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“A new dawn or a continuing nightmare?”

No place in the sun for mining communities

It is a pleasure to greet you all at the start of the Bench Marks Foundation's Annual Conference. Once again, we are delighted at the level of participation by people from all walks of life, and we trust that you will find the occasion to be enlightening and fruitful.

A year has passed since we met at our conference in 2017. It has been a momentous and eventful year, one which has seen many developments for those in and impacted by the mining industry. Three events were particularly significant, or at least of potential significance, to me and the Bench Marks Foundation: Firstly, the fall of the Zuma regime and the rise of Cyril Ramaphosa as the new ANC leader and president of the country; secondly, the appointment of a new Minister of Mineral Resources, Mr Gwede Mantashe, and thirdly, the release of the third draft of the Mining Charter. Despite these and other changes, one must still ask a critical question which this conference seeks to answer: Is this really a new dawn, or a continuing nightmare for mining communities and mine workers? Of overall significance against the backdrop of these developments was the continued push for mining at any cost and the marginalisation of mining impacted communities.

Deep disappointment

The appointment of Mr Mantashe was welcomed by the Bench Marks Foundation. We saw him as someone who may be able to fully grasp the industry and its impacts and listen to the voice of civil society and communities' concerns. We were naïve to believe that Mr Mantashe, with a background in mining and his position as a former general secretary of the NUM and the ANC, was aware of the negative impacts which is reflected in the dichotomy of winners and losers that we see daily in this sector. However, our positive view turned to

deep disappointment at Mr. Mantashe's handling of a meeting he called to discuss mining at Xolobeni on the Wild Coast. The minister effectively shut out the genuine leaders and silenced the voices of those who stand to lose most from mining. People from the much broader geographical area who reside within a 50 kilometre radius area of the proposed mine, who had little interest in the impact of mining on the directly affected community of seventy families, drowned out the voices of the affected communities. This is not the kind of action we expect from a representative of our democratically elected government! I will not be exaggerating if I say he has proved us wrong to have thought he will be better than his predecessor.

In respect of the Mining Charter, we see little benefit in it for communities. Talk about trust funds is meaningless for communities. We all know that communities simply don't trust tribal and local authorities to deal with trusts in a way that benefits the people they are intended for. So, as far as the Mining Charter is concerned, it has really been a non-event for mining communities this year.

Given the above discussion, we may now ask: what about Cyril Ramaphosa's leadership and vision? He has publicly said that South Africa needs to restore investment and exploration levels in the mining sector as one of the drivers of the revitalisation of our economy. Unfortunately, his remarks were made in a rather negative light of a report on South African mining by PricewaterhouseCoopers which said that 2018 had been a challenging year for local mining companies, even though the global financial performance of the mining industry had improved considerably from the previous year. I make these comments about the performance and expectations of the mining sector simply because it reflects the way in which many in the industry regard mining as something whose primary role is to generate economic benefit for shareholders in the main, and for the economy as a secondary beneficiary. Few people consider the impact of mining on the communities who live on the land under which mining takes place, and who are usually uprooted in the most inhuman and cavalier fashion when mining takes place. If we did a proper cost benefit analysis of mining, the findings would probably say that the costs outweigh the benefits, particularly when considering the unsustainable nature of mining.

No benefits for communities from Heavy Mineral Sands mining

One wonders what the future has in store, since one of the fast growing mining sectors in South Africa is that of heavy mineral sands (HMS) mining. My prediction is that the worst is yet to come, and, of course, communities will be most affected. HMS is a group of minerals that include titanium and zircon. Titanium has important uses in the aerospace and medical industries, while zircon is used in foundry sand, TV screens and in the ceramics industry. The potential importance of HMS to southern African economic well-being cannot be overemphasised, with six out of eight of the world's project areas in southern and eastern Africa.¹ But, of course, as with every mining endeavour, there are negative aspects to this form of open-cast mining, with considerable impact on environmentally sensitive coastal dunes and ecotourism.

It also goes without saying that communities are negatively affected by HMS mining. One such community that has spent years fighting for its right to prevent mining on its land is that of Xolobeni on the Wild Coast. The Amadiba Crisis Committee (ACC), representing the Xolobeni community, was formed in 2007 by five villages on the Wild Coasts to fight open cast mining on their land. On this part of the Wild Coast, there are families who have lived in the same homestead for over a hundred years. Their ancestors are also buried there.

The perception that the community is against development is not fair, because we know that the community plans to expand agriculture and ecotourism as an alternative to destructive mining. These plans will be severely disrupted by the mining project, which would lead to the forced removal of about seventy households. Two hundred other households would be negatively affected. The mining project would tear the community apart, economically, socially and culturally. It's of no use the minerals minister telling us that it is only a handful of dissidents saying "no", with the majority coming from outside areas, saying "yes" to mining, since those who arrived from outlying areas are not impacted by mining.

¹ Article in the journal of the South Africa Institute of Mining and Metallurgy March 2004

The mining applicant for this project is Transworld Energy Minerals (TEM). Behind TEM is the majority owner Australian corporation Mineral Resources Commodities (MRC), backed up by the directors of TEM, a local BEE consortium and two chiefs, one of them of the Amadiba. They are already receiving benefits and are thus induced to support the mining application.

In April this year, the community on the Wild Coast, backed by Bench Marks Foundation, requested the Pretoria High Court to rule that it would be illegal for the Minister of DMR to issue a mining license without their consent.

Impoverishment of communities at an all-time high

Moving to the forty odd communities that Bench Marks works with as we record their daily struggles and fight to eke out a living, the kind of challenges that they live with range from dealing with gross human rights abuses, severe health and respiratory illness, to cattle dying, water drying up, or losing access to water because of mining, the noise of blasting, cracked houses, dust and other airborne diseases, and having their land “expropriated”. This is to mention but a few of the difficulties they face every day of their lives in the name of so called development.

The most important question that we have to ask ourselves is: How has mining impacted on communities during the past year and have communities benefited from it? Can we speak of signs of a new dawn, or indeed of any glimmer of early morning light for people whose lives have been impoverished by mining activity, and who remain desperately poor in spite of the riches being extracted from the land on which they once lived?

Sadly, I conclude that, with rare exceptions, there are no such signs at mining impacted community level. The impoverishment of communities is at an all-time high, with their way of life and dignity all but destroyed. Communities and their leaders continue to be marginalised in decision-making, and the power relations between mining companies and communities remain grossly skewed. This year, for example, we commemorated six years since the Marikana massacre in 2012 and what is most striking is the fact that there is still

no redress for victims and their families. Families are still forlornly waiting for an apology. Widows have not received compensation, and, worse still, suicides in the community related to the massacre have increased. Although affected families agreed to a settlement, out of sheer desperation, months have passed without payment being made. Justice delayed is justice denied. The wheels of government turn slowly, but for these families, the daily pain of the massacre stares them in their faces.

Workers are also among those who are not seeing the new dawn of mining in South Africa, and this year witnessed the death of far too many mine workers in our mines. One of the companies that recorded deaths was Sibanye-Stillwater. Its CEO is on record as saying that most accidents result from human behaviour. Yet pressures are being exerted on workers to perform to levels that may compromise their safety. In the case of this company, it is servicing interest on its acquisition debt of 100 million dollars annually. Can health and safety be a top priority under such pressure to generate profit?

Community protests escalating continuously

What is hopeful, however, is that communities are as determined as ever that this power imbalance between them and mining companies cannot continue and must change. As a result, community protests are increasing all the time, with at least three a day across the mining belt.

The case against “Xolobeni Mining” has become a part of a larger “Right to say no” campaign across Southern Africa. Communities affected by destructive mining are demanding the right to say no and to stop projects that destroy their land and their communities.

Contribution of post-94 legislation in the disempowerment of communities

Focusing the spotlight on legislation enacted since 1994, a recent study concluded that the Mineral and Petroleum Resources Development², and the Traditional Leadership and Governance Framework Act³ (TLGFA) were developed to enable politically connected business and traditional leaders to use their homeland antecedents and their political connections to cut themselves into the mining industry on terms that exclude the poor black people who own the land on which mining takes place. Government has treated traditional leaders as landowners with the sole authority to represent the rural people residing within apartheid boundaries that the TLGFA reinstated. Hundreds of millions of Rands in mining deals have gone missing from tribal accounts supervised by government, even though rural communities have strenuously opposed them through petitions to government, legal challenges and violent protests.

Glimmers of light, but not for communities

We must, however, acknowledge that there are a few glimmers of hope at executive level in mining companies, with talk of change and social justice. At government level, in spite of the Ramaphosa new dawn, there is little sign of light. Government continues to display great arrogance and insensitivity for the plight of impacted communities, as displayed with the Xolobeni case. It is clear that government prioritises macro-economic and big capital's interests at every turn. At organised labour level, a small sign of hope that communities are being considered is that many community organisations were invited to the Working Class Summit. However, it is debatable whether they were accorded the necessary respect at the Summit.

This brings me to what constitutes development and what is investment? If development is a crude extraction of our resources at great social, livelihood, and environmental cost to the losers, and investment is return on capital, with significant community losses, then something is fundamentally unjust.

² Act 28 of 2002

³ Act 41 of 2003

Sadly, therefore, one concludes that overall, there is currently no place in the South African sun for communities, and the cold darkness of the night continues as our land is further stripped and degraded, destroyed, and communities further impoverished and excluded from any meaningful consultation or decision making processes.

What is needed for the sun to start rising?

Now, as I conclude, allow me to make some suggestions that may lead us to the dream of the new dawn. Firstly, a major mindset shift is needed by government and business to recognise the humanity, dignity and needs of communities, to acknowledge the right of mining impacted communities to experience the new dawn vision, and to recognise the simple and basic right to be related to and treated with dignity as human beings.

We already know that on paper South Africa is one of the richest countries on the planet. Yet this 'wealth' based mainly on the extractive industries, cheap labour and high unemployment has not benefitted the vast majority of South Africans and has resulted in an ecological overshoot which has led to the degradation of our environment and poses a real threat to our food and water sovereignty. What we know is that gold is coming to an end, more than 50% of platinum is being recycled, and coal is causing more destruction, affecting food security and health. The major mining houses will all in all probability be gone in ten to fifteen years, leaving us with very little or nothing at all. Evidently, we are running out of certain minerals, and other minerals can no longer be profitably mined, while the cost of mining of others are simply too destructive of our environment, air and water resources. It is now imperative that we consider a new way of mining that fits in with a vision of a sustainable society and the Sustainable Development Goals. Its realisation requires us to collectively engage in changing the current economic model in this country.

Secondly, we need to introduce hard limitations to unsustainable trends — in particular, large scale industrial mining which feeds into the overconsumption of North America, Europe and China — and putting emphasis on distributional justice, participatory and non-exploitative social relations of production, environmental justice, and ecological balance.

There are many new ideas for an economic paradigm shift that have been developed and discussed at the academic and grassroots levels in recent years, from which we must learn.

This vision for an alternative way in which to do mining must be based on the concepts of sharing, equality, simplicity, sufficiency, well-being, community, sustainability, durability, mutuality, stewardship, contentedness, and the idea of “better not more”.

These concepts suggest that the products of mining, the wealth produced by it should belong to, and equally benefit all. They suggest that mining should be done on a smaller, less destructive scale that is not depleting of, or destructive of the environment and of humanity. Sufficiency suggests that we should not consume more than what we need, we therefore should not produce minerals to satisfy greed and self-enrichment, but to meet the material needs of humanity in a manner that will lead to human contentedness and not to conflict and war over resources. To limit our consumption of minerals it is necessary to produce durable consumer goods that do not need replacing at short intervals.

Finally, we need to take cognisance that human evolution has endowed us with levels of intelligence that requires responsibility from us. The future of our country and planet is in our hands. We effectively have stewardship over the planet and need to manage it responsibly. We therefore need to address popular development from below, which can take the form of mass scale clean-up projects using the R50-billion rehabilitation fund at the DRM, identify negative impacts that can be turned into opportunities for development; and mass scale agricultural development driven by communities. So much can be done, and, if not, the country will continue to suffer poverty, inequality and unemployment.

Immediately urgent interventions

However, it is not sufficient for us to merely call for these concepts to be implemented. Noble though they are, they require practical action if they are to be implemented in any real and meaningful way for the people of South Africa. Of immediate urgency, we call for:

- The reparation for and resolution of the negative impacts of mining operations on communities, with developmental solutions that address poverty and inequality.

- The restoration of a dignified way of life for communities, including land, livelihoods and capacity to manage their own lives.
- The halting of further damage to communities by mines, including adherence to the principle of free prior and informed consent.

Problem solving and capacity development – restoration of lost dignity

It is for this reason that Bench Marks Foundation has introduced two new services: the Independent Capacity Building Fund (ICF), and the Independent Problem Solving Service (IPSS), to the range of excellent tools that it currently offers.

Firstly, the ICF addresses skewed power relations, allowing communities access to knowledge, skills and specialist expertise to advise them, whether on environment or social and economic impacts, or how to shape development in mining areas. We say you can't have effective dialogue in an unequal power relationship. Power between equals opens ways to solutions. Secondly, the ICF will support the IPSS, which is also developmental in approach.

The IPSS involves an alternative dispute resolution and problem solving approach instead of company led grievance mechanisms that largely don't work, to produce positive outcomes acceptable to all stakeholders. This tool is based on an interventionist approach using highly skilled impartial facilitators to act as intermediaries between communities and mining companies, and using dialogue and trust building to resolve problems in a non-adversarial and non-evidence based system. This service has being established in consultation with all role players and is designed to effectively resolve problems between all affected stakeholders in the mining sector. Its desired outcomes are sustainable, developmental solutions, aimed at going beyond remedies to address poverty and inequality in all its dimensions, including unemployment and to create meaningful livelihoods.

As pronounced by our courts on many occasions, at the centre of the promotion of social justice is human dignity and within the South African context, the restoration of lost dignity.

This is directly relevant for the communities. Being treated with care, respect and dignity is the very foundation of this initiative.

A unique opportunity to institute change now

In conclusion, we ask the uncomfortable, but entirely necessary question: What will the horror of the continuing nightmare look like if a new dawn does not materialise or if it does materialise, what will it look like? Who will be the winners and who will be the losers?

I leave this question largely unanswered. Suffice to say that government and business have a unique opportunity to institute change now. This includes entering into peaceful dialogue, informed by the vision of a better life now for all South Africans. If they shun this opportunity, the nightmare will gain ever more frightening proportions. Communities and organisations supporting them will be driven to intensified protest.

We encourage all of us to use our energy and resources to ensure that the vision that has guided us at Bench Marks Foundation since inception – that of a society in which justice prevails for all people, and one in which everyone lives with dignity and the means to support him or herself, benefitting from the great riches of our land and living in harmony with creation, leading us to the envisioned new dawn.

I thank you for your attention today.

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