

Mapela Case Study Video Script

'Re be re bolaya mabele!' - we used to harvest a lot! 'Re be re eja!' – we used to eat!

These are the words of an elderly woman from Ga-Chaba village in Mapela, expressing her anger over her crops being destroyed by a mine's invasion onto her land.

In this video, we tell the story of a South African community suffering from mining operations on their land, how government and the law has failed the community and what the community has done to resist mining.

Mapela is an officially recognised traditional community made up of 42 villages near Mokopane in Limpopo.

In the midst of these villages, and on the Mapela people's land, is the largest platinum mine in the world, AngloAmerican Platinum's Mogalakwena Mine.

The Mapela people have experienced a long history of oppression and dispossession under colonialism and apartheid.

During colonialism, Mapela people were made to live in designated areas and were stripped of land that previously belonged to them. And then, during apartheid, the government created separate living areas, called Bantustans, in order to exclude black people from South African society.

Mapela was incorporated into the Lebowa Bantustan, where its Chiefs were subjugated under a royal family that was foreign to them and located far away from Mapela. This stripped the Mapela people of their autonomy in terms of land and governance.

The Bantustan system was collapsed in 1994 with the end of apartheid. After that, the Mapela community's land was transferred from the Lebowa government to the South African government. So now, the government holds the title deed to Mapela land.

But, according to customary law, the Mapela community has the right to decide what happens to their land, to use the land and to any benefits that come from the land.

These rights are also protected by the Constitution and the Interim Protection of Informal Land Rights Act of 1996. Mapela residents may not be deprived of their customary law land rights without their consent.

In spite of this protection, the Mapela people's land, livelihoods and security of tenure are under threat again from mining operations by AngloAmerican.

Platinum mining started intensively in 1993 when AngloAmerican secured a

lease and a mining right over sections of Mapela land. This lease was signed by Kgoshigadi Athalia Langa, without consulting the community. The lease payments have also never been accounted for.

Since then, AngloAmerican's activities have resulted in the relocation of residents from three Mapela villages, prohibiting access to Mapela residents' ploughing fields, moving their ancestors' graves and destroying their environment. In total, an estimate of around 1700 households have been relocated since 2001.

Residents report that AngloAmerican was aggressive and coerced residents into accepting relocation agreements. For example, Anglo has been fencing off ploughing and grazing fields, restricting access to roads and paths and conducting intrusive blasting operations before relocation or compensation has occurred. There are also allegations of Anglo cutting off water services for those who refused to move. So it is unclear whether the community gave real consent.

When consulting with the community, as they are required to do by law, Anglo created non-profit companies (called section 21 companies) to represent each village and organised certain community members to be directors of the companies. Then, it co-opted those directors by paying them monthly stipends in exchange for carrying out the companies' consultation work.

This process, which was outside of existing traditional democratic structures, undermined the consultation process by creating incentives for representatives to comply with AngloAmerican's wishes. Many Mapela residents are angry about the illegitimacy of the various consultation processes

The residents that have lost access to ploughing and grazing land were not consulted and many Mapela residents are yet to be compensated for the harm they have suffered from mining operations.

Mining has severely reduced the ability of the Mapela people to provide for their families by growing crops or keeping livestock on their land. They are now more reliant on social grants and the loss of agricultural income has not been replaced by income from the mine because the mine employs a very small proportion of the Mapela population.

The relocations have also involved exhuming and reburying graves of Mapela residents' ancestors. Between 2000 and 2012, Anglo relocated more than 2200 graves in Mapela and many residents have lost access to their ancestors' graves.

Some graves were not moved and some graves have been lost beneath mine dumps because of the ineptitude or carelessness of the company employed by Anglo to exhume the graves.

Many of the graves were exhumed in an illegal manner and, despite a rectification process being followed, many of the problems could not be fixed.

This undignified reburial process has caused serious trauma for this traditional, religious community. Ancestors play an important role in the spiritual and cultural life of the Mapela people and there is a strong belief that the wellbeing of the living is tied to the wellbeing of the dead. If the dead are not at peace, the living will not be at peace; they will be cursed by bad luck, sickness and even death.

Although the Sekuruwe community went through a cleansing ceremony in order to appease their ancestors, they have not been adequately compensated for the trauma caused by the exhumation of their ancestors' graves.

In addition to the disruption of the social fabric of the community and direct impact on the livelihoods of the people, the mine has also increased the people's vulnerability by destroying their environment...

...creating environmental hazards for the surrounding community.

In Mapela, blasting has greatly affected the wellbeing of the community by disrupting school days and residents are often unable to sleep. It has also caused structural damage to houses.

Air pollution caused by dust from Mogalakwena mine has also severely affected surrounding villages.

Mining uses excessive amounts of water, which mixes with waste materials and chemicals and can seep into groundwater or into rivers. AngloAmerican has been accused of causing water shortages and contamination of water sources in the area, which is already water-stressed.

Much of the compensation offered by Anglo has been inadequate. The amount paid for relocation has not been big enough and has not included environmental damages or the cost of social disruptions. Much of the agricultural land offered as a replacement for land that was lost to the mine has been sub-standard.

So how does this situation come about? How are mining interests prioritised above local communities' interests?

Well, the current policy of the Department of Mineral Resources and mining companies is that companies are not required to finalise compensation before starting their mining operations. Communities suffer under mining before they agree to compensation. This is coercive and local residents often feel pushed to accept whatever the mining company offers in order to escape their current suffering.

Proper negotiations do not take place and communities are not negotiating on an equal footing with companies. This is one reason why communities accept sub-standard compensation.

Their legal position is worsened by the fact that since the Mineral and

Petroleum Resources Development Act has come into effect, it has been the status quo that mining communities' consent has not been required before mining takes place on their land.

This disregards customary law and the Interim Protection of Informal Land Rights Act, which states that "no person may be deprived of any informal right to land without his or her consent."

Despite this weak legal position, Mapela residents have managed to obtain greater benefits from mining on their land than most communities in their position.

By means of protest, legal action and the support of land rights organisations, the community has obtained a settlement agreement, an extensive social and labour plan and a separate development trust funded by AngloAmerican. The total amount to be paid by Anglo to these development instruments totals over 300 million rand.

However, the creation of these instruments has been controversial – they have not included sufficient consultation with the broader Mapela Community and protests in Mapela have, at times, highlighted that the type of development envisaged by the mine has not been appropriate.

The relative success of Mapela residents to secure benefits from mining was enabled by a number of factors which are present in Mapela but are not found in other mining affected communities.

The fact that Mogalakwena is the largest mine in South Africa brings greater publicity. The size of the community gives it better bargaining power. The involvement of outside organisations has enabled greater information being provided to residents and has enabled them to grapple with the legal issues. Lastly, the fact that Anglo cares about its public image has meant that it is more amenable to providing benefits to the community so that it is seen as socially responsible.

However, we must ask ourselves: what would happen if these factors were not present? How do other communities that do not have these strengths cope? In many cases, they don't.

In order to uplift the wellbeing of rural people in South Africa, we need to safeguard existing rights-holders, their ability to choose what happens on their land and their ability to derive benefit from their land. It is clear that mining affected communities' legal position needs to be strengthened.

For instance, communities should have the right to say no to mining on their land.

Compensation should be negotiated and finalised before mining affects local communities' lives.

Consultation must happen in an equitable manner and must extend to the entire community, not just the Chief and not by non-democratic means. All relevant information should be explained in languages and in a manner

understood by the local community.

Environmental laws should be upheld and mining-affected communities must be protected from having their environment polluted.

There are many more problematic aspects of mining law. Click on any of these links to learn more about the legal position of mining affected communities and how the law can be improved.