

**Interrogating the legitimacy to enter into a social licence in the mining industry in
South Africa: a community perspective**

By

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ABSTRACT

Discussions about the significance of the social license phenomenon have been increasing over the last two decades, yet the trend has been to approach it from a company perspective. Over the same period, there have been increasing challenges in mine-community relations, and company interventions have not led to the desired outcomes. A credible process for achieving a social licence within a complex and historically sensitive context is currently not in place, which has perpetuated the feelings of dissatisfaction and has led to serious conflict between mining communities and companies. The literature revealed a lack of clarity on the role of the community in the process, necessitating an interrogation of the phenomenon from a community perspective.

Legitimacy theory was used as the basis of the study. The multi-dimensional and dynamic nature of the study necessitated the use of qualitative methods and an inductive approach, based upon a case study within two South African mining communities.

The results of the study demonstrated that communities are limited in influencing the social licence, and this highlighted the need to incorporate community specific legitimacy, which more closely reflects the reality within communities (their diversity, informality, broad representation, and dynamic nature). The lack of agreement (emanating from communities, government and industry) on legitimate community leadership significantly also impacts on the social licence process. Communities are unable to articulate their expectations to mining companies, and the requirements for a social licence are not being satisfied. The study also highlighted the deep and complex nature of discourse transition, and that mining companies must concentrate on understanding context and produce context-specific interventions.

This research contributes by extending the theorisation of legitimacy, as it relates to the social licence, by adding the concept of community legitimacy and proposes a community leadership framework, to incorporate this aspect. A conceptual model, which integrates the context-specific nuances, is therefore proposed for sectors which are dependent upon achieving accord with stakeholders via a social contract, and are experiencing increasing complexity and social tensions relating to their operations. Such a framework would facilitate engagement through representative structures and result in a more robust social licence outcome.

Key words: social license, community legitimacy, community participation, engagement, multi-stakeholder participation, organisational legitimacy, social and labour plans, integrated development plans, broad based economic empowerment

DECLARATION

I declare that this thesis is my own work. It is submitted in partial fulfilment of the requirements for the degree of Doctor of Business Administration at the Gordon Institute of Business Science, University of Pretoria. It has not been submitted before for any degree or examination at any other university.

Name

Nomakhuze Nyembo

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CHAPTER 1: INTRODUCTION

1.1 Background to the research question

Understood in its most ambitious form, the social licence to operate has the potential to become nothing less than the central question for democracy in a rapidly globalising world: what right do citizens and communities have to assert control and authority over the activities of outsiders that impact their lives and livelihoods (Miller, 2014)? Social licence is, however, not seen in this way by industry or communities. The divide between us and them at the conceptual constitution level of the social licence raises questions about its sustainability and suitability as an instrument of democracy (Miller, 2014). The social licence concept originates from a business perspective and as a result, there is substantial evidence on the concept from such a perspective (e.g. Owen & Kemp, 2013). Other scholars, for example Syn (2014), have recently begun to study the concept from a sociological perspective.

The author approached it from a community perspective. The social licence has been studied for almost two decades, but the focus has been from an industry perspective (Jenkins, 2004). Even though there has been referral to the community as a stakeholder, and its suggested elevated role, there has not been an assessment of how it should go about accepting companies or the specific nuances that impact it, as a stakeholder (Viveros, 2017; Wright & Bice, 2017). This has been one of the limitations of the social licence dialogue to date, in that there has been a neglect of the community and the dialogue has been company-driven. Previous studies failed to highlight that communities are very different to industry, and their participation in the social licence process needs to factor in their reality.

The social licence concept is defined for the purpose of this study as acceptance of the mining operation by the host community, which can be operationalized by a record of agreement by the community for the mine to operate. The challenge has been that companies lead the discussion on the social licence and continue to reinforce the assumption that it exists, but there is no clarity on how it is entered into from either side (Parsons & Moffat, 2014). Furthermore, the conditions are not explicit on the nature of the agreement, how it is reached and who is involved in it (Lacey & Lamont, 2014).

It is within the crucible of conflict between organisations and newly empowered communities that the phrase social licence to operate has begun to acquire significance and meaning (Miller, 2014). The term social licence was first coined in 1997 by Jim Cooney, then Vice

President of International Government Affairs of Placer Dome (Syn, 2014). Since then, it has come to be understood as an intangible representation of ongoing approval or acceptance of a project by affected communities which can be withdrawn at any time. This is distinct from a legal or regulatory licence granted by a government (Syn, 2014). Social licence remains poorly defined and understood (Bice, 2014; Raufflet, Baba, Perras, & Delannon, 2013) and there is ongoing debate on whether the concept itself in its assorted guises, is useful (Owen & Kemp, 2013).

Some countries have adopted community development in their mining laws (Dupuy, 2014). In the African continent, South Africa, Nigeria, Ghana, Guinea, Mozambique, Democratic Republic of Congo and Niger have adopted such laws. Some could argue that this was an effort by the governments to anticipate, or even resolve conflict between communities and companies. The conflicts have not ceased however, despite the regulation, and the power of local communities to effect national level regulatory change has been questioned by some (Dupuy, 2014; Otto, 2013).

What is evident from various studies is that governmental permits are no longer sufficient and on-going host community approvals are also required for businesses to operate successfully (Salzmann, Ionescu-Somers, & Steger, 2006). This is particularly the case with mining companies (or other high impact sectors), which must build their own socio-political stability by engaging directly with stakeholders to develop a strong social licence to operate (Bunel, 2013).

The focus of a social licence to operate is going beyond compliance (Hall, 2014; Rooney, Leach & Ahworth, 2014). However, there are no clear criteria of what this entails and what the limits are. For instance, the social licence to operate is regarded by some as a desperate bid for survival by the mining industry (Owen & Kemp, 2013), while others regard it as a sign of a maturing industry that has understood the importance of gaining and maintaining its legitimacy (Goodland, 2012). Moffatt and Zhang (2014) state that what constitutes a social licence to operate, the process to attain it and the factors that influence it, are still uncertain. Despite social licence research spanning over a decade, most studies are descriptive (about how to acquire) and there is little understanding of acceptance of mining by host communities (Moffatt & Zhang, 2014).

Moreover, there is still a lack of clarity on how the social licence is acquired, despite previous studies focusing on this. The statements and rhetoric asserting a social licence make it difficult to understand who does what (Parsons & Moffat, 2014), particularly as there is little participation of the community in the dialogue. In summary, although the mining companies require a social licence to operate, negotiated between themselves (as industry actors) and

the host communities, there is very limited information on criteria to determine when a social licence exists (Bice, 2014; Costanza, 2016) and how it is issued (Costanza, 2016).

1.2 Problem statement

According to Bunnell (2013), opposition to mining increased over the past few decades with the mining industry suffering reputational damage with publicity of environmental and social harm and seeking legitimacy in the context of more vocal communities. Relationships between the extractive industries and communities affected by extraction are often marked by unfulfilled expectations and even conflict (Salzmann et al., 2006). As socio-political opposition to mining becomes more common, mining companies experience less stable socio-political environments in developed, emerging and developing economies, regardless of their form of government (Bunnell, 2013). As community members are progressively aware of the impact of mining and of their rights in relation to this, government approvals and permits offer a minimum standard but can no longer be conflated with a licence to operate (Bunnell, 2013). What is apparent is that mining development is complex and characterised by tensions and conflicts between the mining industry and communities (Haslam McKenzie, Rolfe, Hoath, Buckley, & Greer, 2013; Lin, Li, & Bu, 2015).

The complexity of the operating environment has prompted the miners to voluntarily and proactively engage with communities (Lin et al., 2015) and embrace the social licence to operate as a means to ensure economic feasibility and continuity for their activities (Tiainen, Sairinen, & Novikov, 2014). Where this engagement is not voluntary, there are mining laws which prescribe it in some countries. Engagement is necessary since it is very difficult for a mine to operate effectively or profitably without public acceptance. Public attitudes toward mining (most particularly how citizens perceive mining associated benefits and costs) should be important considerations for successful mining developments and mining related policy making (Zhang & Moffat, 2015). For the mining industry to be sustainable, the public must be willing partners in the process of mining development.

According to Parsons and Moffat (2014), there are cases suggesting that communities, governments, regulators, indigenous people and society have some agency role in negotiating a social licence, manifested in various ways which are abstract. For example, providing goodwill, trust, free prior and informed consent, recognition and building partnership. It is however uncertain how groups actually participate in determining whether trust, goodwill or consent is present. It is also unclear how subjects communicate their decisions and company reports which state that a social licence is in place, are not explicit on how it was acquired.

The terms used suggest that the company must perform some social function in exchange for a licence and there is an indication that companies do something to acquire it, but it is not clear what is done and how communities articulate their acceptance of what is done (Parsons & Moffat, 2014). Maintaining a social licence is seen as important for the companies, but it is not clear how the degree to which they are being successful in that objective, is being measured (Richert, Rogers, & Burton, 2015).

Dowd and James (2014), highlight the role of the community and company as actors within the social licence phenomenon. They postulate that a community retains particular non-tangible and non-permanent beliefs, perceptions and opinions as well as the ability to provide informal consent or authorisation for industry to pursue its goals. On the other hand, industry, from a persuasion and securing perspective, continually endeavours to gain integration and support for their goals. Questions about how companies gain this approval or broad acceptance and how they influence the beliefs and perceptions of communities, are relevant but unanswered. What is known is that a critical driver for industry is the need to ease the community risks linked to present and planned operations (Humphreys, 2000; Lin et al., 2015). This need is often articulated in terms of the commitment of companies and the industry in general, to attain a social and also legal licence to operate (Moffat & Zhang, 2014).

There are often challenges within communities themselves, which could make it difficult for them to enter into a social licence to operate as a partner in the process. For example, communities are not always cohesive; there are challenges with leadership legitimacy and the ability of communities to exert power on the social licence phenomenon is in question. This results in projects going ahead even when communities are not in agreement. It is no wonder that the phenomenon is written of mostly from an industry perspective. In this regard, the legitimacy elements and challenges within communities which could impact their role in the social licence phenomena as issuers, are unexplored. Instead, there is ongoing assertion by industry that the social licence is in place. Most definitions of the social licence phenomenon are framed from a legitimacy perspective; however, it is not clear how legitimacy is confirmed or how the community could challenge the legitimacy of companies, other than through protests. It is also not clear if the legitimisation efforts of companies meet the expectations of communities. As a consequence, it is unclear how communities enter into a social licence from a process point of view.

This study argues that these uncertainties have a direct impact on the phenomenon and its validity- in terms of its very existence and strength. Therefore, embarking on this study is critical and justifiable on several grounds. Firstly, there has been an increase in social conflict and dissatisfaction with mining (Harvey & Bice, 2014); despite the subject matter of a social

licence having raised the profile of social issues (Owen & Kemp, 2013) and the use of the phenomenon gaining popularity. The signs of dissatisfaction are prevalent in other industries (beyond mining) which depend heavily on surrounding communities and a large labour contingent, as well as the use of (or extraction of) natural resources and land, such as: agriculture, forestry, wildlife conservation and tourism and renewable energy projects. This suggests that there could be an expectation gap between industry and communities. Getting the community perspective on the social licence phenomenon is critical, since the concept is currently only framed from an industry perspective.

Secondly, since there is more than one party involved in the social licence to operate, and since both industry and the community are involved, it is critical to get a clear community view. Lastly, The Mining and Petroleum Resources Development Act in South Africa addresses the social contribution of companies by requiring companies to submit social and labour plans with commitments for social, economic and infrastructure programmes in host communities. It is important to understand how the South African mining industry and communities distinguish between the legal compliance requirements and the social licence to operate, which is referred to as going beyond compliance.

1.3 Purpose statement

The purpose of the study was to understand what makes communities withhold the social licence. The author chose to study communities where there was not a social licence to operate. The purpose was achieved by exploring the elements of legitimacy necessary to enter into a social licence from a community perspective. The expectations (Gunningham, Kagan, & Thornton, 2004) of legitimacy between the parties involved in the phenomenon were explored. This was necessary since the legitimacy of an organisation and the granting of a social licence is dependent on meeting stakeholder expectations (Dare, Schirmer, & Vanclay, 2014). The study also sought to explore the process of the social licence issuance (Parsons, Lacey, & Moffat, 2014) to allow for its utility and practical application.

1.4 Research questions

The research question in this proposed study is: How is the social licence to operate entered into from a community perspective? In order to understand the main research question, the following sub-questions were investigated:

The sub research questions for the study are:

- Q1 What are the key elements of legitimacy within communities necessary to enter into a social licence?
- Q2 What are the key expectations of legitimacy between communities and companies necessary to enter into a social licence?
- Q3 What process leads to the issuing of a social licence by communities?

1.5 Research objectives

Consistent with the research questions, the research study had the following objectives:

- a) To explore and investigate the elements of legitimacy within communities necessary to enter into a social licence.
- b) To explore and investigate the key expectations of legitimacy between communities and companies necessary to enter into a social licence.
- c) To explore and investigate how the community issues the social licence to operate, from a process point of view, and whether this happens in practice.

1.6 Importance of the study (expected contributions - theoretical, practical, and methodological)

1.6.1 Theoretical contribution

The study is important at three levels. Firstly, there is a literature gap, since the social licence phenomenon is mostly written about from an industry perspective; this study investigated the phenomenon from a community perspective. Thus, the study built theory around the social licence by bringing in the neglected voice of the community. Second, the study focused on the social licence phenomenon from a moral legitimacy point of view, which is an area that has not been explored, as previous studies have mostly focused on pragmatic and cognitive aspects of Suchman's (1995) conceptualisation of legitimacy. Third, the study aimed to narrow the expectation gap between companies and communities in South Africa, in so far as legitimacy elements are concerned, which are necessary to enter into a social licence.

1.6.2 Practical contribution

From a practical point of view, the study is beneficial to mining companies and other industries or sectors, and advances the dialogue on the social licence beyond rhetoric. The study also contributed to a better understanding of the process of developing a social licence and is beneficial for stakeholders, including the government and senior industry players. Its findings contribute to a better understanding of community needs and perceptions at a practical level.

1.6.3 Methodological contribution

The social licence was by its design, influenced from a practitioner perspective. As a result, the rigor of methods applied and advancement of the phenomenon academically has been limited. The social licence is a contemporary phenomenon, and its study is connected to the setting of the research and context (Yin, 1994). Even though the social licence has been studied for over two decades, the theoretical propositions have not been explored in great detail.

This study made a contribution in the form of advancing the study from a methodological point of view, since some articles on the social licence are self-reporting, with some not even incorporating methodology sections. A contribution was also made through in-depth exploration and towards the building of theory. A case study approach was applied, which allows for contextualisation and explanation (Welch, Piekkari, Plakoyiannaki, & Paavilainen-Mäntymäki, 2011).

1.7 Limits and delimitations

The limitations of the study are linked to the fact that the social licence debate tends to be emotional and there is a possibility of bias, as interviews were conducted with community members. The emotional state or experiences linked to the phenomenon could affect the objectivity of responses. In other words, it is possible that the enthusiasm of interviewees to participate may have been biased towards a common negative experience, or due to historical lack of consultation by the mines, the research may have been perceived as an opportunity to air their grievances.

The author's own biases and beliefs linked to the phenomenon could also be a limitation. The author was born and raised in South Eastern part of South Africa, in rural former Transkei (a homeland during the apartheid years). Her only exposure to mining while growing up was

through interactions with people who were migrant labourers at the mines. Most of these people were men who would leave their families in the rural areas while they moved to mining areas, often staying in mine provided hostels. As a professional, she spent most of her career working in the field of human resources for various organisations. She later worked for a mining company in the field of stakeholder relations - and through this exposure, learnt more about mining legislation and was exposed to mine-community relations and conflict. It was during her time in the mining industry that she became interested in social impact and the dynamics between mining companies and communities. Like most people who grew up during the apartheid years, the author was aware of the negative social impacts of this industry. To reduce the possible effects of these biases or limitations the author asked clarifying questions during the interviews, and held follow-up interviews when necessary. The validity and reliability of the data was ensured through rigorous analysis as discussed in the research methods chapter.

Language was a possible limitation, especially if one considers some of the nuances that could be missed due to the translation or paraphrasing from an indigenous language to English. The author ensured that all the transcripts were accurately recorded, and held follow-up interviews for clarification, when necessary. The methodology adopted for the study may also be a limitation, in terms of its generalised approach.

1.8 Assumptions

Assumptions serve as the basic foundation of any proposed research (Leedy & Ormrod, 2005); they comprise what the researcher takes for granted (Ellis & Levy, 2009). Identifying assumptions behind a given research proposal is difficult, as by nature, we all take our deepest beliefs for granted; rarely questioning them from someone else's point of view (Ellis & Levy, 2009).

The basic assumptions for the study were that there would be different perspectives/understanding from the community in relation to the social licence phenomenon and that the rhetoric, which often originates from a company perspective, would be difficult to validate. Through an exploration of the phenomenon from a community perspective, this assumption was supported. It was assumed that the communities interviewed do not issue a 'social licence' and that the expression of dissatisfaction with the industry is through their widely-publicised protests.

It was also assumed that the research participants who participated and contributed to the study would do so voluntarily and willingly, and that the contribution would be both honest and

factual. In this respect, it was assumed that the sample of participants was adequately large to broadly represent the community view.

The assumption underlying this study was that while responses would be context-specific, the research trends might be able to be extrapolated (and be of use) to other industries or sectors in South Africa, or to other developing economies.

CHAPTER 2: RESEARCH SETTING AND CONTEXT

2.1 Background

The mining and minerals industry faces some of the most difficult sustainability challenges of any industrial sector (Azapagic, 2004). Mining triggers debates and conflicts, leading to different types of resistance and social mobilisation in different contexts (Bebbington, Hinojosa, Bebbington, Burneo, & Warnars, 2008). The debates and community responses are unique in developing contexts. To secure its continued social licence to operate, the industry must respond to these challenges by engaging its many different stakeholders and addressing their sustainability concerns. Various projects have been introduced at a global scale to aide this process, including the Mining, Minerals and Sustainable Development (MMSD) project (Azapagic, 2004), however their impact in some developing market contexts is questionable. The emphasis on context is important for this study since, the boundaries between the social license and context are not clearly defined (Yin, 1994).

2.2 The developing market context

While there has been increased scrutiny of mining companies in developing countries, and responses by mining companies through the introduction of social responsibility programmes and emphasis on relations with local communities, the concerns of local communities in developing countries are often unaddressed. The logic of mining companies is also often pragmatic, aimed at avoiding any imposition of costs and minimising risks (Kapelus, 2002). The risk is higher for mining companies when communities can organise themselves, and when they command resources, however this is not the case in developing market contexts, as communities struggle to mobilise and have limited access to financial resources.

The networked state of civil society and the ability to influence across boundaries, transnationally (Parker, Van Alstine, Gitsham, & Dakin, 2008), and hold formal authority to account is not fully expressed in some developing market contexts. There are many areas where people do not possess the full array of informational, organizational, material, social, financial and human resource assets that make up their overall capacity to use social, political and economic opportunities (World Bank Institute, 2007) to protect their interests. Government effectiveness is also low in developing markets, leaving communities vulnerable and the monitoring of mining company accountability weakened. Corporations have tended to pay more attention to those communities which have more resources, more specifically,

corporations have paid more attention to the concerns of communities in developed countries in which they operate than to those in developing countries (Kapelus, 2002).

The developed world is focused on decreasing regulator's power (Salzmann et al., 2006), due to increased civil society scrutiny and the explosive growth in the global civic sector over the past 20 years (Bunnel, 2013). This growth in skills base and representivity has led to civil society advocating for the issues affecting mining communities (Bunnel, 2013), however this has not translated to all developing market contexts, as proven in the case of South Africa, where civil society is not necessarily well organised, and does not always advocate for the issues affecting communities in a coherent manner, or achieve meaningful results. The challenge of getting communities to mobilise themselves in a manner that goes beyond protests (Bebbington et al., 2008; Bury & Kolff, 2002; Ponce & McClintock, 2014) and make meaningful contributions in matters that have an impact on their livelihoods is a significant one that needs attention. While some argue that the mining industry confers many benefits like the provision of employment (Kumah, 2006), some in communities deny that companies are doing enough and suggest that the impact is not felt.

Corruption is another factor which undermines efforts in developing market contexts and taints efforts aimed at co-operation and collaboration (Boutilier, 2014). This often permeates all spheres of society, including government, industry and civil society. Agreements are questioned as a result of the levels of corruption, and the credibility of processes amongst stakeholders is often undermined. This includes relations between companies and communities, companies and the government and relations between all the participating parties.

2.3 The South African context

2.3.1 Historical factors

South Africa was governed by an apartheid government for many decades, whose approach to development was separation between the different racial groups in society. The establishment of communities and development close to mining companies was not encouraged during the apartheid era, instead the government in partnership with the mining industry supported a migrant labour system. The migrant labour system which exists even today as a legacy of apartheid led to a social burden which is prevalent to date and a complex social arrangement (Qobo, 2012). The living infrastructure was largely shacks and shanty towns for example (Jennings, 2013), and there was an influx in mining towns caused by immigration of employment seekers coupled with immigration control measures of the apartheid system (Hamman, Kapelus, Sonnenberg, Mackenzie, & Holleson, 2005). Other

social challenges associated with migrant labour include the separation of families and the financial pressures resulting from having to maintain dual families (Jennings, 2013). The tradition of migrant labour spanned over 150 years, within a low-skill, labour intensive industry (Paton, 2013). The mining sector and supporting industries employ more than one million people. Each mineworker is reported to support between 7 and 10 dependants, a multiplier effect, which extends to between 7 and 10 million people. Most mining companies have communities that are within close proximity to the operations, which vary in form. High unemployment rates and poverty levels are the norm, and have escalated year on year. The welfare system of the government is overburdened and is increasingly unable to address the social challenges at the same rate that they occur.

2.3.2 Regulatory framework

South Africa provides a unique setting for this research for many reasons which follow. One of the key factors which had a significant impact on the mining industry is the system of racial segregation in South Africa known as apartheid which was implemented and enforced by a large number of acts and other laws. According to Harrison and Zack (2012), the mining industry was a key driver in the increasing levels of urban segregation in South Africa, and provided the template for the socio-spatial engineering of the National Party government in later years.

Historically, mining communities in municipal areas of South Africa were not meant to be permanently established, as the idea was not to have communities close to the mines, especially in and around Johannesburg. Despite these intentions, gold and other minerals were discovered close to established townships, which were formed as underdeveloped segregated areas, built on the periphery of towns and cities. From the late 19th century until the end of apartheid, these areas were reserved for non-whites, namely Indians, Africans and Coloureds, who were settled as far away as possible from urban centres, and the migrant labour system was the resultant outcome of this approach. The approach by the mining industry to urbanisation did not factor in the concept of a broader community beyond its employees. The approach was that of influx control to the cities and accommodation of mine workers in mine-owned property; mostly single-gender hostels. During apartheid, mining companies accrued enormous wealth by utilising low-wage workers, exposing them to dire health and safety conditions with little reward. For this reason, the racial and economic injustices in the mining sector and the need for their rectification occupied a central place in the aspirations of the liberation struggle against apartheid (Centre for Applied Legal Studies (CALS), 2017).

Over time, informal townships cropped up closer to the mining areas as people moved closer to the mines in pursuit of economic opportunities. Many of these townships are characterised by poverty, and lack of basic infrastructure like sanitation and clean drinking water. Various options for ownership of the township houses were available, although community members had little access to funds or credit and so spent decades paying municipal rental and not owning their property. Property rights were an issue (and still are today), and the apartheid regime did not support any consultation processes, even in instances where there was environmental and social damage.

Additionally, there was no effective economic development beyond the core business which was to extract minerals, so these townships were left with few/no opportunities following the closure of mines, and are often referred to as ghost towns. Today, these communities continue to be vulnerable as they have no claim to the land, other than what is implied in the constitution, that the mineral wealth belongs to all who live in the land. This implicit expression has not yielded positive outcomes for everyone, especially the poor who struggle to assert their right to be consulted. The government of South Africa (SA) implemented broad-based black economic empowerment (BBBEE) as a nation building strategy. The act intends to empower 'all blacks' listed as Africans, Coloureds and Indians.

The operationalization of this legislation in the different industries was through sector charters, which generally focus on broad participation, including participation of women and the previously disadvantaged in mining. Participation was intended to be either through ownership structures, participation in mining supply chain processes, skills development initiatives (benefiting local communities and mine employees) and local economic development. Access to the large amounts of capital required for BEE deals is sometimes a major concern as most of these transactions take place in the open market without government's involvement, not even in the selection of partners (Fauconnier, 2006; Fauconnier & Mathur-Helm, 2008). This has led to a handful of BEE parties acquiring shares in various companies. A multiracial middle class, including a black capitalist class has subsequently emerged over the last two decades in South Africa (Iheduru, 2004).

The aspirations of the majority of South Africans have remained unmet, despite the legislation, and there have been questions on the success rate of the BBBEE. The bulk of SA's society is still excluded economically and politically from the means to tackle their plight, and often lack the conditions suitable to taking an entrepreneurial route to upward mobility. Emerging on the left has been a narrative that SA's negotiated settlement was a victory for 'white monopoly capital' at the expense of the legitimate claims of the black majority (Oosthuizen & Mbeki, 2018). Due to the widening income gap in the country, this narrative around the lack of broad

participation in BEE transactions has gained momentum, while the economy of mining regions has been in the spotlight, with traditional mining towns often referred to as ghost towns.

This historical context is relevant and important to understand, since it influences how relations between companies and communities have unfolded. The Constitution prescribed public consultation when undertaking policy reform, developments, and in the development of transformation codes and charters. The post-democracy regulatory framework in South Africa was similarly aimed at ensuring that mining companies offer opportunities for communities and mine workers to benefit from the resources in their area, and redress the imbalances created by the legacy of apartheid. New mining legislation was imposed which introduced principles of community consultation and a greater clarity on what was expected from mining companies, linked to the issuing of permits. The introduction of the Mineral and Petroleum Resources Development Act of 2002 (Cawood, 2004) had, as its most noticeable difference to previous legislation, the incorporation of social aspects (Cawood, 2004).

The legislation was aimed at making a difference in mining communities, through socio-economic investment, skills development, social contribution and support for local enterprises. Significant changes were introduced, which included a social element with a requirement for companies to submit a five-year social and labour plan (SLP), and to consult with communities on an ongoing basis, and specifically prior to licensing and signing of the SLP. The social and labour plan (SLP) incorporates socio-economic and infrastructural investment commitments, skills development commitments as well as commitments towards integration of family housing units to replace apartheid style hostels. There is also a requirement to procure from local small-scale suppliers and develop them, as well as sourcing from communities when employment opportunities arise.

The new mineral law dispensation in South Africa also brought about a fundamental paradigm shift in terms of the rights to exploit mineral wealth. The mineral wealth of the country belongs to the people of South Africa and the State is now the custodian thereof (Mineral and Petroleum Resources Development Act, No. 28 of 2002- MPRDA). This is a significant departure from the Roman-Dutch principles of private ownership and exploitation of mineral resources. The Mining Charter was introduced to redress the historical imbalances of the apartheid era across the entire sector, and set targets for black shareholding and transformation at management and supplier level.

Yet, despite the efforts at social inclusion, dissatisfaction persists in communities. Despite the mentioned reforms and efforts to respond to these new rules, there is heightened anger in communities due to perceived non-compliance of mining companies, as well as the prevailing and often worsening social challenges of unemployment, poverty, weaknesses in public

service delivery and limited access to economic activity and opportunities resulting in socio-economic inequalities (Twala, 2013). There are also concerns about the failure of the state to implement programmes and basic services at municipal level, attributed to many reasons which include skills gaps, corruption and maladministration. The Constitution of the Republic of South Africa (1996) mandates local government to: a) ensure the provision of services to communities in a sustainable manner, b) promote social and economic development and c) encourage the involvement of communities and community organisations in the matters of local government. These expectations are implemented via the Municipal Systems Act 32 of 2000, which requires municipal planning to be developmentally oriented, and further, that municipalities must undertake an integrated development planning (IDP) process to produce integrated development plans for the achievement of the local government objectives.

The IDP process has been a subject of major debate and contention over the years, with communities increasingly challenging the legitimacy of the process, suggesting a lack of transparency and non-representation of community interests. Mining companies have to work within the IDP framework (generally outlining development planning over a budget period), to match municipal service delivery with community needs. Suggestions that projects often represent interests of municipal officials instead of those of communities often fuel anger in communities. In some instances, mining companies choose to implement projects which are not part of the IDP, through interaction with segments of the population.

Municipalities in black communities had in the past not focused on provision of essential services. The national government is not always able to provide the full budget requirements to meet the demand for services and development in municipalities. There is also embezzlement of funds at municipal level. As a result, municipalities often rely on the contributions of mining companies to fulfil their development obligations. The challenge is often when these interventions are not in line with community needs. Responsibilities between municipalities and companies are also blurred. When there is dissatisfaction at community level, accountability often becomes a challenge as communities can express anger towards mining companies on issues that are municipal responsibilities, or visa-versa.

Employment of people from labour-sending areas, including Mozambique, the Eastern Cape Province of South Africa and Lesotho, have also influenced community perceptions of exclusion. Pre-existing social tensions have been exacerbated by the presence of foreigners threatening job security, leading to xenophobic attacks. Foreigners, like mining companies, become a symbol of socio-economic failure, and are easy targets. There is a discrepancy between the society envisioned in the Constitution and the lived reality of citizens. While

democracy unlocked a path to political rights for all South Africans, the socio-economic rights embedded in the Constitution have remained elusive for millions (Oosthuizen & Mbeki, 2018).

2.3.3 State of communities in South Africa

There has been increasing unrest in recent years within the communities in and around the mines, with the now well-documented Marikana massacre which happened in August 2012, bringing negative attention to the industry as a whole. During the Marikana massacre, more than 30 mine workers were killed by the police during a protest for higher wages. Even though the Marikana event was ultimately triggered by a labour dispute, subsequent reports showed how the build-up in tension may have been attributed to poor living conditions in informal communities where mineworkers reside, and the general unrest in these communities.

The findings of the Commission of Enquiry Report (Marikana Commission of Enquiry Report, 2015) highlighted the mining company's failure to comply with its housing obligations in terms of the SLP. Only a few houses were built, a lot less than what had been committed, and the conversion of single-gender hostels to family units, which is a legal requirement was lagging behind. The Commission found that the failure to comply with housing obligations created an environment conducive to the creation of tension, labour unrest, disunity among employees or other harmful conduct. In view of the fact that the Commission found that there was non-compliance with housing obligations in the SLP's, the commission recommended that the apparent failure by the Department of Mineral Resources to adequately monitor implementation of housing obligations, should be investigated (Marikana Commission of Enquiry Report, 2015).

These same tensions pose a significant risk to the whole mining sector, and similar signals are being observed in other sectors, indicating that there are systemic problems within the South African social system. The overlaps in the negotiation process between labour and companies on the one hand, and communities and companies lead to labour disputes spilling over to communities and vice-versa, adding to the current problems. This impacts on the social licence phenomenon in terms of who should form part of the negotiation. The Marikana event took shape against a backdrop of unemployment, weaknesses in public service delivery and overall socio-economic inequalities (Twala, 2013). There are a lot of reports that the challenges the mining industry faces are largely social, despite their impact on operations in mining companies, with uncertainty around whether they can be addressed from a social perspective and how such processes could unfold.

Communities also differ, in many respects in South Africa. In some parts of South Africa, mining communities are rural and governed by traditional authorities and chiefs under traditional authorities' guidelines. Even though this comes with its own complexity, such

communities have an advantage as they have a historical claim to the land (through regulations governing traditional leadership), mostly on a communal basis. These communities are able to mobilise and have the law on their side. They are what could be referred to as 'indigenous communities', which in this context would entitle them the right to free prior and informed consent. This raises other questions regarding who has the right to define who fits into the indigenous category, as all Africans consider themselves to be indigenous, even those that may not have rural land or a legitimate claim to land ownership.

The recognition and legitimacy of what defines "traditional leadership" is also questionable. While in other developing market contexts, traditional leaders have particular recognition and are heavily involved in operations (Banchirigah, 2008), in the South African context, there are instances where traditional authority is challenged, with ongoing questions about its place in a democratic context. Similarly, there are communities who have once occupied and used the land where mining operations are developed and where agreements may have been reached based on formal ownership of land.

There are other communities who neither own land nor have traditional leadership, which significantly impacts on how they relate and engage with mining companies in terms of power relations and who is recognised as "legitimate leadership". The two communities in this study fall within this category. This puts communities in a vulnerable position as there are no guidelines for engagement. Protection measures like the free, prior and informed consent (Cariño, 2005; Goodland, 2004; Hanna & Vanclay, 2013; Ward, 2011), applicable to indigenous people which gives them the right to give or withhold their consent on proposed measures that will affect them do not apply in the South African context, making it difficult for communities to assert authority in meaningful ways and bring about meaningful change. Communities have resorted to mass protests as an expression of their discontent, as was the situation with the case study communities.

A recent court ruling in South Africa concluded that government failed to consult communities in a review process of the mining legislation, and ordered that communities should be consulted. This court ruling is a key and historical achievement in that it recognised the plight of those who are not consulted on matters which impact them. The consultation process included a tripartite alliance between government, unions and industry, and the ruling found that the interests of communities (as independent stakeholders) weighed as much as other stakeholders, and that their exclusion was unlawful and unfortunate. The case was led by organisations representing some of the affected communities. The complexity around who and how to consult still prevails despite the court ruling, which makes this study both relevant and timely.

2.3.4 Research setting and case selection

The author conducted research in two communities based in municipal areas of South Africa in the Gauteng province. The author chose two communities (A and B, described below) because the social licence phenomenon is embedded in relationships between the mining company and the host community, and different communities are likely to have varying dynamics and nuances. The findings from the two communities were combined as a single case study, as the research focus is on the collective feedback and experiences of participants drawn from each area, rather than on the difference between the two communities. The author's expectation was that conducting the research in these communities would achieve the goal of answering the research questions for the study. There are other similar studies where semi-structured interviews were conducted in two or more communities. For example, Wilson (2015) and Vanclay et al., (2015) conducted interviews in two communities.

In both communities, there was dissatisfaction with the contribution of mining companies in the communities with varying levels of discontent, perceived failure by mining companies to involve the community in decisions that have an impact on them, questions on the legitimacy of leadership and perceptions of failure by the mining companies to comply with regulatory requirements with no consequences from the government. In addition to this, the concept of social licence was foreign in these communities, who had not attained the benefits of legal compliance and instead questioned the means and processes of distribution of social benefits.

Similar to previous studies, the process to attain the social licence (Moffatt & Zhang, 2014), and how communities communicate their acceptance of what is done is unclear (Parsons & Moffat, 2014). Instead, communities are angry towards mining and mistrust the motives and initiatives of mining companies. This context is unique and important for the study of the social licence, specifically to understand how it is entered into under the prevailing circumstances, since the relationship between communities and companies is the corner stone of the social licence and the beliefs, perceptions and opinions of communities which are negative in the case study communities impact on the social license (Bunel, 2013).

In addition to this, since we know from previous studies that the social licence is distinct from the legal licence and is in addition to the legal licence (Parker, Van Alstine, Ashridge, & Dakin, 2008), and government approvals and permits offer a minimum standard but can no longer be conflated with a licence to operate (Bunel, 2013), the study of the social licence in a context where there are suggestions of non-compliance to legal licence requirements is both novel, and an opportunity to advance dialogue in other developing market contexts where the conditions may be similar.

a) Community A

Community A had previously referred complaints to the government Department of Mineral Resources, and at one time even staged a protest at the company premises. This community is in the East Rand, east of Johannesburg city, next to a mining town called Springs. It falls under the Ekurhuleni municipal area, which is one of the fastest growing municipal areas (mostly through in-migration). The total population is 3,178,470, with 71% of people being of working age. Community A is situated close to a mining company that is relatively new, with a mix between those who had lived in the community for many years, and those who moved to the community more recently (in the past 5 years) for employment purposes. The community had made attempts at formulating a structure, which led the protest action and sent a list of demands to the mine. There was one representative who was in contact with the mine electronically, and the referral and complaint to the government was subsequently lodged. The government department called a meeting between the parties, aimed at addressing some of the community's concerns. Some of the concerns were linked to benefits the group claimed were not being shared with the community, as well as allegations of environmental negligence.

Following a request (tabled at the meeting by the company) for the group to forward proof of its legitimacy to negotiate on behalf of the community, the interaction deteriorated. There were claims that the main contact with the company had threatened a different mining house, and the legitimacy of the entire group was brought in to question.

In partnership with the local municipality, the company initiated the process of formulating a stakeholder forum, consisting of company representatives, the municipality and community representatives. Community representatives at the time were councillors, linked to the dominant political party in each Ward/municipal area. Neither the committee nor its terms of reference had been finalised at the time of writing.

b) Community B

Community B is situated in the West Rand, west of Johannesburg city, between the mining towns of Randfontein and Westonaria, and is an established mining community, with some of its representatives having grown up in the community. The municipal area has a population of 820 995 people, with 71% of people being of working age. There is a history of migration into the municipal area in pursuit of economic opportunities, however the economy of this municipal area is growing at a low rate with most of the mining operations being older, with a number of fatalities reported in print media in recent months. This community is in an area characterised by violent protests. During one of the protests, the Mayor's property was vandalised. This community also organised a mass protest and presented demands to mine

management. The protest was attended by a youth majority and radical demands were made. Even though there was no clarity on leadership, various sections of society were represented.

Contact was established (by the mine) with the municipality to try and get a sense of who the legitimate community representatives were. Other than a few ad-hoc meetings in the community, there appeared to be no clarity on who were recognised as representatives for the broader group. Most dealings on community matters were addressed through the local municipality, against which the community also staged large scale protests.

As mentioned previously, due to historical, political and social factors, most mining communities are poor, with low levels of education and high rates of unemployment. In community B, the unemployment rate has increased steadily since 2010 and is at about 40%. Education levels are low, with 4% of the population having no formal schooling, more than 50% have not completed high school and there is very little improvement in acquisition of post high school qualifications with about 10% having completed this level of education (West Rand District Municipality Integrated development plan, 2016/2017). The trends are similar in community A, with unemployment cited as 29%. 25 % of the population has education levels lower than 7th grade, 10 % has post high school studies, and only 5% has post graduate qualifications (City of Ekurhuleni Integrated development plan IDP 2016/2017).

CHAPTER 3: LITERATURE REVIEW

3.1 The social licence and legitimacy

The subject matter of the social licence has raised the profile of social issues (Owen & Kemp, 2013) and as a result, there have been increasing standards (engagement), benefits and social development (Harvey & Bice, 2014). The social licence debate and/or outcome has however failed to articulate a collaborative development agenda (Owen & Kemp, 2013) and there has been an increase in social conflict and dissatisfaction with industry (Harvey & Bice, 2014) and thus, contradictions between intent and practice. According to Mele and Armengou (2016), the main goal of organisations is to survive and this requires not only succeeding economically, but also achieving social acceptance or legitimacy.

The legitimacy of an organisation derives from how the constituents of this organisation perceive it at any given moment. Mele and Armengou (2016) state that both social licence and social legitimacy are therefore matters of social acceptance, but whereas licence to operate remains in the possession of the organisation until it is revoked, social legitimacy can vary over time. Therefore, this study aims to explore both phenomena in great detail. As such, the study will use the legitimacy theory as the theoretical underpinning for the study, while exploring the social licence to operate from a community perspective.

3.2 Theoretical perspectives on the social licence

A number of theories, such as the social contract theory (Dare, Schirmer & Vanclay, 2014; Lacey & Lamont, 2014; Lacey, Parsons & Moffat, 2012), and the stakeholder theory (Wilburn & Wilburn, 2011) have been used in relation to the social licence phenomenon. The legitimacy theory has also been used to frame the social licence phenomenon. For example, synonyms used in literature such as approval and acceptance are prominent terms in the conceptualisation of the social licence (Parsons et al., 2014) and these tie in with Suchman's conceptualisation of legitimacy (Suchman, 1995). Other studies have focused on socio-political and economic legitimacy. Having considered all possible theoretical approaches, Suchman's (1995) legitimacy theory was the most relevant for the purpose of this study and the least explored from the social licence perspective, specifically from a community perspective. Previous studies focused on company efforts at gaining legitimacy from

communities, without a specific focus on legitimacy within communities and how this impacts on the social licence. The conceptualisation of legitimacy is separated into three different types.

3.3 Legitimacy theory

Suchman's (1995) legitimacy theory is based on a generalised perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, and beliefs. This perspective has remained influential and has informed some of the studies on social licence and its theorisation, including Thomson and Boutilier's (2011) study. Suchman (1995) conceptualised organisational legitimacy in three forms as cognitive legitimacy, which takes the form of support for the firm's activities or possibly mere acceptance that the firm's actions are necessary or inevitable, pragmatic legitimacy which is focused on the firm responding to its most immediate audience to seek their support and moral legitimacy which focuses on whether the action is the right thing to do. Even though a lot has been written about legitimacy and the social licence to operate, most of the writing has been focused on company legitimisation efforts, from both cognitive and pragmatic elements, with some focus on the industry wanting to do the right thing.

What has been missing is the community response and perspective on industry efforts, yet the community is a key stakeholder in the social licence process. Even where studies had community representatives as participants, the focus has been from an organisational perspective.

3.3.1 Conceptualisation of legitimacy

a) Cognitive legitimacy

Suchman (1995) defines cognitive legitimacy as the organisational pursuit of goals and activities that fit with broad social understandings of what is appropriate, proper, and desirable. It is also referred to as 'taken-for-grantedness' as some authors state that these cognitive processes happen at the subconscious level (Miller & Michelson, 2013; Milne & Patten, 2002; Palazzo & Richter, 2005). Thus it is taken for granted by one or more parties that legitimacy exists. This could explain some of the fundamental concerns raised with the phenomenon, since it is written about from this theoretical perspective. Companies for example assert that they have a social licence (Parsons & Moffat, 2014), even though there are no criteria in terms of which it is measured.

The use of the words “acceptance” and “approval”, is linked to cognitive legitimacy. Companies could be assuming that by communicating the activities they engage in, like corporate social investment, they gain cognitive legitimacy, thus acceptance and approval. Some scholars argue that observers associate philanthropic giving with legitimate altruistic behaviour (Claasen & Roloff, 2012). In practice however, there is an expectation gap between companies and communities and the acceptance and approval cannot be justified.

b) Pragmatic legitimacy

In Suchman’s (1995) definition of pragmatic legitimacy, the organisation fulfils the needs and interests of its stakeholders and constituents, through exchange of goods and services that constituents want. Organisations in turn receive support and legitimacy. The focus of many organisations has been on legitimisation strategies as highlighted by Fernando and Lawrence (2014). Such strategies are aimed at promoting, first and foremost, the image of the organisation and reporting on positive things the organisation does, including social responsibility efforts.

Social responsibility activities are often said to enhance a company’s reputation and add to its legitimacy (Smith, 2003; Wood 1991). This argument suggests that communication on these efforts triggers pragmatic legitimacy, because stakeholders profit from their relationship with the company (Claasen & Roloff, 2012). Social investment has thus been a big part of mining company efforts at gaining legitimacy and a so-called social licence from communities.

This approach has been discussed at length, and credited by some, while being criticised by others as a contributor to the social licence phenomenon (Harvey, 2012; Harvey & Bice, 2012). Some scholars postulate that the approach of mining companies is transactional and risk oriented (Owen & Kemp 2013), and leads to the lowest levels of social licence, in which support from stakeholders is conditional on a flow of short-term benefits (Thomson & Bouillier, 2011). While the industry approach may be transactional, communities look at the quality of the relationship (Syn, 2014).

Other scholars highlight a lack of trust (Harvey & Bice, 2014; Raufflet, Baba, Perras, & Delannon, 2013), despite company efforts, and even go as far as saying that trust cannot be bought; instead there is a need for constructive engagement and a collaborative approach (Harvey & Bice, 2014; Owen & Kemp, 2013) incorporating the poor and marginalized (Owen & Kemp, 2013). It is clear that this approach to gaining legitimacy has not been effective and has not prevented the challenges with social acceptance, seen in the level of unrest. Some scholars (Campbell, 2012) state that social investment masks the problems in mining. This,

together with the blurring of responsibilities where companies take on the role of the state in provision of services, make it difficult for the state to monitor legitimacy and compromises legitimacy at industry level. While a lot of effort has gone into community investment, it has not always achieved the desired outcome and has not always led to organisations gaining legitimacy and acceptance. There has also not been a meeting of minds in terms of what companies do, the reason they do what they do and what communities expect.

c) Moral legitimacy

The last leg of Suchman's conceptualisation of legitimacy is moral legitimacy, and there is little written about this in relation to the social licence phenomenon. Suchman (1995) defines moral legitimacy as "a state when an organisation reflects acceptable and desirable norms, standards, and values". Moral legitimacy reflects a certain 'pro-social logic' that differs fundamentally from the narrow self-interest, which is a feature of pragmatic legitimacy (Mele & Armengou, 2016).

Mele and Armengou's (2016) definition of moral legitimacy as "the evaluation of an organisation and its activities, taking as a reference the contribution to the common good measured through the application of practical wisdom" is most relevant for this study, with an emphasis being on the aspect of common good. Moral legitimacy results partly from communicative activity (Suchman, 1995) in which the actors try to persuade each other to take joint collective action or decide what direction is suitable (Castello & Lozano, 2011). Moral legitimacy rests on an audience's conscious judgments about whether its actions are "the right thing to do" and are worthy of moral approval (Reast, Maon, Lindgreen, & Vanhamme, 2013).

Previous research has been focused on 'legitimation' - *the means* to gaining legitimacy - rather than on *actual* legitimacy, assuming that the means lead to the desired result. Palazzo and Schere (2006) claim that the theoretical narrowness and missing rigor of the social responsibility debate can be traced back to the fact that it mainly rests upon pragmatic and cognitive concepts of corporate legitimacy, whereas it underestimates the role of moral legitimacy.

Evaluating these three types of legitimacy, Koppell (2008) held that moral legitimacy is the "true meaning" of the word legitimacy. He argued that both pragmatic and cognitive legitimacy imply that an authority is acknowledged and submitted to, and whether the authority deserves its status or imposes it, is not a criterion for cognitive and pragmatic legitimacy (Koppell, 2008). According to Mele and Armengou (2016), moral legitimacy is instead based on the application of stable values and principles, while the moral sensibility of a community is based on particular interests and can change over time.

Moreover, moral legitimacy provides an objective reference, while stakeholder perceptions can be influenced by fear or lack of reliable information, or moved by illegitimate interests. Mele and Armengou (2016) take on the common good as a reference which goes beyond particular interests and even the interests of the majority, and which may even deny the rights of the minority. It also overcomes pragmatic attitudes which seek approval, rather than doing good. This study will make a contribution by incorporating the moral legitimacy leg of Suchman's legitimacy framework in the study of the social license, in addition to cognitive and pragmatic legitimacy. The contextual reality in South Africa and the focus on redressing imbalances of the past, as well as some of the social challenges like corruption make moral legitimacy a relevant focus area

3.3.2 Justification for the adoption of moral legitimacy for the study

Moral legitimacy is justifiable as a theoretical framework for the study due to several factors. The most important factor is its focus on the right thing to do. This focus is important from both the company and the community perspective. Previous research in the social licence phenomena displays concerning issues like abuse of power, self-interest and deliberate exclusion of opposing views. These factors are prevalent within communities and in relations between communities and companies. The approach of this study is that if communities consider what is the right thing to do, internally amongst their own constituencies, they will be in a stronger position to enter a social licence to operate. Similarly, if companies could look at the right thing to do, they could be in a better position to partner with the community effectively, and understand expectations. This is currently not the case, as will be illustrated below.

a) Exclusion of key role players in dialogue

The reality is that dialogue in relation to the social licence phenomenon, is led by the company. This allows for those companies who may not have good intentions, to have a negative influence and want participation to be on their own terms. Incidents of exclusion of real leaders in company relations and silencing of the voices of those who oppose through conditioning participation by companies, have been reported (Costanza, 2016). In such instances, the company controls the content of discussion with community members, leading to the community not having influence on the phenomenon except on the terms by the company and through participation by those accepted by the company (Costanza, 2016). Companies often focus on legitimising mining activity in the minds of the local community members, rather than gaining true legitimacy and participation.

b) Power relations in communities

Different layers of power within communities can also undermine community participation (Wilson, 2015). For example, those with considerable power within a community, such as

traditional leaders and political elites, may reap considerable benefits at the expense of the entire community (Fanthrope & Gabelle, 2013). There have also been concerns about the exclusion of minorities and limited participation of diverse local stakeholders (Wilson, 2015). If those in leadership positions within communities were to look at the right thing to do, and what is for the common good, they would not abuse power.

c) Lack of resources in communities

Communities often lack the resources, competence and organisation necessary to participate in planning processes, which would require companies to look beyond self-interest and do the right thing, despite these inadequacies from the community. The lack of resources means that communities may not always be able to carry out their responsibilities (McAllister, Fitzpatrick, & Fonseca, 2014). The lack of competence means that communities may not be able to write comments and complaints, participate in public meetings and debates and gather support from others (Nygaard, 2015). The lack of organisation may result in the community not having a voice in the planning process (Nygaard, 2015). Communities often lack these assets and are dependent on others who can speak on their behalf, or at least those who are focused on doing the right thing, rather than taking advantage of the lack of resources.

These examples highlight the need within communities to look beyond self-interest in so far as the social licence is concerned, and focus on what is the right thing to do, which is the premise of moral legitimacy. Morality points to the right thing to do: this goes beyond utilitarian ends, or pragmatic positions interested in achieving peer approval rather than in doing good. Instead, it provides a basis for objective reference while stakeholder perceptions could be moved by illegitimate interests (Mele & Armengou, 2016).

Moral legitimacy rests on an audience's conscious judgments about whether its actions are the right thing to do and are worthy of moral approval (Reast et al., 2013). In this case, the communities themselves would need to look at what is the right thing to do in framing their participation in a social licence to operate. Communities would need to consider what is beneficial, not only for a few individuals but the broader community, in thinking about the key elements of legitimacy, in light of the challenges highlighted above. Similarly, communities need to think about the best way to deal with companies and vice versa, since pragmatic and cognitive approaches do not seem to address the existing and prevailing challenges nor the expectation gap between communities and companies.

The companies have been reported to act in ways which are not always in support of collaborative relationships, including amongst others, controlling the relationships with

communities, exercising violence and taking advantage of the vague nature of the social licence phenomenon.

d) Control over relationships

Moffat, Lacey, Zhang, and Leipold, (2015) highlight that industry conceptualisation of the social licence construct has at times seemed inconsistent. It also reflects a desire to exert control over the relationship with project stakeholders. The literature written from the perspective of industry can be seen to constrain the voice of communities, minimise or exclude it in discussion of what constitutes a social licence and how a company can attain it. For a phenomenon where a degree of match between stakeholder's individual expectations of corporate behaviour and companies' actual behaviour may reflect the likelihood of holding a social licence, excluding the community from the discussion of what constitutes its terms, is problematic (Moffat et al., 2015).

Some of the concerns raised against companies are the unwillingness to view communities as equal partners and the fact that they lead efforts and exclude communities, which results in their efforts not meeting community expectations. In addition to this, companies also mistakenly view diverse groups as homogenous, take the path of least resistance in dealing with stakeholders and engage with those who they find easier to deal with (Costanza, 2016; Wilson, 2015).

e) Opportunism and self-serving

Some scholars argue that the efforts by companies are aimed at pacifying mining communities (Abuya, 2015; Majer, 2013) and that efforts fall within different themes. One theme is social legitimacy, which is the desire to obtain a social licence. The other is the responsibility to local communities, which implies that companies have a moral responsibility to uplift the lives of those living around them (Abuya, 2015). The efforts of companies, if not approached differently, could be only to serve their own interests. Some scholars argue that in certain cases, the social licence and its vague, intangible nature has been opportunistically used to serve the particular objectives and goals of companies (Bice & Moffat, 2014; Moffat et al., 2016).

The social licence holds a degree of promise in that it provides a route to developing dialogue between the stakeholders involved, by making explicit the relationship between the actions of companies and the relational consequences with a community. It could also create an

understanding of how the mis-match of community expectations and experiences relates to the subsequent acceptance and approval of resource development (Moffat et al., 2016).

The author argues that this promise can be realised when companies and communities critically examine the phenomenon and legitimacy efforts with a moral point of view in mind, considering both parties and looking beyond self-interest.

3.4 What are the key elements of legitimacy within communities that are necessary to enter into a social licence?

The term 'community' generally refers to the inhabitants of immediate and surrounding regions that are influenced in some way by a company's operations (Harvey & Brereton, 2005). Companies engage in activities to build legitimacy in operating communities (Lin et al., 2015). This is often also in relation to their social licence to operate. The process of 'legitimacy-building' by companies and the social licence in particular, requires an effort between companies and communities, and efforts of companies at legitimacy-building are recorded. The response of communities and their role in the process is however not clear, neither is the community's internal legitimacy or its impact on the social licence.

In addition to this, the study comes from the premise that legitimacy is socially constructed (Black, 2008; Scott, 2001). The dilemma however, is what happens if the social conditions are not in place for the construction of legitimacy, as is the case with communities. Another issue is the lack of clarity about when an actor is regarded as legitimate and why. Black (2008) further states that legitimacy is rooted in acceptance of the organisation by others and the reasons for that acceptance. This too can be difficult to examine since some organisations may claim legitimacy and enter into relationships in order to gain it.

Legitimacy has mostly been driven from a company perspective and this study focused on, legitimacy from a community perspective. It is important to look at legitimacy from a community perspective because congruence with expectations is an important aspect of legitimacy. So is the ability to contest legitimacy. The legitimacy claims of organisations thus need to be monitored and measured, and this is often a challenge in situations where there are conflicts between legitimacy-seeking communities. Legitimacy can be afforded for a whole range of reasons, which adds to the complexity.

Legitimacy thus lies as much in the values, interests, expectations and cognitive frames of those perceiving and accepting, as in those being accepted. As such, legitimacy can differ significantly across time and space, and between actors, systems and contexts. Legitimacy

communities are an important part of the process, however according to Black (2008), different people's perceptions of whether an organisation is legitimate, are not necessarily based on the same types of evaluations.

The focus on legitimacy is often on when an organisation is regarded as legitimate rather than whether it is regarded as legitimate. The demands of legitimacy communities may be opposed; to satisfy one will necessarily lead to dissatisfaction of the other. The study of the social licence is rooted in legitimacy, and the community is an important player in the process. There are often internal challenges within communities themselves which could compromise their role in measuring, monitoring, affording and contesting legitimacy of companies. This study argues that Suchman's (1995) typology is relevant for the study of the social licence and the reasons for social acceptance and legitimacy can be based on the following.

Figure 1: Suchman's (1995) legitimacy typology

Pragmatically based	The social group perceives that the organisation will pursue their interests directly or indirectly
Morally based	The social group perceives that the goals of the organisation are morally appropriate
Cognitively based	The organisation is accepted as necessary or inevitable

The ability of communities to participate as equal partners pragmatically, morally and cognitively is limited however and this limitation has not been explored. The elements described below limit the community in its participation as a social group, and consequently its ability to measure and participate meaningfully in legitimacy processes with companies.

3.4.1 Power of communities

The first important aspect relating to communities and the social licence to operate is the power communities have in relation to the phenomenon and their understanding of this power. There is much written about the power of communities to protest. Owen and Kemp (2013) highlight protest as being one of the most powerful levers that communities can invoke to hold companies accountable for their social licence (Owen & Kemp, 2013).

There has been some acknowledgement of the voice and influence of local communities, demonstrated through stoppages and shut downs (Prno & Slocoble, 2012). Despite the public demonstration of discontent by communities however, the influence that communities have with the social licence to operate is not clear in practical terms. For example, it is possible for local communities to question the existence of a social licence by expressing dissatisfaction through negative governance, however it is not always possible to refuse or revoke a social licence in practice, even when it has been called into doubt, such as when community grievances become systemic and reveal a deep sense of dissatisfaction (Owen & Kemp, 2013).

There are examples of projects going ahead even when citizens oppose them. Some scholars like Syn (2014) view this as non-protection of the citizens by the government and a focus on development at the expense of society. The reference to protests as an indication of community power and influence may need further exploration in light of what seem to be unequal power relations between communities and companies with which they enter into a social licence. As such, whether communities have legitimate influence and power to enter into a social licence, is unclear. Without this power, it is unimaginable how communities can evaluate and agree that the organisation will pursue its interests, that the goals of the organisation are morally appropriate, or even accept that the organisation is necessary. As it stands, communities do not have the power to stop an operation and their disagreement does not carry much weight.

3.4.2 Education level of communities

In addition to the issue of power, communities do not always have the education levels necessary to negotiate meaningfully and on an equal basis with the companies. As a result, communities are not always able to challenge company and government decisions (Packel, 2008). This is exacerbated by the fact that civil society organisations are also often weak. The lack of education means that communities may not have the political, legal or scientific leverage to inflict operational damage (Gunnigham, Kagan, & Thornton, 2004) and partnerships between governments and industry where these exist, can work against them.

Due to the government focus on revenues at the expense of the social agenda, instead of a social licence, a political licence is often in place (Brueckner, et al., 2014). Whether communities speak from the same position of influence and understanding in these critical areas and how they collaborate to bring their views to the table during the social licence negotiation process, is a very important aspect of research. Without education, it is unimaginable that communities can have a basis to challenge and set expectations on a pragmatic, moral and cognitive basis with the organisations.

3.4.3 Ability to grant consent

In addition to the education levels, there is the contested matter of consent. The social licence to operate is assumed to include free, prior, and informed consent. However, the level of consent has not been clarified, nor is the stakeholder from whom the consent is given (Wilburn & Wilburn, 2011). There is also reluctance from the sector to equate the social licence to consent (Slack, 2008; Syn, 2014) and there is a focus on the voluntary nature of the licence (Syn, 2014). Free, prior and informed consent is applicable to contexts with indigenous communities and offers a level of “protection” for communities in such contexts. In some developing market contexts however, this concept has not been applied, and especially in contexts where communities do not fall within the category of indigenous. In such contexts, communities face greater challenges in asserting their rights to be consulted on matters that have an impact on them.

The array of constituents may be so diverse and numerous that consent from all of them becomes impossible and each stakeholder group may have expectations and requirements that conflict with those of other stakeholders as well as with the corporation (Wilburn & Wilburn, 2011). Defining the community and who in that community has the power to give consent to a social licence to operate is critical, yet challenging as in many communities in which corporations now operate, there are multiple groups who stake a claim in defining what is acceptable to the community. Thus, achieving any level of consent, or even consultation that informs, must start with being able to identify those groups, their expectations as mentioned and their level of influence (Wilburn & Wilburn, 2011).

3.4.4 Ability to oppose

The social licence dialogue has largely been led by industry. Industry asserts the existence of a social licence, mostly through reports, conferences and publications. Since government and the sector shape the discussion on the social licence, and there are no specific criteria, companies are free to assert that they “have” (achieved) a social licence (Parsons & Moffat, 2014). In contrast, communities are limited in their ability to disagree (Slack, 2008), are not always cohesive and agreeable and do not seem to have a voice on the existence or non-acceptance of a social licence. This is a challenge as a licence requires co-operation between two or more parties.

The distinction between social licence and consent is critical because accepting community consent as a basic operating standard, sets a higher bar (Wilburn & Wilburn, 2011). If a community’s actual consent is required before operations begin, companies must treat the community more as a partner in project development, rather than as an obstacle to overcome, or a compliance process. It also implies that a company must engage more holistically with a

community, providing them access to critical information and allowing them adequate time to assess their needs and interests before making a decision about whether to accept a company's presence (Wilburn & Wilburn, 2011). The more vaguely-defined social licence, does not necessarily imply these things (Slack, 2008).

3.4.5 Cohesion

The concept of the Social Licence to Operate, presupposes a level of cohesion with the community which is often absent, and therefore may have to be built (Thomson & Boutilier, 2011). The social licence phenomenon requires a co-ordinated approach and agreement, as well as a clear articulation of demands. The way in which interactions are structured within communities and among community members is important for the social licence. Quigley and Baines (2014) state that communities are often fragmented; with the various interests in the geographic area not having a shared vision and attitude towards the project. Quigley and Baines (2014) also claim that this requires the company to become involved in building social capital and, that, without the right patterns of social capital within the community and between the project and the various elements of the community network, it is difficult, if not impossible, to gain and retain a social licence. The internal legitimacy within communities themselves, or lack of it thus impacts the social licence phenomenon.

The issue of a social licence being issued by a community network or stakeholder network brings about a few challenges. It begs the question whether a legitimate community or stakeholder network even exists. If one exists, how capable is it of reaching a consensus? What are the pre-requisites of a community or stakeholder network before it becomes politically capable of granting a social licence? These complexities make it more difficult to know when a social licence has truly been earned and further brings questions forward on the actual power and attributes that communities have.

According to Boutilier (2009); the rarity of cohesive communities makes it worthwhile to attempt to weigh the opinions of some stakeholders over others because some have more influence than others.

3.4.6 Economic factors

The contextual reality in communities is that of poverty and relative dependence on the operation. Differences in the dependence of the local community on the operation affect the strength and terms of the social licence (Gunnigham et al., 2004), with the assumption being that an operation with an economically dependent community is more likely to have a relaxed social licence. The real voice of communities, specifically in developing market contexts and South Africa in particular, where there is a great need for jobs, and where the socio-economic

conditions are not favourable, is thus in question. Nelson (2007) emphasizes the unique socio-political environment variation. Where there is a single major employer on which the local community depends heavily, not just for jobs but also for its broader economic well-being, criticism tends to be extremely muted (Gunnigham et al., 2004). In instances where communities cannot voice their opinions because they are dependent on the company, it is unclear how they can be a legitimate participant thus enter into a credible and balanced social licence.

3.4.7 Legitimacy of leadership

Leadership within communities could be difficult to identify and this makes it difficult for companies to know if they are working with people who are representative of communities. Any vacuum in leadership presents risks of the rise of militant groups, who may not possess legitimacy but come to the rise due to the leadership vacuum. Unless the structures of electing leaders are clear and validated, it could also be possible for companies to engage with people who are not legitimate representatives of the community.

Littlewood (2014) addresses the artificial nature of some communities; the fact that many residents only live in them on a part-time basis, with their families frequently elsewhere. He highlights that it is understandable why, in many instances, community members are apathetic towards participation in community sustainability efforts, often have little interest in local governance, and do not intend to stay in the communities after the closure of the operation. Lack of effective participation and the absence of legitimate leadership would impact on the social licence to operate.

As highlighted in the paragraphs above, there are factors within communities which directly impact the community's ability to enter into a social licence to operate. These factors also compromise the community's ability to accept organisations as legitimate or challenge legitimacy, which is a very important aspect that is often ignored. Legitimacy is based on the perceptions of the social group, being the community in this instance. If the community is not able to clearly articulate perceptions pragmatically, morally and cognitively and ultimately accept the organisation, they have no influence on the social licence and are not effective participants in legitimacy with organisations.

These factors include the actual power the community holds in terms of the phenomenon and what seems to be limited influence since projects can go ahead even when communities are dissatisfied. If the community does not have the same influence as other parties to the agreement, it becomes unimaginable how they can enter into a social licence to operate. In addition to the power, there is the contested issue of consent and whether communities

actually give this in practice. Without this ability to give consent, it is difficult to understand the role of the community in the process or how they express agreement.

Lack of cohesion within communities themselves, as well as internal factions, are highlighted as factors which have an impact on the social licence. When communities cannot work cohesively to represent their position as a party to the social licence, it is not clear how this process is entered into, and how the community can be a legitimate stakeholder in the process. We also learn that economic dependence influences the social licence process and it is important to understand the legitimacy of communities as a stakeholder if they are poor, uneducated and dependant on the company for jobs and other services. Finally, the legitimacy of leadership and who companies partner with in this process is an important factor which could impact the social licence. With this background, the following proposition is reached:

Proposition 1: Host communities, as a whole, have internal legitimacy processes that - when satisfied - enable them to grant the legitimacy necessary to enter into a social licence with the mining company.

3.5 What are the key expectations of legitimacy between communities and companies, which are necessary to enter into a social licence?

The expectations of legitimacy between companies and communities are not clear, and in some instances, there is no agreement on what companies are supposed to do and how communities respond to company efforts. For example, some scholars argue that the social licence does not seek legitimisation (Parsons & Moffat, 2014) but rather its focus is on stakeholder perceptions. This is an area of criticism by some scholars who perceive social licence as simply a term used by industry in an attempt to manage community opposition to developments (Owen & Kemp, 2013). The motive of the companies has been questioned by some, specifically in instances where a lot of effort has been expended, including communities being company-led, rather than being led from within the community. In other words, companies implement initiatives without understanding community expectations, and also do not get an opportunity to express their expectations of the community.

The motive of the company behaviour in such instances is to influence community perceptions and create legitimacy - not necessarily a genuine belief in community relations. Such motives are based on the assumption that a social licence implicitly exists (or must exist) between the company and community, and that a failure to meet expectations within this contract will

question the company's legitimate operation (Deegan, Rankin, & Tobin, 2002). Parsons and Moffat (2014) suggest the need for companies to start from a position that they do not possess a social licence. In this way they may see the possibility of the social licence being withheld, diminished and withdrawn and discuss the process through which it can be negotiated at the various levels.

The understanding of expectations would be beneficial, even for the companies. Without this understanding, it is not clear what constitutes valid persuasion by the community and what influences community beliefs and perceptions. Without understanding, companies may continue with initiatives that have no bearing on the social licence, and receive no appreciation from the community.

What presents more complexity is the fact that the expectations from both parties are unwritten, yet each party expects the other to keep acting in line with them (Uwafiokun, 2007). Expectations also vary from community to community. Some of the expectations from the community are highlighted below:

3.5.1 Community expectations

a) Participation

Communities expect participation of even alternative and marginalised voices. Companies can disregard these voices and wrongly assume that broad social consensus is achieved (Owen & Kemp, 2013). The fact that initiatives are largely led from a company perspective could possibly explain some of the conflict between companies and communities. According to Uwafiokun (2007), community expectations are the source of conflict in most regions. When companies exclude communities, they are (by default) not meeting their expectations.

b) Regular meetings

Communities expect to meet regularly with companies to discuss issues of common interest (Uwafiokun, 2007). Of significance is the expectation of two-way communication between companies and communities which could influence capacity building. The working together would achieve common objectives. Regular contact and opportunities to work together allow elements which are critical from a community perspective, to be built. Such elements include trust, accessibility and mutual respect and are qualities important to a relationship that can pass the test of legitimacy and credibility in the eyes of the community (Thomson & Boutilier, 2011). These elements of a relationship are often built through repeated contact and opportunities for working together.

c) Quality of the relationship

Comparisons between industry and community perspectives on developing a social licence, show distinct contrasts (Lacey et al., 2012; Williams & Waltion, 2013). The focus of the community is on the perceived quality of the relationship, which is different from the industry focus on tasks and processes that are mechanistic, didactic and transactional (Thomson & Joyce, 2008; Williams & Waltion, 2013). This contrast highlights major challenges for companies endeavouring to acquire legitimacy and credibility for a new operation. Companies frequently underestimate the importance of relationship building with a community, and the length of time required to do that, and/or they overestimate the quality of the relationships that they have with a community (Williams & Waltion, 2013).

Communities expect the development of a relationship that is meaningful and able to deliver dialogue capable of leading to outcomes that are mutually beneficial. Development of such relationships potentially creates a platform for balanced negotiations and co-creation of outcomes, where a company's actions and behaviours are aligned to the community's expectations and aspirations (Williams & Waltion, 2013).

d) Trust

Trust is important for communities and to trust an out-group is to expect that they will not exploit one's vulnerability and that they will even seek to cooperate (Moffat & Zhang, 2014; Rousseau et al., 1998). Communities may be expected to respond positively toward companies where these entities do not take advantage of their vulnerabilities, demonstrate integrity, work collaboratively with them, and meet community expectations regarding company behaviour (Moffat & Zhang, 2014). Trust is also influenced by the other expectations, like quality of contact and the relationship. Even though this is a community expectation, trust is difficult to measure and takes time to build. Relationships between companies and communities are often characterised by the absence of this key community expectation.

Companies engage in initiatives aimed at gaining legitimacy which are criticised in some instances as being company driven rather than community led. It is to the benefit of companies to show an interest in community expectations, and it is the right thing to do. This can also safe-guard companies against unrealistic expectations from communities. Since community expectations are bound to influence community decision-making, an understanding of the factors driving community expectations will facilitate addressing what some consider as a problem of high community expectations (Uwafiokun, 2007). According to Hall and Jeanneret (2015), previous stakeholder management approaches have not considered public expectations and the associated communication required.

The expectations of companies also differ from those of communities. For example, companies expect partnerships to deliver business value and to demonstrate investment performance as they do with any form of investment (Esteves & Barclay, 2011). These expectations need to be understood to further clarify the expectation gap between companies and communities.

3.5.2 Company expectations

a) The expectation of an implicit social licence, driven by the industry

The social licence has been adopted by industry as a solution to the expectation gap (Owen & Kemp, 2013), however this gap has not been completely bridged. This is because companies often do not look deep into the expectations of stakeholders, nor do they respond to stakeholder expectations in the manner most preferred by those stakeholders. Instead, they continue to assert that their social licence is in place, marking either the effort or the result of that effort. This is a challenge as it implies that the community is not fully involved in the process of establishing a social licence, despite this being a key expectation of theirs.

b) The expectation that legitimacy efforts will be acceptable to communities

According to Parsons et al. (2014), there is pressure on companies to conceptualise the social licence as something they must secure to legitimise operations. Companies are also under pressure to minimise regulatory impositions, marginalise dissent and manage reputation. The pressures companies are under influence their efforts and put pressure on them to create perceptions of legitimacy. According to Deegan et al. (2002), taking action that is motivated by the need to be perceived as legitimate, is distinct from disclosure that is prompted by a belief that the community has the right to know about certain operations. Company efforts are motivated by the goal to be perceived as legitimate, which does not tie in with community expectations at all and is focused rather on what companies want to achieve.

c) The expectation to engage with stakeholders with power and legitimacy

Companies often seek legitimacy and direct their legitimating attention to the stakeholders whom they perceive could contribute to the achievement of their goals. The expectations of the dominant stakeholders – those perceived to have power and legitimacy – will typically matter to managers (Mitchell et al., 1997), be perceived better and have more weight. According to Lim and Patten (2009), the legitimisation motive tended to manifest itself in terms of regulatory compliance and impression management. This approach does not meet community expectations, which are to have broader representation and inclusiveness.

d) Engagement without norms

Most companies have been interacting with communities and, according to Moffat and Zhang (2014), norms are negotiated and constructed through interaction. The guidelines for the interaction process are not clear, and as a result, there has been large scale dissatisfaction from the communities.

There are significant gaps in expectation between companies and communities. The challenge with legitimacy is that it is looked at from two extreme ends, from either the party seeking legitimacy or from the perspective of the party granting or withholding legitimacy. In the case of companies and communities, there is no alignment and this is a problem. When expectations are not clarified, it becomes challenging for the parties to hold each other accountable. This is a concern since companies cannot construct legitimacy on their own (Claasen & Roloff, 2012). Unclear expectations can also leave room for some companies to manipulate the expectations and perceptions that communities have regarding the company (Claasen & Roloff, 2012), rather than do the right thing. In such cases, the expectations of stakeholders will not be understood or met.

In light of the above, the following proposition is made:

Proposition 2: Key expectations of legitimacy between communities and companies may affect the community's granting of the legitimacy necessary to enter into a social licence.

3.6. What process leads to the issuing of a social licence by communities?

The prevalent themes in previous studies on how to acquire a social licence include: open communication (Nelson & Slocombe, 2006; Ziessler, Eerolo, & Tuusjarvi, 2013); situational analysis and maintaining a positive corporate reputation (Nelson & Slocombe, 2006); building trust through quality interaction, positive contact and procedural fairness (Moffat & Zhang, 2014); behaviour of company representatives (listening, reciprocity, promise-keeping) (Boutilier, 2009); building trust, credibility and expectations-management (Dare et al., 2014); stakeholder identification and education as well as going beyond compliance (Nelsen, 2007) as well as early and meaningful consultation, education and communication (Prno, 2013). These studies were beneficial in progressing discussion on the social licence phenomenon, however there are still gaps, specifically understanding the process followed to issue a social licence.

Adding to the various challenges is the fact that the social impact space is under-regulated, leaving many decisions concerning social impact assessment work, to industry (Wesley & MacCallum, 2014). The issue of monitoring and evaluation is a challenge even in developed economies with strong regulation and international reputation (Chandler, 2014). Bice (2013) makes reference to the plight of communities most affected by resource development and thus most likely to benefit from the social licence, but who are often forgotten, frequently misunderstood and comparatively less researched, and whose roles in governance, are ignored (Mtegha, Cawood, & Minnitt, 2006). The social effects of development also receive far less attention than the biophysical impacts (Franks & Vanclay, 2013).

According to Moffat et al. (2016), the power of social licence to move beyond a rhetorical device to effect real change, will determine its future. There is a very real danger that the social licence to operate will come to mean everything and nothing, with various parties using the term to speak to an impossibly diverse set of concepts, or as justification for whatever community-oriented action is taken in a developmental context (Moffat et al., 2016).

The social licence phenomenon is dynamic and complex, and it evolves due to the factors that influence it. Social attitudes, paradigms, cultures and society evolve over time (Edwards & Lacey, 2014) and the social licence focus is on stakeholder perceptions (Parsons & Moffat, 2014) which arguably also evolve. In addition to the evolution, the social licence has the connotation of being at once tangible and intangible in its very nature (Edwards & Lacey, 2014; Nelsen, 2007).

Communities have intangible and non-permanent beliefs and perceptions about a project and the company influences these through gaining ongoing approval and broad social acceptance (Dowd & James, 2014). The social licence is tangible, because the level of opposition can be felt and the power of communities can be felt when there are protests (Edwards & Lacey, 2014; Gale, 2012), and intangible in the sense that it is not like the legal licences. Boutilier (2011) states that unless efforts are made to measure the community's beliefs and perceptions, the social licence remains intangible. This measurement process needs careful management since the beliefs and perceptions evolve over time. No wonder there is lack of clarity on the actual process communities follow to enter into a social licence to operate. Furthermore, it is understandable that there are questions about whether the social licence exists or is just based on statements by companies.

Enquiring about the process is necessary and critical to take the social licence phenomenon forward, especially with moral legitimacy as a foundation. The social licence has been driven by many perceptions from all sides, and this study aims to formalise perspectives and record the community perspective. The evolution of the social licence to operate dialogue, provides

more justification for further enquiry on the process followed to issue the social licence. For example, Zhang et al. (2015) highlight that a local social licence of a project cannot be obtained and maintained in isolation from what happens at national and international levels and that achieving a social licence is about building trust between companies, governments, and society (Dougherty & Olsen, 2014; Lacey & Lamont, 2014; Zhang et al., 2015). This argument is different from the initial conceptualisation of a social licence which focused at the local level. At the same time, Dupuy (2014) highlights that affected communities, for example those affected by mining, do not, in fact, have much power to effect national-level change. This is because some areas are often remote and the communities living there poor.

In addition, the transnational ties that convey global human rights norms are usually formed between international organisations and elites in capital-level civil society organisations, rather than with mining-affected local communities (Dupuy, 2014).

Criteria for determining when a social licence exists are murky as no scholarly consensus yet exists (Bice, 2014; Costanza, 2016) and there is no clear consensus on how to identify when a social licence has been successfully obtained (Costanza, 2016). In any context, various opinions on the sector or industry can coexist within local communities (Prno, 2013). What is unclear to researchers is how much consent must be present in order to affirm that a social licence exists (Costanza, 2016). Also of importance is the fact that projects can continue despite community opposition. In some areas, the concept of recognising communities is broadly accepted, however, even in such instances, inequalities in participation have been raised and the process is uneven and contradictory (Nygaard, 2015).

The conditions of any form of agreement need to be considered. These include the nature of the agreement, whether a majority is needed to implement it, how agreement is reached, as well as who is involved in making the agreement. These conditions are missing from a social licence agreement, specifically the community perspective on such conditions (Lacey et al., 2012). For instance, Prno (2013) highlights that the existence of a social licence does not necessarily mean that there is 'total' agreement; there could be pockets of criticism, and it is possible to overcome disagreement if the social licence is strong and in place (i.e. being implemented). He highlights the importance of collaboration in developing alternatives, as there is no 'blanket social licence' (Prno, 2013) and social licences are renewable every day.

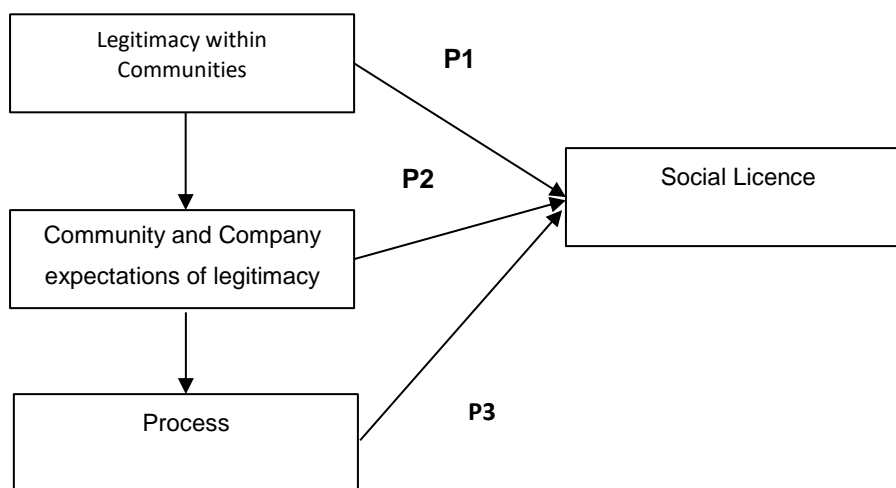
There are also multiple variables at various scales that impact on the social licence, including socio-economic, governance, bio-physical factors and the community (Prno & Slocombe, 2012). As a result, it is possible that a social licence/agreement may not take root in some situations, and that is legitimate. The uncontrollable factors that influence the social licence

translate to unpredictability (Prno & Slocombe, 2012). Koivurova, Buanes, Riabova, Didyk, Ejdemo, Poelzer, Taavo, and Lesser (2015) argue that the social licence is not always dependent on how a company behaves, and that issues of legacy and longevity are often at play.

It is clear from the literature that despite the on-going dialogue on the social licence, there are process gaps and uncertainties, as well as lack of clarity on the role of the community in the process. With the rhetoric and complexity linked to the phenomenon, this is of concern and as such, the following proposition is made:

Proposition 3: Complex processes that relate to underlying key expectations influence the community's issue of the social licence.

Figure 2: Conceptual model



Explanation of the conceptual model

Following the synthesis of the literature, this study proposes that legitimacy within communities impacts fundamentally on the issuing of a social licence. This is expressed in many forms, which include the fact that communities do not have the power to oppose mining companies, nor the power to give consent. Focusing on the legitimacy within communities is important, since we know that power relations and the exercise of power have an impact on the social licence (Meesters & Behagel, 2017; Walsh, Van der Plank, & Behrens, 2017). It is therefore important to understand how the lack of power influences the ability of communities to enter into a social licence.

A similar argument applies for factors like educational level and economic resources. When communities have low levels of education, their ability to influence the social licence process and exercise power is compromised. These factors compromise the legitimacy of the community as a stakeholder. Leadership legitimacy within communities is another factor which has been debated in previous studies, due to the various stakeholder interests (Wilburn & Wilburn, 2011). When there is no recognised and legitimate leadership, the possibility of a social licence is impacted as it must be entered into between the community and the company.

The model also highlights that the legitimacy factors within communities has an impact on the setting of expectations between companies and communities. This suggests that if the legitimacy factors within communities are not addressed, the expectations communities and companies have of each other may not lead to the formulation of legitimacy between the parties. It is important to focus on this since the setting of expectations is critical in the social licence process (Moffat & Zhang, 2014; Owen & Kemp, 2013).

When the expectations between the parties are agreed upon, and legitimacy is established, a process for a social licence may be put in place. Without this step, a process remains unclear or lacking. A process towards a social licence can contribute to what others refer to as 'effecting real change' (Moffat et al., 2016) as it will contribute towards the understanding of how a social licence can work in practice.

CHAPTER 4: RESEARCH DESIGN AND METHODOLOGY

4.1 Introduction

This chapter will focus on the research methods applied in this study. The research approach is discussed, which is qualitative in nature, since the study is exploratory and theory-building. This study adopts a case study approach, which allows for understanding of context.

4.2 Research design

4.2.1 Research philosophy

The research philosophy adopted for the study is interpretivist and the focus of the research is on real-life situations, and thus, social context is taken into account. Interpretivism brings in the social component of the human being, namely that there is a level of interaction between the researcher and the participant, which can shape the findings. The author was part of the research in the sense that she interpreted meanings and thus, the researcher's own values linked to the phenomenon, as well as the values of the participants, have an influence on the outcome of the study.

Even though the author is not actively involved in the phenomenon, she has been exposed to it through previous work experience, largely from the perspective of the company, rather than the perspective of the community. The author's view of reality is that it is socially constructed and influenced by multiple factors and the goal of the research is to create a better understanding of the social licence phenomenon. The researcher was interactive, co-operative and participative in the study and focused on what the communities think and do, what kinds of problem they are confronted with and how they deal with them.

4.2.2 Research approach

The author's approach to the research was that of searching for meaning and understanding; therefore the qualitative approach was used in the study. In addition to this, the author was on a quest for in-depth comprehension of the phenomenon since some aspects had not been explored in depth. The study was exploratory in nature, with a focus on building theory. This made qualitative research even more relevant for the study, since it is invaluable for the development of new conceptualisations in evolving disciplines.

The multi-dimensional and dynamic nature of the study of the social licence phenomenon necessitated the use of qualitative methods and an inductive approach. Qualitative methods can take the study of the social licence beyond mere description and generate new

conceptualisations and interpretations that will help in understanding the complex phenomenon. Qualitative approaches are more likely to capture the complex nature of the social licence phenomenon and provide a more nuanced understanding of its elements.

Birkinshaw, Brannen, and Tung (2011) highlight that qualitative research methods are particularly well-suited to rigorous theory development, which means both framing the study in terms of existing debates in the literature and being explicit about what body of theory it is building upon and why. The nature of the research was exploratory and theory-building and the author worked with primary data through the interviews. This approach was more relevant since it is oral; some community members did not have previous research experience and the author was able to answer all questions as they arose.

4.2.3 Research strategy

Researchers select designs based on considerations such as the audiences' familiarity with one approach or another. The chosen approach for the study is case study. The advantage of this approach is that the data was collected and analysed within the context of the phenomenon, and the complexities could be captured. The social license as a contemporary phenomenon was investigated within its real-life context.

Documents were examined, including minutes of meetings where these were available, media coverage and municipal integrated development plans. The author wanted to gain a deep understanding of the phenomenon from the community perspective, since there was limited research from this perspective. Data from the documents were used in formulating the context chapter, as well as additional information to support some of the themes that emerged from the data. The research questions in this study were set up from the beginning of the study, data collection was planned and inferences were made from the data to answer the research questions. The case study method was chosen because of the desire to explore the research setting with a view to advancing understanding (Cousin, 2005).

The author wanted to focus on explaining why events occur the way they do, and case study methodology allowed for this to happen, since context is an essential part of explanation (Welch et al., 2011). Since the social licence is a relatively new phenomenon which has not been extensively theorised, the case study allowed for flexibility with theorising. The advantage of the case study approach is in creating novel and profound insights and its focus on examining the rich social and cultural influences on the social license in the context of South Africa as a developing country.

The author is seeking to understand the community members' lived experience about the social licence phenomenon and thus several community members were interviewed. The

author had identified a gap in the social licence phenomenon and sought to collect data from persons who had experienced the phenomenon but may not have contributed to research on the phenomenon. Through appropriate methods, the author developed a description of the findings and the experience of the individuals. The author's plan was to interpret and make sense of the meaning of experiences. In addition to this, the author planned to interview persons who may not necessarily be involved in the phenomenon, but live in the community and are affected by it.

The qualitative approaches adopted by social licence scholars vary, ranging from case studies, to phenomenology and field research. Most studies focusing on the social licence look at the concept from a socio-political angle, for example (Costanza, 2016). According to Yin (2014), case study methodology is effective for addressing socio-political processes and contemporary phenomena. The studies further look at unique cases, for example cases where small minorities protest in regions where protests are prevalent (Costanza, 2016). In some instances, studies examine comparisons of mining operations and their social licence experiences.

Previous studies have included participation in community meetings and an ethnographic approach, but the author was not sure if there is enough of a structure to allow meaningful data gathering through such processes. The author considered phenomenology, since, previous community studies that focused on the social licence, had aspects which are similar to the author's proposed approach. For example, in Wilson's (2015) study conducted in Sierra Leone, semi-structured interviews were conducted in two communities. The author had initial concerns on whether participation would be limited due to the sensitive nature of the topic, however following initial contact sessions with participants, rapport was established and the current study was considered best suited to the case study approach for the communities identified to which the author had access. The author drew her respondents from two communities (A and B), that are described in the context chapter and are similar in various ways.

4.3 Research methods

4.3.1 Sample size

Within qualitative research, sufficiency of sample size is measured by depth of data rather than frequencies and therefore, samples should consist of participants who best represent the research topic (Morse, Barrett, Mayan, Olson, & Spiers, 2002; O'Reilly & Parker, 2013). It was important to the author to have data from people who have previous experience and

involvement in the social licence phenomenon, and thus purposive sampling was adopted for the study.

Community members who have been involved in the phenomenon either through liaison with companies, municipalities or through collaboration at community level, were selected. Details of potential participants were sourced from local municipalities and verified through meetings with community leaders. The municipality oversees local economic development and public interaction between companies and communities, including protests. In addition to this, community members who were not necessarily involved in the phenomenon, but were confirmed to live in the community, were interviewed.

The initial plan was to interview forty community members and a small group of other stakeholders, including municipal officials (four), Department of Mineral Resources officials (three) and officials from the Chamber of Mines (three). In addition to this, the author had planned to interview two company representatives from the companies close to each community. The specific focus of the study was on the community's views on the social licence, rather than a formulation around companies versus communities. The company representatives were interviewed to enrich the study, rather than giving a comprehensive company view, since there has been in-depth focus on the company perspective in previous studies. The adequacy of the sample is not determined solely on the basis of the number of participants but also on the appropriateness of the data (O'Reilly & Parker, 2013). The author was very serious about ensuring that credible data was sourced from the participants and that the research questions were answered. As such, the author considered sample sizes recommended in other studies.

Interviewees were chosen from two communities, Community A, and Community B. A total of 30 community representatives were interviewed (15 from each community) and an additional 7 "other stakeholders". Interviewees were selected from a data base of community leaders received from the municipality. The author also consulted with non-governmental organisations dealing with mining issues in the community, as well as ordinary community members who live close to the mines.

The "other" interviewees comprised mine employees who oversee the community relations and sustainability function (two), officials from the Chamber of Mines (two) who are involved in mine-community engagements, municipal officials who oversee mine-community engagements (two) and an official from the regulator - the government Department of Mineral Resources. The interviewees were mostly men, except for two females from community B, and one female municipal representative.

Guest, Bunce, and Johnson's (2006) study showed relative saturation after 12 interviews; the codebook was fairly complete and stable after 12 interviews. They caution however that purposive samples still need to be carefully selected, and twelve interviews will likely not be enough if a selected group is relatively heterogeneous, the data quality is poor and the domain of inquiry is diffuse and/or vague (Guest et al., 2006). Creswell (1998) recommended between five and twenty-five interviews for a phenomenological study. The social licence studies looking at the phenomenon from a company perspective have used mainly case study methods (Costanza, 2016; McAllister, Fitzpatrick, & Fonseca, 2014).

Hall et al. (2014) used semi-structured interviews and interviewed 56 participants with the study looking at the concept from a company perspective and looking at the concept across various industries, while Hall (2014) conducted twenty-seven interviews across a range of stakeholders. Some studies adopted quantitative approaches like factor analysis, and document analysis (Parsons & Moffat, 2014), while others applied institutional analysis. Of the studies focused on communities, Wilson conducted thirty interviews in one community, and twenty-five interviews in another.

The author stopped the interview process when data saturation was reached; instead of the total of 52 interviews which were planned, the author interviewed a total of 37 people. The community interviewees lived in the community. Most of them had engaged with the mines as community representatives, while some hadn't. The experience of the community members ranged from being active politicians and NGO representatives to ordinary civic society representatives. Most of the community members had lived in the community for a number of years, while some grew up in the community.

The social licence phenomenon is still developing- even in terms of research methods -with some studies using simple field research methods and some consolidating various perspectives in their studies. The focus on communities is even more limited and the current study's contribution will also be in terms of qualitative research methods relating to the social licence phenomenon. Having said all this, the author believes that thirty-seven is a reasonable number for the sample size, considering time and cost factors as well as the research objectives of the study. This is in light of the fact that there is little rigor in justifying sample size to date in literature (Marshall, Cardon, Poddar, & Fontenot, 2013). Details of the sample are captured in the table below:

Figure 3: Details of the sample of interviewees

8B	Unemployed community member	Community B
4 other stakeholders	NGO Representative	Other stakeholder (B)
10B	Community member	Community B
9B	Community leader	Community B
14a	Ward Councillor	Community A
14b	Community leader	Community B
16b	Community activist	Community B
10a	Community activist	Community A
5 other stakeholders	Chamber of mines representative	Other stakeholder (Chamber of Mines)
4b	Civic movement leader	Community B
6b	Community leader	Community B
15b	Community activist	Community B
15a	Community activist	Community A
2b	Development representative	Community B
2a	Community member	Community A
1b	Community activist	Community B
3b	Community leader	Community B
9a	Community leader	Community A
2	Municipal representative	Other stakeholder (Municipal Representative)
7a	Community leader	Community A
1	Regulatory representative	Other stakeholder (Regulatory Representative)
11a	Political activist and development activist	Community A
11b	NGO representative	Community B
13a	Ward councillor	Community A
5a	Entrepreneur and community member	Community A
5b	Community member (care giver)	Community B
7b	Community member	Community B
7	Chamber of mines representative	Other stakeholders (Chamber of mines representative)
6	Company representative	Other stakeholders (Company representative)
1a	Ward councillor	Community A
8a	Ward councillor	Community A
13b	Self-appointed community leader	Community B
6a	Community activist	Community A
3	Municipal officer	Other stakeholders (Municipal representative)
8	Company representative	Other stakeholders (Company representative)
12b	Community member	Community B
12a	Ward Councillor	Community A

4.3.2 Cultural considerations

Mining communities speak in more than one language, with many of the community members being bilingual, or trilingual. The culture is dynamic and vibrant, and therefore it was important for the author to be sensitive and think carefully about cultural considerations and translation, especially if some words and statements were made in a language other than English. The author is fluent in two South African languages, other than English. Language differences may have consequences, because concepts in one language may be understood differently in another language. This is particularly relevant for qualitative research; because the method

works with words, language is central in all phases ranging from data collection to analysis and representation of the textual data in publications (Van Nes, Abma, Jonsson, & Deeg, 2010).

Easton, McComish, and Greenberg (2000) indicated that a concern in qualitative research is the transcriptionist's potential unfamiliarity with community jargon, slang terms, language, or words specific to a particular culture; this could lead to mis-transcription or mis-interpretation (Easton et al., 2000; Haring, 2008). Language barriers may exist and to control for this, qualitative researchers should consider hiring a native transcriptionist to help recognise language jargon (Haring, 2008). Using more words than in the original quote, changes the voice of the participant. This is especially problematic as giving a voice to people is seen as an important aim of qualitative research (Denzin & Lincoln, 2000), especially those who may not have a voice on a particular phenomenon, as is the case with communities and the social licence.

To this end, the author partnered with a language transcriptionist in instances where language could potentially be a barrier, and also used enquiry and clarification throughout the process of data gathering. Van Nes et al. (2010) recommend that the researcher operates as a translation moderator in co-operation with a professional translator for translation of the most meaningful language parts in the findings. These parts would comprise, for example, the themes in phenomenological research with special care taken in explaining intended meaning and context in the source language. Special attention is needed when metaphors are translated, either in quotes or in the findings (Van Nes et al., 2010).

The author did some homework on the community in which research would be conducted, to understand the expected mannerisms. Strong respectful relationships were established with key members of the community (Haring, 2008).

4.3.3 Experience of the research process

The author's experience of the research process was humbling in many different ways. Most of the community members were generous with their time, and opened their homes to the author for the interviews to take place. The author had to deal with her own "fears" as most of the interviewees were men, and she was often in unfamiliar environments. The community members expressed a willingness to give their views and when the researcher showed a genuine interest in what they were saying, they shared even more information. The research process took a lot of time, some interviews lasted two hours.

Even though most interviewees were open, there were some who were very suspicious of the author. One of the interviewees asked the author to meet her in his business, which happened

to be a shebeen (pub). When the author arrived, the interviewee became very suspicious and asked who sent the author, and enquired about why the author had a car if she was a student, who was funding the author and how she could afford a car if she was a student. Following a long explanation where the author shared that she was a working student, the interviewee agreed to proceed, but the interview had to be the following day, in a different venue since there was a lot of noise in the shebeen.

Some community members welcomed the interviewer in their homes, and in two of the homes, she was offered a meal. In some instances, the interviewer had to wait, since most funerals and events in communities happen over the weekend. Overall, the interview process was both enriching and enlightening. The locations of the other interviews were different, mostly in restaurants and formal settings, some in their offices.

4.3.4 Research instruments

The semi-structured interview was adopted for the study. This instrument was relevant for the study since the author wanted to explore the views, experiences, beliefs and motivations of individuals (Gill, Stewart, Treasure, & Chadwick, 2008) on the social licence phenomenon. The semi-structured interview questionnaire enabled the interviewees to be interviewed at length and in depth and to respond flexibly to the questions. According to Haral (2008), oral methods are used mostly with indigenous communities. Even though the communities may not be indigenous in South Africa, the challenges are similar in terms of language considerations and the need to build trust and explain the study in detail. Additionally, communities may not be accustomed to other research methods like completing questionnaires.

All interviews were tape-recorded and transcribed verbatim afterwards, to protect against bias and give a permanent record of what was said. Field notes about observations, thoughts and ideas were captured immediately after each interview in order to help the process of data analysis. Similar studies have also opted for the semi-structured interview approach; for example, Hansen, Vanclay, Carol, and Skjervedal (2015), in exploring the local community's perspectives on the challenges of development, collated the concerns of local people via in-depth qualitative interviews, and so did Wilson (2015) in the study that focused on local perspectives on what constitutes a social licence.

4.3.5 Data collection

Individual interviews of a minimum duration of an hour were held. The interviews were conducted at times agreed upon with participants. All interviews were recorded and transcribed and the semi-structured approach was adopted. Relevant documents were

reviewed, including municipal IDP's, court judgements and press releases. During the interview process, observations on body language and expressions were recorded.

4.3.6 Data analysis

The author analysed the 37 interviews for qualitative content using the coding strategies of Saldaña (2016) and Saldaña and Omasta (2017). The author was guided by the research questions together with the interview questions. To this end, she engaged in data reduction, coding and decoding analytic processes to analyse and interpret each of these qualitative data forms (Saldaña 2016). These processes unfolded through concurrent and iterative research processes: data collection, transcription of audio-recorded semi-structured interviews and data analysis. Coding terminology and procedures were applied according to Saldaña (2016). Specifically, descriptive codes were used and a few *in vivo* codes, which were created inductively (data driven) and deductively (theory driven). During the first cycle of coding, over 100 codes were created, which were merged, given the similarity of meanings. Finally, a code list or a code book of 76 codes was created. This was all done in ATLAS.ti version 8 (recently released in December 2016), which is a computer-assisted qualitative data analysis software package.

This software adds value and sophistication to the coding process, together with an audit trail for transparency of the analysis process (Smit, 2005). Friese (2014) describes ATLAS.ti as a powerful workbench for the qualitative analysis of large bodies of textual, graphical, audio and video data. It offers a variety of tools for accomplishing the tasks associated with any systematic approach to unstructured data, i.e. data that cannot be meaningfully analysed by formal, statistical approaches. In the course of such a qualitative analysis, ATLAS.ti helps the researcher to explore the complex phenomena hidden in the data. For coping with the inherent complexity of the tasks and the data, ATLAS.ti offers a powerful and intuitive environment that keeps the researcher focused on the analysis and enables him/her to assemble meaningful pieces from large amounts of data in creative, flexible, yet systematic ways.

Thirty seven interview transcripts, a total of 534 pages were loaded into the project function; a container for all the data, for subsequent coding. The auto coding function was also useful to do a key word in-context search (KWIC) (Bernard, Wutich, & Ryan, 2016). During the second cycle (Saldaña, 2016) of coding, codes were clustered into groups, referred to as categories in the literature. One such example is: the expectations of the community of the company, which consists of 26 codes, which represent 177 segments of text from the 37 interviews.

In chapter five, the research findings are described, based on the categories created and the themes are then developed from these categories. Chapter five presents the discussion and

the interpretations of the themes as the author invokes the literature and accompanying relevant theories.

4.3.7 Validity and reliability

The author undertook the research with the understanding that the credibility of qualitative research depends on the ability and effort of the researcher (Golafshani, 2003). Therefore, verification strategies which entailed checking, confirming, making sure and being certain were applied to shape and direct the research during its development (Morse, Barrett, Mayan, Olson, & Spiers, 2002). Diligence and rigor was practiced throughout the research process and there was sensitivity to the importance of reporting the data accurately, the quality of the data and its trustworthiness. Reflection notes were prepared on the same day as the interview, while the experience of the interview process was still fresh in the author's mind. Comments captured a range of factors, including the demeanour of the interviewee, body language and facial expressions, key take-aways from the interview and a general summary of the discussion. Multiple methods were engaged, which include observation, interviewing and recordings.

The author adopted an iterative, rather than linear approach, to ensure congruence between the data collection and analysis phases, and linkage to the research design and research questions. Analysis and interpretation was monitored and confirmed constantly, to avoid rushing to conclusions. During the coding process for example, the author had to maintain discipline in keeping codes objective, and not allowing any conclusions to be drawn from the codes pre-maturely. Therefore, data were systematically checked, focus maintained, and the fit of data and the conceptual work of analysis and interpretation monitored and confirmed constantly (Morse et al., 2002). The author had to be open and sensitive to relinquish any ideas that were poorly supported regardless of the excitement and the potential that they first appear to provide. In the same vain, ideas which were supported by the data were illuminated, regardless of not being in line with expectations and the surprise factor. These qualities were crucial to the attainment of optimal reliability and validity. The author was careful to listen to the data.

The sample was appropriate and consisted of participants who best represent or have knowledge of the research topic. This ensured quality optimal data, and that sufficient data were obtained. Saturation led to replication in categories, leading to verification and completeness. This assured the author that the essence of what the respondents were saying was captured accurately. The author thought theoretically, allowing ideas emerging from data to be reconfirmed in new data, leading to verification of data. Thinking theoretically requires macro-micro perspectives, inching forward without making cognitive leaps, constantly

checking and rechecking, and building a solid foundation (Morse et al., 2002). The themes were highlighted from a micro perspective to contribute towards theory development, and even though the initial broader conceptual theoretical understanding was different from the findings of the study, consistency was applied to support the process of theory development.

Throughout the process of analysing and interpreting the text, the author strove to be aware of her own biases, and conceptual structures. Continual self-reflection and reflexivity on the analytical process and the obligation to observe own processes helped in the illumination and reformulation of data (De Vos, 2005; Patton, 2002). There was active engagement with the data, which meant that what was known and perceived had to be put aside, while the issues illuminated by the data were illuminated. Flexibility and open mindedness were key throughout this process. There is an inseparable relationship between data collection and data analysis, and this is one of the major features that distinguish qualitative research from traditional research (De Vos, 2005). Therefore, as the data was being transcribed, similar and divergent themes were identified. While the voice of individual participants was preserved, broad generalisations and social interpretations were drawn based on similar themes. Therefore, generalization was balanced with the particular voices of participants which demonstrated the richness of the data.

4.4 Ethical considerations

Ethical considerations are very important to consider when conducting qualitative research in communities. They govern whether participants are well-informed about the purpose of the research they are being asked to participate in and the freedom to make an informed decision. Interviews were conducted on the basis of the principles of informed consent and respect (Vanclay et al., 2013). Considering that some community members may not have participated in a research project before, the onus to give as much detail as possible, was upon the author.

In addition to this, the author gave a true account of what the study is about with no false information or raising of expectations. This is an important factor in communities where people may have needs due to socio-economic challenges. The author's focus was within the parameters and scope of the research. Confidentiality was of utmost importance as there was sensitivity in terms of the information discussed with the author, in instances where power dynamics may be at play. It was the author's responsibility to ensure utmost confidentiality and assure participants of this, as well as assure participants that the information would be used for no purpose other than that which was communicated to them.

CHAPTER 5: RESULTS

5.1 Introduction

The previous chapter presented and justified the adopted research design and methodology in terms of the research phenomenon and the literature review. Data gathering and data analysis processes were described. This chapter presents the themes relevant to the research question, which have been elicited from the empirical data. Identifiable units of meaning constitute theme accounts that are grouped according to larger units. Each theme has a number of sub-themes, which are described separately.

The focus of the study was to obtain the community perspective on legitimacy factors which impact on the social licence.

5.2 Elements of legitimacy that are necessary within communities, in order to enter into a social licence

The literature review suggests that there are some elements within communities, which have an effect on their participation as a social group. These elements impact on engagement and legitimacy processes with mining companies. The findings of the study reveal significant challenges within the communities, which impact on their ability to effectively engage with the mining companies. Community members highlighted these challenges with concerns raised about legitimacy in various forms, including leadership, community acceptance and agreements.

5.2.1 The emotive side of social licence

a) Feelings of deep anger

Communities that arise as a result of mining operations carry deep-seated and far-reaching anger. The anger in communities is expressed through property destruction and there is an underlying sense of hopelessness and lack of purpose. In some instances, community members engage in property destruction without even understanding the reasons for their behaviour, or what cause they are advocating:

They are burning the schools, they are burning the halls. Others they are burning because they are burning they don't know why they are burning (unemployed community member).

The “age” of the mine and exposure to unsatisfactory conditions, has an influence on the levels of anger. This study finds that older communities and those who have been in mining communities for longer – some for generations – express more anger:

So it's different only in the degree of bitterness if you like, so in xxxxxxxx real, it's like deep anger against the mines, (community development activist).

This finding is also supported by the protest levels in these communities, which have increased and tended to be more violent. Media reports also highlight the levels of violence, with some reporting that the houses of municipal officials were burnt down. The body language expressed by the interviewees from the communities (with longer histories of exploitation) was also different, in some instances they raised voices, and paced around the room while expressing their views.

Some within the community perceive that mining makes little or no contribution to development at a local level. Those who hold this view perceive that the main agenda of mining companies is to exploit mineral resources, with no consideration for the wellbeing of the community:

There's a perception, and I think historically it's accurate, never mind what the mines are trying to do now, of a mining industry that extracts the ore of the metal and sends it out overseas, making a lot of money, that buys the supplies from outside, from further afield, not from anywhere in the community, so that's completely extractive and gives minimum return to the community. So, you know you'll get, it's very easy for an activist to get a crowd of people really angry by reminding them about how little the community has got from the mines over the years. (NGO representative).

The earnings of mine professionals also fuel anger and feelings of injustice in communities, when looked at in the context of deep levels of poverty in communities. Those who feel disenfranchised experience this as unjust and unfair:

You can google and find out how much they're paid, and it feels like a crime against humanity to someone that's been unemployed for 10 years (NGO representative).

As a result of the anger, which is perpetual and spans over decades in some instances, the relationship between communities and mining companies is fragile:

So that somehow affects the sensitive or fragile relationship that is there between the community and the mines (community member).

Yet, despite this deep anger, there is a paradox in that communities are aware of the difficult economic conditions and there is a sense of “reliance” on the mining company. The

relationship is conflictual, in that there is deep anger, towards mining companies, while at the same time the very people who are angry, scramble for the few opportunities available:

First thing is complete anger but the other is just a real pragmatism that whenever I can get some money, I'll go for it. So despite the complete anger at the mines, if the mines do any scheme, they immediately want to see OK how do we get something out of this (NGO representative).

This type of paradoxical relationship also applies to community members and their leaders. Communities often revolt against the leaders, and yet elect the very same leaders back into their roles.

b) Deep feelings of humiliation

Community members in mine communities experience living conditions as unbearable and humiliating. This humiliation is passed on through the different generations, and leads to feelings of bitterness towards mining companies, and embarrassment within communities:

I mean people live in absolute squalor, there's no sewerage, there's no available water, there's poor roads, when it rains, you've got a vlei, it's difficult to walk in, water coming into the shacks, children playing in the water with crap floating on it . You know humiliation is a terrible thing because it doesn't go away through generations. It's something that almost grows into your genes, and so there's a deep bitterness (community development activist)

c) Feelings of being unheard and pacified

Efforts by mining companies to engage with the community are seen as paying lip service to consultation and discussion, with no genuine intent to hear or act upon the concerns of the community, about the living conditions.

Some community members expressed pain with having no forum to express the concerns they had and to be heard:

There is no public participation coming from the companies hearing from the voices of the community what they are crying about, what they need to be done in their location (community leader).

d) Sense of dispossession

Communities also expressed feelings of dispossession, and a sense of violation. They suggest that mining companies contribute to the conflict levels within communities:

But we know that the capitalist, the imperialist they always want to deal with the mind of the people they can make the communities fight each other (community leader and development activist).

There is also a sense in the community that the prevailing conditions have been inflicted upon the community from without and there is a refusal to accept the current state of affairs. The state of poverty is inflicted upon community members but it does not become their identity:

It is misleading to say black people are poor in this country, it's not the truth. The truth is that black people have been subjected to impoverishing conditions by a prevailing economic system which serves particular interests; the truth is that the people of this country with an abundance of the minerals that this country has, cannot be compared with one of the poorest people in the world (community activist).

e) Feelings of mistrust and suspicion

Interviewees expressed mistrust towards the mining companies, suggesting that some things are done secretly and referring to the conduct as “shady”. The mistrust is also towards community leaders who are seen as representing their own interests rather than the interests of the community and are referred to as “criminals” (community leader).

f) Sense of lack of identity

Some within the community expressed a general sense of confusion about what “community” represents. Some suggested that there are different interests and needs in communities – “one man’s meat, is another man’s poison”, and that such differences manifest during engagement initiatives. In addition to this, uncertainty around the identity of the community was expressed, with overlap expressed between national and community interests:

What is your public interest, what is your national does it mean the same thing? (community activist).

g) Protests as a form of opposition

Community members often express their dissatisfaction through protest action. Due to the heightened tensions, protest action was being planned in the communities, referred to by one of the interviewees as the “*mother of all protests*” (community activist). Community members cited frustrations with ongoing changes in rules from mining companies and what they considered to be deliberate exclusion. Protests often lead to those within communities who do not have access to opportunities, stopping those who are working and there is often an overlap between the role of the community and the role of government:

If there's no water supply, no electricity, if the infrastructure is terrible, the community normally blames the mines including for unemployment the community will blame the mine (industry body representative).

Historical factors in mining communities and the relationship between the parties (communities and mining companies) have a significant influence on engagement between the parties. Communities are fragile and hostile, and this has an effect on the community's view of the future: as one community member suggested, the community does not see the "way forward".

5.2.2 Leadership factors

a) Leadership legitimacy

The process of electing community members into leadership positions is a subject for debate and disagreement within communities. People come to be involved in community leadership roles through different means, including election by their respective political parties, self-appointment, civic society appointments, participation in community activities, naturally evolving into a leadership role, traditional leadership and non-governmental organisation membership nomination. The challenge with the different leadership platforms is that there are different priorities and it is difficult for communities to have a set of leaders that they recognise as legitimate, or those who represent the interests of the community broadly.

Respondents raised concerns about the self-appointment of people into leadership roles within the community, the method of appointment – specifically self-appointment – as well as their capacity to lead:

Some of the leaders here they don't have the capacity to lead the community, some of them just say they are leaders but you don't know where they've been elected and what is really happening with them. Because they call themselves leaders but when you go and do research you find that those people are self-appointed (civic movement leader).

In addition to the concerns raised, leadership is viewed within the context of a democracy and the self-appointed leaders are rejected, implying that they would have to be democratically appointed before they can be deemed legitimate. The conduct of self-appointment is therefore viewed as illegitimate, and the decision about who should be leading is viewed as a community responsibility:

They are not, they are crooks those people, how can you be a leader and not be elected, I mean this is democracy the masses should decide who should lead. So, if

you attempt to say I'm a leader and what and what and no....that means you are not a leader (community leader).

While some reject self-appointed leaders, the leaders themselves view their leadership positions as legitimate. These leaders view their own assessment of their ability as leaders as a sufficient criterion to be in a leadership role, in addition to their perceived ability to resolve problems. Leadership is seen as identification with a cause and making a decision to act in support of it.

It's a self-appointed role, like during apartheid era whereby a person will choose whether he fights apartheid openly or secretly or he assists apartheid. So somebody must make a choice to say if I see I have a value to add on that, let me be there. It's not like we are waiting for people to appoint us, we don't use that approach. It's a self-motivated, self-risk, it's from within us (community activist).

Political leadership is a prevalent form of leadership in communities. This is linked to the fact that most communities historically participated in political activity during the apartheid era. Political leaders generally get into leadership positions through a process of election in communities. Influence and recognition within communities comes mostly through political leadership:

Yes we have leaders who are leaders because of merit, those leaders who are very political but also those who scramble for power, empowered financially by someone else (community leader).

Leaders are recognised based on their political standing. Their effectiveness as leaders is also linked to their political involvement, while personality also plays a role:

You are not an effective leader according to observation when you are not politically inclined and popular in the community; we don't have leaders in pockets, leaders have this image of celebrity like, so that is how our leaders are categorized or identified (community development activist).

The challenge with political leadership is that the leaders are appointed by their constituencies, while they are expected to represent all the members of their community. It becomes challenging for the leaders to play an objective community representative role. Political leaders tend to focus on meeting the needs of those known to them, while other members of the communities tend to be neglected. Community relationships with the mines are otherwise not in place, except through the leaders or organisations. When the ordinary community members do not have relationships with the leaders, they do not have access to information:

If you are not involved in that organisation or if you don't have any relationship with that person or you don't have, know anyone in that organisation, simply means you don't have a voice in whatever's happening around this community between the mines and, and us, yes community member).

The political affiliation in mining also impacts the ability of the community to influence and collaborate on critical matters. The ideas are measured based on who comes up with the idea coupled with what political party they come from, rather than the merits of the idea:

If I say, OK for instance, maybe I have an idea of something, I know I have to associate myself with such people and those ones, the other ones who are in a different party they won't even support what I'm saying whether it's good or it's bad (community member).

The political leadership dynamic is a major impediment in communities, since there are some community members who neither have interest nor participate in politics. Some of the community members simply want to be involved and to have a voice. Under circumstances where political leadership is most prevalent, the power of communities is compromised, with some community members wanting this power centred amongst the community members, rather than politicians:

So I'm saying if that nonsense can stop, our power as a community is that we are the voters, number 1, so we stop voting for political parties and start voting for ourselves. When we vote for ourselves, we will centralise the power within (community activist).

Political leaders have their own challenges, and struggle to find their place in democratic South Africa. Some of them rose into leadership roles during the apartheid era, some with no education or access to economic resources. Economic survival for these leaders is often a challenge:

The ANC unfortunately took me to school in the political school, after they have taken me to that institution where they have trained us, now they....they dispose us as if we are uhm...unsanitary objects (community leader).

There appears to be no clear and consistent pattern of electing leaders, and broad representation is disputed, which impacts on engagements with the mines. The main issue is that mining companies struggle to know when leaders are legitimate. Efforts by mining companies at seeking proof/verification of legitimacy from communities, receive contradicting responses. Some community members welcome such efforts, while others view such requests negatively as delay tactics and efforts at marginalising the community. There are instances of mines reaching agreement with one group in the community, only to later find that the rest of

the community rejects what has been agreed upon, or different needs are revealed through the study.

In most instances the mines think that once they've got the authorisation of the local authority and of the traditional leader, they have got the consent of the community, but as time goes on you find that these structures are not necessarily a representative of the communities and the communities have got their own view of what they want, which is different (industry body representative).

This leads to further complications in the relationship between the community and the mining companies. The issue of leadership legitimacy, or lack thereof, is a critical issue in mine community relations, which causes tension and impacts on acceptance between the parties:

You and I will say, but these 8 people can mobilise the whole community and you've got to take them seriously, the mining houses will say "screw them" they don't represent anybody. So the conflict continues, it gives them grounds to mobilise with the community (NGO representative).

The need for legitimate community leaders to engage with the mining companies is highlighted as important and necessary. Achieving this proves to be difficult in communities with diverse interests and needs.

b) Leadership Capacity

The capacity of leaders in terms of education – their ability to represent their constituencies, effectively engage with mines and understand documents – came out as a concern. Generally, the education levels across communities are low and there are some people in leadership roles who struggle to express themselves in a language different to their home language. The ability of such leaders to represent their communities is thus impaired:

If you are not using the same language, it becomes a barrier for people representing their communities, sometimes people express their views, but immediately they see u kuthi umlungu (that it's a white person), it's something else (community leader).

In addition to the level of education, some community members dispute the capacity of the leaders to address real community challenges and represent the community effectively with the mining operations. The leadership approach is viewed as crisis-led and reactive, rather than proactive:

Consultation is reactive rather than proactive, it's when there is a crisis, they always meet but in a reactive approach. They have curative meetings instead of preventative meetings (community activist).

Some community leaders struggle to understand some of the processes linked to development in mining, and the information which is often presented in document format. In addition to this, many communities lack an understanding of the mining industry, which, some argue impacts on their ability to defend the community:

It is very difficult to perceive how community leaders will be able to defend the community effectively on these issues in relation to the mining houses, when they do not have the substantive knowledge about the mining activity and the mining industry itself (community activist).

Community leaders further struggle with engaging their constituencies, and in making representations to the mining companies. Some community members do not even know who 'their leaders' are, which makes it difficult for them to make representations for consideration by the mining companies.

c) Lack of legitimate representation

The various difficulties with community leadership and representativity, have major negative impacts on agreements with mining companies. When there is no broad community agreement or support for leaders, and disagreement on their legitimacy, it becomes challenging for mining companies to know who the community representatives are. Sign-off becomes a challenge in engagements between mining companies and communities and this impacts on acceptance:

There are instances where the community itself doesn't even recognise a particular community leader, so how do you then achieve that formal sign off through structures that they seem/deem to be illegitimate, so I think there's still a lot more to be done there (municipal representative).

When there is sign-off, it cannot be 'truly' legitimate without agreement within the broader community. The lack of agreement on who the leaders are within communities therefore impacts on the legitimacy of the final sign-off.

The big thing we did last year was signed off, but by who because there's nobody that everybody agrees represents the community, so up to now there can be sign off but it's plagued (NGO representative).

d) Anger towards leaders

Community members have a lot of anger towards many of the people in leadership roles. Interaction in a meaningful manner on matters impacting the community, often becomes impossible due to the anger:

If I can see him I can even shoot him because we are very angry; we see them that time of those meetings because it's a control situation, we can't have interaction with the man, but if I have a one on one interaction with that man I can tell you another story. But they will go to whoever says he's a leader and say, take some money, those are the things that's making us boil (community leader).

This anger is attributed to various factors, including perceived self-interest and mistrust. The results of the study reveal that the impact of leadership is negative in communities, and that social conditions are perpetuated due to poor leadership:

The leaders are the one who are killing this community, they said they are the leaders, they are not the leaders they are the robbers, they rob the poor people, the people are suffering the people don't have nothing (unemployed community member).

e) Sharing of information

There is a gap in knowledge and understanding of rights within the community. In addition to that, there are challenges with the flow of information into the community on topics related to mining. Sharing information with community members is viewed as a leadership role but leaders struggle to fulfil this role due to various factors, including lack of resources or capacity:

Not most of the community understands, you know, their rights in any mines around you know, so it takes a leader or it takes that structure and the biggest issue is is is resources (community leader).

While there is acknowledgement of the need for empowering communities to understand how to leverage mine programmes and partner effectively with the mines, there is a view that mining companies would not support education programmes aimed at empowering communities financially. Some interviewees believe that mining companies are aware of the gaps in knowledge and the limited flow of information, but do not support any efforts aimed at empowering the community, since their focus is on preserving their own interests. This perception demonstrates the lack of trust that has resulted:

If I were to write a proposal to the mine and say can we take on a programme of educating communities around how they can work with you, how they can tap into your social labour plans, no one would fund it, no one will even respond because they know very well if communities know, it's a problem (community activist).

f) Competition and rivalry

Competition for leadership roles is a common factor in communities. This can lead to tension/violence within communities, and because there are opposition groups, the representation at mine level becomes challenging:

Sometimes we will get attacks, sometimes we would get threats and those sorts of things by people who believe they can do better than us. Forgetting that it's us who made the foundation and the foundation was voluntary, it was open (community member focusing on community development).

The rivalry in communities makes it difficult for mining companies to know who to partner with, and reach agreement. Agreement can be reached with one group, and other groups come up to dispute decisions made:

There is no statutorily recognised community representative, so you've got one group that you think may be representative of the community, you can strike a deal with them in terms of other processes that need to be undertaken and then another off shoot comes and has its' own demands (industry body representative).

Summary

The findings highlight some leadership challenges in the communities, which are linked to the concerns community members have about the legitimacy of the leadership and representation of the community. Community members are angry towards the leaders for various reasons, and within the leadership structures, there is rivalry. Additionally, the capacity of leaders is questioned, in terms of education levels, which influences their ability to represent the community and engage on its behalf.

5.2.3 Economic factors

There are high levels of unemployment across mining communities. Social challenges are highlighted, including teenage pregnancies and drug abuse. The infiltration by foreign nationals in mining communities was also highlighted, with a level of bitterness from some of the community members. The bitterness is due to what are considered as stolen opportunities as well as a perception that the foreign nationals are not subject to the same compliance standards as their South African counterparts:

We've lost tuck shops, fish and chips at the corner, it's now Pakistani, Bangladeshi. They have outsold our communities because with their pricing, our communities

cannot afford. Do they bank? Do they pay tax? And they are everywhere in our country (community activist).

Crime is another significant social factor. Illegal mining and other forms of crime were highlighted. Some community members feel disenfranchised and justified in committing acts of crime:

So we are saying we will go to these white people, we go to these Caucasians, tanned ones, blacks you know, those who think they speak better English than us we go and rob them and take whatever they have because we have nothing even now I never ate (unemployed community member).

a) Poverty leads to compromise

Some community members compromise their mandate and responsibilities due to their economic standing and what they can access. The poverty and corruption levels in the community have had a negative impact, since it is perceived that the community leaders compromise to the detriment of the community:

Remember that there are those who are hungry like me, I do not need to quote myself out, there are those who are more than hungry than me who would even sell your soul out for R5 (unemployed community member and community leader).

The response of community members to mining companies may be subjective due to their poverty levels. Mining is often viewed as a solution to the social conditions that are prevalent in communities leading to the acceptance of mining, even to the detriment of the community:

Immediately when you appeared to the community, and they say hay! this is Ausi Noma she's a CEO of a visiting company, normally we associate you with mining, we say err....now money is coming now, so there are those who have already been tired of unemployment, tired of poverty, when they see you they see the poverty is going so they won't even be interested if you going to destroy, they will accept you (regulatory representative).

The mining companies similarly take advantage of the social and economic conditions in mining communities. Bribery of vocal community leaders by mining companies can destabilise community efforts. Community members' influence is thus marginalised:

Even my neighbours can tell you, everyone can tell you we don't know nothing, if they can see you talking at those round tables they will say no, that one is not good how can you make him or her go away. They will say no, he doesn't have shoes, OK they

offer your 1000 and they know you'll run as far as Sandton to go buy that Cavella you always fantasize about, that's how they are dealing with us here (community leader).

b) Corrupt economic exchange

The findings suggest that some community leaders serve their own interests rather than the interests of the community. Examples of leaders who receive payments from the mining companies with the intention of causing instability and division amongst community leaders are highlighted. The motive of the companies would be protection of their interests, against a perceived threat from community leadership:

The mining companies has influenced them or have given them money to say no, you must discourage this leadership because they want to destruct, so it would mean we are destabilising their shareholding, so they will critique this leadership because it destabilises their interests (community activist).

A trend that emerges is that some people may get into leadership roles for selfish reasons and for self-benefit. The mandate of the community is not advanced under such circumstances. The benefit is always financial:

But you know there are, there will be opportunists, there are opportunists, people who will impose themselves as leaders when they have a... not the interest of the community but they are selfish interest for themselves, selfish benefit (ward councillor).

Patronage and survival amongst leaders becomes the key driving force, and instead of leaders engaging meaningfully for the benefit of the community, the interest of their peers is prioritised. This is coupled with competition for resources, as leaders in different structures struggle to work towards common goals:

Hence I'm saying, we even sell ourselves cheap cause by virtue of comrades will know he is hungry, now he doesn't have anything and it's towards festive season (community leader).

A pattern emerges whereby communities, who are predominantly lacking in resources, continue to feel disenfranchised, and hold a general perception that their aspirations and needs have been 'sold out'. The challenge amongst some leaders is that they feel disillusioned when they create opportunities for others, while they themselves do not have opportunities. Others believe that their external image needs to portray a successful image, rather than poverty, which unfortunately is often a recipe for corruption and collusion.

The community members who were interviewed reject fellow community members who hold leadership roles due to corruption. The corruption is often observed in the lifestyle of the leaders; some drive expensive cars without clarity on where they earn the income. Perceptions that leaders are 'bought' by the government and mining companies, are prevalent within the mining communities of this study.

c) Leaders' economic mobility

When community members enter into leadership positions, they are seen to gain new access to economic resources. Access to resources and upward social mobility tends to separate the leaders from their constituencies, and this is often followed by challenges in trust between the community leaders and community members. A general sense that the leaders are no longer part of the community is often a resultant outcome:

They are using big phones now, they drink expensive bottles now you sit down, comrade, you don't burn tires now, you don't toi-toi anymore comrade (community leader).

According to some interviewees, the change in economic standing of leaders and their upward mobility impacts on their ability to represent their followers. This upward mobility creates a social distance between the leaders and their followers, which makes it difficult for the followers to continue identifying with the leaders:

I've seen people being appointed which always comes to the same issue, that once people become resourced, there's a social mobility that is created and that creates a distance between the followers and the leadership (industry body representative).

5.2.4. Community participation

Participation of community members in discussions that have an overall impact on the community, is a challenge. Representation in terms of numbers (in meetings) is a challenge and attendance is influenced by the expected topics of discussion. The discussion items on the agenda and purpose of the meeting influence attendance. When community members have no issues impacting them negatively or directly, it becomes difficult to gain maximum participation in meetings. If the point of discussion is an area of great need in the community like housing or job opportunities, participation increases, while participation reduces when some of the prevailing needs have been met, as one community leader states:

We give them work in Makgakgametja for the sewage programme, now whom are we left with at a public meeting now? Everyone says I'm tired, I come from work at about 5 o'clock.

The different groups in the community have different needs. For example, there are differences in terms of the unemployed and poor, the middle class, and those who run small businesses. Participation is need-based and outside of this, community members generally focus on their own lives. This individual focus impacts on the power of communities, as individuals lose sight of the community as a collective structure:

I can afford so I'll just live my life, I'll get what comes to me, what happens to you Noma is not my problem (ward councillor)

Due to the differences in priorities from the various sectors, it is difficult to have a broad and coherent set of priorities. Social status influences what is important in the different community groups and structures. Participation is cyclical and not consistent, based on need; for example, while the poor will be fighting for jobs, the business owners will be looking for opportunities at the mines on an *ad hoc* basis:

The poor will start their own movement, the working class all at different levels, business people, that's how they interact with community matters, because they are brought in through those different structures (entrepreneur and community member).

The results of the study suggest that the sense of community is absent in the communities and that there is a general sense of apathy and not caring about what is happening outside of individual needs and those of close family members. Lack of engagement with what is happening in the community is a challenge, and a unified approach to addressing community issues is often missing.

There is a diversity of interest, need and expectation in communities, which makes it difficult for communities to work together towards common goals or agree on common interests. Political influence is a major contributing factor within communities as the local government election process is driven along political lines and in most instances, the elected local authority candidates (Ward Councillors) automatically become community representatives. One community member and development activist highlights:

Remember the community is polarised, like I said, and divided on some things unless if when it became politically, you know, driven then people would come with preconceived or predetermined, you know, inputs into what the social and labour plans should look like.

Clashes within communities are widespread, as communities do not always agree on common goals. This makes it challenging for the community to firstly agree on their needs and priorities, and secondly, to be able to table these with the mining companies.

There is somehow never unity in terms of addressing these common goals so for me there is nothing common about it you know because people would always differ and disagree about ideas and opinions (development activist).

Summary

It is evident from the above that economic factors have an influence on leadership in communities, as some interviewees suggest that leaders accept bribes and compromise the position of the community in the process. At the same time, community members struggle to identify with leaders who have become financially affluent. The results highlight some concerns around community participation, indicating that participation is often very much aligned to the needs of community members. Diversity in communities translates into them not being united and having no common interest.

5.2.5 Weakening of community mobilisation and social resources

Communities have gone through transitions, in line with the transition in the country. The findings reveal that there are some changes that took place in communities, following the transition into democracy. The areas, which appear to have weakened the most, are self-reliance and the institution of leadership.

a) Self-Reliance

Communities previously had some internal resources which made it possible for them to rely on themselves and on each other during the apartheid era. They could mobilise and find solutions to challenges within the community. The lack of development opportunities in communities, especially Black communities, meant that communities found other/alternative ways of survival:

It brought a lot of develop...distorted development because only white areas were developed, black areas were neglected, so mining through international experience always leave a community vulnerable, it always leaves a community without development that sustains it (community activist).

The transition to democracy introduced a new phenomenon in communities whereby they started to depend on the state. Community members now rely on government grants and other forms of government funding.

b) Impact of transition on the institution of leadership

In addition to the impact on self-reliance and the transition into state dependence, the results of the study reveal that the transition to democracy in South Africa also had an impact on leadership as an institution. While there is agreement that participation in the struggle against apartheid was voluntary and an act of sacrifice, there were some respected people in communities who naturally took leadership roles. These community members were entrenched in communities and held responsible roles. There was respect towards these community leaders and their impact was felt in the community:

We used to look up to people like that, those are the community builders, and those are the community safe keepers (community member).

There is a view amongst some of the respondents that the institution of leadership was destroyed following the transition to democracy in 1994, and that expectations were raised in communities that are difficult to fulfil. The lack of a model for community leadership was also raised as a concern. The state dependence has also impacted on leadership development in communities:

So you had these institutions of leadership development in our community which were destroyed by the kick-off of the 1994 transition, which created a dependency state (community activist).

The results of the study confirm the findings of the literature review that there are factors which impact on the community's ability to enter into a social licence. These factors include leadership legitimacy, economic factors and some factors around how communities organise themselves. What was unexpected is the emphasis on leadership legitimacy, which seems to interlink with the other factors as well.

5.3 Expectations between communities and companies

The literature study highlighted the differences in expectations between communities and mining companies. The differences in expectations, it was argued, could impact on the social licence phenomenon. The results of the study reveal that communities and the mining companies are often worlds apart in terms of their expectations. The relationship between the two stakeholders is also compromised through the interplay of a number of factors. These factors include historical matters of disagreement, the perceived conduct of the mining companies by the community and the mismatch in expectations between the parties.

5.3.1 Historical matters

The mining industry is perceived in a negative light due to the past treatment of mine employees and communities over generations. Lack of benefit for communities and allocation of benefits to people who were not rightful beneficiaries, is a research finding that is of major concern. The social and economic conditions in mining companies have led to a lot of anger in mining communities, towards the mining companies. The social conditions, referred to by some as 'humiliating', are attributed to mining companies, which are seen to have achieved wealth which does not benefit those who work and live in and around the mines themselves. The anger appears to span over generations, as most of the current leaders grew up in the mining areas that were the subject of the study.

a) Historical treatment of mining communities

The results of the study reveal genuine anger towards the mining companies in communities from most interviewees, due to the perceived failure of the mining companies to make meaningful contributions to surrounding communities. Strong emotions were expressed by individuals against mining companies:

The communities just hate mines (community activist).

In addition to the perceived failures of mining companies to address socio-economic needs, the social conditions that prevail within the mining communities are attributed to the mining companies, which fuels community anger/negativity.

Some communities have lived through generational humiliation, due to the lack of infrastructure, such as a functional sewage system. Some have seen their parents work in mining companies under poor conditions, while others have seen the impact of mining on the health of community members, and on the environment. There is bitterness in communities towards mining companies, in general:

So you know, humiliation is a terrible thing because it doesn't go away through generations. It's something that almost grows into your genes, and so there's a deep bitterness (NGO representative).

Communities also attribute the failure of mining companies to contribute to meaningful development in the community, to previous legal regimes, which explicitly excluded mining communities. The dissatisfaction with mining continues, and is part of the history of communities, while the legacy of mining remains tainted in communities:

So mining has really not brought a lot of joy in South African communities from history, but when you go back again to history, there were laws that were made by

the law makers or policy makers of the time, together with mining companies to say, do not put more emphasis or investment towards the locals (entrepreneur and community member).

b) Historical deals entered into, which excluded the community

Inputs from community members referred to deals which the mining companies have entered into with people who are not members of the communities in the study. In community A for example, interviewees stated that the mining company had set up a community trust without including representatives from the community, while in community B, a black empowerment transaction was reportedly entered into between the mining company, and representatives who were not from the community.

5.3.2 Relationship between the mining company and the community

Within the study area, the relationship between the mining companies and the communities is either non-existent or poor. The interaction between mining companies and communities appears limited and ineffective. Results further suggest that mining companies do not have an organised form of interaction with community leaders and in some instances, investments in mining communities occur without engaging the community. The poor relationship between the parties significantly impacts on their ability to engage effectively:

It was very ineffective because it would always deviate and it would become a screaming match between the company and the community (community member).

In addition to this poor relationship, the community experience and perceptions of dealing with mining companies, are very negative. The results reveal a perceived use of force by mining companies, a lack of meaningful engagement with the community, and a general lack of respect towards the community. The community experiences, as a collective as well as on an individual level, impact the acceptance of mining companies and the attitude towards mining in general.

Some of the key community experiences and views on mining are explained in more detail below.

a) Perceived Exploitation

The study reveals a community view of the mining industry, as one that uses exploitation in its various forms, against the community. Some respondents recounted experiences of disenfranchisement, violation and dispossession:

The mining industry is guilty of not only raping the resources of the country but by also raping people, economically so. It's not only sad, it's painful, it's heart-breaking (community activist).

The industry is viewed as oppressive and marginalising of the community. The use of power impacts on relationships, while stifling dialogue. It is the belief of those that participated in the study, that mining companies are not held accountable for their conduct:

Hostile one, it's like we're in a modern Germany now or Palestine under the Israelites, we are in that situation here because they don't care about us (community leader).

b) Disrespect

Communities feel disrespected by the mining companies. Concerns about the relationship between the parties being challenging, were highlighted by some individuals, with some concerns that mining companies are not willing to listen to the views of communities and that even when there is engagement, it is lacking in authenticity:

Condescending, not sincere. The attitude is to tick the box, they will smile so that the boxes are ticked (community activist).

Words like “arrogant, bullish, disdain” were used to describe the relationship between the parties. Disappointment was expressed at the treatment of community members by the mining companies, with concerns raised around the lack of integrity within mining companies:

I think somehow my expectations have been, sort of you know, disappointed by the way the mines treats people around here, you know, very very dishonest group of people in the mines, you know, and for me I think that's very evil of them (community member and development activist).

5.3.3 Complex tripartite relationship

The results of the study reveal that communities have expectations that remain largely unmet. Development in communities is legislated through the Department of Mineral Resources, which specifies that it has to happen through co-operation between the mining companies, communities and municipalities. Despite this legislation, it is clear from the results of the research that this model is not functioning as it was intended, especially the integrated development planning (IDP) facilitated by the municipality, which is supposed to incorporate input from the community. The IDP is important, since projects in mining companies' social and labour plans (SLP) need to be in line with the IDP. The SLPs are made up of commitments

by mining companies on socio-economic and infrastructure investment for local communities, and are submitted as part of the application for mining licence approval.

In addition to these challenges, the IDP process is challenged by communities, who question its credibility. A number of factors have been highlighted, including a lack of effective consultation, understanding and transparency in the process followed as well as capacity challenges leading to questions on the quality of the IDPs.

The SLP is the key legal document between communities and mining companies, since it includes mandatory projects to be implemented in communities over a five-year period. The actual influence of the community in the SLP process is questionable, and the process of acceptance of the mining companies' plans within mining communities is complex and dubious. Other than the licensing phase, which requires community consultation (but often, in practice, takes place without full participation from the community), there are no further opportunities for leverage by communities to effect change, and no genuine reason for mining companies to seek genuine acceptance.

a) Lack of consultation

As expressed above, the IDP process - which is at the core of development in communities - is defined as generally flawed and not realistic in terms of community expectations and is considered by some as "a wish list". IDPs are also viewed as not being an outcome of broad consultation and therefore are not representative of what communities want, as they are compiled by a few individuals:

But what we know, what's been documented a thousand times by scholars, is municipal IDPs are really the product of 5 or 6 people at the most sitting in offices and talking, they don't represent what the community wants (community development activist).

This lack of consultation means that the needs of the community are ultimately not represented in the IDP. Without participation in the IDP, projects are unlikely to be implemented, which leads to unmet needs of the community. Rather than influencing the process, communities only see the end-product of something they were not part of:

You don't even have time to peruse this thick document, so you are endorsing something that you were not part of, consultants have drafted that IDP, it's not what you say, somebody has done a survey about what he thinks community needs and not necessarily have consulted or ... you know? (community activist).

b) Lack of transparency

Communities feel that the IDP process is not transparent, and not well understood. While this process is a key driver of development in communities, communities are not always aware of what is in the IDP, or whether the projects they support are captured:

There are short comings in that because the communities never really never knew or never know somehow if their proposals or if their priorities have been you know have been included in the IDP (community member).

c) Lack of capacity

Capacity in terms of skills is a concern from a municipal perspective. The responsible officials are not always skilled in development and in developing sustainable solutions through effective consultation. The quality and content of the IDP is often poor:

The municipality itself does not have the competence and the capacity to do an effective IDP, it find itself that it does not consult properly with the communities on the projects that are done in the community but the quality of the IDP itself is so poor (community activist).

The results of the study highlight the importance of participation in the IDP process, as it relates directly to the activities and intentions of mining companies. Companies often get involved in compiling IDPs due to the lack of capacity at municipal level. Mining companies do this to safe-guard their licences, but they do not have capacity to compile IDP's since their core business is mining:

And your implementation of that is part of your mining right licence, so some companies are finding themselves having to go and draft an ILP/IDP for the municipality simply because they are interested to say safe guard them (industry body representative).

In addition to the lack of capacity, there is a role conflict that follows when mining companies perform the tasks of municipalities, since the municipality has some kind of oversight responsibility and the relationship between the parties is supposed to be a collaborative one. The relationship between the municipalities and the government department responsible for compliance monitoring – the Department of Mineral Resources – is not always collaborative.

5.3.4 Community expectations

Community expectations appear largely influenced by the general view (held by community members) that the mineral wealth belongs to communities. Mining companies are perceived

to not deliver on community expectations and this results in the experience of unfulfilled prospects/opportunities.

It is clear from the inputs that the sequence of events, in terms of granting a legal licence to operate by the responsible government department, is not well understood by communities. This repeatedly leads to demands being made by communities which cannot be honoured by the mines. In South Africa, the mining company is expected to consult with the host community prior to being awarded a mining licence, and at that stage, the company signs an agreement on the projects they commit to deliver to the host community, often in conjunction with the municipality. It is at this stage, that the community has an influence on the direction the mine can take in terms of community development. Unfortunately, this opportunity is often lost (due to a lack of understanding of the process), and by the time the community tries to hold the mining company to account, it is too late as the mining licence (in most instances) has already been issued and there is very little the mining company can do.

Municipalities are not always upfront in communication with the community, in advising them that a licence has been issued before operations start:

So in other words communities often wake up a bit too late when the licences have already been signed when commitments have been made, licences get signed before operations start (company representative).

Communities, on the other hand, suggest that even when they are consulted during these early stages, they are not fully informed of the intent of the consultation process. Communities have no record keeping and sometimes they are called into meetings without understanding the full extent (or purpose) of the meeting:

The mine will call a meeting and that meeting they will use it to prove to the minister that they are actually a...a , engaging communities and you will find that those communities are they are not aware of what exactly was determined they were just given food and then that's it, you see? (community development activist).

a) Ownership and Economic Benefit

Communities expect to own a stake in mining companies. There is an ideological view which influences this: the view that the mineral wealth belongs to communities, as well as the legal view (as expressed in the mining charter) which regulates ownership of mines, and advocates for 26% ownership by black owners:

Those minerals belong to our people, all of it belongs to government, government is just a constituent. So in return there should be direct investment of mines to our communities (community development activist).

The communities are expecting the 26% shareholding, my idea is not to go and work for a white person, now we want ownership in the mine (community leader).

Community shareholding that has been mandated by the mining charter, they are not doing it. Instead they will give Chinese, foreigner's special attention, why they can't consider local communities? Where do they get these Chinese? (ward councillor).

The results of the study suggest unhappiness in the communities due to the perceived benefits allocated to non-community residents and those involved in politics. The general view is that the plight of communities is ignored, while benefits are given to those who already have economic resources. The failure to distribute benefit to communities in need, is attributed to poor leadership:

But now all the people are coming from one side and those people already have a lot of money in parliament, still they are getting money again in the mines, our people are suffering staying in the shacks, dying, those who have been in the mines, they are affected with TB, there are a lot of things that are in there then they are sitting there enjoying luxury lives with their kids. We no longer have leadership, we've got "murder ship" now (community leader and development activist).

Communities expect mining companies to be involved in the community. In addition to involvement, there is an expectation of accountability from mining companies, as it is the general view that they operate without restriction:

They've basically got carte blanche to do what they want to do and they must be responsible they really must and I think they can be very much more involved in the community (ward councillor).

An important expectation of the community is that compliance (as per their interpretation) with the requirements of the law must result in broad social benefit. Efforts at initiating engagements with the mining companies are usually linked to this requirement and the expectation to understand the commitments made and what investments would be made in the community.

Communities respond in a variety of ways, to the perceived lack of economic impact from mining in the community:

There were no impacts in terms of your social investments in the community so, so we approached them, we wrote them a letter, we then met with the then CEO who since resigned and then we met with the Vice President of the mine as well, we wrote to the Department of Minerals and Energy we requested their intervention, because one wanted to understand what was contained in the social labour plan and what are they doing in terms of investment to the community (community activist).

The executive salary levels in the mining companies' fuel the dissatisfaction with mine contributions in communities. In addition to this, mine practices which employ migrant labour and exclude local communities are viewed in a negative light, with some suggesting that this practice is indicative of the mine's refusal to take responsibility, since employing locals would compel mining companies to be accountable for the employees and the surrounding environment.

b) Meaningful engagement and consultation

Community members want to be consulted on matters that affect them. This is not always the case and the lack of consultation leads to strained relations between communities and mining companies. Communities want to be active participants instead of being involved at the end of engagement processes:

Now what the mines do, they paint a nice picture with their consultants in terms of their intentions without the participation of those particular respective communities as hosts, and they know this is what we want and said should happen so we don't want to rubber stamp something that we do not know (community leader-self-appointed).

Engagement between mining companies and communities remains an ongoing and newsworthy challenge, with communities feeling undermined and unrepresented. There is a view held by some community members that mining companies engage and make promises only during licensing, and there is a fundamental mistrust in the process. Rather than engage with communities, mines engage with consultants:

So now you would check its own issues of the mines, they are trying to play a game as if they are innocent, but we know come time of licensing and whatever they will create platforms, they will come in many ways, they will come in trusts, they come in the name of the mine, they will come in the name of consultants only to convince communities (community leader).

The complexity around who the mines engage was highlighted as a concern by the interviewees. There is a sense that company engagement with communities is flawed in that the process of choosing who companies engage is often unclear and they often select who to

engage with. This is often in circumstances where some groups would make efforts to engage with the mine. Experiences have been cited, where such efforts are met with perceived exclusion and circumvention. In some instances, only the municipality and not civil society was invited to participate and lead community-mine relations processes:

The company circumvented that process and went to an official who is said to be a community leader. Now the consultations were happening through the customer care centre of the municipality. And the process went, we never received invitations, we would invite ourselves (community activist).

Projects in mining communities are usually a success when mining companies engage and value communities. Such companies also build structures in the community for community engagement:

You find that those mines who value their communities have got very meaningful projects and very successful projects, companies that really value communities actually build structures within the community that are going to focus on community engagement and these community projects (industry body representative).

c) Respect

Treatment of the community with respect and dignity was another factor that was raised, linked to the conduct of the mining companies. It was highlighted that this would create a good basis for meaningful engagement between the parties, as highlighted by one community member and development activist:

If the mine somehow as big corporations if they can stop you know their arrogance and treat communities with dignity and respect.

d) Ethical conduct

The study exposed an overall attitude of dissatisfaction from the communities with perceived unethical practices from the mines. Communities expect mining companies to conduct their affairs ethically:

Yes, I think communities expect that the companies will behave in an ethical manner, that the companies will not distort their way of doing things (industry body representative).

Concerns around lack of transparency from the mines were also highlighted. Community members expect the mining companies to act in good faith:

I think if the mines you know, would act in good will, there's a lot of secrecy and some sort of shady behaviour from the side of the mines (community member).

e) Effective participation by the regulator

The results highlighted some concerns communities have about the level of involvement from the regulator – the government. Concerns around leniency by the regulator were raised, while communities expected its role to be enforcement of legislation:

I think the government is very lenient on the mines, for reasons known to them, maybe it's because of these super taxes that the mining companies pay to government, you know to boost the coffers of government, we know that our government is in trouble in terms of, you know, our financial status but if they are going to compromise the communities just because they are looking at not upsetting the mining industry, you know (community member).

There is a view that mining companies do not prioritise community concerns due to the lack of involvement from the government. Mining company engagement with the communities is for compliance reasons; some interviewees refer to it as a “grudge purchase” and so the credibility of these engagements is not questioned:

So if the DMR takes a back seat, the mines also take a back seat so I don't think there is that understanding that engagement is owed to stakeholders, it's more "well if we have time" and you might be like number 15 on the list of priorities. We are only talking to you because we are required by law to do it (community member and development activist).

Community members expect the government to play a key role in forums at community level, which aim to hold mining companies to account. This would be to support the interests of the communities and manage the power dynamics, since mining companies play a dominant role in dealing with the structures:

If you could have these forums that would challenge the mines in terms of err...living up to their responsibilities and you have the, you have government supporting those forums then these forums would have teeth but now they are toothless because there is not necessarily government support and, and, and mining bullies those structures you see? (development activist).

f) Meaningful representation

Communities question the representation in engagements with mining companies. The view is that the relationships mining companies have with community members are not representative, and reflect only a small percentage of the whole. This of course part of the problem, as there are diverse constituencies in the community and known challenges with leadership legitimacy:

Yes there are imaginary communities with which the mine claims to have a relationship. And if there is a relationship at least 20% of the community should have buy-in or the knowledge, unfortunately it's not even 5% if you look at numbers (community activist).

g) Being listened to

Communities expect mining companies to listen to them and take note of their representations. Communities come up with various means to cause “pain” for mining when they are not listened to:

If you are not listening well somebody must pinch you so that you will listen. So those are the things that causes destruction, even to community assets, not by intention, by anger coming from the attitude, the arrogance of people you are dealing with (community activist).

h) Follow through

There are some instances where mining companies engage with communities, yielding no favourable results or benefits. Concerns were raised about representation from the companies in such instances, and it was highlighted that decision-makers do not attend the meetings. In addition to non-attendance by those who can make a difference, concerns about lack of follow through from mining companies on matters raised by the communities, were also raised.

The company is misleading us because at some stage they will say tell us what do you want, we would tell them, we will be patient and they won't even respond to those issues (ward councillor).

Community expectations can be influenced by misrepresentations, which have led to communities expecting a lot more from mining companies. Frustrations in mine communities can also lead to a feeling of being disenfranchised, having a major destabilising effect which includes stopping people from going to work at the mines (through blockades and destruction of property), in some instances even interfering with mine projects in the community.

5.3.5 Company expectations

Community representatives expressed their views of what companies expect, based on the experiences they have had with the mining companies.

a) Use of forces of economic power

The results of the study suggest that mining companies use the power they have in relations with the community. Some refer to this as 'economic power' and some attribute this to the culture in mining companies. Mining companies expect those who associate with them to serve their interests and work according to their rules:

You know mining is so much a control and command model, where we drive down whatever we doing (NGO representative).

Mining companies are seen to use the power of money to influence things in their favour. This is the case in matters of development as well; even in instances where they employ the services of development organisations and community organisers to work in the community, they expect them to fulfil the plans they have:

It starts to play out with our own relationships with community because instinctively the mines only know one thing which is that any community organisers must, we are getting money from the mines, so therefore we are their agents and we must follow their plans (NGO representative).

The results further highlight that mining companies use the power of money to divide and demobilise communities. This is largely through corrupt practices and payment of bribes. Bribes are paid to government officials responsible for government compliance oversight, which results in mining companies not being held accountable even in instances of non-compliance with legislation:

As I say, you arrive there and they say, look sister, we can fix this thing that's all that you need to write. You know your problem this is how we can assist, what do we do I have not finished my child's school fees, I still owe my car (community activist).

b) Expectation of regulation-driven compliance

Mining companies are largely driven by what they have committed in terms of their social and labour plans when engaging with communities. When submissions outside of this are made, companies are often unable to entertain them. If communities had no influence in what goes into the social and labour plan, it becomes difficult for them to accept what the mines implement:

I think that the company should have expectations however the company would unfortunately prefer to stick to what is put as commitments and nothing else really. So I can safely say that the ear of the company may not necessarily be that open to even listen to expectations so I think there's a gap in that sense (company representative).

c) Engagement with stakeholders of choice

A consistent theme of a lack of community consultation, including when mining companies invest in communities, has arisen during the research. In some instances, mining companies consult with a group they think represents the community, only to find out that they were wrong, while in other instances, they consult with the municipality. Community leaders often see investments in areas without understanding the rationale for the decisions made and are not involved in decision making:

They are not coming on board. Instead they will identify their stakeholder of choice because now as we speak there was information we got that xxxxxxxxxx company has given a taxi industry the amount of plus minus 11 million and then we ask ourselves why that particular taxi association, because here in xxxx we've got xxxx and xxxx taxi association but they've prioritized this taxi association (ward councillor).

d) Engagement to comply

Lack of continuous engagement was also stated as a concern; some community members emphasised that mining companies engage communities when they need them, for compliance reasons. In some instances, two years would pass without any form of engagement between a mining company and leaders in the community:

Once they were able to invest in the clinics they felt they need...they didn't need us. Because they could simply put it in their social labour plan that we are doing something for the community (community activist).

In some instances, some of the investment by mining companies is not perceived as sustainable. The tick the box approach is adopted, without checking the fundamentals and ensuring that such projects would be successful and sustainable in the long term:

So it is just a matter of saying after all we have done something, so that for me is what we pick up from the communities complaining about that (municipal representative).

e) Profitability at all costs

The results of the study suggest that communities view mining companies as focusing on profits, at all cost. They often bear the cost of the company activities, some of which are harmful. Mines appear to continue with projects, even when there are possible health hazards for the community:

Although what they're doing is affecting...it's a health hazard for that community, they don't care about that, they care about profit, so do you understand the balance? If you care about profit but you don't care about the dangers of the profit that you get from my health then there's something wrong (community leader-self-appointed).

f) Legitimacy of community representatives

Mining companies expect community representatives to prove their legitimacy. The expectation is to enter into agreements with parties who are registered legal entities:

So our only request from the business point of view is that 1 they are a legal entity of sorts, so we can enter into a MOA with them and 2 that they are fully representative and need to be able to prove it, so our communications around that will give us comfort in terms of them being the right representatives (company representative).

The expectation was questioned by some community representatives who suggested that this would mean bringing their entire constituencies as 'proof of legitimacy'. Others suggested that this was an effort to marginalise the community, as the mines understand that representation is complex, and they default to engaging with parties who would give them the results they want.

5.3.6 Mismatch in expectations

There is often a massive/material misalignment in expectations between mining companies and communities. Many mining companies, for example, believe that communities want hand-outs, while communities often want sustainable solutions for local development. The research shows that communities are usually quite clear about what is needed, but need assistance articulating how development opportunities could be packaged into projects and sustainable outcomes, for everyone's benefit:

So management seems to think that communities just want corporate social investment, you know donations and free things, whereas the communities are saying we don't want free things we want things that will help us sustain our families, things that will help us create wealth (municipal representative).

The expectations between the mining companies and communities are clouded by perceptions and negative experiences of the parties during their engagements. This makes the expectations each party has of the other, unclear:

I think our expectations are clouded by anger and all of that and I think the mine's expectation of what the community thinks of them is also clouded by the lies and all of the corruption that is happening so I don't think there is a clear clear clear thing (community member).

The lack of clarity about expectations (on both sides) inhibits the effectiveness and productivity of the relationship between the parties. The research reveals an underlying problem: that the parties do not know the expectations they have of each other, which leaves room for each party to focus on its differences which exacerbates the problem, rather than looking for areas of convergence:

I think because the expectations are not clear and both parties don't know the expectations. There would be a breakdown because this one might think of that and the other might think of that (community member and development activist).

An example of this, revealed through the study, is that while the communities feel that the mines are not doing enough, the mines feel that the communities do not appreciate their efforts. This creates a continuous cycle of conflict and misalignment between the parties.

The role of government at municipal level also influences the expectations between the parties. Protests for non-delivery of services are often against the municipality, but the mining companies get “caught in the middle.” It is also challenging for mining companies to meet all the expectations, as some of them should be directed towards government. Some communities put forward priorities like speed bumps and jobs as their key needs, while some believe that the responsibility for such priorities lies with the government.

Finally, the results of the study suggest that the lack of effective communication between the parties inhibits an understanding of their expectations of each other. There is also no agreement on what each party considers realistic as the community expects to influence some of the processes at the mines – like procurement – while mines believe that this is their sole responsibility:

It boils down to communication again: once that falls down those relationships breaks down that's when you have the problem that's when the community start

demanding unrealistic expectations and the mining company says well look we don't really have to (ward councillor).

Mining companies often fail to comply with the requirements of the law due to financial constraints, and in some instances due to the sale of assets to other mining companies. For the social obligations, there are no guarantees, and if the financial conditions in the mining company change, the social/development commitments are affected, and there is no avenue for recourse by the community.

While there is clarity of expectations from the community and some perceptions of what companies expect and how they engage with the communities, there are limitations in terms of meeting of the minds, and a widening gap in expectations between the parties. The relationships between the parties, which are characterised by animosity and a variety of limitations, make it difficult for meaningful connections to occur, which would close the gap.

5.4 Process followed to issue a social licence

5.4.1 Community acceptance of mining

a) Community acceptance of mining and sign-off

Community members are not aware of any form of acceptance of mining by the community. Instead of acceptance, there is a view that mining companies have entered into communities “by force”:

No since I was here there was not that process that said the community has accepted mining but what I see is that the mining itself has come here by force, yes has come here by force to do their mining thing here (unemployed community member).

Even those who are in key leadership roles in communities are not aware of a meaningful process for the community to approve a licence to operate. Further to not being aware, the processes followed and parties involved in such processes, are unknown:

Not that I know of, there might be. I'm not really sure what the criteria, the process, the consultation was and who gave who permission (community activist).

As highlighted, the purpose of the consultation process is often not clearly articulated or communicated. Community members may attend meetings without knowing that such meetings are recorded by the mine or their consultants as formal “community consultation meetings”; members are given snacks and sign attendance registers, which can be used by

mining companies to show that meetings took place, while meaningful consultation or sign-off did not take place. Community members believe that such processes are not conducted via an appropriate engagement, and are thus not legitimate. This results in a feeling that they are manipulated:

It was never disclosed by the mines that we need to sign off for that reason. So anything that has been done before was fraudulent (community member).

The need for transparency in the process of formal community acceptance was emphasized. Without full disclosure and an understanding of the project or activity by all parties, broad acceptance cannot realistically be expected:

Disclose the agenda for the intention for us to sign off once you have disclosed the agenda that agenda will be discussed and we reach consensus without that it can't happen (community activist).

The need for education in the community was accentuated. The study reveals that the community expects the government to play this role effectively, to protect the interests of the community. An explanation of the requirements for the licence, the implications and the impact on the community were some of the suggested areas of focus for the government in its support of the community.

b) Legal licence requirements

Some of the processes community members refer to, are linked to the process of getting a legal licence. Such processes are also not well understood and the role of the community is not clear:

The questionnaires were done by the mine, they were doing their own research and also doing their own report. So for us it was just to answer yes or no and they would take that to wherever they were applying to do their mining there (ward councillor).

c) Acceptance of perceived benefits

Communities accept the perceived benefits which would come with mining activities, rather than mining itself. Under such circumstances, communities often look at the perceived benefits rather than the harm that could be caused:

Yes, there would be instances wherein communities would have said yes, with obviously with the expectation in terms of job creation, so I would say acceptance is there based on what were the promises (municipal representative).

We were organised by our leaders, we were informed by The National Department of Minerals, that there is a company who wants to mine. We asked them, they promised that they will employ people from our area, they promised us there will be schools and clinics within their lifespan, so we said oh, those things are good, so we signed (community leader).

d) Memorandum of Understanding Agreements

The signing of agreements between mining companies and communities is seen by some in the community as an important process. Such agreements are meant to be a guiding document on matters of common interest between the mining company and the community. These processes take time, due to the diversity of interest and stakeholders, but are seen by some as solutions to the challenges between mining companies and communities:

Once they sign the MOA, we can go and relax because we know that the future of our children is safe. If they don't sign we are not going to relax that's why even now we are planning we are planning the biggest march in the country (community leader and development activist).

e) Partial Agreement

Reference was also made to partial (community) agreement, where some sections of the community would agree, while others would disagree. Overall / broad agreement from the community has not been recorded in some communities:

I want to say no because what I do know is that you will have a partial agreement, you will have some sections of the community agreeing to give the go ahead, I've not seen one overall agreement where everyone is happy that the mine is at their doorstep (industry body representative).

f) Impact of social conditions on sign off

Social conditions in the community are fundamentally linked to the community acceptance of mining. When community members live under destitute conditions, it would be difficult for them to accept mining in their community:

So I'm sitting and saying if I'm living in a community and I'm living in a shack how do I approve that there is a mine where I'm living in squatter conditions next to that mine? (industry body representative).

5.4.2 The voice of the community

The research has revealed an overall finding that certain mining communities do not have much of a voice, which affects their ability to engage effectively and enter into agreements with the mining industry. There are various factors which have a bearing on the voice of the community.

a) Lack of collective voice

There is acknowledgement in the community of a voice, however the prevailing challenges, which include divisions within the community, impact on this voice and community influence:

There is a voice that is there, it might not be collective as you want, it might not be as loud as we want (community activist).

Due to the diverse stakeholder interests and different ideological views in the community, there is typically no common interest or mandate, which makes it difficult for the community to have a unified voice. This also makes it easy for the relationships to be manipulated by the mining companies and takes pressure away from them to comply. While some agree that the community has a voice through means such as petitions and protests, others feel that the community does not have a voice, and that alternative ways of giving the community the voice they need to have, should be explored:

Where I'm standing currently as the acting secretary of the community, as an organisation I don't believe that the community has a sufficient voice, I don't think that we also have created enough leverage for the communities to be able to articulate that voice (community leader).

b) Marginalisation of community voice

While there are differences in the community voice, the results suggest a prevailing perception that there has been no real impact or change in communities over time, as a result of mining activities. Despite effort, communities have not seen change, which creates a state of despondency and prompts questions on whether the community has a legitimate voice, or has the ability (within the current state of play) to make its voice heard:

There hasn't been a voice even from local government, so I would say yes that we are defeated greatly, which is very unfortunate. We are not able to at any level to you know show results of what we believe has been you know, good convictions of what we were trying or trying to achieve, because of the lack of interest from the mine (entrepreneur and community member).

c) Apathy in communities

Community participation is a critical aspect of the granting of a social licence. The research results suggest that due to a lack of knowledge and exclusion, communities tend to become indifferent and only a few people in the community raise their voices:

They don't know what is expected from them, so as such.....they are in-different, unless those few individuals that knows, but it's also a lone voice, the rest are just quiet (community activist).

d) Community demobilisation

The challenges in the community which have been underlined during the course of this work have had a substantial impact on the voice of the community, causing the demobilisation of communities, which is further enhanced by the fact that some within the community serve their own interest:

So I think the community's voices are unfortunately almost always not heard. And one reason I think could be contributing to communities being unheard is that communities themselves unfortunately have been demobilised, are not organised, are having the little organisation you find in communities unfortunately has dominant voices of individuals whose interest first and foremost is their advancement (company representative).

e) Lack of public participation

The absence of effective forums for participation is a basic issue that has stifled the voice of the community. The results have underlined the strained relationships between the parties which has a further impact, in addition to the needs of the community not being heard and understood – lack of public participation:

There is no public participation coming from the companies hearing from the voices of the community what they are crying about what they need to be done in their location (community leader).

5.4.3 Disagreements on projects

Communities often disagree with the projects chosen by the companies, due to what they suggest, is a lack of the involvement of the community. This disagreement leads to their rejection of the projects and mine investments in the communities. This is linked to the absence of an approach of engagement and consultation, which encompasses the perspectives of all the elements of a community, or effective representation.

a) Project choice rationale

Concerns were raised that mining projects in communities do not benefit those who are most in need. There is lack of clarity on how community investment decisions are made:

They do as they please, they decide for example, they decided to sponsor a very rich pre-school, at that school fees is about R 1500 and is sponsored by other companies, Whereas there are pre-schools, where school fees are R60 they are no funded by anyone (community leader).

Mining companies make contributions in communities, including infrastructure contributions, without considering the specific nuances within communities. This sometimes means that those who are expecting to benefit from the investment do not get such benefits, and this leads to dissatisfaction, even though a large social investment was made by the mining company:

It's xxxx clinic and xxxxx Clinic, but xxxxxxx Clinic the nearest community they don't want to use it, they say it's far away, why didn't they actually extend the current one, but I'm telling you with the community they are not willing to do anything to benefit the community direct (ward councillor).

b) Informal agreements

There are instances that were cited in the interviews, where agreement is reached in meetings between mining companies and communities. Without formal agreements, it becomes difficult for the agreements to be followed through:

So nowadays we always have agreements that we will agree to in meetings, we don't have a formal agreement (ward councillor).

5.5 Community perspective on effective mine-community relations

5.5.1 Representative structures

Open communication and engagement between communities and mining companies came out as a key factor which needs attention. Communities highlighted that there are seldom platforms where they can share their expectations. Where such platforms are in place, they are not representative of broad community interest and are not formalised, making it difficult for the participants to be accountable to each other:

But for the most, arrangements are very loose. In some instances the communities try and force themselves onto decision-making structures of the mines, whether it is

through representation at trusts or other forums but mostly there isn't a consistent / formalised structure / process so in some instances it happens, in others it doesn't (municipal representative).

The interviewees suggested that consultative forums between companies and communities be established and that such forums should be broadly representative, in recognition of the diverse interests in communities. One interviewee made reference to “360 degree” representation. The forums would represent convergence of ideas from the various stakeholder groups, which include diverse community stakeholders, municipalities and companies:

So that we converge all these ideas to one point and see what is the priority for the community, so together we can carry that mandate effectively with impact (community activist).

Others in the community acknowledged that the various stakeholders do not work together due to the absence of a structure:

I don't think we are working together because we haven't created a structure to work together (community member and development activist).

Some in the community suggest that such structures would address the issue of disputed representation in engagements with mining companies:

The reality is that if any development is there and representation of communities and the mines is cooked, it's not genuine (entrepreneur and community member).

At the same time, such structures would create an opportunity for dialogue around issues of representation. Some interviewees suggested that participation is limited to segments of the community, while the majority of community members are not represented:

There's about sixteen wards in the community and they are mainly in one ward, so it will maybe communicate the needs from maybe one or two wards. I don't think that the general community is interviewed or they know what they want (community member).

5.5.2 Strategic oversight by government

While communities expressed dissatisfaction on the current role government plays, they highlighted that government could play an important oversight role, and that active participation by the government is key:

Department of Minerals and ...must do strategic oversights in terms of the safety issues, in terms of the social labour plans (community activist).

5.5.3 Governance monitoring

The interviewees highlighted that representation and engagement in the mine-community structures would need to be guided by effective checks and balances to avoid individual self-interest taking centre stage:

People get into structures and not perform, err....bangena ku ma (they get into structures) for opportunities so that I can be the first one to grab (community activist).

5.5.4 Skilled representatives

The interviewees suggested that those who were chosen to engage with mining companies needed to have the knowledge and ability to represent the community. They further suggested a diverse group of representatives:

Make sure that their knowledge is covered we will do it and make sure that the group or the delegation that are is meeting or is going to meet with the mine or whoever make sure that you know the mixture and you know so that you can have good a...a people who can present... you know whatever issue that you want to ask them to explain (community member).

5.6 Summary of findings

The key findings and trends that have emerged from the research, show that there are significant factors and processes that are present within communities which impact on their ability to be legitimate partners and be in a position to enter into a social licence with mining companies.

Such factors include: a lack of legitimate leadership; capacity challenges amongst leaders; lack of cohesion; rivalry; anger towards leaders and a weakening of leadership institution and process in communities. Leadership legitimacy came up as a key factor, which influences the other factors as well. There are significant gaps in expectations; the relationship between the parties is usually strained, making expectation alignment difficult. Lastly, the process of agreeing on a social licence is unclear and non-existent, with communities unaware of the

need for something more structured and formal, and those who are aware of any licensing requirements, referring only to the legal licence.

The voice of the community is not clearly articulated nor recognised and there is regular disagreement on projects due to ineffective, incomplete or unsatisfactory consultation processes. Finally, historical negative experiences and treatment of community representatives, continue to influence the way the mining industry is perceived by the communities, and relations between the parties are characterised by mistrust in the mine-community relations. The next chapter will provide a critical analysis of the results based on the relevant literature.

CHAPTER 6: DISCUSSION OF RESULTS

6.1 Introduction

This chapter discusses the findings of this research, in relation to previous research. In Chapter one, the reader was introduced to the purpose of the study, and the main research question, which was; how is the social licence to operate entered into from a community perspective? The purpose was to give the community voice to the social licence phenomenon, which has been predominantly written about from an industry and company perspective. The literature review highlighted some areas, which had previously not been explored, with some initial insights on what could be missing in the analysis of the phenomenon, which was the reason for its interrogation. It was highlighted, for example, that the process of entering into a social licence was unclear from the community perspective, the factors which could influence it were insufficiently explored, and the process of overcoming differences in expectations (in order to enter into a social licence) were unclear, thus impacting on understanding of the overall process.

Despite the vast literature on the social licence, scholars have neglected to examine what community members actually think and feel about this phenomenon, and how it works in practice. Through the interview process, the author identified a number of constructs that supported the above, while also conveying improved comprehension of the community dynamics, and the underlying issues that influence the social license. This study incorporates consequences that were not part of the original formulation of the social license, and introduces new understanding of the phenomenon, while also advancing dialogue in a manner that will ensure improved utility, in a developing market context.

Context is often underrated in the social licence dialogue and we learn through this study that it plays a significant role (and would in other contexts outside of South Africa, and in other sectors beyond mining). The nuances would be different in a country that has transitioned from a dictatorship regime, for example, or one that has transitioned from a communist regime. Companies need to have a deeper appreciation of the social movement dynamics and the underlying societal issues, which have an impact on the running of businesses in various forms.

Since research into the social licence from a community perspective is limited, this study was exploratory in nature, the findings of which are discussed in the paragraphs to follow.

6.2 Proposition 1: Host communities, as a whole, have internal legitimacy factors that, when satisfied, enable them to grant the legitimacy necessary to enter into a social licence with the mining company.

As part of the literature review in Chapter three, it was possible to establish that there was little written about from a community perspective, in so far as the social licence is concerned. Yet, it was possible to table some factors which could impact on the community's ability to influence the social licence process. Power of communities was identified as one of these factors. It was suggested that when communities do not have power, other than that expressed through protests, their ability to enter into a social licence is questionable. This argument was substantiated by reference to the perceived inability of communities to revoke a social licence, or to stop projects.

In addition to the power vested in communities, the education levels of community members were presented as having an impact on the broader community's ability to enter into a social licence and for them to participate meaningfully, as an equal partner in the process. Consent, and the power to oppose, were some of the issues described. There were suggestions that if the community could not fully express these, their influence and role as a stakeholder in the process was fundamentally compromised. The underlying theme with these factors is power, and the ability of communities to exert influence, being a key factor in the social licence process.

Cohesion is another factor which was presented as often missing in communities, which would make it difficult for them to present a unified voice in dealings with the company. Economic dependence on mining companies as an employer was presented as impacting on the community's ability to oppose, suggesting that when communities are dependent on companies for their survival and livelihoods, they are likely to be more lenient in their dealings with the company.

Finally, leadership legitimacy, presented as a "leadership vacuum" in communities was linked to the failure of engagement efforts between companies and communities and companies. The findings of this study thus, identified similar factors to those proposed in the literature review, while introducing new ones not previously described.

6.2.1 Emotive aspects of the social licence

One finding that was not anticipated, was the emotive aspect and its impact on the non-acceptance of mining activities. This highlighted the importance of context, and its influence

on the social licence process. Participants in this study expressed intense and emotional responses (anger, resentment, feelings of exploitation and humiliation) against mining companies, most of which appear to be linked to historical experiences and feelings of being disenfranchised from economic opportunities. As a result of the emotive historical linkages, trust levels between the communities and companies are low or non-existent. Interactions with the mining companies are marred by suspicion, and the companies are perceived with intense negativity, and as violators of community rights.

The relationship between companies and local communities, especially regarding extractive industries, has previously been marked by conflicts and cases of human rights violations (Hanna, Vanclay, & Arts, 2016; Kemp & Vanclay, 2013; Ruggie, 2011). The emotive aspects displayed in the case study communities, are undoubtedly an impediment to the social licence. Furthermore, the communities perceive that there has been little change in the relationship over time, and the possibility of dialogue is often compromised.

This presents a major social risk, since the South African social environment is fragile. There are high levels of unemployment in the country, and mining communities are no different. Close to 60% of the unemployed fall within the youth category and tensions are brewing. The narrative that the 1994 peaceful democratic transition, and its terms, were more favourable to the white negotiators, and the rhetoric around nationalisation of mines from newer political parties (which split from the ruling African National Congress) persists. The ruling African National Congress also had nationalisation of mines in its proposals for amendments of mining regulation, even though this proposal was never regulated. As a result, communities feel that their legitimate aspirations of sharing in the mineral wealth of the country were never fulfilled.

A discontented youth, in a country where most people live in poverty and where violence is easily instigated is enough reason to treat the social aspects of mining with urgency. We saw through the xenophobic attacks that communities learn from each other's trends and follow suite, especially when their livelihood is threatened. Social instability is easily instigated in the South African context, due to prevailing discontent, and this is a risk for industry and the country as a whole.

Stakeholders have also become a lot more fluid, as shown in the recent "fees must fall" protests at universities. What started as a call for free education for the poor, as promised in the ANC's freedom charter, extended to "outsourcing must fall", leading to cancellation of contracts with service providers and employment of low-income previously outsourced staff by the universities. This movement was driven by university students, who empathised with the plight of low-income earners. Some suggest that members of the newer political parties in government (like the Economic Freedom Fighters) fuelled this national movement with their

leftist ideology, which saw the majority of South African universities come to a standstill. Discontent in other pockets of society, therefore, cannot be ignored in the South African context, because the signals being experienced have a similar basis. The emotive aspects in mine communities are what some have referred to as 'a ticking time-bomb' which needs serious attention.

What was particularly striking was the extent of the anger towards mining companies as well as the differences in how this was expressed in the two communities. The community with a longer history of mining, which could be referred to as the "older" community, expressed more anger and resentment towards mining companies, and the legitimacy of mining company efforts was rejected more intensely. Experience, as well as the duration of the experience with the mining company, correlated directly with community perceptions and their attitude towards mining. This is supported by previous studies, which suggested that socio-cultural and political history plays an important role in constructing the illegitimacy of business practices (Siltaoja & Vehkaperä, 2010; Voyera, Gladstone, & Goodall, 2012; Wilson, 2016).

In some of the instances described in the literature, established mining firms, even after a long history of mining, appear to have gained social and community acceptance (Tarras-Wahlberg, 2014). The way a company engages and treats community members, influences the acceptance of its operation (Moffat & Zhang, 2014). We know from this study, that the emotive response was due to historical negative experience. Thus, the nature of past experience and legacy influences community responses and the acceptance of mining.

It makes sense that the older community presented more resentment towards mining, as most of the leaders grew up close to the mines, and were encouraged to join politics and the struggle against apartheid due in part to their own experiences with mining at the time. The younger leaders grew up with their parents working at the mines or serving in the struggle against the policies of the mining industry, and apartheid policies. The mining industry was seen as a vehicle used by the apartheid government to implement its processes, therefore intertwined with the apartheid system. The dissatisfaction is generational and therefore the phenomenon is much more complex than initially realised. Sadly, the young leaders in the older communities did not complete their schooling, even though they are politically astute. They were brought up to believe that the efforts of their parents whose home was the ANC would culminate in a democratic state and lead to opportunities they have not realised. The ruling ANC was their home, and they were politicised from a young age. Mining is therefore a constant reminder of the injustices of the past, while also signifying the lack of change in the present.

The transition from the apartheid era (with its negative impact on communities, and the role played by the community during that time) to democracy, interplays with community

experiences, attitudes and views towards mining companies. Edwards and Lacey (2014) highlight that the social licence is shaped by the dominant discourses of the day, while Dare et al. (2014), highlight the impact of legacy, past activities and relationships on engagement. Communities expressed their experience of the legacy of mining companies. This emotive expression is not favourable ground for acceptance of mining, especially in the context of communities grappling with their identity in a democratic state. Due to the trust levels which are extremely low, there is a generalisation of the negative perceptions relating to particular mining ventures, towards the whole industry (Dare et al., 2014), making it difficult for mining company efforts to gain momentum.

While the tensions have heightened in communities, their strength as an independent stakeholder has weakened. Over the past two decades, there has been increasing dependence on welfare programs of the state and social grants in South Africa. Mining communities are no exception and have also become more dependent on the government. Communities have lost some of the self-reliance they had under the difficult apartheid conditions, with the result that the institution of leadership has weakened. It is also hard for communities to forge new identities while they are grappling with the role they should play in relation to national governance, the influx of people from outside the community (including foreign nationals) and how they should organise themselves.

Previous studies suggest that dependency undermines both the strength and autonomy of the community (Jenkins, 2004); it renders the community disorganised, voiceless and weak (Cornejo, Kells, Ortiz de Zuñiga, Roen, & Thompson, 2010) and leads to a lack of growth of civil action and cohesion (Cornejo et al., 2010) This is of concern, as it reduces the chances of any community engaging meaningfully or legitimately in conferring its social licence to companies. Previous studies have also disputed the linkage between social investment by companies and social licence (Harvey, 2014), and suggest that social investment does not necessarily lead to social licence. Other studies suggest that money is not enough to buy community acceptance (Moffat & Zhang, 2014).

In the South African context, communities are faced with deep conflicts and complex paradoxes. While most communities may resent mining companies, there is a pragmatism influenced by immediate and basic needs which make community leaders scramble to get something out for themselves when mining companies implement programmes. Communities may express deep anger towards the government due to the fact that their aspirations have not been realised, but the prospect of voting for an alternative party is something most community members cannot comprehend. There is a deep loyalty to the ruling African National Congress, which leads to some community members withholding their vote, rather than vote

for a different party. The interplay between politics and civil society makes social issues in communities' complex. The complexity has been increasing and the discontent has been growing for many years, and therefore, despite different initiatives from industry, the model of community participation is broken, and the deep anger cannot be ignored as it could lead to far-reaching consequences.

The extent of the emotive aspects (historical anger, dispossession, humiliation, suspicion and mistrust) impacts materially on the social licence, in that it becomes difficult for engagement to take place. Even though there are no studies that have specifically looked at the impact of emotive aspects on the social licence and the implications of political and social transitions on community experiences and the social licence, this research, similar to Voyera, Gladstone, and Goodall's (2012) work, points to the importance of developing a deeper understanding of the social, cultural and political landscape of the communities. It is important to focus on this, due to the influence it has on community responses.

South Africa has gone through various social movements, and transitions bring about different forms of social movement. It is interesting that there has been limited focus in social movement studies on emotions. There has been a focus on individuality and rational behaviour, with a labelling of emotions and group behaviour (Goodwin, Jasper, & Polletta, 2000), which has likely led to a lack of understanding of the emotive aspects linked to transition. In the South African context, there may have been an underlying expectation that the end of apartheid would be a solution to all of the country's challenges and ills, yet with the transition, new challenges have brought about a social movement of a different kind. Companies and government grapple with the challenges of conceptualising and responding to the new social movement in South Africa, making social performance an unattainable ideal for these key players.

The social licence is contingent, among other things, upon public opinion (Litmanen, Jartti, & Rantala, 2016). The opinion of the community members is not favourable and their perspective of the mining company's reputation and that of the industry broadly, is negative. A company or industry's reputation can also potentially shape community expectations of how the company might behave (Gunningham, 2003; Williams & Walton, 2013). For example, if a company professes publicly to have a strong social investment programme, the community expects them to behave in line with that, but there is often a gap. The opposite is also true; if a community perceives that the reputation of the company on dealing with social aspects is poor, this perception shapes their expectations and how they engage with the company. In circumstances where the reputation of the mining company is poor in the eyes of the

community, it is impossible for them to engage meaningfully with the mining company, let alone extend the legitimacy necessary to enter into a social licence.

What comes out strongly in this study is the importance of context (Prno, 2013), and how contextual factors influence understanding and application of the social licence (Hall, Lacey, Carr-Cornish, & Dowd, 2015). This study therefore finds that historical factors and experiences, influenced by political regime, social and economic legacies, significantly impact the attitude of communities towards mining companies. Engagement between mining companies and communities is compromised and it is important for companies to carefully consider and understand the context in which they operate, and for suitable approaches for bridging the gaps to be adopted. This study therefore proposes that emotive aspects (anger, humiliation, resentment, suspicion), linked to broader societal legacy factors, impact on the community's ability to enter into a social licence. Mines should look at the long-standing and deep-seated impact of the past, and design consultation programmes in line with contextual reality. Instead of the mine applying a one size fits all approach, they must adapt to the history, hurts, memory, and perceptions that the past has created for that area.

6.2.2 Education levels

The results of the study suggest that education levels have an influence on the community's ability to enter into a social licence. The education levels in the case study communities are relatively low, with only a small percentage of people having post high school qualifications, and some people having no schooling at all. The findings suggest that community leaders struggle to express themselves in languages other than their own. In addition to this, leaders do not have an understanding of the mining industry and its activities. These factors and the inability of the leaders to proactively advocate for the interests of the community, impact on their levels of influence and engagement with the mining companies, and their ability to represent the community effectively as a stakeholder.

In the findings, education levels fall within the banner of leadership factors, and are identified as one of the factors which has an impact on a leader's ability to lead. This study finds that leaders neither have the resources to aide empowerment for themselves and the community, nor the support from the mining companies to initiate education and empowerment programmes for the community. The lack of empowerment naturally impacts on their ability to engage as an equal partner with the mining companies, and it is argued that communities are marginalised, as a result.

This finding is similar to previous studies, such as the Viveros (2017) study, which suggests that low education levels lead to a lack of influence. But, reports of community dissatisfaction with their level of influence have been tabled in other contexts, where education levels are higher (for example Australia) (Moffat & Zhang, 2014). The developing market context is unique in this respect, and the inability to comprehend critical discussion points may work against communities. While some studies emphasise the importance of fairness on the part of companies towards communities in order to gain legitimacy (Meesters & Behagel, 2017), this cannot be guaranteed and findings of previous studies suggest that communities are marginalised (Ehrnstrom-Fuentes & Kroger, 2017).

Poor governance, and the often-challenged role of the state, puts communities in a more vulnerable position in this context. Discussing these challenges is relevant, since it is not possible for communities to grant a social licence if they do not participate and are not empowered (Prno & Slocombe, 2012). Yet, the usage of the concept in previous studies rests on the assumption that the social licence can be granted, implicitly or explicitly by the community (Owen & Kemp, 2013).

It is clear that low education levels are an impediment to participation in the process of granting a social licence. In order for the community to accept a mining company, it would need to participate in and influence the discussion leading to such acceptance. There are other factors at play however in the social licence process, which make it difficult to conclude that the social licence would be in place if education levels were higher. Empowerment goes beyond education, and in the social licence context, involves consideration of what the community presents, assuming that it is able to present its views. The outcome of that dialogue would lead to understanding and acceptance between the parties.

The challenge is that when leaders who represent communities are unable to express themselves or understand the information they need to be supplied, engagement is hampered. This makes it difficult to even make a judgement about viability of propositions or fairness of company response. The assumption by industry that the social licence can be granted by communities, does not seem to take these nuances which are prevalent in developing market economies into account.

Capacity is often a challenge in mining companies, both in terms of know-how of the professionals who engage with communities, and their level of influence within the companies employing them. Previous studies highlight the priority for community relations to be recognised as a professional domain of work (Kemp, 2010). In most instances, managers move from other functions into the community relations function, or it is incorporated into other functions like human resources or public relations. The advice of these professionals is often

not headed, and draconian approaches are adopted in addressing mine-community conflicts, with involvement of private security and even the police. Subsequently the community liaison professionals are unable to follow through with their recommendations, and communities lose respect for these professionals because the perception is that things they thought there was consensus on have been overridden.

In conceptualising community relations, Kemp (2010) highlights the importance of bridging the company and community perspectives to generate dialogue and mutual understanding. In the South African context, part of bridging the gaps could be improving language proficiency of the mine representatives in local languages, in light of historical marginalisation and current education levels. Community leaders who struggle to communicate in English would thus be in a better position to participate in dialogue with mining companies on matters of mutual concern.

The mandate of the local government municipality is to contribute towards democratising development; and to seek to empower marginalised and excluded groups within the community. The work of municipal officials is therefore complex, yet, very often they are inadequately equipped, and outsource some of the work to consultants. It is difficult to find candidates who understand and work constructively with the complex and nuanced challenges in communities, since municipal officials are often deployed by political parties, and in some instances do not have the requisite experience. Therefore, the skills and education factors are material, and if not carefully addressed could have far-reaching consequences and may stifle any possibility of resolving the current challenges. The multifaceted nature of capacity issues imply that capacity is lacking at all levels (community, industry and government) and therefore the parties are not equipped to address the enormity of the challenges.

The conclusion is that low education levels indeed have an influence on the community's ability to enter into a social licence. This study proposes that "community leaders with low education levels are unable to express themselves and influence dialogue around the social licence to operate and thus do not possess the necessary legitimacy to grant a social licence to mining companies". This finding supports the proposition made in chapter 3 that education is a primary factor which impacts on the community's ability to enter into a social licence, and highlights the unique relevance of this in the developing market context, where education levels are generally low, leaving communities highly vulnerable.

6.2.3 Leadership factors

Legitimacy of leadership was highlighted as a factor which could impact on the community's ability to enter into a social licence in chapter 3. Specific reference was made to the leadership vacuum in communities and how this may give rise to contesting groups, and fragmentation. While the findings of the study support the notion of leadership legitimacy having an impact on social licence, different aspects which have an influence on leadership legitimacy are highlighted here, and the argument that this compromises a community's ability to enter into a social licence, has been strengthened.

a) Disputed Leadership Legitimacy

This study finds that disputes over leadership legitimacy play a major role as one of the factors not previously explored, which impact on the community's ability to enter into a social licence. It is difficult to establish legitimacy because there is rivalry amongst leaders, anger towards leaders from within communities and a lack of recognised representation. One of the key issues in dispute is the appointment process into leadership roles. Community representatives accuse leaders of self-appointment and on this basis, question their legitimacy to represent them.

The dispute of legitimacy is due to two factors: one is the expectation of formal appointment by the community, and the other is the perception that community interests are not represented. Previous studies support the notion that community leadership is often informal, and representatives are not always 'appointed' into their positions (Riger, 1993). Meesters and Behagel's (2017) study affirms that in order to have true civic engagement, strong representative structures need to be set up and should not only include voted representatives, but also working groups with a diverse set of (capable) actors, to powerfully present local ideas.

South African communities have a long history of political activism, with community leadership formulated along political lines. Historically, leadership was influenced by conviction and commitment to the cause, often at personal sacrifice. The transition into democracy has, however, influenced expectations within communities around leadership appointments. What has happened (following the democratisation process) is that the municipal processes for electing ward councillors through community voting processes (along political lines) have been assumed to be a solution to leadership challenges in communities. Previously, leadership was assumed to be legitimate, due to these familiar and regulated processes.

There have, however, been a few challenges with this model. The first challenge is that the ward councillors, who generally represent a Ward (an area/section of a community) through nomination have a mandate to work across a wide range of priorities, in line with local government priorities. The second challenge is that they are political appointments, and when there is dissent or a new political party springs up, their legitimacy is questioned. Lastly, they are often motivated by the desire to win another term in office. These factors compromise their ability to effectively represent the community, which is why leadership legitimacy is such a contentious issue in communities. In this way, community leadership has been intertwined with political leadership, which is unfortunate, since civil society is a stakeholder in its own right. It also makes it challenging for communities to engage municipalities in constructive dialogue, as those who are leaders in communities feel that they are part of the municipalities.

It is important to note that ward councillors receive a government-funded salary during their term of office. These factors present a murky overlap between politics and the community. There has been an ongoing rejection of municipal representatives' leading community efforts. This implies that even though the system forces communities to identify with an elected leadership, even if they themselves are loyal to their ideals of democracy, how this works in practice has not been fully explored, leading to constant failures.

The difficulty is that political affiliation is diverse, and while communities historically may have had a cause they were working towards, today's priorities are different, as is ideological focus. The current structure has not factored the reality that prior to democratisation, communities had their own ways of doing things and own way of defining leadership. Therefore, simply adopting a municipal leadership framework and applying it within communities is a simplistic approach to very complex challenges. There is little discussion in previous studies about this, particularly within very diverse local communities (Williams & Walton, 2013).

The current concept and foundation of the social licence is primarily based on the idea that all of 'the community' belongs to a single community of interests, and that the concerns of the community can be understood as an undivided whole (Owen and Kemp 2013; Williams & Walton, 2013). This study, and others (Lockie, Franetovich, Sharma, & Rolfe, 2008; Williams & Walton, 2013) find that communities are heterogeneous in values, interests and perceptions. The issue of disputed leadership makes it more challenging for the community to be able to make representations to mining companies, and for companies to know who to entertain. This naturally impacts on the social licence, since engagement is compromised, making it difficult for communities to legitimately interface with mining companies and enter into a social licence.

Even though there has been no study that focused specifically on the impact of leadership legitimacy on the social licence, this study supports some observations made by other

researchers, which highlight the conflictual nature of legitimacy from a community perspective, and the complexity around its measurement (Moll & Hoque, 2011; Monfardini, Barretta, & Ruggerio, 2013; Tilling & Tilt, 2010).

The requirement for inclusive community participation, and collective social processes in framing leadership legitimacy cannot be overstated (Kishna, Niesten, Negro, & Hekkert, 2017; Markard et al., 2016). Adaptation by community representatives to approach legitimacy broadly, beyond segment representation and incorporation of inclusive perspectives would position them favourably as a stakeholder. This is a priority, since the absence of legitimate leadership has a profound impact on the community's ability to enter into a social licence.

b) Informal nature of community leadership

Leadership in communities, as it relates to engaging with the mining companies, is largely informal. Local political leadership, community organisations and self-appointed leaders are not necessarily "registered" as entities, and the informal structures do not necessarily carry the legitimacy to engage with the mining companies. Mining companies often require community groups to provide proof of registration as formal organisations prior to engagement. Previous studies find that this type of order and structure generally does not exist in communities and does not fit the lived experiences (Jenkins, 2004).

In developing market contexts, and in the South African case, communities "in transition" would be the least likely to meet these requirements. The outcome of this complexity is that those not involved in engagement processes due to an inability to meet requirements, often feel left out and bitter at the mechanisms and the selection approach adopted by companies, which is often perceived as unilateral and exclusionary. This outcome is consistent with findings of previous researchers (Martinez & Franks, 2014) who also found that when companies make decisions on who to engage with, relationships with other stakeholders (those not part of that particular engagement process) are often substituted, leading to them feeling left out.

This finding introduces a perspective that is different from the propositions following the literature study, and is an area that has also not been explored in previous studies. The distance between companies and communities in terms of practice versus expectation has been expressed in previous studies (Lacey et al., 2012; Moffat et al., 2011; Nelsen & Scoble 2006; Thomson & Joyce 2008), but not as it relates to perspectives of formalisation of community groups and impact on social licence. Community representatives that were interviewed suggested that they were unable to meet the requirements of the mining

companies, with some expressing concerns that those requirements were intended to marginalise community efforts. Jenkins (2004) suggests that order does not necessarily fit the lived experience of the people in question (communities) and, thus, there is a misfit between expectations of formality and order, and the reality in communities.

The limitation on previous research that focuses on the community has led to a limited understanding of the social licence. The firm or corporate approach (Chacravarthy & Gargiulo 1998; Driscoll & Crombie, 2001), and the failure to question the legitimacy of the community as an important stakeholder (Jenkins, 2004), has led to a limited understanding of the nuances in communities and the impact these have on the social licence. This results in a lack of appreciation of the complex realities in communities. Previous studies highlight that informal leadership does not follow the same guidelines as institutional leadership (West, 2008), and is in some instances not well understood, and disorganised.

If there was a level of understanding, companies would know (for example) that the community leadership approach is less structured, with little formalisation around accountability. Communities rarely look at the outcomes the leaders produce, and the profile of the leader is a major factor (Benit-Gbaffou & Katsaura, 2014). The misunderstandings have led to clear gaps which impact on the possibility of engagement between the parties. Engagement is a key requirement for the social licence (Eglinton, & Moffat, 2017; Lacey, Carr-Cornish, Zhang, Mercer-Mapstone, Rifkin, Louis, & Moffat, 2017; Williams & Walton, 2013), and if communities and mining companies cannot find common ground and engage on issues of common interest, it is questionable how agreement on a social licence could be reached.

The current system of selecting who to engage with, needs a complete overhaul, and closer alignment with the reality in communities. Reframing of a community leadership model is critical and needs to be a focal point. An objective approach, facilitated by independent parties in reframing this is key, to allow for deeper dialogue around the issues. The formulation of a credible framework would address the current challenges.

This study therefore proposes that differences in perspectives on how community representation is constituted, impacts on the community's ability to enter into a social licence with the mining company. This is no surprise since previous studies suggest that legitimacy is a pre-condition for the social licence and as such, the absence of legitimate leadership would naturally have an impact on it.

c) Diversity within communities

This study finds that communities are diverse and dynamic with different interests, priorities and ideologies. Different groups in the community have different needs; for example, the needs of the unemployed, middle class and business owners are vastly different, and this impacts on who such groups would select as a credible voice to represent their needs. Previous studies highlight that heterogeneity of social groups and social processes are underestimated (Luning, 2012), and while there may be acknowledgement of the heterogeneous nature of communities in some studies (Clausen & Gyimothy, 2016; Martinez & Franks, 2014; Vedeld, 2000), how this impacts on the social licence has not been explored previously.

Community participation is often cyclical, dependant on focus areas and whether these are in line with the various groups in the community. Viveros's (2017) study suggests that due to the diversity amongst stakeholders, roles, interests and priorities in terms of their participation will also vary, and that stakeholders that perceive similar issues as the focus of their concerns, will be motivated to assume an active role and to take further action. Rather than the ideal of oneness and identification with the community, individual needs and interests play a central role in participation as does who assumes which role in the community. There is a sense of survivalism in communities, which is rooted in the social conditions community members find themselves in, which makes viewing the community as a broad social unit, and contributing towards its sustenance challenging. People are focused on their own interests and not at the community as a whole.

The study demonstrates that the main challenge is community recognition or agreement on who is its legitimate leader(s). This means that those who engage with the mining companies and reach agreements are often only representative of segments of the community. Their broad representation and legitimacy are rejected, and the rest of the community may even regard them with hostility, due to perceptions of self-interest. This is not unique to this study as previous studies highlighted the diversity of stakeholders and resultant challenge with engagement (Wilburn & Wilburn, 2011). The challenge is that the implications of this on the social licence have not been explored, and issuing it under these complex circumstances, has not been questioned.

There has been some criticism of the social licence dialogue and its failure to treat complex issues around issuance (Owen, 2016) or critically analyse aspects of the dialogue beyond the rhetoric on existence of a social licence. The limitations on research which approaches social licence from communities' perspectives, has left a gap in understanding how communities

view and operationalize social licences (Wright & Bice, 2017). The previous studies that critically analyse the phenomenon, have been overshadowed by the existing narrative on the existence of a social licence, with underlying vagueness on what it means.

In the South African context, some companies confuse social licence with compliance with social and labour plans (as a component of their statutory Mining Licence), and often keep communities out of the equation. The focus on communities is largely around risk-mitigation, rather than mechanisms for ensuring effective engagement or overcoming current challenges. The community is probably the most important stakeholder to the companies at this stage. Companies continue to place more emphasis on protecting the interests of the stakeholders whose material interests would be affected (shareholders), seen to have a legitimate stake that the company had an obligation to take account of (Cragg & Greenbaum, 2002). This approach has been a key limitation and companies fail to acknowledge that by downplaying the importance of communities as a stakeholder, they are putting shareholder interests and their activity at risk.

Even though stakeholders who make up communities have diverse interests, ideologies and priorities, the main challenge is bringing ideas together in a form that can be presented to companies. Due to the various segments in communities, identification with “a” group (often political) determines support or rejection of ideas, with some within the community believing that if they are not affiliated to those in leadership, their interests would not be represented. The resultant outcome of these challenges is that it is difficult to establish common interest in communities and present community perspectives with the mining company, while the mining companies have no clear parameters on who to engage with. Some argue that the fragmentation of communities may sometimes favour corporate interests, since these fragmented groups lack the clout to challenge corporate power, and do not constitute a major threat to the project (Gustafsson, 2016).

The benefits of a collective and united approach are highlighted in previous studies, with some suggesting that it enables communities to influence the social licence (Wright & Bice, 2017), and constitutes grounds for the legitimacy of activities (Costanza, 2016). In some studies, it is suggested that a collective approach enables communities to acquire capabilities that imbue it with power and legitimacy, in a way that gives it the ability to extend or deny social licences to operate (McIntyre, Murphy, & Sirsly, 2015). Other studies however question the view of uniformity (Clausen & Gyimothy, 2016), and advocate for the acceptance of the reality that different groups have different needs and priorities (Calvano, 2008), suggesting that the expectation of a united community group representing the needs of the community in discussion with the mining companies, may prove difficult to maintain (Clausen & Gyimothy,

2016; Hall, 2014). Some imply that it would be naïve to believe that a licence to operate will be attained through unanimous agreement (Demuijnck & Fasterling, 2016).

Despite this complexity, mining companies have an ideal view of having “one” group representing the community, which in practice, usually simplifies / narrows the agenda, rather than having a truly representative group reflecting their diverse needs and interests. Mining companies have an interest in engaging with communities, since they have economic interests. In simplifying the engagement process however, there may be temporary portrayal of being on top of it (Owen & Kemp, 2013) and it may seem beneficial for companies to have what may seem like legitimate authority on the surface, (Kapelus, 2002), while underlying tension within communities persists. This complexity has not been given enough attention in previous studies (Greenstein, 2003).

As reported in this study, suggestions that mining companies engage with stakeholders of their choice, complicate the mine-community relations. Perceptions of power play in defining legitimacy also become rife as suggested in previous studies (Driscoll & Crombie, 2001; Wright & Bice's, 2017). Importantly, investments and efforts by mining companies that do not achieve the desired results, lead to more conflict, and division in communities. Martinez and Franks (2014) postulate that when companies make decisions on who to engage with, relationships with other stakeholders (those not part of that particular engagement process) are often substituted, leading to those stakeholders feeling left out. This goes against the intention of the social licence, as some people may not have the benefit of influencing the social licence, and broad stakeholder interest may not be represented (Demuijnck & Fasterling, 2016).

Companies also run the risk of defining legitimacy from their perspective, and as the findings of this study suggest, the reality on the ground in communities, is very different from reality in corporate organisations. Organisational legitimacy, which is the lens companies use to define legitimacy (Demuijnck & Fasterling, 2016), is different from legitimacy at community level. In addition to what we now know, that communities are informal, with diverse interest, Ehrnström-Fuentes and Kröger, (2017) suggest that community responses are spontaneous and uncontrollable rather than linear and automatic. West (2008) also highlights the complexity of informal leadership, which does not quite follow the same guidelines as institutional leadership, but at the same time is rooted on some form of institutional leadership (in this case political leadership).

There are also costs associated with formalisation (Walker & McCarthy, 2010), which would be challenging for communities to bear. It is therefore critical for efforts and dialogue to reflect this reality. A community-oriented, context-sensitive stance, prompts broad-based

collaborative dialogue (Owen & Kemp, 2013). As we learnt in this study, this should incorporate an acknowledgement of the broad community stakeholder network, and suitable mechanisms for broad representation and participation, rather than narrow segment representation. This does not come without its challenges, as previous studies suggest that narrowing the diverse groups and their expectations could prove challenging, and some suggest that companies may fear expectations spiralling out of control (Owen & Kemp, 2013). Maintaining the status quo however, only maintains the current company-centric approach to the social licence, and would not address the complex nuances highlighted in this study.

Previous studies have not explored the impact of diverse stakeholder interests on the granting of the social licence. Stakeholder diversity was explored from a broader network of stakeholders in previous studies, and not necessarily from within the community (Dare et al., 2014; Kishna, Niesten, Negro, & Hekkert, 2017; Moffat et al., 2016), with some suggesting that due to the diversity, a continuum of multiple social licences could be a solution. This study highlights the significant gaps which have previously not been explored due to the company-centric approach adopted in studying the social licence. The paradigm has not shifted to understanding the community (Owen & Kemp, 2013). Without a full appreciation of the nuances within communities as a stakeholder in the process, the status of the social licence is inflated (Owen & Kemp, 2013).

In concluding the implications of leadership legitimacy on the social licence, this study finds that previous studies have not explored the reality within the community as a stakeholder; instead industry has been the driver of the social licence dialogue, with little understanding or appreciation of what it would take for the community to enter into a social licence or the underlying complexities. As a result, the approach adopted has been largely company-centric, while the social licence requires participation from both companies and communities. This study makes a contribution by highlighting that communities are different and their approach to leadership and defining legitimacy is also significantly different in practice, to how companies may work.

The company-centric approach has led to some of the requirements from industry, being impossible to adhere to. For example, the requirement for registration as an organisation; since there is not much order in communities, the expectation that one organisation would represent the needs of the broader community, proves ineffective, since communities have a broad set of needs. The approach could work in an organisation-to-organisation setting, however the organisation of the community as a stakeholder is in question, with legitimacy of leadership questioned from the various segments.

Communities and companies view leadership legitimacy from a linear perspective, with community members accepting leaders who represent their interests, while organisations support the ideal of “a” community organisation without broad participation, which simply narrows down community representation to segment representation. Community representatives and members fail to acknowledge the true state of affairs in their back-yard, and continue to advocate for approaches to representation which are unattainable and are focused on their own silo needs and views, thus perpetuating their non-influence on the social licence process.

The origins of the social licence as an industry phenomenon and its conceptualisation based on organisational legitimacy could explain this complexity. The focus of organisational legitimacy is on legitimisation efforts aimed at gaining legitimacy from a stakeholder. The missing link is the aiding of the stakeholder in the social licence process as communities are different from other stakeholders, and their participation should be considered with appreciation of their specific nuances. Therefore, since the social licence is rooted in legitimacy and leadership legitimacy has come up as a key impediment in the community’s ability to enter into a social licence to operate, it is necessary to extend the theory beyond organisational legitimacy to factor in community-specific aspects of legitimacy or leadership legitimacy, which should incorporate broad participation, non-linear representation and adaptability.

In creating a state of order in communities, organisations should avoid simplifying the problems for their own purpose, but should instead adapt approaches to reflect the reality on the ground. Communities are largely informal in nature, dynamic and evolving, which makes the formulation of legitimacy (and what that legitimacy represents) different and non-linear. This study therefore proposes that instead of maintaining the status quo, alternative ways of collaboration and engagement should be established within this complex network of participants making up communities, which would make participation more meaningful and representative, and the outcome more credible.

This study illuminates the sensitivity, intricacy and dynamic nature of referring to the community as a stakeholder. Previous studies have not focused on this angle. The findings of this study highlight that communities are unable to grant legitimacy within the current framework and the result is an absence of evidence of their acceptance of mines, and mining operations. At the same time, the lack of clear accountability and governance mechanisms from within the community makes communities more susceptible to corrupt leaders and consideration of public accountability measures should be in place.

These findings bring about a significant shift in the understanding of the social licence, and support previous studies which questioned its existence (Owen, 2016), but does so from a different perspective. Without a meaningful approach of formulating, agreeing and expressing legitimacy in the community, a social licence process with the company seems not feasible. The challenges with leadership legitimacy within communities would naturally impact on the granting of a social licence. This study therefore proposes that the establishment of an effective, consensus-based community leadership legitimacy framework, is a pre-condition for the ability to meaningfully grant a social licence. The recent court ruling discussed in chapter two which was in favour of community consultation is pertinent to this study, as it acknowledges and expresses some of its findings. This major achievement, as good as it is for the community, cannot translate into practical benefits nor support the cause of communities if the challenges of leadership and representation are not addressed.

6.2.4 Economic factors

Economic factors are the subject of debate in communities, and are often dealt with, with suspicion. The aspirations of the majority of South Africans, especially those who opposed apartheid have not been realised, and Black Economic Empowerment transactions, with the exception of a few, have only favoured a few political elite, and those with access to resources. The spirit of the law, and all the institutionalised initiatives (for example the constitution) to create an inclusive society and prosperity for all have not been realised for the black majority, leading to much disillusionment and resentment. In both case study communities, partnership agreements were entered into, without broad consultation and without benefiting the communities. The spirit of the law stipulates broad based empowerment, which is a recognition of the needs in communities.

In addition to this, mining is a specialised and technical industry, and with the exception of those who are employed in mining companies, there is little participation from communities. The law stipulates that mining companies have to procure from local suppliers, however existing agreements with larger, competitive providers are often in place, and communities often do not have the capacity to deliver to the required standard and at competitive rates. Some argue that communities are excluded from mine procurement processes. Community participation is often limited to menial services which neither contribute to skills transfer, nor make a meaningful economic difference. Yet, there is a large population which is supposed to be economically active, but has little opportunity to participate in the economy.

Since most in communities were trained to mobilise politically, and have little or no other skill which would help them out of the financial constraints prevalent in communities, leadership

becomes a way to be “upwardly mobile”. This creates much resentment in communities towards leaders, which weakens their position. It also creates a state of vulnerability for the cause of communities, since mining companies are aware of the economic conditions, and use the power of money to sway things to their advantage.

The literature study suggested that community dependence on the mining company and poverty, influences the community’s ability to shape the process of issuing a social licence. This study finds that economic factors, indeed, have an influence on community conduct and its relations with the mining company. This finding and the findings of previous studies, illuminate the complexity of operating in developing countries with some communities being very poor. In light of findings in previous studies that some segments of the community, especially the low-income ones, are more vulnerable than others (Williams & Walton, 2013), the use of a social licence to assert community rights, is not possible (Syn, 2014).

The impact was illustrated in different forms; for example, due to the poverty levels, community leaders are susceptible to accepting bribes, which is referred in the study as “selling the soul”, or compromising the position of the community in a manner that impacts negatively on the community. In previous studies where bribery was practised, the legitimacy of leaders as promoters of collective interests, was undermined (Gustafsson, 2016). The legitimacy of obtaining a social licence to operate is called into question when corrupt, harmful or deceitful practices are used to obtain it (Prno & Slocombe, 2012).

This research finds that poverty propels communities to accept conditions which may not be favourable to them, as they want to escape the state of poverty and see mining operations as a way out. Mining companies use the state of poverty to their advantage and use economic power to silence vocal community members, through bribery and other means. Such techniques show how economic power may be exercised to neutralise discontent. Critics of the social licence at a local level have pointed out that the social licence, in the way it is entered into, may be used as a way of disguising or silencing opposition (Meesters & Behagel, 2017; Sing, 2015; Westoby & Lyons, 2016), rather than true outreach to communities.

Ehrnstrom-Fuentes and Kroger (2017), in their study on social licence, also found that local grievances were downplayed, and stakeholders with greater access to economic resources, had greater influence. Such neutralisation techniques can be part of the exercise of power. There have been contradictory studies however, for example (McIntyre, Murphy, & Tetrault Sirsly, 2015) who examined the social licence dynamics within a poor and marginalised community in South Africa .Even though perceptions of exploitation by large organisations were firmly embraced, it was surprising to find that the community felt that its welfare was of importance.

The economic factors in developing contexts make the study of the social licence more complex, due to concerns of self-interest and the scramble for resources. Of interest is the finding that access to financial resources (perceived to be related to projects, politicians or connections), creates distance between leaders and their constituents who can no longer identify with them due to their display of upward financial mobility. There is also a culture in communities where the expression of newly acquired resources is through status symbols like cell-phones, clothes and cars, which perpetuates the cycle of mistrust, resentment and perceived corruption. The leader's ability to mobilise the community and represent them effectively is often compromised. Mining companies on the other hand have a primary agenda to pursue, and the concept in its design, was aimed at helping companies to achieve their goals through mitigation of risk.

While the social licence may exemplify the permeation of social and environmental concerns into mining discourses, this shift is however controlled by the dominant discourses of business and management. There is a discursive pressure on companies to conceptualize the social licence as something they must secure to legitimise mining operations, as a method of managing dissent and reputation (Parsons et al., 2014). All these factors combined, weaken the position of the community as a stakeholder, while also weakening the institution of leadership. This may impact on its ability to gain the legitimacy necessary to enter into a social licence, and creates a cycle of unequal power relations between the stakeholders. In a context where there are challenges with governance, and the role of the state is unclear, this limits progress towards credible engagement and social processes. This study therefore proposes that unequal power relations and the exercise of economic power, impact materially on a community's ability to enter into a social licence.

Conclusion

The overall findings of the study support the first proposition, which suggested that there are some key factors which impact on the community's ability to enter into a social licence. When these factors are satisfied, they would provide a solid basis for facilitation of a social licence.

a) Emotive contextual issues

The various stakeholders (government, mining companies) have downplayed the transition from apartheid to democracy and what it meant for communities. While communities contained deep anger over many decades towards the mining industry during the apartheid era, their aspirations and hopes were dashed when the dawn of democracy did not bring much change. Communities feel that their legitimate claims have not been acknowledged, and are justified in feeling angry and despondent.

Despite the various efforts at bringing about inclusion and transformation, through the constitution and the various pieces of legislation, there has been little change, and both the spirit and letter of the law have not been adhered to. This presents a social risk as South African communities can easily instigate violence, and easily follow each other's trends. Stakeholder issues are a key priority in this context. In fact the social licence in a discourse transition context cannot be looked at from a single lens, since it encompasses issues of legitimacy, stakeholder management and social contracts. Sensitivity to the context is a necessary step to building trust, which is a critical element for social licence (Boutilier, 2007; Lacey, & Moffat, 2014; Moffat & Zhang, 2014; Owen & Kemp, 2013; Parsons, Thomson, & Boutilier, 2011; Thomson & Joyce, 2008), and is unfortunately missing in the case study communities.

What would support the formation of trust within this specific context is outside the scope of this study, however previous studies suggested different factors like capacity to listen and keep promises (Parsons et al., 2014). Communities highlighted some of the behaviours they resent from mining companies, which include exploitation, disrespect, profitability focus at the expense of communities to name a few, implying that if these were addressed, some of the emotive aspects could be dealt with.

b) Education levels

This study supports the proposition that education levels in the community impact on the social licence, but go further and highlight that capacity challenges are at all stakeholder levels, including government, companies and communities, and require urgent prioritisation due to the turbulent social context.

c) Leadership Legitimacy

Leadership legitimacy is a major factor which impacts on the community's ability to enter into a social licence, and a community leadership framework is a key priority. The municipal system of appointing councillors, who are very often assumed to be community leaders causes confusion and fails to distinguish the community as a stakeholder. Communities are instead absorbed in an undefined and broken system, while the institution of leadership in communities continues to weaken. Companies on the other hand often look for "a" formal legitimate community organization, which does not always reflect community reality. A community leadership framework would factor in the nuances within communities (diversity, broad, agile, and adaptive) and would lead to reconceptualising legitimacy from a community perspective ("community legitimacy").

d) Economic Factors

This study supports the proposition that economic factors impact on the community's ability to enter into a social licence. While it was initially proposed that economic dependence on mining companies is what compromises the community and leads to leniency towards mining companies, new insights have shown that the economic mobility of leaders, and corrupt practices, which impact on the community's trust have further compromised the social licence process. These are important findings in a developing market context, where there are high levels of poverty and unemployment, and where leaders could be more susceptible to forfeiting or undermining the community's position. Greater accountability mechanisms, which are more transparent, could be beneficial in such contexts.

6.3 Proposition 2: Key expectations of legitimacy between communities and companies may affect the community's ability to obtain the legitimacy necessary to enter into a social licence.

Few studies have focused on key expectations which may affect the community's grant of social licence, with the studies which have attempted to explore this, focusing on what companies consider to be community expectations and being written from an organisational perspective. There have been concerns raised in previous studies that companies fail to engage with expectations of stakeholders and that this failure to reckon with societal expectations is a threat to the mining industry (Owen & Kemp, 2013). While this failure is recognised in some studies, the reality of legal compliance becoming an insufficient means of satisfying society's expectations with regards to mining issues (Prno & Slocombe, 2012), and the instrumental nature of stakeholder expectations to the social licence, remains a reality.

6.3.1 Community expectations of mining companies

This study identified some key expectations, which may affect the community's granting of the social licence, presented from a community perspective. It is important to note that these expectations had not been articulated by the case study communities due to factors that will be discussed in greater detail in the paragraphs to follow. Historical negative experiences and the treatment of communities by mining companies play a key influencing role, as well as the negative experiences of communities linked to mining. The relations are tense as a result, making it difficult to agree on expectations.

The expectations of communities appear to be based upon the understanding that they would own a stake in the mining companies, and benefit fairly from an economic perspective. Discontent, linked to perceived lack of benefits, and benefits being allocated to those who are considered non-eligible were highlighted. While previous studies highlighted the significance

of benefits for mining communities (Harvey & Bice, 2014; Prno, 2013; Solomon, Katz, & Lovel, 2008), this expectation is influenced by the mining legislation and the Mining Charter in South Africa which makes provision for 26% ownership of mining companies by partners of African descent who were previously disadvantaged. The perceived non-compliance with this requirement is a contentious issue in communities.

While some mining companies have complied with this requirement in terms of private black business ownership, communities are angry because they are often not part of such partnerships. Such partnerships are usually entered into through huge capital inflows from the new “BEE” partners, often financed through debt or complex ownership structures. The major grievance in most communities is that such partnerships are not broadly representative, and thus the intended outcome of redress and transformation is often not felt broadly. Community participation in such structures is often through community trusts, often used as vehicles to disperse social benefits to communities. Even under such circumstances, there is discontent due to processes followed to appoint “trustees”, which are often at the discretion of companies and in some instances involve municipal representatives.

As in previous studies, which suggested the significance of consultation processes on the social licence, (Lacey & Lamont, 2014; Nelsen & Scoble, 2006; Owen, & Kemp, 2013; Thomson & Boutilier, 2011), meaningful consultation is a key expectation from communities. The discontent expressed in this study is based upon perceived non-consultation/limited consultation by mining companies and their expectation that communities would sign-off on issues they were not consulted on.

The post democracy regulatory framework in South Africa was introduced to incorporate social aspects and to ensure social inclusion. As part of licencing, companies are expected to consult broadly with stakeholders, including communities. The statutory consultation either does not happen, or happens in a manner that is different to its original intent and does not provide the intended empowerment to communities. Communities highlighted that they are often consulted for licencing purposes, as a “tick box” mechanism. In some instances, communities are consulted after decisions had been made already.

Additionally, instances of projects going ahead with no broad consultation taking place are recorded, which lead to communities not having an influence on the social licence to operate as they often get involved in the process too late, after decisions have been made. Procedural fairness has been identified in various studies as being a key influencing factor on the social licence (Lacey & Lamont, 2014; Moffat & Zhang, 2014; Ullrich, Christ, & van Dick, 2009; Uribe & Dai, 2015; Zhang et al., 2016), and is absent when communities are not consulted, or when consultations are not implemented in good faith. It has been shown to lead to positive

conditions for a social licence, as communities perceive fair treatment from companies who follow fair procedures.

Communities also expect respect, (Moffat & Zhang, 2014; Parsons, Lacey, & Moffat, 2014; Thomson & Joyce, 2008) and ethical conduct from mining companies. In addition to this, effective participation by the regulator is a key expectation. The role the regulator plays is unfortunately poor and impacts negatively on communities (Roche & Mudd, 2014) and their contribution on matters related to acceptance of mining. For example, mining companies who do not comply with regulation do not always face consequences for non-compliance, and there is no consistent standard of how to address the varying degrees of non-compliance.

Communities also expect meaningful representation of community interests in their engagements with mining companies, suggesting that those who participate are not representative of the community, being listened to (Smith & Richards, 2015) and follow through on commitments made. Company initiatives often fail because of failure to involve those affected (Anguelovski, 2011; Blowfield & Frynas, 2005; Frynas 2005; Newell, 2005; Prieto-Carron, 2006), and this was also found in this study. The common trend is inclusion, expressed in different forms. This implies that if this were made possible, it would be a positive step towards satisfying the requirements for a social licence.

Communities also highlighted their views of what companies expect, based on the negative experiences they had with the companies. They suggested that mining companies use their economic power to influence engagements in their favour; engage to comply with legislation with no genuine intent; choose their stakeholders with whom to engage, with expectation of formal registration; and are focused on their own profitability. These expectations have not been tested, even though there are previous studies suggesting that mining companies focus on their own objectives rather than on what communities want (Owen & Kemp, 2013).

What was not anticipated in this study, was the failure to meet the parties' expectations, due to them being un-expressed. The expectations of communities have been studied previously, but largely from the perspective of what companies thought communities expected. There have been few studies that focused on what communities expect through direct engagement with communities. The limitations, which are presented by the relationship between the parties, the absence of platforms for engagement, and community exclusion, are an impediment to the establishment of any potential social licence, since expectations, which are not expressed, cannot be fulfilled.

6.3.2 Legitimacy gap due to unexpressed expectations

Results collated from the two sets of community respondents suggest that relations between companies and communities are tense and conflict-ridden, and the parties struggle to articulate and share their expectations of each other, leading to a legitimacy gap. The emotive side of issuing a social licence, which expresses deep and often generational community experiences of the mining industry, contributes towards the tensions between the parties. While the literature study highlighted the issue of differences in expectations between the parties, this study finds that the parties do not even get to express the expectations they have of each other. There is no recognised platform for communities to express their frustrations, and where this is in place, there is no agreement on its constitution.

While communities expressed their expectations of mining companies as well as their perceptions of what mining companies expect from them during the interviews, this study finds that there has not been a meeting of the minds and actual agreement on expectations. Expectations between the parties have a direct impact on the social licence to operate. The inability of the parties to express or understand the expectations they have of each other undermines the social licence process, since the social licence has been characterised as presenting 'a set of expectations held by a local community on how a business should operate in order to gain social acceptance (Bice & Moffat, 2014; Edwards & Lacey, 2014; Ehrnstrom-Fuentes & Kroger, 2017; Gunnigham et al., 2004; Hall et al., 2013; Mele & Armengou, 2016; Parsons et al., 2014; Prno & Slocombe, 2012). Salzmann et al., (2006) define the social licence to operate as the degree of match between stakeholder's individual expectations of corporate behaviour and companies' actual behaviour. When the parties do not get to express and understand expectations, a foundation for establishing legitimacy is not established and a social licence cannot be entered into. Without this presentation of expectations broadly from the community, and the perception that they are not being heard, communities remain dissatisfied and unsupportive of mine interventions.

6.3.3 Absence of platforms for dialogue

In both communities studied, initiatives aimed at bringing the parties together around the table, took a long time to formalise, and concerns around leadership legitimacy persisted. This caused much frustration and anger in the studied communities, and negative perceptions appear to have been perpetuated on both sides. What is interesting to observe in this study, is that communities have a desire to be respected and be listened to, while they perceive that the only interest companies have is economic; but these expectations and perceptions remain

unstated and not acted upon due to the lack of platforms to do so, as well as the strained relationships between the parties.

The absence of platforms for dialogue between the parties is a major problem, and not favourable for the social licence process. The negative effects of this are widely reported in previous studies; for example, Martinez and Franks (2014) found that it limits local community co-ownership of projects and positive attitudes towards the corporation. Some studies link the absence of legitimate platforms for communication and negotiation between mining companies and local communities (Hamann, 2014) to the absence of custodianship of community interest. While others (Walsh et al., 2017) suggest that lack of meaningful consultation impacts the perceptions and acceptance of any new operation. In the current study, communities rejected projects, and in some instances, the reviews highlighted that specific community needs were not considered.

The benefits of creating platforms for dialogue and consultation between the parties are also widely reported. Zhang, Measham, and Moffat (2018) highlight their importance and links it to strong commitment to regulatory requirements. Lacey et al. (2017) suggest that effective platforms tend to foster mutual understanding and trust, leading to higher levels of acceptance of those operations. Meaningful dialogue was also linked to important outcomes like legitimacy and trust (Mercer-Mapstone et al., 2017), and is believed to foster effective interactions between parties, leading to the alignment of dialogue outcomes with the social licence. In addition to this, a more just social development process is achieved through dialogue and consultation (Hall, 2014; Rooney et al., 2014), in addition to accumulation of knowledge on how communities want to be involved (Walsh et al., 2017).

It is not due to lack of effort from mining companies, that platforms for dialogue are non-existent. The concept of “stakeholder forums”, and “round table” forums has gained momentum over the past decade, but despite these efforts, has not worked, and the same mistakes continue to be made. The main issue that has been observed is how these forums are constituted. There is lack of clarity on their constitution, which boils down to community representation. Mining companies often rely on partnerships with municipalities to constitute the forums and, very often, some sectors of the community reject this arrangement. Where community members are involved, the issue of who should get involved and who has the power to approve involvement is disputed. In some instances, companies feel at liberty to appoint and dismiss community representatives. Proper governance around representation in these forums and the roles of the different stakeholders is the key. Lastly, the forums frequently rely on “terms of reference” documents to guide the relationships, which are non-

binding and often generic. Over time, participation in such forums fizzles out, or disruption prevails as those excluded may find ways of forcing their inclusion into the process.

The absence of a structured approach to dialogue and consultation is a serious impediment to the social licence process. If issuing the social licence is to be considered as a relational process between a company and community within which it operates, the importance of a consultative process to exchange expectations, signal priorities and seek amenable solutions, is of material importance (Luning, 2012; McIntyre et al., 2015). Company-stakeholder relationships need to be conceptualised to be collaborative and dialogic (Parsons & Moffat, 2014). Without these platforms, as a foundation for the issuing of a social licence, the community is not in good standing to enter into a social licence. Rectifying this would contribute to the bridging of the legitimacy and expectations gap, since industry proponents would understand local needs and culture, and local stakeholders would shape relations and outcomes to reflect their own values and expectations (Wilson, 2016).

The findings confirm that unmet expectations influence community acceptance of mining. The absence of recognised (or effective) platforms for dialogue between companies and communities does not foster the formation of legitimacy between the parties. This study has demonstrated that a lack of clarity, mismatch in expectations and the resultant legitimacy gap, negatively influences community acceptance of mining.

Despite these challenges, communities expressed interest in building platforms for dialogue and being heard, and most referred to a 'round table', which would allow for multi-stakeholder representation.

6.3.4 Community exclusion

Consistent with other developing countries which introduced mining reform and social development in mining communities, South Africa also has regulation which guides the licensing process. As part of the licensing process, companies make commitments to social development investments, and are required to demonstrate the value of such initiatives. This is supposed to be a collaborative process between communities, mining companies and the local government. However, this study suggests that this is hardly ever the case, with the sample communities alleging that the process is characterised by a lack of transparency and their exclusion from the process. The outcome of this exclusion is that the licensing process often goes ahead without community knowledge/awareness, and by the time they try to influence the process, it is too late.

The basis of the social licence concept is the broadening of the debate beyond government and corporations to incorporate representations of local communities (Ballard & Banks, 2003). The absence of the community voice suggests that the social licence cannot be in place, and efforts by mining companies do not contribute towards attainment of legitimacy. Communities have preference, intention and expectations too (Muthuri, Chapple, & Moon, 2009), and as found in this study and others (Hamann, 2014), are angered by the company-centred approach to development. The anger is exacerbated by the government's apparent lack of attention to enforcing the company's responsibilities.

The importance of community involvement is highlighted in various other studies (Gifford & Kestler, 2008), and exclusion on decisions about their needs makes community members feel disrespected (Moffat & Zhang, 2014). When community members are excluded, their power to grant and reject the social licence to operate (Demuijnck & Festerling, 2016) is taken away. Expectation-setting and agreement is also compromised when communities are excluded, and when co-invention is not in place and relations deteriorate, the chances of gaining a true social licence are reduced (Gifford & Kestler, 2008). In the current study, the exclusion of communities has severely impacted on relations between the parties, marginalised community contributions, and has been an impediment to broad community acceptance of mining efforts on the whole. These conditions are not favourable for the establishment of a social licence.

While there is a diversity of perspective in previous research, with some in support of community involvement (Joyce & Thomson, 2000; Measham & Fleming, 2013; Meesters & Behagel, 2017; Moffat & Zhang, 2014; Prno & Slocombe, 2012), and some questioning the involvement of communities and its viability (Clausen & Gyimothy, 2016; Li, 2006; Tosun, 2000), this study finds that community exclusion not only compromised the company-community relations, it created an all-encompassing negative perception towards company efforts and led to a questioning of the motive for all initiatives. The studies which questioned the viability of involvement were in different contexts, some with institutional ideologies contrary to democracy, and thus suggested that embedded notions of authority, control and power, and perceptions of political legitimacy, have a greater influence on community engagement (Clausen & Gyimothy, 2016). The South African reality is different.

6.3.5 Governance failures

Consistent with other studies in developing markets, this study highlights the shortcomings of the state in fulfilling its responsibilities, especially the monitoring of regulatory compliance and protection of community rights and interests. It appears that non-compliance by companies

has continued without any consequences, while initiatives aimed at holding companies accountable, are perceived by communities to be toothless. There have been suggestions that government officials are compromised due to allegations of bribery (in instances of non-compliance). Previous studies highlight that government failure leads to negative outcomes for communities (Roche & Mudd, 2014), and if negative social impacts are ignored (Meesters & Behagel, 2017; Richert, et al., 2015), there is a weakening of the legitimacy of any social licence. Zhang and Moffat (2015) suggested that when regulatory systems were perceived to be strong and capable of holding the companies to account, people were more willing to accept mining or other economic activities, suggesting that the capacity to monitor, implement and enforce existing regulation, is critical for trust to be established.

In this study, not only is the legitimacy of the mining companies themselves questioned, but government legitimacy and capacity to protect the interests of the communities is also questioned, with some suggesting that corporate contribution towards taxes could be an influencing factor. Instances of government favouring economic legitimacy rather than social concerns, are recorded (Boutlier & Thompson, 2011; Brueckner et al., 2014). In communities, this fuels escalated anger and disillusionment, and as a result, a social licence is neither known, nor embraced as a possibility. In other developing contexts, like Brazil, increased involvement of mediators as well as improved accountability, enforcement and grievance mechanisms in the licensing process, were key recommendations (Hanna et al., 2014). Government oversight is necessary and needed by communities, and without accountability, prospects of a social licence or acceptance of mining are non-existent. While in other more sophisticated or regulated environments a social licence may be voluntary and over and above regulatory compliance, in developing countries (typically), the conditions for its establishment are questionable.

In addition to the exclusion of the community, there is often a struggle between the various stakeholders who have different interests. The municipality, for example, is supposed to be the intermediary between communities and mining companies and ensure that development initiatives represent the interests of the community. The municipalities in South Africa have been marred by various service delivery failures and communities struggle to differentiate between the role of the company and the governmental role of the municipality.

Municipalities also use the opportunity they have as an intermediary in mine-community development processes, to bridge the existing gaps in local government development, some of which are linked to municipal failures. This often leads to some of the proposed interventions not being closely tied to the needs of the communities. The blurring of responsibility between companies and the state, specifically local government, due to mining contributions and the

transfer of what were state-like functions to private operators, impacts on the legitimacy of the companies in some instances (Campbell, 2012). Communities in this research expressed concerns around their exclusion and that the development planning process intended to be between companies, communities and local government is not practised in line with its original intent, with some of the development plans drafted by consultants (due to lack of capacity) and no participation from the community.

The social licence and even the social leg of the legal 'licence to operate' (in the form of SLP's) is structured around the participation of municipalities in the social aspects of licencing. Their participation is meant to be around supporting social capital and community participation, as well as the development planning process, which is a regulated deliverable for municipalities. The municipal integrated development plan (IDP) is not necessarily linked to mining, as it outlines the priorities of the entire municipality for a specified period. The intention of incorporating mining social projects into the IDP was to ensure that community needs and interests were represented, since the municipality is viewed as a "guardian" of community representation. This system is unfortunately flawed in many respects, which include: a) the failure of the process to achieve its intended purpose (community involvement) b) the confusion and overlaps it causes on role of state versus company role c) the lack of legitimacy, credibility and capacity in some municipalities.

The findings of this study suggest that communities expect the government to play a strategic oversight function, even though concerns were raised around corruption within government. The context in which mining investments take place in Africa, is often one of weakened capacity of governments to ensure the respect of their regulations when these exist, and of a disappointing contribution by the extractive sector to local and national development (Campbell, 2012). Government failure in the mining context impacts not only on compliance with regulation, but on clearly defining responsibilities and ensuring stakeholder accountability. The social licence dialogue in developing market contexts needs a much more nuanced approach, and its existence is questionable, when compliance with even the most basic of legal requirements and monitoring of such compliance, is in question.

6.3.6 Legal and social licence overlap

Inconsistent with previous studies, this study places emphasis on the legal licence, and the social leg of the regulatory licence, without a clear distinction between this and a social licence (this is because of the statutory structure in South Africa, which has made the social component an integral part of the legal licence). This contradicts previous studies which

suggest that the legal licence is not enough and highlight that there is a distinction between a legal licence and a social licence, with the social licence going beyond compliance. In this study, however, community members had no recollection of accepting mining companies, and instead expressed dissatisfaction with processes followed for the legal licence consultations, some of which they suggested were deliberately misleading on the part of the company, with the intent not being transparent. A social licence without compliance measurement and penalties, is questionable in developing market contexts.

Since there are evident concerns around government capacity to monitor regulation, due to corruption and the lack of controlling procedures or trained personnel, (Reimann, Ehr Gott, Kaufmann, & Carter, 2012), it is difficult to imagine how acceptance of mining companies by communities can be attained, due to perceived non-compliance with regulation. Strong compliance and regulatory systems have been found to influence acceptance (Zhang & Moffat, 2015). This raises questions on whether a social licence has meaning in a developing market context, and specifically in the African context and how such a meaning can be framed.

Various studies have questioned the notion of a social licence, with some suggesting that the use of the term licence is misleading, since communities can influence limited processes in limited ways (Parsons et al., 2014). Furthermore, the so-called process is not about approval in practice (Owen, 2016), but is about how to operate, rather than if a company should operate (Wilburn & Wilburn, 2011) and that whereas a licence refers to a document, a social licence is an implicit form of agreement and intangible (Raufflet et al., 2013). Some have recommended an integrated approach between the social and legal licences, and that government could be instrumental in co-shaping it (Smits, Van Leeuwen, & Van Tatenhove, 2017).

The specific situation in emerging economies needs to be reconsidered, specifically whether a social licence has potential for utility outside of regulation, and how that could work. In practice, communities are concerned about social and labour plans which are the regulated social leg of the mining licence, and express deep dissatisfaction even with this. Therefore, the existence of a social licence is questionable and cannot be proven.

6.3.7 Differences in motive influence engagement approach

It is important to note the premise from which each party considers initiatives relating to the social licence. The company comes from the premise that it wants to extract mineral resources and has to comply with social and legitimacy requirements, as a means to attain this. The company carries the responsibility for “non-compliance”, and as a result, companies often drive the process, almost like a community project. The company approach to consulting with

communities, which is referred to in this study as a command and control, non-inclusive, approach to project delivery and engagement with community leaders, is influenced by this pressure to comply.

The study suggests that companies often engage to minimise opposition from communities and do so closer to licensing time, Communities on the other hand want to participate in the social development processes, despite evident challenges and disputed representation. Comparisons between industry and community perspectives on developing a social licence, indicate distinct contrasts (Lacey et al., 2012; Moffat et al., 2011; Nelsen & Scoble 2006; Thomson & Joyce 2008). Company and community motives differ and reconciling the differences between the parties proves to be a very difficult task, since the barriers to reconciling the differences remain firmly in place (Owen & Kemp, 2013). Differences between communities and companies are an impediment to the social licence process and community acceptance of mining. Companies, for example are transactional, and focused on minimising dissent (Parsons, et al., 2014; Power, 2017), while communities, focus on the quality of relationships (Thomson & Joyce, 2008). Most of the statements on company websites refer to the existence of a social licence, and often in the same sentence address the issue of risk and managing communities.

This review puts the approach often adopted by companies into perspective, which has been found in this study to include selecting who to engage, and implementing initiatives and programmes without a deep enough understanding of the needs of the community or appropriate broad consultation. Noting complexity and disagreements may undermine the company's claim to be socially responsible. Companies often proceed with the belief that their plans can proceed in a smooth manner if there is agreement. This explains why companies select gatekeepers and who to engage with, as found in this and other studies (Luning, 2012).

The mining company approach does not result in positive outcomes however, and the relationship is paradoxical, as companies invest in communities, while frustration in communities heightens. Under these circumstances, communities cannot grant legitimacy, and company initiatives are reduced to compliance-driven and "tick the box" interventions. A key finding is that the gap in expectations between the parties, and unmet expectations, has a considerable (negative) influence on community acceptance of mining activities. While mining companies may be focused on managing stakeholders, previous studies found that focusing on this, rather than how the activity will benefit those stakeholders, is contrary to the original intent of the social licence (Boutiler, 2014; Meesters & Behagel, 2017).

In concluding this section on expectations between companies and communities, it is important to continuously acknowledge that South Africa has a bitter history that permeates

the various sectors of society and has direct implications on engagement between the parties. The consequences linked to the history of the mining industry and the policies, which had a direct impact on mining communities, continue to be experienced in mining communities. It makes sense that communities refer to a legal licence rather than a social licence, because the distance and gap between the parties is so wide, and it is questionable whether a social licence is possible when compliance with the legal licence is in question. It seems more feasible to tighten enforcement and monitoring in order to protect community interests and rights, which this study finds are not sufficiently protected.

Previous studies put emphasis on the social licence. This study suggests that when the legal licence is not enforced or there is no agreement on compliance, progressing to a social licence (going beyond compliance) is a challenge. In addition to this, the feasibility of a social licence in contexts with weakened governance and governments is in question. Finally, when communities are not consulted on matters that affect them, it is not possible for them to accept mining companies and grant legitimacy. Creation of platforms for dialogue with broad multi-stakeholder representation, and governance guidelines, tightly overseen by the government, is thus recommended. This study proposes that failure to include communities and comply with the legal licence requirements, is an impediment to any prospects of community acceptance of mining companies and operations.

Despite various efforts over the past two decades, there has been little or no improvement in so far as the practical application of the social licence phenomenon, and its broad theorisation. The practices over the past twenty years may no longer be relevant, as the way the industry and the various stakeholder groups have conducted themselves has not led to a recognised social licence process. This study suggests some guidelines which can be followed for the attainment of a tangible output in the form of a social licence.

6.4 Proposition 3: Complex processes of underlying key expectations influence the community's issue of the social licence

The findings of the study confirm that there is no credible or standardised “process” followed by the various parties in terms of issuing a social licence (in whatever form either party defines it) and the requirement for communities to accept mining companies is not known, with implications not fully understood. The community role in issuing the social licence is not clearly defined, nor understood by the community, making it difficult for community members to understand the parameters of their participation. The uncertainty around process has historically caused ambiguity. For example, mining companies can rarely point to a document

that is evidence for the issuing of a social licence (Prno & Slocombe, 2012). Some in the industry understand and accept the requirements for obtaining a licence from the government and even from the regional government, but neither accepts nor understand the requirement for a licence from the whole community (Perlez & Bergman, 2005).

Previous studies have also highlighted the uncertainty around the social licence and its application in practice (Bice, 2014; Costanza, 2016) and there has been a keen interest to move the social licence beyond rhetoric (Moffat et al., 2016). While previous studies focused on how to acquire a social licence with some suggested steps towards processes (Boutillier, 2009; Dare et al., 2014; Eerolo & Tuusjarvi, 2013; Moffat & Zhang, 2014; Nelson & Slocombe, 2006; Ziessler et al., 2013), there has not been a process suggested and designed with community input in this context. Weaknesses of current practices which have compromised both the legal licencing process and the possibility of acceptance of mining companies by communities are highlighted, which include non-participation of communities even in government regulated processes. When there is participation, it is not meaningful as the intent is not always explained, implying that community participation as a stakeholder would be limited.

Communities highlighted concerns with not having a voice in dealings with mining companies as well as being marginalised. The importance and desire to have a voice within communities was highlighted in previous studies (Harvey & Bice, 2014; Laplante & Nolin, 2014; Moffat & Zhang, 2014; Wright & Bice, 2017), with suggestions that it creates perceptions of procedural fairness even in instances where there is not necessarily agreement (Harvey & Bice, 2014; Moffat & Zhang, 2014). The findings of the study highlight some concerns around the influence of the community as a stakeholder as well as the absence of a process followed by the parties.

The lack of clarity on what a social licence is, and its practical application raises questions about its power. This study, similar to other studies, suggests that the rhetoric around the social licence has deprived both industry and communities the opportunity to interrogate its practical application and its validity. Even though there has been focus on the power of the social licence (Bice, Brueckner, & Pforr, 2017; Bice & Moffat, 2014; Meesters & Behagel, 2017), its utility and meaning is in question, with some studies suggesting that the term licence conveys a misleading impression of community-company relations, since communities can influence only selected processes in limited ways (Parsons et al., 2014).

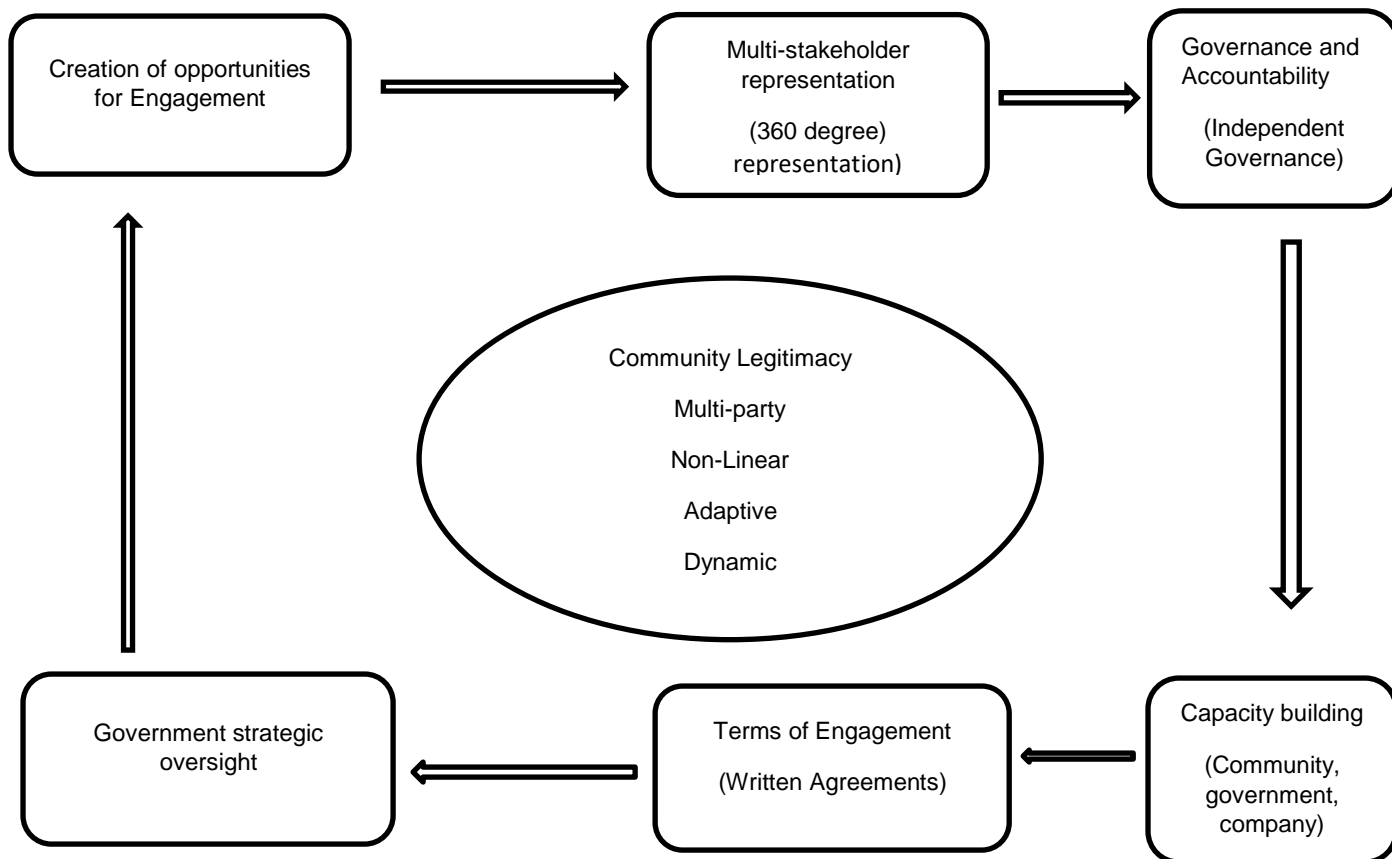
In the current study, communities are grappling with the challenges of being unable to influence even the legal licence, and not having access to information. It is therefore no wonder they have no appreciation or knowledge of their requirement to participate in a social licence and it is possible that under the circumstances, would not understand its value or the

possibility of its practical implementation. While the literature study proposed that the complexity of processes influences the issue of the social licence, this study finds that this phenomenon is not applicable, as there is neither knowledge nor expectation of its issue. Community non-acceptance of mining companies is not due to the social licence, but other sources of conflict and disagreement, which the community links to non-compliance with the legal licence.

Having said this, communities highlighted some elements, which could form part of a process, even though there is reportedly no effective process in practice. These elements address some of the key gaps identified in this study and previous studies around the application of the social licence in practice. The diagram below represents some important considerations for a social licence process, which could be applied and adapted in different settings. Explanation of the different elements of the process follows:

6.4.1 Elements of a social licence process

Figure 4: Elements of a social licence process



The elements in Figure 4 above are explained further below.

6.4.2 Creation of opportunities for engagement

This study finds that communities and mining companies currently do not have opportunities for dialogue and proposes that dialogue is the starting point in the path towards properly issuing a social licence, as supported by previous studies (Cornejo et al., 2010). The absence of participatory spaces was found to limit local community co-ownership of projects and positive attitudes towards the corporation (Martinez & Franks, 2014). In this study, the absence of dialogue made it impossible for mining companies to understand and meet community expectations, while communities could not express their expectations. Creation of platforms is thus a necessary and important step towards an effective social licence process.

6.4.3 Multi-stakeholder representation

This study goes further to suggest that dialogue must be context-specific and factor in the reality on the ground. For example, it was established in this study that there are various segments in the community, and therefore, efforts should be transparent, broad, and open to the different interest groups, rather than the current practice of aiming to engage with “a” community group. This study finds that there has not been an interrogation in previous studies of what a community may mean (Meesters & Behagel, 2017), and how it operates, and suggests that this is context-specific.

The current notion of a social licence hinges primarily on the idea that all of ‘the community’ belongs to a single community of interests, and that the concerns of the community can be understood as an undivided whole (Owen and Kemp 2013). Such a notion does not have a place within the context of the current study, and contrary to this, communities are dynamic, and complex with context specific nuances.

In addition to acknowledgement of diverse interests within communities in relations with the company, and factoring “community legitimacy”, this study supports previous studies which highlight the importance of multi stakeholder collaboration (government, industry and civil society) (Lacey et al., 2017). This approach has received support as a mechanism for negotiating competing interests, creating trust (Gustafsson, 2016), and bringing the community in on decision making (Lacey et al., 2017), while addressing inequality (Lane, 2003; Ruckstuhl, Thompson-Fawcett, & Rae, 2014). In this context, it is proposed that such platforms should be carefully constituted, with broad representation and their manner of operation should be guided through independent governance structures. This is to safeguard their continuity as similar structures have been set up in their past and could not continue due to how they were constituted and legitimacy concerns.

6.4.4 Governance and accountability

Engagement between companies and communities reveals layers of governance issues which have unfortunately not been historically addressed, such as what to do about conflicts of interest, and how to formally resolve disputes. There have been suggestions of corrupt practices within communities, from industry as well as government. This not only compromises prospects of achieving a social licence, but also undermines its effectiveness. A credible governance structure would objectively guide the constitution of engagement platforms, address matters of corruption and bring credibility and hope to the process. Previous studies suggest the inclusion of accountability mechanisms as an integral part of social dialogue, in order for stakeholders to hold each other accountable through appropriate checks and balances (Cornejo et al., 2010).

6.4.5 Capacity building

Previous studies have explored and supported the notion that human capital development can contribute to legitimacy and trust-building between various stakeholders (Smits et al., 2016). This study also finds that capacity building at municipal, company and community level could facilitate the achievement of a social licence.

6.4.6 Terms of engagement

The low trust levels necessitate a record of the agreement between companies and communities on issues of common interest. This will ensure that there is follow-through on matters agreed upon while guiding relations through a “terms of reference”. Previous studies make reference to the nature of agreements (Lacey & Lamont, 2014; Parsons et al., 2014; Prno, 2013), and caution about power relations (Wilson, 2016), and that fair reflection of interests of parties to the agreement would need to be a consideration (Lacey & Lamony, 2014). The agreements can also assist in role-clarification between local government, companies and communities (Warhurst, 2001), while strengthening relations.

6.4.7 Government strategic oversight

Reference to government failure to play its part in mineral-rich countries and protect the interests of vulnerable communities is made in previous studies (Hamann, 2014), including this one. Government would, however, need to refocus and redefine its role in this process, and this would benefit not only the communities, but also the government in terms of its own legitimacy. To achieve a socially sustainable mining industry, governments may need to review their own methods of engaging with citizens to build trust in those stakeholder relationships (Zhang et al., 2015). The governance and accountability structure can also serve to strengthen and monitor progress on an ongoing basis to ensure improvement.

Conclusion

While the communities expressed discontent around non-compliance with legal licence and no clear understanding of the requirement for their participation in the social licence, they were able to express key elements which form the building blocks of a social licence process. This foundation can address some of the current challenges and contribute towards practical utility of the social licence, especially in a developing market context.

CHAPTER 7: SUMMARY OF FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

7.1 Introduction

The social licence has been studied for almost two decades, but the focus has been mainly from an industry perspective (Jenkins, 2004). Even though there has been referral to the community as a stakeholder, and its suggested (elevated) role, there has been no assessment of “how” it should go about accepting company activities or the specific nuances that impact it (Viveros, 2017; Wright & Bice, 2017). This has been one of the limitations of the social licence dialogue to date. There has been a neglect of the community and the dialogue has been very company-driven.

Referring to this neglect, previous studies failed to highlight the differences between communities and industry, and their participation in the social licence process needs to factor their particular reality. The ironic absence of exploration of the community as a key stakeholder in relation to the social licence has led to a failure to acknowledge that the community may not be in a position to “issue” the social licence or influence it. Even though there are studies that highlight the limited influence of the community, there been no in-depth analysis of what this means for the concept as a whole. Instead, discussion continues while the frame remains fragile.

Specific nuances in developing- market contexts, make the study of the social licence even more complex (Ehrnström-Fuentes & Kröger, 2017; Hanna et al., 2014; Reimann et al., 2012; Syn, 2014) . The majority of the academic literature on social licences to operate comes from Australia or North America (Power, 2017). The fragile South African mining context, which has received much attention due to tensions in mining communities, suggestions of non-compliance with regulation, and significant overlaps in stakeholder roles (community, company, local government) thus make it a unique setting for the study of the social licence. This research therefore fills a gap by exploring the social licence from the community dimension. This is done through an in-depth focus on factors within communities, which could impact it, expectations from a community perspective and the process that could be followed for the social licence.

The objectives of this study were to:

- Explore and investigate the elements of legitimacy within communities necessary to enter into a social licence.

- Explore and investigate the key expectations of legitimacy between communities and companies necessary to enter into a social licence.
- Explore and investigate how the community issues the social licence to operate, from a process point of view, and whether this happens in practice.

The primary research question in this study was: how is the social licence to operate entered into from a community perspective?

To understand the main research question, the following sub-questions were investigated:

- Q1 What are the key elements of legitimacy within communities that are necessary to enter into a social licence?
- Q2 What are the key expectations of legitimacy between communities and companies that are necessary to enter into a social licence?
- Q3 What process leads to the issuing of a social licence by communities?

The literature review was anchored on legitimacy theory, the social licence phenomenon and the relations between the parties who have an influence on the social licence (communities, government and companies). This study applied the legitimacy theory to interrogate how a social licence to operate is achieved, from the perspective of two mining communities in South Africa.

7.2 Research design and methodology

The study applied a case study approach, since the focus was on investigating the social licence within its real-life context. This approach was also applied to allow for the consideration of multiple sources of evidence. Interviewees were chosen from two communities, Community A, and Community B. A total of 30 community representatives were interviewed (15 from each community) and an additional 7 “other stakeholders” (municipal, company, chamber of mines and government department of mineral resources representatives). Interviewees were selected from a data base of community leaders received from the municipality. The author also consulted with non-governmental organisations (NGO’s) dealing with mining issues in the two communities, as well as ordinary community members who live close to the mines.

The author analysed the 37 interviews for qualitative content using the coding strategies of Saldaña (2016) and Saldaña and Omasta (2017). The author was guided by the research questions together with the interview questions. To this end, she engaged in data reduction,

coding and decoding analytic processes to analyse and interpret each of these qualitative data forms (Saldaña 2016). These processes unfolded through concurrent and iterative research processes: data collection, transcription of audio-recorded semi-structured interviews and data analysis. Coding terminology and procedures were applied according to Saldaña (2016). Specifically, descriptive codes were used and a few in vivo codes, which were created inductively (data driven) and deductively (theory driven). During the first cycle of coding, over 100 codes were created, which were merged, given the similarity of meanings. Finally, a code list or a code book of 76 codes was created. This was all done in ATLAS.ti version 8 (recently released in December 2016), which is a computer-assisted qualitative data analysis software package. Codes were clustered into categories and ultimately themes.

7.3 Discussion of the results

The results revealed several contextual factors, which have a powerful impact on the social licence. If attention were to be given to these factors, this would contribute towards, or satisfy the requirements for a social licence to be issued. If ignored, the current challenges could escalate and have far-reaching negative implications for the mining industry (and similar industries such as agriculture), as well as the country as whole.

The results emphasise that despite institutionalised (and statutory) methods aimed at ensuring public involvement, there has been little benefit at community level. There are, instead, layers of complexity that overlap with the various stakeholder roles and perceptions, and this complexity (if not understood) can be an impediment to meaningful engagement. It is important that the community is recognised as an independent and critical stakeholder in the social licence process. As part of this recognition, the local factors relating to each specific context must be explored, followed by the implementation of suitable site-specific solutions.

Unfortunately, despite good intentions from many industry players and institutional support for involvement, the spirit of the law is not always practiced, and even the letter of the law is not adhered to, as is intimated by participants in this study. South Africa is experiencing the symptoms of a much deeper socio-economic crisis, which needs an urgent and fundamental change of approach when it comes to community relations. This requires companies and government to begin to listen to the evident signals. There is increasing evidence that the community voice has been marginalised from all angles, including by government, industry and labour unions. The recent court action in South Africa (Eye witness news, 19th February 2018) , which saw the High Court instructing government to consult with communities on

proposed changes to mining legislation (MPRDA, 2002) was therefore a major victory for communities, who often felt excluded as stakeholders in the negotiation process.

Despite evidence of community exclusion, it is possible that those involved believed that there was implicit community representation and proceeded on that basis, via the institutions participating in the negotiations. This is an error of judgment, which has been based upon gross assumptions and has persisted over time, as the same approach appears to have been adopted in the formulation of the 2002 mining legislation. The sensitivity to the voice of the community as a stakeholder in their own right is necessary at all times; in other words, no activity (public or private) that has a material impact on the public, may credibly move forward without community involvement. Some of the proposals in this study, like the community leadership framework, could be useful in facilitating the acknowledgement and resulting inclusion of the community as a critical stakeholder, who (through their meaningful involvement) can enhance social value and create lasting outcomes.

It is apparent that relations between communities and companies are conflict-ridden and there is no trust between the parties. Better efforts aimed at community inclusion and participation could allow for clear expression of expectations, without which a social licence is not possible. It is critical that this process is clearly defined between communities and companies. While mining companies and communities, have previously relied on the IDP process to execute community development, this process has been presented as flawed, and needs serious review. The failure in its application makes it difficult for mining companies to be held accountable due to the blurring of responsibilities.

Additionally, as in other developing countries, it has led to the blurring of responsibilities between government and companies (Van Marrewijk, 2003). Where mining companies contribute towards projects, there are instances where they are locked into a process, which is supposedly legitimate, yet the community does not believe that the IDP is legitimate and credible, leading to failure. Government allocation of resources is another challenge as there are huge budget deficits and the range of projects at municipal level cannot all be satisfied. There are also instances of political manipulation of favoured projects at municipal level.

While there have been concerns raised in previous studies about the social licence and concerns of its validity, this study finds similar concerns linked to the absence of a clear process, and knowledge or awareness of what it is. Some of the key outcomes of this study are presented in a process, which can be adapted in similar contexts.

7.3.1 Research question one

This question explored the legitimacy factors that impact on the community's ability to enter into a social licence. The results supported the proposition. For example, while it was initially proposed that education levels have an impact on the community's ability to enter into a social licence (due to inherently low levels of education found in mining communities), this study confirms this, but also highlighted the need to fill broader capacity gaps (skills and know-how) at local government, industry and community level, that affect efficiency, awareness and long-term outcomes.

The complex state of "social factors" within the mining sector necessitates that those who operate within this discipline are equipped, informed and capable, in order to overcome the current impediments, which present broad social and economic risks. This means that companies cannot afford to put people who are *not* highly skilled, in positions where community engagement is at the centre of the enterprise's success. Companies also need to be sensitive to the subtleties embedded in language, and deploy candidates who can either converse in local vernacular languages, or provide for translation services to ensure active participation as well as instil deeper understanding and trust.

Capacity challenges have also been identified at municipal level. Due to the complexity of the mine-community relationship, municipal officials who are experienced/skilled and who understand development issues should be deployed, rather than political appointees. Finally, community members who participate in negotiations or on-going dialogue with the mining company must be trained or mentored to have a broader understanding of the mining industry, as well as participate in adult training initiatives.

The research confirms that economic factors have a direct impact on the community's ability to enter into a social licence. Due to limited opportunities, community leaders may compromise the community position through acts of corruption, or promises of economic enrichment. Mining companies have similarly been known to use their economic power to disrupt community efforts. The culture of an outward display of financial mobility by some of the leaders through status symbols is prevalent in communities (cars, cell-phones), and has led to wider mistrust in communities making it impossible for them to be credible representatives of community interests. Furthermore, it becomes difficult for true leaders to be seen and recognised as trustworthy.

The research strengthens the argument regarding the significance of social movements, and how they are often the starting point for working through political issues and social change. There are often transitions in mass movements as society changes and (as is the case in South Africa), **opposition takes a transitional form as well**. Conflict and opposition happens in unconventional ways, and outside of what is considered normal organisational channels (Gamson, McAdam, McCarthy, Meyer & Zald, 1996). Organisations exist not only in environments but also in society. Companies need to be sensitive to this, and understand that these movements and forms of opposition occur at different locations in the social structure, utilise different tactics, and have varying effects upon the organisation (Hunter, Suttles & Zald, 1985).

The emotive aspects described in the results, which are linked to South Africa's transitional discourse impacting on the community's ability to enter into a social licence, was not anticipated and is an aspect that has not been adequately explored in the study of the social licence phenomenon. It is possible that, had there not been multiple discourses, the experience would be different. The assumption that a transitional regime change naturally and automatically leads to a new and positive outcome is not true, as many things persist even after a transition. Communities were found to be angry and resentful towards mining companies, which significantly impacts even the prospect of dialogue between the parties. This seems to have been brewing for many years and has been left unattended.

Many individuals and groups within mining communities were active in the struggle against apartheid, as the mining industry represented oppression and a vehicle used by the apartheid government to extend its policies of segregation. Following the democratic process, there has been little meaningful change in communities, and some of the institutional measures aimed at redressing imbalances of the past have not had much impact at grass-roots level, leading to a permanent state of anger. The mining companies are perceived to perpetuate exploitative practices, with no accountability to the affected communities.

This is a risk that could have far-reaching (and damaging or permanent) consequences. Social tension is at a point where violence is becoming the expression of choice. Interventions that are inclusive of communities, and which demonstrate respectful and open dialogue could go a long way towards building trust, which is currently poor or non-existent, yet necessary for legitimacy and the social licence. It is clear that any entity wishing to enter into a social licence under the current circumstances is going to face a very difficult task.

Leadership legitimacy is a major factor, which has been identified as having a significant impact on the community's ability to enter into a social licence. During apartheid, poor black

communities were barred from participating in relations with mining companies. Following the democratic transition in 1994, municipalities were identified as the vehicle for democratisation of communities, and the platform for encouraging community inclusion. A local government system was introduced, which allowed for community participation in the form of “ward councils” and “councillors” who were publicly voted into positions as political appointees. These appointees became the “recognised” leaders in communities, but what this new system failed to acknowledge is that these people may be able to garner support for a political position in a local municipality that deals with the provision of services, but may have a very different role, when one is considering other community views outside of that political framework. The system assumes that just because these individuals are formally elected as local government representatives, that they always represent the communities’ interests.

Communities had (and still have) their unique ways of doing things prior to democratisation, which included a natural process where some individuals evolved into social or community activism/leadership, along with personal sacrifice for fighting a cause, and on some issues, are more legitimate representatives of community interests than the Ward Councillors. The system did not anticipate the possibility of community dissent, as it has similarly applied a local government model of community representation in mine-community relations. There has never been an effort at developing a diverse community leadership network/framework, with community leaders (who are not civil servants) at the centre. As a result, communities themselves are confused, and what they often expect from their local government representatives is (unsurprisingly) different from their reality.

As democracy evolved, newer political parties were introduced, with different ideologies and narratives. This means that even at community level, those people who pre-1994 represented a broadly consistent view as peers, are now joining these parties that have divergent interests, leading to a conflict of identity. It is very important to understand that political decisions in the South African context are very emotive, based on deep levels of historical identification with the dominant African National Congress (ANC) party, and deep levels of loyalty. It is natural for community leaders to identify dissent as betrayal. The process of democratisation at community level is “murky” and tied to municipal processes, and this does not work for the purpose of engagement with mining companies.

Communities also have diverse interests and needs, and therefore the ideal of having “a” community group representing the community is not possible to attain. In addition to this, communities are informal, diverse, dynamic and agile and “community legitimacy” needs to be a recognised influencing factor in defining leadership legitimacy. Municipal participation

should therefore be reframed to allow the community to participate as an independent stakeholder. Even though constitutionally, there are mechanisms in place for ordinary citizens to participate in development, this has become a politicised process. The understanding of the right to participate, even on an individual basis has been crowded out by formal processes that have begun to exclude those voices.

Even though this may only be the perception, it has become the rule and is 'the accepted practice' at grassroots level. This practice has become re-enforced on all sides, and has become a vicious cycle. The inclusion and participatory approach represented in the Constitution that allows for people to legitimately participate and have a voice even if they are not representatives of others, or elected into positions, is not the reality of everyday life within communities. Representation has become highly contentious.

It is currently not possible for companies to know if they are dealing with a legitimate stakeholder, leading to rejection of agreements and projects. A redefinition of leadership legitimacy with "community legitimacy" as an underpinning theoretical framework could facilitate the social licence process. This redefinition could culminate in a community leadership framework which could be applied and facilitate dialogue between mining and communities, while closely reflecting the reality at grassroots level. A new framework would likely make a positive contribution to industry players as well, since communities currently fail to adhere to the rigid requirements set by companies (e.g. registration as an entity), leading to further deterioration in relations between the parties.

The recent court challenge by communities was premised on ensuring that the Mining Charter is a critical tool at the state's disposal to ensure that mining-affected communities see real benefit from the mining that occurs on and around their land or dwellings. According to Lawyers for Human Rights, the communities asked the court to order the minister of mineral resources and his department to begin a fresh, properly constituted consultative process to develop and implement a new Mining Charter that reflects the rights and interests of mining affected communities. The Lawyers for Human Rights emphasised that a new Mining Charter is essential, as the current circumstances of mining-affected communities reflect that previous versions failed to deliver on the promises of the MPRDA, with respect to community upliftment and access to the benefits of mining. The process of drafting a new Mining Charter must reflect the direct interests and impacts on those communities in the Charter, to be utilised as a real mechanism for transformation of the industry, which was the original intention.

The legitimacy factors within communities would still need close attention and resolution, because without legitimate leadership, and genuine capacity building to support the process,

the practical aspects of the court judgment would be difficult to execute and oversee. It is still unclear which constituents took the matter to court, and whether they are broadly representative or not. Therefore, a broad-based approach, which considers the spirit of the law, and the use of effective leadership frameworks to address legitimacy concerns would be beneficial. Capacity programmes at all levels, including government to sensitise all stakeholders on how sensitive and nuanced community relations is would also add value. Unless the system or method of engagement changes, the prevailing symptoms will persist with no meaningful resolution.

Social licence dialogue is rapidly moving to other industries in South Africa, including agriculture, eco-tourism, renewable energy, and forestry and it is becoming more critical to resolve the current challenges.

7.3.2 Research question two

This question is aimed at exploring the key expectations the stakeholders have of each other, and the impact on the social licence. The study found that community expectations of companies are high, and that there are extreme levels of frustration due to the belief that mining companies have failed to comply with BBBEE regulations. In instances where mining companies do comply, the procedures followed are perceived to be unfair as they appear to favour the politically elite (usually individuals and not a broader group), leading to resentment. Instances where this has occurred have been reported in the popular press. The frustrations are exacerbated by the fact that in older communities many dedicated their lives to political activism from a young age, often sacrificing their own education in the process and are disillusioned at a new South Africa that has not brought change, especially economic change. Other expectations include being heard, being respected, integrity of processes, transparency and being respectfully and equitably consulted (bearing in mind that these things were absent in the pre-1994 years).

The main issue is that, despite these clear expectations, they are not expressed due to the absence of functional (non-political) platforms to do so. Initiatives aimed at establishing consultative platforms fail due to a number of factors, including (among other things) how they are constituted and questions on the legitimacy of representatives. Municipality-driven development processes have also been poorly implemented (or promised and not delivered), resulting in communities feeling helpless and excluded. There is also a common belief that mining companies impose their initiatives on communities, without asking them what they expect. In some instances, they only consult with segments of the community. All these factors have led to the overall rejection of mine initiatives.

The feedback and results from this study indicate that if effective engagement platforms were in place, community expectations could be more openly expressed, leading to discussion of viable solutions, thus satisfying some of the requirements for the social licence to be achieved. Without free expression of expectations and agreement on understanding, it is impossible to establish a meaningful social compact. This argument creates an opportunity to re-evaluate not only the stakeholders involved in the social licence phenomenon and their respective roles in the social licence process, but the methodology for communication too. It supports the need to build consensus-building engagement platforms, which are broadly representative and legitimately constituted.

Expectations in South African communities are fuelled by various factors, and there are persistent sensitivities and an increase in violence that makes resolution challenging and complex. For example, as a reaction to their discontent, there was a recent incident of petrol-bombing of a bus carrying mine employees on their way back from work. Reports suggest that this act of brutality was planned and executed by a group of community members who were bitter about not having access to employment opportunities at the mines, and who were under the impression that companies preferred to employ from outside the community. The historical practice of migrant labour is rebuked, but still happens in some areas, and such employees often live in informal settlements, as most mining companies do not provide accommodation. The matter is under investigation, and there could be other factors which influenced the event, but such strong perceptions cannot be ignored, especially since there are other industries where concerns are continually raised around community benefits and employment opportunities, resulting in strike actions or social unrest.

The social licence is a matter of national interest in South Africa and there should be momentum and attention on it from various spheres of society.

7.3.3 Research question three

This question explored the process that is followed to enter into a social licence within communities. The research question arose because it was not clear in previous studies how one enters into a social licence. The findings demonstrate that there is currently no recognised, credible or coherent process being followed, and community members are not aware of the requirement for them to participate in something known as a social licence. Community members are aware of legal licence requirements, which are often not implemented as expected. A social licence implies going beyond compliance with regulation (Gunningham et al., 2005; Prno & Slocombe, 2012). In the South African context, it would look like this: the Social and Labour Plan (SLP) process would follow the Environmental Impact Assessment

process, both of which would entail transparent consultation prior to granting of the license to mine. This consultation is intended to involve communities in discussion about project choices, and on-going dialogue and consultation once the mine is in operation. Once the compliance portion is dealt with, it has the potential to evolve to a shared value model where communities would have an interest in the mines and benefit from the value created via the mining activities and common projects (e.g. fighting crime together), and even participation by community representatives in social and ethics board sub-committees.

The existing circumstances are such that these positive outcomes are not able to be achieved, in spite of the potential for mutual benefit. The notion of an informal, non-written and voluntary agreement is questionable in a developing market context due to the complex nuances around governance and tensions in relations. If the spirit of the law was adhered to, the requirements of the social licence could be adhered to, but this is not the case. Some elements of a process were put together (Figure four) which incorporate some of the contentious issues, which if addressed could create a platform for the establishment of a social licence. These include the creation of platforms for engagement, stakeholder participation, governance structures, capacity development, agreement making and strategic oversight by the government.

Referring again to the recent landmark ruling, the Judge President highlighted that it was prudent for communities to be concerned regarding their exclusion, and that it should be properly recognised and addressed. The representatives of the mining communities are advocating for their recognition as interested parties in negotiations around the charter, and its ultimate formulation, and saw the judgment as a major triumph for recognition of the plight of communities, saying that it is a victory, binding the president and the minister of mineral resources to be inclusionary towards mining- affected communities. Despite this victory, there are no clear criteria on how to move forward. The question of who is a legitimate beneficiary is a complex one, and affects the communities directly. Is it any black person who is entitled to this concession, and shouldn't they at least establish some form of attachment to the land to be mined? Shouldn't the dispossession or harm they suffer, if they are not compensated in the manner of shareholding be quantified? These are complex questions that are still to be debated and will probably be contested (Venter, 2018).

As indicated in the discussion of the historical context, land rights and ownership is an emotive issue in South Africa. Most dispossessed South Africans do not have a legitimate claim to land, other than the implicit promise in the Constitution that the mineral wealth of the country belongs to "all who live in it". Some rural communities may have a historical claim to the land, in some instances through communal structures but with apartheid (which restricted access

to all kinds of resources) and urbanisation there has been a range of consequences which include the dismantling of food production systems; the loss of traditional livelihood-generating economic activity; disturbance of peace and tranquillity; and increase in crime; pressure exerted on social and community infrastructure; environmental disturbance; and the disruption of their cultural heritage.

All black people in South Africa consider themselves to be indigenous and are affected parties. However the majority have no formal or legitimate ownership/claim to land, which means that they may not qualify for compensation. The government did not provide enough detail in the legislation to give guidance to deal with all these deeply sensitive issues, and as a result, the land restitution policy has been poorly implemented. In spite of the spirit underpinning the legislation, its application cannot be left to the goodwill of those who administer it. The land redistribution question is a further cause for political and social unrest in South Africa today, adding to the already unresolved layers of inequality and historical pain.

Ownership of land is not just a contentious issue in South Africa, but is common to most African countries. While the rights of landowners may be protected, there are many communities who do not have a tangible claim or right to the land, other than the philosophical separation of land from mineral rights – where minerals belong to the government - and by implication the black majority. This promise and legitimate demand for consultation carries even more weight for communities who are rightful owners of land and are recognised as such under the relevant traditional authority's legislation, or if they can prove historical eviction (where the land restitution legislation is obligated to remedy the situation). Even so, communities expect and indeed, deserve) inclusive participation, despite the technicalities of land ownership. The appalling state of devastation, desperation and hopelessness among citizens will continue to persist in post-apartheid communities across the country if this is not fairly and skilfully attended to. The feedback from communities is a stark reminder of this.

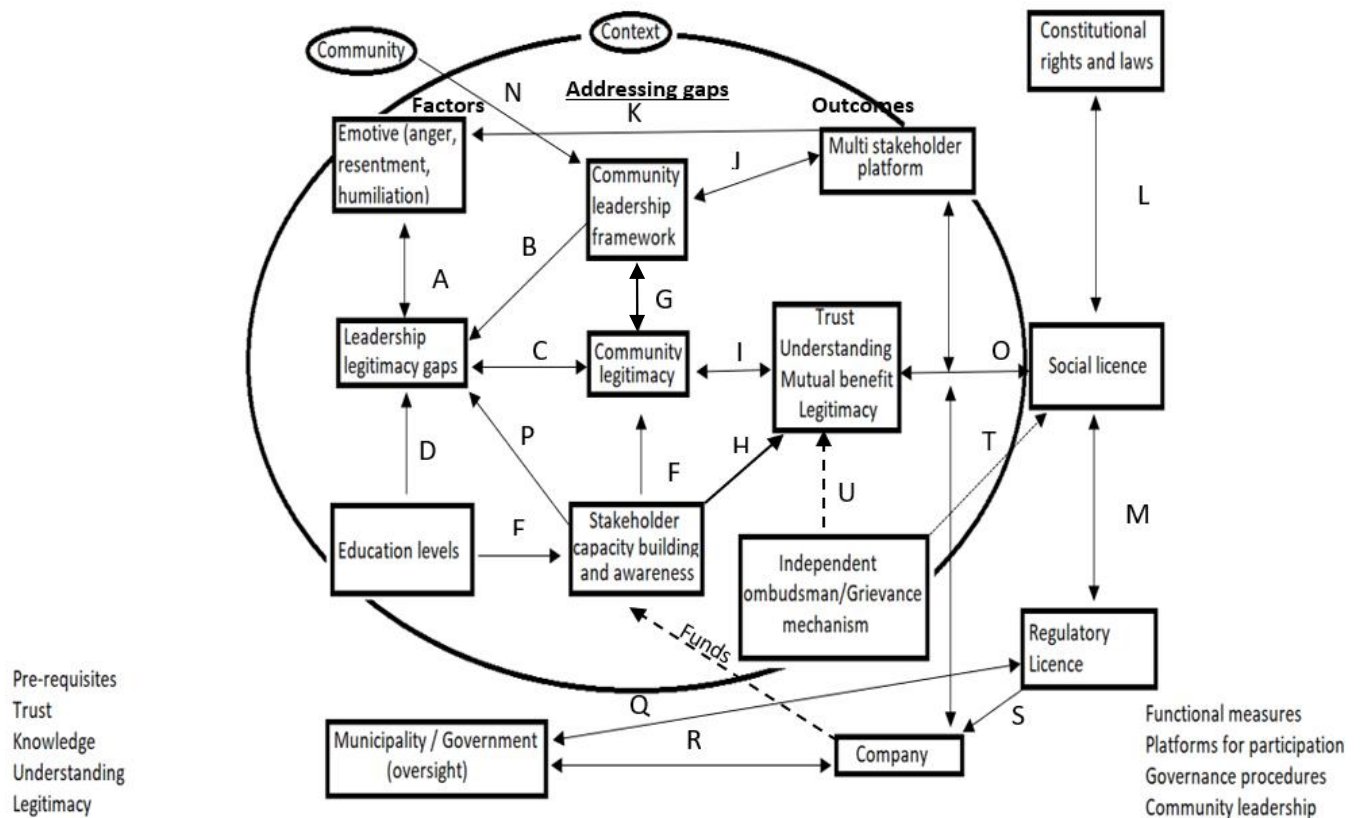
7.4 South African model for social licence

A conceptual model was proposed in Chapter three (Figure two). The model had three pillars, which were interlinked, and it was hypothesised that if these were satisfied, it would lead to a social licence. These pillars were: legitimacy factors within communities, key expectations of legitimacy between communities and companies, and the social licence process having an impact. Some legitimacy factors were identified, even though these had not been explored thoroughly in previous studies. Those identified included the power of communities, ability to consent, economic factors, education factors and leadership legitimacy.

This study adds a new understanding of the social licence, in the form of emotive factors linked to transitional discourse. Leadership legitimacy has been described previously as a factor which influences the social licence (Wilburn & Wilburn, 2011), but this study goes further by describing an extension to legitimacy theory, in the form of “community legitimacy”, a new term introduced in this context which was found to have a direct and fundamental impact on leadership legitimacy. Furthermore, this study had surprising results where it was evident that there is no model for community leadership, and thus proposes a framework to bridge this gap. The necessity for capacity building, which goes beyond education levels, was also identified as a pre-requisite for effective implementation.

While the initial model identified that expectations of legitimacy between the parties would have an impact on the social licence, the model has been reconceptualised and updated to reflect the current *status quo* within mining communities. A fundamental issue is that the parties do not have a platform where it is safe or conducive to express mutually understood expectations. Therefore, platforms for effective expression of expectations are recommended. Finally, while the conclusion of the literature study through the initial model highlighted the prevailing uncertainty around process, this study not only confirms this, but advocates a different process in the new model which incorporates the complexity that this research has shown. Therefore, the extension of theorisation for the social licence phenomenon is incorporated through the introduction of “community legitimacy”.

Figure 5: Social licence model



In explaining the new model (Figure 5), the study identified in relationship A, emotive factors and leadership legitimacy gaps as key legitimacy factors which impact on the social licence. These factors have a direct and dependent relationship. The negative emotive issues cause relations between the parties to be weak and therefore negative, which in turn reduces the possibility of addressing leadership legitimacy concerns. Conversely, if a legitimate and effective leadership structure was in place, the emotive issues could be expressed and resolved, thus shifting the negative emotive state to a positive one, which would have the potential to reach a social license agreement. These emotive issues linked to historical context and non-consultation are spreading to other sectors, and some of the experiences from the mining industry do not seem to be transferring to these industries (like the renewable industry). For example, soon after the court ruling, there was community unrest in some parts of South Africa, which centred around resistance to the government programme on renewable energy (linked to loss of jobs from the coal industry) and suggestions that the consultation process was not all-inclusive.

As expressed in relationship B, leadership legitimacy remains the core issue in so far as community consultation is concerned. The absence of a legitimate, and recognised community leadership framework, or how to achieve it (or perhaps in some cases the deliberate avoidance of it), and the subsequent absence of legitimate leaders perpetuates conflict and dissatisfaction. The key players in government and industry do not seem to have a grasp of the underlying issues. Even with the recent court ruling for example, which supports community consultation and recognises that the interests of the communities have equal weight to those of other stakeholders, the issue of leadership legitimacy remains unresolved.

The judge in his ruling did not go as far to suggest that the three organisations that escalated the matter adequately represented all mining-affected social groupings in the country. Nor did he suggest that they have a contribution to make to the overall thrust of the charter (Venter, 2018). He was simply concerned that, as parties that had already been granted the right to intervene in the process, they had been excluded from the last-minute talks between the president and the industry body (Chamber of Mines). Communities may still find themselves sacrificed in the interests of a few well-placed groups and individuals who claim to speak for them. Even though the fact that these groups are interested cannot be disputed, their representivity is still unproven; therefore the legitimacy issues at grassroots level remain a risk. And this risk is one for the country at large. Devising a community leadership framework is therefore an urgent and necessary step to address the leadership legitimacy gaps.

Relationship C highlights the significance of community legitimacy as expressed in this study, and the key role it could play in addressing the leadership legitimacy gaps. Recognising community legitimacy as a key construct would reduce leadership legitimacy gaps. Maintaining the status quo is not an option, as leadership legitimacy gaps are likely to widen. To illustrate this point, the proposed Mining Charter makes provision for the establishment of a Mining Transformation and Development Agency (MTDA). This is the entity intended to manage the various Community Trusts (which are prescribed as part of the BBEEE ownership structure proposed in the Charter) which will, in each case, own eight percent of shares of the company that has the mining right.

The representatives of the mining-affected communities argued in court that the Charter fails to specify how people will be appointed to the MTDA, who will be eligible and what skills or qualifications they will be required to have. These are not unimportant questions, but what is of concern is that the present applicants appear to constitute a self-selected insider group and may well have an advantage when the MTDA's officers are appointed. At its core, the issue is about positions, power and ownership (Venter, 2018). What has played out during this court

process is very symptomatic of what is happening at grass roots level, adding more weight to the findings of this study that representation needs to reflect community legitimacy nuances.

There also appears to be a lack of overarching leadership at government level in so far as policy change and consultation. This could well be linked to capacity issues around the complex, and nuanced, nature of community relations in South Africa. As mentioned, this is filtering to other sectors as well, and is of serious concern since there is a direct interplay between the social licence, the ability for the sector to grow and demonstrate value, and regulation. The terms of the regulation and the manner in which it is applied to ensure that it fulfils the spirit of both the law and the Constitution, is a necessary platform for the social licence, without which its existence would be questionable. Community legitimacy and leadership legitimacy from a community perspective therefore needs to be a key consideration for law makers. Similarly, accountability mechanisms for its support and enforcement need to be in place and must be captured in mining regulation so that trust in the process can be established.

Education, as expressed in relationship D is another key factor which has an influence on leadership legitimacy. As the complexity around community relations with mining escalates, education levels will play a greater role in the extent to how effectively various stakeholder groups are able to influence dialogue, and whether the legitimacy gaps are bridged. An increase in capacity, knowledge and skills would naturally broaden viewpoints, increase understanding, and build unity and trust, thereby increasing the potential for consensus within structures (such as a multi-stakeholder committee), and the exploration of creative alternatives or solutions. This could address the void, which exists currently, and replace the *status quo* with a new leadership legitimacy approach, which could be tested, formally documented, reviewed and then applied. The presence of legitimate, principled leadership would create further opportunities for capacity building and knowledge-sharing, within stakeholders and across stakeholder networks.

As an extension of this, relationship E highlights the linkage between education levels and stakeholder capacity building and awareness. It is clear from recent events that capacity building is needed at all levels, including government, industry and community levels. The prevailing process of drafting regulation, which often excludes communities is a factor which contributes to the emotive issues. Regulation in South Africa, specifically within the mining industry was developed as a mechanism for correcting the wrongs of the past, and was negotiated in a tripartite process involving the government, labour and industry representatives. Ironically, the process excluded communities as stakeholders in the

negotiation, leading to a perception within communities that no one cares to listen to their concerns, and re-creating the fears of the apartheid past, where government “decided” for them how things should be.

The recent court ruling in South Africa, in instructing government about the imperative of consulting communities, was merely reminding those in power that consultation is implicit in the constitution, and the regulation which was intended to protect the right of vulnerable stakeholders has been violated. What makes this situation more sensitive is the fact that government is expected to protect the interests of the community and the reality that many within the communities would have voted the government into power. The communities had gotten to the point of desperation, where they had to turn to the judiciary to remind government of its duty to protect their rights and interests through the necessary consultative processes. This highlighted the need for all stakeholders to make a greater effort in understanding the factors which are building blocks to effective relations between parties, and which could form the foundation of the social licence.

This capacity building would contribute towards both the recognition and application of community legitimacy in engagements with the community, as expressed in relationship F. South Africa is at a sensitive phase as there are efforts at making progress in other industries in which community consultation and (by implication) the social licence, is necessary for operations. These industries include the renewable industry, forestry and even unlikely industries like agriculture, the service industry and fast-moving consumer goods. Listening to and addressing community concerns in a manner that respects the contextual factors is no longer a “nice to have”, but is a critical aspect of doing business. All stakeholders therefore need to increasingly take social issues seriously and acknowledge where there are gaps in knowledge or understanding with community related matters. This includes the government, which very often assumes to know what communities want, and what is good for them.

As expressed in relationship G, community legitimacy has a positive relationship to the community leadership framework and *visa-versa*. Community legitimacy is the central construct on which the others depend. If this can be addressed and validated amongst the stakeholders, it could culminate with a credible leadership framework. The leadership framework would in turn support the establishment of multi-stakeholder forums. The forums would encourage the expression of expectations (Wilson, 2016), as would community inclusion (Owen & Kemp, 2013), compliance with legislation (Prno, 2013; Prno & Slocombe, 2012) and government participation (Zhang et al., 2015).

Expression of expectations is the basis of the social licence (Moffat & Zhang, 2014; Parsons et al., 2014). The reason community legitimacy is central is that without revisiting and redefining legitimacy, and the process towards achieving legitimate representation, the framework would not bridge existing leadership gaps (Wilburn & Wilburn, 2011), and stakeholder platforms would continue to fail. At the same time, community legitimacy and stronger structures foster deeper relationships and a more empathetic appreciation of the concerns and views between stakeholders, which in time may result in satisfaction of the pillars of the social licence (trust, legitimacy, and understanding).

Addressing some of the gaps described as an outcome of this research would, in the author's view, lead to positive outcomes for the social licence to be achieved and honoured, creating an environment for progress. Relationship H in the model makes the case that capacity building at government, industry and community level would lead to trust, understanding, mutual benefit and legitimacy, which are pre-conditions for the social licence. Community legitimacy mutually supports trust, understanding, shared benefit and legitimacy, when it is applied, as expressed in relationship I. The resultant outcome is the social licence as expressed in relationship O. Conversely, these factors can reduce community legitimacy, and in turn have a negative impact on Relationship O (social licence).

There have been various efforts at establishing representative bodies, which have not worked, due to the challenges with leadership legitimacy. A community leadership framework, which adopts community legitimacy at its formulation, would create a positive basis for a functional multi-stakeholder forum. Relationship J, expresses the importance of the community leadership framework on the establishment of an effective multi-stakeholder platform, which would result in a positive feedback loop and similarly enhance the community leadership framework. A functional stakeholder forum would create the necessary platform for expressing expectations and would lead to a reduction in the emotive issues in communities as expressed in relationship K.

The social licence is directly influenced by the inter-linkages between the various pieces of legislation, as expressed in relationships L and M. Unlike other contexts, there is a stronger connection between the social and legal licence in South Africa. The regulatory process in relation to the social licence and broader beneficiation and rights is flawed, and is one of the key factors influencing the outcome. Even if amended in its current form, the situation is unlikely to change, as the spirit and intention of the mechanisms are not being embedded in practice. The cause of perpetual dissatisfaction is the lack of redress in mining communities and the failure of the legislation (or the way it is being implemented) in its current form to offer

broad based benefits at community level. This is exacerbated by the perceived failure of government to hold mining companies to account for failing to transform in line with regulation.

Rethinking the regulations to incorporate some of the prevailing and deep-rooted factors in communities could be a key consideration. Regulation provides a favourable context for the social licence and a review should make provision for broad inclusion and inputs at community level, which would support broad-based economic empowerment instead of benefitting the few. The positive outcome of such changes would only come to fruition through effective leadership participation at community level, and a truly representative mechanism which would make it possible for all groups within communities to have a voice. This would immediately signal to communities that they have an authentic channel for their grievances, which would address some of the emotive issues and create a conducive environment for relationship-building.

A concerted focus on all these factors that have been shown to be an impediment to the social licence would create the necessary environment for trust between all stakeholders (government, communities and companies). Without trust, it is difficult to establish goodwill and co-operation, and the social licence cannot be established. With trust, emotive issues can be addressed amicably, and expectations can be set. The dialogue around social licence should be extended to incorporate all these factors as without them, the requirements for a social licence cannot be satisfied and the court instruction will not achieve its intended outcomes.

The methods that have been applied over the past twenty years are no longer relevant as the world has changed, along with the politics and economy. It is clear that some fundamental shifts are needed, to change this situation (or risk greater levels of anger and even violence) as well as a totally different approach, which would have the potential to lead to social contracts that can ensure the achievement of mutual benefits - that so often appear out of reach. Part of the lesson is that legislation often does not come with scripts for practical application, leaving each stakeholder to decide what is best and making monitoring challenging. This also creates loopholes for opportunism to permeate the social development agenda. Adopting a new approach could serve as a way of injecting goodwill and positive intentions into one effective programme. The revisions could incorporate different guideline documents, to thoughtfully and sensitively address the complex issues and give clear guidance on what has to be done, as well as what success would look like. Of importance is the inclusion of communities through a broad, open process which will limit the risk of any claims of non-consultation, even following the court ruling.

This model proposes a redefinition of roles, and particularly emphasises a fundamental shift in the role of the municipality to conduct oversight (compliance) activities rather than speaking on behalf of communities. The municipality is a service provider to its constituents, and is a distinctly separate stakeholder from communities. Communities are distinct from their elected political representatives in the municipality. Thus, even though they reside in a municipal area, they are not the municipality. These two have become conflated over time. There is a perception that if communities elect a ward councillor, they may always represent or speak for communities. Once a ward councillor has been voted in, they become representatives of the municipality, which serves as a separate stakeholder group. Therefore, democratic electoral processes of the municipality cannot be assumed to lead to leadership legitimacy in communities.

The articulation of these separate (although linked) roles would allow for better monitoring of accountability (including community and mining company accountability) when it comes to social conflicts, and a stronger role for communities to hold municipalities accountable. A redefinition of roles would allow the recognition of the community as an independent stakeholder and hold representative processes specific to the community, rather than applying municipal processes.

Historical practice has been of municipalities entering into partnerships with mining companies and taking the lead role in the constitution of platforms for dialogue. A new leadership framework should be divorced from municipal processes, and representativeness defined in line with the reality in communities. In other words, a municipality, although its representatives come from the community, is a service provider and cannot replace the various relationships that the community and its other representatives have with the mine or other entities. Municipal processes are not the only challenge, the framework would be all-encompassing, and must address the diverse and broad-based nature of communities.

The social licence is an outcome of a system that is crucially dependent on authentic and effective participation between the key stakeholders (company, government, communities). With a re-definition and refinement of roles and relationships, as proposed in this study, opportunities for improvement can materially reduce the tensions, social divisions and underlying risk that is a current characteristic of the mining industry in South Africa. Acknowledging the painful reality that a change in government regime has not miraculously healed or solved the legacy of the past, and that indeed, resentments and marginalisation has possibly worsened in these communities due to the underlying factors explained in this study is necessary.

Communities are of course the key participants in the process, as expressed in relationship N, and have to evolve to a stage where they build their own capacity and own their voice and how it is expressed. This includes acknowledging their own reality and looking beyond self or group interests to recognise their diverse and agile state in constituting their own voice. As the various stakeholders reinforce community legitimacy, the environment for a social licence is continually reinforced as expressed in relationship O. And, as all stakeholders are capacitated, as expressed in relationship P, leadership legitimacy gaps would gradually become narrower. As a result of capacity building and a more nuanced understanding of what is happening at grass roots level, government at both local and national levels would similarly be compelled to influence the regulatory licence and effect the necessary changes in a meaningful manner, as represented by relationship Q.

The relationship between government and companies would yield mutually positive outcomes as seen in relationship R, while the regulation licence would become better defined, with clear guidelines to companies as expressed in relationship S. Accountability is fast becoming a key priority, and independent structures for stakeholder accountability (including government accountability) need to be considered. Such structures would need to be skilfully constituted to such an extent that their findings would carry weight in a court of law. The consideration for a body similar to an independent Ombudsman for the mining industry could be one of the alternatives, as proposed in relationship T. Such a body could play a positive role in addressing the complex matters between the various stakeholders and this could lead to trust, understanding, mutual benefit and legitimacy as expressed in relationship U.

Even though the relationship between the government and communities is complex due to historical factors (and the fact that to some extent, some within communities struggle to differentiate between their role as community members and their role as government representatives at municipal level) this study and the court ruling demonstrate that the government is not a legitimate representative of communities. To a large extent, the government itself may not have a social licence. An independent body would provide a useful mechanism for all stakeholders to express their grievances as they arise.

7.5 Contribution of the study

7.5.1 Introduction

The experience in the field was very different to the author's expectations. Since there was not much prior research that focused on the social licence, the author went into the field expecting to answer broad research questions, based on the literature. The research questions pre-empted or assumed a certain degree of organisation and/or understanding at community level. There was an expectation that a social licence would either be a recognised concept, or was in place (as a tangible output) between mining companies and communities, suggesting that a formal process had occurred. The inquiry instead found that the organisational capacity did not exist as expected, or exists in a different form. As a result, communities do not consciously issue a social licence or grant consent for activities having an impact on them, and in some instances, do not even understand the requirement or expectation on their part to do so. The findings therefore contradict some of the trends cited in the literature. This has enhanced the understanding of the social licence phenomenon, as well as realising the importance of authentic stakeholder engagement. The findings came as a surprise to the author, as was the extent of anger directed towards mining companies.

It became clear that the expectations communities have (of mining companies) remain largely unmet and unexpressed, while contextual socio-economic issues prevail. The majority of community members are excluded from the mainstream economy, and their patience is running out, while the measures for redress are seen to favour a few political elite. These frustrations are largely unexpressed, or the expression is through violent protests, which can easily spread to the entire country and bring the country to a standstill, as communities mimic each other when it comes to group behaviour and social unrest.

It is important to urgently communicate the findings of the study which highlights the dissatisfaction with the government role in development planning, and compromises the legitimacy of the local government as a stakeholder in the process. Therefore, since development planning is a regulated responsibility of local government and would happen even if there was no mining, government can take a different role as the current IDP process as it relates to mining, is broken. This would allow for clearer accountability and agreement making between mining companies and communities.

A new community leadership framework would be instrumental in this agreement making. The government role would thus be to monitor compliance with legislation, and continuing with its

development work. When mining companies participate in development work, they fail to contribute to the creation of vibrant economies in mine host communities. When expectations are expressed and acted upon, the legitimacy gap would narrow, and social licence requirements can be satisfied.

7.5.2 Theoretical contribution

The study of the social licence has been largely from a legitimacy theory perspective. Legitimacy theory is however an organisational theory, as it refers to the actions of an “entity” being desirable (Suchman, 1995). The definition has remained influential and has strongly informed theorisation of social licence (Thomson & Boutilier, 2011). The extent of stakeholder influence in assessing such legitimacy is contestable (Parsons et al., 2014). This study makes a contribution by highlighting that communities are not able to influence the social licence with the current theorisation of legitimacy from an industry perspective, and highlights the need to incorporate community specific legitimacy, which reflects the reality in community (diverse, informal, broad representation, dynamic). This study extends theorisation of legitimacy as it relates to the social licence by adding the “community legitimacy” element.

Community Leadership legitimacy has not been explored in depth in previous studies. There have been studies that highlighted the conflictual nature of communities. This research shows that challenges with leadership legitimacy in communities cut-across the various stakeholder relationships and efforts. This study makes a unique contribution by highlighting the need for a “leadership framework” specific to communities, which would address some of the legitimacy challenges. Such a framework would recognise the community as a stakeholder, while allowing the community specific nuances (community legitimacy which incorporates the dynamic, informal and diverse attributes, community independence and capacity) to be incorporated in defining leadership legitimacy and selection processes at community level.

In the South African context, this study highlights the need to build capacity at all stakeholder levels (company, local government, community) and recognise community relations as a discipline. This extends Kemp’s (2010) findings that community relations need formalisation. In the South African context, however, this capacity building extends beyond company representatives to municipal representatives while incorporating communities. The complex nuances that were established in this study necessitate that those who participate in community relations matters should be equipped for the task. This is unfortunately not always the case, which only compounds existing challenges. The transitional state of the country, and the social movement transition, which unfortunately is not well understood or appreciated,

significantly impacts social performance outcomes on the part of government and mining companies. Capacity building in this area is necessary, as is willingness to adapt.

This study also makes a contribution by adding to the body of knowledge that highlights the overlap between company and community roles (Van Marrewijk, 2003). This is a major issue in developing countries. This study proposes that the development planning process of local government in South Africa should be revised to allow communities to participate. Company-community agreements and/or priorities should be between these parties, with municipalities playing an oversight role. The community leadership framework would support this change. Development planning is a standard local government process. Unfortunately, the current IDP process, even though it may work for municipal planning, has not been effective at addressing challenges as community level. It has instead contributed to the heightened frustrations while blurring accountability lines.

The study also highlights the deep and complex nature of discourse transition, and that mining companies have to ensure deep contextual understanding and context specific interventions. These would contribute towards overcoming of the deep and sensitive emotive issues linked to discourse transition, which are often an impediment to the social licence process.

Finally, this study makes a contribution by suggesting a social licence process, addressing some of the prevailing criticism of the social licence.

7.5.3 Methodological contribution

The social licence is a phenomenon that is relatively new and which was first introduced from a practitioner perspective. Some of the papers are part of industry reports and consulting reports, while some papers did not have methods sections. While the case study approach has been adopted previously in the study of the social licence (Hall, 2014; Prno, 2013), there are very few studies that have conducted case studies specifically with communities. This study was focused on contextualised explanation of the social licence.

The focus was also on explaining why events occur in the way they do (Welch et al., 2011) which was crucial for the social licence which lacked depth of analysis. The approach adopted contributed towards gathering of rich data, as was not done before, highlighting deep, and often-sensitive emotive issues. Rigorous analysis methods were used, which allowed for rich themes, highlighting linkages that were not evident in previous literature, which can be explored further.

7.6 Areas for future research

The social licence to operate is a relatively new concept, making its study both interesting and challenging at the same time. Its initial focus was on the mining industry, but it has since been studied and applied in other industries as well, including the forestry and energy industries.

This study was conducted in a developing market setting where there are suggestions of failure to comply with regulation. It would be interesting to explore further the relevance of social licence in similar contexts and how the social and regulatory licences influence each other.

Diversity of community interest and the need for broad representation were highlighted. It would be interesting to study if there could be multiple social licences within a community, since the idea of a community as a “unit” is challenged. Studies of multiple social licences have been conducted (Dare et al., 2014), but none has focused on the multiplicity from within a community.

This outcome of the study introduced the concept of “community legitimacy”. Further study of this concept to build the theory of legitimacy would be interesting. Measurement of the different dimensions of community legitimacy in communities would be a good focus area, as would be exploration of this concept to establish if there are any more dimensions linked to it.

As this study also recommends a community leadership framework, a study which would look deeper into the elements of such a framework would add significant value.

This study identifies capacity building as a key focus area. Further studies could look at the skills, knowledge, experience and attitudes that those who deal with social licence matters in developing markets should have, using the South African example to start off with.

7.7 Limitations of the study

This study focused on two communities within the same province in South Africa. Even though the communities were vastly different, choosing communities in different provinces may have led to a more nuanced understanding.

The findings cannot be generalised to other contexts, however the patterns and themes identified could be compared with other cases, and the case findings could be transferred.

Themes for possible future research were also established. This study was designed to focus on the community, and the focus was on communities in municipal areas. Communities with traditional authority or those who own or may have previously owned the land were not studied.

Although industry, government and industry body representatives were interviewed, the number of these representatives was lower compared to the community members. It would be interesting for future studies to focus equally on both communities and companies, in order to enhance the understanding of the social licence from a community perspective. The study was an exploratory study, and as a result, the approach was open, which gave the interviewees an opportunity to share a great deal of information; however, the issues that surfaced were not all explored in great detail due to time constraints.

7.8 Implications of research

7.8.1 Regulators

The government has a duty to administer the mineral dispensation with a social conscience. This study identified some key short-comings from a regulatory point of view, which if addressed, could improve relations between the various stakeholders, contribute towards efficiency in government, furthermore supporting effective social and economic development in communities.

This research suggested that the role being played by the government in terms of social protection and enforcement is too passive, and its impact is not felt at community level, particularly as it relates to monitoring compliance, and holding industry (or others) to account. Concerns around the lack of skills, especially at local government level, and the failure to oversee some of the critical processes (such as socially beneficial development planning) were highlighted. The implications for government would be to facilitate the up-skilling of staff members, ensuring that regulated processes are adhered to, and facilitating transparency and equitable processes in mine-community developments.

The regulators can also support discourse transition processes while breaking down the complexity by not taking the community role, especially at local government level.

7.8.2 Practitioners

Much has been written about the social licence from a practitioner's perspective, however there has been a challenge with the practical application of the social licence, and

understanding it from a community perspective. The findings of the study can influence practitioner thinking, where some of the constructs, approaches and processes can be utilised in practice.

7.8.3 Communities

This study is useful for communities too, and should allow them an opportunity to reflect on some of the factors such as framing what is meant by 'leadership legitimacy' and how they can build capacity from within the community, and influence change. This study can also guide communities to question their own ideologies and their relevance (for example reflection on self-appointment) and contemplate forms of adaptation, which may be necessary to reflect their own reality. The outcome of this study should also guide on-going dialogue in communities.

The importance of these stakeholders cannot be overstated. The success of efforts to establish a social licence depends on the willingness of all parties, including government, to engage in constructive dialogue; the ability of industry proponents to understand local needs and culture; and the ability of local stakeholders to actively shape relations and outcomes to reflect their own values and expectations (Wilson, 2016).

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APPENDICES

APPENDIX A: SEMI STRUCTURED INTERVIEW QUESTIONNAIRE: COMMUNITY MEMBERS

Semi –structured interview guide (Community Members)			
Name of interviewee		Date of Interview	
Time of interview		Physical address	
Name of interviewer		Designation of interviewee	
Introduction		Who the author is, background, ethical issues (anonymity, confidentiality, what will happen to findings). Share how long the interview will last, establish rapport. Interviewee can introduce themselves as well and share background information related to the study they are comfortable sharing.	
Construct	Question	Probing Questions	Notes
1.INTRODUCTORY QUESTIONS TO THE PARTICIPANTS	1.1 Tell me a bit about yourself. 1.2 Tell me about your Community. 1.3 How long have you lived in The community? 1.4 What is your role in the Community? 1.5 How long have you held this Role? 1.6 How were you appointed to the role?		
2.KEY ELEMENTS OF LEGITIMACY WITHIN COMMUNITIES NECESSARY TO ENTER	2.1 Leadership 2.1.1 Tell me about leadership in your community.	Prompts: • Who are the leaders in your community? • What makes them recognised as	

	<p>2.1.2 Tell me about the relationship between your community and the company.</p> <p>2.1.3 How do community members communicate their needs to the company?</p> <p>2.1.4 Tell me about the relationship between the community leaders and the community.</p> <p>2.1.5 Tell me about your interactions and experience with community leaders.</p> <p>2.1.6 Share your views on the ability of the leaders to defend community interests with the company.</p>	<p>leaders?</p> <ul style="list-style-type: none"> • Who represents the community in meetings with the company? <p>Prompts:</p> <ul style="list-style-type: none"> • What views do community members hold about community leaders? • Do community members have a voice (on their own and through leaders)? <p>Prompts:</p> <ul style="list-style-type: none"> • How do they get their mandate? • How do community leaders consult with the community members? • Do they influence the mandate • Do they use power? • Do they listen to the concerns of the community? <p>Prompts:</p> <ul style="list-style-type: none"> • Do you think they have what it takes to defend community interests? • Does the community have agreement on what the common interest is? • How is this established? 	
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	<p>2.2 Community structure</p> <p>2.2.1 In your own words, describe what you mean by the word “community”.</p> <p>2.2.2 Tell me about the structures in your community?</p> <p>2.2.3 Tell me about how community structures work with the company?</p> <p>2.2.4 What conditions would make it optimal for people within a community to be able to clearly present their needs to the company?</p> <p>2.2.5 What is the process of deciding on community priorities?</p> <p>2.3 Cohesion</p> <p>2.3.1 Tell me about how the community members work together to achieve community goals.</p>	<p>Prompts:</p> <ul style="list-style-type: none"> • Who is part of the community? <p>Prompts:</p> <ul style="list-style-type: none"> • How do people work within the structures? <p>Prompts</p> <ul style="list-style-type: none"> • How is feedback received and communicated? • How are representations made to the company? • How does the company communicate its plans to you? Do you receive feedback? • How does your community present its needs to the company? Who is involved? <p>Prompts:</p> <ul style="list-style-type: none"> • Give examples of how this has worked? 	
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	<p>2.4 Power</p> <p>2.4.1 Tell me about your views on the power of communities.</p> <p>2.4.2 Tell me about how the community demonstrates opposition to the mining company.</p>	<p>Prompts:</p> <ul style="list-style-type: none"> • Has the community exercised power and influenced or changed company decisions? • If so, how was this accomplished? 	
	<p>2.5 Consent</p> <p>2.5.1 Tell me about how the community expresses agreement or disagreement with the company?</p>	<p>Prompts:</p> <ul style="list-style-type: none"> • Does the community grant consent? • How is this done? • Has the community expressed disagreement? • How has this affected interactions with the company? 	
	<p>2.6 Economic Factors</p> <p>2.6.1 Tell me about how community members make a living.</p>	<p>Prompts:</p> <ul style="list-style-type: none"> • Are they dependant in any way on the company? • What other sources of income do community members have? • Do they challenge company decisions when they consider them unfavourable to the community? • In your own words, tell me about the relationship 	

		community members have with the company, in instances where they depend on the company for jobs or business opportunities	
	2.7 Relationship		
	2.7.1 In your experience/view, what is the attitude of the company towards the community?	Prompts: • Does this attitude affect the community's feeling of legitimacy?	
	2.7.2 Have there been examples of co-operation and good outcomes between the community and the company?	Prompts: • What has changed/what is different?	
	2.7.3 What do you think both sides can do differently in their ongoing interactions?	Prompts: • What are some of the things that have come out of the relationship between the parties over the years? • What has worked?	
3. KEY EXPECTATIONS OF LEGITIMACY BETWEEN COMMUNITIES AND COMPANIES NECESSARY TO ENTER INTO A SOCIAL LICENSE	3.1 What are the community expectations of the company?	Prompts: • Are these in line with your expectations? • How are they formulated?	
	3.2. How does the community communicate its expectations to the company?	Prompts Please give an example?	
	3.3 How does the company respond to requests and concerns from the community?		

	3.4 How are records of decisions reached between the company and the community kept/managed?	Prompts: • Are such decisions recognised and implemented? • How does the community receive feedback from the company?	
	3.5 Tell me about how the community gets to know what the company expects of the community?		
	3.6 How have your expectations, if any, impacted on the relationship with the company?		
	3.7 How have the company expectations, if any, impacted on the relationship with the community?		
4. HOW DO COMMUNITIES ISSUE THE SOCIAL LICENSE IN TERMS OF THE PROCESS FOLLOWED?	4.1 How does the community express its views to the company?		
	4.2 What mechanism would you suggest for disagreement or as an expression of a grievance?		
	4.3 Has there been a formal process where the community signs off and give formal acceptance of mining?		
	4.4 As far as you are aware, does the mine follow any mechanism for sign off? If not what would you suggest?		
5. CLOSURE	5.1 If I have any further questions, is it ok if I contact you again?		
	5.2 Is there anything further, you wish to add?		

	5.3 Is there anything I did not ask you about, that you think is important?		
	5.4 Do you have any questions for me?		
	Thank you very much for your time. Explain follow up research process		

APPENDIX B: SEMI-STRUCTURED INTERVIEW GUIDE (OTHER STAKEHOLDERS)

Semi –structured interview guide (Other Stakeholders)			
Name of interviewee		Date of Interview	
Time of interview		Physical address	
Name of interviewer		Designation of interviewee	
Introduction		Who the author is, background, ethical issues (anonymity, confidentiality, what will happen to findings). Share how long the interview will last, establish rapport. Interviewee can introduce themselves as well and share background information related to the study they are comfortable sharing.	
Construct	Question	Probing Questions	Notes
1.INTRODUCTORY QUESTIONS TO THE PARTICIPANTS	1.1 Tell me a bit about yourself. 1.2 Tell me about your organisation. 1.3 How long have you worked in The organisation? 1.4 What is your role in the organisation? 1.5 How long have you held this role?		
2. KEY EXPECTATIONS OF LEGITIMACY BETWEEN COMMUNITIES AND COMPANIES NECESSARY TO ENTER INTO A SOCIAL LICENSE	2.1 What are the community expectations of the company?	Prompts: • Are these in line with the company expectations? • How are they formulated?	
	2.2 How does the community communicate its expectations to the company?	Prompts: Please give an example.	

	2.3 How does the company respond to requests and concerns from the community?		
	2.4 How are records of decisions reached between the company and the community kept/managed?	Prompts: • Are such decisions recognised and implemented? • How does the community receive feedback from the company?	
	2.5 Tell me about how the community gets to know what the company expects of the community?		
	2.6 How have the company expectations, if any, impacted on the relationship with the community?		
	2.7 How have the community expectations, if any, impacted on the relationship with the company?		
3. HOW DO COMMUNITIES ISSUE THE SOCIAL LICENSE IN TERMS OF THE PROCESS FOLLOWED?	3.1 How does the community express its views to the company?		
	3.2 What mechanism would you suggest for disagreement or as an expression of a grievance?		
	3.3 Has there been a formal process where the community signs off and give formal acceptance of mining?		
	3.4 As far as you are aware, does the mine follow any mechanism for sign off? If not what would you suggest?		

4. CLOSURE	4.1 If I have any further questions, is it ok if I contact you again?		
	4.2 Is there anything further, you wish to add?		
	4.3 Is there anything I did not ask you about, that you think is important?		
	4.4 Do you have any questions for me?		
	Thank you very much for your time. Explain follow up research process		