

ICWA LETTERS

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TCY-3 1996
sub-Saharan AFRICA

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"As long as we are living on the Earth, this place is ours."

PIETERSBURG, South Africa

August 1996

By Teresa C. Yates

The residents of Ga-Pila (pronounced ha-PEEL-uh) village are angry and they are frightened. The first reported case of "flyrock" in the village was in September 1995. Since then, "we have been afraid for lives and our property," explained one village woman. Sections of Ga-Pila are just 200 meters from the Potgietersrust platinum mine. The mine has been blasting at least once a week since it started operating in 1993. Since 1993 the mine has confirmed three cases of flyrock in Ga-Pila. What's flyrock? Flyrocks (of course) are rocks that fly, out of the pits and into the sky and sometimes into the village as a result of mine blasting.

The prefix Ga in North-Sotho means "the place of." Many rural villages take the names of the chief or headman (a man appointed by the chief to be the head of assigned villages). Ga-Pila is "the place of Pila," the first headman of the village.

By any first- or third-world standards, Ga-Pila is poor. The village does not have one paved road, but that is not unusual in rural villages. Many of the dirt roads are not passable because of large stones growing out of the ground like planned rock gardens. Many of the houses are made of mud rather than brick or stone. There is only one drilled well providing water for the approximately 3,200 residents. According to the villagers this well is drying up because of the mine's



Children in Ga-Pila collect water from this rusting barrel outside the post office.



View of the mine from a nearby cornfield

burden on the water supply.

Everyone who is familiar with Ga-Pila village agrees that the village must be moved. This is, however, about the only thing on which all of the concerned parties agree.

"The people of Ga-Pila want to move, and the mine is willing to pay for relocation of the village," says Solly Maluleke, the Community Liaison Officer for the mine. "There are certain elements in the village, though, who want to use this situation to their own advantage. They are telling the people that they should stay where they are until the mine agrees to give the community mining rights, shares in the company and seats on the board of directors." The mine has held community meetings, Solly says, and has told the people of Ga-Pila that the mine will pay to relocate the village and pay the villagers compensation for the value of their homes. There must first be consensus from the community, he says, on "where and under what circumstances the people will move." This consensus, he believes, is being prevented by a small number of people who "see this as their opportunity to become rich."

"The problem in Ga-Pila," according to Gilbert Pila¹, Chairperson of the Transitional Local Council, "is very complicated. The mine is willing to move the village, but the people want shares and mining rights. If you relocate the community they will lose their power."

This is an example of two very different visions of how South Africa should develop ways to exploit its vast mineral wealth to allow black communities to derive some real benefit from that wealth.

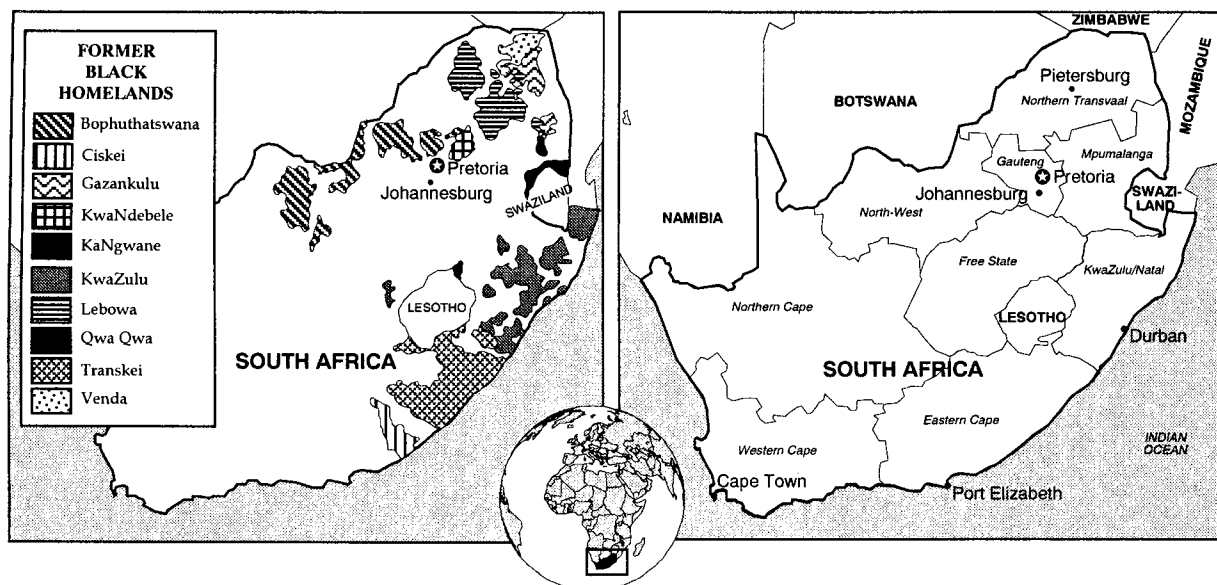
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South Africa is a treasure chest of varied mineral deposits. Covering less than one percent of the earth's surface, it has the world's largest known deposits of chromium, manganese, platinum, vanadium, and gold, all important minerals because of their strategic, industrial and economic value. South Africa also has major reserves of other valuable minerals including coal, copper, diamonds, iron, nickel, phosphates, silver, uranium, and zinc.

Diamonds were first discovered in Kimberly in 1871 and gold in the Witwatersrand reef in 1886. Since then the South African mining industry has developed into one of the most sophisticated operations in the world. In the past the State was the legal owner of all the precious and base minerals in South Africa. The mineral rights could be separated so that the State could allow one company to hold the rights to precious minerals (*i.e.*, platinum, gold) and another to hold the rights to base minerals (*i.e.*, nickel, chromium). Prospecting permits gave the holder the right to prospect, but not to extract any mineral from the land.

Once prospecting was complete, and if any signifi-

1. Pila is a common North-Sotho family name. Mr. Gilbert Pila is not related to the headman Pila of Ga-Pila village.



cant mineral deposits were discovered, the prospective miner could apply for a mining permit. Permit seekers had to demonstrate that their past history in mining or other businesses qualified them to undertake their proposed project and that the project was likely to be economically viable. Ultimately, however, issuance of permits was at the discretion of the State. If the surface of the land was owned by someone other than the State or the company holding the prospecting and mineral rights, the State paid the surface-owner half a rand per hectare for the use of the surface of the land.

When South Africa embarked on its vision of grand apartheid, whereby the races would be separated into self-governing homelands (the former reserves) according to skin color and ethnicity, the anticipated "international borders" were drawn to keep as much of the country's rich mineral deposits as possible in white "South Africa." This was, however, not always possible.

The 1913 Natives Land Act codified the government's plan to assign every black South African to a designated reserve area. Although the 1913 Act restricted where black South Africans could legally occupy land, the Act did not prohibit blacks from purchasing 'reserved' land.

In 1936 the Native Trust and Land Act eliminated the right of black South Africans to purchase land, even in the areas set aside for their occupation. Black families who had managed to purchase land in the reserves between 1913 and 1936 did not lose that land as a result of the 1936 Act. All the remaining land in the reserves was placed in the South African Natives Trust (SANT). The government, thus, became the legal owner of most of the land in the reserves. The SANT was later renamed

the South African Development Trust (SADT). The basic principle, however, remained unchanged: All land identified for black occupation was held in "trust" by the government.

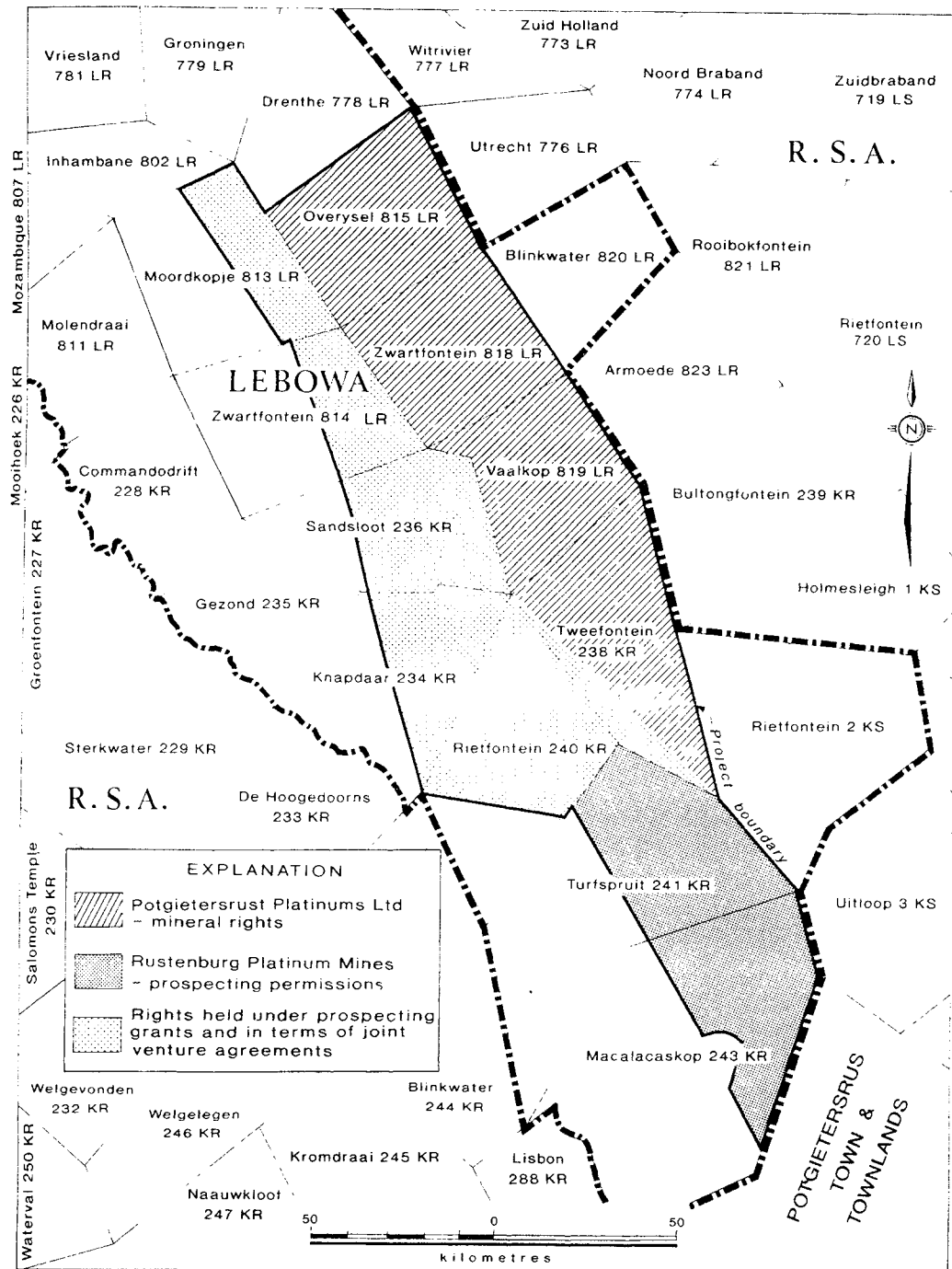
Ultimately ten homelands were created by the old government. Six of them — Lebowa, Gazankulu, KwaNdebele, KwaNgwane, KwaZulu, and Qwa Qwa — although 'self-governing,' remained legally part of South African territory. The four other homelands — Bophuthatswana, Ciskei, Transkei, and Venda — were considered by South Africa as 'independent' nations. They had their own presidents, armies and border patrols.

Platinum was discovered in 1925 in the area that eventually became Lebowa, the homeland set aside under grand apartheid in the Northern Province for the North-Sotho-speaking population. Shortly after the discovery, a company called Potgietersrust Platinums, Ltd. (PPL) obtained from the government mineral and prospecting rights on several farms bordering what later became Lebowa homeland territory. The company mined in the area until 1931, when the market was not able to sustain its output.

By 1974 PPL had become part of the Johannesburg Consolidated Investment Company, Limited (JCI). At that time the SADT granted JCI prospecting rights to precious and base metals and minerals on several farms in the Lebowa homeland. The SADT also granted outstanding rights to apply for mining leases. JCI invested R40 million (U.S.\$9 million) in 1976 on exploration and testing in the Potgietersrust area.

The company signed three Joint Venture Agreements

PP Rust mineral rights



PPL's mine straddles Vaalkop and Sandsloot farms. PPL estimates that the life of this mine will be approximately 100 years. With its other mineral rights on the seven farms illustrated here PPL will control mining in this area for centuries to come.

(JVA) in 1987, 1988, and 1989 with the Lebowa Homeland Government. According to Mr. J. Johnston, an attorney for PPL, the agreements gave PPL the right to mine for platinum-group metals and the rights to all permissions and consents that are required to mine on the agreed-upon farms. As a result of the JVA, two mines, PPL and the Lebowa Platinum Mines, Limited, both currently held and managed by the Anglo American Platinum Corporation, Limited (AMPLATS), now own the majority of precious mineral rights in the Northern Province. In 1993 PPL began mining operations on two farms. The mine straddles the Vaalkop and Sandsloot farms.

Mr. Johnston asserts that in the exchange for the rights PPL received under the JVA, the former Lebowa Government received: R8 million (U.S.\$1.8 million); 8 million shares in Lebowa Platinum Mines, Limited, currently worth about R24 million (U.S.\$5.3 million); and subscription rights to PPL stock worth R115 million (U.S.\$20.5 million).

The former Lebowa Government created and then poured the proceeds from the JVA into the Lebowa Minerals Trust (LMT). According to Mr. Johnston, the current Northern Province Government's Minister of Energy and Mineral Affairs is the sole trustee of the LMT.

I was unable to obtain any information from the Provincial Government Energy and Mineral Affairs Office on the status of the trust.

Against this background, Mr. Johnston contends that

PPL is not legally or morally obligated to contribute anything more than the cost of relocation and the cost of replacing lost houses to the Ga-Pila village. He contends that it is the duty of the Northern Province Government, into which the former Lebowa homeland government has been absorbed, to invest the money from the JVA to develop better homes and roads for the community.

Mr. Johnston is correct in his interpretation of the law. As long as the mine has followed the requirements of the 1991 Minerals Act — and it has — the JVA is valid and enforceable. This may change if and when the government revises its policy on mineral rights, but no one can say when that will be. Communities like Ga-Pila are hopeful that the government will introduce a plan that promotes an equitable distribution of the country's mineral wealth. The mining companies, on the other hand are pleased to continue with the status quo.

Mr. Johnston was eager to point out that the mine is not unsympathetic to the poverty of the surrounding communities. As proof, Mr. Johnston asserts that all 850 of the company's employees are from the Northern Province. Furthermore, he notes, last year the company spent R675,900 (U.S.\$150,200), of the company's after-tax profits of approximately R194 million (U.S.\$43.1 million), on community projects such as clinics, water supply and schools. The company has allocated R1.3 million (U.S.\$283,000) for similar projects in 1996.

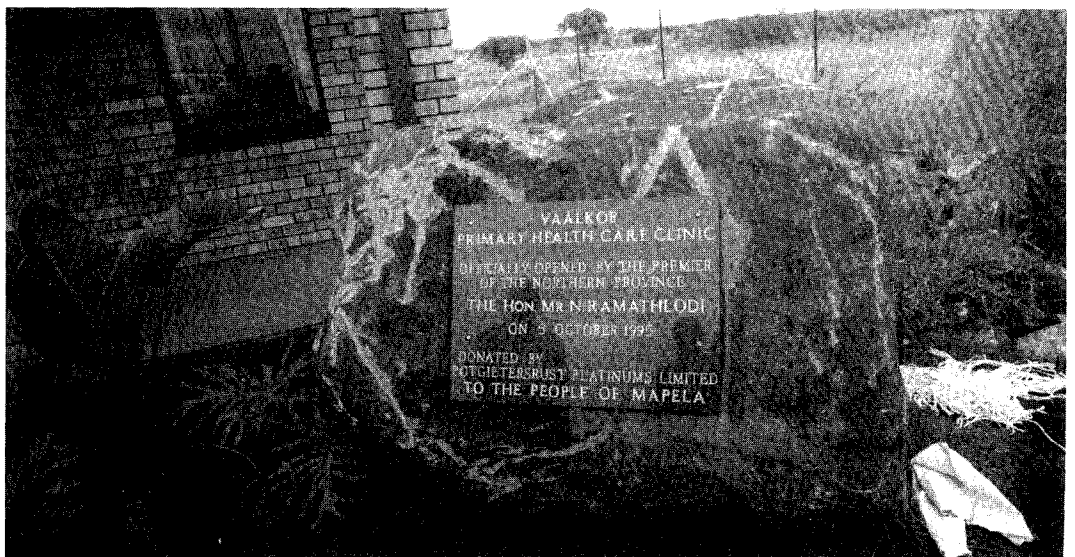
Mr. Johnston and Mr. Maluleke contend that these

Solly Maluleke demonstrates a pump installed by the mine to provide irrigation for small agricultural project.





The health clinic and nursing quarters the mine says it built to serve the surrounding communities. Ga-Pila residents say that they do not use the clinic because it is too far away from the village.





The remains of houses in Ga-Pila that were destroyed by "flyrocks" and the earth's vibrations caused by PPL blasting



projects are proof that the mine is reaching out to build positive community relations.

If PPL is working so hard to build positive community relations, why have people from Ga-Pila held demonstrations at the mine demanding its closure? Steven Matlaile, the local council representative for Ga-Pila, contends that "if AMPLATS really wants to improve the living stan-

dards of poor blacks, they would offer training to black businesses interested in mining." He further asserts that that "PPL is interested only in maintaining their control over 99 percent of the ore reserves worth having in this Province. That is why we marched on the mine."

Mr. Matlaile also claims that the JVA is invalid "because the Lebowa [Homeland] Government had no ex-

expertise in negotiating such matters." As evidence of the former Government's incompetence, Mr. Matlaile offered what he claimed to be the true value of the subscription rights transferred under the JVA. He claims that the actual value of the options is not R115 million (U.S.\$20.5 million) as PPL claims, but R35 million (U.S.\$7.7 million). Mr. Matlaile was not able to explain to me how he arrived at this lower figure. Furthermore, he claims that the former Lebowa Government did not receive eight million shares in Lebowa Platinum Mines, Ltd. as claimed by PPL, but four million shares. Again, he offered no explanation of the different figures.

Moreover, Mr. Matlaile contends that "the agreements were not negotiated with the interest of the majority of the people in mind. People like the residents of Ga-Pila have, therefore, never enjoyed any benefit from those agreements." What would he prefer to happen with the JVA? "I would like to see the mineral rights to the farms that fell under the JVA turned over to local businessmen so that the surrounding communities can benefit from the wealth that comes from their land." This solution would require intervention from the Provincial Government. That, however, is unlikely to happen as long as the 1991 Minerals Act is the governing law.

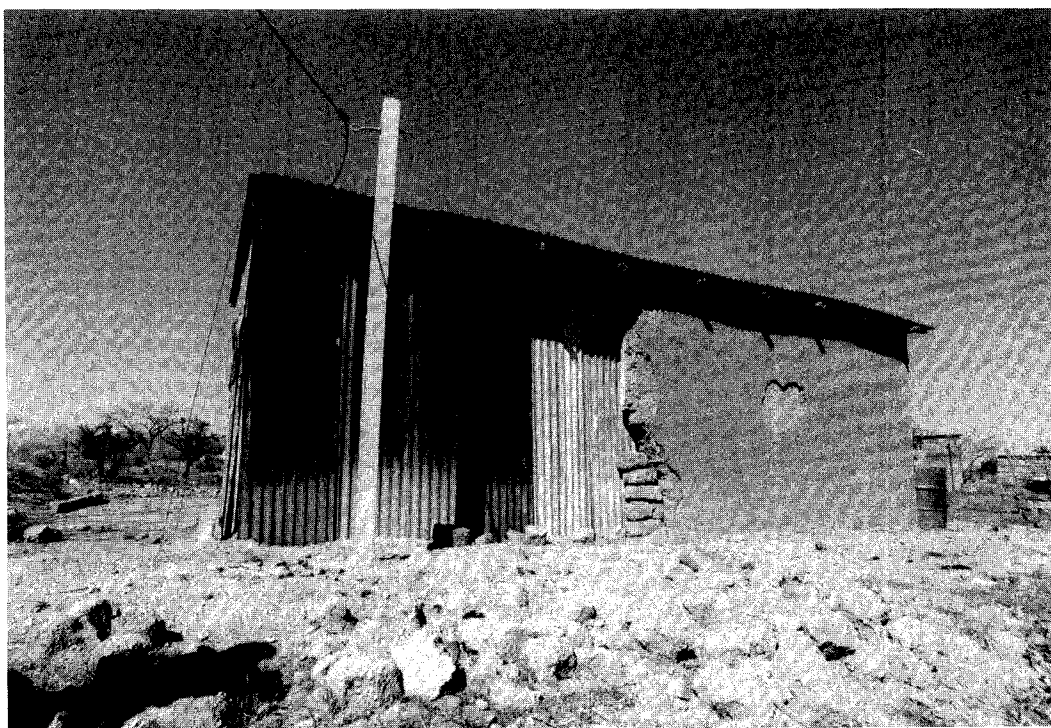
Julia Thapi lives in Ga-Pila and is a member of the ANC's Women's League. She says that "none of the mine's community projects have helped the residents of Ga-Pila. They built the clinic on the tar road directly across from the mine," she observed. "This is

kilometers away from this village. The only people using that clinic are people who work for the mine. People from the community do not use this clinic. It is too far away."

Moreover, Ms. Thapi asserts that of the 850 people the mine employs, only about 10 are from Ga-Pila. The rest are from more than 35 kilometers away. She does not believe that this illustrates that the mine is interested in providing employment for the local community. Indeed, she says that there have been reports that job-seekers from Ga-Pila are routinely turned away unless they are able to pay a bribe.

Ms. Thapi said that when the community first complained about the flyrocks "the mine sent people to transport us out of the community while the blasting was taking place." When the residents complained that these weekly evacuations were too disruptive to their lives, the mine agreed to relocate the village.

Mr. Matlaile points out that the residents of Ga-Pila "do not want to move into the same bad conditions that they are living in now." He says that "the mine wants to send us their own surveyors to place some [monetary] value on mud houses, and then compensate the people based on such valuations." But he continues, "the people of Ga-Pila do not want to move from one mud house to another, from one dirt road to another. They want the mine to agree to provide them with better homes and roads before they will move." If they cannot move into



The outside wall of this house recently collapsed, causing the owners to flee.



Inside another house in the village the walls and floors are cracking.

improved conditions, he says "the people of Ga-Pila would rather see the mine closed because they derive no benefit from PPL's presence here."

Mr. Maluleke vehemently disagrees with Mr. Matlaile. "How can someone who has never lived in anything other than a mud house," he argues, "now demand so much more from the mine?" The mine, says Mr. Maluleke, is eager to relocate the village but "Mr. Matlaile and his followers are preventing any construc-

tive dialogue with the community."

Allegations of bad-faith dealing fly from both sides, with neither side willing to give any ground. Ultimately, Julia Thapi says, "the people firmly believe the North Sotho saying that 'as long as we are living on the earth, this place is ours.'" The PPL's legal right to the minerals underneath the land is unimportant. "This is the new South Africa," Ms. Thapi asserts. "There will be no more forced removals." □