

Bench Marks Foundation Showcasing Conference 14th and 15th October 2013

Key Messages

Introduction

The following recommendations are largely based on the Bench Marks Foundation's research findings and work with mining communities. The recommendations in this document cover the life cycle of mining operations and include urgent interventions for mining communities, corporations, government, civil society and churches in general.

Context: We believe that South Africa has a progressive constitution, laws and policies. However, the value of these is rarely felt by poor communities far away from metropolitan centres. In these communities, the laws of power reign, where power is in the hands of the mine owner and the police, and to a lesser extent, the local state and chiefs who have real power which they exercise over villages, towns and informal settlements.

For any significant reform in the mines to occur, the present power and knowledge imbalances between corporations and communities need to be overcome. Government is obliged to support a levelling of the playing field, when it comes to providing expertise to assist communities, whether legally, or to engage with environmental and social impacts assessments. Very much the way government regulates labour relations and provides free services, it must do the same for communities impacted upon by corporations. This in turn requires something like the CCMA for community dispute resolutions and channels for redress.

At all levels of mining, the principle of Free, Prior and Informed Consent (FPIC) must be enshrined in the law and violations must be prosecutable.

The Church represents a large part of the community that has no or little voice and must walk along with those who have the least voice in our society. The Church is encouraged to use its closeness to communities and its role of moral guidance to promote the responsible stewardship of creation, i.e. the earth, the natural resources, and humanity born from this creation. The irresponsible extraction of resources threatens this creation for now and for generations to come.

1. Communities

- 1.1 **Nothing about us without us!** Communities must have a right to say no.
- 1.2 **Communities must remain independent** and be supported by government to engage with corporations around issues of concern to them.
- 1.3 Continuous **Free, Prior and Informed Consent** and accepting a community's right of refusal are key to a social licence for mining operations.

- 1.4 **Community involvement in all stages of the mining operation:** environmental impact assessments, disaster management and mine closure committees dealing with post-mining economy.
- 1.5 Mining communities must be resourced to take **informed decisions**. We propose a **strategic fund** for these purposes.
- 1.6 If communities decide to go with mining, **local employment is a key demand** as well as respecting the location's ecosystem and historical customs and traditions. Protection of rights to ancestral places of worship and graves is particularly important.

2. Mining companies

- 2.1 Mining companies must produce **easily digestible information** for communities to create a more level playing field to allow communities to engage with mines in an informed manner.
- 2.2 **On-going engagement** with communities and community representative organisations is required on a continuous basis.
- 2.3 A **hierarchy of stakeholders** must be recognised by mining corporations, beginning with impacted communities and labour followed by other relevant groupings.
- 2.4 **Localised sustainability reports** per mining operation so communities can hold mines accountable in easily understood language on a quarterly basis.
- 2.5 Mining corporations must support the establishment of a **central fund** to which all mining companies must contribute, from which mining impacted communities can draw upon so as to hire independent experts, (legal, environmental, etc.) to assist them with engaging mine companies.
- 2.6 Calculating **community compensation** on the basis of the value of the reserve, and the cost of the loss of current income from current economic activities by communities across the life of mining using an adequate measuring instrument.
- 2.7 We demand **legislative reform** that includes mining communities having rights to participate in **Social and Labour Plans**, as well as laws to prevent the selling-off of mines just before resource exhaustion and mine closure.
- 2.8 **Structured forums** between mines and communities with representative impacted community organisations to meet regularly provided the communities have access to their own specialised experts.
- 2.9 Mines must respect all the laws of the land and failure to do so must result in the **withdrawal of their licence to operate**.

3. Labour

- 3.1 A statutory increase in **local employment** is called for with clear local employment targets set as a component part of the overall labour force.

- 3.2 A **living wage** for mine workers must be implemented, that is based on family needs, savings, recreation, education and the developmental needs of workers.
- 3.3 The conditions of **employment** must be decent and of good quality.
- 3.4 A review of the **hostel conversion programme, the living out allowance**, and the externalisation of housing costs onto local communities and onto traditional and local authorities.
- 3.5 The **abolition of sub-contracting** and labour brokering as this only contributes to social inequalities.
- 3.6 **Protection of women workers underground**, backed by policy and monitoring instruments to ensure safety of women workers and the development of separate facilities and amenities.

4. Government

- 4.1 A **direct proportion of taxes, royalties** to go directly to local government to cope with housing, infrastructure development and social impacts.
- 4.2 Legislation to completely **prohibit serving politicians and civil servants from serving on company boards**, with a five-year exclusion period after leaving public office.
- 4.3 Laws must be passed to prevent sell-off of mines just before resource exhaustion and mine closure.
- 4.4 Broad-based black economic empowerment: **community ownership** as the preferred black economic empowerment ownership partner to be promoted by government.
- 4.5 To support the establishment and legislate an **independent grievance mechanism** that promotes redress and equitable development of mining communities or an Ombudsman Office that will ensure redress for mining communities. Support for a grievant to present their case must be at the expense of the state. No lawyers must be used to ensure easy resolution of disputes.
- 4.6 Government must establish a **central fund** to which all mining companies must contribute, from which mining impacted communities can draw upon so as to hire independent experts, (legal, environmental, etc.) to assist them with engaging mine companies. The central fund must have an independent board made up of civil society, labour, business and government.
- 4.7 State must ensure that mining companies take responsibility for creating **real value** of the reserve for **post-mining rehabilitation**.
- 4.8 The calculation of the cost of the **loss of current income from current economic activities** must start with a community's losses over the life of the mine and include material and spiritual losses and this needs to be legislated to ensure compliance by mining companies.
- 4.9 The state must also pass legislation for **no-go mining areas** that are in Eco sensitive areas, wetlands, where our water sources begin and areas where the environmental consequences

are too big or the social consequences on food security outweigh the short-termism of mining benefits.

- 4.9 A **separate policy on uranium mining** is needed as uranium mining has consequences that impact in far more disastrous ways, and this needs proper and effective oversight mechanisms, and enforceable regulations.

5. Churches

- 5.1 Churches must perform a **watch dog role** and support communities in their struggles for sustainable livelihoods and the full recognition of their human rights.
- 5.2 Churches must ensure that their **pension fund and other investments** do not benefit from companies whose conduct do not **meet the basic principles** outlined in this document and the *Global Principles for Corporate Social Responsibility – Bench Marks Principles for Measuring Business Performance*.
- 5.3 Churches must develop a **data base of fund managers** who meet these criteria to ensure church investments meet social, environmental and developmental economic criteria that protects people, land and the environment for future posterity.
- 5.3 Churches are encouraged to sign the **Church Leaders Call for Responsible Investment** and to become active participants in promoting responsible corporate conduct.
- 5.4 Churches need to **develop investment policies** that promote basic human rights and the stewardship of creation.

Conclusion

Our general comments include the critical demand that government, in line with its political mandate, must serve the poorest members of society, and cease what communities see as collusion with corporate power. In addition, we demand that all its departments do their work, and not lower standards on water and air pollution to accommodate the corporations. We would welcome a greater involvement of Chapter 9 institutions, in particular the South African Human Rights Commission (SAHRC), to focus on the grievances of mining communities.

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