The State of Transformation in South Africa's Energy, Mining and Construction Sectors

Abstract

The exclusionary policies of apartheid systematically marginalised the majority of South Africans from partaking in the economic activities of their country. The Mining Charter and the B-BBEE codes were introduced to facilitate transformation in the mining, construction and energy sectors. This paper examines the extent to which the objectives of the Mining Charter and the B-BBEE codes have been achieved in the mining, construction and energy sectors. The findings show that some progress has been made in terms of compliance, however transformation has not occurred at the intended rate. It is recommended that unions need to find space to be part of the mining Charter and B-BBEE compliance auditing processes. Furthermore, workers must be sensitised on the requirements of the mining Charter and B-BBEE codes and be empowered to report, continually on progress made at the workplace towards meeting these requirements, within their own structures.

Introduction

Apartheid excluded the majority of South Africans from the main economic activities. Historically Disadvantaged South Africans (HDSAs) were prevented from participation in the main stream economy. The Mining Charter and the B-BBEE codes were established as instruments for transformation in the mining, construction and energy sectors.

This paper discusses the extent of transformation in the mining, construction and energy sectors. The Mining Charter and the B-BBEE scorecards, were applicable, are used to determine the level of transformation in the three sectors. For the mining sector, compliance is assessed for the period 2009-2014.

Mining Sector

In the past, mining was used as a method for selective development which promoted a few, while excluding the majority of the black people. To address these inequalities, the Mining Charter was established. The Charter was adopted in 2004 as an instrument for driving transformation in the mining sector. The various stakeholders agreed to periodically review the Charter's performance. This was to make sure that in case the Charter was not leading to transformation, it could be changed or supplemented.

The Mining Charter has nine elements that are intended to facilitate the transformation of the mining industry. The aim of these elements is to include the previously disadvantaged South Africans in the ownership and management of the mining sector. The following section presents the nine elements of the Charter, the transformation targets set and progress made on each of these elements.

Elements of the Mining Charter

Human Resource Development

The mining industry requires specific skills which the South African labour market does not produce. The Mining Charter addresses the inherent skills deficit in South Africa and requires the mining industry to: offer every employee the opportunity to be functionally literate and numerate by the year 2005; implement skills development plans for Historically Disadvantaged South Africans (HDSA); and to develop systems through which empowerment groups can be mentored. The 2014 target is 5% of total annual payroll (excluding mandatory skills development levies) to be spent on Human Resource Development (HRD).

In 2010, the functional literacy average for HDSA in the mining sector was 17.1%. Skills development for HDSA stood at 17.1%. Only 11.4% of all HDSA had benefited from mentoring and empowerment interventions in the work place.

By 2014, 56,9% of industry had achieved the target of spending 5% of payroll on HRD according the Department of Mineral Resources (DMR) report of 2015. By implication, 43% of the industry had not complied with the HRD requirement. The Chamber of Mines reports, though, indicate that the HRD requirement had been fully complied with by 2014.

Employment Equity

In the 2002 charter, the employment equity element was introduced as a measure for including and advancing previously disadvantaged races in the workplace. In addition, it asked mining companies to establish a plan to achieve a target for women participation in mining of 10% within the five years and show evidence of implementing the plan. In the revised Charter, companies had to achieve at least 40% HDSA representation at all levels including executive management and senior management levels by 2015,

According to the DMR 2015 report, the industry had surpassed the 40% representation of HDSA at all levels by 2015 (Table 1 below).

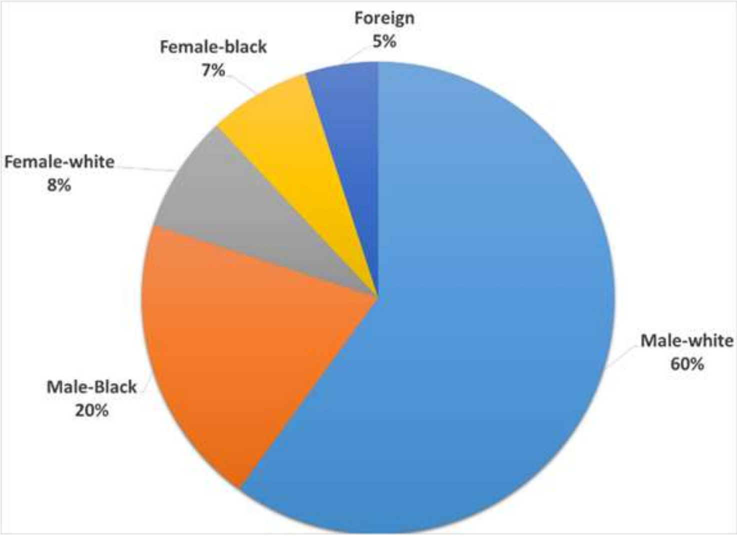
Table 1: HDSA representation at different employment functional categories 2015

Category	African		Coloured		Asian (Indian and Chinese)		White		Foreign Nationals		Total HDSA
	Male	**Female**	**male**	**Female**	**Male**	**Female**	**Male**	**Female**	**Male**	**Female**	
Top Management	32.0%	9.4%	3.9%	1.5%	2.8%	1.1%	37.4%	3.4%	8.5%	0.0%	54.1%
Senior Management (EXCO)	29.1%	5.2%	3.8%	0.7%	4.1%	2.1%	49.3%	5.7%	0.0%	0.0%	50.7%
Middle Management	26.3%	8.6%	4.4%	1%	2.1%	0.9%	45.1%	9.4%	1.8%	0.3%	52.7%
Junior Management	41.9%	9%	5%	1%	0.6%	0.2%	33.1%	5.1%	4%	0.1%	62.8%
Core Skills	64.1%	8.6%	1.7%	0.3%	0.1%	0.0%	6.1%	0.4%	18.2%	0.4%	75.2%

Source: DMR 2015

However, a recent report by Commission for Employment and Equity 2014-2015 paints a rather a different and gloomy picture compared to that of DMR. According to the report, progress of HDSA in top management is clearly unsatisfactory with top management position still dominated by white males as shown in Figure 1 below.

Figure 1: Top management composition – Mining and quarrying Sector



Source: Commission for Employment and Equity Report 2014-2015

The finding of Commission for Employment and Equity on low representation of women in senior management positions is supported by the results of the 2015 research on challenges facing women in the mining, construction and energy sectors done by the Sam Tambani Research Institute (SATRI), in which more than 1,400 women were interviewed. Women cited lack of career progress as the most common challenge they faced.

Whether the representation of HDSA as set out in the Mining Charter has been achieved depends on which information source one uses. Nonetheless, causal observation of 'who does what' and 'who holds the power' in the mining sector, reveals that the desired transformation in terms of HDSA has not been achieved. One has also to be careful about the issue of quantity versus quality. Some HDSA may be put in high position but with minimal powers to influence the workplace dynamics.

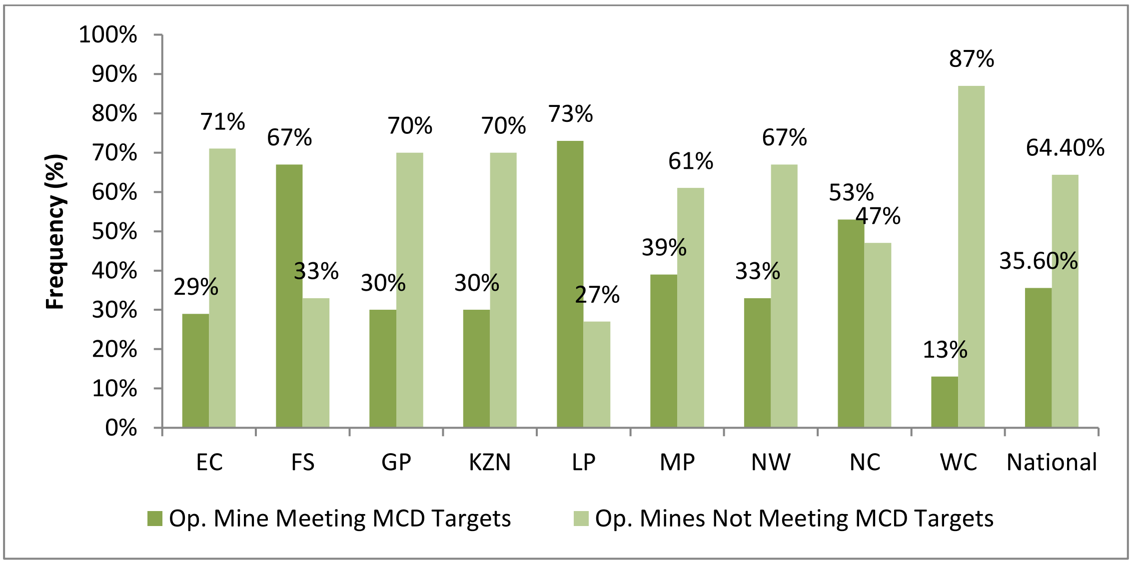
Mine Community Development

Mining exploration and mining activities are often located in remote and under developed areas of the country. The Mining Charter aims to ensure that community upliftment programmes are implemented to support communities within which mining takes place, as well as the labour sending areas. There, however, is little evidence that this is being achieved.

The Mining Charter requires that mining companies include detailed community development initiatives in the mine's Social and Labour Plan (SLP), and that the plans must be followed by consultation, assessment and implementation.

By 2014, only 30% of mining companies, on average, had implementation of approved Mining Community Development (MCD) projects indicated in their SLP (Figure 2).

Figure 2: Extent of implementation of approved MCD projects



Source: DMR 2015

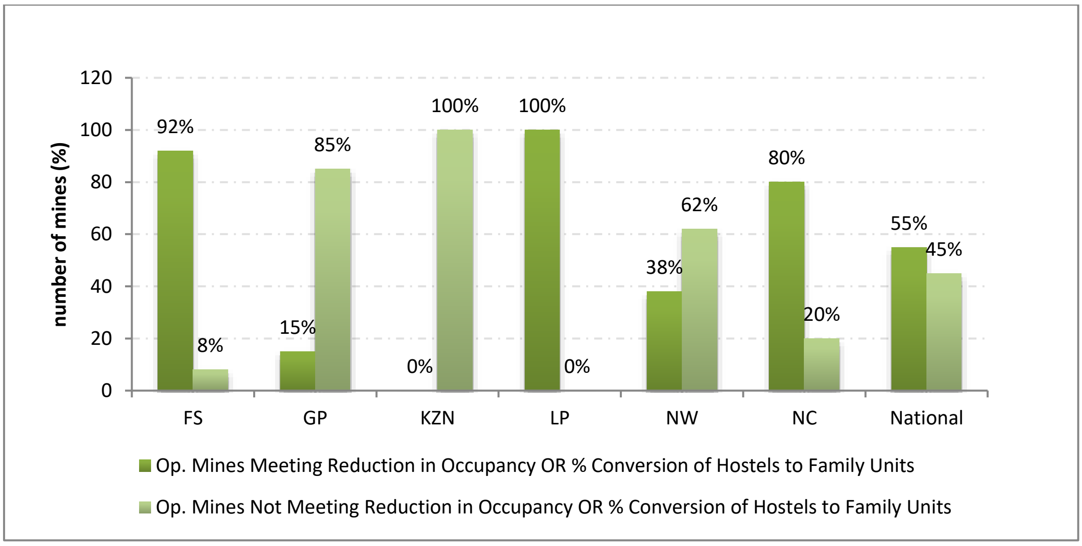
Housing and Living Conditions

The living conditions in the mines under the apartheid system were appalling and resulted in many social ills, like substance abuse and the spread of diseases. These conditions prompted government to promote humane living conditions for affected workers. In this regard, mining companies must implement measures to improve standards of housing and living conditions of mine workers.

The target set in the Charter was to convert or upgrade hostel into family home by 2014, as well as strive for occupancy rate of s single person room by 2014

The 2009 DMR assessment of progress made towards improving the housing and living conditions of mineworkers indicated that 26% of mining companies had provided housing to their employees, while 29% had improved the existing standards of housing. The assessment further revealed that 34% of companies had facilitated employees' access to home ownership through various schemes. The occupancy rate per unit had decreased from 16 to 4 mine workers. By 2014, 55% of mining companies met the housing and living conditions target according to the 2015 DMR report (Figure 3)

Figure 3: Performance of mining right holders against the target set for housing and living conditions in 2014



Source: DMR 2015

Overall, the mining sector has made reasonable progress towards the creation of descent housing and living conditions for mine workers through various schemes. Nonetheless, the occupancy rate of more than one workers per unit remained high.

Procurement

The procurement requirement was established to facilitate economic freedom for HDSA companies. It was observed that the South African economy was still divided along racial lines. Procurement of capital goods managed by the mining industry continued to be dominated by non-HDSA companies. To change this, mining companies are required to give HDSA companies a preferred supplier status, and report on the extent to which commitment to procure from HDSA companies has been implemented.

The DMR report of 2009 on procurement by mining companies showed the following:

- 89% of mining companies had not given HDSA companies preferred suppliers status.
- 80% of mining companies had not indicated commitment to the progress of procurement from HDSA companies over a 3/5-year time frame.

The 2015 DMR indicate that 42% of the mining companies had met the target of procuring capital goods from HDSAs, 33% met the target of procuring services from HDSAs and 62 % met the target of procuring consumables from HDSAs. These most recent figures point to the fact some progress has been made on the procurement and enterprise development requirement. The question of whether these figures are an accurate representation of what is on the ground still remains

Beneficiation

The government wanted to expand down and upstream benefits of mining to the local economy by establishing mineral beneficiation (or processing) plants in the country.
To create an enabling environment to effect coordinated beneficiation in South Africa, government introduced the Precious Metals Act No. 37 of 2005, and the Diamonds Amendment Act No. 29 of 2005 which led to the establishment of the South African Diamond and Precious Metal Regulator (SADPMR) and the State Diamond Trader (SDT).

As of 2014, lack of processing of mineral resources in the domestic economy was still an issue and was part of the agenda of the Mining Lekgotla (2014). The beneficiation requirement of the Mining Charter remains largely unachieved.

Ownership and joint ventures

The next element of the Charter relates to ownership and joint ventures. The ownership element of the Mining Charter gives effect to the Freedom Charter clause: 'that the national wealth of our country, and the heritage of South Africans shall be restored to the people. The mineral wealth beneath the soil shall be transferred to the ownership of the people as a whole.' To effect change in ownership of mineral resources, the mining industry is required to comply with the following measures:

- 15% of the company's equity should be transferred to HDSAs within 5 years of the coming into effect of the New Act.
- 26% of the equity of the company should be transferred to HDSAs within 10 years of the coming into effect of the New Act.

As of 2014, many mining companies indicated that they had, at one point, achieved the required 26% ownership by HDSA. However, overtime, some of the HDSA owners sold out their shares. An encumbered ownership by HDSA in the mining sector was estimated at not more than 9 per cent in 2014 (DMR, 2015). In a separate research by SAMDA it was found that the majority of the JSE top 49 mining companies have a non-complaint ownership.

Ownership, thus, remains one of the mining Charter aspect on which the industry has underperformed. The situation is exacerbated by the court case on 'once empowered, always empowered'.

Reporting

The Mining Charter requires an ongoing process of consultation, monitoring, evaluation and reporting on the achievements of the Charter. It was agreed that companies should report, on an annual basis, progress made towards achieving the Charters requirements.

Of the 962 mining companies that had to submit progress report to the DMR in 2014, only 442 did (DMR 2015). This translates into a non-compliance percentage of 46%. Without these reports, proper assessment of progress made becomes almost impossible. Moreover, the accuracy of the overall industry performance towards achieving the targets, across board, becomes unreliable. The figures reported will tend to overestimate achievements because it is the non-complying companies that most likely do not submit their reports.

5. Conclusion

The findings in this report indicate that the Mining Charter targets are useful tools for enforcing transformation in the mining sectors. However, despite the introduction of the Mining Charter, transformation has not occurred at the intended pace. Although some of the performance figures on progress made seem reasonable, evidence on the ground indicate the sector is underperforming in terms of set targets.

It is recommended that going forward, unions need to be part of the Mining Charter and B-BBEE compliance auditing processes. Furthermore, workers must be sensitised on the requirements of the Mining Charter and B-BBEE codes and be empowered to report continually on progress made at the workplace towards meeting these requirements.