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Minefields of Marikana: Prospects for Forging a New Social Compact

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ABSTRACT

The South African platinum belt provides a microcosm through which to explore a number of fault lines in the country's political economy two decades into its democratic dispensation. After the Marikana tragedy of August 2012, the need to forge a new social compact among stakeholders in the mining industry became evident.

This paper examines how such a compact could credibly be crafted to ensure that, rather than reproducing historical patterns of economic exclusion, the platinum sector – and the mining industry more broadly – could serve as a transmission belt out of poverty and into inclusive development. Using a theoretical framework established by the economic historians Douglass North, John Wallis and Barry Weingast, it concludes that the political incentives embedded in South Africa's elite bargain are incongruent with the imperatives of equitable social and economic transformation. Carving out a new social compact therefore remains difficult in the prevailing context. Nonetheless, there are ways in which South Africa's mineral wealth can be harnessed to produce pro-poor economic growth. This would involve ameliorating the worst effects of the migrant labour system by establishing more humane work cycles, providing security of land tenure in labour-sending areas, rethinking the role of traditional authorities, formulating clear mineral governance legislation, and thinking more carefully about how corporate social investment (CSI) initiatives could help to achieve the country's development ambitions.

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ABBREVIATIONS AND ACRONYMS

AMCU	Association of Mineworkers and Construction Union
ANC	African National Congress
BEE	black economic empowerment
COM	Chamber of Mines
CSI	corporate social investment
CSR	corporate social responsibility
DMR	Department of Mineral Resources
DRP	Reconstruction and Development Programme
GDP	gross domestic product
IDP	Integrated Development Plan
LAO	limited access order
LDP	Local Development Plan
LRB	Land Rights Bill
LSA	labour-sending area
NDP	National Development Plan
NUM	National Union of Mineworkers
OAo	open access order
PGM	platinum group metals
RDP	Reconstruction and Development Programme
RLM	Rustenburg Local Municipality
SA	South Africa
UCT	University of Cape Town

INTRODUCTION

On Thursday evening 17 October 2013, William Setelele, a National Union of Mineworkers (NUM) shaft chairperson at Lonmin's Western Platinum Mine, was shot dead near the notorious koppies at Marikana in North West province. He was on his way to visit his girlfriend in the informal settlement of Nkaneng when four gunmen opened fire on his car.¹ The incident underscored that, more than a year after the momentous events at Marikana in August 2012, the central problem of violence on South Africa's (SA) platinum belt had not been resolved, and was not likely to be unless some fundamental changes were wrought.

The platinum belt is arguably a microcosm of the SA political economy, providing analysts with an opportunity to explore fault lines in the latter two decades after the end of apartheid. The tragic events at Marikana in August 2012 in which 44 people lost their lives – 34 of them in one day – illuminates these fault lines and paradoxes.²

Migrant labour, for instance, persists as an economic institution despite the transformation of most political institutions since 1994. Mine compounds and hostels have devolved in some instances to more flexible 'living-out' arrangements, though poverty and squalor in the resultant informal settlements in the platinum belt are a hotbed of grievances over low wages, unsafe working conditions, and poor municipal service delivery. Mineworkers are susceptible to the predation of micro-finance loan sharks and illicit labour brokers. This is partly attributable to a 10:1 average dependency ratio on each mining job.³ These high dependency levels are a partial function of the development of a dual family system since the end of apartheid, which still drives oscillating migrant labour⁴ and places significant pressure on workers to earn bigger incomes. Many workers are also still employed under indefinite and precarious contracts, perpetuating the insecurity that sustained the logic of apartheid.⁵ These short-term contracts – used by employers to circumvent onerous labour regulations – interact with the lack of economic opportunity in labour-sending areas (LSAs) to perpetuate oscillating migrant labour.

In 2001, the economic historian Francis Wilson wrote as follows about the contradictions of SA's mining-led development:⁶

What is so interesting and painful about SA's development is the extent to which the very processes that generated wealth in the economy simultaneously produced poverty and patterns of unemployment that still hobble South Africa as it struggles to democratise in the twenty-first century. [...] The question facing SA today is whether its mineral resources can be tapped without exploiting the majority of its people.

This question remains pertinent today. Compounding the dynamics noted above, shaft-level workers in the post-apartheid era were gradually abandoned by the NUM aristocracy, whose members progressed up the union ladder to comfortable corporate positions.⁷ The Association of Mineworkers and Construction Union (AMCU) exploited the resultant gap in the union market to grow its membership. The ensuing inter-union rivalry played a vital role in precipitating the Marikana tragedy,⁸ although the high levels of violence that preceded it continue on the platinum belt well beyond that single event. A year prior to Marikana, the sociologists Andries Bezuidenhout and Sakhela Buhlungu noted that 'new forms of solidarity will have to be forged that involve families, communities and

local government'.⁹ After Marikana, Peter Leon, a mining expert at the law firm Webber Wentzel, similarly argued that government, labour and business would need to craft a new social compact for the mining industry if similar incidents were to be avoided.¹⁰

This paper examines how such a compact could credibly be crafted to ensure that, rather than reproducing historical patterns of economic exclusion, the platinum belt serves as a transmission belt out of poverty and into inclusive development. First, it provides an overview of conditions in the platinum mining sector, and locates these in the broader ambit of the mining industry. This section also highlights the role of migrant labour as a continued contributing factor to strife on the platinum belt.¹¹

Second, it outlines a theoretical framework for understanding the central problem of violence, both on the platinum belt and in society more broadly. This section pays particular attention to the interaction between elites and institutions, and explains why attempts thus far to create a new social compact for the mining sector have failed. Third, it explores the notion of a 'social licence' to operate, and the extent to which the corporate social investment (CSI) programmes of mining houses are congruent with local Integrated Development Plans (IDPs). Municipal service delivery failures and the limits of the Corporate Social Responsibility (CSR) programmes of relevant mining houses are discussed. Finally, the paper explores potential policy mechanisms for reversing the institutional persistence of migrant labour and communal land tenure, and recommends what steps government, business and labour could take to move towards a social compact.

THE PLATINUM INDUSTRY AND MIGRANT LABOUR

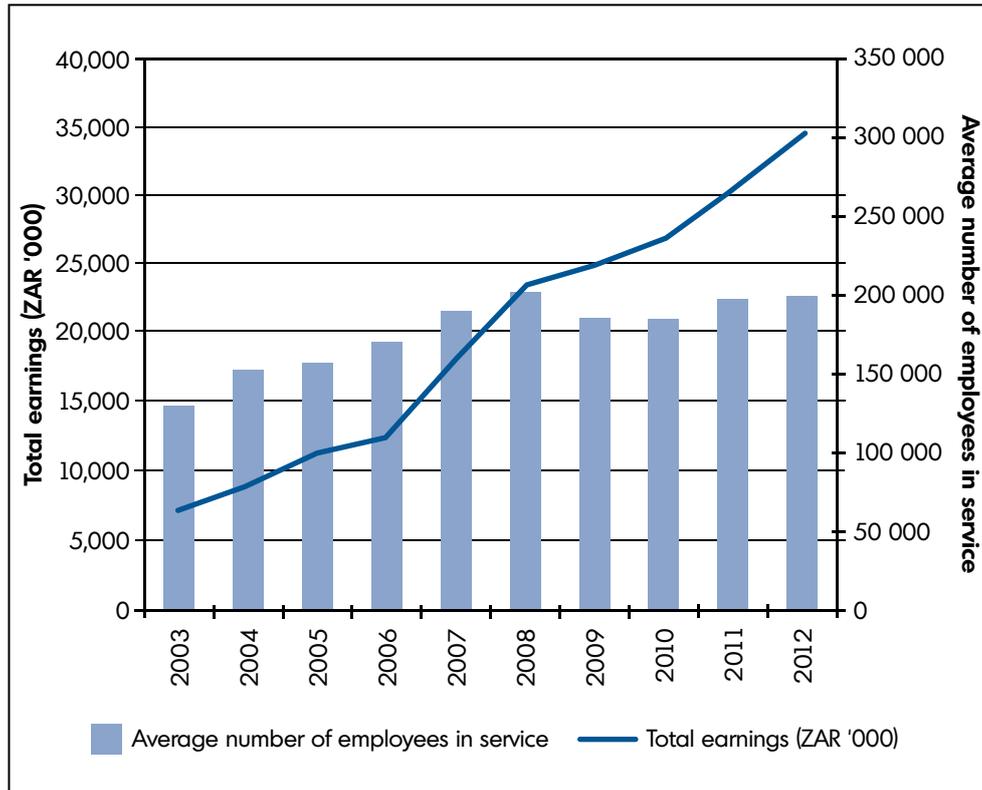
In 2012, the mining industry contributed 8.3% to SA's gross domestic product (GDP). Mining remains the primary transmission belt for manufacturing, and sustains a number of support services. Through its indirect multiplier effect, the industry's real contribution to GDP is closer to 17%. In terms of GDP value, the industry generated ZAR¹² 95.6 billion in 2012, less than its pre-financial crisis value of ZAR 105.4 billion in 2007 (measured in 2005 constant prices).¹³ The mining industry paid ZAR 4.4 billion in royalties and taxes in 2010/11, and ZAR 5.6 billion in 2011/12. In 2012, platinum group metals (PGM) accounted for 23% of the country's mining exports. SA has the world's biggest PGM reserves – an estimated 70 000 tonnes, amounting to 87.7% of the global total.¹⁴ A significant portion (13%) of the world's catalytic converters is also produced in SA, suggesting a degree of beneficiation that is often not recognised in the public discourse.

Even prior to the incident at Marikana and the general labour unrest that plagued the platinum belt in 2012, a 2011/12 Chamber of Mines (COM) report stated that 'the short-term market volatility, the decline in price and the rising cost pressures are affecting the viability of many [PGM] companies in the short run and will affect the industry's long term capability to grow and prosper'.¹⁵ The industry has historically faced a relatively high cost structure. It now faces a platinum supply glut as a result of weak international demand, especially in Europe. This challenge is exacerbated by the increased availability of scrap and recycled metal, and the substitution of platinum with palladium.

Notwithstanding these challenges, the PGM sector still employed 197 847 people in 2012 at an average annual wage of ZAR 173,903. In total, the PGM sector accounts for 37% of wage earnings in the mining industry, while gold, in second place, accounts for

27%.¹⁶ Given the dependency ratio referred to earlier, the PGM sector thus supports nearly two million people. Figure 1 reflects employment and remuneration in the PGM sector from 2003 to 2012.

Figure 1: Employment and remuneration in the platinum sector, 2003–2012



Source: Department of Mineral Resources, June 2013, quoted in Chamber of Mines, *Facts and Figures*, 2013, <http://www.bullion.org.za/documents/Chamber%20facts%20and%20figures%202013.pdf>

It shows that total earnings have climbed steeply since 2003, while the average number of employees has remained fairly stable since 2006. Income per worker has therefore risen sharply, at least since 2008. However, the graph does not convey anything about the distribution of these earnings. It is often argued in public debates that CEO remuneration packages are unjustifiably high,¹⁷ while wages at the lower end of the pay spectrum are insufficient to provide for two families.¹⁸ This of course raises the vexing problem of migrant labour, which has produced a dual family system post-apartheid.

The destructive effects of the SA migrant labour system, and the vulnerability of migrant workers to exploitation, have been extensively researched.¹⁹ A recent Reuters article, widely reproduced in SA publications, states that ‘SA’s system of migrant mine labour has come under renewed scrutiny, with government and company officials blaming it for a host of ills bedevilling the industry and the country, including last year’s wave of violent wildcat strikes’.²⁰ Reflecting the notion of institutional persistence, the article notes that ‘the system has outlasted white rule, which ended in 1994, and is now in the

cross-hairs of the ruling ANC and industry executives, who bemoan its existence but offer few viable alternatives.²¹

This paper argues that the persistence of South Africa's unusual system of oscillating migrant labour is a function of persistent poverty in the former homelands, which are 'still some of the poorest regions in South Africa',²² and continue to provide the bulk of the low-skilled workforce on South Africa's mines. This poverty is primarily driven by insecure land tenure, which persists as a direct result of the power bestowed on tribal authorities through political institutions such as the constitution, as well as subsequent legislation. This paper hypothesises that instead of incentivising agricultural productivity on high-potential land, insecure tenure creates incentives for young men to leave these areas and seek work on the mines. The subsequent remuneration may keep families alive, but it is neither optimal nor sustainable.

ELITE BARGAINS, DOORSTEP CONDITIONS AND INSTITUTIONAL PERSISTENCE

Standard neoclassical economic assumptions suggest that economic growth will occur wherever profitable opportunities exist, except in instances where political or social impediments create market failure. The economic historians and political scientists Douglass North, John Wallis and Barry Weingast offer an alternative view.²³ They provide a conceptual framework for understanding the interaction of political and economic behaviour in terms of which violence is the initial problem that animates the relevant dynamics, and must be deterred in order to enable development.

Developing societies, they argue, limit violence through the generation and distribution of rents, providing elites with an interest in protecting rent streams rather than eroding them through violence. Elites pursue economic interests by manipulating the political system in order to create rents. The credible commitment required to generate and share rents tends to create political stability, as co-operation becomes valued over violence. Rents are defined as the return to an economic asset that exceeds the return the asset can receive in its best alternative use. Elites are defined as distinct groups within a society that enjoy privileged status and exercise decisive control over its organisation. An elite that organises for its own benefit always governs society. It is therefore by no means a foregone conclusion that a change in elites will result in a change in the institutions that generate and distribute wealth and power.

According to North *et al.*, societies tend to be characterised by either impersonal or personal rule. In the latter, credible commitment to honour economic contracts and protect private property (and thus attract growth-spurring private investment) is more difficult to achieve than in the former. As such, economic arrangements are often susceptible to opportunistic predation, either by the state or by outsiders with violence potential.

Expanding this notion, they theorise that societies characterised by personalised forms of exchange are 'limited access orders' (LAOs) or 'natural states', whereas societies characterised by impersonalised exchange are 'open access orders' (OAOs). In LAOs, elites create institutions – humanly devised constraints on power, or the rules of the political game – to limit access to the available rent pool by non-elite organisations. Most

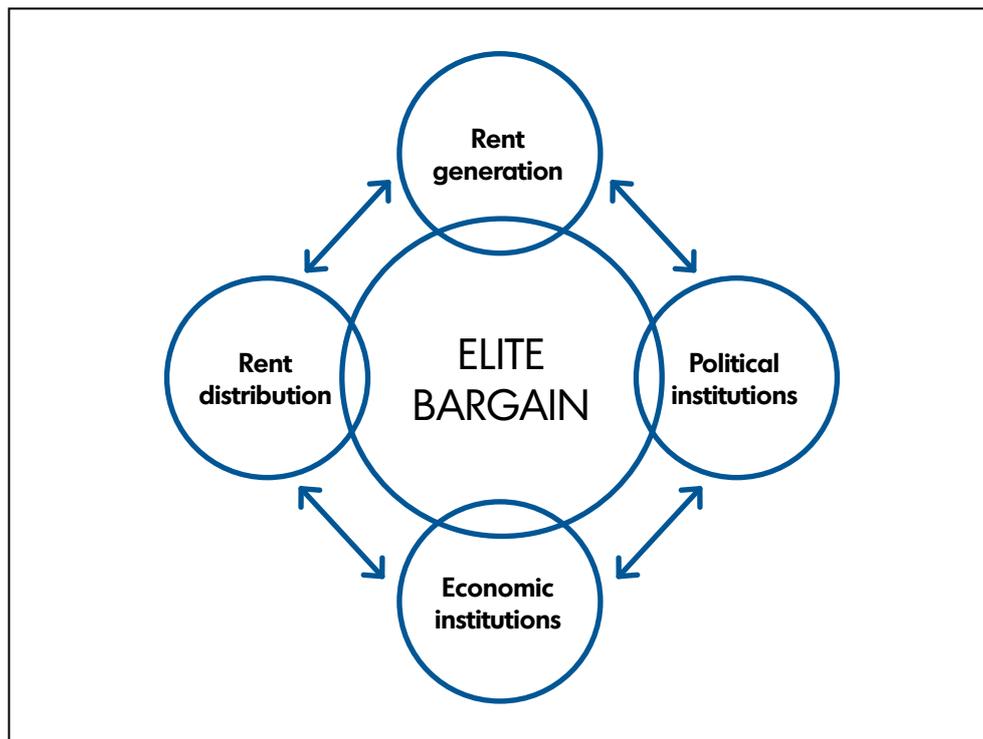
developing countries fall in the LAO category, which is expanded on a continuum to include fragile, basic and mature LAOs. SA falls in the mature category.

The dominant coalition in LAOs is held together by what North *et al.* call an elite bargain, in which elites agree to a particular set of political and economic institutions for generating and distributing rents at the lowest possible cost and maximum benefit to themselves. This coalition provides the third-party enforcement of contracts for each of the insider organisations:²⁴

The ability of elites to organise co-operative behaviour under the aegis of the state enhances the elite return from society's productive resources – land, labour, capital and organisations.

Embedded incentives in this arrangement create 'a double balance: correspondence between the distribution and organisation of violence potential and political power on the one hand, and the distribution of and organisation of economic power on the other hand'.²⁵ If society is to remain stable, then the political, economic, cultural, social and military systems must contain compatible incentive structures, such that elites have no incentive to defect from co-operation. Figure 2 depicts the elite bargain and its double balance.

Figure 2: The elite bargain animating society's 'double balance'



Source: Developed by the author

Closely associated with this notion of a double balance is the question of institutional persistence. Why is it that even though a transition away from an LOA to an OAO seems optimal for all parties concerned, relatively few countries in the world make this transition? As North *et al.* note, 'OAOs are sustained by institutions that support open access and competition: political competition to maintain open access in the economy and economic competition to maintain open access in the polity.'²⁶

According to North *et al.*, three key criteria define the doorstep conditions that must be met before a transition is likely. First, the rule of law must be applicable to elites. Second, organisations must live beyond the life of their current members. Third, the state must possess monopoly control over the use of violence.²⁷

On this score, the political theorist James Robinson contends that:²⁸

Prosperous countries have economic institutions and policies which create the incentives necessary for sustained factor accumulation and technical change. These involve the protection of property rights and a whole gamut of institutions which make markets work and create a level playing field so that those with ideas and talent can exploit them. They also involve government policies which provide public goods and key inputs which stimulate market activities. Poor countries lack such institutions.

Why then do institutions differ across LAO contexts, and why do some persist even though they are antithetical to growth? Part of the answer seems to lie in the fact that there is a large degree of path dependence in the institutional formation of societies. The economists Daron Acemoglu and James Robinson have shown that once a set of institutions comes to dominate society, it tends to persist for long periods of time, though the institutional path can change through interaction with major critical historical junctures.²⁹

The Marikana tragedy provides a lens through which to assess whether SA is in the process of meeting these doorstep conditions, or whether it is moving in the opposite direction. One of the most striking features of the SA political economy is the persistence of two institutions: migrant labour, and communal land tenure. One might reasonably have expected these institutions to have been dismantled in the wake of the 1994 collapse of the apartheid state.

MIGRANT LABOUR: SOCIO-ECONOMIC AND POLITICAL CONSEQUENCES

Wilson notes that 'barely a decade after the opening of the Witwatersrand gold fields [in 1886], some hundred thousand men were employed in mining'.³⁰ In 1986, employment on the gold mines alone reached a peak of 534 000 people. Gold mining powered the SA industrial revolution, and dominated its economy for more than a century. It did not do this alone, however. Diamonds were discovered in 1867, which provided much of the human and financial capital for the first four mining finance houses that essentially built Johannesburg. SA was similarly endowed with substantial coal deposits, which still provide the bulk of the country's electricity (about 90%).³¹ Mining provided the impetus for sustained economic growth, although the formation of the minerals and energy complex locked in particular political, social and economic arrangements.

Mining-led development carried its own set of contradictions, which Wilson suggests revolve around ‘the way in which mining entrepreneurs and the state resolved the difficulties they faced in securing the labour needed to dig for gold at the lowest possible cost’.³² By 1889, the COM had organised the recruitment of a black labour force. It monopolised all hiring and was thereby able to ensure that wages in 1969 were no higher than they had been in 1911.³³ Wilson estimates too that wages in 1911 were probably lower than in 1889. Besides keeping wages artificially low, diamond and gold mines housed labour in single-sex compounds and issued limited-time contracts, which forced the men to return home regularly to the rural (or ‘labour-sending’) areas. This system of oscillating migration was then institutionalised through two legal mechanisms.

The first was the ‘pass laws’, which attempted to prevent the permanence of black migration from rural to urban areas and were introduced at the behest of the COM. Those laws had their origins in the reluctant abolition of slavery in the 1830s. Mineworkers who, over time, might have chosen to stay with their families at the mines to which they were contracted were prevented from doing so. This distinguishes the SA migrant labour system from similar systems elsewhere in the world. On the mines, African workers were prevented from earning higher wages through the imposition of a ‘colour bar’, which reduced the amount of income they could send home as remittances. It was not until 1980 that black miners were awarded the right to participate in collective bargaining, largely due to the formation of the NUM. In the wake of the Marikana tragedy, the labour analyst Gavin Hartford noted:³⁴

In South Africa’s mining industry, true to global migrancy patterns for resource extraction, colonial history delivered a double blow by statutorily entrenching the edifice of apartheid to enforce the migrant labour system.

Second, as the land reform analyst Lungisile Ntsebeza has pointed out, the discovery of minerals created a shift in colonial strategy from promoting a class of African farmers to forcing them to become wage labourers. The 1913 Natives Land Act gave legal weight to this strategy by forbidding black Africans to buy and own land outside the 7% that had been allocated as their ‘reserves’. Many farmers thus became migrant labourers with a tenuous link to the land.³⁵

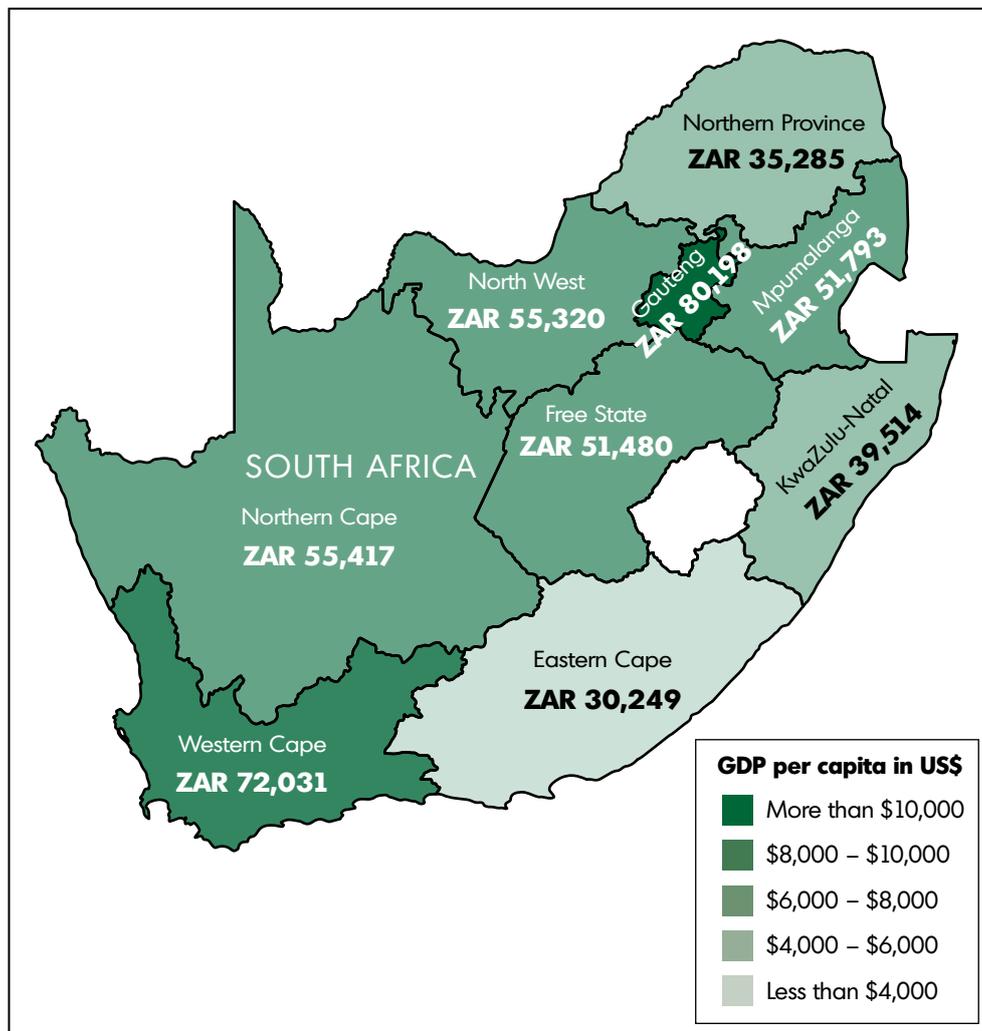
Subsistence farming never took root in the former reserves. It crumbled mainly due to overcrowding [...] and the fact that men were forced to be migrant workers. At the dawn of democracy [in 1994], state social grants were the dominant source of rural existence.

By 1913, the foundations of an elite bargain had been laid. The colonial state colluded with white capital to suppress black economic empowerment. Resistance was dealt with brutally, as evidenced by the state’s response to the 1914, 1920 and 1946 strikes. The ruling elite created the political institutions of pass laws and the Natives Land Act to manipulate economic institutions for their own gain. Government (the political elite) gained rents from mining royalties. Mining entrepreneurs (the business elite) gained rents from cheap labour. Royalties were protected by keeping mining labour costs artificially low. This was maintained through the economic institutions of contracting and oscillating

migrant labour. The elite bargain that characterised the early 20th century produced longer-term consequences that continue to undermine economic and social prosperity today.

Economic institutions are vital to economic growth because they shape the incentives of key economic actors in society. They influence the organisation of production as well as investments in human and physical capital, which in turn determine both aggregate economic growth potential and the future distribution of resources. This distribution of resources influences the distribution of de facto power.³⁶ In this theoretical light, we have the beginnings of an explanation for why SA has failed to meet the doorstep conditions for transitioning to an OAO. It lies in the fact that the majority of black South Africans have been excluded from participation in the economy through institutions that have proved remarkably persistent, even after 1994.

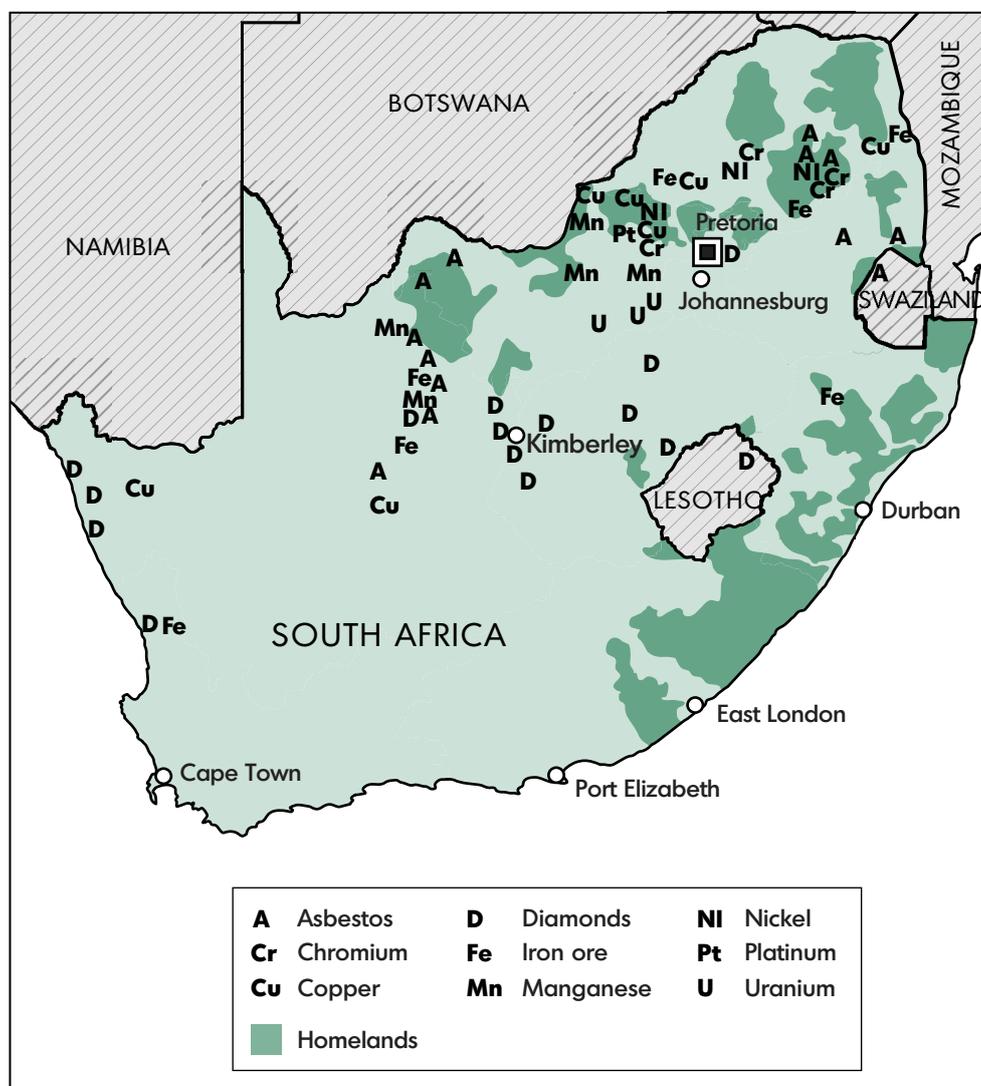
Figure 3: The provincial distribution of GDP per capita, 2009



Source: 'South Africa: Income and Expenditure Survey', 2011, Statistics South Africa (StatsSA), <http://www.datafirst.uct.ac.za/dataportal/index.php/catalog/316>; see also Linford A, 'Inequality trends in South Africa', 17 May 2011, <http://www.geocurrents.info/economic-geography/inequality-trends-in-south-africa>

The long-term economic impact of migrant labour on the former apartheid 'homelands' has been well documented. Negligible remittance wages are an insufficient means by which to provide capital for investment in those areas. Wages are spent on consumption, leaving little for saving or investment. This reduces the income-generating capacity of those communities, amplified by the most potentially productive young men leaving those areas to work on the mines. As Wilson has noted, 'Workers' home regions become steadily impoverished, unable to generate from within the area an adequate income for the increasing population.'³⁷ The fact that the former 'homelands' of Ciskei, Transkei and KwaZulu remain among the most impoverished areas in SA (see Figures 3 and 4) is partially explained by the dynamics of the country's early 20th century elite bargain and its enduring economic consequences.

Figure 4: The former 'homelands' and SA's mineral endowments



Source: Michigan State University, 'South Africa: Overcoming apartheid; building democracy', 2007, <http://overcomingapartheid.msu.edu/image.php?id=65-254-108>

One of the most telling aspects of poverty is access to sanitation. It transcends the debates about how poverty is measured, and reflects daily reality. By 2011, 291 000 households in the Eastern Cape (16% of the total) still had no sanitation facilities. Second worst was KwaZulu-Natal, with 130 000 households without access to sanitation.³⁸

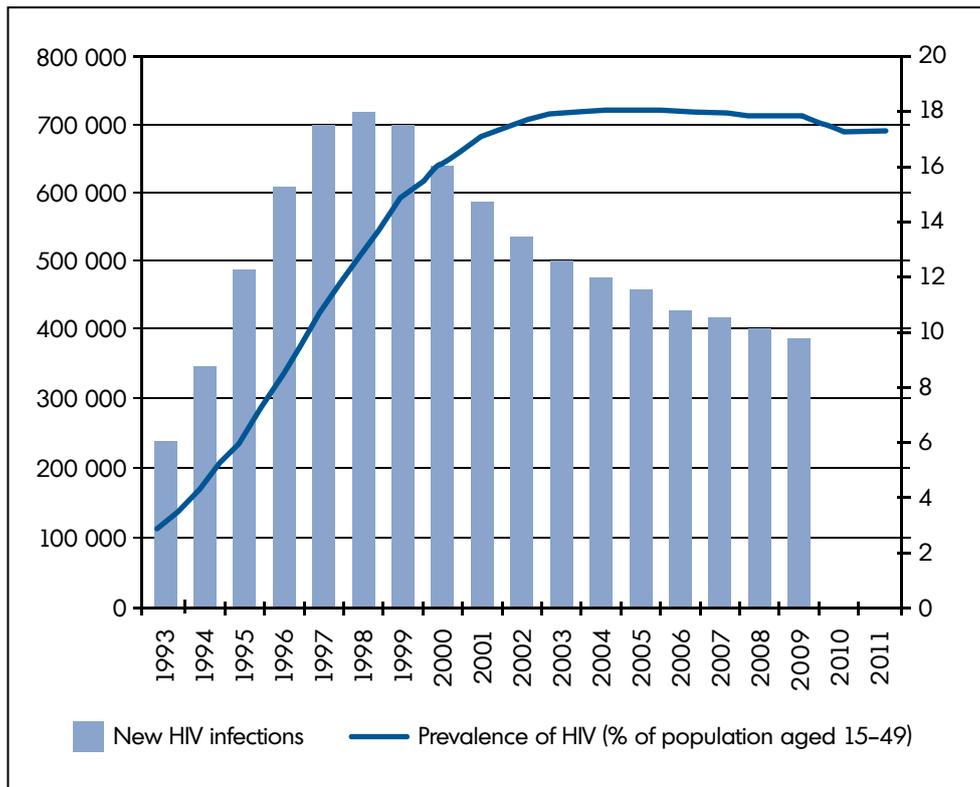
In the post-apartheid era, mining houses have attempted to redress the most destructive features of the migrant labour system by introducing family accommodation for employees in near-mine areas. For the sake of employee equity, they provide an equivalent benefit to migrant workers in the form of a 'living out' allowance, meant to enable them to exit the migrant hostel system. Indicating a preference for a cash reward to supplement their income, most workers have chosen to take this allowance. However, this supplement invariably fails to translate into higher remittances home. Thus Hartford records that:³⁹

The unintended consequences of the living out allowance was that migrants headed into the shacklands of the platinum belt, so that today the bulk of migrant platinum employees live in newly constructed zinc shacks in areas adjacent to the platinum operations. [...] In a word, the migrants took on a *secondary home* which was typically characterised by the acquisition of a *dinyatsi* (the second or third wives who live and care for migrants), the bed, the stove, the fridge, the ablutions and the new transport costs associated with 'living out'. [...] Notwithstanding annualised real wage adjustments, the migrant became significantly worse off in respect of the actual amount of remittances to their rural homes post apartheid. [...] The hard reality is that the pattern of migrant labour super-exploitation has remained unaltered in the 18 years of democracy. [...] Sadly, the mining industry has remained a prisoner of its apartheid past in this core element of cheap labour sourced through a migrant's punishing annual work cycle and all the social evils associated with that cycle. No amount of employment equity plans and empowerment transactions have ventured to tamper with this spinal essence of the industry.

Commenting on the social consequences of migrant labour, Wilson asks: 'Who can doubt that the random violence that wracks the new South Africa has its roots, in part at least, in a race-based policy of immiseration and forced oscillating migration?'⁴⁰ Non-exhaustive figures indicate, for instance, that in 2012 alone there were 60 fatalities and 150 injuries resulting from strike action. It was admittedly an anomalous year that included the series of incidents at Marikana, but the average rate of public violence in SA has remained persistently above 1 000 incidents a year for the past eight years.⁴¹

Moreover, as shown by Figure 5, HIV transmission rates have escalated exponentially as a function of what the health literature calls 'concurrence': 'In general, concurrent partnerships are relationships whereby an individual has overlapping sexual relationships with more than one person. This is contrasted with sequential or serial partnerships, whereby an individual engages in a sexual relationship with only one partner, with no overlap in time with subsequent partners.'⁴² In North West alone, HIV infections climbed from 285 238 in 2001 to 391 772 in 2010.⁴³ Migrant labour and the post-apartheid dual family system embed this practice of concurrent sexual relationships. Though at a country level new infections are generally falling and prevalence is stabilising (due both to AIDS deaths and a lower rate of new infections), the economic impact of HIV infection in the most productive part of the workforce is formidable.⁴⁴

Figure 5: New HIV infection and prevalence rates in SA, 1993–2011



Source: The World Bank, World Databank, <http://databank.worldbank.org/data/views/reports/chart.aspx>

The negative health effects of oscillating migrant labour therefore further demonstrate the importance of reforming it. The public health specialist Suzanne LeClerc-Madlala argues that the success of partner reduction programmes aimed at inhibiting the effects of concurrence will probably be limited, ‘as past prevention efforts of the cultural milieu in which sexual partnering practices are located and reproduced remains poorly understood [...] and unaddressed in prevention programming’.⁴⁵ She regards the migrant labour system as a key driver of concurrence.

Migrant labour also had adverse political consequences, many of which have still not been reversed 20 years into democracy. The apartheid state was formed in 1948. Its policy of ‘separate development’, articulated by Hendrik Verwoerd in the late 1950s, essentially constituted a formalisation of existing institutions. According to this ideology, black families were to be citizens of designated ‘homelands’, also derisively referred to as ‘Bantustans’. However, as Wilson notes, ‘these were the very rural areas that under the dynamics of South African gold mining had long since become impoverished labour reserves’.⁴⁶ Economic dependence on the white-controlled economy meant that it became politically feasible for the apartheid regime to grant the homelands their ‘independence’. The evolution of the elite bargain from union to apartheid state further entrenched the existing dynamics and contradictions.

The apartheid regime attempted to legitimise the creation of the 'Bantustans' by co-opting traditional chiefs and headmen as part of a divide-and-rule strategy. Chiefs were also granted control over the allocation of communal land in the homelands, a system that has persisted until the present time through communal tenure, an insecure property rights regime. This regime coexists with a modern, progressive constitution.

The next section indicates how the SA elite bargain continues to favour political institutions that uphold the power of traditional authorities, some of which have played an instrumental role in mobilising votes for the African National Congress (ANC). The land issue is likely to feature prominently in parties' campaign manifestos for the 2014 general elections. The power of traditional authorities is further entrenched by maintaining the economic institution of insecure land tenure for their subjects. Discretionary power over land allocation keeps subjects economically dependent, and therefore politically loyal. Insecure property rights disincentivises capital investment, without which economic opportunity cannot be created. This lack of opportunity continues to drive migrant labour to the mines, eroding both the human capital essential for sustained development in the former 'homelands', and undermining the family structure essential for social cohesion.

THE PERSISTENCE OF TRADITIONAL AUTHORITY

SA's National Development Plan (NDP) articulates a vision of inclusive rural development that emphasises the importance of security of tenure, and predicts that the livelihoods of 370 000 people living on communal land could be improved by greater security of tenure.⁴⁷ Although the exact status of the NDP is contested among the elite organisations that constitute the dominant coalition, President Jacob Zuma and his cabinet have endorsed it as the country's framework for informing policy. In respect of building an inclusive rural economy, however, no legislation exists⁴⁸ to give effect either to the NDP's diagnosis pertaining to insecure tenure in the former 'homelands' or to the constitution's stipulations in Section 25(6).⁴⁹

A person or community whose tenure of land is legally insecure as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to tenure which is legally secure or to comparable redress.

A contradiction is inherent in the constitution in this respect, however. The NDP calls for 'co-operation with traditional authorities', which indicates a primary obstacle to secure tenure. The literature that laments the non-democratic nature of continued traditional authority has not yet drawn the connection between the constitution's provisions for this authority and the consequent lack of practicable legislation to give effect to Section 25(6). Section 143(1), for instance, states that a provincial constitution must not be inconsistent with the principal constitution, but may nonetheless provide for: '(b) the institution, role, authority and status of a traditional monarch, where applicable'. Sections 211–213 similarly make extensive provisions for entrenching traditional authority, recognising it and making explicit stipulations regarding its role.

The chieftaincy system in its current formulation is at odds with a modern democratic market economy. Traditional authorities now possess not only new-found *de jure* power

(despite having been instruments of ‘separate development’), but continued de facto power, especially in respect of the allocation of land. Writing a century after the adoption of the Natives Land Act of 1913, Aninka Claassens of the Centre for Law and Society of the University of Cape Town states bluntly:⁵⁰

To overturn the Land Act’s legacy requires confronting autocratic chiefly power and the denial of black landownership. The post-apartheid government has chosen to do the opposite. Its package of traditional leadership laws vests far-reaching, unilateral powers in chiefs, including apartheid-era appointees, while re-entrenching the deeply contested tribal boundaries of the former Bantustans.

The veteran political commentator Allister Sparks has also derided this ‘package of laws’ as breathing new life into the Verwoerdian dream.⁵¹ It includes the Traditional Leadership and Governance Framework Act of 2003; the Communal Land Rights Act of 2004, which was declared procedurally (but not substantively) unconstitutional in 2010; eight provincial traditional leadership laws; the Traditional Courts Bill;⁵² and the impending National Traditional Affairs Bill. As Claassens has written: ‘These laws bolster the bantustan-era arrogance and power of traditional leaders toward their “subjects”. Community meetings are banned, tribal levies extorted, and land ownership rights denied.’⁵³

Claassens demonstrates the persistence of institutional arrangements inherited from the apartheid era that place rural citizens under the discretionary power of imposed chiefs. She notes that the Eastern Cape government is replacing previously elected headmen with hereditary headmen, despite opposition from communities. Moreover, she writes, the Traditional Courts Bill ‘enables chiefs to punish people by stripping them of customary entitlements such as access to land’.⁵⁴

Further emphasising the historical persistence of the chieftaincy system, Ben Cousins of the Programme for Land and Agrarian Studies at the University of the Western Cape, has noted:⁵⁵

The Bantu Authorities Act of 1951, along with betterment planning and the authoritarian regulation of land rights under Trust tenure, was a key factor in the rural rebellions of the 1950s. It involved the establishment of tribal authorities, a version of ‘traditional rule’ that was highly authoritarian, and which, as Peter Delius has noted, ‘stripped many of the elements of popular representation and accountability which had existed within pre-colonial political systems and which had to some extent survived within [...] the reserves’. Many chiefs used their new-found powers and reduced accountability to allocate better quality land to themselves and their supporters, and to demand higher payments for allocations.

Cousins was a member of the team that drafted the Land Rights Bill (LRB) of 1998/9, which attempted to improve security of tenure over land held in trust by the state. The Bill was never enacted. In June 1999, Thoko Didiza, who had served as deputy minister of Land Affairs and Agriculture since 1994, was appointed as minister, and set the LRB aside. According to Cousins, she believed the Bill was too complex, and instead favoured a law that transferred title of state land to ‘tribes’, and allowed traditional leaders to distribute land.⁵⁶ The subsequent Communal Lands Right Act of 2003 attempted to do exactly that, but was struck down as unconstitutional, albeit on procedural rather

than substantive grounds. There is now a lacuna in the legislation governing land held in communal trust that is unlikely to be resolved until after the May 2014 elections.

Prior to 1890, evidence suggests that a movement toward private property rights in the Eastern Cape was undermining the de facto power of traditional authorities in that area. Drawing on the work of the historian Colin Bundy, Acemoglu and Robinson record that:⁵⁷

As the agricultural economy developed, the rigid tribal institutions started to give way. [...] Private property in land had weakened the chiefs and enabled new men to buy land and make their wealth, something that was unthinkable just decades earlier. This also illustrates how quickly the weakening of extractive institutions and absolutist control systems can lead to newfound economic dynamism. [...] This new economic dynamism, not surprisingly, did not please the traditional chiefs, who, [...] saw this as eroding their wealth and power. In 1879 Matthew Blyth, the chief magistrate of the Transkei, [...] recorded that [...] 'the chiefs see that the granting of individual titles will destroy their influence among the headmen'.

In fact, the chiefs and other traditional authorities attempted to prohibit all 'European ways', including the adoption of new agricultural technologies. Despite their efforts, the integration of the Ciskei and Transkei into the British colonial state weakened the power of the chiefs. The resultant economic gains were short-lived. Between 1890 and 1913, the trend towards private property was reversed, predominantly because the 'Europeans wanted a cheap labour force to employ in the burgeoning mining economy, and they could ensure this cheap supply only by impoverishing the Africans. [...] So the chiefs' control over land was reaffirmed'.⁵⁸

Bundy has accurately summarised the problem as follows: 'Tribal tenure is a guarantee that the land will never properly be worked, and will never really belong to the natives. Cheap labour must have a cheap breeding place, and so it is furnished to the Africans at their own expense.'⁵⁹ This dispossession created the institutional foundations of a backward economy through establishing and entrenching migrant labour.

More secure property rights in the former 'homelands' would not reverse oscillating migrant labour overnight. As Cousins correctly observes, while a change in property rights is a necessary condition for inclusive rural development, it is also an insufficient one, and much more would need to be done to achieve this objective.⁶⁰ However, it would reshape a large part of the incentive structure that drives the most productive men to the mines in search of a living. It is no accident, for instance, that the majority of rock drill operators, who were central to the Marikana tragedy of 2012,⁶¹ hail from the Eastern Cape or Lesotho.

This analysis does not suggest that urbanisation is problematic per se, nor that migrant labour is specific to the mining industry. However, the particular form it takes in mining tends to be problematic because of the patterns of institutional path dependence in which it is embedded.

THE ELITE BARGAIN REVISITED

This paper has argued that an elite bargain exists between the ruling coalition and traditional authorities that closely resembles those of the colonial and apartheid eras.

However, it has not yet fully explained why this bargain persists in a constitutional democracy. Why has the ruling coalition found it necessary to maintain a political institution that entrenches authoritarian rule, in the very constitution designed to reverse apartheid-era rights and practices?

Researchers Ineke van Kessel and Barbara Oomen have meticulously recorded the way in which traditional authorities have repositioned themselves in the post-apartheid order. They argue that because chiefs were maligned as puppets of apartheid rule, it was not expected, within ANC circles, that the chieftaincy system would survive.⁶² Chiefs have, however, managed to do so through a strategy of adaptive efficiency, reorienting their alliances over time as the dynamics of power have changed. Robinson explains these dynamics by noting that:⁶³

[...] the strategies of elites are path-dependent. The fact that an incumbent elite organised economic institutions in a particular way makes this relatively attractive for a new elite to do the same. It may also be the case that not all elements of the elite change. In many former British Sub-Saharan African colonies, for example, 'traditional rulers' who had been heavily used by the British to rule the colonies indirectly, maintained their power and positions after independence, creating a large element of direct elite persistence.

Toward the end of the 1980s, SA's traditional rulers started aligning themselves with the ANC, correctly perceiving it as the party that would soon govern the country. They were able to convince it to guarantee their role by constitutional means. 'For its part,' Van Kessel and Oomen note, 'the ANC had an interest in wooing chiefs to its side in order to prevent the emergence of a conservative alliance where traditional leaders could join forces with the bantustan elites.'⁶⁴ Under the Reconstruction and Development Programme (RDP), which held sway as the ANC's developmental blueprint from 1994 to 1996, chiefs cut themselves a slice of the economic pie: 'Companies wanting to recruit labour for RDP projects were told to report to the chief's kraal. This provided the chief with a crucial network of patronage: jobs are the highest priority in any rural village.'⁶⁵ This extension of patronage continues today, securing the vote for the ruling coalition in rural areas.

The journalist and newspaper columnist Siphon Hlongwane has argued that the solution to this patrimonial bargain is to abolish traditional leadership altogether and grant all South Africans equal rights under the law. People living under chieftaincy rule cannot enjoy the simple democratic procedure of being able to vote to remove leaders who no longer serve them.⁶⁶ The constitutional law expert Pierre de Vos has similarly argued in favour of dismantling the system.⁶⁷

The distribution of rents to tribal authorities maintains the 'double balance' of the elite bargain, and inadvertently sustains migrant labour. Given the transition to an inclusive democracy in 1994, and the negotiation of a progressive constitution in 1996, one might reasonably have expected traditional authority to become ceremonial rather than enshrined in the country's most important political institutions. The ruling coalition nonetheless perceived this as necessary. A contradiction was thus built into the constitution on two levels. First, equality before the law for those under traditional rule is undermined, as chiefs' de facto power over land allocation in the former 'homelands' seems to contravene Section 25. Secure property rights are arguably the single most important economic institution for promoting sustained and inclusive economic development.

The constitutional contradiction and resultant insecure land tenure in the former 'homelands' has served to undermine investment and potential employment creation in those areas. It thus inadvertently continues to drive young men to the mines to find work.

Second, traditional authorities derive rents for themselves through government salaries and predatory practices such as imposing ad hoc tribal levies. Those who refuse to pay are reportedly refused 'proof of address' letters, without which they cannot open a bank account or receive state welfare.⁶⁸ Taxes and royalties paid by mining companies contribute significantly to the national budget from which payments for traditional authorities are drawn.

Although it would be in SA's longer-term interests to overhaul the oscillating migrant labour system, historical path dependence makes this difficult. Even though the pass laws have been abolished, there is a path dependency to the oscillation that has continued – insecure tenure and a lack of local economic opportunity continue to drive men to the mines, but their families are often already established in the LSAs, thereby preventing full movement to the mining areas. This interacts with the continued practice of short-term contracts discussed previously. Moreover, the connection between this economic institution and the political institution of tribal authority continues to undermine alternative economic opportunities for those seeking work in the former 'homelands'. Until this elite bargain is broken through some exogenous shock, or incrementally transformed through careful policy-making, oscillating migrant labour will remain a prominent feature of SA mining.

Unfortunately, no exogenous shock appears to be on the horizon. Given shareholder pressure to cut labour costs, the mining industry still has a strong incentive to maintain its end of the bargain. Companies are also inextricably linked to a new and politically connected black elite, thus minimising the possibility of a new social compact. As Robinson notes, since apartheid ended:⁶⁹

[...] white firms have systematically formed links with prominent ANC politicians and their spouses/relatives, putting them on boards of directors and selling discounted shares to consortia formed by them. This process has been called Black Economic Empowerment (BEE). [...] [It] has also created a vested interest for this new elite in a highly concentrated industrial structure with existing entry barriers and rents. Moreover, many specific aspects of Apartheid still remain, such as the spatial distribution of the population. Though part of BEE is being used as an instrument of affirmative action to promote the economic interests of black South Africans more broadly, the first-order effect has been to greatly enrich the politically powerful new elite. [...] Though the changes in political institutions that took place in 1994 significantly redistributed de jure political power in South Africa, it did not necessarily lead to large changes in economic institutions.

Robinson argues that institutional change will arise if there is a real change in the political equilibrium. This clearly occurred in 1994, though this paper has argued that, despite the radical change from apartheid to an inclusive democracy, the elite bargain essentially persisted. Regarding migrant labour specifically, there is a particular interaction effect between government and business elites on the one hand, and the governing party and the chieftaincy system on the other, that continues to drive this economically and socially inefficient system. The Marikana tragedy was a shock, though it was predominantly a

function of endogenous factors animating the elite bargain. It remains to be seen whether the subsequent dynamics are sufficient to change the bargain by tilting power toward those with a vested interest in more socially desirable outcomes.

Reversing migrant labour and addressing its legacy is a long-term project. In the shorter term, some have argued that at least one dimension of a new social compact can be achieved by overcoming the co-ordination failure between the CSI programmes of mining houses and the IDPs of local municipalities.

SOCIAL LICENCE, CSI AND IDPs

The nature and efficacy of CSI initiatives have been increasingly closely scrutinised. Mining companies' efforts are routinely criticised, with the sustainable business enterprise experts Ralph Hamann and Paul Kapelus asking whether they promote fair accountability or should merely be regarded as 'greenwash'.⁷⁰ They argue that companies' CSI-related claims should be treated with caution, but should also not be dismissed as mere public relations exercises. The business case for CSI is not necessarily clear, insofar as the relationship between improved CSI and increased profits is not well-established. 'Even though mining companies may face particularly strong incentives for ensuring their 'social licence to operate' [...] company leaders and investors are still unsure about the relationship between CSR and profits.'⁷¹ Critics are concerned that the voluntary nature of CSI allows mining companies to abandon their social debt to communities affected by their operations. They conclude that a gap exists between companies' declarations and social justice as an informing concept. From a policy perspective, a simple assessment should be conducted to ascertain whether companies' cumulative impact has had a positive net benefit for the worst-off. Only then could companies claim that they are being socially responsible.

In 2004, these authors studied the CSI programmes of a number of companies in the Rustenburg area, noting that companies' dominant interpretation of social responsibility was philanthropic:⁷²

Although these initiatives have represented welcome development contributions, they have had little impact on the root causes of social problems surrounding the mines. Many of these root causes relate to core business practices of the mining companies, especially employee recruitment and housing. [...] As argued by one mining company director: 'You don't have to be a genius to see what the real threats are: unemployment, crime, *the disrupted social fabric created by the migrant system* [...] Despite this general acknowledgement of companies' contribution to deep-seated social problems in the area, the topic of employee recruitment and housing has generally been ignored in companies' public sustainability reports [emphasis added].

Part of the reason for this ignorance, they suggest, is that responsibility for some of these deeper social issues is absent from management's performance scorecard criteria. Despite the move away from single sex hostels, the living-out allowance has inadvertently exacerbated social problems by contributing to the growth of informal settlements. They

conclude that management has failed to adopt a well-considered housing policy 'within a broader, collaborative approach to dealing with informal settlements in the area'.⁷³

One assumes that by a 'collaborative approach' the authors are referring to local municipal objectives and attempts to address community needs (as articulated by the community members themselves). Co-ordination failure is the most probable explanation why a more collaborative approach has not occurred, which is itself partly explained by misaligned incentives. If a well-considered housing policy is absent from management performance criteria, and municipalities themselves have little incentive to genuinely partner with mining companies, fruitful outcomes remain unlikely. This is especially true if neither player is particularly inclined to rigorously assess community needs.

The anthropologist Dinah Rajak has detailed co-ordination failure between stakeholders on the platinum belt.⁷⁴ She contends that genuine civic virtue has been subsumed within the CSI discourse and transposed into the competitive performance of corporate virtue, an observation crucial to understanding how people realise opportunities for 'self-empowerment'. In the borderlands between wealth and poverty, inhabitants of informal settlements strive to fashion themselves as targets of 'empowerment'. Thus she argues that the spatial configurations of Rustenburg resemble the old order of apartheid segregation and embody the new inequities of a market-driven economy. Rajak might have added that this is not only true of the urban landscape on the platinum belt, but also of the wealth disparities between the former 'homelands' and SA's industrialised heartland. Local urban planning authorities invariably lack the technical expertise to live up to the lofty ideals of participatory development.

The Local Development Plan (LDP) of the Rustenburg Local Municipality (RLM), which forms part of its IDP, identifies mining as a strength, but dependence on the mining industry as a threat to its sustainability. The mining sector provides about 50% of formal employment (nearly 100 000 people) in the area, and accounts for 77% of the RLM's GDP and the majority of gross value added per sector.⁷⁵ In 2011, Rustenburg's GDP per capita was ZAR 74,356, second only to Johannesburg's, and the RLM boasted 6.1% year-on-year employment growth from 2010 to 2011, the fastest in the country. Despite overt income inequality, its urban poverty rate of 19.7% was one of the lowest in the country, down from 24.6% in 1996, and income per capita of ZAR 53,822 was the fourth highest among the 16 largest metros in the country.⁷⁶

According to Rajak, 2012 estimates of the population of informal settlements in the RLM ranged from 50 000 to 150 000, representing 15% to 30% of its total population. 'With the exception of a small corner of Edenvale,' she notes, 'the informal settlements have neither access to water nor services for sewage removal and rubbish collection. [...] Most of the settlements are directly adjacent to mining operations'.⁷⁷ Formal documentation such as companies' CSI strategies and the RLM's IDP make the now customary overtures to public-private partnerships to meet development challenges. All stakeholders claim to be realising such partnerships by subscribing to the 'integrated development process'. 'CSR managers within the mining companies commonly referred to the Rustenburg's IDP as 'the motherboard', 'the template' or even 'bible' guiding the company's socio-economic development activities, and stated their commitment not only to working with local government, but also to being guided by them on CSR planning'.⁷⁸

The IDP emphasises the importance of participatory processes, but Rajak argues that while inhabitants of the informal settlements are often the subject of formal discussions,

they rarely participate in them in reality. She also notes a peculiar distinction between 'formal' and 'informal' stakeholders, replicated in companies' CSR strategies. Those people designated as 'informal' stakeholders tend to be overlooked by the IPD, and treated as unworthy beneficiaries of CSI. It also emerged that while company representatives sit on the advisory panel of the IDP, the RLM's IDP manager complained that they sent junior staff to meetings, and failed to attend IDP representative forums.⁷⁹

Although the formal discourse suggests congruence and partnership, reality appears to be in stark contrast to these ideals. The RLM blames the mining companies, yet the companies blame tribal authorities and a lack of municipal technocratic capacity. Anglo American Platinum, for instance, suggested that any attempt to invest in social infrastructure met with resistance from the Royal Bafokeng Administration, upon whose land some of the informal settlements were located. Neither companies nor the RLM was prepared to build permanent infrastructure on land upon which people were apparently 'squatting' illegally.

Ultimately, suggests Rajak, the picture that emerges from the literature and case studies of the area is that the construction of some stakeholders as 'informal', predominantly constituted by 'migrants', is a central problem. This categorisation provides a narrative that serves both the RLM and the companies – social degradation can expediently be blamed on migrant influx. It also functionally excludes migrant labourers or work-seekers as outsiders, denying them any claims to service delivery or empowerment opportunities.⁸⁰

As each party attempts to distance itself from [developmental] responsibility, the tension between them serves collectively to reinforce the construction of the informal settlements as *outside* the welfare 'community' and mainstream society in general. While each party shifted the burden of responsibility to the other, all drew on a common discourse that sought to undermine the legitimate status of informal settlers as citizens, and therefore deny their claims to developmental benefits or social welfare – whether provided by mining companies, the municipal government or the Bafokeng Administration.

Bearing an uncanny resemblance to the puzzle of why migrant labour persists, the question of the efficacy of CSI on the platinum belt can also not be divorced from the question of tribal authorities. The RLM itself was established in 1999 as a conglomeration of the old municipality and the former tribal areas of the Bakwena and the Royal Bafokeng, which were part of the 'independent homeland' of Bophuthatswana.

The historian Andrew Manson – who taught at the University of North West – notes that the idea that local or near-mine communities should benefit from mining on land they own or occupy is implicit to many debates over the future of the mining industry. The DMR tends to assert that companies are not doing enough. In response, companies go to great public relations lengths to advertise that they are going beyond the call of duty. As a means of trying to understand the impact that companies are really having in distributing benefits, Manson studied the way in which the payment of royalties and profits from investments has affected three local ethnic groups that occupy mineral-rich lands in the Rustenburg region of North West. The most elucidating aspect of Manson's investigation is how the Bafokeng in particular:⁸¹

[...] have adroitly positioned themselves as one of the more reliable participants in the context of the country's BEE initiative, becoming [...] 'South Africa's empowerment partner of choice', clinching deals with Vodacom, [...] and the Thebe Investment Corporation.

Chancellor House, the investment arm of the ANC, has a stake in Thebe Investments.⁸² Manson concludes that sharing the benefits of mining with local communities through their 'Traditional Authorities', royalties, shares or employment 'is at best precarious and at worst disastrous',⁸³ as each ethnic group concerned is characterised by varying degrees of economic or political turmoil. Most importantly, there are questions, likely to remain unanswered, over the legitimacy and membership of these groups and their leaders. The anthropologists Jean and John Comaroff observe that the more ethnically defined a group is that positions itself as a profit-seeking corporation, the more its terms of membership tend to create opportunities for contestation and division.⁸⁴ Manson summarises the key problem by observing that no matter how antithetical the political institution of traditional authorities may seem to modern democratic practice, it is firmly entrenched and unlikely to change soon.

CSI initiatives, therefore, are likely to continue to operate at best as a superficial response to the legacy problems created by the elite bargain and its associated institutional persistence. The mining sociologist Philip Frankel is less generous. He argues that glossy annual reports frequently speak of local mines in glowing terms that are inconsistent with lived reality. These reports are an illusion designed to attract investment and obfuscate the hard realities of fractured social relationships and a lack of capacity in vital institutions to effect sustainable development. He also highlights the unhelpful role that traditional chiefs continue to play in this landscape.

Chiefs are willing, for instance, to act as brokers to provide labour to the mines in a way that undermines human rights. He also claims that rivalry between the NUM and AMCU has much to do with a subterranean struggle to gain control over the highly profitable labour networks responsible for providing contracted and/or migrant labour to the mines. Some of the local chiefs are involved in these opportunistic distribution activities. Frankel records that when the mining houses scour the labour market for anyone able to perform unskilled labour, labour brokers submit their lists of appropriate people to be registered by the chiefs as local residents. 'Job-seekers are thereby placed in double jeopardy through paying for registration and then having the labour broker deduct a second chunk of money from his/her monthly salary.'⁸⁵ Moreover, chiefs appear to have become involved in questionable money lending practices and other exploitative acts through their ability to provide registration certificates regarding the place of abode of miners or work-seekers. The chief, who may be a part-time broker, has the power to determine the livelihood opportunities of either indigenous or migrant workers desperate for employment.⁸⁶

This system of labour-broking extends into poor communities in SA and Southern Africa from which mine labour has traditionally been recruited. Brokers often operate as part of broader criminal syndicates in places like Lusikisiki in the Eastern Cape, falsely propagating the virtues of a mining career to naïve and desperate young men and women.⁸⁷ As the earlier analysis noted, local economic opportunities are largely absent from those areas.

With regard to companies, Frankel points out that human resource management is often less concerned with the recruitment and housing process – and the conditions under which labourers arrive at the mine – than with industrial relations and compliance with labour legislation.

CSI initiatives may satisfy the consciences of shareholders and investors, but real social responsibility clearly needs to go beyond glossy brochures to secure a credible social licence. If mining companies were to pay closer attention to the conditions under which much of their labour arrives, this alone might do more good than a number of school projects, for instance. Becoming genuinely concerned about the welfare of their employees at every level would serve both communities and companies better.

POLICY IMPLICATIONS AND CONCLUDING REMARKS

Elites in SA play a crucial role in institutional persistence. The elite bargain is characterised by the maintenance of political institutions such as traditional authorities that underpin the perpetuation of economic institutions such as migrant labour. Dynamic interaction between these institutions is at the heart of why a new social compact has not yet been forged in the SA mining industry. Elites have a strong incentive to maintain the status quo. Politically connected elites benefit from mining through black economic empowerment (BEE) deals. Traditional authorities benefit both through being paid a government salary and exercising discretionary power over their subjects' economic opportunities, even participating on occasion in labour-brokering. Elite maintenance of the double balance appears to exclude outsiders by design, thus preventing open access to economic opportunities. Political competition is not yet strong enough to reverse this. However, increasing fractionalisation within the dominant coalition holds the promise of more rigorous political competition.

CSI initiatives and IDPs, even if they were as congruent and fully participatory as their designers intend them to be, are insufficient means for overcoming the legacy effects of migrant labour. On the platinum belt especially, companies and municipalities have to consider and implement means of addressing some of the deeper concerns that researchers have highlighted.

There are four immediate steps that government, business and labour should take to ameliorate the most destructive effects of the current elite bargain.

First, the government should resolve to diminish the political and economic power of traditional authorities by formulating land tenure legislation that is more reflective of Section 25 of the constitution's protection of property rights. The consequent possession of individual financial collateral may generate incentives to invest in entrepreneurial activities, which may reduce the incentive to migrate to the mines to seek employment. CSI initiatives could also provide start-up capital for such activities. This would reduce reliance on social grants and potentially introduce economic vibrancy to currently depressed areas.

Second, traditional authorities should be prohibited from setting themselves up as corporations. Even though the Bafokeng tribe has benefited enormously, such benefit is only guaranteed as long as a benevolent chief is in power.⁸⁸ More generally, the chieftaincy system in its current form appears undemocratic. The government should therefore

consider a role for traditional authorities that is more compatible with the spirit of the constitution.

Third, government and business should agree on legislation that prevents politically connected elites from engaging in BEE transactions. In exactly the same way as ethical concerns have been raised about government officials doing business with the state, so too should politically connected elites be prevented from benefiting from government policies designed to benefit the poor.

Fourth, the mining industry should heed Hartford's advice and introduce:⁸⁹

... a more humane (shorter migration cycle and better paid) system of migrancy akin to the best migrant labour systems of the world. There has been no effort to create a system that rebuilds the migrant miners nuclear family through short (three to four month) work cycles; that would ensure a re-instatement of maximum remittances home to increase cash flow to the rural poor; that would significantly reduce the propensity for HIV infections; that would enhance attendance and reduce absenteeism, driving up both productivity and ensuring that mining becomes a more attractive industry to work in and invest in.

The NDP also recommends a number of specific steps that would help to address some of the problems discussed in this paper. It emphasises the need for security of land tenure as a prerequisite for building inclusive and growing rural economies, as well as the need for clarity in legislation governing mining. Many of the problems highlighted in this paper also reflect broader socio-economic challenges, which the NDP addresses just as comprehensively.

As long as the dominant coalition retains its electoral majority, however, these recommendations are perhaps unlikely to be heeded. Political incentives remain incongruent with the imperatives of equitable social and economic transformation. Carving out a new social compact therefore remains difficult in the prevailing context, but there are still clearly ways in which SA's mineral wealth can be tapped so as to generate pro-poor economic growth.

ENDNOTES

- 1 Three men were later arrested in connection with the incident. At the time of writing, the outcome of the legal process was unknown. See Reuters, NUM's Lonmin chairperson shot dead in Marikana, 18 October 2013, *Mining Weekly*, <http://www.miningweekly.com/article/num-lonmin-chairperson-shot-dead-in-marikana-2013-10-18>.
- 2 On Thursday 16 August 2012, in an incident widely described as 'SA's second Sharpeville', members of a combined police task force shot dead 34 mineworkers who had gone on strike at Lonmin platinum mine at Marikana in North West province. A further 78 were wounded. Ten more people – including two security guards and two policemen – were killed in strike-related incidents in the preceding week, bring the total to 44.
- 3 Chamber of Mines, 'Submission to NERSA', 31 January 2013, http://www.bullion.org.za/documents/Submission%20to%20NERSA_280113.pdf, p. 5.
- 4 The labour expert Gavin Hartford argues that the dual family system arose only after the abolition of apartheid's pass laws (designed to prevent urban migration). Although workers'

families were technically free to now join them at the mine, they were already established in the former 'homelands'. Hence the continuation of 'oscillating' migrant labour, setting the SA institution apart from its regional peers. Ordinarily, migrant labourers would move to a city and be joined by their family from the rural areas a few months later. In SA, men who came to work on the mines would start a second family in the mining area while continuing to support a family in the rural area. This explains both the dual family system and its associated difficulties of concurrent sexual partnerships (as opposed to multiple monogamous partnerships). See Hartford G, 'Alienation, paucity and despair make for toxic catalysts', *Mail & Guardian*, 12 October 2012, <http://mg.co.za/article/2012-10-11-alienation-paucity-and-despair-make-for-toxic-catalysts>.

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- 6 Wilson F, 'Minerals and migrants: how the mining industry has shaped South Africa', *Daedalus*, 130, 1, 2001, pp. 99–121.
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- 8 Harvey R, 'Marikana as a Tipping Point? The Political Economy of Labour Tensions in South Africa's Mining Industry and How to Resolve Them', SAIIA Occasional Paper, 146. Johannesburg: South African Institute of International Affairs, November 2013.
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- 11 Reuters, 'South Africa's migrant mine labour conundrum', *Mining Weekly*, 18 October 2013, <http://www.miningweekly.com/article/sas-migrant-mine-labour-conundrum-2013-10-17>.
- 12 ZAR is the three-letter currency code for South African rand.
- 13 Chamber of Mines, 'Facts and Figures', 2013, <http://www.bullion.org.za/documents/Chamber%20facts%20and%20figures%202013.pdf>, p. 7.
- 14 Chamber of Mines 'Facts and Figures', 2011/12, p. 31, http://www.bullion.org.za/documents/F_F_2012_Final_Web.pdf.
- 15 *Ibid.*
- 16 Chamber of Mines, 'Facts and Figures', 2013, *op. cit.*
- 17 Steyn L, 'Keeping tabs on executive pay', *Mail & Guardian*, 24 May 2012, <http://mg.co.za/article/2012-05-24-keeping-tabs-on-executive-pay>.
- 18 Rock drill operators, for instance, are paid ZAR 10 500 a month on average, but after companies have paid garnishee orders, very little is actually left. Garnishee orders are deductions from employees' salaries made by the company on behalf of their employees' creditors (mostly in the retail sector). See Creamer M, 'If I were a manager today, I would refuse to deduct garnishee orders – Godsell', *Mining Weekly*, 30 October 2013, <http://www.miningweekly.com/article/if-i-were-a-manager-today-i-would-refuse-to-deduct-garnishee-orders-godsell-2013-10-30>.
- 19 See, for example, Frankel P, *Marikana: Between the Rainbows and the Rain*. Bryanston: Agency for Social Reconstruction, 2013; Wilson F, *op. cit.*
- 20 Reuters, *op. cit.*
- 21 *Ibid.*

- 22 Von Fintel D & L Pienaar, 'How did hunger levels in the former homelands catch up with the rest of South Africa? A hundred years after the Land Act of 1913', <http://www.econ3x3.org/article/how-did-hunger-levels-former-homelands-catch-rest-south-africa-hundred-years-after-land-act>.
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