RESKOL DIAMOND MINING (PTY) LTD, MINING IN KOLO, LESOTHO, 1991-2022: DEVELOPMENT OR DISPOSSESSION?

BY

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ABSTRACT

The role of private capital in natural resource extraction and economic development in the Global South has attracted significant debate among scholars and development practitioners. In this light, there has also been debate surrounding the Reskol Diamond Mining in Kolo-Mafeteng in Lesotho, due to worries about job possibilities, environmental degradation, and insufficient corporate social responsibility initiatives. There are also problems with the company's compensation and relocation of impacted homes, in addition to the exhumation of ancestral graves. Against this background, this dissertation critically examines the history of diamond mining in Lesotho, using the case of Reskol Diamond Mining in Kolo-Mafeteng in Lesotho, within the context of development or dispossession. Using historical records, legal sources, life histories, and secondary sources, this dissertation examines the nature of the government collusion in the mining of diamonds and its impact on the livelihoods of local communities over time. In this way, it draws from and seeks to contribute to ongoing scholarly debates on resource curse and nationalism against the background of the question of development or dispossession. Although the discovery of diamonds was initially viewed as an economic blessing for Basotho, the activities of Reskol Mining Company proved otherwise, due to the accompanying dispossession, largely manifested in environmental challenges, lack of Corporate Social Responsibility, exhumation of the dead, and absence of economic empowerment, among others. Therefore, the dissertation examined Reskol's failures, which are often denied or concealed even by the government who always acted in collusion with the company. It is expected that the findings of this dissertation will bring about further research into accountability and transparency in natural resource management in Lesotho and other African countries.

DECLARATION

By submitting this dissertation, I Rorisang Ts'ele declare that the entirety of the work contained therein is a product of my research and that I have not previously in its entirety or part submitted it for obtaining any qualification. All referenced sources have been duly and appropriately acknowledged.

Signature and Date

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CERTIFICATION

I certify that this dissertation entitled "Reskol Diamond Mining (Pty) Ltd, Mining in Kolo, Lesotho: Development or Dispossession?" has been duly completed by Rorisang Ts'ele (201505209) of the Department of Historical Studies, Faculty of Humanities, National University of Lesotho, Roma.

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DEDICATION

This work is heartily dedicated to the memory of my beloved mother in Heaven.

LIST OF ABBREVIATIONS

ASM Artisanal and Small-Scale Mining

BNP Basotho National Party

CKGR Central Kalahari Game Reserve

CRS Corporate Social Responsibilities

CRS Corporate social responsibility

CRS Corporate social responsibility

EIA Environmental Impact Assessment

ESIA Environment Social Impact Assessment

ESMP Environment and Social Management Plan

FDI Foreign Direct Investment

GDP Gross Domestic Product

GENCOR General Mining Finance and Corporation

GMFC General Mining Financing and Corporation

GoL Government of Lesotho

GSR Gold Star Resource

IDPs Internally Displaced Persons

ILO International Labor Organization

KMDC Kolo Mineworkers Diamond Cooperative

LFS Labour Force Survey

LHDA Lesotho Highlands Development Authority

LHWP Lesotho Highlands Water Project

MMA Mines and Mineral Act

NEAP	National Environment Action Plan
NES	National Environment Secretariat
NGO	Non-Governmental Organizations
NUM	National Union of Mineworkers
PB	Project Brief
RAP	Resettlement Action Plan
RoD	Record of Decision
UNDP	United Nations Development Programme

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Chapter One: Introduction

1.1 Background to the Study

"Africa is a rich continent, because of the abundance of natural resources it contains; Africa is a poor continent because the vast number of its population remains in poverty."[1] Historically, the first diamonds in Lesotho were found by former miners from the Kimberly diamond mines. They applied their prior work experience to their understanding of the diamond pipes. The growth of artisanal mining in Lesotho and the discovery of diamonds in Kimberley are also closely related. The Basotho miners discovered "blue ground" upon their return from Kimberley, and they immediately began to excavate. Some claimed that women who were digging up coloured soil to render their homes made the first diamond discovery. The women discovered a precious stone in the soil which they showed to men who from their experience of mining in South Africa recognised that it was a diamond. Therefore, the aforementioned findings establish a connection between the diamond crisis, mining expertise gained in South Africa and the participation of women.[2]

Following the retrenchment of migrant labourers from mines in South Africa, more men became involved in unlicensed Artisanal and Small-Scale Mining (ASM). Most of the unlicensed artisanal miners were from the villages surrounding the mines and some were those who migrated from other arms of Lesotho such as Mokhotlong, Thaba-Tseka and Mohale's Hoek. Artisanal diamond miners and villages learnt mining skills through hands-on practice and informal transfer of knowledge by working with older and more skilled artisanal miners. They worked individually and used rudimentary tools and the mining method can be described as labour intensive. There were a few forms of collective digging that involved teams working

[1] Daniella Lindskog, "The Resource Curse on a Micro Level: A Case Study of Mining in Malawi," Bachelor's Thesis Bachelor of Science in Development Studies, (2015): 1.
[2] Ester Makhetha, "Small Scale Artisanal Diamond Mining and Rural Livelihood Diversification in Lesotho." Thesis, Department of Anthropology and Archaeology at the University of Pretoria, (2016):122.

along. In collective diggings, miners assisted each other in doing hard labour such as removing a big rock which could not be removed by an individual.[3]

In response to the tragedy of the woman who died in Kao in 1954 after falling in a pit while digging for diamonds, the government later passed legislation that turned the area into a commercial mining site. Some miners disagreed with this choice, which led to a dispute between them, commercial mining firms, and the state. The state granted General Mining Financing and Corporation (GMFC), a South African company the prospecting and mining rights over the entire nation in 1955. These powers were granted by Chief Mants'ebo Seeiso without seeking input from other Chiefs. The award received criticism from the public since it went against the law governing property tenure and was undemocratic. The individual diggers were no longer permitted to operate thus there was an uproar of dissatisfaction from the community as a result of this development.[4]

Kolo mine was discovered in 1991 in the Mafeteng District in Lesotho, 10 kilometres southern of Maseru the capital city. The mine was later named Reskol Diamond Mining Pty (ltd) and it's a subsidiary of a South African company called Batla Minerals. In 2011, the company obtained a 10-year mining lease to operate the Kolo Mine. The Government of Lesotho offered a lease to Reskol Diamond Mining whereby the company owns 90% of the shares and the remaining 10% is owned by the state. The lease includes the Kolo pipe, containing approximately 1.3 million tons of kimberlite and the Sekameng pipe.[5]

Kolo Diamond Mine Kolo mining site is an area of about 1.4 km2. The mineral rights in Kolo are held by Reskol Diamonds Mining (Pty) Ltd 2010/1393, which is a subsidiary of Batla

[3] Makhetha, "Small Scale Artisanal Diamond Mining and Rural Livelihood Diversification in Lesotho," 122-123
[4] Ts'epo Hlojeng, The Contribution of Letšeng Diamonds Mine Corporate Social Responsibility in the Mokhotlong District, Dissertation, in the Faculty of Economic and Management Science at the University of the Free State, (2020).
[5] Maluti Community Development Forum (MCDF) / Thabo Lerotholi, Large-Scale Diamond Mining in Lesotho: Unpacking its Impact on Adjacent Communities (2021).

Minerals. Only two shareholders were being; Cornelius Johannes Engelbrecht and Tsoakinye Mosebo. The mine had previously been prospected by the now-liquidated Angel Diamonds (Pty) Ltd 92/269. Ironically, both Cornelius Johannes Engelbrecht and Tsoakinye Mosebo were involved with Angel Diamonds during its time of prospecting the mine. The mining site is located in a residential area and the community of Ha Petlane in Mafeteng was faced with the prospect of being relocated to make way for extraction.[6]

The study intends, therefore, to examine how the Kolo community was affected by the establishment of the diamond mine, including displacement, the social, cultural and environmental implications of that displacement, and the agreement between the government and the mine in the first place. The study will also trace whether the community members benefited from the operations of the mine, in terms of employment focusing on development or dispossession.

1.2 Statement of the Problem

There is a debate about whether diamond mining is a source of economic development or a form of resource extraction that leads to the dispossession of local communities. The different stakeholders involved in the debate are the mining companies, the government and the local communities. Community lands have always served as a source of livelihood for many rural people. However, these livelihoods often appear to be threatened due to the presence of Mining companies who make use of the vast surface of farmlands in their extraction operations. With flexible policy regulations on land acquisitions, mining companies can take over farmlands for their activities with little effort, rendering many farmers landless.

[6] Lehlohonolo Chefa, Ownership of Mineral Rights in Lesotho, Policy Analysis and Research Institute of Lesotho (PARIL), Working Paper no.2, (2014): iii.

There are concerns that the extraction of these resources may not lead to sustainable development for the host country and may instead lead to the dispossession of local communities. The impact of mining cannot be underestimated; this situation is further deepened when mining sites are in remote areas that do not have any means of attracting attention such as in the case of the Kolo area. Despite the economic benefits of diamond mining, there is a lack of understanding of the extent to which it contributes to dispossession. It is for this reason that I focused on how the presence of Reskol Diamond Mine has been for the development or dispossession of the livelihood of the local people.

1.3 Aim and Objectives

This research aims to critically examine the impact of Reskol Diamond Mining on the local community in Kolo, Lesotho, and to explore the contradictions between economic development and social and environmental dispossession.

Objectives:

The objectives of this study are to evaluate the Reskol Diamond Mining project's environmental effects on the surrounding ecosystem and water resources; to look into the social effects on the livelihoods, culture, and social structures of local communities; to analyse the project's economic costs and benefits, including how they are divided among local communities, the government, and the mining company; to evaluate the effectiveness of the legal and regulatory frameworks governing mining in Lesotho in defending the rights and interests of local communities; and to investigate local communities' experiences and perceptions of the mining project and its effects on their lives.; By achieving these goals, the study hopes to contribute to a deeper understanding of the intricate connections between development, community well-being, and extractive industries as well as to the creation of more sustainable and successful methods of managing natural resources.

1.4 Research Questions

The intricate problems surrounding the Reskol Diamond Mining project in Kolo, Lesotho, as well as the wider ramifications for development, the environment, and community well-being, can be explored beginning with these study questions: How does the Reskol Diamond Mining project affect the local ecosystem, water resources, and soil quality in terms of the environment? To what extent do the legal and regulatory structures that oversee mining in Lesotho safeguard the rights, interests, and environment of the community? The intricate problems surrounding the Reskol Diamond Mining project in Kolo, Lesotho, as well as the wider ramifications for development, the environment, and community well-being, can be explored beginning with these study questions.

1.5 Scope and Limitations

The study focuses on the effects of the Reskol Diamond Mining project on the environment and local people in Kolo, Lesotho. The study examines the mining project's environmental, social, and economic aspects as well as how it would affect local ecosystems, livelihoods, and culture. The effectiveness of the legislative and regulatory frameworks controlling mining in Lesotho in defending the rights and interests of the community is examined in this study.

Because the study only looks at the Reskol Diamond Mining project as a case study, it might not be universally applicable to mining ventures in Lesotho or around the world. The study used a qualitative research methodology, which could not yield findings with statistical significance or generalizability. The study is constrained to the years 1991–2022, specifically. Understanding these constraints will help to ensure a thorough and insightful inquiry into the intricate problems surrounding the Reskol Diamond Mining project in Kolo, Lesotho.

1.6 Justification of the Study

The following rationale serves as the foundation for the investigation into Reskol Diamond Mining in Kolo: The study has relevance to the ongoing discussions over how extractive industries contribute to development, especially in Africa. This research adds significantly to the body of knowledge on the effects of diamond mining on local people in Lesotho, as there aren't many comprehensive studies in this area. The study sheds light on the intricate connections between the extractive industries and the well-being of communities by examining the conflicts that arise between economic progress and social and environmental expropriation.

Because diamond mining is a major contributor to Lesotho's economy, it is imperative to look at how the sector affects the region's communities. The study looks at how the mining project may affect people's rights to culture, a healthy environment, and a means of subsistence. This understanding will ultimately inform more sustainable and effective approaches to natural resource management.

1.7 Literature Review

Over the past years, mining has come to occupy a very important position in global economic activities. Prno notes that the history of mining has always been characterised by both negative and positive impacts related to environmental, social and economic aspects in the entire world.[7] In many developing nations, especially in rural Sub-Saharan Africa, mining is a significant economic activity. At its worst, mining has exacerbated conflicts in the majority of the communities affected by mining operations. Some communities have passed non-binding referendums against mineral development in response to recent concerns about potential conflicts between mining and other land uses.

[7] Jason Prno, "An analysis of Factors Leading to the Establishment of a Social Licence to Operate in the Mining Industry," *Resources Policy* 38, no. 4, (2013): 577-590.

Mensah and Okyere viewed mining as a dangerous activity with acute effects on the socio and environmental context within which it operates.[8] It sometimes leads to resettlements of communities. Bagar Daniel, Angko William and Tanyeh John Paul are of the argument that no matter the size of the enterprise, mining operations degrade the environment. Direct and indirect mining practices can have an impact on the environment on a local, regional, and global level.[9] Cernea also points to a plethora of social problems faced by those who are displaced such as marginalization, food insecurity, loss of access to common resources and public services, and social breakdown.[10]

Land purchases and acquisitions for mining are frequently the root of disputes between mining companies and local communities. Some issues related to voluntary resettlement may take years to manifest. Community members might, for instance, lack the knowledge required to maintain dwellings constructed from durable materials that replaced their traditional homes or they might not have adequate access to natural resources as Mwakwambirwa delineates.[11] For Basotho resettlement means loss of livelihoods, loss of agricultural produce and animals, and loss of produce in the form of fields and gardens and other agricultural inputs including fruit trees and forests, which had been good sources of firewood for time immemorial. However, the biggest areas of loss are land, livestock and herbs.

[8] Mensah Opoku Seth, and Asare Okyere Seth, "Mining, Environment and Community Conflicts: A Study of Company-Community Conflicts Over Gold Mining in the Obuasi Municipality of Ghana." *Journal of Sustainable Development Studies, Volume* 5, no. 1, (2014): 70.

[9] Daniel Bagar, Wiliam Angko and John Paul Tanyeh, "*Environmental Degradation and Small-Scale Mining Nexus: Emerging Trends and Challenges in Northern Ghana.*" Vol. 6, No.2 (2016): 38-40

[10] Michael Cernea, "Understanding and Preventing Impoverishment from Displacement-Reflections on the State of Knowledge," *Understanding Impoverishment: The Consequences of Development-Induced Displacement. Providence: Berhahn Books* (1996): 13-32. and Downing Theodore, *Avoiding New Poverty: Mining-induced Displacement and Resettlement*. Vol. 52 International Institute for Environment and Development (2002).

[11] Joria Sudi Mwakwambirwa, "Influence of Mining Related Factors on the Livelihoods of Resettled Communities in Kenya: The Case of Titanium Mining in Mswambweni Division, Kwale County, Kenya." A Research Project Submitted in Partial Fulfilment of the Requirements for the Award of a Master of Arts Degree in Project Planning and Management of University of Nairobi, (2015): 10.

In addition to being damaged by mining operations, agricultural lands are also being used less frequently due to a lack of space for farming. The impact on livelihoods is significant in this regard. In terms of livelihood, indigenous people's ancestral lands have been taken over by mining concessions. Some communities' cultural landscapes, such as mountainside burial grounds and hunting grounds, have been destroyed by deep open trenches.[12] This has not only been the case in Lesotho but in South Africa as well. In South Africa, Saccaggi and Esterhuysen noted that in 2008, graves were exhumed and relocated from Blinkwater to newly established graveyards in the area to make way for the dam. However, community members rose in protest displeased when they noticed that the number of coffins did not tally with the number of graves that they had identified and exhumed.[13] In Lesotho, Mohale Dam, Thabane provided an insightful overview of exhumed graves. The remains were exhumed and transferred to places where residents had chosen to resettle to make way for the dam. However, some relatives were unable to accurately point out and identify their relatives' graves but still leaving their graves behind was not an option regarding their beliefs such that the dead ones were going to rise against them.[14]

It is well known that natural resources belong to the people, and any profits attained from the extractive sector should benefit the people, not a company or any government official. Cernea emphasised that people's livelihood hinges on land and expropriation of land will decapitalise Internally Displaced Persons (IDPs). Through losing land, people lose both natural and man-made capital.[15] This has been what some communities went through and Lesotho is not an

[12] Mwakwambirwa, "Influence of Mining related factors on the livelihoods of resettled communities in Kenya: The Case of Titanium mining in Mswambweni division, Kwale County, Kenya," 10.
[13] Benjamine Saccaggi and Amanda Esterhuysen, *Sekuruwe Grave Relocation: A Lesson in Process and Practice, The South African Archaeological Bulletin,* vol, 69, no. 200, (2014): 3-4
[14] Motlatsi Thabane, Shifts from Old to New Social and Ecological Environments in the Lesotho Highlands Water Scheme; Relocating Residents of the Mohale Dam Area, *Journal of Southern African Studies, Special Issue: African Environments: Past and Present,* vol.26, no.4, (2000):.647.
[15] Michael Cernea, "Risks, Safeguards and Reconstruction: A model for Population Displacement and Resettlement." *Economic and Political Weekly*, 35(41), (2000): 3659- 3678.

exception, the land and territories they have long occupied and resources they have long relied upon are under increasing threat from the state and corporate forces. Lennox adds that in the EI Cerrejon coal mine in Colombia, many people have been displaced from their villages and land and water resources have been polluted while traditional foods are no longer accessible.[16]

As previously mentioned, the majority of mines are located in rural regions, usually in areas of formerly cleared forest or where people use land for agriculture and sustenance. Verheye argues that although the industry generally agrees that there shouldn't be anything stopping the opening of any mine with good technology and managerial skills, it is important to make clear that in even the most advanced living conditions, soil or land will always remain the medium that satisfies the basic human needs for both food and shelter.[17] Thabane is of the same argument as Verheye that these extremely wonderful projects such as dams have impoverished a handful of Basotho despite the positive feedback loops it has in store for them. This is so because even today most people affected and displaced from their aboriginal communities' lives have declined showing that concentration is given to investors, obtain much priority than the fate of impacted communities. This brings them untold stress with little compensation they receive besides one's love for his or her home can never be replaced by any amount of compensation.[18] Mwakesi et. As argued in favour of this project. In their argument, mining operations, whether on a large or local size, may have an impact on people's quality of life since they provide jobs for those who reside nearby where minerals are being mined. It acts as a stimulant of growth given that it raises per capita earnings through producing employment,

[16] Corinne Lennox, Natural Resources Development and the Rights of Minorities and Indigenous Peoples, State of the World's Minorities and Indigenous Peoples, (2012): 12.
[17] Willy Verheye, Land use Planning and National Soils Policies, Agricultural Systems 53, (1997): 161–174.
[18] Lenka Thamae, The Irony of Development Communities Impacted by the Lesotho Highlands Water Project, Survivors of Lesotho Dams (SOLD), Let Justice Flow Like Water, (2020):.5.

which improves people's standard of living. By generating income, for instance, through the expansion of infrastructure, the nation's economy strengthened.[19]

It is important to note that the effects of mining are disproportionately dispersed across the various actors in the mining sector equally worldwide and locally, regardless of where one chooses to focus his or her attention on those consequences.[20] It is contended by Richard that loss of rights and access to useful land are the main effects. He argues that investors typically live on productive land that has previously been used to raise a variety of food and income crops. They look for land that is fertile and has access to water. In other instances, the land would be forested or wooded; as a result, for the community, losing access to such land frequently had an impact on the loss of income. In the majority of other situations, food and cash crops were the significant losses. Even pastoralists, when their grazing paths were closed, they lost their traditional rights.[21] Land-use changes that come from mine exploration, building, operation and maintenance may have adverse effects on the ecosystem. Through deforestation, erosion, pollution, and changes to soil profiles, Haddaway et. al, maintained that mining can hurt the environment. Additionally, pollution of nearby streams and wetlands as well as an increase in noise, dust, and pollutants can result from mining. Even though mining can directly harm the environment, when done effectively and ethically, there are positive benefits that can be linked to mining both directly and indirectly.[22]

[19] Irene Mwakesi, Raphael Wahome and Daniel Ichang'i, ''Mining Impacts on Society: A Case Study of Taita Taveta County, Kenya'', *Journal of Environmental Protection,* 11, (2020): 986-997.
[20] Colin Filer and Martha Macintyre, "Grassroots and Deep Holes: Community Responses to Mining in Melanesia," *The Contemporary Pacific* 18, no. 2, (2006): 215-231.
[21] Michael Richard, Social and Environmental Impacts of Agricultural Large-Scale Land Acquisitions in Africa—With a Focus on West and Central Africa, Rights and Resources Initiative, (2013):17-19.
[22] Neal Haddaway, Cooke Steven Lesser Pamela, Macura Biljana, Annika Nilsson, Jessica Taylor, and Kaisa Raito, "Evidence of the Impacts of Metal Mining and the Effectiveness of Mining Mitigation Measures on Social–Ecological Systems in Arctic and Boreal Regions: A Systematic Map Protocol," *Environmental Evidence* 8, no. 1, (2019):1.

Different components of the ecosystem are impacted by mining. Darko explains that the ecology is severely harmed by radioactive emissions from uranium mining. One of the chief contributors to water pollution, sickness, and economic issues in the countries involved is the extensive water use by mining industries and the release of industrial waste into water sources. The diminishing of forests and other forms of environmental impingement have profound impacts on the economies of the nations concerned particularly on agriculture which is occasionally the chief branch of their economy. That means; now having a new root cause which has become poverty as pollution. On an international basis, it is possible to say that mining companies have caused pollution. Due to a high incidence of (dust pollution, and water pollution), mining has seriously harmed the health of both mine workers and the surrounding people.[23]

After mines have been closed forever pits remain permanently etched into the landscape which if abandoned would create artificial lakes in different places. On-site mining processes cause loss of habitat for animals due to various structures such as mine pits or shafts, side-stone piles or dumps, earthworks for excavation purposes, waste rock piles or dumps, landfills such as roads, water, and electricity lines cause direct destruction of habitats and displacement of fauna. Mononen points out that the expansive areas taken up by mines can result in deforestation, loss of vegetation, soil profile changes, and erosion. These shifts cause a general decrease in biodiversity within the host place. The processes of construction and mining intensify traffic movement creating heavy noise pollution and dust. Noise and land vibration, for example, caused by controlled detonations or aerial exploration, can negatively impact animals' territorial and reproductive behaviour. Dust and other gases can also impact the air quality

[23] Faustina Darko, "Assessing Compensation Packages and the Sustainability of Farmers Livelihood in the Ntotroso Mining Community (Central Ghana)," A Research Project Submitted in to the Wageningen University and Research (WUR), in Partial fulfilment of the Requirements for the Award of a Master Degree in International Development, (2017): 9.

locally, for example during the construction and operational stages. [24]Another factor destroying biodiversity is the quick deforestation and loss of vegetation cover brought on by mining operations.[25]

The most significant issue often overlooked by mine management is the actual cultural impact operations have on Aboriginal and Indigenous people. The two groups frequently belong to the poorest swaths of the populace and are active in regional economic pursuits including small-scale fishing, forestry, and agriculture. Hilson elaborates that groups are especially vulnerable to the negative effects of development because they often live in tiny, simple communities that are mostly insulated from global culture, making it imperative that significant cultural resources are preserved with the utmost care.[26] This is evident in Lesotho where about five mines are located in the rural areas. The choice to relocate to approved resettlement places is driven by the goal of minimizing disturbance to community members' lives by selecting locations where the ecosystem is not significantly different from that of their home.

People who are uprooted from their traditional homes suffer a great deal of anguish. People are forced to abandon their traditional homes and land, which is their primary source of sustenance, due to the forced acquisition of property for the construction of dams and highways, quarrying and mining operations, industries, and the preservation of forests for National Parks and environmental protection. Dalton-Greyling and Greyling emphasised that when a community is uprooted, the pre-existing social structures are torn apart. It shatters families and communities, and it destroys patterns of social organization. Local volunteer organizations, self-organized services, and informal networks of mutual aid are all disturbed. In addition to

[24] Tuija Mononen, Sonja Kivinen and Juha Kotilainen, Social and Environmental Impacts of Mining Activities in the EU, Policy Department for Citizens' Rights and Constitutional Affairs Directorate-General for Internal Policies PE 729.156 – May, (2022): 16, 17, 20

[25] Qiming Zhou, Baolin Li and Yumin Chen, *Remore Sensing Change Detection and Process Analysis of Long-Term Land Use Change and Human Impacts. Ambio,* 40(6), (2012): 807–818.

[26] Gavin Hilson, "An Overview of Land Use Conflicts in Mining Communities." *Land Use Policy* 19, no. 1, (2002):68.

the loss of natural, physical, and human capital, there has also been a net loss of significant social capital.[27] Mwakwambirwa opined that in India as a whole, development initiatives have caused the displacement of close to 50–60 million people, at least 40% of whom are tribal. Cash payments do not adequately compensate tribal members for the challenges to their way of life and ethos.[28]

In addition to the loss of natural, physical, and human capital the availability of food also diminished. Whereas villagers were previously able to cultivate their land, they had to depend on the company to supply them with food. Promises that they would be given equivalent land for cultivation elsewhere appear to have been also. Steinweg and Romgens assert that farming was not possible because of the dry land and the small plots which were too small to allow cultivation this was coupled with reduced access to water. Communities were dependent on water from trucks provided by the company, which was also inadequate for their consumption and sanitation needs as well. The toilets provided by the company also were of no significance since they were dysfunctional the lack of water.[29]

Besides the effects that host countries suffer from, there are effects faced by those who work in mines. Miners contract even long-term diseases such as lung diseases, and in most cases, some of them do not live long or spend the rest of their lives uncured for and abandoned by their employers. The AIDS and Rights Alliance for Southern Africa found that the mining industry has historically been linked to an abnormally high prevalence of certain lung diseases, just like in South Africa. The high prevalence of silicosis brought on by extended contact with

[27] Talita Dalton-Greyling and Lorraine Greyling, "The Effects of Displacement on the Economic Development of a Community with Special Reference to the! Xun and the Kwe." University of Johannesburg, South Africa, (2007): 4.
[28] Mwakwambirwa, "Influence of Mining related factors on the livelihoods of resettled communities in Kenya: The Case of Titanium mining in Mswambweni division, Kwale County, Kenya," 11.
[29] Tim Steinweg and Indira Romgens, "African Minerals in Sierra Leone How a Controversial Iron ore Company went Bankrupt and What that Means for Local Communities," Stichting Onderzoek Multinationale Ondernemingen (SOMO) Centre for Research on Multinational Corporations First edition April, (2015): 26-27.

silica dust in my shafts contributes to the particularly high TB rates. The risk of tuberculosis (TB) among mine workers is further increased by high rates of HIV infection and cramped, damp, poorly ventilated living and working environments.[30]

The working conditions in mines are so precarious that such deaths fast becoming a norm rather than accidents. The working conditions reduce the miners to walking zombies within four to five years. Salim accentuated that if a worker escapes death in a mine accident, he ends up losing his limbs and is forced to live on charity. If he is lucky to evade accidents, the dust contaminated with noxious elements that he inhales takes its toll. Having given five or six best years of his life, he contracts asthma, Tuberculosis (TB), or some other such diseases. Starting with a recurrent headache, he loses his eyesight.[31]

The issue of mining relocation and resettlement affects all continents globally. India, China, and numerous African nations are among those having very extensive mining relocation.[32] The mining sector is typically interconnected to choices that have significant societal repercussions. Thousands of people being forced to leave their existing homes are one of mining's most unfavourable repercussions today as researched by Downing.[33] Somayaji, and Talwar state that as the global environment has been very visible, especially within the sphere of mining activities, residents are demanding recognition of their rights, entitlements, and their livelihood.[34] Mensah and Okyere observed that there are indeed tensions, conflicts, or disputes regarding the risks, influences, and distribution of benefits that are experienced by different

[30] AIDS and Rights Alliance for Southern Africa, The Mining Sector, Tuberculosis and Migrant Labour in Southern Africa Policy and Programmatic Interventions for the Cross Border Control of Tuberculosis between Lesotho and South Africa, Focusing on Miners, Ex-Miners and Their Families, (2008): 2.
[31] Ahmad Salim, Mine Workers: Working and Living Conditions, Working Paper Series # 62 (2001): 7.
[32] Theodoro Downing, Avoiding New Poverty: Mining-Induced Displacement and Resettlement, IIED and WBCSD, *Research Paper* No. 58, (2002): 3
[33] Sekarama Somayaji and Smrith Talwar (eds.) *Development-induced Displacement, Rehabilitation and Resettlement in India* (Londone and New York: Routledge, 2011): 94.
[34] Mensah Opoku Seth and Asare Okyere Seth, Mining, Environment and Community Conflicts: A Study of Company-Community Conflicts over Gold Mining in the Obuasi Municipality of Ghana, *Journal of Sustainable Development Studies*, Volume 5, Number 1, (2014): 70.

countries. In line with the aforementioned mining issues Sierra Leone, India, Ghana, Malawi, Botswana, and Lesotho will be reviewed with their experiences with mining projects.

Since Sierra Leone was a country with a massive diamond reserve, the competition for seizing control of lucrative diamond-producing regions has been widely regarded as the main cause of the conflict as observed by Jang. Because the majority of diamond mines and mining permits were granted to the governing families and staunch allies of the ruling regimes, the unequal benefits of diamond extraction were increased. Thus, the populace that was left out of the benefits-seeking process became increasingly frustrated as a result of the economic imbalance. Even worse, the government of Sierra Leone was unable to adequately collect taxes from the diamond industry. Because of the Government Diamond Office's (GDO) low purchase price, which encouraged smuggling, the tax revenues required to strengthen the civil sectors, including the armed forces, were not increased.[35]

Ferengbeya, Wondugu, and Foria villages were forcibly displaced in their entirety by the government, acting through the Paramount Chief for large-scale extraction of iron ore to take place on their land in 2011.[36] There are hundreds of families spread over the three relocated settlements. It was established that the relocation was among African Minerals' operations in the Tonkolili district's worst features. Steinweg and Römgens state that many residents of the neighbourhood expressed their displeasure with the consultation process, claiming they had no say in the matter and were powerless to stop being evicted from their homes. Even the supreme chief, who was the company's primary contact during these talks, did not always speak for the locals. Local livelihoods have been harmed in various ways, because of these inadequacies in the consultation process. Community members received less money than was first promised.

[35] Si Young Jang, "The Causes of the Sierra Leonne Civil War." E-International Relations, (2012): 3.
[36] Jessica Jones, "A study of Women's Agency and Mining-induced Displacement and Resettlement in Sierra Leone." A thesis submitted for the degree of Doctor of Philosophy to the University of East Anglia School of International Development, (2019): 30.

Community members from Ferengbeya's relocated villages, for instance, got one-time reimbursements for their crops and the disruption caused by the relocation. They were so poorly compensated, and we were unable to bargain. Other villages' residents also complained about inadequate remuneration and forced relocations.[37]

In Ghana, over 30,000 people were uprooted for gold mining operations in the Tarkwa region between 1990 and 1998. Although mining companies frequently implemented resettlement plans, there were a few occasions where the resettlement homes did not fit the household sizes. There were several situations where no compensation was provided. Adeola estimated that about 45 individuals were forcibly removed from the Nkwantakrom community in 1997 to make room for the Ghanaian Australian Goldfields Mining Project (GAGMP) without enough notice or compensation. GAGMP claimed in a case brought before the Tarkwa High Court that the Nkwantakrom community did not exist before they acquired the mining concession, inferring that its people were not only infringers but also had settled on the land for receiving compensation.[38]

In Malawi, relocation and displacement caused several social and economic upheavals among residents who live close to mining operations. Social disruptions are said to include host-community animosity, in which resettled communities experience marginalization or rejection as a result of being 'outsiders' in their new location. Lindskog is of the argument that there are frequent variations in community kinship systems. He explained that when patrilineal and matrilineal populations coexist, for instance, social disturbances may result from relocation. Single women are the most vulnerable to economic shocks because they typically depend on their husbands' families for labour assistance. Additionally, the general loss of revenue

[37] Steinweg and Römgens, African Minerals in Sierra Leone How a controversial iron ore company went bankrupt and what that means for local communities, 26.
[38] Romola Adeola "The Responsibility of Businesses to Prevent Development-induced Displacement in Africa," *17 African Human Rights Law Journal,* (2017): 247.

experienced by resettled communities results in a rise in the number of kids dropping out of school.[39]

It appears that mining companies have made promises to gain the initial social license to operate, however, they have failed to deliver on these promises of development. Lindskog further argues that the community members were let down during the compensation process for their land. Compensation was described to be insufficient, as many were paid a random price at the discretion of the evaluator rather than from a set formula or policy. Corruption between mining investors and local authorities, such as Karonga chiefs, has also grown as mining activity in Karonga has increased. Mining firms have historically paid off local authorities, who are also employed by the government of Malawi, to put an end to community members' complaints and maintain the status quo.[40]

Even though diamond mining has boosted Botswana's economy, there have been worries regarding the effects on indigenous populations and the displacement of those groups. In Botswana, concerns relating to resettlement are particularly linked to the rights of indigenous people, cultural preservation, and environmental protection. Jonathan highlights that the forceful removal of two indigenous San populations (the Gana and Gwi tribes) from the Central Kalahari Game Reserve is the most well-known instance of displacement. Indigenous peoples' rights, water rights, and land rights were all violated as a result of this action. Since the middle of the 1990s, Botswana has also been the focus of legal disputes.[41]

The protection of the environment and mining are the driving forces for the displacement of indigenous peoples. All of the Bushmen were driven out in 1997, 2002, and 2005. The people were threatened, their homes were demolished, their schools and health clinics were shut down,

[39] Lindskog, "The Resource Curse on a Micro Level: A Case Study of Mining in Malawi," 15.
[40] Lindskog, "The Resource Curse on a Micro Level: A Case Study of Mining in Malawi,"16-17
[41] Jonathan Woof, "Indigeneity and Development in Botswana: The Case of the San in the Central Kalahari Game Reserve," (2014): 1-63.

their water supply was ruined, and they were trucked away. Terminski adds that the Central Kalahari Game Reserve (CKGR) was home to hundreds of San people when the Botswana government decided to relocate them. Due to the discovery of diamond deposits in 2004, the government decided to relocate the reserve's upcoming several hundred occupants. 250 San people who lived there protested this choice. In 2009, a Botswana government official acknowledged that the Central Kalahari Game Reserve's Bushmen population had been forcibly removed from their homes so that diamond mining could take place on their land.[42]

Residents are generally denied access to lands they had previously farmed or utilized for various activities once mining investors gain the necessary licensing, acquire ownership, and occupy the land. Caramento emphasized that displaced communities' resettlement is frequently haphazard and dependent on mining investors, who frequently don't have plans for their relocation or don't offer enough compensation. Failure to adequately relocate these people and offer them fair compensation may lead to social unrest, violence, food shortages, and destitution, all of which have a severe impact on health outcomes.[43]

Concerning Lesotho, several communities were resettled to make way for big projects. These resettlements caused a decline in the quality of the lives of members of the affected communities. In the case of the Mohale dam, Thabane holds that about 95 households of Ha Tsapane, Maetsisa, Ha Ralifate and Mamokoluoa lost everything and were left only with their movable properties. Their area was inundated together with fields, grazing land, graveyards and communal resources. In his view Members of these communities went through fears, anxieties, insecurities and stresses that gripped them as they relocated to new areas, as well as

[42] Bogumil Terminski, Mining-induced Displacement and Resettlement: Social Problem and Human Rights Issue. (a global perspective) (2012):23-24.
[43] Alex Caramento, Trends in Extraction of Mineral Resources in East and Southern Africa, for the Regional Network for Equity in Health in East and Southern Africa (EQUINET), Extractives, Climate and Health Equity 1, May, (2020): 10.

the material and spiritual losses they had to endure to make way for a dam's construction and the absurdity of the government's attempts to make up for it.[44]

Some of the displaced populations were fortunate enough to be resettled on fertile fields, enabling them to continue with their agricultural practices. Sekamane is of the same view as Thabane that, however, inadequate compensation was one of the greatest failures of the resettled population. Noteworthy is that the host community was accommodating to the resettled population although integrating in a new space was another challenge for both the parents and children, especially the children who had to adapt to the new schooling environment.[45]

In both Kao and Liqhobong, the loss of land has caused households to diversify their sources of income. In the case of Kao village, some of the fields were taken over by a commercial diamond mine in 2004 after discussions with the fields' owners and the government. Makhetha indicates that in Liqhobong village, about 24 houses were scheduled to be relocated as the commercial diamond mine was anticipated to expand over time due to the mine's expanding concession area. As a result, 2 of the 24 households were to be moved to the lowlands in the Leribe district in the Sebothoane and Ts'ifalimali villages, and 22 of the 24 were to be relocated to the further end of the same village of Liqhobong. Some of the elderly from Liqhobong chose to stay put rather than be relocated during the process of dispersal and relocation. She adds that villagers lost their social connections to their existing neighbours, and their way of life was also negatively impacted. As artisanal diamond mining is not practised in Leribe, the homes that were uprooted and relocated to the lowlands were no longer engaged in the practice. As a

[44] Motlatsi Thabane, Shifts from Old to New Social and Ecological Environments in the Lesotho Highlands Water Scheme; Relocating Residents of the Mohale Dam Area, *Journal of Southern African Studies, Special Issue: African Environments: Past and Present,* Vol. 26, No.4 (2000): 633-635.
[45] Thabang Sekamane, Willem Nel, Tracy McKay, Henry Bikwibili Tantoh, Community Perceptions of the Social Impacts of the Metolong Dam and Reservoir in Lesotho, Land Use Policy 125, (2023): 2.

result, the households that were uprooted and relocated had to find alternative sources of income.[46] In the past, a lot of mining companies would offer land in exchange for monetary recompense and social support. However, due to long-standing connections to the environment, monetary compensation rarely makes up for land loss.

When a large mine is created, nearby communities can get compensation and significant amounts of revenue, which can serve as a vital engine for development and growth. Mining consumes a significant quantity of land, which could be used for farming, a wildlife habitat, water resources, or other environmentally or socially beneficial uses.[47] Kidido explains that the underlying idea behind compensation is to prevent anyone who has their land removed from them from becoming better off or worse off as a result of losing their land.[48] Amanor is of the same explanation that since the colonial era, when lands taken from the southern region of the Gold Coast were compensated for, payments have been made to those whose land has been seized.[49] Compensation packages people receive are inadequate and not consistent with the value of the losses they suffer. For farmers, the one-off compensation they receive is far less than the continuous production their farmlands would have fetched them had their farms not been destroyed.[50]

There seems to be discontent with the magnitude of the compensation packages given to farmers by major companies. The compensation packages given to farmers by Gold Star Resource (GSR) Limited in the Prestea mining region for instance were very unsatisfactory as

[46] Makhetha, "Small Scale Artisanal Diamond Mining and Rural Livelihood Diversification in Lesotho," 113.
[47] Deanna Kemp, "Mining and Community Development: Problems and Possibilities of Local-level Practice." *Community Development Journal*, Vol. 45, No. 2, (2010): 212.
[48] Joseph Kidido, Jonathan Ayitey, Elias Kuusaana, and Emmanuel Gavu, Who is the Rightful Recipient of Mining Compensation for Land Use Deprivation in Ghana? Resources Policy, 43, (2015): 19-27.
[49] Janine Ubink and Kojo Amanor (eds) *Contesting Land and Custom in Ghana* (Ghana: Leiden University Press, 2008): 55-80.
[50] Daniel Kwabena Twerefou and Emmanuel Ayine Ayimpusah, *The Quest for Fairness: An Empirical Examination of the Determinants of Compensation Satisfaction in Ghanaian Mining Communities*, Volume 39-3, (2021): 3-4.

opined by Darko. He further adds that the introduction of compensation plans has only made local farmers poorer and therefore the negotiation criteria and the size of pay packages should be changed in light of this.[51]

The land is needed for mines to function, and the nearby indigenous inhabitants also rely heavily on the land for their survival. In the process, it may discourage those living in rural areas from engaging in subsistence activities. Hilson states that due to the recent rise in Foreign Direct Investment (FDI) in Ghana, communities with a high risk of conflict and mines are now competing for land more fiercely. Compensation for private land rights and communal resources is a significant contributor to these land use issues. Mines play a crucial part in compensation-related conflicts since they are a major cause of the expropriation of landowners across Africa.[52]

The management of the mine must also make sure that the affected communities receive the proper compensation and support as viewed by Andrew.[53] In the same view, Hilson also adds that management must devote time and resources to enhancing the socioeconomic quality of life in communities by adjusting compensation to meet local requirements, even though no one economic and benefits package will fully make up for lost land. Several mining firms have failed to keep their pledges, have underpaid communities, or have failed to take responsibility for unforeseen incidents in recent years.[54] This is relevant to several cases in Lesotho, where affected communities claim that the mining companies which are in most cases from other countries do not live up to their promises of carrying out development activities. There are no tarred roads or supply of electricity and youths from the same communities are not given work

[51] Darko, "Assessing Compensation Packages and the Sustainability of Farmers Livelihood in the Ntotroso Mining Community (Central Ghana)," 13.
[52] Hilson, "An Overview of Land Use Conflicts in Mining Communities," 65-73.
[53] Andrew Scott, "Potential Application of Mediation to Land Use Conflicts in Small-Scale Mining," *Journal of Cleaner Production* 11, no. 2, (2003): 117-130.
[54] Hilson, "An Overview of Land Use Conflicts in Mining Communities," 71.

opportunities as they hoped they would be the first to be offered jobs and this results in their departure to indulge in illegal activities.

Although the filing of claims and payment of compensations are based on legality, the interpretation of fair and adequate packages in the various legal provisions on land acquisition has given rise to uncertainty and complexity. Kidido adds that uncertainty and complexity, have reduced the compensation processes to negotiations between interested parties, impacted parties, and mining companies. Additionally, mining companies have profited from this lack of legal protection by refusing to compensate landowners.[55]

Unfair compensation can reduce land tenure security, increase tensions between the government and citizens, and reduce public confidence in the rule of law. The monetary compensation, even when it is considered 'just' is never enough. No compensation can equate the subjective value of the property to the displaced person. Akrofi and Whittal highlight that where compulsory acquisition must be used, legislation should outline the basis of compensation, and guarantee the procedural rights of people who are adversely affected. Affected persons should also have the right to notice, the right to be heard, and the right to appeal. They also, advocate fair and transparent procedures and equivalent compensation. That is, people should not be worse off than before the acquisition and compensation. Both de facto and de jure rights must be compensated equitably using the principle of equivalence. Where occupants have no legal land rights, they may be entitled to resettlement assistance and compensation for assets other than land. However, from an African worldview, these efforts at compensation ring hollow in that they fail to acknowledge the social value of land and the land

[55] Kidido, Ayitey, Kuusaana and Gavu, "Who is the Rightful Recipient of Mining Compensation for Land Use Deprivation in Ghana?" 19-27.

tenure afforded through extra-legal land rights.[56] In most cases, insufficient compensation has led to serious conflicts in most countries including Lesotho.

Conflicts related to mining include disputes between mining corporations and various parties who are impacted by mining operations. The majority of mining disputes involve nearby communities and mining companies. These issues are frequently difficult to settle in mutually beneficial ways. Mining conflicts frequently have distinct underlying causes than their major causes, which necessitates a thorough investigation. It has been illustrated by Oh et.al, that mining operations frequently result in a variety of socioeconomic issues, including detrimental effects on agricultural livelihoods, social cohesion, historical and cultural beliefs, and asymmetric distributions of mineral revenues and risks, in addition to environmental issues such as the destruction of wildlife habitats and the contamination of water and land resources. Communities seldom ever gain from mining activities since mining firms often absorb the majority of the economic gains from their operations.[57] However, the social and environmental consequences of mining are bitterly ripped by the host communities and the effects of damage can continue even years after the mine has shut down.

1.8 Research Methodology

This research adopts a qualitative research design. Qualitative research design is more appropriate to this study because it will help me as a researcher to interact with documentary sources understand them in detail and help me to conduct interviews and hear life histories qualitatively. This research will rely mainly on primary evidence with archival data obtained from the National Archives from the State Library. The archival data will be useful for

[56] Emmanuel Offei Akrofi and Jennifer Whittal, "Compulsory Acquisition and Urban Land Delivery in Customary Areas in Ghana." *South African Journal of Geomatics*, Vol. 2, No. 4, (2013): 286.
[57] Chang Hoon Oh, Jiyoung Shin and Shuna Shu Ho, "Conflicts Between Mining Companies and Communities: Institutional Environments and Conflict Resolution Approaches," *Business Ethics, the Environment & Responsibility* 32, no. 2, (2023): 638-639.

understanding the official policies, government correspondences, and Ministry of Mining documents. Documents from Kolo will also help me to understand the operational policies of the mines.

Data collection will be done with notebooks. One will be utilized for observations and interviews, while the other will be used to revise the notes after the completion of interviews. The revised notes contain some analysis of the day's events and are better structured and clearer. Data from informants will be recorded during interviews and other sessions using a digital recorder and a camera. The informants will be consulted when using the devices. Other informants may not want their voices to be recorded or captured in my interviews. However, I am also aware that these documents may not be able to give me the voice or opinions of the communities affected by Kolo Diamond Mining. Therefore, to cater for this, I will conduct oral interviews with ordinary community members, I will do interviews with chiefs, government stakeholders and intervened Non-Governmental Organizations to understand the socio-cultural impacts that have been associated with mining activities. Interviews will also be held with ordinary community members of different ages to cater for various time frames.

Chapter Two: History of Mining Regulations and Diamond Mining

2. 1 Mining Regulations and Diamond Mining

Diamonds have been valued since antiquity, but only since the late 19th century have, they become an important element of the world economy.[1] The native Lesotho people were already aware that diamonds existed in the early 1930s. According to Thabane, the local community's claim that there were places in the nation where diamonds could be found was long disregarded by the colonial authority and qualified scientists. A woman at Kao died in 1954 when she was struck by falling debris when she was searching for diamonds. The colonial authority did not recognize the existence of diamonds until after their occurrence. According to Makhetha, the ASM for diamonds in Kao came to an end with the passing of this woman. Following that, Kao became a battleground for independent miners and commercial mining companies, with the state typically siding with the latter. The government didn't come up with a documented policy on how Lesotho's diamonds should be mined and that took almost ten years. The Lesotho parliament also passed the Mining Rights Act of 1967 about mining and minerals. The Mines and Minerals Act of 2005, which is still in effect, abolished the Mining Rights Act of 1967.[2]

The granting of mining rights was done in 1955 by the Paramount Chieftainess 'Mants'ebo Seeiso who was convinced by the colonial government to allow the government to grant an exclusive prospecting and mining right to a South African company, the General Mining Finance and Corporation (GENCOR) for five years. The opinions of the community members were not sought before the mining rights were granted. Makhetha claims that because Chieftainess "Mants'ebo Seeiso's" decision to give mining rights to a South African

[1] Bram Janse, Global Rough Diamond, Production Since 1870, *Gems & Gemology*, (2007): 99.
[2] Ester Makhetha, "Small scale Artisanal Diamond Mining and Rural Livelihood Diversification in Lesotho," A Thesis Submitted in Fulfillment of the Requirements for the Degree in the Department of Anthropology and Archaeology at the University of Pretoria, (2016): 144.

corporation violated the customary land tenure system, the local population fiercely rejected it.[3]

Individual diggers were prohibited access to the diamond riches by the colonial administration as soon as GENCOR started diamond exploration in 1955. In the meantime, Gencor discovered other exploration sites such as Lets'eng, Liqhobong, and Kolo. The Lets'eng kimberlite was officially discovered in 1957 and Gencor was granted a second prospecting agreement in 1961. In 1966, the then-leading government party, the Basotho National Party (BNP) enacted the Mining Rights Act 43 of 1967. The purpose of the legislation was to regulate the allocation of rights to prospecting and mining, the issuing of mining leases and licences, and the granting of dealers' licences. According to the preamble of the Mining Rights Act, the absence of a formal general mining policy that would have directed the growth of the mining industry is what gave rise to this legislation.[4] Mining and mineral rights in Lesotho are regulated by the constitution the pieces of legislation being: the Mines and Mineral Act of 2005, the Precious Stones Order of 1970, the Land Act of 2010, and the Kimberley Process Certification Regulation. The Land Act of 2010 introduced the possibility of land ownership by foreign companies. Before this 2010 Act, no foreigner or foreign company had the right to own land in Lesotho.[5]

2.2.1 The Explosives Proclamation Act 41 of 1958

The Explosives Proclamation Act of 1958 goes back to the early 20th century when the British colonial government began to introduce legislation to regulate the use of explosives in Lesotho. At the time, Lesotho was heavily dependent on agriculture and animal husbandry and the use

[3] Makhetha ''Small scale Artisanal Diamond Mining and Rural Livelihood Diversification in Lesotho," 144.
[4] Makhetha "Small scale Artisanal Diamond Mining and Rural Livelihood Diversification in Lesotho," 39-40.
[5] Makhetha "Small scale Artisanal Diamond Mining and Rural Livelihood Diversification in Lesotho," 149.

of explosives for hunting, farming, and quarrying was becoming increasingly common.[6] In response, the British colonial government introduced the Explosives Proclamation Act of 1958.

The Explosives Proclamation of 1958 did lead to some development in Lesotho such as improved safety standards and increased efficiency in mining and quarrying. On the other hand, the act has led to the dispossession of Basotho people who were often forced to move from their traditional lands to make way for mining operations. The act allowed mining companies to operate with little to no oversight and that did not do enough to protect the rights of local communities. The act failed also to provide adequate compensation for people who were displaced by mining operations. It is also criticized for its lack of transparency and accountability in the argument that the government of Lesotho was not doing enough to ensure that the benefits of mining were shared fairly. It's been argued also by Mahlo that, the Explosives Proclamation of 1958 and its Regulations do not properly address the transportation, storage, and usage nor the technological advances in explosives development.[7]

2.2.2 The Mining Rights Act, 43 of 1967

The Mining Rights Act 43 of 1967 was implemented by the BNP-led government following Lesotho's independence in 1966. The main objective of this law was to oversee the distribution of rights for mineral exploration and extraction, the issuance of mining leases and licenses, as well as the authorization of dealer's licenses. This legislation transferred mineral and land rights to the Basotho people. The Mining Rights Act, 43 of 1967 in Lesotho authorized mining leases for individuals residing on land abundant in minerals, under the condition that the land had no existing title for those specific minerals.[8] The 1967 Act provided that a diamond dealer's

[6] Pendo Maro, *Environmental Change in Lesotho: An analysis of the Causes and Consequences of Land-use Change in the Lowland Region*. Springer Science & Business Media, (2011)
[7] Rorisang David Mahlo, "The Lesotho's Explosives Code Needs to be Strengthened," Press Release, Ministry of Mining, 1st November 2017.
[8] Mining Rights Act, ACT 43 of 1967 and The Laws of Lesotho, The Acts of Parliament and Notices Made Thereunder During the Year 1967, Volume X111

licence could be granted for one year and could be renewed on the 31st of December of the year it was issued. The legislation addressed the safeguarding of the diamond zone. Individuals involved in the diamond trade and others were not allowed to access Diamond Protection Areas without a valid permit to excavate in those locations.

The Mining Rights Acts, Act 43 of 1967 provides the legal framework for mineral rights and mining operations in Lesotho. It establishes the rights and responsibilities of mining companies and it also sets out the process for obtaining a mining license. This Act has been amended several times since it was originally passed in 1967. Before this Act was passed, mineral rights were governed by the Mineral Rights Act of 1885. Under the Mineral Rights Act of 1985, the colonial government had complete control over all the mineral resources in Lesotho. The Act gave the government the power to issue mining licenses and permits and it allowed the government to expropriate land for mining purposes. The act set out very low royalties for mining companies and it did not require companies to consult with local communities or rather to take environmental impacts into account. This approach to mineral resources management had a big impact on Basotho and this is the reason why the Mining Rights Act of 1967 was passed.[9]

This Act was passed during the colonial period and it gave the colonial government control over all mineral resources in Lesotho. However, the Mining Rights Act of 1967 was passed after Lesotho gained independence from Britain in 1966. The new Act was designed to give the government of Lesotho more control over its mineral resources.[10] In 1970, the Mining Rights Act of 1967 was amended to increase the royalties paid to the government of Lesotho. The royalties paid by mining companies are a significant source of revenue for the government

[9] Mining Rights Act, volume 39, issue 37, October 20, 1967.
[10] Thabang Mats'ela, "Transparency Regulation in the Diamond Mining Sector in Lesotho: Lessons from South Africa," Dissertation Submitted in Partial Fulfillment of the Requirements for the Degree Magister Legum in Environmental Law and Governance at the North-West University, (2019).

and they have been used to fund infrastructure projects and social programs. The Act has been amended to regulate the environmental impacts of mining operations as well as ensure that mining companies are adhering to health and safety standards. The Mining Rights Act of 967 stipulates several issues regarding mining operations. It requires that all mining operations must be conducted by a license or permit issued by the government. It sets out also the process for obtaining a license or permit and it specifies the fees that must be paid. In addition, the Act sets out the environmental standards that must be met by mining companies and it requires that all mining companies be carried out in a manner that minimizes the impact on local communities. There are also provisions in the Act that relate to land use, land acquisition, and the payment of compensation to landowners affected by mining operations.[11]

The Mining Rights Act required that miners keep accurate records of their operations and that they submit these records to the government regularly. The act also required that miners pay taxes on their profits and that they submit annual reports to the government. It established a system of appeals for anyone who felt that they had been treated unfairly. Overall, the act set out a comprehensive framework for the mining of gemstones in Lesotho. However, the Mining Rights Act was not universally popular among miners in Lesotho. A lot of miners felt that the act placed too many restrictions on their operations and that they were unhappy with the amount of taxes they had to pay. They felt also that the act gave too much power to the government and that it did not do enough to protect their interests.[12]

According to the provisions of the Act, while it was meant to encourage development, some dispossession did result from it. This is because the act gave the government control over mineral resources which could be seen as a form of dispossession. This gave the government

[11] Mining Rights Act, ACT 43 of 1967.
[12] Mining Rights Act, ACT 43 of 1967.

the power to decide who could access and benefit from the country's mineral resources. In addition, this led to a sense of injustice among those who felt that they were not getting their fair share of the benefits of mining thus, this dispossession also contributed to inequality and poverty in Lesotho. From a different angle, one could argue that because the Act attracted investment and created jobs in the mining industry, it was also vital to ensure that the advantages of mining were distributed equally among the populace. The Act helped to create a more attractive environment for foreign investment and it led to the development of new infrastructure. This in turn led to a boost in Lesotho's Gross Domestic Product (GDP) and an increase in government revenue. Barry in this connection affirmed that the economy of Lesotho was largely dependent on world demand for the country's principal mineral export commodities, notably diamond. In 2019, the country ranked 7th among the world's leading producers of diamonds in terms of value and 10th in terms of volume.[13]

2.2.3 The Precious Stone Order of 1970

The Precious Stone Order of 1970, was a prospecting permit granted to a holder entitling him or her to peg a prospecting area. This Act aimed to regulate dealing in rough precious stones, including diamonds, and the protection of mining areas.[14] The Precious Stone Order of 1970 was an amendment to the Mining Rights Act of 1967. It was passed by the government of Lesotho in response to the growing concerns about the exploitation of gemstones in the country. The order stipulated that all gemstones mined in Lesotho would be the property of the state and that only state-owned companies could export gemstones. The order also established the Precious Stones Board which was tasked with overseeing the mining and trading of gemstones in Lesotho. The order also created a system of master dealers who were authorised to buy and

[13] James Barry, The Mineral Industry of Lesotho, 2019 Minerals Yearbook, U.S. Department of the Interior U.S. Geological Survey Lesotho [Advance Release], USGS Science for a Changing World, (2022).
[14] Makhetha, "Small Scale Artisanal Diamond Mining and Rural Livelihood Diversification in Lesotho," 151.

sell gemstones on behalf of the state. The order required that all gemstones mined in Lesotho be cut and polished before being exported.[15]

The order was passed in response to growing concerns about the exploitation of Lesotho's gemstone resources by foreign companies. These companies were accused of paying low prices for gemstones and for not investing in the local economy. The order was also intended to ensure that Lesotho's gemstone resources were exploited in a way that benefited the country and its people. Lesotho's gemstones, particularly diamonds are an important source of revenue for the country.[16] The Precious Stone Order of 1970 contained several rules and regulations governing the mining sector in Lesotho. It established the Ministry of Mines which was responsible for the regulation and management of the sector. It created a licensing system for all mining operations including prospecting, mining, and marketing. It also outlined strict rules for the exploration, mining, and sale of gemstones including diamonds. It established a system of royalties and taxes that must be paid by mining companies.[17]

However, this Order led to a form of dispossession as the government took control of resources that were previously held by traditional leaders and communities. This order had a significant impact on the political and social structures of Lesotho. The order led to consolidation of power in the hands of the central government which hurt local communities and traditional authorities. In addition, the order led to a growing gap between the urban and rural areas of Lesotho and it contributed to a sense of alienation and social unrest. Again, the order led to the erosion of traditional social structures and the marginalization of local communities as well as hurting the

[15] The Precious Stones Order 1970, Order No.24 of 1970.
[16] Supplement No. 5 to Gazette No. 33 of 5th June, 1970 the Precious Stones Order 1970 Order No. 24 of 1970.
[17] IMF, World Bank, the IMF Report, The Impact of the Precious Stone Order of 1970 on the Economy of Lesotho, 1973 and The World Bank Report, Economic and Social Impact of the Precious Stone Order of 1970 in Lesotho, (1976).

country's development and has led to increased inequality. This order overall led to a cycle of dependency and underdevelopment in Lesotho.

2.2.4 The Mine Safety Act, 1981

The Mine Safety Act of 1981 was passed in response to a series of mining accidents in the country and it aimed to improve safety standards and working conditions for miners. The act established a mine safety board which was responsible for inspecting mines and ensuring compliance with safety regulations. It also set out specific safety requirements for equipment, training, and reporting. One of the key aspects of the Mine Safety Act was its emphasis on training and education. The act required mine operators to provide training for all workers including both new and experienced employees. This training was designed to teach workers about the dangers of mining and how to stay safe on the job. The act also required mine operators to keep detailed records of all training and safety inspections and to make these records available to the mine safety board. The act required mine operations to have their mines inspected by the mine safety board at least once a year. The inspections were designed to identify any safety hazards and to make sure that the mine was complying with all safety regulations. In addition, the act allowed for unannounced inspections if there was any reason to believe that the mine was not safe.[18]

The act helped to reduce the number of accidents and injuries in mines which benefited workers and their families to a certain extent. However, some critics argued that the act's focus on safety regulations made it more difficult for small independent mines to operate. Some Basotho felt that the act unfairly favoured large mining companies over local businesses. The act failed to address the underlying causes of mine accidents such as unsafe working conditions and inadequate safety training. Not only that, the act did not do enough to protect the rights of

[18] The Laws of Lesotho, Acts and Subsidiary Legislation Enacted and Made During 1981, Volume XXVI.

miners or to promote economic development in Lesotho. Hence, this Act was primarily designed to benefit the mining companies rather than the Basotho people as a whole since the act did not do enough to protect workers from exploitation or to improve their working conditions. It did not also do enough to support local businesses or to create new economic opportunities for Basotho people and it ultimately failed to address the root causes of mine accidents.

2.2.5 Mines and Minerals Act 37 of 2005

The Mines and Minerals Act 37 of 2005 stipulates that all rights of ownership in minerals are vested in the Basotho nation. It establishes the office of Commissioner of Mines and Geology. The Act prescribes his functions, obligations, and powers about mining and mineral rights. These powers include the power to inspect a mining area or premises, investigate any nuisance or breach of environmental obligations, and examine samples or breaking of the soil, rock, ore, concentrate, tailings, or minerals found in any mining area. The Act establishes the Mining Board and prescribes its functions.[19]

The Act prescribes that an applicant for a prospecting license must apply to the Board through the Commissioner. The Mining Board considers several factors to decide either to approve or reject the application for a prospecting license. It must also consider whether the proposed prospecting operations make proper provision for environmental protection. In the case of applications to mine diamonds the Board and the applicant must reach an agreement relating to the terms and conditions of such a lease. The government may inform the applicant that it intends to acquire not less than 20% of shareholding in any proposed mine.[20]

[19] Qhalehang Letsika, Recent Legal Developments Lesotho, *University of Botswana Law Journal*, (2006): 127-128.
[20] Letsika, "Recent Legal Developments Lesotho", 127-128.

The cornerstone of Lesotho's mining laws about minerals, mining, and the administration of mining-related operations is the Mines and Minerals Act. When ensuring that mineral resources are used, the Minister is required by the Mines and Minerals Act to act in the public interest. Except as permitted by this law, no one is permitted to prospect or mine. According to the Act, no corporation that is not incorporated and registered in Lesotho, or any individual who is not a citizen of Lesotho, may get any mineral rights. Makhetha believes that section 3 permits Basotho to establish mining companies, however, in practice, most Basotho are unable to meet the conditions to obtain a mining license and to establish a company, which results in dispossession. The Act is thought to have fallen short of removing the obstacles that many Basotho encountered while attempting to enter the diamond industry, despite its rhetoric that the nation of Basotho controls the resources.[21]

Makhetha believes that the lack of clarity surrounding the terms agreed upon by the government and the applicant makes the Mines and Minerals Act 37 of 2005 unclear. What terms are being negotiated with an applicant is unclear. The Act merely states that the Minister, acting on the board's advice, must issue a lease and an agreement that reflects the terms and conditions decided upon once the board's negotiations with an applicant are successful.[22]

There have been several criticisms of the Mines and Minerals Act 37 of 2005 with some people arguing that it is a form of dispossession while others opined that it does not provide for free, prior, and informed consent of local communities when it comes to mining operations. The act is a perfect example of how laws and politics can be used to marginalise people and dispossess them of their resources. The act fails to consider the needs and interests of local communities and that it prioritizes the interests of mining companies over those of the people. Also, the act

[21] Makhetha, "Small scale Artisanal Diamond Mining and Rural Livelihood Diversification in Lesotho".
[22] Thabang Mats'ela "Transparency Regulation in the Diamond Mining Sector in Lesotho: Lessons from South Africa," Dissertation submitted in partial fulfilment of the requirements for the degree Magister Legum in Environmental Law and Governance at the North-West University, (2019): 44-48.

does not provide enough protection for the environment and it does not provide for meaningful consultation with local communities. The Act did not do enough to ensure that mining profits were used to benefit the communities affected by mining.

2.2.6. The Mines and Minerals (Amendment) Act, 2022

The Mines and Minerals Act of 2022 is the most recent piece of legislation governing the mining industry in Lesotho. The Act was passed to replace the Diamonds Act of 1986, and it made several changes to the legal framework for mining in the country. Firstly, the act introduces a new licensing regime for mining, which is intended to make it easier for companies to apply for licenses and to streamline the process. Secondly, the act requires companies to publish an environmental management plan, which must be approved by the Ministry of Environment and Water. Thirdly, the act introduces new requirements for community consultation and benefit sharing.

The history of the Mines and Minerals Act of 2022 dates back to the late 1980s, when the government of Lesotho began to review the legal framework for mining in the country. At the time, there was a need to reform the Diamonds Act of 1986, which was seen as being outdated and not fit for purpose. This review process led to the drafting of a new act, which was eventually passed in 2022. The process of drafting and enacting the new act took several years and involved extensive consultation with stakeholders, including the mining industry, civil society, and government officials.

The primary intention of the Mines and Minerals Act of 2022 was to modernize the legal framework for mining in Lesotho and to ensure that it is aligned with international best practices. The act was also intended to improve the transparency and accountability of the mining sector and to ensure that the benefits of mining are shared more widely with the people of Lesotho. In particular, the act places a strong emphasis on community consultation and

benefit sharing, as well as environmental protection. These were all seen as important goals in reforming the mining sector in Lesotho. The Mines and Minerals (Amendment) Act, 2022 is legislation enacted by the Parliament of Lesotho to amend the Mines and Minerals Act, of 2005. This amendment includes the provision for granting mineral permits specifically for diamonds and introduces regulations for small-scale mining operations. The Act also outlines the application process for obtaining a mineral permit and designates the Commissioner to identify areas for diamond mining by individuals holding such permits.[23]

Section 48 of the principal law was modified to include new provisions regarding the termination of a mineral permit. The amendment states that the Minister has the authority to terminate a mineral permit if the holder is no longer a citizen of Lesotho or if they transfer any interest in the permit to another person. Additionally, for diamond permits, the Minister can terminate the permit if the holder fails to commence operations within two months or does not comply with the conditions of the permit.[24] The Mines and Minerals Amendment Act of 2022 aims to modify existing legislation by allowing diamonds to be included in the granting of mineral permits. Additionally, the Act permits artisanal and small-scale diamond mining exclusively for Basotho individuals, to improve their livelihoods and boost Lesotho's economy. The Act aligns with the Mining and Minerals Policy established by the Ministry of Mining in 2015.[25]

One of the main criticisms of the Mines and Minerals Act of 2022 is that it does not provide a clear and transparent mechanism for community consultation. The argument here is that the act does not provide for meaningful consultation with communities affected by mining. The act should provide for the establishment of a Community Development Committee, which would

[23] Lesotho Government Gazette Vol. 67 Friday – 10th June, 2022 No. 40, 563.
[24] Lesotho Government Gazette Vol. 67 Friday – 10th June, 2022 No. 40, 564.
[25] Lesotho Government Gazette Vol. 67 Friday – 10th June, 2022 No. 40, 566.

ensure that communities have a voice in the decision-making process therefore, the act is not sufficient in ensuring that communities can participate in the benefits of mining. Also, the act does not provide enough detail on how community consultation should be conducted, and this could lead to confusion and conflict. In addition, there is a concern about the lack of clarity in the act on how benefits should be shared with affected communities. The act does not only fail to specify how much money should be allocated to communities, or how this money should be spent but also does not specify how communities can participate in decision-making about the use of these funds therefore it is for dispossession, not development.

2.3 Diamonds Mining in Lesotho

Most of Lesotho's diamond industries are located in the Maluti Mountains, a mountainous area that primarily comprises the country's northern highlands. These companies include the Letseng Diamond Mine and Mothae Mine, both situated in the Mokhotlong district, as well as two additional diamond mines, Kao Mine (Storm Mountain Diamonds) and Liqhobong Mine (Storm Mountain Diamonds), situated in the Butha-Buthe district approximately 23 kilometres northeast of Lets'eng Diamond. Additionally, there is another diamond mine in Mafeteng, Kolo, albeit it was just declared dormant in 2018. Reskol Diamond Mine is the name of the corporation that is in charge of mining there. The Kolo Kimberlite is located 38 kilometres southwest of the Maseru district in the southwest region of Lesotho. Kolo Kimberlite pipe No. 66 and a few others nearby are located on the side of a ridge at the base of Kolo Mountain, close to the settlement of Ha Petlane. Situated on the northwest bank of a minor tributary of the Likhetla River, which is a branch of the Mohokare River, is the mining area.[26] The mine later on changed its name to Reskol Diamond Mining (Pty) Ltd.

[26] Reskol Diamond Mining (Pty) Limited, Project Brief Diamond Mining at Kolo, Ntlafalang Consultants, June, (2011): 134.

2.3.1 Lets'eng Diamond Mine

In terms of output and quality of diamonds, the government of Lesotho and the UK-based Gem Diamonds Ltd. jointly own the Lets'eng Diamond Mine, which is ranked among the country's best diamond mines. The mine is located near Phuthalichaba hamlet in the Maluti Mountains. About 30 kilometres distant, the closest town to this location is Mapholaneng. Since 1977, the mine has been in operation. Lets'eng is a producer of premium pink and blue diamonds. In 2013, a rare blue diamond sold for US$603,047 per carat, and in 2016, an excellent pink diamond brought in US$187,700 per carat. Lets'eng is among the top 15 producers of diamonds worldwide in terms of revenue. Large, valuable diamonds from Lets'eng provide between 70% and 80% of the Group's yearly income.[27]

2.3.2 Mothae Diamond Mine

The Letseng Diamond Mine is around 5 kilometres away from the Mothae Diamond Mine, which is owned by the Australian Lucapa Diamond Co Ltd and the Lesotho government. The Lucapa Diamond Company is in charge of it. Additionally, the mine is situated inside Letseng's domain. The Lucapa company constructed and operationalized the Mothae diamond factory in December 2018, paving the way for the commencement of commercial production in January 2019. According to data from 2021, Mothae is a source of large, premium-value diamonds, including the rare type IIa white and coloured ones. There have been five +100-carat stones recovered so far, including a 213-carat D-color type IIa diamond. Sales of diamonds have so far exceeded USD 35 million. The Mothae diamonds have now sold at US$50,000 each.[28]

2.3.3 Kao Diamond Mine

The Kao Mine, which is owned by the Lesotho government and South African Namakwa Diamonds Ltd, and operated by Storm Mountain Diamonds (Pty) Ltd, is situated inside the

[27] Large-Scale Diamond Mining in Lesotho: Unpacking its Impact on Adjacent Communities, 10.
[28] Large-Scale Diamond Mining in Lesotho: Unpacking its Impact on Adjacent Communities, 10.

village of Kao in the Butha-Buthe District. It appears that Kao Mine produces a good number of diamonds. With a coverage of 19.8 hectares and an indicated and inferred resource base of 12.7 million carats, Storm Mountain Diamonds' plant is both the largest kimberlite pipe in Lesotho and the fourth largest in southern Africa, according to their website. The mine has around eighteen years left to run, and it has been determined that Kao's pipe is 500 meters deep. Since 2006, the mine has been running on an industrial scale. Kao is a deposit that has great potential and produces uncommon coloured diamonds in a variety of colours, from pink, blue, yellow, and light brown to classic white. Rare or fancy-coloured diamonds are highly valued investments in the international market. The rarest colours are often blue, pink, and purple, with reds being the rarest of the rarest.[29]

2.3.4 Liqhobong Mine

Liqhobong Diamond Mine is situated atop Liqhobong Valley, approximately 10 kilometres from Kao Mine. The closest settlement is Ha Lephatsoane (Lephatsoane), which is situated inside the Kao region of the Butha-Buthe district. The UK-based Firestone Diamonds acquired the Liqhobong Diamond Mine in joint ownership with the Lesotho government in 2010. The Liqhobong Diamond Mine produced a large number of valuable gems. Firestone states that the mine held its inaugural diamond auction in February 2017. Before June 2018, Liqhobong recovered 835,832 carats, which was 128% more than the 365,891 carats recovered the year before. Liqhobong Diamond Mine closed at the onset of the COVID-19 Pandemic and reopened in June 2021.[30]

[29] Large-Scale Diamond Mining in Lesotho: Unpacking its Impact on Adjacent Communities, 11.
[30] Large-Scale Diamond Mining in Lesotho: Unpacking its Impact on Adjacent Communities, 11.

Chapter Three: History of Reskol Diamond Mining

3.1 Origin and Development of Reskol Diamond Mining

Following their expulsion from South African mines, a group of Basotho men banded together and asked the government to allow them to use their mining expertise, known as "lipeke le likharafu," to excavate at Kolo. They were granted permission, which was licensed in the name of Mr Peter Mosebo and they began to mine diamonds. As they continued in this process, the very same group of men had some misunderstandings that led to conflicts in which some village members intervened until the government also mediated and stopped them from digging. Around the time that they started with conflicts among themselves, they called themselves Kolo Diamond Miners.[1] Angel Diamond assumed control under the license of Peter Mosebo when these Basotho workers were disbanded. Angel Diamond Company too did not last until it left and Reskol Diamond Pty Ltd took over under the same license.[2]

A historical perspective of the proposed mining project shows that over a period, several surveys and tests have been carried out on the Kolo pipe. In 1961, the Scott study revealed a yielded average of 6.19 carats per hundred tonnes. Another study carried out by Loots and Herbst between 1961 and 1964 determined a yield in the region of 3.32 carats per hundred tonnes. The United Nations Survey of 1981, Technical Report No.1, revealed that diamond extraction was marginally economically viable at Kolo.[3] The Kolo kimberlite pipe has been subject to investigation by Scott on behalf of the Government of Lesotho (GoL), during the early 1960's and thereafter between 1975 and 1981 under the UNDP. Following the tests carried out by the UNDP evaluation team, two types of kimberlites were identified namely, Type A and Type B kimberlite. Type A kimberlite occurs in the central part of the kimberlite

[1] Interview with Hlakola Hlakola, Kolo, Ha Nkhabu, 29th January 2024.
[2] Interview with Hlakola Hlakola, Kolo, Ha Nkhabu, 29th January 2024.
[3] Reskol Diamond Mining (Pty) Limited, Project Brief Diamond Mining at Kolo, Ntlafalang Consultants, June (2011): 134.

pipe, is hard and of higher grade while Type B kimberlite is soft and of lower grade. The conclusions and recommendations from the United Nations Technical Report No.2 of 1990 read as it is concluded that the Kolo Diamond Mine Project is a good mining proposition suitable for advanced small-scale mining, but not for any large-scale operation. It is economically sound and promising. Therefore, the recommendation was that the project should be promoted without delay. Thereafter, the Southern African Development Coordinating Committee conducted a further process of evaluation.[4]

The National Union of Mineworkers (NUM) established a development program to help people find other sources of income so they could support themselves. This was because the 1987 strike, which resulted in the termination of forty thousand miners, made it impossible for the former mineworkers to obtain official employment options. NUM's mission was to create jobs for former miners and their communities through local economic development. It envisioned investments in the growth of mining communities throughout Southern Africa coming from the public sector, the corporate sector, and labour. It's also crucial to remember that not all of the nations had programs established specifically for former mineworkers, but rather for former workers who had been retrenched in large quantities. Nonetheless, significant knowledge was gained that is also applicable to the situation of former mineworkers in South Africa.

Some men who were accustomed to working in mines decided to join the cooperative in 1991, but only as members of the Kolo Mine Workers Cooperatives branch of Basotho Mine Workers, which was still operating under a mining project (peke le kharafu). When they arrived at Kolo, the location indicated that someone had previously visited or inspected it because of certain hip soils, which indicate digging. Possibly, it could be people who were prospecting for the availability of diamonds such as the United Nations. Then this place compared to others

[4] Reskol Diamond Mining (Pty) Limited, Project Brief Diamond Mining at Kolo, Ntlafalang Consultants, June (2011): 134.

was better, because of the clinic which is within reach and a few shops around. Then they applied for a digger's license and they were about 23 and everyone had to have a digger's license. After that, the military coup donated them more tools peaks and spades and shovels.[5] This has been reinforced by Makhetha that Lesotho gained support and guidance from different organisations including the United Nations and therefore adopted their policies such as that aimed at adoption of creating jobs that would help absorb the labour force in the country.[6]

Then the digger's license was used until 1993 when they managed to find a precious stone. During that time when one could find a precious stone or gold, they were auctioned at the Commissioner of Mines. At that auction, they found the buyer who was captured by their product and also was keen to assist these men in digging and finding more stones and asked what they would like to have in terms of tools that would enable good production. They then made a joint venture with the donor in 1993 and had an improved plant. With the joint venture, they worked together from 1993.[7] On the 12th of April 2002, Kolo was declared a Diamond Protection and Diamond Security area by the Minister of Natural Resources.[8]

In 2005 the Mining Act was amended and became among the list of mines in Lesotho which will be dug through prospecting licenses among others and then dissolved that joint venture. The prospecting license was issued with a Record of Decision (RoD) in April 2010 that contained several conditions. There are also several diamonds recovered from the samples taken from the Sekameng Pipe during the United Nations Development Programme (UNDP) study of the Kolo Pipe. The full-scale mining at Kolo presented an attractive chance for Lesotho in terms of job creation which is a major challenge facing the country where the unemployment

[5] Interview with Anonymous, Maseru 29th January 2024.
[6] Ester Makhetha "Small scale Artisanal Diamond Mining and Rural Livelihood Diversification in Lesotho." A Thesis Submitted in fulfilment of the Requirements for the Degree in the Department of Anthropology and Archaeology at the University of Pretoria, (2016): 75.
[7] Interview with Anonymous Participant, Maseru 29th January 2024.
[8] Reskol Diamond Mining (Pty) Limited, Project Brief Diamond Mining at Kolo, Ntlafalang Consultants, June (2011): 134.

rate is estimated at 22.5% Labour Force Survey (LFS) Report- Bureau of Statistics. This can go a long way towards poverty alleviation.[9] Reskol Diamond Mine is a subsidiary of the South African company Batla Minerals. The company obtained a 10-year mining lease to operate the Kolo Mine. According to Batla Minerals, the Government of Lesotho offered a lease to Reskol Diamond Mining whereby the company owns 90% of the shares and the remaining 10% is owned by the state. The lease includes the Kolo pipe, containing approximately 1.3 million tons of kimberlite (expected to produce 110,000 carats) and the Sekameng pipe, of which the extent is still unknown.[10]

Reskol Diamond was also stopped in 2018 from its operations by the villagers represented by the community committee in line with the agreement and the procedures alluded to in the Environmental Impact Assessment (EIA). The agreements were that the company would resettle all people close to the mine, ensure that villagers have enough clean water, and improve infrastructure, roads and electricity but none has been fulfilled. At that time, the commissioner of Mining was Pheello Tjatja and the minister Keketso Sello came and talked to both the company and the villagers and then stopped the company until all the grievances of the villages were addressed.[11]

3.2 Reskol Diamond Mining Operations

Diamond Mining- Kolo Ha Petlane, Kolo Mining Operations has different stages. The first one is the Kolo Stage 1 Processing Plant. This includes the priorities following the mobilization of earth-moving equipment to the site. The proposed area for the processing plant was at that time not being used for farming or any other activities. There is also Kolo Tailings Dam

[9] Reskol Diamond Mining (Pty) Limited, Project Brief Diamond Mining at Kolo, Ntlafalang Consultants, June (2011): 134.
[10] Large-Scale Diamond Mining in Lesotho: Unpacking its Impact on Adjacent Communities, Maluti Community Development Forum (MCDF), Grassroots Research on Local Diamond Mining Impacts, December, (2021): 11.
[11] Interview with Kojana Latsi, Kolo, Ha Nkhabu, 29th January 2024.

Construction, which involves the construction of the starter wall, drainage system, lined sump dam and pipelines. The tailings facility was designed in such a way that it maximized the recycling of water from the tailings. The area chosen for the tailings impoundment facility already had a poor soil profile and was heavily degraded. The area was bordered by two deeply eroded dongas. Kolo Process Water Dam Construction is also part of the first stage, which involves the use of recycled water from the fine tailing's impoundment. The calculations from similar operations indicated that about 50% of the water used in the processing plant was lost to natural seepage in the fine tailings' impoundment and evaporation. Thus, there was a need for additional water supply. This would be achieved by using the existing borehole of substantial capacity as the primary source and the secondary sources of make-up water would be collection dams constructed below the stormwater channels around the processing plant, the fine tailings impoundment area and the mine site area. Water from the above-mentioned sources was going to be collected into a central processing water dam that would be filled with a plastic lining to minimize water loss.[12]

Before stage 1 bulk sampling of the surface of the pipe commenced, the surface of the pipe had to be cleaned up by excavating and removing the topsoil from the contact and the kimberlite pipe surface, to expose the contact of the Kolo kimberlite with the surrounding country rock. Constructing a stormwater trench to divert the flow of the stormwater around the area of mining activity was also a part of the preparations. The site of operations was supposed to be fenced to ensure the safety of the preparations. The site of operations was also supposed to be fenced to ensure the safety of unauthorized persons and livestock and to act as an access control barrier. The fence would not be harmful to livestock and to act as an access control barrier. The fence would not be harmful to livestock but was required for both safety and security reasons

[12] Reskol Diamond Mining (Pty) Limited, Project Brief Diamond Mining at Kolo, Ntlafalang Consultants, June (2011): 134.

to keep livestock and authorized persons away from the excavations, fine tailings impoundment, water dams and pipelines.[13]

The Kolo stage two, which is waste pre-striping came after stage one. The high wall of the Kolo Pipe was planned to commence, immediately after the completion of the Stage 1 bulk sampling. Therefore, pre-stripping was necessary as the full extent of the kimberlite would need to be exposed to a level contour before the main stripping of the sidewall around the perimeter of the pipe could occur. The usual measures such as rock-bolting, meshing and lacing plus gunning would be required to stabilize the high wall. Hence, the role of the Environmental Compliance Officer would be essential in the ongoing risk assessments in this regard. Most of the mining waste materials would be removed as part of and dumped in a planned manner while some of it would be used as topping for the accessed road.[14] The un-weathered, fresh kimberlite would be mined by way of drilling and blasting while the weathered kimberlite could be mined by free-dig methods. In stage 1, the processing would be batch mode oriented, using stockpiles and crushing in stages. The processing plant would be set up to accommodate approximately equal tonnage feeds of both weathered and un-weathered kimberlite during the initial stages of the operation. Lastly, the fresh, hard rock kimberlite was supposed to be processed by a way of three-stage crushing process.[15]

3.3 Reskol Diamond Mining and Corporate Social Responsibilities

Responsible mining requires stakeholder participation both during and after mine closure. By assessing its current and anticipated socio-economic and environmental ramifications, a company is in a position where it can maximize its positive effects on society while minimizing

[13] Reskol Diamond Mining (Pty) Limited, Project Brief Diamond Mining at Kolo, Ntlafalang Consultants, June (2011): 134.
[14] Reskol Diamond Mining (Pty) Limited, Project Brief Diamond Mining at Kolo, Ntlafalang Consultants, June (2011): 134.
[15] Reskol Diamond Mining (Pty) Limited, Project Brief Diamond Mining at Kolo, Ntlafalang Consultants, June (2011): 134.

its negative ones.[16] Involving stakeholders is crucial for mining companies to ensure that their operations are sustainable and that the communities in which they operate support them. If mining corporations don't interact with stakeholders, they could face several challenges, including negative feedback from the community, issues with operations, and damage to their reputation. Through active engagement, mining companies can identify stakeholder concerns and develop plans to address them. At the end of the day, this could lead to better outcomes for all involved and stronger community ties. Stakeholder engagement and Corporate Social Responsibility (CSR) are closely connected ideas. Without engaging with stakeholders, it would be extremely impossible for a mining company to fully understand and address the social and environmental effects. A mining company can learn about community needs and problems through stakeholder engagement, and then create relevant CSR programs to address these issues. This fosters a positive cycle of involvement and accountability that is advantageous to the host communities as well as the company at large.[17]

A company's attempts to positively impact the needs of the communities where its activities are located are referred to as CSR. is to maximize the positive impacts of mining while reducing its negative consequences on the environment and society, all while retaining profits. Lesotho does not have any clear laws governing CSR programs facilitated or offered by mining companies. Furthermore, there is no regulatory framework that instructs companies on how to divide the benefits of corporate social responsibility among communities or how much of them to dedicate to CSR projects. As a result, the sole instrument for measurement is the community's evaluation of a company's CSR initiatives.[18]

[16] E A Adey, Robin Shail, F Wall, Matthias Varul, P Whitbread-Abrutat, Calin Baciu, Thomas Ejdemo, Ivan Lovric, Udachin Valery "Corporate Social Responsibility within the Mining Industry: Case Studies from Across Europe and Russia," (2011): 153.
[17] Meir Balaban, "Mining Community Development: A Case for Stakeholder Engagement." Minerals and Energy International, Vol. 27, no 1, (2015): 25-31.
[18] Large-Scale Diamond Mining in Lesotho: Unpacking its Impact on Adjacent Communities Maseru/Antwerp, December (2021): 17.

Corporate Social Responsibility may be defined also as an organization's collection of actions taken to acknowledge the duties arising from the effects of its operations on society and the environment. Over the past 40 years, the mining and petroleum sectors have been primarily responsible for environmental catastrophes and human rights violations that have raised public awareness about corporate social responsibility. CSR is about striking a balance between the constant requirement to turn a profit and the many demands of host communities and the environment.[19] Taking Ghana as a relevant example in this case, the mining industry in Ghana sees CSR as a process that would ultimately result in a long-term community sustainable development plan, in addition to being a means of giving back to the community. As a result, mining companies propose and fund initiatives that boost social and economic development in collaboration with both local and external organizations. Notwithstanding these endeavours, pertinent queries regarding the feasibility and success of these undertakings are raised. For instance, the state's ability to facilitate social and economic reform has been questioned due to Ghana's developmental problems and high rates of poverty, especially in rural areas.[20]

There are various stages involved in implementing sustainable or ethical mining operations. Every country will have its own set of rules and regulations, as well as enforcement procedures. This can be used as a policing tool by a country with the authority to impose stronger rules to limit the negative effects of mining and maximize its benefits. It is more challenging for underdeveloped countries to lessen the potential effects of mining since they often have regulations in place but lack the cash or manpower to put them into practice. The voice of the public, which is more powerful in developed countries than in developing countries, is another

[19] Carla Vintro, Joedi Fortuny, Liuis Sanmiquel, Modesto Freijo and Joaquin Edo, "Is Corporate Social Responsibility Possible in the Mining Sector? Evidence from Catalan Companies, Spain." *Resource Policy* 37, no.1, (2012): 4.

[20] Peter Ansu-Mensah, Emmanuel Marfo, Lyon Salia Awuah Salia and Kwame Amoako, "Corporate Social Responsibility and Stakeholder Engagement in Ghana's Mining Sector: A Case Study of Newmont Ahafo Mines." *International Journal of Social Responsibility*, (2021): 4.

element. Companies in wealthy countries have given communities' concerns more consideration than in developing countries.[21] This goes with the perception of Adey, *et.al*, thus:

> Undertake not what you cannot perform, but be careful to keep your promises", with the meaning of this quote is pivotal to the success of CSR in general, CSR must be delivered with integrity and with an emphasis on managing community expectations and not making promises that cannot be kept.[22]

Some scholars believe that social and environmental problems originated with private enterprises. Between 1910 and 1930, companies used corporate social responsibility, to try to address the problems. Companies started building relationships with the community by participating in CSR projects such as building schools, clinics, bridges, events, and funding orphanages. Companies that did not embrace corporate social responsibility at this point lost out on support from stakeholders, especially the local communities. By the 1950s, the majority of American companies had adopted corporate social responsibility. At the time, the public expected corporations to contribute to raising people's standards of living. In addition, the two world wars hindered business expansion, which is why CSR only gained traction in the 1950s.

After eminent American businessman Roben Owen popularized the notion that "CSR pays," there was a surge in interest in CSR. Roben demonstrated his dedication to the "CSR pays" concept by reducing the number of hours his employees work from thirteen to twelve per day and by making large financial contributions to charity organizations.[23] Andrew Carnegie introduced two schools of thought during this period. First, wealthy people were required by the charity principle to assist the less fortunate members of society. Instead of giveaways, he favoured wealth transfer via the management of the wealthy's excess money for the benefit of

[21] Adey, Shail, Wall, Varul, Whitbread-Abrutat, Baciu, Ejdemo, Lovric, Udachin, "Corporate Social Responsibility within the Mining Industry: Case Studies from Across Europe and Russia,"154.
[22] Adey, Shail, Wall, Varul, Whitbread-Abrutat, Baciu, Ejdemo, Lovric, Udachin, "Corporate Social Responsibility within the Mining Industry: Case Studies from Across Europe and Russia," 168.
[23] Ts'epo Hlojeng, "The Contribution of Letšeng Diamonds Mine Corporate Social Responsibility in the Mokhotlong District." Submitted in fulfilment of the Requirements in Respect of the Master's Degree of Development Studies in the Centre for Development Support in the Faculty of Economic and Management Science at the University of the Free State, (2020):.8.

the underprivileged. It was expected of property owners to manage and use it for the benefit of others who were less wealthy as well as for their benefit. But throughout this period, the needs of society outgrew the wealth of even the wealthiest people. Redistribution shifted from being an individual problem to one that affected entire companies. Second, Carnegie discussed the stewardship ethic, which has its roots in the Bible. This meant that wealthy individuals and firms had to see themselves as the community's custodians of their wealth, as well as the proprietors of their companies. The owner of the property or company was only a trustee who answered to God and the community. The trustee had a responsibility to support the disadvantaged. With the help of the two previously mentioned ideas, CSR primarily emerged in the US.[24]

According to Bowen, companies ought to engage in CSR to enhance community conditions. In the view of Tilakasiri, CSR was an inefficient use of resources that might have benefited shareholders and a waste of money. The shareholder often feels that the government should be in charge of social needs and environmental challenges in society.[25] It may be said that the CRS programs in the companies in Lesotho are successful looking in particular to Lets'eng CSR programs. The percentage breakdown of the total CSR programs in the Lets'eng budget is as follows: 10% is allocated to donations, sponsorships, and environmental projects; 25% each to small and medium-sized enterprises and educational scholarships; 20% to infrastructure and health. When assigning resources, both the needs of the communities and the sites designated by the government were taken into account. Among Lets'eng Diamond's CSR endeavours include dairy, wool and mohair production, and vegetable farming.

[24] Hlojeng, "The Contribution of Letšeng Diamonds Mine Corporate Social Responsibility in the Mokhotlong District," 9.
[25] Hlojeng, The Contribution of Letšeng Diamonds Mine Corporate Social Responsibility in the Mokhotlong District, 10.

Furthermore, Lets'eng Diamonds provided funding for the following three approved CSR initiatives: Pae-la-ithlatsoa and Ts'epong, the Mokhotlong district's primary schools are constructing classrooms and bathrooms. Scholarships for postsecondary education are awarded to students participating in courses that support the conservation of natural resources. The 2012 saw the construction of sanitary and water facilities for the eight villages nearest to the mine. As of 2019, almost M12 million had been used since the scholarships were awarded. Construction of four health posts in the Mokhotlong district. Construction of a community hall at Mapholaneng High School. Construction of the chalets and campsite at Maloreng Mokhotlong.[26]

In Lesotho, mining companies have often been accused of making decisions without consulting with the communities that will be impacted by their operations. This can lead to misunderstandings and conflict. In addition, there is often a lack of information about the potential impacts of mining, which can make it difficult for communities to make informed decisions about whether to support a mining project. The lack of capacity in local governments and organizations to monitor and evaluate the impact of CSR initiatives has come as a result that in Lesotho, many local governments and organizations do not have the resources or expertise to measure the success of CSR initiatives. This can make it difficult to determine whether the initiatives are having the desired effect, and can lead to ineffective programs.[27]

One example is the monitoring of community development projects funded by mining companies. These initiatives are occasionally not well supervised, which can result in subpar execution and resource waste. For instance, even if a community centre is constructed, it will not be utilized to its full potential without a staffing or maintenance plan. In a similar vein,

[26] Hlojeng, "The Contribution of Letšeng Diamonds Mine Corporate Social Responsibility in the Mokhotlong District," 30-31.
[27] Interview with 'Mats'oanelo Moshati, Kolo Ha Petlane, 29th January 2024.

businesses may donate equipment to a nearby clinic, but if the staff isn't adequately trained, the equipment won't be utilized. In Lesotho, this kind of mismanagement is not unheard of, and it can seriously undermine the effectiveness of corporate social responsibility programs.[28]

Limited understanding of CSR among mining companies and communities in result often from a lack of understanding about what CSR is and what it should entail. Mining companies may see CSR as a box-ticking exercise, rather than a genuine effort to improve the lives of people in the communities where they operate. Similarly, communities may have unrealistic expectations about what CSR can achieve. This lack of understanding can lead to conflict and disappointment on both sides. One example is the controversy around the Lets'eng Diamond Mine. The company has been accused of not doing enough to benefit the communities around the mine, despite spending millions of dollars on CSR initiatives. This has led to frustration and anger from the local people, who feel that they are not benefiting from the mine's operations. The company has responded by trying to increase transparency and communication with the communities, but this has not been enough to resolve the conflict.[29]

There are a few possible conflicts that can arise when CSR initiatives fail. One is that communities may become disillusioned with the mining company and withdraw their support. This can lead to protests and other forms of resistance, which can disrupt the company's operations. Another conflict is that community leaders may become divided over whether to support the mining company or not. This can lead to internal conflict and instability within the community. Finally, there is the risk that people may turn to illegal activities, such as poaching or theft if they feel they are not benefiting from the presence of the mining company. Considering the example of community disillusionment, this can happen when communities

[28] Hlojeng, "The Contribution of Letšeng Diamonds Mine Corporate Social Responsibility in the Mokhotlong District," 31.
[29] Korathotage Kamal Tilakasiri, "Corporate Social Responsibility and Company Performance: Evidence from Sri Lanka." Doctoral dissertation. Melbourne: Victoria University, (2012).

feel that they have not benefited from CSR initiatives, even though the mining company has spent a lot of money on them. This can lead to feelings of resentment and anger, and people may start to protest against the mining company. This can take the form of blockades, marches, and other forms of direct action. In some cases, it can even lead to violence. The negative impact of this conflict can then spill over into other aspects of the community, such as the economy and social cohesion.[30]

The impacted villages in the Kolo Diamond Mining case received no compensation for the land they lost when the mine was built. They never even discussed the terms and conditions they had with the mining firm. This is in addition to the need that all mining companies operating in a certain area to provide clear and convincing evidence that the local population will not be negatively impacted by their operations. First and foremost, the agreement in the first place was that the company would build a high school, supply clean water, upgrade infrastructure, and relocate the impacted homes as a way of giving back to the community and some Corporate Social responsibility initiatives. In exchange for their use of the land, they even pledged to hire the locals before everyone else so that they benefit from their used land. The company uses the community well for water during operations, which they maintained by transporting the water through pipes to a tank that was constructed in the mining area. Despite being sourced from the communal well, which was the only primary water source, this tank did not help the entire town; rather, only the nearby families benefited from it.

3.4 Reskol and Litigations

On the 16th of June 2021 the applicant herein 'Reskol' brought an urgent application challenging the decision of the 1st respondent 'the Minister' not to renew its mining lease that was due to expire on the 4th of July 2021. In essence, Reskol seeks to interdict the respondents

[30] Interview with 'Matsoanelo Moshati, Kolo Ha Petlane, 29th January 2024.

from executing the decision not to renew the mining lease, and from awarding any mining lease in respect of the mine in issue 'the Part A application, pending the review of that decision. Reskol is a limited liability company duly registered under the laws of Lesotho. The respondents are cited in their official capacity as holders of offices responsible for mining operations in Lesotho. It is common cause that Reskol was issued with a mining lease and entered into a mining agreement with the respondents on the 4th of July 2011 for 10 years expiring on the 4th of July 2021.[31]

In terms of the mining agreement between the parties, mining had to be undertaken in stages, stage 1 being preproduction and stage 2 being commercial production. Stage 1 was to take eighteen months from the date of signature of the agreement. In terms of the agreement preproduction mining "means the installation of Infrastructure and such Plant and Equipment necessary to mine and process kimberlite in the Production Area during Stage 1 at a rate of not less than 100 (one hundred) metric tons per hour and the conduct of such operations". It is not disputed that Reskol completed stage 1 in September 2018. Commencement of stage 2, commercial production, was to occur six months after completion of stage 1. Reskol should have started with this stage during or around April 2019, but it did not.[32]

Reskol did not commence the mining activities immediately after the agreement was concluded and having been faced with this predicament, it requested an extension of the mining lease on 3rd September 2012 due to delays. The extension was not granted. The delays were caused by a court interdict obtained against Reskol by former operators of the mine on the 30th of September 2011. The order was set aside on the 17th of April 2013. During the existence of the court interdict, on 12 July 2012, the Ministry of Mines suspended all mining activities in

[31] Reskol Diamond v Minister of Mining and 4 others (2022) LSHC 222 Comm. 09 September (2022).
[32] Reskol Diamond v Minister of Mining and 4 others (2022) LSHC 222 Comm. 09 September (2022)

Lesotho for reasons that are not apparent from the record. The suspension was lifted in June 2013. A period of twenty-one months was lost as a result of the interdict and the suspension.[33]

The suspension was imposed again in June 2015. Certain outstanding community issues about relocation of houses and graves which were within the designated mining area had not been addressed, hence the government effected the suspension. The issues were addressed and completed in April 2016. Reskol commenced mining operations in October 2016 approximately 6 years after the mining lease was granted. Reskol has not explained why it did not commence operations immediately after the suspension was lifted. On 3rd September 2018 Reskol wrote a letter to the Minister advising him that phase 1 of the project was going to be completed by September 2018 as well as appraising the Minister of the status of the mining operations and the challenges that needed to be addressed to enable Reskol to plan for phase 2 of the project. Reskol advised the Minister of the real possibility of placing the operations on care and maintenance from as early as October 2018 until the challenges were addressed. It further sought a meeting with the Minister to discuss the way forward.[34]

On 26th November 2018 the 4th respondent, 'the Commissioner' sent a letter of non-compliance to Reskol identifying the following incidences of non-compliance with the mining agreement: failure to submit audited financial statements to the Minister and the Commissioner contrary to clauses 18 (b) and (c); putting the mine under care and maintenance without giving a report clarifying the status of the project under clauses 18(d) and 18(e); and failure to settle outstanding surface rentals arrears at the rate of US$10,000.00 contrary to clause 21 (a) and (b).[35] Reskol responded to the letter on the 3rd of December 2018. It attached proof of payment in its response letter and explained the activities it was undertaking in preparation for phase 2

[33] Reskol Diamond v Minister of Mining and 4 others (2022) LSHC 222 Comm. 09 September (2022)
[34] Reskol Diamond v Minister of Mining and 4 others (2022) LSHC 222 Comm. 09 September (2022).
[35] Reskol Diamond v Minister of Mining and 4 others (2022) LSHC 222 Comm. 09 September (2022).

of the project. It further explained that audited financial statements were given to the directors appointed to represent the government. On the 2nd of July 2020, Reskol applied for renewal of its mining lease. After a follow-up by Reskol on its application, the Minister conversed on the 24th March 2021 advising Reskol that its renewal application has been declined. The reason for non-renewal was motivated by the slow progress made by Reskol for the past ten years in implementing the approved mining operations programme. The Minister was of the view that Reskol had not satisfied the provisions of section 36(5)(a)(b) and (c) of the Mines and Minerals Act No.4 of 2005 'the Act'.[36]

Reskol then issued a letter to the Minister on the 31st March 2021 citing non-compliance by the respondents with section 44(1) of the Act in that there were no negotiations held in good faith before the decision not to renew its mining lease was reached. It also indicated that at no stage over the past ten years did the respondents inform Reskol of its failure to adhere to the terms of the mining agreement. The Minister responded to this letter on the 8th of April 2021 reiterating the decision not to renew the mining lease as well as dealing with issues that were raised by Reskol in its letter. In particular, the Minister indicated that the Mining Board could not engage Reskol in negotiations envisaged by section 44(1) of the Act as its mining lease was not going to be renewed.[37]

On the 21st of May 2021, Reskol wrote to the Minister seeking particulars of the alleged non – compliance with the mining lease agreement and the Act. The Minister responded on the 11th of June 2021 providing the particulars of non-compliance which included the following: non-compliance with the prescribed production timelines and quantities, thus affecting the efficiency of the operations and contributing to wasteful mining practices; non-compliance "with the requirements for renewal of mining lease as the applicant was in default due to not

[36] Reskol Diamond v Minister of Mining and 4 others (2022) LSHC 222 Comm. 09 September (2022).
[37] Reskol Diamond v Minister of Mining and 4 others (2022) LSHC 222 Comm. 09 September (2022).

meeting the maintenance of continuous operations in the year of renewal" and suspension of mining operations without authorisation before the renewal application.[38]

To ensure that productivity is maximised, the mining agreement prescribes targets and performance standards relevant to production for each of the stages6. Again, the mine must have been operating its Plant and Equipment at not less than an average rate of 66.66% of its design capacity for 6 (six) consecutive months directly before the 10th (tenth) anniversary of the date of this Agreement. The Minister complained that Reskol failed to meet the targets and performance standards. Following an exchange of letters, some of which are annexed to the answering and replying affidavits and after the meeting between Reskol and the 2nd respondent 'the Principal Secretary', Reskol resolved to institute the instant application when it became clear that the Minister remained firm not to renew the mining lease. Reskol also declared a dispute in terms of the mining agreement which makes arbitration provision.[39]

Reskol's case is basically that this Court should review and set aside the decision of the Minister to decline the renewal of its mining lease. The basis of review is that the refusal was procedurally and substantively defective and consequently prejudicial and therefore is bound to be reviewed and set aside. This contention is based on the reasoning that the refusal did not comply and conform with the principles of natural justice in that no specific reasons were provided for such a refusal. Reskol submits that non-renewal by the Minister is unjustified. In this regard Reskol canvases the requirements for renewal of a mining lease in its founding affidavit as they are tabulated in sections 36 and 44 of the Act and claims that it met them.[40]

The other ground contended by Reskol is that the decision to decline renewal was flawed, irregular, and unjust and cannot be sustained in that the Minister failed to enter into negotiations

[38] Reskol Diamond v Minister of Mining and 4 others (2022) LSHC 222 Comm. 09 September (2022).
[39] Reskol Diamond v Minister of Mining and 4 others (2022) LSHC 222 Comm. 09 September (2022).
[40] Reskol Diamond v Minister of Mining and 4 others (2022) LSHC 222 Comm. 09 September (2022).

in good faith as enjoined by section 44(1) of the Act. Reskol asserts that the Minister failed to take into consideration the legacy issues and the devastating COVID-19 pandemic impact on all sectors of the economy including the mining sector. Failure by the Minister to take into consideration these issues smacks of unreasonableness which is a concomitant of bad faith contrary to his obligations under the Act, so contends Reskol. Reskol further alleges that the application of section 44 is not conditional upon compliance with section 36(1) – (5) (a) – (c). It asserts that the implication by the respondents that section 44 is conditional upon compliance with section 36(1) is an irregularity, unfair, and unlawful and is therefore amenable to review.[41]

It was the respondents' case that Reskol had breached the mining agreement in that it did not perform by its stipulations. For instance, the respondents allege that Reskol was in default of its obligations and violated clause 8 by failing to complete stage 1 within 18 months. They further contend that Reskol failed to comply with clauses 8(c), 8(d), and 8 (e) of the mining agreement. The respondents reject Reskol's explanation that it failed to commence operations timeously due to delays caused by the suspension of mining operations and the interdict or that the mining activities did not commence as soon as the mining lease was issued. They argue that Reskol knew before signing the mining agreement that it would have to align itself with the submitted work plan and programme of mining operations.[42]

They contended further that the interference caused by the court interdict and suspension of mining operations took 21 months, but that it took Reskol 5 years to complete stage 1 contrary to the mining agreement. The agreement required stage 1 to be completed within 18 months from the date of its signature and registration of the mining lease. Consequently, so the argument goes, Reskol 's contention that it failed to conduct mining operations within the prescribed time frames due to reasons advanced is devoid of merit and fails to be dismissed.

[41] Reskol Diamond v Minister of Mining and 4 others (2022) LSHC 222 Comm. 09 September (2022).
[42] Reskol Diamond v Minister of Mining and 4 others (2022) LSHC 222 Comm. 09 September (2022).

Regarding the second suspension of the mining operations, the respondents assert that Reskol became aware when it did an Environmental Impact Assessment 'EIA' that it had an obligation to relocate houses and graves. The mining operations were suspended because Reskol had failed to perform the obligation, so explain the respondents. The respondents deny that Reskol stopped operating due to the total lockdown that was implemented as a result of the COVID-19 pandemic. They contend that Reskol stopped operating on or around October 2018, thus it had long ceased operating by the time lockdown was proclaimed.[43]

The respondents dispute that the letter addressed to Reskol dated the 8th of April 2021 did not specify transgressions by Reskol or reasons for nonrenewal. They contend that the letter is clear that clause 6(c) and (g) of the lease agreement had not been complied with and that the letter was specific that clause 36(5)(d) cannot be invoked without first ascertaining compliance with section 36(5)(a), (b) and (c) of the Act. They submitted that section 44 could not apply. Lastly, the respondents submit that it would not be in the interest of justice that Reskol 's mining lease be renewed; and that the decision not to renew the mining lease was lawful and just for the reasons advanced.[44]

It is common cause that the lease was for ten years but that the mine only operated for two years, from 2016 to 2018, after which Reskol decided to put it under care and maintenance. The delay caused by the interdict and the suspension only accounts for 21 months. Reskol did not complete stage 1, preproduction mining, within eighteen months from the date of signature of the mining lease agreement. Again, Reskol put the mine under care and maintenance purportedly in preparation for stage 2, commercial production. According to the respondent,

[43] Reskol Diamond v Minister of Mining and 4 others (2022) LSHC 222 Comm. 09 September (2022).
[44] Reskol Diamond v Minister of Mining and 4 others (2022) LSHC 222 Comm. 09 September (2022).

such preparatory work was not undertaken as a result of the mine never reaching the commercial production stage as expected.[45]

The scheme of the Act, in particular section 36, is to promote compliance with mining agreements and the Act, as well as ensuring that once allocated, a mining area is developed with reasonable diligence. It is to ensure efficiency in mining operations and beneficial use of mineral resources. Section 39 (1) of the Act amongst others places an obligation to a holder of a mining lease to "commence production on or before the date referred to in the programme of mining operations as the date by which he intends to work for a profit." The Minister decided not to renew the mining lease because Reskol was in default as it had failed to implement the mining programme in line with its mining agreement. Default in terms of the Act means "breach of mineral concession or any provision of this Act or relevant law". In terms of section 3(2) of the Act, the "Minister shall ensure, in the public interest, that the mineral resources are investigated and exploited in the most efficient, beneficial and timely manner."[46]

The process followed by the Minister in arriving at his decision not to renew the mining lease agreement cannot be faulted. There is no evidence or factors placed on record to substantiate allegations of arbitrariness or bad faith on the part of the Minister. The allegation that there are factors that he did not take into consideration failed the test. The contention that the respondents misapplied or conflated the provisions of sections 44 and 36 is also devoid of merit. As a result, all three grounds of review fall to be dismissed. Equally, there is no justification for a declaratory order or an order of mandamus which Reskol is seeking.[47]

[45] Reskol Diamond v Minister of Mining and 4 others (2022) LSHC 222 Comm. 09 September (2022).
[46] Reskol Diamond v Minister of Mining and 4 others (2022) LSHC 222 Comm. 09 September (2022).
[47] Reskol Diamond v Minister of Mining and 4 others (2022) LSHC 222 Comm. 09 September (2022).

Chapter Four: Reskol Mining and Land Dispossession

4.1 Mining and Land Dispossession

Land dispossessions of poor rural communities and households have for a long depended on communal land access for livelihood and survival are looming in the Kingdom of Lesotho. Land dispossession can be defined as taking land from people, typically through the use of force or coercion. In Lesotho, this process has often been carried out by the government or by private companies to gain access to the land for economic purposes. This has often resulted in the displacement of people from their aboriginal homes and the loss of livelihoods. Land dispossession in Lesotho has often been a source of conflict and has led to tension between the government, private companies, and the host communities. The Land Act 2010 is a legislation enacted by the Parliament of Lesotho to replace existing land laws. It aims to regulate various aspects related to land, such as granting titles, securing land rights, administering land, expropriating land for public use, creating land courts, and resolving land disputes.

The Act also includes provisions for systematic regularization, adjudication, and the creation of mechanisms for managing land-related matters in the country. It follows legal principles, such as customary law, common law, or statutory procedures, or is based on private agreements between parties. The Act defines terms related to land management and legal processes, such as the approval of development plans, roles like the Commissioner for Lands, and practices like fraudulent behaviour in land transactions The Act explains the regulations regarding land ownership in Lesotho, where land is vested in the Basotho Nation and held in trust by the King. It outlines who can hold title to land, including the government, citizens, foreign enterprises meeting specific criteria, and various organizations. The text also discusses the factors

considered when granting land to foreign enterprises and the power vested in the King to allocate land titles and servitudes.[1]

According to the Land Act of 2010, elected politicians and officials, including cabinet ministers and local political council members, were granted the authority to distribute and manage land, removing the previous authority held by chiefs. Every member of a community was still able to utilize communal grazing land since the laws governing communal land tenure remained unchanged. Land-related rules that discriminated against women have been removed concerning women. Women now have the right to register in their own names and own land. The Equal Married Persons Act of 2000 grants married women privileges, including access to land. Under the Land Act of 2010, unmarried women now have admittance to and entitlements to land.[2] The Land Act of 2010 made it possible for foreign corporations to own land, the Act permits foreign corporations with a local shareholding of roughly 20 percent to be entitled to land. No foreign person or foreign company was permitted to own land in Lesotho before the 2010 Act.[3]

The Land Act of 2010 received criticism that it could lead to the dispossession of the Basotho people, as exemplified in the land appropriated for Reskol Mining. This is a concern because much of the Basotho people's livelihoods are based on the use of land for grazing, agriculture, and other traditional practices in the Kolo area. There is also concern that the Act led to the displacement of people in Kolo, especially, vulnerable groups, such as women and minorities.

The government can expropriate land for development purposes. However, there is concern that this provision could be used to take land from vulnerable groups without proper compensation. This could leave them without access to the resources they need to survive, and

[1] Land Act, 2010, Act 8 0f 2010.
[2] Ester L Makhetha, "Small Scale Artisanal Diamond Mining and Rural Livelihood Diversification in Lesotho, Thesis." Department of Anthropology and Archaeology at the University of Pretoria, (2016) :109.
[3] Makhetha, Small Scale Artisanal Diamond Mining and Rural Livelihood Diversification in Lesotho, 150.

could result in increased poverty and inequality. For example, women in Lesotho often rely on access to land for subsistence farming and the provision of food for their families. If they lose access to this land, they may not be able to find other means of providing for their families. Another concern is that the Land Act of 2010 does not adequately address the issue of land tenure in Lesotho. In Lesotho, there is a mix of customary and formal land tenure systems, and the act does not provide a clear framework for how these systems will interact. This could lead to confusion and conflict over land rights and could make it difficult for people to access and use land. If the act is implemented in a way that respects the rights of all land users, it could be beneficial for development. For instance, it could be used to promote sustainable land use and to encourage responsible economic development. However, if the act is implemented in a way that prioritises the interests of large corporations or wealthy individuals, it could lead to the dispossession of the Basotho people. It is therefore important to monitor the implementation of the Act to ensure that it is being used in a way that benefits all people

4.2 Mining and the Dispossession of Ancestors

Ancestral graves were discovered in the community due to mining operations, and some residents have claimed that the exhumation of the dead went against Basotho customs. The effects of resettlement include moving away from one's ancestors' homes, losing friends and neighbours, and moving, and relocating graveyards. The exhumation process is the most unpleasant part of relocating burials.[4] "Africans hold the belief that an individual whose deceased body is not properly buried, meaning without the appropriate rites, will not gain entry into the realm of the honoured deceased, and will consequently be condemned to wander, leading a purposeless, ghostly existence."[5] Africans usually hold the view that the only way for

[4] Fiona Darroch, Ridl Jeremy, Hitccock Robert, Lenka Jacob Thamae, Lim Gene and Sneha Shrestha, "Dams, Displacement, And Communal Compensation: A Lesotho Highlands Legal Case." *University of Botswana Law Journal June & December*, (2020): 134.
[5] E Bolaji Idowu, *African Traditional Religion: A Definition* (London: SCM Press, 1974): 74.

the deceased to experience the glory of ancestorhood is through a respectable funeral that includes meticulous observation of burial customs. Thus, family members consider people who were improperly buried to have no spiritual worth and who thus were not able to attain the magnificence of ancestorhood. It is thought that they eventually become lingering souls that torment the living.[6]

The graves of their ancestors and everything connected to them hold great significance for the Basotho people. The deceased relatives who are thought to have attained the glory of ancestorhood and are thus still actively involved in the activities of their relatives' families are referred to as ancestors by the Basotho people. They are thought to serve as intermediaries between God and the living, presuming to be with God. They are also said to offer petitions to God on behalf of the living and for their needs. For this reason, the first line of nearly every traditional Basotho prayer is "New Ancestor pray to the Old One" (Molimo o mocha rapela oa khale). In addition to serving as intercessors, ancestors are thought to shield the living from all dangers in life. A Mosotho feels safe and shielded from disasters such as hunger, drought, poverty, lightning, and all other kinds of life's challenges as long as they think they are under the protection of their ancestors. The Basotho culture has evolved several sayings based on the relationship that currently exists between the gone and living kin. For instance, when someone experiences a variety of misfortunes in life, some claim that their ancestors have abandoned them or that they are with them in such situations when the person has uncannily survived grave danger. In addition, the ancestors must uphold morality, which they are said to achieve by punishing any individual who deviates from the accepted societal norm. A string of bad luck events that befall the offender is the typical kind of retribution. Ancestors can even execute

[6] C L Rakotsoane, "Uncovering the Spiritual Dimension of the Basotho Objection to Resettlement," *Journal for the Study of Religion*, Vol. 22, No. 1, (2009): 8-9.

someone as a punishment to discourage them from deviating from accepted social norms, depending on the seriousness of the offence committed.[7]

The ancestors' graveyard is thought to be the meeting point for the living and the dead and is considered the most sacred location in Basotho culture. This location should not be used for any vulgar purposes. Unconsciously sitting or standing on the grave requires one to place one's feet just over a brisk grass fire, which is thought to burn away any misfortune that might befall the transgressors as a sign of the ancestors' disapproval. The graveyard is not the only thing that worries the Basotho forefathers much, since the family's land is their own, the Basotho are likewise very concerned about it. Because the family's land belongs to their forefathers, the Basotho also take great pride in it. Their surviving relatives are nothing more than the land's custodians. As a result, before allowing any of the surviving caretakers to give up ownership of the land, they should consult their predecessors.[8] This has been supported by Ngcece that graveyards are places that are reflective of both grief and remembrance and it is within the context of these cemeteries that various mourning rituals and practices are understood. It also alludes that the erection of headstones, the placement of flowers on the grave as well and the burning of incest at the gravesite all serve to establish a connection between the living and the dead. It is argued also that cemeteries are embodiments of cultural and historical identity.[9]

In Lesotho, it is not unusual to hear that someone who had previously made their way to a new location has returned to their birthplace due to hauntings by ancestral spirits (O tsamaeloa ke Balimo), who seemed to disapprove of their new home. It is considered sacrilegious to abandon one's original land or to sell it without the ancestors' permission, as they may become

[7] Rakotsoane, "Uncovering the Spiritual Dimension of the Basotho Objection to Resettlement," 9-10.
[8] Interview with 'Materai Petlane, Kolo, Ha Petlane, 29th January 2024.
[9] Nokuzola Ayanda Ngcece, "The Cultural Significance of Burial Sites Among Africans: A Case Study of Inanda." Submitted in partial fulfilment of the requirements for the Degree of Masters in Development Studies, in the School of Development Studies and Built, Environment, University of KwaZulu-Natal, Durban, South Africa, (2019): 12.

dissatisfied and turn one's life into a nightmare. However, in the case of unavoidable resettlement or sale of the land, certain special rituals, which may include the shedding of sacrificial blood for ancestors, need to be performed by the family.[10] In support of this notion, in response to leaving back the ancestors, LHDA organised the exhumation process where it incurred all the expenses including the cow, sheep food, and reburial.[11]

The exhumation violated not only Basotho cultural practices and the country's laws but also the moral standards of the community. During an interview, some community members expressed that an enormous dispute broke out in their village when they learned that the Reskol mine had conducted an "unsanctioned" exhumation in which the bodies of the community's ancestors had been dug up and their bones placed in plastic bags before being transported to the closest mortuary. Until they were reburied, the remains were held at the nearby morgue. What irks me is that opinions on this topic are split; some claim that the exhumation was carried out covertly by a different group of locals and was not approved by the elders of the village. As is customary in most Basotho communities, the Reskol Diamond Mine arranged a feast to coincide with the burial following the excavation. Nevertheless, neither the expected number of excavated corpses nor the number of slaughtered cows in line with Basotho customs for the entire reburial equated to the number of coffins. This is because not all of the elders who knew where each member of the family was buried were informed and because this did not adhere to all the protocols, cultural norms, and beliefs of Basotho, there is no iota of doubt that the ancestors are not pleased with that. Tragically, human remains are continually being found everywhere in the village after the mine's activities and exhumations.[12]

[10] Interview with Anonymous Participant, Maseru, 29th January 2024.
[11] Lenka Thamae, The Irony of Development: Communities Impacted by the Lesotho Highlands Water Project, (2020): 16.
[12] Interview with 'Materai Petlane, Kolo, Ha Petlane, 29th January 2024.

To make a way for the tailings dam, exhumation, and relocation of the graves in Blinkwater were carried out. This was carried out with legal procedure, during which the Sekuruwe Section 21 Company conducted meetings with the affected and interested individuals to gain permission to move the graves from the next of kin. Community members who helped identify graves for transportation purposes also supplied the names of their departed family members, and coffins were labelled appropriately. A few relatives were allowed to be present and witness during the exhumation.[13] The Fauna and Flora Act (1967) forbids the destruction of historical sites and mandates their protection and preservation. Through the Resettlement Action Plan (RAP), precautions will be taken to ensure that none of the Act's specified items are harmed during implementation. They consist of, among other things, lakes and yards.[14] At Kolo, there is a lake on top of the mountain adjacent to the mine area which people use and value differently for different purposes or beliefs. However, the community is afraid that in the long run, the lake will be destroyed as the mining processes take place.

It is important to note that many societies throughout the world have a rich past that includes sacred lakes. Because of their heavenly link and their significance in numerous mythology and creation tales, these natural wonders are held in high regard. Sacred lakes' natural beauty and peaceful atmosphere provide a pleasant environment for people to think about and consider their spiritual journeys. Many people think that the aura of these hallowed locations can aid in soul, body, and mind purification, resulting in a feeling of renewal and tranquillity.[15] Whether via active ritual involvement or calm contemplation, visitors to sacred lakes frequently feel a strong sense of connectedness to something bigger than themselves. Numerous civilizations

[13] Benjamin Saccaggi and Amanda B Esterhuysen, "Sekuruwe, Grave Relocation: A Lesson in Process and Practice." *The South African Archaeological Bulletin,* Vol. 69, No. 200 (2014): 174-175.
[14] Resettlement Policy Framework Lesotho Renewable Energy and Energy Access Project, LREEAP RPF Final Version November 5, (2019): 12-13.
[15] Alain Nancy Cuerrier, Turner Thiago, Gomes Ann Garibaldi and Downing Ashleigh, "Cultural Keystone Places: Conservation and Restoration in Cultural Landscapes," *Journal of Ethnobiology* 35, no. 3, (2015): 427-448.

and faiths regard sacred lakes as sacred or divine. They are thought to have spiritual energy, healing abilities, and a link to the divine. There are also many myths, folklore, and historical rites connected to sacred lakes. At sacred lakes, spiritual practices like meditation, prayer, rituals, offerings, and ceremonies are frequently performed. Sacred lakes may be visited by those looking for direction, healing, purification, or a stronger bond between themselves and the divine.[16]

Lakes have significant importance to sangomas and traditional healers, both in terms of ritual and spiritual practices, as well as for medicinal purposes. Some ways in which the lake is significant to sangomas and traditional healers include that lakes are often seen as places of spiritual power, and are often used in cleansing and purification rituals. Some traditional healers believe that certain lakes have healing properties and that submerging oneself in the water can help cure certain ailments. Lakes are sources of herbs and plants that are used in traditional medicine. Many lakes are believed to be home to ancestral spirits or water spirits who can be called upon for guidance and assistance. Lakes can also be seen as sacred sites or places of worship, where sangomas and traditional healers go to perform ceremonies or make offerings to the ancestors. In some cultures, it is believed that certain lakes can be portals to the spirit world, where the living can communicate with the dead.[17]

The sangomas have the process of being called, training, and working. ‘Mampinane illustrated she is a highly respected sangoma in her community. Several other sangomas have benefited from her instruction, and the less competent ones send their patients to her when they are unable to find relief. She was forty years old when she heeded the call of the ancient spirits, even though she had only been with her ancestors for six years at that point. Since she was a small

[16] Shampa Mazumdar and Sanjoy Mazumdar, “Sacred Space and Place Attachment,” *Journal of Environmental Psychology* 13, no. 3, (1993): 231-242.
[17] Interview with Nkhabu Nkhabu, Kolo, Ha Nkhabu, 2nd March 2024.

child, she had heard ghosts, and she often felt sick. Even though her ancestors did not call her into sangomahood, they nevertheless helped her through difficult times. She remembers that because her mother believed she was stealing some things at times and then used to beat her for that. Her ancestors were able to guide her in a nighttime dream that revealed the location of the misplaced objects. The circumstances were interpreted by her family as possible indications of the sangoma calling, but she never felt the calling until she was forty years old, married, and a mother. She went to see a doctor in Maseru with a relative. When the doctor was unable to cure her relative, he suggested that she find a sangoma., She devoted her time to learning about medicinal plants and the practice of communicating with spirits to help people. She was thrilled to have been chosen for this career, even though it happened so late in her life.[18]

4.3 Dispossession, Compensations and Resettlements

Most people are being affected by the mining processes and thus need to be compensated individually or as a group. The term "affected people" refers to individuals whose means of subsistence and standard of living are negatively impacted by project activities. This can occur through physical relocation, loss of assets or access to assets, deprivation of resources, loss of sources of income or means of subsistence, or other losses that may be discovered during the resettlement planning process. Parties impacted by relocation operations in host communities shall be regarded as project-affected parties. The persons who were forced to relocate due to the Project have a right to "compensation" for the things they have lost.[19] The type, amount, and distribution of this compensation to impacted areas are issues that call for debate. Cash has historically been the main form of compensation for lost assets in many compensation programs. It is important to emphasize that receiving cash compensation has several

[18] Interview with 'Mampinane 'Moka, Kolo, Ha Nkhabu, 2nd March 2024.
[19] Darroch, Ridl, Hitccock, Thamae, Lim and Shrestha, "Dams, Displacement and Communal Compensation: A Lesotho Highlands Legal Case," 143.

disadvantages. Resettlement and compensation initiatives around the world have shown that providing monetary payments has not helped the displaced individuals' incomes to recover. The fact that receivers of financial rewards occasionally spend their money rapidly is one of the issues with it.[20]

The resettled households are compelled to depend on an insufficient amount of compensation in their host houses, which is given for goods deemed valuable. These resettled households were given the option to select between two types of house structures: either traditional replacement housing or contemporary housing. Houses and outbuildings (cattle posts, kraals, and unfinished buildings) are among the commodities that are reimbursed; however, building foundations and shanty houses are not, as Lesotho Highlands Development Authority (LHDA) provided free transportation of the utilized materials to the new locations for the latter. Burial grounds, pastures, trees, and locations are a few of the commodities that are rewarded. Regarding appliances, LHDA provided transportation to their new locations.[21]

Out of seven households that have been affected by the mine and its operations only one household resettled to a different area and compensated to make a way for the mine. Lehana Mpete is the only one who resettled from his aboriginal place to a different place after he was affected by the mining operations. Mpete illustrated that he resided at Kolo Ha Petlane in 1977. He explained that it was at the time of mining and blustering whereby his house and those of his neighbours were affected and the veranda of one of his houses was cracked. From this incident, they confronted the mine officials and asked them to at least resettle them to a different place so that they make a way for the mine, however, that to the mine officials was too much to ask because they did not. In his recognition that the operations were being carried

[20] Darroch, Ridl, Hitccock, Thamae, Lim and Shrestha, "Dams, Displacement, And Communal Compensation: A Lesotho Highlands Legal Case," 150.
[21] Lenka Thamae, The Irony of Development: Communities Impacted by the Lesotho Highlands Water Project,14.

on, he decided to leave for a different place at his own expense in 2012. From there, it was only in 2017 when the company decided to compensate him, he noticed that the amount that they compensated him with was equivalent to the money that he spent to build his own house in the new place since it was brought in a lump sum. The company also wanted to canvas that the affected households could resettle themselves to wherever places they preferred and the mine would come and compensate them, however, it was never easy for the remaining households because of the financial constraints.[22] In a similar case, about 716 households were resettled to make way for Vale's Moatize mine. To make this resettlement a success, it is indicated by RAP that eight sites were identified and considered to be the ones chosen. The size of available land, land productivity, water adequacy, and security of land tenure are the main factors that determine whether or not a particular site is suitable for resettlement.[23]

Seven affected households have not been compensated nor resettled after their houses were badly cracked at Kolo. In June 2001, during the blasting, it is when most houses were badly affected. The blasting was done twice. Mamokoena Bulane'shouses were cracked on the sides, the windows broken and the roofing damaged and that's when the mine started to affect her. It was at the time of Kolo Diamond Mine under Mr Mosebo. During this incident, the dust that came after the blasting covered houses in a fine layer of blasting dust from the mine making the air hazy and irritating the eyes and the throat of any person who was close there, everyone observing from the distance would swear that there will be no more houses after the dust subsided. Afterwards, the company came and wanted to recover the broken houses by roofing only, but that roofing would not be of any help with regards to the damage, rather it would need thorough renovation from preparing the walls. After that the company was gone and nothing happened it was dissolved and in 2003 another one came by the name of Angel Diamond

[22] Interview with Lehana Mpete, Kolo, Ha Petlane, 2nd March 2024.
[23] Serena Lillywhite, Deanna Kemp and Kathryn Sturman, *Mining Resettlement and Lost Livelihood: Listening to the Voices of Resettled Communities in Mualaazi* (Mozambique, Oxfam: Melbourne, 2015): 7.

Company still under Peter Mosebo and it too dissolved and became Reskol Diamond Mining. All other companies came and prospected without bordering themselves about the loss that people had from the blasting in the mines.[24]

The District Administrator, representation of the 'Mamants'o Council with other stakeholders visited the affected households. They too saw the houses which are likely to fall at any time. They urged those affected to comprehend since they can notice the damage that the mine has caused and also mentioned that by the 4th April 2024 the investor who is going to work with Reskol will be there and all damages and grievances will be taken care of. This was not convincing since it is an empty promise that has long been sung for ages and therefore does not guarantee anything. The Lesotho Constitution's section 36 contains the mandate on the environment. It states that Lesotho must adopt policies aimed at safeguarding and enhancing the country's natural and cultural environment for the benefit of current and upcoming generations, as well as working to guarantee that all of its citizens live in a safe and sound environment that is suitable for their health and well-being. Consequently, the initiative must guarantee that no Mosotho will lose its source of income in the present or the future.[25] The competent authorities have generally viewed the compensation and resettlement of the losers as an inconvenient obligation that should be carried out as cheaply as feasible.[26] According to the compensation and resettlement policy and procedures, land and other assets cannot be acquired until compensation is received and, if necessary, displaced people are given relocation assistance and resettlement places. When contractors are assigned certain tasks connected to

[24] Interview with 'Mamokoena Bulane, Kolo, Ha Petlane, 20th March 2024.
[25] Resettlement Policy Framework Lesotho Renewable Energy and Energy Access Project, 12.
[26] Paul Devitt, "Who Drives Resettlement? The Case of Lesotho's Mohale Dam," *African Study Monographs*, 31, no.2, (2010): 57.

resettlement, the implementing agency will make sure that the contracts contain the necessary clauses.[27]

The emotional language used by Moshoeshoe when speaking about the land, referring to it as 'the land of my ancestors know her children who are born here', evokes a strong sense of connection and consciousness towards the land among the Basotho people. This sentiment was a powerful tool in uniting the people to face challenges together. For example, during times of public peril, Moshoeshoe would conclude his speeches with the rallying cry, "*Are shoeleng fats'e la rona*." Let us die for our country, which never failed to ignite a sense of patriotism and unity among the listeners.[28] For ages, subsistence farming, sometimes referred to as small-scale farming, has provided food for humans and their households. It made food crops available at neighbourhood markets, enabling the exchange of goods. Giving up what one had to obtain what one wanted from someone who would have given up what he had was the barter system. It could entail exchanging fish for vegetables, beef for peppers, yams for beans, and so on.[29]

Sub-Saharan Africa's agricultural productivity has declined in recent years. After minerals were discovered in nineteenth-century colonial South Africa, state development programs started to drive Africans off their land and restrict independent modes of economic organization. Even though colonization reduced agricultural output, new economic trends appeared. Migrant labourers at large-scale mines utilized their earnings to sustain agricultural activities at their residences, which for a considerable number of them were in Lesotho across the border from South Africa. Others made investments in business. But starting in the 1980s, there was a significant downsizing of South Africa's mining industry, leaving many rural households and

[27] The Compensation and Resettlement Policy and Procedures Volume 2, Government of the Kingdom of Lesotho Ministry of Public Works and Transport May (2011): 11.
[28] Thabane, "Disputes and The Politics of Land Ownership in Lesotho," 5.
[29] Titus Godwill Adisa, "Land Grabbing in Shonga District of Kwara State, Nigeria: Development or Underdevelopment?" Being a Dissertation in the Department of History and International Studies Submitted to the College of Humanities and Social Sciences in Partial Fulfilment of the Requirements for the Degree of Master of Arts, Joseph Ayo Babalola University, Ikeji-arakeji, Osun State, Nigeria, (2017): 45.

smallholder farmers with unstable incomes and diminishing prospects. However, the ensuing reverse migration of retrenched miners returning to their ancestral homes has brought about new economic trends in villages that were previously mining towns.[30]

Many countries that are developing have mines in their rural areas, where a significant section of the population relies heavily on agriculture as their primary source of income. Most significantly, mines take advantage of land to extract minerals and cause major negative effects on farmers in the process, notably pollution, and competition for labour and land. In countries endowed with minerals, mining expansion decreases the amount of land available for agricultural production and increases competition for land use. The indigenous people who live nearby depend on the land for their lives, yet industrial mining requires a disproportionate amount of space for its operations. Mining development threatens agricultural production because it may reduce available farmland. The simultaneous expansion of large-scale mining operations, a government priority under reform, has also caused landlessness and further expansion of illegal and small-scale mining. Consequently, increasing agricultural production and mining expansion are essentially incompatible activities. As mining potential is further developed, it will place a greater burden on farmland and reduce agricultural production and productivity.[31]

4.4 Dispossession and Conflicts

Conflicts typically stem from the loss of settlement and land used for farming, grazing, or other uses, concerns about insufficient compensation and non-participation in the concession-awarding process, and violations of human rights associated with forced relocation.[32] The

[30] Ester Makhetha, Sean Maliehe, "A Concealed Economy: Artisanal Diamond Mining in Butha-Buthe District, Lesotho," *The Extractive Industries and Society* 7, (2020): 975.
[31] Braima Pascal Komba, Almazea Fatima, Khalid Mushtaq and Sarfaz Hassan, "Farmland Loss and Livelihood Effects: Diamond and Gold Mining Implications on Farmers' Sustainability in Sierra Leone," *Journal of Economic Impact* 5, no. 3, (2023): 238.
[32] Bettina Engels, "Mining Conflicts in Sub-Saharan Africa: Actors and Repertoires of Contention," *Glocon Working Paper Series*, No. 2, (2016): 4.

present mining boom is, however, accompanied by various conflicts, conflicts over labour relations, territorial control and access to water and land resources, the effects on local livelihoods, gender relations, and ecological systems, and the distribution of profits and tax revenues.[33] People in different communities have varying views, values, interests, and goals. They may also support different mining activities, which can cause division within the community. Communities are not homogeneous. It can be quite difficult to decide whether or not to accept a mining project, particularly if the community has little mining experience or information. Discussions may also result in conflicts between the reasons for environmental preservation, the possibility for economic improvement, and the effects on indigenous way of life and livelihoods. Tension can also occasionally arise from poor communication of information resulting from misinterpretations of the real status of a project or an agreement being negotiated.[34]

The expression devil may care has been used to describe the mining industry because of the often destructive and careless way in which it has operated. The industry has been criticized for its lack of regard for the environment, human rights, and local communities. Hereafter is the interview with the Chairperson of the Community Committee that Liaises with the Mine, the chief, the member of the community council, and the member of the parliament. Hlapane stated that in 2018, when the then-Minister of Mining, Qoo, visited the community to look into the issues the community was protesting, he discovered that the company had violated the terms of mining and had subsequently revoked its mining license. The company sued the government, claiming that the minister had mistakenly revoked their license, but the government prevailed in that court dispute. After Reskol was dissolved in 2018 after completing the first phase of

[33] Engels, "Mining Conflicts in Sub-Saharan Africa: Actors and Repertoires of Contention," 3.
[34] Laila El Krekshi, "Indigenous Peoples' Perspectives on Participation in Mining, The Case of James Bay Cree First Nation in Canada, Stockholm 2009 KTH." Department of Urban Planning and Environment, Division of Urban and Regional Studies, Kungliga Tekniska högskolan, (2009): 30.

prospecting, the community expected to see a different mining company. However, they were shocked to see the same company mining again in early February 2024 without getting permission from the community engaged with relevant stakeholders. When the community noticed the presence of the company again which was back on duty they asked if the chief knew anything about the company but he knew nothing. In all of this, the community anticipated that it would be formally reopened by the same protocols that were followed when it was closed. However, neither the area chief nor the company in question ever spoke to the community. The community representative then sent a letter on the matter to the Parliamentary committee in charge of natural resources.[35]

Mosiuoa Petlane explained how he noticed the company, which was dissolved in 2018, returning to the same mining location. He observed that work was being done in his territory, but the company did not contact him or keep him informed about the situation. Additionally, he sent several letters inquiring about the company's whereabouts and asking them to his village to clarify their reasons for returning as well as their stipulations for returning to mine after being banished. Before drafting a letter inviting them to come to inspect the villager's house, which was irreparably cracked and ultimately destroyed by wind due to prospecting activities, they never replied, and only then did they return to carry out their work without getting his or the community's approval. They arrived using their labour, started working, and disobeyed the chief's commands by refusing to comply with his summons.[36]

Andrew et al are of the agreement that many chiefs who have continued to be land custodians in areas where artisanal and small-scale mining and the galamsey sector operate daily have entered into these industries. Small-scale miners have reached deals with chiefs to share gold production, bypass the licensing process, and become part of the growing galamsey group as a

[35] Interview with Mamahlape Hlapane, Kolo, Ha Petlane, 20th March 2024.
[36] Interview with Mosiuoa Petlane, Kolo, Ha Petlane, 20th March 2024.

result of highly exploitative dealings over territory required by the chiefs. Hence, chieftaincy especially in mining regions has changed over time from being traditional community leaders with official legislative, judicial, and executive powers who were answerable to their communities to informal, behind-the-scenes land brokers who are answerable to no one. The chieftaincy's historical responsibility for upholding law and order and handling disputes in their communities is gradually eroding. The former role of the chieftaincy of maintaining order and managing conflict in their communities is undergoing significant erosion.[37]

This is supported by the experience of the Kolo chief. In one instance, the chief went to the head chief to ask for a helping hand, but the Kolo chief ignored them and told them that the firm had returned to clean the land not mining. He went on to ask the Area Chief to at least appear before his villagers to inform them of the company's actions, but he never showed up. The company's surprise return to the neighbourhood without prior notice or resolution of the agreed-upon issues has left the entire community completely unsatisfied. Without explaining, the same noises from machines, pollution, and other disruptions have returned, affecting the most afflicted households without relocation. He went on to explain that companies just come mine in their area and leave with their diamond while they stay impoverished, this might potentially result in major conflicts. The community intended to respond to this by holding a nonviolent protest against everything, but they were apprehensive because of the protocols they had to follow at the police station.[38] Mpaki supports this as he wrote that protests in Lesotho have long been associated with losses of life which has been the case also in Kao. In 2018, one person was left dead at Kao Diamond Mine while others were critically injured following the violent clashes that arose between the police and the community members who were protesting

[37] Tony Andrews, Jonathan Gamu, Philippe Le Billon, Hoon Chang Oh, David Reyes, Jiyoung Shin, "The Role of Host Governments in Enabling or Preventing Conflict Associated with Mining," *Canadian International Resources and Development Institute (CIRDI)*, (2018): 111.
[38] Interview with Mosiuoa Petlane, Kolo, Ha Petlane, 20th March 2024.

against the alleged failure of the mine authorities to fulfil its promises to compensate and resettle them from the areas affected by mining operations.[39]

It was clarified by Khotso Matima that the company returned to the mine without the concern of the 'Mamants'o Council. He was only informed by Mosiua Petlane that the company, which was disbanded in 2018 has been back up and running in the mine. He called the company to a public meeting in coordination with the headman, asking them to come and explain how they had returned following the official closure but that was to no avail. They sent a letter to the Portfolio Committee on Natural Resources, Tourism, and Land Cluster in an attempt to get the corporation to comply, informing them of the mine's operations. The district administrative officer and a member of parliament were also informed about the same issue, who then forwarded the information to Kolo's principal chief. At the beginning of the situation, the Principal Chief gave his headman instructions to call the villagers and tell them by himself that the mining company was returning to clean up the mining area rather than to mine. To their surprise, however, normal operations which had caused them a great deal of pollution and had an impact on some households had resumed.[40]

In support of this argument, Oh, *et.al* add that with a lack of understanding mining companies put too much focus on resolving the primary causes of conflicts through political strategies, and this has been the case in Kolo.[41] 'Matankiso Tekane explained that she was informed via phone call by the owner of the mine that the Reskol diamond mine will be reopened in mid-April since they have been granted a new mining license, not a prospecting license. Therefore, since the mining stopped operating some years ago the person who is going to work there must

[39] Bereng Mpaki, "Villagers Dies, Two Critically Injured in Mine Clashes," Sunday Express, Feb 13, 2018.
[40] Interview with Khotso Matima, Kolo, Ha Petlane, 23rd March 2024.
[41] Chang Hoon Oh, Jiyoung Shin and Shuna Shu Ho, "Conflicts Between Mining Companies and Communities: Institutional Environment and Conflict Resolution Approaches, Business Ethics." *The Environment and Responsibility,* (2023): 651.

go and assess everything such as machinery if they are still in good condition to work. In her response to that, she asked the very same person to notify and report his presence to the headman. The mine owner went on to say that following the machinery's diagnosis, a large public meeting will be held to inform the Kolo community about the company's new direction since it will be mining as opposed to prospecting, it will further give directions on how grievances from the community will be handled, and other details. Along with the Kolo area chief and her secretary, ‘Matankiso Tekane inspected the mining area to see for herself what was happening there. This is because different people had different ideas about what was happening in the mine. Some assumed that the mining phase had begun, which is correct because that was the stage the mine was meant to be at before it was formally closed. Upon her arrival, ‘Matankiso Tekane discovered that the only work being done in the mines was cleaning the area, and the equipment, fixing broken pipes, and all of the cleaning had caused a lot of mud. She further explained that the owner of the company stated that by so doing, they hope to preserve the region and make it a hospitable atmosphere since they are looking forward to commencing the mining process. In her means to intervene, she requested that she is going to set up a follow-up meeting with the pertinent parties so that they may address the community in a public assembly. The community’s concern is that their diamond will be stolen under the pretence of maintaining the equipment, as is the routine of the companies that came before.[42]

Serialong Qoo was once a member of the Natural Resources committee at the time Reskol conflicted with the Kolo community. He was invited by co-workers by the community to intervene between the community and the mining company which had some conflicts. They went there together with the then-member of Parliament for Kolo. Upon the arrival, the community lodged a series of grievances against Reskol Diamond Mining Company. Then the committee urged the company to comply with what the community expected and to do what is

[42] Interview with Matankiso Tekane, Kolo, Ha Petlane 23rd March 2024.

accepted by the big projects in the host communities. The community's grievances were that they live in the dust caused by mining operations, their houses cracked, they get absolutely nothing while the company is prospecting, and the companies have been changing yet the community gains nothing in return. The community also wanted the company to relocate or compensate all affected households. In addition to complaints about damage to houses, residents protested about impassable roads, water scarcity, and lack of electricity, which they were adamant the mine should provide under its corporate social responsibilities (CSR). Some of the villagers have also complained that mining operations have unearthed ancestral graves in the village and that the exhumation of the bodies violated Basotho's custom.[43]

[43] Interview with Serialong Qoo, Kolo, Ha Petlane, 25th March 2024.

Chapter Five: Reskol Mining, Environment and Socio-Economic Development

5.1 Environmental Impact Assessment (EIA)

The EIA functions optimally in situations when its implementation is mandated by law, an environmental impact statement is generated, and decision-makers are held responsible for considering the findings. The goal of Lesotho's EIA Guidelines is to make it easier for developers to comply with and participate in the country's EIA regulations. Additionally, they seek to incorporate economic growth and environmental problems from the outset of the project's development. As per the Guidelines, the objectives of an Environmental Impact Assessment (EIA) in Lesotho consist of conducting environmental and socio-economic studies of projects concurrently with the analysis of engineering and economic feasibility; guaranteeing that the costs and benefits of economic development projects are appropriately considered; preventing or mitigating unwarranted negative impacts at an early stage of the planning process; and identifying and enhancing potential benefits. integrate environmental factors into development planning to support sustainable livelihoods; and ensure that, at critical junctures in a project's development, decision-makers are informed of its technical and economic viability to ensure that all parties affected and interested including locals, government representatives, developers, non-governmental organizations, and others are involved in the process build up a system to carry out mitigation, monitoring, auditing, and enforcement.[1]

Even though it is possible, the public never reviews the EIA reports. The public's focus on job development chances and not the administrative process associated with it is the primary reason given for this, along with a lack of environmental awareness and interest. Conflicts will

[1] Tiisetso John Rantlo, "Environmental Impact Assessment Legislation in Lesotho, Swaziland and South Africa," Dissertation Submitted in Partial fulfilment of the Requirements for the Degree Magister Legum in Environmental Law at the Potchefstroom Campus of the North-West University, (2015): 34-35.

inevitably surface when community involvement and consultation are not included in the project planning process, which will delay the project's execution. A noteworthy example in this regard is the diamond mining in Kolo-Ha-Petlane in the Mafeteng district. It appears community residents were never contacted about the mining project; they only got to know about the proposal when mining activities had already begun. To make matters worse, the entire procedure of exhuming the bodies of their loved ones occurred at night. The community wanted to know what was going on, thus this led to a heated argument. This demonstrates unequivocally that no consultation with the affected public took place before the mining activities began.[2]

In Kolo, EIA was done during the time for Angel Diamond Company by Ntlafalang Consultancy. 'Molaoa articulated that Ntlafalang Consultancy was consulted and engaged in the normal procedure for EIA. The guidelines made it apparent what must be enclosed in EIA, including the parameters under the given environment following the assessments. This entails also the given boundaries of where the company has been allocated to be located, this means the company will have a layout of where the pipe is and the location of the disposal of mining waste where the camp will be located. Also, during EIA issues such as where will electricity be from, water sources, and which place will be used for waste disposal are examined. This is all that consultancy assessed.[3]

After the completion of EIA, the challenge that the consultancy encountered in the case of Kolo was the implementation of all issues stated in the document by Angel Diamond Company. When the community was at the point of revolting against Angel Diamond Company, it was dissolved and there came another investor who bought all that Angel has done by the name of

[2] Likeleli Talime, "A Critical Review of the Quality of Environmental Impact Assessment Reports in Lesotho," Dissertation Submitted in Fulfilment of the Requirements for the Degree, Master of Science in Geography at the University of Free State, Bloemfontein, (2011): 53.
[3] Interview with 'Mampho 'Molaoa, Maseru, 29th March 2024.

Reskol Diamond Mining Company. It was discovered at their time that an Environmental Audit was not made. Auditing is about auditing major compliance on how much the investor is compliant with EMP. During the arrival of Reskol the National Environmental Secretariat (NES), directed that there should be an Environmental Audit and it was done by Ntlafalang Consultancy. From the Audit, there was also a raised concern that there is a need to go back and consult the community through stakeholder engagement to share again the opinions now with Reskol since it was a new investor and that was more detailed. Still at the time when they had to comply the challenges arose. At the time, the impacts were that of broken houses, destroyed water sources, and exhumations among others which Reskol inherited from the prospecting of Angel Diamond which it was taking over from it.[4]

The need for a formalized Environmental Impact Assessment (EIA) system in Lesotho is rooted in the imprudent and uncertain development tactics the country has undertaken in the past. The Environmental Impact Assessment system is a multidisciplinary tool that can preview the significant environmental effects of a proposed development. It is widely used around the world and is a legislative requirement for all major projects in the European Union, developed countries, and most developing countries. It can be applied to a range of development initiatives, varying in scale and complexity, and is predominantly used with developments that are more likely to cause significant, adverse environmental effects.[5] Complete and strict community engagement is necessary for EIA to be effective. To guarantee acceptable and appropriate project design, community participation should ideally include individuals from various socioeconomic groups. Even though project documents usually call for community involvement, this is all too often ignored. When it is, the focus is generally on community

[4] Interview with 'Mampho Molaoa, Maseru, 29th March 2024.
[5] Peter Labu, "The Impact of Shared Natural Resources on East Africa Community: A Case of Lake Victoria," PhD diss., University of Nairobi, Kenya, (2012).

leadership rather than a representative sample of the target population.[6] In Kolo, the EIA procedure was conducted in consultation with the community members and the committee that liaises with the mining company. However, the company failed to implement in response to the possible impacts looming ahead, just from the prospecting activities which proves an ignorance of the community involvement.

5.2 Diamond Wastes and the Environment

Diamond mines are just like any other sizable industrial enterprise. Oil, paper, scrap metal, tyres, batteries, and tiny amounts of plastic and glass are among their waste materials. Environmental resources including fertile soil for farming, scenic value for ecotourism, and greenery for cattle grazing are all depleted by mining operations. Additionally, mining directly harms the environment by causing pollution, which may make it difficult to access sanitary facilities and clean water. Anthropogenic mining can have a detrimental impact on society by causing imbalances between the needs of nature and human well-being. Mining is also environmentally harmful. For example, open pit mines may result in the loss of natural habitat and the intrinsic ecosystem services and goods that rural communities around mining sites depend on.[7]

The construction phase is when the majority of the mitigation measures needed to lower noise and dust emissions are needed. The on-site mixing and unloading of materials as well as making sure that construction equipment is properly maintained and repaired are the suggested mitigation strategies for dust emissions. The use of quiet, well-maintained equipment, restricting site construction activities to working hours (7:00 am to 4:00 pm) and noisy

[6] John Kakonge, *Problems with Public Participation in EIA Process: Examples from Sub-Saharan Africa, Impact Assessment,* Volume 14, (1996): 310.
[7] Bongani Ntloko, "Establishment of Native Vegetation on Artificial Growth Mediums in the Afro-alpine Zone, Lesotho," Dissertation Accepted in fulfilment of the Requirements for the Degree Master of Science in Environmental Sciences at the North-West University, (2020): 2.

activities to early morning hours (8:00 am to 12:00 am), and notifying the neighbourhood when noisy activities are scheduled are the suggested mitigation measures for noise impacts. All garbage coming from building projects, reclaiming land, or any other kind of activity ought to be gathered and properly disposed of, for example, in a sanitary landfill or another location approved by the authorities. Transportation and collection of garbage should fall under the purview of the contractor. It is important to stop uncontrolled littering inside the building and in the adjacent surroundings. Additionally, some waste materials, such as rocks or excavated dirt, might be utilized in the building process. For instance, the soil can be utilized for landscape initiation and in the cut-and-fill procedures used to alter the ground level in the landfill area, and the rocks can be used to create the foundation for the fence surrounding the facility.[8]

The construction activities in Kolo were such that residents felt like there could be another place rather done their aboriginal home due to the noise and the dust they had to bear every day. From the prospecting activities which took some years, they knew that there was no safe space for them since it was difficult even to do laundry when there would be dust all day. There were no means of communication where residents thought there could have been rather a commutation of such activities that hindered the daily living of residents.[9] The soil, which has been dug in the mine contaminates water. On rainy days, that soil is washed away by rains to the nearby bodies of water where it can cause water pollution thus causing a threat to aquatic life in different ways. This pollution can harm the plants and animals that live in the water and it can also affect the water quality for humans who use the water for drinking or other purposes. The soil can also cause sedimentation which is when the soil settles to the bottom of the body of water and reduce the amount of light and oxygen that the plants and animals in the water

[8] Earth Link and Advanced Resources Development (ELARD), Environmental Impact Assessment Solid Waste Treatment Centre "JBEIL-HBALINE" Union of Municipalities of Jbeil Caza of Jbeil, Submitted to Catholic Near East Welfare Association Pontifical Mission March, (2004):7-2-7-3.
[9] Interview with Anonymous Participant, Kolo Ha Petlane, 3rd April 2024.

need to survive. They raised a view that indigenous plants are at the level of extinction if they are not already extinct at all. If they could have been transplanted at another place for preservation and better chances for thriving.[10]

5.3 Mining Operations, Water Sources and Ecosystems

Mining can have catastrophic and unsustainable effects on ecosystems and water supplies, particularly in underdeveloped nations where regulations and oversight are typically non-existent. When mines are operating, there can be air, water, and soil pollution. The surrounding communities where the mine is located are affected by its management, including their future generations, well-being, and general standard of living.[11] An ecosystem is a community of living beings that interact as a system with the non-living elements of their surroundings, such as the air, water, and mineral soil. Therefore, the living things that make up an ecosystem are humans, animals, insects, plants, and flora and fauna. Mining operations can have a beneficial or negative impact on all of these. The surrounding communities where the mine is located are affected by its management in terms of their health, prosperity, and future generations.[12]

The wetlands provide a wide range of ecosystem services, including water, grazing for cattle, harvestable resources, carbon storage, and agricultural production. They are also rich in plant diversity. In Lesotho, marshes are also seen as essential grazing areas for communal livestock, and a large portion of mountain grazing occurs there. It's been said that wetlands quadruple the carrying capacity of grasslands and offer the best grazing in the environment. Wetlands have a good chance of being used for year-round grazing and farming due to their high productivity

[10] Interview with Mathabela Lephole, Kolo, Ha Petlane, 3rd April 2024.
[11] Blessing Matandare, Tawanda Mukurunge and Takura Bhila, "Impacts of Mining Operations on Water Resources and Ecosystems: The Case of Letseng Diamonds in Lesotho," *International Journal for Scientific Research & Development* Vol. 6, Issue 12, (2019): 634.
[12] Matandare, Mukurunge and Bhila, "Impacts of Mining Operations on Water Resources and Ecosystems: The Case of Letseng Diamonds in Lesotho," 634.

and capacity to hold water.[13] The left area of the mine is on the wetland which is being destroyed to make way for the mine. This is a place that yields some native plants together with wild vegetables which some people rely on for various purposes. In a similar vein, water that comes from these wetlands gives life to animals who graze there and could also be the one collected and purified for human consumption.

5.4 Labour and Employment

Between the 1940s and the 1980s, a large number of males from the community worked in the mines. Their pay was used to cover large expenses, such as buying cattle and farming equipment. Wages were also utilized to cover labour expenses related to overseeing livestock farms and agriculture, as well as hiring workers to carry out agricultural duties. The majority of migrant labourers' wages went toward supporting cattle and agriculture, even if the money earned from working in the mines was also used to buy food and clothing. Cattle were the most commonly purchased livestock. Cattle were employed not just for ploughing but also as bridal wealth. Sheep and goats were the second most commonly purchased livestock since they were less expensive than cattle.[14] The Lesotho Bureau of Statistics (2009) links part of the country's fall in livestock numbers to cattle theft. In actuality, there has been a rise in stock theft cases during the 1990s, and 40% of households without livestock blame stock theft for their lack of it. The need for livestock to be slaughtered during funerals is rising as a result of Lesotho's rising death rates in recent years. Additionally, they highlight how many have been compelled to steal cattle to survive due to rising unemployment rates, and they conclude that this is the primary reason for stock theft in the nation.[15]

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[13] Peter Chatanga, Donovan Kotze, Tom Okello and Erwin Sieben, "Ecosystem Services of High-Altitude Afromontane Palustrine Wetlands in Lesotho." *Ecosystem Services, 45,* (2020): 101185.

[14] Akira Takada and Isaac Nyamongo, "Introduction to the Special Issue Exploring African Potentials: The Dynamics of Action, Living Strategy and Social Order in Southern Africa," *The Journal of the Institute of Anthropology, Gender and African Studies, Special Issue*, vol.12, (2014): 18.

[15] Takada and Nyamongo, "Introduction to the Special Issue Exploring African Potentials: The Dynamics of Action, Living Strategy and Social Order in Southern Africa," 19.

A body of legislation that controls the interaction between employees and employers in the nation is the Lesotho Labour Code of 1992. The code addresses a variety of labour-related issues, including discrimination, maternity leave, sick leave, overtime compensation, and minimum wages. The goal of the code is to safeguard employees' rights and guarantee just and equal treatment at work. For instance, the code places restrictions on the amount of overtime that employees may be asked to work and mandates that businesses pay a minimum wage adequate for the industry. In Lesotho, employment terms and conditions are regulated by the Lesotho Labour Code Order of 1992 and its subsequently amended versions. Terms of employment and circumstances for the health, safety, and welfare of employees are governed by the Labour Code. Lesotho's labour market is distinguished by a low ratio of employed individuals to the working-age population. The manufacturing sector employs the greatest number of people informally in the home economy, whereas the government employs the majority of people in the formal sector. However, because South Africa is the primary destination for Lesotho's migratory labour, high unemployment rates have resulted in a rise in the number of economically active people finding work there.[16]

The International Labour Organization (ILO) introduced further modifications to Lesotho's labour relations system with the Labour Code Order of 1992. The goal was to guarantee that the framework established by the Code adhered to the principles and conventions of the ILO in every way. The code currently serves as Lesotho's main labour law. The code offers complete protection against wrongful termination of employment and job security for employees. The legislation protects employees from being fired unfairly and gives them remedies97 if the

[16] Moeti Damane and Lira Sekants'i, *The Source of Unemployment Lesotho, Modern Econom*, vol. 9, no.5, (2018): 939.

employer's explanation for firing them is proven to be unfounded or if the required procedures were not followed. Therefore, the dismissal needs to be fair in both substance and procedure.[17]

Lesotho has labour laws that apply to both governmental and commercial sectors. This clause applies to both employers and employees. Notwithstanding the provisions of these laws, certain worker-job issues continue to exist and are relevant to all African industries. Unfair labour practices such as firing people without cause, paying them unfairly, creating unfavourable work environments, and suppressing labour unions still exist. While the Lesotho Labour Code of 1992 was designed to enhance the rights and working conditions of workers in the nation, some contend that it was more development-focused. However, others contend that the legislation was more concerned with dispossession and that insufficient measures were taken to shield workers from exploitation or unfair dismissal.[18]

In the beginning, Reskol promised the residents that employment would benefit them since they would be the first ones to be given opportunities when hiring. This included the labour work and any other work that requires experts provided residents can have the required skills. To the residents, hiring them would mean compensation for the lost land. Some of Kolo's men are among the men who went to work in the South African mines and those who still work even illegally in South African closed mines hence they are skilled.

Lesotho's economy is mostly dependent on agriculture, labour exports, and foreign funding due to its small resource base. Due to the historical involvement of a sizable fraction of the labour force in subsistence farming, agriculture continues to be the single largest employer in the country. Unfortunately, a lack of resources, erratic weather patterns, severe soil erosion, inadequate land tenure, and declining soil fertility pose substantial challenges to the sector.

[17] Maketleho Molelekoa, "Rethinking Reinstatement Remedy in Lesotho: A Need for Law Reform," A Dissertation Submitted in Partial Fulfilment of the Requirement for the Award of the Masters of Laws Degree (LLM), (2022): 20-22.
[18] Interview with Anonymous Participant, Maseru, 4th 2024.

Due to these limitations, agriculture is unlikely to provide enough revenue on its own to sustain the majority of rural residents, who make up around 85% of the population, who mostly practice subsistence farming.[19] The same thing applies to the community of Kolo, some residents were dependent on agriculture which however was impacted by climate change among others. Some farmers even gave away their fields to the mining company although they have spent so many years anguishing about whether they made the right decision due to the delayed operations or processes in the mines.

Lesotho may encounter difficulties due to elevated unemployment. Probably the worst issue that people are facing is unemployment, which may also be the underlying cause of a lot of other issues such as crime and violence. According to the 19th International Conference of Labour Statisticians, unemployment is defined by three requirements that must all be met: the individual must not be employed, actively seeking work, or be able to launch a business or find employment. The ratio of jobless individuals to the whole labour force is known as the unemployment rate. It serves as an indicator of the state of the labour market, economy, and social welfare. An enduringly important labour market metric, the unemployment rate is used globally to convey information about the state of the labour market and the economy's capacity to produce a sufficient number of jobs for job searchers. An important indicator of the discrepancies between labour supply and demand that sheds insight into the underutilized labour supply is the unemployment rate.[20]

The lowlands exhibit the highest rates of unemployment for both genders – 70.0% and 65.8%, respectively among the population. According to the percentage distribution of the unemployed population, 33.5 per cent lived in urban areas and 57.8 per cent resided in rural areas. There is

[19] Morojele, "Determining the Attitudes or Perceptions of Retrenched Lesotho Migrant Labourers from the RSA Mining Industries Regarding Education Using their Career Life Histories," 8.
[20] 2019 Labour Force Survey (LFS) Report, Statistical Report No.5 of 2021, Bureau of Statistics, Kingdom of Lesotho, 85.

22.5 per cent unemployment nationwide.[21] The women argued that during consultative meetings about the establishment of the mine, they were promised and made to understand that there would be job opportunities for even the uneducated like cleaning and cooking in the mine. Conversely, none of them was employed and they were left stranded with no means of survival. Men from Kolo were expecting that they would get employed and cut their way in illegal South African mines, which have been so risky and killed several Basotho men.[22]

5.5 Infrastructure and Economic Development

The majority of villages still lack access to necessities including safe drinking water, food security, infrastructure for schools, and basic services. Seven communities (or 37%) have very poor water quality. Water taps provide access to drinking water in most settlements, yet the majority of them are broken. The primary energy source for those who can access it is solar power, as none of the communities are wired into the electrical grid. The majority of communities are said to have poorly to fairly well-kept buildings. There are just two settlements with asphalt roads connecting them to other locations. Because there is no road leading to Khutloseaja, one of the communities close to Kao Mine, residents struggle to get the corpses to the closest mortuary. People are compelled to carry patients and deceased more than five kilometres on foot since there aren't enough roadways. Furthermore, the Khubelu River's downstream inhabitants (in the Lower Lichecheng, Ramosoeu, and Ha Seema districts) mostly rely on bridges to access daily necessities in neighbouring cities during the wet season. More than four footbridges linking those villages were destroyed by the powerful river floods of 2021, causing the people to face significant challenges for years to come. There is much less struggle for basic resources and services in the villages surrounding the Reskol Mine in the lowlands of Lesotho than there is in the highlands. Nevertheless, three of the four towns that

[21] 2019 Labour Force Survey (LFS) Report, Statistical Report No.5 of 2021, Bureau of Statistics, Kingdom of Lesotho, 92.
[22] Interview with Anonymous Participants, Kolo, Ha Petlane, 3rd April 2024.

surround the Reskol mine still lack access to water. The local towns report that there are occasions when their water scarcity gets so bad that they have to take water from the mine's campus.[23]

Lesotho's economy has benefited greatly from the diamond industry, particularly since 2004. The mining and quarrying subsector's Gross Domestic Product (GDP) share has increased as a result of the sector's expansion. Since the mines were reopened ten years ago, the diamond mining sector has also played a significant role in boosting Lesotho's export revenue and, consequently, the country's gross foreign reserves. The performance of the four commercial operations for the year 2022 is shown in this report. By the end of 2022, there were 2997 workers across the four mines, with 98% being nationals of Lesotho and 2% being foreigners. These figures amply demonstrate the amazing efforts and achievements these mines have made in helping people localize their skills and advance their careers.[24]

The four mines that are now in operation contributed M5.1 billion to Lesotho's (GDP) in 2022 through purchases, employee wages, taxes, and levies: Spending M2.9 billion was specifically allocated to local procurement out of the total M3.6 billion spent on goods and services. 81% of all expenditures were made locally, compared to 19% abroad. The majority of the foreign spending went to buying original components and having manufacturers service and repair them. The salaries of the workers were estimated to be M414 million. Among the high earners who make a major contribution to the economy are Mine employees. A total of M1.1 billion was contributed directly to the government coffers through taxes and levies: M512,637,668 in royalties; M180,000,000 in dividends; M133,100,000 in corporate income tax; M132,265,886

[23] Maluti Community Development Forum (MCDF) / Thabo Lerotholi, Large-Scale Diamond Mining in Lesotho: Unpacking its Impact on Adjacent Communities, Grassroots research on local diamond mining impact, December (2021): 12.
[24] 2022 Lesotho Diamond Mining Industry Performance Report by Lesotho Chamber of Mines, in Collaboration with Storm Mountain Diamonds (Pty) ltd, Mothae Diamond Mines (Pty) ltd, LMDC and Lets'eng Diamonds.

in withholding tax; and M98,630,157 in PAYE. VAT that is not refundable = M36,195,183 Rental Fee for Mining Leases.[25]

The industry's share of the GDP increased from M3.9 billion in 2021 to M5.1 billion in 2022, a 30.8% increase. Taxes and levies made a direct contribution of M1.1 billion in 2022 compared to M940 million in 2021 to the government coffers. The industry's contribution increased when Liqhobong Mine, which had been under care and maintenance under COVID-19, started operating again in August 2022. When Liqhobong Mine fully operates in 2023, the industry's contribution is anticipated to rise. This is contingent upon market prices for diamonds and the recovery of remarkable stones. The diamond mining sector is the main driver of the GDP of Lesotho and a crucial component of the country's economic growth and connections.[26]

In the medium run, the mining sector is anticipated to propel expansion in the primary sector, even as unfavourable weather conditions persist in impeding agricultural output. The mining sector is expected to expand by an upwardly revised 11.5% in 2023 before slowing down to an average of 3.2% in 2024–2025. The Liqhobong mine's stronger-than-expected recovery after a prolonged period of care and maintenance supports the anticipated growth of the mining industry. Notwithstanding the declining trend in prices in the global diamond market, a further boost is anticipated from the comparatively favourable diamond pricing for certain mines. Crop production in the agricultural subsector is expected to decline in 2023 and 2024 before increasing in 2025. The unfavourable weather is to blame for the anticipated drops in agricultural yield.[27]

[25] 2022 Lesotho Diamond Mining Industry Performance Report by Lesotho Chamber of Mines, in Collaboration with Storm Mountain Diamonds (Pty) ltd, Mothae Diamond Mines (Pty) ltd, LMDC and Lets'eng Diamonds.
[26] 2022 Lesotho Diamond Mining Industry Performance Report by Lesotho Chamber of Mines, in Collaboration with Storm Mountain Diamonds (Pty) ltd, Mothae Diamond Mines (Pty) ltd, LMDC and Lets'eng Diamonds.
[27] 2022 Lesotho Diamond Mining Industry Performance Report by Lesotho Chamber of Mines, in Collaboration with Storm Mountain Diamonds (Pty) ltd, Mothae Diamond Mines (Pty) ltd, LMDC and Lets'eng Diamonds.

Despite the economic benefits that come with diamond mining there are some accusations and claims that link it to engaging in unethical practices such as bribery and corruption. In the mining industry bribery and corruption have long been back of mind, however seldom talked about. The industry remained vulnerable particularly owing to government interaction as well as the administrative procedures. Corrupt practices between mining investors and local authorities, including Karonga chiefs, have also been fostered by the expansion of mining activity in the region of Malawi. Mining firms have previously bribed local authorities employed by the Malawian government to keep the peace of community complaints. The mining officials gave the chief lavish presents, including a new car and a house.[28]

Lesotho is not an exception; the mining sector is enmeshed in corruption and bribery paid to secure licenses. Moleleki was charged with two counts of corruption and fraud in 2013 after it was alleged that he stole M15 million intended for a mining electrification project and gave it to communities within his constituency. He was also charged with fraud related to a mining license that he had granted just before he left office. Moleleki and four other individuals misrepresented to the Cabinet that M15 million should be allotted for electricity supply to Kao, Liqhobong, and Lemphane Mines, as well as a nearby village called Kaonyana, between June 14, 2011, and September of that same year. Daystar Electrical Construction, a business where Moleleki's nephew Ntlama was a director and shareholder, was purportedly allocated the money via an illegal tendering process for the provision of electricity to the villages of Ha-Ntsi, Ha-Ratau, and Ha-Sekete in Moleleki's Machache. Furthermore, Moleleki is only charged with corruption in that, while serving as the Minister of Natural Resources at the time, he concealed his ownership interests in Daystar from the public because his nephew is a director, and he and Hloaele authorised and ordered the granting of a contract to Daystar.[29] Typically,

[28] Daniella Lindskog, "The Resource Curse on a Micro Level: A Case Study of Mining in Malawi," Bachelor's Thesis, (2015): 17.
[29] Nat Molomo and Caswell Tlali, "Moleleki Faces Two Charges of Fraud," Sunday Express, July 9, 2013.

negotiations take place behind closed doors. The interests of all parties, including host communities, are sometimes not sufficiently voiced throughout the negotiating process, according to the social license to mine perspective.[30]

In his fraud case, Moleleki and three other Refela Holdings (Pty) Ltd directors were charged with aiding the company's directors in obtaining a mining license during Moleleki's tenure as a minister. According to the prosecution, he helped the four individuals and their businesses obtain a prospecting mining lease in May and June of last year without applying. The second accusation against him is that he exploited his position as a minister by breaking the Mines and Minerals Act of 2005 to obtain an undue advantage for himself or the four men and their business. Even though his co-accused did not apply in writing through the commissioner (of mines) when applying for a prospecting license at Ha-Ramatšeliso and Mosaqane in the district of Qacha's Nek, they are still accused of possessing the prospecting license. They appeared before magistrate Motebele on January 30, 2013. Additionally, they are accused of submitting false documents purporting that (they) held a community meeting at Ha-Ramatšeliso and Mosaqane where they (intended) to apply for prospecting mining licenses to the commissioner's office. The prosecution claims that they were well aware that they did not hold any meetings in those locations and that the identities of those purported attendees of the community meetings were made up.[31]

Moleko, the minister of natural resources, claims he is having difficulty controlling corruption in the nation's mining industry. He claims that the nation is at a disadvantage due to the widespread corruption in the mining industry, which puts Foreign Direct Investment (FDI) at risk because investors are hesitant to put money into an industry that is rife with corruption. In

[30] Sabeeha Kathrada, "Corruption Affecting the Mining Industry: Reflections from the 2024 Mining Indaba," Global Publication, February 2024.
[31] Nat Molomo and Caswell Tlali, "Moleleki Faces Two Charges of Fraud," Sunday Express, July 9, 2013

an interview with the Lesotho Times, Mr Moleko expressed his concerns about the rampant corruption that was occurring in the mining sector with impunity. This was done ahead of the highly anticipated mining indaba (Khotla), which is anticipated to bring together investors, industry leaders, senior government officials, and other pertinent stakeholders to explore opportunities for investment in the sector. He went on to say that when someone applied for a mining lease and license, certain government employees took advantage of investors and other people. Before offering these investors services, they coerce them into making bribe payments.[32]

He made it clear that he was opposing the sale of prospecting licenses by state workers. It would be discovered that they have issued a prospecting license, but when it comes time to issue the mining lease, they decline to do so. He went on to say that they need to combat corruption so that people realize that when they visit offices, they receive assistance rather than being treated with an "If I approve your mining lease, how much do you give me?" mentality. Investors receive the shock of their lives when government employees demand bribes when they visit various agencies to obtain services. These are the problems that are destroying our nation. There are barely two million individuals in our nation. Thus, every Mosotho ought to be driving a Rolls Royce vehicle.[33] The government owns thirty per cent of the four mines that are now in operation in Lesotho, while investors own the remaining seventy per cent. Mr. Moleko claims that the aggregate impact of these mines on Lesotho's GDP is substantial. Bribery-related corruption has severely damaged the mining industry. For this reason, Lesotho's sector does not expand. The fact that people tasked with providing administrative

[32] Mohloai Mpesi and Letsatsi Selikoe, "Mining Sector Enmeshed in Corruption," Lesotho Times April 18, 2024.
[33] Mohloai Mpesi and Letsatsi Selikoe, "Mining Sector Enmeshed in Corruption," Lesotho Times April 18, 2024.

services insist on getting paid before the actual work gets done is impeding it, according to Sephepha.[34]

Breaking down obstacles to women's economic involvement, access to opportunities, and political empowerment is an urgent task. Patriarchal customs, expressions, and beliefs hindered women's ability to engage in public life throughout the pre-colonial period, forcing them to stay the unseen workhorses of the home. Since males were supposed to be the heads of their households and the primary breadwinners, only male youngsters were encouraged to develop the skills of leadership and entrepreneurship. In addition to established institutions that define and restrict women's rights, alternatives, and opportunities, patriarchal and religious ideas served as pillars for the political economy that underpinned women's subjugation. With unclear ramifications, the historically uneven power relationship between the sexes was recast.[35]

[34] Mohloai Mpesi and Letsatsi Selikoe, "Mining Sector Enmeshed in Corruption," Lesotho Times, April 18, 2024.
[35] Mark Chingono, "Women, the Informal Economy and the State in Lesotho," *World Journal of Social Science Research, No. 4*, (2016): 632.

Chapter Six: Summary and Conclusion

6.1 Summary

The study explored the development or dispossession in the Kolo community regarding the mining process. Specifically, the study focused on the effects of people in place of making a way for the mining project to take place. All these were premised on the research questions. It is alleged in this study that the categories of the discussed Acts and legislations were made in the regulation of the mines. The Mining Rights Act were enacted to regulate mineral rights and mining operations in Lesotho. The Act has been amended several times since its original passage, aiming to protect the rights and interests of mining companies and protect the country's resources. The way that these Acts have been amended brought a lot of discussion about how people felt and how they affected them. The contribution of Kolo diamonds by Basotho men and the history of how they worked until the introduction of the Mining Act, the operations of how the company operated in line with the followed the following phases have been examined. The study made nuanced mining and CSR practised in different countries and looked at the places where they are practical in Lesotho. Owing to the conflicting ideas that arose about the operations of the mine, between the mining company, the government and the community the litigation of 2021 has been covered in this study.

It is revealed that land ownership in Lesotho was based majorly on traditional or customary land tenure. The mining and land dispossession was examined through the provisions of the Land Act 2010. A close examination of the mining activities revealed the dispossession of even the ancestors, valued by Basotho as provided in the Fauna and Flora Act (1967) which forbids their destruction. The EIA has been looked into with other Acts such as the Environmental Act 2008. The diamond wastes and the environment have been outlined in this study together with the water sources and the ecosystem, leading to the discussion of the impacts of mining. Labour and employment as followed in the Labour Code of 1992 have been explained in this study

with a closer look at the issues of unemployment. From this discussion infrastructure and development were also discussed together with the strings that are attached to mining such as bribery and corruption contrary to developments.

This study has revealed that it is unrealistic to assume that agreements can be reached in which all parties will be completely satisfied. Given that mines, communities, and industries alike compete for limited plots of land, it is highly unlikely that strategies can be devised that provide each with the maximum benefit. It is therefore not the intention of this discussion to argue that superlative strategies are possible in such cases; rather, to explore the history of diamond mining in Lesotho and its impacts on the surrounding communities in terms of development or dispossession. It is suggested that with improved strategizing, satisfactory compromises can be reached, in which both the mine and the community can coexist in harmony. With several governments providing very little in the way of assistance, most of the responsibility rests with mine management to ensure that positive relations with communities are maintained.[1]

The impacted villages in the Kolo Diamond Mining case did not receive any compensation for the land they lost when the mine was built. There was no discussion about the terms and conditions with the mining firm. Reskol failed to provide evidence that their operations will not negatively affect the local population if it does lest be in a minimal way. The initial agreement was for the company to build a high school, provide clean water, upgrade infrastructure, and relocate affected homes as part of their corporate social responsibility but from 1993 to the present the community reaped nothing done poverty. They also pledged to prioritize hiring locals. The company used the community well for water during operations, benefiting nearby families only. The company observed houses near the road to begin construction of access roads for transportation. They initially agreed to relocate six households

[1] Gavin Hilson, "An Overview of Land Use Conflicts in Mining Communities," *Land Use Policy* 19, no. 1 (2002): 65-73.

but this was halted when the number increased to fifteen, only one person decided to relocate at his cost whereby after ages the company came to compensate him. Some families were not satisfied with the proposed location. Thus, the mine operations were eventually stopped by the community.

To justify their action of marginalizing Basotho communities, the government put in place several laws and regulations to regulate and control mining activities for many years. These regulations and laws are established under the stewardship and management of the Ministry of Mines. The pretext of these acts was initially seen as a costume for embracing the natural resources that go with the backdrops of financial aid by Western and donor communities. However, with time, the predecessors of the Basotho nation have embraced several amendments necessary for the observed viability. On one hand, mining regulations in Lesotho could potentially benefit the affected communities by ensuring that mining activities are conducted safely and responsibly and that environmental and social impacts are minimized. This could help to protect the communities and their resources from harm. On the other hand, mining regulations benefit mining companies by providing a framework for their operations and reducing uncertainty about the legal requirements they must meet. This made it easier for mining companies to conduct their business and generate profits while impoverishing the affected communities.

Mining regulations failed to adequately protect community rights and resources, they favour mining companies over local interests, and this has resulted in dispossession of land, resources, and livelihoods for affected communities. This led to loss of traditional lands, displacement, environmental degradation, aquatic ecosystem and decreased economic opportunities, all of which harmed community wellbeing.[2] Mining regulations in Lesotho are not designed and

[2] Gaopalelwe Mathiba, ''The Incorporation of the Principle in South African Policy on Mining-Induced Displacements: Bottlenecks and Opportunities,'' *International Journal on Minority and Group Rights,* 31, 2

implemented in a way that promotes development rather than dispossession. There is among others a lake in the same area as Reskol mine which with time will be tempered with and destroyed in the name of mining.

6.2 Conclusion

There is a need for relevant policies to set standards, which would allow the understanding of what CSR seeks to achieve and how it visibly affects livelihoods. In addition, we find that some level of tension exists since community members believe they are not involved in decision-making. Cooperation between community members and mining firms would not only curb any tension but also position the mining companies to understand the needs of the community and act best interest of both parties. This can go a long way to affect the livelihood of community residents. In addition, although mining companies adopt a bottom-up approach in their practice to tackle the actual problems of the community, the execution of this approach is flawed. This is evident given the level of bias associated with how recipients or CSR beneficiaries are chosen. Thus, it would be relevant for mining companies to review their system which enables them to monitor and control the implementation of projects. Community representatives appear to act independently and in their interest and this impedes the success of CSR initiatives.[3]

The regulations on compensation need to be revised to provide a flexible payment procedure for compensation packages. Therefore, the government of Lesotho should liaise with stakeholders in the mining industry to revise the provisions in the various regulatory instruments on the payment of compensation packages for affected farmers from lump sum to a payment scheme that can support farmers over a long period. Better still these provisions can be made open for farmers to decide the nature and conditions under which compensations

(2023): 335.

[3] Siawor-Robertson Diana, Awaworyi Churchill Sefa, ‘‘The Mining Industry and Corporate Social Responsibility: Evidence from Two Mining Communities in Ghana,’’ ZBW - Deutsche Zentralbibliothek für Wirtschaftswissenschaften, LeibnizInformationszentrum Wirtschaft, Kiel und Hamburg (2015).

should be paid.[4] Effective communications are essential in an industry such as mining, and it is crucial, for the benefit of surrounding communities, that public meetings be held in which locals can express concerns, provide input to various development phases of the mine, and have questions answered by mining personnel. But with the residents of Kolo, it has never been the case. All the promises between the Reskol Diamond Mining Company and the community had remained a pie in the sky. In Kolo, there has never been regular communication maintained in key decision-making processes during the extraction, processing, excavation, construction and abandonment phases. The presence of diamonds in Lesotho seems to be a burden as their extraction does not contribute to the development of a more inclusive economic system.[5]

Employment opportunities are not reconsidered by Reskol. This could be a valuable form of empowering the adjacent communities, providing economic opportunities and passing on skills through training to the locals instead of outsourcing work to employees from outside the country. To avoid irrelevant and non-beneficial CSR activities, the mine also fails to include community members or their representatives to participate in regular consultations or board meetings. Public participation is a key to integrating social concerns in development policies, plans, programs and projects effective manner. Given the high level of unemployment recorded in Lesotho and particularly among the affected communities in Kolo, it can be concluded that the presence of mining in the community is destroying the capital base of not only the affected farmers but the community in general since unemployment comes with its side effects to the community. Men from these communities are among the number of Basotho men who went for illegal mining in the neighbouring country of South Africa.

[4] Faustina Darko, ''Assessing Compensation Packages and the Sustainability of Farmers Livelihood in the Ntotroso Mining Community (Central Ghana),'' A Research Project Submitted in to the Wageningen University and Research (WUR), in Partial Fulfilment of the Requirements for the Award of a Master Degree in International Development, 2017 Wageningen (2017): 65.

[5] Makhetha, ''Small scale Artisanal Diamond Mining and Rural Livelihood Diversification in Lesotho,'' 196.

The likelihood of conflict is particularly high when environmental assessment practices are weak and there is a surge of projects with significant potential environmental and social impacts. It is of paramount importance therefore for both mining companies and communities to understand the importance of effective CSR initiatives. When these initiatives are well-designed and well-executed, they can have a significant positive impact on the lives of people living in mining communities.[6]

Even though it has been determined that Lesotho has diamonds, no formal policy has been implemented to actively promote Basotho's involvement and engagement in the mining industry. This seems to be the element missing from the development of this subsector. Basotho's involvement is crucial to reducing any possible suffering that may arise from a drop in investor confidence at any particular time. Not only does detachment in society deprive one of meaningful connections but it also causes significant emotional and mental distress. Mitigation measures should be developed to ensure that the affected people are not worse off as a result of the project and that their livelihoods are restored to at least that of before the project.[7]

The objective of RAP is to ensure that project-affected persons can restore and if possible, improve their quality of life and livelihoods through the resettlement process. This RAP sets to minimise economic and social impacts that would arise from involuntary resettlement or economic and social displacement associated with the project. This resettlement plan has been prepared to guide the project in addressing the issues that will arise during the operational stage and ensure proper remedial measures.[8] Kolo, relocation is estimated to commence in August 2024, whereby the households will be summoned to go and agree on the place to which they

[6] Jennifer Li, ‘‘Environmental Impact Assessments in Developing Countries: An Opportunity for Greater Environmental Security?’’ 19.
[7] Interview with Anonymous Participant, Kolo Ha Petlane, 10th April 2024.
[8] Resettlement Action Plan (RAP) for the Proposed Mfolozi-Mbewu Multi Circuit 765Kv Transmission Line Zululand and King Cetshwayo District Municipality, Kwazulu-Natal (2019): 25.

would like to be relocated in agreement with the mine. This will also engage with the architectures from Kolo. From the RAP relocation, a total of 88 households were identified and there are plans of how the relocation will be undertaken.

The government of Lesotho also should regulate and monitor CSR implementation in the mining sector. Minimum requirements and guidelines must be developed to guide this process. CSR implementation should be a condition for mining agreement renewal. Literature has shown that CSR is effective in countries where the government regulates its implementation. Companies will also be compelled to align their CSR objectives to the district and national developmental objectives. This will ensure that all companies take part in CSR in a regulated manner, which will contribute to sustainable development. In essence, to turn the resources into resource blessings, it seems like Lesotho desperately needs to fortify its institutions and hold mining companies responsible. Even though the majority of these mining corporations are outsiders, they are far from obtaining a social license to operate, and the government's incompetence is helping them. Local mining villages in Kolo provide evidence of the detrimental effects of mining, even though it is difficult to discern how these effects are affecting Lesotho at the national level. The study has demonstrated the value of researching the decline or growth of diamond mining and that it will help shape better socially and environmentally conscious regulations for the extraction of natural resources.

6.3 BIBLIOGRAPHY

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Names	Occupation	Age	Place	Date
Anonymous Interviewee	Miner	-	Maseru	29th January 2024
Bulane 'Mamokone	Farmer	52	Kolo, Ha Petlane	20th March 2024
Hape Mapola	Farmer	69	Kolo, Ha Petlane	29th January 2024
Hlakola Hlakola	Farmer	61	Kolo, Ha Nkhabu	29th January 2024
Hlapane 'Mamahlape	Farmer	50	Kolo, Ha Petlane	20th March 2024
Latsi Kojana	Teacher	49	Kolo, Ha Nkhabu	29th January 2024
Lephole Mathabela	Herbalist	55	Kolo, Ha Petlane	3rd April 2024
Lethetsa Mapola	Farmer	78	Kolo, Ha Petlane	2nd March 2024
Maputle Leoma	Former Nurse	81	Kolo, Ha Nkhabu	29th January 2024
Matima Khotso	Councillor	-	Kolo, Ha Mohale	23th March 2024
Moka 'Mampinane	Traditional Healer	60	Kolo, Ha Nkhabu	2nd March 2024
Molaoa 'Mampho	EIA Consultant	-	Maseru	29th March 2024
Molikuoa Mosala	Teacher	59	Kolo, Ha Petlane	2nd March 2024
Moshate 'Matsoanelo	Farmer	88	Kolo, Ha Petlane	29th January 2024
Mpeli Mpeli	Farmer	80	Kolo, Ha Petlane	20th March 2024
Mpete Lehana	Farmer	61	Kolo, Ha Petlane	2nd March 2024
Nkhabu 'Meshaka	Chief	65	Kolo, Ha Nkhabu	29th January 2024
Nkhabu Nkhabu	Teacher	48	Kolo, Ha Nkhabu	2nd March 2024
Nonyane 'Mapoloko	Farmer	67	Kolo, Ha Nkhabu	29th January 2024
Petlane 'Materai	Chief	76	Kolo, Ha Petlane	29th January 2024

Petlane Mosiuoa	Chief	-	Kolo, Ha Petlane	20th March 2024
Qoo Serialong	Member of Parliament	-	Maseru	25th March 2024
Tekane 'Matankiso	Member of Parliament	-	Thabaneng, Mafeteng	23rd March 2024
Ts'oeu Hlalefang	Herbalist	72	Kolo, Ha Petlane	3rd April 2024

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