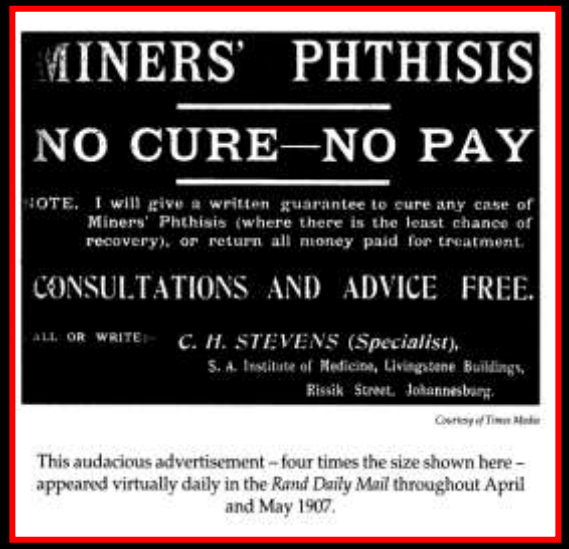
Compensation for Occupational Diseases in South Africa

Barry Kistnasamy

Overview

- Context
- Compensation
- Way forward

1907


MINERS' PHTHISIS

NO CURE—NO PAY

NOTE. I will give a written guarantee to cure any case of Miners' Phthisis (where there is the least chance of recovery), or return all money paid for treatment.

CONSULTATIONS AND ADVICE FREE.

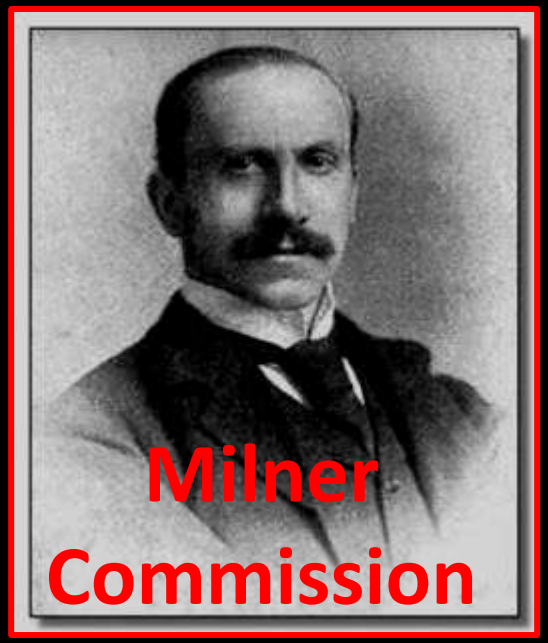
CALL OR WRITE:— C. H. STEVENS (Specialist),
S. A. Institute of Medicine, Livingstone Buildings,
Rissik Street, Johannesburg.

Courtesy of Times Media

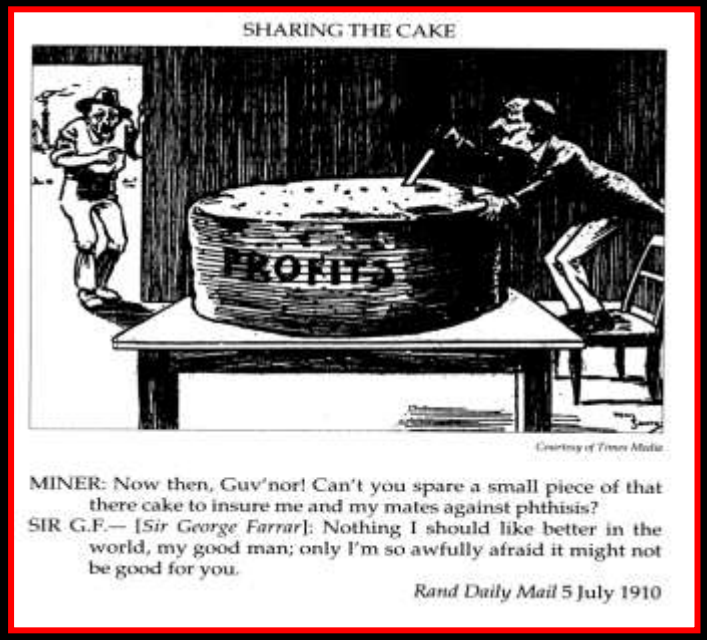
This audacious advertisement – four times the size shown here – appeared virtually daily in the *Rand Daily Mail* throughout April and May 1907.

Miners' Phthisis Act 19 of 1912

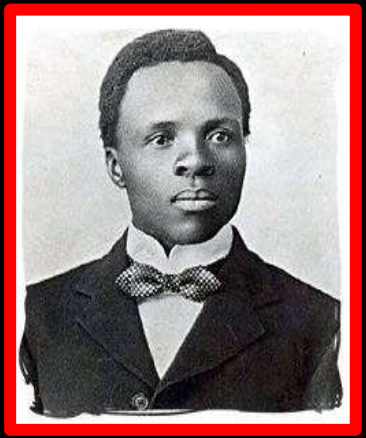
1912



1902 - 3



1910



About a hundred years ago…

"Two hundred thousand subterranean heroes who, by day and by night, for a mere pittance, lay down their lives to the familiar 'fall of rock' and who, at deep levels, ranging from 1,000 to 3,000 feet in the bowels of the earth, sacrifice their lungs to the rock dust which develops **miners' phthisis** and pneumonia."

Sol Plaatje, first Secretary General of the African National Congress, describing the lives of miners in 1914

Delegates to the first International Silicosis Conference in Johannesburg in 1930, photographed outside the Institute. From the SAIMR were Sir Spencer Lister (front row, third from left), Dr A Macrogerdato (second row, extreme left), Dr I Simson (back row, third from left), and Dr A S Strachan (fifth from left). Dr E H Cluver, a later director of the Institute, is in the middle row on the right.

1930

International Silicosis Conference

1959

AJ Orenstein's pioneering work on dust (NIOH)

Contestation

Cape PLC Asbestos settlement

2003

Mr Thembekile Mankayi versus AngloGold Ashanti

2011

Chamber of Mines versus Compensation Commissioner & Dept of Health

2012

AngloAmerican

Silicosis claims settlement

2013

The Labour Market in South Africa

- Dualistic
  - Formal / Informal
  - Urban / Rural
  - Modern / Traditional
  - Organised / Unorganised

ILO, 2011

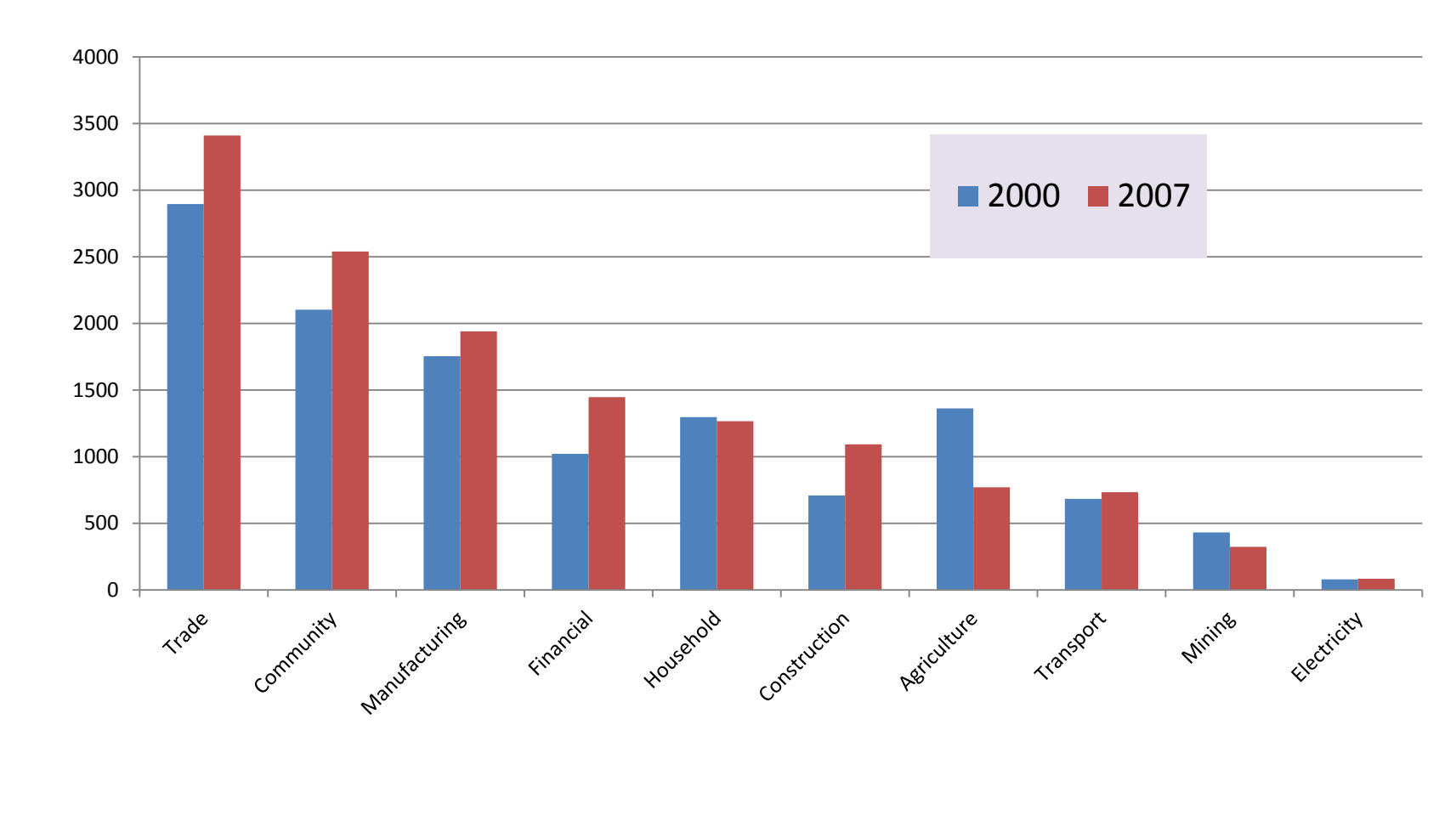
The Labour Market in South Africa

- High unemployment but limited informal employment
- 17m work (53 m people)
- 4.1 m in the informal sector (50:50 gender split) – 34% of the labour force

Heinz & Posel, 2008; Valodia, 2007

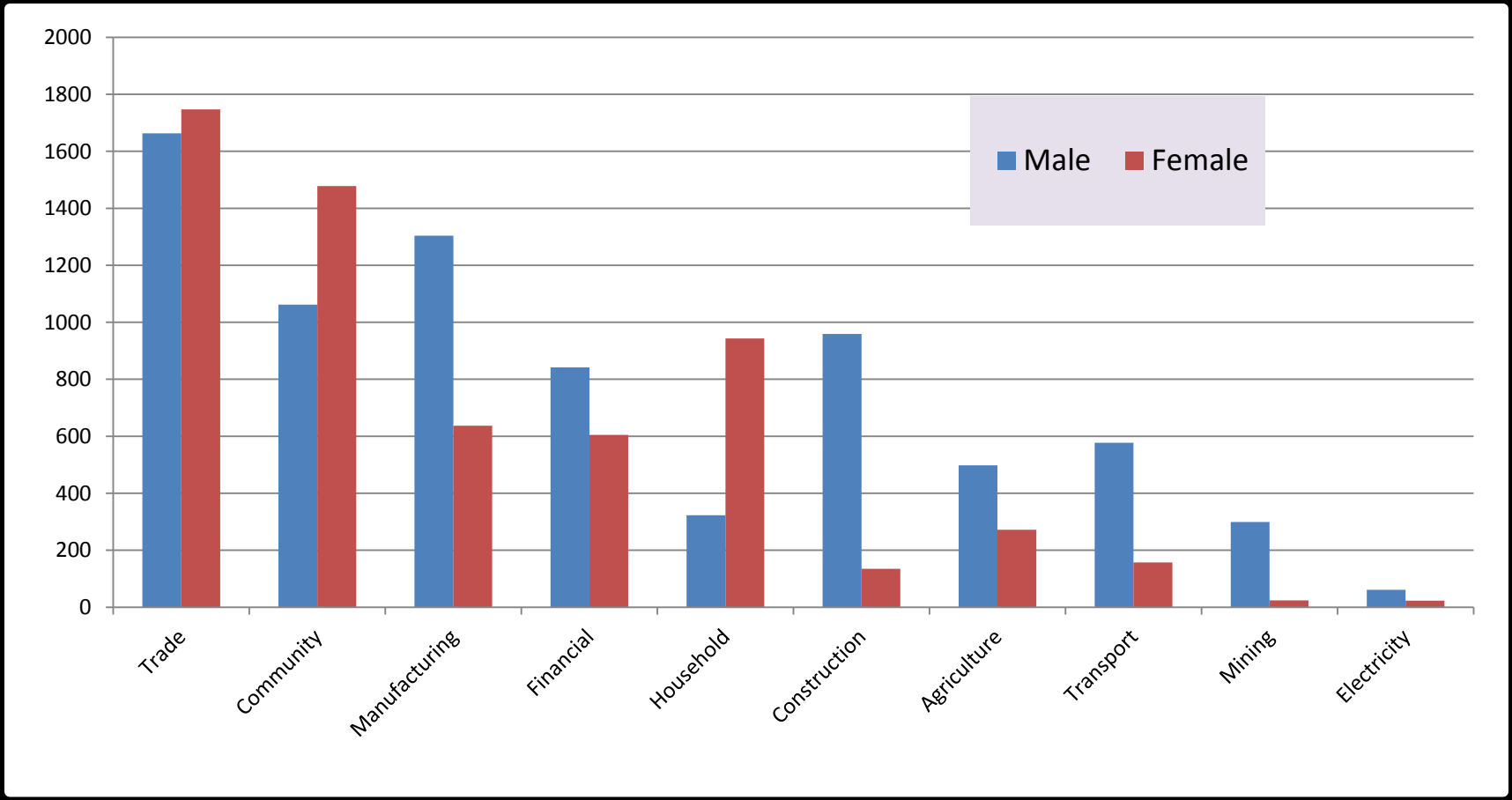
The Informal Sector

Workers per Employment Sector ('000)



Labour Force Survey. Statistics South Africa, 2008

Gender Distribution of Workers



Labour Force Survey. Statistics South Africa, 2008

Migrant Mine Workers in South Africa

Year	RSA	Mozambique	Lesotho	Swaziland	% Non-RSA
1920	74 452	77 921	10 439	3 449	57
1940	178 708	74 883	52 044	7 152	49
1960	141 406	101 733	48 824	6 623	62
1980	233 055	39 636	96 308	5 050	44
1995	122 562	55 140	87 935	15 304	58
2000	99 575	57 034	58 224	9 360	57
2010*	152 486	35 782	35 179	5 009	34

* Data from TEBA

Diagnosis

- Problem
  - Governance of the Compensation Fund
  - Claims management and Turn-Around-Times unsatisfactory
  - Poor service delivery
  - Inadequate infrastructure (buildings, IT, personnel)
  - Sustainability of the Fund
- Paradox - different compensation systems (mining and non-mining sectors); exclusions
- Pressure – multiple fronts
- Potential for change
- Promise ....

Workers' Compensation in South Africa

	Occupational Diseases in Mines & Works Act , 1973	Compensation for Occupational Injuries and Diseases Act, 1993
Administration	Department of Health	Department of Labour; Rand Mutual (RMA) & Federated Employers (FEMA)
Coverage	Mine workers for lung diseases only	All workers in formal economy for injuries and diseases except mine workers under ODMWA
Funding	Levies on employers (risk-rated through Risk committee) – 246 mines & works	Levies on employers (risk-rated on claims record) – 400 000 employers
Organisation	Office in Johannesburg (Braamfontein) – CCOD, MBOD & NIOH (service delivery)	Offices in Pretoria with some decentralisation through Department of Labour regional offices; Rand Mutual and Federated Employees with some decentralised offices

Workers' Compensation Laws

- Compensation for Occupational Injuries and Diseases Act, 1993 (COIDA)
  - Fund Value USD 4b
- Occupational Diseases in Mines and Works Act, 1973 (ODMWA)
  - Fund Value USD 2.4m

Problems and Issues

- Difficulties in estimating numbers of workers and former workers
  - Turnover, movement between countries and companies, retrenchments
- Tracking and tracing
- Labour history
- No surveillance system

Occupational Ill-health

- hard to find data on occupational injuries & diseases in South Africa
- if found, the data is difficult to interpret as it is mainly INCIDENCE data (cannot link the data to rates)
- data is sitting in databases in different departments & agencies

Occupational Injuries

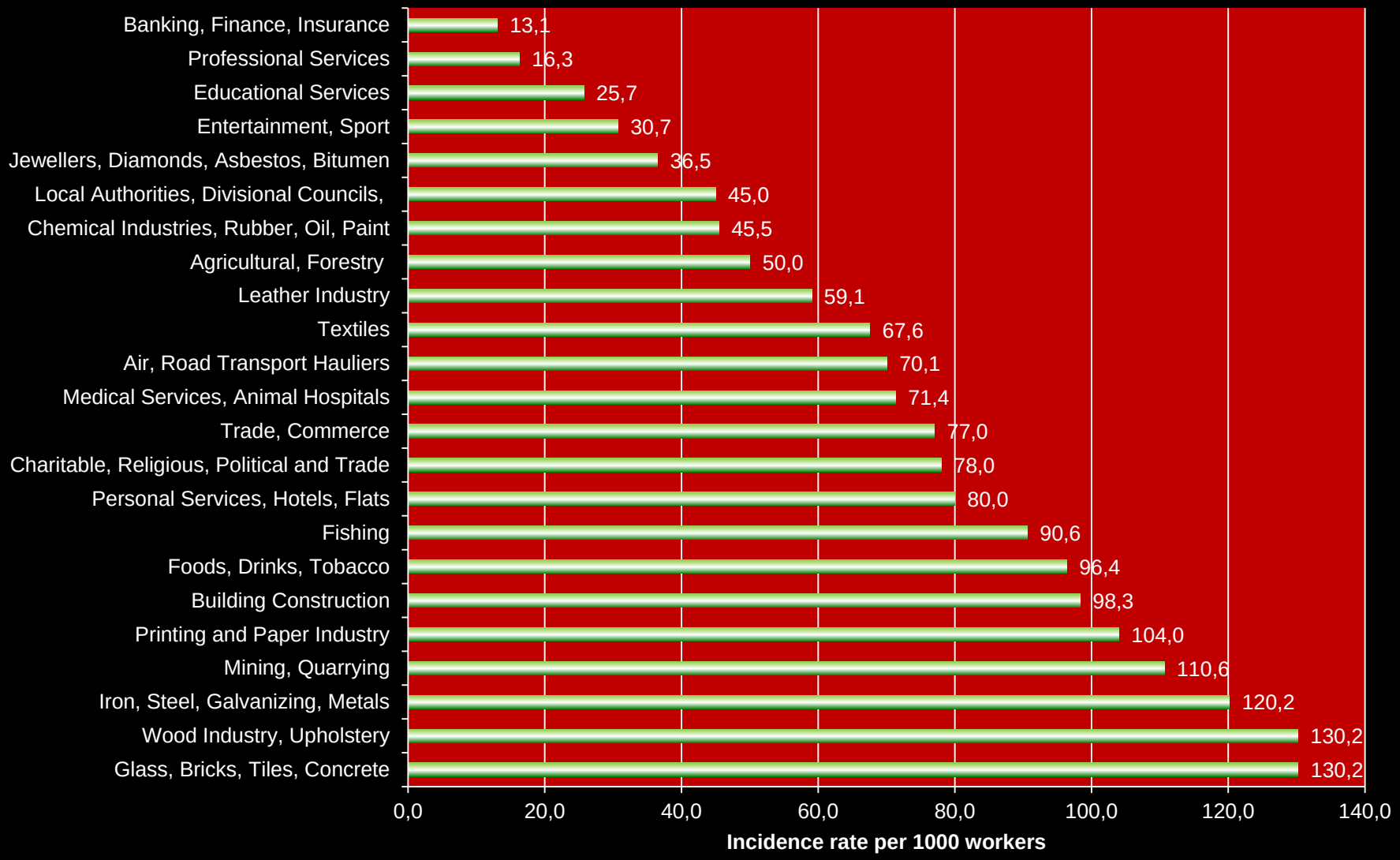
- Abrupt break in …

AGENT – HOST – ENVIRONMENT

balance

- Cause established

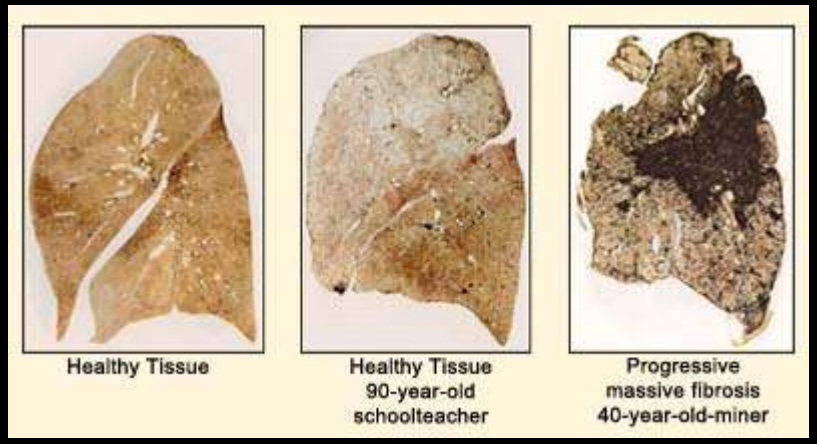
DoL Compensation Fund (2009)



Wilson K. NIOH. 2012

Occupational Diseases

- Not diagnosed / mis diagnosed
- Lack of knowledge
- Masked by other diseases
- Long lag time
- Need special investigations
- Difficult to find cause
- Under-reporting



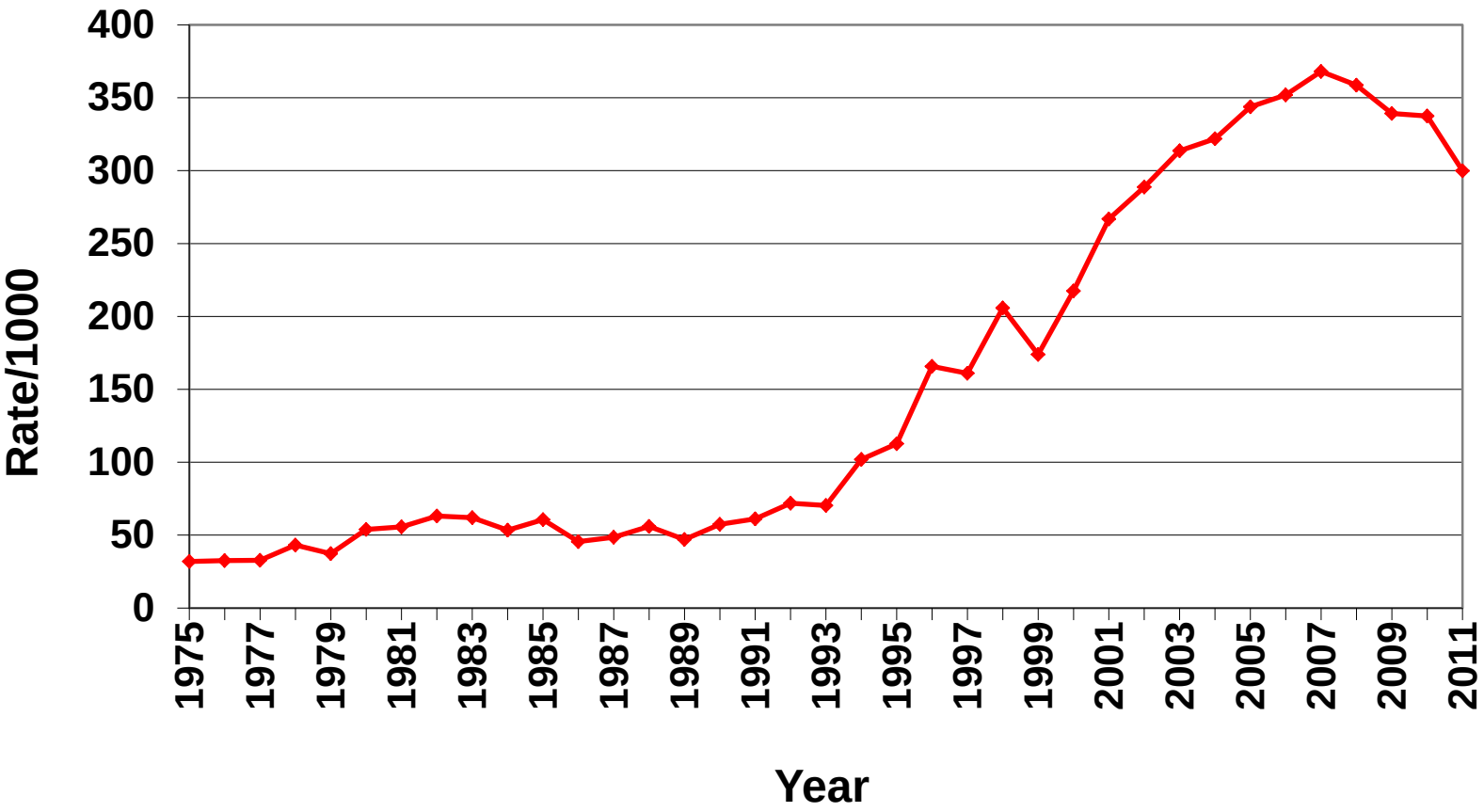
Under-reporting

	1999	2000	2001	2002	Total
Cases reported to Cancer Registry	202	216	184	164	766
Cancer Registry cases of Occupational exposure (80%)	162	173	147	131	613
Number submitted for compensation					
• COIDA	33	21	15	24	93
• ODMWA	29	27	11	7	74
Number compensated					
• COIDA	7	16	23	19	65
• ODMWA	27	11	x	x	38
% of compensated cases to NCR Occupational cases	21%	16%	16%	15%	17%

Noise Induced Hearing Loss

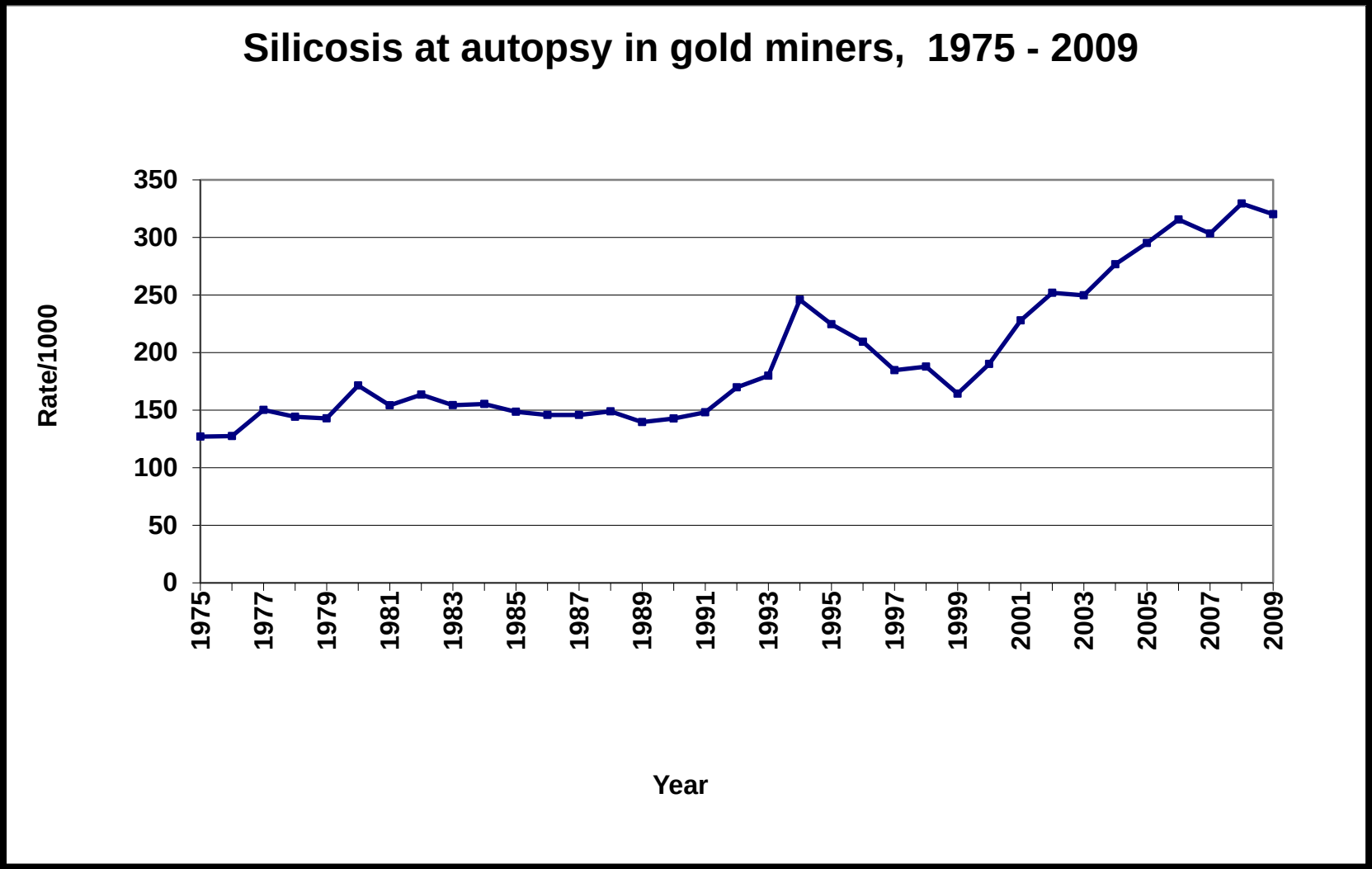
Year	Submissions for NIHL (Non-Mining)	Employees	Rate per 10 000 full time workers
2001	1465	7 689 000	1.91
2002	1952	7 975 000	2.45
2003	2549	8 124 000	3.14
2004	2724	8 394 000	3.25
2005	1823	8 684 000	2.10
2006	1276	9 149 000	1.40

Active pulmonary tuberculosis in Black miners at autopsy, all commodities, 1975-2011



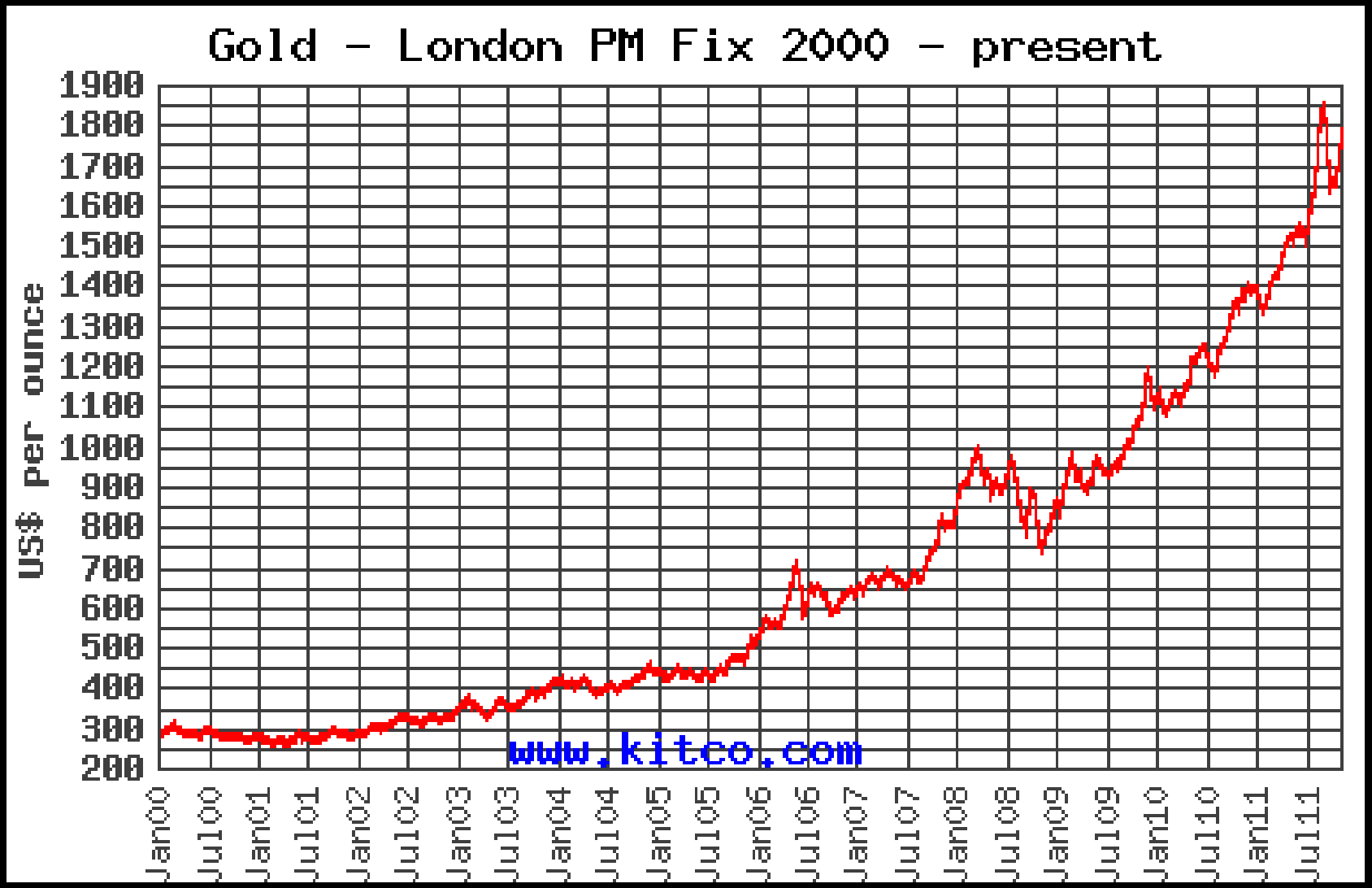
Data source: PATHAUT database, 21 January 2013

Pathology Division, National Institute for Occupational Health, Johannesburg

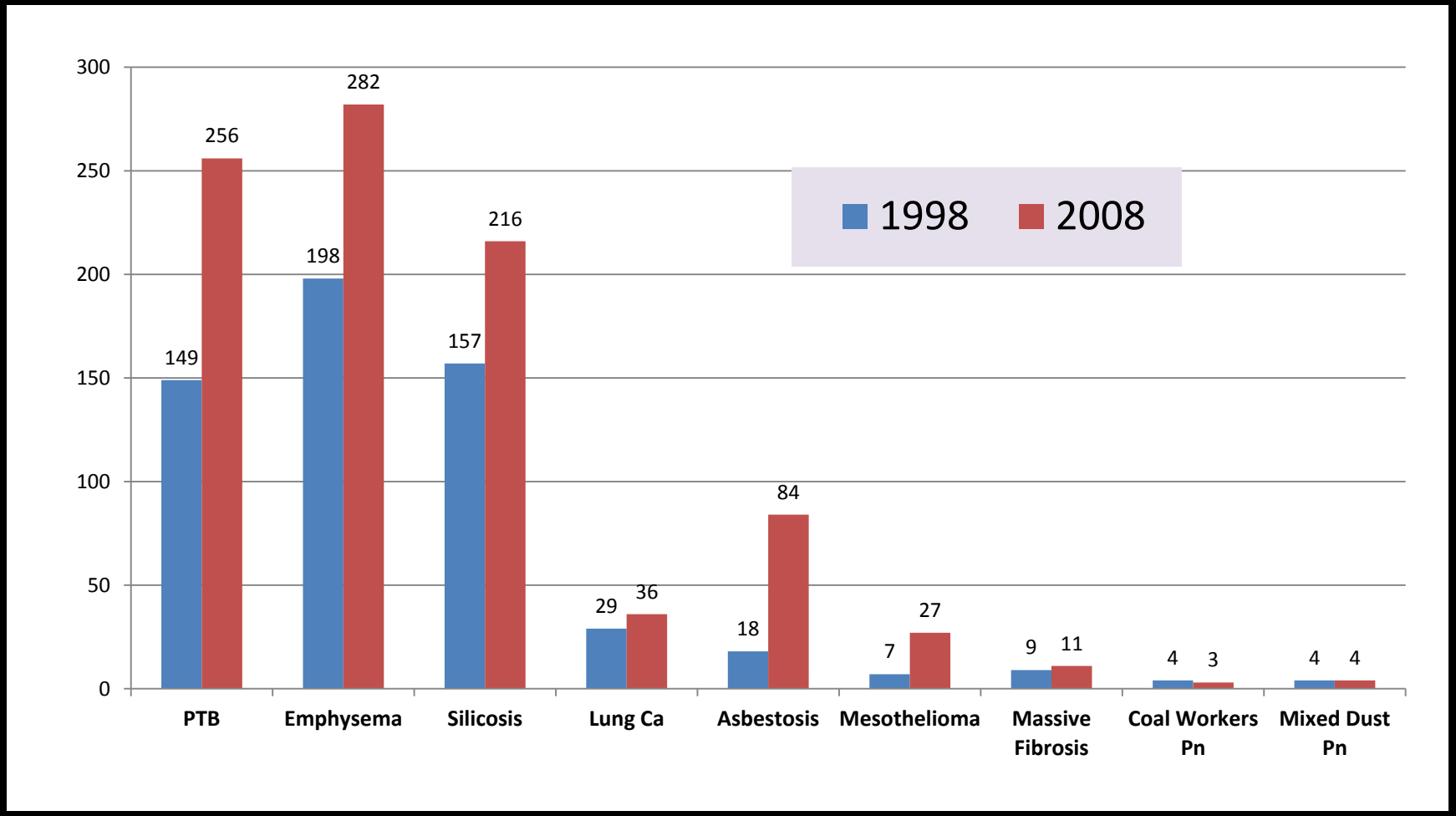


Nelson et al. Three decades of silicosis: disease trends at autopsy in South African gold miners. Environ Health Perspect. 2010

Gold Price (2000 – current)



Disease Rates per 1000 autopsies



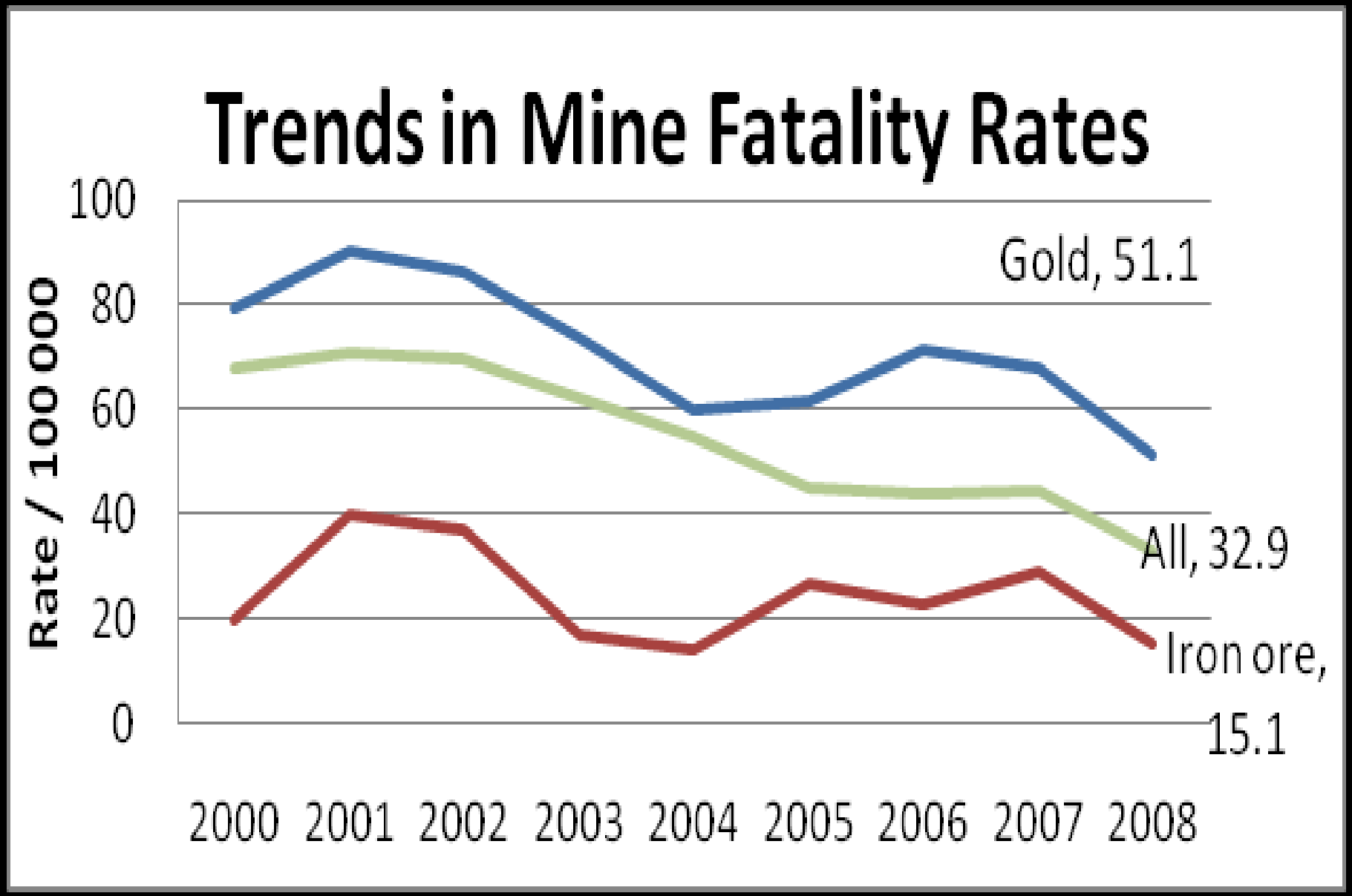
Pathaut: 1998, 2008

Occupational Exposure Limits for Silica

Country / Province#	OEL (mg / m^3)
Argentina	0.05
#British Columbia	0.025
Chile	0.04
Ireland	0.05
Italy	0.05
Japan	0.03
Portugal	0.05
USA - ACGIH*	0.025
USA - NIOSH*	0.05

*Advisory organisation

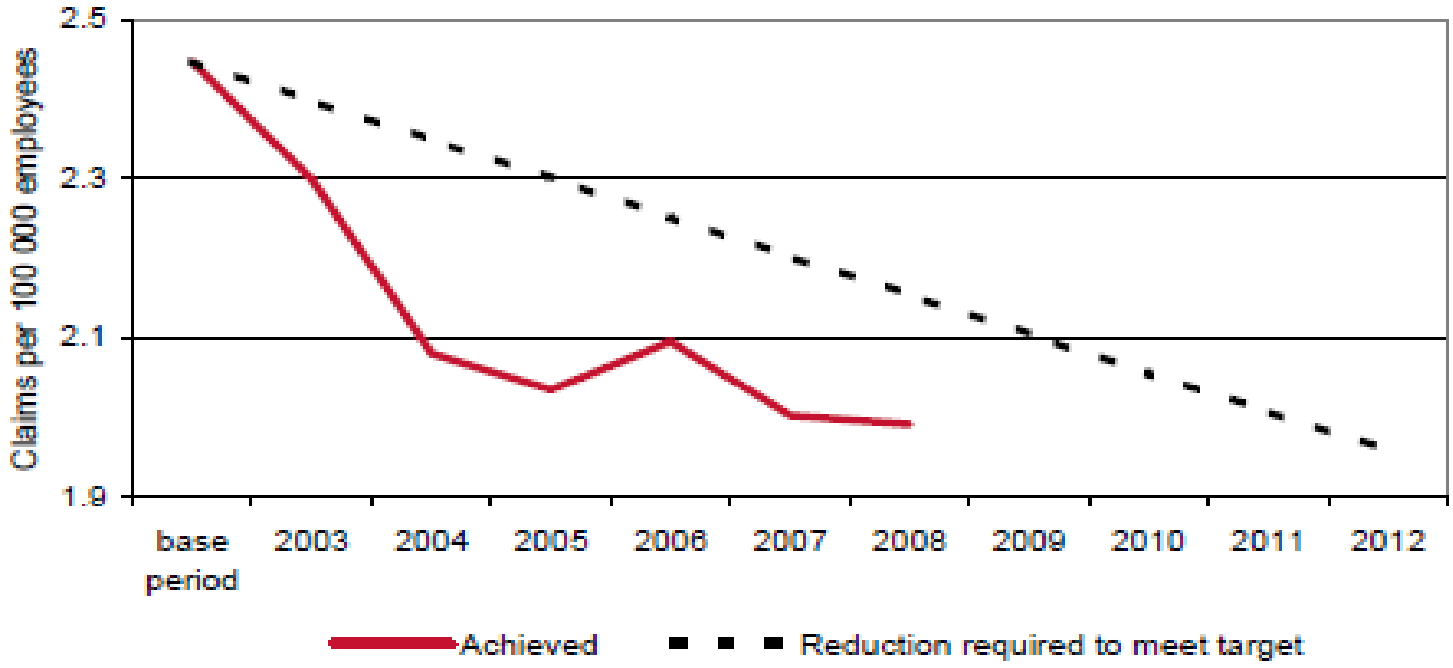
Source: Maciejeska A. 2008. *Int J of Occ Med & Env Health 21 (1): 1-23*



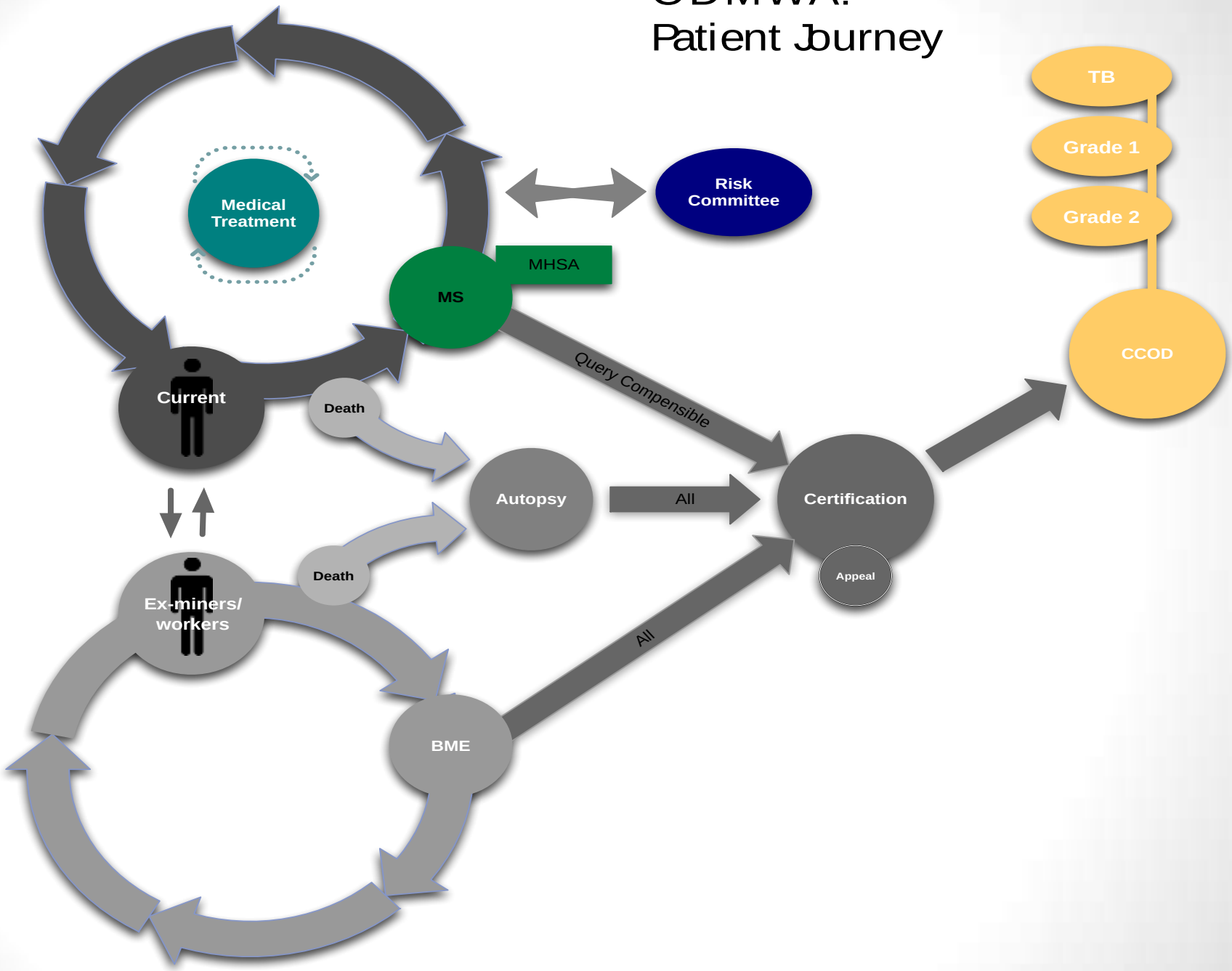
Wilson K. NIOH. 2011

Safe Work, Australia. 2010

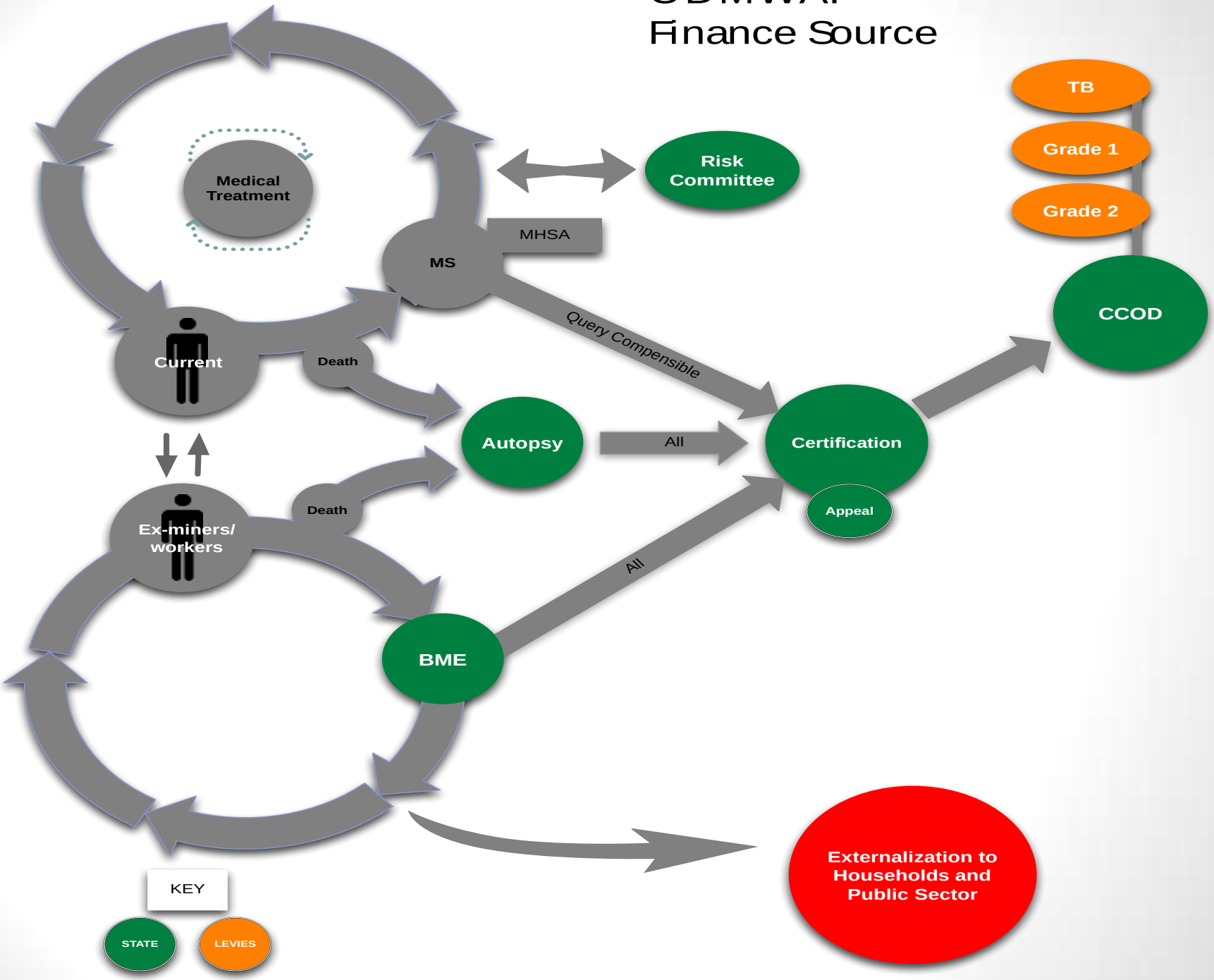
Figure 2 Incidence of fatalities: achieved versus reduction required to meet target



ODMWA: Patient Journey



ODMWA: Finance Source



IT'S NEVER TOO LATE!

Reform of Compensation System for Workers and Ex-Workers

Workers Compensation

- Phase 1
  - Policy & legislative changes (alignment of compensation systems) towards an enhanced social protection system
  - One stop service delivery

One – Stop Service Framework

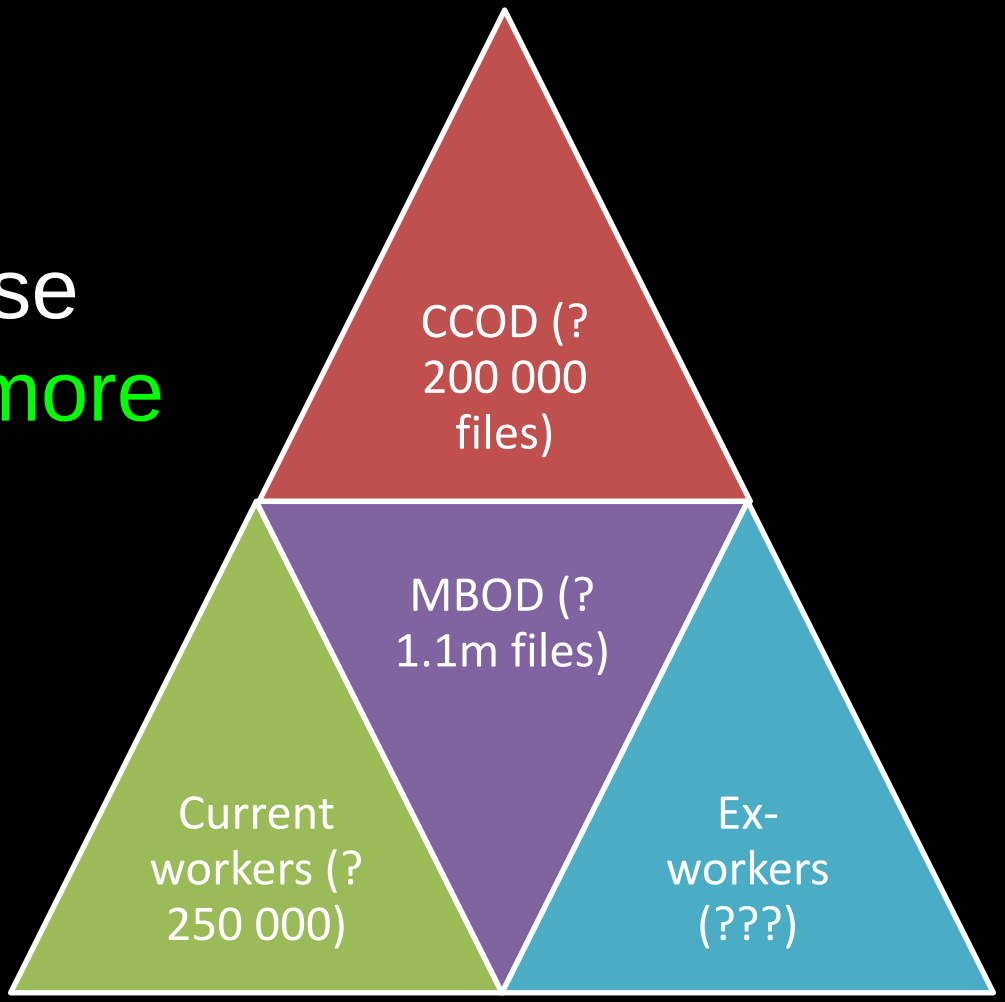
- Health Services
  - Benefit medical examinations
  - Rehabilitation assessment & services
- Health Promotion
  - Primary Health Care support
- Social Services
  - Social Development
  - Counselling
- Financial Services
  - Compensation
  - UIF, pension & provident funds

Workers Compensation

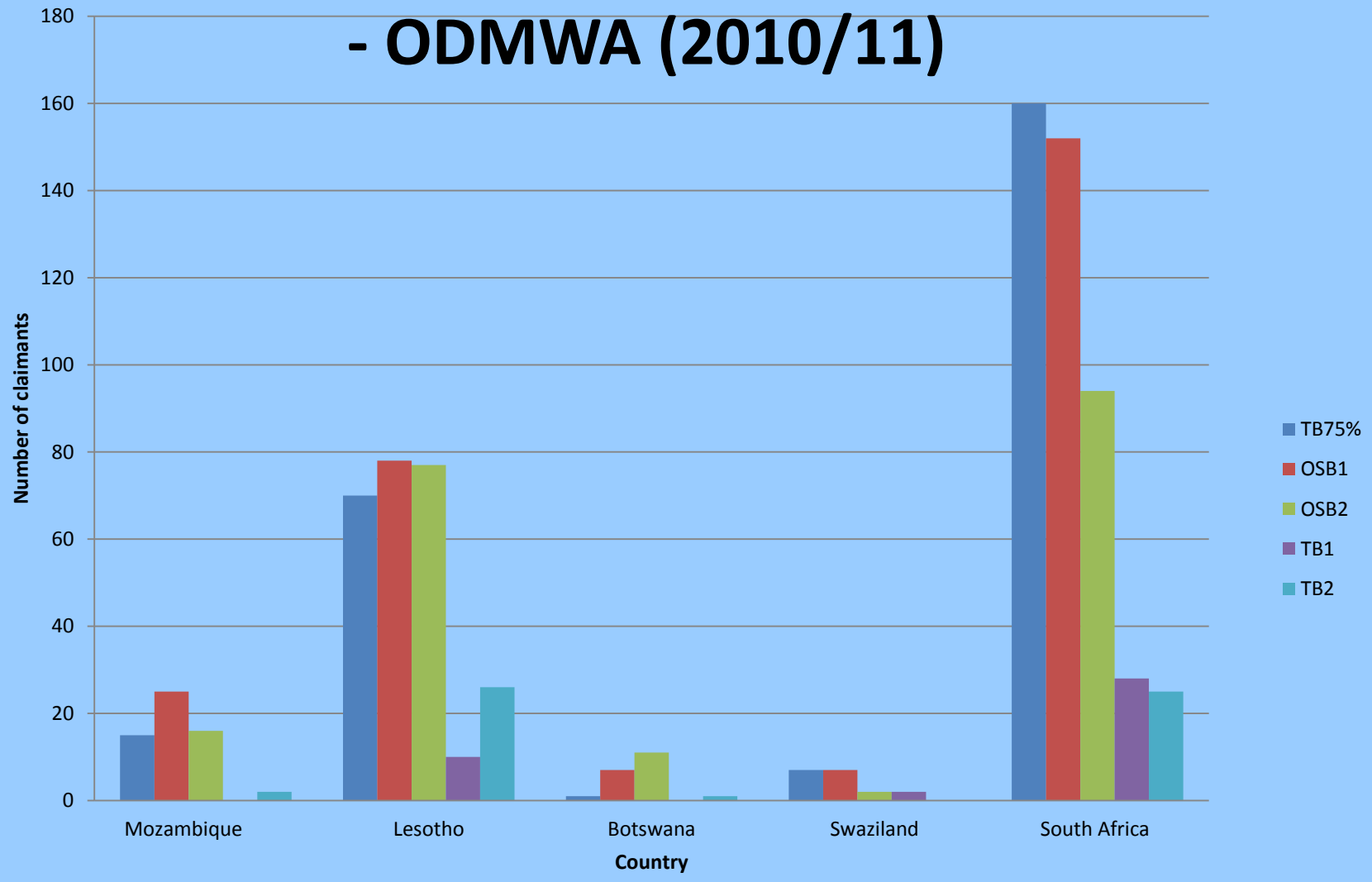
- Effective and efficient compensation system
  - Clear backlogs
  - Improve Turn-Around-Times (claims certification, processing & payments)
  - Ensure financial sustainability of the Fund
  - Decentralised services (labour sending areas inside and outside South Africa)

Actuarial Valuation

- Proper registry
- Depends on base
- Depends on disease process (latency, more than 1 disease)



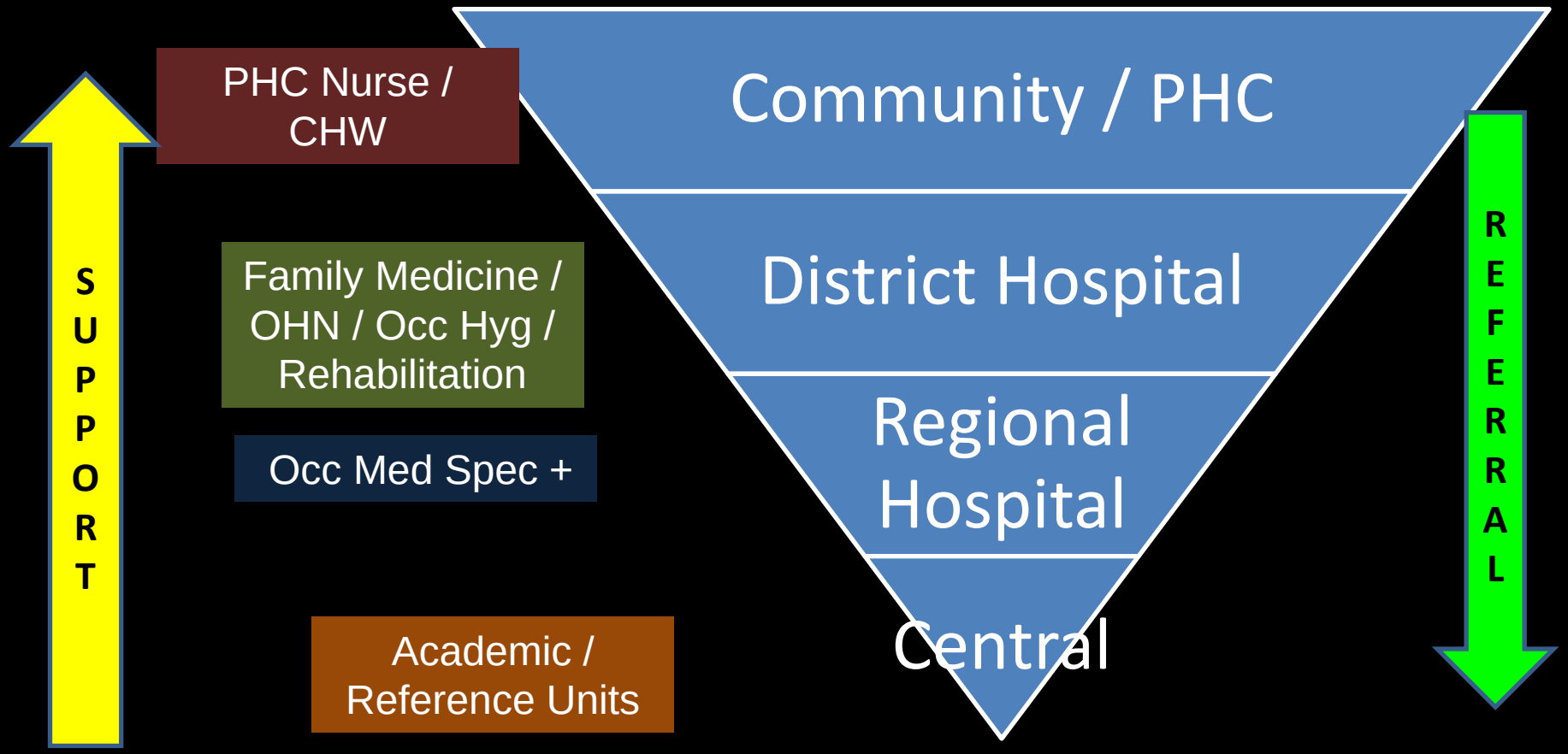
Disease Type and Claimants by Country - ODMWA (2010/11)



Claims Data - COIDA

	Compensation (USD million)	Medical expenses (USD million)	Average number of employees	Compensation payments per 10 000 workers (USD)	Medical expenses paid per 10 000 workers (USD)
1999/00	44	677	4 385 858	9 941	1 543
2000/01	42	663	4 290 964	9 811	1 545
2001/ 02	41	790	4 245 562	9 586	1 860
2002/03	47	1 205	5 075 889	9 279	2 373
2003/04	49	1 154	5 974 879	8 251	1 931
2004/05	60	1 030	6 334 221	9 535	1 626
2005/ 06	65	1 311	7 117 491	9 146	1 841
2006/07	66	1 415	7 696 193	8 510	1 838
2007/08	65	1 294	7 949 000	8202	1 627

Compensation within OH Service Model



Delivery of Services

Challenges include

- Financial flows
- Cross-border transfers of funds
- Crime and corruption
- Moral hazard
- Costs of service delivery

Human Resources & Infrastructure

- Service delivery
  - Health professionals
  - Claims management
  - Access to services
- Fund management
  - Revenue
  - Expenditure
  - Valuation
- Infrastructure
  - Information technology
  - Facilities & Health Technology

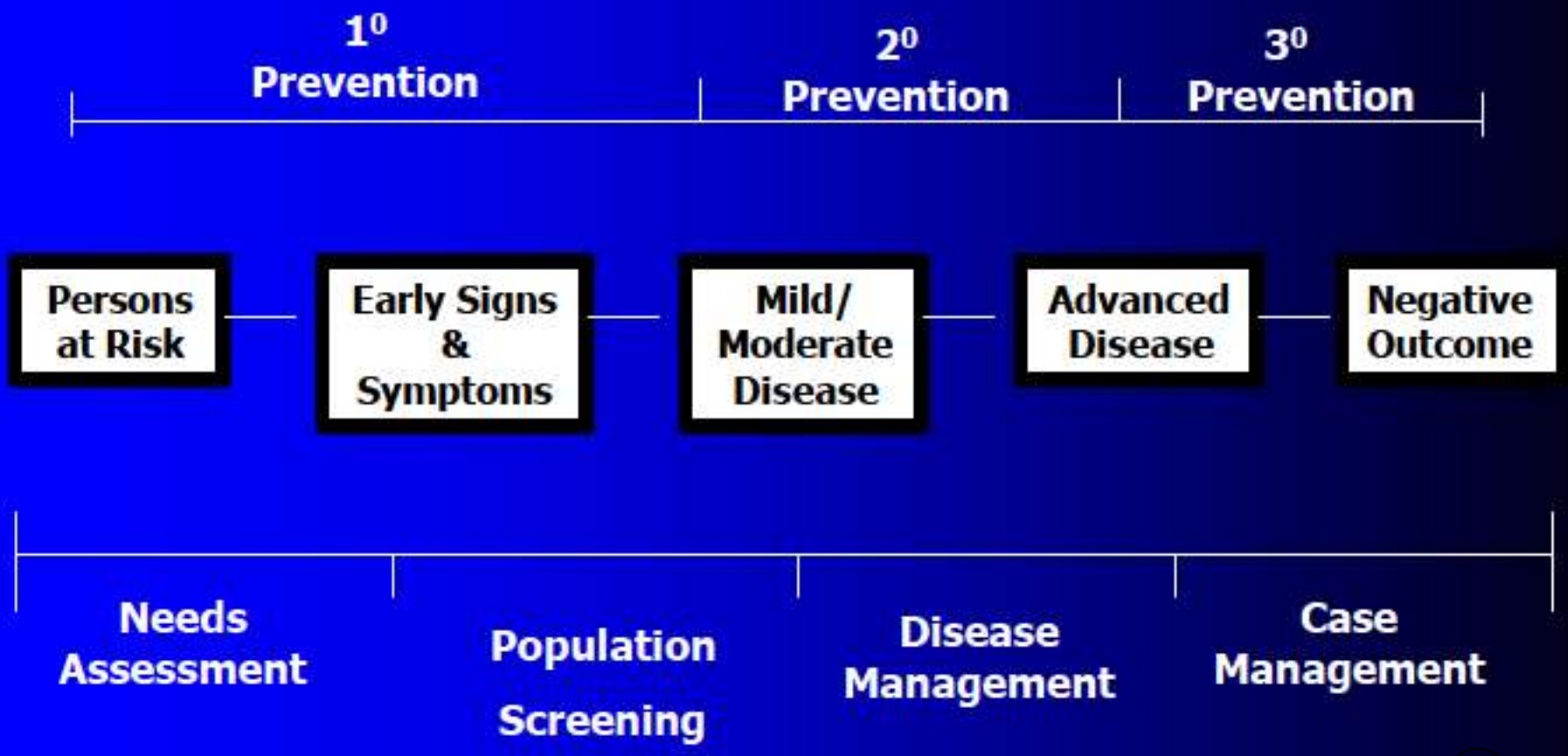
Service Delivery Challenges

- Untrained health professionals
- Curative focus
- Fragmented service delivery
- Little or no quality assurance (radiology, audiology, spirometry, laboratory, rehabilitation)
- Dumping syndrome / Referral system

Delivery of Services

- Financial literacy with cash transfers
- Socio-developmental projects in labour sending areas
- Sustainability of services

Disease Stage, Prevention, and The Care Management Process



Weiner JP. 2003

Enforcement

- Inspectorate
- Capacity building
  - Workers
  - Joint inspections
- Feedback from surveillance system

Together we can!

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HSE, 2005