



REPORT ON LIMPOPO COMMUNITY DISCUSSION  
FORUMS, 2–4 DECEMBER 2008:

*Mining-Related Observations and Recommendations: Anglo  
Platinum, Affected Communities and Other Stakeholders In  
and Around the PPL Mine, Limpopo*



Report dated 21 January 2009

## ABBREVIATIONS

Commission / SAHRC	South African Human Rights Commission
DLA	Department of Land Affairs
DME	Department of Minerals and Energy
ERM	Environmental Resources Management
MDC	Motlhotlo Development Committee
MTA	Mapela Tribal Authority
Municipality	Mogalakwena Municipality
s21 company	Section 21 Company
SABC	South African Broadcasting Corporation
SACC	South African Council of Churches
SAHRA	South African Heritage Resources Agency
SAPS	South Africa Police Services
TBL	Tractor-loader-backhoe
TIL	Trade and Investment Limpopo

## TABLE OF CONTENTS

<b>1. INTRODUCTION.....</b>	<b>1</b>
<b>2. THE REPORT .....</b>	<b>3</b>
<b>3. DAY ONE: 02 DECEMBER 2008 .....</b>	<b>6</b>
3.1. Meeting with the Sterkwater Community .....	6
3.2. Meeting with the Ga Pila Community .....	9
3.3. Meeting with the Ga-Chaba Community .....	12
<b>4. DAY TWO: 03 DECEMBER 2008 .....</b>	<b>16</b>
3.4. Meeting with the Motlhotlo Community .....	16
3.5. Meeting with the Sekuruwe Community.....	19
3.6. Meeting with the Section 21 Companies.....	21
3.7. Meeting with the Motlhotlo Development Committee.....	23
3.8. Meeting with the Platinum.....	25
<b>5. DAY THREE: 04 DECEMBER 2008.....</b>	<b>30</b>
3.9. Meeting with the South African Police Services.....	30
3.10. Meeting with the Mapela Tribal Authority .....	32
3.11. Meeting with the Mogalakwena Municipality.....	32
<b>6. CONCLUSION .....</b>	<b>38</b>
<b>APPENDIX A: PROGRAMME .....</b>	<b>39</b>

## 1. INTRODUCTION

In March 2008, an ActionAid report entitled *Precious metals: the impact of Anglo Platinum on poor communities in Limpopo, South Africa* was launched at Human Rights House. This report contained a number of allegations of human rights violations committed during the relocation of the communities in Limpopo to make way for mining in the area. As part of the recommendations made within the report, ActionAid requested that the South African Human Rights Commission (“Commission”) conduct an investigation into these alleged violations. The Commission subsequently launched an investigation at the end of March 2008, with the intention of focusing on specific allegations in the ActionAid report and on the broader human rights context surrounding the resettlement process undertaken by Anglo Platinum’s Potgietersrust Platinums Limited Mine in Limpopo.

The findings of this investigation and specific recommendations thereof were presented at the launch of the report entitled *Mining-related observations and recommendations: Anglo Platinum, affected communities and other stakeholders in and around Limpopo* in November 2008 at the Human Rights House (“the report”). The launch was attended by Anglo Platinum, ActionAid, selected community members and various stakeholder representatives. It was therefore imperative for the SAHRC to present the findings and recommendations of the report to affected communities in and around Mokopane.

Representatives from the national office of the SAHRC and the Limpopo provincial office undertook a three day series of stakeholder engagements on 2-4 December 2008. Christine Jesseman (Head of Programme: research, Documentation and Policy Analysis), Jo Mdhlela (Editor, Information and Communications Programmes) and Yuri Ramkissoo (Senior Researcher: Environment) attended from the national office. Jeffery Nkuna (Provincial Manager), Mankese Thema (Education Officer) and Marota Aphané (Education Intern) attended from the Limpopo provincial office. This group of Commission representatives were joined by members of the Mogalakwena Municipality (“Municipality”), the South African Council of Churches (“SACC”), Bench Marks Foundation and ward councillors. Meetings were scheduled with five communities, the Section 21 Companies (“s21 companies”), the Motlhotlo Development Committee (“MDC”), Anglo Platinum, the

South African Police Services (“SAPS”), the Mapela Tribal Authority (“MTA”) and the Municipality (see appendix A for programme).

The format was similar for all meetings (except the meeting with Anglo Platinum), where the findings and recommendations of the report were presented to the community or committee and the attendees were then given an opportunity to comment on the report, ask questions or provide general comments.

This report is intended to provide an overview of the presentation that was given on the report and the discussions that ensued in the stakeholder forums. It is important to note that this report is of a factual nature and represents the views expressed by members of the communities and other stakeholders with whom discussion forums were held. The report does not necessarily reflect the views of the Commission. Furthermore, the report is intended to provide an overview of the discussions that were had between the Commission and various stakeholders and communities. Details of subsequent follow-ups on human rights, social and environmental matters in the area subsequent to the date of this report are not discussed herein.

## 2. THE REPORT

Christine Jesseman (Head of Programme: Research, Documentation and Policy Analysis, the Commission) presented the findings of the report and explained that the Commission had acted within its constitutional mandate of monitoring, generating awareness and educating and training of human rights. The process began with the mapping of stakeholders to ascertain who would be involved in the research process. The mapping process identified various communities that were directly affected by mining activities through relocation or future relocation, communities that had not relocated but were indirectly affected by mining activities, formed relocation stakeholders, national stakeholders and the mining company.

### *Primary Concerns*

Upon mapping the various stakeholders and communities in Mokopane, it was found that mapped communities were experiencing issues of poverty and inequality prior to mining activities in the area. To then impose *issues of mining and relocation onto vulnerable communities*, without first dealing with the issues of poverty and inequality, was problematic and resulted in additional burdens on the community.

The study found that through the process of consultation between stakeholders and communities, there was a complete *disintegration of trust between all stakeholders*. Communities felt helpless since, in their view, the granting of mining rights to the mining company was inevitable and the community ultimately had no power to control the process.

The report also looked at other examples of planning with regards to mining, including International Best Practice.

- It was found that the development of a *Resettlement Action Plan* prior to the commencement of mining activities reflected best practice and would have assisted

with providing clarity and certainty to communities involved. Anglo Platinum did not, however, have such a plan.

- There was also a need for a *Grievance Mechanism* to allow residents of affected communities to provide comments or to lay complaints to Anglo Platinum. In addition, communities would be able to question processes, which would then lead to greater understanding and certainty. A process of complaints handling is essential for communities to have faith in the process knowing that they have right to recourse.
- A Resettlement Action Plan would have included an assessment of the capacity of all stakeholders to undertake the tasks that they were responsible for. An assessment of the capacity of stakeholders would have ascertained their ability to provide services to communities. In this way, the community would have been sure of what to expect of the process and not have expectations that could not be fulfilled by the relevant stakeholders. The ideal scenario would be for all stakeholders to work together to achieve goals that benefit the community and the mine.
- Examples of the need for a capacity assessment were highlighted by the actions of the Municipality and the s21 company. The Municipality was tasked with delivering on services such as water and sanitation provision to communities once the mine had completed the relocation process. The Municipality clearly does have the capacity to deliver on such expectations. In addition, the s21 company was tasked with liaising with the community and acting as mediator between the community and mine. Although the members of the s21 company were from the community, they did not necessarily have the experience needed to carry out their allotted tasks. This resulted in a breakdown of trust between communities and the s21 company.

Another primary concern was that the relationship between the community and the MTA broke down completely due to the frustrations experienced by the community. There was therefore a need to rebuild trust between all stakeholders to restore faith in the process and the legitimacy of outcomes.

It was found that civil society, which could be a potential source of assistance to the community, was perceived to be against the mine. Civil society was seen to be working on behalf of the community only and resisting aspects of relocation. But there is a potential for civil society to work together with all stakeholders to find a way forward that is beneficial to the community.

It needs to be acknowledged that there are communities outside of the relocation process that have also been affected by mining activities in various ways.

There was also a need to rebuild trust between the community and the SAPS. The relationship between these parties had disintegrated completely and there was a need for communities and the SAPS to communicate with each other and move forward. Vigilante action, however, could not be condoned under any circumstances by the Commission, although the Commission could assist communities to access services offered by the SAPS.

Clarity was needed from the Department of Minerals and Energy (“DME”) on the meaning of “consultation” when referring to the standard required by the mining company when dealing with the “applicant.”

Finally, the Department of Land Affairs (“DLA”) should engage with communities at the outset of any resettlement action. A land-rights mapping exercise should have been conducted to ensure that communities are aware of their rights to land and appropriate recourse in the event of an infringement on those rights.



### 3. DAY ONE: 02 DECEMBER 2008

#### 3.1. MEETING WITH THE STERKWATER COMMUNITY

Sterkwater is a host site for residents that have been relocated from Ga-Pila. During the site visit to Sterkwater, the following observations were made about the area:

- Houses were built on slabs and land was not levelled prior to development.
- Walls were cracking in places and land beneath the houses was collapsing.
- There was very little vegetation planted that could stabilise the land and improve the area aesthetically.



*Meeting with Sterkwater Community*

### *Discussion with the Community*

On completion of the presentation of the report, the Sterkwater community were asked to provide comments or ask questions. They raised the following concerns:

On replacing agricultural land, plots were identified for replacement but there was no communication of this decision made to the community. As such, the community was confused about the location of the land, when the land would be ready for ploughing and when compensation for the period that the community was unable to plough, would be allocated.

The Commission responded by highlighting that all these issues were covered in the agreement between Anglo Platinum and the community but there was a need for communication on the outcome of the process. In addition, the Commission was unable to comment on cases of financial compensation that were currently being decided by the courts. The Commission therefore reiterated the need for better communication between Anglo Platinum and the community, to clarify issues of financial and non-financial benefits that the community was entitled to.

The community then raised the issue of the quality of water in the area. They were aware of the conflicting nature of the reports on tests carried out by ActionAid and Anglo Platinum and wanted some clarity on the issue. The Commission indicated in response that it was only in possession of the interim report from Anglo Platinum and is still awaiting the final report with all issues addressed. The community were asked not to overlook the obligation of the Municipality in conducting their own independent tests to provide information and clarity on the quality of the water in the community. Anglo Platinum, however, should not step back from the process, but should rather work with the Municipality and communities to progress towards a solution.

The community raised the issue of compensation for women who were unable to continue farming due to a lack of land. Again, the Commission indicated that it could not comment

on issues of financial compensation that were before a court. There were, however, non-financial compensation options that the community was entitled to and could make use of.



*Meeting with Sterkwater Community*

Problems with the relocation of graves were highlighted by the community and clarity was needed on this issue. The Commission explained that the interim report by the South African Heritage Resources Agency (“SAHRA”) raised concerns about the undertaker that was appointed by Anglo Platinum to relocate the graves in the community. The interim report showed that some of the graves that were relocated were older than 60 years and required a permit from SAHRA to be moved. The undertaker had, however, not applied for permits to relocate these graves. In addition, it was found that the undertaker used inappropriate methods to exhume and relocate the graves and this lack of attention to detail and proper procedure led to damage and distress to the community. An audit was therefore needed of all graves that were in existence before the relocation process as well

as a list of graves that were exhumed without consent. In time, SAHRA would address the legal findings of the report and make a decision on whether or not to institute legal action. In the interim, communities were urged not to disturb the graves further.

The community complained of problems associated with claiming benefits and compensation from the mine. The Commission reiterated the need for proper communication between the community and the mine, especially in relation to employment and non-financial benefits. Clarity was needed from the mine on the range of benefits available to communities so that community members could access these benefits.

The Commission also highlighted the need for a grievance mechanism that would enable the community to address their problems such as the issue of cracks in the houses. Furthermore, there was a need to rebuild the trust between communities and the s21 company and plot a way forward. Most communities and stakeholders had at least one good thing to say about the task team that was appointed by the Premier's office and it was essential that the task team or consultative representative forum be reconstituted and that it include key role players as well as marginalised groups such as youth groups and women's groups as well as project managers.

Finally, the community highlighted problems with employment at the mine. The community indicated that the mine was only employing people that had experience or qualifications in Mathematics and Science. The Commission responded that the mine should be held accountable to its commitments including those in its Social and Labour Plan housed with the DME.

The meeting ended at approximately 13h30.

### **3.2. MEETING WITH THE GA PILA COMMUNITY**

Still living in the Ga-Pila community are those families that have refused to relocate to Sterkwater. Anglo Platinum has indicated that all but fourteen families have relocated from Ga-Pila to Sterkwater, while the community maintains that twenty-eight families remain in Ga-Pila. The area is lacking in basic services and rubble from the demolished buildings remains in the area. At the outset, members of the community asked that the ward councillor that was attending the meeting, leave the meeting as he was not seen as a representative of the community since he had never been to the community previously. They eventually agreed for him to remain when the Commission explained that it was not in its power to remove him.



*Meeting with Ga-Pila Community*

### *Discussion with the Community*

On completion of the presentation, members of the community led a discussion, mainly complaining of the lack of service delivery in the area.

One member of the community asked that stakeholders in the area return after consultations with the community to deliver on their promises as no changes were ever made in the community. There was no access to water in the community and the community was currently accessing water from the river. The community indicated that a water pump that had been provided in the area by the SACC but it was no longer operational. As such the community relied on the delivery of water via a water tanker by the Municipality once a month. With regards to service delivery, it was stated that the Mayor's office previously asked the community to compile a list of services that the community requires, but nothing has since transpired in relation to matters raised in the list.

The community also indicated that despite the fact that the Commission had gone through much trouble and said many things regarding the community, nothing was ever done about the problems they were facing. Eskom referred the community back to the Municipality when a request was made for electricity. The community, therefore, asked that the Commission provide assistance since someone might listen to the Commission. Another speaker indicated that the comments in the report were very good and hoped that the Municipality would take heed of these comments and provide the community with services.

The community then raised the issue of rubble and a request was made that the rubble in the area be removed. A concern about the poverty in the area and the lack of access to food was also raised. The community was involved in ploughing prior to the relocation. The community insisted that although ploughing fields had now been provided by the mine, the community had not ploughed for over seven years and it was therefore very expensive for them to reinvest in ploughing now.



*Un-cleared Rubble in Ga-Pila*

The Commission thanked the residents for attending the meeting and the meeting was closed at approximately 15h00.

### **3.3. MEETING WITH THE GA-CHABA COMMUNITY**

Although not subject to relocation, the community of Ga-Chaba is seen to be affected by mining activities due to its proximity to the mine. The community seemed well serviced with running water and electricity, but the quality of the roads was very poor and the level of dust pollution was high due to the close proximity to the mine. The noise from the mine could be heard in the community and the area was poorly vegetated. The Sekiming community did not attend the meeting.



*Meeting with Ga-Chaba Community*

### *Discussions with the Community*

The following concerns were raised by community members once the presentation was completed:

- Despite the fact that the community had invited the SAPS to community meetings, the SAPS kept harassing the community.
- The level of dust pollution in the community was too high.
- Information on all the problems that the community were experiencing was forwarded to an official in the Municipality, who was now deceased. The community requested information on the way forward in light of the official's death.
- The s21 companies were thought to be working for the MTA and not the community. The community therefore suggested the formation of another task



team that would represent the concerns of the community. Otherwise the Commission would have to assist the community to work with the s21 companies and MTA.

- Anglo Platinum was seen to be dividing the community as it was supporting the 21 companies' soccer team by purchasing apparel for them.
- There was no communication between the mine and the community with regards to blasting. Blasting occurred on an *ad hoc* basis with no prior warning to the community



*Meeting with Ga-Chaba Community*

The Commission responded by explaining that the DLA should have engaged with the community, a process that should have happened prior to mining, to clarify the community's rights with regards to land and recourse in the event of a violation of these rights.

The proposed formation of a new task team or consultative representative body would be positive for the community, provided that the team included vulnerable groups and individuals such as women, youth and older persons. In addition, the community would need to have trust in the task team and faith in the process moving forward.

With regards to the issue of dust in the community, environmental management reports would have to be examined to assess the mitigating processes were being implemented, if these processes were effective in controlling dust levels in the community and if monitoring was being done by the mine of the dust levels in the community.

Finally the Commission pointed out that the report had recommended increased communication between the mine and communities prior to blasting and that if there was a need to temporarily relocate employees during blasting, that the community should be moved as well. Clearly, greater communication was needed between the mine and the Ga-Chaba community. The meeting closed at approximately 17h00.

#### **4. DAY TWO: 03 DECEMBER 2008**

##### **4.1. MEETING WITH THE MOTLHOTLO COMMUNITY**

Motlhotlo (originally constituted Ga-Puka and Ga-Sekhaolelo communities) closely borders the mine. Relocation of the communities at Motlhotlo was deemed necessary after an assessment of the potentially negative impacts from the expansion of the mine. The community of Ga-Puka was to be relocated to host site of Rooibokfontein and the community of Ga-Sekhaolelo was to be relocated to host site of Armoede. According to Anglo Platinum, only seventy-three households of a total of 460 households have not relocated. Many new houses were observed mushrooming along the border of the mine dumps, although the area had been evacuated earlier in the mining process.



*Meeting with Motlhotlo Community*

### *Discussions with the Community*

The community did not comment on the report that was presented but rather used the opportunity to voice their concerns over service delivery and relationships with stakeholders.

The SAPS was heavily criticised by the Motlhotlo community for their lack of action on cases and for the poor relationship between the community and the police. Community members cited examples, where money was paid when they registered a complaint with the SAPS but officers refused to open a case. One woman from the community explained that her daughter had been raped and on reporting the rape to the police she was told to look for the perpetrator herself and bring him to the police. The community also claimed that the SAPS were mistreating complainants and other community members.

The community complained of the limited access to water and the quality of the water that was accessible. The windmill had stopped working and water was being accessed via a borehole. The Municipality had supplied the area with a drum for water storage but the community insisted that the quality of water was poor. There was a need for public transport in the area and electricity supply to households.

The community claimed that they were not being employed by the mine because they had refused to relocate. In addition, the community was unhappy with the ward councillor whom they claimed only visited the community when there were visitors from other organisations or departments. They felt that the MTA and Municipality were working together but not meeting the needs of their community.

The issue of grave removals was also highlighted. Some members of the community refused to allow the relocation of graves and claimed that they were subsequently harassed by the SAPS. Some graves were said to have been moved without permission.

Two community members explained problems they had experienced with the relocation process. They complained that they were not provided with structures equivalent to those that they were occupying currently and were therefore resisting relocation.



*View of Mine and Un-cleared Rubble at Motlhotlo*

Finally, the community requested that the rubble that remains from demolished structures, be removed from the area. The Commission thanked the residents for their comments, but could not respond immediately as most comments had to be followed-up. The meeting closed at 11h00.



*New Development in Relocated Area Near Motlhotlo*

#### **4.2. MEETING WITH THE SEKURUWE COMMUNITY**

The community at Sekuruwe was not subject to relocation but mine activities led to the loss of land suitable for agriculture within the community and therefore the loss of economic livelihoods. The main issues that the Sekuruwe community highlighted dealt with their relationships with stakeholders, service delivery and compensation from the mine.



*Meeting with Sekuruwe Community*

The community indicated that they had no faith or trust in the s21 company and would prefer for them to vacate their positions. The community explained that the s21 company was not representing the community as they often speak on behalf of the community but never report back on the outcomes of meetings. In addition, the community maintained that the s21 company was bribing older persons in the community in order for them to accept the compensation that the mine was offering.

The community explained that their *Induna* had resigned and they since have had no tribal representation. For this reason, the community has been unable to participate in discussion regarding service delivery in the area. In addition, the community did not have a good relationship with the ward councillor as the Municipality does not assist to provide services to the community. These factors had slowed development in the community and there was a need for access to water, electricity and social services. The community

maintained that their relationship with the SAPS was also poor as the SAPS often intimidated members of the community and the crime rate in the area had increased with no response from the SAPS.

The relocation of the school was also of some concern to the community as residents felt that the school was situated in an unfavourable location and there was a rumour that the school, which was currently a secondary school, would be converted into a training centre.

The issue of a lack of ploughing fields was raised and the community complained that despite registering for ploughing fields, these had not been allocated to them. There was a request from residents that the Commission write a letter to the DLA asking the department to sort out the land issues in the area. The community also indicated that graves of their relatives had been illegally moved and that the new graveyard had more graves than the former site.

Residents complained that the mine was not paying compensation for the subsistence and that older persons were bribed into accepting compensation offers without first consulting with their children. The community requested that a forensic investigation be conducted to ascertain what funds have been allocated by the mine.

The Commission did not address all the issues raised by the community as they were more comments than questions. The Commission did, however, ask the community to refrain from tampering with the graves that had been moved as SAHRA was still conducting studies on the grave removals. The meeting ended at 13:00.

#### **4.3. MEETING WITH THE SECTION 21 COMPANIES**

Christine Jesseman presented the findings of the report to the s21 company and thereafter asked for comments regarding the findings.



The first speaker from the s21 company felt that the Commission should have intervened in the process a long time ago since the damage was now done. The speaker suspected that the Commission had a hidden agenda.

The second speaker indicated that members of the s21 companies felt vulnerable as all discussions about the s21 companies were negative and no reports highlighted the positive work that the s21 companies were doing.

The third speaker addressed the South African Broadcasting Corporation's ("SABC") representative. The speaker felt that the SABC only highlighted community problems and never highlighted the role or efforts made by the s21 company and that was also a problem at the launch of the report, where the efforts of the s21 company were ignored. The speaker requested that the Commission assist with speeding up the court proceedings as the communities were exasperated and were resorting to violence and unrest.

The next speaker from the s21 company complained of the tensions experience between the s21 company and communities and that the Commission should assist in breaking the tension. The speaker also explained that the Commission was needed to assist in developing the capacity of the s21 company and the community. He indicated that there wasn't any consultation or education and training in communities on mining, industry and rights relating to minerals. When the relocation of communities was launched, all government departments were present, but there has been no proper consultation since.

A speaker then thanked the Commission for the findings but explained that there were allegations in the report that stated that the s21 company members volunteered for positions on the committee but this was not true as members were elected. In addition, the speaker claimed that there was some training for the s21 company committee and that perhaps it was best that the s21 company compile its own report to refute allegations against the committee.

The final speaker indicated that the s21 company members were forced to elect the task team, but once [the task team] was elected; members did not liaise with the community or report back to the community. The speaker claimed that it was the MDC that was causing trouble in communities and highlighted the need for a public meeting with all communities and stakeholders to discuss these issues.

#### **4.4. MEETING WITH THE MOTLHOTLO DEVELOPMENT COMMITTEE**

Following the presentation on the report findings by Christine Jesseman, the Motlhotlo Development Committee (“MDC”) made the following comments;

The first speaker on behalf of the MDC indicated that consultation from the DME was very poor and that communication from the DME was via the MTA only. All decisions and agreements were allegedly made between the DME and MTA. The speaker indicated that youth unemployment levels in surrounding communities were still very high. Another problem highlighted was that of ploughing fields and the fact that communities stopped accessing them in 2003 but were only compensated last year for the loss in production or revenue. Finally, the speaker requested a review of the Mining Charter.

The second speaker highlighted the issue of poor education facilities in the area. She explained that there were no subsidies provided by the mine to build facilities that cater for mathematics and sciences in schools, which would have built skills necessary to supply local employment to the mines.



*Meeting with the MDC*

The MDC then indicated that all decisions affecting communities in Mokopane were taken by the s21 companies. Now that there were plans to form a post relocation committee, it was suggested by the speaker that this committee be completely new, impartial and credible and should not be constituted by s21 company members.

The next speaker asked if the Commission was doing anything about the formation of a Human Rights desk within communities given that the mine was a distance away from communities, while the following speaker asked if the recommendations in the report were doable and who would be responsible for implementing them.

The Commission responded to the comments by firstly addressing the issue of communication between the mine and communities. Greater communication was needed to clarify issues of employment and compensation for the ploughing fields. Regarding the

former, the Commission explained that the mine's Social and Labour Plan deals with preferential employment for communities surrounding mines. Communication was therefore needed between the mine and communities with regards to non-financial benefits that can be accrued from the mine. Regarding the latter, the Commission felt that there was no clear communication about the time-lag between taking ploughing land and compensating communities for the land and allocating new land. Communication was therefore also needed on this issue, especially to highlight that compensation was meant to last the whole period between taking of the agricultural land and allocation of new land.

With regard to recommendations and responsibility for implementation, the Commission explained that different parties were responsible for different activities and that the Commission could not step in and take responsibility for those tasks that had not been carried out by other stakeholders. The role of the Commission was to make recommendations and monitor the progress from there on. The meeting ended at 16h30

#### **4.5. MEETING WITH ANGLO PLATINUM**

The following agenda was tabled and approved for discussion:

- Post relocation settlement
- Factionalism and the s21 companies
- Sanitation – enviroloos
- Sekiming housing and school
- Graves
- IGS water report and water quality
- Sekuruwe clinic
- Transport at Motlhotlo
- Soccer team and dust in Ga-Chaba
- Blasting

The Commission raised the issue of factionalism and the disintegration of trust between stakeholders. Greg Morris from Anglo Platinum believed that the factionalism and distrust

stemmed from the fact that the s21 company representatives were being paid a stipend for their services, which led to other community leaders feeling marginalised. Anglo Platinum suggested to the Premier's Office that stipends be eradicated but this request was refused.

Anglo Platinum added that the s21 company was a problematic committee as its members were lacking in expertise and were not representative of the communities' best interests. Despite Anglo Platinum convening numerous meetings and corresponding regularly with the s21 company, communities were not made aware of this correspondence and communication with communities was poor. There was therefore a need to get the right representatives from communities and NGOs on the committee. Overall, 92% of relocations were complete. It was therefore time for a new body that will work in tandem with Environmental Resources Management ("ERM") and will not be paid any stipends. This new entity should be credible, capacitated to deal with allotted tasks and have an effective grievance mechanism to deal with complaints. Anglo Platinum further explained that legally, the s21 companies have to remain, so the idea was to reconstitute it without alienating existing s21 company members.

Anglo Platinum indicated that housing defects in the Sekimim community were being dealt with and that all but seventy-three households had been relocated in the Ga-Sekhaolelo and Ga-Puka communities. The resistance to relocation from the remaining households was mainly due to resistance from the s21 company. For these reasons, Anglo Platinum felt that it was a good time to do away with the s21 company and to elect a new task team using the Electoral Institute of Africa to hold free and fair elections within the community. The Commission raised a concern that the results of the election might be affected by the fact that Anglo Platinum was paying the service provider. Anglo Platinum explained that the IEC had been approached first but they did not have capacity to assist and that this was the only way that they felt that a new representative committee could be formed and ensured the Commission that the process would be rigorous.

Anglo Platinum added that resettlement experts might have to be consulted to deal with certain processes or grievances. Greg Morris indicated that after protests were held by

communities several meetings were convened to deal with the associated issues. But these meetings were not facilitated by resettlement experts and the mine might have to employ an expert in this field to assist with the resettlement process.

Regarding sanitation provision, Anglo Platinum indicated that the Envirolaos posed a huge problem in the community, mainly due to the lack of water on site. To overcome the problem of water scarcity, Anglo Platinum had sunk six boreholes but only three of these worked. As a result, 150 kilolitres of water has been trucked into the community since June 2008 to service the treatment plants at Anglo Platinum's cost. New boreholes, encased in concrete to avoid vandalism were then sunk and were not as yet operational. Although these boreholes are connected to the treatment plant, power from Eskom was still needed.

Anglo Platinum highlighted the fact that the Envirolaos were chosen as a preferred sanitation method based on the lack of water in the area and that the Municipality had been involved in the decision-making process. Because of the problems with sanitation provision in the area, Anglo Platinum had begun liaising with an independent consultant, Louize Duncker, from the Centre for Scientific and Industrial Research (CSIR) to assist with planning for the way forward with regards to sanitation. Despite the fact that communities have been very militant in the past due to a lack of service delivery, Anglo Platinum insisted that they would continue to engage with experts to deal with problems of service delivery but also indicated that the Municipality would have to take responsibility at some stage for service provision in the area.

Anglo Platinum indicated that an independent study on the relocation of graves was conducted and agreed that the relocation process was handled poorly and relied too heavily on a tractor-loader-backhoe ("TLB") to move graves. As such, Anglo Platinum had engaged with Jennifer Kitto of SAHRA on the way forward and has now appointed a company, Professional Grave Solutions ("PGS") which is recognised by SAHRA as a credible grave-removal company. Moving forward, PGS will re-exhume graves and identify all remains for proper burial. Those remains that cannot be identified may be buried in a communal grave.

The Commission requested that the mine communicate this to communities as there was much animosity stemming from the very sensitive issue of grave relocations.

The Commission raised the issue of the distance of the school from the Sekuruwe community, as it was considered too far from the community by residents. The mine responded that they had chosen other more appropriate sites for the school, but the community insisted that the school be located in its current position and the mine obliged. Anglo Platinum further indicated that they would not relocate the school and that they would provide power to the school and grade the road to school but would not pave the road. The Commission felt that Anglo Platinum should have explained why the original plots of land were chosen and then allowed the community to make an informed decision, instead of agreeing with the community but knowing that the land would not be suitable.

With regards to dust pollution and blasting in the Ga-Chaba community, Anglo Platinum indicated that there was a dust-monitoring programme in place and that there should be communication with the community prior to blasting. Furthermore, there was no longer a need for evacuations during blasting. Again, the Commission highlighted the need for effective communication with the community.

Anglo Platinum explained that there were various reasons for community members refusing to relocate and at the time, new relocation processes had been put on hold. Regarding complaints of inadequate building compensation in new settlements, Anglo Platinum indicated that all structures had been provided for in new settlements and that community residents had been compensated with land and structures of equal size to their original structures. Where there were complaints, it was possible that the complainant was expecting additional compensation, which would not be given. The mine would also not want to be seen favouring some residents above others.

Anglo Platinum raised the issue of public violence stating that Anglo Platinum staff was regularly exposed to violence such as the stoning of vehicles. As such, the Anglo Platinum offices were open for community liaison or complaints but had since closed this function

due to violence. Anglo Platinum stated that there were nevertheless, other grievance mechanisms in place such as liaison with contractors, community representatives and project managers. Overall, engagement from the community was seen as very poor.

Finally, the Commission asked about new houses that were mushrooming next to the mine in Motlhotlo. Anglo Platinum explained that it was a strategy by younger people in the community who had not owned houses prior to relocation. They were building houses along the mine's boundary in the hope that the mine will relocate and compensate them for their structures. The meeting ended at 19h30.



*New Developments in Relocated Area Near Motlhotlo*



## **5. DAY THREE: 04 DECEMBER 2008**

### **5.1 MEETING WITH THE SOUTH AFRICAN POLICE SERVICES**

Due to the sensitivity of the issue of relocation and the fact that Limpopo had experienced incidents of violence relating to the relocations in the past few months, a meeting was arranged with the SAPS to discuss these issues. Tabled and accepted was the following agenda:

- Intimidation of residents in Mokopane;
- Community concerns; and
- Other community issues.

The Commission raised the issue of intimidation as an immediate concern to all stakeholders and suggested that officers at the station attend a training session that deals with human rights issues and methods of handling these issues. Also suggested, was the clarification or refinement of a grievance mechanism to deal with complaints relating to SAPS services and officers. This would allow the station manager or human resources manager to track and follow up on complaints relating to intimidation and poor service and inform community members of these processes.

The following specific community concerns were highlighted:

- Communication was lacking between the SAPS and the community. Greater communication was therefore required on the process of handling complaints. The community should be informed of how to go about laying a complaint (i.e. communication mechanisms) and how complaints are then dealt with. The Commission suggested ways in which the SAPS could communicate effectively with the community, including via local and provincial newspapers and community radio stations and through personal and visible presence in communities.

- Residents complained of the poor service that they received at local police stations and some indicated that police officers had refused to open cases when they registered complaints at the station. The Commission therefore stressed the need for a positive and friendly interface (especially the first point of contact) that would make community members feel like something was being done about their problem and that their concerns were being taken seriously. This could also be supplemented through a general human rights training conducted by the Commission.
- Communities that had relocated were still receiving proper police services, while those communities that had refused relocation, complained that they were not receiving services.
- Residents in Sekuruwe complained of an increase in crime levels in the area

The SAPS responded by providing an overview of their experiences in the community. The SAPS explained that there was tension in the community, especially in the Motlhotlo, Ga-Pila and Sekuruwe areas. This was mainly due to splits in the communities with each group having different concerns or agendas. The SAPS and Anglo Platinum had tried to engage with stakeholders and even hired mediators to assist in the process of consultation, but generally violence always followed a break-down in negotiations between communities and the mine. Adding to the problem was the fact that communities believe that the SAPS is siding with the mine.

The SAPS suggested training for both community members and the police officers to generate awareness on the role of the police, ways in which they assist communities and to highlight to both groups human rights issues and how to deal with them. The SAPS indicated that they used to meet regularly with sub-forums from each community, but these meetings had stopped. But it would be beneficial to reconvene these meetings, especially since a lot of the tension, particularly in Sekiming was due to poor communication between the mine and the community.

Overall, the SAPS indicated a need for training and other interventions that would generate awareness in communities of the services that the SAPS offer and how residents could access these services. Communities should also be made aware of all mechanisms for contacting the SAPS including station contact numbers and the flying squad number – 10 111. Training on human rights would benefit the SAPS members generally.

On the issue of increased crime in Sekuruwe, the SAPS had found no evidence of this.

It was concluded that the Commission's Coordinator for Human Rights and crime would together with the Limpopo office design an appropriate training intervention to assist the SAPS.

## **5.2 MEETING WITH THE MAPELA TRIBAL AUTHORITY**

A meeting was held with the Mapela Tribal Council, where the findings of the report were presented. The Council asked a few questions and refrained from commenting substantively, but agreed to forward comments to the Commission after reading the report. No deadline for the submission of comments was committed to and to date no comments have been received.

## **5.3 MEETING WITH THE MOGALAKWENA MUNICIPALITY**

On completion of the presentation of the report, the Commission raised the following concerns that were highlighted by communities or through investigations for the report:

- Water testing: the Commission had two conflicting reports on the quality of the water in the municipality. The onus was on the Municipality to conduct independent water tests to ascertain the true quality of the water and provide some clarity on the issue. The Commission would appreciate if the Municipality could carry out these tests to provide a concrete outcome on the water-quality issue.

- Sanitation: discussions with Anglo Platinum indicated that Anglo Platinum was making some progress with regards to sanitation. They intended to liaise with experts in the field of sanitation to plan an appropriate way forward, especially in Armoede and Rooibokfontein. Collaboration was now needed from the Municipality to liaise with Anglo Platinum and take over service delivery at the end of the process as agreed between the parties and in accordance with a proposal for payment by Anglo Platinum of “service subsidies”.
- The Commission stressed the need to move forward on these issues, despite the fact that there were difficulties and constraints. The Commission explained that it could not step in and take on responsibility from stakeholders to perform. Two of the key issues in communities were still water and sanitation and these would need to be addressed.
- The Commission raised the concern that residual communities were no longer receiving services. Although the land was leased by the mine they should not be denied access to essential basic services. This applies not just to the relocated communities, but the residual and indirectly affected communities as well.
- The Commission highlighted the issue of water in old Ga-Pila. The South African Council of Churches (“SACC”) had installed a water pump in the community but it had been stolen and the community indicated that they were no longer receiving candles.

The Mayor explained that although the Municipality understood the mandate of the Commission, the challenge to the Municipality was a lack of control in communities. This was attributed to the control that the s21 companies had in communities denying the municipality rights to intervene with regards to decision-making. The Municipality had identified a consultant who is a relocation expert and employed this person to design a Relocation Strategy at the initiation of the process. Although this strategy was completed, the role of the municipality in the relocation process was limited due control of the s21 companies and the Relocation Strategy was not implemented. It was requested that this

strategy be provided to the Commission, but it has not been received to date. The Municipality was now beginning to take over the responsibility for provision of services as specified in the Service Level Agreements, but argued that at the outset the Municipality indicated that it did not have the capacity or resources to take over responsibility for service delivery. The Municipality accepted that meeting community needs was a serious challenge.

The Commission responded by explaining that in future, the Municipality should assess capacity and resource constraints before making promises to communities and then, when the issues becomes a reality, the Municipality is not able to deliver on those promises.

The Municipality indicated that it was unaware of Anglo Platinum's plans on sanitation and the Commission replied that Anglo Platinum would be in touch with the Municipality shortly. They claimed that there were two stakeholders involved in the process that had confused the issues. These were the lawyers, Bhadrish Daya and Associates, who claimed to be representing the community and the Department of Minerals and Energy ("DME"). When the community from Ga-Pila was being relocated, to the new area, the communities listened to the Municipality during the process and agreed to follow the relocation plan. But the process was then taken over by the s21 companies and the relocation plans were not adhered to.

Mr. Jeffery Nkuna, Provincial manager of the Limpopo office of the Commission, explained that as a defender of human rights he would like to point out that people are entitled to human rights, which includes basic services. There are problems in Ga-Pila and it is requested by the Commission that that the Municipality assists with the problems that the community is facing. There are currently electricity poles in the community but there is no access to electricity. It would be appreciated if the Municipality could arrange a meeting with Eskom to deal with this problem and invite the Commission to attend as a witness. The community did have access to services previously but when they tried to gain access to electricity, Eskom asked them to deal with their municipality. They have

also had their water cut off by the Municipality as they had not relocated to the new settlement.

The Municipality agreed to convene a meeting with Eskom to deal with the issue of a lack of electricity in Ga-Pila but requested that attendance be limited to officials and not to the general public.

The Bench Marks Foundation asked if there had been an intervention to stop the disconnection of services in Ga-Pila and if there were any by-laws that would give the Municipality power to stop such disconnections? The Municipality replied that municipalities had only been demarcated in the year 2000. The Municipality had thus only started work in the area in 2000 after the relocation process had resumed. In addition, the minerals and resources in the area are regulated by the provincial DME so the municipality could only assist in the process of relocation, possibly by designing a blueprint for future relocations. The Municipality also indicated that the land in Ga-Pila was now owned by Anglo Platinum and Anglo Platinum had the rights over the land.

The Commission felt that when people resisted relocation, there should have been a coming together of people to take responsibility for their issues moving forward so that they were not disadvantaged by not relocating. Awareness was also needed in communities to explain the complexities of mineral rights, mining rights and leases, processes of mining and other associated issues. It was time to move forward and learn from the process.

In addition, there was need to move beyond compliance and deal with issues of human rights. The Commission acknowledged that the mine had leased the land and now had rights to land, but questioned if that meant that Anglo Platinum has control of the services infrastructure on that land. There is a need for bi-lateral agreements, engagements and resolutions moving forward.

The Municipality agreed that political issues were affecting the process and it was evident that personal agendas were hindering progress. In addition, in 2000 the s21 company was

the relocation committee in charge of the process, of which the ward councillor was part. But the Municipality also noted the need to work together to meet goals of service delivery and other resolutions. The Municipality stressed the need for the development of by-laws for land relocation and development as a blueprint for future development and relocations.

Moving forward, the Commission asked that the Municipality provide clarity on the following issues:

1. Access to water for the Ga- Pila community;
2. Water testing to break the deadlock in terms of the quality of water in the municipality;
3. The condition of the roads in Ga-Chaba;
4. The meeting between the Municipality and Eskom in an effort to provide electricity to Ga-Pila; and
5. Transportation of school children of families that haven't relocated from their community to the school in the relocated community.

The Municipality responded:

1. The Municipality was currently sending tankers with water to the community twice a week;
2. A water test will be carried out in the municipality as soon as possible;
3. The issue of the poor conditions of roads in Ga-Chaba was on the Municipality's programme for attention but was not an immediate priority;
4. Will be organised by the Municipality and the Commission would be invited to attend as an observer; and
5. The Commission would need to liaise with the Department of Education ("DoE") about the issue of transport to and from schools between original and relocated settlements. The Municipality had played no role in the relocation of the school in Sekuruwe.

The Commission reiterated the need for communication with the community so that residents would be aware of the steps that the Municipality was taking to improve service delivery to their communities. It doesn't help that the Municipality to taking steps at progress but the communities were unaware that progress was being made.

A proposal was made by Mr. Freddy Chaba of Trade and Investment Limpopo ("TIL") to convene a meeting with all stakeholders, including representatives from Anglo Platinum, DoE, DME, traditional leadership and community representatives. It was agreed that the Chairperson of the meeting would take the process further by contacting the Office of the Premier and would be in contact with all the relevant stakeholders, including the Commission. The Commission reiterated that the stakeholders themselves need to own the process going forward. The Municipality closed by promising to address issues of resettlement and the way in which councillors in affected areas were perceived in their communities. This was a priority because the Municipality is committed to its responsibilities.



## 6. CONCLUSION

All stakeholders that the Commission met with were welcoming and generally positive and approving of the report. Despite this, the forums over this three-day visit to Limpopo were not used by stakeholders to comment on the findings of the report, but rather to comment on problems that each group was facing moving forward. As such, meetings were very lengthy and the Commission spent much time listening to these issues raised and finding ways to assist in addressing them and finding ways of moving forward. The main findings of the reports were reiterated by all stakeholders and these were:

- There was a breakdown in relationships between stakeholders and there was need to rebuild trust before moving forward;
- Effective communication was lacking from all sides and regular and more effective communication was required from the mine and the SAPS;
- Education and training would greatly assist most stakeholders in understanding all associated issues from a human rights perspective and would generate awareness within communities on what services were available to them from the mine and the SAPS and how to go about accessing these services;
- The lack of service delivery in communities was cause for concern. All communities complained of poor water quality or a lack of access to water and , electricity; and
- Grave-removals were also an issue raised consistently by communities. Anglo Platinum had embarked on an independent study on the grave relocations and had subsequently employed a credible grave relocation company to remedy the problem. It is hoped that a solution to this problem will be reached shortly.

Overall, the Commission will continue to monitor the situation in Limpopo and assist in opening the lines of communication between all stakeholders so that these stakeholders can better understand the issues that are inhibiting progress in the area and can eventually progress on tasks that they are responsible for such as service delivery.

## **APPENDIX A: PROGRAMME**

### **02 December 2008**

- 09h30: Meeting with national office delegates in Mokopane
- 10h30: Meeting with Sterkwater Community
- 11h30: Leaving to the Old Ga-Pila
- 12h00: Meeting with Old Ga-Pila Community
- 13h30: Leaving to the Ga-Chaba
- 14h00: Meeting with Ga-Chaba & Sekiming Community
- 15h30: End of day one

### **03 December 2008**

- 07h30: Leaving the office to Mokopane
- 08h30: Briefing with delegation from head office
- 09h00: Leaving to Mothlotlo Village
- 09h30: Meeting: MRRC Mothlotlo Village
- 11h00: Leaving to Sekuruwe Village
- 11h30: Meeting with Sekuruwe Village
- 13h00: Leave to Project Office: McKenzie Magagane
- 13h30: Meeting with Section 21 Committee:
- 14h30: Meeting with MDC Committee:
- 15h30: Meeting with Project Managers
- 16h30: End of day two

### **04 December 2008**

- 07h30: Leaving the office to Mokopane
- 08h00: Briefing with delegation from head office
- 08h30: Leaving to the Mahwelereng SAPS
- 09h00: Meeting with the Mahwelereng

- 10h30: Leaving to the Mošate wa Mapela
- 11h00: Meeting with ba Mošate wa Mapela
- 12h00: Leaving to Municipality Chambers
- 12h30: Meeting with Municipality, Office of the Premier, DME
- 14h00: SAHRC Delegates Briefing Meeting
- 15h00: End of day three