



CORPORATE GOVERNANCE IN AFRICA CASE STUDY SERIES: NO 1

A clash of cultures (and lawyers): A case study of Anglo Platinum and its Mogalakwena mine in Limpopo, South Africa

This case study was prepared by Leanne Farrell, Eric Mackres and Ralph Hamann (corresponding author¹). Its primary purpose is for class discussion – it does not seek to argue for or against any particular organisation or course of action. The case study is based on published documents, internal company memos and correspondence, and interviews with employees of Anglo Platinum (both at head office and the mine), consulting companies, NGO representatives and community members. Note that not all interviewees are mentioned by name in the case study. The authors are grateful to all interviewees for sharing their valuable time and perspectives.

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Much has been written about the often fraught relationship between mining companies and the communities around their mines. But despite numerous industry initiatives in this regard at international and national levels, it seems that much still has to be learnt. This case study investigates a particularly telling situation: Anglo Platinum, the world's largest platinum mining company and recipient of many awards for its sustainability reports and practices, is confronted with an intractable conflict with and between local community groups around its Mogalakwena mine near Mokopane (formerly Potgietersrust) in Limpopo. Not only has this conflict led to the stalling of a necessary community resettlement, but it has brought about broader political fallout at the local and provincial level and widespread media attention, as well as international embarrassment for the company in the wake of an ActionAid report on the situation, published in March 2008.

The ActionAid report contributed to this issue being investigated by the South African Human Rights Commission (SAHRC), which launched its report in November 2008.² This was the first time that the SAHRC took on a question of human rights and mining – indeed this was of international interest in the

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² South African Human Rights Commission (2008) *Mining-related observations and recommendations: Anglo Platinum, affected communities and other stakeholders, in and around the PPL Mine, Limpopo*. Johannesburg: South African Human Rights Commission.

context of United Nations (UN) discussions on business and human rights.³ The SAHRC report made copious suggestions of how the resettlement process could be improved. According to Greg Morris, Anglo Platinum's Project Manager for the Motlhotlo Resettlement Project (which is at the heart of the controversy), 'the SAHRC report doesn't actually accuse Anglo Platinum of human rights violations – if they had, we'd probably be in court now with them... But they have couched it as though we have committed human rights violations even though they say we haven't. Having it written and presented this way is almost worse.'⁴

At the launch of the SAHRC report, the first question directed to the Commission by a representative of Anglo Platinum was, 'Did you or did you not find Anglo Platinum to have acted illegally?' The Commission's representative responded curtly: 'Your question betrays a misunderstanding of the purpose and spirit of the report!' Though other representatives of the company tried to remedy the situation by welcoming the report, the damage had been done. The first speaker from the company – one of its lawyers – had illustrated the underlying tension between the company's emphasis on legal and financial muscle, and an approach based on dialogue and negotiation that may be more effective in the long term. Indeed, the SAHRC's report highlighted that many of the problems around the Limpopo mine may be attributed to the company's emphasis on legal compliance, rather than a broader approach focused on inclusiveness and human rights.

This case study traces the developments leading up to the SAHRC's report launch and discusses how the company is trying to respond. In particular, is the Limpopo debacle going to be seen as an opportunity by the company to fundamentally revisit its approach to local community relations, resettlement and integrated development planning around its mines, or will it see this as a once-off difficulty that needs to be contained and managed? More broadly, can a company like Anglo Platinum make the necessary cultural shift away from conflict and contest, and toward negotiation and partnership?

The Company

Anglo Platinum Limited is the world's largest primary producer of platinum and related materials. In 2007 it produced 2.47 million ounces of platinum and 1.39 million ounces of palladium. Its operations comprise seven mines, three joint ventures, three smelters, a base metals refinery and a precious metals refinery. It is publicly traded, has 236.4 million shares in issue, and has a primary listing on the Johannesburg Securities Exchange with secondary listings in London and Brussels. It has a market capitalization of US\$36 billion as of 29 February 2008. It is majority owned (76.53%) by Anglo American plc, a UK listed company that is one of the world's largest diversified mining groups.

Anglo Platinum's earnings have been at record heights each year since 2006. This is in large part because of the high price of platinum over the period. Despite the plunging price of platinum in the latter part of 2008, the company still managed earnings of R13,292 million in 2008.

Anglo Platinum has also been recognized many times for social and environmental responsibility. These include the Nedbank Green Mining Award won in 2006 and 2007, the Mail and Guardian Investing in the Future Award in 2006 and the Govan Mbeki Housing Award. Additionally, in 2007 the Anglo American Chairman's Fund was ranked as the best corporate grant giver in South Africa for the seventh consecutive year by business and NGO peers. Meanwhile, Anglo American's enterprise development initiative, Anglo Zimele, was ranked as the best small business development initiative in South Africa.⁵

³ See the report of the Special Representative of the Secretary General on business and human rights, published in April 2008: UN (United Nations): 2008, 'Protect, Respect, and Remedy: a Framework for Business and Human Rights: Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie' (United Nations, New York).

⁴ Greg Morris interview 26/1/09 – note that subsequent quotes from interviewees will not be referenced unless they are from other sources.

⁵ Anglo Platinum (2008) *The Facts* (available via <http://www.angloplatinum.co.za>) (pages 5-6)

The chairman of Anglo American, Sir Mark Moody-Stuart, is Chairman of the Foundation for the Global Compact, the fundraising and awareness arm of the UN Global Compact, arguably the most prominent international corporate responsibility initiative.⁶ He also plays a significant role in the World Business Council for Sustainable Development.⁷

The Communities

The Mogalakwena mine is located in a poor rural community with little education and few opportunities. This is described by ActionAid in its report, *Precious Metal*:

The province of Limpopo in northeastern South Africa is the poorest in the country in terms of average income, which is just R6,497 (£463) per year, around half the national average. Two-thirds of the province's population live in poverty, while 40% live in 'ultra-poverty', defined as people living on incomes of less than R2,717 (£193) per year.

Over half of Limpopo's population, and most of the villagers [around the mine], speak SePedi and belong to the Bapedi ethnic group. They are traditionally almost completely dependent on farming to make a living... Farming takes place mainly on communal land, portions of which are allocated to individual families, and in garden plots at their homes.

Men traditionally plough the land while women plant, tend and harvest the crop and process the harvest primarily for the households' own consumption, although many farmers also manage to produce a surplus to sell in local markets. Women are particularly dependent on subsistence farming for their livelihood...

Social and basic services such as health care are minimal in the area. There are also very few jobs so local economic activity tends to involve those such as the small scale retail trade, car and bicycle repairs and beer brewing. Some villagers occasionally make money by renting a room to mineworkers. The major income aside from farming tends to come from government grants such as children's allowances or pensions.⁸

Anglo Platinum has attempted to provide some benefits for the communities around the Mogalakwena mine. The mine has a policy to look for employees locally first and then further afield if needed skills cannot be found. The mine has committed to having 30% of its employment coming from the local villages, but this commitment is not currently being fulfilled due to overall retrenchment following the drop in platinum prices. According to an estimate from one company official, currently the number is at about 20%. Mine representatives believe these goals are difficult because the area has very low education (high school matriculation rates are about 10%) and it is hard to find the needed skills in the area. The mine also has a training programme for some local residents.

Poverty and lack of opportunity were common themes in comments made by Anglo Platinum staff about the affected area. It was argued that this poverty was at the root of many of the problems experienced by the company in the area. A local resident noted, 'a hungry stomach is dangerous stomach'.

The legacy of apartheid and the homeland system has left a strong impact on present politics and land use in the area. A report by Anglo Platinum about the resettlement process, published in response to the ActionAid report, describes how this has affected its operations:

As a result of this legacy of under development many of the communities around Anglo Platinum's operations are impoverished and have never had access to a decent education,

⁶ <http://www.unglobalcompact.org>

⁷ <http://www.wbcsd.ch>

⁸ ActionAid (2008) *Precious Metal: The impact of Anglo Platinum on poor communities in Limpopo, South Africa* (London: ActionAid), pages 9-10.

employment, or fresh running water and other necessities of life. Many have never owned land as land ownership patterns were skewed in favour of the white minority.

Furthermore, large numbers of people were forcibly moved from their land by the apartheid government into what were known as homelands or self governing territories. This resulted in large population densities in these homelands with great poverty and very little development...

South Africa's history has lead [sic] to many present day challenges and in particular there are many unique community engagement challenges. Two of which [sic] are described in more detail.

Firstly, there are three tiers of democratically elected government, namely local, provincial and national. Traditional leadership structures are also still recognized in South African law. There are cases where there are 'tensions' between traditional leadership and elected officials and Anglo Platinum has on occasion found itself juxtaposed between the parties in dispute. Compounding this, there are often long standing leadership and/or land disputes between traditional leaders. These disputes result in 'factions' within a community, making community engagement a complex process. By way of example there may be a traditional leadership dispute between two communities in an area where Anglo Platinum would like to gain access to for the purposes of prospecting and/or mining. If the company only engages with the government recognized traditional leadership, then it marginalizes the other faction who would be unaware of Anglo Platinum's planned activities [sic]. This type of situation leads to conflict and/or tension as the company commences its activities on the ground. However, if Anglo Platinum does engage with the 'faction' then the company compromises its relationship with the government recognized traditional leadership which may feel that such engagement confers legitimacy upon the 'faction'. There have been instances where after the company has engaged with a 'faction' the recognized traditional leadership no longer want [sic] to engage with Anglo Platinum and mistrusts the company.

Secondly, land ownership and/or rights structures are complex in the former homeland and self governing territories of South Africa. Land in these areas is generally not privately owned and in most cases is either held in trust by the traditional authority or the State. Furthermore, there are instances where there are numerous land claims over the same piece of land from different traditional communities. National government is in the process of evaluating the validity of all land claims, with many complex land claims remaining unresolved. These unresolved land claims, and the ownership structures between traditional authorities and the State, complicate the process of gaining surface rights and also leads to community engagement complexities.⁹

The complex and conflict-prone relationship between traditional authorities and the local government of the State is a recurring feature of mining companies' challenges in many parts of Africa.¹⁰ As noted by Anglo Platinum:

The farms Zwartfontein and Overysel upon which these villages are located are registered in the name of the Langa Tribe and as such are Tribal Land as contemplated under section 1 of the Upgrading of Land Tenure Rights Act, 112 of 1991. Each village is lead by a headman who is in turn a member of the Tribal Council [of the Mapela Tribal Authority] under [the Chieftainess] Kgoshigadi Langa.¹¹

⁹ Anglo Platinum, *The Facts*, pages 7-8.

¹⁰ See Hamann, R., Sonnenberg, D., Mackenzie, A., Kapelus, P., and Hollesen, P. (2005) 'Local governance as complex system: Lessons from mining in South Africa, Mali, and Zambia', *Journal of Corporate Citizenship*, 18: 61-73.

¹¹ Op cit., page 17.

Contributing to the complexity is the uncertain legal status of tribal authorities (State legislation on this issue has only been promulgated recently). Furthermore, the legitimacy of some tribal authorities is called into question due their alliance with the apartheid government.¹²

These challenges have been overlain by an ambitious policy reform process initiated by the democratic government in the wake of the first democratic elections in 1994. One of the first acts passed by the new government was the Mines Health and Safety Act of 1996, targeted at South African mines' dismal safety record. The ultimate aim of the new government, however, was to establish an entirely new mining dispensation, which culminated in the Minerals and Petroleum Resources Development Act of 2002. This law proclaims state sovereignty over mineral resources (private ownership was common previously) and requires all companies to renew their prospecting or mining licences. This licensing process allows the government to support previously disadvantaged South Africans in the industry under the rubric of 'black economic empowerment' (BEE). The most prominent aspect of BEE has been the government's insistence that blacks should own significant company shares, which prompted fears of value dilution in established companies. Following negotiations in a 'Sector Partnership Committee', however, agreement was reached on the 'broad-based socio-economic empowerment charter for the South African mining industry'. The target that was agreed on for equity transfer was 26% within ten years, but, most importantly, this was placed within a broader set of requirements by which to judge mining companies' transformation efforts. What is known as the BEE 'scorecard' includes such important CSR-related items as community development, improved employee housing and affirmative procurement. Since 2002, therefore, mining companies have been assessed with respect to this scorecard in their quest for transforming their 'old order rights' into 'new order rights,' and in competing for new exploration or mining licences.

However, the actual implementation of BEE has been widely criticized and is a prominent theme in national politics. It has also been condemned by residents of the villages around the Mogalakwena mine. It is seen to be providing benefits to a small black elite while not ensuring that any benefits of mining accrue to the communities around the mine. According to Phillopos Dolo, resident of Ga-Molekane (one of the communities adjacent to the mine), even after the end of apartheid, mining communities are 'still facing challenges from the modern [exploitative] system.'

The 1993 lease agreement

The Mogalakwena mine is operated by RPM Mogalakwena Section, formerly called Potgietersrust Platinums Limited (PPL), a wholly owned subsidiary of Anglo Platinum. It is located in the northern limb or Bushveld Complex in Limpopo Province. In the three years from 2005-07, the mine's operating profits have been R3.56 billion (£233 million).¹³

Major operations began in 1993 after the relocation of the village of Ga-Pila. The mine was later expanded north, requiring the resettlement of residents of the Ga-Puka and Ga-Sekhaolelo villages (together known as Motlhotlo) beginning in the summer of 2007. To date R800 million has been spent on the relocation project for Motlhotlo although originally only R600 million was budgeted for this purpose.¹⁴ Despite these long-term efforts and considerable expense, residents still remain in all of the old villages. In Ga-Pila, relocated over 15 years ago (and not included in the R800 million total cited above), between 14 and 28 families (out of an initial 999) still remain in their old homes, even though new homes have been built for them at the resettlement site (SAHRC Report). The company says it does not plan to forcibly relocate these remaining residents, as the physical mine footprint does not need to expand over these households, even though environmental, visual and noise impacts have been significant in the old Ga-Pila.

¹² The use of tribal structures to implement 'indirect rule' over colonised people was a common feature of colonial administration in Africa – see Mamdani, M., (1996) *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism* (Princeton: Princeton University Press).

¹³ Anglo Platinum 2007 results summary, quoted in ActionAid, *Precious Metal*, page 14.

¹⁴ Interview Greg Morris 26/1/09

The operations that began in 1993 were based on a lease agreement reached with the traditional leadership for use of the area, including a number of villages. According to Anglo Platinum,

The mine has, [sic] leased certain portions of the farms Overysel, Zwartfontein and Vaalkop for the remaining economic life of the mine in return for payment of an initial lump sum rental of R1,200,000 (1993 terms) and an annual rental (initially R5,000), escalating at 10% each year and now at R58,000. Anglo Platinum has also established a trust for community development whereby 0.75% (R95 million) of the mine's annual estimated operating costs for the remaining life of the mine was paid into the trust at net present value. These payments will cease when the mine closes. These lease payments are paid to an account of the Local Magistrate Court for the benefit of the Mapela Tribal Authority and are based on the agricultural potential of the land. This lease gives PPL the exclusive right to the surface portions covered by the lease.¹⁵

Philoppos Dolo, resident of the neighboring village Ga-Molekane and organizer with Jubilee South Africa, says that citizens of the communities under the traditional authority do not benefit from this money, and he suspects it is spent by the Tribal Authority elsewhere – if it is received at all. As the traditional authority structure is not transparent to its members, and the terms of agreement for the lease laid out by Anglo Platinum did not incorporate any accountability mechanism or explicit transparency provisions (as discussed below), there is no way for community members to track how the money is being spent and if it is helping to meet community development goals. Concerns were also raised, by a range of interviewees, about uncertainties with respect to whether or not the company had been making regular payments to the Mapela Tribal Authority. The inadequate accountability mechanisms could not prevent such uncertainties, which further contributed to suspicions regarding the good faith of the company.

Social Assessments and the missing Resettlement Action Plan

An Environmental Impact Assessment (EIA) for the PPRust mine expansion was undertaken in 2002. This included a socioeconomic survey that identified a number of key issues related to community perceptions and vulnerabilities that would require careful management during the resettlement process. The conclusions of the socioeconomic survey were as follows:

Both the communities to be resettled and the host communities are generally positive about the project and the resettlement. It is however important to note that there are some very high expectations regarding compensation and mitigation, and that in general communities are expecting significant improvements in their livelihoods, rather than mere compensation for what is being lost. Such concerns need to be dealt with at an early stage rather than left for post resettlement, when dissent could cause significant social disturbance. It is therefore crucial that communities be provided with accurate estimates of what will be provided at the resettlement site in terms of compensation housing, business compensation, as well as services such as road infrastructure, water, electricity, and replacement of social infrastructure such as schools, health care, churches, security, and agricultural resources (grazing and arable land) as soon as possible.

An important issue that will need to be addressed is the matter of payment for services to be provided including water, electricity, sewage, and waste removal. The community may, due to lack of resources, be unable to pay for such services, and discontent can be expected if this results in the discontinuance of service provision. Suitable means of addressing this, possibly by means of initial partial subsidies, or through negotiation with the municipality and service providers, will need to be considered.

¹⁵ Anglo Platinum, *The Facts*, page 10. Note that this text should have said that 0.75% (R95 million) of the mine's annual estimated operating costs for the remaining life of the mine *is to be paid* – not *was paid* – into the trust.

Thus, although no fatal flaws to the development were identified, a number of issues do need to be addressed to achieve sustainable resettlement.¹⁶

In spite of identifying key social considerations requiring attention, this diagnostic work did not result in a formal Resettlement Action Plan (RAP) or other comprehensive social management plan. Consultants knowledgeable about the case (though not directly involved in the EIA) suggest that the company devoted too little attention to implementing the EIA recommendations.¹⁷

Later on, in recognition of the utility of such a plan once resettlement was about to commence (and after agreements had already been signed with households and the resettlement village was under construction), Anglo Platinum commissioned a RAP. However, the draft RAP was apparently not shared with community members, and it does not appear to be used by the consultants working on the resettlement – the consultants had never seen it and do not have a copy on site.

Community representation and the Section 21 companies

Following a similar process to the one undertaken for the relocation of Ga-Pila, Anglo Platinum approached Kgoshigadi Langa, the chieftainess and leader of the traditional authority, who in turn requested in October 1998 that the village headmen, or Indunas, begin the process of setting up Relocation Steering Committees. In public meetings, community members selected 10 people to represent Ga-Sekhaolelo and 16 people for Ga-Puka. These groups, through coordination with Anglo Platinum, reached an agreement on the relocation process in October 2002. In May 2003, these committees were converted into Section 21 companies ('Section 21s'), legally incorporated non-profit entities, in order to be able to enter into legal contracts with Anglo Platinum as representative structures for the respective villages.

The erstwhile committee members became the Section 21 directors and they were paid monthly stipends by Anglo Platinum, ranging from R4000 to R6000. Anglo Platinum also pays for the legal representation for the Section 21s, and for two Community Liaison Officers for each village, who are meant to facilitate fluid communication between project contractors, project management, the communities, the tribal authority and the municipality. The Community Liaison Officers are appointed by the Section 21s.

In hindsight, the structure of the Section 21s was seen as a mistake by nearly all parties involved. Anglo Platinum staff identified the paying of stipends, the lack of a formal and democratic governance structure, and the occasionally defensive approach taken by the Section 21s' legal advisors as major problems. The Section 21s also proved to be targets for criticism in the ensuing controversy about Anglo Platinum's resettlement process.

Community members and external stakeholders highlighted the confusing and divisive nature of the Section 21s. The ActionAid report points out the conflict of interest in the expectation that the Section 21s were to represent both the interests of the community while also being legally responsible for carrying out the relocation itself. In an interview, Zanele Twala, Country Director with ActionAid South Africa, noted that, 'the Section 21 employees operate like they're in charge of everything... Anglo Platinum claims that they represent and are supported by the community, but no one outside the Section 21s themselves thinks they represent them.'¹⁸ Greg Morris expressed a different view and thinks that the opposition started 'because Richard Spoor [lawyer for many of the villagers resisting resettlement] instigated the belief that the Section 21s weren't representative... There is a tension that anything the mine initiates with respect to representation is construed as wrong.' Yet regardless of the origin of this perception, it is now pervasive at least among community factions resisting resettlement.

Another set of concerns pertain to the company's payment of stipends to representatives of the Section

¹⁶ Environmental Impact Assessment for PPRust Expansion, Annex F: Socioeconomic Survey

¹⁷ Personal communication

¹⁸ Interview Zanele Twala 27/1/09

21s, which was described by one interviewee as ‘a key mistake’. According to Anglo Platinum officials, the payment of stipends inadvertently created self interested incentives for individuals to want to represent the community and undermined community trust in their representatives. This in turn was a major reason behind the formation of splinter community groups, including the Motlhotlo Development Committee (MDC), which opposes the Section 21s and the terms of compensation, and the Motlhotlo Relocation Resistance Committee (MRRC), which opposes the relocation outright.

Another misstep was not creating a clear governance structure for the Section 21s at the outset, including provisions for regular elections and general accountability of representatives to their communities. As noted, the lack of such governance agreements contributed to the growing distrust and resentment among community members of the Section 21s. From Anglo Platinum’s perspective, the logic of channeling all communication through the Section 21s was to facilitate streamlined communications with the communities over the resettlement and compensation process, and it was also noted that it was not expected that the Section 21s ‘would be around so long’. However, the emphasis on the Section 21s led to a centralized approach to community engagement, which gave rise to the exclusion of other stakeholders. Not only did this contribute to distrust and resentment among community members – it also contributed to constraints on the information that the company was receiving from other stakeholders.

Consultation and ‘consent’

Anglo Platinum worked with the Section 21s from 2002 to 2005 in over 400 meetings to choose the site for relocation and reach agreement on other details. Final agreements were ratified and adopted in 2005. In addition to agreements on the community level, Anglo Platinum signed an agreement with each head of household, which included the size and location of the house to which the family would be relocated. Anglo Platinum assured the communities that their new homes would be equal to or better than their current homes.

Precedent from the initial phase of mine development shaped the compensation package offered the two Motlhotlo villages. In Motlhotlo, R20,000 in monetary compensation was provided to each household to cover incidentals associated with moving. This amount was an increase from the R5000 provided to those relocated from Ga-Pila in the previous decade.

Anglo Platinum maintained in its rebuttal to the ActionAid report that the fact that individual agreements were signed with 100% of homeowners constitutes Free, Prior and Informed Consent (FPIC). However, internally, disagreement exists about whether 100% consent to relocation by affected communities is really an achievable, or worthwhile, goal. International support for the idea of FPIC is growing, particularly for extractive industry projects, given their significant environmental impacts and frequent tendency to be highly disruptive to the local social context.¹⁹ Yet to date, World Bank/International Finance Corporation (IFC) policies related to land acquisition and resettlement – widely perceived to be the benchmark for international best practice on these issues – do not require it. Some argue that endorsing FPIC as a standard for all mining operations would bring many such activities to a grinding halt.

Regardless of company policy on FPIC, the fact that a number of residents refused to relocate even after replacement housing had been completed has led many to call into question whether ‘consent’ was achieved. The resistance to moving even after reaching a household level agreement can be explained at least partially by after-the-fact reconsideration or disagreements within households about the relocation. As a resident of Motlhotlo resisting resettlement stated, ‘You can make an agreement with my parents but you haven’t made an agreement with me.’ In addition, the ActionAid report, *Precious Metal*, further raises concerns that individual homeowners may have been pressured into signing agreements without full understanding of their rights or the terms of compensation and relocation, underscored by the fact that a significant percentage of residents are illiterate.

¹⁹ This is clearly (and controversially) expressed in the recent United Nations Declaration on the Rights of Indigenous Peoples; see <http://www.un.org/esa/socdev/unpfii/en/drip.html> (Article 29, for instance).

Resettlement hits a snag

When the date for moving households came in May 2007, protests and road blockages were staged by the MDC and others in the community opposed to the resettlement, apparently to the surprise of the company. The situation was very tense, recalled Greg Morris. Police intervened and fired rubber bullets into the crowd of protesters, causing some injuries. While Anglo Platinum was quick to condemn the use of violence, the police intervention was perceived by many in the community as having taken place on behalf of the mine, further dampening corporate-community relations. Greg Morris commented that he has received death threats from community members and has been assaulted, and on-site resettlement coordinators also indicated that they have been physically threatened and had rocks thrown at their vehicle by angry villagers on multiple occasions.

The uprising and police crackdown was further entangled in larger ongoing political struggles related to mining and community benefits. As Phillipos Dolo of Ga-Molekane explained, resistance to the non-transparent and non-accountable way that mineral concessions were being granted in the area had begun long before, and when the African National Congress (ANC) was elected into power in 1994, local residents had sent petitions to the new government to reform the mining law. 'We had expectations that the ANC would deal with the minerals issues, but we've seen instead that they have sided with the companies. Our expectations were not met; we were faced with police brutality.' The Mogalakwena mine even became something of a cause in provincial and national politics, as forces within the ANC close to Jacob Zuma used it to argue against the purportedly elitist policies of the Thabo Mbeki government.

An out-of-court attempt to resolve the dispute with the MDC was made, in order to allow the resettlement process to move forward. The Premier's Office facilitated the establishment of a Task Team, consisting of members of the Section 21s, the MDC, Anglo Platinum, and various government departments. The Task Team was led by the Premier's Office and charged with reaching agreement among parties about the terms of resettlement so that it could move forward. But due to a lack of a clearly established, previously agreed mandate, the Task Team quickly lost its relevance as an issues-oriented dispute resolution body. According to Greg Morris, participants began to drop out as the meeting agendas became increasingly dominated by MDC's demands for more power and stipends in line with those of the Section 21 representatives. Morris reflected that the absence of a neutral third party observer (such as the Independent Electoral Commission) also contributed to the deterioration of the Task Team's role in resolving resettlement related disputes.

Relocation of Motlhotlo got underway in August 2007 under the terms negotiated by the Section 21s. Meanwhile, members of the MDC and other begrudged community members solicited the help of Richard Spoor, an independent lawyer and human rights advocate, to defend their interests in court. Spoor is well-known for his role in high-profile court cases brought by communities or former mineworkers against mining companies such as Gencor or AngloGold Ashanti. According to a report outlining lessons learned from the resettlement process, 'there were tensions between the traditional authority and the local councillors. The community divisions meant that communities in the Anglo Platinum relocations needed the services of a lawyer such as Richard Spoor.'²⁰

Spoor filed a series of lawsuits contesting the manner in which homeowner agreements were signed, the legality of the Section 21s as representatives of the communities, and various other aspects of the resettlement process. To date, all of the lawsuits have been thrown out by the court.²¹ However, the company perceived Spoor's entry into the scene as changing the tone of engagement between Anglo Platinum and the hold-outs towards a more antagonistic and legalistic one by putting the company on

²⁰ Paul Kapelus, 'Lessons learned from Ga Pila and Motlhotlo resettlements.' Synergy Global Consulting Ltd (Oxford, UK), 21 September 2007: 5.

²¹ For an overview of these cases, from a company perspective, see Anglo Platinum, 'Sustainable Development Report 2008', available via http://angloplatinum.investoreports.com/angloplatinum_ar_2008/downloads/SD_FINAL_06.02.09.pdf

the defensive, 'rushing to court instead of engaging us seriously first,' in the words of Mary-Jane Morifi, Director of the Corporate Affairs Department. As stated in an affidavit filed by the company's legal counsel in response to the latest of Spoor's lawsuits:

It was only after the involvement of Spoor that claims have been made about the lack of consultation with the community and the violation of their rights... It would suffice for me to conclude the background sketched above [about Spoor's multiple unsuccessful attempts to file class action suits against the company] by saying that this Honorable Court would excuse [Anglo Platinum] from adopting a very cynical attitude to the current application and from entertaining the view that the current application is not *bona fide* and has been launched for ulterior purposes, apart from the fact that it is, with respect, a hopeless case on the merits, as I shall endeavor to demonstrate.²²

In turn, the company's response to these legal challenges was perceived by some stakeholders as a defensive, compliance-oriented approach and this led to more public allegations of human rights violations and bullying.

A tricky balance

Over and above the Task Team, other mechanisms for community members to raise concerns have been tried, but with limited success. A Community Engagement Forum was established, to be chaired by the mine manager on a quarterly basis, to allow stakeholders to raise concerns directly with corporate management. However, concerns were raised by interviewees about the frequency of its meetings and an apparent lack of structure. The perception that organized opposition groups have overwhelmed the Forum has led to the probably unfortunate result of heightened insistence on the part of the company to work through as few points of 'official' representation as possible – in particular the Section 21s. There is the perception that giving recognition to splinter groups outside the officially agreed representation system 'will ultimately devolve to one on one engagement,' in the words of Anglo Platinum's Sustainable Development Manager, Stephen Bullock. Some in the company would even move to having just the councillors as the only point of community-company contact, but it is acknowledged that this would probably overwhelm the councillors.

The Forum was never conceived to be a formal grievance mechanism, but rather an opportunity for the discussion of problems. For formal grievances, Greg Morris suggested that between Community Liaison Officers and full time on-site resettlement staff, community members are able to effectively raise concerns. Detailed 'green files' are kept at the project offices on each house, any problems reported, and follow up actions.

While careful monitoring of construction quality of the resettlement houses and village infrastructure is done, detailed monitoring of socioeconomic indicators that would verify restoration of livelihoods appears to be lacking, even though livelihoods were obviously envisioned to change, based on the design of the relocated villages. (This is apparent, for instance, in that an increase in households' market integration was clearly anticipated in the planning of commercial-size agricultural fields rather than larger household garden plots, and in that all households are now connected to electricity and other basic services requiring monthly payments beyond what all residents paid in the old villages.) Chris Ndomato and Seaboy Mokwene of Focus Project Management (the consulting company helping Anglo Platinum with the resettlement at the local level) suggested that Anglo Platinum has focused on infrastructure quality monitoring because it considers livelihood monitoring to be the municipality's responsibility, but this is disputed by company employees.

The perceived lack of clear boundaries between the responsibilities of Anglo Platinum and local government for livelihood restoration, service provision and local social and economic development contributed to low government capacity becoming a liability for Anglo Platinum. Hence numerous

²² Mpho Matjila, 'Second Respondent[Anglo Platinum]'s Answering Affidavit', submitted to High Court of South Africa, 15 January 2009, para. 30, 31.

grievances were raised by villagers moving to the new settlement based on the local government's inability or unwillingness to provide services as expected. The SAHRC report argued that Anglo Platinum should have anticipated such problems on the basis of a prior appraisal of local government capacity. Yet, other interviewees emphasised that it is not Anglo Platinum's responsibility to assess, let alone enhance, local government capacity, as this might contribute to the government becoming dependent on the company. It might also lead the company into the problematic terrain of local politics. At the same time, most interviewees agreed that a close working relationship between the company and the local government is required. This gives rise to a tricky balance. In the words of one interviewee: 'When does dependence end and responsibility start?'

Currently, Anglo Platinum has agreed to pay for all services in the new Ga-Puka and Ga-Sekaolelo for the next three years, according to Ndomato and Mokwene, but after that it will need to sign agreements with the local municipality to take over (such agreements are not yet finalized). Meanwhile, the company is likewise continuing to provide basic services – water, buses for schoolchildren, etc. – to the holdout households in the old villages, although these provisions are scheduled to end soon. At that point, it would be the municipality's responsibility to continue to provide services to these households, if they continue to choose not to move to their new homes in the relocated villages. However, firm agreements on how this would work in practice have not been finalized yet.

ActionAid's report and the company's response

ActionAid South Africa launched its report, *Precious Metal: The Impact of Anglo Platinum on poor communities in Limpopo, South Africa*, on 26 March 2008. The launch was picked up by the global media, including the BBC. In addition to finding fault with the community representation mechanisms through the Section 21s, the report charged inadequate provision of clean water and sanitation services; environmental impacts and pollution from the mine; insufficient and poorly sited agricultural land for community subsistence; problems with access to schools for children of families resisting resettlement; and concerns over cultural insensitivity during relocation of graves, among other issues. ActionAid demanded a full investigation by the South Africa Human Rights Commission (SAHRC) into the concerns raised, as well as rejection by the South African government of proposed amendments to the mining act of 2002 that would result in even weaker environmental and social safeguards.

The launch of the ActionAid report sparked, by all accounts, a defensive response from Anglo Platinum. As ActionAid South Africa Director Zanele Twala recounted, 'the company's response was really appalling and disgusting. We weren't even demanding more compensation; just *information*.' Both sides furthermore accused the other of instigating the non-collaborative, antagonistic tone following the release of the report.

Anglo Platinum's Corporate Affairs Director Mary-Jane Morifi noted, 'playing dead dog is not a strategy that would have worked', and 'we had no option but to defend ourselves', given that 'we were under attack.' According to Morifi, Anglo Platinum would have preferred ActionAid to come directly and privately to them with their report for a bilateral discussion of the allegations' merits before taking them – some of which the company maintains were false – to the global press and the Human Rights Commission. Yet she maintained that '[ActionAid] lodged their complaint before looking to engage.'

Anglo Platinum was made aware that ActionAid was conducting an investigation of the PPL mine, but Morifi notes that this occurred just a few weeks before the report was issued. Some written exchanges had taken place between the two parties in the lead-up to the report launch. Notably, the company responded in writing to a list of questions about community relations and resettlement issues submitted by ActionAid, according to Twala, although this interchange took place only a few days prior to the report's publication. An earlier attempt by ActionAid to engage with the company in a face to face meeting a few weeks prior had been cancelled at the last minute by the company.

Twala explained that ActionAid's purpose was not to instigate litigation, but rather to raise critical issues regarding community benefits, representation and corporate accountability, framing Anglo Platinum's actions and obligations in human rights discourse and feeding into a broader global campaign about

corporate social responsibility in the platinum mining industry. As Twala explained, 'Anglo Platinum has this feeling that we are out to get them and that we have a personal vendetta,' but that in reality their goals were simply to highlight the severe disruptions the mine has caused to local communities and call attention to several outstanding issues warranting improved corporate attention. Yet Twala indicated that she did not see ActionAid's strategy as necessarily in conflict with the litigative approach being pursued by Richard Spoor, either.

Regardless of who was more to blame for the finger-pointing tone, both sides readily acknowledged that a drawn out, legal-compliance-oriented battle rather than a collaborative problem solving approach would have potentially detrimental effects to the communities themselves by drawing resources and attention away from actually addressing their needs and concerns. As Mary-Jane Morifi explained, the company did not want to 'fall into the trap' set by ActionAid and be distracted from its responsibilities to the communities. This was reportedly the spirit in which Anglo Platinum took immediate steps to provide schools with fresh drinking water and to run water quality tests where the ActionAid report alleged there were contamination problems. According to Morifi, this was motivated by the need to 'figure out what to do about [the problems] first, and who is responsible later'. Yet these actions also served the immediate purpose of rebutting allegations that the mine was responsible for water contamination. The test results, along with other clarifications of alleged inaccuracies in ActionAid's report, were published by the company in a document entitled *The Facts* in late March 2008, immediately following ActionAid's publication of *Precious Metal*.

The question of what standards Anglo Platinum rightfully should be held to was also central to the challenges being raised and the company's posture in responding to allegations of legal and normative rights violations. In an implicit acknowledgement of the weakness of South African legislation with respect to requirements to consult and compensate communities affected by mining activities, Anglo Platinum asserted publicly that it would conduct the relocations in line with World Bank operational policy on involuntary resettlement.²³ Yet despite these public assertions, the company's response to ActionAid's report centered on whether minimum legal requirements had been met.

This lack of a unified and consistent message on standards being upheld is reflected internally as well. For instance, it was pointed out that the Corporate Affairs Department, which is concerned with the company's external and public relations, has stated that Anglo Platinum's policy is to *comply* with World Bank policy on involuntary resettlement, whereas the Projects Division, tasked with overseeing the implementation of the resettlement process within set budgets, states only that the company *aims to comply* with World Bank standards.

The effect of such internal uncertainties or differences is amplified by organisational structures and incentives. The incentives for the project team responsible for resettlement implies that the quicker a project is completed, the more the staff get paid. This arguably leads them to want to complete the relocation as quickly as possible in order to push any further problems with community relations to Corporate Affairs and the mine manager. One-hundred percent relocation is a prerequisite for the project team to 'close out' the project.

Meanwhile, resettlement activities continued to be implemented while the SAHRC initiated its investigation. The SAHRC had no prior history of investigating business and human rights abuses; the approach and tone that it would adopt would thus be significant in setting precedent.

Enter the Human Rights Commission

On 4 November 2008, the SAHRC launched the product of its seven-month investigation, entitled *Mining-related observations and recommendations: Anglo Platinum, affected communities and other*

²³ The relevant IFC performance standards came into effect only after the relocations started. Arguably the IFC standards are more directly relevant because they are directed at the private sector, while the World Bank guidelines are targeted at the public sector, but there is little substantive difference between them.

stakeholders, in and around the PPL mine, Limpopo.²⁴ The report did not make any direct accusation of human rights violations, but included a long list of recommendations to improve resettlement practices and corporate social responsibility in general, in order to 'move beyond legal compliance,' mitigate 'the risk of exacerbation of existing vulnerabilities,' and avoid 'potential human rights violations.'

Mary-Jane Morifi raised several concerns with the content of the SAHRC's report, which likely explained the initial defensive reaction at the report's launch. During the launch of the report, she questioned the scope of corporate responsibilities implied by the SAHRC for activities such as utility provision, which are traditionally the responsibility of government. She also raised concerns about the SAHRC's interpretation of relevant legislation when emphasising the need to achieve informed *consent* by affected communities, instead of informed *consultation*, as required in the 2002 Mining Act.

Yet despite these concerns and reactions, and despite an initial defensive posture at the SAHRC report launch, according to Mary-Jane Morifi, the Corporate Affairs division at Anglo Platinum took an overall 'conciliatory stance' toward the report. Rather than immediately responding with a rebuttal of factual mistakes, Anglo Platinum made it clear they were willing to engage in order to rectify mistakes and improve procedures.²⁵ This new strategy was perceived by external stakeholders as a promising shift in corporate attitude. Zanele Twala of ActionAid described that she was 'shocked that Anglo welcomed the HRC report, that they acknowledged they could improve.'

Twala was pleased by what she perceived to be validation by the SAHRC report of many of the observations and concerns raised in ActionAid's report, even though it fell shy of stating that human rights violations had actually occurred.²⁶ In her words, the SAHRC's mission was not to judge guilt or innocence, but to look at systems and procedures. She reflected that 'the fact that Anglo can listen now to the Human Rights Commission is an achievement for us as well... Before the launch of the Commission's report, [Anglo Platinum] saw ActionAid as just a loony NGO, not to be taken too seriously. It was like David vs Goliath: early on, there was this feeling that we were taking on the impossible. What Anglo Platinum didn't realize is that ActionAid is a global NGO with international networks... they underestimated us.'

Prospects for change

Whether because of the SAHRC report or simply coinciding with it, changes are afoot in developing a new process for community representation at the Mogalakwena mine. As related by Anglo Platinum staff in late January 2009, stipend payments to the Section 21 company representatives had already ceased at the start of the new year, and the Section 21s as currently known are to be disbanded entirely at the end of February 2009. The Section 21 trustees agreed to this after some initial resistance. Some form of the Section 21 model will continue in the future because, it was argued, this is the only arrangement that makes sense from a legal transaction perspective.

However, new and clear governance rules will be drawn up for these new entities, through a fully transparent process involving the local communities and other key stakeholders. Furthermore, stipends will no longer be paid directly to individuals. Recognising that continued financial support is required for the resettlement process, Anglo Platinum plans to establish a trust for each village, which is to be allocated transparently through the new and improved representation structures.

Meanwhile, Anglo Platinum has undertaken several internal organizational reforms, some of which have been spurred at least in part by the SAHRC investigation. For a start, the ambit of the Corporate Affairs Department was expanded to take overarching responsibility for community, stakeholder and media relations – the 'conscience of the company'. This will also involve the integration into Corporate Affairs of the Sustainable Development Department, in order to facilitate better coordination across these

²⁴ Note that PPL is the old name for the Mogalakwena mine.

²⁵ See also Anglo Platinum's press release in response to the SAHRC report, which is available via <http://www.angloamerican.co.uk/aa/media/releases/2008pr/2008-11-04>.

²⁶ See also the ActionAid press release: <http://www.actionaid.org/kenya/index.aspx?PageID=3872>

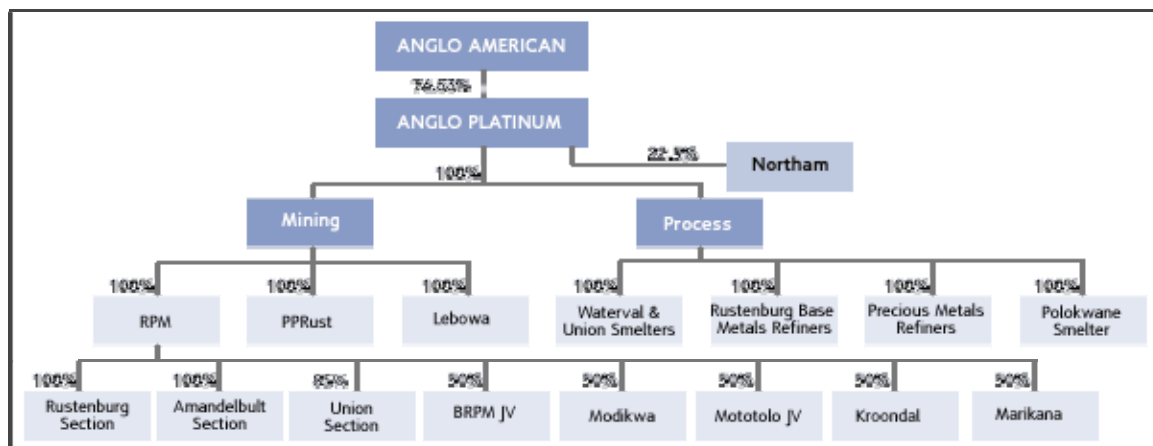
closely linked domains. A new approach to communications and transparency is also being rolled out. In Mary-Jane Morifi's words, 'We need to inform anybody who is anybody about anything we are doing; we need to become relentless and boring' about communications. There is also increased recognition of the need to be proactive in communicating with a breadth of stakeholders, including NGOs and social movements that are critical of corporate activities. This includes an understanding of the need for robust complaints and grievance procedures, as recommended also in the aforementioned UN review.²⁷

There is acknowledgement, however, that more is needed to ensure better mainstreaming of social management considerations and overall due diligence on social issues. Key among this is streamlining social management throughout the project planning, assessment, and implementation phases. Under the current model, permanent community relations and social staff do not formally get involved until resettlement activities are officially 'handed over' from the Projects Department. This effectively means that any social assessments and management actions during the project implementation phase are outsourced to consultants, who in turn report to managers within the Projects Department without any expertise on social issues. Under consideration now is the formation of a centralized social support team with full time staff to rectify this problem.

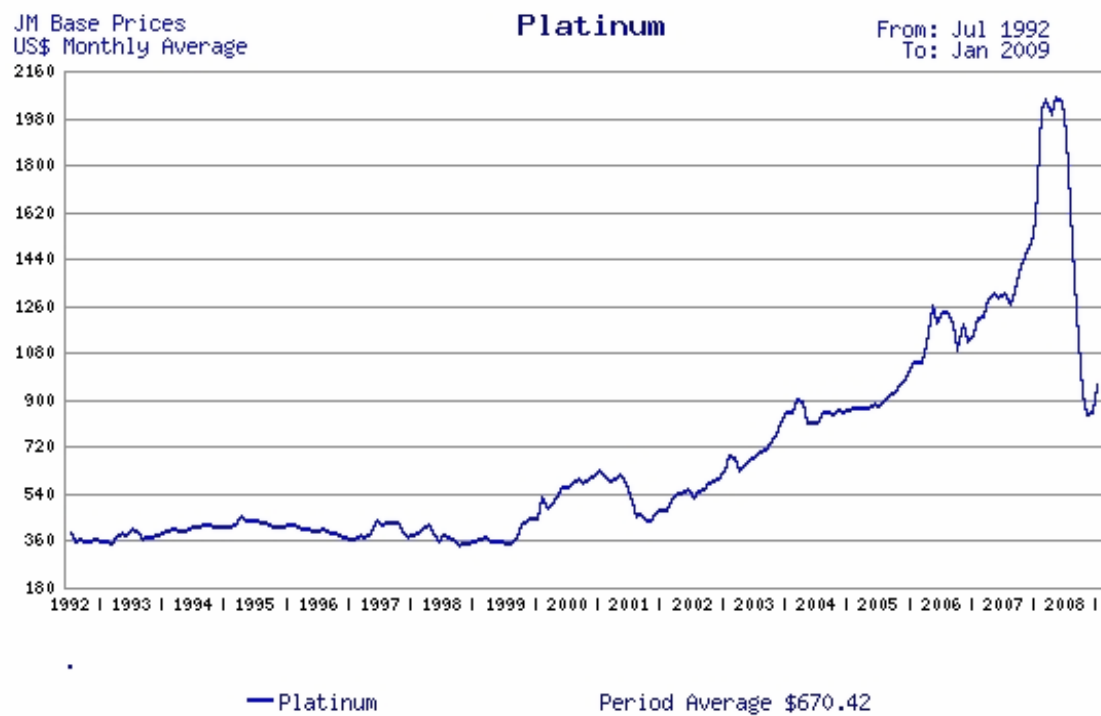
There is indication that the high level of media exposure surrounding the resettlement process, ActionAid allegations, and SAHRC report has furthermore led to some internal soul searching about company culture. Concerns have been raised about the company being seen as paternalistic and arrogant, both in its relationship with external stakeholders – mining communities in particular – and with regard to internal relationships within the company hierarchy. Addressing this through the re-drawing of internal reporting lines is unlikely to be enough; rather, a paradigm shift in corporate culture may be needed.

At the same time, Mary-Jane Morifi expressed keen awareness of the need to strike a balance between meeting the expectations of stakeholders and being responsible social actors, on the one hand, and remaining competitive as a business by not setting precedents at unreasonable levels, on the other. 'In an attempt to do the right thing, we have become expected to do much more,' she said.

²⁷ For the UN report, see footnote 3. For the company's public comment on this issue, see the press release available via <http://www.angloamerican.co.uk/aa/media/releases/2008pr/2008-11-04>.

Exhibit 1: Anglo Platinum's organizational structure

Source: http://www.angloplatinum.com/images/au_cp_ostruc_ostruc_08.gif

Exhibit 2: Price of Platinum from July 1992 to 2009

Source: Platinum Today, <http://www.platinum.matthey.com>, downloaded 9 February 2009

Exhibit 3: Anglo Platinum consolidated statement of comprehensive income (2007 & 2008)

	Notes	2008 Rm	2007 Rm
Gross sales revenue	1	51,118	46,961
Commissions paid		(353)	(345)
Net sales revenue		50,765	46,616
Cost of sales (Segmental information)		(33,682)	(27,519)
Gross profit on metal sales		17,083	19,097
Other net income/(expenditure)	6	949	(119)
Market development and promotional expenditure		(378)	(324)
Operating profit		17,654	18,654
Profit on disposal of investment in Northam Platinum Limited		1,141	—
Interest expensed	7	(159)	(182)
Interest received	7	277	403
Dividends received	7	55	—
Net income from associates	16	161	448
Profit before taxation	8	19,129	19,323
Taxation	9	(4,470)	(6,656)
Profit for the year		14,659	12,667
Other comprehensive income			
Deferred foreign exchange translation gains/(losses)	16	4	(57)
Total comprehensive income for the year		14,663	12,610
Profit attributable to:			
Owners of the Company		14,243	12,330
Minority interest		416	337
		14,659	12,667
Total comprehensive income attributable to:			
Owners of the Company		14,247	12,273
Minority interest		416	337
		14,663	12,610
Headline earnings	11	13,292	12,325
Attributable to ordinary shareholders		13,280	12,294
Attributable to preference shareholders		12	31
Number of ordinary shares in issue (millions)		237.1	236.4
Weighted average number of ordinary shares in issue (millions)		236.8	234.7
Earnings per ordinary share (cents)	10		
– Basic		6,011	5,241
– Diluted (basic)		5,985	5,203

Source: Anglo Platinum, 2008 Results Presentation,
http://www.angloplatinum.com/investor_media/im_prelim/im_prelim_2008/im_prelim_2009/pdf/angloplatinum_annual_results_feb08.pdf

Exhibit 4: Anglo Platinum 10-year financial review

R millions	2008	2007	2006	2005	2004	2003	2002	2001	2000	1999
Gross sales revenue	51,118	46,961	39,356	23,108	19,675	16,508	20,286	18,691	16,186	8,795
Commissions paid	353	345	201	170	358	408	733	812	649	277
Net sales revenue	50,765	46,616	39,155	22,938	19,267	16,100	19,553	17,879	15,537	8,518
Cost of sales	33,682	27,519	22,531	17,100	14,679	12,191	10,130	8,263	6,676	5,339
Cash operating costs	32,013	24,025	19,083	15,099	13,127	11,025	8,884	7,075	5,871	5,056
On-mine costs	20,238	16,175	12,983	11,756	10,356	9,077	7,369	5,949	4,935	4,188
Purchased metals	8,999	5,539	3,947	1,988	965	292	122	—	—	—
Smelting costs	1,625	1,314	1,238	1,003	999	910	641	442	336	330
Treatment and refining costs	1,151	1,047	915	857	807	796	757	654	600	538
Depreciation of operating assets	3,313	2,757	2,471	2,713	1,511	1,147	764	499	396	304
(Increase)/decrease in metal inventories	(3,478)	(957)	(767)	(1,230)	(718)	(585)	(109)	45	(100)	(239)
Transfer from metal lease liability	—	—	—	—	—	—	—	—	—	(64)
Other costs	1,834	1,694	1,794	1,018	759	604	591	674	509	282
Gross profit on metal sales	17,083	19,097	16,624	5,838	4,588	3,909	9,423	9,616	8,861	3,179
Other net income/(expenditure)	949	(119)	(130)	322	(664)	(269)	(755)	2,453	593	56
Net profit on disposal of mineral rights and investments	—	—	—	—	—	—	—	—	173	—
Market development and promotional expenditure	(378)	(324)	(236)	(214)	(194)	(257)	(267)	(251)	(180)	(139)
Operating profit	17,654	18,654	16,258	5,946	3,730	3,383	8,401	11,818	9,397	3,096
Profit on disposal of investment	1,141	—	—	—	—	—	—	—	—	—
Net investment income/(expense)	173	221	26	(138)	(188)	(237)	156	340	295	121
Net income from associates	161	448	430	135	51	35	182	171	158	—
Profit before taxation	19,129	19,323	16,714	5,943	3,593	3,181	8,739	12,329	9,850	3,217
Current taxation	1,979	4,604	3,504	682	450	449	1,764	3,801	2,319	567
Deferred taxation	2,491	2,052	1,278	777	657	640	1,235	508	613	46
Profit for the year	14,659	12,667	11,932	4,490	2,486	2,092	5,740	8,020	6,918	2,604
Basic earnings attributable to ordinary shareholders	14,231	12,299	11,680	4,235	2,334	2,092	5,740	8,020	6,918	2,604
Headline earnings attributable to ordinary shareholders	13,280	12,294	11,756	3,976	2,426	2,092	5,630	8,008	6,795	2,604
Headline earnings	13,292	12,325	11,993	4,237	2,579	2,092	5,630	8,008	6,795	2,604
Dividends and capitalisation share awards	13,816	15,904	4,851	2,029	1,580	2,737	5,363	6,087	2,457	1,013
Cash flows from operating activities	17,345	13,849	17,006	6,809	4,793	1,607	6,278	9,970	7,946	2,973
Cash flows used in investing activities	(14,556)	(10,021)	(5,798)	(3,874)	(4,025)	(7,096)	(5,196)	(3,060)	(1,624)	(1,302)
Cash flows (used in)/from financing activities	(3,658)	(4,983)	(8,387)	(3,408)	1,041	4,479	(5,288)	(7,246)	(2,414)	(986)
Cash and cash equivalents	2,870	4,079	4,088	1,975	2,365	569	1,580	5,786	6,123	2,215
Capital expenditure	14,388	10,653	6,525	4,097	4,260	7,424	5,994	3,586	1,920	1,473
Net liquid assets	9,260	5,782	4,875	4,059	2,831	2,113	1,578	1,097	1,142	1,042
Net liquid assets	(5,729)	(2,261)	1,659	(3,163)	(3,437)	(6,950)	(141)	2,993	4,775	1,669
Shareholders' equity	29,496	28,773	28,692	20,802	17,980	12,423	13,184	12,522	11,714	7,196
Average prices achieved, US\$/oz										
Platinum	1,570	1,307	1,140	894	847	696	544	576	544	377
Palladium	355	355	319	199	228	198	329	582	675	358
Rhodium	5,174	4,344	3,542	1,966	933	527	831	1,610	1,847	894
Average R/US\$ exchange rate achieved on sales	8.0850	7.0431	6.8273	6.3915	6.4055	7.4055	10.3101	8.5434	6.9881	6.1576
Rand basket price ^a	22,348	18,167	13,852	8,877	7,649	7,017	8,690	8,654	8,787	4,366

^aRand revenue per platinum ounce sold.

Source: Anglo Platinum, 2008 Results Presentation:

http://www.angloplatinum.com/investor_media/im_prelim/im_prelim_2008/im_prelim_2009/pdf/angloplatinum_annual_results_feb08.pdf

Exhibit 5: Scorecard for the broad based socio-economic empowerment charter for the South African mining industry
Human resource development

- Has the company offered every employee the opportunity to be functionally literate and numerate by the year 2005 and are employees being trained?
- Has the company implemented career paths for HDSA [historically disadvantaged South African] employees including skills development plans?
- Has the company developed systems through which empowerment groups can be mentored?

Employment equity

- Has the company published its employment equity plan [in accordance with the Employment Equity Act] and reported on its annual progress in meeting that plan?
- Has the company established a plan to achieve a target for HDSA participation in management of 40% within five years and is implementing the plan?
- Has the company identified a talent pool and is it fast tracking it?
- Has the company established a plan to achieve the target for women participation in mining of 10% within the five years and is implementing the plan?

Migrant labour

- Has the company subscribed to government and industry agreements to ensure non-discrimination against foreign migrant labour?

Mine community and rural development.

- Has the company co-operated in the formulation of integrated development plans [as required in local government and planning legislation] and is the company co-operating with government in the implementation of these plans for communities where mining takes place and for major labour sending areas? Has there been effort on the side of the company to engage the local mine community and major labour sending area communities? (Companies will be required to cite a pattern of consultation, indicate money expenditures and show a plan.)

Housing and living conditions

- For company provided housing has the mine, in consultation with stakeholders, established measures for improving the standard of housing, including the upgrading of the hostels, conversion of hostels to family units and promoted home ownership options for mine employees? Companies will be required to indicate what they have done to improve housing and show a plan to progress the issue over time and is implementing the plan?
- For company provided nutrition has the mine established measures for improving the nutrition of mine employees? Companies will be required to indicate what they have done to improve nutrition and show a plan to progress the issue over time and is implementing the plan?

Procurement

- Has the mining company given HDSAs preferred supplier status?
- Has the mining company identified current level of procurement from HDSA companies in terms of capital goods, consumables and services?
- Has the mining company indicated a commitment to a progression of procurement from HDSA companies over a 3–5 year time frame in terms of capital goods, consumables and services and to what extent has the commitment been implemented?

Ownership & joint ventures

- Has the mining company achieved HDSA participation in terms of ownership for equity or attributable units of production of 15 percent in HDSA hands within 5 years and 26 percent in 10 years?

Beneficiation

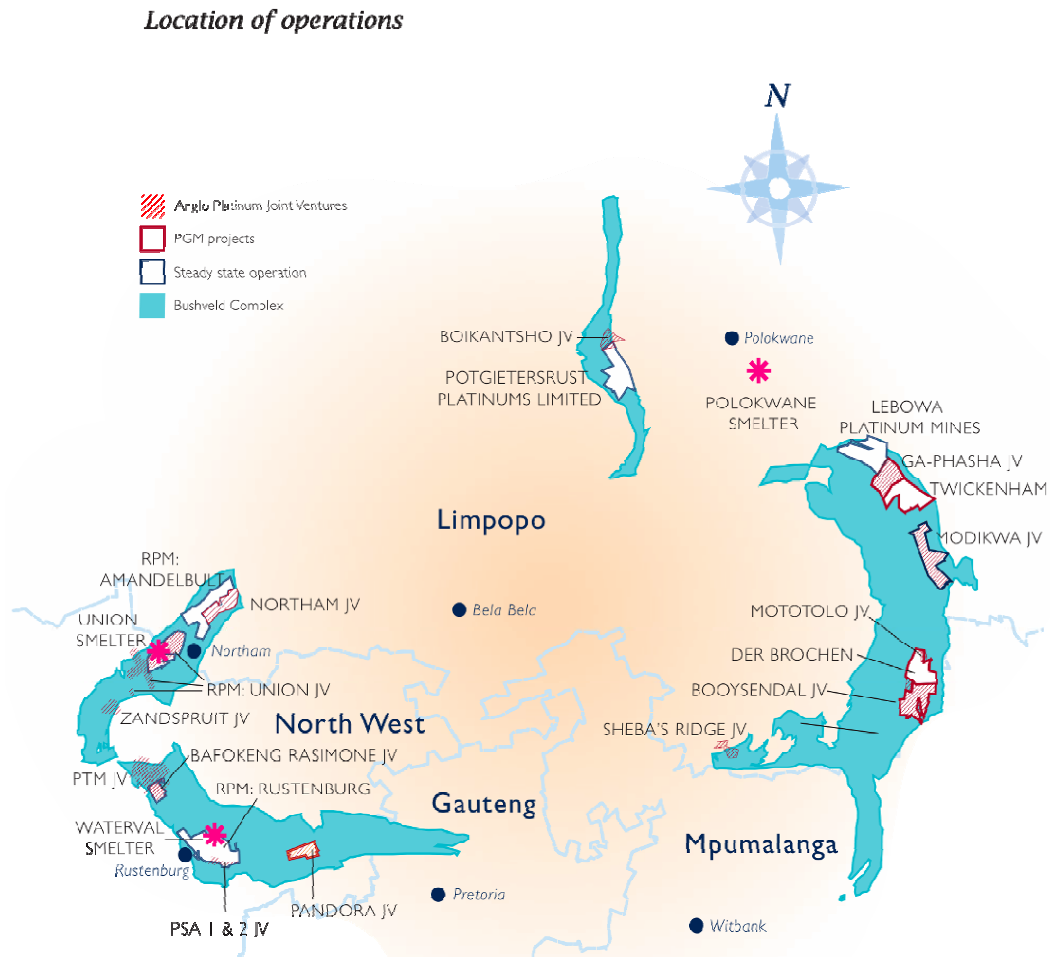
- Has the mining company identified its current level of beneficiation?
- Has the mining company established its base line level of beneficiation and indicated the extent that this will have to be grown in order to qualify for an offset [of equity transfer requirements]?

Reporting

- Has the company reported on an annual basis its progress towards achieving its commitments in its annual report?

Source: <http://www.dme.gov.za/minerals/pdf/scorecard.pdf> Accessed July 2003

Exhibit 6: Map of Anglo Platinum's operations, indicating the position of the Mogalakwena mine in Limpopo (using the old name of Potgietersrust Platinums Limited)



Source: Anglo Platinum 2007 Annual Report

Exhibit 7: Map of properties involved in Mogalakwena mine



Source: Anglo Platinum 2007 Annual Report

Exhibit 8: Consolidated statistics for Mogalakwena mine

Mogalakwena Mine (100% owned)		2008	2007	2006	2005	2004
Refined production						
Platinum	000 oz	177.4	162.5	185.5	200.5	196.0
Palladium	000 oz	184.5	167.2	208.3	214.3	209.2
Rhodium	000 oz	11.2	11.5	12.5	13.8	13.1
Gold	000 oz	21.0	17.4	21.5	21.7	21.7
PGMs	000 oz	384.5	354.2	420.1	443.4	431.9
Nickel	000 tonnes	5.6	3.9	4.5	4.6	5.1
Copper	000 tonnes	3.5	2.4	2.8	2.7	2.9
Production statistics and efficiency measures						
Tonnes broken	000	101,786	87,727	66,136	56,799	54,026
Stripping ratio		11.4	10.8	7.7	7.0	7.6
Tonnes milled	000	7,180	4,187	4,595	4,535	4,470
Ore reserves ^A	months	6.4	1.8	4.4	5.6	4.8
Average number of own controlled employees	number	1,754	1,366	1,152	1,107	1,132
Average number of contractors	number	1,620	509	976	877	776
Run-of-mine grade	g/tonne milled, 4F	2.78	3.49	3.90	4.03	4.17
Equivalent refined platinum production ^B	000 oz	188.1	163.5	191.3	205.3	200.1
Operating performance						
Cash on mine costs	R/tonne milled	288	282	208	219	191
Cash on mine costs	R/oz equivalent refined Pt	11,001	7,233	5,001	4,843	4,273
Cash operating costs	R/oz Pt refined	15,064	9,396	6,963	6,454	5,861
Cash operating costs	R/oz PGM refined	6,951	4,312	3,074	2,918	2,660
Cash on-mine costs	US\$/tonne milled	35	40	31	34	30
Cash on-mine costs	US\$/oz equivalent refined Pt	1,330	1,026	739	761	664
Cash operating costs	US\$/oz Pt refined	1,822	1,333	1,028	1,014	911
Cash operating costs	US\$/oz PGM refined	841	612	454	458	413
Operating income statement						
Net sales revenue	R millions	3,755	3,421	3,084	2,120	1,980
Operating cost of sales ^C		(2,685)	(1,858)	(1,637)	(1,572)	(1,399)
Operating contribution		1,070	1,563	1,447	548	581
Operating margin		28.5	45.7	46.9	25.8	29.3

^A Within the pit.^B Mine's production converted to equivalent refined production using Anglo Platinum's standard smelting and refining recoveries.^C Operating cost of sales excludes other costs.

Source: Anglo Platinum, 2008 Results Presentation,
http://www.angloplatinum.com/investor_media/im_prelim/im_prelim_2008/im_prelim_2009/pdf/angloplatinum_annual_results_feb08.pdf

Exhibit 9: Rose Diabela, outside her home in Ga-Pila with mine waste in the background. Her family is one of 26 that have remained in Ga-Pila 15 years after the relocation.



Source: authors

Exhibit 10: Photo of children playing in the drainage infrastructure of the new village where residents of Motlhotlo have been relocated.



Source: authors

Exhibit 11: Photo of one of the relocation project management staff and one of the authors reviewing maps of the old Motlhotlo villages (with already relocated households shown in pink) at the site office.



Source: authors