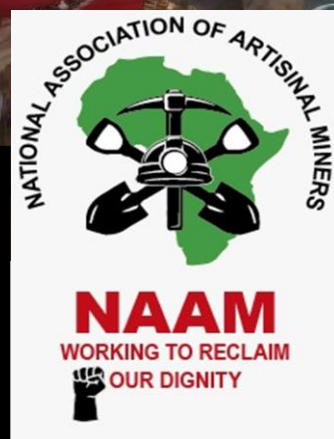


Report on: NAAM investigation & identified conflict factors in the Kimberly artisanal mining area November 2020.



Report Sponsored by ILRIG



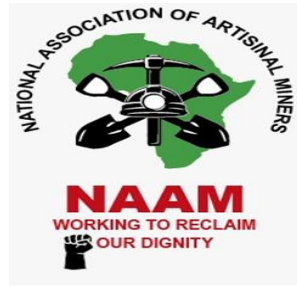
The state must facilitate economic justice, in terms of its Constitution mandates. The judiciary must protect the Bill of Rights, enforce its promises and monitor the conduct of the government. With regards to artisanal miners both the state and judiciary dismally failed us since the dawn of democracy and adoption of the Constitution, the need to redress the imbalances of the past were amplified and given impetus as provided for in section 9 of the Constitution, i.e. “... *equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality, legislative and other measures designed to protect or advance persons or categories of persons disadvantaged by the unfair discrimination...*”

Yet, despite the admiration of our constitution by the world, many of the promises contained in the Constitution remain a hollow hope. Our live reality can attest to that, millions of African descended continue to starve, while a fortunate few enjoy the wealth of the country.

*Artisanal miners ask **does South Africa really belong to all.***



Artisanal miner submitting his diamonds found at Beefmaster camp to Bathopele office’



Report on: NAAM investigation & identified conflict factors in the Kimberly artisanal mining area.

A report prepared for the National Association of Artisanal Miners by the Chairperson: Shawn “Paps” Lethoko.

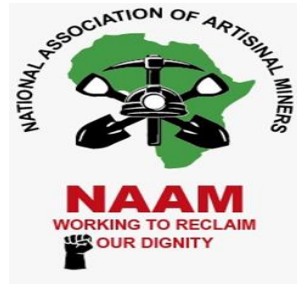
Background

The permitting of artisanal miners in the Kimberly region was a milestone in the development and formalization of the sector. This project, served as a beacon of light for other artisanal miners aspiring for formalization. Marred by complex challenges, the situation requires an objective on-the-ground intervention. The National Association of Artisanal Miners (NAAM) continues to engage with their constituency in Kimberly and visited the area for the 2nd time after artisanal miners on the ground reported about the violent operational crisis, and the complaints such as:

“Government has failed to support the program. The illicit market is still active in the area. In August the licensed legal artisanal miners’ operation was invaded by heavily armed mineral gangsters. It is suspected they are funded by local and international cartels. More than 600 artisanal miners were left destitute after they fled the area fearing for their lives. Threats of gender-based violence were reported by NAAM members in the area. Both male and female artisanal miners lost their income and as a result, many reported financial stress. Their families are breaking up and their assets are being repossessed because they do not have means to support their dependants\children. More than 40 male and female artisanal miners have been squatting in one small house for refuge. They do not have enough foods due to Covid-19 and effects of lockdown and it is exacerbated by the job loss due to criminal activity. Bathopele Artisanal Cooperative is on the edge of bankruptcy because of the violent invasion at their site of production”. More than hundreds jobs have stopped and artisanal miners and their families are living under dire conditions and poverty. Security and operations management is a big contributing factor to the crisis. Grievances related to intimidation, corruption and harassment have also been reported.

NAAM is a national organization of men and women from mining communities who are practicing a subsistence form of work through self-regulation using rudimental tools to extract minerals to put bread on the table for themselves and their families. On the 27th November 2019 the DMRE invited NAAM at the meeting termed “DMRE’s meeting of consolidating research into AM sector with a view to present concrete proposals to the Minister”

On that meeting NAAM proposed to the government to embark on a just artisanal mining Formalization Program interventions that address the real needs of mining affected communities and artisanal miners, and ultimately use the recommendations as basis to regulatory roadmap that serves as a conceptual and technical strategy that outlines how the government will implement the



South Africa's artisanal mining formalization program.

On the eve of Covid 19 lockdown level 3 on August 2020 the DMRE informed NAAM that the department is in the process of developing the Draft Artisanal and Small Scale Mining Policy (Draft ASM Policy), and invited NAAM delegates and other stakeholders to participate on the “prior consultation” to create a dedicated policy and legal framework for Artisanal Small Scale Miners, which is intended to share the initial proposals, project plan, timelines and to hear our initial views and submission on the subject.

Kimberly artisanal miners

1998 White Paper on Minerals and Mining Policy

The White Paper on Minerals and Mining Policy - of 1998 dedicates an entire section to policy statements meant to encourage and facilitate the development of the small-scale mining sector. In this paper, the government establishes its responsibility to help support the development of the small-scale mining sector through various means, including: “Information on mineral rights and mineral deposits available for development to be made accessible, particularly for the benefit of artisanal & small-scale miners.” “Access to funding for small-scale mining to be encouraged and facilitated through appropriate and targeted institutions”. “The Department of Minerals and Energy (DME) to co-ordinate needs-driven research by the Science Councils and ensure that this information and technology is accessible to the small-scale mining sector”. “Information on all aspects relating to mineral development and exploitation to be made by the Department of Minerals and Energy by means of ‘one stop shop’ approach. ” Health and Safety standards will be maintained in small-scale mining operations”. Through this policy document, the government outlines clear areas where it can help to develop and support artisanal miners.



Shawn Paps Lethoko NAAM Chairman addressing Lucky's faction at Beefmaster mining camp



'NAAM meeting with Bathopele cooperative management.'

NATIONAL ASSOCIATION of ARTISANAL MINERS

Vision

To be an internationally recognized institution that promotes, protects and preserve the social, environmental and economic rights of artisanal miners

Mission

To build a sustainable institution, to organize mobilize and empower artisanal miners in Africa.

Objectives

- To promote and advocate for the formalization of artisanal mining through the establishment of community based mining structures comprised of artisanal miners.
- To map existing and establish new “Artisanal Mining Zones” with a focus on abandoned mines, tailings, mineral endowed areas and land.
- To foster partnerships and collaborate with like-minded organizations to address the opportunities and challenges posed by informal artisanal mining.
- To support and promote safer artisanal mining processes that have the potential to enable job creation, support trade and other local economic activities.
- To enhance artisanal mining health, safety and security practice.

- To improve artisanal mining environmental management practices.
- To establish an artisanal miner’s technology and development fund.
- To develop and direct capacity development initiatives for artisanal miners, with a specific focus on enterprise development, mineral value-adding initiatives, and sustainable livelihoods
- To create industrial linkages for technology and enhancement, coupled with access to formal markets both local and internationally.
- To create a platform for knowledge exchange, academic and industrial insights so as to enhance artisanal mining best practice.
- To promote, uphold and enforce high uniform standards, norms of professionalism in the administration of the organization.
- To uphold the principles of good governance, transparency and ethical conduct.



DAY 1

23 November 2020

ACTIVITY ONE: Travel to and arrival in Kimberly.

DAY 2

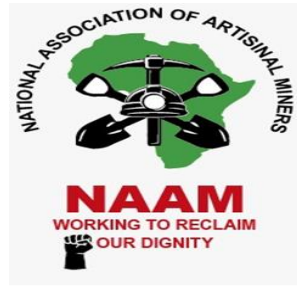
24 November 2020

ACTIVITY ONE: Bathopele Executive Meeting

PURPOSE: Obtain context and background

The meeting with the Bathopele provided detailed background information with some of the pertinent points being as follows:

- The artisanal mining project began as early as 1990
- Batho Pele obtained a mining permit of 600 hectares in 2018 with Lucky, who got involved in 2015, as chairperson.
- Bathopele is set up as as a cooperative with a selected executive.
- The cooperative was originally the Northern Cape Artisanal Miners Association? influence by the DMRE before permitting to change to a cooperative.
- One-day presentations took place for the community about cooperatives, but no further training from that point.



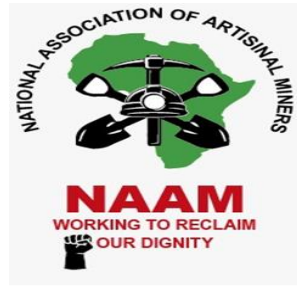
- No regulation by DMR, last time the DMR visited was before permitting.
- Ekapa mining has provided only self-defence training to marshals after violence had begun in 2019.
- The committee alleges misappropriation of funds by the now ex-chairperson Lucky.
- Lucky's conflict of interest as a buyer and chairperson was highlighted
- After the corruption allegation, the chairperson was requested to step down by the executive.
- A bank statement for the company showed details of expenditure during the time Lucky had the card and pin of the company card.
- The committee executive removed the chairperson and voted in a new executive according to their constitution
- Conflicts started after the removal of the chairperson between both leadership and community members.
- Descriptions of illicit activities between Lucky, foreign nationals and government highlighted the complexities of the situation.
- SAPS described as complicit in illicit activities including Lucky and higher-level kingpins.
- The committee claimed they want to work together in peace and for the other faction to stop the violence and intimidation.
- **ACTIVITY TWO:** Lucky and supporters Meeting
PURPOSE: Obtain context and background
The meeting with Lucky and his supporters provided a deeper understanding of the context and current status quo of the situation. The key points are as follows:
 - Lucky did not confirm nor deny allegations of misappropriation/mismanagement of funds and state it should go to a court of law.
 - Lucky highlighted he went to court on an interdict for trespassing not for corruption.
 - Lucky claims Bathopele owes him for some of the activities that took place and he funded.
 - Lucky stated the his buyer status was known long before the permitting of the mine
 - The artisanal miners were unhappy with the lack of transparency from the exec about the corruption allegations
 - Artisanal miners claim they have not seen proof of misappropriation of funds or even a figure of how much was spent
 - The miners claim power is centralised and they do not know what is going on
 - The miners stated that they support Lucky
 - The miners stated the permit should be for everyone

DAY 3

25 November 2020

ACTIVITY ONE: Beefmaster Artisanal Mining Site Visit

The Beefmaster site is one of multiple artisanal mining sites in the Kimberly area. Other mines include Samaria, Thompson and Greenpoint. It was noted that there are more areas within the concession.



Onsite Observations:

- Multiple areas of grounds being worked
- In teams of 2 or more for each working area
- Each team works independently
- Both soil and rocks being mined (floors and tailings)
- Mining methods rudimentary (pick, sieves and buckets)
- Both locals and foreign nationals
- Carats in diamonds varies dramatically
- Informal agreements between miners exist

ACTIVITY TWO: Meeting with South African Artisanal Mining Forum

PURPOSE: Input from stakeholders in the area

Some of the highlights from the meetings include:

- Artisanal miners are not really formalized
- Not yet a formalized body
- The cooperative is not the only voice for artisanal miners
- Feel they were silenced through the so called formalization process
- Skills of artisanal mining not recognized and sidelined
- Laws are made and the artisanal miners are not consulted
- Feel the agreement was a 'death warrant' and want to stop the same happening in other provinces
- The contract with Bathopele mining hurt the artisanal mining nation
- They are a body fighting for the artisanal mining
- Want a market owned by artisanal miners
- The ground to be worked is not rich
- Not all artisanal miners are associated with Batho Pele.
- They as an organisation have a bigger reach than Batho Pele.
- They want artisanal mining solutions led by artisanal miners

DAY 4

26 November 2020

ACTIVITY ONE: Informal Breakfast Meeting (NAAM Exec and Support Staff)

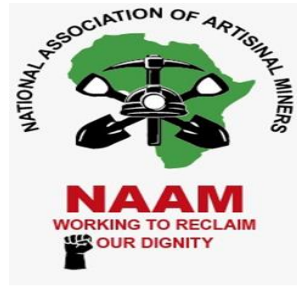
PURPOSE: Discussion of findings thus far

ACTIVITY TWO: Meeting with key stakeholder- Shelly Goliath (WiASM)

PURPOSE: Input from stakeholders in the area

Some of the key inputs from Kelly include:

- The current framework not artisanal mining friendly



- Must create system that works for artisanal miners
- Doesn't want to take over the process, playing a supporting role
- Legislation is not representative, inclusive and derived from the people
- The fight between the illegal and legal camps in Kimberly is due to barriers to access
- There are also personal vendettas and loyalties to personalities
- The situation in Kimberly is not as 'rosey' as the DMR shows it
- The agreement was not built for artisanal miners
- The participation of Batho Pele was for participation sake
- There were more people on the database of the DMR of the co-op based on a training session of random community members.
- The DMR was doing things just to tick the box and not necessarily to ensure sustainability.
- The shadow economy in the area has a stronghold in the area.
- The instability of the area is a result of more than just factions of artisanal miners; there are higher forces at play.
- The agreement is a poverty trap, selling the illusion of inclusion.
- We need to re-do now having learnt the lessons
- There must be political will and leadership
- It's extremely tougher for a woman in the industry of artisanal mining
- New innovative solutions that are developed in collaboration with the artisanal miners themselves
- Solutions from the people are more likely to be successful.
- Miners needed in-depth training in order to know what to do. Training is crucial.
- Supports NAAM in the call to action in the Kimberly area.
- The Kimberly area needs everyone working together.
- More help would aid in the true formalization in the Kimberly area, currently talking to other NGO's also.

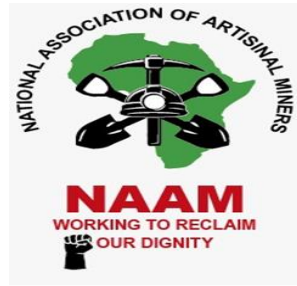
DAY 5

27 November 2020

ACTIVITY ONE: Meeting with Department of Mineral Resources and Energy: Kevin

PURPOSE: Meeting with Key Stakeholder

- He was part of the process from the beginning
- The chaos from destruction of mine property gave rise to attention on illegal mining
- Mining companies were not allowed by community to come in certain areas
- Mayor called DMRE about 'illegal mining' and requested to intervene
- Elections were coming up
- DMR communicated with Lucky to get facts about the miners, how and where they are mining
 - Meeting 'successful' and told they focus on floors
 - Miners had a cooperative set up already
- Mine leadership workshopped



- Land requested by miners on mining company area
- Miners were told to find their own land but didn't
- “Stakeholder Forum” developed now “Mediation committee”
- DMR volunteered to avail a piece of land
- Permit done internally but only 10ha and far apart
 - “No bread here” was the response of the miners
- Negotiated with mining company and they committed to give land (600ha)
- DMR no jurisdiction over dumps.
- Company gave access to floors
- Batho Pele and Ekapa DMR SAPS Premier and Municipality were all signatories.
- Miners must maintain peace and order
- No training give to miners after permits granted
- Diamonds sold in the legal market
- According to DMR there was problems with honesty, illicit market and leadership
- Overall a success in the eyes of the DMR.

ACTIVITY TWO: Meeting with member of Bathopele Youth

PURPOSE: Meeting with Key Stakeholder

Pertinent points from the meeting:

- No support for the artisanal miners
- There are still being exploited through less than market related price
- Some sort of organisation for the people has helped but minimally
- Batho Pele should be benefitting more.
- A value chain should be created through KIDJI and KIDJA and networks with other miners
- The best way to get legitimacy is to be organised.
- We need to be legitimate through legal methods.
- The illegality is making it dangerous to work in the artisanal mining sector in Kimberly
- We need to create a value chain by manufacturing instead of just rough stones
- Not really a connection between Batho Pele and Batho Pele Youth
- Personal agendas are playing a role in the miscommunication
- Shown interest and initiative but not taken seriously by mother body

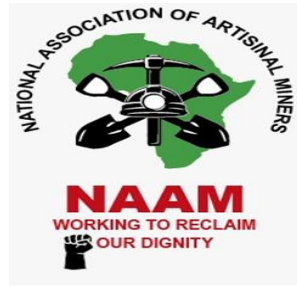
ACTIVITY THREE: Meeting with the Department of Environment and Nature

Conservation: Brian

PURPOSE: Meeting with Key Stakeholder

Key points from the meeting:

- Health and safety is vitally important in artisanal mining.
- Who takes accountability for lost limbs or lives?
- Must work together for a degree of compliance within artisanal mining space
- It is imperative to artisanally mine in the right places using the right methods
- Currently DMR does not corroborate with the DENC on mining permits



- Working to build a relationship with DMR
- Artisanal miners must be than a glorified labourer
- Artisanal mining can be empowered through collaboration
- Standards that have been set for large scale companies must also be scaled down to artisanal miners
- Must work together to create a viable solution
- As a department on board with the intervention of NAAM and calling all stakeholders together.

28 November 2020

ACTIVITY: Informal Discussions on the findings thus far

PURPOSE: Collate data and discuss assessments of situation

29 November 2020

ACTIVITY: Consolidation Meeting

Purpose: Compile data and begin draft report

30 November 2020 – The team travels back to respective places.

ACTIVITY: Travel to respective locations

Kimberly Intervention Assessment

Key Findings

- A lack of up-skilling and training resulted in grave challenges for artisanal miners with regards to management of the co-operative
- The process followed by the stakeholders involved was not transparent.
- Some artisanal miners are not at peace with the agreement.
- Contention amongst miners in the area existed before the permitting of miners.
- The permitting of miner did not lead to formalization.
- The DMRE is not fully in touch with what is happening on the ground.
- The situation is complex and requires a long term approach
- Conflict management strategies need to be applied for the artisanal miners of Kimberly
- There needs to be an avenue for more artisanal miners to be heard not just BathoPele
- The situation is complex and requires further intervention with all stakeholders sitting at one table.

Recommendations

- A follow up multi-stakeholder meeting
- A meeting with the Premiers office.
- Up-skilling and training of artisanal miners.
- A more inclusive approach to artisanal mining.
- Inclusion of artisanal miners on solution development
- Development of artisanal mining blue print based on successes and challenges of Kimberly