

**“AN INVESTIGATION INTO THE IMPLEMENTATION OF EMPLOYMENT  
EQUITY PLAN – A CASE OF TRIPLE “M” MINING (PTY) LTD”**

**by**

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**A mini-dissertation submitted in partial fulfillment for the degree**

**of**

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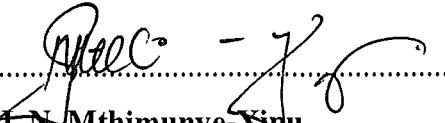
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**DECLARATION**

I, J.N. Mthimunye-Xipu, hereby declare that the content of this dissertation is my own original work. All sources used or referred to have been acknowledged and documented. This thesis has not been previously submitted, in full or in part, to any institution for academic examination towards any qualification.

  
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**J. N. Mthimunye-Xipu**

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12 SEPT 2014  
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**Date**

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## ABSTRACT

This study examines the implementation of an employment equity (E.E.) plan at Triple “M” Mining, a mining services contracting company (service provider) operating at Anglo Platinum Mines of Rustenburg and Northam.

The purpose of the study was to establish how Triple “M” is implementing its employment equity plan and whether or not possible causes for its failure could be identified. All the uncertainties relating to its implementation were investigated and recommendations were made. The question whether employment equity is being implemented correctly was likewise examined. Policies regarding job advertisements, recruitment and demographic representation of staff appointed to alleviate possible favouritism, window dressing and bias were also under scrutiny.

The most important findings of the study were:

- The targets and strategic plans were not met and some stakeholders were not happy about its implementation, as the best practices from the industry were not followed.
- It was concluded that the policy is in place though it remained an espoused one and little attempts were made to make it operational.
- There was also a lack of top management commitment with regards to the implementation of employment equity even though the organisation complies with legal requirements.
- Historically Disadvantaged South Africans (people with disabilities and women) are not represented in the company despite the government requirement.
- Some participants felt that government should ensure compliance by exerting more pressure.
- It was further found that there was no implementation of the strategic employment equity action plan despite the fact that its policy existed in the company.

The above-mentioned are critical success factors that can lead to an authentic implementation of the employment equity plan.

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**LIST OF ABBREVIATION**

AA	-	Affirmative Action
BCEA	-	Basic Conditions of employment Act
DoL	-	Department of Labour
DTI	-	Department of Trade and Industry
EE	-	Employment Equity
EEA	-	Employment Equity Act
HDSA	-	Historically Disadvantaged South Africans
HR	-	Human Resource
KPA	-	Key Performance Areas
LRA	-	Labour Relations Act
MPRDA	-	Mineral and Petroleum Resource and Development Act
MQA	-	Mining Qualifications Authority
MWU	-	Mine Workers Union
SDA	-	Skills Development Act
SDLA	-	Skills Development Levies Act
SETA	-	Sectoral Educational and Training

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## CHAPTER 1

### INTRODUCTION TO THE STUDY

#### 1.1 INTRODUCTION

The South African government has sought to redress the historical legacy of workplace discrimination through the introduction of the Employment Equity Act 55 of 1998; (EEA, 55 of 1998) and other legislative and institutional interventions. Through its relatively recent democratic route with the first inclusive election occurring in 1994, South Africa became a parliamentary democracy, adopting policies that involve government intervention for the prevention and elimination of unfair employment discrimination against racial groups, women and persons with disabilities.

The EEA, 55 of 1998 was promulgated in an attempt to redress the past imbalances at the work place in South Africa. The Act, annexure A attached hereto, compels employers with 50 or more employees, alternatively with less than 50 employees, but with an annual turnover that is equal or above that of a small business in terms of Schedule 4 of the above act, to eradicate unfair discrimination that was caused by the Apartheid system and to implement affirmative action measures in order to address the effects of Apartheid in the South African labour market. This could be accomplished by recruiting, appointing, training, placement and promotion of Blacks to positions of power with concomitant benefits (EEA, 55 of 1998).

This Act requires designated employers to train, develop and promote the historically disadvantaged South Africans (HDSA) or designated groups i.e. Blacks, Coloureds, Indians, Asians, women and people with disabilities into positions that would reflect the demographics of the country within the organisation. These designated employers are also given the freedom to choose their own affirmative action targets (quota system) according to their business strategy and objectives (EEA, 55 of 1998).

The freedom to determine these quotas has caused one or more companies to implement the Employment Equity Act anyhow or perhaps do the minimum to comply.

## 1.2 BACKGROUND AND PROBLEM IN CONTEXT

South Africa has a vision of transformation that strives to meet the needs of all its citizens; the vision has inspired an addition of policy, strategy and programme interventions. These interventions aim to bring about structural changes to redress racial discrimination, promote equity and ensure economic development, employment creation and poverty eradication. Regardless of a decade of democracy and the declaration of several pieces of legislation, employment equity in the private sector has been slow (Bartlett and Ghoshal 2002).

The Employment Equity Report of 2011-2012 attached hereto as annexure B, shows that only 24% of all top management positions are occupied by black people, of whom only 6% are female. A similar pattern is evident at senior management level where 26% of all positions are occupied by black people, of whom only 7% are women. Only 15 listed companies have predominately black boards and 143 out of a total of 309 companies do not have any black board members at all (Theobald and Mahabane 2005).

The investigation is conducted at the Triple "M" Mining. It is a mining services contractor (service provider) situated at Buffelspoort doing physical mining at Impala Platinum Mines in the Rustenburg area. Its main mining activities are stoping, developing, construction, equipping, reclamation, sweepings and vamping. There are mainly three departments within the company namely: mining, finance and administration and human resources. Triple "M" is characterized by a lean and mean organisational structure with job categories ranging from Elementary occupations (Labourers-Pipes, Tracks and Ventilation and Stope Timber), Operators, Team Leaders, Clerks, Miners, Shift Supervisors, Mine Overseers and Directors.

At the time of the study, there were 2860 employees within the company. The majority of these employees are males comprising of 55 % of South African males, 41% of foreign males, and 3 % of white South African males and only 1% of women of all colours as indicated in annexure C. There were only two male employees (one black and one white) with disabilities that resulted from injuries on duty. It is clear that the organisation Triple "M" Mining has not been successful in achieving employment equity at senior management level.

### **1.3. ORIENTATION OF THE STUDY**

Employment equity is a strategy designed to eradicate the effects of discrimination and to open equitably the competition for employment opportunities to those arbitrarily excluded. It requires a "special blend of what is necessary, what is fair and what is workable". To ensure freedom from discrimination requires government intervention through Acts. It is not a question of whether we need regulation in this area, but of where and how to apply it. We need equal opportunity to achieve fairness in the process, and we need employment equity to achieve justice in the outcome.

Acts in a democracy function as a collective expression of the public will. We are a society ruled by Acts - they are our most positive mechanism for protecting and maintaining what we value. Few matters deserve the attention of Acts more than the right of every individual to have access to the opportunity of demonstrating full potential. What is needed to achieve equality in employment is a massive policy response to systemic discrimination. This requires taking steps to bring each group to a point of fair competition. It means making the workplace respond by eliminating barriers that interfere unreasonably with employment options.

It is not that individuals in the designated groups are inherently unable to achieve equality on their own, it is that the obstacles in their way are so intimidating and self-perpetuating that they cannot be overcome without intervention. It is both intolerable and insensitive if we simply wait and hope that the barriers will disappear with time. Equality in employment will not happen unless we make it happen. It is envisaged that the study will enhance and ensure compliance by Triple "M" Mining to the set Acts; EEA, 55 of 1998 and other legislative and institutional interventions

### **1.4 AIMS AND OBJECTIVES OF THE STUDY**

#### **1.4.1 AIM**

The aim of this study is to provide Triple "M" Mining with insight into the effectiveness of its Employment Equity policies and procedures and possibly to provide guidance to the areas where they should focus to enhance their Employment Equity policies. The aim of this study is to investigate the below mentioned objectives being:

## **1.4.2 OBJECTIVES**

- 1.4.2.1 To investigate if employment equity is regarded as part of the business strategy by Triple “M” Mining .
- 1.4.2.2 To examine if numeric goals that are specific, measurable, realistic and time based specific, measurable, achievable, and time based (SMART).
- 1.4.2.3 To analyze the employment policies, systems and procedures pertaining to recruitment, selection, training and development and placement to ensure that discriminatory practices do not exist within Triple “M” Mining.
- 1.4.2.4 To investigate the HR interventions such as training and development and the diversity management programs used to support the implementation of the employment equity is in line with the skills development of candidates within Triple “M” Mining.
- 1.4.2.5 To evaluate stakeholders’ perception of both management and employees and to analyze the possible obstacles that impedes the implementation of employment equity within the company on employment equity.
- 1.4.2.6 To identify key success factors and best practices that can assist in the implementation of the employment equity plan.
- 1.4.2.7 Lastly to make recommendations on the implementation of an authentic employment equity plan.

## **1.5 STATEMENT OF THE PROBLEM**

The employment equity plan is not implemented satisfactorily at Triple “M” Mining.

### **1.5.1 PROBLEMS**

- 1.5.1.1 The targets of the Employment Equity Plan for in 2011-2012 were not achieved.
- 1.5.1.2 The demographics of the workforce of Triple “M” Mining show that the majority of top and senior management consist predominantly of white males.
- 1.5.1.3 There are only a few females and historically disadvantaged South Africans (HSDA) within the higher ranks (i.e. senior and top management) of the organisation.
- 1.5.1.4 There are currently two employees with disabilities at the lower levels of the organisation.

## **1.5.2 RESEARCH QUESTIONS**

- 1.5.2.1 Is employment equity plan regarded as a business strategy and a key performance area (KPA)?
- 1.5.2.2 Is there commitment from top management and union consultation for the implementation of the EEA?
- 1.5.2.3 Were EE numeric targets for 2011-2012 achieved?
- 1.5.2.4 Do the demographics of the company in senior and top management show a fair representation of the historically disadvantaged South Africans (HDSA)?
- 1.5.2.5 Are the recruitment, selection, training and placement systems and procedures designed to attract and accommodate people with disabilities within different levels of the organisation?
- 1.5.2.6 Is the organisational culture conducive to the implementation of the EE programs?

## **1.6 SIGNIFICANCE / BENEFITS OF THE STUDY**

It is important to undertake the study about the implementation of the Employment Equity Plan because the Constitution of South Africa makes a provision for the implementation of the employment equity through eradication of unfair discrimination and the implementation of affirmative action. In South Africa, affirmative action is used as a strategy to achieve employment equity. According to Maphai and Nkomo (1996), affirmative action carries a wide and a narrow view. The narrow view is about the recruitment of previously disadvantaged groups into positions of common power. It is a South African government strategy to promote democracy within the workplace but does not imply the translation of political democracy into workplace democracy. The narrow view only addresses the recruitment, promotion and provision of benefits to previously disadvantaged people. The wide/broad view of affirmative action is an instrument of national reconstruction and transformation to reduce inequalities and to fight poverty (Maphai and Nkomo, 1996).

The EEA, 55 of 1998 was promulgated with the intention to redress the past effects of apartheid. Although the law was passed fifteen years ago, many organisations are still battling to implement the Employment Equity Act due to individual, group and organisational issues and/or problems. Some possible reasons for this state of affairs may be the resistance of white males, the alienation of the beneficiaries of affirmative action, a lack of Human

Resources interventions as well as top management and union commitment, racism and favoritism (Bendix 2010). A preliminary inspection of the company's demographics, policies and systems suggests that there is a problem that needs to be addressed. It is for these reasons that research needs to be conducted in this area.

This Act also made provision for the Employment Equity Commission that audits the progress of the designated companies with an intention to penalize the designated companies that do not achieve their targets without any valid reasons. The fine for non-compliance ranges from R500 000 to R900 000 for the first to fifth subsequent infringements, respectively (EEA, 5 of 1998).

In addition to the above-mentioned Act, other sub-ordinate Acts such as the Skills Development Act and the Skills Development Levies Act as well as the Mineral and Petroleum Resource Development Act (MPRDA) were also promulgated in order to support the implementation of the employment equity plan in an attempt to transform the working places of South Africa. Some major mining companies like Anglo Platinum, do not qualify any service provider for tenders if they do not comply with the above-mentioned Acts.

## **1.7 OUTLINE OF THE STUDY**

**Chapter 1:** Introduction - provides the background and significance of the study; it is about aims, objectives of the study problem statement and definition of key concepts.

**Chapter 2:** Literature survey - presents the hypothetical elements significant to the implementation of employment equity.

**Chapter 3:** Research design and methodology - describes the practical study, collection and analysis of the biographical information of the respondents.

**Chapter 4:** Research results - presents data analysis, presentation and interpretation of survey results

**Chapter 5:** Conclusion and recommendation – provides conclusion and recommendations of methods or strategies suitable and significant for the expedition of Employment Equity Act implementation successfully.

## **1.8 CONCLUSION**

It is imperative to undertake the study about the implementation of the Employment Equity Plan because the Constitution of South Africa makes a provision for the implementation thereof. As a result the chapter above has provided the background and significance of the study; it is about aims, objectives of the study problem statement and definition of key concepts. The following chapters as outlined above will give a detailed perspective to the study with the use of literature and relevant study material.

## CHAPTER 2

### LITERATURE SURVEY

#### 2.1. INTRODUCTION

This chapter looks at Employment Equity (EE) by first tracing its origins and historical developments in South Africa. During the government policy discussions and the drafting of the green and white papers prior to 1996, the term affirmative action was viewed as a necessary evil that organized business from National Economic Development and Labour Council didn't need to abide by. In 1996 a green paper on employment and occupational equity was published by the Department of Labour (DoL) with an intention to enact it. Public hearings and debates were held and disagreements were raised over the use of terminology such as employment and occupational equity, equal employment opportunities and affirmative action in the green paper (DoL, 1996).

The final terminology that was agreed to at Nedlac was "Employment Equity" and is up to now used as a generic term agreed upon. The Employment Equity Bill was published in 1997, which was followed by enactment of the Employment Equity Act no 55 of 1998. This was four years after the inauguration of the first democratic government in the country. In this Act, affirmative action came as a chapter (chapter 3) on its own rather than another word for employment equity as was held during the debate (DoL, 1996; 1997).

Previously employment equity was implemented at random whim of the employers and an equal opportunity, rather than employment equity and affirmative action, had been adopted. There were also programs that employers would follow such as Sullivan Code of Black Advancement and the Wiehanh Commission recommendations of 1979.

The South African government made provision for employment equity and affirmative action in Section 9 of the Constitutional Act No 200 of 1993 (equality clause), but this didn't force any employer to implement it. The constitution only gave effect to it and there was a need to promulgate an enabling Act, which will enforce its implementation (Du Plessis, Fouche and Van Wyk, 2002:75).

In December 1997, an Employment Equity Bill was issued for public comments to be submitted before the 16 February 1998. Submissions were to be made to an Equal Opportunity Director, an occupation which, proved skepticism against the term affirmative action. The Bill emanated from the debates and discussions, which were triggered by the green paper on Employment and Occupational Equity published on the 01 July 1996.

In 1998, the Employment Equity Act no 55 of 1998 was promulgated, to enable the eradication of unfair discrimination, implementation of affirmative action measures and the establishment of the Employment Equity Commission. Succinctly the Act deals with the purpose, application and interpretation of the Act; prohibition of unfair discrimination; duties of designated employers; Commission for employment equity; monitoring, enforcement and legal proceedings and protection of employees' rights and general provisions. For the purpose of the study it is important to have an overview of the process of implementing employment equity in the mining industry through history, transformation, change and factors that led to effecting employment equity.

## **2.2. TRANSFORMATION**

Employment Equity implementation needs to be supported by coherent employment practice strategies focusing on human capital development, inclusive practices and organisational culture change.

The workplace is a platform for meaningful human interaction across race, gender, skills and education. It is therefore seen by the majority of South Africans as a forum and point of reference for the issues of diversity (Geldenhuys, 2008:60), and an environment in which employment equity, transformation and alteration of habits in society is mainly manifested.

Employment equity policy has been necessary to kick start transformation in the country and in the workplace; it has contributed specifically to transformation within the labour market. It is therefore crucial to set its background by a brief history of the workplace and employment, the mining industry.

### 2.2.1 Workplace and Employment

The relationship between workplace and employment will be investigated so as to have good insight of the background of the mining industry. Workplace and employment are interrelated as one deals with the stipulated work that one needs to do while the other deals with the compensation for the work done.

The EEA regulations as amended in 18 Aug 2006, Section 1.3, clarify the LRA by indicating that the workplace of an employer with more than one independent operation constitutes the place or places of different operations. Labour Relation Act (66 of 1995) Section 213 defines workplace as the place or places where employees work. These include part-time, freelancing, temporary, tele-work and home-based employment (Nel, Kirsten, Swanepoel, Erasmus and Poisat, 2008:105). Workplace includes several diluted places that an employee works.

The diluted forms of employment extend the definition of workplace beyond the physical and social space in which the work is done (Webster and Von Holdt., 2005:303) An example is that of a worker of the contractor in the mines whose workplace becomes the offices of the contractor in or away from the mine not the mine where actual work is done as is the case with Triple “M” Mining.

Employment is the work that one does to earn money be by either in profit making sectors (such as mining industries or banks and public service), or in non-profit making sectors (such as churches and household). The Department of Labour (DoL) by Labour Relations Act (LRA) and the Basic Conditions of Employment Act of 1997 (BCEA) are the core regulators of employment in South Africa. They protect the interests of both the employer and employees (Nel et al., 2008:104). The Chamber of Mines of South Africa Agreements (2009) provides guidelines for drafting formal contract of employment for the mining industry stipulating the job description, conditions of employment and remuneration.

For the purpose of this study the workplace and employment will refer to the mining industry, including both contractual workers - these are service providers that the mine has outsourced some of its services to (in this case Triple “M” Mining) and the mine workers (those who are employed by the mine itself).

### 2.2.2 Diversity and Perception

Diversity is defined as the host of individual differences that make people different from and similar to each other (Kreitner and Kinicki, 2007:47)

Diversity Management has therefore been differently explained as follows; Thomas and Robertshaw (1999) defined diversity management as a planned, systematic and comprehensive managerial process for developing an organisational culture in which all employees, with their similarities and differences, can contribute to the strategic and competitive advantage of the organisation without the exclusion of certain people on arbitrary grounds not related to productivity.

He further contends that this term had been substituted and confused with terms like “Valuing Differences”, “Understanding Differences”, “Equal Employment Opportunity” and “Employment Equity” in South Africa. It has also been criticized as a less threatening term for Affirmative Action and Employment Equity. It is, however, a complementary process to sustain Employment Equity initiatives. It focuses purely on the climate of the organisation to support Employment Equity initiatives.

Perception is a mental and cognitive process that enables people to interpret and understand their surroundings (Kreitner and Kinicki., 2007:207). It affects people’s interactions, and should be defined beyond how people perceive themselves, to include how they are perceived by others (Greenberg, 2012). A person’s belief or response to something based on past experiences or interactions becomes reality, which has a great influence on one’s behaviour and satisfaction. Its impact is a great challenge to the South African workplace currently, because the stereotyped beliefs hinder the achievement of workplace diversity. It is important for organisations to constantly monitor their performance regarding diversity management through their employees’ perceptions (Selome, 2008:19).

Employees’ individual differences, beliefs and attitudes are as a result of their experiences of EE legislation in integrating workplace diversity. All their attributes need to be managed for the implementation and compliance to EE.

### 2.2.3 Framework of the Mining Industry

According to the analysis of the Commission for Employment Equity report received 2011-2012, mining companies in South Africa are failing to meet the governments' imperative of economic transformation. White males still dominate the top echelons of the workforce in the mining industry yet they are in the minority. The report revealed that very little had changed in the top four levels of management in the private sector, with "Whites" taking 73,4% of top management positions "Africans" hold only 18.1% of top management jobs, "coloureds" 2,3% and Indians 2,7%. In senior management, whites hold 70, 2% of top jobs, with Africans having 18, 8%, coloureds 2, 8% and Indians 4,4%. The report was based on tables supplied by 18,000 companies including mining industry.

Sectors	Male				Female				Foreign National		Total
	African	Coloured	Indians	White	African	Coloured	Indians	White	Male	Female	
Mining and Quarrying	14.9%	1.8%	2,1%	66,1%	3.2%	0.5%	0.6%	7.3%	3.5%	0.1%	100.0%

Figure 21: Sector work force profile at the Top Management level by race and gender (EE report)

Sectors	Male				Female				Foreign National		Total
	African	Coloured	Indians	White	African	Coloured	Indians	White	Male	Female	
Mining and Quarrying	15.4%	2.2%	3.2%	60,9%	3.4%	0.6%	1.2%	9.3%	3.4%	0.3%	100.0%

Figure 2.2: Sector workforce profile at the Senior Management level by race and gender (EE report)

The mining industry of South Africa is faced with several transformation changes (Bendix, 2010). One important change is the reconstruction of the post-apartheid economy, by including the development of human capital and the country's competitiveness in global markets.

The mining charter indicates that a large number of people employed were excluded from participating and benefiting from the proceeds of the mines due to racial discrimination, hence its control being predominantly white controlled. Emphasis is therefore placed on stimulating black empowerment in this industry (Bendix, 2010). The industry is reputable for its legacy of discrimination and employment of unskilled, cheap labour. This section presents a historical overview of transformations, employment equity and discrimination in this industry.

## 2.2.4 The need for transformation

Cox (2003) describes transformation as achieving paradigmatic change that helps the organisation to create desirable future environment. Transformation goes beyond change and requires drastic action. Leaders in the mining industry are faced with the challenge to advance change as a strategic objective with equal priority to cost, production and safety objectives.

The implementation of transformation initiative requires radical change at workplace level. Oakland and Tanner (2007) identified five critical factors for successful change management being:

1. Project ownership through a dedicated project champion;
2. Supported by a project management approach with clear goals and deliverables,
3. Natural work team process- the empowered cross functional, multi-disciplinary team bring broad perspective and in-depth knowledge, encourage innovation and breakthrough thinking;
4. Ensure objective and integrated recommendations; and
5. Management commitment through visible participation and the use of consultants.

The transformation driver such as the mining charter employment equity initiates the workplace change framework which integrates interacting circle as indicated below.

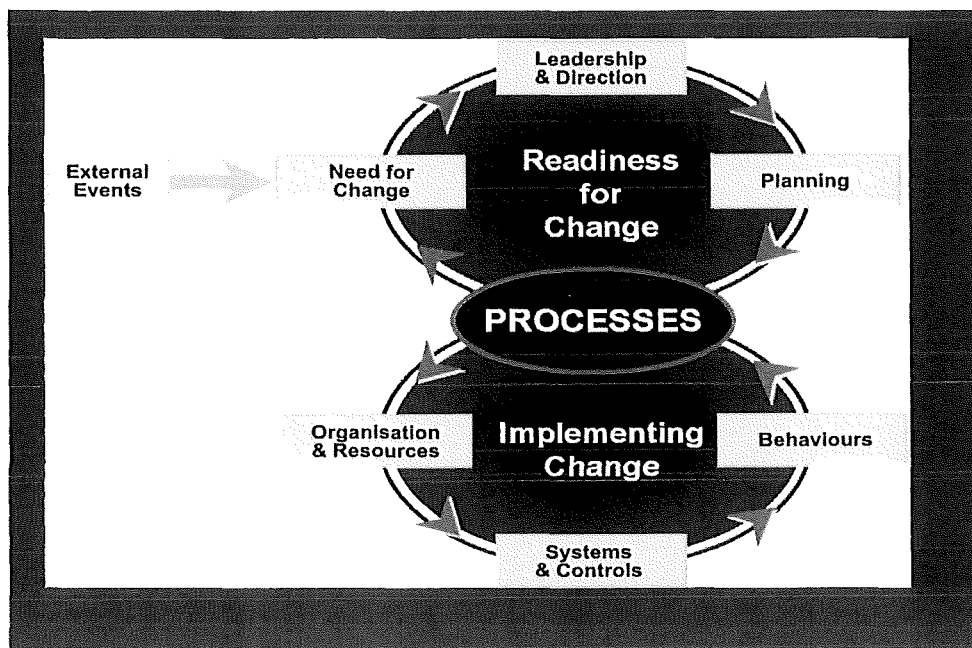


Figure 2.3: Workplace Change Framework (Pagan 2008)

In Figure 2.2, the first cycle readiness for change, is the step that focus on the stakeholders desire to change due to external events being the legislature. Leadership and direction turns the need to expectations followed by planning to focus people's minds on the strategies objectives as the second cycle. Process drives the way the Workplace Resources work- the structure, roles, competencies and resources deployed. System and Controls are then supported by performance measurement and technology. All elements of the workplace change frame work drives behavior (Pagan 2008).

For the purpose of this study, the manner in which people personal identify and how it influences the manner in which they see or are seen by the world is understood as dealing with similarities and differences embedded within a person or workplace. As a result beliefs and attitudes are a result of their experiences of employment equity legislation in encompassing workplace change.

### **2.3. ORIGIN OF DIVERSITY MANAGEMENT**

The terms “diversity management” and “Managing diversity” came into use in the United States in the 1980s. The diversity management field emerged in the 1990s. The overall managing diversity “movement” was a response in organisational decision-making and management processes to:

- The demands raised by the civil-rights and women's liberation movements, Supreme Court rulings, and federal civil rights, equal opportunity, and affirmative legislation and regulation in the 1950s and 1960s; and
- The recognition of competitive and economic self-interest by organisations for effectively managing the differences represented by an increasingly diverse workforce.

Because of these influences, diversity management practitioners and organisations that are addressing diversity and social justice concerns hold a variety of perspectives and paradigms about diversity management (Plummer (2003). DeRosa (1992) listed six approaches to diversity training:

- Affirmative action/equal employment opportunity (AA/EEO): providing organisational compliance with laws and regulations.

- Valuing differences: supporting greater personal and interpersonal awareness and respect for human differences.
- Managing diversity: improving organisation productivity and profit out of business necessity.
- Inter-cultural relations: improving interpersonal communications and relationships across human differences.
- Prejudice reduction: reducing bias and stereotypes in personal and interpersonal awareness and relationships and supporting personal and interpersonal healing and reconciliation, and
- Anti-racism / anti-oppression, liberation theory: providing social justice and systemic change at all levels of human system.

### **2.3.1 The challenges of managing workplace diversity**

Employee performance depends on the commitment and culture of the organisation. Employees will show commitment when their uniqueness is accommodated and when the development of individual capacity will be enhanced. Resistance is as result of hostile work environment that practices discrimination. Transformation cannot happen unless management understands that diversity is about being susceptible to employment consequences as a result of one's association within or outside certain groups (Mor Barak, 2011:122). It is important to determine the prevailing concerns and barriers amongst the employees, as they develop perceptions about their organisation's approach to diversity as well as their own views pertaining to diversity in their workplaces. Challenges differ from organisation to organisation. The prominent challenges include the following:

#### **2.3.1.1 Poor Planning**

Diversity should be seen as an organisational strategy to utilize its human resource fully and as a result, must be seen as a priority (Kreitner and Kinicki., 2007:64).

Diversity should be implemented strategically so that everyone finds it necessary for career advancement. Before the actual implementation of diversity, training must be performed in order to encourage understanding of its significances and to get the support of employees.

Poor career planning, lack of political savvy on the part of diverse employees, fears of reverse discrimination, ethnocentrism, inaccurate stereotypes and prejudice are examples of

barriers to managing diversity, due to management failure to change the attitudes of the employees (Kreitner and Kinicki., 2007:64).

Poor planning and implementation brings about frustrations and resistance by both the management and staff. While managers may try different strategies to implement it correctly as the law demands compliance, employees on the other hand may resort to resigning thus increasing the operational costs of the company since the mining industry is labour intensive.

### **2.3.1.2 Failure to create a diversity culture.**

Labour turnover is ubiquitous amongst employment equity candidates. Business culture and diversity management has always been attributed to in this regard. As a result of this a problem of job-hopping exists in the market place. Job-hopping' is defined as the frequent, voluntary movement of individuals from one organisation to another for a variety of reasons (Selome, 2008: 2).

It is common amongst the educated and experienced employees (especially the previously disadvantaged group) and is practiced for career progression and personal development. In designated groups it is driven by several factors which make it hard for them to fit in properly in the white dominated workplaces. They include amongst others discrimination, lack of mentoring and being pressurized to work hard to prove that they are not tokens (Khanyile and Mapanya, 2007:3).

It may be the result of an unsupportive and hostile culture which leads to individuals feeling resented and frustrated thus resorting to go on a quest to find a homely environment where they can feel recognized and accepted. Supporting the staff to develop their skills and proficiencies to their full potential should be a focus of diversification rather than pursuing numbers to comply with the law (Dent and Goldberg 2013).

This becomes inevitable if managers, especially middle management, are resistant or reluctant to change: the organisation's culture is therefore directly proportional to the organisation's ability to retain and attract employees, especially designated group who are in demand. Hence, it is important to create a culture or environment in which everyone feels important and needed.

Middle and supervisory level managers should be monitored and evaluated regularly in order to assess the culture of the organisation and to detect discrepancies in management. Directors and top management must be informed of the need to either review or improve the policies, or to train and mentor personnel. Valuing diversity emphasizes the importance of managers in recognizing and accommodating individual differences rather than relying on stereotypes (Kreitner and Kinicki., 2007:32).

### **2.3.1.3 Resistance to change**

According to Thomas and Plaut (2009), the following are perceptions leading to resistance:

- Belief that development of some employees necessarily impedes the advancement of others;
- Equating the goals of diversity effort with tokenism;
- Sense of being dominated by political correctness; and
- View that diversity and inclusion efforts separate employees by emphasizing groups over individuals.

Kreitner and Kinicki., (2007:64) agrees with Thomas and Plaut (2008) that the resistance can either be subtle and passive, therefore reflected through complaints and negative attitudes, or overt and deliberate, shown by sabotage and flouting of policies, as well as conflicts. Resistance emanates from misunderstanding, therefore it should be understood that managing diversity accommodates both the organisation by increasing productivity, and employees through individualised development.

## **2.4. BENEFITS OF MANAGING WORKPLACE DIVERSITY**

The process of managing workplace diversity identifies individual differences, their experiences, motivations, needs and interactions, in organisation. The organisation's practices and policies should change with the changing demographics of the workforce in order for every employee to feel part of the organisation. Similarities and differences of individuals should be acknowledged, valued and managed in such a way that all employees can perform to their full potential and maximise their contribution to the organisation's strategic goals and objectives (Mor Barak 2011).

Managing diversity requires a process of several supportive and accommodative human resource practices and procedures for it to be effective since it is not an overnight fix-all intervention. Cummings and Worley (2005:410) encourage organisations to develop human resource systems that account for similarities and differences; therefore urging them not to focus only on aspects of diversity such as race and gender, which limits a more systematic view of diversity and, specifically, how valuing and managing it can benefit organisations, individuals and society.

It is clear that organisations only focus on change motives if the potential benefits are clear and worthwhile, except in cases where they are pressurised by legislation. Diversity initiatives must address the needs of workers, such as women, people with disability and black people; satisfying the demands of competitiveness; and fulfil the requirements of the organisation's role in the community.

A company with a good reputation becomes the target for aspirant employees. It is able to retain its existing employees; it attracts talented employees; and it operates with the most experienced, diverse and efficient workforce. Even if in South Africa the driving force for diversity is the legislature, the industry stands to gain and improve performance and production by managing diversity correctly.

## **2.5. DISCRIMINATION**

Discrimination is rooted deep in the behaviour and attitudes of people who make up the workforce, being the staff and the management. It thus poses a major challenge for workplace diversity. The criteria against which people are judged usually grow out of prejudice, hence the biasness of judgments (Thomas and Chrobot-Mason., 2005:84).

Biasness will occur if the focus is on the person and not the job as well as if the human resource activities such as promotion, recruitment, retrenchment, disciplinary measures, or if training will be based on the person's characteristics such as race, gender or disability.

South Africa placed more efforts in assisting managers to address these problems by constantly updating the acts and supplementing them with codes of good practice despite the challenges in the workplace. The CEE has intense monitoring systems and has set out

penalties for non-compliance. Change is a process which takes time to be accomplished, depending on the organisation and its employees. Therefore strategies must be set up to implement it and management policies also are to be reviewed to ensure that they coincide with diversity measures (Rangarajan 2010).

### **2.5.1 Historical Background of the Mining Industry in South Africa**

Before examining the Employment Equity Act, it is appropriate to give a brief historical background of South Africa. South Africa suffered a domineering past of oppression, discrimination and racism that is well known and well-documented. This was an entrenched racial system established and enforced by various laws. There was a heartless contempt of the concept of equality for all citizens. Legislation was specifically implemented with the function of creating a society that favoured white males and gave white males sufficient chance to succeed while, destroying the hopes and ambitions of black people around South Africa.

EEA seeks to redress the discrimination in the workplace. In an attempt to understand it and the intensity of the challenges and obstacles encountered to eradicate it, a brief history of discrimination in the mines is illustrated below through the presentations made by Nel et al. (2008:77-91), and Dikane (2006:2-8).

According to Chalera (2007), the discovery of the first diamond on the banks of the Orange River in 1867 was the spark that ignited the explosion of mining in South Africa. By 1886, gold and diamond rushes were quickly turning mining in South Africa into the nation's staple economy. The South African mining industry was characterised by a sudden influx of fortune seekers; which resulted in harsh and unkind living conditions. The mining activities demanded engineering and mining skills which compelled the importation of the skills from Europe and labourers were indigenous, almost exclusively black from South Africans rural areas as well as neighbouring countries such as Lesotho, Botswana, Swaziland and Mozambique. The migrant workers were forced to stay in single sex hostels away from their families, while the white workers were accommodated with their families on the mine property. These white artisans brought with them not only the knowledge and skills necessary for mining, but also British trade unionism, while developing early South African

infrastructure, creating the basis for massive future wealth creation through mining in South Africa.

This gave rise to the Masters and Servant Act of 1841, which provided for an easing of employer-worker relationships which provided a power base when interacting with their employers. The Act reckoned resignation by a black labourer on dissatisfaction about wages or working conditions a criminal offence. The strict internal system of discipline and a compliant state that deployed police action harshly in the event of labour unrest or strikes ensured that black labourers would struggle to organise themselves. This gave way for all white unions only to be lawfully recognised. Reservations of skilled jobs by unions for their registered members through a closed shop agreement intensified the discrimination. Blacks were automatically excluded because trade unions emphasized the colour bar and discriminated against the blacks, who were regarded as cheap unskilled labour and excluded from trade unions (Chalera 2007). In the late 1960 the industrialisation process, outgrew the legislative structure as more skilled labour was needed, and it marked the beginning of a new labour.

In 1900 the mining industry had developed so much that some of the black workers were placed in skilled jobs at unskilled wages, called 'team leaders' (the term used when referring to a person responsible for a team of workmen collectively called a gang or crew). A production crew comprised of Team leader, Rock drill operators, Winch drivers and Panel operators. This was enforced by the Mines and Works Act, as amended in 1926, which barred the employment of blacks in certain positions through the issuing of government controlled certificates, such as "the Blasting Certificate" and "Mine Managers Ticket".

Certificates were given only to white and Malaysians and was a requirement for attaining a miner's and manager's position. Acquiring a blasting certificate awarded one an opportunity to be a miner, a shift supervisor and or a mine overseer. It resulted in the reclassification of people's household income based on racial diversity. White males were placed on the highest scale, followed by Indians males, then coloured males, with black males at the bottom of the scale (Dikane, 2006:3).

During the period 1948 to 1979 the Nationalist Government propagated this discrimination legacy in the mines through the implementation of a series of Acts which embodied its racial

policies to ensure that the white minority were privileged. These included the Black Labour Regulation (Act No.48 of 1953), the Industrial Conciliation (Act No.28 of 1956), the Job Reservation Act and many more. The Mines and Works Act, of 1956, section 11, prevented females from working underground in the mines. The Bantu education limited educational opportunities for blacks to attain necessary skills which could afford them better positions at work (Msimang, 2007).

The Wiehanh Commission of Inquiry was set up in 1979, and recommended several changes, including advocating equality and fairness in the mining industry, extension of the definition of the employee to include Africans, the replacement of 'scheduled person' by 'competent person' without distinction on the basis of race. As a result the black unions gained recognition, especially in 1981, and the team leaders who from 1964 were already performing the skilled jobs were afforded certificates of competence and were compensated accordingly.

## **2.6. THE CONCEPT OF EMPLOYMENT EQUITY ACT**

The concept of EE Act 55 of 1998 is centered on the eradication of unfair discrimination in the form of hiring, promotion, training, pay benefits, and retrenchments. And also on measures to encourage employers to undertake organisational transformation remove unjustified barriers to employment equity for all South Africans. In order to promote employment equity, a number of measures have been put in place and they range from legislative to administration.

## **2.7. BARRIERS TO THE IMPLEMENTATION OF EMPLOYMENT EQUITY**

There are so many factors that impede the implementation of employment equity. They differ from one country and organisation to another because of the governments and management's culture, policies, systems, structures, procedures, stakeholder's values and attitude.

Booyesen (2007) states that there has been slow progress in the implementation of the Employment Equity Act in that it has been relatively ineffective in eliminating previous disparities and underrepresentation. While there clearly is an overriding motivation to embark on employment equity, according to Thomas (2002), the following concerns have been raised by business from both a strategic and an operational perspective:

- a potential decrease in foreign direct investment and entrepreneurial activities owing to overregulation of the labour market;
- an increase in administration costs for both government and the private sector in complying with, monitoring and enforcing legislation; and
- unrealistic expectations from designated groups who still require training and development; and a culture of entitlement.

This is supported by Maharaj (2003) who states that white managers believe that employment equity has led to a breakdown of the relational and transitional components of the psychological contract between them and their employer.

### **2.7.1 Stakeholder Attitude**

Employers with a bad attitude towards employment equity are barriers to the implementation of employment equity. They view employment equity as a necessary evil because it gives preference to designated people at the expense of the previously advantaged people. They merely embark on measures to shuffle the numbers to fill numeric targets at the least cost to the employer. This results in a window dressing effect, coupled with a low investment in human resource development. It has been found that the appointment of blacks and women occurs at lower management levels. Blacks and women who are promoted to positions at higher managerial levels are given no real authority (Swanepoel, 2008:179).

Blacks, women and people with disabilities are subjected to paternalism and they ultimately become bored and resign in frustration. Employment equity policies are not designed to overcome paternalism. This reinforces racial stereotypes and the entrenchment of the view that affirmative action measures are costly and lead to the lowering of standards and dropping of productivity. Attitudes remain negative and rooted in the status quo (Human, 1993).

Various stakeholders are not identified and therefore, their fears and aspirations towards employment equity are not addressed. This leads to unwillingness by white minorities to impart their skills to other employees for the success of employment equity.

### **2.7.2 Shortage of available pool**

The skills development data base of the Mining Qualifications Authority (MQA, 2007) reveals that a shortage of available pool of suitably qualified people from the previously disadvantaged people is rife in South Africa as it is part of the apartheid legacy. The Department of Trade and Industry (DTI and BMF, 2003) also added that the situation has led to the creation of a new middle class or a group of elite who are poached from one organisation to another. This is the only group that advances at the expense of the greater population of the poor and the needy.

According to Bendix (2010), employers who want a ready-made product rather than the possibility of developing persons from within the organisation have created this legacy. This problem is worsened by emphasis on numeric targets and paper qualifications instead of identifying competencies, experience levels and potential. The focus on education and training is undermined, both inside and outside the organisation, no career/succession planning, training and development or support for external education and training programmes (Bendix, 2010).

### **2.7.3 Organisational culture and hidden barriers**

Thomas and Robertshaw (1999) mention one of the most difficult factors that impede employment equity; namely: "hidden barriers" that exist in the organisation. This refers to the subtle or covert discrimination that may exist and which may lead to the elimination of individuals and groups of people, thereby hampering work mobility. These factors would hide themselves in the organisational culture of the business.

Most organisations are not providing a cultural environment in which the HDSA (i.e. blacks, women and disabled people) can grow and develop on superiority. Issues impacting on their work performance are: inability to set realistic goals and moderate risk-taking aligned with individual strengths and weaknesses. Racism and sexism as well as expectations that whites have of blacks and women, also tend to obstruct the process of development and implementation that leads to the realization of Affirmative Action targets.

These negative expectations and this stereotyping inhibit the process of growth as they influence levels of self-confidence and prospects granted to certain groups. Since the society is not standardized, there is a possibility for differences and misrepresentation at some point in time. These difference and misrepresentation can make the procedure for implementing employment equity to become extensive and continual. There is also the inconvenience of losing “minority-specific” treatment, even though there is political reward to being treated in a standardized fashion. Politically and administratively, this treatment seems to be the most convenient thing to practice. Employment Equity does not deal with the training and educational needs to advance to managerial and executive ranks, even though it might aid to improve representation at the recruitment stage (Thomas and Robertshaw 1999).

It is difficult for both the employers and employees to be accountable and adhere to the implementation process as required. Both employees and managers are accountable for how they help accommodate employment equity groups for letting them in. Good and positive publicity of the policy is required in order to spread it to all private and public sectors (Thomas and Robertshaw 1999).

Changing some of the Human Resource practices follows very slow processes which can only be accomplished over a long period of time. Some of these processes involve recruitment through social contracts. Many of these interviewed claim that the official process of recruitment is too slow, inefficient and awkward. Managers therefore resort to social contracts to recruit candidates who eventually become experienced enough to win a competition.

Another challenge is keeping up the momentum for the execution agenda and to have allocated funding for the systems. The drive usually slows down when the importance is dropped. This drop may be caused by changes in government or incidents within and outside the country. This negative impact on the drive of implementation can be availability of funding or a severe economic recession.

Another challenge is the uneasiness that is expressed by employment equity members about the policy. Many employment equity products do not want to be perceived as being favored. They want to be seen as people who were hired because they were the best qualified for the

job. They therefore refuse to be singled out, thus making it difficult to know who the policy must target.

Employment equity group members also fear a backlash from their fellow employees, and there have been reported cases of callousness and negative attitudes towards them in the workplace. Employment equity group members also do not like to single out because of possible future effects in which they could become the targets of layoffs, and or receive no promotions. A person with a hearing impairment might be afraid that the information provided could actually be used against him or her in the recruitment process. This demonstrates some of the misconceptions that are held about the Employment Equity Act, 1998 (Act 55 of 1998). The policy needs positive and good publicity in order to make it more acceptable to all citizens.

The corporate culture which is acknowledged to be that of the majority is the major barrier to the implementation of employment equity. Many managers seem to think it is a difficult and costly process to determine just who belong to these groups. However, the view among those interviewed on this issue, suggests otherwise. They think the problem lies more with the corporate culture rather than with the availability of qualified employment equity group members. Members are more comfortable with hiring and or promoting people who are like them.

Another challenge faced by employment equity implementation is the uneven progress made by the favored different groups. The progress made in recruiting members of visible minorities and disabled persons have been less favorable than for women and local people. As explained by some of managers, women benefit from straightforward identification and have gained acceptance while acceptance for visible minorities and disabled people has been much more difficult. This leads to another concern that many managers share.

Since the employment equity implementation is based on self-identification, some of the information provided is sometimes inaccurate and misleading. This is particularly true for people with disabilities. With the exception of obvious physical disabilities such as blindness, hearing impairment or paralysis of limbs, other disabilities such as mental depression are not easily determined and consequently not often reported for fear of victimization (Ramphela, 1993).

Other barriers that impede the successful execution of employment equity are:

- Conflict of interest in people handling employment equity;
- Human resources does not own of employment equity;
- Equity cannot be achieved without managing diversity; and
- All designated groups are not accommodated.

#### **2.7.4 Perception of reverse discrimination**

Reverse Discrimination can be defined as the unequal treatment of members of the majority groups resulting from preferential policies, as in college admissions or employment, intended to remedy earlier discrimination against minorities. Conceptualizing efforts of redressing reverse discrimination began to become popular in the early-mid-1970s, the time period that focused on underrepresentation and affirmative action intended to remedy the effects of past discrimination (Cross, 2000).

According Greenberg (2010), the concept of reverse discrimination has two different views: a broad sense and a narrow sense. In a broad sense, it refers to discrimination against Whites or males in employment, education, and any other areas of life. In a narrow sense, reverse discrimination refers to the negative impact Whites or males may experience because of affirmative action policies. The two views are often conflated, which leads to confusion and misinformation.

Another factor that retards the implementation of employment equity is found in accusations that employment equity constitutes reverse discrimination. This creates resistance from employees who perceive to have been discriminated against.

#### **2.7.5 Lack of communication**

Lack of communication also affects the implementation of employment equity as it leaves people with unjustified fears and misperceptions. The staff is not made sufficiently aware of the management's intention and affirmative action measures due to lack of communication. The affirmative action strategy is not communicated to the stake-holders in a positive way. Managers frequently pay lip service to fair selection methods but fail to put this in practice. There is a lack of workshops on issues relating to recruitment, promotion, policies and

practices and on attitudinal structuring interventions. Top management's support and union involvement must be solicited for the smooth implementation of employment equity. Affirmative action objectives and targets must be clearly communicated (IPM, 1995:26-27 & Human, 1993:29).

#### **2.7.6 Lack of human resource system and procedures**

If human resource planning that is linked to employment equity needs is not carried out, it may result in poor implementation. Obsolete formal training that does not equip people with the necessary skills to handle the changes relating to employment equity also leads to its failure. Sometimes there is lack of personal commitment by top management to invest sufficient time and effort and line management also ignores ownership and responsibility of the employment equity (Human, 1993:29 and Swanepoel, 2008:181).

Employment equity is most of the time relegated to Human Resources Department thereby setting itself up for failure. Successful employment equity depends on the line manager's willingness to recruit, develop and promote previously disadvantaged people. This is not part of the responsibility of the Human Resources department (Human, 1993:34).

Human (1993) further contends that another reason for the failure of employment equity is that organisations merely train and educate blacks without fundamentally changing the organisations culture. This is done because of the implicit assumption that blacks lack the intellectual ability to succeed in management. If they fail to perform, the assumption is that they are lazy, stupid or uneducable. Recruitment and selection methods are not adapted to attract and screen suitably qualified candidates from previously disadvantaged South Africans (HDSA).

Some organisations see employment equity as a political imperative with which they have to comply and not as a business strategy. This results in people being appointed in positions to window dress or to fill numeric targets without consideration of their suitability for the position or the possibility of support and development. Such appointments are not only unfair to the appointees themselves but also cause dissatisfaction to other employees (Bendix, 2010:592).

### **2.7.7 Company policies and structure**

Employment equity requires a major restructuring which goes beyond mere training and development. The ways human resources are recruited, promoted and developed also need to be restructured. A black candidate who is entirely dedicated on employment equity issues must be appointed at senior level and must report to the Chief Executive Officer (CEO) of the organisation. Auxiliary structures surrogate to him must also be established to support the function. Many companies fail due to non-existence of this important line of structure. Employment equity programmes fail because organisations tend to introduce a series of ad hoc and unrelated interventions rather than pursuing one policy through the medium to the long term (Human, 1993)

A further reason for the failure of Affirmative Action is that some organisations blow "hot and cold" about this topic. Economic downsizing and the importance of other strategic issues often cause Affirmative Action to be moved to the backburner. This gives the managers a false impression that Affirmative Action is not a strategic issue and this ultimately leads to a lower commitment from them. Internal candidates who are competent to fill higher level jobs are rejected for internal promotion (Human, 1993).

Human (1993:36) concludes that it would appear that for other managers the appointment of blacks and women constitutes a risk they are not prepared to take because of the self-fulfilling prophesy that the appointee will not succeed. This seriously impacts on the opportunities made available to competent candidates from the previously disadvantaged groups.

### **2.7.8 Resistance to Affirmative Action**

During the sensitizing sessions, attitudinal structuring workshops and/or any Affirmative Action intervention which are seldom held by organisations the resistance by people who are anti-affirmative action could be identified and addressed. This resistance to change may emanate from fears and uncertainties displayed by Affirmative Action due to its dynamic nature and lessons learned from other countries.

Thomas and Robertshaw (1999) mentions that the "hidden barriers" of the white counterparts, suggests that there is resistance to change on the part of white workers. Their negative expectations, pre-conceived assumptions and cynicism about the appointees under A.A. had also fuelled this resistance. White workers view Affirmative Action as a political imperative and a necessary evil rather than a business strategy-another reason which fuels this resistance. To them Affirmative Action challenges the status quo, leaving them in the hands of uncertainty.

De Witt (1998) in his address to the Industrial Relations Association of South Africa (IRASA), on the Mine Workers Union's (MWU) viewpoint on Affirmative Action, highlighted the key issues that cause "Whites' resistance". The MWU represents a wide range of white males as its constituency. The MWU's view on Affirmative Action is that it must focus on previously disadvantaged people and on those who are currently affected and will in future be affected. It feels that their future prospects have been embargoed and views affirmative action as a reverse form of discrimination which should not be allowed.

The MWU is disgruntled about the fact that Affirmative Action only mentions social upliftment of blacks and excludes those Whites who have been historically disadvantaged. Whites who display resistance are concerned about the end date of affirmative action where after the playing field would have been leveled and the best person irrespective of an arbitrary ground would be selected for the job. White males argue that the regional demographics must be taken into account and a fixed number of people that must be trained, promoted or appointed must be specified in the Employment Equity Act No 55 of 1998.

Schlemmer (1994) argues that Affirmative Action is elitist and it promotes the formation of a new middle class. He further argues that Affirmative Action only promotes the "advantaged disadvantaged" and does not promote productivity. It created ethnic conflict in countries such as Yugoslavia and Sri Lanka and it lowered the morale of the minority groups. Alternative reliefs for employees who are negatively affected by Affirmative Action are not addressed in strategic documents of Affirmative Action. Affirmative Action more often than not means tokenism and window dressing and it is punitive to white male employees who happened to be the targets. It increases group conflict, as resentment by the punished groups grows and the demands by the beneficiaries increase. Whites argue that A.A / E.E. emphasize group differences rather than eliminating them and it discourages effort by the beneficiaries who

have high expectations of privileges and it destroys equality before the law (MWU-Newsletter, 1998:12).

Schlemmer (1994) concludes that white workers have become the new disadvantaged minority. Ngulele (1998:7) in IRASA's Employment Equity Seminar mentions that some of the apartheid legacies that cause resistance are high levels of wage and income inequalities.

Friedman (1998) commented that "Whites are being left in the dark about future prospects as the new legislation put Whites at the back of the employment queue". "White resistance" can also be seen from this statement (Business Day, 1998:13).

## **2.8. EMPLOYMENT EQUITY POLICY AT TRIPLE "M" MINING**

Triple "M" Mining (Pty) Ltd has got an Employment Equity policy that had been signed by the Chief Executive Officer of the company. At the time of its development in 2003 there was no committee that dealt with the E.E. policy issues as the union was at that stage not yet recognized. This policy allows preferential treatment of the designated groups in recruitment, training and development, promotion, placement and retention of HDSA candidates. Its enforcement was solely through the line management and reports were held on monthly basis during senior management meetings. Although the union was not yet recognized, there was an employee forum that handled issues pertaining to employment although it was on ad hoc basis.

The National Union of Mine Workers was only recognized in January 2006. This EE policy is in accordance with the Employment Equity Act, Skills Development and Levies Acts. According to Gerber, Nel and Van Dyk., (1995), any written policy is called an "espoused policy" and when an espoused policy becomes operative, it is called "operational policy". Most of the policies in organisations remain espouse and not operational due to lack of their implementation strategies.

## **2.9. MONITORING AND EVALUATION OF EMPLOYMENT EQUITY PLAN, COMPANY POLICIES, PROCEDURES AND PRACTICES**

Triple “M” Mining submitted an Employment Equity Plan for the year 20011-2012 to the Department of Labour in Pretoria. The total labour distribution at the time was 1579 African males, 1171 Foreign males, 86 White males, 3 Coloured males and 21 females of which 10 were Africans and 11 were Whites. There were 1452 male recruitments and 8 female recruitments during the period of assessment refer to annexure D. Out of the total of 2860 employees, 174 promotions occurred mainly from the HDSA candidates. The resignations were mainly from Africans (327), Whites (32) and Coloureds (3) see annexure E1 and E2 attached.

During this period it was recorded that all the policies, procedures and practices encouraged the recruitment from the HDSA suitably qualified candidates and that there were no barriers to fair recruitment practices.

## **2.10. CONCLUSION**

Employment equity is a dynamic concept and a very sensitive topic in nature. Its implementation varies from company to company and from one country to another, therefore there is no foolproof method of implementing it. However, all the efforts directed at supporting the Act are welcomed by the South African Government. Therefore extra caution is needed when implementing it. A thorough background of employment equity, its origins, factors that impede it, dealing with resistance and the management of diversity are all necessary to be able to sculpture authentic employment equity and affirmative action programs. Once the above topics have been dealt with widely, they may allay fears and shortcomings of implementing. It is a fact that the existing imbalances and gender inequalities in Southern Africa were caused by the apartheid government systems. To redress these imbalances, some form of corrective action such as employment equity and affirmative action needs to be implemented.

South Africa has taken a more cautious and legislative way of implementing employment equity. There are no numeric goals or quotas enshrined in the Employment Equity Act of South Africa and it has also allowed freedom of choice to designated employers to decide on numeric goals. However, if the employer does not reach the targets as promised in the

mandatory Employment Equity Report submitted annually to the Department of Labour, the employer will be liable for a fine ranging between R500 000.00 to a maximum of R 900 000.00 for successive offences. It is against this background that the Mine Workers Union (MWU) and Industrial Relations Association of South Africa (IRASA) argued that South Africa has taken a quota strategy as designated employers would be sanctioned for failing to make a remarkable progress. (Mine Workers Union-Newsletter, 1998;6-7); (IRASA-Newsletter, 1998:6-7); (Business Day, 1998:13) and (People Dynamics, 1998:17).

## **CHAPTER 3**

### **RESEARCH DESIGN AND METHODOLOGY**

#### **3.1. INTRODUCTION**

This chapter focuses on how the research work was designed and data collected for the study. It also presents the methods used to collect data, the statistical techniques employed to preset and interpret it, in order to increase understanding on the prodigy about which we are interested or concerned.

#### **3.2 RESEARCH DESIGN**

A research design is the planning of any scientific research from the initial stage up to the finishing stages. Scientific research is defined as the translation of the relationship between facts and theory into practice (Bless, Higson-Smith and Sithole, 2013).

According to Bless et al., (2013), the research design is a programme used to guide the researcher in collecting, analyzing and interpreting observed facts and it relates directly to the testing of hypotheses.

#### **3.3 RESEARCH METHODOLOGY**

A research method refers to the specific techniques used to collect data with respect to the research problem (Glatthorn & Joyner, 2005). Research methodology also refers to the overall approaches and perspectives to the research process as a whole and is concerned with Why, What, Where, How data was collected and How it was analyzed. Therefore, research methodology is a way to systematically and scientifically solve the research problem. There are various steps that are generally adopted in studying the research problem along with the logic behind them. It is therefore necessary to know the methodology; methods or techniques that are relevant (Collis and Hussey, 2003).

Basically, a research method entails the various specific tools or ways data can be collected and analyzed, e.g. a questionnaire; interview checklist; data analysis software etc (Collis and

Hussey, 2003). Hence, research methods are all those methods/techniques that are used for conducting a research; methods the researchers use in performing research operations.

Research is not merely a process whereby information regarding a problem is collected. It requires a more scientific approach and the use of certain tools. Hence, the researcher uses both the research design where the qualitative and quantitative and mixed approaches are dealt with and the research methods where the techniques for collecting data are explained and motivation for their use is given.

### **3.3.1 OVERVIEW OF POSSIBLE METHODS**

The literature gave valuable insight in the type of instrument to be used to collect data. The research approaches for this study are outlined below.

#### **QUALITATIVE METHOD**

Glatthorn and Joyner (2005) states that a qualitative perspective emphasizes a phenomenological view where reality is inhered in the perception of individuals. These authors maintain that qualitative studies focus on meaning and understanding that takes place in natural occurring situations.

Adams, Raeside and White (2007) maintain that, if the other side is considered, qualitative approaches will have two things in common that is firstly, they focus on phenomena that occur in the natural settings; and secondly they involve studying those phenomena in all their complexity. Qualitative researchers aim to produce understanding of social reality with a focus on interpretation rather than quantification.

#### **QUANTITATIVE METHOD**

The quantitative nature in the form of descriptive studies is used in order to report the company's demographics by expressing them numerically by means of frequencies, averages and percentages. The quantitative perspective is experimental in nature as it emphasizes measurement and also searches for relationships. The quantitative approach is also characterized by the use of words such as variable, controls, validity, reliability, hypothesis,

and statistically significant (Glatthorn and Joyner, 2005). According to Babbie (2008), quantitative methods involve systematic evaluation of alternative actions as a basis for choice between them. He further emphasizes that the application of quantitative method involves setting up models of the problems to be analysed, selecting inputs to the models which quantify the judgements of those responsible for organisational decision and deriving the models' out puts from inputs. Figure 3.1 below indicates the differences between quantitative and qualitative research. Both quantitative and qualitative methods have been explained.

**Table 3.1: Difference between Qualitative and Quantitative Research**

<b>Criteria</b>	<b>Qualitative Research</b>	<b>Quantitative Research</b>
<b>Purpose</b>	To understand & interpret social interactions.	To test hypotheses. Look at cause and effect, and make predictions.
<b>Group Studied</b>	Smaller and not randomly selected.	Larger and randomly selected.
<b>Variables</b>	Study of the whole, not variables.	Specific variables studied
<b>Type of Data Collected</b>	Words, images, or objects.	Numbers and statistics.
<b>Form of Data Collected</b>	Qualitative data such as open-ended responses, interviews, participant observations, field notes, and reflections.	Quantitative data based on precise measurements using structured and validated data-collection instruments.
<b>Type of Data Analysis</b>	Identify patterns, features, themes.	Identify statistical relationships.
<b>Objectivity and Subjectivity</b>	Subjectivity is expected.	Objectivity is critical.
<b>Role of Researcher</b>	Researcher & their biases may be known to participants in the study, & participant characteristics may be known to the researcher.	Researcher & their biases are not known to participants in the study, & participant characteristics are deliberately hidden from the researcher (double blind studies).
<b>Results</b>	Particular or specialized findings that is less generalizable.	Generalizable findings that can be applied to other populations.
<b>Scientific Method</b>	Exploratory or bottom-up: the researcher generates a new hypothesis and theory from the data collected.	Confirmatory or top-down: the researcher tests the hypothesis and theory with the data.
<b>View of Human Behaviour</b>	Dynamic, situational, social, & personal.	Regular & predictable.
<b>Most Common Research Objectives</b>	Explore, discover, & construct.	Describe, explain, & predict.

<b>Focus</b>	Wide-angle lens; examines the breadth & depth of phenomena.	Narrow-angle lens; tests specific hypotheses.
<b>Nature of Observation</b>	Study behaviour in a natural environment.	Study behaviour under controlled conditions; isolate causal effects.
<b>Nature of Reality</b>	Multiple realities; subjective.	Single reality; objective.
<b>Final Report</b>	Narrative report with contextual description & direct quotations from research participants.	Statistical report with correlations, comparisons of means, & statistical significance of findings.

**Source:** Johnson, B. and Christensen, L. (2008).

## MIXED METHOD

Mixed methods research is the type of research in which a researcher or team of researchers combines elements of qualitative and quantitative approaches (e.g., use of qualitative and quantitative viewpoints, data collection, analysis, inference techniques) for the purpose of extent and intensity of understanding and confirmation (Johnson, Onwuegbuzie and Turner 2007).

Rossmann and Wilson (1985) identified three reasons for combining quantitative and qualitative research:

*First*, combinations are used to enable confirmation of each other through triangulation.

*Second*, combinations are used to develop analysis in order to provide richer data.

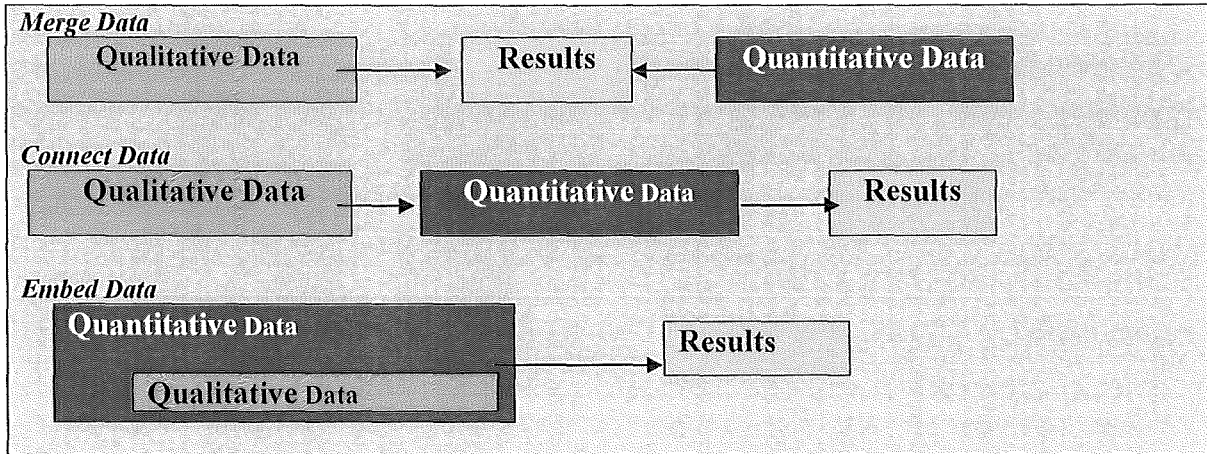
*Third*, combinations are used to initiate new modes of thinking by attending to incoherency that emerge from the two data sources.

The merits of the mixed method studies involve collection and analysis of qualitative and quantitative data in ways that are precise and framed theoretically. It offers an important approach for generating important research questions and providing necessary answers to those questions.

In a mixed method study the researcher is able to conduct a series of semi-structured interviews with a small number of participants and also carry out a large-scale study. The researcher might collect information by using each method at the same time, or consecutively the aim is to use one method to inform/report to another (interviewing before studying). The actual methods used may be the same, but the ways in which they are sequenced and

combined can make a difference during the cause of conducting the research and in the results of the study.

Figure 3.2: Three ways of mixing qualitative and quantitative methods



Source: Rossman and Wilson (1985)

According to Rossman and Wilson (1985), the methods are mixed by ordering them in a sequence, merging them and embedding one strand of information within the other. The mixed methods combine data within the milieu of a research program and also review the strands within an overall research design that guides the study as a whole.

### 3.3.2. DESCRIPTION AND JUSTIFICATION OF THE METHOD CHOSEN

This study is approached with a mixed method research methodology as it aims at providing insight into the effectiveness of its Employment Equity policies and procedures. Possibly the study will provide guidance to the areas where the company should focus to enhance the Employment Equity policies of Triple “M” Mining. Qualitative method is more reliable and objective and the researcher is able to use statistics to generalize findings. The method often reduces and restructures a complex problem to a limited number of variables through the use of a sample that represents a population.

### 3.3.3 APPROPRIATENESS OF THE CHOSEN METHOD

The method chosen is appropriate for this research because the strength of the respondents’ attitude will reflect their understanding and knowledge or their perceptions about the problem stated, thus indicating the progress made in changing the status-quo and achieving EEA

targets. The respondents' perceptions emanates from their beliefs because of their past experiences and interactions.

The research method is "practical" because the researcher is free to use both primary and secondary data collection methods to address a research problem and objectives (as outlined in chapter1) according to the research topic. It is also "practical" as the researcher is predisposed to solve problems using numbers to employ deductive thinking (Creswell, 2003).

### **3.4 POPULATION AND SAMPLING**

Bless et al. (2013) defines the population as "the entire set of objectives and events or group of people which is the object of research and about which the researcher wants to determine some characteristics". The synonym of the population is called "universe", while a sample is a subset of the whole population which is actually investigated by a researcher and whose characteristics will be generalized to the entire population.

#### **3.4.1 TOTAL POPULATION**

This study was conducted at the Triple "M" Mining (Pty) Ltd wherein the population of the research is resident. Triple "M" Mining is a mining services contractor (service provider), situated at Buffelspoort doing physical mining at Anglo Platinum Mines in the Rustenburg and Northam areas. Its main mining activities (core business) are stoping, developing, construction, equipping, reclamation, sweepings and vamping.

There are mainly three departments within the company namely: mining, finance and administration and human resources. Triple "M" Mining is characterized by a lean and mean organisational structure with job categories ranging from Elementary occupations (Labourers-Pipes, Tracks and Ventilation and Stope Timber), Operators, Team Leaders, Clerks, Miners, Shift Supervisors, Mine Overseers and Directors. At the time of the study, there were 2860 employees within the company. The majority of its employees are males comprising of 56 percent of South African males, 41percent of foreign males, 3 percent of white South African males and only 1percent of women of all colour see annexure C. There were only two male employees (one black and one white) with disabilities that resulted from injuries on duty.

The responsibilities of the Chief Executive Officer (CEO) of Triple “M” Mining also include amongst others Human Resources and Corporate Services. These responsibilities also mean that the C.E.O. is also responsible for the Employment Equity Plan of the company. The CEO might delegate some responsibilities but at the end of the day he is responsible for the achievement of the numerical targets of the Employment Equity Plan of the company. The Department of Labour (DoL) also requires the CEO of the company to sign the Employment Equity Plan before its submission. As mentioned above, Triple “M” Mining has a lean and mean organisational structure and there is nobody else below the CEO who is responsible for the Employment Equity Plan of the company. Table 3.1 below indicates the strata of the organisation (population) and how a sample was chosen bearing in mind the above mentioned different strata.

**Table 3.2: Total Population in Terms of Dermography**

<b>Note well: A = Africans; C = Coloureds; I = Indians and W = Whites</b>											
<b>Occupational Categories</b>	<b>Male</b>			<b>Female</b>				<b>White male</b>	<b>Foreign Nationals</b>		<b>TOTAL</b>
	<b>A</b>	<b>C</b>	<b>I</b>	<b>A</b>	<b>C</b>	<b>I</b>	<b>W</b>	<b>W</b>	<b>Male</b>	<b>Female</b>	
<b>Directors</b>	1							3			<b>4</b>
<b>Mine Overseers</b>				1			3	11			<b>15</b>
<b>Shift Supervisors</b>	3							48	2		<b>53</b>
<b>Miners</b>	43	3		1			7	17	12		<b>83</b>
<b>Clerks</b>	8			5			1	1			<b>15</b>
<b>Team Leaders</b>	131							2	232		<b>365</b>
<b>Operators</b>	713							1	645		<b>1359</b>
<b>Elementary Occupation</b>	680			3				3	280		<b>966</b>
<b>GRAND TOTAL</b>	<b>1579</b>	<b>3</b>	<b>0</b>	<b>10</b>	<b>0</b>	<b>0</b>	<b>11</b>	<b>86</b>	<b>1171</b>	<b>0</b>	<b>2860</b>
<i>NB: One African male employee in Elementary position and one White male employee in Clerical position are disabled.</i>											

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The core business of Triple “M” Mining (Pty) Ltd is mining services as mentioned in 5.1 (total population) above. The Finance/Administration and Human Resources are non-core departments and they fall within the ambits of the auxiliary functions. However, the

population of interest was the entire organisation of 2860 employees. The most common strata of the target population are the gender, race, occupational categories/seniority taking into consideration their total number of representation at each level.

The mining charter requires the mining companies to apply employment equity of 40 percent of HDSA candidate's participation in management and women participation of 10 percent. The Mineral Petroleum Resources Development Act (MPDA) also requires a more drastic move of women into the core business of mining. It is for this reason that the total population includes non-core departments as well (MPDA, 2009).

### 3.4.2 SAMPLING AND DATA COLLECTION STRATEGY

The sampling technique used in this study is a proportional stratified random sampling. The Employment Equity Act requires a high consideration of the employee's demographics within a particular work place. Therefore, it would be ideal to use a random stratified sample proportional to the gender, race and job categories of the target population (Bless et al., 2013; Welman and Kruger, 2002).

**Table.3.3: Stratified Proportional Sampling**

<b>JOB LEVEL</b>	<b>POPULATION</b>	<b>PORTION OF THE TOTAL</b>	<b>SAMPLE</b>
<b>Directors</b>	4	0.00	4
<b>Mine Overseers</b>	15	0.01	3
<b>Shift Supervisors</b>	53	0.02	6
<b>Miners</b>	83	0.03	10
<b>Clerks</b>	15	0.01	3
<b>Team Leaders</b>	365	0.13	44
<b>Operators</b>	1359	0.46	156
<b>Elementary Occupation</b>	966	0.34	115
<b>Total</b>	<b>2860</b>	<b>1.00</b>	<b>341</b>

**Source: Sekaran, 2003**

The sampling size of Triple "M" Mining (Pty) Ltd is 341 for a population of 2860 that is between 2800 and 3000 according to Sekarans' (2003) table for determining sample size (see annexure F) from a given population.

### 3.4.3 SAMPLE SIZE

Taking into consideration the definition of the population mentioned above, the classification is as follows: the occupations (see table 2 above) from Elementary, Operators and Team Leaders are classified as semi-skilled employees. The Clerks, Miners, Shift Supervisors, are classified as lower management occupations; Mine Overseers as middle or senior management and Directors as top management. This sample size takes into account all the relevant strata of the population such as gender, race and occupational categories.

The sample size of 341 comprising of management and employees was randomly selected for the quantitative aspect of this research. The sample was selected with a practical outcome in mind in which the assumption is that the organisation as a whole will gain specific benefits from the research.

**Table 3.4: The structure of the representative sample**

<b>Occupation</b>	<b>African male</b>	<b>African female</b>	<b>White male</b>	<b>White female</b>	<b>Total</b>
<b>Directors</b>	1		3		4
<b>Mine Overseers</b>	1		2		3
<b>Shift Supervisors</b>			6		6
<b>Miners</b>	3		7		10
<b>Clerks</b>	2	1			3
<b>Team Leaders</b>	18		26		44
<b>Operators</b>	141		15		156
<b>Elementary Occupation</b>	101		14		115
<b>Total</b>	<b>267</b>	<b>1</b>	<b>73</b>		<b>341</b>

The names and SAP numbers (clock numbers) of the population were placed in five ballot boxes, according to their occupational levels and gender and were randomly selected to participate in the questionnaire procedure. Those who were selected were paraded by the Human Resources Department to participate in a briefing session and the answering of the questionnaire. The questionnaires were answered individually and in privacy and were

returned to the HR Department's ballot boxes. The women employees were selected using the same procedure but in a different ballot box. The reason why they were selected separately is because their representation as an important stratum of the research was very significant.

Those who were selected were paraded by the Human Resources Department to participate in a briefing session and the answering of the questionnaire. The questionnaires were answered individually and in privacy and were returned to the HR Department's ballot boxes. Sekaran (2003) maintains that a response rate of 30% can be regarded as acceptable for most research studies. In this study 88% (300 employees responded) rate was yielded.

### **3.5. RESEARCH INSTRUMENTS AND ITS COMPONENTS**

#### **a. Primary data**

The collection of the primary data was made by means of two sets of questionnaires, one to management and another one to the employees and their union officials which included a disclaimer that outlined the purpose of the study (refer to annexure G). This research method is a scientific method of acquiring knowledge from the original sources. Kent (2001) maintains that questionnaire should be brief as possible and solicit only that information essential to the research project.

Two different questionnaires were distributed to management and employees respectively. The questionnaire for management will consist of 3 sections (refer to annexure H). The first section of the questionnaire was aimed at gathering biographical data on the respondents including qualifications, and frequency as well as the level of decisions that are normally made by the respondent and the company's biography; the second section focused on specific questions with regards to the implementation of employment equity and the third section focused on the knowledge and understanding of employment equity matter.

The questionnaire for employees consisted of 2 sections (refer to annexure I). The first section focused on the biographical and demographical details on the respondents from attributes such as gender, age, education, job grading. The second section measured employees level of agreement with various employment equity issues.

All the questions in the questionnaire are formulated based on the objectives and objectives of the study. The questionnaire is formulated for both management and employees of Triple “M” Mining and the responses emanated from them according to the population and the chosen sample size determined as in table 3.3 and 3.4. Responses are measured on a Likert scales - Strongly Disagree:1; Disagree:2; Average:3; Agree:4 and Strongly Agree:5, where a low score was indicative of greater uncertainty or complexity. Other questions required common knowledge about the company, a yes or no answer where the respondent is expected to provide common knowledge about the company’s policy and procedures.

**b. Secondary data**

The secondary data gathering was conducted by reviewing some of the relevant literature including professional magazines, newspapers, journals, legislation, Institute of People Management’s fact sheets, completed published and/or unpublished dissertations and by listening to specialist interviews from the television and radio stations. The inspections and reports of the Human Resources policies, procedures as well as the Employment Equity Plan and Reports were conducted to investigate the distribution of labour within the company. The various strata such as race, gender, seniority were observed and the driving forces behind them were also investigated.

- a. **Interviews-** the structured interviews follow a set of pre-determined questions and unstructured interviews do not follow pre-determined set of questions. Therefore, the unstructured interviews with the management and employee representatives were conducted and the data was analyzed. The unstructured interviews allow a more informal environment that allows participants to give information, opinion and perception freely and without withholding lots of information due to fear of being victimized (Bless et al., 2013).

The researcher interviewed participants at the time convenient for them. In-depth one-on-one interview will be conducted. The qualitative interview is specified as a method and a social interaction to find out what others felt and thought about their world and to understand their perception and experiences. This interview method gives participants an opportunity to reflectively explain the experience of interest.

Each interview was planned for at least 30 minutes. The following steps were observed in each interview:

- Make an appointment with each participant regarding time and venue.
- Conduct interviews at the time convenient for the participants.
- Restate the purpose of the study and the right of the participants (to voluntarily participate and to withdraw at any time).

b. **Documents-** the Employment Equity Report, EE Policy and other recruitment policy documents were studied in order to see the progress made with regard to EE plan.

### **Advantages and Disadvantages of interviews and questionnaire**

**Interviews** conducted with all stake holders yielded different results due to individual perspective and experiences. Advantages of the interviews are that the researcher was able to create a relationship with interviewees. They were also motivated during the proceedings; questions that arose during the interview were cleared. Additional questions that were prompted by the interview were asked.

The disadvantage is that management may give feedback that relied on what they thought was best for the company (production and increment of revenue) even though that meant noncompliance to policies. Employees and unions only responded with regards to the interests of the employees. The process of interview is time consuming as it requires the researcher to be personally involved. The questions formulated; asked and the response thereof may be biased. Since the respondents are not forced to be interviewed they can decide to terminate the interview at any time.

Documents by means of **questionnaire** (to management and employees) and other literature studied (company policies and reports) serve as evidence the even though management may have been skeptical in providing documents and some of the questionnaires from both management and employees were not returned. The advantage is that participants were able to fill in the document at their own time; in their own private space. There were no right or wrong answers as the information required was from their knowledge about the company they work for. It was less expensive to administer a questionnaire to a group of respondents.

The other disadvantage was that management was reluctant to give up company time for a group of employees to assemble for the survey.

### **3.6 DATA ANALYSIS TECHNIQUE USED**

According to Welman and Kruger (2004), data is analysed by means of statistical techniques in order to investigate variables and their effects. It is necessary to analyse the data that will be collected once the measuring instrument is identified. Data was analyzed by means of frequencies, tables, percentages, pie charts and bar graphs. Statistical analysis will be conducted during the study and conclusions and recommendation will be made thereafter (Bless et al, 2013; Welman and Kruger, 2004).

For the purpose of this research data was analysed by making use of descriptive statistics. This enables the researcher to present collected data in a logical and organized form. It captured a large set of observations and gives ideas about the data set. The measures of central tendency like mean, median, mode all come under this category, as do data distributions like normal distribution and corresponding standard deviations.

The relevant data such as the sample size, the demographics of the people involved in the study, their previous financial exposure, their average age, gender, are all relevant. Data is represented in the form of graphs or histograms by means of a statistical package for social scientist which is a window based program that was be used to perform data entry and analysis and to create tables and graphs.

Interviews allow the respondents to reflect and reason on a variety of subjects in a different ways. The interviewee's own feelings through the interview are thereby also empirical material for analysis. The sorting and classification of raw data collected was based on the objectives of the study. It then went through the process of open coding and axial coding. Transcript data was e organized and indexed with use of atlas ti.

### 3.7 MEASURES TO ENSURE VALIDITY AND RELIABILITY

#### **Reliability**

According to Sekaran (2003), reliability can be referred to as whether an instrument is consistent with no error despite fluctuations of the candidate, the research conditions under which the test is administered.

Bryman (2008) identified three types of reliability referred to in quantitative research, which relates to:

- (1) producing the same results under same measurement conditions,
- (2) the stability of a measurement with respect to time; and
- (3) the similarity of measurements in a given time period.

This research ensured that measurement method used is highly reliable and it will be able to yield the same result in the same circumstances time after time, even when it is employed by different people. The goal of using a t-test was to provide stable and reliable responses and also to minimise the errors and biases in a study through the questions formulated. The objective was to ensure that, if afterwards an investigator followed exactly the same procedures, the same findings and conclusions would result. The data collection process used ensures consistency of results where the higher the alpha of  $r$  and  $r^2$ , the more reliable the instrument thus the higher degree of stability also indicates higher degree of reliability.

#### **Validity**

Bouma (2000) states that validity is the one if they obtained results are truthful and believable. He also adds that to determine the validity, the researchers generally poses a series of questions, and will often look for the answers in the research of others to know whether the measurements are accurate or not.

Spearman's correlation co-efficiency is used to determine the relationship between variables and also summarizes the strength of correlation of variables. Correlation Coefficients can rank from -1.00 to +1.00, where -1.00 represents a perfect negative correlation and +1.00 represents perfect positive.

**Internal validity**

Internal validity refers to the “extent to which its design and the data that it yields allow the researcher to draw accurate conclusions about cause-and-effect and other relationships within the data” (Leedy and Ormrod, 2005:103-104).

Internal validity was achieved through sampling techniques that are used during the research. The internal validity threats that can arise from the data collected and the tools used for collecting the data were taken care of. In order to avoid threats, data was copied on multiple sheets and other storing device so as to make sure the data was not lost for further analysis as the random data generated keeps on changing.

**External validity**

External validity of data was utilized to maintain the reliability of data. External validity involves population and ecological validity. Population validity refers to the extent to which the results received for a sample may be generalized to the total population to which the research applies (Kruger and Wellman, 2004).

In order to ensure external validity, the researcher ensured that:

- The names and identities of the candidates remained anonymous; in this way, more accurate and true information was obtained.
- Permission from management was obtained so that candidates did not experience any fear or uneasiness.

**3.8 ETHICAL CONSIDERATIONS**

The following ethical principles (privacy, confidentiality and informed consent) were observed throughout the study. The ethical considerations principles of the Belmont Report, namely beneficence, respect for human dignity and justice, including consent (Brink, 1996).

- a. **Privacy** - the participants’ right to privacy was respected. They were allowed to discuss issues that they feel comfortable with.
- b. **Confidentiality** - the participants’ information was not linked to an individual. Their particulars were not disclosed thus upholding their right to confidentiality.

- c. **Informed consent** - the issue of confidentiality and voluntary participation was stressed. The participants were fully informed about the nature of the research, the purpose of the study, why they have been selected.

### 3.9 CONCLUSION

This chapter outlined the research paradigm, research methodologies, strategies and design used in the study, including participants, procedures, data collection tools, data collection and analysis methods, and credibility issues. It also depicted the several stages engrossed in the design and development processes of the research in this study. The collection of the above-mentioned data was objective because the sample size was well represented and it involved all the different job categories, levels, race and gender of the entire population.

The next chapter focuses on the presentation and findings of the data obtained from the questionnaire.

## CHAPTER 4

### RESEARCH RESULTS

#### 4.1. INTRODUCTION

This chapter presents analyses and interprets data that was collected during the survey. The survey was conducted to investigate the implementation of employment equity at Triple “M” Mining. The data acquired through the study is depicted in tabular form for ease of presentation, analysis and interpretation. Each question from the questionnaire has been re-written and alongside it are responses that ranged from one to five answers to choose from.

Two sets of questionnaires were used, with one targeting management and the other targeting the employees and union officials. However, analysis and interpretation would be made separately and if cross correspondence exist between both management and employees and their union, the specific reference is made.

#### 4.2 POPULATION, THE SAMPLE AND THE RESPONSE RATE

Out of 341 as indicated in table 3.3 of Chapter 3, questionnaires distributed, only 300 were returned correctly responded to without any spoilage; thus registering an 88% response rate. 30 questionnaires were for management employees and their results were given in a separate questionnaire results for ease of presentations, analysis and interpretation. The same applied to the response of 270 questionnaires for employees and union members. The scores have been converted into percentages in order to be able to compare similar variables.

Analysis and interpretation of the employment equity reports and questionnaires would be made in this chapter after having dealt with data. The following are the results of the questionnaires and their analysis and interpretation following a question.

#### 4.3 DEMOGRAPHICS OF THE RESPONDENTS

Management is the custodian of the employment equity within the organisation. The questions that relate to management surrounded issues of the company as a driver, union

intervention and the implementation of the employment equity (EE). This questionnaire targeted 30 senior management employees as indicated in table 3.4 of Chapter 3, who have the knowledge and are part of the decision-making process pertaining to EE within the company. This management level sampled ranged from the Miners, Shift Supervisors, and Mine Overseers up to the level of CEO of the company. The following responses pertain to questions 1 to 6 of the management questionnaire (annexure C).

Section A (question 1 to 6) of the questionnaire relates to the organisational biography and the management respondents occupation within the company. The data graphs for management questionnaire on the company demography is as follows:

**Section A:** Respondent's position and company biography

What is your position in the company?

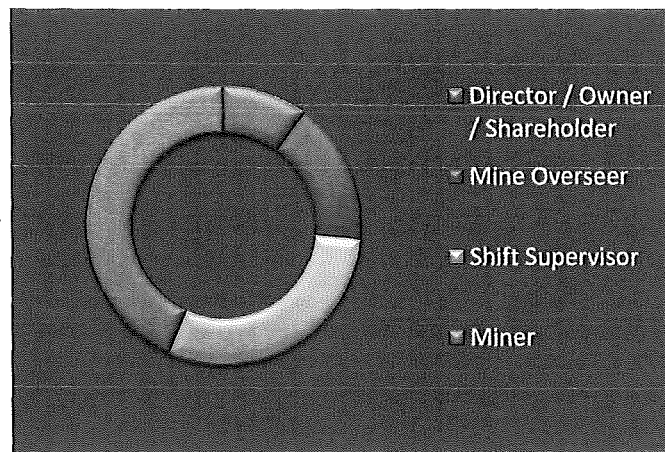


Figure 4.1: Question 1

Figure 4.1 shows that the management respondents comprised of the CEO, HR Manageress, Mine Overseer, Shift Supervisors, Miners and HR Assistants in lower management. There is a low percentage (10.0) of directors in the company as compared to a high percentage (43.3) of semi-skilled employees.

Which of the following sector best describes your company?

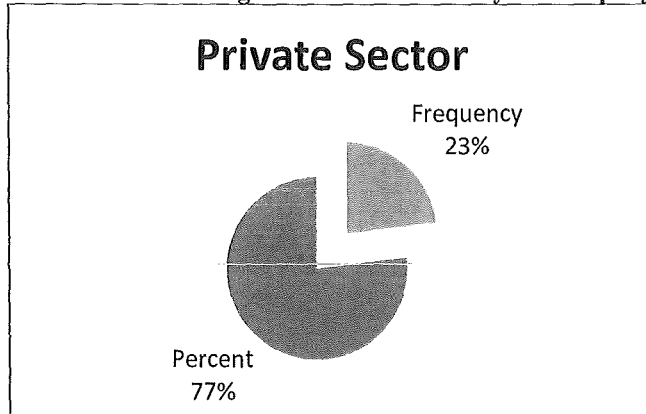


Figure 4.2: Question 2

All management respondents have confirmed that Triple “M” Mining (Pty) Ltd is a private company.

Which of the following best describes your company i.t.o revenue?

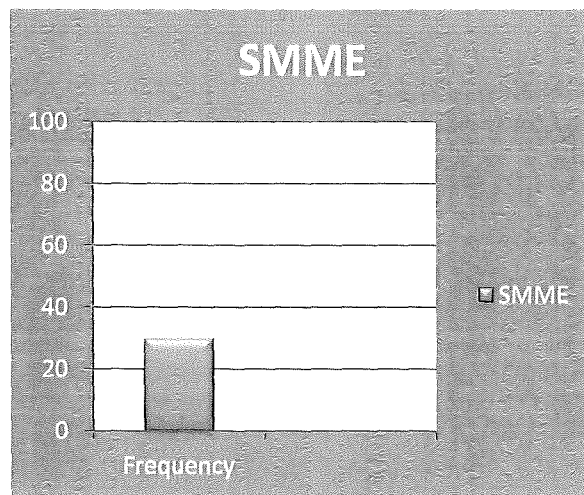
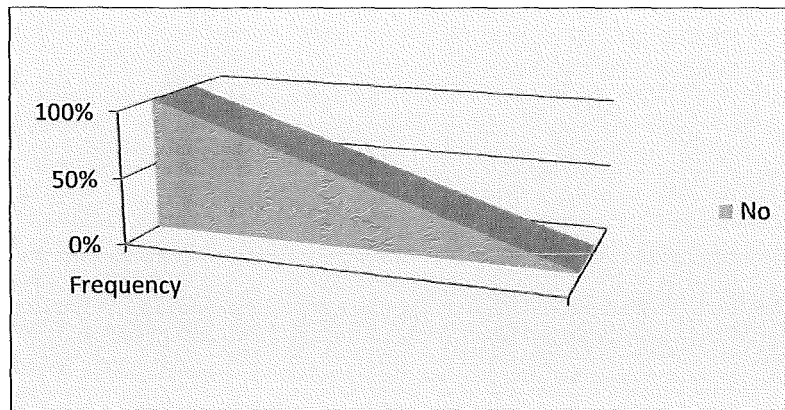


Figure 4.3: Question 3

Triple “M” management all confirmed that the company falls under the Small Medium Enterprise (SMME) in terms of its revenue.

**Does your organisation have a Skills Development Facilitator registered with a SETA?**



**Figure 4.6: Question 6**

All management respondents confirmed that the company had no registered Skills Development Facilitator (SDF) and the CEO confirmed, during the interview, that the company uses the services of an SDF that was allocated by the Mining Qualifications Authority (MQA) (Figure 4.6).

### ***Section 1: Employees biographical data***

From lower level employees (rank and file), the respondents were selected by means of a random stratified sampling. The strata such as but not limited to gender, race, age, residence and educational level were used during the selection. These strata have a significant role in the implementation of the EE. Their responses to the questionnaire were as indicated as in the graphs below.

Section 1 (question 1 to 6) of the employee questionnaire relates to the organisational biography and the employees respondents occupation within the company. The graphs on employee questionnaire about the biographical data are categorized as:

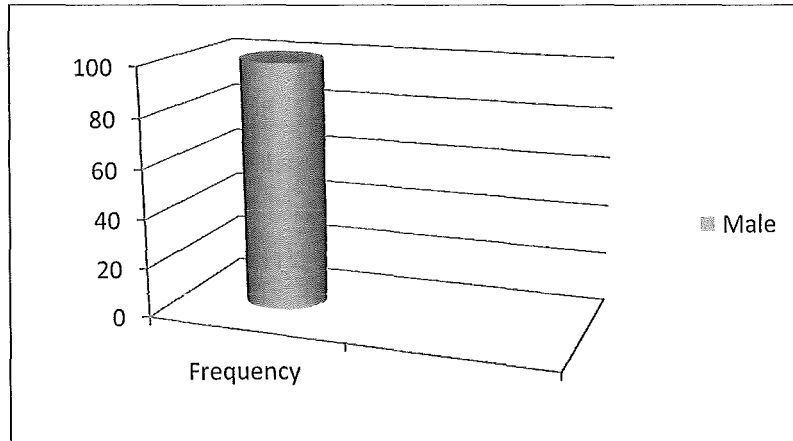


Figure 4.7: GENDER

A figure 4.7 on frequency reflects that the male employees are more than females. This may be due the fact that, mining industry by virtue of its nature requires more physical strength, hence more males as compared to their female counterparts. Mining also as a sector has the historical background that supported employment of male employees rather than females.

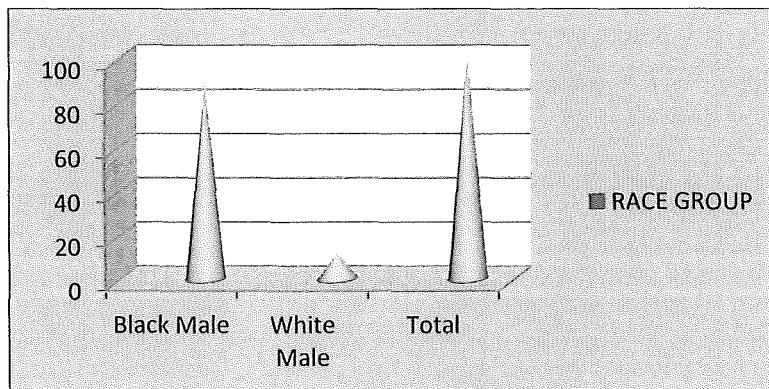
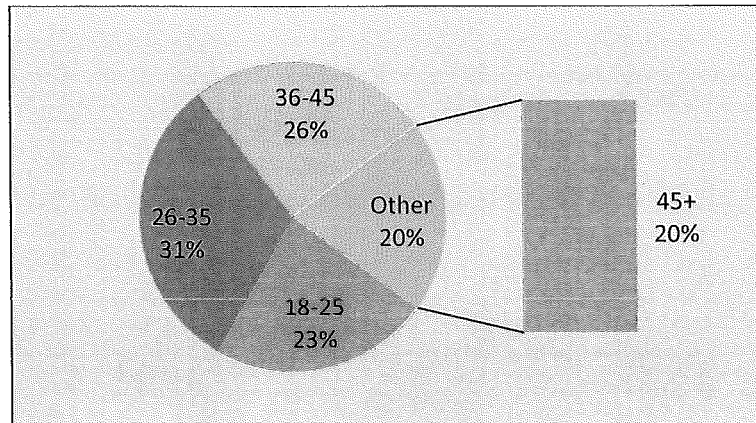


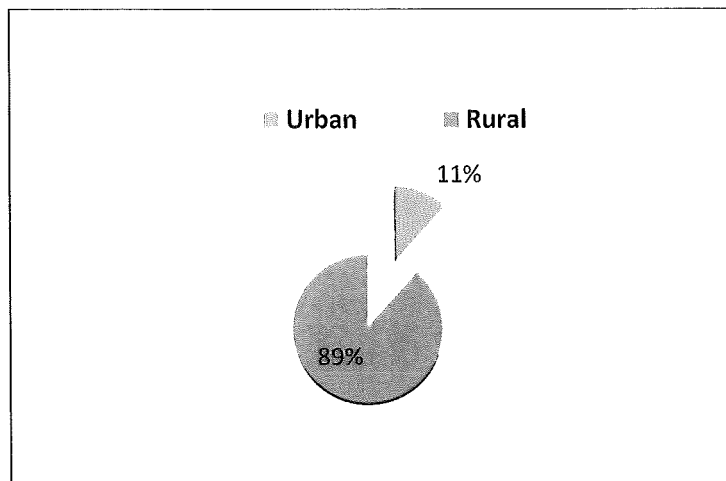
Figure 4.8: RACE GROUP

A number of reasons exist why the minorities of management positions are still held by white individuals. Cox's (2003) investigation reveals that black mining graduates leave the mining industry because of the inability to fit into the culture. He claims that it is a culture where employees' differences and strengths are not appreciated. Thus most of the blacks are unskilled or semi-skilled as they do not pose any threat or competition to their counter parts. This is shown in Figure 4.8.



**Figure 4.9: AGE GROUP**

Figure 4.9 shows that most of the employees are those who have some sort of mining related training and or experience, hence the 46% are on the middle age group (36-45+). It is very seldom that the mines employ novices due to the nature of the risk involved in underground working places. Hence their number exceeds all other age groups. Novices pertaining to 31% are only employed for the replacement after an employee's was fatally injured. The low percentage yielded in the above table revealed that the average age group spend most of their time on extensive education or training which makes take them too long to be profitable. The remaining 23% are younger age of 18-25 are normally semiskilled to unskilled, it will take then some extra years to obtain relevant qualifications.



**Figure 4.10: RESIDENCE**

As shown in Figure 4.10, the employees who are employed at the mines majority of them come from the rural areas. This is because of the fact that traditionally blacks were not allowed to stay in urban areas and were only allowed to stay on the basis of employment.

According to the Group Areas Act, 1950 (act no. 41 of 1950), urban areas were to be divided into racially segregated zones "where members of one specific race alone could live and work". Group areas were created "for the exclusive ownership and occupation of a designated group". It further became "a criminal offence for a member of one racial group to reside on or own land in an area set aside by proclamation for another race"

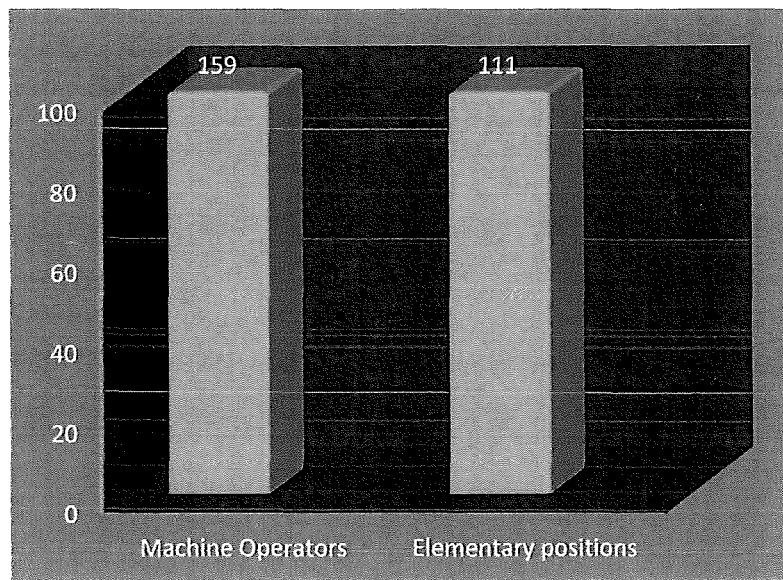


Figure 4.11: OCCUPATION

The percentage of machine operators/rock drill operators (RDOs) who are involved in the core business of mining is higher than that of elementary employees who falls within the rank and file. RDO's are key occupations that make mining business a reality (Figure 4.11).

#### 4.4. ANALYSIS OF THE RESPONSES

##### 4.1 Descriptive statistics on mean score and standard deviations

Statistics for each table are based on all the cases with valid data in the specified range(s) for all variables in each table. The actual / expected mean is 3 according to the rank of **Strongly Disagree:1; Disagree:2; Average:3; Agree:4 and Strongly agree:5**. The results above 3 are regarded as positive and any results below 3 are regarded as negative. The results of the first three and the bottom three were used to measure the expected mean. Table 4.1 and 4.2 respectively indicates the mean pertaining to the questionnaires distributed for management and employees.

**Table 4.1: Descriptive statistics for management**

<b>Variables</b>	<b>N</b>	<b>Mean Score</b>	<b>Std Deviation</b>
1. What is your position in the company?	30	3.97	1.25
2. Which of the following sector best describes your company?	30	2.00	0.00
3. Which of the following business size best describes your company i.t.o. revenue?	30	1.00	0.00
4. How long has the company been in business?	30	1.53	0.51
5. What is the total size of the organisation i.t.o. employee strength?	30	5.00	0.00
6. Does your organisation have a Skills Development Facilitator registered with a SETA?	30	2.00	0.00
7. What is the extent of unionization within your company?	30	3.97	1.03
8. Does Employment Equity form part of the business strategy?	30	3.83	1.18
9. Were unions consulted w.r.t. recruitment, training/development and EE policies implementation?	30	3.10	1.60
10. Does the company have a recruitment policy?	30	3.50	1.33
11. Does the company have an EE policy?	30	3.60	1.40
12. Does the company have an EE budget?	30	3.73	1.31
13. Historically Disadvantaged South African (HDSA) employees within the senior / management positions of the company are not fairly represented?	30	3.57	1.33
14. 10% target of women has been met in the company?	30	3.67	1.30
15. The total percentage of employees with disabilities in the company is fairly representative?	30	1.90	1.03
16. Diversity programs are used to precipitate the implementation of EE?	30	2.27	1.17
17. Have management shown commitment on the company's EE plan?	30	3.33	1.24
18. Have the Government officials ever audited the company's EE plan?	30	2.43	1.38

Variables that were used during data capturing for management were 18 and three of those that were above higher or above 3 were question 8 (mean 3.83), question 11 (3.60) and question 12 (mean 3.73). The questions stated above addresses the objectives indicated in chapter 1 about the investigation of the implementation of employment equity in Triple “M” Mining Company. The mean for questions 1 to 7 are not used for comparison since they were not measured on Likert agreement scale of 1-5.

It is clear the EE forms part of business strategy of the company and unions are consulted by management on possible obstacles impeding the implementation of EE. The company also has an EE budget as per requirement of the Skills Development Levies (SDL) Act 9 of 1999 as amended in 2010, which is the subordinate act of Employment Equity Act. The SDL Act requires that the companies pay a levy of 2% of their total payroll monthly to the Sectoral Education and Training Assuror (SETA), in this case, Mining Qualifications Authority.

Variables that yielded a mean that is lower than 3 are: question 15, 16 and 18. The mean for the questions is 1.90, 2.27 and 2.43 respectively. These questions indicate a negative response towards the objectives with regards to analyzing the employment policies, systems and procedures pertaining to recruitment, selection, training and development and placement to ensure that discriminatory practices do not exist within the organisation.

Although the company complies with the requirements of the SDL Act, management showed no interest in the investigating the HR interventions such as training and development and the diversity management programs used to support the implementation of the employment equity which is in line with the skills development of candidates within the organisation. No attention is paid to the enhancement of skills development through mentoring and coaching. This finding is in line with Sadler and Erasmus (2003), Ngambi (2002) and Thomas (2004) who identified poor quality of management and lack of support and recognition received as important aspects that hamper the effectiveness of implementing employment equity through the retention of black staff.

Training and skills development is the second measure found in Employment Equity Act Section 15 (2) (d) which requires designated employers to retain people from designated groups and also to implement 'appropriate' training measures for skills development. This is also vital as it ensures the creation of skilled labourers and professionals from designated groups and thus ensures a high quality of employee performance. The following table gives a descriptive statistics for employees.

**Table 4.2: Descriptive statistics for employees**

VARIABLES	N	Mean Score	Std Deviation
1. Is EE implemented successfully at Triple "M" Mining?	270	2.74	1.455
2. Is recruitment policy is in place?	270	3.42	1.45
3. Does Triple "M" Mining has an EE policy that is known by all its employees?	270	3.41	1.426
4. Is EE policy posted in high visibility places?	270	2.21	1.275
5. Are employees briefed about EE policy during induction?	270	2.32	1.391
6. Is Black EE Designate heading the EE?	270	4.18	1.117
7. Is EE Committee is in place?	270	3.84	1.046
8. Is EE regarded as a business strategy and has preference like any other business strategy.	270	2.56	1.449
9. Is there an EE budget?	270	3.7	1.316
10. Is EE preceded by T & D initiatives?	270	3.51	1.416
11. Do employees know management's EE targets?	270	2.38	1.46
12. Are people with disabilities considered for recruitment & selection?	270	2.27	1.445
13. Do women employment constitute more than 10% of the workforce?	270	1.47	0.764
14. Are there enough HDSA within management echelons?	270	1.81	1.045
15. Is Org. climate & culture conducive to EE programs?	270	2.86	1.435
16. Do White males have fears about EE programs?	270	3.51	1.411
17. Do White males support the EE initiatives?	270	2.31	1.379
18. Do White males resist the EE initiatives?	270	3.72	1.286

Table 4.2 shows that out of 18 variables / questions above on the scale, question 6, question 7 and question 18 indicated a positive mean response of 4.18, 3.84 and 3.72 respectively. These responses clearly indicate that there is an EE committee in place at Triple "M" Mining. The Employment Equity Act chapter 3 (24a), requires that a company must assign one or more senior managers to take responsibility for monitoring and implementing an employment equity plan. The designated person must form a committee that will ensure that EE is implemented since most of the management composes of mostly whites who display resistance towards the implementation of EE. According to Barker (2003), the Employment Equity Act imposes a duty on employers to implement Affirmative Action measures to give preference in hiring and promotion to disadvantaged groups. He further stated that inappropriate Affirmative Action might have a de-motivating effect on both White males and on the beneficiaries of the Act.

Question 4, 13 and 14 respectively have yielded a mean less than 3 being 2.21, 1.47 and 1.81. This indicates that most employees agree to the fact that EE is not posted in high visibility places as per requirement of the Department of Labour of South Africa (DoL). Employment Equity being one of the Labour Law Poster was not displayed in high visibility areas. "Men in mining are not used to living with women, so there are lots of problems and allegations. Some asked the NUM to request separate shafts for women. The women in mining programmes are not seen as a response to the EEA, but rather the Mining Charter, which has a clear target (set at 10% by 2009), linked to sanctions. Equity in the labour market is not only dependent on policies that have been developed to target the area specifically, like the EE Act.

The mining charter intended to increase the HDSA's in management positions by 40% but according to the same report the companies only achieved a ratio of 30%. It is clear that there is no HDSA in management echelons according to the mean of 1.81 which is below 3. Thomas (2002) concludes that to overcome the barriers encountered by other countries, South Africa should pay particular attention to the sound monitoring of progress towards Employment Equity. He continues by stating that proactive measures must be taken to ensure that the majority of the historically disadvantaged groups benefit from the legislation and to complement target setting, holistic human resources practices should be introduced.

#### 4.4.2 FREQUENCY TABLE PER QUESTION

**Table 4. 3: Does Employment Equity form part of the business strategy**

	Frequency	Percent	Valid Percent	Cumulative Percent
Disagree	6	20.0	20.0	20.0
Average	5	16.7	16.7	36.7
Agree	7	23.3	23.3	60.0
Strongly Agree	12	40.0	40.0	100.0
Total	30	100.0	100.0	

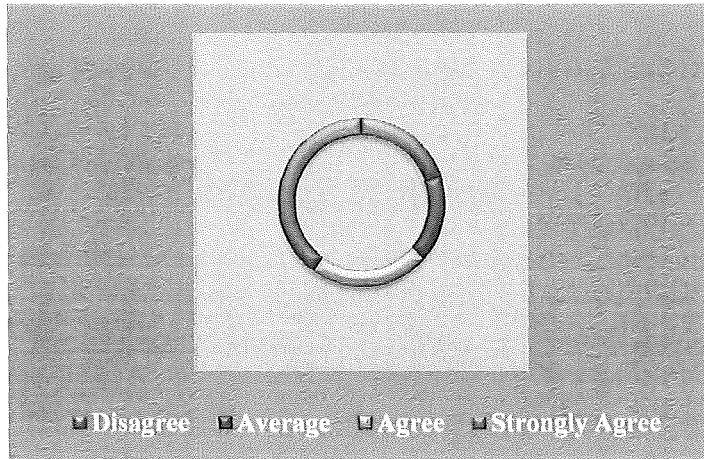


Figure 4.12: Question 7

According to Table 4.2 and Figure 4.12, the majority of management respondents at sixty three percent confirmed that employment equity is regarded as a business strategy of the company. It is a legal requirement and their Client mine (Anglo Platinum) also enforced it as their mining license also depended on it as a criterion to renew their mining license. Triple “M” Mining as a service provider must also comply with this requirement.

Table 4.4: What is the extent of unionization within your company?

	Frequency	Percentage	Valid Percent	Cumulative Percent
Low involvement	4	13.3	13.3	13.3
Do not Know	4	13.3	13.3	26.7
Moderately unionized	11	36.7	36.7	63.3
Highly unionized	11	36.7	36.7	100.0
Total	30	100	100.0	

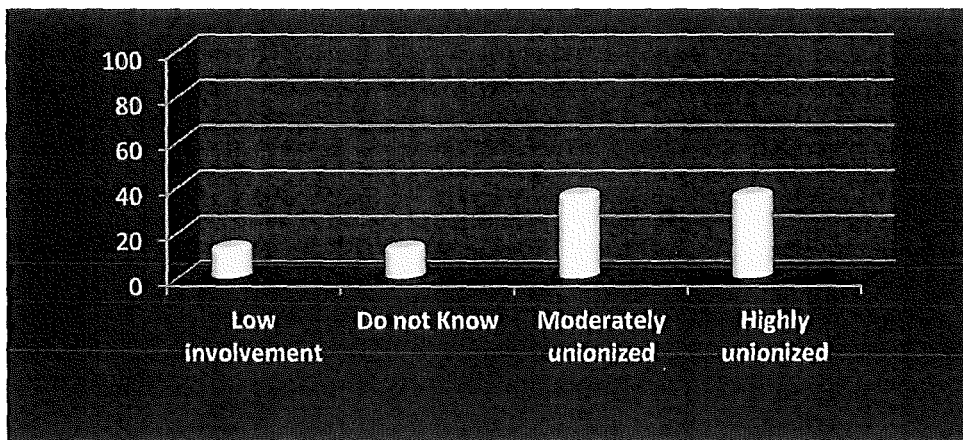
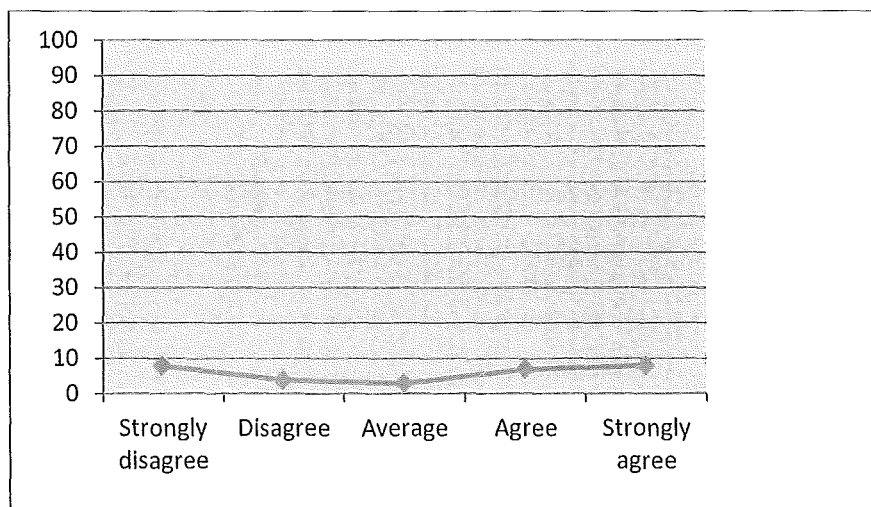


Figure 4.13: Question 8

A conceptual framework for evaluating trade union participation is required. In this regard, Thomas A (2002) define employee participation as a range of influence employees may have on decision making, ranging from task centred to power centred forms. Employee representation in the company was, according to seventy four percent of the respondents, through the National Union of Mine Workers (NUM), a sole bargaining union for all the lower level employees. Although management was not necessarily exempted to join the union by the company's policy, all management employees were nonunion members (Table 4.4 and Figure 4.13).

**Table 4.5: Were unions consulted with regards to recruitment, training/development and EE policies implementation?**

	N	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly disagree		8	26.7	26.7	26.7
Disagree		4	13.3	13.3	40.0
Average		3	10.0	10.0	50.0
Agree		7	23.3	23.3	73.3
Strongly agree		8	26.7	26.7	100.0
Total	30	30	100.0	100.0	



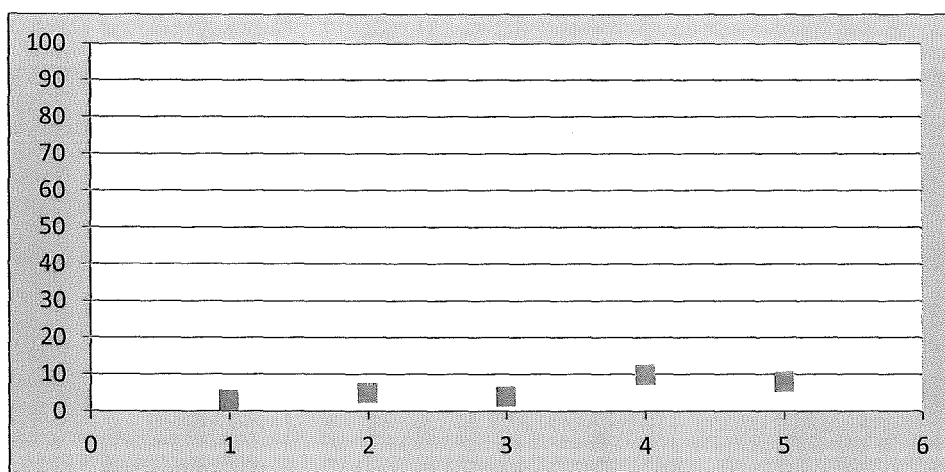
**Figure 4.14: Question 9**

Figure 4.5 and Table 4.14 shows that the majority of respondents agreed that the union is consulted on employment equity issues and its implementation. Joint consultation is seen within this framework as task centred with some degree of power to influence but not to make, negotiate or co-determine workplace decisions (Thomas, 2002). It is an indirect form of participation in that employee representative or shop stewards take part on behalf of employees to represent them. Their involvement and joint decision making are sought by

management on EE issues. Of which minority of respondents did not concur to this statement. They felt that management has got more power than the union and that it uses its prerogative to put its own agenda when coming to employment equity.

**Table 4.6: Does the company have a recruitment policy?**

	N	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly disagree		3	10.0	10.0	10.0
Disagree		5	16.7	16.7	26.7
Average		4	13.3	13.3	40.0
Agree		10	33.3	33.3	73.3
Strongly agree		8	26.7	26.7	100.0
Total	30	30	100.0	100.0	

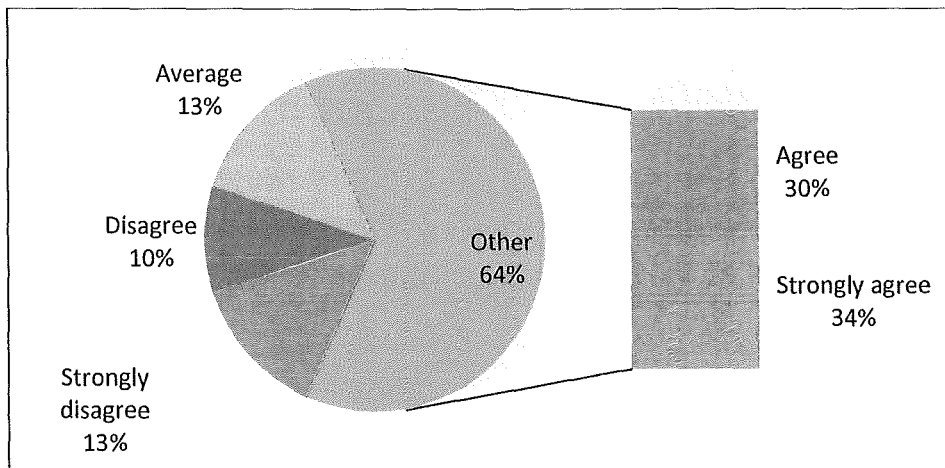


**Figure 4.15: Question 10**

The company has a recruitment policy in place and sixty five percent of the respondents have confirmed the statement. Recruitment of staff is an ongoing process in most organisations, and it is very crucial. Carrell et al. (2000) regards recruitment as the process of acquiring applicants who are available and qualified to fill vacant positions in an organisation. The main requirement in recruitment is a well-conceived policy, wherein guidelines and objectives to be achieved should be properly outlined. Twenty two percent criticized that the policy was an espoused but not operational and the last thirteen percent were not sure (Figure 4.15. and Table 4.6).

**Table 4.7: Does the company have an EE policy?**

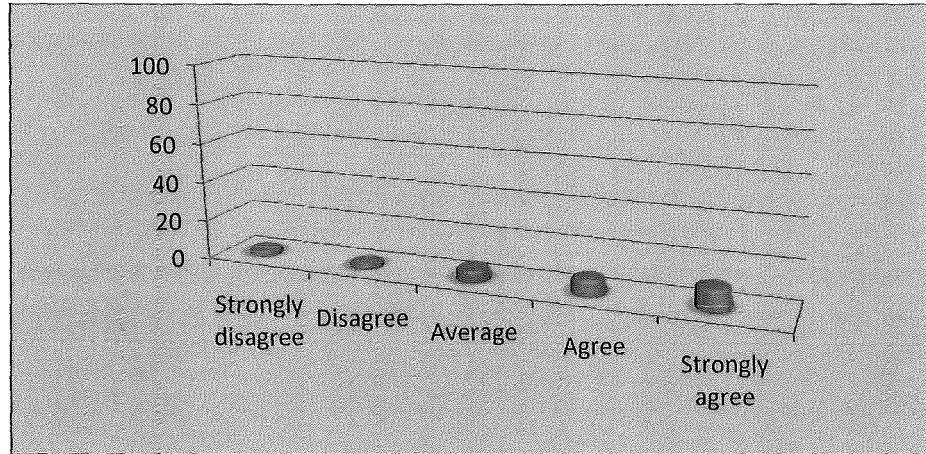
	N	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly disagree		4	13.3	13.3	13.3
Disagree		3	10.0	10.0	23.3
Average		4	13.3	13.3	36.7
Agree		9	30.0	30.0	66.7
Strongly agree		10	33.3	33.3	100.0
Total	30	30	100.0	3.60	1.40

**Figure 4.16: Question 11**

South African companies employing 50 or more employees are required to comply with the provisions of the EE policy (Thomas 2002). The employment equity policy was also confirmed by sixty five percent respondents while twenty two respondents disagreed with the statement. It appears that the very same twenty two who criticized the recruitment policy also nullified the EE policy. During the union interviews one Union Official stated that they do consult with their members on such issues but the problem is that some are so uneducated that they do not understand the concepts at all although things are explained in their own language (Table 4.7 and Figure 4.16).

**Table 4.8: Does the company have an EE budget?**

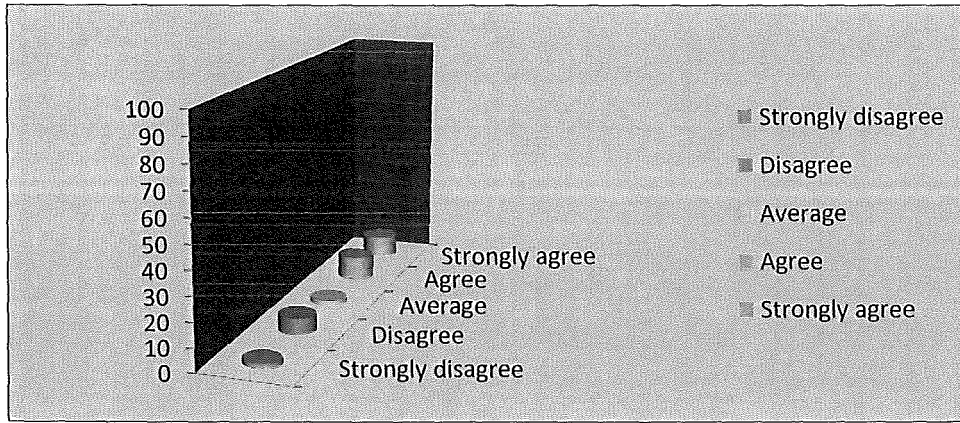
	N	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly disagree		3	10.0	10.0	10.0
Disagree		2	6.7	6.7	16.7
Average		6	20.0	20.0	36.7
Agree		8	26.7	26.7	63.3
Strongly agree		11	36.7	36.7	100.0
Total		30	100.0	100.0	

**Figure 4.17: Question 12**

The employment equity budget is in place. During the interview, the response of the majority respondents was backed up by the requirements of the Skills Development Act and Levies Act that the company has to pay to the Sectoral Education and Training Quality Assurer (SETA), which in this case is the Mining Qualification Authority (MQA) (Table 4.8 and Figure 4.17).

**Table 4.9: Historically Disadvantaged South African (HDSA) employees within the senior / management positions of the company are not fairly represented?**

	N	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly disagree		2	6.7	6.7	6.7
Disagree		7	23.3	23.3	30.0
Average		2	6.7	6.7	36.7
Agree		10	33.3	33.3	70.0
Strongly agree		9	30.0	30.0	100.0
Total	30	30	100.0	100.0	

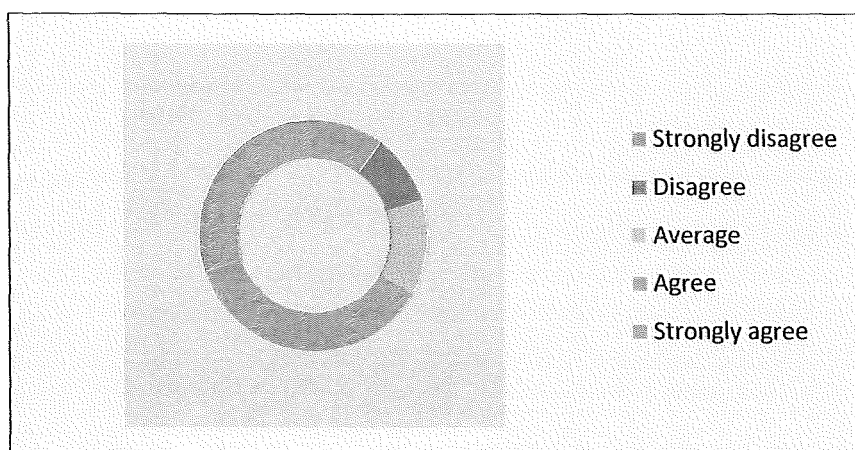


**Figure 4.18: Question 13**

Although a number of factors relating to EE were confirmed to be in place above, the percentage representation of the Historically Disadvantaged South Africans (HDSA) was not representative of the Blacks (i.e. Africans, Coloureds & Indians) within the company. There is still a problem with regard to the implementation of employment equity at Triple “M” Mining. During the interview session, management ascribed this to a large labour turnover due to head-hunting by other competitors. This head-hunting is as a result of a shortage of mining related skills in senior management from the HDSA which was caused by job reservation in the Mines before 1994. Most companies engage in competition for scarce labour in order to comply with their EE targets. Head-hunting takes place within a very limited number of qualified Blacks (Table 4.9 and Figure 4.18).

**Table 4.10: 10% target of women has been met in the company**

	N	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly Disagree		3	10.0	10.0	10.0
Disagree		3	10.0	10.0	20.0
Average		4	13.3	13.3	33.3
Agree		11	36.7	36.7	70.0
Strongly agree		9	30.0	30.0	100.0
Total	30	30	100.0	100.0	



**Figure 4.19: Question 14**

Likewise, women are not well represented within the organisation despite the requirement of ten percent women employment by the Mining Charter. Management stated categorically that women were not representative within the company. An explanation given by the CEO during the interview was that the biggest problem was the job inherence. Women were exempt from working under certain conditions of work where men could easily work. Triple ‘M’ Mining had no other contract with Anglo Platinum where it could place ten percent female workforce (Table 4.10 and Figure 4.19).

**Table 4.11: Percentage of people with disabilities**

	N	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly disagree		12	40.0	40.0	40.0
Disagree		13	43.3	43.3	83.3
Average		2	6.7	6.7	90.0
Agree		2	6.7	6.7	96.7
Strongly agree		1	3.3	3.3	100.0
Total	30	30	100.0	100.0	

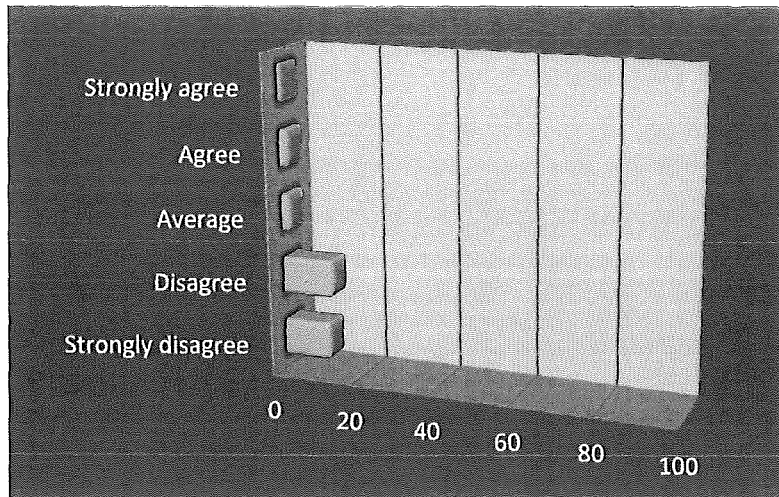


Figure 4.20: Question 15

One hundred percent of the respondents also denied that people with disabilities were representative in the company. This response could also be seen in page 3 of the employment equity plan (annexure B) of the company during the year of its assessment. There were only two employees with disabilities (one Black & one White male) (Table 4.11 and Figure 4.20).

Table 4.12: Diversity programs are used to precipitate the implementation of EE?

	N	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly disagree		9	30.0	30.0	30.0
Disagree		10	33.3	33.3	63.3
Average		7	23.3	23.3	86.7
Agree		2	6.7	6.7	93.3
Strongly agree		2	6.7	6.7	100.0
Total		30	100.0	100.0	

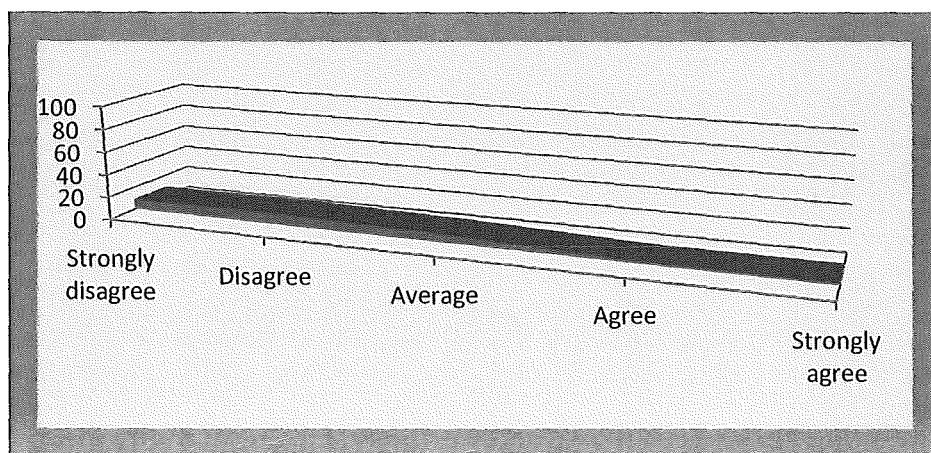
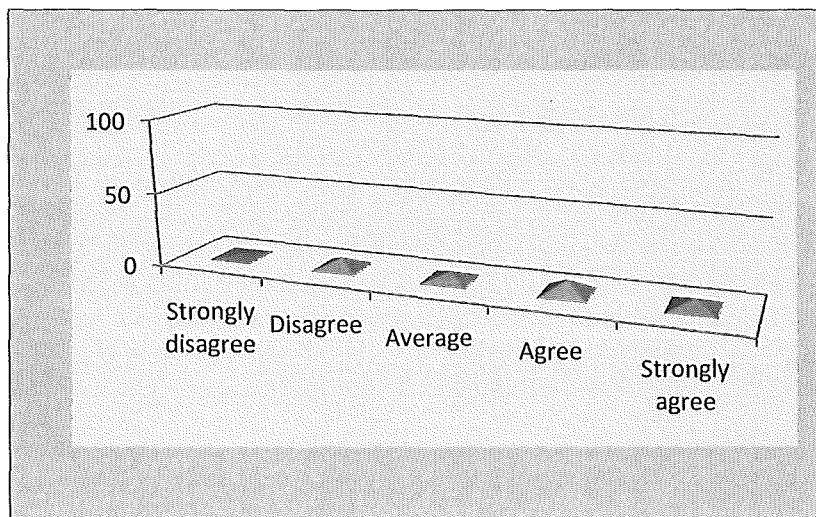


Figure 4.21: Question 16

“Affirmative action and employment equity programmes are legislatively driven, whereas diversity management is strictly voluntary and motivated by business objectives” (Gerber et al., 1995). All these programs fall under the auspices of human resources. According to the response above, diversity programs were not used to assist in the implementation of EE. These programs assist management and all the stakeholders to deal with issues relating to employment equity and diversity of people (Table 4.12 and Figure 4.21).

**Table 4.13: Have management shown commitment on the company’s EE plan?**

	N	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly disagree		2	6.7	6.7	6.7
Disagree		7	23.3	23.3	30.0
Average		6	20.0	20.0	50.0
Agree		9	30.0	30.0	80.0
Strongly agree		6	20.0	20.0	100.0
Total	30	30	100.0	100.0	

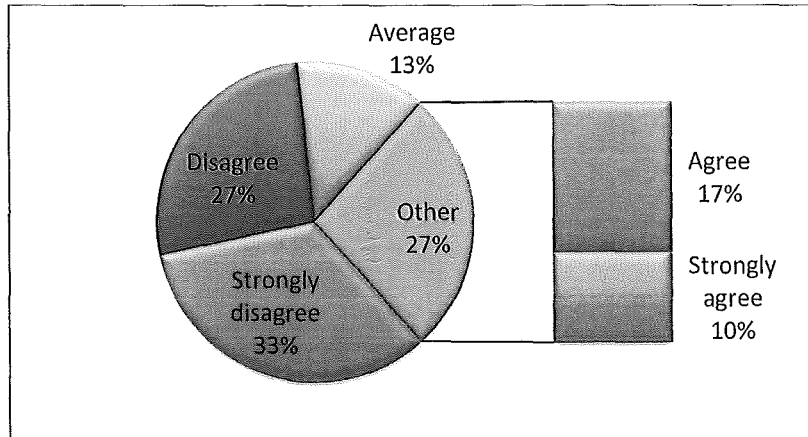


**Figure 4.22: Question 17**

It is evident at this stage that management has complied with most of the administrative duties from their side but practically there were some problems with the implementation (Table 4.13 and Figure 4.22).

**Table 4.14: Have the Government officials ever audited the company's EE plan?**

	N	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly disagree		10	33.3	33.3	33.3
Disagree		8	26.7	26.7	60.0
Average		4	13.3	13.3	73.3
Agree		5	16.7	16.7	90.0
Strongly agree		3	10.0	10.0	100.0
Total	30	30	100.0	100.0	

**Figure 4.23: Question 18**

Booyesen (2007) states that there has been slow progress in the implementation of the Employment Equity Act in that it has been relatively ineffective in eliminating previous disparities and underrepresentation. The government had done nothing in terms of monitoring its policies and legislation to make sure that they achieve the intended purpose that is indicative by the number of responses above (Table 4.14 and Figure 4.23).

## B. Frequency Table for Employees

**TABLE 4.15: EMPLOYMNET EQUITY IMPLEMENTATION**

	N	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly disagree		74	27.4	27.4	27.4
Disagree		62	23.0	23.0	50.4
Average		39	14.4	14.4	64.8
Agree		50	18.5	18.5	83.3
Strongly agree		45	16.7	16.7	100.0
Total	270	270	100	100.0	

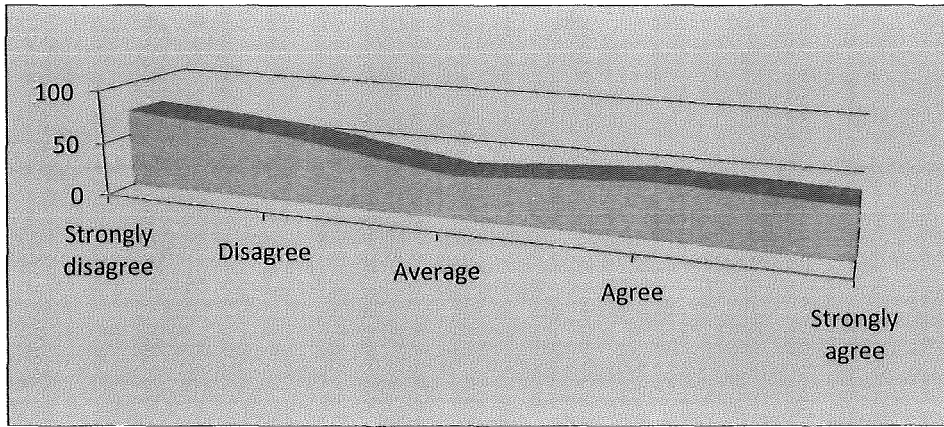


Figure 4.24: Question 1

Fifty percent of the employee respondents disagree that EE is implemented successfully at Triple “M” Mining. This response is backed up by the management’s response where significant levels of representation were not yet met with regard to HDSA, women and people with disabilities. The main objective of EE is to address the occupational and pay imbalances between Blacks and White counterparts. Thirty six percent believed that EE was implemented correctly and another thirty nine percent was neutral to the statement.

(Table 4.15 and Figure 4.24).

TABLE 4.16: RECRUITMENT POLICY

	N	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly disagree		39	14.4	14.4	14.4
Disagree		51	18.9	18.9	33.3
Average		20	7.4	7.4	40.7
Agree		78	28.9	28.9	69.6
Strongly agree		82	30.4	30.4	100.0
Total	270	270	100.0	100.0	

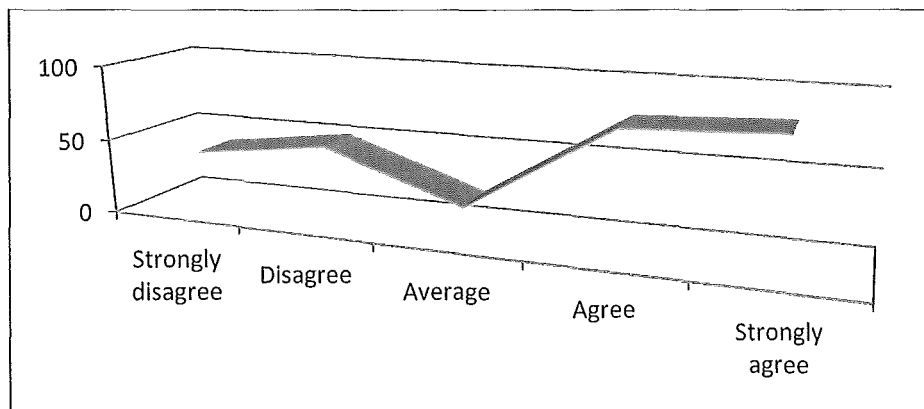
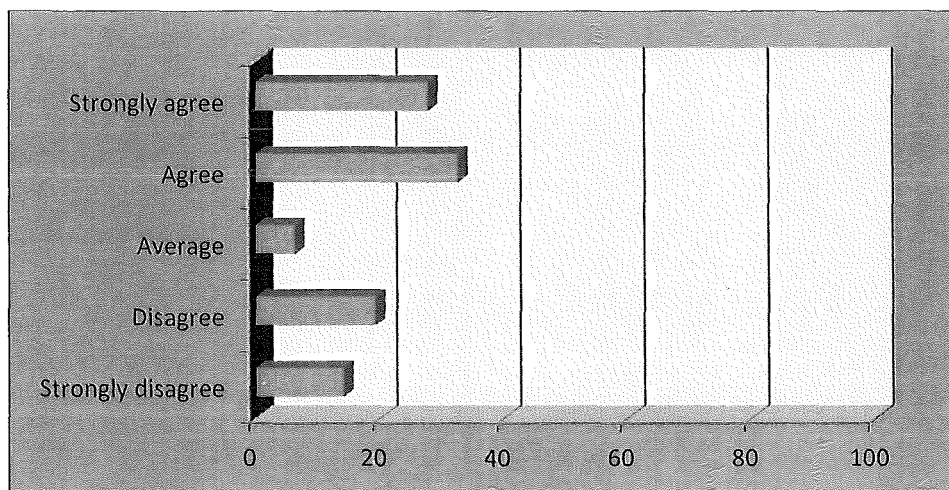


Figure 4.25: Question 2

The recruitment policy was in place as confirmed by sixty percent of the employee respondents. This concurs with seventy six management respondents on the same question in question 10. Thirty three percent had their reservation about the policy and stated that it does not work meanwhile nineteen percent was neutral (Table 4.16 and Figure 4.25).

**TABLE 4.17: EMPLOYMENT EQUITY POLICIES**

	N	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly disagree		38	14.1	14.1	14.1
Disagree		52	19.3	19.3	33.3
Average		17	6.3	6.3	39.6
Agree		88	32.6	32.6	72.2
Strongly agree		75	27.8	27.8	100.0
Total	270	270	100.0	100.0	

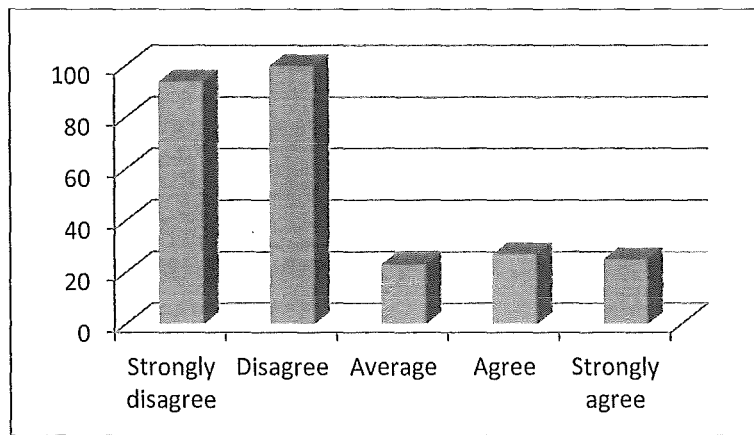


**Figure 4.26: Question 3**

The employees also confirmed the existence of the EE policy by way of sixty one percent agreement leaving thirty three percent on the negative side and sixteen on neutral. It seems as if the same thirty three percent that denigrate the existence of the policies is the same as in question 2 above. (Table 4.17 and Figure 4.26).

**TABLE 4.18: DISPLAY OF EMPLOYMENT EQUITY POLICY**

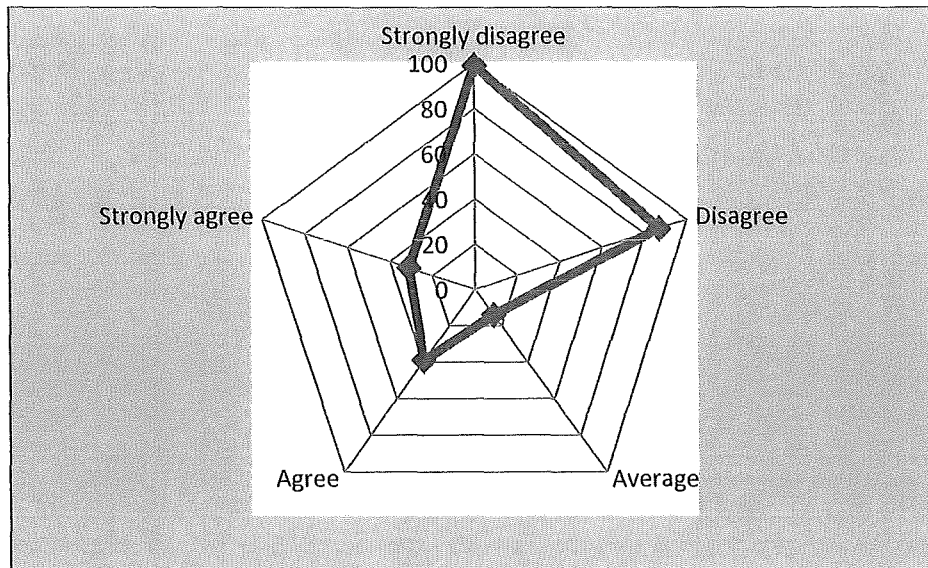
	N	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly disagree		94	34.8	34.8	34.8
Disagree		101	37.4	37.4	72.2
Average		23	8.5	8.5	80.7
Agree		27	10.0	10.0	90.7
Strongly agree		25	9.3	9.3	100.0
Total	270	270	100.0	100.0	

**Figure 4.27: Question 4**

Though EE policy is in place, the majority of employee respondents agree that the policy is not placed in high visibility place to be seen by all the interested stakeholders of the company. This is revealed by seventy three respondents against the nineteen who maintained that it was posted. Eight percent is not sure either (Table 4.18 or Figure 4.27).

**TABLE 4.19: INDUCTION ABOUT EE**

	N	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly disagree		99	36.7	36.7	36.7
Disagree		87	32.2	32.2	68.9
Average		14	5.2	5.2	74.1
Agree		39	14.4	14.4	88.5
Strongly agree		31	11.5	11.5	100.0
Total	270	270	100.0	100.0	



**Figure 4.28: Question 5**

The induction program of the company does not address the EE and its implementation as maintained by sixty nine percent of respondents. However the CEO, during the interview revealed that the induction addresses the employees on EE issues. Another twenty six percent supports the CEO on this issue. It came out from the union official that the person doing induction is independent and therefore decides on which information to give to employees. He talks about EE when it suites him and not sometimes. (Table 4.19 and Figure 4.28).

**TABLE 4.20: EE DESIGNATION**

	N	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly disagree		17	6.3	6.3	6.3
Disagree		12	4.4	4.4	10.7
Average		10	3.7	3.7	14.4
Agree		98	36.3	36.3	50.7
Strongly agree		133	49.3	49.3	100.0
Total	270	270	100.0	100.0	

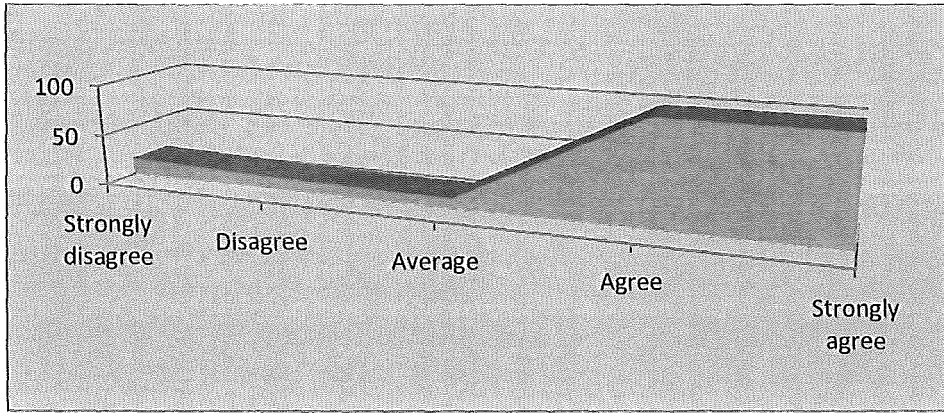


Figure 4.29: Question 6

The EE Designate is a Black person and eighty five percent confirms it. Ten percent is not sure and eleven percent disagreed. The CEO who is a black person drives the EE with the assistance of the Board of Directors. (Table 4.20 and Figure 4.29).

TABLE 4.21: EE COMMITTEE

	N	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly disagree		-	-		
Disagree		44	16.3	16.3	16.3
Average		40	14.8	14.8	31.1
Agree		101	37.4	37.4	68.5
Strongly agree		85	31.5	31.5	100.0
Total	270	270	100.0	100.0	

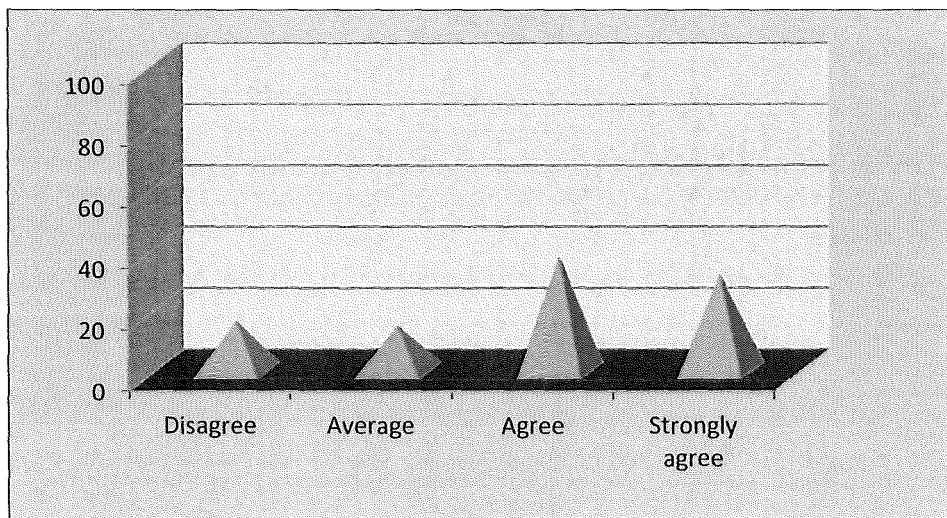


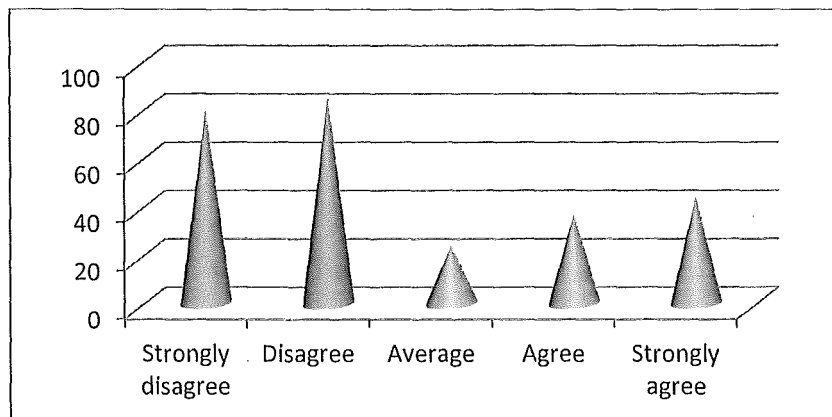
Figure 4.30: Question 7

The union committee that represents employees on their labour relations matters also deal with EE issues according to sixty nine percent of the respondents. This was also confirmed during the interviews. Seventeen percent recognized the existence of the committee but disagreed that it also deals with EE issues and another fourteen percent was neutral.

(Table 4.21 and Figure 4.30).

**TABLE 4.22: EE AS A BUSINESS STRATEGY**

	N	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly disagree		80	29.6	29.6	29.6
Disagree		85	31.5	31.5	61.1
Average		24	8.9	8.9	70.0
Agree		37	13.7	13.7	83.7
Strongly agree		44	16.3	16.3	100.0
Total	270	270	100.0	100.0	

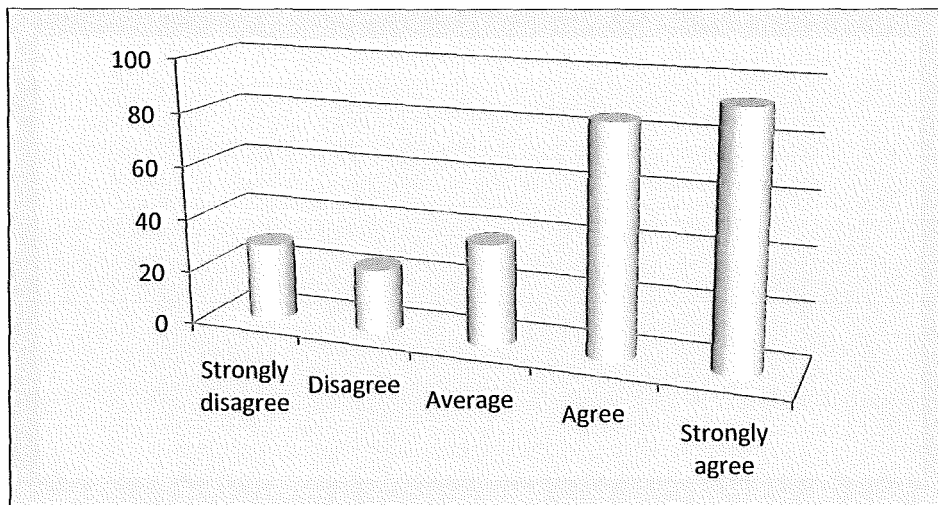


**Figure 4.31: Question 8**

The majority of employee respondents (sixty one percent) argue that EE was not viewed as a business strategy from their perspective. During the interview, they base their argument on the representation of HDSA, women and people with disabilities within the company. They believe that if EE was viewed as a business imperative, the representation issues would have been addressed as part of the business needs. On the other hand, thirty three percent felt that EE was regarded as a business strategy meanwhile nine percent was neutral on the issue. The majority of management respondents viewed EE as a business strategy and has motivated their point as a compliance needed by government and their Client Mine although on the other hand they have risen that representation of HDSA, women and people with disabilities was still a problem (Table 4.22 and Figure 4.31).

**TABLE 4.23: EE BUDGET**

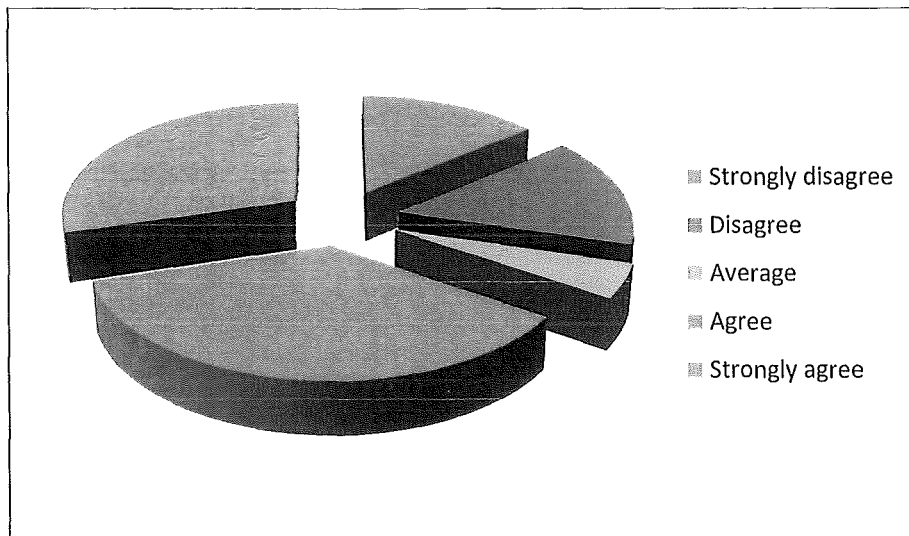
	N	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly disagree		29	10.7	10.8	10.8
Disagree		24	8.9	8.9	19.7
Average		38	14.1	14.1	33.8
Agree		85	31.5	31.6	65.4
Strongly agree		93	34.4	34.6	100.0
Total	270	269	99.6	100.0	

**Figure 4.32: Question 9**

The majority of employee respondents at sixty six percent have agreed that there was an EE budget. Twenty percent disagreed and another fourteen percent was neutral. The management respondents concurred to this at fifty nine percent of their question twelve. It is evident that this budget was being underutilized because the representation was not reached yet. Some management representatives also added that it was also difficult to send people away for training without getting a replacement. The Client mine required Triple “M” Mining to have a specific labour complement on their system and that does not cater for replacement labour. The Client mine had been approached without any success on the issue. They do not want service providers to have additional labour as their invoice system also takes into consideration the labour employed during a pay month. (Table 4.23 and Figure 4.32).

**TABLE 4. 24: EE PRECEDED BY TRAINING AND DEVELOPMENT**

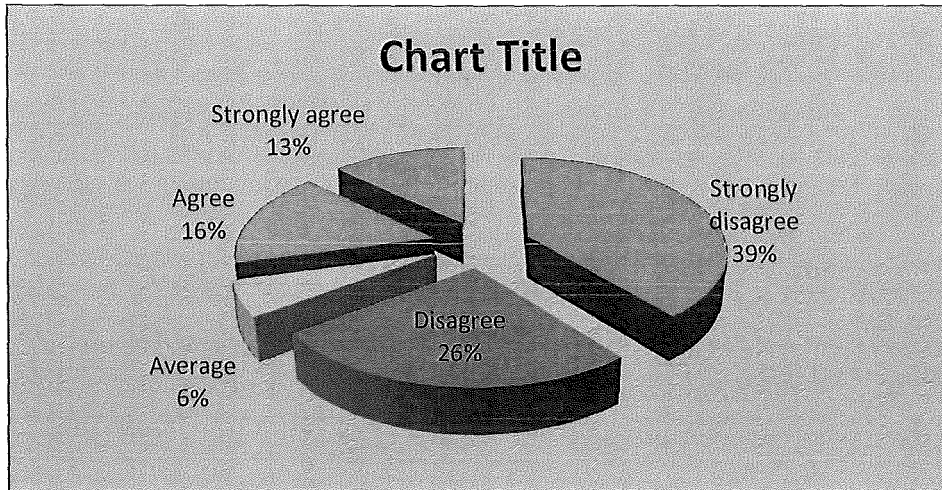
	N	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly disagree		38	14.1	14.1	14.1
Disagree		42	15.6	15.6	29.6
Average		13	4.8	4.8	34.4
Agree		97	35.9	35.9	70.4
Strongly agree		80	29.6	29.6	100.0
Total	270	270	100.0	100.0	

**Figure 4.33: Question10**

Training and development is a prerequisite for employees working underground in terms of the Mines Health and Safety Act. The promotion criterion on the mines is also based on training and development. The same applies to EE candidates. This is the expression of the CEO during the interviews and sixty five percent of the employee representatives in the questionnaire against the thirty percent that disagreed leaving only five percent that was neutral. (Table 4.24 and Figure 4.33).

**TABLE 4.25: EE TARGETS**

	N	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly disagree		106	39.3	39.3	39.3
Disagree		69	25.6	25.6	64.8
Average		16	5.9	5.9	70.7
Agree		44	16.3	16.3	87.0
Strongly agree		35	13.0	13.0	100.0
Total	270	270	100.0	100.0	



**Figure 4.34: Question 11**

Sixty five percent of the employee respondents did not know the EE targets of the company. Twenty nine percent claimed to know them with six percent being unsure about them. During the interviews the union officials also confirmed the consultation with their constituencies at the mass meetings. The mass meetings have no formalities other than to disseminate information between the company and its employees by the union leaders. No minute taking takes place and the chances of forgetting information are very high. However the majority of the respondents did not know the EE targets of the company. (Table 4.25 and Figure 4.34).

**TABLE 4.26: RECRUITMENT OF PEOPLE WITH DISABILITIES**

	N	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly disagree		118	43.7	43.7	43.7
Disagree		61	22.6	22.6	66.3
Average		25	9.3	9.3	75.6
Agree		31	11.5	11.5	87.0
Strongly agree		35	13.0	13.0	100.0
Total	270	270	100.0	100.0	

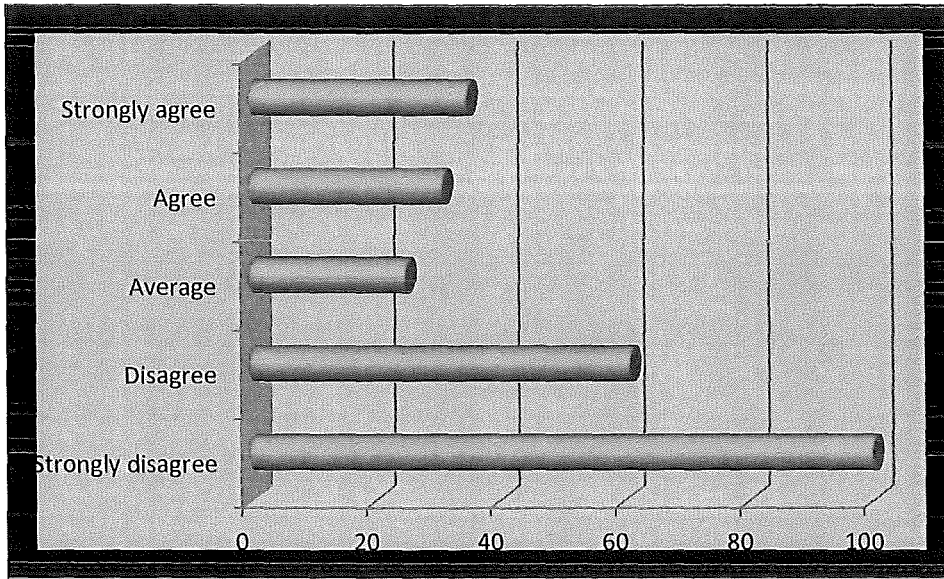


Figure 4.35: Question 12

Although the employees are not working in the HR department, it takes an observation to see if people with disabilities are employed in the company. Sixty seven percent of the respondents confirmed that the company does not have employees with disabilities. When questioned about the two employees on the EE report in question, they did not know about those employees. The reason why they did not know was because those two disabled employees were working in one shaft that was in another operation. The union leaders of that operation did confirm the situation. (Table 4.26 and Figure 4.35).

TABLE 4.27: WOMEN EMPLOYMENT

	N	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly disagree		182	67.4	67.4	67.4
Disagree		57	21.1	21.1	88.5
Average		24	8.9	8.9	97.4
Agree		7	2.6	2.6	100.0
Strongly agree		-	-	-	
Total	270	270	100.0	100.0	

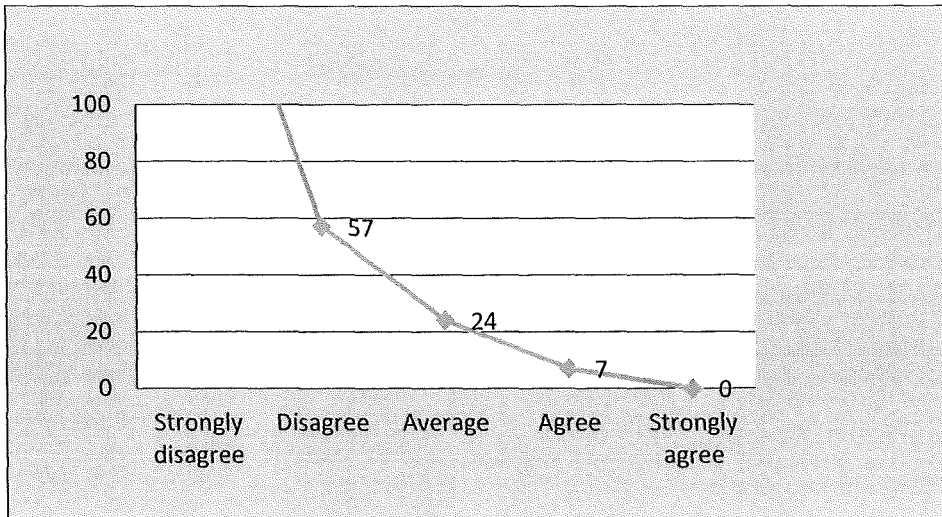


Figure 4.36: Question 13

The majority of the employees at ninety two percent disagreed that the women representation constituted ten percent of the workforce and eight percent was neutral. This is concurred by the management response at a majority of hundred percent disagreements. (Table 4.27 and Figure 4.36).

Table 4.28: HDSA REPRESENTATION AT SENIOR MANAGEMENT

	N	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly disagree		145	53.7	53.7	53.7
Disagree		61	22.6	22.6	76.3
Average		39	14.4	14.4	90.7
Agree		21	7.8	7.8	98.5
Strongly agree		4	1.5	1.5	100.0
Total	270	270	100.0	100.0	

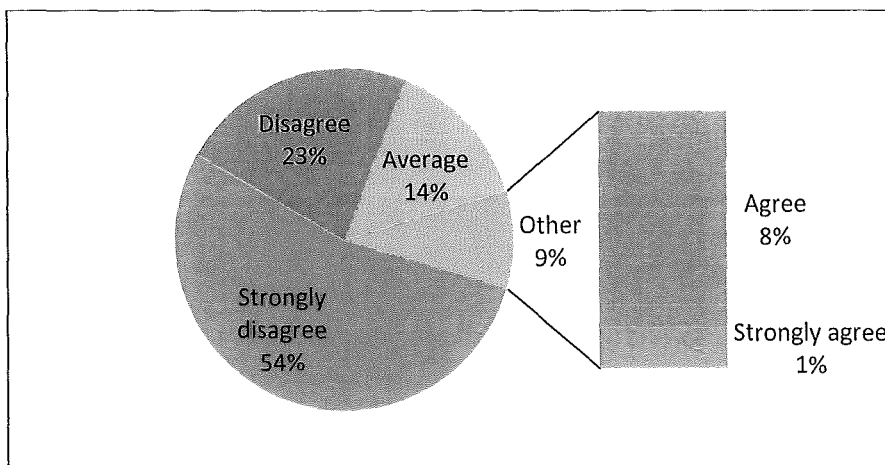
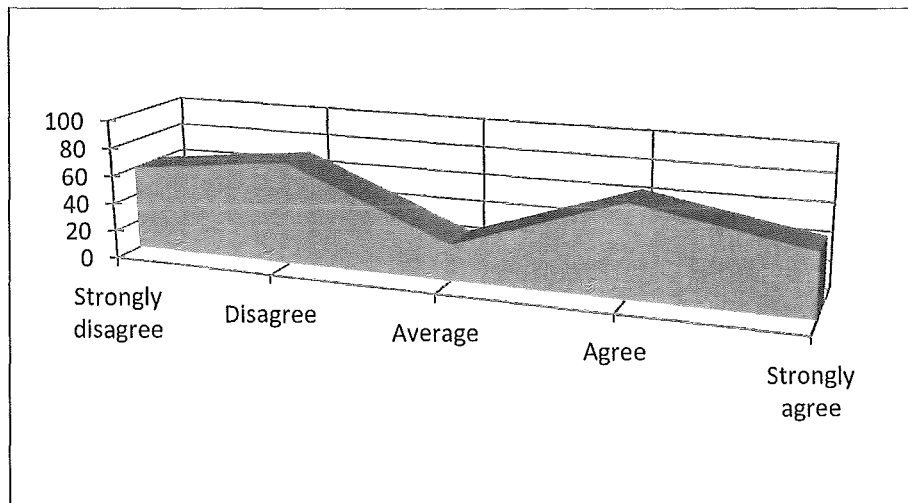


Figure 4.37: Question 14

Again the observation made by employees was that HDSA representation was not fairly representative of the company's demographics. Seventy seven percent employees and one hundred percent management respondents maintained that HDSA on management levels was very low (Table 4.28 and Figure 4.37).

**Table 4.29: ORGANISATIONAL CLIMATE & CULTURE**

	N	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly disagree		60	22.2	22.2	22.2
Disagree		73	27.0	27.0	49.3
Average		26	9.6	9.6	58.9
Agree		66	24.4	24.4	83.3
Strongly agree		45	16.7	16.7	100.0
Total	270	270	100.0	100.0	

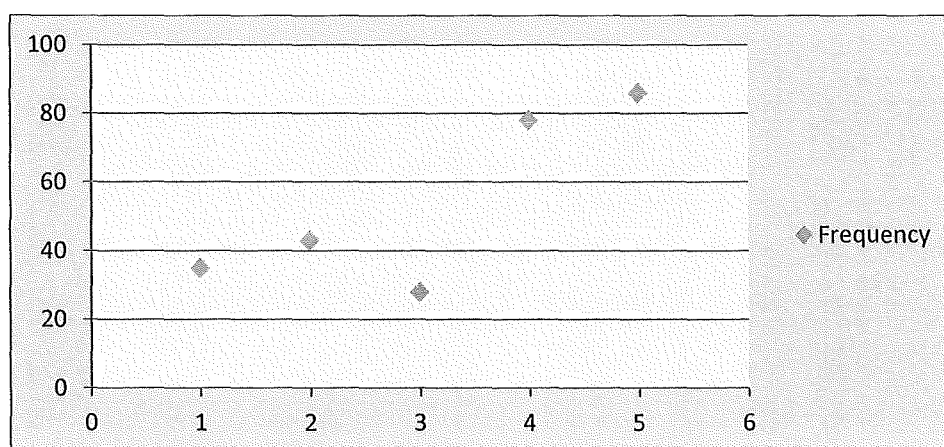


**Figure 4.38: Question15**

Fifty percent of the employees respondents disagreed that organisational climate and management culture was conducive to EE programs. Forty one percent stated that the organisational climate and culture was conducive to EE programs with nine percent being neutral on the question. The reason for this response from the employees could be because of the HDSA representation at senior management echelons of the company. It does not reflect the diversity of employees within the company (Table 4.29 and Figure 4.38).

**TABLE 4.30: FEARS OF WHITE MALES ABOUT EE**

	N	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly disagree		35	13.0	13.0	13.0
Disagree		43	15.9	15.9	28.9
Average		28	10.4	10.4	39.3
Agree		78	28.9	28.9	68.1
Strongly agree		86	31.9	31.9	100.0
Total	270	270	100.0	100.0	

**Figure 4.39: Question 16**

Sixty one percent of the employees believe that White males have fears about the EE. This is the message they get from them during their informal talks about the EE visa-a-vie the future of White males in South Africa. The Mine Workers Union View on EE in Chapter 2 of this research actually concurs with this statement of the view of the employees. They view EE as a reverse discrimination and that there is no specific time frame mentioned in the EE Act (Table 4.30 and Figure 4.39).

**TABLE 4.31: EE SUPPORT FROM WHITE MALES**

	N	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly disagree		95	35.2	35.2	35.2
Disagree		96	35.6	35.6	70.7
Average		11	4.1	4.1	74.8
Agree		36	13.3	13.3	88.1
Strongly agree		32	11.9	11.9	100.0
Total	270	270	100.0	100.0	

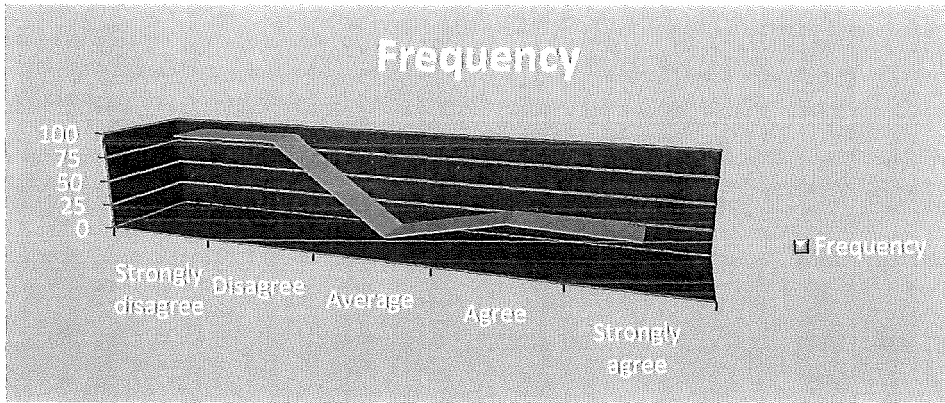


Figure 4.40: Question 17

It goes without saying that if someone has fears about something, that person will not support it. Seventy one percent employee respondents stated that White males do not support EE initiatives. Those who support it are employees whose key performance areas and performance measurements involves EE. Another twenty five percent stated that some White males who concentrate on the job performance rather than the colour of someone’s skin do support it (Table 4.31 and Figure 4.40).

TABLE 4.32: RESISTANCE OF EE INITIATIVES BY WHITE MALES

	N	Frequency	Percent	Valid Percent	Cumulative Percent
Strongly disagree		15	5.6	5.6	5.6
Disagree		55	20.4	20.4	25.9
Average		16	5.9	5.9	31.9
Agree		89	33.0	33.0	64.8
Strongly agree		95	35.2	35.2	100.0
Total	270	270	100.0	100.0	

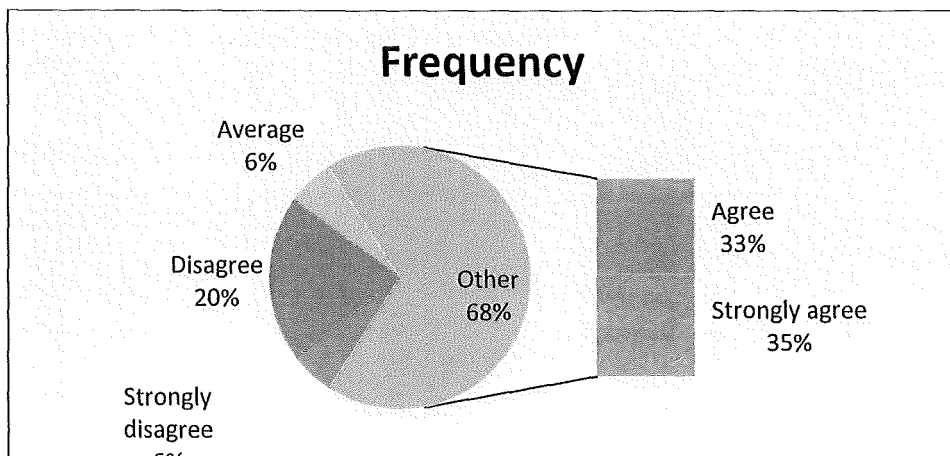


Figure 4.41: Question 18

Lastly, sixty eight percent of the employee respondents stated that White males resist the initiatives of EE. In the light that White males have fears about EE in question sixteen above and also do not support the EE programs in question seventeen above, it is logical that some White males who are affected by the above variables, will resist its implementation (Table 4.32 and Figure 4.41).

#### 4.4.3 CORRELATION ANALYSIS

Correlation is a determination of the relationship between two or more variables and also summarizes the strength of relationship between those two. The measurement used should be at least interval scales, but other correlation coefficients are available to handle other types of data. The simplest question we could ask about two related variables is whether they vary in a relative way, is there a correlation between them.

The validity of variables is determined by Spearman's Correlation Coefficient for data interpretation. Spearman's rank coefficient requires data that are at least ordinal and the calculation, be carried out on the ranks of the data. Each variable is ranked by putting the values of the variable in order and numbers. Correlation Coefficients can rank from -1.00 to +1.00. The value of -1.00 represents a perfect negative correlation while a value of + 1.00 represents perfect positive. A value of 0.00 represents a lack of correlation of variables.

**Table 4.33: Analysis between managers and employees attitude towards implementation of employment equity**

	Attitude managers	Attitude employee
Attitude managers		
Spearman Correlation	1	0.16
Sig. (2-tailed)		0.39
N	30	30
Attitude employee		
Pearson Correlation	0.16	1
Sig. (2-tailed)	0.39	
N	30	270

Table 33 above presents the results of the correlation analysis between managers and employees attitude towards implementation of employment equity. The r value of 0.16  $p >$

0.05 shows no correlation between managers and employees attitude towards implementation of employment equity. This may be due to the different perception held by these groups of people despite the fact that they are in the same organisation. Another factor that might have contributed to the non- significance of the correlation could be the information at the disposal of managers and employees which could have determined their attitude towards implementation of employment equity.

**Table 4.34:** t-test statistics

Groups	N	Mean	Std. Deviation	Std. Error Mean	MD	t	df	P
Manager	30	38.76	3.86	.70	-13.46	-17.06	44	0.00
Employees	270	52.22	5.79	.35				

**Table 34** above shows the results of the t-test statistics comparing attitude towards implementation of employment equity among managers and employees. The score on the Likert scale used to measure the attitude towards implementation of employment equity among managers and employees were pooled, correcting for unequal variances due to the different sample sizes for managers and employees and subjected to a t-test statistics. The mean score on the attitudinal scale shows that employees have score (52.22) than managers (38.76). The t- value of -17.06,  $p < 0.05$  shows that, there is a significant difference in attitude towards implementation of employment equity by employees and managers.

The lack of correlation as per statistics above indicates that both management and employees could have different perceptions about employment equity owing to the fact that the majority of management positions are occupied by white males. This is in line with objective number 4.2.5. of the study which reads: To evaluate stakeholder's perception and to analyze the possible obstacles that impedes the implementation of employment equity within the company on employment equity.

#### 4.4.4 REGRESSION ANALYSIS

Reliability is defined as “the consistency with which a measuring instrument yields certain results when the entity being measured hasn't changed” (Leedy and Ormrod, 2005). According to Straub (1989), researchers should try to answer the following question in an attempt to address reliability; “do measures show stability across the unit of observation? That is, could measurement error be so high as to discredit the findings?”

Reliability comes to the forefront when variables developed from summated scales are used as predictor components in objective models. Since summated scales are an assembly of interrelated items designed to measure underlying constructs, it is very important to know whether the same set of items would elicit the same responses if the same questions are recast and re-administered to the same respondents. Variables derived from test instruments are declared to be reliable only when they provide stable and reliable responses over a repeated administration of the test. Similar to correlation analysis and the measure of  $r$  and  $r^2$ , the higher the alpha, the more reliable the instrument you are testing. A general rule for measuring reliability is Alpha above 0.70 is considered reliable. Alpha above 0.60 is probably reliable, Alpha below 0.59 is considered not reliable.

**Table 35** reflects the multiple regression analysis between employees' biography data and attitude towards implementation of employment equity.

**Table 4.35: Multiple regression on employees' biography data**

	Unstandardized Coefficients		Standardized Coefficients	t	Sig.
	B	Std. Error	Beta		
(Constant)	49.896	3.262		15.297	.000
Age	.997	.159	.463	6.258	.000
Gender	1.046	.181	.431	5.771	.000
Race	1.316	.671	.152	1.962	.052
Residence	2.299	1.110	.123	2.072	.040
Occupation	0.56	0.25	0.79	1.65	0.01
R	0.62				
R square	0.38				
F	1.99				
p	0.01				

The result of multiple regression analysis of relationships between employees' biography data and attitude towards implementation of employment equity as presented in Table 35 indicate that the independent variables were significantly related to attitude towards implementation of employment equity with F value of 1.99,  $p < 0.05$ . Also, R value of 0.62 showed that there was a strong correlation between independent variables and attitude towards implementation of employment equity. The result further predicted 38 percent of the variation in attitude towards implementation of employment equity by employees. Significant

determinants were age ( $t = 6.25$ ), gender ( $t = 5.77$ ), race ( $t = 1.96$ ), residence ( $t = 2.07$ ), and occupation ( $t = 1.65$ ). It implies that as employees' age, gender, race, residence and occupation remains as they are, the more the attitude towards implementation of employment equity remains unchanged.

The results of multiple regression analysis of relationships between managers' position and company biography and attitude towards implementation of employment equity are presented in a tabular form below.

Table 36 reflects multiple regression analysis between managers' position and company biography as well as attitude towards implementation of employment equity

**Table 4.36: Multiple Regression on managers position and company biography**

	Unstandardized Coefficients		Standardized Coefficients	t	Sig.
	B	Std. Error	Beta		
(Constant)	39.628	4.287		9.245	.000
Position in company	.040	.651	.013	.061	.951
Type of company	642	.289	-.233	2.22	.03
Company business size	2.99	1.350	.197	3.22	.03
Company length of existence	-.665	1.598	-.087	-.416	.681
Company size	.441	.235	.184	1.88	.064
Skills development facilitator's availability	129	.301	-.390	4.27	.00
R	0.93				
R square	0.86				
F	1.91				
P	0.01				

According to Table 36, the independent variables were significantly related to managers' attitude towards implementation of employment equity with F value of 1.91,  $p < 0.05$ . Also, R value of 0.93 showed that there was a strong correlation between independent variables and managers' attitude towards implementation of employment equity. The result further predicted 83 percent of the variation in managers' attitude towards implementation of employment equity by employees. Significant determinants were type of company ( $t = 2.22$ ), company's business size ( $t = 3.22$ ), company size ( $t = 1.88$ ) and availability of skills

development facilitator ( $t = 4.27$ ). It implies that as type of company, company's business size, company size and availability of skills development facilitator remains as they are, the more the managers' attitude towards implementation of employment equity remains unchanged.

#### **4.5. CONCLUSION**

It is evident that employees or their unions might see what is seen to be good by management differently. There is always a power play between management and employees and their unions. This power play is worse when dealing with emotional issues like employment equity which has connotations of losing jobs to a different race group that is not supposed to benefit from it. The same might be worse if communication and / or disposal of information is not the key to the party's relationship. The scores of average / neutral answers were significant from the employee's side and this could be ascribed to lack of information and / or communication. However, there were common grounds in some areas between the parties, which have guided the research to proper conclusions and recommendations.

The results from both management and the employees and their union officials have proven certain aspects of this research questions in chapter one. The EE was regarded as a business strategy with commitment from top management. The union played a role during consultation about the implementation of EE. Employees were trained and development to meet the Mine's Health and Safety Act and EE although in some instances it would be difficult to release them for promotional training due to shortage of replacement.

The numeric targets of the company were not achieved and the representation of HDSA, women and people with disabilities was not representative of the company's demographics. Though other enabling human resources policies, systems, practices and interventions were in place, the organisational climate and management culture was also not conducive to the achievement of the EE goals. There was no evidence of the overt discriminatory practices within the company. The only possible obstacles to EE targets was ascribed to the fears, lack of support and resistance from the White males as well as the government's lack of enforcement by the EE Commission.

The following chapter provides a summary of findings, conclusions and recommendations as well as limitations and suggestions for further research.

## CHAPTER 5

### CONCLUSION AND RECOMMENDATIONS

#### 5.1 INTRODUCTION

This Chapter incorporates the information gathered throughout the study with a view to providing conclusions and recommendations based on the study objective of enhancing measures that can be used to implement Employment Equity Plan within Triple “M” Mining. The researcher noted South Africa’s historical background that had a major influence on the work environment, with specific reference to discriminatory policies, procedures, processes and practices.

Triple “M” Mining has played a major role in terms of creating jobs for the designated groups as they form majority within the company. Employees from the organisation were identified as valuable resources and a key tool to inform the implementation strategy for employment equity. Employment Equity, its implementation, and critical factors were identified as a focus area for this study. Therefore the results and recommendations presented in this chapter will provide elective strategies to implement Employment Equity within Triple “M” Mining.

#### 5.2 SUMMARY OF THE STUDY

The Chapters in this study are summed up below with a view to reflect and integrate information gathered in order to identify measures that to be used to implement EE and make recommendations to enhance its effective implementation at Triple “M” Mining. The summary is presented according to the chapters being:

##### **Chapter 1: General Introduction**

The main focus of this study was to provide Triple “M” Mining with insight into the effectiveness of its Employment Equity policies and procedures and possibly to provide guidance to the areas where they should focus to enhance their Employment Equity policies. The researcher’s problem statement centres on whether the employment equity plan is or not implemented satisfactorily at Triple “M” Mining.

A Literature Study in Chapter 2 was conducted with an attempt to find answers to these questions in previous research and on practical implementation of EE in other organisations. The researcher's problem statement was further conceptualised in relation to enhance and ensure compliance by Triple "M" Mining to the set Acts; Employment Equity Act (EEA) (1998) and other legislative and institutional interventions.

## **Chapter 2: Literature Review on Employment Equity in South Africa**

The purpose of the Literature Review was summarized in order to gain more knowledge on how EE was implemented in other organisations, and to identify other, related, research findings.

Definitions of important concepts critical for achievement of EE objectives were outlined. These definitions included EE and how it has been described and implemented. The review indicated that for EE to be effectively implemented the work environment should be enabling and conducive, without discriminatory and unfair labour practices.

Emphasis was, based on the adopted strategies towards achievement of EE objectives, and it requires proper planning and clear transformational goals aligned to organisational strategic objectives.

The analysis of EE in Triple "M" Mining revealed that transformation programs were identified as essential to ensuring equitable representation of the workforce profile. Most researchers identified the perceptions of employees as playing a fundamental role when analysing the company's work environment. The employee perceptions were summarised as follows:

- The influence of employees' perceptions on whether the work environment is fair or unfair; thus, if negatively perceived, this could invite sabotage, resistance and hostility to transformation.
- The perceptions that designated groups are unskilled and do not acquire the job requirements, and that their appointments are based on tokenism had an impact on employee morale and attraction and retention of designated groups.
- Management commitment was perceived as limited, looking only at EE targets without providing the necessary support to designated groups

- Non-designated groups perceived EE as penalty
- The findings of the study confirmed these perceptions

**Chapter 3:** Research Analysis of this study required a survey in order to enhance the conduciveness of Triple “M” Mining work environment in promoting effective implementation of EE. The chapter described the research design; the unit of analysis, sample, data collection and analysis methods, and also the data collection instrument were discussed. There were two separate sample groups, namely management and employees, where a questionnaire was utilised to gather information of the perceptions of employees on the effective implementation of company’s EE. Both management and employees data were collected through a questionnaires which were intended to enhance management’s view on the value that EE adds to company’s strategic objectives.

**Chapter 4:** This chapter was about the interpretation of results. Data, once collected, was reorganised statistically and presented graphically in order to make the analysis easy to interpret. The research findings thereof will be discussed in this chapter, summarising the identified problems and positive perceptions; providing recommendations to address the challenges, highlighting the limitations of the study and a conclusion.

### **5.3 OBJECTIVES, ACHIEVEMENT THEREOF AND FINDINGS**

#### **(i) OBJECTIVES OF THE STUDY – RE STATED**

**OBJECTIVE 1:** To investigate if employment equity is regarded as part of the business strategy.

**OBJECTIVE 2:** To examine if numeric goals are specific, measurable, realistic and time based (smart).

**OBJECTIVE 3:** To analyze the employment policies, systems and procedures pertaining to recruitment, selection, training and development and placement to ensure that discriminatory practices do not exist within the organisation.

**OBJECTIVE 4:** To investigate the HR interventions such as training and development and the diversity management programs used to support the implementation of the employment equity is in line with the skills development of candidates within the organisation.

**OBJECTIVE 5:** To evaluate stakeholder's perception and to analyse the possible obstacles that impedes the implementation of employment equity within the company on employment equity.

**OBJECTIVE 6:** To identify key success factors and best practices that can assist in the implementation of the employment equity plan.

**OBJECTIVE 7:** To make recommendations on the implementation of an authentic employment equity plan.

**(ii) FINDINGS BASED ON OBJECTIVES OF THE STUDY**

- **To investigate if employment equity is regarded as part of the business strategy.**

According to the analysis and the interpretation of the data in chapter 4, the majority of both management and employees respondents at an average of 67% confirmed that EE was regarded as a business strategy and has motivated their point as a compliance needed by government and their Client Mine although on the other hand they have risen that representation of Historically Disadvantaged South Africans (HDSA), women and people with disabilities was still a problem. It is evident that this budget was being underutilized because the representation was not reached yet.

- **To examine if numeric goals that are specific, measurable, realistic and time based (smart).**

According to the response in the previous chapter, the percentage representation of the Historically Disadvantaged South Africans (HDSA) was not representative of the Blacks (i.e. Africans, Coloureds & Indians) within the company. Management, employees and the union stated categorically that women and people with disability were not representative within the company despite the requirement by Mining Charter. 92% and 66% of both management and employees confirm that there is still a problem with regard to the implementation of employment equity at Triple "M" Mining.

- **To analyze the employment policies, systems and procedures pertaining to recruitment, selection, training and development and placement to ensure that discriminatory practices do not exist within the organisation.**

The majority of respondents from chapter 4 (management and employees at 61% and 67% respectively) confirmed that there is an EE policy in place. On the other hand employee and union official's respondents have concurred to some of the positive points of the company's EE compliance. The recruitment and EE policies were in place and were known by its constituents. A Black Designate was heading the EE with the support of the Board of Directors confirming the support from top management. There was an EE budget in place and EE was preceded by training and development initiatives.

- **To investigate the HR interventions such as training and development and the diversity management programs used to support the implementation of the employment equity is in line with the skills development of candidates within the organisation.**

Triple "M" Mining, like most South African companies, has all the necessary policies and formal procedures for good employee relations and practice, equity, equality, fairness, inclusion and non-discrimination in place. This is confirmed by 91% of management and 51% of employee respondents in the previous chapter. However, these policies have not been internalised yet, and are there mainly because of legislative compliance and not necessarily because of internal organisation drivers. Therefore, there is a gap or a lack of sufficient alignment between the formal policies and the implementation of the policies which impacts on the formal and informal culture of the organisation (Horwit, Jain and Mbabane (2005); Ngambi (2002); Selby and Sutherland (2006); Thomas (2004). It also appears that there are no management diversity interventions to assist the organisation to implement its EE plan. The government neither enforced its policies and EE Act through its EE Commission.

- **To evaluate stakeholder's perception and to analyze the possible obstacles that impedes the implementation of employment equity within the company on employment equity.**

Although it seems that Triple "M" Mining has shown some progress regarding EE at management level, not enough is being done yet, since management is still predominantly white male orientated, especially at senior and top management levels. This finding is affirmed by Horwitz et al. (2005) and Booysen and Nkomo (2006), which shows that EE progress is slow and uneven at Triple "M" Mining. The employee and the union respondents stated that EE was not implemented successfully at Triple "M" Mining. The organisational climate and management culture was not conducive to EE implementation. From management's respondents 77% indicated that the HDSA, 92% indicated that women and people with disabilities representation were not representative of the company's demographics according to the analysis in chapter 4. This was exacerbated by the fears, lack of support and resistance from White males.

- **To identify key success factors and best practices that can assist in the implementation of the employment equity plan.**

The abovementioned summary of findings has proven that not everything was behind in the implementation of the EE at Triple "M" Mining. There are some success and non success factors that become apparent in chapter 4, with regards to the objectives, about the implementation of EE in the company. The success factors **being**: the successful formation and integration of EE as a business strategy and formulation of employment policies, systems and procedures pertaining to recruitment, selection, training and development and placement with regards to the implementation of EE. The non-success factors **being**: the in ability to have an internal drive not only to comply with legislative requirements but to implement set policies by management, employees and unions.

It is evident that Triple "M" Mining is complying in terms of submissions of Levies and EE reports, but fails to comply and implement requirements according to numeric goals set by the Mining Charter and EE which seeks to address disparities with regards to employment of women, people with disabilities and HDSA (i.e. Africans, Coloureds and Indians).

However, the following section of the recommendations will bring about how the shortfalls in the implementation will be addressed so as to bring about authentic employment equity within the organisation and/or industry. These recommendations will form part of the key success factors of the implementation of the employment equity within an organisation.

- **To make recommendations on the implementation of an authentic employment equity plan.**

Even though it seems as everything was in place at Triple “M” Mining, top and middle management displayed minimal commitment to and inconsistency in EE implementation. It seems that leadership only pays lip service to EE, with no real commitment. It thus seems that the organisational culture is also resistant to the changes necessary to render EE effective. The importance of leadership commitment to change and a corporate culture conducive to change in any change management endeavour is emphasised by Schein (1990), Kotter (1998) and Bartlett and Ghoshal (2002). The importance of leadership commitment and buy-in, in EE in South Africa specifically, is emphasised by Booysen, Nkomo and Beaty (2002), Horwitz, Browning, Jain and Steenkamp (2002), Ngambi (2002), Selby and Sutherland (2006) and Thomas (2002, 2004). This objective will be discussed in sub section 5.7 below.

## **5.4 INTEGRATION OF LITERATURE FINDINGS WITH RESEARCH (IMPERICAL) FINDINGS**

### **5.4.1 Perceived tokenism**

The organisational culture (mining industry) perceived of black appointments in management position as tokenism which hampers the retention of black employees and effective implementation of EE. There is a low percentage (10.0) of directors in the company as compared to a high percentage (43.3) of semi-skilled employees. The response from management questionnaire clearly indicated that black employees are not fully integrated at Triple “M” Mining because there is little delegation of real responsibility or decision-making authority as there is only one black chief executive officer among four white directors.

Black employees are often reminded that they are EE appointments and their input is not seen as valuable. They are perceived to be incompetent / unskilled, by some whites. The above findings affirm the findings of Ngambi (2002) and Thomas (2004), who identified similar

organisation culture issues, like the exclusionary old boys' network, the expectation that people from designated groups will assimilate into historical organisational cultures, poor quality of management and support received, tokenism and window dressing and a lack of engagement of white males in the EE process.

Kilian et al. (2005) found that discrimination based on race (and gender) stereotypes is still a barrier to retention and advancement. Sadler and Erasmus (2003), Horwitz et al. (2005), Selby and Sutherland (2006) and Cruz (2006) also affirm this research in maintaining that black people feel marginalised and alienated from the current existing white corporate cultures as these mono-cultural values fail to consider workforce diversity, and push black people out of the organisations. Most of young black mining graduates are unable to fit into the mining culture because the majority of management positions are still held by white minority.

#### **5.4.2 White fears causing resistance to effective implementation of EE**

White fears and anxiety were identified, by both the white and the black respondents at 61%, as one of the major reasons why management and predominantly white management is resistant to effective EE implementation according to the results in chapter 4. This is in line with the findings of Booysen (2006, 2007), L'ange (2005), Ngambi (2002) and Selby and Sutherland (2006), who claim that whites, especially white males, and EE practices as reverse discrimination, are experiencing an EE ceiling at present, and are resistant to implementing EE effectively.

#### **5.4.3 General lack of training / skills shortages**

It seems that Triple "M" Mining has a backlog regarding talent management for all employees and especially for black employees. It is behind in formal training and development plans, career growth opportunities, career pathing and succession planning and mentoring and coaching plans. Furthermore, no attention is paid to cross-cultural mentoring and coaching as indicated in chapter 4 as majority of senior management is at 69.6% as compared to blacks. This finding is in line with Sadler and Erasmus (2003), Ngambi (2002) and Thomas (2004), who identified poor quality of management and lack of support and recognition received as important aspects that hamper the effectiveness of retention of black staff. Cruz (2006) and Kilian et al. (2005) also affirm this research in maintaining that one of

the most important barriers to retaining black employees within corporate organisations is a lack of effective talent management, which includes aspects of growth and development, career pathing and succession planning and mentoring programmes.

#### **5.4.4 Discrimination on women**

Respondents raised several issues about the employment of women in the industry as a whole since women were legally prevented from working underground by the South African Minerals Act of 1991. This is confirmed by the 66.7% and 88.5% respectively of responses from both management and employees in chapter 4, who agreed that women are not represented according to the requirements of the mining charter which was instituted to redress the imbalance which barred women from working underground.

Employees (both managers and employees) of Triple “M” Mining pointed out that women do not tend to pass the heat tests set as a condition to being employed in underground operations. The pass rate for women is less as opposed to that of men which is higher. Lack of ablution facilities underground and the occurrence of sexual harassment were also raised. It was also pointed out that there was also resistance from employees, especially older ones (who have worked in the industry for a long time). They indicated that they were not used to living with women, or rather preferred that there be separate shafts for women. But others, especially the younger employees did not have problems working with women. These issues inhibited the effective implementation of employment equity even though they prevented the company from achieving the set target by Government of employing 10% of women.

### **5.5 CONCLUSION**

It is evident that there are some areas of employment equity that Triple “M” Mining still needs to touch base on. These are the employment of HDSA in senior management, women, people with disabilities, Indians and Coloureds. Fast tracking of some of the HDSA individuals will have to be given preference as well. A satisfactory progress has been made in other areas of removing barriers to employment equity such as employment equity and recruitment policies, training and development, union consultation, preparing, implementing and submitting employment equity plan to the Department of Labour in a prescribed format.

It is also evident that there are barriers to employment equity that the company must look at as stated in the above-mentioned findings such as fear, lack of support and resistance from White males. There has to be a general strategy to improve the skills base of the entire workforce because this is one main barrier that has adversely affected the progress of employment equity at Triple “M” Mining. However, some of the objectives of the study have been achieved because it has been proven that EE was regarded as a business strategy at Triple “M” Mining. Nevertheless their numeric goals were not specific, measurable, and achievable and time based (smart). They were not properly communicated to the employees either.

Employment policies, systems and procedures were in place to ensure proper recruitment, training and development. All the barriers based on discriminatory practices did not exist in the organisation. The possible obstacles of fears, lack of support and resistance needed to be dealt with to ensure a successful EE implementation and best practices within the company. Some of the fears, lack of support and resistance from the White males have recently caused the South African Government to re-look at the Employment Equity Act of 1998. There might be changes in the near foreseeable future in an attempt to loosen the targets and to create an equal employment opportunity. This then creates a further interest into further research on the topic in order to contribute to the academic body of knowledge in South Africa.

## **5.6 LIMITATIONS OF THE STUDY**

Every study has a set of limitations (Leedy and Ormrod, (2005), or “potential weaknesses or problems with the study identified by the researcher” Creswell, (2005:198).The following research limitations were encountered when interpreting and concluding the findings:

- Language posed a problem in this study since the language used in the mining industry being “*fanakalo*” is not part of the 11 official languages used in South Africa.
- The element of bias and subjectivity could not be avoided, as some responses could be influenced by individual personal experiences

- The results of this study cannot be generalized throughout the mining industry in South Africa because the mining companies are vast and different from each other. Although the sample size of 341 employees which represent 12 percent of the workforce was chosen, the sample may not be truly representative of all organisations and experts as these employees came from different operations with a total of 10 work stations, each with its own workplace culture and demography.
- The research studies employment equity, which deals with gender, race and seniority and it is understood that certain employees have interest, whether positive or negative, in the implementation of the employment equity. The employees have different perceptions, attitudes and stereotypes about each other's gender, race and seniority/occupation and this might cause distortions in the method of research used to acquire data.
- The implementation of Employment Equity Plan within an organisation is a very sensitive issue. There are many perceptions whether real or imagined from the workforce. Some employees feel threatened and think they are to lose their jobs. Some think that it is time to pay revenge and to take over the jobs that they were previously embargoed to occupy. These perceptions lead to an attack defense spiral between management, employees and the union officials. During the interviews and questionnaire surveys, other employees or management representatives might distort the information in order to fulfill their ulterior motives.
- Glatthorn and Joyner (2005) states that the descriptive research type, which is quantitative in nature, must primarily be used in conjunction with a survey research method. Survey research method mainly uses a questionnaire to collect data. Bless and Higson-Smith (1995) commend that it is not easy to interpret the subject responses of the questionnaire because it is difficult to check whether the subject understood the question. They further state that the response rate might be low and perhaps biased due to human reaction.

## **5.7 RECOMMENDATIONS**

The following recommendations are based on researched discussed and the specific findings at Triple “M” mining (Pty) Ltd:

### **5.7.1 Addressing white male fears**

- The fears of White males must be addressed so that they can better understand EE as a business imperative and a fair treatment without fear of losing jobs must be guaranteed to them.
- White males must be sensitized and management diversity programs must be used to assist in the implementation of the EE.
- They should be made to feel valued, seen and heard again.
- They should be given them direction; clarify their role at Triple “M” Mining, even if the news is not particularly good.
- They should be helped to understand their role in implementation of EE, through training and coaching.
- They should be given incentives to train, develop and mentor HDSA individuals.

### **5.7.2 Effective and consistent EE implementation**

- EE targets must be identified in consultation with the union, communicated to employees and must be based on a specific time frame.
- These EE targets must be specific, measurable, and achievable and time based (smart).
- Employment equity targets must be achieved without the government’s intervention or policing. This must be a business voluntary achievement and not necessarily a legal imperative to do what is right.
- An EE Champion who specializes on EE must be appointed, reporting to the CEO in order to make sure that EE is not shelved away when other business demands come up.

### **5.7.3 Effectively manage supportive employee practices**

- There must be specific jobs identified and reserved for women and people with disabilities.

- HDSA candidates must be fast tracked and promoted to fill existing and future vacancies.

## **5.8 FINAL CONCLUSION**

There is no universally accepted way of implementing employment equity in South Africa. However the recommendations and conclusions stated above give some guidelines as to how an organisation could implement EE that is acceptable to all the stakeholders of the company. As much as Triple “M” Mining has proven that EE is regarded as a business strategy, all the concomitant interventions such as but not limited to union / stakeholder consultation, budgeting, diversity management, numeric targets and a code of practice can lessen the disagreements and disputes over EE issues.

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**EMPLOYMENT EQUITY ACT  
NO. 55 OF 1998**

**[ASSENTED TO 12 OCTOBER, 1998]  
[DATE OF COMMENCEMENT TO BE PROCLAIMED]  
(Unless otherwise indicated)**

*(English text signed by the President)*

**ACT**

**To provide for employment equity; and to provide for matters incidental thereto.**

**Preamble.--**Recognising--

that as a result of apartheid and other discriminatory laws and practices, there are disparities in employment, occupation and income within the national labour market; and

that those disparities create such pronounced disadvantages for certain categories of people that they cannot be redressed simply by repealing discriminatory laws,

Therefore, in order to--

promote the constitutional right of equality and the exercise of true democracy;

eliminate unfair discrimination in employment;

ensure the implementation of employment equity to redress the effects of discrimination;

achieve a diverse workforce broadly representative of our people;

promote economic development and efficiency in the workforce; and

give effect to the obligations of the Republic as a member of the International Labour Organisation,

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## **CHAPTER I DEFINITIONS, PURPOSE, INTERPRETATION AND APPLICATION**

### **1. Definitions.--**In this Act, unless the context otherwise indicates--

**"Basic Conditions of Employment Act"** means the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997);

**"black people"** is a generic term which means Africans, Coloureds and Indians;

**"CCMA"** means the Commission for Conciliation, Mediation and Arbitration, established by section 112 of the Labour Relations Act;

**"code of good practice"** means a document issued by the Minister in terms of section 54;

**"collective agreement"** means a written agreement concerning terms and conditions of employment or any other matter of mutual interest concluded by one or more registered trade unions, on the one hand and, on the other hand--

- a. one or more employers;
- b. one or more registered employers' organisations; or
- c. one or more employers and one or more registered employers' organisations;

**"Commission"** means the Commission for Employment Equity, established by section 28;

**"Constitution"** means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);

**"designated employer"** means--

- a. a person who employs 50 or more employees;
- b. a person who employs fewer than 50 employees but has a total annual turnover that is equal to or above the applicable annual turnover of a small business in terms of the Schedule 4 of this Act;
- c. a municipality, as referred to in Chapter 7 of the Constitution;
- d. an organ of state as defined in section 239 of the Constitution, but excluding local spheres of government, the National Defence Force,

the National Intelligence Agency and the South African Secret Service;  
and

- e. an employer bound by collective agreement in terms of section 23 or 31 of the Labour Relations Act, which appoints it as a designated employer in terms of this Act, to the extent provided for in the agreement.

**"designated groups"** means black people, women and people with disabilities;

**"Director-General"** means the Director-General of the Department of Labour;

**"dismissal"** has the meaning assigned to it in section 186 of the Labour Relations Act;

**"dispute"** includes an alleged dispute;

**"employee"** means any person other than an independent contractor who--

- a. works for another person or for the State and who receives, or is entitled to receive, any remuneration; and
- b. in any manner assists in carrying on or conducting the business of an employer,

and "employed" and "employment" have corresponding meanings;

**"employment law"** means any provision of this Act or any of the following Acts:

- a. The Unemployment Insurance Act, 1966 (Act No. 30 of 1966);
- b. the Guidance and Placement Act, 1981 (Act No. 62 of 1981);
- c. the Manpower Training Act, 1981 (Act No. 56 of 1981);
- d. the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993);
- e. the Compensation for Occupational Injuries and Diseases Act, 1993 (Act No. 130 of 1993);
- f. the Labour Relations Act, 1995 (Act No. 66 of 1995);
- g. the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997);
- h. any other Act, whose administration has been assigned to the Minister.

**"employment policy or practice"** includes, but is not limited to--

- a. recruitment procedures, advertising and selection criteria;
- b. appointments and the appointment process;
- c. job classification and grading;
- d. remuneration, employment benefits and terms and conditions of employment;
- e. job assignments;
- f. the working environment and facilities;
- g. training and development;

- h. performance evaluation systems;
- i. promotion;
- j. transfer;
- k. demotion;
- l. disciplinary measures other than dismissal; and
- m. dismissal.

**"family responsibility"** means the responsibility of employees in relation to their spouse or partner, their dependant children or other members of their immediate family who need their care or support;

**"HIV"** means the Human Immunodeficiency Virus;

**"labour inspector"** means a person appointed in terms of section 65 of the Basic Conditions of Employment Act;

**"Labour Relations Act"** means the Labour Relations Act, 1995 (Act No. 66 of 1995);

**"medical testing"** includes any test, question, inquiry or other means designed to ascertain, or which has the effect of enabling the employer to ascertain, whether an employee has any medical condition;

**"Minister"** means the Minister of Labour;

**"NEDLAC"** means the National Economic, Development and Labour Council established by section 2 of the National Economic, Development and Labour Council Act, 1994 (Act No. 35 of 1994);

**"organ of state"** means an organ of state as defined in section 239 of the Constitution;

**"people with disabilities"** means people who have a long-term or recurring physical or mental impairment which substantially limits their prospects of entry into, or advancement in, employment;

**"pregnancy"** includes intended pregnancy, termination of pregnancy and any medical circumstances related to pregnancy;

**"prescribed"** means prescribed by a regulation made under section 55;

**"public service"** means the public service referred to in section 1 (1) of the Public Service Act, 1994 (promulgated by Proclamation No. 103 of 1994), and includes any organisational component contemplated in section 7 (4) of that Act and specified in the first column of Schedule 2 to that Act, but excluding--

- a. the National Defence Force;
- b. the National Intelligence Agency; and
- c. the South African Secret Service.

**"reasonable accommodation"** means any modification or adjustment to a job or to the working environment that will enable a person from a designated group to have access to or participate or advance in employment;

**"registered employers' organisation"** means an employers' organisation as defined in section 213 of the Labour Relations Act and registered in terms of section 96 of that Act;

**"registered trade union"** means a trade union as defined in section 213 of the Labour Relations Act and registered in terms of section 96 of that Act;

**"remuneration"** means any payment in money or in kind, or both in money and in kind, made or owing to any person in return for that person working for any other person, including the State;

**"representative trade union"** means a registered trade union, or two or more registered trade unions acting jointly, that are sufficiently representative of the employees employed by an employer in a workplace;

**"Republic"** means the Republic of South Africa as defined in the Constitution;

**"serve"** or **"submit"**, in relation to any communication, means either--

- a. to send it in writing delivered by hand or registered post; or
- b. to transmit it using any electronic mechanism as a result of which the recipient is capable of printing the communication;

**"suitably qualified person"** means a person contemplated in sections 20 (3) and (4);

**"this Act"** includes any regulations made under section 55, but excludes any footnote;

**"trade union representative"** means a member of a registered trade union who is elected to represent employees in a workplace;

**"workplace forum"** means a workplace forum established in terms of Chapter V of the Labour Relations Act.

**2. Purpose of this Act.**--The purpose of this Act is to achieve equity in the workplace by--

- a. promoting equal opportunity and fair treatment in employment through the elimination of unfair discrimination; and
- b. 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 workforce.

**3. Interpretation of this Act.**--This Act must be interpreted--

- a. in compliance with the Constitution;
- b. so as to give effect to its purpose;
- c. taking into account any relevant code of good practice issued in terms of this Act or any other employment law; and
- d. in compliance with the international law obligations of the Republic, in particular those contained in the International Labour Organisation Convention (No. 111) concerning Discrimination in Respect of Employment and Occupation.

**4. Application of this Act.**--(1) Chapter II of this Act applies to all employees and employers.

(2) Except where Chapter III provides otherwise, Chapter III of this Act applies only to designated employers and people from designated groups.

(3) This Act does not apply to members of the National Defence Force, the National Intelligence Agency, or the South African Secret Service<sup>1</sup>.

## **CHAPTER II PROHIBITION OF UNFAIR DISCRIMINATION**

**5. Elimination of unfair discrimination.**--Every employer must take steps to promote equal opportunity in the workplace by eliminating unfair discrimination in any employment policy or practice.

**6. Prohibition of unfair discrimination.**--(1) No person may unfairly discriminate, directly or indirectly, against an employee, in any employment policy or practice, on one or more grounds, including race, gender, sex, pregnancy, marital status, family responsibility, ethnic or social origin, colour, sexual orientation, age, disability, religion, HIV status, conscience, belief, political opinion, culture, language and birth.

(2) It is not unfair discrimination to--

- a. take affirmative action measures consistent with the purpose of this Act; or
- b. distinguish, exclude or prefer any person on the basis of an inherent requirement of a job.

(3) Harassment of an employee is a form of unfair discrimination and is prohibited on any one, or a combination of grounds of unfair discrimination listed in subsection (1).

**7. Medical testing.**--(1) Medical testing of an employee is prohibited, unless--

- a. legislation permits or requires the testing; or
- b. it is justifiable in the light of medical facts, employment conditions, social policy, the fair distribution of employee benefits or the inherent requirements of a job.

(2) Testing of an employee to determine that employee's HIV status is prohibited unless such testing is determined justifiable by the Labour Court in terms of section 50 (4) of this Act.

**8. Psychometric testing.**--Psychometric testing and other similar assessments of an employee are prohibited unless the test or assessment being used--

- a. has been scientifically shown to be valid and reliable;
- b. can be applied fairly to employees; and
- c. is not biased against any employee or group.

**9. Applicants.**--For purposes of sections 6, 7 and 8, "employee" includes an applicant for employment.

**10. Disputes concerning this Chapter.**--(1) In this section, the word "dispute" excludes a dispute about an unfair dismissal, which must be referred to the appropriate body for conciliation and arbitration or adjudication in terms of Chapter VIII of the Labour Relations Act.

(2) Any party to a dispute concerning this Chapter may refer the dispute in writing to the CCMA within six months after the act or omission that allegedly constitutes unfair discrimination.

(3) The CCMA may at any time permit a party that shows good cause to refer a dispute after the relevant time limit set out in subsection (2).

(4) The party that refers a dispute must satisfy the CCMA that--

- a. a copy of the referral has been served on every other party to the dispute; and
- b. the referring party has made a reasonable attempt to resolve the dispute.

(5) The CCMA must attempt to resolve the dispute through conciliation.

(6) If the dispute remains unresolved after conciliation--

- a. any party to the dispute may refer it to the Labour Court for adjudication; or
- b. all the parties to the dispute may consent to arbitration of the dispute.

(7) The relevant provisions of Parts C and D of Chapter VII of the Labour Relations Act, with the changes required by context, apply in respect of a dispute in terms of this Chapter.

**11. Burden of proof.**--Whenever unfair discrimination<sup>2</sup> is alleged in terms of this Act, the employer against whom the allegation is made must establish that it is fair.

### CHAPTER III

#### AFFIRMATIVE ACTION

**12. Application of this Chapter.**--Except where otherwise provided, this Chapter applies only to designated employers.

**13. Duties of designated employers.**--(1) Every designated employer must, in order to achieve employment equity, implement affirmative action measures for people from designated groups in terms of this Act.

(2) A designated employer must--

- a. consult with its employees as required by section 16;
- b. conduct an analysis as required by section 19;
- c. prepare an employment equity plan as required by section 20; and
- d. report to the Director-General on progress made in implementing its employment equity plan, as required by section 21.

**14. Voluntary compliance with this Chapter.**--An employer that is not a designated employer may notify the Director-General that it intends to comply with this Chapter as if it were a designated employer.

**15. Affirmative action measures.**--(1) Affirmative action measures are measures designed to ensure that suitably qualified people from designated groups have equal employment opportunities and are equitably represented in all occupational categories and levels in the workforce of a designated employer.

(2) Affirmative action measures implemented by a designated employer must include--

- a. measures to identify and eliminate employment barriers, including unfair discrimination, which adversely affect people from designated groups;
- b. measures designed to further diversity in the workplace based on equal dignity and respect of all people;
- c. making reasonable accommodation for people from designated groups in order to ensure that they enjoy equal opportunities and are equitably represented in the workforce of a designated employer;
- d. subject to subsection (3), measures to--
  - i. ensure the equitable representation of suitably qualified people from designated groups in all occupational categories and levels in the workforce; and
  - ii. retain and develop people from designated groups and to implement appropriate training measures, including measures in terms of an Act of Parliament providing for skills development.

(3) The measures referred to in subsection (2) (d) include preferential treatment and numerical goals, but exclude quotas.

(4) Subject to section 42, nothing in this section requires a designated employer to take any decision concerning an employment policy or practice that would establish an absolute barrier to the prospective or continued employment or advancement of people who are not from designated groups.

**16. Consultation with employees.**--(1) A designated employer must take reasonable steps to consult and attempt to reach agreement on the matters referred to in section 17--

- a. with a representative trade union representing members at the workplace and its employees or representatives nominated by them; or
- b. if no representative trade union represents members at the workplace, with its employees or representatives nominated by them.

(2) The employees or their nominated representatives with whom an employer consults in terms of subsection (1) (a) and (b), taken as a whole, must reflect the interests of--

- a. employees from across all occupational categories and levels of the employer's workforce;
- b. employees from designated groups; and
- c. employees who are not from designated groups.

(3) This section does not affect the obligation of any designated employer in terms of section 86 of the Labour Relations Act to consult and reach consensus with a workplace forum on any of the matters referred to in section 17 of this Act.

**17. Matters for consultation.**--A designated employer must consult the parties referred to in section 16 concerning--

- a. the conduct of the analysis referred to in section 19;
- b. the preparation and implementation of the employment equity plan referred to in section 20; and
- c. a report referred to in section 21.

**18. Disclosure of information.**--(1) When a designated employer engages in consultation in terms of this Chapter, that employer must disclose to the consulting parties all relevant information that will allow those parties to consult effectively.

(2) Unless this Act provides otherwise, the provisions of section 163 of the Labour Relations Act, with the changes required by context, apply to disclosure of information.

**19. Analysis.**--(1) A designated employer must collect information and conduct an analysis, as prescribed, of its employment policies, practices, procedures and the working environment, in order to identify employment barriers which adversely affect people from designated groups.

(2) An analysis conducted in terms of subsection (1) must include a profile, as prescribed, of the designated employer's workforce within each occupational category and level in order to determine the degree of underrepresentation of people from designated groups in various occupational categories and levels in that employer's workforce.

**20. Employment equity plan.**--(1) A designated employer must prepare and implement an employment equity plan which will achieve reasonable progress towards employment equity in that employer's workforce.

(2) An employment equity plan prepared in terms of subsection (1) must state--

- a. the objectives to be achieved for each year of the plan;
- b. the affirmative action measures to be implemented as required by section 15 (2);
- c. where underrepresentation of people from designated groups has been identified by the analysis, the numerical goals to achieve the equitable representation of suitably qualified people from designated groups within each occupational category and level in the workforce, the timetable within which this is to be achieved, and the strategies intended to achieve those goals;
- d. the timetable for each year of the plan for the achievement of goals and objectives other than numerical goals;

- e. the duration of the plan, which may not be shorter than one year or longer than five years;
- f. the procedures that will be used to monitor and evaluate the implementation of the plan and whether reasonable progress is being made towards implementing employment equity;
- g. the internal procedures to resolve any dispute about the interpretation or implementation of the plan;
- h. the persons in the workforce, including senior managers, responsible for monitoring and implementing the plan; and
- i. any other prescribed matter.

(3) For purposes of this Act, a person may be suitably qualified for a job as a result of any one of, or any combination of that person's--

- a. formal qualifications;
- b. prior learning;
- c. relevant experience; or
- d. capacity to acquire, within a reasonable time, the ability to do the job.

(4) When determining whether a person is suitably qualified for a job, an employer must--

- a. review all the factors listed in subsection (3); and
- b. determine whether that person has the ability to do the job in terms of any one of, or any combination of those factors.

(5) In making a determination under subsection (4), an employer may not unfairly discriminate against a person solely on the grounds of that person's lack of relevant experience.

(6) An employment equity plan may contain any other measures that are consistent with the purposes of this Act.

**21. Report5.--**(1) A designated employer that employs fewer than 150 employees must--

- a. submit its first report to the Director-General within 12 months after the commencement of this Act or, if later, within 12 months after the date on which that employer became a designated employer; and
- b. thereafter, submit a report to the Director-General once every two years, on the first working day of October.

(2) A designated employer that employs 150 or more employees must--

- a. submit its first report to the Director-General within six months after the commencement of this Act or, if later, within six months after the date on which that employer became a designated employer; and
- b. thereafter, submit a report to the Director-General once every year on the first working day of October.

(3) Despite subsections (1) and (2), a designated employer that submits its first report in the 12-month period preceding the first working day of October, should only submit its second report on the first working day of October in the following year.

(4) The reports referred to in subsections (1) and (2) must contain the prescribed information and must be signed by the chief executive officer of the designated employer.

(5) An employer who becomes a designated employer in terms of the Act must--

- a. report as contemplated in this section for the duration of its current employment equity plan; and
- b. notify the Director-General in writing if it is unable to report as contemplated in this section, and give reasons therefor.

(6) Every report prepared in terms of this section is a public document.

**22. Publication of report.--**(1) Every designated employer that is a public company must publish a summary of a report required by section 21 in that employer's annual financial report.

(2) When a designated employer within any organ of state has produced a report in terms of section 21, the Minister responsible for that employer must table that report in Parliament.

**23. Successive employment equity plans.--**Before the end of the term of its current employment equity plan, a designated employer must prepare a subsequent employment equity plan.

**24. Designated employer must assign manager.--**(1) Every designated employer must--

- a. assign one or more senior managers to take responsibility for monitoring and implementing an employment equity plan;
- b. provide the managers with the authority and means to perform their functions; and
- c. take reasonable steps to ensure that the managers perform their functions.

(2) The assignment of responsibility to a manager in terms of subsection (1) does not relieve the designated employer of any duty imposed by this Act or any other law.

**25. Duty to inform.--**(1) An employer must display at the workplace where it can be read by employees a notice in the prescribed form, informing them about the provisions of this Act.

(2) A designated employer must, in each of its workplaces, place in prominent places that are accessible to all employees--

- a. the most recent report submitted by that employer to the Director-General;
- b. any compliance order, arbitration award or order of the Labour Court concerning the provisions of this Act in relation to that employer; and
- c. any other document concerning this Act as may be prescribed.

(2) The members of the Commission must include--

- a. two people nominated by those voting members of NEDLAC who represent organised labour;
- b. two people nominated by those voting members of NEDLAC who represent organised business;
- c. two people nominated by those voting members of NEDLAC who represent the State; and
- d. two people nominated by those voting members of NEDLAC who represent the organisations of community and development interests in the Development Chamber in NEDLAC.

(3) A party that nominates persons in terms of subsection (2) must have due regard to promoting the representivity of people from designated groups.

(4) The Chairperson and each other member of the Commission--

- a. must have experience and expertise relevant to the functions contemplated in section 30;
- b. must act impartially when performing any function of the Commission;
- c. may not engage in any activity that may undermine the integrity of the Commission; and
- d. must not participate in forming or communicating any advice on any matter in respect of which they have a direct financial interest or any other conflict of interest.

(5) The Minister must appoint a member of the Commission to act as chairperson whenever the office of chairperson is vacant.

(6) The members of the Commission must choose from among themselves a person to act in the capacity of chairperson during the temporary absence of the chairperson.

(7) The Minister may determine--

- a. the term of office for the chairperson and for each member of the Commission, but no member's term of office may exceed five years;
- b. the remuneration and allowances to be paid to members of the Commission with the concurrence of the Minister of Finance; and
- c. any other conditions of appointment not provided for in this section.

(8) The chairperson and members of the Commission may resign by giving at least one month's written notice to the Minister.

(9) The Minister may remove the chairperson or a member of the Commission from office for--

- a. serious misconduct;
- b. permanent incapacity;
- c. that person's absence from three consecutive meetings of the Commission without the prior permission of the chairperson, except on good cause shown; or
- d. engaging in any activity that may undermine the integrity of the Commission.

(3) An employer who has an employment equity plan, must make a copy of the plan available to its employees for copying and consultation.

**26. Duty to keep records.**--An employer must establish and, for the prescribed period, maintain records in respect of its workforce, its employment equity plan and any other records relevant to its compliance with this Act.

**27. Income differentials.**--(1) Every designated employer, when reporting in terms of section 21 (1) and (2), must submit a statement, as prescribed, to the Employment Conditions of Commission established by section 59 of the Basic Conditions of Employment Act, on the remuneration and benefits received in each occupational category and level of that employer's workforce.

(2) Where disproportionate income differentials are reflected in the statement contemplated in subsection (1), a designated employer must take measures to progressively reduce such differentials subject to guidance as may be given by the Minister as contemplated in subsection (4).

(3) The measures referred to in subsection (2) may include--

- a. collective bargaining;
- b. compliance with sectoral determinations made by the Minister in terms of section 51 of the Basic Conditions of Employment Act;
- c. applying the norms and benchmarks set by the Employment Conditions Commission;
- d. relevant measures contained in skills development legislation;

(4) The Employment Conditions Commission must research and investigate norms and benchmarks for proportionate income differentials and advise the Minister on appropriate measures for reducing disproportional differentials.

(5) The Employment Conditions Commission may not disclose any information pertaining to individual employees or employers.

(6) Parties to a collective bargaining process may request the information contained in the statement contemplated in subsection (1) for the collective bargaining purposes subject to section 16 (4) and (5) of the Labour Relations Act.

## CHAPTER IV

### COMMISSION FOR EMPLOYMENT EQUITY

**28. Establishment of Commission for Employment Equity.**--The Commission for Employment Equity is hereby established.

(Date of commencement 14 May, 1999)

**29. Composition of Commission for Employment Equity.**--(1) The Commission consists of a chairperson and eight other members appointed by the Minister to hold office on a part-time basis.

(Date of commencement of s. 29: 14 May, 1999)

**30. Functions of Commission for Employment Equity.**--(1) The Commission advises the Minister on--

- a. codes of good practice issued by the Minister in terms of section 54;
- b. regulations made by the Minister in terms of section 55; and
- c. policy and any other matter concerning this Act.

(2) In addition to the functions in subsection (1) the Commission may--

- a. make awards recognising achievements of employers in furthering the purpose of this Act;
- b. research and report to the Minister on any matter relating to the application of this Act, including appropriate and well-researched norms and benchmarks for the setting of numerical goals in various sectors; and
- c. perform any other prescribed function.

(Date of commencement of s. 30: 14 May, 1999)

**31. Staff and expenses.**--Subject to the laws governing the public service, the Minister must provide the Commission with the staff necessary for the performance of its functions.

(Date of commencement 14 May, 1999)

**32. Public hearings.**--In performing its functions, the Commission may--

- a. call for written representations from members of the public; and
- b. hold public hearings at which it may permit members of the public to make oral representations.

(Date of commencement of s. 32: 14 May, 1999)

**33. Report by Commission for Employment Equity.**--The Commission must submit an annual report to the Minister.

(Date of commencement 14 May, 1999)

## CHAPTER V

### MONITORING, ENFORCEMENT AND LEGAL PROCEEDINGS

#### PART A

##### Monitoring

**34. Monitoring by employees and trade union representatives.**--Any employee or trade union representative may bring an alleged contravention of this Act to the attention of--

- a. another employee;

- b. an employer;
- c. a trade union;
- d. a workplace forum;
- e. a labour inspector;
- f. the Director-General; or
- g. (g) the Commission.

## **Enforcement**

**35. Powers of labour inspectors.**--A labour inspector acting in terms of this Act has the authority to enter, question and inspect as provided for in sections 65 and 66 of the Basic Conditions of Employment Act.

**36. Undertaking to comply.**--A labour inspector must request and obtain a written undertaking from a designated employer to comply with paragraphs (a) to (j) within a specified period, if the inspector has reasonable grounds to believe that the employer has failed to--

- a. consult with employees as required by section 16;
- b. conduct an analysis as required by section 19;
- c. prepare an employment equity plan as required by section 20;
- d. implement its employment equity plan;
- e. submit an annual report as required by section 21;
- f. publish its report as required by section 22;
- g. prepare a successive employment equity plan as required by section 23;
- h. assign responsibility to one or more senior managers as required by section 24;
- i. inform its employees as required by section 25; or
- j. keep records as required by section 26.

**37. Compliance order.**--(1) A labour inspector may issue a compliance order to a designated employer if that employer has--

- a. refused to give a written undertaking in terms of section 36, when requested to do so; or
- b. failed to comply with a written undertaking given in terms of section 36.

(2) A compliance order issued in terms of subsection (1) must set out--

- a. the name of the employer, and the workplaces to which the order applies;
- b. those provisions of Chapter III of this Act which the employer has not complied with and details of the conduct constituting non-compliance;
- c. any written undertaking given by the employer in terms of section 36 and any failure by the employer to comply with the written undertaking;
- d. any steps that the employer must take and the period within which those steps must be taken;
- e. the maximum fine, if any, that may be imposed on the employer in terms of Schedule 1 for failing to comply with the order; and
- f. any other prescribed information.

(3) A labour inspector who issues a compliance order must serve a copy of that order on the employer named in it.

(4) A designated employer who receives a compliance order served in terms of subsection (3) must display a copy of that order prominently at a place accessible to the affected employees at each workplace named in it.

(5) A designated employer must comply with the compliance order within the time period stated in it, unless the employer objects to that order in terms of section 39.

(6) If a designated employer does not comply with an order within the period stated in it, or does not object to that order in terms of section 39, the Director-General may apply to the Labour Court to make the compliance order an order of the Labour Court.

**38. Limitations.**--A labour inspector may not issue a compliance order in respect of a failure to comply with a provision of Chapter III of this Act if--

- a. the employer is being reviewed by the Director-General in terms of section 43; or
- b. the Director-General has referred an employer's failure to comply with a recommendation to the Labour Court in terms of section 45.

**39. Objections against compliance order.**--(1) A designated employer may object to a compliance order by making written representations to the Director-General within 21 days after receiving that order.

(2) If the employer shows good cause at any time, the Director-General may permit the employer to object after the period of 21 days has expired.

(3) After considering the designated employer's representations and any other relevant information, the Director-General--

- a. may confirm, vary or cancel all or any part of the order to which the employer objected; and
- b. must specify the time period within which that employer must comply with any part of the order that is confirmed or varied.

(4) The Director-General must, after making a decision in terms of subsection (3), and within 60 days after receiving the employer's representations, serve a copy of that decision on that employer.

(5) A designated employer who receives an order of the Director-General must either--

- a. comply with that order within the time period stated in it; or
- b. appeal against that order to the Labour Court in terms of section 40.

(6) If a designated employer does not comply with an order of the Director-General, or does not appeal against that order, the Director-General may apply to the Labour Court for that order to be made an order of the Labour Court.

**40. Appeal from compliance order.**--(1) A designated employer may appeal to the Labour Court against a compliance order of the Director-General within 21 days after receiving that order.

(2) The Labour Court may at any time permit the employer to appeal after the 21-day time limit has expired, if that employer shows good cause for failing to appeal within that time limit.

(3) If the designated employer has appealed against an order of the Director-General, that order is suspended until the final determination of--

- a. the appeal by the Labour Court; or
- b. any appeal against the decision of the Labour Court in that matter.

**41. Register of designated employers.**--(1) The Minister must keep a register of designated employers that have submitted the reports required by section 21.

(2) The register referred to in subsection (1) is a public document.

**42. Assessment of compliance.**--In determining whether a designated employer is implementing employment equity in compliance with this Act, the Director-General or any person or body applying this Act must, in addition to the factors stated in section 15, take into account all of the following:

- a. The extent to which suitably qualified people from and amongst the different designated groups are equitably represented within each occupational category and level in that employer's workforce in relation to the--
  - i. demographic profile of the national and regional economically active population;
  - ii. pool of suitably qualified people from designated groups from which the employer may reasonably be expected to promote or appoint employees;
  - iii. economic and financial factors relevant to the sector in which the employer operates;
  - iv. present and anticipated economic and financial circumstances of the employer; and
  - v. the number of present and planned vacancies that exist in the various categories and levels, and the employer's labour turnover;
- b. progress made in implementing employment equity by other designated employers operating under comparable circumstances and within the same sector;
- c. reasonable efforts made by a designated employer to implement its employment equity plan;
- d. the extent to which the designated employer has made progress in eliminating employment barriers that adversely affect people from designated groups; and
- e. any other prescribed factor.

**43. Review by Director-General.**--(1) The Director-General may conduct a review to determine whether an employer is complying with this Act.

(2) In order to conduct the review the Director-General may--

- a. request an employer to submit to the Director-General a copy of its current analysis or employment equity plan;
- b. request an employer to submit to the Director-General any book, record, correspondence, document or information that could reasonably be relevant to the review of the employer's compliance with this Act;
- c. request a meeting with an employer to discuss its employment equity plan, the implementation of its plan and any matters related to its compliance with this Act; or
- d. request a meeting with any--
  - i. employee or trade union consulted in terms of section 16;
  - ii. workplace forum; or
  - iii. other person who may have information relevant to the review.

**44. Outcome of Director-General's review.**--Subsequent to a review in terms of section 43, the Director-General may--

- a. approve a designated employer's employment equity plan; or
- b. make a recommendation to an employer, in writing, stating--
  - i. steps which the employer must take in connection with its employment equity plan or the implementation of that plan, or in relation to its compliance with any other provision of this Act; and
  - ii. the period within which those steps must be taken; and
  - iii. any other prescribed information.

**45. Failure to comply with Director-General's recommendation.**--If an employer fails to comply with a request made by the Director-General in terms of section 43 (2) or a recommendation made by the Director-General in terms of section 44 (b), the Director-General may refer the employer's non-compliance to the Labour Court.

## **PART B**

### **Legal proceedings**

**46. Conflict of proceedings.**--(1) If a dispute has been referred to the CCMA by a party in terms of Chapter II and the issue to which the dispute relates also forms the subject of a referral to the Labour Court by the Director-General in terms of section 45, the CCMA proceedings must be stayed until the Labour Court makes a decision on the referral by the Director-General.

(2) If a dispute has been referred to the CCMA by a party in terms of Chapter II against an employer being reviewed by the Director-General in terms of section 43, there may not be conciliation or adjudication in respect of the dispute until the review has been completed and the employer has been informed of the outcome.

**47. Consolidation of proceedings.**--Disputes concerning contraventions of this Act by the same employer may be consolidated.

**48. Powers of commissioner in arbitration proceedings.**--A commissioner of the CCMA may, in any arbitration proceedings in terms of this Act, make any appropriate arbitration award that gives effect to a provision of this Act.

**49. Jurisdiction of Labour Court.**--The Labour Court has exclusive jurisdiction to determine any dispute about the interpretation or application of this Act, except where this Act provides otherwise.

**50. Powers of Labour Court.**--(1) Except where this Act provides otherwise, the Labour Court may make any appropriate order including--

- a. on application by the Director-General in terms of section 37 (6) or 39 (6) making a compliance order or an order of the Labour Court;
- b. subject to the provisions of this Act, condoning the late filing of any document with, or the late referral of any dispute to, the Labour Court;
- c. directing the CCMA to conduct an investigation to assist the Court and to submit a report to the Court;
- d. awarding compensation in any circumstances contemplated in this Act;
- e. awarding damages in any circumstances contemplated in this Act;
- f. ordering compliance with any provision of this Act; including a request made by the Director-General in terms of section 43 (2) or a recommendation made by the Director-General in terms of section 44 (b);
- g. imposing a fine in accordance with Schedule 1 for a contravention of certain provisions of this Act;
- h. reviewing the performance or purported performance of any function provided for in this Act or any act or omission of any person or body in terms of this Act on any grounds that are permissible in law;
- i. in an appeal under section 40, confirming, varying or setting aside all or part of an order made by the Director-General in terms of section 39; and
- j. dealing with any matter necessary or incidental to performing its functions in terms of this Act.

(2) If the Labour Court decides that an employee has unfairly discriminated against, the Court may make any appropriate order that is just and equitable in the circumstances, including--

- a. payment of compensation by the employer to that employee;
- b. payment of damages by the employer to that employee;
- c. an order directing the employer to take steps to prevent the same unfair discrimination or a similar practice occurring in the future in respect of other employees;
- d. an order directing an employer, other than a designated employer, to comply with Chapter III as if it were a designated employer;
- e. an order directing the removal of the employer's name from the register referred to in section 41; or
- f. the publication of the Court's order.

(3) The Labour Court, in making any order, may take into account any delay on the part of the party who seeks relief in processing a dispute in terms of this Act.

(4) If the Labour Court declares that the medical testing of an employee as contemplated in section 7 is justifiable, the court may make any order that it considers appropriate in the circumstances, including imposing conditions relating to--

- a. the provision of counselling;

- b. the maintenance of confidentiality;
- c. the period during which the authorisation for any testing applies; and
- d. the category or categories of jobs or employees in respect of which the authorisation for testing applies.

## **PART C**

### **Protection of employee rights**

**51. Protection of employee rights.**--(1) No person may discriminate against an employee who exercises any right conferred by this Act.

(2) Without limiting the general protection conferred by subsection (1), no person may threaten to do, or do any of the following:

- a. Prevent an employee from exercising any right conferred by this Act or from participating in any proceedings in terms of this Act; or
- b. prejudice an employee because of past, present or anticipated--
  - i. disclosure of information that the employee is lawfully entitled or required to give to another person;
  - ii. exercise of any right conferred by this Act; or
  - iii. participation in any proceedings in terms of this Act.

(3) No person may favour, or promise to favour, an employee in exchange for that employee not exercising any right conferred by this Act or not participating in any proceedings in terms of this Act.

(4) Nothing in this section precludes the parties to a dispute arising out of an alleged breach of any right conferred by this Part, from concluding an agreement to settle the dispute.

(5) For the purposes of this section "employee" includes a former employee or an applicant for employment.

**52. Procedure for disputes.**--(1) If there is a dispute about the interpretation or application of this Part, any party to the dispute may refer it in writing to the CCMA.

(2) The CCMA must attempt to resolve a dispute referred to it in terms of this Part through conciliation.

(3) If the dispute remains unresolved after conciliation--

- a. any party to the dispute may refer it to the Labour Court for adjudication; or
- b. all the parties to the dispute may consent to arbitration of the dispute by the CCMA.

(4) In respect of a dispute in terms of this Part, the relevant provisions of Part C and D of Chapter VII of the Labour Relations Act apply, read with the changes required by the context.

## **CHAPTER VI**

## GENERAL PROVISIONS

**53. State contracts.**--(1) Every employer that makes an offer to conclude an agreement with any organ of state for the furnishing of supplies or services to that organ of state or for the hiring or letting of anything--

- a. must--
  - i. if it is a designated employer, comply with Chapters II and III of this Act; or
  - ii. if it is not a designated employer, comply with Chapter II of this Act; and
- b. attach to that offer either--
  - i. a certificate in terms of subsection (2) which is conclusive evidence that the employer complies with the relevant Chapters of this Act; or
  - ii. a declaration by the employer that it complies with the relevant Chapters of this Act, which, when verified by the Director-General, is conclusive evidence of compliance.

(2) An employer referred to in subsection (1) may request a certificate from the Minister confirming its compliance with Chapter II, or Chapters II and III, as the case may be.

(3) A certificate issued in terms of subsection (2) is valid for 12 months from the date of issue or until the next date on which the employer is obliged to submit a report in terms of section 21, whichever period is the longer.

(4) A failure to comply with the relevant provisions of this Act is sufficient ground for rejection of any offer to conclude an agreement referred to in subsection (1) or for cancellation of the agreement<sup>7</sup>.

**54. Codes of good practice.**--(1) The Minister may, on the advice of the Commission--

- a. issue any code of good practice<sup>8</sup>; and
- b. change or replace any code of good practice.

(2) Any code of good practice, or any change to, or replacement of, a code of good practice must be published in the Gazette.

**55. Regulations.**--(1) The Minister may, by notice in the Gazette and on the advice of the Commission, make any regulation regarding--

- a. any matter that this Act requires or permits to be prescribed; and
- b. any administrative or procedural matters that may be necessary or expedient to achieve the proper and effective administration of this Act.

(2) The Minister must by notice in the Gazette make a regulation providing for separate and simplified forms and procedures in respect of the obligations created by sections 19, 20, 21, 25 and 26 for employers that employ 150 or fewer employees.

**56. Delegations.**--(1) The Minister may delegate any power conferred, or assign any duty imposed, upon the Minister in terms of this Act, except the powers and duties contemplated in sections 29 (1), (5) and (7), 53 (2), 54, 55, 59 (4) and 61 (4).

(2) A delegation or assignment must be in writing and may be subject to any conditions or restrictions determined by the Minister.

(3) The Minister may at any time--

- a. withdraw a delegation or assignment made in terms of subsection (1); and
- b. withdraw or amend any decision made by a person exercising a power or performing a duty delegated or assigned in terms of subsection (1).

(4) The Director-General may delegate any power conferred, or assign any duty imposed, upon the Director-General in terms of this Act, to any employee in the Department.

(5) Subsections (2) and (3) apply with the changes required by the context to any delegation or assignment by the Director-General under subsection (4).

**57. Temporary employment services.--**(1) For purposes of Chapter III of this Act, a person whose services have been procured for, or provided to, a client by a temporary employment service is deemed to be the employee of that client, where that person's employment with the client is of indefinite duration or for a period of three months or longer.

(2) Where a temporary employment service, on the express or implied instructions of a client, commits an act of unfair discrimination, both the temporary employment service and the client are jointly and severally liable.

**58. Designation of organs of state.--**The President must, within six months after the commencement of this Act, and after consultation with the Minister responsible for the Public Service and Administration, publish a notice in the Gazette listing every designated employer within any organ of state.

**59. Breach of confidentiality.--**(1) Any person who discloses any confidential information acquired in the performance of a function in terms of this Act, commits an offence.

(2) Subsection (1) does not apply if the information--

- a. is disclosed to enable a person to perform a function in terms of this Act; or
- b. must be disclosed in terms of this Act, any other law or an order of court.

(3) A person convicted of an offence in terms of this section may be sentenced to a fine not exceeding R10 000,00.

(4) The Minister may, with the concurrence of the Minister of Justice and by notice in the Gazette, amend the maximum amount of the fine referred to in subsection (3) in order to counter the effect of inflation.

**60. Liability of employers.--**(1) If it is alleged that an employee, while at work, contravened a provision of this Act, or engaged in any conduct that, if engaged in by that employee's employer, would constitute a contravention of a provision of this Act, the alleged conduct must immediately be brought to the attention of the employer.

(2) The employer must consult all relevant parties and must take the necessary steps to eliminate the alleged conduct and comply with the provisions of this Act.

(3) If the employer fails to take the necessary steps referred to in subsection (2), and it is proved that the employee has contravened the relevant provision, the employer must be deemed also to have contravened that provision.

(4) Despite subsection (3), an employer is not liable for the conduct of an employee if that employer is able to prove that it did all that was reasonably practicable to ensure that the employee would not act in contravention of this Act.

**61. Obstruction, undue influence and fraud.--**(1) No person may--

- a. obstruct or attempt to improperly influence any person who is exercising a power or performing a function in terms of this Act; or
- b. knowingly give false information in any document or information provided to the Director-General or a labour inspector in terms of this Act.

(2) No employer may knowingly take any measure to avoid becoming a designated employer.

(3) A person who contravenes a provision of this section commits an offence and may be sentenced to a fine not exceeding R10 000,00.

(4) The Minister may, with the concurrence of the Minister of Justice and by notice in the Gazette, amend the maximum amount of the fine referred to in subsection (3) in order to counter the effect of inflation.

**62. This Act binds the State.--**This Act binds the State.

**63. Application of Act when in conflict with other laws.--**If any conflict relating to a matter dealt with in this Act arises between this Act and the provisions of any other law other than the Constitution or an Act of Parliament expressly amending this Act, the provisions of this Act prevail.

**64. Repeal of laws and transitional arrangements.--**Each of the laws referred to in the first two columns of Schedule 2 is repealed to the extent specified opposite that law in the third column of that Schedule.

**65. Short title and commencement.--**(1) This Act is called the Employment Equity Act, 1998.

(2) This Act takes effect on a date to be determined by the President by proclamation in the Gazette. The President may determine different dates in respect of different provisions of this Act.

(3) If, in terms of subsection (2), different dates are determined for particular provisions of this Act--

- a. Schedule 2 must take effect at the same time as section 6 (1) takes effect; and

- b. a reference in a provision of this Act to a time when this Act took effect must be construed as a reference to the time when that provision takes effect.

### Schedule 1

#### MAXIMUM PERMISSIBLE FINES THAT MAY BE IMPOSED FOR CONTRAVENING THIS ACT

This Schedule sets out the maximum fine that may be imposed in terms of this Act for the contravention of certain provisions of this Act.

<i>Previous Contravention</i>	<i>Contravention of any Provision of Sections 16, 19, 20, 21, 22 and 23</i>
No previous contravention	R500 000
A previous contravention in respect of the same provision	R600 000
A previous contravention within the previous 12 months or two previous contraventions in respect of the same provision within three years	R700 000
Three previous contraventions in respect of the same provision within three years	R800 000
Four previous contraventions in respect of the same provision within three years	R900 000

### Schedule 2

#### LAWS REPEALED

<i>Number and year of law</i>	<i>Short title</i>	<i>Extent of repeal</i>
Act No. 66 of 1995	Labour Relations Act, 1995	Item 2 (1) (a), 2 (2) and 3 (4) (a) of Schedule 7

### Schedule 3

#### TRANSITIONAL ARRANGEMENTS

**1. Definitions.**--In this Schedule, unless the context indicates otherwise--

"**pending**" means existing immediately before this Act came into operation; and

"**repealed provisions of the Labour Relations Act**" means the provisions of the Labour Relations Act repealed by Schedule 2.

**2. Disputes arising before commencement of this Act.**--Any dispute contemplated in item (2) (1) (a) of Schedule 7 of the Labour Relations Act that arose before the commencement of

this Act, must be dealt with as if the repealed provisions of the Labour Relations Act had not been repealed.

**3. Courts.**--(1) In any pending dispute contemplated in item (2) (1) (a) of Schedule 7 of the Labour Relations Act in respect of which the Labour Court or the Labour Appeal Court had jurisdiction and in respect of which proceedings had not been instituted before the commencement of this Act, proceedings must be instituted in the Labour Court or Labour Appeal Court (as the case may be) and dealt with as if the repealed provisions of the Labour Relations Act had not been repealed.

(2) Any dispute contemplated in item (2) (1) (a) of Schedule 7 of the Labour Relations Act in respect of which proceedings were pending in the Labour Court or Labour Appeal Court must be proceeded with as if the repealed provisions of the Labour Relations Act had not been repealed.

(3) Any pending appeal before the Labour Appeal Court must be dealt with by the Labour Appeal Court as if the repealed provisions of the Labour Relations Act had not been repealed.

(4) When acting in terms of subitems (1) to (3), the Labour Court or Labour Appeal Court may perform or exercise any function or power that it had in terms of the repealed provisions of the Labour Relations Act.

#### **Schedule 4**

#### **TURNOVER THRESHOLD APPLICABLE TO DESIGNATED EMPLOYERS**

<i>Sector or subsectors in accordance with the Standard Industrial Classification</i>	<i>Total annual turnover</i>
Agriculture	R2,00 m
Mining and Quarrying	R7,50 m
Manufacturing	R10,00 m
Electricity, Gas and Water	R10,00 m
Construction	R5,00 m
Retail and Motor Trade and Repair Services	R15,00 m
Wholesale Trade, Commercial Agents and Allied Services	R25,00 m
Catering, Accommodation and other Trade	R5,00 m
Transport, Storage and Communications	R10,00 m
Finance and Business Services	R10,00 m
Community, Special and Personal Services	R5,00 m

# ANNEXURE B



## PLEASE READ THIS FIRST

### PURPOSE OF THIS FORM

This form enables employers to comply with Section 21 of the Employment Equity Act 55 of 1998.

This form contains the format for employment equity reporting by employers to the Department of Labour. Both small employers (i.e. employers employing fewer than 150 employees) and large employers (i.e. employers employing 150 or more employees) are required to use this form. Those employers who are not designated, but wish to voluntarily comply, must also use this reporting form.

Although all sections of this form apply to large employers, only certain sections of this form should be completed by small employers. Employers who report for the first time are not required to complete the progress report section of this form.

### WHO SHOULD COMPLETE THIS FORM?

All designated employers that have to submit a report in terms of the Employment Equity Act, 55 of 1998. Employers who wish to voluntarily comply with the reporting requirements of the Act are also required to complete this form.

### WHEN SHOULD EMPLOYERS REPORT?

- Large employers must submit their first report within six months of being designated, and thereafter annually on the first working day of October; and
- Small employers must submit their first report within twelve months of being designated, and thereafter on the first working day of October of every year that ends with an even number.

### ESSENTIAL REQUIREMENTS

Large employers, i.e. employers with 150 and more employees, must complete the entire EEA2 reporting form. Small employers, i.e. employers with fewer than 150 employees, must only complete areas of the EEA2 form that apply to them. Large employers, i.e. employers with 150 and more employees, must complete the entire EEA2 reporting form. Small employers, i.e. employers with fewer than 150 employees, must only complete areas of the EEA2 form that apply to them. All relevant areas of the form must be fully and accurately completed by employers. **Designated employers who fail to observe this provision will be deemed not to have reported.** Guidance to overcome difficulties on how to complete the form properly must be obtained from the Department prior to completing and submitting the report.

### SEND TO:

Employment Equity Registry  
The Department of Labour  
Private Bag X117  
Pretoria 0001  
Telephone: 012 3094000  
Facsimile: 012 3094737 / 3094188  
e-mail: [ee@labour.gov.za](mailto:ee@labour.gov.za)

## SECTION A: EMPLOYER DETAILS

Trade name	Triple "M" Mining (Pty) Ltd
DTI registration name	Triple "M" Mining (Pty) Ltd
DTI registration number	2003/013246/07
PAYE/SARS number	7140746460
UIF reference number	1498095/5
EE reference number	
Industry/Sector	Mining & Quarrying
Seta classification	Mining Qualifications Authority (MQA)
Telephone number	012 259 1809
Fax number	012 259 0533
Email address	equip3@mweb.co.za
Postal address	PO Box 1868
	Schoemansville
	Hartbeespoort
Postal code	0216
City/Town	Hartbeespoort
Province	North West
Physical address	59 Canon Crescent
	Ifafi
Postal code	0260
City/Town	Hartbeespoort
Province	North West

### Details of CEO at the time of submitting this report

Name and surname	Sipho Eric Xipu
Telephone number	012 259 1809
Fax number	012 259 0533
Email address	Equip3@mweb.co.za

### Details of Senior Manager for Employment Equity at the time of submitting this report

Name and Surname	Sipho Eric Xipu
Telephone number	012 259 1809
Fax number	012 259 0533
Email address	Equip3@mweb.co.za

### Business type

<input type="checkbox"/> <b>Private Sector X</b>	<input type="checkbox"/> Parastatal
<input type="checkbox"/> National Government	<input type="checkbox"/> Provincial Government
<input type="checkbox"/> Local Government	<input type="checkbox"/> Educational Institution
<input type="checkbox"/> Non-profit Organization	

### Information about the organization at the time of submitting this report

- Number of employees in the organization
- 0 to 49  
 50 to 149  
 **150 or more X**
- In terms of Section 14 of the Act, are you voluntary complying?
- Yes  **No X**
- Is your organization an organ of
- Yes  **No X**

Please indicate the preceding twelve-month period (in the case of large employers) or twenty-four month period (in the case of small employers) covered by this report, except for first time reporting where this may not be possible:

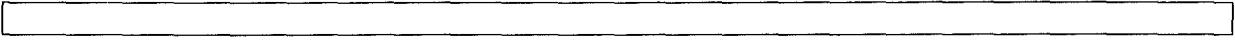
From (date): 10 October 2010 To (date): 31 September 2011

Please indicate below the duration of your current employment equity plan:

From (date): 10 October 2011 To (date): 31 September 2012

### Please read this first

- a. The preceding twelve-month period (in the case of large employers) or twenty-four month period (in the case of small employers) covered by employment equity employer reports must be the same for every reporting period.
- b. A summary providing guidelines on occupational categories and levels is provided in annexure 3 and annexure 4 of the regulations. Employers must complete the EEA2 form and the EEA4 form in accordance with Annexure 3 and Annexure 4.
- c. Non-permanent workers refer to those workers who are employed to work for less than 24 hours per month, or those workers engaged to work for not more than 3 continuous months.
- d. In Section B, the subtotals in terms of race and gender in the row dealing with **total permanent** employees in the table on occupational categories for **all employees**, which includes people with disabilities, must be exactly the same as the subtotals in the table on occupational levels for **all employees**. The same must apply to the subtotals in the **grand total** rows for occupational categories and levels as well.
- e. In Section B, the subtotals in terms of race and gender in the row dealing with **total permanent** employees in the table on occupational categories for **people with disabilities** must be exactly the same as the subtotals in the table on occupational levels for **people with disabilities**. The same must apply to the subtotals in the **grand total** rows for occupational categories and levels as well.
- f. Employers, from the second cycle of reporting onwards, must complete Section G that deals with progress reports.
- g. Employers must complete Section H that deals with **numerical goals** and **numerical targets**. **Numerical goals** are the workforce profile the employer is striving to achieve in the workplace at the end of the duration of the employer's current employment equity plan. The numerical goals of the employer must be the same for the entire duration of the employment equity plan. **Numerical targets** are the workforce profile the employer is striving to achieve at the end of the period following the period covered by the current report of the employer.
- h. Large employers, i.e. employers with 150 and more employees, must complete the entire EEA2 reporting form. Small employers, i.e. employers with fewer than 150 employees, must only complete areas of the EEA2 form that apply to them. Areas that only apply to small employers shall be made available by the Department in a separate form as well. All relevant areas of the form must be fully and accurately completed by employers.
- i. The alphabets "A", "C", "I" and "W" used in the tables have the following corresponding meanings and must be interpreted as "Africans", "Coloureds", "Indians" and "Whites" respectively.
- j. "**Designated groups**" means Black people (i.e. Africans, Coloureds and Indians), women and people with disabilities who are natural persons and are citizens of the Republic of South Africa by birth or descent; or are citizens of the Republic of South Africa by naturalization before the commencement date (i.e. 27 April 1994) of the Constitution of the Republic of South Africa Act of 1993; or became citizens of the Republic of South Africa from the commencement date of the Constitution of the Republic of South Africa Act of 1993, but who, not for Apartheid policy that had been in place prior to that date, would have been entitled to acquire citizenship by naturalization prior to that date.
- k. All population groupings who are not part of the Black group, but in substance fall within the definition described in paragraph (j) in terms of citizenship or descent, must be counted and included in the column of each table in the form that require data on the White group.
- l. Foreign nationals and South African citizens that fall outside the definition described in paragraphs (j) or (k) must be counted and included in the column of each table in the form that require data on foreign nationals.



## Section B: Workforce Profile

### 1. Occupational Categories

1.1 Please report the total number of **employees** (including employees with disabilities) in each of the following **occupational categories**: Note: A=Africans, C=Coloureds, I=Indians and W=Whites

Occupational Categories	Male				Female				White Male	Foreign Nationals		TOTAL
	A	C	I		A	C	I	W		W	Male	
Legislators, senior officials and managers	1								3			4
Professionals					1			3	11			15
Technicians and associate professionals	3								48	2		53
Clerks	8				5			1	1			15
Service and sales workers												
Skilled agricultural and fishery workers	43	3			1			7	17	12		83
Craft and related trades workers	131								2	232		365
Plant and machine operators and assemblers	713								1	645		1359
Elementary occupations	680				3				3	280		966
<b>TOTAL PERMANENT</b>	1579	3			10			11	86	1171		2860
Non – permanent employees												
<b>GRAND TOTAL</b>	1579	3			10			11	86	1171		2860

1.2 Please report the total number of **employees with disabilities only** in each of the following occupational categories: Note: A=Africans, C=Coloureds, I=Indians and W=Whites

Occupational Categories	Male				Female				Foreign Nationals		TOTAL
	A	C	I	W	A	C	I	W	Male	Female	
Legislators, senior officials and managers	0	0	0	0	0	0	0	0	0	0	0
Professionals	0	0	0	0	0	0	0	0	0	0	0
Technicians and associate professionals	0	0	0	0	0	0	0	0	0	0	0
Clerks	0	0	0	1	0	0	0	0	0	0	0
Service and sales workers	0	0	0	0	0	0	0	0	0	0	0
Skilled agricultural and fishery workers	0	0	0	0	0	0	0	0	0	0	0
Craft and related trades workers	0	0	0	0	0	0	0	0	0	0	0
Plant and machine operators and assemblers	0	0	0	0	0	0	0	0	0	0	0
Elementary occupations	1	0	0	0	0	0	0	0	0	0	0
<b>TOTAL PERMANENT</b>	1	0	0	1	0	0	0	0	0	0	0
Non – permanent employees	0	0	0	0	0	0	0	0	0	0	0
<b>GRAND TOTAL</b>	1	0	0	1	0	0	0	0	0	0	0

2.3.1 Please indicate the total number of employees (including people with disabilities), that are involved in **Core Operation Function** positions at each level in your organization. Note: A=Africans, C=Coloureds, I=Indians and W=Whites

Occupational Levels									Foreign Nationals		TOTAL
	Male				Female				Male	Female	
	A	C	I	W	A	C	I	W			
Top management				2							2
Senior management				10							10
Professionally qualified and experienced specialists and mid-management	3			48					2		53
Skilled technical and academically qualified workers, junior management, supervisors, foremen, and superintendents	43	3		16					12		75
Semi-skilled and discretionary decision making	844			3					877		1724
Unskilled and defined decision making	680			3					280		963
<b>TOTAL PERMANENT</b>	1570	3		83					1171		2827
Non – permanent employees	0			0	0			0	0		0
<b>GRAND TOTAL</b>	1570	3		82					1171		2826

2.3.2 Please indicate the total number of employees (including people with disabilities), that are involved in **Support Function** positions at each level in your organization. Note: A=Africans, C=Coloureds, I=Indians and W=Whites

Occupational Levels									Foreign Nationals		TOTAL
	Male				Female				Male	Female	
	A	C	I	W	A	C	I	W			
Top management	1			1							2
Senior management				1	1			3			5
Professionally qualified and experienced specialists and mid-management											
Skilled technical and academically qualified workers, junior management, supervisors, foremen, and superintendents				1	1			7			9
Semi-skilled and discretionary decision making	8			1	5			1			15
Unskilled and defined decision making					3						3
<b>TOTAL PERMANENT</b>	9			4	10			11			34
Non – permanent employees	0			0	0			0			0
<b>GRAND TOTAL</b>	9			4	10			11			34









## Section D: Disciplinary Action (This section is *not applicable to small employers*)

- 6 **Disciplinary action:** (report the total number of disciplinary actions during the twelve months preceding this report). **Report on formal outcomes only.** Note: A=Africans, C=Coloureds, I=Indians and W=Whites

Disciplinary Action	Male			Female				White Male	Foreign Nationals		TOTAL
	A	C	I	A	C	I	W	Male	Female		
	4041				2				5		





## Section F: Qualitative Assessment (This section is *not applicable to small employers*)

### 8 Awareness of Employment Equity

8.1 Please indicate which of the following awareness measures were implemented by your organization:

	No. of employees covered	Yes	No	Please explain
Formal written communication		x		IR briefs
Policy statement includes reference to employment equity		x		EE policy
Summary of the Act displayed		x		
Employment Equity training			x	
Diversity management programmes			x	
Discrimination awareness programmes		x		Committee meetings
Other (please specify):		x		One on one (Mngt to union)
<b>Total</b>		<b>5</b>	<b>2</b>	

### 9 Consultation

9.1 Please indicate which stakeholders were involved in the consultation process prior to the development of your employment equity plan and in preparing this Employment Equity Report:

	Yes	No	Please explain
Workplace forum (in terms of the LRA)	x		Employee representatives
Consultative body or employment equity forum			
Registered trade union (s)	x		
Employees	x		
Other (Please specify):			

9.2 What was the level of agreement reached in the formulation of the plan? Please choose one.

Total	Sufficient	Some	None
x			

9.3 How regularly do you meet with the stakeholders mentioned in 9.1? Please choose one.

Weekly	Monthly	Quarterly	Yearly	Other
	x			

## 10 Analysis

10.1 Please indicate in which categories of employment policy or practices barriers to employment equity were identified:

Categories	Yes	No	Please explain
Recruitment procedures		X	
Advertising positions		X	
Selection criteria		X	
Appointments	X		Due to lack of available skills in mining related top management qualifications
Job classification and grading		X	
Remuneration and benefits		X	
Terms and conditions of employment		X	
Job assignments		X	
Work environment and facilities	X		Women change house facilities have been introduced for underground occupations in the recent past
Training and development		X	
Performance and evaluation systems		X	
Promotions		X	
Transfers		X	
Demotions		X	
Succession and experience planning		X	
Disciplinary measures		X	
Dismissals		X	
Corporate culture		X	
HIV and AIDS education and prevention programmes		X	
Other (please specify):			

**11 Affirmative Action measures**

11.1 Please indicate in which categories **affirmative action measures** have been implemented:

Categories	Yes	No	Please explain
Recruitment procedures	x		
Advertising positions	x		
Selection criteria	x		
Appointments	x		
Job classification and grading	x		
Remuneration and benefits	x		
Terms and conditions of employment	x		
Job assignments	x		
Work environment and facilities	x		
Training and development	x		
Performance and evaluation systems	x		
Setting numerical goals	x		
Promotions	x		
Transfers	x		
Demotions	x		
Succession and experience planning	x		
Disciplinary measures	x		
Diversity programme and sensitization		x	No formal programs agreed upon yet
Community investment and bridging programme		x	No agreement on plans on table reached yet
Retention measures	x		
Reasonable accommodation	x		
Other (please specify):			

## 12 Resources

12.1 Please indicate what resources have been allocated to the implementation of employment equity during the past year:

Allocation of Resources	Yes	No	Please explain
Appointed a senior manager/s to manage the implementation and monitoring progress	<input checked="" type="checkbox"/>	<input type="checkbox"/>	CEO responsible for implementation & monitoring of EE
Allocated a budget to support the implementation goals of employment equity	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Time off for employment equity consultative committee (or equivalent) to meet on a regular basis	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
Other (Please specify)	<input type="checkbox"/>	<input type="checkbox"/>	

## 13 Monitoring and evaluation of implementation:

13.1 How regularly do you monitor progress on the implementation of the employment equity plan? Please choose one.

Weekly	Monthly	Quarterly	Yearly	Other
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

## Section G: Progress Report

*(Section G to be completed from the second cycle of reporting onwards)*

14 Reporting period: From **01 October 2011** to **31 September 2012**

14.1 Did you achieve the numerical targets as set out in your employment equity plan for this period?

Yes	No
x	

14.2 Did you achieve the affirmative action objectives as set out in your employment equity plan for this period?

Yes	No
x	

14.3 If not, what were the obstacles you experienced:

<b>What were the obstacles to reaching the employment equity goals and objectives during the past year?</b>
- Dire shortage of black knowledge workers at senior management levels is a problem for the entire mining industry.

14.4 If yes, what factors promoted the accomplishment of your goals and objectives:

<b>What were the factors that contributed to the accomplishment of the employment equity goals and objectives during the past year?</b>
- Training & promotion from within.

14.5 Please indicate the numerical goals you have set to achieve for the total number of employees (including people with disabilities) at the end of your current employment equity plan in terms of occupational categories. Note: A=Africans, C=Coloureds, I=Indians and W=Whites:

Occupational Categories										TOTAL	
	Male			Female				White Male	Foreign Nationals		
	A	C	I	A	C	I	W	W	Male		Female
Legislators, senior officials and managers	1							2			3
Professionals	5			1			3	6			15
Technicians and associate professionals	24							29			53
Clerks	8			5			1				14
Service and sales workers	43	3		4			7	17	12		86
Skilled agricultural and fishery workers											
Craft and related trades workers	223							2	140		365
Plant and machine operators and assemblers	763								595		1358
Elementary occupations	600			83				3	280		966
<b>TOTAL PERMANENT</b>	1667	3		93			11	59	1027		2860
Non – permanent employees	0	0	0	0			0	0	0		0
<b>GRAND TOTAL</b>	1667	3		93			11	59	1027		2860

14.6 Please indicate the numerical goals you have set to achieve for the total number of **employees with disabilities only** at the end of your current employment equity plan in terms of occupational categories. Note: A=Africans, C=Coloureds, I=Indians and W=Whites :

Occupational Categories										TOTAL	
	Male				Female				Foreign Nationals		
	A	C	I	W	A	C	I	W	Male		Female
Legislators, senior officials and managers											
Professionals											
Technicians and associate professionals											
Clerks				1							1
Service and sales workers											
Skilled agricultural and fishery workers											
Craft and related trades workers											
Plant and machine operators and assemblers											
Elementary occupations	1				1			1			3
<b>TOTAL PERMANENT</b>	1			1	1			1			4
Non – permanent employees											
<b>GRAND TOTAL</b>	1			1	1			1			4

14.7 Please indicate the numerical goals you have set to achieve for the total number of employees (including people with disabilities) at the end of your current employment equity plan in terms of occupational levels. Note: A=Africans, C=Coloureds, I=Indians and W=Whites:

Occupational Levels										TOTAL	
	Male			Female				White Male	Foreign Nationals		
	A	C	I	A	C	I	W	W	Male		Female
Top management	1							2			3
Senior management	5			1			3	6			15
Professionally qualified and experienced specialists and mid-management	24							29			53
Skilled technical and academically qualified workers, junior management, supervisors, foremen, and superintendents	274	3		9			8	19	152		465
Semi-skilled and discretionary decision making	763								595		1358
Unskilled and defined decision making	600			83				3	280		966
<b>TOTAL PERMANENT</b>	1667	3		93			11	59	1027		2860
Non – permanent employees	0	0		0			0	0	0		0
<b>GRAND TOTAL</b>	1667	3		93			11	59	1027		2860

14.8 Please indicate the numerical goals you have set to achieve for the total number of **employees with disabilities only** at the end of your current employment equity plan in terms of occupational levels:

Occupational Levels										TOTAL	
	Male				Female				Foreign Nationals		
	A	C	I	W	A	C	I	W	Male		Female
Top management											
Senior management											
Professionally qualified and experienced specialists and mid-management											
Skilled technical and academically qualified workers, junior management, supervisors, foremen, and superintendents				1							1
Semi-skilled and discretionary decision making											
Unskilled and defined decision making	1				1			1			3
<b>TOTAL PERMANENT</b>	1			1	1			1			4
Non – permanent employees	0			0	0			0			0
<b>GRAND TOTAL</b>	1			1	1			1			4

14.9 Please indicate the numerical targets you have set to achieve for the total number of employees (including people with disabilities) for the end of the period following the period covered by the current report in terms of occupational categories.

Occupational Categories	Male				Female				White Male	Foreign Nationals		TOTAL
	A	C	I		A	C	I	W	W	Male	Female	
Legislators, senior officials and managers	1								2			3
Professionals	6				1			3	5			15
Technicians and associate professionals	29								24			53
Clerks	5				8			1				14
Service and sales workers	45	3			4			7	17	10		86
Skilled agricultural and fishery workers												
Craft and related trades workers	263								2	100		365
Plant and machine operators and assemblers	853									505		1358
Elementary occupations	640				123				3	200		966
<b>TOTAL PERMANENT</b>	1842	3			136			11	53	815		2860
Non – permanent employees	0	0			0			0	0	0		0
<b>GRAND TOTAL</b>	1842	3			136			11	53	815		2860

14.10 Please indicate the numerical targets you have set to achieve for the total number of **employees with disabilities only** for the end of the period following the period covered by the current report in terms of occupational categories. Note: A=Africans, C=Coloureds, I=Indians and W=Whites

Occupational Categories	Male				Female				Foreign Nationals		TOTAL
	A	C	I	W	A	C	I	W	Male	Female	
Legislators, senior officials and managers											
Professionals											
Technicians and associate professionals											
Clerks	1			1	1			1			4
Service and sales workers											
Skilled agricultural and fishery workers											
Craft and related trades workers											
Plant and machine operators and assemblers											
Elementary occupations	1			1	1			1			4
<b>TOTAL PERMANENT</b>	2			2	2			2			8
Non – permanent employees	0			0	0			0			0
<b>GRAND TOTAL</b>	2			2	2			2			8

14.11 Please indicate the numerical targets you have set to achieve for the total number of employees (including people with disabilities) for the end of the period following the period covered by the current report in terms of occupational levels. Note: A=Africans, C=Coloureds, I=Indians and W=Whites

Occupational Levels								White Male	Foreign Nationals		TOTAL
	Male			Female					Male	Female	
	A	C	I	A	C	I	W	W			
Top management	1							2			3
Senior management	6			1			3	5			15
Professionally qualified and experienced specialists and mid-management	29							24			53
Skilled technical and academically qualified workers, junior management, supervisors, foremen, and superintendents	313	3		12			8	19	110		465
Semi-skilled and discretionary decision making	853								505		1358
Unskilled and defined decision making	640			123				3	200		966
<b>TOTAL PERMANENT</b>	1842	3		136				53	815		2860
Non – permanent employees	0	0		0				0	0		0
<b>GRAND TOTAL</b>	1842	3		136				53	815		2860

14.12 Please indicate the numerical targets you have set to achieve for the total number of **employees with disabilities only** for the end of the period following the period covered by the current report in terms of occupational levels. Note: A=Africans, C=Coloureds, I=Indians and W=Whites

Occupational Levels								Foreign Nationals		TOTAL	
	Male				Female				Male		Female
	A	C	I	W	A	C	I	W			
Top management											
Senior management											
Professionally qualified and experienced specialists and mid-management											
Skilled technical and academically qualified workers, junior management, supervisors, foremen, and superintendents	1			1	1			1			4
Semi-skilled and discretionary decision making											
Unskilled and defined decision making	1			1	1			1			4
<b>TOTAL PERMANENT</b>	2			2	2			2			8
Non – permanent employees	0			0	0			0			0
<b>GRAND TOTAL</b>	2			2	2			2			8

## Section H: Signature of the Chief Executive Officer

### Chief Executive Officer

I hereby declare that I have read, approved and authorized this report.

Signed on this 01<sup>st</sup> day of October 2012

At place: Hartbeespoort

Per e-mail

Signature: Chief Executive Officer

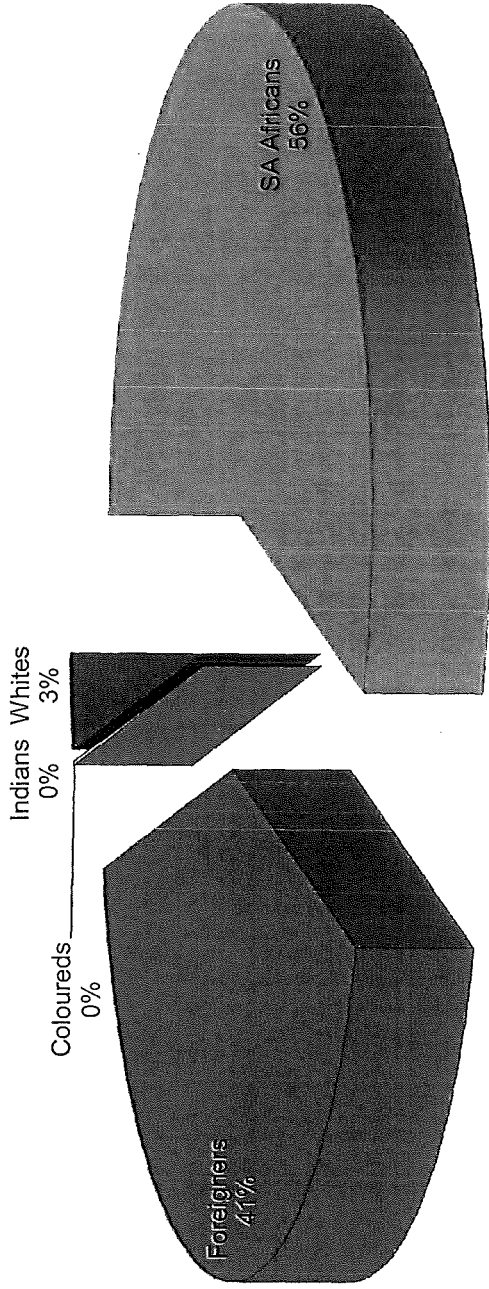
Sipho Eric Xipu

Full Name

# Annexure C

## Triple "M" Mining (Pty) Ltd

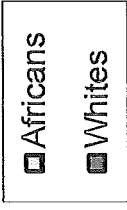
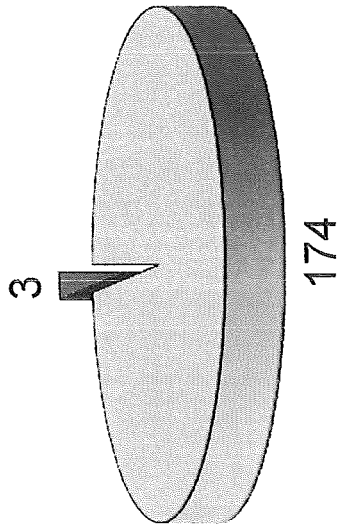
### Male employees per racial group -



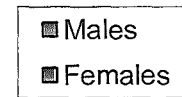
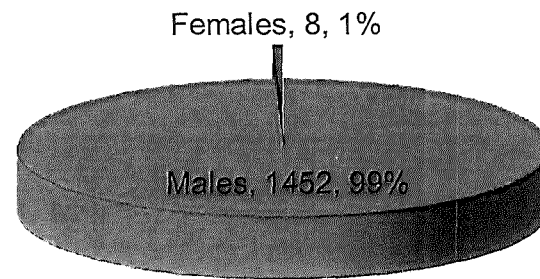
**Annexure E**

**E1**

**Triple 'M' Mining (Pty) Ltd  
Promotions**



**Annexure D**  
**Triple "M" Mining (Pty) Ltd**  
**Recruitment & Training - 2011to 2012**

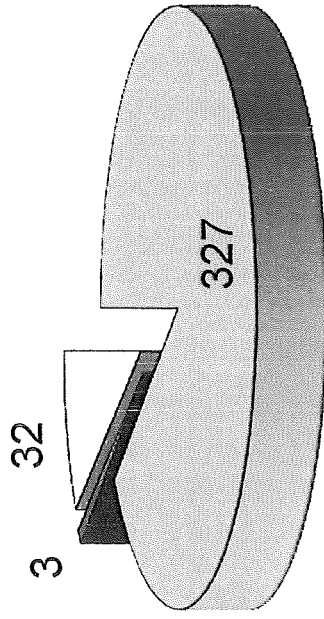


1098

1098

Annexure E

E2  
Triple "M" Mining (Pty) Ltd  
Terminations



## ANNEXURE F

### TABLE FOR DETERMINING SAMPLE SIZE FROM A GIVEN POPULATION

N	S	N	S	N	S	N	S	N	S
10	10	100	80	280	162	800	260	2800	338
15	14	110	86	290	165	850	265	3000	341
20	19	120	92	300	169	900	269	3500	246
25	24	130	97	320	175	950	274	4000	351
30	28	140	103	340	181	1000	278	4500	351
35	32	150	108	360	186	1100	285	5000	357
40	36	160	113	380	181	1200	291	6000	361
45	40	180	118	400	196	1300	297	7000	364
50	44	190	123	420	201	1400	302	8000	367
55	48	200	127	440	205	1500	306	9000	368
60	52	210	132	460	210	1600	310	10000	373
65	56	220	136	480	214	1700	313	15000	375
70	59	230	140	500	217	1800	317	20000	377
75	63	240	144	550	225	1900	320	30000	379
80	66	250	148	600	234	2000	322	40000	380
85	70	260	152	650	242	2200	327	50000	381
90	73	270	155	700	248	2400	331	75000	382
95	76	270	159	750	256	2600	335	100000	384

## ANNEXURE G

Date:

Dear Participant:

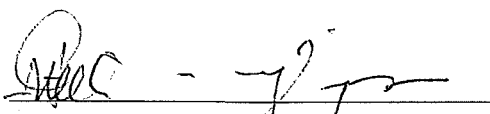
My name is Johanna Nnene Mthimunye-Xipu and I am a studying for Masters of Business Administration at North West University (Mahikeng Campus). For my final project, I am investigating an implementation of employment equity plan. Because you are working as a manager/employee, I am inviting you to participate in this research study by completing the attached surveys.

This questionnaire is designed to collect some relevant views of those in the industry to investigate the implementation of Employment Equity plan in the company. Your input is greatly appreciated and should only take a few minutes. There is no compensation for responding nor is there any known risk. In order to ensure that all information will remain confidential, please *do not* include your name.

If you choose to participate in this project, please answer all questions as honestly as possible and return the completed questionnaires promptly and drop your response in a box allocated at the clerk's office. Participation is strictly voluntary and you may refuse to participate at any time.

Thank you for taking the time to assist me in my educational endeavours. The data collected will provide useful information.

Thank you for your input



---

Johanna N. Mthimunye-Xipu

## ANNEXURE H

### PART 1: QUESTIONNAIRE (To Management)

*“AN INVESTIGATION OF AN EMPLOYMENT EQUITY PLAN – THE CASE OF TRIPLE “M” MINING”*

#### Section A: Respondent’s Position and Company Biography

1. What is your position in the company?

		Mark with X
1.1	Director / Owner / Shareholder	
1.2	HR Manager or Skills Development Facilitator	
1.3	Mine Overseer	
1.4	Shift Supervisor	
1.5	Miner	
1.6	Other (Please specify)	

Mark the appropriate column with X.

2. Which of the following sector best describes your company?

Multi-national	Private Sector	Public Enterprise	Registered NGO	None of these
1	2	3	4	5

3. Which of the following business size best describes your company in terms of revenue?

Sole proprietary	Small business	SMME	Large Company	None of these
1	2	3	4	5

#### Section B: Employment Equity Implementation

4. How long has the company been in business?

Less than 5 years	5 to 10 years	10 to 15 years	15 to 20 years	20 years +
1	2	3	4	5

5. What is the total size of the organization in terms of employee strength?

Less than 50	51 to 150	151 to 500	501 to 1000	1001 to 10 000
1	2	3	4	5

6. Does your organization have a registered (SETA) Skills Development Facilitator?

Yes	No
-----	----

7. What is the extent of unionization within your company?

Not unionized	Low involvement	Do not know	Moderately Unionized	Highly Unionized
1	2	3	4	5

#### Section C: Knowledge and Understanding of Employment Equity Act.

Please rate the following on a scale of 1 to 5 where 1 is **STRONGLY DISAGREE**, 3 is **AVERAGE** and 5 is **STRONGLY AGREE**.

Mark the appropriate column with X.

**8. Does Employment Equity form part of the business strategy?**

Strongly disagree	Disagree	Average	Agree	Strongly agree
1	2	3	4	5

**9. At Triple 'M' Mining unions are consulted on recruitment, training/development and EE policies implementation issues.**

Strongly disagree	Disagree	Average	Agree	Strongly agree
1	2	3	4	5

**10. The company has a recruitment policy.**

Strongly disagree	Disagree	Average	Agree	Strongly agree
1	2	3	4	5

**11. Triple 'M' Mining has an EE policy.**

Strongly disagree	Disagree	Average	Agree	Strongly agree
1	2	3	4	5

**12. The company has an EE budget.**

Strongly disagree	Disagree	Average	Agree	Strongly agree
1	2	3	4	5

**13. Historically Disadvantaged South African (HDSA) employees within the senior / management positions of the company are fairly represented.**

Strongly disagree	Disagree	Average	Agree	Strongly agree
1	2	3	4	5

**14. The company has met a 10% target of women as required by Law.**

Strongly disagree	Disagree	Average	Agree	Strongly agree
1	2	3	4	5

**15. The total percentage of employees with disabilities in the company is fairly represented.**

Strongly disagree	Disagree	Average	Agree	Strongly agree
1	2	3	4	5

**16. Diversity programs are used to precipitate the implementation of EE.**

Strongly disagree	Disagree	Average	Agree	Strongly agree
1	2	3	4	5

**17. Management shows commitment on the company's EE plan.**

Strongly disagree	Disagree	Average	Agree	Strongly agree
1	2	3	4	5

**18. Government officials always audit the company's EE plan.**

Strongly disagree	Disagree	Average	Agree	Strongly agree
1	2	3	4	5

## ANNEXURE I

**PART 2: QUESTIONNAIRE (To employees)**

*"AN INVESTIGATION OF AN EMPLOYMENT EQUITY PLAN – THE CASE OF TRIPLE "M" MINING"*

Mark the appropriate column with X.

**Section 1: Biographical Data**

1.	<b>GENDER</b>	MALE	FEMALE		
2.	<b>RACE GROUP</b>	BLACK MALE	WHITE MALE	WOMEN	DISABLED
3.	<b>AGE GROUP</b>	18-25	26-35	36-45	45+
4.	<b>RESIDENCE</b>	URBAN	RURAL		
5.	<b>OCCUPATION</b>				
	Union Officials	Craft & trade workers	Machine Operators	Elementary positions	
6.	<b>DISABILITY</b>	YES	NO		

**Section 2: Employment Equity Issues:**

Mark the appropriate column with X.

INDEX	STATEMENT	STRONGLY AGREE	AGREE	AVERAGE	DISAGREE	STRONGLY DISAGREE
		5	4	3	2	1
1.	EE is implemented successfully at Triple "M".					
2.	Recruitment policy is in place.					
3.	Triple "M" has an EE policy that is known by all its employees.					
4.	EE policy is posted in high visibility places.					
5.	Employees are briefed about EE policy during induction.					
6.	Black EE Designate is heading the EE.					
7.	EE Committee is in place.					

8.	EE is regarded as a business strategy and has preference like any other business strategy.					
9.	EE budget is in place.					
10.	EE is preceded by T & D initiatives.					
11.	Employees know management's EE targets.					
12.	People with disabilities are considered for recruitment & selection.					
13.	Women employment constitutes more than 10% of the workforce.					
14.	There are enough HDSA within management echelons.					
15.	Org. climate and culture is conducive to EE programs.					
16.	White males do have fears about EE programs.					
17.	White males do support the EE initiatives.					
18.	White males do resist the EE initiatives.					

# **Broad-Based Socio-Economic Empowerment Charter for the South African Mining Industry**

## **VISION**

All the actions and commitments set out below are in the pursuit of a shared vision of a globally competitive mining industry that draws on the human and financial resources of all South Africa's people and offers real benefits to all South Africans. The goal of the empowerment charter is to create an industry that will proudly reflect the promise of a non-racial South Africa.

### **PREAMBLE**

#### **Recognising:**

- The history of South Africa, which resulted in blacks, mining communities and women largely being excluded from participating in the mainstream of the economy, and the formal mining industry's stated intention to adopt a proactive strategy of change to foster and encourage black economic empowerment (BEE) and transformation at the tiers of ownership, management, skills development, employment equity, procurement and rural development;
- The imperative of redressing historical and social inequalities as stated by the Constitution of the Republic of South Africa, in inter alia section 9 on equality (and unfair discrimination) in the Bill of Rights;
- The policy objective stated in the Mineral and Petroleum Resources Development Act to expand opportunities for historically disadvantaged persons to enter the mining and minerals industry or benefit from the exploitation of the nation's mineral resources;
- The scarcity of relevant skills has been identified as one of the barriers to entry into the mining sector by historically disadvantaged South Africans (HDSA's);
- The slow progress made with employment equity in the mining industry compared to other industries.

#### **Noting that**

- It is government's stated policy that whilst playing a facilitating role in the transformation of the ownership profile of the mining industry it will allow the market to play a key role in achieving this end and it is not the government's intention to nationalise the mining industry. The key objectives of the Mineral and Petroleum Resources Development Act and that of the Charter will be realised only when South Africa's mining industry succeeds in the international market place where it must seek a large part of its investment and where it overwhelmingly sells its product and when the socio-economic challenges facing the industry are addressed in a significant and meaningful way.
- The transfer of ownership in the industry must take place in a transparent manner and for fair market value.
- That the following laws would also assist socio-economic empowerment:
  - The Preferential Procurement Framework Act (No. 5 of 2000)
  - The Employment Equity Act (No 55 of 1998);
  - The Competition Act (No. 89 of 1998) (Also ref. To the Amendment Act No. 35 of 1999 and subsequent amendments);

- o The Skills Development Act (No. 97 of 1998).

## **Therefore**

The signatories have developed this Charter to provide a framework for progressing the empowerment of historically disadvantaged South Africans in the Mining and Minerals Industry. The signatories of this Charter acknowledge: Section 100. (2) (a) of the Mineral and Petroleum Resources Development Act, which states that, to insure the attainment of Government's objectives of redressing historical social and economic inequalities as stated in the Constitution, the Minister of Minerals and Energy must within six months from the date on which this act takes effect develop a Broad-Based Socio-Economic Empowerment (BBSEE) Charter.

## **1. SCOPE OF APPLICATION**

This Charter applies to the South African mining industry.

## **2. INTERPRETATION**

For the purposes of interpretation, the following terms apply:

**Broad-Based Socio-Economic Empowerment (BBSEE)** refers to a social or economic strategy, plan, principle, approach or act, which is aimed at:

- o Redressing the results of past or present discrimination based on race, gender or other disability of historically disadvantaged persons in the minerals and petroleum industry, related industries and in the value chain of such industries; and
- o Transforming such industries so as to assist in, provide for, initiate, facilitate or benefit from the:
- o Ownership participation in existing or future mining, prospecting, exploration and beneficiation operations;
- o Participation in or control of management of such operations;
- o Development of management, scientific, engineering or other skills of HDSA's;
- o Involvement of or participation in the procurement chains of operations;
- o Integrated Socio-economic development for host communities, major labour sending areas and areas that due to unintended consequences of mining are becoming ghost towns by mobilising all stakeholder resources.

The term **Historically Disadvantaged South Africans (HDSA)** refers to any person, category of persons or community, disadvantaged by unfair discrimination before the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993) came into operation.

**HDSA Companies** are those companies that are owned or controlled by historically disadvantaged South Africans.

**Major labour sending areas** refer to areas from where a significant number of mineworkers are or have been recruited.

**Ghost towns** refer to areas whose economies were dependent on mining and

therefore could not survive beyond the closure or significant downsizing of mining activities.

**Ownership of a business** entity can be achieved in a number of ways;

- a majority shareholding position, i.e. 50% + 1 share,
- Joint ventures or partnerships (25% equity plus one share).
- Broad based ownership (such as HDSA dedicated mining unit trusts, or employee share ownership schemes).

### **3. OBJECTIVES**

The objectives of this charter are to:

- Promote equitable access to the nation's mineral resources to all the people of South Africa;
- Substantially and meaningfully expand opportunities for HDSA's including women, to enter the mining and minerals industry and to benefit from the exploitation of the nation's mineral resources;
- Utilise the existing skills base for the empowerment of HDSA's;
- Expand the skills base of HDSA's in order to serve the community;
- Promote employment and advance the social and economic welfare of mining communities and the major labour sending areas; and
- Promote beneficiation of South Africa's mineral commodities.

### **4. UNDERTAKINGS**

All stakeholders undertake to create an enabling environment for the empowerment of HDSA's by subscribing to the following:

#### **4.1 Human Resource Development**

The South African labour market does not produce enough of the skills required by the mining industry. Stakeholders shall work together in addressing this skills gap in the following manner:

- Through the standing consultative arrangements they will interface with statutory bodies such as the Mines Qualifications Authority (MQA), in the formulation of comprehensive skills development strategies that include a skills audit;
- By interfacing with the education authorities and providing scholarships to promote mining related educational advancement, especially in the fields of mathematics and science at the school level;
- By undertaking to ensure provision of scholarships and that the number of registered learnerships in the mining industry will rise from the current level of some 1200 learners to not less than 5000 learners by March 2005; and
- Through the MQA shall undertake to provide skills training opportunities to miners during their employment in order to improve their income earning capacity after mine closure.

Government undertakes that:

- In its bi-lateral relations with relevant countries, undertakes to secure training opportunities for HDSA companies' staff, as well as exchange

opportunities with mining companies operating outside of South Africa;

- Through the MQA and in collaboration with academic institutions, DME associated institutions, NGO's, and the Gender Commission, shall provide training courses in mining entrepreneur's skills;

Companies undertake:

- To offer every employee the opportunity to become functionally literate and numerate by the year 2005 in consultation with labour;
- To implement career paths to provide opportunities to their HDSA employees to progress in their chosen careers; and
- To develop systems through which empowerment groups can be mentored as a means of capacity building.

#### **4.2 Employment Equity**

Companies shall publish their employment equity plans and achievements and subscribe to the following:

- Establish targets for employment equity, particularly in the junior and senior management categories. Companies agree to spell out their plans for employment equity at the management level. The stakeholders aspire to a baseline of 40 percent HDSA participation in management within 5-years;
- South African subsidiaries of multinational companies and South African companies, where possible, will focus their overseas placement and/or training programmes on historically disadvantaged South Africans;
- Identification of a talent pool and fast tracking it. This fast tracking should include high quality operational exposure;
- Ensuring higher levels of inclusiveness and advancement of women. The stakeholders aspire to a baseline of 10 percent of women participation in the mining industry within 5-years; and
- Setting and publishing targets and achievements.

#### **4.3 Migrant Labour**

Stakeholders undertake to:

- Ensure non-discrimination against foreign migrant labour.

#### **4.4 Mine Community and Rural Development**

Stakeholders, in partnership with all spheres of government, undertake to:

- Co-operate in the formulation of integrated development plans for communities where mining takes place and for major labour-sending areas, with special emphasis on development of infrastructure.

#### **4.5 Housing and Living Conditions**

Stakeholders, in consultation with the Mine Health and Safety Council, the Department of Housing and organised labour, undertake to:

- Establish measures for improving the standard of housing including the upgrading of hostels, conversion of hostels to family units and the promotion of home ownership options for mine employees; and
- Establish measures for improving of nutrition of mine employees.

#### **4.6 Procurement**

Procurement can be broken down into three levels, namely: capital goods; services; and consumables.

Stakeholders undertake to give HDSAs a preferred supplier status, where possible, in all three levels of procurement. To this end stakeholders undertake to:

- Identify current levels of procurement from HDSA companies;
- Commit to a progression of procurement from HDSA companies over a 3 to 5-year time frame reflecting the genuine value added by the HDSA provider;
- Encourage existing suppliers to form partnerships with HDSA companies, where no HDSA Company tenders to supply goods or services; and
- Stakeholders commit to help develop HDSA procurement capacity and access Department of Trade and Industry (DTI) assistance programmes to achieve this.

List of suppliers: It is envisaged that information on all HDSA companies wishing to participate in the industry will be collected and published. All participants in the industry will assist the DTI in compiling such a list that will inter alia be published by government on the Internet and updated regularly.

#### **4.7 Ownership and Joint Ventures**

Government and industry recognise that one of the means of effecting the entry of HDSA's into the mining industry and of allowing HDSA's to benefit from the exploitation of mining and mineral resources is by encouraging greater ownership of mining industry assets by HDSA's. Ownership and participation by HDSA's can be divided into active or passive involvement as follows:

##### **Active involvement:**

- HDSA controlled companies (50 per cent plus 1 vote), which includes management control.
- Strategic joint ventures or partnerships (25 per cent plus 1 vote). These would include a Management Agreement that provides for joint management and control and which would also provide for dispute resolution.
- Collective investment, through ESOPS and mining dedicated unit trusts. The majority ownership of these would need to be HDSA based. Such empowerment vehicles would allow the HDSA participants to vote collectively.

##### **Passive involvement:**

- Greater than 0 percent and up to 100 percent ownership with no involvement in management, particularly broad based ownership like ESOPs.

In order to measure progress on the broad transformation front the following indicators are important:

- The currency of measure of transformation and ownership could, inter alia, be market share as measured by attributable units of South African production controlled by HDSA's.
- That there would be capacity for offsets which would entail credits / offsets to allow for flexibility.
- The continuing consequences of all previous deals would be included in calculating such credits/offsets in terms of market share as measured by attributable units of production.
- Government will consider special incentives to encourage HDSA companies to hold on to newly acquired equity for a reasonable period.

In order to increase participation and ownership by HDSA's in the mining industry, mining companies agree:

- To achieve 26% HDSA ownership of the mining industry assets in 10 years by each mining company; and
- That where a company has achieved HDSA participation in excess of any set target in a particular operation then such excess may be utilised to offset any shortfall in its other operations. All stakeholders accept that transactions will take place in a transparent manner and for fair market value. Stakeholders agree to meet after 5-years to review the progress and to determine what further steps, if any, need to be made to achieve the 26% target.

#### **4.8 Beneficiation**

This Charter will apply to mining companies in respect of their involvement in beneficiation activities, specifically activities beyond mining and processing. These include production of final consumer products.

Mining companies will be able to offset the value of the level of beneficiation achieved by the company against its HDSA ownership commitments.

Mining companies agree to:

- Identify their current levels of beneficiation.
- Indicate to what extent they can grow the baseline level of beneficiation.

#### **4.9 Exploration and Prospecting**

Government will support HDSA companies in exploration and prospecting endeavours by, inter alia, providing institutional support.

#### **4.10 State Assets**

Government will ensure compliance with the provisions of this Charter and be

exemplary in the way in which it deals with state assets.

#### **4.11 Licensing**

To facilitate the processing of licence conversions there will be a scorecard approach to the different facets of promoting broad based socio economic empowerment in the mining industry. This scorecard approach would recognise commitments of the stakeholders at the levels of ownership, management, employment equity, human resource development, procurement and beneficiation. These commitments have been spelt out in sections 4.1 to 4.9 above.

The HDSA participation required to achieve conversion within the five year period on a company specific basis will be specified in the score-card, hereto attached as Annexure A.

#### **4.12 Financing Mechanism**

The industry agrees to assist HDSA companies in securing finance to fund participation in an amount of R100 billion within the first 5-years. Participants agree that beyond the R100 billion-industry commitment and in pursuance of the 26 per cent target, on a willing seller - willing buyer basis, at fair market value, where the mining companies are not at risk, HDSA participation will be increased.

#### **4.13 Regulatory Framework and Industry Agreement**

Government's regulatory framework and industry agreements shall strive to facilitate the objectives of this Charter.

#### **4.14 Consultation, Monitoring, Evaluation and Reporting**

It is recognised that the achievement of the objectives set out herein entails an ongoing process.

Companies undertake to report on an annual basis their progress towards achieving their commitments, with these annual reports verified by their external auditors. A review mechanism will be established which again provides flexibility to the company commitments.

- Parties hereto agree to participate in annual forums for the following purposes:
- Monitoring progress in the implementation of plans;
- Developing new strategies as needs are identified;
- Ongoing government/industry interaction in respect of these objectives;
- Developing strategies for intervention where hurdles are encountered;
- Exchanging experiences, problems and creative solutions;
- Arriving at joint decisions;
- Reviewing this Charter if required.