

**A SOCIAL WORK STUDY ON THE IMPACT OF LEGISLATION ON THE
PRACTICE OF EMPLOYEE ASSISTANCE PROGRAMMES IN THE SOUTH
AFRICAN MINING INDUSTRY**

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SUMMARY

This research project was concerned with the description of the Employee Assistance Programme (EAP) mainly in the South African mining industry. The focus was on the impact of legislation on the practice of EAP in the South African mining industry. The researcher used a qualitative approach in this applied research study. The researcher employed a phenomenological strategy within the exploratory study. This was done through the utilization of semi-structured interviews.

The researcher first looked at the evolvement of EAP as a field of practice, following by a discussion of the current state of the EAP in the South African mining industry. The researcher continued by discussing relevant pieces of legislation that have a direct influence on the practice of EAP in the mining industry.

The second part of the project was the empirical study. Ten respondents were drawn through the process of purposive sampling. The researcher mainly dealt with the views of four Human Resource practitioners and six EAP practitioners in the mining industry. Through this exercise, the researcher looked at what the practitioners' views were on the role of legislation as specifically to two issues. The first was the general provision of EAP services. The second was the stipulation of the legislation according to them, pertaining the practicalities of the provision of the service.

The researcher's conclusions regarding impact of legislation on the practice of EAP in the South African mining industry can be presented in the following manner:

- Legal provisions have played a significant role towards the development of the field of EAP in general;*
- Other implications have been difficult to implement for mostly two main reasons. The first is that they are too general and therefore are seen to*

mean different things to different people. The second is that the people who matter most do not know them. These are either human resources practitioners, occupational social workers and/or EAP professionals or union and/or employee representatives.

KEY CONCEPTS

The Employee Assistance Programme (EAP)

Impact

Legislation

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CHAPTER ONE

INTRODUCTION AND RESEARCH METHODOLOGY

1.1 INTRODUCTION

The mining industry has played a significant role in the birth and evolution of EAP as a field of practice in South Africa. As such, Masi (2000: 317) submitted that “the start of structured occupational counselling services within an industrial setting was first noted by the Chamber of Mines (COM) of South Africa”, the body that coordinates the different mining houses in South Africa. She concluded by stating that in the mid-1980s the concept of EAP was officially accepted and introduced in two of the main mining regions through the COM.

Following this evolution of EAP as a field of practice, there is consensus amongst a number of authors (compare Masi 2000, Du Plessis 1990, 1991, 1992, Maiden 1992 and Terblanche 1992.) that the latter part of the 1980s was characterized by an unprecedented development of EAPs in the country. The evolution of EAP practice between the 1980s and 1990s resulted in a lot of dialogue amongst practitioners in the field.

The 1990s saw a number of changes in the country’s social, economic, political and legislative framework. These changes in the mining industry, for instance, were characterized by the COM’s selling off its EAP service, according to Masi (2000: 318). Amongst other things, this resulted in the fragmentation of EAP service in the industry. This fragmentation, in turn, led to the different mining houses practicing their various forms of services to their different populations. As a result, the uniformity that was provided by the COM in service delivery came to an end. Today you find a variety of names given to the services provided to employees in the mining industry. The names vary

from EAP services, Industrial Social services, Psychosocial services, mental health services or occupational social work service.

The legal, social and economic changes referred to above, brought about unprecedented job losses in the mining industry. These cuts in the human resources of companies also meant cuts in staff members in the EAP services and the closures of other services. Thus we now have another major shift in the practice of EAP in the South African mining industry.

The results of changes in the form of, firstly, lack of uniformity in the provision of services, secondly, the provision of services by other houses and lack of them in others, as well as the different names given to these services triggered some interest in the researcher.

The researcher believes that the law, in the form of legislation, provides the minimum operational standards that companies should meet. To support the researcher's paradigm, Erasmus, van Wyk and Schenk (2000: 586), provide that legislation is "a very basic starting point when it comes to promoting and maintaining employee wellness in the workplace".

Authors like Masi (2000) and Grobler, Wörnich, Carrell, Elbert and Hatfield (2002) have identified legal provisions as some of the factors that have led to the evolvement of EAPs in South Africa currently. The relationship between EAP practice and legislation has not been explored in the mining industry. In this study the researcher will only concentrate on such legislation that is seen to impact directly on the practice of EAP. The selection of the Acts will be determined by their relevance to the core functions of the EAP as described by the Standards Committee of EAPA –SA.

1.2 MOTIVATION FOR THE CHOICE OF THE STUDY

Grobler et al. (2002:450) observed, "In South Africa, one of the biggest expenses in companies today is in health costs. This alone gives employers more than adequate reason to be concerned about health and safety. Other reasons include various legal requirements, employer goodwill and the increased employee productivity and morale that result from health programmes. The array of programmes available to employers seeking to reduce healthcare costs includes wellness programmes, physical fitness programmes, smoking cessation programmes, employee assistance programmes and substance-abuse programmes".

Masi (2000:318) referred to legislative requirements as one of the drives of EAPs in South Africa. This she did by stating "the recognition that the process and rights embedded within the EAP system can play a major supportive role in the application of the requirements embedded in the Labour Relations Act and the Employment Equity Act".

The researcher concurs with the statements of the authors above mentioned as they relate to the relationship between the practice of EAP and some legislative provisions.

In spite of these provisions, the relationship between the two concepts can be explored further. This to actually come up with absolute concrete clarity on the exact impact of the legislative provisions to the practice of EAP especially in the mining industry.

Irrespective of the positive developments regarding legislative provisions as they relate to the practice of EAP as observed by the authors quoted above, the researcher's observation of EAP practice in the mining industry is the exact opposite of what is reported in other companies. For instance the period

that is described as being characterized by the boom of EAPs in other areas was characterized by the closures and conversions of EAP services in the various mining houses.

These closures and conversions have led, for instance between 1998 and 1999, to the retrenchment of 33 staff members at AngloGold and Goldfields, some of the country's pioneers in the EAP field. Thus, according to the researcher, it seems necessary to explore the legislative impact on the practice of EAP practice in the South African mining industry.

1.3 PROBLEM FORMULATION

"Perception of a problem is helpful when introducing change. However, dismay over a problem does not, by itself, produce change. Change occurs only when several people have the same vision and pull together to create that vision. The EAP field needs the dialogue and action to create that vision" (Wenzel, 1994:23). This statement, as well as the state of affairs of EAP practice in the South African mining industry currently as presented briefly in the introduction, is tantamount to a call for action by those interested in the welfare of EAP practice in this industry.

Problem formulation can be described in terms of the discussions of Babbie (1998:336-346) and Fouché (2002:104-113). The conclusion the researcher draws from these discussions is that problem formulation is a process through which a researcher uses a number of factors like the unit of analysis and the choice of goals and objectives of his study to define a specific area upon which his research is going to focus.

For the envisaged study, the researcher's units of analysis were basically the provisions of various pieces of legislation referring mainly to EAP practice in general. The fact that EAP practice is, in a way, a result of the provisions of the law in South Africa generally cannot be disputed as shown in the previous

section. Laws like the South African Constitution (Act 108 of 1996), and the Labour Relations Act (Act 106 of 1995), are among the pieces of legislation that the researcher is referring to. The pieces of legislation referred to above, should have the same impact on the practice of EAP in the mining industry as they have in other industries.

In spite of the above provisions, it is not unusual to find that there are some mining houses that do not provide any form of EAP services to and for their employees. The question that arises in the researcher's mind is – for whom then is the legislation promulgated if we have this state of affairs?

In 1998, AngloGold transformed its EAP department – one of the best this country has ever produced, a pioneer in the field of EAP – into a psychosocial department. During the process leading to this, at least twenty staff members lost their jobs due to downsizing and retrenchment. At almost the same time, in 1999, Goldfields of South Africa closed down its EAP department at its head office in Johannesburg and at its two major operations, Westonaria and Carletonville on the West Rand, thereby retrenching 13 staff members. In September 2002, Sasol outsourced its EAP department at its Mpumalanga plants. In the process, the EAP staff members either left the company or were utilized elsewhere in the company.

The scenarios presented above, compared to what is stated by Grobler et al. (2002) and Masi (2000) earlier on provide the researcher with some conflicting observations. The first is that the time period referred to as being characterized by the growth of EAPs in other industries meant the decline of services in the mining industry. Secondly, even in areas where services continued to be provided, there are significant imbalances in terms of the services provided. For instance, issues like the staffing of the services, the names provided to the services, the nature of services provided are so different as to other companies.

The research problem for this study was as follows:

There is a need to investigate the impact of legislation on the practice of EAP in the South African mining industry, as the impact of legislation may lead to the vulnerability of practitioners in the field.

1.4 GOAL AND OBJECTIVES OF THE STUDY

Fouché (2002:107) defines a goal as an end toward which an effort or ambition is directed. The same author defines an objective for a research project as a more concrete, measurable and more speedily attainable conception of such end toward which effort or ambition is directed; the actual steps that the researcher takes in order to attain the dream.

Considering the two definitions, the researcher's goal for this study was to explore the impact of legislation on the practice of EAP in the South African mining industry.

The objectives of this study were the following:

- *To determine the evolvement of EAP as a field of practice and relevant legislation in the South African mining industry within a theoretical framework.*
- *To investigate the impact of legislation on the knowledge, experience and involvement of practitioners in the practice of EAP in the South African mining industry.*
- *To formulate recommendations for the role-players in the mining industry.*

1.5 THE RESEARCH QUESTION

Royse (1995:18-19) indicates that a researcher, before conducting research, must limit himself to one question or at least one set of related questions or one specific idea to investigate. Sources of research questions vary, those for

social work research come from two sources according to Royse (1995:19) – deduction and induction. He emphasizes, “Unlike research questions in other disciplines, those in social work generally stem from problems that actually need to be solved. We tend as professionals to be inductive rather than deductive thinkers because our research tends to have more of an applied focus”.

Presently, very little is known about the impact of legislation on the practice of EAP in the South African mining industry. This conclusion, the researcher bases on the scarcity of literature in this regard. It is because of this reason therefore that the researcher is of the opinion that an exploration of the impact of legislation on the practice of EAP can play a major role in the continuing of the description of the current state of EAP practice in the South African mining industry.

The research question for this study was:

What is the impact of legislation on the practice of Employee Assistance Programmes in the South African Mining industry?

1.6 RESEARCH APPROACH

In this study, the researcher used the qualitative approach. Creswell (1998:15) defines qualitative research as “an inquiry process of understanding based on distinct methodological traditions of inquiry that explore a social or human problem. The researcher builds a complex, holistic picture, analyzes words, reports, detailed views of informants, and conducts the study in a natural setting.” Babbie and Mouton (2001:646) on the other hand, defined a qualitative research approach as a “generic research approach in social research according to which research takes its departure point as the insider perspective on social action. Qualitative researchers attempt always to study human action from the insider’s perspective. The goal of qualitative research is defined as describing and understanding rather than the explanation and

prediction of human behaviour. The emphasis is on methods of observation and analysis that stay close to the research subject”.

The researcher’s reason for the choice of this approach was more substantiated by the works of Royce (1995:284-286), Creswell (1998:16-17) and Fouché and Delpont (2002a: 80). These authors describe the characteristics of the qualitative research approach and are directly linked to the objectives of this study as follows:

- *To gain an understanding of the impact of legislation on the practice of EAP in the South African mining industry by means of data collection.*
- *Semi-structured interviewing was used as a method of acquiring data.*
- *The study tried to provide detail and depth to the profession’s understanding of the impact of legislation on the practice of EAP in the South African mining industry.*
- *The researcher was able to report on the impact of legislation on the practice of EAP in the South African mining industry from the point of view of the respondents.*
- *The researcher was committed to spend a great deal of time in capturing and analyzing data to bring answers to the research problem.*

1.7 TYPE OF RESEARCH

The type of research according to Fouché (2002:108-109) is determined by the results that the research project is aimed at achieving. She continues to say that these can be either basic, whereby the researcher is aiming at developing new theory, a foundation for knowledge and understanding, or it can be applied whereby the researcher wishes to provide certain answers to problems in a field or to help practitioners accomplish specific tasks.

Applied research was employed as a type of research in this study. The researcher’s reasoning for this type of research emanated from two areas

referred to above. The first one related to the fact that EAP professionals and/or practitioners have found themselves to be the first victims of downsizing in the mining industry. The second one was that not all of South African mining houses provides EAP services to their employees. This study intended to provide recommendations in terms of addressing these problems for the benefit of all parties involved.

1.8 RESEARCH DESIGN

Babbie, Mouton, Vorster and Prozesky (1998:647) define research design as a plan or structured framework of how a researcher intends conducting the research process in order to solve the research problem.

Fouché (2002: 271) argues that terms and/or concepts such as strategies, methods, traditions of inquiry and approaches are all related to the term design. The term strategy or strategies are utilized for the equivalent of the so-called research design in the quantitative approach. Strategy thus refers to the opinion available to the qualitative researcher to study certain phenomena according to certain formulas “suitable to his/her specific research goal” (Fouché, 2002: 271). For the purpose of this study, the researcher referred to a research strategy.

The researcher employed exploration as a strategy for this study, to satisfy his curiosity and desire for a better understanding of a phenomenon. (Babbie 1998:90).

1.9 RESEARCH PROCEDURE AND STRATEGY

A semi-structured interview schedule was used as data collection method in the study. Semi-structured interviews are conversations with a purpose according to Greeff (2002:298). This author elaborates further by saying that at the root of semi-structured interviewing is an interest in understanding the

experience of other people and the meaning they make of that experience. Of particular importance to the researcher was the fact that these interviews were used to determine individuals' perceptions, opinions, facts and forecasts to initial findings and potential solutions.

Another definition of semi-structured interviews can be found from Babbie and Mouton (2001: 289). These authors describe semi-structured interviews within the field of qualitative interviewing. They define these interviews as “an interaction between an interviewer and a respondent in which the interviewer has a general plan of inquiry but not a specific set of questions that must be asked in particular words and in a particular order”. They further describe them as essentially conversations in which the interviewer establishes a general direction for the conversation and pursues specific topics raised by the respondent.

The researcher views semi-structured interviews as the data-collecting tool for this study for a number of reasons. Paramount among these is the fact that there is no sequential order for the questions. Every issue raised by the respondent can therefore be pursued without any limitation to the researcher. Secondly, through these interviews the researcher is able to be receptive to the richest of data for the respondent does most of the talking. In addition to this, the researcher is at liberty to follow-up on and probes the answers up until his curiosity is totally quenched.

DATA COLLECTION AND RECORDING

Data collection was done through the utilization of a semi-structured interviews schedule. As such, the measuring instrument was constructed in line with the format proposed by Greeff (2002:299). This format provided that questions should consist of three forms of questions namely:

- Main questions – *these questions helped the researcher to start and guide*

the conversation.

- **Probes** – *these questions assisted the researcher to get clarity and further explanations from the respondents.*

- **Follow-up questions** – *they helped the researcher to understand the meanings of answers to main questions.*

MANAGING DATA

De Vos (2002:339) defines data analysis as a process of bringing order, structure, and meaning to the mass of collected data.

In line with the provisions of De Vos (2002: 343), the researcher captured specific words from the respondents. Responses with similar words or words denoting the same meaning were then stored in the same files, for easy access when analyzing it later on. The data collected above was organized and grouped in various headings and sections according to the provisions of the legislations and the responses of respondents (Greeff, 2002: 299).

READING AND WRITING MEMOS

With the data organized under specific words, the researcher moved on to listen to the tapes. This process is tantamount to what De Vos (2002: 343) refers to as the reading and re-reading of the data up to a stage when the researcher becomes familiar with the data in an intimate manner. During this process, the researcher noted under the same files matters that had the same meaning. New names were identified in addition to the ones referred to above.

This was the process of breaking data down into smaller pieces by reading the responses of participants and studying the sections identified. Memos were written that clearly defined the specific viewpoints of respondents as well as the areas in the legislation that assisted in the answering of the research question (Greeff, 2002: 299).

DESCRIBING, CLASSIFYING AND INTERPRETATION

The researcher classified data with the aim of giving meaning to it. Classifying, for Creswell (1998: 144), means the process that the researcher engages in by taking the particular characteristics of data and identifying in it categories, themes or dimensions of information. In the researcher's case, this was done in the form of themes. A number of themes were identified by the researcher to accommodate various elements that were identified through groupings of data under certain words. Sub-themes were also identified and information supplied under them with the aim of assisting the researcher to provide concrete interpretation to the data. This whole process resulted in the development of a chapter to present the data as the ultimate result of the process. (Greeff, 2002: 271).

REPRESENTATION

This is the final stage of data analysis whereby the researcher compiled the findings into a document.

1.10 PILOT STUDY

1.10.1 LITERATURE STUDY

According to Royse (1995:20-27), Babbie (1998:112) and Fouché and Delport (2002b: 266-267) a literature review saves a lot of unnecessary work and prevents the researcher from wasting time studying a problem that has already been thoroughly investigated. A literature study can further provides the researcher with fertile data to compare his findings, and the review of literature will assist the researcher to establish what has been researched about the topic, what the findings were, how consistent the findings were, and

the flaws that can be remedied.

The main purpose of the literature study remains the broad orientation of the prospective researcher with regard to the investigation, and it can alert him/her to certain matters for the main investigation (Strydom, 2002a: 212).

For this study, the researcher utilized the following as sources of literature:

- *Scientific books*
- *Articles in various journals*
- *The internet*
- *Dissertations and theses*
- *Government Gazettes and Acts*
- *Information from presentations, workshops and symposia.*

1.10.2 CONSULTATION WITH EXPERTS

Strydom and Delport (2002b: 337) provide that consultation with experts in qualitative research is important for identifying themes for further investigation in order to do a valid literature review with a view to verifying findings. The researcher also assumed that, in addition to this, consultation with the experts provided the researcher with an opportunity to test whether his study provided any value to the profession.

The following experts have been consulted during the research process:

- *Mr Buti Kulwane – a former EAP practitioner at AngloGold – West Rand. He has worked for AngloGold as an EAP professional for ten years. He is now a manager of Carletonville Home Based Care.*
- *Mr Charles Palm – a Case Co-ordinator at Mponeng Mine in Carletonville. He has been working with EAP practitioners for the past twenty years previously as a human resources practitioner.*
- *Ms Portia Webb – an EAP practitioner at Anglo-Platinum Mines, Rustenburg for the past ten years.*

- Mr James Muller – a human resources superintendent at Beatrix Gold Mine in the Free State. He has worked in two other companies in the same position taking his years of expertise to thirty.

The experts referred to areas such as firstly, EAP practitioners who have always been the first victims of downsizing in companies. Secondly, companies are continuing to lose valuable employees due to problem areas that could be addressed through the employment of EAP practitioners. Thirdly, they said the study would help in answering the question of whether the EAP is a core requirement or a luxury to companies.

1.10.3 FEASIBILITY OF THE STUDY

Anglogold Health Services has granted permission to conduct the study. There were not any extra costs required for the completion of the study. The researcher incurred all the costs. Prospective respondents have been identified and they have availed themselves for participating in the study.

1.10.4 PILOT TEST OF MEASURING INSTRUMENT

Strydom (2002a:215) indicated that the pilot study offers an opportunity to test the interview schedule with, for an example, the kind of interviewer and the kind of respondent that will be utilized in the main investigation. The main value remains that modifications can be made to the measuring instrument after the pilot study and prior to the main investigation.

Also, Seidman in Greeff (2002:300) urges researchers to build into their proposals a pilot venture in which they try out their interviewing designs with a small number of participants.

In this study, the researcher conducted interviews with two respondents who did not take part in the main study.

1.11 DESCRIPTION OF THE RESEARCH POPULATION, BOUNDARY OF SAMPLE AND SAMPLING METHOD

THE RESEARCH POPULATION

The research population may be defined, according to Babbie (1998:109), as that group of people about whom the researcher wants to draw conclusions. Strydom and Venter (2002:198), on the other hand, define a research population as the totality of persons, events, organization units, case records or other sampling units with which the research problem is concerned. The researcher would describe the research population for the proposed study as EAP practitioners and/or professionals, occupational social workers and human resources practitioners in the mining industry.

For EAP practitioners and/or professionals and Occupational Social Workers, the population comprised of practitioners at AngloGold Health Services in the North West, Harmony mines in Gauteng, Mpumalanga and the Free State. The researcher has identified ten practitioners.

Human resources practitioners were drawn from AngloGold in the Gauteng region. Twenty practitioners in total staff the human resources departments in the company's operations in the Province.

The population for this research study consisted of 56 practitioners.

THE BOUNDARY OF SAMPLE

A sample is a small portion of the total set of objects, events or persons that together comprise the subject of a study, according to Strydom and Venter (2002:199). For this study, the sample was composed in the following manner:

- *Ten male and female respondents between the age of 26 and 50 years, with at least five years working experience.*
- *For this study, practitioners who have a working knowledge of EAP in the mining industry were part of the study.*

THE SAMPLING METHOD

Non-probability sampling with a purposive sampling technique was used as a sampling method in selecting participants. This is a type of sampling, according to Strydom and Venter (2002:207) that is based on the judgement of the researcher. They continue to say that only components of the population that are seen to contain the most characteristics are selected as a sample.

For the EAP practitioners and/or professionals and Occupational Social Workers, a sample of seven was used. For Human Resources practitioners, a total of three was used as a sample. Ten people were drawn as a sample for this study.

1.12 ETHICAL ISSUES

The researcher acted in the most ethical manner in conducting the study. To ensure this, the researcher will adhere to the following ethical principles as provided by Royse (1995:308-315) and Strydom (2002b: 64-73):

- **ACTIONS AND COMPETENCE OF THE RESEARCHER**

This principle is actually aimed at ensuring that researchers generally act ethically by being competent and adequately skilled to undertake their proposed studies. By ensuring that the study was run in an ethically correct manner the researcher adhered to this as he had an obligation to do so. The

researcher further acted in an objective way and refrained from making value judgements.

To ensure adherence to this principle, the researcher:

- Conducted the study within the limits and guidelines of the Department of Social Work at the University of Pretoria and the Social Work profession in general.*
- The researcher acted objectively and avoided use of personal judgements and beliefs when conducting the study.*

- **INFORMED CONSENT**

The intention of this principle is that all people participating in a research project should freely decide to do so. Respondents should never be coerced to participate in the study, as this would be totally against voluntarism, which is a driving principle in the field of research. In order to ensure this principle, respondents must be fully aware of the aim of the study and their role in the study. The respondents retained their right to self-determination and actually reserved the right to withdraw from the study at any stage they wished.

With regards to this study, the researcher ensured that participation in the study was based on their voluntarily acceptance of an invitation to do so. This emanated from their having been informed of the aim of the study. Further, the respondents were requested to sign a consent form.

- **VIOLATION OF PRIVACY/ANONYMITY/CONFIDENTIALITY**

This principle ensures that no harm is done to respondents because of the information they have imparted as a result of their participation in the study. Some of the ways of ensuring this were firstly, to allow the respondents to respond anonymously. Secondly, by protecting the respondents by means of,

for example, separating identifying particulars of respondents from the research data. Also, by withholding all the information that would otherwise have made it possible for the public to identify the respondents, the researcher ensured confidentiality.

As far as this principle applies to this study, the researcher kept the names of respondents and their views regarding the study matter in strict confidentiality.

- **DECEPTION OF RESPONDENTS**

This actually happens when respondents in a research project are misdirected regarding the facts of the study. Amongst other things, it involves withholding information or giving incorrect information in order to ensure their participation in the study. In terms of the ethics of scientific research, this is not acceptable for the obvious results it may have.

The respondents in this study were given the truth and real facts about the study. Their participation in the study was not forced onto them in the form of false promises and misleading from the researcher. No reason for deception existed and it did not occur in this study.

- **HARM TO RESPONDENTS**

Researchers have a responsibility to minimize harm and/or risk of harm to respondents. Respondents must not have feelings of worthlessness because of participating in a research project.

The researcher ensured that the respondents were aware of the value of their participation in this study. Secondly, in line with the principle of privacy and confidentiality, the particulars of the respondents were protected thereby preventing any possibility of harm.

- **DEBRIEFING OF RESPONDENTS**

There was no emotional harm inflicted on the respondents as a result of participating in this study. There was thus no need on the part of the researcher to provide any form of debriefing to the respondents. It is worth noting, though, that some of the respondents raised concerns regarding the possibility of victimization because of participating in this study. This was addressed through the explanation and the use of such ethical principles as confidentiality, anonymity and prevention of harm to them.

- **CO-OPERATION WITH CONTRIBUTORS**

Contributors can range from sponsors, lecturers and fellow-students to respondents in the research project and the public with an interest in a particular field. Co-operating with them can play a very important role for research in general and to the researcher in particular. Two things make this principle even more important for social research. The first is that it shows a high level of professionalism on the part of the researcher. The second is that it opens room for future sponsors and willingness from various contributors to help current researchers and others following in their footsteps.

- **RELEASE OR PUBLICATION OF RESULTS**

Research is generally aimed at two things. The first is to develop new paradigms and theories for a particular profession. The second is to answer specific practice related questions that have a direct impact on the practice of a particular profession. By releasing the results, the researcher ensured that the public became aware of the findings of a particular project. This process was handled in a most objective and accurate manner.

To ensure the above matters, at least the following issues must be taken into

consideration:

- *The final report must be unambiguous and should contain all essential information about the study.*
- *Plagiarism must be avoided.*
- *Shortcomings and errors must be admitted.*
- *Respondents must be informed about the findings in an objective manner.*

In as far as this study is concerned, the results will be made available to the public. This will be done in line with the provisions and requirements of the Department of Social Work of the University of Pretoria. The results will, as such, be presented in the form of a dissertation for the MSD (EAP) degree. In this process, the following will be adhered to:

- *The report will be accurate, clear and contain all the essential information from the study.*
- *Plagiarism will be avoided in the strongest possible way by quoting all the material used in the study.*

1.13 DEFINITION OF KEY CONCEPTS

THE EMPLOYEE ASSISTANCE PROGRAMME (EAP)

The Standards Committee of EAPA-SA (1999:05) defines an Employee Assistance Programme (EAP) as a work based intervention programme aimed at the early identification and/or resolution of both work and personal problems that may adversely affect work performance. These problems may include, but are not limited to health, marital, relationships, family, financial, substance abuse, or emotional concerns.

Alberts (1998:143) defines an EAP as a programme designed to identify and treat the problems that are affecting employee productivity or hindering the personal well being of employees.

The researcher defined an EAP as any type of programme for employees, either internal or external to the workplace, by the employer or employee organization. Its aim is to identify and treat employees who experience such psychosocial difficulties like family, marital, relationship, mental, emotional, drug abuse, and financial, which adversely affect their work performance and social functioning.

IMPACT

Onions (1992: 1057) defines an impact as an act of impinging or to impress or to stamp on something.

The Dictionary Unit for South African English (2002: 578) defines an impact as a marked effect or influence or an act of having a strong effect.

For this particular study, the researcher wishes to define an impact as an act or process of having a great impression on something. The researcher will use this concept in relation to the impression that the Acts of parliament have on the practice of EAP.

LEGISLATION

Legislation is defined by Onions (1992: 1196) as the action of making law or of lawgiving or anything pertaining to law.

The Dictionary Unit for South African English (2002: 662), on the other hand, refers to legislation as anything that has to do with law, considered collectively or an act of proposing law.

The researcher will refer to the collection of acts that have everything to do with the process of making law as legislation. These acts must have some form of control over the management and control of people.

1.14 CONTENTS OF THE RESEARCH REPORT

The contents and format of the report can be presented as follows:

- ◆ **CHAPTER 1** *Introduction and Research Methodology*
- ◆ **CHAPTER 2** *Literature study on the evolvement of EAP as a field of practice with specific reference to South Africa.*
- ◆ **CHAPTER 3** *A literature review on certain pieces of legislation relevant to the practice of EAP in the mining industry.*
- ◆ **CHAPTER 4** *The empirical study, analysis and interpretations.*
- ◆ **CHAPTER 5** *Conclusions and recommendations.*

1.15 LIMITATIONS OF THE STUDY

Amongst a number of challenges that were met during the process of conducting this study, the first obstacle was the initial unwillingness of some prospective respondents to participate in the study.

The geographic location of the researcher also had a negative effect to the completion of the study. It was difficult to meet on a personal level with my supervisor. The researcher is very much grateful to his supervisor who, at times went out of her way to make these meetings possible.

1.16 SUMMARY

This chapter has described and outlined the research methodology used in the study. The next chapter presents an overview of the literature on the

evolvement of Employee Assistance Programmes as a field of practice in South Africa.

CHAPTER TWO

THE EVOLVEMENT OF EAP AS A FIELD OF PRACTICE IN SOUTH AFRICA

2.1 INTRODUCTION

This is the first of the two chapters on literature review for this study. The researcher has decided to start with the literature review, in order to allow the views of other authors to guide and therefore provide some form of framework for the study (Creswell, 1998: 169). In line with the provisions of Fouché and Delport (2002: 268), the literature review in this study is used to form a paradigm for the analysis and presentation of data.

In this chapter, the researcher is going to discuss the evolution of EAP as a field of practice in South Africa. The researcher is of the opinion that discussions in this chapter are very relevant to the final answer to the research question. This is mainly based on the fact that, as the discussion of the researcher will show in this chapter, the impact of legislation on the practice of EAP in general may have their roots in the actual evolution of EAP as a field of practice. Therefore, through the discussions in this chapter, the researcher will try to highlight the history of the impact of legislation to the delivery of human services. These discussions will eventually lead to the examination of the impact of legislation on the practice of EAP in the South African mining industry in the following chapter.

The discussions in this chapter will be divided into two sections. The first section will deal with examination of the history of human services in the South African workplaces – mainly occupational social work. The inclusion of this part is based on the reality that, in the view of the researcher, workplaces

have influenced almost all the developments that have taken place in this country. To support the argument of the researcher in this regard, Terblanche (1992:18) observed “it would be impossible to sketch the historical development of EAPs in South Africa, without examining the development of occupational social work.”

The second section of the discussions in this chapter will actually deal with the evolvement of EAP as a field of practice in South Africa. To a lesser extent, the researcher will pay attention to some of the current forces of EAPs in this country. The researcher will finally pay attention to the current EAP practice in the mining industry. The conclusion of this chapter will lead to the discussion of the impact of legislation on the practice of EAP in the South African mining industry.

2.2 THE HISTORY OF HUMAN SERVICES IN SOUTH AFRICAN INDUSTRIES

Du Plessis (2001:97-98), has submitted that the history of Occupational Social Work (OSW) in South Africa can be viewed from two contexts. The first context describes OSW from the social work point of view. This is concerned with the methods of practice, the schools of thought and related issues to the delivery of the social work service; the core technology in the delivery of services from the social work point of view. The second context deals with the development of OSW from the point of view of a worker in a workplace. This context is based on the assumption that workers experience problems. This, in turn, necessitates the provision of social services in the workplace to support and/or develop workers to overcome problems. This, according to the researcher, helps the respective worker/s in two ways. On the one hand, the worker is helped to improve his/her work performance and on the other hand the worker is helped to stabilize probable negatively affected social functioning as a result of the problem/s being experienced.

The researcher's discussion will, although based on both contexts, pay more attention to the context that relates to the provision of social services to human beings as workers. To better able the discussions of the researcher, the history of OSW will be divided into three separate phases thereby showing the political, legal as well as the economic development of the country.

THE PERIOD 1930 - 1948

According to Van Rensburg, (1998:04-06), politically and economically, this period was characterized, firstly, by the continuation of urbanization which had started in the early 1900s. Urbanization was the result of the need for employment. The major employers at the time were the mines. People were therefore moving to look for jobs in the mining industry. Some were with their families while others had left their families behind. Secondly, this period also saw the end of the Second World War and the returning of the country's soldiers who were deployed in Northern Africa and Europe. Most of these soldiers came back to experience a number of problems. These problems, according to Du Plessis (2001:98), started from material needs to adjustment problems, personal problems and posttraumatic syndromes.

This is the period that, according to Du Plessis (2001:98), saw the birth of the first state welfare system in South Africa. These services, in line with the legal provisions of the time, were targeting only white members of society; aimed at solving the "massive white problem". (Masi 2000:315). Secondly, this period saw the appointment of social workers in state-run railway services, according to Du Plessis (2001:98). These social workers were white in order to cater for the population group they were to service.

THE PERIOD 1948 – 1980

Politically and legally, this period, according to Van Rensburg (1998:06-07), saw the voting into power of the National Party and the institutionalization of

racial discrimination. This came with the introduction of apartheid as the government's policy. In order to ensure that the government's policy worked, a number of pieces of legislation were passed during this time. But of major importance during this time, were the major revolutions in the country's schools and workplaces to fight against the policies of the government. These developments culminated in the major changes that were later to take place in the country.

On the field of OSW, according to Du Plessis (2001:98), this period saw the introduction of social services to other population groups – Africans, Indians and Coloured. Although a major step, it has to be noted that these services were separated in line with the policies of the country at the time. Whites were still receiving better services. The major development for this period in the field of OSW was the appointment of the first African social worker. This, according to Masi (2000:315), was at ISCOR in 1969.

Also during this time, the Chamber of Mines of South Africa started to provide a form of rehabilitation service for its employees, according to Terblanche (1992:18). This was done in the early 1960s when a hospital near Johannesburg was used to treat miners with drug-related problems and mental illnesses. This institution provided these services with the appointment of a social worker.

In the same way as the previous period, there was no significant development on the legal provisions regarding the delivery of human services in industries. According to Du Plessis et al. (2000:108) this period saw the enactment of the Occupational Diseases in Mines and Works (Act 78 of 1973). This piece of legislation had nothing to do with the provision of human services in industries as it only dealt with the compensation of occupational diseases in the mines and classified works.

THE PERIOD 1980 TO DATE

This is the miracle period in the South African history generally. This is the period, Van Rensburg (1998:08-09) notes, that saw a number of changes in the country's political and legal framework. Of major importance was, firstly, the unbanning of political parties leading to the demolition of apartheid and the lifting of economic sanctions by the international community against this country. This led to the opening of a number of doors to the country's population to interact with the global community. Secondly, the holding of the first democratic elections was to follow. This, in turn, led to the passing of various pieces of legislation. All these were aimed at the total democratization of society.

OSW continued to grow in the country, according to Du Plessis (2001:103). Social workers of different population groups continued to be employed in various institutions – public and private. The majority employers of occupational social workers in South Africa currently, according to Masi (2000: 316-318) and the researcher's findings, are government departments – mainly the South African National Defence Force (SANDF) and the South African Police Services (SAPS), parastatals such as ESKOM and the Post Office as well as private companies like AngloGold, Harmony and Anglo-Platinum.

2.3 THE EVOLVEMENT OF EMPLOYEE ASSISTANCE PROGRAMMES

There is some form of consensus amongst a wide range of authors regarding the development of EAPs in South Africa (compare Masi, 2000; Maiden, 1992; Terblanche, 1992; Du Plessis 1992). Their arguments, in various ways but with a single connotation, are that South African EAPs were copied from EAPs in the United States of America (USA). Because of this fact, a brief history of the field of EAP in the USA will be given.

2.3.1 THE EVOLUTION OF EAPs IN THE USA

The earliest form of Employee Assistance in the USA can be traced back to the Occupational Alcohol Programmes (OAPs) of the 1940s, according to Consad (2003:02). Masi (2000:404) describes these programmes as services developed by a number of organizations that recognized that employees who presented with alcohol problems could be treated and could again be as productive as before. In describing these programmes further, Consad (2003:03) states “when such gambles proved successful, the identification of employees with alcohol problems before termination due to poor job performance, became necessary. Supervisors and certain union representatives assumed these new duties. These individuals received minimal training in the signs and symptoms of alcohol abuse and addiction so they could recognize such problems among their colleagues”. From this statement, the researcher observes that OAPs were not guided by any legal requirements, and there was also no trained personnel to do the jobs. Instead, the organizations depended on the services of recovering alcoholics, supervisors and some union officials.

Problems associated with these programmes led to the development in the late 1960s and early 1970s, of the current form of EAPs (compare Masi, 2000 and Consad, 2003). Basically the problems faced by companies were, according to Consad (2003:03), that people above the first line of management were left undiagnosed. This occurred because the stigma attached to the disease of alcoholism has it that only a particular group of people is affected. The lack of understanding about the disease also led to some supervisors not being objective in the diagnosis of people with alcohol related problems. This was mainly because supervisors were not willing to expose themselves by diagnosing the symptoms that they themselves might have been presenting with. Finally, in order to deal with the problems mentioned above, there was a major need for a paradigm shift in companies.

Focus was changed from identifying employees with alcohol related problems to employees whose job performance was not satisfactory.

In describing the problem faced by companies and ultimately the development of EAPs, Consad (2003:04) commented that “when employees presented other problems contributing to, or impairing their job performance, management had no resources available to impact on them. Out of this need, the concept of employee assistance as we know it today, was born”.

Currently, according to Cascio (1998:101-102), EAPs in the USA. represent the most common mechanism by which human services are provided within the workplace. As such, the driving forces behind these programmes in the USA. nowadays are summarized as the following (compare Cascio, 1998; Masi, 2000; Consad, 2003):

- **Social responsibility** – *This is a factor associated very strongly with companies that continue to adopt and implement EAPs. The reason is mainly that companies view their employees’ health as one of their biggest assets. There is agreement amongst above-mentioned authors that the role played by this fact cannot be quantified. They concur, though, on the role which social responsibility plays in the continued survival of EAPs.*
- **Cost effectiveness** – *Through introducing EAPs, companies save lots of money. This is viewed from the point of view that a couple of rands spent on the implementation of EAPs save companies a lot of money. This is viewed against probable costs of problems like absenteeism, accidents, tardiness, errors in judgements and others that might have occurred had there been no EAP in place. The introduction and maintenance of EAPs by companies, therefore, improve bottom line profits in the form of saving the most important resources in the very existence of companies: human beings.*
- **Corporate image** – *Companies are seen to be caring for their employees by providing EAPs. They receive a lot of respect for their action from inside*

and outside. In this way their public image is boosted and this, in turn, assists them to attract more consumers and/or customers for their particular products and prospective employees to their companies.

- **Legal mandate** – *This is said to have its origins in the 1960s when alcoholism was seen as a handicap. Employers were then required to provide treatment for alcoholism to their employees. In a nutshell therefore, employers found themselves having to avoid legal action associated with the health and safety of their employees.*

2.3.2 THE EVOLUTION OF EAPs IN SOUTH AFRICA

South African EAPs evolved in the early 1980s copied from American programmes, according to Maiden (1992:02) and Terblanche (1992:19). Maiden (1992:02) continues and says that these programmes were brought to South African organizations by this country's social workers and psychologists who had studied in the United States of America. From this group who studied in the USA, mentors and trainers emerged who made it possible (through training programmes, conferences and workshops), for others to be aware of the field and ultimately practice it in their organizations.

The Chamber of Mines of South Africa is the first organization to have made a breakthrough in the field of EAP in South Africa. According to Terblanche (199:19) and Masi (2000:318), the Chamber did this through the appointment of a consultant in 1983 to conduct a feasibility study on EAPs for the mining community. As a result of the provisions of the study, the concept of EAP in South Africa was accepted in South Africa in 1986. This was followed by the introduction of counselling centers by the Chamber of Mines mainly for its employees in its regions. Thus, the EAP was introduced in a workplace for the first time in South Africa.

It is the opinion of the researcher that the field of EAP in South Africa generally, was at this stage not influenced by any legislation and that these services were provided through the willingness of the employers.

In the field of training institutions, the University of South Africa played a major role in the evolvment of EAPs in South Africa. This was done by having a working group on EAP created under its auspices in 1983 (Terblanche, 1992:19). This group went further to form part of the Institute for Personnel Management of Southern Africa (IPM). This process ended with the formation of a National EAP Committee that eventually elected officers in 1989 representing some big companies, training institutions and a social service agency. This group, in a way, operated independently although it was under the bigger umbrella of the IPM.

The year 1993, according to Masi (2000:320), saw major transformation in the field of EAP. This transformation resulted in the group referred to above separating totally from the IPM. The separation led to the formation of the South African Chapter of EAPA in 1997. The Standards Committee of Employee Assistance Professional Association – SA. (EAPA-S.A) (1999:04) claims 1996 March as the exact date for the establishment of the first board for the committee. According to Masi (2000:320), the purpose of EAPA–SA. is basically to bring some form of professionalism to the field of EAP in the country. This has been done through the development of a Standards Document and an Ethics Document to be used by both EAP practitioners and professionals. In addition to this, according to the researcher, the EAPA–S.A. serves as an institution for growth, mentoring, interaction and sharing amongst members.

2.3.3 THE CHARACTERISTICS OF SOUTH AFRICAN EAPs

Maiden (1992:03) pointed out “the current socio-political environment of South Africa severely impacts on the workplace and thus establishes a different set

of priorities for EAP professionals”. This statement was preceded by an assertion that “South Africa is a country of paradoxes. Both beautiful and ugly, spirited and dispirited, intense and relaxed, homogeneous and heterogeneous, fearful and carefree”.

In the following section, the researcher will discuss the operation of the EAPs according to the discussions above.

- **PRACTICE MODELS**

“An EAP needs to be introduced according to a specific model to meet the specific needs and demands of a specific organization”, Terblanche (1992:19). To this core requirement of EAP practice, Maiden (1992:03-04), provides that “Employee Assistance Programmes in South Africa have become the social conscience of the organizations in which they are ensconced. In South Africa, the EAP is viewed by employees as an agent of change for the social conditions in the work environment”.

The arguments above have actually been made even more clear and practical by Du Plessis (1992:30) when she noted “there are some special circumstances in the South African workplace which highlight the need to have a macro perspective. These relate to the systematic and environmental issues that impact on workers and thus come to the attention of the EAP practitioner. Problems here include those rooted in socio-political circumstances beyond the control of individual workers”. The conclusion that Du Plessis (1992:31) draws regarding the method of practice for EAPs in this country is that EAP practitioners are only totally effective if they are able to diagnose and treat the problems of departments and organizations.

South African EAPs, the researcher concludes, will continue with their macro approach for some time to come. This is said in view of the problems facing the South African workplace currently. The researcher is referring specifically

to issues like HIV/AIDS, the migrant labour system, occupational health and safety, domestic violence, post traumatic stress syndromes as a result of the types of work and the crime situation in the country, to mention but a few. These problems, although addressed through the micro approach, still place more emphasis on practitioners to apply a broader and hence macro approach in attending to them.

- **LEGAL REQUIREMENTS**

In the introduction to this study, the researcher referred to the fact that one of the main forces of the EAP discipline in this country currently is legal requirement. This is supported by Grobler, Wörnich, Carrell, Elbert and Hatfield (2002:450) who submit that one of the major problems faced by companies today are ever increasing health care costs. For the employees, companies are legally bound to assist them by attending to their health and safety problems. EAPs are but some of the tools that the employers have at their disposal to address these problems.

Masi (2000:318), also supports the fact that legal requirements are the forces for EAPs in South Africa. This she does by noting that EAPs are some of the programmes that can ensure that the rights embedded in South Africans through legislation actually benefit them. The EAPs do this through the ethics and rights embedded in them through, for instance the EAPA requirements and the professional requirements of EAP practitioners and professionals. Also, the researcher wishes to highlight that in view of the submissions on troubled departments and organizations above, the EAP practitioners are in a better position than any other employee in organizations to ensure the provision of EAP services.

In spite of the provisions stated above, it is worth noting that, as it will be explained in deeper detail in the next chapter, South Africa does not have a specific Act that promotes or disqualifies EAPs in the mining industry. The

Acts that are available do make provision for health and safety in the workplace including the mining industry. It is through these Acts that the impact of legislation, both negative and positive, on the practice regarding EAP, is drawn.

- **SOCIAL RESPONSIBILITY**

The third major driver of EAPs in South Africa, according to Masi (2000:318), is moral and/or social responsibility towards the health of employees on the part of the employers. Masi (2000:318) is of the opinion that there is some acknowledgement and recognition that the EAP system can play a key role in the transformation process currently taking place in the country. The EAPs can achieve this through supporting employees and managers in the management of their work-life stressors, behavioural health and physical health risks arising out of the transformation processes taking place within organizations and government bodies. To support these sentiments, Grobler et al. (2002:450) have submitted that EAPs are designed to help employees overcome personal crises such as alcoholism, job burnout or family problems. They further point out that “employees may be particularly grateful to employers who have lent them assistance during a time of personal or financial crisis” (Grobler et al., 2002:450).

2.4 THE CURRENT STATE OF EAP PRACTICE IN THE SOUTH AFRICAN MINING INDUSTRY

The South African mining industry is mainly divided into four regions, namely Gauteng, North West, Mpumalanga and Free State. In these regions there are different mining houses. The major role players are AngloGold, Goldfields, Sasol, Harmony, Durban Deep and Anglo-Platinum. Most of these houses are members of the Chamber of Mines.

From the works of Terblanche (1992), Maiden (1992) and Masi (2000), the researcher has come to the conclusion that from its inception in the early 1980s, the Chamber of Mines provided the EAP service in the mining industry. According to EAP practitioners and human resources practitioners in the mining industry in the late 1980s to mid 1990s, (Mr James Muller), the EAP service was gradually disseminated to the various mining houses by the Chamber. As a result of this, the separate mining houses launched EAP departments and services. The major role players in this regard were AngloGold (formerly Anglo-American), Goldfields (as Gencor and Goldfields of South Africa) and Sasol. Also, this period also saw the privatization of EAP services in the mining industry. At this time, the Center For Human Development (CHD) got into the picture as a service provider in the mining industry.

Currently, there is a mix in the provision of the EAP service in the mining industry. The late 1990s leading to date saw some major changes to the field of EAP in the mining industry. Some companies, like Goldfields, do not have the service at all. Other companies, like Sasol, have privatized the service. According to the Centre For Human Development <http://www.chdsa.co.za>, for instance, CHD is the major EAP supplier to the mining industry in this regard. This is a result of the dissolution of the EAP services in some cases.

AngloGold and Anglo-Platinum have a diverse form of service. In the Gauteng region they provide a psychosocial service. In the North West region they provide a traditional EAP service. Harmony mines provide more occupational social work service in its operations.

2.5 THE CORE ACTIVITIES OF EAPs PRACTICE IN THE MINING INDUSTRY

The researcher had consultations with various role players in the field of EAP in the different mining houses. The aim was to establish the core activities of

EAPs where they exist. Although the functions are not uniform in the different mining houses, the main functions of EAPs in the mining industry nowadays involve the following:

- ◆ **Training of supervisors** – *the main focus is describing the aims of the EAP, how it functions and how to access its services. Secondly, supervisors are helped on how to identify a troubled employee and how to manage him or her.*
- ◆ **Providing technical assistance to employers** – *this function involves training and expertise to companies on a number of issues. Of major importance, though, are the management of HIV and AIDS and the provision of anti-retroviral therapy, establishment and maintenance of employee wellness programmes and the provision of health and safe working environments.*
- ◆ **Counselling and rehabilitation** – *depending on the EAP model used by that particular company, practitioners and/or professionals help in providing therapy to troubled employees and their dependants.*
- ◆ **Referrals** – *in cases where companies use EAP coordinators, they assist with the referral of troubled employees to contracted agencies. As it was mentioned earlier, CHD plays a major role in this regard. Also, referrals are made to rehabilitation centers for employees who otherwise cannot be taken care of through the companies' centers.*
- ◆ **Re-introduction of employees to the workplace** – *this follows the rehabilitation of employees in external agencies. EAP practitioners and/or professionals help employees make a smooth return to work. This is done through, amongst other things, meetings with the rehabilitation case managers, and the concerned employee/s and their supervisors or case coordinators.*
- ◆ **Monitoring and aftercare** – *this is done through the provision of feedback between the case managers in the rehabilitation centers and the case coordinators and/or supervisors. This happens in the course of rehabilitation and after the employee has come back to the workplace.*

- ◆ **Crisis intervention** – *this is one of the basic responsibilities of EAPs in the mining industry. Following all major accidents, practitioners and/or professionals are called in to provide debriefing sessions to injured and affected employees. Monitoring and aftercare follow this process and the EAP provides the needed services to employees and their dependants.*

The core activities of an EAP in the South African mining industry, according to Du Plessis (1990:07) are the following:

- ◆ **EAP training and education**
 - *Management awareness training*
 - *Supervisory training*
 - *Workforce education*
 - *Labour representative training*
- ◆ **Ongoing promotion of the EAP**
 - *Designing brochures/posters/newsletter articles*
 - *Using all available platforms to promote the EAP, including management meetings, safety meetings and induction*
 - *Swooping around posters*
- ◆ **Direct services to troubled employees**
 - *Constructive confrontation*
 - *Confidential counselling*
 - *Counselling families, where appropriate*
 - *Referral to community resources*
 - *Accompanying employees to resources and visiting them while in treatment, if appropriate*
 - *Aftercare and follow-up*
- ◆ **Indirect services to referring supervisors**
 - *Giving feedback to supervisors, without prejudicing the principle of confidentiality*
 - *Negotiating the requirements of treatment*
 - *Reporting to supervisors on progress*
 - *Assisting supervisors to reintegrate employees*

- *Assisting supervisors to fill in the referral form*
- *Counselling supervisors to identify troubled employees*
- ◆ **Indirect services to management**
- *Reporting on progress of the EAP*
- *Identifying employees' collective problems and interpreting needs to management*
- *Identifying EAP projects requiring financial support*
- ◆ **Community resources**
- *Developing a network of community resources*
- *Personal visits to resources*
- *Maintaining contact with resources and undertaking after-care*
- ◆ **Administration of the EAP**
- *Designing a system of confidential record-keeping*
- *Updating records*
- *Keeping EAP statistics*
- *Planning for the EAP budget*

2.6 SUMMARY

In this chapter, the researcher discussed the evolvement of EAP as a field of practice in South Africa. This was done through, firstly, the examination of the history of the delivery of human services in industries. Secondly, the researcher looked at the evolvement of EAP practice in the United States of America. The researcher, thirdly, attended to the evolvement of EAPs in South Africa. The final part of the discussion of the researcher in this chapter dealt with the history of the EAP service in the mining industry per se. This part ended with the presentation of the current state of affairs in the EAP practice in the mining industry. Finally, the core activities of EAP practice in the mining industry were presented briefly.

The following chapter will focus on various legislation that have an impact on the practice of EAP, specifically in the mining industry.

CHAPTER THREE

VARIOUS LEGISLATIONS THAT HAVE AN IMPACT ON THE PRACTICE OF EMPLOYEE ASSISTANCE PROGRAMMES IN THE SOUTH AFRICAN MINING INDUSTRY

3.1 INTRODUCTION

In chapter one, the researcher, as per the provisions of Masi (2000:317) and Grobler et al. (2002:450), alluded to the fact that legal requirements and/or provisions are but some of the driving forces behind the implementation and management of EAPs in South Africa. Through this chapter, the researcher will explore this further.

In the introduction to this study, the researcher referred to the fact that the law, in the form of legislation, provides the general standards that govern society in general. This chapter therefore accords that particular opportunity of exploring the extent to which some legislation impacts on the practice of EAP in the South African mining industry. The researcher will only concentrate on such legislation that is seen to impact directly on the practice of EAP. The selection of the Acts will be determined by their relevance to the core functions of the EAP as described by the Standards Committee of EAPA –SA.

3.2 LEGISLATION THAT DRIVES THE IMPLEMENTATION OF EAPs

The relationship between legislation and the provision of services to troubled employees has been debated by a number of authors here and abroad. Amongst these authors, Chima (2002:08) went a step further in his discussion - his submissions centered around the reasons why EAP professionals and/or practitioners found it difficult to implement some pieces of legislation (mainly

the Americans with Disabilities Act - ADA). In drawing this picture, he provided a number of reasons. Of these pieces of legislation are either:

- *Too vague in terms of their terminology. In this way they make their interpretation have a number of connotations for various people, or,*
- *They lack specifications. This legislation (ADA), is aimed at bringing a number of changes not only in the workplaces but to the lives of millions of Americans. These changes are not well spelt out in terms of how they must be brought about, thereby making it difficult for practitioners to implement them.*

In the following section, the researcher will look at the positive implications and the limitations of some pieces of legislation from the perspectives presented above.

3.2.1 THE CONSTITUTION (ACT 108 of 1996)

This is the supreme law of the country; all other legislation is derived from it. Of particular importance is that the Act has three sections that have a direct impact on the practice of EAP in general, not only in the mining industry.

Firstly, the Constitution, through Section 22, accords people the right to choose their trades, occupations and professions freely. The Act further provides that people must practice these under the regulations of the law. It is the opinion of the researcher, therefore, that people owe their status as employees from the provisions of this Section.

Secondly, Section 27 of the Constitution provides that everybody has the right to access health care services and appropriate social services. The researcher is of the opinion that this provision is in line with the primary activities of an EAP. The researcher is referring to the EAP's function of identifying and treating problems that affect the productivity of employees that may be health and/or socially related.

Section 23 grants employees and employers the right to form trade unions and employer organizations. The Act goes on to say that the member/s of either the trade union or employer organization have the right to participate in the activities and programmes of that trade union or employer organization. This, in the view of the researcher is exactly how EAPs came into being in South Africa. The mines, as members of the Chamber of Mines, had to participate in the programmes of the Chamber and the EAP was one of them, hence their previous participation in it.

In spite of the above-mentioned provisions, in line with what Chima (2002:08) alluded to, there is no specific referral to the EAP per se. Secondly, although there is repeated referral to the word programme (which the researcher assumes may imply an EAP), there is no clear guideline regarding the very development of the programmes referred to in the referenced Sections.

3.2.2 THE MINE HEALTH AND SAFETY ACT (ACT 29 of 1996)

Guild, Elrich, Johnston and Ross (2001:03) refer to the Mine Health and Safety Act as the piece of legislation which came into being for the purpose of regulating occupational health and safety in the South African mines. Guild et al. (2001:03) refer to this piece of legislation as the “Constitution of Health and Safety” in the mining industry.

The Act, according to Guild et al. (2001:04) and Van Wyk (2000:135), places on the employers the following responsibilities:

- *Operate the mine in a healthy and safe manner;*
- *Implement health and safety management systems based on risk assessment;*
- *Appoint persons to manage health and safety on the mines and supply them with resources to enable them to perform their functions;*
- *Establish a health and safety policy; and*

- *Provide every employee with information, instructions, training and supervision to enable them to work safely and without risk to health.*

The above provisions as they relate to the practice of EAP, can be seen to offer two opposing views. From the point of view of the Standards Committee of EAPA-S.A (1999:07-11) as they relate to the program design – formulation of an EAP policy, needs assessment, EAP policy statement and implementation plan, according to the researcher, can be seen as encouraging the Mines to implement EAPs. The researcher's argument is based on the fact that EAP practitioners and/or professionals have been utilized in the implementation of health and safety measures in the mines. Health and Safety committees, medical surveillance and the fight against HIV/AIDS are some of the issues that the researcher is referring to.

On the other hand, the researcher is of the opinion that there is no specification regarding the parameters of safety measures referred to in the Act. Also, there is no mention of an EAP or psychosocial welfare per se. The conclusion that the researcher draws, therefore, is that the psychosocial well being of the employees in the mining industry was totally left out in the Constitution of Safety and Health in the mining industry – a major limitation for the practice of an EAP.

3.2.3 THE LABOUR RELATIONS ACT (ACT 66 of 1995)

The researcher is of the opinion that the Labour Relations Act is superior to the rest of the legislation in terms of the provision of EAP services not only in the mining industry but throughout South African workplaces. This is said in view of the provision of the Act regarding services to troubled employees. It is worth noting, though, that the Act is also not clear as per the discussions of Chima as presented above. This will be clearly outlined below:

The researcher argues that the Labour Relations Act, on the Section on definitions, defines an employee as “any person who works for another person or for the state and who receives, or is entitled to receive, any remuneration; and any other person who may in any manner assist in carrying on or conducting the business of an employer”. The Act thus defines the parameters for the provision of EAP services in terms of the people to whom EAP practitioners and/or professionals should grant assistance.

The Act through Section 9 and 10, provides guidelines for the management of employees who are poor performers as well as incapacitated employees. Amongst the host of reasons given by the Act for poor performance and incapacity, is the reality of alcohol and drug abuse by these employees. The Act, inter alia, recommends that before employers can dismiss these employees, they should investigate the causes of their behaviour. As a corrective measure, the employers should provide counselling, training, appropriate evaluation, instruction and guidance to these employees.

Bruniquel (2003:01), in commenting about the services referred to above, provides that “in certain kinds of incapacity, for example alcoholism or drug abuse, counselling and rehabilitation may be appropriate steps for the employer to consider”. If the researcher was to link this directly to the practice of EAP, he would refer the reader to the Standards Committee of EAPA-SA. (1999). The Standards Committee of EAPA-SA. (1999:06) defines counselling as a therapeutic intervention by a trained professional who can be a social worker, psychologist or a psychiatrist. Hodgetts and Kroeck (1992:429–430) go further to describe counselling according to these three different types:

- **Directive counselling** - *a process of listening to a person’s problem, deciding what the person should do, and then motivating the individual to follow this advice.*
- **Non-directive counselling** - *a process of listening to a person explaining a particular bothersome problem, and encouraging the individual to*

understand the issue and determine appropriate solutions; the person with the problem works out the solution.

- **Participative counselling** - *a process whereby an individual with a problem shares this concern with another person and the two jointly work towards solving it through mutual identification, discussion, analysis and setting possible solutions.*

The provisions above, in the researcher's opinion, are tantamount to the conclusions drawn by Segal (1996:27), while describing the rights of the employer in handling an alcoholic employee, that: "an EAP is one way employers can help employees without being exposed to substantial legal risk". There is no reason, therefore, not to believe that, except for the arguments of Chima, companies are legally bound to implement EAPs as per the provisions of the Labour Relations Act as presented above.

3.2.4 THE EMPLOYMENT EQUITY ACT (ACT 55 of 1998)

As far back as 1991, Du Plessis (1991:40-59), submitted that the scope of South African EAPs in general is much broader than programmes in other countries like the US. and the United Kingdom (UK.). She based her arguments on the fact that EAP practitioners and/or professionals in South Africa are at times called in to address evils in the workplaces that do not fall directly in the scope of EAP practice in other countries. To take this point further, Maiden (1992:03) submitted that "in South Africa, the EAP is viewed by employees for the most part as an agent of change for social conditions in the work environment. The confidential nature of the EAP provides employees an avenue to discuss problems and air concerns that affect most employees..... the EAP appears to assume the role of an ombudsman".

As part of playing the role of an ombudsman, EAP practitioners and/or professionals have or are utilizing the provisions of the Employment Equity Act. Of particular importance to the practice of the EAP not only in the mining industry, the Act raises the following issues:

Section 54 of the Act provides for the development of a Code of Good Practice on HIV/AIDS and employment. The code advocates for the development and implementation of a policy and a programme in response to the impact of this pandemic. This provides a form of a management strategy for the employers and employees (both affected and infected). The EAP has played a very significant role in this regard although there is no clear mention in the Act of the title of people who should be in the forefront of the implementation of the provisions of the Act.

The Act calls for fairness and non-discrimination in the management of employees in general and this goes for employees infected by HIV. Of paramount importance and in line with the principles of EAP, the Act stresses the use of confidentiality in the treatment and management of employees infected by HIV. The areas of discrimination are put much broader to include things like gender, sexual orientation, religion, cultural background, race, language and others. Looked at closely, these are the factors that affected the mining industry in the past. Maiden (1992:05-07) argues that the areas referred to by the Act are but some of the areas that EAP practitioners and/or professionals have assisted employers and employees with, especially in the mining industry. Some of the examples he provides are, firstly, the building of visiting wives' quarters at the then Anglo American gold mines as a recommendation by the EAP counsellors. Secondly, the same counsellors initiated the adult literacy programme for employees. Thirdly, they implemented the hostel arts and crafts project. Finally, the counsellors were instrumental in the development of the cross-cultural awareness programme as well as road safety programmes.

In conclusion therefore, as shown through the examples above, this Act, although it does not have specifics, can be positively exploited by employers in the mining industry to improve the psychosocial well being of employees.

3.2.5 THE COMPENSATION FOR OCCUPATIONAL INJURIES AND DISEASES ACT (ACT 108 of 1996)

The purpose of this Act is to determine and describe injuries and diseases that are borne from the workplace. Further, the Act goes on to prescribe compensation to employees who have either been injured or who acquired a work-induced disease in the course of their employment. Employment in the mining industry may result in an occupational injury or in an employee suffering from an occupational disease. The relevance of this Act to the practice of EAP in the mining industry can be viewed in the following manner:

The Standards Committee of EAPA-S.A. (1999: 16) provides that the EAP “will offer responsive intervention services to employees, family members, and the organization in acute crises situations”. The Standards Committee further says that the motivation for this intervention is to maintain the credibility of the EAP and to “lessen or prevent long-term difficulty or dysfunction, both on an individual and an organizational level”. The guidelines for the provision of intervention, amongst other things, include the debriefing of employees. Guild et al. (2001:412), provide that under the Compensation for Occupational Diseases and Injuries Act, Post Traumatic Stress Disorder (PTSD) is regarded as an injury rather than a disease. These authors elaborate and say “the introduction of debriefing sessions for miners involved in seismic events, has reduced the incidence of PTSD in the mining industry”.

In line with the function of service delivery, EAP practitioners and/or professionals, can assist employees to claim their compensation. Also, in the event of the death of the employee, the EAP can play a role in terms of assisting the family of the employee. Also, in the event of PTSD not being prevented, the researcher is of the opinion that the EAP can either help with treatment through counselling, or the EAP can refer the affected employee/s for assistance.

3.2.6 THE BASIC CONDITIONS OF EMPLOYMENT ACT (ACT 75 of 1997)

In the previous sections, the researcher has tried to portray the picture of the relevance of the EAP to the health and safety for the mine employees through legislation. The Basic Conditions of Employment Act is no different from the pieces of legislation discussed above.

The day-to-day running of the total human resources management function of the workplace falls in the parameters of the Basic Conditions of Employment Act. The relevance of the EAP in the mining industry, in the researcher's opinion, as per the provisions of this Act can be viewed from two points of view. Firstly, Section 17 of the Act deals with the management of shift-work. The Act provides that some employees, for health related or other reasons, may require some form of assistance from the employer. Amongst other things, the Act recommends that the employer assesses the problems of the affected employee/s and manage accordingly. The definition of the EAP as provided by the researcher in the first chapter, includes as its function the assessment and management of work related problems that may affect the productivity as well as the social well being of employees.

Secondly, as part of the management of these problems, the Act, through Section 23, provides that the employer must show proof of incapacity. This can be done in the form of a medical certificate - a document signed by a qualified person authorized to do so through registration with a professional body.

3.3 THE SOCIAL LEGISLATION

In the previous section, the researcher presented and discussed the Acts that, in his opinion, are the driving forces behind the implementation and the practice of EAP in the South African mining industry. In this section, the researcher will discuss Social legislation. These are the pieces of legislation

that are seen to conduct the process. They actually give direction to the role-players (companies, professionals and/or practitioners) in terms of how they implement and sustain the EAP practice.

3.3.1 THE SKILLS DEVELOPMENT ACT (ACT 97 of 1998)

This Act, according to Du Plessis (2000:153), has the following as objectives related to the practice of EAP:

- *Developing the skills of employees by:*
 - ◆ *Improving the quality of lives of workers, their prospects of work and labour mobility;*
 - ◆ *Improving productivity in the workplace and improve the competition of employees; and*
 - ◆ *Improving the delivery of social services.*
- *Encouraging employers to provide employees with new skills;*
- *Encouraging employees to participate in learnership and other training programmes; and*
- *Assisting retrenched workers to re-enter the labour market.*

The above objectives, viewed from the point of view of the EAP principles and the discussion of the researcher regarding some of the services provided by EAP professionals in the mining industry, have the following implications for the practice of EAP, in the opinion of the researcher:

- *They determine the scope of practice for professionals and/or practitioners in the process of skills development.*
- *They provide a form of guideline in terms of assistance that can be provided to employees at various stages of employment, for instance, learnerships that can go with mentoring for new and young employees. Secondly, providing new skills to older employees who might not have benefited from the past. Lastly, assistance to employees who are in the process of being retrenched or who might be in the process of having their contracts being terminated for one reason or the other.*

3.3.2 THE DOMESTIC VIOLENCE ACT (ACT 116 of 1998)

The Standards Committee of EAPA-SA. (1999:05) provides that some of the core activities of EAPs include, amongst others:

- *Confidential, appropriate, relevant and timely problem assessment services;*
- *Appropriate and relevant referrals for diagnosis, treatment and assistance.*

Some of the problems that have a negative impact on the work performance and social functioning of employees may have their roots in the workplace, domestic and/or social origins. They may include, but are not limited to physical abuse, harassment, sexual abuse, intimidation and emotional, verbal and psychological abuse. For those that have their origin at the workplace, the employers usually have solutions in the form of disciplinary actions against culprits. The same cannot be said, though, about the ones that emanate from the home or the social context of employees. Because of this they may need social institutions to be corrected. This is where the scope of the Domestic Violence Act comes in.

Through the provisions of this Act, professionals and/or practitioners have clear guidelines regarding the handling of any problem that may be identified as an act of domestic violence experienced by employees that has a negative impact on the affected employee's work performance and/or social functioning. The professionals and/or practitioners, as part of their service delivery, simply refer the aggrieved employee to a relevant institution that can either be a police station, a magistrate's court or any other institution that can otherwise assist the employee with his/her problem.

As part of fulfilling the Standards Committee's requirement of training as one of the activities of the EAP, the Act can be used for purposes of empowering

employees. Areas like life-skills programmes, sexual harassment in the workplace and abuse are some of the areas that the researcher is referring to.

3.3.3 THE CHILD CARE ACT (ACT 74 of 1983), THE CHILD CARE AMENDMENT ACT (86 of 1999) AND THE MAINTENANCE ACT (ACT 99 of 1998)

The fact that EAP practitioners and/or professionals in the South African mining industry are compounded with extra functions of being custodians of the employees' rights as well as general welfare and that of their dependants, has been well described by the researcher in the previous sections.

The Child Care Act (Act 74 of 1983), Child Care Amendment Act (86 of 1999) and the Maintenance Act (Act 99 of 1998) are some of the mostly utilized pieces of legislation in pursuing the functions the researcher has referred to above. The researcher's experience in the mining industry has showed him that some employees ignore their responsibilities at times for a number of reasons. Such problems as neglect, abandonment and non-maintenance are some of the problems that the researcher is referring to. The Acts mentioned above are utilized by the EAP practitioners and/or professionals to correct the mentioned problems referred to.

3.3.4 THE UNEMPLOYMENT INSURANCE ACT (ACT 30 of 1966)

The act, according to Fouché (2000:85), is aimed at combating unemployment and to provide for a form of payment to contributors when they are not employed. The role of the EAP with regards to this Act is to ensure that employees are registered as contributors to the unemployment insurance fund. During any process of an employee dismissal (retrenchment, illness or in cases of work related death), when providing counselling services either to employees or their dependents, the EAP provides assistance and information

as to the procedures and channels to follow in terms of claiming from the insurance.

3.4 SUMMARY

The scarcity of legislation in occupational health in general has always been a problem in this country. Mr Tito Mboweni, the South African Minister of Labour between 1994 and 1998, (Ryan 2003:02), in referring to this problem once commented that “the provision of an efficient occupational health and safety service in South Africa... is severely hampered by the lack of an overall national policy and implementation strategy in this field. It is further hampered by the fragmentation of responsibility across various government departments”. In the researcher’s view, this argument can fit well in describing the state of the impact of legislation on the practice of EAP in the South African mining industry.

This chapter dealt with the pieces of legislation that have a direct link to the practice of EAP. Firstly, the researcher discussed legislation that guides the practice of EAP. Secondly, the pieces of legislation that assist in the process, referred to as Social Legislation, were presented. The researcher tried, through the discussions, to show the advantages and shortfalls of legislation as it impacts on the practice of EAP in the mining industry. Both the advantages and the shortfalls emanate from two things in the opinion of the researcher. The first one is that legislation is too broad in terms of its dealing with the EAP per se. As a result of this, there is no conclusive evidence that refer to the EAP practice per se. The second is that where there is some relationship to the practice of EAP, this is not clearly specified. The conclusion of the researcher is that legislation is too general to be specific. In this way arguments for or against the EAP practice in the mining industry can easily be accepted.

In the next chapter, the researcher will present the empirical study on the impact of legislation on the practice of EAP in the mining industry.

CHAPTER FOUR

THE EMPIRICAL STUDY, ANALYSIS AND INTERPRETATIONS

4.2 INTRODUCTION

In this chapter, the researcher will discuss the empirical study he has conducted on the research question – What are the key aspects of legislation influencing the practice of EAP in the South African mining industry? This will be done through the discussion of the process that the researcher undertook, the presentation and the analysis of the views of the respondents regarding the research question and the interpretation thereof with the aim of providing recommendations.

4.2 RESEARCH METHODOLOGY

The goal for this study was to explore the impact of legislation on the practice of EAP in the South African mining industry.

The objectives of this study were the following:

- *To determine the evolvement of EAP as a field of practice and relevant legislation in the South African mining industry within a theoretical framework.*
- *To investigate the impact of legislation on the knowledge, experience and involvement of practitioners in the practice of EAP in the South African mining industry.*
- *To formulate recommendations for the role-players in the mining industry.*

The researcher used the qualitative approach and employed exploration as a strategy for this study. A semi-structured interview schedule was used as a data collection method in the study. Of particular importance to the researcher was the fact that these interviews were used to determine individuals' perceptions, opinions, facts and forecasts to initial findings and potential solutions.

The researcher conducted semi-structured interviews with ten respondents – seven Occupational Social Workers and three Human Resources Practitioners. Basically, the questions posed to the respondents can be summarized as:

- ✓ Is there any impact of legislation on the practice of EAP in the mining industry?*
- ✓ Describe, in terms of identifying legislation, what informs the impact.*
- ✓ Identify the provisions in the legislation that in your view informs the impact you referred to above.*
- ✓ State what your company was doing in view of the provisions of legislation as stated above.*
- ✓ Provide suggestions in view of the positive and negative implications.*

4.3 FINDINGS AND INTERPRETATIONS

In this section, the researcher presents the findings of the empirical study. The findings contain an analysis of raw data gathered during the research process. Where applicable, literature was integrated with the findings and interpreted by the researcher. The biographical information of the respondents is presented first by means of a table and then the findings of the semi-structured interviews are discussed in specific themes and sub-themes.

BIOGRAPHICAL PROFILE OF RESPONDENTS:

The biographical profile of respondents who participated in the interviews reflects their age, gender and years of experience.

Table 1: Biographical information:

Age	Gender	Years in service
35	Male	05
50	Male	33
41	Female	19
33	Female	09
26	Male	05
30	Male	09
35	Male	10
46	Male	25
29	Male	06
52	Male	30

Ten employees participated in the study. The majority of respondents were male. Table 1 indicated that the highest age category for practitioners is between 26 – 35 years. The length of service reported by the respondents ranged between 5 and 33 years.

DISCUSSION OF THEMES AND SUB-THEMES

The themes that emerged from the transcripts were as follows:

Theme One : Impact of Legislation

Theme Two : Opportunities in Legislation

Theme Three : Limitations in Legislation

Each of these themes is divided into sub-themes that are supported by quotations from the respondents during participation in the interviews. For the presentation of the findings during data analysis, the researcher, in all the sub-themes, will start with the presentation of the views of the respondents, followed by the opinion of the researcher and brief look at the literature to support the respondents' and researcher's views.

THEME ONE: IMPACT OF LEGISLATION

The perceptions of the respondents regarding the impact of legislation on the practice of EAP were expressed in the following sub-themes:

SUB-THEME: REHABILITATION OF EMPLOYEES

Rehabilitation, in the context of the respondents, is used to refer to any form of assistance to the employee/s return to the psychosocial state they were in prior they encountered a problem. According to the respondents, rehabilitation is provided as a result of substance and/or alcohol abuse and as well as a result of injury. The injury must have a possibility of causing some form of disability to and for the employee/s.

The following quotations reflect the perceptions of the respondents that legislation does have a direct impact on the rehabilitation of employees:

“EAP professionals are expected to provide a rehabilitation service to employees who are affected by the problems of alcohol and drug abuse. The assistance expected of EAP professionals is primarily that of counselling employees presenting with the problems because of abuse. Secondly, or on a more tertiary level, an EAP professional refers employees affected by drugs and/or alcohol to rehabilitation centers. This function emphasizes the monitoring of these employees at the rehabilitation centers. The follow-up of their progress with their supervisors and the human resources practitioners is the responsibility of EAP professionals. Finally, the re-integrating of these employees into their workplaces after rehabilitation concludes the function of EAP professionals here”.

“The rehabilitation of employees by EAP professionals also takes place following accidents. We work as part of the teams that work towards the total rehabilitation of employees”.

“EAP professionals, by law, should be involved in cases of employment-related trauma. In our case, patients are normally referred for debriefing counselling whereby we assess, evaluate and treat. In more serious cases we refer employees for specialist treatment to medical practitioners and psychiatrists.”

“Rehabilitation, is in line with the provisions of the Labour Relations Act (66 of 1995) and the Compensation for Occupational Injuries and Diseases Act (130 of 1993) in its dealings with the management of medically affected employees as well as the compensation for occupational injuries”.

Literature supports the above-mentioned sub-theme. Bruniquel (2003:01) and Hodgetts and Kroeck (1992: 429–430) provide that in certain cases of incapacity like drug and alcohol abuse, counselling and rehabilitation may be some of the appropriate steps that the employers can take. Guild et al. (2001:412) state that Post Traumatic Stress Syndrome (PTSS) is a disease under the provisions of the Compensation for Occupational Diseases and Injuries Act. Guild et al. continue and say that it is incumbent on the employers to provide some form of assistance to affected employees and they quote debriefing of employees as one of the mostly accepted forms of assistance.

SUB-THEME: MARKETING OF EAP SERVICES

As much as the respondents are talking about health and safety issues, they are actually referring to the function of promoting the EAP services. This promotion is in the form of education of employees on health related issues. This education can include topics such as diseases like HIV/AIDS, TB, sexually transmitted diseases and a wide range of other work-related problems. Practitioners and/or professionals also market the types of services that they provide or are provided by the companies. Lastly, the EAP practitioners/professionals provide talks on a wide range of issues like drug abuse and mental health. In this way they inform employees where and how they can assess the service of the EAP.

“In-order for us to make our presence known, we make sure that tuberculosis (TB) programmes and wellness programmes are implemented. In addition to this, we make sure that we sell the idea of a healthy workforce to employees.”

“Without attending seriously to the issues of health and safety by promoting them to the employees, our presence cannot be acknowledged.”

Du Plessis (1990:07) said that one of the functions performed by the EAP practitioners and/or professionals in the mining industry is the marketing of their services.

SUB-THEME: TRAINING AND DEVELOPMENT

Training and development are but some of the core responsibilities of the EAP staff in the mining industry. For Organizational Development (OD) to be implemented, it has to be influenced by some form of knowledge from the behavioural sciences. The contribution of EAP practitioners is therefore more of a requirement in this regard.

“One of the major challenges facing the transformation of our industry is the training and continuous development of our work force. The Skills Development Act (97 of 1998) is giving us sleepless nights in this regard. Although it is not clearly spelt out in the Act, our EAP department has always played a major role in this function”.

“The EAP has a major role to play in the training and development of employees by their various employers. The function is performed in collaboration with the human resources department. The EAP service is utilized in the selection of employees for mentoring and further development. This they do by providing the companies with information about the psychological well being of the employees who are identified for training and development. The EAP also assists with its special skills in the mentoring programmes of companies. Here, the EAP practitioners help with the introduction of programmes to assist the employees who are in the mentoring programmes. Examples given are such aspects as support groups and development of structures for further development”.

“With OD as the buzzword in institutions currently, our department is expected to play a significant role. Actually, our human resources department has

hinted on the possibility of having somebody from our department heading the soon-to-be established OD project by the company”.

Maiden (1992:03) said that the EAP practitioners and/or professionals in the mining industry have always been in the forefront of the introduction of major programmes aimed at the development of the health and welfare of employees. Adult Basic Education and Training (ABET) is one of the examples of the programmes introduced by the practitioners and/or professionals in this regard.

THEME TWO: OPPORTUNITIES IN LEGISLATION

SUB-THEME: MANAGEMENT OF EMPLOYEE HEALTH

The main aim of the EAP is to identify troubled employees and motivate them to overcome their problems and therefore improve their work performance and social functioning. The psychosocial well being of employees should form part of the total health and safety of employees.

“As per the provision of the Mine Health and Safety Act (29 of 1996), mining houses, as employers, are expected to employ “qualified” persons to oversee the health and safety of employees. In my view, “qualified” persons who work under the umbrella of an EAP can only look after the mental health of employees. These are the social workers, psychologists and psychiatrists”.

“Our service is an essential service in my view. I do not understand why this is not clearly stated in the Acts”.

“This function is performed in two ways. Firstly, the EAP professionals help in terms of determining the psychological fitness of employees. This they do by administering pre-employment tests thereby determining whether the employee is fit or not for employment. Still, on this level, EAP professionals are required to provide counselling to employees who abuse substances that

are prohibited for certain underground work. We are expected to provide counselling and rehabilitation to cannabis and alcohol abusers. This is especially so for drivers and machine operators. On the second level, it is in the case of managing incapacitated employees. EAP professionals are used to assess the level of incompetence and help determine whether the employee can return to work”.

“The mining industry currently is in the forefront of the battle against the HIV/AIDS epidemic. Part of the requirements of the Mine Health and Safety Act (29 of 1996), is that employers must conduct surveillance studies on the prevalence of conditions in companies. As EAP professionals we have provided a leading role in these studies”.

“Throughout the years, this is one of the reasons that our company has always had EAP professionals amongst its personnel. We are some of the leaders amongst our competition to provide this type of service, thanks to the role played by our various EAP professionals in this regard”.

“EAP professionals have and still continue to play a major role in the development and presentation of education programmes on health and safety issues. Some of the areas covered by these programmes are such aspects as education on HIV/AIDS, TB, hygiene, sexually transmitted infections (STI), drug abuse and other health and safety issues that affect the health and safety of employees.

“Throughout my stay in the mining industry, not only in this company, I have seen and witnessed EAP professionals head and/or assist in the management of the wellness programmes. Up until recently with the introduction of Anti Retroviral Therapy (ART), EAP professionals have always headed STI and HIV/AIDS programmes for mining houses including ours”.

Maiden (1992:3) mentioned that employees view the EAP in South Africa as an agent of change for the social conditions in the work environment. It is therefore expected that the EAP professionals are on the lead in the designing and implementation of these programmes. This is actually, what Maiden (1992:03–04) refers to as the role of the ombudsman. Du Plessis (1992: 30) refers to designing and implementation of programmes as the macro approach of South African EAPs.

On the negative side of the provisions of legislation as provided by the respondents, Chima (2002:08), support their submissions by saying that some legislation is too vague and lacks specifications.

SUB-THEME: MANAGEMENT OF EMPLOYMENT EQUITY

Employment equity is a very sensitive issue in South Africa but also one of the major challenges faced by employers, including the mining houses. South Africa is a country with a history of discrimination amongst population groups. Because of this, the programmes referred to by the respondents are not avoidable. The EAP, with its knowledge of human beings, cannot be overshadowed by any other professions in helping companies meet the targets on employee equity.

“EAP professionals play a very great role in the implementation of the Employment Equity Act (55 of 1998). This Act is one of the corner stones of employee equity in all the working places. The Act provides a framework upon which EAP professionals base their work in the general fight for equality of employees and the fight against HIV/AIDS”.

“Ever since I have been in this industry, this is the function I have seen to be amongst the top on the minds of the management of various mining houses. Maybe this is a result of the pressure they have found themselves to be under from the unions regarding the management of employees who were injured in

the course of their duties. Even before the introduction of this Act we have played a significant role in the management of employees with difficulties. We have developed a number of activities for them. Some of our athletes form the cream of major South African teams for instance.”

“The first thing we do as part of this function is to assist employers to develop policies for the management of the disease and other issues related to employment equity. Things like gender, disability and diversity are very crucial and important in this regard. We then assist in the implementation of these policies through the development and implementation of programmes tailor-made for their particular companies. As such, if you check most of the powerful positions in the Gauteng Health department, the HIV/AIDS Directorate as well as positions in most para-statal you will find that our ex-employees occupy them. We also play a major role in advising many companies in the implementation and management of EAP. This, I strongly believe, is the type of acknowledgement and appreciation shown to the type of work we have done along the years”.

Maiden (1992: 03) stated “the current sociopolitical environment of South Africa severely impacts on the workplace and thus establishes a different set of priorities for EAP professionals”. Masi (2000: 318) supports these views further by saying that the EAP professionals are put in the best position more than any other person to ensure that the rights enshrined in the Acts like the Employment Equity Act and the Labour Relations Act are enjoyed by the employees.

SUB-THEME: MANAGEMENT OF GENERAL WELFARE

South Africa, as a country is facing a number of challenges. Some of these are on the domestic front. The mining industry is not immune to these problems. The development of such Acts as the Child Care Act and the Domestic Violence Act as referred to by the respondents, are a response to

these problems. In line with the expectations of the profession, EAP professionals should work with other professionals and government departments in assisting troubled employees affected by cases of domestic violence.

“The mining industry is well known for its use of the migrant labour system as its hiring measure. Most of the employees come as far a field as Mozambique, Swaziland, Botswana, Lesotho and the furthest South African provinces of the Eastern Cape, Mpumalanga, Kwazulu-Natal and the Northern Cape. One of the negative consequences of the migrant system is the abandonment of families by the husbands and fathers who work in the mining industry. Part of the caseload of the EAP professionals in all the mining houses, I bet, is the assistance of the victims of these evils. We make use of the provisions of the Child Care Act (Act 74 of 1983), the Child Care Amendment Act (86 of 1999) and the Maintenance Act (Act 99 of 1998) to help the victims”.

“The reality of crime against women and children is as evident in the mining industry as it is in the country generally. As EAP professionals, we are therefore not left behind in helping the victims and prospective victims of domestic violence. The Domestic Violence Act (Act 116 of 1998) is utilized in the management of these cases. Cases are referred to relevant government institutions like the South African Police Services or the Magistrate Courts. On the secondary level of assistance, the EAP professionals provide education to employees in terms of empowering them to take action in cases of incidents of domestic violence against them”.

The Standards Committee of EAPA-SA. (1999:05) provides that some of the core functions of an EAP include problem assessment and the referral of employees to other agencies for diagnosis, treatment and assistance.

SUB-THEME: CRISIS INTERVENTION

Crisis intervention is even more crucial in the mining industry as the industry itself is characterized by one of the most dangerous working environments.

“Employers can be legally liable for any form of harm that may result from exposure to a traumatic experience by an employee. This is in terms of the Compensation for Occupational Diseases and Injuries Act (Act 130 of 1993). To avoid this, EAP professionals are always called in to provide traumatic debriefing at times of accidents. It must be remembered that the mining industry is one of the most dangerous working areas. EAP professionals are required to provide some form of assistance to the employees affected by accidents, the rescue teams as well as their families”.

“My experience in this industry continues to show that the only time that our service is desperately acknowledged and needed is during a crisis situation. They are not afraid to wake us up in the early hours of the morning just for them to show the world that they really care about the interests of the employees”.

Just like in the case of management of employees who abuse substances, the manifestation of Post Traumatic Stress Symptoms (PTSS) is treated as a legal matter, according to Guild et al. (2001:412). It is because of this reason that employers want to be seen to be doing something to assist employees in times of accidents. (Cascio 1998, Masi 2000 and Consad 2003).

THEME THREE: LIMITATIONS IN LEGISLATION

From the data the researcher identified the following limitations in legislation within the following sub-themes:

SUB-THEME: LACK OF SPECIFICATIONS

“On a general level, the terminology used in the provisions of legislation is too general. Time and again the Acts refer to programmes and there is certainly no specification as to what is meant by these programmes. As a result, this could easily be interpreted to mean a number of different things to different people”.

“Even before the very question of titles of persons, the definition of health should be more explicit in order to categorically include psychosocial factors. Our service should be among the essential services in the mining industry”.

“As EAP professionals in the mining industry, we are always on the look-out for better opportunities. During the hard times in companies, EAP professionals are always the first ones to leave. For instance, of all the colleagues I started with some ten years back, I am amongst the few left. I do not know when my time will come”.

SUB-THEME: NO CLARITY IN TERMS OF THE TITLE OF THE PEOPLE TO PROVIDE THE SERVICE

“In addition to the fact that companies do not give too much attention to employee’s mental health, this lack of specifications in terms of the programmes and “qualified persons” make it even more easy and simple for companies not to employ EAP professionals. Where they are employed, like

in our company, they are not given the recognition and authority they deserve”.

“The Acts could have been made more clear and specific. This is especially true of the titles of, for instance, “qualified persons” to assist managers in carrying out health and safety issues”.

“As the Acts stand, EAP professionals can easily be exploited by the companies. This can come in a number of ways. The first is that companies find it pointless to introduce EAP services and therefore they do not employ EAP professionals. The second is that even if and/or when services are introduced and professionals are employed, they are the first to be disbanded and lose their jobs during difficult times like during retrenchments. Working conditions and job satisfaction are, therefore, poor for EAP professionals. There is also no job security for EAP professionals unless there is clear understanding and support for the services from the company’s top management”.

SUB-THEME: NON-ADHERENCE TO PROFESSIONAL ETHICS

“If I were to refer to a specific Act, the Health and Safety Act provides that companies must have health and safety representatives. It further goes on to say that for every fifty employees there should be one health and safety representative. The Act further describes the duties of these representatives. No such provision exists regarding the provision of EAP services. Because of this, EAP practitioners are not employed. Secondly, EAP practitioners can be employed but I have a strong feeling that the ethics of the profession cannot be followed.

”An example I can give is a situation where a company uses a layperson to provide an EAP service. These laypersons, due to their lack of knowledge of the ethics can put the very practice in disrepute. From an outsider’s point of

view, this can be interpreted as a conduct of a non-professional within professional ethics. This is bad marketing for the profession especially in an environment where EAP services are seen as good-to-have rather than as core business”.

Ryan (2003: 02) quoted a former minister of labour in South Africa, Mr Tito Mboweni, as admitting that the provision of efficient occupational health and safety service in this country is hampered by lack of legislation that covers the overall implementation in this regard. He continues to say the division of work amongst a number of departments further promotes this hampering.

In the chapter dealing with the presentation of legislation, the researcher quoted Chima (2003:08) as one of the authors who have gone into detail in discussing the difficulties in the implementation of legislation and in this case health and safety legislation. Two of these reasons as stated in chapter three are that these Acts are either:

- *Lacking in terms of specifics. Of particular importance, though, is the fact that these Acts do not address the very problems they are meant to solve, or*
- *Vaguely presented in terminology. The interpretation of the Acts is therefore different to a number of people.*

4.4 SUMMARY

This chapter dealt with the empirical study on the impact of legislation on the practice of EAP in the South African mining industry. The researcher discussed the study he conducted on the research question. This was done through the reflection of the opinions of the respondents to the questions they were asked on the impact of legislation on the EAP practice. The views of the respondents were grouped in broad themes and more specific sub-themes.

In the final analysis, the study provided the researcher with the fact that there is some direct impact of legislation to the practice of EAP in the South African mining industry. The effect of the impact can be viewed as having both negative as well as positive implications on the practice of EAP.

The following chapter consists of conclusions and recommendations of the study.

CHAPTER FIVE

CONCLUSIONS AND RECOMMENDATIONS

5.1 INTRODUCTION

In spite of the provisions of various pieces of legislation, it is not strange to find that there are some mining houses that do not provide any form of EAP services to and for their employees. The problem formulation of this study centered on the impact of legislation in the practice of EAP in the South African mining industry, as the impact of legislation may lead to the vulnerability of practitioners in the field.

The goal of the study, namely, to explore the impact of legislation on the practice of EAP in the South African mining industry was accomplished through achieving the following objectives of the study:

- ❖ To determine the evolvement of EAP as a field of practice and relevant legislation in the South African mining industry within a theoretical framework. This objective was achieved by means of a literature study of the evolvement of EAP as a field of practice in South Africa. The researcher further provided a theoretical framework of the impact of legislation on the practice of EAP in the South African mining industry.*
- ❖ To investigate the impact of legislation on the knowledge, experience and involvement of practitioners in the practice of EAP in the South African mining industry. This objective was accomplished through the exploration of the knowledge, experience and involvement of practitioners through semi-structured interviews. The views of the practitioners were reported on in chapter four.*

- *To formulate recommendations for the role-players in the mining industry. This objective is achieved in this chapter as outlined in section 5.3*

5.2 CONCLUSIONS OF THE STUDY

The researcher's conclusions regarding the impact of legislation on the practice of EAP in the South African mining industry can be presented in the following manner:

- *Findings indicated that some legislative provisions govern the practice of EAP in the South African mining industry.*

From this finding, it can be concluded that legislation does provide some form of basic standards that society must adhere to. The provision of EAP is but one of the legal requirements. It is clear that EAP professionals and practitioners need to mobilize their resources to engage in all actions to implement legislation. The African National Congress (1994: 48) (ANC) stated "occupational health services must be greatly expanded and legislation to protect the health of workers must be enforced"

- *The findings confirmed that there are opportunities for the practice of EAP in the South African mining industry through the provision of legislation. The views of the respondents are such that services such as rehabilitation of employees, management of employee health and welfare are some of the expectations of legislation as per the provisions of the Acts.*

From the finding, the researcher concludes that EAP practitioners and/or professionals are even in a better position to implement the legislation, for they know more about the personnel in industries than any other person. It is incumbent on them to make sure that the benefits accorded to employees as per the provisions of the law do really improve the standard

of their living. As Coppersmith (1995:32) said, “As EAP professionals mobilize to face the challenges of customer-driven service and total improvement, it is important that we provide leadership within the human resource microcosm. Doing so not only furthers the aims of our own efforts within the organization, but that of the organization”. Regarding the health of employees in general, the ANC (1994:48), submits “There must be a programme to provide appropriate care for chronic diseases and the promotion of healthy lifestyles”.

- *From the findings, it can be concluded that there are some limitations in legislation in the practice of EAP in the South African mining industry. The first is that legislation is too general and therefore are seen to mean different things to different people. The second is the process of conducting interviews regarding the knowledge of legislation among EAP professionals and human resources practitioners. Human resources practitioners do know, through their professional exposure to their work, about the legal provisions and therefore, to some extent, the impact therefore on the practice of EAP. For the professionals though, who are not exposed professionally to the legal provisions, it is the opposite, hence the researcher’s conclusion that there is a lack of knowledge regarding the legislative requirements on the practice of EAP.*
- *The findings indicated that some EAP professionals and H.R practitioners lack knowledge on the impact of legislation on their line of practice which could lead to the inadequate implementation of EAP services in the mining industry.*

5.3 RECOMMENDATIONS

The recommendations generated in this study are directed at the practice of EAP in the South African mining industry, as well as to the role players in the mining industry.

- *It is recommended that legislation should be exploited to start with the rehabilitation of employees, training and development of employees; management of employee health and welfare in line with provisions of legislation; as well as provide crisis intervention services to employees;*
- *Those houses that already provide EAP services must improve the quality of their services to meet the professional ethical requirements of EAP practice as provided for in legislation and EAPA-SA;*
- *EAP professionals should provide information to the relevant role-players on the legal provisions regarding the practice of EAP. Both employee and employer representatives should be targeted through these training sessions;*
- *EAP professionals must be better equipped regarding the knowledge on legislative requirements for the practice of EAP;*
- *The government should consider promulgating law enforcing employers to implement EAP programmes. As such, just like the case with the health and safety representatives, the legislation should clearly spell out the ratio of employees per EAP professional.*

Finally, the following recommendations are made for future research:

- *The dialogue between EAP practitioners and professionals in the mining industry in South Africa on the effective implementation of legislation;*

- *The perception of the Union on the implementation of legislation in the EAP in the South African mining industry;*
- *The exploration of the role of the Union in the management of EAP in the mining industry in South Africa.*

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Appendix A

Appendix B
CONSENT FORM FOR PARTICIPATION IN THE STUDY

PARTICIPANT'S NAME: _____

DATE: _____

PRINCIPAL INVESTIGATOR : PHIWE MBANA
FACULTY OF HUMANITIES
DEPARTMENT OF SOCIAL WORK
UNIVERSITY OF PRETORIA
REPUBLIC OF SOUTH AFRICA

INFORMED CONSENT.

1. TITLE OF THE STUDY: A SOCIAL WORK STUDY ON THE IMPACT LEGISLATION ON THE PRACTICE OF EMPLOYEE ASSISTANCE PROGRAMME IN THE SOUTH AFRICAN MINING INDUSTRY.

2. PURPOSE OF THE STUDY: *The study is aimed at exploring the impact of legislation on the practice of EAP in the mining industry. The final results will be used to propose recommendations to the role-players (government, employers and unions) on the way forward. This is seen in terms of what can be done in terms of available resources and what needs to be done.*

3. PROCEDURES: *The investigator will first conduct a literature review on the topic. Thereafter, interviews will be held with a group of people who are seen to be representative of the population.*

4. RISKS AND DISCOMFORT: *There are no envisaged risks and discomfort to participation in this study.*

5. BENEFITS: *Benefits are seen as adding knowledge to the practice of EAP in general with particular emphasis to the mining industry.*

6. PARTICIPANT'S RIGHTS: *I may withdraw from participation in the study at any time.*

7. FINANCIAL COMPENSATION: *There will be no financial compensation for participation in the study.*

8. CONFIDENTIALITY: *The confidentiality of participants in this study will be ensured through the employment of ethical principles as required by the Department of Social Work of the University of Pretoria.*

9. FOR ANY QUESTIONS: *Contact the investigator at: 083 708 3954 at any time during the day or night.*

I understand my rights as a research subject, and I voluntarily consent to participate in this study. I understand what the study is about and how and why it is being done. I will receive a signed copy of this consent form.

Subject's signature

Signature of investigator

Appendix C

SEMI-STRUCTURED INTERVIEW SCHEDULE

OCCUPATION: _____

COMPANY: _____

NO. OF YEARS IN SERVICE: _____

GENDER: _____

AGE: _____

QUESTIONS.

1. **Is there any impact of legislation on the EAP practice in the South African mining industry?** Yes ___/No_____(If your answer is no please describe your answer).

2. **What informs the impact?** Briefly describe in terms of the following:

Legislation/s

Opportunities

Limitations

3. **What influence does the impact have on the EAP practice?**

Opportunities

Limitations

4. **What are the mining houses (specifically your own employer) doing in view of the implications?**

Opportunities

Limitations

5. *What do you suggest/recommend in view them?*

Opportunities

Limitations