Corporate social responsibility in the South African mining industry: *necessity, conformity or convenience?*

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Black Economic Empowerment, Corporate Social Responsibility, Historically Disadvantaged South Africans, Mining Charter, Mining Industry, South Africa

Abstract

The socio-economic divide that characterise the South African society two decades into the new dispensation have not been adequately averted or addressed and, this state of affair has been so glaring within the mining industry. This can arguably be attributed to the infamous migrant labour system, degrading single-hostel system, division of labour along racial lines and discriminatory compensation system. The involvement and role of labour unions has also come under some intense scrutiny as a vehicle of influencing policy direction on mining operations and their social responsibility on communities surrounding their area of operations. In the efforts of redeeming their chequered history, mining companies have embraced some aspects of Corporate Social Responsibility (CSR) on the one hand, and on the other, the state (through the Department of Mineral Resources), in consultations with all other stakeholders made a commitment through Mining Charter, to alleviate the injustices of the past. This paper provides an assessment of the progress thus far made in pursuit of responsible business practices. Firstly; the notion of CSR as a discourse and its understanding within the mining industry will be explored, Secondly; a brief overview of the historical and policy context of the South African socio-economic background. Thirdly; reflections on the mining charter as a framework for responsible business within the mining industry. Lastly; an analysis of the progress achieved and concluding remarks.

Introduction

Mining is one of the core sectors of the world economy, it is highly developed in many countries and in some cases, defines the success of national economies (Yakovleva: 2007). Also, because economic growth is important for the overall improvement of global standards of living and the provision of conditions for the enhancement of environmental protection, the extractive industry has a significant role in contributing towards sustainable development at local, national and global levels. However, there is a general consensus that mining is a finite economic activity and as a result, the general expectation is that mining companies have to contribute towards social and economic development in areas where they operate and, in areas where they source most of their labour (Mabuza, Msezane & Kwata, 2010). This assertion is mainly attributed to the fact that mining usually occurs in areas where the lack of development is most acute. These are areas mostly located away from the urban centres, are beyond the reach of government resources for social infrastructure (Hamann: 2004, Hooge: 2010, Kapelus: 2002).

Most importantly, as Yakovleva (2007) indicates, mining industries cause significant effects upon economic, social and environmental dimensions, and are particularly viewed amongst the most damaging and dangerous industrial sectors and South Africa is no exception. In the corporate mining context there is a need for a commitment to the continuous environmental and socio-economic improvement, from mineral exploration, through operation, to closure. This paper provides an analysis based on the secondary data obtained from commissioned research project to assess the impact of the mining charter in relation to the transformation of the mining industry in South Africa. The basic premise of the paper is to determine the extent of the commitment by the mining industry to become responsible business entities in the changing global economy. The paper will allude to the notion of Corporate Social Responsibility (CSR) within the mining industry, the transformation profile of the mining industry in South Africa, assessment of the secondary data obtained from the commissioned projects and some concluding remarks.

Corporate Social Responsibility Imperatives for the Mining Industry

The notion of Corporate Social Responsibility (CSR) has gained some significance as a discourse and business practice in a globalized economy. As Hooge (2010) illustrates, the concept of CSR in mining has garnered significant attention in the last decade or so, more so in Africa. Its profile has risen considerably during the mid-2000. But as Pedersen (2006) and Jamali & Mirshak (2007) argue, in spite of its current popularity, CSR remains an ambiguous and much debated construct. CSR means different things to different people at different times, and new issues can easily be included in existing definitions (Carroll: 1999: 268-295, Yakovleva: 2007: 9-17, Ndhlovu: 2011: 72-75).

Despite the misgivings about its definitional constructs, it is worth exploring what ought to happen when CSR is operationalized within the mining industry. Jenkins & Yakovleva (2006) contend that CSR has never been more important in the mining sector due to: poor public opinion of the sector as a whole (i.e. there is more concern on environmental and social performance than in areas such as product pricing and safety), local and international pressure groups challenging its legitimacy, the financial sector being more concerned about risk management and social responsibility, other than Socially Responsible Investing (SRI) and, a challenge to the notion of "a licence to operate". However, there is a consensus on 'what' CSR has to achieve, let alone the 'how' part of it. In this instance, CSR is a helpful conceptual framework for exploring the corporate attitude of companies towards stake-holders (Mabuza, et al, 2010; Hooge, 2010; Hamann, 2004). This is further articulated by Kapelus (2002) when indicating that enlightened companies / corporations have long been aware that it may be in their interests to address issues of concern to the local communities in which they operate.

In addition, while corporations have always been involved with CSR programs to some degree of one form or another, the last couple of decades have seen an explosion in terms of the efforts and resources that corporations have been expending on CSR. CSR appeals for mining companies to respond to concerns of its stakeholders, including shareholders, employees, customers, local communities and the general public (Yakovleva: 2007). This view resonates with that of Visser (2006) that there is a general agreement that the private sector remains one of the best placed institutions to make a significant positive contribution towards improving social, economic and environmental conditions, particularly in Africa.

Regarding the definitional construct, there is no universally accepted definition of Corporate Social Responsibility (CSR). This is attributed to the fact that various definitions are based on different business and social theories as well as the different eras through which the concept has evolved (Carroll: 1999, Yakovleva: 2007; Jamali & Mirshak: 2007, Visser: 2006, Hinson & Ndhlovu: 2011). As Ndhlovu (2011: 72)'s aculeate summation of the concept denotes, "While corporate social responsibility has increasingly become a fashionable concept in literature, there remains a nagging feeling that its abstractness can render it meaningless". What has become a common threat among scholars, researchers and practitioners alike is that, the notion of CSR ought to embody the following features: *accountability, responsiveness, proactive corporate behaviour* and *voluntarism* (Yakovleva: 2007; Muthuri & Gilbert: 2012). Hamann (2003: 238-9) identifies three key elements of this evolving CSR definition, they are; (a) CSR goes beyond philanthropic community investment and environmental impact mitigation – *CSR is not just about how some percentage of after-tax profit is invested in social development, but also how profits are made in the first place*, (b) CSR must be integrated into the core activities and decision-making of a company to embrace economic, social and environmental aspects of sustainability in a holistic manner and; (c) CSR entails a mind-shift away from confrontation and towards constructive engagement. Crainer & Dearlove (2004), citing Sparkes (2002), avows that CSR is not the same as corporate philanthropy, it is a situation when companies are judged not just by the product and profits they make, but also by how those profits are made. Furthermore, a number of drivers are involved in the rush to adopt socially responsible practices. These include; the role that CSR can play in risk management,, reputation management, external pressures and the avoidance of additional regulatory requirements.

In the case of South Africa, Fig (2005: 601) is of the view that business generally eschews the notion of 'corporate social responsibility', despite the wide use of this term among practitioners and in the literature. Instead, it favours concepts of 'corporate social investment (CSI)' and 'corporate citizenship': concepts that ask no questions about legacy, memory, history, justice, or moral and ethical responsibilities. Quoting *Trialuge* (2004) and *Altron Group* (2004), Fig (2005) indicates that a 'good corporate citizen', on one hand, is one that has comprehensive policies and practices in place throughout the business that enable it to make decisions and conduct its operations ethically, meet legal requirements, and show consideration for society, communities and the environment. According to Ndhlovu (2011: 73) this simply means the integration of social and environmental considerations into all aspects of the enterprise's operations. 'CSI' on the other, encompasses projects that are external to the business or outward looking projects undertaken for the purpose of uplifting communities in general and those which have a strong developmental approach. It also includes projects with a focus on social, developmental or community aspects where investment is not primarily driven as a marketing initiative. Further, Fig (2005) is of the view that both definitions (i.e. *corporate citizenship and corporate social investment*) try to project ideas of good practice, however, neither assigns to firms/companies any moral or ethical responsibility for past injustices.

The CSI definition, as Fig (2005: 601) contends, sees business and development as entirely separate activities, development or 'uplifting' being 'external' to business. In South Africa, as Ndhlovu (2011: 73) further alludes, CSI has emerged as a facet of CSR and, is a South African phenomenon which during the apartheid era, was regarded by the business community as necessary for survival in an uncompromising international atmosphere of sanctions and trade restrictions and growing domestic political unrest.

South African Mining Industry: *Brief Profile*

Mining and its related industries are critical to South Africa's socio-economic development. This relates to significant contribution to economic activity, job creation and foreign exchange earnings. South Africa is famous for its abundance of mineral resources, accounting for a significant proportion of world production and reserves, the mining companies are key players in the global industry with an estimated worth of R20.3 trillion ($2.5 trillion) (South Africa.info: 2012). According to Projects IQ (2011), mining in South Africa contributed to the establishment of the Johannesburg Stock Exchange (JSE) in the late 19th century, and today it still accounts for a third of its market capitalization. Mining products include; gold, diamond, platinum, manganese, chromite ore and vanadium. The following is a sample of statistics provided officially (by the Chamber of Mines) to indicate the worth of the mining industry within the South African economy: Among others:

- Creates a million jobs (500-000 direct and another 500-000 indirect)
- Accounts for about 18% of the Gross Domestic Product (GDP) – (8.6% direct and 10% indirect and induced)
- A critical earner of foreign exchange at more than 50%
- Attracts foreign savings of 43% of the value of Johannesburg Stock Exchange (JSE)
- Accounts for 13.2% of corporate tax receipts.

In 2010, the Chamber of Mines reports that the total mining expenditure was R441 billion (+-$51.9 billion). Despite this rosy picture, on the economic front, Babarinde (2009: 357) has this to say; "South Africa is a classic semi-periphery society, largely because of its profound dualism, or marked contrasts between modernity and tradition, a condition inspired by colonial and apartheid experiences".

Despite South Africa having the stock market that is both the 17th largest in market capitalization ($834 billion) and the 10th best in performance in the world, accounting for almost 40% of industrial outputs and of GDP in Sub-Saharan Africa (SSA), the country still contain attributes of underdevelopment, whereby the majority of citizens exists on the fringes and, has inadequate access to basic necessities, *in some instances, the services provided are of questionable standard and quality* (emphasis added) (Babarinde: 2009). This view is further expressed by Molema (2012: 12) after observing the report of 2012 by Raw Materials Group (RMG) in which South Africa is ranked number one (1st position) in the list of the top countries by mineral reserves but ironically, there is no local mining company among the top ten mining companies in the world. This is what Molema (2012: 12) asked, "How is it possible that the richest country in the world in terms of minerals remains bedevilled by growing levels in inequalities and the worst living conditions for workers and communities?". This question is more profound as the basis for the following sections and remainder of the paper.

An insight into the transformation of the South African Mining dispensation

The transformation process of the South African mining industry is an on-going process due to the magnitude of injustices caused and perpetuated by the both the colonial and apartheid experiences. The history and rationale for such process is well documented and literature is abound. This relates to the role that the business community has played to propel and benefit from the apartheid system, their reaction and attitudes towards the new process of democratising and; promoting responsible business practices and the measures thus far taken by the state to enhance the realization of socio-economic and sustainable development (Natrass: 1999, Kapelus: 2002, Hamann: 2003, Hamann: 2004, Fig: 2005, Babrinde: 2009).

In a nutshell, the change of attitude by the mining companies was not necessarily only propelled by the new post-apartheid state as some would like to advocate but, as Kapelus (2002) indicates, International declarations and standards, through globalization in areas such as trade liberalization, privatization and private-public partnerships. In this case, the mining industry had to contend, adjust and shift in attitude with respect to managing development programs – *a shift from a heavy-handed, controlling approach to engaging with multiple stakeholders with multiple interests.* This aspect is further explained by Hamann (2004: 280) as one category of the institutional changes initiated around the 1990's and refers to it as market-related changes. This was due to the gradual re-integration of South Africa's capital markets with international markets, and the mining houses experienced increasing pressures to adapt to international expectations. These institutional changes could be traced back to the 1970's, specifically in 1973 through the joint establishment of the 'Chairman's Fund' by the two of the prolific mining houses, i.e. Anglo American and De Beers. This was meant to tackle some of the social issues in non-white communities, this was followed by the 'Urban Foundation' established in the wake of the 1976 Soweto uprisings, the aim of which was primarily to ameliorate unbearable living conditions in the country's townships inhabited by predominantly the black section of South Africa's population (Fig: 2005: 611 – 612, Babarinde: 2009: 360). To date, a majority of mining companies have incorporated within their business operations in one form or the other, CSR / CSI value statements and programs.

The other category of changes is that which is been driven by the state. The most relevant pieces of legislation for the purpose of this paper is the Constitution of the Republic of South Africa (Act 108 of 1996), Mines Health and Safety Act of 1996 (Act 29 of 1996) and the Minerals and Petroleum Resources Development Act, No. 28 of 2002 with its related Amended Broad-Based Socio-Economic Empowerment Charter for the South African Mining and Minerals Industry of 2010.

An Overview of the Legislative Framework

In terms of Chapter 2 (Bill of Rights) in the Constitution of the Republic of South Africa, 1996, section 24 (b) (iii), a provision is made that "*Everyone has the right to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that – secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development*". It is this section that paved the path for the promulgation of Mineral and Petroleum Resources Development Act, No 28 of 2002 (MPRDA).
In a nutshell, the MPRDA has the following, among others, as Objects of the Act as contained in Chapter 2, section 2. They are;

(c) "…….to promote equitable access to the nation's minerals and petroleum resources to all the people of South Africa,
(d) substantially and meaningfully expand opportunities for historically disadvantaged persons, including women, to enter the mineral and petroleum industries and to benefit from the exploitation of the nation's minerals and petroleum resources,
(e) promote economic growth and minerals and petroleum resources development in the Republic,
(f) promote employment and advance the social and economic welfare of all South Africans,
(i) ……ensure that holders of mining and production rights contribute towards the socio-economic development of the areas in which they operate".

It is evident from this legislative framework that, the new South African democratic system envisage a socially responsible mining industry, while recognising the rationale for business to pursue profit and economic growth and development pathway, it also pronounce on both moral and legal accountability for ensuring sustainability for all the stakeholders. In order to ensure unambiguity in its provisions, the MPRDA through section 100 (1 -2), makes provision for the development of the Charter that will set the framework, targets and time-table for effecting entry of historically disadvantaged South Africans into the mining industry, and allow such South Africans to benefit from the exploitation of mining and minerals resources.

The first Mining Charter was developed in 2002 to effect transformation with the provision to review the progress and determine what further steps, if any, need to be made to achieve its objectives (RSA: 2010: 1). This provision was enacted on the basis of the Mining Charter Impact Assessment Report of October 2009 and, in September 2010, the Amendment of the Broad-Based Socio-Economic Empowerment Charter for the South African Mining and Minerals Industry was published through a Government Gazette (No. 33573). The following sections provide an insight into to the transformation initiatives of the mining industry in South Africa and a discussion on the findings of the first five years of their implementation. The results presented were obtained from the research report commissioned by the DMR, i.e. secondary research analysis.

Assessing the results – *Reflections from the Mining Charter Impact Assessment Report*
In brief, the *Vision* as contemplated by the Amended Charter is as follows:

"To facilitate sustainable transformation, growth and development of the mining industry"

Key Elements of the Charter are:

a) *Ownership*: This is to effect meaningful integration of HDSA into the mainstream economy, to achieve substantial change in racial and gender disparities in ownership of mining assets. The target is to achieve a minimum of 26% ownership by Historically Disadvantaged South Africans (HDSA) by 2014.

In this area of Ownership and joint Ventures, the report's analysis of the available data shows that aggregated Black Economic empowerment (BEE) ownership of the mining industry has, at best, reached 9%. The report further indicates that a handful of empowerment vehicles were constituted. These are Women in Mining, Employee Share Ownership Scheme (ESOPS), Community Trusts, Anchor Partners and Special Purpose Vehicles (SPV). Regrettably, the level of BEE ownership is concentrated in the hands of anchor partners and SPV's, representing a handful of black beneficiaries, contrary to the spirit of the Freedom Charter and the Mining Charter. The report also shows that the structure of most empowerment is insidiously effected at operational level (mining rights) levels, which allows for ring-fencing of transformation at holding company level, focusing on regulatory compliance at the expense of fundamental transformation of the mining industry. These deals focussed solely on economic interest, which is not representative of the true ownership transfer of mining assets to HDSA's with the results that the BEE companies end up in an invidious financial position. These also included the infamous practice of fronting (MCIAR: 2009: 17-19).

b) *Procurement and Enterprise Development*: This requires that the mining industry to procure from Black Economic Empowerment (BEE) entities according to the following criteria – a minimum of 40% of capital goods by 2014, ensuring that multinational suppliers of capital goods annually contribute a minimum of 0.5 % of annual income generated from local mining companies towards socio-economic development of local communities into a social development from 2010.

In this aspect, the report's assessment discovered that about 89% of companies have not given HDSA companies preferred supplier status, while 80% have not indicated commitment to the progression of procurement from HDSA companies over a 3-5 year time-frame. HDSA companies according to the report, lagerly benefited from procurement contracts for the provision of consumables and non-core services such as cleaning services, toilet papers and other trivial activities. Further, the value of HDSA procurement expenditure as a percentage of total procurement remains below 3%.

c) *Beneficiation:* This element seeks to translate comparative advantage in mineral resources endowment into competitive advantage as fulcrum to enhance industrialization in line with State development priorities. This will have to be pursuit by mining companies offsetting the value of the level of beneficiation achieved by the company against a portion of its HDSA ownership requirements not exceeding 11%.

This aspect was discovered in the report to be an uncoordinated program where-in there are pockets of beneficiation of the country's mineral resources. As a result the development of beneficiation strategy was sought to create a broader framework to promote increased local addition which included the introduction of Precious Metals Act No 37 of 2005 and the Diamonds Amendment Act No 29 of 2005 which led to the establishment of the South African Diamond and Precious Metals Regulator (SADPMR) and the State Diamond Trader (SDT).

d) *Employment Equity*: This aspect is aimed at achieving workplace diversity and equity at levels of the company for social cohesion, transformation and competitiveness. It requires that every mining company to achieve at least 40% demographic representation by 2014. Also, these companies must identify their existing talent pools to ensure high level operational exposure in terms of career path programmes.

In terms of this aspect, the report identified the lack of commitment by the industry to transform and a greater deal of intransigency. This can be seen from only 37% of mining companies having developed Employment Equity (EE) plans while a lesser number having published these plans, no evidence of EE reports was found to have been submitted at the Department of Minerals. In terms of HDSA participation in management, an average of achievement for the industry was 33%, while an average of 26% of mining companies achieved a threshold of 40% with a majority of HDSA's occupying middle management positions. Regarding women participation in mining, the results reveal only 26% of mining companies have complied with 10% women participation. However, the average rate is 6%, the bulk of whom are represented in support functions with less than 1% in core management positions, a large proportion of which represents a preserve for white women. In terms of talent pool identification and fast tracking, an average of 83% of mining companies have not identified talent pool, while only 17% are in the process of fast tracking those identified for management positions.

e) *Human Resource Development*: This requires that mining companies to invest a percentage of annual payroll in essential skills development. The targets set are; 2010 = 3%, 2011=3.5%, 2012=4%, 2013=4.5%, 2014=5%.

The report further indicates in this aspect that there are innate inhibitions against progress on skills development, which include, albeit not limited to lack of management support for staff participation in Adult Basic Education and Training (ABET) as evidenced by recalling of staff from classes to accelerate production, loss of bonuses for ABET attendees and classes arranged after working hours, typically non-proximal to employees residences. Consequently, the prevailing conditions are less attractive for employees to enrol on the programs of skills development. These findings, according to the report, further indicate that the bulk of ABET training beneficiaries are mostly characterised by non-South Africans (MCIAR: 2009: 5)

f) *Mine Community Development*: This element is envisaged in consistence with keeping with the principles of social license to operate where-in mining companies must invest in ethnographic community consultative and collaborative processes prior to implementation/development of mining projects and, conducting an assessment to determine the developmental needs in collaboration with mining communities and identify projects within the needs analysis for their contribution to community development in line with Integrated Development Planning (IDPs), to cost of which should be proportionate with the size of the investment.

In this regard, the report indicates that 63% of companies engaged in consultation process with communities, while 49% participated in the formulation of Integrated Development Plans (IDP) in mine communities. However, only 14% of the companies extended their participation in the development of IDPs for labour areas. A mere 37% of companies showed proof of expenditure in accordance with commitments set out in approved Social Labour Plans (SLP). The rest of the companies implement corporate social responsibility projects and report these as part of their contribution to IDPs. What the report has noted is that, despite seemingly high compliance levels in terms of community consultation, there is no evidence of a direct link between proposed and implemented community development projects as far as the needs of affected communities are concerned. Also, the report identified the narrow empowerment approach of hand-picked individual disguised as representing the broader interest of host communities. However, the industry expressed a need for uniform approach to SLP models countrywide and, a model of integrated resource management, which is characterised by mining companies intending to develop projects within the same proximity through pooling of their respective resources in pursuit of high impact development within the host communities, has been proven successful (MCIAR: 2009: 9-11).

g) *Housing and Living Conditions*: This aspect is to ensure human dignity and privacy for mine workers as opposed to the dehumanising system of single sex hostels. In this regard, the mining companies should ensure the following in improving housing and living conditions for mine workers – convert/upgrade hostels into family units; attain the occupancy rate of one person per room; facilitate home-ownership options for all mines employees in consultation with organised labour by 2014.

In this element, the assessment indicates that 26% of mining companies have provided housing for the employees, while 29% have improved the existing standards of housing. The results further indicate that 34% of companies have facilitated employees' access to home ownership through various schemes. In addition, 29% have offered nutrition to employees or have established to effect improved nutrition, less than a third of the mining companies make nutritional provision for their employees. However, the report notes that inspections have revealed that nutrition is typically outsourced to service providers with inadequate expertise, characterised by former employees. Also, the assessment revealed a conspicuous absence of adequate facilities to prepare their own meals. The assessment also revealed that, while majority of mining companies have moved away from the hostel systems with 9% having achieved upgrading of hostels and 6% of conversions of hostels, these according to the report, remains unacceptably low (MCIAR: 2009: 11-13). Another finding was that most mining companies resorted to giving workers "living allowances", the unintended consequence being the proliferation of informal settlements, a conduit of crime, substance and alcohol abuse, and the spread of disease.

h) *Sustainable Development and Growth of the Mining Industry*: This aspect takes into consideration the fact that mineral resources are non-renewable in nature as such, exploitation of such resources must emphasise the importance of balancing concomitant economic benefits with social and environmental needs without compromising future generations. This will involve; improvement of the industry's environmental management, industrial health and safety performance and stakeholders undertaking to enhance the capacity and skills in relevant South African research and development facilities in order to ensure quality, quick turn-around, cost effectiveness and integrity of such facilities. To this extent, mining companies in South Africa are required to utilise South African based facilities for the analysis of samples across the mining value chain.

This aspect is linked to all the other elements. It takes into account the effects of international mineral prices and their fluctuations, and an acknowledgement is thus made on the contribution of the mining industry to the economic growth of South Africa (MCIAR: 2009: 20-22). Looking into the period 2004-2008, the South African GDP correspondingly grew from R89 billion (+-$11 billion) to R196 billion (+-$23 billion). In addition, during this corresponding period of implementing the Mining Charter, the Department of Minerals received over 22 000 applications for new mining rights, mining rights conversions, reconnaissance permits and prospecting/prospecting rights, corroborative of the new regulatory framework.

i) *Reporting (Monitoring and Evaluation)*: This aspect requires that mining companies must report their levels of compliance as per this charter as contemplated by section 28(2) (c) of the MPRDA.

This element, according to the assessment, shows that 37% of companies have audited reports, while only 11% purport to have submitted their annual reports to the DMR. The apparent discovery in the report is that a large portion of mining companies with audit reports has not subjected the Mining Charter compliance data to an independent audit framework. Accordingly, there is absence of coordinated mechanisms within the DMR to effectively monitor and evaluate progress against the Mining Charter targets on an annual basis, as well as lack of stringent enforcement measures in case stakeholders do not adhere to provision of the MPRDA regarding the annual report on license holder's compliance.

As to the element of non-compliance, punitive measures may be taken as per sections 98 and 99 of the MPRDA. However, the assessment points out that the amount provided for in section 99 of the MPRDA, i.e. R100 000 (+-$11 495) is preposterously inadequate (MCIAR: 2009: 16).

The South African Mining Charter as indicated above can be viewed in line with what the literature advocates to be key ingredients of Corporate Social Responsibility. Mo so that, the charter itself is a product culminated from multi stake-holders engagement comprising of the State, represented by the Department of Mineral Resources (DMR), Chamber of Mines, South African Mining Development Association (SAMDA) and the National Union of Mine Workers (NUM). The charter in its current form is a negotiated instrument that is binding to all stakeholders.

Concluding Remarks and Recommendations

The exploration provided above paints a bleak picture on the responses by the mining industry at macro or on aggregate level to tackle post-colonial and post-apartheid legacies during the first five years of the mining charter (2004 – 2009). Despite having being party to this charter, the evidence suggests that industry's level of compliance remains preposterously low and discouraging, There is also evidence that, most mining companies embrace the provisions of the Mining Charter for convenience and compliance and not so much out of necessity. The State on the other hand (through the DMR) seems to be on the back foot due to lack of enabling environment to enforce compliance. The penalties for non-compliance, considering the huge amounts of profits that mining companies make, is disappointingly low (i.e. R100 000 or ($11 765) and does not present any challenge whatsoever to non-complaint companies. It is therefore more necessary for the state to make concerted efforts to ensure that enforcement mechanisms are put in place and, penalties are made more severe. What needs to be pointed out is that, these results are for the first five (5) years since the charter was signed, and only published in 2009. Since then, cursory glimpse of some individual mining companies have since made strides in addressing aspects as required by the Mining Charter and more so to enhance their social standing as caring and socially responsible entities. The next step of this research agenda will be to look into a sample of individual mining companies and how they have progressed, including the opportunities and challenges posed by the first assessment report and its recommendations.

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