

# Why South Africa's Extractive Sector Needs Greater Transparency

Case study of Sedibeng Iron Ore mine



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## BACKGROUND AND INTRODUCTION

**South Africa is a major minerals producer and host to leading international mining companies. Mining accounts for approximately 18% of the national GDP. The costs and benefits of mining for South African communities, and the impacts of South African mining companies operating elsewhere in Africa, are matters of much concern to civil society.**

In May 2017, a community activist and Publish What You Pay member from Kathu in Northern Cape mentioned to Publish What You Pay South Africa (PWYP-SA) that he has led Maremane mining community in trying to obtain information about the Social and Labour Plan for the Sedibeng Iron Ore mine to no avail. The community had started raising questions about the benefits of the mining activities by Sedibeng.

When a company applies for a mining right, it is required to submit an array of documents on its plans to mine, which the Department of Mineral Resources (DMR) then uses to assess whether the project is viable. One of these documents is a social and labour plan (or 'SLP'). Social and labour plans set out how the company intends to share some of the benefits that flow from mining. These may include initiatives for developing the skills of their employees; upgrading local schools and roads; as well as providing housing, water and sanitation in the area. Once a company is awarded a mining right, the social and labour plan they submitted becomes a binding legal document. Therefore, an SLP is an important document that a community can use to track and monitor the activities of the mine and whether they are abiding by the plan.

PWYP-SA offered to help find publicly available information about the Sedibeng mine. This case study describes the research undertaken and shows how difficult it can be in South Africa to obtain information relevant to local communities about extractive projects. Although some mining companies operating in South Africa do publish their social and labour plan,<sup>1</sup> and this is a legal requirement (see Conclusions below), Sedibeng does not.

PWYP-SA considers that affected communities need greater access to social and related information on all extractive projects in South Africa. It is also calling for greater fiscal transparency through the adoption in South Africa of mandatory 'payments to governments' reporting (mandatory disclosures) requirements. Mandatory reporting of payments to governments at country and project level is now a standard implemented in Europe and Canada and enshrined in law (although not yet implemented) in the United States, aiming to combat corruption, fiscal mismanagement and revenue gaps. Project level reporting requires companies to disaggregate payments made at project level and to identify the individual mine or oil well associated with such payments. This gives much more detailed information than country-level reporting alone. This study is relevant to the campaign for fiscal transparency in the mining, oil and gas sectors, because citizens and especially local communities have a right to know how much revenue their government earns from their country's natural resources and from projects that affect them, and whether companies are paying fairly.

## OBJECTIVES OF THE STUDY

- To help make useful information available so that companies and the South African government can be held more accountable for commitments made in the provision of benefits for local communities.
- To investigate the quantity and quality of publicly available information about one South African-owned mining project: Sedibeng Iron Ore mine.
- To illustrate the extent of the need for greater transparency and public information about South African-owned mining companies operating in South Africa.
- To provide evidence supporting the push for a mandatory disclosures law in South Africa.

## METHODOLOGY

Publicly available information about the Sedibeng Iron Ore mine was sought from the following sources (internet search):

- Company website – <http://seio.co.za/>
- Tata Steel website (subsidiary Black Ginger owns 64% stake in Sedibeng) – [www.tatasteel.com](http://www.tatasteel.com). On this website, financial reports for Black Ginger are available and up to date but do not reveal any specific information on revenues or costs associated with Sedibeng. See 2017 report [here](#)
- <http://www.miningmagazine.com/company/tata-steel/>

- Department of Mineral Resources (DMR) website – <http://www.dmr.gov.za/>
- Subscription websites – Info-Spectrum; Info-clipper.com
- OpenCorporates: – <https://opencorporates.com/>
- UK Companies House extractives service – <https://extractives.companieshouse.gov.uk/>: publishes payments to governments reports by UK-registered extractive companies
- Google

The initial aim of this study was to compare reporting by a UK-owned project (Kumba Iron Ore, a subsidiary of Anglo-American) with a South African-owned project (Sedibeng Iron Ore). However, Sedibeng appears not to report at all, and its immediate South African parent, Tata Steel-owned Black Ginger, does not mention Sedibeng in its reporting. So it became apparent that there was little need to compare Sedibeng with Kumba. Although the case study focuses on just one example project, the absence of data in this case is evidence of the need for greater transparency on the part of extractive companies in South Africa.

## RESEARCH FINDINGS

### Sedibeng Iron Ore: ownership and other self-reporting

Tata Steel subsidiary Black Ginger developed interest in the iron ore deposits in the Northern Cape province of South Africa in the late 2000s. In February 2011, Tata Steel's South African subsidiary Black Ginger acquired a 64% stake in Sedibeng Iron Ore (Pty) Ltd, and operations started in April 2012. There is no publicly available information about the previous owners who eventually sold the project to Tata Steel (registered in India) via its subsidiary Black Ginger. The other shareholders in Sedibeng are Cape Gannet Properties (26%) and Industrial Development Corporation (10%). Cape Gannet Properties is an estate agent while IDC provides finance for industrial developments projects. The ore at Sedibeng had been partially mined in the 1960s.<sup>2</sup> There appears to be no publicly available information on who owned the company then or from whom it was acquired, when and for how much.

No reports are currently published on the Sedibeng company website. The company's registration and address are published by OpenCorporates but the linked company's registry page at South Africa's Companies and Intellectual Property Commission (CIPRO) cannot be found.

### Lack of open access to South African government information

Access to mining company information by applying online via South Africa's Department of Mineral Resources website is slow and must be paid for.

It involves downloading and submitting a form and payment of a fee of R35 (USD 2.75) for the application to be considered. Particulars of the person(s) applying are required, including ID number, physical and postal addresses, and whether the applicant is a company official or a member of the public. Completing the form does not guarantee access to the records. Applicants are notified in writing whether the request has been approved or denied. All this builds barriers to access to information, not just for the Maremane community but for all marginalised communities, in terms of cost, literacy, access to the internet and fear of retaliation.

The Centre for Environmental Rights (CER), a civil society organisation in South Africa, has highlighted the failure by DMR to respond to requests for information under the Promotion and Access to Information Act (PAIA). Of the eight requests submitted to the DMR in 2015, either in its own name or on behalf of clients, five received no response, three were acknowledged, and only one was fully granted. DMR has, to date, proved to be a poor implementer of the PAIA.

### Subscription websites require payment and are conditional

Other relevant information such as company reports and documents are available on the Info-Spectrum and Info-clipper.com websites, but both require payment – up to EUR 420 on Info-clipper.com. Info-Spectrum requires registration and restricts use of documents.

## Payments by UK-listed companies to South African government entities

Much potentially useful information about the extractive industries is being made freely available through 'payments to governments' disclosure laws. A rapid scan of UK-registered company payment reports published by the UK company registrar's Companies House extractive service reveals that at least 29 distinct South African government entities received payments from UK-registered companies in 2016. Many of these government entities are local municipalities, which are of particular interest to local communities that wish to know whether and how much their locality benefits from revenues generated by extractive projects.

Introducing mandatory disclosure legislation in South Africa would shed much needed light on payments to governments made by South African companies not only within South Africa but also in other countries where they operate. With a number of South African mining companies operating elsewhere in Africa, citizens of those countries have a right to know what these South African companies pay to their governments in order to hold their own governments to account. Greater transparency and accountability on the part of South African extractive companies will significantly assist in the fight against corruption and fiscal mismanagement.



## CONCLUSIONS

If the purpose of a mining company's Social and Labour Plan (SLP) is to ensure that local communities benefit from a mine, to realise these benefits or hold the company and local government accountable if they fail to be provided, then those communities need to know what is in the plan and the benefits to which they are entitled.

South African citizens' basic right to access information should enable local communities affected by extractive projects to get answers to their questions from mining companies, but this is not always the case. Following their own unsuccessful attempts to access information needed to exercise their rights, the Maremane community asked PWYP-SA to help access this information. PWYP-SA's research revealed that important information on Sedibeng Iron Ore relevant to the community is not readily available, and the same is likely to be true for a large number of South African-owned mining and other companies.

These efforts in accessing relevant company information highlight that there needs to be far better enforcement of existing laws such as Regulation 46(f) of the Mineral and Petroleum Resources Development Act (MPRDA), which states that a company has the obligation to publish its SLP. In addition to access to social and related information, citizens and communities need - and have a right - to know whether and how much their country and their locality receive in revenues generated by extractive projects. For this, mandatory payment disclosure is needed. The optimal way to publish such information today is online with unrestricted public access and in open and machine-readable data format.

## RECOMMENDATIONS

- 1** South Africa should fully enforce Regulation 46(f) of the Mineral and Petroleum Resources Development Act so that all mining companies registered and operating in South Africa publish their social and labour plan (SLP).
- 2** All extractive companies registered in South Africa and/or listed on the Johannesburg Stock Exchange and operating domestically or abroad should be required by law to proactively disclose online their payments to governments. South Africa should therefore implement mandatory disclosures legislation, not only to reduce corruption and fiscal mismanagement in South Africa and to benefit South African citizens and communities, but also to have similar benefits in other countries where South African companies operate.
- 3** Payments to governments information should be published online with unrestricted public access and in open and machine-readable data format. It is important also that the data be published in a timely manner, standard-compliant and easily understandable to citizens, preferably in local languages as well as in English.

## NOTES

1. See for example Anglo American, [http://www.angloamerican.com/~media/Files/A/Anglo-American-PLC-V2/slp/new-vaal-SLP-2015-2019.pdf](http://www.angloamerican.com/~/media/Files/A/Anglo-American-PLC-V2/slp/new-vaal-SLP-2015-2019.pdf)
2. [https://www.google.com/url?q=http://seio.co.za/board-leadership-team/&sa=D&ust=1517395783852000&usg=AFQjCNE21\\_Gb-WutkFcFH5h3mvtzMzWiCw](https://www.google.com/url?q=http://seio.co.za/board-leadership-team/&sa=D&ust=1517395783852000&usg=AFQjCNE21_Gb-WutkFcFH5h3mvtzMzWiCw)

**This case study is part of Publish What You Pay's Data Extractors programme, a global initiative which trains PWYP members and activists from across our network to use extractives data.**

This programme aims to create a network of activists who can in turn share their knowledge with local communities. Our goal is to enable citizens all over the world to ensure natural resources are managed for the benefit of society as a whole. The PWYP Data Extractors programme does this by:

**Training** - Data Extractors learn how to find data, analyse it and use it to ask questions of both governments and companies. The programme merges technical skills with activism through hands-on workshops, skills sharing and online learning opportunities

**Connecting** - The programme connects PWYP members from all over the world, facilitating collaboration, mentoring, peer learning and offers an exciting opportunity to create unique projects which are relevant to local concerns.

**Uncovering** - Data Extractors expose discrepancies in company and government reports and payments to expose corrupt practices the resource curse, and raise questions for further investigation.

**Communicating** - Data Extractors can use data to communicate with a variety of stakeholders and engage in decision-making processes that affect them, using evidence- based data.

Through their case studies, the PWYP Data Extractors use examples and data that is publicly available to hold governments and companies to account.

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WORK WITH US TO UNCOVER THE STORIES  
HIDDEN BEHIND EXTRACTIVES DATA!

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