

# Research on South Africa Mining and Labor Force

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**Abstract:** *As a country rich in mineral resources, South Africa has abundant gold reserves and large mining amount, which effectively promotes the national economic development. However, as the pillar industry, the mining industry also encountered some problems in the process of development, especially the dissatisfaction and protests caused by the long-term development of the mining industry. More and more workers hope that the state will improve the laws and regulations as soon as possible to truly realize the protection of their own rights and interests. By analyzing the development of the mining industry in South Africa, this work first discussed the shortcomings of the labor force in South Africa, and then put forward suggestions on safeguarding the legislative construction of workers' rights and interests.*

**Keywords:** *South Africa, mining industry, labor force, legislative construction*

## 1. Introduction

South Africa, known as the “Rainbow Country”, is Africa's second largest economy and the most influential country. South Africa's role in the BRICS Group is not just a country with rich resources, but it is also an economic linkage country. In South Africa's mining industry, as a pillar industry, is constantly exporting gold minerals to the world [1]. In recent years, however, the development of mining also corresponds to the increasing voice of miners' rights protection, and the social and labor market unrest in South Africa occurred more and more frequently, causing concerns from South African mining investors [2]. It can also be seen that if the South African mining industry wants to continue to develop, it must pay attention to the protection of labor rights, especially the workers in illegal mining areas under legal supervision. The legal demand for equity protection is vital and urgent for South African government.

## 2. Overview of mining development in South Africa

South Africa's economic development follows a unique path from the agriculture and animal husbandry and mining industry to the manufacturing which have become its pillar industries. The South African economy was initially based on agriculture and husbandry. The discovery of diamonds and gold in the second half of the 19th century greatly boosted the economy, and thus the mining industry became a pillar industry. Manufacturing grew rapidly in the 20th century, and its output outweighed mining in 1945. After a century and a half of mining development and industrialization process, South Africa has built the world's leading mining industry and a relatively complete range of manufacturing industry and modern agriculture, with a fairly complete financial system and infrastructure [3]. In recent years, due to the financial crisis and the European debt crisis, coupled with the power shortage and the annual industrial and mining strikes, the growth rate of mining and manufacturing output in South Africa has decreased, and the proportion of output in GDP has been declining. But the mining, manufacturing, agriculture and services have become the four pillars of South Africa's economy, with manufacturing, construction, energy and mining becoming the four major sectors of South Africa's industry.

South Africa's mining industry has natural advantages. South Africa is rich in mineral resources, with more than 70 proven reserves and mined minerals. The US Geological Survey (USGS) and the International Investment Research Institute have pointed out that South Africa is the country with the world's richest mineral resources, excluding energy, mainly due to the rich platinum metal reserves. The report shows that the total mineral resources value in South Africa can reach \$2494 billion, with platinum metal mines worth \$2.2 trillion. However, under such good congenital conditions, South Africa's mining industry shows a lack of momentum after rapid development. African miners performed poorly compared to their global counterparts. In the first half of 2000, African companies led their global competitors if measured by economic gain. But when it went to 2005, African companies began to lag behind, which is

largely affected by the South African legislations.

### **3. Problems in the local composition law of South African mining at the labour level**

South Africa is a country with a frequency of strike due to workers' strong awareness of rights protection and high labor costs, and it is difficult for foreign workers to enter the country with a high unemployment rate. During 2008 to 2012, there were at least 30 large and small strikes in all industries in South Africa. South Africa's unemployment rate has hovered around 25% in recent years after forced to reduce jobs for employers to pay higher wages. To this end, the South African government is also actively thinking about the legislative construction from the perspective of workers, and has also made corresponding efforts in the legislative practice [4]. The revitalization of the Black Economic Empowerment (BEE) has been one of the most important agenda of the South African government since the first democratic elections in South Africa in 1994. For this special mining industry, in addition to the BEE score, there is a hard requirement for the proportion of black ownership (e.g., the mining company requires black ownership of 26% and more in 2019). Other legislative instruments were also issued. The promulgation of the Mineral and Petroleum Resources Development Act of 2003 put legislation on local mining composition on the stage of history. In the early stage, it played a positive role in improving national skills, accelerating national equality and guiding the standardized development of mining. With the change of the times, some problems occur in the basic local law of mining industry as reported below.

#### ***3.1. Double legal regulation with unclear regulatory powers and responsibilities***

The main purpose of local component legislation is to correct the economic imbalance by transferring pillar industries and transferring enterprise management, and to ensure that all the vulnerable groups participate in the economy and the overall development of South Africa, so as to solve the problems of widening poverty gap, continuous growth of black unemployed and unbalanced social development. As a national economic field with a significant impact on South Africa, mining should be the first to establish the local component strategy, and further deepen the "black economic revitalization" local component strategy, so as to achieve the goal of improving the black economic status. On the one hand, the implementation of dual legal regulations. In this regard, the laws that promote and guide widespread and effective black participation in mineral economic construction and investment are mainly the "B-BBEE Act" and the Mineral and Petroleum Resources Development Act. The "B-BBEE Act" is the text regulating whether enterprises meet the BEE strategy, while the Mineral and Petroleum Resources Development Act is a departmental law that specifically regulates the local composition requirements of mineral enterprises. In practice, many enterprises will be tired of designing local composition plans in accordance with the laws of various departments. At the same time, there are also inconsistent audit standards of management departments corresponding to the two laws, cumbersome double audit procedures and extremely low work efficiency, leading to the practice that the audit of local components of enterprises is a mere formality and poor application effect. On the other hand, the regulatory powers and responsibilities are not clear. Due to the B-BBEE and the "Mining Charter" in the legislative competition and cooperation, the scope of regulation is cross-overlapping. In practice, the government requires companies to submit annual reports on local components to two agencies. Unfortunately, neither of the above two laws has set regulatory subjects for the illegal local components of enterprises, which presents the unclear regulatory rights and responsibilities of both sides, and finally both sides are negligent in managing illegal behaviors.

#### ***3.2. The mining community approval procedures are too ahead to increase the approval cost of mining enterprises***

On the one hand, the natural environment of the mining community requires pre-community approval procedures. Mining activities will cause huge damage to the natural environment, and the implementation of mining will inevitably bring environmental pollution problems. Mining damage to the local ecosystem is bound to affect the local economic development, and South Africa has a tradition of respecting and defending the natural environment, which means that while realizing the economic interests of mining, the environmental and economic value damaged by mining must be considered. The new mining community approval process preplaces the right to grant licenses to the mining community that is the real environmental damage. On the other hand, the mine approval process is bound to increase the cost of investor approval [5]. After delegating the right of authorization license to the mining community according to this pre-procedure, a key point is that the community will set high environmental damage

costs, not simply restore to the original state, but also set punitive damages for environmental pollution caused by mining activities. Sometimes, the mining is required to strengthen the training and employment of community members in the environmental recovery process, and to once again raise the indicators of the "mining community plan" already set by the mining charter.

### ***3.3. Equity transfer proportion is large and enterprise shares are to be "nationalized"***

In recent years, the local component legislation in African countries has shown an expanding trend. Since the 2,000s, nearly 20 African countries have passed local component legislation, which has gained more momentum in recent years. These legislation on local components involving national economic fields such as non-renewable resources are bound to increase tax, labor and management costs for foreign investors, which will then affect the investment profits of foreign investors, and is more likely to cause economic disputes between the government and foreign investors. African local component legislation is actually a palliative means of "nationalization", which can be seen as a chess game for "nationalization", starting from the beginning of the founding of the new South Africa. The Old Mining Charter 2010 required mining companies to transfer only 26% of corporate ownership to historically disadvantaged South Africans, achieving the principle of "helping historically disadvantaged South Africans achieve all aspects" established in the Constitution [6]. According to the 2018 Mining Charter, the proportion of ownership transfer of mining shares increased again, by 30% from the previous 26%, taking another step to realizing the goal of "nationalization". It can be seen that the local composition strategy of South Africa mining gradually increases efforts, not limited to the framework of the "B-BBEE Act" to strengthen the degree of local legislation. Therefore, for investors, special attention should be paid to the South African mining local composition strategy related measures, to set up a BEE standard plan. At the same time, more attention should be paid to the trend of local component legislation and the worst case in the comprehensive "nationalization" stage.

## **4. Strategies of improving the South Africa mining and labor force**

### ***4.1. Clarifying regulatory subjects and selecting partners***

First of all, in the face of the dual regulation of local mining component legislation in South Africa, non-mining investors cannot be tired to deal with the audit because of the double constraints. Second, by carefully choosing partners, due diligence is the first thing to start. Enterprises entering South Africa for mineral investment can not avoid the local component strategy of BEE. Only by observing the requirements of relevant local component legislation can they apply for mining licenses and invest in South Africa and factories. It is also important to select the appropriate BEE partners. Investors can give priority to cooperation with excellent enterprises in the mining area, and the Mineral and Petroleum Resources Development Act and the Mining Charter have seven local components for enterprises: ownership, mine community development, human resource development, procurement, and supplier and enterprise development, etc. It can be seen that, if placed in the same scenario, there are many places where the above elements can overlap. Of course, the regulatory field of the legislation itself does not overlap, but in practice, many additional effects are still very obvious. For example, a local mining enterprise investing in the mining community cooperates to develop local mines and join the cooperative company, enabling investors to meet the BEE subject qualification. At the same time, the local company being joined also meets the requirements of local components in the transfer of ownership of shares. This series of local component qualifications will benefit the cooperative company. Therefore, choosing the right BEE partners can get twice the result with half the effort [7].

### ***4.2. Paying attention to the community approval procedures and fulfilling the environmental protection obligations***

The mining investors are bound to protect the environment in South Africa's mining areas, and they should understand and support South Africa's tradition of respecting and protecting the natural environment. On the one hand, mining enterprises should practice the obligation of mining area protection, and should pay attention to the procedural provisions approved by the mining community [8]. And mining investors in South Africa are required to negotiate with the mining community in advance. On the other hand, although the new mining Charter still lacks emphasis on the environmental protection of mining, South Africa has laws designed to protect the natural environment, such as the National Environmental Management Act 1998 and the National Water Act 1998. As such, investors need not only

to pay attention to the special environmental legal regulations in South Africa, but also to pay attention to the environmental problems caused by mining and not in the special environmental legal regulations. Most of these problems cause environmental disputes between mining enterprises and local communities, and these disputes may not have clear legal regulations. Investors also need to pay attention to the environmental protection of the mining areas, which not only creates a responsible corporate image, but also meets one of the major factors in the front procedure of the mining community's right to know.

#### **4.3. Designing the BEE transaction structure and developing the BEE promotion plan**

For foreign mining investors, the nature of solving the problem of a large proportion of equity transfer in the local component legislation and the ownership share of mining enterprises is to choose appropriate local partners, design BEE transaction structure, and formulate BEE promotion plan, thus achieving win-win results between both sides. Because the choice of appropriate local partners can enjoy the qualifications to meet the requirements of local components, but in the issue of core interests such as share ownership transfer, the two sides will inevitably need to negotiate the transaction terms, and formulate a BEE promotion plan to meet the requirements of local components [9]. The transaction structure of the two parties determined by the parties in the terms of the contract. Second, formulate a BEE promotion plan. If foreign mining enterprises want to invest in the South African mining market, they must meet their local composition requirements. Based on the designed the BEE transaction structure, the mining enterprises need to invest in the South African mining market to meet the local composition requirements. Under the basic requirements of the B-BBEE Act and the Mineral and Petroleum Resources Development Act, the BEE promotion plan should be assigned for internal and external coordination to improve internal systems and documents, management control, skill development, local procurement to achieve a higher BEE level to meet the basic requirements for business in South Africa.

## **5. Conclusions**

The development of South Africa's mining industry once encountered the labor crisis. To truly realize the stable development of the mining industry, the attention and solution of the labor issues are fundamentally important. At present, there are many problems in South African mining labor. For example, the large number of working-age population cannot be well converted into suitable labor, and the formal employment level is still low. Another example is the high unemployment, rising costs of living and intensified conflicts between wages, leading to frequent violent protests among workers. Based on this fact, although South Africa has enacted local component legislation to resolve the labor problem, the lack of local component legislation does not fundamentally solve the labor problem, and the improvement of the legislation is imminent. Local composition legislation is an important measure taken by resource-rich African countries to improve the lives of local people and increase the economic benefits of natural resource mining. It can also be considered as a basic law to protect the legitimate rights and interests of workers and solve the problem of mining labor in South Africa. Since the 2000s, African countries have passed indigenous component legislation, and South Africa has undergone a series of legislative reforms to increase the indigenous component requirements. Only by actively constantly improving the local composition law from the perspective of the development of the national mining industry and the attention of workers, can the mining help people at a disadvantage in history participate in economic development, safeguard their own interests, solve the problem of the local labor force, realize the balanced development of the national economy, and promote the steady development of the political situation.

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