“Transformation review in the South African mining industry: barriers affecting compliance to the Mining Charter”

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Transformation review in the South African mining industry: barriers affecting compliance to the Mining Charter

Abstract

It is over a decade since the issue of the Mining Charter to the public and mining companies. The year 2015 marked an important review of the progress made in transforming the mining sector as set in the Mining Charter's scorecard. This article presents a critical review of the results of the government findings on the progress made in transforming the mining sector. Although transformation progress has been reported by some companies, this article shows that transformation in the mining sector is still a challenge. Through literature synthesis analysis, an insight is gained on compliance issues facing companies in the mining sector. This article makes an important contribution by reporting on the barriers affecting compliance to the Mining Charter namely; non stakeholder collaborations, availability of skills, negative spirit of transformation, education and broad legislatory framework. Recommendations are made to overcome these barriers.

Keywords: barriers, compliance, Mining Charter, mining scorecard, mining sector, transformation.
JEL Classification: O1, O2.

Introduction

The mining sector's compliance with transformation targets is under substantial scrutiny. Prompted by criticism on the slow progress demonstrated by the sector to transform, the year 2015 marks an important review of the progress made in transforming the mining industry between 2002 and 2014 as measured against the Mining Charter, which is the broad-based socio-economic empowerment charter for the mining industry (DMR, 2015). Failure to comply with transformation targets stipulated in the Mining Charter would imply that mining licences would be revoked from non-compliant companies (Reuters, 2015). In his review of transformation in the mining sector Minister Ngoako Ramatlhodi reported that the mining sector had fallen short of the compliance to the objectives of the Mining Charter (Matthews & Gernetzky, 2015).

As the foundation of the economy of South Africa the mining sector still plays a significant role in stabilising the economy of South Africa. According to the Chamber of Mines (2014), the mining sector in South Africa directly accounts for 8.3% to the Gross Domestic Product (GDP). Although the mining sector's contribution to GDP has decreased from 21% in the 1970s, it continues to make a valuable contribution to the economy of South Africa (BMI Report, 2014). Most particularly, the mining sector is the largest earner of foreign exchange, tax and exports and fixed investment, and it creates employment activities (more than half a million people employed) (BMI Report, 2014). A nominal mining GDP of R279.7 billion was recorded in 2013, compared to R270.2 billion in 2012 (Chamber of Mines, 2014). The mining sector contributes about R20 billion directly to the tax revenue (BMI Report, 2014). Mining also makes a significant contribution as a buyer of goods and services, and a supplier of inputs to other sectors of the South African economy and other economies around the world (BMI Report, 2014).

Given the economic significance of mining and the historical and political background of the mining sector, relating to its strong association with the legacy of apartheid, it is difficult to transform South Africa without transforming the mining industry. Thus it is important to government for the mining sector to demonstrate transformation by implementing activities in a number of areas as prescribed in the Mining Charter (DMR, 2015; Cawood, 2004; Fauconnier & Mathur-Helm, 2008). However, this sector's slow progress of transformation can no longer be overlooked (Ramatlhodi, 2014).

Indeed, transformation goals were enforced through the promulgation of legislation such as the Mining Charter as it contained specific targets for the mining sector by means of a scorecard (Cawood, 2004), to be achieved by the end of year 2014. However, the goals in the Mining Charter were not satisfactory met in both 2009 and 2015 (DMR, 2015; Ramatlhodi, 2015).

For example, in the 2009 Mining Charter Impact Assessment released in 2010, Minister Susan Shabangu announced that merely '37 percent of companies in the mining sector had developed "employment equity" (EE) plans, while a lesser number of companies have published these plans'. No evidence of EE reports were submitted to the Department of Mineral Resources. These findings demonstrate the intransigence and lack of commitment by the industry to transform (DMR, 2009). In the 2014 Mining Charter review, Minister

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Ngoako Ramatlhodi announced that '45% of mining right holders had not met the target for improving the living conditions of mineworkers by either reducing the occupancy rate to one person per room at hostels or by converting hostels into family housing units' (Wyngaardt, 2015).

The challenges facing the mining industry are not only those of meeting EE targets and improving the living conditions of mineworkers but of transformation in general (Shabangu, 2010). Ownership structures of mining houses and procurement of goods and services from black economic empowerment (BEE) entities are topical concerns as well as the mining community development. The political history of the mining sector also contributes to subsequent power relationships between mining houses, government and mining communities (Cronje & Chenga, 2009). To an extent that the Chamber of Mines has been in conflict with the government due to differing interpretations of the Mining Charter review results (Seccombe, 2015). The mining sector is furthermore confronted with constant labor unrest and is a battleground for labor unions. Mineworkers are relentlessly probing for better wages in pursuit for the improvement of their quality of life. Furthermore, the industry plan for retrenchments of mineworkers contributes more unrest (Abreau, 2015).

Labor issues have a high impact on productivity in mining operations, but are also detrimental to investor confidence and thus the economy of South Africa. Yet, irrespective of commitment from government, prescribed compliance with social and labor plans, regulations and Mining Charter targets, the South African mining sector stands on a risk to lose investor confidence (Deloitte & Touche, 2013; Mashego, 2013).

Prompted by the issues raised in the discussion above, this article seeks to clarify compliance issues with respect to the status of transforming the South African mining sector. Using a literature review each element of the Mining Charter scorecard is discussed and evaluated. This synthesis makes it possible to report on the compliance issues and barriers to transforming the mining sector and could assist in determining ways to overcome these barriers.

The article is organized as follows: first a review of key elements of the Mining Charter as prescribed in the mining scorecard is presented by means of a literature review. Next follows a critical analysis of the results of the Mining Charter assessment in the years 2009 and 2015 for the periods 2002 and 2014. This article concludes with recommendations for government and the mining industry.

1. Literature review

1.1. Aspects of compliance to transformation in the mining sector. A broad legislation framework governs transformation in the mining sector (Rungan, Cawood, & Minnit, 2005; Tupy, 2002). Various regulatory and statutory frameworks that affect the mining sector are namely, the Employment Equity Act of 1998, the Skills Development Act of 1998, the BBE Act of 1996, the broad-based black economic empowerment (BBBEE) Act of 2003, the Minerals and Petroleum Development (MPRDA) Act of 2002 revised in 2010 and the Mining Charter (Moraka, 2013). Although the Mining Charter is not an act per se, but it draws its goals from the objectives of the stated acts. For this reason, this article focuses on amenability to the Mining Charter from companies in the mining sector.

1.2. The 2002 Mining Charter. Transformation concerns in the mining sector are informed by the extent of compliance to the Mining Charter initially formulated in 2002 (DMR, 2015; DMR, 2009, p. 5; Fauconnier & Mathur-Helm, 2008). In a nutshell, compliance to transformation concerns of the Mining Charter was stipulated by the increment of growing prospects for the participation of Historically Disadvantaged South Africans (HDSAs) in the mining sector through various activities including, the ownership of the South African mining sector, the management of mining projects, employment, worker and community participation, and sharing the benefits arising from the mining sector (Cawood, 2004, p. 56).

Critical aspects of the Mining Charter were to (1) promote equitable access to the nation's mineral resources for all the people of South Africa; (2) substantially and meaningfully expand opportunities for HDSAs, including women, to enter the mining sector and to benefit from the exploitation of the nation's mineral resources; (3) utilize the existing skills base for the empowerment of HDSAs; (4) expand the skills base of HDSAs in order to serve the community; (5) promote employment and advance the social and economic welfare of mining communities and the major labor sending areas; and (6) beneficiation of South Africa's mineral commodities (DME, 2004; DMR, 2009).

In 2009 the poor progress on transformation compliance was found by the Department of Mineral Resources (DMR), and this finding necessitated the amendment of the Mining Charter given sector concerns of unclear expectations. Thus the amendment of the Mining Charter followed a review of the transformation progress of the mining sector against the objectives of the Mining Charter which were set in

2002 (DMR, 2009). Another key improvement made was the modifying the Mining Charter's measurement instrument namely, the mining scorecard, to include more realistic and achievable objectives for the mining sector. The main criticism of the 2002 Mining Charter was its initial scorecard detailing a "checklist" with a yes or no option (Rungan et al., 2005). Rungan et al. (2005) raised concerns over the practicability of measurement of the scorecard by arguing that a yes or no did not provide detailed compliance measurements and targets thus revealed as an unsuitable measurement scale. After recommendations from various stakeholders, a redraft of the scorecard provided a clear direction of transformation expectations (DMR, 2009). Indeed the amendment of the Mining Charter and the scorecard in 2010 provided more measurable items, scales and targets.

1.3. The 2010 Mining Charter. The amendment of the Mining Charter in 2010 established a governmental method to include and ensure sustainable growth and meaningful transformation of the mining sector (DMR, 2009). The revised charter had specific aims namely to; simplify certain ambiguity and uncertainties which existed in the original 2002 Mining Charter. The new charter also provided more detailed objectives to restructure and accelerate compliance to transformation objectives. It furthermore introduced the concept of the sustainable growth of the mining sector, to attain sustainable transformation and to ultimately hone its usefulness in driving transformation and competitiveness in the mining sector (DMR, 2009; Schoeman, 2010, p. 1).

The Mining Charter considered the following 12 key elements of transformation to be the key concerns of government and the mining sector (Cawood, 2004, p. 57):

Element 1: Human resources development – mining companies were expected to develop an inclusive skills development strategy whereby they either fund or develop opportunities for HDSA to be skilled in mining related occupations. Bursaries' offerings, training, fast-track and mentoring programs of HDSA should have been the main focus of human resources.

Element 2: Employment equity – mining companies should have developed EE plans every five years and reported on its progress on an annual basis. Reporting should have included the extent of representation of HDSA inclusion in management positions.

Element 3: Migrant labor – foreign laborers in mining industries should have not been discriminated against and mining labor sending areas should have benefited in mining activities.

Element 4: Mine community and rural development – mining companies were expected to perform a community needs assessment and formulate plans to contribute to socio-development opportunities of the mining communities.

Element 5: Housing and living conditions – mining companies should have improved the living conditions of mineworkers by eradicating the hostel system into family units and advanced home ownership arrangements for employees.

Element 6: Procurement – mining companies were required to use the services of HDSA companies as suppliers of goods and services or partner with HDSA companies.

Element 7: Ownership and joint ventures-the target was for 26% transfer of mining ownership by year 2014 to HDSA in mining companies.

Element 8: Beneficiation – mining companies would be allowed to balance the value of beneficiation against HDSA ownership targets.

Element 9: Exploration and prospecting – government would provide organized support for HDSA.

Element 10: State assets – the mining charter also applied to state assets.

Element 11: Licensing – a scorecard to measure performance of empowerment goals would be used to assist in facilitating licensing and granting of mining rights.

Element 12: Financing mechanism – the mining sector should have established funding to assist in achieving a 26% ownership target.

1.4. The mining scorecard. The scorecard was informed by the Mining Charter and also developed to be in line with the broad-based black economic empowerment (BBBEE) Codes of Good Practice. It serves as a criterion by which individuals can measure their expected transformation targets (Cawood, 2004; Fauconnier & Mathur-Helm, 2008). The scorecard measures the obligation of the mining sector at all levels of BEE. The Mining Charter explains "how to do it" and the scorecard explains "how companies would be evaluated" (Rungan et al., 2005, p. 740).

The amended scorecard served to supplement the amended Mining Charter of 2010 by using more measurable items (Miningmix, 2011). By the end of 2014 mining companies should have achieved a number of targets in each of the following scorecards.

Human resources development scorecard – by end of 2014 the mining sector should have achieved a 5% target in the following objectives; applying and providing a certain percentage of annual payroll (as

per applicable legislation) in required skills development activities that are reflective of demographics (excluding compulsory skills levy), and offered support for the national research that is based on development initiatives and recommendations or solutions in exploration, mining processing, technology efficient use (energy and water use in mining), beneficiation and environmental conservation and rehabilitation (DMR, 2009, p. 3). Each company in the mining sector was required to present a skills audit in which the skills development plan is featured. Some of the long-term goal requirements were to grant scholarships and bursaries that support mining education. For the immediate goals, the mining sector was required to provide entrepreneurship programs and provide literacy and numeracy as part of adult education (Cawood, 2004).

Employment equity scorecard – 40% of HDSA participation in each management category and in core and critical skills was expected by the end of 2014 (DMR, 2009, p. 3). Critical and core skills of HDSA participation include ensuring HDSA whom are; artisans, engineers, professionals and specialists (e.g. surveyor, safety specialist, geologist, metallurgist, winding engine driver, environmentalists, technologists, technicians, and persons with mining specific qualifications or licenses). Mining companies were expected to spot and fast track their talent pools and provide a high quality exposure in critical mining activities. Women in mining are also a key focus. Mining companies should have established plans to achieve the target of 10% for the participation of women in mining by 2014.

Mine community development scorecard – mining companies should have reviewed global best practices in terms of policies, principles and guidelines in their dealings with mining communities. The principles required mining companies to be devoted to ethnographic discussions and consultations through concerted efforts before engaging in mining projects, development and implementation. Mining companies should have performed a needs assessment on the communities of their mining operations to establish their developmental focus areas. In their projects, the mining companies should have established projects to match the needs for community development and these details should have been incorporated in their Integrated Development Plans. Danasereau (2010, p. 88) noted that when family housing was established at the mines, it resulted in the creation of permanent communities in underdeveloped areas. If this was not completed properly, it could be detrimental to workers, the environment and lead to the disruption of traditional communities.

***Housing and living conditions* scorecard** – development plans should have been put in place to improve the housing and living conditions of mineworkers by the following activities; convert or upgrade hostels into family units by 2014, attain the occupancy rate of one person per room by 2014, and facilitate home ownership options for all mine employees in consultation with organized labor by 2014.

Procurement and enterprise development scorecard – the procurement from BEE entities should have been in agreement with the following criteria: purchase of at least 40% of capital goods from BEE entities by 2014, and ensured that multinational suppliers of capital goods annually contribute at least 0.5 per cent of the annual income generated from local mining companies into a social development fund towards the socio-economic development of local communities. Purchases of 70 per cent of services and 50 per cent of consumer goods should have been from BEE entities by 2014 (DMR, 2009, p. 2).

Ownership mining scorecard – HDSA should obtain meaningful economic participation in terms of shareholder participation in mining ownership. A 26% target should have been achieved by 2014.

Beneficiation scorecard – mining companies were required to ensure local beneficiation of mineral products by submitting to the requirements of the MPRDA Section 26 of mineral beneficiation strategy. Mining companies may have compensated the value of the level of beneficiation achieved by the company against a portion of its HDSA ownership requirements not exceeding 11 per cent (DMR, 2009).

***Reporting mining* scorecard** – the mining sector was obliged to report on its transformation status of the Mining Charter on a yearly basis with reference to the MPRDA Section 28(2) (c). Reports would have been evaluated by the DMR on an annual basis and formal assessments were performed every five years (DMR, 2009).

1.5. Compliance to the mining charter by the mining sector. In both the 2014 and 2009 review, the DMR showed its dissatisfaction over the compliance to the Mining Charter. Although from a holistic point of view, some progress has been made with respect to transformation in the mining sector, compared to a disappointing progress in 2009 (DMR, 2009). However much still needs to be done. Table 1 shows the DMR's findings of transformation between the 2002 and 2014 in the mining industry and shows a relatively significant progress. Specifically the employment equity aspects have been significantly addressed whereby the 40% of HDSA target has not

only been met but exceeded. This is pleasing. However one underlying concern continues to be the dominance of white males in key management and strategic levels of the mining sector. In 2009 the rate of participation of women in the mining sector was seen as improved from 6% in 2009 to 14.17% in 2014. However, much more still needs to be done to improve the representation of women in the mining sector (DMR, 2015). The results of DMR's (2015) are presented in the Table 1 below.

Table 1. Compliance to the Mining Charter (DMR's findings)

Scorecard	2009 Mining Charter review (Released 20 September 2010)	2014 Mining Charter review (Released 17 May 2015)
Human resource development	♦ Lack of management support for staff participating in adult basic education and training (ABET) programs ♦ Career plans typically focus on developing senior managers to the exclusion of lower level staff ♦ About 83% of mining companies had not identified a talent pool, with only 17% fast tracking those recognized for management positions ♦ Lack of devotion to develop HDSAs with core and critical skills ♦ Functional literacy and career pathing – average 17.1% achieved ♦ Mentoring of empowerment groups – an average 11.4% achieved	♦ Still low levels of development terms of functional literacy, career pathing and mentoring of empowerment groups ♦ 2.8% of mining right holders reported HRD expenditure greater than total payroll, which could be an overstatement ♦ Most of the right holders have not met the target of spending 5% of their annual payroll on skills development
Employment equity	♦ The occurrence of racially discriminatory exercises in the mining sector still persist ♦ Only 37% of companies have developed employment equity plans ♦ Most mining companies developing EE plans regulatory compliance purposes ♦ Income disparities between different races were evident, regardless of skills and experiences and or expertise ♦ Only 26% of mining companies have conformed to the 10% of women (all-encompassing white women) involvement in mining companies with a standard rate of women participation at 6%	♦ Aggregated information in terms of employment equity showed that the mining industry exceeded the 40% target for 2014 in the different functional categories. However, the industry remains dominated by white males in key management and strategic levels of the industry ♦ Women in mining have improved to 14.7% but much more still needs to be done to improve the representation of women in the sector
HDSA participation in management	♦ HDSA participation at management level is 33% across sector (mostly in middle management) ♦ Mining companies frequently appointing HDSAs in support functions unlike in core business appointments and executive management positions ♦ Women were employed in support functions with less than 1% occupying core management and executive management positions ♦ Most core management and executive management positions represented by HDSAs were occupied by white females	♦ White males still dominate most of the key functional categories, especially senior and middle management ♦ African females are underrepresented at all levels and more still needs to be done to improve their empowerment in the industry ♦ The industry has met HDSA representation targets (40%) in all functional categories
Mine community development	♦ 63% of companies engaged in consultation processes with communities, but no evidence of a direct link between community development projects and the needs of affected communities ♦ 49% of companies have participated in the formulation of integrated development plans (IDP) in mine communities; 14% extended their IDP participation to labor sending areas ♦ 37% of companies showed proof of expenditure for commitments set out in the approved social labor plans	♦ Nationally, only 36% of mining right holders had met their set target on mine community development. ♦ 55.5% of mining right holders had not met the target for implementation of environmental protection plans as stipulated in the charter
Housing and living conditions	♦ 26% of companies have provided housing for employees, whilst 29% have improved the existing standards of housing and; 34% of companies have facilitated employees access to home ownership schemes ♦ 29% of companies have offered their employees nutrition or have established plans to effect improved nutrition	♦ 45% of mining right holders had not met the target for improving the living conditions of mineworkers by either reducing the occupancy rate to one person per room at hostels or by converting hostels into family housing units
Procurement	♦ 89% of companies had not given HDSA's preferred supplier status, 80% have not committed to the progression of procurement from HDSA companies over three to five year time frame ♦ The value of HDSA procurement expenditure as a percentage of total procurement is less than 3%	♦ Against a 2014 target of spending 40% of expenditure on procuring capital goods from black economic empowerment (BEE) entities, 60.4% (unweighted) of right holders had not met the target. In terms of the procurement of services from BEE entities, 66.8% (unweighted) of the industry had not met the 2014 target of 70% of expenditure

Table 1 (cont.). Compliance to the Mining Charter (DMR's findings)

Scorecard	2009 Mining Charter review (Released 20 September 2010)	2014 Mining Charter review (Released 17 May 2015)
Reporting (monitoring and evaluation)	♦ 37% of companies have audited annual reports, while 11% of companies submit annual progress reports to the DMR	♦ 962 right holders were due to submit data for the Mining Charter assessment. Only 46% of the eligible right holders submitted data
Ownership and joint ventures	♦ Mining assets ownership has shown little change in the transfer of rights and ownership. It is prevailed by the racial and gender disparity. ♦ Racial ownership pattern of mining assets has mainly remained untransformed; BEE ownership was aimed at 15%. Aggregate BEE ownership of the mining sector has reached an estimated 9% ♦ The sector stated commitment of R100 billion to facilitate HDSA ownership represents 5% of the value of net asset value of the mining sector, below the agreed 15% empowerment	♦ Whilst a significant number of mining rights holders, irrespective of size by employment, have reported to have met or exceeded the 26% HDSA ownership threshold, the meaningfulness of economic participation remains largely elusive ♦ Most of the larger employers have concluded deals with employees and communities rather than entrepreneurs. It can also be deduced that small and medium sized right holders have not significantly empowered workers and communities ♦ There has been limited impact in terms of intended beneficiaries realising optimal economic benefits

Source: DMR (2010, 2015)

2. Theoretical background

2.1. Barriers to compliance on transformation targets in the mining sector. *2.1.1. Non stakeholder collaborations*. Non collaboration of stakeholders in the mining sector impacts highly on the effectiveness of transformation. Selby and Sutherland (2006) believe that transformation is delayed due to a lack of trust and leadership between stakeholders. Particularly the existence of non-collaborative strategic efforts from mining companies and government is considered to be hindering effective transformation to take place (Moraka and Jansen van Rensburg, 2015). Power relations between stakeholders' influence relationships and deter collaboration prospects for compliance to the Mining Charter. If power is abused, it leads to further exploitation of other stakeholders (Cronje & Chenga, 2010). Amongst others, stakeholders do not agree on the assessments of most of the elements of the Mining Charter. More specifically the mining sector and government disagree on the interpretations of the 26% black ownership of mining companies. The disagreement lies on whether past deals count towards the 26% when the transactions have fallen away (Seccombe, 2015). It comes very clear that the stakeholder's principles applicable to assess the ownership element differ (Seccombe, 2015).

2.1.2. Severe social problems. Cronje and Chenga (2010) found that the relationship between the mining sector and communities was unhealthy. There is a general level of mistrust and antagonism between mines and communities. Mines are also not knowledgeable of the community needs, resulting in ineffective project initiatives which in turn mines interpret as resistance of participation from communities (Cronje & Chenga, 2010). Activities are planned outside community interactions and mines. Black communities also feel that blacks are regarded as inferior and remain within the apartheid paradigm. As such community engagement projects initiated by mines are considered disrespectful and insulting (Cronje & Chenga, 2010).

2.1.3. Negative spirit of transformation. Transformation will take longer to realize until racial tensions between the black and white mining employees are eradicated (Cronje & Chenga, 2010). Moraka (2013) found that whilst the process of transformation in relation to the employment equity scorecard ensured opportunities for HDSA, it brought fear and uncertainty amongst white males. Selby and Sutherland (2006) described this as the breakdown of the psychological contract with existing white employees and increased loss of memory due to a lack of commitment. There are deeper issues within the mining environments, Selby and Sutherland (2006) confirmed the increasing sarcasm and racial tensions amongst different racial groups where transformation is concerned. Black people feel that they are deemed incompetent by groups for employment in the mining sector (Moraka & Jansen van Rensburg, 2015).

2.2. Education. One of the community involvement issues of transformation in the mining sector involves community development projects. Whilst government enforce for the mining sector to engage with education needs of the mining communities, the quality of education in rural schools has been identified as a barrier to transformation (Moraka, 2013). This results in matriculants in rural areas finding themselves not able to pursue mining qualifications in higher education institutions. This problem engages the government that government cannot just regulate and monitor transformation progress, but should also be an effective agent

supporting transformation. For this reason government is expected to ensure that rural or mining community schools are equipped with facilities and resources to operate optimally especially in key subjects of Mathematics and Science. Matriculants would then be fully equipped to enrol for mining qualifications at tertiary institutions.

2.3. Broad legislatory framework. One issue that has always been a key sector challenge is the broad legislation framework for mining companies (Rungan et al., 2005; Tupy, 2002). For example, the HDSA term is used interchangeably with historically disadvantaged persons (HDP), and historically disadvantaged individuals (HDI's) in official government policies. In some cases HDSA are denoted as designated groups which comprise of black people, women (black and white) and disabled people. It is of note that the meaning of HDSA in the MPRDA Act/Mining Charter differs from the meaning of HDSA in the BBBEE Act. This is somewhat confusing as the DMR upholds that the Mining Charter was aligned with the BBBEE Act and the MPRDA (DMR, 2009).

According to the MPRDA of 2002 an HDSA refers to: (a) any person, category of persons or community, disadvantaged by unfair discrimination before the constitution took effect; (b) any association, a majority whose members are persons contemplated in paragraph (a) and; (c) any juristic person other than an association, in which persons contemplated in definition a, who own and control the majority of the issued capital or members' interest and are able to control a majority of the members' votes (MPRDA, 2002, p. 12). This definition includes both people and companies that have been discriminated against and have been prevented from partaking in economic activities before the constitution took effect (Rungan et al., 2005). The MRPDA HDSA meaning does not differ with the one of the Mining Charter. The Mining Charter HDSA definition refers to the "South African citizens, category of persons or community, disadvantaged by unfair discrimination before the Constitution of the Republic of South Africa came into operation which should be representative of the demographics of the country" (Republic of South Africa, 2002). But the BBBEE Act definition of HDSA refers to "all black people including women, workers, youth, people, living with disabilities, people living in rural areas" (Republic of South Africa, 2003). The BBBEE Act is concerned about the interests of black people exclusively excluding white women, whereas the definition of the HDSA referred to by the Mining Charter and the MPRDA Act refers to all who were disadvantaged before the constitution came into effect (Rungan et al., 2005). It is also not clear if black people include black foreign nationals/Africans or are exclusive to citizens of South Africa. As such, Rungan et al. (2005) suggested the amendment of the term HDSA to be identical in policy documents.

2.4. Availability of skills. An important limitation for HDSA to participate in the mining sector is skills shortage. Skills shortage of HDSA's in management, critical and core skills continues to haunt the South African and global mining sector (Delloite, 2013; DMR, 2009; Healing, 2012). It also offers strong defence for mining company not to comply with transformation targets (Rungan et al., 2005). Landelahni Mining Report stated that the mining sector is competing for scarce skills with infrastructure, manufacturing and other local industries as well as the global mining field. Reasons for skills shortage are declining numbers of graduates in mining related qualifications and loss of knowledge due to HDSA turnover and retirement (Healing, 2012; Landelahni Mining Report, 2013). In 2008 the Landelahni mining survey revealed that local mining graduate's pass rate was at 13% compared to 25% international pass rate. South Africa is also experiencing a high shortage of well qualified, competent and experienced artisans and professionals in the mining sector. This explains the provision of attractive bonuses, spiralling salaries, and retention packages by mining companies to retain HDSA possessing these accolades. Although retention strategies are provided, HDSA turnover is high and it is uncertain whether they leave due to attractive packages provided by other companies, or as a result of continued racial discriminatory exercises in the mining sector. This is due to reports of HDSA frustration, feelings of estrangement and cynicism in their capabilities and difficulties to reach their full potential (Engdahl & Hauki, 2001).

Tupy (2002) argued that it is challenging to address skills shortage given the deficiencies of the Mining Charter and unrealistic targets set. Also, a historical prevalence of HDSAs does not favor their prospects to assume management positions in the short term, thus a more realistic time frame need to be set (Mokoena, 2006; Schoeman, 2010). Skills shortage will remain an issue so long as there is ineffective leadership for driving transformation, inability by mining companies to identify and manage a talent pool, and the broad transformation legislation (Esterhuyse, 2003).

3. Recommendations of the research

In this section recommendations for improving transformation in the mining sector to assist mining

companies to ensure compliance to the Mining Charter. The article thus far has contextualized the requirements of the scorecard and discussed the progress made in transforming the mining sector. The underlying barriers to compliance through a literature synthesis were discussed. Up to this point this article recognizes that the conflicts arising from the mining stakeholders demonstrate that transformation challenge in the mining sector remains a concern. The recommendations of this article attempt to offer resolutions to the barriers to compliance of the Mining Charter discussed in the previous section.

- As a general recommendation, an improvement in a better communication, integration and collaboration between mining stakeholders is necessary. Power relations between mining companies, communities, the Chamber of mines as well as labor unions need to be properly managed. The mining sector should continually engage and collaborate with the government with regard to compliance to the Mining Charter. Not just for the mining sector, clear targets for each stakeholder should be established and officialized in a mandatory agreement which stipulates clear responsibilities. Strong strategic collaborations between all parties are therefore encouraged in this regard.
- Women representation in critical in strategic levels and needs to be fast-tracked in the mining sector. The lack of suitably skilled and qualified women to assume these positions can no longer be accepted as justifiable. In fact recent research has demonstrated that companies where women are better represented in strategic levels of organizations perform better.
- Racial tensions should not be ignored in companies in the mining sector. Change management workshops should be established and employees within mining environments should be educated about transformation. This will allow better communication within mining companies and diversity can be embraced.
- The board of each mining right owner should have an additional committee which is responsible for transformation. This committee would ensure collaboration with governments and other stakeholders. This should facilitate active participation of all stakeholders.
- Government should define specific terms relating to transformation, namely, transformation and HDSA and relate it to the SA mining sector.
- It is recommended for new transformation targets to be set for 2020. The mining sector and other key stakeholders need to be aware regarding new policies, legislation and acts. Implications of non-compliance should be clearly communicated. Monitoring and evaluation should be conducted annually to ensure essential progress. Licences for non-compliant companies should be revoked.
- The government should improve the infrastructure of rural schools. Local municipalities should be involved in ensuring that local rural schools are equipped with laboratories, libraries and activities that encourage mining expertise.

Conclusion

This study found that transformation in the mining sector has challenges and mining companies are regarded as not showing the commitment to transformation. Thus it is perceived that the responsibility of transformation lies within the mining sector. It is discussed in this article that transformation will be effective if all stakeholders take accountability. The role of government is thus critical to ensure that all stakeholders collaborate for strategic solutions to emerge on how to implement the Mining Charter. The lack of trust and tensions amongst stakeholders emanate from perceived expectations not met by each stakeholder. In this process the alignment of the actions and expectations of all stakeholders towards compliance to the Mining Charter is critical.

This research recognizes transformation progress by mining companies, and discounts the hypothesis that mining companies are not committed to transformation. Although, much transformation still needs to happen, it is envisaged that new Mining Charter targets, if set, would be taken seriously by mining companies provided a licence to operate is issued based on the substantial progress shown in transformation activities. This brings to the conclusion that with the mining sector, annual monitoring of each mining company is encouraged and for non-compliant mining companies, mining licenses should be revoked.

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