

# **POLICY GAP 10**

## **“FLOATING OR SINKING” SOCIAL LICENCE TO OPERATE (SLO): KUMBA IRON ORE LIMITED**



**BENCH MARKS FOUNDATION & BENCH MARKS CENTRE FOR CSR**

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## FOREWORD

This latest report by the Bench Marks Foundation and the Bench Marks Centre for CSR at the North-West University, entitled: **“Floating or Sinking” - Social Licence to Operate (SLO): Kumba Iron Ore Limited** is very significant as it marks the 10<sup>th</sup> publication of our uniquely instrumental and effective Policy Gap series of studies focussing on Corporate Social Responsibility (CSR) and sustainable development related issues in the Southern African mining sector.

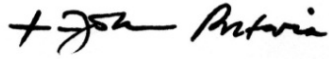
The Bench Marks Foundation’s aim is to change corporate behaviour towards responsible business conduct that benefits communities and enhances the overall wellbeing of those most negatively impacted upon. Amongst others, the Bench Marks Foundation calls for a new relationship between corporations, communities and ecosystems; equal participation of stakeholders and those most affected by the activities of corporations in the decision-making processes of companies; preservation and protection of the environment for present and future generations; and respect for the dignity of every person and for human rights policies based on the Universal Declaration of Human Rights. To do our studies we use as a basis, the *Principles for Global Corporate Responsibility - Bench Marks for Measuring Business Performance* — which have been formulated by a number of faith-based organisations and non-governmental organisations from around the globe on what civil society considers responsible business’ behaviour to be.

This publication on the iron mining industry supports our objectives by illuminating the serious negative community and environmental impacts of the iron mining in South Africa. This is a very relevant study given the importance of the iron sector to the South African economy, with the United States Geological Survey (USGS) indicating that South Africa produced 67 million metric tons of iron ore in 2013, making it the world’s 7th largest producer. In particular, the report highlights the strengths and weaknesses in the policies of Kumba Iron Ore in its efforts to gain and maintain a Social Licence to Operate (SLO). The SLO concept, combined with the related notion of ‘Free prior and informed consent’ (FPIC), are becoming increasingly important principles in ensuring the sustainability of mining operations, and more importantly, the well-being of surrounding communities and the environment.

As with the previous reports in the Policy Gap series, the current report shows a significant ‘gap’ between the mining company’s own perspective of its CSR achievements in obtaining a SLO, and the real feelings and perceptions as experienced by the surrounding communities. The Bench Marks Foundation wants to eliminate these gaps by improving responsible corporate behaviour. It is therefore our wish that all stakeholders in the South African mining industry will use the findings and recommendations of this report in support of the

growing movement calling for greater sustainability and equality in the South African mining sector through the improvement of human rights.

**Rt Rev Dr Jo Seoka**

A handwritten signature in black ink, appearing to read 'Rt Rev Dr Jo Seoka'.

Chairperson

*Bench Marks Foundation*

**John Capel**

A handwritten signature in black ink, appearing to read 'John Capel'.

Executive Director

*Bench Marks Foundation*

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## ACRONYMS AND ABBREVIATIONS

ABCD	Asset Base Community Development
BAMCU	Building Allied Mining and Construction Workers Union
BMF	Bench Marks Foundation
CDE	Centre for Development and Enterprise
CSR	Corporate Social Responsibility
DME	Department of Minerals and Energy
DMR	Department of Mineral Resources
ESCOM	Electricity Supply Commission
FPIC	Free, Prior and Informed Consent
GDP	Gross Domestic Product
HDI	Human Development Index
HDSA	Historically Disadvantaged South African
HIV/AIDS	Human Immunodeficiency Virus Infection and Acquired Immune Deficiency Syndrome
IAP2	International Association for Public Participation
IT	Information Technology
JSC	Joint Steering Committee
LED	Local Economic Development
MPRDA	Mineral and Petroleum Resources Development Act
NGO	Non-Governmental Organisation
NUM	National Union of Mineworkers
NWA	National Water Act
RAP	Resettlement Action Plan
RDP	Reconstruction and Development Programme
SACGE	South African Commission for Gender Equality
SAHRC	South African Human Rights Commission
SEAT	Socio-Economic Assessment Toolbox
SIDA	Swedish International Development Cooperation Agency
SIOC	Sishen Iron Ore Company
SLO	Social Licence to Operate
SLP	Social and Labour Plan
TB	Tuberculosis
USGS	United States Geological Survey

## EXECUTIVE SUMMARY

This publication – the tenth of the Bench Marks Foundations’ Policy Gap series – is a research report on Anglo American’s Kumba Iron Ore mining industry in Sishen, Northern Cape Province, South Africa. The Sishen mine is Kumba’s biggest and leading mine operation in South Africa and one of the seven largest open-pit mines in the world. This is a relevant study given the importance of the iron sector to the South African economy, with the United States Geological Survey (USGS) indicating that South Africa produced 67 million metric tons of iron ore in 2013, making it the world’s 7th largest producer. In particular, the report highlights the strengths and weaknesses in the policies of Kumba Iron Ore in its efforts to gain and maintain a Social License to Operate (SLO). The SLO concept, combined with the related notion of ‘free prior and informed consent’ (FPIC), are becoming increasingly important principles in ensuring the sustainability of mining operations, and more importantly, the well-being of surrounding communities and the environment.

The research used the following terms of reference:

- A theoretical conceptualisation of social licence to operate (SLO)
- Kumba’s side of the story (an assessment of Kumba’s SLO-relevant policies, programmes and projects)
- An overview of labour issues at Kumba Iron Ore
- The Kumba communities: relevant issues in negotiating a SLO
- An evaluation of Kumba company policies/programmes/projects *vis-a-vis* community issues within the bigger picture of a SLO
- Recommendations in order to make the negotiation process of a SLO more effective

The central parts of this Executive Summary will be presented in the forthcoming paragraphs under the terms of reference mentioned above, but first, a brief description will be given of the research methodology.

## RESEARCH METHODOLOGY

Mainly two basic research procedures were used for the research project, namely:

- Historical procedure
- Survey procedure

The historical procedure (literature review) was used specifically for the industry overview of Kumba in South Africa, and for reviewing applicable CSR programmes and policies. More generally, the historical procedure was also used to conceptualise and contextualise all facets of the research. Books, scientific journal articles, popular articles, newspapers,

reports, annual reports of mining companies, conference proceedings, databases as well as the Internet were used as sources for applying the historical procedure.

To gather the empirical information, the survey procedure was used. 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 focus groups, researcher observations and interviews within a case study format. Despite the un-structured nature of the interviews being mentioned above, the Bench Marks Foundation's document, Principles for Global Corporate Responsibility: Bench Marks for measuring Business Performance (the so-called Bench Marks Tool) (2003), also guided interviewers in the prompting of certain critical issues. The interviews with the respondents were translated, where necessary, and transcribed. The content of the data was then analysed by means of a conceptual (thematic) analysis.

## **THEORETICAL CONCEPTUALISATION OF SLO**

The theoretical conceptualisation of SLO addressed matters such as the term SLO being initially used as a metaphor for the ability of communities to stop mining projects developing, with its subsequent morphing into a concept that has spread to other industries and becoming a general management approach to winning the acceptance, approval and support of stakeholders and communities. SLO is a term given meaning primarily by companies and governments and, as a diagnostic tool, describes and categorises the approach of organisations in terms of engagement with key stakeholders on three different levels, namely reactive, proactive, and innovative. Stakeholder theory (companies' responsibilities and stakeholders' rights) and Legitimacy theory (companies must conserve legitimacy if they want to survive) together with factors that interact with SLO, such as free, prior and informed consent (FPIC), and community engagement strategies were discussed as important components in gaining an understanding of the concept and its realisation when working with stakeholders.

## **KUMBA'S SIDE OF THE STORY: POLICIES, PROGRAMMES AND PROJECTS**

In an effort to elicit and maintain a SLO from the communities, as well as to receive a mining license to operate from the government, Kumba's Social and Labour Plan and Policies (SLP) were mainly built around the stipulations and demands of the Mineral and Petroleum Resources Development Act (MPRDA) and the Mining Charter. Hence, Kumba mining company in its determination to actively transform the undesired legacy of *Apartheid* and bring about more mining benefits to the ordinary South African, has its policies focused on local economic development (LED), skills development, community skills development,

preferential procurement, employment equity, women in core mining, education, health and wellness programmes, and infrastructure and entrepreneur development.

In this section the research investigated Kumba's Social and Labour Plan (SLP) and recapitulated how Kumba has endeavoured to comply and work towards realising the objectives of the SLP through numerous programmes and projects focused on improving the overall wellbeing of communities adjacent to the mine. This research was restricted to the activities of Kumba in communities adjacent to Sishen and Kolomela mines. Also important, is the fact that most of the projects are interwoven, in the sense that projects tailored towards local economic development at the same time can empower or disempower women and be locally beneficiating or not. Nonetheless, while an attempt was made to highlight the impact, shortcomings, as well as inconsistencies of these projects, a bigger picture has also been given of these policies and projects with regard to their effects on the communities studied. It must also be noted that some developmental projects of Kumba have a wider regional impact and thus stretch beyond the beneficiation of local communities alone.

The research found that Kumba, as reflected by the Socio-Economic Assessment Toolbox report (SEAT) and Financial reports has illustrated substantial financial commitment to the communities surrounding its operations. The challenge for Kumba is to translate this financial outlay into visible developmental impact so that it can be recognised by community members as a move towards achieving a SLO. There appears to be a significant gap between the money spent by Kumba and its impact on the communities.

## **LABOUR ISSUES IN NEGOTIATING A SLO**

The issues regarding labour practices at Kumba were reported upon under the following rubrics:

### **Board Composition**

Statistics show that, in terms of HDSAs (Historical Disadvantaged South Africans) at Board level, Kumba is doing rather well with 64% of the Board being black. However, the Bench Marks Foundation have noted, as in some previous studies, the propensity for major mining corporations like Anglo American, of which Kumba is a subsidiary, to pick senior politicians from the ruling party, who also hold strategic political office.

### **Working Conditions, Contract Work, and Wages**

Kumba achieved the 'best employer' in the mining category accolade determined through both Deloitte's Best Company to Work for Survey and the CRF Institute's 2012 Best Employer Survey (Anglo American, 2012a). It achieved this despite a major strike in October 2012 (South African Press Association, 2012) and serial absenteeism among employees at

the start of 2012 due to the impact of a dividend pay-out from their employee share ownership scheme referred to as Envision.

Kumba reported that it employed a total of 11 773 people at the end of 2012, but unlike previous reports it does not give a breakdown by race, gender and grade of work. It was, therefore, not possible to disaggregate the racial and gender composition of the lowest paid workers, while the corporation trumpets this regarding its board and management positions. Local people living in communities around Kumba complained about the importation of labour, particularly from the declining West Coast De Beers diamond operations. This has created tension between locals and settlers. Workers being interviewed also complained about nepotism and the perpetuation of racial spatial *Apartheid* arrangements in the workplace and living space and that the mine's security company has taken over the functions of the South African Police services.

### **Trade Unions and Collective Bargaining**

Kumba concluded a two-year wage agreement with organised labour in July 2012 covering the period 1 July 2012 to 30 June 2014, making provision for an increase of between 8.5% and 10.5% (total cost to company), well above the rate of inflation. At the end of 2012, 85.2% of Kumba employees were represented by one of the following recognised unions: the National Union of Mineworkers (NUM), Solidarity, Building Allied Mining and Construction Workers Union (BAMCU), and employees who have signed an agency shop agreement.

The unprotected strike at Sishen mine in October 2012 resulted in a significant loss of production and revenue to the company, damage to property, poor employee morale and financial losses to employees. Management claimed that its decision to suspend operations was taken to ensure the safety of the rest of the workforce. Kumba also claimed that the strike at Sishen mine (October 2012) was not directly supported by unions. This claim was contested by a former Kumba employee who was dismissed after the strike.

### **Employment Equity and Transformation**

Kumba asserts that it supports South African employment equity legislation that promotes equal opportunity through the elimination of unfair discrimination and the implementation of affirmative action measures. The Mining Charter's minimum requirement for HDSAs in management is 40% and 10% for women in the workforce. Kumba focused on recruiting above these targets and in 2012 had 81.02% HDSAs in the workforce and 54.24% in management. Women comprised 17.23% of employees with 12.78% in core mining positions in 2012.

The problem with Kumba's 2012 report is that it fails to give a gender and race breakdown by wage/income grade or category. This possibly disguises what the workers interviewed have claimed with regard to there being no white employees in the lowest wage categories.

### **Training and Development**

Kumba reports that its training centre in Kathu provides some 400 learners from the community with training in basic mining-related and engineering skills. The training at this accredited training centre is free of charge to the community and, as far as possible, the learners are absorbed into Kumba once they have qualified.

### **The Envision Employee Share Ownership Scheme**

Envision, Kumba's employee share participation scheme, has ensured that permanent employees are active stakeholders by having a direct interest in the company's profit. This research has confirmed that there are, however, unintended consequences associated with dividend pay-outs, namely, an uncontrolled spending spree, employee absenteeism, linkages with the unprotected strike, road safety, and an increased divorce rate.

## **THE KUMBA COMMUNITIES: RELEVANT ISSUES IN NEGOTIATING A SLO**

The relocation/resettlement of the inhabitants of Dingleton, poverty and unemployment, health and health infrastructure, education, environmental health, and racism were the most prominent aspects mentioned by community interviewees. Their views ranged from praise for some of the actions that Kumba has taken relevant to the relocation, to outright indignation for the lack of action on the part of the Gamagara local municipality with regard to service delivery in Dingleton until the relocation processes have been finalised. Poverty and unemployment remained high on the 'issue-list' of community members and they complained about the exclusion of Mapoteng and Dingleton communities from tangible benefits of the Kumba CSR initiatives, and that the employment process for members of these communities is also riddled with an attempt to exclude and sequester them from the mainstream economic activity (mining).

As far as health and health infrastructure is concerned, interviewees reported that despite the contributions to health care from the mine, they continue to blame the mining company for their health problems such as chronic chest related illnesses, sinus, asthma, and tuberculosis. Also, interviewees felt that despite the high education levels amongst the youth, there remains a high unemployment rate as a result of the mining company employing from outside the area. With regard to environmental health, the Kumba Board seeks assurance of compliance with the Anglo Environment Way standards through regular self-assessments, peer reviews and third party audits. However, with the expansion of the areas to be mined, and notwithstanding the mine complying with the legal prescriptions, dust and cracked houses remain the biggest problems for the adjacent mining communities.

Racism was seen to be alive and well by the interviewees who observed that the town of Kathu and the mining communities reflected the old *Apartheid* class and race structures.

## **EVALUATION: COMPANY POLICIES/PROGRAMMES/PROJECTS VIS-A-VIS COMMUNITY ISSUES: THE BIGGER PICTURE**

Kumba suggests that by operating beyond compliance and working within the spirit of the SLP requirements, it has been able to undertake significant projects within the surrounding communities. As already indicated, the nature of the projects includes capacity building, entrepreneurial development, infrastructural developments, and donations to community projects. In summary, the capacity building projects include life skills, driving skills, entrepreneurial skills, and IT and project management training. The company reports having spent R24.7 million on 54 small and medium scale enterprises that has to date (2012) created 451 jobs. In terms of donations to community projects the mine is actively involved in the Early Childhood Centre, Manyeding Cultivation Project, Batho Pele Mobile Health Units and Ulysses Gogi Mobise Wellness Clinic.

Despite the efforts mentioned above, the negotiation of a SLO by the mining company cannot be fully interpreted as being proactive. Prevailing developmental thinking propagates the need of beneficiaries to be fully involved in the initiation, planning and implementation of projects geared towards their wellbeing. In this case, the crux of the matter is the mismatch of the needs or aspirations of the mining company with those of the communities. Also, as the situation in Kumba presents, there seems to be a shifting of responsibilities from local government to the mining company for service delivery. Kumba officials maintain that they must work with the local municipality in order to deliver the developmental projects of local government.

## **RECOMMENDATIONS**

### **Corporate Social Responsibility and Sustainability**

Kumba must reassess its own contribution to SLO and how CSR policies, programmes and projects are shaped within a SLO framework towards sustainable development in its operational areas, adjacent communities and further afield where existing programmes and projects have been launched and where future ones may be initiated. It needs to align its sustainability initiatives, where necessary, to those of their various stakeholders towards building legitimacy and credibility for its operations.

### **Community relations**

Kumba must abide by its Constitutional and moral obligations to involve all the members of impacted communities (including renters, who are currently not included in the

communication and negotiating processes) in a free, prior and informed consent (FPIC) manner.

### **Partnerships**

Partnerships must be established with ‘right’ and ‘wrong’ partners; there are numerous stakeholders, some ‘right’ and others ‘wrong’ – the buy-in of all stakeholders is essential, and a ‘wrong’ partner might turn out to be the ‘right’ one and the other way around (critical, controversial but credible NGO’s, for example, initially being viewed as ‘wrong’, can become a ‘right’ and valuable ally).

### **Labour**

The company must take responsibility for the unintended consequences of Kumba’s Envision employee share ownership scheme (*Point 7.6*), improve on the provision of support structures and services in this regard, review the balance between the wage and Envision scheme to avoid extensive negative consequences, and be more transparent about recruitment. Kumba needs to ensure that its employment structure reflects the race, gender and disability structures of the South African society.

### **Resettlement**

The company needs to address and enhance the long dragged-out re-settlement process, together with the Gamagara Local Municipality in an effective way; additional to this process, serious attention must also be given to service delivery and the general housing problem by the local municipality.

### **Health**

Kumba must undertake a more strategic health infrastructure that is sustainable beyond mining in view of the mining operations’ contributions to chronic health, such as TB, and take account of health insurance for both its employees as well as local community members.

### **Mine Security**

Kumba’s internal security contractor should not impede on the role and mandate of the institutional law enforcement agencies in the area, and it is recommended that the South African Human Rights Commission (SAHRC) investigates the militarisation of mining security and its effects on the community.

### **Racism**

The alleged institutionalisation of racism in the workplace should be investigated by the SAHRC and dealt with in accordance with legal prescripts.

**‘Sex work’**

The assertions of members of the communities that the only way women can get jobs at Kumba is through sexual favours must be investigated by various agencies, in particular the South African Commission for Gender Equality (SACGE).

**Housing**

Due to the living-out-allowance, workers are basically ‘squatting’ in back rooms for a minimal rental tariff, and use the rest of the allowance for other purposes; this issue should also be investigated by the SAHRC.

**Water**

Mining operations in this area appear to have impacted negatively on water resources. Given the fact that water is a basic human right in accordance with the Constitution, we recommend an investigation of this contentious problem by the SAHRC.

**Mine closure**

Kumba should provide a pragmatic closure plan taking into account economic, social and environmental developments post-closure that supports community members in making the decisions whether to grant a SLO or not.

## **1. INTRODUCTION**

Globally and nationally there have been pressures on corporations to be more accountable and transparent about their actions in the communities where they operate. This entails that companies not only focus on profitability and production, but also direct their focuses of their core business on CSR — which implies being involved in sustainable development in the communities. Sustainable development implies, amongst other factors, practices that contribute to the development of the local economy, local procurement, assistance with local suppliers to meet quality and other requirements of the investing company that ultimately can be measured in both gross domestic product (GDP) terms, and by the human development index (HDI). However, these policy interventions have their own limitations, and the fact that many corporations are still confused regarding the essence of CSR, and especially the manifestation and implementation thereof in surrounding communities, have resulted in numerous problems associated with deliberate cutting of corners and overt and covert misrepresentations and misinterpretations in the field of CSR; this state of affairs unfortunately, is mostly at the cost of the local communities.

Mining companies typically need to traverse complex and often overlapping regulations to gain a legal license to operate through fulfilling hard law (regulatory) requirements. However, increasing attention is being paid to the need that such companies should also negotiate a so-called SLO. Ideally, this is achieved through participatory processes with local communities that aim towards a social acceptance by those communities of proposed projects (Idemudia, 2007). From a corporate perspective, the negotiation of a SLO is often mediated through CSR programmes and initiatives. A SLO is not a legal document; it is something that mining companies may negotiate in addition to securing the applicable and necessary legal permits to mine. A SLO may, however, be connected to legal negotiations such as Impact and Benefit Agreements.

## **2. OBJECTIVES**

The objectives of this Report are to provide:

- A theoretical conceptualisation of SLO
- An assessment of Kumba's SLO-relevant policies, programmes and projects
- An overview of labour issues at Kumba Iron Ore
- An investigation of relevant issues in Kumba communities in negotiating a SLO
- An evaluation of Kumba Company policies/programmes/projects versus community issues within the bigger picture of a SLO
- Recommendations in order to make the negotiation process of a SLO more effective

### 3. RESEARCH METHODOLOGY

Mainly two basic **research procedures** were used for the project, namely:

- **Historical procedure**
- **Survey procedure**

The **historical procedure** (literature review) was used specifically for the industry overview of Kumba in South Africa, and for reviewing applicable CSR programmes and policies. More generally, the historical procedure was also used to conceptualise and contextualise all facets of the research. **Books, scientific journal articles, popular articles, newspapers, reports, annual reports of mining companies, conference proceedings, databases** as well as the **Internet** were used as sources for applying the historical procedure.

To gather the empirical information, the **survey procedure** was used. 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 **focus groups, researcher observations and interviews**.

As the elements of interviews with communities were not fixed beforehand they were **semi-structured** on the basis of a list of topics related to the interaction between mining companies, government (national, provincial and local) and communities; the environmental, cultural, socio-economic, political and health impact of mining on communities were also investigated. The aforementioned are typical issues that will determine the nature of a SLO. With the interviews, a degree of flexibility was allowed to assist the interviewer(s) to probe deeper where it was felt that more relevant information could be obtained through further questioning. Questions and topics were not necessarily asked in the same order each time as this depended on the way the interview developed. This allowed the person being interviewed a degree of freedom to voice concerns and to participate in directing the flow of the conversation. These **in-depth interviews** assisted in clarifying what **themes and topics** were considered to be important, what the major concerns of individuals and communities were and the relationships between different strata within communities such as those who support mining development, those who oppose it, gender-related views, views of the youth, the aged, full-time workers, contract workers, migrants, traditionalists and modernisers.

Despite the un-structured nature of the interviews being discussed above, the Bench Marks Foundation's (2003) document **Principles for Global Corporate Responsibility: Bench Marks for measuring Business Performance**, the so-called **Bench Marks Tool** (2003), also guided interviewers in the prompting of certain critical issues.

**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 (e.g. people in the process of re-location). Some of the focus groups, however, had a 'mixed' composition. To enhance the scientific nature of the study, at least two researchers (interviewers), and a translator where necessary, facilitated each focus group and each personal interview. Notes were taken of interviews, and some interviews/focus group session were tape recorded. Due to time constraints, the research team mostly split up into two groups and entered different research settings. Different individuals in different areas were also used as **key informants**; examples in the research setting were one of the local pastors, and a number of selected males and females who stayed in the areas under discussion for more than twenty years. Patton (2002:321) 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"*. **Participatory observation** was also used to gather information. Several observations (e.g. unemployment, poor service delivery and housing, employer/employee dynamics, passionate officials, air and dust pollution, etc.) were possible during the research that gave an insight into the different research settings.

The interviews with the respondents were translated, where necessary, and transcribed. The content of the data was then analysed by means of a **conceptual (thematic) analysis**. A preliminary thematic analysis at the end of the fieldwork period(s) also provided the structure in which the report is being presented.

According to Palmquist *et al.* (2005), the process of conceptual analysis comprises eight steps, namely:

1. deciding on the level of analysis
2. deciding on how many concepts to code for
3. deciding whether to code for the existence or frequency of a concept
4. deciding how to distinguish among the concepts
5. developing rules for the coding of texts
6. deciding what to do with irrelevant information
7. coding of texts
8. analysing of results

A more theoretical (contrary to a practical) approach - that is the interpretation of written sources (literature control; *also see historical procedure*) - was used as the basic point of departure for the analysis and interpretation of the results.

According to Guba (*in* Krefting, 1991), there are four important elements for increasing **trustworthiness** in qualitative research:

- **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 enquiry were replicated with the same subjects or in a similar context)
- **Neutrality** (the degree to which the findings are a function solely of the informants and conditions of the research, and not a function of biases)

The researchers tried their utmost to guide their research according to these elements during the study.

All **sampling** and the nature thereof was done jointly by the researchers, community leaders, community members, government officials, the mining company and other interest groups, e.g. community groups and NGO's.

Within the broader theoretical and conceptual framework of a SLO, as well as within the mining context in South Africa, the research setting (Kumba, Northern Cape in South Africa) can indeed be seen as a classical **case study**. In an 'overarching' way – in addition to the conventional procedures and instruments already being described – the case study relates uniquely to the in-depth analysis of a small number of units. As Hancock (1998:6) points out, a case study method *"...is a highly versatile research method and employs any and all methods of data collection from testing to interviewing"*. A case study can rightly serve as a 'show case' to illustrate certain points on the topic (SLO) and even help with the processes of **pattern-matching** and **explanation-building** (Babbie & Mouton, 1998:280-283).

The **field work** was conducted by staff members of the Bench Marks Centre for CSR from the Potchefstroom Campus of the North-West University, with the help of post-graduate students and a lead researcher of the Bench Marks Foundation. Members of the research team visited the research setting from 13 to 18 August 2013. The field work took place at Kumba's **Sishen mine**. Sishen mine is Kumba's biggest and leading mine operation in South Africa and one of the seven largest open-pit mines in the world. It operates around the clock, twelve months a year, and in 2010 produced 41.3 million tons of iron ore.

The study had several **limitations** associated with sample selection and characteristics of the participants. Most participants were predominantly from mining communities surrounding the mine operations. Consequently, the major characteristics were that most were unemployed or if employed they were employed as manual workers in the surrounding mining companies. The consequence of this was that most of the participants, apart from those representing the company and farmers, were either black or coloured. The study would have benefited from including participants from Kathu which represented the

affluent community where most mine executives live. This would have added value as it would have provided useful contrasting data to allegations of racial discrimination, unfair treatment and neglect by the mine. On the other hand, inclusion of rural communities in the sample added to the researchers' understanding of Kumba mine's social responsibility projects because the company's officials indicated that most of their most significant projects are located in the rural areas.

Further limitations relate to access to company officials. Although the research team were able to interview the CSR and Sustainability officials of the company, the company's head office (Pretoria) had indicated during the planning phase that it would not facilitate company officials to participate in the project. Unfortunately, most of the data from the company CSR officials pertained to the activities indicated in their annual reports. The research would have benefited from interviews with Human Resource (HR) officials and other mine operations officials. These would have provided the mine's perspectives of some of the issues pertaining to reported conflicts between the mine and the community members.

To enhance the scientific quality of the research, the project Report was subjected to **peer review** and **critical reading** processes (see *Acknowledgements*), followed by the release of this final Report in 2015. Consequently, a brief background of the company under investigation (Kumba) will be given.

#### **4. BACKGROUND OF KUMBA IRON ORE**

Kumba Iron Ore was formed in November 2006 when the iron ore assets of Kumba Resources Limited were unbundled into Kumba Iron Ore and Exxaro and listed separately on the Johannesburg Stock Exchange (JSE). It is a fully empowered company in terms of the 2014 equity ownership requirements set out in the South African Mining Charter. Shareholders include Anglo American (65.2%), the Industrial Development Corporation (12.9%), and minorities (21.9%). Kumba Iron Ore consists of three mines, namely Sishen Mine (Northern Cape), Kolomela Mine (Northern Cape) and Thabazimbi Mine (Limpopo) (Anglo American, 2013a).

The Sishen mine is situated just south of the mining town of Kathu and has been operating since 1947 (see *Map 1*). Ore is processed from a single pit in two beneficiating facilities, with a high quality ore allowing it to produce both high quality lumps and fines. Consistent product quality is ensured by blending and reclaiming products at the mine before it is dispatched to customers. A sampling plant at the port of Saldanha, from where the ore is exported, analyses and verifies the composition for further accuracy. With a proven mineral resource in June 2011 of 1,128 million tons, the mine has a life expectancy of more than 20 years at the current rate of production (Anglo American, 2012a).

Sishen mine, owned by Sishen Iron Ore Company (SIOC), falls within the Gamagara Local Municipality which is part of the John Taolo Gaetsewe District Municipality (formerly Kgalagadi District Municipality). After the mine was established in 1947, it primarily provided ore for consumption at domestic steel mills. Further exploration programmes led to a significant increase in the resource base, and increased production resulted in its expansion into the world's fourth largest supplier of sea-borne iron ore. The majority of the mine's employees come from the neighbouring settlements of Kathu, Sesheng, Mapoteng, Dingleton and also further afield, from villages within the John Taolo Gaetsewe District (Anglo American, 2011).

**Map 1: Kathu in the Northern Cape Province**



Source: Google Maps, 2015

Before reporting on the findings of the SLO performance and related issues as investigated in the study area, the following section expounds on the meaning and relevance of SLO and associated theoretical concepts.

## **5. CONCEPTUALISATION: SOCIAL LICENCE TO OPERATE (SLO)**

### **5.1 OVERVIEW**

Taking societal perspectives into account in planning, developing and implementing an operation is seen as necessary to reduce the risks associated with societal resistance. Such resistance could affect a company's profitability directly, through delays in production, or more indirectly, through lowering its reputation or through governments instituting higher levels of regulation. The overall effect is to induce 'beyond compliance behaviour' from a

company (Gunningham *et al.*, 2004). Thus, SLO is a term given meaning primarily by companies and governments (Parsons & Moffat, 2012).

Scherer and Palazzo (2007) suggest that today's social and environmental problems reflect transnational governance challenges. Ruggie (2004) argues that governance voids persist because of imbalances between the almost borderless operations of transnational corporations (TNCs) and the absence of enforceable regulations across borders. Neither nation states (whose jurisdiction is still largely territorially bound) nor intergovernmental organisations (who depend on, often unwilling, nation states for implementation) are currently able to address these voids. Interestingly and encouraging, a resolution to enforce human rights obligations for Transnational Corporations was voted in favour for in the United Nations Human Rights Council on 26th June 2014. The approved resolution was preceded by weeks of negotiations and furious lobbying from Northern countries to put the resolution aside (Girard, 2014).

SLO began as a metaphor for the ability of communities to stop mining projects. Today the concept has spread to other industries and it is becoming a general management approach to winning the acceptance, approval and support of stakeholders and communities (Black, 2012). The most important and daunting challenge confronting any commercial mining operation is the securing of the support of local communities. The 1990s can be regarded as the decade in which mining houses lost their legitimacy due to their role in environmental degradation and corrupt practices, and for stoking violence through phenomena such as conflict diamonds. By contrast, the first decade of the 21<sup>st</sup> century has seen the mining industry, multilateral and governmental bodies, and NGOs design and develop a host of governance structures to better regulate the mining sector and enhance its social, economic and environmental footprint. Key to this is the realisation that a prerequisite for successful and sustainable mining operations is the forging of social compacts among companies, the government and local communities.

Arguably the most important of these compacts is the concept of a SLO, which is granted not by governments, but by communities, and is conditional on companies behaving in a manner that is consultative, collaborative, ethical, progressive and legitimate (Goldstuck & Hughes, 2010). Knox (2008) observes that mining companies globally can no longer rely only upon their mineral titles to proceed with mine development. Major mining companies know that unless they continuously demonstrate corporate social responsibility, they will fail to gain from mine neighbours the appropriate level of local support that constitutes the 'social licence' to mine.

The elements of such social licence are diverse and changing and are currently driven by the international development of several key concepts.

## 5.2 CONCEPT OF SOCIAL LICENCE TO OPERATE (SLO)

The SLO concept was originally coined within industry, from a risk-management perspective (Black, 2012; Boutilier *et al.*, 2012; Owen & Kemp, 2013), and lacked the qualitative understanding of a social context. Rather, the risk-management perspective fostered an audit approach and framed community stakeholders as a 'risk' needing to be managed (Owen & Kemp, 2013). The notion of a 'social licence' reflects the idea that society can grant or withhold support for a company and its operations. People affected by or who could affect a company and its operations include neighbourhoods, environmental groups, community members and other elements of the surrounding society (Thomson & Boutilier, 2011). The level of support 'granted' is considered to be dependent on society's **expectations** about how the company conducts its operations and the extent to which those expectations are met (Gunningham *et al.*, 2004). It is dependent on a relationship that is meaningful, and able to deliver dialogue capable of leading to outcomes that are mutually beneficial.

A social license exists when a mining project (or any other project) is seen as having the broad, ongoing **approval** and **acceptance** of society to conduct its activities (Thomson & Joyce, 2008; Thomson & Boutilier, 2011; Gunningham *et al.*, 2004) and that it *"...governs the extent to which a corporation is constrained to meet societal **expectations** and avoid activities that societies (or influential elements within them) deem **unacceptable**, whether or not those **expectations** are embodied in law"*. Furthermore they suggest that it can be understood as *"...**demands** on and **expectations** for a business enterprise that emerge from neighbourhoods, environmental groups, community members, and **other demands** of the surrounding civil society"*.

Seeger (2011) suggests that a SLO exists in situations where community **acceptance** of infrastructure projects is neither automatic nor unconditional. It is imperative to gain and maintain the support of the people that live and work in the **area of impact** and **influence** of any given project to facilitate a long term beneficial relationship. Knight-Merz (2011) further indicates that failure to gain and maintain this licence not only has negative impacts on the project proponents, but results in missed opportunities in the form of lasting trust and acceptance by all stakeholders in the area of impact of influence by project activities. There is clear evidence to suggest that successful community engagement and acceptance from the beginning enable many positive benefits and lasting **trust** to develop with project **stakeholders** throughout the operations phase to closure/decommissioning.

As already indicated, a social licence cannot be issued, but needs to be earned (Lacey *et al.*, 2012). Thomson and Boutilier (2011) state that the conditions of a social licence change over time and is based on people's ongoing experiences of an operation and shifts in their perceptions and opinions. Consequently, a social licence is not static but is dynamic and is

continually under negotiation reflecting the state of the relationship between the company and its stakeholders (Franks *et al.*, 2010).

Apart from the voluntary nature of the notion, it is also based on intangible and immeasurable concepts such as reputation, acceptance, community engagement and stakeholders that make it difficult to settle on one finite definition, theory or strategy that are all context related. Aspects such as stakeholders' expectations are subject to several contingencies, such as the **type** and **visibility** of the issue under consideration and the company's **visibility**, **societal standards** and **values**. Hence they vary across different locations (Bowen, 2010; Salzmann, 2005; Steger, 2003) further complicating any possibility of standardising the concept of social licence to operate.

Futureye (2013) presents a **SLO Diagnostic Tool**, which describes and categorises the approach of organisations in terms of engagement with key stakeholders on three different levels, namely **reactive**, **proactive**, and **innovative**. Schematically, it can be illustrated as follows:

**Figure 1: Social Licence to Operate Diagnostic Tool**



Source: Futureye, 2013

### 5.3 SOCIAL LICENCE TO OPERATE THEORIES

As derived from the definitions above, the notion of social licence to operate is closely linked to several other concepts such as legitimacy, reputation, stakeholders and corporate social responsibility/performance. These concepts are also key to different theoretical frameworks that can be applied to analyse the question of a SLO (Salzmann *et al.*, 2006):

- **Political economy theory** (focusing on the interconnectedness between political, social and economic influences) (Freeman, 1984; Jones & Wicks, 1999; Donaldson & Preston, 1995)
- **Stakeholder theory** (based on the direct effect that stakeholders have on a corporation's activities) (Freeman *et al.*, 2004)
- **Accountability theory** (based on the right of the principal stakeholder to require information)
- **Legitimacy theory** (derived from the concept of organisational legitimacy) (Freeman, 1984; Suchman, 1995)

There is an increasing body of literature relating to the **stakeholder** and **legitimacy theories** in association with the notion of taking account of the benefits and challenges to achieving a social licence to operate for corporate bodies. Therefore, these two theories will be briefly discussed.

#### 5.3.1 Stakeholder Theory

Stakeholder theory began to offer specifics about to whom a company should be responsible and about what specific interests and rights were at risk (Freeman, 1984; Mitchell *et al.*, 1997). Freeman's (1994) stakeholder theory assumes that values are necessarily and explicitly a part of doing business. Stakeholder discussions to develop the social license to operate can start with identifying what Donaldson and Dunfee (1999) call micro-social contracts that bind each stakeholder group. Micro-social contracts can be used to identify where there are shared norms, or accepted behaviours and shared values among the stakeholder groups. Without authoritative intervention, however, these interests often remain unfulfilled and the rights debased or violated.

#### 5.3.2 Legitimacy Theory

The legitimacy theory owes its origins to Salzmann who defined it as:

*"Legitimacy is a generalised perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed system of norms, values, beliefs, and definitions"* (Suchman, 1995:574).

The suggestion is that companies need to conserve legitimacy if they are to survive. Tilling (2006) suggests that despite its abstract nature, legitimacy theory does offer a powerful mechanism for understanding voluntary social and environmental disclosures made by corporations, and that this understanding can provide a vehicle for engaging in critical public debate.

## 5.4 FACTORS THAT INTERACT WITH A SOCIAL LICENCE TO OPERATE

According to Gunningham (2012), a mixture of internal and external factors impact on a company's capacity to earn a social license. These factors are affected – amongst others - by the company's environmental management style and performance. In addition to interactions between social, legal and economic constraints, internal features of the company such as its history, culture and attitudes of its personnel will also affect the extent to which it takes stakeholder perspectives into account in its decision making.

Two critical factors in obtaining a SLO will consequently be highlighted, namely **Free, Prior and Informed Consent (FPIC)** and **Community Engagement**.

### 5.4.1 Free, Prior and Informed Consent

Wilburn and Wilburn (2011) emphasised the significance of consent and the need to understand consent by referring to the United Nations Declaration on Rights of Indigenous Peoples adopted in 2006. The initiative requires that industries that operate in territories of indigenous people must secure **free, prior, and informed consent (FPIC)**.

The elements:

- **Free** – people are able to make decisions freely without coercion, intimidation or manipulation
- **Prior** – sufficient time is allocated for people to be involved in the decision-making process before key project decisions are made and impacts occur
- **Informed** – people are fully informed about the project and its potential impacts and benefits, and the various perspectives regarding the project (both positive and negative)
- **Consent** – there are effective processes for affected Indigenous Peoples to approve or withhold their consent, consistent with their decision-making processes, and that their decisions are respected and upheld

The distinction between **social license** and **consent** is critical because accepting community consent as a basic operating standard sets a higher bar. If a community's actual consent is required before operations begin, companies must treat the community as more of a partner in project development, rather than as an obstacle to overcome. It also implies that

a company must engage more holistically with a community, providing them access to critical information and allowing them adequate time to assess their needs and interests before making a decision about whether to accept a company's presence (Slack, 2008).

Mitchell *et al.* (1997) suggest that because power to impose one's will upon others can prevent all stakeholders from having a fair input into granting a social licence to operate, such as when a company ignores other stakeholders because a large landowner or a government entity agrees to a proposed contract, stakeholders can be divided into two groups: vested and non-vested. Vested stakeholder groups would have a voice and a vote in the awarding of a social license to operate, while non-vested stakeholder groups would only have a voice. This proposal has an impact on how to **define communities** in terms of legitimising contributions to granting social licences. Vested stakeholder groups would be defined as those who have a right to the possession of something tangible in the community in which the social license to operate is being requested. The vested stakeholder groups could also claim the rights of their future generations' needs in the discussions of granting the social license. Non-vested stakeholder groups would be those who have an interest in the activity that is being pursued in the license to operate. These groups would have a voice at the table and they could offer examples of the consequences of implementation of similar activities in other areas. In some cases, these stakeholder groups would be stakeholders who have an interest in global issues like protection of arable land, forests, water, global warming, or rights of workers. Many of these non-vested stakeholders can demonstrate great power, especially through the media, the Internet, and now, through social media.

The social license to operate is assumed to include free, prior, and informed consent. The 'array of constituents' may be so diverse and numerous that consent from all of them becomes impossible. Each stakeholder group may have expectations and requirements that conflict with those of other stakeholders as well as with the corporation and the government. There may be many companies who have a legal right to operate from the government and are willing to negotiate for a social license to operate that does not include consent (Wilburg & Wilburg, 2011).

Negotiating FPIC or an SLO with indigenous people usually involves a defined community such as a tribe that has a leader who speaks for the community. Thus, a company can identify a known person with whom to start the process. However, when a company tries to secure a social license to operate in the greater community, it usually finds that this community is comprised of many different stakeholder groups with many different leaders and interests. Additionally, the concept of SLO does not mandate the consent of the community as a whole like FPIC does. A company may have a SLO from a small segment of the community or from the leader of one segment even though others are against it (Wilburg & Wilburg, 2011). FPIC and SLO should be seen as an integrated whole, one

demanding consent and the other a procedural process aimed at getting a fair and just outcome for the affected communities.

#### 5.4.2 Community Engagement

It is acknowledged that there are diversities in support of an operation from different interest groups such as the geographic community, international pressure groups and government. Owen and Kemp (2013) suggest that there is little research on the diversity of local communities. Locke *et al.* (2008) suggest that communities are heterogeneous in their values, interests, perceptions and ways that they are affected. Some interest groups are more marginalised than others both by the company as well as within the communities. The literature from community engagement research provides useful insights into aspects important for developing meaningful relationships between community and companies. Such knowledge can be the cornerstone for meeting public expectations, understanding community aspirations and securing acceptance for operating within the community. The International Association for Public Participation (IAP2) presents engagement as five levels of participation along a spectrum of increasing public impact: inform, consult, involve, collaborate, and empower (IAP2, 2002). The IAP2 model suggests different goals, promises and types of activities are inherent within each level of engagement.

In a study of corporate approaches to community engagement Bowen *et al.* (2010) identify three strategies in interacting with stakeholders that include:

- **Transactional engagement strategies:** are usually one-sided communications with the aim of reducing transaction costs associated with the company's activities. The company 'gives back' to the community in terms of information, time, effort and money. Provision of information, charitable contributions in the form of money or employee volunteer time, and building local infrastructure are typical activities associated with transactional engagement. Engagement is usually intermittent and with limited trust.
- **Transitional strategies:** are more collaborative and involve two-way dialogue, with shared involvement and consultation over company activities. Community advisory committees, surveys, town hall meetings, and focus groups are all examples where the company seeks to understand community views, 'build bridges', and include community feedback into the company's decision making. However, these types of consultative activities are primarily controlled by the company. Trust remains fragile.
- **Transformational strategies:** result in joint learning, with the integration of the community into company decision making. Joint project management and co-ownership are examples of community engagement that is 'changing society', and depends on trusting relationships and mutual understanding. A community-led audit of corporate social performance could also provide opportunity for strengthening

mutual understanding of company and community perspectives (Kemp *et al.*, 2012). In reality this often involves a few partners.

Transactional engagement differs from transitional engagement along three main dimensions: the number of people involved in the engagement, the level and type of trust, and the benefits extending beyond one party to be jointly beneficial.

Bowen *et al.* (2010) identify four main groups of factors that influence the type of engagement that a company might undertake. They include:

- **National factors** such as the Mineral and Petroleum Resources Development Act (MPRDA - 2004)
- **Community factors** are a second influence and include community expectations, community resources, community group activities, and the variability of attitudes within the community
- **Company factors** include the strategic vision and direction of the company, human and financial resources, company structure and priorities, corporate social responsibility requirements, and an audit culture (Gunningham *et al.*, 2004; Kemp *et al.*, 2012)
- **Managerial factors** may cut across all three other factors and ultimately determine which type of engagement the company undertakes

It is unclear from current research which factors drive which type of engagement activity. From the above-mentioned it is however clear that **effective community engagement is underpinning the successful negotiation of a SLO**. Critical aspects that will ensure meaningful engagement (and eventually a SLO) are amongst others an **Asset Based Community Development (ABCD) approach** (opposed to a Needs Based Community approach), which implies an approach from the bottom upwards, collaborative and two way dialogue, as well as the integration of communities into company decision making processes; in other words following **transitional and transformational strategies**.

## **6. KUMBA'S SIDE OF THE SLO STORY: POLICIES, PROGRAMMES AND PROJECTS**

In an effort to elicit and maintain a SLO from the communities as well as receive a mining license to operate from the government, Kumba's Social and Labour Plan (SLP) and Policies were mainly built around the stipulations and demands of the Mineral and Petroleum Resources Development Act (MPRDA) and the Mining Charter. Hence, Kumba mining company in its determination to actively transform the undesired legacy of *Apartheid* and bring about more mining benefits to the ordinary South African, has its policies focused on local economic development (LED), skills development, community skills development, preferential procurement, employment equity, women in core mining, education, health

and wellness programmes, and infrastructure and entrepreneur development (Anglo American, 2011).

The main aim of this section is to highlight and discuss the policies, and specific programmes and projects embarked on by Kumba mining company as part of eliciting a SLO from the community as well as in the spirit of meeting up with the demands of the Social and Labour Plans (SLPs) (geared towards ensuring that communities benefit from mining activities meaningfully) as a prerequisite to acquisition and retention of mining rights. To this end, this section delves into Kumba's SLP and recapitulates how Kumba has endeavoured to comply and work towards realising the objectives of the SLP through numerous programmes and projects focused on improving the overall wellbeing of communities adjacent to the mine.

However, it is crucial to state that this discussion is restricted to the activities of Kumba in communities adjacent to Sishen and Kolomela mines. Also important is the fact that most of the projects are interwoven, in the sense that projects tailored towards local economic development at the same time can empower or disempower women and be locally beneficiating or not. Nonetheless, while an attempt is made to highlight the impact, shortcomings as well as inconsistencies of these projects, a bigger picture will be given of these policies and projects with regard to their effect on the communities studied. Some developmental projects of Kumba also have a wider regional impact elsewhere in the rest of the Northern Cape and thus stretch beyond the beneficiation of local communities alone.

Specific programmes/projects in terms of **skills development** and **procurement** will now be put to the fore; the last part of the section will describe **specific projects** (e.g. childhood development and health), as well as **infrastructure projects**.

## **6.1 SKILLS DEVELOPMENT**

In line with the stipulation of the Mining Charter for improvement of human resource development, Kumba mining company embarked on skills development programmes in three municipal areas, namely, Joe Morolong, Gamagara and Ga-Segonyana. The Youth Graduate Development Pilot Programme is one of the numerous programmes to this effect. The programmes have numerous projects under its umbrella to enable post matriculants to become easily assimilated into the labour market. These projects include life skills, driving skills, entrepreneurial skills, business support, Information Technology (IT) enrichment and project management training (Anglo American, 2013b).

### **6.1.1 Life Skills Project**

The life skills project is geared towards personal development and development of young people to become responsible and productive individuals, citizens, employees and employers. This particular project is focused on imparting skills such as building self-confidence, time management, interpersonal skills, problem solving skills, decision making skills, working effectively in a team, labour market preparedness and work ethics (Anglo American, 2013b).

### **6.1.2 Driving Skills**

The driving lessons were motivated by the fact that most employers demand valid driving licenses as a prerequisite to employment. At the time when the research was conducted, sixty students participated in the project. However, only thirty six students did not have a driving license prior to their participation in the project. The thirty six made use of the driving simulator of a driving school belonging to someone that benefitted from a Kumba loan for small businesses. According to Kumba's report, all the students agreed that the driving lessons added value to their life and that they will not hesitate to recommend others to the programme (Anglo American, 2013b). This raises the question of the need of including the twenty four people with a driving license in the project. It may amount to resource wastage and haphazard planning and implementation of the project.

### **6.1.3 Entrepreneurial Skills Project**

This project was divided into two phases to allow the beneficiaries to engage in sustainable and profitable business ventures. The first phase focuses on Entrepreneurship that comprises four modules tailored towards enabling the beneficiaries to identify and demonstrate entrepreneurial ideas and opportunities, match new venture opportunities to market needs, to be kept informed about current affairs related to each one's own industry and to apply basic knowledge of statistics, and probability to influence the use of data and procedures in order to investigate life-related problems. The second phase consists of four modules that will enable the beneficiaries to start businesses successfully. They include the use of mathematics to investigate and monitor the financial aspects of personal and community life, determine financial requirements of a new venture, identify the composition of a selected new venture's industry/sector and its procurement system, and produce a business plan for a new venture. Eighty nine percent of the participants affirmed that the project added value to their development, nine per cent was unsure if it did while two per cent was of the view that the project did not add anything to their development (Anglo American, 2013b).

#### **6.1.4 Business Support Centre**

The business support centre was opened in Kuruman to bring mentoring and support services closer to the people. This is in recognition of the fact that ninety per cent of applications for small businesses come from the Kuruman area. At the time of the research, the mine employed seven business developers, a marketing specialist, and support staff to provide required services. As a result, all local entrepreneurs have free access to professional business development and mentoring services. In general, from 2008-2011 Kumba in collaboration with Anglo Zimele (fund from Anglo American, a parent company to Kumba) spent a total of R24.7 million to support 54 small and medium scale enterprises. This stride created about 451 jobs, while the aggregate turnover of the businesses total up to R129 million (Anglo American, 2013b). In other words, the Kumba approach combines giving of loans and strong mentorship programmes to enhance the ability of local entrepreneurs to be successful.

#### **6.1.5 Information Technology (IT) Enrichment Course**

Kumba delivered IT enrichment lectures to youths through the Qualitas Career Academy. They were taught IT programmes such as Word, Excel, PowerPoint, and how to use the internet and email. Its aim is to equip the students to step into a work place and contribute to the success of such work place. To this end, they were put through theoretical and practical experiences. All the beneficiaries supported the inclusion of this project in subsequent youth projects. Eighty three per cent are of the view that the project added to their development, fifteen per cent were unsure if it did while two per cent are of the view that it contributed nothing (Anglo American, 2013b).

#### **6.1.6 Project Management Course**

Kumba offered an integrated Project Management Course through the Centre for Excellence and Professional Training. The outcome of the learning processes are the ability to explain the nature of a project, explain the nature of project development, explain the types of structure in a project, to manage a project, understand and use a range of project management tools and techniques, understand project management scheduling, define and gather information necessary to execute a project and to develop a project schedule (Anglo American, 2013b).

### **6.2 LOCAL PROCUREMENT**

Kumba Iron Ore states that they adhere to the view of local procurement as a veritable route to stimulate the local economy in terms of the Mining Charter. As a result, the mine prioritises local and regional procurement as a way to stimulate the local economy. In

compliance to the requirement of the Mining Charter, Kumba focuses on maximisation of procurement from Historically Disadvantaged South Africans (HDSAs) to enable them to participate in the mainstream economy (Anglo American, 2013b). To realise this, the mine has ensured an open door policy with respect to procurement of goods, services and consumables. Through this way, the local entrepreneurs do apply for tenders in the mine and can also secure contracts from the mine.

The describing of some **specific projects** in terms of, e.g. education and health – including **infrastructure projects** – is addressed below.

### **6.3 SPECIFIC PROJECTS**

Kumba claims that it is involved in numerous social upliftment projects. The research team did not follow up on each of these projects; consequently the impact of these projects has not been verified.

#### **6.3.1 Early Childhood Development Centre**

Kumba has also actively supported the establishment of early childhood development centres in the Gamagara Local Municipality. This is rooted in the beliefs that care, nurture and stimulation at an early stage are indispensable to bring about adequate happiness and cognitive ability of children which in turn, prepares the children for the future. To this end, the mine supports Bana Development Centre Kathu, MaBANA ECD Centre Olifantshoek, Simba ECD Centre Olifantshoek and Pikkie Pret Grade R Centre. Furthermore, Kumba has constructed three more child support centres in conjunction with the Provincial Department of Education. Kumba has equally channelled resources into the establishment of primary schools and intermediate schools. Also, the mining company has contributed actively in supplying stationary and the construction of libraries to primary and intermediate schools adjacent to the mine. The mine also invested in the technical section of Kathu High School in order to build skills necessary for the operation of the mine (Anglo American, 2011).

#### **6.3.2 Manyeding Cultivation Project**

Kumba planned and implemented a vegetable cultivation project that included over eight types of vegetables to address the issue of food security in the area. About 159 households benefit from the project (Anglo American, 2013b). This particular project and the beekeeping project constitute a veritable avenue through which the mine empowers women as the two projects mainly involve women. Furthermore, and in connection to the disposition to empower women, the mining company has funded two driving schools owned by women (Anglo American, 2013b).

### **6.3.3 Batho Pele Mobile Health Units**

This project was necessitated by the fact that extreme poverty contributes immensely to the inability to secure health care services and facilities. The reality confronting communities in the Northern Cape Province is the same, as it has one of the highest infant and mortality rates in South Africa. In order to mitigate this situation, Kumba in partnership with the Provincial government initiated this project. The mine financed the procurement of nine mobile units and each unit focuses on a different health issue such as eye care, dental care, and surgery (Anglo American, 2011). According to Anglo American (2013b), the lives of twenty seven thousand residents of Northern Cape were made better as a result of this project.

### **6.3.4 Ulysses Gogi Modise Wellness Clinic**

Kumba mining company, in partnership with the Northern Cape Department of Health, floated the aforementioned health clinic to provide health care services to the people. The clinic focuses on provision of counselling, testing and treatment of HIV/AIDS, diabetes, tuberculosis, high blood pressure and so on. Kumba spent a sum of R7 410 143 to realise this project. As pointed out earlier, the two health projects were necessitated by the lack of adequate health facilities in the Northern Cape Province (Anglo American, 2011). In particular, some average residents of John Taolo Gaetsewe District have to travel 130 kilometres with a taxi to the nearest hospital, while the ones living on the margin of the society have to embark on this hospital journey with a donkey cart (Anglo American, 2013b).

In addition, Kumba established and financed welfare programmes such as food sharing centres and soup kitchens in communities adjacent to the mine to cater for the need of the elderly and poorest.

### **6.3.5 Infrastructure Projects**

Kumba Iron Ore has embarked on a number of infrastructural projects. In particular, many roads have been constructed such as Bendell, Maphiniki and Gamagara roads. Bendell and Maphiniki are under Jo Morolong Municipality. The Bendell roads cost R1 836 533; Maphiniki roads cost R255 867 while the roads in Gamagara municipality cost R763 490. In addition, it provided other infrastructures targeted towards making life more meaningful. These include water and sewerage systems with gravel roads for 289 stands in Mapoteng community at the cost of R8 412 260. The company upgraded bulk water storage in Kuruman by installing a telemetric system and an emergency bypass water pipeline at the cost of R11 121 241. It provided water to Matopeng community by the construction of a reservoir, pump stations and pipelines at the cost of R4 261 445 and provision of water to

Dithakong village at the cost of R6 018 260. The company also constructed a chlorination plant at Dibeng at the cost of R3 275 051 (Anglo American, 2011).

Kumba, as reflected by the SEAT and Financial reports has illustrated substantial financial commitment to the communities surrounding its operations. The challenge for Kumba is to translate this financial outlay into visible developmental impact so that it can be recognised by community members as a move towards achieving a SLO. There appears to be a significant gap between the money spent by Kumba and impact in the communities. Without this (satisfaction of communities), Kumba is in danger of being perceived as ‘throwing money’ into the communities as a way of buying silence while continuing with business as usual.

Before delving into the specific issues in the surrounding communities of Kumba, the extremely contentious issue of **labour** will be scrutinised in the next section. How a company deals with labour issues will of course also affect the SLO of the company.

## 7. LABOUR ISSUES AT KUMBA IRON ORE

The following critical issues regarding labour practices at Kumba will be discussed:

- Board Composition
- Working Conditions, Contract Work, and Wages
- Trade Unions and Collective Bargaining
- Employment Equity and Transformation
- Training and Development
- The Envision Employee Share Ownership Scheme

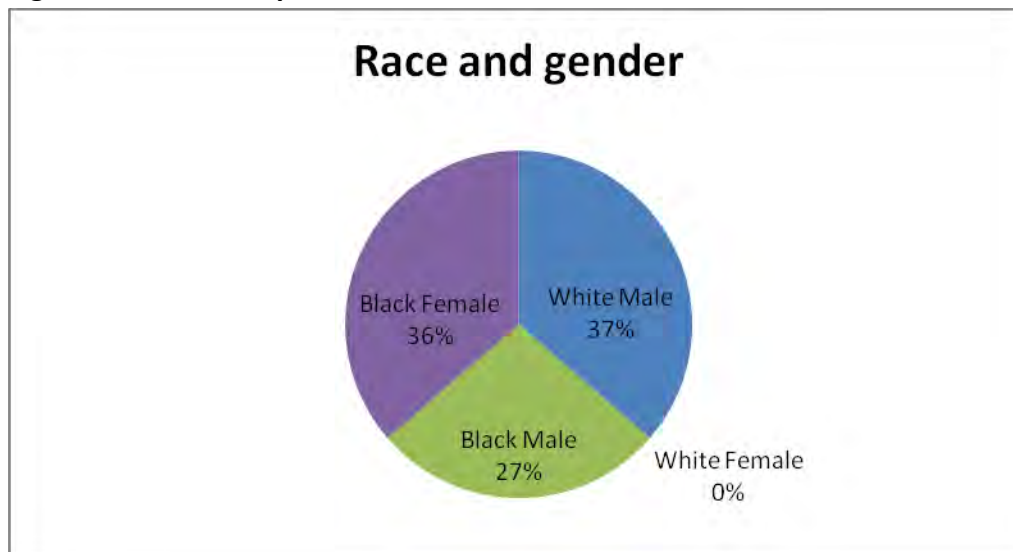
### 7.1 BOARD COMPOSITION

In the South African context any discussion on human resource management must set out with a reference to corrective action in terms of historically disadvantaged South Africans (HDSAs) referring mainly to black South Africans, and women. It has become a trend for mining corporations to proudly publish their board and management composition in terms of the targets set for the ‘empowerment’ of black South Africans and women. Thus, Kumba Iron Ore’s reports proudly refer to its board composition:

**Table 1: Board Composition of Kumba**

Race and Gender	White Male	White Female	Total White	Black Male	Black Female	Total Black	Total
	4	0	4	3	4	7	11

**Figure 2: Board Composition of Kumba**



The above graph shows that, in terms of HDSAs at Board level, Kumba is doing rather well with 64% of the Board being black. However, the Bench Marks Foundation have noted in the past the propensity for major mining corporations like Anglo American, of which Kumba is a subsidiary, to pick senior politicians from the ruling party, who also hold strategic political office. Thus, for example, Anglo Platinum appointed Valli Moosa who previously held the ministerial portfolios for Constitutional Development and Environmental Affairs and Tourism, and was Chairperson of the United Nations Commission on Sustainable Development (Angloplatinum, 2013). Manne Emsley Dipico, first Premier of the Northern Cape Province, South Africa, was chairman of Ponahalo Holdings (De Beers Group) and Deputy Chairman of De Beers Consolidated Mines Ltd. (Wikipedia, 2013).

Kumba has followed this tradition, by scooping up a former minister of mining, Buyelwa Sonjica, who joined the Kumba Board on 1 June 2012 and is a member of the Risk Committee and the Social and Ethics Committee. She is a member of the World Wide Assessment Programme Advisory Group on gender equality and former Minister of Water and Environmental Affairs, and Minerals and Energy within the Cabinet of the government of South Africa. She previously chaired the Parliamentary Select Committee on Child Care Facilities and the Portfolio Committee on Water and Forestry. She has also served as a member in the parliamentary portfolio committees of arts and culture, finance, and the trade and industry committees (Anglo American, 2012). Another senior from the former Department of Minerals and Energy (DME) to migrate to Kumba is Yvonne Mfolo who joined Kumba in 2011. Prior to this, she was from Anglo American Thermal Coal, and she was the chief director of communications at the then DME, now the Department of Mineral Resources (DMR), and spokesperson for the Minister. She spent nine years with the DME.

It would seem as if there is a revolving door between Anglo American's branches in diamonds, coal, platinum and iron and the public utility ESCOM (the Electricity Supply

Commission). Thus, Valli Moosa was a former ESCOM Chairperson, and Bongani Nqwababa resigned as Chief Financial Officer from ESCOM and joined the Board of Anglo Platinum in 2008 (I-Net Bridge, 2008). Wendy Elizabeth Lucas-Bull, a former independent non-executive director of Anglo Platinum, had also previously served on the board of ESCOM.

## **7.2 WORKING CONDITIONS, WAGES, AND CONTRACT WORK**

Kumba achieved the 'best employer' in the mining category accolade determined through both Deloitte's Best Company to Work for Survey and the CRF Institute's 2012 Best Employer Survey (Anglo American, 2012a). It achieved this despite a major strike in October 2012 (South African Press Association, 2012) and serial absenteeism among employees at the start of 2012 due to the impact of a dividend pay-out from their employee share ownership scheme, referred to as Envision, at the end of 2011 (*see Point 7.6*).

The company reports that attraction, retention and development of human resources remain critical priorities for Kumba. Accordingly, it identifies key aspects of its employment policy to include competitive remuneration, accredited and ongoing training and development opportunities, fair employment practices, the provision of benefits for improved quality of life as well as personal and professional growth prospects (Anglo American, 2012b). Yet, Anglo American was resolute in its resistance against demands by workers for a living wage of R12 500 in the latter half of 2012 (Maylie, 2013).

Current wages of mineworkers in South Africa average (conversion to South African Rand added) *"...between US\$500 (R5 223.11) and US\$1000 (R10 440.21) a month to work in what many outsiders would consider dirty and dangerous conditions"* (Williams, 2012). In Australia, the *ABS Employee Earnings and Hours Report* show that the mining industry continues to pay the highest wages in the country, with average take home earnings at \$2 388.20 (R24 947.64) as of May 2012 (Herber, 2013). The Wall Street Journal offers the following description of an Australian rock drill operator (conversion to South African Rand added): *"...workers like James Dinnison, the 25-year-old high-school dropout from Western Australia makes \$200 000 (R2 096 868.35) a year running drills in underground mines to extract gold and other minerals. The heavily tattooed Mr Dinnison, who started in the mines seven years ago, earning \$100 000 (R1 048 434.00), owns a sky-blue 2009 Chevy Ute, which costs \$55 000 (R576 638.70) before a \$16 000 (R167 749.44) engine enhancement, and a \$44 000 (R461 310.96) custom motorcycle. The price tag on his Chihuahua, Dexter, which yaps at his feet: \$1 200 (R12 581.21)"* (Miller, 2011).

The following - in sharp contrast with the Australian example - is what a worker at Kumba told the researchers about wages and conditions at Kumba just before the October 2012 strike:

*“During the strike the lowest earner at Kumba earned R6 000 gross and the net was R4 000 something, but then in the media Kumba said the lowest earner earns R12 600 and the basic net is R9 000 and it was saying that within operators we earn between R12 000 and R30 000. These are some of the things Kumba is giving to the media which is wrong – to the media we are known as people who earn better and who receive huge salaries”.*

Apart from the allegation of media misrepresentation, the comparison with the Australian mineworker is stark. It is important to note that Anglo American operates in both South Africa and Australia and that industrial mining started at more or less the same time in both countries, yet the labour regime in both is worlds apart. Derived from this comparison, it appears that race and income still largely coincide in the South African mining sector. A Kumba Iron Ore mineworker on being asked about the situation in Kumba had the following to say:

*“It’s not good. Let me give you a practical example – white people are earning a lot of money here – other people, neh, it is like they don’t have standards – the white people, they employ people without driver’s licence. People get employed yesterday and supervise people who have been working here for 30 years. If you go to the grading of this mine, all foremen are whites – people in higher places are mostly whites, there are very few black people”* (Interview conducted August 2013).

Kumba also offers bursaries to learners at secondary and tertiary levels which it claims to do in order to provide the company with the best talent. It also has a development programme for young graduates with scarce skills to ensure sufficient skilled personnel in these positions in the future (Anglo American, 2012a).

Kumba reports (Anglo American, 2012a) that it employed a total of 11 773 people at the end of 2012 (2011: 11 898): 6 878 full-time, permanent employees; 4 193 full-time, permanent contractors and 702 learnerships. In addition, 8 806 fixed-term project contractors were employed at Kumba’s construction projects, and 484 young professionals were employed in the company’s talent development pipeline (*also see Figure 3 below*). The problem with this Anglo American report is that, unlike previous reports, it does not give a breakdown by race, gender and grade of work and wage. It is impossible, therefore, to disaggregate the racial and gender composition of the lowest paid workers, while the corporation trumpets this regarding its board and management positions. Local people living in communities around Kumba also complain about the importation of labour, particularly from the declining West Coast De Beers diamond operations. This has created tension between locals and settlers. Workers being interviewed also complain about nepotism and the perpetuation of racial spatial *Apartheid* arrangements in the workplace and living spaces.

Workers complain for example that the mine's security company has taken over the functions of the South African Police services, and that black workers are harassed by the mine security company if they are found in the 'white' residential area. A Kumba worker says:

*"Northern Cape in Kathu is full of Apartheid. Let me give you a practical example – I reported to DMR [Department of Mineral Resources] about my injuries and that is why I think I should go outside like to Rustenburg or Joburg and maybe they will hear me. I went to DMR in Kimberley and they have not responded. That is why I am saying there is something between DMR and this company – Sishen. It is governing the union and even governing the municipality. Have you ever seen a municipality taking instructions from a mine? The municipality is being ruled by the mine. It is because they supplying them with cars... they have money. You can't even talk to the newspapers about this mine because they have the money, and the media itself can't report about the mine"* (Interview conducted August 2013).

This view is reinforced by another worker who says, *"Basically eh they [Sishen mine] brought security from outside to help them combat the strike – but that security [Vetus Schola] has gone beyond their responsibilities now – they are now in charge of the town itself..."* (Interview conducted August 2013).

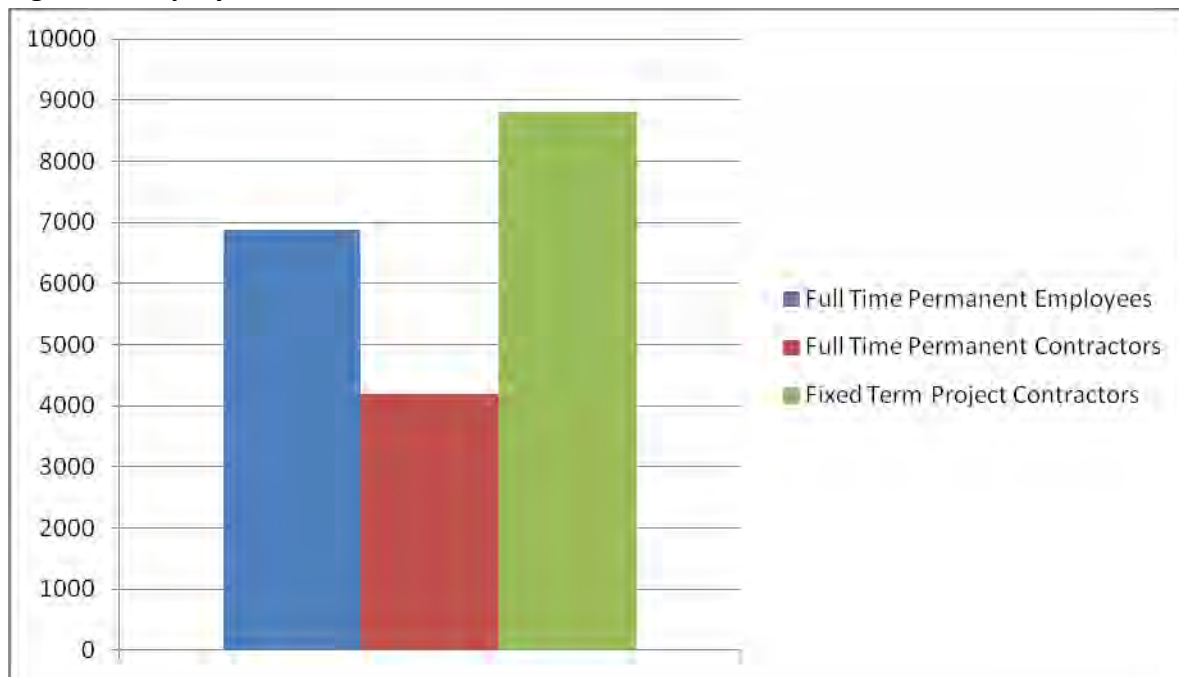
According to the same interviewee, the security company Vetus Schola does stop-and-search operations on black workers in Kathu, which is essentially still a predominantly 'white' town:

*"I am worried, the searching of drugs belongs to the police – but they demand to see our IDs, like demanding our passes, surely only the police can do this. And they beat the community up and they broke some of our colleagues here. Cases have been opened and nothing has happened"*.

The workers complain that the employees of this security company do not speak any South African languages, but speak Portuguese, and possibly Congolese languages. The research team discovered a heavy presence of demobilised 32 Battalion soldiers living in Dingleton, many of them employed by the security company at the mine, according to sources interviewed by the research team.

It thus seems as if mining corporations continue to rely on ex-combatants for their security, which leads to the militarisation of human resource management. In this regard, the special rapporteur of the UN has expressed his concern over the militarisation of private mine security firms (UN, 2012).

**Figure 3: Employees at Kumba**



The above graph indicates a rather heavy reliance on contract workers of the company, whilst the photo below shows the barrack-like accommodation provided to contract workers around the Kumba operation.

**Photo 1: Subcontract labour accommodation at Kumba**



Kumba's human resource turnover rate in 2012 increased to 4.4% (2011: 3.0%). This was a result of the dismissal of employees who participated in an unprotected industrial action at

Sishen mine in October 2012. A labour turnover of 4.4% however, is well below the industry benchmark of 8.2% as reported by the PwC Remchannel.

### 7.3 TRADE UNIONS AND COLLECTIVE BARGAINING

While a process of collective bargaining with representative trade unions regulates conditions of employment, recognition agreements govern relations with employees and organised labour. Applicable labour legislation manages employment equity practices, trade union access and membership, compensation for occupational illness or injury, and provisions and financing of training programmes.

Kumba concluded a two-year wage agreement with organised labour in July 2012 covering the period 1 July 2012 to 30 June 2014, making provision for an increase of between 8.5% and 10.5% (total cost to company), well above the rate of inflation. The rationale for this increase was to address some structural pay issues relating to technical skills at operator level, artisans and transport for employees residing a distance away from the mine. At the end of 2012, 85.2% of Kumba employees were represented by one of the following recognised unions: the National Union of Mineworkers (NUM), Solidarity, Building Allied Mining and Construction Workers Union (BAMCU), and employees who have signed an agency shop agreement (Anglo American, 2012a). Kumba reports that it is committed to maintaining a constructive industrial relations climate and this has been the practice for many years. Kumba was not untouched by the strike contagion that extended across the mining industry in the second half of 2012. The unprotected strike at Sishen mine in October 2012 resulted in a significant loss of production and revenue to the company, damage to property, poor employee morale and financial losses to employees. Management claims that its decision to suspend operations was taken to ensure the safety of the rest of the workforce.

Kumba claims that the strike at Sishen mine was not directly supported by unions. This claim is contested by a former Kumba employee who was dismissed after the strike. This former employee, who was allegedly thrown off a massive mine dump truck by mine security and broke his spine, says:

*“The salary increase was negotiated through the union – not us – the NUM. NUM is so stupid it gives me the impression that the mine gave them something. And the very same union wrote my name for the people that needed to go to the mountains – I never went that day. I said that I wouldn’t be injured today – my wife is a witness – my friends will tell you the same story. The union put my name down to go to the mountains that day – the chairperson and secretary of the union wrote our names and said we should go and listen and that’s why I went...”* (Interview conducted August 2013).

## **7.4 EMPLOYMENT EQUITY AND TRANSFORMATION**

Kumba asserts that it supports South African employment equity legislation that promotes equal opportunity through the elimination of unfair discrimination and the implementation of affirmative action measures. The Mining Charter's minimum requirement for HDSAs in management is 40% and 10% for women in the workforce. Kumba focuses on recruiting above these targets and in 2012 had 81.02% HDSAs in the workforce and 54.24% in management. Women comprised 17.23% of employees with 12.78% in core mining positions in 2012.

The problem with Kumba's 2012 report is that it – as already mentioned - fails to give a gender and race breakdown by wage/income grade or category. This possibly disguises what the workers interviewed claim with regard to there being no white employees in the lowest wage categories, and that the representation of black employees decrease and that of white employees increase as one moves to the top of the wage pyramid. This situation has also been touched on earlier under *Point 7.2*.

## **7.5 TRAINING AND DEVELOPMENT**

Kumba reports that its training centre in Kathu provides some 400 learners from the community with training in basic mining-related and engineering skills. The training at this accredited training centre is free of charge to the community and, as far as possible, the learners are absorbed into Kumba once they have qualified.

Furthermore, the company states that the rest of the learners are typically, and easily, recruited by other mining and construction companies. Kumba's wide variety of training initiatives is informed by the Mining Charter as well as its own developmental needs. Training programmes include legislative training, health and safety training, learnerships, leaderships, mentorships, portable skills training, career progression plans for HDSAs, bursaries, study assistance, ABET (Adult Basic Education Training) and professionals in training (PIT) programmes. Also see *Point 6* for other skills development programmes.

## **7.6 THE ENVISION EMPLOYEE SHARE OWNERSHIP SCHEME**

Kumba reports that short-term bonuses and share incentives supported by growth and development programmes are part of Kumba's remuneration practices. While full-time employees receive various benefits such as medical aid subsidy, study assistance, pension fund membership and housing allowances, part-time employees and contractors receive benefits in line with the Basic Conditions of Employment Act. Envision, Kumba's employee share participation scheme, has ensured that employees are active stakeholders by having a direct interest in the company's profit (*see Photo 2 – Envision Dividend Certificate*). Envision

paid out R2.7 billion to 6 209 members at its first maturity date in December 2011 (Anglo American, 2012c). Each Envision scheme member who has been employed by the company since its market listing in 2006 received pre-tax cash pay-outs, with those employed subsequently receiving pay-outs in line with their tenure. Envision scheme members also receive dividends twice a year, in March and August (Anglo American, 2012c).

**Photo 2: Envision Dividend Certificate**



The Envision employee share ownership scheme has, however, had a number of **unfortunate unintended consequences**:

### **7.6.1 Uncontrolled Spending Spree**

In this regard, the following newspaper article is self-explanatory.

## **Kumba money prospers Kathu**

**Sake24, 8 January 2012**

In Kathu one currently finds almost one car for each camel thorn tree.

This Northern Cape mining town, situated in a camel thorn forest, was turned on its head on December 15 when Kumba Iron Ore [JSE:KIO], for which most of the 10 000 residents work, paid out large sums of money to permanent employees as part of its Envision share scheme. The money has since flowed freely.

The people of Kathu have bought cars on a grand scale. According to municipal manager Moses Grond, traffic congestion is now so serious that in the mornings it takes anything from half an hour to an hour to travel less than the 5km to the mine. Those who previously used the mine's bus service have taken to commuting with their own wheels. "As a result we have had to upgrade the road and erect two traffic lights," he said.

There are no motor dealerships in Kathu, but dealers from Kuruman, Kimberley and Upington exhibited on a parking terrain beside the local Fit-it company, reports Rudi Combrinck, its owner. Exhibitors included Toyota, Ford, BMW, Volkswagen, General Motors and Yamaha motorcycle agencies. One dealer in second-hand cars with whom Sake24 spoke, brought along vehicles from Lichtenburg and in the past three weeks sold 20 vehicles from a bakkie on the pavement – all for cash.

Furniture is also selling like hot cakes, says Elsabé Faber, manager of Beares in Kathu. "Our budgeted income for December was R423 000 and we have already reached R1m. Only 3% of that is on credit. Even our branch in Kuruman, which has a target of R500 000, has reported R840 000." Faber said the greatest challenge has been to stock up and deliveries from the Kimberley warehouse had to be increased.

She said the December income of a salesperson normally earning R7 000 a month shot up to R28 000, thanks to commission on the Kumba sales. Not all shops in the town have benefited equally, but in the Kathu Village Mall things were hopping, said centre manager Riekie Terblanche. Compared with the previous December, last month saw a 19% increase in traffic, she said. These were not new people, but the same ones returning again and again to buy.

According to provisional figures the amount spent in the centre on spectacles and sunglasses was 328% up on the previous December. About 189% more was spent on jewellery and 132% more on stationery. Terblanche explains that the stationery category includes electronic goods like cameras, laptops and PlayStation and Xbox game consoles. Sales of men's clothing increased (96% up) more than of women's clothing (54%) and restaurant and fast-food establishment turnovers virtually doubled. Rudi Bothma, manager of the Superspar in the centre, said his grocery store's turnover was 53% up and that of the Tops liquor store next door 67%.

Annette Schoultz said DStv installations by their family business, J&R Computers, increased dramatically in December. Instead of the 30 installations per month, between December 15 – when the money was paid out – and Christmas there were 49 installations. The shop moreover sold 20 high-definition personal video recorders (HD PVRs), for which there is normally little demand.

Many residents are worried that Kumba employees will waste their money. Most members of the National Union of Mineworkers (NUM) at Kumba earn around R5 000 a month, NUM representative Lesiba Seshoka said earlier. The manager of one of the smaller banks in Kathu, which must be unnamed according to company policy, said that the amount deposited in it in December was three times more than in a normal month. Many Kumba workers also settled their overdue accounts with the Gamagara Municipality, said Grond. The municipal council had previously made arrangements with defaulters. He showed Sake24 one account on which more than R18 000 had been owing, but would have been settled in full after the Kumba payout. These payments had improved the council's cash flow (News24, 2012).

### **7.6.2 Employee Absenteeism**

Kumba reports that there was a noticeable increase in absenteeism at all operations in the early months 2012. This was attributed to the Envision pay-outs affected in December 2011 when employees were paid substantial amounts of money when the scheme matured and to scheduled leave following the December break (Anglo American, 2012a). In other words, many employees had a lot of money to spend and only returned to work once the money was spent and they were obligated by economic circumstance to start working again. Kumba management indicates that all operations implemented measures to address these levels of absenteeism, which improved significantly until around October 2012 when the unprotected strike began at Sishen mine.

Thus, it took almost 10 months to get all employees back to work, and this happened just as the post-Marikana strike wave hit the mining industry. This indicates that Kumba management probably did not provide adequate counselling to workers receiving the dividend pay-out.

### **7.6.3 Unprotected Strike**

Most workers interviewed told of a spending spree after the pre-tax cash pay-out and many workers bought goods such as cars, television sets, washing machines, stoves, etc. on credit based on their current, inflated financial standing with the banks (*also see Point 7.6.1 - Uncontrolled Spending Spree*). Noting that it was a 'pre-tax cash pay-out', many also got into trouble with the South African Revenue Services a year later (more or less in October 2012). The sudden unprotected strike, while being part of the post Marikana strike wave that hit the mining industry, could therefore also be attributed to workers returning to the depressing reality of monthly wages, boom related bills to settle and the demands of the revenue services. After the unprotected strike at Sishen mine, which involved 300 employees, ended in October 2012, there were reported incidents of intimidation which prevented some employees from returning to work. While some employees continued to support the strike and absented themselves from their duties, others were dismissed as a result of the disciplinary hearing after the strike. As at 31 December 2012, the majority of striking employees had returned to work in all sections of the mine.

Those who were dismissed as a result of the unprotected strike still hold Envision certificates and it is unclear if they will continue to benefit from the scheme even if they are no longer employed by Kumba Iron Ore.

#### 7.6.4 Road Safety

Workers interviewed reported that another unintended consequence of the Envision payout in December 2011 was a massive increase in car sales, accompanied by an equal surge in the sale of alcohol (News24, 2012) (*also see Point 7.6.1*). Residents of Kuruman, Kathu, Dingleton and Olifantshoek all tell of a serious decline in road safety with a concomitant increase in road accidents and fatalities. The Kathu Gazette is replete with articles expressing concern with road safety with headlines such as “Road Carnage Worries Traffic Officer” (Christolene, 2013), “Public Taught Causes of Accidents” (Cristolene, 2011), and “Churches and Department Seek Divine Intervention” (to reduce road accidents) (Christoline, 2013). Traffic congestion also increased dramatically adding to difficulties in road safety management.

#### 7.6.5 Increased Divorce Rate

Interviewees indicated that many mine workers on receiving the envision money started looking for romantic relationships outside of their marriages. The announcement of the payout also led to an influx of sex workers into the area. This caused an increase in the divorce rate and the number of broken families, according to informants. Kathu now even boasts an electronic dating agency called Afro-Romance (keep in mind that it is a small town with an estimated population of between 10 000 and 20 000 people) (Afro Romance).

It must be noted that although monetary incentives are to be welcomed, these do not necessarily ‘buy’ a negotiated and agreed to SLO. Also, counselling needs to be stepped up towards remedying unintended consequences where experience has shown that it was not effective in its application previously.

In addition to the above mentioned social ills – not necessarily due to the Envision scheme – the following, amongst others, were mentioned: Marriage problems and divorce trauma, broader relationship problems and broader family conflict, emotional problems (e.g. depression and anxiety) and substance abuse (alcohol, cannabis/“dagga” and other drugs) (Van Schalkwyk, 2013). These were confirmed by one of the social support organisations (FAMSA) in Kathu.

In the section to follow, different issues in the relevant communities will be looked into. The research revealed that all of these issues are critical in negotiating a SLO.

### 8. THE KUMBA COMMUNITIES: RELEVANT ISSUES IN NEGOTIATING A SLO

At first, a brief **background** of the different communities will be given:

**Dibeng** started off as a small settlement on the banks of the Gamagara River which provided water for the small-holdings that run the full length of town. The residential areas are characterised by the dry river in the centre of town and the rocky limestone outcrops directly east and west of the river. Dibeng consists entirely of single residential houses, but can be split into a low density area to the west and higher density and less formal houses to the east. Dibeng was given its name by the Tswana and means ‘first drinking place’. Residents have to provide their own water and every property has its own wind pump, therefore Dibeng is sometimes referred to as the ‘sunflower town’ (Gamagara Local Municipality, 2010).

The Township of **Dingleton** was constructed to serve Sishen Mine in the Northern Cape at the time of mine development in the 1950s. The town was built by the state-owned mining company, ISCOR. The mine is now owned by Kumba Iron Ore, a subsidiary of the Anglo American Plc group. The town is currently, by modern standards, located too close to the current mine (Gamagara Local Municipality). This has been compounded by rising environmental awareness and the expansion of mining activities at both Sishen Mine and a new, neighbouring mine (*see Point 8.1 below for an analysis of the relocation process*).

**Kathu** is the iron ore capital of the Northern Cape Province. Its name means ‘town under the trees’, after the Camel Thorn forest it is situated in. The phrase the ‘town under the trees’ was coined by an engineer working in the town in the early 1990s as part of a tourist marketing drive. It was intended to be a marketing slogan. The meaning of the word ‘Kathu’ has, anecdotally, been attributed to a porridge brewed by the local population from the powder found in the pods of the Camel Thorn trees. Kathu was founded in the late 60’s early 70’s. Kathu is perfectly in-between Upington and Vryburg with about a two hour drive to each. Kimberley is a three hour drive away (Gamagara Local Municipality).

Various socio-economic issues in the area will now be placed under the magnifying lens.

## **8.1 RE-LOCATION/RE-SETTLEMENT: THE CASE OF DINGLETON**

From the internal research done by Kumba for the Sishen mine SEAT Report (2011) the following are the demographics of **Dingleton**:

### **Population gender distribution:**

Male = 49%

Female = 51%

### **General employment status:**

Employed = 57%

Unemployed = 43%

**Percentage of population that receive government grant:**

Receive government grant = 13%

Don't receive government grant = 87%

**Adult population able to read/write well:**

Read/Write well = 94%

Do not read/write well = 6%

The involvement of Kumba and the Gamagara Local Municipality in the resettlement process will now be discussed.

For at least the last fifteen years (twenty five years according to Kumba – see *Annexure A*) there have been talks in the township that people will be relocated to the nearby town of Kathu. The Sishen Mine is engaging with the community members about the process of relocation and resettling. There are communication channels in place as part of the process – one of the ways the Mine is communicating with the people is by Short Text Messages (SMSs) to house owners and other inhabitants and there are also public meetings held – this is according to some of the community members interviewed.

In response to numerous requests from the community of Dingleton Township, the boards of Sishen Iron Ore Company (SIOC) and Kumba Iron Ore (Kumba) agreed in principle to relocate the Dingleton Township and the entire infrastructure to a more suitable location, in the vicinity. The decision to relocate was made subject to the community's consent and the feasibility of the relocation. In making this decision the boards were mindful of Kumba's commitment to the residents of Dingleton Township to notify them before the end of 2007 regarding whether or not the company will propose that they be moved. The community was also requested to formally constitute itself in order to get the process underway.

Although independent tests have demonstrated that noise, dust and vibration impacts from mining are within legal limits, recent public consultations by Kumba with the Dingleton residents reflected a strong desire by the residents to relocate. While Kumba will pay for the resettlement, the resettlement will only proceed if:

- The resettlement can be planned collaboratively by the residents, Kumba and the appropriate public authorities
- The overwhelming majority of residents support both the principle of resettlement and the detailed proposals for re-housing residents
- International best practice requirements, as set out in the World Bank's resettlement guidelines and the International Finance Corporation's Performance Standards, can be met
- All relevant South African legislation is adhered to

- The resettlement leads to an improvement in both the standard of living and the sustainability of the affected communities
- The viability of the resettlement can be accommodated

In addition to re-housing affected residents, Kumba is willing to provide through Sishen Iron Ore Company (SIOC), in consultation with the community and relevant authorities but at SIOC's own cost, the replacement of community infrastructure. Any existing businesses or livelihoods directly affected by the resettlement will also be addressed as part of the resettlement process.

The suggested process to be followed by Kumba is as follows:

- The community will elect representatives from its midst and formally constitute itself. This constituted entity representing the community will make important decisions relating to issues such as: whether or not the relocation should take place, and if so, the terms of the relocation. The legal entity will also be consulted regarding the technical, legal and other consultants to be appointed and the process to be followed. This is the forum through which all major discussions and negotiations will take place between the community and Kumba. The community should also consider, in consultation with Kumba, how the representative body should be reformed from time to time to ensure that it has continuing legitimacy in the community.
- To facilitate this process of forming a legal entity, Kumba, through SIOC, is willing to pay for the services of an appropriate lawyer of their choice, from the region that will assist with the setting up of a Section 21 company or similar entity.
- Kumba and the community will also appoint an independent ombudsman who will implement an agreed-on complaints and grievance procedure that any resident can address complaints to in the event that they feel that any of their complaints, grievances or other concerns have not been adequately addressed (Anglo American, 2007).

Also refer to *Annexure A: Kumba's Case Study on the resettlement process*. According to Kumba's Sustainable Development Report (2012), no agreement has been reached as yet with the Dingleton community on issues surrounding resettlement packages. The same document states that progress thus far has been slower than expected. According to Kumba, Dingleton community's proximity to the mining operation at Sishen may have impacts on Kumba's organisational responsibility and capability (Anglo American, 2012a).

In interviews with the Pastor from a local church in Dingleton and also a member of the Relocation Working Group (RWG), the existence of community structures in the area were confirmed. The RWG also serves as a community forum structure and represents the community, amongst other things, in the process of relocation of Dingleton by Sishen Mine. According to the Pastor it is a good idea that Kumba has set up grievance mechanisms of

some sort. There are a lot of good things that Kumba is doing for the community at large. However, there is a need to address grassroots level issues such as empowering the youth of Dingleton through this relocation process. There is also an issue of high unemployment. The people of Dingleton are not always considered when they apply for a tender with the Mine, and training of youths does not take place locally. People are told they don't have the necessary skills, says the Pastor (Interview conducted August 2013).

An issue which has become a major concern of the community of Dingleton is the lack of service delivery by the Gamagara Local Municipality. This lack of the provision of services can be seen everywhere in the town and in the local hostel – streets ridden with potholes, unkempt sidewalks, dilapidated hostels (flats), lack of water provision and filthy and broken down ablution and toilet facilities in the hostels, the unkempt Dingleton cemetery, lack of street lights, and blocked drains. Inhabitants commented as follows on this dire state of affairs in the local Kathu Gazette (freely translated).

#### **December 9, 2010**

*"Our pristine living in Dingleton has changed for the worst as a result of overpopulation of people from all corners of the country. Dingleton is fast becoming the Promised Land for overcrowded people. More than twenty people stay like sardines on one stand – even Kumba's houses are not immune to this – and many evil deeds are spawning here. The people are infuriated. This unacceptable situation is the result of hundreds of contract workers who descend like beasts of prey on Dingleton. The uncertainty is shocking and only tragic memories remain. We are victims who suffer in silence".*

#### **February 23, 2011**

*"As a citizen of Dingleton I would like to, once again, voice my dissatisfaction on the scandalous deterioration of our town. I want to ask that Gamagara municipality must stop its bad attitude against the citizens of Dingleton and the workers must start focusing more on their responsibilities and implement them. Gamagara must issue notices when they intend to work on the electricity or water supply lines because water is being cut without warning and results in discomfort. We are paying dearly for services that are not rendered".*

#### **August 16, 2012**

*"We have a problem in Dingleton at the RDP houses. We have people who throw their excrement out in the street. They say the toilets do not work, then they empty their toilet buckets onto the street. We are asking the assistance of the municipality to come and fix the toilets. We are tired of this mess".*

**October 4, 2012**

*"In Dingleton everything is deteriorating daily. The drain in 15 Dahlia Street does not work and Gamagara has still not come to the aid of those elderly people. We have complained on many occasions about the drains in the RDP houses, the streets are not rehabilitated, there are potholes at the entrance to the Post Office, no street lights, especially in the RDP section, the community hall has not been renovated, especially the toilets and the kitchen...The refuse has not been removed for two weeks...our town is becoming a ghost town".*

**October 4, 2012**

*"I want to express my shock at the conditions prevailing at the Dingleton cemetery. Notwithstanding the fact that Kumba promised us that this cemetery would be accessible to us, it is devoid of all truth. During my visit to the cemetery I was confronted by refuse dumped from the turn-off to the rubbish dumping site all the way to the cemetery, not to mention the very poor condition of the road – it is all one big mess. What worries me is the situation that what is said in meetings and what one experiences in practice, are two different things – everything only 'sweet talk' to get your buy-in. Gamagara municipality must surely make greater efforts and fulfil its promises to the community. Lastly, Gamagara municipality, please react because it's not good to hear that there are no funds available for the proper fencing-off of the cemetery, maybe the unproductive councillors must resign".*

The above concerns expressed by the citizens of Dingleton are, of course, not directly the responsibility of Kumba but fall squarely on the responsibilities of the Gamagara Local Municipality. In its Case Study of Dingleton (see Annexure A), Kumba has expressed its concerns in this regard as follows:

*"Ever since resettlement was first mooted some 25 years ago, local government has been disinclined to invest in the town, which was established in the 1950s, and infrastructure has been neglected".*

*"As a direct result of the lack of investment in the town, businesses have moved out. Shops are non-existent and residents have to drive to Kathu to get petrol".*

However, in the very same Case Study, Kumba asserts that:

*"Public involvement was paramount at all stages of the process and communication between all parties was essential to identify any areas of concern. The Resettlement Working Group (RWG) was formed, consisting of all primary stakeholders: six Dingleton residents representing the community, four representatives from the local Gamagara municipality,*

*three members from the Northern Cape provincial government, two Kumba representatives and various consultants who were appointed in an advisory capacity. The RWG's role was to investigate the feasibility of the resettlement, to produce a resettlement action plan (RAP) and to advise both Kumba and the Northern Cape government. A joint steering committee (JSC) was also formed, comprising representatives of local, district and provincial governments, the RWG and Kumba. The roles of the JSC included oversight, the provision of access to technical support and process facilitation".*

Drawing on the concerns of the citizens, this public involvement of the four representatives of the local Gamagara municipality does not seem to have been successful as far as the upkeep of services in Dingleton is concerned. The process reflected in the Case Study to carry out oversight, identify all areas of concern, to enhance process facilitation, and to implement emerging problems by all concerned in the RWG have not been realised as far as local government service delivery is concerned.

The following are a few comments made by community members in Dingleton:

*"We are worried about moving to Kathu, because everything is very expensive there; we are going to have to steal to survive. There's a little to none municipal services being rendered, because the municipality knows that we are being moved and thus decided to neglect Dingleton" (Interview conducted August 2013).*

*"We do not have any certainty of when the resettlement to Kathu will take place. We want to be notified of meetings on our cell phones" (Interview conducted August 2013).*

*"Some of the community members protested against poor service delivery by the municipality by marching and burning tyres on the 14th of August 2013" (Interview conducted August 2013).*

*"We have no facilities like banks and petrol stations for fuel; we have to travel to Kathu at a high cost" (Interview conducted August 2013).*

*"There are people in Dingleton who rent out flats, houses and rooms, but the mine isn't making arrangement for them regarding the resettlement. Some community members' only monthly income is the rent payment they receive, so if they resettle in Kathu and don't have that extra house or room, they will have no money" (Interview conducted August 2013).*

Other renters have also indicated that they feel insecure about the whole relocation process because they are not the primary focus of it, and that every effort is made to accommodate the home owners, but not themselves. This situation was corroborated by the Resettlement Office who admitted that renters are not currently involved in the process and a

representative of the lawyers firm who are representing the community, said that they will start to negotiate on behalf of the renters soon. This situation has arisen notwithstanding Kumba's undertaking that *"public involvement was paramount at all stages of the process and communication between all parties was essential to identify any areas of concern"*.

Since the field work conducted during 13 – 18 August 2013, the first phase of the Dingleton Relocation Project took place during the week of 21 November 2014 (MiningWeekly, 2014). This Research Report, therefore, does not reflect on this latest development.

## **8.2 POVERTY AND UNEMPLOYMENT**

This section discusses poverty, employment as well as unemployment in the Kathu, Dingleton and Mapoteng communities that are adjacent to the Kumba mines. The issue of poverty is multidimensional as poverty cannot be optimally evaluated only in terms of disparity in income. Hence, poverty in these communities is discussed herein under the rubric of social exclusion as the idea of social exclusion is broad and gives room to capture income differences between these communities. Despite the fact that Kumba Iron Ore has implemented a series of projects to alleviate or diminish poverty in communities around Northern Cape as enunciated in Kumba Iron Ore Limited's Sishen Mine Report 2011, Kumba Iron Ore 2013, Kumba Iron Ore, 2012 and BOSWA BA RONA, 2013 (*also see Point 6*), it seems that the benefit of these projects are skewed in terms of its impact on the communities. This foregoing assertion is based on glaring disparate socio-economic conditions prevalent in the communities of Kathu, Dingleton and Mapoteng.

The following are comments made by different community members relating to poverty and unemployment:

*"I am hustling for money at night, but I wish I had a real job"* (Interview conducted August 2013).

*"I don't receive a living wage from the mine, I am the only one in my family who has a job and I have to take care of 5 people. My children have to go to school, I have to pay rent, and everyone has to eat. After the first week of the month my salary is gone"* (Interview conducted August 2013).

*"We are so desperate for money that sometimes we have to turn a blind eye if our wife's and daughters have sex for money"* (Interview conducted August 2013).

As stated earlier, the notion of poverty is multidimensional but a mere observation of the situation in the three communities studied shows that Kathu has a better socio-economic status. This is exemplified in the presence of good businesses and more decent housing for

the residents. When compared to the situation in Mapoteng, where the housing ranges from brick structures, to where the majority of the residents dwell in shacks with rubbish everywhere, without adequate electricity and a constant source of potable water. In fact, Mapoteng have about five hundred stands, each contains an average of eight shacks and about thirty people dwelling in them. This situation accounts for constant fatalities resulting from fire incidents. For instance, a man died in 2011 when eight shacks were gutted by fire and a boy was burnt to death in 2012. The nature of these shacks also accounts for the cheap housing rate in Mapoteng compared to Kathu. A backyard room in Kathu goes for R3 000 to R4 000 while a three bedroom house goes for around R20 000 per month, while in Mapoteng a room goes for between R100 and R300 depending on the size. And in Dingleton, backyard rooms range from R700 to R1 900. This situation makes it impossible for students that attend Kathu's technical school to live in Kathu; they rather live in Mapoteng which they can afford and as such they are confronted with transport problems.

Linking on to the question of housing<sup>1</sup>, the burning issue of a 'living-out allowance' is also – like in most mining communities – presenting itself in communities adjacent to the Kumba operations. Workers are basically 'squatting' in back rooms for a minimal rental tariff, and use the rest of the allowance for other purposes. This practice is of course also working different social problems in the hand, e.g. family disorganisation, alcohol misuse, and prostitution.

The presence of successful small businesses in Kathu obviously contribute to a more decent looking community as people do not wander about aimlessly when compared to Dingleton and Mapoteng where the local pubs are filled with unemployed youths and the streets continuously have the presence of idle youths and children wandering around hopelessly. This situation can be linked with the type of intervention carried out by Kumba Iron Ore. It can be argued that there is no conscious effort to tackle pressing developmental issues in the community (employment), but rather the company has established soup kitchens in Mapoteng and Dingleton. This approach can be viewed as creating a dependency situation where youths that ought to be given adequate skills to improve their lives, becomes unduly dependent on soup kitchens for the rest of their lives. Although Kumba Iron Ore has initiated projects that aided youths and communities to improve their socio-economic wellbeing (*also see Point 6*), it is obvious that communities like Mapoteng and Dingleton have not benefited from these initiatives. So glaring is the systematic exclusion of some communities that a respondent from Mapoteng stated during an interview that the mining housing system promote and sustain the overthrown *Apartheid* spatial arrangement. Furthermore, respondents from Mapoteng bemoan the fact that the CSR projects of the mining corporation are located far away from them and as such they do not benefit anything from such projects.

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<sup>1</sup> Formally there are hostels; however, due to the living-out allowance, hostels are not occupied as much as in the past. People are living in different types of accommodation, scattered over the area.

Apart from the obvious systematic exclusion of Mapoteng and Dingleton communities from tangible benefits of the Kumba CSR initiatives, the employment process for members of these communities is also riddled with an attempt to exclude and sequester them from the mainstream economic activity (mining). There is this unified voice of the unemployed youths in Mapoteng community that Kumba gives preference to outsiders and does not employ them. This alleged preferential treatment is clothed in Kumba's demand for Matric, maths and sciences from members of the locality, while in reality some immigrants that have less educational qualifications are being employed.

Also, there are Dingleton residents that have Matric and have actually undertaken other courses to make them employable, yet the mine failed to employ them. This has brought the community members near to a state of despondency as they presently deem any further education as a criterion to being employed as a total waste of time. The story is not different for the women and can be said to be more unpalatable as there is a sense of marginalisation on the basis of their gender. It is very difficult for the mine to employ women and they do not even reply to their applications. It has been emphasised by interviewees that the 'only way' for women to get employed by the mine is through the offering of sex and paying of bribes. The resultant effect is a high unemployment rate amongst the youths of Mapoteng and Dingleton as most of the residents cannot afford to pay bribes to facilitate their employment.

In relation to the afore-mentioned, one community member made the following comment:

*"If you want a job at the mine you have to pay someone. You must pay the whole amount immediately, you cannot pay it off. Women first have to sleep with the managers or you can 'buy' your wife a job. Mine workers feel they don't receive a living wage"* (Interview conducted August 2013).

The employment situation also extends to contracting opportunities among Dingleton and Mapoteng residents that apply for tender and contracts from Kumba. The popular statement used – according to interviewees - to deny them the opportunity is that they are not skilled or empowered. Furthermore, the voice of the community indicates that the problem is that they are competing with white contracting companies that are favoured by Kumba. The crucial thing to point out here is that the refusal to offer the residents tenders and contracts has further contributed to poverty in terms of decent living in these communities. The reason being is the higher probability that the economic return from the contract or tender would have trickled down to the community, and even create avenues to employ more people from these communities. This situation in its entirety casts doubt on the efficacy of the series of skills development projects embarked on by Kumba in diminishing unemployment and poverty.

Further responses on the skewed access to contracts and employment in favour of white companies over black entrepreneurs, and men over women, bring to the fore the alleged unwillingness of Kumba to keep to the objective of the Mining Charter to transform the racial and gender inequalities that pervade the mining sector. More importantly, it appears as if the entire range of CSR activities merely serves as a facade to counter external criticism, while continuing unperturbed with business practices.

Following from the preceding, the political angle to the minimal or no tangible impact of the considerable funds spent by Kumba on community development in Dingleton and Mapoteng came to the fore. The stipulation of the Mining Charter that mining companies should integrate their development plans (primarily SLPs) with that of the municipal authority (Integrated Development Plans - IDPs) appears to have great challenges in terms of its functionality and development potential, as the mining company claims that the municipality is responsible for channelling the funds it makes available to different communities. The resultant effect is that the municipality channels more or almost all the funds to communities where their political gains are more likely to be enhanced. This situation sheds light on the unexpected shortcoming of that very stipulation of the Mining Charter and presents the conundrum of whom to hold responsible.

For the town of Dingleton the relocation process has sufficed as a shield, albeit a hollow one to the neglect of the community (see *Point 8.1* for the resettlement issue). The supposed relocation has dragged on for more than 10 years and Kumba Iron Ore has used the pending relocation as an excuse not to spend any CSR funds on this unfortunate community. Being a long dragged out issue, one can argue that it might have been seen to be tantamount to the waste of scarce economic resources to invest in the community by all concerned.

### **8.3 HEALTH AND HEALTH INFRASTRUCTURE**

Like other services in the area, the best health care facilities are located in the main town of Kathu. As indicated above (*also see Point 6*), the mine has contributed a substantial amount of money towards the health infrastructure. Despite the contributions to health care from the mine, community members continue to blame the mining company for their health problems. Most of the illnesses generally associated with mining were confirmed by interviewees; these include:

- High rates of HIV
- Chronic chest related illnesses
- Sinus
- Asthma
- Tuberculosis (TB)
- Substance related illnesses

- Mental health problems

Comments by community members relating to these health issues include:

*“We have permanent sinus and most people and especially our children have chronic sinus due to the dust from the mine”* (Interview conducted August 2013).

*“Our children are born with asthma, because of the dust”* (Interview conducted August 2013).

Surrounding communities of Sishen Mine feel that although the mine provides health care to the communities, they are the main cause of their illnesses and are not doing enough to prevent this.

It could therefore be construed that the mining company’s operations, responsible for generating the environment that causes the illnesses, should also take responsibility for dealing with the outcomes of their actions, however community members reported that the health care infrastructure within the communities surrounding mining operations were inadequate. On the other hand, the mining company is pleased with the outcomes of the investment that it recently made on the mobile health clinics.

Community comments however, do not reflect this:

*“There are enough clinics, but sometimes you need to go to a proper hospital, but the hospitals are too far and expensive”* (Interview conducted August 2013).

*“The mine sponsored 77 ambulances, but most of the communities around the mine didn’t receive one”* (Interview conducted August 2013).

*“How can the mine sponsor so many ambulances, but none of the communities except Mapoteng receive one, and now their ambulance is broken anyway, because of the bad roads and it is not getting fixed.”* (Interview conducted August 2013).

Community members reported that all communities had one clinic, which, according to community members in Mapoteng, is unreliable:

*“There is a clinic but the services are poor – many times there is no electricity or water”* (Interview conducted August 2013).

There appears to be issues around keeping the clinics and donated ambulances in working order. It could be argued that whilst the mine is prepared to spend substantial finances in donating health systems, the lack of consultation about the ability to maintain the services

results in ‘white elephants’ once there are breakages. The lack of effective consultation that takes account not only of donating the health clinics and ambulances but also how they are going to be distributed and utilised, can result in poor distribution and ineffective utilisation, as is the case with the donated ambulances. This is despite the urgent need for ambulances as expressed by a community member:

*“When you require an ambulance, call the Police then police come and check to ensure the urgency, then if they deem it necessary they call ambulance”* (Interview conducted August 2013).

It could be argued that although the donation of well-needed ambulances is a necessary and appropriate and positive investment for communities both surrounding the mines and isolated communities, It may not be sufficient to alleviate the health problems created by mine operations. Most ailments resulting from mine operations are chronic illnesses, such as chest problems and TB, HIV/AIDS intensified by the migratory nature of mine employees, which require an efficient health infrastructure. Gulliford *et al.* (2002) suggest that access to health care services is a complex concept and at least four aspects require evaluation. In the first instance, if services are available and there is an adequate supply of services, then the opportunity to obtain health care exists, and a population may 'have access' to services. The extent to which a population 'gains access' also depends on the last three aspects namely financial, organisational and social or cultural barriers that limit the utilisation of services.

Services available must be relevant and effective if the population is to 'gain access to satisfactory health outcomes'. The availability of services, and barriers to access, have to be considered in the context of the differing perspectives, health needs and material and cultural settings of diverse groups in society. By this definition of access to health care services, the supply of ambulances does only deal with a part of the community's health needs and does not really compensate the surrounding communities for the health problems created by mine operations. Furthermore, this is compounded by the fact that despite community members experiencing these problems, most inhabitants do not have medical aid benefits.

As community members believe that most of their health ailments are the result of mine operations, most expect the mining company to provide the appropriate health care services. Drawing on Kleinman's (1981) explanation of illness and reports from the community members relating to what they believe makes them ill, the implication is that health care in these communities must take account of mine-related health issues. Furthermore, this would concur with Sen's (1999) capabilities theory namely that provision for basic health care facilitates development. It could therefore be argued that by being responsible for factors causing illnesses and not providing appropriate service provisions within these communities, the mining companies are contributing to the underdevelopment

of the communities. To a large extent, the provision of, for example a soup kitchen, encourages dependency and is not sustainable, especially as it is dependent on donations from local community members and the mining company.

#### **8.4 EDUCATION**

The data from the community interviews confirmed the positive reports from the company's SEAT Report which showed that there are a high percentage of Matric results and generally good education levels within the communities, including those outside the main town of Kathu. The data illustrated that apart from Matric qualifications, community members had supplemented their academic qualifications with mine-related vocational qualifications.

Despite these positive results, community members were disgruntled by the poor education infrastructure. Most communities lacked secondary schools. Consequently most children have to travel long distances or attend boarding schools to access secondary schools. In Dingleton, community members reported that a bus was provided to transport children to secondary schools. However the main complaint was that the bus was not regular and at times did not turn up. Consequently, children either walked long distances to school in town or other communities, between 10 and 15 km away.

What is interesting about the education status of the mining communities is that despite the high education levels amongst the youths, there remains a high unemployment rate as a result of the mining company employing from outside the area. A youth from Limpopo reported:

*"I have travelled from Limpopo to seek employment here because I have a better chance of getting work in the mining communities away from mining companies in my home area. Mining companies are known to employ outsiders rather than local people"* (Interview conducted August 2013).

Bhorat *et al.* (2001) suggest that education affects the propensity of blacks to participate in the labour force, their probability of being employed and their earnings, with rewards for secondary education being particularly high. The data from the mining communities appear to contradict this suggestion. Most unemployed community members reported that despite having the required qualifications, they found it difficult to secure employment from the surrounding mining companies that are the main employers in the area. Theoretically, the combination of social capital and Bourdieu's (1986) notion of cultural capital may explain why, despite getting qualifications, the black youths remain unemployed. The racial and class divisions that characterise Kathu and the mining communities mean that most black youths, despite attaining the relevant qualifications, remain unemployed. Black and

coloured youths living in the communities surrounding mining companies do not have the cultural capital and connections of their white youth counterparts living where the mine recruits in residential areas.

The black and coloured youths do not attend the social networks attended by their white counterparts. Racism and poor economic capital impede their ability to develop social and cultural capital that will improve their employment outcomes. In the same way that community members in the black communities complain that recruitment for underground mine employment is undertaken in beer halls; management and white collar recruitment is undertaken or negotiated at social events within the white communities. A representative of a mining company in the area confirmed that the surrounding rural areas have many unemployed graduates. Historically in South Africa, the basis of social stratification was based on race and ethnicity, a basis that continues in South Africa's current transitional period (Kewwell, 2004). Lareau and Hovart (1999) found that being white was a cultural resource unconsciously drawn on by parents. To a certain extent, this suggests that the issue of race and ethnicity still plays a role in explaining advantages in education, economic and occupational outcomes. A coloured community member confirmed this by stating:

*"I sometimes use the fact that I look white to get access to resources and places where blacks and coloureds are not allowed here. You would be surprised at the advantages of being white. I feel sorry for the blacks, they have no idea. But I do not do it often. I am proud of who I am. It is so different from Cape Town where I come from"* (Interview conducted August 2013).

Throughout the study there were complaints by employed community members that issues pertaining to nepotism and racism within the mining company were rampant. Some complained that they found that they regularly train white junior employees only to be supervised by them within a short time. Several community members complained that they have undertaken mine-related training but this has not improved their chances of employment.

It could be argued that the quotas set for employing historically disadvantaged South Africans (HDSAs) under the Mineral and Petroleum Resources Development Act (MPRDA – 2002) to redress past inequalities has unwittingly created disadvantages for the increasingly qualified HDSAs. The employment quotas were set and remain as follows:

- 40% management must be HDSA
- 10% of the mining company's employees employed in core mining occupations must be women

These quotas were set at the onset of the mining Charter in 2002 when the education, skills and employment contexts were different from the current situation. Since 2002 the skills

and education levels of HDSA have greatly increased and to a large extent making the quotas outdated. The Centre for Development and Enterprise (CDE) Report of April 2013 shows that graduates in the labour market grew from 463 000 in 1995 to 1.1 million in 2011. Furthermore, the CSR official from Kumba reported during the interview (August 2013) that in some communities surrounding the Kumba operations, there are a number of unemployed post-matric individuals. This observation to a large extent corroborated with the findings by the researchers who also interviewed a significant number of unemployed community members with post-matric qualifications. With this in mind, if companies - especially mining companies - continue to be guided by the quotas set by the Mining Charter and the MPRDA, then it is likely that there are adequately qualified HDSAs that are unemployed and not being offered employment, because the mining company has reached their quota of HDSAs.

To a large extent the mining companies through the MPRDA can continue to discriminate against the HDSAs despite being compliant to the legislation. This aspect is more pertinent to black South African women who have been confined to manual work in the mining industry as a result of the required 10% quota for employment of women in core business. Unfortunately this has been interpreted as a requirement for women to work as manual workers in the mining sector; that includes underground work or working as machine operators. The problem is that most 'HDSA women' do not necessarily want to work underground or as manual workers. At the same time, in the same way that educational attainment for HDSAs has increased so has the educational attainment for women improved. Therefore, why continue to subject them to underground work even when their educational qualifications do not warrant manual work. In reality the Act should be reviewed to take account of the race and gender structures of the country. This perspective may help to explain why mining companies are increasingly experiencing labour conflicts and community unrests. Furthermore, this aspect may also help to explain the contradictions between Kumba's report that it is operating beyond compliance while its labour force suggest that there is nepotism, racism and institutional discrimination practices.

Finally, it can be remarked that the government of the day is also to blame with regard to the lack of the creation of job opportunities for post-matriculants and for the youth in the country as a whole.

## **8.5 ENVIRONMENTAL ISSUES**

In South Africa, environmental protection is regulated by Section 24 of the Constitution of the Republic of South Africa, the National Environmental Management Act (Act 107 of 1998) and the National Water Act (Act 36 of 1998). The Department of Mineral Resources (DMR) administers the Mine Health and Safety Act (Act 29 of 1996) which provides protection for

the health and safety of employees and other persons at mines. In terms of water, the National Water Act (NWA) (Act 36 of 1998) regulates the water usage by mining. The Department of Water Affairs (DWA) also supports the principle of the *Polluter Pays Principle* which requires that mines causing pollution including acid rain should be held liable for the cost of cleaning up and legal enforcement. The following provides for corporate environmental policies for Anglo American:

#### **8.5.1 Corporate Environmental Management**

- The vision of the Company is to minimise harm to the environment by designing, operating and closing all its operations in an environmentally and socially responsible manner. This policy expresses the accountabilities of all its leaders. In this regard specific attention must be given to relevant legislative prescriptions regarding mine closure for example Sections 39 and 42 of the MPRDA.
- In this policy Anglo American recognises that climate change is a real international and community concern and commits itself to contribute to finding and implementing solutions to the challenges it poses.
- The Board seeks assurance of compliance with the Anglo Environment Way standards through regular self-assessments, peer reviews and third party audits.

#### **8.5.2 Local Mine Policy**

Kumba's environmental management is carried out by all departments and the coordination thereof is an intra- and inter-company process with many internal engagements. Examples of environmental management include: energy and water consumption and efficiency, and greenhouse gas emissions.

The following discussion on environment and the community is based on community narratives and observations made during the research process. The discussion considers not only the natural environment as experienced by community members, but also the community structures as impacted on by the mining operations.

#### **8.5.3 Physical Mining Community Environment**

*Photo 3* illustrates the implications of the proximity of mining operations to community habitation. The current legislation requires that mining operations be located a minimum distance of 500 meters from community housing. Since Kumba claims to operate within the environmental legislation, it can be argued that the image in *Photo 3* to a large extent illustrates how legislation is not protecting the human rights of individuals of this community. This is because, despite mining operations being physically more than the

legislative distance away from residential property, mining operations clearly affect the health and wellbeing of community members.

**Photo 3: Blasting in the Area**



The following represents some of the community members' experiences regarding environmental issues:

*"Dust pollution is the biggest problem. The mine installed a dust-monitor which says that the dust isn't harmful to us, but we believe it is"* (Interview conducted August 2013).

*"There is dust everywhere, our houses are always dirty"* (Interview conducted August 2013).

*"The blasting's are really loud and causes damages to our houses. Our houses crack and the lights fall out of the roof"* (Interview conducted August 2013).

Community members reported that, apart from being unsightly, the mining operations cause regular blasts that they are forced to get used to. The world around them shakes due to the blasting taking place at the mines. The community members experience problems with sound (shock) because of the blasting and dust related health problems. Despite health problems caused by mine operations, most inhabitants where the black and coloured populations live do not have medical aid. Apart from not having access to medical aid, the health service infrastructure is a subject of controversy in these communities (*also see Point 8.3*). As a way of overcoming some of the sound shocks from the blasting in the mines, community members recommended that a siren be installed and be activated prior to blasting procedures.

Environmental degradation in these communities is not only associated with mine operations, but government activities or non-activities as informed by community members in Dingleton, complaining that they have to live along uncollected rubbish dumps because the local government has stopped waste removal services. According to community members, the municipality stopped collecting rubbish because (in the words of one interviewee):

*“The municipality says that there is no point continuing with service delivery in an area where there is going to be resettlement. We do not see them here at all”* (Interview conducted August 2013).

*Photo 4* shows the implications of non-service delivery for community members in Dingleton. On the one side the community members have to cope with the environmental impact of mine operations as illustrated in *Photo 4*, and on the other they have to cope with environmental impacts resulting from non-service delivery. Apart from attracting wildlife, there are also dangers resulting from potential rat infestations that have serious health implications.

**Photo 4: Non-service Delivery in Dingleton**



At Debeng large amounts of soil dumped along the river bank and adjacent to the community settlements have created an unsightly view. The lack of information by the community about the dumped earth illustrates the lack of transparency within the community between those supposed to represent the community (Municipality) and the community members. Enquiries made to the community members illustrate that they did not know the composition of the dumped earth, where it came from and why it was being dumped there. Some thought that the earth was being dumped as preparation for a new shopping centre to be built in the area. Others thought that the earth was placed there to

build a new bridge. According to local government reports it would appear that the Municipality is taking the earth from one part of the Gamagara municipal area to the Debeng area.

### **Wildlife**

In terms of natural resources such as trees and animals, observations and reports from community members exposed severe adverse impacts from mining operations. Trees close to communities surrounding the mine operations appear to have developed a reddish tint to them. However, further away from mine operations the trees retain their natural greenish tint. Community members complained that mine operations have disturbed the wildlife habitat and they are being terrified by wildlife such as snakes and baboons straying into their residential areas. One resident reported:

*“It is frightening living here now. We regularly come across snakes in houses. They are being forced into this area because they have nowhere to go. The mining activities are expanding too much. The worst part of it is that we are not allowed to kill the snakes. We have to call the police but the police take a long time to come and remove them from houses. It is hard settling down knowing you have a snake in the house”* (Interview conducted August 2013).

Photo 5 shows baboons roaming around the fenced-off areas of mining operations. Unlike human beings, animals cannot purchase food from stores once their natural habitat and food supply have been polluted and eroded by mine operations. Baboons are not only roaming in residential areas but they are also dangerously roaming inside mining operations.

**Photo 5: Baboons Roaming the Area**



### **Water**

Mining operations in this area appears to have destroyed a natural resource that the area was well known for in Debeng. Both the community members in the townships and farm owners complain that the impact of mining on water has impacted on their livelihood and wellbeing. Farmers being interviewed complain that the water levels have dropped consistently over the years. Although the farmers still have access to underground water, they advised that the river in Debeng last carried surface water 30 years ago. It appears that many years ago the mines used to pump water back into the river but this has since stopped. A farmer interviewed, reported that the mines have acknowledged the impact it has had on the water and the livelihood of the white farmers in the area. Consequently, it compensates the farmers on an annual basis for the livelihood loss. One farmer is reported to having received up to R200 000 per annum from the mining company for the loss of access to reed used as cattle fodder due to a drop in water level. It is interesting that the mines do not value the livelihood loss of the black and coloured population whose land they occupy, by compensating them accordingly.

The townships where the blacks and coloureds live often lack water supply. This was observed on one of the field work days. In the area of a newly self-established camp where most migrant workers and work-seekers and their families live, toilet and water facilities do not exist. Community members from this area have to use the toilets and water from the community in the adjacent Debeng.

## **8.6 RACISM**

Kumba Iron Ore has received numerous awards for best practice, and therefore, in a sense, is being used as an example of best practice for other operations. Community members perceive Kumba as being the centre of development in the area. Although there are other mines operating in the area, Kumba is seen to control and influence Kathu, as well as the surrounding area. This aspect is crucial in analysing the transformation agenda of the mine as well as Anglo American.

In relation to this, a community member made the following comment:

*“Kumba is racist, because management is largely white and operators largely black, with coloureds and Indians on the levels in-between”* (Interview conducted August 2013).

Observations are that the town of Kathu and the surrounding mining communities reflect the old *Apartheid* class and race structures. A security guard confirmed reports by community members that there are poor race relations in Kathu. Community members reported that this attitude is also reflected within the company. Consequently, it could be argued that given the long history that the mine has in these communities, the company has failed to drive the transformation agenda, and rather prefer to maintain the status quo.

## **9. EVALUATION OF COMPANY POLICIES/PROGRAMMES/PROJECTS VS COMMUNITY ISSUES: THE BIGGER PICTURE**

Kumba suggests that by operating beyond compliance and working within the spirit of the SLP requirements, it has been able to undertake significant projects within the surrounding communities. The nature of the projects includes capacity building, entrepreneurial development, infrastructural developments and donations to community projects. In summary, the capacity building projects include (*as indicated in Point 6*) life skills, driving skills, entrepreneurial skills, IT and project management training. The company reports spending R24.7 million on 54 small and medium scale enterprises that has to date (2012) created 451 jobs. In terms of donations to community projects the mine is actively involved in the Early Childhood Centre, Manyeding Cultivation Project, Batho Pele Mobile Health Units and Ulysses Gogi Mobise Wellness Clinic.

In addition, Kumba maintains that it has established channels of communication with the communities (although the said channel of communication can be viewed as a top-down approach, in that the community will have to bring any forms of complaint to the Kumba's offices and then go home and wait for the company's response). The process of resettlement or relocation of the Dingleton community suffices as a microscope to magnify and appreciate further the nature of their communication. The resettlement issue further brings to light that the company only engages with the community appropriately when it deems it necessary to do so.

Despite the efforts being mentioned above, the negotiation of a SLO by the mining company cannot be fully interpreted as being proactive. This is seen in its ability to foresee the need of, for example, procuring ambulances and training of entrepreneurs in communities. However, prevailing developmental thinking propagates the need of beneficiaries to be fully involved in initiation, planning and implementation of projects geared towards their wellbeing. In this case, the crux of the matter is the mismatch of needs or aspirations of the mining companies with that of the communities. Finally, as the situation in Kumba presents, there seems to be a shifting of responsibilities from local government to the mining company for service delivery. Kumba officials maintain that they must work with the local municipality in order to deliver the developmental projects of local government.

The voices of the informants in this study are reinforced by a constant view from people in the area that the mining company is 'the government'. Even the police and media (Kathu Gazette) refused to express themselves against the mine or enforce the fundamental human

rights of aggrieved citizens. In terms of critical and objective journalism at the Kathu Gazette, a respondent made the following remark: “...if the mining company instructs us [Kathu Gazette] to write we will write” (Interview conducted August 2013).

Also related to the afore-mentioned, is the careless attitude of the mine to the plight of the workers. The employee that was unjustly arrested during the strike, was so seriously injured that he cannot be employed by any other mine, neither can he engage in any other employment that is strenuous. He was laid off without compensation and denied access to his contribution in the so called Trust. Another employee was shot by the police as reported by a respondent. This was in the striking period when the mine management refused to consult with the employees but rather chose to have their way through employing the police. There seems not to be a committed effort by the mining company to transform race relations in the mining company itself.

Furthermore, in connection to the relocation process, the long announced intention to resettle the citizens of Dingleton community without any tangible outcome for over a decade, has jeopardised the ability of the community members to plan their life in such a way that they can actualise their aspirations and quality of life. Thus, it can be argued that this singular act of omission on the side of the mining company has brought unintended consequences on the ability of the majority of the community residents to actively plan and engage in meaningful economic activity to enhance their wellbeing. In this sense, the subtle and un-echoed thought of the mining company that communities surrounding the mine are solely looking up to the mine to do everything for them, appears hollow.

To this must be added the close nature of the mining area to the living areas. The blasts and the dust in itself must have health and psychological implications to the residents (*also see Point 8.3*). The high unemployment and poverty rate (*also see Point 8.2*) which is exacerbated by newcomers who seek employment from elsewhere, must also be mentioned. There seems to be no reports on much violence in the communities, but related vices such as alcohol abuse is prevalent.

Thus, when the ‘scale needs to be balanced’, it is a very complicated situation, and the research tends to suggest – despite noble efforts of the company – that communities more than often find themselves on the ‘unbalanced end on the developmental scale’.

## **10. RECOMMENDATIONS**

In the light of our investigation into Kumba Iron Ore, the Bench Marks Foundation and the Bench Marks Centre for Corporate Social Responsibility make the following recommendations:

## **10.1 CORPORATE SOCIAL RESPONSIBILITY AND SUSTAINABILITY**

We call on the company to engage in genuine corporate social responsibility (CSR) practices that meet the real needs of communities, and with this spirit we urge the company to seriously heed the following:

- Kumba must reassess its own contribution to social licence to operate (SLO) and how CSR policies, programmes and projects are shaped within a SLO framework towards sustainable development in its operational areas, adjacent communities and further afield where existing programmes and projects have been launched and where future ones may be initiated. This is to be done in collaboration with the communities and the national, provincial and local authority spheres. It is further recommended that Kumba's critical priorities (as referred to above) receive renewed attention towards creating an informed and stable workforce.
- Based on the above reassessment, Kumba needs to align its sustainability initiatives, where necessary, to those of their various stakeholders, particularly affected communities, towards building legitimacy and credibility for its operations.
- Kumba must ensure that concerted efforts are made with all role players to mitigate its own negative impacts (social, economic and environmental) in its operational areas where such impacts are unavoidable as a result of its mining operations.
- The company must abandon its reactive CSR response whereby CSR engagements are merely used as a protective shield in selected pressure points in the operation, while in essence remaining strategically focused on 'business as usual'.
- The company must be proactive, not reactive in its CSR approach – especially referring to the substantive shaping-up of routines and organisational practices, e.g. Social and Labour Plans, community engagement and local economic development (LED).
- Kumba must even go a step further into a CSR driven innovation mode which clearly reflects a more rewarding and harmonious synthesis between social and commercial concerns; being a so-called 'social purpose leader'.
- Kumba must focus on supporting sustainable community projects rather than how much money it has spent in the community.
- There is a need for a paradigm shift both from a theoretical perspective and practical approach in relation to the origins of a SLO. The current situation is that the community members are responding and reacting to the actions of the mining company whereas the mining company must instead be fitting into the community's identified social and developmental needs.

## **10.2 COMMUNITY RELATIONS**

- We believe mining companies have a constitutional and moral obligation to consult and negotiate with communities before, during and after mining commences. It

follows, that mining corporations must meet with real community representatives and the community at large regularly to listen and discuss matters of importance to them.

- Kumba must ensure that resources are provided for community members and leaders to engage in an informed and effective manner on matters including SLO.
- Accordingly, we call on Kumba Iron Ore to join us in calling on all others, including government, to make FPIC, the universally acceptable principles of free, prior and informed consent (FPIC) into South African law. We understand FPIC to mean:
  - Free – people are able to freely make decisions without coercion, intimidation or manipulation
  - Prior – sufficient time is allocated for people to be involved in the decision-making process before key project decisions are made and impacts occur
  - Informed – people are fully informed about the project and its potential impacts and benefits, and the various perspectives regarding the project (both positive and negative)
  - Consent – there are effective processes for affected people to approve or withhold their consent, consistent with their decision-making processes, and that their decisions are respected and upheld
- We also believe that the issue of FPIC is not a once-off, but a dynamic and on-going process.
- Kumba should ensure that more power and control are decentralised to the communities and that the company aligns micro-level business strategies and macro-level societal needs; this might also create new opportunities for finance, organisation, marketing and regulation, and drive learning investments, niche markets, product differentiation, and social entrepreneurship.
- Kumba should follow an Asset Based Community Approach (ABCA) – opposed to a Needs Based Community Approach (NBCA); this bottom-up approach will ensure that communities become long-term managers of their own development, and context specific solutions can be offered.
- Kumba needs to take account of soft as well as human issues such as relationships, age, gender and impacts of unemployment, to really understand the dynamics within the communities and how their actions impact on these dynamics.

### **10.3 PARTNERSHIPS**

- Partnerships with communities (directly impacted and others) as well as organised workers must be established on the basis of human rights principles of inclusivity, accountability and transparency and not any prejudicial or sectarian considerations.
- Kumba needs to establish a genuine partnership relationship with the Gamagara Local Municipality rather than continue the paternalistic relationship it has now. This approach will enable community members to understand the role that Kumba plays in

their lives as opposed to the current perceptions in which Kumba is said to behave as the local government sphere in the area.

#### **10.4 LABOUR**

- The company must take full responsibility for the consequences of Kumba's Envision Employee Share Ownership Scheme (both intended and unintended) (*Point 7.6*) and that the company improves on the provision of support structures and services in this regard, e.g. in terms of financial planning and investment education.
- The company must not only consider future approaches to the process of awarding the proceeds of the share scheme, but must also review the balance between remuneration and Envision Scheme to avoid the extensive negative consequences.
- The company must be more transparent about recruitment. Kumba needs to ensure that their employment structure reflects the race, gender and disability structures of the South African society. By doing so, Kumba will not only lead the way in anti-racism in the area, but will also distance themselves from the current beliefs that they are encouraging racism in the area (*see Racism below – Point 10.8*).
- The company must show some 'personal touch' and develop quality labour relations, even though the numbers of Kumba employees (including contractors) are many; workers interviewed reported that they suffer within the system and the widely held perception exists that '...the mine does not care'.

#### **10.5 RESETTLEMENT**

- The company must urgently address and enhance the long dragged-out resettlement process, together with the local municipality, in an effective way; additional to this process, serious attention must also be given to the general housing problem, including renters (*see Housing below – Point 10.10*)).
- Kumba must be more transparent about the reasons for relocating community members from Dingleton, as some members of the community feel the denial of services is part of a strategy to move them, without proper consent and compensation.
- If communities must be relocated/resettled, it must be undertaken with full disclosure following FPIC principles (*see Point 10.2*) as well as an accompanied guarantee that the communities will be better-off, and thus suffer little or no alienation from cultures and customs and their ancestral graves. Since resettlements are by nature complex, communities must have the right to call, at the company's expense, experts and professionals to support their negotiations with the company.

## **10.6 HEALTH**

- Kumba must undertake a more strategic health infrastructure that is sustainable beyond mining in view of the mining operations' contributions to chronic illnesses, such as TB.
- Kumba should take account of health insurance for both its employees as well as local community members, in view of the mine operations' impact on the health of surrounding community members.
- In addition, the South African Human Rights Commission (SAHRC) must investigate how racism manifests itself in the provision of services in general and to determine in particular if and how the right to health and safety has been compromised by mining and the blasting as referred to in the report.
- Furthermore, we call on the SAHRC to also investigate the role and conduct of the local authorities in compromising the right to health.

## **10.7 MILITARISATION OF MINE SECURITY**

This study has noted the increased employment in ex combatants of other conflicts, such as 32 Battalion, being employed as mining security, which impacts negatively on the rights of mine workers and surrounding communities. The militarisation of mine security violates the letter and spirit of many South African laws, as well as the United Nations Voluntary Principles on security and human rights.

- We recommend that the South African Human Rights Commission (SAHRC) investigate the militarisation of mining security which directly impacts on workers employed and the surrounding communities.
- In addition, we call on parliament's security cluster to take action in terms of these concerns which are shared by the international community, including the United Nations, as a matter of urgency.

## **10.8 RACISM IN THE WORKPLACE AND BEYOND**

- We call on the SAHRC to set up a high level panel to investigate allegations of racism in the workplace and communities surrounding Kumba Iron Ore, as detailed in this report. It must, in addition, set out a remedial plan for the affected communities and businesses in Kathu.
- The SAHRC must specifically investigate the company's anti-racism and anti-sexism programmes and make recommendations on improvements where necessary.

## **10.9 'SEX FOR JOBS'**

- The assertions by members of the communities that the only way for women to get employment in Kumba Iron Ore is through sex with persons in influential positions, must be investigated by various agencies, in particular the South African Gender Commission.
- In addition, the South African Gender Commission must investigate the conditions of women workers, referred to in the report as HDSA women.

## **10.10 HOUSING AND LIVING OUT ALLOWANCE**

- The report speaks of how this issue contributes to impoverishment of the community, and we call on the SAHRC to investigate this. See *Point 8.2* of the report (*Poverty and Unemployment*), which refers to workers resorting to squatting that results in further hardships.

## **10.11 WATER**

- The South African Human Rights Commission is called upon to investigate what we believe is a denial or abuse of water rights in the Debeng area. Water rights, for us, are human rights. The report shows that both community members from the townships and farm owners complain of a loss of water services because of the impact of mining.

## **10.12 MINE CLOSURE**

- Kumba must provide a closure plan in line with the requirements of law, in particular Sections 39 of the MPRDA, as well as section 42, to make provisions for the rehabilitation of the physical and social environment, and also set aside financial resources to fund the rehabilitation plans respectively. These are to be provided to not only the Department of Mineral Resources (DMR), but must be publicly available on the company's website, as well as on the websites of parliament and the SAHRC.

## **11. CONCLUSION**

This research was part of a Sida (Swedish International Development Cooperation Agency) project on corporate social responsibility (CSR) practices in the iron ore industries in South Africa and Sweden. Therefore, the report sets out to research and report on a social license to operate (SLO) and corporate social responsibility (CSR) policies, programmes and projects at Kumba Iron Ore in the Northern Cape Province, South Africa. Two basic research procedures were used, namely, the historical procedure and survey procedure.

The Report commences with a conceptualisation of the concept “social licence to operate” (SLO) followed by a description of Kumba’s policies, programmes and projects and an assessment thereof as experienced by community members. Kumba’s policies, programmes and projects show its commitment to invest in the local (and further afield) communities in a variety of ways – and this must be commended. Kumba’s relocation Case Study on Dingleton is an example of a policy which treats this exercise through the pre-feasibility, feasibility, and execution phases in a responsible manner as far as the house-owners are concerned. Unfortunately, renters are in an uncertain position in terms of the relocation, and they have raised their concerns in this regard.

The ways in which some of these policies are experienced by communities (including workers) living in close proximity to the mining operations, is an indication that the effective negotiation, communication and implementation thereof within a SLO framework for sustainability and good neighbourliness are in need of reconsideration.

Although Kumba reports that attraction, retention and development of human capital (through competitive remuneration, development opportunities, fair employment practices, and the provision of benefits for improved quality of life), remain critical priorities for the company, Anglo American Corporation resisted demands by workers for a living wage in the latter half of 2012. Compared to Australia, South Africa is lagging behind, notwithstanding the fact that Anglo American Corporation operates in both South Africa and Australia. It must be appreciated that labour conditions in different countries vary, but, especially against the background of the Marikana tragedy, humane wages must be an utmost priority for the company.

Despite a representative Resettlement Working Group (RWG) that was established to cater for any eventualities during the different stages of the process of resettlement, evidence has shown that, as far as the rendering of local government services to the Dingleton community is concerned, little if anything, has been done by the Gamagara Local Municipality (also represented on the RWG) to provide in their needs. Also, as already mentioned, the renters complained that the resettlement process is focused on the house owners and not themselves and that they are not informed about the meetings notwithstanding Kumba’s assurance that public involvement and communication between all parties at all stages are essential to identify any areas of concern.

Members of the community indicated that they welcome Kumba’s programmes and projects, but also maintained that they are not consulted about their needs in this regard. The programmes and projects can therefore be considered to have been designed by Kumba (or through a third party) using a top-down approach. In terms of the SLO, this is an oversight. Also, the institutionalisation of racism in the workplace - blacks on the lower and whites on the higher rungs of the corporate ladder - have been voiced by respondents on a number of occasions.

Social, economic and environmental deterioration exist in the communities surrounding Kathu. Certain basic rights such as decent living conditions, a potable water supply, toilet facilities, and the upkeep of recreational facilities, are lacking.

Poverty is a serious issue in the communities of Dingleton and Mapoteng. According to community members, refusal of offering residents tenders, and not even acknowledging job applications further contribute to poverty to the extent that selling sex has become a way of augmenting the little money there is in a family. Skewed access to contracts and employment in favour of white companies over black entrepreneurs, and men over women, is contrary to the Mining Charter.

The relationship between Kumba and the Gamagara Local Municipality has developed from independence to paternalistic and dependent. As a result, the municipality appears to have abdicated its role, specifically in Dingleton.

Racism and poor integration within the company and surrounding communities negate the full potential of Kumba's community entrepreneurial projects and sustainability, and unfortunately, the impact of Kumba's projects does not reflect the level of money spent. Against this background, there is still – between Kumba and the adjacent communities - substantial room for improvement regarding the critical SLO within the research area.

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## **ANNEXURE A**

### **CASE STUDY**

#### **THE DINGLETON RESETTLEMENT: CHANGING FOR THE BETTER**



The existing town of Dingleton, near Sishen mine.

Some 3 500 people in 684 households live in the town of Dingleton, which borders Sishen mine in the Northern Cape. There has been talk of resettling the residents here since the late 1980s. In 2007, Kumba began planning for this large-scale and complex resettlement process to finally go ahead.

The resettlement of Dingleton residents to the southeast of Kathu, some 30km away, became necessary for many reasons.

- Dingleton lies only 500m from Sishen mine's open-pit boundary – this is the minimum blasting distance required by legislation. Mining operations inevitably affect the quality of life for residents as it causes dust, noise and damage, such as windows cracking during blasting.
- Ever since resettlement was first mooted some 25 years ago, local government has been disinclined to invest in the town, which was established in the 1950s, and infrastructure has been neglected.
- As a direct result of the lack of investment in the town, businesses have moved out. Shops are non-existent and residents have to drive to Kathu to get petrol.
- Sishen mine wants to carry out mining activities in the buffer zone and thus extend the life of the mine.
- Some 98% of the residents want to move, a fact established by two comprehensive surveys carried out by Kumba.

#### **Pre-feasibility phase**

The project's pre-feasibility phase began in 2007, with the identification of potential impacts and affected parties, and the mobilisation of a resettlement committee.

An asset inventory of infrastructure and households – down to the number of fruit trees within a property – and a register of residents were drawn up. Information was also collected from each household about economic activities undertaken, incidences of disease or illness among household members, births and deaths, income and expenditure, material possessions and residents' use of social infrastructure. The conceptual design of the new facilities was worked on and costs were estimated.

Public involvement was paramount at all stages of the process and communication between all parties was essential to identify any areas of concern. The Resettlement Working Group (RWG) was formed, consisting of all primary stakeholders: six Dingleton residents representing the community, four representatives from the local Gamagara municipality, three members from the Northern Cape provincial government, two Kumba representatives and various consultants who were appointed in an advisory capacity. The RWG's role was to investigate the feasibility of the resettlement, to produce a resettlement action plan (RAP) and to advise both Kumba and the Northern Cape government. A joint steering committee (JSC) was also formed, comprising representatives of local, district and provincial governments, the RWG and Kumba. The roles of the JSC included oversight, the provision of access to technical support and process facilitation.

All pre-feasibility study requirements have taken place, including a social impact baseline assessment, environmental impact assessment and an economic impact assessment, all of which will form part of the RAP.

#### **International Finance Corporation Performance Standard adopted**

Guiding the overall resettlement process from the beginning has been Kumba's adherence to the Performance Standard 5: *Land Acquisition and Involuntary Resettlement* of the International Finance Corporation (IFC). This, in summary, advocates that resettled residents should enjoy equal or better circumstances than those they experienced before resettlement and that displaced persons are to be offered compensation for loss of assets at full replacement cost, as well as other assistance. With the average value of a house in Dingleton estimated at R150,000 and that of the average house in Kathu standing in excess of R1 million, resettled residents are set to gain a far more valuable asset. As an indication of the extent to which Kumba is taking its responsibilities towards Dingleton residents, allowances will be awarded for the reinstallation of household amenities and facilities.

#### **Feasibility phase**

The resettlement process is currently in the feasibility phase, with all related studies expected to be completed in June 2012, including detailed valuations of existing properties and structures and detailed designs of the new properties and structures in Kathu. This will

be followed by a series of reviews and approvals, which is expected to take about six months, with final approval for the entire project expected in early 2013. A first draft of the RAP was prepared at the end of 2011, and covers all aspects of the resettlement in depth. The RAP will have to be approved by the community and local government. An accurate costing is currently taking place and early indications are that the entire project will cost more than R1 billion. Town planners have been consulted and the layout is currently awaiting the municipality's approval.

An environmental management plan and a sustainable development plan (SDP) are being drawn up, which will also have to be approved by government. A non-governmental organisation is being appointed to independently monitor and evaluate the resettlement process and adherence to IFC guidelines.

Since September, financial advisers have been talking to residents to assist them with decision-making. This is not a straightforward process as residents are not necessarily exchanging like for like in terms of their homes. For example, older residents are being given the option to downscale, construct a smaller home for their own needs and build an adjoining 'granny flat' to rent out to provide them with extra income. Once decisions are made, residents will sign formal agreements with the help of legal advisers.

Tenders are being obtained for the demolition of the old houses and infrastructure, for the erection of the new houses and other buildings and for moving the households of Dingleton to Kathu.

In addition to the regular RWG and JSC meetings, the Dingleton representatives on the RWG hold monthly meetings to give feedback to the community so they can see that their needs are being addressed. Kumba, the Dingleton representatives and the community also meet twice a month.

### **Execution phase**

During the execution phase, the RAP will be updated and compensation for all affected persons finalised. Contractors will be appointed to undertake the construction work and the new houses and social structures will be erected. The SDP will be finalised and implemented, and a resettlement review and audit will take place.

Willie Human, project manager, Kumba projects, says: "The vast majority of Dingleton residents are very excited about the move and actually can't wait. There is a small percentage, say 2%, of the people that are not so keen. They tend to be elderly people who are more resistant to change and the upheaval associated with the move. They are particularly concerned about where they will keep chickens and other livestock, as the by-

laws are different in Kathu. Kumba is looking into the possibility of addressing these types of concerns.”

The new houses to be built in Kathu will be easy to maintain while solar panels will make them eco-friendly. Willie says: “The former Dingleton residents will undoubtedly become part of the bigger picture of Kathu where there is a lot of expansion taking place. They will be able to enjoy the benefits of living in a developing municipal area rather than what has become a dusty backwater.”

### **The sustainable development plan: the future**

The SDP for the Dingleton resettlement project is a forward-looking document and considers in detail life after the resettlement process from socio-economic, environmental and health perspectives.

Many initiatives are being proposed, including the recycling of materials from the demolished houses and other structures. There is a huge demand for low-income housing in the area and such items as second-hand door frames and bricks are valuable commodities. Also being considered is the way in which the many small local construction businesses being used for the project can be developed into bigger, more profitable businesses in the future. Rental accommodation in the area is also in demand and this too is being investigated. Various schemes are being proposed which will allow for some kind of subsidy to make the higher rates and taxes on the more valuable properties in Kathu more affordable for the resettled residents.

Anel Marais, manager, social and community development, Kumba, says: “The development will be as green and as cost-effective as possible.” To this end, fruit trees will be replaced and gardens will be designed in such a way that household water can be recycled back into gardens.

### **A learning curve**

Asked what Kumba had learned from the resettlement process so far, Willie, who is completing his masters in project management and made the Dingleton resettlement the subject of his thesis, says a great deal. “Without doubt, the three pillars of a resettlement project are risk management, communications and stakeholder management. There is a crucial need to engage with all stakeholders at all times. If there is trust among stakeholders, your chances of project success are so much higher.” He adds, “There was a priest in one of the Dingleton churches who regularly said he didn’t trust what we were doing or our motives. He has finally changed his mind and told me the other day that he now trusts us. I was overjoyed.”

*Source: Anglo American (2011)*