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The Economics of the Bakgatla-ba-Kgafela Tribal Authority:

Changing Forms of Chiefly Appropriation on the Platinum Belt.

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A thesis submitted in partial fulfilment of the requirements for the degree of Master of Arts at the University of the Witwatersrand, Department of Political Studies,

2014

Declaration

I declare that this is my own unaided work. It is being submitted for the requirements of the Degree of Master of Arts in Political Studies, at the University of the Witwatersrand, Johannesburg. It has not been submitted for any degree or examination at any other university.

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Gregory Maxaulane, 2014

Abstract

The thesis seeks to explore how the flow of platinum mining capital into the Bakgatla area has created contestations over the authority and legitimacy of the chieftaincy. Its central argument is that, although is constituted primarily as a political force, the Bakgatla Tribal Authority has its economics which enable it to function as a corporate entity with the capacity to collect revenues in various forms. In order to prove that the Bakgatla Tribal Authority has its own economics, the thesis uses a three tier analysis of the various modes through which it has been able to collect revenues since its restructuring by the colonial state and settler capital. The first forms of revenue collection by the Bakgatla Tribal Authority, involved direct appropriation of revenues from the subjects in the form of taxes, levies and fines. The second form of revenue collection involves direct engagement with mining capital. The Bakgatla Tribal Authority has been able to interact with mining capital at two different levels. At the first level, it interacted with mining capital as a form of modern landed property, and was entitled to ground rent in the form of mining royalties. At the second level of interaction, which brings us to the contemporary period, the thesis will explore how the Bakgatla Tribal Authority has emerged as a shareholding partner in mining projects underway in its area. As a community share holder it now receives revenues in the form of share dividends from company profits.

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Chapter 1

Introduction

The platinum mining industry plays a crucial role in South Africa's economy and its developmental objectives. It is the largest employer and the biggest contributor to the tax revenue base of the economy. South Africa is endowed with large reserves of mineral and metal resources. It possesses close to 90% of the world's platinum group metals, 80% of manganese, 73% of chrome, 41% of gold and the world's largest diamond producer (Brannigan 2009:7). Previously, gold held the biggest market share compared to other resources, however between 1994 and 2009, platinum took over from gold and went on to grow by a staggering 67% in market shares, while gold declined to 63%. However its geological location is within the Bushveld Igneous Complex (BIC), which falls underneath land owned by traditional communities in the North West and Limpopo provinces. Any form of intervention by platinum mining capital and the state in these communities has affected the form and function of these traditional authorities.

The flow of mining capital into the platinum rich traditional communities of the Rustenburg region in the North West province has created scenarios of contestation over the legitimacy of chiefly power and authority. The Mineral and Petroleum Resources Development Act of 2002 and the Mining Charter of 2004 requires traditional authorities to change their royalty arrangements with mining capital into a community shareholding structure. Through these arrangements tribal authorities in the platinum rich Rustenburg region have become recipients of revenue which is distributed to them in the form of dividends. The emerging contestations over the authority and legitimacy of the Bakgatla chieftaincy are linked to the control and distribution of revenues derived from platinum interests. During the time of writing the Commission on Succession Disputes was deliberating on cessation disputes and claims to the chieftaincy made by some members of the Bakgatla tribe. Chiefly authority and its powers over the control and distribution of revenues derived from mining capital is being contested along political lines and through competing claims over legitimate versions of history and custom.

The Bakgatla Tribal Authority and its functionaries have been subject to accusations of mismanagement and maladministration of tribal revenues derived from platinum mining capital. A number of court cases have been laid against the chief by members of the community. Some villages have tried to secede by drawing on new claims of political identity to contest the legitimacy of Chief Nyalala's authority. As of far, more than eight cases of either cessation claims or over allegations of corruption have been laid against Nyalala in the judicial courts. In the case, Pilane vs Pilane (263/2010 [2011] ZANWHC 80) (30 June 2011), some members from Mothludi village, where the Pilanesburg Platinum Mine is located, have challenged Nyalala's legitimacy as a chief and his capacity to control revenues derived from the mining project. Also charges of corruption and fraud have been laid against him in the case, National Director of Public Prosecutions v Pilane and Others (692/06) [2006] ZANWHC 68 (16 November 2006).

1. 2 Research Questions.

The central research question which informs this thesis is on what are the modes through which the Bakgatla chieftaincy is able to appropriate surplus? Three factors are to be explored in this theme; the first one is on how the Bakgatla chieftaincy was able to appropriate surplus from its subjects during the colonial and late apartheid period. The second one, is on how was it constituted as a modern landed property through the tribal-title-trust-regime, a relationship that enabled it to engage with mining capital and appropriate ground rent in the form of royalties prior to the promulgation of the MPRDA. The last theme to be explored is on how the Bakgatla Tribal Authority has been able to transform from a form of modern landed property to a form of capital under the auspices of the current mining and land policies and the contestations that have emerged over the control and distribution revenues derived from platinum mining capital.

1. 3 Traditional Authorities in South Africa.

The function and authority of traditional authorities in South Africa were reconstituted by the colonial state and settler capital through legislations that sought to mobilise notions of community, tribe and customary authority over communal land. To fuel capitalist development, the central state instituted a number of legislation which included the 1913 Native Land Act, the 1927 Native Administration Act, the 1937 Native Trust and Land Act

and the 1959 Bantu Authorities Act which was the precursor to the formation of the Bantustans. These legislations formed the core of the political force through which traditional authorities appropriated revenues from their subjects and capital. Africans were dispossessed of their land and denied access to sufficient means of subsistence, through which they could support their livelihoods without the need to sell their labour. They assisted in the development of the South African capitalist economy, by systematising the supply of bonded labourers and migrant labourers to the mining industry. These forms of labour were the major sources from which the Bakgatla chieftaincy collected revenues in the form of taxes, levies and fines.

The trusteeship role of traditional authorities over communal land enabled them to engage with capital as a form of modern landed property entitled to revenues in the form of ground rent. As a form of modern landed property, the Bakgatla Traditional Authority has been able to engage with platinum prospecting and mining capital since the early 1920s and has been receiving revenues in the form of royalties up until the institution of the (MPRDA) Minerals and Petroleum Resources Development Act in 2002. Under the MPRDA, the Bakgatla Tribal Authority has transformed itself from a form of modern landed property to a form of mining capital. The royalty arrangements that it had with platinum mining capital has been transformed into a community shareholding system that enables the tribal authority to receive revenues from dividends.

1. 4 Theoretical framework.

Although the theoretical chapter starts by interrogating the literature on the dominant approaches to the African chieftaincy and its various forms of revenue collection, it will broadly rely on a Marxist theorisation of its political and economic elements. Most of the dominant approaches on the African chieftaincy, focus more on the political forces that constitute the institutional structures of the chieftaincy and enable it appropriate revenues. In a sense the thesis will broadly rely on the Marxist approach to conceptualise the evolving forms of surplus appropriation by the Bakgatla chieftaincy. It will argue that, the restructuring of the Bakgatla chieftaincy and its establishment as a form of modern landed property is undergirded in the history of Africa's late capitalist transition in the world economy.

It will argue that, it is possible to apply Marxist concepts to explain the political and economic aspects of traditional authorities by acknowledging the different forms assumed by capitalist relations in Africa, in relation to rural social formation. It will show how migrant labour and bonded labour as the differential forms assumed by wage-labour in Africa's path of primitive accumulation were one of the earliest sources of revenue collection for the Bakgatla Traditional Authority, through extra-economic coercion. It will also show how the Bakgatla chieftaincy as a form of modern landed property was able to appropriate ground rent from platinum mining capital in the form of royalties. Lastly it will apply the Marxian concept of Ricardian reformism, to explain how nationalisation of mineral resources under the state as one of the accumulation strategies of capital, enabled the Bakgatla chieftaincy to transform itself from a form of modern landed property to a form of mining capital.

1. 5 Methodology

The thesis is based on a single case study focusing on changes over time in forms of surplus appropriation by the Bakgatla Tribal Authority. The single case study method, as a form of qualitative research enables one to explore specific historical events and help support the deconstruction and the subsequent reconstruction of various phenomena (Baxter and Jack, 2008: 544). It also enables one to look at subunits that are situated within a larger case and it "is powerful when you consider that data can be analysed *within* the subunits separately (within case analysis), between the different subunits (between case analysis), or *across* all of the subunits (cross case analysis)" (Baxter and Jack, 2008:550). However the pitfall of the single case study method is that one may analyse at the subunit and fail to return to the global issue that they initially set out to address (Yin, 2003). The Bakgatla case study as one amongst many mineral rich tribal communities in South Africa can be used to understand the similarities and differences on the impact of the state's mining and land policy across cases.

The approach used in this research involved a systematic analysis of secondary literature, archival documents, personal documents collected from individuals during field work, court documents, media reports and information downloaded from company websites. The archival research covers material collected from the National Archives in Pretoria and the North West Provincial Archives. The documents contained information on how the Bakgatla

chieftaincy appropriated surplus from the subjects, through tribal levies and taxes. They also contained information on the farm purchases by the Bakgatla chieftaincy and correspondences with government institutions that oversaw these purchases. More so information on the apartheid order prospecting and mining contracts that were signed by the Bakgatla and various mining companies was also obtained from these archival records.

The information on contemporary property interests of the Bakgatla tribe were collected from various mining deals and concessions entered under the MPRDA dispensation. As part of the research I collected court documents from the Competition Tribunal in Pretoria. The documents included court judgements on company mergers and ventures which involved Bakgatla interests. It is from these documents that I was able to obtain information on the community shareholding interests of the Bakgatla tribe in platinum mining projects that are underway in their area. Due to complications in the North West Provincial High Court I could not obtain some of the files which contained information on the various cases filed against Chief Nyalala in the Mogwase Regional Magistrate's Court and the North West Provincial High Court. The court files were declared missing from the Court Records apparently after the Judge President Mogoeng Mogoeng declared that there should be a national audit of all the finalised cases. This however seemed like a smokescreen, since no one from the North West High Court could locate them. Efforts to obtain the Mogwase Court file on the Chief Nyalala case were also futile as the Court Manager could not locate the files. It would have been substantively helpful for the thesis to obtain these court files because they contain affidavits from the concerned parties and information on the corrupt business transactions which Chief Nyalala is alleged to have been involved in.

For further information on mining projects currently underway in the Bakgatla area the thesis also relied on information retrieved from company websites and media reports. The media reports contained information on the contentious issues within the community over the awarding of some contracts to mining companies and allegations of corruption by Chief Nyalala. The thesis also relied on personal documents collected from concerned members of the community, local government officials and mine officials. Community members from whom documents were collected include those belonging to organisations such as the Bakgatla-Ba-Kgafela Community Propoerty Association (BBKCPA), the Concerned Bakgatla Anti-Corruption Organisation (COBACO), the Lesetleng Land Committee (LLC) and the

Bakgatla-Ba-Kgafela Traditional Council. Some of the community organisations were formed by descendants of the original land purchase syndicates who are involved in land claims against the state and the chieftaincy.

1. 6 Structure of chapters.

The first chapter seeks to construct an appropriate theoretical framework for the analysis of the economics and the evolving forms of revenue collection by the Bakgatla chieftaincy. It is divided into two sections, the first section will start by focusing on the dominant approaches to the African chieftaincy, which focus more on the political forces that constitute the chieftaincy and enable it to appropriate revenues in various forms. The second section of the chapter will attempt to theorise the economic and political features of African traditional authorities within Marxist theory of primitive accumulation. In order to put a case for the Marxist approach to the economics of the chieftaincy, it will raise the inadequacies and limitations in the ability of these dominant approaches to capture the varying economic features of the African chieftaincy, particularly the evolving forms of revenue collection that are specific to the Bakgatla chieftaincy.

The third and fourth chapter assesses the evolving forms of surplus appropriation by the Bakgatla chieftaincy within the conceptual framework of historical materialism argued for in the first chapter. The third chapter looks at how the Bakgatla chieftaincy was able to appropriate surplus from its subjects through different forms of wage-labour relations using extra-economic coercion and as a modern landed property through ground rent. The divergent forms assumed by wage-labour in African rural formations were unique from those of classical capitalist societies. The differential forms assumed by wage-labour in colonial and apartheid South Africa included the migrant labour, labour tenants or bonded labour systems. It is from these forms of wage-labour that the Bakgatla chieftaincy appropriated surplus through state mediation under the 1913 and 1937 Land Acts, and a number of complimentary Bantustan legislations. With the support of state legislation the Bakgatla chieftaincy collected taxes, levies and fines from tribal members.

Beginning from the early 1920s it started to engage with mining capital as a modern landed property. It was able to appropriate ground rent in the form of mineral and surface royalties from platinum prospecting and mining capital. Using different archival documents the

chapter will explain how the Bakgatla chieftaincy as the jural custodian of tribal land entered into mining agreements with different companies. Since this early exploring period, platinum mining revenues have become the most significant form of surplus appropriation for the Bakgatla chieftaincy.

The fourth chapter explores the shift in the methods through which the Bakgatla Tribal Authority appropriates surplus from platinum mining capital under the Marxian concept of Ricardian reformism. The Marxian concept of Ricardian reformism explains how capital seeks to eliminate modern landed property and increase its accumulation strategy through the nationalisation of land and landed resources. The nationalisation of mineral resources under the MPRDA, combined together with the neoliberal global economic environment and the ANC class project enabled the Bakgatla chieftaincy to transform itself from a form of modern landed property to a form of mining capital. The MPRDA encourages tribal landed properties to convert their royalty streams with platinum mining capital into community shareholding arrangements. The Bakgatla tribe as an equity shareholder are entitled to mining revenues in the form of dividends from company profits. To explain how the Bakgatla chieftaincy controls and distribute these revenues the thesis will rely on information collected from various sources, which include court documents, media reports, information downloaded from company websites, personal documents collected from individual, company officials and government officials. It will also show how the flow of these platinum revenues has created new lines of political contestations over the legitimacy and authority of the Bakgatla Tribal Authority.

Chapter 2

The Politics and Economics of the African chieftaincy.

This chapter is divided into two sections. The first section explores the dominant approaches to the African chieftaincy and its forms of revenue collection. In the second section I will explore the viability of the Marxist approach as an appropriate analytical framework to the economic and political aspects of the African chieftaincy. The principal argument in the dominant approaches to the African chieftaincy is that, the institutional features of the African chieftaincy and its forms of revenue collection are to a greater extent determined by political forces rather than the economic forces that constitute it. Key to this argument is Mahmood Mamdani's (1987 and 1996) assertion that, African traditional authorities were restructured by the colonial state as a solution to what he calls the 'native question', which was an administrative problem that the colonial state and settler capital faced during their encounter with African rural subjects.

In trying to theorise the economics of the African Chieftaincy and its various forms of revenue collection, Mamdani (1987) uses the concept of extra-economic coercion. What this concept implies in its Marxist sense is the use of political force by the capitalist class in its path to primitive accumulation. However Mamdani applies this concept under the assertion that the chieftaincy is constituted through a combination of political forces, rather than a fusion of political and economic forces. The argument that traditional authorities are able to extract revenues through a combination of political forces is also articulated by Sarah Berry (2001) and Catherine Boone (1990), who both offer an institutionalist account of the African chieftaincy which describes the modes through which it is able to extract revenue, as rent seeking and politically mediated.

Although the analytical concepts developed by these scholars are helpful in identifying the institutional structures that constitute the African chieftaincy, they over emphasise the extent to which the political forces that constitute it, determine the manner in which it is

able to collect revenues. By overlooking the economic aspects of the chieftaincy, they fail to capture the interrelationship between constitutive political and economic aspects of this institution. Some of the forms of revenue collection or surplus appropriation by the Bakgatla chieftaincy are determined by a set of market and economic conditions. These include its ability to appropriate surplus from platinum mining capital through royalties and equity dividends. Therefore the frameworks they use to theorise the economics of the chieftaincy are inadequate in analysing forms of revenue collection that are rooted in land ownership.

The second section seeks to disqualify the conceptualisation of the African chieftaincy as a purely political phenomenon by highlighting the limitations of these arguments through a materialist analysis of the chieftaincy. Using Capps (2010) Marxist conceptualisation of the chieftaincy as a form of modern or tribal landed property, the section will show how as a landed institution the chieftaincy assumes the class function of modern landed property in relation to productive capital. It will argue that the political instances of the chieftaincy are phenomenal forms which are abstracted from the essential relations that constitute them. The abstraction of these relations lies in the capitalist mode of production and the dialectical relationship between its essential relations and the phenomenal forms it assumes in concrete situations. The constitution of the chieftaincy as a modern landed property lies in the history of Africa's late capitalist development. The concepts of wage-labour and modern landed property assume different forms when applied to concrete phenomena, such as the African situation. By mediating in capitalist relations as a modern landed property the chieftaincy is able to appropriate surplus from both free wage labour and capital.

2. 1 The Chieftaincy as a Political Force.

Most scholars on African political and socio-economic structures recognise the fact that pre-colonial forms of power were transformed and redefined by the combined impact of slave trade, merchant capital, missionaries and colonialism (Mloka 1996:173). The political, administrative and economic prerogatives of tribal authorities were restructured by colonial authorities in order to create both an enabling environment for the political governance of the subject population and to best suit the accumulative interests of settler and global capital. What were previously flexible and dynamic African laws were redefined, fixed and

codified by colonial administrators into customary law in line with the imperatives of colonial rule.

The sources of power and authority for pre-colonial leaders were based on popular and democratic forms of government which straddled between kinship and clan based alliances. Although chiefs derived most of their powers from communal land tenure relations, these powers were not fixed, rather they were flexible and susceptible to the influence of all the members of the community. Contrary to Berry's (2001:xix) and Boone's (2003:27 and 322) argument that chiefs derived their political staying power and material foundations from pre-colonial politico-economic stakes of communal cohesion, hierarchy, modes of labour control and land allocation, the pre-colonial powers of the chieftaincy were only based on the "control of bride worth within the lineage mode of production" (Neocosmos 1993:62). Thus the powers of the chiefs were not based on their control over land, rather they were just representatives who controlled access to land, maintain peace between land using and defending territorial integrity on the basis of membership or political allegiance (Biebuyck 1963:52).

More so access to land fell under a system of complimentary interests held simultaneously, which means that land tenure was both communal and individual (Bennet 2008:381). It was individual in the sense that if a member of the community was allocated a certain piece of land the chief ceased to have power over it, for example in Zambia before 1900 individuals had rights over land which they cultivated and chiefly authority had no jurisdiction over it (Colson 1993:141). The precise meaning of the term 'chiefly allocation of land' in these instances was very ambiguous, it did not necessarily mean authority, rather it was more of an administrative act (Okoth-Ogendo 2008:114). It is also important to mention the fact that these communal and individual tenurial relations meant that land had little exchange value (Okoth-Ogendo 2008:105).

Thus in the pre-colonial period access to land was more or less governed by social relations which were non-market and non-coercive. It is after the introduction of slave trade, mercantile trade, colonial and settler capital that land started to gain its commodity status. The import of market relations by imperial and colonial capital helped "transform the powers of the chieftaincy to ones based on land" (Neocosmos 1993:15). The social relations

which constituted pre-colonial tribal authority and communal land relations around the African chieftaincy were restructured by colonial powers to meet the demands of the world economy and empire, and also to subordinate African labour to these demands (Capps 2010:94). However during this course of transformation chiefly authorities and their subject populations were not fully receptive to the newly instituted changes. They remained ambivalent and at times hostile to these newly instituted structural changes.

The antagonistic reception to colonial capitalist relations by African societies became an administrative problem which Mamdani (1996) termed the 'Native Question'. For Mamdani the native question was more of a political issue than an economic one. He argues that the institutional structures of tribal authorities were heavily determined by the political imperatives of the colonial state rather than issues of capital accumulation. Thus more than the economic imperatives, the organisation and reorganisation of power around traditional authorities turned on the imperatives of maintaining political order (Mamdani 1996:23). In this seminal work Mamdani helps explain and describe the specific nature of power through which the subject population was incorporated and not excluded from the arena of political power by the colonial state.

Initially the agenda of colonial capitalists was to transform indigenous land relations into private property. This was the case in Senegal, Kenya, Uganda, Zambia, Ghana, South Africa and many other British and French colonies. In Senegal as observed by Boone (2009) this move was kick started by the colonial state through the promotion of export led crop production done by peasants. This crop production led to the creation of indigenous aristocracies who either through political or lineage power increased the size of their land and at times rented out plots for commodity production. This was also the case in South Africa where the pioneer settlers and the colonial state promoted petty commodity production in the Eastern Cape where they introduced what was termed the 'Transkeian System' or 'Cape Franchise' (Delius 2008:223). Under this system Africans were allowed to partially exercise both their economic and political rights. This was done in the hope of breaking down the power of chiefs who were seen as obstacles to progress and fomenters of revolt. However due to the limited settler presence and financial resources colonial authorities were compelled to institute their 'hegemony on a shoestring', which entailed a form of indirect rule through traditional structures of power (Berry 2003).

Faced with resistance of both the chiefs and the subject population over these new commodity relations in land, the colonial state under Lord Shepstone in Natal started to back track from this policy and instituted a form of indirect rule (Mamdani 1996 and Delius 2008:223). Indirect rule entailed the transformation and restructuring of traditional forms of power and authority to suit the administrative and capital accumulation interests of the colonial state. Tribal authorities were re-established as ethnic powers which enforced custom on the subject population. According to Mamdani this policy was sought "to create a dependant but autonomous system of rule, one that combined accountability to superiors with a flexible response to the subject population and had the capacity to implement central directives with one to absorb local shocks" (1996:60).

In order to explain and describe the institutional features of this form of rule Mamdani (1996) uses the concepts of the 'bifurcated state' and 'decentralised despotism'. The colonial state was bifurcated in the sense that it contained a duality: that is two forms of power under a single hegemonic authority. The hegemonic authority functioned through an exclusionary character by establishing the civil and customary realms which were determined by race. Africans were governed as subjects through a customary realm which claimed to enforce tradition through the powers of tribal authorities. Chiefs as decentralised despots were then given powers as a bureaucratic command and control system which was strengthened and made accountable to the central state (Mamdani 1996:45). Customary law was used by the colonial state to consolidate the non-customary power of chiefs.

Land remained a communal or customary possession; but access to it was regulated by customary law. The strengthening of customary law and tribal authorities was done so as to establish a common property institution which could not be a private possession of either landlords or peasants (Mamdani, 1996:22). This communal tenure policy was an end result of two processes, that is, access to land was characterised by competition of markets and a variety of impositions from above by the colonial state. These socially and politically mediated property rights included the imposition of the force of the market, rather than market forces and the compulsion of political authority or institutionalised force which guaranteed the reproduction of communal property rights and the sanctity of contractual obligations (Hyden, 1999). The characterisation of commodity production relations as political mediated meant that there was a fusion of economic and political power on a

coincidence of economic and political monopoly which was engineered to extract surplus from the Africans who reproduced themselves independently of the colonial state (Mamdani, 1996).

2. 1. 1 Revenue collection by extra-economic coercion.

According to Mamdani (1996:33) the distinctive feature of the economy of indirect rule was a regime of extra-economic coercion centred on the unequal relations between chiefs and the free peasantry. Extra-economic coercion is a form of capital accumulation from above which Mamdani uses to characterise the use of political force by the chieftaincy to appropriate surplus from the subject population. Mamdani (1987) uses the concept of extra-economic coercion to make a distinction between peasant relations entered into voluntarily and those entered into involuntarily. Relations entered into "voluntarily arise out of the development of commodity relations and objective shortages of the various means of production which generate social inequality and relations of exploitation between emerging petty capitalists and poor peasants (Levin and Wiener 1997:157). Since Mamdani (1996) characterises the restructuring of tribal authorities by the colonial state as more of a political and administrative imperative, he focuses his attention on those forms of surplus appropriation which were mediated by the use of political force.

Extra-economic coercion as a form of surplus appropriation by the chieftaincy arises out of the traditions and customs which were recreated by the colonial state to codify customary land law (Levin and Weiner 1997:160). Under colonialism coercion became integral to the restructured chieftaincy, and its coercive powers were greatly enhanced from above through the institution of fresh legislation and structures of authority. Control over land allocation by the chieftaincy constituted the enterprise of the chieftaincy's coercive power because it created conditions of material dependency by the subject population on chiefly authority. Thus landlordism became a politically repressive relationship for the peasantry (Neocosmos 1993:14). In South Africa during colonialism and apartheid, forms of extra-economic coercion against the subject population emanated from the chieftaincy, the Bantustans state, the apartheid state and white settlers (Levin and Weiner 1997:160).

Extra-economic coercion denotes a form of resource appropriation from above or direct expropriation of surplus value from the direct producers by a class able to exercise some form of political power (Capps, unpublished:6). Forms of extra-economic coercion include forced extraction of labour, forced contribution in terms of money or commodities, forced land alienation and forced production of crops (Levin and Weiner 1997:159 and Neocosmos 1993:24). These were the various sources of revenue collection for the Bakgatla chieftaincy during its early colonial and Bantustan days. Through state coercion from above, chiefs could increasingly make demands on the time and money of their subjects. Subjects were made to contribute levies and taxes for the building of schools, clinics, tribal offices, and even contribute towards cars, houses and bride wealth payment for the chief (Delius 2008:228).

2. 1. 2 Chiefly revenue collection as rent-seeking.

The assumption that property relations are politically and socially mediated is also shared by Berry (2001), Boone (1990) and Mloka (1996). The powers of chiefs as property holders to the exclusion of others is guaranteed and conferred from above by a political body such as the state, whose powers are constituted and exercised independently of the production process and circulation of wealth (Berry 2001:xxii). Thus the powers to exclude others from particular resources is presumed to be guaranteed prior to and independently of the production process and circulation of wealth. Rent seeking happens when market price setting mechanisms are distorted by non-market forces. They are politically mediated opportunities for obtaining wealth through non-productive economic activity (Boone 2009:422). From an economist definition, rent seeking is regarded as unearned profits which derive from disequilibrium prices. It is based on "the idea of income generated from non-productive activity, income or profit which does not represent surplus value created through the combination of capital and wage labour (Boone 2009:425). Like the forms of surplus appropriation through extra-economic coercion mentioned in the preceding discussion, rentier forms of accumulation are also politically mediated.

Berry (2001) in her study of property claims in the Asante tribal authority argues that, "struggles over land have as much been about power and control of the people as about access to land as a factor of production"(2001:xviii). The link between land ownership and

chiefly authority has helped to institutionalise rent seeking. Berry argues that the allocation and transfer of authority over land served as an important avenue of political authority (2001:xix). Even in the post-colonial period the political relation to land access in the Asante chieftaincy has been sustained by "the state which still continues to treat land policy and administration as a source of rent, and subjects invested in land as a vehicle for controlling power as well as a source of social and political leverage as well as income" (Berry 2001:xx). Market relations in the Asante tribal authorities have not detached land claims from the social and cultural context in which they are made. Thus land claims in the Asante are still legitimated through socio-political and cultural relations.

Boone (1990) in an analysis of the sources, extent and social locus of indigenous accumulation in Senegal argues that "rural authorities established under colonialism still continue to maintain their position as intermediaries between the government and the market on the other hand, and the peasants on the other" (1990:428). She also uses the concept of rentier classes to define how the specifically political mechanisms and dynamics of the ruling class consolidation and cohesion have been used to indigenise the locus of capital accumulation. She defines a rentier class as the dominant social stratum which derives its economic and political power from direct access to the state, and its class relations are forged through clientilism and patronage (Boone 1990:419). The rentier class is co-opted into a national system of politics organised around the distribution of state controlled resources. It is part of a "class committed to a bourgeoisie project, the consolidation and effective exercise of its political power, and the existence of a state with the institutional political capacities needed to promote effectively the interests of the nascent capitalist strata" (Boone 1990:420).

According to Lund (2008), Nuggent (1999) and Boone (2005) and Boone and Daku (2012) the state in Ghana still continues to guarantee the chieftaincy's custodianship of communal land, and this has produced class like tensions which align the elites and the state against the poor in the battles of who controls wealth that come in the form of revenues. Statist land regimes rest on the authorities' coercive capacity and repressive capacity of the central state (Boone 2009:10). Tenure regimes are built upon rules about authority and citizenship entitlements structure access to productive resources.

Local chiefs of the Akan crown land in Ghana have been able to accumulate through a share cropping system that was instituted in the 1930's by renting out portions of land to migrant and settler farmers. Chiefly prerogatives over land were instituted to restrain the growth of land markets, but have since allowed chiefs to extract tribute, rents, revenues and profits from land at the expense of the subjects (Boone 2009:15). The politicisation or political instrumentalisation of land has enabled the state to influence the ordering and re-ordering of rural property relations (Boone 2013:189). Where markets are incomplete and deeply socially embedded as in rural Africa, the political and social relations that govern resource access are direct and explicit (Boone 2013:190).

2. 1. 3 Assessment of the dominant approaches to the African chieftaincy

The tendency to subordinate the economics of the chieftaincy to its politics by scholars interrogated above, has led to political reductionism, through inverting the analytical order of determination. The conception of the chieftaincy's monopoly control over communal as a number of socio-political and administrative powers with no economics are problematic. It fails to acknowledge the fact that the chieftaincy is a "fusion of distinctive political and economic moments, each with its own properties, effects and analytics" (Capps 2010: 34). Also Mamdani's application of the Marxist concept of extra-economic coercion is made problematic by his conceptualisation of the chieftaincy as a distinctively politico-administrative force. According to Peter Gibbon:

> "The actual basis of extra-economic coercion was not at all the 'fused' nature of political institutions. In fact, the order of causality in [his] statement is more properly reversed. Mamdani is guilty of confusing two different types of 'fusion'. Extra economic coercion primarily entails a fusion of economic and political power, not the functions of different state apparatus. This fusion itself rests on a coincidence of economic and political monopoly, in this case deliberately engineered in rural areas to extract-surplus value from a population who otherwise could and would have reproduced themselves independently of colonialism and the colonial state" (1993: 22).

The concept of rentier-class developed by Berry and Boone help identify the agents, groups and actors who are in a position to state power to their own advantage, but fails to analyse the manner in which the structural relations that enable them to do so are constituted

through a fusion of economic and political forces. The argument that land and property rights in African rural formations are still to a larger extent determined by socio-political relations and therefore can only be looked into as a social process rather than a set of initial economic or market conditions is very problematic. It is problematic in the sense that, to characterise communal property relations as non-economic because they lack individualised and exclusive forms of ownership is tantamount to using a purely economic understanding of property relations. Berry fails to recognise that the tribe can be constituted as "a corporate entity or 'individual' with the jural capacity to acquire property rights, enter contracts and incur obligations via the office of its chief" (Capps 2010:179).

2. 2 A Marxist analysis of the African chieftaincy.

This section seeks to analyse the conditions of existence of the African chieftaincy within the capitalist mode of production. Using the historical materialist approach I will argue that the chieftaincy as a form of modern landed property and a political institution has a historical specifity and is an integral component of Africa's late capitalism (Neocosmos, 1986:9). The section will look at how the chieftaincy is structured as a political and economic institution which is able to appropriate surplus through relations rooted in the system of petty primitive accumulation. Using Marxist concepts of modern landed property, wage-labour, and Ricardian reformism and the Marxist conceptualisation of the state as its central thesis, this section intends to explain how the Bakgatla chieftaincy has been able to appropriate surplus under the apartheid property regime, especially the old mining order and under the MPRDA in the post-apartheid mining order. It will argue that, the manner in which the institutional structures of the African chieftaincy and its ability to appropriate surplus, has been historically determined by the accumulative interests of capital.

2. 2. 1 The fusion between political and economic forces

To avoid an essentialist or teleological application of concepts and categories, one has to apply them from different levels of abstraction. Using the framework of materialist dialectic I intend to argue that Africa's unique capitalist transition can be read as a world historical phenomenon with a distinct form and content. Gavin Capps (2010), Michael Neocosmos (1986) and Jairus Banaji (1977) whose Marxist analysis of the African peasantry are of central importance in this section, contend that the concept of dialectic materialism enables

one to read the historical conditions of a social phenomenon, by developing their analytical concepts from the abstract level to the concrete level. Hence it enables one to broaden rather than limit their analysis of the specific political and economic instances that constitute African tribal authorities and enable them to appropriate surplus through a fusion of political and economic forces.

The central thesis of the concept of materialist dialectic is that empirical or concrete variables can not only be understood and explained from face value; rather one must first understand the abstract inner relations that constitute these phenomenal variables or forms. Although Marx borrows his dialectic from Hegel, his is not essentialist and expressive as is the Hegelian dialectic. Hence "as a result, terms such as contradiction, totality, history and dialectic change their meaning across Marxist and Hegelian dialectics, that is across their problematic" (Hudson 1994:256). In a sense causality is overdetermined and differentiated in the Marxist dialectic. Althusser (1969:122) identifies certain structuralism in Marx and heavily criticised essentialism and empiricism by arguing that they refer to a theory which conceives the autogenesis of the real as the genesis of the concept. Empirical variables must be understood as generalities which depend on already existing concepts which organise ordinary lived experiences and make possible the perception of concrete objects.

According to Capps (2010:46) the explanatory variables given by Mamdani (1996) "are largely derived through a process of empirical abstraction and they embody elements of the institution's outward appearance while failing to establish its conditions of existence". The same argument can be extended to Boone (1990), Berry (2001) and Mamdani (1987) analytical concept of rentier classes, which only captures the politically mediated forms of chiefly surplus appropriation. Mamdani's (1996) analysis fetishises the political instances of African chiefly authority and assumes that it holds an abstract meaning that embodies the whole of the social network that surrounds it. Thus he erases the social content of chiefly authority and imbues its political object with value. To borrow from Kortright (2009) he fails to acknowledge that the objectification of the political instance during Africa's late capitalist transition was a capitalist construction which has its basis in the dialectics of the commodity form. It is a deception for the fetish to be seen as self contained or as embodying the whole web of relations that produce it. In other words "the properties of things should be

explained holistically and structurally as manifestations of their reticulate intelligibility, as parts of an organic whole and not as products of mechanical causation and corpuscular collisions" (Kortright 2012:6).

The debate on the dialectic between essential relations and phenomenal forms in relation to peasantry social formations is also taken further by Capps (2010) and Neocosmos (1986) from their analysis of African social formations from the point of view of petty commodity production. Capps (2010:51) asserts that, "what makes social formations capitalist or not, is not their essential features (wage labour and capital); but the relations which structurally and historically explain their existence". Neocosmos (1986) in his analysis of the capitalist mode of production argues that "the distinction between essential relations and phenomenal forms opens up the possibility of the existence of a variety of capitalist forms which can be accounted for in other ways than as simple deviations from an ideal capitalism" (1986:9).

The theory of historical materialism that Capps (2010:51) extends to his analysis of the Bafokeng chieftaincy attempts to develop a phenomenal category that can relate forms of petty commodity production in African rural social formations to the ideal wage/capital relations of the capitalist mode of production and its contradictions. Neocosmos (1986:6) contends that there is a dialectic between value, surplus value, capital, wage labour and landed property which are the essential relations of capitalism and wages, prices, profits, classes and state which are the phenomenal forms of capitalism. The dialectic between essential relations and phenomenal forms allows one to view capitalism as a complex system which manifests itself in different forms depending on the existing historical contexts. Depending on the historical conditions, modern landed property just like any capitalist relation can thus manifest itself in different forms, for example tribal landed property. In other words capitalism is a complex system which can revive or sustain pre-capitalist social relations to serve its own interests as is the case in Africa's late capitalist transition process.

Late capitalist transition in Africa witnessed the utilisation of what might otherwise be deemed archaic or residual forms of semi-feudalistic relations such as the power of traditional authorities over communal land as forms of modern landed property. By

accusing Marxists of unilinear evolutionism and economic reductionism Mamdani (1996) and Berry (2001) fall prey to political reduction and fail to recognise the differing form and content that capitalist relations assume in different historical formations. In a sense feudal foundations have been used to aid the development of colonial capitalism in Africa. As a matter of fact colonialism in Africa was basically a history of capitalist enterprise subjugating peasant labour on specifically non-capitalist foundations (Banaji 1977:8 and 12).

2. 2. 2 Wage-labour and capital.

The African rural social formation in the colonial period was characterised by the contradictory combination of capital, labour, the state and modern landed property. Petty commodity production is constitutive of a dialectical unification of fundamentally opposed classes. In other words "petty commodity producers are capitalists and workers at the same time, capitalists because they own or have access to means of production, and workers because they and their family supply the labour necessary to generate use values" (Capps 2010:51).

During the course of colonialism petty commodity production in Africa did "not involve the direct separation of the producers from the means of production, nor drastic changes in the labour process" (Bernstein 1977:61). Rather it "was created on the basis of communal land relations through the imposition of basic infrastructure by the colonial state through the institution of the chieftaincy" (Capps 2010:52). For Marx primitive accumulation in different countries assumes different aspects and runs through its various phases in different orders of succession and different periods (Marx 1974:688). Capitalist relations during colonialism were established in the form of tribal state authority and communal landed property. In order to address the contradiction between the economic imperatives of establishing the conditions for colonial capitalist accumulation and the political imperative of establishing colonial domination the colonial central state created the chieftaincy as an economic institution which combined political and economic moments (Capps 2010:58).

In the classical path of primitive accumulation, the class of landowners emerges from the transformation and adjustments of the class of feudal lords, thus feudal landownership is transformed into a capitalist type of ownership of land. It is a process of dispossession of the means of production from the peasantry. Land is stripped from the peasantry through extra-

economic coercion and is transformed into a commodity through the introduction of private property and market exchange relations. At this stage of the road to capitalism, commodity production takes centre stage as an economic necessity; therefore commodities become material elements of constant capital, commodities are now produced for cash (Bernstein 1996:63). More so land becomes a tradable commodity by discarding all its former political and social embellishments and associations (Marx 1974:616). Pre-capitalist modes and relations of production such as feudal landed property, clan property and small peasant producers are transformed into the economic form corresponding to the requirements of the capitalist mode of production.

Deprivation and dispossession in terms of land start taking place at this stage of differentiation. The production cycle of the natural economy is thus broken through the imposition of taxes, use of coercive labour for building infrastructure to move commodities or forced cultivation of crops (Bernstein 1977: 62). Differentiation in class terms is an effect of the intensification of commodity relations since means of production are commoditised and labour power becomes a commodity exchange on a systematic basis. Labour power is valorised and dispossessed of its use values; it is transformed into a wage-labour relationship. However, depending on the existing historical circumstances, labour may still maintain some of its pre-capitalist characteristics; it can also still continue to produce use value resources whilst also being constituted as wage-labour through labour tenancy, sharecropping, and various kinds of bonded labour (Banaji 1977 and Capps 2010:85). These forms of relations are largely mediated through extra-economic coercion as is the case with the earliest forms of surplus appropriation that the Bakgatla first engaged in under colonialism.

2. 2. 3 Modern landed property and capital

It is not labour alone which is penetrated by market exchange relations, but land also. According to Neocosmos (1986:12) the development of land as a commodity with its qualities of private ownership is intimately related to the development of petty commodity production. Stripped of its feudalistic characteristics, the labourer becomes directly related to the capitalist who has invested on that land, whilst the capitalist investor becomes directly related to the landlord. Modern landed property also stands independently of

capital and the productive process; it thus expresses simply a legal relationship and not an economic production relationship (Milinois et.al. 2002:132 and Neocosmos 1986:9). Modern landed property develops a direct relationship with capital through the introduction of rent (the basis of landlord revenue) which is no longer extracted directly from the immediate producers as under pre-capitalist modes of production (Neocosmos 1986:9).

Ground rent in the capitalist sense "refers to the rent paid by the occupier of a section of ground and its substratum to the person exercising proprietorship over it in recompense for his occupation of that land" (Milinois et.al. 2002:133). The capitalist tenant, after investing in the land he derives an average rate of profit or surplus value. It is the excess portion of this surplus value which is extracted by the capitalist from the labourer by direct exploitation, by means of his capital, which he turns over to the landlord as rent. Through this relation of rent appropriation from the capitalist investor, landed property, although it is integral to the development of capitalism, it also stands in an antagonistic relationship with the capitalist accumulation process. Modern landed property just like any element of the capitalist mode of production is also determined by the existing social relations of power, it can also develop from pre-capitalist relations in land. Elements or instances which are assumed to have distinct effectivities or are sometimes believed to be autonomous of the economic realm, for example the chieftaincy in African rural social formations, a political entity may assume the role of modern landed property.

2. 2. 4 The state and capital.

During the development of capitalism, the politico-juridical formation that may emerge to govern the new relations of sovereignty and dependence in its mode of production may give rise to a new form of political power or allocate new roles to the already existing structures. Capitalist relations of production require the existence of a political organisation intended to impose and maintain the defined types of a material force or state and moral power (Althusser, 1970:178). The state as a political force sets the rules which organise capitalist exchange and provides the framework of cohesion in the commercial encounters (Clark 1988:15). It thus intervenes in the material process of production and establishes the social framework within which production takes place by constituting the agents who enter labour contracts and who owns the means of production as individuals or specific recipients of

revenues. The concept of the relations of production in a determinate mode of production is necessarily reached via the definition of the concepts of the totality of the distinct concrete levels of society and their peculiar type of articulation or effectivity.

2. 2. 5 Capital Accumulation and Resource Nationalisation

Marx's concept of Ricardian reformism considers resource nationalisation as a bourgeois reform that seeks to accelerate capital accumulation by eliminating the barriers presented by modern landed property in land based industries. In the capitalist mode of production, the power of modern landed property acts as a barrier to the free flow of capital onto the land and inhibits the development of the productive forces (Harvey, 1982:18). Capital and modern landed property enjoy a necessary but contradictory relationship and for productive processes to be revolutionised on land, the landlord must be reduced to a purely passive figure (Harvey, 1982:18).

As explained above, modern landed property is created by capital during the historical process of the transition from feudalism to capitalism. Landlords emerge after the peasants are dispossessed of their land through coercion and the land is transformed into a commodity through the introduction of private property and market exchange relations. Capital's access to landed resources is mediated by the landlords who enjoy a monopoly power as a distinct class which is distinct to surplus accumulation by capital through appropriating royalty and ground rent. It only enjoys this monopoly at the distributional level of revenues rather than at the productive level. By appropriating a chunk of surplus revenue through royalty and rent, it is therefore regarded as an obstacle to capitalist accumulation. The capitalist class "tries to overcome the obstacle of landed property, by either buying up the rights to the landed resource they seek to exploit, this is also called *de facto* abolition of modern landed property or by dissolving modern landed property as a private property and transfer it to the state for nationalisation (Capps 2012:317)

According to Ben Fine (1982:340) "under private ownership of modern landed property in the extractive industry where the patterns of land ownership are subdivided, for a reasonably sized mine to be established, terms would have to be negotiated with many separate landowners". Thus in situations where property is so minutely subdivided, the only way capital could freely flow onto or between lands is through state ownership (1982:340).

This factor also applies to situations where monopoly capital, as a form of modern landed property itself, may hoard the rights to mineral resources and therefore affect production. Nationalisation of mineral resources enables the modification of the social conditions that affect the accumulation strategies of mining capital (1982:340). The nationalisation of land and landed resources does not result in the elimination of modern landed property per se or the abolition of royalty and ground rent system. Rather, "modern landed property still remains separated from capital: it is merely the jural form and location of ownership that has changed" (Capps 2012:318). The state still continues to receive rents and royalties through taxes, which according to Marx is called 'universal state rent'. In a sense the state can still fulfil the class function of modern landed property (Capps 2012:318). In the extractive industry, it is not the state or private ownership of royalties as such that is important but the extent to which large enough mineral holdings could be leased to form mines of adequate size" (Fine 1982:341).

The nationalisation of mineral resources through the MPRDA has transformed the way the Bakgatla Tribal Authority is able to appropriate mining revenues. This transformation was also determined by other factors such as the historically given structure of mineral rights ownership by tribal landed properties during the transitional period, the accumulation trajectory of the platinum mining industry, the neoliberal global economy, the ideological dispositions of the class forces and interests within the African National Congress (ANC) led government. The last chapter of this thesis will use this concept of Ricardian reformism to explain how the nationalisation of mineral resources under the MPRDA enabled the Bakgatla Tribal Authority to corporatize its mining interests.

2. 3 Conclusion

Mamdani's analysis of the bifurcated state, and the form and function of decentralized despotism reifies the empirical abstraction of the political forces that constitute the African chieftaincy and enable it to extract revenues. It is also one of the mistakes that Berry and Boone are not immune from. As a conceptual framework, the theory of historical materialism enables one to observe the interrelationship between the constitutive forces of the African chieftaincy. The theory of historical materialism enables one to analyze the

fusion between the political and economic forces that constitute the African chieftaincy and enable it to extract surplus through various modes.

Chapter 3

Surplus Appropriation by the Bakgatla Chieftaincy

The first theme to be explored in this chapter is that of direct appropriation from the subject population. The historical materialist analysis of the institutional forms of the chieftaincy has attempted to show from an abstract level how the relations of extra economic coercion are rooted in the capitalist mode of production. Using different secondary literature and information collected from various archival sources I will explain how the dispossession of African land by European settlers in the Transvaal region from the early 19th century led to the establishment of a tenurial system that enabled the Bakgatla Tribal Authority to appropriate surplus from its subjects. The institution of tenurial relationships over tribal land and property helped in the establishment of a migrant labour system and bonded labour system that enabled the Bakgatla Tribal Authority to collect surplus from its subjects in the form of taxes, fines and levies.

The second theme to be explored is that of surplus appropriation by the Bakgatla as a tribal landed property, through ground rent. The tribal-title-trust regime that was prevalent in the Transvaal region enabled the Bakgatla Tribal Authority to engage in land purchases on behalf of the community. It is through these land purchases that the Bakgatla chieftaincy was able to constitute itself as a form of modern landed property. As a form of landed property, the Bakgatla chieftaincy was able to receive ground rent in the form of royalties from mining capital. Since the early 1920s the Bakgatla started to receive royalties after leasing out surface and mineral rights to prospecting and mining companies. Using different archival records I will look into the details of the prospecting and mining contracts that the Bakgatla entered into under the old order mining regime to explain how platinum mining revenues were controlled and distributed.

3. 1 Historiography of the Bakgatla tribe

The Bakgatla people are direct descendents of the house of Matshego who lived in the Hammanskraal District and “had no heir in his first house, only a daughter called Mosetla. But had a son in the second house called Kgafela” (Mohlamme 1995:2). The clan split on

who was to succeed Matshego after his death. Those who despised the idea of being ruled by a woman seceded under the leadership of Kgafela and settled in the Modern day Pilanesberg region to form the Bakgatla Bakgafela tribe. It is during the rule of Kgamanyane in the 1850s that the Boers started coming into Transvaal region that Bakgatla socio-political and economic relations were incorporated into colonial state and settler economy which was capitalist in nature. It is a period when the political economy of the Bakgatla tribe went through modification and restructuring.

There was another breakaway in the Bakgatla-Bakgafela tribe under the leadership of Kgamanyane when he fled Saulspoort for the Buchuanaland Protecorate (Mochudi in Botswana) to escape from oppressive Boer rule. Kgamanyane was publicly flogged by Paul Kruger for failing to supply forced labour to the white settlers. Those who were left behind remained loyal to the leadership in Mochudi as their paramount chieftaincy. After the Anglo-Boer war (1899-1902) Lentswe I the paramount Chief in Mochudi, who had succeeded Kgamanyane upon his death in 1874 tried to maintain his authority over the Bakgatla by asking the British authorities in South Africa to recognize his authority over the Transvaal Bakgatla.

Although the British refused to recognize his authority over the Transvaal Bakgatla, they allowed him to exercise his paramount chieftaincy over them by appointing a regent chief. The chiefs to have been appointed as deputies in the Transvaal are Dithlake (1900-1902), Ramono (1903-1917), Dialwa (1917-1922), Ofentse (1922-1942), Thari (1942-1949), Tidimane (1949-1995) and Nyalala (1996-present). The exercise of paramouncy by the Mochudi authorities over the Saulspoort chieftaincy has not been without conflict. Since the paramount chieftaincy of Lintswe II, the Bakgatla tribal authority in South Africa has attempted to claim its autonomy from the paramount chiefs in Mochudi. The challenge over the authority of the paramount was first initiated by Tidimane in 1995 when he challenged Lintswe II authority to decide who was to succeed him upon his retirement.

The succession dispute led to a subsequent court case after the two groups failed to reach a consensus on who was to become the chief at Saulspoort. Tidimane wanted his eldest son Merafe Ramono to take over the thrown, whilst on the other hand Lintswe II, the then President of the Bophuthtswana Bantustan, Lucas Mogoepe and Nelson Mandela the

President of the African National Congress supported Nyalala Pilane. After a ruling by the Supreme Court, Nyalala was appointed as Chief of the Bakgatla in Saulspoort on 6 April 1996. The South African government and judiciary system after this court case has recognized the leadership in Mochudi as the custodians of Bakgatla customary law (Mnwana 2013). Such interpretations of customary law were thrown into question in 2012 when the relationship between Nyalala and the current Bakgatla paramount chief Kgafela Kgafela. These disputes over the correct version of customary law are to a larger extent linked to struggles over tribal properties and resources.

Currently there is a sitting Commision of enquiry instituted by government to look into the battles over the Bakgatla chieftaincy and a number of court cases over the administration of tribal resources and properties against chief Nyalala. These can be conceptualized as battles over the control of surplus appropriation around the chieftaincy. The chapter shall look into the divergent forms of surplus appropriation around the chieftaincy in the Bakgatla tribal authority. It shall start from the period of the transformation of the chieftaincy in the late 19th century by the colonial state and settler capital. I will begin my analysis from what I shall term the period of appropriation through extra-economic coercion up to the period when the Bakgatla tribal authority began to establish itself a landed property in its relationship with mining capital.

3. 2 Appropriation from the subjects

Forms of surplus appropriation through extra-economic coercion were determined by the political and economic relationship between the chieftaincy and its subject population. Extra-economic coercion entails a point when the economic realm is mediated through a political relationship. During its early period the Bakgatla chieftaincy was able to appropriate surplus from the subject population by giving political sanctions. Colonial rule reconstructed most of the Tswana polities and enabled chiefs to appropriate surplus through mechanisms such as coerced labour, collection of tribal levies and taxes, or fraud and corruption.

The first Voorttrekkers (Boers) entered the Pilanesburg area in 1836 and they were looking to occupy land where they could graze their cattle and free from British rule (Croucamp 2011:2). Every settler could claim a farm of 3000 morgen and the magistrate would issue a certificate of occupation for that land (2011:2). To strengthen their hold over land Volksrad

in Transvaal passed a resolution in June 1855 which stated that no one who is not a recognized burgher shall have any right to possess immovable property in freehold. White demand for labour in the Pilanesburg area was offset against land tenure. White settlers depended on political mechanisms to gain access to labour, sometimes by securing and enforcing title to land on which Africans were settled and coerced or enlisted the assistance of chiefs and heads of settlements (Delius 1986:25). The main Boer notable in the Pilanesburg area from the 1850s to the 1970s was Paul Kruger who was involved in at least twenty six land transactions which he leased to African chiefs in return for labour and assistance on military incursions (Mohlamme 1995:3).

In, 1865 as a show of loyalty, Kgamanyane moved the Bakgatla capital to Paul Kruger's farm Saulspoort 269 (Croucamp 2011:4). The relationship between Kruger and Kgamanyane was dependent the provision of Bakgatla forced labour for many of his agricultural projects. The provision of African labour to Boer farms was integral to the duties of the chiefs and fundamental to their power (Mbenga 1997:134). As tenants on Kruger's farm the Bakgatla were forced to pay him in cash and livestock for rights to land as well as in labour tax. The Bakgatla regiments were used by Paul Kruger as auxiliaries in many of his raids against other African groups in far-flung parts of Transvaal (Mbenga 1997:135). Kruger allowed Kgamanyane to own guns and participate in profitable ivory trading across the Limpopo, and exempted his subjects from high taxes (Croucamp 2011:4). Kgamanyane and his followers were able to obtain wealth from cattle raids and by having access as tenants to the Boer farms, they were able to keep large heads of cattle and grow crops.

The Bakgatla did not only raid from weak African communities alone, during the reign of Lintswe I, they also used the 1899-1902 Anglo-Boer war as an opportunity to raid Boer cattle which were taken to Mochudi. This hugely increased their cattle holdings. In an affidavit dated 6 June 1900, filed by a farmer, Mr. Piet Swart to the Secretary of Law Department, he claimed that Lintswe I raided a certain 762 head of cattle that belonged to him and his brothers.[1] It was claimed that the cattle grazed within the Winterveld, within which the Bakgatla farms, Welgedacht and Doprnkloof are located. After the war in 1903 many Boer farmers in the Transvaal applied to their regional magistrates for permission to enter

[1]Source: LD. Reference/File Number: 134. Volume: 360

Lintswe I's territory in the Bechuanaland Protectorate, for permission to visit Lintswe's territory so that they could identify their cattle in his possession.[2]

The fledging mining industry in the late 19th century created a high demand for African labour. The colonial state started to strategize on how to secure the fiscal self sufficiency of the native population and compel them to enter the labour market (Delius 1984:222). One of the solutions to this problem was the need to increase the colonial state's capacity to judiciously tax the native population (Capps 2010:173). More so due to the failure of the colonial capitalist state to dislodge the natives from their land it crafted an ambiguously defined land title market and tenure system for the African population (Feinberg 2004 and Simpson 1986). The tenure system was meant to stop accumulation from below by the emerging commodity and use value producing African peasantry. From the period of the Reconstruction Administration of 1901 the colonial state began to reconstitute the powers of chiefs "as effective agents of rural social control on behalf of mining and other capital in the labour reserves"(Capps 2010:190).

The chiefs' command of landed property and the local state was strengthened in ways that enabled them to engage in new forms of accumulation from above. Not only did the new migrant labour system instituted from above benefit colonial capitalism, rather it also enabled chiefs to appropriate surplus from their subjects by reorganizing the administrative structure of chiefly authority and developing new forms of taxation and labour control (Manson and Drummond 1990:3) . Chiefs were able to mobilize tributary labour and deploy labour regiments to work in the Kimberly diamond mines. After the formation of The Native Affairs Department chiefs managed to use traditional councils to regain control over tribal dues, those who worked in the mines were levied by the chiefs. Chiefs were able to maintain control over these labour deployments through the issuing of passes and could use council funds to travel and examine the receipts of men employed in the mines. Those who did not pay taxes could be easily tracked down (Manson and Drummond 1990:7). The labour control system also led to corruption around the chieftaincy in the sense that if a person was not paying tribute or was disobedient he could not be given a pass to go find work (Delius 2008:226).

[2] Source: LD. Reference/File Number: 134. Volume: 360

The growth of the labour market as a top down imposition enabled chiefs to accumulate from above and whatever its ostensibly public purpose, the mobilization and levying of labour constituted an avenue of private chiefly surplus appropriation. The migrant labour system established new struggles over labour power and earnings, and also supported aristocratic attempts to enforce and strengthen communal tributary control (Capps 2010:162). Chiefs diverted the earnings obtained through levying migrant workers into either communal or private accounts.

Furthermore new powers and backing from a coercive state allowed chiefs to extract surplus from their subject. Subjects were made to pay taxes and levies for building schools, clinics and tribal offices. At a tribal council meeting in 1955 Tidimane was accused of misappropriating tribal funds, but at the meeting he declared that the tribal account had no money upon his assumption of chieftaincy.[3] He publicly declared that he had a private fund which was allowed him by the Union Government Native Affairs Department[4]. Tidimane was further accused of misappropriating the funds from money levied during 1950-1951 for the purchase of a tribal bus which never materialized.[5] Subjects were also compelled to contribute towards cars, houses and bride wealth payments for the chiefs (Delius 2008:229). Chiefs could also charge marriage fees of up to 5 Shillings. Fines were imposed and offenders hunted down. In January 1950 the Bakgatla tribe had 5 164 tax payers registered with the office of the Native Commissioner of Pilanesburg.[6]

Misappropriation of funds by chiefs was so rampant that it led the apartheid government to institute laws that were intended to ring fence these funds and separate them from the chiefs' private funds. The state instituted the 1925 Collection and Administration of Tribal Levies Act which was meant to complement the Natives Taxation and Development Act of 1925. The Act sought to separate the private income of a chief from the all levies, fees and fines collected from tribal members by establishing a system of Tribal Trust Funds across Transvaal (Capps 2010:220)

[3]Source: PTA. Reference/File Number: 1442/1256. Volume: 0
[4]Source: PTA. Reference/File Number: 1442/1256. Volume: 0
[5] Source: PTA. Reference/File Number: 1442/1256. Volume: 0
[6] Source: PTA. Reference/File Number: 1442/1256. Volume: 0

3.3 Land and Traditional Authorities.

Much of the money earned from taxes, levies and many other forms of chiefly accumulation was spend on land acquisitions. The colonial state significantly consolidated the migrant labour system and land allocation under the Native Labour Regulations Act of 1911, the Native land Act of 1913, the 1927 Native Administration Act, the 1936 Land Act and the 1951 Bantu Authorities Act. These were new legal and administrative measures aimed at stemming the tide of tribal disintegration, stamping out peasant accumulation from below and pushing back urban surplus population back into the reserves. Chiefly powers over land administration and appropriation were strengthened. Peasant commodity production or accumulation from below was sacrificed at the expense of chiefly accumulation from above.

The land tenure system constructed by the colonial state was opposed to individual rights ownership for rural Africans. Africans were only allowed to enter the land market through a private group land buying system. These were defined as tribal groups. Powers over tribal land were entrusted under the trusteeship of the Minister of Native Affairs who together with the local tribal authorities exercised fiduciary duties on behalf of the subject population. Blacks were allowed to buy land not own it; rather the powers to sell, lease or otherwise alienate land which they owned were vested in the hands of the central state and the local chiefs who acted as trustees (Bennet and Powell 2000:602). The African land tenure system was centred around a communal system under which land belonged to the community through the chief who was its custodian and had the responsibility of allocating land use rights (Bergh and Feinburg 2007:175).

During the apartheid land tenure system chiefs expanded and established a farming enterprise based on customary forced labour, through private group land buying, re-registration of tribal property in their names and the deployment and re-invention of traditional redistributive powers to monopolize tribal land use (Capps 2010:205 and Simpson 1986:203). The bakgatla Bakgafela chiefs also used tribal funds to purchase tribal farms and at times private farms for the chiefs themselves. By 1929, that is between Lintswe I, Ramono and Isang, the Bakgatla had purchased twenty six farms leased many of these for cattle posts (Croucamp and Roberts 2011:7). Before the Anglo-Boer War Lintswe had bought four farms for Transvaal Bakgatla tribe and from 1903 to 1917 he bought fifteen more farms

(Croucamp and Roberts 2011:7). Before Isang stepped down as regent in Mochudi in 1929 he had bought nine farms in Pilanesburg and had set in motion the process of purchasing two more farms. To enhance productivity on these farms they also sunk more boreholes for cattle rattling and constructed dams for irrigation purposes. Both Isang and Lintswe purchased these farms on the behalf of the Bakgatla as their recognized paramount chiefs.

The Bkgatla chiefs also manipulated the land buying system to accumulate private wealth by registering some of the tribal farms in their own names. In a declaration of sell signed on 16 October 1918 Dithlake Pilane attempted to sell the farm Koedesfontein 818 measuring 2 743 morgen for 1 500 pounds to the Minister of Native Affairs who was hold it in trust for the Bakgatla tribe.[7] This was despite the fact that he had bought the farm in 1913 with money subscribed by members of the tribe while he was still the chief but registered under his own name as private.[8] However the sell was reversed in 1919 Lithlake was forced to transfer the ownership for free to the tribe for free. The Mochudi paramount chiefs also bought farms in South Africa because this was where opportunities for creating wealth lay (2011:8).

Some of these farms were bought with money collected from the Bakgatla members in Transvaal by the paramount chiefs in Botswana. Molefe Pilane the Bakagatla paramount chief in Mochudi personally owned the farms Cyferkuil 372 and Mddelkuil 564.[9] In 1953 Chief Molefe Pilane made an intention to sale the farms to the Bakgatla Tribal authority in the Transvaal for a sum of £14 000. The intended sell of this farm raised issues of corruptions leveled against the then Bakgatla chief Tidimane Pilane. In a case filed to the Supreme Court of South Africa by Jacob Pilane in 1956 Tidimane was accused of misappropriating the funds collected from tribal members for the purpose of purchasing these farms.

Tidimane imposed a levy of one ox or £15 on every adult member of the tribe for the purchase of these farms and at least 4000 members handed their contributions.[10] During February 1955 he was summoned for several times to the *Lekgtla (Tribal council meeting)* by

[7] Source: PTA. Reference/File Number: 1442/1256. Volume: 0
[8] Source: PTA. Reference/File Number: 1442/1256. Volume: 0
[9] Source: PTA. Reference/File Number: 1442/1256. Volume: 0
[10] Source: PTA. Reference/File Number: 1442/1256. Volume: 0

members of the tribe to account for these funds but through colluding with the Native Commissioner he was able to interdict the meetings. In a subsequent meeting held on 26th November 1955 the Native Affairs Commissioner stated that £15 700 had actually been collected for the farm purchases and the balance was used for the construction of dams. However members of the tribe denied that they were paid for their labour during the construction of the dams, rather they were only provided with food. The manner in which the Native Commissioner went to lengthy in protecting Tidimane against pressure from tribal members showed how "bureaucratization further centralized the powers of the chiefship while increrasingly shielding its incumbents from popular pressures and claims" (Capps 2010:224).

The Bakgatla chiefs also helped syndicate corporate groups to purchase land on their behalf and register it in the tribe's name. The chiefs claimed the farms were owned by the tribes yet they were initially purchased on the behalf of the syndicate groups. Spitskop 410 JQ the farm on which Rustenburg Platinum Mines (RPM) is located is actually registered in the name of the tribe but instead it was historically purchased by a group of 52 families (Mnwana, 2013 Fieldwork Report). These 52 families belonged to Sefikile village located on the same farm which was formed by none Bakgatla people who were fugitives of the *Difencane* wars. Some villages under the leadership of autonomous Headmans purchased farms through the Bakgatla chiefs. For example the people of Motlhabe Village under the leadership of their headman Dialwa Pilane contributed cattle to raise the money required for the purchase of the farm Rhenosterkraal 563 in 1911 and Welgewaagd 535 in 1925. The farms were under the name of Chief Ramono Pilane as the trustee of the tribe.

The institution of landed property under the chieftaincy created a tribal trustee regime that was able to appropriate surplus from its subjects with the support of the state. Forced labour, migrant labour, fines, levies, fees and levies were some of these forms through which chiefs were able to accumulate from above through extra-economic coercion. The institution of the chieftaincy as a landed property with tribal rights to land and the forms of surplus appropriation that were intertwined to these rights was transformed by the exploratory and speculative activity of mining capital from the early 1920s. Forms of surplus appropriation around the chieftaincy were supplemented by the extraction of revenues from mining capital in the form of ground rent. The Bakgatla chieftaincy was able to

appropriate a portion of the minerals surplus by intervening in the rent relation between mining capital and tribal corporate landed property.

3. 4 Appropriation through Ground Rent and Royalties

Prior to the institutionalisation of the MPRDA chiefs, as the nominal owners of tribal land and the mineral rights on that land, were entitled to surplus value in the form of ground rent and royalties. According to Capps (2010:252) "under apartheid there was a legal distinction between surface and mineral rights, an administrative distinction between the ownership of rights and the regulation of prospecting and mining activity, and a racial distinction between the rights of whites and blacks, which generated different forms of private and state minerals ownership in the platinum mining industry". This complex legislative web around mineral rights ownership was a result of historical posturing of past governments and industry around South Africa's mineral wealth (Cawood and Minnitt 1998:369). Before I give an outline of how the Bakgatla were able to appropriate surplus from mining capital through ground rent I will explain the complex mineral regime of the apartheid era.

The mining industry in relation to black owned land confronts two distinct forms of modern landed property, which are the surface rights and mineral rights owners, whose respective revenue forms are determined by different rules (Fine 1982:349). According to Capps (2010:224) citing Neocosmos (1986:20) the phenomenal form of revenue that accrue to surface landed property is surface rent, and the phenomenal form of lease revenue that accrue to mineral landed property or mineral rights holders is the royalty. Both royalty and rent are derived from the particular intervention that modern landed property makes in relation to the economy and its development (Fine 1982:349). The system of dual private and state ownership of mineral rights was only a privilege enjoyed by white land holders. In mineral rich areas where blacks owned the land, mineral rights were severed from surface rights, unlike their white counterparts they did not own the mineral rights, rather they only owned the surface rights.

The Native Land Act of 1913, the South African Development Trust Act of 1936, the 1959 Promotion of Bantu Authorities Act and many other discriminating legislations of the apartheid state prevented blacks from directly owning mineral rights. Black mineral rights

were constituted as group rights owned by the trustee state, which mediated between black property capital relations (Capps 2010:256). In land purchased by tribes and registered under the trusteeship of the state, mineral rights were effectively vested in the state (Cawood and Minnitt 1998:373). The Minister of Bantu Affairs "mediated in every aspect of the relationship between tribal authorities and mining capital, from negotiation of prospecting and mining contracts to the monitoring and control of revenue payments" (Capps 2010:257).

Beginning from 1924, after the discovery of platinum bearing deposits in the Bushveld Igneous Complex (BIC), the Bakgatla Tribal Authority as a modern landed property started to develop new relations with mining capital. Interacting with mining capital through direct economic relations created new avenues of surplus appropriation for the Bakgatla Tribal Authority. It was during the era of Chief Isnang in the 1920 that early mineral prospecting by companies and syndicates began in the Bakgatla tribal authority. Most of the contracts entered into were short and usually valid for only a few months. Although these companies did not carry out mining operations, the prospecting fees they paid into the tribal trust accounts, offered another form of cash flow into the hands of the chiefs. The prospecting contracts also had an option of being renewed into perpetual mineral lease contracts.[11] From the archival research that I did, the earliest contract to have been given out by the Bakgatla Tribal Authority was under the leadership of Chief Isang in 1925.[12] The contract was entered into with a mineral prospector by the name of William Schreiner Cooper. The prospecting contract was awarded for a period of three months. The prospector was awarded the rights to prospect on the farms Roorerand 399, Rhenosterkraal 563, Wilgespruit 631, Spitskop 298 and Kruidfontein 649. The agreed upon royalty payment was 11% of the realised profits after mining operations.

The company which made a significant impact in the Bushveld Igneous Complex (BIC) in Rustenburg area during this early prospecting period was Rustenburg Platinum Limited (RPM). The company went to on to become the world's largest platinum producer and it held a large amount of mineral rights in either tribal or state trust lands. Potgietersrus Platinum Limited and Waterval (Rustenburg Platinum Mining Company were the only two

[11] Source: NTS. Reference/File number: 1039/308. Volume: 3615
[12] Source: NTS. Reference/File number: 1039/308. Volume: 3615

companies to survive the slump of platinum prices in the 1920s (Platinum Metals Review, 1957:4). In the interest of the economy the companies were merged in 1932 to form the Rustenburg Platinum Mines Limited. On 3 February 1926 William Schreiner Cooper ceded all the rights he held in the above mentioned farms to Rustenburg Platinum Limited. These rights were later ceded by Rustenburg Platinum Limited in favour of Potgietersrus Platinum Limited on the 26th of February in 1927.[13] For the period of the lease the company paid £62.10 into the trust accounts of the Bakgatla tribe. In the contract it stipulated that if it was to be renewed as a mineral lease contract the tribe was going to receive a sum of £300 per annum.

On some farms the Bakgatla tribal authority did not own the mineral rights; rather they owned the surface rights for which they received surface rents. For example on the farm Tweelagte 180, the mineral rights belonged to the state but Chief Tidimane was able to enter into a surface rights lease agreement with Chrome Mines of South Africa Limited for which he was paid £200 per annum for a period of nine years as surface rent.[14] Due to fluctuating platinum prices and the need to expand production royalty payments did not increase significantly, for example in a mineral contract that the Bakgatla entered into after more than five decades since their first contract, the Bakgatla were only receiving 10% of the taxable income earned by Rustenburg Platinum Mines Limited for the mineral rights on some portion of the farm Spitskop 410.[15] The amount payable to the tribe as surface rent for this farm amounted to 60 cents per morgen[16]. The mineral rights awarded on Spitskop were intended to expand operation on the Union Section Mine owned by Rustenburg Platinum Mines Limited.

3. 5 The Bakgatla chieftaincy in the Bophuthatswana era.

During field research I was unable to obtain literature on mining activities around the Bakgatla area for the Bantustan period. In the North West Provincial Archives documents containing this information had been retrieved by officials from the North West Traditional Government. Allegedly the information was to be used by the department for the

[13] Source: NTS. Reference/File number: 1039/308. Volume: 3615
[14] Source: BAO. Reference/ File number: 52/1528/106/1. Volume: 10125
[15] Notarial Prospecting Contract for Rusternburg Platinum Mines 1970
[16] Notarial Prospecting Contract for Rusternburg Platinum Mines 1970

Commission on Succession Disputes, as of writing in 2014 was looking into Bakgatla leadership disputes. Due to this anomaly I will rely on second literature from other researchers who have looked into the chieftaincy and platinum mining in the Rustenburg region during the Bophuthatswana era. This would help in drawing a comparative analysis on the relationship between the chiefs, mining capital and the Bophuthatswana authority.

The trusteeship system was carried into the homeland dispensation. In the North West after the formation of the Bophuthatswana Bantustan these powers were devolved to the office of the President of the Bophuthatswana government and its ministries. The authority to issue prospecting and mining licences in tribal trust lands were passed from the South African Mining Leases Board to the Bophuthatswana Minister of Economic Affairs. On the other hand the Departments of Finance and Traditional Affairs were enabled by the Bophuthatswana Traditional Authorities Act of 1978 to manage all tribal land revenues deposited into the Tribal Authority Account registered in the name of the chieftaincy (Capps 2010:265).

The Bophuthatswana government was under the leadership of a notoriously authoritarian President, Lucas Mangoepe. The president, as the trustee of tribal trust land in the granting of prospecting and mining licenses and his intervention often favoured mining capital. Mangoepe as President also controlled tribal trust accounts registered in the name of traditional authorities under his jurisdiction, this arrangement also enabled him to have effective control over the royalties generated by tribal landed property. According to Capps (2012:71) “mining capital benefited from this arrangement as was illustrated by the court case between Impala Platinum and the Bafokeng Tribal Authority over the control of mineralized land historically registered in trust to the Bophuthatswana government”. Due to Mongoepe’s intervention Impala Platinum had “opened a new mining project on a low royalty rate and was granted perpetual rights in its existing lease area” (Capps 2012:71). The Bafokeng chieftaincy questioned the level of these royalty payouts, as it began to assert itself as a landed property. It is after this land mark case that tribal authorities began to assert their mining interests vis-à-vis mining capital and the Bophuthatswana government. Their fortunes were also increased by the transition into the post-apartheid era, which saw the dismantling of Bantustan regimes.

Basing on the information obtained from a mineral contract signed between the Bafokeng Tribal Authority and Bafokeng Minerals Limited in 1987, tribal authorities could receive up to R500 000 in royalty payments.[17] This marked a significant increase in the amount of royalties payable to tribal landed properties in the platinum rich Rustenburg region. Parallels can be drawn between the Bafokeng and the Bakgatla Tribal Authorities on how they were able to appropriate surplus from mining capital, because they all fell within the jurisdiction of the Bophuthatswana government and were affected by a similar state trusteeship property regime.

3. 6 Conclusion

What the preceding section has sought to do was to explore the varying forms of surplus appropriation by the Bakgatla chieftaincy. It has shown how the ability of the chieftaincy to appropriate surplus from the subject population was strengthened from above by the colonial state through legislation and coercive power. The relationship that Chief Kgamanyane developed with Paul Kruger was the defining phase in the incorporation of the Bakgatla into the colonial capitalist mode of production. By ensuring the sustainability of the labour tenure relationship between white settlers and rural peasants, the Bakgatla chiefs were able to raise large heads of cattle and engage in agricultural activity. The institutionalization of bureaucratic powers into the chieftaincy i.e. vesting the chieftaincy with administrative powers such as the collection of tribal levies, taxes and fines further widened opportunities for the chieftaincy to appropriate surplus from its subjects.

The colonial state's intention to control African labour through land relations also restructured the Bakgatla chieftaincy as a landed aristocracy. As highlighted above by the Supreme Court case against Tidimane, the road towards the establishment of the Bakgatla chieftaincy as a modern landed property was riddled with corruption and the misappropriation of tribal funds earmarked for the purchase of more land. Most importantly, was the manner in which the Bakgatla were able to establish a relationship with capital that enabled them to receive ground rent in the form of mineral royalties. With the turn of the democratic era, it is the relationship that the Bakgatla chieftaincy has enjoyed with mining capital that becomes its main source of surplus appropriation.

[17] Notarial Prospecting Contract for Bafokeng Minerals Limited,

In the next chapter I will explain how the current land and minerals policy has sought to transform the Bakgatla from a tribal landed property to a form of mining capital through the community shareholding system in mining projects. It will also interrogate the contemporary debates around the political economy of the Bakgatla chieftaincy by identifying the various mining projects in which the Bakgatla are involved and how the chieftaincy has been able to utilize funds derived from these projects for personal gain, and the contestations over the control and distribution of these resources.

Chapter 4

Appropriation under the post-apartheid mining policy

The post-apartheid mining regime has been significantly transformed to allow for a redistribution of resources to historically disadvantaged communities and the entrance of new participants in the mining industry. As highlighted in the previous chapter, the apartheid mineral and land regimes prevented the full commoditisation of African property rights. Black mineral rights ownership was politically dependent upon the local state and the central state and also legally marginalized (Capps, unpublished: 24). In this chapter I will explore the transition of the Bakgatla chieftaincy from a form of modern landed property to a form of mining capital and how it has been able to appropriate surplus as a form of mining capital, through the community share holding system (which I may at times refer to as either an equity stake system or community equity system).

This transition was carried out within the frameworks of the MPRDA (Mineral and Petroleum Resources Development Act of 2004). The main social goal of the MPRDA was to transform the racial structure of the mining industry through BEE and the opening of new mining operations. Its main economic goal was to accelerate the accumulation of mining capital by eliminating the barrier to investment and competition entry posed by the private ownership and control of mineral rights. According to Manson (2013:409) in a study of other platinum mining communities in the Rustenburg region the shareholding system has "resulted in a pattern of financial mismanagement, inter-ethnic competition between the ruling elites, and between political power holders and commoners, ineffectual government intervention and a series of legal and political challenges mounted by the contending parties". The Bakgatla community has not been immune to these incidences.

The MPRDA marked the transition of traditional authorities from a form of modern landed property, to a form of mining capital, by eliminating the private ownership of mineral rights through the nationalization of all mineral resources under the state. I will apply Capp's (2012a) analysis of this transition "within the rubric of historical materialism, as a species of what Marx termed Ricardian reformism" (2012a:316). The concept of Ricardian reformism

as discussed earlier in the second chapter, explains Marx's theorisation of resource nationalisation as an accumulative strategy that capital implements, by removing the barrier of modern landed property. The MPRDA's nationalisation agenda was intended to breakdown the monopoly structure of mineral rights ownership by corporate mining capital. It is within this theoretical framework that I intend to analyse the implications of the MPRDA on the surplus appropriation strategies of the Bakgatla chieftaincy. More so, I will also explain how this transition was affected by the mineral rights ownership system of the old regime, the accumulation strategy of the platinum mining industry, and political, economic and ideological contexts within which the policy was formulated and enforced.

4. 1 The nature of the old order mineral rights regime.

In order to consolidate and maintain the status of apartheid order mining rights during the transitional period, the white National Party government instituted the 1991 Minerals Act. The 1991 Minerals Act strengthened the relationship between the state and the accumulative interest of white mining capital. The legislation aimed to "narrow the scope for statist control and redistribution of mineral property in the new dispensation through the selective deregulation of the minerals property system" (Capps 2012:74). According to Smith (1998:513) as cited by Capps (2012:75) the Act reduced state regulation of the mining industry by releasing mineral rights owned by the state through the South African Development Trust (SADT) to white owned mining companies and led to the buying up of mineral rights by mining capital in tribal trust lands.

The Rustenburg platinum mineral rights system was constitutive of state, tribal and private ownership. Before the transition, estimates suggested that about half of the mineral rights were state owned, twenty percent belonged to mining companies and the remaining thirty percent belonged to tribes, land owners and private individuals (Dale 1997 and Jordan 1992). Moreover during the transition the onus was on mineral rights owners or mining companies to present certificates of mineral rights, pre-1937 servitude documents and notarial registration of deed, as proof of title before prospecting and mining contracts could be granted (Cawood and Minnitt 1998:373). Although the 1991 Act sought to reduce state involvement in the mining industry, it failed to adequately secure community participation in mining decisions (Smith 1998:709). "Under the 1991 Act mining developments were

largely to the discretion of the minister and there was no structured mechanism for sufficient community control and involvement" (1998:720).

During the transitional period, there was continuity with the dominant forms of the apartheid and Bantustan mineral property systems. The state and tribal trusteeship system over communal property was maintained. The powers held by the Bophuthatswana government and their predecessors were inherited by the post-apartheid national and provincial government. All tribal landed property was put under the trusteeship of the Minister of Land Affairs (Capps 2012:74). The Department of Minerals and Energy approved prospecting and mining deals in tribal trust lands. Although according to law the department was supposed to consult affected communities, in actual fact it often approved deals "without the knowledge of or consent of affected communities" (Capps 2012:75). From the above explanation one can observe that during the transitional period, black mineral property rights continued to be vertically linked to the state through the trusteeship system. The post apartheid government in its attempts to transform the mining industry was also confronted by developing trends in the global economic system.

4. 2 The Platinum Mining Industry in a Neoliberal Economic System.

The entrenchment of mining capital interests under the 1991 Act was not the only obstacle the ANC led government was bound to face in its transformational agenda. The neoliberal economic system compelled the post-1994 government to pursue market driven developmental policies. The neoliberal turn enabled mining companies to increase their shareholding value through anti-competitive behaviour "such as expansion through acquisitions, organic growth and disposal of non-performing assets" (Mohamed 2010:161). In the platinum sector, this led to the consolidation of mining rights within the hands of large conglomerates like Anglo American Corporation. The consolidation and monopolistic control of mining rights has always been one of the accumulation strategies of platinum mining capital.

Since the use values of platinum are limited and users are sensitive to the rate of supply, its supply rate is regulated (Capps 2013:5 and Edward and Silk 1987). According to Capps (2013:5) "the producers have sought to control output costs and competition through intensive vertical and horizontal integration". Platinum mining companies began to benefit

significantly from the growth in the demand of PGMs which began in the late 1980s. The boom was triggered by the growth of the manufacturing sector during the neoliberal turn, particularly the demand from manufacturers of auto catalyst converters (Capps 2012:77).

4. 3 The Politics of Redistribution in a Post-Apartheid era.

The post-apartheid era socio-economic transformational agenda was riddled with class contradictions. There were varied class forces and class interests which defined and determined the post-apartheid mining policy. The historical dispossession of black people meant that the state had to pursue a broader redistributive agenda. Upon assuming government, the ANC got caught up within the contradictions of a popular mandate to pursue a meaningful and wide ranging socio-economic transformation and its growing commitment to a neoliberal macro-economic policy framework" (Capps 2013:39).

These contradictions were underpinned in the discourses which informed the ANC's transformational agenda. The ANC's transformational agenda was informed by the colonialism of a special type thesis (CST) and the leftist two-stage theory of the national democratic revolution (dubbed the NDR). The theoretical frameworks of the CST characterized South Africa as a colony that was dominated by a nation internal to the polity rather than an imperial nation (Hudson 1990:202). According to the proponents of this thesis, the national question in South Africa was based on the assumption that "all blacks (in whatever class) have more or less identical interests in the national struggle and that the content of that struggle is class non-specific"(Wolpe 1988:56). Within the parameters of the CST race and class were necessarily and functionally linked, race was thus interiorized in class struggles, both in the economic sphere as well as in the sphere of state politics (1988:60). Such a theorization of the South African national question shows that little was done to understand the contradictory nature of class formation among the oppressed (Neocosmos 1986:48).

Another plausible explanation for the adoption of this idea also lies in the nature of the ANC as a petty bourgeois organization that was mostly influenced by capitalist class aspirations. The application of CST thesis has always been problematic taking; taking into account the class aspirations of African nationalist elites as reflected in the economic transformation policies of the ANC. To initiate the involvement of the identified agents of the NDR, the ANC

developed a two-nations characterization of South Africa's socio-economic formations (ANC 2003). The two-nations thesis maintained that there exists two economic formations in South Africa, that is the "first world economy" and the "second-world economy". The policy device for the first-world was the Black Economic Empowerment policy programme (BEE).

The intended objectives of BEE were to create black political elites that would strive to the status of the ruling elites which would use its political power to re-order the distribution of income and wealth to the third-economy (Netshithenze 2012:4). It was seen as a precursor to the wider economic empowerment of the black masses in the sense that, the economic empowerment of black elites would trickle down to the black majority, who would ostensibly somewhere in the distant future, rise up and overturn the capitalist system (and the newly empowered black capitalists), ushering in the second stage of socialism (Mckinley 2011). BEE schemes were to be implemented through the provision of seed capital by the state and the threat of expropriation through the unilateral imposition of quotas of black ownership in the key sectors of the economy.

4. 4 Transformation of the mining sector under the MPRDA.

The growth of the platinum sector resulted in it being one of the sectors through which the BEE projects were to be piloted. It is under the burner of the BEE transformative projects that the Bakgatla Tribal Authority has been able to acquire community equity shares in mining projects in their area. In order to navigate through the contradictions and complications created by the 1991 Act, the state promulgated the MPRDA in 2002 (Smith 1998:720). In a Ricardian reformist approach, the state reversed the ownership structure of the mineral rights order by effectively nationalising all mineral resources. According to Capps (2012:33) "the ANC adopted an effective nationalisation of mineral rights to break the historic monopoly of the producers in the mining industry and thereby stimulate investment led growth and the formation of a black bourgeois at the heart of the Minerals and Energy Complex". This section will examine how the Bakgatla chieftaincy as trustee of tribal resources was able to benefit from the state's intentions to promote rural development under the rubric of the MPRDA.

The pre-cursor to the MPRDA was the Minerals Development Bill (MDB), which proposed for a new wave of investment led growth strategy (2012:320). It argued for the abolition of the

old order rights in favour of a standardised and universal new order mining right, which would be centrally administered by the central state and subject to a singular public royalty (Capps 2012:32). The main social goal of this policy was to expand opportunities for historically disadvantaged South Africa to enter the minerals and mining sector (Capps 2012:322). Under the MPRDA all mining companies which had acquired mining rights under the old order regime were encouraged by the state to apply for new order rights within a period of five years and failure to use these rights would see them being lost and redistributed to other companies. This was meant to break the monopoly of huge conglomerates such as Anglo American Corporation who had bought up most of the mining rights in the BIC region.

All companies were also required to submit a social plan that included measures to empower local communities through corporate social investments, small enterprise promotion and equity stakes (Capps 2012:322). The transformational course of the MPRDA was to be complimented by the Mining Charter of 2002 which stated that companies must reach an empowerment share of 15 % in five years and 26 % in ten years. These percentages were also to be measured in procurement, employment equity, beneficiation and worker savings plan. Of major interest here is the manner in which the MPRDA shaped the constitution of tribal landed property and aided chiefly surplus appropriation through the community shareholding system. Chiefs, local elites, former Bantustan officials used their political connections in the post apartheid era to ensure a stake for themselves and their communities in the new mining dispensation. The debate over BEE in general and community empowerment in particular, offered black mineral property new opportunities for privatisation (Capps, unpublished: 57).

The redistributive potential of the country's mineral policy in relation to tribal communities is affected by the contradictory relationship between it and the national land reform programme on how transformation should be carried out. Land policy is conservative, whilst minerals policy is progressive (Capps unpublished: 26). In terms of policy coordination, the Department of Land Affairs has a poor working relationship with the Department of Minerals and Energy. During the transitional period there were concerns on whether the unit of communal property rights should be transferred to individuals, groups consisting of hundreds of people or tribal authorities (Cousins 2007:282).

According to Capps (Capps, unpublished: 26) “the development of land tenure policy and legislation was hamstrung by the politics of the chieftaincy”. Administrative powers over tribal resources are housed under the office of the Premier. The funds of traditional communities in the North West Province are held in trust by The Premier, with the exception of the Bafokeng and Bakgatla tribal authorities who hold their funds in private accounts. Under the Traditional Leadership and Governance Act of 2003, traditional councils may exercise the powers and functions of land administration committees (Cousins 2007:289). The Act “does not require communal land administration committees to consult with the community members it represents in relation to major decisions such as disposal of land or rights in such land” (2007: 289). The only requirement is ratification by a Provincial Land Rights Board.

The tribal trusteeship system was strengthened as a means to promote local government reform. According to Schedule 2 of the MPRDA tribal communities were encouraged to convert their mineral interests into community shareholdings arrangements. Those tribal authorities who qualified under the TLGFA could obtain an equity stake in mining projects on land which they owned rights to. The Act gave “tribal authorities the opportunity to form joint black economic empowerment ventures with mining capital that is wholly private” (Capps unpublished: 33). The following section will explore how the Bakgatla Tribal Authority handles their assets in both investment terms and through the administration of a social development programme.

4.5 Platinum Mining and Contestation over Tribal Resources.

The Bakgatla Tribal Authority has successfully corporatized its interests and image, it controls assets amounting to more than R15 billion. It has become a shareholder in big mining projects that are underway in the area under its jurisdiction. The Bakgatla story fits very well into what the Cammaroffs’ (2009) refer to as the ‘dialectic at the heart of the ethnicity’. Amongst the Bakgatla there is an appeal to a sense of ethno capitalism and an embracing of these ideals in their striving for a distinct ethno-capitalism. The control and distribution of mining revenues derived from these projects “has in communities being divided over disputes relating to mining and prospecting on their land, these issues include disputes over land ownership, traditional leadership and control, financial control and

irregularity (Manson 2013: 410). More so contending parties have taken the litigious route to solve disputes, for instance court cases against Chief Nyalala and a commission of enquiry onto the Bakgatla chieftaincy.

Problems around the control and distribution of mining revenues are not only confined to internal strife within the tribal polities alone, but also created institutional problems. For instance at the state level, the provincial government has been implicated in many instances of corruption and collusion and it has also created overlapping responsibility, authority and jurisdiction between municipal structures and traditional authorities. In the productive process, some mining deals mining deals cannot be concluded due to the fact that the company cannot establish the identity of the legitimate representatives and recipients community shares and royalties (Manson 2013: 418). These kinds of delays according to Manson (2013:419), "costs all stakeholders, the company, the community, the state vast amounts in potential tax revenues and mining profits". Following is an outline of the mining shareholding interests controlled by the Bakgatla-ba-Kgafela Tribal Authority. These include the Joint Venture agreement with Angloplatinum in the Union Section Mines, Rooderand Portion 2 and Megazynkral mining projects, the Bakgatla Pallinghurst Joint Venture at Pilanesburg Platinum Mines, the Sedibelo Platinum Mines limited project and some other projects in which the Bakgatla hold interest.

4. 6 Mining projects in the Bakgatla area.

Prior to the promulgation of the MPRDA, the Bakgatla tribal authority entered into a number of mining agreements with mining companies under the 1991 Minerals Act. These include the 1993 mineral Lease agreement with Pilanesberg Chrome (Bophuthatswana Proprietary) Limited[18]. These rights were later ceded to Pilanesberg Mining Company in 1997. The agreement covered the farm Rooderand 46 JQ and the mineral rights were ceded for a price of R215 652. One of the first mining deals to be signed by the Bakgatla tribal authority under the MPRDA dispensation was a 50/50 Joint Venture agreement signed between them and Placer Dome Platinum South Africa[19]. The Joint Venture was signed on the 10th of July 2004 after a prospecting and mining permit was awarded to the Itereleng

[18] Notarial Deed of Cession of Mineral Lease between Pilanesberg Chrome (Bophuthatswana Proprietary) Limited and Pilanesberg Mining Co. (Proprietary) Limited, 13 November 1997.
[19] Inivitation letter to the media, from the Office of the Premier in the North West Province, 9 July 2004

Bakgatla Mineral Resources Ltd (IBMR). Placer Dome committed itself to open a Community Development Trust to look after the social needs of the community.

IBMR was established as a corporate entity under the leadership of Chief Nyalala to house the mineral rights owned by the Bakgatla tribe in 2003. It owns mineral rights on the Wilgespruit 2 JQ, Koedoesfontein 42 JQ, Legkraal 45 JQ and Portion 1 of Rooderand 46 JQ. The major BEE transaction to be entered into by the Bakgatla-Ba-Kgafela Tribal Authority is a 15 % stake in Anglo Platinum's Rustenburg Platinum Mines Union Section. In the transaction the Bakgatla possessed the preferential right to increase their interest to 26 % should RPM wish to dispose more of its interests in. The Bakgatla had been receiving royalties from the Union Section Mine since 1982. After some negotiations on 24 February 2000 over the royalty payment arrangements for this property Rustenburg Platinum Mines agreed to pay the Bakgatla a sum of R5 410 157 as part of the R7 248 533 debt owed to them since 1998[20]. Negotiations for these Joint Venture agreements started in 2006. In terms of the transaction Anglo Platinum converted the existing royalty agreement with the Bakgatla over portions of Spitskop 410 JQ where the Union Section Mine is located.

The transaction was subject to an additional payment of R420 million funded by a commercial debt from the Rand Merchant Bank. The bank advanced a R435 million loan to Lexshell 36, through an A Facility of R355 million and a B Facility of R80 Million[21]. RPM made advanced payments to both Facilities in terms of the Profit Sharing Facility to avoid default. The Bakgatla assets in the Union Section Mine are held through Lexshell 36 (Pty) Ltd, a trading company which is 100% owned by the Bakgatla[22]. The transaction consists of a complex ownership structure, Lexshell 36 is directly owned by Lexshell 703 another company which is 100 % owned by the Bakgatla. Lexshell 703 is entitled to a minimum distribution of R1 million for the administration of Lexshell 36, 10 % of the available cash flow and 20 % of the residual free cash flow. According to the agreement the Bakgatla may only sell existing shares in Lexshell 703 after 30 September 2014. This is to confirm that there will be no impact on Union Section's compliance with the Historically Disadvantaged

[20] Fax Letter from Harry Dul, Mineral Rights Manager, to Chief N. M. J Pilane, 24 February 2000
[21] Fax Letter from Harry Dul, Mineral Rights Manager, to Chief N. M. J Pilane, 24 February 2000
[22] Report on the overview of Anglo Platinum/Bakgatla transactions, 27 February 2007

Person (HDP) equity participation requirements and HDP credits of the Department of Minerals and Energy.

The exploration joint venture agreement on the Megazynkraal 3 projects was established after Anglo Platinum ceded a 26% stake in the project to the Bakgatla on 23 November 2008. The transaction took place after RPM sold its new order prospecting right in the project to Ritchrau (Pty) Ltd 123[23]. The shareholders of Ritchrau 123 are RPM with a share holding of 74 % and 26 % is owned Lexshell 38 (Pty) Ltd which is 100 % controlled by the Bakgatla[24]. After the 2008 post merger agreement of Ritchrau 123, Lexshell 38 now holds 40 %, Clidet 823 owns 40 % and the remaining 20 % is owned by RPM[25]. The Ritchrau transaction was meant to obtain more funding for the Bankable Feasibility Study (BFS) in respect of the Megazynkraal project by either listing on the stock exchange or finding a potential Mineco to jointly fund the transaction. BDO was appointed as the auditors of Lexshell 38 in this project. The Bakgatla are also entitled to appoint three directors to Ritchrau 123 of which two of the must be HDPs

In 2005 Anglo Platinum applied for new order prospecting rights on the farm Rooderand 46 JQ. According to the joint venture transaction on the Rooderand project, the Bakgatla were to own a 55% stake through Lexshell 49 General Trading (Proprietary) Limited and RPM were to control the remaining 45%. In terms of the agreement the Bakgatla pledged their 55 % share on the project to Anglo Platinum as security for a R45 million loan advanced to them to repay a land debt and fund community projects. The Rooderand prospecting right was to be transferred to Lexshell 49 General Trading (Proprietary) Limited by RPM. The loan was advanced in two tranches of R35 million upfront and R12 million after 12 months. BDO were appointed to provide auditing, accounting, tax services as well as secretarial services (through a wholly owned subsidiary named Statucor) to Lexshell 49. RPMs application for the Rooderand prospecting rights was rejected in 2006 due to insufficient equity participation. Since Anglo Platinum lost the Rooderand rights, it remains unexplained how the Bakgatla got to pay back the R45 million owed to Anglo.

[23] Fax Letter from Harry Dul, Mineral Rights Manager, to Chief N. M. J Pilane, 24 February 2000
[24] Competition Tribunal Case No. 83/LM/JUL08, Matter between Lexshshell 38 General Trading (Pty) Ltd, Clidet No. 832 (Pty) Ltd and Ritchrau No. 123 (Pty) Ltd
[25] Competition Tribunal Case No. 83/LM/JUL08, Matter between Lexshshell 38 General Trading (Pty) Ltd, Clidet No. 832 (Pty) Ltd and Ritchrau No. 123 (Pty) Ltd

On 24 November 2009 it was announced in the media that the rights had been issued to Atla Mining Resources (Proprietary) Limited. Anglo Platinum lodged a Notice of Appeal with the Department of Mineral Resources against the granting of the prospecting right to Atla and it lost the appeal. Atla Mining Resources was formed in 2008 by the Bakgatla with the intention of becoming the leading black owned mining company[26]. In early 2012 under a joint venture agreement with Platinum Australia, they started to prospect with the intention of opening up a mine which would be called the Bofule Platinum Mine which has a project value of R1 billion. Atla has a 37.5 % stake in the project and Platinum Australia (PLA) acquired an initial 30 % stake in the project after making an initial payment of R13.5 million and was still to acquire a further 35 % after completing a Definitive Feasibility Study on the project. The remaining 5 % was also to be acquired by Platinum Australia for arranging the finances for the development of the project (Mining Weekly, 23/05/2012). Also in 2012, Atla was in the process of forming a joint venture partnership for the rights it holds on Syferkuil farm.

Another joint venture transaction which the Bakgatla are involved in is the Pilanesburg Platinum Mines (PPM) project. The project covers the farms Tuschemkost 135 JP, Rooderand 46 JP, Witkleifontein 136 JP 9Portion 1 and RE) and Ruighoek 169 JP (Portions 1)[27]. The mine is a wholly owned subsidiary of Boynton Investments (Pty) Ltd. Boynton's interests are held by Platimin Resources Limited (British Virgin Islands), which is itself owned by Pallinghurst Resources[28]. The Bakgatla have a share in this mine through their investment holding company, Moepi Platinum (Pty) Ltd (Moepi Platinum) which is a subsidiary of Moepi Group (Pty) Ltd (Moepi Group)[29]. The Bakgatla have a direct stake of 18.16 % as a BEE partner in the PPM project, the other BEE shareholders are Seacrest Investments 122 (Pty) Ltd who hold a 7.80% interest and Sengeni Family Mining and Exploration (Pty) Ltd with the remaining 1.65%. Pallinghurst Resources and Platmin own a 72.39 % stake in the project. And the rest of the shares are owned by another empowerment group, Moepi Platinum (Pty) Ltd (Moepi Platinum) which is itself also controlled by Moepi Group. The Bakgatla

[26] Atla Mining Resources Overview. http://www.atlamining.co.za, Accessed, 21 December 2013.
[27] Revised Social and Labour Plan for Pilanesburg Platinum Mines Project, August 2008.
[28] Pallinghurst Resources is an investor consortium. Its major co-investors include: Algemene Pensioen Groep (APG), Tasmek, Investec Bank Limited and the Energy and Minerals Group
[29] Competition Tribunal, Case No: 34/LM/Apr08. Matter between Newshelf 926 (Pty) Ltd and Moepi Group (Pty) Ltd

raised $50 million as capital for the PPM from Dutch asset manager Algeme Pensioen Groep (APG).

PPM assets have been repackaged into a debt free company opened by a combination of investors. These are the Industrial Development Coorporation (IDC) and Pallinghurst co-investors. It was announced in December 2012 that the merger company was going to be named NewCo. NewCo is a consolidation of three properties, which are, PPM, Sedibelo (the Bakgatla own a 90 % stake in Sedibelo and Barrick Platinum owns the remaining 10 %), and the Megazynkraal project. The project has an inferred PGM resource in excess of 20 million ounces (Business Day, 11/02/2011). Pullinghurst Resources has a 42 % stake in this project and this makes it the major shareholder. The Industrial Development Corporation a 16.2% stake after pumping R3.24 billion into the project. The Bakgatla owns 26% of the shares and the remaining 16% belongs to various companies which include Lonmin, Anglo Platinum, Mittal Family, Tasmek and APG. The R3.24 billion Industrial Development Corporation investment made the merger company a debt-free producer and ljeft it with a healthy balance sheet that has a cash flow of US$500 million.

The inception of the MPRDA and the equity share system enabled the Bakgatla Tribal Authority to transform itself into a corporate entity. As observed above, the Bakgatla own mining interests through a combination of investment and trading companies which creates a complex ownership structure. The companies are used as investment vehicles to hold the Bakgatla assets. The management and distribution of the proceeds derived from these interests has been the centre of conflict in the Bakgatla community. The Bakgatla scenario fits very well into Mamdani's (1996) concept of 'civil war within the tribe'. The manner in which Chief Nayalala has negotiated in these as signatory to the Bakgatla assets has been questioned by various members of the community. The mechanism introduced another dimension of chiefly accumulation and has allowed Nyalala to personally appropriate tribal resources by opening up secret accounts into which profits are deposited. The Bakgatla chieftaincy has gained from the class project of the ANC through forming ventures with mining companies as a BEE partner.

1. The Politics around the Control and Distribution of Mineral Revenues.

In this last section of the chapter I will explore the contradictions and consequences of the flow of platinum mining capital into the Bakgatla community. Chief Nyalala and his cronies have been accused of practicing an increasingly centralized and autocratic form of power and as a result he faces dwindling legitimacy in the face growing resistance and rising discontent over the appropriation, control and distribution of mining revenues. The transition in the post apartheid mining policy happened during Nyalala's reign. Before assuming the Bakgatla Chieftaincy in 1996, Nyalala Pilane was an independent business owner and the secretary general of the Rustenburg United Taxi Association. He is the one responsible for restructuring the Bakgatla Tribal Authority into a corporate entity by forming the IBMR which developed and concluded the partnership deals discussed above.

The injection of mining capital into the Bakgatla tribe has availed opportunities for chiefly appropriation of tribal funds. Due to rampant corruption, the Bakgatla accounts have been subject to investigations by the Provincial Forensic Unit of the office of the Public Protector in 2001 and an audit by BDO Risk Advisory Services, a private auditing firm. Following these investigations and audits, Chief Nayalala was charged with 43 counts of theft, two counts of fraud and one count of corruption. Members of the community have questioned the manner in which the R45 million loans from Anglo Platinum which was negotiated for the failed Rooderand project has been spent. The said loan became a source of controversy after the proceeds were deposited with Werksman Attorneys[30]. The office of the North West Premier learnt about the issue when the Bakgatla Bakgafela Traditional Council Treasurer tried to bank a check amounting to R2 million, of which the origin was unknown. The investigation by the Public Protector also included proceeds of the R1.3 billion and 15% share agreement with Anglo Platinum for the Union Section Mine stake. At a community meeting held on 24 March 2008 the community demanded that the Traditional Council furnish them with copies of all the mining transactions entered into by chief Nayalala on behalf of the tribe but the council reneged on its promise.

In 2011 Thari Pilane and some sections of the community accused Nyalala who is signatory to their mining deals of plundering the tribe's wealth (Business Day, 11/02/2011). The

[30] Letter from Advocate S. I Motshegare, Senior Investigator in the Office of the Public Protector, to Mr Modimokwane, Chairperson of the Bakgatla Ba Kgafela Community Organisation.

community members accused of him not consulting the community regarding any investments into the sale of mineral rights. They accused Nyalala of negotiating for a $50 million as equity capital for the PPM project from Dutch asset manager Algemene Pensioen Groep (APG) for the development of PPM without any proper consultation. Also in December 1996 Nyalala applied for a loan of R13 million for the purchase of various personal farms and unspecified consolidation of other liabilities. During the application process of the land bank loan it was discovered that the estimated royalty of R600 000 for the 1996 financial year from Rustenburg Platinum Mines was ceded back to Rustenburg Platinum Mines for a previous loan by Kgosi Nyalala Pilane, the loan was never disclosed to the community nor the Land Bank during the loan application. Nyalala was also accused of listing R1 billion of tribal funds at the Johannesburg Stock Exchange without consulting the community.

The chief was also accused of operating a myriad of private banking accounts in which mining royalties were kept. The purchase of a R3 million house for Nyalala, the payment of personal security guards, purchase of luxurious vehicles and the buying of a R400 000 cattle herd with tribal funds has also been questioned by members of the tribe. The chief has also authorized the undertaking of some projects which do not really amount to community empowerment. They can rather be described as self enrichment projects; these include the construction of the Bakgatla Tribal Offices, the Moruleng Stadium and Moruleng Mall. The projects have cost the tribe billions of rands and it is ironic to find a rational for such projects since some members still lack access to basic commodities such as water which should be funded through mining proceeds.

Nyalala was convicted for most of these charges in a case laid against him at the Mogwase Magistrate's Court in 2006[31]. But he later won the case upon appeal to the North West High Court[32]. Due to the Mogwase court case Nyalala's popularity and the legitimacy of his chieftaincy has suffered a significantly huge blow. The relationship between him and the Mochudi Paramount Chief Kgafela Kgafela has also soured. Kgafela after moving to South Africa in May 2012 has asserted his authority over Bakgatla matters. After arriving in South Africa, Kgafela convened a Traditional Councils meeting where he stated that he was

[31] Mogwase CAS 126/11/2004
[32] North West High Court Case No. (692/06) [2006] ZANWHC 68 (16 November 2006)

concerned about the financial management and administration of tribal affairs. He proposed for a forensic audit of tribal funds; however Nyalala refused the proposal and eventually agreed for a review instead of a full audit (Mnwana 2012). The review was carried out by the BDO Risk Advisory Services. The final report of the Review stated that Nyalala has been involved in business transactions that were suspicious, lack of clear governance structures around the management of resources and inadequately budgeted for financial expenditures. The review also recorded that there was a sum of money amounting to R49 945 216.13 that was paid to Motholoe Attorneys (the law firm which represented Nyalala during his trial) for unspecified rendered legal services[33].

Under pressure from the Paramount chief and the community, Nyalala tendered his resignation with the Office of the North West Premier on 12 August 2012[34]. In terms of Section 12 (1) of the Traditional Leadership and Governance Framework Act, the Premier has the power to withdraw the Certificate of Recognition of an incumbent chief. However the Premier, Thandi Modise failed to consent to Nyalala's resignation. The Premier's inaction has been seen by Nyalala's detractors as evidence of collusion between the ANC government and the chief (Mnwana, Field Work Report, 2012). The Premier has been accused of trying to lay her hands on the Bakgatla wealth. According to Mnwana (Field work Report, 2012), there is a strong suspicion among the disgruntled members of the Bakgatla tribe that "Nyalala has improper connections with some of the notables in the South African justice system … according to some village residents the fact Judge R. D Hendricks presided over all cases involving Nyalala at the North West High Court in Mafikeng cannot be taken as a mere coincidence". Judge Hendricks has ruled in favour of Nayalala in all the cases heard before him.

The Bakgatla chieftaincy as an institution of local government is mandated by legislation to handle these assets through the administration of a social development programme. Which means that it should provide services in the form of electricity, improvements to infrastructure, subsided water, waste removal, security and emergency services, improved schools and clinics (Manson 2013:417). As an administrative arm, the Bakgatla Tribal Authority co-exists along with the Bojanala District Municipality responsible for providing

[33]BDO Risk Advisory Services Report
[34]Chief Nyalala Pilane's Letter of resignation addressed to the North West Premier.

services to the region. It has become a parallel of local government, giving rise to instances of overlapping responsibility, authority and jurisdiction.

4. 8 Conclusion.

The MPRDA's intentions to transform the platinum mining industry by breaking down the monopoly of corporate platinum mining capital through nationalisation opened an avenue for the Bakgatla to restructure themselves as a form of corporate mining capital. The trusteeship arrangements over tribal landed property have continuously enabled the Bakgatla chieftaincy to enrich itself. The control and distribution of revenues derived from community shares in mining projects has gone to threaten the legitimacy, authority and distributional capacities of the chieftaincy. Most of the mining deals have been concluded without sufficient community participation. The control and administration of tribal corporate interests as private entities has enabled Chief Nyalala to open up trading companies and bank accounts in his own name.

Concerns of maladministration of tribal resources raised by members of the community have been substantiated by audit reports which led to the subsequent conviction of Nyalala in the Mogwase Regional Magistrate's court. The nationalisation of mineral resources and the transformational agenda of the ANC under the global neoliberal system have created a progressive mining framework with limited re-distributional capacity. As highlighted above there is need for government to build a complimentary relationship between the land and mining policy in order to allow for a more transformative agenda. The Bakgatla Tribal Authority straddles between contradictions of a private and public entity. As a private entity they have been able to appropriate revenues, but have failed to dispense or redistribute them sufficiently amongst the members of the community. This is due to the lack of government oversight over their control and distribution.

Chapter 5

Conclusion

What this thesis has sought to do is to explain within the rubric of historical materialism, how the Bakgatla Tribal Authority has been able to extract revenues in various forms. It has shown how the Bakgatla Tribal authority has been constituted as a form tribal landed property with the capacity to appropriate surplus from its subjects and platinum mining capital. The Marxist concepts of extra-economic coercion, wage-labour, modern landed property, the state and Ricardian reformism provides an appropriate framework to explain how the Bakgatla chieftaincy appropriate surplus from varying sources. It has also attempted show the extent to which the flow of mining capital, and the control and distribution of mineral revenues under the current MPRDA dispensation has the authority and legitimacy of the Bakgatla Tribal Authority.

The ability of the rural subjects to produce for their own use-value disappeared after land was dispossessed from them into the hands of the chieftaincy. This process of dispossession enabled the Bakgatla chieftaincy to conduct itself as a modern landed property in relation to the rural household labour and subordinating it to a form of agrarian and industrial capital. The wage-labour relationship that emerged from this process took the form of migrant labour, bonded labour and tenant labour. It is from these forms of labour that the Bakgatla chieftaincy extracted surplus in the form of fines, taxes and levies. The capacity to extract such surplus was based on extra-economic coercion supplied through the political power of the state. The capacity to extract ground rent in the form of royalties, from platinum prospecting and mining capital was due to the fact that the Bakgatla chieftaincy assumed the tribal form of modern landed property. The transition of the Bakgatla chieftaincy from a modern landed property to a form of mining capital was captured under the Marxian concept of Ricardian reformism. The contradictory process of capitalist development and state policies from successive governments has shaped the manner in which the Bakgatla chieftaincy is able to appropriate surplus.

In the second chapter the thesis has sought to develop an appropriate framework for the conceptualisation of the fusion between the political and economic aspects of the African chieftaincy. It started off by interrogating the principal arguments of the dominant approaches to this institution. Predominantly, the African chieftaincy has been regarded by most scholars as a political force, with little economic determinants. Using a materialist analysis, the thesis has sought to disqualify these claims by arguing that, the chieftaincy must be read as a fusion of both economic and socio-political instances. A materialist analysis of the chieftaincy was useful for developing an appropriate frame work to follow through the trajectory of the various modes through which the Bakgatla Traditional Authority has been able to appropriate surplus.

In the third chapter I have explained how the restructuring of the Bakgatla Chieftaincy by the colonial state and settler capital, through the 1913 and 1936 Land Acts enabled it to appropriate surplus wage-labour in its varying forms and capital. Through a detailed analysis of archival records the thesis has shown how the tribal-title-trust-regime that was prevalent in the Transvaal enabled the Bakgatla chieftaincy to engage in massive land purchases. Since their early engagements with Paul Kruger and the German missionary Henry...in the late 1880s the Bakgatla tribe began to engage in land purchases that would later see them reconstituted as a modern landed property. From the land purchases the Bakgatla chieftaincy began to establish themselves as agrarian capital, engaging in large scale farming projects that involved cattle ranching, dam and borehole construction for irrigation purposes. The most significant transition in the surplus accumulation strategy of the Bakgatla chieftaincy took place in the early 1920s, after the entrance of prospecting and mining capital in the Bakgatla area. As a modern landed property the Bakgatla chieftaincy controlled the access of platinum mining capital to its mineralised land, it was able to extract ground rent in the form of royalties up until the institution of the MPRDA in 2002.

In the last chapter I explored the transition in the relationship between the Bakgatla tribal authority and mining capital under the Marxist concept of Ricardian reformism. The nationalisation of mineral resources through the MPRDA in 2002 meant that the Bakgatla tribal authority was to lose some of its royalty streams as a mineral rights owner. To encourage transformation and redistribution the ANC led government chose to integrate the mining policy with the Mining Charter in 2004 and its BEE policy, by encouraging tribal

landed properties to convert their royalty arrangements with mining capital into a community shareholding system.

The thesis has shown how the apartheid mineral rights regime favoured monopoly capital, and how this created an obstacle for black capital to participate in the mining industry. The nationalisation of mineral resources through the MPRDA, as another accumulation strategy of capital, bestowed the custodianship of mineral rights to state. The state as the regulator was to redistribute these rights under a new order mineral rights regime which was based on the 'use it or lose it principle'. Mineral rights are to be redistributed to black capital through the BEE policy and the Mining Charter under the new order mineral rights regime. However the non integration of country's mining policy and its land policy has hampered transformation and redistribution agenda of the state. Since 2006 the Bakgatla Tribal Authority began to convert into a form of mining capital by acquiring community shares in mining projects involved in their area.

The control and distribution of revenues derived from mining capital dividends has threatened the legitimacy and authority of the chieftaincy. The thesis has outlined the new lines of political contestation to have emerged within the Bakgatla tribal authority. The corporatisation of Bakgatla property interests has enabled Chief Nyalala to swindle money out of tribal investment coffers. Nyalala has been able to corporatize Bakgatla mineral interests under the Itereleng Bakgatla Mineral Resources (IBMR) and a number of trading companies. The corporatisation of these interests has meant that, rather than functioning as a public institution, the Bakgatla Tribal Authority now functions as a private entity. Using court records, media reports, and personal documents collected from individuals and functionaries of mining companies and local government during fieldwork, the thesis has shown the amount of maladministration that is prevalent in the Bakgatla Tribal Authority.

What this thesis has done is to open further lines of enquiry over the development of an appropriate framework for the control and distribution of mineral revenues in the platinum mining communities of the platinum belt. Lack of public oversight over tribal accounts and the mechanisms through which revenues are distributed is one of the critical problems created by the community equity share system. The form and function of traditional authorities as institutions of public governance is one of the problematic issues faced by the

post-apartheid state's attempt to transform local government since the breakdown of the Bantustan states. Since the promulgation of the White Paper on Local Government in 1998, there has been polarised planning and contradictions in development priorities between Municipal IDPs in terms of infrastructural development and services.

The rebranding of traditional authorities as corporate entities has been implemented in a way that undermines and threatens the administrative role and political scope of municipalities. A number of legislations that seeks to strengthen the power of traditional have recently been passed by parliament. These include the Traditional Courts Bill and the Land Restitution Bill, what these Acts has sought to do is to strengthen the administrative jurisdiction of traditional authorities. The Land Restitution Bill seeks to strengthen the custodianship role of traditional authorities over communal property. This is despite the fact that such powers are contested by some community members and have proven to ineffective in their capacity to distribute services to the community members.

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