup>, BEE-compliant or black-owned firms, and requirements that companies (in the first iteration of the charter) sell 26% of equity-equivalent ownership to HDSAs by 2014 to meet BEE

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<sup>8</sup> Meaning "any person, category of persons or community, disadvantaged by unfair discrimination before the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993) came into operation" (DME, 2004, p. 9).

ownership targets (DME, 2004).<sup>9</sup> Not meeting commitments in the SLPs or the Charter could, hypothetically, entail suspension of mining licences (MPRDA, 2002; DMR, 2004).

Alongside controversies around the effectiveness of implementation of the Charter and SLPs, the channelling of mineral rents to a wider range of beneficiaries external to mining firms – including communities through trusts, traditional authorities, and BEE entrepreneurs – has created new forms of distributional contest and tension at different scales and among different actors: contests over who gets what, how, and what constitutes fair distributional outcomes. Particular points of tension have been over mining companies' BEE ownership levels,<sup>10</sup> and struggles for control of mineral rents at the level of mining communities.

In implementation, the Charter has been highly contentious. The established mining industry typically argues that the scale and complexity of requirements placed on mining firms and continual uncertainties over reform has undermined the international competitiveness of the mining sector. Meanwhile critics – among them community organisations, nationalist factions of the ANC, elements of the black business community and indeed the Department of Mineral Resources and Energy (DMR) itself – have argued that it has been insufficiently ambitious in addressing inequalities (Bowman, 2019). While most mining companies formally adhered to the original Charter, there were major ambiguities in how compliance should be measured, particularly around ownership. To the extent that mining companies met their original Charter targets for BEE ownership, they did so in a manner perceived by government as highly instrumental. The DMR's key criticisms included concerns that deals frequently involved only a narrow range of beneficiaries from among the black business elite, the disposal of marginal assets by mining companies as a way of meeting ownership requirements, limited cash benefits to or influence on governance from beneficiaries, and the exit of BEE shareholders from investments leaving several mining companies with no BEE partners (DMR, 2009, 2015). The government's dissatisfaction with redistributive outcomes, combined with pressure from elements of the black business community and community organisations, led to the creation of new iterations of the charter in 2010 and 2018 (Bowman, 2019).

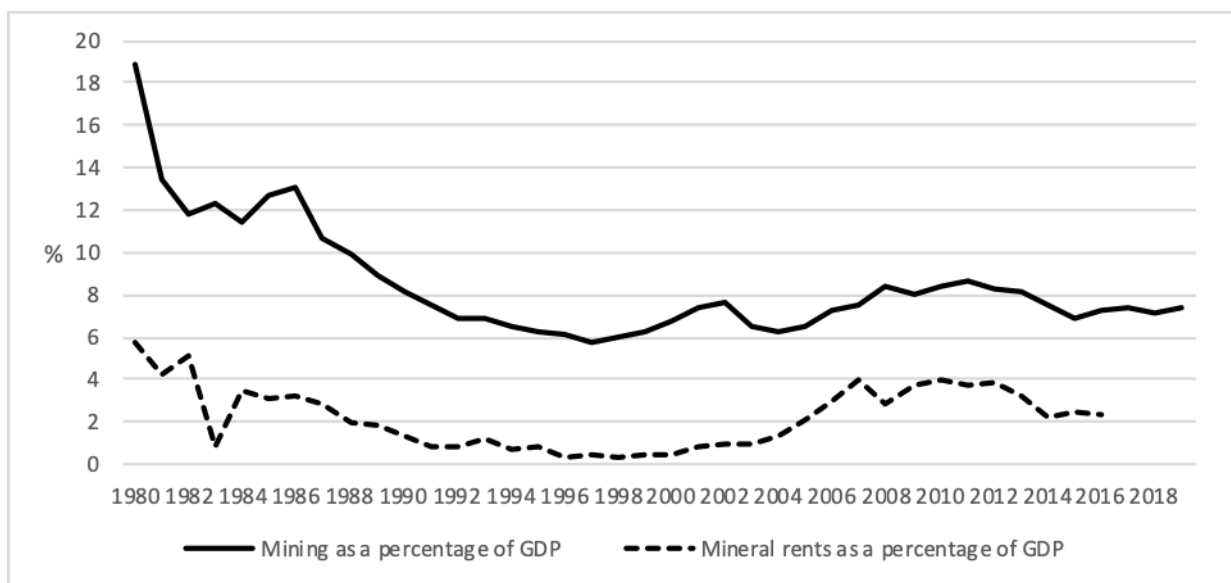
Furthermore, South Africa's mining corporates have remained powerful actors, due to the importance of the mining industry in the South African economy, as a source of employment, tax revenue, and foreign exchange earnings, combined with the disciplining effects of integration with international capital markets and the increased internationalisation of major mining companies. This makes mining company threats around decreased or withdrawn investment meaningful, particularly in the context of a deteriorating fiscal position over the past decade, and the importance of state spending on social policy and public sector employment in knitting together the ANC's electoral coalition

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<sup>9</sup> In the third and most recent iteration of the Charter, ownership requirements are raised to 30% for new or renewed mining rights (DMR, 2018).

(Southall, 2016). South African mining has – in aggregate, if not in each mineral commodity category – been declining in relative economic significance since the early 1980s, and this decline has continued through most of the post-apartheid period (Figure 1). The driver has been the long-term decline of gold mining, offset to some degree by the increasing importance of iron ore and platinum group metals (PGMs) and a boom period in the mid-2000s. Nonetheless, mining remains fundamentally important to the South African economy, directly contributing just over 8% of GDP and over 450,000 jobs in 2019, and considerably more indirectly due to the strong upstream and downstream linkages from the industry (Minerals Council of South Africa, 2020). Corporate interests in the mining industry thus retain considerable power, and have been successful in resisting more radical redistributive reform proposals emanating from factions of the ruling Tripartite Alliance over the past decade, including nationalisation proposals in the early 2010s and a more extensive ratcheting-up of Charter conditions in 2017/18 (Bowman, 2019). In the drafting process for the third and most recent version of the Charter, the government had initially proposed a set of more far-reaching changes to BEE ownership and benefit requirements, but several were dropped or diluted following legal challenges by the mining industry (Bowman, 2019).

Figure 1: Mining and mineral rents as a percentage of GDP



Source: World Bank World Development Indicators, South African Reserve Bank Quarterly Bulletin

Alongside the often fraught state-business relations over BEE ownership levels, another particularly complex and contentious aspect of Charter implementation and accompanying distributional tension related to the role of ‘traditional’ authorities as BEE shareholders. The most common form of BEE transaction involved vendor-financed sales of minority equity stakes to a small group of (generally) politically-connected business elites (Bowman, 2019). However, in instances where mining took place in rural areas with communal land,

particularly important in PGMs, BEE deals frequently transferred minority ownership stakes to traditional authorities or community trusts (Mnwana and Capps, 2015). According to the Chamber of Mines, 29% of equity transfers up to 2014 involved community share ownership of some form, the bulk of this being accounted for by the PGM industry because much PGM mining occurs on communal land in South Africa's former 'homeland' areas, which fall under the political jurisdiction of several traditional – 'tribal' – authorities. In some cases, these involved complex royalty-to-equity-conversions, and in other cases vendor-financed sales to be repaid through future income streams, or the establishment of trusts.

For mining companies operating in these areas, an attraction of deals with tribal authorities was essentially that enlisting chiefs as minority equity owners could help bolster political power and social legitimacy within the mine's immediate operating environment, in which companies are vulnerable to disruption from protest (Mnwana and Capps, 2015). Because of the manner in which the BEE deals were typically financed (see Bowman, 2019), many collapsed during mineral price downturns or proved minimally effective in transferring mineral rents to beneficiaries. Community development trusts and traditional authority share ownership as means of mediating mineral rents for community benefit have, in addition, been dogged by controversies over misappropriation of funds, mis-governance or contestation for control of trusts and leadership of traditional authorities (e.g. Mnwana et al., 2016; Capps and Malindi, 2017; Matebesi, 2019).

Community development initiatives have been similarly contentious. As mentioned, the MPRDA requires mining companies to create SLPs outlining commitments to improving conditions for workers and communities. The Charter also requires mining companies to support increased procurement of goods and services from HDSA-owned firms. Procurement provides an additional means to create economic development opportunities for mining communities, particularly through procurement of basic services and consumables such as transport, catering and cleaning, which can be often be sourced locally. For mining companies, there are important potential strategic advantages in attempting to fulfil Charter obligations in areas such as ownership and procurement through local communities in terms of alignment of interests with local political elites which bolsters social legitimacy (for a similar phenomenon in Zambian copper mining, see Fredericksen, 2019; Welker, 2009).

In practice, the Charter and SLPs have not always proven effective at quelling the distributional tensions surrounding mining. Implementation of SLPs has been poor, with evidence suggesting that mining companies often fail to deliver what they commit to in the documents, while the DMR routinely fails to hold them accountable for this (see CALS, 2016). CSR efforts and local procurement has often functioned more as a means of public relations or co-opting local elites (see Rajak, 2011). The legacies of apartheid, including extreme poverty, high unemployment, poor education standards and a lack of basic

services, are still very much alive in many mining areas (Mnwana and Capps, 2015), and were exacerbated by population influx to mining areas during the boom years, which overwhelmed social services, stoked ethnic tensions, and brought crime and other social ills (Mnwana, 2015; Mnwana et al., 2016). As mines have become increasingly mechanised, meanwhile, mining jobs have become more skill-intensive and thus harder to obtain in low-income rural communities (Mnwana and Bowman, 2018). Thus, while on paper the Charter provided far-reaching means to improve the lot of mining communities, in practice the results have been disappointing. Indeed, it could be argued that raised expectations, poor delivery and local political contestation over mining rents obtainable through share ownership and procurement have, if anything, heightened the kinds of mine-community distributive tensions which the Charter has sought to address. Complexities in the character of local power structures and social relations over land tend to compound these struggles. We expand on this below.

### **Of land, local chiefs and distributional struggles**

Radical local demands and prolonged resistance to mining are rooted in claims over land and mining revenues at the community level. The ideological force of these redistributive claims around mining within the ANC derive from the history of struggle against colonial dispossession and apartheid, and to assert the right to a claim a share in the country's wealth. This claim or 'promise' (as Ferguson terms it) was originally stated in the Freedom Charter of South Africa of 1955 (Ferguson, 2015). The Freedom Charter continues to resonate – albeit subject to widely differing interpretations – given conditions of persistent poverty and unemployment, and to underlie the legitimacy of claims to political power by the ANC. Although some have criticised the Freedom Charter for not capturing the demands of Black South Africans for land but merely serving to reconcile the country's historically dispossessed Blacks with their condition of dispossession (Mazibuko, 2017, p. 346), radical collective claims to land and resources still connect to the principles of, and echo the rhetoric of, the Freedom Charter. Some left-aligned political forces have pressured the ANC-led Parliament to approve (in December 2018) an [amendment](#)<sup>11</sup> of Section 25 of the Constitution to allow for expropriation of land without compensation. The current demands are strongly orientated towards racial politics, and rooted in the history of dispossession of Blacks in Southern Africa. For the majority of Blacks in South Africa who have never owned land (privately) and have been economically excluded for centuries, access to and ownership of land (for various purposes) is the main goal. The demands, largely championed by the Economic Freedom Fighters (EFF) – an opposition party – and nationalist factions in the ANC, are centred on expropriation without compensation to ensure redistribution of land across racial lines. To a significant extent, the ANC government, which has ruled since 1994, has found itself in a tight corner for failing to implement a radical process of land reform, and indeed achieving minimal progress through the more moderate restitution

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<sup>11</sup> <https://www.parliament.gov.za/press-releases/national-assembly-approves-process-amend-section-25-constitution>

mechanisms opted for, and is thus at risk of losing political support. As such, the ANC's support for the radical land redistribution process could be seen as its strategy to take the wind out of the EFF's political sails (Mnwana, 2019).

These high-level distributional politics are salient at a local level also, and intersect with the distributional politics of mining. The increasing unviability of labour-intensive operating models, combined with the decreasing quality and accessibility of ore deposits, has propelled mining companies towards new mining frontiers in rural areas (Mnwana and Bowman, 2018). This has made rural communities in the former 'homeland' areas increasingly important as participants in the mining industry, and generated acute forms of localised political tension and struggle over control of natural resources and both the rents and socio-environmental externalities produced by mining industry activity. Land is central to this. Rural residents in South Africa's former 'homeland' areas access and utilise land and natural resources under customary systems of tenure. Customary land rights are legally categorised as 'informal rights' to landed property and protected under the Interim Protection of Informal Land Rights Act, 31 of 1996 (IPILRA)<sup>12</sup>. The perpetuation of distorted versions of customary law that were introduced by the colonial state continues to render precarious the land rights of customary rights holders, especially in contexts where rural land is targeted for mining (Claassens, 2014). Quite often, court judgements tend to promote the prevailing misrepresentation, which sees African families in the former homeland areas as homogeneous ethnic groups or 'customary communities' whose interests can be represented and protected by local chiefs (Mnwana, 2018). However, as we shall see later, some of the recent court judgements have confirmed that ordinary villagers are the legitimate holders of customary land rights and should have power to decide when mining capital or any other investor wants to occupy their land.

Mining companies and the state tend to consult mainly with local chiefs when seeking mining licences and to exclude local communities who are holders of customary rights over mineral-rich land. As a result, local chiefs – assumed to be custodians of customary rights to land – have entered into complex deals with mining companies, ostensibly on behalf of the communities (Mnwana and Capps, 2015). These deals have become a focal point for localised conflicts in many instances. Conflict is also fuelled by the control that local chiefs tend to exercise and their poor accountability about collective revenues held under community trusts (also called 'community development trusts'). The latter are local community revenue holding instruments established by some mining companies in an attempt to averting local conflict and resistance to mining, and most importantly, as a proactive measure by the mines to secure a social licence to operate. Community trusts have also proven ineffective in averting conflict. Some scholars have even argued that community trusts are at the core of conflict in rural South Africa, not only because of local

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<sup>12</sup> The Ministry of Rural Development and Land reform renews this Act annually. See <https://www.gov.za/documents/interim-protection-informal-land-rights-act>.

capture of revenues by the elite, but also due to unresolved historical issues around ownership of land and mineral rights (Matebesi, 2019).

On the platinum belt, court battles abound. Several village groups on the platinum belt continue to demand direct dividends and other forms of rents from mining companies operating in their land. Villagers demand to be adequately consulted – directly – before mining can take place and they resist the power of chiefs over mineral-rich land. Quite often, these disputes have ended up in court, and several of these battles have reached the High Courts and even the Constitutional Court. Increasingly, the courts apply the rules of IPILRA and rule in favour of ordinary villagers. In one of the recent court judgements the High Court<sup>13</sup> ruled in favour of UMgungundlovu residents who live in a small cluster of impoverished villages under the Amadiba Traditional Authority (also known as Xolobeni). This community successfully prevented the Australian mining company, Transworld Energy and Mineral Resources, from mining on ancestral lands in rural areas without their consent (Huizenga, 2019). The Court ruled that the state (namely the Minister of Mineral Resources) may not grant a mining licence unless the provisions of IPILRA that protect the informal land rights have been followed. This judgement further emphasised that customary rights holders, as owners of land, are not only entitled to consultation (as stipulated in the MPRDA)<sup>14</sup>, but to free, prior and informed consent before the state can issue a mining permit on their land.

In October 2018, the Constitutional Court passed an important judgment<sup>15</sup> that fundamentally challenged the power imbalance between mining companies and local communities. The court ruled in favour of 13 families from the small village of Lesetlheng in the North West province. Lesetlheng is one of the 32 villages under the Bakgatla-ba-Kgafela traditional authority where local conflict has intensified over the last couple of years due to the expansion of mining. The Pilanesberg Platinum Mine (PPM)<sup>16</sup>'s open pit operations have been expanding on the land adjacent to Lesetlheng, and it evicted the villagers from their farming land. The villagers filed a court interdict against PPM interdicting the mine from occupying the land without their consent, claiming private ownership of the piece of land – the farm Wilgespruit 631 (2JQ) – that falls under the Bakgatla traditional authority. Wilgespruit, which is currently registered as a tribal property, contains rich platinum group metal reserves<sup>17</sup>. Itereleng Bakgatla Mineral Resources (IBMR), a Bakgatla-owned holding

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<sup>13</sup> See *Baleni and Others v Minister of Mineral Resources and Others* (73768/2016) [2018] ZAGPPHC 829; [2019] 1 All SA 358 (GP); 2019 (2) SA 453 (GP) (22 November 2018).

<sup>14</sup> As stipulated under the Mineral Petroleum Resources Development Act, 28 of 2002 (MPRDA). See section 22 and 23 of MPRDA.

<sup>15</sup> See *Maledu and Others v Itereleng Bakgatla Mineral Resources (Pty) Limited and Another* (CCT265/17) [2018] ZACC 41; 2019 (1) BCLR 53 (CC); 2019 (2) SA 1 (CC) (25 October 2018).

<sup>16</sup> An operating company under Sedibelo Platinum Mines – formerly Platmin.

<sup>17</sup> The Minister of Rural Development and Land Reform holds the title deed in trust for the Bakgatla-ba-Kgafela traditional community.

company controlled by Kgosi Pilane, the local chief, holds the mineral rights on this farm. The Constitutional Court found that existing customary rights to land are protected under IPILRA, even if a mining right has been granted on a piece of land. As a result of this judgement the mine has recently made a 'settlement offer' worth millions of rand to Lesetlheng farmers in recognition of their loss of access to land and property rights to the farm. It is crucial to note that such a payment is, in fact, an outcome of the unrelenting demands for cash, especially among the dispossessed villagers. We expand on this in the discussion below.

### **'We do not benefit a cent!' – Demands for cash**

Demands for cash payments abound among villagers who identify themselves as beneficiary groups or rightful owners of the mineral rich land on the platinum belt. Villagers demand a shift from the current arrangement where the chiefs collect and control revenues on behalf of local communities. As we shall see later, such demands elaborate the form and duration of direct payments or compensation that the villagers envisage for loss of access to land and livelihoods due to mining.

In the Bakgatla area the chief, Kgosi Pilane, and his traditional council receive and control the dividends from mining operations on the land, which falls under his jurisdiction (Mnwana and Capps 2015). The villagers continue to dispute the chief's control of revenues. One of the interview respondents residing in a village close to PPM operations in the Bakgatla area explained:

None of us is satisfied about how the chief utilises the community funds. We are complaining about this land. This land belongs to the people. Now as beneficiaries, we do not benefit a cent. Moreover, there is that money that goes out annually. It is no longer called royalties, it is now shares. This mine has been in operation for more than five years on our land. In those five years, we never got a cent. Therefore, that is our complaint. That is why last year there were lot of protests in this village. Road were closed. Trucks [belonging to the mine] were burnt. We were trying to slowdown the mine production until they hear our voices. (Interview: Motlhabe 25.07.2013)

In Limpopo, villagers also expressed radical demands. In the village of Ga-Sekhaolelo, many families who were relocated to make way for the operations of Amplats Mogalakwena Mine were deeply dissatisfied with the compensation they received from the mine for loss of ploughing fields, grazing land, trees and other natural resources (See Mnwana et al., 2016). Residents also complained that the land Amplats allocated for ploughing after relocation was neither suitable for ploughing nor sufficient in size for everyone. A resident explained:

Before we were here [in Armoede] we had ploughing fields. They compensated us in the form of money, but the mine's compensation was not even enough. For



instance, my family had 20 hectares, but we were given only R4,500.00 when we relocated to this area in 2007. In 2008 they began to distribute the land that you see as you enter Armoede for the people to plough. The land that I am talking about is where you see the old farm building. But that land was not enough for the entire community ploughing land. When they were building the main road they removed the top soil and left the rocks underneath. People could not plough the land because the top soil was removed. Till today we were never provided with enough land to plough. (Interview: Ga-Sekhaolelo 08.04.2015)

Oral accounts in the research sites also captured local perspectives of the loss of land and decline of cropping in large ploughing fields. A 68-year-old man, a village farmer, explained how his ploughing field which was about fifteen hectares was reduced to only three hectares. According to him and other respondents the mine's consultation with villagers was poor and promises made were never fulfilled:

It was in February 2002 that the people from the mine and the chief called a meeting of the local residents. The people from the mine told us that we would no longer be allowed to cultivate our fields anymore because mining was going to take place on that land. We asked them about the effects of losing those ploughing fields, pasture lands, trees for firewood, medicinal roots and herbs. They told us that for everything that we feared to lose the mine would compensate us. To this day we have received nothing from the mine! (Interview: Ga-Chaba 31.03.2015)

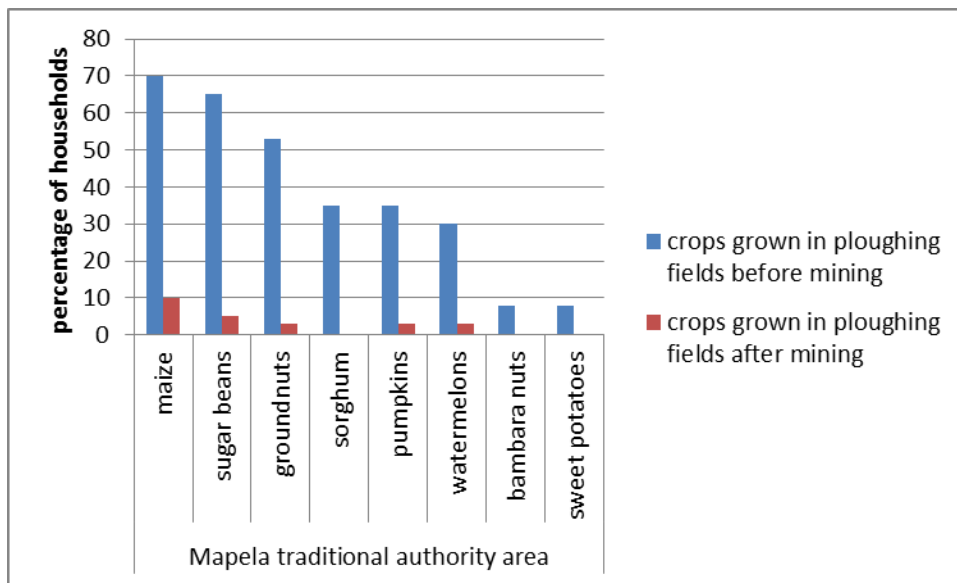
Our adult respondents narrated how they used to harvest several bags of crops, including sorghum, maize and beans. A woman in her early 60s summarised this:

My parents made a living out of the land. They cultivated land for crops. They were able to harvest sorghum, maize, beans and many other things which we lived on. We would produce between 10 to 12 bags, depending on the rains. Some would have a harvest of 15 bags. It varied amongst the farmers. After harvest time, we took sorghum and maize for grinding to the milling depot to make sorghum and maize meal. We exchanged grain into ground meal. When that batch ran out we would fetch another sack from storage and consume it and so forth. That was our way of life. (Interview: Ga-Chaba 25.03.2015)

The analysis of the survey material revealed how land-based livelihoods have systematically diminished in the face of rapid mining expansion in Mokopane, Limpopo. Mining-led dispossessions have led to a notable decline in agricultural activities in the villages that coexist with mining operations. Although arable production and livestock farming had suffered at different historical moments due to earlier forms of land dispossession during colonial and apartheid periods, the recent occupation of huge tracts of farming land by mining activities has created evident constraints on local agrarian livelihoods. Households that had been resilient in agricultural productivity despite earlier forms of dispossession

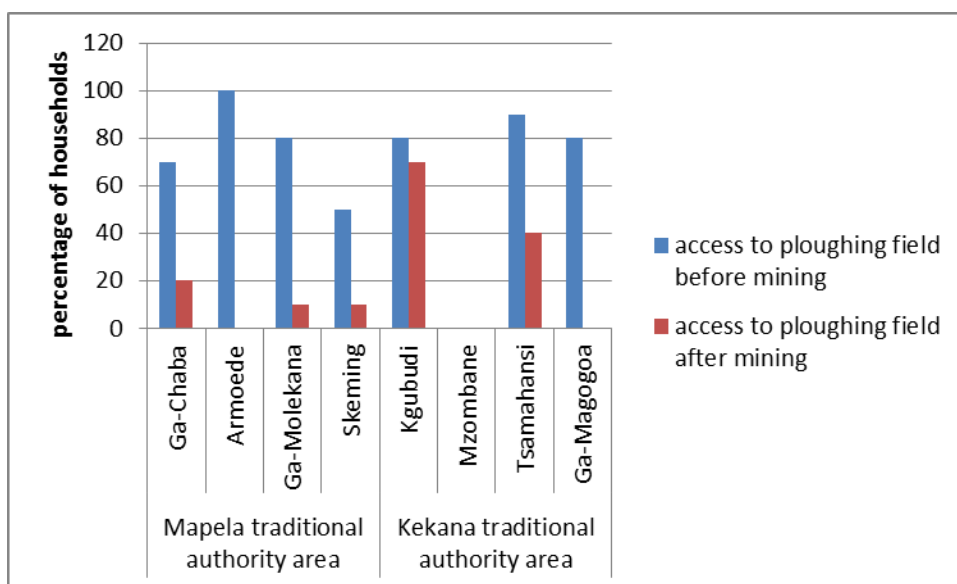
have begun showing strong signs of decline in agricultural activity due to mining expansion (Mnwana et al., 2016). The narratives of interview respondents describing the decline in arable production and loss of food security due to limited access to land because of mining are also corroborated by survey data. Figures 2 and 3 show a decline in the number of households growing certain types of crops in ploughing fields in some of the local villages that host mining operations.

**Figure 2: Crops grown in ploughing fields in Mapela (n=40)**



Source: (Mnwana et al., 2016)

**Figure 3: Access to ploughing fields in Mapela and Kekana villages (n=80)**



Source: (Mnwana et al. 2016)

Lack of adequate compensation for loss of access to land due to mining tends to exacerbate poverty and food insecurity. In some instances, the mines paid once-off cash payments to relocated families and those who lost access to arable land and common pasturage. This has not been enough to make up for the loss of livelihoods experienced by the households. Villagers had historically relied on the produce obtained from ploughing fields for a huge portion of their food requirements. Thus, once-off cash payments as a form of compensation for loss of land is seen as highly inadequate and unjust (Mnwana et al. 2016). The excerpt below is illustrative:

Because they have taken our ploughing fields each and every household should benefit, every month end there should be some income that we get to purchase food. They are able to benefit hourly from the land they took from us which is unfair because there is no other mine that does not produce as much as they do. (Interview: Ga-Sekhaolelo 31/03/2015)

We also found that there was division amongst the youth about whether employment in the local mines could be considered a form of compensation for loss of land. Despite the high unemployment and poverty rate, and the many young people desperate to get any job they can find, some of the youth felt that even if the mines were to provide jobs, the wages would not compensate for the loss of land and the damage to the local environment. Some also felt that working for the mines would expose them to physical harm and health hazards. In fact, they maintained that working for the mine was an unjust form of compensation for their communities who had been dispossessed by the mines. To them, mine employment was equal to settling for less. They wanted the mine to share its profits with the families that have lost their livelihoods on a monthly basis. Some youths, who perceive no apparent benefits accruing to the community, and many negative effects, have taken the position that they want the mines to close. Criticising those (fellow youths) who wanted employment, one of the young activists argued:

The only thing they are interested in is getting jobs. We want to stop mining in my area, but they want to work. When people are hungry, you cannot convince them that the food they want to eat contains poison. They will just eat and not mind the poison. Truly speaking, most of the youth from my area have no vision at all! If I wanted to work for the mine, they would have employed me long time ago. And then I would work and get sick and die. How can I work for the mines that are here to kill us? They are here to kill us! For me it doesn't matter which mine it is. I won't work for them! (Interview: Ga-Chaba 13.09.2015)

As explained above, the contestation of mineral rents in mining communities relates to specific forms of distributive politics. Radical claims expressed by rural residents point beyond common notions of capitalist exchange (labour market opportunities), and even classical (Western) social anthropological meanings of sharing that are rooted in reciprocity (on the side of the recipient), generosity and benevolence of the giver. Emerging radical

claims over land and minerals in South Africa's rural mining frontier are, as Ferguson puts it, demands for rightful "allocations to properly due to rightful owners – then there is no expectation of a return, no debt, and no shame" (Ferguson, 2015, p. 178). The colonial and apartheid systems' distorted perceptions of African landed property rights as 'communal', secured through membership or affiliation to a tribal polity and controlled through the custodianship of local chiefs, persists in South Africa's post-1994 democratic era (Claassens, 2014). The 'new' legislation<sup>18</sup> that redefines citizens living in the former homeland areas as 'traditional communities' (under chiefs) has, however, reproduced the apartheid-style interpretation of communal property rights. Although there are a few progressive recent court judgements (highlighted earlier), courts of law under the current democratic dispensation, continue to interpret local custom in a manner that entrenches the power of local chiefs over land and other collectively controlled natural resources (see Mnwana and Capps, 2015; Ubink and Duda, 2021). Now chiefs in these areas are empowered to become custodians of communal land and other natural resources. Not only does this go against many rural peoples' understanding of the authority of chiefs, it can also violate the cultural meanings attached to and connections with the land. This violation has inflamed tensions, and generated a wide range of community conflicts across many mining areas.

As we have seen earlier, nationalisation of mineral resources<sup>19</sup> has not erased strong ownership claims – 'distributive claims' – over mineral resources at the local level. If this is the case with minerals, one wonders how state control of land would be received, if it ever materialises. The fact that some rural communities (often referred to as 'traditional communities') on the platinum belt have significant control of mining revenues in the form of, among others, royalties and dividends can be seen as a form of resource control at a local level. However, the establishment of 'community trusts' and other instruments to manage common revenues that accrue from mining has created significant conflict in many rural communities (Mnwana, 2015) due to the skewed distribution mechanisms championed by the local elite. As shown in the empirical discussion above, these misalignments between the distribution of harms and rents and organisational power, and the deficiencies of the institutional frameworks designed to relieve such distributional tensions, created severe social tensions and conflict.

Scholars have tabled radical proposals and imaginaries on national wealth distribution, particularly for the 'developing' nations in the Global South (see Ferguson, 2015; Hanlon et al., 2012). These emerging debates, however, tend to lay more emphasis on the role of nation states and their social security mechanisms. In a recent contribution, Seekings (2019, p. 2) argued that "perceived justice of the distribution" tends to shape conflict over resources. Seekings investigated the general perceptions on public norms around 'deservingness' of individuals to state public provision (support) and private contributions

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<sup>18</sup> These include the Traditional Leadership and Governance Framework Act of 2003 (Act 41 of 2003, or the TLGFA), the Communal Land Rights Act of 2004 (Act 11 of 2004) and the Traditional Courts Bill (B15—2008).

<sup>19</sup> Under the the Mineral and Petroleum Resources Development Act 28 of 2002 (MPRDA).

by kin or extended family members. Seekings also pointed out that the recipient's character (behaviour) is fundamental in shaping public perceptions about their 'deservingness' to receive state financial support. For instance, allegations of 'abuse' (using it to buy alcohol and getting drunk) of state security (especially the Child Support Grant) might trigger public outrage. In essence, recipients of social assistance, although not expected to work or contribute anything, have a responsibility to continue conducting themselves in a manner that make them 'deserving' of this support. There is a slight divergence in the distributive claims presented by our findings. The claimants of mining benefits, as mentioned earlier, based their claims on ownership rights to land. Although the normative basis of who should benefit and who should not remains highly contested, it is quite clear that cash from mining is claimed as a right – "a rightful share" (Ferguson, 2015, p. 165).

## **Conclusion**

The article attempted to address the question of why local conflict has escalated in South Africa's rural platinum mining frontier despite progressive minerals policy shifts in recent years. Undeniably, extraction of platinum group metals, by its nature, is a land-intensive and environmentally destructive exercise. The rural focus of the mining industry in post-apartheid South Africa has been characterised by significant resistance, mainly due to land struggles. The paper discussed how processes of land dispossession and a systematic decline in land-based livelihoods at the face of rapid mining expansion shape distributive claims. The paper examined the escalation of conflict on South Africa's platinum belt, particularly local struggles over mineral rents. We argue that the mounting local exclusive claims over mineral-rich land and demands for cash payments epitomise the evolving non-market forms of distributive claims on this expanding rural mining frontier. As discussed, ideological contestation and claim-making in what Ferguson (2015) refers to as "distributive politics" – that is, "questions about the general processes of distribution as they unfold in contemporary societies and sorts of binding claims and counterclaims that can be made about these processes" (Ferguson, 2015, p. 20) – are particularly important to understanding the evolving politics of distribution in South African mining, given the enduring legacies of severe and widespread racialised inequality.

Mining, in rural South Africa has catalysed new forms of distributional claims over land and natural resources held by local communities. Does this mirror the future – the post land reform terrain of distributive struggles? The empirical discussion demonstrates how the local institutions established by the elite tend to exclude subaltern groups claiming customary land rights, whose livelihoods significantly depend on access to land. The struggles of the ordinary villagers who feel excluded, which may take the form of violent protests, demands for cash or even prolonged court battles, are rooted on claims over land mineral rents. As such, we argue that conflict over mineral rents is strongly connected to the structure of power and local institutions.

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