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# Business Impact of the Black Economic Empowerment: A Critical Review of Four Case Studies

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## Abstract

The majority blacks in South Africa were systematically excluded from meaningful participation in the economic life of the country during the apartheid era from 1948 to 1994. More specifically, the blacks were deprived of ownership in industrial firms and denied responsible positions in the private as well as the public sectors. To address this injustice, the South African government introduced the policy of Black Economic Empowerment (BEE) in the aftermath of the collapse of the apartheid regime in 1994. This paper investigates the impact of the BEE policy on the businesses in South Africa by reviewing four case studies. The companies covered in three of the four case studies and 500 managers surveyed in the fourth reported different challenges in implementing BEE while at the same a number of commonalities were also found. This paper concludes with a discussion of the challenges and commonalities in implementing BEE in South Africa.

**Keywords:** Black Economic Empowerment; South Africa; Service Industry; Wine Industry; Mining Industry.

## 1. Introduction

While the roots of racial segregation in South Africa dates back to the second half of the 19th century, the apartheid regime that came into power in 1948 codified it into laws and strictly enforced them. The apartheid laws forcibly and cruelly mandated physical segregation between races, which removed black people and other ethnic groups (colored, Asian/Indian) from their properties and forced them to live in separate areas under deplorable living conditions. The inhumane apartheid laws systematically deprived the majority black of their basic human rights and prevented their meaningful participation in the economic life of the country. (South African History Online, 2016). As a result, "almost all south African firms were owned by white investors and were run by white managers" (Jackson, Alessandri & black, 2005). Furthermore, blacks were virtually not present in management positions in South African industrial firms; as of 1995 black ownership of the private enterprises was less than 1% of the total values of the Johannesburg Stock Exchange (Cargil, 1999)

When the apartheid regime collapsed in 1994 and Nelson Mandela was sworn in as president of the country's first multi-ethnic government (Our Africa, 2016), the government introduced the policy of Black Economic Empowerment (BEE) and urged South African firms to increase black ownership by offering equity stakes to black investors at a substantial discount (Jackson, Alessandri & black, 2005). This paper investigates the impact of BEE on South Africa's business environment by reviewing four case studies.

## 2. Background

The African National Congress (ANC) that emerged in 1990 after decades of political exile was officially committed to the Freedom Charter of 1955 and that document's call for the nationalization of South Africa's banks, mines, and monopolies (Chabane, Machaka, Molaba, Roberts & Taka, 2013, p. 22). In fact, however, the ANC quickly moved away from anything resembling such radicalism. Nowhere was this made more salient than in 1993 when the ANC ignored a demand from the Congress of South African Trade Unions that the unions play a larger role in setting the country's economic agenda. Instead, the ANC organized a summit of black businesses at Mopani Lodge in Kruger National Park

(Bundy, 2014, p. 35). As a result of this summit the Mopani Memorandum of Understanding set forth the principles of what would become the initiative known as Black Economic Empowerment (BEE). Among these principles were that black (meaning in the South African context, persons who are African, colored, or Indian) businesses should be aligned with the ANC, that affirmative action legislation should be enacted to promote black businesses, that black businesses should be consulted when formulating government policy, and that state institutions and public corporations should respond to the needs of black businesses (Chabane et al., 2013, pp.22-23). Notably, restructuring the economy and redistributing wealth, two things many ANC members and their supporters in the South African Communist Party expected, were not part of the equation (Bundy, 2014, p. 34).

Although the principles outlined at Mopini were recommendations only, some large public companies thought it prudent to place blacks on their board of directors and also to sell, often on very favorable terms, a proportion of their unissued equity to black purchasers. To critics both black and white, many of these purchasers appeared to have an inside-track, such as former secretary of the ANC's Youth League, Nthata Motlana, who was given exclusive opportunity by Sanlam, one of South Africa's biggest companies, to buy 10% of its Metropolitan Life subsidiary (Fauconnier & Mathur-Helm, 2008, p. 6). Although a stock market correction in the late 1990s erased any gains these particular blacks may have gotten from their favorable deals, in the future blacks like them who seemed to always be part of the most lucrative BEE transactions became to be popularly known as "the usual suspects" (Fauconnier & Mathur-Helm, 2008, p. 7).

The concept of BEE as formulated at the Mopani Lodge was followed by government initiatives such as the Reconstruction and Development Program of 1994 which sought to redress the economic inequalities of the apartheid era (Bundy, 2014, p. 37). For example, the first affirmative action laws were passed in 1996 which mandated certain targets, varying by sector, of black employment in management and other skilled professions, as well as the promotion of initiatives in support of black enterprises. It would only be with the BEE Commission created in 1999, however, when a thoroughly interventionist approach to black economic empowerment was assumed by the ANC government (Acemoglu, Gelb & Robinson, 2007, p. 4). Two years after its foundation, the BEE Commission issued a report from which the process of asset transfer from whites to blacks was placed within a legal framework, and also from which the nature of BEE was greatly expanded. Officially, BEE was now to be known as Broad-Based Black Economic Empowerment (B-BBEE) although in practice the policy is still widely referred to as just BEE. The broad-based version of BEE would encompass, according to the Commission, "elements of human resource development, employment equity, enterprise development, preferential procurement, as well as investment, ownership and control of enterprises and economic assets" (Fauconnier & Mathur-Helm, 2008, p. 7). Towards this end the Commission recommended that specific goals be achieved within the next 10 years; principally, that 25% of shares on the Johannesburg Stock Exchange (JSE) be in black hands, and that 50% of government procurements be from enterprises that are black-owned. The Commission also set forth three BEE focus areas aimed at helping black South Africans enter the mainstream economy. The focus areas were (1) direct" empowerment via blacks owning and managing businesses, (2) "human resource development" via affirmative action and training programs to give blacks a leg-up in terms of employment opportunities, and (3) "indirect" empowerment via black business development and preferential procurement (Acemoglu, Gelb, & Robinson, 2007, p. 7). Based on the Commission's recommendations a "balanced" scorecard was developed in 2003 (see Table 1 below) that provided weights (or conversion factors) for each of the seven basic dimensions of the three BEE focus areas (Chabane et al., 2003, p. 27). As an example, a firm that wished to achieve a score of 20% for "indirect empowerment efforts" meant that it would have to purchase 100% of its inputs from "preferential" (black) suppliers. Conversely, should the firm instead purchase all inputs from white owned suppliers, the firm would receive a score of zero on "indirect empowerment efforts" (South African Department of Trade and Industry, 2003, p. 32).

The Commission's recommendations became law in 2004 when President Thabo Mbeki signed the Broad-Based Black Economic Empowerment Act. The Act was fully codified in 2007 with the stated purpose of "broadening participation, equity and access to redress for all economic citizens, particularly those previously marginalized" (Krüger, 2011, p. 208). A special "B-BBEE unit" within the Department of Trade and Industry was created in order to "work towards ensuring, through equity and empowerment policies and strategic interventions, that the South African economy is restructured, to enable the meaningful participation of black people, women and rural or under-developed communities in the mainstream economy, in a manner that has a positive impact on employment, income redistribution, structural re-adjustment and economic growth" (Krüger, 2011, p. 208). Whereas the BEE concept was initially geared specifically for the black political elite, now the concept ostensibly applied to a wide swath of South African society, and currently all South African companies including sole proprietors, cooperatives, multinationals, etc., regardless of ownership, white or black, must follow the legal mandates of BEE or else face stiff fines. In reality, however, adherence to BEE varies. Companies listed on the Johannesburg Stock Exchange (JSE), companies seeking government contracts, and companies in politically-sensitive sectors like mining, are usually the most compliant; in contrast, non-public companies doing business solely in the private sector are often the least compliant (Acemoglu et al., 2007, p. 9).

| Table 1: The BEE Scorecard | | | | | |
|---|---|---|---|---|---|
| **Core Component of BEE** | **Indicator** | **Conversion Factor** | **Raw Score** | **Weighting** | **Total Score** |
| **Direct Empowerment Score** | | | | | |
| Equity Ownership | % share of economic benefits | 2 | | 20% | |
| Management | % black persons in executive management and/or executive board and board committees | 2 | | 10% | |
| **Human Resource Development and Employment Equity Score** | | | | | |
| Employment equity | Weighted employment equity analysis | 2 | | 10% | |
| Skills development | Skills development expenditure as a proportion of total payroll | 2 | | 20% | |
| **Indirect Empowerment Score** | | | | | |
| Preferential procurement | Procurement from black-owned and empowered enterprises as a proportion of total assets | 20 | | 20% | |
| Enterprise development | Investment in black-owned an empowered enterprises as a proportion of total assets | 20 | | 10% | |
| **Residual 10%** | | | | | |
| To be determined by sector/enterprise | | | | 10% | |
| **Total Score out of 100%** | | | | | |
| **Source: South African Department of Trade and Industry** | | | | | |

The B-BBEE Act is too recent to have had a noticeable impact on economic inequality—which remains profound—in South Africa, although the Act may have contributed to elevating some blacks into the ranks of the white middle-class, a phenomenon that has become apparent since the end of apartheid (Fauconnier & Mathur-Helm, 2008, p. 1). The Act has, however, had an observable impact on the South African business environment, and this paper will examine this impact as it relates to a meter-reading firm, a mining company, the South African wine industry, and managers from a spectrum of industries. All four case studies were culled from peer-reviewed academic journals. This paper will end with a brief conclusions section.

## 3. Evidence from the Service Industry

In a case study of a small service firm, Boshoff (2012) points to an important feature of BEE, i.e., black ownership and management is neither sufficient nor even necessary for a company to earn a high score on BEE dimensions shown in

Table 1. For example, high scores can be achieved through a firm's procurement and skills development decisions. As such, it alters demand along the value chain to ensure that BEE "policy consequences transform the larger economy" (Boshoff, 2012, p. 208).

In his case Boshoff (2012) investigated the relationship between a firm's boundary choices within its value chain and the BEE pressures it faces from its clients. More specifically, the author posed three important questions:

> *(1) "If BEE is aimed at altering demand along value chains, does it lead to changes in boundary decisions by firms? (2) If heterogeneity in BEE policy leads to heterogeneity in client preferences faced by a particular firm, does it lead the firm to adopt heterogeneous boundary structures? (3) If firms are not merely passive responders to policy, how do they use changes in boundary structure to maintain their competitive advantage in light of BEE requirements?*[1]

The subject of Boshoff (2012) case study is a small South African firm, MRS, (name disguised for confidentiality) which provides electricity and water meter-reading services for municipalities and private property managers. MRS is capable of engaging in all three parts of the meter-reading value chain, which consists of project planning, collection of meter-readings, and data processing. The author looked at three municipal and two private clients served by MRS as listed in Table 2 below.

Two private clients (projects 1 and 5 in the Table 2) engaged MRS for all three links of the meter-reader value chain; one municipality (project 2) engaged MRS for two links; and two municipalities (projects 3 and 4) engaged MRS for just one link. In other words, for municipal clients MRS had decided on value chain boundaries in terms of what links it would own and what links it would relinquish in order to win the contract.

**Table 2. Financial Information Showing Modules in Which MRS is Active**

| Project | Party Invoiced | Description of Service on Invoice | Modules in Which MRS Involved |
|---|---|---|---|
| Project 1 | MRS bills end customer | "Full meter-reading service" | Planning, collecting, processing |
| Project 2 | Subcontractor bills MRS | "Reading of water meters" | Planning, processing |
| Project 3 | MRS bills joint venture partner | "Administration of meter-reading services" | Processing |
| Project 4 | MRS bills joint venture partner | "Administration of meter-reading services" | Processing |
| Project 5 | MRS bills end customer | "Meter-reading services rendered, including processing" | Planning, collection, processing |

Source: Boshoff (2012)

Evidence collected from the five clients is presented in Table 3. As can be seen, BEE indeed led to boundary decisions by MRS: specifically, that in order to win bids from municipalities MRS chose to leave the collection of readings part of the value chain to a joint venture that would use locally-procured labor. Although not mentioned by Boshoff, presumably this was recognition on the part of MRS that local politicians needed to take care of constituents who needed employment. In contrast, MRS chose to own all three parts of the meter-reading value chain when pitching to private companies because here, according to the author's investigations, BEE concerns were much lower on the client side.

Boshoff (2012) also found that heterogeneity in BEE preferences resulted in the meter-reading firm having heterogeneous boundary preferences. For private companies with low BEE concerns the firm preferred (naturally) to fulfill all three parts of the meter-reading value chain itself, while for municipalities with high BEE concerns the firm had to settle for just a link or two in the chain, or else get no business at all.

[1] The term "boundary" in this instance refers to the firms' decision to engage in some or all links in the value chain.

| Table 3: Views of MRS on the Value Chain | | | |
|---|---|---|---|
| **Client** | **Discussions with Management** | **Documentary Evidence** | **Inferred Client Preference** |
| Client 1 | BEE not considered important. | BEE requirements not articulated in tender documents, with vague reference to community-based meter-readers (and lacking criteria for assessment or incentives to comply). | No preference |
| Client 2 | BEE not initially important. However, pressure for more direct community involvement in meter-reading increased over time. | No formal tender document, but written correspondence with community and municipal client concerning the use of local meter-readers. | Preference. Disintegrated view, with focus on community procurement. |
| Client 3 | BEE essential. Client allocated work to MRS on condition that it involved a black partner familiar with the communities in which the work is to be performed. | BEE requirements inferred from written correspondence articulating need for interaction with local community forum and development of local enterprise. | Preference. Disintegrated view, with focus on community procurement and promotion of local business |
| Client 4 | BEE essential. MRS contacted by black partner to cooperate in a tender bid. | BEE requirements in tender documents based on specific procurement policy of local government, but emphasizing all of the factors mentioned in the national scorecard. | Disintegrated view, with focus on community procurement and promotion of local business |
| Client 5 | BEE not considered important. Although information collected on this, no particular action required. | No formal tender document, but no reference to BEE requirements in written correspondence between MRS and client. | No preference |
| Source: Boshoff (2012) | | | |

Lastly, as shown in Table 4 below, the author found that MRS was forced to accept flexible value chain boundaries, even if this resulted in a more complex, and potentially less profitable arrangements than assuming ownership of all three links (Boshoff, 2012, p. 218).

Unfortunately, Boshoff fails to address the issue of "fronting" as it might relate to MSR. The author does, though, state that MSR's decision to alter supply chain boundaries according to client BEE preference indicates that MSR's "competitive advantage is preserved." But how can Boshoff, based on a single case study, know this? To even begin finding out, the author would have to compare MSR to a similar firm but one that refused to alter its supply chain boundaries, even if that meant not bidding on work in which BEE scores are paramount. In fact, MSR's supply chain boundary choices look much more like a way of coping with BEE rather than a way of benefiting from BEE. This criticism is not directed at BEE, just that Boshoff fails to explore the policy's potential down-side for firms, like MRS, affected.

| Table 4. MRS Response to Client Views of its Value Chain | | | |
|---|---|---|---|
| **Client** | **Discussions with Management** | **Documentary Evidence** | **Inferred Boundary Response** |
| Client 1 | BEE not considered when bidding: "The proposal was quite short, with just an outline of the service to be rendered. | No reference to BEE in tender bid. | None<br>(MRS delivers integrated services). |

| | | | |
|---|---|---|---|
| Client 2 | In response to community requests, MRS appointed part-time meter readers as well as coordinator from this area to collect meter readings. | Written proposal to client and correspondence with community coordinator focus on training local meter readers. | Adjust boundaries (MRS focus on planning and processing) |
| Client 3 | MRS was contacted by a member of the communities within which meter-reading was to take place and agreed to form a joint venture , in which the community member would be responsible for planning and collection of readings and MRS for processing the data. | Written proposal to client emphasized the role of MRS in processing task and role of local black partner in managing and executing meter reading (planning and collection) | Adjust boundaries (MRS focus on processing) |
| Client 4 | Similar to Client 3, MRS was contacted by a community member, who did not have the requisite experience. MRS decided to form a joint venture, in which MRS is responsible for processing and the community member for planning and collection of readings. | Tender bid details a joint venture with the community member, subdivision of tasks show MRS involved in processing and community member in planning and collection | Adjust boundaries (MRS focus on processing) |
| Client 5 | BEE was not considered when bidding. | No reference to BEE in proposals to client. | None<br>(MRS delivers integrated services) |
| Source: Boshoff (2012) | | | |

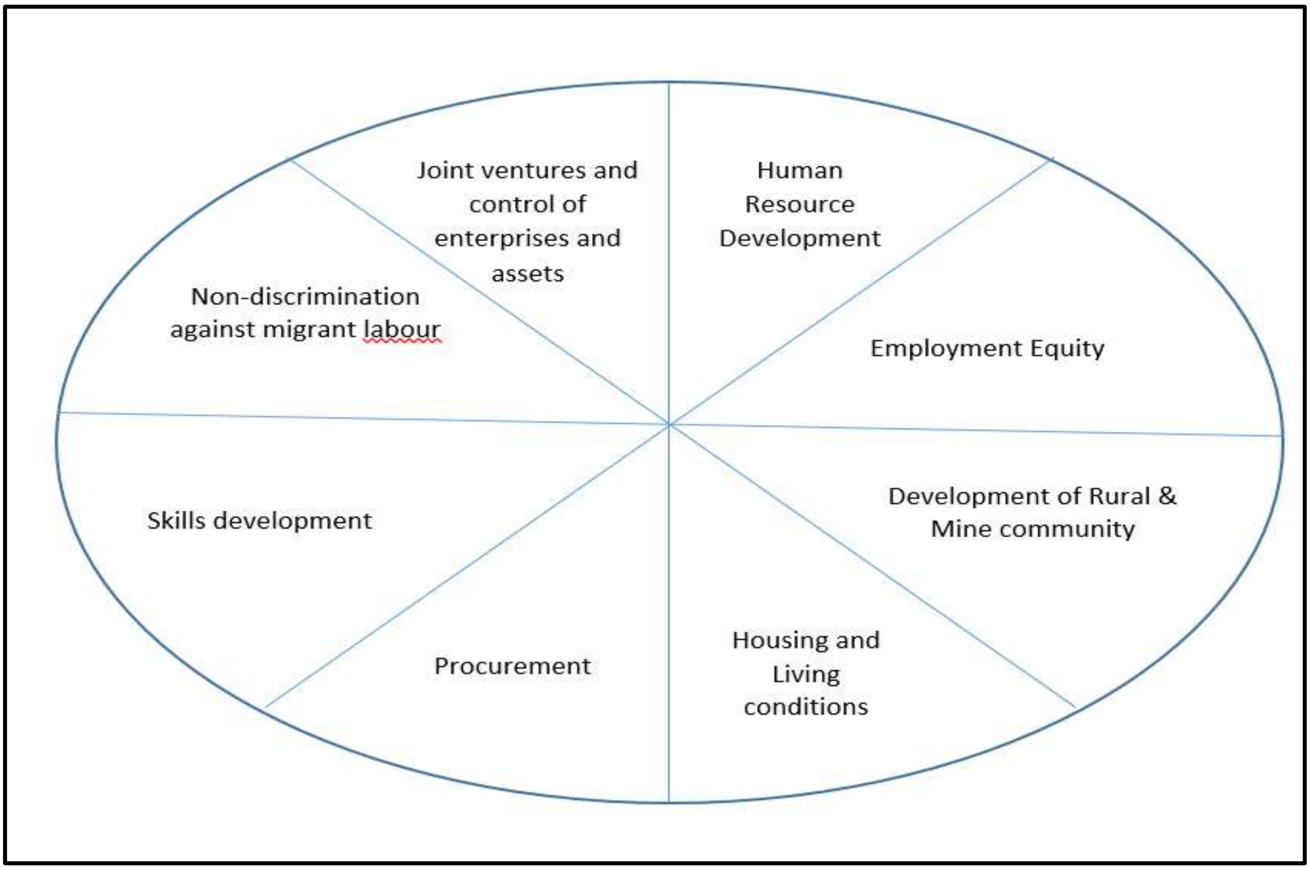
## 4. Evidence from the Mining Industry

In their case study “Black economic empowerment in the South African mining industry: a case study of Exxaro Limited”, Fauconnier and Mather-Helm (2008) explore the challenges relating to a large and unique BEE transaction. This transaction was part of the unbundling of various holdings once belonged to the state-owned South African Iron and Steel Industrial Corporation (ISCOR) to become separate JSE-listed companies. Among the assets were ISCOR’s coal and mineral mining operations and as part of the unbundling in 2006 these assets were, in a complex and multi-stage process, transferred from a multinational entity called Kumba Resources (an ISCOR legacy company) to a new entity called Exxaro. Importantly, Kumba Resources initiated the transfer to fulfill its requirements according to the Mining Industry Charter shown in Figure 1.

As explained by Fauconnier and Mather-Helm, in addition to the “generic” BEE scorecard, the legislation that codified BEE also mandated empowerment charters aimed at specific industries, such as tourism, liquid fuels, maritime, etc. (Fauconnier & Mathur-Helm, 2008, pp. 3-4). In general, these industries were to achieve 25% black-ownership within a decade, but the charters differed according to industry, as represented by the figure 1 below (note, for example, that the Mining Industry Charter uniquely includes “Non-discrimination against

For their study, the authors’ interviewed 11 leaders involved directly in the BEE transaction that created Exxaro. The leaders represented all the parties involved: Kumba Resources; the new black-owners, the Tiso and Eyabanthu consortiums; the South Africa Women in Mining Association; the Industrial Development Corporation; the Chamber of Mines; the Deutsche and Rand Merchant banks; and the Department of Minerals and Energy. For the author’s study, 11 leaders culled from these parties were asked questions in order to elicit insights into the positive aspects of the BEE transaction, current and future challenges faced by Exxaro; as well as plans to address these challenges to ensure Exxaro’s future success. The authors’ findings can be summarized as follows.

**Figure 1: Mining Industry Charter**




*Source: Fauconnier and Mather-Helm (2008) p.4*

**4.1 Main Challenges Encountered:** Almost all of the leaders surveyed mentioned the sheer size and complexity of the transaction, and of ensuring that BEE stakeholders were involved in every step, as being the most challenging. As part of ensuring this involvement, the leaders surveyed also felt they had to align BEE stakeholder expectations with the risks involved in the deal, with a sub-challenge being that some BEE investors (i.e., "the usual suspects") seemed interested in only enriching themselves and had no regard to Exxaro's long-term sustainability. Inevitability, conflicts arose between various BEE groups that had to be resolved, including the fact that the transaction was driven more by the agenda of the multinational Kumba Resources, which wanted to comply with the Mining Industry Charter so as to protect its other South African assets, and less by the agenda of the BEE partners, which was to create a broad-based and viable commercial entity (Fauconnier & Mathur-Helm, 2008, p. 7).

**4.2 Processes and Methods to Overcome Challenges:** The leaders reported that having a transparent and comprehensive process in place was a key factor in overcoming challenges. For example, at the beginning of the deal it was important to establish clarity in terms of requirements and expectations for all parties involved. It was also important for the leaders to understand and to align the sometimes conflicting needs of the different BEE groups involved. The establishment of a steering committee and holding regular strategic sessions and meetings assisted in this process. According to the authors, "One person reported that good, open, upfront and honest relationships and interaction between various parties and individuals helped greatly" (Fauconnier & Mathur-Helm, 2008, pp. 7-8).

**4.3 Sustainability issues:** The ability to sustain Exxaro as a viable commercial enterprise through an innovative and competitive funding structure was important for all of the leaders. The leaders also agreed that a strong and sound asset base was critical as well as a diversity of operations given the cyclical nature of the mining industry. The leaders also stressed the need for an experienced management team and board members who would instill confidence in the investment community. Finally, the leaders noted that a lengthy lock-in period for BEE partners was necessary to ensure long-term commitments to the enterprise (Fauconnier & Mathur-Helm, 2008, p. 8).

**4.3 Positive Aspects:** The leaders surveyed found many positive aspects to the BEE transaction. These included the establishment of an innovative and creative funding structure, the facilitation of benchmarking exercises, and the maintenance of trust between the many parties involved. One leader added that the value loss for the shareholders of Kumba Resources in the transaction was minimal, and another leader said that the creation of Exxaro contributed to South Africa's goal of increasing its mining capacities (Fauconnier & Mathur-Helm, 2008, p. 8).

**4.4 Current Issues:** Half of the leaders mentioned company growth and value creation for all stakeholders as the most important current issue. One leader explained that an important issue was growing the company without diluting empowerment shareholding below 51%, and other leaders noted that the transfer of management from Kumba Resources to the new Exxaro management team was an ongoing issue. Four leaders saw operational and performance stability as pressing issues. Three leaders stated that managing expectations in terms of Exxaro becoming South Africa's largest BEE firm was something that had to be dealt with. One leader said that Exxaro faced the same social issues as did the country as a whole, including HIV/Aids, "social upliftment" of local communities, and a skills shortage (Fauconnier & Mathur-Helm, 2008, p. 8).

**4.5 Future Challenges:** A majority of leaders expressed the importance of growing the company and expanding its project pipeline as being a future challenge. Leaders also noted the necessity of ensuring business profitability through performance and efficiency in terms of cost. Two leaders agreed that keeping the company's BEE status was a huge future challenge. Some leaders saw the cyclical nature of the mining sector as posing future challenges, and a few leaders noted that the transaction came amid a bullish market and worried about what would happen during a market downturn. Exxaro's reliance on the Chinese export market was mentioned (presciently!) as a challenge that might have to be faced in the years ahead (Fauconnier & Mathur-Helm, 2008, pp. 8-9).

**4.6 Different Options:** Half of the leaders reported that they would have liked to have seen more due-diligence done on the BEE partners, specifically to assure that the partners' had the required business competencies. Four leaders also thought that there were too many BEE partners for a transaction of this magnitude, and that there should have been fewer (and presumably more competent) partners involved. Four leaders added that more time should have been spent on understanding the legislative process as it related to the mining sector. Some leaders said a lack of updates on a timely basis to both partners and the government regarding the transaction progress became a hindrance (Fauconnier & Mathur-Helm, 2008, p. 9).

To summarize, Fauconnier and Mather-Helm would appear to give this particular BEE transaction a grade of "C", or "pass-but-with-concerns". The authors obliquely suggest that the transaction process was dominated by Kumba Resources in order to protect its other assets, that it favored "the usual suspects", that it failed to empower women as called for in broad-based BEE, and that it relied on shaky finances boosted by a bullish commodities market. That said, today (mid-2016) Exxaro is one of the largest black-owned, black-controlled, and black-managed companies in South Africa, with a current market capitalization of over $1.6 billion.

## 5. Evidence from the Wine Industry

In the third case study, "Deracialized exploitation? Black Economic Empowerment in the South African wine industry", authors du Toit, Kruger, and Ponte (2007) explain that South Africa's wine industry "is intricately linked with the social history of slavery [which] thoroughly shaped the habits and expectations of the tiny, tightly-integrated white elite that owned most of the farms of the Western Cape" (p. 7). Historically this elite benefited from slavery and the free labor it provided and then, after slavery, it would benefit from the subjugation of African and colored farm workers. The authors write: "The industry had long been a byword for white power and black exploitation, notorious for its grim working conditions, poor wages, degrading institutions like the *tot* system [see below], and authoritarian, racist white farmers" (du Toit et al, 2007, p. 2). Traditionally the black workers, the authors argue, were perceived "as minors subjected to the sovereign authority and protection of white masters, and denied of any but the most limited rights" (du Toit et al, 2007, p. 8). In the 1980s the wine industry may have invested in the "development" of its workers which included training, but this was done more to prevent rural trade unionism than to meaningfully advance the economic and social status of those affected. Indeed, the authors state that the wine industry blamed the workers for any problems they might have, among them a high incidence of alcoholism fueled by the centuries-old *tot* system whereby workers' wages came partly in the form of alcohol. According to this view, the authors explain, "Farm workers were the victims, not of white power, but of the *bottle*...their essential problem was *drunkenness*" (emphases in the original) (du Toit et al, 2007, p. 9).

The end of apartheid opened new export markets and, along with deregulation, brought dramatic changes to the wine industry. New methods and technologies were adopted, there was more attention paid to marketing, and there was more demand-driven product-design. The traditional relationship between whites and blacks in the industry, however, remained unchanged; which meant the whites being very much on top and the blacks being very much on the bottom. The authors cite one study from the late 1990s which concluded that wine farms "were still stuck in a low productivity and low wage model, with no formal employment contracts, no middle management (except in larger farms), and very low levels of unionization" (du Toit et al, 2007, p. 9). In addition, during this same era many farms were introducing labor-saving technologies which replaced permanent, skilled workers with casual, unskilled workers who, the study concluded, "are excluded from the basic entitlements that permanent workers have gained" (du Toit et al, 2007, p. 10). In fact, new laws passed by the ANC government designed to increase wages and improve conditions for farm workers had only hastened the industry trend towards casual hiring, and even, to avoid the nuisance of complying with the new laws entirely, outsourcing all labor.

At the same time, the authors argue, that while the wine industry was privately evading empowerment it was publicly launching a campaign to demonstrate its commitment to empowerment. The powerful Kooperatiewe Wijnmakers Vereniging (KWV), Afrikaner-owned and once a stanch backer of the pro-apartheid National Party, but still protector of the wine farmer and the status-quo, held a 2003 "consultative conference" out of which a plan emerged to address the new BEE. However, "Far from representing a decisive break from the past," the authors state, "BEE in the wine industry is in important ways deeply continuous with it" (du Toit et al, 2007, p. 3). According to the authors, KWV managed this through co-opting the language of BEE while avoiding the structural changes that would have led to real empowerment. For example, a KWV-funded entity called Devco was created to uplift farm workers and their communities through such things as education, training, literacy, and health programs, and also to support new entrants to the industry. Instead, Devco spent little and had little to show for it aside for a paternalistic campaign to promote "responsible alcohol usage" among farm workers (du Toit et al, 2007, p. 13). The authors also note that another way KWV managed to avoid real change was by becoming aligned with groups representing key members of the urban black elite. One such group was the Black Association for the Wine and Spirits Industry (Bawsi) which consisted of black professionals, entrepreneurs, and businesses. With no link to black farm workers, however, it would have been difficult for Bawsi to claim political authenticity and legitimacy except for a relationship with an independent organization. For this the elites turned to the Plaaswerkersvereniging, which was ostensibly a black farm workers' union, even though its president was white and it had no members at all, black farm workers or otherwise. Because of Bawsi, prominent blacks were invited to become members of the boards of directors for every major South African wine company, but the farm workers' plight remained unchanged and in the early 2000s, by Bawsi's own estimate, 99% of the industry was still in white hands (du Toit et al, 2007, p. 17).

The KWV, however, could not take a cosmetic approach to empowerment indefinitely, and the call for actual transfer of ownership intensified after the adoption of the broad-based version of BEE and demands that the wine industry act accordingly. As the largest single player in the wine sector, KWV faced pressure to sell 25% of its assets (or else, perhaps, risk losing 100% of its assets) to blacks, and Bawsi and other black business groups were there to capitalize on the fact. While the resulting BEE deal was by far the largest one in the wine industry, it came not without harsh criticism. "Bawsi is not the black voice of the industry," one commentator noted, stating that "Bawsi's understanding of transformation is one of participation and not delivery. They [are] positioning their executive members for cushy jobs and contracts at every opportunity they get and without any or very little benefit to the masses they claim to represent" (du Toit et al, 2007, p. 22). Other BEE deals in the wine industry followed, and although they employed all the "correct" BEE terminology—i.e., "women's empowerment, disabled groups, workers, national scope, and 'broad-based'"—they mainly benefited a select cohort of black entrepreneurs from outside the worker communities, with a reserved equity going to a relatively small group of actual farm workers. (And to demonstrate how little power the workers really had, after the historic BEE deal which had supposedly included them was finalized, hundreds of workers were laid off in an industry retrenchment.) Meanwhile, while different broad-based empowerment groups had been invited to participate in the deal, in fact few of them had the industry knowledge to meaningfully participate, and thus their voices were not heard.

The authors lament that as of 2007, the majority of large BEE deals that could be done had already been done. This may have brought the Wine Industry Charter and Industry Scorecard close to BEE targets, but also meant that the wine industry had, in the words of the authors, successfully avoided "potentially more uncomfortable options to redress current and past race-based imbalances—such as land redistribution, import boycotts, and better worker conditions for grape pickers" (du Toit et al, 2007, p. 33). The opportunity for a real transformation of the wine industry had passed. What remains, the authors suggest, is for individual wine players to assume corporate social responsibility like skills development, social infrastructure, and ethical trading on their own. The authors cite several wine players who fit this socially responsive mold. Among the players (circa 2007) are Origin Wines, which is involved in community-based projects such as the Khayamandi School Project to educate local black youth, Thandi wines which seeks to build its brand by purchasing wine sourced from empowered and Fairtrade certified wine farms, and Bouwland Estates. The latter is an established brand which in 2003 was acquired by a worker's trust created by 60 individuals and 39 families from the local area.

In summary, the authors leave little doubt that in their opinion BEE in the wine industry has essentially been a sham, largely benefiting black elites at the expense of the farm worker, while also allowing the white-dominated industry to carry-on much as before. The authors have built a strong case for this indictment, but for an academic study they too often resort to political polemics that are more confusing than clarifying. For example, what is one to make of this sentence: "In a discursive slippage which seems to owe much to contemporary notions of blackness emanating from the USA—rather than, for instance, the more politically aware and socially conscious articulations of *South African* black consciousness—'blackness' functioned to create an essentialist and mystifying discourse of race that serves to occlude, or minimize, class differences between owners/managers and workers"? (du Toit et al, 2007, p. 15). Additionally, the blacks that the authors allege to have improperly inserted themselves into the wine industry-BEE remain anonymous; not that the authors need single out individuals by name, just that the risk is the authors have created "straw men" in place of what might be a more complicated reality.

## 6. The Impact of BEE on Dimensions of Business Performance

In the fourth study focusing on ten dimensions of business performance, Krüger (2011) argues that while the political aspects of empowerment have been widely debated, “little research has actually been done on the more ‘practical issues’ related to BEE compliance, such as the potential impact it may have on the various dimensions of business performance” (p. 213). The ten dimensions chosen for the study (see Table 5), according to the author, “represent different areas in which a business would generally like to perform well” (Krüger, 2011, p. 218). To assess the perceived impact of BEE on these dimensions, Krüger interviewed 500 managers (operations directors, first-line supervisors, production/operations managers, H.R. managers, and production foremen) from 27 small to medium-sized companies as well as multinational corporations. Demographically, most (89%) of the managers worked in Gauteng Province, home of Johannesburg and therefore the business hub of South Africa, and 65% reported themselves as being female and 35% male. Racially, 61% of the managers said they were black, 30% white, and 9% colored, Indian, or Asian. Fully 72% of the managers identified themselves as being a “previously disadvantaged individual” (PDI) and 70% of the managers agreed that they personally would gain from BEE. Given these last two percentages, it might be expected that the majority of managers would agree that BEE was having a positive impact on business performance, but as the Table 5 results indicate, on average the managers disagreed with this assumption across all ten business dimensions.

Krüger had no ready explanation for the results, but found it “disconcerting” and “alarming” that the managers—the majority of whom self-identified as being a PDI and potentially benefitting from BEE—did not agree that the impact of BEE would improve their companies (Krüger, 2011, pp. 229-230). While acknowledging certain limitations of the study, one being that most of the managers came from Gauteng which may have biased the results, the author concluded that, “It is clear that the current government, the ruling ANC party, needs to seriously reconsider its transformation agenda and specifically the adoption of BEE practices, which appear to have little credibility and to receive little support from the managers of companies in South Africa” (Krüger, 2011, p. 232).

**Table 5: Dimensions of Business Performance**

| | Strongly Agree | Agree | Neither Agree nor Disagree | Disagree | Strongly Disagree |
|---|---|---|---|---|---|
| 1. Overall domestic and global competitiveness | | | | | |
| 2. Service excellence and client satisfaction | | | | | |
| 3. Quality and acceptance of products and services | | | | | |
| 4. Productivity (e.g. increased output and less waste) | | | | | |
| 5. Entrepreneurial spirit with innovative new products | | | | | |
| 6. Production performance (e.g. lower cost and greater speed) | | | | | |
| 7. Human development and staff morale | | | | | |
| 8. Business ethics (e.g. transparency and reputation) | | | | | |
| 9. Sales and access to markets (turnover) | | | | | |
| 10. Financial performance (return on investment, dividends, share price) | | | | | |

**Source: Krüger (2011).**

## 7. Conclusions

While the four case studies reported here approached the subject of BEE and its impact on the South African business environment from different perspectives, there were meaningful commonalities in terms of findings. Among the commonalities was that businesses and even whole industries will dramatically alter their behavior to comply with BEE, even to the point of shedding valuable assets. Another commonality, however, was that BEE compliance does not guarantee that BEE benefits are either widely or fairly distributed. In fact, a theme shared by three of the four cases was that “the usual suspects” often stood to gain while others remained no more empowered than they had been before the different BEE laws were enacted. Another element that all four case studies shared was that compliance was difficult for businesspeople involved with BEE. Perhaps as a result of this difficulty, the last case study found very negative perceptions of BEE even among non-white, historically disadvantaged, company managers. Finally, another commonality among the four studies was that none even remotely claimed that BEE was or could be a panacea, and the wine industry study even went so far as to suggest that South Africa had entered a post-BEE era where, because of the failure of BEE, it was now up to individual companies to enact their own versions of empowerment.

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