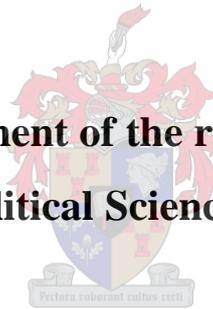


# **Influence of Stakeholder Interactions on Policy: The Broad-Based Socio-Economic Empowerment Charter for the South African Mining and Minerals Industry**

**By**

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**Thesis presented in fulfilment of the requirements for the degree of Masters of Arts (Political Science) (100% thesis option)**



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**March 2021**

## **Declaration**

By submitting this electronically, I declare that the entirety of the work contained therein is my own, original work, that I am the owner of the copyright thereof (unless to the extent explicitly otherwise stated) and that I have not previously in its entirety or in part submitted it for obtaining any qualification.

Date: March 2021

## **Abstract**

The South African mining industry is complex, due to its role as an essential growth sector of the economy, its importance as a key employment provider to hundreds of thousands of South Africans, along with its historical role regarding labour exploitation of black South Africans. Since the democratisation of South Africa, government policies have worked toward rectifying structural constraints, caused by apartheid laws, that have negatively impacted the socio-economic welfare of the majority of South Africans.

The Broad-Based Socio-Economic Empowerment Charter for the South African Mining Industry- more commonly known as the Mining Charter is an industry-specific response to the above and has the principal aim of rectifying various inequalities found within the industry. This is ensured by setting compliance targets for mining companies. Over the years, these compliance targets have increased, in order to promote meaningful participation of Historically Disadvantaged South Africans (HDSAs) within the mining industry. These increases have often been met with criticism and at times have been contested, with stakeholders making use of legal proceedings and other channels to refute changes of the Mining Charter requirements.

With this in mind, the purpose of this thesis is to understand the influence that key stakeholder interactions have had on the development of the Mining Charter over the years. To address the research focus, a qualitative approach was taken, along with the utilisation of the Advocacy Coalition Framework (ACF) as an analytical tool for understanding stakeholder interactions. Furthermore, the research process consisted of semi-structured interviews and desktop research with the purpose of; contextualising the industry itself and the policies which allow for the Mining Charter to be enforced; discussing how key stakeholders make use of their resources to interact with one another; and the subsequent influence of their interactions on the development of the Mining Charter.

The findings suggest that interactions between key stakeholders have influenced the development of the Mining Charter over the years. Moreover, stakeholders will vehemently advocate for a policy outcome that reflects how they would like the Mining Charter to function – which is often influenced by their position within the industry. This is not an ideal outcome for the development, or principal objective, of the Mining Charter. In the future, stakeholders will need to engage more effectively with one another and come to a consensus that will benefit all stakeholders, while ensuring that the policy outcome is sustainable in the long-run for the industry as a whole.

## Opsoming

Die Suid-Afrikaanse mynbedryf is ingewikkeld vanweë sy rol as 'n noodsaaklike groeisektor van die ekonomie, en die belangrikheid daarvan as 'n belangrike diensverskaffer vir honderdduisende Suid-Afrikaners, tesame met sy historiese rol rakende arbeidsuitbuiting van swart Suid-Afrikaners. Sedert die demokratisering van Suid-Afrika, het regeringsbeleid gewerk om strukturele beperkings, wat deur apartheidswette veroorsaak is, reg te stel wat die sosio-ekonomiese welstand van die meerderheid Suid-Afrikaners negatief beïnvloed het.

Die breë basis vir sosio-ekonomiese bemagtiging vir die Suid-Afrikaanse mynboubedryf - meer algemeen bekend as die Mynbouhandves, is 'n spesifieke reaksie op bogenoemde en het die hoofdoel om verskillende ongelykhede binne die bedryf reg te stel. Dit word verseker deur nakomingsdoelwitte vir mynmaatskappye op te stel. Deur die jare heen het hierdie nakomingsdoelwitte toegeneem om sinvolle deelname van historiese benadeelde Suid-Afrikaners (HDSA's) binne die mynbedryf te bevorder. Hierdie verhogings word gereeld met kritiek tegemoetgegaan en soms betwis. Belanghebbendes maak gebruik van regstappe en ander kanale om veranderinge aan die vereistes vir die mynbouhandves te weêrlê.

Met die oog hierop is die doel van hierdie proefskrif om die invloed te verstaan wat belangrike interaksie met belanghebbendes op die ontwikkeling van die Mynbouhandves deur die jare heen gehad het. Om die navorsingsfokus aan te spreek, is 'n kwalitatiewe benadering gevolg, tesame met die gebruik van die Advocacy Coalition Framework (ACF) as 'n analitiese instrument om interaksies met belanghebbendes te verstaan. Verder het die navorsingsproses bestaan uit semi-gestruktureerde onderhoude en lessenaarnavorsing met die doel om; om die bedryf self te kontekstualiseer en die beleidsrigtings wat dit moontlik maak om die Mynbouhandves toe te pas; bespreek hoe sleutelbelanghebbendes hul hulpbronne gebruik om met mekaar te kommunikeer; en die daaropvolgende invloed van hul interaksies op die ontwikkeling van die Mynbouhandves.

Die bevindings dui daarop dat interaksies tussen belangrike belanghebbendes die ontwikkeling van die Mynbouhandves deur die jare heen beïnvloed het. Verder sal belanghebbendes heftig pleit vir 'n beleidsresultaat wat weerspieël hoe hulle wil hê dat die Mynbouhandves moet funksioneer - wat dikwels beïnvloed word deur hul posisie binne die bedryf. Dit is nie 'n ideale uitkoms vir die ontwikkeling of hoofdoelstelling van die Mynbouhandves nie. In die toekoms sal belanghebbendes meer effektief met mekaar moet skakel en tot 'n konsensus moet kom wat

alle belanghebbendes sal bevoordeel, terwyl die beleidsuitslag op die langtermyn vir die bedryf as geheel volhoubaar is.

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## **List of Abbreviations**

ACF	Advocacy Coalition Framework
AMD	Acid Mine Drainage
ANC	African National Congress
BBBEE	Broad Based Black Economic Empowerment
BEE	Black Economic Empowerment
BPMPI	Best Practices Mineral Potential Index
CSR	Corporate Social Responsibility
DMR	Department of Minerals and Resources
DTI	Department of Trade and Industry
EMP(s)	Environmental Management Programme(s)
FDI	Foreign Direct Investment
GDP	Gross Domestic Product
HDSA(s)	Historically Disadvantaged South African(s)
IAI	Investment Attractiveness Index
IDP(s)	Integrated Development Plan(s)
MPRDA	Mineral and Petroleum Resource Development Act
PGM(s)	Platinum Group Metal(s)
PPI	Policy Perception Index
REC	Research Ethics Committee
RDP	Reconstruction and Development Programme
GEAR	Growth, Employment and Redistribution

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# Chapter 1: Introduction

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## 1.1 Introduction

The South African mining industry is a complex organism to analyse in terms of its policy formulation and development. There are a plethora of policies that govern the operations of the mining industry as a subsystem, which often overlap in their directives. (Adler, Claasen, Godfrey and Turton, 2007: 36). However, the focus of this study will be on The Broad-Based Socio-Economic Empowerment Charter For The South African Mining and Minerals Industry, referred to henceforth as the ‘Mining Charter’ (Department of Mineral Resources, 2018). More specifically, this study is concerned with the Mining Charter as a transformation and equity redistribution policy, whereby the aim is to explore the policy’s formation and change over time, derived from the interactions between key stakeholders. In turn, a better understanding of why and how certain policy participants act in a particular way will become evident.

The Mining Charter, as a policy, has undergone several changes from its original 2004 iteration. These changes have had lasting impacts on the mining industry as a whole and depending on how these changes affect a particular stakeholder, their responses will vary from support to outright rejection of the proposed change. More importantly, these responses have resulted in a number of interactions between stakeholders, who ultimately have the ability to influence the development of the Mining Charter. With this in mind, the Advocacy Coalition Framework (ACF) is used as an analytical tool to assist in explaining the development of the Mining Charter based on these interactions, as several of its components are useful in explaining policy change (Sabatier and Weible, 1988: 129).

This study will make use of the ACF to understand how stakeholder interactions and the utilisation of resources influence in policy change. The ACF posits that these changes are directly influenced by differing belief systems between policy participants, and how they perceive one another under this pretext (Weible, Sabatier, Jenkins-Smith, Nohrstedt, Henry and deLeon, 2011: 356). Once this is established, coalitions tend to use resources at their disposal to enact their policy belief and goals on the subsystem. Yet, due to coalitions having different perspectives on how the mining industry should operate, policy contestation is inevitable.

The ACF divides belief systems into two main aspects: core beliefs and secondary beliefs (Ainuson, 2009: 17). Core beliefs are the ideological or philosophical underpinnings; the normative assumptions of how a particular phenomenon should be approached. For example, a socialist stance would emphasise the need to consider any action under the assumption of equal outcome while a liberalist stance would stress equal opportunity. Both core belief systems are positioning themselves on the issue of equality but their normative assumptions on the same concept differ greatly. Therefore, the more similar an individual's core beliefs are to a group, the more likely they are to continually associate themselves with that collection of individuals, thereby creating a coalition. Conversely, groups with different core beliefs tend to mistrust one another. This creates policy contestation when an outcome does not suit all coalitions. Secondary beliefs consist of "strategies, decision-making systems and important information streams" (Ainuson, 2009: 17) which are used as tools in achieving the coalition's core policy objectives in the policy subsystem. Furthermore, policy participants are more willing to alter their secondary beliefs in order to achieve their policy objectives when compared to core beliefs as the core beliefs are far more rigid and intrinsically tied to the identity of the coalition or stakeholder.

On the note of policy participants and policy sub-systems, Sabatier and Weible (2007: 192) define them as;

"a set of participants who regard themselves as a semi-autonomous community who share an expertise in a policy domain and who have sought to influence public policy in that domain for an extended period."

Therefore, stakeholders tend to focus on salient issues that are within the subsystem, responding with appropriate measures while still being accountable to externalities such as national legislation, the influence of public opinion on the issue(s), and the impact of the international community on the policy subsystems operations. Additionally, the ACF notes the importance of participants' expertise or technical capacity to effectively use the information at their disposal to achieve their policy goals.

Furthermore, the ACF expands the range of participants from the traditional 'iron triangle' of policy participants. In addition to interest groups, legislators and government officials, "researchers, journalists [...] and judicial officials" (Sabatier and Weible, 2007: 192) are

deemed valuable in terms of knowledge and expertise in the policy process. This makes the policy process more complex, but in so doing, the framework is able to justify why certain policy decisions are made where iron triangle models could not.

In some cases, influential policy participants operating in the same policy subsystem instigate behavioural changes, and consequently policy may be altered (Sabatier and Weible, 2007: 193). This was evident in the response to the amended Mining Charter of 2017, which caused contestation between policy participants, with the Department of Mineral Resources (DMR) and the Minerals Council (previously the Chamber of Mines) coming to loggerheads with one another (Fiscor, 2017: 2). As a result, a court interdict was implemented against the DMR (du Venage, 2017: 5) which caused the Mining Charter to undergo a review process. This ultimately reverted the 2017 Mining Charter draft back into the formulation phase of the policy process.

The purpose of this study will be to identify stakeholder interactions and subsequent changes of the Mining Charter – as a transformation and equity policy – from its conception in the Mineral and Petroleum Resources Development Act (MPRDA) of 2002, to the revised 2018 version of the Mining Charter (Department of Mineral Resources, 2018). In doing so, this study will explain how belief systems, the resources at a coalitions disposal, and the interactions between coalitions have shaped the development and policy changes of the Mining Charter.

## **1.2 Preliminary Literature Review**

The necessary literature for this study can be divided into two main themes: literature on the operations of the mining industry and the ACF. First, due to the interconnected relationship the mining industry shares with the rest of the South African economy, it is important to discuss the existing literature on the factors which impact the industry's performance. In addition, environmental and social impacts of the mining industry need to be considered, as they play an important role in the relationships between certain mining stakeholders. Finally, literature covering transformation and redistribution will be discussed, in order to account for general views on affirmative action.

Second, the ACF will require contextualisation due to the extensive nature of the framework. Consequently, an overview of the framework, along with its revisions will be discussed. This

will show the development of the framework. More importantly, it will highlight its flexibility as a result of the additions found in the revised version of the ACF. Once this is achieved, prior applications of the framework will be reviewed. This will be limited to natural resources and extraction as this is where the mining industry is situated.

### **1.2.1 Contrasting perspectives on the function of the South African mining industry**

The South African mining industry has two contrasting sides which can be determined by reviewing literature produced by authors with differing perspectives on the industry. On the one hand, mining has been a key employer for the predominantly unskilled labour force of South Africa, providing an income for millions of South Africans. Furthermore, it contributes significantly to the South African economy's Gross Domestic Product (GDP). On the other hand, the mining industry has caused several inequalities in terms of wage discrepancies, community development, and community displacement.

According to Nel and van der Zwan (2010: 90), roughly one million workers are employed through direct and indirect operations of the industry. They continue to argue, at the time of their publication, that the mining industry, as a whole, contributed 18% of GDP and constituted over 50% of exports. Louw (2015: 277), in a more recent article, agrees, stating, "South Africa is highly dependent on the mining industry creating employment" and directly employs over 400,000 and indirectly employs a further 400,000 employees. However, he does recognise that there has been a decline in the industry's involvement in both employment and GDP contribution due to falling precious metal prices, weak economic growth, power shortages, labour strikes, and higher wage demands (Louw, 2015: 278).

Other authors take a more critical stance toward the industry. Kenny and Bezuidenhout (1999: 188) emphasise the presence of wage discrepancies between different workers in the mining industry. This resulted in strikes for better wages for sub-surface miners, relative to surface construction workers. More recent authors have pointed out other concerns regarding the mining industry, where the industry has hindered community development. For example, in a study conducted by Mtero (2017: 194-195), mining operations were found to have forced agrarian communities to terminate their own operations which in turn negatively affected the community's economic output and income of its populace. He further emphasises that when

communities are relocated away from mining operations, “failure to properly manage the displacement or resettlement of local communities may result in the loss of livelihood opportunities” (Mtero 2017: 191). A media statement by the South African government is in agreement, where the DMR appealed a court ruling, as it indirectly recognised the need to improve the socio-economic standards of mining communities, through human resource development and improved standards of living (Department of Mineral Resources, 2018).

Shifting attention to health and environmental concerns within the South African mining industry, several interesting preliminary observations can be made. First, a substantial margin of literature focuses on the direct impact of the industry on the health of those who operate within the mines, examples include lung disease and HIV/Aids (Steen et al, 1997; Campbell and Williams, 1999). These health issues are often associated with the community that either provides their labour to the mines, or a community that is within proximity to a mining operation. Another focal area is the environmental impacts of mining operations, such as soil erosion, pollutants, and the compromising of ecosystems (Akcil and Koldas, 2006; Jenkins and Yakovleva, 2006). These environmental concerns are typical of mining operations overall, as harmful by-products can be produced through extraction and beneficiation processes<sup>1</sup>, but as a knock-on effect, communities are often affected.

### **1.2.2 Industry transformation through the Mining Charter**

Equity policies are a response to continued discrimination toward a select group of people within the context of a society as a whole. In the South African context, equity policy recipients in the past and present have included black persons, women, and ‘othered’ groups, collectively known as Historically Disadvantaged South Africans (HDSAs)- who were not treated humanely, fairly or equally represented, during the apartheid regime (Agocs and Burr, 1996: 34). These policies are not exclusive to one country and have had various foci, with countries such as the United States of America, Canada, India, Brazil, and Germany all implementing a form of equity policies (Girad, 2018; Nater and Sczesny, 2016; Harper, Patton and Wooden, 2009; Htun, 2004; Agocs and Burr, 1996). In the context of this study, transformation and equity redistribution will be narrowed down to the objectives of the Mining Charter, in order to make it a manageable project. Moreover, in the context of South Africa, transformation and

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<sup>1</sup> The act of processing mineral ore by removing impurities, improving the overall value of the commodity.

equity redistribution fall under the Broad-Based Black Economic Empowerment (BBBEE) Act policy network and therefore must be discussed before the Mining Charter is addressed.

Prior to 1994, South Africa's policies consisted of numerous measures which ensured social and economic inequalities between races. Consequently, as stated by Horwitz and Jain (2011: 300), policies were formulated and implemented in an attempt to rectify these inequalities. Under the broader strategy of BBBEE, affirmative action was utilised as a policy tool, along with the enactment of the Employment Equity Act (Horwitz and Jain, 2011: 300). This act ensured that the rights of existing workers were to be upheld, along with executing measures to incorporate HDSAs into the workforce. In addition, under the BBBEE strategy, a multi-level-compliant scorecard is generated with three subsections with the purpose to improve the equity levels in previously disadvantaged groups (Burger and Jafta, 2010: 9)<sup>2</sup>. The first subsection of the scorecard is defined as direct empowerment. This includes ownership and management control requirements of respective businesses. The second subsection revolves around human resource development, with the employment of previously disadvantaged individuals and their associated skills development as key components. Finally, indirect empowerment is expected from businesses (Burger and Jafta, 2010: 10). This includes preferential procurement from black-owned enterprises, enterprise development of black-empowered businesses, and socio-economic development of communities, which are associated with the business' operations.

The iterations of the Mining Charter are an industry-specific response to the above mandate. The conception of the Mining Charter can be found under the MPRDA, which according to Ponte, Roberts and Sittert (2007: 945) "established the state's ownership of mineral rights, and therefore enabled the granting of 'new order' licences to achieve BEE goals". Thereby, one of the preconditions for the Mining Charter was established by these licences, which companies had to comply with in order to operate within the mining industry. Ponte et al (2007: 945) further highlights the industry-specific scorecard and discusses the degree to which the Mining Charter "embraced the vision of BBBEE" as a result. Hence, the Mining Charter itself is an industry-specific representation of the general BBBEE principles, sharing similar characteristics, such as ownership, employment equity, community development, and human

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<sup>2</sup> Depending on the size of the company, BBBEE requirements will vary.

resource development (with the requirements varying), across its iterations (Department of Mineral Resources, 2002; 2010; 2017; 2018).

However, there are disputes amongst key mining industry stakeholders regarding the elements, expectations and implementations of the various iterations of the Mining Charter. Consequently, laws and regulations that make up the remaining preconditions for the Mining Charter's enforceability must be addressed in of themselves. These include the Broad-Based Black Economic Empowerment Act (Department of Trade and Industry, 2013), along with the MPRDA (Republic of South Africa, 2008). Consequently, the regulatory framework under which all stakeholders of the mining industry (and subsequently the Mining Charter) are required to operate and adhere to, will be defined.

Regarding the elements of the Mining Charter, authors have argued there are points of contention and confusion regarding the content of the iterations of the Mining Charter. For example, the Mining Charter definitions and requirements do not align themselves with other national policies, such as the Department of Trade and Industry's (DTI) 2009 BBEE Codes of Good Practice (van der Merwe, 2010: 22). Other authors have stressed the feasibility of the equity policy, stating that certain changes in the Mining Charter's elements could cause a collapse in the mining industry, through a subsequent decline in foreign investment and the current lack of black entrepreneurial capital (Tangri and Southall, 2008: 705). It has also been argued that the Mining Charter has been taken advantage of by the establishment of a limited black elite class, instead of broad economic empowerment (Fauconnier and Mathur-Helm, 2008: 10). Accordingly, the Mining Charter can be seen as a contested policy, requiring further analysis regarding its various iterations.

The preliminary literature review suggests that there has been limited research in accounting for stakeholder interactions as mechanisms of policy change, with the majority of literature focussing on the outcomes of the policy for those affected (directly or indirectly) by the South African mining industry. In turn, the application of the ACF as an analytical tool shall be used to address the gap in the literature, allowing one to explain how stakeholders decisions and interactions have shaped the iterations of the Mining Charter.

### 1.2.3 The utilisation of the ACF as an analytical tool

The ACF has been utilised in various policy subsystems, such as leasing policy under Oil & Gas policy (Heintz, 1988: 214), drug policy under healthcare policy (Kubler, 2001: 630), protection area policy under forestry policy (Villamor, 2006: 165), and automobile industry policy under federal regulation policy (Diaz-Kope, Lombard and Miller-Stevens, 2013: 569). A recent paper by Pierce, Peterson, Jones, Garrard and Vu (2017: 13) emphasises the magnitude of the application of the ACF, analysing a culmination of “161 applications of the ACF from 2007 to 2014”. The sheer volume and range of academic literature employing the ACF is due to the flexibility of the framework and its underlying premises.

These premises can be divided into five key aspects (Pierce et al, 2017: 15-16). The primary unit of analysis is the premise that the subsystem consists of actors who are attempting to influence policy change. Second, these actors are divided into advocacy coalitions as a result of their core belief systems and policy core beliefs, where coalition constituents share similar beliefs. Third, derived from prospect theory, policy actors remember losses more than gains or wins in the policy arena. This causes the ‘devil shift’, where policy actors overestimate their opponents in terms of both their malice and power within the subsystem. Fourth, policies proposals are an expression of beliefs and result in behavioural responses by the coalitions. Fifth, the time period required to effectively engage with the framework is deemed to be over a decade (a policy cycle), in order to determine any lasting shifts in beliefs and consequent behaviours.

However, authors have critiqued the ACF, stating there are clear discrepancies in the premises above. One such discrepancy is stressed by Sotirov and Memmler (2012: 61), who believe the ACF requires further expansion in its assumptions to include “political cultures and the functioning of political institutions”. The authors of the ACF have welcomed these critiques and have released several revisions of the ACF, along with encouraging further developments of the framework (Sabatier et al, 1989, 1998, 2007). Two important revisions are noted for this study: coalition opportunity structures and the typology of coalition resources. These will be unpacked in the following chapter, as they strengthen the ACF’s ability as an analytical tool to produce generalizable knowledge regarding the policy process, along with knowledge specific to the chosen subsystem’s operations (Pierce et al, 2017: 36).

### **1.3 The Research Focus and Associated Question(s)**

Considering the discussion in the preliminary literature review, it is apparent that contrasting stakeholder views on elements of the Mining Charter have resulted in dramatic changes to the elements of the charter over the years. This can be detrimental to effective policy formulation, implementation and subsequent alterations, negatively affecting the Mining Charter's intended outcome. For this reason, the focus of this study is divided into several aspects. First, it is interested in understanding the reaction of stakeholders in the mining industry in relation to a policy change or proposal, as this establishes their position on the Mining Charter. Second, the response of stakeholders is of particular interest, especially with regards to their coalition-dependant resources, as the utilisation of resources is often used as a measure to influence policy change. Finally, and in conjunction with the two previous aspects, the research focus is on how the interactions of key stakeholders in the mining industry have shaped the development of the South African Mining Charter, since the 2002 MPRDA. With this in mind, the research question(s) shall be defined below.

#### **Primary Research Question:**

- 1. How have the interactions between key stakeholders in the mining industry influenced the development of the Mining Charter?*

#### **Secondary Research Question(s):**

- 1. What are the salient issues which stakeholders are not in agreement with?*
- 2. What type of resources do stakeholders use to influence the policy process?*
- 3. What are the constraints which determine how stakeholders can interact with one another?*

### **1.4 Research Design and Methodology**

#### **1.4.1 Research design**

Research on the South African mining industry will be approached as a single case study which “involves a careful and complete observation of a social unit, be that unit a person, a family,

an institution, a cultural group or even the entire community” (Kothari, 2004: 113). Consequently, the social unit under observation will be the South African mining industry’s stakeholders. Additionally, a core assumption of the case study method postulates that human behaviour may vary depending on the situation individuals find themselves in (Kothari, 2004: 114). This directly links to the ACF’s core and secondary belief systems, as they determine how actors perceive a policy, along with the ‘devil shift’, which determines how coalitions perceive one another.

Furthermore, the research conducted will be qualitative in nature, where “underlying motives and desires, using in-depth interviews” of a particular phenomenon will be utilised (Kothari, 2004: 3). As per the ACF, these inter-relationships and behaviours of policy participants must be determined, in order to develop a clear understanding regarding the factors which influence the Mining Charter’s development. Qualitative research excels in this aim by attempting to “uncover the underlying assumptions” of a particular phenomenon (Wolf, 2017: 484), be it economic, social or political- all of which are present in this study.

Both primary and secondary sources of data will be utilised throughout this study. Primary data will be used in the form of semi-structured interviews. These will be conducted with accessible key stakeholders to better understand their belief systems and behavioural responses. Secondary data, such as peer-reviewed journals, press releases of a stakeholder, annual reports, conference papers, credible news reports, and government documents, will be used in conjunction with the interviews, in order to explain the complex relationships between stakeholders who are involved in the Mining Charter’s development.

### **1.4.2 Limitations**

The primary limitation concern for this study was the access to and availability of both primary and secondary data. Regarding primary data, the involvement of various policy participants with their associated values, behaviours and vested interests caused the collection of primary data to be a challenge. Moreover, the sheer volume of policy participants that need to be accounted for when using the ACF as an analytical tool proved difficult for two reasons. First, it is was and still is not possible to interview every policy participant that influences the subsystem, as there are too many, ranging from journalists, to Multinational Companies, to government officials operating in the South African mining industry. Therefore, interviews

were conducted in a manner that fairly represented all the major stakeholder, provided access was given to them. Second, not all key stakeholders of the industry responded to the interview requests. This caused a gap in the collection of data regarding their perspective on the Mining Charter. For this reason, interviews played a conjunctive role in determining the reasoning behind policy changes, with secondary data as a further source of information for understanding the development of the Mining Charter.

On the secondary data front, the preliminary literature review, along with the authors of the framework, has determined that there has been limited application of the ACF in Southern Africa (Weible, Sabatier and McQueen, 2009; Pierce et al, 2017)- with only one application in the South African forestry industry, along with another in the Mozambique education system and none whatsoever in the South African mining industry. This means that a comparison or a reference point for this study is difficult to attain if confined strictly to ACF application situated in Africa. For this reason, the sources drawn will be from a wider base, while remaining relevant to the South African mining industry.

Finally, the ACF's initial characteristics and assumptions make it "suited to the complexity of the pluralist regimes", of which the South African government is not (Sabatier and Weible, 2007: 200). However, the framework has been successfully applied to Corporatist and Westminster models of governance in Europe, Latin America and Africa (Pierce et al, 2017: 20-21). Therefore, the ACF still provides value to this study in understanding how policy beliefs affect behavioural changes of stakeholders in the South African mining industry.

## **1.5 Ethical Considerations**

Ethical practices need to be taken into consideration when conducting any research project, with this study being no exception. While the overall goal of academics is to broaden the knowledge base of their respective fields, the way in which the knowledge is collected and constructed is equally important. The participants that play a role in the primary data collection phase of this study must be treated with respect, whereby the primary concern for the researcher is to not harm in any form to participants. In order to achieve this, several mechanisms were implemented throughout the collection of primary data and the analysis thereof.

First, this study followed the guidelines stipulated by the University of Stellenbosch's Research Ethics Committee (REC), with the accompaniment of the necessary listed documents<sup>3</sup>. Second, due to the nature of the interviews intended to be conducted, institutional permission from each of the stakeholders was acquired. Once was achieved, policy participants from the mining subsystem were asked for permission to be interviewed. In turn, informed consent was required from the interviewee before the interview commenced. Interviews were recorded and stored on a single, password-protected device, with access only provided to myself and my supervisor. Finally, anonymity was ensured for all interviewees, while still being able to associate the position of a particular stakeholder in the mining industry- in order to make use of the ACF as an analytical tool. For example, the individual's anonymity will be protected as 'participant A', but they will be linked to their coalition beliefs, so as to understand how the interactions between coalitions affect policy formation and policy change.

## 1.6 Outline of Chapters

A brief description of each chapter is provided below:

*Chapter 1:* This chapter provided a brief overview of the research topic and question at hand. A preliminary literature review provided the context for the unit of analysis- being the stakeholders of the South African Mining Industry. Furthermore, an introduction to the ACF, the analytical tool being utilised to grapple with the research question, was provided. Finally, a brief research design and methodology was established, while noting the ethical considerations to which this study must adhere to.

*Chapter 2:* This chapter expands on the preliminary literature review by providing an extensive account of the academic literature on the South African Mining Industry. Overarching themes present in the literature include; factors that influence the economic performance of the industry; environmental and social impacts of the industry; and outcomes of transformation and equity redistribution in the industry. In addition, the chapter introduces the ACF through contextualising its key foundations and acknowledging the importance of its revisions. To

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<sup>3</sup> As stated on the University of Stellenbosch's website: [https://www.sun.ac.za/english/research-innovation/Research-Development/integrity-ethics/human-research-\(humanities\)-ethicsn](https://www.sun.ac.za/english/research-innovation/Research-Development/integrity-ethics/human-research-(humanities)-ethicsn).

provide the link between the framework as an analytical tool and the Mining Charter as a case study, prior applications of the ACF relating to natural resources will be engaged with<sup>4</sup>.

*Chapter 3:* This chapter outlines the methodological approach used to answer the research question. A qualitative approach is taken, utilising semi-structured interviews and document analysis. These sources were then applied to a modified ACF to cater to the research question. In addition, the ethical principles followed while conducting the research process are noted. Finally, encountered challenges during the research process are discussed, while acknowledging the limitations of the research project.

*Chapter 4:* Until this point, the Mining Charter has not been critically engaged with. However, before this can occur, the complex policy network that governs the South African mining industry must be unpacked. This is done by connecting government Acts that provide the Mining Charter with its enforceability, as by definition, it is not legislation. Once this is achieved, the Mining Charter itself can be expanded on, by noting its policy objectives and identifying key changes over the years based on the reaction of key stakeholders.

*Chapter 5:* This chapter makes use of a modified ACF as an analytical tool and directly engages with the research question. Consequently, aspects including the relatively stable parameters of the South African mining industry, coalition identification and grouping, and coalition-dependant resource identification, will be examined. These aspects caused policy contestation between stakeholders, respective responses, and finally, result in a change in the Mining Charter. With the above as a foundation, discussion of the findings will be linked to the area of study and the research question.

*Chapter 6:* This is the final chapter, where closing remarks and notes on the research process are discussed. A summary of the research process is provided, along with recommendations based on the findings of this study and where future research on the Mining Charter is appropriate.

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<sup>4</sup> The mining industry operates primarily on extraction of natural resources, which is the justification for engaging with this subsection of prior ACF applications.

## 1.7 Conclusion

This chapter introduced the Mining Charter and its key stakeholders as the area of focus for this study, through the introduction and the preliminary literature review, which covered the contrasting perspectives of the industry and acknowledging the factors influencing the overall mining industry. In addition, the ACF was introduced as an analytical tool. Technical aspects were also addressed, such as the intended methodological process, and recognised the importance of conducting an ethically sound research project. Finally, a brief outline of the current and future chapters is provided, which represents the logical train of thought used to answer the research question.

The following chapter will critically engage with the literature revolving around the South African mining industry. This is essential to understand the environment in which the Mining Charter and its prominent stakeholders operate, in order to explain the reasoning behind the decisions made by stakeholders. In turn, it will provide a basis for how the interactions between stakeholders have shaped the iterations of the Mining Charter.

With this in mind, the analysis of literature will cover; the economic performance influencers of the industry; the environmental and social impacts of the industry; and literature which has engaged with transformation, specifically within the industry. Finally, the chapter also engages with literature that has used the ACF as an analytical tool- while limiting the scope to studies that have focussed on natural resources.

## Chapter 2: Literature Review

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### 2.1 Introduction

The mining industry has been subject to extensive academic analysis, with a wide range of focal points (Asr, Kakaie, Ataei and Mohammadi, 2019; Tuokuu, Idemudia, Gruber and Kayira, 2019; Rodrigues and Mendes, 2018). For the purpose of this study, three overarching themes will be discussed, namely: the economic performance influencers, the environmental and health impact of mining, and the effectiveness of redistribution for Historically Disadvantaged South Africans (HDSAs), who are considered beneficiaries of the industry.

The reason for the above themes is to provide a contextual basis under which the mining industry operates, and to stress the complex nature of the mining industry as a whole, while also acknowledging the fact that there has been limited academic engagement on how the interactions amongst mining stakeholders have shaped the iterations of the Mining Charter.

Moreover, there has been limited academic research on how different perceptions of the Mining Charter can affect the policy's development, nor a study on how stakeholders use the resources at their disposal to achieve their respective policy goals. Therefore, this chapter will provide a contextual basis on how factors which influence the South African mining industry's stakeholder perceptions, interactions and resource usage, when dealing with the Mining Charter as a policy.

It is at this point that the ACF becomes relevant as an analytical tool. As a result, this chapter will also conceptualise the ACF, by discussing how key concepts of the framework assist in understanding the decision making processes made by stakeholders in the South African mining industry. Moreover, prior applications of the ACF which pertain specifically to natural resources will be discussed, as it provides a valuable reference point regarding the outcomes of other studies which have dealt with similar content.

## 2.2 Contextualisation of the Mining Industry

Mining industries are situated within the extractive sector. The exploitation and extraction of resources have occurred for thousands of years, with mankind making use of commodities to survive and develop. For example, in the past “the ability to extract and process key metals determined the fate of empires. In more recent times, other resources [...] have provided the basis for industrial revolution(s)” (Reed, 2002: 200). Consequently, natural resources have been vital for human and societal development. Moreover, while the exploitation of natural resources has occurred since early historical times- such as the copper and bronze age- extraction was small scale and restricted to deposits which were easily available to extract. Yet, a change occurred between the 1860s and the 1890s resulted in “important technological and organizational developments [which] would lay the basis for a dramatic shift in the structure of key” resource extractive industries (Reed, 2002: 200). The introduction of these technological developments meant that deeper mines and extensive extraction of resources could occur, through the extraction and processing of raw minerals becoming far more effective. In turn, the modern mining industry was established. Yet, as in most cases when dealing with mining operations, there is always a cost-benefit relationship. Along with these technological advancements and higher levels of commodity yields, came capital-intensive operational costs<sup>5</sup>, along with environmental and social concerns directly relating to the industry’s operations.

The South African context follows a similar trajectory, with the discovery of gold and other precious metals during 1886 in the Witwatersrand. So significant was this discovery, it was touted as “the most important of all these famous discoveries” (Richardson and Helten, 1984: 320) with mineral reserves worth an estimated \$2.5 trillion (Ashman, Fine and Newman, 2011: 180). However, it was not the discovery itself which this study is concerned with, but rather its far-reaching ramifications. Mass migration occurred, due to the demand for predominantly unskilled labour, and to a lesser extent, skilled labour. Cities such as Johannesburg and Randfontein were established to support the growth in the mining industry’s population (Richard and Helten, 1984; Harrison and Zack, 2012). The Boer War escalated under the pretext of who had control over mining operations (van Wyk Smith, 2003: 439), while the apartheid era legislature allowed for the exploitation of predominantly black unskilled labour,

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<sup>5</sup> Requiring a large amount of investment for an asset to become functional, let alone profitable.

which widened the inequality gap, and inherently separated the industry on racial lines (Wilson, 2011: 6). In the post-apartheid era, policies have been enacted in an attempt to rectify this inequality gap, as “restructuring has opened up the possibilities for Black Economic Empowerment”, within the mining industry (Webster and Omar, 2003:9). It is this latter period- from 2002 until the most recent 2018 iteration of the Mining Charter- which is the interest of this study.

With the above as a brief contextualisation, there is a need to narrow the content of this chapter to a point where relevant critical engagement may occur with the available literature. Three overarching themes concerning the South African mining industry will be addressed, which impact the decision making processes and subsequent interactions of stakeholders within the industry. First, the economic influencers of the mining industry need to be considered, along with its current economic state in the 21<sup>st</sup> century. Second, as has been alluded to above, there is always a cost-benefit relationship that will occur and takes on the form of environmental and social impacts associated with the industry. Finally, available literature on transformation and equity redistribution for HDSAs will be addressed, as it serves as the basis for the interactions between stakeholders in the mining industry which directly influences the changes seen throughout the Mining Charters development.

### **2.2.1 Economic performance influencers of the mining industry**

The economic impact of the mining industry has a long history, which has evolved over time. The literature in this section will focus on the overall economic involvement of the mining industry. More specifically, this will be achieved through contextualising the factors which impact economic performance, such as mineral reserves, the impact of labour on economic performance, and externalities. Therefore, the purpose of this section is to provide an understanding of the influencers which have impacted the mining industry’s economic performance; thereby allowing for a clearer understanding of the environment in which all stakeholders are required to navigate, if they wish to operate in the South African mining industry. In turn, the section accounts for interactions between stakeholders, based on the economic variables which determine the industry’s performance.

The mineral reserves in South Africa are vast, not only in quantity, but also in the variety and quality that is available. Focussing on the size of the reserves, Cawthorn (2010: 205) notes that

the South African Bushveld Complex<sup>6</sup> holds over 80% of the world's deposits of chrome and platinum alike. Gold reserves are similar in global terms, contributing 40% of the global gold reserves, and is the fourth – formerly the largest – gold producer (Hartnady, 2009: 328). Having access to a large volume of concentrated mineral reserves means that a country has the potential to create an absolute advantage<sup>7</sup> in the production of Platinum Group Metals (PGMs) and other mined commodities, such as gold and coal, amongst others. In other words, it provides a basis on which substantial economic growth and development can occur, given the raw materials at the country's disposal.

As mentioned prior, cities such as Johannesburg and Randfontein were established to assist the mining industry. However, the relationship (and interactions) between the mining industry and the country as a whole is symbiotic. To clarify, the South African economy was designed to be “structurally dependent upon energy-intensive growth, driven by mining and minerals beneficiation” (Baker, Newell and Phillips, 2014: 2). This implies that the mining industry's operations does not only affect its own performance, but also impacts numerous other sectors of the economy, as many other industries require the extracted materials for their own operations. An example of this would be Eskom's (the South African electricity provider) high reliance on coal to generate sufficient power to meet the demands of the industry. This example can also provide insight into the symbiotic relationship shared between the mining industry and other sectors of the economy. The extraction of minerals is an energy-intensive process, and therefore requires large volumes of power. 77% of the South African energy supply is derived from coal, which is most commonly mined in open-pit operations (Jain and Jain, 2017: 721). Consequently, the mining industry indirectly provides a large portion of the electricity supply to the national grid, while also utilising the power its resources have generated. Therefore, the importance and economic value of the industry's operations must be acknowledged, along with its interactions and subsequent relationships with the rest of the South African economy.

The above does not come without the expenditure of high levels of capital, which is required to extract these minerals and commodities (Maroyi and van der Poll, 2012: 9280). Mining companies, as one of the key stakeholders, are required to invest substantially into their

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<sup>6</sup> A highly rich mineral reserves region found in the northern region of South Africa.

<sup>7</sup> The ability for an entity to produce the same volume of a good or service with less resources, relative to other producers.

operations if they wish to operate over the long term, with production costs including wages, infrastructure maintenance, capital equipment purchases and maintenance, along with variable costs, such as electricity. Therefore, mining companies are geared to operate in a particular manner, in order to ensure that they can achieve a feasible operation, which is the continued extraction and production of high levels of commodity volumes.

However, there are factors that have created economic and financial challenges for mining companies to achieve this, of which labour unrest and rising electricity tariffs are the most prevalent (Neingo and Tholana, 2016: 290). The South African mining industry is the most unionised sector in the economy, with approximately 73% of mineworkers being affiliated with some form of a labour union (Banerjee, Galiani, Levinsohn, McLaren and Woolard, 2008: 726). Within the literature, labour unions have often been discussed in terms of the balance between ensuring a unions' workers' rights, and their impact on the economic efficiency of the mining industry (Bowman, 2018; Chaskalson, 2016; Schultz and Mwabu, 1998). On the one hand, unions have the role of ensuring that the working conditions and wages of their affiliates are acceptable and in line with the regulatory requirements- relative to the type of labour provided. This is essential, especially in the South African context, as the mining industry has in the past been the subject of exploiting labour for the benefit of larger financial returns (Crush and James, 1991: 306). Therefore, unions play an important mediator role between the employee and employer, subsequently increasing wages and working environment standards for their members over time.

Conversely, due to the tight margins under which mining companies currently operate, unions have also been criticised as a variable which has driven up the cost of production for mining companies, while reducing the ability of the mining companies to employ higher numbers of workers. For instance, during a deadlocked negotiation between a mining company and a labour union, a common tactic on the union's part is to instigate labour strikes (Jordaan, 2016: 302). In turn, production is halted to varying degrees, depending on the union's support base and the scope of the strike itself. This ultimately causes a rise in labour costs and results in a decrease in the capital flexibility of mining companies, through the interactions between key stakeholders of the industry. This often forces mining companies to look for alternatives, to ensure it is able to cover its cost of production at a bare minimum.

Subcontracting and mechanisation<sup>8</sup> have been cited by academics as such alternatives. Subcontracting of employees by mining companies occurs for several reasons (Crush, Ulicki, Tsean and van Veuren, 2001: 7). First, it allows mining companies to reduce the impact of union influence, as subcontracted employees are more difficult to unionise. Second, subcontracted employees are generally more cost-effective than unionised labour, as their contracts stipulate a fixed wage for the contractual period, making it more difficult to request a wage increase until a new contract negotiation. Third, due to the worker being subcontracted, there is also a decline in a mining company's direct accountability toward the employee. Instead, a large portion of the responsibility lands on the contractor, as the agreement is between them and the employee, not the employee and the mining company. However, there are instances where subcontracting can be detrimental to both the mining company and mineworkers themselves, especially regarding health and safety issues, along with the increase in conflict between differently categorised mineworkers (Kenny & Bezuidenhout, 1999: 185). This is a direct result in the decline of accountability mining companies have toward mineworkers operating on their mining sites, further emphasising how interactions between stakeholders can have drastic outcomes for the overall mining industry.

The other alternative which mining companies make use of is the mechanisation of subterranean mining operations. Under the right conditions, mechanisation can drastically cut down on labour costs, increase production yield and improve overall mine safety for workers. However, mechanisation is a challenging alternative to implement for mining companies in the South African context. Stewart (2015: 640) notes the unlikelihood of mass mine mechanisation in South Africa due to three primary constraints. Initially, the geological composition of PGMs (and other certain minerals) are thin-veined ore body formations, which are more difficult to extract with mechanisation methods, whereas traditional labour-intensive extraction processes best suit the South African geological reality. Yet, there are instances where mechanisation has been successful, including the transportation of unprocessed ore and cleaning of blasted zones. Furthermore, certain South African commodities, such as coal, are "already at a world-class stage" (Gumede, 2018: 4) in terms of mechanisation, suggesting that mechanisation remains a viable option<sup>9</sup>. Second, the transition to a mechanised mine is a highly capital-intensive process for an industry that already requires intensive capital investments, with current limited financial

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<sup>8</sup> The introduction of machinery into a traditionally labour-intensive production process.

<sup>9</sup> The viability of mechanization is based on the accessibility of the resource, which is why open-pit coal operations lend well to mechanization, compared to deep sub-surface mining.

means. Therefore, the additional cost of mechanisation can only be considered feasible if the long-term costs of labour are greater than the short-term, up-front capital required for the purchase of the new machinery. Additionally, Stewart (2015: 639) notes the ‘human factor’ constraint as the most prominent barrier to entry. While mechanisation decreases the demand for labour overall, it requires effective maintenance and a supply of skilled artisanal mechanised labour, both of which the author states the South African mining industry has lacked in the past (Stewart, 2015: 640). Finally, the shift away from labour-intensive operations by nature reduces the total labour requirements of operating a mine, which is a concern for the economic performance of South Africa as a whole, as it is currently facing growing levels of high unemployment rates.

Moving away from purely domestic concerns, the economic performance of the industry is also influenced by externalities- which is another factor that determines how stakeholders in the mining industry may behave and subsequently interact. One example of an externality is the global commodity market. It is important to note that, in most cases, the mining industry is considered a ‘price taker’. If a company or sector of the economy is defined as a ‘price taker’, it means that the market determines the price at which the good or service will be set at. Subsequently, the mining industry is bound to the market-driven price, irrespective of their production costs. A briefing by Baxter (2009: 106) on the effects of the global economic crisis of 2008 successfully articulates the impact of the commodity market on the South African mining industry. Commodities are intimately linked to the global performance of economies and tend to follow a cyclical pattern. In a time of high economic growth, demand for commodities tends to be high, as a large portion of GDP is derived from projects which require large volumes of commodities to occur. Conversely, in a time of a recession, the demand for commodities which are used in material-intensive growth projects tends to decline, as effected countries attempt to rectify the decline in economic growth through other means<sup>10</sup>.

In addition, global events such as the financial crisis of 2008, negatively affected numerous developed countries<sup>11</sup> which have the largest demand for commodities. This had a direct knock-on effect for the South African mining industry as one of the most prominent mineral producers. Due to the global decline in demand for commodities, the industry needed to adjust

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<sup>10</sup> Such as stimulation packages, or austerity measures, or investing in ‘safer’ assets such as government bonds.

<sup>11</sup> This is not to say developing countries were not impacted by the financial crisis. Rather, this observation is focussed on how the crisis affected the commodity market.

accordingly (Baxter, 2009: 113). However, the loss of revenue was inevitable. This required mining companies to implement cost-cutting measures. Employee retrenchment, the scaling back of exploration, and in severe cases the closure of mine shafts were a few outcomes for mining companies. Moreover, the South African economy as a whole also suffered as a result of the externality. Two results of a poorly performing mining industry were stipulated by Baxter (2009: 114), namely the effects on South Africa's corporate tax income and trade balance. With the mining industry constituting approximately 20% of all corporate tax paid, a decline in mineral revenue will inherently result in a decline in corporate tax revenue, which in turn means the government fiscal budget would be relatively constrained. The trade balance also was negatively affected, as mineral exports also constitute over 20% of revenue from exports, increasing the chance of a larger trade balance deficit.

Observations can be made regarding the overall review of literature above and its connection to the research focus. First, the way that the mining industry has been structured has established a particular way in which it is required to operate, which forms the basis for the interactions between key stakeholders involved in the Mining Charter. The mining industry does not determine the price at which it can sell the majority of the minerals it extracts. Therefore, economic efficiency is essential for industry, which includes being able to project the production costs associated when operating in the mining industry. This has been a challenge in recent years, as key factors which determine the level of economic efficiencies, such as labour and electricity rates, are constantly changing which causes uncertainty. Therefore mining companies, in particular, are required to adjust how they operate, to ensure they can continue to be involved in the South African mining industry.

Additionally, the geological structure of the South African mining industry matters, and is a factor which determines the decision making processes within the industry. This has resulted in the industry's high reliance on large volumes of labour, instead of mechanisation in the majority of mining operations. Consequently, labour unions have become a major influencer and play an important role in how mining companies interact with their associated labour force. Unions are essential, as they protect worker rights, but drive up the costs of extracting commodities and play a role in making overall labour costs incrementally more expensive. In turn, the industry as a whole has required to adjust its reliance on labour when extracting minerals and commodities.

Finally, externalities play an important role in the decision making of certain stakeholders in the South African mining industry. On top of internal factors which the industry needs to account for, the international demand for minerals and commodities has a massive impact on the flexibility of the industry. However, due to local stakeholders such as trade unions and labour, the industry at times struggles to adjust to account for externalities which impact the industry locally. Moreover, these externalities impact certain stakeholder decision making processes more than others. For example, a decline in the market value of a commodity directly impacts the revenue and decision making of a mining company, but not trade unions or government bodies, as it is not a factor which impacts their purpose or decision-making processes. Therefore, this sets a precedent for differing perspectives on the function of the mining industry as a whole, with different stakeholders responding to economic changes differently from one another.

### **2.2.2 The environmental and health impacts of the mining industry**

Another major theme regarding the mining industry is the environmental and social impacts of its operations. These impacts have received substantial attention from academics and research scientists alike, and are significant due to the roles they play in the structuring of the interactions between key stakeholders in the industry. The literature can be divided into two key areas: the industry's direct impact on the environment, as well as the health and social concerns associated with the extraction of various minerals.

Extractive industries will by their very nature have an impact on the environment. The effects can range from soil contamination, air pollution, and water contamination. In the case of the mining industry, the most cited environmental impact is acid mine drainage (AMD) on water supplies (Akcil and Koldas, 2006; Naicker, Cukrowska and McCarthy, 2003). AMD occurs when oxidised water comes in contact with mine wastage- produced by extracting precious metals and/or coal- creating sulphuric acid and ferric hydroxide that can negatively impact water bodies. Moreover, if the affected water supply is designated for human consumption, community and health concerns need to be considered, with some cases of AMD occurring in communities as close as 10km (Naicker, Cukrowska and McCarthy, 2003: 30). Therefore, water contamination is not confined to the boundaries of the mining operation, but has knock-on effects which could affect surrounding communities- if AMD is not controlled or mitigated effectively. This, in turn, can create a negative relationship between the mining industry and

their associated communities, thereby influencing how stakeholders (which include communities) may interact with one another.

AMD is a key issue which has been flagged for the industry by academics and there are “no easy or simple solutions to the environmental problems” which it causes (Mbedzi, van der Poll and van der Poll, 2019: 13). However, proposals have been put forth to reduce the impacts of AMD on the environment and surrounding communities. For example, a study on wetlands as a mechanism to mitigate AMD has shown promising results, with a near 100% removal AMD in some instances (Sheoran and Sheoran, 2006: 112). Other researchers have produced frameworks as a means to mitigate AMD, amongst other environmental factors. One proposed framework, by Mbedzi, van der Poll and van der Poll (2019: 16), was designed to streamline the regulatory expectations, quantify the methodologies used in reducing mineral extraction impacts on the environment, and increase meaningful stakeholder engagement with one another.

AMD’s effect on drinking water supplies is but one environmental impact, but there are other direct operational impacts<sup>12</sup>, such as occupational respiratory diseases. The two major respiratory diseases identified by academics and researchers are silicosis and asbestos-related diseases (Nelson, 2013; Braun and Kisting, 2006; Hnizdo and Sluis-Cremer, 1991). The extraction of precious metals, and other mineral deposits such as coal, inherently releases harmful particles which, when inhaled, have the potential to jeopardise the lung health of an individual. Silicosis has remained a major health concern within the mining industry, with some arguing that it is on the rise (Nelson, 2013: 94). On the contrary, asbestos mining has drastically declined over the years, as “several high-profile court cases [...] have brought some visibility” to the issue (Braun and Kisting, 2006: 1394). In turn, the issue became a discussion on mitigation practices, where the extraction volume of mineral deposits remains constant, while decreasing the level of associated respiratory diseases. Although there have been processes put in place to minimise these impacts, alternative proposals have been scarce, due to the fact that the extraction of minerals without by-products is a major challenge.

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<sup>12</sup> Impacts as a bi-product of the working environment, which are often unavoidable due to the nature of the extractive industry.

A further social concern which shares a correlation with the above is local communities and their associated health concerns. These health issues do not remain at the mining operations themselves and tend to manifest in the surrounding mining communities. The most prevalent health concerns have been communicable diseases, such as tuberculosis and HIV/Aids, which have an increased transmission rate in the mining industry, due to the confined nature of mining operations, compounded further by the socio-economic environment of mining communities<sup>13</sup> (Cronje, Reyneke and van Wyk, 2013; Terwin, 2005). However, “there has been considerable disagreement between mining communities and mining companies concerning the real health impacts of the industry”, along with a dispute over who is the responsible party for community health management (Cronje et al, 2013: 3). In turn, the debate revolves around responsibility between government and the mining communities as the ones who should take on the role of community health management. Regarding the public sector, the government has been criticised for not providing basic public goods and services to the communities as a civic duty. Conversely, the onus for the creation and development of these communities has been placed on mining companies, especially regarding healthcare programs for employees and their families, as they indirectly place them in an environment that requires additional health measures.

The above review of the literature revolving around the environment and health concerns associated with the mining industry produces noteworthy observations relating to the research focus. Due to mining companies being the principal extractor of commodities and minerals, they are often viewed in a negative light, as their operations are the main driver which impacts the environment and health outcomes of surrounding communities. Consequently, stakeholders whose interests often do not align with mining companies own interests, will challenge how mining companies operate. On the other hand, the literature also shows how the mining industry has positively developed and responded to these environmental and health issues over time, by adjusting how they operate. Once again, this shows how interactions between stakeholders within the mining industry have altered how it functions. However, this is not to say that all issues have been resolved. In fact, it is likely that environmental issues will inherently remain, so long as mining operations occur, as it is virtually impossible to eliminate all environmental concerns. Consequently, the interactions between stakeholders have

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<sup>13</sup> Such as unemployment, poverty, a poor and congested living standard, insufficient infrastructure.

focussed on and improved mitigation strategies, along with the implementation of health management programs within mining communities.

### **2.2.3 Transformation in the mining industry**

Transformation and equity redistribution have substantial institutional backing in the macro South African context. Within the existing literature on the equity redistribution in the mining industry, several authors have highlighted the importance of the 2002 MPRDA as an overarching policy (Rungan, Cawood and Minnitt, 2005; Moraka and Jansen van Rensburg, 2015; Capps, 2012). More significantly, the act brought about a change in mineral ownership, from private ownership to public ownership. This must not be misconstrued with a violation of private property rights, as these are still protected under the Constitution of South Africa, bar extenuating circumstances<sup>14</sup>. Rather, this act focusses solely on minerals and petroleum as natural resources, effectively separating the mineral reserves and the land they are situated on.

This observation is significant for two reasons. First, it instigates a clear shift in power from the private to the public spheres, with legitimate authority through the legislative process. Therefore, the way in which stakeholders in the mining industry interact drastically changed. However, the government still requires the private sector's (specifically, the mining companies) cooperation. This is due to the fact that mining companies and their employees, through decades of experience, have built up the technical know-how and capacity to extract the publicly-owned minerals, along with greater access to foreign direct investment (FDI). Consequently, the following (simplified) process occurs: a company applies for various permits and rights to operate<sup>15</sup>, which have to meet government standards under the MPRDA and Mining Charter. Where each process is approved, so may the company move forward with its operations.

The second reason is an intuitive consequence of the first; without this shift in power, equity policies such as the Mining Charter would have been substantially more difficult to implement. Accordingly, by transferring ownership control, government became a more impactful policy participant in the mining industry. This influence was solidified by the introduction of

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<sup>14</sup> Such as the case where the expropriation of land is enacted for the public good.

<sup>15</sup> For example, a prospecting permit, a development permit, an extraction permit and environmental permit to name but a few

measuring instruments, such as ‘scorecards’, which gave equity distribution targets for mining companies to reach (Department of Mineral Resources, 2018: 41-47). If non-compliance occurs, or companies fail to reach the targets in the allotted timeframe, mining rights and permits can be revoked. As a result, the enactment of the MPRDA can be seen as the foundational policy which allowed for an equity redistribution policy such as the Mining Charter to be enforced.

While the Mining Charter plays a considerable role in redistribution and ownership transfers, social licenses to operate also play an intricate role within the Mining Charter (Department of Mineral Resources, 2018: 27). There have been numerous articles which have discussed instances of social licenses to operate in both the global and South African mining industry context (Prno and Slocombe, 2012; Kemp and Owen, 2013; Harvey and Bice, 2014; Mayes, 2015). However, a concrete definition of a social license to operate has been a challenge to accurately define, due to an “absence of any internally coherent definition of social licence by [the mining] industry” (Kemp and Owen, 2013: 30). Much of this stems from the varying mechanisms implemented to aid community development, where each respective mining company attempts to gain approval for their own social licenses to operate. Nevertheless, a broad definition can be determined as the acceptance, be it on a variable scale, of the mining companies’ operations from a community perspective. Consequently, the purpose of a social license to operate is to ensure “an appropriate allocation of benefits to directly affect communities rather than exclusively to national coffers” (Harvey and Bice, 2014: 330). This implies that the responsibility of community socio-economic development has shifted from a solely governmental role to include mining companies themselves. It must be noted that Corporate Social Responsibility (CSR) practices share strong correlations with a social license to operate, as companies often use CSR programs as a mechanism to influence the associated communities’ perception of them. Therefore, one could argue that CSR programs are the basis for a social license to operate in the case of the mining industry.

Shifting one’s attention to the implementation of the Mining Charter, a common theme of political elitism versus benefits for the majority becomes apparent (Tangri and Southhall, 2008: 706). At its core, the Mining Charter’s objective is to redistribute wealth derived, both directly and indirectly from the operations, of the mining industry into a more demographically accurate structure. Some authors postulate political elitism within the mining industry is the result of the Mining Charter’s requirements, where “a myriad of ‘empowerment’ companies have

emerged in order to attract the kind of business that will fulfil targets” (Freund, 2007: 666). Moreover, these companies are sometimes associated with the government, being either introduced by the government, or being a public parastatal. This type of relationship has been argued to limit the redistribution of most wealth to those who are politically connected (Freund, 2007: 666). In other words, wealth is amassed by those who are privy to government, effectively isolating redistribution to a select few, while disregarding the majority. However, the above critique tends to focus on specific aspects of the charter, such as procurement and forms of ownership; while it disregards other aspects of the charter, such as human resource development programs. This highlights, depending on which aspect of the charter is focussed on, the influence of political elitism will vary. Consequently, one can infer that political elitism is more often found where there are high levels of capital in a transaction, and has less concern with aspects of the Mining Charter which facilitates a transaction that benefits a large volume of individuals.

Conversely, other authors have been critical of mining companies’ roles in the redistributive process. For example, Diale (2014: 21) argues that mining companies simply respond to the Charter as a ‘box-ticking’ exercise, instead of treating the policy as a tool to rectify the distribution of wealth in the industry. In more critical responses, mining companies have been accused of not reaching the requirements of the Charter (Moraka and Jansen van Rensburg, 2015: 671). With reference to the proposed ‘box ticking’ attitude, it is important to recognise that the Mining Charter is structured in such a way that it can only be seen as a compliance model. Therefore, by logical extension, a company will treat the policy as a ‘box-ticking’ exercise, and as long as they are reaching the requirements set by the policy, it can be argued that there is no objective justification for such criticisms. However, these criticisms may be derived from perspectives, and consequent interpretations, of the Mining Charters’ role as a redistribution policy.

Regarding non-compliance criticisms, the literature can be divided into two positions. On the one hand, research has presented mining companies as failing to reach the required Charter targets (Rajak, 2016: 943). Alternatively, other cases have argued that the policy is “not only unworkable, but its usage by industry can result in perverse development outcomes” (Kemp and Owen, 2013: 31). This indicates that the policy’s formulation may not be in line with the practical reality, resulting in an inverse outcome than what was initially intended. A common example would be where a position or quota is not reached, due to a skill or knowledge

deficiency<sup>16</sup>. Yet, under the Charter's directive, a company will be in violation if they do not reach the allotted requirements. In turn, mining companies will not be able to reach Charter targets, and consequent penalties will be applied, unless the mining company changes their compliance levels to account for the expectations of the Mining Charter. Yet, it is more important to recognise the reasons behind a company's non-compliance- being the lack of training and the subsequent shortage of the overall pool of HDSAs that can fulfil the quota.

The preceding literature alludes to broader commentary regarding the Mining Charter's redistribution effectiveness and its impact on stakeholder engagement. There is a clear disconnect between the theoretical policy, and practical reality. Thereby, there has been a failure to effectively formulate a feasible policy for the mining industry which also meets the necessary policy goals of the Mining Charter. Furthermore, arguments have varied depending on the author's position. Some have argued that the level of ambiguity or unrealistic expectations of the policies equity as the primary cause (Kemp and Owen, 2013: 31), whereas in other cases authors have accused mining companies of an unwillingness to adhere to the policy (Diale, 2014: 21). While the authors' arguments and own evaluations are a valuable contribution to the literature, the more relevant observation for this study is the existence of these differing perspectives in both the mining industry and literature relating to the industry. It is at this intersection of ideas that the interest of this study lies, i.e., the acknowledgement of differing perspectives and how the interpretations of seemingly homogenous information can determine how interactions of stakeholders shape policy. Information plays an integral part in any decision-making process, as the more information one has, the more one is able to have an informed position on a matter.

Yet, how an individual decides to use information is determined by their subjective interpretation of the information, and not the objective information itself. With this acknowledgement, the interest of this study is strengthened, as the Mining Charter is considered an 'objective' piece of information, as it presents the same information, regardless of who decides to analyse it. This must not be misconstrued with the Mining Charter being *formulated* from an objective position, as a policy is based on an agenda, or mandate, and therefore has some level of bias associated with it. Moreover, interpretation of information is but one area of

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<sup>16</sup> A common skills and/or knowledge deficiency position is often found in middle management or above in a mining company, as the HDSA workforce with the required skills and knowledge is lower than the required demand.

interest for this study; there has also been limited engagement concerning the mechanisms (and influences) of policy change which determines each iteration of the Mining Charter. The Mining Charter has undergone several iterations since its inception and has been well documented over the years, as can be seen in the above discussion. However, the research has generally focussed on how policy implementation has not resulted in the expected or desired policy outcomes, instead of the mechanisms behind (including stakeholder interactions) that have determined the policy's formation and changes over the years.

## **2.3 Theoretical Engagement: The ACF and its Prior Applications**

The ACF has been utilised by a multitude of authors, with applications of the framework varying significantly in both the policy sector - such as health policy, environmental policy, energy policy, to mention a few – as well as the way in which it is applied (Weible, Sabatier and McQueen, 2009; Pierce et al, 2017). Furthermore, the ACF is considered a complex framework, which has multiple parts to it; all of which serve the specific purpose of explaining how and why advocacy coalitions interact in the way they do.

For this reason, it is important to engage with the available literature on the framework, in order to emphasise the flexibility of the framework and its relevance as a tool for understanding policy changes, such as the various iterations of the Mining Charter. Consequently, the ensuing subsections will consist of a conceptualisation of the ACF as an analytical tool used to explain how stakeholder interactions result in policy change. Additionally, this section will also explore prior applications of the ACF, which are relevant to the Mining Charter's industry environment- being the extraction of natural resources.

### **2.3.1 Framework Conceptualisation**

A conceptualisation of the ACF is essential, as it is the analytical tool with which changes in equity policy within the South African Mining Industry, based on stakeholder interactions, shall be explained. For this reason, the “foundation stones” (Sabatier and Weible, 2007: 191) of the ACF shall be unpacked. Once this is achieved, a brief discussion regarding the revisions of the ACF will be discussed, as certain additions provide valuable information which pertains to the application of the framework on the Mining Charter as a policy.

The ACF has three foundation stones, which form the justifications of the framework, which include (Sabatier and Weible, 2007: 191-192);

“(1) a macro-level assumption that most policymaking occurs among specialists within a policy subsystem but that their behaviour is affected by factors in the broader political and socioeconomic system; (2) a micro-level “model of the individual” that is drawn heavily from social psychology; and (3) a meso-level conviction that the best way to deal with the multiplicity of actors in a subsystem is to aggregate them into “advocacy coalitions”.”

The first foundation discusses several aspects, including the definition of a subsystem and the variables which affect its formation. Policymaking occurs between actors who are considered to have the capacity to act, and knowledge of, a specific policy subsystem. Technical capacity and knowledge on a subsystem level are needed, as “policymaking in modern societies is so complex” (Sabatier and Weible, 2007: 192). This requires actors to specialise, in order to make informed decisions regarding a specific policy concern. On the note of knowledge, it is important to acknowledge that what is considered as ‘knowledge’ will vary depending on the advocacy coalition. This is caused by two factors. First, while all actors may have access to homogenous information, the way in which they interpret this information will be determined by their respective coalition’s ideological position, or their associated belief systems, which inadvertently determines how stakeholder interact with one another. This shows the clear difference between information as objective material, and as a derived form of knowledge, subjectively held by respective coalitions. Therefore, the ACF is suitable to address the research focus, as it acknowledges and accounts for these varying positions on a policy issue.

The second important aspect is the result of stakeholder interactions – not only between a coalition’s members – but also between other coalitions which have different knowledge bases and policy goals. When knowledge is discussed amongst coalition members, the knowledge base tends to solidify within a coalition, unless it jeopardises the policy goals of the coalition. On the other hand, when different advocacy coalitions interact with one another, there is a greater chance for knowledge to disseminate across coalitions, which creates a more diverse range of knowledge pools, allowing for new potential policy proposals to occur (Sabatier, 1988: 131). However, whether these new policy proposals are enacted depends on more factors than just their recognition, as will become apparent through the further discussion on the ACF.

With the above in mind, a policy subsystem is defined as “actors from a variety of public and private organizations who are actively concerned with a policy problem or issue” and who have the intention to influence said policy area over an extended period (Sabatier, 1998: 99). The actors which can affect the policy process are expanded from the traditional iron triangle (legislature, government officials and interest groups), to include journalists, policy consultants and researchers (Sabatier and Weible, 2007: 192). Consequently, a more comprehensive knowledge pool is created, which stakeholders can draw upon when making a decision. Moreover, the subsystem is limited territorially, i.e., as a geographical location, as well as on a functionally, focussing on waste management policy, natural resource policy or health policy, for example. These requirements and characterisations of a policy subsystem allow for a defined unit of analysis that a researcher can examine, ensuring critical engagement on the narrow policy concern occurs.

Additionally, policy actors’ behaviours and decisions are determined by the metapolitical system, externalities, belief systems, and coalition resources (Sabatier and Weible, 2007: 191-192). Regarding the metapolitical system, a subsystem may have its own policy, but it may still have to adhere to an overarching national policy. For example, a policy concerned with the carbon footprint from coal usage would have to adhere to the overarching environmental policy of the state. This applies to the Mining Charter, as it derived from the MPRDA, which adheres to the macro affirmative action principles found under the Broad-Based Black Economic Empowerment Act (Department of Trade and Industry, 2013).

Furthermore, external factors, be it political, economic or social, have the potential to influence the subsystem’s policy (Sabatier and Weible, 2007: 192). For instance, a change in the political regime of a state would have a trickle-down effect through new national policies to the subsystem policy. Alternatively, an economic downturn may encourage a change in the policy for fruit exportation through taxation cuts, in an attempt to improve the state’s current account<sup>17</sup>. On the social front, a policy can be influenced by a factor such as labour unrest, resulting in a change of labour policy to which a subsystem may have to adapt. Due to the Mining Charter being situated in an industry that is highly susceptible to externalities, as is

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<sup>17</sup> Defined as a trade surplus or deficit a country has in relation to the international trade market(s).

evident in the discussions under section 2.2, the ACF continues to be valuable as an analytical tool for the research question at hand.

With regards to the second foundation, the ACF draws from a normative approach in which policy formation is determined by an individual's belief systems (Sabatier and Weible, 2007: 194). Yet, it must be noted that the ACF does not disregard rationality from the policy process. Rather, the framework seeks to understand the underlying factors (referred to as belief systems) which drive individuals to make their own rational decisions. In turn, this suggests there are multiple 'lenses' through which a policy issue is perceived by actors, as a result of varied belief systems. These lenses create a tendency for actors in the policy subsystem to mistrust one another's policy positions and intentions, known as the 'devil shift', whereby an adversarial relationship is established between actors who have substantially different belief systems to one another (Weible, Sabatier and McQueen, 2009:132). In addition, the 'devil shift' posits that actors will recall losses in the policy arena more than victories, further separating actors from those who they deem to be in opposition, which determines how future interactions of policy subsystem stakeholders unfold (Weible, Sabatier and McQueen, 2009:132). This holds relevance for Mining Charter itself, as it is found within a divisive system, with clear disagreements between mining companies, the government, trade unions and mining communities, in terms of their associated industry functions.

Naturally, this suggests that each individual actor's decisions will be predetermined by the particular set of beliefs they hold. These beliefs are not only on a policy subsystem level, but also their belief system overall. This creates a 'tiered' system of beliefs, comprised of; deep core beliefs, policy core beliefs, and secondary beliefs. Deep core beliefs are the ideological underpinnings on which policy participants base their actions (Sabatier and Weible, 2007: 194). Typically, these underpinnings fall on the modern political-ideological spectrum from left-leaning, to centre, to right-leaning. For example, an actor who believes the ownership of the factors of production should be communal, or any surplus profit should be divided equally amongst the society as a whole, would have a socialist deep core belief system. Conversely, any actor who advocates the factors of production to be privately owned or stresses the importance of a minimalist government, would base classical liberalism as their deep core belief system.

Policy core beliefs are a derivative of deep core beliefs found within a particular policy subsystem. Actors of the subsystem who can cause policy formulation or policy change will innately assign their deep core belief systems toward how the policy (such as the Mining Charter) should be formulated, or be changed (Sabatier and Weible, 2007: 195). However, the ACF does emphasise that the actor's core belief systems do not always directly mirror policy core beliefs. If there is a clear practical issue with the application of a core belief verbatim, such as a liberal stance of free-market capitalism within a social welfare policy, the actor may be more willing to consider an alternative solution to the policy issue at hand. The framework provides several components shaped by policy core beliefs (Sabatier and Weible, 2007: 195), namely;

“the priority of different policy-related values, whose welfare counts, the relative authority of governments and markets, the proper roles of the general public, elected officials, civil servants, experts, and the relative seriousness and causes of policy problems in the subsystem as a whole.”

Considering the above, the ACF requires a minimum of two of these components to be operationalised, in order to determine the presence of at the least two advocacy coalitions. This is arguably the most important section of the framework, as it determines the nature of the policy subsystem as a whole. It does this by studying the interactions of the varied belief systems, on the grounds of the 11 components. As a result of these interactions of differing belief systems, points of debate are created in the policy subsystem- known as policy preferences (Sabatier and Weible, 2007:195). These preferences span across the entire subsystem, are recognised as significant or important issues, and are often a point of contention within the policy subsystem over an extended period of time. These can include preferences such as industry sustainability, a market-driven approach, or a socio-democratic preference, to mention but a few. Furthermore, policy core preferences are the normative approaches on how policy should be conducted in the policy subsystem, according to an individual's core belief system. Consequently, policy preferences, along with the 11 components of policy core beliefs, serve as indicators for which advocacy coalition a stakeholder will associate themselves with, due to the normative nature of the policy subsystem being based on the stakeholder's core beliefs.

Secondary beliefs are considered “relatively narrow in scope” (Sabatier and Weible, 2007: 196), and therefore deal with issues that are on the micro-level of the policy subsystem. Additionally, the ACF defines secondary beliefs as “funding, delivery, and implementation of policy goals” (Cairney, 2015: 486). For example, in a subsystem that is concerned with prescription drug policy, the way in which prescription drugs are dispensed and funded would be considered a secondary belief. It is still concerned with the operations of the policy subsystem, but does not ultimately impact the overall objective or function of the coalition’s belief systems and policy goals. As a result, secondary belief systems are more susceptible to change, when compared to deep core beliefs or policy core beliefs, as they are seen as the tools in achieving policy goals and not an integral part of a coalition’s identity. Regarding the Mining Charter, this would hold relevance in determining the mechanisms of affirmative action which would ensure the transformation of the mining industry, instead of what the purpose of the Mining Charter *should* be.

The third and final foundation is an accumulation of the first two foundations. It is the establishment and justification of advocacy coalitions as a method for grouping stakeholders of a policy subsystem, in relation to their belief systems. According to the ACF, “beliefs and behaviour are embedded within [the] informal networks” (Sabatier and Weible, 2007: 196) of a policy subsystem, which in turn play a significant role in stakeholder interactions and subsequent policy formation and change. These informal networks are defined as the relationships and interactions of the policy subsystem stakeholders. Stakeholders, therefore, attempt to translate their core beliefs into policy, while at the same time competing with those who hold different belief systems to their own (Sabatier and Weible, 2007: 132). Additionally, the movement of policy participants into advocacy coalitions takes time and, depending on the aforementioned 11 components of policy core beliefs, they may move from one coalition to another. This is the primary reason why the ACF tends to focus on a policy subsystem cycle of 10 years or more, in order to track the policy formation, effects and changes over the period.

It is important to note that the ACF has undergone several revisions over the decades (Sabatier et al, 1988, 1998, 2007 and 2011). According to Cairney (2015: 485), the ACF’s revisions were instigated to expand the applicability of the framework from the pluralist nature of the American political system to other forms of governance on a global scale. This was caused by the initial scope of the ACF, which did not account for the different governmental systems situated in the developing world, resulting in an influx of ACF based research constrained to

traditional forms of governance in the developed world. This was an essential addition, as it significantly improves its relevance as an analytical tool in explaining how the interactions of stakeholders of the Mining Charter have determined its various iterations.

With this in mind, two significant additions to the ACF, which have relevance to this study, have resulted from these revisions; coalition opportunity structures, and the typology of coalition resources (Sabatier and Weible, 2007: 199-204). The coalition opportunity structure of the ACF is the response to the criticisms the framework has faced regarding its primary focus on the American pluralist political system. As a result, the authors of the ACF modified the framework, to account for a broader political system context in which a policy subsystem may be derived. Coalition opportunity structures refer to the socio-political system, which determines the access to resources, and places limitations on the behaviour of actors operating within the policy subsystem. The ACF recognises two variables which play primary roles in coalition opportunity structures. The first variable is the level of consensus needed for any significant policy change, while the second variable relates to the openness of the political system. To assist prospective researchers and academics, the authors of the ACF created a table, which shows the relationship between the consensus and openness variables, as well as the political system as a result, as depicted below (Sabatier and Weible, 2007: 191);

**Table 1: Coalition Opportunity Structures**

	Degree of Consensus Needed for Major Policy Change		
The openness of the Political System	High	Medium	Low
High	Pluralist	Pluralist	
Medium	Recent Corporatist	Westminster	
Low	Traditional Corporatist		Authoritarian Executive

Understanding the political system a policy subsystem resides in is essential, as it determines the laws and subsequent regulations that determine how the subsystem may legally function, based on the broader legislative context.

Shifting to coalition resources, limited research has been conducted. Sabatier and Weible (2007: 203-204) acknowledge this and posit that the reason behind this is that “operationalisation [of resources] and then aggregating across resource types has proven extraordinarily difficult”. Nonetheless, the conceptualisation of the types of resources available to policy stakeholders is possible, defined by the authors into the six key categories. The first available resource is the formal legal authorities which can change the policy at hand (Sabatier and Weible, 2007: 201). As a result, this resource has the potential to change the ‘rules of the game’ which all actors involved in the policy subsystem have to comply with, making it one of the most significant resources. Furthermore, the resource itself can also be aligned with (and sometimes be) a specific stakeholder, making it a challenge for other advocacy coalitions to instigate policy change.

Second, public opinion is considered a resource, as the chance of stakeholders’ policy goals being achieved is greatly improved with the support of the public, be it from those in positions of power or the general public who have the ability to publically support a position on a matter relating to the policy subsystem (Sabatier and Weible, 2007: 203). Third, information plays a key role in how coalitions conduct themselves and interact with one another (Sabatier and Weible, 2007: 203). The ACF assumes that policy actors have access to information about policy issues. Yet, how the coalition interprets and utilises information is determined by their policy beliefs and policy goals.

The fourth resource shares similarities with public opinion but focusses on public support defined as mobilizable troops (Sabatier and Weible, 2007: 203). Stakeholders seek out those in the public sector, private sector, and civil society who share comparable belief systems to themselves. From this point, coalitions use their garnered support to influence the policy debate by emphasising that they have a support basis for their policy goals and objectives. Fifth, financial resources play a key role in obtaining other forms of resources (Sabatier and Weible, 2007: 203). For example, money can be spent on research by a coalition into a particular policy issue, launching a media campaign, or influencing policymakers through financial incentives, to name but a few. Finally, skilful leadership – a derivative of policy entrepreneurship – is an

important resource which coalitions need to obtain if they wish to contend effectively in the policy environment (Sabatier and Weible, 2007: 203). The importance of skilful leadership lies in the ability to successfully assert control, maintain and guide a coalition toward their policy goals. Control and maintenance are not limited to the interpersonal relationships amongst coalition members, but also includes the use of financial resources, ensuring associated strategies are practically feasible, while also determining how the coalition interacts with another coalition(s).

Finally, with both the foundations and additions to the ACF under consideration, the framework justifies major and/or minor policy change through three mechanisms: external shocks (discussed), a hurting stalemate, and the accumulation of technical evidence. Stalemates occur when stakeholders contest one another vehemently over a policy issue, as long as there are feasible alternative options to the current status quo. However, if these options are exhausted, coalitions are unable to advocate their positions on new grounds, meaning they are unable to further contest one another within the policy subsystem. Therefore, a stalemate occurs (Weible and Sabatier, 2006: 130). Stalemates are by no means an uncommon occurrence in policy debates. Yet, over time, a stalemate can turn into a hurting stalemate, where the existing policy does not align with *any* coalitions' policy preference. In these cases, coalitions are forced to further compromise their beliefs and policy preferences, in order to reach a consensus on policy development that no coalition finds ideal, but is willing to accept.

The last mechanism of change focuses on the significance of technical and scientific knowledge, whereby policy-orientated learning occurs. In the case of the ACF, policy-orientated learning is defined as “relatively enduring alterations of thought on behavioural intentions that result from experience and/or new information that is concerned with the attainment or revision of policy objectives” (Weible and Sabatier, 2006: 130). Subsequently, belief structures may change (based on minor or major policy change) to align policy beliefs and preferences with the new information. New information can take on various forms, ranging from technical reports, which include feasibility or performance reports, to scientific studies which can bring to light new innovations and highlight flaws in the current policy. However, policy-orientated learning will be hindered by belief structures, if the information contradicts beliefs that are foundational to a stakeholder or coalition. Subsequently, they may choose to discount or even refute information when it is considered a threat to their position in the policy subsystem. This is significant for the Mining Charter, based on the reasoning provided by the

government, mining company coalitions and other key stakeholders indicate a level of policy-orientated learning, as well as the rejection of information, over several iterations of the policy (Republic of South Africa, 2015; Minerals Council, 2019).

### **2.3.2 Relevance of prior applications of the ACF for the Mining Charter**

The ACF has been used extensively since its conception, being academically published in over 240 instances (Pierce et al, 2017: 13; Weible et al, 2009). Such a volume of applications of the ACF can be viewed in several ways. It is clear that the framework has been well received and is a staple framework amongst academics and researchers. Much of this is the result of the ACF being designed to focus on a narrow area of study and not the overall political environment. This allows for a plethora of different policy issues that can be analysed using the framework. In turn, this allows for an opportunity to arise where academic scholars or policy analysts can contribute further knowledge to not only the ACF's overall development, but also towards a greater understanding of the specific policy subsystem being analysed by using the framework as an analytical tool.

Some research attempts to explain the ACF through the lens of a certain theoretical perspective, such as Jenkins-Smith, Silva, Gupta and Ripberger's (2014) paper on the Cultural Theory as a justification for core beliefs. Further areas of study have focussed on combining other frameworks with the ACF, such as the Multiple Streams Framework or the Narrative Policy Framework as a way in which to expand the universality of the ACF (Howlet, McConnell and Perl, 2017; Shanahan, Jones and Mcbeth, 2011). While these articles are a valuable contribution toward understanding how the ACF functions from the perspective of a specific theory, or how combining elements of other frameworks aids the ACF's development, the purpose of this study is to use the ACF as an analytical tool to understand how stakeholder interactions have shaped the iterations of the Mining Charter. To narrow the literature on prior applications of the framework so that it pertains to the Mining Charter, only applications of the ACF in policy subsystems revolving around natural resources will be discussed.

There are two important findings which are apparent when dealing with policy subsystems that are related to natural resources and the application of ACF as an analytical tool. These research findings indicate that belief systems undoubtedly affect the interactions of key stakeholders of

natural resource/environmental policy subsystems, however, how stakeholders interact and whether or not stakeholders can learn from their interactions with one another, varies from case to case (Leschine, Lind and Sharma, 2010; Gregorio, Gallemore, Brockhaus, Fatorelli and Muharrom, 2017). For example, Christopher M. Weible, one of the most prominent ACF academics (Sabatier and Weible, 2007; Weible et al, 2009; Weible, et al, 2011), discusses natural resource conflicts amongst those involved with the California Marine Life Protection Act. To summarise the act, its objective is to “improve the network of Marine Protected Areas (MPAs)” (Weible, 2005: 462), which in turn provides a location for aquatic species’ numbers to increase without the presence of human-induced threats.

Several observations of Weible’s study are significant for both the ACF as a framework and its application to any policy subsystem focussed on natural resources. First, policy participants were divided according to their policy core beliefs into ‘pro’ and ‘anti’ coalitions concerning the MPAs (Weible, 2005: 462-463). In other words, polarisation of the policy itself was present, and the outright rejection of policies proposed can be accounted for by using the ACF as an analytical tool. Such an observation is useful as a reference point for analysing stakeholder interactions and their role in shaping the iterations of the Mining Charter.

Second, and in connection with the first observation, coordination amongst policy participants was far more frequent between those who shared similar policy core beliefs than those who did not, thereby strengthening existing coalitions. Moreover, policy participants with “moderate beliefs are more likely to coordinate with other actors of divergent beliefs” (Weible, 2005: 472), which indicates stakeholder can transfer from one coalition to another. Conversely, if a stakeholder's ideological beliefs are too far removed from other stakeholders, they are more likely to be adversarial, instead of cooperative in nature towards other policy participants. Such an observation indicates that if an advocacy coalitions’ policy core beliefs are too diverse from another coalition (or a stakeholder), policy contestation is far more likely.

It is important to note there is a clear distinction between this observation and the first; while polarisation highlights the differing opinions on how policy should function, or even how it should be implemented, this observation is concerned with the argument that belief systems lie on a political-ideological spectrum. The wider the ideological gap between coalitions is, the more likely a devil shift is to occur. As a result, if the perceptions held by coalitions of one another are too cynical, it will inherently become increasingly difficult for a degree of

consensus to be met between stakeholders in conflict with one another. Considering the literature addressed in section 2.2, there is preliminary evidence to support this may be the case for the South African Mining Charter, further strengthening the ACF as a relevant analytical tool.

Similarly, a noteworthy article by Gregorio et al (2017), deserves attention due to its use of the ACF, with a focus on the perspectives of policy actors and institutions which directly affect natural resources. The study analysed discourses across multiple countries while focussing on a standardised policy subsystem determined as reducing emissions from deforestation and forest degradation. Through examining these subsystems (as a specific policy concern) from more than one country, connections could be made about how policy participants generally respond to one another in a particular subsystem. While their focus was from an environmentalist perspective, their argument, that belief systems, discourses and institutions are complementary and often shape one another, is significant for this study (Gregorio et al, 2017:134). They suggest that, depending on the policy issue, the belief systems of those who have the ability to influence a policy issue will not only determine the interactions amongst one another as coalitions, but also have the potential to alter the institutions that influence the policy subsystem, including legislation and governmental structures (Gregorio et al, 2017:134). This is important for the research question at hand, as there are key stakeholders regarding the Mining Charter (Such as the DMR) that are actively involved in institutions and can influence policy change.

Regarding water and forestry policies, they are considered the majority of ACF applications under the natural resource subcategories (Pierce et al, 2017; Weible, et al, 2009). This result may be due to the frameworks' founder and initial ACF specialists being involved in those industries, allowing for further scholars to replicate methods and expand the knowledge of the subsystems with some form of established guidance (Munro, 1993; Weible and Sabatier, 2005, 2006). One of the findings from an application of the ACF as an analytical tool for forestry policy in British Columbia states that a policy crisis can be avoided by the mere presence of more than one coalition within a subsystem where "a non-crisis path to a paradigm shift" can occur (Lertzman, Rayner and Wilson, 1996: 131). In other words, policies which will inevitably cause harm to the intended policy recipient can be avoided by altering the policy which governs the subsystem. This can only be achieved by ensuring dominant advocacy coalitions are challenged by interactions between stakeholders, through instances of knowledge base

contestations<sup>18</sup> and utilising resources at a coalition's disposal, to challenge potentially harmful elements of a policy.

In one of the few applications where the ACF was applied to a South African policy subsystem, the question of sustainability in the forestry industry was the focus. As discussed by Tewari (2001: 350), sustainability - on both the environmental and policy front - is considered one of the most important requirements of any policy subsystem structure. A policy that governs the subsystem, if formulated correctly, should be designed in a long term manner to create a stable policy environment. Yet, unforeseen externalities are difficult to mitigate and always have the potential to disrupt a theoretically sustainable policy. Moreover, when dealing with natural resources which are inherently finite, sustainability on an environmental front is equally important. Such a stance is important to note for this study, as similar to the forestry industry, the mining industry's operations provide raw materials, employment (both directly and indirectly) and investment returns. All of this, however, is not possible if the structure of the policy is not sustainable for all those it affects, regardless of which coalition an actor associates themselves with.

Shifting one's attention to water policy, a paper by Brian Ellison (1998:35) focussed on the interactions between different levels of government, acknowledging that intra-governmental power relationships can play a role in the policy process, irrespective of the other non-governmental actors in a policy subsystem. To clarify, through the analysis of the relationships shared between government officials of state and federal institutions in the United States, "researchers have found that cooperative versus coercive mechanisms work better when local governments are committed to federal policy objectives" (Ellison, 1998: 36). Thereby, a policy which governs a policy subsystem is more likely to be approved if the governmental body involved in the policy subsystem adheres to the national government's mandate, which is a form of an externality (Tosun and Lang, 2016: 195). This infers that government-based coalitions involved in a subsystem may be less willing to compromise their policy core beliefs, when compared to other coalitions who do not have a hierarchical structure above their own coalition that must be adhered to. The recognition of multi-level government dynamics is essential in the case of this study, as the Mining Charter can be seen as an industry-specific

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<sup>18</sup> The act of debating policy issues from a perspective based on one's belief system and its associated knowledge base, amongst other perspectives.

reflection of the national government's position on matters concerning transformation and affirmative action. Therefore, the DMR as the governmental body responsible for the mining industry and subsequent Mining Charter, is obligated to fall in line and cooperate with the overall national mandate pertaining to BBBEE principles.

A further study conducted on the water policies of West Africa, discusses the interactions between international aid donors and the host governments. The paper highlights the issue of policy ownership and its relationship to the structural conditions<sup>19</sup> of Burkina Faso and Mali respectively (Cherlet and Venot, 2013: 492). The conclusion of the authors is that if a host government tends to assert their ownership of the local policy, along with a stable flow of international aid, the potential to change the structural nature of the host country's subsystem is much higher, as is the case with Mali (Cherlet and Venot, 2013: 493). Inversely, in the case of Burkina Faso, if local policymakers are unwilling to take responsibility for the policy, policy change can become a challenge. However, policy change is not impossible under these conditions, as long as policy entrepreneurs are present and are not structurally hindered from facilitating change (Cherlet and Venot, 2013: 493). Two relevant points can be drawn from the article. First, an externality impact is depicted; foreign aid can dictate the outcome of a policy formation or change. While foreign aid is not relevant to all subsystems, it does stress the impact of foreign actors as a whole (which is considerable in the case of the South African mining industry) if their interests lie within the particular policy subsystem. Second, the study outcome highlights that there may be a need for a clarification in the ACF definition of a policy subsystem. According to the ACF, a policy subsystem's actors must be actively involved, along with the intention to evoke policy change (Sabatier, 1998: 99). The above study emphasises the importance of to what degree an actor is 'actively involved' in a policy subsystem. Therefore, the definition of a stakeholder being actively involved must not only be associated with the different levels of coalition influence in a policy subsystem<sup>20</sup>, but also the level of commitment and accountability a stakeholder is willing to accept in the policy process itself.

The Oil & Gas industry holds value, as it is closely related to the mining industries, with the industry falling under the extractive industry (Weible et al, 2009:126). There have been various applications of the ACF in this policy category, which either discuss these resource policies

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<sup>19</sup> Defined as the political, economic and social conditions which govern a society.

<sup>20</sup> The interrelationships between the dominant coalition and other coalitions.

directly, or mention in passing. A common thread throughout these ACF applications is the focus on the environmental impact of a policy, as well as the way they utilise resources and tactics, with clear coalitions based on belief systems as a result. Consequently, coalitions, in general, are divided into ‘pro-mining/development’ and ‘pro-environment/sustainability’ factions, which have polar opposite policy core preferences, caused by vastly different ideological underpinnings (Sotirov and Memmler, 2012: 55).

Accordingly, this makes reaching a policy consensus more of a challenge, due to the degree which stakeholder’ views are divergent from one another, especially in how a policy subsystem should function. Yet, there seems to be another underlying factor which has not been addressed by many of the authors; the relationship between natural resources as a valuable commodity and the benefits of such to the citizens of a state. For instance, over the years numerous sovereign states have stipulated, by law, the right to claim compensation from natural resources extracted within their borders (Rodriguez-Padilla, 1991; Phillips, Hailwood and Brooks, 2015; Emel, Huber, and Makene, 2011; Nellor, 1987). This creates a large incentive for coalitions which would benefit from enforcing such laws, and cause contention for those who do not benefit to the same degree. Thus, this perspective on natural resources as a source of income can be seen as an alternative as to why advocacy coalitions are structured in a certain manner, while still making use of the components of policy core beliefs in explaining how they determine the interactions amongst key stakeholders in the South African context.

Since the conception of the ACF, there has been limited direct applications of the framework as an analytical tool in engaging with policy subsystems found in the mining industries, with the majority mentioning the framework as a reference point (Tattersall, 2005; Pennington, 2008; Fitzpatrick, Fonseca and McAllister, 2011). One article which directly makes use of the ACF within the context of a mining industry, notes the issue of “areas where contested power shifts the conflict from how to achieve ends to who controls the means of getting there” (Flora, Flora, Campana, Bravo and Fernandez-Baca, 2006: 297). In other words, through the interactions between coalitions and their desire to enact their respective policy core beliefs, the initial purpose of the policy becomes lost through contestation between stakeholders.

Consequently, there is a risk of the policy process halting within the policy formation stage. This hinders policy implementation and shows a clear lack of willingness of key stakeholders to focus on the issue at hand, instead focussing on controlling the mechanism(s) which dictates

policy change. This outcome is a common occurrence when dealing with natural resource extractive policies, indicating that stakeholders are willing to vehemently defend their policy position, while trying to control key resources that influence a policy outcome (Hoberg and Phillips, 2011; Pierce, 2016).

## **2.4 Conclusion**

The preceding literature review has given a contextual basis for the South African mining industry, where the Mining Charter policy subsystem resides. This was achieved by focussing on the major themes of literature that are relevant to stakeholder interactions which have shaped the versions of the Mining Charter over the years. The relevant themes included; the economic influencers and their impact on the overall industry, environmental and social concerns resulting from industry operations, and instances of transformation and affirmative action occurring in the industry.

Additionally, the chapter contextualised the value of the ACF as an analytical tool for understanding the interactions between stakeholders. This was achieved by critically evaluating the foundations of the framework, along with its additions and prior applications, while providing their relevance to the research question at hand. Furthermore, while extensive research has been conducted across the aforementioned subsections, limited sources could be found which have applied the ACF to any mining industry- especially from a transformation and affirmative action policy perspective.

For this reason, further research is needed, not only for the sake of contributing to the academic field, but also for the ACF's usefulness as a tool in understanding how the interactions and the utilisation of resources between advocacy coalitions can alter existing policy subsystems. In doing so, a clearer understanding of how the Mining Charter's iterations have been influenced by key stakeholder interactions- may become apparent. The ensuing chapter will discuss the methodological processes followed, in order to contribute in this way, by providing; the research design; the forms of data collection; the sampling range; how the collected data was analysed; the ethical procedures followed; the challenges encountered while conducting the research; and the limitations, based on the study itself.

## **Chapter 3: Research Methodology and Design**

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### **3.1 Introduction**

Academic research can be addressed in a number of different ways, depending on the focus and content of the research project. For this reason, it is important to establish a research design which best suits the objective of the research. Consequently, this chapter will discuss the way in which the research was conducted to address the research question, which can be understood through the two primary functions of a research design (Burnham, Lutz, Grant and Layton-Henry, 2008: 42-43). The first function is to produce a ‘roadmap’ or plan of how one intends to address the focus of the research project. This affords the researcher a solid grounding in how the research project will be conducted, and a guideline to fall back on if needed. Second and more importantly, a research design is essential to ensure that the initial research question is engaged with effectively, provides subsequent relevant findings, all while remaining under structured and measurable parameters.

With the above in mind, the chapter will be divided into several sections, namely; the approach used for the research, data collection techniques, sampling, data analysis, and ethical considerations. In addition, the limitations and challenges faced during the research period are also be discussed, as it aids future researchers with a ‘guideline’ on how to replicate the study, if they so wish, and notes the challenges which the research process encountered.

### **3.2 Research Methodology and Design**

#### **3.2.1 The Qualitative Approach to Research**

There are two primary research approaches which academics have adopted when analysing various forms of data. First, there is the quantitative approach, which is concerned with the “numerical, and can be added, manipulated, and transformed into efficient data displays” (Bansal, Smith and Vaara, 2018: 1189). Conversely, a qualitative approach can be utilised, which is the approach used for the research question at hand.

Qualitative data analysis takes an entirely different approach to gather data. According to Denzin and Lincoln (2005: 3), qualitative research is focussed on an;

“interpretive, naturalistic approach to the world. This means that qualitative researchers study things in their natural settings, attempting to make sense of, or interpret, phenomena in terms of the meanings people bring to them.”

The provided definition can be unpacked, in order to justify the use of the qualitative approach in this study. First, the role of interpretation is paramount. Interpretation plays a major role in how both academics (or policy experts) and stakeholders of the mining industry interpret a phenomenon which affects the policy subsystem. To clarify, the composition of the phenomenon does not change<sup>21</sup>, but the justifications as to *why* it occurred are based on interpretation. An example, using prior academic literature, shall be used to illustrate this. During a period in which mine closures are high (the composition of the phenomenon), a researcher or stakeholder may interpret the closures as a cost-saving action (interpretation), whereas another may interpret them as an action which will inevitably increase the unemployment rate (interpretation). This shows that there is a high level of subjectivity present. A qualitative approach, if conducted correctly, should be able to explain these differing interpretations, and thereby be able to rationalise how they came to be. A further point is the recognition of the ‘natural’ setting. The qualitative approach is interested in a particular phenomenon, which is observable in the world, and is a result of the environment it is found in. Therefore, qualitative research often constrains the geographic limits of the study, in order to ensure that the findings are relatable to the phenomenon under observation. This study adhered to the principle on two levels; it confined itself to only the South African mining industry, and further narrowed the focus by only analysing the Mining Charter.

As alluded to above, a qualitative methodological approach has a further benefit for this study. According to Martin (2010: 7), qualitative research intends to “study subjective experience objectively and suggests that it is better understood as an interaction between two (or more) people”. Therefore, the intention of qualitative research can be directly linked to the research question at hand. To be more specific, qualitative research is useful for an area of study, or phenomenon, which is affected through the interactions of individuals - or in the case of this thesis - the operational parameters of the policy subsystem where stakeholders they find

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<sup>21</sup> The factors which have caused the phenomenon remain constant, regardless of differing interpretations.

themselves in. Moreover, qualitative research is most suited to translate highly subjective data, collected from numerous sources, into an objectively synthesised observation of the area of study as a whole<sup>22</sup>. However, it must be noted, that while a qualitative researcher must always remain as impartial as possible, it is impossible to be entirely objective. This is due to the fact that, much like the interactions of individuals in the area of study determine the environment, the researcher is also a product of a similar interactive mechanism<sup>23</sup>. For this reason, it is important to recognise such a reality. One should ensure that, as a researcher, one is able to de-compartmentalise as much of one's own subjectivity, when dealing with the phenomenon or area of study.

Consequently, while the quantitative approach deals with numerical data, the qualitative approach is concerned with 'text' data (Flick, 2011). For the purpose of this study, text data was generated from two forms of data collection, namely semi-structured interviews and desktop research.

### **3.2.2 Case study design as the most appropriate**

In addition to the qualitative or quantitative nature of the research, it is also important to recognize the significance of the types of research design which can be used in conjunction with a research approach. There are five primary types of research design used in Political Science, namely: experimental design, cross-sectional design, longitudinal design, case study design and comparative design (Burnham et al, 2008: 55). The following section will focus on the case study method, as it is the most applicable method for the focus of the thesis.

Several characteristics of case study design, as defined by Grunbaum (2007: 82-83), justified its use in this study. First, a case study is concerned with people, but "more specifically, interpretations of the social actors' perception of a given phenomenon or the meaning actors attribute to a phenomenon" (Grunbaum, 2007: 82). This characteristic best fits this study, as both the research question and the ACF are focussed on stakeholders. Specifically, they focus on how stakeholders in the mining industry perceive the Mining Charter as a policy, interact with one another, and how they attempt to influence the Mining Charter's outcome. Second,

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<sup>22</sup> For the purpose of this study coalitions as a single entity are the target

<sup>23</sup> Such as the researchers upbringing, the socio-economic bracket they find themselves in and their ideological perspective

the case study design is used to provide a holistic perspective of the phenomenon (Grunbaum, 2007: 82). In turn, the researcher is interested in understanding the ‘how’ and ‘why’ of the phenomenon, which was the primary purpose of this study regarding the interactions and their subsequent impacts on the Mining Charter.

Third, a case study design often favour qualitative approaches, as the design is often descriptive or exploratory in nature, thereby complimenting a qualitative methodology (Grunbaum, 2007: 82). This study set out to understand the role of key stakeholders interactions in the mining industry, specifically in the alteration of the Mining Charter. Furthermore, the ACF itself is often based on a qualitative methodology approach and a case study design, as the framework at its core sets out to understand policy contentions (or lack thereof) of a key issue, between key stakeholders of a specific policy subsystem.

### **3.3 Forms of Data Collection**

#### **3.3.1 Semi-Structured Interviews**

Semi-structured interviews are considered a valuable tool at the disposal of researchers. By definition, these types of interviews have the purpose of obtaining information through research participants experiences relating to the unit of analysis. Semi-structured interviews initially have a set of base questions that have been set up for the interview. However, these questions are designed to allow “interviews [to] unfold in a conversational manner offering participants the chance to explore issues they feel are important” (Longhurst, 2003: 103). In other words, the questions are intended to facilitate an environment where a participant can relay their position on a matter – but more importantly – semi-structured interviews allow for follow up questions, based on the response of the participant. Subsequently, a greater understanding of the phenomenon can be determined.

The decision to use semi-structured interviews over other forms of interviews was based on two factors. First, before the majority of the participants were interviewed, but only after ethical approval was acknowledged, other forms of informal data collection were utilized. This allowed for a deeper contextual basis on how the industry operates, with special reference to the result of policy change. Second, the nature and benefits of the semi-structured interview

best suited the research question at hand. This was due to the utilization of the ACF as an analytical tool, and the research question being explorative in nature.

Understanding a politically complex and economically integrated industry, such as mining, requires as much information as possible. With this in mind, two opportunities occurred *before* the determination of the semi-structured questions. The first occurred through an invitation by my gatekeeper to sit in on a meeting with key stakeholders from in the mining industry. A discussion ensued, where the implications of the revised 2018 Mining Charter for these stakeholders was explained by a policy expert. Stakeholders were given an opportunity after the presentation to ask any questions, or discuss possible scenarios resulting from the policy change.

This was beneficial for this study in its own right, as it allowed for a basic conceptualization of the mining industry, specifically the way in which certain stakeholders respond to policy change. I was afforded a further noteworthy opportunity. During the 2019 Mining Indaba, an invitation was once again offered by my gatekeeper to attend a post-event function<sup>24</sup>. The function was a popular, informal gathering of a wide range of mining-orientated stakeholders. This allowed further data collection in an environment where individuals were more accessible and open to discuss their opinions on the mining industry. Through these opportunities, the contextual basis for the semi-structured interviews was further strengthened, along with improving my understanding of how to apply the ACF as a data analysis tool.

Five base questions were used in all of the semi-interviews, irrespective of the participant. The questions were influenced by the focus of this study, the informal data collection process, and the recognition of the ACF as the analytical tool. It must be noted, the ACF is best suited for longitudinal studies, with the conducting of hundreds of interviews over a policy cycle. However, such an expectation was not possible for this study due to time constraints. Consequently, a cut-off date for participant responses was adopted, in order to organize the interviews effectively and ensure the completion of the thesis in a timely manner. Fortunately, the authors of the ACF recognize this limitation of the framework, and endorse a “quick, qualitative ACF-style analysis of policy subsystems. These might include a few informal interviews and an analysis of documents and reports” (Weible and Sabatier, 2007:132).

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<sup>24</sup> The Mining Indaba is the world’s largest mining conference, where potential investors, mining companies/personal and government officials attend seminars and panel discussions.

Therefore, the authors of the ACF encourage the flexible application of the framework, as long as one continues to adhere to the core principles of the ACF.

Each question will be stated, in addition to a justification for its role in understanding how coalitions attempt to influence the Mining Charter through their available resources, and more importantly the effects of their interactions with one another. The five questions consisted of;

1. *How do you understand the Mining Charter as a policy?*

Question one is used to establish the participant's interpretation of the policy. This provides a subjective contextualization of the policy, from the interviewee's perspective. Thereby, their responses could be compared to one another, offering a more inclusive understanding of the Mining Charter.

2. *What are the issues of the Mining Charter?*

Question two focussed on belief systems, through analysing the issues which a participant focussed on, while applying it to the ACF's 11 components of policy core beliefs (Sabatier and Weible, 2007: 195). This question also allowed for coalition identification, based on a participant's shared beliefs with other stakeholders.

3. *How are you addressing these issues?*

Question three was designed to determine the types of resources a participant implements in an attempt to influence the policy process, or outcome (Sabatier and Weible, 2007: 203-204). Therefore, the manner in which a participant addressed an issue can be compared against the ACF's resource typology.

4. *What would you like to see in the Mining Charter that is not there presently?*

Question four was designed to determine the policy goals and objectives of stakeholders. Once this was achieved, one is able to do a comparative analysis of how these policy aspirations differed from one another. This allowed for a further understanding of policy preferences, allowing for the identification of coalitions based on shared policy preferences (Sabatier and

Weible, 2007: 195). Therefore, the question established the preferred normative outcomes of each respective interviewee.

5. *Over all of the iterations of the Mining Charter, what do you think has been the main issue that divides stakeholders?*

The purpose of question 5 can be divided into two key sections. First, by focusing on the main issue that divides stakeholders, it tested for any presence of the ACF's devil shift principle (Weible, Sabatier and McQueen, 2009:132). The presence of a devil shift can greatly affect how participants perceived one another, as well as how they interacted with one another. Second, in a similar manner to policy goals and objectives, a key policy concern which a participant holds was another factor that determined the gravitation of individuals towards forming a coalition.

A pilot interview with my gatekeeper was also conducted, shortly after the approval of the questions by my supervisor. The interview was very informal, meeting at a coffee shop close to their residence. By working through the questions with them, I was able to refine how I approached asking the base questions. Additionally, the interview gave me the opportunity to practice attentive listening, a vital skill to learn for two interlinked reasons. First, conducting a semi-structured interview requires the researcher to not only listen to the response of a participant, but also grapple with the response's meaning. This stemmed from the interview process being as much a data collection process, as it was an opportunity for the researcher to improve their technical understanding of their area of study<sup>25</sup>. The second reason was the ability to ask relevant follow-up questions. Attentive listening ensures follow up questions are based on the participant's response, with the purpose of contributing to the research focus. Ultimately, the pilot interview helped with conducting future impartial interviews, even with questions that are designed to get different responses, depending on the perspective of the interview participant.

Finally, interview venues consisted of two options. My gatekeeper provided his offices as one potential venue. The alternative was to meet at the discretion of the participant. This alternative was provided as an interview option, as only the resulting discussion was of concern and not

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<sup>25</sup> This is not to say a researcher should not have a strong grasp on their area of study before interviews are conducted. Instead, through the pilot study I was able to clarify and broaden my own understanding of the industry.

the location of the interview itself. Consequently, other venues included the participant's offices, hotels, coffee shops and restaurants. The decision to provide this alternative was also made in order to ensure the participant was as comfortable as possible during the interview process.

### **3.3.2 Document Analysis and Data Triangulation**

After conducting the semi-structured interviews, it became evident that there were several aspects of the research which had not been addressed by those interviewed. As a result, document analysis was utilized as a means to fill the 'data gaps' which were present throughout the research process. As such, a discussion on document analysis and the value of data triangulation ensued. Yet, the application of document analysis should not be seen to stand on its own from the semi-structured interviews. Rather, it should be a way to provide a more substantive account of the research area, through the synthesis of both the interviews and document analysis as a single data pool.

Document analysis, much like a semi-structured interview, is linked to a specific research question. Therefore, document analysis needs to be conducted in a structured manner, where the focus is relevant to the research itself. According to Bowen (2009: 28), it is best defined as "a systematic procedure for reviewing or evaluating documents- both printed and electronic [...] material". Moreover, Bowen provides the functions of document analysis. First, document analysis is invaluable in determining the contextual basis on which a research study is conducted (Bowen, 2009: 29). A contextual base, or the historical account of the unit of analysis allows for a better insight into the phenomenon. Second, document analysis assists in determining the appropriate questions to ask in the interview process (Bowen, 2009: 30). For example, documents were analysed, such as those where the ACF and the Mining Charter, before any questions were generated. Moreover, the identification of stakeholders deemed appropriate to interview for the research purpose would have been a challenge without preliminary document analysis. Finally, documents are used to track change and development (Bowen, 2009: 30). This is especially important for this study, where the focus was on the development of the Mining Charter over time. Consequently, without document analysis, this study would have not been feasible.

Data triangulation is by no means an uncommon occurrence in qualitative research, as it is “inherently multimethod in focus” (Denzin, 2012: 82). Qualitative researchers are often interested in understanding a phenomenon in its totality. In these cases, they will require further information where one type of qualitative source is unable to address the entire research scope. According to Denzin (2012: 82), data triangulation under a qualitative study is best defined as:

“not a tool or a strategy of validation, but an alternative to validation [...] The combination of multiple methodological practices, empirical materials, perspectives, and observers in a single study is best understood as a strategy that adds rigor, breadth complexity, richness, and depth to any inquiry.”

The above definition is appropriate for this thesis, as it was designed with semi-structured and desktop research design in mind, while limiting it to qualitative approaches through the exclusion of quantitative alternatives. Second, the addition of document analysis was never intended to replace the value found in the semi-structured interviews. Rather, it was implemented as an additional means to answer the research question by addressing the data gaps. Finally, by engaging with more than one method of data collection, a more refined application of the ACF, and a broader understanding of the South African mining industry was possible, through the access of additional information.

### **3.4 Sampling**

Sampling differs depending on whether the researcher decides to take a quantitative or qualitative research approach. Quantitative sampling is generally determined as “formalized” data collection (Flick, 2011: 25). Consequently, quantitative sampling is not interested in the sample group itself, but rather what it could represent. Therefore, quantitative sampling is concerned with defining a sample group, and proposing broader statistical generalisations as a result of the sample group’s responses. This suggests that quantitative sampling requires a high level of representation, as generalisations are a challenge if the representative sample does not reflect the overall target population. Qualitative sampling takes a different approach to how data is collected, and for what purpose. Accordingly, this form of sampling can be (Flick, 2011: 27);

“conceived as a way of setting up a collection of deliberately selected cases, materials or events for constructing a corpus of empirical examples for studying the phenomenon of interest in the most instructive way.”

The above conceptualization of sampling shall be unpacked, in order to reaffirm why a qualitative approach was chosen over a quantitative approach. A qualitative sampling approach is better suited for this research focus, where intentional decisions need to be made for each instance of data, so as to fulfil an exploratory purpose. This is in contrast to the traditional strict statistical requirements and parameters associated with quantitative sampling. Furthermore, the sample group for this research study was by no means chosen at random. Each participant or data point of the sample group (for both the semi-structured interviews and the consequent document analysis) was carefully selected, in order to ensure that as much of the phenomenon as possible would be able to be analysed in its entirety. The ACF as an analytical tool further strengthened the qualitative requirement, as key stakeholders of the mining industry are assumed to have a level of technical capacity and knowledge regarding the policy subsystem which they find themselves in (Sabatier and Weible, 2007: 192). In turn, the focus area of this study was not on numerical data, but rather on how the interactions amongst advocacy coalitions have shaped the policy.

Additionally, qualitative sampling is considered a more flexible methodological process when it comes to data collection, compared to quantitative sampling (Coyne, 1997: 626). This stems from the above conceptualisation, in conjunction with qualitative sampling being a “practical necessity” in certain cases (Coyne, 1997: 624). During an explorative research project, the initial identification of the appropriate sample group can be a challenge, as the phenomenon under observation may not be correctly interpreted by the researcher. Therefore, the researcher requires a level of understanding of the phenomenon before the correct sample group can be identified. This was yet another reason the two forms of informal data collected were a valuable stage in the research process.

It must be noted, the sampling process was based on further influencing factors, which in turn affected the manner in which sampling was conducted for this study (Schatzman and Strauss, 1973: 39). First, the time constraints of the researcher play a major role in the sampling process. Generally, the longer a researcher has to study a phenomenon, the more they are able to understand and explain the issue at hand. For this reason, research was conducted over three

years, in order to gather as much accessible data as possible and avoid major extrapolation of data. Second, the framework a researcher decides to use greatly determines how, and what, sample data is collected. Frameworks are selected with a specific purpose in mind. Consequently, the ACF was chosen, as it is the most appropriate framework to determine how stakeholders group, interact and attempt to influence the policy subsystem they are involved in.

Third, the developing interests of the researcher can influence how sampling under a framework is collected<sup>26</sup>. At the beginning of the research process, the focus of this study was entirely different, and far less attentive in answering the research question. The ACF was used to solidify the focus of the research, by using the framework as an analytical tool in order to gauge my interests in the Mining Charter and the mining industry as a whole<sup>27</sup>. This resulted in some sections of the framework being given more attention than others. Finally, the restrictions placed on the researcher by the phenomenon under observation determines the extent to which they are able to effectively engage with their research focus. Hence, the harder it is to gain access to information, the more difficult it is to make a clear and concise conclusion from the findings.

With the above in mind, the sample consisted of a purposive sample<sup>28</sup> and a snowball sample. The snowball technique entailed asking an interviewee if there was anyone further that they were aware of who might be able to assist in the research process, with the purpose of adding their input into the data pool. Thus, the data pool can be expanded, allowing for a more accurate response to the research question.

Snowballing was especially important in the context of this thesis, due to the industry under analysis. This was predominantly due to access constraints pertaining to key stakeholders, as they are at times reluctant to be interviewed, unless one has been referred by another stakeholder. Moreover, snowballing can bring to light an important aspect of the research which the researcher had not thought of themselves. This occurred when one of the interviews (which was gained from snowballing) led to the recognition of a new coalition, which has

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<sup>26</sup> How the focus/interest of the researcher changes as the research process occurs.

<sup>27</sup> So as to test policy-orientated learning, the devil shift, coalition formation, and so forth.

<sup>28</sup> A researcher starts their project by determining the phenomenon they wish to examine, thereby creating a precedent to which they can gauge whether a participant will provide value to the focus of the research.

become more influential in the policy process of late. Approximately a third of the interviews were gained in this manner.

In total, nine semi-structured interviews were conducted, along with collecting documents in the form of media reports, government statements, company reports, and other NGOs' statements deemed relevant to the research scope. The nine semi-structured interviews consisted of; (1) a government official involved in the mining industry, (2) a representative for the mining companies, (3) a lawyer who contends with the iterations of the Mining Charter, (4) three mineral-focused corporate advisors, (5) two private think tank researchers with mineral interests and (6) one independent policy expert who specializes in the risks (social, financial and political) of the South African mining industry.

### **3.5 Data Analysis**

Grappling with the Mining Charter has been subdivided into two subsequent chapters, due to the complex nature of the South African mining industry's policy environment. For this reason, the first will focus on contextualizing the Mining Charter. This was achieved by engaging with the Acts which provide the framework under which the Mining Charter derives its enforceability. These included the Broad-Based Black Economic Empowerment Act (Department of Trade and Industry, 2003) and the Mineral and Petroleum Resources Development Act (Department of Mineral Resources, 2002). Consequently, through the use of interview participant responses and documents – including media reports, government statements and company press releases – the relevance of these acts were determined.

Furthermore, key changes over the iterations of the Mining Charter were discussed. Where applicable, inferences to the ACF will also be noted, as there were instances where an Act contributed to the coalition opportunity structures, or influenced the relatively stable parameters of the policy subsystem. Moreover, Acts (under the ACF) are considered external events, as they are policy decisions from another policy subsystem, which have a direct impact on the operations of the policy subsystem (the Mining Charter) under observation.

Second, by utilising the ACF as an analytical tool, data for this study was divided into several key aspects, in order to answer the research question. First, the policy environment which the Mining Charter finds itself in greatly affected how policy stakeholders and their associated

coalitions react to a policy change, irrespective of the policy subsystem itself. For this reason, it was important to outline the laws and regulations which directly impacted the Mining Charter's stakeholder interactions (Sabatier and Weible, 2007: 191). Secondly, the impact of belief systems was addressed, through the components which shaped policy belief systems, according to the framework (Sabatier and Weible, 2007: 195). This allowed for the grouping of key stakeholders in the South African mining industry into their respective advocacy coalitions, based on their shared policy beliefs on how the Mining Charter should function. In addition to the identification of coalitions, analysis regarding the resources advocacy coalitions use in an attempt to achieve their policy preferences, was also discussed. Consequently, the ACF's six resource types (resource typology) were used as a further tool in understanding how the interactions of stakeholders have developed the Mining Charter, since its original form (Sabatier and Weible, 2007:203-204; Department of Mineral Resources, 2002).

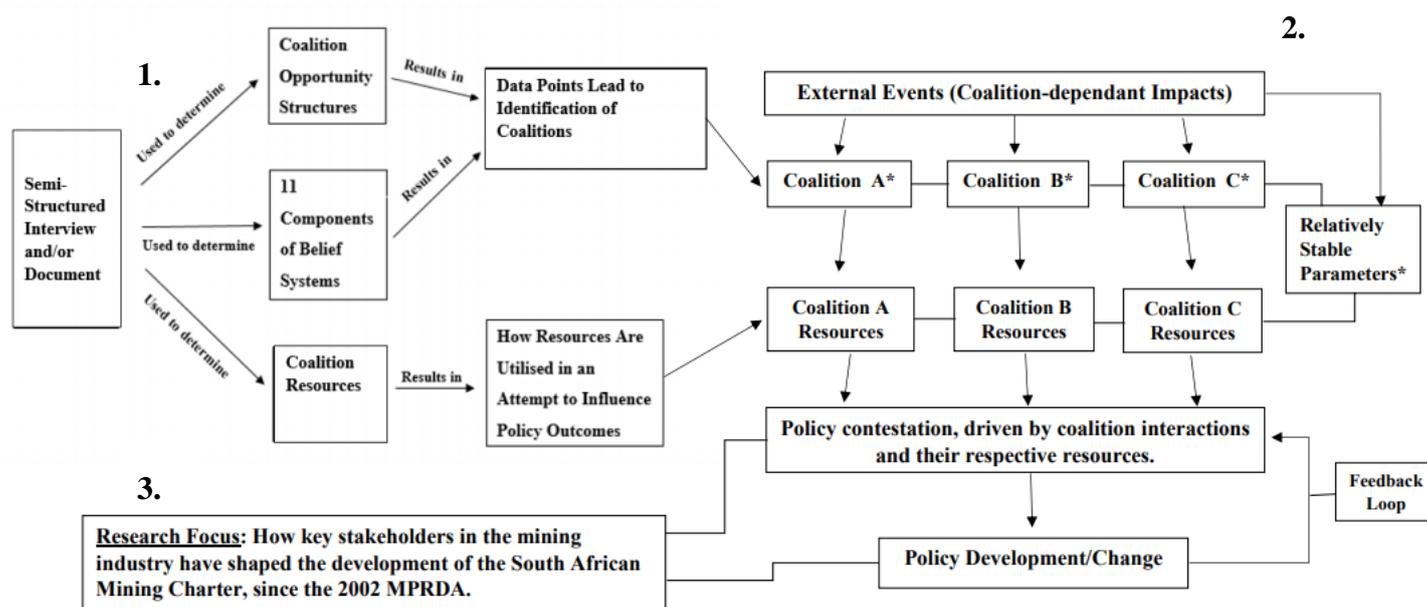
Finally, there were two more elements of the ACF that needed to be acknowledged concerning the research process, including external events, as well as relatively stable parameters (Sabatier, 1998: 102). Externalities were not initially a concern regarding the research, but through the interview process and document analysis, it became apparent that external events played a larger role in the policy process than anticipated, as pointed out by several interviewees, who discussed issues that fall under external events. Hence, stakeholder perspectives on potential external events, which can affect the mining industry, were examined using the ACF as an analytical tool.

According to the framework, four types of external events can affect a policy subsystem. These consist of: (1) major socioeconomic changes, such as economic downswings or upswings; (2) changes in public opinion, be it positive or negative, toward the policy subsystem; (3) changes in the systematic governing coalition, such as a shift from a democratic government to a socio-democratic government; and (4) policy decisions and associated impacts from other subsystems, which are connected to the policy subsystem in some form or another (Weible and Sabatier, 2007:129). Furthermore, the rate at which external factors impact a policy subsystem depends on the factor itself. For example, a general shift in public opinion on a policy subsystem seldom occurs in the short term, often taking over a decade for the change to be felt by the policy subsystem. Alternatively, a sudden change in the structure of the government would be far more influential in the short term for a policy subsystem, if the new government's ideological belief systems differ from stakeholders in the policy subsystem.

Over the course of the interview process, relatively stable parameters were inadvertently mentioned (although far less than external events), due to their longer-term role (up to 100 years) in both coalition gravitation and coalition-dependent resources (Weible and Sabatier, 2007:129). Subsequently, documents were used in combination with interviews to determine the parameters. The ACF stipulates four parameters, namely: fundamental socio-cultural values and social structure; basic attributes of the problem area; basic constitutional structures; and basic distribution of natural resources. These parameters are significant, as they can result in a knock-on effect for coalitions and their access to their respective resources (Weible and Sabatier, 2007:129).

In the case of the document analysis, a different approach was required. In order to fill the data gaps, media reports, government statements, journal articles, company reports, and other NGO statements needed to be analysed. These documents were not designed to directly address the focus of this study, as their intended purpose is to state a position on a matter, or update the public on their performance. Thus, discretion was used to determine which documents could be linked to one or more of the key aspects.

It is important to note that while stakeholders interactions are the focus of the research question, these interactions occur through stakeholders grouping into coalitions, as a way to improve their chance of reaching their respective policy goals. In turn, the analysis of the Mining Charter's development is based on the interaction of coalitions and not individual stakeholders. Considering the above discussion, a two-stage diagram has been generated below, which accounted for coalition opportunity structures, components of belief systems and coalition resources, to address the research question:

**Figure 1: Data Analysis Process**

It must be noted that the diagram is to be considered a 'skeleton diagram', as it does not state the findings of the research. Rather, it is the blueprint of how the methodological process was conducted, with the ACF as an analytical tool. The first stage focussed on how coalition opportunity structures, the components of belief systems and coalition resources determined coalition grouping and their respective utilization of resources. Additionally, the coalition opportunity structures and components of belief systems are grouped together, while the resource typology of coalitions remained separate. This was intentional, as resources play a separate role in the grouping of coalitions. Instead, they are significant in understanding how coalitions interact with one another with the use of their available resources.

Once the coalitions and their resources were determined, the second stage of the diagram commenced. In this stage, the coalitions and their use of resources were placed into the overall ACF. While the above framework followed the core principles of the ACF, the framework underwent alterations for the research question, by focusing on policy contestation between stakeholders, along with their associated coalitions, and how their use of their resources have shaped the policy outcome. This change had two motivations. The first was to accommodate the research question, so that the ACF could be used effectively as an analytical tool in the specific case of the South African mining industry and the effects of coalition interactions concerning the Mining Charter. Secondly, over the previous applications of the ACF as an analytical tool, there has been limited research on the role of coalition-dependent resources

(Sotirov and Memmler, 2012: 59). In turn, the research assisted in building the ACF as a tool to understand how the utilization of coalition-dependant resources affected policy change over time.

To summarise the diagram, data analysis over the two stages occurred in the following manner. Relevant information from either an interview or document was used to determine advocacy coalitions, based on coalition opportunity structures and the components of belief systems. In a similar fashion, interviews and documents were used to determine coalition-dependent resources. Stage two built on the outcome of stage one, by accounting for the ACF's externalities and relatively stable parameters influence on the determined coalitions. Both the externalities and the relatively stable parameters can alter coalition structures, relative coalition strengths, and the type of resources which each coalition independently has access to (Weible and Sabatier, 2007: 125). Coalitions interacted with one another, contesting policy issues through the utilisation of their resources, resulting in policy development or change. The development or change was then interpreted by each coalition, based on their policy goals and belief systems, resulting in a feedback loop to the policy contestation stage of the diagram.

In Chapter Five, an analysis diagram is provided with the purpose of stating the specific coalitions based on their shared belief systems, understanding coalition relationships amongst one another, and how they attempt to influence policy through the resources at their disposal. In so doing, the research question is addressed in the best possible manner, while still considering the limitations of this study. Finally, external events will be considered, as they have the potential to impact *all* coalitions, but to different degrees depending on the externality<sup>29</sup>. Consequently, it is important to recognize which external events may impact the decision making processes of particular advocacy coalitions which will, in turn, provide value in understanding how the Mining Charter has been changed as a result of stakeholder decisions.

### **3.6 Ethical Considerations**

Ethical considerations are a keystone in any research, as they govern the manner in which a researcher is expected to conduct their research. This study was no exception, and as a result

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<sup>29</sup> Externalities can have different impacts on coalitions- dependent on their belief system in relation to the external event. For example, an increase in the national governments regulatory expectations would be positive impact for a coalition who is pro government intervention, but negatively impact a pro market-orientated coalition.

followed strict ethical practices, especially during the semi-structured interview process. All ethical expectations by the Stellenbosch University Ethics Committee were adhered to. These expectations included the submission of a research proposal; the data collection instruments (in the case of this study, semi-structured interviews and document analysis); a consent form for the interview participants; and a participant information sheet. These documents heavily influenced the way in which data was collected, setting clear guidelines as to what is ethically acceptable, and how one should conduct the interview process.

Before every interview, the following processes were adhered to in order to inform the interview participant, and ensure ethical compliance. First, participants were provided with a consent form, which gave a general overview of the research topic, along with the contact information of both myself and my supervisor. This ensured that if any further questions arose after the interview, participants were able to contact an informed party. Second, participants were also given time to ask any questions they saw fit before the consent form was signed, or the interview did not commence. Third, it is also emphasized that the participant's contribution to the data pool was entirely optional with no compensation, and that they may leave the interview at any stage if they started to feel uncomfortable with the posed questions.

Moreover, participants were notified that they may request the redaction of their data contribution at any stage (with no justification) up until the submission of this study. This decision stemmed from the protection of all participants' identities being paramount and that they were represented in a manner in which they are content with. A participant's response was used as a reference point for a coalition's policy belief, or how their associated coalition used the resources at their disposal to influence the policy process. No defining characteristics were provided in any section of this study, and the participants remained strictly anonymous. Instead, participants were provided with code names. For example, if a quote from a participant was seen to be valuable in determining the type of resources a coalition uses, anonymity was ensured by stating: 'Participant A, said effective leadership was a reason for their recent success in influencing the direction of the policy. This position was associated with Coalition A and its coherent policy preferences, as a result of skilful leadership'. Thus, the relevant information was useable, while protecting the identity of the participant.

Focusing on the five base questions, measures were taken in order to ensure that they complied with the expectations of the ethics committee. The questions were designed to be bias-neutral.

In other words, the questions were structured in such a way that participants were able to answer them from their own perspective, and not feel as if their response was an undesirable one. This ethical consideration was essential for the collection of authentic data, as the interview environment must encourage a safe space to discuss a polarized topic from all sides. A further measure that was taken to ensure ethical compliance was the assistance of my supervisor in structuring the questions simply and objectively. This was exceptionally useful in two ways. Initially, it allowed for the removal of complex terms found in the questions, mitigating the risk of participants misunderstanding the formal register of academia. Second, by simplifying the questions, it allowed for participants to interpret the questions more subjectively from their own perspective, encouraging their opinions on the matter to be more authentic.

### **3.7 Challenges encountered during the research process**

Challenges were noted during the research process. The most perplexing task was securing a diversified range of interview participants. In general, private sector stakeholders (such as private think tanks, policy experts and mining company representatives) of the mining industry were far more willing to be interviewed, if compared to others. One example which highlights this challenge was the interaction with a key labour union. After numerous attempts by both email and phone call, I was unable to make contact with them. This is naturally a concern, as the entire purpose of this study is to take note and interpret *all* key stakeholders, in order to group them into coalitions, and understand how they attempt to influence policy. Such an occurrence was a driving factor for document analysis to fill the resulting knowledge gap. Government officials were also a challenge. However, I was ultimately given consent to interview (but not record) an appropriate government official in the mining industry.

A further challenge found during the research process was a geographical constraint. Due to the predominance of mining industry stakeholders being situated in the Gauteng Province, I was required to fly from Cape Town, which is situated in the Western Province. Fortunately, I had the financial means to do so. The real challenge arose when more than one of the participants requested the interview to be rescheduled. The interview period in the Gauteng Province was only 7 days, meaning that some of these interviews could not take place. However, I was able to reschedule the interviews, to when either the interview participant was in Cape Town, or by means of a Skype interview.

The final challenge noted occurred during document analysis, with reference to thesis-relevant information. Company reports, government statements and media reports were all invaluable in filling the aforementioned gaps in data, but there were times where these documents did not assist in such a manner. This is due to the fact that when a report or statement is released, it is designed with a specific purpose in mind. This purpose can, at times, cause the information to not be as applicable, if compared to the semi-structured interview questions defined focus. Therefore, inferences, when necessary, had to be drawn from the document, instead of the explicit statements found in the document.

### **3.8 Limitations**

First and foremost, due to the study being an explorative case study, generalisations are a challenge. The South African mining industry operates under a specific set of policies, with subsystem-specific policy objectives. This means that while other countries (developed or developing) may have mining industries similar to South Africa, the policy environment differs from the South African context. However, this does not mean that the proposed skeleton diagram of the ACF for the South African mining industry is not applicable to other mining industries; only that the findings of this study were not generalisable.

A further limitation of this study was the access to information. Mining stakeholders often release public statements, which are invaluable for understanding their position on a matter. Yet, information may be withheld from the public. For example, a company may withhold its industry strategies, or certain information may be made inaccessible by the government, due to government determining it as sensitive information. In both examples, access to this information is only possible with the initial identification of the withheld information, and the ability to contact the correct party to gather said information.

Furthermore, key stakeholders in the South African mining industry, which affect the development of the Mining Charter, are substantial in numbers. Therefore, those who were interviewed are but a fraction of the total stakeholders in the industry. Luckily, those who were interviewed represented a large portion of the stakeholders, through affiliation. Finally, due to the time constraints mentioned, a full application of the ACF as an analytical tool was not possible, as the authors of the framework posit “a time perspective of 10 years or more to understand policy change” (Weible et al, 2009: 122). Hence, only a partial application of the

ACF was possible, in which semi-structured interviews circumvented the time constraints by asking stakeholders who have been involved in the policy process over the years, with document analysis allowing for the tracking of the developments in the Mining Charter.

### **3.9 Conclusion**

This chapter focused on the methodological processes and research design followed during the data collection phase of this study. A qualitative approach was chosen, as it is the most suitable approach when the focus of a research project is concerned with the individuals' perceptions or actions. The focus of this study also determined the use of a case study design, as the interest is situated in the South African mining industry, specifically the various iterations of the Mining Charter. Hence, the research was interested in a narrow policy subsystem, where data collection of the Mining Charter's development was only conducted over a three-year duration. Consequently, research designs such as experimental design, a cross-sectional design, longitudinal design and a comparative design were not as appropriate, when compared to a case study design.

Data collection consisted of two primary sources: semi-structured interviews and document analysis. The use of two sources of data was essential in the case of this study, as not all the necessary key stakeholders were available for interviews, meaning in order to determine their policy impact, another form of data collection was required. Therefore, data triangulation was required to account for the data gaps.

Sampling was heavily based on the ACF, with special reference to the characteristics of those selected for the sample group. To summarise, participants of the semi-structured interviews (and to a certain extent, researched documents) were selected based on their impact on the mining industry as a whole, and then their influence on the development of the Mining Charter. This was determined through document analysis, which provided the contextualisation of how the mining industry operates.

The ethical considerations of this study were addressed, along with the acknowledgement of the required ethical standards, as stated by Stellenbosch University's Ethics Committee. The challenges faced during this research project were also discussed, as they highlighted the practical issues which occurred during the research process. Finally, the limitations of this

study were acknowledged. This was done to ensure that the methodological process was not applied in a manner that would not produce a methodologically representative result, in addition to clearly stating the areas of study where the research focus did not intend to analyse.

Before the application of the ACF as an analytical tool to the policy subsystem occurs, it is important to discuss the policy itself. The Mining Charter has undergone several amendments over its relatively short lifespan, suggesting a high level of contested salience regarding the policy subsystem. For this reason, the following chapter conceptualises equity and wealth redistribution policies which govern the mining industry, along with identifying key Mining Charter changes over the years, from the 2002 MPRDA, until the most recent 2018 iteration of the Mining Charter.

## Chapter 4: The South African Macro Policy Environment and the Mining Charter Iterations

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### 4.1 Introduction

The Mining Charter has been referenced throughout previous chapters, but has not been directly addressed. This chapter will focus on discussing the Mining Charter, as well as the legislation revolving around the policy. This will be achieved by providing the ‘governing policies’ that constrain stakeholder interactions regarding the mining industry. By using the ACF’s approach to the importance of the overarching policy environment, a clear scope of the constraints may be defined (Weible and Sabatier, 2007: 125-129), which directly impacts how stakeholders can interact and shape the development of the Mining Charter.

First, policy changes will be identified in relation to their section within the Mining Charter, on a charter-to-charter basis, as there are common themes throughout the iterations, which in turn shows how the DMR views the progress of the transformation within the South African mining industry. Then, other stakeholder receptions (be it positive or negative) of Mining Charter changes will be discussed, based on news media, stakeholder press statements and instances where participants in the semi-structured interviews have expressed their concern or take issue with the change. Second, acts which directly influence or legitimise the Mining Charter’s enforceability will be discussed. These include the Broad-Based Black Economic Empowerment Act (Department of Trade and Industry, 2003), and the Mineral and Petroleum Resources Development Act (Department of Mineral Resources, 2002)<sup>30</sup>.

However, it is important to note that this chapter is limited to the justifications and reception of the changes in the Mining Charter over the years from the perspective of the DMR and other key stakeholders. Policy contestation *between* stakeholders and their associated coalitions will only be addressed in Chapter 5, which will directly engage with how the interactions between

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<sup>30</sup> Other laws and regulations which influence the scope of the Mining Charter (including equity redistribution and the recognition of systemic constraints) include the Constitution of South Africa, the Labour Relations Act and the Employment Equity Act, amongst others. However, these will not be discussed in detail, as they do not directly impact the enforcement of the Mining Charter.

the key stakeholders (and the use of their subsequent resources) have shaped the Mining Charter's iterations.

## **4.2 The Mining Charter and Key Changes**

Over the iterations of the Mining Charter, common elements can be tracked throughout. However, by working through each iteration of the Mining Charter, it becomes evident that the requirements (and substance) of the policy have changed over the years from its original form to its most recent (Department of Mineral Resources, 2002; Department of Mineral Resources, 2018). For this reason, it is essential to define the Mining Charter and discuss the changes between each Mining Charter, in order to identify key points of contention of the policy. Identification of key issues was determined through participant interviews, media statements, government publications and company reports. In conjunction, the reception of the changes will be addressed on an industry-wide level, as it is the most effective way to determine existing belief systems, through the recognition of policy contestation over salient issues.

### **4.2.1 The Mining Charter and its Objectives**

The Mining Charter falls under the mandate of the Mineral and Petroleum Resources Development Act (MPRDA), meaning it does not operate autonomously (Department of Mineral Resources, 2002: 52). Thereby, the charter's directive is to transform the South African mining industry through "redressing historical, socio-economic inequalities" (Department of Mineral Resources, 2018: 8), while also ensuring the broad participation of HDSAs, across mining industry operations. Moreover, sustainable growth of the industry is emphasised, in order to improve the longevity of the industry.

The objectives of the Mining Charter outline this mandate- with derived objectives from the MPRDA and the Broad-Based Black Economic Empowerment Act, while remaining under the requirements of the Constitution and the expectations of the Employment Equity Act (Republic of South Africa, 1996; Department of Labour, 1998; Department of Trade and Industry, 2008; Department of Mineral Resources, 2018). First, ownership must be deracialised, to rectify the past injustices of the industry, through the expansion of ownership opportunities for HDSAs. The mining industry has been historically exploitative, not only in the extraction of resources, but also in their use of the ample supply of low-skilled labour. More importantly, during the

Apartheid era ownership was virtually exclusive to whites and enforced by state legislation<sup>31</sup> (Webster and Omar, 2003: 194). This divided the industry along racial lines, with predominantly white skilled workers in technical positions, providing capital and holding management or above positions, while black labour provided the physical manpower to directly exploit mineral reserves.

Another objective of the Mining Charter is to facilitate employment in the industry and improve the current skills base of the labour force (Department of Mineral Resources, 2018: 13). As one of the largest employers for low skilled labour (a resource South Africa has in abundance), the mining industry plays an integral role in the overall employment rate of South Africa. However, throughout the post-apartheid era, there has been a steady decline in employment figures of the industry, with the largest percentage decline (approximately 50%), compared to public sector employment (approximately 10%), total non-agricultural employment (approximately 20%) and manufacturing employment (approximately 20%) (Nattrass, 2003: 142; Participant C, 2019). This can be attributed to a number of factors, such as falling precious metal prices, weak economic growth, power shortages, labour strikes and consequently higher wages, but also from the Mining Charter's impact on investment attractiveness toward the overall mining industry.

A major objective of the Mining Charter is to improve the economic welfare and development of mine communities, through the assistance of mining companies. The charter justifies this objective in order to “achieve social cohesion” (Department of Mineral Resources, 2018: 13), which in turn creates the opportunity for the industry to be economically sustainable and operate as an effective unit. This objective is a significant point of discussion, as it provides communities substantial bargaining power and places requirements on stakeholders in the mining industry, other than just the government. The final significant objective of the Mining Charter is its focus on the domestic procurement of mining goods and services for the industry (Department of Mineral Resources, 2018: 13). As a result, local producers (with emphasis on HDSAs) for the mining industry may effectively participate in the economic benefits of the industry's operations.

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<sup>31</sup> Segregation was already present in South Africa, prior to the commencement of Apartheid in 1948, but will not be discussed, as the Apartheid era was an escalation of these existing segregations, especially within the policy environment.

## 4.2.2 Key issues determining the development of the Mining Charter

Over the Mining Charter's policy lifespan, The DMR has conducted assessments designed to determine the policy compliance level of mining companies and the effectiveness of the policy's implementation<sup>32</sup>. For this reason, the 2009 and 2015 assessment reports will be unpacked, as they provide the government's position on mining companies roles and level of compliance. This means that by working through the compliance reports and consequent amendments of the Mining Charter, the DMR's role in the development of the Mining Charter, and its interactions with other stakeholders, becomes apparent (Republic of South Africa, 2009; Republic of South Africa, 2015). For reference purposes, compliance percentages are industry-wide, meaning that they are an aggregate performance of all mining companies, who are required to adhere to the Mining Charter. These reports will also be supplemented by interview responses, company reports and government press releases.

Moreover, to determine the reception of the Mining Charter iterations according to other stakeholders, media reports and company statements will be utilised, along with the use of semi-structured interviews. In connection with the ACF's value as an analytical tool, issues noted by various stakeholders share correlations to coalition belief systems, as these beliefs determine the way in which policy changes are viewed.

Compliance of mining companies with the Mining Charter is the most pressing issue for the DMR, as it is the governing regulatory body for the policy, meaning it is their responsibility to enforce the industry's operations (Madinginye, 2016: 13). This was also in alignment with the interviewed government official (Participant I, 2019). Accordingly, issues for the DMR are based on the compliance levels regarding the Mining Charter's elements, which have varied over the years. However, there have been common elements throughout the iterations and have been referenced in both assessment reports, which are relevant to the thesis topic (Department of Mineral Resources, 2009; Department of Mineral Resources, 2015). These include; HDSA ownership, employment equity, mine community development, procurement, and the sustainable development and growth of the industry. Consequently, these elements will be unpacked, comparing the 2009 and 2015 reports, as a way to determine the development of the

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<sup>32</sup> It is important to note, although HDSAs are the Mining Charter's target group, it achieves this indirectly, by implementing policy changes that directly impact the demographic structure of mining companies.

Mining Charter, along with the concerns of the report derived from other stakeholders in the industry.

HDSA ownership, most commonly achieved through shares and the resulting equity control, is one of the main elements of the policy. The initial requirement was a flat 26% ownership stake for HDSAs, to be achieved over 10 years. In addition, in instances where mining companies went above the required percentage, the excess could be used to offset other requirements of the Mining Charter. The 2009 compliance report showed a lack of compliance, with ownership only reaching 9%, whereas the requirement was 15% at the time of the report's release (Department of Mineral Resources, 2009: 17). Non-compliance, according to the report, was a result of the mechanisms used to enact ownership redistribution. One instance included the funding of HDSA ownership, through loans with high-interest rates, making it difficult to fund further HDSA ownership<sup>33</sup>.

Another main issue for the DMR was the presence of fronting. Fronting is a phenomenon that can be used to circumvent the requirements of the Mining Charter, by misrepresenting the level of compliance of a company. A common example would be capital fronting, where capital from a non-HDSA investor is provided, while using an HDSA as the representative of the equity ownership. In turn, it is seen that a company is compliant on face value, but the ownership returns, such as dividends, is divided between the investor of capital and an HDSA. Moreover, the report acknowledges that there are different interpretations of what ownership constitutes between themselves and mining companies. When defining ownership, the DMR includes "voting rights, economic interest and net value" as components of ownership (Department of Mineral Resources, 2009: 24). Meanwhile, the industry understands ownership in terms of HDSA economic interest but does not account for net value, citing it as an additional requirement. This ties in directly with the focus of this study, as different interpretations of homogenous information, can result in different policy responses.

Shifting to the 2015 report findings, the industry saw a notable improvement in its compliance levels- reaching 79% overall, based on two reasons (Department of Mineral Resources, 2015: 12). Primarily, the 26% target was not changed in the 2010 Mining Charter, making it more manageable for the industry to reach the target in the allotted time frame. Second, the

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<sup>33</sup> Higher interest rates meant mining companies needed to service the increased interest repayments, increasing their costs and decreasing their margins.

ambiguous ownership expectations were refined, to reduce the level of uncertainty and differing interpretations of the policy. This was achieved through clearly identifying the appropriate beneficiaries, be it communities employees or BEE Entrepreneurs. Likewise, cash flow monitoring and reporting became a requirement, in order to track more effectively as to where BEE equity ultimately ends up.

Equity redistribution is not limited to ownership, with employment equity also being a core principle of the Mining Charter- where the purpose is to ensure a more demographically representative industry. Once again, the 2009 report noted shortfalls in the compliance levels of the industry with only 37% compliance for employment equity plans. Furthermore, at this stage of the Mining Charters development, the report stated, “no evidence of [employment equity] reports (either audited or unaudited) submitted to the Department of Mineral Resources” (Department of Mineral Resources, 2009: 7). Compounding with the above, the report notes that management position targets were not met, with only 26% of mining companies reaching the 40% HDSA management requirement. This should however, not be taken at face value, as the report contradicts itself, by acknowledging “a large number of HDSAs occupy middle management positions” (Department of Mineral Resources, 2009: 7) were presented. This further adds to the ambiguous nature concerning the evaluation of the original Mining Charter compliance, as it did not provide clear expectations on which levels of management the 40% was meant to target. Positions lower than management levels were not focussed on, as these were already demographically representative, due to the already large volumes of HDSA workers.

Fortunately, the 2010 Mining Charter acknowledged this ambiguity, and clearly stated the 40% expectation was to be across all management levels, ranging from junior management, all the way up to executive management, which had to be met by 2014 (Department of Mineral Resources, 2010: 3). With this more refined approach to employment equity, the 2015 report tracks further compliance with the Mining Charter. In connection with employment equity across management positions, findings were positive, with the industry reaching compliance at every level of management (Department of Mineral Resources, 2015: 27). However, the DMR still cited an issue, where the HDSAs as a group itself was not being represented at a demographically accurate level. This included the over-representation of Asian HDSAs and the underrepresentation of Black HDSAs. However, this was not stipulated as a requirement in the 2010 Mining Charter, alluding to the potential of further needed clarifications. Another

issue with this requirement is its very feasibility, as pointed out by Participant B (2019). According to them, the concept itself of HDSA employment equity is not a concern for mining companies. Rather, due to the historical factors discussed prior, there is simply not enough qualified HDSAs to fill the required targets, across the industry. This is the result of HDSAs not having access to the necessary resources which would give them the required competencies for the management position. For this reason, Participant B stressed the need to focus on skills development first, instead of complying with the 40% target in conjunction.

The compliance of mine community development was a further issue identified by the DMR reports. The Mining Charter accommodates for community development in all the iterations, but has seen considerable changes over the policy's duration. The 2009 report revealed pertinent issues for the government. One issue was that the expectations of the original Mining Charter were too vague, in terms of how a company is expected to conduct their integrated development plans (IDPs) for the associated community. This resulted in, at times, ineffective integrated company plans, caused by a disconnect between the company's solution and the outcome for communities of that decision (Department of Mineral Resources, 2009: 10). To be clear, this implies a problem with the interpretation and content of the original Mining Charter itself, as a level of uncertainty of what exactly was expected of mining companies is apparent. Yet, the 2009 report did provide instances where mining companies were simply non-compliant. This included only 63% of companies engaging with communities to identify relevant IDPs. Moreover, merely 49% of mining houses directly formulated development plans (Republic of South Africa, 2009: 10).

To rectify this, the 2010 Mining Charter clarified the community development requirements imposed on the mining companies. This included aligning the domestic policy with international best practices, which would be considered an externality when using the ACF as an analytical tool (Weible and Sabatier, 2007: 129). More importantly, the Mining Charter clearly stipulates a mining company is required to "conduct an assessment to determine the developmental needs" (Department of Mineral Resources, 2010:4) of their mining communities. Accordingly, mining companies must engage with their communities, on a case-by-case basis, to identify the appropriate plan of action and assess whether or not the agreed upon is assisting or preventing community development. Therefore, increased responsibility was placed on mining companies under the 2010 Mining Charter, indicating the expectations of the DMR on mining companies as a whole. Finally, the DMR also recognised that in some

cases, the intended ‘broad’ impact of the policy did not occur (Department of Mineral Resources, 2009: 11). This was due to instances where an individual, who claims to have the interest of the community at hand, takes advantage of their position of power, for their own personal gain. This was also mentioned by Participants A, G and H (2009), who identified individuals who rotate from community to community, rallying their residences under one banner. They then use the communities as a resource to leverage mining companies, as a way to get a personal kick-back, provided they get the communities to agree to the IDPs (Participant A, 2009). This is a major concern, as it further dissociates mining communities and their true interests, where government, mining companies and other representative bodies such as unions, are unable to correctly identify the community-specific needs.

Five years later, the 2015 compliance report by the DMR was released, once again evaluating industry compliance toward community development (Department of Mineral Resources, 2015). Compared to the 2009 report, community development received far less attention. However, the way in which compliance is measured in this report is worth unpacking, as it shows a further issue with the functioning of the Mining Charter. Unlike the 2009 report, the 2015 report changed the measurements which determined compliance- from factors such as community engagement, the creation of IDPs and submitting proof of expenditure- to measuring compliance only in terms of a company’s implementation of approved IDPs (Department of Mineral Resources, 2009: 10; Department of Mineral Resources, 2015: 30).

The problem with the change in compliance measurements is threefold, which was stressed by Participant H (2019). First, social engineering is a difficult task to implement in the real world, as there are factors that can prevent IDP compliance- even with community engagement. Thereby, changing compliance to measure only IDP implementation, can skew the actual compliance level of the industry. Second, by the refusal of DMR to provide a unilateral IDP for the industry, there is too much discretion on a case by case basis of what is expected in a mining company’s IDP. This makes it a challenge to accurately determine overall industry compliance, as, without an industry-standard IDP, one classification of compliance may not qualify at another mining community. Third, a general critique was also made while discussing communities, regarding the problem of compliance as a tool to rectify inequality. Accordingly, compliance “tends to kill all forms of ingenuity” (Participant H, 2019), as there is little justification for a mining company to formulate further alternatives- especially when they are already expected to comply with a general framework.

According to the DMR and both the assessment reports, procurement of goods and services for the mining industry provides not only the meaningful transformation of the industry, but also intends to impact a broader target audience (Department of Mineral Resources, 2009; Department of Mineral Resources, 2010; Department of Mineral Resources, 2015). This is accomplished through the needs of the industry, which can only be met by attaining goods and services from other sectors of the economy, thereby expanding the impact of the mining industry, through its capital spending. With this in mind, the initial 2004 Charter did not set any targets (Department of Mineral Resources, 2004). Instead, the scorecard predominantly consisted of ‘yes’ and ‘no’ boxes, with the following questions; has the mining company given preference to HDSAs as a supplier? Has the mining company analysed the existing level of HDSA involvement in the procurement of consumables, services and goods? Has the mining company provided a framework which outlines their commitment to adjusting the current composition of procurement suppliers to ensure the transformation of the industry (Department of Mineral Resources, 2004: 4)?

Subsequently, discretion on how to achieve these expectations was up to the discretion of the mining company, but the evaluation and judgement of whether a mining company is compliant are up to the discretion of the DMR. This creates high levels of uncertainty, as mining companies were not certain as to what the DMR defines as acceptable, and what would be considered non-compliant.

The 2009 report provides further issues in relation to the original Mining Charter, from the DMR’s perspective. Due to the lack of clear targets, compliance was inadequate, with 89% of mining companies not giving preference to HDSA procurement companies. Moreover, 80% of mining companies did not show a clear commitment to progressively shifting procurement over to HDSA companies. As a result, the 2010 Mining Charter introduced clear numerical targets which mining companies must reach, by 2014 (Department of Mineral Resources, 2010). For example, 40% of capital goods must be sourced from HDSA companies, while 70% of required services for the mining industry must be from HDSA companies. A further target was placed on international suppliers to the industry, which requires them to “contribute 0.5% of their annual income” from their domestic operations (Department of Mineral Resources, 2010: 2). With these new targets, the 2015 assessment report evaluated the level of compliance, in all three regards (Department of Mineral Resources, 2015: 20).

Viewing the findings from a pure compliance perspective, the new targets produced far higher levels of compliance, with mining companies reaching over 80% compliance in the procurement of capital goods and consumables, along with 64.6% compliance in the procurement of services (Department of Mineral Resources, 2015: 38). Consequently, the industry as a whole is not fully compliant, but there has been an active effort from mining companies (especially the large mining right holders), to be compliant over the five year period between the release of the 2010 Mining Charter, and the report itself.

However, the compliance of multinational suppliers was low, at only 14.9%. One reason for this lack of compliance is the differing perspectives on how laws and regulations should function, relative to the multinationals home country. In connection, Participant F (2019), describes his interactions they had with several ‘Asian Tiger’ country delegates<sup>34</sup>. In most of these cases, the difference between the Asian Tigers and South Africa came down to the role of the state in facilitating economic growth and how they influence the business environment. For example, South Korean bureaucrat’s primary purpose was to close the technological gap between themselves and developed countries, through the facilitation of economic growth and technological innovation (Heo, Jeon, Kim and Kim, 2008: 22). This was highly successful and followed a statist approach (a model which the South African state itself has aspects of) in conjunction with free-market principles and export-orientated industrialisation principles. Yet, regulations and Acts which govern the South African mining industry are focussed on transformation and socio-economic upliftment of HDSA as their primary role, with economic growth and market efficiency as secondary<sup>35</sup>. In turn, Participant F (2019) noted that investors from the Asian Tigers were not satisfied with the expectations imposed on them, as they are seen as a major inhibitor to conducting effective business in South Africa. This caused apprehension in contributing further revenue, on top of the tax impositions they are exposed to, when operating in South Africa.

The above discussion on growth can be expanded through the two assessment reports and their findings on sustainable development and growth of the industry. In the case of the 2009 report, sustainable development and growth element did not receive an assessment. Instead, the DMR

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<sup>34</sup> Asian Tigers countries consist of Hong Kong, Singapore, South Korea and Taiwan, all of which underwent substantial economic growth over a relatively short period of time.

<sup>35</sup> This is not to say Asian Tigers did not have policies which transformed sectors of their economies- such as the major land reforms of Taiwan. Rather, it is to do with the focus of the policy and the instruments used to achieve the policy objectives.

decided to focus on the Mining Charter's impact on economic growth and employment, as a whole for the South African economy (Department of Mineral Resources, 2009: 20). The general consensus of the report was that the Mining Charter had improved employment, investment flows and contributed meaningfully to GDP. This goes against what the majority of participants stated and several reports on the financial impact of the introduction of the MPRDA and the Mining Charter (Participant A, 2019, Participant B, 2019, Participant D, 2019 and Van der Merwe and Ferreira, 2013: 26). The reasoning for the DMR's position on the matter stems from their evaluation measurements, which focussed on employment levels, GDP contribution and the number of applications for mining rights. However, these variables and their associated performance are tied to much larger influencers than just the Mining Charter, especially in the case of mining industries.

The more likely cause for the improved performance during this period (from 2004 until 2009) was a result of the global commodity boom and peak in the business cycle<sup>36</sup>. As discussed, in general, commodities are price takers. This means that the market determines the price of the commodity and not the mining company itself. Hence, in times where commodity prices are higher, revenue will be higher. This was the case during the publication of the report, with the IMF identifying a commodity "supercycle" that ran from 2000 until 2011 (Gruss, 2014: 3). During this period, commodity prices were exceptionally high, due to the global economic boom. This would also justify the increased level of employment, as mining companies would need to scale their labour force, relative to the increased demand for commodities. The increase in mining rights follows the same logic, as the increased global demand for commodities can only be met by an increase in extraction, which can only occur after a mining right is awarded. Even so, as pointed out by Participant B (2019), the South African mining industry did not benefit as much as it could have, due to restrictive policies, including the Mining Charter, that decreased the level of FDI flowing into the industry.

Moving to the 2015 report, a direct evaluation regarding sustainable development and growth was provided. The core requirement of the element is to "balance the economic benefits with social and environmental issues (Department of Mineral Resources, 2015: 39). This is a challenging task for any mining industry and its government - which was identified during the

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<sup>36</sup> An economic principle, which tracks the economic performance of a sector, country or on a global scale. Over time, economies tend to follow a cyclical pattern, with times of prosperity, and other stages of poor economic performance.

literature review process- as there will always be a trade-off between mining operations and their social and environmental impacts. With this in mind, the 2015 assessment judged performance on; the implementation of Environmental Management Programmes (EMPs) approved by the DMR; measures to improve health and safety, such as training and health monitoring of employees; and the use of South African based research houses to analyse mineral samples (Department of Mineral Resources, 2015: 31-36). Regarding EMPs, no more than half of mining companies across the industry effectively implemented their programmes. No reason was provided in the report as to why this was the case. Regarding health and safety, although not fully compliant, the report stated that the DMR was satisfied with the significant improvement in the measures put in place to mitigate occupational hazards associated with mining operations, along with the use of South African research facilities. Once again, however, there is a lacking presence of the ‘growth’ aspect of the requirement, with no comment on how the growth of the industry is being facilitated, by any stakeholder.

Up until this point, the 2017 Mining Charter (the first draft of Mining Charter III) and the more recent 2018 version, has not been addressed. This was done intentionally, based on two justifications. Foremost, the 2017 iteration was reverted to the policy formation stage, shortly after it was publicly released (Nicolson, 2018). Much of this was a result of public outcry- particularly from the mining companies- on the substance of the Mining Charter and the lack of stakeholder engagement in the process. To be clear, as pointed out by several participants, this was not because stakeholders declined to engage with the policy process (Participant A, 2019, Participant B, 2019, and Participant H, 2019). Instead, as expressed by Participant A (2019), at this stage of the charter’s development the “interaction between the DMR and the Minerals Council had broken down completely”. This is significant, as the stakeholder declaration requires industry-wide participation and cooperation in the formulation of the Mining Charter- which should include all its consequent amendments (Department of Mineral Resources, 2010: 9). Moreover, when using the ACF as an analytical tool, it becomes apparent that policy-orientated learning becomes more challenging at this stage of the Mining Charter’s development, as there was limited interaction between key stakeholders.

Finally, it worth mentioning the different receptions of mining companies concerning the 2010 and 2017 Mining Charters. Much like the 2017 document, the 2010 version was imposed on the mining industry, with minimal coordination between stakeholders. However, unlike the 2017 case, industry stakeholders did little to contest the 2010 iteration- a result of ineffective

leadership and assertiveness on the part of stakeholders (Participant A, 2019). This suggests that although they were not satisfied with the 2010 version, they were willing to adhere to the adjusted expectations, while the 2017 Mining Charter proposed unrealistic expectations.

The second justification is associated with the first, and is the recognition of the 2017 version as a turning point in the Mining Charter's development. When participants were asked about the issues of the Mining Charter, several participants focussed on the 2017 iteration as a reference point (Participant A, 2019, Participant B, 2019, and Participant G, 2019 ). At this stage, mining houses realised that unless they contested the policy change, the industry would not be able to function under the expectations. However, even though the policy was successfully contested, its impact was still felt by mining operations, where a minimum estimated value of R30bn left the industry, through the withdrawal of both domestic and international investments (ENCA, 2017, Participant B, 2019).

Conversely, the 2018 draft of the Mining Charter (along with the scrapping of the MPRDA amendment bill), brought about notable improvements regarding investor inventiveness. This was a result of the new substance of the Mining Charter, which clarified several vague expectations and removed sections which were not feasible for mining houses. For example, the 2017 draft proposed a 'top-up' system regarding HDSA ownership, which required mining companies to continually keep their HDSA shareholding percentage at 30% (Department of Mineral Resources, 2017: 10). This means that if an HDSA shareholder decides to sell their shares, the mining company must re-comply with the ownership target. This is one of the major issues for mining companies, as this would mean a company would have to finance additional HDSA shares, indefinitely adding financial strain (Participant E, 2019). The 2018 version removes this, stating that a company only requires to reach 30% during a mining right duration, which Participant A (2019) notes as "once empowered always empowered".

To accommodate the above, the 2018 Mining Charter proposed restrictive measures on HDSA shareholders. Accordingly, BEE Entrepreneurs may not sell their shares until a third of the mining rights duration has occurred, which effectively locks the HDSA and their capital in the industry. Moreover, when an HDSA shareholder qualifies to sell their stake in a mining company, they must re-invest at least 40% of share equity back into the mining industry (Republic of South Africa, 2018: 17). Although this is an admirable attempt to keep HDSA shareholder ownership and investment in line with the Mining Charters requirements, by

preventing the free flow of shares, HDSAs are unable to take advantage of further investment opportunities which could improve the overall transformation attempts of the BBBEE Act.

A further issue of the 2017 draft (which was altered in the 2018 version) was new prospecting rights requirements, where above 50% of shares of the prospecting company must be HDSA owned (Department of Mineral Resources, 2017: 7). Prior to this 2017 draft, there was no BEE requirement placed on prospecting. Prospecting itself is a challenging endeavour, as this stage of the mining process is only interested in identifying adequate mining locations, meaning that large amounts of capital are spent *before* any major returns from the exploitation of mineral reserves occur. Furthermore, prospecting does not guarantee useable mineral reserves in every prospecting area, which means that it might take several attempts to find an appropriately sized reserve. Therefore by placing a further restriction, as the 2017 draft proposed, prospecting would become far more challenging, as companies would need to first find enough Black Entrepreneur capital, before a prospecting right could be awarded. This also would have had a knock-on effect on the rest of the mining process, due to the reduction in the growth of exploitable mineral reserves, which in turn would shrink the overall mining industry.

Employment Equity of the 2017 draft was a further issue for the industry, as the requirements jump substantially from the 40% across all levels of a mining company, with the highest percentile increase found in the junior management level, reaching 88% (of which 44% must be women) representation ((Department of Mineral Resources, 2017: 16). Participant B (2019) describes the issue with this increase; being a clear disconnect between the requirements of the Mining Charter and the practical feasibility of the then-new targets. While this percentage more or less coincides with the demographics of South Africa (World Population Review, 2019) the necessary skills to manage have not been developed yet. This meant that reaching these targets- and therefore compliance- would not be feasible. Moreover, the representation of women also becomes an issue. As stated by Participant B (2019) it is not a case of an unwillingness on mining companies part to employ female HDSAs. In reality, mining companies simply cannot find enough women who are involved in the mining industry itself, as it is a male-dominated industry. Therefore, if the 2017 requirements were to be achieved, there would need to be an increased interest from female HDSAs before companies can reach the target. This was acknowledged by the DMR, as the 2018 Mining Charter reflects, with the reduction in both the percentage requirements for HDSAs and female HDSAs, but still at a higher level than the amended 2010 Mining Charter.

Another issue worth discussing, which encompasses every Mining Charter excluding the initial charter, concerns the legality of its amendments. In the view of Participant A (2019)- several factors contribute to the illegal nature of the current Mining Charter. Of most prominence, the MPRDA, section 100, “only empowers the Minister to make one Mining Charter, not to renew it” (Participant A, 2019). To be clear, within the Mining Charter itself it does stipulate that the charter may be changed by the Minister at his discretion, but this is argued to be illegal, as the MPRDA supersedes the Mining Charter itself. Conversely, if the provision of revision was found in the MPRDA, the Minister would have every right to produce amended Mining Charters. In fact, this was proposed in the amended MPRDA of 2012, but has since been revoked by the current Minister, Gwede Mantashe.

This places the DMR in a precarious position, as they will have to either retrospectively reincorporate the revision requirement into the MPRDA, or run the risk of the Mining Charter being reverted back to its original form. As a result, requirements (excluding those which clarified existing vague requirements) added after the fact to the Mining Charter, are also invalid. Some of the clauses are also illegal on two fronts. One example would be the requirement of foreign suppliers, as discussed above. The expectation placed on them is another form of tax and a restriction, which goes against the General Agreement on Tariffs and Trade (GATT) and the General Agreement on Trade in Services (GATS) (World Trade Organisation, 2019). In both agreements, member states- of which South Africa is- are prohibited from imposing any quotas on international suppliers, stating they must be treated in the same manner as local suppliers.

Finally, the increasing involvement of communities in the substance of the Mining Charter, can be directly linked to the new provisions established in the 2018 Mining Charter. Communities now are entitled to a direct share (totalling 8% if looking exclusively at mine community shareholding) of the mining company that is operating within the vicinity of their operations (Department of Mineral Resources, 2018: 36). More significantly, the 8% is conducted under the free carried interest principle, meaning that mining companies must carry the cost incurred entirely, which does not allow measures such as vendor financing to reduce the strain on their capital flows (Participant E, 2019). Compounded by this, Participant B (2019) and Participant G (2019) note a further issue when it comes to defining a *mining* community. Undoubtedly, there are underdeveloped communities which are linked to mining operations, by both the geographic location and/or the majority of where their workforce is

found. However, there are numerous communities which are in proximity of a mine, but are not directly involved in the mining operations. Hence, it becomes difficult to draw the line between which communities mining companies are responsible for, in terms of community development, and which are the responsibility of government-led programmes.

### **4.3 Acts Affecting the Mining Charter**

The Mining Charter finds itself in a peculiar position; by definition, it is a form of policy, but it is enforced through direct legislation. This was emphasised by Participant A and Participant G (2019), with one being involved in legal matters relating to the Mining Charter and the other being a mining industry policy analyst. Charters are in most cases aspirational documents, based on a particular set of principles and demands. Moreover, charters tend to apply to a specific social group or a policy subsystem, where their rights are recognised and appropriate authority over the target group is defined. In other words, a charter can be seen as a guideline for stakeholders in a policy subsystem on how they should conduct their actions, while acknowledging the appropriate authority in relation to the target group. Of most importance, a charter formulated by a government acknowledges the rights and privileges of the charters target audience, but does not incorporate them into legislation as an Act. For this reason, it is important to understand how the Mining Charter is able to conduct itself as an enforceable policy, even though from a strictly legal standpoint it has no justification to do so (Participant A, 2019). It is from this perspective, that the relevant Acts were identified.

Acts, on the other hand, differ in both their definition and functionality. For the purpose of the research focus, Acts will be narrowed down to the government documents, where a Bill has been passed by parliament. Under this pretext, Acts can be defined as documents which establish enforceable laws and regulations to govern targeted recipients, alter stakeholder decision making and legitimises these actions through the legislative branch of government- all while having a particular policy outcome in mind (Participant A, 2019). Therefore, Acts are mandated for particular issues that the government have identified as significant enough to formulate a legislative response.

The South African mining industry is highly regulated, with over 17 Acts of legislation impacting the industry in some form or another (Moraka and Jansen van Rensburg, 2015: 669). They are also broad in their scope including -but not limited to- environmental policy,

healthcare policy, labour policy, mining title policy, economic policy and redistribution policy. Due to the research focus, only the two aforementioned Acts will be unpacked and linked to the Mining Charter, as they are the cornerstones which allow for the Mining Charter to function as a legally binding policy.

#### **4.3.1 The Broad-Based Black Economic Empowerment Act: Macro Redistribution**

Emphasising socio-economic transformation, The Broad-Based Black Economic Empowerment Act (BBBEEA) (Department of Trade and Industry, 2013) establishes the macro redistribution framework for South Africa, which the Mining Charter is drawn from. Relevant sections regarding enforceability include sections two and three, which state the objectives and interpretation of the BBBEEA. Additionally, sections eleven and twelve are noteworthy, as they outline the strategies for broad-based black economic empowerment and the promotion of transformation charters. Measurements for compliance - such as the generic scorecard- will be reserved for the Mining Charter section of this chapter, as it is the industry-specific compliance tool for the Act.

The principal objective of the Act is to promote “economic transformation in order to enable meaningful participation of black people [HDSAs] in the economy” (Department of Trade and Industry, 2013: 16). In the case of South Africa, economic transformation must be based on the “racial composition” (Department of Trade and Industry, 2013: 16), of management and ownership. Therefore, economic empowerment is company-wide, affecting all levels of applicable businesses and industries. A further objective of the Act is to introduce the involvement of communities, as a way to increase broad economic participation. Communities are to be empowered, through access to “economic activities, land, infrastructure, ownership and skills” (Department of Trade and Industry, 2013: 17). The Act also has the objective of assisting in the growth of wholly black-owned and managed businesses, making economic participation more accessible to HDSAs.

With this in mind, the interpretation of the Act is fairly limited, with only two requirements (Department of Trade and Industry, 2013: 17-18). First, the interpretation must facilitate the purpose and objectives of the Act, thereby ensuring the interpretation does not transgress from the defined parameters. Second, the priority level of the Act is defined, stating that if any other

Act is in conflict on a jurisdictional level, preference is awarded to the empowerment act, provided the issue at hand is derived from the scope of the Act. Hence, from a policy perspective, the Act enjoys a monopoly over any other Act on any issue which falls under its jurisdiction, increasing its autonomy and authority.

Shifting to Sections 11 and 12, further impacts for the Mining Charter are present in the strategy for economic empowerment and the directive to produce transformation charters (Department of Trade and Industry, 2013: 23-24). Accordingly, the Minister is required to produce a strategy which ensures broad-based black economic empowerment, and may change the strategy with no timeframe limit, should they deem it necessary. Under this mandate, empowerment must be embraced by “all organs of state, public entities, the private sector, non-governmental organisations, local communities and other stakeholders” (Department of Trade and Industry, 2013: 24). This transfers responsibility to society as a whole, instead of limiting it to the government and the private sector alone, increasing accountability and monitoring of the Act’s enforcement. A financing plan for empowerment is also required, accompanied by incentives for effective black managed and owned companies, while remaining consistent with the BBBEEA objectives and requirements.

Within the BBBEEA, Section 12 is the most significant determinant for the Mining Charter, as it legally recognises and permits the publishing of a charter, under two prerequisites (Department of Trade and Industry, 2013:24). Principally, any charter must be formulated by major stakeholders in the industry concerned. This was the case for the initial Mining Charter, through the formulation of the Stakeholders’ Declaration on Strategy for the Sustainable Growth and Meaningful Transformation of South Africa’s Mining Industry (Department of Mineral Resources, 2010). Commitments were made by six major stakeholders namely; The DMR, the Chamber of Mines (now the Minerals Council), the National Union of Mineworkers, the South African Mineral Development Association, Solidarity and UASA- The Union<sup>37</sup>. While the above clearly defines stakeholders (and coalitions to an extent), the interest of this study lies in the coalitions which are actively involved in the policy process which has caused the interactions of the Mining Charter and not those who established the declaration. Second, as has been mentioned prior, a charter must adhere to the Act itself to warrant its functioning.

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<sup>37</sup> Commitments in the declaration are a reflection of the Mining Charters objectives and will therefore not be discussed, so as to avoid further repetition.

### **4.3.2 Mineral and Petroleum Resource Development Act: Direct Legislation Determining the Mining Charter**

Finally, the most significant Mining Charter influencer, being the MPRDA, shall be discussed. Two chapters of the Act are relevant to the research focus; Chapter 2 and Chapter 7 for both contextual purposes and the direct relationship the Mining Charter shares with the Act.

Chapter Two establishes the fundamental principles of the Act which govern the mining industry as a whole (Department of Mineral Resources, 2002: 18). However, this means that the chapter covers a wide range of rules and regulations which do not relate to the research topic- meaning that identification of relevant points to the Mining Charter was required, with two important points determined. The MPRDA transitioned private mineral ownership to the public sphere, through the recognition of “the State’s custodianship of the nation’s mineral and petroleum resources” (Department of Mineral Resources, 2002:18). Moreover, as a result of custodianship, the state has the authority to “grant, issue, refuse, control, administer and manage” various industry stakeholder requirements, including but not limited to exploration rights, prospecting rights and mining rights (Department of Mineral Resources, 2002:18). Consequently, the MPRDA allows for the state- and by extension the DMR- to be a far more influential stakeholder in the policy subsystem (Participant F, 2009).

This was an essential change for the Mining Charter, as without sovereign mineral ownership, the state would not be able to dictate how (and by whom) resources are extracted, nor what occurs as a result thereof. This was also emphasised by more than half of the interviewed participants, stating the importance of the act in relation to the Mining Charter’s enforceability (Participant A, Participant E, Participant F, Participant G and Participant I, 2019). In turn, mining companies must adhere to the expectations of the Act, if they wish to have continued access to mineral resources.

The second noteworthy point revolves around the objectives of the MPRDA. Foremost, the Act can be seen as the mechanism for BBEEE- but specifically for the mining industry (Department of Mineral Resources, 2002:18). The Act was required, due to BBEEE being too far-reaching in scope, making it a challenge to standardise expectations across multiple industries. Under the MPDRA empowerment of HDSAs, women and communities is required, through meaningful opportunities to participate in the mining industry. Thus, the core target groups for

redistribution are established. Yet, the Act does not account for *how* these redistributive expectations are to be carried out, which is where the Mining Charter's role is derived from. Another noteworthy objective of the Act is to "promote economic growth and mineral and petroleum resources development" (Department of Mineral Resources, 2002:18) - not only within the mining industry, but also industries which either supply goods or services to the industry, or industries which require minerals for production purposes. This is a contentious point amongst all but one interviewee (Participant A, Participant B, Participant C, Participant D, Participant E, Participant F, Participant G and Participant H, 2019), showing at least one salient issue is present- an assumption also stated under the ACF's core policy preferences (Sabatier and Weible, 2007: 195). Salient issues tend to be the driving factor as to why individuals align themselves in relation to a broader coalition of stakeholders. This is based on the fact that salient issues are often caused by the very existence of differing opinions regarding the issue itself, resulting in a contestation as to which of the opinions is the most appropriate in a given context.

With reference to the above, Chapter Seven- section 100 of the MPRDA directly addresses transformation in the South African Mining industry (Department of Mineral Resources, 2002: 87). Under the section, the Minister of the DMR has two directives. First, the Minister must consult the Minister of Housing, in order to produce a standardised living condition for the industry to adhere to. This was necessary, as stressed by Demissie (1998: 463), due to overcrowding and poor living conditions established over the course of the 20<sup>th</sup> century, with the most common form being mining hostels. However, it has been noted by academics (Marais and Venter, 2006; Ntema, Marais, Cloete and Lenka, 2017) and Participant B (2019), the manner in which this was conducted was counter-productive to improving the overall housing conditions of mineworkers.

With reference to the above, mine workers- and by extension mine communities- were given options to rectify the housing situation. Under the MPRDA, mining companies are expected to improve current hostel conditions, converting them into housing accommodation and drastically reducing the number of occupants per residence. Alternatively, a living out allowance was offered by mining companies, where remuneration was provided for workers to either find a suitable residence or construct their own (Minerals Council South Africa, 2019). A large portion of the labour force chose the latter, which resulted in the expansion of informal settlements in close proximity to the mines, as travelling to mines from urban areas was not a

favourable option. In turn, mine communities expanded, increasing the expense for mining companies' social and labour plans. Moreover, the decision to offer living out allowances can be seen as a contributing factor in the rise of community involvement in policy, further strengthening communities as a key stakeholder in the development of the Mining Charter

The second directive is the most important factor for the Mining Charter's enforceability, with the Minister expected to "develop a broad-based socio-economic empowerment Charter that will set the framework for targets and time table for effecting the entry into and active participation of historically disadvantaged South Africans" (Department of Mineral Resources, 2002: 84). Therefore, the MPRDA permits the formulation of a charter which allows for HDSAs to benefit from mineral exploitation, in accordance with the Act's Chapter Two objectives, while ensuring; the promotion of economic growth and industry development; the promotion of employment and improvement in economic welfare for all South Africans; the provision for security of tenure regarding prospecting, exploration, mining and production; ensuring a balance between sustainable extraction of natural resources and economic development; and the expectation of mining right holders to contribute to the socio-economic development of communities associated with their operations (Republic of South Africa, 2002: 18). Yet, once again, the way in which these objectives are to be carried is not defined in the MPRDA, instead of authorising the Mining Charter to fulfil the responsibility.

## **4.4 Conclusion**

This chapter has contextualised the mining industry in two important ways. First, defining the Mining Charter and key changes over its iterations were highlighted and discussed. In addition, key issues of policy compliance, HDSA ownership, employment equity, mine community development, procurement, and the sustainable development and growth of the industry, were identified. Second, the interconnected policy environment which impacts the Mining Charter was determined, by linking chapters or sections of several Acts and legal documents to the enforceability of the Mining Charter. In turn, the regulatory framework under which stakeholder interactions may occur was defined and subsequently justified. The following chapter will expand upon the current chapter, through determining how the interactions of key stakeholders of the mining industry have shaped the various iterations of the Mining Charter. Moreover, Chapter 5 will unpack the important role of resource utilisation by stakeholders as the principal way in which they interact with one another.

## **Chapter 5: Understanding Stakeholder Interactions and Resource Utilisation- An Application of the ACF**

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### **5.1 Introduction**

This chapter directly engages with how key stakeholder interactions in the South African mining industry have shaped the development of the South African Mining Charter – predominantly with the use of their respective resources. This will be achieved by using aspects of the ACF as an analytical tool. The chapter is divided into several sections, each of which has a specific purpose, in order to understand the policy subsystem and the resulting interactions of the stakeholders. These include; expanding on the external factors which impact the Mining Charter; the relatively stable parameters associated with the policy subsystem; the identification of coalitions and their respective resources; and a resulting discussion on the policy contestation of the policy subsystem. In so doing, it will become clear how the stakeholders of the Mining Charter has changed over the years, due to the interactions between key stakeholders of the South African mining industry.

Before continuing, it is important to explain the manner in which ACF coalitions have been derived from, and how they relate to the research topic. Coalitions are derived from policy beliefs and preferences, which means stakeholders in the mining industry- derived from the public sector, the private sector, or civil society- are not the focus. Rather, they relate to the composition of a coalition and the type of policy issue that gravitates stakeholders toward a given coalition, which subsequently drives the interactions that have shaped the development of the Mining Charter. This means that while coalitions do have the aforementioned stakeholders within them, the focus will be on the impact of their interactions and not the individual members of the coalitions. With this in mind, the identified coalitions include; the Pro-Transformation Coalition, the Pro-Market Efficiency Coalition and the Pro-Community Interest Coalition.

## 5.2 External Factors Impacting the Policy Subsystem

Working through the ACF's external events, factors which influence the policy subsystem consist of; (1) major socioeconomic changes, such as economic downswings or upswings; (2) changes in public opinion, be it positive or negative, toward the policy subsystem; (3) changes in the systematic governing coalition, such as a shift from a democratic government to a socio-democratic government; and (4) policy decisions and associated impacts from other subsystems, which are connected to the policy subsystem in some form or another (Weible and Sabatier, 2007:129).

The South African mining industry is directly affected by economic performance, both on a domestic and global scale. The primary externalities which the industry faces are the global economic performance and the resulting capital flows. The global economy is an aggregate of all countries and the performance of their economies. Depending on this performance, the commodity price cycle will vary, as it often shares a direct relationship with the global economic cycle. This relationship is based on how economic performance is measured- with the most common measurement being GDP growth. An increase in growth can only be achieved by producing goods and services at a higher rate, or value, than the previous year. Goods can only be produced by using raw materials, which are derived from extractive industries. This is significant as the Mining Charter finds itself within the mining industry, which is a subcategory of the extractive industry. Consequently, in times where large volumes of goods are being produced, the demand for commodities is comparatively higher. In turn, prices of commodities increase, as supply struggles to keep up with demand. The inverse is also the case, where during times of poor economic growth, commodity prices fall. The result of these cycles of commodity prices means that industry growth and performance are based on the current market price for commodities (Gumata and Ndou, 2019:341). This makes the Mining Charter's fixed expectations on the industry a challenge at times, as its overall source of income varies considerably, depending on the stage of the commodity cycle.

Consequently, the above externality is a major factor for certain stakeholders (such as mining companies and investors) regarding how they can respond to the Mining Charter's requirements. For example, if the current economic cycle is in a downswing, they will inherently have less disposable income, due to most mining companies being price takers for the commodities they extract. As a result, this may make it increasingly difficult to pay for

unbudgeted expenses, as they have less financial resources at their disposal. This means that mining companies have to be forward-looking, accounting for the long term economic cycle, so they can meet the fixed Mining Charter elements.

Public opinion on the Mining Charter is highly contested (Solidarity Research Institute, 2017: 7). Depending on the ascribed values of the individual and how they relate to the substance of the Mining Charter, their support for or opposition against, will vary. For example, recent developments in the Mining Charter, including the new equity share that communities are now expected to receive, would strengthen their support for the Mining Charter. Conversely, companies involved in the mining value chain are currently contesting the Mining Charter, as the requirements do not favour them (Participant A, 2019; Participant H, 2019)<sup>38</sup>. It is also important to note that public support has a dual role as a resource which coalitions can utilise (Sabatier and Weible, 2007: 199-204).

A further externality to consider is the political party in power. Since the first democratic elections in 1994, South Africa has been ruled by the African National Congress (ANC). This means that South Africa has a dominant-party political system, where no transition of power to other political parties has occurred throughout the new political regime. Consequently, the governing coalition and its associated values have remained constant throughout post-apartheid South Africa. Yet, this is not to say that this will always be the case. In recent years, the ANC has seen a gradual decline in their support base, most notably in the 2016 municipal elections, where the ANC only received 54% of the vote, compared to 62% in 2011 (Lannegren and Ito, 2017: 55). If this trend were to continue, coalitions between opposition parties could rival the ANC for power in the future. In turn, coalitions with differing belief systems as to how the structure of the country should be, along with the role of the state, could be altered. However, this is a topic for another research topic and falls out of the scope of this study and its focus.

The final external event revolves around policy decisions and associated impacts on the Mining Industry. Chapter Four effectively addressed this externality in detail, by identifying relevant policies which influence the function of the Mining Charter, along with the rules and regulations that govern stakeholder interactions. These included the Broad-Based Black Economic Empowerment Act (Department of Trade and Industry, 2003) and the Mineral and

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<sup>38</sup> A value chain is the processes, from prospecting to the selling of commodities and the services used during these processes.

Petroleum Resources Development Act (Department of Mineral Resources, 2002). Considering these Acts and the discussion in Chapter Four, it is apparent that decisions made in the macro policy environment have a considerable impact on the Mining Charter as a policy subsystem.

### **5.3 South Africa's Relatively Stable Parameters**

Relatively stable parameters are longer-term variables which are generally constant over a period of 100 years. Parameters include; (1) fundamental sociocultural values and social structure; (2) basic attributes of the problem area; (3) basic constitutional structures; (4) and basic distribution of natural resources (Weible and Sabatier, 2007:125). The following section will relate these to the Mining Charter and the overall mining industry of South Africa to these parameters.

South Africa has a diverse range of socio-cultural values, with core principle values of equality and representation of all people, while respecting the rights of the individual (Republic of South Africa, 1996: 103). Thereby, South Africa is determined as a social-democratic state. Referring once again to the Constitution (parameter 3), the preamble clearly states the desire for a society based on democratic values, while also promoting social justice, due to the historical context from which the new democratic era was founded (Republic of South Africa, 1996: 1). On this basis, the Mining Charter can be seen as a policy which not only focusses on equity redistribution, but also one that intends to address the social injustices that have been caused by the mining industry in the past.

The Reconstruction and Development Programme (RDP) is one example of a South African economic policy which was designed to reach these socio-cultural values (Republic of South Africa, 1994: 9). Produced at the beginning of the post-apartheid era, the programme had the primary purpose of restructuring the socio-economic reality of South Africa. On the social front, the RDP was the driving force for social reforms that occurred in the 1990s and early 2000s, which set out to provide basic needs such as housing, services, infrastructure and social welfare. Narrowing down the focus of the RDP to the topic at hand, one of its sections directly addresses resource-based industries. According to this section, its main purpose "is to transform mining and mineral processing industries to serve all our people" (Republic of South Africa, 1994: 99). Therefore, the programme recognised the importance of democracy and

economic growth as a foundation from which transformation could occur. Therefore, the RDP shares a strong correlation with the Mining Charter's policy objectives.

Using the ACF as an analytical tool, the basic attributes of the problem area revolve around South Africa's large mineral reserves and how these reserves should best be utilised and by whom. While the MPRDA determines the distribution of natural resources (parameter 4 of the ACF), based on state custodianship of mineral and petroleum resources (Department of Mineral Resources, 2002: 10). As a result, the distribution of natural resources occurs through the awarding of mining rights to respective mining companies- provided they adhere to the requirements of several laws and regulations. Consequently, the requirements under the Mining Charter infer that mining companies must play an active role in the movement toward a more demographically representative industry.

However, there are important observations to consider when it comes to the parameters found in the country. The parliamentary representative democratic republic of South Africa is a relatively new political regime, having only become a democratic state through the first round of elections in 1994. Therefore, the country has by no means reached the 100-year requirement under the ACF's account of relatively stable parameters (Weible and Sabatier, 2007:125). In turn, major policies which determine the long term stable parameters have not had the necessary time to solidify.

For example, the apartheid political regime had profound impacts on the economic structure, as well as the social structure of the country. This resulted in the country being divided based on race, with a minority population amassing the majority of the country's sources of wealth. Even before apartheid, wealth was diverted out of the country, through colonisation and the ruling of foreign entities, dating back to the 17<sup>th</sup> century (Selolwane, 1980: 78). This means that the socio-economic structure of pre-democratic South Africa was developed over centuries. As a result, changing structures that have been so engendered into South Africa's functioning will inherently take time to see impactful results. Moreover, it will likely take several policy reformations to find the appropriate policy response, in terms of its feasibility aligning with the intended outcome. This is evident through the high levels of policy uncertainty on both macro and micro levels within South Africa (Gumata and Ndou, 2019:330; Kisten, 2020:1). Consequently, while the current laws and regulations have moved toward

accurately defining the fundamental sociocultural views and structure of the country, the socio-economic reality has yet to reflect as such.

This is apparent through South Africa's Gini coefficient of over 0,60, making it one of the most unequal countries, globally, in terms of wealth distribution (StatsSA, 2020; Worldbank, 2019). Moreover, due to the historical context of the mining industry and its interconnected relationship with the economy, the Mining Charter has become a microcosm of the national mandate to ensure that redistribution is ultimately achieved.

Considering this, policymakers would determine that policy instruments are not achieving the intended policy outcome, justifying the need to re-enter the policy formulation stage. The mining industry and subsequent Mining Charter are an ideal case and point of this, with the continuing existence of unequal wealth distribution resulting in changes of the Mining Charter's elements over the years. However, this is not to disregard the considerable improvements over the years, as is clear from the increasing compliance levels and growing representation of HDSAs within the mining industry. In the broader context, short term stable parameters have developed, such as a robust judicial system, the acknowledgement of the need for a more equal society, as well as the acknowledgement for the right to numerous freedoms, as stipulated in the Constitution.

## **5.4 Coalition Identification and Resource Utilisation**

Three major coalitions have been identified, using the ACF's policy core belief components as an analytical tool, while factoring in the relatively stable parameters and external events which impact the industry. In addition, the resources each of the coalitions utilise will be noted, due to their role in the policy contestation of the Mining Charter. The components used for identification include (Sabatier and Weible, 2007: 195);

“the priority of different policy-related values, whose welfare counts, the relative authority of governments and markets, the proper roles of the general public, elected officials, civil servants, experts, and the relative seriousness and causes of policy problems in the subsystem as a whole.”

For the purpose of this section, coalitions consist of key stakeholders of the mining industry who actively engage with the elements of the Mining Charter. These stakeholders align with one another, based on their shared beliefs on how the Mining Charter should function as a redistribution policy. With this in mind, the coalitions are; a pro-transformation coalition, a pro-market efficiency coalition and the most recent coalition based on community interests.

Before the coalitions are discussed further, the absence of trade unions in the interactions between stakeholders and their associated coalitions need to be addressed. Trade unions have and continue to play an intricate role in the South African labour market (Rust, 2017: 93). For example, unions have a significant public influence, due to their large membership base and support. This is especially true in the mining industry, where they are able to influence public opinion on the mining industry, be it positive or negative.

Furthermore, when referring to the ACF as an analytical tool, unions can often control another key resource, being the ability to mobilise a large number of individuals (Sabatier and Weible, 2007: 203). Using these resources in conjunction, unions in the past have been influential in changing “legislation and legal structures”, especially regarding the labour relations landscape (Rust, 2017: 100). Therefore, by extension, they can also use these resources to exert influence on the functioning of mining operations, through wage talks and strike action. This is why during the initial stages of the research process there was a concern noted in the methodological process, regarding a lack of access to any union to interview which operates in the mining industry.

However, upon careful consideration, research and analysis revolving around the Mining Charter, trade unions do not qualify as a coalition themselves. Rather, they can fall under the pro-transformation interest coalition or pro-community interest coalition, depending on the issue being focussed on. This is based on the fact that no direct mention of unions in the Mining Charter itself is present (Department of Mineral Resources, 2004; Department of Mineral Resources, 2010; Department of Mineral Resources, 2018). The only major reference linking unions to the elements of the Mining Charter in the South African mining industry was the signing of a stakeholder declaration by several unions (Department of Mineral Resources, 2010: 9). Yet, the declaration only has the purpose of acknowledging the need for (and committing toward) cooperation between the public, private and civil sector stakeholders, on the grounds for sustainable development. This was in contrast to the three above-identified

coalitions, which each received mention in one or more of the various iterations of the Mining Charter (Department of Mineral Resources, 2004; Department of Mineral Resources, 2010; Department of Mineral Resources, 2018).

Additionally, while trade unions and communities share similar belief systems, their objectives differ from one another (Participant G, 2019). To clarify, trade unions primary objectives are to ensure that the working conditions of their members are acceptable and that their members are paid an appropriate salary for the performed job (Deery, Erwin and Iverson, 1999: 536). Conversely, community movements represent their respective residents and are primarily concerned with the socio-economic development of communities surrounding mining operations (Kapelus, 2002: 276). For this reason, unions found in the mining industry do not qualify as an applicable coalition themselves, however, they are a valuable resource for the pro-community coalition when their interests align.

#### **5.4.1 Pro-Transformation Coalition**

The identified coalition is based on the values of pro-transformation regarding the industry, consisting of the DMR as its primary stakeholder, supported by the national government, and at times trade unions. Identification of the coalition was primarily based on Participants A and I (2019) through their interviews, as they are involved in the Mining Charters legal contestations and governmental decision making. Desktop research was also used to provide evidence when the semi-structured interviews were unable to provide the necessary justifications.

Regarding the relative seriousness and causes of policy problems, the coalition identifies compliance with the Mining Charter as the primary issue, with secondary issues of the ambiguous nature of the initial charter. These determinations were derived from the compliance reports released by the DMR after the first two iterations of the Mining Charter (Department of Mineral Resources, 2009; Department of Mineral Resources, 2015). Therefore, the pro-transformation coalition does not focus on the problems arising from the policy's substance. Rather, the pro-transformation coalition believes the problem lies with the implementation and compliance with the Mining Charter as a mechanism to transform the South African mining industry.

The above view is derived from the coalition's policy related values being synonymous with the elements of the Mining Charter and macro BBBEE principles of the ANC as the ruling government party. This is evident through the party's core principle of advocating for the decrease of inequalities, based on the statements made by the Freedom Charter (Suttner, 2006: 24). Since the transition to democracy, the ANC has been working toward redistributing the country's wealth and equity, to rectify the imbalances caused by the apartheid regime. The Mining Charter, therefore, is an industry-specific response to redress wealth and equity in the mining industry, in order to make it demographically representative. As a result, the DMR is focussed on the role of uplifting HDSAs who are involved in the mining industry, as well as making the industry more open for prospective HDSAs (Participant I, 2019). Consequently, the preferred policy response of the pro- transformation coalition is grounded in government interventions relating to the operations of the mining industry. Participant I (2019) recognised this, stating the importance of government's decision to transfer mineral rights from private ownership to public ownership and section 100 of the MPRDA, which allowed for the establishment of the Mining Charter.

This is significant, as it provided substantial control for the pro-transformation coalition regarding the formation and changes between the iterations of the Mining Charter. No other coalition is able to directly change the rules and regulations of the Mining Charter, meaning that the proposal of any change to the Mining Charter is ultimately decided by stakeholders of the pro-transformations coalition. For this reason, the pro-transformation coalition is also the Mining Charter's dominant stakeholder, by leveraging its influence in legislative and executive branches of the formal legal authorities. For example, the pro-transformation coalition relies heavily on legislation, especially relating to Acts which provide the Mining Charter with its enforceability (Participant I, 2019). This is due to the Mining Charter itself not being a law (Participant A, 2019), which means the coalition relies on the MPRDA as the principle legal binding piece of legislation.

A further resource used by the coalition focusses on the ACF's recognition regarding the role of information. In the case of this coalition, the 2009 and 2015 compliance reports are also used as evidence that the mining industry is far from being transformed and requires further stringent measures to rectify past transgressions (Department of Mineral Resources, 2009; Department of Mineral Resources, 2015). In addition, skilful leadership plays an important role in any coalition, with the pro-transformation coalition being no exception. However, over the

development of the Mining Charter, the competency of leadership has come under question. For example, as noted by Participant A (2019), during a particular stage of the Mining Charter's development, the leadership of the DMR was fairly strong, due to the DMR Minister holding office for a long period of time. This allowed the Minister to build relationships through continued interactions with mining companies, listening to their concerns and taking them into account. These interactions led to a better understanding of the industry from the perspective of coalitions other than the pro-transformation coalition itself. In turn, it allowed for policy proposals to be more in line with what the overall industry could practically achieve.

Conversely, weaker leadership has also been present in the coalition, due to the frequent changes of ministers, which meant that they were unable to build meaningful relationships with other stakeholders over such short timeframes (Participant A, 2019 and Participant C, 2019). Consequently, meaningful interactions between key stakeholders of the Mining Charter declined. With the lack of key input by those who are directly impacted by any changes to the Mining Charter elements, policymakers proposed a policy which had amendments that could not be sustained by the industry (Participant A, 2019 and Participant B, 2019). This culminated in the 2017 draft of the Mining Charter, which was immediately contested by mining companies through a court interdict (van Vuuren, 2017) citing that the changes would create considerable damage to the future prospects of the mining industry.

The final resource of the pro-transformation coalition is the access to public support of the Mining Charter. Due to the industry being comprised of a large portion of HDSAs, the pro-transformation coalition has amassed a large public support base. HDSAs by definition are those who, in the past, were not given the same access to opportunities, when compared to other groups, due to political, social and economic state-based discrimination based on race. As a result, the coalition's interest in equity redistribution, along with development programmes as required in the Mining Charter elements, align with the interest of a large portion of those involved in the mining industry (Department of Mineral Resources, 2018: 17-32). On these bases, the pro-transformation has utilised a number of its available resources to influence, justify and state its position on the Mining Charter.

## 5.4.2 Pro-Market Efficiency Coalition

The second coalition revolves around the core principles of market efficiency and the long term sustainability of the industry. Yet, as stressed by Participant A (2019), Participant B (2019) and Participant H (2019), the coalition is not opposed to the existence of the Mining Charter, as they recognise the need to rectify inequalities caused by the past. Instead, their concerns lie with the practicality of the Mining Charter's substance as a mechanism of transformation, as well as its long term feasibility (Participant A, 2019, Participant B, 2019, Participant D, 2019 and Participant E, 2019). The coalition includes stakeholders such as the Minerals Council as the primary stakeholder, along with mining companies, mining consultancy/research firms and foreign investors of the mining industry.

The coalition places its primary policy priority on the effective operation of the South African mining industry, in terms of sustainable growth and employment potential. The reasoning for this, as stipulated by Participant F (2019), Participant G (2019) and Participant C (2019), is twofold. First, by improving the long-term growth prospects of the industry, the overall performance in terms of capital returns and the volume of extracted commodities should increase, allows for larger margins between the cost of operating and the turnover of the industry. Second and in connection with the first reason, the increase in commodity volumes extracted would require additional labour supply, as it is the most appropriate factor of production to upscale, due to the geological structure of the South African mining industry, as noted during the literature review (Stewart 2015: 640). Consequently, more people would be employed by the industry, which would assist the overall unemployment rate and improve the GDP per capita of the country.

When it comes to whose welfare counts, the coalition is interested in the welfare of the industry as a whole, by improving the prospects of capital returns (particularly of mining companies) while lobbying for a less invasive Mining Charter (Participant D, 2019). Once again, this is a logical decision, according to the pro-market efficiency coalition of actors, as they operate within the larger global commodity market. The global market for commodities is driven by capitalist principles, such as market equilibrium<sup>39</sup>, as well as the costs associated with the

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<sup>39</sup> The point at which the supply of a given commodity, price and quantity meets the demand price and quantity of a given commodity.

factors of productions<sup>40</sup>. Therefore, as eluded to from the above, the relative authority of the government versus the markets is clear, with the pro-market efficiency coalition favouring less government intervention and more authority derived from the market environment.

In turn, the principal issue which has been focussed on can be determined from the above position, namely policy uncertainty (Participant B, 2019; Participant D, 2019, Participant F, 2019). Regarding policy uncertainty, stakeholders who align with the pro-market efficiency coalition highlight the impact of uncertainty on investment levels in the industry. When investors are uncertain of the regulatory environment they are expected to operate under, it is hard for them to plan over the long run. This is based on the fact that they are unable to predict whether or not an investment will generate enough return to justify the initial investment throughout the operation. This is also supported by research on policy uncertainty and its impact on the economic development of South Africa. According to Croucamp and Malan (2016: 70), the foreign investment market has continued to shy away from investing in the country, as “the justifications for preferential access to resources and authority is diminishing rapidly”. In the case of the mining industry, this is exacerbated. For an investor to turn a profit on his initial investment, it can take between 16-25 years or longer, from the commencement of a new mining operation (Participant C, 2019). Considering that the provisions within the Mining Charter have been officially amended twice over 16 years, it is understandable why policy uncertainty is a major issue for stakeholders who align with the pro-market efficiency principles.

There is also the issue of compliance levels and whether or not they are feasible in both the short and long term. Participant F (2019) recognised this, by pointing out that the assumptions made when formulating the compliance levels found in the Mining Charter have, at times, not considered if the industry has the current capacity to meet the required levels. This stems from the fact that the black entrepreneurship base often does not have the necessary capital to fund mining operations on an industry-wide scale. Moreover, this is not an issue exclusive to the mining industry. South Africa as a whole has exceptionally low levels of black entrepreneurship capital, due to; the underpinnings of apartheid; a lack of capital across the HDSA demographic; lower levels of associated education; along with limited skills and development programs aimed at improving black entrepreneurship (Preisendörfer, Bitz and

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<sup>40</sup> Factor of production include; land, labour, capital and entrepreneurship.

Bezuidenhout, 2012: 16). Consequently, rectifying large inequalities gaps will inherently take time, much like policy implementation will take time to have the intended policy outcome. As a result, the issue for pro-market efficiency stakeholders is derived from the expected timelines and compliance levels not aligning with the practical feasibility of the present.

A major resource which the pro-market efficiency coalition has used throughout the Mining Charter's development is the litigation process, which is found in the formal legal authority of the judiciary (Sabatier and Weible, 2007: 201). Participant A (2019) is the most appropriate participant to refer to, as they have extensive knowledge relating to the legal proceedings of the Mining Charter, which also makes them a resource for the pro-market efficiency coalition. In addition, legal proceedings are also the main avenue that the coalition uses to interact with key stakeholders who are directly involved with the development of the Mining Charter (Participant A, 2019 and Participant C, 2019).

In addition, the pro-market efficiency coalition would make use of information relating to the policy issue, with a focus on economic and financial performance reports. One example of a potential resource for the pro-market efficiency coalition would be the Fraser Institute's annual report on global mining industries - with particular reference to their Policy Perception Index (PPI) and Investment Attractiveness Index (IAI). The PPI's purpose is to deliver a "comprehensive assessment of the attractiveness of mining policies in a jurisdiction" (Stedman and Green, 2018:13), which shares similarities to the ACF's assumption that a policy subsystem operates within a defined geographical location (Weible and Sabatier, 2007: 124). The South African Mining Industry's PPI score during 2017 was its worst in recent years, with an index score of 42.66, ranking the industry 81 out of 91 mining jurisdictions (Stedman and Green, 2018: 15). This is a major concern, as South Africa still has abundant and diverse mineral reserves, but due to the potential policy environment change, the PPI level declined. However, with the improvements of the amended 2018 Mining Charter, the 2019 PPI improved slightly, to 59.71 (Stedman, Yunis and Aliakbari, 2020: 15).

With the above in mind, there is also value in discussing the performance of the South African mining industry's IAI, as this would be the type of resource valued by the coalition. This index is a combination of the aforementioned PPI and the Best Practices Mineral Potential Index (BPMPI), which measures the regulatory system, taxation requirements of the industry, the level of political risk and the effectiveness of the mining regime (Stedman, Yunis and

Aliakbari, 2020: 8). Much like the PPI, the South African mining industry IAI scores poorly, relative to other mining regions. Looking at purely the figures, the 2017 IAI placed South Africa 48<sup>th</sup> out of 91, with a 62.06 score, while the 2020 IAI ranked South Africa at 40 out of 76 – a slight percentile improvement – at 64.79 points. The reason behind these mediocre performances can be divided into two driving forces. Factors such as a high tax rate (28%), a highly regulated mining industry and continual policy uncertainty - specifically relating to the Mining Charter - all contribute to pulling down the IAI (Participant E, 2019). However, another factor which the index takes into account is the sheer mineral reserves of a region, of which South Africa has an abundance. In turn, the IAI score for South Africa is pushed up and justifies why the mining industry has a higher IAI, relative to its PPI over the period.

Alternatively, documents produced by the stakeholders own research on the industry are used, such as the Minerals Council's 2017 integrated annual report. In this report, the 2009 and 2015 government compliance reports are contested through their own compliance findings, citing compliance on the majority of the elements of the Mining Charter for its members- based on their method of calculating compliance (Minerals Council, 2018: 60)<sup>41</sup>. Furthermore, the coalition makes use of financial resources, to fund the above research, as well as court proceedings that challenge aspects of the Mining Charter. The use of financial resources is essential, as the pro-market efficiency coalition does not control legislation, nor the executive, which means they are forced to utilise the institutional branch that they have access to.

Another resource that the coalition has access to is skilful leadership, which has the principal aim of ensuring the coalition decisions are for the benefit of its member's interests (Sabatier and Weible, 2007: 203). But, much like the pro-transformation coalition, the effectiveness of its leadership has varied over the years. Participant B (2019) recognised a mistake made by the mining companies in the early development of the Mining Charter. Mining companies agreed, as one of their measures to improve the living conditions of their workers, to offer a living out allowance. As a result of this, surrounding informal settlements expanded, due to workers building their own residences close to their work. Consequently, mining companies had to upscale their community development programmes to accommodate, adding further costs for the industry while decreasing profit margins. Furthermore, Participant A (2019) also acknowledged that the pro-market efficiency leadership structure at times did not engage

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<sup>41</sup> It must be noted, compliance is *only* relating to the members of the Minerals Council, which accounts for 70% of the industry, meaning 30% of the industry is not accounted for in the findings.

effectively with other stakeholders. This resulted in poor representation for the coalition, resulting in policy outcomes which were not conducive to the interest of its members. Conversely, the 2017 draft of the Mining Charter emphasised the shift back to effective and skilful leadership, where the stakeholders such as the Minerals Council publically denounced the new version, applying for a court interdict to prevent the charter from coming into effect and actively engaging with the government once more (Participant A, 2019).

The final resource the coalition has access to is the public opinion on the Mining Charter. Although they do not enjoy the volume of public support that the pro-transformation coalition receives, there is substantial support from the business sector of South Africa, in addition to the international community (Participant A, 2019, Participant D, 2019). Support for this coalition can also be seen through public comments made on the Mining Charters regarding the difficulties it imposes for businesses who rely on the mining industry (McKay, 2019). The interactions Participant F (2019) had with Asian Tiger delegates, also furthers this justification of international public support for a market-orientated Mining Charter.

### **5.4.3 Pro-Community Interest Coalition**

This coalition is the newest coalition of the three, comprising of all mining communities situated within the borders of South Africa. Mining communities were undoubtedly recognised as integral parts of the mining operation since the conception of the Mining Charter. However, with the introduction of the 2018 Mining Charter, the pro-community interest coalition has been given considerable benefits and subsequent control of how elements of the Mining Charter impact their respective communities. These include; community trusts that are funded by equity-equivalent benefits; the involvement with community development programmes of their respective communities; as well as human resource development contributions by mining companies (Department of Mineral Resources, 2018: 19, 25-26, 29). Consequently, communities transitioned from a benefactor role to an active stakeholder in the development of the Mining Charter.

The interview conducted with Participant G (2019) will be heavily relied on, as they are a policy expert that has researched the increase of community involvement in the policy process. As this is a relatively new coalition, the two driving factors for its increased participation in the mining industry and by extension the Mining Charter must be noted. The first cause of

increased community involvement was a result of the Marikana Massacre, where a reported 34 people lost their lives on the 16<sup>th</sup> of August, 2012, as a result of the South African security services clashing with protesting workers (Participant G, 2019; Twala, 2012: 61). Due to the security services being an institution of the state, communities became alienated, as accountability regarding the killings rests with the government. This is also a primary reason as to why communities are not a coalition member of the pro-transformation coalition, instead focussing on community-specific issues, instead of the overall functioning of the Mining Charter. The second reason for the increased participation of the coalition is found in the most recent Mining Charter drafts, specifically to do with the aforementioned benefits communities, being a non-negotiable (Department of Mineral Resources, 2018: 37). This provides the community with the ability to directly influence policy outcomes, as they have been given a key role in the development of the Mining Charter. The influence of the coalition on the policy process is further emphasised by the requirement of mining companies to consult with communities and identify exactly which “developmental priorities must be contained” (Department of Mineral Resources, 2018: 31) in the proposed developmental plans meant for the specific community.

The primary policy-related value of the coalition is based on the interest of the community and therefore revolves around the development and the economic upliftment of communities (Participant G, 2019). Therefore, the welfare focus of the coalition is solely interested in mining communities, by ensuring that the expectations of the Mining Charter are reflective of a community’s needs. Examples of how this can occur are vast, and subject to the specific needs of a given community. For instance, if community leaders deem that their community needs additional educational and recreational facilities, they may direct these requests to the mining company that is associated with the community. Alternatively, if the vast majority of community members are lacking in traits which help with employment prospects, they may request the mining company to establish a skills and development centre, which will assist in this manner. As a result, the appropriate upliftment of respective communities may be achieved, while accounting for each unique case.

Shifting the attention to the relative authority of government and the markets, the coalition provides its own authority as a stakeholder, while ensuring community development is facilitated by both the public and private sector. (Participant G, 2019) On the government's role, communities expect them to provide a level of public services while ensuring that the

Mining Charter requirements, which are relevant to them, are upheld. Whereas when it comes to the private sector, the coalition expects them to effectively engage with community leaders, in order to align the needs of the community with the expectations set by the Mining Charter. Therefore, the role expectations of government officials (such as the DMR and the ANC) and mining companies (a reflection of the markets) has the purpose of assisting communities to receive the goods and services that ensure effective socio-economic development.

The final policy core belief component for the pro-community interest coalition deals with primary causes of policy problems, according to the coalition. First, non-compliance with the Mining Charter's community development element has, in the past, had a direct negative impact on the stakeholders of the pro-community interest coalition (Department of Mineral Resources, 2015: 30). Second, when development programmes were implemented by mining companies, at times there was a disconnect between what the policy set out to achieve, and what the community itself required, suggesting in these instances coordination between the community and associated mining company was lacking.

Moving over to the resource utilisation of the coalition, formal legal authorities are once again utilised. The coalition has already effectively used litigation to win community interest cases. One example provided by Participant G (2019), where the courts ruled that the DMR had to get consent from a community situated in the Eastern Cape, in order to determine if a mining operation may commence. This is significant, as it sets a double precedent to which the mining companies must acquire consent, both from the DMR and the mining community itself.

Information as a resource is also used by the coalition, by making use of the equity and development elements of the Mining Charter which affect communities (Department of Mineral Resources, 2018: 19, 25-26, 29). This provides further justification for their involvement in the policy process, as well their role of being one of the main beneficiaries of the Mining Charter. Moreover, the coalition's most utilised resource is undoubtedly their mobilizable troops. This is the manifestation of all the mining communities' residents, as it is in their interest to ensure the Mining Charter, the DMR and mining companies uphold the expected benefits communities are to receive.

Finally, it is worth talking about the development of effective leadership as a resource for the pro-community interest coalition. Mining communities find themselves in a precarious position

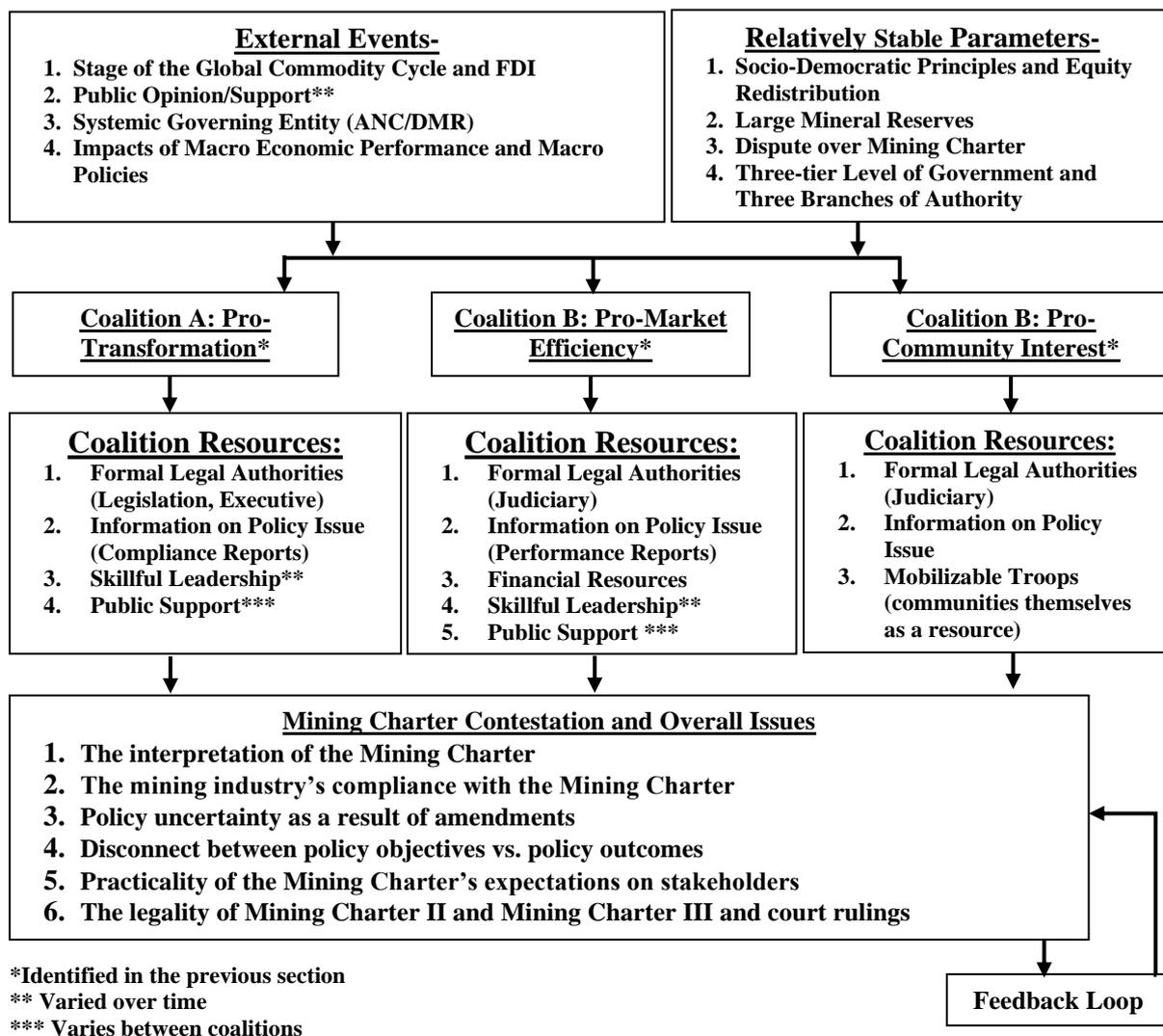
in the South African context. When it comes to mining communities – especially those which are often in a rural setting – leadership is in the control of traditional African leadership structures (Leonard, 2019: 296). As noted by several authors, traditional leaders do not necessarily have the interests of their subjects in mind, whereas long as direct relations to the leadership structure benefitted from mining operations, there would be no contest on how the operation affected the mining community (Leonard, 2019; Mnwana, 2014; Matebesi and Marais, 2018). Yet, there are traditional leadership structures that have been largely successful regarding the effective economic development of their territories via mining royalties, such as the Royal Bafokeng Nation Development Trust (Matebesi and Marais, 2018: 274). Even so, mining communities are often found outside the jurisdiction of these traditional leadership structures, creating a leadership gap that prevented mining communities from uniting under one coalition. In turn, mining communities for a long period did not have effective leadership structures that could effectively represent their concerns revolving around matters of the Mining Charter.

This changed with the increasing requirement of community involvement in the development of the Mining Charter, which bound mining communities under a shared mandate. Yet, as noted by Participant G (2019), this new coalition is not immune to the outcome of leadership manipulation. For example, a common occurrence is for an NGO to educate and inform mining communities of their rights under the Mining Charter. Once this is achieved, they will use the communities backings to enter negotiations with the mining companies. Two outcomes are then possible. First, they will effectively represent the communities and provide a relevant social development plan that has a positive impact on the respective communities. Alternatively, they will use the communities to intimidate mining companies to provide them with a personal kickback, while misrepresenting the communities interest for their gain. As a result, skilful leadership remains a challenging resource for the pro-community interest coalition. However, the capacity of leadership structures has undoubtedly improved across all communities, due to the Mining Charter elements uniting communities under a single cause.

## 5.6 Discussion of Interactions, Policy Contestation and its Impact on the Mining Charter’s Development

Taking into account the above coalitions and resources, the ‘skeleton’ diagram discussed in Chapter 3 has been transformed into a findings diagram. The diagram outlines; the external events impacting the policy subsystem; the coalition opportunity structures present; the identification of coalitions; and their respective resources. See below the completed findings diagram, along with the ensuing discussion on the contestation of the Mining Charter and the overall issues which have caused key stakeholders to actively engage with one another over the policy’s development<sup>42</sup>;

**Figure2: ACF Application of the South African Mining Charter**



<sup>42</sup> Stage 1 of the ‘skeleton’ diagram is excluded, as its purpose was fulfilled in the methodological process stage.

With reference to the above outcome, six key issues of contention have been identified, resulting in interactions between coalitions that subsequently impacted the development of the Mining Charter. These issues include; the interpretation of the Mining Charter; the industry's compliance level with the Mining Charter policy uncertainty as a result of its amendments; the contradiction of policy objectives versus policy outcomes; the practicality of the Mining Charter's expectations of stakeholders; along with the legality of the amended Mining Charters and the impact of court rulings.

### **5.6.1 Interpretation of the Mining Charter**

Interpretation of the Mining Charter elements have been a longstanding issue and has been contested since the original version (Participant A, 2019; Heyns and Mosert, 2018: 803). The initial Mining Charter was undoubtedly vague, as the only numerical target which mining companies were required to adhere to was the ownership element, reaching 15% within 5 years of the initial charter, then 26% by the 10-year mark (Department of Mineral Resources, 2004: 4). The rest of the elements of the initial Mining Charter were simply a 'yes' or 'no' in terms of compliance levels. This suited the mining companies, as it meant that the interpretation of elements was far more flexible. For example, under the original procurement element, one question was "has the mining company given HDSA's preferred supplier status" (Department of Mineral Resources, 2004: 4). This can be interpreted in two ways. First, it can be understood from the perspective of the pro-market efficiency coalition (which includes mining companies), where it is required to consider HDSA suppliers first, but ultimately, the choice of supplier came down to the most appropriate, in terms of the cost and the quality of the good or service provided. Conversely, the DMR interpreted this compliance question as an active measure to involve more HDSA suppliers in the economic benefits of the industry and the broader economy (Department of Mineral Resources, 2009: 13). Using this interpretation, general non-compliance of the industry was determined by the DMR, resulting in the second Mining Charter introducing clear numerical target expectations, in order to narrow the interpretation scope of the charter.

A more recent example of an issue of interpretation can be found in the ownership element of the Mining Charter, being the 'once empowered always empowered' principle (pro-market efficiency coalition) versus the 'equity top-up' principle (pro-transformation coalition), which underwent a litigation process, ultimately ruling in favour of the once empowered always empowered principle (Participant B, 2019; Participant E, 2019; Participant I, 2019; Reuters

Staff, 2018). The issue between these two interpretations comes down to whether *reaching* the 30% HDSA ownership target at a stage of the mining right, compared to *maintaining* the 30%, constitutes compliance. The pro-market efficiency coalition has interpreted the ownership target as a once off-target to reach and when they achieve this, they no longer are required to address the ownership element and are therefore deemed compliant. On the other hand, the pro-transformation coalition believes that the ownership target must continually remain at 30%, irrespective of the selling of HDSA shareholders selling their shares, resulting in the ownership percentage of HDSAs in the mining company falling below the 30 per cent threshold. This resulted in both coalitions making use of financial resources and the courts, which ultimately ruled in favour of the pro-market efficiency coalitions position of once empowered, always empowered (Participant A, 2019; Reuters, 2018).

### **5.6.2 The industry's compliance level with the Mining Charter**

This feeds into the next issue, which is concerned with industry compliance regarding the elements of the Mining Charter. As eluded to through discussion on the two different compliance results from the DMR and the Minerals Council, there is a clear dispute regarding compliance (Department of Mineral Resources, 2015: 6-8; Minerals Council, 2018: 60). Yet, due to the Minister of DMR having control over the formulation of the Mining Charters, further assisted by the Acts which provide the policy with its enforceability, the compliance issue is more of a concern to the pro-transformation coalition. This is due to the fact that it is a form of measurement regarding performance, according to the interpretation of the Mining Charter from the perspective of the Pro-Transformation Coalition. Therefore, throughout the duration of the Mining Charter's development, the DMR has used compliance as a measurement of policy success. This stands in direct contrast to the other coalitions, who have been critical of this as a measurement of success, instead emphasising the policy outcomes and stakeholder engagement are more important than the substance of a policy (Participant E, 2019; Whittles, 2018).

### **5.6.3 Policy uncertainty as a result of the Mining Charter amendments**

Building on from the issue of interpretation, policy uncertainty has been present throughout the development of the Mining Charter, with the pro-market efficiency coalition citing this as a driving factor for the performance of the mining industry as a whole (Participant B, 2019 and Participant C, 2019). As discussed, investment in the mining industry is a capital-intensive endeavour and a long term decision. Therefore, by changing the Mining Charter's expectations

multiple times in a timeframe shorter than their investment window, long term planning and subsequent profits become a challenge for investors.

As a result, Participant G (2019) acknowledged that the ultimate uncertainty concern for the pro-market efficiency coalition revolves around the question of “is it the case that what I am going to be mining and investing a lot of shareholder’s money into [...] going to be a going concern in 20 or 30 years”. This concern is shared by other pro-market efficiency coalition members, as is evident through international investment levels steadily declining. Most of the investment declines are occurring from major multinational mining companies’ disinvest from the South African mining industry. A prime example is the case of Anglo Gold Ashanti, who “reached an agreement with Harmony Gold to sell all its remaining South African producing assets and related liabilities” by 2020 (Anglo Gold Ashanti, 2020:6). The reasoning behind this particular mining company’s decision to disinvest, also falls in line with the pro-market efficiency coalition principles, as it decided to focus its constrained capital pool on other portfolios with higher returns associated with them (Anglo Gold Ashanti, 2020: 25). In addition, the company cited the presence of political and regulatory uncertainty, focussing on the Mining Charter and the Minerals Council’s challenge to right transfers and renewals through court proceedings (Anglo Gold Ashanti, 2020: 75). This provides another example of where interactions between key stakeholders, continue to shape the content of the Mining Charter to date.

This decline in investment also has an impact on the pro-transformation coalition. A decline in investment, regardless of it it is foreign or local, results in a lower-performing industry. Consequently, the Mining Charter’s potential impact on meaningful empowerment of HDSAs becomes less effective, as the ability for the industry to provide increased opportunities for HDSAs is directly related to its ability to produce commodities at higher levels – which inherently requires further capital. This may also be a reason as to why the most recent Mining Charter has ramped up its targets, in order to mitigate the decline in capital investment into the industry. However, once again, this is a short term outlook, as further increases will only steer foreign investors who do not share, or have to adhere, to the principles of equity redistribution when operating in other international commodity markets.

#### **5.6.4 The contradiction of policy objectives versus policy outcomes**

A further contentious issue is a perceived disconnect between the Mining Charter's objectives and its subsequent policy outcomes. The objectives of the Mining Charter are designed to ensure a transformation of the industry in a broad manner, allowing for the upliftment of a large volume of HDSAs. However, this has not always been the case. Instead, as stressed by Tangri and Southhall (2008: 706), BEE policy outcomes often result in the creation of "a small black elite while hardly spreading the benefits of BEE more widely". Participant F (2019) also referenced this position regarding the Mining Charter, specifically to do with the international perspective of the policy's outcome contradicting the policies redistributive objectives. By engaging with stakeholders from both coalitions, the DMR identified these issues, which resulted in a change of the Mining Charter's elements and its elements (Participant I, 2019). This improved the levels of HDSA representation and policy uncertainty was mitigated. As a result, the Mining Charter's objectives became closer to its intended policy outcome.

The implementation of the Mining Charter is a further issue that has shaped the development of the policy over the years, particularly for the pro-community interest coalition. The coalition has several vested interests, derived from the policy's elements, such as mine community development, ownership and human resource development (Department of Mineral Resources, 2018: 6). Each of these elements is designed to improve the economic welfare and the development of the communities, to a level that is satisfactory under the Mining Charter requirements. Yet, the initial charter did not provide a clear enough framework as to how these elements were to achieve the objectives and subsequent outcomes of the policy showing failure on the part of the pro-transformation coalition to produce a coherent governing policy. In turn, the pro-community interest coalition did not receive the correct entitled benefits, due to ineffective implementation from the pro-transformation coalition and the pro-market efficiency coalition. In connection, the pro-market efficiency coalition also contributed to the pro-community interest coalition's increased involvement in the policy process. This is evident from a paper produced by Ololade and Annegarn (2013: 575), which focussed on the platinum mining region of South Africa. According to their findings;

"local residents feel that their welfare is not considered in the various projects carried out by the mines. Even when they tried to voice their concerns, they felt no action was taken to amend the situation being conveyed to the mine."

This lack of effective engagement, compounded by lack of willingness of the mining company to change the existing development programme, resulted in the needs of the community not aligning with the objectives of the Mining Charter. As a result, communities have over the development of the policy, began to represent themselves, due to their decline in trust of both the pro-transformation coalition and the pro-market efficiency coalitions.

### **5.6.5 The practicality of the Mining Charter's expectations of the stakeholders**

This brings one to the practicality of the Mining Charter's expectations on the industry as a contentious issue for the pro-market efficiency coalition. Mining companies have been highly critical of several targets imposed on them, citing the impracticality of certain targets. Issues of the Mining Charter's elements have been addressed in the previous chapter, however, an example will be drawn from the general procurement requirements, which will be used to explain why certain (but not all) targets are not feasible. Participant B (2019), Participant D (2019) and Participant F (2019) all cited issues with procurement targets. One issue is found in the requirement to procure 70% of mining goods from South African companies (Department of Mineral Resources, 2018: 43). This target is impractical on two accounts. First, certain essential mining goods are not produced within the borders of South Africa. This includes several specialised types of machinery and parts, which only a handful of international companies have the technical capacity to produce (Participant B, 2019). This means a company runs the risk of being non-compliant as these specialised goods are expensive, taking up a large portion of their procurement budget, which is unavoidable.

Second, by unpacking the sub-requirements of the 70% mining goods target, further impracticalities are found. The 70% is divided into three categories; goods manufactured by BEE Entrepreneurs (21%), goods manufactured by youth or women (5%) and goods manufactured by BEE compliant companies (44%) (Department of Mineral Resources, 2018: 43). This adds another layer of complexity to the compliance requirements, as in addition to a high percentage, the mining company has to also ensure that it is compliant in these categories. Furthermore, as argued by van der Merwe, Manuel and Seitz (2017), these targets are not reflective of the current composition of South African suppliers, as there are not enough BEE Entrepreneurs, youth and/or women-owned companies to service the entire industry. In turn, compliance becomes challenging for mining companies.

### **5.6.6 The legality of the amended Mining Charters and impact of court rulings**

Finally, the legality of Mining Charter II and Mining Charter III has become a heated topic of debate amongst all three identified coalitions (Participant A, 2019). Currently, the amendments of the Mining Charter are being legally challenged on two fronts. First, if one takes the Mining Charter and separates it from the legislation that enforces it, it is a policy and not a law in of itself. This means from a legal standpoint, it cannot be a mechanism of punishment. However, the Mining Charter stipulates that non-compliant mining right holders, may be subject to a fine, suspension or outright termination of their license to operate (Participant A, 2019). However, the Mining Charter draws this enforceability from the Diamonds Act and the Precious Metals Act, which are separate jurisdictions from the MPRDA, where the directive of the Mining Charter is derived from (Department of Mineral Resources, 2018: 34). In turn, members of the pro-transformation and pro-market efficiency coalitions have continued to interact with one another in the courts, which will ultimately determine the development of the Mining Charter in coming years.

Second, under section 100 of the MPRDA, the Minister of the DMR were instructed to produce a Mining Charter, with no stipulation that amendments of the charter may occur (Department of Mineral Resources, 2002: 79). Yet, under the Mining Charters themselves, there is a clause that states the Minister may review the policy (Department of Mineral Resources, 2018: 39). Once again, this is being argued from a legal standpoint, as this clause is situated within a policy, which does not make it law. As a result, Participant A (2019) argues for a setting aside of Mining Charter II and Mining Chatter III, which could further alter the development of the policy.

On the other hand, Participant C (2019) and Participant G (2109), who also falls under the pro-market efficiency coalition, are of the opinion that the use of litigation processes can be damaging to the overall development of the Mining Charter. They justify this by arguing that due to stakeholders continuously taking one another to court on the issues of the policy, a greater divide between the coalitions begins to occur, as they start to increasingly perceive one another in a more adversarial manner. This is in line with the ACF's devil shift, where policy actors overestimate their opponents in terms of both their malice and power within the subsystem (Weible, Sabatier and McQueen, 2009:132). Under this assumption, the litigation process can also propose future issues for the mining industry, as stakeholders continue to see

one another in an adversarial manner, which goes against the tenant of coordination, found in the mining industry's stakeholder declaration (Department of Mineral Resources, 2010: 2).

Furthermore, the pro-community interest coalition also makes use of the litigation processes as one of their resources to interact with other stakeholders, thereby influencing the development of the Mining Charter. Much like other coalitions, it is interested in lobbying for the interest of its members (Farrell, Haumann and Mackres, 2012: 201). This has resulted in the pro-community interest coalition contesting mining operations, on the grounds of the Mining Charter elements which impact them (Participant E, 2019 and Participant G, 2019). Under the requirements of the Mining Charter, both the Minister and industry stakeholders must meaningfully engage with the communities affected by mining operations.

However, community organisations argued at times, neither the public nor the private sector effectively facilitated the community engagement process. One example can be found with the notice period and the expectations of community engagement under the MPRDA (African Mining Brief, 2020). Prior to community engagements, a notice must be sent out informing the affected parties that their support or concerns can be heard at a specified location(s). However, it is not stipulated how many of the media forms (radio, newspaper, television, etc.) must be used, nor the timeframe between when the information is received and when their response must be given. As a result, valuable community inputs are often missed, due to the ambiguous nature of community engagement requirements. Consequently, the courts ruled in favour of the pro-community interest coalition members, citing the need for communities to be more involved in events which directly impact them. Therefore, communities are now becoming even more integrated into the judicial review process of mining operations and the Mining Charter.

## **5.7 Conclusion**

This chapter has made use of the ACF as an analytical tool for determining how the development of the Mining Charter has been influenced by the interactions between the pro-transformation coalition, the pro-market efficiency coalition and the pro-community interest coalition. This was achieved by explaining the external factors which impact the overall mining industry, as mining operations are intricately connected to both the macro policies of the country, as well as the international commodity market. Then, the parameters which continue

to determine the content of the Mining Charter were identified, as they provide context for the Mining Charter and its relevance within the mining industry. Of the identified salient issues, interpretation, feasibility, along with the misalignment of policy objectives and policy outcomes, spanned across all coalitions. The majority of the interactions were a result of the coalitions making use of their coalition-dependant resources. Moreover, an overwhelming amount of the interactions were through the use of the formal legal authorities resource, especially the judiciary, and to a lesser extent the legislative branch.

The following chapter has the purpose of providing an overview of the research conducted around the Mining Charter, as well as reaffirming the research question has been addressed. The chapter will also provide recommendations for future research and provide some closing remarks on the importance of understanding how interactions between key stakeholders of a policy subsystem can ultimately shape its development.

## Chapter 6: Conclusion

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### 6.1 Introduction

This Chapter has the purpose of summarising the findings of the study. Findings will be related to the research question, reaffirming its aims, design and the application of the ACF as an analytical tool for explaining how stakeholder interactions have influenced the development of the Mining Charter. The research outcome will also be discussed, providing its relevance to the broader context of policy development in South Africa. Finally, recommendations for future research concerning the Mining Charter and the larger context of the South African mining industry will be provided.

### 6.2 Revisiting the Research Process

This study has focussed on the South African mining industry, regarding its Mining Charter. More specifically, the purpose of this research project was to determine how the interactions between key stakeholders of the mining industry have shaped the development of the Mining Charter. However, before this aspect is addressed, it is important to revisit the reviewed literature, the methodological process followed, along with the application of the ACF as an analytical tool. In addition, the contextualisation of the South African mining industry and the policies which impact the enforceability of the Mining Charter shall be revisited. Finally, the findings of this study will be discussed, as a way to emphasise the importance of the research question in understanding how interactions between stakeholders influence policy changes.

The literature review had the purpose of providing a contextual base for the South African mining industry as a whole, as this is where the Mining Charter operates. This was achieved by identifying three major themes of the literature regarding the industry, namely; the influencers of economic performance on the industry, the environmental and social impacts of mining operations and finally the theme of transformation and equity redistribution found in the industry. Engagement with these themes was essential, as it provided the basis on which all stakeholders position themselves in relation to the Mining Charter elements. The second section of the literature review introduced the ACF as the analytical tool, in order to understand

how the interactions of stakeholders and the utilisation of their respective resources has resulted in the development of the Mining Charter. This was done by first unpacking the key foundations of the framework and then making use of those which are relevant to the research question. As a result, additions to the framework over the years, including the coalition opportunity structures and the resources which coalitions of a policy subsystem have access to were discussed, due to their significance to the research question. Finally, prior applications of the ACF were discussed, especially those which were involved with natural resources, as this is where the mining industry's operations are derived. This provided further context, making analysis of the findings more approachable.

From this, a methodological process was developed to address the research question. A qualitative approach was determined to be the most appropriate, as it is the best option when analysing interactions between stakeholders. Due to the focus being on the Mining Charter and its stakeholder's interactions, a case study design was chosen, due to its strength when dealing with an exploratory research process. Semi-structured interviews were utilised, because the research question required the participant's subjective interpretation of the interviews' questions, meaning flexibility was required. Moreover, clarifications regarding a response were often needed, resulting in additional questions and subsequent answers, which are not permitted in structured interviews. Sampling was addressed, along with how the collected data was analysed, providing the 'skeleton' diagram that was used to guide the research process to align with the research question. Importantly, ethical considerations followed during the research process were also stated, in order to comply with the Research Ethics Committee of Stellenbosch University, while ensuring participant identities were protected throughout. Finally, the encountered challenges and limitations of the research were noted, in order to provide future researchers with information that may assist them in overcoming the issues in future research studies.

The above approach allowed for the effective answering of the research question. Interviews were designed to capture as much data as possible, from as many different sources where access was possible. This was achieved by targeting participants based on their association with a larger industry stakeholder and then discussing how they (and by extension their associated group) attempt to influence the development of the Mining Charter through their interactions. Issues of the policy were also discussed with the participants, as this provided the foundation

from which policy preferences of the coalitions could be identified, based on issues they decided to focus on.

Document analysis ended up being used far more extensively than anticipated, with the realisation that there were data gaps present, if secondary sources were not used. Therefore, it became apparent that the complex South African mining industry policy environment required an in-depth analysis, resulting in the addition of Chapter 4. This was done to understand the legislation that allows the Mining Charter to enforce compliance, even though it is a policy and therefore can be argued to have no legally binding obligations. Moreover, the issues of the Mining Charter were also identified, by working through all of the iterations (including the 2017 draft) and the compliance reports released by the DMR. This allowed for a clearer understanding of the Mining Charter itself, while also noting the issue of compliance over the development of the policy, from both the government's side, as well as mining companies.

Due to the complexity of the mining industry's policy environment, Chapter Four undertook the unpacking of the Acts which have shaped the Mining Charter. Relevant Acts were based on their role in the Mining Charter's enforceability on the industry, which included the Broad-Based Black Economic Empowerment, as well as the Mineral and Petroleum Resource Development Act. Then, the Mining Charter itself was unpacked by identifying its objectives and its core elements, while linking them to the issues which caused major contention between key stakeholders.

Chapter Five applied the ACF as an analytical tool to determine how stakeholders and their associated coalitions interact with one another, along with the identification of coalition-dependant resources. Before this occurred, the external events which impacted the mining industry and the relatively stable parameters of the South African political system were determined, as these factors greatly impacted how stakeholders interact with one another.

Without the application of the ACF and its concept of advocacy coalitions, tracking how interactions have developed the Mining Charter over the years would have been difficult, as a standardised process to analyse how key stakeholders interact with one another would not have been present. Consequently, three coalitions were identified; a pro-transformation coalition, a pro-market efficiency coalition and the relatively new pro-community interest coalition. In turn, through their interactions with one another, issues of the issue of the Mining

Charter became apparent. Six issues were identified, each of which impacts the respective coalitions differently. They consist of; the differing interpretations of the Mining Charter; the mining industry's compliance with the Mining Charter; policy uncertainty as a result of the Mining Charters amendments, the contradictions between the policy's objectives and its outcomes; the practicality of the Mining Charter's expectations on stakeholders; and the legality of the amendments of the original Mining Charter. By working through these issues, it became clear that coalitions responded differently to issues, depending on their policy preferences, which subsequently determined the development of the Mining Charter.

### **6.3 Discussion of the Research Outcome**

Taking the above into consideration, this section seeks to provide commentary on the research outcome and what these findings mean in the larger context of the Mining Charter and its relation to the South African mining industry. With this in mind, the research question for this study was;

*How have the interactions between key stakeholders in the mining industry shaped the development of the Mining Charter?*

With the use of the ACF as an analytical tool, six issues of contention that stakeholders have focussed on provide insight into how stakeholders view the Mining Charter, which incidentally influenced interactions that shaped the Mining Charter's development over the years. Interpretation of the Mining Charter was predominantly divided between the pro-transformation coalition and the pro-market efficiency coalition. These differing interpretations and subsequent positions on Mining Charter are based on the factors which drive their decision-making processes and their subsequent interactions. These include the purpose of the Mining Charter, as well as the mechanisms to be used to ensure the policy outcome is reached. Compliance within the South African mining industry is another issue which has driven the interactions and development of the Mining Charter, with the pro-transformation coalition using compliance as a measurement of policy success (or failure) and amending the content of the Mining Charter to account. Therefore, the pro-transformation coalition was determined as the dominant coalition in the policy subsystem, as it has sole control over the laws and regulations that all other coalitions must adhere to. This has resulted in higher levels of policy uncertainty, which caused a subsequent decline of investment, from both local and international

investors. Mining companies themselves were also at times responsible for non-compliance levels, due to a lack of communication with other stakeholders, such as those who are associated with the pro-community interest coalition, along with factors that were out of their control, including the lack of HDSA numbers required to reach overall industry compliance with the requirements of the Mining Charter.

In connection, there is evidence that there is a disconnect between the Mining Charter's objectives versus the policy's outcome. While the objectives of the Mining Charter is to ensure broad-based empowerment of HDSAs, this does not always occur. Instead, a small black elite has been created, who have amassed considerable wealth at the expense of the majority. Consequently, communities began to feel alienated from both government, as the formulator of the policy, and the mining companies, as the implementers of community development programmes. As a result, the pro-community interest coalition continued to gain relevance in the policy process and now interacts with the other key coalitions, instead of simply being a benefactor under the elements of the Mining Charter.

The practicalities of the Mining Charter were also considered, noting that certain targets are not feasible, as there is a lack of HDSAs to supply the industry as a whole. Finally, the legality of the Mining Charter amendments was unpacked, with the legal proceedings being one of the major ways in which the interactions of key stakeholders have shaped the development of the Mining Charter. If the current litigation regarding this is awarded in favour of the mining companies, major policy changes of the policy are to be expected. Alternatively, the DMR could continue contesting through litigation, should they believe they have a valid case. Community-interest coalitions have also effectively used the courts to become a more influential stakeholder in the mining industry, through their involvement the judiciary's decision-making processes.

The above-identified issues have considerable impacts for the future developments of the Mining Charter, as well as the prospects of the overall South African mining industry and are therefore worth unpacking. Foremost, meaningful interactions between key stakeholders are essential for a positive policy outcome. Interactions over the years between key stakeholders have been strained, due to their diverse policy preferences, derived from their respective views on how the Mining Charter should function under the broader context of the mining industry. Consequently, interactions between key stakeholders that share differing views have often

resulted in a negative policy outcome, causing more stringent Mining Charter requirements that do not benefit the industry overall. However, differing policy preferences are essential, especially in the context of the mining industry, as different perspectives and preferences allow for a greater representation of those who are directly impacted by the policy's objectives.

Therefore, there is a clear need for a shift from adversarial interactions, to more cooperative interactions amongst stakeholders. Mining stakeholders need to come to a consensus that the mining industry is a complex (but necessary) industry to implement an affirmative action policy, especially regarding employment and equity requirements. This stems from the historical nature of the mining industry, all the while being a highly capital-intensive industry, as well as its integrated nature to the international commodity cycle. In turn, this creates an industry that requires capitalist principles, such as efficiency, economies of scale and profitability, to operate at a globally competitive level. On the other hand, the industry's past strong global performance was a direct result of the exploitation of predominantly HDSA workers, amongst other factors, allowing for comparatively cheaper operational costs and subsequent higher returns. As a result, some level of policy intervention was required, hence the introduction of the original Mining Charter. Going forward, the Mining Charter will need to strike a balance between these two sides of the mining industry, if all stakeholders wish to ensure that mining remains an industry which will be able to deliver the requirements found under the Mining Charter. Sequentially, there is a greater chance that the industry will be sustainable in the long-term, while ensuring that meaningful socio-economic upliftment of HDSAs is achieved.

Second, policy uncertainty regarding the Mining Charter needs to be removed, or at the least mitigated as much as possible, to improve the prospects of the industry as a mechanism of socio-economic redistribution, while retaining its position as a source of economic wealth. While the most recent Mining Charter has brought the policy closer to this objective, uncertainty remains, especially regarding the chance of further changes to the Mining Charter. Long-term investment planning is needed when determining if a new mining operation is fiscally feasible, as large capital investments are required, with profits often only occurring several years after the mine has become operational. However, due to the increasing requirements of the Mining Charter, as well as the relatively short timeframe that the iterations of the policy have been released, it has been challenging for investors to commit to a project when they do not know the degree to which certain factors will impact the feasibility of its

investment in the long run. Therefore, the Mining Charter needs to have a fixed time period that the current requirements are enforceable for. Additionally, serious consideration must be given regarding the feasibility of further increases in the Mining Charters requirements, as this would likely cause negative interactions between stakeholders and create further policy contestation. Such a statement is justified if the 2017 Mining Charter draft is taken as an indicator of the industry's ability to meet the expectations of the policy and the industry's attractiveness to prospective investors.

## **6.4 Recommendations for Future Research**

Through the process and findings of the research conducted, recommendations can be made regarding potential future research. Foremost, the increased participation of communities in the Mining Charter policy process is an area where the academic literature can be expanded. This is not to be misconstrued with research conducted on the impact of mining operations on communities. Instead, future research on communities should focus on how they are now a major actor which mining companies require direct consent from, in addition to the requirements of the Mining Charter. This will also further the application of the ACF as an analytical tool, as the findings can be related to the framework's focus on coalitions competing for policy dominance.

A further recommendation on future research regarding the Mining Charter would be the need to produce an account on the development of the perceptions stakeholders hold of one another. Although this study briefly addressed this, it did not do justice to the impact perceptions can have on stakeholder decision making processes. Perceptions play a major role in how stakeholders interacted with one another in this study. Unfortunately, due to the scope of the research question focussing on interactions, analysing this aspect was not appropriate.

Finally, a longitudinal study regarding the impact Mining Charter has on investment flows is worth consideration. This would require a quantitative approach, where the researcher would have to correlate the release of a drafted amendment of the Mining Charter and measure the increase or decrease of investment into the industry as a result. This would then be used, while accounting for other variables (along with those discussed in the externalities) to identify which changes within the Mining Charter had the most significant impact over the years.

## 6.5 Conclusion

This study has delved into the South African mining industry policy environment. More specifically, it set out to explore how interactions between key stakeholders in the South African mining industry have shaped the development of the Mining Charter over the years. It was determined that three primary coalitions are actively engaging within the Mining Charter policy process, in an attempt to influence or contest a policy formulation. Coalitions' decision making and resulting interactions were primarily based on their policy preferences, which were derived from their beliefs in how the industry should function to best serve their respective needs.

Ultimately, the Mining Charter can be seen as a contentious policy, even though it is meant to be produced through cooperation and consensus between the key stakeholders of the industry, mitigating this risk. However, the lack of meaningful communication between stakeholders has led to coalitions using their available resource to influence the development of the Mining Charter, often resulting in policy outcomes that are not beneficial to any coalition in the long run.

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## **Primary Data: Participants**

Participant A. Lawyer specialising in mineral policy. 24 May 2019. Semistructured interview at a hotel.

Participant B. Mineral focussed corporate advisor. 14 March 2019. Semistructured interview at their offices.

Participant C. Private think tank researcher with mineral interests. 19 March 2019. Semistructured interview at their offices.

Participant D. Mineral focussed corporate advisor. 19 March 2019. Semistructured interview at their offices.

Participant E. Mineral focussed corporate advisor. 14 March 2019. Semistructured interview at their offices.

Participant F. Private think tank researcher with mineral interests. 13 March 2019. Semistructured interview at their offices.

Participant G. Independent policy expert who specializes in the risks of the Southern African mining industry. 18 March 2019. Semistructured interview at a coffee shop.

Participant H. A representative for the mining companies. 15 March 2019. Semistructured interview at their offices.

Participant I. A government official involved in the mining industry. 15 March 2019. Semistructured interview at their offices.