

**A CRITICAL ANALYSIS OF BROAD-BASED BLACK ECONOMIC
EMPOWERMENT IN THE MINING SECTOR**

by

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ABSTRACT

Broad Based Black Economic Empowerment (B-BBEE) is arguably the most talked about issue in the South African business environment today. This study critically examines this contentious multifaceted phenomenon with particular reference to how it manifests in the mining sector and what its impact on the mining industry has been. The study is located within a qualitative (phenomenological) paradigm that makes use of a case study approach to explore descriptive, illustrative and explanatory dimensions of the B-BBEE phenomenon.

The study employs a research methodology that utilizes sampling, data collection and data analysis methods that are aligned to both the research objectives and theoretical underpinnings of the research paradigm. Primary data was collected from a small but highly selective sample of prominent individuals representing organisations that have a national footprint in the mining sector. The data was collected by utilizing semi-structured interviews. These interviews were based on an interview guide consisting of predominantly open-ended questions. Secondary data was collected through a literature review that tapped into the most current information on B-BBEE. Data was analysed by using an innovative yet pragmatic combination of the cognitive mapping and general inductive method processes linked to the presentation of information on specially adapted insight slides.

A number of important findings emerged from the study. The study found that B-BBEE implementation was still not progressing as well as initially anticipated. Reasons for the slow pace of implementation included nefarious practices such as fronting, nepotism and corruption as well as the wide scale utilization of inappropriate funding structures such as Special Purpose Vehicles (SPV's) to fund B-BBEE transactions. The study also highlighted the hegemonic perception in the mining sector that the legislative and policy framework, within which the B-BBEE is located, is adequate and that greater emphasis must rather be placed on the actual implementation of the B-BBEE process.

The study also identified a number of gaps in the existing body of knowledge on B-BBEE. It provides a range of suggestions for research that can further examine the B-BBEE phenomenon from different points of departure including approaches emanating from academic disciplines such as economics, corporate finance, contemporary business and strategic management theory, human resources management and organizational behaviour, to name just a few.

Finally, the study proffers a set of recommendations that may be useful in helping the mining sector in its continued attempts to improve B-BBEE implementation. The study gives credence to the view that B-BBEE implementation is and continues to be a serious challenge which is fraught with difficulty, frustration and disappointment. However despite this, the study also highlights the fact that there is ample scope and opportunity for improving and refining the implementation of B-BBEE in the mining sector.

B-BBEE has clearly been beneficial to black people as is evident from the increase in a number of black people occupying managerial positions and the increase in the equity ownership of firms listed in the JSE, as well as the extensive progress made with regard to the legislative framework within which B-BBEE is located. The study shows that B-BBEE is here to stay and that in future more effort is likely to be put in place, to ensure that historically disadvantaged individuals are brought squarely into the economic mainstream.

DECLARATION

I, Stanley Sydney de Klerk, declare that this dissertation is my own unaided work. Any assistance that I have received has been duly acknowledged in the dissertation. It is submitted in partial fulfillment of the requirements for the degree of Master of Commerce at the University of Johannesburg. It has not been submitted before for any degree or examination at this or at any other university.

Stanley Sydney de Klerk

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OF
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DEDICATION

This work is dedicated to my beloved daughter Khensani de Klerk.



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LIST OF LAWS

The Constitution of the Republic of South Africa Act No 108 of 1996

The Employment Equity Act no. 55 of 1998

The Skills Development Act no. 97 of 1998

The Public Finance Management no 1 of 1999

The Skills Development Levy Act no 9 of 1999

The Preferential Procurement Act no 5 of 2000

The Broad Based Black economic Empowerment Act no 108 of 2003

The Minerals and Petroleum Resource Development Act no 28 of 2002

The Municipal Finance Management Act no 108 of 2003



LIST OF ACRONYMS AND ABBREVIATIONS

BEE	-	Black Economic Empowerment
B-BBEE	-	Broad-Based Black Economic Empowerment
B-BBEE Act	-	Broad-Based Black Economic Empowerment Act
BEE COM	-	Black Economic Empowerment Commission
COSATU	-	Congress of South Africa Trade Unions
DME	-	Department of Mineral and Energy Affairs
DTI	-	Department of Trade and Industry
EE Act	-	Employment Equity Act
ESOPS	-	Employee Share Ownership Programs
GDP	-	Gross Domestic Product
MFMA	-	Municipal Finance Management Act
NUM	-	National Union of Mineworkers
PFMA	-	Public Finance Management Act
PGM	-	Platinum group metals
PPFA	-	Preferential Procurement Act
RDP	-	Reconstruction and Development
SACP	-	South African Communist Party
SAMPPF	-	South Africa Mining Preferential Procurement
SAWIMA	-	South Africa Women in Mining Agency
SDA	-	Skills Development Act
SDLA	-	Skills Development Levy Act
SETA	-	Sector Education and Training Authorities
SPV	-	Special Purpose Vehicle

Chapter ONE

INTRODUCTION

1.1 Background

No other concepts in the field of business in South Africa have stimulated as much debate and controversy as Black Economic Empowerment (BEE) and Broad-Based Black Economic Empowerment (B-BBEE). Critics and adherents of these approaches range from the leftist position of the trade-unions who tend to see these approaches as being nothing more than a middle class inspired crony capitalist project, to the more widely accepted positions of empowerment pioneers such as Cyril Ramaphosa, Patrice Motsepe, Tokyo Sexwale, Saki Macozoma, Wendy Luhabe and others who believe that empowerment is the key mechanism in the struggle to deracialise the economy (Mangcu, Marcus, Shubane & Hadland, 2007:177)

Black Economic Empowerment (BEE) is defined as a government driven initiative to deracialise the economy by providing black people with an opportunity to own and manage mainstream economic resources (Jack & Harris, 2007:6). Jack & Harris (2007:6) go on further to describe BEE as a process aimed at:

“trying to achieve economic equality, not through redistribution, but through growth by promoting equal exposure to the mainstream economy for black and white people”

Broad-Based Black Economic Empowerment (B-BBEE) is defined as a broad based process aimed at *“the economic empowerment of black people, including women, workers, youth, people with disabilities and living in rural areas through diverse but integrated socio- economic strategies”* (Department of Trade and Industry , 2003:3). The emphasis in B-BBEE is on the involvement of significant numbers of Black people in the economic mainstream.

B-BBEE has evolved out of BEE through an evolutionary process consisting of three waves. The first wave was characterized by a narrow focus on ownership whereas the second and third waves are characterized by a more comprehensive and

encompassing process, covering a range of aspects beyond ownership such as employment equity, management control, enterprise development, human resource development, preferential procurement and corporate social responsibility. This process is discussed in greater detail in the literature review section of this study.

Jack & Harris (2007:5) in reflecting on the economic transformation sweeping across the country, state that the current transformation has its genesis in the repressive and exclusionist policies of the past. They state that:

“During the apartheid era, which came to an end in 1994, social engineering resulted in a gross imbalance in socio-economic status between Blacks and Whites. The exclusively white government engineered laws, first through colonialism and subsequently apartheid to monopolise the economic resources of the country “

This view finds resonance in the transformation document of the Department of Trade and Industry (DTI) which states that:

“Our country requires an economy that can meet the needs of all our economic citizens, our people and their enterprises in a sustainable manner. This will only be possible if our economy builds on the full potential of all persons and communities across the length and breadth of this country.
(Department of Trade and Industry, 2003: 4)

The same document goes further and states that:

“Government’s objective is to achieve this vision of an adaptive economy characterised by growth, employment and equity by 2014”
(Department of Trade and Industry, 2003: 4)

These statements are indicative of government’s intention to close the inequality gap and to deracialise ownership and participation patterns in the economy. This view is reiterated by Balshaw and Goldberg (2006:73) who contend that BBEE is arguably the greatest strategic issue, challenge, facing business in South Africa today.

Few can argue that B-BBEE, with its focus on the redistribution of wealth and opportunities to previously disadvantaged communities and individuals has become an integral part of South Africa’s business transformation process. So integral in fact, that B-BBEE has come to be seen as critical to the future viability of the South

African Economy. As Janisch (2006:1) points out, B-BBEE is one of the more important plans that the government has to ensure that, more people are skilled up and South Africa remains competitive in the workplace.

Small wonder then that the DTI's strategy document defines B-BBEE as:

“An integrated and coherent socio-economic process that directly contributes to the economic transformation of South Africa” (Department of Trade and Industry, 2003: 12)

The same document goes on to state that this economic transformation will only be brought about by ensuring significant increases in the numbers of Black people that manage own and control the country's economy (Department of Trade and Industry, 2003: 12)

The South African Business Map Guidebook (2006:139) taking its cue from the DTI's strategy document describes B-BBEE as:

“An extensive government policy devised to change the historical ownership patterns in the economy as well as the leadership profile of firms”

In order to effect this economic transformation, it is important to understand clearly the motives and rationale that underpin it. Jack & Harris (2007:15) argue that the need for economic transformation is based on three imperatives viz:

- A moral imperative
- A social imperative
- An economic growth imperative

With regard to the moral imperative, the objective is to correct the imbalance created by apartheid, since the apartheid government prevented Black people from participating in the economic mainstream. When apartheid came to an end, White people still had possession of most of the country's economic resources in the form of land and minerals. Access to these resources became impossible without political intervention (Jack & Harris, 2007:15).

The social imperative emanates from the fact that the wealth divide is a problem in most societies. However, in South Africa it is particularly acute and complicated

further by being denoted by racial categories. There is general acceptance that if South Africa is to continue along a capitalist course, the issue of widespread poverty must be addressed. Thus a key objective of B-BBEE is to bring poor people into the economic mainstream (Jack & Harris, 2007:15).

In accordance with the economic growth imperative, South Africa's high level of unemployment creates a need to ensure that jobs are created. The objective of B-BBEE in this regard, is to provide the opportunities and the skills to enable Black people to contribute more significantly to economic growth (Jack & Harris, 2007:15).

The aforementioned three imperatives have provided the impetus for the B-BBEE phenomena. The point of departure for B-BBEE is thus the creation of a morally and politically inspired socio economic transformation of South African society.

In order to achieve this socio-economic transformation, government has since the 1990's taken various tentative steps initially, and increasingly bold steps recently, to achieve greater diffusion of economic power into the black community. These steps have been recorded in new or amended legislation together with programmes and policy statements aimed at overcoming economic inequalities and underdevelopment (Mangcu et al, 2007:118).

This view is echoed by Mphuti (1999:35) who states that since the early 1990's government has taken steps to ensure that previously disadvantaged people are brought into the economic mainstream. This trend he argues has been aided and abetted by the passing of a plethora of legislation aimed at embedding B-BBEE as the centre piece of the government's transformation agenda.

In combating the legacy of disempowerment, the purpose of B-BBEE has been said to be composed of three separate but related contexts namely; direct empowerment, indirect empowerment and the promotion of human resource development (Financial Mail, 2003:26-28).

Balshaw and Goldberg (2005:97) elaborate on these separate contexts by stating that direct empowerment relates to the promotion of ownership and control by black persons, described in the literature as Africans, Coloureds and Indians. Indirect empowerment relates to the economic empowerment of historically disadvantaged

persons through the procurement of goods and services from historically disadvantaged firms. The promotion of human resources development relates primarily to the skills development of historically disadvantaged persons.

This quest to transform the economy has placed an imperative on all sectors to change the way in which they do business. This is evident from the attempts made in all sectors to adhere to the Codes of Good Practice, and to finalise their Industry Charters. The need to deliver on this imperative has recently been made more urgent by the publication and adoption of the B-BBEE Codes of Good Practice (Jack & Harris, 2007:20).

The Codes of Good Practice which were promulgated in 2007 essentially serve as a generic scorecard that guides both those companies that have a sector charter and those which do not. These codes place a business imperative on organisations across all sectors to address the seven strategic pillars of B-BBEE viz:

- Ownership Structure
- Management Control
- Employment Equity
- Skills Development
- Preferential Procurement
- Enterprise development
- Corporate social investment

In addition to the codes some industries make use of Industry Charters to guide B-BBEE implementation. These Industry Charters are designed to assist companies in these industries in the empowerment process by adapting the Codes of Good Practice to the specific and unique challenges and dynamics within each particular sector (Janisch, 2006:10).

Although B-BBEE is being implemented across all sectors, it is in the mining sector where most of the pioneering initiatives first saw light of day. This is borne out by the fact that the mining sector was the first sector to adopt a comprehensive transformation charter, in 2002, even prior to the promulgation of the B-BBEE Act in 2003. Over and above this, the mining sector continues to be a key contributor to the South African economy.

The ensuing section provides a synoptic overview of the contribution and relative importance of the mining industry in South Africa. According to the Chamber of Mines (2008:2), the following set of statistics pertains to the mining sector in 2006.

The sector accounted for 7% of gross domestic product (GDP) directly, although the indirect multiplier effects take the contribution to about 18.4% of GDP in total. The industry's contribution to GDP fell by 0.7% mainly because of the declines in investments recorded in 2004 and 2005 which manifested in lower overall mining production in 2006. The indirect multipliers include backward linkages, forward linkages and the induced effect via mining generated incomes (Chamber of Mines: 2007a:12).

The mining sector was directly accountable for 6.5% of total fixed investment and for 9.1% of the total private sector investment versus 6.3% and 8.7% respectively in 2005. If the multiplier effect is taken into account mining helped generate about 16% of total investment in the economy. The reason for the rise in contribution of mining is the encouraging recovery in real mining investment that grew by 14.5% in 2006 following declines in 2004 and 123.2 in 2005 (Chamber of Mines: 2007a:12).

The mining sector contributed R140 billion to SA exports, representing 32.3% of the country's total merchandise exports and accounting for 25.2% of the country's total foreign exchange earnings. If beneficiated minerals are added to primary minerals, then the sector accounts for just over 50% of merchandise exports. In terms of foreign exchange earnings per unit of GDP, mining generates the most of foreign exchange Earnings per unit of GDP, mining generates the most exchange earnings per unit of GDP, the most foreign exchange in the economy (Chamber of Mines: 2007a:12).

The industry moved about 100 million tons of bulk commodity ores for export on the rail system and thus was the dominant user of the country's railways and ports. The 100 million tons of bulk commodity exports represents 54% of the whole of Transnet's volume of transport in 2006 (Chamber of Mines: 2007a:12).

It directly employed an average of 458600 workers in 2006, against 444132 in 2005. It is estimated that 152800 workers are employed in associated industries that either supply products to or use products from the mining industry. Around five million people are directly dependent for their daily subsistence on mine employees (Chamber of Mines: 2007a:12).

In addition it accounted for 6.3% of those employed in the non-agricultural formal sector of the economy and 8.1% of the total private sector of non-agricultural employment in 2006. If the multiplier and induced effects of the industry are used, the contribution to employment as a result of mining rises to about 20% of total non-agricultural formal sector employment in South Africa (Chamber of Mines: 2007a:12).

It also paid R40 billion in wages and benefits to employees which accounted for about 5.4% of the total compensation paid to all employed people in the country in 2006. This contributed substantially to domestic demand in the economy. In addition to this, the mining sector paid R16.2 billion in direct taxes and a major portion of indirect taxes to the fiscus in 2006. Mining direct taxes accounted for about 12.4% of total company tax (and secondary tax on companies) paid to government (Chamber of Mines: 2007a:12).

The mining sector was the world's largest producer of Precious Group Metals (PGMS), gold, chromium, vanadium, manganese and vermiculite. The industry was also a major supplier of aluminum (world rank 9), antimony (7), coal (5), ferromanganese (4), ferrosilicon (6), iron ore (7), manganese ore (2), nickel (9), phosphate rock (10), silicon (8), titanium minerals (2), uranium (11) and zirconium (2) (Chamber of Mines: 2007:12).

The sector also accounted for a substantial amount of the supply and demand for energy. The industry consumed 31800 gigawatt hours – 15.3% of Eskom's local electricity sales, whilst 112 million tons of coal was mined and used for electricity generation, which accounted for about 93% of the total amount of diesel used in the country in that year. About 43.7 million tons of coal was first mined and then used in the manufacture of synthetic fuels and accounted for about 37% of local liquid fuel supply. This represents an annual savings of foreign exchange of more than R30 billion annually (Chamber of Mines: 2007a:12).

Despite the fact that mining's contribution to South Africa's Gross Domestic Product (GDP) has declined in the past three decades, the sector remains a critical one. This is largely as a result of the fact that the sector is still the single largest employer and single largest contributor to fixed investment in capital goods in the South African economy. Mining is the also single most important source of foreign exchange earnings and in addition it provides more than 25 % of all income earned by Africans (Anon,2007a).

The growth in real value added by the mining sector declined steadily from 4% in 2003 to 2.75% in 2004 and 2.5% in 2005 (Anon, 2007a). This decline has come about largely as a result of a decline in gold production. However the decline in gold production has masked significant growth in other mining sectors in South Africa measured in terms of production. Three sectors (coal, platinum group metals and chrome) have doubled in size since 1980 whilst iron ore has increased by more than a half (Chamber of Mines: 2007a:12).

During this period, mining other than gold grew faster than the rest of the economy. South African coal sales in 1997 were 16 billion, platinum group metals 8.5 billion and chrome 4 billion. Some of the largest current investment projects in South Africa are in these industries (Segal & Malherbe, 2000:1). These industries are also larger than most manufacturing sub sectors.

Furthermore the decline of the mining sector as the major contributor to GDP has also been mitigated by increased downstream or beneficiated activity in the form of processing and local "value" adding to iron, carbon steel, stainless steel, aluminum, platinum group metals and gold. Based on this fact mining remains a critical sector of the economy and its transformation also remains a crucial task (Anon, 2004b).

South Africa also continues to be known throughout the world as a treasure trove. It boasts an abundance of mineral resources and it is on this resource base that South Africa's wealth has traditionally been built. South Africa holds 80% of the world's reserves of manganese ore, 88% of platinum group mineral reserves, 45% of gold reserves and 73% of global chromium reserves (Anon, 2008).

In 2004 South Africa was ranked the top producer and reserve holder of gold, platinum group metals, chrome ore and manganese ore. The country is also one of the world's leading producers of coal and diamonds. The mining industry largely supported by gold, diamond, coal and platinum production has thus continued to contribute significantly to the economy (Anon, 2004b).

The importance of B-BBEE in mining is recognised at the highest levels in government and the private sector. This view is borne out by statements made by the Minister of Mineral and Energy Affairs (DME) , Buyelwa Sonjica ,writing in the journal *New Agenda* (2008:10) where she states that:

“The South African Mining Sector is vital to the global economy. As custodians of such a sector, the DME is not only a regulator and policy maker but also a department that is there to foster, facilitate and promote economic growth in our country and continent”

The sector's importance is borne out by the fact that by 2006 the sector had concluded R24 billion worth of empowerment deals making the resources sector the largest contributor to BEE deals by value for the second year in a row (around R21 billion in BEE deals were concluded in 2005). Over the 11 years a total of R91 billion worth of empowerment deals have been concluded in the resources sector making it the largest contributor to empowerment by value versus financial services, which has concluded R61 billion in deals thus far (Chamber of Mines, 2007b:26).

Clearly mining remains a key sector of our economy and it is for this reason that this study focuses on the transformation of this important sector through the B-BBEE process

1.2 Problem Statement

Watkins (2006:32) is of the view that a research problem or problem statement pertains to a problem within the research environment that will form the primary focus of the research. He further advises that the research problem should be stated as a clear unambiguous statement that avoids complex research frameworks that may end up containing an unimaginable number of factors (Watkins, 2006:33).

According to Collis and Hussey (2003:126), the statement of the research problem in a phenomenological study is often less clear than in a positivist study. This is due largely to the importance of the interaction between the researcher and the subject of the study.

However, despite this difficulty, (Collis & Hussey, 2003:126) suggest the following in the compilation of the research questions:

- avoidance of wording that suggests a relationship between variables
- the use of open-ended questions
- use of a single focus and specifying of the research site

As Welman and Kruger (2002:181) citing Walle, King and Halling (1989:7) point out that , in a phenomenological study, human experience which is the object of behavior research is not to be separated from the person who is experiencing it.

In cognizance of these views and against the backdrop of the fact that there is a paucity of studies, dealing with the multifaceted impact of B-BBEE in the mining sector, the research problem in this study is identified as: the need for a critical analysis of the B-BBEE phenomena with particular reference to how it manifests itself and impacts on the mining sector.

1.3 The purpose of the research

Collis and Hussey (2003:120) opine that purpose statements vary according to whether a positivist or a phenomenological paradigm is adopted. Since this study is being conducted within a phenomenological framework, its purpose is essentially to describe, illustrate and explain the B-BBEE phenomena as it manifests itself with regard to the following aspects, which will be addressed more fully in the literature review section of this study (Chapter 2) viz:

- The definition of B-BBEE
- The evolution of B-BBEE
- The manifestation of B-BBEE practices in the mining sector
- The B-BBEE legislation and policy framework
- BBEE implementation and its effect and impact on the mining sector

- The identification of potential areas of further study

This study thus attempts to address the research problem by focusing on systematic descriptive research that will constitute a critical analysis of the B-BBEE phenomenon. This analysis will basically be rooted in a multifaceted perspective that encapsulates a descriptive, explanatory and illustrative dimension. In adopting this approach, it will be borne in mind that the major purpose of descriptive research is to describe characteristics of a population or phenomenon (Zikmund 2003: 55)

1.4 Research Question

Research questions, according to Leedy and Ormond (2001:60) provide a means for guiding and directing researchers thinking and are a typical element of phenomenological studies.

Collis and Hussey (2003:127) further point out that in phenomenological studies it is usual to begin the research question with ‘What’ or ‘How’. This view is substantiated by Zikmund (2003:55) who contends that descriptive studies, especially those being conducted within a phenomenological paradigm seek to determine answers to *who*, *what*, *where*, *when* and *how* questions. He further advises that these descriptive studies should be done in a manner that recognizes the importance of accuracy and displays a sound understanding of the research problem.

Cooper and Schindler (2003: 73-75) elaborate on this when they explain that in phenomenological studies, the problem statement and the research question should flow from each other. They state that in a phenomenological study, the problem statement is often composed of a hierarchy of questions with a descending level of specificity, and that the aim of this question hierarchy is to achieve a focus on the research problem, through increasingly descriptive questions (Cooper & Schindler, 2003:73-75)

Collis and Hussey (2003:127) cast more light on the subject by citing Werner and Schoepfle (1987) who argue that in phenomenological studies, the research question may take the form of a *grand tour* question. This is a single research question posed in its most general form.

In accordance with the *grand tour* question approach, the research question in this particular study is ‘What is B-BBEE and how has it manifested itself and impacted on the mining sector’.

1.5 Investigative Questions

Watkins (2006:35) describes investigative questions in the context of the research question as:

‘Those questions which must be answered satisfactorily to support the research question in the case of a phenomenological study, and the hypothesis in the case of a positivist study’.

Based on this approach the investigative questions for this study thus include the following:

- What is the difference between BEE and B-BBEE and how has B-BBEE evolved from BEE
- What are the underlying reasons for B-BBEE
- What socio, economic and political context is it located within

This set of questions will be addressed through a literature search.

In addition to the aforementioned investigative questions, the following set of investigative questions will be addressed through an empirical study.

- What are the specific purposes of B-BBEE particularly in the mining sector
- What is the legislative and policy framework within which B-BBEE is located generally and within the mining sector specifically
- Which of these legislative and policy frameworks are deemed to be most important
- How does the B-BBEE phenomenon manifest itself in practice particularly in the mining sector
- How has B-BBEE affected the mining sector
- What are the cardinal challenges faced by mining sector in ensuring the implementation of B-BBEE in future

1.6 Benefits of the Study

As has been mentioned, B-BBEE is arguably the most important challenge facing business in South Africa today. Given the paucity of detailed systematic studies in this area, the benefits of this study can be summed up as:

- A contribution to the existing and growing body of knowledge on this subject
- A contribution to a deeper understanding of B-BBEE and its ramifications
- An indication of the pitfalls commonly encountered in the implementation of B-BBEE
- An indication of how some of these pitfalls can be avoided
- An indication of potential areas for future research

Essentially the ultimate benefits of the study relate to the new insights and observations that will emerge especially with regard to the aforementioned areas of emphasis.

1.7 Limitations of the study

Generally any study which aims to explore a topical issue such as B-BBEE in the mining sector, should have a national spread in coverage. However, financial and time constraints have had a bearing on the design and implementation of the study. This in all probability influences the generalizations that can be made from the research outcomes.

The use of purposive sampling also limits the amount and quality of the data that can be collected. However, this problem has been mitigated to some extent by the fact that targeted in-depth interviews were conducted with persons who are very knowledgeable and directly and intimately involved with the unfolding B-BBEE process in the mining sector.

The problem has also been further mitigated by the fact that organizations chosen for the interviews provide a comprehensive sweep of the mining sector by covering perspectives from an employer, employee, government, big business and small medium and micro enterprise (SMME) point of view.

The time perspective also presents another limitation. Large socio-economic reform programs such as B-BBEE require a long life span, assessed through a longitudinal study, before their impact can be substantially assessed. So whilst this study is important in some ways, it may be too soon to make a conclusive rating of the success of the B-BBEE phenomenon in mining.

1.8 Outline of the Study

In pursuing the objectives of the research, the remainder of this study will follow the structure outlined below:

Chapter 2 (Literature Survey)

This chapter surveys the literature on the B-BBEE phenomenon. The purpose of the survey is to ascertain the current thinking on B-BBEE in all its many faceted ramifications. The literature survey will highlight the wide spectrum of views on selected aspects of the B-BBEE phenomenon and as such will serve as a platform to indicate where this particular study fits in, as well as to assist in identification of inconsistencies and gaps that may justify further research.

Chapter 3 (Research Design)

This chapter will describe the research design that will be employed in the study. It will highlight key aspects of the design (e.g. data collection and analysis) as well as provide the rationale for particular aspects of the research design. The chapter will also be characterised by an integration of the views of leading scholars on the issue of research design.

Chapter 4 (Integration of observations and research results)

This chapter will be based on the collection and the interpretation of the data. It will also report on the observations that have been made, as well as provide a critical analysis of these observations by examining the implications of these observations, in the context of the purpose and objectives of the research.

Chapter 5 (Conclusion)

This chapter will provide a synoptic overview of the research findings and conclusions. It will also identify possible future research aspects and opportunities.

1.9 Closure

This chapter has served as an orientation to the study. It consists of a cursory yet succinct overview of the BEE and B-BBEE phenomenon. It has introduced the gist of the study through the presentation of the problem statement, and has alluded to the qualitative focus of the descriptively orientated research design. It has also highlighted the potential benefits as well as the limitations of the study and has culminated in a brief description of the structural outline of the study.



Chapter TWO

LITERATURE REVIEW

2.1 Introduction

As has been mentioned in the previous chapter B-BBEE is arguably the most widely talked about process in the South African business environment. This process is founded upon social, moral and economic imperatives and can no longer be seen as a luxury or even a public relations exercise. More and more companies together with the government understand that it is a strategic imperative (Wooley, 2005:31).

This understanding has translated into the passing of numerous pieces of legislation followed by the growing trend towards the establishment of industry or sector charters (Wooley, 2005:24). This understanding has also resulted in a frenzy of activity aimed at B-BBEE compliance in all sectors of the economy.

Martin Creamer in an article in Mining Weekly (July 2004:17) captures this mood whilst reflecting on the Anglo American Corporation's forays into the B-BBEE arena, when he states that:

“A few years into B-BBEE with some successes and failures has pushed the South African owners of the giant resource group to formalising a broad ranging review of its black economic empowerment interactions to date. The review has highlighted both the strengths and the weaknesses of the Anglo American Corporation's past B-BBEE interventions”

The Anglo American Corporation is by no means the only institution looking ever more closely at its B-BBEE interventions. Recent charters for the Petroleum Industry, the Financial Services Sector and an impending Property Services Charter bear testimony to this (Mining Weekly, July 2004:19).

It is against this background that the Department of Trade and Industry (DTI) released its strategy for B-BBEE entitled “South Africa's Economic Transformation- a strategy for B-BBEE in March 2003. Through this strategy the government set a part of defining the key elements of B-BBEE compliance. In 2004, this strategy was

supplemented with the B-BBEE Act – an enactment that finally moved the regulatory context of B-BBEE from only sectoral initiatives and placed it firmly within a context of uniformity (Mangcu et al, 2007:120)

It is against this backdrop that this chapter reviews existing literature on B-BBEE from both a general and a mining specific point of view. The reason for this being that B-BBEE in the mining sector generally takes its cue from how B-BBEE plays itself out in other sectors of the economy.

This chapter thus surveys the literature on B-BBEE with special reference to the following aspects:

- The history and the evolution of the B-BBEE phenomenon inclusive of its evolution in the mining sector
- The purpose of B-BBEE inclusive of how the implementation of this purpose is pursued in the mining sector
- The legislative and policy environment within which B-BBEE is generally located, as well as the legislative and policy environment within which it is located in the mining sector specifically
- How B-BBEE occurs in practice generally, but also with particular reference to the mining sector
- The emerging critique which has emanated since the inception of B-BBEE and how relevant this critique is to B-BBEE in the mining sector
- An overview of where B-BBEE is moving towards in terms of the development of the process

The view is held by the writer of this study that such a survey of the literature ought to provide a fairly comprehensive overview of the B-BBEE phenomenon.

2.2 The history and evolution of B-BBEE

Although B-BBEE had initially emerged as a central objective of the Reconstruction and Development Plan (RDP), the country's original blueprint for transformation, outside of the RDP, B-BBEE had until recently lacked a workable manifesto of its own.

The establishment of the BEE Commission (BEE Com) in 2001 and the finalisation of the Department of Trade and Industry's B-BBEE strategy coupled with the passing of the Broad Based Black Economic Empowerment Act (B-BBEE Act) in 2003 and other supportive legislation has changed this. B-BBEE now occupies centre stage in the transformation debate pertaining to business in this country.

Jack and Harris (2007:7) identify three waves of BEE that ultimately evolved into what is today referred to as B-BBEE. The first wave started roughly around 1993 and was characterised by the early forays in to the BEE arena by Sanlam and Nail. A central characteristic of BEE at this stage was its narrow emphasis on ownership without a concomitant emphasis on management control (Jack & Harris, 2007:9)

Another characteristic of this phase was the use of special purpose vehicles (SPVs) to fund the acquisitions of these B-BBEE pioneers. In accordance with this approach the financiers provided funds to the SPV in exchange for a combination of equity and debt instruments.

Jack and Harris (2007:8) elaborate on this approach when they state that:

“The BEE Company retained its voting rights while the financier enjoyed the performance of the underlying shares up to a predetermined hurdle rate. This rate was expressed as a percentage of the prime lending rate. Returns exceeding the hurdle rate were allocated to the B-BBEE Company”.

Jack and Harris (2007:8) further argue because of this approach, the SPV structure worked well in a bull market where there was a steady inflow of cash. However, in second half of 1998 the markets experienced a downturn. Interest rates started increasing and dividends from underlying investments failed to cover the debt instruments' hurdle rates.

This downturn in the market revealed the true colours of the SPV. According to Jack and Harris (2007:1) the SPV proved to be:

“a financing mechanism whose underlying benefit often remained unfairly in favour of White financiers. As a result, many BEE companies and consortia went under because of poor capitalisation – they simply owed more than they could pay”

The burst bubble of the first wave of BEE resulted in collective reflection on how to accelerate BEE meaningfully. This gave rise to the second wave of BEE which occurred roundabout 1997. As a result of the setbacks experienced during the first wave of BEE, the Black Management Forum (BMF) proposed the establishment of a BEE commission. The BEE Com was subsequently established under the chairmanship of Cyril Ramaphosa in 1998. This commission was the first to moot the idea of a more broad based form of BEE when it released its land mark report in 2001. It introduced a change from the exclusive focus on ownership to other elements such as employment equity, skills development and preferential procurement (Jack & Harris, 2007:10)

The BEE Com had set a target for ownership of 25% of the economy by Black people within 10 years. However access to capital and the high cost of debt militated against this. This implied that there was a need for a third wave of BEE. This third wave of BEE which has since evolved into B-BBEE was given a kick start by the preferential procurement strategy of 1997 which addressed public sector reform and was further accelerated by the adoption of the B-BBEE strategy of 2003.

The third wave was characterised by a more encompassing approach towards BEE. There was an attempt to shift away from narrow BEE with its predominant focus on ownership to a more comprehensive approach, incorporating other elements such as management control, employment equity, affirmative procurement and social responsibility. This heralded the birth of B-BBEE as it is understood today.

Although B-BBEE is an issue that has generated extensive interest across all sectors of the economy, it is in the mining sector where it has probably had its most profound impact to date. This is largely attributable to the fact that the mining industry was one of the first sectors to finalise the drafting, adoption and implementation of BEE legislation.

This legislation was subsequently followed up by the adoption of the Mining Charter which has proposed far reaching changes and time frames for the transformation of the sector. The mining sector also became the first sector to adopt a comprehensive BEE score-card for the industry (Anon, 2004).

In combating this legacy of disempowerment, the purpose of B-BBEE has been said to be composed of three separate but related contexts viz, direct empowerment, indirect empowerment and promotion of human resource development (Financial Mail, 2003).

2.3 The purpose of B-BBEE

Balshaw and Goldberg (2006:16) contend that B-BBEE is arguably the greatest strategic issue, challenge, threat and opportunity facing business in South Africa today. B-BBEE is generally seen as an integrated and coherent socio-economic process that directly contributes to the economic transformation of South Africa (Balshaw and Goldberg, 2006:73).

The process is also seen as a means to deracialise the economy and redress past imbalances by bringing black people into the economic mainstream. As such B-BBEE is thus viewed by some of its proponents as an antidote to the disempowerment mechanisms used under apartheid and other forms of racism before it (Financial Mail, 2003).

Janisch (2006:1) supports this viewpoint when he states that:

“B-BBEE is one of the more important plans that government has to ensure that more people are skilled up and South Africa remains competitive in the global economy”.

However Blade Nzimande, a leading light in the South African Communist Party (SACP) together with the Congress of Trade Unions (COSATU) sees this differently (Mangcu et al, 2007;183). He states that:

“even in terms of the new B-BBEE Act, the dominant approach remains narrow BEE focusing on multibillion rand ownership deals and the advancement of a small, exclusive black minority through equity acquisitions and individual promotion into senior management ranks”

Nzimande goes further to argue that apart from the narrowness of the so called B-BBEE approach, the equity acquisitions and financing arrangements in most of these deals amount, in practice, to diverting surplus into debt instead of investing it productively, let alone developmentally (Mangcu et al, 2007:183).

However despite this viewpoint, the general inclination is to view the primary purpose of B-BBEE as encapsulated in three separate but related contexts viz: (Financial Mail: October 24, 2003)

- *Direct empowerment* – the objective of direct empowerment is the promotion of black ownership and control of the South African economy. The measurement criteria are ownership and management
- *Promotion of human resource development and other types of social and community upliftment* - the focus here is to increase and improve the skills of black people to enhance their opportunities for more meaningful participation in the economy. A secondary aspect is to empower and socially uplift communities and individuals.
- *Indirect empowerment* - this aspect relates to the economic empowerment of historically disadvantaged persons by promoting the procurement of goods and services from BEE firms. This condition is especially stringently applied to government institutions and parastatals, where this aspect forms a core part of the undertakings performance management.

This view point is substantiated by Jack and Harris (2001:24). They summarise the objectives of B-BBEE, as the redress of the economic legacy of apartheid through:

- Increasing the number of Black people who have ownership and control of the economy in general
- Increasing Black ownership and control in priority sectors such as mining
- Increasing the number of new Black and Black engendered enterprises
- Increasing the number of Black people in executive and senior management positions
- Increasing ownership of land and productive assets by Black people
- Accelerating and sharing economic growth
- Increasing ownership of economic activities vested in broad based structures.

The purpose of B-BBEE irrespective of whether it is in a public sector or private sector environment, is essentially to ensure that previously disadvantaged people are brought into the economic mainstream. As such, it is an antidote to the systemic disempowerment mechanisms used under apartheid and other forms of racism before it. It primarily seeks to address the historical imbalance that has kept the majority of South Africans out of the economic mainstream.

2.4 Overview of B-BBEE legislative environment

Jack and Harris (2007:75) contend that the instruments to bring about B-BBEE can be characterised as follows:

- Legislation – a plethora of relevant acts
- Policy and Regulations – the Codes of Good Practice and the Sector Charters

The implementation of B-BBEE has been driven and entrenched by various pieces of legislation. These include:

- The Constitution of the Republic of South Africa (No. 108 of 1996)
- The Employment Equity Act (No. 55 of 1998)
- The Skills Development Act (No. 97 of 1998)
- The Public Finance Management Act (No. 1 of 1999)
- The Skills Development Levy Act (No. 9 of 1999)
- The Preferential Procurement Framework Act (No. 5 of 2000)
- The Broad Based Black Economic Empowerment Act (No. 53 of 2003)
- The Municipal Finance Management Act (No. 56 of 2003)

2.4.1 The Constitution of the Republic of South Africa (No. 108 1996)

The Constitution is the supreme law of the land. It is underpinned by the Bill of Rights which embraces the rights of all people in the country and affirms the democratic values of human dignity, equality and freedom. Since South Africa has recently emerged out of an environment where it is generally accepted that the majority of the population were not treated equally and fairly, the Constitution raises the possibility of redress.

In essence the Constitution grants government the right to introduce legislative policy designed to advance previously disadvantaged people, especially through affirmative procurement. Section 217 states:

“When an organ of state in the national, provincial or local sphere of government or any other institution identified in national legislation, contracts for goods or services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost effective”.

Jack and Harris (2007:17) elaborate on this by arguing that this section when read in conjunction with other sections of the Constitution should be interpreted to mean that the state must procure according to identified financial principles, and it may also procure beyond the grounds of standard financial principles, on a preferential basis, where the objective is to advance people who were disadvantaged by unfair discrimination.

The inclination towards social and economic justice, first raised in the Constitution, has since found effect in a range of other pieces of legislation. These pieces of legislation viewed collectively form the thrust of the transformation process.

2.4.2 The Employment Equity Act (No. 55 of 1998)

The Employment Equity Act takes its cue primarily from the Constitution and addresses the issue of previously disadvantaged people in the workplace. This is the first act to explicitly promote affirmative action (Jack & Harris, 2007:20).

The purpose of the Employment Equity Act is to achieve equity in the workplace by:

- Promoting equal opportunity and fair treatment in employment through the elimination of unfair discrimination
- Implementing affirmative action measures to redress the disadvantages in employment experienced by designated groups, in order to ensure their equitable representation in all occupational categories and levels in the workplace

In the interpretation section of the Employment Equity Act, it is expressly stated that this Act must be interpreted in compliance with the Constitution so as to give full effect to its purpose.

In the Employment Equity Act, special mention is also made of the prohibition of unfair discrimination. It is categorically stated that it is not unfair discrimination to take affirmative action measures consistent with the purpose of the Act (Department of Labour 1998:10).

2.4.3 The Skills Development Act (No. 97 of 1998)

As a further sequel to the governments overall human resource development strategy, the Skills Development Act and the Skills Development Levies Act were passed in 1998 and 1999 respectively. Generally this legislation is viewed as a “window of opportunity” that can be effectively used to improve employees competitiveness, develop tailor made training programs that meet company specific needs, which will help to generate a pool of skills essential to the competitiveness of companies at the micro-level and the success of the country at a macro-level (Grobler, Warnich, Carrell, Elbert and Hartfield , 2002:235).

The objectives of the Skills Development Act are to:

- Develop the skills of the South African workforce
- Increase the level of investment in education and training in the labour market and improve the return on investment
- Use the workplace as an active learning environment to provide employees with the opportunity to acquire new skills and to provide opportunities for new entrants to the labour market to gain work experience
- Employ persons who find it difficult to be employed
- Encourage workers to participate in leadership and other training programs
- Improve the employment prospects of persons previously disadvantaged through training and education
- Ensure the quality of education and training in and for the workplace
- Provide and regulate employment services

In addition to this, the Act also provides for the establishment of a National Skills Authority, Sector Educational and Training Authorities (SETA's) and a National Skills

Fund. It thus addresses the critical BEE requirement of human resource development especially with regard to the previously disadvantaged.

2.4.4 The Skills Development Levy Act (No. 9 of 1999)

The Skills Development Levy Act which is integrally linked to the Skilled Development Act has as its objectives the:

- payment of levies to the sector training authorities
- utilisation of these levies for the training and development of workers
- contribution to the financing of the Setas

Skills development and transformation are thus at the heart of B-BBEE as business education is viewed as an important step in the process of developing black people so that they can participate in the economic mainstream (Jack & Harris, 2007:272)

2.4.5 The Preferential Procurement Act (No. 5 of 2000)

The Act like all the aforementioned ones also takes its cue from the Constitution. Its explicit purpose is to give effect to Section 217 (3) of the Constitution by providing a framework for the implementation of a preferential procurement policy by any organ of the state. In terms of this, all organs of the state are required to have a procurement system which is fair, equitable and transparent. The Act provides for:

- Categories of preference in the allocation of contracts
- The protection or advancement of persons or categories of persons, disadvantaged by unfair discrimination
- The establishment of a points system for the allocation of tenders, with additional points being granted to historically disadvantaged individuals,

The Act also provides for categories of preference in the allocation of contracts, the protection or advancement of persons or categories of persons, disadvantaged by unfair discrimination and the establishment of a points system for the allocation of tenders, with additional points being granted to historically disadvantaged individuals, women and disabled persons (Department of Finance, 2000: 5).

2.4.6 The Public Finance Management Act (No. 1 of 1999)

This Act has as its purpose the regulation of the financial affairs of the national and provincial government departments. Its objective is to establish a sound corporate

governance environment (Department of Finance, 1999:30). Within the rubric of this corporate governance environment; it pursues the following socio- economic objectives:

- The promotion of affirmative procurement
- The promotion of access to economic opportunity for historically disadvantaged individuals
- The promotion of opportunities for historically disadvantaged entrepreneurs

The PFMA is primarily applicable to provincial and national government departments. It regulates the activities and practices of these departments in a manner which is generally supportive to B-BBEE.

2.4.7 The Municipal Finance Management Act (No. 56 of 2003)

The Municipal Finance Management Act is closely related to the Public Finance Management Act. The primary difference is that the Municipal Finance Management Act focuses on municipalities and municipal entities whereas the Public Finance Management Act focuses on provincial and national government.

Its objectives are defined as primarily being the securing of sound and sustainable management of the fiscal and financial affairs of the municipalities and municipal entities by establishing norms and standards and other requirements for:

- Ensuring transparency, accountability and appropriate lines of responsibility in the fiscal and financial affairs of municipalities
- The management of revenue, expenditures, assets, liabilities and the appropriate handling of financial dealings
- Budgeting and financial planning processes and the co-ordination of those processes of organs of the state in other spheres of government
- Borrowing
- Supply chain management
- Other financial matters

Of all these objectives, it is the one relating to supply chain management which is of most relevance to B-BBEE. It is imperative that municipality's supply chain management policies be biased towards affirmative procurement.

2.4.8 The Broad Based Black Economic Empowerment Act (No. 53 of 2003)

This is the definitive act with regard to B-BBEE. Its broad purpose is to establish a legislative framework for the promotion of black economic empowerment (Department of Trade and Industry, 2003). This broad framework is located within the context spelled out by the preamble to the Act which highlights the fact that under apartheid race was used to control access to South Africa's broad resources and that South Africa's economy still excludes the vast majority of the people from the ownership of productive assets and the possession of advanced skills.

The preamble further points out that South Africa's economy performs below its potential, because of the low level of income earned and generated by the majority of its people and that unless further steps are taken to increase the effective participation of black people in the economy, the stability and prosperity of the economy in future, may be undermined to the detriment of all South Africans irrespective of race.

In order to ensure that the legacy mentioned in the preamble is dealt with, the Act has as its detailed objectives the following:

- Promoting economic transformation in order to enable meaningful participation of black people in the economy
- Achieving a sustainable change in the racial composition of ownership and management structures and in the skilled occupation of existing and new enterprises.
- Increasing the extent to which communities, Workers, co-operatives and other collective enterprises participate in the economy and increasing their access to economic activities, infrastructure and skills training
- Increasing the extent to which black women own and manage existing and new enterprises and increasing their access to economic activities, infrastructure and skills training.
- Promoting investment programmes that lead to broad based and meaningful participation in the economy by black people in order to achieve sustainable development and general prosperity

- Empowering rural and local communities by enabling access to economic activities, land infrastructure, ownership and skills
- Promoting access to finance for black economic empowerment

In addition to this, the Act also makes provision for the establishment of the BEE Commission which must advise government on B-BBEE and review progress with regard to the implementation of B-BBEE.

The Act moves from the point of departure that South Africa's economy continues to perform below its potential because of the low level of income earned and generated by the majority of its people. Some commentators argue that unless further steps are taken to increase the effective participation of black people in the economy, the stability and prosperity of the economy in future may be undermined to the detriment of all South Africans irrespective of race (Wooley, 2005:24)

2.5 Overview of the B-BBEE policy environment

The general B-BBEE policy environment is closely linked to the legislative framework and is defined primarily by two key documents namely:

- The DTI's B-BBEE strategy
- The DTI's codes of good practice

2.5.1 The DTI's B-BBEE Strategy

The Department of Trade and Industry which is tasked with facilitating the development of all trade and industry, galvanised by the legislation emanating from other government departments, released its strategy for B-BBEE in March 2003. The strategy document relies upon two core policy instruments that are designed to bring about B-BBEE by 2014, viz the transformation charters and enterprise definitions.

Transformation charters are charters that have been compiled through a broadly representative process by individual and institutional members of a particular sector. The purpose of the charters is the setting of parameters and targets of B-BBEE for the specific sector. The Charters are also a way to compel the private sector to comply with the legislation (Janisch, 2006:10).

A key aspect of the Charters is enterprise definitions. Enterprise definitions are determinations that indicate the level and extent to which organisations are B-BBEE compliant in accordance with the codes.

Both of these instruments are essentially measurement tools which will permit the public and the private sector to evaluate the B-BBEE status of a particular enterprise. They are designed to ensure that the attainment of B-BBEE by 2014 is achieved by linking measurement to performance targets and enforcement mechanisms (Mining Weekly, February 2004:4).

A number of industries have already adopted transformation charters. These charters are key documents for driving the implementation of B-BBEE. The Liquid Fuels industry was the first to adopt a transformation charter. This charter was based on the Freedom Charter of 1955. It set a 25% target for ownership in the Liquid Fuels industry (Jack & Harris, 2007:23). This charter was soon followed by the mining charter which is discussed in more detail further on in this study.

2.5.2 The Codes of Good Practice

The Codes of Good Practice are guidelines that the DTI's has put forward for industries that do not have a Charter as yet as well as industries that have a Charter. These Charters will thus have to be adapted and aligned to the codes.

The DTI published the Codes of Good Practice in December 2004 in draft format. This draft was finally ratified in 2007. These codes constitute the generic scorecard that companies who do not subscribe to an existing industry charter must use to measure their empowerment status (Janisch, 2006:22).

These codes consist of seven elements commonly grouped into 4 pillars of B-BBEE. These elements are:

- *Equity/Ownership* – equity targets are set for most industries. The intention is to ensure that black people start participating in the ownership of the productive resources of the economy (Wooley, 2005:59)

- *Management Control* – this element relates to the number of previously disadvantaged persons, women and disabled persons who constitutes the ranks of management and senior management
- *Employment Equity* – this aspect relates to the extent to which previously disadvantaged persons, women and disabled are represented at various levels in an organisation.
- *Skills Development* – this aspect is linked to the provision of the Employment Equity Act and the Skills Act. The intention is to ensure that previously disadvantaged persons can acquire the skills and act on the opportunity to make contributions at all levels in the economy (Balshaw and Goldberg, 2005:117)
- *Community/ Social upliftment* – many companies especially mines have left a legacy of desolation and devastation when their operations have ceased. In order to mitigate this problem, most charters now ensure that economic development must go hand in hand with community development (Balshaw and Goldberg, 2005:130)
- *Procurement* – this element has enjoyed much greater focus over the past three years. This is attributable to the fact that affirmative procurement places an entrepreneur much closer to the cash flows of a company. It also builds an entrepreneur understanding of the operations and ultimately is more empowering than passive investment dependent or dividend flow (Balshaw and Goldberg, 2005:128).
- *Enterprise Development* – this aspect relates to the extent that an organisation (especially big companies) are assisting with the development of smaller enterprises.

These elements are grouped in accordance with the four pillars of B-BBEE viz:

- Direct empowerment – equity ownership
- Human resource development – skills development, employment equity
- Indirect empowerment – preferential procurement and enterprise development

- Residual elements – corporate social investment and the compilation of social plans

The DTI's B-BBEE scorecard is captured in Table 2.1 below.

Table 2.1 The DTI's B-BBEE scorecard

BEE elements	Weighting %	Targets
Direct empowerment		
Equity ownership	20	25% + 1 vote
Management	10	50% of executive management (board etc)
Human Resource development		
Employment equity	10	Percentage of staff varies from level to level but must be greater than 50% at any one time
Skills development	20	3% of payroll on skills development spend
Indirect empowerment		
Preferential procurement	20	50% of eligible procurement
Enterprise development	10	1% of profit before tax (this is not yet finalised but appears to be the measurement)
Residual (corporate social investment)		
To be determined by sector/ enterprise	10	1% of profit before tax (this is not yet finalised but appears to be the measurement)
Total score	100	

Adapted from DTI's B-BBEE score card

B-BBEE further provides that all organs of the state and public entities are bound by its provision when determining procurement, licensing and concessions, public-private partnerships and the sale of state owned entities.

2.6 Mining sector legislation

In the mining sector the impact of B-BBEE has been profoundly felt. The definitive piece of legislation that strives to entrench B-BBEE in this sector is the Minerals and Petroleum Resource Development Act (No. 28 of 2002) which came into effect in 2002. The most important policy prescript in the mining sector is the Mining Charter. Both these documents are discussed in more detail in the ensuing sections of this study.

2.6.1 The Minerals and Petroleum Resources Development Act (No. 28 of 2002)

In reflecting on the Minerals and Petroleum Resources Development Act (MPRDA) Davenport (2006:2) writing in Business Map online states that:

“With the implementation of the MPRDA in 2004 transformation has become a key priority for the South African resources sector. This transformation has taken on a new urgency especially over the last two years. This is as a result of the stipulation in the MPRDA as read with the Mining Charter which states that companies are compelled to embrace transformation through the inclusion of B-BBEE partners to the extent of 15% by 2009 and 26% by 2014”

The Minerals and Petroleum Resources Development Act (MPRDA) recognises that mineral resources are the common heritage of all South Africans and belong to all the peoples of South Africa. The Act promotes the beneficiation of minerals and guarantees security of tenure for existing prospecting and mining operations. It also aims to ensure that mining companies contribute to rural development and supports those communities affected by mining operations.

The main objectives of the MPRDA are to:

- Ensure that the mineral wealth of South Africa benefits all her people
- Introduce competition
- Support the active and visible participation of the historically disadvantaged

In essence the MPRDA introduced a change in the ownership of minerals in South Africa from private hands to the hands of the state. The DME believes that this will ensure a more equitable benefit to South African society (New Agenda, 2006:10) In terms of this new dispensation, new order rights may be registered, transferred and traded while existing operators are guaranteed security of tenure. Mining rights are valid for a maximum of 30 years and renewable for another 30 years while prospecting rights are valid for up to 5 years, renewable another 3 years (Anon,2004b).

2.6.2 The Mining Charter

As has been mentioned earlier, the Mining Charter was one of the first Charters to be adopted. Since it was adopted shortly after the adoption of the Liquid Fuels Charter, the Mining Charter is generally considered to be an improvement on the Liquid Fuels

Charter in that it attempts to address the imbalances of the past in a more holistic way, by developing a scorecard specifically adapted to the Mining Sector.

The scorecard, the elements constituting it and the weightings as promulgated in the Mining Charter are captured in the Table 2.2 below:

Table 2.2 The Mining Charter's B-BBEE scorecard

BEE elements	Weighting %	Targets
Direct empowerment		
Equity ownership	30	15% by 2008 and 26% by 2014
Management control	10	50% by 2014
Human Resource development		
Employment equity	10	Percentage of staff varies from level to level but must be greater than 50% by 2008
Skills development	10	3% of payroll on skills development spend
Indirect empowerment		
Preferential procurement	20	25% of eligible procurement by 2008
Enterprise development	10	15% of production to HDI's by 2008 26% of production by 2014
Residual (corporate social investment)		
Environment, Housing and Community development	10	1% of profit before tax (this is not yet finalised but appears to be the measurement)
Total score	100	

Adapted from the Mining Charter

Jack and Harris (2007: 23) argue that the genius of the Mining Charter was that it leveraged the power of the Department of Mineral and Energy Affairs (DME) to grant mining rights in order to drive transformation within companies looking to secure such rights.

2.7 B-BBEE in practice

B-BBEE practice has come in for a great deal of flak ranging from criticism with regard to its elitist inclination and self enrichment outcomes involving the same individuals (as a result of the "revolving door" syndrome) to outright rejection of it.

Critics such as Bond (cf Legassick, 2007:463) dismiss B-BBEE as nothing more than a capitalist scam by saying that B-BBEE achieved through the means of so called SPVs constituted:

“a series of dubious financial scam operations which put black owners in historically unprecedented debt at historically unprecedented real interest rates to buy historical unprecedented over inflated companies whose price/earnings ratios were at an all time high”

The next section of this study thus looks at the changing nature of B-BBEE practice as well as continuing challenges facing the practice of this phenomenon in the mining industry.

2.7.1 Overview of B-BBEE practices

B-BBEE practices have not remained static over the years. On the contrary, they have been dynamic and influenced by the changing nature and growing sophistication of the B-BBEE arena. This applies to both the private and the public sector.

As the B-BBEE arena became more sophisticated, many sectors started developing their own charters in order to align themselves with the B-BBEE Act. Although these charters differ with regard the context in which they play themselves out, there is still a considerable degree of similarity between them.

In the private sector most early B-BBEE deals focused on the issue of equity (ownership). However it soon became apparent that equity alone, was not enough to ensure sustained economic transformation, because of the problems encountered with ownership orientated B-BBEE transactions. These deals occurred initially mainly in the mining and energy sector.

Over time most of the B-BBEE practices have begun to be more orientated towards greater inclusivity. Recent deals are characterised by the participation of larger groupings of individuals and organisations

In the public sector B-BBEE is characterised by the fact that the State is the largest procurement force in the country, procuring some 360 billion rands worth of goods

and services annually (Engineering News, June 25 - July 1, 2004). Since 2000, legislation has made preferential procurement one of the state's objectives. The purpose of this is to improve economic prosperity among historically disadvantaged South Africans.

The implementation of B-BBEE supportive legislation changed the rules of the game and today all companies that sell goods and services to the state are evaluated according to their empowerment credentials. The legislation that has played the most important part in regulating the procurement of government's goods and services are the B-BBEE Act, the MFMA and the PPFA.

Although the B-BBEE Act does not directly deal with the issue of preferential procurement, it nonetheless embraces the concept of broad based empowerment, as a key to achieving economic prosperity.

This seems to be a clear indication that government is realising the value that can be unlocked by encouraging indirect empowerment through initiatives such as preferential procurement, as opposed to focusing mainly on equity ownership, which requires large capital investment and is not a viable option for creating economic prosperity for small shareholders in the short term.

2.7.2 B-BBEE practices in the mining sector

Historically the South African mining industry stands where it is today by virtue of excellent mineral resources, substantial foreign investment and the development of a pool of highly skilled people. Today however the mining industry is faced with a changing environment and problems that are unique to South Africa. This requires significant restructuring as well as patience and negotiations to ensure a competitive future (Mining Weekly, May 7 2004:3).

The most important factor forcing industry to restructure is B-BBEE. B-BBEE is viewed as being needed to tackle the inequalities of the past, but there is concern about how exactly how this wealth can be made broader based to avoid the continued development of an enriched elite. There is also a view that the B-BBEE wealth from the mining industry needs to be disseminated to as many previously disadvantaged individuals as possible (Mining Weekly, May 7 2004:3).

This view is predicated upon the belief that B-BBEE if implemented properly will bring about fairness, equity and economic justice thus eliminating the threat of instability and providing opportunities for black communities to empower themselves through access to business transactions.

In this regard Bheki Sibiyi states that:

“For the past 10 years we have been consolidating our political freedom in democracy but during the next 10 years we need to ensure that there is economic justice. B-BBEE is one of the biggest leadership challenges facing the current generation” (Engineering News, June 11, 2004:18).

According to Wu and Krugel (2004:1) the state of B-BBEE in the mining industry is significant for two primary reasons:

- The mining charter is one of the first major empowerment charters. A study of the progress in the mining sector is likely to influence and impact on other charters currently being negotiated
- B-BBEE has significantly impacted on the outcome of the negotiations between government and industry participants when negotiating the conversion or issue of new order mining rights

There were 131 different empowerment transactions that were concluded in the mining sector in the years 2000-2004. Although there was a visible jump in the number of empowerment transactions (shortly after the adoption of the mining charter), there appears to be a steady decline since 2002. Wu and Krugel (2004:3) believe that this trend may be indicative of the fact that the easy transactions have already been concluded.

However despite this by the end of 2006 the mining sector had concluded by 2006 R24 billion worth of empowerment deals making the resources sector the largest contributor to BEE deals by value for the second year in a row (up from around R21 billion in BEE deals in 2005). Over the 11 years a total of R91 billion worth of empowerment deals have been concluded in the resources sector making it the largest contributor by value to empowerment (Chamber of Mines, 2007:12).

Wu and Krugel (2004:3) further point out that this trend confirms “the significance of the Mining Charter as the driver of corporate activity, since subsequent to the launch of the charter B-BBEE activity has been dwindling, despite the fact that empowerment has been a feature of the industry since the 1994 elections.

The largest empowerment role players in the mining sector have been Armgold, Mvelaphanda, Royal Bafokeng, Nation, Free Gold and the Tiso consortium. The reported value of these five entities empowerment transactions account for over 80% of all empowerment transaction concluded (Wu and Krugel, 2004:4). The “revolving door syndrome” and its skewed impact is highlighted by the fact that the key empowerment company in the mining sector, Armgold, accounted for over 45% of deal flow between the years 2000 and 2004 (Wu and Krugel, 2004:4)

With regard to the issue of management representation in the mining sector Wu and Krugel (2004:5) state that as at 30 June 2004 there were a total of 300 directors on the Johannesburg Stock Exchange (JSE). Of these only 64 were Black, Indians or Coloured persons. This figure constituted only 16% of the directors of the mining sector. This is significantly below 40% target set by the mining companies themselves (Wu and Krugel, 2004:6).

These statistics look even worse when one considers that only 8 of the 64 black directors hold executive positions. This has serious consequences for their ability to participate meaningfully in the exercise of controlling the resources and decision making of these companies.

The issue of employment equity in the mining sector is equally vexed. Although Black men represent 82% of the workforce as opposed to the White men who constitute 13% of the workforce, Black men only represent 15% of the management whilst white males represent around 82% of the management. Women account for 5% of the total workforce but only account for 1% of the management in the sector (Wu & Krugel, 2004:8).

In terms of the skills development it is significant that the DME saw it fit to launch Bopha Batho (building people in Sotho). Bopha Batho is a section 21 company focused on the development of black skills for the mining and mineral industries. Bopha Batho also described as a mineral and development foundation aims to grow

technical engineering and other necessary skills among those from previously disadvantaged communities ensuring that both employment equity and skills development are achieved in the mining industry (Mining Weekly, April – May 2004).

The mining industry itself through its employer representative body the Chamber of Mines admits that employment equity especially in so far that it concerns the incorporation of women into all levels of the workforce remains a challenge. The Chamber of Mines (2007b:12) states that:

“Although some progress is being made with employment equity, it is proving to be quite a challenge to meet the target of 10% female employees by 2009. Underground mining constitutes a harsh working environment. This is compounded by the fact that South Africa has the deepest mines in the world. In addition it is historically a male dominated environment.”

Other aspects such as environmental rehabilitation, corporate social investment and beneficiation all still lag far behind the anticipations originally spouted by the mining sector. The Minister of Mineral and Energy Affairs ascribes this to subtle resistance from the industry (New Agenda, 2008; 10). She states that:

“The government’s efforts to transform mining in South Africa are meeting subtle resistance from the industry. There are delays in converting from old order rights to new order rights; there are unfounded allegations that the department of minerals and energy (DME) is slow in processing licenses; and unfounded assertions that investors are losing interest.”

B-BBEE in the mining industry could soon be taken to the next level when the workforce receives shares in the companies they work for. Helene Roux writing in the Mining Weekly of June 24-29, 2004 states that:

“Employee share-ownership plans is one of the mechanisms for empowerment mooted in the Mining Charter to which labour, government and business have committed themselves in order to bring about transformation in the mining industry”

These and other innovative measures will help to ensure the continued relevance and future positive impact of B-BBEE in the mining sector.

2.8 Towards a critique of B-BBEE in the mining sector

B-BBEE and its implementation have not been without criticism. Existing practices in the B-BBEE arena have come in for a fair amount of flak over the past two or three years. A recent study by Consulta Research (an associate research institute of the University of Pretoria) on behalf of the Presidency, the DTI and the Presidential Black Business Working Group, established that organisations generally are still struggling with the implementation of B-BBEE (Enterprise 2007:26)

The study by Consulta Research established that there is 70% non compliance with all the pillars of B-BBEE. These findings are ascribed to a number of elements viz:

- B-BBEE is only seen as benefiting a small group of black elite
- There is a general perception of skills shortage
- Fears of white business around the impact of B-BBEE on their business

The study also found that other than the aforementioned perceptions and attitudes towards B-BBEE, the other factor militating against compliance to the codes is the inescapable reality that the codes are complex and open to manipulation (Enterprise, 2008:19).

A brief assessment of implementation highlights the following factors that erode B-BBEE implementation:

- The increasing dilution of B-BBEE in the large equity orientated deals as a result of the twin problem of black people's lack of capital and the prohibitive cost of capital
- The tendency of white companies to use token Blacks to front especially in the procurement arena
- The empowerment of a narrow elite group of people with close associations and ties to the ruling party
- The overall decline in dividend payments on the JSE over the past 5 years and the impact that this has on BEE companies' ability to service debt

- The slow pace with which black people are rising into key management and executive levels, especially in the engineering and financial services arena
- The perception that BEE is racism in reverse

2.8.1 B-BBEE dilution

A key problem that has been encountered by B-BBEE players has been the issue of dilution. Given the fact that BEE firms are generally cash strapped, complicated structures had to be introduced as interim steps to fund the transactions. These structures will ultimately have to be unwound and this will lead to a dilution in equity for B-BBEE. This seems to defeat the purpose of B-BBEE (Mining Weekly, volume 10, July 22, 2004:5)

In dealing with this criticism both Sexwale and Motsepe admit that the financing of these transactions will inevitably lead to some empowerment dilution and the creation of complex interim cross holdings. However, they stress that this is not only necessary but in the current context also desirable. They argue that these complex structures ensure that previously disadvantaged South Africans gain world-class assets while carrying acceptable levels of risk (Mining Weekly, volume 10, July 10-24, 2005:10).

These viewpoints of Sexwale and Motsepe are however not shared by other important figures in the empowerment arena. Brian Molefe, Chief Executive Officer of the Public Investment Corporation, one of the biggest institutional investors opines as follows (African Leader, 2008:20)

“Yet, after 12 years of freedom there has been little progress in getting the previously disadvantaged people to become meaningful participants in the ownership of (mining) companies on the JSE. The fault line in this equation is caused by a combination of structural defects and bad practices. B-BBEE players tend to be overwhelmed by the numbers and end up signing nonsensical financial funding agreements”.

This view is supported by Lot Ndlovu a BMF stalwart currently an Executive Director of Nedbank, who holds the view that in many of the empowerment transactions all

the designated beneficiaries have done, is to front on behalf of financial institutions. He states that:

“when you look at some of these deals you wonder if people know what they are doing”.

2.8.2 The funding structure of empowerment deals

A recent report in the Sunday Times by Madoda (October 12, 2008) highlights the problem that plagues the funding of empowerment deals through the use of excessive debt housed in Special Purpose Vehicles (SPV)'s. Citing Stephen van der Walt of Bravara Services the report states that:

“a basic financial principle which is so often ignored on a large scale on BEE transactions and even management share incentive schemes is that shares cannot be funded by debt as the ability to repay a fiscal debt obligation is dependent on a volatile share price”

The report (Sunday Times October 12,2008) goes further to state that the SPV BEE funding structure is problematic in that the value of liabilities often exceeds the value of assets when the purchased shares do not perform to expectations.

This problem has recently been brought into sharp focus by the global melt down in markets which has also affected South Africa albeit to a somewhat lesser extent. The sustained increased finance costs and reduced share values (Sunday Times, October 12, 2008).

The plunge in share prices has made the bulk of BEE SPV's insolvent as the value of liability (the debt to acquire the shares) suddenly exceeds the assets (the shares) by an enormous amount. This then leads to liquidity problems and the sale of these shares with the end result being companies lose BEE credentials, Black investors lose their stake, while the funders (Banks) lose the only winners.

This dire state of affairs has prompted BEE luminary and expert Vuyo Jack to conclude that:

“If we rely on this type empowerment (funding structure) 25% black ownership of the economy, we can forget. It won't happen”

2.8.3 Narrow elitist empowerment

The third problem associated with B-BBEE especially in its initial stages was that it served to empower the narrow elite whilst the majority did not benefit from it. This criticism compounded by vociferous opposition from the trade union movement, have led to a realisation that for BEE to succeed, it needs to have a much broader base (Formby, 2005:4).

As Terence Creamer rightly points out (Mining Weekly, 2003:11)

“The new struggle is to embed sustainable BEE in the South African economy. This empowerment must be broad based B-BBEE. It must be remembered is a purely South African phenomenon that is specifically designed to right past wrongs”

The JSE has only recently come out of a sustained bear run. Since a lot of early empowerment deals were financed with debt, BEE pioneers have had to bail out of these deals because the return on the investment was not adequate to cover both the capital sum and the interest component of their investment. This led to the undermining of empowerment in these early deals, since the companies that initiated the empowerment process ended up buying these shares back.

This has led Legassick (2007:461) to comment as follows:

“as sure as the sun rises, this enrichment of the few, this constant bagging of state assets by the same rich and connected blacks, and the bagging of the same rich and connected blacks by white business, desperate to get its empowerment targets out of the way, will lead to trouble for South Africa one day. You cannot fob poor people off with water and lights while the party powerful get to own the water and lights”

In the same article (Legassick, 2007:465) goes further to state that:

“The future danger for the country is obvious. By creating a tiny class of favoured black capitalists in much the same mould as the established class of white ones, the economy does not change shape and this cannot change outcomes.”

2.8.4 Fronting

The second problem normally associated with BEE deals is the problem of “fronting”. This problem continues to be a scourge. In the mining sector fronting tends to be more prevalent at the procurement level than at the equity level.

Fronting is the practice of making unsubstantial B-BBEE claims, where no commensurate benefits accrue to the Black persons ostensibly involved in the enterprise. It can also be more broadly defined as a process that goes against the spirit of B-BBEE (Jack & Harris, 2007:470).

Fronting presents fairly substantial risks to a company. The major risk of fronting is that it sets the empowerment process up to be “another bubble in a stream of failures to integrate Black people into the mainstream of the economy” (Jack & Harris, 2007:481).

In the public sector affirmative procurement will have to be accelerated. It is going to be increasingly difficult for companies without a B-BBEE component to supply to government. New processes for vetting authenticity of B-BBEE status will also serve to stamp out the culture of fronting (Sunday Times, 2006:6). Better monitoring mechanisms will have to be put in place to ensure that this trend does not undermine B-BBEE (Formby, 2005:4)

2.8.5 Employment Equity and Management Control

The fifth problem encountered with narrow BEE was that currently it does not adequately address the issues of management and control in particular, and human resources development in general. This undermines empowerment companies’ ability to attain their employment equity targets and skills development objectives.

Critics of B-BBEE are particularly concerned with the lethargic attitudes of the mining companies to appoint blacks into meaningful positions that are characterised by decision making authority. According to Jimmy Manyi, President of the BMF, the high levels of non compliance in this regard are “indicative of big business’ belligerent attitude towards empowerment” (Enterprise, 2008:18)

2.8.6 Reverse racism

The final criticism against B-BBEE is that it amounts to racism in reverse since it excludes white people (Engineering News, June 25 - July 1, 2004:6). This criticism is usually dealt with by arguing that B-BBEE is in line with the Constitution, which states clearly that affirmative legislation can be introduced to redress the imbalances of the past.

2.9 Quo Vadis B-BBEE

The implementation of B-BBEE especially when viewed against the targets identified in the Mining Charter indicates that the mining sector has had a chequered track record. Some critics (Enterprise, 2008:18) are of the opinion that negative perception and other attendant problems should be managed through a carefully conceptualised campaign aimed at addressing the following issues:

- Low levels of initial capital endowment of the black business community
- Perceptions that B-BBEE is only important to get government tenders
- Fear of white business of the impact of B-BBEE on their business
- Perceptions that employment equity and skills development alone will not drive job creation
- Fronting practices
- The development and support of black owned enterprises
- The complexity of the codes

Hlophe and Nzamo (2008:3) are more optimistic. They argue that the end of the transitional period for the measuring and reporting of B-BBEE in line with the Codes of Good Practice will accelerate the pace at which implementation of B-BBEE will happen. They further contend that the focus of B-BBEE implementation and compliance will shift from ownership and management control to taking into account all elements of B-BBEE since this is precisely what is needed to achieve meaningful economic transformation.

The shift to a more inclusive approach to economic empowerment is characterised by a period of social agitation for faster delivery of equitable economic benefits and opportunities for the economically marginalised lower and middle income majority

black population. This is evidenced by the policies adopted by the ruling party at its national conference in Polokwane, the xenophobic attacks that swept through informal settlements and the recent trade union marches to demand government intervention regarding spiralling food, transport and energy prices.

There can be no doubt that the successful implementation of B-BBEE is contingent on the addressing of the aforementioned issues. Only then will the future sustainability and viability of B-BBEE be ensured.

2.10 Closure

This chapter has attempted to provide a broad yet in depth survey of the literature pertaining to B-BBEE. It has done this by drawing on the latest textbooks, journals, newspaper reports, periodicals and magazines. The review has focused at the issue of B-BBEE by examining aspects such as its evolution, its purpose, the legislation which underpins it, the manner in which it has manifest itself in practice as well as the impact it had in the mining sector. It concludes with a brief critique of B-BBEE implementation in the mining sector. In traversing all these issues, the literature review addressed the majority of the investigative research questions raised in Chapter One of this study.

Chapter THREE

RESEARCH DESIGN

3.1 Introduction

Zikmund (2003:65) describes research design as a master plan specifying the methods and procedures for collecting and analysing information. This view is echoed by Ghauri, Gronhaug and Kristianslund (1995:40) who see research design as a framework for the data collection process. Bak (2004:24) also concurs with this view by stating that a research design “constitutes the framework for collection of information”.

Yin (1994:19) takes these definitions a step further when he states that a research design can be defined as:

“a logical sequence that connects the empirical data to a study’s initial research question and ultimately to its conclusions”.

Welman and Kruger (2002:46) also elaborate on this issue by stating that there should be a clear link between the research problem, research objectives and the research design. They explain this as follows:

“A research design is the plan according to which we obtain research participants (subjects) and collect information from them. In it we describe what we are going to do with the participants, with a view to reaching conclusions about the research problem”

Generally a research design will follow either a qualitative (phenomenological) or a quantitative (positivist) approach. According to Collis and Hussey (2003:55) a phenomenological paradigm is characterised by the following features:

- Tendency to produce qualitative data
- Use of smaller samples
- Concern with generating theories
- Subjective and rich data
- Low reliability
- High validity

- Generalisation from just one setting

Collis and Hussey (2003:48) expand on this description of the phenomenological approach by stating that phenomenological research designs are underpinned by the following assumptions:

- Reality is subjective and multiple as seen by participants in a study
- The researcher interacts with that being researched
- The research can be value laden and subject biased
- The research is context bound, descriptive and explanatory
- Accuracy and reliability is assured through verification

Various other commentators' further point out that within the phenomenological paradigm there are a number of different types of qualitative research designs. These are summed up as follows by these commentators:

- Exploratory studies: Exploratory research is undertaken when there are very few or no earlier studies to which the researcher can refer to for information about the issue or problem. The aim of this type of study is to look for patterns, ideas or hypothesis rather than testing or confirming a hypothesis (Collis & Hussey, 2003:10)
- Descriptive studies: Descriptive research is undertaken to ascertain and describe the characteristics of pertinent issues. More complex descriptive studies may extend this investigation to include estimates of the proportions of a population that have these characteristics and to discover relevant associations of properties (Cooper & Schindler, 2003:189).
- Analytical studies: Analytical research is a continuation of descriptive research. Typically the researcher goes beyond merely describing the characteristics to analysing and explaining why and how it is happening (Collis & Hussey, 2003:11)
- Causal studies: This type of research goes even further than explanatory research in that it not only provides an explanation for what is happening in a

particular situation, but also forecasts the likelihood of similar situations occurring elsewhere (Cooper & Schindler, 2003:163).

As has been mentioned earlier, research questions have a direct bearing on the type of research design that is used. In the case of this particular study, the research objectives are qualitatively oriented and located squarely within a phenomenological paradigm.

3.2 The Nature of the Research

Case studies are often used in phenomenological studies and since this particular study is squarely located within the phenomenological paradigm it is well suited to the case study methodology. Yin (2003: 23) describes a case study as:

“An empirical enquiry that investigates a contemporary phenomenon within its real life context especially when the boundaries between phenomenon and context are not clearly evident”

Watkins (2006: 71) citing Yin, elaborate on this by saying that

“Case study as a research strategy comprises an all encompassing method with a design logic which incorporates specific approaches to data collection and data analysis” In this sense the case study is not merely a data collection tactic or design feature but a comprehensive research strategy.

Yin (2003: 23) goes further and identifies the most salient aspects of case study research as follows:

- Case study research aims not only to explore certain phenomenon but also to understand them in a particular context
- Case study research illuminates a decision or a set of decisions i.e. why they were taken, how they were implemented and with what result
- Case study research is typically used when contextual conditions are the subject of research
- Case study research is particularly useful for addressing explanatory (how and what) type questions
- Case study research uses multiple methods for collecting data which may be both qualitative and quantitative

Collis and Hussey (2003:68) support this view by stating that case studies are particularly useful where there are few theories and where the body of knowledge is deficient.

The aforementioned viewpoints seem to indicate that this particular study, which focuses on an inquiry into selected aspects of B-BBEE in the mining sector, is eminently suited to a case study approach, since such an approach is likely to unearth significant depth and breadth of information on the B-BBEE phenomenon.

Another reason for utilising the case study method is succinctly captured by Welman and Kruger (2002:21), who state that a descriptive research design (such as a case study), is particularly useful when directed at understanding the uniqueness and idiosyncrasy of a particular case in all its complexity. They elaborate on this by arguing that the objective of such research is usually to investigate the dynamics of a single bounded system such as a project, a family, a group or even a set of practices (Welman & Kruger, 2002:21).

In line with this point of departure, the focus in this study is on a single phenomenon viz B-BBEE. The approach essentially entails a critical examination of B-BBEE in all its multi faceted ramifications through the use of a descriptive research approach.

Furthermore a survey of the literature indicates the use of a number of different types of case studies. The most succinct description of these is provided by Watkins (2006:72) who identifies the following types of case studies:

- Descriptive case studies - where the objective is restricted to describing current practice
- Illustrative case studies – where the research attempts to illustrate new and possibly innovative practices adopted by particular individuals or organisations
- Experimental case studies – where the research examines the difficulties in implementing new procedures and techniques in an organisation and evaluating the benefits
- Explanatory case studies – where existing theory is used to understand and explain what is happening

This study will be oriented towards a combination of descriptive, illustrative and explanatory approaches since the focus is on:

- describing current B-BBEE practice particularly in the mining sector
- identifying and illustrating innovative practices adopted by some companies
- explaining the B-BBEE phenomenon within the ambit of economic of business theory

3.3 Research Methodology

Research Methodology refers to the overall approach to the research process. It includes the methods which will be used to collect and analyse data (Collis & Hussey, 2003:55). Research methodology is concerned with the following main themes:

- Why certain data will be collected
- What data will be collected
- Where will the data be collected
- How will the data be collected
- How will the data will be analysed

As has been mentioned earlier, in this study the research methodology will be based on the case study approach. As has also been pointed out earlier, the case study is one of several ways of doing business research. Other ways include experiments, surveys, multiple histories and analysis of archival information (Yin 2003: 23). Yin (2003:23) also points out that case studies are usually characterised by an extensive examination of a single phenomenon (in this study that phenomenon is B-BBEE).

Collis and Hussey J (2003:68) elaborate on this by explaining that a case study approach implies a single unit of analysis such as a company or group of workers, an event or a process. It involves gathering detailed information about the unit of analysis with a view to getting in depth information. As such it constitutes an extensive examination of a single instance of a phenomenon of interest.

The researcher making use of a case study approach must thus ensure that a clear methodology is in place with regard to:

- The unit of analysis
- The phenomena being researched
- The sampling technique that will be used
- The manner in which data will be collected
- The manner in which data will be analysed and reported on

These issues are discussed in greater detail in the ensuing discussion.

3.3.1 Unit of analysis

A unit of analysis according to Kervin (1992:87-91) could refer to any of the following:

- An individual: a person is the most common unit of analysis in business research
- An event: this refers to a particular incident such as a strike
- An object: in business research this is likely to be a commodity e.g. machine
- A body of individuals: this includes groups of people and organisations, organised according to a broadly common purpose e.g. a department, a company or a government sector
- A relationship: this refers to the influence that one set of variables has on another

In this study, the unit of analysis is essentially a body of individuals in organisations operating in the mining sector. The mining sector in this study thus refers to people in the sector who are either employers, employees, legislators or regulatory authorities. The selection of the body of individuals is described further in section 3.3.3.

3.3.2 Research phenomena

Collis and Hussey (2003:53) describes a research phenomenon in the context of phenomenological research as anything that can be perceived as an occurrence or

fact and for which information can be collected and analysed in a systematic manner. The research phenomenon in this study is B-BBEE which can broadly be defined as the comprehensive process of socio-economic transformation of South Africa's business environment.

3.3.3 Sampling

In descriptive studies, especially those making use of a case study approach, the researcher usually makes use of a small sample of individuals with whom to conduct unstructured interviews (Welman & Kruger, 2002:189). This sample is usually determined by means of snowball or purposive sampling.

Snowball sampling can be described as a kind of non-probability sampling where a few individuals from the relevant population are approached. These individuals then act as informants and identify other members (for example, acquaintances or friends) for inclusion in the sample. The latter may in turn identify a further set of relevant individuals so that the sample, like a rolling snowball grows in size until it is saturated. Often preference is given to key informants who on account of their position or experience have more information than regular group members and are thus better able to articulate this information (Welman & Kruger, 2002:189).

Purposive sampling is also often described as a form of non-probability sampling. However in this type of sampling researchers rely on their expertise, ingenuity and previous research findings to deliberately obtain units of analysis in such a way, that the sample they obtain may be regarded as being representative of the relevant population (Welman & Kruger 2002:63). In this type of sampling key informants are also selected on the basis of their knowledge of and experience with regard to the subjects.

In this study the purposive sampling technique was used. The sample consisted interviews with five senior persons representing the Department of Mineral and Energy Affairs (DME), the Chamber of Mines, the National Union of Mineworkers (NUM), the South African Mining Preferential Procurement Framework Forum (SAMPFF) and the South African Women in Mining Agency (SAWIMA)

These organizations have been selected because of their knowledge of and involvement in mining as well as the fact that these organisations are at the cutting edge of the B-BBEE in mining. In addition to this, the six organizations either have or aspire to have a national footprint in mining and as such operate from a vantage point that affords them a broad yet in depth perspective on the B-BBEE issue.

The key objectives and relevance of these five institutions is summed up below.

Department of Mineral and Energy Affairs (DME)

This government department is primarily responsible for ensuring responsible exploration, development, processing, utilization and management of national minerals and energy resources. It also has a mandate to ensure sustainable development of these resources and to provide the legislative and regulatory framework for industries falling within its jurisdiction. Its key focus areas are energy, mineral exploration and mine health and safety (Anon, 2007).

Chamber of Mines

This body is the most prominent employer's organisation in the industry. It exists to provide strategic support and advisory input to its members who consist of mining companies across the entire mining spectrum. The Chamber represents the formalized policy positions of its membership and sits on various national and provincial government forums pertaining to mining. It also provides a variety of activities, programs and advisory functions in management, industrial relations and economics (Anon, 2007).

National Union of Mineworkers (NUM)

The NUM is by far largest trade union movement within the mining sector. It is also the largest trade union (by membership) in the entire country. It represents more than 80% of all unionised workers in the mining sector. Its primary objective is to protect the interests of workers. It does this through involvement in all issues pertaining to recruitment, selection, development and retention of staff. It is also intimately involved in issues of employment equity and affirmative procurement (Anon, 2007).

South African Mining Preferential Procurement Forum (SAMPPF)

The South African mining preferential procurement forum (SAMPPF) is a body that was established in 2002 to put together a database of empowerment suppliers of goods and services to the mining industry. It has more than 20 mining houses as members and expects even more to come on board shortly. Membership of the forum is voluntary and it is hoped that the initiative will help bonafide black owned suppliers to get an increased share of mining companies' procurement budgets. These budgets run into ten of billions of rands per year (Mining Weekly May 7, 2004:3).

South African Women in Mining Agency (SAWIMA)

The South African Women in Mining Agency (SAWIMA) was launched in December 1999. Its purpose is to see women play a more prominent role in mining by assisting informal women mining groups to obtain mineral rights and run mining business/operations and to promote female empowerment in the mining sector in accordance with the provision of Mining Charter. SAWIMA strives to enhance the participation and economic empowerment of its members in order to redress socio-economic challenge that confronts women and aspiring entrants into the mining sector.

3.3.4 Data Collection

Rather than using large samples and following a rigid protocol to examine a limited number of variables, case study methods involve an in-depth examination of a single instance or event – a case. Flyvbjerg (2006:219) substantiates this viewpoint by stating that case studies:

“provide a systematic way of looking at events, collecting data, analysing information and reporting the results. As a result, the researcher may gain a sharpened understanding of why the instance happened as it did, and what might become important to look at more extensively in future research”

Yin (2003: 23) contends that the case study approach is a potentially useful empirical inquiry that investigates a phenomenon within its real life context and that when using the case study approach a number of data collection methods are used. These include participant observation, unstructured and in depth interviews and focus groups (Welman & Kruger, 2002:182).

This study being an insight study is essentially analytic descriptive in nature, the accent being on acquiring an insight into the contemporary strategic and management practice of B-BBEE in the mining sector. A key feature of the study is to analyse B-BBEE from a strategic and business implementation point of view and also to assess its impact.

As such the study examines the B-BBEE phenomenon in the Mining Sector through a combination of the collection of:

- Primary data collected from key representatives of the mining sector
- Secondary data collected from books, magazines, newspapers and journals.

In this particular study, primary data was collected by using semi-structured interviews based on an interview guide annexed to this study as Annexure A. The interview guide consists of a mixture of questions aimed at soliciting both quantitative and qualitative data.

This interview guide acted as a reference point for a semi-structured interview with the interviewees. Its purpose was to stimulate and guide discussion with a view to learning from the personal and organisational insights of individuals and organisations who have been dealing with B-BBEE for a protracted period of time. Verbal consent to use the information coming out of the interviews was granted by these individuals to the writer of this study.

The individuals, their positions and the organisations that they represent are captured in the Table 3.1

Table 3.1 List of Interviewees

Name	Position	Organisation
Jacinto Rocha	Deputy Director General	DME
Vusi Mabena	Manager Skills Development	Chamber of Mines
Roger Baxter	Chief Economist	Chamber of Mines
Titi Mthenjane	Pillar Head BEE	NUM
Johan Streuderst	Chief Executive Officer	SAMPPF
Smangele Mngomezulu	Chief Executive Office	SAWIMA

Secondary data was collected through an extensive survey of the B-BBEE literature. The literature review is based on the most recent literature that is available in this field of study. It includes inter alia books, journals academic publications, and literature available in an electronic format obtained via the internet from reputable academic, government, business and various institutions. The literature is restricted to the mid 1990's and periods subsequent thereto since this is the period during which B-BBEE has become such an important issue.

3.3.5 Data analysis

The data in this study was analysed by using a combination of cognitive mapping and general inductive data analysis methods. Both these methods are widely accepted in phenomenological studies (Thomas, 2003:1)

The cognitive mapping process entails structuring, analysis and sense- making of the written or verbal accounts of problems (Collis & Hussey, 2003:265).

Collis & Hussey (2003:266) explain this approach further when they illustrates that the main stages of cognitive mapping include the following:

- An account of the problem is broken up into short phrases that retain the language of the person providing the account
- Parts of phrases can be united in a single concept where one provides a meaningful contrast to the other
- The distinct phrases are linked to form a hierarchy of means and ends essentially explanation leading to consequences meaning is retained through the context

Ackerman, Eden and Copper (2004:1) state that cognitive mapping may be used for a variety of purposes. In addition to using it to structure, analyse and make sense of contemporary management problems presented in an interview, it can be used to build on note-taking and recorded transcripts in a way that promotes analysis, questioning and understanding of the data. This is the manner in which it was used in this study. It served as a systematic basis or platform on which to build and develop the general inductive process that culminated in an orderly and systematic analysis, processing and presentation of the study's findings

According to Thomas (2003:1) the general inductive approach has as its purpose the:

- condensing of extensive and varied raw text data into a brief summary format
- establishing of clear links between the research objectives and the summary findings derived from the raw data
- developing a model or theory about the underlying structure of experiences or processes which are evident in the raw data.

Thomas (2003:3) elaborates on this by stating that the assumption on which the general inductive data analysis method is founded includes the following:

- Data analysis is determined by both the research objectives (deductive) and multiple readings and interpretations of the raw data (inductive). Thus the findings are derived from both the research objectives outlined by the researcher(s) and findings arising directly from the analysis of the raw data.
- The primary mode of analysis is the development of categories from the raw data into a model or framework that captures key themes and processes judged to be important by the researcher.
- The research findings result from multiple interpretations made from the raw data by the researchers who code the data. Inevitably, the findings are shaped by the assumptions and experiences of the researchers conducting the research and carrying out the data analyses. In order for the findings to be usable, the researcher (data analyst) must make decisions about what is more important and less important in the data.
- Different researchers are likely to produce findings which are not identical and which have non-overlapping components.
- The trustworthiness of findings can be assessed by a range of techniques such as
 - (a) Independent replication of the research,
 - (b) Comparison with findings from previous research,
 - (c) Triangulation within a project,
 - (d) Feedback from participants in the research, and
 - (e) Feedback from users of the research findings.

In ensuring that the general inductive method can be successfully and practically applied, Groenewald (2004: 17-21) proposes a 5 step process consisting of the following steps:

- Bracketing and initial summarising of the raw data – this entails the initial summarising of information excluding the intrusion of the researchers own views
- Delineating units of meaning- this involves the extraction of units of meaning by considering the literal content and significance of various units of meaning
- Clustering of units of meaning to form this – this involves clustering units of meaning within a broader holistic context and grouping units of meaning together
- Extracting general and unique themes from the interviews – this entails the drafting of a composite summary which must reflect the context within which these themes emerge

In order to ensure that an acceptable standard of methodological rigour in the analysis of the data as obtained the accent in analysing the information obtained during the interviews was based on identifying commonalities and trends that either confirmed or contradicted the conclusions derived from the literature review.

The method that was used to organise the information was based on insight slides which structured the information into core aspects such as the definition, purpose, implementation, legislative framework, problems and challenges as well as the future of B-BBEE. This was done on an organisation by organisation basis to highlight similarities and contrasts and ensure that as little as possible of the data and subtle nuances were lost. These insights slides are captured in chapter 4 of this study.

In categorising the information an open coding process was followed. An overview of the coding process is shown in Table 3.2. The intended outcome of the process is to create three to eight summary categories, which in the coder's view captures the key aspects of the themes in the raw data and which are assessed to be the most important themes given the research objectives. In this case some of the categories needed combining.

Table 3.2 Data Analysis Coding

Initial read through text data	Identify specific segments of information	Labels the segments of information to create categories	Reduce overlap and redundancy among the categories	Create a model incorporating most important categories
Most of pages of text	Many segments of text	30-40 categories	15-20 categories	3-8 categories

3.3.6 Reporting

Collis and Hussey (2003:291) state that one of the difficulties faced in a phenomenological study is that it is almost impossible to disentangle the results and the analysis. In order to counter this problem, they advocate an approach that encapsulates the following elements and is structured as follows:

- Presenting an overview of the significant qualitative findings of the study
- Providing a consideration of the findings in light of recent research studies
- Examining findings that support or fail to support an enquiry into key elements of the research question
- Presenting the limitations of the study that may affect the validity or generalizations of the results
- Presenting the implications of the study and recommending aspects for further research

In order to ensure the systematic and orderly presentation of research findings, this is the approach that was followed in this study.

3.7 Closure

This chapter has focussed on a detailed discussion of the research design in accordance with which this study has been conducted. The chapter started out with a discussion of the nature of the research. It proceeded to a discussion of the sampling, data collection, data analysis techniques and reporting process that constitutes the design. In so doing it provides the research logic that underpins the study.

Chapter FOUR

ANALYSIS, FINDINGS AND DISCUSSION

4.1 Introduction

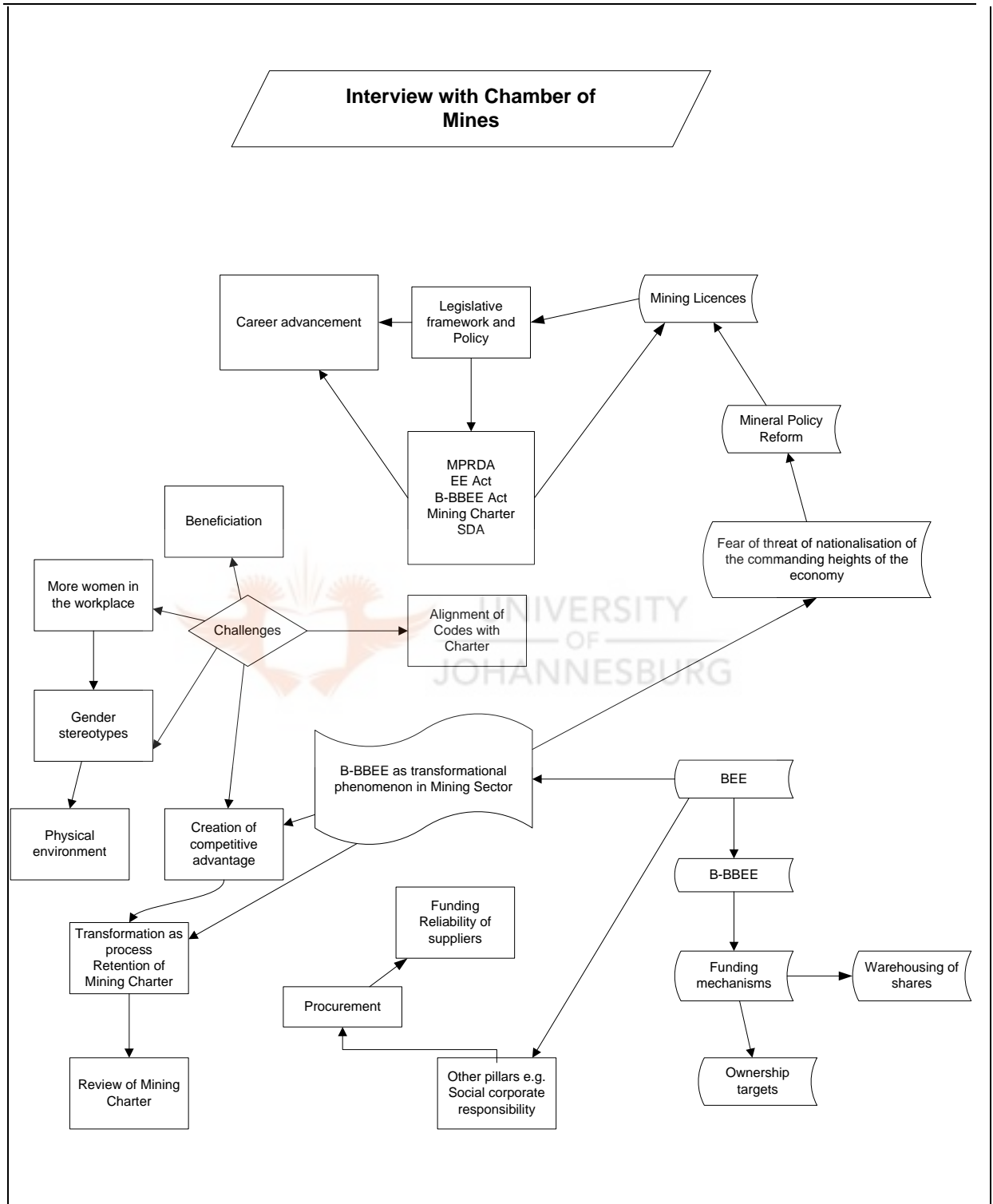
The purpose of this chapter is to present the findings derived from the analysis of the data obtained through the data collection process. An integrated analysis of the data has been conducted. This analysis has been achieved by using a combination of the cognitive mapping and general inductive method processes.

By following this integrated approach, the internal logic underlying the research process was allowed to unfold systematically. This approach also allows for the attainment of a “birds eye view” of the findings which were then linked backwards with the interview guide and forward with utterances and viewpoints emanating from the cognitive maps and insights slides. This ensured an orderly and thematic structuring of the findings.

4.2 Cognitive maps

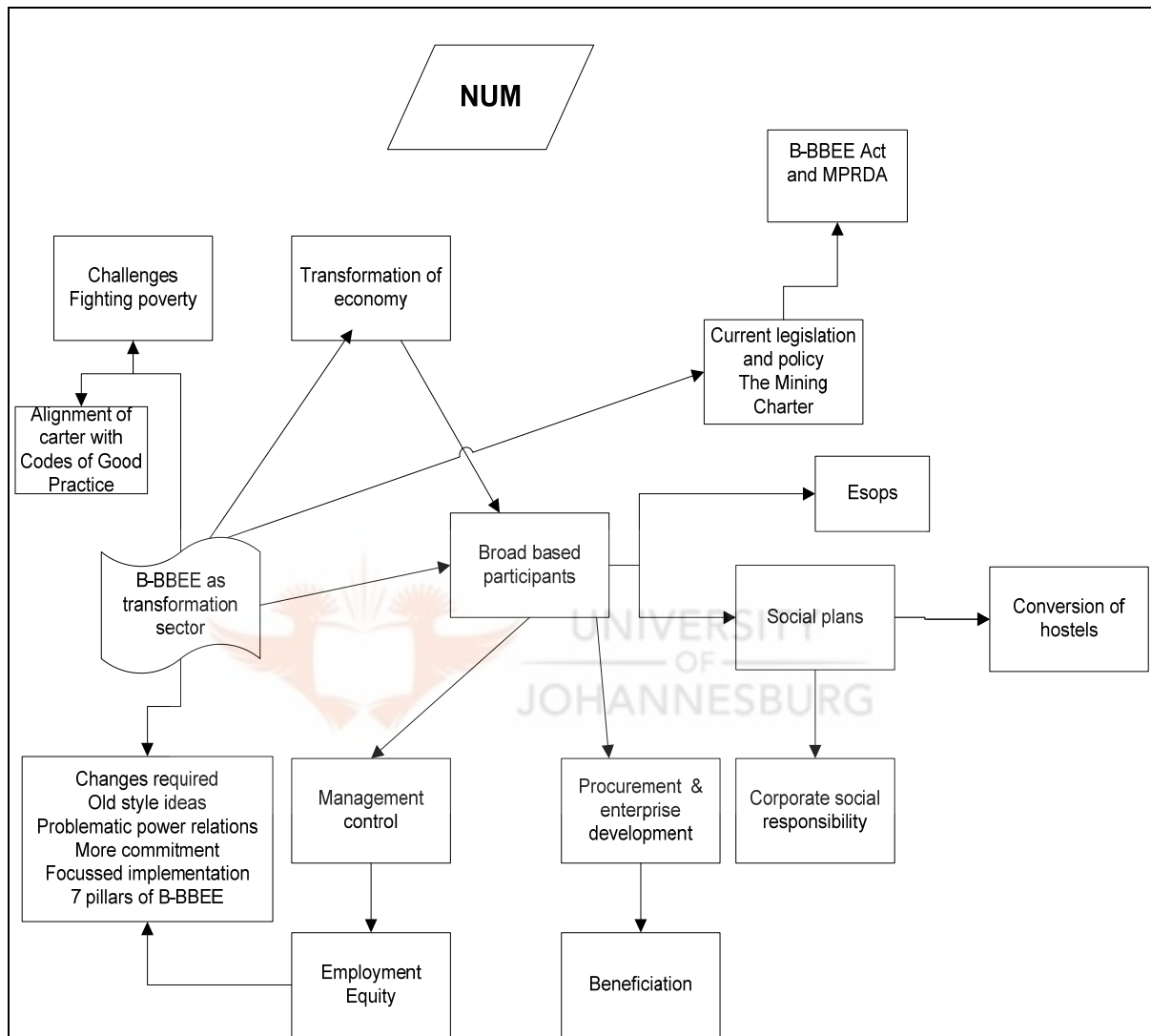
Cognitive maps were used as a technique to structure, analyse and make sense of issues and problems. This approach, which was used extensively in this study is a particularly useful note taking and clarification method, that works particularly well in an interview process that forms part of a qualitative research design. This technique was also used in this study to record transcripts in a way that promoted analysis, questioning and understanding of the data. The ensuing section presents these cognitive maps as they emanated from the interviews.

Figure 4.1 Chamber of Mines cognitive map



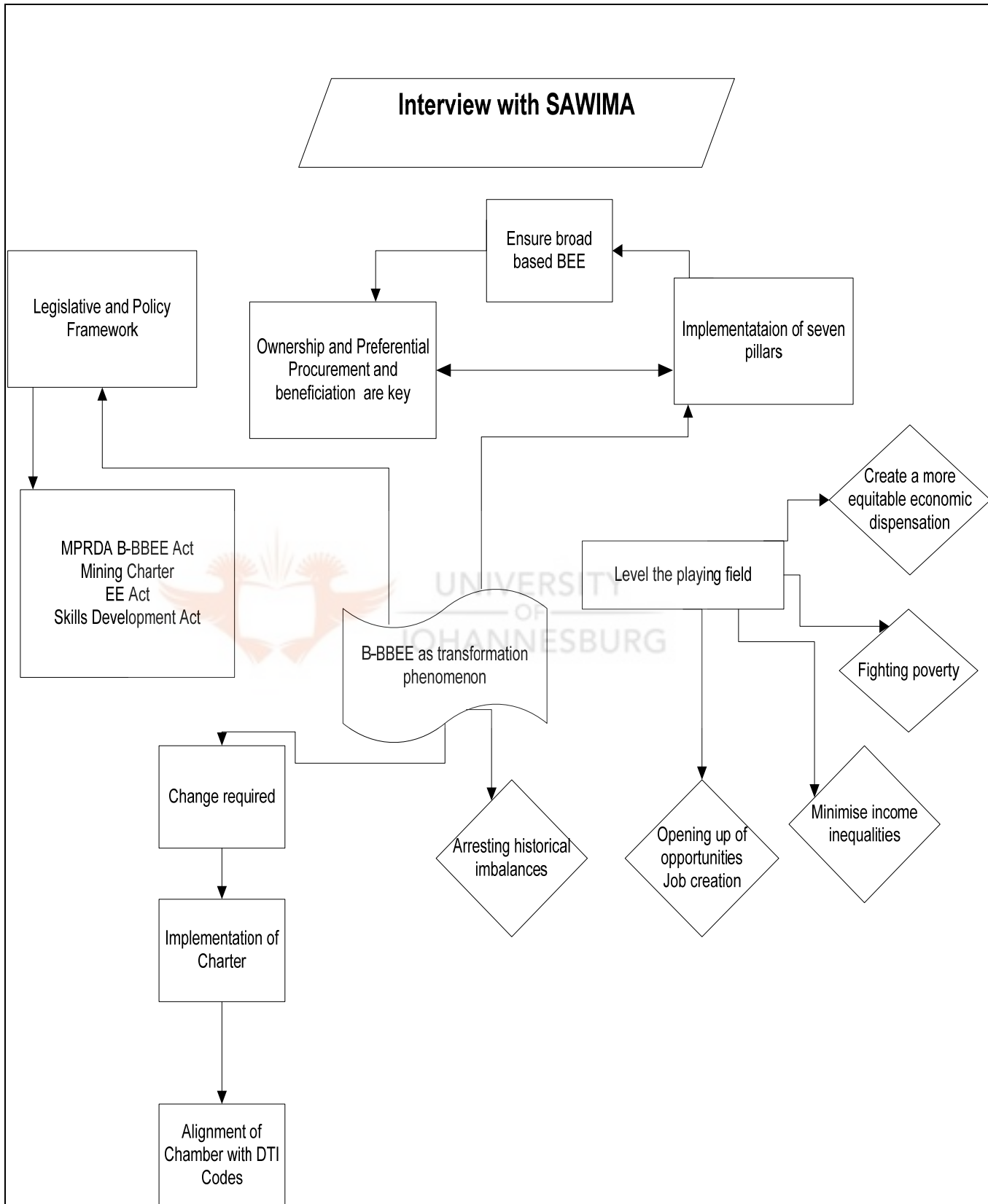
Source: Own research

Figure 4.2 NUM cognitive map



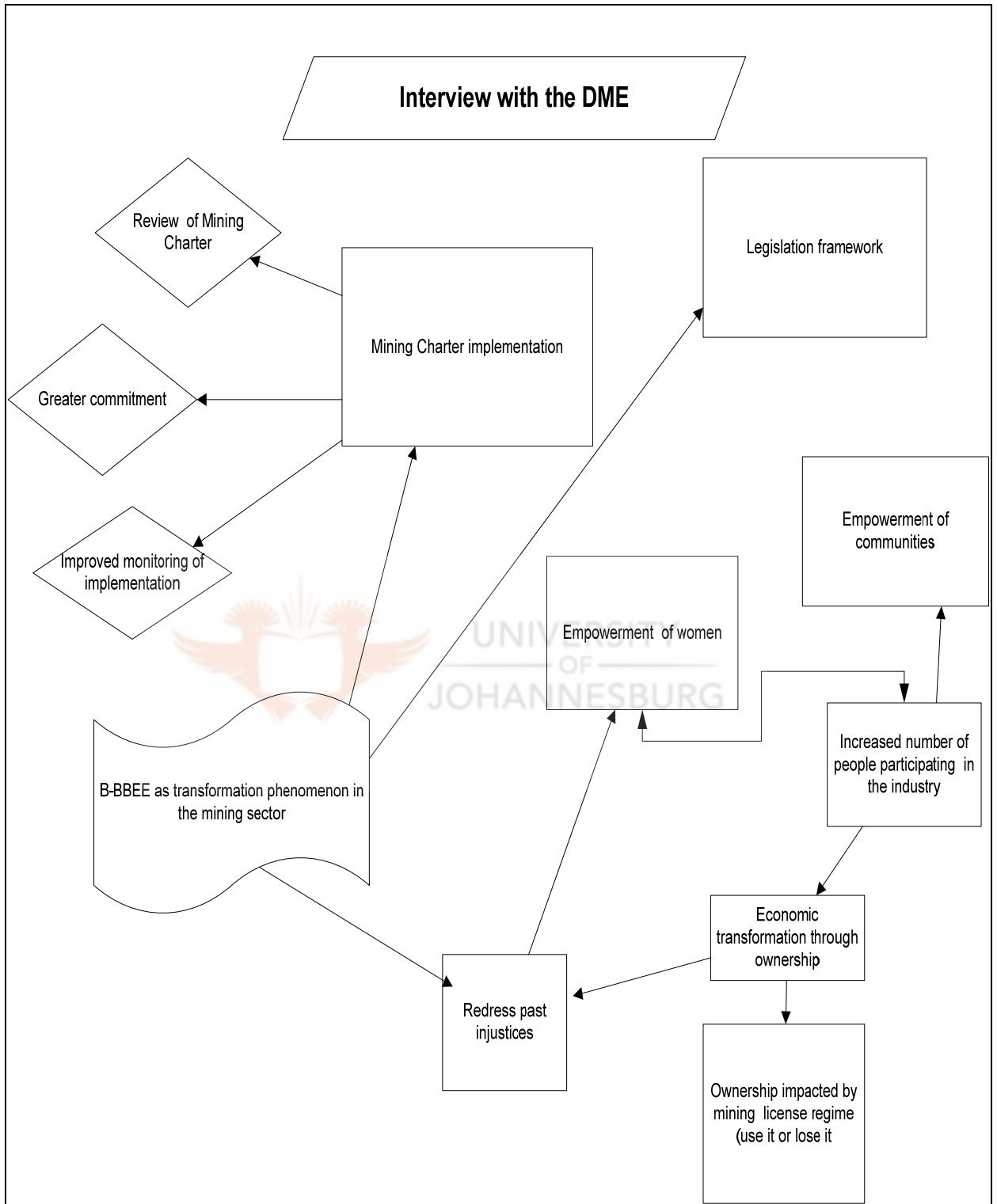
Source: Own research

Figure 4.4 SAWIMA Cognitive map



Source: Own research

Figure 4.5 DME cognitive map



Source: Own research

4.3 Insight Slides

As has been pointed out earlier, the insight slides build on the cognitive maps. The slides which are presented below focus on three dimensions viz:

- Key themes
- Key issues
- implications

The original notes from the interviews which were analysed in conjunction with the cognitive maps allowed for the emergence of the information and findings which are presented through a set of insight slides

Table 4.1 Chamber of Mines Insight Slides

KEY THEME	ISSUES	IMPLICATIONS
Definition of B-BBEE	<ul style="list-style-type: none"> • Broad based participation of multiple stakeholders • Freedom Charter –minerals must benefit all of the country • Reflected in Minerals Policy and provisions of MPRDA 	<ul style="list-style-type: none"> • General definition acceptable, issue is implementation and broaden the scope an impact of BEE
Purpose of B-BBEE	<ul style="list-style-type: none"> • To bring more people into economic mainstream • To grow the economy • To correct historical imbalances • To promote competitive advantage • To create a stable mining rights and licensing environment 	<ul style="list-style-type: none"> • More transactions focusing on a broader spectrum of stakeholders • Promotion of competitive advantage and more fixed investments to ensure long term growth prospects
Implementation of B-BBEE		<ul style="list-style-type: none"> • Implemented all 7 pillars
Sub-themes		<ul style="list-style-type: none"> • More innovative funding structures
Ownership	Much progress has been made. Mining largest deal plan for any sector (140 billion effective implementation)	<ul style="list-style-type: none"> • More skills development across all levels
Management Control	Progress has been made	

<p>Employment Equity (EE)</p> <p>Skills Development</p> <p>Enterprise Development</p> <p>Preferential Procurement</p>	<p>Effectively implemented</p> <p>Fairly effective implementation, illiteracy has declined from 78% to 55%. Almost 100% compliance with SDA</p> <p>Funding a problem difficult to establish new enterprises</p> <p>Difficult to establish new enterprises Mining policy (90 days credit) presents cash flow problems for new enterprises</p> <p>Reliance on established supplier networks.</p> <p>Supplier and maintenance of equipment dependent on the knowledge, experience and huge sums of cash. This acts as a barrier to procure from black enterprises</p>	
<p>Legislative Framework</p>	<p>Most effective pieces of legislation</p> <ul style="list-style-type: none"> • MPRDA • B-BBEE • Mining Charter 	<p>Legislation is adequate, more implementation needed. Review of certain aspects of Mining Charter</p>
<p>Problems and Challenges</p>	<ul style="list-style-type: none"> • Equipping people with skills to participate in the economy • Provision and management of access to mineral rights • Access to finance • Beneficiation (not requirement in Charter, merely an incentive) • Gender issues (women in mining e.g. stereotypes) • Problems with ABET programs (production bonus versus education) 	

Own source

Table 4.2 NUM Insight Slides

KEY THEME	ISSUES	IMPLICATIONS
Definition of B-BBEE	<ul style="list-style-type: none"> • People creators of wealth • Communities in which mining occurs must share in proceeds • Workers must share in the proceeds • Principles espoused in Freedom Charter must be upheld 	<ul style="list-style-type: none"> • Definitions needs to be broadened and shift away from an overemphasis on ownership
Purpose of B-BBEE	<ul style="list-style-type: none"> • Empower huge groups of people • Getting more people into the economic mainstream • Empowerment of workers • Job creation through enterprise development and beneficiation 	<ul style="list-style-type: none"> • Workers and communities must be more involved in B-BBEE
Implementation of B-BBEE		Need to
Sub-themes		<ul style="list-style-type: none"> • Intensify implementation, stricter monitoring and evaluation of actual implementation • Sharpen focus on stamping out fronting • Greater commitment to implementing beneficinations • Social plans need to be more encompassing and properly implemented
Ownership	Fairly effective implemented although focus is narrow BEE	
Management Control	Not effective implemented, black managers not being brought through the ranks fast enough	
Employment Equity (EE)	Not effectively implemented, high levels of resignations undermine EE	
Skills Development	Not effectively implemented	
Enterprise Development	Not effectively implemented. Beneficiation is almost nonexistent. Fronting a major problem	
Preferential Procurement	Not effectively implemented. Undermining of procurement policies, prevalence of old supplier relationship	
Corporate Social Responsibility	Not effectively implemented. Social plans are deficient and poorly implemented	

Legislative Framework	<p>Most effective pieces of legislation</p> <ul style="list-style-type: none"> • MPRDA • B-BBEE • Mining Charter 	Legislation is adequate; however mining charter is a problem. Needs to be reviewed
Problems and Challenges	<ul style="list-style-type: none"> • Focus skewed towards narrow BEE • Poor implementation of B-BBEE • Lack of commitment • Fronting • Failure to implement beneficiation • Slow progress with implementation of ESOPS • Sustainability of B-BBEE questionable 	

Own source

Table 4.3 SAMPPF Insight Slides

KEY THEME	ISSUES	IMPLICATIONS
Definition of B-BBEE	<ul style="list-style-type: none"> • Empowerment of multiple stakeholders • Empowerment of communities 	<ul style="list-style-type: none"> • Definitions and purpose must remain aligned. Its about participation
Purpose of B-BBEE	<ul style="list-style-type: none"> • Redress past imbalances • Bring black people into the economic mainstream • Ensure equitable access to resources 	<ul style="list-style-type: none"> • Intensify efforts and commitment to B-BBEE
Implementation of B-BBEE		Address issues pertaining to enterprise development and preferential procurement in particular
Sub-themes		
Ownership	Fairly effective implemented but should be broadened	Address issue of white females i.e. whether they should be beneficiaries of B-BBEE
Management Control	Fairly effective although blacks need to come through	Address fronting

Employment Equity (EE)	Fairly effective although issue of white women is ambiguous and needs to be clarified.	
Skills Development	Fairly effective especially at lower levels. More technical people need to be developed (especially black people)	
Enterprise Development	Not effective. Hamstrung by access to funding	
Preferential Procurement	Not effective	
Corporate Social Responsibility	Effective	
Legislative Framework	Most effective pieces of legislation <ul style="list-style-type: none"> • MPRDA • B-BBEE • Mining Charter 	Review Mining Charter. Bring it into alignment with DTI Codes
Problems and Challenges	<ul style="list-style-type: none"> • Preferential procurement characterised by unhealthy practices e.g. fronting • No proper recognition, accreditation being given to preferential procurement adherents 	<p>Alignment of Codes with Mining Charter or alternatively developing a proper scorecard especially for the procurement aspects of the seven pillars</p> <p>Address issues such as access to funding for new enterprises</p>

Own source

Table 4.4 SAWIMA Insight Slides

KEY THEME	ISSUES	IMPLICATIONS
Definition of B-BBEE	<ul style="list-style-type: none"> • Empowerment of communities • Opening up of opportunities to HDI's • Equity acquisition ownership by black people 	<ul style="list-style-type: none"> • Broaden empowerment • Moving away from narrow BEE practices
Purpose of B-BBEE	<ul style="list-style-type: none"> • Levelling of the playing fields • Addressing historical imbalances • Creating a more equitable economic dispensation • Fighting income inequality • Fighting poverty 	<ul style="list-style-type: none"> • Ensuring that B-BBEE contributes to the fight against poverty • Bring blacks into the economic mainstream
Implementation of B-BBEE		<ul style="list-style-type: none"> • Improve performance on some aspects of the seven pillars
Sub-themes		
Ownership	Fairly effective large as a result of black ownership being pre-conditioned for issuing of mining licenses	<ul style="list-style-type: none"> • These include employment equity including addressing of gender issues, skills development, preferential procurement
Management Control	Not effective too much tokenism and subtle sabotaging of the transformation agenda	<ul style="list-style-type: none"> • Create more jobs through enterprise development especially by promoting beneficiation in the industry
Employment Equity (EE)	Not effective as a result of continued marginalisation of women.	<ul style="list-style-type: none"> • Employ blacks who are more than mere tokens into managerial positions
Skills Development	Fairly effective especially at lower levels.	
Enterprise Development	Not effective because of access to funding	
Preferential Procurement	Not effective	
Corporate Social Responsibility	Fairly effective as a result of social plans being made a pre-condition for the issue of mining license	

Legislative Framework	<p>Most effective pieces of legislation</p> <ul style="list-style-type: none"> • MPRDA • B-BBEE • Mining Charter 	<p>Review Mining Charter. Bring it into alignment with DTI Codes</p>
Problems and Challenges	<ul style="list-style-type: none"> • Access to funding • Barriers to entry in mining (huge initial capital cost and knowledge of the industry as a result of its complexity • Fronting which includes aspects of corruption and nepotism • Continued marginalisation of women 	<p>Create new and innovative funding mechanisms</p> <p>Lobby for the entry of more blacks and in particular women into industry</p> <p>Deal harshly and decisively with the practice and culture of fronting</p>

Own source



Table 4.5 DME Insight slides

KEY THEME	ISSUES	IMPLICATIONS
Definition of B-BBEE	<ul style="list-style-type: none"> • Involved of HDI's • Increased participation • Involvement of communities 	<ul style="list-style-type: none"> • Ensure that definitions provides framework for impactful practice
Purpose of B-BBEE	<ul style="list-style-type: none"> • Economic transformation • Deracialisation of the economy • Access to opportunity for everyone • Creating a new mineral rights dispensation in mining with the state as custodian of mineral rights 	<ul style="list-style-type: none"> • Broaden focus of B-BBEE to go beyond narrow BEE
Implementation of B-BBEE		
Sub-themes		
Ownership	Fairly effective – new entrepreneurs have been created	

Management Control	Fairly effective new managers have come through the ranks	
Employment Equity (EE)	Not effective , not enough blacks and women at all levels in mining	
Skills Development	Fairly effective especially at lower levels.	
Enterprise Development	There has been little progress with regard to beneficiation	
Preferential Procurement	Not effective as a result of fronting	
Corporate Social Responsibility	Fairly effective since tied in with fairly effective mining license approval. However environmental rehabilitation remains a challenge	
Legislative Framework	<p>Most effective pieces of legislation</p> <ul style="list-style-type: none"> • The Constitution • MPRDA • B-BBEE Act • Mining Charter 	<p>Monitoring Mining Licences policy implementation</p> <p>Review of Mining Charter</p> <p>Alignment of Mining Charter with the DTI codes</p>
Problems and Challenges	<ul style="list-style-type: none"> • Implementation of all seven pillars of B-BBEE • Economic transformation • Environmental rehabilitation of mined out areas • Improving policy even further 	<p>Alignment of Mining Charter with DTI's Codes</p> <p>Improved monitoring and evaluation of B-BBEE</p>

Own source

The information coming out of the interviews, the cognitive maps and the insight slides was then consolidated in order to present the findings in an integrated and cogent manner.

4.4 Consolidated research findings

The consolidated research findings are presented on an organisation by organisation basis in the ensuing section of this study

4.4.1 Chamber of Mines cognitive map and insight slides

From the Chamber of Mines' cognitive map, a number of interconnected emerging themes can be discerned. These include the following:

- B-BBEE funding – this relates to problems with the funding of B-BEE transactions
- Mining License issues – this relates to the problems and challenges pertaining to the issue of mining licenses
- Economic Growth - this relates to the challenge of ensuring economic growth in order to ensure job creation and industry sustainability
- Competitive Advantage – this relates to imperative of remaining competitive relative to other countries and thereby ensuring continued investment and sustained profitability
- B-BBEE implementation – this relates to implementing the seven pillars of B-BBEE with particular emphasis on ensuring sufficient progress on ten scorecard to ensure the retention of mining licences

The insight slides provide more in-depth analysis of the data that has emerged from the interview. Building on the cognitive map, the insight slide is structured in six themes. These themes include the following:

Definition of B-BBEE

The definition provided by the Chamber of Mines draws its inspiration from the Freedom Charter. The Chamber agrees that minerals must benefit all of the country. They further argue that the benefit to all can only be achieved by ensuring the broad participation of multiple stakeholders. They also argue that B-BBEE is both a transformative and participative process and that this “spirit” is captured best in Mineral Policy, the Mining Charter and the MPRDA.

Purpose of B-BBEE

The Chamber sees the purpose of B-BBEE as being aimed primarily at bringing more people into the economic mainstream, to grow the economy, to correct historical imbalances, to create a stable mining rights environment and to promote competitive advantage. Whilst most of the objectives are well documented in the literature, it is the notion of the promotion of competitive advantage and economic growth that is most interesting.

The question that are raised here relate to how B-BBEE will promote or hinder competitive advantage both in the short and long term and how this is in turn linked to the broader macroeconomic issue of economic growth. The Chamber of Mines acknowledged that thought on these issues need substantial further development

Implementation of B-BBEE

Feedback on the implementation of the seven elements of B-BBEE reflected the following:

- *Ownership* – the Chamber felt that this aspect was being effectively implemented. It based its view on the fact that this sector had the highest deal flow of any other sector on the JSE (R180 billion in 2006).
- *Management control* – on this issue the Chamber holds the view that fairly effective progress has been made. It advances as a reason for this, the fact that the industry has seen a fairly significant number of black people holding management positions. It also further substantiates this view by citing a number of new ventures (of which EXXARO) is the most notable, that are headed by blacks.
- *Employment Equity*: the Chamber holds the view that this pillar of B-BBEE has been very effectively implemented. It cites as evidence of this the fact that more than 90% of its members have reported full compliance and full achievement of their employment equity targets
- *Skills Development*: with regard to this pillar the Chamber believes that a fairly effective level of implementation has been achieved. In support of this view it cites a decline from a 78% illiteracy level to 55% literacy between since 2002

and 2008. It cites as further evidence of the effectiveness of the industry skills development strategy and programs, the fact that there is almost 100% compliance in the industry with regard to meeting the requirements of the SDA. Key amongst these requirements is the submission of skills plans for all mining companies.

- *Enterprise development:* The Chamber is of the view that this pillar has not been effectively implemented. It attributes this to two factors viz, access to funding for new business and the difficulties involved in establishing a downstream beneficiation industry. The reason for the slow progress can be attributed to the fact that the raising of capital by new entrepreneurs is fraught with difficulty. Banks are generally averse to the perceived risk of funding these start up operations of funding. This problem is compounded by the fact that South Africa's venture capital environment is neither particularly well developed nor indeed vibrant.

With regard to the issue of beneficiation, the Chamber holds the view that it will be extremely difficult to establish a significant downstream beneficiation industry. They cite as reasons for this the belief the fact that no competitive advantage is held by the country with regard to beneficiation since it can be neither a low cost provider of beneficiated products or supplier of premium products because of the skills issue

- *Preferential Procurement:* The Chamber believes that this aspect of B-BBEE is currently not very effectively implemented in the industry. It attributes this primarily to the fact that supply and maintenance of most mining equipment is dependent on knowledge and experience, as well as huge sums of capital investment. This, they believe acts a barrier to entry to B-BBEE ventures

This aforementioned factor is also integrally linked with the second problem viz, the reliance on established supplier networks. Many suppliers have long standing relationships with the mining companies. This has led to the development of mutual trust over the years. Most mining companies are apprehensive about getting involved with suppliers who are "not known" and who "do not have the requisite track record

- *Social corporate responsibility:* The Chamber believes that the implementation of these pillars of B-BBEE has been very effective. They attribute this to the fact that every mining licence issued, is contingent on the submission of a proper social plan.
- *Legislative Framework:* Amidst the plethora of legislation aimed at ensuring transformation the Chamber believes that the most effective legislation has been the B-BBEE Act, the MPRDA and the Mining Charter. It believes that these acts have either a clear and targeted focus on B-BBEE generally (as is the case with the B-BBEE Act) or on B-BBEE specifically in mining (as is the case with the MPRDA and the Mining Charter)
- *Problems and challenges:* The Chamber identified a number of problems and challenges with regard to B-BBEE in the mining sector. It identified the need to equip people in the industry with skills as a result of skills imbalances resulting from past practices. It also highlighted problems relating to the implementation of ABET programs as a result participants being more inclined to opt of these programs in order to be able to ensure their production bonuses

Access to finance both for prospective entrepreneurs and even established mining houses was also raised as a challenge. It was felt that as long as these problems remained it would act as a brake on progress with regard to B-BBEE.

Furthermore the appointment of women across all levels in the industry was also raised as a major challenge, as a result of prevalence of gender stereotypes coupled to physicality of the work in certain areas of the mining environment.

Finally, on the area of enterprise development build and the establishment of a downstream beneficiation industry, the Chamber was of the view that economic forces especially those relating the issue of advantage competitive militated against this.

4.4.2 NUM Cognitive map and insight slides

The cognitive map constructed out of the interview with the representative from NUM was characterised by a point of departure that focused on three issues underpinning B-BBEE. These issues were identified as the socio economic transformation of the economy, the correction of historical imbalances founded on “old style ideas” and problematic power relations and the broadening of participation in the economy.

These issues provided the springboard for the surfacing of a number of other issues. These included the seven pillars of B-BBEE with special emphasis on the extent to which they were being implemented. The NUM feel strongly that their implementation left a lot to be desired.

Emphasis was also placed on issues pertaining to housing and community upliftment. This was not surprising since South African unions often see for themselves, a much broader role than merely championing “narrow worker interests”

The issues of enterprise development, job creation and downstream beneficiation also surfaced quite strongly. Serious questions were raised about the mining sectors commitment to addressing these issues.

A final observation that emerged from the cognitive map was the issue of perceived weaknesses in terms of the Mining Charter. It was felt that the Charter lagged behind the DTI’s Codes, as a transformative document off which “real B-BBEE” could be leveraged. As a result of this, strong emphasis was placed on aligning the Charter with the DTI’s Code

The insight slides which build on and flash out the cognitive map revealed the following insights with regard to the six major themes.

Definition of B-BBEE

In keeping with the NUM’s “Leftist perspective” “people” were seen to be the creators of wealth. As a result of this NUM, felt that workers were entitled to share “fully” in the proceeds of mining. They felt that this definition of B-BBEE needed to also

acknowledge the importance of empowering the communities within which mining was taking place, especially if it is recalled that these towns are often left destitute and derelict when mining activity comes to an end. They maintained that the notion of B-BBEE can ultimately be traced back to the provisions of the Freedom Charter.

Purpose of B- BBE

The NUM identified four key purposes of B-BBEE. These included the empowerment of workers, getting more people into the economic mainstream and job creation through beneficiation and the creation of downstream mining activity. The NUM places great emphasis on job creation and the involvement of workers in B-BBEE initiatives

Implementation of B-BBEE

The NUM provided the following set of observations and insights with regard to the implementation of the seven pillars of B-BBEE

- *Ownership* – the NUM felt that this pillar of B-BBEE has been fairly effectively implemented. They did however express a serious concern that ownership of the industry continued to be confined to being “the preserve of a selected few”. This problem they felt had to be addressed to save B-BBEE from losing credibility and ending up as just another narrow self enrichment exercise.
- *Management Control* – the NUM contended that this aspect was not being implemented effectively. They ascribed this to their perception that black managers were not coming through the ranks quickly enough. They also expressed a concern that when Black managers were recruited from outside of the industry into senior levels, they generally did not stay long, because of frustrations emanating from what they perceived as resistance to transformation.
- *Employment Equity* – the NUM holds the view that this pillar of B-BBEE is not well being implemented. The failure to implement this pillar effectively is attributed to the high levels of resignations by Black Managers. The NUM is of the view that the environment towards them is hostile, and as

such undermines their ability to establish themselves and prevents them from making an impactful and sustainable contribution

- *Skills Development* – the view is held that this pillar is not being effectively implemented. Whilst the NUM concedes that progress has been made with some aspects of skills development e.g. ABET, it remains concerned that the skills development efforts in the technical areas such as engineering, mining and management development are not being addressed sufficiently.
- *Enterprise Development* – The NUM maintains that this aspect of B-BBEE is not being implemented effectively. It basis its view on the fact that since the promulgation of the Mining Charter in 2002, there has been hardly any development of a downstream beneficiation industry. This it says has undermined transformation by ensuring that little has been done to change the “super structure of mining ownership and job creation.

4.4.3 SAMPPF cognitive map and insight slides

The cognitive map emanating from the interview with the representative of the SAMPPF highlights a set of interrelated issues. These include the issues pertaining to how to ensure more sustained implantation of B-BBEE by focussing on the implementation of all seven pillars. However this being an organisation that focuses on procurement, their emphasis is on the pillars of enterprise development and preferential procurement.

The SAMPPF's cognitive map indicates that they consider ownership as an important issue through which to achieve B-BBEE, but argue that in the long run an approach focusing on ownership is likely to have less of a transformative impact. They argue that ownership has to be supplemented with the skills development, enterprise development and preferential procurement pillars in order to make a substantive empowerment impact.

Their cognitive map indicates that the Mining Charter needs to be aligned to the DTI's Codes. For the SAMPPF this is a very important issue since they believe that

the DTI's Codes are a far better and more thorough tool for ensuring B-BBEE implementation.

The observations regarding B-BBEE as captured in the insight slides is presented below.

- *Ownership* – the view is that this aspect is being effectively implemented. The problem is that the SAMPPF does not believe that the implementation of this aspect however effectively, will have the intended impact of broad based empowerment
- *Management Control* - The SAMPPF believes that this pillar is not being effectively implemented. They ascribe this to the fact that there is a genuine skills shortage at the higher levels and that there is very little that mining companies can do in the short term.
- *Employment Equity* – SAMPPF is of the view that the pillar is not being implemented effectively. They argue that “even at this late stage the employment equity situation at higher levels is still much too skewed and unbalanced. They also have a problem with the inclusion of white women in employment equity definition. They hold the view that black South Africans are the real intended target group and that mining companies can easily subvert and undermine this intention by opting for white women as partners.
- *Skills Development* – The SAMPPF believes that this aspect is crucial in ensuring sustained transformation. They believe that if this pillar is properly implemented it could be a key lever for ensuring sustained empowerment. As such they believe that there is a “ great need for much more investment in skills development”
- *Enterprise Development* – The SAMPPF believes that this pillar is not being effectively implemented. They attribute this to weaknesses in the Mining Charter in terms of its failure to prescribe how this should be measured. They argue that the DTI's Codes give a far more comprehensive basis for assessment of the extent of enterprise development.

- *Preferential Procurement* – the SAMPPF is of the view that this aspect is being fairly effectively implemented. They believe that there are genuine attempts being made to procure from empowered suppliers. However they hold the view that the way in which the Mining Charter is assessing preferential procurement, does not take cognisance of empowerment through the full supply chain
- *Corporate Social Responsibility* – The SAMPPF holds the view that this pillar is being very effectively implemented. They attribute this to the fact that social plans are a pre-requisite for mining licences. They do however acknowledge that there could be performance gaps between the social plan and how it is actually being implemented.
- *Legislative framework* – The SAMPPF is of the view that the legislation that has the most impact are the B-BBEE Act, the MPRDA, the SDA , the EE Act and the Mining Charter
- *Problems and Challenges* – The cardinal problem or challenge identified by the SAMPPF is the need for the alignment between the Mining Charter and the DTI's Codes. Over and above this, they hold the view that fronting is a huge problem that must be stamped out. They also believe that the way in which preferential procurement is recognised, measured and accredited is problematic since the Mining Charter offers little guidance on this

4.4.4 SAWIMA cognitive map and insight slides

The cognitive map emanating from the interview with the representative from SAWIMA showed a few clear trends. The point of departure was that for B-BBEE to have the transformative impact envisaged by the legislation and policies in the Mining Sector, the starting point is an acknowledgement by all players in this sector that there was a need to “ correct historical imbalances and level the playing fields” .

The cognitive map indicates that SAWIMA sees a number of interrelated aspects as being key to implementing B-BBEE successfully. These include identification of

further transformation changes required. It also includes the effective implementation of the Mining Charter, especially within the context of the seven pillars of B-BBEE. Particular emphasis is placed also on the creation of the “downstream” beneficiation industries as means to creating jobs and fighting poverty. In addition to this SAWIMA also believes that the alignment of the Mining Charter with the DTI’s code is a key task going forward.

SAWIMA’s insight slides take the thematic issues identified in the cognitive map a step further with regard to the following:

Definition of B-BBEE

As has been pointed out SAWIMA sees the definition of B-BBEE as encapsulating three aspects viz, empowerment of the community, opening up of opportunities that have been previously reserved for whites, and the acquisition of equity ownership by black people. SAWIMA holds this view because it believes that there can be no real empowerment until blacks take full or partial ownership of some of these mining houses. A consequence of this will be the opening up of opportunities. This in turn will result in the correction of historical imbalances over time. SAWIMA also sees B-BBEE being defined in terms of the empowerment of local communities (i.e. communities within which mining activity is taking place).

Purpose of B-BBEE

The purpose of B-BBEE is seen as the “addressing of historical imbalances through a process that is aimed at levelling the playing field” In doing this the focus must be on the “ creation of a more equitable economic dispensation” which is underpinned by a “ reduction in income inequalities and poverty”

Implementation of B-BBEE

The interview with the SAWIMA representative provided the following observations and insights with regard to the implementation of B-BBEE

- *Ownership* – SAWIMA is of the view that this pillar of B-BBEE is being fairly effectively implemented. This is attributed to the fact that equity ownership by B-BBEE partners in a mining company, is a prerequisite for the acquisition of a new mining licence or the conversion of old order mining rights into new

order rights. The testimony to the effectiveness of the implementation of this pillar can also be ascertained by seeing how many new empowerment players have acquired equity in various companies.

- *Management Control* – SAWIMA holds the view that the implementation of the management control pillar has not been very effective. It attributes this to the wide spread practice of “tokenism” as well as the sabotaging of B-BBEE initiative in an attempt to resist transformation
- *Employment Equity* – It was felt that this aspect has also not been effectively implemented up. The reasons for holding this view include the fact that black people constitute a relatively small percentage of people in the top structure of the mining companies. This view is further reinforced by the fact that women are “conspicuous by their absence” in most of the various employee levels
- *Skills Development* – it was maintained that this aspect of B-BBEE was being fairly effectively implemented. The reasons for holding this view was the fact that although skills development was a problem at higher levels, at lower levels skills were being developed fairly effectively
- *Preferential Procurement* – It is SAWIMA’s view that this pillar has not been effectively implemented. This is attributed to the “existing old boys networks” which end up excluding new comers who want to supply mining companies with goods and services. The continued existence of these “old boys clubs” is then justified by arguing that they have the “knowledge, expertise and technical know-how” when no attempt is being made to ensure that black people acquire this knowledge. The problem has also been exacerbated by the fact that ten few black people who have acquired “honorary membership of the old boys club” exacerbate the situation by reinforcing the “ revolving door syndrome”
- *Corporate Social responsibility* – this pillar is believed to have been fairly effectively implemented. The belief is based on the fact that all mines have social plans and that a social plan is a pre-requisite for the acquisition of a

mining licence. The belief that this pillar is being fairly effectively implemented is reinforced by the fact that mines are involved in corporate donations to health and educational projects in the areas in which they operate.

- *Problems and Challenges* – the key problems and challenges identified by SAWIMA include the nefarious issues of nepotism, corruption and fronting. They believe that these problems prevail because of a lack of commitment to B-BBEE which is masked by merely paying lip service to it. This problem is compounded by the existence of the avarice and greed in the industry which is manifested through the inclination of officials in the industry from both the government and the private sector to “look after themselves” at the expense of the true purpose of B-BBEE which is really about the broadest possible empowerment of black people.

4.4.5 DME cognitive map and insight slides

The cognitive map emanating from the interview with the DME representative reflects a thought process in keeping with an institution coming from a policy making and regulatory perspective. The DME saw empowerment being underpinned by “commitment to redress of past injustices” in line with the provision of the Constitution and other subsequent legislation such as the B-BBEE Act, the MPRDA, the EE Act, the SDA and the Mining Charter.

In redressing past injustices the focus should be on the broadening of participation in the Mining Industry, the empowerment of communities in areas within which mining takes place and the empowerment of previously marginalised grouping especially women.

The DME sees the promulgation of legislation, regulations and the monitoring and policing of the implementation of these as crucial to ensuring the success of B-BBEE in the mining sector. The DME holds the view that its power to issue and revoke mining licences puts it in a strong position to ensure that the empowerment agenda prevails.

An analysis of the insight slides emanating from the interview and building up on the cognitive map reveals the following observations:

Definition of B-BBEE

The DME sees the definition of B-BBEE as incorporating three key aspects viz, the involvement of HDI's, the increased participation of black people in the economic mainstream, the involvement of communities in the empowerment process

Purpose of B-BBEE

The DME sees the purpose of B-BBEE as economic transformation which is founded upon the deracialisation of the economy. It is envisaged that the deracialisation of the economy will lead to access to opportunities for everyone. In order to ensure this, the DME see its role in the empowerment process as the creation of a new mineral rights dispensation with the State as the custodian of mineral rights.

Implementation of B-BBEE

The DME espoused the following views and observations with regard to the implementation of the seven pillars of B-BBEE:

- *Ownership* – the DME believes that this pillar of B-BBEE has been effectively implemented. It holds this view because, it believes that the growing number of B-BBEE owners in the mining sector is testimony to this. It also believes that despite this achievement the process of “bringing new B-BBEE owners on board” will have to be intensified
- *Management Control* – The DME is of the view that this pillar has been effectively implemented. They find evidence for this view in the fact that “many new managers have come through the ranks since the promulgation of the Mining Charter”. However, they concede that despite this, there is “plenty of room for improvement.
- *Employment Equity* – this pillar is seen as having been fairly effectively implemented. The concern that was however raised with regard to this pillar is that not enough black people and not enough women were coming through the ranks quickly enough. As a result of this, the DME hold the view that this process should be monitored more strictly to ensure that the

equity targets set by the mining companies are indeed met since failure to do this would undermine a crucial aspect of the implementation of B-BBEE.

- *Skills Development* – The DME held the view that this particular pillar of B-BBEE was being fairly effectively implemented. They felt that this was particularly true in the lower ranks of the sector as a result of the provision of ABET and other skills development programs
- *Enterprise development* – the DME maintained that this pillar of B-BBEE has not been very effectively implemented. They ascribe their view to the fact that very little beneficiation of minerals is happening in South Africa. They are also of the view that whilst the issue of beneficiation is included in the Mining Charter as “ aspirational target” very little effort is being expended to ensure that progress is being made with the actual realisation of the target”
- *Preferential Procurement* – the DME held the view that the issue of preferential procurement has not been very effectively implemented. They advance as the reason for this the high levels of fronting that prevail in the industry. They also hold the view that old well established supplier relationships based on trust and personal relationships militate against the effective implementation of preferential procurement.
- *Corporate Social Responsibility* – the DME contends that this pillar of B-BBEE has been fairly effective implemented in the mining sector. They ascribe this to the fact that the success of the application for a mining licence is determined partly by the existence of a well conceptualised social plan.
- *Legislative Framework*- the DME sees the Constitution, the B-BBEE Act and the Mining Charter as the pieces of legislation that have had the most impact in the mining sector. It says that these pieces of legislation collectively provide for the implementation and achievement of a complete transformation of the mining industry, from issuing of new licences, through

to the conversion of the old mining rights to new mining rights and even the implementation of all seven pillars of B-BBEE

- *Problems and Challenges* – the DME sees better implementation of all seven pillars of B-BBEE as key to the socio-economic transformation of this sector. It highlights the issue of making sure that proper environmental plans are in place to ensure the rehabilitation of former mining towns once mining activities have ceased. It also believes that an opportunity exists to improve policy even further with the upcoming review of the Mining Charter.

4.5 Closure

In this chapter the findings emanating from the primary data collection phase (interviews) were presented. This presentation was done by providing analysis and discussion as well as interpretation of the data. This has resulted in a set of findings which have been arrived at through methodological techniques that are germane to a cognitive mapping and a general inductive method process. The next chapter presents a summary of these findings and also proffers a set of recommendations based on the conclusions reached in the study.

Chapter FIVE

SUMMARY, RECOMMENDATIONS AND CONCLUSION

5.1 INTRODUCTION

Commentators have repeatedly argued that B-BBEE is essential in order to bring about economic democracy in tandem with the political freedoms that the election in 1994 introduced. Recent surveys tracking the implementation of B-BBEE since its inception have been divided and ambivalent about its success.

On the one extreme of the pendulum, are those who say it has been an unqualified failure. On the other extreme are those who argue that it has been a success beyond initial expectations. Somewhere between the two extremes are those who believe that it has been neither an unqualified failure nor a spectacular success. They hold the view that, although B-BBEE has clearly enlarged the pie, the plums in the B-BBEE pie are still far too few.

In this research, the B-BBEE phenomenon was examined with due consideration of these divergent viewpoints. The research was conducted in order to establish responses to the *grand tour* research question viz,

“What is B-BBEE and how has it manifested itself and impacted on the mining sector”

In attempting to answer this question, a number of investigative questions supporting an inquiry into the *grand tour* were addressed. This included the following:

- What is the difference between BEE and B-BBEE and how has B-BBEE evolved from BEE
- What are the underlying reasons for B-BBEE
- What socio, economic and political context is it located within
- What are the specific purposes of B-BBEE in the mining sector
- How does the B-BBEE phenomenon manifest itself in practice in the mining sector

- How has B-BBEE affected the mining sector
- What are the cardinal challenges faced by the mining sector in ensuring the implementation of B-BBEE in future

In exploring these questions a qualitative (phenomenological) research design was followed. The units of analysis were essentially the representatives of five national organisations considered to be significant “players” in the mining industry. These five representatives were asked to provide an organisational perspective and to indicate where their own perspectives differed with those of their organisation. These differences were then filtered out in the analysis phase, to ensure a fairly consistent organisational perspective.

Both primary and secondary data was collected. This data was analysed by using an innovative yet practical combination of the cognitive mapping general inductive method processes. Both processes have a sound theoretical grounding based on George Kelly’s Personal Construct Theory, and are thus fairly widely used in phenomenological research. It is however rare to use them jointly as is the case in this study.

5.2 SUMMARY

The summarised findings emanating from the research questions and the overall purpose of the research are presented in the ensuing discussion. The discussion focuses on the following:

- Description of B-BBEE
- Purpose of B-BBEE
- Implementation of B-BBEE
- Legislative and policy framework
- Problems and challenges facing B-BBEE

5.2.1 Description of B-BBEE

All the respondents to the survey indicated that the definition of B-BBEE entailed the participation of more people (especially black people) in the economy. All

respondents also agreed that B-BBEE had its genesis in the imperative to redress the historical imbalances brought about by apartheid “through levelling of the playing fields”. There was also consensus from the respondents that the description of B-BBEE entails the involvement of communities as well as groupings of individuals. These viewpoints are supportive to the viewpoints expressed in the literature review discussed in Chapter 2.

5.2.2 Purpose of B-BBEE

The most common viewpoint emerging from respondents on this issue was the notion that B-BBEE’s primary purpose was socio-economic transformation aimed at bringing previously disadvantaged people into the economic mainstream. This contention is supported by the viewpoints expressed in Chapter 2. Another viewpoint frequently expressed by respondents was that the purpose of B-BBEE was the creation of “access to opportunity for everyone”. This thinking is in line with that expressed by a number of authors quoted in Chapter 2 who argue that there is a moral imperative to ensure that everyone is provided with a fair opportunity to participate in the economy.

Amongst the views that were not mentioned by all respondents but that constituted a unique individual perspective included the views expressed by SAWIMA namely, that a key purpose of B-BBEE was job creation. Another unique viewpoint was expressed by the DME who stated that one of the purposes of B-BBEE was to create a new mineral rights dispensation where the state will be the custodian of mineral rights. This view is clearly reflective of the DME’s role as a regulatory and policy making authority.

5.2.3 Implementation of B-BBEE

Extensive information was received on this issue. Viewpoints varied with regard to whether the seven pillars of B-BBEE were being effectively implemented. With regard to equity ownership it appeared as if most respondents felt that this pillar of B-BBEE was being fairly effectively implemented, although there were reservations and differences in exactly how effective respondents deemed the implementation to have been.

With regard to management control, the general view was that this B-BBEE pillar had not been very effectively implemented. A notable exception to this view included the Chamber of Mines who differed with other respondents and stated that progress on the implementation of this pillar was good.

On the issues of employment equity, the responses were once again divergent. Some respondents thought that some progress was being made whilst other respondents most notably the NUM and SAWIMA held the view that little progress was being made on the implementation of this pillar.

The most prevalent view with regard to the issue of skills development was the belief that this aspect was being fairly effectively implemented. A notable exception to this viewpoint was the NUM who clearly expressed the view that not nearly enough was being done with regard to the implementation of this pillar.

With regard to enterprise development, the general consensus was that this pillar was being poorly implemented. Reasons cited for poor performance on this pillar were the issues of access to funding and the risk averseness of banks. This viewpoint also found support in the literature survey. As has been pointed out earlier, some critics find the structuring of B-BBEE deals problematic and don't believe that banks will be keen to support emerging enterprises especially during times when the economy is under pressure.

The preferential procurement pillar was also generally found wanting with regard to the extent and quality of its implementation. This viewpoint finds resonance in the literature survey which supports the empirical study where fronting is identified as a major problem and a serious impediment to the effective and efficient implementation of this pillar. Other issues cited as impediments to implementation include other nefarious practices such as nepotism and corruption. Long standing supplier relationships were also found to be militating against using this pillar to its full potential as a transformation lever.

The general consensus is that the corporate social responsibility pillar is being fairly well implemented. This is attributable to the fact that mining licence approvals are

contingent upon the submission of a proper well conceptualised plan. Despite this general consensus, the NUM did however raise a concern about the actual effectiveness and efficiency with which these social plans are being implemented.

5.2.4 Legislative framework

Although a plethora of legislation that aims at correcting historical imbalances exists, there was general consensus that the B-BBEE Act, the MPRDA and the Mining Charter were having the most impact on the sector. These pieces of legislation were also seen as having the most potential to transform the sector.

5.2.5 Problems and Challenges

A number of problems and challenges were identified. These ranged from access to funding to stimulate new venture creation through to the lack of progress with the establishment of a downstream beneficiation industry. It also included issues like fronting, a lack of commitment to transformation and a continued desire “to maintain the status quo”. The importance of reviewing the Mining Charter and aligning it to the DTI’s Codes was also frequently mentioned.

5.3 CONCLUSIONS

The study highlights a number of conclusions. From this study it is clear that the majority of institutions and individuals generally support B-BBEE in the industry because they see B-BBEE as the most important lever to bring about transformation. Despite this support for B-BBEE, the study also showed that there are still pockets of resistance which undermine the successful implementation of B-BBEE. These “pockets of resistance” often manifest as a “desire to cling to the status quo”. This then becomes a source of tension in the workplace.

Another conclusion that can be drawn from the research is that the implementation of B-BBEE has not been entirely successful. In fact major challenges still exist with regard to implementing B-BBEE going forward. The empirical study read in conjunction with the literature survey seems to indicate that not enough progress has been shown on the implementation front. This observation is supported for example

by the fact that more than ten years down the line, the representation of Black interests on the JSE remains dismally low (below 10% mark).

A further conclusion that can be drawn from the study is that the implementation of some of the steps of the seven pillars has been very tardy. These include the enterprise development and preferential procurement pillars in particular. This problem is exacerbated by the fact that these pillars in conjunction with the ownership and skills development are the ones that have the most potential to transform the industry.

In addition to this, it can also be concluded that the implementation of B-BBEE is being further undermined by the prevalence of nefarious practices such as fronting and other forms of nepotism. The wide-spread public awareness of the existence of these practices further erodes belief and confidence in the B-BBEE process.

Interesting conclusions can also be drawn about the manner in which B-BBEE deals are funded. It would appear as if the funding structures which are commonly used tend to be characterised by structural defects and bad practices. This often results in negative B-BBEE consequences such as equity dilution, low returns and nonsensical funding agreements. The indication is also that banks have often not taken full advantage of B-BBEE by structuring deals in such a way that it gives them extraordinary exposure to the “upside” in transactions. This has had the effect of frustrating the pace at which “empowerment players” accrue unencumbered equity.

The final conclusion that can be drawn from the study is that much more focussed attention will have to be brought to bare on the specific details of B-BBEE implementation. This will ensure that the implementation of B-BBEE can be more precisely measured, monitored and adjusted where necessary. Failure to do this may relegate B-BBEE to being just another “pie in the sky” phenomenon that will have no real transformative impact in the Mining Sector.

5.4 RECOMMENDATIONS

Given the findings that have emanated from this research, the following set of recommendations are identified

- The Mining Sector needs to critically undertake an in-depth assessment of how effectively all pillars of B-BBEE are being implemented. Based on this assessment a program of action should be agreed upon by all stakeholders.
- The Mining Sector should convene a conference to be attended by all major stakeholders. The conference should attempt to exhaustively address the issue of the creation of a “downstream” beneficiation industry. Preparation for such a conference should include the development of research papers focusing on the viability of a “ downstream” beneficiation industry in South Africa
- The mining industry should consider reviewing the structures aimed at coordinating the implementation of B-BBEE in the sector. These structures should be representative of key stakeholders and structured in such a way that proper strategic guidance and governance oversight can be provided.
- The mining industry should proceed with the review of the Mining Charter. In reviewing the Charter, particular attention should be paid towards aligning it with the DTI’s Codes of Good Practice. This will allow for much more comprehensive and sustained implementation of B-BBEE

These approaches must of necessity include ideas that address asset level empowerment ahead of high flying corporate level equity ownership inclined transactions. These approaches must also address the issues of the development of human resources in order to make the country more competitive in addition to having a politically correct executive and senior management profile.

5.5 OPPORTUNITIES FOR FURTHER RESEARCH

This study has highlighted important gaps in the knowledge of B-BBEE. As has been previously pointed out, there is a paucity of literature dealing with this issue

especially in the South African context. Whilst there is an abundance of literature on economic empowerment of indigenous people in Malaysia and the implementation of affirmative action in the USA, few focussed studies on the economic empowerment of previously disadvantaged people have been done in South Africa. This creates an opportunity for research on a range of aspects including but not necessarily limited to the following:

- Comparative studies of economic empowerment practice in South Africa and Malaysia. These types of studies might be useful for two reasons namely, the South African B-BBEE model is based on the indigenisation model first pioneered in Malaysia and secondly, Malaysia has a longer track record with regard to the empowerment of local populations and as such might be in a position to impart lessons in this regard:
- Comparative studies of B-BBEE across a number of selected industries e.g. mining, finance, property, agriculture etc: This would allow for the comparative evaluation of progress with regard to the actual implementation and impact of B-BBEE in these sectors.
- Comparative case studies of B-BBEE implementation within the various subsectors of the mining sector: These types of studies would make it possible to assess the nuanced differences between sub-sectors, and to determine how these differences either contribute to and accelerate B-BBEE implementation or impede it.
- Descriptive analytical insight studies on alternative B-BBEE models such as ESOPS: Such studies would require a lot of original input since existing models would have to be subjected to critical scrutiny. This in turn should provide a platform to propose innovative, practical implementable new models.
- A study of how B-BBEE transactions are funded and a determination whether some of these models are a predictor of success: This type of study would examine B-BBEE funding structures against the backdrop of existing “cost of capital models”. The intention would be to find new approaches which could lead to instances where B-BBEE shareholders could have higher levels of unencumbered debt much sooner in the lifecycle of the transactions. Such a

study could also use different models to ascertain risk and to predict the likelihood of success.

- Studies on how B-BBEE could be used to promote a culture of new venture creation: Such research would build on the theory of entrepreneurship and could be aimed at identifying how successful entrepreneurship practices can be inculcated in the B-BBEE environment. The ultimate impact would be the systematic eradication of a culture of entitlement and the building of a culture of entrepreneurship.
- Studies of which leadership traits practices and models are a determinant of success in B-BBEE companies: Causal studies such as this, rooted in an understanding of the literature on leadership could start to identify which models, practices and traits are more likely to be useful in creating the type of B-BBEE leaders that will enhance the effectiveness, efficiency, profitability and competitiveness of B-BBEE owned and led companies.
- Studies on the viability of “downstream” mining beneficiation from both a comparative and competitive point of view: These types of studies are critically important at this juncture. They would start concretising the debate about whether the creation of a ‘downstream” beneficiation industry is viable and indeed possible. They would add value by focusing on a multidisciplinary approach drawing from econometric models, strategic management theory and practice, public sector finance and development economics.

It is clear that substantial scope exists to explore these and other research problems dealing with B-BBEE. This will no doubt contribute to broadening our knowledge and providing us with deeper insights into this interesting and contentious subject. As B-BBEE progresses it has become more apparent that new and more innovative approaches will have to be embarked upon to ensure the sustainability of B-BBEE. Finally, empowerment must be premised on the understanding that “real” empowerment is a much more complex process than initially imagined and that its sustainability is contingent on the rolling out of a carefully considered multi pronged approach.

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THE INTERVIEW GUIDE

Interview guide for semi structured interviews

INTRODUCTION

The purpose of this questionnaire is to collect data from :

	Tick
1. Department of Minerals and Energy Affairs (DME)	
2. The Chamber of Mines	
3. The National Union of Mine Workers (NUM)	
4. The South African Mining Procurement Policy Framework	
5. South African Women in Mining Association (SAWIMA)	

Name of Interviewee _____

Position of interviewee _____

Number of years with the Institution _____

Number of years involved in B-BBEE _____

Your responses and time taken to answer the questions posed is highly appreciated.

Kindly direct any queries to the researcher: Stan - de Klerk

Contact telephone: 082 306 1031

E-mail : khensastan@yahoo.co.uk

Please answer each of the questions **truthfully**.

1. How would you describe or define Broad Based Black Economic Empowerment (B-BBEE)

2. Can you provide reasons for why you define or describe B-BBEE as such

3. What is the purpose of B-BBEE?

4. What are the key elements of B-BBEE?

5. Of the key elements mentioned in question 4, which is the most important?

6. Both the DTI scorecard and Mining Charter mention a number of key elements of B-BBEE. How effectively are each of the following elements of B-BBEE being implemented in the mining sector

	Not effective	Fairly effective	Very effective
Equity ownership			
Management control			
Employment equity			
Enterprise development			
Beneficiation			
Affirmative procurement			
Corporate social responsibility			

Explain :

7. Do you believe that the current legislation and policy is sufficient to ensure the implementation of B-BBEE

Yes	No

Explain :

8. Which of the various pieces of legislation and policy prescripts have been most effective in promoting B-BBEE in the mining sector

1	The Constitution
2	The Employment Equity Act
3	The Skills Development and Skills levy Act
4	The Preferential Procurement Act
5	The Public Finance Management Act
6	The Municipal Finance Management Act
7	The Broad Based Black Economic Empowerment Act
8	The Minerals and Petroleum Resources Act

Explain your choice

9. Which of the following policies has been most effective in promoting B-BBEE in the mining sector

1	The Minerals and Energy policy White Paper
2	The Codes of Good Practice
3	The Mining Charter

Explain your choice

10. Within which sectors of the mining industry has most progress with B-BBEE been made?

1	Platinum group metals
2	Gold
3	Coal
4	Other

Why do you think this is the case?

11. What are the failures/ problems associated with B-BBEE in the mining sector?

12. How would you categorise and describe the challenges of B-BBEE in the mining sector?

13. What changes would you like to see being implemented with regard to B-BBEE?

14. What should the impact of B-BBEE be going forward?

15. Are there any other aspects about B-BBEE that you would like to highlight?