

The BEE -hive swarm if you've got the money, honey...

*Black economic empowerment transactions have soared in recent months as pressure from government on business to transform has increased. **Ebrahim-Khalil Hassen** analyses some of these deals and the focus on self-enrichment rather than broad-based empowerment. He challenges the Left to emerge with a more rigorous approach to dealing with BEE.*

In the leafy northern suburbs you might come face to face with the 'cigar smoking class'. Black, male, smart, energetic and ambitious, this group of black elite have earned the wrath of social commentators for their conspicuous consumption and betraying the ideals of empowerment.

In the parlance of some shop stewards 'they are patriotic only to their pockets'. The emerging black capitalist class has not taken this on the chin and has reacted angrily that they are trying to build businesses and that broader empowerment will occur once the business is successful.

In fact, too much focus has been placed on discussing conspicuous consumption and not enough of the Left's energy has been focused on the role that black economic empowerment (BEE) can play in transforming society.

Further south in Joeys you can come face to face with the aspirant upper middle class. Black, male and female, as smart and energetic as their counterparts in the leafy suburbs, these entrepreneurs are attempting to make

money through a range of government tenders, franchise opportunities and in retail. These actors complain of the blockages in getting finance from banks and difficulties in increasing market share. These groupings accuse government of not doing enough, and are frustrated that changes in the boardroom do not mean changes in the way the world works. They complain: 'We have simply replaced white faces with black faces, and we still do not get a hand-up'.

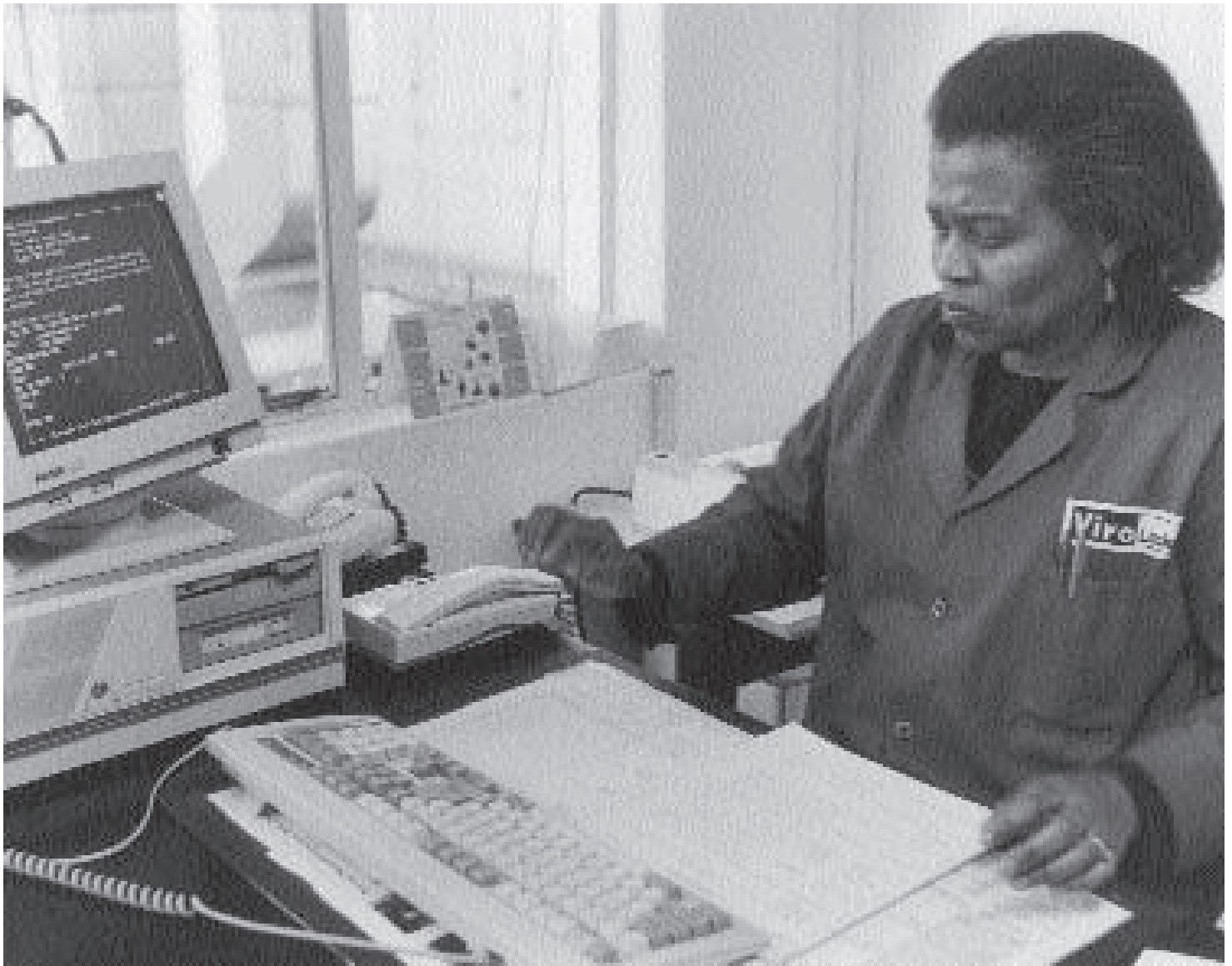
Even further south one could meet a group of retrenched workers from a large university. Having lost a bitter struggle to keep their jobs and fight outsourcing, workers are discussing whether they should form a co-operative and tender for work at the university. They face challenges in developing a tender proposal, understanding the contract and if they get the tender, running their co-operative well. The university ironically markets the retrenchments as BEE, once the workers have won the tender. In reality this is about replacing secure

employment, with less secure forms of employment.

These three very distinct examples of black people trying to make it in the world demonstrate a central problem of BEE. In each of the cases outlined, the participants could be arguably engaged in BEE. This is one of the central dilemmas facing government: To craft policies for BEE that address a wide range of experiences and actors.

The importance of these experiences is highlighted in the ANC's political documents supporting the idea of a 'patriotic bourgeoisie'. Proponents of the idea of a 'patriotic bourgeoisie' argue for creating strata in capital that have the national interest at heart. This is seen as necessary for long-term growth and employment in South Africa. The theory goes further to argue that creation of these strata is necessary to change the structural features of capitalism in South Africa, and transform apartheid social relations.

The idea is a profound one: uprooting the legacy of apartheid



through creating a pool of activist capitalists that in the parlance of the Congress tradition would be part of the 'motive forces for change'. The grouping of capitalists would undertake business, invest in the country and create jobs.

The political significance of this project cannot be underestimated as it reflects a development model, aimed at making capitalism more humane and sharing the benefits of capitalist accumulation. Supporters of such a proposal point to experiences in Malaysia, China and other Asian countries.

Rentier vs entrepreneurial class

But BEE has disappointed some as the beneficiaries of this strategy emerge as

something other than a 'patriotic' bourgeoisie. In fact, the unflattering characterisation of captains of BEE as a rentier class has come to the fore. The classical concept of the rentier class has often been associated with landlords in advanced capitalist countries. Through rental income, rather than production, which entails employment, they become rich.

The distinguishing feature of this class is that its wealth is created without needing to create products or through effort, but purely on the basis of ownership. This is analogous to the South African black elite who have been able to buy into existing companies and have not created new jobs or new companies. A rentier class in our context is therefore a class that gains

wealth through dividends and rents rather than through building new businesses or greenfields investment. The consequence of this is that the structure of apartheid capital will remain intact and blacks will earn rents without substantively owning the economy.

The 'rent seeking' characteristics of BEE are aptly seen in many deals on the JSE Securities Exchange. The majority of deals undertaken in terms of BEE have involved consortiums buying into existing companies. From the first BEE deals that resulted in NAIL to the very latest deals, BEE has become synonymous with black people buying large chunks of equity in existing companies. This often meant that the BEE partners were

black businesspeople were not creating new businesses nor were they developing new product lines in the companies. There are few entrepreneurs in the new black elite that have focused their talents on new forms of business that could result in employment and creating value-added businesses.

passive investors, who had little control over the direction of the company. More importantly, black businesspeople were not creating new businesses nor were they developing new product lines in the companies. There are few entrepreneurs in the new black elite that have focused their talents on new forms of business that could result in employment and creating value-added businesses. This is the primary disappointment for government, as BEE has not boosted employment creation. There are of course notable exceptions to this generalisation.

Leaders in the BEE field counter this assertion by arguing that they still need time to develop their business. Indeed it is common sense to argue that emerging business requires time to lay roots that will later flourish. This argument is however spurious, as the model that many have chosen cannot result in job creation even in the long term. This is the fate of passive investors.

More worryingly, it may result in the hijacking of BEE, with many analysts pointing to the Simane deal as an example. In this deal, the flamboyant businessman, Mzi Khumalo was accused of hijacking an empowerment transaction. Khumalo provided the R10m required by Simane – a consortium led by two senior executives in government parastatals – to secure a R380m loan from the Industrial Development Corp (IDC). The deal provided for empowerment partners to buy about 10% of Harmony Gold shares at a

slight discount to the market, at around R36/per share. In the months that followed the deal the price of Harmony Gold sky rocketed to R190 per share. Khumalo then made an offer to buy out the Simane partners. The shareholders were willing and sold their shares at a discount to Khumalo. Needless to say Khumalo paid a substantial capital gain on the shares, and the rest of the Simane stakeholders earned a pretty penny without investing much of their own capital.

Government has learned hard lessons from this case and similar cases. A major lesson was that a loan from the IDC – a state-owned enterprise – did not result in broad-based empowerment.

Another concern is that the financing model for most of the BEE transactions on the JSE Securities Exchange has effectively rendered BEE companies debt ridden. The special purpose vehicle (SPV) model, through which equity in a business is transferred to an empowerment group, but financed through debt by the vendor company, prevails. The model works well in bull markets (when the prices of shares are rising) as value of the equity increases, but in bear markets (when share prices are falling) it has fallen apart. Today, investment banks are beginning to swap debt for equity in the new empowerment groups. The Tiso Group is a good example. The initial loan from Investec has been converted into a 24% holding by Investec in the Tiso Group. However, the Tiso-Investec approach is unlikely to be replicated.

A related problem is that investment capital may be too small for BEE requirements. According to Umbono Fund Managers an estimated R156bn will be required to finance empowerment. According to their estimates only R56bn is available from banks, insurers, government funds and the like. In such an environment, analysts have correctly pointed out that there will be trade-offs. For instance, is it more important to support greenfield developments and job creating investments or to support greater black share ownership on the JSE Securities Exchange? In a wider definition of BEE, supporting new greenfield or job creating investments would assume priority. However, investment bankers shirk from the risk associated with new investments, and often go the safer route of reaping payments on debts through dividends.

Inequality and the poor

While significant deals have been happening on the JSE Securities Exchange, the other side of the economy is typically neglected. According to recent studies, over half of all new small businesses are likely to be unsuccessful. Government programmes have attempted to assist small, medium and micro enterprises by providing financial assistance, tax breaks and introducing preferential procurement. There are many SMMEs that have benefited from these policies. However the mushrooming of SMME activity envisaged by government has not yet become evident.

Running hand-in-hand with this is

growing support for co-operatives. The new legislation supporting co-operatives has not yet been promulgated. This legislation promises a way to catalyse co-operatives in South Africa. The idea of co-operatives has support amongst the Left due to its egalitarian nature, as well as its representing – according to the South African Communist Party – a socialist alternative.

Turning the tide?

Government has stepped in to rectify this situation. The lead within this government came from the Department of Minerals and Energy in the petroleum sector, where a charter was signed. Following closely on this was the mining charter, which at one point was responsible for wiping out a lot of the value of mining shares as investors panicked about the levies proposed by government on mining.

The dti has adopted a policy position on supporting broad-based black economic empowerment. The adoption of such a policy is a reflection of, or seems to be an acknowledgement that, that current government initiatives supporting BEE are not sufficiently broad-based. The policy document argues that broad-based BEE may be understood as:

‘...an integrated and coherent socio-economic process that directly contributes to the economic transformation of South Africa and brings about significant increases in the numbers of black people that manage, own and control the country’s economy, as well as significant decreases in income inequality.’

This definition is slippery, but signals a change in government’s approach to BEE. Amongst the policy objectives outlined in government’s policy document are increased investment in ‘under-developed’ areas

and shared economic growth.

Government thus intends a policy position where the majority of South Africans should benefit from BEE.

The supporting bill empowers the minister of Trade and Industry to act to reach these objectives. For instance, the Minister may issue codes of good practice either generally or for particular sectors. The codes are intended to be applied in determining the qualification criteria for granting licenses, concessions and other authorisations under the law, and the establishment of public-private partnerships and sale of state-owned assets. These codes of practice will thus influence and impact on how a company does business with all organs of state who will evaluate proposals, tenders and other legal requests against a BEE criterion. The approach in the legislation thus seeks to soothe market fears of rampant state intervention, with policy instruments that are guiding and often carry no sanctions.

Two key instruments in the policy documents are the charters and the scorecard. The charters are agreements between government, labour and business on the future direction for the industry. The latest charter in the financial sector is a product of tripartite negotiations. The charters are essentially agreements that guide business in their regulation of the industry. The charters set targets and provide measurement indicators.

Related to the charters is the idea of a scorecard. Performance of companies will be subjected to some kind of performance measure. The measurement tool of a balanced scorecard emerged as the preferred measurement tool. The scorecard adopts a wider set of criteria than have traditionally been used in BEE. For instance, the scorecard includes

requirements for employment equity and skills development, as well as preferential procurement from black owned and empowered companies.

Even though there has been a change in government’s directions, much criticism remains levelled at BEE as a policy instrument for societal change. The major criticism relates to whether the black middle class will ever become – with apologies to Marx – a ‘class for itself’, capable of understanding their role as beyond personal advancement, but linking their personal advancement to the development of our country. This is the primary impediment to BEE actors becoming a ‘patriotic bourgeoisie’.

Another criticism of the current approach is that policy is still focused on JSE companies and not enough focus is placed on helping the budding entrepreneur. In other words, the strategy will still only benefit those with the capacities to develop complex score cards. Unions have in addition pointed out that public-private partnerships and privatisation cannot be used as a means of reaching BEE targets.

The change of government policy to promote ‘broad-based’ BEE indicates a shift in emphasis. However, translating this intention into action will require a wider and sharper set of policy instruments if BEE is to be used in eradicating poverty.

Left strategy

The Left’s responses to BEE have largely been limited to focusing on conspicuous consumption or on proving that BEE is an exclusive club. This approach has a short-term tactical perspective, however a longer term strategy of engaging BEE needs to be developed and should include a number of features.

The Left needs to reclaim the understanding of what exactly is meant

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by 'broad-based'. Broad-based empowerment as a concept needs to reconcile the contradiction between having an egalitarian vision, and needing to engage BEE, which supports a process of social differentiation. Simply criticising the differentiation that occurs due to BEE is a self-defeating strategy for the Left. Instead, the impact of class formation on the wider society needs to be highlighted. This can be done through an analysis of poverty data and focusing on inequality. The shift thus required is to relate criticism of class formation and upward mobility to the consequences for the transformation project in South Africa.

Capitalism obviously creates winners and losers. The process of BEE – which is a feature of capitalism in South Africa – will create winners and losers. One of the dilemmas of the Left is how to reconcile the national imperative of creating black ownership, with the Left ideal of making the working class more powerful in society.

Crucial to a Left strategy is to ensure that BEE is integrated into the wider development strategy of the country. BEE is one component of a wider development strategy, and can never replace a wider developmental strategy. By locating BEE within a wider developmental strategy it means that BEE is weighed against other policy objectives. In turn, this provides the Left with an opportunity to advance arguments for broader based BEE.

The accelerated pace of BEE charters can be contrasted to the slow pace of sector summits. The charter processes essentially are limited to black

economic empowerment issues. Whilst tripartite dialogue on BEE is valuable, the charter processes have a limited agenda. For instance, broader questions of trade and industrial strategy, and jobs, are not even on the agenda for discussion. Labour thus faces the challenge of either broadening the agenda of charter processes, or including BEE within the sector summit processes. The current accelerated process of signing charters will probably leave labour in the hopeless position of not having policy platforms to negotiate appropriate trade and industrial policy.

Turning these conceptual markers into practical strategy will require the Left within the alliance to integrate BEE into sectoral and trade strategies. Critical for unions, the conduct of their own investment companies needs to change to encompass a focus that includes developmental issues, as well as building capacities of its pension fund trustees to impact on the way workers' funds are invested.

A deliberate strategy from within the ranks of the Left, and especially amongst the tripartite alliance is needed. Such a strategy needs to ensure that 'broad-based' BEE involves a large number of people, and shifts capital towards job creation. This is partly a conceptual battle of defining BEE.

The battle is however practical as well, in that workable models of broad-based BEE must be created. Co-operatives offer an opportunity of demonstrating the feasibility of broad-based economic empowerment initiatives.

Developing such initiatives requires a strong and active developmental state. Humbulani Tshikalange of the National Union of Mineworkers (Num) sounds this warning by saying: 'Experience has taught us that businesses left alone to adhere to and implement socio-economic fundamentals always do that for self-enrichment'.

Responding to the theoretical and practical challenges requires the development of organisational capacity to deal with the growing phenomenon of BEE. As a start, such capacities must be directed to our own union investment companies. Several criticisms on the investment strategies of these companies have been voiced from the union movement. The major criticism is that these companies have not invested in businesses and initiatives that lead to job creation.

The challenge for South Africa is how to get these deals working for a greater number of people. Central to achieving this is ensuring that the poor are able to participate in the economy. Ensuring the poor participate in the economy will mean that BEE in the form of large equity deals will need to take second place to improving education, health and supporting co-operatives. The challenge is to ensure that BEE does not simply change the complexion of capital, but rather transforms capital itself. For trade unions to meet this challenge, a qualitative leap in theory, organising and practice will be needed.

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