

BEE IN REVIEW

MORE THAN BOX-TICKING REQUIRED

By Sipho Pityana

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BEE must measure up to its original spirit of economic inclusion and growth, says Pityana, in this edited version of a hard-hitting speech at the Nelson Mandela Bay Annual Leadership Summit on 10 June 2015

We recently saw the introduction of the department of trade and industry's new Codes of Good Practice for broad-based black economic empowerment (BBBEE). Simultaneously, we are in the midst of a review of the Mining Charter, which will set the tone for a troubled industry during the charter's third five-year period.

This comes at a time when more jobs have been lost and the economy disappointingly grew at a meagre 1.3 percent in the first quarter of this year. The electricity crisis and costs are choking growth. The manufacturing industry is struggling for survival and various mining companies have "for sale" signs up for assets whose operating costs have become uneconomical. The ratings agencies have put South Africa on close watch for a sovereign downgrade. You can add more to the list, but, in a nutshell, our economy is in deep trouble and in desperate need of imaginative, innovative and selfless leadership.

I'd like to enter the lion's den today and offer some thoughts about BEE and the transformation road our country has taken.

EARLY AMBITIONS

We cannot say that we have achieved anything near optimal outcomes through



these BEE endeavours, particularly on ownership, which – regrettably, in my view – remains the priority focus. And I am not saying this from the oft-expressed perspective that the established companies have not transferred sufficient value to black shareholders. The real problem is that, with some notable exceptions, these transactions have become something of a zero-sum game through the transfer of equity with little thought given to how BEE can contribute to growth, employment and economic development. As black business we do not seek handouts, but a meaningful role in the redefinition, not only of our economic landscape, but that of the world as well.

The stated aim of the Broad-Based BEE Act (Act 53 of 2003) is to "promote the achievement of the constitutional right

to equality, increase broad-based and effective participation of black people in the economy and promote a higher growth rate, increased employment and more equitable income distribution".

The Mining Charter is even more ambitious: "The key objectives of the Mineral and Petroleum Resources Development Act and of the charter will be realised only when South Africa's mining industry succeeds in the international marketplace, where it must seek a large part of its investment and where it overwhelmingly sells its product, and when the socio-economic challenges facing the industry are addressed in a significant and meaningful way."

The early work in the mining sector charter negotiations proceeded very carefully and strategically. Early thinking in government and the more enlightened parts of the business community were very conscious of the difficult balance that had to be straddled between redressing the past while sustaining an economic system that would be competitive in the world market, provide the growth needed to reverse a growing unemployment rate and reverse the terrible poverty and inequality trends that we had inherited.

What has been achieved since the implementation of these policies? How has BEE contributed to employment, that most potent tool for economic inclusion and redistribution? To equitable income distribution? To economic growth? To global competitiveness? When we don't factor these goals into our review, we

regress to a superficial, self-serving and chauvinist self-aggrandisement based on racial redress, even when the price is a diminishing pie. It is a mindless and relentless race to the bottom. Unless we grow the economy and jobs, we are all reduced to a fight against each other for crumbs.

The review debate has focused on a quantitative audit-style approach that is typical of the BEE rating agencies. This approach excludes the above policy considerations. If one looks at most of these BEE instruments, it becomes clear that – with a few honourable exceptions – they have become bureaucratic and legalistic exercises in box-ticking.

Meeting employment-equity targets does not mean that the workplace has become a conducive environment for black people – or women – to work. Crass, overt racism is disappearing from the average workplace, though I'm not sure one can say the same about sexism. There remains racial and gender paternalism, cultural bias, and other attitudes which – while seemingly hidden from those unable to see these things – make it extremely difficult to develop the integrated teams necessary to a successful business endeavour.

As business, we are rewarded for committing budgets to enterprise development and for procuring from designated groups without ever having to pause and assess the impact of these arrangements on enhancing the efficiency of the economy. This has fostered the rise of the BEE middleman, with no skill, no business and who takes no risk, but just by being black, creams it off. This becomes an incentive for corrupt transactions that can only be bad for the economy. The consequence has been to raise procurement costs and undermine entrepreneurship: why take risks and the pain of having to contend with banks and difficult employees when you can make the same or more money by just being a middleman?

Just to be clear, I am unambiguous in my support for these policies as articulated in their objectives. Nonetheless, I am

concerned that the deafening silence about their unintended consequences does not serve our agenda for transformation well. We will be ill-advised to proceed to set revised numerical targets without confronting these challenges.



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OWNERSHIP ISSUES

When the charter was developed in 2002–03, there was little precedent or experience of what a typical BEE transaction would look like. The 26 percent target was one of those eleventh-hour decisions that happen during the final phase of negotiations, sometimes – and certainly in this case – without much clarity on what it would mean in practice. The 26 percent target was a symbolic one, based on the ability of 25 percent of shareholders to block certain corporate decisions. In reality, few in the government and organised labour were familiar with the world of share ownership, how companies were owned, and who owned them. At the same time, business had done very little thinking about how such transactions might be structured.

What the research showed, though, was the wide range of initial value transferred through discounts and/or other financing arrangements. A collection of transactions showed an average cost-to-company of 7 percent of market capitalisation. In the early days, investors saw, and accepted, that this was a necessary, once-off cost of transformation. (And it was the only real substantive cost, given that the other pillars of BEE were essentially compatible with enlightened self-interest.) As a result, little value was ever transferred to the intended beneficiaries. But, as stated, the 26 percent ownership target had taken on an intractable, populist, and largely meaningless political cachet, which has helped to create the current confusion.

To the extent that beneficiaries have not used their good fortune to generate additional productive value, the exercise has been pointless. Even worse is the conspicuous consumption that has, unsurprisingly, given rise to resentment among many of our people.

We need also to clarify what we mean by broad-based BEE: is this equity participation for those who need short-term income to meet basic needs, or to have charitable trusts investing on their behalf? Is equity participation appropriate in these circumstances? Shouldn't "broad-based" empowerment mean broad inclusivity in the economy through employment and other pillars?

In conclusion, then, our country's transformation project has become increasingly superficial, shallow, and separated from the growth imperative that we so desperately need. We are ticking boxes to avoid trouble rather than using them – when they are actually needed – to guide what really needs to be done to develop our economy and genuinely heal the inequities of the past.

We need to start a proper and honest conversation. [NA](#)

NOTE

The full speech is available online at www.bdlive.co.za/opinion/2015/06/10/we-need-to-get-beyond-the-tick-a-box-approach-to-bee