



MASTERS RESEARCH THESIS

**Does B-BBEE policy advance EMEs as an objective of its
policy?**

A Case study in the ICT sector.

Submitted by: Obert T. Nangara: **Student No.** 1284029

Lecturer: Dr. Federica Duca

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DECLARATION

I, **Obert Takani Nangara** hereby declare that this piece of work is my own unaided work. All other peoples' works have been acknowledged and a reference list has been given at the end of this research. The submission of this document is in partial fulfilment of the requirements for Master of Arts in Organisational and Institutional Studies (OIS) at the University of the Witwatersrand, Johannesburg, South Africa. This thesis has not been submitted before to any University for marking or as a report to any institution.

Signature: _____  Date: 17 February 2021

DEDICATION

I dedicate this research to my beloved wife Lebohang Hazel Nangara McGeorge for supporting me during my studies. Your love for our boys Theodore, Theophile and OJ will not go unnoticed. I love you Lebohang.

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- ✓ Above all, may all glory be to the living God through His son Jesus Christ for firstly, giving me the gift of life and secondly, affording me all the opportunities which have enabled me to this point in my academic career. I love you Jesus.

LIST OF ACRONYMS

4IR	Fourth Industrial Revolution
ANC	African National Congress
ASGISA	Accelerated and Shared Growth Initiative of South Africa
BBSDP	Black Business Supplier Development Programme
BEE	Black Economic Empowerment
BEEC	Black Economic Empowerment Council
B-BBEE	Broad Based Black Economic Empowerment
BEEC / BEECom	Black Economic Empowerment Commission
BMF	Black Management Forum
CIPC	Companies and Intellectual Property Commission
CoGP	Codes of Good Practice
CRM	Customer Relationship and Management
DBSA	Development Bank of South Africa
DSBD	Department of Small Business Development
DTIC	Department of Trade, Industry and Competition
EME	Exempted Micro Enterprises
ESD	Enterprise Supplier Development
GDP	Gross Domestic Product
GEAR	Growth Equity and Reconstruction
HDI	Historically Disadvantaged Individuals
ICASA	Independent Communications Authority of South Africa
ICT	Information and Communication Technology

IDC	Industrial Development Corporation
IT	Information Technology
ITA	Information Technology Association of South Africa
JCSE	Joburg Centre for Software Engineering
JSE	Johannesburg Stock Exchange
LE	Large Enterprises
MFMA	Municipal Finance Management Act
NEDLAC	National Economic Development and Labour Council
NEF	National Empowerment Fund
NGT	New Growth Theory
NPC	National Planning Commission
PFMA	Public Finance Management Act
PPPFA	Preferential Procurement Policy Framework Act
QSE	Qualifying Small Enterprises
QSFI	Qualifying Small Financial Institution
RDP	Reconstruction and Development Program
RFQ	Requests for Quotations
SABS	South African Bureau of Standards
SACP	South African Communist Party
SARS	South African Revenue Services
SED	Socio-economic Development
SEDA	Small Enterprise Development Agency
SEFA	Small Enterprise Finance Agency

SMME	Small Medium Micro and Enterprises
SOE	State Owned Enterprises
SPV	Special Purpose Vehicle

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ABSTRACT

25 years into democracy, Broad-Based Black Economic Empowerment (B-BBEE) policy meets outrage and discontent in the political and public discourse which suggests that more Small-Micro and Medium Enterprises (SMMEs) need to be empowered, especially black owned Exempted Micro Enterprises (EMEs). This situation is even more dire for sectors that are refusing to transform such as the ICT Sector. Meanwhile the state made it a point that Black owned EMEs become automatic potential beneficiaries of B-BBEE's economic opportunities. Within these EMEs black women, youth and the vulnerable peoples' businesses seem to lag, calling for government to put emphasis on empowering them.

This research investigates the role of B-BBEE policy in advancing EMEs as an objective of its policy, focusing on those that operate in the Information and Communications Technology ICT sector. The main aim of B-BBEE policy is to reduce unemployment and inequality that was perpetuated by the previous apartheid government.

Through interviews done, the study captures experiences and perceptions of black women owned EMEs in the (ICT) sector. Other interviews were done with key informants from the Department of Trade, Industry and Competition (DTIC) and the B-BBEE Commission. The ICT sector is used as a case study to explore and understand EMEs' experiences of B-BBEE policies.

The paper makes use of three themes that are vital to explore the role of B-BBEE policy in advancing EMEs as an objective of its policy as envisaged at the creation of the policy. These themes are i) affirmative action, ii) empowerment and transformation and iii) business regulations and policies. These themes assist us to understand the theory behind the failure of the policy from both policy makers and beneficiaries. The paper will show that the policy does not advance EMEs, it rather reproduces inequality.

Key Words: SMME, EME, Affirmative Action, Empowerment, ICT, B-BBEE

CHAPTER ONE – INTRODUCTION TO THE RESEARCH

1.1 Introduction & Background

One of the challenges that South Africa faces 25 years into democracy is the increasing gap of inequality. When the African National Congress (ANC) government took over the country in 1994, one of its main mandates was to correct the experiences of the past lived under the previous government that undermined Black people's human rights. These experiences required the government's intervention to correct such violation of human rights. The ANC government then came in to be responsible to level the uneven economic field by creating inclusive economic growth, eliminate poverty, reduce inequality and to deal with high levels of unemployment that have been growing exponentially in the country. Any failure by the ruling party to deal with these social problems would plunge its citizens into becoming "effective participants in the emotional area of frustration in the mainstream South African economy" (Verhoef, 2003:34). This frustration would be as a result of "limited access to effective economic power as owners and co-owners of factors of production, i.e. land, capital, entrepreneurship and natural resources" (Verhoef, 2003:34).

For black South Africans, the end of political oppression in 1994, marked the beginning and hope for inclusion into the mainstream economy. This means that ANC's immediate plans would have to deal with any mounting economic exclusion that kept frustrating its black communities. The ruling party therefore had to make sure that it crafts economic programmes and policies that would meet their objectives with proper and uninterrupted policy implementation.

1.2 Historical development of redistribution and Black Economic Empowerment (BEE) policies.

The advent of democracy in 1994 saw South Africa as an unequal country, characterised by high unemployment among black communities and unequal distribution of wealth between the black and white people. This political and economic environment made the new ANC government create policies and programmes that would reduce these challenges by creating redistribution and

economic policies such as Black Empowerment (BEE) policies to level the economic field. These programmes would be useful in transferring income and wealth to the previously disadvantaged people.

A number of programmes were created at the dawn of this new democracy. For instance, in 1994 the new government created the Reconstruction and Development Programme (RDP), that was known as a social development policy, then in 1996 the Growth Employment and Redistribution (GEAR) was created to achieve growth through fiscal and monetary policies (Schaling, Horne and Hobbs, 2018:9). In 2006, the Accelerated and Shared Growth Initiative of South Africa (ASGISA) was also formed and promulgated to focus on increasing growth and reducing unemployment and finally in 1998 Black Economic Empowerment (BEE) was formalised by the Black Economic Empowerment Council. These were some of the policies among other numerous policies formulated and promulgated in a bid to transfer income and create wealth for previously disadvantaged people.

BEE has since failed to transform the lives of the previously disadvantaged people. Some of the challenges the policy met were due to its ambiguity, providing neither proper guidelines nor a helpful framework and thereby was criticised for being ‘narrow based’ empowerment or ‘minimalist’ BEE (Glaser, 2007; Southall, 2005 cited by Kim, 2010:27). Other challenges cited by Dlamini (2001) and Chard (2008: 34) cited by Kim (2010:27) state that BEE “was seen as offering the golden path only to ‘the unusual suspects’ those with socio-political connections and knowledge and a lack of an integrative approach in selling shares for BEE empowerment has left many black owners in debt and in a position where they have been forced to resell those same shares”. Eventually BEE failed to empower more beneficiaries and as a result it was replaced by a broadened version called the broad-based black economic empowerment programme known as B-BBEE that sought to broaden the base of beneficiaries.

In response to the failure of BEE in achieving its aims, in 2003 the policy was replaced by a policy called Broad-Based Black Economic Empowerment (B-BBEE). According to the Black Economic Empowerment Commission (BEECom) (2001:8 cited by Lindsay, 2016:167) B-BBEE came in as a result of the adoption of an Integrated National BEE Strategy to provide a “framework for

economic growth with black participation as a fundamental pillar that would form part of an Economic Growth and Development Plan”. The main aim of this new policy was to broaden the base of beneficiaries by incorporating more black people to participate in the mainstream economy by empowering all companies that are either black empowered or black owned. The assumption for its establishment was that “if South Africa is to achieve sustained growth, then the country will have to bring millions of black¹ people into the economy” (Phillips, 2004:1).

B-BBEE is different to BEE as it broadened its scope by introducing indicators called Codes of Good Practice (CoGP) ² that are used to measure and determine the level of compliance of an entity regarding B-BBEE Recognition Levels. CoGP is a numerical value that comes from an aggregate of elements selected for empowering the historically disadvantaged individuals (HDIs). Initially, there were 7 elements namely Ownership, Management Control, Employment Equity, Skills Development, Preferential Procurement, Enterprise Development and Socio-Economic Development initiatives (Phillips, 2004:211). These elements were eventually reduced to only 3 priority elements namely Ownership, Skills Development and Enterprise and Supplier Development (B-BBEE Act No. 46, 2013:49).

1.3 Exempted Micro Enterprises (EME)

This study focuses on EMEs in the ICT sector because B-BBEE policy was crafted to benefit small enterprises. EMEs are enterprises that have a turnover of R10 million or less (Mhlahlo, 2017:13). The Department of Trade, Industry and Competition (DTIC), according to Mhlahlo (2017:13), states that EMEs can be enterprises that have just been “recently formed or incorporated and have been running for less than one year”. Viljoen (2019:20) also agrees that they have a turnover of R10 million and less but adds that “they can also be classified as entities with 50 or less

¹ Black “is a generic term which means Africans, Coloureds and Indians- (a) who are citizens of the Republic of South Africa by birth or descent; or (b) who became citizens of the Republic of South Africa by naturalisation- (i) before 27 April 1994; or (ii) on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalisation prior to that date”; (B-BBEE Act No. 46, 2013:12).

² Codes for Good Practice (2013:96) elaborates that these are “measurable quantitative or qualitative elements of B-BBEE compliance in the Generic Scorecard and the Codes”.

employees”. EMEs can either be white owned or black owned. They are part of small, micro and medium enterprises (SMMEs). SMMEs are entities that are categorised by the number of their employees. Bhorat, Asmal, Lilenstein and Van der Zee (2018:2) explain that “SMMEs are classified as those firms employing 49 or fewer workers. They define categories of SMMEs as;

“firstly, businesses made up of the entrepreneur only and employing no workers are referred to as “Own-account”; secondly, businesses with between 1 and 4 employees (excluding the owner) are referred to as “Micro”; thirdly, businesses with between 5 and 9 employees are referred to as “Small”; fourthly businesses with between 10 and 49 employees are referred to as “Medium”. “SMME” refers to the combination of “Own-account”, “Micro”, “Small” and “Medium” businesses and includes all businesses with between 0 and 49 employees” (Bhorat, Asmal, Lilenstein and Van der Zee, 2018:6).

This means that the difference between EMEs and SMMEs is that the former is a term used for SMMEs when they “are exempted from a comprehensive B-BBEE verification, in which they automatically qualify as a Level 1 contributor if they are 100% black owned, and as a Level 2 if they are 51% black owned” (Viljoen, 2019:20) and they become automatic potential B-BBEE beneficiaries without the need of applying for B-BBEE certificates but make use of sworn affidavits.

The focus of this paper is on EMEs, to understand the role of B-BBEE in advancing this business sector. The reason for this focus is that “BEE framework facilitates links between the so-called first and second economies, with EMEs playing an important role” in enabling them to participate in the mainstream economy (Sanchez, 2006:2). EMEs are by law not supposed to be verified and they are considered as automatic beneficiaries of B-BBEE programmes whereas all other business entities are required to be verified to benefit³ from B-BBEE programmes in the public and private sectors through procurement and tendering.

³Benefits relate to being empowered, being given economic opportunities based on Codes for Good Practice attained through verification of the components of black people involved in the business.

Within the realm of EMEs, my study will focus on Information and Communications Technology (ICT) sector. The Information Technology (IT) sector incorporates the integration of telecommunications such as hardware and software, cell phones, computers, telephone lines and wireless signals.

“The ICT sector has shown minimal compliance to B-BBEE policies since their promulgation in 2012” (Thabela-Chimboza & Chigona, 2019:1). Secondly, this sector is affected by massive challenges related to regulatory environment, global trends and skills shortages and thirdly “the National Integrated ICT policy published in 2016 presented B-BBEE ICT Sector Code regulation as the primary strategy to promote industrial inclusive growth” (National Development Plan (NDP) cited by Thabela-Chimboza & Chigona, 2019:1). The envisaged inclusive growth made B-BBEE appear as one of the SA policies of Affirmative Action designed to “level the playing fields and to redress the disadvantages in employment experienced by designated groups to ensure their equitable representation in all occupational categories and levels in the workforce” (Alexander, 2007:3). Therefore, EMEs would require corporate businesses’ participation in the AA programmes for them to survive and thrive through B-BBEE’s Enterprise Support Development (ESD) programmes, otherwise these EMEs would have to depend on providing ICT services to trivial and insignificant markets that benefit them less, for example providing ICT services to very EMEs that negotiate for the lowest possible rates and servicing walk-in clients in need of accessing internet services.

1.4 Problem statement, the questions and the argument

Inequality and poverty are perceived as South Africa’s twin evils. The National Planning Commission (2012:490) states that these twin challenges can only be addressed by the state through transformative and developmental roles through the establishment of affirmative action policies such as B-BBEE which will need to be prioritised across all sectors of industry. According to the crafters of B-BBEE policy, this policy is supposed to lay the foundation for equality as a mechanism of empowerment that must protect and advance persons or categories of persons previously disadvantaged by unfair discrimination. However, in the case of South Africa, Alexander (2007:4) argues that transformation measures would be better than affirmative action measures in bringing the required social change or “normality”.

B-BBEE's broader scope is meant to benefit EMEs. Despite the lack of information, there is a wide consensus showing that the policy failed from both policy makers and EMEs. According to Mbandlwa and Anwana (2020:15401): "B-BBEE has failed to transform the economy and failed to reverse the economic injustices of the apartheid regime". They also argue that "small companies owned by black people are not given a chance to participate in huge projects because of a lack of experience" (Ibid).⁴ An online article BusinessTech (2019) also states that "government admits that empowerment schemes have largely not been successful, black middle class has been growing and have accumulated assets, but South Africans remain highly indebted and poor when empowerment schemes as part of Black Economic Empowerment (BEE) policies had a negligible effect in redistributing wealth". Shava (2016:161) on the other hand also argues that "current debate on BEE in South African local government is centered on the manipulation and abuse of the procurements systems by powerful officials who inhibit the black majority to benefit". Furthermore Jeffery (2016) cited by Shava (2016:161) also reiterates that, "BEE in South Africa has failed to ignite the much-needed black economic transformation which made the public to lose confidence in the African National Congress (ANC) economic policy".

Shava (2016:161) also cites several key political figures such as Pravin Gordhan the former finance minister, Lawrence Mavundla, former president of the National African Federated Chamber of Commerce and Industry and the academic Moletsi Mbeki who all lambasted BEE for failing to meet its objectives. Shava (2016:161) states that Gordon endorsed that: "BEE policies have not worked and have not made South Africa a fairer or more prosperous country"; Mavundla on the other side "lambasted BEE and its procurement systems as it impoverished emerging entrepreneurs and small businesses instead of assisting them" and Mbeki (2016) condemned BEE for promoting 'tenderpreneurs' or "thieves who acquire tenders through politically motivated influence".

In order for B-BBEE to be effective, there has to be a transformational relationship between big and small companies. Smaller companies are associated with limited resources and lack of skills and this is where big enterprises are supposed to comply with B-BBEE policy by incubating small

⁴ Mbandlwa and Anwana (2020:15401).

businesses and giving them enterprise support development services that include training skills transfer. Political commentator Kolwapi (2018) stated that “the B-BBEE Commission recently released some shocking statistics, pointing to how B-BBEE has in actual fact decreased over the past few years”. On the other hand, the report by the B-BBEE Commission showed only 121 companies from the 400 companies on Johannesburg Stock Exchange (JSE) that complied with B-BBEE policy. “What is even more staggering; is the ongoing disregard for the importance of B-BBEE compliance, out of over 400 JSE listed companies, only 121 companies bothered to submit their B-BBEE compliance information, the 70% majority of companies on the JSE simply did not care” (Kolwapi, 2018). The Business Live (2020) online magazine also argues that “B-BBEE has had limited success... in terms of monetising value and transforming ownership to make historically disenfranchised people active participants in the economy”.

Furthermore, available reports and publications from the Department of Trade, Industry and Competition (DTIC), the B-BBEE Commission and other verifying agents do not provide statistics on the performance of B-BBEE programmes and no one is in the limelight of its performance. However, the small amount of data available suggests that B-BBEE has failed to advance the interests of the overall business community. This data is based on Large Entities (LE) listed on JSE as the policy makers have no records of firstly, the number of SMMEs in the economy as different sources have different statistics. According to the Department of Small Business Development’s (SBD) Strategic Plan, there are 2,55 million SMMEs in the country. Meanwhile Dlodlu (2020) from the Small Business Institute differs from that assertion and argues that the country’s institutions have inaccurate statistics about the number of SMMEs in the country and argues that “there are only 263,224 small, micro and medium enterprises that employ 3.9 million people”.

In response to the debates that question whether B-BBEE policy is keeping its promise of empowering EMEs as an objective of its policy at its creation, this paper investigates if B-BBEE policy is advancing EMEs as an objective of its policy, with a focus on the ICT sector. The following are sub-questions that will have to be asked in exploring my main question:

1. What is the relationship between regulations and the success of ICT EMEs in South Africa?

2. What is the ability and structural capacity of ICT EMEs in accessing policy benefits?
3. How do regulations and legislation assist a policy in becoming successfully implemented?

This paper will argue that not only does B-BBEE as a transformative mechanism keeps failing to reduce the gap between the rich and poor, it also works, among others, as a mechanism that produces inequality. I also argue that South Africa's B-BBEE in relation to EMEs does not contribute to its full potential to the economic advancement and effective transformation within organizations. With specific attention to the ICT sector, B-BBEE is failing to transform Exempted Micro Enterprises (EMEs) due to various factors including high entry barriers that keep barring black people entering the sector. Thabela-Chimboza and Chigona (2019:2) argue that an example of these barriers to entry are regulatory requirements and also that the sector has shown minimal compliance to legislation. In addition, several issues can also be cited that impede policies such as poor implementation, conditions of political and economic institution's environment and the policy's own institutional challenges that impede implementation. Lack of skills, high levels bureaucracy within state institutions, inexperienced entrepreneurs and lack of capital have contributed to the flawlessness of BEE policy (Jeffrey 2016 cited in Shava, 2016:161).

In attempting to find out if B-BBEE is advancing EMEs in the ICT sector, the paper is cognizant of other mechanisms that contribute to producing inequality. For instance, Shava (2016:165) argues that "corruption and fraud are two attributes hindering government plans to redress social-economic inequalities and empowering citizens". Secondly, De Vos (2010) cited in Prinsloo (2017:1) argues that there are legal systems and structures in our society which still perpetuate inequality, for example those structures that are against transformation related legislation of B-BBEE. Thirdly, Durrheim (2010), Durrheim, Greener and Whitehead (2015), Govinder, Zondo and Makgoba (2013), Leonard and Grobler (2006) and Reuben and Bobat (2014) cited by Prinsloo (2017:17) argue that failure to monitor and measure Employment Equity Act in the workplace, that is regarded as enablers of diversity can lead to inequality. Furthermore, B-BBEE represents a highly contested space (Mpanza, 2016:1) in which its framework is not clear of political interference. As it stands B-BBEE policy does not offer implementable rules that prevent bias, corruption, failure and politicization of its framework.

The fifth reason is that B-BBEE is being contested in the economics arena where it is perceived to consider the black component of company ownership more important than other business variables in procurement which contrary to its intention, is racially biased. The sixth reason is that when B-BBEE pushes for businesses to increase the number of black managers (Mpanza, 2016:17), a black capitalist class is then created. The seventh reason is that B-BBEE is not perceived as a policy that is easily understood as it does not provide clear regulations and guidelines for its beneficiaries. Draper and Khumalo (2007:vi) argue that “it seems there is acceptance of the political and social necessity of black economic empowerment in South Africa, but there remains wide-spread misunderstanding, and even greater opposition to B-BBEE's core notion: that a portion of a company's equity should be transferred to black South Africans”.

B-BBEE's regulations are elusive thereby leaving its intended beneficiaries, the EMEs sector, remaining unclearly defined and successful implementation becomes impossible. Lastly, unequal power relations between the big corporate business and the SMME sector has resulted in unethical conduct by large businesses where they practice fronting⁵ of SMMEs for their benefit at the expense of EMEs. This unequal power relations also resulted in unregulated and poor engagement among entities thus, leading to excessive corruption that has further perpetuated inequality leaving mostly black women, youth and vulnerable people as silenced subalterns at the periphery of economic activities.

Even though there are several requirements that are required to make a policy successful and meet its objectives from the policy's perspective, several issues can be cited that impede policies such

⁵ According to RSA (2013a), “fronting B-BBEE Practice means a transaction, arrangement or conduct that directly or indirectly undermines or frustrates the achievement of the objectives of this Act or the implementation of any of the provisions of this Act. including but not limited to practices in connection with a BBBEE transaction- (a) in terms of which black persons who are appointed to an enterprise are discouraged or inhibited from substantially participating in the core activities of that enterprise; (b) in terms of which the economic benefits received as a result of the B-BBEE status of an enterprise do not flow to black people in the ratio specified in the relevant legal documentation; (c) involving the conclusion of a legal relationship with a black person for the purpose of that enterprise achieving a certain level of B-BBEE compliance without granting that black person the economic benefits that would reasonably be expected to be associated with the status or position held by that black person; (d) involving the conclusion of an agreement with another enterprise in order to achieve and enhance B-BBEE status in circumstances in which - (i) there are significant limitations on the identity of suppliers. service providers. clients or customers; (ii) the maintenance of business operations in a context reasonably considered to be improbable having regard to resources: (iii) the terms and conditions were not negotiated at arm's length on a fair and reasonable basis”.

as the conditions of political and economic institution's environment and the policy's own institutional challenges. In line with scholars such as Schaling et al. (2018:4) who argue that "business regulations in South Africa are not conducive to the creation and expansion of small micro and medium enterprises (SMMs)", I add that for policies and business regulations to be effective and be beneficial to intended beneficiaries, the EME sector must be clearly defined. Secondly, policies and business regulations must be made with EMEs in mind so that they become easily implementable in ways that benefit them. The framework of such policies should be clear of political interference. As it stands B-BBEE policy does not offer implementable rules that prevent bias, failure and politicization of its framework and I therefore argue that B-BBEE in its current form does not contribute to its full potential to the economic advancement of EMEs.

1.6 Rationale

1.6.1 Geographical location & focus of the study

This study focuses on EMEs in the ICT sector based in Gauteng Province. According to Thabela-Chimboza and Chigoma (2019:1), the South African ICT policy is a unique one as it includes a form of affirmative action regulation and shows minimal compliance. Secondly, Gauteng Province is a hub of industrialisation and innovation in South Africa, and this is where most ICT companies are based and competition is rife and big companies secure tenders of big projects from the state while the government insists that these big corporate businesses empower black-owned businesses with an emphasis on women and youths.

1.6.2 Case Study – ICT Sector

The rapid growth of the ICT sector coincided with the early phases of democratization as many white people were bought out of the public sector because of BEE. This action resulted in two things; firstly, due to the political and economic background, white people could accumulate capital to venture into the new ICT industry sector that required intensive capital outlay, and secondly, this made them become dominant players in the industry until today.

The sector is best described by the labour market that painted an unequal and disproportionate picture concerning race and gender. Some scholars such as James, Smith, Roodt, Primo and Evans (2006) cited by Mda and Madikoma (2010:162) found out that “people who held senior management positions in ICTs, 85% were White males, 10% were White females, and 5% were African males; no African women held senior management positions”. Mda and Madikoma (2010:162) furthermore argue that “a few Blacks were visible in management positions while White males and females held senior positions in the labor market, thereby explaining the inequitable patterns that focused on differences in individual attributes, such as job skills, education and other factors among various SA ethnic groups, and on blatant discrimination by employers”. “White males still dominated the ICT sector because of their long-standing experience and expertise in various technical industries, which could be the result of South African employment policies propagated by the JRA of 1954 and separate education for South Africans” (Ibid).⁶

In SA, “affirmative action puts a premium tag on hiring women and Black people. It therefore, provided mobility for these groups and restricted mobility for White males. Despite the shortage of skilled ICT professionals in the sector, affirmative action gives preferential treatment which dissatisfied the undesignated groups, thus forcing them to have intentions to leave their jobs or the country” (Mda & Madikoma, 2010: iii &184). Thabela-Chimboza and Chigona (2019:1) argue that there are 23,063 ICT companies that employ about 241,335 people and contributes an estimate of 6% to the national gross domestic product (GDP). Within those employed in the ICT sector, most of them do not have the required IT skills (Thabela-Chimboza and Chigoma, 2019:1). Calitz, Cullen and Greyling (2015:1) on the other hand argue that there is a demand for “829 800 highly skilled workers across a wide range of occupations in the ICT industry and specifically 178 400 among professionals”. The Joburg Centre for Software Engineering (JCSE) cited by Thabela-Chimboza and Chigona (2019:1) explains that some requirements as a part of B-BBEE policy are hindrances to the sector’s employment space together with “uncertainty in the regulatory environment”. These challenges have led the sector to be slow in transformation and this is shown by the sector’s “minimal compliance to B-BBEE policies since their promulgation in 2012” (Ibid).⁷

⁶ Mda and Madikoma (2010:162)

⁷ Thabela-Chimboza and Chigona (2019:1)

1.6.3 Political Ideology & Inequality

The contemporary political ideology and structures of the state have not spared B-BBEE from being criticized on the same flows like that of BEE.⁸ Since major current activities in the South African society that range from politics to crime including investments are all interwoven with politics and inequality, B-BBEE as an economic policy is also being contested in the South African political discourse. According to Bosch (2007) cited by Siebers, Linde and Op't Hoog (2010:67), managers in the business fraternity agree that employment equity, affirmative action and B-BBEE are vital policies but “certain environmental conditions and unrealistic political expectations make it difficult to apply related policies and practices”.

Socio-economic problems that the country faces are acknowledged by most political parties, and they all agree that they need to be addressed. However, these political parties fundamentally differ in the approach with which they intend to solve them. As the debate rages on, EMEs and the historically disadvantaged individuals (HDIs) continue to be marginalised and inequality grows further with masses of people becoming unemployed as more EMEs close down. What is required is the political will to rise above political differences and adopt national strategies that are not politically influenced by a majority party.

1.7 Significance of the study

The aim of this work is to contribute to unearthing the potential benefits of B-BBEE as affirmative action, showing that empowerment fused with transformation can advance the livelihood of previously marginalised people. The research might be useful to contribute to the amendment of the policy if its objectives of reducing unemployment and inequality in South Africa are to be met. Furthermore, the study contributes to the body of knowledge on the effects of B-BBEE policies in advancing EMEs in the ICT sector as no research has been done on this topic before. It will then highlight how society perceives affirmative action with excessive regulations on how they

⁸ BEE was known as a narrow version as it focused mainly on equity ownership, management control and skills development and one of its major critics is that it was highly connected to political ideology.

overburden EMEs. Therefore, the study opens up a large scale of research to be done on the effectiveness of affirmative action policies, regulations, policy institutional framework for EME development, transformation, and economic empowerment policies in understanding their relationship to EMEs.

1.8 Thesis Outline

Since this research is aimed at exploring the role of B-BBEE policy in advancing EMEs as an objective of its policy, it will begin by giving a background to the political and economic situation of the country that called for transformational and redistribution policies to be enacted to address the perpetuating unemployment and inequality. This section is followed by Chapter 2 that provides a literature review on three themes that address affirmative action, empowerment and transformation and business regulations in which the research is grounded. The study will show that these elements in their own right may be sufficient and effective, but they are vulnerable to other factors such as politics, individual decisions by actors, corruption, global events and lack of resources. These themes assist in providing literature that is vital to understand the relationship between B-BBEE policy and EMEs.

Chapter 3 will then show the methodology adopted in the research. The section describes the interviewees and shows how they were selected to participate in the sampling section. It does so by narrating the kind of elements that were researched regarding EMEs in the ICT sector, which will be elaborated in detail in the Findings Chapter. Since the goal of the study is to unearth the role of B-BBEE in advancing EMEs, in-depth description of this phenomenon will be a vital part of the process to understand this chapter.

Chapter 4 on the other hand gives the conceptual framework of B-BBEE beginning with its transition from BEE to B-BBEE. The section will show that the transition from BEE to B-BBEE came with the assumption that broadening its scope would benefit the masses who were left out by BEE when it failed to empower more beneficiaries.

Chapter five will delve into the case studies. The chapter will show how the sector fails to catch up with transformation programmes as required by the state. The roles of the ICT Charter will also be discussed in this chapter. Chapters 6 and 7 will then talk about the challenges and concepts that emerged from the fieldwork. Chapter 6 provides an analysis of the environment in which the policy was created, political interference taking place, the policy's institutional framework and implementation challenges, attitudes of entrepreneurs towards government and towards EMEs that are under review. Chapter 7 then completes the "Findings Chapters" by discussing different mechanisms that were made to assist the programme such as affirmative action, sworn affidavits, sector codes, public procurement and concessions and licensing systems.

The last Chapter sheds light on the results presented in the preceding Chapters 6 and 7 in relation to the concepts discussed in the literature given in the literature review and concludes on how B-BBEE policies can advance or benefit the intended beneficiaries.

The next section is the literature review section that discusses theoretical literature that is vital to elaborate the role of B-BBEE in advancing EMEs as an objective of its policy. It does so by using three themes namely, affirmative action; empowerment and transformation and business regulations.

CHAPTER TWO – LITERATURE REVIEW

2.0 Introduction

This section focuses on three selected themes that provide literature that is vital to explore the role of B-BBEE policy in advancing EMEs as an objective of its policy as envisaged at the creation of the policy. These themes of the literature cover i) affirmative action, ii) empowerment and transformation and iii) business regulations. This study is being placed in the context of the above-mentioned themes that help us to understand the relevance of that literature in understanding the relationship between B-BBEE's aims and objectives and the actual outcomes.

2.1 Legislative and Institutional setting of affirmative action in South Africa

2.1.1 Theorizing Affirmative Action

Affirmative action is a system designed to achieve equality or provide equal opportunities in society through including previously discriminated groups into the mainstream economy. “The term affirmative action first appeared in 1935 Wagner Act, 29 USC section 160 (c) in the United States of America” (Tladi, 2001:1). “Affirmative action denotes an employer’s duty to take positive measures to undo the effects of past unfair labour practices against unions and prevent them from recurring in the future” (Bacchi, 1996:32 cited by Tladi, 2001:1). In the United States, “affirmative action was meant to ensure that Blacks and other minority groups enjoyed the same benefits and opportunities as the majority White Americans. In South Africa affirmative action has been primarily adopted to ensure that the majority Black population (over 80%) enjoys the same benefits and opportunities as the minority Whites” (Kongolo & Bojuwoye, 2006:361 cited by Mda & Madikoma, 2010:14). For Timothy (2013:1) affirmative action “makes amends for the effects of past discrimination, end discrimination, promote equality and transformation in the workplace”. Albertyn (1993:24) cited by Cain (1994:8) argues on the other hand that “affirmative action re-evaluates standards, attitudes and practices in respect of recruitment and soliciting, training, screening practices, internal labour markets and tracking systems, promotional practices and the corporate culture of the workplace”.

Scholars such as Siebers, Linde and Op’t Hoog (2010:64) support the idea that that affirmative action is supposed to be assisted by legislation and policy in order to address inequalities. Several scholarly literature’s definitions of affirmative action is confined to employment. For the purposes of this research, this study will look at Albertyn’s (1993:24) cited by Cain (1994:8) definition that incorporates training, soliciting, corporate culture of affirmative environment of the workplace, promotional practices and internal labour markets. This definition implies that affirmative action offers “comprehensive measures to nullify the complex legacy of systems of privileged access to occupation that should happen to increase business opportunities” for the previously disadvantaged groups (SACOB, 1993 cited by Cameron-Dow, 1994:20). Norris (2001:219) on the contrary

defines affirmative action as “prompted by moral, business and political pressures aimed at redressing the past injustices that have resulted in the deliberate exclusion of certain groups”.

2.1.2 South Africa’s Conception of Affirmative Action

Affirmative action looks at restoring historical economic imbalances due to racial oppression. The concept of affirmative action in South Africa, for instance, was in its earlier days practiced by American companies that operated in the country (Thomas, Cumming, Lattimer & Plani, 1996 cited by Verhoef, 2003:35). SA and the United States of America (USA) “have been prominent in developing constitutional frameworks governing affirmative action and transitional justice” even though they are very different from each other with respect to “their formal commitment to transitional justice and affirmative action, yet both countries feature affirmative action measures intended to benefit historically marginalized groups” (Joshi, 2020:5).

“After winning the 1994 democratic elections, the African National Congress (ANC) government introduced frameworks for affirmative action in education, employment, and other social spheres, supported by the South African Constitution, which sought to heal the divisions of the past” (Joshi, 2020:5). The ANC’s strategy on affirmative action according to Innes (1993) cited by Cameron-Dow (1994:21) was to “improve the life circumstances of the oppressed, develop children, provide flexible access to tertiary education, flexible entry requirements into occupations, career development planning and introduction of a mentorship system”.

Affirmative action was legislated to “lay the foundation for an open society based on democratic values, social justice, fundamental human rights and equality” (Timothy, 2013:3). This is supported by Section 9(2) of South Africa’s constitution that is known as the ‘equality clause’ that focuses on unfair discrimination. This Section 9(2) states that, “equality includes the full and equal enjoyment of all rights and freedoms” (SA Constitution 1996:1247). This will mean that policies, programmes, strategies and legislation must be designed to protect and advance persons or categories of persons previously disadvantaged by unfair discrimination prior to 1994.

For SA's Constitution to meet its labour objectives as enshrined in its legislation, Innes (1993) cited by Camoeron-Dow (1994:21) explains that the country proposed its legal codes to meet those that were enshrined in the International Labour Organisation (ILO). This objective then became the watchdog of SA's affirmative action plan that made sure that South Africa's affirmative action would "declare the designated groups and stipulate that companies should set targets" in order to meet these objectives (Innes, 1993 cited by Camoeron-Dow, 1994:21).

For Gomez and Premdas (2012:1), South Africa among other countries, sought to create new, just and equal societies through affirmative action by "rectifying old wrongs, eradicating injustices, extending benefits and providing special preferences". The evils and injustices of apartheid cut across different cultural settings in SA. For affirmative action to provide justice to these multi-cultural societies, it must be radical and transformative because that the past institutionalised injustice provided uneven distribution of economic, social and political power to communities (Gomez and Premdas, 2012:1). In the case of SA, several scholars agree that "affirmative action is a form of justice that seeks to establish equality by using compensatory benefits to rectify past discrimination" (Nagel 1973; Fullinwider 1975; Glaser 1975; Goldman 1976; Rosenfeldl 1991; Skrentny 1996; Kellough 2006 cited in Gomez and Premdas, 2012:5-6).

Historically, South Africa faced serious managerial shortages during apartheid, such as "structural imbalances in the South African labour market with a relatively low proportion of black people in professional and semi-professional employment categories by 1985" (Verhoef, 2003:32), and certainly a very small number of formal businesses were run by black people. "Only 4,8% of black employees were employed as professionals or semi-professionals, while South Africa was experiencing a serious shortage of skilled labour" (Verhoef, 2003:32). At that time prior to 1994, Niel-Boss (1993) cited by Cameron-Dow (1994:19) argues that affirmative action became "a great experiment that failed because it was morally indefensible, politically untenable and economically destructive". In other words, empowerment programmes pre 1994 were mainly directed to Afrikaans people and people of colour were left out from participating in the mainstream economy.

Therefore, to address these structural imbalances and to advance black business sector, Wachira (2019:5) argues that B-BBEE was crafted to be a tool "to meaningfully transform the South African

society”. Niel-Boss (1993) cited by Cameron-Dow, (1994:19) agrees that it is “a powerful instrument of policy which, if properly applied as a mechanism for eradicating racial prejudice and creating equality of opportunity, it is unquestionably a force for good”. This tool will be useful to deal with the corporate culture of SA that Oakley-Smith (1994:4) cited in Norris (2001:221) states that it is dominated by a Eurocentric male ethos, an environment that Norris (2001:221) argues that still favours white male managers to dominate in senior positions, and these are now actively opposing affirmative action.

2.1.3 Affirmative Action's constitutional framework and its relationship to procurement

Procurement relates to ways with which entities purchase goods and services at competitive costs. In the case of governments, sizes and volumes of their procurement contracts are seen as “business opportunities because they acquire goods and services at the best possible terms, with broader social, economic and political implications” (Labuschagne, 1985; Morris, 1998; Turpin, 1972 cited by Bolton, 2006:193). As procurement grows the sourcing landscape is continually making purchasing and supply management become more complex and this means that corporates must develop advanced purchasing strategies. Some scholars like Wagner, Padhi and Bode (2013:2) argue that in order to design such purchasing strategies, procurement programmes must “incorporate buyer-supplier relationship characteristics, interdependencies, strategy-based planning and product-based classifications” in order to enable a fair and equitable system among the participants.

“In the case of South Africa prior to 1994, the previous government’s procurement system favoured large and established businesses and making it difficult for newly established business to enter into the procurement system” (Bolton, 2006:193). This means that “due to the discriminatory and unfair practices of the past, a number of groups in South Africa were prevented from accessing government contracts” (Bolton, 2006:193-194), and therefore the new government under the ANC would have to use procurement as a policy tool to address the previous imbalances.

The first procurement reforms of 1995 focused on firstly promoting the principles of good governance using a preferential point system addressing certain socio-economic objectives in order

to achieve equality. The reforms were also backed by “Section 217 of the Constitution of the Republic of South Africa that made provision for the use of procurement as a policy tool” (Section 217 of 1996 cited by Bolton, 2006:194). A number of legislations were enacted to give effect to Section 217. The following legislations were enacted; “Preferential Procurement Policy Framework Act (5 of 2000) – hereafter the PPPFA, Public Finance Management Act (1 of 1999, as amended by Act 29 of 1999) – hereafter the PFMA, Broad-Based Black Economic Empowerment Act (53 of 2003) – hereafter the B-BBEE, Local Government’s Municipal Finance Management Act (56 of 2003) – hereafter the MFMA and the Local Government’s Municipal Systems Act (32 of 2000, as amended by Act 44 of 2003) – hereafter the Municipal Systems Act” (Bolton, 2006:194). These legislations incorporate elements of affirmative action.

These legislations give effect to procurement policy so that wealth can be distributed by channeling funds to “discrete categories of economic actors, for example previously disadvantaged groups in South Africa” (Bolton, 2006:194). This particular Section 217 of the Constitution stipulates that “preference in the allocation of contracts must prevent unfair discrimination” (Selomo & Govender, 2016:1). Without going into the technical details of the PPPFA, when tenders and contracts are awarded under the PPPFA, a preference point system is used to determine the total scoring that comes from elements called preference points that consists of price points and BEE. The National Treasury and the DTIC later amended the PPPFA Act to “incorporate B-BBEE Codes of Good Practice in 2006 with an objective to advance the objectives of the B-BBEE Act and its strategy” (Selomo & Govender 2016:1).

2.1.4 Its controversy

Affirmative action is seen as an important but controversial policy. Some scholars like McGuire (2000), Moskos and Butler (1996) cited by Siebers et al. (2010:61) argue that it is not only affirmative action that combats these differences between groups but equal opportunity is also an important factor to combat differences in earnings and employment. Norris (2001:221) on the other hand emphasizes that affirmative action should look further than diversity so that it “transforms a climate into one which not only values diversity, but where managers and supervisors in that environment have the necessary skills enabling them to manage that diversity and develop working

conditions where all individuals, regardless of race, gender or ethnicity can achieve their full potential”. Roosevelt-Thomas (1990:108) cited in Norris (2001:219) would like to see a type of affirmative action that provides mobility of all kinds of people, a movement that is beyond affirmative action, but one that creates a process for diversity.

Affirmative action is controversial from the way it is perceived by both implementers and the recipients. Wachira (2019:6) argues that “when companies reach a target required under the B-BBEE codes, for instance 25% ownership by black individuals, it is logical to surmise that the need for future affirmative actions will not be necessary as the management structures of local institutions will have altered so much so that black persons will be in a capacity to empower themselves, thus creating a self-sustaining empowerment”. After successfully leading to equality and offering permanent gains for minorities or discriminated groups and breaking down stereotypes, affirmative action must then cease. This is the reason Tladi (2008:18) argues that affirmative action is a temporary intervention, otherwise if it becomes permanent, it will be seen as reverse discrimination.

Affirmative also comes with controversy when unqualified businesses get opportunities over those that do qualify. For example, equality to the country’s economic resources may mean unqualified businesses given opportunities to render services under the auspices of affirmative action. It must be very clear as to what will be achieved through affirmative action programmes. For instance, in the situation in which they need to provide equal employment opportunities, it must be clear that affirmative action must provide employment opportunities. In South Africa, Burger and Jafta (2010:2) argue that “the effect of affirmative action policies in reducing the employment or wage gaps have been marginal at best and were much less significant in bringing about changes in labour market outcomes than improved access to education for Africans”.

Affirmative action’s mixed reactions and controversy back dates prior to 1994 when a corporate business called Sankorp “rejected the government’s concept of affirmative action, because of the negative connotations of compulsion, legal prescription and the potential for tokenism” attached to it. Since then, it has become a challenge to implement affirmative action in the workplace. Timothy (2013:1) shows that “implementing affirmative action measures in the workplace is slow

and courts provide conflicting decisions on the interpretation and application of affirmative action legislation”. Eventually Thabela-Chimboza and Chigona (2019:3) argue that affirmative action is ‘universally controversial’.

2.2 South Africa’s empowerment programmes

This paper takes cue from Kontokosta and Malik’s (2018:272) view of transformation and empowerment capacity planning as a duty for “policymakers and agency leaders to make difficult decisions regarding who, in terms of the population, should be given priority in the allocation of limited resources”. In this regard the transformation effects of an empowerment programme is its inherent features and its ability to effectively respond to the call for eliminating inequality through appropriately allocating resources to the previously disadvantaged population as it maintains a relationship between the populations. Transformation, as an empowerment programme is a type of a vehicle for driving change, empowerment development and campaign programmes that has been in the last decade researched by scholars (Jeans et al., 2017:2).

2.2.1 Transformation

“Transformation is a form of enacted change that is planned and is intended to bring about significant changes in how an institution is managed” (Norris, 2001:220). It differs from transition in that, whereas transition is incremental change, transformation is radical change (Pelling, 2010:1). It (transformation) is however intentional, it is planned to adjust, amend and change the relationships of different groups as it alters their organisational structures. For Berman, Quinn and Paavola (2012:97), it is important to understand the influence of institutions on transformation, since transformation is “understood as enabling both existing capacities to cope with the present whilst also enabling capacities that support longer term adaptive changes in preparation for future events”.

Thomas and Robertshaw (1999) cited by Norris (2001:220) argue “that transformation relates to the internal environment of companies in South Africa, as a process for developing and maintaining a work environment in which everyone can be developed to his or her potential and

be allowed to contribute fully to the life of the company and its objectives” This transformation can be achieved by creating “work environment that is free of unfair discrimination and is reflective of the demographic realities of all the peoples of the country” (Norris, 2001:220). Meanwhile, the Presidency (1996) quoted by Parnell and Crankshaw (2013:590) argues that transformation was one of the post-apartheid government’s initiative to “achieve equality in the space economy as understandably a key objective both nationally and within cities”. It “aims to achieve extensive change in racial composition of board structures in South African companies, ownership and participation of Blacks in creating new enterprises and empowering rural communities by enabling their access to economic assets primarily through land ownership” (B-BBEE Act, 2003 cited by Wachira, 2019:4). However, for Krüger (2012:14) transformation in South Africa can be politicized as she argues that both black economic empowerment programmes and affirmative action programmes are politically inspired ‘transformational policies’.

A concern for South African institutions is that a process of radical transformation does not allow and neither maintain quality standards to grow simultaneously with diversity as the two do not seem to complement each other (Norris, 2001:221). This means that if policies of equity and redress such as B-BBEE and affirmative action are to effect changes in the society as envisaged in their creation, then organisational change, management of diversity and a process of transformation have got to be carefully implemented. To implement change, manage diversity and transform, Thomas and Robertshaw (1999:116) cited by Norris (2001:222) argue that the process starts by the will to change, desire and decision to transform, adding that the road to transformation can only be travelled through the correct will, sentiment, openness and transparency through debates, by being courageous enough to bring solutions.

2.3 Policies, business regulations and legislation

2.3.1 Policy

2.3.2 Approaches to formulating policy

A relevant and beneficial policy is one that maximises its usefulness towards attaining its objectives, and there are several pertinent variables that are considered in policy formulation. For

example, in the business arena, policy initiatives “must target bottlenecks for growth and sustainability through provision of solutions in the form of training, information provision regarding management and marketing skills, and relaxation of regulations for new entrepreneurs” (Razin & Langlois, 1996; Ram, 1998; Bates, 1996 cited by Ibrahim & Galt, 2003:1114-1115).

There are different types of approaches to policy formulation. There are approaches that focus on specificities required in a policy, some focus on diversities, some focus on the moral outcomes and objectives and some approaches focus on the intersection of politics and policy. Other policy approaches focus on what matters to the agents/players, both inside and outside of the organisation. Approaches to policy making are fully descriptive and specific. Examples of approaches to policy formulation are people-centred approach, development-centred approach, market-oriented approach (Habib & Padayachee, 2000:248), a user-centred approach, a differentiated approach, a principle-based approach and many other approaches. Policies seek to strengthen elements of the society, increase the scope and effectiveness of Acts and laws and enlarge powers of institutions (Lord, 1996:575-576).

Having mentioned the above approaches to policy formulation, Persson and Tabellini (2002) cited in Storper (2015:29) then add that the policy and law makers involved in crafting policies must be broad-minded people who create policies that are beneficial to many people. They add that myopic governmental policies have been proven to be harmful to growth and therefore avoiding harmful policies will help to maintain quality of an institution (Persson and Tabellini, 2002 cited by Storper, 2015:29). Chang (2011:484) suggests that though it is difficult to measure quality of an institution, positive policy variables can be indicators that one can use to measure this quality. However, at the end of the day policy implementation gets affected by some different variables resulting in unintended consequences tarnishing institutions. Therefore, a good policy will not develop an institution until it is implemented appropriately, just like what Chang (2011:487) argues that a policy can be impeded by other factors such as weak property rights.

For instance, developing policy through a centred-approach method, it is essential to make sure that policy formulation is based on different specificities and diversity of that policy. This is used in organisations to ensure that the focus is on what matters to the agents/players, both inside and

outside of the organization. Skocpol (1992) cited by Phillips (2010:29) argues that a ‘polity-centred approach’ is an approach that “emphasizes the intersection of policy and politics”. Skocpol (1992) cited in Phillips (2010:41) furthermore argues that “policy is initiated or transformed when congruence exists between the goals and capacities of key political actors such as politicians, bureaucrats, political parties, and interest groups” A polity-centred approach method measures what matters to the people, checks the progress of a system, prioritises the needs of recipients and forecasts how success will look like. Therefore, according to Durant (2000:106), “a polity-centered theory highlights the stakes of new governance reforms (NGRs) for society as far exceeding managerial or technocratic concerns and gives guidance and theory building about what works and what does not, under what conditions, and using what tools”. This approach tests outcomes because it believes that outcomes have solutions embedded in them.

In the case of B-BBEE policy, there is no clearly defined approach that was taken in the creation of the policy.

2.3.3 Institutional legal & policy framework

Every policy framework must provide regulations, guidelines and guidance for the development of a policy. A policy framework is a practical guideline for policy design (Woolthuisa, Lankhuizenb & Gilsingca, 2005:617-618). Malebana (2014:132) on the other hand agrees that frameworks can also be used for designing and evaluating policy interventions.

A policy framework is “a foundation on which thinking and action can build, resting on differentiated but complementary responsibilities (Ruggie, 2008:190). It provides pre-distinct functions that present processes and methodology that is used to attain a policy objective. It does this by providing a basis for the formulation of mechanisms (Royce, 1998 cited by O'Halloran, 2008:452). Woolthuisa et al. (2005:617-618) also agree that policy frameworks lead to policy recommendations and can also be used as mechanisms that may be used to analyse and evaluate a policy and can be a valuable instrument that is used to determine and address challenges within a policy. According to Woolthuisa et al. (2005:617-618), a policy framework is therefore useful in

explaining both attributes of success and failure of policies and determining whether the framework needs to be improved or not.

2.3.4 Institutional policy set rules

“Rules must be well designed at national and subnational levels of government, combining simplicity, flexibility, and growth-oriented criteria; furthermore, they must be implemented in a transparent manner, with the support of an appropriate institutional [structure] following careful preparation and convergence” (Kopits, 2001:78). Policies need to be justified and periodically checked so that both their impact and changes can be assessed (Curran & Storey, 2002:164). A poorly designed policy obstructs access to policy benefits or welfare. It is important to ensure that existing policy interventions are able to recognize current challenges so that when a new policy is made it should be able to offer more alternatives that give more solutions and not to perform equivalently or less than earlier policy. Curran and Storey (2002:166) add that policies must have “a ‘virtuous policy circle’ in which policies are introduced, evaluated, and then either abandoned when they unlikely achieve their declared aims or revised to become more effective”.

Policies must not impose hierarchical institutional structures that will end up obstructing implementation. “What is required is a set of policy instruments that enable pertinent advice and support to be given to different groups” (Ibrahim & Galt, 2003:1115). It is significant to understand historical contexts of challenges to be solved by policies. This is the reason Ibrahim and Galt argue that “in recognizing that development is path dependent, it will assist in drawing up appropriate policy instruments and amend structures” (Ibrahim & Galt, 2003:1116).

Therefore, policy rules must “serve as a useful depoliticized policy framework tool” (Kopits, 2001:77). A politicized policy framework in this context means “a process whereby an issue is elevated to the political agenda to become a matter of political competition and conflict” (Hagström & Jerdén, 2010:727). Policies produced in this framework are discriminatory and it becomes difficult and at times impossible to assess whether they will achieve their objectives and aims (Curran & Storey, 2002:166). This means that rules that are not ‘good’ must not be enforced with enthusiasm and rigor for political expediency. Vijayaraghavan and Ward (2001:7) argue that

the effects of enforcing the so called ‘good policies’ by political figures “could be counterproductive because maintenance of rule of law reflects the degree to which the citizens of a country are willing to accept the established institutions to make and implement laws and adjudicate disputes”.

For Kopits (2001:65-66) a well-designed policy is one that has implementable rules. Such a policy is normally expected to prevent and avoid bias, failure, and politicization of its framework. However, “rules are by no means a universal panacea” as challenges will still happen in their presence. Rules provide an important framework to a policy. Rhodes (1988) cited by Metfula & Chigona (2013:86) argues that rules “reflect the core values of a network [and policy] and may be formal (statute-based) or informal”. Rules prescribe the general perception of a policy and its application and each player’s role. However, “such rules of the game are affected by behavioural norms, which usually regulate the behaviour of the participants in the network, for example general bureaucratic norms” (Rhodes, 1988 cited by Metfula & Chigona, 2013:86).

2.4 Conclusion

The section focused on three theories and namely, affirmative action, empowerment and transformation and business regulations and policies in relation to EMEs. It discussed affirmative action as a process that was designed to correct the past wrongs by the previous government that oppressed its citizens. It showed that for affirmative action to be successful, it needed to be assisted by legislation and proper policy implementation. The literature also showed that affirmative action is a tool to assist the previously disadvantaged business communities access procurement, however the growth of procurement in the corporate sector has made procurement processes become more complex and thereby affecting EMEs that have limited resources to match the complexity of such processes.

The section also argued that transformational policies such as B-BBEE and the aforementioned affirmative action are “intended to bring about significant changes in how an institution is managed” (Norris, 2001:220). It has argued that in order for effective transformation to take place, the environment created to enable transformation should be free of unfair discrimination and

should be “reflective of the demographic realities of all the peoples of the country” (Norris, 2001:220). The section argued that in order to achieve transformational change, “racial composition of board structures in South African companies, ownership and participation of Blacks in creating new enterprises and empowering rural communities” (B-BBEE Act, 2003 cited by Wachira, 2019:4) was supposed to be achieved, however in South Africa transformation faces politics and is being politicised.

The section’s literature then focused on approaches to policy formulating in which it argued that policies crafted must “target bottlenecks for growth and sustainability through provision of solutions in the form of training and relaxation of regulations for new entrepreneurs” (Razin et al., 1996 cited by Ibrahim & Galt, 2003:1114-1115). It then lastly argued that policy framework is a practical guideline for policy design. Literature review has shown that following policy design it then becomes important to design initiatives around different regulations within the broader SMME policy framework (Chamberlain & Smith, 2006:42) with rules that are not ambiguous to SMMEs but well-designed policies that have implementable rules.

These elements discussed in this section were designed to partly achieve equality and provide equal opportunities by including the previously discriminated people or groups participate in the mainstream through affirmative action. Empowerment and transformation is supposed to drive and enact change by allowing limited resources to be appropriately allocated to those that are in need of them. Finally, business regulations and policies create an environment in which businesses should have equal participation through policy framework that provides regulations, guidelines and guidance for the development.

The following chapter will discuss the qualitative research method that was used in this study. The section outlines data collection and sources, data processing and analysis, ethical considerations and practical considerations and limitations to the study.

CHAPTER THREE – RESEARCH DESIGN AND METHODOLOGY

3.1 Introduction & qualifying EMEs

In this chapter I show the methodology adopted in the research. I will describe the interviewees and show how they were selected to participate in the sampling section. The chapter also explains the rationale for selecting the ICT as its case study. I will also touch on the difficulty to obtain some information such as raw unedited minutes recorded in board meetings from the selected institutions and it ends up discussing ethical considerations protocols that were observed during the research.

The ICT Sector incorporates a wide range integration of telecommunications such as telephone lines, wireless signals, computers, software and hardware, meaning that Internet Cafes are also part of the ICT sector as EMEs. This means that the sector must comply with legal and statutory requirements⁹ of the government as well as small ICT players¹⁰ and big ICT players.¹¹ This also means that the ICT sector is comprised of EMEs which are known as Exempted Micro Enterprises (EME), Qualified Small Enterprises (QSE) and Large Enterprises (LE). My research focuses on EMEs in the ICT sector, those that are formally registered and comply with the government's minimum statutory requirements for them to qualify for empowerment through B-BBEE programmes.

Benefits of B-BBEE policies do not come by simply being a registered black business. All businesses need to comply with legal and statutory requirements as a requirement for benefiting

⁹ These are requirements such as Registration documents, compliance with all forms of tax having a trading period of more than 1 year, are registered on the treasury's CSD database, those that can provide annual financial statements and have bank accounts and under B-BBEE programmes such entities are black owned meaning they more than 51% black shares. Black means Africans, Coloureds and Indians who are citizens of the Republic of South Africa by birth or descent.

¹⁰ These are small operators like Internet Cafes who, most of them operate informally and have very small turnovers and most do not comply with the legal and statutory requirements as they are in the informal sector, and a number of them employ 3 or less number people in a shop.

¹¹ These are ICT firms such as IBM, Microsoft, ORACLE, HP that employ more and a number of them are formal and are registered on JSE and generate high turnovers of up billions of Rands per annum.

from B-BBEE policies. For instance, the DTIC has financial and non-financial incentives ¹² to offer qualifying black entities as a measure of providing B-BBEE opportunities. The research is focused on the in-depth phenomenon on why EMEs in the ICT sector are failed by B-BBEE policies when they are legal and statutory compliant.

Since the goal of the study is focused on the role of B-BBEE in advancing EMEs, an in-depth description of this phenomenon will be a vital part of the process to understand this. “In such situations, small qualitative studies can gain a more personal understanding of the phenomenon and the results can potentially contribute valuable knowledge to the community” (Myers, 2000:5).

These findings cannot be generalised “but rather assist in seeking answers to how persons or groups make sense of their experiences” (Myers, 2000:8). Therefore Myers (2000:5) cautions researchers to “bear in mind the goals of the study when evaluating the quality of this research report” because the main aim is to produce “research that can inform and enhance reader's understandings”, and to “discover meaning and not verify the truth and predict outcomes” (Myers, 2000:7). What is important is that the findings are reliable, as Kumar (2011) cited by Shava, (2016:164) argues: “qualitative research is grounded with deductive reasoning which embraces that when the assumptions and theories perfectly fit in study the conclusions and findings will be reliable”.

3.2 Methodology

Carter and Little (2007:1317) define research methodology as “theory and analysis of how research will proceed, and it justifies the methods that a researcher employs in a study”. The research paper adopts a qualitative research methodology approach based on an extensive literature study to interrogate the extent to which B-BBEE policy advances EMEs in the ICT sector. It is a study that makes use of in-depth interviews as the primary sources of my data collection. This will assist in understanding the deep-seated meaning of events and the phenomena that has resulted in a policy failing to reach its objectives. The research aims to “offer a perspective of a situation and provide

¹² Examples are the BBSDP – Black Business Supplier Development Programme and SEMSP – Small Enterprise Manufacturing Support Programme.

well-written research report that reflects the researcher's ability to illustrate or describe the corresponding phenomenon that offers a great depth of explorations and descriptions” (Myers, 2000:6). It will be useful in carrying out further research on the relationship of policies and their beneficiaries. “Qualitative research is based on its own specific epistemological foundations and it has its own perspective on ways to contribute knowledge to the community and to society” (Myers, 2000:7). This is the reason scholars such as Adelman, Jenkins, and Kemmis argue that “the knowledge generated by qualitative research is significant in its own right” (1980 cited by Myers, 2000:5).

A small sample would therefore be appropriate for qualitative research and therefore “problems related to sampling and generalizations may have little relevance to the goals of this qualitative study and the reality of the situation” (Adelman, Jenkins, and Kemmis, 1980 cited by Myers, 2000:5) in which it seeks to understand and contribute to the existing academic literature and body of knowledge. This study seeks to elaborate the shortcomings and failures of B-BBEE as an affirmative action, an empowerment tool and a transformation programme that has resulted in perpetuating poverty among the previously marginalised people against its main objective.

3.3 Purpose of the study & guidance from similar studies

My research design was influenced by my experience in working as an independent consultant for the DTIC and observations of other works done by different researchers regarding B-BBEE policies and EMEs. For instance, Archary’s (2009) study was a qualitative study that explored how government supports various programmes in SMME development in South Africa. This study provides helpful lessons about the methodology that I could also employ in my study. It influenced my decision to employ a qualitative research study to form a problem for a more precise investigation.

3.4 Research approach

This study relies on secondary analysis of data, various peer reviewed journal articles, policy documents in BEE, past researches, internet and legislation which were used as data collection techniques and interivewes. The research focused on the ‘How’ and not ‘What’ of the importance

of the capacity and ability of the policy to advance EMEs. This was assisted by Myers (2000:6) who argues that “the strength of the qualitative approach is the depth to which explorations are conducted and descriptions are written, usually resulting in sufficient details for the reader to grasp the idiosyncrasies of the situation”.

3.4.1 Sampling

This study builds on case studies of the ICT sector through the lens of two selected EMEs operating in Johannesburg. Given the in-depth nature of my observations of EMEs in the ICT sector, my sample comprises of 2 EMEs, 2 officials from the B-BBEE Unit of the DTIC and 4 officials from B-BBEE Commission. The officials from the DTIC comprised of a male (referred to in this paper as Key Informant Policy Maker) and a female, who is not cited in this paper as she did not answer any question but was part of the interviewees and the 4 officials from B-BBEE Commission comprised of 3 females and 1 male. I interviewed all the 4 officials but only their second in Charge to the Commissioner (referred to as the Key Informant Policy Monitor and Evaluator) was responding to my questions and the others were mostly nodding their heads and agree to what she said.

Morse (1998:733) says that in qualitative research, “there is no set formula to determine sample size” and no sampling methods such as random sampling because of the volume of data to be collected from each participant. At the same time a smaller sample in qualitative study avoids ‘data set oversaturation’ and avoids ‘redundancy’ as excess data will not be used but eventually gets wasted and is discarded (Morse, 1998:733). The reasons these 2 EMEs were selected are explained in paragraph 3.4.4.

What was important was to have an in-depth understanding of the EMEs in the ICT sector’s would-be beneficiaries’ perceptions, knowledge, and experience of B-BBEE policies and understanding and analysis of the policies by the Key Informants. Since the interviewees were few, I applied the inverse relationship of data collection of qualitative research following Morse (1998:733) in that: “the more data obtained from each participant, the fewer participants required and vice versa”. This is the reason further interviews were done with the interviewees after the initial interviews.

I therefore had in-depth interviews with the 2 EMEs that are black women owned based in Johannesburg and are described in detail in section 3.4.4 below and 2 Key Informants, one from the department of Trade and Industry who is referred to as a Key Informant Policy Maker and is described in full in section 3.4.2 and the other one from B-BBEE Commission referred to as Key Informant Policy Implementer and described in full in section 3.4.3.

3.4.2 Data collection

Data collection is an activity in which “multiple sources of information such as observations, interviews, audiovisual material, and documents and reports are collected” for the purpose of answering a research problem (Creswell & Poth, 2016:73). Data collected may be primary or secondary data and this research makes use of both data types. Primary data was collected through semi-structured and in-depth interviews and secondary data sources was from documents, annual reports, online articles, journals, government documents, archived materials and some grey literature.

The reason for using secondary sources was to guarantee triangulation, a strategy that “promotes validity and reliability of measuring instruments” (Merriam, 1998 cited by Kirk & Miller, 1986:19). It refers to “multiple uses of sources of data to corroborate findings” (Merriam, 1998 cited by Kirk & Miller, 1986:19), for example, using interviews as the primary source of data and then verify them against secondary data sources to check the accuracy of information given in the interviews. For example, there was conflicting information given by the 2 Key Informants on the annual turnover of EMEs. The Key Informant Policy Maker said that EMEs have a maximum turnover of R10 million and the Key Informant Policy Implementer said R5 million, however this difference did not have an impact for my research as my research looked at small formal businesses categorised as EME and therefore their turnover would not give any bearing to my findings.

I also collected data from South African government’s legislative framework on the promotion of SMMEs, from the Integrated Strategy on the Promotion of Entrepreneurship and Small Enterprise (2008), the National Small Business Act 102 of 1996, the Broad Based Black Economic Empowerment Act 53 of 2003, the New Growth Path Framework of 2010, National Development Plan of 2012, DSBD Annual Reports, SME Institute Reports and TIPS Report.

The question posed in this research is **does B-BBEE policy advance EMEs as an objective of its policy?** The research is being done from the perspective of policy makers and EMEs owners. Failure in here will be defined as any process that does not drive and achieve an intended objective and this would lead the “economy to grow somewhat more slowly than its potential would suggest (Myers, 2000:9). Advancement of an institution by a redistribution policy is not possible to investigate using structured instruments. If in this case the researcher wanted to measure this ‘failure’ as a phenomenon, one would not be able to understand the process with structured instruments and that is the reason I used a flexible and non-structured approach.

3.4.2 The DTIC and questionnaire

I interviewed two (2) people, a Black male and a Black female at the DTIC. The male counterpart is senior to the female, however the latter has been working for the Department of Trade and Industry for a longer period of time. The male counterpart answered most of the questions as the lady agreed and affirmed to what he said despite having more years of experience in the DTIC and working with the BEE Unit for a longer period. The lady acted as an observer throughout the interview. Since the gentleman was the one answering questions, he will be referred to as the Key Informant Policy Maker.

The research instrument questioned issues regarding the history of the policy, formulation and objectives of the policy in relation to EMEs, how it came about and at what moment was the policy promulgated. It also interrogated some challenges that the DTIC is aware of regarding the policy for EMEs that comply with all legal and statutory requirements with a view to understand the affirmative action and transformation capacity of the policy in changing the economic status of the previously disadvantaged people as envisaged at the creation of the policy. Most importantly it asked how important B-BBEE policy is in addressing the historical challenges of SMMEs and how does the policy advance their economic status. The questions also sought to understand the history and development of SMME sector and how the policy addresses their challenges differently from other policies.

3.4.3 The B-BBEE Commission and questionnaire

The B-BBEE Commission is the monitor, implementer and enforcer of B-BBEE policy. At the B-BBEE Commission I interviewed four (4) people; three (3) Black females and a Black male. All these four people have been with B-BBEE Commission from its inception in 2016. They were transferred from the DTIC by the Minister of Trade and Industry immediately the Commission was formed. In this meeting a lady who is second in charge to the Commissioner answered many questions with others supporting her. Since she was the one who answered all questions, she will be addressed as the Key Informant Policy Implementer.

The semi-structured questions asked how the policy's implementation is in alignment with the policy's objectives to make sure that it meets its objectives of addressing poverty and inequality. The questions required more information to be shed on how transformation would be achieved if proper implementation would be done. The tool asked if the Commissioner has a mechanism of implementation and measuring the success of the policy and how the policy has impacted SMMEs. It further asked if they have statistics of the policy's performance and other strategies that may be required to make sure that the intended beneficiaries benefit from the policy.

3.4.4 ICT EMEs and questionnaire

The two EMEs that were interviewed during the research's field activities were incorporated in 2006 and 2016 under the Companies Act. Both EMEs meet the above-mentioned criteria to be potential beneficiaries of B-BBEE programmes from the state and private sector. The EME registered in 2006 will be addressed as 2006EME and the one registered in 2016 as 2016EME. Both EMEs are black women owned SMMEs. 2006EME operates from Johannesburg Central Business District (CBD) and has 4 employees and the 2016EME operates from Midrand in Johannesburg and employs 18 people.

2016EME is managed by the owner and 2006EME is managed by the husband of the owner of the business. Sibongile (*a pseudo name for 2016EME owner*) is responsible for all key business decisions and makes her own policies for her business. Sibongile does not have IT qualifications. When she started her business in 2016 she employed qualified personnel to work for her. Her

strength is in financial management and operations as she has some certificates in business administration. Sibongile's business has been using sworn affidavits to access opportunities. She has not benefited from the DTIC programmes that many other SMMEs have benefited through B-BBEE initiatives.

The second EME is run by a gentleman who will be referred to as Gregory (*a pseudo name for the manager of 2006EME*). He is a qualified IT Technician and has vast experience in IT and business administration. His wife is responsible for running the finance department. The couple decided that I interview the husband who is the operations director of the business. His position is vital for my research in engaging him to understand his knowledge, benefits, perception and experience of B-BBEE policies and how they have impacted his business. Gregory's company does not use sworn affidavits, but rather prefers to incur costs and apply for B-BBEE certificates whenever they want to access opportunities. 2016EME has benefited from the DTIC's one of its B-BBEE programme called Black Business Supplier Development Programme (BBSDP), a programme made to incentivise black owned SMMEs.

With the EME instrument I asked the intended beneficiaries (qualifying entities) their knowledge, experience, views and perceptions of B-BBEE policy. These interviews were made in such a way that they provided predefined questions that I wanted respondents to elaborate in detail. The reason I used semi structured interviews is that they enabled me to explore the phenomenon more broadly and at the same time encouraged the participants to give their points of view.

3.5 Data Analysis

Data analysis for qualitative research is for "discovering meaning and understanding, rather than to verify truth or predict outcomes" (Myers, 2000:7). Therefore, data collected was analysed using content or thematic analysis where emerging themes and sub-themes were arranged following the objectives of this paper. I carefully looked for key words, themes, ideas and content that is significant for my research and left out anything that was not significant when I presented my findings. Some of the key words that came out of the interviews are transformation, empowerment, policy implementation, fronting and corruption.

I firstly did preliminary processing of my data in different steps. The first step was to think on the material that I gathered on how I was going to present it in my thesis and this involved presenting some data in tables and some data as discussion points of my findings. The second step involved reducing my data to present the information that would assist me to explore the phenomenon that I researched.

I compared my interviewee's responses to my questions and secondary data that I collected, looking for recurring themes across the texts which I understood to be concepts, perceptions or ideologies. These descriptive comparisons appear as discussions in the findings and sometimes in the other chapters of this thesis. I have always maintained the voice of my participants throughout the study and against policy documents that I attained from policy makers.

3.6 Ethical considerations

Since social scientist researchers must be conscious of the general agreements shared by researchers about what is perfect and imperfect in the conduct of scientific investigation (Bhattacharjee, 2012 cited by Dlova, 2017:69), I had to ask the participants for their consent to record our interview sessions. I provided clear and logical explanation about why I wanted audio recorded interviews. Audio recorded interviews provided me with accurate verbatim of the interviews. Scribbling notes would result in recording or capturing inaccurate information and slowing down the interviews as participants would have to wait for me to write down notes that we discussed. I assured them about confidentiality concerns that the audios would be destroyed after analyses of the data. My research instruments had confidentiality disclaimers as I respect their views without making any assumptions.

I also assured my interviewees that I would use pseudo names and I would maintain confidentiality of their roles, views and personal perceptions about the B-BBEE policy. I also made it clear that they were free to reserve their comments on other questions they felt uncomfortable for them to respond and there was an opt-out clause in the questionnaires. All my respondents signed consent forms which stipulated that their participation in the research was voluntary and that their personal details would remain anonymous throughout the research study and that they could refuse to answer questions they felt were uncomfortable. I also shared participant information sheets that explained the purpose of the research and requested their participation.

My interviews were scheduled according to the interviewees' convenient times and preferred venues for the interviews. I made it clear to them that my interviews would be an average of an hour's length and we agreed to meet at their offices as they were comfortable in their own spaces and those offices were safe and comfortable for all of us.

3.7 Practical considerations and limitations to the study

According to Metfula and Chigona (2013:88), accessing classified information is not easy as it poses limitations to extraction of secondary data that one might want to use in the research. In some instances some important documents such as minutes of meetings could not be provided as they were deemed 'for office use' and that would have provided information that is 'raw' and not manipulated.

Data existing on SMMEs is so little that even the DSBD Annual Report (2016:13) reports that there is "very little data existing on SMMEs themselves and, taken in isolation, each data set contains limited information". The SME Institute (2018:1) also argues that South Africa does not have a record of its EMEs and it does not keep track of its performances. This means that "policies and support initiatives for EMEs are built on architecture based on assumptions and estimates" (BER, 2016:14).

One of the concerns was that the participants may have not spoken the truth in the meetings. Since success is mostly overstated and failures understated, I did extra desktop research to find out more information that I would use to either confirm or refute some facts that we discussed.

Lack of data was also a challenge that both Key Informants from both the B-BBEE Commission and the DTIC agreed on. In fact, since the inception of the programme in 2003, there is no report that covers the performance of the programme towards EMEs.

Further limitations came in dealing with classified information. Just as Metfula and Chigona (2013:88) elaborate that accessing classified information is not easy, indeed it was difficult to extract secondary data that I wanted to use. Some important documents such as minutes of

meetings could not be provided as they were deemed '*for office use*' and that would have provided me with information that is 'raw' and not manipulated. Again, the Key Informant Policy Maker was new in his position. Even though he is a senior manager in the department, he could not elaborate in detail any direct benefits of the expanded broad-based black economic empowerment programme other than simply stating that the programme was broadened to assist EMEs without proper '*how*' details that are measurable.

CHAPTER FOUR – BROAD-BASED BLACK ECONOMIC EMPOWERMENT (B-BBEE)

4.1 Introduction

The section provides the transition of the policy from Black Economic Empowerment (BEE) to B-BBEE. Black Economic Empowerment (BEE) was a socioeconomic policy that was made to deal with inequality and unemployment. The policy was inspired by a few factors such as the Malaysia's New Economic Policy (NEP), early forms of black corporate empowerment and black economic empowerment programs done by white corporate businesses like SANLAM and Anglo-American to black owned companies in the early 1990s (Freund, 2007).

The transition from BEE to B-BBEE came with the thinking that broadening its scope would benefit those who were left out by BEE when it failed to empower more beneficiaries. The ability of B-BBEE to be broad-based meant that EMEs would be beneficiaries together with other business sectors such as the Qualifying Small Entities (QSE) and Large Entities (LE).

4.2 The Politics of Black Economic Empowerment in South Africa

BEE policy was a predecessor of B-BBEE policy. This policy (BEE) was made by the state to balance pressures for redistribution of assets to the black majority with the need for economic pragmatism in ensuring that the white-owned private sector promotes economic growth and investment (Tangri & Southall, 2008:703). However, "equity acquisitions [for BEE programmes] given to black people was based on loans that still left real power with established corporations"

(Tangri & Southall, 2008:704). Therefore, a commission was set to evaluate the impact of BEE by calling for greater government intervention that encourages empowerment of black people. The commission established guidelines that would be used as mechanisms to provide targets that are aimed at deracialising business ownership. However, BEE failed due to a number of issues such as its procurement systems that were vulnerable to powerful officials, scarce capital, lack of skills, high levels of bureaucracy and inexperienced entrepreneurial minds (Shava, 2016:161).

4.3 Transition

At the backdrop of BEE's failure and being under scrutiny by Black Business Council (BBC) and Black Management Forum (BMF), a BEE Commission (BEECom) was then established in 1998 to look into ways in which BEE would be more inclusive. Several completed transactions by both the private and public sector fell far short "of recognising the true aspirations of the marginalised black majority" (BMF cited in BEECom, 2001:1). The black majority looked at the possibilities of job creation and consequent inequality reduction as a result of the policy. Therefore, in a bid to incorporate the marginalised people, the BEECommission conducted a policy development that would incorporate the aspirations of the marginalised people in the new policy framework (Lindsay, 2016:166), which eventually became a Broad-Based Black Economic Empowerment (B-BBEE) reflecting its expanded focus (BEECom, 2001:9).

4.4 Conceptual Framework of Broad-Based Black Economic Empowerment (B-BBEE)

The phrase has four key concepts, namely: broad-based, black, economic and empowerment. An academic definition of a broad-based approach is demonstrated by Jowell and Horwitz's (1997) cited by Horwitz (1996:3) work, in which broad based in "black economic empowerment is the process by which many black South Africans will gain a representative share of the wealth generated by the South African economy". Black "is a generic term which means Africans, Coloureds and Indians- (a) who are citizens of the Republic of South Africa by birth or descent; or (b) who became citizens of the Republic of South Africa by naturalization (i) before 27 April 1994; or (ii) on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalization prior to that date" (B-BBEE Act No. 46, 2013:12). Economics is defined "as the

study of how societies use scarce resources to produce valuable commodities and distribute them among different people” (Samuelson cited by Mohr & Fourie, 1996:8).

Friedmann (1992:12) defines empowerment as “an improvement in the conditions of life and livelihood of the excluded majority”. For Friedmann (1992:12) cited by Phillips (2004:14), empowerment becomes a form of development that seeks to “redress the historical process of systematic disempowerment or exclusion of the vast majority of people from economic and political power and also seeks to humanize the system that has shut out the majority, and its long-term aim is to fundamentally transform the whole of society” This definition overlaps into affirmative action policy as described by Timothy (2013:1) who states that affirmative action “makes amends for the effects of past discrimination, end discrimination, promote equality and transformation in the workplace” and Bacchi (1996:32) cited by Tladi (2001:1) who also states that “affirmative action denotes an employer’s duty to take positive measures to undo the effects of past unfair labour practices against unions and prevent them from recurring in the future”.

Therefore, empowerment seeks to “enhance experience, competence, and capacity by removing social and environmental barriers, and enhance environmental support” (Perkins & Zimmerman, 1995:575). Perkins and Zimmerman argue that empowerment can enhance these variables through “placing emphasis on autonomy in decision-making” (Perkins & Zimmerman, 1995:770). Rappaport (1981, 1984) cited by Perkins and Zimmerman (1995:569) on the other hand elaborates that “empowerment is a construct that links individual strengths and competencies, natural helping systems, and proactive behaviours to social policy and social change”. Empowerment policies empower people in three ways: political power gives access to decision making that affects one’s future, social power, gives access to knowledge, information, skills, financial resources and participation in organization and psychological empowerment that gives an individual confidence, self-efficacy and successful action in the political and social domains (Friedmann,1992:33; Zimmerman & Rappaport, 1988 cited by Perkins, 1995:770).

In congruence to Friedmann’s (1992) broadened concept of empowerment, the Department of Trade and Industry’s (2003:12) position on B-BBEE policy states that “empowerment in terms of the policy is defined as a broad-based process and the scorecard approach – covering ownership,

management, employment equity, skills development, procurement, corporate social responsibility, investment and enterprise formation”.

Therefore, the phrase broad-based black economic empowerment refers to a process, method or ways in which designated people are given power and are offered an opportunity to access and use scarce resources. This phrase is interchangeable with affirmative action as it seeks to achieve similar goals. Economic empowerment further entails a process in which the concept of economic involvement supersedes the concept of economic marginalization. Furthermore, “it is a process that fundamentally transforms the structures of a society, especially the social and economic structures which are achieved not through handouts to individuals but through an increase in the productive access bases of the household” (Friedmann, 1992:33). Then for Phillips (2004:15) “this includes access to skills development and training, employment opportunities, financial resources, and participation in social organizations”.

4.5 Challenges of B-BBEE policy

B-BBEE Act was finally incorporated in January 2004 (RSA, 2004a). Since then, the policy has been evolving through different amendments. For example, Pillay (2016) argues that;

“Firstly, a compulsory obligation on the part of organs of state and public entities to apply the BBBEE Codes or relevant sector codes of good practice gazetted in terms of the BBBEE Act (Sector Code) when awarding licences and authorisation and procuring goods and services. Previously this was not cast as an absolute obligation, and now seeks to remove any discretion on the part of such entities as to whether or not, or in what form, to apply BEE codes of good practice. Secondly, the so-called “trumping provision” came into force and effect on 24 October 2015. The trumping provision states that in the event of any conflict between the BBBEE Act and any other law in force immediately prior to the date of commencement of the BBBEE Act, as amended, the BBBEE Act will prevail if the conflict relates to a matter dealt with in the BBBEE Act. In November 2015, the Minister of Trade and Industry granted an exemption of one year to the Department of Mineral Resources and the mining industry from compliance with the BBBEE Act. Thirdly, the establishment of a BEE Commission which has the power, amongst other things, to oversee, supervise and promote adherence to the BBBEE Act; to receive and investigate complaints relating to BEE; and to maintain a registry of major BEE transactions. The Commission has

recently been set up and new regulations have been promulgated under the BBEE Act which give clarity on the Commission's functions. The Commission will have greater direct involvement in the implementation of BEE processes and a greater oversight role."

Even though the policy has been broadened, it still faces challenges of being misinterpreted and different interpretations and expectations have blurred the policy's performance to a point that Lindsay (2016:181) argues that "there exist very different conceptions as to what constitutes an acceptable policy outcome" of B-BBEE policy. On the other hand the B-BBEE Progress Baseline Report's (2007) findings on B-BBEE's performance were never published. Subsequent reports done by *Mail & Guardian* in association with Empowerdex in 2004, and KPMG surveys did not focus on the performance of the policy. Different reasons were cited for the failure to gather information that would indicate the performance of the policy. For instance, the *Mail & Guardian* and Empowerdex report focused on companies listed on 100 most empowered companies listed on the JSE and KPMG's report was "of a more interpretive nature in which data was gathered and aggregated from disparate sources, giving rise to concerns about statistical reliability".

There is no reliable system that is used to measure the performance of B-BBEE policies (Lindsay, 2016:188 – 190). Despite efforts such as "extraordinary features of the B-BBEE policy framework having been put in place, despite B-BBEE policy having given birth to a multi-million Rand consulting industry, despite the policy having become central to decision making in almost every type of corporate in the country, and despite the fact that billions of Rand have been invested in B-BBEE-related merger and acquisition activity since 1994" (Presidency, 2010), there remains no way to measure its performance. As an example, the policy has never, until now, published its performance in terms of eradicating poverty, job creation and reducing inequality, neither has it published how it has been replicated as 'one size fit all' in different sectors by benefiting the supposed and potential beneficiaries. The policy has not until now published the number of EMEs that have benefited from it and the number of rural based people whose lives have been transformed it. This may mean that B-BBEE policy is affected by the way it broadened its scope which was not so specific. This may also mean that the policy is affected by the dynamics of the environment it is operating in. Its first report was in 2016 but again, it was a compliance report that also looked at issues such as monitoring and fronting focusing on the JSE listed companies.

The Key informant Policy Maker (September 2019) further indicated that B-BBEE as a policy has no clear programmes for EMEs as the mandate was given to LE, SOEs and organs of state to create empowerment programmes for SMMEs, thereby leaving the real power of empowerment in the hands of these corporations. The lack of government's political will to address these challenges of not providing beneficial programmes to SMMEs has further disadvantaged EMEs, particularly those that are in the ICT because this sector requires a certain level of educational qualifications and a certain level of financial capacity to start and run an ICT business. The entities entrusted by government to create empowerment programmes are the largest market for ICT services for EMEs (Key Informant Policy Marker, September 2019). These challenges call for consultation to be done with the corporate sector to revisit and reinvent empowerment as the current structure is not beneficial to EMEs. This consultation will have to be a collective effort of labour, ANC and its alliance partners, and other key stakeholders such as black business associations, NEDLAC and the private sector.

4.6 Conclusion

In conclusion B-BBEE is a policy whose aim was to offer economic emancipation to previously disadvantaged people and those that have been excluded from participating in the mainstream economy. It came as a replacement of BEE that had failed due to a number of issues such as its procurement systems that were vulnerable to powerful officials, scarce capital, lack of skills, high levels of bureaucracy and inexperienced entrepreneurial minds (Shava, 2016:161).

At the time the policy was being enacted, a myriad of other Acts were promulgated to assist BEE to be an effective empowerment policy. An example is the Employment Equity that was promulgated to assist empowerment of previously disadvantaged people to be placed in corporate positions. However, when the policy was broadened some of the Acts seemed to duplicate B-BBEE's objectives and due to different interpretations and expectations of those policies, B-BBEE policies' performances were blurred and that triggered debates on what constitutes a good policy with acceptable policy outcomes.

The section also showed that the policy's failure emanated from the lack of data to evaluate its performance. The policy was supposed to be measured in terms of eradicating poverty, job creation and reducing inequality but the lack of data prevents us from finding out to what extent did it eradicate poverty and reduce inequality. The other challenge was that the department responsible for promulgating the policy and legislating it did not give the policy a clear mandate on what are the real empowerment programmes but rather ceded that power to private sector to determine their own programmes as B-BBEE empowerment programmes. The section then ended by describing how empowerment was supposed to have been incorporated from the phrase broad-based black economic empowerment programme.

The next chapter discusses the case study of the ICT sector that was used in this study. It also talks about the Charter responsible for regulating ICT industries. It shows that the ICT Charter is a regulatory body that was established to develop and monitor implementation of the ICT Sector Codes in order to fast track transformation within the sector.

CHAPTER FIVE – ICT SECTOR CASE STUDY

5.1 Introduction

The research builds on a case study of the ICT sector through the lens of two selected EMEs operating in Johannesburg. The section will show that there are some other programmes besides B-BBEE policies that are made to promote inclusive growth in the ICT sector. For instance, South African ICT policy is one such a policy that includes affirmative action policies to assist the sector in becoming inclusive (Thabela-Chimboza & Chigona, 2019:1). Furthermore, “the National Integrated ICT policy published in 2016 presented B-BBEE ICT Sector Code regulation as the primary strategy to promote industrial inclusive growth” (Thabela-Chimboza & Chigona, 2019:1). Despite the sector having over 23,063 ICT companies that employ about 241,335 people and contributing an estimate of 6% to the national gross domestic product (GDP), the sector still faces compliance challenges and has since shown very little compliance (Thabela-Chimboza & Chigona, 2019:1). The Joburg Centre for Software Engineering (JCSE) also explains that some requirements

that are part of B-BBEE policy are hindrances to the sector's employment space together with "uncertainty in the regulatory environment" (cited by Thabela-Chimboza & Chigona, 2019:1).

It further shows there is no known number of EMEs in the ICT sector as there are no records kept and that Large Entities in the ICT sector struggle to transform. For instance, from the 401 listed companies on JSE, only 30% of companies complied with the B-BBEE Commission's reporting requirements. It also shows the roles expected to be executed by the ICT Charter Council that was established in 2015 with an aim to develop and monitor the implementation of the sector codes of ICT sector.

5.2 ICT Sector Case Study

The ICT sector has participants from social partners, namely Government, Labour, Community and ICASA" (<https://beeratings.com/the-ict-sector-code/>). ICT industry has not transformed in the way the government anticipated. According to Thabela-Chimboza and Chigona (2019:1), this sector is slow in transformation and "it has shown minimal compliance to B-BBEE policies since their promulgation in 2012 and it is affected by massive challenges related to regulatory environment, global trends and skills shortages". Several Large Enterprises, according to B-BBEE Commission Report (2018:18,19) state that only 20% ICT Large Entities have an average of 29.60% Black Ownership, which is less than the set target of 30% Black Ownership. This means that about 80% of ICT Large Entities still have no minimum level of the required black component, which makes it even difficult for them to support black owned ICT EME enterprises.

Over and above the history of the sector that has been elaborated earlier, the sector has other factors affecting it such as high barrier to entry resulting from cost of compliance, then compliance with B-BBEE requirements, then high equity prices, then the cost of debt to fund B-BBEE programmes in the ICT and high costs of verification process which have collectively contributed to the failure of B-BBEE policy in the ICT sector (Thabela-Chimboza & Chigona, 2019:7). For ICT companies to get better opportunities and thrive they need to be affiliate members of relevant industry bodies like the Information Technology Association of South Africa (ITA). Affiliate bodies assist member organisations to comply with certain requirements that will give them business opportunities. Membership to such bodies is paid for and that cost may not be affordable to most EMEs.

Therefore, the need to advance EMEs is desirable if the state expects them to participate in the mainstream economy in alignment with B-BBEE policy objectives and avoid yet another “emotional area of frustration” in the mainstream economy through economic marginalisation in the twenty first century.

5.3 Partial Statistics on EMEs

According to BBEE Commission Report (2018:25): “EME analysis is largely based on entities in the Agri-BEE and Transport Sectors and does not represent the entire universe of EMEs”. The report only states EMEs that applied for B-BBEE Certificates and they were captured based on old sector codes. The same report acknowledges confusion and inaccurate data of the number of EMEs in the country as other EMEs from other sectors were not required by their Charters to apply for B-BBEE Certificates at some stage if their annual turnover was below a certain threshold. Some EMEs could not apply for B-BBEE Certificates because of a cost-factor “hence the DTIC and the B-BBEE Commission passed a regulation that stopped EMEs from applying B-BBEE Certificates” (Key Informant Policy Maker, September 2019). This means that the actual number of EMEs in the ICT sector may not be established until they become members of some ICT organizations and associations. Other reasons for the lack of statistics of the number of EMEs in general have been elaborated in Chapter 4 above.

When we look at the financial year of 2018, the JSE only listed 401 companies and only 30% (121) of these companies complied with B-BBEE Commission’s reporting requirements, meaning they complied with the call to report their B-BBEE activities but 11.57% of them did not have any information on their compliance to B-BBEE (BBEE Commission Report, 2018:43). ICT was represented by only 6 companies from the 121 companies from the JSE that complied with the call to report their B-BBEE status.

ICT sector has 31.51% black ownership on JSE listed companies. Overall, the total number of directors from the 121 entities on JSE that comply with B-BBEE, only 38% are Black and the rest are non-Black. Again, an assumption may be that only 31.51% of ICT entities on JSE are the only ones that are empowering EMEs, since 50% (3 companies from the 6) have B-BBEE Level 1,

which means that they are getting their B-BBEE status from empowering Black Owned businesses, which includes QSEs and EMEs as elaborated again in Chapter 4.

According to the BBEE Commission Report (2018:25), 1139 B-BBEE Certificates were captured in 2018, and only 2 sectors of Agri-BEE and Transport sectors recorded 374 and 626 EMEs respectively constituting 87% of all EMEs from 8 Sectors. The ICT sector only captured 37 Certificates (BBEE Commission Report, 2018:25). The report even states that there would be significant changes when the 2019 new report is issued with amended codes in which EMEs will not be required to apply for B-BBEE Certificates but get sworn affidavits.

5.4 Historical background of ICT Charter

The ICT Charter Council was established in 2015, with its main responsibility to develop and monitor implementation of the Sector Codes including but not limited to being the custodian of the Codes (Louw, 2019). “The body is responsible for providing guidance on sector-specific matters affecting B-BBEE in entities in the sector and compilation of reports on the status of B-BBEE within the ICT Sector” (Ehrens, 2019:4). Furthermore, the ICT Charter (2016:7) complies with the B-BBEE Amended ICT Sector Series AICT000 that state that the ICT Sector resolution should;

“Recognise the crosscutting nature of ICTs and their role in the social and economic development of our country; Promote the effective implementation of BBBEE in the ICT sector; Bridge the ‘digital divide’ by actively promoting access to ICTs; Stimulate and support growth in the ICT sector; Advance economic and social transformation in the ICT sector; Contribute towards the reduction of unemployment and poverty alleviation; Support skills development and training initiatives; Foster equity and address the legitimate economic aspiration of all South Africans; Provide an enabling environment conducive to transparency, fairness, and consistency when adjudicating on matters related to BBBEE in the ICT sector; and comply with the requirements of the ICT Sector Code as defined hereunder and where possible meet and exceed targets across the sector”.

The ICT Charter was later amended in November 2016. It now includes a Sector-specific scorecard that is used to determine B-BBEE scores of enterprises in the ICT Sector. Louw (2019) explains

that the Charter's codes are aligned to the Generic Codes, with the following exceptions: "30% black ownership is targeted to be achieved by entities in the Sector instead of the 25% of the Generic Codes". The main feature of the Charter is a set target of 5% net profit after tax to be spent on Enterprise Supplier Development (ESD) initiatives that are aimed at growing and developing black- owned ICT enterprises. Meanwhile, the target for the Generic Codes is 3% and "a spend of 1.5% of net profit after tax on Socio-economic Development (SED) initiatives to improve the lives of communities through programmes such as ICTs in education, and health" (Louw, 2019). The Generic Codes require companies to spend 1%. However, these development programmes are not being met as there are serious declines in ESD programmes (BBEE Commission Report, 2018:33) because of lots of policy changes and uncertainty that hamper policy efficiency.

Sector Charters have legal authority to determine if EMEs in their industry should apply for B-BBEE Certificates or not. For instance, despite the DTIC and the B-BBEECom having scrapped the application of B-BBEE Certificates by EMEs, the Construction Sector enforces that EMEs in their industry apply for B-BBEE Certificates and then those that do not have certificates struggle to get business opportunities from the private sector. Every industry has its own Charter that regulates how businesses in their related sectors operate as they monitor the implementation of Sector Codes so that they assist the state to achieve its objectives of empowerment and indicate what form of compliance is required in order for these businesses to be deemed as 'businesses with Good Standing' so that they can tap into opportunities available in their sectors.

5.5 Conclusion

The section has argued that B-BBEE policies were not the only mechanism designed to develop the ICT sector as the industry came up with its own council that was mandated to develop entities operating in the sector. Some of the regulations by the council conflicted with the state's policies of affirmative action and this led the Large Entities take advantage of small companies. The section also showed that only LE are the ones known as most of them are listed on JSE and it suggests statisticians and the government concentrate on them and neglect EMEs.

The section also indicated that LE in the ICT sector struggle to transform as only 30% seem to be complying with B-BBEE Commission's reporting requirements. Insufficient data continues to be a challenge for the policy to be able to report correctly activities taking place within the sector. The section has showed that Charters can be a vital organ in enforcing transformation to meet government's B-BBEE objectives.

The following two sections - Chapters 6 and 7 discuss the research findings. These findings are based on the in-depth interviews that took place between the researcher and the Key Informants and the entrepreneurs. Findings were also supported by document analysis from the policy documents, reports, journals, the Act itself and observations.

CHAPTER SIX – SUMMARISING CHALLENGES

6.1 Introduction

The next two chapters will show that B-BBEE's role in advancing EMEs depends on a number of factors. Some of the factors are the environment in which the policy was promulgated, political interference, the nature of the policy's institutional framework and its implementation challenges. The attitudes of entrepreneurs towards government programmes, the effectiveness of mechanisms that were made to assist the programme like affirmative action, sworn affidavits, sector codes, public procurement and concessions and licensing systems, all affect the implementation of B-BBEE. Despite a policy being labelled as a 'good policy', B-BBEE policy's failures will be discussed comprehensively taking into consideration the experiences of the EMEs interviewed, thereby opening a large scale of research to be done on the relationship of economic policies to EMEs.

Even though B-BBEE policy as an affirmative action policy was legislated to lay the foundation for equality by empowering the bigger portion of the South African population of black people, the section suggests that the policy is failing to reduce inequality and it is rather perpetuating inequality. The ability to reduce the inequality gap would take government's efforts to create a B-

BBEE environment in which these policies would have to benefit their intended recipients regardless of asymmetrical ideologies between the new black upper class¹³ and the state bureaucrats. Therefore B-BBEE in its current form does not contribute to its full potential to the economic advancement of EMEs.

6.2 The insufficiency of SMME definition

In line with Schaling et al. (2018:4) who argue that in South Africa “business regulations are not conducive to the creation and expansion of small, medium and micro enterprises (SMMEs)”, I further add that the policy and business regulations are not effective and beneficial to intended beneficiaries as the SMME sector is not clearly defined. In South Africa for example, SMMEs are either defined by the number of employees they employ, the turnover they make per annum or can be classified as survivalists, opportunists, micro-enterprises and formal and informal EMEs and these classifications pose challenges to policies intended to benefit them. Therefore, it can be deduced that this challenge is twofold: firstly there are definition problems and secondly procedural challenges.

Accurate definitions of concepts are important as, for example, SMMEs will then become identifiable for specific policy benefit and support. What this will mean is that the definition attached to EMEs will enable them to receive certain type of policy benefits and support. In the case of EMEs, desktop research revealed that business fraternity defines and identifies them in their differences and therefore policies that are made to advance and develop them becomes ineffective as the fundamental differences in their definitions affect their structures. The definition of SMMEs “should enable identification of beneficiaries for state support through, for example, funding, tax concessions and procurement” (TIPS, 2017:18).

6.3 B-BBEE's environment

¹³ Makgetla (2004:277) states that the new upper black class is comprised of leaders and managers in public sector, senior black managers in dominant private companies, various powerful independent entrepreneurs in the financial sector and black professionals in the media, academia and other occupations.

The environment in which B-BBEE operates relies on the conditions of other environments such as an environment created by government to enable such policies to achieve their objectives. One such an environment is the neoliberal environment in which BEE found itself promulgated. This environment, according to Bond (2000:17), was one of the main causes of BEE's demise in the early 1990s. At this time, Bond argues that such environment influenced ANC's policy making elites to "enshrine neoliberalism in every major economic policy statement beginning with the Constitution" (Bond, 2000:16). Neoliberalism became a phenomenon that increased competition among companies, opened up global trade and competition that would be difficult for SMMEs to cope up with.

Furthermore, the social environment in which the policy is promulgated and operates is embroiled with different challenges. "Social environment includes social and economic processes, wealth, social and health services, power relations, government, race relations, social inequality, cultural practices, religious institutions and practices and beliefs about place and community" (Casper, 2001:465). The contemporary social environment has led to social inequality that led to the 2015 Fees Must Fall protests in South African universities across the country from which the Key Informant Policy Marker (September 2019) explained that:

"a common example of that, of how we as a BEE policy unit have addressed social relations is that in 2014/2015 there was a lot of fees must fall protests against paying fees at higher education institution and we have actually challenged companies to spend on bursaries for black students at higher education institution for BEE points...we saw this as an opportunity. We want to focus on black students, we want to focus on challenging companies to address this issue".

At the moment there are no laws that coerce companies to draft B-BBEE programmes that will assist EMEs. Only organisations that seek to work with the state or seek to have a better BEE rating, are those that create BEE programmes to advance EMEs. The Department of Trade, Industry and Competition has left the responsibilities of creating B-BBEE programmes in the hands of the corporate businesses. This responsibility becomes an objective to be achieved and yet many businesses are known to prioritise profit maximisation as their main objective. However, a

number of scholars such as Simon (1955,1959), Baumol (1959), Marris (1963,1964), Williamson (1963), Cyert and March (1952) cited by Greenbank (2001:108) argue that “there is substantial literature on the objectives of the firm and a considerable amount of theory has been developed in response to perceived flaws in the concept of profit maximization” The issue of firm objectives comes in to show that businesses put their interests first before other businesses. So when businesses pursue some of these objectives, B-BBEE gets done in ways that big businesses deem is beneficial to them. For instance, the Key Informant Policy Marker (September 2019) argues that:

“... in terms of policy perspective what we have done as our main mandate is to develop B-BBEE registration and then develop the parameters, guidelines and methodologies of how companies assist themselves to obtain a B-BBEE status. So, when we talk about B-BBEE empowerment programmes, they are not specifically stated in the policy. What we've done is that we've created an environment of what are the benefits for small businesses and one of the benefits of the small businesses that we have introduced are sworn affidavit mechanism for these entities to attest to their BEE status”.

This environment requires EMEs to acquire sworn affidavits if they are in need of benefiting from B-BBEE empowerment programmes designed by big businesses. EMEs therefore acquire sworn affidavits with anticipation and this allows them to apply for opportunities. However, Gregory (November 2019) from 2006EME does not make use of sworn affidavits. He reported that he was not benefiting from obtaining them as he elaborates that:

“...if you did not get a tender or get paid your money, they (supply chain) will say to you there's something missing... a BEE Certificate,...and when I argue that I have given you the affidavit, they tell me that no the affidavit does not work, so the implementers or whoever is implementing these policies must school (teach) and inform the supply chain managers”.

This environment created by the department of Trade and Industry requires cooperation from the private sector. A number of these institutions including the National Empowerment Fund (NEF)

and Industrial Development Corporation (IDC) operate in this environment created to provide business growth of previously disadvantaged people. However certain criteria required by these institutions for EMEs to qualify to benefit is so stringent that micro businesses are not able to successfully tap into B-BBEE benefits of financial assistance from these entities. At the same time the Department of Trade and Industry does not address some of these problems that EMEs.

The Key Informant Policy Marker (September 2019) explained that:

“we are here not to address problems directly. We are here to create a conducive environment, one that is business friendly but at the same time addresses transformation, so anything in our legislation speaks to black, black South African citizen as per the definition”.

When the Key Informant Policy Marker (September 2019) was asked the roles that are being taken by stakeholders who seek to address transformation by creating empowerment programmes to benefit EMEs, he answered:

“I think that everybody needs to play the role somewhere along the lines, especially along business, corporate, small business, government departments, financial institutions, Labour, civil society. Everybody needs to be a part of the transformation journey. Um, everybody will have their own level of participation. There's only so much that, um, you know, certain financial institutions can do, there's only so much that government departments can do and there's only so much that business can do. But again, I mean government's responsibility is not there to, we are there to recreate obviously the environment for business to operate. We are not running businesses”.

What I deduced from this statement is that for policies to thrive, they need good environments that are collectively supported by all relevant stake holders. Economic policies that are affected by bad state of environment will surely not result in firms investments, but this plunges businesses into recession. This means that the state through B-BBEE must create an environment that enables economic structures to yield intended growth for black owned and black empowered businesses. The Parliament of the Republic of South Africa’s National Strategy for the Development of Small

Business in SA's white paper (1995) argues that an enabling business environment “makes it possible for SMMEs to develop and grow in the South African economy”.

The environment in which B-BBEE is operating seems to evade the core objectives of the policy as this is not easily understood by some of its intended beneficiaries. The study found out that B-BBEE does not provide clear regulations and guidelines for its beneficiaries. Policy making must be fully descriptive and specific on what is to be achieved by using mechanisms that provide advice and support to EMEs. However, this research shows that B-BBEE policy itself does not specify programmes that are called B-BBEE programmes (The Key Informant Policy Maker, September 2019). This is the reason why big corporate businesses do not implement B-BBEE programmes. According to Key Informant Policy Maker (September 2019), the mandate to create B-BBEE programmes was given to big businesses, organs of state and SOEs to come up with their own programmes in accordance with the guidelines given by the state. These programmes are expected to contribute to the growth of SMMEs in achieving the objectives of B-BBEE policy.

The policy only provides objectives that need to be attained in order to address issues of inequality, job creation and improve the lives of black people. In order for businesses to participate in B-BBEE programmes they need to comply with the B-BBEE Act that states that they must be verified (Key Informant Policy Maker, September 2019).

Furthermore, despite the ANC government creating an environment in which Large Entities, organs of state and SOEs create B-BBEE programmes through affirmative action to enhance SMME's economic growth, the environment surfaced with its own challenges. A neoliberal business environment emerged as a hindrance to the growth of EMEs. This environment creates massive competition on the markets as they operate with less or no government involvement as in a *laissez faire*¹⁴ system or environment.

¹⁴ According to Keynes (2010:9) *laissez faire* promotes a “process of leaving people to themselves; leaving individuals, that is to say, to follow the promptings of self-interest, unrestrained either by State or by the public opinion, so long as they abstain from force and fraud.

B-BBEE policy has continued to be impeded by this environment that emphasises that markets should dominate in determining supply and demand of goods and services. As markets continue to determine their own demand and supply, EMEs fail to satisfy the requirements of this market environment. The Key policy Maker (September 2019) explains that EMEs face challenges in which they fail to;

“...produce the required quantity, fail to give correct prices, and also fail to give capacity. Another biggest issue of small businesses is not about the capability of doing the work, it's about access to market. And that's one of the areas that we're trying to encourage, to establish this relationship [of corporate businesses] with these EMEs”.

The environment in which B-BBEE operates is highly regulated and processes need to be followed by any business that may want to benefit out of it. For example, the Key Informant Policy Maker (September 2019) argues that:

“from a public procurement point of view, I mean, as you know, we work with tax-payers money. You can't just go and say to this small guy, come here, let me give you a business. Let me give you a contract. You need to follow processes. It needs to be fair it needs to be um, equitable. It needs to follow a transparent process in terms of how you award that tender to that business. Um, and at the same time, you know, the way our procurement system is done, through Section 217 of our Constitution. So at the same time, that needs to be taken into consideration of, whereas you can't just say to this person come, I'll give you a contract. I think the biggest challenge is always an access to market component”.

High regulations are found in the public environment. The public sector is driven by high competition that results in companies compete at a high level and thereby setting the bar of regulations high. This results in EMEs fail to compete against the LE because they do not have resources that match the big corporate companies.

6.4 Incoherent political and economic institutional effects (corruption and fronting)

The instability of political and economic institutions leads to inefficiencies, maladministration and ‘corruption’. The power dynamics between the large and small companies make bigger companies take advantage of EMEs. This power dynamics makes bigger companies practice a concept known as ‘fronting’ which the Policy Monitor and Evaluator (October 2019) explained that:

“the challenge that I can highlight is in terms of getting work and as I indicated previously that um, EMEs need to be subcontracted mostly by the bigger companies. What happens is that um, uh, the bigger companies take advantage of EMEs when tendering by asking them to sign without disclosing some of the information in the documents they have signed and after signing they do not get access to see the finances of the project”.

B-BBEE programmes are vulnerable to economic instability because some businesses do not take B-BBEE seriously (Key Informant Policy Monitor and Evaluator, October 2019). The B-BBEE Commissioner does not sanction businesses that do not support B-BBEE initiatives. Sanctioning only comes in circumstances where there are acts of criminality, for example in corruption, fronting and misrepresentation of B-BBEE in an enterprise (Key Informant Policy Monitor and Evaluator, October 2019), otherwise non-compliance simply means that one cannot deal with, trade and benefit from the state and other businesses that support B-BBEE. If therefore a number of businesses are not willing to comply with B-BBEE, this means that there will be numerous businesses that will not recognise and support B-BBEE policies and the unintended consequences are that inequality and poverty will persist.

B-BBEE has found space in the political arena in which a debate has been going on in South Africa in a bid to end corruption, fronting, bias and failure of policy implementation caused by political interference. Political interference insulates a meritocratic professional bureaucracy that is meant to benefit a system (Bockel & Noordegraaf, 2006 cited by Muthien, 2014:126). According to both 2006EME and 2016EME tenders and procurement opportunities tend to be given to people politically connected to highly recognised political figures. On the other hand, fronting is done by big corporate businesses as they capitalise on poor black people’s lack of resources to run and own shares in the private sector. The Key Informant Policy Monitor and Evaluator (October 2019) explained that:

“We have also noticed that if for example there is a clause on the tender document looking for EMEs, these EMEs will be approached by bigger companies to go and tender and then after getting the work, it all gets done by big companies and money goes to the big companies and not to EMEs. So those are the things that we see and yeah, but also people are afraid to disclose these practices. Another thing, though we still need to get more information is that bigger companies are breaking themselves down into smaller companies and then they act as EMEs. For example, let’s say you are Matole Sun Trading Limited, then you create a smaller company with a new registration number, but with everything the same (directors and human resources) for the sake of getting opportunities meant for EMEs”.

The findings from desktop research on political and economic institutions has found out that when these institutions are unstable they grossly affect B-BBEE’s development and empowerment policies. For example, when a ruling party has internal fights, public confidence on policies promulgated drops as a result of contestation on how policies should be implemented and how the criterion of beneficiaries is selected. This contestation often leads to credit ratings¹⁵ agents such as Moody’s, Standard and Poor’s (S&P) and Fitch to down grade a country’s credit score thereby affecting economic policies (Almeida, Cunha, Ferreira & Restrepo, 2017:6).

The Key Informant Policy Monitor and Evaluator (October 2019) also emphasised that:

“ANC’s internal fights that have over the years ended up in courts have been seen as part of the perpetuation of corruption, nepotism and poor service delivery by potential beneficiaries. This maleficence exposes ANC government and its policies and the consequences are that SMMEs will cease to take B-BBEE seriously”.

¹⁵ Credit ratings agents rate a country as a debtor’s ability to pay its creditors. The debt is expected to be paid timeously together with its interests.

Therefore, political instability will result in subsequent alternative rules being chosen differently from the current rules and thereby resulting in institutional reform that affects the performance of a policy (Lagunoff, 2009:1).

6.5 Entrepreneur's attitude towards B-BBEE

The entrepreneurs' attitude towards B-BBEE policies was discovered to play a role in implementing the policy or not. These entrepreneurs are key decision makers of their businesses. Some of the key decisions that entrepreneurs need for the success of their businesses include vision for development. Plans, strategies and policies, policy implementation, adoption of public policies, use of mechanisms put in place by the state for their benefit and good business skills. A positive attitude towards these components is an enabler of policy implementation within an organisation. "The majority of research concerning ICT implementation in EMEs, starts from a generic approach and thereby underexposes the significant differences between companies, however the behaviour of EMEs' business owners is not only determined by economic motives, but also by social ones" (Pierson et, al., 2007:155). Entrepreneurs who change their behavior towards B-BBEE policy by adopting it, according to 2006EME, have higher chances of benefiting from exploring and complying with its regulations.

Gregory (November 2019) from 2006EME argues that:

"Ignorance that has been shown by many entrepreneurs and their lack of self-determination to look for business opportunities from B-BBEE policies has prevented them from benefiting B-BBEE programmes".

"The majority of research concerning ICT implementation in EMEs, starts from a generic approach and thereby underexposes the significant differences between companies, however the behaviour of EMEs' business owners is not only determined by economic motives, but also by social ones" (Pierson et, al. (2007:155). Entrepreneurs who change their behavior towards B-BBEE policy by adopting it, according to Gregory from 2006EME, have higher chances of benefiting from exploring and complying with its regulations.

When the Key Informant Policy Monitor and Evaluator was asked to comment on a number of debates about B-BBEE that come out on national television in the newspapers, on radio on how ineffective the policy has become, this is what she said:

“Yeah, so those are the challenges. If we, everyone can be willing to implement BEE policy correctly, I think after 10 years we will be talking another language and not BEE on this one”.

Another key variable that leads EMEs in the ICT sector to benefit from B-BBEE policies is when businesses adopt the use of ICT services to prepare themselves for the Fourth Industrial Revolution (4IR). The research has found out that from the 2 levels (primary and secondary levels) of ICT services, “the former deals with basic automatisisation of the production process and the latter deals with support system on an administrative and office level, where ICT is being introduced on the level of transactions (eg e-commerce, Customer Relationship and Management - CRM), knowledge (eg sector-specific software, business intelligence, communities of practice), and management (eg accounting software, e-HRM, balanced scorecard)” (Pierson et, al., 2007:154), most of the businesses as a result of the 4IR, have begun to shift to the secondary level usage of ICT.

This is what Gregory (November 2019) from 2006EME had to say:

“...some of our ICT services that we provide are systems integrated, so basically what we do is that first, uh, in ICT infrastructure, we first design the infrastructure, after designing it we prepare it for optimization, and if it needs support, we support it. So when a small business wants to operate, or wants to improve its business, these are the areas I look at when I go out to consult them. I look at all these aspects and this is what I call an integrated approach to service delivery. Therefore we cannot have a business in this information age that goes on in this 4IR without ICT, basically it will be like shooting oneself in the foot”.

6.6 Conclusion

This chapter has elaborated and shown that B-BBEE in its current form is not contributing to its full potential to the economic advancement of EMEs. High regulations have continued to hinder EMEs growth. Another point discussed is that EMEs are being defined ambiguously. Some regulatory bodies define EMEs based on their turnovers and some define them based on the number of people they employ. These different definitions create, shape and influence their existence. As this persists, business regulations cease to be effective and thereby not benefiting SMMEs. Furthermore, the chapter has shown that the success of a policy depends on political and economic environments of a nation. In this case B-BBEE, just like BEE its predecessor continues to be hindered by the neoliberal environment upon which it was created. Neoliberalism has further made markets evade EMEs and policy makers continued to give the responsibility of creating B-BBEE programmes to the corporate sector.

It has also been noticed that the instability of political and economic institutions has contributed to the demise of B-BBEE policy. Corruption within the corporate sector, fronting practices, and power dynamics between the large and EMEs make the bigger companies take advantage of EMEs. The section continued to show that some internal organizational structures prescribe how policies should be adopted. Internal decisions that come from internal processes of an institution have bearing to the implementation of a policy. Finally, entrepreneurs' attitude towards government policies plays major influence in adoption of developmental policies. For example, from the two interviewed EMEs, their different attitudes have resulted in different outcomes towards benefiting from a policy.

CHAPTER SEVEN – MECHANISMS THAT REPRODUCE INEQUALITY

7.1 Introduction

Following the argument of the policy's challenges emanating from its environment, the attitudes of the beneficiaries, incoherent political and economic institutional effects and the endogenous factors that normally affect policies, this section discusses mechanisms set by the state to enhance B-BBEE but that are reproducing inequality. These mechanisms are taken from various aspects of

the policy and are intended to enable the relationship between regulations, legislation and EMEs to advance black owned and black empowered businesses. Even though B-BBEE policy is an affirmative action policy that was legislated to lay the foundation for equality as a mechanism of empowerment that must protect and advance persons or categories of persons previously disadvantaged by unfair discrimination, these mechanisms keep failing to reduce the gap between the rich and poor, but rather doing the opposite. The following mechanisms will be addressed: affirmative action, sworn affidavits, sector codes and procurement, licensing systems and concessions. These mechanisms are enablers and catalysts of the policy in reducing unemployment and reducing inequality and any violation against the policy should get sanctioned (The Key Informant Policy Monitor and Evaluator, October 2019).

7.2 Procurement as an affirmative action policy

Key Informant Policy Maker (September 2019) discussed how procurement, concessions and licensing systems also act as mechanisms that should allow EMEs to benefit B-BBEE policies. These mechanisms “effectively now apply to every judicial entity be it a business, government department, educational institution, trade union, church, co-operative, charity, and so on” (RSA, 2013a, 2014). For large corporate businesses to be given concessions, licenses or successfully procure from the state, they need to make sure that they are in partnership with EMEs or black owned or black empowered businesses or they have a black empowerment programme in place that shows that the entity will over time, use black owned SMMEs in which they give them at least 30% shares in their operations. However, according to Key Informant Policy Maker (September 2019) the national treasury passed regulations that authorise business to be channelled to EMEs. In relation to public and preferential procurement he explains that:

“In terms of development where we have worked pretty well with um, one of the other government departments, national treasury, in terms of the public procurement system and your preferential procurement system, you will notice that in 2017 there were regulations released by national treasury that speak to, um, channelling procurement towards your EMEs and QSEs”.

The procurement and preferential procurement as a mechanism of empowerment is supposed to give opportunities through the ‘channelling’ of business to EMEs, as one of its objectives. However, the informants of EMEs in the IT sector revealed that that some strong relationships between these big entities and EMEs have resulted in unethical conduct by some large businesses doing fronting and corruption. This unregulated engagement has led to excessive corruption that has further perpetuated inequality.

The Key Informant Policy Monitor and Evaluator (October 2019) explained that:

“On other EMEs, what we noted is that if for example there is a clause on the tender document requesting EMEs, you will find the bigger companies do the tender and give EMEs, let us say R2,000 from that tender, as an example. EMEs become afraid to report the big companies for the fears of losing the R2,000. And another thing is that big companies are breaking themselves down into smaller companies in order to win tenders”.

The unethical behaviour shown by some corporate businesses has resulted in nepotism, patrimonialism and partisanship and fronting, and these attitudes impede B-BBEE policy from benefiting the ‘would be’ beneficiaries (Key Informant Policy Monitor and Evaluator, October 2019). These attitudes, especially fronting “directly undermines or frustrates the achievement of the objectives of B-BBEE policy, undermining its implementation, undermining black persons from substantially participating in the core activities of an enterprise, undermining the economic benefits from flowing to black people in the ratio specified in relevant legal documents” (B-BBEE Act No. 46, 2013:14). This is the reason the B-BBEE Commission is worried that regardless of how good their policy may, this unethical behaviour by big corporate businesses is contributing to the demise of the policy.

7.3 Affirmative Action in South Africa

Both the interviews and the desktop research reveal that affirmative action is being seen and is perceived differently in the public discourse. For instance, in ICT sector where discrimination is rife and the sector has shown minimum compliance (Thabela-Chimboza & Chigona, 2019:2), the

evils and injustices of apartheid cut across the different cultural settings in South Africa and for affirmative action to provide justice to these multi-cultural societies, it must be radical and revolutionary transformative because that past institutionalised injustice provided uneven distribution of economic, social and political power to communities (Gomez and Premdas, 2012:1). Both interviews and desktop research conducted showed that affirmative action is not a 'one size fit all' strategy, as it seeks to "find a solution in bridging the gap between White and Black in an effective way that will influence both parties" (Human, 2006:2).

South Africa's affirmative action's challenges still go beyond joblessness. Some jobs have been created in a bid to create a shared economy in which the gulf between White and Black is reduced (Human, 2006:2). However, Sibongile from 2016EME believes that some of these jobs are menial jobs in which the labourers were hired to dig trenches for laying optic fibre and this does not reduce inequality, but rather sustains unemployment and inequality. If these jobs do not meet the criteria of International Labour Organisation (ILO) of decent jobs, then there is no advancement of the intended beneficiaries of B-BBEE. All what the B-BBEE's affirmative action's aspects emphasise is that they require individuals from designated groups to have access to employment in all general and skilled spheres in order to contribute to narrowing down racial and gender wage gaps (Burger & Jafta, 2010:11).

Affirmative action subjects everyone to the same rules without distinction" (Burger & Jafta, 2010:6). This has made B-BBEE to firstly, get contested as it keeps bringing the 'white against black' contestation, secondly get contested on the geopolitical arena because of the nature of SA's demographics, third, affirmative action as a mechanism is then supposed to have ceased, but because it is not very effective it has to continue in public and private procurement. However continuous failure of the policy comes from lack of monitoring and enforcement by the relevant stakeholders such as B-BBEE Commission. Nieman and Bennett further argue that the policy's framework "alludes to systematic paradoxes resulting to either socio- economic and/or political connotations that on one hand presents opportunities and on the other challenges for organizations" (2006 cited by Mohapi & Njenga, 2012:5-6).

The Key Informant Policy Monitor and Evaluator (October 2019) said that:

“We don't have B-BBEE's data and this is now after 20 years. Yeah, ...in the report that was sent to you, for example, that was the first report that I think came in 2016 or 2017 that spoke about JSE companies and nothing to do with SMMEs”.

B-BBEE's efforts of seeking to level the economic field by giving more opportunities to the HDIs has left controversy as studies show that many countries that implemented affirmative action experienced different problems despite having been inspired and motivated by one another. This is the argument presented by Gomez and Jomo (1999 cited by Mohapi & Njenga, 2012:6) who argue that “the promotion of group preferences has resulted in unanticipated consequences e.g., the racial strife such as occurred in Malaysia”. Despite the positives of affirmative action in South Africa, affirmative action and B-BBEE policies have unfortunately portrayed costs and negative consequences that have been apparent to the public, for example the creation of black diamonds, corruption, nepotism, neopatrimonialism, impact of B-BBEE on race relations in South Africa and other ills (Jeffrey, 2013:145).

Different sectors including the ICT in the South Africa's context of affirmative action has created winners and losers and beneficiaries and non-beneficiaries. According to the Key Informant Policy Monitor and Evaluator (October 2019), only companies that have adopted B-BBEE policies and aim to empower the HDIs should be the ones to benefit from government's procurement and licencing programmes. However, despite the issues of ‘beneficiaries and non-beneficiaries’ and ‘winners and losers’, affirmative action is “seen as a conflict management policy” (Gomez & Premdas, 2012:6).

7.4 Sworn affidavits

Following affirmative action as one of the mechanisms to enable B-BBEE, government designed Sworn affidavits which will be used as tools to enable the policy reach its targets as envisioned in its creation. This is a document written under oath by a business owner declaring that his or her business does not make more than R10million per annum. Sworn affidavits are instruments that

are meant to get rid of ‘the red tape phenomenon’ that prevents EMEs from entering the business environment. According to the law, sworn affidavits replace the need of B-BBEE certificates in EMEs. These documents can also be obtained from SANAS¹⁶ accredited BEE rating agencies such as BEE Verification (Pty) Ltd, Empowerdex (Pty) Ltd, BEE Verification Agency CC and others. This document was regulated by the DTIC and is enforced by B-BBEE Commission in making sure that all EMEs obtain it for them to access tenders or potential business opportunities from the state and its entities and from companies that service the state.

This is the reason why the Key Informant Policy Maker (September 2019) stated that:

“companies must not make BEE one of those red tape in terms of entering into the business environment. That's why we took on the challenge to say, let us create a free mechanism, which is a sworn affidavit concept, where entities can also attest to their B-BBEE status and not have to pay fees. They actually get verified in terms of their black shareholding as well as the turnover”.

Key Informant Policy Maker (September 2019) explained that “prior to this they used to obtain actual B-BBEE certificates from rating agencies and one of the outcries by these EMEs was that B-BBEE certificates were another form of red tape that barred them from entering into new markets, because of the costs to acquire them, whereas sworn affidavits are free of charge”. However, despite sworn affidavits being official mechanisms to assist EMEs, the research revealed that there is a contention between the extent to which sworn affidavits are effective in assisting EMEs and whether B-BBEE certificates are a silver bullet for accessing tenders and Requests for Quotations (RFQ) from the state.

Sworn affidavits did not work for Gregory from 2006 EME. He explained that whenever he complies with the regulation to get sworn affidavits, he was unsuccessful to access business opportunities, but when he submits B-BBEE certificates, he secures business opportunities. Gregory’s (January 2020) suspicion is that supply chain personnel in some departments disqualify

¹⁶ South African National Accreditation Systems

applications from EMEs that do not have B-BBEE certificates, however this is contested as feedback is not always given on the reasons for unsuccessful tendering. This is the reason he said that:

“I do not see a sworn affidavit as a document that fully describes my need for business opportunities as it may be written by a police commissioner of oaths who has no idea of my business and that is why, I think, companies do not take affidavits seriously, but a BEE certificate is something that I like. Another thing Obert is that when you present it (affidavit), it might disempower the supply chain managers, eh, unless they know about it, but the supply chain managers when they send an email of request, they always put [ask for] a B-BBEE Certificate. So maybe they are not aware that affidavit can be accepted, but when they put a big standard document, B-BBEE certificate is there. So what I do, what I have been doing is that I go to (Companies and Intellectual Property Commission) CIPC website, I print some forms and they give me a BEE Certificate”.

For Sibongile the government seems to fail to communicate this new law to other procurement departments. She suspects that her company is not getting tenders because the supply chain personnel in these departments disqualify applications from EMEs that do not have B-BBEE certificates, however this is contested as feedback is not always given on the reasons for tender failure. If feedback was given for reason why one company has failed to be awarded a contract, then perhaps some of the reasons would be compliance that includes either Sworn affidavits or B-BBEE policies. Sibongile from 2016 EME follows the law by acquiring affidavits as required by law since she is an EME but struggles to secure government contracts. However, Sibongile's failures cannot entirely be attributed to the submission of the sworn affidavit in lieu of a BEE certificate. There may have been other factors such as price and experience that may be affecting her bid. Even though she still uses sworn affidavits, this is what she had to say after she was asked if big businesses have problems in using EMEs who submit sworn affidavits.

Sibongile (January 2020) argues that:

“an affidavit looks like a document that anyone can easily acquire by just going to the police station and give a statement to policemen and women who do not understand your business. Police do not even ask you valid information about your business, you just put your company name and the registration and that is it. Yet a B-BBEE certificate is a document that comes from a system or you get it from an accredited B-BBEE verifier; you pay for it, you feel a sense of responsibility and ownership when you get it”.

On the other hand Gregory from 2006EME agreed that the process of applying for a B-BBEE certificate and the certificate that he gets afterwards is something that he likes. He argues that B-BBEE certificates are more effective than sworn affidavits when they are applying for B-BBEE opportunities, however this is people's opinions. The law is clear, as it stipulates that EMEs do not require B-BBEE certificates anymore because they are costly for them, however they believe that sworn affidavits keep disadvantaging them. Gregory argues that whenever supply chain managers communicate with them through emails to participate in Request for Quotations (RFQ) or tenders, they always request BEE Certificates and when they present an affidavit, they found themselves being disadvantaged. This entrepreneur (2006EME) does not use affidavits anymore, he prefers to incur costs to acquire a B-BBEE certificate to submit for business opportunities even though he is an EME that is not supposed to apply for B-BBEE Certificates. This means that for other people such as Gregory, sworn affidavits are ineffective mechanisms to assist them in benefiting B-BBEE policies.

7.6 Conclusion

The section looked at examples of selected mechanisms that are in place to assist EMEs benefit from B-BBEE policies to enhance their businesses, however they have failed to empower the intended beneficiaries and ended up reproducing inequality. These mechanisms, according to the Key Informant Policy Monitor and Evaluator (October 2019) “are considered to be enablers and catalysts of the policy, so that it can benefit all intended recipients and meet its objectives of reducing unemployment and reducing inequality”. Failure to implement policy has resulted in these mechanisms becoming apparatus for perpetuating inequality.

The following final chapter of this research gives the conclusion of the paper, a discussion and recommendations and the possible areas of future research.

CHAPTER EIGHT – DISCUSSION AND CONCLUSION

8.1 Introduction

This chapter sheds light on the results presented in the preceding Chapters 6 and 7 in relation to the literature review and conclude by elaborating how the policy failed to advance or benefit the intended beneficiaries. Since legislation's objectives are to advance the intended beneficiaries, the failure of B-BBEE policies to advance EMEs makes us zoom into the literature in which affirmative action, policies, business regulations and organisational structures give meaning to economic and redistribution policies. The study also assists us to understand the potentials of B-BBEE in reducing unemployment and inequality. The literature and data gathered was useful in assisting us to understand the context of the findings in Chapters 6 and 7 through the public's perception of B-BBEE policy and political influence based on data gathered following a scientific method.

8.2 Wrap-up conclusion

The study has found out that the three elements covered in the literature review, namely i) affirmative action, ii) empowerment and transformation and iii) business regulations in their own merit may be sufficient and effective, but they are vulnerable to other factors such as politics, individual decisions by actors, corruption, global events, lack of resources. These elements were designed to achieve equality or provide equal opportunities in a society through including previously discriminated groups into the mainstream (affirmative action), to drive and enact change, in which limited resources are appropriately allocated to those that need them from the previously disadvantaged population (empowerment and transformation) and to create an environment in which businesses have equal participation in the mainstream economy through policy framework that provides regulations, guidelines and guidance for the development (business regulations).

The study found out that, for instance, affirmative action is being contested as it is seen to be facing challenges 23 years after its legislation in 1998. Hence Burger and Jafta (2010:3) argue that it is an opportunity to take stock of it and check its impact it has had over time. These challenges have resulted in the previously disadvantaged people getting access to ICT sectors without resources to sustain their businesses and this is hindering growth of EMEs in the ICT sector.

It further found out that the policy makers' difficult decisions of driving and enacting change in the society by allocating limited resources to the population are mired corruption.

The research also revealed that big corporate businesses are not comfortable with radical transformation as it gives incompetent businesses and people opportunities when they do not deserve by merit. It also found out that EMEs find themselves being over-regulated by business regulations and that the policy has no specifications of B-BBEE programmes but Large Entities (LEs) have been entrusted with programmes that should benefit EMEs. It also found out that some mechanisms that ought to assist EMEs are ineffective as there are no legal implications for corporate businesses that may not want to empower black owned businesses. When businesses do not comply with B-BBEE they do not get access government or state opportunities, either directly or working with working with complaint companies.

In as far as business environment is concerned to enable businesses to operate seamlessly, some agents' decisions impact their business' growth. A mixed reaction came in when one EME defied applying for sworn affidavits which is a legal requirement in favour of B-BBEE certificates but managed to successfully access the advertised request for proposals (RFQ). When sometimes businesses decide not to comply with regulations, they end up losing opportunities despite regulations in place to assist them to advance their businesses. Furthermore, the paper further looked at the literature on how organisational structure affect an organisation in adhering to policies. Several different types of structures such as power, network, hierarchical structures, and structural positions were discussed in this paper with an aim to show how such structures affect an organization thereby either making a policy effective or ineffective.

Siebers, Linde and Op't Hoog (2010:64) have stressed that an approach to affirmative action must be assisted by legislation and policy to achieve its objectives to address inequalities. An example of legislation that assist affirmative action is the Employment Equity (EE). This study suggests that there is more literature that helps us to identify issues in policy setting. For instance, as I zoomed into affirmative action policy, I discovered that policy alone does not give a positive impact to those who comply as other factors may have effects and influences who should benefit or not, or whether the policy can be successfully implemented or not.

Another point of discussion is the role of political and economic institutions. Conditions that enable policies to thrive are created collectively by political and economic institutions. Politics has power to control these institutions and when they (institutions) do not work together harmoniously, it suggests policies fail to meet their objectives. Politics must defend economic institutions against external forces that seek to destabilise them, and at the same time political institutions must monitor economic institutions to make sure that they implement policies appropriately. Any lack of political-will by political institutions to closely monitor big businesses on whether they are implementing B-BBEE policies or not, may have been another contributing factor that resulted in the policy failing to meet its objectives of benefiting all qualifying beneficiaries. The research also noted that political actors' desire to uphold political expediency sometimes overshadows the reasons to understand why certain policies are created and fail to exercise their oversight responsibilities.

The study has therefore found out that the ICT sector remains untransformed because of high barriers to entry, high cost of borrowing (debt), extensive and excessive administrative requirements and complex rules for B-BBEE, lack of education and training among black people and as well as suspected political interference in allocation of tenders and RFQs. While B-BBEE policies, empowerment and transformation and business regulations could advance black people in ownership and employment within this sector, official policy is not working, yet it remains vague about whether this means the policy should be scrapped or somehow made to work better. This paper will argue that the problems that barred historically disadvantaged people from participating on the mainstream economy still follow them in this dispensation, with new problems caused by the inefficiency of the current government.

8.3 Area of future research & conclusion

This research has sought to understand role of B-BBEE policies in advancing EMEs as an objective of its policy. There is extensive research on EMEs that looks at “the validity of sworn affidavits for B-BBEE compliance” (Munetsi, 2019), and on the other hand Goldberg (2015) and Nolan (2018) spoke about how B-BBEE sector codes assist in transformation. This paper had a different approach in which it looked at how, for instance, these mechanisms were designed to assist the programme but the consequences have worsened the situation resulting in B-BBEE being contested on the political arena with some people calling for its banishment.

This research paper’s objective was to explore the role of B-BBEE policies in advancing EMEs as one of their core objectives. It evaluated the roles based on scholarly literature discussed in Chapter 2. The paper reached its objective and concluded that the policy faces a number of challenges that have resulted in it creating a gap between the policy and one of its intended recipients (EMEs) and the ICT sector is an example of a sector in which there is an increasing inequality gap between the ‘have’ and the ‘have not’. Therefore, more research needs to be done to find the synergy between literature and policy making. Literature assists in identifying critical problems that must be solved by policies, literature assists in evaluating the performance of policies, it helps us to take appropriate implementation procedures and it informs decision making processes.

The paper concludes by indicating that best policy framework is also vulnerable to other external factors and for policies to be implemented with minimum interruptions, frequent workshops are necessary to be held for all stakeholders that are involved who are entrepreneurs, the business sector and policy officials. Businesses, especially EMEs from any sector rely heavily on the support from the state to implement policies for their benefit. Therefore, over and above the challenges of policy implementation that are well known in the country, the state needs to be able to curb challenges that have been elaborated in the study that contribute to the demise of policies.

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ANNEXURE 1: EME INTERVIEW QUESTIONS

- My name is Obert Nangara from Wits University.
- I am here to conduct an interview with you as the representative of your company in order to gain your input.
- All the information you share will be treated with the strictest confidence and that comments/input provided will furthermore be anonymised during data analysis

This interview is being done to find out your knowledge of B-BBEE as a policy, whether you understand how the policy benefits your business, and whether you know how to access it.

Background questions

1. How did you end up being in business, what informed your decisions to end up in the construction sector in particular?
2. How old is your company and how long have you been serving in your current position?
3. Have you experienced notable growth in your business in the past financial year? If yes, how and if no what happened?

Understanding the problem

1. Are you aware of the B-BBEE policy and its benefits to EMEs?
2. Are you aware of the indirect empowerment that is responsible for preferential procurement, enterprise development and supplier development from B-BBEE? If so, what have you done to benefit from procurement, be it from large corporates or organs of state?
3. Do you see your enterprise with the capacity to access the policy's indirect policies? What capacity do you currently have and do you have the necessary resources?
4. As you understand it what effort have you made to benefit from its policies, if you have done so?
5. To what extent do you think this B-BBEE policies are effective?

6. What challenges have you encountered as you attempted to benefit from B-BBEE policies?
7. As far as you know, where or how does this policy break down? In what ways/ by which department/s is it not adequately implemented?
8. Have you applied for tenders before? If so what has been your success rate? Again in your opinion, what aspects of the policy are currently working well for companies that tender? Do you see the procurement and enterprise development aspect an advantage to you as an EME that does not have to get a B-BBEE Certificate but an affidavit?
9. For all tenders that you may have not succeeded, were you given feedback on why you did not qualify to get the contracts? May you tell me some of the feedback from previous tenders that you applied if any?
10. Have you felt discouraged from applying for tenders before? If so, may you tell me more what were the reasons for being discouraged?
11. Based on your views and how the government has empowered the construction industry, what are the major factors that influence accessing government support services for the growth of your business?

Effects of B-BBEE on the SMME sector

1. What do you think is the intention of the B-BBEE policy? How do you believe it assists SMMEs?
2. What are its effects on EMEs if the policy breaks down or is not implemented effectively?
3. Since you do not submit B-BBEE Certificates but affidavits as you are considered as Exempted Micro Entities when you apply for tenders, do you think affidavits disadvantage you when big companies submit B-BBEE Certificates? If so in what way do you think affidavits affect your chances of getting tenders or procurement opportunities?
4. Have you heard about enterprise and supplier development element about B-BBEE policy? If so, what do you think it is?
5. Do you think enterprise and supplier development are important for your business? If yes/no why?

6. Do you think you have resources to be a preferred enterprise and supplier vendor for large enterprises and organs of state?
7. Do you think there is government assistance required to capacitate you for enterprise and supplier development element of B-BBEE?

Recommendations

1. In your opinion, what is the biggest challenge/inhibitor to B-BBEE policy?
2. In your opinion, what would be the biggest enabler to allow the policy to be effective?

Interview closure

1. Have I missed anything important in relation to B-BBEE policy that I should take note of?

ANNEXURE 2: KEY INFORMANT INTERVIEW QUESTIONS (DTIC)

The Department of Trade, Industry and Competition (DTIC)

- My name is Obert Nangara from Wits University.
- I am here to conduct an interview with you as a key informant of the Department of Trade, Industry and Competition (DTIC) in order to gain your input.
- All the information you share will be treated with the strictest confidence and that comments/input provided will furthermore be anonymised during data analysis

This interview is being done to find the relationship between the Broad-Based Economic Empowerment (B-BBEE) policy and EMEs.

Background Questions

1. How long have you been with the DTIC and serving in your current position?
2. Do you have programmes in which EMEs benefit due to their nature of being SMMEs, if so what is/are the programmes and when were the incentive schemes established?
3. What was the strategic motivation behind the establishment of those incentive schemes?
4. How has your department institutionally evolved over time?
5. And how has this evolution/change impacted on the original strategic mandate of your department, if at all?
6. Tell me more about the shift from BEE to B-BBEE. What influenced this shift?
7. Have there been other policies that supported the shift?
8. Has this shift yielded results that you envisaged at the time of broadening the participants of B-BBEE policy?
9. How did you measure the success/failure of the programme?

Development of the SMME sector

1. Tell me more about your department's development efforts/initiatives to develop and support the EME sector through B-BBEE policies?
2. In relation to your department's efforts/initiatives of developing EMEs through B-BBEE policies, which other key government departments are you collaborating/working with? How has that collaboration been working? Has it been fruitful in terms of reaching intended objectives?
3. If your department is currently not collaborating/working with any other government departments, why is this the case?
4. Which government departments do you think you should be collaborating/working with in order to meet B-BBEE's objectives?
5. And in your opinion, what can be done to initiate, foster, and sustain such a collaboration?
6. On a strategic level, has the nature of your department's development and support efforts/initiatives changed over time? If yes, how have they changed and why do you think this is the case?
7. To what extent has the historical evolution of your department impacted on the evolution of these support services?
8. And if no, should your department be considering changing the nature of these incentives? How do you think they could change and why do you think they should change?
9. Would you say EMEs have been part of the main beneficiaries of your department's development support services or incentives?
10. Are there sectors of the industry who should be benefiting from B-BBEE policies but are currently not?
11. Why do you think that these/this group/s is/are currently not able to benefit from B-BBEE?
12. What is your department doing to reach these group/s? And how successful have these efforts been?

Challenges experienced by EMEs

1. What are some of the core challenges experienced by your department in the implementation of B-BBEE's programmes to develop and support EMEs?
2. What are intergovernmental co-ordination processes across the department that support EMEs?
3. Based on your department/entity's engagements with EMEs, what are some of the core challenges they experience in their own efforts to grow and sustain their businesses?
4. In your own opinion, which stakeholders or role players should be doing what in order to support B-BBEE policies in order to support efforts to grow EMEs?
5. Which stakeholders or role players should be supporting the growth and sustainability of EMEs?
6. Do you have means of getting feedback from EMEs about B-BBEE's impact in their operations? If so, what processes do you have?
7. Do you have statistics of EMEs that have benefited from B-BBEE? If yes, can they be presented, if no, how do you know that the programme is meeting its objectives of broadening the participation to include more black people and EMEs?

Interview Closure

1. Have I missed anything important in relation to B-BBEE policies and EMEs that I should take note of?

ANNEXURE 3: KEY INFORMANT INTERVIEW QUESTIONS (B-BBEE Commission)

B-BBEE Commission

- My name is Obert Nangara from Wits University.
- I am here to conduct an interview with you as a key informant of B-BBEE Commission in order to gain your input.
- All the information shared will be treated with the strictest confidence and that comments/input provided will furthermore be anonymised during data analysis

This interview is being done to find out the monitoring and implementation of B-BBEE in relation to Exempted Micro Enterprises (EME).

Background Questions

1. How long have you been with B-BBEE Commission and serving in your current position?
2. What is the strategic motivation behind the implementation of B-BBEE policy
3. How has your department institutionally evolved over time?
4. And how has this evolution/change impacted on the original strategic mandate of your organisation, if at all?

Implementation of B-BBEE Policy

8. What are some of the core challenges experienced by your organisation in the implementation of B-BBEE policy to develop and support EMEs?
9. What are intergovernmental co-ordination processes across the organisation that support EMEs?
10. Based on your organisation's engagements with EMEs, what are some of the core challenges they experience in their own efforts to grow and sustain their businesses?
11. In your own opinion, which stakeholders or role players should be doing what in order to support your organisation's specific development and support efforts to grow and support EMEs?

12. Which stakeholders or role players should be supporting the growth and sustainability of EMEs?

Monitoring of B-BBEE Policy

13. Tell me more about your organisation's efforts to monitor the development and support of B-BBEE to EMEs?
14. In relation to your organisation's efforts, which other key government departments are you collaborating/working with in monitoring the performance of B-BBEE policy to make sure that more EMEs benefit from the programmes? How has that collaboration been working? Has it been fruitful in terms of reaching intended objectives?
15. If your organisation is currently not collaborating/working with any other government departments, why is this the case?
16. And in your opinion, what can be done to initiate, foster, and sustain such a collaboration to monitor B-BBEE's performance?
17. To what extent has the historical evolution of your organisation impacted on the evolution of monitoring mechanisms, if there are any?
18. And if nothing, should your organisation be considering adopting some mechanism of monitoring the performance of B-BBEE policy to EMEs? How do you think monitoring mechanisms should be made and by which department/s and what change do you envisage?
19. Would you say EMEs have been beneficiaries of B-BBEE? In what ways?
20. If not, why do you think EMEs are not benefiting from B-BBEE policy? What efforts are you making to make sure that more EMEs benefit from the policy?

Interview Closure

2. Have I missed anything important in relation to the implementation and monitoring of B-BBEE policy in relation to EMEs that I should take note of?

ANNECURE 4: PARTICIPANT CONSENT FORM

Research Topic: Broad-Based Economic Empowerment and Exempted Micro Enterprises (EMEs)

Name of Researcher: Obert Nangara

Iagree to participate in this research.
The research has been explained to me and I understand what my participation will involve.

I would like / would not like my participation to remain anonymous in the final research document. *(delete whichever is not applicable)*

I agree / do not agree that the researcher may use anonymous quotes in his final research report *(delete whichever is not applicable)*

I agree / do not agree that the information I provide may be used anonymously by other researchers following this study *(delete whichever is not applicable)*

I agree that the interview may be audio recorded YES NO

.....(Signature of Participant)

.....(Name of Participant)

.....(Date)

.....(Signature of Researcher)

.....(Date)

ANEXURE 5: PARTICIPANT INFORMATION SHEET



1 Jan Smuts Avenue
Braamfontein
2000
Johannesburg
South Africa
Tel: (011) 717 1000

Dear Sir/Madam

My name is Obert Nangara and I am a Masters student studying Organisational and Institutional Studies (OIS) at Wits University in Johannesburg. As part of my studies I have to undertake a research project, and I am investigating the relationship between the Broad-Based Black Economic Empowerment and Exempted Micro Enterprises (EMEs). The aim of this research project is to find out why the policy has not benefited more EMEs.

As part of this project I would like to invite you to take part in an interview that I will conduct at your office. This activity is a single interview and will take around 60 minutes. With your permission, I would also like to record the interview using a digital device. The recorded interview will stay in my cellphone that is accessed through a password. After transcribing and analyzing the data, I shall delete the recording.

You will not receive any direct benefits from participating in this study, and there are no disadvantages or penalties for not participating. You may withdraw at any time or not answer any question if you do not want to. The interview will be completely confidential. I will also try by all means to keep you anonymous, even though it is not guaranteed during the research process through our introductions and sometimes through my interaction with you, but I endeavor to manage it in such a way that the final research report does not bear your name or names of any person and department. I will therefore not be asking for your name or any identifying information, and the information you give to me will be held securely and not disclosed to anyone else. I will be using a pseudonym (false name) to represent your participation, in my final research report. If you experience any distress or discomfort, we will stop the interview or resume another time.

If you have any questions afterwards about this research, feel free to contact me on the details listed below. This study will be written up as a research report which will be available online through the university library website. If you wish to receive a summary of this report, I will be happy to send it to you upon request (optional). If you have any queries, concerns or complaints regarding the ethical procedures of this study, you are welcome to contact the University Human Research Ethics Committee (non-medical), telephone + 27(0)11 717 1408, email Shaun.Schoeman@wits.ac.za

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Obert Nangara', written over a horizontal line.

Obert Nangara

Student: 1284029@students.wits.ac.za 082 062 5461

Supervisor: Federica Duca, federica@pari.org.za (011) 482 1739