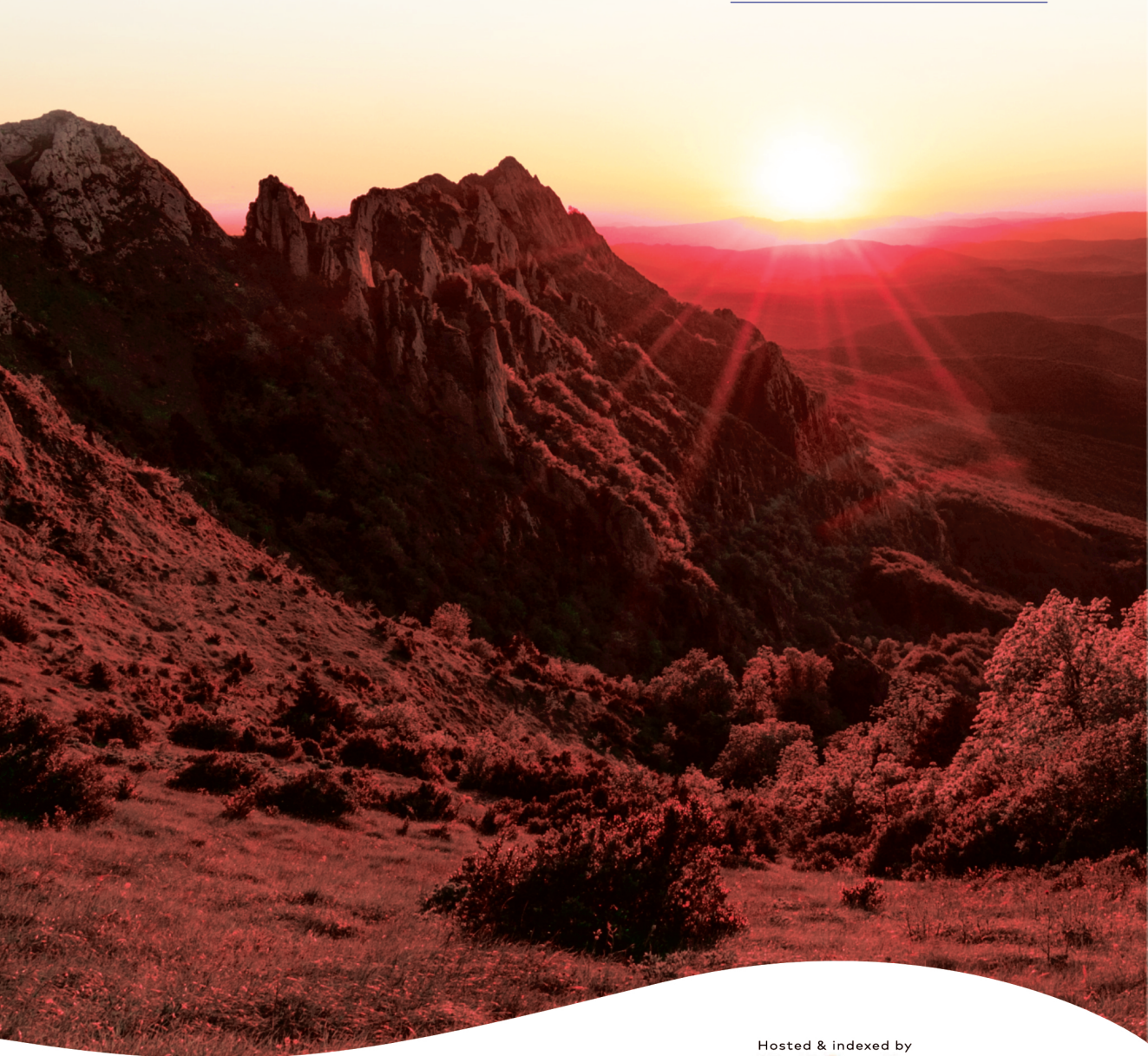


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A critical review of compensation challenges for occupational diseases among Zimbabwean ex-miners to the Witwatersrand, 2018-2021

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Abstract

This study investigates historical and contemporary challenges faced by Zimbabwean ex-miners in securing compensation on occupational diseases contracted in South African gold mines. Zimbabwean labour migrancy to South Africa was brokered by the Witwatersrand Native Labour Association (WNLA) and were placed on various mines in Transvaal and the Orange Free State. South African gold mines frequently repatriated sick miners in a way that was considered to be the industry's medication system. Repatriation of sick miners was a capitalist method of avoiding compensating miners who had contracted diseases like Tuberculosis and silicosis. Contemporary obstacles to compensation are hinged on legal challenges, administrative hurdles and effects of COVID-19. This paper fills an academic void on the lives of former migrant miners and compensation challenges they face. The study gleaned information from WNLA documents archived at the University of Johannesburg, Zimbabwean newspapers, oral testimonies of ex-miners, secondary literature on South African labour history and the Tshiamiso Trust website.

Keywords: Compensation, Tshiamiso Trust, Ex-miner,

Introduction

The Witwatersrand Native Labour Association (WNLA) was established by the South African Chamber of Mines in 1901 for the sole purpose of supplying gold mines with unskilled labourers from areas beyond the modern day 22° of latitude (Harington et al., 2004). As a result, around 1,700 Zimbabwean labourers toiled in South African gold mines on a twelve-month contracts by 1910 (Ncube, 2012). Labour contractees from the region swelled to around 40,000 by 1979.

The then Zimbabwean Ministry of Labour under Kumbirai Kangai recalled its citizens in October 1981 without proper negotiations with The Employment Bureau of Africa (TEBA, which had succeeded WNLA). This hurried move of labour withdrawal by Zimbabwe robbed ex-miners of their due compensation on health grounds. Shrouded in communist euphoria, the Zimbabwean government acted in the political correctness of fighting apartheid by denying the South African economy a vital labour force. It was a disadvantage to migrant labourers who could not go through the normal process of medical examination before the termination of their contracts. The withdrawal of Zimbabwean labour was done in a manner that polarised the relationship between the South African mining industry and the Zimbabwean government. Antagonism between the two players in migrant labour history manifested after the 2018 Johannesburg High Court ruling on compensating former migrant miners (*News24*, 2019). South African mines affiliated with WNLA established Tshiamiso Trust to run the compensation of ex-miners, but the Trust handled Zimbabwean migrants in a way that made it impossible to secure compensation (Tshiamiso Trust, 2020).

The Trust's *modus operandi* created compensation impossibilities by failing to establish offices in Zimbabwe, the unwillingness to issue a toll-free number for Zimbabwean labourers, and the imposition of impossible legalities (*Fair Planet*, 2020). Operational imperfections of the Ex-Miners Association of Zimbabwe (EMAZ) also played a significant role in impending compensation (Mkwanzani, 2021). A combination of the Trust and EMAZ's shortfalls were exacerbated by the COVID-19 pandemic that curtailed movement, especially in 2020 (Moyo, 2020; Tshiamiso Trust, 2021).

Background

McCulloch (2012) noted that South African mining companies were compelled to contribute quarterly compensation funds in a specific formula. Half of that payment was based on the silicosis rate per mine, while the remaining was to be divided on miners' wage bills and profits made by the mines. Chanock (2001) noted that blacks were only compensated if they had been certified sick before death or before discharge, hence giving mines a huge incentive to either repatriate men without compensation or detain several TB patients in mine hospitals till their death. Such a shrewd practice by the mines, in conjunction with WNLA, led to the exploitation of miners' compensation and releasing sick miners who spread the diseases to their origin-villages of belonging both within South African borders and beyond. According to the Miners' Phthisis Consolidation Act No.35, black miners could only be compensated if diagnosed before living in the mines (Smith, 1993). Unfortunately, black workers were not aware of their legal rights at the time, and did not have access to biomedical care in their villages of settlement after exiting the mines. An ex-miner echoed the same sentiments of being unaware that they had the legal right to sue WNLA as back as 1963 when they left the Rand mines. The history of compensation for occupational diseases is thus marred with racial prejudice and only white workers could appeal if they had done biomedical tests after exiting the Rand mines; blacks had no right to appeal if their applications for compensation were turned down.

The WNLA compound in Johannesburg had adequate X-ray equipment, but one doctor had to stethoscope on the chest of more than a hundred sick workers (McCulloch, 2012). It reinforces the claim that workers did not receive a clinical medical examination, instead, only those with apparent disease received X-rays. As a result of such an underlying lack of medical professionalism, most workers left the mines at the end of their contracts without knowing if they were sick and eligible for compensation or not. During the apartheid era, the mining industry asserted that, although the government held legal responsibility for tuberculosis, it was the mining industry that provided treatment to the miners, not the government (McCulloch, 2012). Given this perspective, ex-Zimbabwean miners found it challenging to receive compensation from the mining industry, as the WNLA, which ceased to exist in 1977, recruited most of them. However, the government, likely with the assistance of Western donors, was responsible for administering treatment, creating a paradoxical situation.

Miners who were repatriated due to sicknesses had to go through examinations to ascertain if they deserved compensation. Mine medical officers on the Witwatersrand mines transferred all cases of tuberculosis to the WNLA hospital for treatment, while the Miners' Phthisis Medical Bureau conducted the examination. Miners were x-rayed by the WNLA then notes and x-ray plates were taken to the Bureau at Hospital Hill. The WNLA hospital housed the sick for six weeks while receiving treatment. They waited for the Bureau's verification of the service record, which was necessary for compensation. Throughout the history of the labour broker, conditions at the WNLA hospital were deplorable for the sick miners awaiting compensation and repatriation. The Australian health historian Professor McCulloch, (2012) asserted in *South Africa's gold mines and the politics of silicosis*:

The conditions in the WNLA wards were wretched. There were patients in the beds and wherever they could find space to sleep. Many lay on the cement floors with a thin flat pad for a mattress and a single blanket. During the daytime they would sit under the trees in their nightshirts. At night the wards were filled with the sound of productive coughing and spitting.

This vivid description of the plight of sick miners awaiting repatriation points out the incapacitation of WNLA's health system and the negative attitude of WNLA towards TB patients. Some miners died at the WNLA hospital while waiting for medical assessment. For example, 112 miners died in 1955, 102 in 1956, and 78 in 1957 (WNLA, 1959). The inability to re-enlist miners who left the Witwatersrand due to TB may have influenced WNLA's attitude. Migrant miners expressed dissatisfaction with the treatment of sick miners at the WNLA depot, leading to complaints about overcrowding. Overcrowding led to infection of other patients who suffered from other diseases or were admitted on account of injuries. The purpose of admitting TB cases in dire conditions was to administer treatment and offer compensation before repatriation. McCulloch attests that hundreds of repatriations took place each week, and the cost of repatriation was significantly lower than the cost of administering medication until recovery. In the year 1956, the total cost for the repatriation of all sick repatriates was £ 13,000 for compensated miners and £ 6,500 for uncompensated miners (WNLA, 1959).

One controversial aspect of mine medicine was the repatriation of sick miners. Patients who had not recovered were discharged to make way for new arrivals. They were issued with referral letters to their nearest clinics in Rhodesia. This did not yield positive results for miners because rural clinics had no adequate

medicine and were isolated to get help from the South African Chamber of Mines. The Chamber of Mines did not assist because it was expensive. For example, the Chamber of Mines estimated it would cost them £100,000 to establish 20 clinics in the rural areas of labour-sending territories and operate them at £40,000 per year (McCulloch, 2012). As a result, sick repatriates defaulted (stopped taking medicine), died, and spread TB to their family members.

WNLA also facilitated the repatriation of injured miners. Injured patients with minor injuries were treated in mine clinics, whereas severe injuries that needed a surgical operation and plastering, among others, were treated at the WNLA hospital. Severe injuries prevented miners from continuing their mine work, necessitating their repatriation. Severe injuries among 47 miners repatriated on 15 October 1959 included a fractured tibia, fractured spine, fractured skull, fractured femur, fractured pelvis, deafness, blindness, enlarged liver, and spleen (McCulloch, 2012). The Central Medical Board first assessed these miners for compensation purposes before their repatriation. The Central Medical Board was made up of the WNLA chief medical officer, a second WNLA medical officer and a representative of the Native Affairs Department. A representative of the Rand Mutual Assurance Co. Ltd also attended medical assessments to take notes. Mining companies founded the Rand Mutual Assurance in 1894 to provide monetary assistance to miners injured at work. The Native Affairs Department then translated the disability into money. The Rand Mutual Assurance Co. Ltd. gave the money to WNLA, which in turn paid the miner as compensation for the injuries sustained. Of the 1,100 injured miners repatriated in 1959, 529 of them appeared before the Central Medical Board for assessment and compensation. Of the latter figure, 473 accepted compensations amounting to £30,666 and 56 refused compensations amounting to £2 669. In 1960, the mines sent 355 miners, regardless of their illnesses, to the depot for repatriation. Of these repatriates, 733 appeared before the Central Medical Board for assessment (WNLA, 1961). Of these, 625 accepted compensations amounting to R89, 482.36 and 108 refused to accept compensation amounting to R11, 709.54. The Board saw a decrease in cases presented to them compared to 1960, but an increase in 49 cases where miners refused to accept compensation on the basis that it was too little. WNLA's hospital compensation system aligns with capitalism's focus on profit maximization and cost minimization at the expense of labour. The decision to repatriate sick workers was driven by the pursuit of the economics of death, as it was cheaper than compensating them.

Review of Literature

The study under review examines historical and contemporary compensation challenges faced by Zimbabwean ex-miners for occupational diseases contracted in South African gold mines. This section synthesizes key scholarly works, archival records, and oral testimonies that provide a foundation for understanding the broader context of labour migration, industrial relations, and compensation issues.

Research on labour migration has established the significant role played by the Witwatersrand Native Labour Association (WNLA) in recruiting labour from Zimbabwe (then Rhodesia) and other Southern African countries (Harington et al., 2004). Studies by Mlambo (2010) and Ncube (2012) document the growth of Zimbabwean labour migrancy to South African mines, peaking during the mid-20th century. This migration was characterised by exploitative practices, such as low wages and poor working conditions, which were masked by WNLA's reputation for offering relatively better contracts than local alternatives. McCulloch (2012) highlights the systemic neglect of occupational health issues, with mine workers being repatriated when sick rather than being compensated. The Miners' Phthisis Consolidation Act further institutionalised the racial discrimination that denied black miners, including Zimbabweans, access to fair compensation (Smith, 1993). These studies note the historical roots of the compensation challenges faced by Zimbabwean miners today.

The industrial relations theory, as outlined by Shabi (2003), provides a framework for analysing the dynamics between employers and workers. The WNLA mediated relations between South African mining companies and migrant labour, often prioritising the profitability of the industry over the well-being of workers. This is reflected in the exploitative practices documented by Moodie (2005) and McCulloch (2012), where miners were subjected to hazardous working conditions and denied adequate medical care or compensation. Research by Badenhorst and Mather (1997) sheds light on the cultural and social controls employed by the mining industry, such as the provision of recreational facilities, which served to mask the exploitative nature of labour relations. However, the systemic denial of compensation for occupational diseases, as documented by Chanock (2001), highlights the exploitative "horse-and-rider" relationships.

The 2018 Johannesburg High Court ruling compelled South African mines affiliated with WNLA to establish the Tshiamiso Trust marking a significant

milestone in addressing silicosis and tuberculosis among miners (News24, 2019). However, Mpedi and Nyenti (2013) reveal that administrative and legal hurdles continue to impede access to compensation for Zimbabwean ex-miners. The exclusion of pre-1965 miners from compensation schemes, and the lack of decentralised registration process are significant barriers. Moyo (2020) and Mashiri (2021) provided testimonies highlighting the bureaucratic challenges faced by ex-miners, such as the need for valid service records and personal attendance at lodgement offices in South Africa. These issues are compounded by the absence of Tshiamiso Trust offices or toll-free contact numbers in Zimbabwe (Tshiamiso Trust, 2021). The COVID-19 pandemic, on the other hand, exacerbated these challenges by restricting travel and disrupting administrative processes. Reports by Fair Planet (2020) and Tshiamiso Trust (2020) acknowledged the limitations imposed by lockdowns, which prevented miners from accessing lung function tests or lodging claims. Sibanda's (2021) interviews with ex-miners revealed the profound impact of these restrictions on an already marginalised population.

The media in Zimbabwe also played a dual role in the compensation saga. A number of articles on the matter that appeared in *The Chronicle* (2019) and *The Herald* (2018) raised awareness about compensation opportunities while spreading misinformation (Sibanda, 2021). The misleading narratives contributed to the confusion and false hope among ex-miners, thereby complicating the process of securing rightful compensation. Thus, the fluid nature of industrial relations, as described by Sibanda (2021), aligns with the broader literature on labour exploitation in the mining industry. The capitalist focus on profit maximisation, documented by McCulloch (2012) and Chanock (2001), underline the systemic nature of compensation denial. This theoretical lens provides a critical perspective on the persistent challenges faced by Zimbabwean ex-miners.

Theoretical Framework

This study is informed by the industrial relations theory (IRT). According to Shabi, (2003), the industrial relations theory refers to relationships that exist within the industry between the employer and their workers. Relations are defined as good or bad or so-so. WNLA was at the centre of labour recruitment and shaped the nature of relations in a way that benefited the mining industry. Relations between WNLA, mines and migrant workers can be defined as 'fluid' through different circumstances in the history of mining and labour migrancy.

Relations between migrant miners and the mining industry were good at the beginning of recruitment. This was inspired by WNLA's involvement in securing employment for Rhodesian miners. WNLA developed a reputation of securing paying contracts compared to those by the Rhodesian Labour Bureau on Rhodesian mines (Mlambo, 2010). Returning miners brought expensive clothing, galex radios and would afford paying pride price due to WNLA's mediated remuneration. Good wages were coupled with free transportation through rail and air after the Second World War. Air travel made oscillating to South African gold mines prestigious. Higher wages on the Rand mines benefited the mine industry with stable work force and it also established good relations between Rhodesian miners and the Rand capital.

Incidents of white miners' assaults on black miners exposed the ugly side of industrial relations on the Rand mines. Assaults were a result of racial discrimination and demands of ore which forced white supervisors to motivate their black subordinates with a boot and a fist (Moodie, 2005). Violence led to hospitalisation of injured and sometimes death of black miners which in turn negatively effected the industry. Shift loses due to hospitalisations led to decline in productivity and logistical inconvenience of repatriating the deceased (Sibanda, nd). WNLA intervened by bringing various methods of solving workplace rifts in a peaceful manner. Such methods included teaching of *Fanakalo* (mine *lingua franca*) because some cases were a result of communication breakdown between Afrikaans speaking supervisors and migrant miners with no knowledge of the language (Breckenridge, 1998). WNLA also pushed for the establishment of mine tribunal that solved cases between white supervisors and black subordinates (Sibanda, nd.). Relations between WNLA and migrant miners were thus defined as good in this context and that this benefited the productivity of the industry.

WNLA also played a key role in regulating labourers' daily lives in a way that defined the cordiality of industrial relations. The labour broker offered free entertainment facilities like TVs, Radios, soccer fields, and soccer kits among others (Badenhorst & Mather, 1997). The labour broker also mandated mines to offer technical, basic and religious education to migrant miners (WNLA, 1946). This benefited the industry by deflecting boredom on miners and destroying their desire to visit nearby shebeens. Shebeens were a haven of STIs and violence amongst black miners which would have affected mine productivity with shift loses. However, when considering the issue of compensation; WNLA and mines have been unfair to miners, hence doctoring the bad industrial

relationship. Black miners were given meagre amounts of money that was not enough to cover medical expenses (WNLA, 1959). This explains the fluidity of the relationship as it depended on how it benefited the industry more. Fair compensation meant higher amounts would have led to financial haemorrhage on the industry because the workplace was hazardous, and many people were exposed to dust that caused TB and silicosis.

The bad relation between migrant labourers and the mining industry crossed into the 21st-century by ensuring the creation of obstacles against fair compensation. As a result, the industry failed to compensate miners who contracted occupational diseases. The relationship between miners and the industry was that of a horse and a rider in which mines rode on miners to maximise profits by withholding financial compensation for occupational diseases. The industry successfully rode on miners through the creation of administrative and legal hurdles that mutilate miners' quest for compensation.

Methodology

The study chose qualitative research method because the research is interpretive and does not seek a lot of enumeration. This approach allowed the researcher to visit participants in their contexts, collect their stories and write an account of their struggles with compensation (Ivankova et al., 2007). Denzin and Lincoln (2019) argued the qualitative research approach is advantageous in that one approaches reality from a constructivist position, giving room for multiple meanings of individual experiences. Another advantage of this approach is that data was collected from the participants' settings and analysed inductively building from particulars to general themes and making interpretations of the meaning of data (Creswell, 2014). This research approach is valuable in that research questions were open-ended, thus enabled one to understand participant's struggles to the study's central phenomenon of compensation challenges faced by ex-miners.

The qualitative research approach was more flexible given the study's personal struggles of participants. That is, participants gave space for the researcher to be innovative and to work within his designed framework. In addition, this approach allowed vast creative and literal style of reporting. In contrast to quantitative methodology, the qualitative method enabled the researcher to study selected issues in depth, with openness, and detail, as they identified and attempted to understand the categories of information that emerged from the gathered data (Blanche et al., 2006). In this case, qualitative researcher started

by questioning miners how they were recruited by WNLA. Furthermore, the qualitative approach helped to foster an understanding of the meaning attached to compensation on health grounds. The method of collecting data involved the presentation of oral verbal stimuli and replies in terms of oral verbal responses.

The researcher relied largely on personal interviews. According to Khothari (2004), personal interviews require a person known as 'the interviewer' to ask questions generally in face-to-face contact with the other person or persons. At times, the interviewee may ask questions, and the interviewer responds to these but usually, the interviewer initiates the interview and collects information. According to Maxwell (1996), meaning in qualitative research encompasses cognition, affect, intentions and everything else and anything else the researcher may refer to as the participants' perspectives. It was also chosen because it focuses on situations and people rather than numbers.

Unstructured interviews were conducted during the research. The method of interviewing was chosen for its strength in deriving from the informants as much oral information as possible. Oral testimonies were also chosen because they are rich though sometimes, they lack precision, particularly in terms of chronology and dates. According to Taylor-Garcia (2011 p. 9), "to articulate the past historically does not mean to recognize it the way it was. It means to seize hold of a memory as it flashes up in a moment of danger." In this case, getting several voices was also aiming to deal with the challenge of memory lapses. All informants were above 60 years of age as of 2024. The researcher assumed that people of this description were legible to provide credible or reliable insights on the subject under study as they were at least 20 in 1980. Bloch (2005) asserts that to access information the researcher travelled extensively and interviewed many people by snowball sampling, that is, obtaining respondents through referrals among informants who shared the same characteristics. The researcher, therefore, travelled extensively throughout Bulawayo, Johannesburg and Silobela areas interviewing many ex-miners struggling with compensation issues.

Archival documents at the University of Johannesburg made this work possible. These documents are kept in files inside boxes at the university's Doornfontein campus. Archival sources are original WNLA periodic reports, records of service, minutes, memorandums and circulars that were transferred from TEBA to the University of Johannesburg in September 2006 dating from 1902-1974. Consulted documents included Circular No 91 / 46 issued on 11 April

1946 and Circular No.79/55 dated 2nd of March 1955. These documents describe WNLA's role in the industrial relations between miners and the capital.

This study was also nourished with information from secondary sources such as published and unpublished works and research papers on mining and migrant labour history. Electronic sources were also consulted in a quest to get as much of on-going debates on the topic as possible.

Results

In 2018, the Johannesburg High Court categorised claimants into four groups: those with silicosis or silica dust exposure, dependents of deceased miners, those with tuberculosis, and descendants of deceased miners. The court ruled that claimants would receive between R70,000.00 and R500,000.00 depending on their classification in the four categories they fall into (*News24*, 2019). The high court's ruling excluded workers injured in mines, resulting in loss of sight, hearing, and even life, causing a problem.

The othering of other workers has been pinpointed as one of the tragedies and an obstacle in the compensation of ex-WNLA miners. In 2019, the Johannesburg High Court ruled that pay-outs made through Tshiamiso Trust would cover miners who worked in the Rand mines between March 1965 and December 2019. This periodisation excluded some surviving former miners like Dumisa Dube of Silobela and Hebert Tadherera of Masvingo who worked before 1965 under the umbrage of WNLA. EMAZ expressed that it has no power to challenge a high court ruling probably due to lack of funding to hire legal representatives. Some South African gold mining companies went defunct from the 1970s to the 1990s. Modise (2021) notes that some mines, such as Crown Mines, renamed Gold Reef City by Tsogo-sun, have been transformed into a museum and recreation facility hence not contributing to Tshiamiso Trust.

The only companies funding compensation under Tshiamiso Trust include African Rainbow Minerals, Anglo American South Africa, Anglo Gold Ashanti and Sibanye Stillwater. The only companies funding compensation under Tshiamiso Trust include African Rainbow Minerals, Anglo American South Africa, Anglo Gold Ashanti and Sibanye Stillwater. Giant companies owned 82 mines in Gauteng and Free State provinces, including Greenfontein Gold mine, Robinson Deep, and Crown mines, where Zimbabwean miners once worked.

The largest population of ex-WNLA miners lay secluded in the remote villages of Zimbabwe where buying a newspaper is a luxury. Despite such a misfortune, some Zimbabwean public media outlets published several ‘controversial’ articles, without proper empirical research thereby misleading ex-miners on the actual aspects of the compensation. Nonetheless, such media reports played a major role in conscientizing ex-miners on their due rewards hence forcing them to take steps. Zimbabwean media outlets published controversial articles, misleading ex-miners about compensation, but under scrutiny, they conscientized them about their due rewards and forced them to act.

On 6 July 2019, *The Chronicle* (2019) report “*Ex-Wenela workers to receive pensions*” claimed that ex-miners were due to receive pensions and other benefits. The media report falsely claimed that miners were owed R400,000 each, thus damaging the ex-miners’ hopes and raising awareness at the same time, but not accurately reflecting the truth. The report further falsely claimed that the ex-miners would also receive pensions. Zimbabwean migrant workers were paid deferred wages to their POSB accounts in Rhodesia and early Zimbabwe.

Five ex-miners interviewed on the matter claimed they had no agreement with WNLA regarding pensions. In this regard, the media gave false hope to a group of people who were already living in abject poverty. In another report titled “*Court approves historic R5bn settlement in silicosis saga*” published online 20 days later by the *South Africa News24* (2019), claimed that ex-miners were to receive between R70,000.00 to R50,000.00 depending on the severity of the occupational disease. The report clarified the amount of money to be received by those found eligible by the Tshiamiso Trust.

However, the Zimbabwean media has published misleading news about compensation, while still recognizing the efforts of conscientious ex-miners in the matter. *The Herald* (10 October 2018) published an article titled “*5000 ex-Wenela workers seek pension payments*”. *The Herald* stated that 5000 South African miners had registered with the Southern African Miners Association (SAMA)’s offices. SAMA did not have any office in Zimbabwe, but EMAZ had one in Bulawayo which began as a sister organisation to SAMA. SAMA has its office in Pretoria and in Maseru not in Zimbabwe. The same article further asserted that 5000 ex-miners had been registered for pensions and the assertion deviated from the truth as it was in direct controversy with the remarks made by the chairperson of EMAZ in 2019 (a year later) that only 2000 have been registered for compensation in occupational health. Such ‘peddling’ of falsehoods confused

a lot of ex-miners who thought they were expected to seek pension benefits instead of occupational health compensation.

The lack of a decentralised registration process dealt a huge blow by excluding ex-miners from other provinces who did not have transport fares to Bulawayo in EMAZ's headquarters. The association's office in Bulawayo was geographically inaccessible to all ex-miners. All health check-ups were administered in Kadoma, a remote small town which is still very far from many ex-miners. However, the association took its members to Benefits Medical Examinations in Kadoma which became an expensive on transporting ex-miners who may have been coming as far as Tsholotsho. Zimbabwe is a country marred with ethnic tensions and regionalism where former miners from Mashonaland and Manicaland have complained of a lack of decentralisation in a tone expressing ethnic rage. Mashiri (2021) from Masvingo complained that they were never employed in Bulawayo but in their districts, so compensation issues should also be handled in their respective districts.

To solve the problem, EMAZ decentralised its facilities by having a representative in every province. The phone numbers of those representatives were posted on EMAZ's Facebook page. Of all the contacts, the researcher only managed to reach one Mrs Sibanda who lives in Gweru and thus represented workers from the Midlands province. This case exposed three issues: firstly, provincial representatives are not reachable through the phone. Secondly, Mrs Sibanda was not an ex-miner but a child to the deceased ex-miner, hence did not know much concerning compensation requirements. The third problem was that ex-miners like Champion Ncube, Dennis Mlazi and Busiso Sibanda from Silobela district (in the Midlands province) did not know they had a provincial representative whom they were supposed to go through to cut transport costs. In July 2019, the researcher boarded a bus from Silobela with Champion Ncube (the researcher's uncle) to Bulawayo where Champion Ncube was going to enquire about compensation 450km away from his home; leaving a provincial representative stationed just as close as 80km.

The advent of COVID-19 and its related lockdowns worsened the situation in 2020, and it trimmed the hope of getting settlements among many former miners. COVID-19 led to strict regulations on travel with inter-city travel for non-essential service providers banned. Likewise, the office of EMAZ had to close for the most of 2020 since it was not listed under essential service providers. As a result, the office could not receive calls and could not interact with miners who needed help. Tshiamiso Trust was also affected by COVID-19 regulations

in South Africa as it was not listed under essential service providers. Moreover, Tshiamiso Trust (2021) mentioned that lung function tests could not be used for 'current' COVID-19 pandemic. The only alternative was to consider claimants from deceased miners or individuals who had done tests before March 2020. Unfortunate that all Zimbabwean former miners who had done tests in 2019 and beyond and got ascertained they were eligible for compensation but could not get their settlement since Tshiamiso Trust staff had to work from home with no one picking their office phones whenever miners or the researcher tried to call.

Tshiamiso Trust (2020) also seemed to be reluctant to compensate Zimbabwean ex-miners as it did not have a Zimbabwean toll-free number on their website but had -toll-free numbers for former miners calling within South Africa and from other countries like Mozambique (843318727), Lesotho (80032020), Eswatini (977 or 975), Botswana (36322733 / 3632757) and Malawi (airtel 5494 or *919# or 321; TNM 0887371288). Such a reluctant gesture by Tshiamiso Trust left Zimbabwean ex-miners with no one to call for enquiries but wait in limbo.

The trust (Tshiamiso Trust, 2021) asserts that claimants to lodge their claim in person and each claim can take up to 180 days to be finalised from the date of lodgement. Lodging the claim in person requires one to have a valid passport, a bus fare to South Africa and a place to sleep for the duration of the process. All this required money and with no guarantee that the claim will be successful. Zimbabwean ex-miners had the option of sending their children who are already working in South Africa but with no success as the trust also demands a copy of all service records from the mines where the miner once worked at.

Unfortunately, almost all miners did not have service records from the various mines they once worked at. To normalise services during the pandemic, Tshiamiso Trust outlined eight steps on their website on how the compensation process can proceed regardless of the pandemic. A claimant was required to check his details as a first step in the process of claiming compensation. Instead of going to Tshiamiso Trust offices in person, which was very impossible under the circumstances of COVID-19, claimants had the option to do the process online. They (claimants) had to check whether they had a potentially valid claim according to the information on the Trust's database by entering their industry number or passport number on the trust's website. For Zimbabwean ex-miners, this first process was unknown as they all had to do it through EMAZ most of them do not have industrial numbers and a bulk of them do not have access to the internet in the countryside and have never heard of the

trust's website. Zulu (2021) an ex-miner who once worked at the Randfontein Gold Mine says he does not have a smartphone and has no data to access the internet; hence he could not do the process online. The first step outlined on the Trust's website is, therefore, an impediment to compensation on its own. The Trust's website further says "the third step is to visit the lodgement office on the appointment day. Claimants were to carry all required documents with them to the lodgement office and the lodging officer would assist them in filling out the lodging form and take their fingerprints to avoid fraud. Again, this step is inapplicable to Zimbabwean workers who do not have a lodging office and officer in their country. The only option they have is the impossible one, to book for appointment online and go to South Africa.

The outcome of the third step was designed in a way that will usher the claimant to the fourth step of BMEs. The fourth step is:

1. *If required, a BME will be arranged for the claimant. This will also be by appointment. At present, the Trust is working with the Aurum Health Institute and Netcare Occupational Health to conduct BMEs on its behalf. BMEs was carried out by Aurum's mobile clinics and at fixed locations, operating strictly according to the COVID-19 guidelines from the Department of Health and SA Thoracic Society.*
2. *A clear reading of the fourth step showed that Zimbabwean ex-miners were systematically excluded from successfully making claims because the Trust organised BMEs to be done in South Africa automatically side-lining Zimbabwean ex-miners who live in remote areas with no passports and money to fare for BMEs on the other side of the Limpopo River.*
3. *As articulated on the Trust's website, the fifth step is the review of BME results. The website states that:*

The BME report or, in the case of deceased mineworkers, other medical documents supplied by claimants, by medical facilities and, where available, by the government's Medical Bureau for Occupational Diseases (MBOD), will be reviewed by Tshiamiso's Medical Certification Panel (MCP). The review is to consider the medical information and to assess this information in terms of the categories that are part of the Court-approved Trust Deed.

Under COVID-19, the trust mentions that the fifth step of reviewing BMEs was carried out by a panel of selected personnel. The fifth step does not mention if BMEs done by Zimbabwean ex-miners at Kadoma in 2019 were reviewed or not. When asked by the researcher if the 2019 BMEs were to be considered in the fifth step, the chairperson of EMAZ mattered "nothing for us without us, we're here for justice and I'm glad that your name is Justice" (Mkhwananzi Interview, 2 June 2021). This also made it clear that the failure to reach a consensus on

the fifth step between EMAZ and Tshiamiso Trust was a huge obstacle that prevented the compensation of former miners whom the chairperson of EMAZ had claimed in July that he was ascertaining (*The Chronicle*, 2019)

The eighth (final) step was the approval and payment step where successful claimants were given personal financial advice on managing the monetary benefits. At this stage, it is where the Trust required the claimant's bank account to make sure that the benefits were deposited into the right account. Step six was the review of the BMEs by the Trust Certification Committee (TCC) which certified the claim and issued a final Certificate after the review by the agent who represented the funding companies in step seven. Nonetheless, ex-miners from Zimbabwe ended in taking BMEs in Kadoma and they do not know the outcome of their BMEs by the TCC. Briefly, no Zimbabwean ex-miners have called for personal monetary advice or have been asked to provide their bank accounts by Tshiamiso Trust, cementing the view that no one has been compensated among Zimbabwean labour migrants to South African gold mines.

Conclusion

Zimbabwean ex miners' difficulties in getting compensated on occupational diseases are rooted in South African mining capitalist industrial relations that emphasised the making of maximum profits through cost minimisation *vis-à-vis* labour exploitation by meagre wages, compound housing, mass feeding, and repatriation of sick miners. Despite the existence of legal challenges and the impact of COVID-19, Tshiamiso Trust has inherited and perfected methods of denying compensation as previously held by the mining industry. Such methods include reluctance to have a toll-free number for Zimbabwean ex-miners and unwillingness to open offices in Zimbabwe.

The study recommends that the Zimbabwean government collaborates with the South African government in pressuring Tshiamiso Trust to change their method of operation which stands as a major obstacle to compensation. This enables Tshiamiso Trust to open regional offices in Zimbabwe where ex-miners and beneficiaries can have access to first-hand information on the requirements to obtain compensation. It will also be an added advantage if EMAZ consults both Zimbabwean and South African human rights lawyers to overcome any legal hurdles thrown their way by mines through Tshiamiso Trust.

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