

BURIED TREASURE

Mining remains one of SA's biggest employers, and as such is a principal focus of BEE in action.

But it's not setting the example it should

By Kerry Dimmer

'We want the mines,' controversial ANC Youth League President Julius Malema was quoted as saying by the Zimbabwe press during his April visit to that country as a guest of ZANU PF.

'They have been exploiting our minerals for a long time. Now it's our turn to also enjoy from these minerals.' He was referring to what he considers the white stranglehold on what is generally regarded as Africa's largest economic resource.

Since democracy 16 years ago, there's been 'adequate' proof that SA mining consortiums have engaged in BEE practices, put in place to address this white domination of the sector.

Headlines over the past six years have certainly heralded and praised the establishment of black-controlled mining businesses, like former Kumba Resources (transformed into Exxaro by Anglo American), and the

Xstrata and Lonmin BEE deals. But 'adequate' isn't what industry stakeholders committed to when they signed the Mining Charter in 2004.

The charter was created to morally address the mining injustices of the past in line with BBBEE principles.

This sector's success has been built on a legacy of migrant black labourers who were paid less-than-acceptable wages with very little opportunity for skills advancement. These were people isolated from their families, forced to live in hostels and faced with the most extreme of working conditions on a daily basis.

As one of SA's biggest contributors to the economy, the mining industry needed transformation that would provide opportunities for the previously disadvantaged to benefit from the extraction of the country's mineral resources. It was time to spread the wealth and the Mining Charter was the means by



which this would be achieved. The charter's requirement was for holders of mining rights to achieve 15% black ownership of SA mining operations by 2009 and 26% by 2014.

Even without the review of the charter, which was documented (but not released) for 2009, there is evidence that the mining industry has been found lacking in almost all the key issues of transformation: black ownership, skills development, employment equity, preferential procurement, mining community upliftment, housing and living conditions, and mining beneficiation.

Susan Shabangu, minister of Mineral Resources, has declared the Department of Mineral Resources (DMR) extremely dissatisfied with the rate at which black equity ownership of mining companies is being achieved and has called for the review to be completed by the end of June this year.

She has evidently seen a draft of the review and wants any amendments to be finalised before embarking on an international road-show planned for later in the year. And amendments there will surely be.

There are clear signs that all is not well, as has been revealed in a number of independent reports. One of these, presented by KIO Advisory Services and commissioned by the South African Mining Development Association, concludes that SA mines have achieved only limited transformation of ownership structures.

'In fact,' says KIO analyst Duma Gqubule, 'very few of the mining companies are anywhere close to achieving the 26% net value as laid out in the charter.'

By end March, the actual gross value claimed in the KIO report was just 5.27% of the total R1.8 trillion market capitalisation of the JSE's top 25 mining companies, translating to a cap of just R98 billion. 'This figure does not, however, take into account the debts incurred by black shareholders,' Gqubule warns.

Within those top 25, the study found that black wealth is concentrated in only three of the JSE's listed companies: Exxaro (coal); African Rainbow Minerals (minerals); and Impala (platinum). Together these three account for 69%, or R66.8 billion, of total black mining ownership.

It also appears that within the five sub-sectors of the mining industry – platinum group metals, coal, gold, iron ore and manganese – gold mines were the worst performers in terms of ownership targets, followed by platinum.

It's not surprising that the coal sector leads this group, probably because the largest buyer of coal, Eskom, has very stringent BEE policies and has substantial public sector leverage. On the other hand, gold and platinum mines interact with global markets, which obviously do not require BEE to factor into their negotiations.

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Landelahni Business Leaders also reached some conclusions in its third biannual *Mining Survey*, namely that while black representation in the mining industry at top management level more than doubled from 12.4% in 2001, to 30.6% in 2006, the percentage had dropped in 2008 to 28.5%.

On a slightly more positive note, as Landelahni's CEO Sandra Burmeister points out: 'The 28.5% does exceed the all-industry average (24.2%) at top management level for that period.'

The survey also indicates a decrease to an average of 50% of black and women employees in core operations against almost 65% in 2006. 'In contrast, however, there's a healthy increase in the support roles that black and women employees hold, from 35% to an average of 59%.

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Incidentally, the survey also produced disappointing figures in terms of gender equity in the industry. But as Burmeister reminds us, 'Mining is by nature a male-orientated industry with a large proportion of operational teams on remote sites.'

Burmeister believes that employment equity is integral to ongoing transformation within the mining arena, and that the focus to correct any imbalance should be on training and development from graduate level through to middle and professional levels. By virtue of the numbers alone, she says, equity concerns would automatically be addressed.

Assuming such skills shortages could be addressed successfully, SA would then face the possibility of skills-poaching from other mining countries.

Meanwhile, Minister Shabangu has indicated, and not for the first time, that the mining industry has been guilty of fronting, where there is no true transfer of wealth to BEE partners.

She believes this may be because the complex financial models used in empowerment transactions are focused on making money and designed to benefit principal partners, financiers, legal advisers and other management firms.

So strongly does Shabangu feel about tokenism ploys, that this year the DMR will be allocating R174 million from its R1-billion budget to conduct more frequent compliance monitoring and evaluation inspections.

She's hinted that the charter review will expose 'a lot of fronting' by the mining industry and has made it a personal crusade

during her tenure to weed out the trend of, as she refers to it, 'renting a black'.

Over the past five years, complicated and long-winded empowerment deals have suffered under worldwide market stress, culminating at the end of last year with a falling

commodity price. That, in turn, crippled the finance available to empowerment partners, suggesting either that BEE is not a priority or that there's no real value for participants to focus on empowerment deals in strapped times.

What then of the junior mining companies, of which most are black-owned or satisfy BEE compliance comprehensively?

They have the potential to mine more profitably than the larger conglomerates but struggle to find significant capital investment, particularly from the mining brotherhood. Where do they now turn for finance in order to contribute to the struggling economy?

Media reports have hinted that government is considering prescribing a 'minimum

value of facilitation' which companies would provide to BEE partners at the start of a transaction.

In this way, capturing the required economic impact of all possible transaction variables in a single measurable guideline may solve part of the problem.

This value would be a percentage of the market capitalisation of the investor, or a proportion of the total value of an SA operation. Either way it must be equal to the economic cost of the BEE transaction.

But no matter which way the cookie finally crumbles, a new BEE mining model is desperately needed. On that, at least, there is consensus.

The highly anticipated Mining Summit in March saw an unprecedented tripartite unity between representatives from mining companies, labour and government agreeing on a strategy going forward, positioning the industry for sustainable growth, job creation and meaningful transformation.

A lot appears to have gone on behind the summit's closed doors, but one thing is certainly clear: no longer will it be acceptable for the transfer, or 'recycling', of mining wealth to go to a small number of individuals or organisations, be they black or otherwise.

For mining companies to secure new-order mining rights, they will have to facilitate and embrace BBBEE deals and transform their ownership packages. ■