

PATTERNS OF OWNERSHIP AND LABOUR UNREST WITHIN THE SOUTH AFRICAN MINING SECTOR

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Abstract

This article examines the impact of Broad-Based Black Economic Empowerment's (B-BBEE) ownership element as a catalyst to labour unrest within the mining sector. The research shows that the B-BBEE policy has made limited inroads into the socio-economic disparities of mineworkers and their respective communities. However, since the new democratic dispensation in 1994, the policy has advantaged a selected few wealthy black South Africans. As a result of apartheid's legacy, which disenfranchised the majority of South Africans, the emphasis of B-BBEE was on socio-economic development and enfranchising black South Africans to own or manage mines. Currently, the mining sector is one of the largest Black Economic Empowerment (BEE) contributors of the transfer of ownership from white to black stakeholders. The ownership deals, estimated at R200 billion, have benefited a select few black elite, but has not filtered down to the majority of mineworkers, who earn an estimated R4 000 per month. Consequently, this has led to the recurrence of labour unrest within the mining sector. With the use of exclusive interviews with cabinet ministers, BEE consortia, trade unions and mining companies triangulated with B-BBEE data and reports, the article provides one of the first analyses on the relationship between B-BBEE, in relation to black ownership, and labour unrest in the mining sector.

Keywords: Broad-Based Black Economic Empowerment (B-BBEE); economic empowerment; mining; labour unrest.

Slutelwoorde: Breë-basis Swart Bemagtiging (B-BBEE); ekonomiese bemagtiging; mynbou; arbeidsonrus.

1. INTRODUCTION

In the late nineteenth century, the discovery of diamonds, gold and platinum resulted in a phase of imperialist domination or empowerment in South Africa as large-scale financiers, such as the Randlords, took control of South Africa's mineral resources. This phase, "resulted in the disempowerment of the black entrepreneurs in agriculture and mining as the indigenous people were relegated to providing

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cheap labour to the mines, farms and nascent industries” (Mangu 2007: 69). The next phase saw the Randlords continue to economically dominate to a point that white Afrikaner nationalism spread, and later, on a political level, saw the 1948 victory of the National Party (NP), as well as the dominance of white Afrikaners, becoming increasingly economically empowered alongside their English compatriots. This phase was on shaky ground, as the 1950s and 1960s saw a Black Nationalist revolt. The intensification of the anti-apartheid struggle during the 1970s and 1980s ushered in a new phase of empowerment, hence paving the way for the post-1994 Black Economic Empowerment (BEE) process.

Since the inception of BEE in 1994, subsequently its legislative successor Broad-Based Black Economic Empowerment (B-BBEE) of 2003, and the Amendment Act (2013), studies have focused on the rationale behind the government’s decision to continue with the economic redress policy. The architects contend that B-BBEE is an economic development policy, aimed at deracialising the economy by ensuring that the majority of Historically Disadvantaged South Africans (HDSA)² participate in the South African economy (Butler 2007; Chabane 2003; Chabane *et al.* 2006; Ponte *et al.* 2007). Participation would be through ownership, shareholder equity and managing mines, which will ultimately trickle down to the more than 50% black South Africans who are impoverished. BEE detractors argue that the policy is often contaminated by corruption, further widening the gap between the rich and the poor. According to R Hamann, S Khagram and S Rohan (2008:24-27), B-BBEE was established to address specific problems related to poverty, unemployment, housing and basic services in order for economic transformation to become a reality; post-1994, these issues continue at an increasingly alarming rate in the country.

The mining sector was the first to introduce narrow BEE, a top down approach, which aimed to transfer ownership from white to black stakeholders. The value of ownership deals at approximately R200 *billion* outweighs the cost of many social welfare projects in the country. However, the BEE deals benefitted a few black elite in the country and have not filtered down to the majority of mineworkers who earn an estimated R4 000 per month. The B-BBEE Mining Charter focuses on significant investments in socio-economic development and enfranchising black South Africans to own or manage mines. The latter has been achieved, while the former lacks significant implementation; hence the labour unrest, which has contributed to South Africa’s poor economic performance. The impact of labour unrest resulted in a negative multiplier; in 2012, the South African economy contracted 0,5%, mainly due to the mining strike in Marikana in the North West Province where 34 mineworkers were killed. In a country that

2 The term, “Historically Disadvantaged South Africans (HDSA)” refers to all individuals and groups who have been discriminated against based on race, gender and/or disability.

has a global absolute advantage in gold and platinum, the sector's economic performance has declined, with contribution to the gross domestic product (GDP) from an average of 20% in the 1970s to 5,5 % in 2012 (Economist 2012). The five-month long platinum strike in 2014 resulted in the economy contracting 0,6%. The stoppage affected mines in the North West Province of South Africa where the bulk of production took place, representing 40% of international production (Financial Mail 2014). The strike took around 440 000 ounces of platinum out of production. The three companies, Impala Platinum, Amplats and Lonmin, suffered a total revenue loss of about R24,1 billion during the strike, and a further loss of R10,6 billion in wages. The five month long strike affected both the workers and the mining companies (SAHO 2014). The series of labour unrest between 2009 and 2015 has been a response to low wages and poor working and living conditions in the South African mines.

Previous studies have focused on BEE as an economic transformational policy, the impact thereof and its effectiveness in bridging the economic disparities between white and black South Africans. Studies have included the impact of BEE within the South African wine, fishing, construction, banking and mining sectors (Bezuidenhout 2008; Leon 2013; Ponte and Van Sittert 2007; Van Hold 2003; Williams 2005). However, limited academic research has been conducted to determine the relationship between the B-BBEE ownership element and labour unrest in South African industry.

This study utilised grounded theory, where the primary methods was the collection of semi-structured and exclusive interviews with mining houses, key politicians, businessmen, policy-makers, trade unionists and political commentators (refer to List of Sources and Interviews). The primary fieldwork was conducted between July 2009 and December 2010. Subsequent research was undertaken between 2012 and 2015, due to the changes in B-BBEE legislation, the Marikana and 2014 platinum strikes. Subject to proximity and budgetary factors, the interviews were either face-to-face or telephonic interviews. All interviews were recorded with the interviewees' permission. Subsequently, the interviews were transcribed, collated and coded; the textual and archival data were triangulated with the material gleaned from the semi-structured interviews, linking the empirical and theoretical data. The secondary data consisted of various government documents, material published in the South African and international media, existing literature and documented reports.

The emphasis of this study was to ascertain whether black ownership, through B-BBEE policy, was the catalyst to labour unrest in the mining sector. The first section provides a brief overview of the literature and the exclusive interview material on the progress of the B-BBEE Mining Charter. Subsequently, an analysis of black ownership in the South African mining industry is discussed, followed by

an examination of the relationship between black ownership and labour unrest in the mining industry.

2. THE EVOLUTION OF THE MINING CHARTER

The discovery of platinum and gold in Johannesburg in the late 1800s catapulted South Africa to global mining prominence. The establishment of the mining industry saw the emergence of the, “first South African chieftains” (*Economist* 1997), known as Randlords, including Sir Ernest Oppenheimer, Sir Abe Bailey and Cecil John Rhodes, who received a significant share of South Africa’s mineral resources. After the 1948 victory of the NP, laws were introduced to significantly empower the Afrikaner, while simultaneously disempowering black South Africans in the economy (Butler 2007:2). This racial stratification led to income inequality and an unequal distribution of resources and opportunities.

In the 1990s, efforts were made on part of the newly elected African National Congress (ANC) government to overturn the patterns of privilege by instituting a number of policies, such as BEE. The policy was introduced to address the racial inequalities that resulted from apartheid, and to allow those that were repressed to participate in the economic activities of South Africa. It required that the existing wealth within the South African economy be redistributed in order to benefit the majority of the population at hand (Tangri & Southall 2008:700). Gqubule (2006:5) and Madi (2006:7) subscribed to the argument that black empowerment within the South African context is a discourse with an, “evolution of terminology [that has been used in efforts] toward integrating blacks into the mainstream South African economy”; in other words, not merely ownership of private enterprise, but also the socio-economic upliftment of marginalised individuals and communities.

The dominant literature has attempted to provide the rationale behind B-BBEE *vis-à-vis* the Mining Charter. Bezuidenhout (2008:179-181) argues that the intention of narrow BEE was the transfer from white to black ownership. However, the subsequent legislation adopted a broad-based approach intended to transform the shop floor of the mining sector. Instead, an immense number of employment cuts were experienced. It is clear that a degree of change has taken place in the composition of the ownership; since 1994 black stakeholders on the Johannesburg Stock Exchange (JSE) increased from zero to over 20% of the 100 companies examined. Over the last ten years, the transfer from white ownership to black ownership in the mining sector has increased from 15% to 26% (Mathews 2012).

The B-BBEE mineral legislation (Mining Charter³), “sought to end the situation in which the historically dominant mining houses stockpiled minerals rights” (Gumede 2007:252); hence the proposed transfer of minerals to black ownership if Anglo-American, Chamber of Mines, etc. did not develop the resources of existing surrounding communities. According to former Finance Minister, Trevor Manuel (2010), “Starting with mining it was agreed that the mineral rights would be returned to the ownership of the people of the home. The words used are exactly the same words as the Freedom Charter. Legal rights will be returned to the ownership as a whole, and that was done as a very first and important step in the content of the Minerals and Petroleum Resources Act. So, the rights were transferred and anybody who wanted access of those rights needed to secure a licence. What that licence did was to empower the state to impose such obligations of a transaction on a company as would be required by time and circumstances. So, if the company wanted the right to mine, they would buy that right. You would buy that right for a period of 30 years, and if they wanted that right, they would need to take black partners to ratio.”

Consequently the, “impetus for firms to qualify under the charter essentially set up a ‘race’ on empowerment grounds, no company wanted to be viewed as rejecting transformation and therefore risking the government viewing their applications in a dim light” (Ponte *et al.* 2006:25). Former Minister in the Presidency, Joel Netshitenzhe (2009), argues, “There will be those industries, such as mining, where in the first instance to operate you will have to conform to government regulations and meet deadlines. These are the conditions on which you have to get a licence. And these licences will be reviewed on an on-going basis; depending on the score that you have in terms of the various (B-BBEE) elements you can get licence.”

Generally, the Mining Charter follows the B-BBEE balanced scorecard approach, which was weighted across seven areas: black ownership (20%), black management control (10%), employment equity (15%), skills development (15%), preferential procurement (20%), and enterprise development (15%), with an additional residual of 5% for socio-economic development. However, there are a number of sector-specific inclusions in the Charter which explicitly pertain to the mining sector:

- Mining companies that want to retain licenses will have to comply with the balanced scorecard included in the Mining Charter;

3 The B-BBEE Sector Charter, gazetted in terms of Section 12 of the B-BBEE Act, means that it: (1) Has been developed and agreed upon by major stakeholders in the industry. (2) Is published for information purposes only and used as a statement of intent by industry players. (3) Is fully binding between and among businesses operating in the industry. The Sector Charter gazetted in terms of Section 12 has no bearing on state organs and departments.

- The mining industry Charter aims to achieve 26% HDSA ownership of each mining company's assets within ten years of issuance of the specifications (Ponte *et al.* 2006; RSA 2003).

The mining sector positioned itself as the key driver of BEE (Bezuidenhout & Buhlungu 2007; Southall 2007), aimed at overcoming historical and social inequalities. According to former Minister of Trade and Industry, Alec Erwin (2010), "There was no doubt that the mining sector was a path breaker; by and large the charter is pretty good. When government was creating the scope for empowerment, it was probably the most comprehensive intervention made by any government."

The Charter was accompanied by scorecard codes of good practice, scoring a company from an excellent B-BBEE contributor to a non-compliant contributor. Companies that achieved a sufficiently high score would obtain government contracts and licences. However, the Mining Charter had relatively few concrete targets, as the scorecard was a mere "tick box" approach, rather than a concerted effort to overcome socio-economic disparities in the country. Lonmin Executive Vice President for Public Affairs, Lerato Molebatsi (2014), concurs that the, "Private sector continues to view B-BBEE, especially with the revision of the new codes as a 'ticking the box' activity".

Companies also opted for "fronting" to ensure adherence to the policy. "Fronting" can be defined as a white individual requesting a black individual to set up a company as a front to obtain lucrative government contracts. The Department of Trade and Industry (DTI) reported 22 cases of fronting from January to December 2006, and a further 15 cases between January and July 2007. The allegations of fronting are being investigated by the DTI and it will release the company names when investigations are completed. These companies will be blacklisted (DTI 2009). This is the only punitive measure taken towards recalcitrant business, as the act makes no provision for "fronting". Former Trade and Industry Minister, Mandisi Mphahla, said, "one of the bigger problems that BEE has thrown up so far is 'fronting', which is under the microscope and tougher legislation is in the pipeline" (Terreblanche 2007:2). The difficulty exists that, while a company that does not comply will be at a disadvantage doing business with government, at this stage, the lax law does not dictate that failure to comply will lead to prosecution. Erwin concurs that, "black people did not have capital, so one of the dangers with ownership structures, and even with the charter, is that you tend to get a fairly high level of heavy loans, or you got a danger of fronting. One inevitably was to get a charter, which is more complex to avoid some of those problems."

By 2009, the mining industry was still considered to be implementing a narrow-based approach to B-BBEE, as their priorities included primarily black ownership, management control and enterprise development (KPMG 2009). Their priorities remained the same in 2010 (KPMG 2010). Due to the Charter focusing

on black ownership, which is a top-down approach, more stringent measures by the government were enforced to include a bottom-up approach, based on the revised B-BBEE Amendment Act of 2013. The current Mining Charter overlaps with the following four broad areas (although the weightings may vary):

1. Direct empowerment: Transfer to HDSA ownership;
2. Human resource development: Skills development, while simultaneously ensuring the promotion of equal opportunities and affirmative action measures to redress the disadvantages in employment experienced in the past by members from HDSA;
3. Indirect empowerment: Develop and procure business from HDSA;
4. Social and community upliftment: Housing and living conditions (including hostels), mine community development; sustainable development and growth; and beneficiation.

The Mining Charter states that 51% is weighted towards overcoming the poverty barrier through social and community upliftment, 23% is weighted towards skills development and business opportunities, and the remaining 26% is weighted in accordance with creating economic opportunities for black South Africans. Should mining houses fail to comply with the targets, their licenses may be revoked (DTI 2012).

While the revised Mining Charter is a worthy policy document, it is weak on implementation, as it favours the narrow-based approach, which focuses on black ownership. Slight progress was seen in terms of black ownership, preferential procurement and enterprise development, employment equity, as well as management control. However, minimal increases have occurred in socio-economic development. Mining houses, such as Harmony Gold and Amplats, attempted to meet the Mining Charter targets. In the Harmony Gold Mining Charter 2013 report, there was improvement regarding skills development. However, socio-economic development made limited progress, particularly with reference to hostels. The housing provided by Harmony in the form of hostels is one of the primary grievances of mineworkers, due to overcrowding and the appalling living conditions. Harmony stated that, although it had made progress, it had not met the targets. However, it stated that it would donate land for housing (Harmony 2013). Mining companies have highlighted several inadequacies of the Mining Charter. Chamber of Mines Head of Transformation, Vusi Mabena (2015), asserts that companies have to spend more on bureaucratic red tape to comply, “The extent that companies spend their budgets that were reserved for social and labour plans; compliance is still necessary even when the company may have registered losses. Therefore, as a result of the above, the socio-economic development that is

associated with the Mining Charter does not exist under B-BBEE in comparison to the weighting that has been assigned.”

Thandeka Ncube (2014), Head of Sustainability at Shanduka Group, asserts that mining companies can gain significantly from the Charter; however there is a lack of implementation due to political interference. South African mining houses appear to face a quandary of what takes precedence, ownership versus socio-economic upliftment of the respective mining communities and workers. The next sections discuss B-BBEE’s primary focus on black ownership as a catalyst to labour unrest in the mining sector.

3. BLACK OWNERSHIP

As a result of the inadequacies of the B-BBEE Mining Charter, political analysts, such as Moeletsi Mbeki, argued that, ”BEE policy was flawed from the outset, the real idea was to buy off the leadership of the black resistance movement” (Matthews 2012). Similar views have been raised in various literature such as Hamann *et al.* (2008), Boraine (2014), Freund (2007), MacDonald (2006), Mathews (2012), McEwan and Bek (2006), Southall (2007), Seekings and Natrass (2011), and Tangri and Southall (2008). Former ANC National Executive Committee Chairperson, Mosiuoa Lekota (2010) stated that, “BEE was to open existing wealth and enable black sections to cash”. Similarly, Lusani Nevhutalu (2015), Head of Transformation at Amplats, stated that, “B-BBEE started off as BEE. With BEE the beneficiaries were few politically connected individuals. Despite being broad-based with the different pillars, the outcome does not lead to the desired effect. You still find people who have not seen or experienced the changes. The challenge lies in the fact that quantitative measures have been used whereas we need to use qualitative measures. Those who implement B-BBEE do the very minimum and often do it for compliance purposes.”

Thus the terms governing transactions of the transfer of white to black ownership in the mining sector indicated that, while there was an increase in black individuals owning mines, it merely represented the gains of a few elite. The most notable BEE deal took place in the mining industry. Patrice Motsepe’s African Rainbow Minerals (ARM) teamed up with Harmony Gold to buy Anglo Gold’s Free State gold mining assets for R2, 2 billion in a 50/50 venture. Tokyo Sexwale’s Mvelaphanda placed its stakes on diamond mining by raising its interest in Trans Hex to 24,5% (Gumede 2005:251-252). “The biggest transaction was the unbundling of Anglo-American (reflected in the significant fall in its control of JSE listed companies during the 1990s) and the sale of identified assets to black investors” (Ponte *et al.* 2006:35). Trevor Manuel, in an interview in July 2010, stated, “Anglo-American was one of the largest mining houses due to its monopoly on surface rights. [This included] Anglo-American’s sale of a stake in African

Life to a consortium headed by Don Ncube. Anglo-American also sold off JCI (a mining firm) and Johnnic (an industrial group), after setting aside for itself what proved to be the most successful component, Amplats (the world's largest platinum company)" (Ponte *et al.* 2006:35; Gqubule 2006:110-113; *Fin 24* 2004).

"From zero economic base when the ANC came to power in 1994, black business bagged more than 40% of the state's national and provincial contracts between 1994 and 1997" (Gumede 2005:227). A similar trend was noted in the 2003 Ernst and Young report which indicated that R43 *billion* worth of BEE deals were made. However, the beneficiaries of these deals were largely the politically well-connected elite: 60% was accrued to the companies of two individuals, Patrice Motsepe and Tokyo Sexwale. The mining sector was the first to ensure black empowerment deals, creating billionaires such as Cyril Ramaphosa, Tokyo Sexwale, Patrice Motsepe and Saki Macozoma (Ernst & Young 2003; *Fin24* 2004; Ponte *et al.* 2007). Significantly, Ramaphosa is one of South Africa's most well connected corporate leaders and is currently the Deputy President of the country. According to the Forbes listing, Ramaphosa is the 29th richest man in Africa, due to Shanduka Group stakes in mining entities, financial institutions, McDonalds' South African subsidiaries and Coca-Cola bottling plants. Fellow South African tycoon, Patrice Motsepe, who is currently the 10th richest man in Africa, made his money in mining as a result of the purchasing of low-producing gold mine shafts in 1994, which he made profitable. Since then, he has built African Rainbow Minerals (ARM), benefiting because of South Africa's BEE laws. Since South Africa is a country rich in minerals, former Human Settlements Minister, Tokyo Sexwale, has become a mining mogul in gold, platinum, and diamonds.

To counter the dominance of the black elite, the government made it clear that it intends to promote what is called a broad-based BEE process in South Africa. There have been numerous amendments to the Mining Charter, but it raises the question, has the focus shifted to the broad-based approach of socio-economic development? (Mangcu 2008:70). The B-BBEE bill came into effect in 2003; the largest BEE deal of 2003 illustrated the lack of broad-based empowerment. The deal was between ARM Gold and Avmin. Further analysis indicated that at least 72% of the total deal value benefited six of the narrow-based black consortia, namely ARM Gold (60% owned by Motsepe family trust), Mvelaphanda (Sexwale), Shanduka (Ramaphosa), Safika (Macozomo), Kagiso and Tiso (Dunnigan *et al.* 2005). Based on the research, it is evident that most BEE (including the broad-based approach) deals involve the same individuals, i.e. there is the recurrence of an elite class. According to McGregor's *Who Owns Whom* in 2005, there were eight black entrepreneurs in the top 50 directors in terms of the value of their shareholdings on the JSE. These are led by the Elephant Consortium,

with a R4 billion stake in former state utility Telkom, and Patrice Motsepe, due to his R2,9 billion (Ponte *et al.* 2007:35).

One of the negative implications is the barriers to entry for new firms in the mining sector; moreover, the oligopolistic nature of the existing dominant players in the sector. According to S Ponte and L van Sittert (2007:37), “The concentration in overall ownership and control is emulated in the concentration found in individual industries. Characteristically, one, two or three firms, which dominate any given industry or sector with their positions entrenched through vertical relationships, upstream into sources of inputs, and downstream into distribution and marketing.”

From a theoretical perspective, the overall dominance of a few black elite is evident in Richard Sklar’s model on the nature of class domination in African economies, where class relations are determined by relations of power, with political and economic determinants, rather than production. Becoming part of the elite class cannot take place without being part of the ruling class. Sklar (1979:538) adds that, “in order to consolidate, protect and extend their positions of power, the leaders of newly dominant classes quickly reconstruct the existing organisation of authority in accordance with their perceived needs”. An extension of this theory within the South African context is depicted in Jo-Ansie Van Wyk’s (2009), *Cadres, capitalists and coalitions: The ANC, business and development in South Africa*, which illustrates a strong consolidation of the black elite class within the South African context, i.e. those who are in a position of power, such as businessmen and family members. The perpetuation of the black elite is defined as, “the turnover in power of socio-economic classes” (Van Wyk 2009:35). This process includes:

- Circulation via family connections: By 2007, the Motsepes and Radebes, Patrice Motsepe, the executive chairperson of ARM and brother of Bridgette Radebe (wife of the former Minister of Transport, Jeff Radebe), was considered one of the third richest South Africans with an estimated fortune of R160 *billion*. Tutukile Skweyiya (wife of the former Social Development Minister, Zola Skweyiya) is one of the 183 people worth over R100 million. She is also a major shareholder in Continental Africa Power Supplies, which was awarded a lucrative Eskom (the South African power utility company) contract.
- Redeployment: An increasingly common example of elite circulation is “redeployment” to the private sector as a way to resolve political tensions within the ANC. Tokyo Sexwale was once the Gauteng Premier, then became a businessman, and was subsequently co-opted as South Africa’s Minister for Human Settlement; a cabinet reshuffle saw his return to business. Cyril Ramaphosa, ANC stalwart and negotiator in South Africa’s transition to democracy, formerly a businessman, is now Deputy President of South Africa.

Netshitenzhe (2009), former Head of Policy and Coordination in the Presidency, maintained that BEE needed to address ownership, “it will be incorrect to argue that the level of ownership of the mining industry is representative. We still have a long way to go, let alone meet the targets of the mining sector charter.” However, Mike Spicer (2010), former Anglo-American executive who was involved in many BEE transactions, disagrees. In a telephone interview in July 2010 he stated that, “a lot of productive or potentially productive capital has gone into financing BEE deals, which are essentially redistributive. They are not creating new wealth, or new factories, or new mines. They simply are reallocating ownership of existing wealth.”

Significantly, unions and various politicians and executives agree with Spicer’s view. Patricia de Lille (2010), former leader of The Independent Democrats, concurred with Spicer, “in terms of mining rights, you find that where there is an opportunity for mining rights, there it is again the same people that will benefit; it’s like a revolving door”. Executives such as Spicer and Anglo American/Zimele Managing Director, Nick Van Rensburg (2010), have argued that BEE was not doing what it intended to do: improve the lives of South Africans. “Anglo-Zimele empowers the entrepreneur and it is his/her job to assist the community. There is no rule that states you cannot hire your family, which ultimately negates the process of empowering the community and allows for nepotism, which has been a common occurrence in B-BBEE deals” (Van Rensburg 2010). This is the circulation of the elite, who in turn place their families in high positions; therefore, emerging entrepreneurs, who are excluded from the elite, have limited opportunities. Van Rensburg (2010) added that, “BEE is probably not what we are seeing in South Africa right now. BEE in my book is to reach the masses unbanked in South Africa and to tap into the entrepreneurship spirit of those people that want to get into their own business, but cannot access finance”.

Erwin (2010) contends that B-BBEE was not designed to transform South African society. However, Higher Education Minister, Blade Nzimande (2010), and De Lille (2010) argue that B-BBEE is aimed at addressing inequalities, so that the black majority can have a meaningful stake in the South African economy. Five years on, since the above interviews were conducted in 2010, the responses are similar from various stakeholders. Luthando Brukwe (2015), National Union of Mineworkers Transformation Head, stated that, “two politically connected individuals get approximately 24%, while 14 000 mineworkers share 15%. This then creates more inequality, not along racial lines, but now within one racial group in particular i.e. blacks”. Similarly, a Deputy Director in Department of Trade Industry (Anon. 2015) asserts that, “B-BBEE has benefitted some but it has not benefitted the majority of the constituencies it intended to benefit, i.e. those that are unemployed and those that are living in rural and disadvantaged communities and the majority of the black South African population reside in these areas.”

Similarly, data obtained from the *KPMG BEE Survey* from 2009 to 2013 indicated the underperformance of the mining sector. The 2011 report added that, “with the limited data ownership and management control are among the key priorities; however, these industries are managed by sector charters. The focus on management control in these industries could be based on the strong links with government, and its previous focus on narrow-based BEE (ownership and management control) as opposed to B-BBEE (which focuses on all scorecard elements/weightings)” (KPMG 2011:53).

In 2013, the *KPMG BEE Survey* stated that the mining sector had not made significant process, “The Mining Industry is classified as a non-compliant BEE contributor level scoring an average total of 25 points under both the Current and Revised Codes. This is primarily due to emphasis being placed on ownership in the Mining Charter” (KPMG 2013:10). Over the last 20 years, B-BBEE has made limited inroads into the socio-economic disparities, as is illustrated in South Africa’s poor socio-economic indicators. The unemployment rate remains stubbornly high, averaging 25%; the Gini co-efficient is 0,69 with the top 5% of our population earning 43% of total income; and the national poverty line has decreased to approximately R600 per month, meaning that of a population of 51,8 million people, 67% live in poverty. The consolidation of the black elite has rendered the broad-based approach of BEE a weak policy, although the Mining Charter has stressed the importance of social and community upliftment through investments made in areas such as housing and living conditions, and community development. This has been the expectation of mineworkers and families living in the mining areas of South Africa, and the dissatisfaction among mineworkers in this regard have perpetuated the recurrence of labour unrest.

4. B-BBEE: THE CATALYST TO LABOUR UNREST

There is a growing concern that the recurrence of labour unrest in the mining sector will have a devastating effect on the South African economy, which narrowly avoided a recession in 2014 as a result of the five-month long platinum industry strike. Implats Head of Sustainability of Ethical Risk, Andile Sangqu (2014), asserts that, “Empowerment becomes a possibility during economic growth; however, becomes problematic in its absence. The leaders in the mining sector have failed to communicate the realities. In the absence of communication between mineworkers their respective companies and government, the expectations of mineworkers cannot be managed with reference to empowerment policies, as workers require immediate tangibles rather than long-term solutions. The long-term empowerment plans should be based not merely on ensuring that mineworkers have improved labour standards and living conditions in hostels; it must include skills development

imperative for the more than 40% unskilled mineworkers to meet the demands of a globally competitive modern economy.”

Due to the immense stress on the South African economy, analysts have argued that there needs to be a concerted effort on the part of government to examine how the working and living conditions of mineworkers should be improved, as well as taking into account the role B-BBEE has played in the mining sector (Leon 2013:183). Similarly, Karl von Hold (2003), in his publication, *Transition from below: Forging trade unionism and workplace change in South Africa*, contends that there are tensions between the two philosophies of economic empowerment. The one is the narrow focus on black ownership, while the other is a more holistic approach, which is decent employment, skills development and employment equity (Bezuidenhout 2008:186). South African Supplier Diversity Council CEO, Gary Joseph (2015), argues that, “labour is sourced from those mining communities. Patience has become an enemy as a result of the slow change associated with the delivery of B-BBEE being delivered.” There appears to be a disconnect between B-BBEE policy, the implementation thereof and the expectations of mineworkers. As argued in the preceding section, the achievements of black owners within the mining sector outweigh the upliftment of mine workers and their respective communities.

The central grievance in the 2014 strike concerned the dismal living conditions of many workers in the platinum belt (Brand 2009; Twala 2013). Chamber of Mines Head of Transformation, Vusi Mabena (2015), agreed that the strike emanated from the socio-economic conditions, moving beyond a labour relations issue to a community issue; stating that, “Lonmin had to take responsibility for it all and at the end of the strike; no one got what they wanted”. The salient problems within the mining sector are a decline in labour standards, wage disparities and the living wage. Historically, miners had been migrant labourers who were housed in single-sex hostels under appalling conditions. In interviews conducted by the South African Institute for Race Relations (SAIRR) for a report on the state of the mining industry post-Marikana, workers who had been employed in the sector over preceding years (some as early as 1940) spoke of having to sleep in bunk beds that were no more than hollows carved into concrete. Only one blanket was provided to each miner, no pillow, and the rooms were not locked, meaning that workers had no security for their possessions. Ablutions were conducted in communal shower rooms that did not always have water. In these instances, the miners washed in a dam. Meals were insufficient, of poor quality, and could be denied as punishment (Kane-Berman and Moloi 2014:26).

During an unauthorised visit to a Lonmin hostel, SAIRR researchers found both unclean, poorly maintained bathroom facilities for men who were still sharing rooms, as well as family units that they described as “quite pleasant” (Kane-Berman and Moloi 2014:27). The housing allowance, as one of the Mining Charter’s

prerequisites, however proved insufficient for the needs of mineworkers, who found themselves shouldering various living costs that had previously been paid by the companies (Hartford 2012). Many workers treated the allowance as a supplement to their wages, and cut housing costs by seeking the cheapest accommodation available, for example, shacks in informal settlements with little, if any, provision for water, sanitation, refuse removal, roads or electricity (Paton 2013). As the platinum boom drew more workers to the mines, these settlements multiplied. “In 2012, there were approximately 40 shantytowns in the Rustenburg area, while an estimated 45% of homes in the region were informal (against a national average of 15%)” (Chinguno 2013:12). “Mining companies, largely ignored this development, as did local, provincial and national government and the dominant union in the sector, the National Union of Mineworkers”, stated labour columnist, Terry Bell (2014). “Yet a social and economic time bomb was being created” (Bell 2014). The South Africa platinum mine owners, Amplats, Implats and Lonmin, control more than 80% of the global platinum reserves. The dichotomy is that, while mining houses have accrued profits, there has also been social squalor and poverty for the mineworkers and their respective communities. However, Lonmin’s Executive Vice President of Communications and Public Affairs, Lerato Molebatsi (2014), asserted that to address the housing issue successfully, “we need to address the issue of migrant labour which therefore requires addressing the labour relations South Africa has with its neighbouring countries”. In contrast, International Labour Organisation (ILO) South Africa Director, Vic van Vuuren, argued that mining managers had failed to respond appropriately, “Management is divorced from the socio-economic challenges facing their employees, such as displacement from their homes, the long distances they have to travel and the slum-like conditions they live in [...] That is an indictment of management in general in South Africa. If they had been more engaged, they could have negated a lot of what is on the table now. It’s a situation that has been building for years and has blown up in their faces” (Barron 2014:5).

According to Bezuidenhout (2008:182), “labour standards fall as BEE increases”. When mines were transferred to a selected few black individuals, these were marginal mines, which required more input; therefore to ensure a profit, the cost of labour was reduced. The running cost of marginal mines is higher and many of these mines were transferred to black ownership. “Often such mines can only be profitable if they take a ruthless approach to cutting costs. It demonstrates [...] the empowerment of some is often built on the disempowerment of others” (Bezuidenhout 2008:186). The deterioration of labour standards was due to outsourcing, as black beneficiaries of BEE employed labour brokers who were commissioned to employ mineworkers, meaning that most mineworkers did not receive medical aid or contribute to a pension fund. Political analyst and University

of Witwatersrand Vice Chancellor, Professor Adam Habib (2009), argued that, “All the mines do is pay the labour broker, so the cost of labour is lowered. And if anybody goes on strike, the mines say that I have nothing to do with this, I gave the contract to XY labour broker”. The method utilised is outsourcing to labour brokers, “thus ending labour brokers, the cost of labour will increase and the profitability of mines will decrease. A lot of the mines that got sold off to black entrepreneurs were marginal mines, basically, Anglo American etc. To make a profit on it was to drive down labour standards and they started to do this in quite a dramatic way” (Habib 2009).

The dominance of labour brokers in the mining sector indicates a, “high level of subcontracted mine employees who receive wages considerably lower than permanent employees” (Bezuidenhout 2008:192). Some miners earn as little as R1 000 per month; this is in sharp contrast to the annual remuneration packages (including salary) of Chief Executive Officers (CEOs), which average R2 million, and executive directors earning an estimated R1,1 million (Shumane and Taal 2013:5-35). K Massie, D Collier and A Crotty (2014) stated in their publication, *Executive salaries in South Africa: Who should have a say on pay?*; that this is extraordinarily high compared to global standards. Among the arguments advanced to defend the wage gap, is the law of supply and demand in a globally competitive market. Protractors contend that BEE was intended to develop skills because of the shortage locally of highly educated and skilled people. However, there were fears that such highly skilled individuals might leave the country if not suitably remunerated (Secombe 2014:1).

Platinum company, Amplats CEO, Chris Griffith’s total remuneration package in 2013 was close to R1,8 million. Griffith’s defends his salary stating that, “Am I getting paid on a fair basis for what I’m having to deal with in this company? Must I run this company and deal with all this ‘nonsense’ for nothing? I’m at work. I’m not on strike. I’m not demanding to be paid what I’m not worth” (Secombe 2014:1). The stark contrast in salaries between mine workers and top executives indicates that the B-BBEE’s Mining Charter ultimately empowered black owners who are billionaires and the second layer of employees who run the mines, i.e. CEOs and directors. The policy has made limited inroads into the socio-economic upliftment of the majority of employees. Labour Unionist, Zwelinzima Vavi (2010), contends that the thrust of B-BBEE was to ensure, “decent work meaning quantity and quality of jobs, the rights of workers to be treated fairly in the workplace, the right to collective bargaining and improved the standards of living”. The labour unrest in the mining sector provides an illustration of how B-BBEE proceeds, based on black ownership where there are inadequate sanctions to ensure the entrenchment of the policy. There are no instances where a mining company’s license has been revoked if it did not meet the B-BBEE targets. Economist Reg

Rumney (2010) commented during an interview in September 2010 that, “BEE, which has now been changed to that of B-BBEE, tends to be a ‘soft’ law. In other words, it rewards [compliance] rather than punishes those who do not comply.” Thandeka Ncube (2014), Head of Sustainability at Shanduka Group, contends that, “The strength of the mining charter lies in revoking the mining license should certain criteria not be met. It’s a catch 22 situation because if you find that they don’t comply, it will be difficult to revoke the license due to the current state of the unemployment rate. The intent of mining companies is there; however, life and reality get in the way.”

Despite the strong policy as the means of encouraging the previously disadvantaged to participate in the South African economy, the implementation of the policy continues to favour the black elites. The strikes within the mining industry together with the economic indicators signal that significant changes need to be made to B-BBEE policies, as well as to the Mining Charter, in order to realise economic transformation in South Africa. BEE/B-BBEE transferred wealth to selected black beneficiaries and made limited significant inroads towards improving the socio-economic conditions in mining communities.

5. CONCLUSION

Considerable resources have been spent on BEE, its legislative successor B-BBEE and the Mining Charters; billions of rands have been made available for funding black empowered businesses over the last 20 years. In the interviews conducted, all respondents agreed that the major challenge associated with implementing B-BBEE was socio-economic transformation, which stems from the apartheid legacy. The DTI (2015) added that it is difficult for B-BBEE to address all problems that exist within society. The respondents agreed that empowerment policies have seen a few successes; however, not to the extent required for increased transformation on the part of mineworkers and their respective communities. The majority of respondents believed that B-BBEE has benefitted a few and not the majority of South Africans it intended to benefit, such as the unemployed and those living in rural and disadvantaged communities. Thus, B-BBEE should begin by first uplifting communities and ensuring that they are involved in economic activity of the country. Consequently, the asymmetric nature of empowerment in the South African mining sector is due to the empowerment of a few wealthy elite and the disempowerment of mineworkers, whose expectations from B-BBEE policy was the improvement of the socio-economic conditions, labour standards and addressing the wage disparities. The labour unrest within the mining sector brings into focus the inadequacies of the B-BBEE policy. In the interviews conducted and triangulated with existing literature and B-BBEE reports and data, one can argue that the consolidation and dominance of the black elites from narrow to broad-based

empowerment has ultimately left little room for socio-economic development of mine workers and their respective communities, or even for emerging entrepreneurs to enter the market. The salient imbalance between the gains of a mere few and the loss of a majority reached tipping point in Marikana in 2012; since then it has escalated over the years with often long and protracted violent strikes which have affected the economy and global production.

The Mining Charter sets guidelines for reaching the targets; however, the aspect of “real” empowerment across a broad base requires accountability and transparency. There is virtually no enforcement; mining licenses are not revoked if mining houses do not meet the targets. There are also minimal restrictions on how many contracts an individual can acquire. If the South African government is serious about implementing a broad-based approach in a country with a high unemployment rate and repeated labour unrest, then greater emphasis will need to be placed on concrete implementation, while a significant shift from the primary focus of black ownership to socio-economic development in mining communities needs to take place.

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