

**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.



CONTENTS

Title Page	i
Keywords	ii
Abstract	iii
Declaration	v
Acknowledgements	vi
Dedication	vii
INTRODUCTION	1
CHAPTER 1	
THE ESTABLISHMENT OF BLACK ECONOMIC EMPOWERMENT AND BLACK ECONOMIC EMPOWERMENT COMPANIES	2
Introduction	2
Apartheid	
The Definition of Black Economic Empowerment	4
A Description of Black Economic Empowerment	6
The Objectives of and when BEE is applied	7
Establishment of Black Economic Empowerment Companies	8
Codes of Good Practice for Broad- Based Black Economic Empowerment	11
Conclusion	11
CHAPTER 2	
THE DEVELOPMENT OF ECONOMIC OWNERSHIP IN COUNTRIES WHERE THERE HAVE BEEN HISTORICALLY DISADVANTAGED CITIZENS	12
Introduction	12
Overview of India	12
History of India	14
Industrialisation in India	15
Divide and Rule in India	16
The Return of Gandhi to India	16
Political History	18
Common Minimum Program	20
History of Malaysia	24
Bumiputra	27
Definition of Bumiputra	28
The Crisis of 1969 in Malaysia	29
The Malaysian New Economic Policy	31
A Brief History of the Malaysian Economy before the New Economic Policy	31
The Goals of the New Economic Policy	32

	Bumiputra Laws	35
	Conclusion	36
CHAPTER 3	THE SOUTH AFRICAN ECONOMY	38
	Introduction	38
	Definition of Economy	38
	An Overview of the South African Economy	38
	The Crisis that the Apartheid Economy Created for South Africa	39
	Transition from the Apartheid Economy to the Democratic Economy	42
	The South African Economy as it Exists now	43
	South Africa's Financial Policy	45
	Banks in South Africa	46
	Investment Ratings	46
	South Africa's Economic Growth	47
	A Further Overview that Serves as a Guide to the South African Economy	51
	Currency	51
	Fiscal Year	51
	Trade Organisation	51
	Growth Domestic Product (GDP)	51
	Labour Force	52
	Labour Force by Occupation	52
	Unemployment Rate	53
	Population Below Poverty Line	53
	Household Income or Consumption by Percentage Share	53
	Distribution of Family Income	53
	Inflation Rate	53
	Investment	54
	Budget	54
	Public Debt	54
	Agricultural Products	54
	Industries	55
	Industrial Production Growth Rate	55
	Electricity	55
	Oil	56
	Natural Gas	56
	Current Account Balance	56
	Exports	56
	Imports	57
	Reserves of Foreign Exchange and Gold	58
	External Debt	58
	Economic Aid Recipient	58

	Challenges for the South African Economy	58
	Conclusion	59
CHAPTER 4	JSE SECURITIES EXCHANGE (JSE)	60
	Introduction	60
	What is the Johannesburg Securities Exchange	60
	History of the Johannesburg Stock Exchange	61
	Facts About the Johannesburg Stock Exchange (JSE)	61
	Systems Utilised by the JSE	63
	The JSE Securities Exchange and what it means to South Africa	65
	Securities Services and the JSE Securities Exchange	66
	The Objective of the Securities Services Act 36 of 2004	66
	Exchanges in South Africa	68
	Innovation and Products Used by the JSE	69
	Authority of the JSE	70
	General Powers of the JSE	70
	Procedures to Listing on the JSE	71
	Company Requirements for Listing on the JSE	71
	Pre-listing on the JSE	71
	The Requirements for Listing on the JSE	72
	Main Board	72
	Alternative Exchange (AltX)	73
	Main Board Requirements	73
	Alternative Exchange Requirements AltX	74
	Black Empowered or Black Owned companies on the JSE	75
	Companies listed on the Main Board	75
	Companies listed on AltX	76
	An Example of a Financial Structure or Scheme of a Black Economic Empowerment Transaction	77
	The Object of the Scheme	77
	A Synopsis of the BEE Transaction between Dinatla Investment Holdings and the Bidvest Group Limited	78
	Diagram	84
	Conclusion: The Role the JSE Should Play	85
CHAPTER 5	THE BLACK ECONOMIC EMPOWERMENT COMMISSION (BEE COM)	87
	Introduction	87
	The Establishment of the Black Economic Empowerment Commission	87
	Black Business Council	88
	Issues the BEECom was Appointed to Address	90

	The BEECom Objectives	90
	The Definition of BEE as given by the Black Economic Commission	91
	The Challenges Black Economic Empowerment Commission faced	92
	The BEE National Strategy	93
	BEECom Targets	96
	Recommendations by the Black Economic Empowerment Commission	97
	Investment for Growth - A New Path to Development Recommendation	97
	An Integrated Human Resource Development (HRD) Strategy Recommendation	98
	Access to Financial Services and Capital Recommendation	99
	Affirmative Procurement Recommendation	100
	The Enabling Framework Recommendation	101
	An Empowerment Framework for Public Sector Restructuring Recommendation	102
	Rural Development and Access to Land Recommendations	103
	The Role of Business Organisations Recommendation	103
	A Critical Overview of the BEE Commission and its Recommendations	104
	Conclusion	105
CHAPTER 6	POVERTY RELIEF	110
	Introduction	110
	Poverty	110
	The Causes of Poverty in South Africa	112
	The Extend of Poverty in South Africa	114
	The Measures Government Plans to take for Poverty Relief	116
	Can Black Economic Empowerment Address Poverty	118
	Will Poverty Relief come easy with more Black Economic Empowerment Deals	123
	The Reciprocal Benefit of Black Economic Empowerment Companies and Poverty Relief	123
	Conclusion	124

CHAPTER 7	JOB CREATION	125
	Introduction	125
	Unemployment Situations in South Africa	125
	The Underlying Problems of Unemployment in Southern Africa	127
	Contribution of Black Economic Empowerment Companies to Job Creation	131
	Implementation of Procurement Policies	131
	Recommendations and Solutions for Job Creation	133
	Conclusion	135
CHAPTER 8	THE COURSE COMPANY LAW HAS TO TAKE TO ENSURE THE EXISTENCE OF BEE COMPANIES	136
	Introduction	136
	Corporate Reforms	136
	The King Code Report on Corporate Governance for South Africa	137
	Section 38	138
	Other Reforms	139
	Conclusion	139
CHAPTER 9	THE IMPORTANCE OF BLACK ECONOMIC EMPOWERMENT	140
	Introduction	140
	Black Economic Empowerment is Important	140
	BEE as an Economic Driver	142
CHAPTER 10	CONCLUSION	145
	Introduction	145
	Legitimacy of Black Economic Empowerment	145
	The Seven Secrets of Growth for Economic Development	148
	Comparison of BEE to Policies Implemented By Countries such as India and Malaysia	150
	India	150
	Malaysia	152
	The Economic Value of BEE	153
	Conclusion: An Analysis of the Outcomes of Recommendations by the Black Economic Empowerment Commission	156
	Investment for Growth - A New Path to Development	156
	An Integrated Human Resource Development (HRD) Strategy	156

Access to Financial Services and Capital	156
Affirmative Procurement	156
An Empowerment Framework for Public Sector	157
Rural Development and Access to Land	157
The Role of Business Organisations	157
BIBLIOGRAPHY	158
ADDENDUM	
Scheme of Arrangement in Terms of Section 311 of the Companies Act 61 of 1973	
Share Certificate of Bidvest Group Limited	



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'.¹ This system was in place from the year 1948 to the year 1991.² 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.³ Race distinction was used to control access to South Africa's productive resources and access to skills.⁴

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

¹ South African Concise Oxford Dictionary. (2002). Page 48

² South African Concise Oxford Dictionary. (2002). Page 48

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

⁴ Broad-Based Black Economic Empowerment Act, 53 of 2003.

the interest of a minority white population.⁵ Thus the South African economy was based to a very large extent on domination, exploitation and marginalisation of the black majority.⁶ Racial oppression led to white power, privileges and wealth that only benefited white people.⁷ 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.⁸

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.⁹

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.¹⁰ 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.¹¹ 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.¹² 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.¹³ Further

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

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

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

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

⁹ Broad-Based Black Economic Empowerment Act, 53 of 2003.

¹⁰ Broad-Based Black Economic Empowerment Act, 53 of 2003.

¹¹ Broad-Based Black Economic Empowerment Act, 53 of 2003.

¹² Broad-Based Black Economic Empowerment Act, 53 of 2003.

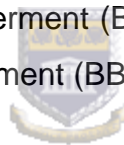
¹³ Broad-Based Black Economic Empowerment Act, 53 of 2003.

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.¹⁴ 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.¹⁵

The Apartheid system led to structural distortions in the economy.¹⁶ 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.¹⁷ BEE is located within the context of the country's national transformation programme, namely the RDP (Reconstruction and Development Programme).¹⁸ The aim of BEE is to redress the imbalances of the past by seeking to substantially and

¹⁴ Broad-Based Black Economic Empowerment Act, 53 of 2003.

¹⁵ Broad-Based Black Economic Empowerment Act, 53 of 2003.

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

¹⁷ Executive Summary Report of the BEECom 2001. (2002). (Online). Available http://www.bmfonline.co.za/bec_rep.htm 25 April

¹⁸ Executive Summary Report of the BEECom 2001.(2002). (Online). Available http://www.bmfonline.co.za/bec_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.¹⁹ BEE seeks to ensure broader and meaningful participation in the economy by black people in order to achieve sustainable development and prosperity.²⁰ 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.²¹ 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.²²

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 2003.²³ 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;

¹⁹ Executive Summary Report of the BEEC 2001. (2002). (Online). Available http://www.bmfonline.co.za/bee_rep.htm 25 April

²⁰ Executive Summary Report of the BEEC 2001. (2002). (Online). Available http://www.bmfonline.co.za/bee_rep.htm 25 April

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

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

²³ 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;²⁴

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.²⁵ 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.²⁶

‘Black economic empowerment is [thus] seen as an external factor that influences any entity that intends to do business in South Africa.’²⁷ An entity is defined as something with a distinct and independent existence²⁸, 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

²⁴ Broad-Based Black Economic Empowerment Act, 53 of 2003.

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

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

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

²⁸ South African Concise Oxford Dictionary. (2002). Page 385

enterprises.²⁹ 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.³⁰ 'The potential impact on the enterprise will differ depending on the target market of the enterprise.'³¹ 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.³² BEE as the external factor may hold significant advantages as well as risks for an enterprise, depending on how it is handled.³³

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;

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

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

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

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

³³ 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.³⁴

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.³⁵

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.

³⁴ Broad-Based Black Economic Empowerment Act, 53 of 2003.

³⁵ Executive Summary Report of the BEEC 2001. (2002). (Online). Available 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.³⁶

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

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.³⁸

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

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

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

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

³⁹ 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.⁴⁰

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.⁴¹ Shares are held via direct equity, non-profit organisations and trusts.⁴²

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.⁴³

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.

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

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

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

⁴³ 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.'⁴⁴ The statement contains basic principles and essential considerations, as well as guidance in the form of explanatory, and other, material.⁴⁵ 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.

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

⁴⁵ 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.⁴⁶ In 1857 a failed insurrection (a violent uprising against authority)⁴⁷ against the British East India Company caused most of India to come under administrative control of the crown of the British Empire.⁴⁸ 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

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

⁴⁷ South African Concise Oxford Dictionary. (2001). Page 599

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

India.⁴⁹ India gained independence from British rule on the 15 August 1947 and became a republic on 26 January 1950.⁵⁰

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.⁵¹ 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.⁵² In 1962 there was a brief war between India and China because of unresolved border disputes.⁵³ This resulted in wars in 1947, 1965 and 1971 with Pakistan and a border altercation in the northern state of Kashmir in 1999.⁵⁴ 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 1998.⁵⁵ 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.⁵⁶



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

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

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

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

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

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

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

⁵⁶ 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.⁵⁷ 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.⁵⁸ 'Caste is a word that derives from the Portuguese casta and this means breed, race or kind.'⁵⁹ Castes are ranked, named endogamous (in-marrying) groups and membership thereof is achieved by birth.⁶⁰ India is made up of thousands of caste and sub-castes and these large kinship-based groups are fundamental to South Asian social structure.⁶¹ 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.⁶² Many castes are traditionally associated with an occupation.⁶³ 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.⁶⁴ There is some correlation between ritual rank in the caste hierarchy and economic prosperity.⁶⁵ In India members of higher-ranking castes tend, on the whole, to be more prosperous than members of lower-ranking castes.⁶⁶

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

⁵⁸ South African Concise Oxford Dictionary. (2001). Page 177

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

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

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

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

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

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

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

⁶⁶ 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.⁶⁷

The Caste system in India today still involves hundreds of millions of people although it has undergone significant changes.⁶⁸ India's constitution forbids negative public discrimination on the basis of caste in its preamble.⁶⁹ 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.⁷⁰ India is splintered into a million self-contained fragments which are often socially isolated because of religion, language, caste and tribe.⁷¹

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.⁷² A large iron and steel plant that continues to operate to this day was also established in Bihar.⁷³ 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.⁷⁴ This led to the British

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

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

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

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

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

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

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

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

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

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

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



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.⁸² With his return, Gandhi was exposed to the injustices to masses of Indian people, at the hands of both their Indian and foreign masters.⁸³ 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

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

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

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

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

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

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

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

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

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

everywhere.⁸⁴ Most of the Indians still lived in villages at the time and Gandhi realised that it was there where India's real strength lay.⁸⁵ 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.⁸⁶

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

Early 1930 the movement of civil disobedience was launched.⁹¹ 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.⁹²

In 1935 the British Parliament passed the India Act.⁹³ 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.⁹⁴ 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.⁹⁵ In 1942 things

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

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

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

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

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

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

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

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

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

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

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

⁹⁵ Israel, S. Insight Guides India 1st 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.⁹⁶ The Congress appealed to the masses to do whatever was necessary even if it meant death to achieve freedom.⁹⁷

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.⁹⁸ This validated the League had begun to propound, that Hindus and Muslims were two separate nations, thus equating religion with nation.⁹⁹ The League demanded a separate independent state for the Muslims and the state was to be called Pakistan.¹⁰⁰ Independence took shape through widespread communal rioting in the most inhuman way.¹⁰¹ Freedom thus came to India through this tragedy on the 15 August 1947.¹⁰² 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.¹⁰³



Political History

Indian's National government has been controlled by the Indian National Congress for most of its independence.¹⁰⁴ 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."¹⁰⁵ 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

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

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

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

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

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

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

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

¹⁰³ Indian General Information. (2005). [Online]. Available

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

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

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

¹⁰⁵ 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.¹⁰⁶ Power however, was held by two successive coalition governments who stayed on with the support of the Congress.¹⁰⁷ 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 1999.¹⁰⁸

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.¹⁰⁹ This new formed party was called the United Progressive Alliance.¹¹⁰ The united Progressive Alliance (UPA) is the present ruling coalition of political parties in India.¹¹¹ 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),

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

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

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

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

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

¹¹¹ United Progressive Alliance. (2005). [Online]. Available 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)¹¹²

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.¹¹³

¹¹² United Progressive Alliance. (2005). [Online]. Available http://en.wikipedia.org/wiki/United_Progressive_Alliance 7 November

¹¹³ 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.¹¹⁴

1. **Employment**

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

2. **Agriculture**

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

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.¹¹⁹

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

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

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

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

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

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

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

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

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

¹²¹ 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.¹²² This will be done in phases.¹²³

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

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

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.¹²⁷

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



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

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

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

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

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

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

¹²⁸ 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.¹²⁹

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

A place of Worship Act will be implemented into the Special Provisions Act, of 1992.¹³⁰

A model will be enacted for comprehensive law to deal with communal violence.¹³¹

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

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.¹³³ Social security, health insurance and other schemes will be expanded for these workers.¹³⁴



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

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

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

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

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

¹³⁴ 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.¹³⁵

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.¹³⁶

10. **Economic reform**

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

Further reforms are needed and will be introduced in agriculture, industry and services.¹³⁸



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.¹³⁹ This stabilised the demographic situation and ended the prospect of the Malays becoming a minority in their own country.¹⁴⁰ During World War II, the Japanese occupied Malaya but popular support for independence grew coupled with a communist

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

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

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

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

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

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

insurgency.¹⁴¹ After the war, the British plans to form a Malayan Union were strongly opposed by the Malay people.¹⁴² The Malay people wanted a more pro-Malay system with single citizenship as opposed to the dual-citizenship.¹⁴³ The dual-citizenship would allow immigrant communities to have claimed citizenship in both Malaya and their country of origin.¹⁴⁴ Independence was achieved 31 August 1957 under Federation of Malaya.¹⁴⁵ 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.¹⁴⁶ Singapore requested to be a part of this independent state but was rejected by London.¹⁴⁷ 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 1963.¹⁴⁸ With this merge, the Malay majority hoped that the ethnic diverse population would balance the large number of Chinese from Singapore.¹⁴⁹ Economic and political disputes soon developed between the mostly Chinese state leaders of Singapore and the mostly Malay federal government of Malaysia.¹⁵⁰ Conflict with Indonesia occurred in the early years of Independence, over the formation of Malaysia, Singapore and the racial

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

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

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

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

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

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

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

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

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

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

riots.¹⁵¹ Conflict also occurred with the Philippines because of a claim made on Sabah.¹⁵² Singapore withdrew from the federation peacefully and became independent in 1965.¹⁵³

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.¹⁵⁴

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

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

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

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

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

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

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

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

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

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

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

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

would be the only taught languages in secondary schools.¹⁶¹ The Chinese and Indian students were required to learn Malay and they were forced to study an under agreed Malayan curriculum.¹⁶² 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.¹⁶³ The Malays were given preferential treatment and the schools would be heavily subsidised.¹⁶⁴

The Malays controlled government and agriculture, while the Chinese dominated commerce and industry.¹⁶⁵ 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.¹⁶⁶

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”.¹⁶⁷

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

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

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

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

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

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

¹⁶⁷ 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.¹⁶⁸ This is incorrect as there are non-Malays who are declared as Bumiputra and similarly non Muslim who are considered Bumiputra.¹⁶⁹ The definition of Bumiputra clearly excludes ethnic Chinese as well as non-Muslim Indians.¹⁷⁰

Treatment of Bumiputras versus other races is built into the Malaysian Constitution.¹⁷¹ 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).¹⁷² The term Bumiputra was probably created to collectively address the group described in article 153 of the Malaysian Constitution.¹⁷³

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.’¹⁷⁴

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

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

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

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

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

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

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

¹⁷⁴ 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 1957.¹⁷⁵

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.¹⁷⁶ 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 1969.¹⁷⁷ Six thousand Chinese homes and businesses were burned and hundreds of people killed.¹⁷⁸ 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.¹⁷⁹ 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 1971.¹⁸⁰ With this suspension came imposed censorship and severe restrictions on political activity.¹⁸¹ Parliament reconvened in 1971 and a new government coalition

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

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

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

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

¹⁷⁹ Malaysian's New Economic and National Unity. (2005). [Online]. Available http://en.wikipedia.org/wiki/Malaysian_New_Economic_Policy 2 October

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

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

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

Malaysia's political leaders tried to build national unity after the riots.¹⁸⁴ 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.¹⁸⁵ The amendment to the constitution also required all government bodies to use the Malay language.¹⁸⁶ This led to many Non- Malays resenting the fact that the government attempted to build national unity through increased emphasis on the Malay culture.¹⁸⁷

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

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.¹⁸⁹ The government's response to this was a policy called the New Economic Policy of 1971.¹⁹⁰

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

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

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

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

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

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

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

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

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

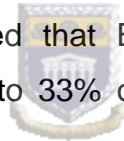
The Malaysian New Economic Policy

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

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

Malaysia began its first stage of Import Substitution Industrialisation (ISI) in 1960.¹⁹³ This ISI consisted of high tariffs and this was to motivate domestic investment.¹⁹⁴ Further more there was under pricing of fuel and utilities to keep production costs down and tax and interest rate breaks to pioneer industries.¹⁹⁵

'In 1970 there was a huge underclass of Bumiputras, whose economic conditions had remained largely unchanged under the ISI.'¹⁹⁶ '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.'¹⁹⁷



¹⁹¹ Malaysian's New Economic and National Unity. (2005). [Online]. Available http://en.wikipedia.org/wiki/Malaysian_New_Economic_Policy 2 October

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

¹⁹³ Malaysian's New Economic and National Unity. (2005). [Online]. Available http://en.wikipedia.org/wiki/Malaysian_New_Economic_Policy 2 October

¹⁹⁴ Malaysian's New Economic and National Unity. (2005). [Online]. Available http://en.wikipedia.org/wiki/Malaysian_New_Economic_Policy 2 October

¹⁹⁵ Malaysian's New Economic and National Unity. (2005). [Online]. Available http://en.wikipedia.org/wiki/Malaysian_New_Economic_Policy 2 October

¹⁹⁶ Malaysian's New Economic and National Unity. (2005). [Online]. Available http://en.wikipedia.org/wiki/Malaysian_New_Economic_Policy 2 October

¹⁹⁷ Malaysian's New Economic and National Unity. (2005). [Online]. Available 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.¹⁹⁸

The Goals of the New Economic Policy

The New Economic Policy had two objectives.¹⁹⁹ 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.²⁰⁰

An agriculture policy was used to tackle poverty, which resettled 250 000 Malays on newly cleared farms.²⁰¹ 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.²⁰²

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

The second part of the government policy was to transfer economic power to Malays.²⁰⁴ 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.²⁰⁵

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

¹⁹⁸ Malaysian's New Economic and National Unity. (2005). [Online]. Available http://en.wikipedia.org/wiki/Malaysian_New_Economic_Policy 2 October

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

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

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

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

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

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

²⁰⁵ History of Malaysia. (2005). The crisis of 1969. [Online]. Available 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%.²⁰⁶

This was to be done by redistributing the wealth to increase the ownership of enterprise.²⁰⁷

The economic growth was to be increased mainly in the form of ISI.²⁰⁸ Industries were targeted and policies were built around the government incentives created in 1975 to expand large-scale manufacturing industries and energy-intensive industries.²⁰⁹ 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.²¹⁰ The aims of the NEP were defined in terms of goals which referred to Bumiputras collectively.²¹¹ 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.'²¹² 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.²¹³

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

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

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

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

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

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

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

²¹³ History of Malaysia. (2005). The crisis of 1969. [Online]. Available 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.²¹⁴ 'The disparities of wealth in Malaysia no longer disadvantaged the Bumiputra collectively.'²¹⁵

New Economic Policy benchmarks²¹⁶	1970	1990	2004
• Bumiputra equity	2.4% (RM477m)	19.3% (RM20.9b)	18.7%
	(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.²¹⁷

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

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

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

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

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

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


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

²²⁰ History of Malaysia. (2005). The crisis of 1969. [Online]. Available 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.²²¹ Occasional anti-Chinese rioting in Indonesia often drew stark contrast to their situation in Malaysia.²²² '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.'²²³

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.²²⁴ This however represents an aggregation of the non-Bumiputra population.²²⁵ Certain segments of the population live in direct poverty, particularly much of the Malaysian Indian population.²²⁶

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.²²⁷ Pro-Bumiputra policies include quotas for admission to government

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

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

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

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

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

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

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

educational institution, qualifications for public scholarship, positions in government and ownership in businesses.²²⁸

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.²²⁹

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).

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

²²⁹ 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.²³⁰

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.²³¹ Growth however, has not been strong enough to lower South Africa's high unemployment rate and daunting

²³⁰ South African Concise Oxford Dictionary. (2001). Page 368

²³¹ 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.²³²

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.²³³ Although South Africa's per capita²³⁴ Gross Domestic Product (GPD)²³⁵ ranked as a middle-income country, living standards for the majority resembled those of much poorer countries.²³⁶ 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.²³⁷ Inequalities of income, wealth and skill existed between race groups, men and women and between rural and urban areas.²³⁸ 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.²³⁹

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

²³³ 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

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

²³⁵ 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

²³⁶ 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

²³⁷ 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

²³⁸ 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

²³⁹ 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.²⁴⁰

A deficit that was almost reaching 8 per cent of the Gross Domestic Product (GDP) in terms of macroeconomics²⁴¹ caused big concern at that time.²⁴²

Inflation was over 10 per cent and the danger of the new government falling into a debt trap was a reality.²⁴³ 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

²⁴⁰ 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

²⁴¹ 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

²⁴² 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

²⁴³ 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.²⁴⁴ South Africa's economy was heavily sanctioned and this further affected the country's economy.²⁴⁵

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.²⁴⁶

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.²⁴⁷

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

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.²⁴⁹ The South African economy was therefore not competitive in the world economy.²⁵⁰

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

²⁴⁴ 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

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

²⁴⁶ 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

²⁴⁷ 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

²⁴⁸ 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

²⁴⁹ 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

²⁵⁰ 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 microeconomic²⁵¹ constraints to growth.²⁵²

Transition from the Apartheid Economy to the Democratic Economy

As early as 1990, the transition to a democratic, non-racial government had begun.²⁵³ 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.²⁵⁴ Part of the problems created by the apartheid economy was to be addressed by the means of the Reconstruction and Development Program (RDP).²⁵⁵ 'The RDP was designed to create programs to improve the standard of living for the majority of the population....'²⁵⁶ The RDP was to provide housing (one million new homes in five years), basic services, education and health care.²⁵⁷ 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.²⁵⁸

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

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

²⁵² 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

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

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

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

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

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

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

privatisation and to favourable investment.²⁵⁹ GEAR symbolised a neoliberal economic²⁶⁰ strategy to cover the years 1996 to 2000.²⁶¹

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

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.²⁶⁴

The South African Economy as it Exists now

South Africa is said to be the economic powerhouse of Africa.²⁶⁵ South Africa has the most developed economy in the Southern African region²⁶⁶, and has the most sophisticated free-market economy on the African continent.²⁶⁷ The Southern African region consists of Angola, Botswana, Lesotho, Malawi, Mozambique, Swaziland, Tanzania, Zambia and Zimbabwe in addition to South Africa.²⁶⁸ South Africa has a GDP equal to four times that of its

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

²⁶⁰ Neoliberal economic – a new favourable economic.

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

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

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

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

²⁶⁵ South Africa economy overview. (2005). [Online]. Available www.southafrica.info/doing_business/economy/econoverview.htm 12 September

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

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

²⁶⁸ 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.²⁶⁹ 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.²⁷⁰ 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.²⁷¹

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

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.²⁷⁵ As Werksmans states, 'a sophisticated industrial economy... developed alongside an underdeveloped informal economy.'²⁷⁶ 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.²⁷⁷

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

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

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

²⁷² South African Concise Oxford Dictionary. (2001)

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

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

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

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

²⁷⁷ Werksmans SA business guide. (2005) Economic structure. [Online]. Available 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.²⁷⁸

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 18th in the world in terms of total market capitalisation.²⁷⁹ 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.²⁸⁰ The SARB influences interest rates and control liquidity through its interest rates on funds provided to private sector banking.²⁸¹ South African banks adhere to the Bank of International Standards core standards and quantitative control of deposits and lending rates have largely disappeared.²⁸²

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

South African companies may invest up to R750 million in Africa and R500 million elsewhere since 2001.²⁸⁵

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

²⁷⁹ Financial policy. (2005). Economy of South Africa, Wikipedia. [Online]. Available http://en.wikipedia.org/wiki/Economy_of_South_Africa 18 October

²⁸⁰ Financial policy. (2005). Economy of South Africa, Wikipedia. [Online]. Available http://en.wikipedia.org/wiki/Economy_of_South_Africa 18 October

²⁸¹ Financial policy. (2005). Economy of South Africa, Wikipedia. [Online]. Available http://en.wikipedia.org/wiki/Economy_of_South_Africa 18 October

²⁸² Financial policy. (2005). Economy of South Africa, Wikipedia. [Online]. Available http://en.wikipedia.org/wiki/Economy_of_South_Africa 18 October

²⁸³ Financial policy. (2005). Economy of South Africa, Wikipedia. [Online]. Available http://en.wikipedia.org/wiki/Economy_of_South_Africa 18 October

²⁸⁴ Financial policy. (2005). Economy of South Africa, Wikipedia. [Online]. Available http://en.wikipedia.org/wiki/Economy_of_South_Africa 18 October

²⁸⁵ Financial policy. (2005). Economy of South Africa, Wikipedia. [Online]. Available 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.²⁸⁶

There are five mutual banks, twelve foreign controlled banks and fifty five locally controlled banks.²⁸⁷ Leading institutions in the world have announced their intention to enter the South African banking sector through mergers and acquisitions.²⁸⁸ 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.²⁸⁹ It is also rated as the most competitive economy in the sub-Saharan region.²⁹⁰ 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.²⁹¹ 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,²⁹² raised South

²⁸⁶ South Africa economy overview. (2005). [Online]. Available www.southafrica.info/doing_business/economy/econoverview.htm 12 September

²⁸⁷ South Africa economy overview. (2005). [Online]. Available www.southafrica.info/doing_business/economy/econoverview.htm 12 September

²⁸⁸ South Africa economy overview. (2005). [Online]. Available www.southafrica.info/doing_business/economy/econoverview.htm 12 September

²⁸⁹ South Africa economy overview. (2005). [Online]. Available www.southafrica.info/doing_business/economy/econoverview.htm 12 September

²⁹⁰ South Africa economy overview. (2005). [Online]. Available www.southafrica.info/doing_business/economy/econoverview.htm 12 September

²⁹¹ South Africa economy overview. (2005). [Online]. Available www.southafrica.info/doing_business/economy/econoverview.htm 12 September

²⁹² 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 2005.²⁹³ These upgrades reflect that South Africa has a strong track record of macro-economic management.²⁹⁴

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.²⁹⁵ 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.²⁹⁶

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 1999.²⁹⁷



The South African economy grew during:

- 2001 by 2,2%,
- 2002 by 3%,
- 2003 by 1.9%,
- 2004 by 3.7%.²⁹⁸

²⁹³ South Africa economy overview. (2005). [Online]. Available www.southafrica.info/doing_business/economy/econoverview.htm 12 September

²⁹⁴ South Africa economy overview. (2005). [Online]. Available www.southafrica.info/doing_business/economy/econoverview.htm 12 September

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

²⁹⁶ Financial policy. (2005). Economy of South Africa, Wikipedia. [Online]. Available http://en.wikipedia.org/wiki/Economy_of_South_Africa 18 October

²⁹⁷ South Africa economy overview. (2005). [Online]. Available www.southafrica.info/doing_business/economy/econoverview.htm 12 September

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

The recorded growth up to and including June 2005 average 3.5%.²⁹⁹

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 %.³⁰⁰

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

Consumer inflation³⁰² has been on a downward trend since 2002.³⁰³

Consumer inflation for the year:

- 2003 averaged 6.8%,
- 2004 averaged 4.3%.³⁰⁴

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



²⁹⁹ South Africa economy overview. (2005). [Online]. Available www.southafrica.info/doing_business/economy/econoverview.htm 12 September

³⁰⁰ South Africa economy overview. (2005). [Online]. Available www.southafrica.info/doing_business/economy/econoverview.htm 12 September

³⁰¹ South Africa economy overview. (2005). [Online]. Available www.southafrica.info/doing_business/economy/econoverview.htm 12 September

³⁰² 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

³⁰³ South Africa economy overview. (2005). [Online]. Available www.southafrica.info/doing_business/economy/econoverview.htm 12 September

³⁰⁴ South Africa economy overview. (2005). [Online]. Available www.southafrica.info/doing_business/economy/econoverview.htm 12 September

³⁰⁵ South Africa economy overview. (2005). [Online]. Available www.southafrica.info/doing_business/economy/econoverview.htm 12 September

Fiscal³⁰⁶ management has seen South Africa's budget deficit drop from

- 5.1% of GDP in 1994 to
- 2.3% of GDP in 2004,³⁰⁷

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.³⁰⁸ 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 1994.³⁰⁹ The source of the revenue windfall was the performance of the economy, consumer confidence and a dramatic increase in the number of taxpayers.³¹⁰ The registered taxpayers amounted to 2 million in 1994 and in ten years have increased to 5 million in 2004.³¹¹



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

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

³⁰⁷ South Africa economy overview. (2005). [Online]. Available www.southafrica.info/doing_business/economy/econoverview.htm 12 September

³⁰⁸ South Africa economy overview. (2005). [Online]. Available www.southafrica.info/doing_business/economy/econoverview.htm 12 September

³⁰⁹ South Africa economy overview. (2005). [Online]. Available www.southafrica.info/doing_business/economy/econoverview.htm 12 September

³¹⁰ South Africa economy overview. (2005). [Online]. Available www.southafrica.info/doing_business/economy/econoverview.htm 12 September

³¹¹ South Africa economy overview. (2005). [Online]. Available www.southafrica.info/doing_business/economy/econoverview.htm 12 September

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

³¹³ South Africa – Wikipedia. (2005). Economy. [Online]. Available 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.³¹⁴ 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.³¹⁵ The South African economic activity has been affected due to the rapid and unpredictable change (volatility) of the rand.³¹⁶ The Rand fell sharply during 2001 hitting a low of R13.85 to the US Dollar.³¹⁷ This raised fears of inflation and caused the Reserve Bank to increase the interest rates.³¹⁸ 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.³¹⁹

The stronger Rand has however put exporters under considerable pressure.³²⁰ 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.³²¹

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

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

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

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

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

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

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

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

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

³²² South Africa economy overview. (2005). [Online]. Available 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 cents³²³

Currency Code

- Rand ZAR³²⁴

Exchange rate

- Rand per US dollar 6.4597 (2004)³²⁵

Fiscal Year

A North American term for a financial year.³²⁶

- 1 April – 31 March³²⁷

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 Organisation³²⁸

Growth Domestic Product (GDP)

GDP ranking

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

³²³ South Africa – Wikipedia. (2005). Economy. [Online]. Available http://en.wikipedia.org/wiki/Economy_of_South_Africa 18 October

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

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

³²⁶ South African Concise Oxford Dictionary. (2001). Page 434

³²⁷ South Africa – Wikipedia. (2005). Economy. [Online]. Available http://en.wikipedia.org/wiki/Economy_of_South_Africa 18 October

³²⁸ South Africa – Wikipedia. (2005). Economy. [Online]. Available http://en.wikipedia.org/wiki/Economy_of_South_Africa 18 October

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

- \$491.4billion³³¹

GDP real growth rate in 2004 was:

- 3.5%³³²

GDP per capita in 2005 was:

- \$11,100³³³

GDP composition by sector in 2004 was:

- agriculture: 3.6%,
- industry: 31.2% and
- services: 65.2%³³⁴

Labour Force

In 2004 16.63 million people were economically active.³³⁵



Labour Force by Occupation

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

- Agriculture 30%,
- industry 25% and
- services 45%³³⁶

³²⁹ South Africa – Wikipedia. (2005). Economy. [Online]. Available http://en.wikipedia.org/wiki/Economy_of_South_Africa 18 October

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

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

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

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

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

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

³³⁶ 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.³³⁷

Population Below Poverty Line

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

Household Income or Consumption by Percentage Share

In 1994 the figures were:

- lowest 10%: 1.1% and
- highest 10%: 45.9%³³⁹

Distribution of Family Income

Gini index indicated the figure for the year 1993 – 1994 was 59.3%.³⁴⁰

Inflation Rate

Consumer prices in the 2004 the rate was 4.5%.³⁴¹

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

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

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

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

³⁴¹ 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 2004.³⁴²

Budget

In 2004:

- revenues was \$47.43 billion and
- expenditures were \$52.54 billion.³⁴³

Public debt

In 2004 the public debt was 45.9% of the GDP.³⁴⁴

Agricultural products

Agriculture products consist of the following:

- corn,
- wheat,
- sugarcane,
- fruits,
- vegetables,
- beef,
- poultry,
- mutton,
- dairy and
- wool.³⁴⁵



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

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

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

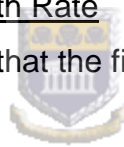
³⁴⁵ The world factbook. (2005). South Africa. [Online]. Available <http://www.cia.gov/cia/publications/factbook/geos/sf.html> 17 October

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.³⁴⁶

Industrial Production Growth Rate

In 2004 it was established that the figure was at 5.5%.³⁴⁷



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.³⁴⁸

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

³⁴⁷ 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 2002.³⁴⁹

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 2002.³⁵⁰



Current account balance

In 2004 the current account balance was \$2.48 billion.³⁵¹

Exports

Export commodities:

- gold,
- diamonds,

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

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

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

³⁵¹ 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.³⁵²

Export partners:

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

Imports

Imports amount to \$39.42 billion,

Import commodities:

- machinery and equipment,
- chemicals,
- petroleum products,
- scientific instruments and
- foodstuff.³⁵⁴



Import partners:

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

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

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

³⁵⁴ 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%.³⁵⁵

Reserves of Foreign Exchange and Gold

11.6 billion in 2004.³⁵⁶

External Debt

In 2004 the figure was \$27.01 billion.³⁵⁷

Economic Aid Recipient

487.5 million in the year 2000.³⁵⁸

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.³⁵⁹ Another key factor will be the economic integration of the previously disadvantaged majority.³⁶⁰

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

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

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

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

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

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

³⁵⁹ South Africa economy overview. (2005). [Online]. Available www.southafrica.info/doing_business/economy/econoverview.htm 12 September

³⁶⁰ South Africa economy overview. (2005). [Online]. Available www.southafrica.info/doing_business/economy/econoverview.htm 12 September

³⁶¹ South Africa economy overview. (2005). [Online]. Available 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.³⁶²

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.

³⁶² South Africa economy overview. (2005). [Online}. Available 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.³⁶³ The JSE Securities Exchange is South Africa's only stock exchange.³⁶⁴ The Johannesburg Stock Exchange is situated at the corner of Maude Street and Gwen Lane in Sandton, Johannesburg, South Africa.³⁶⁵ The JSE is the biggest stock exchange in Africa,³⁶⁶ and is among the 10 largest in the world, and is ranked 18th in the world in terms of total market capitalisation.³⁶⁷

³⁶³ South African Concise Oxford Dictionary. (2001). Page 1155

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

³⁶⁵ JSE Securities Exchange. (2005). History. [Online]. Available http://www.absoluteastronomy.com/encyclopedia/j/js/jse_securities_exchange2.htm 26 October

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

³⁶⁷ Financial policy. (2005). Economy of South Africa, Wikipedia. [Online]. Available 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.³⁶⁸ 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 1987.³⁶⁹

The founding of the JSE was as a result of the discovery of gold on the Witwatersrand or the Witwatersrand goldfields in 1886.³⁷⁰ 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.³⁷¹ The Johannesburg Securities Exchange (JSE) came into existence to provide a market place for the shares of South Africa's mining and financial companies.³⁷²



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.³⁷³ 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.³⁷⁴

³⁶⁸ JSE Securities Exchange. (2005). History [Online]. Available

http://www.absoluteastronomy.com/encyclopedia/j/js/jse_secures_exchange2.htm 26 October

³⁶⁹ 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

³⁷⁰ 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

³⁷¹ 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

³⁷² 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

³⁷³ Johannesburg Stock Exchange. (2005). [Online]. Available

http://en.wikipedia.org/wiki/Johannesburg_Stock_Exchange 26 October

³⁷⁴ 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.³⁷⁵ The JSE provides investors with returns on investments in the form of dividends and also channel funds into the economy.³⁷⁶

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

The exchange is directed by an honorary committee of 16 people, all with full voting rights.³⁷⁹ 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.³⁸⁰ Duties such as policy decisions are made by the committee and carried out by a full-time executive committee headed by the executive president.³⁸¹



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

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

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

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

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

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

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

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

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

for the existence and operation of more than one exchange.³⁸³ 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.³⁸⁴ The JSE is deemed to be a licenced exchange under the Securities Services Act 36 of 2004 with effect from 1 February 2005.³⁸⁵

Systems Utilised by the JSE

The JSE makes use of fully automatic electronic trading on the Johannesburg Equities Trading known as the JET System.³⁸⁶ 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.³⁸⁷ It was also modified to suit the JSE's specialised needs, conducive to the South African economy and South African requirements.³⁸⁸ The JET System has significantly improved transparency, price formation liquidity and cost of trading on the JSE.³⁸⁹ 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.³⁹⁰

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

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

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

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

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

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

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

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

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

August 1997.³⁹¹ 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.³⁹² In addition Sens is carried by all the major wire services which are an added convenience factor.³⁹³

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.³⁹⁴ This electronic settlement system is known as the, Share Transaction Totally Electronic (STRATE).³⁹⁵ STRATE will be enabled through the dematerialisation of equity scrip on a Central Securities Depository.³⁹⁶ This system will facilitate settlement and the transfer of ownership by electronic book entry.³⁹⁷ The electronic system is vital to enhance the security of settlement in the market and bring South Africa in line with international practice.³⁹⁸

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

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

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

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

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

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

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

³⁹⁸ Johannesburg Stock Exchange. (2005). About the JSE. [Online]. Available 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.³⁹⁹

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.⁴⁰⁰ The companies listed on the JSE, generate a substantial part of South Africa's economic activity.⁴⁰¹

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

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

³⁹⁹ 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

⁴⁰⁰ 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

⁴⁰¹ 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

⁴⁰² 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

⁴⁰³ 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

⁴⁰⁴ 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

⁴⁰⁵ 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.⁴⁰⁶ As mentioned before, the Securities Services Act 36 of 2004 (SS Act) came into operation on 1 February 2005.⁴⁰⁷ The SS Act repeals⁴⁰⁸ 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 1998.⁴⁰⁹

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.⁴¹⁰

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.⁴¹¹



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.⁴¹² 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

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

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

⁴⁰⁸ Repeals – is to evoke or annul.

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

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

⁴¹¹ Securities Services Act 36 of 2004

⁴¹² 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 .⁴¹³ The SS Act also regulates market abuse consisting of insider trading and market manipulation.⁴¹⁴

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.⁴¹⁵

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.⁴¹⁶ 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.⁴¹⁷



With regards to the exchanges in South Africa, the SS Act provides for the demutualization⁴¹⁸ and the amalgamation of two or more exchanges.⁴¹⁹ The possibility of demutualization which the SS Act provides for has become necessary in the light of international trends.⁴²⁰

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

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

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

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

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

⁴¹⁸ Demutualization - Changing of one exchange to a different kind.

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

⁴²⁰ 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.⁴²¹ In order to acquire shares in an exchange, the approval of the Registrar of the Securities Services will be required.⁴²² 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.⁴²³ This provision introduces systemic risks into the securities markets preventing “disreputable people” from controlling an exchange.⁴²⁴

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.⁴²⁵ The two exchanges are made up of the JSE Securities Exchange (JSE) already mentioned and the Bond Exchange of South Africa (BESA).⁴²⁶

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



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

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

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

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

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

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

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

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

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

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

Act.⁴³⁰ 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.⁴³¹ Exchange rules are binding on an exchange, an authorised user, an issuer and their officers and employees, and on clients.⁴³²

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.⁴³³ 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.⁴³⁴

The latest product introduced by the JSE is called Yield –X.⁴³⁵ Yield – X is a new interest rate exchange that the JSE recently launched and it commenced trading on the 28 February 2005.⁴³⁶ 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.⁴³⁷ Yield-X has been well supported by the market and has attracted twenty four trading and clearing

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

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

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

⁴³³ Philip Schedler. (2004). Yielding good returns. Reaching out. Spring 2004: 27

⁴³⁴ Philip Schedler. (2004). Yielding good returns. Reaching out. Spring 2004: 27

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

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

⁴³⁷ 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.⁴³⁸ 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.⁴³⁹ The JSE, through clearing-house Safcom, guarantees all trades and offers a cradle to grave audit trail.⁴⁴⁰

Authority of the JSE

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

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.⁴⁴³ 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.⁴⁴⁴

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.⁴⁴⁵

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

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

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

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

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

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

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

⁴⁴⁵ 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.⁴⁴⁶

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.⁴⁴⁷ 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.⁴⁴⁸

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

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.⁴⁵⁰ 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.⁴⁵¹

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.⁴⁵² There is no prescribed format for the pre-listing statements, but it should include details of the issuer, sponsor, bankers,

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

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

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

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

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

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

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

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

The Requirements for Listing on the JSE

The JSE operates two markets.⁴⁵⁷ The one being the Main Board and the other being AltX (Alternative Exchange).⁴⁵⁸ 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.⁴⁵⁹

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.⁴⁶⁰ 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.⁴⁶¹

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

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

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

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

⁴⁵⁷ 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

⁴⁵⁸ 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

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

⁴⁶⁰ JSE Security Exchange South Africa. Handout. (June 2005)

⁴⁶¹ 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 2003.⁴⁶² AltX is the market for small to medium and growing companies.⁴⁶³ Companies listed on AltX do not need to have a profit history.⁴⁶⁴

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

Main Board Requirements includes the following:

- a) A subscribed capital of at least R25 000 000.00 (Twenty Five Million Rand)⁴⁶⁶
- b) Not less than 25 0000 000 (Twenty Five Million) equity shares in issue.⁴⁶⁷
- 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.⁴⁶⁸
- d) 20% of each class of equity securities shall be held by the public.⁴⁶⁹
- 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

⁴⁶² Alternative Exchange. Hand out. (June 2005)

⁴⁶³ Alternative Exchange. Hand out. (June 2005)

⁴⁶⁴ JSE Security Exchange South Africa. Handout. (June 2005)

⁴⁶⁵ 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

⁴⁶⁶ 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

⁴⁶⁷ 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

⁴⁶⁸ 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

⁴⁶⁹ 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 debentures⁴⁷⁰

Only in exceptional cases, will companies be listed on the Main Board, where they do not strictly comply with the above requirements.⁴⁷¹

Alternative Exchange Requirements AltX

- a) The appointment of a Designated Adviser (DA).⁴⁷²
- b) Compulsory Directors Induction Programme.⁴⁷³
- c) No profit history required.⁴⁷⁴
- d) A Share capital of R2 Million.⁴⁷⁵
- e) The appointment of a financial director.⁴⁷⁶
- f) Reduced listings and annual fees.⁴⁷⁷
- g) The public must hold a minimum of 10% of each class of equity securities and the number of shareholders shall be at least 100.⁴⁷⁸
- h) A profit forecast of the remainder of the financial year must be produced.⁴⁷⁹
- 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.⁴⁸⁰



⁴⁷⁰ 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

⁴⁷¹ 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

⁴⁷² Alternative Exchange. Hand out. (June 2005)

⁴⁷³ Alternative Exchange. Hand out. (June 2005)

⁴⁷⁴ Alternative Exchange. Hand out. (June 2005)

⁴⁷⁵ Alternative Exchange. Hand out. (June 2005)

⁴⁷⁶ Alternative Exchange. Hand out. (June 2005)

⁴⁷⁷ Alternative Exchange. Hand out. (June 2005)

⁴⁷⁸ 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

⁴⁷⁹ 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

⁴⁸⁰ 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.⁴⁸¹

Black Empowered or Black Owned Companies on the JSE

Currently there are four hundred and sixteen (416) companies listed on the JSE.⁴⁸² Of these companies, only thirty one (31) companies are Black Empowered or Black owned and qualifies to be listed on the JSE.⁴⁸³ Some of these companies listed, have a minimum level of empowerment influence at shareholder and board level, with race and gender considered.⁴⁸⁴ 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.⁴⁸⁵

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

⁴⁸¹ 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

⁴⁸² Alternative Exchange. Hand out. (June 2005)

⁴⁸³ Business Map. (2005).Empowerment index. (Online). Available http://www.businessmap.org.za/e_index.asp?PID=20 20 June

⁴⁸⁴ Business Map. (2005). Empowerment index. (Online). Available http://www.businessmap.org.za/e_index.asp?PID=20 20 June

⁴⁸⁵ Business Map. (2005). Empowerment index. (Online). Available 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. Sekunjalo⁴⁸⁶



Companies Listed on AltX

1. Consol
2. Enaleni
3. Sterling Waterford Securities

⁴⁸⁶ Business Map. (2005). Empowerment index. (Online). Available http://www.businessmap.org.za/e_index.asp?PID=20 20 June

4. Verimark
5. Alliance Data Corporation⁴⁸⁷

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.⁴⁸⁸ 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.⁴⁸⁹ Scheme participants will receive Bid BEE securities for their scheme shares in terms of the scheme.⁴⁹⁰ In addition participants will receive call options.⁴⁹¹ 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.⁴⁹²

⁴⁸⁷ JSE Securities Exchange Monthly Bulletin. (June 2005). Page 80.

⁴⁸⁸ Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

⁴⁸⁹ Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

⁴⁹⁰ Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

⁴⁹¹ Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

⁴⁹² 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.⁴⁹³ 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.⁴⁹⁴ The Group decided therefore that it would favour an equity participation of 15% by a BEE group.⁴⁹⁵

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.⁴⁹⁶



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.⁴⁹⁷ 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

⁴⁹³ Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

⁴⁹⁴ Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

⁴⁹⁵ Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

⁴⁹⁶ Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

⁴⁹⁷ 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.⁴⁹⁸

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.⁴⁹⁹ 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.⁵⁰⁰ Furthermore, Section 38 of the Act did not allow Bidvest to assist in the funding.⁵⁰¹

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

⁴⁹⁸ Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

⁴⁹⁹ Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

⁵⁰⁰ Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

⁵⁰¹ 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.⁵⁰²

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.⁵⁰³

As a condition of the acquisition, the shares issued to Dinatla would not participate in dividend distributions during the transaction period.⁵⁰⁴ This was to compensate participants for interest until Dinatla had paid for the shares.⁵⁰⁵

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.⁵⁰⁶



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.⁵⁰⁷ The scheme could also be extended for a further year by mutual consent.⁵⁰⁸ Should the Bidvest share price fall to R32.00, the scheme would disintegrate.⁵⁰⁹ Dinatla also was given the option to settle at any time, prior to the end of the period.⁵¹⁰

⁵⁰² Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

⁵⁰³ Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

⁵⁰⁴ Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

⁵⁰⁵ Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

⁵⁰⁶ Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

⁵⁰⁷ Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

⁵⁰⁸ Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

⁵⁰⁹ Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

⁵¹⁰ 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.⁵¹¹

The scheme was sanctioned by the High Court on 8 December 2003.⁵¹²

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.⁵¹³

Dinatla has also agreed that they would remain Bidvest shareholders for a minimum period of 5 years after the unwinding of the scheme.⁵¹⁴ This agreement was to ensure that Bidvest would retain its BEE status and that Dinatla would continue to add value to the Group.⁵¹⁵

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.⁵¹⁶

⁵¹¹ Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

⁵¹² Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

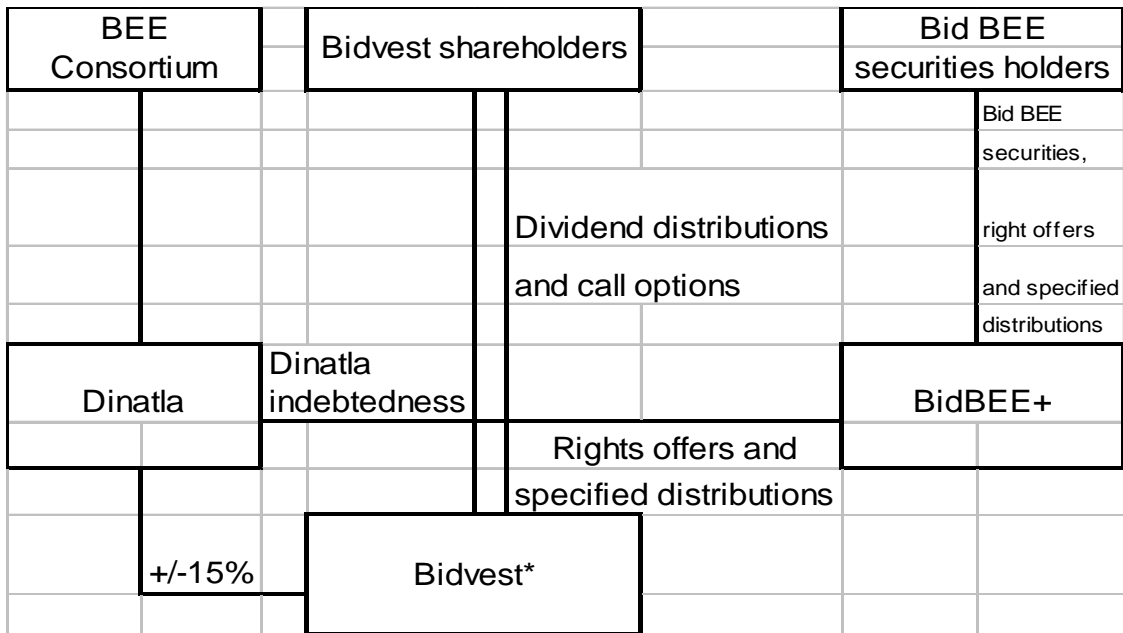
⁵¹³ Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

⁵¹⁴ Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

⁵¹⁵ Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

⁵¹⁶ Interview with Lionel Jacobs. Executive Director of Bidvest Group Limited. 10 November 2005.

The following diagram depicts the Bidvest BEE transaction schematically.



517



⁵¹⁷ Diagram from the financial scheme between Bidvest and Dinatla.

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.⁵¹⁸

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.⁵¹⁹ 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.⁵²⁰

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.⁵²¹ 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 1997.⁵²²

⁵¹⁸ 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>

⁵¹⁹ 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>

⁵²⁰ 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>

⁵²¹ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵²² 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:⁵²³

- 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.⁵²⁴

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.⁵²⁵

⁵²³ Business Map. (14 September 2005). Bee Commission Report. (Online). Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵²⁴ Business Map. (14 September 2005). Bee Commission Report. (Online). Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵²⁵ The Black Business Council. (13 September 2005). [Online]. Available 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)⁵²⁶

The key objective of BBC was to play a central role in key national economic initiatives however BBC has now been discontinued.⁵²⁷

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

⁵²⁶ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵²⁷ The Black Business Council. (13 September 2005). [Online]. Available http://www.foundation-development-africa.org/africa_black_business/black_business_council.htm

Macozoma, Salukazi Dakile-Hlongwane, Sango Ntsaluba and Vusi Montsho.⁵²⁸

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.⁵²⁹

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.⁵³⁰

⁵²⁸ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵²⁹ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵³⁰ 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.⁵³¹

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.⁵³²

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,

⁵³¹ 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>

⁵³² 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.⁵³³

The Challenges Black Economic Empowerment Commission faced

Apartheid and Colonial policies led to significant structural distortions in the South African economy.⁵³⁴ These distortions eventually resulted in crises in the Apartheid economy, which are still evident today.⁵³⁵ 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.⁵³⁶

The BEE Com refers to addressing the challenge of disempowerment.⁵³⁷ 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.⁵³⁸ 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.⁵³⁹ The BEECom believes that deliberate disempowerment provides a

⁵³³ 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>

⁵³⁴ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵³⁵ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵³⁶ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵³⁷ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵³⁸ The Black Business Council. (13 September 2005). [Online]. Available http://www.foundation-development-africa.org/africa_black_business/black_business_council.htm

⁵³⁹ 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.⁵⁴⁰

The BEE National Strategy

The BEE Com proposed an Integrated National BEE strategy⁵⁴¹ 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.⁵⁴²
- The design and the implementation of an Integrated Human Resources Development (HRD) Strategy.⁵⁴³
- 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.⁵⁴⁴
- A National Procurement Agency located within the Department of Trade and Industry which is aimed at transforming the public and private sector procurement environment.⁵⁴⁵
- 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

⁵⁴⁰ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵⁴¹ Strategy – A plan designed to achieve a particular long term aim. South African Concise Oxford Dictionary. Page 1160

⁵⁴² Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵⁴³ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵⁴⁴ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵⁴⁵ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

BEE strategy.⁵⁴⁶ 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.⁵⁴⁷

- An Empowerment Framework for Public Sector restructuring that outlines empowerment principles to be followed.⁵⁴⁸
- An enabling framework aimed at improving access to finance for household and businesses.⁵⁴⁹ This can be attained through disclosure and reporting requirements in the banking sector.⁵⁵⁰ Targets should also be implemented to encourage service delivery and the enhancement of existing State capacity in the Post Bank.⁵⁵¹
- Recommendations on the streamlining and co-ordination of public sector funding initiatives through a National Empowerment Funding Agency (NEFA).⁵⁵²
- Recommendations on building the capacity of business structure especially Black Business structure.⁵⁵³
- The strategy incorporates national targets to be met by the stakeholders.⁵⁵⁴

⁵⁴⁶ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵⁴⁷ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵⁴⁸ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵⁴⁹ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>


⁵⁵⁰ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵⁵¹ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵⁵² Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵⁵³ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵⁵⁴ 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

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.⁵⁵⁵ 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.⁵⁵⁶ 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.⁵⁵⁷

⁵⁵⁵ 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>

⁵⁵⁶ 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>

⁵⁵⁷ 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.⁵⁵⁸ 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.⁵⁵⁹

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.⁵⁶⁰

⁵⁵⁸ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵⁵⁹ De Wet, W. (2005). Development opportunities in Black Economic Empowerment. Unpublished paper.

⁵⁶⁰ 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.⁵⁶¹ This resulted in rising levels of unemployment and poverty.⁵⁶²

South Africa's rural areas are trapped by a cycle of underdevelopment.⁵⁶³

Also, private sector confidence remains low because of poor levels of economic growth.⁵⁶⁴



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.⁵⁶⁵

⁵⁶¹ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵⁶² Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵⁶³ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵⁶⁴ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵⁶⁵ 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.⁵⁶⁶

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 1990.⁵⁶⁷

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.⁵⁶⁸ 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.⁵⁶⁹



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,

⁵⁶⁶ Business Map. (14 September 2005). Bee Commission Report. (Online). Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵⁶⁷ Business Map. (14 September 2005). Bee Commission Report. (Online). Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵⁶⁸ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵⁶⁹ 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.⁵⁷⁰

BEE Com also recommends that government

- Introduce clear targets for tertiary institutions in respect of transforming staff profiles.⁵⁷¹
- Skills levy must be gradually increased.⁵⁷²
- The implementation and integration of the HRD Strategy with the country's policies in order to develop the Information Communication and Technology (ICT) sector.⁵⁷³
- The private sector needs to demonstrate far greater commitment to the implementation of a National Human Resource plan.⁵⁷⁴
- Government should expedite programmes aimed at addressing the problem of the unemployed youth.⁵⁷⁵

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.⁵⁷⁶ Financial institutions serve needs of the minority white section of the population.⁵⁷⁷ This results in biased allocation of resources to

⁵⁷⁰ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵⁷¹ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵⁷² Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵⁷³ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵⁷⁴ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵⁷⁵ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵⁷⁶ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵⁷⁷ 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.⁵⁷⁸ 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.⁵⁷⁹

Recommendation

Government should intervene in the financial sector to promote BEE.⁵⁸⁰

The obligations are put out as follows:

- Government should sell its current stake in Business Partners to raise funds;
- Khula⁵⁸¹ 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's⁵⁸²;
- 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

⁵⁷⁸ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵⁷⁹ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵⁸⁰ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵⁸¹ Khula – Government sector that promotes SMME's by providing funding guarantees.

⁵⁸² 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.⁵⁸³



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.⁵⁸⁴

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;

⁵⁸³ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵⁸⁴ 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.⁵⁸⁵

Recommendation

The BEECom recommends an overhaul of the public sector procurement system to ensure that procurement meets objectives of RDP.⁵⁸⁶ 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.⁵⁸⁷ 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.⁵⁸⁸
- viii) facilitation of upskilling existing staff as part of a HRD Strategy for procurement.⁵⁸⁹

⁵⁸⁵ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵⁸⁶ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵⁸⁷ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵⁸⁸ 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.⁵⁹⁰

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.⁵⁹¹

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.⁵⁹² The country's capital stock was tied up in SOE's⁵⁹³ generating negative returns.⁵⁹⁴

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,

⁵⁸⁹ Business Map. (14 September 2005). Bee Commission Report. (Online). Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵⁹⁰ Business Map. (14 September 2005). Bee Commission Report. (Online). Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵⁹¹ Business Map. (14 September 2005). Bee Commission Report. (Online). Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵⁹² Business Map. (14 September 2005). Bee Commission Report. (Online). Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵⁹³ SOE's – Single Ownership Enterprises

⁵⁹⁴ 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.⁵⁹⁵

Recommendation

The BEECom recommends an adoption of an Empowerment Framework for restructuring and that licensing becomes a powerful instrument to advance the BEE agenda.⁵⁹⁶

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.⁵⁹⁷ Half of the country's population lives in rural areas that entirely lack basic infrastructures and economic activities.⁵⁹⁸ 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.⁵⁹⁹ Millions of black people in the rural areas has have been denied opportunities to develop their human potential.⁶⁰⁰

⁵⁹⁵ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵⁹⁶ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵⁹⁷ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵⁹⁸ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁵⁹⁹ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁶⁰⁰ 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.⁶⁰¹
- Speed up the implementation of a social system.⁶⁰²
- Use a portion of privatisation proceeds to invest in development projects.⁶⁰³
- An agency should be identified to ensure co-ordination and focus on rural development.⁶⁰⁴
- Devise guidelines for the Land Bank as well as other institutions involved in rural development.⁶⁰⁵
- Develop a framework for the transfer of public and private land to black people with clear guidelines and time frames.⁶⁰⁶
- 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.⁶⁰⁷

⁶⁰¹ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁶⁰² Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁶⁰³ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁶⁰⁴ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁶⁰⁵ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁶⁰⁶ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁶⁰⁷ 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.⁶⁰⁸ Businesses constructed along racial lines make interaction with the government and mobilisation on national issues very difficult.⁶⁰⁹ There is no unifying voice among the businesses in South Africa.⁶¹⁰

Recommendation

Agreements should be introduced towards a unified business voice between BSA⁶¹¹ and BBC.⁶¹² 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.⁶¹³ The Co-ordinating council will focus on support for transformation, working towards unity within businesses and the advancement of BEE.⁶¹⁴ The secretariat will focus on pursuing common purposes.⁶¹⁵



⁶⁰⁸ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁶⁰⁹ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁶¹⁰ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁶¹¹ BSA – Business South Africa

⁶¹² Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁶¹³ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁶¹⁴ Business Map. (14 September 2005). Bee Commission Report. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁶¹⁵ 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.⁶¹⁶

The slow delivery of the BEE Commission's report has been described as taking on 'biblical proportions'.⁶¹⁷

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.⁶¹⁸

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.⁶¹⁹

It was found that two-thirds of the BEE Commission proposals were already in stages of implementation with the release of the report.⁶²⁰ The cause could have been that government has not been represented in the Commission.⁶²¹

The report however calls on strong government intervention to drive the empowerment process.⁶²²

⁶¹⁶ 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>

⁶¹⁷ Mahabane, I. (2000). Panel tussles with an issue blurred by lack of definition. Financial Mail, 17 March: 60

⁶¹⁸ Wadula, P. (2001). Delays no good for SA. Business Day, 19 February: 9

⁶¹⁹ 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>

⁶²⁰ Wadula, P. (2001). Delay in report threatens black empowerment. Business Day, 26 March: 11

⁶²¹ 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>

⁶²² 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.⁶²³ The reliance on the government, gives an impression that Black Economic Empowerment can only advance through the co-operation between government, businesses and labour.⁶²⁴

The BEE Commission's proposals for new laws and structures have also been questioned.⁶²⁵ 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.⁶²⁶

The commission urges the private sector to recognise its collective responsibility to assist government in the Empowerment process.⁶²⁷ 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.⁶²⁸ The recommendation of fixed investment levels is seen as the

⁶²³ 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>

⁶²⁴ Wadula, P. (2000). Erwin urges black business to lead empowerment initiatives. Business Day, 29 September: 11

⁶²⁵ 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>

⁶²⁶ Wadula, P. (2000). Submission deadline to early, some claim. Business Day, 9 October: 7

⁶²⁷ 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>

⁶²⁸ 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.⁶²⁹ Fixed investment level should be left to the market mechanisms.⁶³⁰

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.

⁶²⁹ 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>

⁶³⁰ 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.⁶³¹ South Africa's distribution of income and wealth is among the most unequal in the world.⁶³² Countries with less equal distributions of income and wealth tend not to grow as rapidly as those with more equitable distributions.⁶³³ Many households in South Africa still have inadequate access to education, health care, energy and clean water.⁶³⁴ 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.⁶³⁵

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.⁶³⁶ Poverty can further be defined as the inability

⁶³¹ 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>

⁶³² 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>

⁶³³ 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>

⁶³⁴ 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>

⁶³⁵ 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>

⁶³⁶ 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.⁶³⁷

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 21st 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 5.⁶³⁸

The majority of the world's people and nations live in poverty.⁶³⁹ Does one blame poor people for their own predicament?⁶⁴⁰ Are they lazy, have they made poor decisions, and been solely responsible for their plight?⁶⁴¹ What about government?⁶⁴² Are they pursuing policies that actually are not

⁶³⁷ 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>

⁶³⁸ Global Issues. Causes of poverty. (08/11/2005). [Online]. Available

<http://www.globalissues.org/TradeRelated/Poverty.asp>

⁶³⁹ Global Issues. Causes of poverty. (08/11/2005). [Online]. Available

<http://www.globalissues.org/TradeRelated/Poverty.asp>

⁶⁴⁰ Global Issues. Causes of poverty. (08/11/2005). [Online]. Available

<http://www.globalissues.org/TradeRelated/Poverty.asp>

⁶⁴¹ Global Issues. Causes of poverty. (08/11/2005). [Online]. Available

<http://www.globalissues.org/TradeRelated/Poverty.asp>

⁶⁴² Global Issues. Causes of poverty. (08/11/2005). [Online]. Available

<http://www.globalissues.org/TradeRelated/Poverty.asp>

beneficial to successful development?⁶⁴³ Such causes of poverty and inequality are no doubt real but often what is ignored is the deeper and more global causes of poverty.⁶⁴⁴

Behind the increasing interconnectedness promised by globalisation, are practices, global decisions and policies.⁶⁴⁵ These are typically influenced, driven or formulated by the handful of rich and powerful.⁶⁴⁶ These are or can be leaders of rich countries or other global actors such as multinational corporations, institutions, and influential people.⁶⁴⁷ Governments of poor nations and their people are often powerless in the face of such external influences.⁶⁴⁸ As a result, in the global context, a few get wealthy while the majority struggle.⁶⁴⁹

The Causes of Poverty in South Africa

Apartheid remains the primary cause for poverty in South Africa.⁶⁵⁰ Apartheid legislation, policies and repressive practices created poverty in the previously disadvantaged communities of South Africa.⁶⁵¹ Apartheid caused people to have minimal rights if any, and this contributed to people living in appalling

⁶⁴³ Global Issues. Causes of poverty. (8 November 2005). [Online]. Available <http://www.globalissues.org/TradeRelated/Poverty.asp>

⁶⁴⁴ Global Issues. Causes of poverty. (8 November 2005). [Online]. Available <http://www.globalissues.org/TradeRelated/Poverty.asp>

⁶⁴⁵ Global Issues. Causes of poverty. (8 November 2005). [Online]. Available <http://www.globalissues.org/TradeRelated/Poverty.asp>

⁶⁴⁶ Global Issues. Causes of poverty. (8 November 2005). [Online]. Available <http://www.globalissues.org/TradeRelated/Poverty.asp>

⁶⁴⁷ Global Issues. Causes of poverty. (8 November 2005). [Online]. Available <http://www.globalissues.org/TradeRelated/Poverty.asp>

⁶⁴⁸ Global Issues. Causes of poverty. (8 November 2005). [Online]. Available <http://www.globalissues.org/TradeRelated/Poverty.asp>

⁶⁴⁹ Global Issues. Causes of poverty. (8 November 2005). [Online]. Available <http://www.globalissues.org/TradeRelated/Poverty.asp>

⁶⁵⁰ 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>

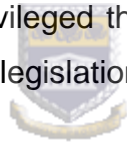
⁶⁵¹ University of Pretoria. The Christian Witness in the context of poverty. E M K Mathole, (2005). [Online]. Available

<http://www.upetd.up.ac.za/thesis/available/etd-10032005-145427/unrestricted/oofront.pdf>

conditions.⁶⁵² 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.⁶⁵³

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.⁶⁵⁴ Problems such as poverty arose out of a sad history of inequity.⁶⁵⁵

In South Africa there is a clear correlation between inequality and poverty.⁶⁵⁶ It is necessary to define inequality as South Africa has transformed since apartheid.⁶⁵⁷ Inequality between race groups must be distinguished from inequality within race groups.⁶⁵⁸ Prior to democracy, besides white people, other race groups were more privileged than blacks.⁶⁵⁹ With democracy and with the application of the new legislation, policies and programs such as



⁶⁵² 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>

⁶⁵³ 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>

⁶⁵⁴ 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>

⁶⁵⁵ 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>

⁶⁵⁶ 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>

⁶⁵⁷ 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>

⁶⁵⁸ 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>

⁶⁵⁹ 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.⁶⁶⁰ It seems that such interventions are slowly narrowing the gap of inequality within the race groups but interracial inequality is on the rise.⁶⁶¹

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.⁶⁶² Poverty has a strong racial dimension and a far greater proportion of Africans are poor.⁶⁶³

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.⁶⁶⁴ 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.⁶⁶⁵ The poverty gap⁶⁶⁶ was about R28 billion in 1995 and 76% of this was accounted for by the rural areas.⁶⁶⁷ Poverty is distributed unevenly

⁶⁶⁰ 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>

⁶⁶¹ 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>

⁶⁶² Data for poverty measurement. Speech. 28 June 2004. Minister Trevor Manuel, Minister of finance.

⁶⁶³ Data for poverty measurement. Speech. 28 June 2004. Minister Trevor Manuel, Minister of finance.

⁶⁶⁴ 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>

⁶⁶⁵ 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>

⁶⁶⁶ 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.

⁶⁶⁷ 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.⁶⁶⁸ 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%).⁶⁶⁹

The poverty distribution is as follows:

- Blacks = 61%,
- Coloureds = 38%,
- Asian = 5% and
- Whites = 1%.⁶⁷⁰

The above figures show that poverty is not confined to any one race.⁶⁷¹ Poverty is also unevenly distributed according to gender lines.⁶⁷² 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.⁶⁷³ Children are the ones who are hit the hardest by poverty.⁶⁷⁴ Children and youth account for over 50% of the South African population of approximately 43 million people.⁶⁷⁵ The majority of these children and youth are from disadvantaged backgrounds and the majority of these children fall under the category of

⁶⁶⁸ 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>

⁶⁶⁹ 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>

⁶⁷⁰ 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>

⁶⁷¹ 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>

⁶⁷² 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>

⁶⁷³ 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>

⁶⁷⁴ 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>

⁶⁷⁵ 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.⁶⁷⁶ Three children in five live in poor households, and many children are exposed to public and domestic violence, malnutrition, and inconsistent parenting and schooling.⁶⁷⁷ 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.⁶⁷⁸

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 2002.⁶⁷⁹ 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 2002.⁶⁸⁰

Poverty is more likely to occur if people don't have jobs.⁶⁸¹ 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.⁶⁸² 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.⁶⁸³

⁶⁷⁶ 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>

⁶⁷⁷ 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>

⁶⁷⁸ You magazine. 12 July 2005. Housing crisis: anger burns on SA's street again over government's failure to deliver. Page 152

⁶⁷⁹ Data for poverty measurement. Speech. 28 June 2004. Minister Trevor Manuel, Minister of finance.

⁶⁸⁰ Data for poverty measurement. Speech. 28 June 2004. Minister Trevor Manuel, Minister of finance.

⁶⁸¹ Data for poverty measurement. Speech. 28 June 2004. Minister Trevor Manuel, Minister of finance.

⁶⁸² Data for poverty measurement. Speech. 28 June 2004. Minister Trevor Manuel, Minister of finance.

⁶⁸³ 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.⁶⁸⁴

The policies and programmes by government since 1994 have been guided by an ambitious programme for social reconstruction, the Reconstruction and Development Programme.⁶⁸⁵

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.⁶⁸⁶ The key underlying objectives of government was to deal with social legacies of Apartheid, particularly our entrenched poverty.⁶⁸⁷

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.⁶⁸⁸ 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.⁶⁸⁹

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.⁶⁹⁰ Strengthening the assets of the poor through land reforms is another major

⁶⁸⁴ Data for poverty measurement. Speech. 28 June 2004. Minister Trevor Manuel, Minister of finance.

⁶⁸⁵ Data for poverty measurement. Speech. 28 June 2004. Minister Trevor Manuel, Minister of finance.

⁶⁸⁶ Data for poverty measurement. Speech. 28 June 2004. Minister Trevor Manuel, Minister of finance.

⁶⁸⁷ Data for poverty measurement. Speech. 28 June 2004. Minister Trevor Manuel, Minister of finance.

⁶⁸⁸ Data for poverty measurement. Speech. 28 June 2004. Minister Trevor Manuel, Minister of finance.

⁶⁸⁹ Data for poverty measurement. Speech. 28 June 2004. Minister Trevor Manuel, Minister of finance.

⁶⁹⁰ Data for poverty measurement. Speech. 28 June 2004. Minister Trevor Manuel, Minister of finance.

commitment and challenge.⁶⁹¹ 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.⁶⁹²

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 0-9.⁶⁹³

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.⁶⁹⁴ 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.⁶⁹⁵

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.⁶⁹⁶

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.⁶⁹⁷

Can Black Economic Empowerment Address Poverty

This is a question asked by the Competition Commission.⁶⁹⁸ Who is the Competition Commission? The competition commission is a statutory body in

⁶⁹¹ Data for poverty measurement. Speech. 28 June 2004. Minister Trevor Manuel, Minister of finance.

⁶⁹² Data for poverty measurement. Speech. 28 June 2004. Minister Trevor Manuel, Minister of finance.

⁶⁹³ Data for poverty measurement. Speech. 28 June 2004. Minister Trevor Manuel, Minister of finance.

⁶⁹⁴ Data for poverty measurement. Speech. 28 June 2004. Minister Trevor Manuel, Minister of finance.

⁶⁹⁵ Data for poverty measurement. Speech. 28 June 2004. Minister Trevor Manuel, Minister of finance.

⁶⁹⁶ Data for poverty measurement. Speech. 28 June 2004. Minister Trevor Manuel, Minister of finance.

⁶⁹⁷ 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.⁶⁹⁹

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.⁷⁰⁰ 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”⁷⁰¹. 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.⁷⁰² 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.⁷⁰³



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.⁷⁰⁴ 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.⁷⁰⁵ This quest for

⁶⁹⁸ Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

⁶⁹⁹ Competition Commission. (9 November 2005). [Online]. Available <http://www.compcom.co.za>

⁷⁰⁰ Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

⁷⁰¹ Competition Act 89 of 1998.

⁷⁰² Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

⁷⁰³ Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

⁷⁰⁴ Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

⁷⁰⁵ 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.⁷⁰⁶

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.⁷⁰⁷ 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.⁷⁰⁸ "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.⁷⁰⁹ Wealthier or higher income consumers have enough income to contribute to savings each month, so their marginal propensity to consume is less than 1.⁷¹⁰ This means that they do not spend all of their last rand of income on consumption.⁷¹¹ The poor however leads a hand-to-mouth existence and will spend all of their income, so their marginal propensity to consume is 1.⁷¹² 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.⁷¹³

⁷⁰⁶ Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

⁷⁰⁷ Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

⁷⁰⁸ Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

⁷⁰⁹ Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

⁷¹⁰ Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

⁷¹¹ Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

⁷¹² Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

⁷¹³ 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.⁷¹⁴ 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.⁷¹⁵ The proceeds of these shares will yield short-term benefits and the poorest household would benefit the most.⁷¹⁶ Put into context, the empowerment exercise will simply be a “one-off shot in the arm”.⁷¹⁷ 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.⁷¹⁸ Businesses involved in such BEE transactions will not be able to claim the BEE credentials for creating a class of poor black shareholders.⁷¹⁹ Those already in a privileged position will have bought the shares from their original recipients.⁷²⁰



There are difficulties involved in ensuring that the benefits of BEE transactions are spread widely and more importantly to the poorest of the population.⁷²¹ This could be the reason why certain structures have been

⁷¹⁴ Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

⁷¹⁵ Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

⁷¹⁶ Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

⁷¹⁷ Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

⁷¹⁸ Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

⁷¹⁹ Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

⁷²⁰ Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

⁷²¹ Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

devised to hold shares on behalf of the ultimate beneficiaries.⁷²² Some of these transactions involve partnership arrangements, workers participation schemes that facilitate empowerment or the sale of shares to employee groups or union groups.⁷²³ The difficulties apply to both private sector and the sales of shares in state enterprises.⁷²⁴ 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.⁷²⁵ 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.⁷²⁶ This could only happen if the government has made sufficient provision for poverty alleviation.⁷²⁷ 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.⁷²⁸



⁷²² Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

⁷²³ Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

⁷²⁴ Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

⁷²⁵ Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

⁷²⁶ Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

⁷²⁷ Parr, G. Competition news. Edition 20. June 2005. Can Black Economic Empowerment address poverty?

⁷²⁸ 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 oligarchs⁷²⁹ (this referring to a small group of people having control of the state).⁷³⁰

A very significant transformation deal in the mining industry took place on 25 October 2005 when the first two mining title conversions were approved.⁷³¹

The greatest challenge lay in the group's involvement in social investment and poverty relief programmes.⁷³² At first government returned the application for revision because they did not meet the requirements for poverty relief.⁷³³

Government is sending out a clear message that these BEE deals should be co-ordinated with the programmes of local provincial government.⁷³⁴

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:

⁷²⁹ Ryan, B. (2004). More BEE deals are being done, but critics point to the enrichment of few oligarchs. Financial Mail. 4 March: 21

⁷³⁰ South African Concise Oxford Dictionary. 2002. Page 810

⁷³¹ Ryan, B. (2004) More BEE deals are being done, but critics point to the enrichment of few oligarchs. Financial Mail. 4 March: 21

⁷³² Ryan, B. (2004). More BEE deals are being done, but critics point to the enrichment of few oligarchs. Financial Mail. 4 March: 21

⁷³³ Ryan, B. (2004). More BEE deals are being done, but critics point to the enrichment of few oligarchs. Financial Mail. 4 March: 21

⁷³⁴ 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.⁷³⁵ 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.⁷³⁶

⁷³⁵ Macozoma, S. Financial Mail Supplement. December 2000

⁷³⁶ 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)⁷³⁷ Act of 2003 stipulates that the Act was established to promote a higher growth rate, increase employment and implement more equitable income distribution.⁷³⁸

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.⁷³⁹ 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.⁷⁴⁰ The

⁷³⁷ BBBEE – This is an extension of the BEE Act.

⁷³⁸ Broad Based Black Economic Empowerment Act. 2003.

⁷³⁹ Black Economic Empowerment Commission Report. 14 September 2005. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommiccion.pdf>

⁷⁴⁰ 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.⁷⁴¹ Job losses has reduced Black participation in the economy and increased level of inequality.⁷⁴²

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 2000.⁷⁴³ The statistics reveals that year on year employment declined by 25%.⁷⁴⁴ A survey done on a representative sample of 10 000 households in February 2001, shows an official unemployment rate of 26.5%.⁷⁴⁵

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%.⁷⁴⁶ 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.⁷⁴⁷ 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.⁷⁴⁸ They account for a third of the labour force, with the majority engaged in low wage domestic labour, informal

⁷⁴¹ Black Economic Empowerment Commission Report. 14 September 2005. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommiccion.pdf>

⁷⁴² Black Economic Empowerment Commission Report. 14 September 2005. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommiccion.pdf>

⁷⁴³ Black Economic Empowerment Commission Report. 14 September 2005. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommiccion.pdf>

⁷⁴⁴ Black Economic Empowerment Commission Report. 14 September 2005. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommiccion.pdf>

⁷⁴⁵ Black Economic Empowerment Commission Report. 14 September 2005. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommiccion.pdf>

⁷⁴⁶ Black Economic Empowerment Commission Report. 14 September 2005. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommiccion.pdf>

⁷⁴⁷ Black Economic Empowerment Commission Report. 14 September 2005. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommiccion.pdf>

⁷⁴⁸ 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.⁷⁴⁹

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.⁷⁵⁰ 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.⁷⁵¹

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.⁷⁵²



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%.⁷⁵³

⁷⁴⁹ Black Economic Empowerment Commission Report. 14 September 2005. [Online]. Available <http://www.businessmap.org.za/Documents/1326/beecommission.pdf>

⁷⁵⁰ Institute for Justice and Reconciliation. 10 March 2004. Report on the public symposium.

⁷⁵¹ Institute for Justice and Reconciliation. 10 March 2004. Report on the public symposium.

⁷⁵² Institute for Justice and Reconciliation. 10 March 2004. Report on the public symposium.

⁷⁵³ 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.⁷⁵⁴

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.⁷⁵⁵



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.⁷⁵⁶

⁷⁵⁴ Institute for Justice and Reconciliation. 10 March 2004. Report on the public symposium.

⁷⁵⁵ Institute for Justice and Reconciliation. 10 March 2004. Report on the public symposium.

⁷⁵⁶ 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
Agriculture, fishing and forestry	1 184 712	0.12	1 477 255	0.13	24.69
Mining & quarrying	593 000	0.06	481 343	0.04	-18.83
Manufacturing	1 420 956	0.15	1 596 494	0.14	12.35
Utilities	84 041	0.01	84 550	0.01	0.61
Construction	433 492	0.05	527 678	0.05	21.73
Internal trade	1 650 017	0.17	2 191 347	0.20	32.81
Transport and communication	469 200	0.05	550 918	0.05	17.42
Finance, real estate & business services	582 897	0.06	1 023 373	0.09	75.57
Community social & personal services	2 952 269	0.31	3 117 365	0.28	5.59
Other producers	186 601	0.02	107 493	0.01	42.39
Total	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.⁷⁵⁷ 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.⁷⁵⁸ Manufacturing provides 14%, agriculture provides 13% and mining provides 4% of the jobs in the economy.⁷⁵⁹ The

⁷⁵⁷ Institute for Justice and Reconciliation. 10 March 2004. Report on the public symposium.

⁷⁵⁸ Institute for Justice and Reconciliation. 10 March 2004. Report on the public symposium.

⁷⁵⁹ 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%.⁷⁶⁰

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.⁷⁶¹ An example is the shortage of artisans and technicians which needs skilled people to perform these jobs.⁷⁶² In addition to the Bantu education, one is presently exposed to the change of unemployment affecting secondary, matriculated and tertiary job seekers.⁷⁶³ Skill mismatch is then clearly portrayed with the above mentioned.⁷⁶⁴ 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.⁷⁶⁵ Skill mismatch is clearly a consequence of the economic restructuring during the past decade.⁷⁶⁶ 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.⁷⁶⁷ 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.⁷⁶⁸

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.⁷⁶⁹ This could be referred to as a "two worlds" economy and the two worlds are far

⁷⁶⁰ Institute for Justice and Reconciliation. 10 March 2004. Report on the public symposium.

⁷⁶¹ Institute for Justice and Reconciliation. 10 March 2004. Report on the public symposium.

⁷⁶² Institute for Justice and Reconciliation. 10 March 2004. Report on the public symposium.

⁷⁶³ Institute for Justice and Reconciliation. 10 March 2004. Report on the public symposium.

⁷⁶⁴ Institute for Justice and Reconciliation. 10 March 2004. Report on the public symposium.

⁷⁶⁵ Institute for Justice and Reconciliation. 10 March 2004. Report on the public symposium.

⁷⁶⁶ Institute for Justice and Reconciliation. 10 March 2004. Report on the public symposium.

⁷⁶⁷ Institute for Justice and Reconciliation. 10 March 2004. Report on the public symposium.

⁷⁶⁸ Institute for Justice and Reconciliation. 10 March 2004. Report on the public symposium.

⁷⁶⁹ Unemployment in South Africa. How to create jobs. (12/11/2005). [Online]. Available

<http://about-south-africa.com/html/unemployment.html>

apart.⁷⁷⁰ One can argue that the formal economy as well as the public sector is no longer creating jobs.⁷⁷¹

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.⁷⁷² This leads to the need for an affirmative action programme for small business.⁷⁷³

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-

⁷⁷⁰ Unemployment is South Africa. How to create jobs. (12/11/2005). [Online]. Available <http://about-south-africa.com/html/unemployment.html>

⁷⁷¹ Unemployment is South Africa. How to create jobs. (12/11/2005). [Online]. Available <http://about-south-africa.com/html/unemployment.html>

⁷⁷² Unemployment is South Africa. How to create jobs. (12/11/2005). [Online]. Available <http://about-south-africa.com/html/unemployment.html>

⁷⁷³ 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.⁷⁷⁴

The Procurement Policies could arguably be identified as one of the most important drivers for Black Economic Empowerment in South Africa.⁷⁷⁵ This is especially so if one look at the need for coordination, alignment and standardisation in terms of definition, reporting and measurement framework.⁷⁷⁶

The most important factors considered with the promulgation of the new BEE Act are procurement and training.⁷⁷⁷ 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.⁷⁷⁸ Procurement is being viewed as one of the easier pillars within the BEE Act.⁷⁷⁹ Although this is the case, very little companies have made progress in adopting procurement policy practices.⁷⁸⁰ The reason for this is not because these companies do not want to adopt, these companies do not know where to start.⁷⁸¹

Being committed to BEE has become an economic imperative in South Africa.⁷⁸²

⁷⁷⁴ Brain. Targeted procurement. [Online]. Available

<http://www.brain.org.za/OPPORTUNITIES/procurement.html>

⁷⁷⁵ 2nd Annual Affirmative Procurement 2004. 12 November 2005. [Online]. Available

<http://www.iqpc.com/iowa-robot/singlecell.html?topic=239&event=5367>

⁷⁷⁶ 2nd Annual Affirmative Procurement 2004. 12 November 2005. [Online]. Available

<http://www.iqpc.com/iowa-robot/singlecell.html?topic=239&event=5367>

⁷⁷⁷ 2nd Annual Affirmative Procurement 2004. 12 November 2005. [Online]. Available

<http://www.iqpc.com/iowa-robot/singlecell.html?topic=239&event=5367>

⁷⁷⁸ 2nd Annual Affirmative Procurement 2004. 12 November 2005. [Online]. Available

<http://www.iqpc.com/iowa-robot/singlecell.html?topic=239&event=5367>

⁷⁷⁹ 2nd Annual Affirmative Procurement 2004. 12 November 2005. [Online]. Available

<http://www.iqpc.com/iowa-robot/singlecell.html?topic=239&event=5367>

⁷⁸⁰ 2nd Annual Affirmative Procurement 2004. 12 November 2005. [Online]. Available

<http://www.iqpc.com/iowa-robot/singlecell.html?topic=239&event=5367>

⁷⁸¹ 2nd Annual Affirmative Procurement 2004. 12 November 2005. [Online]. Available

<http://www.iqpc.com/iowa-robot/singlecell.html?topic=239&event=5367>

⁷⁸² 2nd 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.⁷⁸³

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.⁷⁸⁴

Targeted Procurement is referred to and also embraces Affirmative Procurement, Preferential Procurement and Positive Procurement.⁷⁸⁵ These types of procurement can be used as an instrument of policy and developed to reform public sector procurement in South Africa.⁷⁸⁶



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.⁷⁸⁷

⁷⁸³ General Procurement Guidelines.

⁷⁸⁴ General Procurement Guidelines. Government of the Republic of South Africa.

⁷⁸⁵ Brain. Targeted procurement. [Online]. Available

<http://www.brain.org.za/OPPORTUNITIES/procurement.html>

⁷⁸⁶ 2nd Annual Affirmative Procurement 2004. 12 November 2005. [Online]. Available

<http://www.iqpc.com/iowa-robot/singlecell.html?topic=239&event=5367>

⁷⁸⁷ 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.⁷⁸⁸ 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.⁷⁸⁹ The Extended Public Works Program (EPWP) is funded by the government and targets less skilled workers and rural and small town areas.⁷⁹⁰ Help is however needed by the civil society with proactive and skilled interventions.⁷⁹¹

A Nedbank economist Magan Mistry told Business Day that the economy needs a sustained high growth for a long period to create jobs.⁷⁹² 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.⁷⁹³

The Industrial Development Corporation (IDC) announced an R1bn scheme to promote Small Business investments, encourage Black Economic Empowerment and to create jobs.⁷⁹⁴ The initiative was inline with government’s strategy to increase economic growth to more than 6%.⁷⁹⁵ The IDC has made the R1bn loan available to the targeted group at low interest

⁷⁸⁸ Institute for Justice and Reconciliation. 10 March 2004. Report on the public symposium.

⁷⁸⁹ Institute for Justice and Reconciliation. 10 March 2004. Report on the public symposium.

⁷⁹⁰ Institute for Justice and Reconciliation. 10 March 2004. Report on the public symposium.

⁷⁹¹ Institute for Justice and Reconciliation. 10 March 2004. Report on the public symposium.

⁷⁹² Economic growth creating jobs. Sustained growth. (09/11/2005). [Online] Available http://www.southafrica.info/doing_business/economy/development/employment.htm

⁷⁹³ Reducing poverty through CARE South Africa-Lesotho. [Online]. Available <http://www/caresa-lesotho.org.za/econem.htm>

⁷⁹⁴ Njobeni, S. Business Day. (2005). IDC earmarks R1bn to promote BEE, jobs. 11 November: 1

⁷⁹⁵ Njobeni, S. Business Day. (2005). IDC earmarks R1bn to promote BEE, jobs. 11 November: 1

rates.⁷⁹⁶ R600m of the fund will be allocated to a small and medium enterprise job scheme.⁷⁹⁷ This will promote employment and small to medium enterprise developments.⁷⁹⁸ Projects that will benefit from the IDC scheme will have to create a minimum of 75 jobs.⁷⁹⁹

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.



⁷⁹⁶ Njobeni, S. Business Day. (2005). IDC earmarks R1bn to promote BEE, jobs. 11 November: 1

⁷⁹⁷ Njobeni, S. Business Day. (2005). IDC earmarks R1bn to promote BEE, jobs. 11 November: 1

⁷⁹⁸ Njobeni, S. Business Day. (2005). IDC earmarks R1bn to promote BEE, jobs. 11 November: 1

⁷⁹⁹ 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.⁸⁰⁰
- There should be no distinction between public companies, private companies and close corporations so that only one corporate vehicle is recognised.⁸⁰¹
- Nominee shareholding should be abolished.⁸⁰²
- A possible statutory code of conduct to be implemented for directors to codify their existing fiduciary duties at common level.⁸⁰³
- Shareholder remedies should be examined, so that their rights can be enforced and protected and also so that they can promote greater shareholder activism.⁸⁰⁴

⁸⁰⁰ Werksmans: SA Business Guide – The SA Economy. (12/11/2005). [Online] Available http://www.werksmans.co.za/sabusguide/part_0.1htm

⁸⁰¹ Werksmans: SA Business Guide – The SA Economy. (12/11/2005). [Online] Available http://www.werksmans.co.za/sabusguide/part_0.1htm

⁸⁰² Werksmans: SA Business Guide – The SA Economy. (12/11/2005). [Online] Available http://www.werksmans.co.za/sabusguide/part_0.1htm

⁸⁰³ Werksmans: SA Business Guide – The SA Economy. (2005). [Online] Available 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.⁸⁰⁵
- The creation of a Companies Tribunal has to adjudicate matters under the Companies Act.⁸⁰⁶

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.⁸⁰⁷

The first King Report had become general accepted norms and procedures to be followed by corporate entities to promote transparent, accountable and responsible management.⁸⁰⁸ The report also made certain recommendations with a view to improving corporate governance in South Africa.⁸⁰⁹

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.⁸¹⁰

⁸⁰⁴ Werksmans: SA Business Guide – The SA Economy. (2005). [Online] Available http://www.werksmans.co.za/sabusguide/part_0.1.htm 12 November

⁸⁰⁵ Werksmans: SA Business Guide – The SA Economy. (2005). [Online] Available http://www.werksmans.co.za/sabusguide/part_0.1.htm 12 November

⁸⁰⁶ Werksmans: SA Business Guide – The SA Economy. (2005). [Online] Available http://www.werksmans.co.za/sabusguide/part_0.1.htm 12 November

⁸⁰⁷ Werksmans: SA Business Guide – The SA Economy. (2005). [Online] Available http://www.werksmans.co.za/sabusguide/part_0.1.htm 12 November

⁸⁰⁸ Werksmans: SA Business Guide – The SA Economy. (2005). [Online] Available http://www.werksmans.co.za/sabusguide/part_0.1.htm 12 November

⁸⁰⁹ Werksmans: SA Business Guide – The SA Economy. (2005). [Online] Available http://www.werksmans.co.za/sabusguide/part_0.1.htm 12 November

⁸¹⁰ Werksmans: SA Business Guide – The SA Economy. (2005). [Online] Available 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.⁸¹¹

The King code is not prescriptive but rather recommends certain principles and practices.⁸¹² Its impact will largely depend on the extent to which its principles are implemented by business in South Africa.⁸¹³ 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.⁸¹⁴

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.'⁸¹⁵

⁸¹¹ Werksmans: SA Business Guide – The SA Economy. (2005). [Online] Available http://www.werksmans.co.za/sabusguide/part_0.1htm 12 November

⁸¹² Werksmans: SA Business Guide – The SA Economy. (2005). [Online] Available http://www.werksmans.co.za/sabusguide/part_0.1htm 12 November

⁸¹³ Werksmans: SA Business Guide – The SA Economy. (2005). [Online] Available http://www.werksmans.co.za/sabusguide/part_0.1htm 12 November

⁸¹⁴ Werksmans: SA Business Guide – The SA Economy. (2005). [Online] Available http://www.werksmans.co.za/sabusguide/part_0.1htm 12 November

⁸¹⁵ The Companies Act 61 of 1973

Corporate law reforms are already under way to scrap section 38 of the Companies Act.⁸¹⁶ Section 38 has interfered with empowerment deals by forbidding companies to lend parties money to buy into companies.⁸¹⁷

Other Reforms

A much needed reform would be a new corporate rescue system.⁸¹⁸ This would bring South Africa in line with bankruptcy laws as those of the US.⁸¹⁹ With reform, a company can be ring-fenced instead of being placed under liquidation while sorting out its financial problem.⁸²⁰

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



⁸¹⁶ 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

⁸¹⁷ 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

⁸¹⁸ 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

⁸¹⁹ 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

⁸²⁰ 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

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.⁸²¹ BEE is critically important to the long-term stability of South Africa's new democracy.⁸²²

One of the most important objectives in South Africa is economic development.⁸²³ A strong economic development program will assist in building a better and more prosperous future for South Africans.⁸²⁴ Economic development requires a focus on additional investment, faster growth, and increased job creation.⁸²⁵

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.⁸²⁶

⁸²¹ Hume, CR. (2002). Black Economic Empowerment. Seminar delivered in Johannesburg, South Africa, 7 May. Unpublished paper.

⁸²² Lewis DE. (2001). U.S Embassy/American Chamber of Commerce Black Economic Empowerment. Seminar delivered in Johannesburg, South Africa, 30 May. Unpublished paper.

⁸²³ Hume, CR. (2002). Black Economic Empowerment. Seminar delivered in Johannesburg, South Africa, 7 May. Unpublished paper.

⁸²⁴ Hume, CR. (2002). Black Economic Empowerment. Seminar delivered in Johannesburg, South Africa, 7 May. Unpublished paper.

⁸²⁵ Hume, CR. (2002). Black Economic Empowerment. Seminar delivered in Johannesburg, South Africa, 7 May. Unpublished paper.

⁸²⁶ 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.⁸²⁷ South Africa will only achieve its full potential when those who were previously excluded are full participants in its dynamic economy.⁸²⁸ BEE is important for business, so that it can continue to expand and prosper.⁸²⁹ Truly successful Empowerment will only occur when business and government agree and co-operate in its implementation.⁸³⁰

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.⁸³¹ South Africa has loads of potential and Black Economic Empowerment will further enhance this positive attribute.⁸³²

BEE is an issue, which is important not only for South Africa, but for other countries seeking successful business relations in South Africa.⁸³³

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.⁸³⁴ With Empowerment

⁸²⁷ Hume, CR. (2002). Black Economic Empowerment. Seminar delivered in Johannesburg, South Africa, 7 May. Unpublished paper.

⁸²⁸ Hume, CR. (2002). Black Economic Empowerment. Seminar delivered in Johannesburg, South Africa, 7 May. Unpublished paper.

⁸²⁹ Lewis DE. (2001). U.S Embassy/American Chamber of Commerce Black Economic Empowerment. Seminar delivered in Johannesburg, South Africa, 30 May. Unpublished paper.

⁸³⁰ Hume, CR. (2002). Black Economic Empowerment. Seminar delivered in Johannesburg, South Africa, 7 May. Unpublished paper.

⁸³¹ Lewis DE. (2001). U.S Embassy/American Chamber of Commerce Black Economic Empowerment. Seminar delivered in Johannesburg, South Africa, 30 May. Unpublished paper.

⁸³² Lewis DE. (2001). U.S Embassy/American Chamber of Commerce Black Economic Empowerment. Seminar delivered in Johannesburg, South Africa, 30 May. Unpublished paper.

⁸³³ Lewis DE. (2001). U.S Embassy/American Chamber of Commerce Black Economic Empowerment. Seminar delivered in Johannesburg, South Africa, 30 May. Unpublished paper.

⁸³⁴ 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.⁸³⁵

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.⁸³⁶ It is also an area that is closely linked to small business development and entrepreneurship in South Africa.⁸³⁷

Significantly, the value of black economic empowerment deals has more than trebled in 2003 compared to the preceding year.⁸³⁸ 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 2002.⁸³⁹

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.⁸⁴⁰ Part of the growth strategy is therefore to ensure that the potential is unleashed which exists in this country by empowering the people.⁸⁴¹ Black Economic Empowerment is therefore an important component of the growth strategy.⁸⁴² During the past ten years, economic growth as measured by GDP has been

⁸³⁵ Hume, CR. (2002). Black Economic Empowerment. Seminar delivered in Johannesburg, South Africa, 7 May. Unpublished paper.

⁸³⁶ Deputy Minister Hendricks. (2004). Black Economic Empowerment. Presentation delivered in Johannesburg, South Africa, 26 July. Unpublished paper.

⁸³⁷ Deputy Minister Hendricks. (2004). Black Economic Empowerment. Presentation delivered in Johannesburg, South Africa, 26 July. Unpublished paper.

⁸³⁸ Deputy Minister Hendricks. (2004). Black Economic Empowerment. Presentation delivered in Johannesburg, South Africa, 26 July. Unpublished paper.

⁸³⁹ Deputy Minister Hendricks. (2004). Black Economic Empowerment. Presentation delivered in Johannesburg, South Africa, 26 July. Unpublished paper.

⁸⁴⁰ Deputy Minister Hendricks. (2004). Black Economic Empowerment. Presentation delivered in Johannesburg, South Africa, 26 July. Unpublished paper.

⁸⁴¹ Deputy Minister Hendricks. (2004). Black Economic Empowerment. Presentation delivered in Johannesburg, South Africa, 26 July. Unpublished paper.

⁸⁴² 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.⁸⁴³ 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.⁸⁴⁴ 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.⁸⁴⁵ 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.⁸⁴⁶

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.⁸⁴⁷



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.⁸⁴⁸ 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.⁸⁴⁹

⁸⁴³ Deputy Minister Hendricks. (2004). Black Economic Empowerment. Presentation delivered in Johannesburg, South Africa, 26 July. Unpublished paper.

⁸⁴⁴ Deputy Minister Hendricks. (2004). Black Economic Empowerment. Presentation delivered in Johannesburg, South Africa, 26 July. Unpublished paper.

⁸⁴⁵ Deputy Minister Hendricks. (2004). Black Economic Empowerment. Presentation delivered in Johannesburg, South Africa, 26 July. Unpublished paper.

⁸⁴⁶ Deputy Minister Hendricks. (2004). Black Economic Empowerment. Presentation delivered in Johannesburg, South Africa, 26 July. Unpublished paper.

⁸⁴⁷ Deputy Minister Hendricks. (2004). Black Economic Empowerment. Presentation delivered in Johannesburg, South Africa, 26 July. Unpublished paper.

⁸⁴⁸ Deputy Minister Hendricks. (2004). Black Economic Empowerment. Presentation delivered in Johannesburg, South Africa, 26 July. Unpublished paper.

⁸⁴⁹ 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.⁸⁵⁰

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.⁸⁵¹



⁸⁵⁰ Deputy Minister Hendricks. (2004). Black Economic Empowerment. Presentation delivered in Johannesburg, South Africa, 26 July. Unpublished paper.

⁸⁵¹ 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.⁸⁵² There is no other practical and effective instrument for deracialisation for the economy of South Africa within a reasonable time.⁸⁵³

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.⁸⁵⁴

⁸⁵² Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

⁸⁵³ Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

⁸⁵⁴ 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.⁸⁵⁵ Some critics suggest that BEE is not alleviating poverty, but enriching a few.⁸⁵⁶

A question often asks is how a capitalist system produces socialist results.⁸⁵⁷

Critics run away from the consequence of Empowerment which is to put capital and related resources in the hands of black people.⁸⁵⁸

Black people become decision-makers and thus alter the business landscape.⁸⁵⁹ This dislodges people from their comfort zones.⁸⁶⁰ 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.⁸⁶¹

In pursuit of the objective of clinging to economic power those not in favour of BEE are prepared to commit class suicide.⁸⁶² Critics are of the view that the capitalist system must be destroyed as long as they are leading a programme against black entrepreneurs.⁸⁶³

⁸⁵⁵ Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

⁸⁵⁶ Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

⁸⁵⁷ Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

⁸⁵⁸ Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

⁸⁵⁹ Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

⁸⁶⁰ Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

⁸⁶¹ Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

⁸⁶² Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

⁸⁶³ 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?⁸⁶⁴

The answer is yes however, there are unintended consequences.⁸⁶⁵ 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.⁸⁶⁶ More energy should be spent enabling people to take advantage of BEE opportunities.⁸⁶⁷

A dangerous lie is propagated that every person in our society is a potential business leader.⁸⁶⁸ In a capitalist society we will not all be leaders and some will be more successful than others.⁸⁶⁹ Obstacles such as these that hinder individuals should be removed.⁸⁷⁰

The BEE policy was never meant to cure all the ills of the South African society.⁸⁷¹ Black Economic Empowerment is merely one policy instrument among many.⁸⁷²



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.⁸⁷³

⁸⁶⁴ Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

⁸⁶⁵ Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

⁸⁶⁶ Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

⁸⁶⁷ Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

⁸⁶⁸ Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

⁸⁶⁹ Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

⁸⁷⁰ Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

⁸⁷¹ Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

⁸⁷² 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.⁸⁷⁴ There is the urgent business of transforming our society.⁸⁷⁵ Most forward-looking business people will take decisions about empowerment that secure their own strategic interests.⁸⁷⁶ These business people may be criticised in the short term, but their companies will occupy better space in society than their competitors in future.⁸⁷⁷ In doing empowerment deals one has to look for partners that will make a strategic impact in businesses.⁸⁷⁸

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.⁸⁷⁹

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.⁸⁸⁰ This will be considered as the seven pillars of a 6% average growth rate.⁸⁸¹



They are:

- addressing the skills deficit;
- ensuring monetary stability;

⁸⁷³ Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

⁸⁷⁴ Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

⁸⁷⁵ Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

⁸⁷⁶ Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

⁸⁷⁷ Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

⁸⁷⁸ Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

⁸⁷⁹ Can a specialist capitalist system produce socialist results? Legitimacy of BEE. [Online]. Available <http://www.anc.org.za/ancdocs/pubs/umrabulo/umrabulo22/capitalist.html>

⁸⁸⁰ Parsons, R. Business Day. (2005). The seven secrets of growth. 8 November: 11

⁸⁸¹ 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.⁸⁸²

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.⁸⁸³ 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.⁸⁸⁴ Several interventions could alleviate in this situation.⁸⁸⁵

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.⁸⁸⁶

⁸⁸² Parsons, R. Business Day. (2005). The seven secrets of growth. 8 November: 11

⁸⁸³ Parsons, R. Business Day. (2005). The seven secrets of growth. 8 November: 11

⁸⁸⁴ Parsons, R. Business Day. (2005). The seven secrets of growth. 8 November: 11

⁸⁸⁵ Parsons, R. Business Day. (2005). The seven secrets of growth. 8 November: 11

⁸⁸⁶ 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.⁸⁸⁷ 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%.⁸⁸⁸

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.⁸⁸⁹ South Africans can draw invaluable lessons with regards to the BEE experience from two Asian countries such as India and Malaysia.⁸⁹⁰ India and Malaysia experienced varied results from introducing empowerment initiatives.⁸⁹¹

India

India stands out as a country whose policy prescriptions are strong and enduring yet it has a cascading trickle-down effect.⁸⁹² 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.⁸⁹³

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

⁸⁸⁷ Parsons, R. Business Day. (2005). The seven secrets of growth. 8 November: 11

⁸⁸⁸ Parsons, R. Business Day. (2005). The seven secrets of growth. 8 November: 11

⁸⁸⁹ Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available http://www.empsa.co.za/newsletter/January_2005.html

⁸⁹⁰ Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available http://www.empsa.co.za/newsletter/January_2005.html

⁸⁹¹ Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available http://www.empsa.co.za/newsletter/January_2005.html

⁸⁹² Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available http://www.empsa.co.za/newsletter/January_2005.html

⁸⁹³ Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available http://www.empsa.co.za/newsletter/January_2005.html

of India's over population.⁸⁹⁴ He also pointed out that centrality of agriculture had to take place to improved living standards.⁸⁹⁵ This initiative helped accelerate the impact of poverty alleviation and relief projects.⁸⁹⁶

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.⁸⁹⁷ India has large grain stockpiles of around 45-million tons and is net exporters of food grains.⁸⁹⁸ India is also the world's largest producer of tea with an annual production of around 470-million tons and exports 200-million tons.⁸⁹⁹

India was once plagued by acute food shortages, but now it export foods.⁹⁰⁰ The country boasts as global giants in industries such as automobiles and, information technology.⁹⁰¹ This is a clear indication of how India's policy strategy is yielding dividends.⁹⁰²



⁸⁹⁴ Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available http://www.empsa.co.za/newsletter/January_2005.html

⁸⁹⁵ Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available http://www.empsa.co.za/newsletter/January_2005.html

⁸⁹⁶ Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available http://www.empsa.co.za/newsletter/January_2005.html

⁸⁹⁷ Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available http://www.empsa.co.za/newsletter/January_2005.html

⁸⁹⁸ Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available http://www.empsa.co.za/newsletter/January_2005.html

⁸⁹⁹ Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available http://www.empsa.co.za/newsletter/January_2005.html

⁹⁰⁰ Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available http://www.empsa.co.za/newsletter/January_2005.html

⁹⁰¹ Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available http://www.empsa.co.za/newsletter/January_2005.html

⁹⁰² Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available 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.⁹⁰³ It is similar in terms of demographic mix and the fact that the targeted beneficiaries of empowerment policies were the indigenous majority Bumiputra.⁹⁰⁴ 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.⁹⁰⁵

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.⁹⁰⁶

Very few governments have publicly professed aversion to economic growth, but the ability of governments to foster growth has varied greatly across the world.⁹⁰⁷

The Malaysian economic performance has been one of the world's best.⁹⁰⁸ 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.⁹⁰⁹ The GDP was also well in

⁹⁰³ Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available http://www.empsa.co.za/newsletter/January_2005.html

⁹⁰⁴ Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available http://www.empsa.co.za/newsletter/January_2005.html

⁹⁰⁵ Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available http://www.empsa.co.za/newsletter/January_2005.html

⁹⁰⁶ Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available http://www.empsa.co.za/newsletter/January_2005.html

⁹⁰⁷ Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available http://www.empsa.co.za/newsletter/January_2005.html

⁹⁰⁸ Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available http://www.empsa.co.za/newsletter/January_2005.html

⁹⁰⁹ Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available 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 1990.⁹¹⁰ Asian Newly Industrialised Countries are the only countries that have surpassed Malaysia as well as certain oil-exporting countries.⁹¹¹

The Economic Value of BEE

Critics ask whether there is a business case for BEE.⁹¹² Could BEE be an antithesis of economic growth and sustainable development?⁹¹³

There is ample economic justification for BEE according to the University of South Africa's Bureau of Market Research (BMR).⁹¹⁴ The reason for this is that the black middle class is burgeoning.⁹¹⁵ 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.⁹¹⁶



In the past three years an estimated 300 000 more black South Africans have achieved the status of middle income earners according to BMR.⁹¹⁷ The

⁹¹⁰ Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available http://www.empsa.co.za/newsletter/January_2005.html

⁹¹¹ Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available http://www.empsa.co.za/newsletter/January_2005.html

⁹¹² Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available http://www.empsa.co.za/newsletter/January_2005.html

⁹¹³ Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available http://www.empsa.co.za/newsletter/January_2005.html

⁹¹⁴ Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available http://www.empsa.co.za/newsletter/January_2005.html

⁹¹⁵ Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available http://www.empsa.co.za/newsletter/January_2005.html

⁹¹⁶ Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available http://www.empsa.co.za/newsletter/January_2005.html

⁹¹⁷ Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available 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.⁹¹⁸

In this lies the business and economic case for BEE.⁹¹⁹ As the black middle class grows, the more disposable income there is in the South African economy.⁹²⁰ Also more is spent and demands for goods and services increases.⁹²¹ The economy thus has to produce more and as a result will grow.⁹²² More jobs are also created.⁹²³

BMR reports that in the past 10 years (1993 to 2003), the highest expenditure at current prices by black households was on education.⁹²⁴ This has increased by 21.4% per year and services from domestic workers increased by 23.4% per year.⁹²⁵

Investment bankers say that most companies operating in the consumer market are experiencing booming times.⁹²⁶ This is due to consumer spending rising steadily and black households are spending more on luxury items such as homes, cars and expensive clothing.⁹²⁷ The bank also points out that the

⁹¹⁸ Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available http://www.empsa.co.za/newsletter/January_2005.html

⁹¹⁹ Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available http://www.empsa.co.za/newsletter/January_2005.html

⁹²⁰ Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available http://www.empsa.co.za/newsletter/January_2005.html

⁹²¹ Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available http://www.empsa.co.za/newsletter/January_2005.html

⁹²² Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available http://www.empsa.co.za/newsletter/January_2005.html

⁹²³ Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available http://www.empsa.co.za/newsletter/January_2005.html

⁹²⁴ Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available http://www.empsa.co.za/newsletter/January_2005.html

⁹²⁵ Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available http://www.empsa.co.za/newsletter/January_2005.html

⁹²⁶ Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available http://www.empsa.co.za/newsletter/January_2005.html

⁹²⁷ Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available 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 voluminously.⁹²⁸

The BEE value is multifaceted and its trickle-down effect impacts on almost all sectors of the mainstream economy.⁹²⁹ 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.⁹³⁰

The good performance of the local bourse will continue as BEE deals increase in leaps and bounds.⁹³¹



⁹²⁸ Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available http://www.empsa.co.za/newsletter/January_2005.html

⁹²⁹ Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available http://www.empsa.co.za/newsletter/January_2005.html

⁹³⁰ Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available http://www.empsa.co.za/newsletter/January_2005.html

⁹³¹ Empowerment-SA-December (2004). Black Economic Empowerment – Global comparisons for South Africa. [Online]. Available 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**

