November 7th, 2013

The Director General: Mineral Resources
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Honorable Dr Ramontja

THE PROPOSED REGULATORY FRAMEWORK FOR HYDRAULIC FRACTURING

We appreciate this opportunity to submit the following on the issue of the announced regulatory framework for the exploration of shale gas.

Introduction
This submission is drafted by members of the Ecological Task Teams of the Dutch Reformed Church (DRC, also known as the NG Kerk), the Uniting Reformed Church of Southern Africa (URCSA), the Reformed Church in Africa (RCA) and signed by authorized leaders of these churches.

We have noted that a regulatory framework for the exploration of shale gas through hydraulic fracturing has been gazetted by the Minister. We welcome the invitation to affected parties in civil society to comment on this regulatory framework.

The mentioned churches welcome the many current initiatives to explore sources of energy other than fossil fuels, however realizing that natural gas will remain an important source of energy in the medium term. We recognize the government’s challenge and responsibility to mediate between various interest groups in order to ensure the well-being of the country and its human inhabitants over the long term in the framework of the South African Constitution and its Bill of Rights. More specifically, we recognize the need to ensure the availability of sufficient, affordable and as far as possible sustainable sources of energy on the one hand and to protect the integrity of fresh water sources on the other. We appreciate that government is well aware that the needs for energy and for fresh water may come in conflict with each other in the case of the exploration and the eventual extraction of natural gas.
through hydraulic fracturing, as is evident in the documentation from the Department of Mineral Resources.

We understand that the purpose of the regulatory framework is to allow at least the possibility of such exploration but then within a strict set of rules. The invitation to the public is to comment on the regulatory framework based on the assumption that any exploration is not to be prohibited.

**Our constituency and area of expertise**

The DRC, URCSA and RCA speak on behalf of approximately 2.4 million Christians in the reformed tradition, with congregations throughout South Africa, of which many are in rural areas. We acknowledge that we have no specific scientific, economic or legal competence to comment on the details of the regulatory framework. We do note that many issues in the debate remain hypothetical, that conflicting authorities are quoted and that any discussion is based on limited and contested knowledge. These issues include the amounts of shale gas in the Karoo basin, the employment opportunities to be created and their spin-off effects, the contribution to GDP, the rock formations in the Karoo basin, the long-term impact of hydraulic fracturing on ecosystems and so forth. There are members of our churches with some competence on these matters and we welcome the contributions of academics and other role players in civil society participating in vigorous public debate on the matter.

**Our deepest convictions**

We, together with other churches in South Africa, consider ourselves to be a deeply affected party in considering the exploration and eventual extraction of shale gas through hydraulic fracturing. The issues of energy, water and well-being touch upon the very deepest convictions of our understanding of the Christian faith:

- The Holy Spirit is according to the Christian faith the “Giver of Life”, our source of inspiration, the force that makes the world go round, the ultimate source of energy – so that any debate on energy ultimately has to discern the movement of the Spirit.

- Jesus Christ is according to the Christian faith the Source and well-spring of life, the fountain of living water that brings healing to the nations – so that the Christian witness in any debate on the pollution of water sources (through hydraulic fracturing, acid mine drainage or commercial agriculture alike) would want to recognise the possibility of tapping into this Source to purify the already deeply polluted waters.

- God is portrayed in the Christian faith as loving Father (and at times also as a Mother) who is concerned about the well-being of all living creatures, in fact about the well-being of the whole earth.

Given this all-inclusive concern the triune God is confessed to have a special compassion over the plight of the weak, the vulnerable, the marginalized, the oppressed, including the plight of non-human forms of life, especially where their plight results from the abuse of the power of the powerful. Whenever there are debates about the well-being of people, the church is therefore called upon to adopt a long-term and inclusive perspective and to focus on the plight of those who will be disadvantaged by the implementation of policies.
Our guilt and responsibility

These core convictions have far-reaching implications for the way in which the place and role of human creatures are understood. On the one hand, we confess that all too often in the past we have used our energy for inappropriate purposes without discerning the direction of the Spirit, that we have polluted the waters and missed the purifying power of the gospel and have not demonstrated the compassion of the Father for the weak. At the same time we are being transformed to accept responsibility in our own limited spheres of influence to bring the healing power of the gospel to bear on any situation of need. This also applies to the debate on hydraulic fracturing given the competing needs for economic growth (for the South African economy as a whole), social development (for impoverished rural communities) and ecological sustainability (preserving the integrity of underground water sources for all forms of life).

Implications for policy making

We realize that the convictions articulated above do not translate directly into any policy directives. Any attempt to do so would need to reckon with ethical complexity, competing interests and various economic trade-offs. It would be facetious to identify biblical or ethical principles that can be applied to the debate on hydraulic fracturing precisely because there are competing interests, rights and responsibilities that have to be weighed against each other. Nevertheless, such an encompassing and ultimate vision inspires us to prophetically address situations where there are obvious concerns such as the following pertaining directly to the debate on hydraulic fracturing:

- There is always a danger that short and medium term interests will outweigh long-term well-being. A century or more of mining in South Africa has polluted its water sources in a way that will have an impact for many centuries to come. If there is any possibility that hydraulic fracturing would have a similar impact, short term economic gains, also for impoverished rural people will simply be short-sighted. Here a precautionary principle must apply. There are times when prohibition instead of regulation is appropriate.

- The availability of an affordable source of energy will clearly benefit the South African economy and may enhance the well-being of the South African human population as a whole. However, there is a real danger that any such benefits will be disproportionately distributed. Lucrative business deals will be to the advantage of exploration and extraction companies and their shareholders. Admittedly, some unemployed people in rural communities may find much needed employment through the extraction of natural gas, albeit that the focus will be on highly skilled labour. However, all other inhabitants and all other forms of life will be affected by any contamination of water supplies. The problem is that the empowering of the already powerful may not translate in any so-called trickle-down effect but may in fact exacerbate the existing severe economic inequalities (a trickle-up effect). Here the prophetic task of the church is to warn against the deceptive ideology that “a rising tide will lift all boats” (that economic growth will necessarily lead to a better distribution of wealth) or that unlimited economic growth (in terms of bio-physical output) is possible on a finite planet.
• It is widely acknowledged by experts and feared by people in civil society that hydraulic fracturing may have side-effects, most notably on the pollution of water sources. The extent of such side-effects will only be known in hindsight. Such fears therefore cannot be dispelled by more reports or government assurances and will not go away. The concern here is that such disadvantages will again be unevenly distributed so that those who will be affected will gain least while those who gain most in economic terms will also be least affected. If the benefits gained from hydraulic fracturing come at a significant cost to those who are already most vulnerable, the church simply cannot condone that and is called to act in solidarity with the weak, not the strong. The weak here include rural people in general, especially impoverished communities and their fragile water sources, those who are unemployed and are likely to remain unemployed despite the economic potential of hydraulic fracturing and also non-human creatures which rely on water sources.

• There is a deep concern in civil society that consultative processes and environmental impact assessments have become seriously flawed so that the interests of the powerful tend to triumph over the interests of the marginalised but affected groups. The concern is that any regulatory framework will not be stringent enough so that business corporations would be consistently forced to heed to that. There are also concerns over the administrative capability of government to monitor and enforce such a regulatory framework. Moreover, given widespread concerns over corruption in all spheres of society, it has to be said that the scale of hydraulic fracturing is undoubtedly of such a nature that it is open to corrupt and clandestine deals, also because government will receive a share in any income derived. Many government pledges to eradicate corruption have not yet inspired confidence amongst organisations in civil society that the trend has been inverted. If a licence for hydraulic fracturing is offered to business corporations, what would stop them from implementing potentially harmful and even devastating procedures once they have made huge investments in infrastructure? Would they ever heed to such warnings? In other words: if the reports after a first phase of exploration indicate the potential of the contamination of water sources, would that be sufficient to enforce the prohibition of further exploration? Once the door is opened it may be almost impossible to close it.

Recommendation

In such a context, and in light of the precautionary principle and a sense of responsibility for future generations, the DRC, URCSA and RCA urge government to prohibit any further exploration of natural gas through hydraulic fracturing instead of introducing a regulatory framework for such exploration.

We are not convinced that any such a regulatory framework will avoid the long-term contamination of water sources. Instead there is a real danger that hydraulic fracturing will not necessarily advantage impoverished rural communities while its disadvantages will disproportionately affect those who are already vulnerable. If so, any decision by the current government to allow further exploration and eventual extraction of shale gas through hydraulic fracturing will place a heavy burden on generations to come. Given the many variables it is questionable whether the government can take a decision in this regard with any degree of confidence. It will be judged by generations to come for any short-sightedness.
We would appreciate the opportunity to state our case to the responsible governmental structure, if requested. For this purpose, please direct enquiries to Dr Ben du Toit at kommunikasie@kaapkerk.co.za.

Signed on behalf of

**URCSA**

Dr Dawid Kuyler (Scribe, General Synod)

**DRC**

Dr Kobus Gerber (General Secretary, General Synod)

Dr Ben du Toit (Parliamentary Desk, General Synod)

**RCA**

Rev Victor Pillay (Assessor, Synod)