



Media Statement by Bench Marks Foundation
Mining transgressors should be held accountable and prosecuted

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For immediate release

Companies which inflict damage on a society and the environment represent danger. This is a critical issue which any state must confront, says Bishop Jo Seoka, Chairperson for the Bench Marks Foundation at the launch of its latest research report on 15 October 2013.

Released during the Bench Marks Foundation conference on mining in Kempton Park, from 14 to 15 October, the report, Policy Gap 7: Coping with Unsustainability, is an in-depth study of Lonmin Plc's Corporate Social Development Reports (SDR) for the period 2003 to 2012.

"We have long said that the Bench Marks Foundation needs to go "Beyond Reporting: Beyond Compliance" to find out what the truth is with regard to Corporate Social Responsibility, and this report does just that.

"Following an open letter from Lonmin after the release of our last study on the platinum mining industry in the Bojanella District of the North West Province where it argued that the company's own Sustainable Development Reports provide a rebuttal of that report's conclusions, we decided to study its social and environmental performance over the past ten years using the reports they cited.

"The information in Policy Gap 7 is therefore the result of chronologically following how Lonmin reports about social and environmental themes through the years.

"We relied on Lonmin's own reporting and compared the data reported and the stories told over 10 years of reports and then meticulously separated fact from fiction".

Bishop Jo Seoka says that after studying these reports, Bench Marks now has a better understanding of what unsustainability is and that the findings of the report, that Lonmin fails to live up to its own sustainability goals in all areas researched, is a reflection not only of what's happening within the company, but what is happening in mining as a whole in South Africa.

"If Lonmin, who asserts itself as the "best in class" and has been recognised as an industry leader in the social development field is committing offences and failing to honour its commitments, it is highly likely that other mining companies are doing so too.

"Our recommendations following the intense study is therefore not limited to Lonmin itself, but is directed to the industry as a whole and to the government. Especially to the Department of Minerals and Resources (DMR)".

The report shows that reporting in the industry on employment of contract workers is unreliable and inaccurate.

The Bench Marks Foundation recommends that the DMR enforce accurate reports on employment of contract workers in the industry by putting in place a well-resourced monitoring and auditing system and punishing inaccurate reporting.

The use of extremely low paid contract workers in regular production must also be abandoned by the industry.

“In addition, Lonmin is, by its own admission on the basis of its own documentation, clearly violating its commitments in the Mining Charter, says Bishop Seoka.

“It has failed to achieve any meaningful improvement in the standards of housing and living conditions for mineworkers and it has failed to prevent or mitigate adverse environmental impacts.”

Seoka says that clause 3 of the Mining Charter which deals with non-compliance, specifically points to clause 47 of the Mineral and Petroleum Resources Development Act which empowers the Minister to cancel or suspend any mining right, mining permit or retention permit if the holder of the permit breaches any material term or condition of such right, permit or permission and is contravening the approved environmental management programme.

“The problem is that it does not use this power. We recommend that it use the powers it has from the Mining Charter and MPRDA to enforce the provisions of the Mining Charter regarding environmental protection and housing.

“This should include a clear, rapid, enforceable process that provides decent, affordable housing to all workers in the industry and implementation of a clear and measurable common standard for environmental measurement and protection across the industry.

“It should also ensure that sufficient resources, including human resources, are allocated by mines so that effective oversight and enforcement of an immediate clean-up, at the companies expense, of all environmental damage can occur.

“We should also investigate what must be done to answer the question of why authorities don’t enforce the Charter and Regulations”.

Says Bishop Seoka: “The research indicates a very significant doubt about Lonmin’s social development spending, but it’s important to note that the industry as a whole tends to have a problem in this area.

“The 2009 Codes of Good Practice also places obligations on companies in this area.

“According to the code, companies should spend 1% of net profit after tax on socio-economic development, specified as “mine community and rural development”.

“It also clarifies that a breach of the code is a section 47 offence. This empowers the Minister to withdraw a licence. We recommend that the DMR immediately audit the 1% declarations of companies in the industry and prosecute offenders”.

Bishop Seoka also says that the DMR must reinforce its auditing procedures for compliance with the 1% spending to prevent evasion in the future.

According to the Mineral and Petroleum Resources Development Act, a person is guilty of an offence if he or she submits inaccurate or misleading information in connection with any matter required to be submitted under the Act. It also details the fines and incarceration that awaits transgressors.

“It is our view that our analysis of Lonmin’s Social Development Reports provides at least *prima facie* evidence that Lonmin has indeed submitted information that is inaccurate and misleading. The same, I’m sure can be said for other companies within the mining sector.

“Following a few key indicators over time, report by report, we find repetition and transgressions of limits. We find goals constantly moved forward.

“We strongly recommend that the DMR immediately audit the Sustainable Development Reports of all major mining companies, compare the results with reports submitted to its office and prosecute offenders.

“This should become a regular feature so that it can monitor the quality of reporting it receives.

“It should also require that companies incorporate worker incomes into sustainability reporting as is the case in the Northern Hemisphere,” says Bishop Seoka.

“If a large company consistently fails to comply with the laws, the risk to society and the natural environment can be too great and nationalisation then becomes an immediate option.

“To lead a socially, environmentally and politically unsustainable industrial project – a project that on many levels must reach a breaking point – is to accumulate pollution, sickness and anger among the many in the project and in its surroundings,” he says.

“There is no excuse for transgressions in this sector, small or large. The impacts can be disastrous.

“Tough action needs to be taken to ensure that people are protected, that our water is drinkable, that the air that we breathe is healthy, and that the externalised costs are covered by the industry and not by the communities and local governments who do not have the resources to do so.

“At the heart of mining there are people and communities and the environment which need to be taken into account – not just shareholder profit”.

To access the Bench Marks Foundation’s various research documents, including the latest document, “*Policy Gap 7: Coping with Unsustainability*” – an in-depth study on Lonmin from 2003 to 2012 – go to www.bench-marks.org.za or contact the organisation on 011 832 1743.

Notes to editors:

Bench Marks Foundation is an independent non-governmental organisation mandated by churches to monitor the practices of multi-national corporations to

- ensure they respect human rights;
- protect the environment;
- ensure that profit-making is not done at the expense of other interest groups; and
- ensure that those most negatively impacted upon are heard, protected and accommodated within the business plans of the corporations.

Archbishop Desmond Tutu launched the Foundation in 2001 and the Rt Rev Dr Jo Seoka chairs the organisation.

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