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SPRINGBOKPAN

SOCIAL AUDIT

SEPHAKU LIMESTONE MINING OPERATIONS

2022

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BACKGROUND

Springbokpan is a small traditional village located in the Ditsobotla Local Municipality, which is a part of the Ngaka Modiri Molema District Municipality, in the North West Province near the Itsoseng township. Lichtenburg is the central urban centre and the seat of the local municipality. Springbokpan and Verdwaal are neighbouring villages that are affected by the mining operations of the Aganang Sephaku Mining Project. These villages are sited jointly beneficiary communities by the mine.

Sephaku Development holds the mining right in respect of Portion 2 of the Verdwaal farm, Klein Westerford and Stiglingspan farms, granted in December 2008 for 30 years. Mining operations commenced in May 2014. The company mines limestone which is used as raw materials at the cement factory in the production of cement. The Sephaku Aganang Plant is situated under the Kopano Community Authority and the hosting communities are Verdwaal and Springbokpan. The mine is located on the Stiglingspan, Verdwaal and Klein Westerford farms, approximately 7 km southwest of Itsoseng township. According to the Mineral and Petroleum Resources Development Act 28 of 2002 (MPRDA), mining rights holders have a legal obligation to develop communities who are affected by their extractive activities.

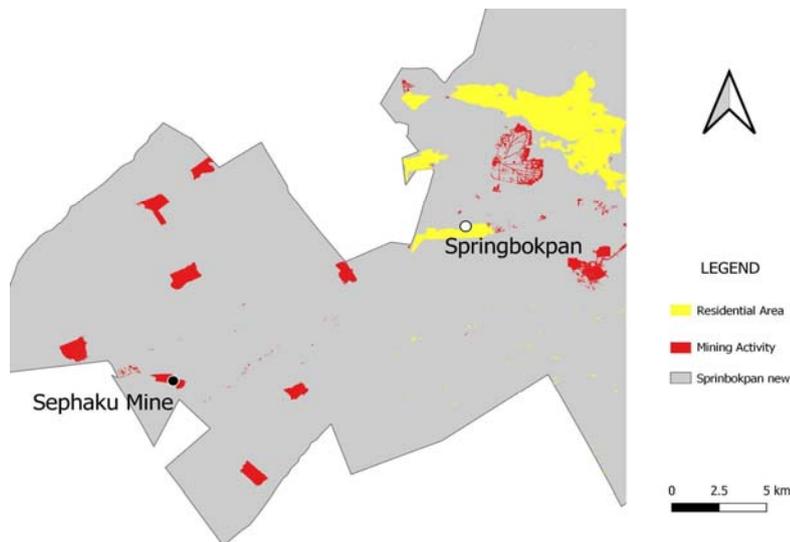


Image 1: Map of Springbokpan

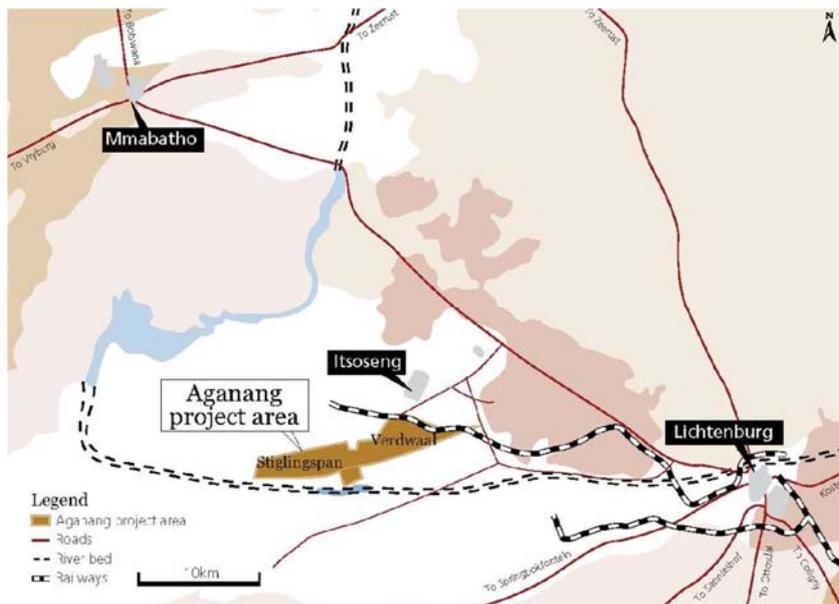


Image 2: Sefhaku Limestone Mining Operations (Sefhaku) in Springbokpan

DEMOGRAPHICS

Springbokpan has a population of approximately 2122 people and 629 households. In Springbokpan 47.2% of the households are headed by women¹ and only 6.6% of the population has completed Primary schooling, 12.9% matric, and 3.5% have gone on to achieve higher education certificates. The majority of the population in the Local Municipality is the youth aged between 15 and 35 years of age, and amongst them exists a high unemployment rate (37%) which often leads to socio-economic problems such as substance abuse, crime and early pregnancy.² Due to a lack of infrastructure and schools, agricultural development, amongst other issues, the community of Springbokpan is short of job creation opportunities leaving the majority of the population (78.3%) dependent on social grants from the South African government.

¹ http://beta2.statssa.gov.za/?page_id=4286&id=10927, accessed 11 January 2022.

² http://beta2.statssa.gov.za/?page_id=993&id=ditsobotla-municipality, accessed 11 January 2022.

WHAT IS A SOCIAL AUDIT?

A social audit is a community-led process whereby the cogency of the promises made by mining companies affecting communities is put to the test. This process empowers communities to gather and legitimise evidence of their experiences of service delivery, and through this process enables them to claim and realise their constitutional rights to a transparent and accountable mining company. During a social audit, the expenditure and service delivery outcomes promised in the Social and Labour Plan (SLP) of a mine are tested to see whether community experiences of those outcomes reflect the vision of implementation as stated in the SLP.

An SLP contains proposed programmes that should be directed at the host mining-affected communities and labour sending areas, to offset the negative impacts of mining and improve the quality of life for both the mine employees and the mining-affected communities. Members of the community collectively participate in the process of verifying the SLP of a particular mine by comparing the stated outcomes with the lived experiences and realities of people on the ground. Evidence collected during the social audit is then reported to the responsible stakeholders at a public meeting and used as a vehicle for advocacy by the host community.

Community testimonies, knowledge and experiences are a legitimate and central part of this evidence. A social audit provides a way to build effective and meaningful participation in poor and working-class communities by providing means for a community to engage with the mining process that affects their lives. Social audits provide an opportunity for poor mining communities to be heard, and space for people who have been excluded, deceived, and cheated out of their benefits, to interrogate the cogency of the mine's promises to the community.

Mining companies are significant social players who account for a large portion of the South African economy. This power and financial muscle often allows mining companies the capacity to evade social responsibility using PR consultants and campaigns to produce glossy reports regarding their social commitments to the communities at which they operate. Their Corporate Social Investment (CSI) strategies are often synchronised with the Social Labour Plan (SLP) commitments, which may paint a good picture on paper, however, contradict the realities on the ground. SLPs, unlike CSI commitments, are binding on companies and communities are empowered by the MPRDA to require these commitments from the mining companies. The best methodology to interrogate the claims of mine companies is to conduct community-led social

audits and collect evidence to verify the realities on the ground, to potentially challenge the glossy PR reports.

The aim of this social audit was to establish whether there has been any tangible and sustainable development done by Sephaku between the years of 2017 and 2021. SLP's are renewed every 5 years and by conducting a social audit the community can:

1. Assess the extent of compliance with the SLP within the Springbokpan community;
2. Assess whether Sephaku's SLP obligations are effective, efficient and provide sustainable goals to the community of Springbokpan and;
3. Determine if appropriate measures exist that:
 - establish, monitor, and communicate the SLP process and procedures with the community;
 - ensures reliable information is available for all stakeholders involved including the Springbokpan community;
 - and establish and communicate roles and responsibilities for all parties involved.

WHAT IS A SOCIAL AND LABOUR PLAN?

A Social and Labour Plan is a document that mining companies are required to submit to the Department of Mineral Resources and Energy (DMRE) as part of their application for a mining right. According to the MPRDA, the mineral resources of the country are the common heritage of all who live in the country. Section 2 (d) of the MPRDA further states that its objectives are to ‘substantially and meaningfully expand opportunities for historically disadvantaged persons, including women, to enter the mining and petroleum industries and to benefit from the exploration of the nation’s mineral and petroleum resources’.³ This emphasises the role of mineral resource extraction and operations as a pivotal means towards community development and women empowerment. SLPs, therefore, are the means by which mineral and petroleum exploration can benefit communities.

According to section 23 (1) (e) of the MPRDA, (as amended by section 19b of Act 49 of 2008), the Minister must grant a mining right ‘if the applicant has provided financially and otherwise for the prescribed social and labour plan’. The MPRDA further places duties on mining right holders:

- Section 25 (2) (f) - Duty of holder of the mining right to comply with the SLP and;
- Section 25 (2) (h), read with Section 28 (2) (c) - Duty of mining right holder to report annually on compliance with the SLP.

Part II of the Mineral and Petroleum Resources Development Regulations (Regulations) further provides for the regulations of SLPs. Section 41 (c) states that the objective of the SLP is to ‘ensure that holders of mining rights contribute towards development of the areas in which they are in operation’. Further, section 46 (c) regulates the contents of the SLP and requires that they must include a Local Economic Development (LED) Programme comprising; (ii) the key economic activities of the area in which the mine operates and (iii) the infrastructure and poverty eradication projects that the mine would support in line with the Integrated Development Plan (IDP) of a local municipality and major labour sending areas.

An SLP is a five-year plan, which needs to be completed, and must be renewed by a mine with the DMRE after a five-year period. Once it is approved by the DMRE it becomes a legally

³ *Mineral and Petroleum Resources Development Amendment Act 49 of 2008: Sec 2.*

binding document, containing commitments made by the company on what it will do for both communities and workers. It also stipulates how and when commitments will be executed, as well as what the budgets are for promised interventions or activities.⁴ It is therefore, one of the instruments that can be used to address South Africa's long history of inequality in the mining sector.

In principle, SLPs should be drafted with the consultation of the communities, however, that is not always the case. In terms of Regulation 45, a mining right holder must convene a minimum of three meetings per annum with mining affected communities, as well as interested and affected persons, to update these stakeholders about the progress made with regards to the implementation of the approved SLP, and the outcome of these meetings must form part of the annual reports.⁵ Despite the comprehensive and progressive laws in place, the reality is that although the SLP system has been in force for over twelve years, most communities affected by mining still experience abject poverty and underdevelopment. This is partly because SLPs are often designed without adequate consultation with the communities that stand to benefit from the mining operations. Furthermore, mining companies often neglect to deliver on all the SLP commitments, and the DMRE often does not follow up on these commitments or enforce them, to the detriment of mining-affected communities.

The purpose of the SLP, therefore, is to promote employment, advance social and economic welfare, contribute towards transforming the mining industry and ensure that mining companies contribute to the development of the areas where they operate.

⁴ *Mineral and Petroleum Resources Development Act Regulations*, 2020.

⁵ *Ibid* at Sec 45.

WOMEN IN MINING-AFFECTED COMMUNITIES

Women who are not formally employed are the backbone of the functioning of mining-affected communities.⁶ The sustained employment of men and operation of the mine is indirectly dependent on women as they are heavily involved in social reproductive Activities. Social reproductive activities refer to activities that enable their male counterparts to attend work in the mines. This includes activities such as house cleaning, cooking, maternal duties, et cetera. Although social reproduction is pivotal to the functioning of mining-affected communities (and, indirectly, the operation of mines), women are often excluded from decision-making processes as they are not formally employed by mining companies and there is a dominant belief that women are subservient to men in South African culture.

Men in mining-affected communities as such become the primary beneficiaries of mining Activities. This is a norm in rural South African communities, as patriarchal structures are a mainstay in South African culture. In mining-affected communities, men are heavily involved in the operation of the mine itself, which provides them with employment and income. As a result, women in mining-affected communities become dependent on their male counterparts due to the lack of employment opportunities available to them. This impedes women's ability to accrue wealth and status in mining-affected communities. In some communities, such as in mining-affected communities in the Limpopo region, women can derive their independence from men through agricultural activities.⁷ Produce can be farmed and sold, with the surplus earned being used as an income for women. This may be difficult in regions where mining operations have caused a loss of land. Women in these regions may find it difficult to find alternative income and therefore, remain dependant on males who are employed by the mine, and may resort to sex work - major economic activity is taken up by women in mining-affected communities. Sex work exacerbates the spread of diseases such as Tuberculosis (TB) and HIV/AIDS which thrive in mining-affected communities. Women in sex work also are largely vulnerable to violence and exploitation by clients, and to social stigma due to the lack of regulation and the discreet nature of sex work.

⁶ Asanda Benya, "The invisible hands: women in Marikana", *Review of African Political Economy* 42, no. 146 (2015) at 545-560.

⁷ Mark Curtis, *Precious Metal: The Impact of Anglo Platinum on poor communities in Limpopo, South Africa* (South Africa: ActionAid, 2008).

METHODOLOGY

Data collection included both door-to-door surveying and the physical verification of project sites. The survey was conducted through a 34-item household questionnaire with closed and open-ended questions. Any adult member of the household was eligible for interview.

Most of the SLP projects that Sephaku committed to are between Springbokpan and Verdwaal villages. The Social Audit Team interviewed community members from Springbokpan only because the data collected would reflect the same findings as in Verdwaal. Physical inspection of the sites included all SLP projects in the areas stated in the document.

The Social Audit Team surveyed six neighbouring areas in Springbokpan: Seloja, Mshongo, Mainanatho, Mafikeng, Lefarge Road, and Kgapamadi. These neighbourhoods were represented as follows:

Area in Springbokpan	Number of Households
Seloja	35
Mshongo	60
Mainanatho	56
Mafikeng	8
Lefarge Road	31
Kgapamadi	82
Total	<u>272</u>

A total of 272 people were surveyed, 163 of whom were women (59.9%). The average age of the respondents was between 40 and 49 and each household had approximately 5 people living in it. Only eleven households (4%) had someone who was working at the Sephaku Aganang Project. After a training with community members was conducted on SLPs, social audit methodologies, and designing surveys, the questionnaire was designed in collaboration with the social audit team. During the training, the community organisers had an opportunity to test the questionnaire and agree on ways to probe questions. The training was conducted from 6-10 September 2021; data collection occurred on 8 September 2021; and preliminary analysis occurred on 9 September 2021. After the fieldwork, a de-brief meeting was conducted where all data collectors discussed issues arising from the survey, challenges, and strategies for making future community inquiries more effective.

Data entry for completed surveys was conducted by MWAO for analysis of the quantitative variables. Theme analysis and quantifying common responses was conducted for the qualitative variables.

WHAT SEPHAKU COMMITTED TO UNDERTAKE DURING THE SLP YEARS AUDITED (2017-2021): Local Economic Development (LED) Section

- 1. Cement Brick/Block Making and Distribution Facility – Budget: R 4 600 000.00**
 - This project was expected to manufacture 55 000 cement bricks per day on a continuous 8-hour shift and create 50 sustainable jobs for local communities.
 - Sephaku does not mention the site of this project in their SLP.
 - Period: 2017-2019
- 2. Verdwaal and Springbokpan Safe Hub – Budget: R 2 550 000.00**
 - Located at the Agri Park Project in Springbokpan and would employ 20 people.
 - Period: 2017-2019
- 3. Verdwaal and Springbokpan Youth Development Centre – Budget: R 4 100 000.00**
 - The company took a strategic decision to partner with the South African Football Association (SAFA), through its development agency, on the establishment and development of a Verdwaal and Springbokpan Youth Development Centre to be located at the Agri Park Project.
 - Period: 2018-2019
- 4. Springbokpan Agri Park Project – Budget: R 4 700 000.00**
 - Sephaku committed to establish and develop the Agri-Park in Springbokpan in partnership with the Department of Rural Development and Land Reform (DRDLR).
 - The project was due to include a food bank and sunflower farming project.
 - Project was expected to create 50 sustainable jobs for local communities in total.
 - Food bank Project (15 jobs): stocks of food, typically basic provisions, and non-perishable items, are stocked up for commercial distribution to the market.
 - Sunflower Seed Production Project: 20 jobs will be created.
 - Period: 2018-2020

DISCUSSION

The results of the social audit (See Appendix A) were analysed in accordance with the commitments made by Sephaku in their SLP. This includes an analysis of awareness by respondents about the projects that were to take place in their communities, as well as their knowledge of what an SLP is and how it binds the mine to certain obligations. The Social Audit Team specifically looked at the implementation of the bursary and learnership programmes, cement brick making and distribution facility, youth development centre, and the Agri Park project.

Consultation

In the formulation of an SLP, mines are supposed to consult with the affected community to incorporate their needs into the Social and Labour Plan. 7% of the respondents noted that they had been consulted by Sephaku, but not in relation to the SLP, but rather to their farms that were leased to the company. While 93% noted that they had never been consulted by Sephaku. It then becomes clear that 100% of the respondents had not been consulted by Sephaku with regards to the formulation of the SLP.

21.7% of the respondents knew what a social and labour plan is, while 78.3% did not. Once the team explained to respondents what an SLP is, 73.2% of the respondents stated that they did not know that they had a right to ask the mine for the SLP. 26.8% said that they were aware they can ask for the SLP of Sephaku. However none had successfully been granted access to the SLP of Sephaku.

Most respondents noted that the last time Sephaku came to their village was around 2016 regarding a clinic that was built. Only 1 person said that Sephaku has upheld the promises they made during the consultations, while 94.7% were adamant that Sephaku did not uphold its promises.

Only 3 people (1.1%) had seen the annual report of Sephaku, while 98.9% of the respondents asserted that they had not seen it. Meaning they are not aware of the obligation on mining companies to report back to host communities on progress made with regards to SLP projects, and that the mining company was not successfully reporting to the community.

The 15 respondents (5.5%) who knew of projects completed by Sephaku in their community noted that the mine had renovated a clinic, which is unfinished, and that they did a project around

cement brickmaking. The rest of the respondents 94.5% resonated with the fact that they did not know of any projects done by or funded by Sephaku in their community.

Bursary

As part of their SLP commitments, Sephaku committed to awarding 2 bursaries per year to learners that form part of the Ngaka Modiri Molema District Municipality. One internal candidate and one external candidate.

The respondents were asked to share their experience of Sephaku as it relates to seeing advertisements for bursaries, and only 2.2% of the respondents (6 out of 272) had ever seen a bursary advert from Sephaku. Out of the people who had seen a bursary advert from Sephaku, 4 knew someone who had applied for the bursary.

Although 4.8% of the respondents asserted that they knew someone who had received a bursary, it was difficult to ascertain how many of the respondents knew someone who had received a bursary from Sephaku in the SLP term being audited because residents noted that the information, they knew was based on 2016 commitments and this did not fall within the current SLP period that was being audited. Nevertheless, it was possible to ascertain the number of people that could benefit from a bursary, because of all 272 of the respondents, 91 (33.5%) had a family member who could benefit from receiving a bursary.

Learnerships

With regards to learnerships Sephaku committed to offer, only 25 respondents (9.2%) were aware of the learnership opportunities that Sephaku had committed to provide to community members, however some noted that these were just promises made during community meetings long ago (+/- 8 years ago).

Similar with the bursaries, respondents recalled there being learnership posts between 2013 and 2016, however that only accounted for 6 of the respondents (2.2%) who noted having seen an advertisement for a learnership from Sephaku. However out of 272 people, 12 respondents (4.4%) knew someone who had received an internship/learnership at Sephaku, even though 43.4% of the respondents had people living with them that could benefit from the experience a learnership provides. Many respondents noted that a challenge to accessing learnership opportunities at Sephaku resides in the fact that many residents only have matric, due to financial

constraints, and therefore do not qualify for many of the opportunities that Sephaku might make available to the community. It is extremely important to add that the socio-economic placement of communities such as Springbokpan is very capricious. Many youths in villages in South Africa, simply do not have the means to access higher education and therefore the requirement that they have tertiary education, can be seen as exclusionary to an extent. Especially if there aren't any bursary opportunities available for the youth in communities such as Springbokpan to access higher education.]

Cement and Brick Making Distribution

Sephaku committed to establish a cement brick making and distribution facility that was expected to employ approximately 50 people from the local communities surrounding the plant. Although the mine did not identify the site of the project in their SLP, it must be noted that community members were of the impression that the project would take place at the same site as the Agri Park project.

When asked if they had heard of a cement brick making and distribution facility in Springbokpan, only 1.5% of the respondents noted that they had heard about it. However, when asked where the project is, the answers varied and only 2 people named the project site as being in Itsoseng (in the Silos), while 1 person noted that the project is not there. When the Social Audit Team visited the suggested site of the project, by the Agri Park Project, there was nothing to be found except an abandoned building and an old mill.

None of the respondents could point to whether there were any people employed by the project and none of the respondents knew when the project started. No one amongst the respondents knew how posts were advertised for the cement brick making facility. Nevertheless, 1 person amongst the respondents expressed an interest in working at the project.

90.8% of the respondents said the project would positively affect them in that it would provide an opportunity for employment. 7.4% of the respondents responded that the project would affect them negatively, and amongst the reasons for the response were that "they (Sephaku) would take more land", "corrupt people at Sephaku", health concerns were cited related to blasting and lung problems related to the effects of dust.



Image 3: Sign on site of the Agri Park

Youth Development Centre

Sephaku committed to partner with the South African Football Association (SAFA), through its development agency, on the establishment and development of a Verdwaal and Springbokpan Youth Development Centre to be located at the Agri Park Project in Springbokpan.

98.5% of the respondents noted that they did not know of any Youth Development Centre in Springbokpan, while only 4 of the respondents (1.5%) said they did know of one. When asked where the Youth Development Centre was, the respondents gave varying responses. 2 stated that the Youth Development Centre was in Itsoseng (Silos) and another respondent stated that it was at Stilingspan Farm. The Social Audit Team went to the site of the Agri Park Project and found no sign of a youth development centre in the area provided for in the SLP.

When asked what impact the Youth Development Centre has in the community, the question was misunderstood by some (65) of the respondents because they noted that the centre would keep the youth busy and away from crime and drugs. Nevertheless, 65.1% of the respondents noted that there has been no positive impact made by the Youth Development Centre because it does not exist. The four respondents who had said that they know of the youth centre gave no response to this question, but for one who noted job creation and another who said there was no positive impact brought by the Youth Development Centre.



Image 4: Building at Agri Park's condition as at social audit site visit

GENERAL

Most of the respondents (98.9%) said that they don't think that Sephaku has employed enough people from their community. While only 3 people (1.1%) said that they had.

140 of the respondents (51.5%) knew that affected communities must benefit from the mines surrounding them, whereas 132 people (48.5%) did not know.

261 of the respondents (96%) had never benefitted personally from the mine, while 10 respondents (3.7%) noted that they had in relation to their farms which they lost to Sephaku and get a monetary sum every year.

Only 12 respondents (4.4%) recalled having a meeting with Sephaku regarding the needs of the community in Springbokpan.

When asked about the kinds of project they would like to see in their community, respondents noted the following: clinic, roads, library, sport facilities, internet café, schools upgrade, job opportunities, water, and youth centre.

It must be noted that although Sephaku takes pride in the clinic they built for the community of Springbokpan, the community still asserts that they need a clinic, because the current clinic building is not functional and fails to meet the needs of the community.

MEETING WITH SEPHAKU

MACUA and WAMU approached Sephaku to provide us with a copy of their SLP from February 2021, consistently without response. It was only upon emailing the Department of Mineral Resources (DMR) and copying in the mine, where a response was finally received offering a copy of the SLP in July 2021. A meeting between the mine and MACUA WAMUA branches in Springbokpan and Bodibe was held in August in order to establish a relationship with the mine and enquire about the status of the SLP projects, wherein Sephaku admitted to having neglected the implementation of any SLP projects due to financial constraints. Other issues also arose during the meeting, with regards to the lack of projects in Bodibe and the unfulfilled responsibilities of the mine with regards to the relocation of graves and access to tombstones which fall within the Sephaku Plant complex. Later during the year in October 2021 when MACUA WAMUA branches took them to task regarding the plan to implement some of the projects and to figure out what they had done with the money set aside for the SLP projects, Sephaku sent a formal email denying any assertion that they did not comply with their SLP obligations.

This is in line with the way mining companies in South Africa approach their duties towards communities affected by their operations, with complete disregard.

INTEGRATED REPORT DISCUSSION

In the 2018 financial year (FY18) integrated review⁸ (IR), Sephaku reported that the 2017-2021 cycle SLP was submitted and was pending approval from the DMRE⁹. The plan allocated R17 million for, among other things, projects to develop the local economies at Springbokpan and Verdwaal, skills development and SMME development¹⁰. Sephaku further reported that it was implementing a monitoring programme to measure its progress over time for each of these projects¹¹. In that financial year Sephaku generated R2.4 billion in revenue and made R333 million in operational profit¹². In their IR Aganang Sephaku asserts that it spent R88 million on community social and enterprise development¹³.

In the FY19 IR Sephaku reportedly generated R2,29 billion in revenue, a 3.1 percent decrease from the previous financial year¹⁴. They made a net profit of 128.7 million in the same financial year¹⁵. 189 people were employed and according to the IR 117 of them were women¹⁶.

In the FY20 IR Sephaku reported generating a revenue of R2.18 billion and a profit of R1.3 million¹⁷. In the 2021 financial year IR Sephaku reported a revenue of R2.4 billion and a profit of R219 million¹⁸. The IRs for 2020 and 2021 neglect reporting on specific SLP commitments and attribute that failure to report, to a lack of leadership structures in the Aganang Projects communities, namely Springbokpan and Verdwaal. According to the IR's, this 'lack of leadership' limited their ability to conclude various community empowerment initiatives. Furthermore the progress of their LED projects as per the SLP was not reported on, indicating that Sephaku did in fact fail to fulfil their commitments in accordance with the SLP.

How the lack of a structured leadership impedes the mine from implementing regulated commitments, is not entirely clear. Given the nature of SLPs and the requirement to consult all

⁸ Sephaku Holdings (Ltd). *Integrated Review 2018*: Irene: Sephaku Holdings (Ltd). 2018.

⁹ Ibid, at 56.

¹⁰ Ibid.

¹¹ Ibid.

¹² Sephaku Holdings (Ltd). *Integrated Review 2018*, at 27.

¹³ Ibid, at 57.

¹⁴ Sephaku Holdings (Ltd). *Integrated Review 2019*: Irene: Sephaku Holdings (Ltd). 2019, at 29.

¹⁵ Ibid.

¹⁶ Ibid, at 49.

¹⁷ Sephaku Holdings (Ltd). *Integrated Review 2020*: Irene: Sephaku Holdings (Ltd). 2020, at 22.

¹⁸ Sephaku Holdings (Ltd). *Integrated Review 2021*: Irene: Sephaku Holdings (Ltd). 2021, at 24.

stakeholders meaningfully in its formulation, the fact that the projects chosen to form part of the SLP are not being implemented due to a lack of leadership seems suspect.

Various requests made by the community and councillor of Springbokpan for a meeting, were and continue to be repetitively ignored by the mine, despite their duty flowing directly from the MPRDA to consult with ‘interested and affected parties’. It means that the mine is not committed to seriously considering communities affected by their operations, but is more than happy to use them as scape-goats to evade accountability.

As key challenges in their implementation of SLP commitments, Sephaku reported that contestation regarding the legitimate community leaders resulted in the ongoing absence of leadership structures, and this frustrated achieving conclusive decisions on key matters¹⁹, including:

- A. electing directors to the empowerment structure;
- B. SLP engagement; and
- C. Land utilisation options²⁰.

They further added that the community leadership vacuum created challenges in the consultation process and cited Covid-19 and increasing expenditure supplementing operational costs as reasons as to why the SLP was not implemented²¹. However, it has been established that traditional leaders alone do not constitute the community and therefore that cannot be a valid reason for lack of implementation. Furthermore, it can be seen herein that the company was generating a large amount of profit as compared to operational costs, for the period 2018-2020. Sephaku reported further that a team was set up to continue engaging with the local authorities in the Aganang Project communities and further reported that the review of the new SLP to align with government’s development objectives was underway. However, this is strange given the clarity of regulations regarding the Local Economic Development alignment requirement and set a clear structure on how mining right holders are to go about developing their SLPs.²²

In 2021 Sephaku reported that the challenges have been ongoing for several years and has limited their ability to conclude various community empowerment initiatives. Sephaku reported that the

¹⁹ Sephaku Holdings (Ltd). *Integrated Review 2021*, at 25.

²⁰ Ibid.

²¹ Ibid.

²² Ibid.

SLP submitted in 2017 was still not approved by the DMRE due to outstanding resolutions by the local traditional authorities and the fact that the Local Municipality was placed under administration. Although the reasons for the non-approval of the SLP are unclear, it can be assumed that the lack of thorough consultative processes contributed to the delay in approval of the SLP. The company, although aware that they were not going to implement their SLP, due to the challenges expressed above, continued to operate instead of calling the DMR to mediate and holding multiple consultation sessions with affected community members to find commonalities in the project they would want implemented. Furthermore, Sephaku only conducted a community surveys in 2019 to determine the developmental needs of the community.

In 2021, at the end of the SLP term, Sephaku reported that a task team was set up by the minister of the DMRE consisting of senior government representatives, cement manufacturing representatives and local authorities to facilitate engagement with communities to obtain a resolution on the local economic development projects to be implemented during the 2021 to 2022 calendar years. However the exclusion of 'interested and affected parties' remains a common theme in the manner in which the task team was set up, which can only be an indication that meaningful consultation is not understood by the minister of the DMRE as well as all the other representatives. A directive to hold multiple consultative sessions with the various stakeholders should have been handed down to Sephaku requiring that the most common projects be selected out of that process, and implemented.

CONCLUSION

On the 2017-2021 SLP commitments, it seems that Sephaku failed to fulfil its obligations. The extent to which they failed is not indicative of a minor delay in implementation, but rather a concerted effort to escape the fulfilment of its legally binding obligations. While the company continues to generate reported profits, the communities affected by its operations remain underdeveloped.

Sephaku Development has been operating in the Springbokpan and Verdwaal communities since 2013. However, the lives of the majority of those who live around the mine have not improved since mining began in their community. In 2014, Sephaku renovated a building that they refer to as a clinic in Springbokpan. However when the Social Audit Team visited the site of the project in 2021, they found a dysfunctional building without staff, no equipment and no running water. It can be said that the clinic project which Sephaku takes pride in, is not itself a sustainable contribution to the community.

It is clear from the above that Sephaku is not committed to undergoing meaningful consultative processes with 'interested and affected parties'. Preferring to approach sustainable development in its host communities as a tick-box exercise without repercussions, while continuing to profit generously from its operations. It is completely unacceptable that 'interested and affected parties' are not able to participate in the processes that will impact their development. Furthermore the lack of accountability from the mine is equally unacceptable, because they continue as though they have no one to be accountable to.

The DMR should be called on to enforce the implementation of the selected projects in its SLP as there was positive feedback regarding the need for these projects in the community. Moreover, the projects that formed part of the 2017-2021 SLP should be viewed as backlog projects, with a hard deadline attached to them, and Sephaku should be monitored by the DMR in the consultation processes of formulating the 2022-2026 SLP.

Furthermore, being that the fulfilment of SLP commitments is a condition for a mining right, the operations of Sephaku should be suspended until such a time as the mining company is committed to compliance. Or they should be fined, the proceeds of which should go into the implementation of a project wholly decided on by the community, with the oversight of the DMRE.

APPENDIX A: OVERALL OBSERVATIONS & RESULTS

ITEM	QUESTION	ANSWER	COMMENT
DEMOGRAPHICS	Gender	M = 109 F = 163	
	Age	20-29 = 52 30-39 = 53 40-49 = 55 50-59 = 51 60-69 = 38 70-79 = 15 80-89 = 6	
	Is anyone working at Sephaku in your household?	Yes = 11 No = 260 N/A = 1	
	How many people live in your household?	1 = 13 2 = 25 3 = 37 4 = 53 5 = 45 6 = 37 7 = 26 8 = 17 9 = 6 10 = 6 11 = 1 13 = 2 14 = 1 15 = 2	
CONSULTATION	Have you ever been consulted by Aganang Sephaku?	Yes = 19 No = 253	7% of the respondents noted that they had been consulted by

			Aganang Sephaku, but not in relation to the SLP, but rather to their farms that were leased to the company. While 93% noted that they had never been consulted by Aganang Sephaku.
	How often have you been consulted?	2008 = 2 Once = 12 Twice = 2 Three times = 1 Many times = 2	Some of the respondents had been consulted many times by the mine, whereas the majority of people had only been consulted once.
	Has Sephaku ever completed the promises they made during consultation?	Yes = 1 No = 18	Only 1 person said that Sephaku has upheld the promises they made during the consultations, while 94.7% were adamant that Sephaku did not uphold its promises.
	Do you know what a Social and Labour Plan is?	Yes = 59 No = 213	21.7% of the respondents knew what a social and labour plan is, while 78.3% did not.

	Do you know you have a right to ask the mine for their SLP?	Yes = 73 No = 199	However once explained, 26.8% said that they were aware they can ask for the SLP of Aganang Sephaku. Whereas 73.2% of the respondents did not know that they had the right to access the SLP of Aganang Sephaku.
	Have you ever got an annual report from Sephaku since its operations started?	Yes = 3 No = 269	Only 3 people (1.1%) had seen the annual report of Aganang Sephaku, while 98.9% of the respondents asserted that they had not seen it.
	Do you know of any project that was funded or done by Sephaku here in Springbokpan?	Yes = 15 No = 257	The 15 respondents (5.5%) who replied positively noted that Sephaku had renovated the clinic which is unfinished, and that they did a project around cement brickmaking. The rest of the respondents 94.5% resonated with the fact that they did not know of any

			projects done by or funded by Aganang Sephaku.
BURSARY	Do you know of anyone who has received a bursary from Sephaku?	Yes = 13 No = 259	4.8% of the respondents knew of someone who had received a bursary from Aganang Sephaku.
	Is there anyone in your family that can benefit from the bursary?	Yes = 91 No = 180	Out of all 272 of the respondents, 91 (33.5%) had a family member who could benefit from receiving a bursary.
	Have you ever seen a bursary advert from Sephaku?	Yes = 6 No = 264 N/A = 2	However only 2.2% had ever seen a bursary advert from Aganang Sephaku.
	If yes, have you or anyone you know ever applied for the bursary?	Yes = 4 Not sure = 1 No = 1	Out of those people who had seen a bursary advertisement by Aganang Sephaku, 4 people (66.7%) knew someone who had applied for the bursary. However, it was noted by some of the respondents that this was in 2016.

LEARNERSHIPS	Do you know that Sephaku has committed to offer community members learnerships for engineering, transport & logistics, Production Operations, Project management, HR Management, Systems Engineering, Business Management, Electrical Engineering or Commercial Studies?	Yes = 25 No = 245 N/A = 1 They employ outside people = 1	Out of 272 people, 25 respondents (9.2%) were aware of the learnership opportunities that Sephaku had committed to provide to community members, however some noted that these were just promises made during community meetings long ago (+/- 8 years ago).
	Do you know anyone who has received a learnership at Sephaku?	Yes = 12 No = 260	Out of 272 people, 12 respondents (4.4%) knew someone who had received an internship/learnership at Aganang Sephaku.
	Is there anyone in your family that can benefit from a learnership?	Yes = 118 No = 153	43.4% of the respondents had people living with them that could benefit from the experience a learnership provides, however many of the respondents only had

			matric due to financial constraints.
	Have you ever seen an advert for a learnership from Sephaku?	Yes = 6 No = 264 N/A = 2	Only 6 people (2.2%) had ever seen an advertisement for a learnership from Aganang Sephaku.
	If yes, have you or anyone you know ever applied for the learnership?	Yes = 5 No = 1	And of those 6, 5 (83.3%) had previously applied for the post based off of the advert.
CEMENT AND BRICK MAKING DISTRIBUTION PROJECT	Have you heard of any cement brick making and distribution facility in Springbokpan?	Yes = 4 No = 268	Only 1.5% of the respondents had heard of a cement brick making and distribution facility in Springbokpan.
	Where is the project?	Itsoseng = 1 In the Silos = 1 It's not there = 1 In their land = 1	However, when asked where the project is, the answers varied and only 2 people named the project site as being in Itsoseng (in the Silos), while 1 person noted that the project is not there.
	How many people work there?	Don't know = 4	None of the respondents knew how many people were

			employed at the project site.
	When did it start?	Don't know = 4	And none of the respondents knew when the project started.
	Do you have any interest in working there?	Yes = 1 No = 3	1 person of those who knew of the project, expressed an interest in working at the project.
	How does the community find out about the posts?	Don't know = 272	No one amongst the respondents knew how posts were advertised for the cement brick making facility.
	How will the project affect your health or financial condition?	Positive = 247 Negative = 20 Unknown = 5	90.8% of the respondents said the project would positively affect them in that it would provide an opportunity for employment. 7.4% of the respondents responded that the project would affect them negatively, and amongst the reasons for the response were that "they [would] take more land", "corrupt people at Sephaku" and

			health concerns related to blasting and lung problems regarding the effect of dust.
YOUTH DEVELOPMENT CENTRE	Do you know of any Youth Development Centre in Springbokpan?	Yes = 4 No = 268	98.5% of the respondents noted that they did not know of any Youth Development Centre in Springbokpan, while only 4 of the respondents (1.5%) said they did know of one.
	Where is it?	Itsoseng = 1 Silos = 1 Stilingspan Farm = 1 N/A = 1	When asked where the Youth Development Centre is, the respondents gave varying responses. 2 stated that the Youth Development Centre was in Itsoseng (Silos) and another respondent stated that it was at Stilingspan Farm.
	What activities are they offering?	Netball = 1 Training young people = 1 Nothing = 1 Don't know = 1	There were no common responses when the respondents were asked what activities are offered at the Youth

			Development Centre. One respondent simply noted that they were “training young people”.
	Which activities would you be interested in doing at the centre?	Engineering based skills = 13 Computer courses & educational programmes = 28 Counselling = 1 Skills development (carpentry, sewing, brick layer etc.) = 35 Motivational talks = 4 Sports = 98 Traditional relations = 1 Don't know = 57 No centre = 11 N/A = 24	
	What positive impact has the centre made to reduce crime, drug abuse in the community?	None = 177 Keep youth busy = 65 Job creation = 6 N/A = 24	This question was misunderstood by some (65) of the respondents because they noted that the centre would keep the youth busy and away from crime and drugs, nevertheless, 65.1% of the respondents noted that

			there has been no positive made by the Youth Development Centre because there is none. The four respondents who had said that they know of the youth centre gave no response to this question, but for one who noted job creation and another who said there was no positive impact brought by the Youth Development Centre.
GENERAL QUESTIONS	Do you think Sephaku has employed enough members of the community to make a positive contribution to unemployment in the community?	Yes = 3 No = 269	The majority of the respondents (98.9%) said that they don't think that Sephaku has employed enough people from their community. While only 3 people (1.1%) said that they had.
	Do you know that communities affected by mining must benefit from the mines around them?	Yes = 140 No = 132	140 of the respondents (51.5%) knew that affected communities must benefit from the mines surrounding them, whereas 132

			people (48.5%) did not know.
	Have you ever benefitted personally from the mine?	Yes = 10 No = 261 N/A = 1	261 of the respondents (96%) had never benefitted personally from the mine, while 10 respondents (3.7%) noted that they had in relation to their farms which they lost to Sephaku and get a monetary sum every year.
	Has Sephaku ever called a community meeting to ask what the community needs?	Yes = 12 No = 256 Don't know = 4	Only 12 respondents (4.4%) recalled having a meeting with Sephaku regarding the development projects the community needs in Springbokpan.
	In your own view, what does the community need?	Clinic, roads, library, sport facilities, internet café, schools upgrade, job opportunities, water, youth centre	
	How would you link to engage with the mine going forward?	Community meetings = 125 DMR must intervene = 1	

		Take them to court = 44 The community must benefit = 36 Not interested in engagement = 30 Writing a formal letter = 2 N/A = 34	
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