

Mamphela Ramphele, *Laying Ghosts to Rest: dilemmas of the transformation in South Africa* (Cape Town: Tafelberg Publishers, 2008), "Ends and Means," pp. 245-267

## CHAPTER 14

### Ends and means

CENTURIES OF WHITE DOMINATION AND THE INEQUITABLE DISTRIBUTION of socio-economic benefits have left our new democracy in an untenable situation. Political power without economic power is unsustainable. At the time of transition to democracy, South Africa was in the unenviable position of being one of the most unequal societies in the world, alongside Brazil, with a Gini coefficient of over 0.60. Inequality needed to be tackled urgently to promote social stability.

The gap between the affluent and poor sectors of the population is large and growing. It does not help to formulate the inequality debate in terms of the 'first' and 'second' economy. There is only one economy, which marginalises the majority of South Africans who are the poorest, least educated and least skilled, while rewarding those with sought-after skills and those connected to people with power and influence. This fundamental economic reality is central to formulating appropriate responses to the growing inequality in our society.

Well-intentioned attempts by Deputy President Phumzile Mlambo-Ngcuka to address 'problems of the second economy' are unlikely to yield lasting solutions. One cannot deal with one side of a problem of power relationships and hope to produce sustainable equitable outcomes. Take the example of male dominance. Inequalities between men and women cannot be eliminated by focusing on the issue as a women's problem. It is a problem of power relationships between men and women that requires comprehensive strategies. In the same way, structural economic

inequalities must be dealt with in a comprehensive way to root out the effects of centuries of inequities.

Wealth accumulation in South Africa was accomplished largely on the backs of black people. In addition to the dispossession of land – a basis of capital formation – black people were systematically kept poor, denied education and training, and ownership of property. A post-apartheid South Africa in which only white people are wealthy is unsustainable. Democratising wealth creation and distribution is crucial. Black Economic Empowerment (BEE) is an economic and political necessity.

The private sector took long to acknowledge the imperatives of BEE. The Mineral Charter drawn up in 2002 by the then Minister of Mineral and Energy Affairs, Phumzile Mlambo-Ngcuka, was a wake-up call to the private sector, signalling government's impatience with their lack of action to democratise economic participation. In 2002, during my tenure as Managing Director at the World Bank, private-sector lobbyists contacted me frantically, hoping that the World Bank would put pressure on the South African government to stop pushing ahead with BEE – a curious response by the private sector given its earlier experience of dealing with economic empowerment of Afrikaners after 1948.

In the 1950s, Anglo American Corporation and its peers recognised the need to economically empower Afrikaners who had become the dominant political force. Gencor (now BHP-Billiton) is a success of that early economic empowerment. Afrikaners, like black people today, had political power after winning the 1948 elections, but lagged behind their English-speaking white compatriots in economic power.

Established English-speaking business people took steps to empower Afrikaners, facilitating their access to economic resources and encouraging them to play an active role in wealth creation. This was considered essential to social stability.

Among Afrikaners themselves, strides had already been made before 1948 in taking up the challenges of entrepreneurship through self-help movements such as the Reddingsdaadbond ('our act of rescue') and the Helpmekaar ('help one another') study fund. Prominent Afrikaner institutions and companies such as Volkskas, Sanlam, Rembrandt and what later became Naspers were already in existence and benefited from the

more supportive socio-economic and political environment for Afrikaners after 1948.

Critics of the earlier forms of BEE during the early 1990s questioned the wisdom of the focus on transfer of assets from white companies to a few black men. Many were offended by the lack of attention to the plight of the majority of black people who continued to live with high levels of unemployment and despair.

Moeletsi Mbeki, businessman, political commentator and President Thabo Mbeki's brother, has been a consistent critic of the brand of BEE focusing on asset transfer, charging that it adds little wealth-creation value to the economy. He is particularly critical of the corrupting influence of a policy that makes a few black people feel entitled to wealth they have not earned through hard work. He is equally scathing of the manner in which preferential procurement has spawned front companies. 'Fronting' involves the use of black people's names for a consideration without their having any real say in the enterprise. It is another form of corruption that has spread like a cancer. Moeletsi Mbeki questions its long-term impact on our society. How are young people to understand the value of hard work and the importance of professionalism in wealth creation, given their exposure to inappropriate role models?

The 2006 Ramaphosa Report on Black Economic Empowerment addressed many criticisms against BEE as practised in the 1990s, proposing a more broad-based approach. In addition, the government sought to tackle bottlenecks in access to funds for new entrants into the productive sector. The National Empowerment Fund (NEF) promotes access to credit to buy stakes in going concerns or establish new enterprises. The Development Bank of Southern Africa (DBSA) and Industrial Development Corporation (IDC) tend to focus on larger deals, while the NEF focuses on small and medium enterprises.

BEE has evolved into a sophisticated policy instrument as reflected in the Broad Based Black Economic Empowerment (BBBEE) Codes of Good Practice published by the Department of Trade and Industry (DTI) in 2006. The DTI is also responsible for administration and regulation of the implementation of this policy, and monitoring and evaluating its impact. The scorecard by which entities are measured to see if they

comply with the Codes looks for the potential to transform the economy into one that is more equitable, faster growing and sustainable:

- Ownership of 51% or more by black people – 20%
- Black management control – 10%
- Employment equity – 10%
- Preferential procurement from black-owned enterprises – 20%
- Skills development – 20%
- Enterprise development – 10%
- A residual category – 10%.

Incentives for private-sector companies to contribute to BBBEE have been carefully calibrated to induce appropriate behaviour. For example, Level One contributors, who achieve a 100% score, are rewarded with lucrative opportunities of preferential procurement by government. Those attaining a score of less than 30% are designated as non-contributors, and stand to lose from being marginalised by both government and their own peers whose records would be blemished by dealing with them. By law, public entities would not be allowed to procure goods and services from such non-contributors to BBBEE.

To establish how BBBEE has performed thus far, I shall focus on a few key performance areas: ownership of the productive capacity, employment equity, and preferential procurement.

#### Ownership of productive capacity

A review by Business Map, sponsored by Standard Bank,<sup>170</sup> concludes that significant progress has been made in broadening the ownership base of our economy from almost zero to 6% black ownership of the Johannesburg Securities Exchange's (JSE) R5 trillion market capital in 2006. If undisclosed BEE deals are included in the calculation of ownership, the ownership figure increases to 10% of the JSE. Many BEE deals involving non-listed entities would add considerably to the estimated R400 billion plus of equity in black hands.

Much criticism is still directed at the nature of beneficiaries of BEE equity deals, who tend to be the same people or consortia who are politi-

cally well connected. Even though progress has been made in going beyond the 'usual suspects' of the earlier period (such as Tokyo Sexwale, Patrice Motsepe, Cyril Ramaphosa, Saki Macozoma), there is still too high a concentration of deals in the hands of people who have benefited before. This is partly due to the perceived benefits of doing deals with people with clout in government circles, who can position their partners appropriately for government contracts or business opportunities that government facilitates. The facilitation role of BEE partners opens the door to corruption and nepotism. Moeletsi Mbeki's concerns remain valid. Reliance on relationships in business dealings rather than on open, transparent, competitive bidding carries high risks of corruption.

The 'win' imperatives of the policy – a broad base and active participation by beneficiaries – pose challenges. Too broad a base of economic participation in business deals increases the risk of including people with inadequate skills who can add neither economic nor transformative value. Widening the base too much opens the way for fronting. Poor people with less sophistication in business become convenient vehicles for fronting, making it possible for companies that are not ready for fundamental change to claim broad-based ownership. Such claims, if untested, would protect companies from the inconvenience of having to deal with black people with management capacity who might ask uncomfortable questions about broader transformation within the enterprise.

The use of 'race-based' criteria to identify beneficiaries creates serious dilemmas for BEE. The major objection to 'race-based' empowerment is that the population registration categories of the apartheid era are used. The inequity we are wrestling with, however, results from the use of this same policy instrument. How can we use the same categories to frame policies to transform our socio-economic relationships? Many critics argue that we should rather use socio-economic measures to enable those at the bottom of the ladder to access opportunities regardless of their racial category. This is a plausible approach, except that many of its protagonists lack the credibility to make the argument, being direct beneficiaries of the 'whites only' affirmative action of the previous era.

Their opponents ask why 'race-based' affirmative action cannot work for black people now, if it has worked for whites during the apartheid era.

In addition, the approach of focusing only on socio-economic status misses an important point. 'Race politics' have left a deep imprint on our society, making 'race' matter much longer than many South Africans would like. There is a symbolic and substantive imperative in black economic empowerment. 'Whites only' ownership of the economy is not sustainable in a democracy with a majority of black citizens. The same applies to continuing white dominance of senior management and professional ranks.

### Employment equity

Aspects of the 1998 Employment Equity Act (EE Act) were discussed in Chapter 4. In view of the widespread misunderstanding of its intentions and the confusion that sometimes exists between the concepts of employment equity, affirmative action and BEE, it is worth repeating that this Act seeks to promote greater equity in access to employment opportunities for all South African citizens. It recognises that inequity is unjust and has opportunity costs for the society as a whole. South Africa's poor competitiveness is traceable to inequities that deliberately promoted under-investment in skills development in the majority population. No country can compete effectively in the global knowledge economy without correcting such inequities.

The goal is not to replace white people with black people or men with women. Success should be measured by greater participation by all South Africans in growing our economy and sharing the benefits of growth equitably. The importance of this goal has eluded many in decision-making roles in both the public and private sectors. South Africa has lost invaluable skills because many white South Africans felt rejected in their own country and left to seek greener pastures. This is a strategic error on our part, and reflects our lack of understanding of the interconnectedness of the global economy and the high mobility of skilled people who are sought-after everywhere in the world. The narrow interpretation of employment equity that excludes rather than includes raises the greatest criticism and emotions in the transformation debates in our society, for understandable reasons. No one likes to feel that one's talents as a citizen have no place in the economic life of one's society.

This narrow interpretation stems from misunderstanding and ignorance, and abuse of power. Equating employment equity and affirmative action is a confusion of ends and means. Employment equity is a public good from the point of view of both justice and enlightened self-interest. Affirmative action is the *means* we employ to achieve our goal of employment equity, and has a number of components:

- The base from which one recruits staff must be broadened to ensure that previously excluded sectors of the population are included.
- Recruitment and interviewing procedures must be reviewed for biases against those who are under-represented.
- It is critical to review appointment criteria. A distinction must be made between essential skills to do the job and skills that help the candidate fit into the 'traditional club'. This is not about appointing unqualified people, but redefining qualification criteria to reduce biases.
- Auditing the institutional culture for biases reflecting the past is essential.
- Establishing support networks to ensure the success of new recruits is not a luxury, but an essential retention strategy. This might entail mentoring and coaching.
- Investing in skills development is at the heart of best practice. Such investments strengthen the pipeline of employable skills.

Seen in this light, it is difficult to understand calls for a moratorium on affirmative action. Even more disturbing is that these calls are not just coming from those feeling threatened by the risks of poor implementation of employment equity, but from senior government officials. This shows a need for the government itself to get greater clarity about the ends and means of employment equity and the role of affirmative action in it. What needs to be abolished is the abuse of employment equity and affirmative action to settle political scores and allocate political patronage. Replacing competent white people with unqualified and incompetent black people is unjust to both parties, and exceedingly costly for

society. Such practices are at the heart of poor service delivery in the public sector.

Threats by the Commission on Employment Equity to remove white women from the list of designated groups of intended beneficiaries are disconcerting. The argument is that white women have been disproportionate beneficiaries of employment equity. An examination of the current profiles of participation in our economy, especially on the employment front, indicates continuing white male dominance. According to the 2006–2007 Report of the Commission on Employment Equity, black people, who constitute 88% of the Economically Active Population (EAP), occupied only 23% of top management positions in the private sector companies reviewed, of which black females constituted just less than 7%. White people, constituting just less than 13% of EAP, occupied 75% of top management positions, of which white women occupied just less than 15%.

These figures show that white people at top management levels are eight and a half times their EAP numbers, whereas black people are a quarter of their EAP numbers. The situation is similar at senior management levels, with slightly smaller gross levels of under-representation of black people at 27%, of whom 8% are female, and 71% white people, of whom 19% are female.<sup>171</sup>

The Chair of the Commission on Employment Equity, Jimmy Manyi, who is also the Chair of the Black Management Forum, cites these numbers in calling for a 'sunset clause' for white women. Using demographic profiles to set targets that match opportunities in the economy to sectors of the population, this is seen as an essential tool to rebalance the distortions of the past that persist to date.

There are risks to this approach. First, the goal of transformation is to create a non-racial, non-sexist, more equitable, prosperous society. Transformation is not about social engineering apartheid style, but enabling everyone – black, white, male, female – to contribute to growing the cake of prosperity to be shared by all.

Second, there are risks in underestimating the legacy of exclusion from education and training. Skills shortages are a reality. The impact of apartheid's legacy cannot be wished away. We must fight against those

continuing to put obstacles in the way of women and black people that prevent their talents being utilised.

Third, white women have traditionally been discriminated against despite their formal access to the same education and training opportunities as white men. Look at their under-representation relative to males and ask why they are not at least 50% of the 75% of top management that is white, instead of only 15%. Black women should be at least 51% of the 23% instead of only 7%. The progress white women have made should be celebrated as a demonstration of the effectiveness of removing barriers to the development of talent, but progress is nowhere near what it would have been had sexism not been such an embedded part of our culture.

We should focus on how to make more progress, given that both black and white women lag behind in visible leadership positions in the private sector. Sexism undermines women in both the public and private sectors. The more women – black and white – succeed in senior positions, the more positive role models young people – male and female – will have.

There might be a more sinister interpretation behind this discomfort with the progress of white women in the economy. Why are they singled out as disproportionate beneficiaries in an economy dominated disproportionately by male beneficiaries, black and white? Why is the Commission on Employment Equity not targeting black men who are benefiting ahead of black women, who are the largest demographic group in the country? There is an undertone of male chauvinism in calls to slow the gains white women are making.

There seems to be an assumption that by not appointing white women, more black men and women would be appointed. This indicates a lack of understanding of the relationship between skills and employment. The greater the number of skilled people in the economy, the more jobs they are likely to help create. For instance, for every one job in the tooling industry 25 additional jobs are created,<sup>172</sup> while four jobs are created for every one job in the software industry.<sup>173</sup> Empowering skilled white women together with all those previously excluded from opportunities is more likely to generate greater economic growth.

Fourth, a focus on 'redress' of past wrongs without a holistic view of

desired goals risks making the whole empowerment process a compensatory mechanism for past wrongs, not a mechanism for creating an equal-opportunity climate for all. A compensatory model holds the danger of rewarding people with senior positions without an adequate performance framework that demands that they demonstrate the value they contribute. Redress applied in this manner also reflects vain attempts to strip white women of their inalienable rights to use their education and training to advance themselves.

Finally, career choices do not necessarily follow demographic profiles. They are a product of complex processes including exposure to various career options. Given our legacy, more black people aim to establish their own enterprises than ever before. The idea of working for someone else may not be as appealing as it may be for white people, especially women with a pent-up appetite to demonstrate their professional competence. An abnormal development pattern cannot be normalised in one generation.

Many white male critics of employment equity also like to cry wolf about being excluded from economic opportunities. Current profiles of participation in our economy, especially in employment, indicate continuing white male dominance. The 2006–2007 Report of the Commission on Employment Equity presents a picture that is at variance with some of the media reports of white people being pushed out of key positions in the workplace.<sup>174</sup> White male dominance at the top and senior management positions persists and is a logical outcome of our economic history. The challenge is to transform this profile in a manner that repositions us for greater productivity, sustainable growth and socio-economic equity. Affirmative action – *regstellende aksie*, to put right what is clearly wrong – is critical to addressing this imbalance.

Many private-sector institutions have not even begun to confront the alienation that might result from inappropriate institutional cultures. Some have focused on décor to include more African motifs and ‘Proudly South African’ slogans, but a big gap remains in actual management practices.

But even if all negative practices were eliminated, our socio-economic history has not nurtured enough black people and women to fill senior

positions. Our education and training system cannot yet produce the pipeline of graduates able to compete for top and senior management positions. This puts pressure on institutions to create opportunities for those already qualified, but lacking experience to match the traditional norms. Investment in strengthening the pipeline is essential. The emphasis in the BBEE Codes on skills development reflects its importance.

Some aspects of affirmative action create ethical dilemmas, especially where people compete for finite opportunities. Take the question of admission to highly desired institutions with limited places. These are real dilemmas that entities such as UCT’s Medical School have had to contend with since the end of apartheid. How does one justify admitting a black student with an ‘A pass’ ahead of a white student with an ‘A+ pass’?

First, a black student from a poor background with an A pass is a super performer compared to a white student with an equivalent outcome. Poor black families cannot provide the support that many white students take for granted. Moreover, schools serving the poor areas where black people live are often inadequately resourced. An A outcome under such conditions should be regarded as equivalent to an A+ outcome.

Second, even if the black student does not come from a disadvantaged background, he or she can help to constitute a class that reflects the diversity of South Africa’s people. Such a class can better prepare young people – black and white – for the realities of their society. In addition, such a student would most likely act as a positive role model for other aspirant black students and help swell the ranks of professionals. Closing the gap between white and black professional participation rates in our society is in the public interest and needs to be pursued vigorously over many decades. Every opportunity should be used to enlarge the pool of black professionals.

These arguments are cold comfort to individuals who are passed over. In the USA inequalities persist after many decades of Civil Rights legislation. In a highly publicised case of a disgruntled aspirant Michigan University Law School student who was passed over in favour of a lesser-qualified black student, the US Supreme Court found that there was a ‘compelling interest in racial diversity’. Justice Sandra O’Connor was unequivocal:



Today, we hold that the Law School has a compelling interest in attaining a diverse student body . . . The Equal Protection Clause (of the US Constitution) does not prohibit the Law School's narrowly tailored use of race in admissions decisions to further a compelling interest in obtaining the educational benefits that flow from a diverse student body.<sup>175</sup>

In the South African situation where black people are in the majority, the compelling social or public interest is even stronger. It is not desirable to have white students dominating classes in higher-education institutions. Young South Africans need to learn together so that they can live and work together.

The same applies to three other elements of affirmative action that David Benatar refers to.<sup>176</sup> First, 'the tie-breaker affirmative action' in which two equally qualified candidates compete for a position. Benatar gives the black candidate the job because such an appointment advances the transformation process without any cost to productivity. The added value of a positive role model in society is immeasurable.

The second form of affirmative action Benatar refers to is 'strong-preference affirmative action', where a less qualified black candidate is appointed ahead of a more qualified white candidate. The additional value a less qualified person may bring might more than make up for the technical-competence difference between the two. Such value may include complementary attributes that make for a stronger team and language skills that are absent or poorly represented, and reach into market segments that offer big opportunities. Such a candidate would also need to be willing to work hard and to learn to close the technical gaps.

However, certain critical professions cannot tolerate any compromises in technical requirements and should not practise this form of affirmative action – e.g. specialist medical/surgical professions, pilots, engineers, and key management areas in technical fields including financial markets. The responsible approach here would be to appoint the best qualified candidate, but offer the less qualified person the opportunity to grow into greater strength through understudying the other and preparing to compete for future opportunities.

The third policy dilemma is what Benatar refers to as 'set-asides', known as quotas in the USA. There are two types – numeric and strategic. Numeric 'set-asides' are pursued with a goal of matching employment profiles with demographic ones. There are elements of this approach across the country, including in the Western Cape where the issue has reached absurd levels in the public health sector. It is no longer good enough to have black medical specialists, they must be subdivided into African, Coloured and Indian.

This is absurd. To assume that specialist medical professionals would match so-called demographic realities of the post-1994 population is to ignore the impact of historical distortions on skills profiles. How many Africans living in the Western Cape were trained in our medical schools in the pre-1994 period and have progressed to the point of being specialists? What about the more lucrative opportunities African graduates see in careers in the private sector? Set-asides in areas of scarce skills are inappropriate and have huge social costs. We should aim to attract every medical specialist – black or white – to revitalise our health services.

Numeric set-asides based on population registration categories may also fuel divisiveness. There seems to be a growing tendency to establish degrees of disadvantage as a basis for allocation of patronage. The Western Cape political scene is reeling from conflicts fed by the hierarchy of categories of disadvantage. The 'ethnic entrepreneurship' that Neville Alexander<sup>177</sup> warns about is already evident. Those involved have lost sight of the purpose of redress and affirmative action.

In contrast, strategic set-asides have 'compelling social value', to quote Judge O'Connor again. Take the example of Reserve Bank governor Tito Mboweni. The governor of the Reserve Bank or Central Bank is a political appointee in any country, given the strategic role the institution plays in setting and monitoring the impact of monetary policy. In view of our history and the symbolic importance of the governor's position, the appointee had to be a black person.

Mboweni admits how little he knew about central banking when he was appointed. The government ensured that the retiring governor, Chris Stals, stayed long enough for Mboweni to get exposure to essential central-banking skills. He developed close relationships with Alan

Greenspan in the US Federal Reserve and Ed George, then governor of the Bank of England. It is generally accepted that Mboweni turned out to be one of the best Reserve Bank governors this country has ever had. His visionary leadership and engagement with higher-education institutions are inspiring young people to see value in careers in banking.

I agree with Benatar that appointing unqualified people to positions beyond their competence in the name of affirmative action is indefensible. Such appointments are a travesty of justice for the individual, who cannot perform. It is unfair to recipients of services who are subjected to poor-quality services. Such appointees tend to become aggressive and abusive under pressure, further undermining the public interest by abusing the poorest people. Such appointments undermine the productivity and sustainability of long-term economic growth.

The public sector has far too many examples of the more negative approaches to affirmative action employment. Inadequate state capacity is largely responsible for, and in turn due to, these practices, creating a downward spiral in performance. Balancing political imperatives with performance requirements should have been a greater focus of the post-1994 government.

Appointing incompetent people in the name of affirmative action does a disservice to poor black people who depend on public services for basic needs. Poor public services are particularly disabling in essential service areas such as health and education, records of births, deaths and identity by Home Affairs, and basic water and sanitation. There is a crisis of performance in these areas. Municipalities serving poor people are dysfunctional, with little accountability by local authorities meant to represent residents. These bad appointment practices give a bad name to all black people in a racist society that still tends to associate black people with incompetence. The only beneficiaries of bad appointments are the incompetent people who earn disproportionately large salaries for simply occupying those positions.

### Preferential procurement

Preferential procurement, another key aspect of BBBEE, creates incentives for economic players to support transformation by ensuring that

those previously excluded from the benefits of supplying goods and services are brought into the marketplace. As the main procurement agent, the government has a major role in promoting this objective. The private sector would not want to risk losing lucrative public contracts.

The practice has produced mixed results. On the positive side, private sector attitudes to small and medium enterprises (SME), many of which are run by black people, have changed. Entry-level and SME players are increasingly included in mutually beneficial partnerships that provide them with invaluable business opportunities and the development of technical skills. For traditional businesses, BEE credentials and business development opportunities are enhanced in those sectors of the community where they would have had no entry point, while new entrants benefit from participation in established businesses providing cash flow and technical experience.

An example is the sustainable model of a supply chain of SMEs that Anglo American Corporation has developed under the umbrella of AngloZimele.<sup>178</sup> The central principle is to provide budding entrepreneurs with start-up capital to supply essential services to the mining giant. From modest beginnings in the 1990s with capital of about R20 million, there are now thriving businesses worth R2 billion. This has created a win-win scenario. Anglo American gets the outsourced services that make for greater efficiencies, credits for enterprise development and other BEE points in terms of the Codes of Good Practice. The participating entrepreneurs gain access to other opportunities beyond just supplying Anglo. They are truly empowered business people.

Where preferential procurement has gone wrong, however, it is generally as a result of its misuse for rent-seeking purposes by public officials and political party operatives. The worst form of this occurs where public tenders are allocated in irregular ways to benefit the friends and families of decision-makers. This misuse of public office takes many forms, including set-asides that are unlikely to stand the test of legality in the courts. Local authorities seem to have the biggest problems in this regard, partly due to the knock-on effect of weak management and leadership that results from improper appointments in the name of employment equity and affirmative action. Appointing incompetent and



technically unskilled people opens the way to irregular practices out of both ignorance and greed.

The case of the Cape Town City Council under ANC mayor Nomandla Mfeketo comes to mind. The municipal council lost most of the skilled personnel essential to running a modern city: engineers, town planners, surveyors, financial managers. Over five years, the mayor assembled an all-black team of executive directors, called *Inkwenkwezi* (stars). Few had experience of local government, let alone governing a city of over three million people. With such a poor base of technical skills and experience, how could they do better? Neglect of the city infrastructure, inefficient services and non-transparent procurement processes have undermined the public interest.

The most serious impact of inappropriate appointments on poor people is in housing. Poor people who cannot afford second chances find themselves in settlements such as the N2 Gateway project with sub-standard flats constructed by inexperienced builders. Cape Town's long wet winters create humidity that must be planned for in construction. No qualified builder would have failed to ensure adequate ventilation and damp protection in the foundations and walls. There seem to have been lapses in the regulatory process too. Where were the building inspectors to ensure proper standards were met? It remains to be seen how the contract was allocated and how government will rectify these and other major defects. The showcase that the national Minister of Housing, Lindiwe Sisulu, launched so proudly may become an embarrassment to all.

Also worrying is the apparent tolerance of tender irregularities across the country at national, provincial and local levels. Irregular tenders have become an inherent part of the political patronage system, which comes at great cost to the public purse. The opportunity costs of not providing services because of failure to perform by inappropriately selected BEE companies are disproportionately borne by the poorest sectors of our society. They have to go without houses because BEE contractors have taken the money and disappeared. Their children attend schools under trees because constructors have gone missing before completing jobs for which they have been paid.

The flaunting of ill-gotten gains by BEE beneficiaries adds salt to the wounds of those left marginalised. Expensive cars, ostentatious houses and partying out of all proportion to the previous lifestyles of the nouveaux riches have become commonplace. In my home town, Polokwane, this has reached absurd proportions in a suburb named Tender Park, filled with new mansions. I am told that as soon as one wins a tender, one becomes eligible for all sorts of services: purchasing a car, expensive trips, commissioning the building of one's residence, etc. Polokwane is not alone in this.

The chain of beneficiaries feeding off irregular preferential procurement practices is long and complex. Not only are there kickbacks to decision makers who award contracts, but also to friends and families in their networks. In some cases, decision makers become part of the consortia that win contracts. But suppliers of goods and services – both black and white – such as car dealers, architects or constructors also benefit from the proceeds of crime by accepting payments from ill-gotten funds linked to this practice. The entitlement culture that Moeletsi Mbeki and others have warned against has become part of our social life.

There is mounting anger and frustration among poor people in the face of this incompetence. People in Khutsong Township, those living in what used to be single-sex hostels, N2 Gateway residents in Cape Town and many more are up in arms. We can expect more social instability unless something is done to halt the slide into cynicism and despair by poor people who feel cheated.

#### Who are the winners and losers?

Even critics of BEE have to concede that overall, policy intervention by the government to promote the broadening of participation in the economy by those previously excluded has been a great success. The most important gain is unprecedented robust growth over the last decade.

This economic growth is likely to be sustained as a result of its widespread nature involving primary commodities, infrastructure development and the supporting goods and services industries. Consumer demand has grown and continues to grow for all manner of goods and services spurred on by the growth in employment. Employment equity

has spawned a new class of consumer, the so-called 'black diamonds',<sup>179</sup> who are first-generation beneficiaries of freedom of choice in education and training, and unlimited career opportunities.

Other sectors of the economy have become winners in this booming, broader-based wealth creation. The property sector, both private and public, is witnessing sustained and unprecedented growth. Gauteng is seeing the convergence of Pretoria and Johannesburg as more and more suburbs are established to cope with ever-increasing demand for homes. In 2007, we even ran out of cement to meet the growing demands of the booming building industry.

In a cruel twist of irony, the government's own incoherent policy-making is likely to undermine this economic growth. Failure to invest in infrastructure threatens sustainability. The current shortage of power is the most recent example. The management and governance of Eskom in the post-apartheid era embodies most of the dilemmas of transformation we are facing as a nation.

First, there seems to be persistent ambivalence towards state-owned enterprises. Despite the professed intention to privatise them with corporatisation as first step, not much progress has been made to bring the private sector into power generation. The government remains the sole shareholder of Eskom.

Then, the post-apartheid government has sought to use state-owned enterprises like Eskom as instruments for black economic empowerment, much like its apartheid predecessors did to empower Afrikaners. The laudable goal of visible black leadership and management may have trumped effectiveness and efficiency. The loss of skills from Eskom, where the workforce was halved from 66 000 to the current 30 000, has contributed to poor maintenance and weak management of crises. According to the trade union Solidarity, training programmes (presumably apprenticeships) have been shut down at Eskom.<sup>180</sup> This is a classic case of undermining the public interest through the pursuit of short-term political interests of narrow black economic empowerment. Inadequate expertise and experience compounded the supply challenges Eskom is facing. The whole economy is put at risk by the pursuit of party-political objectives that undermine the common good.

Third, the government's failure to heed expert advice about the need for expanding generating capacity as far back as 1998 and again in 2004 reflects the ambivalence towards the role of expert knowledge in the governance process. Political leaders have the mandate to make policies and to implement them, but they do not necessarily have the expertise to underpin complex policy choices. Effective political leaders leverage expertise to lay sound foundations for policy making and implementation. Where this approach has been followed we have seen much success. For example in macro-economic policy that has laid the foundation for our economic growth. The failure to respond swiftly and effectively to the challenges of HIV/Aids and power generation is the cost of political leaders second-guessing experts.

Fourth, Eskom's problems also reflect inadequate accountability in our public service. The complex relationship between Eskom's management and the government, its sole shareholder, must have a constraining impact on management's ability to challenge government policy even if such policies pose risks to the common good. Management that perceives that its interests are best served by submitting to political mandates rather than sound judgements promoting effectiveness and efficiency is unlikely to fulfil the impartial role of protecting the public interest. One can only hope that the repeated apologies by the President and his cabinet ministers mark the beginning of a culture of greater accountability by the government to the people it is meant to serve.

A final observation about the Eskom debacle is the failure of 'big business' to raise the alarm over all these years. President Mbeki has been meeting regularly with 'big business'. How could such a major risk to our economic growth have been kept secret for so long? Why was the public kept in the dark until the lights literally went out? One hopes that 'big business' is not falling into cosy business-government relationships such as experienced during apartheid to the detriment of the public interest.

We need to extract lessons from the failures of Eskom. Government should resist the temptation of being a referee and a player in areas of the economy where it does not have comparative strengths. Government needs to respect expert advice to enrich its policy making and implemen-

tation role. Black economic empowerment that promotes a few people beyond their level of competence and discards the cumulative expertise and experience in the wider society is suicidal. The poorest people in whose name the government governs are the greatest losers in this case: loss of jobs, inconvenience to consumers at every level and risks to health and lives as essential services are put at risk.

Notwithstanding the above criticisms, BEE has undoubtedly benefited the entire economy. The financial sector is the biggest winner of all. The unusual nature of the structures of BEE deals that brings together investors without capital on the one hand, and traditional capitalists on the other, creates unlimited high-value engagements for the banking sector. They benefit all the way up the value chain as advisers for a fee, financiers at attractive rates, and investors with equity kickers.<sup>181</sup> The growing economy has also stimulated unprecedented consumer credit demand that has swelled bank profits.

There are also winners among specific population sectors. The 'first-movers' have benefited from early successes, but some have burned their fingers with badly-structured deals and over-priced assets. A celebrated case is the JCI deal with Mzi Khumalo and his partners. Those early lessons left much wiser players in the market, including Khumalo. First-movers in the BEE space have been able to cash in their investments to gain more liquid assets for further investments.

Those who are politically well connected made their money early and continue to make more – an inevitable outcome of the nature of earlier versions of BEE that benefited mainly former ANC political figures who entered the private sector as pioneer empowerment players. The 'usual suspects' became sought-after partners by the private sector. It was a win-win-win scenario for the government, the private sector and the individuals involved.

Women have been late entrants into BEE. The male-dominated nature of the private sector has made their entry difficult. Most captains of industry have no real experience of dealing with women as business partners and feel more comfortable with other men. Black men, who share this lack of experience of women partners, have fallen comfortably into the male-club culture.

Women have yet to be given adequate opportunities to demonstrate the particular value they can add. Sexism in institutional cultures, both public and private, remains intact. There are signs of progress, however, as women become more aggressive in forming consortia that have managed to negotiate significant deals, for example, Peotona, with former ambassador to the UK Cheryl Carolus and her partners.

White women have clearly been significant beneficiaries of the broadening of the base of economic participation. Those who entered the entrepreneurial space have greater access to opportunities and capital through their networks within relatively wealthy white families. Their education and skills, an essential success factor, are a decided advantage beyond employment equity gains. It remains to be seen whether the greater participation of white women in the private sector will have a transformative impact on its institutional culture.

Although the broadening of the base of participation and the BBBEE Codes have opened opportunities for a wider segment of the population, access to affordable capital is still a constraint. This is an area that promises to add the greatest momentum to the thrust of broadening economic participation that should include new entrants, especially women and rural people.

The losers in the BEE space are those at the margins of the growing economy. The weaknesses in the state's capacity add to their burden. Abuses of preferential procurement hurt poor people more than any other sector of the economy. Tolerance of persistent blatant irregularities is leading to despair among those left stranded without services.

Land reform, agricultural development and other opportunities for enhancing rural livelihoods have lagged behind. Land-reform bottlenecks perpetuate apartheid geography. The government, as the largest land-owner,<sup>182</sup> seems unable to leverage the release of land for integrated development to benefit poor people in both urban and rural areas. Why should poor black people continue to be confined to living on the outskirts of cities while the government owns tracts of land that used to serve as buffers between black and white residential areas within cities?

Requiring that in all property development projects, a certain proportion of land should be set aside for public use under the government's

authority offers additional opportunities. What plans does government have to transform the apartheid landscape, and what is the time frame for integrated housing development?

Rural development is neglected. Land restitution has failed to deliver on its early promise. It is estimated that up to 2003 only 36 686 claims benefiting 83 661 households had been settled out of a total of 79 000 valid claims. (My own family was fortunate – the land at the foot of the Soutpansberg that had belonged to the Seakamela clan including Kranspoort Mission where I grew up, was restored to them.) Where settlements have been reached, beneficiaries have often been unable to utilise the land productively as they lack the strategic and operational capacity.

There is an opportunity for the government to mobilise the goodwill that still resides in many white farming communities who have the skills and experience to help build capacity of the local authority and communities. The Land Bank should finance such agricultural efforts with communities willing to invest 'sweat equity'. The question is whether the Land Bank has the capacity to discharge its mandate as it did in the era of supporting poor white farming communities.

The Land Bank has been criticised recently for poor debt management, financial irregularities and a dismal rate of returns on loans. In October 2007 the government injected a further R700 million into the institution on condition that it change its strategy. According to media reports, a forensic audit has revealed that senior Land Bank board members mismanaged R1 billion in Land Bank funds.<sup>183</sup> What is to be done to ensure that poor people are not again going to bear the cost of power games for the benefit of a few politically well-connected black people?

The success of BEE has spawned interesting adaptations across sub-Saharan Africa. It has provided a much-needed instrument to enhance the indigenisation of private-sector activity and wealth creation in African economies. Africa's comparative advantage in the global economy is its human capital (young growing populations) and natural resources. Greater participation in wealth creation by indigenous populations holds great promise for the continent's sustainable-growth prospects.

The government should be proud of its achievements in BEE as a novel,

home-grown policy. Still, the unintended consequences of BEE must be monitored and corrected to ensure that the greatest good accrues to the largest number. We must heed Moeletsi Mbeki's warning about the risks attached to the corrupting influence of BEE. Enrichment that is not earned through entrepreneurship and hard work breeds entitlement. Entitlement breeds insatiable greed that can consume our society.

But an even greater cancer is embedded in this policy. The investment of 'racial categories' of apartheid-era population classification with economic value creates vested interests in the continuing divisions in our society. It is only natural that for as long as there is a benefit from being labelled 'historically disadvantaged' one would want to retain the label and cash in on its largesse. There is, however, a risk in projecting black people, especially African people, as perpetual victims in need of redress. The victim status projected on black people risks undermining their assumption of the rights and responsibilities of citizenship.

BBBEE is meant to give those previously excluded from economic opportunity a leg up to enable them to participate in wealth creation. It is not meant as a reward for being black, a woman, or disabled, entitled to benefits without adding any value. BBBEE is about broadening the base of participation in growing the economy to enlarge the economic cake that can be shared more equitably. We dare not confuse ends and means.