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Statement: Mining Lekgotla Fails to Acknowledge and Address Key Challenges in South Africa's Extractive Sector, say Rights Groups

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Cape Town - The Centre for Environmental Rights (CER), Centre for Applied Legal Studies (CALS) and the Open Democracy Advice Centre (ODAC) express their disappointment with the outcomes of the 2014 Mining Lekgotla in Johannesburg this week.

The mining sector remains one of the most fractured industries in South Africa and those with the power and capacity to bridge gaps continue to fail to do so. The conversation around mining remains polarised in content and in participation. Fora such as the Mining Lekgotla and Cape Town's annual Mining Indaba continually fail to advance transparency on the part of government and mining companies and the inclusive participation of mining affected communities, workers and civil society.

Dubbed a "celebration of democracy and transformation" and the mining sector's contributions thereto the Legkotla has failed to acknowledge, let alone address, key challenges plaguing the sector. These are not one sided concerns; they are issues which continue to exacerbate persistent sectoral volatility, a lack of transparency and accountability and stifled transformation.

Taking place on the eve of the two-year anniversary of Marikana, it is discouraging and deeply ironic that conversations around the future of mining in South Africa either deliberately exclude or cannot be accessed by all affected stakeholders. It is simply too expensive for anyone other than financiers, government officials and mine management and representatives of the Chamber of Mines to attend.

Affected communities, miners, public interest groups and lawyers, academics and development experts are all pivotal to a robust and profitable mining sector but their insights do not feature on the agendas of industry gatherings. The message is clear: the expertise and perspectives of anyone other than capital is not relevant. The pretense that these events include all stakeholders must cease.

Bonita Meyersfeld, Director of the Centre for Applied Legal Studies notes that "as South Africa remembers those who lost their lives at Marikana and following a wave of strike action and unrest in the industry, organisers and participants of events such as the Lekgotla and the Mining Indaba appear to be in denial by not recognising the need for inclusive and accessible discussions." This is not only a principle of transparency and inclusivity but it is also a principle of sound financial investment. The financiers who invest in mining operations can no longer claim that their investments are attenuating poverty. Investment funds are flowing directly into practices that exacerbate rather than alleviate human rights violations.

In a constitutional democracy where the Bill of Rights is of horizontal application, there is a grave failure of transparency and genuine commitment to change on the part of mining houses and their financiers, and an equally devastating failure on the part of government to hold those responsible for these failures to account.

The Lekgotla has also failed to address the need to foster greater transparency and disclosure of information in relation to mining and the environment.

"Accessing basic information such as mining licenses, social and labour plans, water use licenses and environmental management programmes - documents that are readily and publicly available in other countries - is a constant battle. Government and several industry players actively seek to prevent disclosure and government often refrains from exercising its regulatory oversight adequately. This frustrates the realisation of constitutional rights that depend on the ability of individuals, communities, civil society organisations, companies and decision-makers to access this information", said Melissa Fourie, Executive Director of the CER.

The lack of transparency makes it difficult to determine whether the sector is being administered properly and raises questions about whether vested interests of the political elite are unduly influencing the sector's administration.

Gabriella Razzano, Head of Research at ODAC notes that proactive disclosure of mining licenses, authorisations and related information "is in the public interest given South Africa's constitutional commitment to accountable and transparent governance and recognition that South Africa's natural resources must be governed in a manner that ensures all South Africans benefit. South Africans have a right to know."

It is hoped that the organisers of the 2015 Cape Town Mining Indaba, government, and industry leaders will take stock of these concerns and engage with all relevant stakeholders going forward. Inclusive, realistic and honest conversations about mining in forums such as these are long overdue, and there is broadening recognition that without this inclusivity the promises of transformation made at these events will remain empty.

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