

**IMPROVING ACCESS TO
COMPENSATION FOR EX-
MINEWORKERS IN THE O.R. TAMBO
DISTRICT, EASTERN CAPE**

by

Shireen Pardesi

**A RESEARCH REPORT SUBMITTED TO THE FACULTY OF
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ABSTRACT

The political and constitutional changes in South Africa brought about fundamental features through the transformation agenda in the public service. Of primary importance is that the South African political transformation processes have been characterised by a culture of transparency, participation and accountability. These values are in direct contrast to what presently obtains in the Department of Health's ex-mineworker compensation system. Within this context it emerged as a concern that the system of governance that managed the compensation system was not responsive to the needs of ex-mineworkers.

Ex-mineworkers experienced serious delays in time before accessing government compensation. There were claimants that were deceased whilst awaiting an outcome of their applications for compensation. The enormity and complexity of the system was underestimated by government departments. Legal firms and related professionals handling the cases of ex-mineworkers earned more than £1.3-billion in fees for taking up the cases of claimants. The costs of administration in the handling of claims surpassed the actual amounts paid out to claimants eventually.

At the centre of the civil service management in South Africa, was the Department of Public Service and Administration. It was here that policies on governance were developed. The Department of Public Service and Administration was responsible for the establishment of norms and standards for the entire Public Service. Under the auspices of this centralised function, service delivery mechanisms were ensured, there was access to integrated systems, the framework for human resources management was developed, and in the development of policies focus was given to the needs of the citizens.

The purpose of this study was to explore reasons for the low compensation uptake, and to examine systems and inform changes that would allow ex-mineworkers in the Eastern Cape, Oliver Tambo District to better manage their access to government compensation. The mining industry plays a significant role in the South African economy long after the discovery of gold in 1886. With little evidence of policy and legislative reform, and after 22 years into South Africa's democracy, the scourge of failing respiratory health amongst ex-mineworkers has not decreased. miners face an epidemic of occupational lung disease. The challenge of tracking and tracing ex-miners to capacitate them on their rights and benefits of compensation, owed and owing to them, forms the basis of this study.

The governance of the system of compensation for ex-miners is not bringing the large numbers closer to easy access. Whilst the challenges may well be present, this study is intended to raise awareness of the problem, investigate the cause/s and offer recommendations that will provide relief to a population in South Africa that could be seemingly lost if not told of what benefits are available to themselves (if alive) and nominated beneficiaries (in the case of those who are deceased).

This study was concerned with gaining a better understanding of why ex-mineworkers in the OR Tambo District of the Eastern Cape Province of South Africa were not accessing their compensation benefits, rather than to measure certain outputs and outcomes. It was primarily interested in gaining an in-depth understanding of how information is being disseminated and how it is being influenced by different variables. A qualitative approach was chosen in order to portray the detailed understanding and specific dynamics experienced by ex-mineworkers in accessing compensation benefits from the Department of Health.

The importance of good governance in improving service delivery was explained and spoke to what constituted good governance, the importance of proper planning during periods of transition and why governance should be a continuous activity as well as the importance of planning in public institutions. In this study, the need for good governance to improve service delivery, were identified, with specific reference to those aspects of good governance that could better equip the ex-mineworkers in the Eastern Cape to better understand the compensation and in so doing would guide the research process.

DECLARATION

I declare that this dissertation is my own unaided work. It is submitted for the degree of Master of Management (in Public and Development Management) at the University of the Witwatersrand, Johannesburg. It has not been submitted before for any degree or examination in any other university, nor has it been prepared under the aegis or with the assistance of any other body or organisation or person outside the University of the Witwatersrand, Johannesburg.

.....

Pooni Pardesi (Shireen)
(Candidate)

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DEDICATION

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CHAPTER ONE

INTRODUCTION AND BACKGROUND

1.1 INTRODUCTION

The mining industry financed the fund that paid out compensation to ex-mineworkers, through the payment of levies. The levies were not sufficient to cover the costs of compensation and the burden of responsibility fell on the state. The state paid the shortfall of the compensation from general taxation. R100 million was paid out by the fund in 2004. The fund that is set up to manage payment of compensation is highly inadequate and studies undertaken indicate the insolvency thereof, when analysing current claims. The mining industry needs to raise the amount paid in as levies significantly, for the next two decades. Professor Ehrlich explained in 2007 that Auditor-General referred to the financial controls of the Fund as being inadequate (Ehrlich, 2007).

Silicosis was recognised as a compensable disease in South Africa, in 1912, making it the first country to do so. Tuberculosis was also identified as an occupational disease of mineworkers, four years later. Compensation for Tuberculosis was based on the different wage levels. This system of compensation payout was marred by racial inequalities, one in which White mineworkers earned higher salaries and were paid more. The level of literacy amongst Black mineworkers was very low and their understanding of their rights was compromised. “Consequently, in the three years to July 1916, the total compensation for White mineworkers was 30 times greater than that paid to Black mineworkers” (Campbell & Williams, 2009, 124).

Most of the time, according to Van Vuuren (2009), “mineworkers are not financially literate so after 30 years, or whatever, they went back home and did not know how to access the money, or it was too much trouble”. Rantso

Mantsi (2013). The President of the Southern Africa Mineworkers' Association, observed that, "many ex-mineworkers were struggling to claim benefits and in some cases did not know where to turn for help."

An amount of R42 million over five years was set up to ensure that ex-mineworkers underwent the required benefit medical examination. Those identified with occupational diseases were paid their compensation. The Chamber of Mines provided to the leadership of ex-mineworkers all the relevant details in order for them to capacitate their members with the process when applying for compensation.

The ex-mineworkers in the Eastern Cape are in the main Black people from poor families and were living in remote rural villages with little access to resources. A mineworker diagnosed with lung function impairment of more than 40% through processes under the Occupational Diseases in Mines and Works Act (ODMWA) could be paid what Spoor (2009) called "trivial" damages up to a maximum amount of R105,000. Spoor, however, stated that fewer than 5% of "eligible" mineworkers actually received compensation, partly because mineworkers were not told they were eligible and explained that, "Up until now, the mining industry has not really had any incentive to deal with compensation because they have enjoyed legal immunity." There had been no civil claims, and there had never been a criminal prosecution of mining companies for exposing workers to silica dust. While 31% of ex-mineworkers reside in the Eastern Cape, the number of ex-mineworkers accessing the system of compensation through ODMWA was very low.

1.2 BACKGROUND TO EX-MINEWORKER COMPENSATION

Compensation legislation in South Africa started as far back as the second decade of the 20th century. It was measured by a loss of employment opportunities and carried permanent impairment suffered as a result of injuries or disease obtained at the workplace. Legislation at the time provided no rights to employees for claims against the employer. “The latter has been referred to as the “historic compromise”, the argument being that workers were seldom successful in such civil suits”, (Ehrlich, 2007). Separate legislation to compensate mineworkers for lung diseases was established in South Africa, similar to legislation for lung diseases in other countries. In South Africa the applicable legislation was promulgated in 1973 called the Occupational Diseases for Mines and Works Act, hereafter referred to as ODMWA.

“Until about 20 years ago there were no studies undertaken on the respiratory health of Black mineworkers”, (Roberts, 2009). According to human rights lawyer Richard Spoor,” up until the filing of what was the largest class action lawsuit in South Africa in 2013 in which 18,000 former gold mine workers sued mining giants Anglo Gold Ashanti, Goldfields, Harmony Gold and others for damages that ran into billions of Rands, the only recourse a mineworker suffering from lung disease had was through the Occupational Diseases in Mines and Works Act (ODMWA)”. This was a view supported by White in 2004.

The challenge for the South African government was aligning the policy and legal instruments for compensating occupational diseases for mineworkers and ex-mineworkers. The Occupational Disease for Mines and Works Act No. 78 of 1973 was outdated and was characterised by significant deficiencies with specific reference to its definitions, scope and coverage of workers and ex-workers in mines and works. Leigh and Robbins (2004) said that: “administrative delays coupled with logistical hurdles prevented the system from functioning well and resulted in many eligible workers and ex-

workers having no access to medical evaluations as well as qualifying claims having gone unfiled or unanswered”.

“For over a century, legislation had been in place aimed at compensating South African mineworkers who had an occupational lung disease but the system, manipulated by racial inequality for much of its existence, was dysfunctional” explains Murray (2011).

“The origin of mineworker compensation is best described in ‘The Miners’ Phthisis Act of 1912’, which succeeded the 1911 Act which established both the Miners’ Phthisis Compensation Fund and the Miners’ Phthisis Insurance Fund”, (Murray, 2011). A board approved by the Minister was responsible for the administration of the Funds. “Parliament contributed to the Compensation Fund, while the Insurance Fund was financed by levies contributed by the employers”, (Rees, 2011). There were amendments to the Act of 1914 and was succeeded by the Miners’ Phthisis Act of 1916. “The 1916 Act provided for payment of compensation to a mineworker who had contracted miners’ phthisis. Phthisis is an historical term for tuberculosis, from the Greek word for “wasting”, whilst understood in the context of mining to be a disease associated with dusty work” (Katz, 1994).

Health and safety was dominant in the system of social security. The advent of an occupational health and safety system protected employees against occupational injuries and diseases in their workplace. “In fact, the occupational health and safety system had far-reaching implications for the contract of employment as well as the lives of individuals, their families and communities” (Tshoose, PER/PELJ 2011 (14)7).

1.2.1 Locating responsibility for governance of compensation (ODMWA)

Ex-mineworkers waited for more than a decade for government compensation. There were claimants and potential claimants who fell victim

to death whilst awaiting an outcome of their applications. The enormity of the process of paying out compensation coupled with the complexity of the system were amongst the reasons for the delay. A huge opportunity was created for solicitors who earned more than £1.3-billion in fees for handling claims. The cost of administration was high and often exceeded the amount of the claim.” In London there have been 762,000 claims is estimated to cost about £4.1-billion pounds once they are all settled but tens of thousands of ex-mineworkers are still waiting for an offer”, (*The Journal*, March 4, 2008).

The Department of Health has set up the Medical Bureau for Occupational Disease (MBOD), whose primary function it is to certify applications for compensation by analysing the Medical reports. Various documents including a benefit medical form, certified copies of identity documents together with fingerprints, and their labour records) are prerequisites for an application to be assessed. There is a chronic and serious backlog in the processing of claims as well as the challenge of meeting onerous bureaucratic requirements on the part of the claimants.

The MBOD is located in Braamfontein in Johannesburg and this makes access to ex-mineworkers very difficult. These offices lacked regional offices in other parts of the country. The level of poverty and illness makes commuting to Johannesburg a serious difficulty for an ex-mineworker travelling from the Eastern Cape.” Ex-mineworkers with poor health or high levels of poverty encountered challenges and possibly would never be in a position to make the journey to Johannesburg and consequently remain lost to the system”, explains (Rothgiesser,2008).

1.2.2 Why the Eastern Cape?

There was a resolution by the Cabinet of South Africa in 1998 to align the two acts dealing with compensation, but this intention was not realised. The reason for the non-alignment was the failure of both government and the Chamber of Mines to reach agreement on who should pay the additional

costs. Active mines complained about carrying the costs for mines that had long since ceased to operate. “Government, on the other hand, was reluctant to accept financial responsibility for laws it was not involved in making”, (Spoor, 2007).

A task team was established in 2002 by the then Premier of the Eastern Cape, Reverend Makhenkosi Stofile, which included representatives from the Ex-Mineworkers’ Union, “The National Union of Mineworkers, and the Departments of Labour and Health was tasked to investigate complaints received from the ex-mineworkers regarding benefits accruing to occupational diseases and injuries suffered whilst working on the mines” (Roberts, 2009). The terms of reference for the task team, amongst others was the following:

- Verification of the lists of claimants and their respective beneficiaries by the Department of Health, through a process of tracking and tracing. An amount of R54 million was allocated for this exercise.
- Benefit medical examinations for ex-mineworkers in the Eastern Cape be conducted provincially under the auspices of the Eastern Cape department of Health.
- An action plan to identify areas of assistance needed from the National Department will be done by the Eastern Cape province.

The outcome of the work entrusted to the province of the Eastern Cape was to be sent to the National Department of Health. Follow ups were to have been made to ascertain progress made regarding the benefit medical examinations and the compilation of lists of *bona fide* beneficiaries and prospective beneficiaries.

Research conducted by Trapido (1998) into silicosis prevalence amongst ex-mineworkers in the former Transkei, revealed that of the workers who had been certified as having a compensable disease, only 2.5% had been

paid in full. Research by consultants from Deloitte undertaken over 21 months in 2003 established that of the 28,161 certified claims, pay-outs were made in only 400 cases, or less than 1.5%. This was supported by White (2004) when he observed that, “studies on the respiratory health of Black mineworkers were non-existent”.

New discoveries did not simply materialise but was the outcome of previous experiments and investigations. A study of existing literature showed how the investigation being conducted would align with what had gone before. A literature review demonstrated that the researcher was able to place this study in its context and understand the background, study and source the information that was necessary. “The necessity to relating the investigation to previous research and the contribution that the current investigation was to make to the chosen field, having drawn on evidence that may help explain the findings”, (Shuttleworth, 2015). The main theories in the subject area and how they had been applied and developed, including the main criticisms formed work on the topic.

As this study looked at the importance of governance in improving service delivery to ex-mineworkers examining whether improved governance systems had a bearing on improved service delivery, formed a critical part of this report.

1.2.3 Definition of governance

“Governance is defined as the rule of the rulers, typically within a given set of rules. It was a process by which authority was conferred on rulers, by which they made the rules, and by which those rules were enforced and modified. It was, amongst other things, participatory, transparent and accountable” (Ban-ki-Moon, 2008). It promoted the rule of law. Furthermore, it encompassed the role of public authorities in having established the environment in which services functioned and in having determined the processes and the relationship between the ruler and the ruled. (OECD,

p.198). According to the World Bank (1994: p.234), “It is also epitomised by predictable, opened and enlightened policy making; a bureaucracy imbued with a professional ethos; an executive arm of government accountable for its actions; and a strong civil society participating in public affairs; and behaving under the rule of law.” The relative emphasis on checking institutions rather than power-deploying institutions was evident in the governance measures that had been developed in recent years.

The starting point was to define governance as being government’s ability to make and enforce rules, and to deliver services, regardless of whether that government was democratic or not. In this context the quality of governance was different from the ends that governance was meant to fulfil. “Governance is about the performance of sectors in carrying out the wishes of principals, and not about the goals that principals set” (Fukuyama, 2013). Government as an organisation can undertake its functions for better or worse, whereas governance has traditionally fallen within the domain of public administration.

1.2.3.1 Governance in the context of the minerals sector: What does it mean?

South Africa’s mining industry is supported by an extensive and diversified resource base and has since its inception been a cornerstone of South Africa’s economy. The changes which have come about in the country make it necessary to prepare the industry for the challenges which are facing all South Africans in the 21st century.

The review process has taken account of the problems and opportunities confronting the mining industry against the backdrop of changes in the country’s policy and institutional environment. In particular, the passage of the Mine Health and Safety Act of 1996 will have far-reaching impact on the industry in areas of health and safety and human resource development. Changes in labour legislation and the introduction of employment equity

legislation, as well as the reform of the environmental regulatory system, create a dynamic context for this policy review.

Beyond the borders of South Africa, increasing competition, both in commodity markets and for investment, from mineral-rich countries that have liberalised their economic and political systems to attract investment are significant influences on the policy reform process.

The policy review process has had to take account of current problems and opportunities facing the mining industry. The gold mining sector in particular is having to re-examine its production techniques in the light of a static gold price, deeper levels of working and higher operating costs. Undoubtedly some of the older mines are reaching the end of their lives, leading to job losses and other attendant negative effects of downscaling, but these problems are being tackled energetically within the sector, through restructuring of mining groups, technological advances and innovative methods of improving productivity. Future mineral and mining policy has to take account of the international nature of the mining industry in order to ensure the continuing prosperity of the mines.

In September 1995 the Mineral Policy Process Steering Committee was formed consisting of representatives from both the executive and legislative branches of government, as well as organised business and organised labour. The mandate given was to conduct an extensive consultative process to canvass stakeholder opinion for the preparation of a new minerals and mining policy for South Africa. In November 1995 the *Discussion Document on Minerals and Mining Policy for South Africa* was published and extensive written comments were received. The outcome was the most comprehensive consultative process yet conducted for a review of a minerals and mining policy in South Africa, containing proposals been drafted after careful consideration of a very broad range of views.

1.2.3.2 What are the responsibilities and obligations of mining companies?

The current fatality, injury and disease rates in South African mines are unacceptably high. Following the 1995 report of the Leon Commission of Inquiry into Health and Safety in Mines, Parliament passed the Mine Health and Safety Act in 1996. Its purpose was to lead to a significant improvement in the health and safety profile of the South African mining industry. At a national level, tripartite institutions have been established in terms of the Act. These institutions continue to influence policy development and law on matters relating to health and safety in line with the provisions of the Act.

Central to company law is the promotion of corporate governance. An important question in company law is: "... in whose interest should the company be managed?" Corporate governance needs to address the entire range of responsibilities to stakeholders which, amongst others, includes employees and the community. The promotion of human rights in the application of the law must also take place.

1.2.3.3 What is Corporate Social responsibility all about?

The mining industry provides jobs for over half a million people directly and for many more both up- and down-stream through which multiplier effects are taken into account. The nature of work in the mines necessitated that the industry provides large numbers of employment opportunities for less skilled workers, from South Africa and the region. The labour situation in mining has been associated with the most controversial aspects of colonial and apartheid rule. These include pass laws, compounds, the migrant labour system, the reservation of skilled work for White people, and the denial of trade union rights to black workers up until 1982. The special control of mine labour and application of racial domination in the industry pre-dates the apartheid era by three quarters of a century.

Reform began, slowly at first, in the early 1980's. While the process of change has accelerated in the past few years, the legacy of decades of discriminatory practice cannot be eradicated overnight. Government has embarked upon a programme of legislation that will ensure that the momentum of change is maintained. In South Africa the tripartite approach embodied in the National Economic Development and Labour Council (NEDLAC) and other relevant statutory bodies should help underpin the process of constructive engagement among the concerned parties.

Improving relationships between people in the industry, allowing opportunities for human development and addressing the need for a safer and healthier working environment are essential if the mineral wealth of the country is to be used to its greatest potential.

Hostels have been a significant feature of the labour system on the mines. Workers are forced to live in austere, regimented single-sex hostels, subject to strict legal and extra-legal controls. Housing is sub-standard which impacts adversely on the health, productivity and well-being of employees.

Current reform has seen progress in upgrading hostel accommodation which includes provision for married quarters. The costs of converting such accommodation requires a planned and phased approach. The whole structure of mining towns and settlements must be altered to integrate mineworkers into the local economy and to end the racially discriminatory provisions that apply to housing for Black mineworkers.

The interests of various stakeholder groups in the context of the institution as a "social institution" should be enhanced and protected. Because corporations are part of society and the community, like all of us, it is required of them to be socially responsible and have greater accountability to all stakeholders of the company. Sustainable relationships with all the

relevant stakeholders is thus important. The advancement of social justice is thus important in that organisations should take note of the Constitution, labour legislation and company law legislation when social justice issues are dealt with. Employees have become important stakeholders of companies and their needs should be taken account of in the bigger issues of governance and within the social responsibility framework.

The term “governance” was first used – in the sense in which it is presently utilised by the World Bank – in a 1989 report on African economies. In accounting for the failure of its Structural Adjustment Programmes (SAPs), “the World Bank placed blame on a ‘crisis of governance’”, (Sampath, 2015). However, the term ‘crisis of governance’ did not convey much information unless the term ‘governance’ was defined. The World Bank initially defined governance as ‘the exercise of political power to manage a nation’s affairs’. What mattered for governance is that efficient management must supersede politics. Efficient management meant the withdrawal of the state in favour of the market “.

The model of governance was expanded over time to include elements of democracy, and setting up of a legal framework for enforcement of contracts and accountability. Governance and development could not be separated and nations were more aware that development could be possible through initiatives of good governance.

“In creating a culture of broad excellence there are eight elements of good governance which are the rule of law; transparency; responsiveness; consensus-oriented; equity and inclusiveness; effectiveness and efficiency; accountability; and participation”, describes Fukuyama, 2013).

According to the United Nations Global Issue, “governance is considered ‘good’ and ‘democratic’ to the degree that a country’s institutions and processes are transparent”. It ensured that civil society played an active role

in setting priorities and making the needs of the most vulnerable people in society known. In fact, it was explained, well-governed institutions were less likely to experience conflict and ongoing disagreements.

Good governance is an ideal difficult to achieve in its totality. Governance typically involved well-intentioned people who brought their ideas, experiences, preferences and various human strengths and shortcomings to the policy making process. Good governance was achieved through an ongoing discourse that attempted to capture all of the considerations involved in assuring that stakeholder interests were addressed and reflected in policy initiatives. According to Ban Ki-Moon, United Nations Secretary-General (2009),

“.....as we all know, infrastructure is not just a matter of roads, schools and power grids. It is equally a question of strengthening democratic governance and the rule of law. Without accountability, not only of the government to its people but of the people to each other, there is no hope for a viable democratic State.....”

Governance is not a new concept, as it dates back to the origin of human civilisation. “Simply put, ‘governance’ means the process of decision-making and the process by which decisions are implemented or not implemented”, (United Nations, 2014). As governance involved the process of decision-making and the process by which decisions were implemented, it was important to focus on the formal and informal actors involved in decision-making, including the implementation of decisions made.

Work on good governance addressed economic institutions and public sector management, including transparency and accountability, regulatory reform and public sector skills and leadership. What was needed was more innovative thinking that balanced the needs of individuals and of society as a whole; one that tackled the global challenges of health, poverty and

education; and a sense of purpose that engaged everyone affected by them. What was needed was an approach to governance that was powerful, effective and broadly accessible that could be integrated.

1.2.4 Transforming organisations

The challenges that faced most organisations included developing creative problem-solving skills that could be incorporated into organisations; and engaging a far greater percentage of their workforce in good governance exercises. Organisations needed a greater commitment towards managing their human resources for purposes of developing self-interest. Unfortunately, the traditional way of doing things was often quite negative, but since people were used to it they were reluctant to attempt an alternative.

Most successful organisations had, at one time or another, used new knowledge to offer new services that clients wanted or had been in a position to exploit another's success story. The path to innovation success was exemplified by those who did not innovate and lost their competitive advantage. The nature of innovation also mattered. New thinking based on new knowledge improved services and this originated from organisations exploiting it. How well an organisation could exploit the new knowledge or ideas was a function of how different the new knowledge was from what prevailed. It was also a function of whether the change was radical and incremental to the organisation.

1.2.5 Global best practice on governance

“Global governance is an attempt made towards political integration of transnational actors aimed at negotiating responses to problems that affect more than one state or nation. It leads to involve institutionalisation. These institutions of global governance”, (United Nations, 2008). International Criminal Courts tend to have limited or demarcated power to enforce

compliance. Globalisation has impacted on the concept of global governance. In response to the acceleration of interdependence on a worldwide scale, the term 'global governance' may also be used to name the process of designing laws, rules or regulations intended for a global scale.

New governance scholars agree that the hierarchical old governance model had limited utility in dealing with many of today's most significant global challenges. New global governance models call for new thinking, one in which different elements of an overall solution becomes embedded within an international political framework. International policy must and has played a role in the continued evolution of governance internationally.

A concerted approach by all parties is needed to meet the most pressing societal challenges. The state cannot be the only accountable body. The state needs to leverage its capacities. New thinking emphasizes a response to regulation, co-operation that is informal, including public-private partnerships as well as multi stakeholder processes.

What was required was a new regulatory dynamic under which these governance systems become better aligned, added distinct value; compensated for one another's weaknesses; and played mutually reinforcing roles from which cumulative change can evolve.

Brazil was identified as an industrial power with the largest population in Latin America and the Caribbean. It is a country that has experienced a difficult but successful transition from military rule to democracy. Brazil as an emerging economy had made considerable strides in reducing social and economic inequality, which were both cause and consequence of the poverty that continued to afflict millions of Brazilian people. The country also rose to the challenge posed by the single biggest health threat in the modern

world, pioneering an anti-HIV/AIDS strategy that became an international model by guaranteeing universal access to antiretroviral medication.

As explained by Sampath (2015), “Democracy without politics and citizenship without rights are the twin pillars of good governance”. India provided an example and continues with the process of strengthening governance. The new approach has become good governance rather than good government. India’s new leadership brought out a growing enthusiasm for the virtues of ‘good governance’. Prime Minister Modi of India, stated on his website: “...it is due to Narendra Modi that governance has become the talking point all over the country”. While the degree to which adolescents obsessed about good governance may be a matter of debate, there was no doubt that it occupied pride of place in the public engagement of the Modi regime and it was a truism that the Modi mandate of the 2014 polls was “a mandate for good governance” (Modi, 2014)).

The United Nations system promoted good governance through many avenues. The United Nations Development Programme (UNDP), for example, actively supported new processes of democratic transition. Focus was on providing policy advice, technical support and strengthening the capacity of institutions and individuals. Advancing advocacy engagement and communications, supporting public information campaigns and encouraging dialogue. It also facilitated “knowledge networking” and the sharing of good practices.

Programmes of lending technical assistance was promoted by the International Monetary Fund (IMF). Combating corruption through measures of prevention strengthened measures of good governance. Improving accountability was the voice coming from the IMF who encouraged member countries by enhancing transparency in policies in line with internationally recognised standards and codes. Adequate systems for

tracking public expenditure relating to poverty eradication was also advocated by the IMF.

1.2.6 Best practice in Africa

Nyerere (1998) observed that, “Governance in Africa must be improved for the continent’s countries and people to build real freedom and real development. The machinery through which countries stay close to the people and people close to their government will differ according to the history, the demographic distribution, the traditional culture (or cultures) and the prevailing international political and economic environment in which that country has to operate”. Democracy demands changes in attitudes of tolerance and willingness to co-operate with others on terms of equality.

Sudanese-British businessman Mo Ibrahim became wealthy in the telecommunications sector and has invested much of his wealth in supporting his belief that good governance is critical to development in Africa. Governance is defined as the provision of the political, social and economic goods that a citizen has the right to expect from their state, and the state’s responsibility to deliver these to its citizens.

In the 2014 Ibrahim Index of African Governance (IIAG) 39 countries improved over the past five years and thirteen deteriorated with respect to overall governance. Health and participation in human rights were the categories in African governance that showed the most improvement over the last five years.

Kenya remains a Commonwealth country with a common law system. The ‘core values’ were at the heart of the Kenyan self-regulatory framework. These principles encouraged and improved activities in a transparent and accountable manner. It improved integrity.

Uganda was offset by great turbulence in its social, economic and political history in the years past colonialism. The occurrence of Civil war, the repressive political regime, conflict on its borders and the lengthy period of post-conflict reconstruction and stabilisation under Museveni's National Resistance Movement (NRM) had created great challenges to positive change in the civil service. In the years post 1986 there were major reforms focussing strongly on accountability and improved service delivery. Through the efforts of co-ordination, Uganda had launched a self-regulatory instrument called the NGO Quality Assurance Mechanism (QuAM), whose overarching goal was to promote adherence to generally acceptable ethical standards and operational norms.

1.2.7 Regional best practice

In the wake of the global economic downturn, governments around the world place greater emphasis on good governance. It is important that governments in African countries (incorporating national and provincial departments, government agencies, municipalities and state-owned entities and parastatals) assumes centre stage and 'set the bar' on good governance standards and practice.

A national NGO Code of Ethics for Tanzania was developed in 2008 under the auspices of the National Council of Non-Governmental Organisations (NACONGO). The purpose of the Code of Ethics was to promote an open, transparent and accountable environment and to strengthen accountability lines across all sectors.

Years of military rule and economic mismanagement forced Ghana into a structural adjustment programme under the auspices of the World Bank and the IMF. As Ghana moved towards a more democratic dispensation under the government of the late General Rawlings, and as the levels of international donor funding increased, there was an exponential growth in the diversity of activities in the country. Despite several constraints,

democratic and participatory decision-making processes had taken strong root.

In Malawi there had been attempts which had clearly defined structural and governance arrangements in order to facilitate effective decision-making, transparency and accountability. Malawi recognised the important role of stakeholders in improving service delivery as well as implementing sectoral projects. NGOs partnered with government in the implementation of essential services.

Swaziland responded to its challenges in the 1990's through the initiation of a number of reforms, including, amongst others, the National Development Strategy; the Economic and Social Reform agenda; the Public Sector management programme; and the Poverty Reduction Strategy.

1.2.8 Best practice in South Africa

In South Africa the requirements of the Public Finance Management Act (PFMA), the Municipal Finance Management Act (MFMA), National Treasury Regulations, the Protocol on Corporate Governance in the Public Sector and the new Companies Act of 2008, as well as recommendations of the King III Report on governance for South Africa and Governance Principles 2009 are some of the major instruments that need to be taken into account by public sector institutions when striving to meet good governance standards and best practice.

South Africa ushered in sound policy reform post-1994 that granted its citizens opportunities that valued the importance of governance initiatives. South Africa was positioned second in the Open Budget Index (OBI) Survey in 2012 which was released in 2013 by the Open Budget Partnership, surpassed only by New Zealand with a score of 93 out of 100, which suggested that South Africa disclosed extensive information regarding its national budget.

In South Africa the department of Public Service and Administration (DPSA) remained at the forefront of managing change. The DPSA established norms and standards that monitored service delivery. There were integrated systems and access, centralised systems of human resource accountability, and systems that were responsive to the needs of the citizens. Amongst its many initiatives, South Africa established systems of accountability through creating mechanisms of monitoring and evaluation. There was improvement in transforming systems in the public service, improving policies in labour relations, caring for the health and wellness of its employees.

Furthermore, leadership in the public sector has the overriding duty to stakeholders and the general public to ensure that a spirit of good governance is inculcated in all levels of management. As the public sector there needs to be a response to the character and attributes that continue to evolve internationally, the notions of accountability, sustainability, transparency and corporate citizenship are identified as central to public management in which good governance revolve.

By practising integrated and inclusive governance, public sector institutions are set to gain, among others, the following:

- Improvement in policy making and implementation at all levels
- Setting targets for attainment of government priorities and becoming more accountable;
- Improving service; and
- Improving public financial management and audit outcomes

1.2.9 Eastern Cape context

The Eastern Cape remains a major labour sending area for the mines. “Between 1980 and 1990, 30% of the workers employed in the South African mining sector were from the Eastern Cape. It was well established

that the migrant labour system had led to uneven development, promoting the centre at the expense of the periphery which had become an eroded subsistence economy. The labour-sending rural areas of the Eastern Cape were amongst the most poverty-stricken in the country” (Libode & Thamaga, 2007).

The incapacity of ex-mineworkers through low levels of education to access their benefits through the Occupational Diseases for Mines and Works Act (Act 78/1973) referred to as the ODMWA amongst former mineworkers, led to it becoming a human rights issue. The situation was more than a broken down system with systemic failures. The challenges in implementing ODMWA appeared to be systemic in relation to the migrant labour system. As Terreblanche (2002) observes, “for the greatest part of the last 150 years, most members of the Black labour force had been powerless, impoverished, uneducated, unskilled and subject to repressive labour patterns. In this highly imperfect labour “market” the Chamber of Mines was granted a monopolistic right to exploit African migrant workers – not only in South Africa but also in Southern Africa – and to keep wages at exceptionally low levels”.

requiring evaluation, including records filed as far back as the mid-20th century” (Balfour-Kaipa, 2007).

In South Africa, mineworkers’ compensation was handled differently to other forms of worker compensation. General compensation for diseases contracted in the course of work was handled by the Compensation for Occupational Injuries and Diseases Act (COIDA) under the management of the Department of Labour. Mineworkers’ compensation was treated separately under the Occupational Diseases in Mines and Works Act (ODMWA) managed by the Department of Health.

“No investigation of the equity of the ODMWA compensation system had previously been undertaken. It was posited that it was a discriminatory system that was a cheap form of compensation which served as a subsidy to the mining industry in that it externalized the costs of occupationally acquired lung disease. The labour-sending communities which provided large numbers of migrant mineworkers to the mining industry were likely to have had a high prevalence of silicosis which would have a severe social impact, having intensified deprivation and poverty amongst former mineworkers and their families as well as within their communities” (Terreblanche, 2002).

Previous research undertaken in the field of ex-mineworker compensation has been limited. Research includes, amongst others:

- An assessment of health systems surveillance of pneumoconioses, in particular silicosis and silico-tuberculosis, in former gold mineworkers, and compensation under the legal framework of the Occupational Diseases in Mines and Works Act 78 of 1973 was done by Jaine Roberts in 2009. An assessment of available research findings from research undertaken since 1997, along with data from official sources, strongly indicates that this is a historically neglected

subject which is under-researched and is an undocumented area of health and occupational disease compensation in South Africa.

- Results of the Department of Mineral Resources Track & Trace of ex-mineworkers show that of a potential 700 000 only 14 000 have received compensation. This fieldwork was done in 2015.
- In 1998 a study by Trapido found that 63% of ex-mineworkers who were found by the researchers to be suffering from Silicosis had not been compensated at all.
- A study by Professor Rodney Ehrlich from the University of Cape Town found that there are more ex-mineworkers than active miners, evidence of the sharp decline in employment in the mines between 1988 and 2006.
- The Mail and Guardian report of 11 March 2016 further highlighted a landmark settlement in which 4 365 claimants sued the mines for silicosis and led the way for an industry wide compensation scheme.

The implications of this system of compensation for occupationally acquired diseases for the former mineworkers themselves, for their families and communities, and for the public health sector, required further investigation. Not only was there an historical burden of disease that had not been properly researched and documented, there have been increasing retrenchments in the last decade that increased the numbers of mineworkers returning to the traditional labour-sending areas of South Africa.

This area of study was historically neglected as evidenced by an assessment of available research findings from research undertaken since 1997. The area of focus on ex-mineworker compensation in the Eastern Cape was a highly under-researched and undocumented area of health and occupational disease compensation in South Africa.

1.4 PURPOSE STATEMENT

The purpose of this research was to explore reasons for the low compensation uptake, examine systems and inform changes that would improve access to compensation for ex-mineworkers in the Eastern Cape, specifically in the Oliver Tambo District, within the Department of Health.

The purpose of this research was therefore:

- To investigate the factors leading to poor governance of the compensation paid to ex-mineworkers in the OR Tambo District of the Eastern Cape;
- To present the findings on the governance challenges of compensation paid to ex-mineworkers in the OR Tambo District of the Eastern Cape;
- To interpret and analyse the findings of the governance challenges related to ex-mineworkers' compensation; and
- To recommend strategies for consideration in the implementation of the governance challenges related to ex-mineworkers' compensation.

1.5 RESEARCH QUESTIONS:

The research questions to be addressed were the following:

1. What were the factors leading to challenges in governance that resulted in the poor uptake of ex-mineworkers' compensation?
2. What were the trends in the governance of ex-mineworkers' compensation?
3. What were the strategies for consideration in the implementation of good governance of ex-mineworkers' compensation?
4. What were the recommendations for consideration in the implementation of good governance of ex-mineworkers' compensation?

5. What barriers were there that prevented ex-mineworkers in the Eastern Cape's OR Tambo District from accessing compensation for occupational injury from the Department of Health?

1.6 SIGNIFICANCE OF THE STUDY

This study has been encouraged by the intention of relevant stakeholders, in partnership with government departments, to make the services to ex-mineworkers easier to access and thereby bring relief to past, present and future claimants qualifying for compensation. The intention of this study is to examine ex-mineworker compensation, ascertain whether such a system can be improved, and investigate whether such a system can lead to an efficient and effective model of service delivery. Mistakes resulting from improperly formulated or outdated policies can be costly, not only in terms of finance but also in the possible destruction of relationships and trust. A lack of analysis of a system or service and the policies related thereto may result in policies that are unable to be implemented and may fail.

After the discovery of gold in 1886 in South Africa, the mining industry remains a dominant force of employment. With little evidence of policy and legislative reform, and after 22 years into South Africa's new democracy, mineworkers face an epidemic of occupational lung disease. The daunting task of tracking and tracing ex-mineworkers to capacitate them on their rights and benefits of compensation, owed and owing to them, forms the basis of this study.

The governance of the system of compensation for ex-mineworkers is not bringing the large numbers closer to easy access. Whilst the challenges may well be present, this study is intended to bring awareness to the problem, investigate the cause/s and offer some recommendations that will provide relief to a population in South Africa that could be seemingly lost if not informed of benefits that are available to them (if alive) and nominated beneficiaries (in the case of those that are deceased).

1.7 REPORT OUTLINE

Chapter 1 introduces the topic and its historical background. The problem statement, purpose of this research and the research questions are described in this chapter. The chapter further explores the concept of governance and its relationship to the study. The context of the Eastern Cape is examined and the chapter explores the concept of transforming organisations by describing best practice globally, regionally, continentally and locally.

Chapter 2 reviews the literature on leadership and governance, sets out the theoretical framework, explores the role of governance in present-day service delivery, outlines the importance of proper planning and describes the emerging themes. The conceptual framework and rationale for the theory is described.

Chapter 3 deals with the research methodology followed by the research design, and outlines the process of data collection and analysis thereof.

Chapter 4 sets out the presentation of the findings.

Chapter 5 deals with the interpretation and analysis of the findings.

Chapter 6 is the conclusion of this report together with recommendations.

1.8 CONCLUSION

There is extensive information on how compensation started but not enough information on possible reasons for poor uptake by ex-mineworkers in the OR Tambo District of the Eastern Cape Province of South Africa. “Good governance is typified by a genuine democratic culture, measurable through effective systems of management, with clarified roles and responsibilities of

staff, the provision of resources with enhanced improvement in planning and overall relations. This can be generalised to mean improved skills, understanding, attitudes, values, behaviours, resources and conditions of work” (Connolly, Chris & Brammer, 2010).

In this research the important aspects of good governance were identified, that contributed to improvements in the access of compensation in the Eastern Cape and by so doing guided the research process.

CHAPTER TWO

LITERATURE REVIEW:

2.1 INTRODUCTION

The purpose of this chapter was to review academic literature found on Governance and Mineworker Compensation which in turn would serve as a basis for the research study on assessing the role of governance in improving access to compensation for ex-mineworkers in the OR Tambo District of the Eastern Cape.

This literature review examined the background of ex-mineworker compensation as it evolved over time and provided a brief overview of literature on compensation in South Africa and internationally, having drawn on the views of writers closely involved with the subject. It then looked at the background literature on ex-mineworkers' compensation, specifically in South Africa. After this broad view of the South African background, the literature review then focused on emerging issues, trends and challenges of governance in ensuring a more effective form of service delivery to ex-mineworkers.

Because of the extensive literature that existed on compensation and governance, this review could be considered comprehensive. The international literature was sourced mainly to provide the history of compensation and the role of governance in a globalised context in which it was executed. However, the main focus of the review was on the academic writing pertaining to the post-apartheid era of South Africa. Most of the literature which had been sourced would therefore have emanated from 2000 to the most recently written papers.

Approximately 80% of the literature search and sourcing was done through the University of the Witwatersrand databases whilst the remaining 20% was done through the Google Scholar search engine. The search strings used to categorise the source material were limited to three main areas/issues, namely,

- Ex-mineworker compensation;
- Role of governance in improving service delivery in public sector institutions, and
- The role of proper planning.

As far as was possible, Africa and South Africa in particular were included as the 'regional' search string.

2.2 SIGNIFICANCE OF LITERATURE REVIEW IN RESEARCH

By undertaking a literature review one is able to critically summarise the current knowledge in an area of study, identify any strengths and/or weaknesses in previous work, and in so doing identify the same in one's own study and thereby eliminate the potential weaknesses. In addition, a comprehensive literature review aids in providing the context within which to locate one's study. A literature review is important because it:

- Provides an up-to-date understanding of the subject and its significance for current practice;
- Identifies the methods used in previous research related to the topic;
- Helps one to answer questions and identify which questions need to be asked; and
- Provides comparisons for one's own research findings.

Doing a careful and thorough literature review is essential when undertaking research at any level. It is basic homework that is assumed to have been

done diligently. Providing a literature review informs the reader that the basics of research have been observed. It not only surveys what research has been done in the past on one's topic of choice, but it also appraises, encapsulates, compares and contrasts, and correlates various scholarly books, research articles and other relevant sources that are directly related to the current research.

2.3 THEORETICAL FRAMEWORK

2.3.1 Unequal power relations between capital and labour

South Africa's economic development is rooted in mining and the industry plays a pivotal role in creating transformation where it is most needed. Mining-related investment in infrastructure and community facilities has the ability to bring immediate, direct and significant improvement to the day-to-day quality of living of the more than 500 000 people employed in the mining sector.

One of the objectives of the Mineral and Petroleum Resources Development Act (MPRDA) is to promote social and economic development in the mining industry. This implies that the Minister not only has a duty to administer the minerals dispensation, but also to ensure that a broad based socio-economic empowerment charter is developed. The charter is required to outline how historically disadvantaged South Africans will be able to participate in the mining industry, so that the country's mineral wealth no longer benefits only a select few.

The Mining Charter is not merely a document containing the goals to be achieved by the mining industry, in many circles the charter is accepted as law and non-compliance with its provisions is considered a breach of the MPRDA. The MPRDA states that if mining right holders breach the Act or any condition of its economic empowerment guidelines, the Minister may revoke their rights after due process has been followed. It is clear that

government wants to see transformation and social upliftment in the mining industry.

In Indonesia the success of Sumatra Copper and Gold depends on its ability to develop and operate mining operations and this success is intrinsically linked to the social and physical environment and the company's employees. Sumatra Copper and Gold is therefore wholly committed to supporting the rights and cultures of local indigenous communities and also to the safety, health and development of staff. It follows a standard code of conduct for appropriate ethics and professional behaviour in its operations. Procedures and practices have been adopted to ensure effective corporate governance is in place and to provide appropriate guidelines for ethical and responsible decision-making processes.

As an emerging mining company, Sumatra Copper and Gold recognises the importance of balancing the pursuit of stakeholder value with its obligation to the communities in which it operates, in terms of building and maintaining good relations with local residents and employees, and working closely with local government agencies.

2.3.2 Relationship between the state and capital

The new mining companies adopted strategies of international capitalism. In order to participate in the mergers and acquisition frenzy of the 1990s, the mineral resources conglomerates initiated their catch-up strategy with the global economy by prioritizing the maximisation of access to financial markets and by migrating their primary listings to the world's financial capitals (McKenzie & Pons-Vignon, 2012, pp.6-7). What followed was a rapid capital outflow enabled by a highly liberal approach towards monetary movement.

The surpluses of the mining industry were only marginally captured by the public budget as a result of a reduced local tax base. This had a number of consequences, one of which was that domestic investments by the public sector to solve infrastructural bottlenecks were less actively pursued. Moreover, the mining sector itself sought out other investment havens and this led to the massive capital outflow that peaked at 20% of GDP in 2007 (Ashman et al, 2011, p. 22).

How should the changing relationships of state and market in the context of neoliberal globalisation, or in Latin America the post-neoliberal era, be characterised? In answering this question, it is important to closely examine the political economy of specific sectors within different countries and attempt to understand the varied impact of neo-liberalism on state-market relations. Whilst many studies have already observed the shift towards more market-orientated reforms in agriculture, manufacturing and financial sectors (Wise, 2003; WIR, 2009) the resource extractive sector has also experienced a process of market liberalisation.

The extent to which these policies were maintained after 2000 differs across the region. In Brazil and Chile, mining laws have remained intact and continue to reflect the neoliberal reforms of each country, thereby offering stability in terms of rules. In some countries such as Argentina, Bolivia, Ecuador and Venezuela, there were revisions in contracts and tax regimes aimed at increasing state control over the industry, imposing stricter environmental regulations, and securing a bigger share of windfall profits for the state (Hogenboom, 2010; WIR, 2007, pp.59-60).

State control of total global mine production has varied over the years and from metal to metal between 40% and 60% until the collapse of the Soviet Union. After 1990 the metal production in the former Soviet Union collapsed when the demand from the military complex ceased almost overnight. In the

first decade of the 21st Century production has picked up again, but the industry is now almost completely privatised.

Mining companies globally as well as in South Africa face significant challenges, putting the industry at a crossroads. Local mining companies and mining companies with significant local assets manage unique South African operational complexities while still operating in the context of global pressures.

2.3.3 Bureaucracy and inefficiency of the state and how this leads to failure to enforce its own policies and legislation

Fundamentally, a public policy is a government action or proposed action, directed at achieving certain desired goals or objectives (Ikelegbe, 2006). In the light of a given societal problem, public policy guides and determines present and future public decisions as well as private individual or private business institutional actions, decisions or behaviours. In essence, a public policy determines the activities of government and private institutions in relation to providing services designed to solve a specific problem (Ugwuanyi et al, 2013).

The public views government as a chronically clumsy, ineffectual, bloated giant that cannot be counted upon to do the right thing, much less to do it well. It does not seem to matter much to citizens whether the government that fails them is liberal or conservative, or how earnestly leaders promise to remedy failures.

For the past 50 years Americans have turned to the federal government to solve pressing environmental problems like air and water pollution and climate change. Major environmental policies have helped improve environmental quality to varying degrees, but these policies have also resulted in negative consequences, such as high costs, inefficiency,

violation of property rights, or environmental degradation. By applying public choice theory to the evolution of federal environmental policies, it can be understood how negative consequences have arisen from seemingly good intentions. Public choice theory rejects the notion that government officials work solely for the public good.

Mongolia provides a further example. After policy failures, politicians in Mongolia blamed each other. The question that remains is: “Why have many policies failed in Mongolia?”, with a focus on mining policies. Two decades after political and economic liberalisation both Mongolians and foreigners complain about policy instability, unpredictability and non-transparency as key features of bad governance.

Mining policy is a good entry point to understand the overall policy-making processes of Mongolia. Mining has been one of the dominant economic sectors of Mongolia since the early 1900s. With extensive mining activities, mining has caused numerous political and socio-economic challenges for policy-makers. Policy decisions, related to mining trigger diverse reactions from political parties, political-business factions and citizens.

Parastatals are deeply implicated in most fiscal problems of African governments because of their inefficiency, losses, budgetary burdens, and provision of poor products and services. Occasionally, they achieve some non-commercial objectives, which are used to justify their poor economic performance. The failure to measure performance by profitability is regarded as neo-classical law and economic theorists as the main cause of the inefficiency of parastatals, as it deprives them of the incentive to increase gains, cut costs, and operate more efficiently.

Throughout the world, governments engage in social and economic regulation of their citizens' lives. Economic regulation, in particular, has come into focus during the past decade, mainly because such regulation

has been associated with falling productivity rates in many industrialised countries.

2.3.4 How this leads to failure to uphold the human rights of citizens (of which workers are a part)

The substantive position is that employees are entitled to safety protection, social security, health protection and fair wages. Consumers should also be warned of potential health problems inherent in the goods and services they purchase. It is the responsibility of all those who operate in the market-place to act in a compliant manner. This should not be left to personal caution, consumer watchdog agencies, or the goodwill of traders. Government, having been established to protect its citizens, should protect these rights in particular.

Since emission into the public realm can involve judicial inefficiency (culprit and victim cannot be brought into contact), when the activity which can lead to public pollution is deemed to be sufficiently important, regulation is said to be inappropriate. This general idea derives from the moral viewpoint that some things important to the public at large must be done even if individuals or minorities are inconvenienced.

2.3.5 Why did ex-miners find it difficult to get fair and just compensation for so long a period after having left formal employment?

Former South African mineworkers employed by Anglo American are still waiting for their compensation pay-outs. Ex-miners still face challenges when trying to access their benefits. A large number of these problems are brought about by the failure to provide adequate documentation and lack of knowledge on how to access those benefits. Logistical issues, such as getting transport to acquire the required documentation were also seen as

a hindrance to accessing benefits. As a last resort ex-miners turn to tracing agencies who take large amounts of their benefits as commission.

There are, however, positive outlooks in the current initiatives that are being undertaken for the benefit of ex-miners in all the SADC countries. It is encouraging to note that different governments have actively taken up the challenge to ensure that ex-miners receive their benefits. Claiming compensation for ex-miners is very slow as there are extensive backlogs that have not been paid over a very long period. These ex-miners affected and infected by pulmonary disease find it difficult to travel and often die without accessing their benefits.

Once the principal member is deceased the process of assisting the spouses and children is even more difficult. Accounts are dormant, widows are not listed as beneficiaries, home addresses and contact details do not correspond, thereby making the entire verification process extremely difficult. In SADC countries passports are often not the same, thereby increasing the challenges of proper identification.

Reasons for extensive compensation benefits remaining unclaimed range from administrative errors to macro issues such as migration. Administrative issues were seen as the main causes of unclaimed benefits, including employers providing inaccurate or incomplete member information, fund administrator capturing errors, information changes after members leave the fund, and incomplete or no withdrawal documentation received. Other reasons include the following:

1. No central database for ex-miners;
2. Member education and awareness of benefits is very low;
3. Time lapses;
4. Misinformation leading to exploitation;
5. Little access and means to complain.

2.4 INTERNATIONAL CONVENTIONS, TREATIES & PROTOCOLS

The formation of the United Nations in 1945 established an organisation committed to the freedom of the individual and to the preservation of the rights of individual sovereign nations. Declarations of common interest to nations were identified as international treaties and accorded special significance under the Vienna Convention. When ratified by signatory nations, treaties entered law, as customary international law, or as domestic law of individual countries in the manner decreed by that country's constitution.

In South Africa there are agreements between Mines and Unions on multi-term issues covering the following:

- Wage offers;
- Wellness issues;
- Accommodation;
- Employee benefits;
- Investigations into organisational design; and
- Dispute resolution.

In such agreements, parties commit to building a culture of sustainable mining and developing measures to improve performance and efficiencies in the operations. Parties commit to act jointly to secure the sustainability of mining operations.

International labour migration within the Southern African region is not new. In its modern form, migration to South Africa from the region dates back at least 150 years. Cross-border migration has taken various forms. At the one end of the spectrum is the highly formalized and regulated contract labour system of the South African mines. At the other end are various kinds of informal, unregulated and clandestine movements across borders.

2.5 NATIONAL LAWS & LEGISLATION – GOVERNANCE FRAMEWORK OF THE MINERALS SECTOR

South Africa has relied, and still is relying, on mining activities to generate wealth that could be translated into economic development, infrastructure and employment. Formal mining in South Africa is more than 100 years old. Legislation at that time primarily focussed on “surface rehabilitation” and the primary emphasis of mining was focussed on its economic gains. With regard to environmental management and rehabilitation, mining companies complied with the absolute minimum requirements and also followed a reactive approach.

Mining does in general have a substantial impact on the environment, and has unfortunately left South Africa with a concerning economic, social and environmental legacy. Prior to the enactment of the Minerals Act 50 of 1991, mining companies used irresponsible mining methods with no regard for protecting the environment and often avoided their responsibility towards environmental rehabilitation.

National legislation and institutions that regulate and facilitate the monitoring of mining operations do exist. Some of the laws were developed during the colonial period, while others were formulated afterwards. Colonial-era laws were chiefly aimed at facilitating the extraction of minerals, profit-making and depriving indigenous populations of their resource wealth.

Theoretically, social and environmental accountability is anchored on access to information, disclosure laws and practices. The concept of free, prior and informed consent is therefore important in the extractive sector, particularly for local communities, which need to be able to access information on the impact of mining operations and their revenue streams.

2.6 GOVERNANCE IN THE MINERALS SECTOR

In order to contribute to a competitive and sustainable minerals industry in South Africa, government involvement should be focused on efficient and cost-effective resource management. This includes the mineral, human and environmental resources of the country. Such governance will require both regulatory and developmental dimensions with a clear separation of powers in order to maintain transparency and equity.

The activities of the Department of Mineral Resources (DMR) must be responsive to the needs of stakeholders and to transformation within the industry. In this respect a special duty rests on the Department being charged with a national function with wide impact throughout the country, to co-operate with all spheres of government. Furthermore, the principle of consultation, which is necessary for open and inclusive governance, should be accommodated. This should include the opportunity for other parties and individuals to constructively engage with government and other stakeholders on matters of common concern.

2.7 ORIGINS OF COMPENSATION

Research and academic writing indicates that there was clear knowledge on how compensation started but not enough information on possible reasons for poor uptake by ex-mineworkers, with specific reference to the OR Tambo District of the Eastern Cape Province.

Boyko (2013) indicates that South African legislation on compensation for occupational diseases was developed along two parallel lines to provide for two different categories of workers. One was concerned primarily with the interests of mineworkers, namely the Occupational Diseases in Mines and Works Act (ODMWA) (Boyko, 2013) and the other was the Compensation for Occupational Injury on Duty Act (COIDA).

Former mineworkers who returned to their homes after working in South African mines for decades encountered complex challenges in claiming social security and occupational health benefits owed to them (Bateman, 2014). Fund administrators in South Africa or ex-mineworkers said the funds were either unclaimed or not accessible (Anstey, 2013). Van Vuuren (2013) believes that a lack of understanding on the part of claimants about which channels they could use to retrieve their money also contributed to the problems.

Erhlich (2007: 138) explains that, “Black miners were awarded a once-off payment of R1,200 for Tuberculosis and R2,000 for Silicosis. They were on average one-tenth of the amounts awarded to white mineworkers reflecting what was once called the “civilised wage ratio”. Radical differentials were replaced in 1994 by wage-based differentials. Notwithstanding the paltriness of the pay-outs, Black mineworkers have had very little access to the system. When they did have access it was not unusual for them to have waited up to five years for their payment”.

Breckenridge (2007: 34) describes the racialisation of the policy framework as follows: “Compensation was paid from a levy based on the number of men employed at each registered mine”.

Levies were set according to an estimate of dust levels. Sampling was done by the Chamber of Mines or the Government Mining Engineer every three years and an index was calculated using a complex formula (Murray, 2009). The policy framework was described by Boyko, Darby, Goldberg and Mulin (2014) by explaining that, despite legislation having been in place for over a century aimed at compensating South African mineworkers with occupational lung disease, sufficient evidence existed to show that the system was impugned by racial inequality and that it was in a state of disarray.

Trapido (1998) conducted research into silicosis prevalence among former Transkei mineworkers and found that of the workers who had been certified as having a compensable disease, only 2.5% had been paid in full. Research by consultants from Deloitte undertaken over 21 months in 2003 found that of 28,161 certified claims, payouts were made in only 400 cases, a rate of less than 1.5%. This was supported by White (2004) when he described how studies on the respiratory health of Black mineworkers were non-existent.

2.8 THEORIES (LEADERSHIP + GOVERNANCE)

2.8.1 Governance in the 21st century

Of importance to policy success was the extent to which it was responsive to the target community's needs and as such the goal of the policy maker was to make the overall policy more inclusive and democratic, not only as a demand-and-control style of leadership, but as a collaborative leadership style (Bingham, 2006; Rogerson, Sadler, Wong & Green, 2010:505).

Central to this argument was that good governance was neither new nor unique to the public sector. Keevil (2011) explains that developing countries were increasingly finding that there was a gap between how their public sectors functioned and how the interests of the nation needed them to be in the present and in the future. Existing literature reported something missing between existing public service cultures and the public interest. McQuaig (2010) describes how common complaints arose from a lack of dedication to the underlying values of public service and the interests of the citizens served.

Kofi Annan in his function as secretary-general of the United Nations, in speaking about good governance, noted that it was perhaps the single most important factor in eradicating poverty and promoting development (United Nations, 2002). At the core of the governance agenda was the fight against

corruption and the corresponding need to enhance accountability and strengthen transparency in public policy-making. Indeed, the fight against corruption, which had been formally integrated into the World Bank's mandate in 1996, constituted the core of the governance agenda that had been forcefully advocated by the President of the World Bank Group since 1995.

From control to collaboration, the role of governance described how rules-based predictable legal regimes were of the utmost importance in the new market order (Terreblanche, 2002). Enhancing good governance entailed ensuring the effective separation of powers (Evans, 1995). It required addressing the factors that underpinned the political independence of the judiciary, guaranteed the impartial administration of justice and thereby reduced "the opportunities for corruption by having cut back on discretionary authority" (World Bank, 1997/8).

Although the above approach allowed for other views, another dimension of good governance concerned facilitating effective participation (Ackerman, 1999). Participation and representation were more likely to have led to public policies that were more responsive to the needs of the poor so that opportunities for collaboration could be maximised (Rogerson, Sadler, Wong & Green, 2010-505; Silver & Toews, 2009; Teles, 2012).

In 1998 the Labour government of the United Kingdom ushered in a new era of performance management which was intended to revitalise the delivery of public services and the Public Service Agreement Framework was established to achieve the government's policy goals through two arguably antithetical principles of top-down strategic leadership and bottom-up operational autonomy (Mathews, 2013). The intention of this initiative represented a radical departure from previous approaches to service delivery, having focussed minds on the implementation of policy rather than just its design. Dialogue and communication were the cornerstone of any

structure or framework which provided clarity on the work of government (Rustow, 1970). It was difficult to have run a large and complex system of compensation without some quantitative and qualitative targets or to have held people to account or to give coherence to the whole.

The system of compensating ex-mineworkers was a complex one and there was little evidence indicating that there was a process of performance management. Mathews (2013) argues, most correctly, that governance was a term that was often used but seldom defined, applied with conceptual abandon across a range of disparate fields. The question of why the compensation system did not work was a complex one, with its roots in South Africa's racially torn history and racially stratified geography. The extent to which good governance had influenced the operations on the ground would most likely affect its overall relevance. Good governance expanded (Collier, 2008) was not just a matter of having decided to be good people; instead, officials and citizens must have believed that they would be better off under a reformed system of governance.

2.8.2 Importance of proper planning during the period of transition, refinement and evolution

There was little doubt that governing in the twenty-first century was complex, having drawn on a range of actors, who existed at overlapping (and sometimes competing) jurisdictions, into the policy cycle. Current literature indicated the complexity in the current policy framework which was exacerbated as the state expanded into important new policy areas, such as the management of international benchmarks on similar systems of compensation, which in turn stimulated popular expectations of government (Collier, 2008). The dominant narrative showed that while the volume and scale of these challenges to government capacity may be novel, the governing implications were not, and the ineffective management and co-ordination of a diversity of competing interests was a perennial and core task of government (Grindle, 2004).

The financial challenges of the CCOD and the failure of the Department of Health, by its own admission, to manage and staff the CCOD properly has been noted above and cited earlier. Erhlich (2007) found that in less than half of the claims processed by the CCOD, the claimants were confirmed to have received their awards, with the average delay for the whole claims process being over four years. A 2002 audit of compensation of post-mortem (autopsy) certifications found a payment rate of only 7%. As of 2011 the backlog of claims stood at around 13 000 according to information extracted from the MBOD records.

The major challenge for many ex-mineworkers who were eligible for compensation was the bureaucratic hurdles that had to be negotiated. The body responsible for certifying ex-mineworker claims was the Medical Bureau for Occupational Disease (MBOD) to which a number of documents had to be submitted: a benefit medical form, worker identification and fingerprints, and their labour history. The MBOD offices had extensive claim records requiring evaluation, including records filed as far back as the mid-20th century. Once these were eventually certified, the claim records were sent to the office of the Compensation Commissioner who sent a form back for the worker to complete. In situations where the submission was not properly completed, further problems could arise. "If something is found to be missing, the clerk will send something to your last address," explains Ehrlich. "If the letter gets lost, then that's the end of their responsibility. If they do not hear from you again, they do not care." Murray (2011) felt there was much that could be done to streamline the system.

In having noted the current state of affairs within the South African compensation system for ex-mineworkers it could be seen that governments had actively sought to cede or delegate powers (Santiso, 2001). Yet, whilst many of the changes implemented had been intended to strengthen and maximise the capacity to govern, they had resulted in a

range of unintended consequences, such as the emergence of new multiple veto points and the creation of rubber levers at the centre of government (Bremmer, 2000). It was therefore possible to identify a 'paradox of state capacity' which reflected this simultaneous – yet counter- intuitive – drive by government to have assumed responsibility for day-to-day delivery (Erlich, 2007). In turn, it highlighted the way in which this seemingly rational process had instead served to exacerbate constraints upon government capacity; and to paraphrase Pierre and Peters (2000), the paradox of government capacity suggested that governments were the 'very root and cause' of governing problems.

A significant cause of this paradox was the path-determinacy created by prevailing governing norms and traditions which had shaped the response of officials and critics to internal and external challenges. Yet, Smith's assertion that 'the structures of government had changed, and that the value system governing those structures changed with them' (Smith, 1999) remained relevant over a decade later, which underlined the unwillingness or even inability of governments to reassess the appropriateness of traditional governing norms (Smith, 1999).

It could also be argued that while the organisation of benefit medical examinations and, arguably, the medical adjudication of claims fell within the core business of the Department of Health, the non-medical functions of administration and payment of claims did not (Erlich, 2007). The researcher is of the view that professionalising the CCOD would be an important task for the Department burdened financially and managerially by major reform initiatives in other areas of the public healthcare system. Legal, financial and managerial reform of the ODMWA system was long overdue (Gilson, Doherty, Loewenson & Francis, 2007). A comprehensive strategy needed to acknowledge the current realities and indeed Kettle (2002) was correct in having indicated that what was needed was:

- A rural infrastructure that increased access for conducting benefit medical examinations;
- A formal evaluation of the nature and effectiveness of the “190 service points” mentioned in the 2012/13 to 2014/15 Annual Performance Plan of the Department of Health; and
- “In-house” targets including attracting qualified staff to the Bureau to ensure rapid turnaround of claims and vigorous management of the CCOD to remove the 13 000 claims backlog.

Good governance discourse asserted that the inherent path-determinism of traditional governing structures and institutions, and the continued predominance of the cultural norms embedded within, risked blinkering government officials and inhibiting their ability to constructively engage with the consequences of their action (Raadschelders, 2003). This in turn risked the emergence of an institutional deficit, wherein many of the tools and instruments created emerged as being insufficiently robust and unable to effectively fulfil their intended functions (Graham, 2003).

2.8.3 Governance as a continuous activity

Governance was a discrete activity, with a goal selected through a process and a set of outcomes that could be assessed by the extent to which they conformed to the original goal. Governance might be better conceptualised as a continuous and adaptive process, with a strong element of feedback and learning involved. As Torfing, Peters, Pierre and Sorensen (2012: 78) argues in ‘Measuring Governance’, most governance activities were not discrete but involved ongoing processes of bargaining, learning and adjustment (Hogwood & Peters, 1982).

The recent re-organisation of the line structure of the Bureau and CCOD signalled a new intention within the Department to address the problem (Erhlich, 2007). Budgetary constraints remained, however, whilst levies on

the mining industry could be increased to underwrite compensation payments. The administration costs of the Bureau (including the costs of examining ex-mineworkers) and CCOD had to come from the Department of Health's budget (Murray, 2007). This amounted to a call on taxpayers of approximately R38-million in 2011 (Leigh, 1998). The assumption of these costs by the state reflected the history of accommodation of successive pieces of compensation legislation to the needs of the mining industry and pressures from mineworkers, particularly White organised labour (Visser, 2004).

According to Breckenridge (2007), "Immediate policy goals would be to shift the responsibility of financing the administration of the system to the Compensation Fund and to have given serious consideration to outsourcing the administrative functioning of the CCOD to the private sector". The inequity between the financial benefits obtainable by various categories of workers under the ODMWA and the COIDA is probably the single most contentious political and economic aspect of the system and required urgent high-level policy and legal reform (South African Chamber of Mines).

In the most basic sense, governance was little more than a synonym for leadership and management (Bell & Hindmoor, 2009). Good governance ought to provide proper incentives for the management to pursue objectives in the interests of the department and in the process facilitate effective monitoring. Such a process when implemented would help to provide a degree of confidence that was necessary for proper functioning (World Bank, 1994). The concept of governance, in relation to public policy and administration, had remained 'notoriously slippery', frequently applied without an agreed definition (Pierre & Peters, 2000).

The daunting obstacles that restricted ex-mineworkers from accessing compensation, in the view of Cohen, (2015), included the following:

- Reluctance of government and its administration systems;
- Lack of information by claimants and their dependents to assess and access rights on procedures and administrative formalities;
- Lack of administrative co-operation between schemes which resulted in delays in payment of compensation benefits;
- Inaccessibility of professional occupational health services, and the inaccessibility of certification and compensation institutions;
- Cumbersome documentary requirements for purposes of compensation applications;
- Difficulties in determining how compensation benefits were computed; reluctance due to inadequacy of compensation benefits;
- Differences in national banking systems; and
- Limited application of international standards in the relevant countries.

Definitional ambiguities notwithstanding, recent decades had witnessed fierce debate about the relevance, novelty and utility of governance within the field of public policy and administration (Corbett, 2000). At the heart of governance was an assumption that the policy landscape was increasingly characterised by complexity and inter-connectedness, as multiple stakeholders were engaged in policy processes. Numerous scholars had argued that the emergence of this increasingly fragmented governing terrain had undermined the capacity of governments to have managed the policy process in order to realize their desired policy outcomes (Mathews, 2013).

As Meeran explains, “Mineworkers with occupational lung disease were treated separately and unequally under compensation law (ODMWA) when compared to other workers. Statutory compensation systems needed to acknowledge the relative risks of different types of work, diminish the potential for corruption and ensure a system of sustainability. South Africa needed to evaluate several potential system structure and governance models”. Neither the South African government nor mining companies had

been held sufficiently accountable for the compensation system's shortcomings or for insufficiently regulating mine conditions (Balfour-Kaipa, 2009). While a constitutional court decision had permitted suits to be brought under the ODMWA, the proceedings' potential impact remained unclear. Accountability of both the government and the mining industry could have been advanced through better systems of accountability according to Erlich (2007).

Ex-mineworkers and their families in South Africa and in countries of the Southern African Development Community (SADC) faced significant barriers in having to access compensation for occupational lung diseases (Erlich, 2007). Among the growing population of ex-mineworkers, the Department of Health experienced major shortcomings to fulfil its legal mandate of providing statutory medical examinations. The Department was also failing to adjudicate and arrange for the payment of compensation to ex-mineworkers with occupational lung disease. Legal, financial and managerial reform of ODMWA was required, as explained by Mines and Communities (2011):

.....if you look at the prevalence studies of these occupational lung diseases, then it's abundantly clear that this fund [should be] bankrupt, there's never any challenge on its funding because so few people claim what they are due.

..... there was little pressure to reform the compensation system because injured workers are invariably unemployed workers, and they are poor and voiceless.

2.8.4 The role of planning in public organisations

In the private sector planning strategy was concerned with achieving a competitive position that led to superior and sustainable performance and outcomes (Porter, 1991). In contrast, planning strategy in public organisations was concerned with an organisation's actions, behaviour and performance in relation to service delivery (Walker, 2013). The aim of such planning strategy in the public sector context was aimed at 'increasing organisational performance, maximising organisational well-being, ensuring the organisation's survival and other goals that are not yet clearly understood, captured by existing performance measures, or vary widely' (Bryson et al, 2010: 510).

The strategies carried out by public organisations were the result of complex processes and interactions that took place in the context of constitutional government, rather than in response to market conditions as was the case in the private sector (Wechsler & Backoff, 1997). Public organisations had reporting and accountability processes that were closely tied to agreed performance targets (Stewart, 2004) for which they had to account to their political heads through instruments such as performance indicators, audits, budget controls and annual reports (Boyne & Walker, 2004). The MBOD/CCOD had not submitted annual reports since 2010 and the last financial statements were in the same year for which there was a qualification (Erhlich, 2007).

The National Development Plan Vision 2030 (2013) of the Government of South Africa states that "Alongside hard work and effort, capabilities and the opportunities that flowed from development enabled individuals to live the lives to which they aspire." In relation to health, the National Development Plan articulated, amongst its nine goals that broadly endorse a health system, the significant lowering of the burden of disease. The NDP highlighted demographics and disease burden, health systems and the social and environmental determinants of health as being key areas in the

country's health system that needed to be addressed. To achieve the NDP objectives for the health sector would require a fundamental reform in the country's health system.

Within the NDP in Programme 6 of the Department of Health the Compensation Commissioner for Occupational Diseases was mandated to achieve the following goals over the medium term:

- To consolidate the overlapping administrative activities of the MBOD and the Mines and Works Compensation Fund;
- To develop and nurture good relations with relevant stakeholders;
- To improve the overall management and sustainability of the compensation fund;
- To provide decentralised services for ex-mineworkers from controlled mines and works;
- To implement fraud prevention measures; and
- To collect and verify the levies from controlled mines and works.

White and Trapido (1998), having used the Transkei findings and an assumption of two million former mineworkers throughout Southern Africa in the late 1990s, extrapolated a figure of approximately R10-billion in unpaid statutory compensation liability at that time, most of which, if paid out, would flow to the poorest regions of the sub-continent. However, as had been noted, the system had developed and survived historically on the basis that Black mineworkers would have had *de jure* but not *de facto* access to its benefits (Ehrlich, 2007).

2.9 EMERGING THEMES

Good governance was an important and crucial variable that led to enhanced management capacity, as well as organisational performance (Smith, 1999). A revised approach to ensuring good governance played an

integrating role among various human resource management components including recruitment and selection, training and development, performance management, public service ethics and succession planning (Graham, 2003). The major themes that emerged from the literature review were:

- To developing comprehensive strategies for public sector change that was more responsive or representative;
- To strengthen systems as the solution to national public challenges in the context of the kinds of challenges being faced and the current characteristics of the public sector culture; and
- To highlight the need for culture change by diagnosing the current problems and formulating strategies which were likely to be effective.

2.10 CONCEPTUAL FRAMEWORK:

It was widely recognised that there was a mismatch between responsibilities and capacity. Potgieter (1997:14) observes that the appointment of staff into structures of government was by no means an end in itself. This conceptual framework attempted to illustrate that good governance was typified by a genuine democratic culture which must be measured through effective systems of management, clear roles and responsibilities of staff, improved management of the fiscus, adequate provision of resources, enhanced improvement planning, and improved relations.

The purpose of this research was to investigate factors, present the findings, interpret and analyse the governance challenges and recommend strategies that would address governance challenges in the implementation of a proper system. In conceptualising the framework of this research it was important to factor in what constituted a genuine democratic culture that would contribute to the required level of service delivery to the public.

In the theoretical framework the role of governance in the improvement of service delivery was explained in detail. It spoke to what constituted good governance, the importance of proper planning during periods of transition and why governance should be a continuous activity as well as the importance of planning in public institutions. This could be generalised to mean improved skills, understanding, attitudes, values, behaviours, resources and conditions of work (Connolly, Chris & Brammer, 2010). In this research the important aspects of good governance were identified, in particular the aspects of good governance that could lead to improvement in the access to compensation for ex-mineworkers in the Eastern Cape, and in so doing would guide the research process. Amongst these the following issues built on the conceptual framework that best described this research.

2.10.1 Strengthening systems as a solution to the national public challenges

It was necessary to interrogate whether interactive governance with strategies for public sector change could improve service delivery. Many countries and government departments were looking towards strengthening capacity as the solution to national public challenges. How they approach leadership, however, needed to be in reference to the kinds of problems being faced. Pursuing leadership development without the diagnosis and strategy was likely to be ineffective. In strengthening systems as a solution the following would have to be explored:

- To look at leadership as a collaborative venture of facing tough issues and to work with people who can tackle these;
- To explore how success required not only focussing on the issues but having a deep understanding of the people involved and how they responded and reacted to stress; and
- The need for culture change.

2.10.2 Developing comprehensive strategies for public sector change: How to reorganise the public service

The bureaucratic systems in the public service were perceived by some to be time-consuming, oversized and expensive (Cummings & Worley, 2009). The reality was that in some instances the public service organisations were “bureaucratic” in the negative sense of the word and that this itself posed a particular challenge for such entities. If this was the case then the main problem when one considered change efforts in the public service seemed to be the structure of the organisation (Sims, 1998).

Chandler (1962) argues that the development of a structure follows a strategy where the major functions of an organisational structure are to direct attention and action towards the accomplishment of pre-determined goals. Various structural forms are chosen on the basis of their ability to facilitate this goal (Child, 1912; Scott, 1992).

2.10.3 Strengthening systems and developing strategies: Culture change in improving service delivery

Critical to this concept was to have looked at the evolving capacity of the state and the challenges of good governance. The public service had been concerned for some time with their institutional and human capacity to improve the livelihoods of citizens, the competitiveness or variability of day-to-day work, the delivery of basic public services, and the trust in regulatory institutions. The financial, economic, social and environmental challenges being experienced internationally highlighted the unique role of government in having to serve the public interest. Insufficient safeguards for integrity contributed to poor service delivery. At the same time, the size, scale and speed of government response to any service delivery challenges had increased the risks and opportunities for waste, fraud and corruption. The effectiveness of service delivery in the public service also depended on its credibility and on the public’s trust in government.

Current demographic, financial and environmental challenges had increased the urgency for rethinking the role of government and the capacities it needed to govern. Governments needed to devise new policy instruments or reshape old ones in radically new ways in efforts to support economic activity, spur new growth and strengthen the framework in order to have had an impact on service delivery. Citizens were turning to the state to seek immediate solutions to complex problems and were demanding high-quality public services to meet their changing circumstances and needs. In addition, continuing technological evolution had raised citizen expectations from government for new ways to communicate and improve services.

2.11 RATIONALE FOR THE THEORY

Five dominant gaps that challenged governance from a policy perspective were those of Information; Capacity; Fiscal; Administration and Policy.

To restructure the organisation of government involved separating policy-making from service delivery, devolving more authority downwards, dismantling existing practice and creating new practice, and having reforms that could measure outputs and outcomes. The current policy framework (ODMWA, Act 78/1973) was characterised by racial inequalities and the slowness in rewriting a more progressive framework impeded service delivery.

While the challenges facing service delivery by government were not necessarily new, they were stronger and more pressing than previously. Additional challenges resulted from the unintended consequences of reforms undertaken in the past few decades. In light of this, the authorities needed to assess what had worked and/or what did not, and the reasons for this, and to decide on what ought to be discarded, adjusted, or built upon and what the conditions for success would be.

Figure 2: Studies of Occupational Disease Compensation processes and outcomes of mineworkers employed on South African Mines

<i>Study</i>	<i>Context</i>	<i>Study period</i>	<i>Outcome</i>
Steen <i>et al</i> ¹³	304 former gold miners living in Thamanga, Botswana	1994	Very few miners with occupational lung disease had been compensated (proportion not specified)
Trapido <i>et al</i> ¹⁴	238 former gold miners living in Eastern Cape, South Africa	1996	62% of those eligible not compensated. Only 2.5% fully compensated
Murray <i>et al</i> ⁶⁴	All 2530 miners who came to autopsy	1999	446 cases (19%) had occupational lung disease not identified and submitted for compensation in life, or more severe disease than had been compensated in life. 31/446 (7%) of families had received benefits by April 2001
Roberts ⁶⁵	205 former miners, Eastern Cape, South Africa	2008	175/205 (85%) reported not receiving the statutory medical examination when leaving the mine (which is partly to identify compensable disease). 203/205 (99%) did not know of the Compensation Act and its benefits
Maiphetho <i>et al</i> ⁶⁶	84 former mine workers diagnosed with silicosis at Groote Schuur Hospital, Cape Town, and submitted for compensation	1993–2005	17/84 (20%) recorded as having received compensation. Median time from submission of medical records to receipt of award was 51 months (range 22–84 months)

2.12 CONCLUSION

The literature revealed that the South African government, in implementing policy, had little or no input on the impact of this policy after 1994. To a great extent the problems and misconceptions experienced could still be seen. In attempting to improve policy and implementation there was an over-reliance on laws and top-down policy-making (Hogward & Peters, 2002). Controls on administrative, fiscal and personnel systems could become so strict that managers would not be able to implement their programmes adequately. Discretion could be reduced to such a minimum that cases with any unusual aspects took weeks or months to be resolved. The resulting inflexibility wasted resources and opportunities, produced policies that were unresponsive to social realities (thus eroding the credibility of good governance efforts) and could potentially increase incentives for corruption.

Procedural controls generated massive amounts of information, but only if it came in the form that other officials could understand would such reforms improve transparency (Evans, 1995).

The purpose of this research was to assess reasons for the low compensation uptake, explore systems and inform changes that would improve access to compensation of ex-mineworkers from the Department of Health.

Government had not implemented its long-standing policy of improving compensation benefits for mineworkers which was under the auspices of the Department of Health in alignment with those available for non-mineworkers which was under the auspices of the Department of Labour, possibly because of the increased and unfunded costs (Murray, Davies & Rees, 2011). Furthermore, there was a need to examine the reasons for ex-mineworkers in the Eastern Cape not accessing compensation for occupational injury from the Department of Health.

CHAPTER THREE

METHODOLOGY

3.1 INTRODUCTION

This study was concerned with gaining a better understanding of why ex-mineworkers in the OR Tambo District of the Eastern Cape Province of South Africa were not accessing their compensation benefits, rather than to measure certain outputs and outcomes. It was primarily interested in gaining an in-depth understanding of how information is being disseminated and how it is being influenced by different variables. A qualitative approach was chosen in order to portray the detailed understanding and specific dynamics experienced by ex-mineworkers in accessing compensation benefits from the Department of Health. Qualitative research can be used to study problems as they occur within their natural setting, through the collection of qualitative data which is sensitive to the people, places and institutions under study, with an analysis that is able to provide a set of patterns or themes relevant to the study (Creswell, 2007).

This research was conducted with the aim of improving the quality of compensation processes and strengthening the governance capacity of management at District level. As the research was located within these two aims it not only intended to describe what existed but is also aimed at bringing change in the District being studied. Taking a participatory approach was intended to generate a sense of ownership for the implementation of recommendations and increase the possibilities for learning.

3.2 APPROACHES TO RESEARCH

3.2.1 Quantitative research

Quantitative research is “explaining phenomena by collecting numerical data that are analysed using mathematically based methods” (Creswell, 1994). When setting out to do research, the intention is to explain something. In the natural and social sciences, quantitative research is the systematic empirical investigation of observable phenomena via statistical, mathematical or computational techniques. The objective of quantitative research is to develop and employ mathematical models, theories and/or hypotheses pertaining to phenomena. The process of measurement is central to quantitative research because it provides the fundamental connection between empirical observation and mathematical expression of quantitative relationships. Quantitative data is any data that is in numerical form such as statistics or percentages. The researcher analyses the data with the help of statistics. The researcher is hoping the numbers will yield an unbiased result that can be generalised into some larger population.

Qualitative research, on the other hand, asks broad questions and collects word data from phenomena or participants. The researcher looks for themes and describes the information in themes and patterns to a particular set of participants.

Quantitative research is often contrasted with qualitative research, which is the examination, analysis and interpretation of observations for the purpose of discovering underlying meanings and patterns of relationships, including classification of types of phenomena and entities, in a manner that does not involve mathematical models. Approaches to quantitative psychology were first modelled on quantitative approaches in the physical sciences by Fechner in his work on psychophysics, which built on the work of Weber.

Although a distinction is commonly drawn between qualitative and quantitative aspects of research, it has been argued that the two go hand-in-hand. Qualitative research is often used to gain a general sense of phenomena and to form theories that can be tested using further quantitative research. While quantitative research is based on numerical data analysed statistically, qualitative research uses non-numerical data. Qualitative research is an umbrella term encompassing a wide range of methods, such as interviews, case studies, ethnographic research and discourse analysis, to name a few examples.

Quantitative research design is a useful way of finalising results and proving or disproving a hypothesis. The structure has not changed for some time and remains standard across many scientific fields and disciplines. After statistical analysis of the results, comprehensive answers are reached and the results can be legitimately discussed and published. Quantitative experiments also filter out external factors, if properly designed, and the results can be seen as real and unbiased. Quantitative research is more useful for testing the results gained by a series of qualitative experiments, leading to a final answer, and narrows down possible directions for future research to take up.

Quantitative research could be difficult and expensive and require a lot of time to undertake. It requires careful planning to ensure that there is complete randomisation and correct designation of control groups. Quantitative research requires extensive statistical analysis, which could be difficult as most researchers are not statisticians. The field of statistical study is a whole scientific discipline and could be a challenge for non-mathematicians.

In addition, the requirements for the successful statistical confirmation of results are stringent, with very few experiments comprehensively proving a hypothesis. There is usually some ambiguity, which requires retesting and

refinement to the design. This leads to further investment of time and resources which has to be committed to refine the results.

Quantitative research design also tends to generate only proven or unproven results, with there being limited room for uncertainty. Quantitative research provides a measure of how many people think, feel or behave in a certain way and uses statistical analysis to determine the results.

Decisions are made every day using numbers. It might be easy to see a computer purchase as a quantitative decision as the purchaser needs to determine the amount of money required for the purchase after having determined the specifications, size of the screen, or type of memory card, either through doing research online or by visiting the store. Numbers are thus used to make decisions in everyday life. These are all quantitative decisions.

Quantitative research, or using numbers as evidence, is common even if the many layers that such decisions require are not consciously acknowledged. Quantitative research involves the manipulation of numbers to make claims, provide evidence, describe phenomena, determine relationships, or determine causation. Quantitative research uses a number of methods to collect, interpret and report what these numbers mean, but the methods are usually very systematic in order to maintain the consistency of the numbers across different contexts.

There has been widespread debate in recent years within many of the social sciences regarding the relative merits of quantitative and qualitative strategies for research. The positions taken by various researchers vary considerably, from those who see the two strategies as entirely separate and based on alternative views of the world. Bryman (1988) argues for the 'best of both worlds approach' and suggests that the two approaches should be combined. Hughes (1977) warns that such technicist solutions

underestimate the politics of legitimacy that are associated with the choice of methods. Quantitative methodology has been seen as more scientific and 'objective'.

The quantitative approach to gathering information focuses on describing a phenomenon across a larger number of participants thereby providing the possibility of summarising characteristics across groups or relationships. This approach surveys a large number of individuals and applies statistical techniques to recognise overall patterns in the relations of processes. Importantly, the use of surveys can be done across groups. It is also possible to survey people a number of times, thereby allowing the conclusion that certain features influence specific outcomes.

Using survey methods across a large group of individuals enables generalisation. It can be conducted in a number of groups, thereby allowing for comparison. There has been a traditional divide between qualitative and quantitative research and that no evidence suggests that one is better than the other. The argument put forward here is that the distinction between quantitative and qualitative research may have had validity at the turn of the 20th century, but as ideas about research have continued to evolve and develop, the distinction has become more historical than actual. The reasons often proffered for why qualitative and quantitative research are fundamentally different generally are reduced to four areas:

- Research methodology;
- Context, values and involvement;
- Data, analysis and participants; and
- Common errors.

3.2.2 Qualitative methods

The qualitative approach to gathering information focuses on describing a phenomenon in a deep comprehensive manner. This is generally done in interviews, open-ended questions, or focus groups. In most cases, a small number of participants participate in this type of research, because to carry out such a research endeavour requires many resources and much time. Interviews can vary from being highly structured and guided by open-ended questions, or be less structured and take the form of a conversational interview. Because of the investment in this type of research and the relatively few number of participants, findings from qualitative research cannot be generalised to the whole population. However, such research serves as a springboard for larger studies and deeper understanding that can inform theory, practice and specific situations.

Using open-ended questions and interviews allows researchers and practitioners to understand how individuals are doing, what their experiences are, and recognise important antecedents and outcomes of interest that might not surface when surveyed with pre-determined questions. Although qualitative research can be thought of as anecdotal, when pooled across a number of participants it provides a conceptual understanding and evidence that certain phenomena are occurring with particular groups or individuals.

Qualitative research therefore:

- Allows for identification of new and untouched phenomena;
- Can provide a deeper understanding of mechanisms;
- Gives information on a one-to-one basis;
- Provides verbal information that may sometimes be converted to numerical form; and

- May reveal information that would not be identified through pre-determined survey questions.

The limitations of quantitative research are that it cannot generalise to the general population, it encounters challenges when applied to statistical methods and presents difficulty in assessing relations between characteristics. Qualitative research is designed to reveal a target audience's range of behaviour and perceptions that drive it with reference to topics or issues. It uses in-depth studies of small groups of people to guide and support the construction of hypotheses. The results of qualitative research are descriptive rather than predictive.

Several unique aspects of qualitative research contribute to rich, insightful results. These are:

- Synergy among respondents as they build on each other's comments and ideas;
- The dynamic nature of the interview or group discussion process, which engages respondents more actively than in more in a structured survey;
- The opportunity to probe, thereby enabling the researcher to reach beyond initial responses and rationales;
- The opportunity to observe, record and interpret non-verbal communication (body language, voice intonation) as part of a respondent's feedback, which is valuable during interviews or discussions, and during analysis; and
- The opportunity to engage respondents in projective techniques and exercises, thereby overcoming any self-consciousness that can inhibit spontaneous reactions and comments.

This study was concerned with gaining a better understanding of why ex-mineworkers in the OR Tambo District of the Eastern Cape Province of

South Africa were not accessing their compensation benefits, rather than to measure certain outputs and outcomes. It was primarily interested in gaining an in-depth understanding of how information is being disseminated and how it is being influenced by different variables. A qualitative approach was chosen in order to portray the detailed understanding and specific dynamics experienced by ex-mineworkers in accessing compensation benefits from the Department of Health. Qualitative research can be used to study problems as they occur within their natural setting, through the collection of qualitative data which is sensitive to the people, places and institutions under study, with an analysis that is able to provide a set of patterns or themes relevant to the study (Creswell, 2007).

This research was conducted with the aim of improving the quality of compensation processes and strengthening governance capacity of management at District level. As the research was located within these two aims it not only intended to describe what existed but also aimed to contribute to bringing about change in the District being studied. Taking a participatory approach was intended to generate a sense of ownership for the implementation of the possible recommendations and increase the chances of learning.

3.3 RESEARCH DESIGN

Phenomenological studies examine human experiences through the descriptions provided by the people involved. These experiences are called lived experiences. The goal of phenomenological studies is to describe the meaning that experiences hold for each subject (Donalek, 2004).

The researcher aimed to identify the reasons for the low uptake of compensation amongst ex-mineworkers in a specific district. Respondents described their experiences as they perceived them. To understand the lived experience from the vantage point of the subject, the researcher took into account the experience of the persons who had lived the experience.

As not much information on the topic was available in the current body of literature an inductive process was used. The themes that are developed during an inductive content analysis are derived directly from the analysis of the data (Kyngas, 2008).

The focus of this research was limited to the Eastern Cape (OR Tambo District). In particular, specific attention was paid to the Province's health department as well as institutions responsible for payment of compensation. The reasons that informed the location of the study as the Eastern Cape compared to other provinces were the following:

- The Eastern Cape remains by far the largest labour-sending area in South Africa. Available statistics indicated a very low uptake of ex-mineworker compensation; and
- Since 1994 the demographics of the province resulted in a shift in migratory patterns of ex-mineworkers, often making them inaccessible to existing compensation.

Data was collected through structured face-to-face interviews with ex-mineworkers in the Eastern Cape, officials responsible for administering compensation for ex-mineworkers, the Compensation Commissioner, officials responsible for payment of compensation and a sample of representatives of mining companies responsible for administering compensation from the workplace. The questions were related to the content, context, processes and stakeholder implementation of systems currently in place. Data was also gathered in a focussed group interview of those responsible for the system of compensation of ex-mineworkers. As language (*isiXhosa*) was a challenge for the researcher an interpreter assisted when needed.

In light of the above the research design that was adopted was phenomenology as the research question did not lend itself to grounded theory, case study, ethnographic study or a narrative analysis.

3.3.1 Paradigm and Approach

The researcher believes a strong rationale exists for choosing a qualitative approach. Since the intention of this research is to explore reasons why the uptake of compensation amongst ex-mineworkers in the OR Tambo District of the Eastern Cape is so low, a qualitative approach is best suited to this study because of the nature of the research questions. The research did not intend to conduct a comparison of groups or examine a relationship between variables.

A qualitative approach suited this research study as the topic needed to be explored, and there were no theories available to explain the population views. The theories needed to be developed. A qualitative approach was chosen in order to study individuals in their natural setting which would involve going out to the setting and gaining access and gathering material. The researcher undertook a role as an active learner who would be able to tell the story from the participants' point of view rather than as an 'expert' who passed judgement on participants.

The researcher engaged with ex-mineworkers and those that govern and administer the compensation fund and saw how their world was shaped by the interpretations of their experiences and understanding. Since wanting to explore and understand reasons was the goal of this research, the human instrument, which was able to be immediately responsive and adaptive, would seem to be the ideal means of collecting and analysing data. Interpretive studies assumed that people created and associated their own subjective and inter-subjective meanings as they interacted with the world around them. The researcher aimed to understand phenomena through accessing the meanings participants assigned to them.

Primary data generated via interpretive research provided direction to a high level of validity because data in such situations tended to be trustworthy and honest. In interpretive social research cross-cultural differences, issues of ethics, leadership and analysis of factors can be studied.

Critical social research focussed less on individuals than on content. It questioned the context where learning was taking place, included the larger systems of society, the culture and institutions that shaped practice as well as the historic conditions that framed practice. In critical social research the role of the researcher is to bring to consciousness the restrictive conditions of the status quo. Was something real because we can measure it? Or was something real because we believed it to be real?

In the context of this research and for reasons cited above an interpretive social approach research would be better suited to the study rather than a critical social research.

3.4 DATA COLLECTION

Qualitative research aided in understanding actions and meanings in their social context, focussing on lived experiences, which was descriptive, rich and in-depth. Ten ex-mineworkers were selected from those visiting the Department's recently launched One Stop Service Centre (OSSC) for ex-mineworkers in Mthatha (Nelson Mandela Academic Hospital in the OR Tambo District).

As the timeframe available for this research was limited and because of the focus of the research, data was collected through semi-structured interviews, focus groups and observation. In this research the purposeful sampling methodology was used where the researcher selected people or sites who could best assist in understanding why ex-mineworkers in the OR Tambo District of the Eastern Cape did not access their compensation from

the Department of Health. "Purposive sampling" was the selected method. Black (1993, p.49) notes that, "the researcher hand-picks subjects on the basis of traits to give what is felt or believed to be a representative sample. To achieve this would require all the relevant variables or traits to be identified so the sample would include a cross-section of persons possessing these." Black (1993) claims that the advantage of this method of selection is that one can possibly better ensure a cross-section of the population in a small sample.

The snowball sampling method was used where the researcher asked participants to recommend other individuals to study. The purpose of these semi-structured interviews assisted to develop a detailed understanding which provided useful information. Such semi-structured interviews could assist participants to learn about the issues of compensation and give voice to those who were unaware.

The methodology used in this research was of a qualitative nature. All the information gathered was based on the lived experiences and perceptions of participants and stakeholders in this sector. The researcher intended that this research would help improve practice in enhancing service delivery in this sector.

The researcher is employed by the Department of Health and had a contextual basis and professional role and reporting responsibility. The semi-structured interviews were conducted on an individual basis with ten ex-mineworkers who visited the One Stop Service Centre at the Nelson Mandela Academic Hospital in the OR Tambo District. These interviews took place in an environment which was familiar to each of the individuals. All participants were able to talk about their experiences with specific focus on compensation. Although the semi-structured interviews provided information from the ex-mineworkers, the information was juxtaposed with that emerging from the focus groups which was information coming from

relevant stakeholders. This was in accordance with Chenail (1992) who regarded the qualitative nature of research as synonymous with the participant observation method because of its diversity.

Figure 3: The Nelson Mandela One Stop Service Centre for ex-mineworkers in the OR Tambo District in the Eastern Cape Province



PHOTOGRAPHIC DOCUMENTATION FROM THE NELSON MANDELA ACADEMIC HOSPITAL

The researcher ensured that participants were assured of confidentiality and that the purpose of the research was clearly explained as well as what it hoped to achieve. Participants were also told of the feedback about the study that they would receive and the timeframe when that would happen.

The leadership of the ex-mineworkers formed a critical focus group as there were several such formations in the OR Tambo District who interacted with ex-mineworkers regularly. The Medical Bureau for Occupational Diseases (MBOD) and the Compensation Commissioner for Occupational Diseases (CCOD) formed part of the three focus groups this research undertook. Each of these focus groups was moderated/facilitated by the researcher who guided the discussions. Permission was obtained from the participants

to record and keep track of the discussions with the aid of an assistant who also kept notes on the body language of participants, tracked the flow and direction of the conversation and the power interactions that occurred within the focus groups. During this part of the research process, the researcher received data regarding what information was made available to the ex-mineworkers on compensation access from the Department of Health.

The semi-structured and focus groups were digitally recorded and certain portions transcribed in order to capture as much data as possible. The transcriptions were reviewed and a process of 'coding' took place (Bryman, 2012: 568). Based on the coding that was done for the text, and the emergence of a number of concepts, ongoing comparison were made between the outcomes of the semi-structured interviews and the focus group discussions. This allowed for a framework to be setup which generated different categories. By exploring their relationship between the different categories, the data that was generated and collected was then analysed.

Secondary data was also sourced from the CCOD payment data, MBOD ex-mineworker uptake as well as statistics from the One Stop Support Centre in Mthatha to corroborate the information with the data that had been collected. Both the primary and secondary data therefore led to the narrative of the main section of the research report which was written up.

3.5 DATA PRESENTATION

According to De Vos (1998), "data presentation in qualitative research is a challenging and highly creative process". As this study was qualitative, interviews and focus group discussions were held. The results of the interviews and focus groups will be categorised as follows:

- Community (ex-mineworkers);

- Civil society (relevant stakeholders);
- Government officials; and
- Focus groups.

A qualitative researcher interprets data by giving them meaning, translating them or making them understandable. The meaning given begins with the point of view of the people being studied, how they define a situation, or what it means for them (Neuman, 1998). In presenting the data graphs and tables were used to communicate the outcomes/results as further discussed in the text. These were the tools used to support the data collected.

The researcher made use of claims supported by the data and summarised the findings in Chapter 5.

3.6 DATA ANALYSIS

The most common sources of data collection in qualitative research are interviews, observations and review of documents (Cresswell, 2013; Locke, Silverman & Spirduso, 2010). Data collection in qualitative research is time-consuming and short observations or quick interviews are unlikely to provide greater understanding (Locke, Silverman & Spirduso, 2010). Data collected during interviews was analysed using thematic analysis (Bryman, 2012). Both primary and secondary data was used in this research. Primary data was obtained from the interviews and focus groups and secondary data was drawn from the Department's policy documents, gazettes and other related documents. Transcribing of recorded data was done by listening to the recording and capturing of the data using Microsoft Word. Once the data was transcribed, it was coded. Taylor and Gibbs (2010), explains that,

Coding is the process of combing the data for themes, ideas and categories and then marking similar passages of text with a code label so that they can easily be retrieved at a later stage for further comparison and analysis.

The codes that are created may be done on “themes, topics, ideas, concepts, terms, phrases (or) keywords” (Taylor & Gibbs, 2010) found during review of the interview transcripts. Coding occurred after every interview, so that any adjustments to the interview schedule could be made, where necessary, to assist the researcher in further focussing the subsequent interviews (Bryman, 2012).

Faced with a mass of unstructured data, the urge of any researcher is understandably to break these down using some kind of system. The most common system is the code-and-retrieve method. The fragmentation of data implied in the coding strategy often leads researchers to overlook the form of their data. Through the use of computer programmes data was analysed using a coding strategy.

After coding, the data was reviewed for themes. Themes were identified by looking for repetition, similarities, differences, theory-related material or colloquial sayings (Bryman, 2012). Expected themes from interviews included lack of knowledge, misunderstandings or limitations of messages in policy communication.

3.7 RELIABILITY AND VALIDITY

Qualitative research, particularly if it is not complemented with quantitative methods, faces special challenges in terms of validity and reliability. Validity and reliability was established in accordance with the alternative criteria for qualitative research, by establishing trustworthiness of the study (Bryman, 2012). To prove trustworthiness, four criteria needed to be met. The first was Credibility, which was consistent with internal validity in quantitative strategy. It established whether the findings of the study were credible and whether the manner in which the researcher had arrived at the findings were credible. There were two methods for establishing credibility: Member

Validation and Triangulation (Bryman, 2012). This study employed triangulation to establish credibility.

Triangulation, as described by Bell (1993: 64), allows the cross-checking of “the existence of certain phenomena and veracity of individual accounts by gathering data from a number of sources and subsequently comparing and contrasting one account with another in order to produce as full and balanced a study as possible.”

The second criterion was transferability which was consistent with external validity in quantitative strategy.

The third criterion was dependability which was consistent with reliability in quantitative strategy (Bryman, 2012). To ensure dependability of the findings of this study, an audit trail was kept of all interview transcripts, interview schedules and other relevant documents and electronic files, which enabled any finding to be justified upon inquiry or peer review. The documentation was retained securely to preserve confidentiality agreements with the participants.

The fourth and final criterion was conformability. This was consistent with objectivity. As the researcher remains the main tool of research in qualitative research, it should be shown that the researcher has not affected the findings of the study by allowing his/her biases to influence the research (Bryman, 2012). To accomplish this, all possible biases and relevant background details of the researcher were noted in the final report.

3.8 LIMITATIONS OF THE STUDY

The researcher is a chief director employed at the MBOD/CCOD and was central in the operations of business process re-engineering. She had knowledge of the internal challenges and had engaged multiple stakeholders on issues of ex-mineworker compensation. She confronted

situations of intimidation by the respondents who knew her but was also perceived positively by others wanting to understand the experiences.

The researcher, being employed on a full-time basis, experienced challenges of time as the demands of her work did not allow for long processes of engagement. There were limitations in travelling to the Eastern Cape, OR Tambo District with limited flights which were often impeded by weather conditions. The length of time required to drive from Johannesburg to Mthatha remains long and arduous.

3.9 ETHICAL CONSIDERATIONS

The researcher undertook to abide by the following ethical principles when conducting this research:

- That no harm would befall participants;
- The privacy and anonymity of individuals participating would be protected;
- Information shared by participants would be kept confidential by way of name;
- That there would be informed consent prior to any information being shared;
- Permission would be sought to record and to have an observer at focus group discussions; and
- The University's ethics, forms and procedures would be respected.

The researcher was also considerate of the environment in which the research was being undertaken. Ex-mineworkers are extremely vulnerable to various people who are eager to obtain their personal details and make false promises, hence the anonymity of participants had to be guaranteed. No names of ex-mineworkers are used in the report in order to protect their

identity. As ex-mineworkers have a fairly low level of formal education, the rules under which the research was being undertaken was fully explained in the language of choice of the participants.

3.10 CONCLUSION

The researcher used qualitative research methodology to understand and interpret interactions of key stakeholders which came in the form of smaller numbers. The data came from open-ended responses, interviews, participant observations, field notes and reflections. The findings were less generalizable. In the study the interaction led the researcher to explore, discover and interact personally with the participants. Since the nature of observation was undertaken in a natural environment the final results are in the form of a narrative report with contextual descriptions and direct quotations from research participants.

CHAPTER FOUR

PRESENTATION OF RESULTS

4.1 INTRODUCTION

This section of the report deals with the presentation of results which appear in chapter 3 on methodology. The research questions focussed on what the experiences of research participants were with regard to access of ex-mineworkers' compensation systems in the OR Tambo District of the Eastern Cape Province.

The presentation of this data is the outcome of in-depth, one-on-one interviews with research participants. These interviews were held with ex-mineworkers in the Eastern Cape (OR Tambo District), and other individuals who were directly or indirectly linked to the compensation system. It is necessary to present this data in a manner that is both logical and systematic. Therefore it is presented along various themes which are based on questions that sought to unearth the processes through which ex-mineworkers compensation traversed in its conceptualisation. Accordingly, questions were posed to research participants which focussed less on outcome but more on the experience and policy process and current implementation. In regard to the theme: "Developing comprehensive strategies for public sector change that is more responsive and representative", the perceptions of the research participants were required in respect of their experience and knowledge of the compensation process, with specific reference to where and when their experience originated. This sought to trace whether the compensation process was taken up within a policy framework or outside of an institutional framework. This would shed light on the implementation of ex-mineworkers' compensation.

The second theme addresses the issue of strengthening systems as the solution to national public challenges in the context of the kinds of challenges being faced and the current characteristics of public sector change. This theme addresses issues of consultation and participation; the limitations of ex-mineworkers' participation and the extent to which they were or could have been accommodated in the implementation of compensation.

The third theme focussed on the need for culture change: "diagnosing the current problems and formulating strategies which are likely to be effective". Lastly, the perceptions of research participants were also sought in regard to how participation in the compensation system for ex-mineworkers could have been enhanced.

4.1.1. Profile of the respondents

4.1.1.1 The Community

Table 1: Profile of research respondents (the Community)

No.	Ex-Mineworker	SA Citizen	Language	Level of Education	Occupation	Age	Date of Termination
1	One	Yes	isiXhosa	Grade 3	Team leader	55	1997
2	Two	Yes	isiXhosa	Grade 6	Machine operator	56	2013
3	Three	Yes	isiXhosa	Grade 6	Labour belt	59	2013
4	Four	Yes	isiXhosa	Grade 2	Winch driver	74	1976
5	Five	Yes	isiXhosa	Grade 7	Machine operator	59	2001
6	Six	Yes	isiXhosa	Grade 8	Team leader	58	2013
7	Seven	Yes	isiXhosa	Grade 8	Labour belt	57	2010

8	Eight	Yes	isiXhosa	Grade 8	Team leader	60	2006
9	Nine	Yes	isiXhosa	Grade5	Machine operator	59	2010
10	Ten	Yes	isiXhosa	ABET	Machine operator	69	1991

Figure 4: Level of Education of ex-mineworkers interviewed

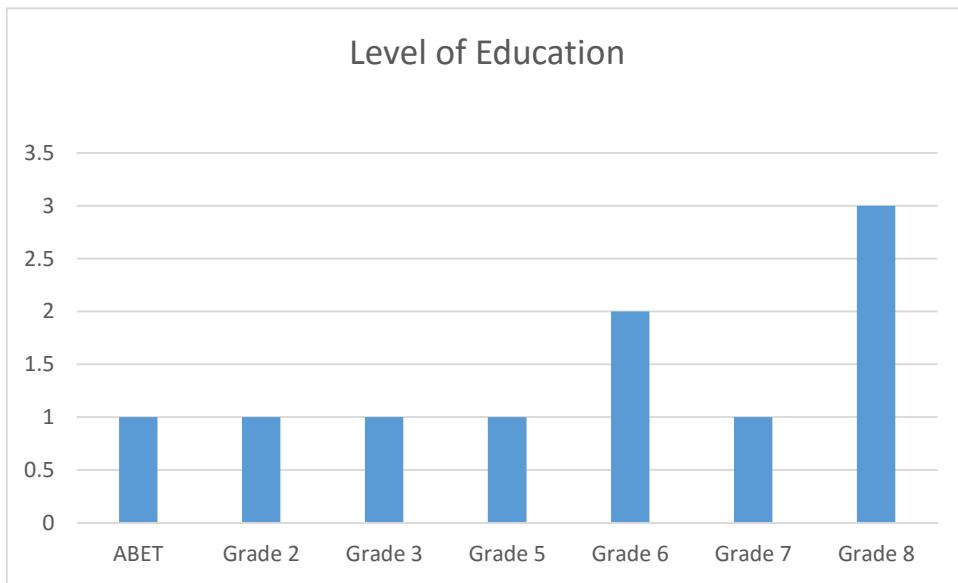


Figure 5: Breakdown of occupation of ex-mineworkers interviewed

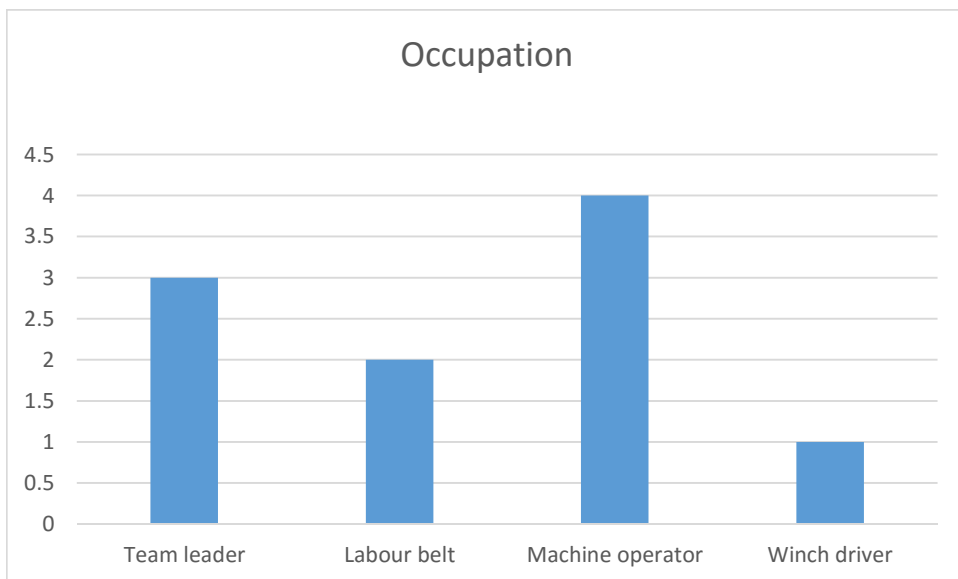


Figure 6: Breakdown of age of ex-mineworkers interviewed

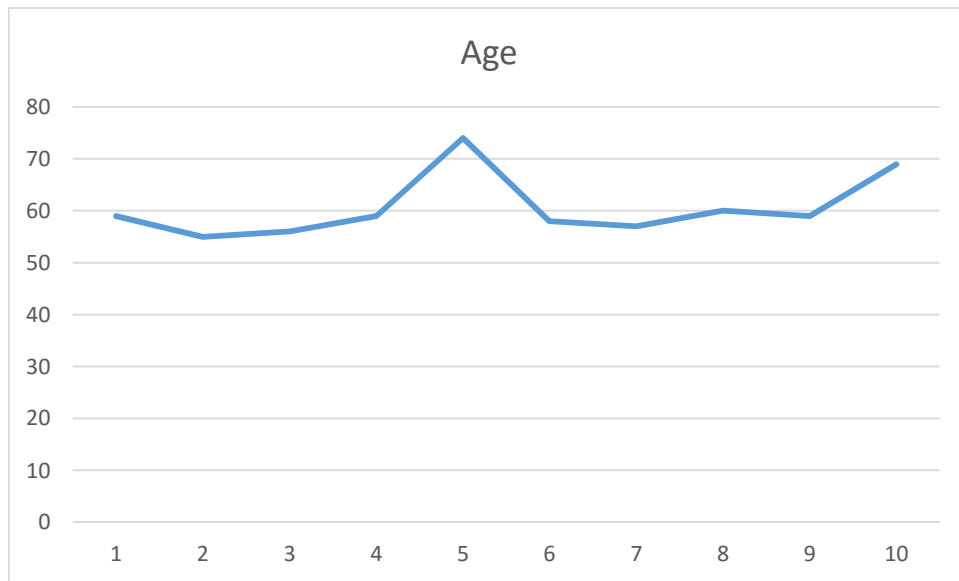
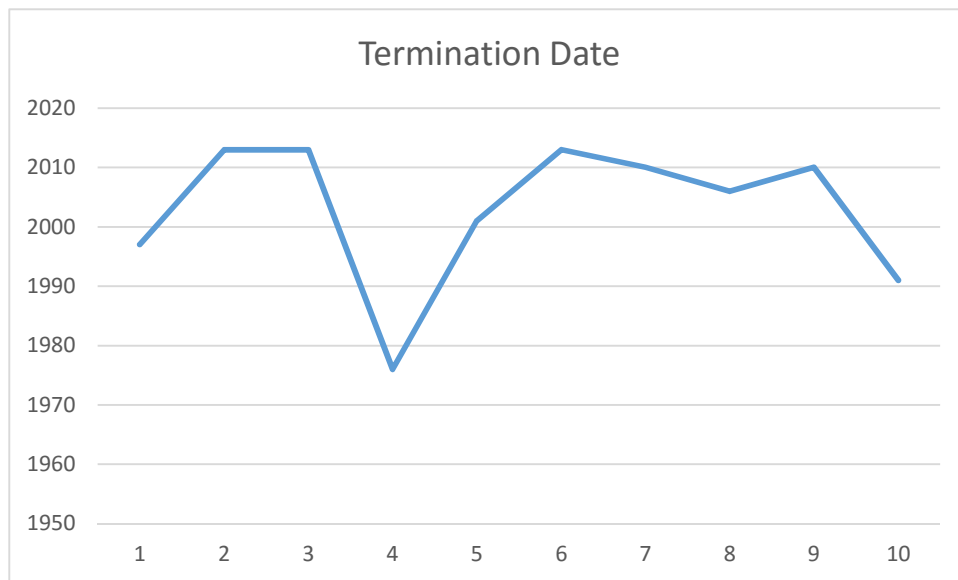


Figure 7: Breakdown of termination date of ex-mineworkers interviewed



4.1.1.2 Research participants excluding ex-mineworkers

Research participants not including ex-mineworkers comprised the following groupings:

- Officials at the Medical Bureau and Compensation Commissioner;

- Compensation Commissioner;
- Representative from Industry (Gold Mines);
- Representative of ex-mineworkers' leadership in the Eastern Cape; and
- Project Manager of the Mthatha One Stop Service Centre for ex-mineworkers.

4.2 THE SITUATION

When ex-mineworkers started working in the mines at a very young age, they were never informed of the burden of disease that could affect their later lives. It is only when such workers were retrenched from work and were at their homes or on a hospital bed that the reality hit them. The mining sector in South Africa is an integral part of the South African economy. With more than 2 million ex-mineworkers and approximately 500 000 current mineworkers the mining sector it contributes significantly to the economy of the country and the region as a whole.

For over a century, legislation has been in place aimed at compensating South African mineworkers with an occupational lung disease but the system is characterised by many challenges and remains highly dysfunctional. Various authorities and victims claim that there is a need to overhaul the system. The industry will face severe challenges if increasing numbers of claimants resort to legal routes to access monies they believe are owed to them. The imperative of all stakeholders is to ensure that the system works and to make sure that the compensation system in particular is functional.

The plight of disabled ex-mineworkers who were either retrenched, laid off work for reasons of poor health or deceased can be addressed through the legislative framework that governs ex-mineworkers' compensation. The Occupational Diseases for Mines and Works Act (78 of 1973) was only

amended in 1993. This amendment was focused on racial inequalities and with the intention of bringing the system on par. Nothing more has been done with the Act which is outdated and requires amendments in order to align with the new political dispensation post-1994.

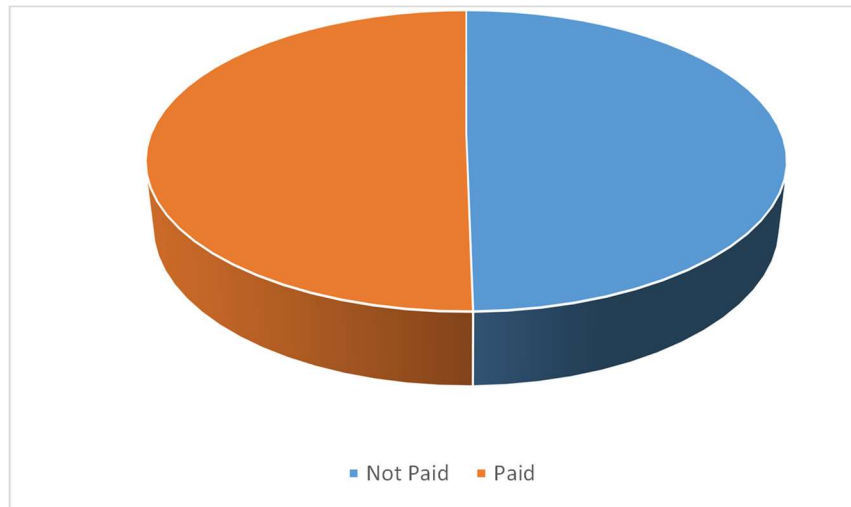
Whilst the system is characterised by challenges it emerges that there are attempts on many fronts to address the plight of ex-mineworkers and acknowledge the inequality of the system and propose solutions. There has been a recognition by government, champions of industry as well as organs of civil society to initiate systems that will improve the situation of ex-mineworkers. Such initiatives are welcomed by ex-mineworkers who unanimously agree that the fundamental issue of trust is not as yet addressed.

Table 2: Breakdown of certified compensable and non-compensable claims at the MBOD/CCOD

PAYMENT STATUS	NUMBER	%
Not Paid	103465	50%
Paid	104633	50%
TOTAL	208098	100%
The MBOD & CCOD have a combined databse of about 900 000 files & a lot of work still needs to be done.		

EXTRACT OF THE RECORDS OF THE MBOD/CCOD 2015

Figure 8: Database of ex-mineworkers being developed at the MBOD/CCOD



EXTRACT OF THE RECORDS OF THE MBOD/CCOD 2015

Against this background data was collated from different participants who each shared their perceptions of the system of access to compensation for ex-mineworkers. “Historically, there has been a fragmented approach to the provision of compensation for current and ex-mineworkers”, said former Deputy President of South Africa, Mr Kgalema Motlanthe whilst addressing ex-mineworkers in the Eastern Cape in April 2014. He continued, “Of particular concern for a very long time has been the issue of the inhumane conditions under which ex-mineworkers are treated. They are too ill to work or are retired due to other social and health related challenges. Instead of allowing this reality to dampen our efforts, we should be encouraged that by continuing to confront these challenges we will be able to find solutions.”

The perceptions of the majority of the research participants on the question of knowledge of ex-mineworker compensation were varied. Each research participant placed emphasis on different aspects of the process, given the diverse nature of their experience. Even though they highlighted different areas of interest or concern, the research participants held the view that ex-mineworkers’ compensation was initiated at different levels, and that there were people who were particularly prominent in its development. Such

prominent people were the members of Cabinet (1998) specifically linked to the mines, Reverend Makhenkesi Stofile (the then Premier of the Eastern Cape in 2002), the National Union of Mineworkers (NUM) and the Departments of Labour and Health.

4.3 INTERVIEWS WITH THE COMMUNITY OF EX-MINEWORKERS IN THE OR TAMBO DISTRICT

The ex-mineworkers' union leader, who was a research participant, traced the origin of ex-mineworker compensation to the extent of the involvement of senior politicians and high-ranking officials within government. The evolution of ex-mineworker compensation had to be seen within the context of a deliberate strategy on the part of government to transform the injustices of the past in relation to ex-mineworker remuneration benefits. The interviewee also argued that, "...ex-mineworkers had started a process, in which they engaged government, to compensate ex-mineworkers for occupational injury brought about by the poor working conditions at the mines. Ex-mineworkers who contracted disease became a liability for mine owners and after having being diagnosed with disease were sent home to die. These ex-mineworkers were bread-winners of families."

Research participants explained that they are back in their homes after working in South African mines for decades, and are now facing complex challenges in claiming their social security and occupational health benefits owed to them. A research participant from the National Union of Mineworkers said that the funds are either unclaimed or not accessible. This view was confirmed by the Compensation Commissioner who explained that unclaimed compensation was estimated as being almost R4-billion. A research participant from the Department of Health (MBOD) explained that there was a lack of understanding on the part of claimants as to which channels they could use to retrieve their monies and that this was contributing to their problems.

The Commissioner informed the interviewer that there was no management capacity to manage high levels of unaccountability which created an administrative burden for the current leadership.

Ex-Mineworkers said in resounding unanimity that all calls to the MBOD to follow up on their submissions fell on deaf ears. Telephones were not answered and this cost the ex-mineworkers in resources that they did not have. The perception of ex-mineworkers, as research participants, were that "...little or no information was provided to them on occupational disease and injury leading to compensation. Ex-mineworkers lived in rural areas and the mine was far from their homes. Postal services were lacking or simply did not exist. Many did not have mobile phones." One research participant (ex-mineworker) argued that ".....we came to hear of this thing called compensation from our comrades and new union leaders. We were told to go to Johannesburg to the MBOD.... we did not know who that was".

It is evident from the interviews with most participants that for many thousands of sick ex-mineworkers the only compensation available for years of work and life lost to lung disease is token amounts of money. An ex-mineworker interviewed said: "The mineworker has to apply for compensation-often years after leaving the mine- and those who complete the application process rarely get paid. Many mineworkers do not even know that this option is available to them". The conservative estimation is that 700,000 ex-mineworkers are suffering from compensable lung disease and remain unpaid, said the leader of the ex-mineworkers. He noted that most of these ex-mineworkers have not completed the application process because of the complexity involved and the resources required, including access to medical care for diagnosis and detailed documentation. Those who have completed the process could wait up to a decade to be informed of the outcome. Responding to questions, he said that "every step of the process to access this compensation is broken", and the government agency tasked with certifying occupational lung disease in ex-mineworkers

– the Medical Bureau for Occupational Diseases – is largely to blame as it is under-resourced and inefficient. Ex-mineworkers interviewed said that the claim process is “heavily bureaucratic, time-consuming and complicated. To qualify for compensation you need to be certified with a lung disease by a doctor but most of these mineworkers come from rural areas or neighbouring countries where their access to medical care is severely limited because they have to pay for transport to remote facilities”. The ex-mineworker leader explained that the subsequent paperwork is “impossible” as most of the ex-mineworkers are illiterate and struggle to provide the documentation required, including proof of employment and certified bank records. An ex-mineworker, aged 60, was retrenched in 2006 when he contracted TB and became too sick to work. His application was submitted by the mine. “Once he leaves the mine he is not their responsibility and his application of 7 years cannot be found.”

There appears to be an expectation placed on the ex-mineworkers to follow up on their applications regularly. This presents specific challenges in relation to limited resources. However, if they do not follow up on the process, their applications will remain in the office of the Compensation Commissioner without being processed. This was confirmed in the interview with the Commissioner.

Serious concerns were raised with the registration of claimants and the tracking of ex-mineworkers. The current pace of work and backlog at the CCOD/MBOD raised the possibility that thousands of ex-mineworkers and their beneficiaries may never be accorded the compensation they so desperately need. When ex-mineworkers were asked if they knew about the Occupational Diseases for Mines and Works Act (ODMWA) they had the following to say:

- *No, I did not hear about it, my sister.*
- *No, I have no idea of that [the ODMWA]. I left in 1998, having worked for 17 years. We were all sent home.... I was given a medical*

examination when I left but we were not told anything. I was feeling well. I only got sick since leaving the mines....

- *I have had no medical examination since leaving.*

Answers to questions about the ODMWA were similar to statements as “*I don’t know it at all*”, “*These things are new to us*”, “*It has not reached us as yet.*” No knowledge had been gained during mine service or subsequently of the legislation covering the diseases of mining. These findings raise substantial questions regarding the failures in the responsibilities that lie with mining companies to inform their employees of the applicable legislation; they also raise significant questions on what Unions are doing to inform their members. This shortcoming was confirmed by all research participants. Yet it is a fundamental tenet of democracy that citizens should have full access to information so that they can make informed decisions about policies that affect their lives.

One ex-mineworker aged 68 had spent 35 years working on one single mine. The bulk of these years were spent underground as a stoper. He was moved above ground in 1998 and spent 7 years working in the kitchens. He had served 28 years underground. He left in 2005 with no Exit Medical Examination. He said he had never been told about ODMWA and the applicable benefits. Figure 9 below outlines the 8 steps to be followed to access compensation which research participants were not all aware of.

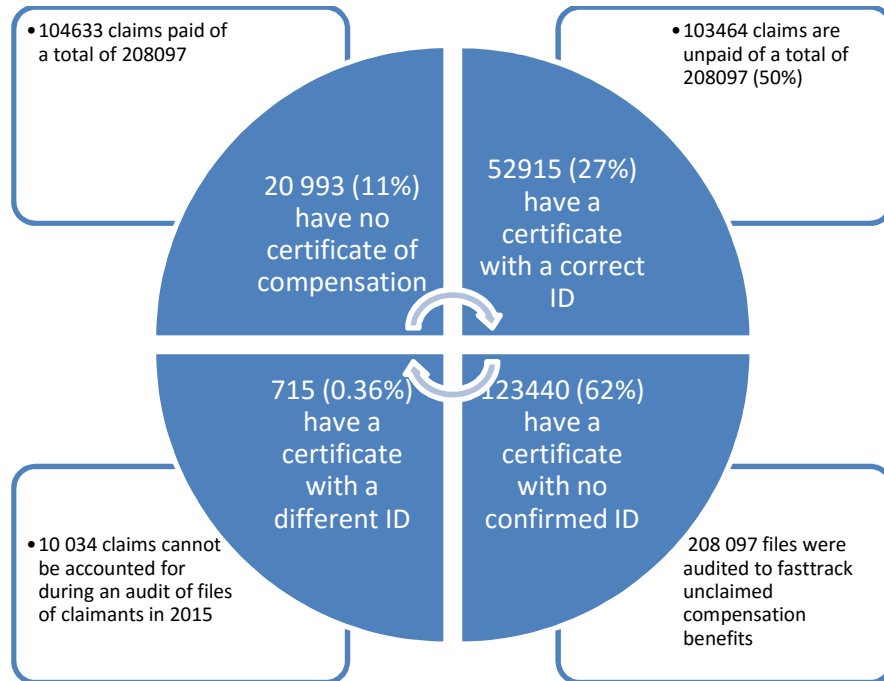
An ex-mineworker was painfully explaining that the former mineworker who is ill but not yet diagnosed faces an arduous process of, firstly, accessing medical surveillance for diagnosis of his condition. Once his disease has been detected, he must apply to the Medical Bureau for Occupational Disease (MBOD) for certification of a “compensable” disease. Certification is centralised in Johannesburg and the claimant must himself forward the relevant documents to Braamfontein. Once certified by the Certification Committee of the MBOD as suffering from an occupationally acquired “compensable” disease, the claimant then awaits his statutory entitlement to compensation payment by the Compensation Commissioner for Occupational Disease (CCOD). The CCOD is also centralised in Johannesburg. All communication must be followed up with the MBOD and CCOD in Johannesburg.

Notwithstanding the inadequacy of the pay-outs, Black ex-mineworkers have had very little access to the system. Even when they do have access, via the various clinics, it is not unusual for them to wait up to five years for their payment, as explained by an ex-mineworker. The Commissioner elaborated that a 2004 actuarial study confirmed, however, that the Fund was technically insolvent even on the basis of current claims, and that the levies paid by the mining industry needed to be raised 100-fold over a period of 15 years. In the same year the Auditor-General referred to the financial controls of the Fund as being in disarray.

Appropriate documentation was crucial to streamlining the compensation process, though 20,993 claimants (11%) had no certificate of compensation, 52,915 had a certificate with the correct identification number (27%), 715 had a certificate with a different identification number (0.36%), and 123,440 had a certificate with no confirmed identification number (62%). The problem of unconfirmed identification emanates from the migratory nature of the occupation and changes of documents. Of the compensable filings,

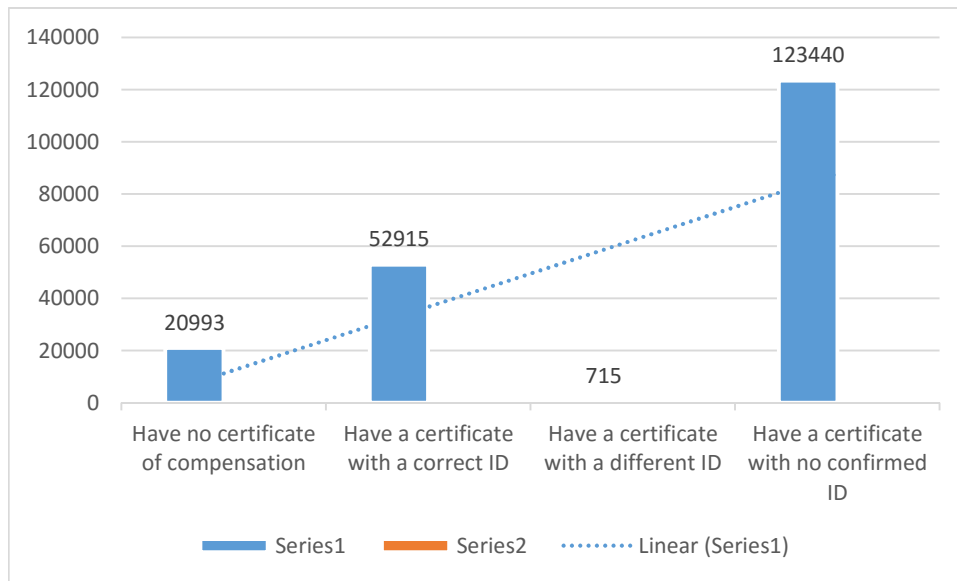
104,633 had been paid whilst 103,465 (50%) remain unpaid, as illustrated in Figure 10 below.

Figure 10: Illustration of compensation claimant numbers



SOUTHERN AFRICA TRUST: REGIONAL DIALOGUE REPORT

Figure 11: Breakdown of certified claimant history



SOUTHERN AFRICA TRUST: REGIONAL DIALOGUE REPORT (2015)

In the interview with the ex-mineworkers, they explain their status of being unemployed, they have no income, they are sick and have limited access to public health facilities. Several of them have papers indicating the wholly inadequate retrenchment packages they received. They are desperate for some form of employment. They have a strong sense of injustice and betrayal and are looking for help to obtain proper compensation for the disease they sustained, including injuries. Several have signed up for either the international or national court cases where human rights lawyers have filed lawsuits. They accuse the gold mining companies of neglecting to protect gold mineworkers from serious lung disease. The challenge, however, is that court cases will take a long time and many have already died. An elderly ex-mineworker explained how the loss of four fingers on one hand was not compensated for at all.

The ex-mineworker leader with a most formidable voice for the destitute members elaborated that difficulties in the process of claims were also in evidence, as some 20,993 (11%) of claimants had no certificate of outcome to their applications and another 123,440 (62%) had a certificate but their identification number had not been confirmed. In terms of payments on

compensable claims, roughly half of the 208,098 cases had been paid leaving 50% of this number unpaid. Records of fingerprints were outdated and frequent mismatches with other databases occurred. This situation was corroborated by the MBOD official participating in the research.

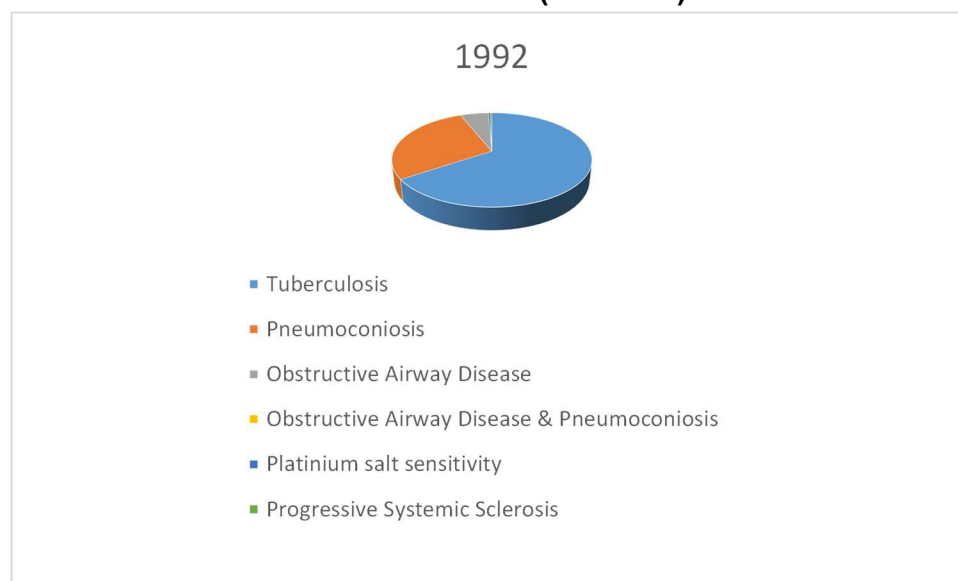
An ex-mineworker now acting as a trade union representative explained that the ex-mineworker union in Mthatha was founded in 1987. There are seven stacks of dusty files, each the height of an adult, containing applications and other paperwork for each of the union's members in the Eastern Cape. The number of files equals 18,563 and there are no filing cabinets in place. The union leader requests to speak in isiXhosa "because when I speak about this compensation thing there is anger and pain in my heart and I just want to get it all out". The ex-mineworkers had previously demonstrated at the Union Buildings in Pretoria in 2006 and twice outside Parliament in Cape Town. On each occasion they were sent home with empty promises.

Ex-mineworkers were told about ventilation masks on entry to the mines but were not given one underground unless health inspectors came to the mine. After working for 37 years on the mine an ex-mineworker received a mask in 2005. He contracted silicosis due to excessive dust exposure. In 2010 he started treatment for Tuberculosis (TB). Ex-mineworkers spoke of the issue of unclaimed benefits and how stakeholders began having an interest in their issues more aggressively in recent years. The challenges faced by mineworkers, their wives and their dependents were often the topic of discussion coupled with their experiences. An ex-mineworker leader indicated that throughout public discussions on the issues, leaders discussed the portability of social security benefits and the mechanisms needed to assist ex-mineworkers in accessing their benefits. Through impassioned speeches and intense discussions, the challenges were presented frankly.

Table 3: Description of pulmonary diseases of ex-mineworkers

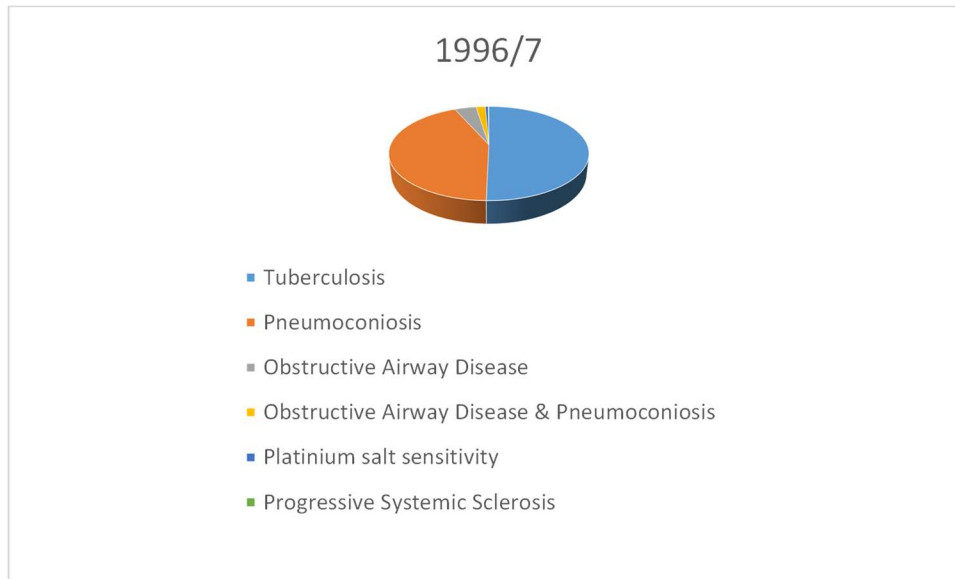
Disease	Number of claims certified %			
	1992		1996-7	
Tuberculosis	5220	65.6%	4159	50.3%
Pneumoconiosis	2253	28.3%	3554	43.0%
Obstructive Airway Disease	429	5.4%	343	4.2%
Obstructive Airway Disease & Pneumoconiosis	0	0.0%	150	1.8%
Platinum salt sensitivity	28	0.4%	44	0.5%
Progressive Systemic Sclerosis	27	0.3%	10	0.1%
Progressive Systemic Sclerosis & Pneumoconiosis	0	0.0%	1	0.0%
Total	7957	100.0%	8261	100.0%
Sources				
Department of Health, Report of the Medical Bureau for Occupational Diseases, 1992				
Department of Health, Annual Report of the Medical Bureau for Occupational Diseases, 1996/7				

Figure 12: Occupational diseases certified under the Occupational Diseases for Mines and Works Act (ODMWA)



RECORDS OF THE MBOD/CCOD: 2015

Figure 13: Occupational diseases certified under the Occupational Diseases for Mines and Works Act (ODMWA)



EXTRACT OF THE MBOD/CCOD RECORDS 2015

4.4 INTERVIEWS WITH CIVIL SOCIETY

There was minimal stakeholder interaction and poor co-operation with other governmental departments that deal with the health of mineworkers. More recent workshops have been started with stakeholders like the Chamber of Mines, trades unions and ex-mineworkers' associations on amendments of the current legislation. Stakeholder communication and consultation has been improved and issues of ex-mineworkers' compensation are on the agenda in multiple forums. Additionally, many development partners and NGOs have expressed interest in CCOD activities.

Towards these mandates and others, the Commission had thus far achieved the integration of the Medical Bureau for Occupational Diseases (MBOD) and the Compensation Fund activities (CCOD), the establishment of two One Stop Service Centres, and improvement in stakeholder communication and consultation.

Research participants argued that ex-mineworkers were not receiving their benefits because they were either unaware that the funds were available to them or they were unable to gain access due to incorrect paperwork, language barriers and distance. Some had passed away, some did not use the same names as they did when they were employed in the mines and their dependents could not prove that they were eligible to benefit from these funds, while others were too ill to undertake the costly and labour-intensive process required in attempting to access their funds.

Public participation exercises proved that education, collaboration, standardisation and capacity-building were the emerging categories and were necessary to help shift the money out of the funds and put it into the hands of those who needed it most. The Southern Africa Trust (SATS) has been set up to create platforms to help those living in poverty to be heard. Ex-mineworkers need access to their benefits and attention must be given to all categories of mineworkers. There is thus a need for collaboration and collective solutions rather than specific interests being favoured.

As one research participant explained, “We do not want to contribute to poverty eradication, but we also want to find tools to resolve it, and we are looking to find ways of unlocking the funds for ex-mineworkers through discussions, commissions and other platforms.” Current studies show significantly high numbers of ex-mineworkers who cannot access their compensation and other social security benefits.

In addition, Rand Mutual Assurance (RMA) has made provision for outstanding claims amounting to R180.7-million in 2012 and R174.2-million in 2011, according to the Industry representative. The Compensation Commissioner said that in the context of the RMA, provision for outstanding claims is based on “the best estimate, using past experience, of the amount that had been reported to the group but not yet finalised.” ‘Outstanding’ in this context refers to claims where adjudication or payment of some benefits

have not been done because a claimant is “still undergoing active treatment, or liability is undecided due to outstanding supporting documents from employers and/or the medical service providers.”

Research participants also highlighted the lack of administrative co-operation between institutions, cumbersome document requirements, difficulties in determining how benefits are computed, differences in national banking systems and restrictions on the links between illness and employment. In addition, there are issues of tracing ex-mineworkers who may have worked under different identities and who may have moved, died or disappeared. Locating the beneficiaries of the Compensation Fund demands a concerted effort by all parties as those who have earned the right to compensation are often living in extreme poverty and cannot easily access the healthcare or funds to which they are entitled.

The ex-mineworker leader explained,

We need to find a methodology, a way of bringing together the gaps between the various Ministries and organisations that are dealing with these issues. Partnerships are essential for any success in such endeavours or the risk of failure is imminent. It is time to reflect on critical fronts, to address these past injustices and to develop a comprehensive approach to address the plight of ex-mineworkers.

In the public debates undertaken with the ex-mineworkers, there was great enthusiasm although for many ex-mineworkers it opened old wounds. While there are stories of injustice, corruption and suffering the overarching mood was one of forgiveness and agreement that now was the time to stop blame, and rather to look at ways in which these challenges and issues could be resolved.

Mobilisation through civil society efforts has had a significant impact in highlighting the case of ex-mineworkers, said research participants. They

argue that the case of South African ex-mineworkers who contracted disease has been taken to the courts in South Africa. Their case was first filed in 2012 when 56 of the estimated 100,000 mineworkers requested the court to allow them to institute a class action suit against 32 gold mining companies. Ex-mineworkers interviewed painfully recalled how mining came at a huge cost for them. Richard Spoor, the attorney representing the applicants, observed that, “because the future of mineworkers was totally destroyed, a class action is therefore the only way to ensure that all the affected mineworkers and their families are compensated.”

A research participant said the current compensation is hopelessly inadequate. “It has been like that for decades, and the industry has been aware of it and now that litigation is upon them, they have suddenly shown interest in trying to resurrect it”, said the ex-mineworker leadership. This attempt of bringing on litigation brought out more than a thousand civil society members who have organised themselves in support of those affected.

4.5 INTERVIEWS WITH GOVERNMENT OFFICIALS

Although the 1993 amendment to the Occupational Diseases in Mines and Works Act 78 of 1973 (ODMWA) brought about racial parity in compensation benefits, the infrastructure necessary to achieve equity has been lacking, according to the Commissioner. Occupational health screening facilities are still almost entirely based in urban areas in which white workers have historically lived and not in the migrant labour-sending areas of South Africa.

The Commissioner, a medical doctor by profession, said that Silicosis, while preventable, is an incurable and progressive disease associated with a number of recognised complications such as tuberculosis, increased susceptibility to respiratory infections, loss of lung functions, massive fibrosis and lung cancer. If a mineworker is diagnosed with silicosis while

still in employment, he may receive statutory compensation. Statutory compensation through ODMWA is a lump sum payment equivalent to 18 months' salary if loss of lung function is assessed as being between 10% and 40%, and a lump sum payment equivalent to 36 months' salary (to a maximum of R84,000) if loss of lung function is between 40% and 100%.

Table 4: Description of statutory compensation

Lung Function	Lump Sum Payment
%	Months Salary
10-40	18
40-100	36 (capped at R 84,000)

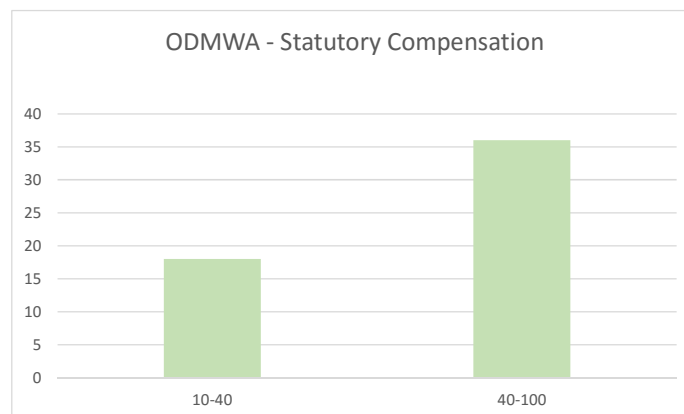
ODMWA STATUTORY COMPENSATION (Act 73/1978)

Table 5: Loss of lung function

Loss of lung function	Degree
%	
10-40	1
40-100	2

ODMWA STATUTORY COMPENSATION (Act 73/1978)

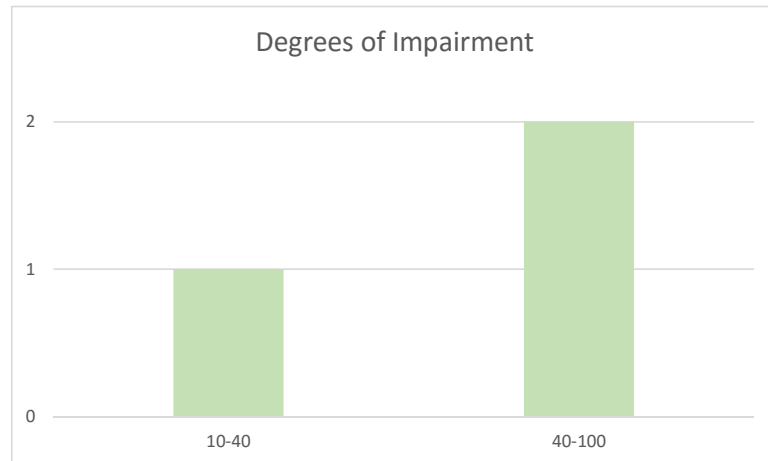
Figure 14: Statutory compensation



The Commissioner explained that medical assessment categorises silicosis into two degrees of impairment: silicosis in the First Degree is defined as a loss of lung function of between 10% and 40%, while Second Degree

silicosis is defined as a loss of lung function of between 40% and 100%. Compensation amounts are individually wage based, as well as capped.

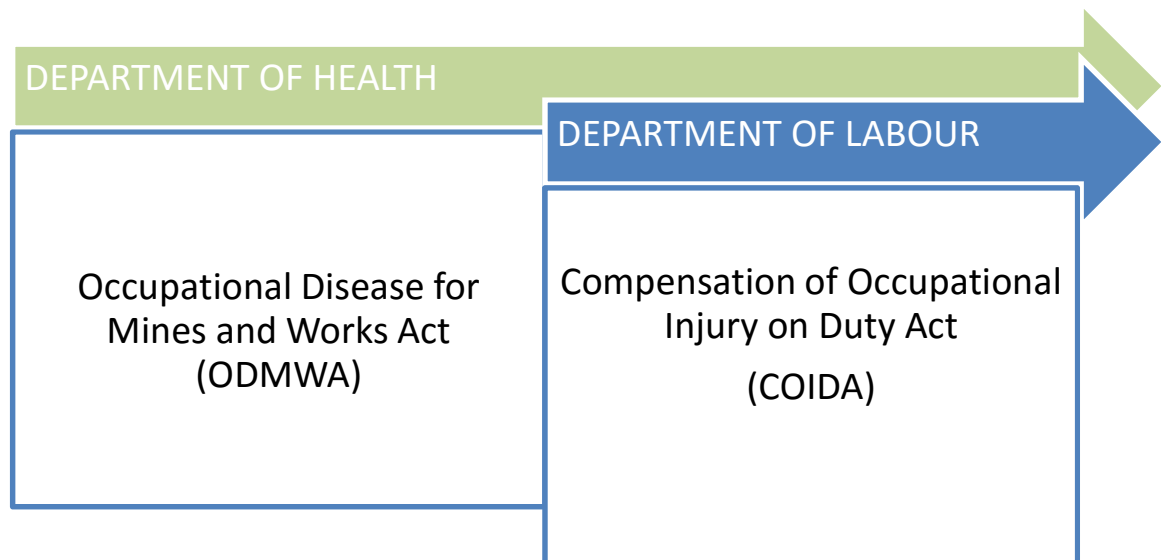
Figure 15: Degrees of impairment



SOUTHERN AFRICA MINERS ASSOCIATION (SAMA): 2014

A research participant from the Department of Health (Medical Bureau for Occupational Diseases) argued that the evolution of ex-mineworker compensation has to be seen in concurrence with a number of processes that evolved between the mines and government departments, which importantly led to processes to enhance compensation to ex-mineworkers. Government had not implemented its long-standing policy of improving compensation benefits for ex-mineworkers (under the auspices of the Department of Health) in line with those available for non-mineworkers (under the auspices of the Department of Labour), most likely because of increased and unfunded costs. Research participants (ex-mineworkers) had little or no knowledge of the Occupational Disease for Mines and Works Act (ODMWA) and the Compensation of Occupational Injury on Duty Act (COIDA). A research participant explained at length how he is sent from one medical facility to the next, from the Department of Health to the Department of Labour, with no consideration of his inability to understand English and know the requirements to apply for compensation.

Figure 16: Legislative framework for Occupational Health



LEGISLATION FRAMEWORK FOR OCCUPATIONAL HEALTH (DOH/DOL): 2011

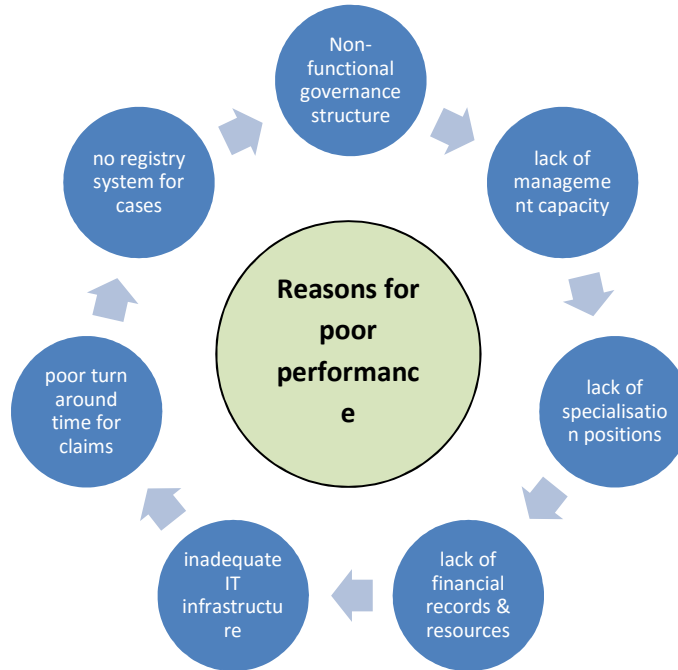
The Commissioner informed the interviewer that there was no management capacity to manage high levels of non-accountability which created an administrative burden for the current leadership.

Within its Strategic Plan the Compensation Commission for Occupational Diseases (CCOD) detailed legacy issues, achievements, future activities, resources and constraints of the Department of Health. On the issue of legacy, it was reported that multiple policy and legal frameworks across the Departments of Labour, Health and Mineral Resources complicated the function of caring for the welfare of ex-mineworkers 'in relation to compensation.

Other issues the Commission articulated were a non-functional governance structure, lack of management capacity, lack of specialisation positions, and a lack of financial records and resources. Information Technology infrastructure was inadequate, its turnaround time for claims was poor, and

there was no registry system to organise and manage past and present claimant cases.

Figure 17: Reasons for poor performance at the MBOD/CCOD



SOUTHERN AFRICA TRUST: REGIONAL DIALOGUE (2014)

Looking forward, the Commission was preparing for a valuation of the Compensation Fund and has submitted a request to National Treasury to increase the annual dispensation to move towards a target of 10% of the Compensation Fund value from its current 2%. The Fund is currently valued at R2.9-billion and the dispensation helps to pay for services, administration and service delivery, in combination with levies collected from the mines. Vacancies stood at 6%, down from 24% in the previous year, and the CCOD hoped to fill the more essential remaining administrative positions and expand employment once approval was granted.

The Compensation Commissioner explained that levies were set according to dust levels at the mines. Despite existing legislation being in place for over a century which was aimed at compensating ex-mineworkers with occupational lung disease, sufficient evidence exists to show that the

system was impugned by racial inequality and that it was in a state of extreme disarray. He explained that of the existing records of ex-mineworkers who had been certified as having a compensable disease, only 2.5% had been paid in full. He quoted research by Deloitte undertaken over 21 months in 2003 which had found that of 28,161 certified claims, pay-outs were made to only 400 cases, a rate of less than 1.5%.

Figure 18: Eastern Cape ex-mineworkers at an outreach awareness programme convened by the DOH and DME to explain ex-mineworkers' compensation processes (September 2015)



The Compensation Commissioner illustrated via pictures on his arrival at the Medical Bureau how records of ex-mineworkers were stored in 32 rooms from floor to ceiling with no system in place to improve service delivery. He explained that 90% of staff employed at the MBOD were at a grade 12 qualification and had an average work experience of 24 years. In his estimation the service had ground to a halt as "...the centre had collapsed".

He explained that ex-mineworkers were not provided with information on how to access the system of compensation and that ex-mineworkers were cajoled by “agents” who retained more than two thirds of their pay-outs.

Figure 19: State of administration of files at the MBOD and CCOD

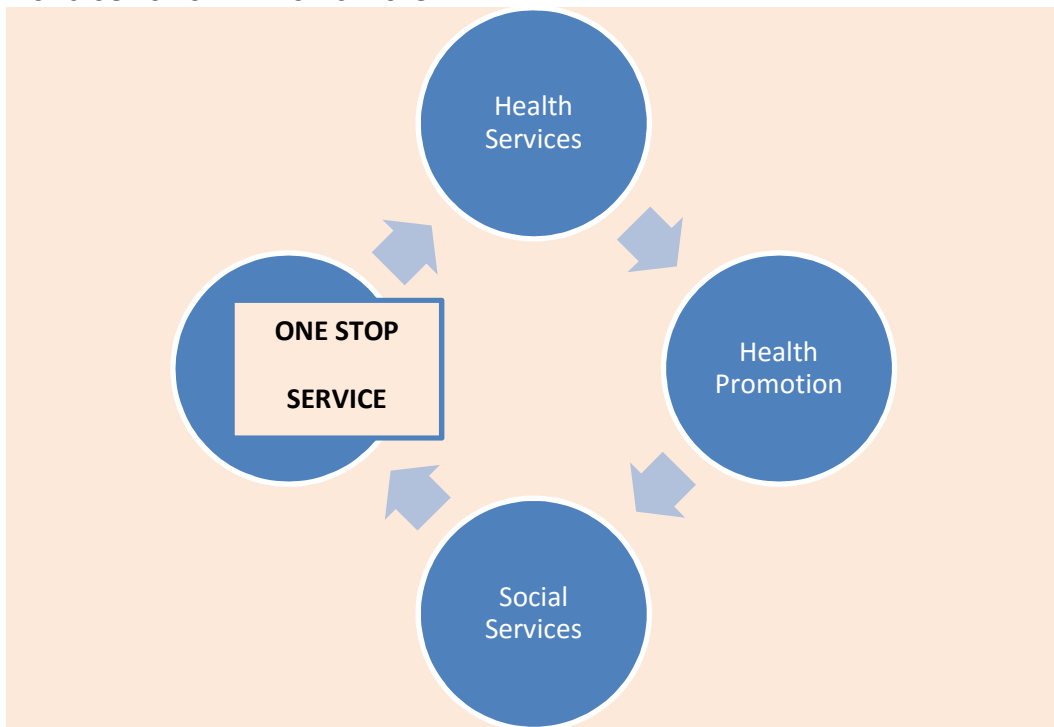


MBOD/CCOD FOOTAGE: 2013

The notion of decentralised services and increased awareness and outreach programmes was of great interest to all research participants who were of the view that new business process re-engineering was the correct approach to current challenges. This was seen as the alternative to the

current crisis facing ex-mineworkers when attempting to access compensation. The Commissioner explained the process of determining ex-mineworker compensation. He said that there needs to be a benefit medical examination conducted (BME) which was available at the MBOD in Johannesburg, or at a government hospital or a service provider contracted to the CCOD. Officials participating in the research confirmed the non-existence of current or past service level agreements. This was in violation of existing procurement processes within all government departments.

Figure 20: Process flow at the newly launched One Stop Service Centres for ex-mineworkers



Once the BME is concluded the results are sent to the MBOD certification committee to determine whether the diagnosis is correct and if the disease detected is compensable and to then determine the grade of compensation. For many years, service providers were conducting BMEs on ex-mineworkers and the quality of the submissions often resulted in delays which had a cumulative delaying effect on the process.

The Commissioner briefly explained that the CCOD was originally created to provide pensions and aid to a relatively small demographic of white South African mineworkers in the 1960s. Since then it has been deracialised, opening it up to some two million mineworkers from the previous 30,000. In light of these changes, legislative reform was necessary to adapt the Act (ODMWA) to present circumstances. The CCOD established decentralised services to reach ex-mineworkers who live outside Johannesburg, allowing for the development of a database to quantify new claims, and working on processing the backlog of payments of compensation cases that existed. It was furthermore engaging with the tracking of current and ex-mineworkers not registered in its systems, mapping geographic distributions, and surveying Tuberculosis and Silicosis cases in mines.

Professor Ehrlich from the University of Cape Town School of Public Health and Family Medicine explained that:

Workers compensation legislation, which dates from the second decade of the 20th century in South Africa, effectively monetises loss of employment opportunities and permanent impairment suffered as a result of an occupational injury or disease. Notwithstanding the paltriness of the pay-outs, black ex-mineworkers have had very little access to the system. Even when they did have access, it was not unusual for them to wait up to five years for their payment.

4.6 INTERVIEWS WITH FOCUS GROUP

The Constitution of the Republic of South Africa (1996) is the supreme law of the Republic and forms the basis of all law in the country. It provides for the needs of its people in every aspect of life and all other legislation should give life to the rights and provisions of the Constitution. The Constitution (1996) includes the Bill of Rights which sets out and protects the fundamental rights to human dignity and equality in various life situations. It determines how these rights should be promoted and interpreted and how

they may also be limited in an open and democratic society based on human dignity, equality and freedom.

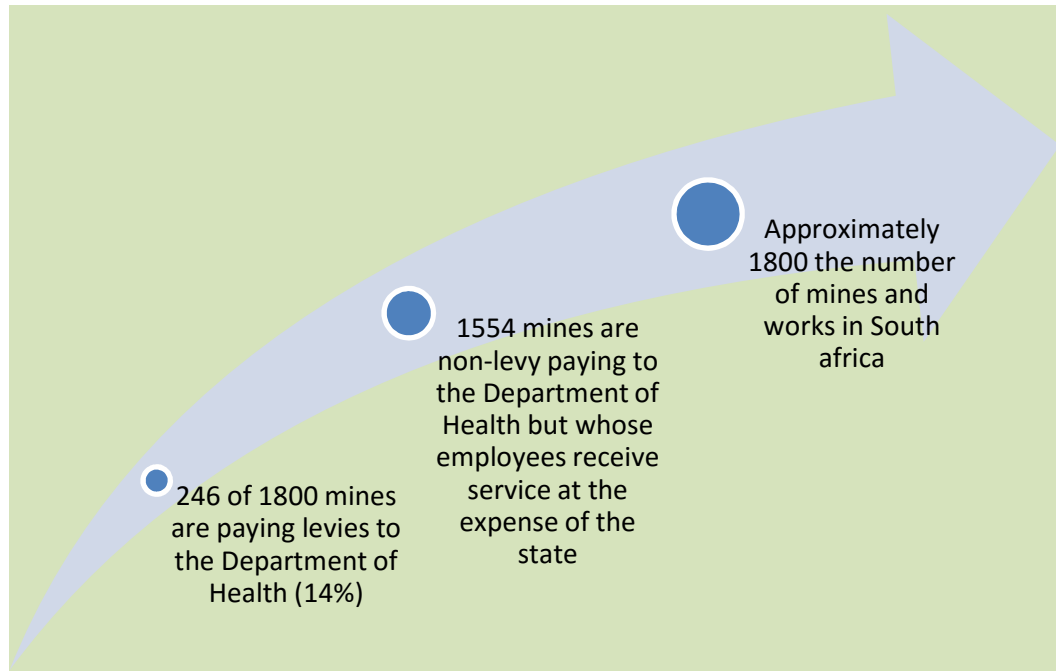
From the viewpoint of the researcher, compensation is rights-based and entails legislated “prescribed entitlements, qualifying conditions and procedural guarantees.” In the Compensation Commission for Occupational Diseases 2015/2016 Strategic Plan and Annual Performance Plan the Commissioner presented plans of the vision for the improvement in systems. On the matter of legacy, the Commissioner explained how multiple policy and legal frameworks across the Departments of Labour, Health and Mineral Resources complicated the task of addressing welfare issues of ex-mineworkers. He explained that different agencies and funds dealt with different ailments, complicating the matter of treatment which often led to inefficiencies. Other issues he articulated were a non-functional governance structure, lack of management capacity, lack of specialised positions, and a lack of financial records and resources. Furthermore, the Information Technology infrastructure on which the compensation system is dependent was inadequate, its turnaround times for claims was poor, and there was no registry system to organise and manage past and present claimants.

The Annual Performance Plan of the CCOD (2015/6-2019/20) illustrated the problems with the databases that the Commission has. Whilst employee registers existed for current mineworkers, ex-mineworkers were scattered all over as a result of the migrant labour system. There are several sources that compiled various databases across government departments but none existed that contained a common reference point. Information on the country of the claimant and nature of disease was in many cases unavailable. Difficulties in the process of claims was evident, as some 20,993 (11%) claimants had no certificates of compensation and another 123,440 (62%) had a certificate but their identity documents could not be confirmed. In terms of payments to compensable claims, roughly half of the

208,098 cases have been paid while half had not. Records of fingerprints were outdated and frequent mismatches with other databases occurred.

Both the representative from industry and the Commissioner explained that there were 1,800 entities (Mines) registered with the Department of Mineral Resources, but only 20% of those registered were under the control of the Department of Health and described as controlled mines whereas 80% were non-controlled mines. A controlled mine was liable for payment of levies whilst a non-controlled mine was not liable. Despite this legal complication, mineworkers were not aware of what constituted a “controlled” mine and a “non-controlled” mine when applying for compensation. There has furthermore been no recent evaluation of the Compensation Fund leading to inaccurate annual adjudications out of the Fund. Annual adjudications comprise 2% of total fund value.

Figure 21: Spread of controlled and non-controlled mines in South Africa



DEPARTMENT OF LABOUR: 2015

In the interview with the Commissioner he explained that on accepting the post in 2012 he found no evidence of systems that were put in place to

better manage compensation. There were no handover reports and he had to commence the process of business process re-engineering afresh. He describes it as starting anew. Current staff denied any knowledge of the deficits of the past that had contributed to the current crisis. The system simply had no foundation to build from. All attempts since mid-2012 to rebuild the system has encountered serious challenges. Internal resistance resulted in large amounts of work being outsourced, although the mining sector and the Chamber of Mines were willing to offer support in order to rebuild the system.

Verification of revenue from “controlled” mines was largely absent thereby allowing some mines to avoid payment of levies, according to the ex-mineworker leader. The CCOD was further hampered by the lack of a disease surveillance system, the lack of a registry or an adequate database to quantify claimant numbers, as explained by the Commissioner.

A research participant interviewed reiterated their frustration at poor governance and lack of management services. Their concern was in relation to the process of tracking eligible mineworkers and ex-mineworkers who remained unaccounted for. To this end the Commissioner explained the fragmented legislation for compensation. He said compensation for mining injuries was disbursed by a range of service providers depending on the nature of the injury. Ex-mineworkers were not aware of the two types of compensation differentiating pulmonary disease from occupational injury. They assert that such information was never brought to their attention.

Officials in the Department indicated that they were frustrated by a lack of systems that could assist the process of accelerating compensation payments. Research participants expressed frustration at the fact that government wasted resources to track claimants using outdated methods of door-to-door visits. This was extremely time-consuming. In a 2010 report of the Accounting Officer it is clarified that the CCOD did not have a strategic

plan for the Fund over many years. Since the CCOD prepares separate financial statements for the Fund it is mandatory that it should have its own strategic plan. This requirement resulted in non-compliance in terms of the performance information.

There are very few appointed managers and the majority are acting in positions which may impact on the extent of commitment. Internal systems of bureaucracy create difficulties in finding quicker solutions to current problems. There have been attempts to get co-operation from all stakeholders and they remain committed to finding solutions. The fact that all work must flow to the centre is where the crisis emanates from. Levels of accountability to issues of compliance also remain unresolved.

The representative from industry made reference to the frustrations they experience from internal staff who expressed their dissatisfaction with working conditions and were not sufficiently productive.

Within governance and management, the Commissioner noted a non-functional governance structure, lack of management capacity, lack of employees in specialised skill positions, staff vacancies and a lack of financial records. The representatives from industry and the union concurred with the above assertion by the Commissioner. There was no inspectorate to verify revenue from mines and some mines avoided the payment of required levies. Revenues from the levies were necessary to cover the costs of administration, services and benefits. The Compensation Fund only covers the cost of benefits, which places an additional burden on the State to cover other costs.

The CCOD was aiming at reaching a future turnaround period of three months for claimants with the appropriate documentation. The Commissioner further explained that a request was made to Treasury via the Department of Health to increase annual pay-outs from the

Compensation Fund to 10% from the current 2%. There are attempts to seek a new governing framework, changing the entity's classification to that of a government component. This would increase delegated powers to include matters of staffing, infrastructure and other resources appropriate to the efficient delivery of services.

4.7 EXAMINATION OF RECORDS FOR CROSS-VALIDATION

Mining in Southern Africa has amplified the challenge of HIV and Tuberculosis (TB) infections. While aware of these risks for decades, policymakers have done little to regulate the mining sector's remarkable impact on pulmonary disease burden on ex-mineworkers. Since its colonial origins in the nineteenth century, mining has exposed its workers to substantial risks of developing lung disease from inhaling silica dust in working environments characterised by poor ventilation that facilitate the rapid spread of TB.

Very little has changed over the past several decades. Recent autopsies of Black mineworkers in the Eastern Cape reveal very high rates of Silicosis and Tuberculosis that have remained undetected and untreated or poorly-treated during life, rising from about 5% active pulmonary TB at autopsy in 1975 to 40% in 2008. Official data on the prevalence of Silicosis in South Africa in 2008 also showed that one quarter of all mineworkers were affected, about the same percentage as those recorded one century ago.

Why is the policy response to these avoidable risks so weak? Over the past two decades there has been an enormous growth of advocacy for action against HIV and TB. Yet, despite a century and awareness about the impact of mining, there is little attention given to the policies that lead to these adverse health outcomes. In view of the failure of mining companies to adequately establish governance systems to respond to the risks of disease burden associated with mining, the next major group to seek change is the ex-mineworkers themselves and their representative unions. Their

response is limited by a low level of awareness among Black South African mineworkers about the role played by mining in the development of lung disease, opportunities for treatment, and their rights to compensation.

Mine managers themselves often lack information about pulmonary disease or compensation benefits. There may also be language barriers between management and workers which impedes information flow. Better accountability improves service delivery performance, as explained by all participants. One ex-mineworker quoted the World Bank in 2004: “Successful services for poor people emerge from institutional relationships in which the actors are accountable to each other.” Although the concept of accountability is often reduced to “answerability” or “enforceability, a more complete definition includes the actions that take place during the earlier stages of accountability relationships.

The Compensation Commissioner explained that his responsibility is in terms of the Occupational Diseases in Mines and Works Act 78 of 1973 (ODMWA) and this entails payment of benefits to active and ex-mineworkers, as defined in the Act. The office of the CCOD is responsible for the compensation of persons who have acquired occupational lung related diseases as a result of the risky work they have performed in the mines or classified works. To fulfil this mandate, the controlled mines and works must contribute levies on a monthly basis for each risk shift performed by their employees to be payable into the Mines and Works Compensation Fund, administered by the Commissioner. The last time there was any increase in the levies was in 2009 as there was no actuarial valuation conducted since 2003.

Table 6: Legislation pertaining to Occupational Health Services in South Africa

Act	Function	Enforcement Agency
Occupational Health & Safety Act (OHSA), 1993	Ensures a health and safe environment in factories and offices	Department of Labour
Compensation for Occupational Injuries & Diseases Act (COIDA), 1993	Provides for medical cover and compensation of occupational injuries or diseases in all workplaces	Department of Labour
Mine Health & Safety Act (MHSA), in mines/ quarries 1996	Ensures Health & safe environment	Department of Minerals & Energy
Occupational Diseases in Mines & Works Act (ODMWA), 1973	Provides for compensation of occupational lung disease in mines and quarries	Department of Health
Medicines and Related Substances Act, 1965	Provides for an authorisation permit to be issued to a nurse dispense schedule 1.4 substance at workplace health services	Department of Health

NATIONAL DEPARTMENT OF HEALTH RECORDS: 2014

Another research participant went on to argue that there is no system of monitoring the collection of levies as inspectors to perform this task were only appointed in late 2013. There is a serious backlog which is exacerbated by the fact that only controlled mines contribute levies. Of the approximately 1,800 mines only 249 are levy paying whilst claimants are not aware of the difference. The Commissioner said that the state has to then carry the responsibility of care but compensation is paid from the fund that is largely restricted.

The CCOD is facing challenges in fulfilling its mandate according to the requirements of the ODMWA. As a result, the current turnaround time for payments is between 4 and 5 months, which is mainly due to the following:

- Lack of communication with ex-mineworkers;
- Manual verification of fingerprints;
- Incomplete documentation;
- Challenges with IT systems; and
- Resource constraints.

The above view was denied by ex-mineworker leaders who argued that whilst the above challenges may prevail there were no proper systems of governance in place to manage the payment of compensation. The centralisation of the service in Johannesburg was a major contributing factor for ex-mineworkers finding difficulty in accessing the service. A research participant also explained that there were approximately 186 service providers outside the MBOD that could offer medical services to ex-mineworkers. Ex-mineworkers were unanimous in decrying the validity of such an arrangement, stating that they could not access services as service providers amongst the 186 refused to see them. The service providers claim that they render the service but received no payment for services rendered. In addition, the amounts that were being paid had not been increased for decades despite the costs escalating year-on-year.

The Compensation Commissioner outlined achievements where workshops on legislative amendments have been held to determine the substantive revisions that need to be made to the existing legislation. He explained that the CCOD was originally founded in the 1960s to provide compensation for White mineworkers only. It was deracialised in 1993, but no-one looked at the specifics of opening up a system providing for 30,000 to provide for 2 million. The other respondents agreed with the proposal on the current

legislation being reviewed but were adamant that it needed to be rewritten in full and the existing legislation completely revoked.

Registry and file protection have been outsourced, finally determining the number of files coming in. A major challenge is the number of ex-mineworkers unaccounted for. Respondents argued that their files were often lost and new ones created. Existing original documents were misplaced. Ex-mineworkers experienced great hardship in trying to access documents. Staff at the Bureau were unresponsive to their needs and sent them in search of documents with the least amount of consideration for the distance they travelled to get to the MBOD/CCOD. This frustrated them. They felt strongly that services should be brought closer to the ex-mineworkers.

The notion of building One Stop Service Centres for ex-mineworkers was welcomed but ex-mineworkers remained resolute that the delays were in Johannesburg and there was little or no response from the Department administering claims. There was an indication by the Commissioner and other stakeholders that the number of ex-mineworkers who went through the system at the One Stop Service Centres in Mthatha and Carletonville in the 2014/15 financial year was in excess of 5,000. During the same period, had there been no One Stop Service Centres, fewer than 1,000 would have come through the system in Johannesburg.

Stakeholder communication and consultation has improved according to stakeholders participating in this research, and issues of mineworkers' and ex-mineworkers' compensation are on the agenda in multiple forums. There has been interest expressed across government departments, municipalities, community forums and organisations to reach ex-mineworkers and draw their attention to available compensation benefits.

Figures 23 and 24 demonstrate the vastness of the problems of ex-mineworkers who live long distances from the centre and issues of access to the system is undermined as a result.

Figure 22: Outreach programme for ex-mineworkers and their beneficiaries



Figure 23: Launch of One Stop Service Centre, Mthatha 2014



4.8 CONCLUSION

The question of why the compensation system does not work is a complex one, with its roots in South Africa's racially-torn history and racially stratified geography. With the realisation of the rapidly growing epidemic of lung disease in South African mines at the beginning of the 20th century, the first piece of legislation aimed at compensating mineworkers was passed in 1911 as the Miners' Phthisis Allowance Act. Over the decades, despite this picture drastically changing, a discrepancy within the racially based legislation grew.

Compensation management has become a higher profile topic in recent years but few organisations evaluate their compensation management or identify their shortcomings. It is important to ensure that organisations fully understand what their needs are from implementing compensation systems. Critical to this is the need to determine which systems and databases to use. Each system has its relative strengths and weaknesses. Some are better at managing specific components whilst others should consider what is best for making critical decisions about workforce planning and strategy.

There needs to be a purposeful system driven by increased responsibility and accountability to operations and systems of governance. This must include assessing performance according to ambitious and concrete criteria tied directly to long term value. Overhauling the system will give credibility to ensuring the professionalization of leadership. With the assistance of existing stakeholders there needs to be an innovative partnership model that provides strong leadership on all matters of strategic significance.

CHAPTER FIVE

INTERPRETATION AND ANALYSIS OF FINDINGS

5.1 INTRODUCTION

According to Mouton (2001), “Theorising in the social sciences has as its goal the construction of plausible explanatory theories of the social world. We aim at building theories that explain why things are as they are, why people act as they do, or why things develop as they do”. It would seem that a mere descriptive analysis of the data would not be sufficient to arrive at valid conceptual conclusions about the issues which are the subject of research. It is necessary that a correct balance be found between the presentation of empirical evidence and the need to provide valid explanatory tools for such evidence. It has been the aim of this research to gather empirical evidence on ex-mineworker compensation, “... with a view to describing its features more systematically and rigorously building on the empirical data.”(Ibid, 14). It is only logical that in undertaking such a task the basic trends emerging from research themes form the basis of the analysis. The balance sheet of the burdens and benefits, whether health, socio-economic or environmental, of mining, are judged over the whole life cycle.

The interview results revealed that research participants believe that there is a lack of consistency in the way rules and policy are applied when it comes to access to compensation or insertion into the system. Lawler (1980) observes that in the absence of good objective measures of performance, most organisations rely on the judgement of managers. These judgements are often seen by those accessing the system as invalid, unfair and discriminatory. In instances where there is no good system in place, people perceive the system as delivering the wrong standard (Spitzer, 1995) often leading to lack of faith in the system.

The analysis of data will follow the pattern adopted in the previous chapter.

5.2 THE PROBLEM

Government had not implemented its long-standing policy of improving compensation benefits for mineworkers (under the auspices of the Department of Health) in line with those available for non-mineworkers (under the auspices of the Department of Labour), most likely because of the increased and unfunded costs (Murray, Davies & Rees, 2011).

The major issue for many former mineworkers who were eligible for compensation was the bureaucratic hurdles that had to be overcome. The body responsible for certifying mineworker claims was the Medical Bureau for Occupational Disease (MBOD), to which a number of documents had to be submitted (namely a benefit medical form, certified copies of identity documents together with fingerprints, and their labour records). It was claimed that the MBOD's offices contained extensive quantities of claim records requiring attention, some lodged as far back as the mid-20th century (Balfour-Kaipa, 2007).

In South Africa, mineworkers' compensation was handled differently to other forms of worker compensation. General compensation for disease contracted in the course of work was handled by the Compensation for Occupational Injuries and Diseases Act (COIDA) under the management of the Department of Labour. Mineworkers' compensation was treated separately under the Occupational Diseases in Mines and Works Act (ODMWA) managed by the Department of Health.

No investigation of the equity of the ODMWA compensation system had previously been undertaken. It was posited that it was a discriminatory system that was a cheap form of compensation which served as a subsidy to the mining industry in that it externalized the costs of occupationally

acquired lung disease. The labour-sending communities which provided large numbers of migrant mineworkers to the mining industry were likely to have had a high prevalence of silicosis which would have a severe social impact, having intensified deprivation and poverty amongst former mineworkers and their families, as well as within their communities (Terreblanche, 2002).

The implications of this system of compensation for occupationally acquired diseases for the former mineworkers themselves, for their families and communities, and for the public health sector, required further investigation. Not only was there an historical burden of disease that had not been properly researched and documented, there have been increasing retrenchments in the last decade that resulted in greater numbers of mineworkers returning to the traditional labour-sending areas of South Africa.

An assessment of available research findings from research undertaken since 1997, along with data from official sources, strongly indicated that this was an historically neglected subject which was a highly under-researched and undocumented area of health and occupational disease compensation in South Africa.

From the interviews conducted with ex-mineworkers and their leaders it was obvious that the non-payment of compensation to claimants and their beneficiaries was as a result of poor attitude, lack of willingness to assist and overall incapacity. This brings in the elements of timeous delivery and the likely impact of failure to honour promises on claimant morale. Spitzer (1996) in cautioning against these mistakes says that organisations often make the mistake of implementing interventions when other priorities are competing for the organisation's attention and resources. No matter how great the intervention, the timing must be right.

The purpose of this research was therefore fourfold: Firstly, to investigate the factors leading to poor governance of the compensation paid to ex-mineworkers in the OR Tambo District of the Eastern Cape. Research participants responded by citing the following as factors leading to poor governance of the compensation paid to ex-mineworkers in the OR Tambo District of the Eastern Cape:

- Understaffing;
- Poor access by Black ex-mineworkers to medical examinations and claim processes;
- Poor administration;
- Poor communication on existing policies and steps to be followed;
- Inability to address the huge backlog of unpaid compensation claims;
- Outdated legal framework (mentioned by a few respondents);
- Detailed legacy issues;
- Legal complications by the existing legal frameworks;
- Lack of management capacity;
- Lack of financial records and resources; and
- Outdated systems in IT and within the Registry system.

Secondly, the purpose of the research was to present the findings on the governance challenges of compensation paid to ex-mineworkers in the OR Tambo District of the Eastern Cape. This was covered in detail in Chapter 4 of this research.

Thirdly the purpose of the research was to interpret and analyse the findings of the governance challenges related to ex-mineworkers' compensation. This is covered in Chapter 5 of the report.

Lastly the research aimed to recommend strategies for consideration in the implementation of the governance challenges related to ex-mineworkers compensation. This will be covered in Chapter 6 of the report.

5.3 CONCEPTUAL FRAMEWORK

It was widely recognised that there was a mismatch between responsibilities and capacity. Potgieter (1997:14) observes that the appointment of staff into structures of government was by no means an end in itself. This conceptual framework attempted to illustrate that good governance was typified by a genuine democratic culture, which must be measured through effective systems of management, clear roles and responsibilities of staff, improved management of the fiscus, provision of resources, enhanced improvement planning, and positive relations.

The purpose of this research was to investigate factors, present the findings, interpret and analyse the governance challenges and recommend strategies that would address governance challenges in the implementation of a proper system. In conceptualising the framework of this research it was important to factor in what constituted a genuine democratic culture that led to excellent service delivery to the public.

While the demands placed on South Africa by international forces and the NPM and the new right in particular cannot be disregarded, the element of timing and uncalculated responses can be damaging in the long term. In order for a good system of governance to succeed, issues related to communication, linking of the system to other initiatives, consistency in the application of rules, mechanisms for dealing with dissatisfaction, transparency, continuous feedback, the clarity of goals, dependency on others for work, training and development and teamwork needs to be considered in an incentive-based environment.

In the theoretical framework the role of governance in the improvement of service delivery was highlighted in detail. It spoke to what constituted good governance, the importance of proper planning during periods of transition and explains why governance should be a continuous activity as well as the

importance of planning in public institutions. This could be generalised to mean improved skills, understanding, attitudes, values, behaviours, resources and conditions of work (Connolly, Chris & Brammer, 2010). In this research the important aspects of good governance were identified, in particular the aspects of good governance that could lead to improvement in the access to compensation for ex-mineworkers in the Eastern Cape, which would guide the research process. Amongst these the following issues built on the conceptual framework that best described this research.

5.3.1 Strengthening systems as a solution to the national public challenges

Could interactive governance with strategies for public sector change improve service delivery? Many countries and government departments were looking towards strengthening capacity as the solution to national public challenges. How they approach leadership, however, needed to be in reference to the kinds of problems being faced. Pursuing leadership development without the diagnosis and strategy was likely to be ineffective.

In strengthening systems as a solution the following would have to be explored:

- To look at leadership as a collaborative venture of facing tough issues and to work with people who can tackle these.
- To explore how success required not only focussing on the issues but having a deep understanding of the people involved and how they responded and reacted, and
- The need for culture change.

Services do not generally become better by those delivering them simply by looking at the length of service of those implementing any system. There is a great need to look into managing actual performance as a means of enhancing efficiency and effectiveness. Performance contracts alone are

unlikely to lead to an improvement in productivity. Officials interviewed said that there was little evidence to show the relationship between incentivising performance and outputs on actual service delivery.

In citing the lack of management capacity there was no evidence of any effort of collaboration in facing difficult issues and to recruit skills that could address this concern. Work motivation is too complex to lend itself to generalisations. According to expectancy and valence theories, individuals vary considerably from person to person (Lathans, 1981), and there is no agreement on the needs that people seek to satisfy. There is thus a strong need for commitment.

When exploring how success required not only focussing on the issues but having a deep understanding of the people involved and how they responded and reacted, interviews revealed that there was disjointedness among all stakeholders wanting to serve the same clients. The question that could not reveal a clear answer was whether those delivering the service understand the people involved? Clearly this was not the case when ex-mineworkers were requested to come to Johannesburg with medical services to be accessed with almost no regard for the locality they lived in and the inconvenience associated with commuting across provinces.

5.3.2 Developing comprehensive strategies for public sector change: How to reorganise the Public Service

The bureaucratic systems in the public service were perceived by some as time-consuming, bloated and expensive (Cummings & Worley, 2009). The reality was that in some instances the public service organisations were “bureaucratic” in the negative sense of the word and that this posed a particular challenge for such entities. If this was the case then the main problem when one considered change efforts in the public service seemed to be the structure of the organisation (Sims, 1998).

Chandler (1962) argues that the development of a structure followed a strategy where the major functions of an organisational structure was to direct attention and action towards the accomplishment of pre-determined goals. Various structural forms were chosen on the basis of their ability to facilitate this goal (Child, 1912; Scott, 1992).

5.3.3 Strengthening systems and developing strategies: Culture change in improving service delivery

Critical to this concept was to have looked at the evolving capacity of the state and the challenges of good governance. The public service had been concerned for some time with their institutional and human capacity to improve the livelihoods of citizens, the competitiveness or variability of day-to-day work, the delivery of basic public services, and the trust in regulatory institutions. The financial, economic, social and environmental challenges being experienced internationally highlighted the unique role of government in having to serve the public interest. Insufficient safeguards for integrity contributed to poor service delivery. At the same time, the size, scale and speed of government response to any service delivery challenges had increased the risks and opportunities for waste, fraud and corruption. The effectiveness of service delivery in the public service also depended on its credibility and on the public's trust in government.

Current demographic, financial and environmental challenges increased the urgency for rethinking the role of government and the capacities it needed to govern. Governments needed to devise new policy instruments or reshape old ones in radically new ways in efforts to support economic activity, promote new growth and strengthen the framework in order to have greater impact on service delivery. Citizens were turning to the state to seek immediate solutions to complex problems and were demanding high-quality public services to meet their changing circumstances and needs. In addition, continuing technological evolution had raised citizen's

expectations from government for new ways to communicate and improve services.

5.4 COMMUNITIES

It would seem from the face-to-face interviews and from the literature review (secondary sources) that there is consistency with regard to the origin and process of access to compensation. The significance of the issue of the origin and process is imperative since it illuminates the role of various stakeholders in the development of a system of compensation for ex-mineworkers. Health impacts occur during every phase of mining. The health impacts of the displacement of rural communities at the mining site is rarely recognised. In South Africa, historically through to the present day the demand for cheap labour is manifest by destroying the livelihoods of millions of ex-mineworkers, through acts of omission and commission (Callinicos, 1980).

The exposure of large numbers of workers to hazardous working and living conditions (high dust levels, extreme heat, ergonomic risks, safety hazards and crowded single-sex hostels or squatter camps) have resulted in a plethora of mining-related diseases that are largely unacknowledged and certainly under-compensated (Murray et al., 2011).

It was important to hear directly from ex-mineworkers and those who experienced the challenges in accessing compensation in order to convey the depth of difficulty this population faces on a daily basis: of extreme poverty, multiple co-morbidities driven by mining and the social conditions surrounding mines, the social damage and fear they experience, and the lack of a pathway out. The ex-mineworkers are unemployed, they have no income, and they are sick and have limited access to public health facilities. Several of them had papers indicating the limited retrenchment packages they received. They expressed their interest in obtaining some form of employment. They have a strong sense of injustice and betrayal and need

help to obtain proper compensation for the diseases and injuries suffered in the workplace. They accuse the mines of failing to protect them from serious lung disease like Silicosis and Tuberculosis.

The purpose of this research was to investigate the factors leading to poor governance of the compensation paid to ex-mineworkers in the OR Tambo District of the Eastern Cape. During interviews and discussions, it was critical to understand that mining communities lacked the basic knowledge of how to access the system of compensation. Further, post their retrenchment from the mines, access to information was very limited. This led to high levels of exploitation by agents who would often mislead claimants on vital information. This is evidenced by the perspectives of the majority of research participants.

A considerable emphasis was placed on the need for effective consultation by government with research participants. This was seen as essential to policy development and the forging of a new and more inclusive identity for effective service delivery. Communication in the delivery of services by government to communities in the realm of compensation is not regulated, hence dissatisfied claimants have no avenue to register their concerns and challenges.

Post-apartheid South Africa faces a major challenge in ensuring optimal and professional services being provided to citizens of heterogeneous cultures. In 2005, then Minister of Local Government, Honourable F.S. Mufumadi stated that:

.. In designing the new system of service delivery, care has to be taken to ensure that we must put in place a framework for progressively doing away with a system which exposes our people to vastly different socio-economic environments. The continuing challenge we face therefore, is one of ensuring that we develop the

requisite capacity to translate resources into instruments with which to confront problems of poverty and underdevelopment.

What was being idealised above is the need for culture change in the delivery of services in the public space. The values that make up the culture of an organisation are a reflection of the underlying beliefs of existing leadership, as they are the reflection of the heritage of past leaders. Most organisations operate with “default “cultures. When there is a lack of alignment between the values of the culture of the organisation and the personal values of employees, the result is low performance, which can lead to poor quality of service. The frustrations experienced by research participants point to this reality.

5.5 CIVIL SOCIETY

Civil society has a central role to play in fighting for the delivery of effective and efficient service delivery and monitoring public services, denouncing bribery to raising awareness of all stakeholders. Civil society acts as an independent actor representing the interests of the general public and is uniquely positioned to denounce poor practice and create pressure for redress and reform. Government departments therefore have to take measures to enable and strengthen civil society participation. More recently it was evident that the role of civil society in raising awareness of the ex-mineworkers in accessing their compensation was notably visible.

Recently, workshops have been started with stakeholders like the Chamber of Mines, trades unions, ex-mineworkers’ associations, on amendments of the current legislation. Stakeholder communication and consultation has been improved, and issues of ex-mineworkers’ compensation are on the agenda in multiple forums. Additionally, many development partners and NGOs have expressed interest in CCOD activities.

In promoting these mandates and others, the Commission has realised the integration of the Medical Bureau for Occupational Diseases (MBOD) and the Compensation Fund activities (CCOD), the establishment of two One Stop Support Centres and improved stakeholder communication and consultation.

The experience of those citizens who are the intended beneficiaries of government services are a key factor in measuring the performance of government departments and for the delivery of appropriate and quality services. The National Development Plan of South Africa emphasizes the importance of fostering active citizens and building a capable and developmental state. Citizen-based monitoring supports this through the production of, and engagement around, evidence of government performance. Research participants argued that ex-mineworkers were not receiving their benefits because they were either unaware that the funds were available to them or they were unable to gain access due to incorrect documentation, language barriers and distance. Some had passed away, some did not use the same names as they did when they were employed in the mines and their dependents could not prove that they were in line to benefit from these funds, and others were too ill to undertake the costly and labour-intensive process required to access their funds. Through civil society engagement these challenges are beginning to be addressed, albeit slowly. The important conclusion is that the process of engagement has begun.

Public participation exercises proved that education, collaboration, standardisation and capacity-building were the emerging categories and such was necessary to help take the money out of the funds and to put it into the hands of those who needed it most. The Southern Africa Trust (SATS) has been set up to assist those in poverty and ensure they are heard. Ex-mineworkers need access to their benefits and attention must be

given to all categories of mineworkers through collaboration and collective solutions.

Strengthening the involvement of citizens in monitoring service delivery does not imply the creation of new public participation structures. Instead it offers an opportunity to strengthen existing platforms and processes, through providing tools and methodologies to strengthen their value to both citizens and government as some of the ex-mineworkers explained: “We do not want to contribute to poverty eradication, but we also want to find tools to resolve it, and we are looking to find ways of unlocking the funds for ex-mineworkers through discussions, commissions and other platforms.” Current studies indicate very high numbers of ex-mineworkers who cannot access their compensation and other social security benefits.

Rand Mutual Assurance (RMA) has made provision for outstanding claims amounting to R180.7 million in 2012 and R174.2 million in 2011 according to a representative of the industry. Participants attested that in the context of the RMA, provision for outstanding claims is based on “the best estimate, using past experience, of the amount that had been reported to the group but not yet finalised.” The lack of administrative co-operation between institutions, cumbersome document requirements, difficulties in determining how benefits are computed, differences in national banking systems and restrictions on the links between illness and employment formed the basis of the civil society understanding of the system of ex-mineworker compensation.

Engaging citizens and civil society in monitoring service delivery performance can result in the following:

- Enhancing and complementing performance and improvement in service delivery;
- Improving programme implementation;
- Strengthening institutions, processes and systems; and

- Placing greater trust in government and promoting public confidence.

In such engagements with civil society the many challenges of tracing ex-mineworkers who may have worked under different identities and who may have moved, died or disappeared, can be more efficiently addressed. Locating the beneficiaries of the compensation fund demands a concerted effort by all parties as those who are entitled to the funds are often experiencing high levels of poverty and are unable to access health care or other necessities. Through civil society mobilisation the various Ministries and organisations that are dealing with these issues can work together more coherently. Partnerships are essential for success in such endeavours. A comprehensive approach is required to begin to improve the conditions of ex-mineworkers. While there are stories of injustice, corruption and suffering the overarching mood, with civil society, was one of forgiveness and a renewed commitment to resolving the challenges.

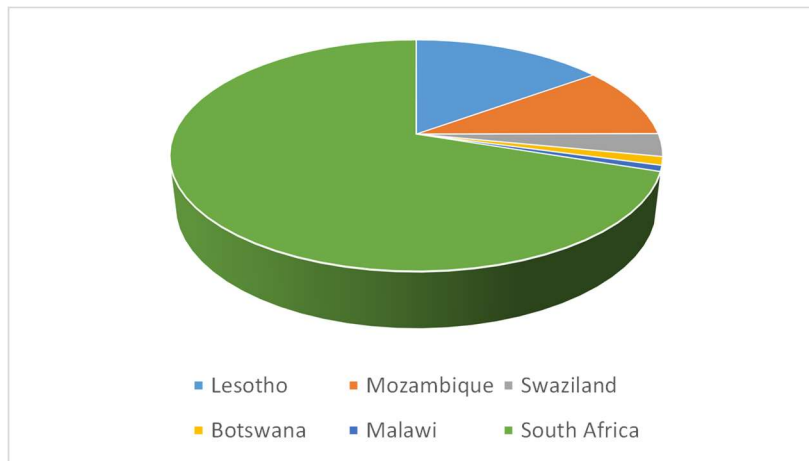
Mobilisation through civil society efforts has made significant impact in highlighting the case of ex-mineworkers. The case of South African ex-mineworkers who contracted disease has been taken to the courts in South Africa with such support. Their case was first filed in 2012 when 56 of the estimated 100,000 mineworkers requested a class action be instituted against 32 gold mining companies. Attorney Richard Spoor represents the applicants and observed that: “because the future of mineworkers was totally destroyed, a class action is therefore the only way to ensure that all the affected mineworkers and their families are compensated.”

Table 7: Results of ex-mineworkers being traced

AREA	TRACED
Lesotho	6979
Mozambique	4603
Swaziland	1478
Botswana	551
Malawi	380
South Africa	32465
TOTAL	46456

SOUTHERN AFRICA MINERS ASSOCIATION:REGIONAL DIALOGUE (2014)

Figure 24: Results of tracing ex-mineworkers by country



SOUTHERN AFRICA MINERS ASSOCIATION:REGIONAL DIALOGUE (2014)

During the interviews it emerged that the current compensation is wholly inadequate. “It has been like that for decades, and the industry has been aware of it and now that litigation is upon them, they have suddenly shown interest in trying to resurrect it.”, was the view of research participants. The proposed class action has the support of more than a thousand civil society members who have organised themselves in support of those affected.

Civil society can also support good governance, firstly by policy analysis and advocacy; secondly by regulation and monitoring of state performance and the action and behaviour of public officials; thirdly, by building social capital and enabling citizens to identify and articulate their values and beliefs; fourth, by mobilizing particular constituencies, particularly the

vulnerable and marginalised sections of the masses, to participate more fully; and lastly, by development work to improve the well-being of their own and other communities.

The perceptions of the majority of the research participants with regard to civil society was that the latter is an integral part of a democratic political system and that civil society participation was imperative to ensure credible societal input on ex-mineworker compensation. A similar and recent study on civil society participation in the African Peer Review Mechanism (APRM) established that "...civil society can also act as a necessary constraint on the power of government and facilitate governance improvements through its calls for, among other things, greater transparency and accountability" (Verwey, 2005). There are also those who argue that although civil society may be included in policy implementation, the contrary may also be even more efficient and effective.

A less participatory process may be more efficient in terms of avoiding long consultative processes, which may lead to administrative and even political paralysis. However, this argument militates against a credible public policy-making process. As some research participants indicated: "..... instead of just sharing information with people, the departments should afford people the opportunity to help shape policy". This will add to the credibility and the ownership of the policy problem, its successes and failures.

5.6 GOVERNMENT OFFICIALS

The World Development Report's 2004 framework identifies three different accountability relationships among citizens, politicians/policymakers and service providers (the political process, the relationship between politicians/policy makers and the last relationship considers how much pressure clients can use on service providers to ensure efficient delivery of services). Accountability is strongest when systems and process of delivery connect. Getting it right means that accountability relationships are all working

properly, reinforcing each other as a public service delivery system. Strengthening regulatory oversight is critical to holding systems and people accountable. Although the 1993 amendment of the Occupational Diseases in Mines and Works Act 78 of 1973 (ODMWA) brought about racial parity in compensation benefits, the infrastructure necessary to achieve equity has been lacking. Occupational health screening facilities are still almost entirely based in urban areas in which white workers have historically lived and not in the migrant labour-sending areas of South Africa.

Multiple breakdowns in both the long and short routes to accountability mean that reforms must be broader than those initiated by the current system of ex-mineworker compensation. While this may seem daunting and overly ambitious, the task does not involve introducing any new legal or policy frameworks. What is needed is consistent and effective implementation of the existing fiscal and sector policy frameworks already in place.

Typically, when a new programme is initiated, government departments formulate implementation processes without involving operations managers and end-users of the system. Clearly lacking is that in the implementation of the compensation system there are no formalised processes translated into operation manuals which could be continually updated as implementation experience accumulates. Programmes and systems would benefit from placing more effort on systematically building on implementation experiences. Statutory compensation through ODMWA is a lump sum payment equivalent to 18 months' salary if loss of lung function is assessed as being between 10% and 40%, and a lump sum payment equivalent to 36 months' salary (to a maximum of R84,000) if loss of lung function is between 40% and 100%.

Services are organised typically as supply-driven silos delivering outputs without user participation. Successful service delivery outcomes depend on

the government working together with end-users to design, implement and evaluate services with each holding the other accountable. From interviews conducted there appears to be greater levels of dissatisfaction with little evidence of evaluation of the system. Progress will come not from adding more resources and more delivery capacity but from creating systems that incentivise in order to achieve better outcomes and continually learn from experience.

The evolution of ex-mineworker compensation has to be seen in concurrence with a number of processes that evolved between the mines and government departments, which importantly led to processes intended to enhance compensation to ex-mineworkers. Government had not implemented its long-standing policy of improving compensation benefits for ex-mineworkers (under the auspices of the Department of Health) in line with those available for non-mineworkers (under the auspices of the Department of Labour), most likely because of increased and unfunded costs.

Research participants (ex-mineworkers) had little or no knowledge of the Occupational Disease for Mines and Works Act (ODMWA) and the Compensation of Occupational Injury on Duty Act (COIDA). A research participant explained how he is sent from one medical facility to the next, from the Department of Health to the Department of Labour, with no knowledge of the application requirements and no translation assistance provided from Xhosa to English.

The African National Congress (1994) observed that, "Development is not about the delivery of goods to a passive citizenry. It is about active involvement and growing empowerment. In taking this approach we are building on the many reforms, structures and negotiations that our people are involved in throughout the land". Two of the most important Batho Pele principles supporting effective service delivery are consultation and redress.

The Public Service Commission (PSC) assessed the application of these principles and concluded that, “Initial steps to improve service delivery in line with Batho Pele have had uneven success. Weaknesses include poor senior management involvement in the monitoring of the implementation of the principles. Such involvement would require holding officials to account without fear of reprisals such as none or poor delivery of services” (PSC, 2008).

Despite South Africa having a system of an Ombudsman and a Public Protector, access to these mechanisms by poor, illiterate ex-mineworkers presents a challenge. A deeper constraint exists in that even when there is an opportunity to redress complaints, monitoring and follow-through are “public goods” where the benefits accrue to the entire group while the costs are borne by a few. The fact that there are serious deficits in the system highlight the occurrence of a serious lack of accountability. To provide accountability to those requiring a service, but with the scope for poor people to complain individually is narrow.

Strengthening service accountability relationships requires fundamental transformations that must be approached with humility – no single, magic reform can make it simple. A comprehensive analysis of social services in Peru, for example, warns that complaining can lead to the fact that many reforms are often reversed after a short time because “providers” push the system back to an “equilibrium trap” of low expectations (Cotlear, 2006). Cotlear argues that when a system finds itself in this kind of low level equilibrium trap, a set of multifaceted reforms are needed to “shock” the system. Interview results show that the system is not working to the point of evaluating accountability as it appears this is limited.

As programme implementation on existing compensation proceeds, the implementing teams are almost never empowered to solve problems and update policies based on practical experience and participation by

beneficiaries and other stakeholders. Changes can usually be made slowly, if at all. Practical experience is often stored in the individuals who are implementing the programme and not in operational manuals; this could result in operational staff taking their implementation knowledge with them when they leave, thereby creating gaps in the system for new recruits.

The combination of knowing what services to deliver, agreeing on how to deliver these services and developing systems were not evidenced during the interviews. What emerged were the following:

- No model of service delivery;
- No mapped and co-ordinated business processes;
- No documented standard operating procedures;
- Non-existence of acceptable service standards;
- No agreed service charter;
- No documented evidence of improved productivity measures and improvements; and
- No service delivery improvement plans.

Former Deputy President Kgalema Motlanthe, speaking at the Government Leadership Summit in 2013, observed that, “The idea of a highly productive public service is to meet the basic needs of our people as well as contribute towards the development of our economy”. From the discussions held during interviews it is important to understand that the following do not work when attempting to improve any system: Co-ordination initiatives will not usually work without considerable time and resources. Other barriers include:

- Lack of skilled programme leaders, practitioners and staff;
- Risk-averse organisational cultures;
- Inflexible organisational structures or service delivery models, including “silo”-based frameworks;

- A “one size fits all” approach that ignores local diversity; and
- Programme partners that lack clearly defined roles or responsibilities.

Professor Ehrlich from the University of Cape Town School of Public Health and Family Medicine explains that:

Workers compensation legislation, which dates from the second decade of the 20th century in South Africa, effectively monetises loss of employment opportunities and permanent impairment suffered as a result of an occupational injury or disease. Notwithstanding the paltriness of the pay-outs, black ex-mineworkers have had very little access to the system. Even when they did have access, it was not unusual for them to wait up to five years for their payment.

5.7 CONCLUSION

It is apparent based on evidence from primary and secondary sources that a number of stakeholders were prominent in the development and implementation of ex-mineworker compensation systems and operations. With regard to participation and representative democracy, it was found that mere formal expressions of democracy were not adequate and that the involvement of people in shaping policy and making the process more legitimate was not in evidence.

Deficits that need to be addressed include improved planning that views the compensation processes holistically and not in isolation. The high level of management deficit on which the compensation system is reliant was emphasised.

Transforming the ex-mineworker compensation system into an instrument capable of fulfilling its role in bringing about new reforms depends on many things, but above all it depends on the commitment and effectiveness of all stakeholders, which in turn depends on the way in which those stakeholders

are managed. Central, therefore, to the transformation of any system is the attitudes of people towards change and development.

The recommendations and suggestions for areas requiring greater attention are presented in the next chapter.

CHAPTER SIX

CONCLUSIONS ANDRECOMMENDATIONS

6.1 INTRODUCTION

This concluding chapter summarises the findings from this study and discusses recommendations and suggestions for the design, implementation and maintained sustainability of an accessible compensation system for ex-mineworkers in the Eastern Cape.

The purpose of this research was to explore reasons for the low compensation uptake, examine systems and inform changes that would improve access to compensation for ex-mineworkers in the Eastern Cape, Oliver Tambo District, within the Department of Health. The purpose of this research was therefore:

- To investigate the factors leading to poor governance of the compensation paid to ex-mineworkers in the OR Tambo District of the Eastern Cape;
- To present the findings on the governance challenges of compensation paid to ex-mineworkers in the OR Tambo District of the Eastern Cape;
- To interpret and analyse the findings of the governance challenges related to ex-mineworkers' compensation; and
- To recommend strategies for consideration in the implementation of the governance challenges related to ex-mineworkers' compensation.

The White Paper on Public Service Transformation (1995) indicates that many of the challenges from the past did not automatically disappear when the new government came into power in May 1994. In its endeavour to

create equitable systems of management, government embarked on strategies to capacitate officials and managers. One such programme entitled “From Management to Leadership” was presented to Senior Managers. The presentation emphasised flexible modes of management. It captured concepts such as customer-driven, cost-effectiveness, fast and flexible service delivery and continually improving organizational norms. Such presentations related the above concepts to the impact and role of leadership in bringing about transformation. More than two decades later, however, the system has not addressed such challenges and where it attempts to do so it encounters resistance from workers who do not acknowledge the need to transform.

At the time of commencing this study a number of ex-mineworkers had taken their concerns through institutions of civil society, highlighting their situation related to compensation. This research report comes at a time when ex-mineworkers have received news that two major mining houses (Anglo Gold Ashanti and Anglo American South Africa) have agreed to pay compensation in the outcome of a landmark legal case. Whilst this announcement is welcomed there are many ex-mineworkers who do not suffer from Silicosis but who still need to be compensated.

The 4,365 claimants in the above matter sued the mining companies for dust-related lung diseases, Silicosis and Silico-Tuberculosis, which they claim were contracted from working in unsafe conditions in the mines. The claims were instituted from 2012 and are completely separate from the Silicosis class action proceedings that are currently awaiting a decision on certification from the Johannesburg High Court. “Sick ex-mineworkers have effectively been left on the scrap heap by the mines and thousands of Silicosis victims must have died uncompensated during a period when the industry should have been well aware of their predicament and its cause”, explained Zanele Mbuyisa in representing the 4,365 claimants.

Streamlining the policy and legal instruments for compensating occupational diseases for mineworkers and ex-mineworkers remains a challenge for the Government of South Africa. The Occupational Disease for Mines and Works Act 78 of 1973 was undermined by significant deficiencies with specific reference to its definitions, scope and coverage of workers and ex-workers in mines and works as it related to medical assessment (clinical evaluations), claims management and compensation. Leigh and Robbins (2004) expanded this understanding in elaborating that administrative delays coupled with logistical hurdles prevented the system from functioning well and resulted in many eligible workers and ex-workers having no access to medical evaluations as well as qualified claims having gone unfiled or unanswered.

For over a century, legislation has been in place aimed at compensating South African mineworkers who contracted an occupational lung disease but the system, manipulated by racial inequality for much of its existence is highly dysfunctional (Murray, 2011). The Miners' Phthisis Act of 1912 succeeded the 1911 Act which established both the Miners' Phthisis Compensation Fund and the Miners' Phthisis Insurance Fund (Murray, 2011). In terms of the 1912 Act, a board appointed by the Minister was responsible for the administration of the Funds. Parliament contributed to the Compensation Fund while the Insurance fund was financed by levies contributed by the employers (Rees, 2011). The 1912 Act was amended by the Miners' Phthisis Amendment Act of 1914 where a board was again entrusted with the responsibility for distributing compensatory awards to mineworkers, ex-mineworkers and their dependents.

Against this background, safety and health at work were at the heart of the system of social security. The occupational health and safety system played a crucial role in protecting employees against occupational injuries and diseases in their workplace. The occupational health and safety system had far-reaching implications for the contract of employment as well as the lives

of individuals, their families and communities (Tshoose, PER/PELJ 2011 (14)7).

6.2 CONCLUSIONS

Transforming services within government departments into an instrument capable of fulfilling its role in bringing about the required democratic improvements in South Africa depends on many things, but above all it depends on the commitment and effectiveness of officials themselves, which in turn depends on the way in which the officials are managed. Transformation in the realisation of good governance is therefore influenced by the way in which such officials are managed, and the attitudes of those in whose hands service delivery is located and how such officials respond to change and development.

Chenail (1984) postulates that organisational culture includes basic underlying assumptions that are beyond the individual's level of awareness of his/her values, a host of non-arguable, innate convictions which are invisible. Basic assumptions which are reinforced overtime and remain unquestioned move into the subconscious. Even though assumptions may be hidden to the individual, they are not necessarily hidden to others. Thus, they may have a significant bearing on the health and viability of organisational life, affecting its development.

Koehler (1998) cites the following principles of transformational leadership through systems of good governance:

- View the organisation as a system;
- Establish and communicate the organisation's strategy;
- Institutionalise a system of good management;
- Develop and train all personnel in process management;
- Empower individuals and teams;

- Measure and control processes;
- Recognise and reward continuous improvement; and
- Inspire continuous change.

While the demands placed on South Africa by international prescripts, the NPM and the new right, in particular, cannot be disregarded, the element of timing and uncalculated responses can be damaging in the long term. For a system to succeed communication; linking of the programme on compensation to other initiatives; consistency in the application of rules; mechanisms for dealing with dissatisfaction; transparency; continuous feedback; clarity of goals; team versus individual performance; and work design will all need to be considered.

6.3 PURPOSE STATEMENT

The purpose of this research was to explore reasons for the low compensation uptake, examine systems and inform changes that would improve access to compensation for ex-mineworkers in the Eastern Cape, in the Oliver Tambo District, within the Department of Health.

Government had not implemented its long-standing policy of improving compensation benefits for mineworkers which was under the auspices of the Department of Health in accordance with those available for non-mineworkers which was located in the Department of Labour, possibly because of the increased and unfunded costs involved (Murray, Davies & Rees, 2011). Furthermore, there was a need to examine the reasons for ex-mineworkers in the Eastern Cape not accessing compensation for occupational injury from the Department of Health.

The research questions to be addressed were the following:

- What were the factors leading to challenges in governance that resulted in the poor uptake of ex-mineworkers' compensation?
- What were the trends in the governance of ex-mineworkers' compensation?
- What were the strategies for consideration in the implementation of good governance of ex-mineworkers' compensation?
- What were the recommendations for consideration in the implementation of good governance of ex-mineworkers' compensation?
- What barriers were there that prevented ex-mineworkers in the Eastern Cape's OR Tambo District from accessing compensation for occupational injury from the Department of Health?

6.3.1 Literature Review

The literature review examined the background of ex-mineworker compensation as it had evolved over time and provided an overview of literature on compensation in South Africa and internationally, having drawn on the views of writers closely related to the subject. It then looked at the background literature on ex-mineworkers' compensation, specifically in South Africa. The literature review then focused on emerging issues, trends and challenges of governance in ensuring a more effective form of service delivery to ex-mineworkers.

The international literature was sourced mainly to provide the history of compensation and the role of governance in a globalised context in which it was executed. The main focus of the review was on academic writing from the post-apartheid era in South Africa. Most of the literature sourced would therefore have emanated from 2000 to the present time.

6.3.2 Methodology

This study was concerned with gaining a better understanding of why ex-mineworkers in the OR Tambo District of the Eastern Cape Province of South Africa were not accessing their compensation benefits, rather than to measure certain outputs and outcomes. It was primarily interested in gaining an in-depth understanding of how information is being disseminated and how it is being influenced by different variables. A qualitative approach was chosen in order to portray the detailed understanding and specific dynamics experienced by ex-mineworkers in accessing compensation benefits from the Department of Health. Qualitative research can be used to study problems as they occur within their natural setting, through the collection of qualitative data which is sensitive to the people, places and institutions under study, with an analysis that is able to provide a set of patterns or themes relevant to the study (Creswell, 2007).

This research was conducted with the aim of improving the quality of compensation processes and strengthening the governance capacity of management at District level. As the research was located within these two aims it described what existed and also aimed to promote change in the District being studied. Taking a participatory approach was intended to generate a sense of ownership for the implementation of the possible recommendations and increase the chances of learning taking place.

6.3.3 Findings

Research participants responded by citing the following as factors leading to poor governance of the compensation paid to ex-mineworkers in the OR Tambo District of the Eastern Cape:

- Understaffing;
- Poor access by Black ex-mineworkers to medical examinations and claim processes;
- Poor administration;

- Poor communication on existing policies and steps to be followed;
- Inability to address the huge backlog of unpaid compensation;
- Outdated legal framework (touched on by a few respondents);
- Detailed legacy issues;
- Legal complications by the existing legal frameworks;
- Lack of management capacity;
- Lack of financial records and resources; and
- Outdated systems in Information Technology and within the Registry system.

As programme implementation on existing compensation proceeds, the implementing teams are almost never empowered to solve problems and update policies based on practical experience and participation by beneficiaries and other stakeholders. Changes are usually made slowly, if at all. Furthermore, practical experience is often stored in the individuals who are implementing the programme and not in operational manuals; this could result in operational staff taking their institutional knowledge with them when they leave, thereby creating deficits in the system for new recruits.

The combination of knowing what services to deliver, agreeing on how to deliver these services and developing systems were not in evidence during the interviews. What emerged were the following:

- No model of service delivery;
- No mapped and co-ordinated business processes;
- No documented standard operating procedures;
- Non-existence of acceptable service standards;
- No agreed service charter;
- No documented evidence of improved productivity measures and improvements; and
- No service delivery improvement plans.

6.3.4 Interpretation and analysis

From the analysis of information obtained during interviews with research participants, as presented in Chapter 4 of this report, and through discussions, the following conclusions were drawn:

1. The officials in government could not relate management transformation to present-day operations. They complained more than addressing the present situation of poor service delivery to ex-mineworkers in accessing their compensation benefits.
2. There was no obvious finding of assessing those interviewed to show if they belonged to the new or old guard. Whilst there was acknowledgement that there was a need for change of approach, attitude and systems, its impact was of no significance given the history of the problem as explained in Chapters 1 and 2. Therefore it could be concluded that officials need to be exposed to a new system of governance that is aligned with the new dispensation.
3. From the complaints and seemingly conflictual situations within the minds of managers and functionaries on the move from “management to leadership”, it is evident that the managers over-define the rules of bureaucracy, thus finding it difficult to break their own rules in daily operations. Such an attitude often leads to managers becoming less responsive, thereby supporting the status quo and compromising the flexibility required to adapt to change.

6.4 RECOMMENDATIONS

In order to improve access to the system of compensation for ex-mineworkers, government and stakeholders will need to give serious attention to implementing the broad principles of the King III principles of good governance which include, amongst others,

- Effective leadership where leaders are able to define strategy, provide direction and establish the ethics and values that will influence and guide practices and behaviour with regard to sustainability.
- There needs to be a fundamental shift in how organisations organise themselves towards sustainability.
- Innovation, fairness and collaboration are key aspects of any transition to sustainability.
- Social transformation and redress.
- Government departments that comply with all applicable laws. In this regard outdated legal frameworks do not lend themselves to present day implementation. ODMWA has to be rewritten to incorporate current realities and address issues of compliance. South Africa has started such a process but it has to be developed and concluded at a faster pace.
- Governance is underpinned by an acceptance of accountability and responsibility for action.
- Incorporating a stakeholder-inclusive approach which is essential to the process of joint and individual accountability. South Africa has commenced such a process and needs to build on the initiative.
- Developing a framework tailored to the specific needs of the system to support internal financial controls.

Table 8: Recommendations

NO.	ASPECT	DESCRIPTION
1.	Collaboration	<ul style="list-style-type: none"> • Designing of framework involving all stakeholders • Framework needs to encompass the roles and responsibilities of all stakeholders • Ensure country and exchange visits to learn best practice • Enhance capacity building • Engage governments, ex-mineworker associations, funders and sponsors
2.	Co-ordination	<ul style="list-style-type: none"> • Disbursement schedule for ex-mineworkers' benefits • Capacity building for all stakeholders
3.	Capacity building	<ul style="list-style-type: none"> • To undertake a needs analysis on the different capacities needed • Strengthen national associations and consider using them as tracing agents
4.	Database co-ordination	<ul style="list-style-type: none"> • Stakeholders to consolidate a national database of all ex-mineworkers

6.4.1 Problem statement

Government had not implemented its long-standing policy of improving compensation benefits for mineworkers (under the auspices of the Department of Health) in accordance with those available for non-mineworkers (under the auspices of the Department of Labour) possibly due to increased costs that were not adequately funded (Murray, Davies & Rees, 2011).

The major issue for many former mineworkers who were eligible for compensation was the bureaucratic hurdles that had to be overcome. The

body responsible for certifying mineworker claims was the Medical Bureau for Occupational Disease (MBOD) to which a number of documents had to be submitted and which did not have systems which allowed for efficient processing of such documents.

In South Africa, mineworkers' compensation was handled differently to other forms of worker compensation. General compensation for disease contracted in the course of work was handled by the Compensation for Occupational Injuries and Diseases Act (COIDA) under the Department of Labour. Mineworkers' compensation was treated separately under the Occupational Diseases in Mines and Works Act (ODMWA) within the Department of Health.

No investigation of the equity of the ODMWA compensation system had previously been undertaken. It was suggested that it was a discriminatory system that was a cheap form of compensation which served as a subsidy to the mining industry in that it externalized the costs of occupationally acquired lung disease. The labour-sending communities which provided large numbers of migrant mineworkers to the mining industry were likely to have had a high prevalence of silicosis which would have a severe social impact, having intensified deprivation and poverty amongst former mineworkers and their families, as well as within their communities (Terreblanche, 2002).

The implications of this system of compensation for occupationally acquired diseases for the former mineworkers themselves, for their families and communities, and for the public health sector required further investigation. The historical burden of disease had not been properly researched and documented and this was exacerbated by increasing retrenchments in the last decade with greater numbers of mineworkers returning to the traditional labour-sending areas of South Africa.

An assessment of findings from research undertaken since 1997 along with data from official sources strongly indicated that this was an historically neglected subject which was a highly under-researched and undocumented area of health and occupational disease compensation in South Africa.

From the interviews conducted with ex-mineworkers and their leaders it was obvious that the non-payment of compensation to claimants and their beneficiaries was as a result of poor attitude, lack of willingness to assist and overall incapacity. This brings in the elements of timeous delivery and the likely impact of failure to honour promises on claimant morale. Spitzer (1996) in cautioning against these mistakes says that organisations often make the mistake of implementing interventions when other priorities are competing for the organisation's attention and resources. No matter how great the intervention, the timing must be right.

6.4.2 Unit of analysis

Against this background the researcher chose to interview research participants using qualitative methodology. The researcher believes a strong rationale exists for choosing a qualitative approach. Since the intention of this research is to explore reasons why the uptake of compensation amongst ex-mineworkers in the, OR Tambo District of the Eastern Cape is so low, a qualitative approach was best suited to this study because of the nature of the research questions. The research did not intend to conduct a comparison of groups or examine a relationship between variables.

A qualitative approach suited this research study as the topic needed to be explored, and there were no theories available to explain the population views. The theories needed to be developed. A qualitative approach was chosen to study individuals in their natural setting which would involve going out to the setting, gaining access and gathering material. The researcher undertook a role as an active learner who would be able to tell the story from

the participants' point of view rather than as an 'expert' who passed judgement on participants.

The focus of this research was limited to the Eastern Cape's OR Tambo District. In particular, specific attention was given to the Province's health department as well as institutions responsible for payment of compensation. The reasons that informed the location of the study in the Eastern Cape rather than in other provinces were:

- The Eastern Cape remains by far the largest labour-sending area in South Africa. Available statistics indicated a very low uptake of ex-mineworker compensation.
- Since 1994 the demographics of the province resulted in a shift in migratory patterns of ex-mineworkers, often making them inaccessible to existing compensation processes.

Data was collected through structured personal interviews with ex-mineworkers in the Eastern Cape, officials responsible for administering compensation for ex-mineworkers, the Compensation Commissioner, officials responsible for payment of compensation and a sample of representatives of mining companies responsible for administering compensation from the workplace. The questions were related to the content, context, processes and stakeholder implementation of systems currently in place. Data was gathered in a focussed group interview of those responsible for the system of compensation of ex-mineworkers with the assistance of an isiXhosa interpreter.

The research design that was adopted was phenomenology as the research question did not lend itself to grounded theory, case study, ethnographic study or a narrative analysis.

6.4.2.1 Global

Collusion between state and industry, as well as the international nature of the workforce, creates an opportunity for regional and global agencies to exert pressure. The intervention of international agencies could strengthen the hands of those advocating improved conditions for current and ex-mineworkers and, potentially, facilitate the international collaboration required to address the regional problem. Yet while such institutions have previously attempted to promote reform, the results are discouraging.

There are parallels with the scandals over Silicosis and Black Lung in the United States and more recently with mineworker's asthma and bronchitis in the United Kingdom. In both these cases recognition of occupational injury followed by compensation took decades to achieve. The system of medical examinations at the MBOD was not adequate to identify first stage silicosis. The Departments of Health, Labour and Mineral Resources enjoyed a monopoly over the data on disease, and took little care over workers once they left the industry.

In 1999 the biggest industrial injuries case in British legal history offered hope to ex-mineworkers in the coal mines as they won a record compensation pay-out. This was of benefit to mineworkers around the world, including Australia. This settlement was valued at a maximum of £3-billion pounds worldwide to ex-mineworkers suffering pulmonary diseases as a result of working in its coal mines in the 1950's.

In Australia, the overriding purpose of the workers' compensation legislation is to impose a liability on employers to compensate employees for injuries sustained in industrial accidents and for industrially-induced diseases whether or not the employer was 'at fault', in that the employer intentionally or negligently caused or contributed to the accident or disease. The

legislation draws a distinction, for the purposes of quantification of compensation, between total and partial incapacity.

6.4.2.2 Region

Based on the international basket of goods and using New York as the comparison base, Luanda, the capital of Angola, is 46% more expensive in cost of living. It is often cited as the most expensive city in the world, even excluding additional factors such as education and accommodation. If the main cities of Nigeria, Ghana and Mozambique are seen as being roughly equal to New York in cost of living, then 15 other capital cities in Africa are more expensive, while 14 are cheaper (with Addis Ababa as the cheapest) – a more diverse picture than one might expect.

The Zambian economy has historically been based on the copper mining industry, and the mining and refining of copper constitutes the largest industry in the country. In 2002, following privatisation of the industry, copper production rebounded. Improvements in the world copper market ensured that the sector grew by 7.4% in 2010, and other minerals are also mined.

The last four years have seen a surge in mining activities throughout Sub-Saharan Africa, partly in response to policies of economic liberalisation, privatisation and favourable conditions for foreign investment. The renewed interest in mining activities comes as a result of a boom in commodity prices occasioned by increased demand from China or India. Zambia provides a good example of a country where improved resource prices, in this case for copper, and a favourable investment climate, have prompted an inflow of capital.

What did Zambia not do right? Before privatisation, there was already a crisis of poverty on the Copperbelt as Zambia's compensation provision

slowly worsened. This was exacerbated when the new investors refused to take on the company's liability to workers who had given a lifetime of service to develop the mining industry, insisting that the government must pay. For the moment, government and mining companies appear to be in denial.

What is Zambia attempting to do right? This includes:

- Making public commitments to respect Zambian legal frameworks and to co-operate with regulatory bodies;
- Opening their books and systems to public scrutiny;
- Increasing technology transfer; and
- Strengthening the Chamber of Mines as a representative body.

To bridge the communication gap in mining countries within the Southern African Development Community, the Southern Africa Trust introduced a brochure in five of the most commonly spoken languages. Titled "Ensuring access to social security benefits and workplace compensation in the mining industry", it provides a directory of agencies and procedures aimed at providing access to accurate information of the seven compensation institutions. This has contributed to improved and more effective communication.

Although many challenges remain, and benefits are still owing to thousands of ex-mineworkers and their families, with greater co-ordination, collaboration and the dissemination of information, predominantly by mineworker associations and government departments, many ex-mineworkers have since received their benefits and thousands of other potential claimants have been identified.

6.4.2.3 South Africa

President Jacob Zuma on 30th June 2015 presented the response of the South African government to improving situations for mineworkers and their families and to changing the face of mining in South Africa by working with business, labour, the mining industry and other relevant stakeholders. In this initiative South Africa committed to the following:

- Dedicating an overall R18 billion to ongoing work in distressed mining communities with the Eastern Cape being one of the beneficiaries. The bulk of this funding is from government.
- Undertaking a socio-economic diagnostic study of 15 prioritised mining towns to better understand the extent of the challenges and to determine the most appropriate actions to address those.
- Drawing lessons from other countries such as the Australia-Africa Partnership Facility which is being used to benchmark the policy and regulatory system governing the mining sector in Australia, Chile, South Africa and Zambia.
- The Department of Health together with the Departments of Labour and Mineral Resources are working towards alignment of the industry's occupational health and safety policies and the required legislative changes to facilitate ease of compensation and other benefits towards an enhanced social protection system. This will include the positive reorganisation of the compensation system and access to benefits for ex-mineworkers and current mineworkers.

The challenge to the ex-mineworker compensation system in South Africa is the actual governance of the system of compensation. South Africa has made significant strides in addressing issues of governance since 1994 period in relation to leadership, sustainability and corporate citizenship. In the era of the new democratic order in South Africa, government needs to take cognisance of the demand for service delivery to the majority of the

population, which in reality is not urban-based. Ex-mineworkers are located in remote rural areas of South Africa and in this report the focus is on the Eastern Cape Province.

6.4.2.4 Eastern Cape Province

The situation in the Province has been known by the mining sector for many years, during which time little has changed in the Eastern Cape. Thousands of Silicosis victims have most likely been deprived of statutory compensation to which they were entitled and which they could have used to assist themselves and their families. The industry has been slow to move on issues of compensation for ex-mineworkers.

On 11th May 2010 the Office of the Chief Whip of the African National Congress in South Africa welcomed the commitment of the Department of Labour to speedily resolve the plight of ex-mineworkers protesting over the non-payment of benefits. The Department of Labour, which is represented in the inter-governmental task team set up to look into the problems of compensation for ex-mineworkers undertook to keep them updated on the processes meant to resolve their problems.

Up until 2012, very little was done to address the plight of ex-mineworkers on compensation benefits in the Eastern Cape, which constituted 31% of the workforce in South African mines. Chapters one and two of this report describe the background to the problems of ex-mineworker compensation.

The crisis in relation to compensation was then addressed albeit on a small scale. The inter-governmental task team operationalised its mandate and began to address the plight of ex-mineworkers by fulfilling its 2010 mandate as directed by Cabinet. The ex-mineworkers were to be tracked and traced and paid their compensation. The Department of Health tracked and traced 18,569 ex-mineworkers and paid them a “once-off” compensation amount

of R2,700. It was at that point it was realised that the services were located too far away from the claimants. Accessing services in Johannesburg for claimants from the Eastern Cape was a challenge as previously explained.

In improving services, the idea of collaboration with key stakeholders developed and in this partnership the concept of decentralising services was discussed. Several workshops with stakeholders proved successful in partnering with government to address the crisis. Former Deputy President Kgalema Motlanthe, in opening the One Stop Service Centre in Mthatha, observed that,

“.... historically, there has been a fragmented approach to the provision of social services for mineworkers. Of particular concern for a very long time there has been the issue of inhumane conditions under which mineworkers live and work..... these are the issues we have been grappling with since the dawn of our democracy and we continue to do so today”.

Since the launch of the Mthatha One Stop Service Centre in the OR Tambo District of the Eastern Cape, more than 5,000 ex-mineworkers have passed through its doors. Taking the service to the people has promoted greater access.

The challenge of processing claims which is centrally managed in Johannesburg also received a boost from the mining sector with some 104,000 certified claims are in the process of being paid through the Department of Health’s “Project Ku-Riha” launched by the Minister of Health, Dr Aaron Motsoaledi in May 2015.

6.4.2.5 Community

Judge Boshoff, in *Van Deventer vs Workmen’s Compensation Commissioner*, summarised the duty of the employer as follows:

An employer owes a common law duty to a workman to take reasonable care for his safety. The question arises in each particular case what reasonable care is required. This is a question of fact and depends upon the circumstances of each particular case. A [master] employer is in the first place under a duty to see that his servants [employees] do not suffer through his personal negligence, such as failure to secure a safe working environment and a failure to provide [a] proper and suitable plant, if he knows or ought to have known such failure.

At the Commission of Enquiry into the Health and Safety of Miners in 1994, the submission of the industry association, the Chamber of Mines, paid little attention to occupational disease and its implications, while emphasizing the socioeconomic benefits of mining (Chamber of Mines of South Africa, 1994). In general, the threats to the industry of rising costs and declining ore grades are central to narratives in defence of the mining industry's actions, as explained by Ehrlich (2007). What is almost always missing from such narratives are the voices of Black mineworkers (both current and past) and an attempt at an honest accounting of the toll in health and life against the socioeconomic benefits the industry has brought to Southern Africa. It is undoubtedly true that the mining industry laid the basis of industrialisation and of the modern South Africa and, for example, through the industry's support of tertiary education, many people have been beneficiaries.

However, the question remains as to the limited synergy between the modern beneficiaries and casualties of the system. The mining sector has existed for an extensive period. There is a concern that pulmonary disease amongst ex-mineworkers continues to increase, it continues to be hidden from view, there appears to be little proper accounting of the costs being borne in the most remote regions of the country, and the compensation system continues to operate inadequately.

The path to socioeconomic justice in this matter lies in the hands of the claimants (ex-mineworkers) themselves. In the service of such efforts to achieve justice, medical witnesses are urgently needed to prevent the historical experience of succeeding generations of ex-mineworkers from being overlooked or marginalised, argues Ehrlich (2007).

In May 2015 there was a public pronouncement which aimed at speeding up payments of compensation in a collaborative manner with all relevant stakeholders, known as Project KU-RIHA. Decentralised centres were opened to provide access to medical services to ex-mineworkers closer to home. Whilst this is clearly not enough, the process has had some success. Through such initiatives ex-mineworkers are being paid out on long outstanding applications for compensation. Minister Motsoaledi added that efforts are also being made to ensure that workers from neighbouring countries will be compensated. South Africa is to that end in partnership with the Global Fund to develop a single database of ex-mineworkers with outstanding claims for compensation.

6.5 CONCLUSION

Drawing on the theory of adaptive governance, a number of barriers to change can be identified. The ability of states to address risks is undermined by the cross-border flows of mineworkers, vested interests, and dispersion of responsibility across state institutions. There is a combination of multiple actors favouring effective action beset by a duplication of functions and an absence of leadership, coinciding with the presence of other actors holding different agendas. This situation has continued for at least a century, despite remarkable social and political changes in Southern Africa and widespread awareness of the need for action. It is only with the involvement of the international community, working with all stakeholders, that a new system of governance, adapted to the present community needs, can emerge to monitor progress, set norms and establish treatment protocols.

The Compensation Fund owes R1.5-billion to workers who developed occupational illnesses like Silicosis whilst working, according to Health Minister Dr Aaron Motsoaledi, who stated on 29 May 2015 in Carletonville: “I am here to pay back the money”. For the Honourable Minister to fulfil this mandate, contingency variables within the current structure of the Department need to be introduced to deal with the dynamic and complex nature of the environment. The emphasis within such a structure should be on trust, openness and an effort to promote collaboration. Creating more structures might not be enough but the strategic approach within the organisation needs to reflect the new culture. The problem is that the structure itself may not be free of the boundaries that the organisation has. The walls that exist between the different functions within the organisation are a reflection of external perceptions and views.

Re-designs that “throw down the walls” between different functions may have little enduring effect unless they also change the fragmented mental models that created the walls in the first place.

There are no off-the-shelf packages and answers to all the questions. For any programme to work, the uniqueness of the situation, strengths of the organisation, nature of the business and its strategy together with the calibre and commitment of its people needs to be carefully considered and accommodated. In addition to this there is no perfect system in place. This requires a constant evaluation and monitoring of the system. Lack of monitoring and evaluation has rendered a number of good policies ineffective.

What has emerged from this research is that the timing is right since ex-mineworkers and organs of civil society are making their voices known with regard to the unfairness of the system which deepens poverty amongst ex-mineworkers. The challenges are acknowledged and further research in this area must be considered to evaluate the system a decade or less from now.

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