

**BLACK ECONOMIC EMPOWERMENT  
A STUDY OF RECOMMENDATIONS BY THE BLACK ECONOMIC  
COMMISSION AND THE PRACTICAL EFFECTS OF THE APPLICATION  
THEREOF RELATIVE TO SIMILAR EXPERIENCES IN OTHER  
DEVELOPING COUNTRIES**

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A thesis submitted in fulfilment of the requirements for the degree of Magister Legum (Mode III) in the Faculty of Law, University of the Western Cape.

Supervisor: Adv Wandrag

15 November 2005

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**KEYWORDS**



1. Black Economic Empowerment Commission
2. Black Economic Empowerment Companies
3. Market Capitalisation
4. Financial Structure
5. JSE Listing
6. Historically Disadvantaged Group
7. Transformation
8. Equality of Ownership
9. Poverty Relief
10. Access to Jobs

## ABSTRACT

### **BLACK ECONOMIC EMPOWERMENT A STUDY OF RECOMMENDATIONS BY THE BLACK ECONOMIC COMMISSION AND THE PRATICAL EFFECTS OF THE APPLICATION THEREOF RELATIVE TO SIMILAR EXPERIENCES IN OTHER DEVELOPING COUNTRIES**

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The market value of Black Economic Empowerment (BEE) companies listed on the JSE Securities Exchange (JSE) has fallen to only 2% of the overall market capitalisation of the JSE. Many BEE companies have disappeared from the exchange and there have been many failures.

In the context of the report of the BEE Commission (BEE Com), it is essential to understand why these failures have occurred and it is essential to research methods of structure, capitalisation and listings to ensure that ownership of the economy is fairly distributed in future as per the recommendations of the BEE Comm.

The motivation for this research project is based on the fact that as a member of the Historically Disadvantaged Group in this country, and after having qualified in the Faculty of Law with a commercial background, I would like to attempt to make a meaningful contribution to the transformation that should take place to facilitate equality of ownership of the economy.

The proposed research is critically important as the recommendations of the Commission have to be implemented as a matter of urgency, given the current slow growth rate of the economy and given the fact that as many more new enterprises could be listed on the JSE, it would provide further access to jobs, thereby positively impacting on the unemployment situation thereby contributing to poverty relief.



15 November 2005

## DECLARATION

I declare that ***black economic empowerment a study of recommendations by the black economic commission and the practical effects of the application thereof relative to similar experiences in other developing countries*** is my own work, that it has not been submitted before for any degree or examination in any other university, and that all the sources I have used or quoted have been indicated and acknowledged as complete references.

Shirnaé Bronwynne Londt



15 November 2005

Signed: \_\_\_\_\_

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## DEDICATION

**To my darling husband Lionel Jacobs, for all your love, support and encouragement and without whom this would not have been possible.**



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## **INTRODUCTION**

When the African National Congress (ANC) came to power in 1994, it identified Black Economic Empowerment as a major vehicle for addressing the economic injustices of Apartheid.

Questions have been raised whether Black Economic Empowerment, the current process, has resulted in the enrichment of an elite few rather than empowerment of the millions who still remain excluded from participating in the economy.

Many ask whether Black Economic Empowerment is the answer to South Africa's problems.

Despite success of the past ten years, vast racial and gender inequalities in the distribution of the access to wealth, income, skills and employment persist. As a consequence, our economy continues to perform below its full potential. One needs to know why this is so.

The nature of the study of Black Economic Empowerment is to analyse or evaluate the current state of Black Economic Empowerment in the economy vis a vis the historical past and the proposed future as set out by the recommendations in the Black Economic Commission Report.

The key issues examined through the research are:

- Black Economic Empowerment.
- Reasons, if any why, there has been a decline of the shares that Black Empowerment companies hold of the total market capitalisation.
- Methods of how to such decline can be avoided in the future.
- The JSE Security Exchange.
- How to enable more Black Economic Empowerment companies to be listed on the JSE.
- The South African Economy, poverty and job creation.
- To examine the necessary amendments Company Law has to address in order to facilitate Black Economic Empowerment.
- To examine all the necessary requirements for Black Economic Empowerment companies to have an equitable share of the JSE, if possible.
- Policies applied to other developing countries.
- Black Economic Empowerment Commission.

## **CHAPTER ONE**

### **THE ESTABLISHMENT OF BLACK ECONOMIC EMPOWERMENT AND BLACK ECONOMIC EMPOWERMENT COMPANIES**

#### **Introduction**

In order to understand why Black Economic Empowerment (BEE) exists as a powerful entity that could take us to a booming economy, one has to understand the history that led to the implementation of BEE. Many will not understand why drastic measures are taken to shape the South African economy, just like many do not know the impact this country's past had on it or how damaged the situation in this country is because of our past.

In this chapter, focus will be on Apartheid, the consequences thereof and the implementation of a concept known as Black Economic Empowerment. The focus will also include the formation of Black Economic Companies.



#### **Apartheid**

Apartheid is a term which referred to a 'system of segregation or discrimination on grounds of race'.<sup>1</sup> This system was in place from the year 1948 to the year 1991.<sup>2</sup> Pre 1994, Apartheid represented the codification of all the laws and regulations that politically, economically, and socially oppressed the majority of the population, which consisted largely of Africans and included Coloureds as well as Asians.<sup>3</sup> Race distinction was used to control access to South Africa's productive resources and access to skills.<sup>4</sup>

The consequences of the Apartheid system were just not about race oppression, prejudice, unjust behaviour or bias. It was also about gender oppression which was ultimately the abusing of power and placing control in

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<sup>1</sup> South African Concise Oxford Dictionary. (2002). Page 48

<sup>2</sup> South African Concise Oxford Dictionary. (2002). Page 48

<sup>3</sup> Apartheid. (Online). Available <http://www.sn.apc.org/usaidsa/uspart.html> 11 September 2005

<sup>4</sup> Broad-Based Black Economic Empowerment Act, 53 of 2003.

the interest of a minority white population.<sup>5</sup> Thus the South African economy was based to a very large extent on domination, exploitation and marginalisation of the black majority.<sup>6</sup> Racial oppression led to white power, privileges and wealth that only benefited white people.<sup>7</sup> Gender oppression led to the abuse of women which led to the impoverished role of African women, being denied basic, social and economic rights, being barred from living in cities, from owning land, inheriting, borrowing money and participating in political and social struggles.<sup>8</sup>

Although we now live in a country of democracy, South Africa's economy still excludes the vast majority of its people, namely Black including Coloureds and Asians, from having significant ownership of productive assets and the possession of advanced skills.<sup>9</sup>

The majority of South Africa's people generates and earns a low level of income and this leads to South Africa's economy performing below its potential.<sup>10</sup> In order to increase the effective participation of Black people in the economy, further steps had such as Black Economic Empowerment (BEE) had to be taken.<sup>11</sup> The stability and the prosperity of the economy in the future, could have and would have been undermined to the detriment of not only Black people, but of all South African's, irrespective of race, if BEE was not introduced.<sup>12</sup> Therefore the Broad-Based Black Economic Empowerment Act 53 of 2003 came into existence to establish a legislative framework for the promotion of Black Economic Empowerment.<sup>13</sup> Further

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<sup>5</sup> Business Map. (2005). Bee Commission Report. (Online). Available <http://www.businessmap.org.za/Documents/1326/beeCommission.pdf> 14 September

<sup>6</sup> Business Map. (2005). Bee Commission Report. (Online). Available <http://www.businessmap.org.za/Documents/1326/beeCommission.pdf> 14 September

<sup>7</sup> Business Map. (2005). Bee Commission Report. (Online). Available <http://www.businessmap.org.za/Documents/1326/beeCommission.pdf> 1 September

<sup>8</sup> Business Map. (2005). Bee Commission Report. (Online). Available <http://www.businessmap.org.za/Documents/1326/beeCommission.pdf> 14 September

<sup>9</sup> Broad-Based Black Economic Empowerment Act, 53 of 2003.

<sup>10</sup> Broad-Based Black Economic Empowerment Act, 53 of 2003.

<sup>11</sup> Broad-Based Black Economic Empowerment Act, 53 of 2003.

<sup>12</sup> Broad-Based Black Economic Empowerment Act, 53 of 2003.

<sup>13</sup> Broad-Based Black Economic Empowerment Act, 53 of 2003.

more, the Act promotes the achievement of the constitutional right to equality, also to increase broad-based and effective participation of black people in the economy and promotes a higher growth rate, increases employment and more equitable income distribution.<sup>14</sup> The Act also establishes a national policy on broad-based black economic empowerment so as to promote the economic unity of the nation, as well as protect the common market and promote equal opportunity and access to government services.<sup>15</sup>

The Apartheid system led to structural distortions in the economy.<sup>16</sup> One cannot comprehend the full extent of damage the Apartheid system had done to the South African people and the economy, and to rectify or bring its people and its economy into balance from this damage, a concept such as Black Economic Empowerment is applied.

### The Definition of Black Economic Empowerment

What is Black Economic Empowerment (BEE) also further defined as Broad-Based Black Economic Empowerment (BBBEE)?



There are various definitions to Black Economic Empowerment, better known as BEE and which will be referred to as BEE.

The following definition was adopted by the Black Economic Empowerment Commission. The Black Economic Empowerment Commission defined BEE as an integrated and coherent socio-economic process.<sup>17</sup> BEE is located within the context of the country's national transformation programme, namely the RDP (Reconstruction and Development Programme).<sup>18</sup> The aim of BEE is to redress the imbalances of the past by seeking to substantially and

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<sup>14</sup> Broad-Based Black Economic Empowerment Act, 53 of 2003.

<sup>15</sup> Broad-Based Black Economic Empowerment Act, 53 of 2003.

<sup>16</sup> Business Map. (2005). Bee Commission Report. (Online). Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf> 14 September

<sup>17</sup> Executive Summary Report of the BEECom 2001. (2002). (Online). Available [http://www.bmfonline.co.za/bee\\_rep.htm](http://www.bmfonline.co.za/bee_rep.htm) 25 April

<sup>18</sup> Executive Summary Report of the BEEC 2001.(2002). (Online). Available [http://www.bmfonline.co.za/bee\\_rep.htm](http://www.bmfonline.co.za/bee_rep.htm) 25 April

equitably transfer and confer the ownership, management and control of South Africa's financial and economic resources to the majority of its citizens.<sup>19</sup> BEE seeks to ensure broader and meaningful participation in the economy by black people in order to achieve sustainable development and prosperity.<sup>20</sup> BEE was adopted at the Growth and Development Summit (GDS) to include strategies to ensure the broadest ownership of productive assets and resources, increase levels of employment in the formal economy, increase household incomes, expanding literacy and skills development and extend basic services to those who do not currently have them.<sup>21</sup> The Growth and Development Summit's view was also that the promotion of BEE, should benefit women, workers, youth, people with disabilities and those living in rural areas.<sup>22</sup>

Government consulted with various interest groups in South Africa, in order to formalise the BEE program of the government into the so-called Broad Based Empowerment Act 53 of 2003.<sup>23</sup> The Broad Based Black Economic Empowerment Act 53 of 2003 extended or broadened on BEE to Broad Based Black Economic Empowerment (BBBEE) and defines Broad-Based Black Economic Empowerment as the economic empowerment of all black people that includes women, workers, youth, people with disabilities and people living in rural areas through diverse but integrated socio-economic strategies that include, but not limited to –

- a) 'increasing the amount of black people that manage, own and control enterprises and productive assets;

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<sup>19</sup> Executive Summary Report of the BEEC 2001. (2002). (Online). Available [http://www.bmfonline.co.za/bee\\_rep.htm](http://www.bmfonline.co.za/bee_rep.htm) 25 April

<sup>20</sup> Executive Summary Report of the BEEC 2001. (2002). (Online). Available [http://www.bmfonline.co.za/bee\\_rep.htm](http://www.bmfonline.co.za/bee_rep.htm) 25 April

<sup>21</sup> Definition adopted at the Growth and Development Summit. (2005). (Online) Available <http://www.cosatu.org.za/docs/2003/Bee.htm#intro> 27 June

<sup>22</sup> Definition adopted at the Growth and Development Summit.(2005) .(Online) Available <http://www.cosatu.org.za/docs/2003/Bee.htm#intro> 27 June

<sup>23</sup> De Wet, W. (2005). Development opportunities in Black Economic Empowerment. Unpublished paper

- b) facilitating ownership and management of enterprises and productive assets by communities , workers, cooperative and other collective enterprises;
- c) human resource and skills development;
- d) achieving equitable representation in all occupational categories and levels in the workforce;
- e) preferential procurement; and
- f) investment in enterprises that are owned and manage by black people;<sup>24</sup>

### A Description of Black Economic Empowerment

Black Economic Empowerment can be described as a method that is aimed at increasing the number of black persons that participate in and manage the South African economy.<sup>25</sup> This involves economic ownership by previously disadvantaged individuals and implies economic interest, profit sharing, risk-sharing which include the sharing of cost and wealth creation.<sup>26</sup>

‘Black economic empowerment is [thus] seen as an external factor that influences any entity that intends to do business in South Africa.’<sup>27</sup> An entity is defined as something with a distinct and independent existence<sup>28</sup>, so this external factor which is recognised here as Black Economic Empowerment, influences any independent existence such as and not limited to a company, close corporation, sport organisations and non-profit organisations. Further more, this external factor has a certain impact on the country and its

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<sup>24</sup> Broad-Based Black Economic Empowerment Act, 53 of 2003.

<sup>25</sup> De Wet, W. (2005). Development opportunities in Black Economic Empowerment. Unpublished paper

<sup>26</sup> De Wet, W. (2005). Development opportunities in Black Economic Empowerment. Unpublished paper

<sup>27</sup> De Wet, W. (2005). Development opportunities in Black Economic Empowerment. Unpublished paper

<sup>28</sup> South African Concise Oxford Dictionary. (2002). Page 385

enterprises.<sup>29</sup> If Black Economic Empowerment is seen as an economic entity, the economic entity must, as with any external factor, adjust to be competitive in the market.<sup>30</sup> 'The potential impact on the enterprise will differ depending on the target market of the enterprise.'<sup>31</sup> As the external factor, this is BEE, moves through the transmission channels of the economy, all enterprises will be affected, be it directly or indirectly.<sup>32</sup> BEE as the external factor may hold significant advantages as well as risks for an enterprise, depending on how it is handled.<sup>33</sup>

### The Objectives of and when BEE is applied

The Broad- Based Black Economic Empowerment Act 53 of 2003 embodies the following objectives:

'The objectives of the Act are to facilitate Broad-based Black Economic Empowerment by;

- a) promoting economic transformation in order to enable meaningful participation of black people in the economy;
- b) achieving a substantial change in the racial composition of ownership and management structures and in the skill occupation of existing and new enterprises;
- c) increasing the extent to which communities, workers, cooperative and other collective enterprise own and manage existing and new enterprise and increasing the access to economic activities, infrastructure and skills training;

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<sup>29</sup> De Wet, W. (2005). Development opportunities in Black Economic Empowerment. Unpublished paper

<sup>30</sup> De Wet, W. (2005). Development opportunities in Black Economic Empowerment. Unpublished paper

<sup>31</sup> De Wet, W. (2005). Development opportunities in Black Economic Empowerment. Unpublished paper

<sup>32</sup> De Wet, W. (2005). Development opportunities in Black Economic Empowerment. Unpublished paper

<sup>33</sup> De Wet, W. (2005). Development opportunities in Black Economic Empowerment. Unpublished paper

- d) increasing the extent to which black women own and manage existing and new enterprises, and increasing their access to economic activities, infrastructure and skills training;
- e) promoting investment programmes that lead to broad-based and meaningful participation in the economy by black people in order to achieve sustainable development and general prosperity;
- f) empowering rural and local communities by enabling access to economic activities, land, infrastructure, ownership and skill; and
- g) promoting access to finance for black economic empowerment.<sup>34</sup>

If the South African economy is to reach its potential, one has to accept that Black Economic Empowerment is important and if applied correctly the process will create jobs for many South Africans. Other advantages will be rural development, urban renewal, poverty alleviation, measures to empower black women, skills and management development and training, education, meaningful ownership and access to finance for households and for the purpose of conducting business.<sup>35</sup>

#### Establishment of Black Economic Empowerment Companies

After understanding what BEE is about and after application thereof, it should be clear why or how Black Economic Empowerment companies come into existence. Black Empowerment Companies are companies that are owned or partly owned by black persons and has the ability to empower companies which are white owned or companies acquired under the Apartheid laws.

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<sup>34</sup> Broad-Based Black Economic Empowerment Act, 53 of 2003.

<sup>35</sup> Executive Summary Report of the BEEC 2001. (2002). (Online). Available [http://www.bmfonline.co.za/bee\\_rep.htm](http://www.bmfonline.co.za/bee_rep.htm) 25 April

The face of companies as we know it has changed. In light of this, an order of transparency is needed for clear distinction between companies and or enterprises.

It is important to define the following companies:

**1) Black Company:**

In a Black Company, 50.1% must be owned by black persons and there should be substantial management control by black persons.<sup>36</sup>

Ownership refers to economic interest while management refers to the membership of any board or similar governing body of the enterprise.<sup>37</sup>

**2) Black Empowered Company:**

In a Black Empowered Company, 25.1% must at least be owned by black persons and there should be substantial management control by black persons.<sup>38</sup>

Ownership refers to economic interest. Management refers to executive directors. This is whether black enterprise has control or not.<sup>39</sup>

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<sup>36</sup> Business referral and Information Network. BEE. 27 June 2005. (Online) Available <http://www.brain.org.za/BEE/definition.html>

<sup>37</sup> Business referral and Information Network. BEE. 27 June 2005. (Online) Available <http://www.brain.org.za/BEE/definition.html>

<sup>38</sup> Business referral and Information Network. BEE. 27 June 2005. (Online) Available <http://www.brain.org.za/BEE/definition.html>

<sup>39</sup> Business referral and Information Network. BEE. 27 June 2005. (Online) Available <http://www.brain.org.za/BEE/definition.html>

**3) A Black Women-Owned Enterprise:**

A Black Women Owned Enterprise must at least have a 25.1% representation of black women within the black equity and management portion.<sup>40</sup>

**4) A Community or Broad-Based Enterprise:**

This kind of enterprise has an empowerment shareholder / s that represent a broad base of members such as a local community or where the benefits support a target group, for example black women, people living with disabilities, youth and workers.<sup>41</sup> Shares are held via direct equity, non-profit organisations and trusts.<sup>42</sup>

**5) A Co-operative or Collective Enterprise:**

A Co-operative or Collective Enterprise is an autonomous association of people who voluntarily join forces to meet their economic, social, cultural and inspirational needs through the formation of a jointly-owned enterprise and democratically controlled enterprise.<sup>43</sup>

The above types of companies can be used as methods and processes to transform and empower companies that previously were not empowered.

There is no doubt that the BEE concept as an external factor is an influence, to the economy needs, but with concept application, there should be constant and effective monitoring to evaluate the progress and success of the concept.

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<sup>40</sup> Business referral and Information Network. BEE. (2005). (Online) Available <http://www.brain.org.za/BEE/definition.html> 27 June

<sup>41</sup> Business referral and Information Network. BEE. (2005). (Online) Available <http://www.brain.org.za/BEE/definition.html> 27 June

<sup>42</sup> Business referral and Information Network. BEE. (2005). (Online) Available <http://www.brain.org.za/BEE/definition.html> 27 June

<sup>43</sup> Business referral and Information Network. BEE. (2005). (Online) Available <http://www.brain.org.za/BEE/definition.html> 27 June

The Codes of Good Practice for Broad-Based Black Economic Empowerment presents a basis for compliance to BEE.

### Codes of Good Practice for Broad- Based Black Economic Empowerment

'The BEE Codes of Good Practice are to be applied in the development, evaluation and monitoring of BEE charters, initiatives, transactions and other implementation mechanisms.'<sup>44</sup> The statement contains basic principles and essential considerations, as well as guidance in the form of explanatory, and other, material.<sup>45</sup> It presents a basis for greater clarification to BEE.

### Conclusion

Black Economic Empowerment can be seen as an effective vehicle which separates the past (Apartheid) from the present. In order for effective transformation to take place, the people of South Africa have to embrace Black Economic Empowerment. This will allow the economy to reach its potential. However oppression was not exclusive to South Africa and oppression in other countries will be discussed in the next chapter.

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<sup>44</sup> BEE Code of Good Practice. (2005). (Online) Available  
<http://www.dti.gov.za/bee/CODEOFGOODPRACTICE.htm> 16 September

<sup>45</sup> BEE Code of Good Practice. (2005). (Online) Available  
<http://www.dti.gov.za/bee/CODEOFGOODPRACTICE.htm> 16 September

## **CHAPTER TWO**

### **THE DEVELOPMENT OF ECONOMIC OWNERSHIP IN COUNTRIES WHERE THERE HAVE BEEN HISTORICALLY DISADVANTAGED CITIZENS**

#### **Introduction**

As mentioned, oppression is not or was never exclusive to South Africa. Various other countries had their own forms of oppression. In this chapter a look will be taken at countries such as India and Malaysia where citizens too where historically disadvantaged. Emphasis will be on the history that led to the oppression in India and Malaysia as well as the restructuring programs implemented by the respective governments which resulted to the development and growth of their economies, where they find themselves today.

#### **Overview of India**



Several European countries, including the Portuguese, Dutch, French and British took advantage of fractured kingdoms fighting each other to establish colonies in India during the middle of the second millennium.<sup>46</sup> In 1857 a failed insurrection (a violent uprising against authority)<sup>47</sup> against the British East India Company caused most of India to come under administrative control of the crown of the British Empire.<sup>48</sup> The Indian independence movement followed after a prolonged and largely non-violent struggle for independence led by Mahatma Gandhi who is regarded officially as the father of modern

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<sup>46</sup> History of India. (2005). Wikipedia, the free encyclopedia. [Online]. Available <http://en.wikipedia.org/wiki/India> 31 October

<sup>47</sup> South African Concise Oxford Dictionary. (2001). Page 599

<sup>48</sup> History of India. (2005). Wikipedia, the free encyclopedia. [Online]. Available <http://en.wikipedia.org/wiki/India> 31 October

India.<sup>49</sup> India gained independence from British rule on the 15 August 1947 and became a republic on 26 January 1950.<sup>50</sup>

India has had its share of sectarian violence and insurgencies in different parts of the country because of its multi-ethnic and multi-religious make-up.<sup>51</sup> India has held itself as a secular, liberal democracy barring a brief period from 1975 to 1977 during which the Prime Minister Indira Gandhi declared a state of emergency with the suspension of civil rights.<sup>52</sup> In 1962 there was a brief war between India and China because of unresolved border disputes.<sup>53</sup> This resulted in wars in 1947, 1965 and 1971 with Pakistan and a border altercation in the northern state of Kashmir in 1999.<sup>54</sup> India became an unofficial member of the nuclear club in 1974 after conducting an underground nuclear test, which was followed by five more tests in 1998.<sup>55</sup> Economic reforms that started in 1991 have transformed India into one of the fastest growing economies in the world, not withstanding the Chinese economy, and added to its global clout.<sup>56</sup>



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<sup>49</sup> History of India. (2005). Wikipedia, the free encyclopedia. [Online]. Available <http://en.wikipedia.org/wiki/India> 31 October

<sup>50</sup> History of India. (2005). Wikipedia, the free encyclopedia. [Online]. Available <http://en.wikipedia.org/wiki/India> 31 October

<sup>51</sup> History of India. (2005). Wikipedia, the free encyclopedia. [Online]. Available <http://en.wikipedia.org/wiki/India> 31 October

<sup>52</sup> History of India. (2005). Wikipedia, the free encyclopedia. [Online]. Available <http://en.wikipedia.org/wiki/India> 31 October

<sup>53</sup> History of India. (2005). Wikipedia, the free encyclopedia. [Online]. Available <http://en.wikipedia.org/wiki/India> 31 October

<sup>54</sup> History of India. (2005). Wikipedia, the free encyclopedia. [Online]. Available <http://en.wikipedia.org/wiki/India> 31 October

<sup>55</sup> History of India. (2005). Wikipedia, the free encyclopedia. [Online]. Available <http://en.wikipedia.org/wiki/India> 31 October

<sup>56</sup> History of India. (2005). Wikipedia, the free encyclopedia. [Online]. Available <http://en.wikipedia.org/wiki/India> 31 October

## History of India

The greatest cause of diversity in India is the Caste System.<sup>57</sup> The South African concise oxford dictionary defines Caste as each of the hereditary classes of Hindu society, distinguished by relative degrees of rituals purity or pollution and of social status.<sup>58</sup> 'Caste is a word that derives from the Portuguese casta and this means breed, race or kind.'<sup>59</sup> Castes are ranked, named endogamous (in-marrying) groups and membership thereof is achieved by birth.<sup>60</sup> India is made up of thousands of caste and sub-castes and these large kinship-based groups are fundamental to South Asian social structure.<sup>61</sup> In India, each caste is part of a locally based system of interdependence with other groups, involving occupational specialisation and is linked in complex ways with networks that stretch across regions and throughout the nation.<sup>62</sup> Many castes are traditionally associated with an occupation.<sup>63</sup> In India these caste consist of high-ranking Brahmins, middle-ranking farmer and artisan groups, such as potters, barbers and carpenters and very low-ranking groups also referred to as untouchables and these would be the leatherworkers, butchers, launderers and latrine cleaners.<sup>64</sup> There is some correlation between ritual rank in the caste hierarchy and economic prosperity.<sup>65</sup> In India members of higher-ranking castes tend, on the whole, to be more prosperous than members of lower-ranking castes.<sup>66</sup>

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<sup>57</sup> Israel, S. Insight Guides India 1<sup>st</sup> edition. (1985). APA Production (HK) Ltd

<sup>58</sup> South African Concise Oxford Dictionary. (2001). Page 177

<sup>59</sup> India-Caste and Class. (2005). History. India [Online]. Available <http://countrystudies.us/India/89.htm> 1 October

<sup>60</sup> India-Caste and Class. (2005). History. India [Online]. Available <http://countrystudies.us/India/89.htm> 1 October

<sup>61</sup> India-Caste and Class. (2005). History. India [Online]. Available <http://countrystudies.us/India/89.htm> 1 October

<sup>62</sup> India-Caste and Class. (2005). History. India [Online]. Available <http://countrystudies.us/India/89.htm> 1 October

<sup>63</sup> Israel, S. Insight Guides India 1<sup>st</sup> edition. (1985). APA Production (HK) Ltd

<sup>64</sup> Israel, S. Insight Guides India 1<sup>st</sup> edition. (1985). APA Production (HK) Ltd

<sup>65</sup> India-Caste and Class. (2005). History. India [Online]. Available <http://countrystudies.us/India/89.htm> 1 October

<sup>66</sup> India-Caste and Class. (2005). History. India [Online]. Available <http://countrystudies.us/India/89.htm> 1 October

Many lower-caste people live in conditions of great poverty and social disadvantage similar to that of the South African's Previously Disadvantaged People.<sup>67</sup>

The Caste system in India today still involves hundreds of millions of people although it has undergone significant changes.<sup>68</sup> India's constitution forbids negative public discrimination on the basis of caste in its preamble.<sup>69</sup> Although India's constitution forbids caste as a basis for discrimination, caste ranking and caste interaction which is still negative, have occurred for centuries and would in all probability continue to do so, more in the countryside than in urban settings and more in the realms of kinship and marriage than in personal interactions.<sup>70</sup> India is splintered into a million self-contained fragments which are often socially isolated because of religion, language, caste and tribe.<sup>71</sup>

### Industrialisation in India



The first textile mill began operating in Bombay in 1853 and the first jute mill was in operation in Bengal two years later and by 1905, more than 200 cotton textile and 36 jute mills were functioning.<sup>72</sup> A large iron and steel plant that continues to operate to this day was also established in Bihar.<sup>73</sup> The iron steel plant as well as some of the mills as mentioned above were created by Indian capital but most were under control of British capital.<sup>74</sup> This led to the British

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<sup>67</sup> India-Caste and Class. (2005). History. India [Online]. Available <http://countrystudies.us/India/89.htm> 1 October

<sup>68</sup> India-Caste and Class. (2005). History. India [Online]. Available <http://countrystudies.us/India/89.htm> 1 October

<sup>69</sup> India-Caste and Class. (2005). History. India [Online]. Available <http://countrystudies.us/India/89.htm> 1 October

<sup>70</sup> India-Caste and Class. (2005). History. India [Online]. Available <http://countrystudies.us/India/89.htm> 1 October

<sup>71</sup> India-Caste and Class. (2005). History. India [Online]. Available <http://countrystudies.us/India/89.htm> 1 October

<sup>72</sup> Israel, S. Insight Guides India 1<sup>st</sup> edition. (1985). APA Production (HK) Ltd

<sup>73</sup> Israel, S. Insight Guides India 1<sup>st</sup> edition. (1985). APA Production (HK) Ltd

<sup>74</sup> Israel, S. Insight Guides India 1<sup>st</sup> edition. (1985). APA Production (HK) Ltd

reaping enormous profits in labour and cheap raw materials and vast markets developing in India.<sup>75</sup> The British government expectedly extended all patronage to British-owned industries and discriminated against Indian capital.<sup>76</sup>

Incipient conflict between British and Indian entrepreneurs was brought about by the introduction of the modern industry.<sup>77</sup>

### Divide and Rule in India

The British government wanted to create division between the Muslims and the Hindus and in 1906 the All India Muslim League was founded.<sup>78</sup> This is when the British policy of weakening the National Movement by creating dissensions within it, bore fruit for the first time.<sup>79</sup> The All India Muslim League demanded special concessions from government for the Muslims and stood up in support of the partition of Bengal.<sup>80</sup> The British government then responded to the movement by resorting to repression.<sup>81</sup>



### The Return of Gandhi to India

Mohandas Karamchand Gandhi returned to India in 1915 from South Africa, where he had experimented with new forms of resistance to the apartheid regime.<sup>82</sup> With his return, Gandhi was exposed to the injustices to masses of Indian people, at the hands of both their Indian and foreign masters.<sup>83</sup> The injustice was in the form of the misery of the lower castes perpetrated by the upper castes, the inhuman treatment of bonded agricultural labourers in several regions and the deprivation from which Indian women suffered

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<sup>75</sup> Israel, S. Insight Guides India 1<sup>st</sup> edition. (1985). APA Production (HK) Ltd

<sup>76</sup> Israel, S. Insight Guides India 1<sup>st</sup> edition. (1985). APA Production (HK) Ltd

<sup>77</sup> Israel, S. Insight Guides India 1<sup>st</sup> edition. (1985). APA Production (HK) Ltd

<sup>78</sup> Israel, S. Insight Guides India 1<sup>st</sup> edition. (1985). APA Production (HK) Ltd

<sup>79</sup> Israel, S. Insight Guides India 1<sup>st</sup> edition. (1985). APA Production (HK) Ltd

<sup>80</sup> Israel, S. Insight Guides India 1<sup>st</sup> edition. (1985). APA Production (HK) Ltd

<sup>81</sup> Israel, S. Insight Guides India 1<sup>st</sup> edition. (1985). APA Production (HK) Ltd

<sup>82</sup> Israel, S. Insight Guides India 1<sup>st</sup> edition. (1985). APA Production (HK) Ltd

<sup>83</sup> Israel, S. Insight Guides India 1<sup>st</sup> edition. (1985). APA Production (HK) Ltd

everywhere.<sup>84</sup> Most of the Indians still lived in villages at the time and Gandhi realised that it was there where India's real strength lay.<sup>85</sup> The industrial workers were also being exploited and Gandhi realised that their living conditions had to improve and that Indian mill owners had to sacrifice a part of their profit for this purpose.<sup>86</sup>

A Non – Cooperation Movement was launched in the late 1920's.<sup>87</sup> Massive numbers of women joined the movement and people responded by giving up their studies and jobs.<sup>88</sup> Boycott of European owned cloth became a public cry and as a token or gesture of defiance, bonfires of such cloths were made.<sup>89</sup> Hindus and Muslims forgot all about their differences and a surge of human bond united the diverse people in this hour of magnificence.<sup>90</sup>

Early 1930 the movement of civil disobedience was launched.<sup>91</sup> The government derived large revenue from a monopoly of the manufacture of salt and Gandhi decided to manufacture salt on the Gujarat coast, without having to pay taxes or where he did not have to pay taxes.<sup>92</sup>

In 1935 the British Parliament passed the India Act.<sup>93</sup> The Act proposed a bicameral legislature in which princes would nominate their representatives and about 14 percent of the people of India, who had been given the right to vote, would elect the others.<sup>94</sup> With the Second World War and after the Act was implemented the world was ferment and this period placed India's National Movement in context of the developing global situation and established linkages between local and international issues.<sup>95</sup> In 1942 things

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<sup>84</sup> Israel, S. Insight Guides India 1<sup>st</sup> edition. (1985). APA Production (HK) Ltd

<sup>85</sup> Israel, S. Insight Guides India 1<sup>st</sup> edition. (1985). APA Production (HK) Ltd

<sup>86</sup> Israel, S. Insight Guides India 1<sup>st</sup> edition. (1985). APA Production (HK) Ltd

<sup>87</sup> Israel, S. Insight Guides India 1<sup>st</sup> edition. (1985). APA Production (HK) Ltd

<sup>88</sup> Israel, S. Insight Guides India 1<sup>st</sup> edition. (1985). APA Production (HK) Ltd

<sup>89</sup> Israel, S. Insight Guides India 1<sup>st</sup> edition. (1985). APA Production (HK) Ltd

<sup>90</sup> Israel, S. Insight Guides India 1<sup>st</sup> edition. (1985). APA Production (HK) Ltd

<sup>91</sup> Israel, S. Insight Guides India 1<sup>st</sup> edition. (1985). APA Production (HK) Ltd

<sup>92</sup> Israel, S. Insight Guides India 1<sup>st</sup> edition. (1985). APA Production (HK) Ltd

<sup>93</sup> Israel, S. Insight Guides India 1<sup>st</sup> edition. (1985). APA Production (HK) Ltd

<sup>94</sup> Israel, S. Insight Guides India 1<sup>st</sup> edition. (1985). APA Production (HK) Ltd

<sup>95</sup> Israel, S. Insight Guides India 1<sup>st</sup> edition. (1985). APA Production (HK) Ltd

came to a head with the launch of another massive movement in which the Congress gave a call to Indians to ensure that the British quit India.<sup>96</sup> The Congress appealed to the masses to do whatever was necessary even if it meant death to achieve freedom.<sup>97</sup>

With the Muslim League, the British worked out a solution to establish a separate electorate for the Hindus and the Muslims with each community electing its representative.<sup>98</sup> This validated the League had begun to propound, that Hindus and Muslims were two separate nations, thus equating religion with nation.<sup>99</sup> The League demanded a separate independent state for the Muslims and the state was to be called Pakistan.<sup>100</sup> Independence took shape through widespread communal rioting in the most inhuman way.<sup>101</sup> Freedom thus came to India through this tragedy on the 15 August 1947.<sup>102</sup> India is split into two states because of religious differences and the two states are known as the State of India and the State of Pakistan.<sup>103</sup>



### Political History

Indian's National government has been controlled by the Indian National Congress for most of its independence.<sup>104</sup> In 1977, a united opposition, under the banner of the Janata Party, won the election and formed a non-Congress government for a short period after the unpopular "emergency rule."<sup>105</sup> In 1996, the Bharatiya Janata Party(BJP), a political party with a right wing nationalist ideology, became the largest single party, and established for the

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<sup>96</sup> Israel, S. Insight Guides India 1<sup>st</sup> edition. (1985). APA Production (HK) Ltd

<sup>97</sup> Israel, S. Insight Guides India 1<sup>st</sup> edition. (1985). APA Production (HK) Ltd

<sup>98</sup> Israel, S. Insight Guides India 1<sup>st</sup> edition. (1985). APA Production (HK) Ltd

<sup>99</sup> Israel, S. Insight Guides India 1<sup>st</sup> edition. (1985). APA Production (HK) Ltd

<sup>100</sup> Israel, S. Insight Guides India 1<sup>st</sup> edition. (1985). APA Production (HK) Ltd

<sup>101</sup> Israel, S. Insight Guides India 1<sup>st</sup> edition. (1985). APA Production (HK) Ltd

<sup>102</sup> Israel, S. Insight Guides India 1<sup>st</sup> edition. (1985). APA Production (HK) Ltd

<sup>103</sup> Indian General Information. (2005). [Online]. Available

<http://www.eia.doe.gov/emeu/cabs/archives/India/indiach1.htm> 6 November

<sup>104</sup> India-Wikipedia, the free encyclopedia. (2005). Politics. [Online]. Available

<http://en.wikipedia.org/wiki/India> 7 November

<sup>105</sup> India-Wikipedia, the free encyclopedia. (07/11/2005). Politics. [Online]. Available

<http://en.wikipedia.org/wiki/India> 7 November

first time a serious opposition to Congress.<sup>106</sup> Power however, was held by two successive coalition governments who stayed on with the support of the Congress.<sup>107</sup> In 1998, the BJP formed the National Democratic Alliance (NDA) along with smaller parties and became the first Non-Congress Government to sustain the full five year term after it returned to power in 1999.<sup>108</sup>

In the 2004 Indian elections the Congress party returned to power and they formed a government in alliance with the Communist party of India and several regional parties.<sup>109</sup> This new formed party was called the United Progressive Alliance.<sup>110</sup> The united Progressive Alliance (UPA) is the present ruling coalition of political parties in India.<sup>111</sup> The United progressive Alliance includes the following parties:

- Indian National Congress (INC),
- Rashtriya Janata Dal (RJD),
- Dravida Munnetra Kazhagam (DMK),
- National Congress Part (NCP),
- Pattali Makkal Katchi (PMK),
- Telangana Rashtra Samithi (TRS),
- Jharkhand Mukti Morcha (LMM),
- Marumalarchi Dravida Munnetra Kazhagam (MDMK),
- Lok Jan Shakti Party (LJSP),
- Indian Union Muslim League (IUML),

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<sup>106</sup> India-Wikipedia, the free encyclopedia. (2005). Politics. [Online]. Available <http://en.wikipedia.org/wiki/India> 7 November

<sup>107</sup> India-Wikipedia, the free encyclopedia. (2005). Politics. [Online]. Available <http://en.wikipedia.org/wiki/India> 7 November

<sup>108</sup> India-Wikipedia, the free encyclopedia. (2005). Politics. [Online]. Available <http://en.wikipedia.org/wiki/India> 7 November

<sup>109</sup> India-Wikipedia, the free encyclopedia. (2005). Politics. [Online]. Available <http://en.wikipedia.org/wiki/India> 7 November

<sup>110</sup> India-Wikipedia, the free encyclopedia. (2005). Politics. [Online]. Available <http://en.wikipedia.org/wiki/India> 7 November

<sup>111</sup> United Progressive Alliance. (2005). [Online]. Available [http://en.wikipedia.org/wiki/United\\_Progressive\\_Alliance](http://en.wikipedia.org/wiki/United_Progressive_Alliance) 7 November

- Jammu & Kashmir Peoples Democratic party (JKPDP),
- Republican Party of India (Athvaley) (RPI(A)),
- Republican Party of India (Gavai) (RPI(G)),
- All India Majlis-e-Ittehadul Muslimen (AIMIM) and
- Kerala Congress (KC)<sup>112</sup>

### Common Minimum Program

In 1971 a series of reform policies were implemented by the government, ruling India at the time and the Common Minimum Program has extended and improved on those reform policies.

India has a booming economy that is growing at a rapid speed and the Common Minimum Program (CMP) is the result of the Indian Economy fairing so well. The United Progressive Alliance (UPA)/ (Government) released the common Minimum Program to assist the furtherance of India's economy. They have six basic principles for governance and it is to:

- to preserve, protect and promote social harmony,
- to ensure that the economy grows at least 7-8% per year in a sustained manner and to generate employment so that each family is assured of a safe and viable livelihood,
- to enhance the welfare and well-being of farmers, farm labour and workers and give the assurance of security for their families,
- to empower women in all aspects such as politically, educationally, economically and legally and
- to provide for full equality of opportunity and
- to unleash the creative energies of the people.<sup>113</sup>

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<sup>112</sup> United Progressive Alliance. (2005). [Online]. Available [http://en.wikipedia.org/wiki/United\\_Progressive\\_Alliance](http://en.wikipedia.org/wiki/United_Progressive_Alliance) 7 November

<sup>113</sup> UPA's Common Minimum. (2005) Programme Common Minimum Program of UPA Government. [Online]. Available <http://www.panjab.org.uk/english/cmp.htm> 7 November

The CMP is applied in each sector of India's economy and brief extracts of the various sectors and which strategy is applied will be discussed.<sup>114</sup>

## 1. **Employment**

The UPA Government enacted a National Employment Guarantee Act.<sup>115</sup> This provides a legal guarantee of employment for at least 100 days.<sup>116</sup>

## 2. **Agriculture**

The UPA Government will ensure that public investment in agricultural research and extension, rural infrastructure and irrigation is stepped up.<sup>117</sup> The rural cooperative credit system will be revived.<sup>118</sup>

The UPA Government will introduce a special programme for dry-land farming and watershed and wasteland development programmes will be taken up on a massive scale.<sup>119</sup>

The UPA administration will ensure the implementation of minimum wage laws for farm labours.<sup>120</sup>

Government will make amendments to ensure the democratic, autonomous and professional functioning of cooperatives.<sup>121</sup>

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<sup>114</sup> UPA's Common Minimum. (2005). Programme Common Minimum Program of UPA Government. [Online]. Available <http://www.panjab.org.uk/english/cmp.htm> 7 November

<sup>115</sup> UPA's Common Minimum. (2005). Programme Common Minimum Program of UPA Government. [Online]. Available <http://www.panjab.org.uk/english/cmp.htm> 7 November

<sup>116</sup> UPA's Common Minimum. (2005). Programme Common Minimum Program of UPA Government. [Online]. Available <http://www.panjab.org.uk/english/cmp.htm> 7 November

<sup>117</sup> UPA's Common Minimum. (2005). Programme Common Minimum Program of UPA Government. [Online]. Available <http://www.panjab.org.uk/english/cmp.htm> 7 November

<sup>118</sup> UPA's Common Minimum. (2005). Programme Common Minimum Program of UPA Government. [Online]. Available <http://www.panjab.org.uk/english/cmp.htm> 7 November

<sup>119</sup> UPA's Common Minimum. (2005). Programme Common Minimum Program of UPA Government. [Online]. Available <http://www.panjab.org.uk/english/cmp.htm> 7 November

<sup>120</sup> UPA's Common Minimum. (2005). Programme Common Minimum Program of UPA Government. [Online]. Available <http://www.panjab.org.uk/english/cmp.htm> 7 November

<sup>121</sup> UPA's Common Minimum. (2005). Programme Common Minimum Program of UPA Government. [Online]. Available <http://www.panjab.org.uk/english/cmp.htm> 7 November

### 3. **Education and Health**

Funds will be raised for spending on education and 50% of moneys raised will be spent on primary and secondary schools.<sup>122</sup> This will be done in phases.<sup>123</sup>

A national cooked nutritious mid-day meal scheme, funded mainly by the Central Government, will be introduced in primary and secondary schools.<sup>124</sup>

Public spending will be raised on health with focus on primary healthcare.<sup>125</sup> Drugs considered as life saving will be made availability at reasonable prices.<sup>126</sup>

### 4. **Women and Children**

Legislation on domestic violence and gender discrimination will be enacted as well as programmes for the development of women and children.<sup>127</sup>

Complete legal equality for women in all spheres will be made a practical reality.<sup>128</sup>



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<sup>122</sup> UPA's Common Minimum. (2005). Programme Common Minimum Program of UPA Government. [Online]. Available <http://www.panjab.org.uk/english/cmp.htm> 7 November

<sup>123</sup> UPA's Common Minimum. (2005). Programme Common Minimum Program of UPA Government. [Online]. Available <http://www.panjab.org.uk/english/cmp.htm> 7 November

<sup>124</sup> UPA's Common Minimum. (2005). Programme Common Minimum Program of UPA Government. [Online]. Available <http://www.panjab.org.uk/english/cmp.htm> 7 November

<sup>125</sup> UPA's Common Minimum. (2005). Programme Common Minimum Program of UPA Government. [Online]. Available <http://www.panjab.org.uk/english/cmp.htm> 7 November

<sup>126</sup> UPA's Common Minimum. (2005). Programme Common Minimum Program of UPA Government. [Online]. Available <http://www.panjab.org.uk/english/cmp.htm> 7 November

<sup>127</sup> UPA's Common Minimum. (2005). Programme Common Minimum Program of UPA Government. [Online]. Available <http://www.panjab.org.uk/english/cmp.htm> 7 November

<sup>128</sup> UPA's Common Minimum. (2005). Programme Common Minimum Program of UPA Government. [Online]. Available <http://www.panjab.org.uk/english/cmp.htm> 7 November

5. **Food and nutrition security**

A comprehensive medium-term strategy for food and nutrition security will be introduced to move towards universal food security over time, if this is found feasible.<sup>129</sup>

6. **Social Harmony and Welfare of Minorities**

A place of Worship Act will be implemented into the Special Provisions Act, of 1992.<sup>130</sup>

A model will be enacted for comprehensive law to deal with communal violence.<sup>131</sup>

Amendments will be made to the Constitution to establish a Commission for Minority Educational Institutions that will provide direct affiliation for minority professional institutions.<sup>132</sup>

7. **Labour**

The UPA Government is committed to ensuring the welfare and well-being of all workers, particularly those in the unorganised sector who constitute 93 per cent of our workforce.<sup>133</sup> Social security, health insurance and other schemes will be expanded for these workers.<sup>134</sup>



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<sup>129</sup> UPA's Common Minimum. (2005). Programme Common Minimum Program of UPA Government. [Online]. Available <http://www.panjab.org.uk/english/cmp.htm> 7 November

<sup>130</sup> UPA's Common Minimum. (2005). Programme Common Minimum Program of UPA Government. [Online]. Available <http://www.panjab.org.uk/english/cmp.htm> 7 November

<sup>131</sup> UPA's Common Minimum. (2005). Programme Common Minimum Program of UPA Government. [Online]. Available <http://www.panjab.org.uk/english/cmp.htm> 7 November

<sup>132</sup> UPA's Common Minimum. (2005). Programme Common Minimum Program of UPA Government. [Online]. Available <http://www.panjab.org.uk/english/cmp.htm> 7 November

<sup>133</sup> UPA's Common Minimum. (2005). Programme Common Minimum Program of UPA Government. [Online]. Available <http://www.panjab.org.uk/english/cmp.htm> 7 November

<sup>134</sup> UPA's Common Minimum. (2005). Programme Common Minimum Program of UPA Government. [Online]. Available <http://www.panjab.org.uk/english/cmp.htm> 7 November

## 8. **Public sector**

A selective and strategic focus will be placed on creating a strong and effective public sector whose social objectives are met by its commercial functioning.<sup>135</sup>

## 9. **Fiscal policy**

The Government commits itself to eliminating the revenue deficit of the Centre by 2009, so as to release more resources for investments in social and physical infrastructure.<sup>136</sup>

## 10. **Economic reform**

The commitment to economic reforms with a human face that stimulates growth, investment and employment will be reiterated.<sup>137</sup>

Further reforms are needed and will be introduced in agriculture, industry and services.<sup>138</sup>



## History of Malaysia

The Chinese emigration to Malaya ended because of the Depression of the 1930's and the outbreak of the Sino-Japanese War.<sup>139</sup> This stabilised the demographic situation and ended the prospect of the Malays becoming a minority in their own country.<sup>140</sup> During World War II, the Japanese occupied Malaya but popular support for independence grew coupled with a communist

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<sup>135</sup> UPA's Common Minimum. (2005). Programme Common Minimum Program of UPA Government. [Online]. Available <http://www.panjab.org.uk/english/cmp.htm> 7 November

<sup>136</sup> UPA's Common Minimum. (2005). Programme Common Minimum Program of UPA Government. [Online]. Available <http://www.panjab.org.uk/english/cmp.htm> 7 November

<sup>137</sup> UPA's Common Minimum. (2005). Programme Common Minimum Program of UPA Government. [Online]. Available <http://www.panjab.org.uk/english/cmp.htm> 7 November

<sup>138</sup> UPA's Common Minimum. (2005). Programme Common Minimum Program of UPA Government. [Online]. Available <http://www.panjab.org.uk/english/cmp.htm> 7 November

<sup>139</sup> History of Malaysia. (2005). Problems of independence. [Online]. Available [http://en.wikipedia.org/wiki/History\\_of\\_Malaysia](http://en.wikipedia.org/wiki/History_of_Malaysia) 16 October

<sup>140</sup> Malaysia – Wikipedia, the free encyclopedia. (2005). History of Malaysia. [Online]. Available <http://en.wikipedia.org/wiki/Malaysia> 16 October

insurgency.<sup>141</sup> After the war, the British plans to form a Malayan Union were strongly opposed by the Malay people.<sup>142</sup> The Malay people wanted a more pro-Malay system with single citizenship as opposed to the dual-citizenship.<sup>143</sup> The dual-citizenship would allow immigrant communities to have claimed citizenship in both Malaya and their country of origin.<sup>144</sup> Independence was achieved 31 August 1957 under Federation of Malaya.<sup>145</sup> At the time of Independence, the Malays made up 55% of the population with the Chinese being 35% and the Indians being 10% of the population.<sup>146</sup> Singapore requested to be a part of this independent state but was rejected by London.<sup>147</sup> The merge between the Federation of Malaya and the British crown colonies of Singapore which, is Sabah and Sarawak on the island of Borneo, caused a new federation to be formed under the name Malaysia on 16 September 1963.<sup>148</sup> With this merge, the Malay majority hoped that the ethnic diverse population would balance the large number of Chinese from Singapore.<sup>149</sup> Economic and political disputes soon developed between the mostly Chinese state leaders of Singapore and the mostly Malay federal government of Malaysia.<sup>150</sup> Conflict with Indonesia occurred in the early years of Independence, over the formation of Malaysia, Singapore and the racial

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<sup>141</sup> Malaysia – Wikipedia, the free encyclopedia. (2005). History of Malaysia. [Online]. Available <http://en.wikipedia.org/wiki/Malaysia> 16 October

<sup>142</sup> Malaysia – Wikipedia, the free encyclopedia. (2005). History of Malaysia. [Online]. Available <http://en.wikipedia.org/wiki/Malaysia> 16 October

<sup>143</sup> Malaysia – Wikipedia, the free encyclopedia. (2005). History of Malaysia. [Online]. Available <http://en.wikipedia.org/wiki/Malaysia> 16 October

<sup>144</sup> Malaysia – Wikipedia, the free encyclopedia. (2005). History of Malaysia. [Online]. Available <http://en.wikipedia.org/wiki/Malaysia> 16 October

<sup>145</sup> Malaysia – Wikipedia, the free encyclopedia. (2005). History of Malaysia. [Online]. Available <http://en.wikipedia.org/wiki/Malaysia> 16 October

<sup>146</sup> History of Malaysia. (16/10/2005). Problems of independence. [Online]. Available [http://en.wikipedia.org/wiki/History\\_of\\_Malaysia](http://en.wikipedia.org/wiki/History_of_Malaysia) 16 October

<sup>147</sup> Malaysia – Wikipedia, the free encyclopedia. (2005). History of Malaysia. [Online]. Available <http://en.wikipedia.org/wiki/Malaysia> 16 October

<sup>148</sup> Malaysia – Wikipedia, the free encyclopedia. (2005). History of Malaysia. [Online]. Available <http://en.wikipedia.org/wiki/Malaysia> 16 October

<sup>149</sup> Kiat.net. Malaysian History. (2005). Malaysia is born. [Online]. Available <http://www.kiat.net/Malaysia/history.html> 16 October

<sup>150</sup> Kiat.net. Malaysian History. (2005). Malaysia is born. [Online]. Available <http://www.kiat.net/Malaysia/history.html> 16 October

riots.<sup>151</sup> Conflict also occurred with the Philippines because of a claim made on Sabah.<sup>152</sup> Singapore withdrew from the federation peacefully and became independent in 1965.<sup>153</sup>

The three- party partnership known as The Alliance was made up of the United Malays National Organisation (UMNO), the Malayan Chinese Association (MCA) and the Malayan Indian Congress (MIC) and The Alliance is Malaysia's most powerful political organisation today.<sup>154</sup>

The ethnic groups followed different traditional occupations in Malaysia just as in the former British Malaya.<sup>155</sup>

Education and the disparity of economic power were vexed issues of the independent Malaysia.<sup>156</sup> These issues were contested mainly within the coalition government since there was no effective opposition party.<sup>157</sup> The UMNO leaders were determined to end the Chinese advantage in education, which played a large part in maintaining control of the economy.<sup>158</sup> The MCA leaders were torn between the need to defend their own community interests and the need to maintain good relations with UMNO.<sup>159</sup> The Education Act of 1961 put UMNO's victory into legislative form.<sup>160</sup> With this victory Malay was the only language taught in state primary schools, and English and Malay

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<sup>151</sup> Malaysia – Wikipedia, the free encyclopedia. (2005).History of Malaysia. [Online]. Available <http://en.wikipedia.org/wiki/Malaysia> 16 October

<sup>152</sup> Malaysia – Wikipedia, the free encyclopedia. (2005).History of Malaysia. [Online]. Available <http://en.wikipedia.org/wiki/Malaysia> 16 October

<sup>153</sup> Kiat.net. Malaysian History. (2005). Malaysia is born. [Online]. Available <http://www.kiat.net/Malaysia/history.html> 16 October

<sup>154</sup> Kiat.net. Malaysian History. (2005). Malaysia is born. [Online]. Available <http://www.kiat.net/Malaysia/history.html> 16 October

<sup>155</sup> Kiat.net. Malaysian History. (2005). Malaysia is born. [Online]. Available <http://www.kiat.net/Malaysia/history.html> 16 October

<sup>156</sup> History of Malaysia. (2005). Problems of independence. [Online]. Available [http://en.wikipedia.org/wiki/History\\_of\\_Malaysia](http://en.wikipedia.org/wiki/History_of_Malaysia) 16 October

<sup>157</sup> Kiat.net. Malaysian History. (2005). Malaysia is born. [Online]. Available <http://www.kiat.net/Malaysia/history.html> 16 October

<sup>158</sup> History of Malaysia. (2005). Problems of independence. [Online]. Available [http://en.wikipedia.org/wiki/History\\_of\\_Malaysia](http://en.wikipedia.org/wiki/History_of_Malaysia) 16 October

<sup>159</sup> History of Malaysia. (2005). Problems of independence. [Online]. Available [http://en.wikipedia.org/wiki/History\\_of\\_Malaysia](http://en.wikipedia.org/wiki/History_of_Malaysia) 16 October

<sup>160</sup> History of Malaysia. (2005). Problems of independence. [Online]. Available [http://en.wikipedia.org/wiki/History\\_of\\_Malaysia](http://en.wikipedia.org/wiki/History_of_Malaysia) 16 October

would be the only taught languages in secondary schools.<sup>161</sup> The Chinese and Indian students were required to learn Malay and they were forced to study an under agreed Malayan curriculum.<sup>162</sup> The entry exam to the university would be conducted in Malay only although most teaching at the university was in English and this would lead to many Chinese students being excluded from the university.<sup>163</sup> The Malays were given preferential treatment and the schools would be heavily subsidised.<sup>164</sup>

The Malays controlled government and agriculture, while the Chinese dominated commerce and industry.<sup>165</sup> The Malays envied the economic success of the Chinese and the Chinese resented the political power of the Malays and this led to racial violence.<sup>166</sup>

### Bumiputra

Further in this chapter reference will be made to “Bumiputra” so it is important to outline and emphasis on “Bumiputra” at this stage before looking at the violent riots of 1969. Bumiputra translates in Sanskrit as “Sons of the Earth” and translated literally in Malay it means “princes of the Earth”.<sup>167</sup>

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<sup>161</sup> History of Malaysia. (2005). Problems of independence. [Online]. Available [http://en.wikipedia.org/wiki/History\\_of\\_Malaysia](http://en.wikipedia.org/wiki/History_of_Malaysia) 16 October

<sup>162</sup> History of Malaysia. (2005). Problems of independence. [Online]. Available [http://en.wikipedia.org/wiki/History\\_of\\_Malaysia](http://en.wikipedia.org/wiki/History_of_Malaysia) 16 October

<sup>163</sup> History of Malaysia. (2005). Problems of independence. [Online]. Available [http://en.wikipedia.org/wiki/History\\_of\\_Malaysia](http://en.wikipedia.org/wiki/History_of_Malaysia) 16 October

<sup>164</sup> History of Malaysia. (2005). Problems of independence. [Online]. Available [http://en.wikipedia.org/wiki/History\\_of\\_Malaysia](http://en.wikipedia.org/wiki/History_of_Malaysia) 16 October

<sup>165</sup> Kiat.net. Malaysian History. (2005). Malaysia is born. [Online]. Available <http://www.kiat.net/Malaysia/history.html> 16 October

<sup>166</sup> Kiat.net. Malaysian History. (2005). Malaysia is born. [Online]. Available <http://www.kiat.net/Malaysia/history.html> 16 October

<sup>167</sup> Bumiputra. Wikipedia, the free encyclopedia. (2005). [Online]. Available <http://en.wikipedia.org/wiki/Bumiputras> 6 November

## Definition of Bumiputra

It is generally considered that all Malays are Bumiputra and that all Bumiputra are Malay.<sup>168</sup> This is incorrect as there are non-Malays who are declared as Bumiputra and similarly non Muslim who are considered Bumiputra.<sup>169</sup> The definition of Bumiputra clearly excludes ethnic Chinese as well as non-Muslim Indians.<sup>170</sup>

Treatment of Bumiputras versus other races is built into the Malaysian Constitution.<sup>171</sup> Racial policies were a major key of the then prime minister Mahathir bin Mohamad. He was prime minister from 1981 – 2003 and his policies were disclosed in his book named “the Malay Dilemma” (1970).<sup>172</sup> The term Bumiputra was probably created to collectively address the group described in article 153 of the Malaysian Constitution.<sup>173</sup>

Article 153 of the Malaysian Constitution stipulated the following: ‘the Yang di-Pertuan Agong (The King of Malaysia) shall exercise his function...in such a manner as may be necessary to safeguard the special position of the Malays... to ensure the reservation... of such proportion...in the public service... and of scholarship...and other similar educational... privileges or special facilities given... by the Federal Government.’<sup>174</sup>

The Constitution defines Malays as being one who professes the religion of Islam, habitually speaks the Malay language, conforms to Malay customs and

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<sup>168</sup> Bumiputra. Wikipedia, the free encyclopedia. (2005). [Online]. Available <http://en.wikipedia.org/wiki/Bumiputras> 6 November

<sup>169</sup> Bumiputra. Wikipedia, the free encyclopedia. (2005). [Online]. Available <http://en.wikipedia.org/wiki/Bumiputras> 6 November

<sup>170</sup> Bumiputra. Wikipedia, the free encyclopedia. (2005). [Online]. Available <http://en.wikipedia.org/wiki/Bumiputras> 6 November

<sup>171</sup> Bumiputra. Wikipedia, the free encyclopedia. (2005). [Online]. Available <http://en.wikipedia.org/wiki/Bumiputras> 6 November

<sup>172</sup> Bumiputra. Wikipedia, the free encyclopedia. (2005). [Online]. Available <http://en.wikipedia.org/wiki/Bumiputras> 6 November

<sup>173</sup> Bumiputra. Wikipedia, the free encyclopedia. (2005). [Online]. Available <http://en.wikipedia.org/wiki/Bumiputras> 6 November

<sup>174</sup> Bumiputra. Wikipedia, the free encyclopedia. (2005). [Online]. Available <http://en.wikipedia.org/wiki/Bumiputras> 6 November

is the child of at least one parent who was born within the Federation of Malaysia before independence on the 31 August 1957.<sup>175</sup>

It should be clear that those considered as Bumiputras were Malays who were in the majority and who were oppressed, exploited and abused by the government at the time.

### The Crisis of 1969 in Malaysia

The collaboration of the MCA and the MIC weakened their hold on the Chinese and Indian electorates. At the same time the affirmative action policies of the 1950' and 1960's government, to create a discontented class of educated but underemployed Malays, was evident.<sup>176</sup> The above led to the formation of a new party called the Malaysian People's Movement. After an election on Peninsular Malaysia, bloody riots broke out in 1969.<sup>177</sup> Six thousand Chinese homes and businesses were burned and hundreds of people killed.<sup>178</sup> The perception was that the Malays, and not the Bumiputra as well as the more impoverished Indian community, had rioted due to poverty and lack of opportunities.<sup>179</sup> Turbulence continued into the early 1970's in the government and the government declared a state of emergency and suspended the Constitution and Parliament until 1971.<sup>180</sup> With this suspension came imposed censorship and severe restrictions on political activity.<sup>181</sup> Parliament reconvened in 1971 and a new government coalition

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<sup>175</sup> Bumiputra. Wikipedia, the free encyclopedia. (2005). [Online]. Available <http://en.wikipedia.org/wiki/Bumiputras> 6 November

<sup>176</sup> History of Malaysia. (2005). The crisis of 1969. [Online]. Available [http://en.wikipedia.org/wiki/History\\_of\\_Malaysia](http://en.wikipedia.org/wiki/History_of_Malaysia) 16 October

<sup>177</sup> History of Malaysia. (2005). The crisis of 1969. [Online]. Available [http://en.wikipedia.org/wiki/History\\_of\\_Malaysia](http://en.wikipedia.org/wiki/History_of_Malaysia) 16 October

<sup>178</sup> History of Malaysia. (2005). The crisis of 1969. [Online]. Available [http://en.wikipedia.org/wiki/History\\_of\\_Malaysia](http://en.wikipedia.org/wiki/History_of_Malaysia) 16 October

<sup>179</sup> Malaysian's New Economic and National Unity. (2005). [Online]. Available [http://en.wikipedia.org/wiki/Malaysian\\_New\\_Economic\\_Policy](http://en.wikipedia.org/wiki/Malaysian_New_Economic_Policy) 2 October

<sup>180</sup> Kiat.net. Malaysian History. (2005). Malaysia is born. [Online]. Available <http://www.kiat.net/Malaysia/history.html> 16 October

<sup>181</sup> History of Malaysia. (2005). Problems of independence. [Online]. Available [http://en.wikipedia.org/wiki/History\\_of\\_Malaysia](http://en.wikipedia.org/wiki/History_of_Malaysia) 16 October

called the National Front took office.<sup>182</sup> The National Front included the (UMNO), the (MCA), Gerakan and the regional parties in Sabah and Sarawak.<sup>183</sup>

Malaysia's political leaders tried to build national unity after the riots.<sup>184</sup> The constitution was amended to forbid discussion in parliament about sensitive issues and this also excluded discussions on the special position of the Malays, the Borneo's ethnic group and the powers of the Malay sultans.<sup>185</sup> The amendment to the constitution also required all government bodies to use the Malay language.<sup>186</sup> This led to many Non- Malays resenting the fact that the government attempted to build national unity through increased emphasis on the Malay culture.<sup>187</sup>

After 1971 many policies were put in place which led to the rapid transformation of Malaysia's economy and society.<sup>188</sup>

In 1970 the majority of Malays were still rural workers and largely excluded from the modern economy, with seventy five percent of Malaysians still living below the poverty line.<sup>189</sup> The government's response to this was a policy called the New Economic Policy of 1971.<sup>190</sup>

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<sup>182</sup> History of Malaysia. (2005). The crises of 1969. [Online]. Available [http://en.wikipedia.org/wiki/History\\_of\\_Malaysia](http://en.wikipedia.org/wiki/History_of_Malaysia) 16 October

<sup>183</sup> History of Malaysia. (2005). The crises of 1969. [Online]. Available [http://en.wikipedia.org/wiki/History\\_of\\_Malaysia](http://en.wikipedia.org/wiki/History_of_Malaysia) 16 October

<sup>184</sup> Kiat.net. Malaysian History. (2005). Malaysia is born. [Online]. Available <http://www.kiat.net/Malaysia/history.html> 16 October

<sup>185</sup> Kiat.net. Malaysian History. (16/10/2005). Malaysia is born. [Online]. Available <http://www.kiat.net/Malaysia/history.html> 16 October

<sup>186</sup> Kiat.net. Malaysian History. (16/10/2005). Malaysia is born. [Online]. Available <http://www.kiat.net/Malaysia/history.html> 16 October

<sup>187</sup> Kiat.net. Malaysian History. (16/10/2005). Malaysia is born. [Online]. Available <http://www.kiat.net/Malaysia/history.html> 16 October

<sup>188</sup> History of Malaysia. (2005). The crisis of 1969. [Online]. Available [http://en.wikipedia.org/wiki/History\\_of\\_Malaysia](http://en.wikipedia.org/wiki/History_of_Malaysia) 16 October

<sup>189</sup> History of Malaysia. (2005). The crisis of 1969. [Online]. Available [http://en.wikipedia.org/wiki/History\\_of\\_Malaysia](http://en.wikipedia.org/wiki/History_of_Malaysia) 16 October

<sup>190</sup> History of Malaysia. (2005). The crisis of 1969. [Online]. Available [http://en.wikipedia.org/wiki/History\\_of\\_Malaysia](http://en.wikipedia.org/wiki/History_of_Malaysia) 16 October

## The Malaysian New Economic Policy

The Malaysians New Economic Policy (NEP) also known as Dasar Ekonomi Baru (DEB) in Malay was a restructuring program.<sup>191</sup> This policy was to be implemented from 1971 to 1990 through a series of four five-year plans.<sup>192</sup>

## A Brief History of the Malaysian Economy before the New Economic Policy

Malaysia began its first stage of Import Substitution Industrialisation (ISI) in 1960.<sup>193</sup> This ISI consisted of high tariffs and this was to motivate domestic investment.<sup>194</sup> Further more there was under pricing of fuel and utilities to keep production costs down and tax and interest rate breaks to pioneer industries.<sup>195</sup>

'In 1970 there was a huge underclass of Bumiputras, whose economic conditions had remained largely unchanged under the ISI.'<sup>196</sup> 'In 1970, the Malaysian Government estimated that Bumiputras held roughly 2.4% of Malaysia's economy, compared to 33% owned by other races and 63% in foreign hands.'<sup>197</sup>



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<sup>191</sup> Malaysian's New Economic and National Unity. (2005). [Online]. Available [http://en.wikipedia.org/wiki/Malaysian\\_New\\_Economic\\_Policy](http://en.wikipedia.org/wiki/Malaysian_New_Economic_Policy) 2 October

<sup>192</sup> History of Malaysia. (2005). The crisis of 1969. [Online]. Available [http://en.wikipedia.org/wiki/History\\_of\\_Malaysia](http://en.wikipedia.org/wiki/History_of_Malaysia) 16 October

<sup>193</sup> Malaysian's New Economic and National Unity. (2005). [Online]. Available [http://en.wikipedia.org/wiki/Malaysian\\_New\\_Economic\\_Policy](http://en.wikipedia.org/wiki/Malaysian_New_Economic_Policy) 2 October

<sup>194</sup> Malaysian's New Economic and National Unity. (2005). [Online]. Available [http://en.wikipedia.org/wiki/Malaysian\\_New\\_Economic\\_Policy](http://en.wikipedia.org/wiki/Malaysian_New_Economic_Policy) 2 October

<sup>195</sup> Malaysian's New Economic and National Unity. (2005). [Online]. Available [http://en.wikipedia.org/wiki/Malaysian\\_New\\_Economic\\_Policy](http://en.wikipedia.org/wiki/Malaysian_New_Economic_Policy) 2 October

<sup>196</sup> Malaysian's New Economic and National Unity. (2005). [Online]. Available [http://en.wikipedia.org/wiki/Malaysian\\_New\\_Economic\\_Policy](http://en.wikipedia.org/wiki/Malaysian_New_Economic_Policy) 2 October

<sup>197</sup> Malaysian's New Economic and National Unity. (2005). [Online]. Available [http://en.wikipedia.org/wiki/Malaysian\\_New\\_Economic\\_Policy](http://en.wikipedia.org/wiki/Malaysian_New_Economic_Policy) 2 October

As mentioned above Malaysia experienced the worst ever racial rioting in 1969 and the New Economic Policy were perceived as a means of preventing such outbreaks in the future.<sup>198</sup>

### The Goals of the New Economic Policy

The New Economic Policy had two objectives.<sup>199</sup> One of the objectives was to eliminate poverty, particularly rural poverty and the other objective was to eliminate the identification between race and economic function.<sup>200</sup>

An agriculture policy was used to tackle poverty, which resettled 250 000 Malays on newly cleared farms.<sup>201</sup> The agriculture policy also caused investments in rural infrastructure as well as the creation of free trade zones in rural areas, used to create manufacturing jobs.<sup>202</sup>

Poverty declined during the 70's and the 80's with the poorest countries in Malaysia being rural Sabah and Sarawak.<sup>203</sup>

The second part of the government policy was to transfer economic power to Malays.<sup>204</sup> The Prime Minister Mahathir expanded the number of secondary schools and universities throughout the country, as education was seen as a way to transfer the economic power to the Malays.<sup>205</sup>

As far as the economic restructuring is concerned, the initial target was to move the ratio of economic ownership in Malaysia as follows:

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<sup>198</sup> Malaysian's New Economic and National Unity. (2005). [Online]. Available [http://en.wikipedia.org/wiki/Malaysian\\_New\\_Economic\\_Policy](http://en.wikipedia.org/wiki/Malaysian_New_Economic_Policy) 2 October

<sup>199</sup> History of Malaysia. (2005). The crisis of 1969. [Online]. Available [http://en.wikipedia.org/wiki/History\\_of\\_Malaysia](http://en.wikipedia.org/wiki/History_of_Malaysia) 16 October

<sup>200</sup> History of Malaysia. (2005). The crisis of 1969. [Online]. Available [http://en.wikipedia.org/wiki/History\\_of\\_Malaysia](http://en.wikipedia.org/wiki/History_of_Malaysia) 16 October

<sup>201</sup> History of Malaysia. (2005). The crisis of 1969. [Online]. Available [http://en.wikipedia.org/wiki/History\\_of\\_Malaysia](http://en.wikipedia.org/wiki/History_of_Malaysia) 16 October

<sup>202</sup> History of Malaysia. (2005). The crisis of 1969. [Online]. Available [http://en.wikipedia.org/wiki/History\\_of\\_Malaysia](http://en.wikipedia.org/wiki/History_of_Malaysia) 16 October

<sup>203</sup> History of Malaysia. (2005). The crisis of 1969. [Online]. Available [http://en.wikipedia.org/wiki/History\\_of\\_Malaysia](http://en.wikipedia.org/wiki/History_of_Malaysia) 16 October

<sup>204</sup> History of Malaysia. (2005). The crisis of 1969. [Online]. Available [http://en.wikipedia.org/wiki/History\\_of\\_Malaysia](http://en.wikipedia.org/wiki/History_of_Malaysia) 16 October

<sup>205</sup> History of Malaysia. (2005). The crisis of 1969. [Online]. Available [http://en.wikipedia.org/wiki/History\\_of\\_Malaysia](http://en.wikipedia.org/wiki/History_of_Malaysia) 16 October

- Bumiputra from 2.4% to 30%,
- Other Malaysians from 33% to 40% and
- Foreigner ownership from 63% to 30%.<sup>206</sup>

This was to be done by redistributing the wealth to increase the ownership of enterprise.<sup>207</sup>

The economic growth was to be increased mainly in the form of ISI.<sup>208</sup> Industries were targeted and policies were built around the government incentives created in 1975 to expand large-scale manufacturing industries and energy-intensive industries.<sup>209</sup> Export incentives were initiated and at the same time the Heavy Industries Corporation of Malaysia (HICOM) was formed in order to assist on the manufacture of pig-iron, aluminium die casting, pulp and paper, steel, cement, motorcycle and heavy engineering.<sup>210</sup> The aims of the NEP were defined in terms of goals which referred to Bumiputras collectively.<sup>211</sup> An example: 'A goal of 30% of the national wealth, held by Bumiputras was not indicative that the median 60% of Bumiputras held 28% of the national wealth and all the rest holding 1% collectively.'<sup>212</sup> No assistance for Malaysian, Chinese and Indian communities to achieve the 40% goal was ever planned or provided in the actual implementation of the NEP.<sup>213</sup>

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<sup>206</sup> History of Malaysia. (2005). The crisis of 1969. [Online]. Available [http://en.wikipedia.org/wiki/History\\_of\\_Malaysia](http://en.wikipedia.org/wiki/History_of_Malaysia) 16 October

<sup>207</sup> History of Malaysia. (2005). The crisis of 1969. [Online]. Available [http://en.wikipedia.org/wiki/History\\_of\\_Malaysia](http://en.wikipedia.org/wiki/History_of_Malaysia) 16 October

<sup>208</sup> History of Malaysia. (2005). The crisis of 1969. [Online]. Available [http://en.wikipedia.org/wiki/History\\_of\\_Malaysia](http://en.wikipedia.org/wiki/History_of_Malaysia) 16 October

<sup>209</sup> History of Malaysia. (2005). The crisis of 1969. [Online]. Available [http://en.wikipedia.org/wiki/History\\_of\\_Malaysia](http://en.wikipedia.org/wiki/History_of_Malaysia) 16 October

<sup>210</sup> History of Malaysia. (2005). The crisis of 1969. [Online]. Available [http://en.wikipedia.org/wiki/History\\_of\\_Malaysia](http://en.wikipedia.org/wiki/History_of_Malaysia) 16 October

<sup>211</sup> History of Malaysia. (2005). The crisis of 1969. [Online]. Available [http://en.wikipedia.org/wiki/History\\_of\\_Malaysia](http://en.wikipedia.org/wiki/History_of_Malaysia) 16 October

<sup>212</sup> History of Malaysia. (2005). The crisis of 1969. [Online]. Available [http://en.wikipedia.org/wiki/History\\_of\\_Malaysia](http://en.wikipedia.org/wiki/History_of_Malaysia) 16 October

<sup>213</sup> History of Malaysia. (2005). The crisis of 1969. [Online]. Available [http://en.wikipedia.org/wiki/History\\_of\\_Malaysia](http://en.wikipedia.org/wiki/History_of_Malaysia) 16 October

The wealth of the Bumiputras went from 4% in 1970 to about 20% in 1997 as a result of the NEP.<sup>214</sup> 'The disparities of wealth in Malaysia no longer disadvantaged the Bumiputra collectively.'<sup>215</sup>

<b>New Economic Policy benchmarks<sup>216</sup></b>	<b>1970</b>	<b>1990</b>	<b>2004</b>
• Bumiputra equity	2.4%	19.3%	18.7%
	(RM477m)	(RM20.9b)	
	(RM73.2b)		
• Overall poverty	52%	17.1%	5%
• Rural poverty	59%	21.8%	11%
• Household income	RM660	RM1,254	RM2,996

Wealth distribution remains unequal under the NEP.<sup>217</sup>

In 1997, 70.2 % of households in the bottom 40 % income group were Bumiputra.<sup>218</sup> 62.7% of households in the top 20 % income bracket were non-Bumiputra.<sup>219</sup> The NEP increased the national debt and economic inefficiencies due to the dramatic government intervention, causing worry among private sector investors.<sup>220</sup>

<sup>214</sup> History of Malaysia. (2005). The crisis of 1969. [Online]. Available [http://en.wikipedia.org/wiki/History\\_of\\_Malaysia](http://en.wikipedia.org/wiki/History_of_Malaysia) 16 October

<sup>215</sup> History of Malaysia. (2005). The crisis of 1969. [Online]. Available [http://en.wikipedia.org/wiki/History\\_of\\_Malaysia](http://en.wikipedia.org/wiki/History_of_Malaysia) 16 October

<sup>216</sup> History of Malaysia. (2005). The crisis of 1969. [Online]. Available [http://en.wikipedia.org/wiki/History\\_of\\_Malaysia](http://en.wikipedia.org/wiki/History_of_Malaysia) 16 October

<sup>217</sup> History of Malaysia. (2005). The crisis of 1969. [Online]. Available [http://en.wikipedia.org/wiki/History\\_of\\_Malaysia](http://en.wikipedia.org/wiki/History_of_Malaysia) 16 October

<sup>218</sup> History of Malaysia. (2005). The crisis of 1969. [Online]. Available [http://en.wikipedia.org/wiki/History\\_of\\_Malaysia](http://en.wikipedia.org/wiki/History_of_Malaysia) 16 October

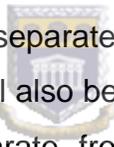
<sup>219</sup> History of Malaysia. (2005). The crisis of 1969. [Online]. Available [http://en.wikipedia.org/wiki/History\\_of\\_Malaysia](http://en.wikipedia.org/wiki/History_of_Malaysia) 16 October

<sup>220</sup> History of Malaysia. (2005). The crisis of 1969. [Online]. Available [http://en.wikipedia.org/wiki/History\\_of\\_Malaysia](http://en.wikipedia.org/wiki/History_of_Malaysia) 16 October

The NEP was mostly accepted by the Malaysian Chinese as a necessary evil for cessation to Malay aggression.<sup>221</sup> Occasional anti-Chinese rioting in Indonesia often drew stark contrast to their situation in Malaysia.<sup>222</sup> 'The Chinese community generally moved away from the public sector and set up businesses in the private sector where the actual impact of the NEP was one of convenience rather than on actual paradigm shift.'<sup>223</sup>

The national wealth owned by the non-Bumiputra races, has increased over time, beyond the 40% mark in spite of the policies implemented under the NEP.<sup>224</sup> This however represents an aggregation of the non-Bumiputra population.<sup>225</sup> Certain segments of the population live in direct poverty, particularly much of the Malaysian Indian population.<sup>226</sup>

### Bumiputra Laws

Bumiputra was discussed above,  separately for better understanding and it is here where the Bumiputra laws will also be discussed separately but note that the Bumiputra laws is not separate from the NEP but is included and established within the NEP and is know as pro-bumiputra policies.

The Bumiputra laws exist as a means of affirmative action for Bumiputras.<sup>227</sup> Pro-Bumiputra policies include quotas for admission to government

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<sup>221</sup> History of Malaysia. (2005). The crisis of 1969. [Online]. Available [http://en.wikipedia.org/wiki/History\\_of\\_Malaysia](http://en.wikipedia.org/wiki/History_of_Malaysia) 16 October

<sup>222</sup> History of Malaysia. (2005). The crisis of 1969. [Online]. Available [http://en.wikipedia.org/wiki/History\\_of\\_Malaysia](http://en.wikipedia.org/wiki/History_of_Malaysia) 16 October

<sup>223</sup> History of Malaysia. (2005). The crisis of 1969. [Online]. Available [http://en.wikipedia.org/wiki/History\\_of\\_Malaysia](http://en.wikipedia.org/wiki/History_of_Malaysia) 16 October

<sup>224</sup> History of Malaysia. (2005). The crisis of 1969. [Online]. Available [http://en.wikipedia.org/wiki/History\\_of\\_Malaysia](http://en.wikipedia.org/wiki/History_of_Malaysia) 16 October

<sup>225</sup> History of Malaysia. (2005). The crisis of 1969. [Online]. Available [http://en.wikipedia.org/wiki/History\\_of\\_Malaysia](http://en.wikipedia.org/wiki/History_of_Malaysia) 16 October

<sup>226</sup> History of Malaysia. (2005). The crisis of 1969. [Online]. Available [http://en.wikipedia.org/wiki/History\\_of\\_Malaysia](http://en.wikipedia.org/wiki/History_of_Malaysia) 16 October

<sup>227</sup> Bumiputra. Policy. (2005). [Online]. Available <http://Bumiputra.biograhpy.ms/> 6 November

educational institution, qualifications for public scholarship, positions in government and ownership in businesses.<sup>228</sup>

Examples of the pro-bumiputra within the NEP are as follows:

- Bumiputra must take up 30% of equity of listed companies on the Kuala Lumpur Stock Exchange as one of the listing requirements,
- A certain percentage of housing in any development has to be sold to Bumiputra owners,
- Mutual funds are available for purchase by Bumiputra buyers only,
- Government tender projects require that companies submitting tenders be Bumiputra owned and
- Approved permits for automobiles allow Bumiputra to import vehicles.<sup>229</sup>

### Conclusion

South Africa finds itself in a similar position to India and Malaysia. All three countries went through oppression where economies were in trouble, not beneficial to all and where the minority population were privileged. All three countries implemented policies to transform, restructure and redevelop their respective economies.

Just as Black Economic Empowerment (BEE) is not understood by most people of South Africa and just as there are still many challenges that South Africa is going to face with the concept of BEE, so too the people believed and also the challenges seemed unreachable to India with its reform policies and the extension thereof known as the Common Minimum Policy (CMP) and in terms of Malaysia with its policy known as the New Economic Policy (NEP).

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<sup>228</sup> Bumiputra. Policy. (2005). [Online]. Available <http://Bumiputra.biograhpy.ms/> 6 November

<sup>229</sup> Bumiputra. Policy. (2005). [Online]. Available <http://Bumiputra.biograhpy.ms/> 6 November

The goal of BEE is to empower all sectors of the economy, so too did the CMP of India empower all sectors of the economy as well as the NEP of Malaysia. This shows that it is not impossible as both India and Malaysia successfully applied an empowering concept to their economy.

Poverty, oppression of women and children as well as education was tools utilised to oppress people. The same tools are used to uplift and develop the economy of the above mentioned countries by empowering and applying the various empowering policies successful.

It is evident from the discussion in this chapter that the various policies implemented, have contributed to substantial change of the respective economies. One has to take the inference that BEE can do the same for the South African economy. The development of economic ownership was possible for India and Malaysia with the implementation of their policies and it can be a possibility for the South African economy as well with the implementation of Black Economic Empowerment (BEE). One has to accept that BEE is a restructuring program and it will take time before the people of South Africa reaps the benefits.

Further comparisons between India, Malaysia and South Africa will be discussed in the conclusion chapter of this thesis.

## **CHAPTER THREE**

### **THE SOUTH AFRICAN ECONOMY**

#### **Introduction**

The South African economy has grown and have come a far way since Apartheid. In this chapter attention will be taken to the South African economy which includes a definition thereof and an overview of how South Africa is perceived by others. Discussions will be on the crises created by Apartheid and the growth of the economy as well as the transition that took place from the Apartheid economy to the Democratic economy.

South Africa as it exists now will be discussed and included will be discussions on the South African financial policy, banks in South Africa and investment ratings. Economic growth will also be indicated by percentages for a much clearer understanding of the South African economy.



#### **Definition of Economy**

The South African Concise Oxford Dictionary defines an economy as the state of a country or region in terms of the production and consumption of goods and services and the supply of money.<sup>230</sup>

#### **An Overview of the South African Economy**

The world factbook describes South Africa as a middle income, emerging market with an abundant supply of natural resources. South Africa has a well developed financial, legal, communication, energy and transport sectors and a stock exchange that ranks amongst the 10 largest in the world. It also has a modern infrastructure, supporting an efficient distribution of goods to major urban centres throughout the region.<sup>231</sup> Growth however, has not been strong enough to lower South Africa's high unemployment rate and daunting

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<sup>230</sup> South African Concise Oxford Dictionary. (2001). Page 368

<sup>231</sup> The world factbook. (2005). Economy overview of South Africa. [Online]. Available <http://www.cia.gov/cia/publications/factbook/geos/sf.html> 17 October

economic problems remain from the apartheid era, especially poverty and lack of economic empowerment among the disadvantaged groups. The South African economic policy is fiscally conservative, but pragmatic, focused on targeting inflation and liberalising trade as a means to increase job growth and household income.<sup>232</sup>

### The Crisis that Apartheid Created for the South African Economy

When the African National Congress (ANC) inherited the economy in 1994, they inherited an economy that was massively distorted by Apartheid's political and economic policies and the economy at the time was in long-term decline.<sup>233</sup> Although South Africa's per capita<sup>234</sup> Gross Domestic Product (GPD)<sup>235</sup> ranked as a middle-income country, living standards for the majority resembled those of much poorer countries.<sup>236</sup> The fact that developed countries did not suffer the levels of malnutrition, homelessness and illiteracy that South Africa was exposed to should be taken into account.<sup>237</sup> Inequalities of income, wealth and skill existed between race groups, men and women and between rural and urban areas.<sup>238</sup> Studies at that time showed that South Africa had the most unequal economy in the world because the black majority had effectively been excluded from economic ownership and control, deliberately undermining black people's ability to accumulate capital.<sup>239</sup>

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<sup>232</sup> The world factbook. (2005). Economy overview of South Africa. [Online]. Available <http://www.cia.gov/cia/publications/factbook/geos/sf.html> 17 October

<sup>233</sup> Overall economic strategy. (2005). The crisis of the apartheid economy. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo16/economy.html> 12 September

<sup>234</sup> Per Capita – This means in relation to people taken individually. South African Concise Oxford Dictionary. (2001). Page 864

<sup>235</sup> GDP – This is the total value of goods produced and services provided within a country, usually during a year. South African Concise Oxford Dictionary. (2001). Page 510

<sup>236</sup> Overall economic strategy. (2005). The crisis of the apartheid economy. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo16/economy.html> 12 September

<sup>237</sup> Overall economic strategy. (2005). The crisis of the apartheid economy. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo16/economy.html> 12 September

<sup>238</sup> Overall economic strategy. (2005). The crisis of the apartheid economy. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo16/economy.html> 12 September

<sup>239</sup> Overall economic strategy. (2005). The crisis of the apartheid economy. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo16/economy.html> 12 September

South Africa faced a decline in industrial activities (deindustrialisation) and a long term decline in the economy which was associated with:

- a slump in gold mining;
- domestic and foreign investment depression since 1985;
- distorted patterns of domestic demand and distorted markets for factors of production;
- high levels of protection for domestic enterprises and weak competition laws;
- hostile environments for new black owned enterprises and small businesses;
- unemployment rising and little formal employment creation and
- little value-addition or benefit to primary products.<sup>240</sup>

A deficit that was almost reaching 8 per cent of the Gross Domestic Product (GDP) in terms of macroeconomics<sup>241</sup> caused big concern at that time.<sup>242</sup>

Inflation was over 10 per cent and the danger of the new government falling into a debt trap was a reality.<sup>243</sup> The economy found itself in high cost structures as a result of poor work process methods, poor human resource development, stagnating managerial practices, high tariffs and short production and this had been since 1982 when investment in both the public

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<sup>240</sup> Overall economic strategy. (2005). The crisis of the apartheid economy. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo16/economy.html> 12 September

<sup>241</sup> Macroeconomics – is the part of economics concerned with large-scale or general economic factors, such as interest rates and national productivity. South African Concise Oxford Dictionary. (2001) Page 696

<sup>242</sup> Overall economic strategy. (2005). The crisis of the apartheid economy. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo16/economy.html> 12 September

<sup>243</sup> Overall economic strategy. (2005). The crisis of the apartheid economy. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo16/economy.html> 12 September

and private sectors had stagnated.<sup>244</sup> South Africa's economy was heavily sanctioned and this further affected the country's economy.<sup>245</sup>

All the above and much more not mentioned, was the cause of the structural stagnant economy and this further led to the economy being vulnerable to the changes that was taking place in the world economy.<sup>246</sup>

There was a mismatch between the development in the South African economy and changes in the global economy and therefore the gap between cost of production in South Africa and competing economies was growing rapidly.<sup>247</sup>

At that time when the new government took over the South African economy, Apartheid had left labour relations not suitable to a modern economy.<sup>248</sup>

In the labour sector, management and workers had an extremely antagonistic relationship that led to high levels of strike action and low productivity because of few rights and little protection from labour law that general workers was suffering from.<sup>249</sup> The South African economy was therefore not competitive in the world economy.<sup>250</sup>

Various policies had to be put into place to make the economy work, which included cross-cutting policies, sector specific policies, addressing the

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<sup>244</sup> Overall economic strategy. (2005). The crisis of the apartheid economy. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo16/economy.html> 12 September

<sup>245</sup> The economy. (2004) Investing in South Africa. [Online]. Available <http://www.wwb.co.za/investsa.asp?pg=4> 12 September

<sup>246</sup> Overall economic strategy. (2005). The crisis of the apartheid economy. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo16/economy.html> 12 September

<sup>247</sup> Overall economic strategy. (2005). The crisis of the apartheid economy. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo16/economy.html> 12 September

<sup>248</sup> Overall economic strategy. (2005). The crisis of the apartheid economy. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo16/economy.html> 12 September

<sup>249</sup> Overall economic strategy. (2005). The crisis of the apartheid economy. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo16/economy.html> 12 September

<sup>250</sup> Overall economic strategy. (2005). The crisis of the apartheid economy. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo16/economy.html> 12 September

macroeconomic position of the country as well as microeconomic<sup>251</sup> constraints to growth.<sup>252</sup>

### Transition from the Apartheid Economy to the Democratic Economy

As early as 1990, the transition to a democratic, non-racial government had begun.<sup>253</sup> This was obviously stimulated by a debate as to the direction of which economic policies to implement to achieve a sustained economic growth, and at the same time redressing the socioeconomic disparities created by Apartheid.<sup>254</sup> Part of the problems created by the apartheid economy was to be addressed by the means of the Reconstruction and Development Program (RDP).<sup>255</sup> 'The RDP was designed to create programs to improve the standard of living for the majority of the population....'<sup>256</sup> The RDP was to provide housing (one million new homes in five years), basic services, education and health care.<sup>257</sup> Although the RDP today no longer has a specific government department headed by a minister, there still are various government departments and offices that are committed to supporting the RDP programs and goals.<sup>258</sup>

With the Growth, Employment and Redistribution (GEAR) strategy that was introduced, government demonstrated their commitment to open markets, to

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<sup>251</sup> Microeconomic - is the part of economics concerned with single factors and the effects of individual decisions. South African Concise Oxford Dictionary. (2001). Page 734

<sup>252</sup> Overall economic strategy. (2005). The crisis of the apartheid economy. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo16/economy.html> 12 September

<sup>253</sup> Economy. (2005). The South African Economy. [Online] Available <http://www.traveldocs.com/za/economy.htm> 12 September

<sup>254</sup> Economy. (2005). The South African Economy. [Online]. Available <http://www.traveldocs.com/za/economy.htm> 12 September

<sup>255</sup> Economy. (2005). The South African Economy. [Online]. Available <http://www.traveldocs.com/za/economy.htm> 12 September

<sup>256</sup> Economy. (2005). The South African Economy. [Online]. Available <http://www.traveldocs.com/za/economy.htm> 12 September

<sup>257</sup> Economy. (2005). The South African Economy. [Online]. Available <http://www.traveldocs.com/za/economy.htm> 12 September

<sup>258</sup> Economy. (2005). The South African Economy. [Online]. Available <http://www.traveldocs.com/za/economy.htm> 12 September

privatisation and to favourable investment.<sup>259</sup> GEAR symbolised a neoliberal economic<sup>260</sup> strategy to cover the years 1996 to 2000.<sup>261</sup>

The GEAR strategy failed to deliver in key areas such as increasing formal employment and distribution of wealth on equal racial lines.<sup>262</sup> However the GEAR strategy did bring about a greater financial discipline and macroeconomic stability leaving the strategy with mixed success.<sup>263</sup>

Government also introduced budgetary reforms such as the Medium-Term Expenditure Framework and the Public Finance Act which aims at reporting, auditing and increasing accountability to its monetary policy framework which includes inflation targeting.<sup>264</sup>

### The South African Economy as it Exists now

South Africa is said to be the economic powerhouse of Africa.<sup>265</sup> South Africa has the most developed economy in the Southern African region<sup>266</sup>, and has the most sophisticated free-market economy on the African continent.<sup>267</sup> The Southern African region consists of Angola, Botswana, Lesotho, Malawi, Mozambique, Swaziland, Tanzania, Zambia and Zimbabwe in addition to South Africa.<sup>268</sup> South Africa has a GDP equal to four times that of its

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<sup>259</sup> Economy. (2005). The South African Economy. [Online]. Available <http://www.traveldocs.com/za/economy.htm> 12 September

<sup>260</sup> Neoliberal economic – a new favourable economic.

<sup>261</sup> Economy. (2005). The South African Economy. [Online]. Available <http://www.traveldocs.com/za/economy.htm> 12 September

<sup>262</sup> Economy. (2005). The South African Economy. [Online]. Available <http://www.traveldocs.com/za/economy.htm> 12 September

<sup>263</sup> Economy. (2005). The South African Economy. [Online]. Available <http://www.traveldocs.com/za/economy.htm> 12 September

<sup>264</sup> Economy of South Africa. (2005). Wikipedia, the free encyclopedia. [Online]. Available [http://en.wikipedia.org/wiki/Economy\\_of\\_South\\_Africa](http://en.wikipedia.org/wiki/Economy_of_South_Africa) 18 October

<sup>265</sup> South Africa economy overview. (2005). [Online]. Available [www.southafrica.info/doing\\_business/economy/econoverview.htm](http://www.southafrica.info/doing_business/economy/econoverview.htm) 12 September

<sup>266</sup> The economy. (2004) Investing in South Africa. [Online]. Available <http://www.wwb.co.za/investsa.asp?pg=4> 12 September

<sup>267</sup> Werksmans SA business guide. (2005) Economic structure. [Online]. Available [http://www.werksmans.co.za/sabusguide/part\\_01.htm](http://www.werksmans.co.za/sabusguide/part_01.htm) 12 September

<sup>268</sup> The economy. (2004) Investing in South Africa. [Online]. Available <http://www.wwb.co.za/investsa.asp?pg=4> 12 September

neighbours (countries as mentioned above) combined.<sup>269</sup> The country represents only three percent of the continent's surface area yet it accounts for forty percent of all industrial output, twenty five percent of GDP, over half of generated electricity and forty five percent of mineral production in Africa.<sup>270</sup> Since 1994, South Africa's trade with, and investment in other African States, has increased significantly and South Africa is also a gateway for investment into Sub-Saharan Africa.<sup>271</sup>

South Africa has a two-tiered economy which is an economy of various levels or grades within a hierarchy,<sup>272</sup> one rivalling other developed countries and the other with only the most basic infrastructure.<sup>273</sup> The South African economy is thus a productive and industrialised economy.<sup>274</sup>

Furthermore, the country's economic system has a division, conceptualised into two opposing or contrasting aspects (marked duality) such as an industrial economy and the other being an informal economy.<sup>275</sup> As Werksmans states, 'a sophisticated industrial economy... developed alongside an underdeveloped informal economy.'<sup>276</sup> The industrial economy has an established infrastructure and economic base with great potential for further growth and development, whereas the informal economy presents both untapped potential and a developmental challenge for South Africa.<sup>277</sup>

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<sup>269</sup> The economy. (2004) Investing in South Africa. [Online]. Available <http://www.wwb.co.za/investsa.asp?pg=4> 12 September

<sup>270</sup> Werksmans SA business guide. (2005) Economic structure. [Online]. Available [http://www.werksmans.co.za/sabusguide/part\\_01.htm](http://www.werksmans.co.za/sabusguide/part_01.htm) 12 September

<sup>271</sup> Werksmans SA business guide. (2005) Economic structure. [Online]. Available [http://www.werksmans.co.za/sabusguide/part\\_01.htm](http://www.werksmans.co.za/sabusguide/part_01.htm) 12 September

<sup>272</sup> South African Concise Oxford Dictionary. (2001)

<sup>273</sup> Economy. (2005). The South African Economy. [Online]. Available <http://www.traveldocs.com/za/economy.htm> 12 September

<sup>274</sup> Economy. (2005). The South African Economy. [Online]. Available <http://www.traveldocs.com/za/economy.htm> 12 September

<sup>275</sup> Werksmans SA business guide. (2005) Economic structure. [Online]. Available [http://www.werksmans.co.za/sabusguide/part\\_01.htm](http://www.werksmans.co.za/sabusguide/part_01.htm) 12 September

<sup>276</sup> Werksmans SA business guide. (2005) Economic structure. [Online]. Available [http://www.werksmans.co.za/sabusguide/part\\_01.htm](http://www.werksmans.co.za/sabusguide/part_01.htm) 12 September

<sup>277</sup> Werksmans SA business guide. (2005) Economic structure. [Online]. Available [http://www.werksmans.co.za/sabusguide/part\\_01.htm](http://www.werksmans.co.za/sabusguide/part_01.htm) 12 September

This country's per capita GDP positions it as one of the fifty wealthiest countries in the world which means that in many respects this country is developed.<sup>278</sup>

### South Africa's Financial Policy

South Africa has a sophisticated financial structure with a large and active stock exchange called the Johannesburg Security Exchange (JSE). The JSE as stipulated before is among the 10 largest in the world, and is ranked 18<sup>th</sup> in the world in terms of total market capitalisation.<sup>279</sup> All banking functions are performed by the South African Reserve Bank (SARB), which is independent and operates in much as the same way as Western central banks.<sup>280</sup> The SARB influences interest rates and control liquidity through its interest rates on funds provided to private sector banking.<sup>281</sup> South African banks adhere to the Bank of International Standards core standards and quantitative control of deposits and lending rates have largely disappeared.<sup>282</sup>

Remaining foreign exchange controls will gradually be reduced which only apply to South African residents.<sup>283</sup> Private citizens are allowed one time investments of up to R750 000 in offshore accounts.<sup>284</sup>

South African companies may invest up to R750 million in Africa and R500 million elsewhere since 2001.<sup>285</sup>

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<sup>278</sup> Economy of South Africa. (2005). Wikipedia, the free encyclopedia. [Online]. Available [http://en.wikipedia.org/wiki/Economy\\_of\\_South\\_Africa](http://en.wikipedia.org/wiki/Economy_of_South_Africa) 12 September

<sup>279</sup> Financial policy. (2005). Economy of South Africa, Wikipedia. [Online]. Available [http://en.wikipedia.org/wiki/Economy\\_of\\_South\\_Africa](http://en.wikipedia.org/wiki/Economy_of_South_Africa) 18 October

<sup>280</sup> Financial policy. (2005). Economy of South Africa, Wikipedia. [Online]. Available [http://en.wikipedia.org/wiki/Economy\\_of\\_South\\_Africa](http://en.wikipedia.org/wiki/Economy_of_South_Africa) 18 October

<sup>281</sup> Financial policy. (2005). Economy of South Africa, Wikipedia. [Online]. Available [http://en.wikipedia.org/wiki/Economy\\_of\\_South\\_Africa](http://en.wikipedia.org/wiki/Economy_of_South_Africa) 18 October

<sup>282</sup> Financial policy. (2005). Economy of South Africa, Wikipedia. [Online]. Available [http://en.wikipedia.org/wiki/Economy\\_of\\_South\\_Africa](http://en.wikipedia.org/wiki/Economy_of_South_Africa) 18 October

<sup>283</sup> Financial policy. (2005). Economy of South Africa, Wikipedia. [Online]. Available [http://en.wikipedia.org/wiki/Economy\\_of\\_South\\_Africa](http://en.wikipedia.org/wiki/Economy_of_South_Africa) 18 October

<sup>284</sup> Financial policy. (2005). Economy of South Africa, Wikipedia. [Online]. Available [http://en.wikipedia.org/wiki/Economy\\_of\\_South\\_Africa](http://en.wikipedia.org/wiki/Economy_of_South_Africa) 18 October

<sup>285</sup> Financial policy. (2005). Economy of South Africa, Wikipedia. [Online]. Available [http://en.wikipedia.org/wiki/Economy\\_of\\_South\\_Africa](http://en.wikipedia.org/wiki/Economy_of_South_Africa) 18 October

## Banks in South Africa

South African banking regulations rank amongst the best in the world and the banking sector of South Africa has been ranked globally among the top ten.<sup>286</sup>

There are five mutual banks, twelve foreign controlled banks and fifty five locally controlled banks.<sup>287</sup> Leading institutions in the world have announced their intention to enter the South African banking sector through mergers and acquisitions.<sup>288</sup> Barclays bank has done so in 2005 by acquiring control of Absa bank.

## Investment Ratings

The World Economic Forum's 2004 annual Global competitive index rated South Africa as the most attractive country in Africa to invest in.<sup>289</sup> It is also rated as the most competitive economy in the sub-Saharan region.<sup>290</sup> South Africa has solid credit ratings due to reform and sound economic management in the past decade which implies less risk for investors and cutting cost of capital for the country's public and private sector borrowers.<sup>291</sup> A company called "Standard and Poor" also referred to as an agency, which is a company and or agency that provides the world with credit ratings, also provides the world with a wide range of products and services to help institutions around the world with informed financial decisions,<sup>292</sup> raised South

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<sup>286</sup> South Africa economy overview. (2005). [Online]. Available [www.southafrica.info/doing\\_business/economy/econoverview.htm](http://www.southafrica.info/doing_business/economy/econoverview.htm) 12 September

<sup>287</sup> South Africa economy overview. (2005). [Online]. Available [www.southafrica.info/doing\\_business/economy/econoverview.htm](http://www.southafrica.info/doing_business/economy/econoverview.htm) 12 September

<sup>288</sup> South Africa economy overview. (2005). [Online]. Available [www.southafrica.info/doing\\_business/economy/econoverview.htm](http://www.southafrica.info/doing_business/economy/econoverview.htm) 12 September

<sup>289</sup> South Africa economy overview. (2005). [Online]. Available [www.southafrica.info/doing\\_business/economy/econoverview.htm](http://www.southafrica.info/doing_business/economy/econoverview.htm) 12 September

<sup>290</sup> South Africa economy overview. (2005). [Online]. Available [www.southafrica.info/doing\\_business/economy/econoverview.htm](http://www.southafrica.info/doing_business/economy/econoverview.htm) 12 September

<sup>291</sup> South Africa economy overview. (2005). [Online]. Available [www.southafrica.info/doing\\_business/economy/econoverview.htm](http://www.southafrica.info/doing_business/economy/econoverview.htm) 12 September

<sup>292</sup> Standard and Poor's. (2005). About us. [Online]. Available <http://www2.standardpoors.com/servlet/Satellite?pagename=sp/Page/AboutUsMainPg&r=1&|=EN&b=8> 5 October

Africa's long- term foreign currency rating in August 2005.<sup>293</sup> These upgrades reflect that South Africa has a strong track record of macro-economic management.<sup>294</sup>

### South Africa's Economic Growth

The level of macroeconomic stability that South Africa has achieved in the last few years has not been seen in this country for over forty years.<sup>295</sup> This lays the foundation for increased investments and growths because it creates opportunities for real increase in expenditure on social services and reduces the cost and risk for all investors.<sup>296</sup>

A look at the growth of the country by breaking down the percentages of the performance of the country.

South Africa's economy has been in an upward phase of the business cycle since September 1999.<sup>297</sup>



The South African economy grew during:

- 2001 by 2,2%,
- 2002 by 3%,
- 2003 by 1.9%,
- 2004 by 3.7%.<sup>298</sup>

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<sup>293</sup> South Africa economy overview. (2005). [Online]. Available [www.southafrica.info/doing\\_business/economy/econoverview.htm](http://www.southafrica.info/doing_business/economy/econoverview.htm) 12 September

<sup>294</sup> South Africa economy overview. (2005). [Online]. Available [www.southafrica.info/doing\\_business/economy/econoverview.htm](http://www.southafrica.info/doing_business/economy/econoverview.htm) 12 September

<sup>295</sup> South African government information. Economy. (2005). Economic growth. [Online]. Available <http://www.imfo.gov.za/aboutsa/economy.htm#econog> 17 September

<sup>296</sup> Financial policy. (2005). Economy of South Africa, Wikipedia. [Online]. Available [http://en.wikipedia.org/wiki/Economy\\_of\\_South\\_Africa](http://en.wikipedia.org/wiki/Economy_of_South_Africa) 18 October

<sup>297</sup> South Africa economy overview. (2005). [Online]. Available [www.southafrica.info/doing\\_business/economy/econoverview.htm](http://www.southafrica.info/doing_business/economy/econoverview.htm) 12 September

<sup>298</sup> Werksmans SA business guide. (2005)Economic structure. [Online]. Available [http://www.werksmans.co.za/sabusguide/part\\_01.htm](http://www.werksmans.co.za/sabusguide/part_01.htm) 12 September

The recorded growth up to and including June 2005 average 3.5%.<sup>299</sup>

The total value of goods produced and services by this country, which is the Gross Domestic Product (GDP) for the year:

- 2003 was as 2.8%,
- 2004 was 2.8 %.<sup>300</sup>

In the second quarter of the year 2005 the GDP was running at an annualised 4.8%.<sup>301</sup>

Consumer inflation<sup>302</sup> has been on a downward trend since 2002.<sup>303</sup>

Consumer inflation for the year:

- 2003 averaged 6.8%,
- 2004 averaged 4.3%.<sup>304</sup>

This is remarkable if compared with the inflation in 1994 that averaged 9.8%.<sup>305</sup>



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<sup>299</sup> South Africa economy overview. (2005). [Online]. Available [www.southafrica.info/doing\\_business/economy/econoverview.htm](http://www.southafrica.info/doing_business/economy/econoverview.htm) 12 September

<sup>300</sup> South Africa economy overview. (2005). [Online]. Available [www.southafrica.info/doing\\_business/economy/econoverview.htm](http://www.southafrica.info/doing_business/economy/econoverview.htm) 12 September

<sup>301</sup> South Africa economy overview. (2005). [Online]. Available [www.southafrica.info/doing\\_business/economy/econoverview.htm](http://www.southafrica.info/doing_business/economy/econoverview.htm) 12 September

<sup>302</sup> Consumer inflation – is the general increase in price and fall in the purchasing value of money of goods and services. South African Concise Oxford Dictionary. (2001). Page 347

<sup>303</sup> South Africa economy overview. (2005). [Online]. Available [www.southafrica.info/doing\\_business/economy/econoverview.htm](http://www.southafrica.info/doing_business/economy/econoverview.htm) 12 September

<sup>304</sup> South Africa economy overview. (2005). [Online]. Available [www.southafrica.info/doing\\_business/economy/econoverview.htm](http://www.southafrica.info/doing_business/economy/econoverview.htm) 12 September

<sup>305</sup> South Africa economy overview. (2005). [Online]. Available [www.southafrica.info/doing\\_business/economy/econoverview.htm](http://www.southafrica.info/doing_business/economy/econoverview.htm) 12 September

Fiscal<sup>306</sup> management has seen South Africa's budget deficit drop from

- 5.1% of GDP in 1994 to
- 2.3% of GDP in 2004,<sup>307</sup>

In the first quarter of 2005, this figure fell to 1.6%, with the SA Revenue Services collecting nearly US\$3.5-billion more than expected.<sup>308</sup> This figure is now 1% of GDP for 2005 (as announced by the Minister of South Africa, Trevor Manuel, on the South African breakfast show, "Morning Live", on 26 October 2005).

The source of the revenue windfall was not higher individual or corporate taxes as both individual and corporate taxes have fallen since 1994.<sup>309</sup> The source of the revenue windfall was the performance of the economy, consumer confidence and a dramatic increase in the number of taxpayers.<sup>310</sup> The registered taxpayers amounted to 2 million in 1994 and in ten years have increased to 5 million in 2004.<sup>311</sup>



The Rand, which is the currency of South Africa, is considered as the world's most actively traded emerging market currency.<sup>312</sup> The rand has joined the elite club of fifteen currencies on the Continuous Linked Settlement (CLS).<sup>313</sup>

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<sup>306</sup> Fiscal – related to government revenue especially taxes. South African Concise Oxford Dictionary. (2001). Page 434

<sup>307</sup> South Africa economy overview. (2005). [Online]. Available [www.southafrica.info/doing\\_business/economy/econoverview.htm](http://www.southafrica.info/doing_business/economy/econoverview.htm) 12 September

<sup>308</sup> South Africa economy overview. (2005). [Online]. Available [www.southafrica.info/doing\\_business/economy/econoverview.htm](http://www.southafrica.info/doing_business/economy/econoverview.htm) 12 September

<sup>309</sup> South Africa economy overview. (2005). [Online]. Available [www.southafrica.info/doing\\_business/economy/econoverview.htm](http://www.southafrica.info/doing_business/economy/econoverview.htm) 12 September

<sup>310</sup> South Africa economy overview. (2005). [Online]. Available [www.southafrica.info/doing\\_business/economy/econoverview.htm](http://www.southafrica.info/doing_business/economy/econoverview.htm) 12 September

<sup>311</sup> South Africa economy overview. (2005). [Online]. Available [www.southafrica.info/doing\\_business/economy/econoverview.htm](http://www.southafrica.info/doing_business/economy/econoverview.htm) 12 September

<sup>312</sup> South Africa – Wikipedia. (2005). Economy. [Online]. Available [http://en.wikipedia.org/wiki/South\\_Africa](http://en.wikipedia.org/wiki/South_Africa) 18 October

<sup>313</sup> South Africa – Wikipedia. (2005). Economy. [Online]. Available [http://en.wikipedia.org/wiki/South\\_Africa](http://en.wikipedia.org/wiki/South_Africa) 18 October

The CLS is a system where forex transactions are settled immediately and this lowers the risk of transacting across time zones.<sup>314</sup> According to the Bloomberg Currency Scorecard, for the years between 2002 and 2005, the South African Rand was the best performing currency against the US dollar.<sup>315</sup> The South African economic activity has been affected due to the rapid and unpredictable change (volatility) of the rand.<sup>316</sup> The Rand fell sharply during 2001 hitting a low of R13.85 to the US Dollar.<sup>317</sup> This raised fears of inflation and caused the Reserve Bank to increase the interest rates.<sup>318</sup> As at July 2005, the rand was trading at R6.55 to the US Dollar which shows a dramatic recovery and the South African Reserve Bank's policy of inflation targeting has brought inflation under control.<sup>319</sup>

The stronger Rand has however put exporters under considerable pressure.<sup>320</sup> Many people who are affected by the strong rand have called upon the government to intervene in the exchange rate to help soften the rand, and many others are dismissing workers.<sup>321</sup>

The period of expansion of the country shows no sign of coming to an end according to the South African Reserve bank.<sup>322</sup>

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<sup>314</sup> South Africa – Wikipedia. (2005). Economy. [Online]. Available [http://en.wikipedia.org/wiki/South\\_Africa](http://en.wikipedia.org/wiki/South_Africa) 18 October

<sup>315</sup> South Africa – Wikipedia. (2005). Economy. [Online]. Available [http://en.wikipedia.org/wiki/South\\_Africa](http://en.wikipedia.org/wiki/South_Africa) 18 October

<sup>316</sup> South Africa – Wikipedia. (2005). Economy. [Online]. Available [http://en.wikipedia.org/wiki/South\\_Africa](http://en.wikipedia.org/wiki/South_Africa) 18 October

<sup>317</sup> South Africa – Wikipedia. (2005). Economy. [Online]. Available [http://en.wikipedia.org/wiki/South\\_Africa](http://en.wikipedia.org/wiki/South_Africa) 18 October

<sup>318</sup> South Africa – Wikipedia. (2005). Economy. [Online]. Available [http://en.wikipedia.org/wiki/South\\_Africa](http://en.wikipedia.org/wiki/South_Africa) 18 October

<sup>319</sup> South Africa – Wikipedia. (2005). Economy. [Online]. Available [http://en.wikipedia.org/wiki/South\\_Africa](http://en.wikipedia.org/wiki/South_Africa) 18 October

<sup>320</sup> South Africa – Wikipedia. (2005). Economy. [Online]. Available [http://en.wikipedia.org/wiki/South\\_Africa](http://en.wikipedia.org/wiki/South_Africa) 18 October

<sup>321</sup> South Africa – Wikipedia. (2005). Economy. [Online]. Available [http://en.wikipedia.org/wiki/South\\_Africa](http://en.wikipedia.org/wiki/South_Africa) 18 October

<sup>322</sup> South Africa economy overview. (2005). [Online]. Available [www.southafrica.info/doing\\_business/economy/econoverview.htm](http://www.southafrica.info/doing_business/economy/econoverview.htm) 12 September

## A Further Overview that Serves as a Guide to the South African Economy

### Currency

A system of money in general use in a particular country.

- 1Rand = 100 cents<sup>323</sup>

### Currency Code

- Rand ZAR<sup>324</sup>

### Exchange rate

- Rand per US dollar 6.4597 (2004)<sup>325</sup>

### Fiscal Year

A North American term for a financial year.<sup>326</sup>

- 1 April – 31 March<sup>327</sup>

### Trade Organisation

A country belongs to an organisation through which they can trade and in turn that organisation stipulates the rules of trade between nations.

- World Trade Organisation<sup>328</sup>

### Growth Domestic Product (GDP)

#### GDP ranking

In 2003 South Africa's GDP was ranked 24th in the world.<sup>329</sup>

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<sup>323</sup> South Africa – Wikipedia. (2005). Economy. [Online]. Available [http://en.wikipedia.org/wiki/Economy\\_of\\_South\\_Africa](http://en.wikipedia.org/wiki/Economy_of_South_Africa) 18 October

<sup>324</sup> The world factbook. (2005). South Africa. [Online]. Available <http://www.cia.gov/cia/publications/factbook/geos/sf.html> 17 October

<sup>325</sup> The world factbook. (2005). South Africa. [Online]. Available <http://www.cia.gov/cia/publications/factbook/geos/sf.html> 17 October

<sup>326</sup> South African Concise Oxford Dictionary. (2001). Page 434

<sup>327</sup> South Africa – Wikipedia. (2005). Economy. [Online]. Available [http://en.wikipedia.org/wiki/Economy\\_of\\_South\\_Africa](http://en.wikipedia.org/wiki/Economy_of_South_Africa) 18 October

<sup>328</sup> South Africa – Wikipedia. (2005). Economy. [Online]. Available [http://en.wikipedia.org/wiki/Economy\\_of\\_South\\_Africa](http://en.wikipedia.org/wiki/Economy_of_South_Africa) 18 October

GDP purchasing power parity (parity which refers to the equivalence of value)<sup>330</sup> in 2004 was:

- \$491.4billion<sup>331</sup>

GDP real growth rate in 2004 was:

- 3.5%<sup>332</sup>

GDP per capita in 2005 was:

- \$11,100<sup>333</sup>

GDP composition by sector in 2004 was:

- agriculture: 3.6%,
- industry: 31.2% and
- services: 65.2%<sup>334</sup>

### Labour Force

In 2004 16.63 million people were economically active.<sup>335</sup>



### Labour Force by Occupation

In 1999 it was established that the labour force by occupation was:

- Agriculture 30%,
- industry 25% and
- services 45%<sup>336</sup>

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<sup>329</sup> South Africa – Wikipedia. (2005). Economy. [Online]. Available [http://en.wikipedia.org/wiki/Economy\\_of\\_South\\_Africa](http://en.wikipedia.org/wiki/Economy_of_South_Africa) 18 October

<sup>330</sup> Parity – refers to the equivalence of value. South African Concise Oxford Dictionary. (2001). Page 847

<sup>331</sup> The world factbook. (2005). South Africa. [Online]. Available <http://www.cia.gov/cia/publications/factbook/geos/sf.html> 17 October

<sup>332</sup> The world factbook. (2005). South Africa. [Online]. Available <http://www.cia.gov/cia/publications/factbook/geos/sf.html> 17 October

<sup>333</sup> The world factbook. (2005). South Africa. [Online]. Available <http://www.cia.gov/cia/publications/factbook/geos/sf.html> 17 October

<sup>334</sup> The world factbook. (2005). South Africa. [Online]. Available <http://www.cia.gov/cia/publications/factbook/geos/sf.html> 17 October

<sup>335</sup> The world factbook. (2005). South Africa. [Online]. Available <http://www.cia.gov/cia/publications/factbook/geos/sf.html> 17 October

<sup>336</sup> The world factbook. (2005). South Africa. [Online]. Available <http://www.cia.gov/cia/publications/factbook/geos/sf.html> 17 October

### Unemployment Rate

In 2004 it was established that 26.2% of people was unemployed and this figure also includes people or workers no longer looking for employment.<sup>337</sup>

### Population Below Poverty Line

In the year 2000 it was established that this figure was as high as 50%.<sup>338</sup>

### Household Income or Consumption by Percentage Share

In 1994 the figures were:

- lowest 10%: 1.1% and
- highest 10%: 45.9%<sup>339</sup>

### Distribution of Family Income

Gini index indicated the figure for the year 1993 – 1994 was 59.3%.<sup>340</sup>

### Inflation Rate

Consumer prices in the 2004 the rate was 4.5%.<sup>341</sup>

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<sup>337</sup> The world factbook. (2005). South Africa. [Online]. Available <http://www.cia.gov/cia/publications/factbook/geos/sf.html> 17 October

<sup>338</sup> The world factbook. (2005). South Africa. [Online]. Available <http://www.cia.gov/cia/publications/factbook/geos/sf.html> 17 October

<sup>339</sup> The world factbook. (2005). South Africa. [Online]. Available <http://www.cia.gov/cia/publications/factbook/geos/sf.html> 17 October

<sup>340</sup> The world factbook. (2005). South Africa. [Online]. Available <http://www.cia.gov/cia/publications/factbook/geos/sf.html> 17 October

<sup>341</sup> The world factbook. (2005). South Africa. [Online]. Available <http://www.cia.gov/cia/publications/factbook/geos/sf.html> 17 October

## Investment

The GDP was 16.7% gross fixed in 2004.<sup>342</sup>

## Budget

In 2004:

- revenues was \$47.43 billion and
- expenditures were \$52.54 billion.<sup>343</sup>

## Public debt

In 2004 the public debt was 45.9% of the GDP.<sup>344</sup>

## Agricultural products

Agriculture products consist of the following:

- corn,
- wheat,
- sugarcane,
- fruits,
- vegetables,
- beef,
- poultry,
- mutton,
- dairy and
- wool.<sup>345</sup>



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<sup>342</sup> The world factbook. (2005). South Africa. [Online]. Available <http://www.cia.gov/cia/publications/factbook/geos/sf.html> 17 October

<sup>343</sup> The world factbook. (2005). South Africa. [Online]. Available <http://www.cia.gov/cia/publications/factbook/geos/sf.html> 17 October

<sup>344</sup> The world factbook. (2005). South Africa. [Online]. Available <http://www.cia.gov/cia/publications/factbook/geos/sf.html> 17 October

<sup>345</sup> The world factbook. (2005). South Africa. [Online]. Available <http://www.cia.gov/cia/publications/factbook/geos/sf.html> 17 October

## Industries

- Mining industry (South Africa is the world largest producer of platinum, gold and chromium),
- automobile assembly,
- metalworking,
- machinery,
- textile,
- iron and steel,
- chemicals,
- fertilizer,
- foodstuff and
- commercial ship repair.<sup>346</sup>

## Industrial Production Growth Rate

In 2004 it was established that the figure was at 5.5%.<sup>347</sup>



## Electricity

In 2002 the following figures with regards to electricity was established;

Electricity production

- 202.6 billion kWh

Electricity consumption

- 189.4 billion kWh

Electricity exports

- 6.95 billion kWh

Electricity imports

- 7.873 billion kWh.<sup>348</sup>

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<sup>346</sup> The world factbook. (2005). South Africa. [Online]. Available <http://www.cia.gov/cia/publications/factbook/geos/sf.html> 17 October

<sup>347</sup> The world factbook. (2005). South Africa. [Online]. Available <http://www.cia.gov/cia/publications/factbook/geos/sf.html> 17 October

## Oil

In 2001

- oil production was 196,200 bbl/day,
- oil consumption was 460 000 bbl/day and
- oil reserves were 7.84 million bbl as at 1 January 2002.<sup>349</sup>

## Natural Gas

In 2001:

Natural gas production

- 1.8 billion cu m,

Natural gas consumption

- 1.8 billion cu m,

Natural gas import and export

- 0%

Natural gas reserves

- 14.16 billion cu m at 1 January 2002.<sup>350</sup>



## Current account balance

In 2004 the current account balance was \$2.48 billion.<sup>351</sup>

## Exports

Export commodities:

- gold,
- diamonds,

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<sup>348</sup> The world factbook. (2005). South Africa. [Online]. Available <http://www.cia.gov/cia/publications/factbook/geos/sf.html> 17 October

<sup>349</sup> The world factbook. (2005). South Africa. [Online]. Available <http://www.cia.gov/cia/publications/factbook/geos/sf.html> 17 October

<sup>350</sup> The world factbook. (2005). South Africa. [Online]. Available <http://www.cia.gov/cia/publications/factbook/geos/sf.html> 17 October

<sup>351</sup> The world factbook. (2005). South Africa. [Online]. Available <http://www.cia.gov/cia/publications/factbook/geos/sf.html> 17 October

- platinum,
- other metals and minerals and
- machinery and equipment.<sup>352</sup>

Export partners:

- US 10.2%,
- UK 9.2%,
- Japan 9%,
- Germany 7.1% and
- Netherlands 4%.<sup>353</sup>

### Imports

Imports amount to \$39.42 billion,

Import commodities:

- machinery and equipment,
- chemicals,
- petroleum products,
- scientific instruments and
- foodstuff.<sup>354</sup>



Import partners:

- Germany 14.2%,
- US 8.5%,
- China 7.5%,
- Japan 6.9%,
- UK 6.9%,
- France 6%,

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<sup>352</sup> The world factbook. (2005). South Africa. [Online]. Available <http://www.cia.gov/cia/publications/factbook/geos/sf.html> 17 October

<sup>353</sup> The world factbook. (2005). South Africa. [Online]. Available <http://www.cia.gov/cia/publications/factbook/geos/sf.html> 17 October

<sup>354</sup> The world factbook. (2005). South Africa. [Online]. Available <http://www.cia.gov/cia/publications/factbook/geos/sf.html> 17 October

- Saudi Arabia 5.6% and
- Iran 5%.<sup>355</sup>

### Reserves of Foreign Exchange and Gold

11.6 billion in 2004.<sup>356</sup>

### External Debt

In 2004 the figure was \$27.01 billion.<sup>357</sup>

### Economic Aid Recipient

487.5 million in the year 2000.<sup>358</sup>

### Challenges for the South African Economy

According to analysts, South Africa's economy depends on several factors such as the continued developments of its natural resources, continued private sector confidence, the productive management of labour relations and political stability.<sup>359</sup> Another key factor will be the economic integration of the previously disadvantaged majority.<sup>360</sup>

Unemployment is a big challenge for the economy however, in 2002 employment growth was positive for the first time in six years.<sup>361</sup>

While South Africa's first economy (this is financial and industrial economy) has an established infrastructure and a economic base with

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<sup>355</sup> The world factbook. (2005). South Africa. [Online]. Available <http://www.cia.gov/cia/publications/factbook/geos/sf.html> 17 October

<sup>356</sup> The world factbook. (2005). South Africa. [Online]. Available <http://www.cia.gov/cia/publications/factbook/geos/sf.html> 17 October

<sup>357</sup> The world factbook. (2005). South Africa. [Online]. Available <http://www.cia.gov/cia/publications/factbook/geos/sf.html> 17 October

<sup>358</sup> The world factbook. (2005). South Africa. [Online]. Available <http://www.cia.gov/cia/publications/factbook/geos/sf.html> 17 October

<sup>359</sup> South Africa economy overview. (2005). [Online]. Available [www.southafrica.info/doing\\_business/economy/econoverview.htm](http://www.southafrica.info/doing_business/economy/econoverview.htm) 12 September

<sup>360</sup> South Africa economy overview. (2005). [Online]. Available [www.southafrica.info/doing\\_business/economy/econoverview.htm](http://www.southafrica.info/doing_business/economy/econoverview.htm) 12 September

<sup>361</sup> South Africa economy overview. (2005). [Online]. Available [www.southafrica.info/doing\\_business/economy/econoverview.htm](http://www.southafrica.info/doing_business/economy/econoverview.htm)

great potential for further growth and development, it's informal or second economy presents both untapped potential and a developmental challenge for the country.<sup>362</sup>

### Conclusion

One is aware of the fact that South Africa has many challenges ahead but with the implementation of policies and the commitment that government shows, it is possible.

Many of the policies implemented by the government has an empowering aspect to it. There is thus no doubt that BEE plays a big role in restructuring the economy.

Structures such as GEAR and RDP have been implemented with the BEE concept in place and a sector such as SARB has also been restructured along BEE lines. This brought about changes as seen above in the financial, banking and investment sectors of the South African economy.



The Johannesburg Securities Exchange (JSE) also plays a major role in the restructuring of the South African economy. One has to look at the JSE as the only exchange of South Africa where money is raised for capital, and how BEE plays a role on the JSE, if any.

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<sup>362</sup> South Africa economy overview. (2005). [Online}. Available [www.southafrica.info/doing\\_business/economy/econoverview.htm](http://www.southafrica.info/doing_business/economy/econoverview.htm)

## **CHAPTER FOUR**

### **JOHANNESBURG SECURITY EXCHANGE (JSE)**

#### **Introduction**

The buying and selling of securities forms a crucial part of the world economy as well as the South African economy and this chapter will focus on the place where it all happens in South Africa, which is the Johannesburg Securities Exchange (JSE). The history of the JSE will be discussed. This chapter will also focus on innovation and products utilised by the JSE, authority of the JSE and the procedures to list on the JSE. Focus will be on the two markets that operated on the JSE namely the Main Board and Alternative Exchange (AltX). A financial structure of a Black Economic Empowerment transaction will also be discussed.

#### **What is the Johannesburg Security Exchange?**

A Stock Exchange is a market in which securities are bought and sold.<sup>363</sup> The JSE Securities Exchange is South Africa's only stock exchange.<sup>364</sup> The Johannesburg Stock Exchange is situated at the corner of Maude Street and Gwen Lane in Sandton, Johannesburg, South Africa.<sup>365</sup> The JSE is the biggest stock exchange in Africa,<sup>366</sup> and is among the 10 largest in the world, and is ranked 18<sup>th</sup> in the world in terms of total market capitalisation.<sup>367</sup>

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<sup>363</sup> South African Concise Oxford Dictionary. (2001). Page 1155

<sup>364</sup> Johannesburg Stock Exchange. (2005). About the JSE. [Online]. Available [http://en.wikipedia.org/wiki/Johannesburg\\_Stock\\_Exchange](http://en.wikipedia.org/wiki/Johannesburg_Stock_Exchange) 26 October

<sup>365</sup> JSE Securities Exchange. (2005). History. [Online]. Available [http://www.absoluteastronomy.com/encyclopedia/j/js/jse\\_securities\\_exchange2.htm](http://www.absoluteastronomy.com/encyclopedia/j/js/jse_securities_exchange2.htm) 26 October

<sup>366</sup> Johannesburg Stock Exchange. (2005). About the JSE. [Online]. Available [http://en.wikipedia.org/wiki/Johannesburg\\_Stock\\_Exchange](http://en.wikipedia.org/wiki/Johannesburg_Stock_Exchange) 26 October

<sup>367</sup> Financial policy. (2005). Economy of South Africa, Wikipedia. [Online]. Available [http://en.wikipedia.org/wiki/Economy\\_of\\_South\\_Africa](http://en.wikipedia.org/wiki/Economy_of_South_Africa) 26 October

## History of the Johannesburg Stock Exchange

The Johannesburg Exchange & Chamber Company was established by a London businessman, Benjamin Minor Woollan, and initially housed at the corner of Commissioner and Simmonds Streets.<sup>368</sup> Out of this, the JSE Securities Exchange (JSE) known before as the Johannesburg Stock Exchange was born formally on the 8 November 1887 and celebrated its centenary on 8 November 1987.<sup>369</sup>

The founding of the JSE was as a result of the discovery of gold on the Witwatersrand or the Witwatersrand goldfields in 1886.<sup>370</sup> With this new discovery, mining and financial companies were formed and this meant that investors now needed a facility through which to buy and sell shares.<sup>371</sup> The Johannesburg Securities Exchange (JSE) came into existence to provide a market place for the shares of South Africa's mining and financial companies.<sup>372</sup>



## Facts About the Johannesburg Stock Exchange (JSE)

The JSE is governed by the Stock Exchange Control Act 1 of 1985, Stock Exchange Control Amendment Act 71 of 1996 and internally by extensive rules.<sup>373</sup> There is also a Securities Services Act 36 of 2004 which came into operation on 1 February 2005 and this repeals most Acts which governs the JSE.<sup>374</sup>

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<sup>368</sup> JSE Securities Exchange. (2005). History [Online]. Available

[http://www.absoluteastronomy.com/encyclopedia/j/js/jse\\_secures\\_exchange2.htm](http://www.absoluteastronomy.com/encyclopedia/j/js/jse_secures_exchange2.htm) 26 October

<sup>369</sup> JSE. (2005). About the JSE. History and development of the JSE Security Exchange. (Online).

Available <http://www.jse.co.za/information/historyofjse/history.htm> 23 June

<sup>370</sup> JSE. (2005). About the JSE. History and development of the JSE Security Exchange. (Online).

Available <http://www.jse.co.za/information/historyofjse/history.htm> 23 June

<sup>371</sup> JSE. (2005). About the JSE. History and development of the JSE Security Exchange. (Online).

Available <http://www.jse.co.za/information/historyofjse/history.htm> 23 June

<sup>372</sup> JSE. (2005). About the JSE. History and development of the JSE Security Exchange. (Online).

Available <http://www.jse.co.za/information/historyofjse/history.htm> 23 June

<sup>373</sup> Johannesburg Stock Exchange. (2005). [Online]. Available

[http://en.wikipedia.org/wiki/Johannesburg\\_Stock\\_Exchange](http://en.wikipedia.org/wiki/Johannesburg_Stock_Exchange) 26 October

<sup>374</sup> Security Services. (2005). [Online]. Available <http://www.wwb.co.za/investsa.asp?pg=7> 12 September

The Securities services Act will be discussed in depth later in the chapter.

A market is provided by the JSE, where securities can be traded freely, under a regulated procedure.<sup>375</sup> The JSE provides investors with returns on investments in the form of dividends and also channel funds into the economy.<sup>376</sup>

The main function of the JSE is to raise primary capital by rechanneling cash resources into productive economic activity.<sup>377</sup> The JSE thus builds the economy whilst enhancing job opportunities and creating wealth.<sup>378</sup>

The exchange is directed by an honorary committee of 16 people, all with full voting rights.<sup>379</sup> The elected committee who are also stockbroking members may not number less than eight and may not be more than 11 and they may also appoint an executive president and five outside members to the committee.<sup>380</sup> Duties such as policy decisions are made by the committee and carried out by a full-time executive committee headed by the executive president.<sup>381</sup>



The JSE is governed by its members who are also customers of the exchange through their use of JSE services and facilities.<sup>382</sup> Although South Africa only has one stock exchange, the Stock Exchange Control Act allows

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<sup>375</sup> Johannesburg Stock Exchange. (2005). About the JSE. [Online]. Available [http://en.wikipedia.org/wiki/Johannesburg\\_Stock\\_Exchange](http://en.wikipedia.org/wiki/Johannesburg_Stock_Exchange) 26 October

<sup>376</sup> Johannesburg Stock Exchange. (26/10/2005). About the JSE. [Online]. Available [http://en.wikipedia.org/wiki/Johannesburg\\_Stock\\_Exchange](http://en.wikipedia.org/wiki/Johannesburg_Stock_Exchange) 26 October

<sup>377</sup> Johannesburg Stock Exchange. (26/10/2005). About the JSE. [Online]. Available [http://en.wikipedia.org/wiki/Johannesburg\\_Stock\\_Exchange](http://en.wikipedia.org/wiki/Johannesburg_Stock_Exchange) 26 October

<sup>378</sup> Johannesburg Stock Exchange. (26/10/2005). About the JSE. [Online]. Available [http://en.wikipedia.org/wiki/Johannesburg\\_Stock\\_Exchange](http://en.wikipedia.org/wiki/Johannesburg_Stock_Exchange) 26 October

<sup>379</sup> Johannesburg Stock Exchange. (26/10/2005). About the JSE. [Online]. Available [http://en.wikipedia.org/wiki/Johannesburg\\_Stock\\_Exchange](http://en.wikipedia.org/wiki/Johannesburg_Stock_Exchange) 26 October

<sup>380</sup> Johannesburg Stock Exchange. (26/10/2005). About the JSE. [Online]. Available [http://en.wikipedia.org/wiki/Johannesburg\\_Stock\\_Exchange](http://en.wikipedia.org/wiki/Johannesburg_Stock_Exchange) 26 October

<sup>381</sup> Johannesburg Stock Exchange. (26/10/2005). About the JSE. [Online]. Available [http://en.wikipedia.org/wiki/Johannesburg\\_Stock\\_Exchange](http://en.wikipedia.org/wiki/Johannesburg_Stock_Exchange) 26 October

<sup>382</sup> Johannesburg Stock Exchange. (26/10/2005). About the JSE. [Online]. Available [http://en.wikipedia.org/wiki/Johannesburg\\_Stock\\_Exchange](http://en.wikipedia.org/wiki/Johannesburg_Stock_Exchange) 26 October

for the existence and operation of more than one exchange.<sup>383</sup> Annually the JSE is compelled to apply to the Minister of Finance for an operating license which vests external control of the exchange in the FSB.<sup>384</sup> The JSE is deemed to be a licenced exchange under the Securities Services Act 36 of 2004 with effect from 1 February 2005.<sup>385</sup>

### Systems Utilised by the JSE

The JSE makes use of fully automatic electronic trading on the Johannesburg Equities Trading known as the JET System.<sup>386</sup> The JET System is an order-driven automatic trading system acquired from the Chicago Stock Exchange, which has successfully installed the system at several other exchanges throughout the world.<sup>387</sup> It was also modified to suit the JSE's specialised needs, conducive to the South African economy and South African requirements.<sup>388</sup> The JET System has significantly improved transparency, price formation liquidity and cost of trading on the JSE.<sup>389</sup> The JSE's order book is organised on the principle of price/time priority where orders registered in the book are ranked first at the best price and then in time sequence of the entry.<sup>390</sup>

In addition the JSE launched the real-time Stock Exchange News Service (Sens) to enhance the market transparency and investor confidence in

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<sup>383</sup> Johannesburg Stock Exchange. (2005). About the JSE. [Online]. Available [http://en.wikipedia.org/wiki/Johannesburg\\_Stock\\_Exchange](http://en.wikipedia.org/wiki/Johannesburg_Stock_Exchange) 26 October

<sup>384</sup> Johannesburg Stock Exchange. (2005). About the JSE. [Online]. Available [http://en.wikipedia.org/wiki/Johannesburg\\_Stock\\_Exchange](http://en.wikipedia.org/wiki/Johannesburg_Stock_Exchange) 26 October

<sup>385</sup> Security Services. (2005). [Online]. Available <http://www.wwb.co.za/investsa.asp?pg=7> 12 September

<sup>386</sup> Johannesburg Stock Exchange. (2005). About the JSE. [Online]. Available [http://en.wikipedia.org/wiki/Johannesburg\\_Stock\\_Exchange](http://en.wikipedia.org/wiki/Johannesburg_Stock_Exchange) 26 October

<sup>387</sup> Johannesburg Stock Exchange. (2005). About the JSE. [Online]. Available [http://en.wikipedia.org/wiki/Johannesburg\\_Stock\\_Exchange](http://en.wikipedia.org/wiki/Johannesburg_Stock_Exchange) 26 October

<sup>388</sup> Johannesburg Stock Exchange. (2005). About the JSE. [Online]. Available [http://en.wikipedia.org/wiki/Johannesburg\\_Stock\\_Exchange](http://en.wikipedia.org/wiki/Johannesburg_Stock_Exchange) 26 October

<sup>389</sup> Johannesburg Stock Exchange. (2005). About the JSE. [Online]. Available [http://en.wikipedia.org/wiki/Johannesburg\\_Stock\\_Exchange](http://en.wikipedia.org/wiki/Johannesburg_Stock_Exchange) 26 October

<sup>390</sup> Johannesburg Stock Exchange. (2005). About the JSE. [Online]. Available [http://en.wikipedia.org/wiki/Johannesburg\\_Stock\\_Exchange](http://en.wikipedia.org/wiki/Johannesburg_Stock_Exchange) 26 October

August 1997.<sup>391</sup> Initially it was optional for listed companies to use this service during its two-month trial period but as from 15 October 1997, the JSE listing requirements obligated companies to disseminate any corporate news or price-sensitive information on the Service prior to using any other media outlet.<sup>392</sup> In addition Sens is carried by all the major wire services which are an added convenience factor.<sup>393</sup>

As the environment around the exchange evolves and grows across the globe, the systems implemented also improve to suit the exchange.

On the 2 May 1996, a memorandum was signed between the banks, represented by BankServ and the JSE where they established an electronic settlement system for the South African equities market.<sup>394</sup> This electronic settlement system is known as the, Share Transaction Totally Electronic (STRATE).<sup>395</sup> STRATE will be enabled through the dematerialisation of equity scrip on a Central Securities Depository.<sup>396</sup> This system will facilitate settlement and the transfer of ownership by electronic book entry.<sup>397</sup> The electronic system is vital to enhance the security of settlement in the market and bring South Africa in line with international practice.<sup>398</sup>

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<sup>391</sup> Johannesburg Stock Exchange. (2005). About the JSE. [Online]. Available [http://en.wikipedia.org/wiki/Johannesburg\\_Stock\\_Exchange](http://en.wikipedia.org/wiki/Johannesburg_Stock_Exchange) 26 October

<sup>392</sup> Johannesburg Stock Exchange. (2005). About the JSE. [Online]. Available [http://en.wikipedia.org/wiki/Johannesburg\\_Stock\\_Exchange](http://en.wikipedia.org/wiki/Johannesburg_Stock_Exchange) 26 October

<sup>393</sup> Johannesburg Stock Exchange. (2005). About the JSE. [Online]. Available [http://en.wikipedia.org/wiki/Johannesburg\\_Stock\\_Exchange](http://en.wikipedia.org/wiki/Johannesburg_Stock_Exchange) 26 October

<sup>394</sup> Johannesburg Stock Exchange. (2005). About the JSE. [Online]. Available [http://en.wikipedia.org/wiki/Johannesburg\\_Stock\\_Exchange](http://en.wikipedia.org/wiki/Johannesburg_Stock_Exchange) 26 October

<sup>395</sup> Johannesburg Stock Exchange. (2005). About the JSE. [Online]. Available [http://en.wikipedia.org/wiki/Johannesburg\\_Stock\\_Exchange](http://en.wikipedia.org/wiki/Johannesburg_Stock_Exchange) 26 October

<sup>396</sup> Johannesburg Stock Exchange. (2005). About the JSE. [Online]. Available [http://en.wikipedia.org/wiki/Johannesburg\\_Stock\\_Exchange](http://en.wikipedia.org/wiki/Johannesburg_Stock_Exchange) 26 October

<sup>397</sup> Johannesburg Stock Exchange. (2005). About the JSE. [Online]. Available [http://en.wikipedia.org/wiki/Johannesburg\\_Stock\\_Exchange](http://en.wikipedia.org/wiki/Johannesburg_Stock_Exchange) 26 October

<sup>398</sup> Johannesburg Stock Exchange. (2005). About the JSE. [Online]. Available [http://en.wikipedia.org/wiki/Johannesburg\\_Stock\\_Exchange](http://en.wikipedia.org/wiki/Johannesburg_Stock_Exchange) 26 October

## The JSE Securities Exchange and what it means to South Africa

The JSE Securities Exchange plays a crucial role in the commercial and economic development of Southern Africa and provides a market where entrepreneurs as well as established businesses, in search of capital, connect with investors in search of investment opportunities.<sup>399</sup>

Companies listed on the JSE are from across the spectrum of industry and commerce and gather together to raise public capital that will allow expansion, and in the process create new jobs, products, services, wealth and opportunities.<sup>400</sup> The companies listed on the JSE, generate a substantial part of South Africa's economic activity.<sup>401</sup>

The JSE has emerged as an active player in meeting both the political and economic challenges of post apartheid South Africa.<sup>402</sup>

Millions of South Africans have some stake in the JSE, whether they own shares directly or not.<sup>403</sup> How? By simply having an insurance policy, a savings account, a retirement policy or a unit trust.<sup>404</sup> Money that one invests into companies listed on the JSE, invest this money in the JSE to make the investment grow.<sup>405</sup>

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<sup>399</sup> JSE. (2005). About the JSE. An overview of the JSE part 1. Introduction. (Online). Available <http://www.jse.co.za/informational/overview/JSE%201.JPG> 23 June

<sup>400</sup> JSE. (2005). About the JSE. An overview of the JSE part 1. Introduction. (Online). Available <http://www.jse.co.za/informational/overview/JSE%201.JPG> 23 June

<sup>401</sup> JSE. (2005) About the JSE. An overview of the JSE part 1. Philosophy of the JSE. (Online) Available <http://www.jse.co.za/informational/overview/JSE%201.JPG> 23 June

<sup>402</sup> JSE. (2005) About the JSE. Guidelines to listing on the JSE. (Online). Available <http://www.jse.co.za/information/guideline/guidelines/-05072004.doc> 23 June

<sup>403</sup> JSE. (2005). About the JSE. An overview of the JSE part 1. Philosophy of the JSE. (Online). Available <http://www.jse.co.za/informational/overview/JSE%201.JPG> 23 June

<sup>404</sup> JSE. (2005). About the JSE. An overview of the JSE part 1. Philosophy of the JSE. (Online). Available <http://www.jse.co.za/informational/overview/JSE%201.JPG> 23 June

<sup>405</sup> JSE. (2005). About the JSE. An overview of the JSE part 1. Philosophy of the JSE. (Online). Available <http://www.jse.co.za/informational/overview/JSE%201.JPG> 23 June

## Securities Services and the JSE Securities Exchange

The enactment of the new Securities Services Act 36 of 2004 had the securities services industry in South Africa overhauled.<sup>406</sup> As mentioned before, the Securities Services Act 36 of 2004 (SS Act) came into operation on 1 February 2005.<sup>407</sup> The SS Act repeals<sup>408</sup> the following Acts:

- The Custody and Administration of Securities Act 85 of 1992;
- The Stock Exchange Control Act 55 of 1985 (SECA);
- The Financial Markets Control Act 55 of 1989 (FMCA) and
- The Insider Trading Act 135 of 1998.<sup>409</sup>

The SS Act consolidates the provisions of the Acts mentioned above into a single Act and also contains a significant number of new provisions which relates to previously unregulated matters.<sup>410</sup>

## The Objective of the Securities Services Act 36 of 2004

The Securities Services Act 36 of 2004 section 2 lists the objectives of the Act.<sup>411</sup>



The objects of the SS Act is to increase confidence in the South African financial markets, promote the protection of regulated persons and clients, reduce systematic risk and promote the international competitiveness of securities services in South Africa.<sup>412</sup> The SS Act regulates services provided in respect of the buying and selling of securities, the custody and administration of securities, the management of securities by an authorised

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<sup>406</sup> Investing in South Africa. (2005). Security Services. (2005). [Online]. Available <http://www.wwb.co.za/investsa.asp?pg=7> 12 September

<sup>407</sup> Investing in South Africa. (2005). Security Services. (2005). [Online]. Available <http://www.wwb.co.za/investsa.asp?pg=7> 12 September

<sup>408</sup> Repeals – is to evoke or annul.

<sup>409</sup> Investing in South Africa. (2005). Security Services. (2005). [Online]. Available <http://www.wwb.co.za/investsa.asp?pg=7> 12 September

<sup>410</sup> Investing in South Africa. (2005). Security Services. (2005). [Online]. Available <http://www.wwb.co.za/investsa.asp?pg=7> 12 September

<sup>411</sup> Securities Services Act 36 of 2004

<sup>412</sup> Investing in South Africa. (2005). Security Services. (2005). [Online]. Available <http://www.wwb.co.za/investsa.asp?pg=7> 12 September

user (member of the exchange), and the clearing and settlement of transactions in listed securities .<sup>413</sup> The SS Act also regulates market abuse consisting of insider trading and market manipulation.<sup>414</sup>

The term securities is widely defined in the SS Act and includes, inter alia, shares, stocks and depository receipts in public companies and other equivalent equities, notes, derivatives instruments, bonds, debentures, participatory interests in a collective investment scheme and instruments based on an index, but specifically excludes money market instruments, except as with regards to the custody and administration of securities.<sup>415</sup>

In terms of the SS Act, no person may operate as an exchange, central securities depository or clearing house unless it is licenced in terms of the Act.<sup>416</sup> The SS Act also further stipulates that no person may act as an authorised user by an exchange in terms of the exchange rules or will be accepted as a participant in terms of the rules of a central securities depository.<sup>417</sup>



With regards to the exchanges in South Africa, the SS Act provides for the demutualization<sup>418</sup> and the amalgamation of two or more exchanges.<sup>419</sup> The possibility of demutualization which the SS Act provides for has become necessary in the light of international trends.<sup>420</sup>

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<sup>413</sup> Investing in South Africa. (2005). Security Services. (2005). [Online]. Available <http://www.wwb.co.za/investsa.asp?pg=7> 12 September

<sup>414</sup> Investing in South Africa. (2005). Security Services. (2005). [Online]. Available <http://www.wwb.co.za/investsa.asp?pg=7> 12 September

<sup>415</sup> Investing in South Africa. (2005). Security Services. (2005). [Online]. Available <http://www.wwb.co.za/investsa.asp?pg=7> 12 September

<sup>416</sup> Investing in South Africa. (2005). Security Services. (2005). [Online]. Available <http://www.wwb.co.za/investsa.asp?pg=7> 12 September

<sup>417</sup> Investing in South Africa. (2005). Security Services. (2005). [Online]. Available <http://www.wwb.co.za/investsa.asp?pg=7> 12 September

<sup>418</sup> Demutualization - Changing of one exchange to a different kind.

<sup>419</sup> Investing in South Africa. (2005). Security Services. (2005). [Online]. Available <http://www.wwb.co.za/investsa.asp?pg=7> 12 September

<sup>420</sup> Investing in South Africa. (2005). Security Services. (2005). [Online]. Available <http://www.wwb.co.za/investsa.asp?pg=7> 12 September

The Act introduces a limitation of control, of shareholding in a company or close corporation in an exchange.<sup>421</sup> In order to acquire shares in an exchange, the approval of the Registrar of the Securities Services will be required.<sup>422</sup> The aggregate nominal value of those shares will amount to more than 15% of the total nominal value of all the issued shares of the exchange.<sup>423</sup> This provision introduces systemic risks into the securities markets preventing “disreputable people” from controlling an exchange.<sup>424</sup>

### Exchanges in South Africa

Although South Africa has only one stock exchange, this should not be confused with the fact that South Africa has two exchanges.<sup>425</sup> The two exchanges are made up of the JSE Securities Exchange (JSE) already mentioned and the Bond Exchange of South Africa (BESA).<sup>426</sup>

The JSE is an equity and derivative exchange, while the BESA lists loan stock.<sup>427</sup> Both the JSE and BESA are licenced exchanges under the SS Act.<sup>428</sup>



Separate sets of rules have been published by the JSE and BESA in terms of the repealed SECA and FMCA.<sup>429</sup> Despite the repeal of the SECA and FMCA, the rules of the JSE and BESA continue in force, in terms of the SS

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<sup>421</sup> Investing in South Africa. (2005). Security Services. (2005). [Online]. Available <http://www.wwb.co.za/investsa.asp?pg=7> 12 September

<sup>422</sup> Investing in South Africa. (2005). Security Services. (2005). [Online]. Available <http://www.wwb.co.za/investsa.asp?pg=7> 12 September

<sup>423</sup> Investing in South Africa. (2005). Security Services. (2005). [Online]. Available <http://www.wwb.co.za/investsa.asp?pg=7> 12 September

<sup>424</sup> Investing in South Africa. (2005). Security Services. (2005). [Online]. Available <http://www.wwb.co.za/investsa.asp?pg=7> 12 September

<sup>425</sup> Investing in South Africa. (2005). Security Services. (2005). [Online]. Available <http://www.wwb.co.za/investsa.asp?pg=7> 12 September

<sup>426</sup> Investing in South Africa. (2005). Security Services. (2005). [Online]. Available <http://www.wwb.co.za/investsa.asp?pg=7> 12 September

<sup>427</sup> Investing in South Africa. (2005). Security Services. (2005). [Online]. Available <http://www.wwb.co.za/investsa.asp?pg=7> 12 September

<sup>428</sup> Investing in South Africa. (2005). Security Services. (2005). [Online]. Available <http://www.wwb.co.za/investsa.asp?pg=7> 12 September

<sup>429</sup> Investing in South Africa. (2005). Security Services. (2005). [Online]. Available <http://www.wwb.co.za/investsa.asp?pg=7> 12 September

Act.<sup>430</sup> These rules however are not inconsistent with the SS Act provided the JSE and BESA amend or replace their rules by 1 August 2005 so as to comply with the requirements of the SS Act.<sup>431</sup> Exchange rules are binding on an exchange, an authorised user, an issuer and their officers and employees, and on clients.<sup>432</sup>

### Innovation and Products Used by the JSE

The JSE strives to provide the financial markets that South Africa deserves in order for the country to reach its potential.<sup>433</sup> The markets exist within the economy and have been operating successfully for many years but where gaps exist, the JSE aims to provide innovative and effective solutions by developing new markets to ensure that investors have a full range of products available to service needs.<sup>434</sup>

The latest product introduced by the JSE is called Yield –X.<sup>435</sup> Yield – X is a new interest rate exchange that the JSE recently launched and it commenced trading on the 28 February 2005.<sup>436</sup> The purpose of Yield –X is to trade a broad spectrum of interest rates products with a focus on derivatives and aims to open up the interest rate market to new players and new products, encouraging liquidity and market diversification.<sup>437</sup> Yield-X has been well supported by the market and has attracted twenty four trading and clearing

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<sup>430</sup> Investing in South Africa. (2005). Security Services. (2005). [Online]. Available <http://www.wwb.co.za/investsa.asp?pg=7> 12 September

<sup>431</sup> Investing in South Africa. (2005). Security Services. (2005). [Online]. Available <http://www.wwb.co.za/investsa.asp?pg=7> 12 September

<sup>432</sup> Investing in South Africa. (2005). Security Services. (2005). [Online]. Available <http://www.wwb.co.za/investsa.asp?pg=7> 12 September

<sup>433</sup> Philip Schedler. (2004). Yielding good returns. Reaching out. Spring 2004: 27

<sup>434</sup> Philip Schedler. (2004). Yielding good returns. Reaching out. Spring 2004: 27

<sup>435</sup> Investing in South Africa. (2005). Security Services. (2005). [Online]. Available <http://www.wwb.co.za/investsa.asp?pg=7> 12 September

<sup>436</sup> Investing in South Africa. (2005). Security Services. (2005). [Online]. Available <http://www.wwb.co.za/investsa.asp?pg=7> 12 September

<sup>437</sup> Investing in South Africa. (2005). Security Services. (2005). [Online]. Available <http://www.wwb.co.za/investsa.asp?pg=7> 12 September

members to date, with more applications being processed.<sup>438</sup> At the heart of Yield-X is an anonymous central order, allowing for trading via a single platform with automated trade matching and guaranteed settlements.<sup>439</sup> The JSE, through clearing-house Safcom, guarantees all trades and offers a cradle to grave audit trail.<sup>440</sup>

### Authority of the JSE

The JSE has the authority to exercise power over its members.<sup>441</sup> This power includes the power to grant or suspend a listing or enforce listing requirements.<sup>442</sup>

### General Powers of the JSE

The JSE is bound by the provision of the Stock Exchange Control Act 1 of 1985 (SECA), and all actions taken and requirements issued must be in terms of this Act.<sup>443</sup> SECA has been repealed by the Securities Services Act 36 of 2004 and came into operation on 1 February 2005 but SECA is still in force up until 1 August 2005 where the Securities Services Act 36 of 2004 replaces it.<sup>444</sup>

All member companies and their directors must comply with the rules and regulations in the form of the listing requirements, which is prescribed by the JSE.<sup>445</sup>

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<sup>438</sup> Investing in South Africa. (2005). Security Services. (2005). [Online]. Available <http://www.wwb.co.za/investsa.asp?pg=7> 12 September

<sup>439</sup> Investing in South Africa. (2005). Security Services. (2005). [Online]. Available <http://www.wwb.co.za/investsa.asp?pg=7> 12 September

<sup>440</sup> Investing in South Africa. (2005). Security Services. (2005). [Online]. Available <http://www.wwb.co.za/investsa.asp?pg=7> 12 September

<sup>441</sup> Deloitte & Touche. (2004). Guide to the JSE listing requirements. The boardroom brief series.

<sup>442</sup> Deloitte & Touche. (2004). Guide to the JSE listing requirements. The boardroom brief series.

<sup>443</sup> Investing in South Africa. (2005). Security Services. (2005). [Online]. Available <http://www.wwb.co.za/investsa.asp?pg=7> 12 September

<sup>444</sup> Investing in South Africa. (2005). Security Services. (2005). [Online]. Available <http://www.wwb.co.za/investsa.asp?pg=7> 12 September

<sup>445</sup> Deloitte & Touche. (2004). Guide to the JSE listing requirements. The boardroom brief series.

When the JSE takes a decision, a Company listed on the JSE has 48 hours to lodge an appeal against that decision taken by the JSE.<sup>446</sup>

## Procedures to Listing on the JSE

### Company Requirements for Listing on the JSE

All applications for listing of companies on the JSE are required to be submitted through a company's sponsor.<sup>447</sup> Sponsors who are normally accountants, attorneys, banks and other professional services firms are required to apply to the JSE to be a sponsor and have be registered in terms of the JSE's Register of sponsor.<sup>448</sup>

The JSE has the discretionary right to list a company even if the company does not comply with all the requirements.<sup>449</sup>

The company that applies to be listed on the JSE is required to be validly incorporated in a jurisdiction, with the directors of the company having sufficient knowledge and experience.<sup>450</sup> The Chief Executive Officer (CEO) of the company must be separate of the function of the chairman of the company and the chairman of the company must be a non-executive director of the company.<sup>451</sup>

### Pre-listing on the JSE

All the directors of a company that wish to list on the JSE have to complete pre-listing statements and these statements must be signed by all the directors of the company.<sup>452</sup> There is no prescribed format for the pre-listing statements, but it should include details of the issuer, sponsor, bankers,

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<sup>446</sup> Deloitte & Touche. (2004). Guide to the JSE listing requirements. The boardroom brief series.

<sup>447</sup> Deloitte & Touche. (2004). Guide to the JSE listing requirements. The boardroom brief series.

<sup>448</sup> Deloitte & Touche. (2004). Guide to the JSE listing requirements. The boardroom brief series.

<sup>449</sup> Deloitte & Touche. (2004). Guide to the JSE listing requirements. The boardroom brief series.

<sup>450</sup> Deloitte & Touche. (2004). Guide to the JSE listing requirements. The boardroom brief series.

<sup>451</sup> Deloitte & Touche. (2004). Guide to the JSE listing requirements. The boardroom brief series.

<sup>452</sup> Deloitte & Touche. (2004). Guide to the JSE listing requirements. The boardroom brief series.

auditors, reporting accountants, attorneys and any other advisers used.<sup>453</sup> The pre-listing statements must be issued to the public but has to be approved by the shareholders of the company first.<sup>454</sup> Before formal publication, the JSE is required to approve the statements.<sup>455</sup> Any omission of information by the company has to be approved by the JSE.<sup>456</sup>

### The Requirements for Listing on the JSE

The JSE operates two markets.<sup>457</sup> The one being the Main Board and the other being AltX (Alternative Exchange).<sup>458</sup> However, the Venture Capital Market (VCM) and the Developing Capital Market (DCM) are still present on the JSE, these markets do not accept any new listings.<sup>459</sup>

The VCM and the DCM has many companies still currently listed but only the Main Board and Alt-X will be considered for discussion as these two markets are considered as the only markets in operation on the South African exchange.



### Main Board

Most companies are quoted on the Main Board.<sup>460</sup> The companies on the Main Board, has a profit after tax, of at least R8 million (Eight Million Rand), and at least 20% of its share is owned by the general public as opposed to a controlling shareholder.<sup>461</sup>

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<sup>453</sup> Deloitte & Touche. (2004). Guide to the JSE listing requirements. The boardroom brief series.

<sup>454</sup> Deloitte & Touche. (2004). Guide to the JSE listing requirements. The boardroom brief series.

<sup>455</sup> Deloitte & Touche. (2004). Guide to the JSE listing requirements. The boardroom brief series.

<sup>456</sup> Deloitte & Touche. (2004). Guide to the JSE listing requirements. The boardroom brief series.

<sup>457</sup> JSE. (2005) About the JSE. Guidelines to listing on the JSE. (Online). Available

<http://www.jse.co.za/information/guideline/guidelines/-05072004.doc> 24 June

<sup>458</sup> JSE. (2005) About the JSE. Guidelines to listing on the JSE. (Online). Available

<http://www.jse.co.za/information/guideline/guidelines/-05072004.doc> 24 June

<sup>459</sup> Deloitte & Touche. (2004). Guide to the JSE listing requirements. The boardroom brief series.

<sup>460</sup> JSE Security Exchange South Africa. Handout. (June 2005)

<sup>461</sup> JSE Security Exchange South Africa. Handout. (June 2005)

### Alternative Exchange (AltX)

The Alternative Exchange, (AltX), is a division of the JSE and was launched in 2003.<sup>462</sup> AltX is the market for small to medium and growing companies.<sup>463</sup> Companies listed on AltX do not need to have a profit history.<sup>464</sup>

Each of these markets (Main Board and AltX) have different criteria for listing.<sup>465</sup>

### Main Board Requirements includes the following:

- a) A subscribed capital of at least R25 000 000.00 (Twenty Five Million Rand)<sup>466</sup>
- b) Not less than 25 0000 000 (Twenty Five Million) equity shares in issue.<sup>467</sup>
- c) An audited profit history for the preceding 3 (Three) financial years in which the last audited report shows profit of at least R8 Million before tax and after taking account of the headline earnings adjustment on a pre tax basis.<sup>468</sup>
- d) 20% of each class of equity securities shall be held by the public.<sup>469</sup>
- e) The number of the public shareholders in respect of listed securities shall be at least:
  - i) 500 for equity securities;
  - ii) 50 for preference share; and

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<sup>462</sup> Alternative Exchange. Hand out. (June 2005)

<sup>463</sup> Alternative Exchange. Hand out. (June 2005)

<sup>464</sup> JSE Security Exchange South Africa. Handout. (June 2005)

<sup>465</sup> JSE. (2005) About the JSE. Guidelines to listing on the JSE. (Online). Available <http://www.jse.co.za/information/guideline/guidelines/-05072004.doc> 24 June

<sup>466</sup> JSE. (2005) About the JSE. Guidelines to listing on the JSE. (Online). Available <http://www.jse.co.za/information/guideline/guidelines/-05072004.doc> 24 June

<sup>467</sup> JSE. (2005) About the JSE. Guidelines to listing on the JSE. (Online). Available <http://www.jse.co.za/information/guideline/guidelines/-05072004.doc> 24 June

<sup>468</sup> JSE. (2005) About the JSE. Guidelines to listing on the JSE. (Online). Available <http://www.jse.co.za/information/guideline/guidelines/-05072004.doc> 24 June

<sup>469</sup> JSE. (2005) About the JSE. Guidelines to listing on the JSE. (Online). Available <http://www.jse.co.za/information/guideline/guidelines/-05072004.doc> 24 June

- iii) 25 for debentures<sup>470</sup>

Only in exceptional cases, will companies be listed on the Main Board, where they do not strictly comply with the above requirements.<sup>471</sup>

#### Alternative Exchange Requirements AltX

- a) The appointment of a Designated Adviser (DA).<sup>472</sup>
- b) Compulsory Directors Induction Programme.<sup>473</sup>
- c) No profit history required.<sup>474</sup>
- d) A Share capital of R2 Million.<sup>475</sup>
- e) The appointment of a financial director.<sup>476</sup>
- f) Reduced listings and annual fees.<sup>477</sup>
- g) The public must hold a minimum of 10% of each class of equity securities and the number of shareholders shall be at least 100.<sup>478</sup>
- h) A profit forecast of the remainder of the financial year must be produced.<sup>479</sup>
- i) The applicant's auditors or attorneys must hold in trust 50% of the shareholding of each director and the DA and a certificate to that effect must be lodged with the JSE.<sup>480</sup>



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<sup>470</sup> JSE. (2005) About the JSE. Guidelines to listing on the JSE. (Online). Available <http://www.jse.co.za/information/guideline/guidelines/-05072004.doc> 24 June

<sup>471</sup> JSE. (2005) About the JSE. Guidelines to listing on the JSE. (Online). Available <http://www.jse.co.za/information/guideline/guidelines/-05072004.doc> 24 June

<sup>472</sup> Alternative Exchange. Hand out. (June 2005)

<sup>473</sup> Alternative Exchange. Hand out. (June 2005)

<sup>474</sup> Alternative Exchange. Hand out. (June 2005)

<sup>475</sup> Alternative Exchange. Hand out. (June 2005)

<sup>476</sup> Alternative Exchange. Hand out. (June 2005)

<sup>477</sup> Alternative Exchange. Hand out. (June 2005)

<sup>478</sup> JSE. (2005) About the JSE. Guidelines to listing on the JSE. (Online). Available <http://www.jse.co.za/information/guideline/guidelines/-05072004.doc> 24 June

<sup>479</sup> JSE. (2005) About the JSE. Guidelines to listing on the JSE. (Online). Available <http://www.jse.co.za/information/guideline/guidelines/-05072004.doc> 24 June

<sup>480</sup> JSE. (2005) About the JSE. Guidelines to listing on the JSE. (Online). Available <http://www.jse.co.za/information/guideline/guidelines/-05072004.doc> 24 June

- j) At least 25% of the directors must be non-executive.<sup>481</sup>

### Black Empowered or Black Owned Companies on the JSE

Currently there are four hundred and sixteen (416) companies listed on the JSE.<sup>482</sup> Of these companies, only thirty one (31) companies are Black Empowered or Black owned and qualifies to be listed on the JSE.<sup>483</sup> Some of these companies listed, have a minimum level of empowerment influence at shareholder and board level, with race and gender considered.<sup>484</sup> The qualifying criteria were the following for BEE:

- a) 10% black empowerment shareholding
- b) 20% black non-executive board members and
- c) one black executive board member.<sup>485</sup>

### Companies Listed on the Main Board

The Black Empowered or Black Owned companies listed on the JSE are the following:



1. African Rainbow Minerals
2. Barnard Jacobs Mallett
3. Bidvest
4. Brimstone
5. Brimstone N
6. Business Connexion
7. Cape Empowerment Trust
8. Datacentrix

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<sup>481</sup> JSE. (2005) About the JSE. Guidelines to listing on the JSE. (Online). Available <http://www.jse.co.za/information/guideline/guidelines/-05072004.doc> 24 June

<sup>482</sup> Alternative Exchange. Hand out. (June 2005)

<sup>483</sup> Business Map. (2005). Empowerment index. (Online). Available [http://www.businessmap.org.za/e\\_index.asp?PID=20](http://www.businessmap.org.za/e_index.asp?PID=20) 20 June

<sup>484</sup> Business Map. (2005). Empowerment index. (Online). Available [http://www.businessmap.org.za/e\\_index.asp?PID=20](http://www.businessmap.org.za/e_index.asp?PID=20) 20 June

<sup>485</sup> Business Map. (2005). Empowerment index. (Online). Available [http://www.businessmap.org.za/e\\_index.asp?PID=20](http://www.businessmap.org.za/e_index.asp?PID=20) 20 June

9. Don Group
10. Faritec
11. Grintek
12. Harmony Gold Mining Co
13. Hosken Consolidated Investment
14. Imperial
15. Johnnic Communications
16. Johnnic Holdings
17. Kagiso
18. LA Group
19. LA Group N
20. Labat
21. Metlife
22. MTN Group
23. Mathomo
24. Merafe
25. Mvelapanda
26. NAIL
27. NAIL-N
28. Matodzi
29. Primedia
30. Real Africa Holdings
31. Sekunjalo<sup>486</sup>



#### Companies Listed on AltX

1. Consol
2. Enaleni
3. Sterling Waterford Securities

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<sup>486</sup> Business Map. (2005). Empowerment index. (Online). Available [http://www.businessmap.org.za/e\\_index.asp?PID=20](http://www.businessmap.org.za/e_index.asp?PID=20) 20 June

4. Verimark
5. Alliance Data Corporation<sup>487</sup>

### An Example of a Financial Structure or Scheme of a Black Economic Empowerment Transaction

The example used here is that of The Bidvest Group Limited (Bidvest) and Dinatla Investment Holdings (Pty) Ltd empowerment transaction.

### The Object of the Scheme

The object of the scheme is to obtain a new broad-based Empowerment entity known as Dinatla owned by a consortium of prominent entrepreneurial black businesses and in due course the Bidvest Dinatla Trust.<sup>488</sup> Bidvest Dinatla Trust will become the registered owner of 45 000 000 Bidvest shares, being approximately 15% of the issued share capital of Bidvest held by the scheme participants, to enable Bidvest's BEE objectives to be realised.<sup>489</sup> Scheme participants will receive Bid BEE securities for their scheme shares in terms of the scheme.<sup>490</sup> In addition participants will receive call options.<sup>491</sup> The Bid BEE securities will be settled by Bid BEE as soon as reasonably possible after settlement of the Dinatla indebtedness or a portion thereof, if the Dinatla resolutive condition is fulfilled and waived only in part by Dinatla procuring the transfer of the settlement to the securities holders or by Bid BEE exercising its rights under the pledge.<sup>492</sup>

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<sup>487</sup> JSE Securities Exchange Monthly Bulletin. (June 2005). Page 80.

<sup>488</sup> Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

<sup>489</sup> Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

<sup>490</sup> Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

<sup>491</sup> Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

<sup>492</sup> Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

## A Synopsis of the BEE Transaction between Dinatla Investment Holdings and the Bidvest Group Limited

The Bidvest Group Limited (Bidvest) is an international services, trading and distribution company, listed on the JSE in the Industrial Support Services sector as:

- Bidvest (BVT) as registered by the JSE.
- BidBee Security (BDE) as registered by the JSE.
- Bidvest Option (BDEO) as registered by the JSE.

The Bidvest Group employs 90 000 people, mostly in South Africa and operates in the following areas:

### Services

Freight Terminals

Shipping

Forwarding

Marine Services

Travel Services

Banking and Foreign Exchange Services

Cleaning Services

Laundry Services

Hygiene Services

Green Services

Aviation Services

Security Services



### Foodservice Products

Catering Supplies

Frozen Foods

Speciality Foods

Catering Equipment  
Paper products  
Hospitality Accessories  
Bakery Supplies  
Bakery & Butchery equipment  
Food Ingredients

Commercial Products

Office Products  
Stationery  
Office Automation  
Office Furniture  
Printing & Mailing  
Paper Conversion  
Electrical Distribution  
Clothing manufacturing equipment  
Packaging closures



Automotive Products

Motor retailers  
Car Hire  
Fleet Rental  
Motor Vehicle Distribution  
Motor Vehicle Auctioneering  
Motor vehicle Financing  
Motor Insurance  
Property Management  
Fishing  
Network Solutions  
Electronic Purchasing Solutions

The Bidvest Group Limited took a decision that it should engage with a broad-based BEE group in order to achieve a BEE transaction, as a business and social imperative and to ensure the sustainability of the group in future.<sup>493</sup> As Lionel Jacobs explains, sustainability is about creating value and wealth for its stakeholders through the creation of equitable economic opportunities whilst being socially and environmentally responsible.<sup>494</sup> The Group decided therefore that it would favour an equity participation of 15% by a BEE group.<sup>495</sup>

Although Bidvest had previously been engaged in BEE transactions through approximately 5% of its shareholding being held by two BEE companies as passive partners who had subsequently sold their shares in order to focus on their core businesses, the board desired a long-term relationship with a broad-based group that would be active in adding value to the Group's operations throughout South Africa.<sup>496</sup>



After a series of negotiations, Dinatla Investment Holdings (Dinatla) was chosen to be the group that was most representative throughout South Africa with strong leadership, a vast beneficiary base and had a strong women's representation.<sup>497</sup> The shareholders in Dinatla are:

Women's Development Bank Investment Holdings (WDBIH)

Bassap Investments (Pty) Ltd	-	Western Cape
Ukuvula Investments (Pty) Ltd	-	Eastern Cape
Nandi Heritage Investments (Pty) Ltd	-	KZN

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<sup>493</sup> Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

<sup>494</sup> Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

<sup>495</sup> Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

<sup>496</sup> Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

<sup>497</sup> Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

Culca Investment Holdings (Pty) Ltd	-	Free State
Silver Knight Properties (Pty) Ltd	-	Northern Cape
Jalang Investments (Pty) Ltd	-	Gauteng
New Heights (Pty) Ltd	-	Limpopo
Thlware Investments (Pty) Ltd	-	North West
Izazi zaze Mpumalanga (Pty) Ltd	-	Mpumalanga
The Bidvest Dinatla Trust	-	formed for the granting of bursaries to HDI employees of Bidvest

Dinatla collectively represents 35 000 beneficiaries in both urban and rural communities of which 28% are women.<sup>498</sup>

At the time of the proposed transaction, the Bidvest market capitalization was R13 bn and obtaining 15% of its equity would entail funding obligations of approximately R1.95 bn.<sup>499</sup> The difficulty for Dinatla was that as an emerging BEE group it did not have the resources or financial relationships with any major financial institution to obtain funding for the transaction at reasonable rates to ensure that economic benefit would be retained by the BEE shareholders at the end of the period.<sup>500</sup> Furthermore, Section 38 of the Act did not allow Bidvest to assist in the funding.<sup>501</sup>

As a result of the above mentioned and as a consequence of discussions between Dinatla, Bidvest and their respective legal and financial advisers it was decided that to enable a sustainable BEE transaction to take place it

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<sup>498</sup> Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

<sup>499</sup> Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

<sup>500</sup> Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

<sup>501</sup> Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

would propose a scheme of arrangement in terms of section 311 of the Act between Bidvest and its members, excluding the designated subsidiary.<sup>502</sup>

The basic characteristics of the scheme would be that, subject to the fulfilment of the suspensive conditions, Dinatla would acquire 45 000 000 Bidvest shares, being approximately 15% of the issued share capital of Bidvest held by the scheme participants, pro rata from them.<sup>503</sup>

As a condition of the acquisition, the shares issued to Dinatla would not participate in dividend distributions during the transaction period.<sup>504</sup> This was to compensate participants for interest until Dinatla had paid for the shares.<sup>505</sup>

The scheme participants would receive securities in a newly listed company, BidBEE, as a method of being able to trade their scheme shares during the period, and as an additional “sweetener” for participation, Bidvest agreed to provide call options to participants to subscribe for 5% of their scheme shares in Bidvest at a fixed price of R60.00 per share at the end of the period.<sup>506</sup>



In terms of the scheme, Dinatla would pay a minimum price of R42.00 and a maximum price of R60.00 per Bidvest share acquired at the end of the 3 year scheme period.<sup>507</sup> The scheme could also be extended for a further year by mutual consent.<sup>508</sup> Should the Bidvest share price fall to R32.00, the scheme would disintegrate.<sup>509</sup> Dinatla also was given the option to settle at any time, prior to the end of the period.<sup>510</sup>

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<sup>502</sup> Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

<sup>503</sup> Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

<sup>504</sup> Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

<sup>505</sup> Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

<sup>506</sup> Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

<sup>507</sup> Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

<sup>508</sup> Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

<sup>509</sup> Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

<sup>510</sup> Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

If on the specified settlement date the calculated value of the Bidvest shares exceeds the maximum price, settlement could be made by cash and shares.<sup>511</sup>

The scheme was sanctioned by the High Court on 8 December 2003.<sup>512</sup>

At the time of this interview, the Bidvest share price was trading at R94.00, which has given Dinatla an economic value of R1.53 bn. at this date.<sup>513</sup>

Dinatla has also agreed that they would remain Bidvest shareholders for a minimum period of 5 years after the unwinding of the scheme.<sup>514</sup> This agreement was to ensure that Bidvest would retain its BEE status and that Dinatla would continue to add value to the Group.<sup>515</sup>

The Bidvest Dinatla transaction has been one of the most successful BEE transactions related to a JSE listed company to date as it has achieved the following:



- Economic value of R1.53 bn in a period under 2 years to a broad-based BEE group of 35 000 beneficiaries;
- Bidvest has acquired a BEE partner that adds value to its businesses throughout South Africa in a sustainable manner;
- Bidvest has obtained an 'A' rating by Empowerdex in terms of its empowerment credentials;
- The market capitalization of the Bidvest Group Limited has increased from R13 bn in 2003 to R28 bn in 2005 trading in a stable sustainable environment as an empowered company.<sup>516</sup>

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<sup>511</sup> Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

<sup>512</sup> Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

<sup>513</sup> Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

<sup>514</sup> Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

<sup>515</sup> Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

<sup>516</sup> Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.



## Conclusion

### The Role the JSE should play

JSE Securities Exchange was seen as the ruling measure of success or failure of empowerment companies before. Although it is still an important benchmark of Empowerment, there is growing realisation that formal control does not necessarily bring true empowerment.

An increasing number of successful empowerment transactions involving unlisted companies have contributed to shift the focus away from the JSE. The stock exchange is still a very visible symbol of economic power and the process of Black Empowerment will not be complete until there is substantial black ownership of JSE listed shares.

Ownership of shares either in listed or unlisted companies are no longer perceived to be the only and most appropriate deliverer of sustainable empowerment. There is an increasing emphasis on the promotion of SMME's and empowerment on grass root level. Job creation, skills transfer and true empowerment must come from the small entrepreneurial companies.

The above discussion of the JSE outlines the fact that the JSE is not concerned with Black Economic Empowerment. The primary concern of the JSE to raise new capital by businesses through sales of shares to investors and for the subsequent trading of those shares. No criteria exist for companies to be Black Empowered in order to be listed on the exchange.

One must not see the new division on the exchange namely AltX, as the solution to list BEE companies. This market merely extends its listing, in that more companies can list with requirements that are less demanding than the listing requirements for the Main Board division.

AltX therefore makes it easier for any company, not just Black Empowered companies to list on the exchange.

The JSE as an exchange should not extend its functions and concern itself with BEE. There should be no separate criteria for BEE listings.

The Black Economic Empowerment Commission (BEE Com) shares a different view and recommends that the JSE play a key role in the promotion of black participation on the economy.

Focus will be directed to the BEE Com in the following chapter.



## **CHAPTER FIVE**

### **THE BLACK ECONOMIC EMPOWERMENT COMMISSION (BEE COM)**

#### **Introduction**

The Black Economic Empowerment Commission (BEE Com) has drawn a great deal of attention in the South African media since its establishment.<sup>518</sup>

When Black Economic Empowerment is discussed occasionally, reference is made to the BEE Com and the research that has been done by them in the field of Black Economic Empowerment.<sup>519</sup> The Bee Commission has completed their work in 2001 and their recommendations will have an influence on the government's future empowerment efforts as well as affect the public debate on the subject of Black Economic Empowerment.<sup>520</sup>

In this chapter discussion will be on the establishment, objectives, challenges, targets and recommendations of the BEE Com.



#### **The Establishment of the Black Economic Empowerment Commission**

The Black Economic Empowerment Commission was formally established in May 1998 and initially started as a contribution to the debate of the fundamental transformation in South Africa.<sup>521</sup> The idea of a BEE Commission arose out of a resolution taken at the Black Management Forum (BMF), a conference held in Stellenbosch, from 14 to 15 November 1997.<sup>522</sup>

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<sup>518</sup> Department of Law School of Economics and Commercial law Gothenburg University Sweden. (2001). Black Economic Empowerment. 27 June 2005. [Online]. Available <http://www.handels.gu.se/epc/archive/00003204/01/200151.pdf>

<sup>519</sup> Department of Law School of Economics and Commercial law. Gothenburg University Sweden. (2001). Black Economic Empowerment. 27 June 2005. [Online]. Available <http://www.handels.gu.se/epc/archive/00003204/01/200151.pdf>

<sup>520</sup> Department of Law School of Economics and Commercial law. Gothenburg University Sweden. (2001). Black Economic Empowerment. 27 June 2005. [Online]. Available <http://www.handels.gu.se/epc/archive/00003204/01/200151.pdf>

<sup>521</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>522</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

The Black Business Council has initially appointed a team to investigate the following:<sup>523</sup>

- to develop a clear strategy and a coherent vision and strategy for Black Economic Empowerment;
- to construct a clear and unambiguous definition for Black Economic Empowerment;
- to find a way to integrate the Empowerment project in the South African transformation society;
- to identify the role of Black women in the Empowerment process;
- to determine the role of Black Business in the transformation process;
- to report on ways in which the management skills of Black people can be developed;
- to explore ways in which Black Business can speak with a united voice on issues which directly effect them;
- to examine ways in which Black Business can ensure that it's business conduct and ethics remain credible at all times, and
- to come up with practical ways in which small business can be developed.<sup>524</sup>

### Black Business Council

Who is the Black Business Council? The Black Business Council (BBC) was established in 1996 by various black leaders, most of whom were involved in various Black Businesses and professional formations.<sup>525</sup>

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<sup>523</sup> Business Map. (14 September 2005). Bee Commission Report. (Online). Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>524</sup> Business Map. (14 September 2005). Bee Commission Report. (Online). Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>525</sup> The Black Business Council. (13 September 2005). [Online]. Available [http://www.foundation-development-africa.org/africa\\_black\\_business/black\\_business\\_council.htm](http://www.foundation-development-africa.org/africa_black_business/black_business_council.htm)

They consisted of:

1. Association for the Advancement of Black Accountants of South Africa (ABASA),
2. Association of Black Securities and Investment Professionals (ABSIP),
3. African Mineral and Energy Forum (AMEF)
4. Black Business Executive Circle (BBEC),
5. Black Information Technology Forum (BITF),
6. Black Lawyers Association (BLA),
7. Black Management Forum (BMF),
8. Congress of Business and Economics (CBE),
9. FABCOS,
10. National African Chamber of Commerce (NAFCOC),
11. National Black Business Caucus (NBBC),
12. South African Black Technical and Allied Careers Organisation (SABTACO),
13. South African Communication Forum (SACF) and
14. South African Institute of Black Property Practitioner (SABTACO)<sup>526</sup>

The key objective of BBC was to play a central role in key national economic initiatives however BBC has now been discontinued.<sup>527</sup>

The team, that BBC appointed to form the BEE COM, consisted of 22 members namely: Cyril Ramaphosa (He headed the BEE Commission's work), Danisa Baloyi, David Moshapolo, Gavin Pieterse, Irene Charnley, Itumeleng Mosala, Jabulani Sikhakhane, Jake Moloi, JB Magwasa, Lot Ndlovu, Molefe Tsele, Moss Kgosana, Mzolisi Diliza, Nozipho January-Bardill, Pamela Mgulwa, Peter Vundla, Phinda Madi, Ruel Khoza, Saki

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<sup>526</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>527</sup> The Black Business Council. (13 September 2005). [Online]. Available [http://www.foundation-development-africa.org/africa\\_black\\_business/black\\_business\\_council.htm](http://www.foundation-development-africa.org/africa_black_business/black_business_council.htm)

Macozoma, Salukazi Dakile-Hlongwane, Sango Ntsaluba and Vusi Montsho.<sup>528</sup>

### Issues the BEECom was Appointed to Address.

At the BMF conference held on the 14 and the 15 November 1997, it was argued by the forum that the BEE Com should address issues such as:

- the lack of a national vision of BEE;
- the failure of Government and Black Business to provide leadership and a vision for BEE;
- Empowerment versus Enrichment;
- the Empowerment process being driven by white institutions, and
- the lack of a coherent definition for BEE.<sup>529</sup>

### The Black Economic Commission Objectives

The BEECom objectives are as follows:

- to gain insight into the BEE process through empirical research and to make observations on the pace and results of BEE initiatives during the 1990s,
- to draw conclusions on the obstacles to meaningful participation of black people in the economy,
- to develop a powerful case for an accelerated National BEE Strategy and to make recommendations on policies and instruments required to guide a sustainable strategy and,
- to develop benchmarks and guidelines to monitor the implementation of the National BEE strategy.<sup>530</sup>

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<sup>528</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>529</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>530</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

### The Definition of BEE as given by the Black Economic Commission

The fact that a substantial increase of levels of black participation in the economy is indispensable in order to attain growth, was the fundamental concept that formed the basis for the research by the BEE Com.<sup>531</sup>

The BEE Commission's definition on what constitutes black economic empowerment is:

- It is an integrated and coherent socio-economic process, located within the context of the country's national transformation programme, the RDP.
- It is aimed at redressing the imbalances of the past by seeking substantially and equitably transfers of ownership, as well as transfer management and control of South Africa's financial and economic resources to the majority of its citizens.
- It seeks to ensure that black people have a broader and meaningful participation in the economy in order to achieve sustainable development and prosperity.<sup>532</sup>

The BEE Commission argues that BEE should be viewed and should include:

- job creation,
- rural development,
- urban renewal,
- poverty alleviation,
- specific measures to empower black women,
- skills and management development ,
- education,

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<sup>531</sup> Department of Law School of Economics and Commercial law. Gothenburg University Sweden. (2001). Black Economic Empowerment. 27 June 2005. [Online]. Available <http://www.handels.gu.se/epc/archive/00003204/01/200151.pdf>

<sup>532</sup> Department of Law School of Economics and Commercial law. Gothenburg University Sweden. (2001). Black Economic Empowerment. 27 June 2005. [Online]. Available <http://www.handels.gu.se/epc/archive/00003204/01/200151.pdf>

- meaningful ownership and
- access to finance for household and for conducting business.<sup>533</sup>

### The Challenges Black Economic Empowerment Commission faced

Apartheid and Colonial policies led to significant structural distortions in the South African economy.<sup>534</sup> These distortions eventually resulted in crises in the Apartheid economy, which are still evident today.<sup>535</sup> There are various problems that the Democratic economy inherited from the Apartheid economy and these problems, even ten years into democracy, still leaves the economy with major challenges. The challenge of disempowerment was addressed by the BEECom and they present it in the Black Economic Empowerment Commission Report.<sup>536</sup>

The BEE Com refers to addressing the challenge of disempowerment.<sup>537</sup> With this statement the BEE Com justifies why a National BEE strategy is needed.

In the report the BEE Com report presents a case for South Africa to break the cycle of underdevelopment.<sup>538</sup> BEE Com encourages continued marginalisation of the majority of its people from the mainstream economy, and catapult the country onto a course of sustained rates of economic growth.<sup>539</sup> The BEECom believes that deliberate disempowerment provides a

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<sup>533</sup> Department of Law School of Economics and Commercial law. Gothenburg University Sweden. (2001). Black Economic Empowerment. 27 June 2005. [Online]. Available <http://www.handels.gu.se/epc/archive/00003204/01/200151.pdf>

<sup>534</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>535</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>536</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>537</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>538</sup> The Black Business Council. (13 September 2005). [Online]. Available [http://www.foundation-development-africa.org/africa\\_black\\_business/black\\_business\\_council.htm](http://www.foundation-development-africa.org/africa_black_business/black_business_council.htm)

<sup>539</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

sufficient, moral and political basis to justify an Integrated National BEE strategy.<sup>540</sup>

### The BEE National Strategy

The BEE Com proposed an Integrated National BEE strategy<sup>541</sup> or long term aim with components that includes the following:

- An investment for Growth Accord between businesses as well as labour and Government which is aimed at reaching agreements on a concrete strategy to lift the country's levels of fixed investment and economic growth.<sup>542</sup>
- The design and the implementation of an Integrated Human Resources Development (HRD) Strategy.<sup>543</sup>
- The implementation of the Integrated Rural Development Strategy and the creation of an agency to streamline and co-ordinate funding and other initiatives in rural areas and this should include land reform.<sup>544</sup>
- A National Procurement Agency located within the Department of Trade and Industry which is aimed at transforming the public and private sector procurement environment.<sup>545</sup>
- A National Black Economic Empowerment Act which is aimed at enabling legislation to create uniformity in policy and establish the necessary institutional support and instruments with which to drive the

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<sup>540</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>541</sup> Strategy – A plan designed to achieve a particular long term aim. South African Concise Oxford Dictionary. Page 1160

<sup>542</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>543</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>544</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>545</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

BEE strategy.<sup>546</sup> The Act should also define BEE in depth and set uniform guidelines that will facilitate deracialisation of economic activities in the public and private sectors.<sup>547</sup>

- An Empowerment Framework for Public Sector restructuring that outlines empowerment principles to be followed.<sup>548</sup>
- An enabling framework aimed at improving access to finance for household and businesses.<sup>549</sup> This can be attained through disclosure and reporting requirements in the banking sector.<sup>550</sup> Targets should also be implemented to encourage service delivery and the enhancement of existing State capacity in the Post Bank.<sup>551</sup>
- Recommendations on the streamlining and co-ordination of public sector funding initiatives through a National Empowerment Funding Agency (NEFA).<sup>552</sup>
- Recommendations on building the capacity of business structure especially Black Business structure.<sup>553</sup>
- The strategy incorporates national targets to be met by the stakeholders.<sup>554</sup>

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<sup>546</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>547</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>548</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>549</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>550</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>551</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>552</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>553</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>554</sup> The Black Business Council. (14 September 2005) The Black Business Council. (Online). Available [http://www.foundation-development-africa.org/africa\\_black\\_business/black\\_business\\_council.htm](http://www.foundation-development-africa.org/africa_black_business/black_business_council.htm)

According to a study by the Department of Law School of Economics and Commercial Law of Gothenburg University in Sweden, the Integrated National BEE Strategy should not just be seen as a long term aim or goal but as one of the recommendation of the BEE Commission.<sup>555</sup> This study suggest that the BEE Commission proposes the Integrated National BEE Strategy to include key components such as a National Black Economic Empowerment Act, which will define BEE and set uniform guidelines against which the public and private sectors can measure their performance and use when implementing BEE.<sup>556</sup> The study further stipulates that in order to address market failures and to transform existing government institutions, the BEE Act should also provide for the establishment of a permanent National Empowerment Commission within the office of the President of South Africa, a National Procurement Agency aimed at transforming the procurement environment in the public as well as in the private sector, a National Empowerment Funding Agency  with the aim to rationalise existing government funding initiatives and increase the access to capital among black entrepreneurs and a Rural Development Agency to raise funds for land acquisition and rural infrastructures development.<sup>557</sup>

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<sup>555</sup> Department of Law School of Economics and Commercial law. Gothenburg University Sweden. (2001). Black Economic Empowerment. 27 June 2005. [Online]. Available <http://www.handels.gu.se/epc/archive/00003204/01/200151.pdf>

<sup>556</sup> Department of Law School of Economics and Commercial law. Gothenburg University Sweden. (2001). Black Economic Empowerment. 27 June 2005. [Online. Available <http://www.handels.gu.se/epc/archive/00003204/01/200151.pdf>

<sup>557</sup> Department of Law School of Economics and Commercial law. Gothenburg University Sweden. (2001). Black Economic Empowerment. 27 June 2005. [Online. Available <http://www.handels.gu.se/epc/archive/00003204/01/200151.pdf>

## BEECom Targets

In order to guide the BEE Com National BEE strategy, targets was proposed by the BEE Com, over a ten year period.<sup>558</sup> The BEE Com and government gave a good indication of what these targets ought to be, although these targets were not finalised at the time of the report.<sup>559</sup>

The government targets are:

- 30% productive land in black hands. This includes black individuals as well as enterprises;
- 25% participation by blacks in all sectors of the economy;
- 40% of senior and executive management in private sector companies with more that 50 employees should be black;
- 40% of non-executive and executive directors of companies listed on the JSE should be black;
- 50% of all state owned enterprises (SOE's) and government procurement should go to black enterprises. (30% of these companies should be black -owned SME's);
- 30% private sector procurement should go to Black Companies;
- 30% of long term contracts and concessions from government should go to Black Companies;
- 40% of government incentives should go to Black Companies. This will typically include tax deductions and subsidies.<sup>560</sup>

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<sup>558</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>559</sup> De Wet, W. (2005). Development opportunities in Black Economic Empowerment. Unpublished paper.

<sup>560</sup> De Wet, W. (2005). Development opportunities in Black Economic Empowerment. Unpublished paper.

## Recommendation by the Black Economic Empowerment Commission

Note that many of the recommendations discussed below has already been considered by leaders and strategists of some of the recommendation may have been implemented.

### Recommendations

#### 1. Investment for Growth – A New Path to Development

##### Problem Statement

In the year 2000, seven years after the country's democratic elections, South Africa still experienced low levels of economic growth.<sup>561</sup> This resulted in rising levels of unemployment and poverty.<sup>562</sup>

South Africa's rural areas are trapped by a cycle of underdevelopment.<sup>563</sup>

Also, private sector confidence remains low because of poor levels of economic growth.<sup>564</sup>



##### Recommendation

Stakeholders should reach consensus on an Investment for Growth Accord. This should highlight participation in Targeted Development Investment Strategies, to substantially increase the levels of fixed investments and elevate the economy growth path.<sup>565</sup>

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<sup>561</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>562</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>563</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>564</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>565</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

## **2. An Integrated Human Resource Development (HRD) Strategy**

### **Problem Statement**

With Apartheid, the biggest crime against humanity was the denial of education and the deliberate enforcement of an inferior education.<sup>566</sup>

At the time of this BEECom report, research showed that:

- 24,3 % of Africans are illiterate and 43% functionally illiterate;
- 3% of Africans over the age of 20 have a tertiary qualification;
- 12,1% of Africans over the age of 20 have a matric qualification and
- 0.02% of Africans passed both mathematics and science in 1990.<sup>567</sup>

The crisis that South Africa is faced with is that it has no human capital required to attain or sustained, high levels of economic growth.<sup>568</sup> This is at a time when competitiveness is no longer based on mass production of standardised goods nor cheap raw materials inputs and low- skill or low wage labour.<sup>569</sup>



### **Recommendation**

The BEECom suggest that government introduces various measures:

- to ensure an increase of black graduates;
- that all 36 universities and technikons in South Africa have clear output targets;
- penalties to be imposed on those institutions that fail to meet targets;
- partnership be formed between the Higher Education and Training (HET) system and the secondary schools,

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<sup>566</sup> Business Map. (14 September 2005). Bee Commission Report. (Online). Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>567</sup> Business Map. (14 September 2005). Bee Commission Report. (Online). Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>568</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>569</sup> Business Map. (14 September 2005). Bee Commission Report. (Online). Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

- Programmes should be designed to promote entrepreneurship.<sup>570</sup>

BEE Com also recommends that government

- Introduce clear targets for tertiary institutions in respect of transforming staff profiles.<sup>571</sup>
- Skills levy must be gradually increased.<sup>572</sup>
- The implementation and integration of the HRD Strategy with the country's policies in order to develop the Information Communication and Technology (ICT) sector.<sup>573</sup>
- The private sector needs to demonstrate far greater commitment to the implementation of a National Human Resource plan.<sup>574</sup>
- Government should expedite programmes aimed at addressing the problem of the unemployed youth.<sup>575</sup>

### **3. Access to Financial Services and Capital**



#### **Problem statement**

Market failures and continued racism in established businesses, particularly the financial sector, are amongst the major obstacles preventing meaningful transformation.<sup>576</sup> Financial institutions serve needs of the minority white section of the population.<sup>577</sup> This results in biased allocation of resources to

<sup>570</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>571</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>572</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>573</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>574</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>575</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>576</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>577</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

the disadvantaged of the black majority.<sup>578</sup> The financial industry fails to provide banking services to the vast majority of the South African's and financial institutions generally fail to provide finance to the poor.<sup>579</sup>

### Recommendation

Government should intervene in the financial sector to promote BEE.<sup>580</sup>

The obligations are put out as follows:

- Government should sell its current stake in Business Partners to raise funds;
- Khula<sup>581</sup> must focus on building a sustainable and larger network of retail financial intermediaries;
- Government should direct more financial and human resources towards developing sustainable SMME's<sup>582</sup>;
- Government should provide various incentives;
- The state should establish a new DFI institutional framework;
- The establishment of a National Empowerment Funding Agency (NEFA);
- Government should introduce Community re-investment legislation to restructure the financial sector;
- Submission of an annual Empowerment report from the financial institutions to the Financial Services Board or the Reserve Bank;
- The state should continue to promote an environment that facilitates the emergence of sustainable development oriented at Micro- Finance

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<sup>578</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>579</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>580</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>581</sup> Khula – Government sector that promotes SMME's by providing funding guarantees.

<sup>582</sup> SMME's – Small Medium and Micro Enterprises.

Institution (MFI's) that can extend financial services to the poor on a large scale;

- The establishment of a State Bank, that focuses on ensuring access to affordable financial services;
- The government should develop criteria to enable the accreditation of Targeted Development Investments;
- The review of the functions and regulation of the credit bureaux;
- The State should implement a programme aimed at broadening the ownership base in the interest of promoting savings and of encouraging a wider ownership in the economy;
- Future BEE transactions should be guided by principles of integrity, equity, sustainability and effective ownership and
- The JSE should be a key institution in the promotion of black participation in the economy.<sup>583</sup>



#### **4. Affirmative Procurement**

##### **Problem statement**

Systematic and institutionalised racism in the South African society continues to restrict Black Business to the public and private sector contracts which are a requirement to grow Black Businesses into new and dynamic forces in the economy.<sup>584</sup>

Government procurement policies are inadequate because:

- i) it is difficult to estimate what portions go to small and medium business;
- ii) there are inconsistent yardsticks to monitor performance;

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<sup>583</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>584</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

- iii) there is an abuse of systems within tender boards and this results in ineffective empowerment outcomes.<sup>585</sup>

### Recommendation

The BEECom recommends an overhaul of the public sector procurement system to ensure that procurement meets objectives of RDP.<sup>586</sup> An Accreditation Unit should be established as a joint venture between the public and private sector to stimulate private sector procurement from black suppliers and to broaden ownership structures.<sup>587</sup> Initiatives to reform public sector procurement need to take various things into consideration such as:

- i) increasing the amount of procurement officials when transforming tender boards;
- ii) implementing systems to evaluate ongoing procurement;
- iii) to uniform adjudication criteria, guidelines and targets;
- iv) to enhance the review and complaints capability;
- v) a turnaround strategy for procurement offices/agencies through a comprehensive skills audit, training programmes and an institutional capacity building strategy;
- vi) the improving of Tender Advice Centres for potential suppliers;
- vii) services should be accessed for a fee by the private sector to promote private sector support for affirmative procurement policies.<sup>588</sup>
- viii) facilitation of upskilling existing staff as part of a HRD Strategy for procurement.<sup>589</sup>

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<sup>585</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>586</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>587</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>588</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

## **5. The Enabling Framework**

### **Problem statement**

Black people remain at the outer limits or a marginal and secondary position in the economy because of the absence of a coherent BEE framework from the government as well as a lack of commitment from the private sector.<sup>590</sup>

### **Recommendation**

The BEE Com recommends that the Integrated National BEE Strategy (INBS) be adopted as a cabinet approved policy position and that Government promulgate a BEE Act.<sup>591</sup>

## **6. An Empowerment Framework for Public Sector Restructuring**

### **Problem statement**

Government had huge budgetary constraints after the 1994 national elections and had to attract the private sector for capital to increase the country's growth rate.<sup>592</sup> The country's capital stock was tied up in SOE's<sup>593</sup> generating negative returns.<sup>594</sup>

The country had to attract foreign and domestic skills and technology by characterising the public service as having

- a general lack of resources,
- inefficient productive service delivery outputs,
- malpractices such as crime, corruption and nepotism,

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<sup>589</sup> Business Map. (14 September 2005). Bee Commission Report. (Online). Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>590</sup> Business Map. (14 September 2005). Bee Commission Report. (Online). Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>591</sup> Business Map. (14 September 2005). Bee Commission Report. (Online). Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>592</sup> Business Map. (14 September 2005). Bee Commission Report. (Online). Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>593</sup> SOE's – Single Ownership Enterprises

<sup>594</sup> Business Map. (14 September 2005). Bee Commission Report. (Online). Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

- debt burdens and backlogs that drains the economy and
- that the public sector was designed to serve a minority of the population.<sup>595</sup>

### Recommendation

The BEECom recommends an adoption of an Empowerment Framework for restructuring and that licensing becomes a powerful instrument to advance the BEE agenda.<sup>596</sup>

## **7. Rural Development and Access to Land**

### Problem statement

With Apartheid policies forced removals of millions of black people, caused overcrowded and impoverished reserves in the rural areas.<sup>597</sup> Half of the country's population lives in rural areas that entirely lack basic infrastructures and economic activities.<sup>598</sup> Further more, the lack of access to land, water, markets, finance and communication infrastructure and flow of information into these rural areas, prevents local entrepreneurs from making progress.<sup>599</sup> Millions of black people in the rural areas has have been denied opportunities to develop their human potential.<sup>600</sup>

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<sup>595</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>596</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>597</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>598</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>599</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>600</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

## Recommendation

BEECom recommends that the Government implement:

- An Integrated Sustainable Rural Development Strategy in four areas to accelerate Land Reforms, to promote community ownership, to improve access to finance and to invest in rural infrastructure.<sup>601</sup>
- Speed up the implementation of a social system.<sup>602</sup>
- Use a portion of privatisation proceeds to invest in development projects.<sup>603</sup>
- An agency should be identified to ensure co-ordination and focus on rural development.<sup>604</sup>
- Devise guidelines for the Land Bank as well as other institutions involved in rural development.<sup>605</sup>
- Develop a framework for the transfer of public and private land to black people with clear guidelines and time frames.<sup>606</sup>
- An Integrated Sustainable Rural Development Strategy must provide instruments to improve access to affordable financial services for the poor and to increase the rollout of ICT infrastructure in the rural areas.<sup>607</sup>

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<sup>601</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>602</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>603</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>604</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>605</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>606</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>607</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

## **8. The Role of Business Organisations**

### **Problem statement**

Businesses in South Africa still reflect the Apartheid past and have limited impact on the economic landscape.<sup>608</sup> Businesses constructed along racial lines make interaction with the government and mobilisation on national issues very difficult.<sup>609</sup> There is no unifying voice among the businesses in South Africa.<sup>610</sup>

### **Recommendation**

Agreements should be introduced towards a unified business voice between BSA<sup>611</sup> and BBC.<sup>612</sup> The new entity would have a chief executive officer (CEO) with two levels such as a co-ordinating council and full time secretariat with presentation of both BSA and BBC equally.<sup>613</sup> The Co-ordinating council will focus on support for transformation, working towards unity within businesses and the advancement of BEE.<sup>614</sup> The secretariat will focus on pursuing common purposes.<sup>615</sup>



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<sup>608</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>609</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>610</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>611</sup> BSA – Business South Africa

<sup>612</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>613</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>614</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>615</sup> Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

## A Critical Overview of the BEE Commission and its Recommendations

Reviewing the establishment and the Recommendations of the BEE Commission leads one to criticise the BEE Commission and its recommendations.

According to critics, the long delay by the BEE Commission's work led to urgent issues of empowerment slipping away from the national agenda.<sup>616</sup>

The slow delivery of the BEE Commission's report has been described as taking on 'biblical proportions'.<sup>617</sup>

The Business Day reports that the delay of the BEE Commission raised speculation that some commissioners caused the delay in order to serve their own agendas.<sup>618</sup>

Those awaiting the BEE Com report seemed very disappointed with the release of the final report in as the report was considered to be of a compromised and an unspecified nature.<sup>619</sup>

It was found that two-thirds of the BEE Commission proposals were already in stages of implementation with the release of the report.<sup>620</sup> The cause could have been that government has not been represented in the Commission.<sup>621</sup>

The report however calls on strong government intervention to drive the empowerment process.<sup>622</sup>

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<sup>616</sup> Department of Law School of Economics and Commercial law. Gothenburg University Sweden. (2001). Black Economic Empowerment. 27 June 2005. [Online]. Available <http://www.handels.gu.se/epc/archive/00003204/01/200151.pdf>

<sup>617</sup> Mahabane, I. (2000). Panel tussles with an issue blurred by lack of definition. Financial Mail, 17 March: 60

<sup>618</sup> Wadula, P. (2001). Delays no good for SA. Business Day, 19 February: 9

<sup>619</sup> Department of Law School of Economics and Commercial law. Gothenburg University Sweden. (2001). Black Economic Empowerment. 27 June 2005. [Online]. Available <http://www.handels.gu.se/epc/archive/00003204/01/200151.pdf>

<sup>620</sup> Wadula, P. (2001). Delay in report threatens black empowerment. Business Day, 26 March: 11

<sup>621</sup> Department of Law School of Economics and Commercial law. Gothenburg University Sweden. (2001). Black Economic Empowerment. 27 June 2005. [Online]. Available <http://www.handels.gu.se/epc/archive/00003204/01/200151.pdf>

<sup>622</sup> Department of Law School of Economics and Commercial law. Gothenburg University Sweden. (2001). Black Economic Empowerment. 27 June 2005. [Online]. Available <http://www.handels.gu.se/epc/archive/00003204/01/200151.pdf>

A disadvantage to the recommendations by the BEE Commission is clearly seen by the government's objection to the reliance on state delivery.<sup>623</sup> The reliance on the government, gives an impression that Black Economic Empowerment can only advance through the co-operation between government, businesses and labour.<sup>624</sup>

The BEE Commission's proposals for new laws and structures have also been questioned.<sup>625</sup> The government argues that many of the issues raised can be addressed within the existing legislative and institutional frameworks if they are given time to prove their ability to deliver empowerment.<sup>626</sup>

The commission urges the private sector to recognise its collective responsibility to assist government in the Empowerment process.<sup>627</sup> Yet the Commission's strong emphasis on the government's active role can give an opposite effect, as it can be used as an excuse by the established (white) businesses not to take an active part in the transformation process.<sup>628</sup> The recommendation of fixed investment levels is seen as the

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<sup>623</sup> Department of Law School of Economics and Commercial law. Gothenburg University Sweden. (2001). Black Economic Empowerment. 27 June 2005. [Online]. Available <http://www.handels.gu.se/epc/archive/00003204/01/200151.pdf>

<sup>624</sup> Wadula, P. (2000). Erwin urges black business to lead empowerment initiatives. Business Day, 29 September: 11

<sup>625</sup> Department of Law School of Economics and Commercial law. Gothenburg University Sweden. (2001). Black Economic Empowerment. 27 June 2005. [Online]. Available <http://www.handels.gu.se/epc/archive/00003204/01/200151.pdf>

<sup>626</sup> Wadula, P. (2000). Submission deadline to early, some claim. Business Day, 9 October: 7

<sup>627</sup> Department of Law School of Economics and Commercial law Gothenburg University Sweden. (2001). Black Economic Empowerment. 27 June 2005. [Online]. Available <http://www.handels.gu.se/epc/archive/00003204/01/200151.pdf>

<sup>628</sup> Department of Law School of Economics and Commercial law. Gothenburg University Sweden. (2001). Black Economic Empowerment. 27 June 2005. [Online]. Available <http://www.handels.gu.se/epc/archive/00003204/01/200151.pdf>

most controversial recommendation by the commission.<sup>629</sup> Fixed investment level should be left to the market mechanisms.<sup>630</sup>

### Conclusion

There are justifications for the delay of the release of the BEE Com report. The commission was made up of a diverse group of individuals from various disciplines. As such, they were not full time commissioners and they had their own varied interest besides working on the BEE Commission. This could be seen as an ultimate advantage for the recommendation findings of the commission.

Many of the recommendations have already been implemented and show great success. Some of the recommendations have been reviewed, updated and amended to current prevailing circumstances.

These recommendations and implementations play a big role in transferring ownership to the black majority.



However some of the recommendations made by the BEE Commission are unrealistic especially when short deadlines are set which are not practically realisable.

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<sup>629</sup> Department of Law School of Economics and Commercial law. Gothenburg University Sweden. (2001). Black Economic Empowerment. 27 June 2005. [Online]. Available <http://www.handels.gu.se/epc/archive/00003204/01/200151.pdf>

<sup>630</sup> Department of Law School of Economics and Commercial law. Gothenburg University Sweden. (2001). Black Economic Empowerment. 27 June 2005. [Online]. Available <http://www.handels.gu.se/epc/archive/00003204/01/200151.pdf>

## **CHAPTER SIX**

### **POVERTY RELIEF**

#### **Introduction**

South Africa is an upper-middle-income country in terms of per capita, but most of South African households live in outright poverty and continue to be poor, despite the relative wealth in South Africa.<sup>631</sup> South Africa's distribution of income and wealth is among the most unequal in the world.<sup>632</sup> Countries with less equal distributions of income and wealth tend not to grow as rapidly as those with more equitable distributions.<sup>633</sup> Many households in South Africa still have inadequate access to education, health care, energy and clean water.<sup>634</sup> This situation if it continues is likely to affect not only the country's social and political stability, but also the development path it follows.<sup>635</sup>

In this chapter discussions will be on poverty and poverty relief. One will look at whether or not Black Economic Empowerment can address poverty relief and also look at how Black Economic Empowerment benefits from creating poverty relief.

#### **Poverty**

Poverty can be defined as the state of being extremely poor or the state of being insufficient in amount.<sup>636</sup> Poverty can further be defined as the inability

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<sup>631</sup> Poverty and inequality in South Africa – Summary report. 13 May 1998. [Online]. Available <http://www.polity.org.za/html/govdocs/reports/poverty.html?rebookmark=1>

<sup>632</sup> Poverty and inequality in South Africa – Summary report. 13 May 1998. [Online]. Available <http://www.polity.org.za/html/govdocs/reports/poverty.html?rebookmark=1>

<sup>633</sup> Poverty and inequality in South Africa – Summary report. 13 May 1998. [Online]. Available <http://www.polity.org.za/html/govdocs/reports/poverty.html?rebookmark=1>

<sup>634</sup> Poverty and inequality in South Africa – Summary report. 13 May 1998. [Online]. Available <http://www.polity.org.za/html/govdocs/reports/poverty.html?rebookmark=1>

<sup>635</sup> Poverty and inequality in South Africa – Summary report. 13 May 1998. [Online]. Available <http://www.polity.org.za/html/govdocs/reports/poverty.html?rebookmark=1>

<sup>636</sup> South African Concise Oxford Dictionary. 2002. Page 915

to attain a minimal standard of living, measured in terms of basic consumption needs or the income required to satisfy them.<sup>637</sup>

A few interesting global facts about poverty:

- nearly three billion people live on less than two US dollars a day,
- the Gross Domestic Product of the poorest forty eight nations, is less than the wealth of the world's three richest people combined,
- nearly a billion people could not read or sign their name entering the 21<sup>st</sup> century,
- Less than one percent of what the world spent ever year on weapons was needed to put every child into school by the year 2000 and yet it did no happen,
- One billion children live in poverty (1 in 2 children in the world), 640 million live without adequate shelter, 400 million have no access to safe water, 270 million have no access to health services and 10.6 million died in 2003 before they reached the age of 5.<sup>638</sup>

The majority of the world's people and nations live in poverty.<sup>639</sup> Does one blame poor people for their own predicament?<sup>640</sup> Are they lazy, have they made poor decisions, and been solely responsible for their plight?<sup>641</sup> What about government?<sup>642</sup> Are they pursuing policies that actually are not

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<sup>637</sup> Poverty and inequality in South Africa – Summary report. 13 May 1998. The extend and distribution of poverty. [Online]. Available

<http://www.polity.org.za/html/govdocs/reports/poverty.html?rebookmark=1>

<sup>638</sup> Global Issues. Causes of poverty. (08/11/2005). [Online]. Available

<http://www.globalissues.org/TradeRelated/Poverty.asp>

<sup>639</sup> Global Issues. Causes of poverty. (08/11/2005). [Online]. Available

<http://www.globalissues.org/TradeRelated/Poverty.asp>

<sup>640</sup> Global Issues. Causes of poverty. (08/11/2005). [Online]. Available

<http://www.globalissues.org/TradeRelated/Poverty.asp>

<sup>641</sup> Global Issues. Causes of poverty. (08/11/2005). [Online]. Available

<http://www.globalissues.org/TradeRelated/Poverty.asp>

<sup>642</sup> Global Issues. Causes of poverty. (08/11/2005). [Online]. Available

<http://www.globalissues.org/TradeRelated/Poverty.asp>

beneficial to successful development?<sup>643</sup> Such causes of poverty and inequality are no doubt real but often what is ignored is the deeper and more global causes of poverty.<sup>644</sup>

Behind the increasing interconnectedness promised by globalisation, are practices, global decisions and policies.<sup>645</sup> These are typically influenced, driven or formulated by the handful of rich and powerful.<sup>646</sup> These are or can be leaders of rich countries or other global actors such as multinational corporations, institutions, and influential people.<sup>647</sup> Governments of poor nations and their people are often powerless in the face of such external influences.<sup>648</sup> As a result, in the global context, a few get wealthy while the majority struggle.<sup>649</sup>

### The Causes of Poverty in South Africa

Apartheid remains the primary cause for poverty in South Africa.<sup>650</sup> Apartheid legislation, policies and repressive practices created poverty in the previously disadvantaged communities of South Africa.<sup>651</sup> Apartheid caused people to have minimal rights if any, and this contributed to people living in appalling

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<sup>643</sup> Global Issues. Causes of poverty. (8 November 2005). [Online]. Available <http://www.globalissues.org/TradeRelated/Poverty.asp>

<sup>644</sup> Global Issues. Causes of poverty. (8 November 2005). [Online]. Available <http://www.globalissues.org/TradeRelated/Poverty.asp>

<sup>645</sup> Global Issues. Causes of poverty. (8 November 2005). [Online]. Available <http://www.globalissues.org/TradeRelated/Poverty.asp>

<sup>646</sup> Global Issues. Causes of poverty. (8 November 2005). [Online]. Available <http://www.globalissues.org/TradeRelated/Poverty.asp>

<sup>647</sup> Global Issues. Causes of poverty. (8 November 2005). [Online]. Available <http://www.globalissues.org/TradeRelated/Poverty.asp>

<sup>648</sup> Global Issues. Causes of poverty. (8 November 2005). [Online]. Available <http://www.globalissues.org/TradeRelated/Poverty.asp>

<sup>649</sup> Global Issues. Causes of poverty. (8 November 2005). [Online]. Available <http://www.globalissues.org/TradeRelated/Poverty.asp>

<sup>650</sup> University of Pretoria. The Christian Witness in the context of poverty. E M K Mathole, (2005). [Online]. Available

<http://www.upetd.up.ac.za/thesis/available/etd-10032005-145427/unrestricted/oofront.pdf>

<sup>651</sup> University of Pretoria. The Christian Witness in the context of poverty. E M K Mathole, (2005). [Online]. Available

<http://www.upetd.up.ac.za/thesis/available/etd-10032005-145427/unrestricted/oofront.pdf>

conditions.<sup>652</sup> People were subjected to poor housing, inferior education, unfair and discriminatory labour practices, a biased judicial system and restriction of movement, economic and political exclusion, racial and ethnic hostility and spiritual repression, all of which adversely affected many our lives.<sup>653</sup>

Apartheid cannot be blamed for all the current state of affairs surrounding poverty but it would be an oversight if we did no recognise apartheid as the cause for the social problems today.<sup>654</sup> Problems such as poverty arose out of a sad history of inequity.<sup>655</sup>

In South Africa there is a clear correlation between inequality and poverty.<sup>656</sup> It is necessary to define inequality as South Africa has transformed since apartheid.<sup>657</sup> Inequality between race groups must be distinguished from inequality within race groups.<sup>658</sup> Prior to democracy, besides white people, other race groups were more privileged than blacks.<sup>659</sup> With democracy and with the application of the new legislation, policies and programs such as



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<sup>652</sup> University of Pretoria. The Christian Witness in the context of poverty. E M K Mathole, (2005). [Online]. Available

<http://www.upetd.up.ac.za/thesis/avaible/etd-10032005-145427/unrestricted/oofront.pdf>

<sup>653</sup> University of Pretoria. The Christian Witness in the context of poverty. E M K Mathole, (2005). [Online]. Available

<http://www.upetd.up.ac.za/thesis/avaible/etd-10032005-145427/unrestricted/oofront.pdf>

<sup>654</sup> University of Pretoria. The Christian Witness in the context of poverty. E M K Mathole, (2005). [Online]. Available

<http://www.upetd.up.ac.za/thesis/avaible/etd-10032005-145427/unrestricted/oofront.pdf>

<sup>655</sup> University of Pretoria. The Christian Witness in the context of poverty. E M K Mathole, (2005). [Online]. Available

<http://www.upetd.up.ac.za/thesis/avaible/etd-10032005-145427/unrestricted/oofront.pdf>

<sup>656</sup> University of Pretoria. The Christian Witness in the context of poverty. E M K Mathole, (2005). [Online]. Available

<http://www.upetd.up.ac.za/thesis/avaible/etd-10032005-145427/unrestricted/oofront.pdf>

<sup>657</sup> University of Pretoria. The Christian Witness in the context of poverty. E M K Mathole, (2005). [Online]. Available

<http://www.upetd.up.ac.za/thesis/avaible/etd-10032005-145427/unrestricted/oofront.pdf>

<sup>658</sup> University of Pretoria. The Christian Witness in the context of poverty. E M K Mathole, (2005). [Online]. Available

<http://www.upetd.up.ac.za/thesis/avaible/etd-10032005-145427/unrestricted/oofront.pdf>

<sup>659</sup> University of Pretoria. The Christian Witness in the context of poverty. E M K Mathole, (2005). [Online]. Available

<http://www.upetd.up.ac.za/thesis/avaible/etd-10032005-145427/unrestricted/oofront.pdf>

Affirmative Action and Economic Empowerment created a new group of black elite.<sup>660</sup> It seems that such interventions are slowly narrowing the gap of inequality within the race groups but interracial inequality is on the rise.<sup>661</sup>

### The Extent of Poverty in South Africa

Certain groups of people such as inhabitants of rural areas, female - headed households, the disabled, retrenched farm workers and the elderly are those directly affected by HIV/AIDS.<sup>662</sup> Poverty has a strong racial dimension and a far greater proportion of Africans are poor.<sup>663</sup>

The poverty line which reflects the monetary value of consumption and which separates the poor from the non-poor can be determined by considering the poorest 40% of households, this is about 19 million or just fewer than 50% of the population, as poor and this with a monthly household expenditure level of R353 per adult equivalent.<sup>664</sup> 50% of the population of South Africa is rural and the rural areas contain 72% of those members of the total population who are poor.<sup>665</sup> The poverty gap<sup>666</sup> was about R28 billion in 1995 and 76% of this was accounted for by the rural areas.<sup>667</sup> Poverty is distributed unevenly

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<sup>660</sup> University of Pretoria. The Christian Witness in the context of poverty. E M K Mathole, (2005). [Online]. Available

<http://www.upetd.up.ac.za/thesis/available/etd-10032005-145427/unrestricted/oofront.pdf>

<sup>661</sup> University of Pretoria. The Christian Witness in the context of poverty. E M K Mathole, (2005). [Online]. Available

<http://www.upetd.up.ac.za/thesis/available/etd-10032005-145427/unrestricted/oofront.pdf>

<sup>662</sup> Data for poverty measurement. Speech. 28 June 2004. Minister Trevor Manuel, Minister of finance.

<sup>663</sup> Data for poverty measurement. Speech. 28 June 2004. Minister Trevor Manuel, Minister of finance.

<sup>664</sup> Poverty and inequality in South Africa – Summary report. 13 May 1998. The extend and distribution of Poverty. [Online]. Available

<http://www.polity.org.za/html/govdocs/reports/poverty.html?rebookmark=1>

<sup>665</sup> Poverty and inequality in South Africa – Summary report. 13 May 1998. The extend and distribution of Poverty. [Online]. Available

<http://www.polity.org.za/html/govdocs/reports/poverty.html?rebookmark=1>

<sup>666</sup> Poverty Gap – This is the annual amount needed to uplift the poor to the poverty line by means if a perfectly targeted transfer of money and which measures how deep or intense poverty is.

<sup>667</sup> Poverty and inequality in South Africa – Summary report. 13 May 1998. The extend and distribution of Poverty. [Online]. Available

<http://www.polity.org.za/html/govdocs/reports/poverty.html?rebookmark=1>

among the nine provinces.<sup>668</sup> Poverty rates for the Eastern Cape (71%), Free State (63%), North-West (62%), Northern Province (59%), Mpumalanga (57%), Gauteng (17%) and the Western Cape (28%).<sup>669</sup>

The poverty distribution is as follows:

- Blacks = 61%,
- Coloureds = 38%,
- Asian = 5% and
- Whites = 1%.<sup>670</sup>

The above figures show that poverty is not confined to any one race.<sup>671</sup> Poverty is also unevenly distributed according to gender lines.<sup>672</sup> The majority of those who make up the constituency of the poor are women and children and they are also the major victims of poverty in society.<sup>673</sup> Children are the ones who are hit the hardest by poverty.<sup>674</sup> Children and youth account for over 50% of the South African population of approximately 43 million people.<sup>675</sup> The majority of these children and youth are from disadvantaged backgrounds and the majority of these children fall under the category of

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<sup>668</sup> Poverty and inequality in South Africa – Summary report. 13 May 1998. The extend and distribution of Poverty. [Online]. Available

<http://www.polity.org.za/html/govdocs/reports/poverty.html?rebookmark=1>

<sup>669</sup> Poverty and inequality in South Africa – Summary report. 13 May 1998. The extend and distribution of Poverty. [Online]. Available

<http://www.polity.org.za/html/govdocs/reports/poverty.html?rebookmark=1>

<sup>670</sup> University of Pretoria. The Christian Witness in the context of poverty. E M K Mathole, (2005). [Online]. Available

<http://www.upetd.up.ac.za/thesis/avaible/etd-10032005-145427/unrestricted/oofront.pdf>

<sup>671</sup> University of Pretoria. The Christian Witness in the context of poverty. E M K Mathole, (2005). [Online]. Available

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<sup>672</sup> University of Pretoria. The Christian Witness in the context of poverty. E M K Mathole, (2005). [Online]. Available

<http://www.upetd.up.ac.za/thesis/avaible/etd-10032005-145427/unrestricted/oofront.pdf>

<sup>673</sup> University of Pretoria. The Christian Witness in the context of poverty. E M K Mathole, (2005). [Online]. Available

<http://www.upetd.up.ac.za/thesis/avaible/etd-10032005-145427/unrestricted/oofront.pdf>

<sup>674</sup> University of Pretoria. The Christian Witness in the context of poverty. E M K Mathole, (2005). [Online]. Available

<http://www.upetd.up.ac.za/thesis/avaible/etd-10032005-145427/unrestricted/oofront.pdf>

<sup>675</sup> University of Pretoria. The Christian Witness in the context of poverty. E M K Mathole, (2005). [Online]. Available

<http://www.upetd.up.ac.za/thesis/avaible/etd-10032005-145427/unrestricted/oofront.pdf>

children with special needs.<sup>676</sup> Three children in five live in poor households, and many children are exposed to public and domestic violence, malnutrition, and inconsistent parenting and schooling.<sup>677</sup> Interesting statistics on the housing sector is that 30% of the population is without electricity, 5 million people have no access to clean water and 16 million people are without sanitation.<sup>678</sup>

### The Measures Government Plans to take for Poverty Relief

According to government, the proportion of people living in poverty in terms of the South African poverty line, declined from 51.1% in 1995 to 48.5% in 2002 but the absolute number in poverty has increased from 20.2 million in 1995 to 21.9 million in 2002.<sup>679</sup> Further more the proportion of the population living with less that \$1 per day has increased from 9.4% in 1995 to 10.5% in 2002.<sup>680</sup>

Poverty is more likely to occur if people don't have jobs.<sup>681</sup> This is common to most countries and this then suggests that in order for the large number of unemployed to materially benefit, they should be employed or should take up employment.<sup>682</sup> Government needs to design policies in such a way that demand for our products is maximised, as is our ability to produce them at a reasonable cost that uses as much labour as possible.<sup>683</sup>

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<sup>676</sup> University of Pretoria. The Christian Witness in the context of poverty. E M K Mathole, (2005). [Online]. Available

<http://www.upetd.up.ac.za/thesis/avaible/etd-10032005-145427/unrestricted/oofront.pdf>

<sup>677</sup> Poverty and inequality in South Africa – Summary report. 13 May 1998. The extend and distribution of Poverty. [Online]. Available

<http://www.polity.org.za/html/govdocs/reports/poverty.html?rebookmark=1>

<sup>678</sup> You magazine. 12 July 2005. Housing crisis: anger burns on SA's street again over government's failure to deliver. Page 152

<sup>679</sup> Data for poverty measurement. Speech. 28 June 2004. Minister Trevor Manuel, Minister of finance.

<sup>680</sup> Data for poverty measurement. Speech. 28 June 2004. Minister Trevor Manuel, Minister of finance.

<sup>681</sup> Data for poverty measurement. Speech. 28 June 2004. Minister Trevor Manuel, Minister of finance.

<sup>682</sup> Data for poverty measurement. Speech. 28 June 2004. Minister Trevor Manuel, Minister of finance.

<sup>683</sup> Data for poverty measurement. Speech. 28 June 2004. Minister Trevor Manuel, Minister of finance.

Government needs to create more jobs and the only way this can be done is through policy and achieving the right policies requires the management of trade-offs informed by good statistics.<sup>684</sup>

The policies and programmes by government since 1994 have been guided by an ambitious programme for social reconstruction, the Reconstruction and Development Programme.<sup>685</sup>

These programmes focused on four broad areas such as meeting basic needs, building the economy, democratising the state and society, developing human resources and nation-building.<sup>686</sup> The key underlying objectives of government was to deal with social legacies of Apartheid, particularly our entrenched poverty.<sup>687</sup>

Government has moved away from a broad strategic statement on poverty which could be referred to as “Poverty Reduction Strategy Paper Approach” and earmarked funding for poverty relief.<sup>688</sup> Government has decided to adjust its overall orientation within a broad fiscal stance that seeks to maximise available resources for social and economic expenditure without compromising the sustainability of the growth of those resources.<sup>689</sup>

The composition of expenditure has been adjusted to focus resources at direct and indirect mechanism of poverty relief, while keeping a balance between expenditure that supports people’s ability to engage in productive economic activity (education, housing, transport, skills, development, economic services and infrastructure) and providing direct, welfare-type, support such as cash grants, school feeding schemes and food relief.<sup>690</sup> Strengthening the assets of the poor through land reforms is another major

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<sup>684</sup> Data for poverty measurement. Speech. 28 June 2004. Minister Trevor Manuel, Minister of finance.

<sup>685</sup> Data for poverty measurement. Speech. 28 June 2004. Minister Trevor Manuel, Minister of finance.

<sup>686</sup> Data for poverty measurement. Speech. 28 June 2004. Minister Trevor Manuel, Minister of finance.

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<sup>689</sup> Data for poverty measurement. Speech. 28 June 2004. Minister Trevor Manuel, Minister of finance.

<sup>690</sup> Data for poverty measurement. Speech. 28 June 2004. Minister Trevor Manuel, Minister of finance.

commitment and challenge.<sup>691</sup> The government sees the system of social grants, this is tested cash grants to the elderly, disabled, and families with children, as a primary tool for poverty relief.<sup>692</sup>

The statistics for these grants received presently is as follows:

- 2.1 million for the elderly,
- 1.3 million for the disabled and
- 4.3 million for the poor children between the ages 0-9.<sup>693</sup>

Beneficiary numbers increased from about 2.5 million in April 1997 to 7.9 million in April 2004 and are mainly driven by the implementation of the child support grants as from April 1998 onward.<sup>694</sup> At this stage 17% of South Africans, receive cash grants and this proportion will continue to increase as the child support grant is extended up to the age of 13 over the next two years.<sup>695</sup>

Government thus sees the Budget Reform programme as a critical part of a poverty alleviation strategy as Budget reforms has helped to increase the transparency of the budget process and enhance decision making by political principles.<sup>696</sup>

Thus the three year budget allows for greater certainty and increased focus on reprioritisation and an increased focus on performance assessment and value for money.<sup>697</sup>

### Can Black Economic Empowerment Address Poverty

This is a question asked by the Competition Commission.<sup>698</sup> Who is the Competition Commission? The competition commission is a statutory body in

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<sup>691</sup> Data for poverty measurement. Speech. 28 June 2004. Minister Trevor Manuel, Minister of finance.

<sup>692</sup> Data for poverty measurement. Speech. 28 June 2004. Minister Trevor Manuel, Minister of finance.

<sup>693</sup> Data for poverty measurement. Speech. 28 June 2004. Minister Trevor Manuel, Minister of finance.

<sup>694</sup> Data for poverty measurement. Speech. 28 June 2004. Minister Trevor Manuel, Minister of finance.

<sup>695</sup> Data for poverty measurement. Speech. 28 June 2004. Minister Trevor Manuel, Minister of finance.

<sup>696</sup> Data for poverty measurement. Speech. 28 June 2004. Minister Trevor Manuel, Minister of finance.

<sup>697</sup> Data for poverty measurement. Speech. 28 June 2004. Minister Trevor Manuel, Minister of finance.

terms of the Competition Act, 89 of 1998 by the government of South Africa, empowered to investigate, control and evaluate restrictive business practices, abuse of dominant positions and mergers in order to achieve equity and efficiency in the South African economy.<sup>699</sup>

Black Economic Empowerment (BEE) seeks to give increased ownership and control over businesses to Historically Disadvantaged Persons (HDPs) and to increase the amount of procurement spending going to BEE firms.<sup>700</sup> Section 2(f) of the Competition Act states the following: “to promote a greater spread of ownership in particular to increase the ownership stake of historical disadvantage persons”<sup>701</sup>. Section 2(f) of the Competition Act states that one of its purposes is to promote and maintain competition in order to provide a greater spread of ownership, in particular to increase the ownership stakes of HDPs.<sup>702</sup> Increasing ownership stakes of HPDs is easy enough but the real challenge is to make BEE deals broad-based to the extent that they empower the masses.<sup>703</sup>



Answering the question on whether BEE can address poverty as asked above. Poverty or being poor indicates a shortage of both wealth and income, where the wealth of a household might be the accumulated stock of assets acquired by inheritance and by means of spending flows of income.<sup>704</sup> By selling assets, wealth can be converted back into income in later years but unfortunately each day is a quest of survival for the poor.<sup>705</sup> This quest for

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<sup>698</sup> Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

<sup>699</sup> Competition Commission. (9 November 2005). [Online]. Available <http://www.compcom.co.za>

<sup>700</sup> Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

<sup>701</sup> Competition Act 89 of 1998.

<sup>702</sup> Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

<sup>703</sup> Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

<sup>704</sup> Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

<sup>705</sup> Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

survival will lead to the acquired assets being sold to finance consumption rather than being accumulated as wealth.<sup>706</sup>

Consumption is equal to income for households on or below the poverty line, whatever level of income that might be and this savings are therefore zero.<sup>707</sup> If a household's income is not sufficient to finance consumption in a particular period, then it must resort to not saving or selling any liquid assets.<sup>708</sup> "Marginal propensity consume" which is a measure of a consumer's tendency to spend a certain portion of additional income received, ranging from 0 to 1 or 0% to 100% is a concept that economists refer to.<sup>709</sup> Wealthier or higher income consumers have enough income to contribute to savings each month, so their marginal propensity to consume is less than 1.<sup>710</sup> This means that they do not spend all of their last rand of income on consumption.<sup>711</sup> The poor however leads a hand-to-mouth existence and will spend all of their income, so their marginal propensity to consume is 1.<sup>712</sup> When households are given shares as assets, those with enough income to provide for their day to day needs might keep those assets as wealth, whereas the poor must convert them into income, to spend on satisfying their immediate consumption needs.<sup>713</sup>

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<sup>706</sup> Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

<sup>707</sup> Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

<sup>708</sup> Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

<sup>709</sup> Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

<sup>710</sup> Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

<sup>711</sup> Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

<sup>712</sup> Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

<sup>713</sup> Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

It is implied that an Empowerment scheme that gives (or sells at a favourable price) shares to poor people will not necessarily increase the wealth of the recipients.<sup>714</sup> These shares that are given or sold at a favourable price will be sold by the poor people and spent on food, transport, accommodation and clothing.<sup>715</sup> The proceeds of these shares will yield short-term benefits and the poorest household would benefit the most.<sup>716</sup> Put into context, the empowerment exercise will simply be a “one-off shot in the arm”.<sup>717</sup> This will lead to a poverty relief effort, rather than empowerment in the sustainable sense of empowerment. This will defeat the reason for empowerment and for what empowerment was intended to do with its various pieces of empowerment legislation and this would also include the Competition Act.<sup>718</sup> Businesses involved in such BEE transactions will not be able to claim the BEE credentials for creating a class of poor black shareholders.<sup>719</sup> Those already in a privileged position will have bought the shares from their original recipients.<sup>720</sup>



There are difficulties involved in ensuring that the benefits of BEE transactions are spread widely and more importantly to the poorest of the population.<sup>721</sup> This could be the reason why certain structures have been

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<sup>714</sup> Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

<sup>715</sup> Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

<sup>716</sup> Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

<sup>717</sup> Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

<sup>718</sup> Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

<sup>719</sup> Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

<sup>720</sup> Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

<sup>721</sup> Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

devised to hold shares on behalf of the ultimate beneficiaries.<sup>722</sup> Some of these transactions involve partnership arrangements, workers participation schemes that facilitate empowerment or the sale of shares to employee groups or union groups.<sup>723</sup> The difficulties apply to both private sector and the sales of shares in state enterprises.<sup>724</sup> Although government would still prefer to have control and sustainable ownership in these organisations passing to HPDs, there are obvious options available to the government.<sup>725</sup> Examples of this would be to give away the shares to the public on the understanding that those who need the money instead will resell them and the other option would be to sell the shares to the highest bidders and then applying the proceeds to the government expenditure programmes.<sup>726</sup> This could only happen if the government has made sufficient provision for poverty alleviation.<sup>727</sup> If this is so, government will have space to pursue other objectives such as BEE, in the sale or partial sale of its state-owned enterprise.<sup>728</sup>



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<sup>722</sup> Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

<sup>723</sup> Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

<sup>724</sup> Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

<sup>725</sup> Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

<sup>726</sup> Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

<sup>727</sup> Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

<sup>728</sup> Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

## Will Poverty Relief come easy with more Black Economic Empowerment Deals

Brendan Ryan from Financial mail writes that more BEE deals are being done but these deals are only for enrichment of a few oligarchs<sup>729</sup> (this referring to a small group of people having control of the state).<sup>730</sup>

A very significant transformation deal in the mining industry took place on 25 October 2005 when the first two mining title conversions were approved.<sup>731</sup>

The greatest challenge lay in the group's involvement in social investment and poverty relief programmes.<sup>732</sup> At first government returned the application for revision because they did not meet the requirements for poverty relief.<sup>733</sup>

Government is sending out a clear message that these BEE deals should be co-ordinated with the programmes of local provincial government.<sup>734</sup>

If empowerment deals only benefit the same few all the time then BEE is defeating its objectives.



## The Reciprocal Benefit of Black Economic Empowerment Companies and Poverty Relief

Black Economic Empowerment (BEE) companies will contribute to poverty relief. When one assumes this without a doubt, the effect of a reciprocal benefit is evident.

Let's look at an example:

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<sup>729</sup> Ryan, B. (2004). More BEE deals are being done, but critics point to the enrichment of few oligarchs. Financial Mail. 4 March: 21

<sup>730</sup> South African Concise Oxford Dictionary. 2002. Page 810

<sup>731</sup> Ryan, B. (2004) More BEE deals are being done, but critics point to the enrichment of few oligarchs. Financial Mail. 4 March: 21

<sup>732</sup> Ryan, B. (2004). More BEE deals are being done, but critics point to the enrichment of few oligarchs. Financial Mail. 4 March: 21

<sup>733</sup> Ryan, B. (2004). More BEE deals are being done, but critics point to the enrichment of few oligarchs. Financial Mail. 4 March: 21

<sup>734</sup> Ryan, B. (2004). More BEE deals are being done, but critics point to the enrichment of few oligarchs. Financial Mail. 4 March: 21

- A particular Company is Black Empowered and they contribute to poverty relief.
- In order for this Black Empowered Company to contribute to poverty relief this Company will increase its investment.
- This Empowered Company will grow the business and with this growth will create jobs. As the business grows the business will expand and a new premises will have to be built (the Company does not rent buildings) because the existing premises is too small. Once again job creation which leads to poverty relief in the building construction industry.
- This Company has contributed to poverty relief but what does the company stand to gain? The following occurred: When the Company was empowered, the shares of that Company increased. The share price has also increased. The business had more sales, the business earned more, the business had to pay more tax (this led to further contribution to the economy) and there are more dividends for the shareholders.

There is definitely a reciprocal benefit when Black Empowered Companies contribute to poverty relief.

### Conclusion

Black people must use the resources they are given, to command and to promote programmes aimed at taking the majority out of poverty, into a developmental trajectory.<sup>735</sup> If poverty and disease decimate, the majority of South Africa will continue as an enclave economy and its ability to attract investment will diminish because South Africa will have no skilled labour or consumers.<sup>736</sup>

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<sup>735</sup> Macozoma, S. Financial Mail Supplement. December 2000

<sup>736</sup> Macozoma, S. Financial Mail Supplement. December 2000

## **CHAPTER SEVEN**

### **JOB CREATION**

#### Introduction

This chapter will focus on job creation. One has to look at the unemployment rate in South Africa which will be discussed as well as the reasons for the rate of unemployment. Various tables have been used in this chapter to illustrate the numbers of unemployment. This chapter will also have a look at what contributions Black Economic Empowerment Companies, if any, could have on job creation and also whether this lead to the implementation of Procurement Policies. This chapter will briefly mention the recommendations and or solutions by various organisations, government and economists.

#### Unemployment Situation in South Africa

Included in the preamble of the Broad Based Black Economic Empowerment (BBBEE)<sup>737</sup> Act of 2003 stipulates that the Act was established to promote a higher growth rate, increase employment and implement more equitable income distribution.<sup>738</sup>

South Africa's democratic government inherited a mismanaged economy which was design to serve the needs of a minority of the population and condemn the black majority to a vicious cycle of unemployment.<sup>739</sup> It is estimated that more than 500 000 formal sector jobs have been lost since 1994 and the sectors most affected were mining and agriculture.<sup>740</sup> The

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<sup>737</sup> BBBEE – This is an extension of the BEE Act.

<sup>738</sup> Broad Based Black Economic Empowerment Act. 2003.

<sup>739</sup> Black Economic Empowerment Commission Report. 14 September 2005. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommiccion.pdf>

<sup>740</sup> Black Economic Empowerment Commission Report. 14 September 2005. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommiccion.pdf>

number of jobs in the manufacturing industry has also stagnated.<sup>741</sup> Job losses has reduced Black participation in the economy and increased level of inequality.<sup>742</sup>

A survey by Statistics South Africa (Stats SA) reveals that job losses in the formal sector remains severe with 7000 jobs lost in the last quarter of 2000.<sup>743</sup> The statistics reveals that year on year employment declined by 25%.<sup>744</sup> A survey done on a representative sample of 10 000 households in February 2001, shows an official unemployment rate of 26.5%.<sup>745</sup>

In a previous survey carried out in October 1999, where the official definition of unemployment excludes those who have not actively sought work in the last four weeks prior to the survey, the unemployment rate measured at 23.3%.<sup>746</sup> In an expanded definition of unemployment, 54% of women and 47.8% of Africans are unemployed and only 35% of the economically active population is employed in the formal, non-agriculture sectors of the economy.<sup>747</sup> Women who constitute approximately 54% of the population finds themselves in positions associated with gender roles and 30% of African women participate in the formal economy.<sup>748</sup> They account for a third of the labour force, with the majority engaged in low wage domestic labour, informal

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<sup>741</sup> Black Economic Empowerment Commission Report. 14 September 2005. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommiccion.pdf>

<sup>742</sup> Black Economic Empowerment Commission Report. 14 September 2005. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommiccion.pdf>

<sup>743</sup> Black Economic Empowerment Commission Report. 14 September 2005. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommiccion.pdf>

<sup>744</sup> Black Economic Empowerment Commission Report. 14 September 2005. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommiccion.pdf>

<sup>745</sup> Black Economic Empowerment Commission Report. 14 September 2005. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommiccion.pdf>

<sup>746</sup> Black Economic Empowerment Commission Report. 14 September 2005. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommiccion.pdf>

<sup>747</sup> Black Economic Empowerment Commission Report. 14 September 2005. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommiccion.pdf>

<sup>748</sup> Black Economic Empowerment Commission Report. 14 September 2005. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommiccion.pdf>

survivalist trading, substance agriculture or low skilled labour, primarily in the services, retail and manufacturing sectors.<sup>749</sup>

### The Underlying Problems of Unemployment in South Africa.

The greatest challenge the economy and the nation face is structural unemployment which was the basis for the apartheid economy where a specific race group was excluded from specific skills categories and geographical areas for the purpose consciously confining the specific race group to unskilled labour.<sup>750</sup> The South African structural unemployment is an outcome of skills mismatch wherein the population and the economy is growing at the same rate but skilled job categories are vacant and low skilled workers cannot find a job.<sup>751</sup>

Unemployment increased in South Africa even with the positive growth of the economy and the number of jobs increased as well because of the mismatch between the skill the economy needs and those that is available.<sup>752</sup>



Statistics for the past ten years reveals that;

- the number of jobs in South Africa has increased by 16.75%,
- the number of people of working age has increased by 37.24% and
- the number of people unemployed had increased by 87.6%.<sup>753</sup>

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<sup>749</sup> Black Economic Empowerment Commission Report. 14 September 2005. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

<sup>750</sup> Institute for Justice and Reconciliation. 10 March 2004. Report on the public symposium.

<sup>751</sup> Institute for Justice and Reconciliation. 10 March 2004. Report on the public symposium.

<sup>752</sup> Institute for Justice and Reconciliation. 10 March 2004. Report on the public symposium.

<sup>753</sup> Institute for Justice and Reconciliation. 10 March 2004. Report on the public symposium.

Below is a table that gives an indication of the shift of unemployment from 1995 to 2002 and places the above in perspective.<sup>754</sup>

## 1995-2002

### Key Labour Market Trend

<u>Category</u>	<u>1995</u>	<u>2002</u>	<u>Change</u>	
<u>%Change</u>				
Employment	9 557 185	11 157 818	1 600 633	16.75
Unemployment	3 883 819	7 288 833	3 405 014	87.67
(Expanded definition)				
Labour force	13 441 004	18 446 651	5 005 647	37.24

Education and the extension of urban services have contributed to a demographic shift away from rural areas resulting in more work seekers and women seeking employment are the main factors for the growing increase of people seeking employment.<sup>755</sup>



Although many laws and the structure of the economy and employment have changed in South Africa during the past decade, the education system has not transformed.<sup>756</sup>

<sup>754</sup> Institute for Justice and Reconciliation. 10 March 2004. Report on the public symposium.

<sup>755</sup> Institute for Justice and Reconciliation. 10 March 2004. Report on the public symposium.

<sup>756</sup> Institute for Justice and Reconciliation. 10 March 2004. Report on the public symposium.

1995 – 2002

**Sectoral Share of Employment**

Main Sector	1995	Share	2002	Share	%Share
<b>Agriculture, fishing and forestry</b>	1 184 712	0.12	1 477 255	0.13	24.69
<b>Mining &amp; quarrying</b>	593 000	0.06	481 343	0.04	-18.83
<b>Manufacturing</b>	1 420 956	0.15	1 596 494	0.14	12.35
<b>Utilities</b>	84 041	0.01	84 550	0.01	0.61
<b>Construction</b>	433 492	0.05	527 678	0.05	21.73
<b>Internal trade</b>	1 650 017	0.17	2 191 347	0.20	32.81
<b>Transport and communication</b>	469 200	0.05	550 918	0.05	17.42
<b>Finance, real estate &amp; business services</b>	582 897	0.06	1 023 373	0.09	75.57
<b>Community social &amp; personal services</b>	2 952 269	0.31	3 117 365	0.28	5.59
<b>Other producers</b>	186 601	0.02	107 493	0.01	42.39
<b>Total</b>	9 557 185	1.00	11 157 818	1.00	16.75

The above diagram shows that the service sector nearly create half of all the jobs in the economy.<sup>757</sup> 42% of the formal jobs are provided for by the finance, tourism (which is also a significant contributor to the Growth Domestic Product (GDP)), social services and personal services, transport and communication sector.<sup>758</sup> Manufacturing provides 14%, agriculture provides 13% and mining provides 4% of the jobs in the economy.<sup>759</sup> The

<sup>757</sup> Institute for Justice and Reconciliation. 10 March 2004. Report on the public symposium.

<sup>758</sup> Institute for Justice and Reconciliation. 10 March 2004. Report on the public symposium.

<sup>759</sup> Institute for Justice and Reconciliation. 10 March 2004. Report on the public symposium.

number of jobs in the mining industry continues to shrink while the jobs in manufacturing industry increased moderately by 12.35%.<sup>760</sup>

The most rapid growing sector in the South African economy is the services sector which is skill intensive so the number of jobs has increased but the jobs are all for skilled people.<sup>761</sup> An example is the shortage of artisans and technicians which needs skilled people to perform these jobs.<sup>762</sup> In addition to the Bantu education, one is presently exposed to the change of unemployment affecting secondary, matriculated and tertiary job seekers.<sup>763</sup> Skill mismatch is then clearly portrayed with the above mentioned.<sup>764</sup> There are 500 000 job vacancies available, including 350 key government positions vacant for 18 months and this because of a lack of skilled people.<sup>765</sup> Skill mismatch is clearly a consequence of the economic restructuring during the past decade.<sup>766</sup> All the sectors of the economy have modernised and increased the use of technology because the South African economy had to adopt due to of global competition.<sup>767</sup> The South African economy has thus adapted to economy modernisation which led to economic growth, economic diversification and economic stability and this left the economy with mismatch skills which is a consequence of apartheid and also partly defines the unemployment situation in South Africa.<sup>768</sup>

Another view for the underlying problems in South Africa would be that the formal sector of our economy is de-linked from the informal sector.<sup>769</sup> This could be referred to as a "two worlds" economy and the two worlds are far

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<sup>760</sup> Institute for Justice and Reconciliation. 10 March 2004. Report on the public symposium.

<sup>761</sup> Institute for Justice and Reconciliation. 10 March 2004. Report on the public symposium.

<sup>762</sup> Institute for Justice and Reconciliation. 10 March 2004. Report on the public symposium.

<sup>763</sup> Institute for Justice and Reconciliation. 10 March 2004. Report on the public symposium.

<sup>764</sup> Institute for Justice and Reconciliation. 10 March 2004. Report on the public symposium.

<sup>765</sup> Institute for Justice and Reconciliation. 10 March 2004. Report on the public symposium.

<sup>766</sup> Institute for Justice and Reconciliation. 10 March 2004. Report on the public symposium.

<sup>767</sup> Institute for Justice and Reconciliation. 10 March 2004. Report on the public symposium.

<sup>768</sup> Institute for Justice and Reconciliation. 10 March 2004. Report on the public symposium.

<sup>769</sup> Unemployment in South Africa. How to create jobs. (12/11/2005). [Online]. Available <http://about-south-africa.com/html/unemployment.html>

apart.<sup>770</sup> One can argue that the formal economy as well as the public sector is no longer creating jobs.<sup>771</sup>

Jobs will have to be created in the medium-, small and micro-enterprise sector, which up to now has been given short shrift in economic policy debates.<sup>772</sup> This leads to the need for an affirmative action programme for small business.<sup>773</sup>

### Contribution of Black Economic Empowerment Companies to Job Creation

The contributory factor to job creation would not be whether or not a Black Empowered Company is listed on the JSE, the contributory factor would be the fact that the Company is Black Empowered. The advantage of the Black Empowered Company being listed on the JSE is that this company will be able to create more capital not necessarily creates more jobs.

### Implementation of Procurement Policies

With Procurement Policies the government's goal was to primarily create jobs among other things. One can then take the view that with the issue of job creation and getting the various sectors involved in creating jobs, procurement policies had to be put in place. Procurement policies could thus be seen as a tool for creating jobs.

In the broader sense, Procurement is aimed at eradicating the legacy of apartheid and further as a secondary use, to address more long term socio-

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<sup>770</sup> Unemployment is South Africa. How to create jobs. (12/11/2005). [Online]. Available <http://about-south-africa.com/html/unemployment.html>

<sup>771</sup> Unemployment is South Africa. How to create jobs. (12/11/2005). [Online]. Available <http://about-south-africa.com/html/unemployment.html>

<sup>772</sup> Unemployment is South Africa. How to create jobs. (12/11/2005). [Online]. Available <http://about-south-africa.com/html/unemployment.html>

<sup>773</sup> Unemployment is South Africa. How to create jobs. (12/11/2005). [Online]. Available <http://about-south-africa.com/html/unemployment.html>

economic issues by increasing the volume of work available to the poor and generating income within the marginalised sectors of society.<sup>774</sup>

The Procurement Policies could arguably be identified as one of the most important drivers for Black Economic Empowerment in South Africa.<sup>775</sup> This is especially so if one look at the need for coordination, alignment and standardisation in terms of definition, reporting and measurement framework.<sup>776</sup>

The most important factors considered with the promulgation of the new BEE Act are procurement and training.<sup>777</sup> The issue dealing with procurement policies is no longer the fact of having a choice to apply with procurement policies but something that has to be done and done quickly.<sup>778</sup> Procurement is being viewed as one of the easier pillars within the BEE Act.<sup>779</sup> Although this is the case, very little companies have made progress in adopting procurement policy practices.<sup>780</sup> The reason for this is not because these companies do not want to adopt, these companies do not know where to start.<sup>781</sup>

Being committed to BEE has become an economic imperative in South Africa.<sup>782</sup>

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<sup>774</sup> Brain. Targeted procurement. [Online]. Available

<http://www.brain.org.za/OPPORTUNITIES/procurement.html>

<sup>775</sup> 2<sup>nd</sup> Annual Affirmative Procurement 2004. 12 November 2005. [Online]. Available

<http://www.iqpc.com/iowa-robot/singlecell.html?topic=239&event=5367>

<sup>776</sup> 2<sup>nd</sup> Annual Affirmative Procurement 2004. 12 November 2005. [Online]. Available

<http://www.iqpc.com/iowa-robot/singlecell.html?topic=239&event=5367>

<sup>777</sup> 2<sup>nd</sup> Annual Affirmative Procurement 2004. 12 November 2005. [Online]. Available

<http://www.iqpc.com/iowa-robot/singlecell.html?topic=239&event=5367>

<sup>778</sup> 2<sup>nd</sup> Annual Affirmative Procurement 2004. 12 November 2005. [Online]. Available

<http://www.iqpc.com/iowa-robot/singlecell.html?topic=239&event=5367>

<sup>779</sup> 2<sup>nd</sup> Annual Affirmative Procurement 2004. 12 November 2005. [Online]. Available

<http://www.iqpc.com/iowa-robot/singlecell.html?topic=239&event=5367>

<sup>780</sup> 2<sup>nd</sup> Annual Affirmative Procurement 2004. 12 November 2005. [Online]. Available

<http://www.iqpc.com/iowa-robot/singlecell.html?topic=239&event=5367>

<sup>781</sup> 2<sup>nd</sup> Annual Affirmative Procurement 2004. 12 November 2005. [Online]. Available

<http://www.iqpc.com/iowa-robot/singlecell.html?topic=239&event=5367>

<sup>782</sup> 2<sup>nd</sup> Annual Affirmative Procurement 2004. 12 November 2005. [Online]. Available

<http://www.iqpc.com/iowa-robot/singlecell.html?topic=239&event=5367>

The government has implemented the Preferential Procurement Policy Framework Act on which all procurement activities are to be based.<sup>783</sup>

The aim of the Act is to:

- advance the development of SMME's (Small Medium and Micro Enterprises),
- promote women and physically handicapped people,
- create jobs,
- promote local enterprises in specific provinces, in a particular region, in a specific local authority or in rural area and
- support the local product.<sup>784</sup>

Targeted Procurement is referred to and also embraces Affirmative Procurement, Preferential Procurement and Positive Procurement.<sup>785</sup> These types of procurement can be used as an instrument of policy and developed to reform public sector procurement in South Africa.<sup>786</sup>



### Recommendations and Solutions for Job Creation

The government, various organisations, the public as well as top economist has various solutions for job creation. Only a small part of some of those various recommendations and solutions will be mentioned.

The Black Economic Empowerment Commission calls on all Black Businesses to play a key role in the transformation of the economy by encouraging investments in areas of national priority and job creation.<sup>787</sup>

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<sup>783</sup> General Procurement Guidelines.

<sup>784</sup> General Procurement Guidelines. Government of the Republic of South Africa.

<sup>785</sup> Brain. Targeted procurement. [Online]. Available

<http://www.brain.org.za/OPPORTUNITIES/procurement.html>

<sup>786</sup> 2<sup>nd</sup> Annual Affirmative Procurement 2004. 12 November 2005. [Online]. Available

<http://www.iqpc.com/iowa-robot/singlecell.html?topic=239&event=5367>

<sup>787</sup> Business Map. (14 September). BEE Commission Report. [Online]. Available

<http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

The youth has to be equipped to enter the formal economy productively and the number of schooled and literate youth joining the unemployed and “poor present” has to be addressed.<sup>788</sup> The solution for the youth that are schooled but unemployed, is a national youth program which includes strategies to get benefits of the old apprenticeship system without its racism.<sup>789</sup> The Extended Public Works Program (EPWP) is funded by the government and targets less skilled workers and rural and small town areas.<sup>790</sup> Help is however needed by the civil society with proactive and skilled interventions.<sup>791</sup>

A Nedbank economist Magan Mistry told Business Day that the economy needs a sustained high growth for a long period to create jobs.<sup>792</sup> He says further that a number of issues including labour market reforms have to be addressed for the creations of jobs.

CARE an organisation that supports reducing of poverty suggest that in order to create jobs, one has to promote the growth sectors, such as the manufacturing, tourism and information and communication technology sectors.<sup>793</sup>

The Industrial Development Corporation (IDC) announced an R1bn scheme to promote Small Business investments, encourage Black Economic Empowerment and to create jobs.<sup>794</sup> The initiative was inline with government’s strategy to increase economic growth to more than 6%.<sup>795</sup> The IDC has made the R1bn loan available to the targeted group at low interest

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<sup>788</sup> Institute for Justice and Reconciliation. 10 March 2004. Report on the public symposium.

<sup>789</sup> Institute for Justice and Reconciliation. 10 March 2004. Report on the public symposium.

<sup>790</sup> Institute for Justice and Reconciliation. 10 March 2004. Report on the public symposium.

<sup>791</sup> Institute for Justice and Reconciliation. 10 March 2004. Report on the public symposium.

<sup>792</sup> Economic growth creating jobs. Sustained growth. (09/11/2005). [Online] Available [http://www.southafrica.info/doing\\_business/economy/development/employment.htm](http://www.southafrica.info/doing_business/economy/development/employment.htm)

<sup>793</sup> Reducing poverty through CARE South Africa-Lesotho. [Online]. Available <http://www/caresa-lesotho.org.za/econem.htm>

<sup>794</sup> Njobeni, S. Business Day. (2005). IDC earmarks R1bn to promote BEE, jobs. 11 November: 1

<sup>795</sup> Njobeni, S. Business Day. (2005). IDC earmarks R1bn to promote BEE, jobs. 11 November: 1

rates.<sup>796</sup> R600m of the fund will be allocated to a small and medium enterprise job scheme.<sup>797</sup> This will promote employment and small to medium enterprise developments.<sup>798</sup> Projects that will benefit from the IDC scheme will have to create a minimum of 75 jobs.<sup>799</sup>

### Conclusion

Job creation is a world wide problem and one can only hope that with the implementation of all the Acts and Policies which is encouraged and which the government especially supports and assist with, especially with Black Economic Empowerment, the job creation issue will become easier.



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<sup>796</sup> Njobeni, S. Business Day. (2005). IDC earmarks R1bn to promote BEE, jobs. 11 November: 1

<sup>797</sup> Njobeni, S. Business Day. (2005). IDC earmarks R1bn to promote BEE, jobs. 11 November: 1

<sup>798</sup> Njobeni, S. Business Day. (2005). IDC earmarks R1bn to promote BEE, jobs. 11 November: 1

<sup>799</sup> Njobeni, S. Business Day. (2005). IDC earmarks R1bn to promote BEE, jobs. 11 November: 1

## **CHAPTER EIGHT**

### **THE COURSE COMPANY LAW HAS TO TAKE TO ENSURE THE CONTINUED EXISTENCE OF BEE COMPANIES**

#### **Introduction**

There are many obstacles in the way of Black Economic Empowerment not reaching its full potential. Laws are in place that makes it very difficult for non empowered companies to be empowered. This chapter will look at measures to be taken to ensure the growth of Black Economic Empowerment.

#### **Corporate Reforms**

The Government has published guidelines for corporate law reforms. These reforms are the following:

- The Companies Act has to be brought in line with the constitution and the King Code with greater emphasis on corporate citizenship.<sup>800</sup>
- There should be no distinction between public companies, private companies and close corporations so that only one corporate vehicle is recognised.<sup>801</sup>
- Nominee shareholding should be abolished.<sup>802</sup>
- A possible statutory code of conduct to be implemented for directors to codify their existing fiduciary duties at common level.<sup>803</sup>
- Shareholder remedies should be examined, so that their rights can be enforced and protected and also so that they can promote greater shareholder activism.<sup>804</sup>

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<sup>800</sup> Werksmans: SA Business Guide – The SA Economy. (12/11/2005). [Online] Available [http://www.werksmans.co.za/sabusguide/part\\_0.1htm](http://www.werksmans.co.za/sabusguide/part_0.1htm)

<sup>801</sup> Werksmans: SA Business Guide – The SA Economy. (12/11/2005). [Online] Available [http://www.werksmans.co.za/sabusguide/part\\_0.1htm](http://www.werksmans.co.za/sabusguide/part_0.1htm)

<sup>802</sup> Werksmans: SA Business Guide – The SA Economy. (12/11/2005). [Online] Available [http://www.werksmans.co.za/sabusguide/part\\_0.1htm](http://www.werksmans.co.za/sabusguide/part_0.1htm)

<sup>803</sup> Werksmans: SA Business Guide – The SA Economy. (2005). [Online] Available [http://www.werksmans.co.za/sabusguide/part\\_0.1htm](http://www.werksmans.co.za/sabusguide/part_0.1htm) 12 November

- Compliance requiring for disclosures of Black Economic Empowerment is to be implemented as well as with labour and environmental legislation and the remuneration and bonuses of all directors and senior managers.<sup>805</sup>
- The creation of a Companies Tribunal has to adjudicate matters under the Companies Act.<sup>806</sup>

### The King Code Report on Corporate Governance for South Africa

The King Code Report of good corporate governance is the barometer of sustainable business practice or the triple bottom line principles of environmental, social and financial sustainability.<sup>807</sup>

The first King Report had become general accepted norms and procedures to be followed by corporate entities to promote transparent, accountable and responsible management.<sup>808</sup> The report also made certain recommendations with a view to improving corporate governance in South Africa.<sup>809</sup>

The King Committee conducted a detailed review of the first Report and in March 2002 replaced it with the second King Report which applies to a wide range of corporate and governmental enterprises, including all companies listed on the JSE, all banks, financial and insurance entities and virtually all departments of state or administration in the national, provincial or local sphere of government.<sup>810</sup>

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<sup>804</sup> Werksmans: SA Business Guide – The SA Economy. (2005). [Online] Available [http://www.werksmans.co.za/sabusguide/part\\_0.1.htm](http://www.werksmans.co.za/sabusguide/part_0.1.htm) 12 November

<sup>805</sup> Werksmans: SA Business Guide – The SA Economy. (2005). [Online] Available [http://www.werksmans.co.za/sabusguide/part\\_0.1.htm](http://www.werksmans.co.za/sabusguide/part_0.1.htm) 12 November

<sup>806</sup> Werksmans: SA Business Guide – The SA Economy. (2005). [Online] Available [http://www.werksmans.co.za/sabusguide/part\\_0.1.htm](http://www.werksmans.co.za/sabusguide/part_0.1.htm) 12 November

<sup>807</sup> Werksmans: SA Business Guide – The SA Economy. (2005). [Online] Available [http://www.werksmans.co.za/sabusguide/part\\_0.1.htm](http://www.werksmans.co.za/sabusguide/part_0.1.htm) 12 November

<sup>808</sup> Werksmans: SA Business Guide – The SA Economy. (2005). [Online] Available [http://www.werksmans.co.za/sabusguide/part\\_0.1.htm](http://www.werksmans.co.za/sabusguide/part_0.1.htm) 12 November

<sup>809</sup> Werksmans: SA Business Guide – The SA Economy. (2005). [Online] Available [http://www.werksmans.co.za/sabusguide/part\\_0.1.htm](http://www.werksmans.co.za/sabusguide/part_0.1.htm) 12 November

<sup>810</sup> Werksmans: SA Business Guide – The SA Economy. (2005). [Online] Available [http://www.werksmans.co.za/sabusguide/part\\_0.1.htm](http://www.werksmans.co.za/sabusguide/part_0.1.htm) 12 November

The Second Report contains several recommendations which business will have to take into account including greater emphasis on the responsibilities of the board of Directors, on the role of independent non-executive directors, on separating the CEO and chairman functions, on the importance of safety, ethics, environmental and social issues, and on corporate disclosure including directors' remuneration to stakeholders.<sup>811</sup>

The King code is not prescriptive but rather recommends certain principles and practices.<sup>812</sup> Its impact will largely depend on the extent to which its principles are implemented by business in South Africa.<sup>813</sup> It is however important to note that there is increasing pressure on business from shareholders and other interest groups to comply with the principles of the King Code.<sup>814</sup>

The guidelines to be followed will contribute to Empowerment in companies.

### Section 38



The Companies Act 61 of 1973 section 38(1) states that:

'No company shall give whether directly or indirectly, and whether by means of a loan guarantee, the provision of security or otherwise, any financial assistance for the purpose of or in connection with a purchase or subscription made or to be made by any person of or for any shares of the company, or where the company is a subsidiary company, or its holding company.'<sup>815</sup>

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<sup>811</sup> Werksmans: SA Business Guide – The SA Economy. (2005). [Online] Available [http://www.werksmans.co.za/sabusguide/part\\_0.1htm](http://www.werksmans.co.za/sabusguide/part_0.1htm) 12 November

<sup>812</sup> Werksmans: SA Business Guide – The SA Economy. (2005). [Online] Available [http://www.werksmans.co.za/sabusguide/part\\_0.1htm](http://www.werksmans.co.za/sabusguide/part_0.1htm) 12 November

<sup>813</sup> Werksmans: SA Business Guide – The SA Economy. (2005). [Online] Available [http://www.werksmans.co.za/sabusguide/part\\_0.1htm](http://www.werksmans.co.za/sabusguide/part_0.1htm) 12 November

<sup>814</sup> Werksmans: SA Business Guide – The SA Economy. (2005). [Online] Available [http://www.werksmans.co.za/sabusguide/part\\_0.1htm](http://www.werksmans.co.za/sabusguide/part_0.1htm) 12 November

<sup>815</sup> The Companies Act 61 of 1973

Corporate law reforms are already under way to scrap section 38 of the Companies Act.<sup>816</sup> Section 38 has interfered with empowerment deals by forbidding companies to lend parties money to buy into companies.<sup>817</sup>

### Other Reforms

A much needed reform would be a new corporate rescue system.<sup>818</sup> This would bring South Africa in line with bankruptcy laws as those of the US.<sup>819</sup> With reform, a company can be ring-fenced instead of being placed under liquidation while sorting out its financial problem.<sup>820</sup>

### Conclusion

The continued existence of BEE Companies should not only rely on Company or Corporate law for transformation to occur but Company or Corporate law contributes a major part in the formation of BEE Companies.

The above reforms will however play a big role in the continued existence as well as the further growth of BEE



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<sup>816</sup> Bonorchis, R. Business Report – Company law reforms under way to scrap Section 38. [Online].

Available [http://www.busrep.co.za/general/print\\_article.php?Article=2986590&fSectionId=5](http://www.busrep.co.za/general/print_article.php?Article=2986590&fSectionId=5)

<sup>817</sup> Bonorchis, R. Business Report – Company law reforms under way to scrap Section 38. [Online].

Available [http://www.busrep.co.za/general/print\\_article.php?Article=2986590&fSectionId=5](http://www.busrep.co.za/general/print_article.php?Article=2986590&fSectionId=5)

<sup>818</sup> Bonorchis, R. Business Report – Company law reforms under way to scrap Section 38. [Online].

Available [http://www.busrep.co.za/general/print\\_article.php?Article=2986590&fSectionId=5](http://www.busrep.co.za/general/print_article.php?Article=2986590&fSectionId=5)

<sup>819</sup> Bonorchis, R. Business Report – Company law reforms under way to scrap Section 38. [Online].

Available [http://www.busrep.co.za/general/print\\_article.php?Article=2986590&fSectionId=5](http://www.busrep.co.za/general/print_article.php?Article=2986590&fSectionId=5)

<sup>820</sup> Bonorchis, R. Business Report – Company law reforms under way to scrap Section 38. [Online].

Available [http://www.busrep.co.za/general/print\\_article.php?Article=2986590&fSectionId=5](http://www.busrep.co.za/general/print_article.php?Article=2986590&fSectionId=5)

## **CHAPTER NINE**

### **THE IMPORTANCE OF BLACK ECONOMIC EMPOWERMENT**

#### **Introduction**

This chapter will focus on the importance of Black Economic Empowerment. One has to see how vital BEE is for transformation.

#### **Black Economic Empowerment is Important**

In South Africa, economic development includes the crucial issue of Black Economic Empowerment because BEE is important to the future success of South Africa.<sup>821</sup> BEE is critically important to the long-term stability of South Africa's new democracy.<sup>822</sup>

One of the most important objectives in South Africa is economic development.<sup>823</sup> A strong economic development program will assist in building a better and more prosperous future for South Africans.<sup>824</sup> Economic development requires a focus on additional investment, faster growth, and increased job creation.<sup>825</sup>

BEE is not something to apologise for - it makes economic sense to have Black Economic Empowerment and grow the number of people who participate in the economy.<sup>826</sup>

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<sup>821</sup> Hume, CR. (2002). Black Economic Empowerment. Seminar delivered in Johannesburg, South Africa, 7 May. Unpublished paper.

<sup>822</sup> Lewis DE. (2001). U.S Embassy/American Chamber of Commerce Black Economic Empowerment. Seminar delivered in Johannesburg, South Africa, 30 May. Unpublished paper.

<sup>823</sup> Hume, CR. (2002). Black Economic Empowerment. Seminar delivered in Johannesburg, South Africa, 7 May. Unpublished paper.

<sup>824</sup> Hume, CR. (2002). Black Economic Empowerment. Seminar delivered in Johannesburg, South Africa, 7 May. Unpublished paper.

<sup>825</sup> Hume, CR. (2002). Black Economic Empowerment. Seminar delivered in Johannesburg, South Africa, 7 May. Unpublished paper.

<sup>826</sup> Deputy Minister Hendricks. (2004). Black Economic Empowerment. Presentation delivered in Johannesburg, South Africa, 26 July. Unpublished paper.

Facing the challenge of Black Economic Empowerment, one needs to view it not as a business impediment, but rather as a program that improves business opportunities while it simultaneously uplifts the historically disadvantaged.<sup>827</sup> South Africa will only achieve its full potential when those who were previously excluded are full participants in its dynamic economy.<sup>828</sup> BEE is important for business, so that it can continue to expand and prosper.<sup>829</sup> Truly successful Empowerment will only occur when business and government agree and co-operate in its implementation.<sup>830</sup>

BEE is in the interest of business people looking at the bottom-line and in the interest as fellow human beings concerned about the future of this country.<sup>831</sup> South Africa has loads of potential and Black Economic Empowerment will further enhance this positive attribute.<sup>832</sup>

BEE is an issue, which is important not only for South Africa, but for other countries seeking successful business relations in South Africa.<sup>833</sup>

This endeavour is in everyone's best interests, whether it be as a compassionate individual concerned about others and the future of South Africa, or as business people looking at profit margins.<sup>834</sup> With Empowerment

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<sup>827</sup> Hume, CR. (2002). Black Economic Empowerment. Seminar delivered in Johannesburg, South Africa, 7 May. Unpublished paper.

<sup>828</sup> Hume, CR. (2002). Black Economic Empowerment. Seminar delivered in Johannesburg, South Africa, 7 May. Unpublished paper.

<sup>829</sup> Lewis DE. (2001). U.S Embassy/American Chamber of Commerce Black Economic Empowerment. Seminar delivered in Johannesburg, South Africa, 30 May. Unpublished paper.

<sup>830</sup> Hume, CR. (2002). Black Economic Empowerment. Seminar delivered in Johannesburg, South Africa, 7 May. Unpublished paper.

<sup>831</sup> Lewis DE. (2001). U.S Embassy/American Chamber of Commerce Black Economic Empowerment. Seminar delivered in Johannesburg, South Africa, 30 May. Unpublished paper.

<sup>832</sup> Lewis DE. (2001). U.S Embassy/American Chamber of Commerce Black Economic Empowerment. Seminar delivered in Johannesburg, South Africa, 30 May. Unpublished paper.

<sup>833</sup> Lewis DE. (2001). U.S Embassy/American Chamber of Commerce Black Economic Empowerment. Seminar delivered in Johannesburg, South Africa, 30 May. Unpublished paper.

<sup>834</sup> Hume, CR. (2002). Black Economic Empowerment. Seminar delivered in Johannesburg, South Africa, 7 May. Unpublished paper.

of the previously disadvantaged, business will continue to grow and prosper.<sup>835</sup>

BEE is therefore a subject that cannot be divorced from economic growth, job creation and greater equality in our country and should be embraced by all South Africans.<sup>836</sup> It is also an area that is closely linked to small business development and entrepreneurship in South Africa.<sup>837</sup>

Significantly, the value of black economic empowerment deals has more than trebled in 2003 compared to the preceding year.<sup>838</sup> According to recent surveys, there were 189 Black Empowerment deals worth R42.2 billion in South Africa in 2003; compared to 104 deals totalling R 12.4 billion in 2002.<sup>839</sup>

### BEE as an Economic Driver

Empowerment is part of the growth strategy and that the kind of inequality which exists in South Africa is a structural constraint to economic growth.<sup>840</sup> Part of the growth strategy is therefore to ensure that the potential is unleashed which exists in this country by empowering the people.<sup>841</sup> Black Economic Empowerment is therefore an important component of the growth strategy.<sup>842</sup> During the past ten years, economic growth as measured by GDP has been

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<sup>835</sup> Hume, CR. (2002). Black Economic Empowerment. Seminar delivered in Johannesburg, South Africa, 7 May. Unpublished paper.

<sup>836</sup> Deputy Minister Hendricks. (2004). Black Economic Empowerment. Presentation delivered in Johannesburg, South Africa, 26 July. Unpublished paper.

<sup>837</sup> Deputy Minister Hendricks. (2004). Black Economic Empowerment. Presentation delivered in Johannesburg, South Africa, 26 July. Unpublished paper.

<sup>838</sup> Deputy Minister Hendricks. (2004). Black Economic Empowerment. Presentation delivered in Johannesburg, South Africa, 26 July. Unpublished paper.

<sup>839</sup> Deputy Minister Hendricks. (2004). Black Economic Empowerment. Presentation delivered in Johannesburg, South Africa, 26 July. Unpublished paper.

<sup>840</sup> Deputy Minister Hendricks. (2004). Black Economic Empowerment. Presentation delivered in Johannesburg, South Africa, 26 July. Unpublished paper.

<sup>841</sup> Deputy Minister Hendricks. (2004). Black Economic Empowerment. Presentation delivered in Johannesburg, South Africa, 26 July. Unpublished paper.

<sup>842</sup> Deputy Minister Hendricks. (2004). Black Economic Empowerment. Presentation delivered in Johannesburg, South Africa, 26 July. Unpublished paper.

consistent, but modest, at 2,5 - 3,0 percent.<sup>843</sup> In order to meet the country's economic challenges, especially unemployment, the growth rate must be improved to at least 5%. There are a number of constraints that prevent from having a higher rate of growth, a major one being the low and narrow entrepreneurship base.<sup>844</sup> BEE is essentially about removing this constraint and increasing the opportunity for more people to start and run businesses and to empower larger numbers of people.<sup>845</sup> A non-racial economy is not only good for political stability but it will essentially raise the level of growth of the economy to the targeted level of 5% over the next ten years, thereby helping to resolve the major issue of unemployment.<sup>846</sup>

Black Economic Empowerment should be seen as an agreement or contract between Government, the private sector and black entrepreneurs that will lead to effective transformation of the economy.<sup>847</sup>



The role of black entrepreneurs is quite clear and this is to take advantage of the many opportunities that are being created in South Africa.<sup>848</sup> By taking advantage of these opportunities, starting new enterprises and creating new wealth, black entrepreneurs will not only become empowered, but will also contribute to the growth of the economy, greater equality in our society and the creation of new jobs.<sup>849</sup>

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<sup>843</sup> Deputy Minister Hendricks. (2004). Black Economic Empowerment. Presentation delivered in Johannesburg, South Africa, 26 July. Unpublished paper.

<sup>844</sup> Deputy Minister Hendricks. (2004). Black Economic Empowerment. Presentation delivered in Johannesburg, South Africa, 26 July. Unpublished paper.

<sup>845</sup> Deputy Minister Hendricks. (2004). Black Economic Empowerment. Presentation delivered in Johannesburg, South Africa, 26 July. Unpublished paper.

<sup>846</sup> Deputy Minister Hendricks. (2004). Black Economic Empowerment. Presentation delivered in Johannesburg, South Africa, 26 July. Unpublished paper.

<sup>847</sup> Deputy Minister Hendricks. (2004). Black Economic Empowerment. Presentation delivered in Johannesburg, South Africa, 26 July. Unpublished paper.

<sup>848</sup> Deputy Minister Hendricks. (2004). Black Economic Empowerment. Presentation delivered in Johannesburg, South Africa, 26 July. Unpublished paper.

<sup>849</sup> Deputy Minister Hendricks. (2004). Black Economic Empowerment. Presentation delivered in Johannesburg, South Africa, 26 July. Unpublished paper.

BEE is about those companies that have already been empowered finding ways and means to plough back and support up-and-coming black businesses through procurement, venture capital, offering guarantees and mentorship.<sup>850</sup>

BEE is about addressing the two economies that co-exist in our country so that over time the people in the second economy are brought into the first economy and our society becomes more equal.<sup>851</sup>



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<sup>850</sup> Deputy Minister Hendricks. (2004). Black Economic Empowerment. Presentation delivered in Johannesburg, South Africa, 26 July. Unpublished paper.

<sup>851</sup> Deputy Minister Hendricks. (2004). Black Economic Empowerment. Presentation delivered in Johannesburg, South Africa, 26 July. Unpublished paper.

## **CHAPTER TEN**

### **CONCLUSION**

#### Introduction

In this final chapter the focus will be on the legitimacy of BEE, seven secrets of growth for the South African economy and a comparison of BEE to policies implemented in India and Malaysia. The policies of both countries were discussed in chapter two and a final view of their policies will be addressed in this chapter. An analysis of the outcomes of recommendations made by the BEE Commission will also be addressed in this chapter.

#### Legitimacy of Black Economic Empowerment

What is the legitimacy of the process?

The legitimacy of BEE is unquestionable.<sup>852</sup> There is no other practical and effective instrument for deracialisation for the economy of South Africa within a reasonable time.<sup>853</sup>

There is a great danger to the progress and stability of society if people have the notion that a democratic society can be built on the shaky foundations of white citizens owning and controlling the economy along the patterns of apartheid, and that black people control political power.<sup>854</sup>

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<sup>852</sup> Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

<sup>853</sup> Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

<sup>854</sup> Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

Although critics of BEE accept the need for deracialisation of the economy, some feel that the process has elitist consequences.<sup>855</sup> Some critics suggest that BEE is not alleviating poverty, but enriching a few.<sup>856</sup>

A question often asks is how a capitalist system produces socialist results.<sup>857</sup>

Critics run away from the consequence of Empowerment which is to put capital and related resources in the hands of black people.<sup>858</sup>

Black people become decision-makers and thus alter the business landscape.<sup>859</sup> This dislodges people from their comfort zones.<sup>860</sup> When critics of BEE speak about Broad-Based Empowerment it is meant that, ownership has to change hands but it must be diffused through collective investment instruments so that the status quo in business South Africa prevails and is never changed.<sup>861</sup>

In pursuit of the objective of clinging to economic power those not in favour of BEE are prepared to commit class suicide.<sup>862</sup> Critics are of the view that the capitalist system must be destroyed as long as they are leading a programme against black entrepreneurs.<sup>863</sup>

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<sup>855</sup> Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

<sup>856</sup> Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

<sup>857</sup> Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

<sup>858</sup> Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

<sup>859</sup> Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

<sup>860</sup> Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

<sup>861</sup> Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

<sup>862</sup> Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

<sup>863</sup> Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

Is the BEE programme achieving its objectives with deracialisation of the economy?<sup>864</sup>

The answer is yes however, there are unintended consequences.<sup>865</sup> The greatest tragedy that faces society is that apartheid has denuded our people of the basic capacities needed to take advantage of BEE and help society move forward.<sup>866</sup> More energy should be spent enabling people to take advantage of BEE opportunities.<sup>867</sup>

A dangerous lie is propagated that every person in our society is a potential business leader.<sup>868</sup> In a capitalist society we will not all be leaders and some will be more successful than others.<sup>869</sup> Obstacles such as these that hinder individuals should be removed.<sup>870</sup>

The BEE policy was never meant to cure all the ills of the South African society.<sup>871</sup> Black Economic Empowerment is merely one policy instrument among many.<sup>872</sup>



One must accept that the debate on BEE is partly ideological, that it is emotional and that it will always be fraught with difficulties and challenges.<sup>873</sup>

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<sup>864</sup> Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

<sup>865</sup> Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

<sup>866</sup> Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

<sup>867</sup> Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

<sup>868</sup> Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

<sup>869</sup> Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

<sup>870</sup> Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

<sup>871</sup> Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

<sup>872</sup> Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

However, one cannot get into a state of paralysis.<sup>874</sup> There is the urgent business of transforming our society.<sup>875</sup> Most forward-looking business people will take decisions about empowerment that secure their own strategic interests.<sup>876</sup> These business people may be criticised in the short term, but their companies will occupy better space in society than their competitors in future.<sup>877</sup> In doing empowerment deals one has to look for partners that will make a strategic impact in businesses.<sup>878</sup>

The strategic impact of BEE lies in new owners altering the strategies of newly acquired businesses and typically raising the levels of biodiversity in the industry.<sup>879</sup>

### The Seven Secrets of Growth for Economic Development

There are a number of aspects to address in order to reach the growth and development objectives.<sup>880</sup> This will be considered as the seven pillars of a 6% average growth rate.<sup>881</sup>



They are:

- addressing the skills deficit;
- ensuring monetary stability;

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<sup>873</sup> Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

<sup>874</sup> Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

<sup>875</sup> Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

<sup>876</sup> Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

<sup>877</sup> Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

<sup>878</sup> Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

<sup>879</sup> Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

<sup>880</sup> Parsons, R. Business Day. (2005). The seven secrets of growth. 8 November: 11

<sup>881</sup> Parsons, R. Business Day. (2005). The seven secrets of growth. 8 November: 11

- progressively raising the ratio of capital formation to gross domestic product (GDP);
- ensuring continual productivity growth;
- promoting enterprise development and deregulation;
- eliminating the bottlenecks that prevent more effective delivery of social services; and
- strengthening local and provincial government delivery.<sup>882</sup>

The 3.5 million employment opportunities that might be created between now and 2010 as will for the most part be jobs that require qualifications and skills.<sup>883</sup> The combined number of graduates from all government subsidised higher education institutions is only about 110 000 a year and without steady increases in the supply of requisite skills economic expansion there will be increasingly severe bottlenecks and inflationary pressures.<sup>884</sup> Several interventions could alleviate in this situation.<sup>885</sup>

They are:

- enhancing the conversion of enrolled students to graduates in the higher education sector;
- improving the effectiveness of the sector education and training authorities;
- increasing the incentives to the business sector to support learnerships;
- provide more opportunities for new graduates to acquire workplace skills and experience; and
- adopt a more flexible and strategic approach towards the importation of critical skills.<sup>886</sup>

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<sup>882</sup> Parsons, R. Business Day. (2005). The seven secrets of growth. 8 November: 11

<sup>883</sup> Parsons, R. Business Day. (2005). The seven secrets of growth. 8 November: 11

<sup>884</sup> Parsons, R. Business Day. (2005). The seven secrets of growth. 8 November: 11

<sup>885</sup> Parsons, R. Business Day. (2005). The seven secrets of growth. 8 November: 11

<sup>886</sup> Parsons, R. Business Day. (2005). The seven secrets of growth. 8 November: 11

Monetary authorities need to act pre-emptively at a cyclical upswing than larger hikes later on in a boom.<sup>887</sup> The economy can sustain significantly higher rates by simultaneously raising the ratio of fixed capital formation to GDP from its current levels of around 16.5% of GDP to proportions eventually approaching 25%.<sup>888</sup>

### Comparison of BEE to Policies Implemented by Countries such as India and Malaysia

It is seldom that a nation has the opportunity of learning from the pitfalls of policies adopted by other nations.<sup>889</sup> South Africans can draw invaluable lessons with regards to the BEE experience from two Asian countries such as India and Malaysia.<sup>890</sup> India and Malaysia experienced varied results from introducing empowerment initiatives.<sup>891</sup>

#### India

India stands out as a country whose policy prescriptions are strong and enduring yet it has a cascading trickle-down effect.<sup>892</sup> India focused on key economic areas including import substitution, empowerment and the protection of its infant industries during the country's industrialisation in the 1950s.<sup>893</sup>

In 2003, the Indian High Commission in South Africa held that the country's Empowerment drive identified food security as a priority at the time, because

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<sup>887</sup> Parsons, R. Business Day. (2005). The seven secrets of growth. 8 November: 11

<sup>888</sup> Parsons, R. Business Day. (2005). The seven secrets of growth. 8 November: 11

<sup>889</sup> Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available [http://www.empsa.co.za/newsletter/January\\_2005.html](http://www.empsa.co.za/newsletter/January_2005.html)

<sup>890</sup> Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available [http://www.empsa.co.za/newsletter/January\\_2005.html](http://www.empsa.co.za/newsletter/January_2005.html)

<sup>891</sup> Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available [http://www.empsa.co.za/newsletter/January\\_2005.html](http://www.empsa.co.za/newsletter/January_2005.html)

<sup>892</sup> Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available [http://www.empsa.co.za/newsletter/January\\_2005.html](http://www.empsa.co.za/newsletter/January_2005.html)

<sup>893</sup> Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available [http://www.empsa.co.za/newsletter/January\\_2005.html](http://www.empsa.co.za/newsletter/January_2005.html)

of India's over population.<sup>894</sup> He also pointed out that centrality of agriculture had to take place to improved living standards.<sup>895</sup> This initiative helped accelerate the impact of poverty alleviation and relief projects.<sup>896</sup>

The agriculture sector in India is the mainstay of the Indian economy and provides livelihoods to about 64% of the labour force, contributes 26% to the Gross Domestic Product (GDP) and accounts for about 18% share of the total value of the country's exports.<sup>897</sup> India has large grain stockpiles of around 45-million tons and is net exporters of food grains.<sup>898</sup> India is also the world's largest producer of tea with an annual production of around 470-million tons and exports 200-million tons.<sup>899</sup>

India was once plagued by acute food shortages, but now it export foods.<sup>900</sup> The country boasts as global giants in industries such as automobiles and, information technology.<sup>901</sup> This is a clear indication of how India's policy strategy is yielding dividends.<sup>902</sup>



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<sup>894</sup> Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available [http://www.empsa.co.za/newsletter/January\\_2005.html](http://www.empsa.co.za/newsletter/January_2005.html)

<sup>895</sup> Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available [http://www.empsa.co.za/newsletter/January\\_2005.html](http://www.empsa.co.za/newsletter/January_2005.html)

<sup>896</sup> Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available [http://www.empsa.co.za/newsletter/January\\_2005.html](http://www.empsa.co.za/newsletter/January_2005.html)

<sup>897</sup> Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available [http://www.empsa.co.za/newsletter/January\\_2005.html](http://www.empsa.co.za/newsletter/January_2005.html)

<sup>898</sup> Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available [http://www.empsa.co.za/newsletter/January\\_2005.html](http://www.empsa.co.za/newsletter/January_2005.html)

<sup>899</sup> Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available [http://www.empsa.co.za/newsletter/January\\_2005.html](http://www.empsa.co.za/newsletter/January_2005.html)

<sup>900</sup> Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available [http://www.empsa.co.za/newsletter/January\\_2005.html](http://www.empsa.co.za/newsletter/January_2005.html)

<sup>901</sup> Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available [http://www.empsa.co.za/newsletter/January\\_2005.html](http://www.empsa.co.za/newsletter/January_2005.html)

<sup>902</sup> Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available [http://www.empsa.co.za/newsletter/January\\_2005.html](http://www.empsa.co.za/newsletter/January_2005.html)

## Malaysia

The Malaysian experience of empowerment is germane and makes a compelling comparison to South Africa's empowerment policies.<sup>903</sup> It is similar in terms of demographic mix and the fact that the targeted beneficiaries of empowerment policies were the indigenous majority Bumiputra.<sup>904</sup> The Malaysian experience also points out limitations strong emphasis on corporate ownership as compared to other aspects of broad-based empowerment such as control, employment equity and job creation.<sup>905</sup>

According to Ian Emsley's book entitled 'The Malaysian Experience of Affirmative Action - Lessons for South Africa', the positive lesson from Malaysia for South Africa is that state intervention can be an effective tool of empowerment within a market economy.<sup>906</sup>

Very few governments have publicly professed aversion to economic growth, but the ability of governments to foster growth has varied greatly across the world.<sup>907</sup>

The Malaysian economic performance has been one of the world's best.<sup>908</sup> The growth of the GDP averaged 7% over the period of the New Economic Policy (NEP) - 1970 to 1990 - higher than the post independence performance (1960 to 1970) of 6.5% per year.<sup>909</sup> The GDP was also well in

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<sup>903</sup> Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available [http://www.empsa.co.za/newsletter/January\\_2005.html](http://www.empsa.co.za/newsletter/January_2005.html)

<sup>904</sup> Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available [http://www.empsa.co.za/newsletter/January\\_2005.html](http://www.empsa.co.za/newsletter/January_2005.html)

<sup>905</sup> Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available [http://www.empsa.co.za/newsletter/January\\_2005.html](http://www.empsa.co.za/newsletter/January_2005.html)

<sup>906</sup> Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available [http://www.empsa.co.za/newsletter/January\\_2005.html](http://www.empsa.co.za/newsletter/January_2005.html)

<sup>907</sup> Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available [http://www.empsa.co.za/newsletter/January\\_2005.html](http://www.empsa.co.za/newsletter/January_2005.html)

<sup>908</sup> Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available [http://www.empsa.co.za/newsletter/January\\_2005.html](http://www.empsa.co.za/newsletter/January_2005.html)

<sup>909</sup> Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available [http://www.empsa.co.za/newsletter/January\\_2005.html](http://www.empsa.co.za/newsletter/January_2005.html)

excess of performance of nearly all other Less Developed Countries, the average growth of which was 4.3% between 1970 and 1990.<sup>910</sup> Asian Newly Industrialised Countries are the only countries that have surpassed Malaysia as well as certain oil-exporting countries.<sup>911</sup>

### The Economic Value of BEE

Critics ask whether there is a business case for BEE.<sup>912</sup> Could BEE be an antithesis of economic growth and sustainable development?<sup>913</sup>

There is ample economic justification for BEE according to the University of South Africa's Bureau of Market Research (BMR).<sup>914</sup> The reason for this is that the black middle class is burgeoning.<sup>915</sup> The rise of black South Africans entering higher income brackets has dramatically drive consumer spending, especially in the property sector where increasing demand is accompanied by rising prices.<sup>916</sup>



In the past three years an estimated 300 000 more black South Africans have achieved the status of middle income earners according to BMR.<sup>917</sup> The

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<sup>910</sup> Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available [http://www.empsa.co.za/newsletter/January\\_2005.html](http://www.empsa.co.za/newsletter/January_2005.html)

<sup>911</sup> Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available [http://www.empsa.co.za/newsletter/January\\_2005.html](http://www.empsa.co.za/newsletter/January_2005.html)

<sup>912</sup> Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available [http://www.empsa.co.za/newsletter/January\\_2005.html](http://www.empsa.co.za/newsletter/January_2005.html)

<sup>913</sup> Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available [http://www.empsa.co.za/newsletter/January\\_2005.html](http://www.empsa.co.za/newsletter/January_2005.html)

<sup>914</sup> Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available [http://www.empsa.co.za/newsletter/January\\_2005.html](http://www.empsa.co.za/newsletter/January_2005.html)

<sup>915</sup> Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available [http://www.empsa.co.za/newsletter/January\\_2005.html](http://www.empsa.co.za/newsletter/January_2005.html)

<sup>916</sup> Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available [http://www.empsa.co.za/newsletter/January\\_2005.html](http://www.empsa.co.za/newsletter/January_2005.html)

<sup>917</sup> Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available [http://www.empsa.co.za/newsletter/January\\_2005.html](http://www.empsa.co.za/newsletter/January_2005.html)

category includes average household income earners ranging from R6 455 per month to R11 566 per month.<sup>918</sup>

In this lies the business and economic case for BEE.<sup>919</sup> As the black middle class grows, the more disposable income there is in the South African economy.<sup>920</sup> Also more is spent and demands for goods and services increases.<sup>921</sup> The economy thus has to produce more and as a result will grow.<sup>922</sup> More jobs are also created.<sup>923</sup>

BMR reports that in the past 10 years (1993 to 2003), the highest expenditure at current prices by black households was on education.<sup>924</sup> This has increased by 21.4% per year and services from domestic workers increased by 23.4% per year.<sup>925</sup>

Investment bankers say that most companies operating in the consumer market are experiencing booming times.<sup>926</sup> This is due to consumer spending rising steadily and black households are spending more on luxury items such as homes, cars and expensive clothing.<sup>927</sup> The bank also points out that the

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<sup>918</sup> Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available [http://www.empsa.co.za/newsletter/January\\_2005.html](http://www.empsa.co.za/newsletter/January_2005.html)

<sup>919</sup> Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available [http://www.empsa.co.za/newsletter/January\\_2005.html](http://www.empsa.co.za/newsletter/January_2005.html)

<sup>920</sup> Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available [http://www.empsa.co.za/newsletter/January\\_2005.html](http://www.empsa.co.za/newsletter/January_2005.html)

<sup>921</sup> Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available [http://www.empsa.co.za/newsletter/January\\_2005.html](http://www.empsa.co.za/newsletter/January_2005.html)

<sup>922</sup> Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available [http://www.empsa.co.za/newsletter/January\\_2005.html](http://www.empsa.co.za/newsletter/January_2005.html)

<sup>923</sup> Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available [http://www.empsa.co.za/newsletter/January\\_2005.html](http://www.empsa.co.za/newsletter/January_2005.html)

<sup>924</sup> Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available [http://www.empsa.co.za/newsletter/January\\_2005.html](http://www.empsa.co.za/newsletter/January_2005.html)

<sup>925</sup> Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available [http://www.empsa.co.za/newsletter/January\\_2005.html](http://www.empsa.co.za/newsletter/January_2005.html)

<sup>926</sup> Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available [http://www.empsa.co.za/newsletter/January\\_2005.html](http://www.empsa.co.za/newsletter/January_2005.html)

<sup>927</sup> Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available [http://www.empsa.co.za/newsletter/January\\_2005.html](http://www.empsa.co.za/newsletter/January_2005.html)

JSE Securities Exchange is experiencing a surge in performance because companies in sectors including clothing, furniture, motor vehicle, media, property and cellular telephony are growing voluminosly.<sup>928</sup>

The BEE value is multifaceted and its trickle-down effect impacts on almost all sectors of the mainstream economy.<sup>929</sup> It is critical to improve the living standards of the black middle class and their spending is propelling economic growth to greater heights while their demand for services such as domestic and hospitality services leads to job creation.<sup>930</sup>

The good performance of the local bourse will continue as BEE deals increase in leaps and bounds.<sup>931</sup>



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<sup>928</sup> Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available [http://www.empsa.co.za/newsletter/January\\_2005.html](http://www.empsa.co.za/newsletter/January_2005.html)

<sup>929</sup> Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available [http://www.empsa.co.za/newsletter/January\\_2005.html](http://www.empsa.co.za/newsletter/January_2005.html)

<sup>930</sup> Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available [http://www.empsa.co.za/newsletter/January\\_2005.html](http://www.empsa.co.za/newsletter/January_2005.html)

<sup>931</sup> Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available [http://www.empsa.co.za/newsletter/January\\_2005.html](http://www.empsa.co.za/newsletter/January_2005.html)

## Conclusion

### An Analysis of the Outcomes of Recommendations by the Black Economic Commission

#### **Investment for Growth – A New Path to Development**

Upon the recommendation, the level of foreign investment in South Africa increased significantly. An example of this would be a company named Mittal Steel, one of the world's largest steel company's which has acquired Iscor, a South African steel company. This was done in order to enhance its production and to avail its products for international distribution through the Mittal network.

Reference can also be made to the Barclays Bank, a United Kingdom based bank who acquired the controlling interest in Absa bank.

#### **An Integrated Human Resource Development (HRD) Strategy**

Various industry base charters and the Codes of Good Practice has ensured that business will set targets for skills development and skills transfer whereby insuring that the HRD strategy is achieved.

#### **Access to Financial Services and Capital**

The financial services charter had ensured that all companies in the financial services sector is committed to ensuring that targets set in their charter are progressively adhere to in order to provide further access to financial services and capital by BEE groups.

#### **Affirmative Procurement**

All industry charters, Scorecards and the Codes of Good Practice have a particularly high score rating for affirmative procurement. This ensures that companies are encouraged to comply. This system has a domino effect in that, supplier company's in turn pressurise their own suppliers to comply.

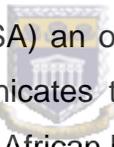
### **Empowerment Framework for Public Sector Restructuring**

All privatisation of state enterprises insist on significant BEE shareholding. Similarly all Public/Private Partnership Projects (PPP) are dependent on significant BEE participation at equity and operational levels.

### **Rural Development and Access to Land**

The implementation of land redistribution has been accelerated, which has resulted in close co-operation between the formal agricultural sector and the emerging farming community. The Department of Agriculture and the Land bank have been instrumental in the promotion and financing of the emerging agricultural sector.

### **The Role of Business Organisations**

Unity in the business community has been achieved by the establishment of Business Unity South Africa (BUSA)  an organisation spanning all sectors of the economy which now communicates to government in a manner which addresses all sectors of the South African business community.

When one considers the practical effects of the recommendations by the Black Economic Commission and the practical effects of the application thereof in the South African economy relative to similar experiences in developing countries such as India and Malaysia, these recommendations are bound to have a positive and sustainable effect on Black Economic Empowerment in South Africa.

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## ADDENDUM

- **SCHEME OF ARRANGEMENT IN TERMS OF SECTION 311 OF THE COMPANIES ACT 61 OF 1973**
- **SHARE CERTIFICATE OF BIDVEST GROUP LIMITED**

