

POLICY BRIEF

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BEE: An opportunity to build a productive, inclusive and competitive economy

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EXECUTIVE SUMMARY

The Broad-Based Black Economic Empowerment (B-BBEE) policy is the most significant attempt to transform capital ownership and economic participation in South Africa. However, it has not resulted in large-scale, broad-based and widespread economic participation of black people.

The next phase of B-BBEE will require a shift in paradigm and a commitment from government to use the levers available. These include the Department of Trade and Competition's Black Industrialist Programme, which should focus on supporting new industries and sectors with high potential growth; the scrapping of "rents" granted to incumbents especially in the manufacturing sector, which undermine competition and inclusion; the establishment of an Agricultural Development Fund, to unlock agro-investment and support land beneficiaries; and using state-owned entities to develop economic interests in upstream industries. In addition, the way in which empowerment is measured needs to be standardised across sectors and companies (not only the JSE-listed companies).

Black empowerment should be the overarching principle of government's policies and viewed as cross-cutting, not limited to affirmative action or preferential procurement. It is an opportunity to build productive new economic interests, enabling black-owned businesses to enter and expand their operations, and will result in a more efficient, productive and competitive economy.



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INTRODUCTION

Nearly 30 years after the dawn of democracy, South Africa's economy has not transformed. It remains plagued by extreme levels of racial inequality, with management control and decision-making dominated by the white minority, highly concentrated corporate structures and suppressed growth of small black businesses. These are the consequences of a system built on centuries of dispossession and discrimination and further exacerbated by the historical injustices that are yet to be addressed.

Of all the post-apartheid policies and regulations, the Broad-Based Black Economic Empowerment (B-BBEE) policy is by far the most significant attempt to transform the ownership of capital and increase economic participation. B-BBEE was created with the intention of addressing the racial economic disparities and increasing economic participation, using tools, such as "codes", "set-aside", "levies" and "scorecards", which are aimed at measuring behaviour and demographic change. However, these tools have become political, had a negative impact on progress and resulted in a sense of hopelessness and distrust that B-BBEE will make any significant difference.

Black empowerment places economic power, racial redress and asset ownership at its centre, and exists alongside employment equity and other measures of preferential access to skills, procurement and enterprise support. However, it has not resulted in large-scale, broad-based and widespread economic participation of black people in South Africa. To overcome the persistent challenges and advance the objectives of equity and redress, the next phase of B-BBEE will require a shift in paradigm and a commitment from government to use the levers available. The evolution of the BEE policy is an opportunity to build productive new economic interests and relationships focused on structural change and transformation. If South Africa's economy is to become efficient, productive and competitive, it must transform through widening the scope of empowerment, to enable black-owned businesses to enter, participate and expand their operations in key product and service markets.

THE EVOLUTION OF BLACK ECONOMIC EMPOWERMENT

South Africa's transition to democracy was defined by an implicit bargain between the African National Congress (ANC) and large corporates, of "capital reform" in return for macroeconomic stability and open capital markets. In many ways, the first phase of BEE was a continuation of the apartheid-era paternalistic empowerment approach, using essentially the same mechanisms and capital structure that relied on loan financing from white firms and (in some cases) from government.

With the advent of democracy, BEE focused on transferring existing economic interests in white firms to black owners rather than on creating new economic interests. This was similar to the transfer of trading stores from white to black owners in the homelands but

with one difference: in the 1990s, the transfer of ownership was a key element of the corporate restructuring, not just a marginal matter somewhere in the countryside. State-owned enterprises and conglomerates were restructured through various deals, which led to the emergence of black-owned consortiums and the transfer of wealth to a small, politically connected elite. While transferring equity to “strategic investors” might have succeeded in creating a class of black rentiers with valuable financial assets, it did little to ensure that capital ownership reflects the demographics. BEE created an elite black middle class but did not confront the powerful corporate interests, especially in mining, agriculture and finance, or create new economic interests for the previously disadvantaged. For many, this narrow approach seemed like an attempt to create a “comprador bourgeoisie” that would shield white economic power from a radical programme of transformation.

The weaknesses of the first wave of BEE led to an attempt to recast BEE as B-BBEE, which was accepted by the African National Congress (ANC) and the BEE Commission. The bitter reality of the disappointment over the “narrow BEE” created a shift towards the idea of creating black industrialists, and the B-BBEE legislation and regulations sought to foreground the broadening of economic participation, rather than the demographics of ownership. The focus was on creating new economic interests through forming enterprises, acquiring skills, deconcentrating key markets and confronting apartheid wage gaps. Other forms of corporate structuring included skills development, affirmative action, supplier development and employee participation, and the transfer of ownership included community participation and worker ownership. Yet despite the advances made to broaden black economic empowerment, the ownership and management control in many economic sectors remain untransformed, and few new economic interests have been created.



THE FOCUS WAS ON CREATING NEW ECONOMIC INTERESTS THROUGH FORMING ENTERPRISES, ACQUIRING SKILLS, DECONCENTRATING KEY MARKETS AND CONFRONTING APARTHEID WAGE GAPS.



THE SHORTCOMINGS OF B-BBEE

Part of the problem with black empowerment in South Africa is the various and contested meanings of BEE and the perceived – and real – lack of a common BEE programme between the state and different fractions of capital and citizenry. Features of earlier colonial and homeland examples of black empowerment remain, including the acquisition of stakes in target firms, the role of developmental finance institutions to facilitate empowerment, and the dominance of existing actors in many sectors. The shortcomings include:

- Significant transformation gaps in the unlisted private sector space, mandated investments and other areas of the economy outside the regulated and listed arena. For example, only 25 of the companies in the JSE Top 50 had black ownership at the level of the listed company, although some undertook BEE transactions at the level of their unlisted subsidiaries.¹ Based on company reports, black ownership in the JSE Top 50 amounted to R245-billion (or 1.7% of the market capitalisation of these firms).
- With the exception of the minerals-energy domain, transformation remains slow and relies on public procurement and licensing to secure commitments to transformation. For example, the value created for black beneficiaries from empowerment deals on listed industrial stocks was only 2.1% of market capitalisation, compared to 6% for banks and 12% for mining stocks.²
- Implementation in corporate structures is technical, and the measurements, scorecards and benchmarks do not give a qualitative picture of the progress made.
- Skills development targets are not linked to career paths and development, and the focus is on the number of people who receive workplace training and levels of expenditure, rather than on the link between training activities and the policy strategy outcomes. Yet improving expenditure and number of trained participants makes no difference if there are no earning and learning opportunities after training.
- Enterprise and skills development programmes, which are aimed at spreading ownership and economic control among the historically disadvantaged, are viewed as substitutes for, not part of, B-BBEE. As a consequence, Africans account for only 9% of top management in the manufacturing sector, 15% in financial and business services and 28% in mining.³

1 Gqubule D. "Black Economic Empowerment Transactions in South Africa After 1994".

2 Theobald S, Tambo O, Makuwerere P and Anthony C. 2015. The Value of BEE Deals. Johannesburg: Intellidex.

3 Department of Employment and Labour. 2019. 20th Commission for Employment Equity, Annual Report 2019–20. Tshwane: Department of Employment and Labour.

RECOMMENDATIONS

A new paradigm is needed for the next phase of BEE policy. Black empowerment needs to be the overarching principle of government's policies, including industrial, competition and skills development policies, especially in the manufacturing sector. B-BBEE needs to be aligned to sector strategies, structural transformation and growth, and viewed as cross-cutting with multiple instruments rather than just focusing on affirmative action and set asides or preferential procurement.

In this new paradigm, empowerment not only responds to demographics but also includes the structural shifts required during a time of considerable uncertainty and unparalleled social change. Government has financing and procurement levers, which can support the creation of new economic interests and the transformation of existing economic interests across sectors. These include:

1. The Department of Trade and Competition's Black Industrialist Programme, which should focus on supporting new industries and sectors with high potential growth, not on increasing entry into the traditional sectors. Climate change and health challenges will bring new opportunities in the energy, biofuels, pharmaceutical and digital technologies sectors, among others.
2. The scrapping of "rents" that government grants to incumbents (for example in the metals, machinery, chemical and plastics value chains), which have undermined competition and inclusion in the manufacturing sector.
3. The establishment of an Agricultural Development Fund by the Department of Agriculture, Land Reform and Rural Development, aimed at unlocking agro-investment and supporting land beneficiaries with transferring title deeds or tradable leases and allocating new water rights.
4. Using state and state-owned entities and agencies, such as Eskom, to develop economic interests in upstream industries.

At the same time, there is a need to standardise how empowerment is measured. This means that while ownership should reflect the demographics of the country, progress must be measured by cumulative and permanent changes in the black share of equity ownership, board seats and top management appointments.

This evolution of the BEE policy is an opportunity to deepen and widen the value chain linkages, and to build a productive, competitive and inclusive economy. It is not about confronting the challenges of what should be measured but, more importantly, about reflecting what success looks like.