

# “We Know Our Lives Are In Danger” - Report Annex, April 2019

## 1. Response from Anglo American to March 2019 Letter



CORPORATE OFFICE  
INTERNATIONAL & GOVERNMENT  
RELATIONS  
20 Carlton House Terrace  
London  
SW1Y 5AN  
United Kingdom

Katharina Rall  
Human Rights Watch  
Environment and Human Rights Division

March 2019

Dear Katharina,

**Re: Request for comment regarding threats to rights in mining-affected communities, including rights to health, water, food, livelihood, free speech and assembly, March 2019**

In your correspondence with Anglo American, you requested information on the following:

1. In Limpopo, platinum mining has taken place in and around communities near Burgersfort. Many of these operations have forced residents to relocate—sometimes without adequate compensation from the mining companies. Blasting has also created loud noise and sometimes rocks fall in people's gardens.
2. Near Twickenham Mine in Limpopo, a community activist was reported to have been killed in 2013 in unclear circumstances during a protest. The police investigation has not led to any results pertaining to the perpetrator or cause of death.
3. Can you share any company policies or documentation showing your company's commitment to protect community rights defenders in Limpopo? Have you taken any steps to report abuses to the police, encourage thorough investigations, or other actions to support community rights defenders' right to protest?
4. Comments on Key Recommendations made in the HRW Report.

Anglo American Platinum's (AAP) response to the issues raised above namely: the relocation of communities around the Burgersfort area, the noise impacts related to blasting activities and the death of a community activist in 2013, are presented below.

**A member of the Anglo American plc group**

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## **1. Relocation of communities and blasting linked to Platinum Mining in Limpopo**

### **1.1 Relocation of communities around Burgersfort and compensation**

The process of relocation was conducted in consultation with the Limpopo Provincial Government, National Government, the Department of Land and Rural Development, the Premier's Office, as well as the Local and District Municipalities. These were the key stakeholders that were included in the process of approvals and engagement.

The communities affected by relocation, established democratically elected Relocation Committees, which continue to exist to date and to engage with Twickenham Mine. During the initial relocation process, these committees that represented affected communities participated in agreeing on compensation policies, programmes and standards. Each affected family concluded on a Relocation contract that provided compensation, which was equal to or more than the value of the family's possessions. Houses were constructed for each family, which were approved by the National Home Builders Registration Council (NHBRC), the Department of Housing and other relevant state agencies. Compensation was also provided for livestock, which was owned.

In all respects, the Relocation Committees together with the Traditional Authorities signed the compensation agreements, as endorsements of agreements made. Each household signed off on receipt of the compensation. Houses which were constructed for affected people, were 5, 8 and 12-roomed houses, depending on the size of the dwelling that was replaced. Training was provided to the dependents on portable skills, which would equip them to obtain employment.

### **1.2 Blasting and noise impacts around the Burgersfort area**

Twickenham Mine is an underground board and pillar mine. All blasting takes place underground and no blasting occurs on surface. Therefore, there are no recorded incidents of rocks falling into people's gardens or yards. We do however, welcome reporting of such incidents so that such incidents can be investigated.

## **2. The death of a community activist in 2013 during a protest near Twickenham Mine**

There has been no knowledge of fatality of a community activist that was recorded on the mine footprint or the mine lease area, during the period reported above. There was no formal report submitted to the mine by the police or any other state investigative agency. Any threat or harm whatsoever to a community activist is condemned in the strongest possible terms by Anglo American and AAP. Any information on this allegation that may be shared would be welcomed in order to ensure a thorough investigation.

## **3. Anglo American's Position on Human Rights Defenders**

AAP is aligned with Anglo American's position on respecting the human rights of community groups including community rights defenders, as espoused in their public statement, the link to which is provided below.

Anglo American Platinum is a signatory to the Voluntary Principles on Security and Human rights (VPs) and as such, conducts its functions in protecting the company's



facilities and premises in a manner that ensures that human rights are respected. AAP's internal procedures dictate that cases that would involve infringements of the human rights of community rights defenders are reported to public law-enforcement agencies for investigation. AAP conducts its own independent investigations, in parallel with investigations by the public law-enforcement agencies. In addition, AAP closely follows the investigations of public law enforcements agencies, to ensure that human rights are respected. Cases that involve violations of human rights are reported annually at the Voluntary Principles Initiatives Plenary Session.

#### 4. Comments on Key Recommendations

Our comments on the key recommendations to mining companies in South Africa and the South African Minerals Council are below:

- **Publicly condemn all attacks against community rights defenders in mining-affected communities and nongovernmental organizations opposing mining.**

Anglo American is supportive of this recommendation and recently issued a [public statement](#) in support of civic freedoms and human rights defenders. In line with the statement:

We recognise that defenders are important partners in identifying risks or problems in our business activities, encouraging due diligence and in the provision of remedy when harm occurs. When they are under attack, so are sustainable business practices.

We are exploring how policies and practices can be strengthened to ensure we respect and do not interfere with the work of civil society and human rights defenders.

We strongly encourage governments to protect civic freedoms everywhere. This includes ensuring that civil society and human rights defenders are free from abuse, harassment, intimidation, physical attacks or from limitations on their rights to freedom of speech, assembly, association and movement individually and collectively.

We will work to find effective ways business can positively contribute to situations where civic freedoms and human rights defenders are under threat.

- **Develop detailed guidelines in collaboration with mining-affected communities for respecting the human rights of community members, regularly and publicly report on implementation of the guidelines, and annually review the adequacy of the guidelines.**

We agree with this recommendation and believe we have made a great deal of progress in this regard.

The Anglo American [Social Way](#) sets out Anglo American's social management system standards and requirements, and our [Socio-Economic Assessment Toolbox](#) (SEAT) provides detailed guidance on the implementation of the Social Way requirements, which incorporate human rights. Both of these documents are currently being updated and have been reviewed regularly in the past.

The Social Way and SEAT were developed in consultation with internal stakeholders, as well as external experts and NGOs. The current update is following the same process.



We appreciate the value of consultation and collaboration and agree with the principle of consulting with communities on guidelines. However, in practical terms it is not feasible to consult with communities on Group-level standards and guidelines. Anglo American operates more than 30 mining and 10 processing operations in eight different countries. Some operations are located in close proximity to hundreds of individually recognised communities.

Compliance with Social Way requirements is assessed at every operation on an annual basis. The results have been reported publicly in our Sustainability Reports since 2014 and form part of the Group Chief Executive's scorecard. In some parts of the business, Social Way results are included in mine General Managers' performance scorecards and compliance levels affect remuneration.

The Social Way results are reported in aggregate form. We are currently evaluating options for improving local accountability and transparency.

- **Develop and implement, in collaboration with mining-affected communities, a grievance mechanism for raising allegations of human rights violations, and take all necessary steps to ensure the safety of anyone who files a grievance. Companies and the Minerals Council should thoroughly investigate and address all alleged incidents reported under the grievance mechanism, and if necessary, take immediate action to remedy human rights violations. The Minerals Council should take disciplinary action against its members that are found to have violated human rights, including by expelling them if necessary.**

Within Anglo American, every exploration site, project and operation is required to have a social incidents procedure. This provides a mechanism for addressing incidents and stakeholder concerns before they escalate. Detailed guidance on incident management is provided in Anglo American's Socio-Economic Assessment Toolbox (SEAT), Tool 4A 'Social Incidents, Complaints and Grievance Procedure v3.1', pages 71-80. SEAT is [publicly available](#) on Anglo American's website. SEAT recognises that a critical feature of effective grievance mechanisms is local relevance.

We are confident that our guidance to date has been robust and it is currently being updated to stay in line with best practice. However, full and consistent implementation of the procedure has been complex and remains an area for improvement.

Recommendations with regards to the Minerals Council will be brought to the attention of the Council.

- **Regularly monitor threats and abuses against community rights defenders in mining-affected communities and urge national, provincial and municipal governments to protect communities and other civil society members who are exercising their domestic and international rights to freedom of opinion, expression, assembly and association.**

Anglo American agrees with this recommendation but has not as yet considered how to approach monitoring threats and abuses to community rights defenders.

- **In addition to complying with their existing human rights responsibilities, companies operating in South Africa should adopt and implement the Voluntary Principles on Security and Human Rights, including by recording**



and reporting allegations of credible human rights abuses by police in their areas of operation to appropriate government authorities and encouraging investigations of allegations.

Anglo American has been a signatory to the VPs since 2005. Our commitment to human rights and the VPs is entrenched in our [Code of Conduct](#) and [Human Rights Policy](#). Our annual VPs performance reports are available [here](#).

Yours sincerely,

A handwritten signature in black ink, appearing to read "H. Botes", written over a faint horizontal line.

Hermien Botes

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## 2. Response from Anglo American to September 2018 Letter



CORPORATE OFFICE  
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RELATIONS  
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United Kingdom

Katharina Rall  
Human Rights Watch  
Environment and Human Rights Division

March 2019

Dear Katharina,

**Re: Human Rights Watch Information request, September 2018**

Thank you for the opportunity to respond to your request for information regarding threats to free speech and the right to protest in mining affected communities. We have included here responses to the questions and would welcome further engagement.

### **1. Protests and threats against community rights defenders**

#### **1.1 Are you aware of any threats or attacks against community rights defenders in the communities near to your mine? What do you think is the cause of these threats and who are the perpetrators?**

Anglo American is not aware of threats of attacks against community rights defenders in the communities near our mines in South Africa. Anglo American recently supported a public statement in support of civic freedoms and human rights defenders. In line with the statement:

- We recognise that defenders are important partners in identifying risks or problems in our business activities, encouraging due diligence and in the provision of remedy when harm occurs. When they are under attack, so are sustainable business practices.
- We are exploring how policies and practices can be strengthened to ensure we respect and do not interfere with the work of civil society and human rights defenders.
- We strongly encourage governments to protect civic freedoms everywhere. This includes ensuring that civil society and human rights defenders are free from abuse, harassment, intimidation, physical attacks or from limitations on their rights to freedom of speech, assembly, association and movement individually and collectively.
- We will work to find effective ways business can positively contribute to situations where civic freedoms and human rights defenders are under threat.

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1.2 Do you have statistics on the number of protests in relation to your operations over the past five years that you can share with us? If not, can you provide an estimate?

Anglo American does not collect quantitative data on the number of protests directed at its mines. However, anecdotal evidence (including reports from mines, claims by NGOs and media activity) suggests that there has been an increase in mining-related protest action.

Research by Municipal IQ, a specialised local government data and intelligence organisation, shows that 2018 recorded a peak level of service delivery protests (i.e. not related to mining). We believe there is a link between the increase in mining-related and unrelated service delivery protests. Municipal IQ has found that the increase in service delivery protests in 2018 correlated with economic retraction and rising unemployment levels. As significant economic actors in many under-developed areas mining operations are under significant pressure to deliver economic opportunities and there is often discontent when expectations cannot be met.

1.3 Do you know if any of the protests in relation to your mine have resulted in arrests, injury or death? If so, can you provide us with details of these cases?

We are not aware of any arrests, injury or deaths associated with protests. However, it is worth distinguishing between peaceful protests and unlawful actions (e.g. forced invasion, theft and intimidation of employees) that can be associated with protests. The South African Police Service (SAPS) addresses criminal activity and law enforcement.

## **2. Role in protest applications**

2.1. Do applicants for protests need to engage with your company on their grievances prior to applying for a protest at the municipality?

Anglo American supports the Constitutional right to assemble peacefully and unarmed, irrespective of whether prior engagement has taken place. It is, however, our preference that those with grievances approach our operations in advance as this provides an opportunity to resolve the matter at hand.

2.2. Have you received requests for written consent to carry out a protest near your mine?

Written requests are received in some cases, but not all.

2.3. Does the municipality or police inform you about any planned protest related to your mine? Before or after approval?

We are informed of planned protests in some cases, but not all.





2.4. Do you ever participate in Section 4 meetings?

Not to our knowledge, although all operations have not been fully surveyed.

2.5. Have you ever applied for an interdict against a protest or against community rights defenders? When and under what circumstances?

Not to our knowledge, although all operations have not been fully surveyed.

3. Security during protest

3.1. What are your procedures for dealing with allegations of misconduct or unlawful conduct against police during protests?

Allegations are reported to senior SAPS officials and the *Independent Police Investigative Directorate (IPID)*.

3.2. Do you hire a private security company to protect your operations? If so, what is their role during protests?

Yes, Anglo American business units employ internal security personnel and also contract several private security providers. The role of private security providers is to protect employees and company assets.

3.3. Do you ever take pictures or video footage of protestors? What do you use them for?

Yes, video recordings are sometimes taken as a measure to deter unlawful conduct, or as a retrospective tool for identifying possible unlawful conduct on the part of employees, security providers or protestors.

3.4. a) Can you share any policies regarding appropriate conduct and the local use of force (e.g., rules of engagement) for your private security forces?

Private security providers are required to abide by the VPs. All private security personnel who act on behalf of Anglo American operations in South Africa have received VPs training. In most cases, compliance with the VPs forms part of the commercial contract with service providers. We also ensure compliance with IFC Performance Standard 4 (Community Health, Safety, and Security).

b) How do you monitor investigations into allegations of abusive or unlawful acts, the availability of disciplinary measures sufficient to prevent and deter, and procedures for reporting allegations to relevant local law enforcement authorities when appropriate?





Incidents may be self-reported through site incident management systems, or reported by third parties through the site complaints and grievances procedure or the confidential Group-wide 'SpeakUp' whistleblowing line.

Within Anglo American, every exploration site, project and operation is required to have a social incidents procedure. This provides a mechanism for addressing incidents and stakeholder concerns before they escalate. Detailed guidance on incident management is provided in Anglo American's Socio-Economic Assessment Toolbox (SEAT), Tool 4A 'Social Incidents, Complaints and Grievance Procedure v3.1', pages 71-80. SEAT is publicly available on Anglo American's website.

We are confident that our guidance to date has been robust and it is currently being updated to stay in line with best practice. However, full and consistent implementation of the procedure has been complex and remains an area for improvement.

3.5. How do you record allegations of human rights abuses by private security? Have you investigated or forwarded allegations against private security providers? What was the result and how did you monitor?

The Anglo American Social Way (7b) requires operations to undertake due diligence when selecting a private security provider. Detailed guidance is provided in SEAT Tool 4H: Voluntary Principles on Security and Human Rights, pages 141-145. This includes establishing whether there has been a history of respect for / violations of human rights law and international humanitarian law. Among others, SEAT includes requirements around monitoring performance and managing gaps.

Anglo American has an MoU with peace-building NGO, International Alert (Alert). Alert has for several years conducted security and human rights training and assisted us with various aspects of VPs implementation, especially risk assessments. Individual business units have processes in place to log and monitor incidents, however Alert has offered two recent recommendations for recording and monitoring allegations at a corporate level. Specifically, Alert has identified:

- the need to create a consolidated intelligence register of all private security guards involved in security and human rights incidents as a means to track private security contractors when they change companies and ensure guards who have a history of human rights abuses are not re-hired under a new company; and
- keeping registers recording all use of force and investigate and follow-up with corrective measures on use of force incidents, reporting to the authorities when appropriate.



#### 4. Company policies

- 4.1. Do you communicate with local police or other public security forces about company policies on use of force and ethical conduct? Do you provide trainings on the Voluntary Principles to public security?

Our South African business units communicate our expectations with regards to the VPs through several standing forums (see 4.2), and in advance of any planned protests that require SAPS presence.

Kumba Iron Ore offers training to SAPS members, while Platinum and Coal SA do not.

- 4.2. What steps do you take to ensure that police provide security for your operations in line with company policies? Has your company entered into any kind of agreement or contract with public security forces? Does that agreement incorporate any elements of the Voluntary Principles? Can you provide a copy or additional information about any agreement with public security forces?

Our South African business units engage with various stakeholders regarding the VPs. This includes participation in forums such as: the Mineral Council of South Africa's Standing Committee on Security; the National Coordination Strategic Management Team; Non-Ferrous Metal Crime Combating and Greed Committees; Mine Crime Combating Forums; Provincial Illegal Mining Forums; Provincial Joint Operations Committees; National Operational Committee; Provincial Operational Committees; and the National Joint Operational and Intelligence Structure (where all state security departments are represented).

Participation in these forums provides an opportunity for Anglo American to share its experiences and expectations and learn from peers and other sectors.

Platinum operations have MoUs with the local and provincial SAPS for matters relating to security and human rights and at Coal there are ongoing efforts to enter into an MoU on security and human rights with the local police service. MoUs are not in place at Kumba or De Beers.

- 4.3. Does your company provide any equipment to public security forces? If so, what equipment is provided, and what steps do you take to monitor that the equipment is used in an appropriate manner?

No equipment is provided to public security forces.

- 4.4. What steps do you take to record and report allegations of credible human rights abuses by public security in your areas of operation to appropriate government authorities? Have you ever reported incidents of human rights abuses in the past, and if so, what was the result? Have you ever encouraged investigation of allegations of human rights abuse by public security forces?



As per 3.5, these processes differ per site and no incidents have come to the attention of the corporate center. Typically, cases would be reported to IPID.

## 5. Challenges and recommendations

### 5.1. From the perspective of your company, what are the challenges in relation to protests about mining in your area?

Our primary challenge relates to protests that are becoming increasingly violent. Such protests compromise rights to freedom of movement and the safety of our employees as well as community members. By way of example, there have been troubling incidents of employees being held hostage by protestors and aggrieved community members.

An additional challenge is that much of the protest action (mining related or otherwise) is linked to social and economic factors that we cannot always address independently or directly.

### 5.2 What could the police or municipalities do to respond to your concerns, if any?

It does not appear that the police services have adequate resources to respond to incidents of public unrest. Earlier intervention by police services could prevent violent escalation.

As noted in 5.1, the root causes of much protest action relate to economic and social factors that are generally beyond the mines' direct control. Working together with local government to try and improve access to economic opportunities and public services would be the most valuable measure to address the increasingly violent nature of public protests.

### 5.3 What do you think could be done to better protect community rights defenders?

More effective and direct dialogue between mines, local government and community rights defenders could help all parties resolve matters of concern in a peaceful manner. We would also welcome dedicated human rights defenders programmes offered by the state.

### 5.4 Do you have any recommendations that we should consider including in our report?

Further to 5.3, it is our view that much of the increase in protest action is rooted in complex social and economic factors. These need to be resolved in a systematic and collaborative manner.

Additionally, the escalation of peaceful protests into violent exchanges can, and must, be prevented. Our aim is for grievances related to our mines to be resolved directly with concerned parties. However, when protests do take place:



- effective policing must address criminal elements that have the potential to undermine the lawful efforts of community rights defenders; and
- private and public security forces must adhere to the VPs and (in the case of public services) practice effective crowd control to prevent the violent escalation of peaceful protests.

Yours sincerely,

A handwritten signature in black ink, appearing to read "H. Botes", written over a faint, larger version of the signature.

Hermien Botes

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### 3. Response from Ivanplats to March 2019 Letter



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April 1, 2019

#### Human Rights Watch

Attention: Katharina Rall - Environment and Human Rights Division

Email: [rallk@hrw.org](mailto:rallk@hrw.org)

Dear Katharina,

Ivanplats Proprietary Limited welcomes the opportunity to engage with Human Rights Watch in the mutual interest of protecting the rights of communities surrounding mining operations.

Ivanplats is in the process of establishing a large, mechanised, underground platinum mine approximately 11 kilometres northwest of Mokopane in Limpopo Province. The mine has the potential to become the biggest underground platinum mine in the world, and represents one of the most significant foreign direct investments into the South African economy in recent years.

Ivanplats has been conducting prospecting activities since 2001 and invested approximately R5-billion over a period of 15 years to discover and define the large orebody at Platreef. Construction of the mine began in 2014. The projected total investment to production will be in excess of R25-billion.

The massive, long-term investment in a new Platinum Group Metals mine is underpinned by global demand for platinum, palladium, nickel and copper which are all required to make the electric car revolution possible which, in turn, is an absolutely critical requirement for cleaning the planet's air over sprawling urban centres. In stark contrast to conventional gas cars, electric cars reduce or eliminate exhaust emissions, thereby reducing greenhouse gases and their contribution to global warming. Also, the Fourth Industrial Revolution will not be possible without the metals which the Platreef Project will ultimately produce as these are crucial elements necessary for the production of handphones, computers and other digital technologies.

Once in production, the mine is expected to create approximately 2,200 direct jobs for mostly skilled employees, which in turn will create many more indirect jobs and bring much-needed economic stimulation to the Mokopane region and Limpopo Province.

Ivanplats has implemented an industry-leading, broad-based, black economic empowerment (B-BBEE) structure, with the 20 local communities surrounding the mine being the main beneficiaries and holders of a 20% ownership stake in Ivanplats. Other B-BBEE participants include Ivanplats Historically Disadvantaged South African (HDSA) employees (3%) and a large consortium of local entrepreneurs (3%). Further to the 26% B-BBEE shareholding, a Japanese consortium holds 10% whilst Canada's Ivanhoe Mines holds a 64% majority stake. Complementing Ivanplats' exemplary black empowerment structure is the company's consistent Level 3 rating in terms of South Africa's B-BBEE scorecard, which indicates Ivanplats' efforts to ensure that empowerment is promoted across the business. The empowerment of women is a particular focus area in Ivanplats, which is illustrated from the top of the company and throughout the ranks of our operation, across various fields of expertise.

At the moment, and until such time as the mine becomes operational and starts generating profits, the local communities receive into a Trust a cash payment from Ivanplats of R11-million each year. Once the mine becomes operational, these cash payments will be replaced by dividends, which are expected to amount to several billions of Rand over the first 30 years of the mine's life.

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Page 1 of 3

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A host of measures, policies and engagement protocols have been put in place in order to ensure full, transparent and equitable discourse with our 20 host communities on matters affecting their livelihoods around the future mining operations, as well as to ensure that they benefit thereunder. Some of these measures include:

- Commitment to human rights through policies such as the Corporate Citizenship Statement of Values and Responsibilities and Code of Business Conduct and Ethics;
- The establishment of a Community Relations Committee, tasked with liaising directly between community representatives and Ivanplats representatives;
- The establishment of the Bonega Communities Trust for the benefit and prosperity of the local communities, mandated to engage in charitable, educational and training activities for the development and upliftment of the local communities;
- Ongoing consultation on all operational aspects of the Platreef Project, as mandated under law and as a code of good practice, including in relation to grave relocations, authorisation amendments, employment opportunities, economic displacement, Enterprise and Supplier Development and Local Economic Development, and project development;
- Commitment to community-beneficial projects in the mine's Social and Labour Plan;
- Self-assessment checklists and internal matrices which guide and inform Ivanplats employees' conduct in respect of external stakeholders insofar as the protection of human rights is concerned;
- Ivanplats' participation as a member of the Minerals Council of South Africa, which intends to adopt the Voluntary Principles on Security and Human Rights as part of their Membership Compact in the near future; and
- Ivanhoe's Sustainability Report.

It is important to note Ivanhoe Mines, the majority shareholder of Ivanplats, issued its first annual Sustainability Report in 2017 (<https://www.ivanhoemines.com/investors/sustainability-report/>) which details the company's health, safety, environmental and social responsibility performance. The report documents Ivanhoe's strategic focus on sustainability considerations associated with the development of its three mining projects in Southern Africa. The report records how subsidiaries, including Ivanplats, work with partners, host communities and employees to achieve sustainability objectives. It also outlines the company's business strategy, governance and active sustainability programs.

The commitment by Ivanhoe and Ivanplats to responsible exploration and mine development is central to our strategic vision. We operate under clear, value-based principles of excellence, personal accountability, integrity and social and environmental responsibility. Working with our employees, contractors and the people of the communities in which we operate, we strive to build strong and lasting relationships to address stakeholders' interests, employ leading-edge technology, improve safety practices and minimize our impact on the environment. Ivanhoe's 2018 Sustainability Report will be published in April 2019.

In response to some of your queries / recommendations posed in Annex A to your letter of 12 March 2019:

Ivanplats does not support the notion of community resident relocations. Since the requisite approvals were obtained for the Platreef Mine Project in 2014, the surrounding communities have encroached on or moved closer to the mine site and settled near the mine infrastructure boundary. Ivanplats does not consider this to be an issue as Ivanplats will continue to maintain a 100m buffer zone from its core active mining operations as per its legal obligations under the Mine Health and Safety Act and the conditions of its environmental approvals. In order to accommodate the expansion of the surrounding communities and ensure the safety of these communities, however, we have decided to reduce the mine infrastructure footprint by 74 hectares. In addition, the Social Impact Assessment Report commissioned in support of Ivanplats' applications found that no physical displacement was predicted to be required and that only economic displacement was considered to be a risk and impact of the Platreef Mine Project. In this regard, Ivanplats is currently developing a Livelihood Restoration Programme in consultation with the affected communities.

That being said, the mine employees recruited from communities on the mine's doorstep currently happily reside within close proximity of the site and within their communities. Ivanplats' proposed housing policy seeks to assist employees with instruments supporting building renovations and betterment and to encourage employees to participate in home ownership schemes in these community areas close to the mine. Based on Ivanplats' own surveys, mine employees prefer not to be stationed at, on or in extreme close proximity to the operations, and prefer to be located where they currently reside with these communities.

In respect of blasting, Ivanplats has conducted blasting impact assessments and conducts blasting activities in strict adherence with its environmental authorisation conditions. It must be noted that blasting is only associated with foundation construction for the mining shafts and that all mining will be underground. Also, most of the tailings material will be returned underground to mitigate the environmental impact of the mine.

As noted earlier, there has been significant community encroachment since the approval of the environmental management programme in 2014 and certain amendments have been requested to the environmental authorisation in this regard. A current amendment application takes the new positions of the communities into account and has established new boundaries in order to ensure that the requisite safe buffer zones are maintained (in addition to the reduction in the mine's footprint).

Ivanplats has a formal Grievance Mechanism procedure in place, which aligns with legislative requirements and international best practice standards, to allow community members (or any aggrieved persons) to lodge any form of grievance or complaint, whether related to blasting or otherwise, and maintains a complaints register for these purposes. Ivanplats has not received complaints of any human rights violations from community members, with the exception of a number of unfounded allegations from a particular serial objector who has consistently sought to stop the development of the project. Ivanplats has responded to these efforts in accordance with the principles of justice and South Africa's constitutional values.

Finally, Ivanplats acknowledges all persons' rights to protest, object and be heard. Ivanplats fully co-operates in all investigations and objection proceedings launched at the instance of complainants, regulatory authorities or representative organisations, in a transparent and comprehensive manner. The company openly and actively engages all parties interested in and affected by its operations.

We trust that the above information may assist your research. Do not hesitate to contact us should you require any further information.

Yours sincerely,



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Dr. Patricia Makhesha  
Managing Director, Ivanplats Proprietary Limited



4. Letter from Minerals Council South Africa sent November 2018



29 November 2018

Katharina Rall  
Researcher  
Environment and Human Rights Division  
Human Rights Watch

Sent via email: [rallk@hrw.org](mailto:rallk@hrw.org)

Dear Katharina

**MINERALS COUNCIL: RESPONSES TO HUMAN RIGHTS QUESTIONNAIRE**

I am pleased to provide you with Minerals Council's response to Human Rights Watch's questionnaire regarding alleged threats to free speech and right to protest in mining-affected communities.

The Minerals Council South Africa is a mining industry employers' organisation that supports and promotes the South African mining industry. Our mission is to play a leadership role in enabling the South African mining sector to achieve its real potential for investment, growth, transformation and development in a socially and environmentally responsible manner.

We would welcome engaging with yourselves further on issues you have raised and responses we provided. We look forward to receiving your report summary and recommendations for our review.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Tebello Chabana'.

**Tebello Chabana**  
**SENIOR EXECUTIVE**

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Board: M Mgqo (President), A Sengco (Vice President), N Froneman (Vice President), S Phiri (Vice President), A Bam, R Badar, P Dunne, M Frewer, C Griffiths, N Holland, MJ Houston, L Kgelle, B Magers, M Mahlalele, Z Matlala (Ms), N Mbasima, T Mkhwenisi, N Muller, J Ndlovu, D Naidoo (Ms), S Petersen, N Pienaar, W Potgieter, N Pretorius, MP Schmidt, C Sheppard, E Smart, PW Steenkamp, M Teka

## Responses to questionnaire by: Minerals Council South Africa

### 1. Protests and threats against community rights defenders

a. Are you aware of any threats or attacks against community rights defenders in mining-affected communities, especially in the areas where your members operate? What do you think is the cause of these threats and who are the perpetrators?

*The Minerals Council is not aware of any threats or attacks against community rights defenders where our members operate. However, we are aware of increased spate of protests across the country, including mining regions.*

*We are of the view that political intolerance, high levels of unemployment and dissatisfaction with service delivery are contributing factors to conflict.*

*We are cognisant that in the process of mineral exploitation, there is potential for conflict and in this regard, the Minerals Council has embarked on a process to encourage its members to respect human rights. We have formulated a Human Rights Framework which serve as good practice guidelines for the members of the Minerals Council. This process entailed identification of areas in which mining operations could impact on human rights. We have defined these areas as: Environmental management and conservation; Health and safety; Security and Human Rights; Governance and ethics; Transformation; Human rights at the workplace; Land-use and resettlements. We are also encouraging members to establish community Grievance mechanisms.*

*Through the mandatory Minerals Council Membership Compact <https://www.mineralscouncil.org.za/special-features/158-membership-compact>, our members have committed to 'respect fundamental human rights and respect cultures, customs and values in dealing with employees and others who are affected by their activities'.*

b. Do you have statistics on the number of protests in relation to mining in South Africa, especially in the areas where your members operate? If not, can you provide an estimate?

*The amount of protests in South Africa has increased and in areas where our members operate is no exception. At the Minerals Council level, we have not kept any comprehensive records in this regard. We carried out a survey in Mpumalanga among members recently and had 38 protests reported. The vast majority were related to job opportunities, supply contracts and skills training. To avoid loss of lives and impact on property, we have intensified our engagement with government and other stakeholders to address the root causes of these protests. We are currently engaging the Departments of Cooperative Governance and Traditional Affairs; Planning and Monitoring; Mineral Resources; Rural Development and Land Reform. This is in line with the United Nations Guiding Principles (UNGPs) that, 'both the government and business should ensure there are accessible channels to raise concerns and to provide equitable remedies where there have been unavoidable human rights impacts.' In addition to engagements with the government, there are parallel engagements with civil society.*

c. Do you know if any of the protests in relation to mining have resulted in arrests, injury or death, especially in the areas where your members operate? If so, can you provide us with details of these cases?

*The Minerals Council does not keep comprehensive statistics of community protests, but the Department of Mineral Resources would collate and report on these statistics. We are of course aware of public reports of violent incidents, and have on occasion issued statements in this regard. See, for example, the 24 March 2016 statement 'Murder of Xolobeni community leader', and the 7 June 2016 statement, 'Chamber statement on violence at and near Northam'. Both can be found at <https://www.mineralscouncil.org.za/industry-news/media-releases/2016>. We do monitor statistics relating to workforce fatalities and injuries on duty.*

## **2. Security during protest**

a. Does the Minerals Council have any procedures or guidelines for members to advise how to address allegations of misconduct or unlawful conduct against police during protests?

*Some of our members are ICMM members which is an observer to the Voluntary Principles on Security and Human Rights (VPSHRs) initiative. We have encouraged all members to observe the VPSHRs and its implementation guidelines as a standard for business respect for security and human rights.*

b. Can you share any policies regarding appropriate conduct and the local use of force (e.g., rules of engagement) for private security forces of your members? How do you monitor investigations into allegations of abusive or unlawful acts, the availability of disciplinary measures sufficient to prevent and deter, and procedures for reporting allegations to relevant local law enforcement authorities when appropriate?

*We have encouraged our members to adopt the VPSHRs as a guideline to maintain security around operations. A number of our members are longstanding members of the VPSHRs. The VPSHRs, of course, advocate the use of minimum force in conflict situations. We believe that the South African judicial system is adequate to administer law enforcement and we always encourage our members to comply with the South African laws in responding to threatening actions and to report unlawful actions either by its workforce or members of community to law enforcement agencies.*

c. Do you record allegations of human rights abuses by private security in mining-affected communities, especially in the areas where your members operate? Have you investigated or forwarded allegations against private security providers? What was the result and how did you monitor?

*The Minerals Council advocates to members adherence to the VPSHRs, which includes standards related to private security management. In the Human Rights Framework for the mining industry we recently developed, we have recommended that companies adopt Grievance mechanisms to manage grievances from society. The companies that have existing Grievance mechanisms would keep such records, but it is not a universal action by mining companies. As the Minerals Council, we have not investigated or forwarded any allegations against private security providers.*

### 3. Policies and capacity-building

a. How many of your members committed to following the Voluntary Principles on Security and Human Rights? Do you encourage other members to participate and work with them on implementation? Do you have any other human rights policies in place that would be relevant to protecting the rights of community members? Does the Minerals Council provide a grievance mechanism to community members to raise concerns about threats against them?

*Minerals Council members of the VPSHRs include Anglo American, AngloGold Ashanti, Glencore and Rio Tinto.*

*We have recommended adoption of the VPSHR as a standard for Security and Human Rights key performance area. In addition, we have planned training of our members on the VPSHRs and other elements of our Human Rights Framework in 2019. We believe this step would enhance the understanding of maintaining safety and security whilst respecting human rights.*

*The Minerals Council has established presence in Mpumalanga Province and plans are afoot for similar presence in the Northern Cape. We have done so to provide a platform for society to engage us on our performance in a coordinated manner. At corporate level, we are planning to complement regional presence with electronic grievance mechanisms. However, the Minerals Council can only address issues that are industry related and we will refer company grievances to affected companies. As mentioned above, the Minerals Council has confidence in the country's judicial system and would encourage community members to immediately report crime and life-threatening situations to the South African Police Service (SAPS).*

b. Do you provide guidance or capacity-building to your members on human rights responsibilities, in particular implementation of due diligence? Do you provide trainings on the Voluntary Principles to your members or police? Do you communicate with police or other public security about their policies on use of force and ethical conduct in mining-affected communities?

*The Minerals Council has been engaging with members on the implementation of the UNGPs, and has planned several capacity-building sessions with members in 2019. These would cover human rights due diligence; the Voluntary Principles as well as Grievance mechanisms.*

*While we have ongoing engagement with the SA Police Service regarding criminal activities around mining sites, including illegal mining, we have not planned to engage with police service on alleged use of force and unethical conduct by the Police force. Individual members that are part of, or are observing the VPSHRs, do so in respect of their own situations. Further, we are of the view that the recommendations of the Farlam Commission of enquiry (Farlam Commission) are adequate to capacitate and ensure the police workforce conduct their duties with respect to human rights. Some of the recommendations included the enhancement of public policing; demilitarisation and professionalisation of the SAPS. Please find link to the Farlam Commission Report with respect to SAPS (Chapter 25): [<https://www.sahrc.org.za/home/21/files/marikana-report-1.pdf>].*

#### 4. Challenges and recommendations

a. From the perspective of the Minerals Council, what are the challenges in relation to protests about mining in South Africa?

*Challenges of service delivery and high unemployment have contributed to heightened protests in South Africa. High unemployment has resulted in mining industry being impacted because of expectations for jobs and other economic activities at the mines. However, we acknowledge that the industry has had some challenges in implementing certain commitments especially the Social and Labour Plans and whilst these challenges would be communicated to relevant authorities, in some instances, the message does not filter to society. We are intensifying our commitment to respect for human rights and we believe the current efforts with both the government and other stakeholders, would contribute to harmonious relations in mining regions.*

b. What could the police or municipalities do to respond to your concerns, if any?

*Adequate training of police personnel was one of key recommendations of the Farlam Commission. The Minerals Council would like to believe that Police Leadership is implementing the recommendations of the Commission, as they have undertaken to do so. In addition, Parliament's Portfolio Committee on Police has been briefed on numerous occasions on the progress of this recommendation.*

*We acknowledge that the Municipalities are struggling to absorb talent and that aging infrastructure against decreasing revenues adds to challenges Municipalities are facing. As the Minerals Council, we have taken the issue of incapacity in the Municipalities seriously and are engaging extensively with the Department of Cooperative Governance and Traditional Affairs with the aim to contribute to solutions that will resolve tensions in communities as they have both social and economic impact to the country.*

*There have been instances where the members of the Minerals Council have contributed to funding infrastructure and seconding of mine personnel to Municipalities, over and above contributions to rates, levies, Social and Labour Plans and royalties paid to government. We do this to contribute to the social, economic and institutional development of the communities in which we operate.*

c. What do you think could be done to better protect community rights defenders in mining-affected communities?

*The right to protest and freedom of speech and association are enshrined in our Constitution and therefore activists are within their rights to exercise them. In addition to instances of unlawful action against them, several mine personnel have also been killed, injured or suffered intimidation in recent times.*

*Both mine managements and community protestors have an obligation to adhere to peaceful and lawful forms of protest, management and engagement. Where these are contravened, police personnel, also acting in terms of these standards, should ensure that the law take its course against those who have contravened the law.*

*We would recommend that both activists and mine management consider participation in recognised structures for purposes of objectivity and constructive engagement. The multiplicity of engagement structures could be an inhibitor in achieving harmony around mining*

*operations. A mechanism is needed that is inclusive and that incorporates all stakeholders impacted and affected by mining operations.*

d. Do you have any recommendations that we should consider including in our report?

*South Africa face triple challenges of poverty, inequality and unemployment. These challenges require society to come together to find solutions. We recognise our role as the mining industry in creating economic opportunities and to contribute to social upliftment and importantly, that our operations must avoid impacting human rights and where impacts cannot be avoided, together with the government we provide remedy.*

*We are committed to a social pact with society and we have commenced on this journey with government and other stakeholders to ensure there is stability around our operations and that, potential impact on human rights are minimised.*



5. Response from Sefateng to March 2019 Letter



28 March 2019

KATHARINA RALL  
ENVIRONMENT AND HUMAN RIGHTS DIVISION  
HUMAN RIGHTS WATCH  
350 5<sup>TH</sup> AVENUE  
NEW YORK  
NY 10118  
USA

Email: [rallk@hrw.org](mailto:rallk@hrw.org)

Dear Madam,

**RE: REQUEST FOR COMMENT REGARDING THREATS TO RIGHTS IN MINING-AFFECTED COMMUNITIES, INCLUDING RIGHTS TO HEALTH, WATER, FOOD, LIVELIHOOD, FREE SPEECH AND ASSEMBLY.**

We refer to your correspondence dated 15 March 2019, annexed for ease of reference.

We have been informed that similar correspondence has been directed to Traxys, an indirect minority shareholder in Sefateng Chrome Mine (Pty) Ltd ("Sefateng"). In this regard we advise that Traxys is not directly engaged in mining at Sefateng.

Other than in response to the more specific questions contained in the Annex to your abovementioned correspondence, we have provided some general information regarding our ongoing efforts to ensure the betterment of the lives of all stakeholders in the Sefateng Chrome Mine.

As you may be aware, the local communities, consisting of the Jibeng, Phasha and Mampa Communities, are all shareholders in Sefateng through the Jibeng Community Trust, Phasha Makgalanotho Community Trust and Mampa Ditlou Community Trust. The chairman of each trust is a director on the Sefateng

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Sefateng Chrome Mine Proprietary Limited  
Registration no: 2006/033799/07  
23 Culross Road, Bryanston, 2021 | P O Box 98349, Sloane Park, 2152  
Tel: +27 15 291 3961 | Fax: +27 15 295 6390  
Directors: D Kouroumbelides (Chairman), SC Nkadiemeng, K Maroga, M Maphutha, KR Nkadiemeng,  
L Moloto, SW Mampa, KN Phasha, GJ Bissauw, PP Boshoff, J Porter, RGLM de Tarragon  
Company Secretary: Traxys Africa Holdings Limited





board of directors and also participates at management level at the monthly management committee meetings. Accordingly the local communities are well represented within Sefateng's corporate governance structure and have the opportunity to receive all information and participate in all corporate proceedings of Sefateng including all matters affecting the local communities and their residents and all workers at the Sefateng mine.

For your information, Sefateng has developed a stakeholder engagement process which it implements on a daily basis. The stakeholder engagement plan addresses the following:

1. Stakeholder identification and analysis;
2. Stakeholder engagement programme;
3. Summary of previous stakeholder engagement;
4. Grievance management;
5. Monitoring and reporting;
6. Resources responsibilities and management functions;
7. Timeframe/action plan.

You should be aware that Sefateng, with the approval of the Department of Education, has built a school on farm Waterkop 113 KT for use by local pupils. You should also be aware that, although water is not available within the area and the local municipality has not provided the necessary infrastructure to provide water to these communities, Sefateng supplies potable water for daily usage to approximately 6000 community members through a system of pipelines using equipped boreholes.

To date Sefateng has created hundreds of employment opportunities. Once in operation the underground mine that is under development will create a further thousand employment opportunities, which we anticipate will come to fruition within the next six months.

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Sefateng complies in full with the Mineral and Petroleum Resources Development Act, Act 28 of 2002 and the National Environmental Management Act, Act 107 of 1998. The Department Mineral Resources, which is empowered to enforce both of these acts, frequently monitors and assesses Sefateng's compliance. An annual social and labour plan audit report is assessed annually by the Department. Furthermore, a bi-annual environmental audit is conducted by Sefateng which is assessed by the Department, in compliance with the National Environmental Management Act. Sefateng is also subject to frequent inspections by the Inspectorate of the Department Mineral Resources to monitor compliance with health and safety standards of the Mine Health and Safety Act 29 of 1996.

Sefateng's efforts in the communities have from time to time been hampered by the fact that there are several groups of illegal miners operating in the area. Some of the individuals concerned reside within the communities concerned. These groups are organised and are sometimes armed. There have in the past been altercations involving these illegal miners and our private security services provider and/or the South African Police Service ("SAPS"). These groups threaten stability within the area and prejudice the rights and interests of the communities in mining operations.

To address one of your more specific questions, blasting is done within safety parameters of the Mine Health and Safety Act 29 of 1996, which mandates noise reduction as far as is technically possible. Blasting is however an occasional event occurring once or twice within a period of three months.

In respect of your comment regarding rock falls we confirm that all reports of rock falls are thoroughly investigated when received. The reports we have received to date have all been investigated and have found to be inaccurate. Even if rock falls do occur, it is impossible to control due to natural occurring geophysical activity. Rock falls have occurred on the mountains well before any mining operations ever started within the area as a result of geophysical activity and as a natural occurrence will continue into the future. However, rock falls as a result of geophysical activity has often been laid at the mine's door, allegedly resulting from blasting.

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Considering the alleged crop fields on which mining occurred, no crops have ever been grown on the farms in question due to the arid landscape. It is unsupportive of crops. No crop fields could ever be identified by claimants and furthermore, proof that the local chief provided the alleged claimants with permission to utilise the portions of the communal lands, that are situated on the three farms subject to Sefateng's mining right, for crop fields (which is a requirement in tribal law) has never been produced or confirmed. It is notable that a thorough investigation was conducted and no evidence in support of such claims could be established.

The incident as described on 12 July 2017 did indeed occur and, unfortunately, the protest was not peaceful. The protest concerned was an illegal one during the course of which the protesters barricaded access roads, forcibly entered the premises and threatened the safety of our employees. It should be noted that some of the protestors involved were armed, including with firearms. During the course of the protest Sefateng commenced a court proceeding in order to obtain an interdict. It should be noted that the court found that a great degree of urgency existed and it granted an immediate interdict against the protesters interdicting them from coming within a 500m radius of the mine. The court accepted that life and limb was at stake, since the protesters pelted security vehicles attempting to enter the mine with rocks and verbally threatened the lives of security personnel and mine management. The unfortunate fatal shooting was the subject of a SAPS investigation to ascertain whether the shots were fired from an SAPS registered firearm or a firearm from within the crowd of protesters. The finding was that a SAPS officer fired the fatal shot since the SAPS members' lives were endangered. This unfortunate event occurred outside the boundaries of our operations where we have little control over the actions of SAPS. It should furthermore be noted that none of the security personnel in the employ of our security services provider fired a single shot during the course of this protest.

Numerous and frequent peaceful marches and picketing have occurred in the past and Sefateng has considered the demands of the protestors and addressed those demands when appropriate. These protests were regarded as lawful in terms of legislation regulating peaceful protesting. It is also a fundamental right in the Constitution (section 17), which Sefateng supports.

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Company Secretary: Traxys Africa Holdings Limited



A private security contractor provides security on the mine. It employs approximately 20 staff armed with arms firing rubber bullets, all staff being accredited by the Private Security Industry Regulatory Authority. No disciplinary or criminal prosecutions have been brought for excessive use of force against any of the staff of our security services provider.

The key recommendations are acceptable and is a matter of legal right in terms of the Constitution of the Republic of South Africa to freely associate and protest. In conducting every aspect of its business Sefateng seeks to further the interests of all stakeholders in furtherance of the principles enshrined in the South African Constitution.

Trust you find this in order and await your reply.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'G. Blaauw', written over a horizontal line.

**GERARD BLAAUW**

**CHIEF EXECUTIVE OFFICER**

**SEFATENG CHROME MINE (PTY) LTD**

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Company Secretary: Traxys Africa Holdings Limited

## 6. Response from Tendele Coal to September 2018 Letter

Physical Address: 37 Peter Place, Lyme Park, Bryanston 2021 South Africa  
Mailing Address: PO Box 6070, Rivonia 2128, South Africa  
South Africa

Sent via email: [jarmi@somkhele.co.za](mailto:jarmi@somkhele.co.za); [media@petmin.co.za](mailto:media@petmin.co.za); [Jonathon@proofcommunication.com](mailto:Jonathon@proofcommunication.com)

**Re: Request for comment regarding threats to free speech and right to protest in mining-affected communities**

Dear Mr. Jan du Preez,

I am writing on behalf of Human Rights Watch, Earthjustice, Centre for Environmental Rights, and groundWork to kindly request information about how your company is addressing threats to free speech and the right to protest in mining-affected communities in South Africa. Short descriptions of our respective organizations are included below. We plan to conclude our research in September and kindly request that you respond to the attached questionnaire in writing by September 30, 2018.

Our research focuses on the situation of community members who are defending their livelihoods and raising concerns about the human rights impacts of mining projects. We will also identify practical recommendations to different levels of government and mining companies to safeguard the rights of these people. Our findings and recommendations will be published in a human rights report.

In the interests of obtaining a thorough, balanced, and objective understanding of the issues we are examining, I am writing to you to get your company's perspective on these matters so that we can incorporate your views into our forthcoming report.

In March, April and August 2018, we interviewed more than 60 community rights defenders in mining-affected communities in Limpopo, KwaZulu-Natal, North West Province, and Eastern Cape, where mines are being proposed or are operating. We examined how harassment and violence against opponents of mining has impacted their ability to exercise their rights to free speech and peaceful assembly. We investigated issues concerning limitations on the right to protest in several communities. We are also investigating the potential role of companies in some of these abuses.

We believe that the dialogue with companies is very valuable to developing an informed perspective on your role and on your efforts to protect community rights defenders in mining-affected communities. More broadly, we believe that you can share valuable insights into the complexities and challenges of the mining sector in South Africa that could help inform our recommendations to the government and mining companies.

Your written response to the attached questionnaire, if received by September 30, 2018, will be reflected in our forthcoming report. Any other comments or information that you can provide us would be appreciated.

We would welcome the opportunity to speak with you or your company representatives. Please let us know if you have any questions or would like to arrange a meeting or video conference.

Sincerely,

Katharina Rall  
Researcher  
Environment and Human Rights Division  
Human Rights Watch  
Email: [rallk@hrw.org](mailto:rallk@hrw.org)  
Phone: +1 646 247 3503

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#### Questions for Mining Companies

##### 1. Protests and threats against community rights defenders



- a. Are you aware of any threats or attacks against community rights defenders in the communities near to your mine? What do you think is the cause of these threats and who are the perpetrators?
  - We are aware of claims of attacks, yet upon investigation and consultation with Police, the information could not be verified / substantiated, yet has already caused upheaval on social media. Equally so, we have received various complaints from employees and pro-mining community members being threatened and intimidated and in some cases the protests against the mine include criminal acts of damage.
- b. Do you have statistics on the number of protests in relation to your operations over the past five years that you can share with us? If not, can you provide an estimate?
  - 2013 – 3; 2015 – 2; 2016 – 1; 2017 – 2.
- c. Do you know if any of the protests in relation to your mine have resulted in arrests, injury or death? If so, can you provide us with details of these cases?
  - In 2013, 9 people were arrested for an illegal protest action and sentenced to 30 days community service.
  - In 2017, 15 people were arrested in an illegal protest action when they blocked the access to the Mine. Community leaders and Mine Management jointly agreed that the transgressors would perform Community service and the case was withdrawn.

## 2. Role in protest applications

- a. Do applicants for protests need to engage with your company on their grievances prior to applying for a protest at the municipality?
  - Yes, although many protest actions are illegal of nature and bypass the necessary channels.
- b. Have you received requests for written consent to carry out a protest near your mine? Yes in 2017
- c. Does the municipality or police inform you about any planned protest related to your mine? Before or after approval?
  - Yes, before approval – the municipality arranges meetings to try and resolve conflicts and avoid protests.
- d. Do you ever participate in Section 4 meetings? Yes
- e. Have you ever applied for an interdict against a protest or against community rights defenders? When and under what circumstances?
  - Yes, against the Chairperson of the MCPA in 2016 who threatened the CEO of the company and blocked access to the Mine illegally with road haulage trucks in an attempt to extort business contracts from the Mine.
  - This person spreads lies and untruths into the community and social media which causes violence, extortion, corruption, threats etc.

## 3. Security during protest

- a. What are your procedures for dealing with allegations of misconduct or unlawful conduct against police during protests?
  - People are referred to lay charges at the Police station.
- b. Do you hire a private security company to protect your operations? If so, what is their role during protests?
  - Yes. Protect the employees and Mine assets inside the fence, Access control and communication between Mine and Police.
- c. Do you ever take pictures or video footage of protestors? What do you use them for?
  - Yes. We have surveillance cameras and it is used as evidence in cases where charges are opened against perpetrators of illegal acts.
- d. Can you share any policies regarding appropriate conduct and the local use of force (e.g., rules of engagement) for your private security forces (Why do you use the term security force?)? How do you monitor investigations into allegations of abusive or unlawful acts, the availability of disciplinary measures sufficient to prevent and deter, and procedures for reporting allegations to relevant local law enforcement authorities when appropriate?
  - We have a Crowd Control Policy which was developed in cooperation with the SAPS post the Marikana incident in 2013 – as part of the Mine Crime Combatting Forum initiative launched



Nationally. The SAPS was also involved in the training of our guards and security management to manage such situations.

- e. How do you record allegations of human rights abuses by private security? Have you investigated or forwarded allegations against private security providers? What was the result and how did you monitor?
  - One allegation was received in 2014, but when investigated by the police and witnesses interviewed, it was found to be a lie and that the person claiming the allegations was actually trying to get a security contract from the Mine.
  - Other than the above, we have never had any complaint against our security company in this regard, however we do have a complaint register where complaints can be recorded and addressed. Complaints are mainly regarding security contracts or people wanting to be employed as security guards.

#### 4. Company policies

- a. Have you committed to following the [Voluntary Principles on Security and Human Rights](#)? If so, how do you implement them?
  - We were not aware of these principles. Will review the link – thank you.
- b. If you are participating, can you share annual reports on Voluntary Principles implementation, consistent with the reporting guidelines and verification framework? *N/A*
- c. Do you have any other human rights policies that would be relevant to protecting the rights of community members?
  - No, however we subject ourselves to and support the South African Constitution and applicable legislation.
- d. Do you provide a grievance mechanism to community members to raise concerns about threats against them?
  - Yes
- e. Can you share any assessment of human rights risks associated with the security system for your facilities? What factors do you take into consideration in assessing human rights risks associated with your operations?
  - The Mine's Baseline Risk assessment covers all factors pertaining to Health, Safety, Environment, Community and Quality. Based on this Risk assessment, Codes of Practice are drawn up (as per mining legislation) and Standard Operating Procedures then generated for training purposes, monitoring and assessment.
  - In terms of HR, IR etc, we have policies and procedures in place as per our Disciplinary code as well as per the BCEA and LRA etc.
- f. Do you communicate with local police or other public security forces about company policies on use of force and ethical conduct?
  - Yes

Do you provide trainings on the Voluntary Principles to public security? *N/A*
- g. What steps do you take to ensure that police provide security for your operations in line with company policies?
  - The Crime Combatting forum (as mentioned in 3d. is used to ensure alignment between parties. Has your company entered into any kind of agreement or contract with public security forces? *Yes.*
- h. Does your company provide any equipment to public security forces? If so, what equipment is provided, and what steps do you take to monitor that the equipment is used in an appropriate manner? *Nothing*
- i. What steps do you take to record and report allegations of credible human rights abuses by public security in your areas of operation to appropriate government authorities?
  - Investigate the allegations and then report to the SAPS. We have however not had any such cases as yet. Have you ever reported incidents of human rights abuses in the past, and if so, what was the result? No Have you ever encouraged investigation of allegations of human rights abuse by public security forces? No, reports have never been received.

#### 5. Challenges and recommendations

- a. From the perspective of your company, what are the challenges in relation to protests about mining in your area?

- Protestors can be very violent and attack innocent bystanders i.e. set alight vehicles, trucks and or equipment. Many protest actions are illegal in nature and in many instances the Mine is used as leverage to serve the interests of the protestors in matters such as service delivery, housing, unemployment etc. None of which are the responsibility of the Mine, but rather that of government / municipalities. Protests on public roads influence production, transport and also impede against OUR human rights.
  - Action groups influence communities to protest violently based on mis-information, untruths and propaganda which in the majority of the cases proves to be innocent community members which are being misled and manipulated for a particular entity's own interests. For example: Where a specific person was not successful in a tender, they would use innocent community members to protest on their behalf under false pretenses. Some activists promise that if community members pay membership fees and join their associations, they will ensure people get work at the mine, yet then their cause is that of anti-mining?
  - Failure / refusal of community members to use the established structures / communication channels results in mis-information which leads to unnecessary animosity and eventually protests. Under the guidance of the DMR in 2016, and together with the assistance, support and leadership in the Community - (including the Inkosi and Traditional Council, Municipality and other recognized leaders), we developed the ROAD MAP during 2016 and started to build partnerships and this process continued into 2017. The Road Map established the most comprehensive communication platform ever in this area (Mpukunyoni Community Mining Forum – MCMF) and includes the Traditional structures, Municipality and Civil elected committees in each mining area (Mining Area Committee, “MAC”), NPO's, NGO's and that is open to all community stakeholders to participate and furthermore also include AMCU and NUM shop stewards and local entrepreneurs. Together we are living and breathing by the slogan of “ONE TEAM ONE MINE ONE COMMUNITY”. The Road Map inter alia acknowledges mistakes of the past, identifies joint solutions and pave the way forward for the future. This is a platform for joint communication, yet these activist groups and other community members do not want to address the Mine at these forums / structures which makes it difficult to handle all issues / complaints as people are not willing to engage.
  - Unscrupulous and unethical activists post false information with malicious intent on social media tarnishing the image of the company and industry as a whole and cause unnecessary fighting in already aggressive, poverty stricken, high unemployment areas.
- b. What could the police or municipalities do to respond to your concerns, if any?
- Municipalities can ensure better service delivery, better communication with communities and the Police must prosecute perpetrators.
- c. What do you think could be done to better protect community rights defenders?
- Improve communication structures in order to address and resolve complaints before they become protests. Also community rights defenders should make themselves available to discuss matters in a forum with the relevant mining company so that there is proper debate and dialogue between the parties and not just rhetoric and vilification which leads to violence – we have found that many/most of the activist groups we have dealt with refuse to do this as it will expose them and their real motives.
- d. Do you have any recommendations that we should consider including in our report?
- Various times it has been reported on social media that activists are targeted / threatened / harassed. Once one investigates this, it is found to be unsubstantiated or fabricated news to create sensation in order to provoke violent protests and anti-mining attitudes (and eventually leads to threats to employees).
  - Statements made on social media and to communities surrounding mines are often that of closure of the mine, i.e. they do not want any mining at all. They continue to ignore the massive improvement of the lives of many people that mines can bring to such areas – especially in South Africa where Social and Labour Plans are compulsory in mining environments and can provide huge benefits for a community.
  - In South Africa, the Human Rights Commission's investigations sprout from various Environmental activists who brought issues to light. Although this role is extremely important to ensure that operations comply with legislation and cause minimal harm, it should also be done in

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  - In South Africa, the Human Rights Commission's investigations sprout from various Environmental activists who brought issues to light. Although this role is extremely important to ensure that operations comply with legislation and cause minimal harm, it should also be done in

a truthful and balanced manner – surely we are not protecting human rights when we are fighting to close mines and therefore ensure unemployment.

- While mining does affect the environment, there is a balance that needs to be maintained when considering these matters. It would be wonderful if the world could obtain its raw materials with zero harm, but that is in utopia, even the environmental activists drive cars and have mobile phones – all products of mining. While the world needs environmental activists to protect against unscrupulous people, these activists also need to be fair and reasonable when considering the facts before them – and actually consider the facts. Unfortunately some activists are idealists and would rather have a devastated economy and no jobs than a responsibly run mine.