

# THE DOUBLE-EDGED LOSS FOR STATE AND INFORMAL MINERS: EVIDENCE FROM SOUTH AFRICA'S MINING SECTOR

*Daglous Makumbe*<sup>1</sup>

16

## INTRODUCTION

Informal mining is not a new phenomenon in South Africa but has survived the vicissitudes of time from the pre-apartheid era. Although the history of the mining industry primarily focuses on large-scale mining, there is strong evidence that informal mining operations existed concurrently with large-scale mining, for example, the Namaqualand copper mining case in Northern Cape (Fleminger, 2021; Smalberger, 2021). As old as large-scale mining, informal mining was ostracised during the apartheid era and only promoted to its current status after independence, becoming part of the national economic agenda in 1994 after the political transition (Mhlongo & Akintola, 2021). Mhangara et al. (2020) state that informal mining dates back to the Stone Age and was officially recognised in 1994 after the end of apartheid. The latter culminated in the ushering in of the Reconstruction and Development Programme (1994) which recognised the sector as a medium for economic and social development for the majority of South Africans who had been historically marginalised from taking part in the economic mainstream (*Government Gazette*, 1994). The Reconstruction and Development Programme aimed at restoring the economic disparities in the country through improved utilisation of mineral resources, the empowerment of economically marginalised South Africans, the development of skills, and the enhancement of entrepreneurial spirit in the country (African National Congress 2004). The programme exhorted the government to innovate ways to encourage and stimulate opportunities for informal mining through participation, financial and technical support enhancement, and accessibility to mineral rights (*Government Gazette*, 1994).

The 1998 White Paper on Minerals and Mining Policy of South Africa further supported informal mining in the country, with the government objective of encouraging and facilitating the sustainable development of informal mining to ensure the maximum extraction of small mineral deposits and to enhance the sector to make a remarkable contribution to the local, provincial and national economy (South Africa, 1998). The policy was anchored on three cornerstones, the development of the informal mining

---

<sup>1</sup> University of the Western Cape

sector, encouraging disadvantaged communities to participate and rectifying the challenges confronting the sector, which included restrictions to mineral rights and deposits, a dearth of financial opportunities and technical skills, and restricted access to markets and administrative and regulatory prerequisites (Ndlazi, 2021; Ledwaba, 2017; South Africa, 1998). Since democracy was achieved in 1994, the government has continued to promote the development of informal mining through the enactment of Section 1.4.4.2 (Clause v11) of the 1998 White Paper on Minerals, which stipulates that the Department of Mineral Resources will enhance informal mining support and its collaborative extractive activities, establishing a self-reliant institutional support platform for informal mining. Such policy initiatives necessitated the enactment of several support programmes aimed at promoting informal mining (Ledwaba, 2017). Some countries formalised informal mining, for instance, the Peruvian government enacted legislation to formalise and promote informal gold mining (Peru Support Group, 2012). In Angola, informal mining is legal, and extraction permits are disbursed to operate the activity in areas not characterised by hydrocarbon extraction, while in Chad, Liberia, Sierra Leone, and Tanzania, informal mining has also been formalised (Tychsen, 2023; Tychsen et al., 2022).

The failure of the South African government post-democratic dispensation to craft legislation to formalise and empower informal miners has created a conundrum (Chuma, 2022; Chuma, 2021; Martin, 2019). New legislation is needed to buttress and revamp the existing legislation to formalise, incorporate, and empower informal miners in the country (Chuma, 2022). The Fairtrade Foundation Report (2015) notes that state legislation is biased towards commercial mining in the country because large-scale mining is more profitable, capital intensive, highly mechanised, and has enormous investments, and yet formalising informal mining will create a win-win situation where the informal miners receive permits and remit taxes to the national purse (Fair Trade Foundation Report, 2015). Informal miners will also benefit from legal welfare, such as legitimacy and access to credit from the state and other financial institutions (Ledwaba & Nhlengetwa, 2015). The South African government lost about R49 billion in revenue leakages in 2019 alone (Department of Mineral Resources and Energy, South Africa, 2022) due to illegal activities. Mining companies such as the AngloGold Ashanti, Anglo American, Exxaro and African Rainbow Minerals Gold Fields have spent about R2 billion in attempts to thwart the hazardous effects of informal mining (Department of Mineral Resources and Energy, South Africa, 2022). In 2021 alone, the government lost about R35 billion in revenue leakages due to the illicit extractive activities of informal miners (Mineral Council South Africa, 2022). On average, the government has lost R4 billion annually in illicit financial flows caused by informal mining (South African Parliament, 2022). Martin (2019) notes that the South African government is losing more than R14 billion annually (approximately US\$1 billion) due to fiscal leakages caused by illicit financial flows from informal miners. This chapter contains the following sections: the research methodology, followed by the literature review and discussion, leading to the recommendations and conclusion.