

# **Policy Gap 5**

SADC Research

Corporate Social Responsibility in the Diamond Mining  
Industry in Botswana

## **De Beers, Botswana and the Control of a Country**



**Bench Marks Foundation**

2009

# **Policy Gap 5**

**SADC Research Report**

## **CORPORATE SOCIAL RESPONSIBILITY IN THE DIAMOND MINING INDUSTRY IN BOTSWANA**

by

**David van Wyk**

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Research commissioned by the Bench Marks Foundation

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Diakonia Sweden and EED in Germany

## Foreword

The Bench Marks Foundation is an independent church based non governmental organisation monitoring corporate performance in the field of corporate social responsibility (CSR) with a focus on sustainable practices that address labour rights, community rights, gender concerns, HIV/AIDS, and a sustainable system of production. In this regard we promote evenly economic development in the African continent. We address these concerns through our measuring tool, the *Principles for Global Corporate Responsibility; Bench Marks for Measuring Business Performance*.

Its mandate is to examine the role of business in the new South Africa and beyond our borders to realise human rights and promote human dignity. Our main focus in South Africa is around natural resources, in particular mining, its impact on the environment, women, HIV and AIDS, and particularly on communities close to mining operations. We believe that the starting point of economic life is the community and the sustainable development of peoples.

CSR is more than philanthropy and reporting, it is also the strategic interventions that benefit both the corporation and society and that promotes a rights based approach and a developmental angle to companies CSR commitments. The Bench Marks Foundation believes that the gap between policy and corporate practice needs to be addressed and CSR integrated into the core of companies' decision-making processes in order to overcome poverty, growing inequalities and degraded environments.

The Foundation's studies in mining industry point to a number of interventions that can and must be made that will ultimately provide positive results for communities and the environment.

In South Africa, as in the SADC region, the rush for investment, particularly in the resource extraction sector, often allows for the outflow of economic wealth whilst leaving host countries and communities further impoverished. This impoverishment is seen economically, socially and environmentally and in people's struggles for a meaningful life and dignity.

The SADC region is a mosaic of countries all at different developmental and political stages. The region holds about 50% of Africa's total mineral wealth. The mining sector in Southern Africa has been going through a massive growth period considering rising mineral and commodity prices although starting to decline. Political leaders in the subcontinent are implementing a number of strategies aimed at creating a friendly investment climate conducive to exploration and mining activities in the region. However, instead of providing more negotiation power to the SADC countries, mining multinational companies in the region have implemented a divide and rule strategy to seek out the country with the weakest mining legislation.

There are low levels of accountability, transparency and commitment to all aspects related to sustainable development and corporate social responsibility in the mining arena of the SADC region and for business in general. Multinational companies need to focus their corporate social responsibility programmes on the real sustainable development of communities rather than as publicity exercises. They also need to adhere to international good practice and or standards and instruments guiding this.

This study poses a challenge to the diamond companies to improve on their corporate responsibility programmes and to find innovative ways to promote development at community level that addresses some of the negative impacts mining brings.

I trust that the study will be received warmly by both the corporations studied and various branches of government involved.

The Rt. Rev. Dr. Jo Seoka

Chairperson Bench Marks Foundation

## Introduction

This study of corporate social responsibility in the diamond mining industry in Botswana deals with the nature of mining investment in Botswana, the conflict of interest between the government and De Beers, and the impact of mining on indigenous peoples.

Botswana relies predominantly on one commodity – diamonds – to finance state expenditure, create jobs and contribute to GDP. This dependency creates a problem for the long-term sustainable economic development in Botswana.

The global financial crisis has led to De Beers closing many operational plants, retrenching workers and leaving whole communities destitute. Part of the problem is the accumulation of profit by mining companies in an environment of inequitable distribution of benefits.

The working class and poor suffer as second-class citizens and disposable labour while the mining companies produce glossy sustainability reports, showing Botswana as an African success story and a truly democratic and sustainable society. This raises the question of economic justice for De Beers when in bad times, workers and their communities are discarded in the name of shareholder returns. The group that can least afford it loses out to the group who can most afford it.

Should not companies and government strategy be directed to sustaining communities? In upturns why can't a sustainability fund be developed that caters for worker and communities in downturns?

This report highlights some of the key contradictions around mining and development as it relates to indigenous communities, their forced removals to make way for mining and raises a host of questions around ecological areas like the Okavango Delta and the Kalahari Game Reserve.

While De Beers gives a lot to state coffers, this relationship is also riddled with complexities, where the Botswana government benefits revenue wise, but appears to lack the political will to ensure mining does not harm indigenous communities. This is a corporate challenge and De Beers needs to state what their position is regarding indigenous communities.

This report also raises the issue of shady mining interests by Gem Diamonds in the Central Kalahari Game Reserve. The government has evidently banned indigenous people from using their water holes and the mining license is depended upon Gem Diamonds not supplying water to them.

As long as mining houses disregard their duty to consider the interests of all stakeholders and get away with negative environmental and social impacts such as damaged eco-systems and dispossessed and disempowered communities the road to sustainable development will be long and arduous.

The Bench Marks Foundation tool, *Principles for Global Corporate Responsibility, Bench Marks for Measuring Business Performance* shows that De Beers has a long way to go to becoming a good corporate citizen. De Beers needs to be able to show that their operations are fair, just and that profits they make are done so ethically.

John Capel  
Executive Director  
Bench Marks Foundation

## Executive Summary

This research on corporate social responsibility (CSR) and the extractive industry in Southern Africa is a research project of the Bench Marks Foundation in collaboration with the Peace, Principles and Participation Network (PPP) covering Angola, the DRC, Malawi, Mozambique, South Africa and Zambia – a multi-sectoral grouping that has evolved primarily for purposes of advocating for equitable distribution of wealth and developmental benefits at grassroots levels emanating from extractive industries operating across the Southern African Development Community (SADC) region. The initiative is supported by the Netherlands Institute for Southern Africa (NIZA) and arises from research completed by the Bench Marks Foundation on Rustenburg Platinum Mines and extended by the PPP meeting of November 2006 in Durban, South Africa. At this meeting it was decided to focus the research on the applicable legislation, policies and practices in the **extractive industries** in the above-mentioned countries in the SADC region. International best practice and benchmarking conceptualised and monitored by the Bench Marks Foundation as specified in the *Bench Marks framework, Principles for Global Corporate Responsibility: Bench Marks for measuring Business Performance*, (the *Bench Marks* tool) are key principles in the design and execution of the research.

Mining-related developmental issues - against the background of the social responsibility of the industry - that will be raised in this project will, amongst others, be the following: health and safety, security, education, migrant and settlement patterns, environmental management, poverty eradication, job creation, local economic development, gender, HIV/AIDS, measurement of development needs of communities, etc.

The first phase of this SADC research project, completed and launched in June 2008, involved the mining activities in Malawi (uranium), South Africa (coal, gold, platinum and uranium) and Zambia (copper and cobalt). This research on the diamond industry in Botswana is therefore a continuation of the broader SADC research initiative into the extractive industry.

Mr David van Wyk (North-West University) conducted the research and was supported by Prof Freek Cronjé, and by Ms. L. Grimbeek – both from the North-West University (Potchefstroom Campus).

Mainly three basic research procedures were used for the project: the historical procedure, survey procedure and historic-comparative procedure.

The key issues (findings) that came to the fore from the research are categorised under the three dimensions of **sustainable development** (economical, environmental and social). Integrated within the findings of this research are certain relevant *Principles, Criteria and Bench Marks*<sup>1</sup> - **printed in bold**, that serve as **measuring standards** for the mining companies' CSR performances. An additional measure against these criteria and benchmarks is given through the presentation of results that were obtained in the '*Community CSR Assessment Tool*'.

Some of the **key findings** from this report can be summarised as follows:

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<sup>1</sup> Principles for Global Corporate Responsibility: Bench Marks for Measuring Business Performance

- According to the results obtained from the measure of CSR practises against the *Bench Marks* framework and community perceptions about the mining industry, effective CSR is not currently experienced by community members in Botswana.
- In a regulatory sense, it seems that the mining sector in Botswana in general and diamond mining in particular, is embedded in an unfolding legislative environment in which the primacy of the mining industry is often in conflict with environmental and community concerns. There is much room for clarifying legislation as far as CSR concerns go.
- The Botswana government's 'marriage' to the leading diamond-mining corporation creates the perception of a dominant relationship at the expense of communities, human rights, the environment and sustainable local economic development. The implications are that CSR-driven development is rendered ineffective unless the national government take the necessary steps to assert its own independence and responsibility not just to the major corporate citizen, but to the people of Botswana as a whole.
- The Bench Marks Foundation recommends that CSI interventions address the social, economic and environmental impacts in a developmental way that leads to job creation and sustainable development in the impacted communities.<sup>2</sup>
- Company policies and contracts must not override national legislation. The "inappropriate marriage" between the government and De Beers makes this obviously a very "grey" area in Botswana. Legislation must also provide fitting (effective and severe enough) punitive directives for non-compliance.
- Development projects should focus on employment creation as a priority in order to set the foundation for community members to set up income generating projects.
- The research highlighted **infrastructure** (especially roads, housing and sewage) as one of the major priorities. A good working relationship and partnership between all parties (the mining companies, national and local government, NGOs and communities) are crucial to resolving the infrastructure issue.
- **Mine management plus key employees require training** with regard to community engagement, communication and dealing with communities at different levels.
- Mining corporations such as De Beers and Debswana should attempt to conduct themselves at **standards set at the level of best global practice** and not be content to merely work within the local legislative environment.
- **Prospecting and mining minerals**, including diamonds in **national parks and conservation areas**, including in parks, is simply **unethical**. **Strict legislation** must be in place in this regard and **enforced by Government**. The threat posed to the **Central Kalahari Game Reserve (CKGR)** by prospecting, and the potential threats to the Okavango Delta are matters of serious international concern.

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<sup>2</sup> Policy Gap 1 - a review of the Platinum Mining Industry in the North West Province.

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# De Beers, Botswana and the Control of a Country

## 1. Introduction

Botswana is an incredibly beautiful country with a diverse natural environment from deserts and semi-deserts to swamps and a river delta of global importance. It is richly endowed with minerals, particularly diamonds and the country is sparsely populated.

It is regarded as one of the most politically stable countries in Africa. However, it is also a country in which there are disturbing tendencies and in which political stability and the balance between nature and economic activity is extremely fragile.

It is with these concerns in mind that the Bench Marks research team engaged with the SADC mining research project in general and the Botswana fieldwork in particular, to investigate whether the powerful governments, politicians, mining corporations, managers, and civil servants are acting within a mandate that will not jeopardise the future, but insure instead that the balance will remain in place – that there is an eye on the rights and freedoms of the future, rather than a focus on greed and profit.

Botswana is in a unique situation as its economy is predominantly dependent on a single commodity, diamonds and a single corporation, Debswana in which the government is a 50% shareholder with the only other 50% shareholder being De Beers. This is very problematic, as it leaves no room to appeal to the conscience of a diversity of shareholders who might be of different opinions and persuasions.

## 2. Background to the Research Project

This research on Corporate Social Responsibility (CSR) and the extractive industry in Southern Africa is a research project of the Bench Marks Foundation in collaboration with the Peace, Principles and Participation Network (PPP) covering Angola, Botswana, the Democratic Republic of Congo (DRC), Malawi, Mozambique and South Africa. This multi-sectoral grouping has evolved primarily for purposes of advocating for equitable distribution of wealth and developmental benefits at grassroots levels emanating from extractive industries operating across the SADC region. The initiative is supported by the Netherlands Institute for Southern Africa (NIZA) and the focus of the research is on the applicable legislation, policies and practices in the extractive industries in the above-mentioned countries in the SADC region.

International best practice and benchmarking conceptualised and monitored by the Bench Marks Foundation as specified in the Bench Marks framework: *Principles for Global Corporate Responsibility: Bench Marks for measuring Business Performance*<sup>3</sup> (known as the “Bench Marks”) are key principles in the design and execution of the research.

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<sup>3</sup> Bench Marks Foundation III, 2003

Mining-related developmental issues - against the background of the social responsibility of the industry - that are raised in this project include: health and safety, security, education, migrant and settlement patterns, environmental management, poverty eradication, job creation, local economic development, gender, HIV/AIDS and the measurement of development needs of communities.

The first phase of the SADC research project involved the mining activities in Malawi (uranium), South Africa (coal, gold, platinum and uranium) and Zambia (copper and cobalt). The second phase currently underway involves the diamond mining activities in Botswana, the DRC and the South African West Coast and will be completed and released during the middle of 2009.

### 3. Aims of the Study

The aims of the study are to:

- Highlight key issues in the Botswana mining industry against the background of the CSR practises of mining companies, and the legislative environment in which mining companies operate in relation to the dimensions of sustainable development;
- Analyse the findings in terms of the gaps between company policy and practises using the **Bench Marks, Criteria and Principles** of the *Bench Marks* framework; and
- Make practical recommendations in order to encourage sound CSR practices and to enhance sustainable development in the area.

### 4. Research Methodology

The basic research procedures used for the report included: historical, survey and historic-comparative procedures.

The **historical procedure** (literature review) was used for the historical, legislative, policy and industry overview of the area. More generally, the historical procedure was also used to analyse, conceptualise and contextualise all facets of the research. Books, scientific journal articles, popular articles, newspapers, reports, annual reports of mining companies, conference proceedings and databases as well as the Internet were used as sources for applying the historical procedure.

The **survey procedure** was used to gather the empirical information. When working with and in mining communities, a **qualitative approach** is the better choice for the subject matter in that it enables the respondents to expand on their points of view without being limited by the questions. Data collection methods included interviews, focus groups and researcher observations.

Interviews were held with community members and focus groups within communities and representatives of the mines, contractors working for the mines as well as local government officials. Focus groups (8 to 12 people) and interviewees were selected purposely to take account of gender, race, migrant or local status, age and specific interest groups. At least two researchers facilitated

each focus group and each personal interview. Different individuals in different areas were also used as key informants.<sup>4</sup>

The researchers interacted with a number of institutions associated with the University of Botswana such as the Harry Oppenheimer Okavango Research Centre (HOORC), former employees of Debswana, geologists, a mining Small and Medium Enterprise (SME), medical practitioners, and engaged with trade unions, as well as interacting with NGOs such as the Botswana Congress of Non-Government Organisations (BOCONGO), Survival International and the Friederich Ebert Stiftung and an independent documentary film maker. The interviews with the respondents were translated, where necessary, and transcribed. The content of the data was then analysed by means of conceptual (thematic) analysis.

A more theoretical approach to the interpretation of written sources was used as the basic point of departure for the analysis and interpretation of the results. There are four important elements for increasing trustworthiness in qualitative research<sup>5</sup>:

- **Truth value:** confidence in the truth of the findings and the context in which the study was undertaken;
- **Applicability:** the degree to which the findings can be applied to other contexts and settings or with other groups;
- **Consistency:** whether the findings would be consistent if the inquiry were replicated with the same subjects or in a similar context; and
- **Neutrality:** the degree to which the findings are a function solely of the informants and conditions of the research and not other biases.

**Quantitative research** involved collecting data from questionnaires. These were designed for mine management and community groups and were based on the *Bench Marks* framework.<sup>6</sup> Questionnaires were also submitted to Debswana, the Botswana Federation of Trade Unions (BFTU), the Botswana Mine Workers Union (BMWU), the Botswana Congress of Non-Governmental Organisations (BOCONGO) and Survival International. A few **case studies** were also used to gather some information.

The quantitative data that is used in this project aims at serving as a verification of the qualitative data by illustrating the opinions of respondents in a quantified manner. Quantitative data analysis was done by manually analysing information obtained from questionnaires.

The **historic-comparative** procedure was applied in order to compare and measure, for example, the different mining sectors of other studied countries e.g. South Africa, Zambia and Malawi. Here and there comparisons to other (developed) countries (e.g. Australia and Canada) also took place as a way of benchmarking and the application of international best practice.

To enhance the scientific quality of the research, the project will be subjected to a **peer review** process towards the end of the project. The European Centre for Migration and Social Care (MASC)

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<sup>4</sup> Patton (2002:231) describes key informants as "... people who are particularly knowledgeable about the inquiry setting and articulate about their knowledge – people whose insights can prove particularly useful in helping an observer understand what is happening and why"

<sup>5</sup> Guba (Krefting, 1991)

<sup>6</sup> Annexures A and B

at the University of Kent, Canterbury, UK will act as peer review agent. The research results will be disseminated in the following ways:

- Dissemination to all the affected **mining corporations** for their comment prior to the results being made public
- A launch of the research in 2009 at which representatives of all stakeholders will be present
- Community workshops with the researched communities so as to empower them to understand and use the research results in their engagement with mining concerns

Scientific publications, academic addresses, popular media and the Internet

The report was edited by Prof. J.F. Cronjé and technically revised by Ms. L. Grimbeek – both from the North-West University (Potchefstroom Campus).

## 5. Ethical Considerations

The following ethical considerations were always kept in mind while conducting the research:

- **Voluntary participation:** no participant was forced to participate in the research and participants were free to withdraw from the research at any stage
- **No harm to participants:** the researcher ensured that no physical or psychological harm was done to the participants as a result of the study
- **Anonymity and confidentiality:** all information gathered during the study were dealt with confidentially and permission from the participants were obtained for all information to be shared publicly. Permission was also obtained from all individuals who were photographed to allow the use of these photographs where required.
- **Not deceiving the subjects:** participants were informed concerning the aim, the purpose and the procedures of the study and were not deceived in any way.
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## 6. Limitations of the Research

Researchers experienced difficulties to interview representatives of the mining companies and to get members of mine management to fill out questionnaires designed for companies – an exercise requiring several follow-up telephone calls and e-mails. This is fairly normal for this kind of research; in Australia for example the rate of return for CSI/CSR questionnaires to industry is only 5%.

Research subjects in the area were generally cooperative, although a number were extremely fearful of the perceived security and economic consequences for their families and themselves should they in any way be identifiable from the research. There is a level of paranoia amongst people in Botswana relating to the diamond-mining sector and an ‘obligated loyalty’<sup>7</sup> towards De

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<sup>7</sup> Carstens, 1994, p. 185

Beers for what the company has done for Botswana. This belies the generally positive and democratic image that exists in the mind of the outside observer.

Examples of how outspokenness result have resulted in negatives: the dismissal of a newspaper editor, the deportation of a University staff member, deportation of foreign journalists, the labelling of an NGO as a 'terrorist organisation'<sup>8</sup> and the sacking of a minister of minerals and energy.<sup>9</sup>

## 7. The Diamond Industry in Botswana

### 7.1 Botswana in Brief

**President:** Ian Khama (2008)

**Land area:** 226,012 sq mi (585,371 sq km); **total area:** 231,803 sq mi (600,370 sq km)

**Population (2008 est.):** 1,842,323 (growth rate: 1.4%); birth rate: 22.9/1000; infant mortality rate: 44.0/1000; life expectancy: 50.1; density per sq km: 3

**Capital and largest city (2003 est.):** Gaborone, 195,000

**Monetary unit:** Pula

**Languages:** English 2% (official), Setswana 78%, Kalanga 8%, Sekgalagadi 3%, other (9%) (2001)

**Ethnicity/race:** Tswana (or Setswana) 79%, Kalanga 11%, Basarwa 3%, other (including Kgalagadi and white) 7%

**National Holiday:** Independence Day (Botswana Day), September 30

**Religions:** Christian 72%, Badimo 6%, none 21% (2001)

**Literacy rate:** 81.2% (2006 est.)

**GDP/PPP (2007 est.):** \$25.68 billion; per capita \$16,400.

**Real growth rate:** 5.4%.

**Inflation:** 7.1%.

**Unemployment:** 7.5%.

**Arable land:** 1%.

**Agriculture:** livestock, sorghum, maize, millet, beans, sunflowers, groundnuts.

**Labor force:** 288,400 formal sector employees (2004); agriculture n.a., industry n.a., services n.a..

**Industries:** diamonds, copper, nickel, salt, soda ash, potash; livestock processing; textiles.

**Natural resources:** diamonds, copper, nickel, salt, soda ash, potash, coal, iron ore, silver.

**Exports:** \$3.68 billion f.o.b. (2005 est.): diamonds, copper, nickel, soda ash, meat, textiles.

**Imports:** \$3.37 billion f.o.b. (2005 est.): foodstuffs, machinery, electrical goods, transport equipment, textiles, fuel and petroleum products, wood and paper products, metal and metal products.

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<sup>8</sup> Good, 2003

<sup>9</sup> Even-Zohar, The Magic of Preserverance (Review 2), 2008

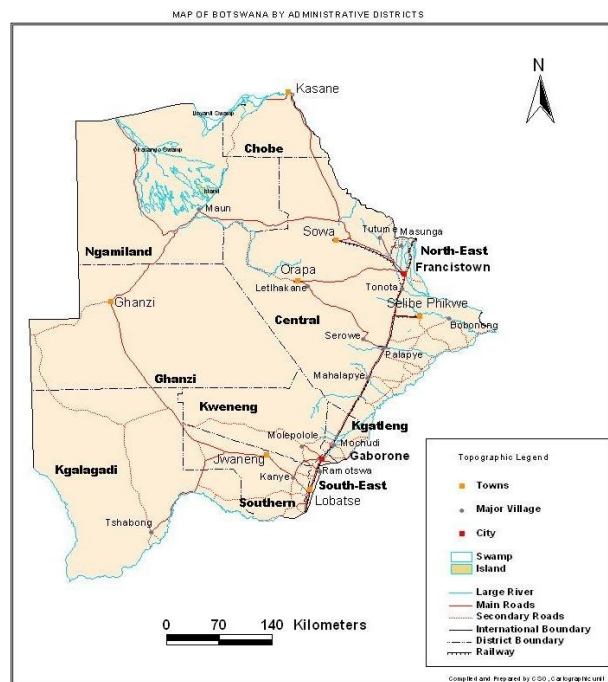
**Major trading partners:** European Free Trade Association (EFTA), Southern African Customs Union (SACU), Zimbabwe (€2004).<sup>10</sup>

**Fig 1: Poverty in Botswana**

**Poverty in Botswana (UNDP, 2008)**

- 47% of the population live below national poverty line
- 50% of female-headed households live below national poverty line
- 44% of male-headed households live below national poverty line
- Gini-coefficient 0.6
- Poverty gap ration 56.3
- Income of poorest 20% population 4% of total
- Income of poorest 40% population 11.7% of total
- Income of richest 20% population 59.3% of total

**Fig 2: Districts In Botswana: Debswana mines at Orapa, Letlhakane and Jwaneng**



## 7.2 Geographical Description

84% of Botswana's land area is composed of a flat landscape of sands and associated gravels and 80% of Botswana's population live in the east, which has a varied terrain and complex soils and is most suitable for agriculture. Rivers do not run into the ocean, but flow into low lying seasonal pans

<sup>10</sup> Infoplease, 2008

known as the Makgadigadi pans, and the Okavango Delta which drains the Okavango River flowing south from deep in Angola.<sup>11</sup> The Cuando/Linyati River, also originating in Angola, drains in Lake Liambezi. The only two rivers that drain into the sea are the Chobe River which runs into the Zambezi and the Limpopo Rivers, both of which drains into the Indian Ocean.<sup>12</sup>

### 7.3 The Kwe-speaking hunters and herders

The western and southern parts of Botswana is covered by the Kalahari desert which lacks surface water and suffers irregular rainfall making it unsuitable for human settlement. This area historically only supported a hunter gatherer population, however, since the introduction of the tribal grazing lands policy in 1975 which has increased the number of boreholes in the area has seen a rapid increase of livestock and people in the area. Livestock (cattle, goats and donkeys) greatly outnumber the human population in this area.<sup>13</sup>

Kwe-speaking hunters and herders, people speaking Kwe languages, have lived in Botswana for many thousands of years. A site in the Tsodilo hills, in the north-western corner of Botswana, contains archaeological evidence of continuous Kwe occupation from about 17 000 BC to about 1 650 AD. The government refers to these people as the “Basarwa” or “Mosarwa”. The hunter-gatherers themselves object to the terms “Basarwa/Mosarwa”, and do not themselves accept the name “Khoisan” and find it puzzling that they have not been asked what they call themselves. N/oakwe or Kwe are the preferred self-defined term.

In modern Botswana there is grave concern for the rights of this ancient community. “San communities have been relocated on many occasions during the twentieth century in Botswana to facilitate the intensification of cattle production, for the promotion of wildlife tourism, for bureaucratic convenience and for the exploitation of minerals”.<sup>14</sup>

### 7.4 The Discovery of Diamonds

Bechuanaland<sup>15</sup>, as Botswana was previously known, became self-governing from the British in 1965, under Seretse Khama as prime minister. In 1966 the country became the Republic of Botswana, with Seretse Khama as its first president. Gaborone was rapidly built up as a new administrative capital.

For its first five years of political independence, Botswana remained financially dependent on Britain to cover the full cost of administration and development. The planning and execution of economic development took off in **1967-71 after the discovery of diamonds at Orapa.**

The essential precondition of this was renegotiation of the South African Customs Union (SACU), so that state revenue would benefit from rising capital imports and mineral exports - rather

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<sup>11</sup> Smith, 1992.

<sup>12</sup> *ibid.*

<sup>13</sup> *ibid.*

<sup>14</sup> Good, 2003, p. 15

<sup>15</sup> Historical material drawn from Neil Parsons, A Short History of Botswana (Parsons, 2000).



than remaining a fixed percentage of total customs union income. This renegotiation was achieved in 1969.

Botswana fared relatively well in macro-economic terms performing well in terms of the kind of macro-indexes that the World Bank and the IMF considers important such as a average growth rate of 7.5% from 1961-1997, keeping inflation down, using interest rates effectively, etc.

Joseph E. Stiglitz<sup>16</sup> in his 2002 book "*Globalization and its Discontents*" points to Botswana as a successful example of a country avoiding the International Monetary Fund (IMP) structural "assistance" programmes and managing a stable democracy since independence. This is unlike countries such as the Democratic Republic of Congo (formerly Zaire), Nigeria and Sierra Leone that are also rich in resources. In those countries, the wealth from resource abundance "fueled corruption and spawned privileged elites that engaged in internecine struggles for control of each country's wealth. Botswana's success rested on its ability to maintain a **political consensus**, based on a broader sense of national unity."<sup>17</sup>

That political consensus, necessary to any workable social contract between government and the governed, had been carefully forged by the government, in collaboration with outside advisers. These came from a variety of public institutions and private foundations, including the Ford Foundation. The advisers helped Botswana map out a program for the country's future. Unlike the IMF, which largely deals with a country's finance ministry and central bank, these advisers openly and candidly explained their policies as they worked with the government to obtain popular support for the programs and policies. They discussed their program with senior Botswana officials, including cabinet ministers and members of Parliament, with open seminars as well as one-to-one meetings. Part of the reason for this success was that the senior people in Botswana's government took great care in selecting their advisers.

Shortly after independence in 1966, De Beers (the South African diamond cartel) paid Botswana \$20 million for a diamond concession in 1969, which reportedly returned \$60 million in profits a year. In other words, the payback period was four months! A brilliant and dedicated lawyer sent to the Botswana government from the World Bank argued forcefully for a renegotiation of the contract at a higher price, much to the consternation of the mining interests.

The South African diamond cartel tried to tell people that Botswana was being greedy. They used what political muscle they could, through the World Bank, to stop this lawyer. In the end, they managed to extract a letter from the World Bank making it clear that the lawyer did not speak for the Bank. Botswana's response: "That is precisely why we are listening to him."

Ultimately, the discovery of the second large diamond mine gave Botswana the opportunity to renegotiate the whole relationship. The new agreement has so far served Botswana's interests well — and enabled Botswana and De Beers to maintain good relations.<sup>18</sup>

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<sup>16</sup> Joseph Stiglitz: In 1999 fired as Chief Economist of the World Bank and in 2001 winner of the Nobel Prize in Economics.

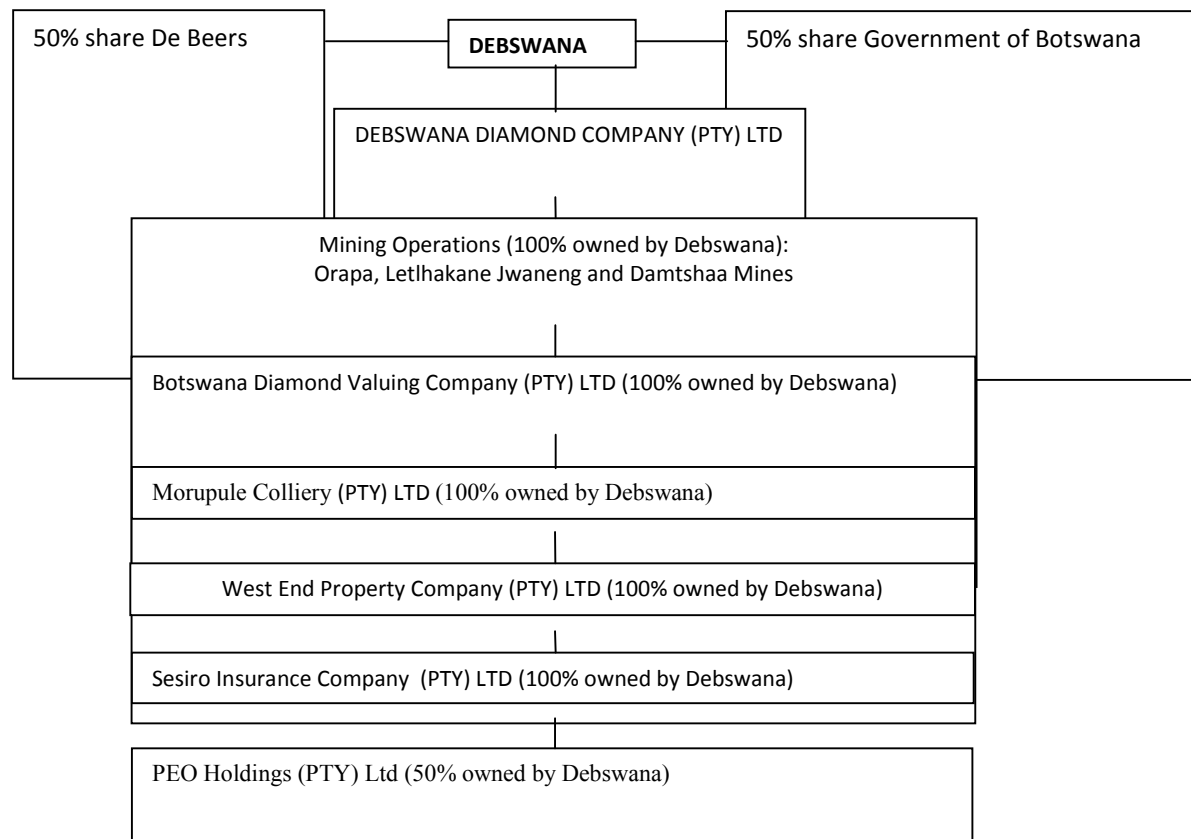
<sup>17</sup> Stiglitz 2002.

<sup>18</sup> (Stiglitz, 2002, p. 39)

## 7.5 The Diamond Industry in Botswana

Between 1967 and 1973, De Beers geologists located three richly diamondiferous kimberlite pipes in Botswana, with the eventual result that this poor, under-populated nation in the Kalahari Desert (and right over the center of the Kalahari Craton) is now third in the world in diamond production as measured by carat weight, behind only Zaire and Australia. Moreover, since there is a very high ratio of gem-quality to industrial quality diamonds here, Botswana has led the world in diamond production as measured by value since the early 1990s. Many kimberlites occur in the country besides the main three (Orapa, Letlhakane, Jwaneng), and many smaller mines are now in operation. Nearly all diamond production is controlled by the Debswana Diamond Company, a joint venture firm of which 50% is owned by De Beers and 50% by the government of Botswana.<sup>19</sup>

**Fig 3: Debswana Organogram**



<sup>19</sup> [www.mbendi.co.za](http://www.mbendi.co.za)

Botswana's diamond deposits are the most lucrative on earth. Indeed, the original Orapa mine was so profitable that De Beers was able to recover its investment within two years of the mine opening. The Botswana government raised its shareholding in Debswana from 15% to 50% to force a dividend policy that maximised revenues to its fiscus. Kenneth Good<sup>20</sup> contends that the very profitability of Botswana's diamond industry and the corporatist relationship forged with De Beers, serves as a disincentive to economic diversification and political accountability. Indeed, De Beers is portrayed by Good as co-conspirator in much that is odious in Botswana.

Botswana, far from suffering from the resources curse, is a functioning and peaceful state that has an unbroken history of free and fair elections combined with the highest economic growth rates globally for the three decades since its independence in 1966. So where's the problem?<sup>21</sup>

Botswana exhibits higher levels of inequality than all other African countries save for Lesotho and Namibia. For the period 1993-2003, some 50% of the Botswana population lived on less than US\$2 per day. Recently the country's Human Development Index was placed lower than Myanmar/Burma. Unemployment remains persistently high at between 24%-40% and most devastatingly, at 40% of the adult population, Botswana suffers from the world's highest HIV infection rates.<sup>22</sup>

The perception that Botswana is Africa's most stable, and even oldest democracy has recently come under serious scrutiny from critical observers. They point to:

- The dependency of Botswana on a single commodity – diamonds;
- Land in Botswana is mainly state owned, except for buffer zones in the border areas with Zimbabwe, and South Africa;
- In terms of land allocation ethnic minorities and the rural poor are disadvantaged while the state is accused of favouring commercial and mining interests and big cattle owners;
- The close association between the Government and De Beers are equal shareholders in Debswana.

A number of recent events demonstrate, according to a number of observers, a gradual whittling away of democracy and rising intolerance:

- The concentration of powers in the presidency;
- The declaration of a state of emergency in September 1999 in an attempt to offset an administrative bungle that would otherwise have seen the disenfranchisement of 66 000 citizens (Molomo, Democracy under siege: the Presidency and executive powers in Botswana, 2000);
- The declaration on 18 February 2005 of Dr Kenneth Good as a prohibited immigrant in Botswana for allegedly writing an article entitled "Presidential succession in Botswana, No Model for Africa" (Taylor, 2005);
- The expulsion of two foreign journalists in 2005 for being critical of government;

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<sup>20</sup> Australian Professor Kenneth Good, who was declared an 'Undesirable Immigrant' and deported from Botswana in June 2005. His latest book is 'Diamonds, Dispossession and Democracy in Botswana', 2009.

<sup>21</sup> Review of Good's 2009 book by Tim Hughes, Head of the South African Institute of International Affairs' Governance of Africa's Resources Programme

<sup>22</sup> *ibid*

- The sacking of the Editor of Mmegi newspaper, Mr Mesh Moeti, in October 2005 after a visit by the Presidential spokesperson, Jeff Ramsay. Moeti's sin was that he voiced the "need for a strong opposition to keep the ruling party in check",<sup>23</sup>
- Labelling a human rights NGO as "terrorist";
- The declaration on World AIDS Day, 2008, by President Ian Khama that "ARVs are unsustainable";
- The tabling of the Media Practitioners Bill which is considered to be a serious attack on the freedom of the press<sup>24</sup>;
- In 2007 Botswana banned 17 people, mostly foreign journalists and human rights activists from the country;
- Other recent laws which fall "outside the spirit of the country's constitution, principles of democratic practice and the Universal Declaration of Human Rights"<sup>25</sup>
- The tabling of a motion in parliament that will allow the president to nominate 8 members of parliament after the next elections.<sup>26</sup>

## 7.6 The Militarisation of Botswana

From 1969 onwards Botswana began to play a more significant role in international politics, putting itself forward as a non-racial, liberal democratic alternative to South African apartheid.

The later 1970s saw civil war in Rhodesia, and urban insurrection in South Africa, from which refugees flowed into Botswana. When Botswana began to form its own army the Botswana Defence Force (BDF), the Rhodesian army crossed the border and massacred 15 Botswana soldiers in a surprise attack at Leshoma in February 1978<sup>27</sup>. Botswana played its part in the final settlement of the Rhodesian war, resulting in Zimbabwe independence in 1980. But its main contribution was in formulating the Southern African Development Coordination Conference (SADCC)<sup>28</sup>, to look to the future of the region.

Seretse Khama died in July 1980 and was succeeded as president by his deputy since 1965, vice-president Quett (aka Sir Ketumile) Masire.

Observers and individuals interviewed have expressed a concern about the militarisation of the Botswana government in recent years, particularly during Mogae's term in office. In March 2008 President Festus Mogae handed over the presidency to his vice-president Ian Khama, son of former president Sir Seretse Khama. Ian Khama was schooled in the Botswana National Defence Force (BNDF), where he served as a lieutenant general. Observers suggest that he lacks political

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<sup>23</sup> Good, The Social Consequences of Diamonds Dependency in Botswana, 2003

<sup>24</sup> Piet, 2008

<sup>25</sup> Editor, 2008

<sup>26</sup> Lutte, 2008

<sup>27</sup> Killingray, 1994

<sup>28</sup> The idea behind SADCC, as expounded by Seretse Khama, was to coordinate disparate economies rather than to create a unified market in southern Africa. All the states of southern Africa, excluding South Africa and Namibia, formed SADCC in 1980, to work together in developing identified sectors of their economies - particularly the transport network to the ports of Mozambique.

experience: “Khama junior is known to have authoritarian tendencies and to value allegiance over merit. His appointment has raised fears about creating a political dynasty in Botswana”.<sup>29</sup> He received further military and intelligence training in Israel and the United States.

Dr Ian Taylor points out that Lieutenant General Ian Khama “...is the first of a group of several army officers who have recently been appointed government ministers, the others being Lieutenant General Mompoti Merafhe, minister of foreign affairs and international cooperation, Major General Moeng Pheto, minister of labour and home affairs and Captain Kitso Mokalia, minister of environment, wildlife and tourism”.<sup>30</sup> The opposition Botswana Congress Party goes so far as to allege that the current Botswana government is “... a military junta masquerading as a democracy”.<sup>31</sup>

There is therefore a considerable blurring of the lines between the ruling Botswana Democratic Party (BDP), the defence force/security apparatus (BNDF) and the state to the disadvantage of civil society organisations, NGOs, opposition parties and ethnic minorities.

There have been suggestions of covert collaboration between Botswana authorities, Debswana and the South African National Intelligence Services (NIS) during the final decade of Apartheid. Thus Eeben Barlow, former lieutenant colonel in the notorious 32 Battalion, who later headed the NIS Botswana desk, also designed Debswana’s security training manuals and conducted training and gave advice for the security personnel of both De Beers and Debswana between 1990 and 1993.<sup>32</sup> Debswana’s contract with Barlow came to an end when Executive Outcomes, the private military company founded by Barlow, was contracted by the MPLA government in Angola to fight against UNITA in 1993.<sup>33</sup> De Beers saw this as a threat to its illicit trade in conflict diamonds with that terrorist organisation.<sup>34</sup>

There are reports that Botswana between 1997 and 1998 bought 1 675 StG-58 assault rifles in the illicit arms trade market from a Swiss company Brügger & Thomet, who obtained the weapons illegally from Austrian Army surplus stock.<sup>35</sup>

Disturbingly, the UNHCR reports that the ruling People’s Party in Austria received illicit campaign funds from Botswana in a Vienna municipal election in 2001, in return for another shady arms deal.<sup>36</sup> It is not surprising that Vienna is the fashion and jewellery capital of Austria. Botswana has prompted a mini-arms race in SADC increasing military spending from 4.1% of GDP in 1996 to an estimated 7-8% of GDP in 2008.<sup>37</sup>

Despite De Beers and Debswana making extensive mileage from the corporation’s support for and involvement in the **Kimberly Process** to eliminate trade in blood diamonds the company had to be dragged kicking and screaming into it. Its trade in blood diamonds from UNITA controlled areas in Angola in the 1990s are a matter for public record, less well known were its alleged attempts to dissuade Member of the US Congress William J. Jefferson from supporting the Clean Diamonds Trade Act. Jefferson was an original co-sponsor of the “Clean Diamonds Act” designed to curb the

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<sup>29</sup> Taylor, 2005

<sup>30</sup> Taylor, 2005

<sup>31</sup> Kgautle, Erosion of Democracy worries BCP, 2008

<sup>32</sup> Barlow, 2007, pp. 79 - 179

<sup>33</sup> Barlow, 2007, p. 105

<sup>34</sup> Barlow, 2007, pp. 178,190, 258, 311

<sup>35</sup> Wood & Peleman, 1999, pp. 54-57

<sup>36</sup> Refworld, 2001

<sup>37</sup> Molefhe, New political regime pre-empts oversight at BDF, 2008

trade of “blood diamonds.” Mr Jefferson travelled to Botswana four times between 2001 and 2002.<sup>38</sup> He filed a travel disclosure form for just one of the four trips. The undeclared trips cost \$102,000 and were paid for by Debswana. By Mr Jefferson’s own admission, the new law would have had an effect on Botswana. Just before leaving for his first trip to Botswana in April 2001, he dropped his co-sponsorship for the proposed Act, and on returning from Botswana actively spoke out against the bill, which Debswana opposed (CREW).

## 7.7 Shady Mining Companies: the Case of Garek

President Quett Masire was fond of describing the relationship between De Beers and the Botswana government as a ‘marriage of convenience’ or as one of ‘identical twins’, but he ran into trouble when he became non-executive chairman of **Global Afrika Resource & Energy Corporation (Garek)** upon retiring.

Garek is a mysterious South African-registered unlisted public company, which has been described as “a mysterious trans-national corporation with an implied value of billions of rand.”<sup>39</sup> Garek claims to be a global energy and resource based conglomerate with interests in Africa, Europe, New Zealand and Asia.

On 16 May 2004, Masire was appointed non-executive chairman of Garek, a South African-registered unlisted public company. Since inception, Garek has failed to produce an audited financial statement or to hold an annual general meeting, both requirements of the South African Companies Act. The regular production of financial statements is one of the most basic rights afforded to shareholders. The company is the subject of a fraud investigation commissioned by the South African Trade and Industry (DTI). In 2006 a major investigation into the affairs of Garek and its subsidiaries were instituted.<sup>40</sup> To date the DTI has not released the report of its findings. It is unclear whether the investigation was ever concluded.

The watchdog for financial services providers – the Financial Advisory and Intermediary Services (Fais) Ombud - received at least seven complaints from shareholders in Garek. One of the claims was the alleged illegal sale of shares by a “small army of Cape Town-based unlisted-share brokers” who sold Garek shares to the public on behalf of an unnamed asset manager.<sup>41</sup>

A year after incorporation (May 27, 2004) Garek became involved in the apparent illegal sale of shares by a “small army of Cape Town-based unlisted-share brokers” who sold Garek shares to the public on behalf of an unnamed asset manager.<sup>42</sup>

Since 2003, Masire has chaired Mwamko Afrika Trade Resource, Industrial & Commerce Corporation (Matric), a wholly-owned subsidiary of Garek<sup>43</sup> and which, according to its prospectus,

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<sup>38</sup> US Government, 2007

<sup>39</sup> Cobbett, Masire in a Pickle, 2005

<sup>40</sup> Cobbett, Special Investigations - Governance Garek Style, 2007

<sup>41</sup> Cobbett, Masire in a Pickle, 2005

<sup>42</sup> Cobbett, Masire in a Pickle, 2005

<sup>43</sup> Garek’s board boasts other top African politicians, including former Zambian ambassador Kapembe Nsingo, one-time Liberian economy minister Sam Jackson and Lekoma Mothibatsela, former adviser to Botswana President Festus Mogae. Sam Jackson was Liberian economy minister under strongman Charles Taylor.

had an implied value of R7,5-bn. Since inception, Matric appears to have failed to produce a financial statement.<sup>44</sup>

Garek also shared links with the notorious Amalia Gold Corporation. From reading Moneyweb articles on the matter, Garek is Amalia 'risen from the ashes.' Some of the directors of the many subsidiaries listed on the Garek website are considered to have been key players within Amalia. These include Ronald Creasy and Andrew Cecil. Further, the two largest shareholders in Garek, Appropriate Structures in Emerging Markets and Independent Holdings, both count Cecil as a director.<sup>45</sup>

Of concern is that Amalia Gold Corporation apart from being a scam that ripped off shareholders on the South African Stock Exchange<sup>46</sup> appears in several UN reports (*see Appendix C for list of reports by Panel of Experts to UN Security Council*) for its involvement in blood diamonds in Liberia, an investment scam in Liberia and in the provision of military training to the Revolutionary United Front (RUF)<sup>47</sup> that was notoriously involved in the severing of limbs of men women and children as part of its terror campaign in Sierra Leone.<sup>48</sup> This terrorist organization was believed to be the pipeline for blood diamonds between Sierra Leone and Liberia.<sup>49</sup>

Fred Rindel also acted as the middleman between De Beers and UNITA. Fred Rindel helped to set up UNITA's diamond sales system in 1993. These diamonds were sold to De Beers Diamdel buying offices in Antwerp and Tel Aviv.<sup>50</sup>

In 2006 the Department of Trade and Industry (DTI) in South Africa instituted a major investigation into the affairs of Garek and its subsidiaries.<sup>51</sup> To date the DTI has not released the report of its findings. It is unclear whether the investigation was ever concluded.

## 7.8 The Political Economy of Botswana

The single biggest employer, other than government, in Botswana is the diamond producing company Debswana which employs around 6 000 workers at its mines in Botswana. Clearly, diamond mining is very capital intensive. Noting that De Beers is the second largest employer in Botswana after government, the limited employment opportunities offered by the Botswana economy becomes obvious.

The export of rough diamonds accounts for about 80% of Botswana's exports. In 2002 diamonds constituted 45% of total GDP, 65% of government revenue, and not less than 80% of exports. Mining constituted 90% of foreign direct investment. It is calculated that Botswana is the most resource dependent country in the world.<sup>52</sup> This is a most untenable situation because any

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<sup>44</sup> Cobbett, Masire in a Pickle, 2005

<sup>45</sup> Cobbett, Masire in a Pickle, 2005

<sup>46</sup> Cobbett, 2005

<sup>47</sup> This includes allegations against Fred Rindel, former Colonel in 33 Battalion and the the former officers who repeatedly surface in allegations involving mining, mercenary activities, coups and violence on the African continent.

<sup>48</sup> Frempong, 8 - 12 December 2002

<sup>49</sup> UN Panel of Experts, 2000

<sup>50</sup> Barlow, 2007, p. 313

<sup>51</sup> Cobbett, Special Investigations - Governance Garek Style, 2007

<sup>52</sup> (Good, 2003, pp. 1-2).

sudden down turn in the commodity price for diamonds will severely affect the country, as happened towards the end of 2008 and is continuing into 2009.

**Fig 4: Export growth from Botswana - 2003-2008**

Year	Exports	Percent Change	Date of Information
2003	\$2,400,000,000		2002 est.
2004	\$2,544,000,000	6.00 %	2003 est.
2005	\$2,940,000,000	15.57 %	2004 est.
2006	\$3,680,000,000	25.17 %	2005 est.
2007	\$4,836,000,000	31.41 %	2006 est.
2008	\$4,798,000,000	-0.79 %	2007 est.

**Definition:** This entry provides the total US dollar amount of merchandise exports on an f.o.b. (free on board) basis. These figures are calculated on an exchange rate basis, i.e., not in purchasing power parity (PPP) terms. **Source:** CIA World Factbook - Unless otherwise noted, information in this page is accurate as of May 16, 2008

The Botswana economy grew annually between 12% and 13 % over the past decade on the back of a sustained global commodity price boom, which was also reflected in the price of diamonds. The 1980s saw an economic boom, and development projects like schools, roads and hospitals mushroomed in the country. Botswana followed a statist model of providing free health and education services to its population, although education was not compulsory. However, in January 2006 Botswana announced the scrapping of free education (BBC NEWS, 2006), and a programme of privatization of parastatals began.

More diamond mines were opened, on relatively favourable terms of income to the state, and less economically successful nickel-copper mining commenced at Selebi-Phikwe. The BDP was consistently re-elected with a large majority, though the Botswana National Front (BNF, founded in 1965) became a significant threat after 1969, when "tribal" conservatives joined the socialists in BNF ranks attacking the "bourgeois" policies of government. However, problems with the electoral system, the alleged blurring of the separation of powers between the executive, legislative and judicial institutions are concerns raised by the opposition in calls for reforms that will give better representation to opposition parties and minorities in parliament. In this regard Taylor refers to "...election analysts, like the Electoral Institute of Southern Africa (EISA), claim that Botswana should begin to opt for a proportional representation voting system to ensure that the opposition has more influence over national politics. In today's system, BDP's 52% of the poll secured the party little less than 80% of the seats in Parliament, or 44 of 57 parliamentary seats. The biggest opposition parties, Botswana National Front (BNF) and Botswana Congress Party (BCP) obtained 2 seats and 1 seat, respectively".<sup>53</sup>

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<sup>53</sup> Taylor, 2005



## 7.9 Diamond Beneficiation

Like many mineral producing Third World economies one would have expected Botswana to diversify its economy by developing a manufacturing capacity from the revenues generated during the boom.

This is a problem that might face the national economy of Botswana, as is becoming obvious in the current global crisis which has resulted in De Beers cutting diamond production by 90% globally. Even though De Beers have sought to overcome this problem through its global control of global marketing and beneficiation, the fact that African countries export most of their rough diamonds to London, Antwerp, Israel and India means that the real value of diamonds are realised in these countries rather than in Africa.

Although Botswana has had the option of beneficiating at least 10% of rough diamonds locally, it has generally failed to do so. When the then Botswana minister of Minerals, Energy and Water Affairs, David Magang, in October 1997 publicly attacked De Beers for failing to beneficiate or “manufacture” diamonds in Botswana, his cabinet colleagues ridiculed him. In Minister Magang memoirs (Even Zohar), he makes the following illuminating claims about the relationship between De Beers and the Botswana government:

- “In an arrangement where half of the Debswana Board consists of its representatives, the Botswana Government can say that it has reasonable safeguards against unfair play on the part of its partner. That again is illusory. The indigenous people on the board are just too far removed from De Beers Centenary in Switzerland, let alone De Beers Consolidated Mines in South Africa, where strategies to profiteer at the expense of you-know-who are mapped out and kept under lock and key.”
- “... the probity of our representative board members has at times been compromised. For instance, it is alleged that a Debswana MD, himself a member of the board, once circulated a memo in which he asked his compatriots to indicate whether they were interested in buying Debswana-owned houses at very relaxed rates. Who in his right mind would bother to probe an entity that gave such advantage?”
- “Probably the most vulnerable of all is the MD. The Debswana MD is not a government appointee; he is head hunted by De Beers, who then forwards his name to government for approval. The odds, therefore, are that his loyalty will be primarily to De Beers and secondarily to government. De Beers, in fact, made Debswana MDs so comfortable that in meetings with the movers and shakers of government, they championed De Beers’ positions as if they were sworn to martyrdom.”
- “In cabinet I had no ally; those who supported me... only did so in private... I became the cabinet’s laughing stock, being derided as ‘the only man in all of Botswana who dares to advocate beneficiation.’ President Quett Masire for one said to me during one of our discussions in his office in 1996/97 that Botswana, once a poor country, was now what it was because of De Beers’ discovery of diamonds, in effect saying local beneficiation would

be a slap in the face to De Beers. In correcting the president, I said it was not De Beers who had lifted us economically; it was our own God-given resources.”<sup>54</sup>

Botswana provides up to two-thirds of De Beers’ profit, yet, until very recently De Beers actively blocked any attempts by Botswana to beneficiate their own diamonds.<sup>55</sup>

Other countries were getting wealthy from processing Botswana’s diamonds instead. Thus Israel reported a net turn over in the diamond industry of that country of \$20billion and exports of polished diamonds reaching \$7 billion<sup>56</sup>. The diamond industry is the largest export industry of Israel, yet there is not a single diamond mine in Israel!

Antwerp’s diamond exchange (in Belgium) processes approximately 80% of the world’s uncut diamonds and 60% of the cut diamonds.<sup>57</sup> Antwerp was historically also a major beneficiation location for diamonds; however, beneficiation (cutting and polishing) has shifted to China, India and Dubai due to lower labour costs (the use of child labour and sweat shops) and major tax incentives.<sup>58</sup> The diamonds being traded processed and beneficiated in London, Antwerp, Israel, China, India and Dubai are predominantly African diamonds, including those derived from Botswana.

In 2004 Botswana and De Beers experienced a spousal spat, with the Botswana government threatening not to renew De Beer’s mining licenses unless it beneficiated some diamonds locally. By 2005 De Beers shifted some of its London based Diamond Trading Company Operations to Botswana, creating some cutting and polishing capacity there. By 2007 President Festus Mogae told *Mining Weekly* that, “... for the first time, diamond cutting and diamond polishing were now taking place in Botswana, which wanted to be “no less” a centre for manufacturing than the big three... That’s a very important and ambitious project. We aim to be a diamond centre no less than, and comparable to Antwerp, Ramat Gan, and Mumbai”.<sup>59</sup> Clearly Mogae realised that the real wealth in diamonds lies not in the mining or the sale of rough but in the beneficiation of diamonds.

However attracting diamond cutting and polishing might come at a price, that price might well be replicating the sweatshop conditions that apply to Ramat Gan and Mumbai. Chaim Even-Zohar, commentator on the industry in Botswana practically called for the reigning in of union and workers’ rights in the industry accusing the Botswana Diamond Sorters and Valuers Union of sabotaging beneficiation in Botswana.<sup>60</sup>

Even-Zohar’s article makes it clear that foreign investors in the diamond sector oppose what they perceive as the intent of trade unions to ‘indigenize’ the industry as opposed to the government’s limited demand for beneficiation.<sup>61</sup>

Even-Zohar warns that whereas mines can only be closed down in the face of union action, cutting and polishing factories can be moved to a more conducive investment climate.<sup>62</sup> Many people interviewed in Botswana complain that to the outside observer most of the cutting and polishing factories are owned by Israelis rather than by Botswana.

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<sup>54</sup> Even Zohar

<sup>55</sup> Even-Zohar, *The Magic of Preserverance* (Review 2), 2008

<sup>56</sup> Lieberman, 2008

<sup>57</sup> Matlack, 2007

<sup>58</sup> Laitner, 2007

<sup>59</sup> Krawitz, 2007

<sup>60</sup> Even-Zohar, 2007

<sup>61</sup> Even-Zohar, *Botswana's Sabotage of Beneficiation*, 2007

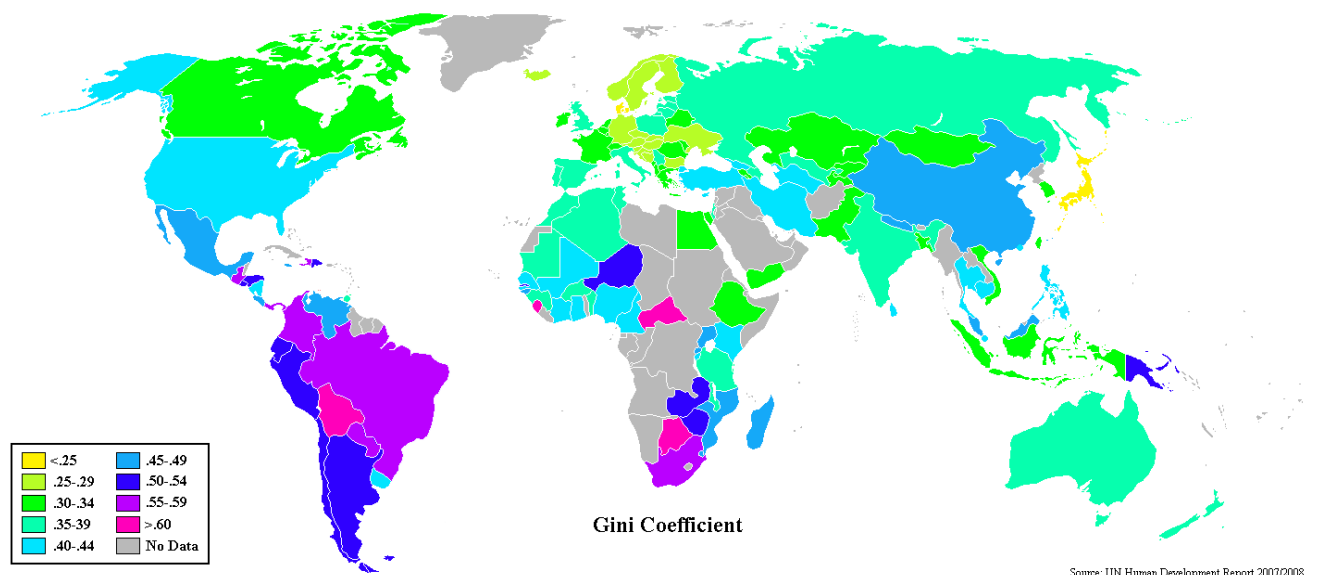
<sup>62</sup> Even-Zohar, *Botswana's Sabotage of Beneficiation*, 2007

The Botswana Federation of Trade Unions argues that “...broad-based economic development can only be achieved when all Batswana people have access to the means of production. This invariably implies that government should empower Batswana to participate in economic development as creators of wealth. Batswana should be weaned from the culture of servitude and instead, an entrepreneurial culture should be promoted”.<sup>63</sup>

The collapse of the global commodity market after the financial crisis that hit the world in 2008 has put Botswana’s vision in terms of diamond beneficiation at risk. De Beers announced in December 2008 that it was postponing the transfer of its aggregation plant from London to Botswana<sup>64</sup> and that they would cut diamond production by 40%. By the end of the first quarter 2009 De Beers production fell by 6.6 million carats or 73% after operations in Botswana and Namibia were shut down.<sup>65</sup>

Although Botswana is considered one of the richest countries in Africa per capita, life expectancy is only 35 years, unemployment is estimated at 23.8%, up from 13.9% in 1991. The drop in employment can be ascribed to the decline in growth in non-mining sectors, dropping from 5.5% in 2003/04 to 1.9% in 2004/05. Interestingly the drop in employment coincides with a boom period in the price of diamonds and significant increases in production. This is bad news for a government, which has acknowledged the need for economic diversification.

Diamond revenues still generate up to 80% of foreign exchange earnings.<sup>66</sup> Furthermore, Botswana, along with Swaziland and South Africa has the highest HIV infection levels in the world. These figures contrast starkly with the claims of ‘success’ one usually finds in the media and corporate reports concerning Botswana.



**Fig 5: Map of Global Gini Coefficient showing Botswana among the worst in the world**

<sup>63</sup> Botswana Federation of Trade Unions, 2004

<sup>64</sup> Rough and Polished, 2008

<sup>65</sup> Derby R. 2009

<sup>66</sup> Gabotlale, 2008

## 7.10 A Marriage of 'Inconvenience'

Given the dependence of Botswana on a single commodity, diamonds, and on a single corporation, De Beers, Debswana cannot be assessed without equally assessing the role and performance of the Botswana government and that of De Beers, given that the Government and De Beers are equal (50%) shareholders in Debswana.

Botswana is variously described as a 'one-party state within a multiparty context', as a country run by an 'authoritarian teetotaller'<sup>67</sup>, as a 'liberal authoritarian state'<sup>68</sup>, as an 'Elite Democracy'<sup>69</sup> and that Botswana has been taken over by a military clique<sup>70</sup>, and even more dramatically being described by Dr Kesitegile of the Botswana Congress Party 'a military junta masquerading as a democracy'<sup>71</sup>.

On the other hand De Beers and Western Governments refer to Botswana as one of 'the most stable, liberal and effective democracies' in Africa<sup>72</sup>, as Africa's best managed economy<sup>73</sup>, an 'African success story'<sup>74</sup>, as an example of the benefits of investment by South African mining corporation<sup>75</sup>, and as a refutation of the 'minerals curse' thesis<sup>76</sup>. Thus while Botswana receives some criticism from the academic arena, in the global media it enjoys a very positive image.

Taking cognisance of the global economic crisis, which started in 2008, and the announcement that De Beers **has** cut back global diamond production by **90% in the first quarter of 2009**. In the last two months of 2008 Botswana's diamond exports fell to almost zero, a fall in export revenue by 70% per month. Debswana retrenched half its head office staff in Gaborone, and extended the Christmas holiday period for mine workers by a month and that it will also cut capital expenditure and exploration, but has no plans to shut down any mines.<sup>77</sup>

## 7.11 The Legislative Environment

The primary law in Botswana is the Constitution of the country.<sup>78</sup> Informants interviewed during the research period complained that the Constitution was "out of date", that it "needed to be modernised". It was further claimed that unlike in South Africa people in Botswana do not seek recourse in the Constitution, but rather seek redress in the Office of the President, considering the incumbent as 'the father of the nation'. This paternalism should perhaps be seen against the background of the fact that Botswana is a very patriarchal society in which women do not enjoy the same legal and constitutional rights as their South African counterparts (for example Botswana law

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<sup>67</sup> Molomo, 2000

<sup>68</sup> Good, 1996

<sup>69</sup> Good, 1999

<sup>70</sup> Molefhe, 2008

<sup>71</sup> Kgautle, 2008

<sup>72</sup> Taylor, 2005

<sup>73</sup> Oppenheimer, 2008

<sup>74</sup> Hanson, 2008

<sup>75</sup> Besada, 2006

<sup>76</sup> Auty, 2008

<sup>77</sup> Mosinyi, 2009

<sup>78</sup> Government of Botswana, 1966

does not make room for rape within marriage, there are much fewer women in senior positions in government and management than is the case in South Africa). In the most recent elections, in 2004, when the SADC goal was 30% representation of women in member parliaments, the percentage of women in Botswana's parliament actually *dropped* from 17% to 10%.<sup>79</sup>

The country has a dual system of traditional authority and authority derived from multiparty elections and a parliament. The Constitution accords immense power to the President. Many of those interviewed also expressed a concern that "the Constitution gives too much power to the President, a view supported by the Democracy Research Project at the University of Botswana."<sup>80</sup>

## 7.12 Minerals Overview

Because of the 'marriage of convenience' between the government and De Beers the government has approached the perceived need to update existing mineral legislation 'pragmatically' i.e. the Mines and Minerals Act of 1977 has been revised to incorporate changes designed to facilitate the issuing of exploration and mining licenses and to make Government participation in new developments more attractive to investors (i.e. De Beers). The new Mines and Minerals Act was passed in July 1999.

The key feature of the revised licensing regime is that the whole process from prospecting to mining will be automatic and predictable, removing some of the uncertainty and stages of negotiation which previously existed. Concession types, which had become irrelevant to the industry, such as the non-exclusive reconnaissance permit and the restricted prospecting and mining leases, have been done away with. The main innovation is the introduction of the retention license, designed to accommodate explorers who on making a discovery may find it cannot immediately be mined economically. Unlike South Africa, where a "use it or lose it rule applies", the mining company in Botswana may therefore sit for an extended period (at least six years) on a resource.

Previously, prospective mining investors would have lost their entitlement if not able to bring a resource into production, but will now be able to defer development for two successive three-year periods. In the first, their rights will remain exclusive subject to confirmation that viable development remains impracticable, while in the second, with an escalating license fee, limited rights of access to third parties to reassess the prospect will be allowed.

While the Government will retain the right to acquire a minority interest in new mines, this will now generally be up to a maximum of 15%, and will be on commercial terms with the Government paying its pro-rata share of costs incurred. Taxation of mining companies outside the diamond industry has also been revised with a new variable rate income tax replacing project-specific rates. The new rate will normally be 25%, increasing on a sliding scale for very profitable projects up to a theoretical maximum of 50%, determined annually by reference to the mining company's profit ratio.

Procedures for small-scale mining are also being simplified and some royalty rates will be reduced. For diamonds, the new act will apply only as far as the discovery stage, and thereafter the process of individual negotiations will remain applicable to the development of new mines. Royalty

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<sup>79</sup> Allen J. V., 2007

<sup>80</sup> Molomo, Democracy under siege: the Presidency and executive powers in Botswana, 2000

rates, calculated as a percentage of the gross market value of the mineral, are currently 10% for precious stones (including diamonds), 5% for radioactive minerals, precious metals, semi-precious stones and coal, and 3% for all other minerals, including building and industrial mineral products.

It is claimed that Botswana's general mining policy aims at maximising the national economic benefit from development of mineral resources, through:

- Encouraging prospecting and new mine development;
- Negotiating mining agreements which maximise the net national economic benefits resulting from mine operations;
- Generating linkages with the rest of the economy and increasing local value added;
- Creating employment and training opportunities for Botswana; and,
- All the mineral rights are vested in the Republic; the Mines and Minerals Act regulates mining activities in Botswana.

However, little is said of **the rights of communities** on whose land a resource is found or corporate responsibility towards such communities. This is academic, however as all lands except for a small portion of free-hold land which under colonialism was in the hands of the white minority, mostly farmers, is owned by the government. Communities therefore have little say, and the 'right of prior consent' of communities is virtually non-existent. In practice this translates into a situation of severe discrimination, particularly against ethnic minorities such as the San. It is also a matter of grave concern for environmentalists as the government remains completely unrestricted in the granting of mining licenses even in conservation areas such as the **Central Kalahari Game Reserve (CKGR)**.<sup>81</sup>

Applications for mineral rights are made to the Minister of Minerals Energy and Water Affairs through the Geological Surveys Department (exploration) or the Department of Mines (mining). The combination of Minerals and Water Affairs is an extremely illogical one given that mining is a major consumer and polluter of water. Strangely, some water functions fall under the Ministry of Environment, Wildlife and Tourism and some under Minerals Energy and Water Affairs<sup>82</sup>. The Government can hardly expect the mineral resources arm of the ministry, which is expected to promote mining to seriously protect the water resources against mining effectively!

#### 7.12.1 Types of Licenses and general conditions

There are three types of mineral rights in Botswana (a reconnaissance permit, a prospecting license and a mining lease). The rights may be granted to an individual or company as provided for in the Act.

Community rights and the explorer's obligations towards communities are weakly defined in the following:

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<sup>81</sup> Good, 2003

<sup>82</sup> Commonwealth of Nations (2009).

- A **Reconnaissance Permit** does not confer exclusive rights on the holder but allows the holder to look over a wide area in the country without any financial obligation. The validity of the permit is one year and the permit itself is not an entitlement to a prospecting license. A permit is not transferable.
- A single **Prospecting License** is restricted to a maximum area of 1 000km<sup>2</sup> and confers exclusive rights on the holder over the mineral applied for and as specified in the license. The law permits for one company to hold a number of licenses. The license holder is obliged to remain committed to the proposed work programme and estimated expenditures. The holder is also obliged to notify the Minister of the discovery of any mineral of possible economic value within 30 days following the discovery. The holder of the prospecting license may apply for a mining lease, but this in itself, the prospecting license, does not guarantee that a mining lease will be given. Reports are required once every three months to be submitted to the Geological Survey Department.
- A **Prospecting License** is valid for three years and may be renewed for further two periods of two years each. A reduction by 50% of the license area is made at each renewal. With the approval of the Minister a prospecting license may be transferable. Annual charges are P1/km<sup>2</sup>/y with a minimum of P250.
- A **Mining Lease** is only issued to a prospecting license holder over the ore deposit in question. The lease is valid up to 25 years and may be renewed for another period not exceeding 25 years. With the approval of the Minister a mining lease is transferable. Mining lease charges are P12/km<sup>2</sup>/m for precious and semi-precious stones and P6/km<sup>2</sup>/m for other minerals.
- **Restricted prospecting licenses** are issued for building or industrial minerals for an area not more than 10km<sup>2</sup>.
- A **restricted mining lease** is issued to an applicant who is a holder of a restricted prospecting license or a prospecting license. The intended capital expenditure will not be less than P50, 000. The license is issued for a period not exceeding 15 years and renewal for the same period.
- A mineral right holder must obtain a written consent of the owner or lawful occupier of the land before commencing operations. Given that most of the land belongs to the state this requirement is weakly applied. In the case of the San in the CKGR the 'owner', 'legal' occupier is the Botswana Tourism Board.
- Building and industrial minerals permits are restricted to citizens of Botswana and to areas not exceeding 0.5km<sup>2</sup>. Non-Botswana citizens may be issued with such a license if it is in the national interest or for special works. The permits are issued for periods not exceeding five years and renewed for a period not exceeding five years. These permits are not transferable. Annual reports must be submitted to the Minister.

### 7.12.2 Government Departments

Botswana has a National Conservation Strategy Coordinating Agency, which promotes the use of environment impact assessment. The regulations under the Act contain detailed requirements for

environment control. A serious weakness in Botswana is the complete absence of a separate Ministry of the Environment and Conservation. Tourism does impact negatively on the environment and should perhaps be separate. Instead Botswana has a Ministry Environment, Wildlife and Tourism under which the National Conservation Strategy Agency and the National Conservation Strategy Board falls.<sup>83</sup>

Water is globally considered of key strategic and security concern for the future of nations and planets, it is therefore puzzling that in a water scarce country such as Botswana there is not a separate and independent Ministry of Water Affairs.

The country also lacks a Ministry of Arts, Culture and Heritage. Heritage falls under the Department of Education, while there is a Ministry of Youth, Sport and Culture which is responsible for archives and records, the National Museum, monuments and the Art Gallery<sup>84</sup>. Given that economic activity, including mining, sometimes has a destructive effect on heritage sites and on cultural institutions, this is also not a preferable situation.

The Government of Botswana also insists to have an effective participation in the mineral sector through equity participation and board representation. Generally for large projects Government participation falls within the range 15 to 25% issued free of cost. Minimum controls are exercised on business operations and the management is left entirely to the private sector partner. Government normally requires some representation at board level. This is different from South Africa, which insists on 27% Black Economic Empowerment (BEE) participation, rather than government participation. The preferred model according to **Bench Marks Foundation** would be Community Economic Empowerment (CEE).

## 7.13 Legislation<sup>85</sup>

### 7.13.1 Trade Unions and Employers' Organisations Act

This Act sets out the rules on the formation and registration formalities of trade unions, federations of trade unions as well as employers' organisations. It reiterates each employee's right to form and/or join trade unions and outlaws discrimination on the basis of trade union membership.

### 7.13.2 Trade Disputes Act

This Act outlines the trade dispute mechanisms at both individual and collective level. It encourages collective bargaining at both individual and collective level. It encourages collective bargaining in creating the possibility for the establishment of joint industrial councils between employers/industries and trade unions recognized by such employers/industries and it also states the legal significance of collective labour agreements. More significantly it discourages strike action by failing to outline circumstances in which strike action may be deemed to be lawful. **This failure cost mine workers**

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<sup>83</sup> Commonwealth of Nations, 2009

<sup>84</sup> Commonwealth of Nations, 2009.

<sup>85</sup> Information source: (Stiftung, Friedrich Ebert, 2004)



dearly when they went on strike at Debswana's operations in 2004 causing them to be dismissed with little hope of legal recourse..

### 7.13.3 Factories Act

This Act provides for the regulation of the conditions of employment with particular regard to safety, health and welfare of persons employed in factories and for the safety and inspection of certain plant and machinery in order to ensure that workplace safety is observed. The Mines, Quarries, Works and Machinery ACT covers mine worker safety.

### 7.13.4 Worker's Compensation Act

This Act obliges employers to keep all their employees insured or for them to set aside sums of money as may be determined by the Commissioner of Labour for the purposes of compensating the employees for injuries suffered or occupational diseases contracted in the course of their employment or for death resulting from such injuries or diseases.

### 7.13.5 Environmental Impact Assessment (EIA) Act

This Act was only promulgated in 2005 almost 40 years after the discovery of diamonds. This belated Act requires a strategic environmental assessment of all policies and programmes. The Act is retrospective in that an existing activity has one year from when the Act came into being to comply by submitting impact assessments for evaluation.

## 7.14 Labour and Trade Union Rights<sup>86</sup>

**Workers have a right to form unions:** All workers, with the exception of police officers, the Botswana Defence Force and the prison service are allowed to join unions, and the ILO has requested Botswana to amend its legislation to allow prison officers to join a union. Workers may not be fired for union-related activities.

**The Ministry has power to interfere in union affairs:** Registration of trade unions, via the Registrar at the Ministry of Labour, is compulsory. The law requires a minimum of 30 employees in order to form a trade union and the Trade Disputes Act empowers the Labour Minister to determine the conditions for union membership. If a trade union is not registered, union committee members are not protected against anti-union discrimination. Unions are allowed to affiliate to international trade unions and receive funds from outside the country without the Minister's approval.

**Collective bargaining allowed:** Collective bargaining is allowed, provided the union represents at least 25% of the workforce.

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<sup>86</sup> ITUC CSI IGB, 2007

The 2004 Trade Disputes Act gives the government extensive power over industrial relations. ***The right to strike is recognised, but workers must submit their demands to complex arbitration procedures, which unions say always result in strikes being declared illegal. Sympathy strikes are prohibited. The Act does not protect workers' organisations against acts of interference by employers and their organisations.***

The Act sets out the procedure to be followed once a dispute is deemed to exist: first, the matter is submitted to the Commissioner of Labour, who, if s/he decides that a dispute exists, refers the matter to mediation or failing that, to an Industrial Court, composed of Ministry of Labour officials.

#### **7.14.1 Trade union rights in practice**

While workers (with the exceptions noted above) have the right to organise, in practice this is restricted, as each government sector has its own rules. There is very little collective bargaining, as few unions meet the 25% representational criteria and only the **mineworker and diamond sorter unions have enough organisational power**. The government has used legislation to order strikers back to work.

**Employers' attitudes:** Although labour legislation has improved in many areas over recent years and the government has ratified all ILO core labour standards, employers still ignore workers' rights and the government is also either unable or unwilling to confront employers, especially those in the mining and financial sectors.

The Trades Disputes Act is deeply unpopular with the unions. "State control over the mediation and arbitration process has sown deep mistrust and the workers rarely expect a fair hearing," says the Botswana Federation of Trade Unions (BFTU), which is calling for the labour laws to be redrafted to replace the employer-favoured legislation. The government has said that it is working on a new labour bill, but unions complain that as proposed, it will not improve current hostile employer-worker relations.

#### ***SUNDAY STANDARD: 'Botswana Diamonds are blood diamonds' – ex Debswana employees***

*Disgruntled ex-employees of Debswana have labelled Botswana diamonds 'blood diamonds' attributing the country's gems to those that finance, fuel wars and hunger in many African states.*

*The utterance follows the recent Industrial Court verdict which saw the former employees' case of unfair dismissal quashed. "We are the builders of Botswana who have been denied justice by the industrial court judge, Harold Ruhukya," part of their statement declares. "461 dismissed employees are those people who make Botswana sparkle and have been unfairly dismissed by poor management of the former managing director, Louis Nchindo and Jacob Sesinyi."*

*The 'builders of Botswana' argued that they worked their lungs out during employment, building and making the country sparkle only to be snubbed and dismissed by Debswana management at the demand for better remunerations.*

*In August 2004, 3800 Debswana workers at both the Orapa/Letlhakane and Jwaneng mines embarked on strike action for a fair increase in payments and bonuses, rejecting what they termed were slave wages. The aftermath of the strike saw the management, then led by the currently embattled Debswana managing director, Louis Nchindo, and the government declare the strike illegal and laying off 461 workers.*

*“The strike was completely justified as Debswana management gave themselves huge increases, from millions of pula each, whereas ordinary workers were offered nothing. It was this highly unfair offer that prompted the workers to call for a strike,” the statement read. Despite the strike being declared illegal and the constant harassment by the bosses, the employees persevered and never allowed the persecutions to take toll. “Instead, we fought courageously for our rights to bargain and to strike and against workplace injustices. We can only talk about what we know... We now call Botswana diamonds ‘blood diamonds’.”*

*At a court hearing recently at the Broadhurst magistrate court, judge Rahukya dismissed the workers case in which they contended their dismissal was unfair.*

*The judge said the case lodged was not brought to court properly and accused the applicants in this matter of taking too long to file an application for forgiveness for the late filing of its statements of the case. Rahukya also noted that the affidavit by Jack Tlhagale, the secretary general of Botswana Mine Workers Union, had been drafted in an inelegant fashion and lacked in material averments as well as being riddled with allegations that, in the court’s view, were irrelevant.*

*The judge put the blame on the applicants, BMWU, adding that they delayed in referring the matter to court after the certificate was issued by the Commissioner of Labour and that the only explanation made for this by Tlhagale was that of admitting that the case of the dismissed employees was not given the attention it required as that was due to the contempt case, which involved Tlhagale himself as well as other senior members of the Union.*

*“Four hundred and sixty one of its members had been dismissed. BMWU has always contended that the dismissals were unfair; it should, therefore, have acted more prudently to ensure that it was fighting for the rights of its members and not just sitting back and doing nothing because it was the end of the year,” Rahukya argued.*

*The verdict would not deter the workers who said the judge erred in the finalization of the case. The former employees’ statement also detects discrimination and marginalization on the part of government given the number of the few who were booted out.*

*“3800 Debswana employees went on the so-called illegal strike and 461 were dismissed and our government says fine. What about 3339 employees who also embarked on the so-called illegal action if the strike was declared illegal, why?”*

*Their statement concludes with labelling Debswana as now being an evil company to the lives of Batswana, who are becoming jobless every day.*

*“In 2004, Debswana threatened the lives of workers suffering from HIV/AIDS by cutting them off from the antiretroviral drugs, dismissing children from mine schools. Even those who were on scholarship. Despite their suffering, they are not giving up and want their jobs back. In*

*2007, the University of Botswana lecturers went on strike, UB students also went on strike and, in the past, the Botswana Defence Force went on strike and none of those strikes was declared illegal.*<sup>87</sup>

## 8. The Diamond Mining Towns

### 8.1 Orapa

**The Orapa kimberlite pipe**, discovered in 1967, is exploited by the second largest pipe mine in the world, surpassed in size only by the Williamson mine in Tanzania.<sup>88</sup> The outcrop of the Orapa pipe - the only known kimberlite pipe in Botswana is not overlain by sand. It covers 263 acres; production commenced in 1970/1. The Orapa kimberlite is remarkably well preserved, having suffered less erosion than any other known major kimberlite pipe. Only the topmost few meters are missing, and the great bulk of the diatreme remains intact and awaiting exploitation.<sup>89</sup>

As of 2000, after a major expansion of the open-pit mine, the Debswana Diamond Company planned to shift to an underground operation, working through twin vertical shafts to reach the lower sections of the kimberlite. The life expectancy of the mine has been estimated at another 30 years.<sup>90</sup>

### 8.2 Letlhakane

Near the town of Letlhakane, 48 km northwest of the Orapa pipe, two smaller pipes, Letlhakane 1 and Letlhakane 2, were discovered in 1968. The mines here came into production in 1976; nearly 40% of the diamonds found in them are of gem quality.<sup>91</sup>

### 8.3 Jwaneng

The third and greatest of the diamondiferous kimberlite pipes in Botswana is the Jwaneng, much farther south than the Orapa and Letlhakane. This is the second most productive single diamond mine in the world, after the Argyle mine in Australia, in terms of carat-weight, and the world's most productive in terms of value (since, again, the percentage of gem crystals is very high). The pipe is hidden under 165 feet of sand; its discovery in 1973 was the result of a rigorous search program directed by Dr. Gavin Lamont of De Beers.<sup>92</sup> Unlike Orapa, Jwaneng town is an open town.<sup>93</sup>

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<sup>87</sup> Regonamanye, 2008

<sup>88</sup> Webster, 1983

<sup>89</sup> Kirkley, Gurney, & Levinson, 1991

<sup>90</sup> [www.mbendi.co.za](http://www.mbendi.co.za)

<sup>91</sup> Webster, 1983

<sup>92</sup> Mailliard, 1980

<sup>93</sup> Debswana, 2005, p. 23

## 8.4 Closed Communities

The mining operations actually fences out the surrounding community and fences in the 'closed' community living in the mining towns operated by the company, reinforcing the closed/secretive nature of the mining sector in Botswana. There has been little sociological research in Botswana into the nature and character of these closed mining towns, however from interviews with individuals who have worked there and from specialist readings by Erwin Goffman<sup>94</sup> and Peter Carstens<sup>95</sup> one is able to develop some kind of picture of what is happening on the 'inside of the fence' and what takes place outside of it.

The employees at Orapa practically live at work, but they are not at home at work, nor are they at work at home – they live on company property, in houses owned by the corporation in a situation where all aspects of their lives are managed by the corporation, this implies that the employees suffer a degree of alienation. They may get visitors only when they apply to management and when management approves of their visitors. This is a situation not dissimilar to a prison, except that in this case the employee may go out of the institution on corporate approved leave.

Informants who previously lived in these towns expressed a sense of relief every time they left the town on leave, and a sense of apprehension every time they entered it through the elaborate security system that is operational at the entrance gate. While life at Orapa is self-contained<sup>96</sup> in a 'broader perspective it is always incomplete in the sense that residents are never able to determine the direction of their future in the confines of the town. There is always something missing: a psychosocial vacuum is never filled".<sup>97</sup>

An informant described the situation in the mining town of Orapa as being one in which there are zones. The township or residential area is a 'white zone' and has the lowest security rating. This zone contains the houses, clubs, recreational and entertainment facilities, schools, shops, banks and administrative offices.

The 'blue zone' is a medium security zone and this is where the engineers, geologists, middle management and supervisory staff have their offices.

The "red zone" is the highest security zone and is the mining operational area and the processing and sorting plants. This area is off limits except for those involved with the actual mining.

These zones represent symbolic thresholds of inclusion and exclusion and residents and employees of the mine daily go through the various security rites of passage, a symbolic 'stripping of possessions as people are prepared to fill slots'<sup>98</sup> inside their specified zones. This includes handing in cameras, cell phones, etc. at the entrance, leaving shoes at the change rooms and putting on company shoes and so on. We were not allowed access to Orapa despite repeated attempts to secure the cooperation of Debswana and De Beers including requests to be allowed into Orapa. However, de Beers South Africa allowed the team access to Kleinsee where they experienced that on exit from the "red Zone" at Kleinsee they had to grate off of company shoes to remove all stones from the soles, and passed through endless passages with x-ray machines, and the possibility of a

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<sup>94</sup> Goffman, 1961

<sup>95</sup> Carstens, 1994

<sup>96</sup> Goffman, 1961

<sup>97</sup> Carstens, 1994

<sup>98</sup> Carstens, 1994, p. 191

full body search should any of these machines indicate the possibility of a pebble somewhere on the body. These are routines, **except for the x-rays**<sup>99</sup>, are repeated daily for workers at Orapa. This corresponds with "the end result of many of the processes of mortification in total institutions [is] what Goffman calls 'disculturation' – the 'untraining' of people over time leaving them 'incapable of managing certain features of daily life on the outside.' Those who remain too long in company towns suffer a similar fate"<sup>100</sup>.

Many Batswana, especially in the political elite, but also many former and current employees display an almost obligatory loyalty to Debswana.

### **The mutual 'obligatory' deference between Debswana and Botswana Government**<sup>101</sup>

*Khama was presiding over a ceremony to give long-term service awards to 60 employees, who have been with Debswana for 25 years and 20 others who have been with the parastatal for 10 years, held in Orapa last weekend. He said that the knowledge and experience these employees have accumulated over the years should be treasured and imparted to the younger generation for an even greater Debswana success story.*

*"Of course the 10-year recipients still have a marathon to run to complete their race," said the Vice President. "(But) their input to the success of this organisation has been very significant."*

*The evening should be looked upon as one in celebration of the spirit of pulling together as espoused in the values of Debswana: "It is about looking back to 1982 and 1997 and appreciating the milestones that have been made from then to-date.*

*These milestones would have never been achieved without the individual input of each of tonight's recipients of the long service awards," said Khama.*

*Over the last few years, Debswana has constantly met its production targets and often exceeded them. This was possible mainly by the collective efforts of the employees receiving long-service awards and the rest of the team.*

*"I want to highlight that any success comes with, among others, a lot of hard work, honesty, integrity, teamwork, discipline, commitment and (a) willingness to change for the better.*

*The Orapa and Letlhakane Mines management and workforce have worked together to ensure targets were met by putting these attributes to good use through concrete employee-management relations," Khama said. Debswana was one of only a few companies in Botswana and the wide world that had such a rich composition of skills and wisdom as demonstrated by the various age groups existing within its workforce.*

*"While the prudent management of this company has positively resulted in its success, the employees from across the various business units have contributed immensely to that success," the Vice President said.*

*"Individually, you have made an immense contribution to the transformation of this country and that you ought to be proud about." Debswana was also commended for developing a contented workforce whose safety and health, and general welfare the parastatal had upheld for many years.*

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<sup>99</sup> A former employee who worked for Debswana at Orapa for more than 30 years informed us that it was worker pressure through the union that stopped the installation of x-rays at the exits of the red zone in Orapa.

<sup>100</sup> Carstens, 1994, p. 191

<sup>101</sup> Maganu, 2007

Carstens refers to such events as described in the above textbox as 'reinforcement rituals' because they are designed to reward people who are already established in the system. They are also transitional rites, marking the change from one level to another in a life of employment.<sup>102</sup> Such events also create goal posts or expectations for those not yet completely established, and it obliges them to be loyal to the company; "their loyalty is their return gift to the company for the perks they receive".<sup>103</sup> In Botswana there is a perception amongst the political elite that Botswana is where it is because of the largesse of De Beers and Debswana; managers and De Beers are quick to remind the country of this fact as is shown in the response to Khama's praise:

### **Orapa GM reminds Botswana of the 'debt' it owes the corporation**

*In similar vein, the General Manager of Orapa and Letlhakane Mines, Sebetlela Sebetlela, said the loyalty and commitment of the employees had had a tremendous effect on the lives of the people of the Boteti sub-district.*

*"The men and women receiving these awards tonight have been such incredible assets to our mines and I can confidently say that we are blessed to have had them as part of our team in the last 25 years" Sebetlela said.*

*"Since 1982 when the 25-year (service) recipients joined this company, a lot of socio-economic development in the region as well as in the country has gone substantially up, with a satisfactory number of sustainable projects that have really made a difference to our countrymen in Boteti and beyond."*

*Sebetlela said in the past 10 years alone, these projects have included the likes of the electrification of Madikola Village, the construction of the Letlhakane link road at the cost of P22 million, the inception of the annual general manager's sponsored walk the last of which contributed P348,000 to the district's psycho-social support project, among others.<sup>104</sup>*

## **9. Findings and Analysis**

This section aims to identify the gaps between company policy and practice. The findings and analysis will be presented under the three basic dimensions of sustainable development, namely **economic, environmental and social**.

Within each dimension, CSR-performance will be measured against certain relevant **principles (P), criteria (C) or Bench Marks (B)** as indicated in the Bench Marks framework.<sup>105</sup>

### **9.1 Economic Dimension**

#### **Criteria**

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<sup>102</sup> Carstens, 1994, p. 184

<sup>103</sup> Carstens, 1994, p. 185

<sup>104</sup> (Maganu, 2007)

<sup>105</sup> "Principles for Global Corporate Responsibility: Bench Marks for Measuring Business Performance" (Bench marks Foundation, 2003)

- The company seeks to develop long-term business relationships in local communities and does not terminate its operations without assessing the long-term environmental, social, cultural and economic sustainability impacts on the local community **(1.3.C.6)**
- The company, in consultation with the local community, establishes a policy that incorporates into its business plan the best interests of the community, both now and into the future **(1.3.C.2).**

### 9.1.1 Local Communities

Given the levels of underdevelopment in the surrounding rural areas, and the lack of any significant manufacturing industrial base in Botswana, Debswana's relationship with surrounding communities is defined by the corporation's funding of health and education, agriculture (mostly cattle farming) and infrastructure projects.

### 9.1.2 Relationship between De Beers and Botswana

The relationship between De Beers and Botswana can be described as a "marriage of convenience" and in reality supersedes any relationships with particular communities where the corporation operates.

The great danger in Botswana is that because of the 'marriage' between De Beers and Botswana, and the dependence of Botswana on a single commodity produced by a single corporation, the state (particularly where a single party has controlled the state for an extended period) begins to behave as if it were a corporation placing the country under the near total control of the state under the management of the dominant party. This perhaps accounts for the fears of ordinary people researchers spoke to and of the media and opposition parties concerning the seeming disintegration of democracy and the militarisation of the state.

Many Batswana, especially in the political elite, but also many former and current employees display an almost obligatory loyalty to Debswana.

### 9.1.3 Relationship with workers

In an economic decline such as Botswana is currently experiencing, employee and national loyalty to the corporation might well be 'rewarded' with **layoffs and retrenchments** of employees and nationally with the scaling back of production, mothballing projects, reductions in revenues to the state and cutting back on corporate social responsibility spending.<sup>106</sup>

The **Botswana Mine Workers Union** is appealing to the shareholders of Debswana<sup>107</sup> to come out against management's decision to retrench workers and cut back production by 40%, but this is an exercise in futility as Debswana only has two shareholders, government and De Beers.

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<sup>106</sup> Lute, 2008, p. 2

<sup>107</sup> Lute, 2008, p. 2



Many of those familiar with the closed nature of Debswana's mining towns and its daily rituals and routines will now be released back into poor urban and rural communities as unemployed workers with implications for health and social services, crime (especially domestic violence), substance abuse, **HIV/AIDS and other sexually transmitted diseases**. This will translate as a direct impact of mining on the wider society, yet neither the corporation nor the government will consider this as one of the costs of mining.

#### 9.1.4 Mine Closures

At this point there is no possibility of complete mine closure in Botswana, but because of the global economic crisis there will be a massive scaling down of mining. Given the levels of underdevelopment in the surrounding rural areas, and the lack of any significant manufacturing industrial base in Botswana, Debswana's relationship with surrounding communities is defined by the corporation's funding of health and education, agriculture (mostly cattle farming) and infrastructure projects.

An important economic concern – as already mentioned - is that the current economic downturn has caused Debswana to cut back production by 40%. It has already announced a 50% reduction of staff at Orapa House and indicated its intention to **retrench workers at all its operations**; what plans does the corporation have for the sustainability of the households of these soon to be former employees from the De Beers "family" of companies? At the time of going to press De Beers announced a cut back in the production of diamonds of 90% globally for the first quarter of 2009.<sup>108</sup>

#### 9.1.5 Subcontractors and Tender Processes

There is some capacity, in Botswana, at a sub-contractual level to supply services such as geological surveys, prospecting, etc. A major dispute occurred in January 2007 when **Geoflux**, a local subcontractor, owned and staffed by Botswana nationals, accused Debswana of giving a contract fraudulently to a competitor, Bateman Projects owned by foreign nationals. The **Chairperson of Geoflux**, Monty Chiepe, expressed very strong opinions about Debswana's tender processes.

For the relevant Debswana managers to not heed Geoflux's plea for focusing on how joint ventures are being conducted with citizens is a remarkable indictment on Debswana's citizen empowerment programs. The behaviour of foreign companies, let alone citizen companies, doing business with Debswana is pretty much guided by the cue they receive from Debswana. For Debswana to be made to appear disinterested in clear disenfranchisement of a citizen company in contracts which are secured under the guise of capacity building and citizen empowerment and then Debswana itself, facilitate the disenfranchisement of the citizen company is alarmingly unbecoming of an institution of the stature of Debswana.<sup>109</sup>

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<sup>108</sup> Bates, R (2009).

<sup>109</sup> Chiepe, 2007

In these contracts, according to Chiepe, hard as they may fight, citizen companies always receive a pittance and get nominal or token professional participation since the attitude of the foreign companies is, more often than not, calibrated to the Debswana environment. Hence, in our view, it is simplistic to reduce a well-enunciated disquiet of a citizen company to a “shareholder issue”. In the said projects, it is important to note that for the Damtshaa Project income of P70million, Geoflux only participated to the tune of about P800 000. For the MTPR Pre-feasibility Project with income of P5.1 million together with the Orapa No 3 Phase 1, (whose cost was deliberately kept away from Geoflux by both Bateman Projects and Debswana by signing the contract with only Bateman Projects), Geoflux claims that it was a victim of an orchestrated disenfranchisement and fraud involving Debswana that was intended to yield zero income for Geoflux.

Chiepe alleges that the public is being given the impression of Geoflux being a major player in the P6 billion projects. Geoflux claims that this is a long and arduous road with Debswana that goes back to 1992. Chiepe alleges that the paper trail of Geoflux’s complaints gathers dust in the halls of Debswana and that all its complaints and subsequent enquiries/audits always came to naught and were used primarily for formulating a cover up after seemingly having gone through a “legitimate audit”.<sup>110</sup>

Chiepe contends that Debswana has disempowered Geoflux, and claims that: about ten (10) Geoflux staff members have been poached by Debswana on Project assignments to them; contracts are moved mid stream from Geoflux with habitual regularity after being motivated for approval using the name of Geoflux; contracts are secured with sweat and blood and held onto with dear life; yet Geoflux’s name is used in publicity citizen empowerment stunts; Geoflux has invested millions in capacity building that was encouraged by Debswana and never utilised or is poached. According to Chiepe Debswana has never compensated Geoflux for all the grief, trials and tribulations it has subjected Geoflux to.<sup>111</sup>

“Geoflux, as a trailblazer, pays the price of pioneering and opening bolted steel doors and sticking to the course and, in the process, repeatedly aggravating a culture that resists significant citizen participation and speaks a business language we seemingly fail to comprehend to be in the favour of the officers. Geoflux has long proven its technical competence in various areas to no avail. The story of Geoflux is a window into the plight of citizen companies. Others, such as G4 Consulting engineers and TTCS, have suffered similar tribulations in past major contracts within Debswana”.<sup>112</sup>

Mr Chiepe’s letter to the Sunday Standard newspaper, of which only a small portion is repeated here, speaks volumes about Debswana’s procurement and empowerment policies.

Debswana created Peo Holdings (PTY) Ltd as part of its ‘citizen empowerment programs’, to play a role in Small and Medium Enterprises (SMEs). “Peo will continue to invest in larger businesses and has plans in place to leverage on Debswana’s supply chain for an improved deal flow.” Peo has funded 58 businesses to the value of P32,6 million since its inception, and it is claimed that 1167 jobs were created in the process.<sup>113</sup> **Yet the Geoflux dispute referred to above**

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<sup>110</sup> Chiepe, 2007

<sup>111</sup> Chiepe, 2007

<sup>112</sup> Chiepe, 2007)

<sup>113</sup> Debswana, 2007, p. 49

**contradicts Debswana's stated intention of developing a dealflow that would support local supply.**

The story of Geoflux is a window into the plight of citizen companies. Others, such as G4 Consulting engineers and TTCS, have suffered similar tribulations in past major contracts within Debswana.<sup>114</sup>

#### **9.1.6 Debswana's Procurement and Empowerment Policies**

Debswana created Peo Holdings (PTY) Ltd as part of its 'citizen empowerment programs', to play a role in Small and Medium Enterprises (SMEs). "Peo will continue to invest in larger businesses and has plans in place to leverage on Debswana's supply chain for an improved deal flow." Peo has funded 58 businesses to the value of P32.6 million since its inception, and it is claimed that 1167 jobs were created in the process<sup>115</sup>. Yet the Geoflux dispute referred to above contradicts Debswana's stated intention of developing support for local supply.

As to the matter of whether the corporation considers the resource it is mining as an asset of the community on whose land it is found is also an issue of intense debate.

#### **9.1.7 Corporate Social Investment**

Debswana reports that, "as a good corporate citizen, it subscribes to the philosophy that its entrepreneurial success should be underpinned by social and economic responsibility" and that its "Corporate Social Investment (CSI) Policy is aimed at creating a legacy of prosperity and sustainability by partnering with communities in which it operates and the country in general".<sup>116</sup>

The 2007 Debswana CSI budget was increased from P6.7 million in 2006 to P9 million. Louis Ncindo, former Debswana CEO who is facing a massive corruption trial in Botswana, bought himself a R15.million mansion in Cape Town in 2006<sup>117</sup>, almost double the Debswana CSI investment in the same year.

On 12 June 2006, Debswana dismissed **461 striking workers** for allegedly, amongst other things, "producing researched information on the salary scales of all of Debswana's employees at bargaining sessions with the employer".<sup>118</sup> Clearly the salaries of senior management is not considered a matter for public consumption, however Mr Ncindo's capacity to purchase the said property in Cape Town is evidence that he was well rewarded by Debswana. In any case, the CSI spending by Debswana pales into insignificance when compared to the annual turnover of P18 billion in 2007.<sup>119</sup> Debswana realized a 20% profit margin in 2007.<sup>120</sup> Group revenue for 2007 was

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<sup>114</sup> Chiepe, 2007

<sup>115</sup> Debswana, 2007, p. 49

<sup>116</sup> Debswana, 2007, p. 47

<sup>117</sup> Cohen, 2008

<sup>118</sup> ILO Committee on Freedom of Association, 2006

<sup>119</sup> Debswana, 2007

<sup>120</sup> Creamer, 2007

P18.0 billion<sup>121</sup> the corporate social investment budget was P9 million, which translates into 0,05% of total revenue.

**Fig 6: Projects on which Debswana spent CSI - 2007**

Project	Source	Location	Spend
Khutse Game Reserve	Debswana Head Office		P464 800.00
Community Halls	Debswana Head Office	Lentsweletau Maunatlala	P300 000.00
Mpule Kwelagobe Children's Centre	Jwaneng Mine		P300 000.00
Kanye Brigades Development Trust	Jwaneng Mine	Kanye	P166 125.00
Boteti Sub-district Council Psychosocial support programme for orphans and vulnerable children	Orapa Letlakane Mines	Boteti	P348 000,00
Debushing 40km Orapa-Letlhakane Road	Orapa	Orapa Letlhakane	P110 000.00
Sponsored Walk Palapye	Morupule Colliery	Palapye	-
Handing house to destitute family	Morupule Colliery	Palapye	-
Double sealing the 10,9km link road between Letlhakane Village and the Francistown/Orapa Road	Orapa	Letlhakane Village	P22 million
Sponsoring the production of "Bye Bye Birdie"	?	?	P250 000
Financing the National Soccer Team the "Zebras" towards training session in Belgium	?	?	P300 000
Debswana scholarship programme produced 29 graduates. The programme currently has 90 students.	?	?	?
Debswana ART Fund TrustDebswana and its subsidiaries contribute 1, 37% of payroll to Anti- Retroviral Treatment Programme.	?	?	?
Source: (Debswana, 2007 )			

The de-bushing of the Orapa-Letlhakane road really does not belong on a CSI list as this action has to be carried out to prevent collisions between mine vehicles and farm animals on this road. If one considers HIV/AIDS as an occupational disease associated with mining, then the spending on orphanages also becomes an obligatory rather than a CSI spend.

Debswana in its 2005 report claims that the R100 million spent on hospitals, schools, clinics, roads and infrastructure for the mining towns should also be considered part of its CSI spending. The corporation also insists that its **joint government antiretroviral programme** should be similarly

<sup>121</sup> Debswana, 2007 , p. 53

considered as part of its corporate social responsibility. Four years after the government introduced the ART programme, free education was scrapped (2006). By the end of 2008, President Khama<sup>122</sup> warned that expansion of antiretroviral treatment might not be sustainable at the current rate in the face of competing development priorities.<sup>123</sup> In 2007 the Botswana national government was providing 79.8% of funding for HIV/AIDS programmes.<sup>124</sup> In 2005 Debswana spend some P2.8 million on “more than 30 deserving local non-government and sporting organizations.”

Debswana’s claims about the positive impact of its CSR/CSI activities regarding the road infrastructure in Botswana should be seen in the context of the fact that these roads are the supply lines to the corporations’ operations in the country.

Despite Botswana’s much praised macro-economic profile and stability, almost half the population lives below the poverty datum line, life expectance is lower than 35 years, the country suffers one of the worst HIV infection levels (30-35% of the population) along with South Africa and Swaziland and it has the biggest poverty/wealth gap in the world; it is remarkable that the Debswana CSI/CSR interventions as contained in its Annual Review say little about these challenges to the society in which it is operating.

#### 9.1.8 Corporate Governance

The Bench Marks Principles for good corporate governance requires that:

- *The company recognises that resources which it may wish to extract from a particular area are an asset of that community and conducts its business in accordance with that recognition (1.5.P.4);*
- *The company recognizes its political and economic impact on local communities especially where it is the principal or key employer. Its programmes, policies and practices help promote a full range of human rights within each community where it operates (1.3.P.1)*

Debswana claims that the company is contributing and delivering financially on quite a number of **critical** developmental issues and in doing so behaving like a good corporate citizen. One of these areas is their **contribution to employment**. They are the second largest employer in Botswana. The company states in its Annual Review (2008) that its subsidiary Peo Holdings (Pty) Ltd has funded 58 businesses, with an investment value of P32,6 million, since its inception creating employment for more than 1167 Batswana.<sup>125</sup> Debswana further projects that the Diamond Trading Company (DTC) created in 2006 will create a further 3300 jobs in the cutting and polishing sector by 2010.<sup>126</sup> However, the current economic downturn has resulted in Orapa House staff being cut by 50%, the mothballing of all expansion programmes and the possible retrenchment of thousands of employees.<sup>127</sup>

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<sup>122</sup> In Botswana all media and government documents refer to President Khama as His Excellency The President Lieutenant General Ian Khama.

<sup>123</sup> Alcorn, 2008

<sup>124</sup> Alcorn, 2008

<sup>125</sup> Debswana, 2007, p. 49

<sup>126</sup> Debswana, 2007, p. 52

<sup>127</sup> Mosinyi, 2009

Morupule Colliery, a wholly owned subsidiary of Debswana Diamond Company, is according to Debswana MD, Blackie Morule, "... preparing Botswana to become self-sufficient in **energy supply** as Eskom in South Africa increases pressure on the SADC region by cutting back on energy supply to the region, eventually pulling out by 2012".<sup>128</sup> It would seem as if this is a noble cause that would release Botswana from Eskom's attempt to recolonise Africa through the power grid.<sup>129</sup> However, replacing Eskom's monopoly with a Debswana monopoly in power supply might not be very wise.

Debswana invested P22 million in the double sealed 10.9km road linking Lethlakane Village to the Francistown Orapa Road.<sup>130</sup> Other areas wherein the company **invested** are: health and safety, environmental management, human resource development, social support, employment equity (EE), sport, arts and culture and HIV/AIDS.

Given that the Botswana government is a 50% shareholder in Debswana, that mineral rights belong to the state and that communities do not own land, communities surrounding Debswana mines can hardly be said to share in the corporation's wealth apart from some minor spin-offs such as road upgrading, debushing and access to some of its health facilities.

## 9.2 Environmental Dimension

### Principle:<sup>131</sup>

- Careful attention is paid to ensure that the company's actions do not damage the global and local environment. Issues such as climate change, bio-diversity and pollution prevention are central to this. The company adopts, as a minimum, internationally recognized standards and ensures that they are implemented universally regardless of any legal enforcement or lack thereof in any jurisdiction and continually seeks to improve its performance **(1.1.P.1)**

### Criteria

- The company has policies, practices and procedures to prevent pollution, reduce resource and energy use in each stage of the product or service life-cycle **(1.1.C.8)**

De Beers<sup>132</sup> acknowledges that diamond mining impacts the environment directly because of its need to access, use and manage land and water resources. It impacts the environment indirectly by acting as a catalyst for further economic development. The exact nature of these impacts is different for every operation they manage. They claim to recognise natural resources as a national asset aligned in importance to diamonds. Managing these assets responsibly means working systematically across the diamond value chain to prevent or minimise the negative impacts of their operations.

Measures include conservation projects, research on biodiversity, energy and climate care programmes and water management technologies. De Beers says that the proficient and

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<sup>128</sup> Debswana, 2007 , p. 18)

<sup>129</sup> McDonald, 2009

<sup>130</sup> Debswana, 2007 , p. 17

<sup>131</sup> The *Bench Marks*, 2003

<sup>132</sup> De Beers (2007:98)

responsible management of natural resources is integrated into aspects of their business, and monitored and audited as part of their commitment to continuous improvement.<sup>133</sup>

To this end Debswana, a De Beers subsidiary, hosted the 2007 *Annual Environment and Community Conference*. Delegates from all operations across the De Beers Family of Companies met in Gaborone to share their experiences in working in the field of the Environment Management, Knowledge and Best Practices. The theme was “Environment through the Diamond Pipeline”.<sup>134</sup>

The “Environment through the Diamond Pipeline” conference brought communities together to be reassured that the parent De Beers is concerned about the environment. Thus, the “experts” at the conference were all well educated De Beers’ employees or research programmes sponsored by De Beers at tertiary institutions. “Communities” are not defined and one wonders whether ordinary villagers, the KweSan from the CKGR, NGOs such as Survival International (who are not sweetheart NGOs), or academics who are critical such as Kenneth Good, stood any chance of being invited. Also interesting is the fact that De Beers is not objecting to the fact that its partner in Debswana, the Botswana Government is allowing prospecting inside conservation areas such as the CKGR.<sup>135</sup>

### 9.2.1 Environmental Impact Assessments

Communities are not involved in the drafting of environmental impact assessments (EIAs), or in the setting up of environmental management plans (EMPs); nor are they meaningfully consulted in the granting of prospecting licenses or in the granting of mining licenses. No communities have the right of refusal (although De Beers claims the right of ‘informed consent’ for its ‘family’ of companies), of joint ownership and royalties goes to the state. The effect of the 50% shareholding by government in Debswana has been to marginalise communities on whose ancestral lands the mining occurs. As Phemo and Swatuk notes: “Governance structures in Botswana are highly centralized and top-down in orientation. For water and related resources management in rural areas, this creates particular difficulties from lack of decision-making capacity to limited human and financial capital at the level of the resource base.”<sup>136</sup>

De Beers conduct **impact assessments** for all new mining projects and whenever significant changes are made at existing operations. All of its operations are covered by environmental impact assessments.<sup>137</sup>

While Debswana recognises unexploited natural resources in Botswana as assets of the country it does not recognise them as assets of the community. In Botswana the mineral rights are owned by the state and all land is managed by the government. Most communities on whose land mining occurs in Southern Africa do not receive recognition that the unexploited natural resources, found on their land, actually belongs to them, by either governments or mining corporations. The Botswana government recently demonstrated the uneven manner in which it deals with land issues

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<sup>133</sup> De Beers, 2007:98

<sup>134</sup> Debswana, 2007 , pp. 20-21

<sup>135</sup> Ross, 2008

<sup>136</sup> Phemo & Swatuk, 2006

<sup>137</sup> De Beers, 2007:87

when it awarded P19 million to 4 ranchers but only P1 million to 40 families in compensation for land lost due to the construction of the Dikgatlhong Dam.<sup>138</sup>

### 9.2.2 Water, CSI, Prior Informed Consent

As with South African mining corporations it could be argued that the CSI and CSR activities of Debswana do not address cost impact of mining on surrounding communities. Corporate programmes are sold on benefits while social and environmental costs do not feature. **Water is a case in point.** “Prior informed consent” involves company experts engaging with communities in situations where the community’s lack of access to expertise puts them at a distinct disadvantage. The question that arises from the notion of “prior informed consent” is who is being informed and who is informing?

One of the informants, a former geologist at Debswana claimed that open cast mines require dewatering the surrounding areas to effect a drop in the water table that will allow the mining operation to operate in dry conditions. The mining operation also requires massive amounts of water to cool machines, to wash gravel, to supply potable water to the residents of the mining towns, etc. This view was confirmed in a paper by Conoly and Gibson who explained that to create the necessary optimum conditions, well fields of boreholes are created around the operation to pump out the ground water so as to effect the required drop in the water table.<sup>139</sup> However, **Botswana is severely water stressed.**

According to Els and Rowntree, “groundwater is supplied through boreholes for uses such as domestic and livestock. It is estimated that there are 15 000 boreholes in Botswana, scattered in various parts of the country.<sup>140</sup> Total water abstraction in 1990 was  $76 \times 10^6 \text{m}^3$  from boreholes (760% more than the recharge rate), and is forecast to rise to  $140 \times 10^6 \text{m}^3$  annually by the year 2020. An analysis of water samples from 2 000 boreholes by the Water Affairs Department revealed that 340 (17%) of the boreholes showed signs of nitrate pollution which indicates that the sustainability of groundwater resources in terms of the quality is threatened by pollution”.<sup>141</sup>

Conoly and Gibson (Gibson was employed by De Beers at the time) fail to explain how the dewatering of these two mines and the dropping of the water table and the draining of aquifers impacted on the water supplies of surrounding communities. It is possible that the Boteti River stopped flowing as a result of mining. The lake at Mopipi in the Boteti District where Orapa is situated, will be discussed further below.

The above reference by Els and Rowntree to nitrate pollution indicates the impact of a dependence on pit latrines in many of the villages throughout the country. Debswana would do well to direct some of its CSI/CSR effort towards the replacement of pit latrines with a more environmentally friendly form of sewage processing. Although Botswana has made great strides in terms of potable water supply, the wastewater and sanitation sector has not grown to the same

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<sup>138</sup> Modikwa, 2008, p. 4

<sup>139</sup> Conoly & Gibson, 1985

<sup>140</sup> Kgathi, 1999 and FAO, 1995b

<sup>141</sup> Els & Rowntree



extent. Currently, only 41% of the population in Botswana has access to sanitation.<sup>142</sup> There is no reference in Debswana reports about addressing matters of sanitation and sewage in communities.

**Fig 7: Water Demand in Botswana (Botswana Government)**

Sector	Total demand (%)
Urban	24
Livestock	23
Mining and Energy	18
Irrigation and Forestry	15
Major villages	11
Rural settlements	5
Wildlife	3
Other settlements	1

**Fig 8: Trends in water demand for Botswana according to medium forecast<sup>143</sup>**

Demand category	Estimated demand (10 <sup>6</sup> m <sup>3</sup> .yr <sup>-1</sup> )			
	1990	2000	2010	2020
Settlements	33.8	68.8	109.9	167.8
Mining and energy	22.9	33.6	52.2	58.7
Livestock	35.3	44.8	34.3	44.1
Irrigation and forestry	18.9	28.9	38.5	46.9
Wildlife	6.0	6.0	6.0	6.0
<i>Total</i>	<i>116.9</i>	<i>182.1</i>	<i>240.9</i>	<i>323.5</i>

Demand projections, despite the current economic gloom, indicate that mining demand will grow dramatically in coming years, and it is hoped that when government is issuing prospecting rights at the rate it is currently doing, some consideration on the **impact of water resources** is taken into consideration.

The question of **water** and mining took a further ominous turn when the **Gana Gwi KweSan communities in the Central Kalahari Game Reserve (CKGR)** won a long drawn out legal battle against their forced removal to make way for mining. The government responded in a typically totalitarian manner to the community's victory by **smashing wells and boreholes** leaving them

<sup>142</sup> African Development Bank, 2007

<sup>143</sup> Kgathi, 1999

without water.<sup>144</sup> In September 2008 a giant fire threatened the community, the threat was worsened by the fact that the community had no access to water, and the destruction of melons and other water bearing plants further put their survival at risk.<sup>145</sup> Even more cynically the government awarded mining rights to Gem Diamonds in the CKGR on condition that the company does not supply water to the affected communities.<sup>146</sup>

While Debswana denies any intention of mining on KweSan land, its silence on the human rights abuses committed against the **CKGR communities** is instructive. Also of concern is the fact that the Botswana government is allowing **prospecting in conservation areas such as the CKGR**. Debswana is also silent about the issuing of prospecting and mining licenses in such areas.

The treatment of **the KweSan communities in the CKGR** on whose land diamonds are to be mined also serves as a case in point. Debswana was forced to withdraw from prospecting and possibly mining in the CKGR due to intense international pressure. However, Debswana has not publicly condemned the Botswana government for allowing prospecting and mining to continue mining in the area.

**Water samples from three areas in Botswana** was submitted for analysis to Prof L Van Rensburg, Director: Unit for Environmental Science at the Potchefstroom Campus. The results are displayed below:

**Fig 9: Results of the water analysis**

Macro-elements										
Sample num	Ca	Mg	K	Na	PO <sub>4</sub>	SO <sub>4</sub>	NO <sub>3</sub>	NH <sub>4</sub>	Cl	HCO <sub>3</sub>
<i>Millimol per litre</i>										
1	0.63	0.17	0.27	0.51	0.01	0.00	0.03	0.02	0.03	2.30
2	0.48	0.25	1.75	9.59	0.10	0.32	0.04	0.15	8.17	3.55
3	1.77	2.25	0.23	7.21	0.06	0.76	1.22	0.04	7.58	5.00

Micro-elements and other data							
Sample num	Fe	Mn	Cu	Zn	B	pH	EC
<i>Micromol per litre</i>							<i>(mS/cm)</i>
1	1.44	0.03	0.07	0.13	2	7.68	0.24
2	3.92	0.06	0.30	0.01	18	7.79	1.29
3	0.88	0.14	0.23	0.48	18	8.07	1.56

**1 = Boteti River Motopi village**

**2 = Lake Mopipi West Side**

**3 = Daewoo S of Letchakane**

From the water analysis, that provides a good indication of the elemental fraction that is potentially bio-available and that can leach down to the profile the following:

<sup>144</sup> Ross, Bushmen's plea on World Water Day, 2005

<sup>145</sup> Somby, 2008

<sup>146</sup> Ross, 2008

- In terms of the macro-elements the neither the absolute concentrations nor elemental ratios deviate significantly from the norm values (for either human consumption or agricultural use), however the same cannot be said for samples 2 and 3. In sample 2 both the Na and K as well as Cl concentrations are extremely high. In the case of sample 3 it is the Ca, Mg Na, NO<sub>3</sub> and Cl that needs mentioning. Typically the concentration for Mg, Na, and Cl should be in the region of 0.6, and less than 1.0 for both Na and Cl. The sodium detected in the water samples probably occur as the sodium salts sodium chloride (halite or rock salt), sodium carbonate (trona or soda).
- Too much sodium can damage human and animal kidneys and increases the chances of high blood pressure. Similarly elevated Mg concentrations cause reactions like headache, abdominal pain nausea, and diarrhea in sensitive individuals. Once nitrate enters the body of humans older than six months, it is steadily absorbed from the digestive tract and excreted in the urine. Healthy human adults can consume fairly large amounts of nitrate with little harmful effect, but infants under six months, however, are susceptible to nitrate poisoning because their undeveloped digestive tracts possess bacteria that convert nitrate into nitrite, which is toxic. When nitrite enters the bloodstream, it reacts with oxygen-carrying hemoglobin and forms a compound called *methemoglobin*. This compound reduces the blood's ability to carry oxygen. As oxygen levels decrease, infants may show signs of suffocation, a condition called *methemoglobinemia*. The negative effects of elevated Cl levels on human and animal kidneys, bladder and colon have been extensively quantified in scientific literature.
- In terms of the micro-elemental concentrations, with the exception of the B concentration that is slightly too high is samples 2 and 3 none of the other elements warrant any concern at this stage. This statement should however, be seen within the context of the very alkaline pH values that currently typify the samples analysed (this can be ascribed to the very high HCO<sub>3</sub> concentration present in every sample). Please note that if for some reason the pH values in these samples may drop the micro-elemental concentration and potential heavy elemental concentrations will be significantly higher.
- I would seriously advise a ICP-MS analysis be conducted on the samples analysed to quantify the potential risk in terms of other elements – as its potential risk is currently being hidden by the alkaline pH values that characterize the samples analysed.

Samples 2 and 3 were taken at Mopipi and at a borehole in one of the Orapa well fields. However, it would be premature to attribute the results to mining, further investigation is required. Thus the 2<sup>nd</sup> sample may be attributable to the source being close to Mopipi village and being affected by pit-latrines. The high levels of sodium may be caused by natural factors, both water sources are located in semi-desert conditions.

### 9.2.3 Sustainable Use of Water Resources

Debswana has a tortuous history when it comes to the sustainable use of Botswana's water resources, as confirmed by Scudder: "Simultaneously the Department of Water Affairs and safari companies continued minor diversionary works until the early 1970s when Anglo American Corporation completed a program of dredging, bunding, and weir formation to improve flows into the Mopipi reservoir built on the lower Boteti from which water was piped to the mining community at

Orapa. The controversial Anglo-American programme of dredging and tributary straightening along the lower Boro had an adverse impact on adjacent communities. Increased flows down the Boteti were a benefit to adjacent riverine communities, but not those downstream from the reservoir to which floodwaters had been diverted".<sup>147</sup>

The Department of Water Affairs (DWA) in Botswana came under pressure during the droughts of the 1980s to develop water resources surrounding the Delta for domestic, agricultural and mining purposes. A feasibility study resulted in the proposal of the **Southern Okavango Integrated Water Development Project (SOIWDP)**, which would involve dredging 42km of the Boro River and construction of several dams on adjoining rivers to improve and regulate outflows from the swamps.<sup>148</sup>

The plans were put on hold following an independent report by the World Conservation Union (IUCN) in 1992. From an ecological point of view, it is unfortunate that the plans have only been put on hold and not abandoned as proposed by the IUCN as this might lead to reconsideration of the project in the future.<sup>149</sup>

The history of the **Southern Okavango Integrated Water Development Project (SOIWDP)** is instructive for the initial heavy-handed response by Government to opposition, for the concerted efforts by communities and NGOs who opposed the project and for the denial by De Beers that it had supported the idea.<sup>150</sup> Though the Department of Water Affairs had completed one intensive period of consultation with villagers and the expatriate community in and around Maun during a ten-day period in 1988 there had been no follow up. What consultation occurred was criticized as 'government telling people what was going to happen' rather than soliciting their views and taking seriously their conviction that past efforts influencing delta flows, and especially Anglo-American's, had "killed" the waterways involved.<sup>151</sup>

Villagers also complained that they had not realized that the project involved further 'dredging' of the Boro. They believed that they had been deceived by how the project had been labelled, with the Boro component called "The Boro River Improvement Works." Local leaders and safari operators were also taken by surprise. Because bids on the initial tendering documents had significantly exceeded Department of Water Affairs estimates, they had assumed that the project would be cancelled. On the contrary, the government had been looking for ways to reduce costs during the intervening years. One was to eliminate that part of the original plan (for increasing the area of flood recession cultivation) that would most benefit the village sector.<sup>152</sup>

The strongest initial response came from Greenpeace whose Amsterdam office threatened to launch an international campaign in which the De Beers' slogan, "Diamonds are for Ever," would become "Diamonds are for Death." That must have caused panic in De Beers' corporate offices in South Africa as well as in the Government of Botswana. Denying the involvement of the diamond industry in the project, De Beers claimed that Orapa had access to more than sufficient ground water for the life of the mine. Not only did the government agree with De Beers that the SOIWDP was

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<sup>147</sup> Scudder, 2003

<sup>148</sup> Macgregor, 1991

<sup>149</sup> Pallet, 1997

<sup>150</sup> Scudder, 2003

<sup>151</sup> Scudder, 2003

<sup>152</sup> Scudder, 2003

primarily for Maun as well as for the development of the Ngamiland economy, but on December 10<sup>th</sup> it actually invited Greenpeace to visit the Okavango region. Greenpeace took up the offer over a two-week period in early 1991.<sup>153</sup>

The speed with which grass-roots opposition was organized was due in good part to the efforts of two NGOs. One was the **Kalahari Conservation Society** - Botswana's largest and most important environmental NGO. Though its central office did not play an active role, perhaps in part because the society's chairman was the chief executive officer of Debswana, the Maun branch did. So did **Tshomarelo**. With a membership of local Tawana elite and expatriates it had been founded for the purpose of opposing SOIWD. One demand of the opposition following a public meeting on December 20<sup>th</sup>, addressed by the Director of Water Affairs, was that local residents wanted the Minister of Mineral Resources and Water Affairs to answer their complaints rather than Water Affairs officials.<sup>154</sup>

To respond to growing criticism, and especially of the Boro works, the government organized a meeting in Maun on January 11, 1991 – just several days before project construction was to start. About 700 people participated, mostly local villagers. The outpouring of opposition to the government's position may well have been the strongest attack on any government policy since Independence in 1966. **According to participants to whom the research team subsequently talked, the anger expressed was unique in Botswana's history, with the Minister both insulted and told to resign.** Clearly taken by surprise by the vehemence of the opposition, the government initially blamed it on the international environmental movement and on local safari companies that had used their transport to help villagers attend the meeting. Nonetheless the government must have realized that, deluded or not by outside interests, the local populace was strongly opposed to the project. The government's response was to suspend the project temporarily while seeking further assessment.<sup>155</sup> This assessment was commissioned by the World Conservation Union (IUCN) in 1992 who shot down the project.

#### 9.2.4 Reporting, environmental codes and standards

##### Criteria:

- *A company-wide environmental code has been adopted and implemented (1.1.C.1)*
- *Environmental assessments are completed by the company in which the unused, unexploited natural resources are stated as assets of the community (1.1.C.4)*

There is very little detail about environmental programmes at any of the Botswana operations contained in Debswana's Annual Review, which is for local consumption in Botswana. Instead all matters environmental are discussed in much greater detail in the Chapter 98 of the De Beers Report to Society 2007.

De Beers reports that a number of steps were taken in 2007 to improve on its environmental performance. This included the implementation of environmental guidelines and skills relevant to

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<sup>153</sup> Scudder, 2003

<sup>154</sup> Scudder, 2003

<sup>155</sup> Scudder, 2003

each stage of the diamond value chain. It also included the ongoing review of their Environment Policy and strategy as well as the development of a distinct Energy and Climate vision and strategy.

De Beers Consolidated Mines (DBCM) developed its own **Energy and Climate Change Policy** and **Water Management Policy**, however specific conditions in specific countries and even specific regions within countries, require particular rather than the generalised solutions. De Beers asserts that specific performance targets have already been established in relevant areas in the Family of Companies and are being monitored.

Environmental data is collected through an **Environmental Performance Reporting Application** (EPRA). At the end of 2007, 100% of its diamond mining operations was certified to the environmental management system standard of ISO 14001. In addition, formal guidelines have been implemented to assist in the assessment and contracting of third party ISO 14001 auditors. These criteria ensure auditors are sufficiently rigorous and comply fully with the requirements of the ISO 14001 standard.<sup>156</sup>

Although the processes outlined here are laudable, there are short-comings associated with these globally agreed standards. **Assessment by third party ISO 14001 auditors** do not really demonstrate environmental compliance where the third party services are paid for by the corporation. This is a point made by the Bench Marks Foundation in *Policy Gap 1* and *Policy Gap 2*. There is a tendency for consultants such as auditors and environmental consultants to tell corporations what they want to hear. Critical reports might cause the corporation to employ a different set of consultants or auditors in the next round. Andrew Rowell convincingly argues that the business of green or environmental public relations is a multi-million dollar global industry.<sup>157</sup>

**Independent environmental monitoring** should be a function of government or a specialised agency that is not funded by the mining corporation along the lines of the Environmental Protection Agency (EPA) in the USA or the so called Green Scorpions in South Africa. Furthermore, the standardised ISO criteria while generally applicable, often fail to adequately deal with **local uniqueness**, what these standards also fail to do is deal with cumulative impact as was demonstrated in *Policy Gap*<sup>158</sup> 1. ISO inspections also occur once a year as annual reports or report to society are being prepared leaving corporations with the option of putting their best foot forward during the inspection period. The window of inspection is too short and should be replaced with continuous monitoring, something which surrounding communities could undertake to do if afforded the **training and if they are linked in with independent monitoring agencies**.

### 9.2.5 Energy use and rehabilitation

In 2007, the environmental strategy of De Beers focused on biodiversity, energy security, and water usage. The corporation reports that performance improvements were achieved through the development of professional capacity and the production and collection of environmental data. At the end of 2007, its mining activities had affected 3,7% of the 960 792 hectares of its mining license areas. De Beers asserts that energy supply within its Family of Companies is critically important to

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<sup>156</sup> De Beers, 2007

<sup>157</sup> Rowell, 1996, pp. 106-114

<sup>158</sup> Bench Marks Foundation, 2007

its ability to maintain optimal level of operation. Diamond mines are run on a continuous basis and therefore any interruption jeopardises production and economic viability. **It is exactly this obsession with continuous production that causes mining corporations to become slack regarding environmental issues. Nothing is said in Debswana's report for 2007 about negative environmental incidents, whether such incidents impacted on production, or placed workers, residents of mining towns or neighbouring communities at risk.**

The Boteti River provides a case in point. The river has its origins in the **Okavango Delta** through the Thamalakane River in Maun. It flowed year-round before the mid 1990s, after which decreasing flows led to seasonal desiccation in some river reaches. In the rainy season the Boteti discharges to the Makgadikgadi Pans, bringing that area alive with seasonal activity and high biological productivity. In the dry season the Boteti is particularly important to provide wildlife an area to congregate, since most seasonal ponds and drainages are devoid of water. The Boteti stretches from Ngamiland to the main Boteti District where it used to fill the Mopipi Dam, which is important to the many diamond mines of the area. The diversion of the river has left many residents without an adequate source of fresh water; moreover, they could no longer enjoy fishing and other activities in the river.<sup>159</sup> The river did not only suffer from the diversion of its water to the mining at Orapa and Letlhakane, but also from the dropping of the water table to ensure optimal working conditions in the pits at these to diamond mines. A former employee of Debswana who worked at Orapa for more than 30 years described how when the mine started there was extensive cultivation taking place along the banks of the river, and how this gradually declined as the water table fell. Well fields have also been established around the Jwaneng operations.

While **energy efficiencies and diversification** strategies were pursued in 2007, power shortages in southern Africa represented a key risk to business continuity in 2008. With South Africa facing electricity blackouts on a regular basis, De Beers' mines have reduced their own energy usage in line with national quotas, which presents new challenges to maintaining their diamond production levels in the country. Energy consumption in 2007 was 16.25 million GJ (2006: 14.47 million GJ). Additional use of energy, water and higher rates of CO<sub>2</sub> and sulphur dioxide emissions were accounted for largely by the expansion of their activities and the increasing age of their operations.<sup>160</sup> **Debswana is hoping to establish itself as a monopoly provider of electricity in Botswana by displacing ESKOM through the development of its Moremi coalmine and power plant.**

De Beers reports that it is currently working to standardise their energy and climate change measures and conversion factors across the Family of Companies. These measures and their respective Indicators will then be integrated into EPRA with a view to securing formal third party verification where appropriate. An "independent" review of their CO<sub>2</sub> and sulphur dioxide (SO<sub>2</sub>) emissions was completed by PriceWaterhouseCoopers in 2007. We have already noted that independent reviews by corporate auditing firms and paid for by mining companies are problematic. The reputation of global auditing firms in the current global economic crisis and the failure of the

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<sup>159</sup> Ngakane, 2007

<sup>160</sup> De Beers, 2007, p. 5

international financial system are questionable as these firms have for years placed their economic interests above the public interest which they as auditors have made a commitment to uphold.<sup>161</sup>

The last decade saw several audit firm scandals such as the 2006 spat between KPMG and PriceWaterhouseCoopers, which caused an auditing crisis in England.<sup>162</sup> J. K. Gailbraith refers to the **cosy relationships between global corporations and global auditing firms** as the “economics of innocent fraud”,<sup>163</sup> while environmentalists,<sup>164</sup> rather than environmental consultants, have expressed concerns that since the inclusion of business sector into the global environmental debate on pollution policy, environmental policy has become polluted.<sup>165</sup> Until these critical concerns that relate to environmental justice rather than to the commodified “greening of business”, concerns about the ecological impact of corporations such as Debswana will remain a matter of critical debate.

De Beers prepared energy and emissions data with reference to both the **Greenhouse Gas Protocol** and the Intergovernmental Panel on Climate Change (IPCC) conversion factors.<sup>166</sup> Other efficiency initiatives reported have been ongoing across the Family of Companies for a number of years. These include DBCM’s relationship with power utility Eskom, to introduce energy efficient light bulbs at their South African mining operations. It is claimed that awareness around these issues has increased and energy reduction strategies are being explored in specific areas of the business.

The **Energy and Climate Change Peer Group (ECCPG)** provides the mechanism to share energy efficiency information, draw together interdisciplinary skills and provide a framework for the improvement of performance. Structures like the ECCPG and the World Business Council on Sustainable Development (WBCSD) are part of that category of structures and networks which serves elite political and economic interests as far as environmental issues are concerned. These structures are created in order to demonstrate concern with sustainable development.

In 2007, the De Beers Executive acknowledged the need for a dedicated resource to identify and implement energy and climate change initiatives. A full-time energy specialist has since been appointed to provide leadership across the Family of Companies.<sup>167</sup> Despite these claims, and in contradiction to them Debswana is committed to developing coal fired power at Moremi. De Beers along with Anglo American Corporation remains steeped in coal based power in South Africa despite the fact that South Africa is the leading air polluter in Africa, and per capita the biggest CO<sub>2</sub> polluter in the world.<sup>168</sup>

De Beers’ reports emphasise the importance of its existing **water efficiency** and **recycling initiatives**, and to better understand the impact of water demand, supply and usage in both current and future operations. It writes that the Family of Companies aims to ensure that sustained water access for their operations does not adversely affect the livelihoods of local communities where they work. Water management frameworks have been developed by the respective water steering committees at their DBCM and Debswana operations. These include policies, guidelines and auditing. The frameworks form part of what De Beers asserts is a coherent water management

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<sup>161</sup> Lee, 2009

<sup>162</sup> Northedge, 2006

<sup>163</sup> Galbraith, 2004

<sup>164</sup> Bond, 2002

<sup>165</sup> Barnett, *The Meaning of Environmental Security*, 2001, pp. 71-91

<sup>166</sup> De Beers, 2007, p. 111

<sup>167</sup> De Beers, 2007, p. 114

<sup>168</sup> Bond, 2004, p. 16



strategy to enhance their access to and use of water, as well as to prevent pollution across the Family of Companies.

The DBCM **Water Steering Committee** was formally established in 2006. It helps ensure the alignment of the company's water strategy with best practices and legal requirements. It serves as the leadership group for DBCM on water conservation and demand management by creating a culture of sustainable water management at its operations. The Committee is said to focus on key areas including assurance, the promotion of innovative ideas, knowledge sharing, and continuous improvement and enhancing links with academia to promote research into water management.

**The claim by the corporation and by extension Debswana that it is concerned about the community water situation of surrounding communities at its Botswana operations is belied by the dehydration processes are required by pit mining, the earlier discussed intentions of the Botswana government or regarding the Okavango delta and the presumed impact on the Boteti river.**

There is once more a clear conflict between the community-based notion of environmental justice and the corporate notion of environmental sustainability. **Environmental sustainability** implies controlling the consumption and conservation of water so as to sustain production, and to enhance the public image of the corporation.

Environmental justice implies recognising the rights of surrounding communities to environmental security and rights of access to water and other natural resources. Johnson defines "**sustainable development**" as a "contradiction in terms." It is an attempt by "the First World to continue as it is, or without major upheaval, if the aspirations of others can be met by providing them with ways to exploit their environments that will not adversely affect us".<sup>169</sup>

Thus schemes are advised to exploit ecologically sensitive areas such as the Kalahari and the Okavango, "providing jobs for the natives!" and profits for first world shareholders.

### 9.2.6 Environmental Security

Another critically important concept for Southern Africa in general and Botswana in particular is the notion of **environmental security**.<sup>170</sup> This concept may be interpreted in two ways: firstly environmental security may be interpreted as ensuring optimal environmental conditions to guarantee continued economic production. Thus the United States could invade Iraq under the pretext that it is necessary to do so to ensure the continued supply of oil. This interpretation would be an undemocratic and elitist interpretation. Applied in the context of Botswana the government there could argue that the **damming up of the Okavango** delta is necessary to continue production of diamonds. The second more democratic and inclusive interpretation of environmental security is one that argues that it is necessary to engage with the environment in such a manner to ensure that the general population enjoys equity and security of access to natural resources necessary to sustain life.

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<sup>169</sup> Citizens of the First World, Johnson, 1991, pp. 300-301

<sup>170</sup> Barnett, 2001

Southern Africa is one of the most water stressed areas in the world is currently faced with the choice between maximising profits from its mineral wealth in the short term while facing the destruction of its water resources and its atmosphere, or **strictly controlling and regulating mining and agriculture** thereby providing **environmental security** and **justice for future generations**. Unfortunately due to the very close relationship that exists between the mining industry and government and in Southern Africa it would seem as if this issue would not be addressed.

Kenneth Good argues that the rural political elite in Botswana is defined by ownership of cattle and boreholes and that this, combined with the country's economic dependence on diamonds, has prevented it from developing its manufacturing capacity and thereby diversifying its economy<sup>171</sup>. This dependence is also having an impact on water and environmental security.

This will progressively become a major security concern for Botswana, as herding and mining will put water resources under increasing strain. Debswana operates numerous "well-fields" extracting ground water used in the mining process. Noting that its Botswana mines are opencast, wells (boreholes) are sunk around operations so as to ensure dry operational conditions in the open cast pits.<sup>172</sup>

### 9.3 Social Dimension

#### Principles:

- *The company respects the inclusive involvement of all stakeholders in developing civil society partnerships and host community agreements (1.3.P.4); and*
- *The company establishes a transparent process to gain the informed consent of the community prior to establishing its operations in that community (1.3.B.2)*
- *The company ensures its labour force and managerial employees are proportionally representative of the communities in which it operates (2.1.P.5)*
- *The company affirms that workers have a right to a workplace that is free of toxic substances and all forms of health hazards, including second-hand smoke (2.2.P.2); and*
- *The company subscribes to the principle that every worker has the right of access to health care, including accessible and affordable medicines (2.2.P.3)*
- *The company does not exploit children as workers (2.3d.P.1)*
- *The company employs workers who choose to be employed by that company. The company does not use any forced labour, whether in the forms of prison labour, indentured labour, bonded labour, slave labour or any other non-voluntary labour (2.3e.P.1)*
- *The company insists on honesty and integrity in all aspects of its business, wherever business is conducted (2.5.P.1)*
- *The company's governance structure is based on ethical values, including inclusivity, integrity, honesty, justice, transparency and responsiveness to shareowners and stakeholders (2.7.P.1)*

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<sup>171</sup> Good, 2003

<sup>172</sup> Interview with former Debswana employee who wishes to remain anonymous

**Criteria:**

- *The company only proceeds to extract natural resources in situations where their renewal is guaranteed or where, in the case of non-renewable resources, it has made provision for the creation of sustainable alternatives (1.5.C.2)*
- *The company has a strategy whereby proper compensation for the extraction of resources is made to all the relevant national, local and indigenous communities for the acquisition of their assets (1.5.C.3)*
- *Training, development, promotion and advancement opportunities within the company are available to all employees of the company, regardless of status, whether full-time, part-time, short-term, permanent, or with any other contracts of employment (2.1.C.6)*
- *The company ensures that no person is subject to any discrimination in employment, including recruitment, hiring, remuneration, benefits, advancement, discipline, termination, or retirement, on the basis of gender, racial/ethnic origin, social or ethnic origin, culture, religion, age, disability, sexual orientation, nationality or political opinion (2.1.C.1)*
- *The company actively recruits and employs for all positions at all levels, including management, from the local population (2.1.C.5);*
- *The company has a policy that its work force reflects the racial/ethnic origin and cultural composition of the local population at all levels (2.3.C.3)*
- *The company adopts a policy of non-discrimination and commits to programmes to overcome discrimination and stigmatization of employees with HIV / AIDS (2.2.C.5)*
- *Where governments do not provide universal health coverage, the company provides adequate coverage for its employees and their dependents. This includes necessary essential medicines, including antiretroviral medicine for HIV/AIDS (2.2.C.4)*
- *Employees are free to organize and join workers' organizations without discrimination or interference and to engage freely in collective negotiations to regulate the terms and conditions of employment. No employee is discriminated against for engaging in union organizing and collective bargaining activities and other worker committees (2.1.C.10)*

**Bench Marks:**

- *The company ensures that when extracting non-renewable resources it creates and puts in place alternative and sustainable benefits for the future of the community in which it is operating (1.5.B.2)*
- *The company has a plant closure policy, which provides transitional arrangements for employees (1.3.B.8)*
- *The company has in place effective and appropriate policies and statements of equality of opportunity for women in the workforce and these are monitored and maintained throughout all levels of employment. These are available to all workers in the languages of the workers (2.3a.B.1)*

### 9.3.1 The 'Closedness' of the Diamond Mining Operations

There has been increasing global concern about the militarisation of mining in the 'Third World'<sup>173</sup>. In Botswana it could be argued that the militarisation has taken a different form in that Debswana is equally owned by De Beers (50%) and the Botswana Government (50%); the militarisation of the state would therefore also impact on mining operations, and could possibly be attributed to the dependence of the state in Botswana on a single commodity (diamonds) and its relationship with a single company (De Beers).

Debswana retains a cloak of **secrecy** to this day. The *Watchdog* of the *Sunday Standard newspaper* in Botswana has called for a truth commission in the diamond industry.<sup>174</sup> Mine facilities including mining towns such as Orapa, are out of bounds to the general public, anyone intending to visit must receive an invitation from inside Orapa; the same inviter must apply for permission to receive the visitor (also see 8.1). Debswana simply does not respond to e-mail communications, and attempting to communicate telephonically with communications officials listed on their website is an exercise in futility.

Recent allegations about corporate spying on employees even in toilet and change room facilities indicate the draconian paranoia Debswana suffers from.<sup>175</sup> In addition to this secrecy, there is also the fact that diamond exchanges in places like Antwerp "are mostly done in person and are sealed with a hand shake; written contracts are virtually non-existent. Antwerp's diamond exchange virtually paperless transactions can facilitate the laundering of money by drug cartels or terrorists".<sup>176</sup> This state of affairs provides a recipe for cronyism, corruption and abuse of power.<sup>177</sup>

To the outside observer, Botswana, due to its close relationship with and dependency on De Beers, seems to suffer the same drawbacks as a country that closed mining towns suffer. Although the media overwhelmingly refers to Botswana as a 'liberal democracy' and an open society, a certain paranoia exists. Researchers were frequently warned by informants not to speak openly about Debswana, De Beers or the government in public places such as bars, hotels or restaurants as the government 'had spies everywhere'. All respondents/informants insisted that they would only speak to the researchers under conditions of anonymity.

The Botswana media complained about new media bills being tabled in parliament that would curb the freedom of the press.<sup>178</sup> Newspapers debated what they considered, draconian 'intelligence' structures that were being created by the state.<sup>179</sup> The perceived 'autocratic' personality of the president also found its way into print.<sup>180</sup>

This 'closedness' increased in intensity as the research team approached mining operations. The team were refused entry into any of these operations, and were informed by former employees interviewed that the team would only be allowed to enter any Debswana mining towns<sup>181</sup> on

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<sup>173</sup> Mines and Communities, 2005

<sup>174</sup> The Watchdog, 2006

<sup>175</sup> Sunday Standard Reporter, 2007

<sup>176</sup> Cunningham-Reid, 2005

<sup>177</sup> See references to the memoirs of David Magang above

<sup>178</sup> Editor, 2008

<sup>179</sup> Motlogelwa, 2008

<sup>180</sup> Molomo, 2000

<sup>181</sup> While Orapa is a closed mining town located right next to operations from which Letlhakane is also operated, Jwaneng is an open town located some distance from the actual mine

invitation from someone inside. This explained why our applications to visit and our e-mails and questionnaires remained unanswered, except for an electronically generated response informing researchers that the matter was receiving attention.

Borrowing liberally from Carstens<sup>182</sup> it could be argued that in Botswana, De Beers through the dependency it has created on Debswana, has established a hegemonic grip not only over its employees but also over the population in general that De Beers is the most moral, most respectable, most generous, most accident free, and cleanest of companies.

*Can you imagine Botswana without diamonds, specifically Debswana? It is difficult, because modern Botswana and Debswana are virtually synonymous given the undeniable contribution the Company has made to underpin the growth of the economy over the years. What makes it even more difficult to imagine is that Debswana is such a strong profitable company.*<sup>183</sup>

### 9.3.2 Community Policy and Regulations

De Beers reports that its community policy articulates its commitment to communicate and consult with communities affected by De Beers' operations. In 2007 they piloted and reviewed SEAT (The Socio-Economic Assessment Toolbox) and developed a comprehensive Social Impact Assessment Guideline. These instruments stand alongside the ECoHS (Environment, Community, Health and Safety) Guidelines for Exploration, ECoHS Guidelines for Projects and other stakeholder engagement tools to help operations identify, evaluate and manage their impacts on communities proficiently. It claims these instruments also inform their coordination with other development agencies to help address poverty alleviation and build sustainable and lasting livelihoods post-mining.

We have already addressed the problematic of **corporate self-regulation elsewhere**, and the current global 'financial' crisis demonstrates the dangers of self-regulation. The problem with instruments such as the SEAT and, ECoHs are that they are forms of self-regulation and the claims emanating from such tools are highly suspect. (See the Gope community and the CKGP and, matters of water in the Boteti district.)

The practicability of these tools is currently under scrutiny given the intended retrenchments<sup>184</sup> due to a 40% cut in production as a result of the global economic crisis. Debswana's treatment of **striking workers in 2004** demonstrates the fact that Debswana is quite prepared to exploit the fact that technically **workers in Botswana do not have the right to strike**. Despite being signatory to various international agreements on labour rights neither De Beers nor Debswana have ever protested the fact that workers in Botswana do not enjoy this right.

The workers who will be retrenched because of the current economic crisis<sup>185</sup> will return to labour sending putting great strain on resources, health and social services in those communities, in

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<sup>182</sup> Carstens (1994, p. 187)

<sup>183</sup> (Debswana, 2005, p. 30)

<sup>184</sup> UN Integrated Regional Information Networks, 2009.

<sup>185</sup> Lute, 2008, p. 2

some cases they will discontinue their ART programmes received on the mines and suffer disruption in treatment regimes as they move from the corporate health service to the government health service.

Many other workers with bank loans and housing bonds will be dumped into a situation of financial crisis, where they might be losing their homes, their children might lose access to education as school fees are unpaid, etc. Most people are aware of the cyclical nature of the market system – did mining corporations such as De Beers and Debswana make provision during the more than a decade long boom in commodity prices for the down turn? Neither the ‘tools’ nor the annual reports make any reference to such provision.

### 9.3.3 Social License to Operate

De Beers insists that gaining and maintaining a “**social license to operate**” is critical to successful mine development and management, but the community discipline is an evolving area of expertise in De Beers. They assert that their aim is to elevate this discipline to a level of maturity within the Family of Companies to ensure their continuing license to operate at existing mines and to be recognised by local communities and governments alike as a preferred partner of choice where new mines are developed.<sup>186</sup>

Contrary to its claims concerning the importance of the social license to operate, De Beers is not above **nepotism**. In this regard De Beers has a propensity to court the political elite in the countries in which it operates thus the vice-chairman of DBCM South Africa is the former Premier of the Northern Cape province, which also happens to be the leading diamond producing province in South Africa. In 2006 De Beers appointed Ms Sheila Khama, cousin to the current President Ian Khama as CEO De Beers Botswana. This kind of appointment, which points to political expediency is a common tactic used by mining corporations throughout Southern Africa. It effectively places the political elite at the service of mining corporations and it effectively undermines democracy.

*“She is the cousin to Ian and the lady really has no iota of knowledge about the mining industry. What happened to bo Dikgaka? People who actually hold both managerial and mining engineering degrees and have been in the mining sector for ages? Just coz she is a “Khama” and it’s no wonder that Khama’s niece - ngwana wa ga Jacqueline was hired to be her personal assistant.”* - Opinion of a Motswana interviewed about what he thought of Sheila Khama as the CEO of De Beers Botswana.

### 9.3.4 The Need for Independent Monitoring

After intense international pressure in May 2007 De Beers sold its diamond deposit at Gope (on the lands of the Kalahari KweSan) to **Gem Diamonds**, for \$34 million. The ‘informed consent’ of the Gope community was never obtained, neither was the “social license” to operate. Gem Diamonds’ chief executive called the Gope deposit ‘a problematic asset for De Beers’ because of the KweSan controversy. **Survival International** has therefore called off its De Beers boycott.

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<sup>186</sup> De Beers, 2007, p. 82

Many questions arise from the sale of this deposit. Although international pressure has forced the De Beers to distance itself from the Gope deposit it was De Beers who initiated the process of prospecting and mining in the area. Did the KweSan in any way benefit from the sale of the deposit? Why 'informed consent' rather than negotiated agreement that would see the community benefit substantially materially from the loss of their land and the material wealth beneath it? How did the De Beers obtain the deposit, but they purchased it from the KweSan? Or, was it simply allocated to them by the Botswana government. It is in the answers to these questions that the quality of the De Beers' **community engagement policies** should be measured. What is more it would seem that in every case the corporation has to be forced to do the right thing by means of **international pressure** this clearly reinforces calls for **independent external monitoring** and regulation as opposed to self-regulation.

Although De Beers claimed that the Gope find was 'sub-economic', Gem Diamonds plans to develop a mine at Gope as quickly as possible, and estimates that it contains more than \$2.2 billion-worth of diamonds. The second issue, which arises, relates to the fact that these diamonds are located in the **CKGP, which is a conservation area and therefore to be protected from mining**.

Survival International reports that Gem Diamonds is currently formulating its policy regarding obtaining the KweSan's free and informed consent before the Gope mine goes ahead. Survival International has made it clear that such consent cannot be freely given until the KweSan are allowed back on to their land, and are in a position to talk as equals.<sup>187</sup>

### 9.3.5 Sustainability of all Operations and Community Engagement

Diamonds, unless artificially manufactured, are not a renewable resource. Whether De Beers and Debswana has made provision for, or put in place alternative and sustainable benefits for the future of the communities in which it is operating will be seen in the response to the current economic crisis.

According to De Beers, they have learnt the value of **building local capacity** through employing local people and ensuring local management of their operations.<sup>188</sup> This is certainly true at all its Debswana operations where the vast majority of employees are local. However, most of their operations in Botswana are highly capital intensive thus making a minimal impact on the labour market and unemployment. They also claim to appreciate the need to support local businesses. This is said to be done through preferential procurement and the provision of engaged support for initiatives that promote good governance and transparency and the paramount value of industry leadership in driving ethical business practices to underwrite consumer confidence in diamonds. Elsewhere in this report (see 8.1) we refer to the recent dispute between Geoflux MD Mr Chiepe and Debswana. Chiepe claims that Debswana, a member of the De Beers Family, actually undermines, and discriminates against, local businesses.<sup>189</sup>

De Beers claims to follow a three way approach when working with their community neighbours that integrates communication, respecting community interests and providing support, where

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<sup>187</sup> Ross, 2008

<sup>188</sup> De Beers, 2007, p. 3

<sup>189</sup> (Chiepe, 2007)

appropriate, for initiatives aimed at improving the environmental, economic and social sustainability of communities affected by their operations. This may certainly be questioned with regard to the KweSan communities in the CKGP, where Debswana set in motion the processes of prospecting and mining (even though it has now withdrawn) and in terms of the insider/outsider locus that operates at their mining towns and operations. In 2007, De Beers claimed that progress in the community discipline was underpinned by **three key initiatives**, these were: **the refinement of the Community Policy, its endorsement by the ECoHS Committee and the development and piloting of innovative new tools to enable world leading community engagement and social investment.**<sup>190</sup>

### 9.3.6 Mine Closure Policy

Long after the mining companies have left, the communities will still be there. De Beers reports that its Family of Companies have developed a **Closure Policy**. The policy is not applied prescriptively, but is intended more as a set of guidelines to inform the determination of national and mine specific closure requirements.

The policy builds on work completed by the International Council of Mining and Metals (ICMM) and the principles endorsed by the International Association for Impact Assessment. It is also aligned with their principles, social impact assessment guidelines, the Anglo American **Socio-Economic Assessment Toolbox** and ongoing stakeholder engagement work. The policy requires the identification of measurable and time-bound performance targets to be developed and agreed with stakeholders. It also requires the identification of accountable persons, the allocation of closure budgets and ongoing risks review by senior management<sup>191</sup>.

Within the **South African context** it would seem that rather than bother with elaborate and expensive closure programmes De Beers prefers selling of marginal mines approaching closure as in Kimberley, Kleinsee and Cullinan, this is probably the preferred option that will be applied in Botswana as well.

**Botswana's diamond resources will be exhausted by 2029** and Oliver Basdevant argues that the country's diamond reserves are not adequate to generate enough permanent revenue to sustain a high level of expenditure. Under the current fiscal rule that no debt may be accumulated, Botswana will have to save more to avoid an abrupt adjustment in the medium term.<sup>192</sup> Noting the failure of the Botswana government to diversify its economy and its almost total dependence on diamond exports operational **closure by De Beers would result in a catastrophic social and economic collapse in the country.**

Botswana's diamond resources generate about 60% of tax revenue. Over the past 10 years, mineral revenues, 95% of which were from diamonds, accounted for 63% of tax revenues. Although Botswana is expected to continue to be the world's leading producer of diamonds well beyond the next decade, it will run into economic difficulties as diamond resources are depleted. Basdevant

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<sup>190</sup> De Beers, 2007, p. 4

<sup>191</sup> De Beers, 2007, pp. 41-42

<sup>192</sup> Oliver Basdevant, 2008



argues that these challenges will require policies that bring about fiscal adjustment and economic diversification.

Botswana is currently having a foretaste of what is to come given the **global collapse in the commodities** market, and a 90% cut in **global diamond production by De Beers in the first quarter of 2009**.<sup>193</sup> The critical question that the government and Debswana must answer is whether there is life after diamonds? A critical impact of diamond mining in Botswana is the degree of national dependency and complacency, which has resulted from it. Mine closure plans deal with environmental and labour issues but they fail to address the broader socio-economic implications referred to here.

### 9.3.7 Compensation from companies to communities

The De Beers Community Policy asserts that it recognises the importance of the ties peoples have with the lands they traditionally occupy and the natural resources they use. It consequently claims to meet and exceed major international requirements relating to the rights of local communities and indigenous peoples like ILO Convention No. 169 and the United Nations Declaration on the Rights of Indigenous Peoples. It is claimed that the policy specifically requires all entities to respect community governance and seek free and informed consent prior to initiating any operations that will have substantial impacts on their interests.

The De Beers Community Policy also claims to comply with the World Bank Operational Directives on Resettlement, Indigenous Peoples and Cultural Property and the Inter-American Development Bank Resettlement OP 710. In instances where the economies or livelihoods of communities might be negatively impacted, the Community Policy requires that they “provide their neighbours with fair and adequate compensation for any losses they may incur for which we are legally liable”. A Compensation and Resettlement Action Plan is scheduled to be developed for the local AK06 community in 2008.<sup>194</sup>

Debswana could argue that its social responsibility to communities in Botswana is derived from its enormous contribution to the fiscus and the socio-economic expenditure by the government as 50% shareholder. However Marobela questions this: “According to the gross domestic product, Botswana is one of the richest countries in Africa. Unfortunately such indices obscure the reality on the ground, as Botswana is indeed a rich country but ironically with a poor people. From this context the achievements made by Botswana are not that glamorous. The so-called rapid economic growth and impressive performance is increasingly being challenged in light of the real living conditions of ordinary Botswana, which are not mirroring the official story.”<sup>195</sup>

The discrepancy between Debswana’s claims and Marobela’s findings result from the **gap between global structures such as ILO Conventions and UN Declarations** signed by governments and corporations and the **actual reality that communities** living in the shadow of mining operations find themselves.

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<sup>193</sup> IRIN, UN Office for the Coordination of Humanitarian Affairs, 2009

<sup>194</sup> De Beers, 2007, p. 88

<sup>195</sup> Marobela, 2007

Unless the ILO and the UN actively police the signatories of these hallowed documents and communities are informed and educated as to their content and implications they will remain meaningless.

### 9.3.8 Development of Human and Social Capital

De Beers' **Employee Human Rights Policy** requires there to be "no unfair discrimination in employment on the basis of race, colour, sex, religion, political opinion, gender orientation, national extraction or social origin". It also guarantees employees equal pay for work of equal value and requires the implementation of procedures to guide recruitment processes, allow employees to report any cases of unfair discrimination without fear of redress and ensure that service providers and diamond clients adhere to similar non-discrimination practices.

Adherence to the policy is subject to internal and external audit through the BPP Assurance Programme. No infringements of the policy were identified in 2007. The Family of Companies will further ensure designated groups have representation in decision-making positions that reasonably reflects the demographics of the country's economically active population.<sup>196</sup> De Beers also has a plan to achieve an employment equity target of 60% designated group participation in management levels by 2009.

The company claims that equity partnerships with local communities and governments are a critical part of the De Beers business model in Africa. This approach has played a key role in enabling a shared sense of responsibility and the ultimate success of their operations. All of their mining companies in Africa are part owned by either governments or empowered communities. Debswana is 50% owned by the Government of the Republic of Botswana (GRB). Namdeb is 50% owned by the Government of the Republic of Namibia (GRN).

Williamson Diamonds is 25% owned by the United Republic of Tanzania. This ensures producer countries receive additional dividends through their shareholdings. The GRB also owns a 15% stake in De Beers. In South Africa, the sale of a 26% equity interest in De Beers Consolidated Mines (DBCM) in 2006 to **Ponahalo Holdings** enabled De Beers to meet the ownership element of the Mining Charter significantly ahead of the legal requirement. The Charter requires 26% Historically Disadvantaged South African (HDSA) ownership of all extractive companies by 2014. Ponahalo Holdings is a broad-based Black Economic Empowerment (BEE) company that includes trusts for employees of De Beers, historically disadvantaged women, people with disabilities and communities around our DBCM mines. It is 90% owned by HDSAs and 50% owned by DBCM employees and pensioners, with at least 27% overall participation by women.

### 9.3.9 Occupational Health

De Beers maintains that the safety, well-being and development of employees and contractors is its top priority. They further view it as a core part of their commitment to uphold the fundamental human rights of their employees and comply with core labour standards.

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<sup>196</sup> De Beers, 2007, p. 74

De Beers is consequently determined to achieve and maintain the **highest standards of safety** at its operations. Levels of safety achieved are among the highest in the extractives sector. For them, the management of risks associated with diamond mining requires stringent adherence to codes of practice. It also requires a **workforce culture** that places sharp focus on safety, reinforced by the active participation of management, systematic training and stringent **internal and third party auditing**. Baseline, issue-based and continuous safety risk assessments are conducted at all of their mining operations.

Employees and contractors follow health and safety practices consistent with their Safety Policy and Occupational Health and Safety Advisory Service (OHSAS) 18001. They conduct regular health and safety audits to evaluate their performance and report outcomes to the De Beers Board via the Environment, Community, Health and Safety (ECoHS) Committee. The Safety Principal, Occupational Hygiene Principal and Chief Medical Officer also complete internal assessments on legal compliance, disaster management, noise and other control processes. Every worker is represented in joint committees and daily briefings with managers to monitor and advise on health and safety programmes.

De Beers' safety performance has improved significantly since 2004. This is partly due to the development of a Safety Peer Group and the progressive implementation of OHSAS 18001 and the Safety and Health Diamond Grading System. All three of De Beers' safety indicators improved from 2006 to 2007. Shifts lost decreased from 14 400 to 8 578 per 200 000 hours (40,4% reduction). LTIFR decreased from 0,19 to 0,18 per 200 000 hours (5,3% reduction). LTISR decreased from 37,89 to 22,53 per 200 000 hours (40,5% reduction). Monthly safety statistics for all operations are logged on a intranet and are available to all employees.<sup>197</sup>

The Family of Companies (De Beers) incurred one fatality in 2007, two fatalities in 2006 and two fatalities in 2005. Three fatalities have been recorded in 2008. In 2007, the Family of Companies developed a set of Fatal Risk Control Guidelines. These identify areas of high risk with a view to preventing future fatalities. They were based on the best practice of peers as well as an historical analysis of all fatal accidents since 1980.

Accidents were clustered into six categories: isolation, mobile equipment, the operation of light vehicles, working at heights, lifting equipment and guarding machinery. Accidents in these categories were found to account for over 90% of all fatalities over the last 27 years. Guidelines were then developed to manage the risks associated with this work. The guidelines provide insight into three key elements of risk avoidance and prevention.

De Beers respond to fatalities in the following manner: the causes and circumstances surrounding every fatality are thoroughly investigated and reviewed by a team of safety and other professionals. This includes the De Beers Board, Managing Director, the Operations Manager, Safety Principal, unions and ECoHS Committee. Remedial actions and recommendations are implemented for any fatality. These include amendments to physical equipment, procedures and communications to all employees. Lessons learned following fatalities are also shared with the South African Chamber of Mines, other mining houses and across the Family of Companies.<sup>198</sup>

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<sup>197</sup> De Beers, 2007, pp. 60-61

<sup>198</sup> De Beers, 2007, p. 61

Formal mechanisms for engaging and building employee awareness on safety issues include e-mails to safety professionals and mine employees, posters, other on site notices and formal safety meetings. All new employees, contractors and site visitors are required to attend a health and safety induction before being allowed on site. All employees are also involved in formal meetings at the workplace to discuss issues of concern and determine how they should be addressed. Issues left unresolved may be referred to the Safety Peer Group or ECoHS Committee for remedial action. Contractors adhere to the same standards and monitoring practices as their own employees.

The Safety Peer Group identified the need for a set of guidelines on contractor management. The guidelines will help ensure contractors are fully embedded into the workforce, which training records are checked and that background training includes fatal risk control. Future reporting will also present separate statistics for employees and contractors, in order to promote improved contractor performance and accountability.<sup>199</sup>

### **9.3.10 Policies on HIV/AIDS**

At the end of 2007, the De Beers Family of Companies employed about 19 000 people in Africa, mainly in Botswana, Namibia and South Africa. The exposure of these employees to HIV/AIDS is a real threat to their health, to their families, to the continuity of their business and to development in Africa. As a result, HIV/AIDS management in these countries is embedded into the workings of their business and is a key part of their business risk management process.

The De Beers Family of Companies claims to be committed to addressing HIV/AIDS in a positive, supportive and non-discriminatory manner that enhances engagement and wellness. This includes eliminating stigma. They aim to minimise the socio-economic and developmental consequences of HIV/AIDS through comprehensive workplace programmes that enables them to achieve their “vision of zeros”. Achieving this vision means finding the right balance between the management of prevention, care, treatment and support initiatives across the Family of Companies. Their HIV/AIDS Operating Committee met seven times in 2007. The committee is chaired by Jonathan Oppenheimer as a De Beers Board Director. It facilitates the coordination and communication of best practice across Botswana, Namibia, South Africa and Tanzania. Since its inception in August 2005, the HIV/AIDS Operating Committee has provided a forum for sharing country best practice and progress on their respective strategies of prevention, treatment and the extension of those initiatives found to be beneficial in the workplace into local communities. These three pillars of action are said to be the main focal areas in their response to managing the HIV/AIDS risk.<sup>200</sup>

De Beers reports that Global HIV/AIDS Policy applies to the entire Family of Companies. It is reviewed on a regular basis according to country and company requirements and best practice. De Beers asserts that the current policy was developed in consultation with employees, trade unions, local communities, government and Non-Governmental Organisations (NGOs). De Beers claims that its policy ensures there is no obligation on an existing or prospective employee to disclose his/her HIV status. No pre-employment testing or screening is undertaken and screening is not used in the

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<sup>199</sup> De Beers, 2007, p. 62

<sup>200</sup> De Beers, 2007, p. 68

determination of promotions or bursaries. Where an employee's HIV status becomes known, this knowledge is treated in the strictest confidence.

De Beers' experiences with a dedicated Anti-Retroviral Treatment (ART) programme in South Africa have identified the need for a closer alignment with healthcare service providers to enable a more integrated service and improved patient care. This includes holistic wellness ("stay well") programmes. The De Beers Disease Management Programme (DMP) provides employees with access to health programmes that address physical and psychological well-being. This includes wellness advice, access to physicians, Voluntary Counselling and Testing (VCT), prophylaxis, nutritional supplements and ART when clinically require.<sup>201</sup> Anti-retroviral treatment ART is available free to HIV infected employees and their spouse or life partners where it can be provided in a responsible and sustainable manner. This includes their South African operations and joint ventures in Botswana, Namibia and Tanzania.

**Debswana was the first company in the world to provide a DMP** outside of medical insurance. It also provides ART to the children of company employees. It is claimed by the company that employees are not removed from ART programmes if they retire or are retrenched. The ART programmes are externally coordinated by Aid for AIDS (AfA) via a network of accredited service providers. Key indicators enable us to understand more clearly how well our service providers perform in getting employees to adhere to the programme.<sup>202</sup>

***In 1998, Botswana's giant diamond firm Debswana became the first company in Africa to offer its workers free anti-retroviral drugs.***

*It was amongst workers at the diamond mines that the horrifying scale of the Aids pandemic in Botswana first started to become apparent. In some sectors of the workforce, up to 40% of staff were found to be HIV positive. Louis Nchindo, the firm's managing director, is blunt about the reason why his firm took action. "It's cost-effective. Economists warned us it would be more expensive to do nothing - if we didn't do anything it would cost us a lot more at the end," he explains.*

*At Orapa - the largest diamond mine in the world - 3,932 mineworkers and their families live in a purpose-built township adjacent to the mine. By building a hospital at the mine and giving workers free drugs, the company estimates it has prolonged 125 lives so far. And a high profile education campaign has led to the overall level of prevalence amongst its own workers falling from 27% in 1999 to 21% by 2003.*

***Medical apartheid'***

*Contract workers - which can make up to half of the workforce at any one time - were not given drugs by the company, in what the mine doctor describes as "medical apartheid". These workers now have access to drugs from the mine hospital following the government's decision in 2001 to pay for drugs for everyone, but their travelling lifestyle makes effective treatment very difficult. There are about 3,000 contract workers*

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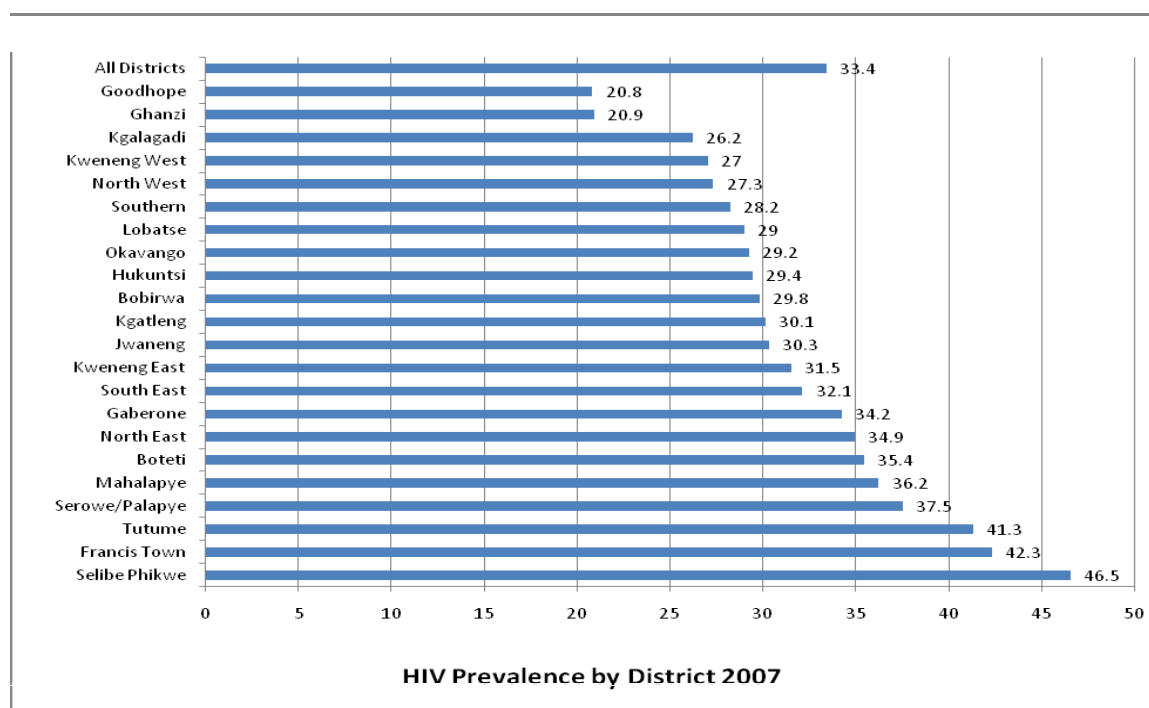
<sup>201</sup> De Beers, 2007, p. 69

<sup>202</sup> De Beers, 2007, p. 70

at Orapa, primarily doing work such as maintenance or new construction. The alarmingly high level of HIV infection of 40% prevalence has not fallen. These workers - who often have no family base and typically move from project to project - have fuelled the spread of the disease.<sup>203</sup>

However, the mining industry fails to accept a) that HIV/AIDS is an occupational disease; and b) that mining operations expose the members in surrounding communities to a higher risk of HIV infection.<sup>204</sup> The BBC news article shows that the early drug treatment regimes by Debswana in 1991 for HIV/Aids, contract workers were excluded from the benefits of treatment – resulting in a form of ‘medical apartheid’.

**Fig 9: HIV Prevalence by District 2007 (UNDP, 2008)**



**Fig 10: HIV Prevalence Debswana Mines and Surrounding Districts 2001 (Fantam, 23 September 2002)**

<sup>203</sup> BBC News. (2006, January 18).

<sup>204</sup> Cronje & Chenga, 2007

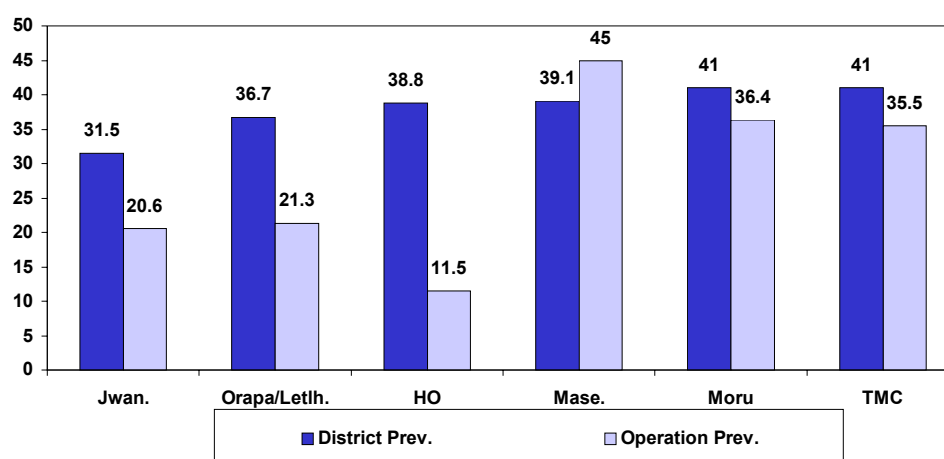


Figure 10 reflecting the situation in 2001 compares district HIV prevalence levels compared to those at the corporation's operational sites in the same districts. This graph shows a form of "spatial medical apartheid", where the employees of Debswana and their spouses are benefiting from the company's treatment regime but nearby communities, except for Jwaneng and Morulepule, where the company health facilities are actually located in the community and not in a closed company town. It also confirms the impact of mining and transport routes on the spread of HIV/AIDS.

It is critical to notice the extremely high level of HIV prevalence in Orapa (Boteti District) at that time 36.7%, this mirrors the situation in communities in proximity to mining towns in South Africa such as Rustenburg. The local population, largely unemployed and/or poor are attracted to major mining operations, sex work flourishes, alcohol and substance abuse becomes prevalent and HIV/Aids spreads. The highest HIV prevalence occurs in mining areas and along major transport routes serving mining areas. It is also interesting to note that despite Debswana's claim of intervening alongside government in communities in the proximity of its mines, the 2007 figures for Orapa (Boteti), and Jwaneng shows only marginal improvement from 2001.

In 2007 the prevalence for HIV in Gaborone had dropped to 34.2% perhaps showing the efficacy of the Government's intervention there.

What these statistics demonstrates is that Debswana's HIV/AIDS programmes are extremely effective when it comes to the treatment of their own employees and their spouses or 'lifelong partners'.<sup>205</sup> However, these programmes are far less effective when it comes to communities immediately surrounding their operations. ART interventions while being very effective in the treatment of employees in a controlled environment can be very problematic in terms of impact on surrounding communities. Mine workers on treatment experience an improving CD4 count, they believe that they are getting well, they become sexually active again involving multiple partners in surrounding communities thus sustaining high levels of prevalence in those communities.

Unemployment and poverty impacts particularly heavily on women in Botswana, where, it is argued that, the country's constitution is actually contributing to the subordinate position of women in

<sup>205</sup> Debswana, 2007, p. 40

the society.<sup>206</sup> The situation of women in the society makes them more vulnerable to HIV/AIDS. Helen Epstein argues that the prevalent conservative Christian morality of the country also contributes to community members in general and women in particular not admitting to being HIV positive.<sup>207</sup> She further demonstrates that despite the massive government intervention, and the reported programmes of Debswana the country, unlike Uganda, has failed to make a significant impact on HIV prevalence.<sup>208</sup> She argues that unlike Uganda, Botswana lacks real community based programmes.<sup>209</sup> Not only does her findings bring into question the glowing De Beers and Debswana reports, but it also demonstrates the negative implications of the prevalent paternalism of both the government and the corporation.

Most worrying is the current global economic downturn. Government revenue to sustain its HIV/AIDS treatment programme will come under serious stress due to Debswana cutting production. Massive retrenchments<sup>210</sup> at Debswana operations will force employees and their spouses currently on Debswana's treatment programmes to seek treatment from the government's programmes that will already be under stress from reduced revenue and therefore spending on the programme. The HIV/AIDS treatment programme in Botswana might suddenly no longer be sustainable.

### **9.3.11 Gender Equity**

A high premium has been placed on gender equity by Human Rights Commissions internationally as well as the International Labour Organisation.

Women constitute about 21% of the De Beers permanent workforce and about 19% of management roles. DBCM is required by the South African Mining Charter to ensure women make up a minimum of 10% of the technical related workforce by 2009. At the end of 2007 DBCM had achieved a workforce rate of 8,7% women in technical related positions and a management rate of 18%. Last year also saw significant progress in DBCM's transformation process.

Debswana's annual reviews for 2005 and 2007 are absolutely silent about issues of gender equity in the workplace. There is no reference to targets or even to policy in this regard. Noting the subordinate position of women in the context of broader society, it could be expected that Debswana should have set standards in this regard for broader society to follow, particularly in that women form such an integral part in the purchasing of diamond jewellery globally.

### **9.3.12 Child Labour, Forced Labour and the Freedom of Association of Workers**

No incidents of child labour were recorded in any of the De Beers operations in 2007. This has been third party verified through the BPP Assurance Programme. Their Employee Human Rights Policy prohibits any child under the age of 16 from being employed. It also requires that "no persons under

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<sup>206</sup> Allen J. v., 2007

<sup>207</sup> Epstein, 2007, p. 169

<sup>208</sup> Epstein, 2007, p. 169

<sup>209</sup> Epstein, 2007, p. 168

<sup>210</sup> Cropley, E. (2009)



the age of 18 will be employed in roles that may be hazardous to their health, well-being or safety, including any night work, underground work and work involving machinery.”

No incidents of forced or compulsory labour were recorded at the De Beers operations in 2007. This has been third party verified through the BPP Assurance Programme. All employees earn significantly more than the respective country’s minimum wage. The Employee Human Rights Policy recognises that “employees will not be subjected to forced labour” and acknowledges overtime being voluntary in accordance with the national permitted level.<sup>211</sup>

The De Beers Employee Human Rights Policy stipulates that employees and employers are **free to form associations** for the protection of their interests and to bargain collectively where the relevant thresholds of representivity are met. It is claimed that trade union and employee associations have a strong presence at most mining operations. Unions have also been invited to comment on a number of our human resources policies and are active participants in their health, safety and HIV/AIDS programmes. Loss of employment due to organisational change may occur as a result of restructuring or mine closure. In such circumstances, De Beers claims to consult extensively with employees and employee representatives before embarking on any retrenchments.<sup>212</sup>

### 9.3.13 Accusations of Workers’ Rights Violations

Debswana and BCL (an enterprise of global mining house LionOre) management attempted to subvert the Botswana Mine Workers Union (BMWU), by instigating a wildcat strike at BCL to get workers sacked, withholding union fees and starting a rival, ‘yellow’ (company-sponsored) union.<sup>213</sup>

De Beers was also accused of using dirty tricks against BMWU by trying to sponsor union dissidents in order to cause havoc in the BMWU. In 2005, **461 miners** were sacked; including the Botswana Mining Workers’ Union (BMWU) Chairman, Chimbidzani Chimidza, and General Secretary, Jack Tlhagale, for taking part in what the government deemed was an illegal 13 day strike in August-September 2004. After failing to get the union penalised for going on strike in 2005, Debswana management tried to intimidate the sacked BMWU leaders by summoning them to internal hearings. The 461 dismissed strikers lost their court application to be reinstated.<sup>214</sup>

### 9.3.14 Integrity, Transparency and Ethics

De Beers maintains that the specific emphasis of their activities to embed ethical standards differs for each part of the diamond value chain. In producer countries they focus on issues such as Kimberley Process certification, anti-corruption, human rights and security. They work with programmes like the Extractive Industries Transparency Initiative (EITI) to ensure transparency of flows of diamond revenues. In distribution and marketing activities, they work with organisations such as the Council for Responsible Jewellery Practices (CRJP) to drive high standards throughout

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<sup>211</sup> De Beers, 2007, p. 74

<sup>212</sup> De Beers, 2007

<sup>213</sup> ITUC CSI IGB, 2007

<sup>214</sup> Regonamanye, 2008

the diamond industry on issues like good governance, labour standards and anti-money laundering. They also report to actively support ethical initiatives that materially impact the entire diamond value chain. This includes the Kimberley Process, which has helped ensure the conflict-free status of about 99, 8% of world rough diamond production.<sup>215</sup>

These lofty intentions are contrasted with Debswana's Ethics Hotline which frankly calls on employees to spy on each other in a manner reminiscent of East European countries at the height of the Cold War. In the publicity material for the hotline Debswana calls on employees not to "Support it. Report it!" Employees are called on to report:

- "Any wrong doing" such as theft, fraud, and crime syndicate activities.
- "Not obeying company policies or procedures" such as overriding controls, disclosing confidential information to outside parties (which includes as reported publishing information about wages and salaries).
- "Theft of time" such as playing computer games in company time, exaggerations or incorrect information on timesheets, extended lunches, prolonged personal calls.<sup>216</sup>

Further evidence of this secretive paranoia is demonstrated by the discovery of surveillance cameras in toilets<sup>217</sup> at Orapa, which constitutes a clear violation of human rights, particularly the right to privacy.<sup>218</sup> Even more Orwellian is the airborne security camera attached to a balloon.<sup>219</sup>

As far as honesty and integrity is concerned the matter of the corruption case of Representative William J. Jefferson demonstrates. While Mr Jefferson came to Botswana to promote the private interests of the former Managing Director of Debswana and his own, the fact is that Mr Jefferson withdrew his sponsorship for the Clean Diamonds Act, which would have had an impact on Botswana.<sup>220</sup>

**To conclude the social dimension: although most of the policy statements of the companies under review regarding the critical social issues are faultlessly formulated, the situation on the ground and from the perspective of communities does not always match the claims in the reports.**

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<sup>215</sup> De Beers, 2007:44

<sup>216</sup> Debswana, 2007 , p. 45

<sup>217</sup> Sunday Standard Reporter, 2006

<sup>218</sup> Sunday Standard Reporter, 2007

<sup>219</sup> Sunday Standard Reporter, 2007

<sup>220</sup> Grabtree, 2002

## 10. RECOMMENDATIONS

The following section deals with recommendations aimed at improving mining companies' corporate social responsibilities and creating sustainable development in the region.

The research has been strongly focused on the negative perceptions of informants and community members interviewed, which is understandable as it is mainly based on the perceptions of communities who have been disadvantaged and feel that they have been exploited for the last few decades in the area. This is the reality for these communities and it is impossible to address these perceptions if the mines do not know what exactly these perceptions and expectations entail. The rights of local communities to determine their own futures – not to have it decided for them by corporations, are extremely important.<sup>221</sup> On the other hand, the researchers tried their best in the compiling of the report to objectively, but critically analyse the CSR policies of the companies – from personal interviews, the questionnaire for management and then of course by making a thorough study of the annual and sustainability reports of companies. In doing so, the research team hopes that the report will be received as objective, scientific and balanced.

When making recommendations, it is also advantageous to focus on the positives that each role player can bring to the relationship. The negatives are important for understanding what the communities have been going through – occasionally as a result of their own actions, but more often as a result of those of other role players (e.g. government and mining companies) - and can be used as a lesson that must not be repeated. On the other hand, if the negatives are not managed well, they can leave the role players accused of exploitation, feeling vulnerable and force them to make quick, dramatic responses and decisions, which can be detrimental to the entire process of achieving sustainable development.

The research results of this study showed vast differences between viewpoints, expectations, perceptions and needs of the different role-players and stakeholders. The only way to start an alignment process between community expectations and the mines' own expectations and perceived responsibilities within their neighbouring communities, is to embark on a community engagement process, not necessarily funded by the corporation and therefore truly independent with the aim of mutual understanding and improved community relations.

Like most SADC countries Botswana lacks civil regulation organisations in the mining. The Bench Marks Foundation, an associate organisation of the South African Council of Churches, represents one of the first attempts in the region to give civil society a voice on issues that relate to the impact of mining on communities and the environment. **It is to be hoped that Debswana and the Botswana government accept this research initiative in a good and serious spirit and that the Botswana Christian Council will attempt to replicate it by creating a similar monitoring structure in that country.**

Against the background and context sketched above, the following are some of the **specific recommendations**:

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<sup>221</sup> Also see Viviers & Boudler

- Mining companies and governments in the SADC area must work towards achieving the *Principles, Criteria and Bench Marks* of CSR, as laid down in the Bench Marks framework “*Principles for Global Corporate Responsibility: Bench Marks for measuring Business Performance*”<sup>222</sup> - in dealing with the impact of mining on communities, the environment and on labour. The *Bench Marks* tool extensively covers CSR issues on economic, environmental and social facets in the industry and is definitely a ‘clear mirror’ for sound and sustainable CSR practices. It is also based on international standards, protocols and agreements.
- There are serious concerns about the legislative environments within which mining corporations operate, not only in Botswana but also throughout SADC. The researchers already (in previous research) recommended that legislation be standardised throughout the SADC region so as to avoid some countries or areas, including Botswana, becoming ‘pollution havens’ for unscrupulous mining corporations; in the divide and rule rush for mineral investments some African countries may fall prey to abuse and exploitation. The polluter pays principle should be more strictly enforced, while shifting or externalising the costs to poor, disempowered communities should not be tolerated.
- The following **standardising and reporting initiatives** must be adhered to, namely Global Reporting Initiative (GRI), Social Accountability 8000, Extractive Industry Transparency Initiative, Publish What You Pay and the Fair Labour Association (FLA). These initiatives share the following<sup>223</sup>:
  - b. Multi-stakeholder approach
  - c. Specific focus/reference to human rights and labour rights
  - d. Requirement that companies measure and/or report against indicators
  - e. Global focus
  - f. Transparency
- While reporting and monitoring initiatives are crucial, the greater involvement of civil society and independent civil society organisations in monitoring and corporate regulation is critical. It is noted that De Beers already subscribes to Transparency International, but the recommendation is for active adherence rather than passive subscription.
- The so-called **precautionary principle** must be interpreted by mining companies in Botswana along the following common lines:<sup>224</sup>
  - Uncertainty is unavoidable in sustainability issues
  - Uncertainty over the severity of environmental impacts resulting from a development decision or a current human activity should not be an excuse to avoid or delay environmental protection measures
  - Companies should anticipate and prevent environmental damage rather than simply react after it has occurred

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<sup>222</sup> 2003 Edition

<sup>223</sup> see Cramer & Rambaldo, 2001:11

<sup>224</sup> see Middleton, 2003:41

- The burden of proof should shift from the victim to the developer, so that those proposing an action must show that it will not harm the environment or that whatever practical measures available for preventing damage will be taken
- Companies should have a clear understanding of the **policy context for regulatory approaches regarding the environment**. A useful typology for classifying the various environmental policy instruments, include:<sup>225</sup>
  - Directive-based regulation: which refers to the traditional use of government regulations whereby a public authority sets standards, monitors and enforces compliance to these standards and punishes transgressions.
  - Market-based instruments (MBIs): act as *incentives* for the development of more cost-effective pollution control technologies and they provide greater *flexibility* in the choice of technology or prevention strategy, thus being more cost-effective in achieving agreed levels of pollution.
  - Self-regulation and co-regulatory policy instruments: seek to change corporate behaviour through information and incentive-based mechanisms. A common feature of these approaches is their tendency to induce improved environmental management through systems of self-discipline, thereby making use of the entrepreneurial spirit to drive environmental innovation while at the same time reducing a dependency on limited government resources.
  - Information-based instruments: these include measures taken to enhance awareness on environmental issues, such as technical assistance programmes, advertising, eco-labelling, performance reporting, group empowerment programmes and small business incentive schemes.
  - Civil regulation: In addition to the points in the previous bullets, Debswana and the Botswana government should strengthen rather than weaken civil society by considering NGO critiques rather than seeking to stifle the civil society. They should consider that there is a global trend towards civil regulation (Dell & Murphy, 2002). Where there is a degree of cooperation between Debswana, the Botswana government and NGOs, this often takes the form of cooption of the NGOs involved. An example is BOCONGO's former head who is now in charge of Debswana's CSI portfolio. **The independence of NGOs and civil society structures should at all times be maintained and respected.**
- Communities are characterised by **high cash dependency** with little informal activities relating to extra income earning projects. Consequently, the levels of poverty are dependent on the employment status of the community members. **Continuous sustainable projects** – primarily initiated by the mining companies as well as government - that will generate local employment are thus crucial; also with the possibility of **future mine closure** in mind. Projects should address not only the **needs of communities**, like proper sewage and access to water and electricity, but also deal with the **impact of mining on communities' environment, health, safety, security and economic well-being**. The fact that communities in close proximity to

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<sup>225</sup> Hanks, 2002

Debswana operations still use pit latrines is a matter of concern. It is also important that **projects should be interlinked** rather than “bits and pieces” and loose standing; integrated projects will enhance sustainability in the area.

- Community projects require **creative marketing strategies** and **comprehensive business plans**. The mining companies can assist and guide communities in this regard; project consultants can also be used.
- Mining companies’ **cost accounting** must include the environment, economic and social costs of the communities.
- The research highlighted **infrastructure** (especially roads, housing and sewage) as one of the major priorities. A good working relationship and partnership between all parties (the mining companies, national and local government, NGOs and communities) are crucial to resolving the infrastructure issue.
- **Mine management plus key employees require training** with regard to community engagement, communication and dealing with communities at different levels. A strategic alignment process is needed to align employees, especially those on middle management level with company values as expressed in the policy documents of the mine. In order to achieve this, the mine could make use of training and research institutions such as universities, or business consultancies, which can assist with this long-term process.
- The SADC governments must develop the capacity to have **control of mineral resources in processing, manufacturing and marketing** the minerals that are currently being undertaken beyond national borders.
- To operate within the **current economic and political mining climate** in South Africa and globally, the diamond mining companies’ **CSI/CSR practices** in Botswana should definitely:
  - a. Be closer aligned with core business;
  - b. Be proactive in nature – in meeting people’s needs and aspirations;
  - c. Comply with requirements of Charters and other Industry Codes;
  - d. Put formula-based CSI budgets in line with Charters and Industry Codes;
  - e. Come up with new and refined CSI strategies with defined benefits for the business;
  - f. Integrate CSI thinking throughout the business;
  - g. Have specialist staff to manage formalised CSI programmes;
  - h. Make wide use of EVPs (Employee Volunteer Programmes) to mobilise employment involvement;
  - i. Form long-term working partnerships with NPO (Non-Profit Organisation) service providers and other partners;
  - j. Put social investment, rather than grant making to the fore, with emphasis on development returns;
  - k. Measure CSI results against output-based objectives and CSI indicators;
  - l. Externally verify CSI results; and,
  - m. Increase communication about CSI and formal reporting;

- n. Constantly do community needs analysis involving trade unions, NGOs, community based organisations (CBOs), and Churches. These exercises should be structured as comprehensive top down and bottom up approaches.
- In addition to the above points the Bench Marks Foundation recommends that CSI interventions address the social, economic and environmental impacts in a developmental way that leads to job creation and sustainable development in the impacted communities.<sup>226</sup>
- **Company policies and contracts must not override national legislation.** The “inappropriate marriage” between the government and De Beers makes this obviously a very “grey” area in Botswana. Legislation must also provide fitting (effective and severe enough) **punitive directives** for non-compliance.
- **Development projects should focus on employment creation as a priority in order to set the foundation for community members to set up income generating projects.**
- Companies should also do more in the area of **CSR reporting**. Although De Beers must be complimented with their thorough way of reporting, the company must aim at **regularly disclosing** issues relating to sustainability, CSR strategies (including projects) and policies in a **uniform and truthful manner**. This will not only help companies in gaining and maintaining their **Social License to Operate (SLO)** and improve on their corporate image (e.g. community perceptions), but it will also form part of bridging the ‘gap’ in communication that is currently in existence between companies and their stakeholders.

### Recommendations to Debswana and Mining Companies

- **Mining corporations** generally, including De Beers and Debswana should **stop seeking out the politically influential in society for cooption**. This is a phenomenon that is occurring with increasing frequency in SADC. This practice leads to the pollution of the political domain and has nepotism and corruption as a consequence.
- Mining corporations such as De Beers and Debswana should attempt to conduct themselves at **standards set at the level of best global practice** and not be content to merely work within the local legislative environment as the benchmark. Where labour legislation in Botswana is extremely restrictive of workers’ rights, De Beers and Debswana should apply **labour standards at a level equal to the best in the world**. The treatment of workers after the 2004 strike portrays an image of a corporation that is petty at best. Where communities see the **government as an extension of Debswana and De Beers as the partner in a marriage of inconvenience, the labour force sees government as the iron fist or repressive apparatus of the corporation**. This is not a sound state of affairs for a good democracy.
- Debswana’s **secrecy around wages and salaries** is puzzling, noting the global movement to ‘publish what you pay’<sup>227</sup> and given the fact that this is a requirement by law in South

<sup>226</sup> Policy Gap 1 - a review of the Platinum Mining Industry in the North West Province.

<sup>227</sup> (Utting, 2002)

Africa; one wonders why this principle - which De Beers adheres to in South Africa - cannot be applied in Botswana.

- De Beers and Debswana should be in the forefront of those insisting on **better rights for communities, women, minorities and labour**. If these corporations fail to do so they will be considered to be complicit by the public.
- De Beers and Debswana should be commended for their role in the Kimberly Process there is however still **need for a truth commission in the global diamond industry** so as to once and for all overcome the secrecy and suspicion associated with the diamond trade.

## Recommendations to Government

- **Government should take a lead role** in the sustainable development of mining communities and social responsibilities in communities; a role that has been seriously forsaken and neglected up to now. In market economies where mining is a privately driven activity, the state must assume a strong and independent regulatory role. **In Botswana where government is a 50% shareholder in Debswana, its independence is clouded by its involvement.** There is a strong perception that the **Botswana government is the tool of De Beers** rather than being an impartial arbiter in issues relating to the impact of mining on society, communities and the environment.
- There is also a great need to **rationalise roles and responsibilities** in the Botswana government. Lumping together Minerals, Energy and Water Affairs under a single Ministry, for example is extremely problematic. The mandate of a minerals department is to promote mining, which has a significant impact on water. A department of water's mandate is not only to control and regulate the water supply, but to ensure the security of water in a water scarce country. Creating a separate Ministry of Water Affairs (or tying it up with Environment and Conservation) would be preferable.
- The government together with other stakeholders in the mining communities (e.g. mining companies, community forums and groups, trade unions and NGOs) should set up **strategies for effective community engagement** as an important part of the sustainable development process of CSR and sustainable development. **Clear communication channels and transparent actions** at all levels are essential in this regard. **The secrecy in which the diamond industry is couched globally is highly problematic**, and unless this matter is dealt with properly, questions about what is going on within it, will remain.
- The government and other stakeholders should **establish one vision for corporate social responsibility and sustainable development** in Botswana; this vision should be developed **in line with local, regional and national developmental priorities** of the country.
- The government as well as SADC structure should undertake research into **good CSR practice in SADC and international approaches to CSR and sustainable development in mining communities**. The research findings should be used to make informed directives in setting up legislation on CSR and sustainable development for Botswana.



- **Welfare legislation** must take into account that community members are burdened with obligations to support other community members suffering with HIV/AIDS and TB. **Tax incentives** for employees must support this state of affairs.
- Legislation must have identified **monitoring agencies (including NGOs and CBOs)** and targets embedded within it. Capacity of monitoring agencies must be effective and targets must be realistic.
- **Prospecting and mining minerals**, including diamonds in **national parks and conservation areas**, including in parks, is simply **unethical**. **Strict legislation** must be in place in this regard and **enforced by Government**. The threat posed to the **Central Kalahari Game Reserve (CKGR)** by prospecting, and the potential threats to the Okavango Delta are matters of serious international concern.
- **The Botswana government should respect its judiciary and the judgements of the courts of Botswana with regard to the “Basarwa” communities in the CKGR.** In December 2006 in a high court ruling Judge Mpaphi Phumaphi said the treatment of the remaining Basarwa in the Game Reserve amounted to 'death by starvation' as they were prohibited from hunting, or receiving food rations.<sup>228</sup>
- **The Botswana government should not use the awarding of mining licenses to deprive communities who might object to the awarding of such licenses of their human rights**, nor should it make the awarding of such licenses conditional on mining companies depriving communities of access to services and basic needs such as water.
- Botswana being a water stressed country needs to give serious concern to the **impact of mining on its water resources**. It needs to carefully consider how the current rapid expansion of mining in the country will impact on water and environmental security.
- Botswana needs to create a **development path that will rapidly reduce its dependency on mining** which sector is unsustainable in the long term. The country needs to accept that high economic growth rates that do not reverse the poverty gap but increases it instead, are not sustainable. The weakness of this dependency model is starkly illustrated by the impact of the current global economic crisis on Botswana.

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<sup>228</sup>(UNHCR, 2008

## 11. CONCLUSION

In a regulatory sense, it seems that the mining sector in Botswana in general and diamond mining in particular, is embedded in an unfolding legislative environment in which the primacy of the mining industry is often in conflict with environmental and community concerns. There is much room for clarifying legislation as far as CSR concerns go. There is also need to separate the powers of the state and the interests of the mining sector, to separate specific and conflicting powers within ministries, and finally to separate the interests of the ruling party in Botswana from that of the defence force and that of the mining sector.

The implementation and monitoring of these policies also seem to be problematic. As a result, **serious environmental and social problems** exist throughout the region. For the industry to become sustainable in the long term, it needs to obtain the support, participation and perhaps shareholding of the communities in which it operates.

The sudden collapse of the global commodity market in resources, including diamonds has once more exposed the vulnerability of Botswana due to its dependence on a single commodity, diamonds. Resource projections referred to would suggest that Botswana will run out of diamonds by 2029, hopefully the country will learn the absolute need to diversify economically from its current experience.

Sound relationships and cooperation between the different stakeholders (mining companies, civil society, government and communities) are essential for the sustainability not only of the mining sector in Botswana, but for the very future of the country, where human rights are increasingly taking second place to profitability whilst corporate social responsibility remains a part of a glossy global corporate annual report with little bearing to the reality on the ground. The decline of the industry in this area means that it receives little mention in such global reports.

The Botswana government's 'marriage' to the leading diamond mining corporation in practice creates the perception that that the mining corporation has carte blanche as far as community and human rights, the environment and mining is concerned.

The implications are that CSR-driven development is rendered ineffective unless the **national government** take the necessary steps to assert its own independence and responsibility not just to the major corporate citizen, but to the people of Botswana as a whole. Government must take into account that, in a democratic nation, it has the role to protect the rights of those who elect it rather than sacrifice their human rights for the sake of corporate investment.

The fact of the matter is that, when this 'business' relates to the extraction of minerals that are supposed to belong to all the people of a given country and because mining has so many impacts on all levels of society, the companies' core business should at the very least be '**responsible mining**'.

Currently, this (responsible mining) is not happening in Botswana, as is evident from the results that were obtained from the measure of CSR practises against the '*Bench Marks Tool*' and community perceptions about the industry.

It is important to state that there are extreme social problems in the communities and the perception in the communities is that many of the problems are caused by the mines and their operations, as well as by government's complicit participation in all of this. Therefore the solutions,

according to the communities and respondents, are the corporate social responsibility of the mines, but also the responsibility of government entities.

Although there is a strong sense of dependency in the communities, it is important to note that there are people within the communities looking to move away from this dependency on the mines. However, in order to do so they acknowledge that they need some initial support. Also important to note is the role of government as a development partner. The vast differences between perceptions and expectations of the communities as opposed to the companies, mean that this study represents the start of a long-term process; in this process **the aligning of the actions and expectations of all relevant role-players** in the quest for sustainable development in the mining companies' neighbouring communities must be a priority.

Finally, the study can form the basis of **an annual monitoring** study to monitor progress and identify additional stumbling blocks on the road to improved community relations.

Engaging with communities affected by mining means going **beyond paternalism** and the approach that says government and the corporation will do things 'for' communities, instead they should do things 'with' communities and admit areas in which they are failing.

Although **Corporate Social Investment** (CSI) is often the starting point of companies' involvement, companies must also move on to the natural second step of **Corporate Social Responsibility** (CSR) igniting a conscious awareness that a business should build a strong public reputation for social responsibility **inwardly** (workforce practices) and **outwardly** (treatment of and respect for customers, stakeholders and the environment).

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## APPENDIX A



### **Bench Marks Foundation of Southern Africa for Corporate Social Responsibility**

8<sup>th</sup> Floor Khotso House,  
62 Marshall Street, Marshalltown, 2001  
P O Box 62538, Marshalltown, 2107  
Tel: 011 832-1743/2 Tel/Fax: 011 832-1750  
E-mail: [bench-marks@mail.ngo.za](mailto:bench-marks@mail.ngo.za) or [jcapel@eject.co.za](mailto:jcapel@eject.co.za)

18 November 2008

Dear Sir/Madam

#### **RE: Survey of mining corporate social responsibility programmes in the Southern Africa Development Community (SADC)**

The Bench Marks Foundation, a non-governmental organization, set up by the churches to monitor corporate social responsibility programmes is targeting your mining operations in the Botswana and requests that you respond to the attached questionnaire.

The Bench Marks Foundation sets out to examine the gap between policy and practice and further to make concrete recommendations on how mining corporations can improve their social and economic performance.

Our aim is to ensure that corporations operating in South Africa and beyond our borders contribute meaningfully to development, poverty alleviation and empowerment of people and communities.

We base our studies on the '*Principles for Measuring Global Corporate Responsibility*' '*Benchmarks for Measuring Business Performance*'<sup>229</sup> (*Bench Marks*). This is an internationally agreed document that goes beyond reporting requirements and has been tried and tested and is used by our partners in New York, London, Hong Kong, Sydney, Canada and in Columbia.

We request your participation in our study of which the results will be published in June 2009. Once we have compiled information on your operations we will give you a chance to reply.

We thank you for your kind cooperation in completing the Questionnaire, which follows.

Yours truly,

John Capel  
Chief Executive  
Bench Marks Foundation

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<sup>229</sup> [www.bench-marks.org](http://www.bench-marks.org)

## CORPORATE SOCIAL RESPONSIBILITY (CSR) ASSESSMENT TOOL

### *For the Southern African mining sector*

This questionnaire consists of 110 short items (section B & C), as well as 3 longer questions (section D) that will require you to give an opinion of the mining company's overall CSR performance. The questions are based on the Bench Marks Principles for Global Corporate Responsibility (2003) by the Bench Marks Foundation, as well as existing CSR questionnaires (e.g. WBCSD Self-assessment questionnaire, 2000; Copperbelt University CSR questionnaire, 2006).

#### RELEVANT DEFINITIONS

**Corporate Social Responsibility:** *is the responsibility of an organisation for the impacts of its decisions and activities on society and the environment through transparent and ethical behaviour that: is consistent with sustainable development and the welfare of society; takes into account the expectations of stakeholders; is in compliance with applicable law; and is consistent with international norms of behaviour that are integrated throughout the organisation (Working definition, ISO 26000 Working Group on Social Responsibility, Sydney, February 2007).*

**Sustainable development:** *is development, which meets the needs of the present without compromising the ability of future generations to meet their own needs. Three dimensions of sustainable development have been identified as economic, social and environmental (World Commission on Environment and Development, "Our Common Future", 1987).*

**Stakeholders:** *are people or institutions that are affected, or might be affected, by an organisation's activities. Likewise, stakeholders can, in return, affect the activities of that organisation (WBCSD). One should also realise that there are others with a burning interest in mining company activities who may not seem to be actually affected by the company's actions but who should also be included in the stakeholder grouping. This could mean Non-Government Organisations (NGOs) who are not even present in the country where the mining is taking place and who seem to have no tangible connection to the operation or its activities (MMSD, 2002).*

**Mining communities:** *"...where the population is significantly affected by a nearby mining operation. The community may be associated with the mining venture through direct employment or through environmental, social, economic or other impacts. The community can range in size from a city to a village..." (Veiga et al.2001).*

## SECTION A: BIOGRAPHIC INFORMATION

Name: \_\_\_\_\_

Gender: \_\_\_\_\_

Country of origin: \_\_\_\_\_

Name of company: \_\_\_\_\_

Year of company incorporation/takeover: \_\_\_\_\_

How long have you been with the company? \_\_\_\_\_

Position in company: \_\_\_\_\_

How long have you been working in the mining environment in South Africa? \_\_\_\_\_

Who are the company's shareholders/owners? \_\_\_\_\_

What does the company mine? \_\_\_\_\_

What percentage of the company's annual turnover is spent on Corporate Social Responsibility (CSR)?  
\_\_\_\_\_

Please give a brief description of your job:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Has there ever been any other CSR research conducted in the company? \_\_\_\_\_

If "YES" When and by who? \_\_\_\_\_

What were the major findings of their research?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DIRECTIONS (for section B and C): Below are 110 **statements** with which you may **agree or disagree**. Using the 1-5 scale below, indicate your opinion of each item by marking with a **X** the appropriate number in the chosen block following that item. Please be open and honest in your responding.

**1 = Strongly Disagree** (If you believe the statement almost never applies to the company)

**2 = Disagree** (If you believe the statement does not really apply to the company)

**3 = neither Agree or Disagree** (Not sure if the statement applies or not)

**4 = Agree** (The statement applies to the company in some degree)

**5 = Strongly Agree** (The statement is highly applicable to the company)

## **SECTION B: CORPORATE SOCIAL RESPONSIBILITY POLICY**

### **IN GENERAL**

The company has identified its stakeholder groups, including civil society and NGO's and community interest groups

1. The mining company has a written vision that includes certain corporate values, which is available to the public.
2. The company has a documented commitment to Corporate Social Responsibility (CSR) in a formulated CSR policy (guiding principles that inform and guide the implementation of the CSR strategy).
3. The CSR policy is available to the general public (e.g. published in different media sources or on the Internet, etc.)
4. This policy is also available to the local communities in a manner that is accessible to them (e.g. their own language).
5. Formal reports of the company's CSR performance are subject to external, independent verification.

THE FOLLOWING **INDICATORS/PRINCIPLES** ARE GUIDING AND SUPPORTING THE COMPANY'S CSR STRATEGY WITH REGARD TO THE **WIDER COMMUNITY**:

### **COMMUNITY HEALTH**

6. The company views health in holistic terms of well-being of body, mind and spirit; and not merely as the absence of sickness or disease.
7. The company realises its impact on the physical health of its communities as it adopts all relevant internationally recognised health standards.
8. The company is also realises its impact on the mental health of its communities by adopting its own set of policies to minimise negative effects.

### **COMMUNITY SAFETY**

9. The company adopts a policy that aims to uphold the safety of its surrounding communities.
10. The company continually seeks to improve on its own safety standards and regulations that apply to its surrounding communities.

### **SUSTAINABLE DEVELOPMENT**

### **Environment dimension**

11. The company adopts high standards for protecting the ecosystem.
12. Central CSR issues that receive attention in these standards include: climate change, biodiversity and pollution prevention.
13. The company is in full compliance with all international, national and sub national environmental regulations.

### **Social dimension**

14. The company affirms the central importance of sustainable development of communities, in the present and the future.
15. The company develops specific indicators (such as on local employment, natural resources, health, infrastructure, preservation of cultural values) to measure how it contributes to community sustainability.
16. The company evaluates its mining operations in the light of community sustainability.

### **Economic dimension**

17. The company recognises its economic impact on local communities especially where it is the principal employer.
18. The company seeks to develop long-term business relationships in local communities and does not terminate its operations without assessing the long-term environmental, social, cultural and economic sustainability impacts on the local community.
19. The company aspires to integrating the interests of all stakeholders with that of its own business goals (e.g. by supporting local suppliers, markets and manufacturers).

### **HUMAN RIGHTS**

20. The company adopts a comprehensive and verifiable human rights policy, which include an explicit commitment to the Universal Declaration of Human Rights and the International Labour Organisation's standards.
21. An active human rights committee with a designated person has been established and reports to the Board of Directors.
22. The company links executive compensation to social as well as financial performance, including the company's efforts to secure basic human rights within its operations.

### **INDIGENOUS & LOCAL COMMUNITIES**

23. The company is committed to respecting fully the rights of indigenous peoples as they are recognised by the appropriate jurisdictions and laws.
24. The company respects the bio-cultural integrity of indigenous peoples, their lands and traditions.

25. The company strives to contribute to the long-term environmental, social, cultural, and economic sustainability of the indigenous peoples, nations or communities in which it operates.

## **RESOURCE EXTRACTION**

26. The company ensures that its policies in regard to resource extraction do not contravene local laws and regulations.
27. The company has a plant closure policy, which provides transitional arrangements for employees.

THE FOLLOWING **INDICATORS/PRINCIPLES** ARE GUIDING AND SUPPORTING THE CSR STRATEGY WITH REGARD TO THE **CORPORATE BUSINESS COMMUNITY**:

## **LABOUR RELATIONS**

28. The company has a global standard governing its employment practices and industrial relations, which includes: genuine respect for employees' right to freedom of association, labour organisation, free collective bargaining; non-discrimination in employment; no violation of the rights of children.
29. The company values all its employees in terms of their social, intellectual, economic and personal contribution to the company in every sector of its operations

## **HUMAN RESOURCE MANAGEMENT**

### **Women in the Workforce**

30. The company values women as a vital group of employees who have a significant contribution to make to the work of all companies;
31. The company has in place effective and appropriate policies and statements of equality of opportunity for women in the workforce, which are monitored and maintained throughout all levels of employment.

### **Minority Groups**

32. The company has an employment policy, which enables people from 'minority' groups (e.g. migrant workers) to be recruited to the company, to achieve progression in employment in the company and to receive training and promotional opportunities without discrimination.
33. The company has a policy that its work force reflects the racial/ethnic origin and cultural composition of the local population at all levels.

### **Persons with Disabilities**

34. The company values persons with physical, sensory and/or mental disabilities as full participants in the company workforce.

The company has a policy of employing people with disabilities and of providing the resources and facilities, which enable them to achieve progression in employment in the company and to receive training and promotional opportunities without discrimination.

### **Child Labour**

35. The company guarantees that neither it nor its contractors employ children as defined by ILO standards and the International Convention on the Rights of the Child.
36. The company has a precise statement regarding the employment of children and young people. This policy is publicly available throughout the company and its suppliers in the languages of any and all workers and it is clearly communicated to all employees in a manner, which can easily be understood by them.

### **Forced Labour**

37. The company has a clearly stated policy in regard to the monitoring of the employment of people under duress.
38. The company adheres to global regulations concerning forced labour (e.g. International Labour Organisation Convention on Forced Labour).

### **HEALTH**

39. The company subscribes to the principle that every worker has the right of access to health care, including accessible and affordable therapies and medicines.
40. The company adopts specific policies to ensure that the workplace is free from toxic substances and all kinds of risks; is properly ventilated and appropriate, free, protective equipment and hygienic bathrooms and changing rooms for workers, especially for women and young workers are provided.
41. The company adopts a policy of non-discrimination and commits to programs to overcome discrimination and stigmatization of employees with HIV / AIDS.

### **SAFETY**

42. The company has clear communication policies on occupational safety through a variety of means, including a clear checklist and a worker-friendly handbook.
43. The company ensures that workers can elect representatives through democratic processes to a mine Safety Committee. They have rights to



have regular monitoring of the mine, to have full access to all the information related to the occupational safety issues, and they will not be penalised when they assume these duties.

44. The company accepts independent monitoring by civil society groups and qualified inspectors and provides access for the inspection of plant facilities.

#### **FINANCIAL INTEGRITY**

45. The company insists on honesty and integrity in all aspects of its business, wherever business is conducted.
46. The company is committed to transparency in all its accounting and financial reporting statements and communications with shareholders.

#### **CORPORATE GOVERNANCE & ETHICS**

47. The company's governance structure is based on ethical values, including inclusivity, integrity, honesty, justice and transparency.
48. The company's corporate governance policies balance the interests of managers, employees, shareholders and other company stakeholders.

## **SECTION C: CORPORATE SOCIAL RESPONSIBILITY PRACTICE**

### **IN GENERAL**

- 49. The company's vision and the corporate values were prepared in consultation with stakeholders.
- 50. These values have also been communicated to the public.
- 51. The company's strategy for implementing CSR was formulated in consultation with stakeholder groups.
- 52. Relevant management have specific responsibilities for implementing the CSR strategy.
- 53. Targets and time scales for CSR implementation have also been identified and set in consultation with stakeholder groups.
- 54. Progress in implementing CSR is continually being communicated to employees, the public and stakeholder groups (i.e. CSR reporting).

THE FOLLOWING **PRACTICES** DRIVE THE COMPANY'S CSR STRATEGY WITH REGARD TO THE **WIDER COMMUNITY**:

### **COMMUNITY HEALTH**

- 55. The company takes all the necessary steps to ensure that it does not negatively impact on the physical health of the surrounding communities (e.g. through pollution prevention, etc.)
- 56. The company takes all reasonable steps to ensure that it does not negatively impact on the mental health of the surrounding communities.
- 57. The company provides care for the physical health of its surrounding communities (e.g. medical care in clinics; but also respecting any traditional medicine/practices).
- 58. The company provides care for the mental health of its surrounding communities (e.g. counselling and intervention programs).

### **COMMUNITY SAFETY**

- 59. The company takes all necessary precautions (e.g. fencing off open pits) to ensure the safety of the communities living around the mining areas.
- 60. The company also ensures that appropriate measures are taken to redress injuries to persons harmed as the result of the environmental hazards created by the company.

### **SUSTAINABLE DEVELOPMENT**

### **Environment dimension**

- 61. The company continually seeks to improve on its performance of protecting the environment.
- 62. Where environmental degradation has occurred, every effort is made to reduce its impact immediately, to supply technical data to those working on the containment and to repair and restore the damaged ecosystem.
- 63. The company has sound practices and procedures to prevent pollution and reduce resource and energy use in each stage of production.

### **Social dimension**

- 64. The company reports in oral and written form on its community impact, in a manner that is accessible to local communities in the local language.
- 65. The company implements social development programs in its communities.
- 66. The company established a consultative structure, including a senior director and representatives of stakeholders identified by local communities, society and its own workforce, which meets on a regular basis and at an accessible location, to discuss the company's business goals in relation to community needs, including social and environmental concerns.

### **Economic dimension**

- 67. Natural resources (e.g. minerals), which become an asset to the company are stated as a debt to the community, which the company addresses in a mutually agreed negotiation with the community.
- 68. The company communicates its business plans in a way that the local and/or indigenous community can understand.
- 69. The company negotiates a just and equitable economic settlement with the indigenous communities involved, including adequate compensation where applicable.

### **HUMAN RIGHTS**

- 70. The company upholds the integrity of all human beings and their cultures.
- 71. The company does not commit or engage in activities which lead to abuse and violation of international recognised human rights standards.
- 72. The company also does not assist in abuses and violations by others, be they government authorities, paramilitary organisations, armed gangs or other non-state actors.

73. The company ensures that its activities respect all life on the Planet and all contraventions of human rights are reviewed and recorded, and corrective action is taken.

#### **INDIGENOUS & LOCAL COMMUNITIES**

74. The company seeks and receives approval from local indigenous communities and leadership prior to beginning any operation or business activity, in a transparent way.
75. The company, with the co-operation of the indigenous peoples concerned, performs a holistic comprehensive study of its potential environmental, physical, psychological, social, economic, cultural and spiritual impact on the community and modifies its business plan to ameliorate potential harm.
76. The company provides employment and training opportunities for, and actively recruits from indigenous and/or local communities for all levels of employment.
77. The company, together with the legitimate representatives of the indigenous and/or local community jointly establishes clear decision-making processes and structures with a recognised program that monitors their implementation.

#### **RESOURCE EXTRACTION**

78. The company only proceeds to extract natural resources in situations where their renewal is guaranteed or where, in the case of non-renewable resources, it has made provision for the creation of sustainable alternatives.
79. The company has a strategy whereby mutually agreed proper compensation for the extraction of resources is made to all the relevant national, local and indigenous communities for the acquisition of their assets.
80. In instances where the extraction of resources either violates human rights, or where the extraction can only be carried forward with the aid of military intervention in zones of conflict, the company does not proceed with the work program.

THE FOLLOWING **PRACTICES** DRIVE THE COMPANY'S CSR STRATEGY WITH REGARD TO THE **CORPORATE BUSINESS COMMUNITY**:

### **LABOUR RELATIONS**

- 81. The company does not discriminate on the basis of gender, racial/ethnic origin, social or ethnic origin, culture, religion, age, disability, sexual orientation, nationality, citizenship or political opinion.
- 82. The company provides payment of a sustainable living wage (e.g. pensionable contracts) on the agreed level with trade unions, with equal remuneration for work of equal value.
- 83. Non-permanent (contracted) workers also receive a sustainable living wage and are never taken advantage of in terms of viewing them as 'cheap labour'.
- 84. The company provides and upholds a working environment free from all forms of harassment.
- 85. The company provides work schedules that are reasonable and enable employees and their families to live in a sustained and healthy manner.

### **HUMAN RESOURCE MANAGEMENT & DEVELOPMENT**

#### **Women in the Workforce**

- 86. The company ensures that the social and biological determinants that affect women because of gender are addressed by appropriate policies within the work place, including pregnancy leave, maternity leave and medical leave.
- 87. The company provides adequate technical training, which contributes to the advancement of all workers, especially women (by taking physical capabilities into account).

#### **Minority Groups**

- 88. The company does not discriminate on minority groups (e.g. migrant workers)
- 89. The company publicly discloses information on the diversity of its entire workforce, including the number of employees by gender, disability and racial/ethnic origin, at every level of the company, including at senior management level.

#### **Persons with Disabilities**

- 90. The company ensures that persons with disabilities who apply for jobs with the company receive fair treatment and are considered solely on their ability to do the job with or without workplace modifications.

91. When a worker employed by the company becomes disabled, the company continues to employ that person and provides the modifications necessary to enable the worker to continue at the previous status.

#### **Child Labour**

92. The company does not exploit children as workers. If monitoring reveals that children are being exploited, immediate steps are taken to rectify the practice and to provide for the rehabilitation of the children involved.
93. The company regularly consults with country-specific knowledgeable organizations regarding programs and practices to remove children from work sites and re-integrate them into home, school and community.

#### **Forced Labour**

94. The company employs workers who choose to be employed by that company and does not use any forced labour, whether in the form of prison, indentured, bonded slave or any other non-voluntary labour.
95. If it is discovered in its monitoring that any workers have been employed under duress, immediate steps are taken to rectify the practice and to provide for the rehabilitation of the workers involved.

#### **HEALTH**

96. The company provides care for diseases and illnesses associated with physical mining environmental factors (e.g. Tuberculosis, airborne and water associated illnesses, hearing problems).
97. The company also provides care for diseases and illnesses associated with social mining environmental factors (e.g. HIV/AIDS and STIs, substance abuse).
98. The company is actively taking all necessary steps to ensure the psychological, emotional and social well-being of its employees.
99. The company provides: on-going education on the prevention of diseases like HIV/AIDS. Training to overcome the stigmatization of employees with HIV/AIDS and support systems to employees and their families such as counselling are provided.

#### **SAFETY**

100. The company is actively creating a workplace free of toxic substances and all forms of hazards.
101. The company complies with all applicable international safety standards.
102. The company currently has a good safety performance or record.
103. The company continually seeks to improve on its safety performance.

#### **FINANCE**

104. All transactions on behalf of the company are appropriately described in the accounts of the company in accordance with established procedures and are subject to independent external audit.
105. The company publicly discloses all royalties, taxes, fees, payments and any other revenue paid to state or parastatal partners as derived from project partnerships.

#### **CORPORATE GOVERNANCE & ETHICS**

106. All parts of the company, associated companies, divisions, units and subsidiary companies abide by the same codes of ethics and conduct as the parent company as a minimum standard.
107. Only claims which can be substantiated and fulfilled are made by the company, its employees and its agents.
108. The company's Development Agreement was done in a transparent way in consultation with relevant stakeholders.

## SECTION d: OPEN QUESTIONS

1) PLEASE PROVIDE SOME REMARKS ON **HOW** THE COMPANY PRESENTS **GOOD PERFORMANCE** WITH REGARD TO THE FOLLOWING CSR ASPECTS:

- **STAKEHOLDER ENGAGEMENT**

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- **HEALTH (Employees and community)**

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- **SAFETY (Employees and community)**

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- **ENVIRONMENTAL SUSTAINABILITY**

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- **LABOUR RELATIONS AND HUMAN RESOURCES DEVELOPMENT**

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- **PROTECTION OF HUMAN RIGHTS**

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- **SUSTAINABLE COMMUNITY DEVELOPMENT (Economic and Social)**

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- **TRANSPARENCY, ACCOUNTABILITY, CSR REPORTING**

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2). PLEASE PROVIDE SOME COMMENTS INDICATING WHERE THE COMPANY **STILL NEEDS TO IMPROVE** WITH REGARD TO THE FOLLOWING CSR ASPECTS:

- **STAKEHOLDER ENGAGEMENT**

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- **HEALTH (Employees and community)**

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- **SAFETY (Employees and community)**

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- **ENVIRONMENTAL SUSTAINABILITY**

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- **LABOUR RELATIONS AND HUMAN RESOURCE DEVELOPMENT**

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- **PROTECTION OF HUMAN RIGHTS**

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- **SUSTAINABLE COMMUNITY DEVELOPMENT (Economic and Social)**

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- **TRANSPARENCY, ACCOUNTABILITY, CSR REPORTING**

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3). ADDITIONAL COMMENTS ON **SPECIFIC ISSUES** PERTAINING TO THE SOUTH AFRICA MINING SECTOR:

- Do you have an opinion on Chinese investment and labour in the Copperbelt?  
If “Yes”, please provide some comments:

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- Please provide some remarks (that may be relevant to CSR) concerning the company’s “Development Agreement” (e.g. the content, as well as the process/manner by which it was acquired).

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## APPENDIX B



### Bench Marks Foundation

8<sup>th</sup> Floor Khotso House, 62 Marshall Street, Marshalltown, 2001

P O Box 62538, Marshalltown, 2107

Tel: 011 832-1743/2 Tel/Fax: 011 832-1750

E-mail: [bench-marks@mail.ngo.za](mailto:bench-marks@mail.ngo.za) or [jcapel@eject.co.za](mailto:jcapel@eject.co.za)

16 September 2008

Dear Sir/Madam

**RE: Survey of South African mining corporate social responsibility programmes in the Southern African Development Community (SADC)**

The Bench Marks Foundation, a non-governmental organisation, set up by the churches to monitor corporate social responsibility programmes is focussing on mining operations in the area of your community in Botswana and requests that you respond to the attached questionnaire.

The Bench Marks Foundation sets out to examine the gap between policy and practice and further to make concrete recommendations on how mining operations can improve their social and economic performance.

Our aim is to ensure that corporations operating in South Africa and beyond our borders contribute meaningfully to development, poverty alleviation and empowerment of people and communities.

We base our studies on the 'Bench Marks' 'Principles for Measuring Global Corporate Responsibility' 'Benchmarks for Measuring Business Performance'. This is an internationally agreed document that goes beyond reporting requirements and has been tried and tested and is used by our partners in New York, London, Hong Kong, Sydney, Canada and in Columbia.

We request your participation in our study of which the results will be published in June this year. Once we have compiled information on your operations we will give you a chance to reply.

We thank you for your kind cooperation in completing the Questionnaire which follows.

Yours truly,

John Capel  
Chief Executive  
Bench Marks Foundation

## **SECTION A: BIOGRAPHIC INFORMATION**

Name: \_\_\_\_\_

Sex: \_\_\_\_\_

Country of origin: \_\_\_\_\_

Name and place of residence: \_\_\_\_\_

How long have you been resident here? \_\_\_\_\_

Marital status: \_\_\_\_\_

Number of children: \_\_\_\_\_

Employment status: \_\_\_\_\_

If you are employed, where are you employed? \_\_\_\_\_

If you are employed, what work do you do? \_\_\_\_\_

How long have you been working in the mining environment in South Africa? \_\_\_\_\_

What kind of housing do you stay in? \_\_\_\_\_

Who are you staying with? \_\_\_\_\_

How many people are you staying with? \_\_\_\_\_

Who owns the housing that you are staying in? \_\_\_\_\_

Has there ever been any other Corporate Social Responsibility/ Investment research done in this area concerning this company? \_\_\_\_\_

If so, by who? \_\_\_\_\_

What were the main findings of the research?

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## COMMUNITY QUESTIONNAIRE

Instructions: There are some statements you may or may not agree with. In using the 1-5 scale, please indicate your opinion of each item by marking the block under the appropriate number with an X. Please be honest and open in your answers.

**1 = Strongly Disagree** (If you believe the statement almost never applies to the company)

**2 = Disagree** (If you believe the statement does not really apply to the company)

**3 = neither Agree or Disagree** (Not sure if the statement applies or not)

**4 = Agree** (The statement applies to the company in some degree)

**5 = Strongly Agree** (The statement is highly applicable to the company)

	1	2	3	4	5
<b>Land</b>					
Community members are aware of the land rights compensation from the mining company					
All communities benefit from the royalties					
Community members are happy with the negotiated royalties					
<b>Health</b>					
The company is concerned with the health of community members beyond the needs of their employees					
The company contributes to the health care service provisions the spouses and children of their employees					
The company contributes to the health care services provisions of the spouses children of contract workers					
The company contributes positively to the health care infrastructure in the communities					
The company activities contribute negatively to the health care infrastructure					
The company works in collaboration with the government and civil society in setting up health care provisions for the community					
Community members have access to health care services in terms of location					
Community members have access to health care services in terms of service provisions (sufficient number of health care professionals)					
Community members have access to health care services in terms of appropriate service provisions (mental health therapies, physical services and alternative therapy)					

	1	2	3	4	5
<b>HIV/AIDS</b>					
The company activities contribute to the high incidence of HIV/AIDS in the area					
The company is actively involved in the HIV/AIDS awareness campaigns in an appropriate and sensitive way					
HIV/AIDS awareness programs are not confined to company employees only					
The company contributes sufficiently to the supply and distribution of ARV					
The company works in collaboration with government, civil society and community members towards the combat of the HIV/AIDS epidemic in the mining communities					
<b>Environment</b>					
The dignity, culture and human rights of community members are affected by the activities of the mining company					
Community members have sufficient knowledge of environmental impact issues to participate/negotiate in effective discussions and make informed decisions with the mining company					
The company ensures that community members have a good understanding of environmental impact issues, by funding Environmental Impact courses for community members prior to entering negotiations with community members					
The mining company involves all community groups in setting up its environmental impact policy					
We trust the environmental impact audit undertaken on the company's activities					
The mining company publishes the latest environmental impact reports in non-technical language					
The mining company publishes the latest environmental impact reports in the major languages used in the communities					
The mining company takes account of the short, medium, and long term environmental impact of their mining activities					
The mining company have plans for the short, medium, and long term environmental impact of their mining activities					
We are aware of the mining company's short, medium and long term remedial plans for the environmental impact due to the company's activities					
The company's closure plans include plans for the environment					

	1	2	3	4	5
The community members are aware of the budget set aside for environment impact audits as well as remedial activities					
The company values the health and safety of community members with equal weight to that put on profits					
The company activities make us ill					
<b>Housing/Infrastructure</b>					
The mining company's activities contributes negatively to the infrastructure in the communities					
The mining company's activities contributes positively to the infrastructure in the communities					
The company in collaboration with other stakeholders is involved in developing adequate social activities that are accessible to all local community members (in terms of location and cost)					
Mining activities have resulted in increased antisocial activities in the communities					
The mine is sufficiently actively involved in the education/ that can be visibly observed					
The mining company is actively involved in improving the sustainable training infrastructure in the communities					
Community members are happy with the consultation process in the setting up of community development priorities					
The company and communities have the same community development priorities					
<b>Employment</b>					
The company is committed that local community members have equal access to employment in the mining company					
The company ensures equal access for community members by providing training programs relevant to most positions in the company within the communities					
The training offered by the company to community members is transferable to other organisations (The company offers accredited training)					
The company has a good knowledge about the training needs of community members					
The company advertises vacancies where all community members have access					
The company is committed to ensure that possible fraud in recruitment practices are eradicated					

	1	2	3	4	5
The company works within the government legislation when recruiting people from vulnerable groups					
The company does not discriminate against any community groups in its recruitment policies (eg gender, age disability, migrant allowed to work)					
The company does not discriminate against the needs of any community groups in its recruitment and employment practices (eg gender, age disability, migrant allowed to work)					
<b>Commitment</b>					
The company's actions demonstrate a commitment to help solve problems in the communities					
The company is committed to working together with communities to address pressing issues					
<b>Empowerment</b>					
The development projects that the company embarks on empower communities to solve their own problems and work towards their own destiny					
The company's approach to developmental projects in the communities is to enhance the factors that shape the abilities of community members to realise their full potential over time					
<b>General visibility of management</b>					
Senior management attend meetings with community members on a regular basis					
Company management attend these meetings because they want to get first hand experience of what community members have to deal with on a daily basis					
<b>Transparency</b>					
The company genuinely wants to share information and agendas with community members					
The company does not have hidden agendas					
<b>Coordination of projects</b>					
Development projects set up by the company integrate with the strategies of other stakeholders					
The mining company works in collaboration with local government and other stakeholders to ensure the sustainability of the development projects					
The mining company works in consultation with communities in setting up its plans and strategies for community development					



	1	2	3	4	5
projects					
<b>Control Mutuality</b>					
The nature of the relationship between the company and communities is one of partnership where both parties have equal control of the relationship					
<b>Corporate Citizenship</b>					
The company sees itself as part of the local communities					
<b>Sustainable Development</b>					
The company works towards sustainable development in the region					
The developments that the company is involved in will continue to thrive even after the mine closes down					
<b>Amount of information received</b>					
The company provides sufficient information to community members when communicating with the communities					
<b>Timeliness</b>					
The information received from the company is in time for the community members to react before deadlines or happenings on which action should be taken					
<b>Information flow/Two way communication/Feedback</b>					
Feedback from the company on issues raised by the community is received in satisfactory time.					
<b>Style/Symmetry/reciprocity</b>					
Communication with the company is balanced in that there is opportunity to participate as equal partners in the communication process					
Communication with the company is clear and user friendly. Technical language is always simplified					
Communication between the company and the communities takes account of the different languages in the communities					
<b>Credibility/trustworthiness</b>					
Communities are aware of the communication channels with the company					
Community members feel that they are sufficiently empowered to influence decisions in their interactions with the company					
Communities have access to influencing the communication channels/media used and arranged within the mining environment such as the newsletters, newspapers, meetings etc					

	1	2	3	4	5
The communities have equal control with the company to decide what issues are addressed and important for discussion with the mining communities					
The frequency of communication between the company and community members is appropriately frequent to suit the needs of the issues to be dealt with					
The location of meetings between the company and the company are convenient for community members					

## APPENDIX C

### List of Reports to UN Security Council by Panel of Experts:

S/2008/785	12 December 2008	<a href="#">Report of the Panel of Experts submitted pursuant to resolution 1819 (2008)</a>
S/2008/371	12 June 2008	<a href="#">Report of the Panel of Experts submitted pursuant to resolution 1792 (2007)</a>
S/2007/689	5 December 2007	<a href="#">Report of the Panel of Experts on Liberia submitted pursuant to resolution 1760 (2007)</a>
S/2007/340	7 June 2007	<a href="#">Letter dated 7 June 2007 from the Chairman of the Security Council Committee established pursuant to resolution 1521 (2003) concerning Liberia addressed to the President of the Security Council</a>
S/2006/976	15 December 2006	<a href="#">Report of the Panel of Experts on Liberia submitted pursuant to resolution 1689 (2006)</a>
S/2006/379	7 June 2006	<a href="#">Report of the Panel of Experts on Liberia submitted pursuant to resolution 1647 (2005)</a>
S/2005/745	7 December 2005	<a href="#">Report of the Panel of Experts on Liberia submitted pursuant to resolution 1607 (2005)</a>
S/2005/360	13 June 2005	<a href="#">Report of the Panel of Experts on Liberia submitted pursuant to resolution 1579 (2004)</a>

S/2005/176	17 March 2005	<a href="#">Preliminary Report of the Panel of Experts on Liberia submitted pursuant to resolution 1579 (2004) (On Diamonds)</a>
S/2004/955	6 December 2004	<a href="#">Report of the Panel of Experts on Liberia submitted pursuant to resolution 1549 (2004)</a>
S/2004/752	24 September 2004	<a href="#">Mid-term Report of the Panel of Experts on Liberia submitted pursuant to resolution 1549 (2004)</a>
S/2004/396	1 June 2004	<a href="#">Report of the Panel of Experts on Liberia submitted pursuant to resolution 1521 (2003)</a>
S/2004/396/CORR.1	8 September 2004	<a href="#">Report of the Panel of Experts on Liberia submitted pursuant to resolution 1521 (2003) CORR.1</a>
S/2003/937	28 October 2003	<a href="#">Report of the Panel of Experts on Liberia submitted in accordance with resolution 1478 (2003)</a>
S/2003/937/Add.1		<a href="#">Report of the Panel of Experts on Liberia submitted in accordance with resolution 1478 (2003) Add.1</a>
S/2003/779	7 August 2003	<a href="#">Impact assessment report on the timber sanctions by the Panel of Experts on Liberia in accordance with paragraph 25 (c) of resolution 1478 (2003)</a>

S/2003/498	24 April 2003	<a href="#"><u>Report of the Panel of Experts on Liberia submitted in accordance with resolution 1458 (2003)</u></a>
S/2002/1115	25 October 2002	<a href="#"><u>Report of Panel of Experts on Liberia submitted in accordance with resolution 1408 (2002)</u></a>
S/2002/470	19 April 2002	<a href="#"><u>Report of Panel of Experts on Liberia submitted in accordance with resolution 1395 (2002)</u></a>
S/2001/1015	26 October 2001	<a href="#"><u>Report of the Panel of Experts on Liberia submitted in accordance with resolution 1343 (2001)</u></a>