

26 August 2019: MEDIA RELEASE

## **THE BALOYI COMMISSION REPORT, SEDIBELO AND SIYANDA**

### - AN END TO STEALING?

The Baloyi Commission's report about the Bakgatla BaKgafela chieftaincy and financial corruption will be released by the Northwest Premier at 2 pm today, Monday 26 August 2019. LAMOSHA was an active participant in the proceedings of the commission of inquiry over two years since 2016.

At the final sessions of the commission in June 2018, it was argued that the "BEE" deals by chief Nyalala Pilane and the BBK traditional authority in the name of the community, did not and would not benefit the community and ordinary members. Instead it allowed for the extraction of BBK resources and wealth to enrich:

- offshore companies,
- a few selected local individuals including the chief;
- consultants and lawyers.

Since June last year much has happened:

- a) The *Maledu* judgment of the Constitutional Court, where LAMOSHA, was an amicus, showed that Nyalala's Wilgespruit deal was fraught with short cuts taken by lawyers;
- b) The Baleni judgment of the Xolobeni community confirmed that communities and their members have a right to say no to unwanted development;
- c) The MPRDA amendment bill that would have further diluted the rights of rural communities have been withdrawn... BUT we are now faced with equally bad Bantustan Bills such as the TKLB, the TLGFA and the TCB;
- d) The Zondo commission and investigative journalists have shown the widespread corruption and capture of community mineral resources and rights.<sup>1</sup>

The much acclaimed BEE deals involving Nyalala, Gilbertson and Mthwa have also not fared well, and we briefly summarise their performance over the last year. In fact the prospects of community benefit has gone from bad to worse.

## **Sedibelo Platinum Mine**

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<sup>1</sup> <https://www.dailymaverick.co.za/article/2018-11-05-stealing-the-crust-ii-all-the-players-in-a-heinous-sa-mining-fraud/>  
<https://www.dailymaverick.co.za/article/2018-02-01-stealing-the-crust-how-the-baktatla-ba-kgafela-were-robbed-of-their-inheritance/>

In 2012, the Bakgatla Ba-Kgafela “tribe” acquired a 25.7% shareholding in the Sedibelo Platinum Mine. At the time of the consolidation, Sedibelo placed a 16.2% stake with IDC for R3.24 billion. To date, no dividends have been declared. In FY 2018, Sedibelo Platinum Mine secured a loan of R 500 million from the Industrial Development Corporation of South Africa Limited (IDC) for the Pilanesberg Platinum Mine to sustain mining operations or “for short-term funding cash flow requirements.”

Since 2017, one of the main instigators driving the establishment of the Sedibelo Platinum Mine – Mr Brian Gilbertson – has been seeking to dispose of his stake in Sedibelo to focus on gemstone mining in Mozambique and Zambia. Nyalala Pilane and Kutlwano Motlhabane, advisor to the Kgosi and CEO of BBKT Financial Services, are still serving on the Board of Sedibelo.

Nyalala Pilane claims that he “negotiated a platinum mine for the BBK by acquiring a mining licence under a holding company called Itereleng Bakgatla Mineral Resources.” IBMR was thwarted in its attempts to evict community members from the farm Wilgespruit last year when the Constitutional Court ruled in the Maledu judgement that occupiers do not lose their tenure rights when a mining right is awarded. A chief cannot sign a land lease on behalf of a community with his own company... and that is what Nyalala did.

The company is still registered in Guernsey and never listed on the JSE as the stated intention was in 2012. Its AGM will be held next month on 16 September.<sup>2</sup>

### **Siyanda Bakgatla Platinum Mine**

In January 2018, the Bakgatla and the Siyanda Consortium concluded a transaction with Anglo Platinum to acquire RPM’s 85% interests in Union Mine and 50.1% interest in Masa Chrome Proprietary Limited and to transfer these to Siyanda Bakgatla Holdings (Pty) Ltd.

At the handover ceremony on 26 January 2018, the erstwhile minerals minister Zwane claimed that “this transaction proves that radical economic transformation is not a painful exercise and it can be achieved.”

A former corporate advisor to the BBK – Mr Malcolm Dods – stated in his affidavit to the Baloyi Commission that Union Mine was mining itself out and was faced with sinking an ultra-deep shaft at an estimated cost of more than R 10 billion.

The Bakgatla hold a 27% interest in the Siyanda Bakgatla Platinum Mine (previously known as Union Mine), through the Bakgatla Ba-Kgafela Investment Holdings Pty Ltd (BBKIH). The Acting CEO of BBKIH is Morena Kagiso Pilane, who is also on the Board of Directors of the Siyanda Bakgatla Platinum Mine.

Siyanda Bakgatla Platinum Mine’s PGMs are sold through an offtake agreement with Anglo American Platinum’s Rustenburg Platinum Mines and chrome is extracted from the tails by the sister company, Masa Chrome.

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<sup>2</sup> <http://www.sedibeloplatinum.com/reporting-and-investors/market-releases/2019>

Investec also remains a significant shareholder. <http://www.sedibeloplatinum.com/reporting-and-investors/significant-shareholders>

In August 2019, the Siyanda Bakgatla Platinum Mine created a website for the first time.<sup>3</sup>

This states that the Siyanda Bakgatla Platinum Mine:

- has an estimated life of 17 Years
- employs about 5200 Full Time Employees and about 1500 contractors.
- has re-opened the 4South decline and embarked on an open-cast development to expand production by 2020
- has invested more than R60 million for its host communities through the Social and Labour Plan (SLP) in line with the Integrated Development Plan (IDPs) of Moses Kotane and Thabazimbi Local Municipalities, as well as Bakgatla Ba Kgafela Tribal Authority Masterplan to address critical areas of socio-economic needs of communities, and

claims that it has “expertise in relations with organized labour and communities, especially rural areas. “

However, employees at the Siyanda Bakgatla Platinum Mine claim it has engaged contractors to carry out mining operations at considerable cost and that the mine has not made its SLP publicly available, as required by the Mining Charter. Lastly, media reports in June 2019 suggest there may be a looming showdown between AMCU and NUM over wage agreements with Siyanda Bakgatla Platinum Mine. The majority of the employees are from the Eastern Cape.

The villages of Sefikile, Mononono and other villages around the Swartklip mine have yet to see what Siyanda means to them.

<https://web.facebook.com/>

### Land Access Movement of SA

The Land Access Movement of South Africa (LAMOSA), established in 1991, is an independent federation of rural Community Based Organisations (CBOs) advocating for land and agrarian rights, and substantive democracy through facilitating Sustainable Development. Its founding members are drawn from dispossessed communities in the former Transvaal region. LAMOSA was a party in an number of Constitutional Court cases to uphold the bill of rights including: *Lamosa v NCOP 1 and 2* [judgment 2016 and 19 Feb 2019]; *Maledu* [2018]; participated in the Northwest Commission on the financial affairs of the Bakgatla Ba Kgafela chief Nyalala Pilane and made submissions to Parliament on the expropriation bill in 2015, the restitution amendment bill of 2014; the MPRDA amendment bill of 2013 that was withdrawn by Zuma, and section 25.

LAMOSA is an active member of the Alliance for Rural Democracy. Contact: Emily Tjale – LAMOSA; Constance Mogale – LAMOSA and ARD.

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<sup>3</sup> <http://siyandaplatinum.com/>