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An Overview of the B-BBEE Act and its Impact on Black Entrepreneurs in South Africa

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ABSTRACT

The South African government has introduced many policies that are aimed at addressing the imbalances of the past. The apartheid government policy was declared as a crime against humanity by the World Health Organization and various democratic institutions around the world. The current government had to balance the economy by giving more advantages to black people, black youth, people living with disabilities and women. The government was not prepared enough to transform the economy because policies did not represent the majority of blacks in South Africa. The B-BBEE policy has failed to deliver the economy to the majority of black people in South Africa. Only a few individuals and elite have benefitted from the system, whilst the majority of blacks are still living under the same economic conditions that they were subjected to during apartheid. The objectives of this study are primarily to present an overview of how B-BBEE has failed to transform the economy and failed to reverse the economic injustices of the apartheid regime. People who are benefitting are not entrepreneurs but tenderpreneurs who are in the business of exploiting resources for their own wealth, with no interest in economically equipping the majority of blacks. Tenderpreneurs are worse than the apartheid government that employed people who are performing the same services for the government on behalf of tenderpreneurs. Employees of tenderpreneurs are underpaid and work under unfavorable conditions. Additionally, this study presents black representability in senior private and parastatal institutions. This study applied a desktop research methodology to unpack previous studies, conference papers, newspaper reports and parliamentary findings relevant to the investigation. This paper found that various economic experts have identified several loopholes in the B-BBEE policy and several policy reviews have been conducted with no success.

Keywords: Black Economic Empowerment, Businesses, Entrepreneurs, Governance, Representation.

Introduction

The Black Economic Empowerment (BEE) policy is a government policy designed to reverse the racial imbalances of the past. This policy gives first preference to Africans, Coloureds, Indians and Chinese on economic opportunities. In 2015, R350 billion (which is equivalent to US\$24 billion) worth of BEE contracts was done by 100 companies, but only 10 percent of the South African GDP had been transferred to 20 percent of the black population in 15 years, from the year 2000 to 2015 (Medina and Schneider, 2018: 10). This percentage is not reflecting on what BEE has done to support the entire black population because only those who have proximity to politicians benefit. The BEE policy was another way of making quick corruption

money by claiming that it is empowering black people (Business SA, 2020: 02). The South African government is in denial that BEE has failed to address the inequalities of the past. There is still huge inequality in South African society, whether or not it is amongst black or white people. BEE was designed primarily to address the racialized inequality in South Africa and to give more advantages to black people. BEE is a good policy, but the government that is expected to expedite the policy is failing the people of South Africa. Small companies owned by black people are not given a chance to participate in huge projects because of a lack of experience. According to Saba (2018: 02), there is a major decline in the number of black people that are holding senior positions in big companies in South Africa.

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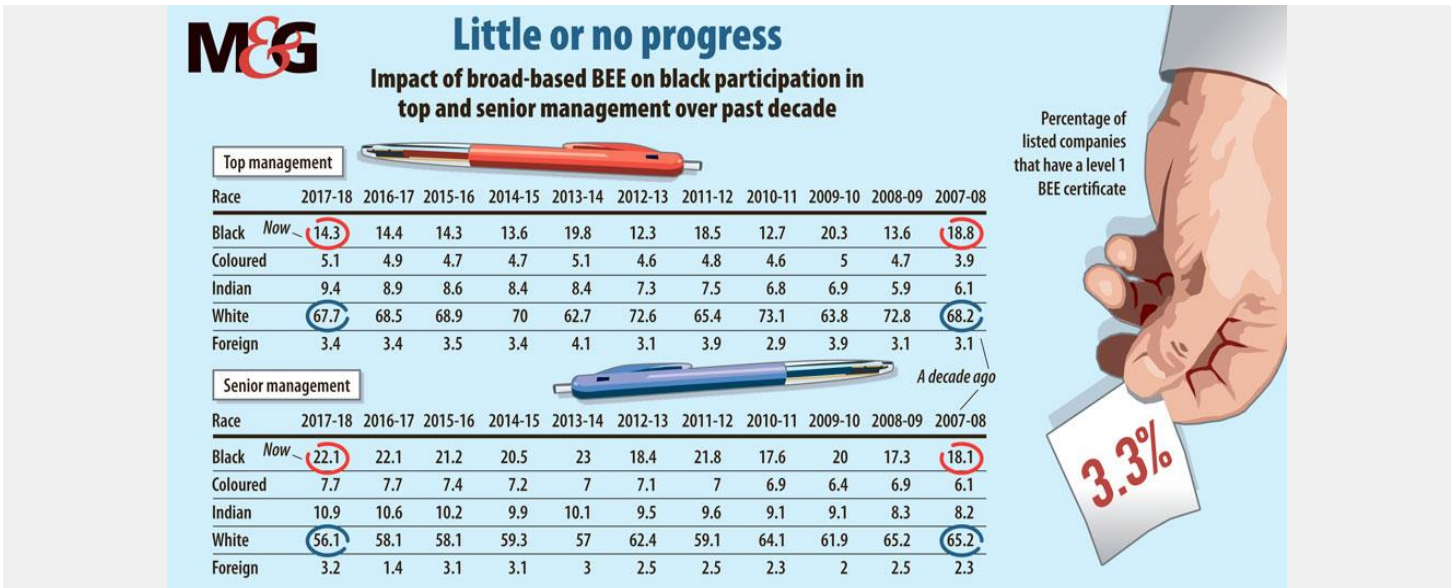


Fig.1 Transformation scale (Source: Mail & Guardian (2018)).

Figure 1 shows a decline in black top management from 2017 to 2018, which also indicates that the transformation of private institutions is happening at a slow pace. Only a few black people are in senior government positions and in parastatal institutions. Only 14.3 percent of black people were in top management positions in the financial year 2017/2018. However, there has been a slight increase in senior leadership positions, even though the 22.1 percent has not increased from the financial year 2016/2017 to 2017/2018.

Is the Black Economic Empowerment policy a disaster?

A report by Thomas (2017: 01) declared the Black Economic Empowerment policy as a failure to address the inequalities in South Africa. The focus of BEE was on black shareholding and not primarily on black management in companies. The policy has only been able to create rich elites that have nothing to do with community development. Chopra (2011: 06) also identified a major decline in black empowerment. The main objective of the policy was to promote non-white ownership, management and procurement to reverse the injustices of the apartheid government. The policy has failed to balance the imbalances of the past. Only a few black-owned businesses benefited from this policy, particularly those that had a direct relationship with those who are in power (Mafundu and Mafini, 2019: 03). In this article, the authors argue that the policy has failed to change the socio-economic conditions of the black majority in South Africa. The policy only created a black elite that oppressed poor black people. The South African government has

created false hope for black people who are owning black businesses. Black-owned businesses are in a dire state and government is making such small businesses compete amongst each other, with no proper support for black-owned small businesses from the government (Huang, Xie, Li and Reddy, 2017: 177).

When black South African people voted for the first time in 1994, they had hope for economic freedom, but that did not automatically happen. Nyenhuis and Krönke (2019: 11) state that the new democratic government was mandated to reverse the injustices of apartheid. The government introduced several economic policies, amongst which the Black Economic Empowerment (BEE) policy was introduced. The policy was good on paper, but the actual implementation, as with many other policies, was not properly facilitated. The policy did not represent the general population and business people within the society. Many black-owned businesses suffered even after this policy was initiated and implemented. The Department of Trade and Industry (2013: 112) reported that BEE became the stokvel of friends and prominent politicians. Financial policies such as the Public Financial Management Act (PFMA) are easily manipulated by those who are in power. Black-owned companies are still struggling, particularly businesses that are owned by people who are not in politics. Black Economic Empowerment has become the platform for politicians to repay those who were supporting them to be in power. The bidding process is not as transparent as the government is claiming it to be. Rantho (2014: 04) asserts that politicians and friends of those who are in the supply chain always receive information related to the contracts to be awarded.

The failure of the BEE policy led to its amendment, which did not have an impact on the economic condition of many black people in South Africa. One of the failures of BEE was caused by the fronting practices of white people. Fronting contributed much to amending the policy from BEE to Broad-Based Black Economic Empowerment (B-BBEE). The new policy did not contribute to imbalances of wealth and the distribution of wealth amongst the South African people. However, Pike, Puchert and Chinyamurindi (2018: 02) assert that the policy only favored the black elite and further oppressed the black poor majority. This amended Act was supposed to address the equal distribution of wealth in either of the following ways: mandate government and public institutions to award tenders to new companies without asking for experience; compel private and public institutions to employ black executives; force black owners to pay employees a specific amount of money; and regulate the type of job and payment that is equal to the job done. This new amended Act only focused on technicalities and not on enforcing operational terms. Black-owned companies are still struggling and reaching a liquidity phase, despite the new act (GOVERNMENT GAZETTE, 2017: 06). The government is not coming up with a solution to curb the economic imbalances of society. Amending the policy is not a solution and many small businesses agree to this. Another recent amendment that took place in 2019 is one of those amendments that do not affect the economic imbalance of black businesses and black society. The amendment’s main focus was on changing the terms

and not on changing the situation (Ismail, Meyer and Patel, 2019: 05).

The South African government claims that BEE is designed to uplift black-owned businesses, but most black-owned businesses are struggling, especially new businesses. Black people decide to open businesses because of poverty and unemployment, yet the policy is failing to protect new black-owned businesses. Kruger (2011: 05) states that BEE emphasizes a point system that favors black-owned companies. The point system is feasible on paper, but when it comes to the application, it becomes a problem. Black-owned businesses are not afforded an opportunity because of a lack of business experience and mostly because of not having resources to convince potential clients. Kickbacks have become something that is a norm and business partners are expected to give kickbacks or promise to give kickbacks or else they will not be given business. The biggest problem facing small businesses is having to compete with big businesses that were previously owned by whites and which are employing black executives to comply with B-BBEE, and the new and black-owned businesses do not stand any chance of competing with such businesses (Ryding, 2018: 03). The government is not providing the necessary training for small businesses to be able to compete with prominent businesses. Neither is the government protecting small businesses, as it only provides codes and guidelines which are easily manipulated by businesses that have existed for a long time. The table below summarizes the percentage of the leviable amount to be spent on training.

Table 1: Training of black business owners.

Code	% of leviable amount	Comments
General Codes	6%	
AgriBEE	6%	
Construction	2% - 3%	Separate consideration given to spend on African people and by management levels. Adjusted recognition for Gender is applied.
Finance	Up to 18%	Based on management levels and not on racial and gender demographics. Additional points given for spend on black people.
Forestry	5%	
ICT	6%	
Marketing Advertising and Communications	4% - 6%	
Property	5%	
Tourism	6%	

Source: SpecCon (2018)

The above table further shows the degree of training that is offered to black business owners. Black business owners are not fully supported by the government on how to run businesses and also on how to invest in the business. Most failures of black-owned businesses in South Africa are caused by the government.

The policy was designed to overcome racial discrimination and provide economic privilege to Blacks, Coloureds, Indians and Chinese. The main aim was to bridge the inequality gap in South African society. The policy is good, but it initially did not achieve what it was designed to achieve. Black people are still suffering and they are the majority. As Kivel (2017: 02) asserts, black-owned businesses are

suffering. The BEE policy was also designed to establish economic sustainability, but that is not happening at all. The policy also developed a scorecard that has to be followed when companies are appointed.

However, despite all that effort, black companies are still struggling. The following scorecard was designed to measure B-BBEE elements.

Table 2: B-BBEE Scorecard.

B-BBEE ELEMENT	WEIGHT
Ownership	25 points
Management control	15 points
Skills Development	20 points
Enterprise and Supplier Development	40 points
Socio-Economic Development	5 points

Source: SpecCon (2018)

The above scorecard has elements that are designed to promote the increased participation of formerly disadvantaged groups in business. The policy has all the necessary measures to safeguard the interest of black people, yet black-owned businesses are still facing major challenges. All the measures and

mechanisms designed to protect black-owned businesses are also oppressing them. The government has introduced many requirements that make it difficult for small businesses to comply. The following B-BBEE levels are regulated by the South African government:

Table 3: BBEE levels.

B_BBEE Status	Scorecard Points	PROCUREMENT RECOGNITION
Level 1	100 or above	135%
Level 2	95 to 99.99	125%
Level 3	90 to 94.99	110%
Level 4	80 to 89.99	100%
Level 5	75 to 79.99	80%
Level 6	70 to 74.99	60%
Level 7	55 to 69.99	50%
Level 8	40 to 54.99	10%
Non-compliant	Less than 40	0%

Source: South African Government (2003)

The above table is showing the B-BBEE levels and their percentages, which are just a form of formality and one that is not consistent. Having a BEE status of Level 1 does not guarantee that a company will be appointed for the job. Other measures make it difficult for black-owned small companies to be appointed. This government policy to reduce economic imbalance has failed. Moreover, the proper monitoring and regular evaluation of the policy were not initiated.

Amendments to the policy were made to tackle the new technique that was developed by white-owned businesses, called fronting. Hogg (2015: 03) postulates that fronting was a technique used by white owners who assigned duties to black people to obtain a BEE status.

Theoretical Framework

Affirmative action was designed by a democratic government to reverse the imbalances of the past. Affirmative action policy was used as a tool to develop other policies to represent people who were previously oppressed by the apartheid regime in South Africa. This policy has been consistent and effective in guiding how to build and develop other policies. However, government leaders that are entrusted to represent the interests of the general public in South Africa have not been able to safeguard this policy, which has been exploited and used for the wrong reasons, namely to serve the interests of certain individuals. A practical example of a policy that used the affirmative action policy as a build up is B-BBEE but B-BBEE is still not addressing the economic situation of the majority of poor blacks in South Africa. According to Naidoo and Kongolo (2018: 125), the policy is manipulated by people who have access to resources and have a direct relationship with those who are in political power and in government positions. Instead of the policy becoming a solution to blacks and poor people in South Africa, it became an obstacle to small businesses owned by blacks.

The Department of Trade and Industry (DTI) serves as the vanguard of the policies in business that are designed to redress the imbalances of the past. However, this department has not been able to effectively provide a policy that will holistically address the economic imbalances in the country. Black businesses are suffering and they create competition amongst themselves because they do not have enough capacity to fight with big white-owned companies. The number of black-owned businesses have increased, but most of those businesses are not operating because of the lack of resources or financial capacity. Although the department is open for all black businesses to seek support. However, this department has not been able to transform the economy in the country. Pike, Puchert and Chinyamurindi (2018: 02) contend that the economy of the country is still in the hands of those that benefitted in the apartheid government. The tendering system, which is part of B-BBEE, has failed to transform the economy of the country. The country did not produce business people, but was only able to produce tenderpreneurs who are not interested in solving the problems of the people and the government by only focused on making an effective profit. There is a mismatch between the tenderpreneurs, the public, the government and the B-BBEE policy itself. Tenderpreneurs are only in it for making fast cash, whereas the public want to receive proper service delivery and the government is in the business of providing public services to the people, while the policy is designed to transform the economy. Failure of this policy is beneficial to some corrupt government leaders who want to sustain this policy until they have looted

enough money for themselves and their families (Shai, Molefinyana and Quinot, 2019: 02).

Methods and Data

Research methodology refers to the methods that are used to conduct a study. There are different types of research methodologies, depending on the study to be conducted. The quantitative research method concerns surveys, while qualitative research methods refer to interviews and interest groups (Bhat, 2017: 02). This study has applied a desktop or secondary research methodology. Previous findings, research articles, conference papers, newspaper articles and government reports were used to reach conclusions on the objectives of this study.

Results and Discussion

B-BBEE has failed the black majority of South Africa as the policy has only benefitted a few individuals. The legacy of apartheid still exist and the government did not develop a strategy to balance the economy amongst whites and blacks. The inequalities in the country are still high and the poor economic situation is affecting mostly black people. The focus of the government was to have more black people in senior positions and also to have more black people owning businesses. There is only slight progress towards the government's goals and ambitions, with the major problem being in businesses that are owned by blacks. Black on black oppression in South Africa is the reality as black businesses are underpaying black workers and the level of exploitation is too high. The government claims to have transformed the economy while only putting more money towards a few individuals who then employ black people and exploit them. The B-BBEE and tendering system is not in favour of the majority blacks and poor people in South Africa (Pike, Puchert, Chinyamurindi and Chinyamurindi, 2019: 01). The economy in the country is not equally distributed to black people who are the majority in the country. Many black people in South Africa are disappointed with the way the government is intervening to redress the imbalances of the past. Local businesses are collapsing because of the decisions made by the government, with some regulations made by the government suffocating the local small businesses. Government interventions for uplifting small black-owned businesses appear not to be meant for the majority and for the poor. (Ledger (2019: 02) states that people that have close proximity to political leaders and government leaders have an advantage in their businesses. Government's failure to protect local businesses and local markets against international businesses is a slap in the face for small

businesses. South Africa is exploited by many foreign countries who do not contribute to the economy of the country and most of those businesses also do not contribute to tax. The B-BBEE policy does not address all the economic challenges in the country. Hence based on this, the study argued that B-BBEE cannot be isolated from other policies. Government policies on economy improvement cannot be focusing only on BBEE when there are many elements that need to be considered. Black, Barnes and Monaco (2018: 01) posit that the government needs to start developing strategies to improve the economy of the country holistically, without attaching a race to it.

Economic policies that are initiated to bridge the economic inequalities of the country have left more gaps than bringing solutions. South Africans have organized themselves into groups to try and access the economy. Formations such as the Radical Economic Transformation (RET) and Amadelangokubona groups are formed by black South Africans who have been excluded from the economic system and not afforded business opportunities because they are not connected to government officials and politicians that are in decision-making structures. According to Chopra (2017: 02), the policy is favorable to certain individuals and it is not open to all black people and to all small businesses. Consequently, the South African government needs to go back to the drawing board and find a new strategy to transform the economy and to undo the economic injustices of the past. The relationship between government and small businesses is not good, while the relationship with government and big businesses and prominent businesses globally is good. Leaders in government are not serving the interests of the black majority at heart, which is realized most when government selectively award tenders to only a few individuals. Government tenders are awarded to friends and families of government leaders and senior politicians. Barnes, Black and Monaco (2018: 02) iterate that the policies that guide the process of awarding tenders are developed by government leaders who also find ways of manipulating those policies. Government policies must address the economic challenges of people on the grassroots level and the national government policy has to be amended in order to address the economic needs of the people. As pointed out by Gillwald and Moyo (2017: 03), the democratic government in South Africa is not closing the gap between the rich people and the poor.

Conclusion

Inequality in South Africa still exists, although the black South African population had high hopes when a democratic government took over in 1994. The

government had promised to reverse all the injustices of the apartheid regime, which includes the redistribution of the economy. The democratic government in South Africa is however just playing an oversight role in the economy because the economy is still in the hands of the beneficiaries of the apartheid regime. Black and white people that benefited economically in the apartheid regime still have control of the national economy. Thus, there is a need for new policies that will represent the majority of people in South Africa. B-BBEE is a window dressing policy that does not represent the majority of black people and poor people in the country.

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